



**REPUBLIC OF NAMIBIA**

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**LAW REFORM AND DEVELOPMENT COMMISSION**

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**VIOLENCE AGAINST AND ABUSE  
OF WOMEN AND CHILDREN PROJECT:  
VERBATIM DISCUSSIONS HELD AT THE  
NATIONAL HEARING**

**MAY 1997**

**B F Bankie / A Odendaal / T Thatcher (eds.)**

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## LAW REFORM AND DEVELOPMENT COMMISSION OF NAMIBIA

The LRDC was established by the Law Reform and Development Commission Act, 1991 (Act 29 of 1991).

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

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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. the one (LRDC 7) contains the Formal Addresses made at the National Hearing and this 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 below.

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

Mariental	-	11 November 1996
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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### WELCOME ADDRESS BY ADV B GAWANAS, CHAIRPERSON OF THE LAW REFORM AND DEVELOPMENT COMMISSION

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 roleplayers 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 Ndaitwa, Director General of the Department of Women's Affairs in the Office of the President and who is also the President of NANAWO and the Chairperson of the Preparatory Committee for the Beijing Conference.

Ms Runger 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.

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- 1 Adv. B Gawanas; Chairperson, Law Reform and Development Commission (LRDC) and Ombudswoman
- 2 Ms N Ndaitwah; Director-General, Department of Women's Affairs, Office of the President
- 3 Ms M C Runger; Head, GTZ Legal Capacity Building Programme, Ministry of Justice
- 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
- 5 Ms E Neels; Deputy Director, Department Women Affairs
- 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
- 7 Ms I Malunga; The Namibia National Students Organisation (NANSO)
- 8 Ms N Terreri; UNICEF, Namibia
- 9 Ms L Shinaveni; Division of Rural Development Planning, Ministry of Agriculture, Water and Rural Development
- 10 Deputy Commissioner J Smit; The Namibian Police (NAMPOL)
- 11 Ms D Hubbard; Legal Assistance Centre (LAC)
- 12 Prof. A van Dyk; Dean, The Faculty of Medical and Health Sciences, University of Namibia
- 13 Ms E Coetzee; Sister Namibia
- 14 Ms D M Weissner; Training Co-ordinator, Namibia Institute for Democracy (NID)
- 15 Ms R Namises; Legal Assistance Centre (LAC)
- 16 Ms D LeBeau; Sociology Department, Faculty of Humanities and Social Sciences, University of Namibia
- 17 Dr H Becker and Ms P Claassen
- 18 Ms L Aupindi; National Youth Council of Namibia
- 19 Ms L Tjineri and Mr N Tjombe; Legal Assistance Centre (LAC)
- 20 Mrs C Kangueehi; Deputy President, Namibia National Women's Organisation (NANAWO)
- 21 Dr SMH Rose-Junius; Senior Lecturer, Social Work, Faculty of the Humanities and Social Sciences, University of Namibia



- 22 Ms S Carew; Council of Churches in Namibia (CCN)
- 23 Insp. B B Keramen-Nell; Namibian Police, Windhoek Police Station, Khomas Region
- 24 Lt. General L P Hangula - Insp. General; The Namibian Police
- 25 Sgt. A Kahatjipara; Woman and Child Abuse Centre, Namibian Police
- 26 Ms D Roos; Legal Assistance Centre (LAC)
- 27 Mr J W Nyoka; Deputy Commissioner of Prisons and Correctional Services
- 28 Ms A W Kruger; Director, Life Line/Childline Namibia
- 29 Ms P H Coetzee; Deputy Director, Professional Social Services, Directorate of Social Services, Ministry of Health and Social Services
- 30 Mrs M Oliphant; Woman and Child Abuse Centre
- 31 Mrs O G Abrahams; The Namibian Women's Association
- 32 Mrs S Dippenaar; Education Officer, Directorate Special Education Programmes, Ministry of Basic Education and Culture
- 33 Ms P Nakanyala; The Prosecutor-General's Office
- 34 Mrs Z P Fourie; Senior Social Worker, Dutch Reformed Church
- 35 Mr O Nekondo; Namibian Catholic Bishops Conference
- 36 Rev. B Tjingaete; The United Reformed Church
- 37 Bishop P Hilukiluah; Church of the Province of Southern Africa (Anglican Diocese)
- 38 Rev. A //Kheibeb; Chairperson, Peace, Justice and Reconciliation, Evangelical Lutheran Church in the Republic of Namibia (ELCRN)
- 39 Mrs L Vries; The Shelter for Battered Women and Children, Social Diaconate Action for Young Women
- 40 Mr R Mathews; Christian Science Committee on Publication for Namibia
- 41 Mrs B B Keramen-Nell; The Methodist Church
- 42 Ms M Isaacs; Namibia Red Cross Society

# CHAPTER 1

ADV. B GAWANAS: 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 and its Women and Law Committee in co-operation with various stakeholders last year.

THE BRICKS COMMUNITY THEATRE: Presented a set domestic violence scene.

ADV. B GAWANAS: How long do we tell our children and our women to keep quiet for the sake of family unity. To keep quiet for the sake of communities? I really want to thank the Bricks Community Theatre for a brilliant portrayal of the issues. It stated much more than some of us could say in our speeches and in our articles that we write.

## **FORMAL ADDRESS BY MS N NDAITWAH**

## **FORMAL ADDRESS BY MS M C RÜNGER**

## **FORMAL ADDRESS BY MS R NIIGAMBO AND DR H BECKER**

DR H BECKER: I want to make a few points, which will highlight the issue of human rights and gender-based violence under cultural aspects. Government agencies and NGOs dealing with gender-based violence as human rights issues have to take into consideration that there are cultural aspects to both violence against women and human rights. We know that the incidence and the nature of violence in different societies are largely based on the culture of those different societies. We find violence against women and children in most societies of the world, but it takes different forms. People's attitudes towards violence against women and children are different in different societies. All societies have forms of violence against women and children that are socially prescribed and others that are tolerated, or in fact, condoned by social customs and norms. I think we have seen already in the play earlier by the Bricks people, that in some Namibian communities for example, wife beating is socially acceptable under certain circumstances. And it may be even said that a woman would feel that her husband would not really love her if he does not beat her. We have also seen and we all know that in some 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. So this is a culturally accepted issue in certain communities. But you, of course, can also call this child abuse or incest. Acts of violence therefore frequently are excused as matters of culture and tradition. On the other hand we all know, I think, that sometimes it is said that the concept of human rights as enshrined in the Namibian Constitution stems from a western background and an individualistic philosophy which would be in contradiction to African communal principles. However, in a discussion of this in society, we should take into consideration that concepts such as dignity, justice and community rights, and duties, are also rooted in African philosophies as well as in western philosophies, or Asian philosophies or whatever, and that traditional African cultures also include 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 means, in final conclusion, that we cannot go ahead and say this or that practice which constitutes violence should be accepted because it is covered by some kind of tradition. In fact, the African Charter of Human and People's Rights charges the state with law reform to ensure the elimination of discrimination against women, and the safeguarding of human dignity, while at the same time, safeguarding customs and values recognised by the community. In other words, neither can this be attained through the abolition of culture, customs or customary law, nor can customs be tolerated which discriminate against women or tolerate the violation of human dignity in the case of violence against women and children. The question remains, however, how this can be achieved through efforts to combat violence against women and children. I think here we should first look at the point that culture and customs are not stagnant, but they are dynamic concepts. And they may change because of changes in larger society, but also communities themselves are able to change from the inside. On the other hand, we should not always look at culture and customs as interest free matters, something that comes from above. They may express the personal interests of certain sections within a certain community. And just as those who attempt to change customs may have personal interest in that change, for instance for women to be equal to men, so also some may attempt to preserve certain customs. And it can certainly not be tolerated by a democratic state and society, that one group of society or one section within a certain community would be entitled to impose specific traditions and customs on another group. It is

important to incorporate human rights into the legal system and to have a law reform. In particular, we think that it is important to reform all laws, which still reflect the perception of women as the property of men, such as marital rape exemption. However, when we look at this whole complex of interaction of culture, tradition and human rights, the incorporation of human rights into the legal system is not enough to change customs and attitudes. And this is of course where we think that the challenge lies, of a need for human rights and legal education. Teaching cannot be a remedy for all of society's problems, but it is certainly important for the formation of public opinion and the generation of public pressure for compliance of human rights. We therefore recommend very strongly that, apart from the legal reforms that we already mentioned earlier in our paper, efforts to combat violence and abuse against women and children should focus on efforts of legal education, which should in particular, emphasise the human rights aspect. We think that there should be three main items on the agenda of educational programmes. The first one would be to make very clear that violence against women and children violates their dignity. Secondly, it should be made clear that in order to strive for a violence free society, we have to strive for gender equality in society, because it has been shown over and over again that these two are really closely related to each other. Where women and men are grossly unequal in society all over the world we find there is more violence than in other societies. And the last thing I want to stress is the point of peace, namely that there should be education of individuals, men, women and children to find non-violent solutions to problems that evoke stress and anxiety in order to have peace and to understand it in the sense of ending the culture of violence which permeates Namibian society today.

DR HUARAKA: Thank you. Thank you very much. I'm not sure the pattern of how the hearings will be conducted, but what I heard is that presentations would be for about fifteen minutes or so. And then there will be dialogue or questions for another fifteen minutes, and then we move on to another subject. I think we should not be tied down by procedure, it should be a free flowing discussions of ideas; and I think we will benefit more by that. The floor is open for questions.

MS R SELLE: Mr Chairperson, I would like to ask. Is there a documentation on which of the customs in Namibia are perhaps perpetuating violence against women and children, and what has already been done? Because I think one has to probably start with the traditional authorities. Although there is no national traditional authority, the organisation is not yet in place for them to have sittings, but these are the things that we should be talking here. Thank you.

DR HUARAKA: Yes? I think we can comment on that. On the question of whether human rights are eurocentric, I wrote something where I argued that human rights are universal.

DR H BECKER: Yes, I think some of the research that was done before, or at the first stage of this whole violence project, came up with a couple of attitudes and practices in the community that are definitely sort of condoning violence against women and children. Thank you. Mr Chairman.

DR HUARAKA: I was interested to go into that, because sometimes really, in some communities, men just pretend that it is the customs and even, for that matter, our parents. I remember as growing up, there were certain things you were not allowed to eat, all the nice things. I don't think there are such customs like that. But you grow up thinking this is the position.

### **FORMAL ADDRESS BY MS E NEELS**

DR HUARAKA: (Thanked Ms E Neels of the Department of Women Affairs in the Office of the President for her presentation.) I'm sure some of the points you haven't touched on, you may need to elaborate upon, based on the questions and comments that will come from the floor. Any questions? Yes, the lady from the University.

MS D LEBEAU: One of the things you mentioned, that it seems to me, has come up through hearings and through the research, and it has been an underlying theme almost through the entire thing, is the issue of police. Through my research, what I heard was even when women went to the police, the police were not very sympathetic to the women. A woman was stabbed in the head and went to hospital and got three stitches, and the police didn't want to lay a case because they said, "well it is only three stitches". And so the women frequently find that the police don't want to get involved. You mentioned some things that we could do to make the reputation of the police better. But if they carry on not being concerned with those issues, then the women will still be unlikely to go to the police. So how can we deal with that issue?

MS E NEELS: Thank you very much Ms LeBeau. The Sectoral Committee on Violence put up some programmes, and in our draft, of the National Gender Policy, the strategies that are proposed there, one of them is definitely to sensitise police, and not only men but police women and men. And I think if we are doing that, then I think they will better understand how to treat a victim but also at the same time, how to act and react.

ADV. V ERENSTEIN YA TOIVO: I just wanted to comment because some of us were discussing this issue with the police yesterday, and I think we have to at least look at it in a balanced way. From what I understand, the situation has improved quite a bit since Independence. This was remarked upon by Advocate Gawanas and some other people who have been visiting the regions and had attended some of the workshops and hearings. And I experienced this myself. In some of the regions you find male police officers who have been introduced to some of these problems, who have discussed them and had some training and, I would say, are relatively speaking gender sensitive. I remember in Kavango, in Rundu, when we had our hearing, our regional hearing of the Law Reform and Development Commission, a very comprehensive presentation was made by a certain police sergeant, really consisting of giving advice to women as to what to do in cases, how to report cases, what can be done and so forth. It was really quite an eye-opener for some of the community organisations, and some of the women who were present to the point where they agreed that they could work together, organising educational activities, inviting the police to attend meetings. And also, I think the Ministry of Information and Broadcasting has information about some of the training that is going on. We have all identified education, and ongoing education as something that is critical. I should say that we also met some police officers who had been assigned to handle complaints. There appears to be a tendency in the police now to make sure that a woman police officer is available to handle complaints. I have met some of these police officers and unfortunately most of them, if they have had any training, it may be only have attended a two week training session. I would agree with the general perception that it is not just the police but the legal system, which is not responsive to these problems.

MS A BAYER: I'm Anna Bayer, a member of Parliament. I want to add to what has been said of the positive side of the police. In Rehoboth, they established a centre for abused women and children. The police were very active in collecting money for the centre. Now, instead of taking a lady who is abusing alcohol to jail to sleep it off for the night, they take her to this centre and they try to rehabilitate there. On the other hand, there are very negative things, but it comes from education, I think. Thank you very much.

DR HUARAKA: The point was made that education is one of the important factors we have to consider, how our police force, not just the police, the prosecutor, the magistrate, and those who deal with enforcement of law, how they handle sensitive issues. Yes, you wanted to add something?

DR H BECKER: Yes thank you. I wanted to comment on something Eva reported, done by the ecumenical women, namely the kind of marriage counselling or really speaking about people's personal problems. I think we heard it a couple of times already today, and I think we are going to hear it again and again, that there is this wall of silence around all sorts of violence, and abuse against women and children. Now I think you emphasised the ecumenical women also have this experience. They do marriage counselling and the victim of violence or abuse is identified as a problem and your problem has to be put in the spotlight, but they call it rather marriage enrichment. And I think it should be something to be discussed further, what kind of education and counselling is needed to break this wall of silence? It's just a comment.

MS E NEELS: Okay, I just want to correct you. It is not the ecumenical women, the organisation is specifically the Social Diaconic Action Young Women.

DR HUARAKA: It's what?

MS E NEELS: The group that is dealing with it, I said, is the Social Diaconic Action Young Women. It is a group that has established the Shelter for Battered Women, it's not the ecumenical women.

ADV. V ERENSTEIN YA TOIVO: Something occurs to me hearing this story about a police officer who was trying to rape someone. This is a very small country and a lot of times people are reluctant to report crimes, not only because they think nothing might be done, they think that something might not be

done, but also because they may not want to draw attention to themselves. And it seems to me that one thing that we have to think about is, some mechanism to report crimes in situations such as the type of situation that you have discussed, when you really cannot simply go to the police for whatever reason. We, perhaps, haven't thought about this but maybe if someone from the Ministry of Home Affairs is coming, we would certainly want to discuss it. There's someone from the police coming, I think it is something really worth thinking about, whether there could be a parallel mechanism to make a report.

DR HUARAKA: Yes, Ms Terreri of UNICEF.

MS N TERRERI: I wanted to mention, I think this issue with the police also brings up the other issue of other people who are in official positions, where they can take advantage of particularly young people. And the situation of teachers and youth or sport officers also, that one, I think, needs to consider some type of special sanction system as is being considered under the policy for teenage pregnancy as we read in the papers. Finally, teachers are being dismissed for abusing their students. I think that this same treatment for other officials who have positions of authority should be pursued.

### **FORMAL ADDRESS BY MS R SELLE**

DR HUARAKA: Would anyone wish to say anything?

MS D LEBEAU: I just want to mention that the NBC has a research section with researchers. The senior researcher there is Jurgens Brand and they have facilities to be able to do research, evaluative research.

DR E OKUPA: I wish to raise the television factor in domestic violence and abuse. I have only been here a few weeks, there is so much violence on television. There is no point in campaigning and the next generation of boys see how women are knocked about on television, see the effect on children. So it is one vicious cycle. We do not want our big uncle saying, "oh no, we are not watching that programme". But I do think that the Ministry of Information should be able to cut out the violence against women and children on television.

ADV. V ERENSTEIN YA TOIVO: Now, can we in the long term, sustain ongoing donor funded education on violence and abuse against women and children. I made a note, for example, to ask the police what is the curriculum, how does the curriculum at the police training college deal with these issues. We do have institutions, we have public schools, we have the police training college, we have the Justice Training Centre and so forth. So I am just asking that particularly in the areas where the violence campaign has already undertaken work, to try and come up with some recommendations for the long term and for institutionalisation. When we have this national conference next year, hopefully, some of these recommendations will come forward.

### **FORMAL ADDRESS BY MS I MALUNGA**

### **FORMAL ADDRESS BY MS N TERRERI**

MS P HAILONGA: My name is Pandu and I am with the Centre of Global Education. Concerning the comprehensive general justice programme, I was wondering whether the public is involved in that, or whether it's only the ministries.

MS N TERRERI: Here I'm going to ask, either Lucia from the Ministry of Youth and Sport, could describe that better or my colleague, Lavinia Shikongo, to provide the details.

DR HUARAKA: Yes, please?

MS L EISES: Yes, thank you. My name is Lucia from the Ministry of Youth and Sport. Concerning the crime preventative programmes, the Ministry is quite involved in that. We have regional youth officers and sport officers throughout the country. They are involved in facilitating programmes and activities related to crime. Also, we have a student programme here in Windhoek which has started putting up school police units at secondary schools which would serve as the police officers of the schools, guarding the premises, organising activities and programmes, including teaching the learners at their schools, how to avoid getting involved in crime and maybe also guarding the environment within which

the schools are. So actually, there are programmes. These programmes do include people at the community level. Communities are involved. Or we're also advocating to involve communities whereby they could contact parents to see how they can get involved in the whole process.

DR HUARAKA: I wasn't clear about your explanation, you mentioned something about school police units. Is it that you are working with the police force or is it a special unit?

MS L EISES: Actually, the idea of school police units is that the school puts up a group, a committee type of thing whereby they are the school police unit. When programmes and activities are organised by schools, they would be there to guard. But then also, the idea is to liaise with NAMPOL; to have police officers assigned to these schools. Say for instance, when incidents happen where these learners cannot deal with the perpetrators or offenders at the school premises, they then can refer to these police officers to help. Also, the police help in drawing up the policy guidelines for the school, to which level can they take up issues and when should they hand over an issue to the police to handle. So this is to be done in co-operation with NAMPOL.

DR HUARAKA: That's interesting. Yes please?

MS I MALUNGA: A lot of young girls still don't know when to say no when it comes to being sexually abused. For instance, we had an incident up north in a certain school where a principal had sex with a certain number of girls in the school. Most of the people, I mean the teachers, knew what was going on, but they didn't raise up the issue. So when the girls were asked why they didn't say no or why didn't they report the principal, they said they were afraid to report and they didn't know how to say no, because they thought that the principal had the right to do this. So my question is, how do we deal with issues like this, when the young people themselves don't know how to say no, or are afraid to raise issues like this?

DR HUARAKA: Yes that is a general comment. It is the issue of abuse of authority. It could be that the person in authority is a teacher or a police officer and so on.

MS R SELLE: Mr Chairman, when we talk of violence against women and children, we tend to look at the sexual part of it, but there's the whole issue of violence that we are finding amongst the youth, especially now. At Maerua Park, and this had been reported to me by quite a few children, and I've been talking to other children to find out whether this is really happening, where children are stopped even by a smaller child saying give me your money. And if he says you must be crazy, the next minute there is a gang of boys around them, and the money is taken by force. Also children's shoes, especially if they have fancy Nike shoes, or whatever you call these fancy shoes, they are taken. They are pushed into a toilet, their caps and their shoes are removed and this and that. Now I just think these police groups, these youth police groups, this could be something that can even work on that level that one could even look at that for after-hours activity. One of the problems that we have in this country, even despite the fact that there are youth centres, is that the youth centres are not always where the children want to be. They want to be at Maerua Park, they want to be wherever. So they go to Maerua Park and this is what is happening. So I think this is perhaps something that one could look at.

DR HUARAKA: Yes you want to comment on that?

MS P HAILONGA: Not really on that one. I just wanted to make the comment that (indistinct) when we look at programmes that address women and violence against women, we tend to focus on women. And I think the challenge facing us Namibians is a certain macho attitude in our society. And I think what we need to do is to have programmes to address that, to kind of address men because as long as the young women's and young girls' self-esteem is very poor, when they are made to understand that you have to be inferior vis-à-vis a man, we are not going to achieve anything. I think it is important that we can look at the macho attitude in our society and address it.

DR HUARAKA: Yes, please?

DR H BECKER: Can I just add to this with regard to the attitudes of, I think most adults in Namibian society towards children. When we did our research, we found it almost heartbreaking to find that throughout all sections of Namibian society it is taken for granted that adults have the right to beat up their children, and to inflict really serious corporal punishment, which we simply label as child abuse. I

think this is something that should be discussed. It seems to be the only solution that most parents and guardians seem to have towards any trouble.

ADV. V ERENSTEIN YA TOIVO: I would like to explain how the violence project started and its objectives. The first two phases, well there was a research phase, but in the second phase of our project, community based workshops were held in all regions of the country with representatives of all constituencies, followed by consultations throughout the country in all of the major population centres. The purpose of having these workshops and consultation was both to educate and to try to mobilise communities at the grassroots level. But we started from the premise, I think that nothing has shaken us from this assumption, that the communities themselves have to take up these issues of violence and abuse. They have to take up these problems if they're going to solve them. We were trying to collect information to find out what type of resources are needed, what type of training is needed and so forth, that can be made available to the communities. But in my opinion, and as I've said, I have attended quite a few of the public meetings on violence and abuse and have also read reports from all of the community workshops. Community after community are identifying the same needs. The basic need is education of one type or another. That education has to be done at the grassroots, at the neighbourhood, at the street block, village level. And I think this is really our challenge. We set out to identify what existing structures in the communities could be empowered to take up this work and in a sense I'm just providing this background, but I think that the challenge that is facing us is how to take this need for education at the very basic level to the community so it continues this work.

DR HUARAKA: Any further comment? Yes, please.

MS L EISES: There is the need to get the officers, the uniform officers, down to the communities. It's true that there's still this attitude or perception that the uniform people are sort of like community enemies while they are actually part of the community. Once they put off the uniforms they are the parents and brothers and sisters that we look up to, or that we expect to look up to. In the Karas region, when the schools are going to start next term, the officers will have organised the youth. The regional youth officers have organised Officer Friendly Weeks at the schools, whereby the police officers will go there themselves and talk to the school learners about their roles, about how they should see the police officer in the community and sort of like, get away from this idea or the attitude that the police officer is an enemy. So, at least somehow, somewhere efforts are being made to bring these uniform people down to the communities, to talk about their roles and what they expect of the communities also.

DR HUARAKA: Yes right at the back, NANSO.

MS I MALUNGA: Another uniform which I say should not be left out are the nurses and the social workers, because you see, the young people are afraid to go to the health facilities, like to the clinics or to the hospitals, because of the attitudes of some of the nurses. They tend to chase away these people when they come for contraceptives or counselling. So the young people won't go any more to the clinics and hospital because they are afraid. I feel it would be useful if the nurses and social workers could also come to the community and talk to the young people.

DR HUARAKA: Yes, the gentleman there.

MR S SHANGHALA (Law student): Allow me to say something concerning what Advocate Ya Toivo said that the community should come out. Well, in many traditions, in many customs in Namibia, it is permissible under traditional law, that chastisement be administered to children and women by their husband or by men in the society. How then do the parties that are affected by this unjust treatment, come out, because in some communities, it is difficult to come out, if you do come out you become an outcast. And that is also psychological torture for the person. In my opinion, rather the NGOs and organisations involved, and all the parties involved should speak out rather than waiting for the people involved, because they are not going to come out. Allow me to make mention one class of women who are being ignored, that is the lesbians. I really think, I know lesbians personally and I think the amount of abuse that they are receiving as women is intolerable in a society like this. Their situation should have been dealt with parallel to that of children, because if you take into consideration a woman, a woman by virtue of being a woman already receives a lot of discrimination. That woman has some other features that add or supplement that discrimination, like being born black. You get discrimination already, by tradition and by people of the other race. And then you become a lesbian. Then you are outlawed. I don't know whether any ladies from the Ministries can tell us if they've come across any complaints in

that respect. Because I do know they do exist in our society. Or whether the women's office also takes the view of the President that such people should be chucked out of our society. Just a comment. I have no title to my name as such.

DR HUARAKA: Thank you.

DR E OKUPA: I am sorry, I couldn't let that man get away with what he said. You blame traditional law for everything. Traditional law does not prevent the Russian babushka from beating the child or the English woman from slogging her child or the American woman. It is not traditional law, it is power. Some people have power over other and they exercise that power. Children are small so we tend to hit them. Women are weak and they have no money, so the men beat them up. It has nothing to do with traditional law. Please don't blame customary law for everything. Thank you, young man.

DR HUARAKA: Yes.

MR S SHANGHALA (Law student): I am sorry if I created the impression that it is traditional law, which makes the men, beat women. I've talked to traditional leaders now and then. It seems that they are desensitised. They think that it is right to beat. They think that custom has always been like that and this may be perpetuated by other factors. But I'm just stating the facts. People will blame or will justify these practices on traditional law.

DR HUARAKA: Some years ago, I had to look a little bit at the question that was being debated when the African Charter of Human and Peoples Rights came on, as you said, whether certain actions were community or individual based. This was at the height of the cold war and there were questions as to communist influence. And some of us were arguing at the time that Peoples Rights were purely African. The fact is that we called it a Charter for Human and People's Rights. The word 'people' caused a big debate. And if you do research of some of the African customs and traditions and you read the latest books and so on, you realise that the African tradition is definitely also Human Rights based. It is just a question of interpretation of how it can be used. But I don't think it is based on violence, on gender or children. I will also tend to disagree there. If you do serious research you'll find that out. Yes please?

DR H BECKER: I just want to make another short comment on the question about customary law and the violence. I think we would be wrong if we just discussed customary law and we just listened to what the traditional leaders are saying, because customary law is not something that is simply decreed by traditional leaders, but it is what is really made and what is practised in the community. So, if there is going to be more research into customary law and gender based violence, then we should definitely listen to everyone, all different kinds of people in the community, asking what do you see as your custom, not just go to one group. And as we know in most cases, traditional leaders happen to be rather elderly men. But we should really listen to everybody in the community to find out about customary law. Because, in fact, customary law is very closely linked to the question of power.

DR HUARAKA: Yes?

ADV. V ERENSTEIN YA TOIVO: We're facing a practical problem in addition to a research problem. The fact is that many parents do believe either explicitly or they have internalised a belief that they have a right to beat their children. Many men believe, whether it's foremost in their minds or somewhere in the back, that they have a right to beat their wives or their partners. I don't know of any particular ethnic religion or religious group in Namibia that is free from, to some extent, this problem, which is a problem of male supremacy. It's a problem of lack of respect for the rights of children. Just one practical comment on what do we do, in many communities we've seen; when we see the documentation from the many workshops we had certain comments come up over and over again. This beating has been identified by the community as a problem. The question is how to get away from this problem, which often manifests itself in that fact, that this type of behaviour is considered to be private. It's nobody's business. It's something to be kept within the family and within the home. There is no easy answer as to how to handle this problem except that community, citizen and community leaders, pastors, whoever, should be encouraged to advance the idea that this type of behaviour is not acceptable, that it cannot be condoned. There are certain kinds of behaviour, which is now considered socially unacceptable if it is done. We are going to have to convince men that they should not condone this type of behaviour when they hear that other men are engaging in this. In a sense, we have a responsibility for what has been previously considered private activity. It's difficult. My husband told me that his mother had always told



him that if you see a husband and wife fighting, you shouldn't get involved and don't take sides, because you may come to the defence of one and the next day the two of them will have made up, and they will be against you, asking "why did you interfere in our private business?" This is not a problem of one tradition or another. It's really a problem of how to gain public acceptance of basic human rights, basic respect of each other.

**DR HUARAKA:** That, definitely, we are going to debate, it's a debatable issue. Customs and traditions and the rights of women raise questions of education. And a question of education that we have to embark upon to educate our communities and societies is that these are certain things that we cannot permit in this modern time. I would again argue against saying that these practices result from customary law. I still will oppose customary law that will sanction violence against children in particular, and against women. For instance, if you take certain communities like in India, they have the dowry system. That is a system that the whole society accepts for example, the caste system is accepted. But these practices have to be fought. There you have a situation where the dowry system, where the wife is beaten up because she didn't bring enough, or burnt or killed. There are societies in other parts of the world, I could single out certain countries, where the male is sort of the best child to have, otherwise if it is a female it has to be done away with. If we come back to Namibia, when we were growing up, there were certain things we were told you were not supposed to eat. Definitely that is wrong. I was chastised, beaten up. Definitely that is wrong but that is not based on custom.

### **FORMAL ADDRESS BY MS L SHINAVENI**

**ADV. V ERENSTEIN YA TOIVO:** I would like to know if there are structures within the division of Rural Development Planning that could easily lend themselves to using education material on the issues of violence and abuse? In other words, I don't know how the education on violence and abuse is actually carried out in the field, but I make an assumption that the Ministry of Agriculture, Water and Rural Development has a network of people in the communities who are doing work.

**MS L SHINAVENI:** Yes, we have our extension officers who are in all the regions, who are dealing with these issues. There is the Division of Rural Development, Planning, Ministry of Agriculture, Water and Rural Development. They are dealing with rural development and planning, activities like projects, and they are dealing with men and women. Like in the case of planting, to educate them how to plant, how to keep their seeds, and how to manage their agricultural products within the whole country. They are going from house to house, and in order to educate people when it comes to agriculture.

**ADV. V ERENSTEIN YA TOIVO:** Is there any possibility of extension officers whose function is, as you've described, to receive some training on how to discuss these issues of violence and abuse?

**MS L SHINAVENI:** Yes, most of them are already trained. We are assisted by FAO in order to train these other extension officers. They are gender trained. We call them gender trainers because they are trained on gender issues. They are trained as trainers within the Ministry. They work as trainers to train those they are working with, especially the extension officers. And they also educate those who are working with them to be gender sensitive.

**DR HUARAKA:** That is interesting. I think in many rural communities there are accepted norms and traditions that land will only pass to the boys and not to the girls. But I think it is important that people are starting to probably not yet really fully train people about violence against women, but to be gender sensitive to the equality of women and men. I think that is very important.

**MS I MALUNGA:** Are there any programmes at the Ministry of Agriculture to help women, when it comes to situations when the husband dies and the property passes to the husband's family?

**MS L SHINAVENI:** This is a general question and that is a concern to all the people in the whole country, and it happens in most of the traditions. We are not really involved, but if our extension officers are called to such cases then they refer it to us at the headquarters. And then the headquarters will try to find a legal solution. In the North, some of the relatives even go to the extent of burning the household.

## **FORMAL ADDRESS BY DEPUTY COMMISSIONER J SMIT**

**MS I MALUNGA:** I know of an incident up north where a woman was physically abused by her husband for twelve years. Her husband always beat her up, and he came to the point of breaking her legs. She reported the incident to the police but later she felt that she would withdraw the case since her husband apologised. Now my question is, like in this case where a woman was severely physically abused or had her eye taken out and then she withdraws the case, can the police then further investigate the case or will the woman be allowed to withdraw her case?

**DEPUTY COMMISSIONER J SMIT:** We can't do anything unless we have the woman as a witness. And she must come and testify that she was physically assaulted. That is my problem and that is what I was trying to suggest that there must be some legislation introduced which gives the police the right to act as the complainant in this case. You see this woman was physically abused and her legs were broken. You know abuse can sometimes involve no physical harm. It can be the partner coming home tonight, there is an argument between them, and she's got a nice stove or perhaps a microwave or whatever, or a black pot for that matter and he will start breaking these items. According to me, that is also abuse because that is her means of making food for her children. So the police must have the right to take action against this partner. And at the moment, we don't have that right. Like the woman with the broken legs, I would say that is a bit far-fetched, the fact that the legs were broken. I personally think that the police could have done a bit more there and first of all try to convince this lady to complain. Secondly, perhaps requesting the Prosecutor General to proceed with a case, and to perhaps force her to testify. It is never a good thing, but when it is to that extent I would think that they could have done something. That's my personal opinion. But our legal person might agree with me, or disagree with me.

**DR HUARAKA:** Could the police for instance pursue the case or convince the prosecutor to pursue the case on the basis of eyewitnesses who are prepared to testify in court?

**DEPUTY COMMISSIONER J SMIT:** We could do that, that can be done. Especially in a case like this for instance, if there were eyewitnesses and the abuse was as severe as described. But you must remember we have these continuous abuse cases where females are abused, not in the same manner but in a less violent manner, and I feel if the police are able to act as the complainant, it's also an education for the partner to know that I'm not allowed to assault or to abuse this lady. So I look at it as an education programme. He's not necessarily going to jail or something like that, but he knows that there is some or other court, which will act against him.

**DR HUARAKA:** Now from your experience, how do judges and magistrates look at cases where the complainant herself or himself is not prepared to testify, but you have the witnesses who are prepared to come forward? Or for that matter the police who are prepared to pursue the case? Will the magistrate or the judge in that case seem of find a soft option to acquit the accused?

**DEPUTY COMMISSIONER J SMIT:** Well I will start with the prosecutor. I think the prosecutor will be reluctant to prosecute. Not reluctant, but he won't take the case to court at all because this is a crime against a person and you normally need that person who was violated against to testify. So I would say in my experience, 99% of these cases or even 100% of these cases never get to a courtroom. That is what bothers me. And we're really sitting with stacks of them.

**ADV. V ERENSTEIN YA TOIVO:** There are countries with jurisdiction where by law there's a no drop policy. It must be by statute that, if a complaint is laid it cannot be withdrawn without the approval of the court or the like. I think in order to do something about it, it would involve also educating the magistrates and the prosecutors. And one aspect of this is the question of what kind of sentences to impose. If a wife thinks about what happens if her husband goes to jail. There will be nobody to provide any support for the family. Then one also has to think of, is there some form of sentence that could be performed in the community, so that the working person can continue working.

**DEPUTY COMMISSIONER J SMIT:** I can give you the first sentence. That is the fact, that the man appears in court. That is already a sentence. He must go to court and he must go and listen to people testifying against him how he was assaulting a female. That's already a sort of a sentence. Then it's up to the magistrate. There could be from the magistrate's side referrals to our Social Services Department. There could be perhaps community work. I don't know. But I mean the sentence, a jail sentence should be the last resort because really you are putting a burden on the whole society if you send the

breadwinner to jail. I think that answers more or less your question. It's so difficult to define or suggest a sentence. But let's just agree on one thing. We actually talk about abuse. Abuse can be so many things. I've just pointed it out. But there's nowhere in our legislation where abuse is actually defined. So you have a charge of assault or malicious damage to property. That's what you basically have. But abuse could be anything. It is abuse if the husband comes home tonight without his pay, without his normal salary. Before he went home he made a quick drop at the Country Club and played all his money into the gambling machines. And then he comes home, there's no money for food. That is abuse according to me.

ADV. V ERENSTEIN YA TOIVO: But according to you is it something that you think the criminal justice system should address as a crime?

DEPUTY COMMISSIONER J SMIT: No not really. I don't think we can address every little thing in the criminal justice system. But the authority could define abuse for us so that we can take action against these people.

MS I MALUNGA: Let's just reverse the question. Say for instance where a woman is abused by the husband and the husband is a police officer, then she comes and withdraws the case against him. Will the police officer be prosecuted or will it just stay as it is, since the woman has withdrawn the case?

DEPUTY COMMISSIONER J SMIT: For the past three, four years, the police adopted the system here we have a Complaints and Discipline Department. Now it all depends on the circumstances of that particular case. All cases against policemen are investigated by this Complaints and Discipline Department which falls directly under the supervision and control of the Inspector General. So what will happen in this case, the case will be investigated. It will be then, even if it is withdrawn, be referred to the Prosecutor General for his decision. And he will then make a decision and the normal decision he makes is to decline to prosecute but to recommend departmental steps to be taken against the policeman. So in cases where policemen are involved, normally, there could be some that slip through, I can't speak for every single case, but normally there would be departmental action for behaving in a manner unbecoming a policeman.

PARTICIPANT: Commissioner, are there alternatives that you can think of for us to actually deal with cases of violence and abuse, especially rape? I will give you an example. I think you may have heard of this before. A woman was raped in Oshakati, but she was from Ondangwa. The Women and Child Protection Unit there only has one car. So we went to Ondangwa and, of course, had to pick up the suspect but at the same time we also had the victim in the car, but we only had one car. Now we had to go to the police station in Ondangwa where we picked up the suspect and go to the hospital where the rape examination was supposed to be completed by the doctor. But because there was no second car we all travelled in one car. Now this is a serious thing. So what alternatives are there to make sure that cases like that do not happen again, or do not get repeated over and over again? We all have heard of cases where a victim and a suspect were transported in one car, at the back of one car and assault was repeated.

DEPUTY COMMISSIONER J SMIT: It's up to that specific area to make arrangements with other ministries and ask for assistance. But there's not much you can do at that particular point in time, because the incident occurred so you must act now. And you will find in some cases that the victim and the perpetrator are in the same vehicle. It shouldn't be. They should rather leave the perpetrator of the victim behind and make two trips. But from the police side we have problems with vehicles. We have sent out circulars that victims are not allowed to be transported with the perpetrator and that is all we can do at this stage.

MS I MALUNGA: Do the police take measures to stop child labour? For example, people employing children under age?

DEPUTY COMMISSIONER J SMIT: I've seen some television programmes on child labour. We don't have that same kind of thing here in this country according to me. But we have child labour. We have child labour in the northern areas and in the southern areas where parents use their children to look after the animals. We have children here in town. You see them every day washing cars. If you call that child labour, I don't know. We don't have forced child labour where people are in a concentration camp and the children have to work. I don't think we have that.

DR HUARAKA: What about a young chap, you know five years old, to look after the lambs or the

cows, is that child labour?

DEPUTY COMMISSIONER J SMIT: I wouldn't say so.

DR HUARAKA: I did it when I was young.

ADV. V ERENSTEIN YA TOIVO: In your opinion, are the police adequately trained to receive and investigate complaints of violence or abuse of women and children? And I include in that being trained in the special emotional and psychological problems that such complainants or victims may have?

DEPUTY COMMISSIONER J SMIT: My personal opinion is no. Definitely not. Because I wonder some times if I myself am adequately trained to deal with such cases. Because it could be very traumatic some times. So I think that kind of training will take some time before it is available in the country. But what I can say is that we have different regions in this country as you know, and we are commanding these regions from certain central towns. And if this Commander has got any backbone, he will allow that particular station, say for instance, let's take a station now like Opuwo which is far from the centre of the country, if there is a serious child abuse case there, he can always make use of an expert from anywhere, from Otjiwarongo, from Oshakati, from Windhoek, even. So he can get the necessary expertise. And I think my answer would also be, yes for the preliminary investigation, they are adequately trained, but no, they are not adequately trained to deal with detailed, complex issues.

ADV. V ERENSTEIN YA TOIVO: We encountered when we were going around the country, having these consultations in the communities some very surprising reactions. We heard stories of crimes being committed, vicious assaults and rapes, sometimes resulting in death, where witnesses were unwilling to come forward. In one case we heard a person was literally left to die. I got the impression that in a number of the communities people do not want to get involved for one reason, for fear of reprisal as the communities are small. For another reason, there's a very strong belief that, especially where there is domestic violence or abuse of children, that it is private affair and it is not something for outsiders to interfere with. We've also heard enough stories to know that there are many police who feel the same way. That may not be the policy of the headquarters but certainly on the ground there are police who discourage women from bringing complaints, because they say they know the case will be withdrawn. Part of it is that they don't think it is serious enough to occupy their time, that it is a private matter. Now I imagine you also find difficulty obtaining co-operation from witnesses. There may be witnesses who are not the victims, but witnesses in the family or in the neighbourhood who are unwilling to co-operate. Now how do we deal with this problem? To me it's by and large if one can talk about it generally, it's a problem of education. But I guess my question is, do you see the police playing some pro-active role in this area?

DEPUTY COMMISSIONER J SMIT: What you've said is true. We have problems with witnesses who refuse to testify or at least refuse to come forward, it is true. I touched on this issue. But it needs a long discussion there; is the witness protection programme. At least the police were able to say "listen young man we'll look after you, and we will see that nothing happens to you". But now we don't have any means to do that. What we do at the moment, especially in the rural farming communities and that sort of thing, is that I know of cases where the policeman will remove the witness from this particular farm and get him employment far away from this farm to protect him, so he can testify in these cases. But it's not always possible. And it's not possible in cities like Windhoek for instance. That is the only way that we as police can help, if we have some or other authority to go to somewhere with this witness, a witness protection programme. The shelters we have, but we have it in Windhoek but we don't have it in Oshakati, we don't have it in Rundu. So that is the only way we can really assist. Because the witness would like to be protected.

ADV. V ERENSTEIN YA TOIVO: Two other things. Is there a national register concerning child abuse? Or is there any specific information, centrally kept on crimes against children?

DEPUTY COMMISSIONER J SMIT: No, not on a national wide scale.

ADV. V ERENSTEIN YA TOIVO: Are statistics kept on the age of the victims of violence and abuse?

DEPUTY COMMISSIONER J SMIT: No, no there's no statistics kept on age.

ADV. V ERENSTEIN YA TOIVO: Have you given any thought to this?

DEPUTY COMMISSIONER J SMIT: I personally have not. I must admit because I'm not in the resource sector of the police. But that is a very good point.

ADV. V ERENSTEIN YA TOIVO: We've seen that in some few countries they keep crime statistics according to the age and gender of the victim and the perpetrator; whether the people knew each other and things like that. It makes it obviously a lot easier to analyse the problems.

DEPUTY COMMISSIONER J SMIT: Yes.

ADV. V ERENSTEIN YA TOIVO: I was thinking particularly in the case of child abuse. This may not be in the criminal area, this may be in the civil area.

MS M OLIPHANT: I am a social worker at the Woman and Child Abuse Centre and I'm from the Ministry of Health and Social Services. We do keep detailed information about the people admitted to the centre.

ADV. V ERENSTEIN YA TOIVO: But what I was actually thinking of in addition to that is keeping a record of the people who committed the crimes.

MS M OLIPHANT: We do not record that information.

ADV. V ERENSTEIN YA TOIVO: A suggestion was made at one of the workshops that I attended, organised by NANAWO, that in some of the communities outside of the large centres where perhaps we have trained police, women could become auxiliary members of the police to be available to either receive complaints of violence coming from women or to be present in some way to assist the police. Have you heard the suggestion, do you have any thoughts about this?

DEPUTY COMMISSIONER J SMIT: Yes, we are at present recruiting as we call it, reserve police.

ADV. V ERENSTEIN YA TOIVO: Reserve?

DEPUTY COMMISSIONER J SMIT: So there is something like that. Although I don't think we have a very big interest from women as such. But there are some women who were recruited as reserve police.

MS I MALUNGA: There have been cases, like for example in the north, where police officers get involved in crime. And then sometimes the community becomes aware of the police officers being involved in crime. And then sometimes the police officers just continue working and the community feels that they are not being apprehended for their crime. So don't you think that builds distrust and obstructs good communication between the community and the police for co-operation, for example in cases of sexual abuse?

DEPUTY COMMISSIONER J SMIT: Definitely so. Mr Chairman, this causes mistrust, it does a great deal of harm to us as police. And that is why we try, when things like that come to our attention or the attention of the Inspector General, to deal severely with them. These situations cause tremendous distrust of the police, and it's something that we feel ashamed about, for we are accountable to the community and for every policeman that goes to court. If you ever read in the newspapers that a policeman was sentenced for such and such a crime, be assured we didn't cover it up. We rather brought him to court and let him be punished and that justice takes its own course. So we deal with it severely, we don't cover up. But some of these things don't come to our attention.

MS I MALUNGA: And do you, how can I say, do you inform the community that such a person has been apprehended or it's not appropriate?

DEPUTY COMMISSIONER J SMIT: Yes I really hope that they do inform the community. But it should be normally in the press and that sort of thing. I think it's a good idea to formally notify a community, if they had dealt with that policeman. But normally they find out very quickly, because he's normally transferred, or suspended or whatever.

MS R SELLE: Inspector, you did say you don't have a national register of the cases that go to the Ministry of Health and Social Services Welfare or to the women and Child Protection Centre, how many of the cases that are reported actually go to the Woman and Child Protection Centre? Because I think that would also influence the statistics. One of the statistics that I'm more interested in is, how many cases are reported and how many cases are brought to trial in the end. Because I think that will really show how women are faring or what happens to the victims.

DEPUTY COMMISSIONER J SMIT: Unfortunately in the statistics we prepared we didn't provide those results. But that could easily be obtained. I don't have any problems providing that information.

### **FORMAL ADDRESS BY MS D HUBBARD**

MS R SELLE: Not having a legal background, how is sexual harassment viewed in combination with sexual assault? Is there a specific law dealing with that as well? Because I think that is the one thing that is very prevalent in our society as well. Making remarks towards the women, or even male and so on.

MS D HUBBARD: Okay that I can answer. I think depending on the circumstances of a sexual harassment the person who had experienced harassment will have a number of legal options. In the Labour Act, sexual harassment is covered. So if you wanted to look at employment consequences you would have a channel to work through the Labour Act. Depending on the circumstances, you might also have the option if you wish to lay a charge of assault or indecent assault, if the harassment took that form. If it was verbal you might want to lay a *crimen injuria*. You know there are various different options so that it is impossible to answer generally everything. But it would depend to a great extent on what sort of remedy the person who experienced the harassment had in mind. I can also think of a hypothetical situation where there might be a civil claim against the harasser. For example, if you were so upset by the harassment that as a direct result of that you could prove that you had to seek psychological counselling over a long period of time, you might want to sue for the cost of that therapy. There would be a number of existing legal remedies. At the moment, there's nothing that is particularly pulled together under the heading of sexual harassment. Because we're talking about options that come from Civil Law, Criminal Law, and Labour Law. But nonetheless a person who had experienced sexual harassment would have a number of channels available to her.

MS GEBHARDT: Do you think that it would help if we change the whole justice system, if the whole justice system had to be changed to say having a jury system.

MS D HUBBARD: On this particular point of sexual offences I think that the kind of stereotypes that have caused problems for victims in the past are found both among judges and magistrates on the one side and among juries on the other. All of the jurisdictions that I drew upon for the research paper use jury systems. But the stereotypes that you find in the reported cases seem to be extremely similar to what you find here in Namibia and South Africa, where there isn't a jury system at present. So it's a big and complicated question, but I think on the point of what is causing all the problems at the moment in the law on sexual assault, I don't think that would make a fundamental difference.

ADV. V ERENSTEIN YA TOIVO: I'm concerned that the public has been demanding stiffer sentences for rape. And as you know there's quite a debate going on about whether there should be mandatory minimum sentences or not. I'm concerned about this cascading effect. From what I understand in other areas of our law today where we have lesser offences, more often or not there's a tendency to charge those lesser sentence offences because for the prosecutors it's safer to get a conviction. It's not simply sure, it's safer. If there is a graded ladder and mandatory minimum sentences, I will tend to think that this cascading effect would even be intensified. Leaving aside whether there are mandatory sentences or recommended sentences or sentencing guidelines or whatever. I personally agree that any reforms we're going to make for rape as regard evidence and so forth, obviously they have to be made in the area of sexual assault. The place where I get stuck is what is referred to the cascading effect.

MS D HUBBARD: I agree with that concern particularly in Namibia at the moment. What I would propose to do is not make different degrees of rape, or different degrees of I would call it sexual assault rather than indecent assault just to use modern terminology. But I would propose personally that there be rape, and that there be sexual assault. And possibly some other offences such as statutory rape.

ADV. V ERENSTEIN YA TOIVO: So you're saying to make a statutory indecent assault an offence?

MS D HUBBARD: Yes. But I don't think Namibia should do something complicated like, have three degrees of each of those. And in terms of the cascading effect, bringing them together into one conceptual framework if I can put it that way, wouldn't necessarily make it or likely than it already is under the existing law, for there to be a charge of indecent assault as opposed to rape. For example, if there was going to be difficulty in proving penetrating which is required under the current law for rape, then one option would be for the prosecutor to say well I don't think I can get a conviction, let me rather go for a conviction of indecent assault. That can already happen. What I think is that it would be enough of a jump to conceptually try to move these offences closer together. But I agree that particularly because of the debate around sentencing I would not want personally to provide too temptation for people who still hold the stereotypes about, well she asked for it or she must have really given off the wrong signals. I wouldn't want to give them an easy way to slide down the hill. And I would also just like to add that I think even if there was a ladder of offences that looked very close at what our offences look like now in definitional terms, I think it would be useful to have a set prosecutorial guidelines. In other words, I think it should not be competent for a prosecutor who has evidence to prove that there was a former sexual contact that falls under however rape is going to be defined in future. I don't think it should be competent for that prosecutor to use discretion to say, "well I'm not even going to attempt to secure a conviction for the most serious level". In other words, I think that's one way of addressing some of the sliding, is to make it clear that there must be guided discretion at some of the different points in the system. The same could apply with the police. If someone gives the police a statement that could constitute the charge of rape, however it's going to be defined, I don't think it should be competent for the police to themselves have the discretion to pull it down. So in other words I would combine a simple ladder of offences with fairly sharp steps if I can put it that way, providing for strong distinctions between the crimes. In other words I don't think we are ready for what Canada did yet. But I would combine that with guidelines for discretion.

ADV. V ERENSTEIN YA TOIVO: I think the South African law is a very positive law. I was wondering if the South Africans have done studies or if you have thought about the usefulness of a rape law for the rural areas. South Africa has a much more urbanised society than we have. And in that regard also although we have yet to see the community courts. Have you given any thought to what role if any the community courts might play?

MS D HUBBARD: I think it's going to be useful to fewer women in rural areas, but not to no one, if I can put it that way. I see no problem with community courts being involved. I think the whole idea would bring it down from the Supreme Court level in South Africa to the magistrate's court level, and thus make it more accessible. In the rural areas I would think that allowing community courts this sort of jurisdiction would serve a similar goal of accessibility. But I think particularly in rural areas it would be even more important for there to be a local support services. I think particularly of having women and men in the community given counselling skills, given support to provide a shelter, which doesn't have to be a big building which can be manned by people who are prepared to draw it together, to protect a woman in a situation like that. I would think that without taking steps to encourage community support that it would be doubly difficult for a woman in a small rural environment to find the courage and confidence in her circumstances to use this Act. But again I would say I think even though it would be more difficult to make the law as useful in rural areas as in urban areas, I wouldn't rule it out on that account. In the sense that I think there may be different approaches that are needed for different environments that we have in Namibia, we're a very varied nation. And it may be that this Act, if a similar act were put into place it might be found that it was of more benefit to urban women than rural women, or of more benefit to women in the communities where there were shelters than where there were not shelters. But to me it still would be helping women who would not have been helped otherwise. I don't think an approach like this can ever be tailored to cover all of the kinds of situations that we're talking about. One thing that has been put in to the law to make it more accessible for children is that someone can bring the order on behalf of the person who is experiencing the abuse. I think that's a very positive thing. So it's not to say that it will be as effective for children as for women. But I think it is an example of what I'm trying to say. Some children might benefit from an approach like this, but it might be that other efforts particularly geared to children will be of more benefit to more children. So I think this is just one piece, one piece of an initiative. I think there has got to be a number of different fronts.

DR HUARAKA: I think that's probably a slightly different issue, whether the community courts will have such jurisdiction. I think the Community Courts Bill will deal more with typical communal issues that are dealt with by the customary and traditions systems.

MS R SELLE: The Family Violence Act, does it also include psychological violence?

MS D HUBBARD: Not at the moment. At the moment it's undefined, it's not comprehensively defined. And it is intended not to be used for psychological violence. The recommendation for the South African Law Commission would also not go that far. They do not propose that the Act should be extended to cover psychological violence. I think evidentiary considerations would be more difficult. I personally do not believe psychological violence should be excluded. We can do better than South African on that point.

### **FORMAL ADDRESS BY PROF. A VAN DYK**

MS R SELLE: In our hospitals in the casualty wards, where there aren't Woman and Child Protection Centres, are there possibilities for women to have privacy when they come in after rapes or assaults, especially in the rural areas?

PROF. A VAN DYK: Well I think they really try to achieve that. It doesn't matter where it is, in the rural areas as well, they really try to. I can't say for sure if that is always achieved. Because you know in some very rural areas there are only assistant nurses, for instance, some times on duty. And although they are taught this, I can't say for sure whether there is always privacy, but I think they always try where it's possible.

DR HUARAKA: A related question particularly for instance in big cities like Windhoek and so on, where you have trained nurses, in the case of rape for instance, where the woman is raped and beaten and so on. Are the nurses specially trained to handle such situations, that they should ask certain questions or try and assist the victim?

PROF. A VAN DYK: That is what we try. But we want to strengthen that.

MS R SELLE: Concerning the four year diploma, are the assistant nurses and the learner nurses who don't go through the diploma course, are they also in their basic training being given training to handle rare cases?

PROF. A VAN DYK: Well you see we are not responsible, the Ministry is responsible for training the sub-professionals. At the University we are only training the professional nurses. So I can only speak for what we do at the University. But I'm sure, seen in the light of the problem, that the Ministry also address this in their curriculum. Maybe not so extensively as we do with the registered nurses.

MS I MALUNGA: I would just like to know what is the reaction of the male students when they visit these abuse centres? What is their attitude and how do they cope?

PROF. A VAN DYK: When you discuss it in the class that there is usually some of them that say the victim deserved it. So that is why we feel we must really strengthen this work. It is such a deep cultural societal thing that we will have to give more attention to it.

MS GEBHARDT: A lot of the nurses in Namibia, I find them to be very unapproachable people. So I don't understand how a person who has been raped would go to a nurse and be able to discuss rape, you know, because I've been to that clinic in Robert Mugabe, maybe that's not the type of nurses you train, but they're very unapproachable. And usually they are rude to people and put them off. I don't understand how that attitude is created and what are you doing about it.

PROF. A VAN DYK: Well maybe this is a generalisation and not all the nurses are like that. We experience a problem, severe problem actually with that some, many of the nurses returned from exile and they were trained in different countries under different circumstances. And I think it's very difficult for them in any circumstances to adapt to situations. Maybe in their training programmes attitudes and professional practise, that is what we found, was not so extensively addressed as what we do here. And I'm not saying that the nurses who stayed behind or those who are staying in Windhoek are not guilty of that. Although we try to minimise it and give really a lot of attention to that, that they shouldn't be like that.



ADV. V ERENSTEIN YA TOIVO: I have a couple of questions. One is in the area of ethics. I'm not sure that it relates strictly to the training. There's a question that has been raised in a number of different discussions about whether nursing personnel and doctors should have an obligation to report to the police when they see someone who is, appears to be a victim of certain types of crimes, such as sexual abuse, domestic violence, physical abuse of a child. I believe there is a reporting obligation as regard children.

PROF. A VAN DYK: Yes.

ADV. V ERENSTEIN YA TOIVO: But it's not reported to the police, is it?

PROF. A VAN DYK: Ja, it is usually.

ADV. V ERENSTEIN YA TOIVO: Because the impression that one gets is that certainly the nurses are trained that this is not their responsibility. And many of them also have the attitude that this is a small community where I am, and I don't want to be involved in somebody else's problems. I wonder if you have any thoughts on this. Because we have been discussing the larger problem of what is the society's responsibility for stopping these problems.

PROF. A VAN DYK: Now this is actually a very disputable issue. Yes we train doctors and nurses and they should report incorrect behaviour. At least to their supervisor if they don't know how to report it to the police. There are supervisors all over. They should report to the Medical Superintendent or the person in charge of the hospital immediately if they get a case like that. They are trained like that, and they've done it in the past. I am aware that some people do not want to test for alcohol abuse. This is an ethical thing. But then of course on the other hand there is this big problem, where you've got a small community and the nurse for instance calls the police to say look we've got this case, there's a suspicion of this. Sometimes the nurses complain they get abused by the community. Or threatened by the community you know because they reported the case. So this is a difficult situation. And for that reason they keep their mouths shut, they don't want to get involved.

ADV. V ERENSTEIN YA TOIVO: Do you think there should be a legal obligation, an obligation imposed by law relating to the profession that they must report?

PROF. A VAN DYK: Well I think so, because they are the persons at first hand that are working with these cases.

ADV. V ERENSTEIN YA TOIVO: I just have one other question if I may. I met a psychiatrist who was doing a study throughout Namibia with the Ministry of Health under the auspices of the World Health Organisation looking at mental health needs within Namibia. And looking in communities at the vulnerable areas which include violence and abuse. According to my understanding at present we don't have in every region of the country, a person who is trained in counselling. Adequately trained to counsel or at least psychological counselling. And one of the ideas was to try to train one nurse in every region in psychiatric nursing, and also with the capacity to train other nurses. Has the University any involvement in this type of training?

PROF. A VAN DYK: Ja, the Ministry just recently established a section or a department for mental health. It was actually neglected through the years. And I think they are busy with that. What we do during the mental health course which was previously called psychiatric nursing, we do train the nurses extensively in that. We really try on counselling, how to do it, how they should use it. They have sessions, and we also get clinical psychologists and social workers and you know sociologist and people to come and give extra training to them in that regard. So there should be in due course in the different regions at least registered nurses who can do that.

MS R SELLE: One of the controversial issue is AIDS testing for rape perpetrators. This is something we have to think of.

MS D HUBBARD: I think it is very important in this debate, whichever side one comes down on, not to single out AIDS. Because there are other sexually transmitted diseases. And I think particularly in the light of not wanting to encourage any form of discrimination with regards to AIDS, I think the debate itself should be about testing for sexually transmitted diseases. Because for example, there are forms of

syphilis and hepatitis that can also be fatal. So you know there's no need to treat AIDS as if it's off in a quarter all by itself. It's important to articulate the debate in the most useful way possible as we're busy debating.

PROF. A VAN DYK: I want to add something to the issue on confidentiality concerning AIDS. I just want to comment more on that. It's actually also not for AIDS alone that you should keep the patient's information confidential on the one hand. On the other hand, it's very difficult when a patient is admitted to a ward where there are about say ten different nursing personnel that's working with this patient. There are medical doctors, there are psychotherapists, you name it. And it is difficult to keep a disease absolutely confidential, because you need that information actually to plan what you are going to do with the patient. What should be understood is that confidentiality should be handled in a very responsible way. Before the patient even knows that he is HIV positive, I think it is unfair that the rest of the persons involved know. The patient should be told what is the situation, whether he wants his family to know or not. For the patient to take a decision, the patient must also know what is his/her situation so it is difficult in practise to keep confidential about an issue such as AIDS. Concerning all the things that should be done to the patient, medical etc, these should be handled in a way which is not irresponsible and with all the ethics and humanity necessary. Sometimes the people don't understand that and you know they don't. Because you've got counsellors now that are working extensively with these patients you know and explain to them everything to make it easier for them to carry the message.

DR HUARAKA: You may have heard people talking about violence against women and abuse of women, sometimes committed by people in position of authority, using their authority to force young girls to have sex with them. Particularly one teacher phoned in to say no, no don't just blame the teachers, this is what's happening in other professions. So my question now is: in your experience as a professor at the University in the nursing profession and is this an issue that has come to surface that people in senior authority, doctors, the sisters, those in command, I mean in charge of hospitals, sometimes use their position to sexually harass their juniors?

PROF. A VAN DYK: Well not that I know of. There might be cases, that is, I mean when you got human beings you've got human beings, you know, and they do all sorts of things. But not that I know of.

### **FORMAL ADDRESS BY MS E COETZEE**

ADV. V ERENSTEIN YA TOIVO: The media focus on incident based reporting of rape, rather than trying to go behind and analyse some of these problems. I was wondering whether Sister Namibia Collective ever works with the radio or the TV, whether you're ever asked to come in to do background studies for them?

MS E COETZEE of Sister Namibia Collective: The NBC radio and TV have a very close link with Sister Namibia and they always contact us when they want one of us to go in and to assist them with research, or to assist them with one or other panel discussions.

ADV. V ERENSTEIN YA TOIVO: So you do assist in research?

MS E COETZEE: Yes, we do.

MS R SELLE: Is there anything we can do to change the incident reporting? For instance, if you look at the report on the TV last night or you listened to the radio on the start of the public hearing, it's just about public hearings. There's no further information that is given on what is the incident of violent crimes. There's no more, you will never find that the news report gives a bit more information to give the reader insight on why something like this is necessary.

ADV. V ERENSTEIN YA TOIVO: That's right.

MS E COETZEE: I think it will be very difficult because you must at all times try to keep the person's identity confidential. But if I can refer to the article that was in the Namibian of yesterday, I think that they could have at least spent a bit more time on giving more details about the situation that occurred, without revealing the person's identity. But it was really, I think, it was a quite confusing report.

ADV. V ERENSTEIN YA TOIVO: I wonder whether the population as a whole is aware of how

serious and how widespread the problems are. I don't think so. I mean we, some of us talk about the problems of violence and abuse as if everybody understands that these are widespread problems. I'm not at all sure if that is understood. I don't think I have any perspective on the subject because I'm very much involved with it. But I wonder if you go to the average Namibian, let us say the average Namibian man and ask how widespread is this problem. People will say it is serious because it is a serious problem even if it is one person. But I don't have any sense of whether the public has that type of information. They certainly don't get it in the media.

MS E COETZEE: I think when we look at the campaigns that started last year, you should actually divide it into two steps. Saying the first step will be to raise awareness, and then you move on to educating. And I think we are still busy with raising awareness concerning the issue of violence against women and children. And then we must start with educating the whole population. But it is very difficult. Because all the activities are mainly based, most of the activities are based here in Windhoek. But I think some of the organisations are really trying to get the woman from the grassroots level involved in all the activities. If I can speak on behalf of Sister, I can really say that whenever we have panel discussions, whenever we write about a situation concerning violence in our magazine, we will by all means try to have it in three languages, English, Afrikaans and Oshiwambo. And we would also try to have a little dictionary at the end of the article, so that all the women and all the men can really understand what we are writing about in our magazine.

MS GEBHARDT: You said something about wanting to train the youth as well?

MS E COETZEE: Yes, we have started this year with the educational programme in schools. Not in all schools, because it's actually just a pilot study for this year. And we are using already existing groups in schools. For instance like the TADA groups, Teenagers Against Drugs Abuse, Peer Counselling groups and the YWCA. And then we concentrate a lot on the gender awareness side of the training. And we also bring in violent behaviour among the youth. For instance you get tension in a lot of the relationships of the young people, there is a lot of violence involved in these relationships. And we are trying to give them sort of self-confidence so that they, especially the girls, so that they know they don't have to stay in destructive relationship, that they can get out.

MS GEBHARDT: What I'm concerned about is children in schools, they're protected, well at least they have the school to turn back on. They live sort of protected, you know they're kind of protected, they're still in school, and they are protected by society and everything else. I'm talking about young people that are out of school that are not necessarily studying but they are all around and they have nothing to do. They can't get a job. And those are the people that I feel that you would have to really research, how you would be able to train those type of people. Because it's a totally different lifestyle when you get out of school, and you think totally different. The world around you is totally different. If you had to, if you wanted to train those young people, not necessarily the ones in the school, because I think the ones in the school they are okay. Because they have guidance counsellors, they have all those type of things to fall back on. But children that are not necessarily on the streets but they are not protected as such. You would have a serious problem trying to educate, trying to reach out to them because when they're at that stage they feel they know everything.

MS E COETZEE: Maybe I can just mention the YWCA: They have a Peer Counselling group, they have one of these educational groups for young girls, young mothers who are out of school because they fell pregnant in school. And at the Ministry of Youth and Sport they also have groups for these youth who are unemployed, who cannot find a job. But it's very difficult to really get them involved in these programmes because most of the times they feel that it is a waste of their time. They would rather go somewhere else, or they would rather do something else.

MS GEBHARDT: Yes that's why I'm saying you would have to do research how you going to reach out to them.

MS E COETZEE: We also took this educational programme to Baumgartsbrunn School on the Khomas Hochland road, and we had in the one day a workshop with fifty children. And we concentrated a lot on violence against women and children, and violent behaviour in relationships with one another.

MS I MALUNGA: What I personally feel is going back to the media, especially the NBC. To me they don't render services actually to the people. They are unable to bring a broader focus on the issues.

## **FORMAL ADDRESS BY MS D M WEISSNER**

ADV. V ERENSTEIN YA TOIVO: Do we need some kind of a national hotline? And if so who should run such a hotline.

MS D WEISSNER of Namibia Institute for Democracy: Firstly relating to television spots, the Multi-Media Campaign did decide that it was necessary to provide telephone numbers. We will also be providing or telling people to contact their nearest police station which might have greater access for a lot of the people. We do realise that the support systems are not as operational as one would like them to be in Namibia. The expense of such an undertaking is of course considerable as well, and I don't think that the finances are available at this time in Namibia to have such a national hotline. A further consideration is, of course, that a lot of women or children etcetera, who are in violent situations do not have access to telephones. I think what would be ideal, is to have a national hotline specifically for violence, abuse, human rights violations, etcetera. This must be manned by professional people. And I think it would also be good if the staff would be well educated and that a mechanism would be in place where, for example, if a person makes a telephone call, meaning they have the courage at that moment to make the call, then somebody should be sent to them to speak to them directly to maybe assist them to get them out of the violent situation, that would be ideal. But of course the expense is considerable, the vastness of the Namibian territory as well is a consideration. Which is why I would suggest or recommend that NGOs, CBOs etcetera form a network and perhaps go for education, for counselling training. And there should be more people available for the public at large to go to for assistance. These people can then also refer them further to, for example, Legal Assistance Centres, police, organisations. I'm not sure whether that's entirely viable but I thought that that might be perhaps one way to address the issue in Namibia.

MS R SELLE: I would like to come back to our old question of education and the media. One of the things that we find with the media is that it is more incident based. You will read this woman was raped, the police said this or that. But you won't read anything about the background or seldom you will find that they focus on processes or procedures that women must go through or children can go through, or where they can go for help. For instance, yesterday's reporting on the public hearings and the opening was all about this only, the opening only, but nothing about the statistics and how serious the problems are which necessitate the public hearings. Do you think NID has a role there to perhaps provide media training particularly getting the media to widen their news reporting? I'm just wondering here because this is something that we will publish if you send us a release. Honourable Netumba Ndaitwah asked one newspaper, New Era if they would publish a regular column on gender. The response was, yes if you provide the copy, we don't have the journalists to do the research. And this is the response you get from all of the media. But surely the newspapers also have a responsibility there.

MS D WEISSNER: Yes, it is said that newspapers are the bloodstream of a democracy. The NID per se does not have a budget for the training of journalists. But I do know our main funder for example, does provide scholarships and bursaries for people who are studying journalism. It has in fact also been suggested that the NID draft a proposal regarding the education of journalists in Namibia. I've made a note of this. I will follow it up at our office and also with prospective funders. Also relating to coverage of this event, I perused the papers briefly this morning, I think the Namibian did provide statistics of rape. But the others tended more to gloss over the actual fact and just concentrated on what the hearing was about without providing the actual background information.

DR HUARAKA: Concerning the constitution, have you thought of simplifying it, put it in different languages?

MS D WEISSNER: Yes, we have.

DR HUARAKA: Okay, I'm behind time. It shows my ignorance. What about the other human rights instruments like the Rights of the Child, the Convention of All Forms of Discrimination Against Women, Torture and so on?

MS D WEISSNER: We have primarily three publications available at the moment. The one is entitled Democracy, a Newer Guide to Better Understanding. That is available only in English at the moment. That contains everything from how democracy works, why it works, how to vote, and it also contains a

summary of the Namibian Constitution in very simplified language. The other publications we have are the Namibian Citizen Rights and Duties. That is in English, Afrikaans, Oshiwambo, and Otjiherero. And then we have Know Your Constitution, the Namibian Constitution, which is also a summary of the Namibian Constitution in layman's term available in English, Afrikaans, Otjiherero, and Oshiwambo.

MS R SELLE: You mentioned a very important thing, which is civil education. I'm not aware of any NGOs looking specifically at civic situation of creating a civic conscience about crime.

MS D WEISSNER: In 1995 to 96 the NID initiated a project which we called Crime Alert. That was run on a national level. We tried to get communities and the police together to discuss what the police are there for, what the community can do to assist. The result of that was that police community public relations officers were established in Swakopmund, in Rundu, Oshakati, and I believe also in the south. So there we did try to attempt to create an awareness, that the community is also responsible for alleviating the problem of crime. Because very often citizens, civilians themselves harbour criminals which is hardly conducive to assisting the police in performing their tasks.

### **FORMAL ADDRESS BY MS R NAMISES**

MR W POTGIETER: The question of shelters is very important and I think at a later stage we have to get more specific proposals. The shelter in Windhoek and the one in Khomasdal, are they registered as welfare organisations or is a very informal kind of control body that they have? How are they working?

MS R NAMISES: The one is run by the Social Diaconic Group that is falling under the church, which means that the church is registered maybe, and they are falling under the church. The other is a purely community based group, they belong to a network of women and I was informed last week when I tried to make an investigation that they have applied for registration. But when they were called together at the Social Services Department they were informed that Women Solidarity, which deals with counselling and education, has also applied for registration and the suggestion was made by the social worker responsible that the two groups affiliate to each other and through that process they can be registered and they are presently dealing with that. At the moment they are not registered. Others in the communities are informal friend support groupings. It is just friends who take somebody in the house, so they are on a more person to person level.

ADV. V ERENSTEIN YA TOIVO: I have a few questions. The two shelters in Windhoek, how were the funds acquired? Do they own the property? I think the one that I am familiar with, does. Can you just give us some information about how the support was obtained, where the funds come from for the staff and whether the funding situation is sustainable? But also, besides the funding, I would also like you to elaborate the variety of reasons women do not come to the shelter. What are your experiences when someone leaves the family? Do they bring their children and then what happens? Do you find, for example, that they come and then they go back home and so forth?

MS R NAMISES: The one shelter, the church funded one, they receive funding, I think, from donors. The other one in Windhoek wrote up a project proposal and through that they started looking for funding, and the first thing that they needed funding for was a house. They were granted funding through GTZ, but what happened was, because they are not registered they don't have presently the power to own property. They need to be registered so that the property can be transferred into their name. Then additionally they have self fund-raising programmes and they were also lucky, they were given money to fund their staff. So they have one staff that is in the day and one staff in the night.

ADV. V ERENSTEIN YA TOIVO: Is that GTZ or is that from the self-fund-raising?

MS R NAMISES: No, it is also from GTZ but they have to create their own funding. Further, the question of food becomes a problem in the shelters because they have to have food on a daily basis for the people in the shelter, so what they did, they went to speak to the business community and they receive small donations of food or any other item from there. For their equipment in the house they also did the same, they asked different organisations and they were given donations of old furniture and different cutlery and so on. So for equipment in the shelters, the one that I am familiar with, they have all things that they need. It is only the continuation of the funding and also the food problem that they are looking into. Also the children are welcome, the shelter in Windhoek can take 20 people, so they divided it for ten women and ten children. What happens is, there is a turnover. Sometimes they have

four women, but sometimes maybe they will have more children and three mothers only. The children are allowed to stay with the mother. There are certain age limits of course, because there has been experience through the social workers that sometimes children are also abused and if they are mixed with other children who are a little bit older, there might be the same thing happening. So the children who are kept in the shelter are restricted to the age of 11 or below. The request is maybe that that child gets taken up in a safe-house and the mother in the shelter. What happens, why women don't come, first because of the taboo that women cannot come out and live in a different place. That is what is restricting women to come. For example, a woman came to the shelter and she just stays one week and then she returns back to the family, or sometimes she fears that she will not find another place after the shelter because there is a need for provision for the woman after the shelter. So there are no possibilities at the moment after the shelter where to go. However, these problems can be solved, maybe she can, if she wants a divorce, get the divorce done, but the way beyond the shelter is not clear and that also keeps them back. Then sometimes there are women who are unemployed and if they are in the shelter they only participate in the activities in the shelter and then they are asked to seek employment and that also makes them to go back to the family because of economic reasons. Then sometimes women are just not ready, sometimes it is only that one day after she has been severely beaten or after she has gone into a total stress, then she wants to get out and she sometimes just has a night in the shelter and then goes back immediately the next day. Other women who come are women who were raped. They come because they were raped and they don't stay long in the shelter, immediately after three or two days they go back.

MS I MALUNGA: In these shelters, are there people who counsel these women or do the women get together maybe on a daily basis to discuss their problems, encourage each other and talk about their experiences?

MS R NAMISES: The link is with the Woman and Child Protection Unit, so if a woman reports her situation, the staff of the shelter would find out first whether she is connected with the Woman and Child Protection Unit and if she says she doesn't want to lay a charge then she would refer her to a social worker there. So the counselling and the further support is done at the Woman and Child Protection Unit, additionally social workers can do counselling. If the social workers maybe are busy, then they can refer her to Women's Solidarity that is doing counselling, or Lifeline. But the reason why the women are referred to the Woman and Child Protection Unit is, that there is a form that they fill in and they are screened before they come to the shelter. Sometimes a woman has been severely battered. But she doesn't want to make a case and if something happens to her in the shelter, there might be difficulty experienced by the staff. So it is safer to go through the Woman and Child Protection Unit, be screened, receive medical treatment, also social counselling and then they are referred. There was no time where you would find more than ten women in the shelter, so the two or three women who are in the shelter share household responsibilities. They are regarded as adult women and they need to continue as adult women and not behave as if they are living in a boarding school or like they are living under the care of other people. So they are asked to participate and to discuss their problems and the house rules, what they can do and if they are working women, they go out and the others who are not working support them by taking care of the children. That is how it is done.

ADV. V ERENSTEIN YA TOIVO: Do you think that the existing shelters are well enough known?

MS R NAMISES: One shelter has tried to inform the public of its existence, but these shelters are supposed to be secret and we are not supposed to give out the addresses of the shelters. I think that is why the groups are afraid to come out and say we are here and this is what we do. Instead it was agreed that they will only speak out about their programmes and that is where they are struggling, even to give out their telephone number. That is the fear that they have. So at the moment the shelters are not well-known, it is also not known that there are shelters.

MR W POTGIETER: I want to ask this, we heard from our regional hearings and we also heard it from the smaller towns that or even a single church may have enough people to establish a shelter in smaller places. A lot of NGOs have the problem that they can't get together for this type of common purpose. Would you say one should find, maybe even through legislation, a structure to establish a shelter, a prescribed process of how people can get involved, how government money could be channelled? Would it be possible, will it work? Because sometimes it is no use putting up the structure and in practice people are not co-operating. The other question was, sometimes women have nowhere to go, or a woman has a short-term problem in her house. We had this testimony on various occasions that the woman gets battered in the evening, she goes to the police and then the police say, "thank you, we have

taken your charge" and where must she go then? The family and the neighbours don't want to get involved and if you find a neutral place where you have police involvement, registered social workers involved, that will obviously help, because then this husband will know it is a risk to interfere there. But how to get these things together, because if we leave it open all the time for communities just to organise themselves, they may never get to that. I just want to refer to the fact that in the past, although it was also only for the advantaged part of the community, the government made considerable subsidies to these kind of welfare institutions, but the moment that they do that they obviously expect good bookkeeping, a lot of administrative things and if you don't have money the first thing you cannot do is to put up administration.

MS R NAMISES: I would actually say, through the experience with these two new shelters I have seen that women can operate and can take care of such shelters, especially if there are possibilities of training and skills improvement. I have seen, for example, that one shelter had to be responsible for the money that they were given and they had to take care of the bookkeeping and they didn't have training, so they looked for people to train them so that they could improve their skills. I am of the opinion that if there is a shelter, there needs to be very close co-operation between the government, police, social workers and the community, and I think the government should help to provide funding and also because of their funding, the Government needs to know what is happening in the shelters. Since the Commission helped me to participate in the training and facilitation of the regional workshops, I was constantly informed in each town that women were expressing the need for shelters. What they did, they formed a network that they called the Women's Network. For example, in smaller towns such as Otjiwarongo for example - they are trying to put up these safe-house for women. I was thinking that because the Woman and Child Protection Unit also are thinking of extending their services throughout the country, like in Oshakati they have one centre, and in Keetmanshoop. So the community and the government can join hands to create these shelters. There needs to be involvement from both sides so that the shelters can be more often a neutral place.

MS I MALUNGA: I would just like to know, how safe are these shelters? If, for example, a woman goes there, isn't there a chance that her husband might find out where she is and then comes and abuses her again?

MS R NAMISES: Safety, one cannot guarantee, but we are hoping that it is kept secret and through that, for a certain time, women can be safe. But so far, as it is not known, there hasn't been any interference from the husbands. Once the woman has left the family house, then the social worker gets in touch with the husband so that they can have a talk to understand his situation. At the shelters thought has been given to setting up a proper security system with walls and an alarm system, so that people know beforehand who is at the door in case the husbands know where the shelter is. There has been a request for the police to co-operate very closely with the shelter staff and the shelter staff to directly contact the police if the husband appears at the house. But the women are not stopped from communicating with their husbands, they can call them but they are asked not to give away where they are and not to bring the husband to the shelter. Men are not allowed in the shelters.

ADV. V ERENSTEIN YA TOIVO: You mentioned that the Woman and Child Protection Unit does not help a woman if she doesn't lay a charge. In your opinion, is this a problem? The reason I am asking you is because most of us, when someone comes to us who has a problem, we refer them to the Woman and Child Protection Unit. Now sometimes after the person goes there, they say they don't want to lay a charge. I think it probably happens fairly often. My question is, what happens to this group of people and is there something more that can be done in that area?

MS R NAMISES: Yes, it is a problem because the help is available only if you lay a charge at the Woman and Child Protection Unit and if you don't, then the police don't assist you. We are asking for proper referral and even groups like Women's Solidarity, even the shelters had experience that they didn't receive referrals from the Woman and Child Protection Unit. The women who went to make complaints or who refused to make a charge, are informing us that after they said they did not want to lay a charge, then the Unit was saying that they cannot help them any more. We don't want to press the woman, it is okay if she doesn't want to make a charge, but there is actually more help needed by her, especially when she is not laying a charge. The help that is needed is to give her proper information and also to find out if she needs any counselling or whether she can be taken to a hospital. That is where the different organisations that are working on violence come in. But this is only going to happen if the Woman and Child Protection Unit develops a proper referral system. With the referral system the Unit would say

you can go to the hospital or you can go to Women's Solidarity. What we mean by referral is, you help the person to actually go with you or send a little letter, saying this is what you need. Or help to make a call saying this person is here and would you take over. If a woman seeks help and you don't help her at that time, you lose that person, she will never come back any more, because if she has decided that now I want to speak and when the support structures receive her and they also say that they cannot help her, she just goes back into the situation. So that opportunity needs to be used to its utmost best by those of us who are dealing with the issue. Otherwise the women willing never come back to speak out.

### **FORMAL ADDRESS BY MS D LEBEAU**

### **FORMAL ADDRESS BY DR H BECKER AND MS P CLAASSEN**

ADV. V ERENSTEIN YA TOIVO: As far as the dealing with rape by the customary courts is concerned, how is rape defined? And the reason I ask this question is, first of all, from speaking to some people in the North in English, I find the word "rape" is used for a much broader spectrum of activities. To give you an example, somebody was involved in some sort of 'molestation' overseas; Whatever it was, it would not fall under any definition of rape as we understand it in Namibia or elsewhere, it did not involve any sexual penetration, it was the grabbing, it was indecent physical activity and then when it was reported to me by more than one person, they said that this person had raped a woman. That's one. How is it defined, and in the cases of young people, I just want to know if it is true, I sometimes get the impression that what is considered rape may be what we call statutory rape, in other words someone having sex with a young girl who may have consented. We have a statute that says if a man has sex with a girl under a certain age, then it is a crime. Is that within rape in customary law? I may as well ask all my questions at once. In the case of these young children, am I correct to assume that they do not have the possibility of having any type of social services, any counselling? I am just wondering, what happens to these children. If this type of sexual activity is widespread, then this is an area that we also should talk about with the Department of Social Welfare and so forth. Is there any liaison with the traditional courts on how to assist the victims, because they are not going to the Woman and Child Abuse Centres. Let me just say one more thing, a comment on something. We found this in Kavango but I heard about this in some other places as well. There have been cases that I heard about where a woman was raped, charges were brought with the police. The person got a lawyer, in the particular case I know about the person's employer hired a lawyer for him. The woman ultimately, after enough court delays and everything else, withdrew the charges. In fact, I heard this story twice in Windhoek. The charges were withdrawn and they decided that they couldn't proceed with the case, because of the lawyer being involved - because it was presented as "the man bought a lawyer" - and there was a perception that there couldn't be justice because she was just there by herself and instead they went to the traditional leaders, hoping to get some justice in their courts. In this one particular case that was described there also seemed to be a belief that justice meant getting money or getting some form of compensation. This is very important because in the Law Reform and Development Commission, as we have been debating what should be in the rape statute, we have agreed - and we haven't issued the report yet - that we want to provide for compensation and we want to provide for, not as an exclusive remedy but just as a minimum, that you should be able to get a certain amount of compensation if there is a conviction. There were great debates to the point where some of our colleagues said it appears that some of the lawyers feel that this is unheard of, that it would encourage women to make up stories of rape and so forth just to get the money, but we argued - and I suppose successfully - that under customary law this is normal and that if one actually went out and started asking people in the communities, "do you think the law should have this compensation provision", we believe there would be a lot of support. I am sorry, I said a lot of different things but I would be interested to get your reaction. I would also like your recommendations as to what type of long term research is needed.

DR H BECKER: Maybe I should try to start with the first thing, that is the definition of rape. I fully agree to what you said, Vicky, that a lot of things are understood by rape which are not covered by the present law and which may not even be covered by our every day speak. I remember when we, during a training course that we ran in one of the communities in the North, started to discuss rape, some participants said, "but women also rape men". I said, "how do women rape men?", just for a matter of information, we knew the participants quite well by then so they were quite prepared to speak about these things. Then they said there are a lot of big women, as they put it, in the community, they buy young boys beer and cook them nice meals and then they have sex with them. They also consider this as rape, as a certain type of seduction certainly, but it is not necessarily rape under the law as the law on rape stands at the moment. So this is something that is an issue. When we looked at the courts, it was



quite clear in those cases that were dealt with that some kind of coercion or violence had been used. It wasn't always clear whether penetration had taken place. I mean, it was like "he followed me and he grabbed me and he threw me to the ground and then something happened." What exactly happened was in most cases not described, it could have been some other kind of sex, violent sexual attention I would put it. But some degree of physical coercion or violence was included. What you called statutory rape, I don't think that this would come to the court as rape but it would be dealt with, if a pregnancy happens, under the impregnation thing. If nothing happens, I think nobody will deal with this issue. I did not come across any of these. Looking at the whole issue of the traditional leaders and the compensation and the situation in the court, in fact when we did the focus group discussions in these two communities, one in Uukwambi, one in Ondonga, most women said they would rather go to a traditional court rather than to a state court. One of the points put forward was that the traditional courts are more sympathetic towards the woman than the state courts. At a state court you get grilled and your sexual life is being put under the spot light and you will be dealt with in a way that is not very sympathetic, but at a traditional court the woman will be treated in a much more sympathetic way. Many of the women actually said that normally at the traditional court she doesn't have to prove that something has happened, but the court would believe, would start out from believing her that she is right, whereas at the state court they felt they were always under suspicion that it was a false accusation. At the traditional court it is not like that, the chief or the headman will not believe me, whereas the magistrate will not believe me. In whatever kind of crime where people are the victim, they would prefer - at least in those northern areas - to go to the traditional court because there is compensation. They say, "if I go to the state court, maybe he gets punished, probably he will walk out on bail tomorrow, but maybe even if he gets locked away in jail I don't get anything, but if I go to the traditional court I will get some kind of compensation or my family will get some kind of compensation." This is not only the case when it comes to rape, it is also the case when it comes to theft or even murder, that people say it is better for the victim. We asked them once, "if you were the perpetrator, if you were the victim, would you rather go to this or that court?" and most people said, "if I am the perpetrator of course I would prefer to go to the state court, if I am the victim I prefer to go to the traditional court." I think that is something that is clearly coming up again and again.

DR HUARAKA: Particularly in cattle theft.

DR H BECKER: You get double.

DR HUARAKA: In the community court - there was a debate that is still going on, I think it has been resolved - that the community courts will have jurisdiction to try cases of cattle theft, because the debate was that they should not deal with criminal cases but they will have to, because most cattle people prefer to go to traditional courts for cattle theft because then they get compensation instead of the person being fined N\$10 or something.

MS R SELLE: I have a comment more than a question, this is about the informal practices. Dr Becker pointed out that even in the central and in the south they found, or just about everywhere, they found that there is an acceptance that a woman has done something to cause rape, because on the 9th November last year a 14 year old girl in Swakopmund was raped at about 3 o'clock in the morning when she was coming from a hotel on the way to Walvis Bay. She was raped at that hotel. I happen to know, not her, but friends of hers very well, and then the one girl who went to visit her the next day said, "but why did you go with the security guard?", whereas the other friend said, "but Dad, I would also have gone with the security guard because I would have trusted him because of his uniform." This is the attitude even amongst the teenagers of today, you still get these attitudes prevailing.

DR H BECKER: If I say it is generally the attitude, that doesn't mean that everybody has it. But the majority people feel to one or the other extent it is her fault as well. We discussed, for instance, the case of two teenage girls being invited by three men, one of them they knew, the other they didn't know, to go to some area like Goreangab Dam and the men offered them some beers. After having had these beers the men said, "now you must pay back, now we have sex" and the girls said no - they were 16 years old. And everybody said but it is their fault, why did they take the men's beer. Of course, if a man gives you beer, you have to pay something back.

MS D LEBEAU: I am a lecturer, I teach social problems as one of the classes that I teach at the university, and when I teach that class, each term I have the students go out and do some little interview and of course, there is always a group that selects rape. So they ask questions like, "who do you think is at fault" and people say things like it's the woman's fault with her clothes, it is the woman's fault because

of where she was, she was walking alone at night. One man even said it is the woman's fault for wearing earrings because everyone knows you are only wearing earrings to be sexually attractive.

DR HUARAKA: But men wear ties and things like that to be attractive.

ADV. V ERENSTEIN YA TOIVO: It is true though, unfortunately it is a problem.

MS R SELLE: In the case of this 15 year old in Swakopmund, she is from a German/English background, her friends are German, English and Afrikaans and immediately, "yes, but what was she doing there at quarter to three in the morning?" Then the others said, "but we were also there, we have a right to be there, we were going out." But then the other one again went to her house and while they are sitting with her, fires these questions at her, "but you were wearing that mini, you should not be wearing that mini" and it is the girls amongst themselves coming up with this.

MS I MALUNGA: Just to add a comment on attitudes, because I also remember there were two cases last year. There was one case where one was a teacher, she was on her way to the school, it was in the village. There was this man approaching her and she refused because she was actually hurrying, she was late for school. The man wasn't drunk, he was sober and then he started attacking the woman with this long knife, a panga, and he actually went to the extent where he cut her spinal cord off and he left her lying there and he ran away. The woman was actually walking with a small boy to the school, so the boy ran away and he went and called the other people. They came and took her to hospital and after a few days she passed away because she couldn't make it. Then they caught the man and put him in jail, but he also committed suicide because he was afraid of what was going to happen to him. The woman's family went to the man's family and they demanded that a cow should be paid because of what happened to the woman. Then there was an argument saying it was her fault, maybe she was also in love with the man. There is another case where a man, he is actually a well-off man, and he had his wife and they were travelling. At that time his wife was 7 months pregnant. He parked the car under a tree, he locked all the windows and he told the wife he was coming. The man put petrol over the car and then he set the car on fire with the woman inside the car. This was just last year in December. He made it look like an accident. Because he was such a big man in the community - he was a suspect - but he came out because there wasn't justice done, and the family just demanded the man to pay cattle. This is the attitude you find.

DR HUARAKA: One wouldn't believe it if you heard it.

MS D LEBEAU: Maybe just one short comment. I mean, it is quite obvious when we are talking about attitudes that we are aiming at some kind of public campaign and public education. What I think will be a very important point is to really make clear that women are not the property of men. That seems to be something that is really behind many of the more specific attitudes and many of the things that have happened. Even if you have a marriage certificate it is not papers of ownership or if you have paid lobola the woman is not a man's property. She is a person with her own dignity and own rights. I remember from last year the whole debate about the Married Persons Equality Bill, even in Parliament, that all this came up, that people said what marital power is in our tradition - marital power is, as far as I am concerned, the concept that comes from Roman Dutch Law, but people are using it and say it is in our African tradition that we have marital power.

ADV. V ERENSTEIN YA TOIVO: I remember one traditional leader, when they were broadcasting these National Council hearings on radio, he said a woman is like a blanket or any other thing that he has in his house and he can do whatever he wants with her. There were a couple like that.

MS D LEBEAU: Well, one parliamentarian said in Parliament that they are like cattle.

DR HUARAKA: This is the cultural attitude or beliefs or traditions or customs that probably have to be changed and this is what we are trying to change. You heard the thing in the news this morning or yesterday, a lady in England studied languages in 1917 at the University of Cambridge. She passed the examination but she was not awarded a degree because she was a woman and it was only this year that she was finally awarded her BA-degree in Languages. So you can imagine the society we have come from. I think the exercise here really is social engineering, by trying to have the law push the society to change in certain customs. I wasn't here when it was debated, the Married Persons Equality Bill, definitely some men could not accept it, educated and in responsible positions could not accept it. I

think perhaps it is the way it was presented, because in some cases it was presented as if the woman now wanted to be the head of the household. It is a question of campaigning, a question of making the people understand and debate these issues. Sometimes, of course, it is quite true, certain customs had certain attitudes and perceptions. The question is to debate them and ask, will it really in modern times help development, would it help even the head of the household. I think in the long run it will not help unless both partners are conceived as equal and having an important role to build up that household. I know, for instance, growing up, there were certain things, even drinking the milk the Hereros drink, in certain situations you couldn't drink it before the head of the household had tasted it and then he will give to the children. Coming from Windhoek and going sometimes to my uncles and aunts I wasn't very much fond of sour milk but you had to drink. However you had to wait and you had this big wooden made thing and when you are young, that thing is very heavy, they fill it and you are supposed to hold it with one hand and finish it. But anyhow, these are sort of traditions that I don't think will really disturb very much the development and equality of women.

MS D LEBEAU: I asked a violence victim, "what will you do now?", she didn't know and she started crying and she said, "I will just go home." After the interview I did counsel her a bit and I did tell her that there were social services and those kinds of things. She said at that point she didn't think she wanted to talk to anyone, she didn't want to go to the police or to the social workers or utilise any social services. I think at that point when I was talking to her, what I told her is she should think about it, think about what she is going to do next, because as she said, before it was always blue eyes, now my eye is just beaten out. I tell you this woman is not unique. The only reason that I made sure to get her story was because it is not unique. Every one of the women I interviewed went back time and again. The issues, no family support, my family isn't around me, alcohol being involved, he is the only one working, what must I do? And the fact that they just will go back. Most women I interviewed, we had to sneak them away - I mean, they were living with the men who were abusing them - and go to a safe place and do the interview. For them it was like their secret struggle: "I cannot fight this man, I have to go back home but my secret struggle is that I can tell others." So many of the women felt they were powerless to do anything other than tell us their story.

ADV. V ERENSTEIN YA TOIVO: I think at the beginning there were people who were talking about giving a face to the victims. As a communication and educational strategy I really think we have to think about how we can motivate people to speak out about the issues, because obviously it is very difficult for an individual, especially a person who has to go back home to a violent situation, to expose themselves to the public. But as excellent as your reports are, a research report will not have the same impact on an individual as knowing these human stories. I am just posing this as an issue, how can we effectively communicate these stories? If you remember, we showed in the workshops that were done around the country a video of a woman who was blinded completely by domestic violence and you hear one story and you think maybe this is an extreme story but these things, over and over again we are hearing the same thing. You hear this one terrible story but it is, I won't say an abstraction, but you can pick up the newspaper, but how many times now have we read about a young girl being raped, a child? You read enough of these, I mean it is shocking, but I can see on one level it is not even something you read. We read them, but I am not sure that this information is well understood and I am not sure what you do about it.

MS D LEBEAU: When I did a violence interview, I went to Katutura. I have a lot of traditional healers and people I know there, and I got an elderly lady, a 62-year-old woman, to come with me because I wanted the victim to feel comfortable. We did the interview and on the way back I said to the woman, "what I want to try to do is to show the people exactly, to try to put a face on this." I said many of them don't understand what we are dealing with, and what this woman said to me which was very true, she said: "Don't believe that, that's not true." She said many of these people grew up in the locations, they grew up in families that had violence or they grew up with neighbours who have violence, and maybe some of these people pretend that they don't know. But many of them know.

ADV. V ERENSTEIN YA TOIVO: But honestly, many do not. I am now speculating but I think that the problem of violence has intensified over a period of time. One has the impression that particularly in the communal societies human relations have been more humane. I don't want to romanticise this, but I also talked to people who said they never experienced these types of things in their family, "I fortunately never experienced in this family or ever heard about these things." So I think it is true what you are saying, but I think it depends on the age of the people, what parts of the country they come from, rural, town, etc. The other thing that I wanted to raise, you know, we have over and over come up with this

statement that alcoholism is associated. The police will tell you after the weekend or in hospitals, they tell you, you get on the weekend lots and lots of people who were beaten up, both men and women, but a lot of women, and yet there is just not a clue of what can be done about this, not a clue. It is not even something that has been taken on nationally. I mean, here we are having hearings about violence and abuse, you haven't heard that type of discussion going on in Namibia about alcoholism. In my experience it is something that is accepted. It is accepted as very much a part of the way of life. Not that it is good, but it is there, everybody sees it, everybody knows about it, it is not something that anybody feels even something could be done about it.

**MS D LEBEAU:** If you talk to anyone, you hear them saying alcohol is a big problem. You are right, people just say it, yes people here drink more than anywhere else, people know that. In all the interviews I did, every single one of them, the man whose child and himself had been exposed to violence it was drug abuse, his wife was taking drugs. I think what happens is, maybe violence did occur before but the alcohol or the drugs take away the inhibition, and they get carried away, they don't stop. So many people, the nurses, the social workers, everyone, that was the number one thing that they said, alcoholism is a problem and the suggestions - and I completely agree - the shebeens need to be controlled. Right now you can go out to Katutura any time of the day or night and buy something and everyone knows that. If you forget to get your bottle of booze on Saturday before the bottle stores close, you know you can go to Katutura and buy it. But I mean, if you spend a lot of time out there, I am out there every day and I won't go out there at the end of the month, especially if it is a Friday night, because you see a shebeen and all the way down that entire street you see people standing around drinking. I mean, there is absolutely no control, it is like you are out in the Wild West. So one of the things would just simply be some controls. If there is a shebeen and there are 50 to 100 people standing on the street drinking, how easy is it for the police to come and close that shebeen down or to at least get those people off the street. I mean, if you have to be in a building, how many people can you house, whereas the people can just stand on the street. All you need to do is go there and drive around.

### **FORMAL ADDRESS OF MS L AUPINDI**

**ADV. V ERENSTEIN YA TOIVO:** We had heard in various places complaints about the behaviour of teachers towards learners. We know it is a problem. On the other hand we also know that because of the social conditions in the country and because of poverty, a lot of young women, including students, get involved with teachers, principals and other older men in the community because it is a way of getting nice things. One of the proposals that has been made to us that we have to consider is, for example, whether it should be made a crime for a teacher to have sex with a learner who is under whatever designated age. Is that an issue which is being discussed among the youth? And there is a second question. We have a statute on the books now that makes it a crime to have sex with a girl under the age of 16. What that means is, a 17 year old boy who has sex with this girl under 16 is also committing a crime. We know that young people, not just 16, 15, maybe 14, maybe whatever age, we cannot say, are engaging in sexual relations. We need some guidance, at least we need to know the point of view of the youth as to how Law Reform should address these issues. One is the question of adults engaging in sexual relations with young people, especially adults in positions of responsibility or authority. The other is the question of laws currently on the books which make it a crime for anyone to have sex with a girl under the age of 16.

**MS L AUPINDI:** Yes, that has been an interesting subject of discussion. They are saying that in the case of a teacher he has committed adultery. It is not only a male teacher, also female teachers do it and both have committed adultery. In the case of a student, they are saying that if a 17 year old boy impregnated a peer, they should both be punished because in most cases these young boys are going back to school whereas the young girl stays out of school just to raise the child and so forth. What we are saying, they should be made responsible for the deed and they should be trained to be a responsible father, for that matter, and the young girl should be allowed to go back to school. Most of our programmes target the rural area because we feel that the rural communities are left out, everything is Windhoek based or everything is Oshakati based, but when you go to the remote areas nothing is happening there. At a certain point we went to the North and we were just sitting and chatting and one of the schoolteachers said that the young girls are growing beautiful every day and they are saying that they are tempting them. Cleaning yourself is not tempting anybody, but they are saying nowadays young girls are growing beautiful, things are not the way they were in the past. Of course, a lot has changed taking the economy of this country into consideration. In those days most women were not using make-up, now they are using them. Schoolgirls are allowed to use them and they feel that they are tempting

them. This was a teacher but at the same time a deputy principal was saying this.

DR HUARAKA: How did you respond to that? Did you tell him that it was the right of the young people also to clean themselves and look nicely?

MS L AUPINDI: Exactly, that is what I told him and I also brought it to his attention, the taking the economy into consideration and all these types of things. And this is somebody who is a father and I was asking, "how will you feel if your young girl is out there and for example my father comes and does something to your daughter?" He said, "definitely I will kill him." "Then why do it to somebody's daughter?"

MS I MALUNGA: Mine is a comment and a question. The problem we have now is that they themselves, if you find them in a group, they won't tend to discuss AIDS or alcohol abuse, they will either discuss their fancy Nikes, a movie that they saw or their boyfriends. They themselves don't talk about those issues but they want other people to help them. That is their attitude. If you hold a workshop only a few attend. For example, you hold a workshop on AIDS or alcohol, only a few attend and when they attend they are quiet, no contributions are made but when you say, "what do you want", then they are quick to make recommendations. My criticism first lies with us, the youth. We are not doing anything ourselves about these social issues but we expect other people to do something about them. So has the Youth Council thought of ways to target the youth themselves to start from their level, doing something themselves first, changing their attitudes or behaviour before going to the upper level?

MS L AUPINDI: That has been one of our programmes that we have been doing, but yet again you find that these things are not discussed. That is what we have been doing, starting with putting our house in order first. That is a waste of resources, they are not ready to do anything and you cannot expect somebody to do something for you if you are not doing anything for yourself. They don't want to face reality, the young people themselves don't want to take responsibility.

DR HUARAKA: I think it is an issue we definitely have to discuss. The other day the Minister of Agriculture mentioned in the National Assembly that perhaps there should be a period like in some countries, where youth from secondary schools, before going to the University or the next stage, do a year of national training which will mould them. If you listened to what he said, he said they are under foreign influences and customs and they don't look at the reality of Namibia and they tend to think of just parties and parties. Perhaps that is a bit of an exaggeration but definitely there is probably truth in that. We as the government probably have to try and take the lead in having a policy and encourage the youth to do certain productive things.

MS I MALUNGA: Just to say culture, then they say they want role models. Okay, we have a role model, I want to give an example. When we held workshops and we go for example to a certain region. Most of you know Emma. She has AIDS. We go with her and then she speaks of her own experience, "this is what happened to me, I have AIDS" and then they tend to laugh at her and say it doesn't exist. Those are the attitudes in our own country.

MS L AUPINDI: Just something to share with you before I go, last year, the whole of October, we were making a tour around the country and before we went, we notified the schools that we are coming and the programmes that we are coming to do with the students. One of the well-known senior secondary schools in the North, which had a record of boycotts in the country, the principal said "well, you can come but I can guarantee you that these students will not listen to you" and the day that we went to that school it was surrounded by policemen because the previous night the men went to the girls' hostel and they got them well beaten and some of them were hospitalised, so it was a serious case. When we went there we were having videos. It was a programme about AIDS and we had videos to show them and talk to them. When we went to the hall, these students were seated. I was talking to them and they were listening. I showed them the video and they were quiet and they never wanted us to go, they wanted us to repeat the programme and they are still inviting us to go back. But resources are minimal, we cannot just go to one school, we have to cover the whole country. We were asking them, "why don't you listen to your teachers when they are talking to you" and they were saying, "they don't want to listen to us, they feel that whatever we do in the school is wrong, they should also look into our problems, what are the problems that we are having. When we are boycotting and beating up the girls we want their attention for them to listen to our problems." If they enter into a dialogue with a certain teacher, they want the

school principal to listen to them. That is what is lacking. I think even the communication breakdown between the age groups should be looked into, it is very, very serious.

### **FORMAL ADDRESS BY MS L TJIHERO AND MR N TJOMBE**

#### **FORMAL ADDRESS BY MRS C KANGUEEHI**

DR HUARAKA: I have a question from the pamphlet you prepared with UNICEF, the one of children's right. On one page you are telling the children "your parents have a right to punish you if you disobey them, this is what we mean by discipline. Your parents have the right to administer a reasonable amount of physical force." I underline the word "physical". What does it mean, physical?

MR N TJOMBE: Well, it can take many forms. I believe that the parents have the right to discipline their children. It depends from household to household. It can take many forms by way of moral persuasion, a slap on the buttocks of a boy or something like that.

DR HUARAKA: I just underlined the word "physical" because that will sort of give leeway to parents. The physical punishment may be a slap on the buttocks or a fist in the eye. Then you are going to the realm of torture, which is something that is banned in our Constitution and even under the Convention on the Rights of the Child.

ADV. V ERENSTEIN YA TOIVO: But there was a comment made by one of the earlier presenters from the Youth Council that was very interesting, because they were calling for no release on bail during the investigation stage. It is something I have never really thought about in that way, but it is an interesting thought. I would be inclined to agree that it is unconstitutional to deny bail to any criminal suspect categorically, under any circumstances, but I do think that there are limitations that one can just put on bail.

### **FORMAL ADDRESS BY DR S M H ROSE-JUNIUS**

ADV. B GAWANAS: Thank you very much, Dr Rose-Junius, I really appreciated your input. It brought out another dimension to a very, very complex problem. But I think something that you said in your input, that whatever we do is always reactive rather than pro-active, I think it is important to look at those aspects.

DR H ROSE-JUNIUS: In prevention, yes.

ADV. B GAWANAS: Yes, always reactive rather than pro-active. I have a couple of questions, I don't know whether my colleague, Dr Huaraka, I don't know whether everybody who is here knows him, he is the Special Advisor to the Minister of Justice and he was our former Ambassador to the United Nations. He is with me on the panel today. Do you have any questions? You are also free to ask maybe for clarity. Let me kick off. I see that in terms of your training and questions of abuse and violence that you are not limiting yourself to what we are basically talking about, that is woman and child abuse, but you are looking at violent gay and lesbian relations, sibling abuse, abuse of the elderly. Do I understand it, therefore, that when you discuss questions of the family that you are also interrogating that concept of the family, or are you just saying family A and family B dysfunctional and not dysfunctional or are you looking at what exactly?

DR H ROSE-JUNIUS: When we talk about a family? Yes, Lady Chair, when we start off with socialisation and with a healthy family, then we look anthropologically and culturally and socially at all the various types of family or the concept of family that people come with, and the students get ample chance in laboratory situations to talk about what they experience as a family, and today the students generally ask us, to me with my modern background and my western background, they will say, "yes, but you talk about nuclear family, you think of a man and a woman and their children, do you understand other concepts, do you understand the extended family, do you understand the single parent family?" Yes, of course I understand that because that's my background as a social scientists to understand every single concept that for them is real as a family.

ADV. B GAWANAS: But why I am asking this is that, a lot of time you hear people are saying that the frustrations that are experienced within a relationship is because either you don't fit the conventional

family form and you have to try and live according to those norms. because if you don't then surely you are not adhering to the norm. But also the whole question of what people then say, role reversals. Do we address that, because sometimes the humiliation suffered by the so-called male breadwinner in the sense that he is no longer the male breadwinner and that may have been the only status that he could hold onto and now he suddenly finds that he does not have it, would you say that that is also part of the problem?

DR H ROSE-JUNIUS: Yes, it is. In the area: Cultural and Gender Issues, that comes up very clearly too and the role reversals are very vital in our society at the moment, so we recognise that and the students bring case examples and we talk to them about it and they talk. how does that affect the husband, the wife, the children for looking up to the parental figure, their future, because of this role model. Yes, Lady Chair, we do a lot about that, we are very sensitive to that.

DR HUARAKA: Talking about students, particularly the Ovambo and Herero-speaking students saying that the type of notions you are presenting is an interference with culture, with their culture. I take it this is a situation where they, particularly the male students, accept that in their society and under their cultural values the man is the dominant factor in the family relationship and that must remain like that. I am wondering whether at the university level, where is the level you expect some of these notions to be challenged and questioned and interpreted in a more positive manner. You don't question them and tell them, "let's do research and see whether that is probably true." Like on the other day, on Monday, we had two callers from Caprivi, the man saying that "I have paid 20 heads of cattle and therefore she is mine, I can beat her", and a woman calling back and saying, "that's not true, I am also from Caprivi, the lobola is not a sort of purchase price, it is a sort of thank you." Now, when students come to you and say it is different with my culture, don't you perhaps challenge them and study that culture and interpret it in a more positive manner? Definitely in any society at one point or another you have this, depending on the role and which partner is playing the dominant factor. But then, if we come back to the modern side, the gender which we all accept, that there is nothing like that, that the man is a superior being. It just means that perhaps physically he can run faster or carry heavier weight, but otherwise we realise there is nothing like that. I am just wondering whether at the level of academic analysis you don't question this and challenge them?

DR H ROSE-JUNIUS: Yes, we do. Especially in this subject which I mentioned here where I talked to them about the legal rights of women, and let me hasten to say, these problems that I had with students, male students walking out of my class, having to come back again at some other stage, because then I deal with them individually. I understand that they come from a different set-up. As I am saying here, different cultural understandings, as the law says there, specifically the examples that I mentioned, the woman's capacity to buy household necessities and he has to pay for it if they are married in community of property or out of community of property he has to pay certain things, some students walk out of my class. It happens less and less, students become more and more open-minded about these things and realising that maybe the cultural concept is not so strict as we have interpreted it, that the husband must be the boss and the woman must be so subordinate. Maybe it is just a question of the husband is the head of the household, that is biblical too, anyway, but it is misconstrued that the husband must be the boss and the controlling person, and my students more and more over the years become much more open to this. But we challenge, and I specifically challenge them individually, sit with them and talk to them and they, because they are academics, come to understand this and they come back to the classes and, of course, the women in the classes were originally very timid when we talked about these things, looking with wide eyes at me and at the men students. Nowadays they don't, they sit forward and they put their case. So, like I said, more and more we become affluent even before we come to the university.

ADV. B GAWANAS: How do you see the situation where women are perpetrators of violence? I want to put to you specific questions of women that are suffering abuse over long periods of time and one day snap and commit murder, for example, or react to this violence. In your training, do you also bring in that element because more and more we are seeing women that are prisoners as a result of that, and how should we as law reformers view this? Should we say it is a different kind of situation or should she be treated like just anybody else?

DR H ROSE-JUNIUS: I have got my stories, my case studies and one of them is Maria's story. Maria's story is exactly the story that you are talking about now, the woman that endured suffering with her children for a long period of time and how she one day grabbed the knife and in the struggle with her husband she killed him because the knife went into the jugular vein and the man died. Obviously, and

this comes from English Law, it is a real case, it was in England and she was originally charged with murder because she killed the man. He died as a direct result of her knife stabbing. I looked at a lot of these cases, this is my classic story, but I give this to my students and I send them into groups to discuss and come back and everybody says, if you look at the history that this woman went through of violence and the strength of the man there was no way that she could come out of that cycle and the dependence that she had on him and the suffering that she had seeing her children, then it is not an ordinary crime, it cannot be seen as an ordinary crime and the judge in that court case in actual fact changed the charge from murder one to manslaughter or whatever the thing is. It is lighter, you will know if my terms are not correct. But in another case where a woman allowed her husband to beat her child to death, it was his stepchild, and she was standing with that bleeding, suffering, dying child on her shoulder, consoling the child but not seeking medical attention for the child and the child died, the judge took a strict line there again and said, "you should have, as a mother, and as a healthy, independent, intelligent human being, you should have got attention for the child." So although the husband was punished for murder, the wife was punished for accessory to something. So the Courts also sit with a difficult situation and you cannot condone violence in any form. But I strongly feel that the Court should take, and with the assistance of social scientists in cases like that and take cognisance of the contributing factors in the violent situation.

### **FORMAL ADDRESS BY MS S CAREW**

**PARTICIPANT:** I am a second year social work student at the University of Namibia. I have two questions for the lady, the first question being, what is the organisation doing in terms of disseminating information and educating the rural women, because as I take it that we are only looking at the urban women, or the women who are outside Windhoek in probably provincial capitals, what about the women who are in the remotest parts of Namibia? If you do disseminate that type of information, what provisions do you make for the women in regard to their different cultural norms and values? Then the second is on the admissibility of evidence. Would you say there should be a speedy reaction from the legal system. The problem that I see is, where does one draw the line to say that in a certain circumstance a woman was really raped or in another circumstance maybe the woman is just using it as a form of revenge probably because the guy did not want to go out with her or marry her. So where do you draw the line in terms of the admissibility of evidence because it is a very complex and dynamic issue?

**MS S CAREW:** Firstly what we do about the rural women. Women's Solidarity in the past only consisted of one official worker who was working in the office, voluntarily members and then about two more field workers. We bought a combi and our yearly programme allowed us to visit the regions. We took one region per month and we started with Oshakati and Lüderitz. Our next stops in June are Karasburg and then Swakopmund. So what we are trying to do is doing what we call awareness programmes and like you said that culture is a problem when you approach these women. But what we generally want to do, our first point was to counsel women but now we see that you can still counsel women after they have been raped. But still in our community we found that women are very ignorant. There is a lot said about the rape increasing and everything, but still you find women who are walking the streets at night, you still find children walking through deserted riverbeds. What we are trying to do is, is rape awareness. We visit the women, talk to them and discuss what we can do about the problem of rape and just general questions, asking how do they think that they can keep themselves safe. We visit the schools and talk to the children about teenage pregnancies and AIDS as well as sexual transmitted diseases. Secondly, you said something about a false report of rape. There was a study done and it showed that rape falsely reported is the same as in any other crime, and what we found in our work, what you are going through after you reported the rape and going through the court system, you won't find a woman very easily who will come up and say falsely she has been raped. I think there is a limited number of people who will actually have that guts, facing the community and say "I am a rape victim", if you understand the trauma going with it because I think the biggest trauma is facing the community itself and not the rape itself. It is the response of the community towards a rape victim.

**PARTICIPANT:** I wish to find out. Where do you draw the line to say that if you are looking at the admissibility of evidence, they are saying that they should be more responsive when a woman submits certain types of evidence? But sometimes it indeed happened that maybe copulation did take place but with the consent of the woman.

**ADV. B GAWANAS:** Let me just explain a little bit. When we talk about admissibility of evidence,



what happens in the case specifically of a rape victim is that the evidence that is produced in court is evidence that sometimes does not have value, it is evidence that is not brought into the court to determine necessarily whether that particular rape has taken place. It is evidence that is admitted to prove that this particular victim has a propensity to lie, because she is either a prostitute or she is a woman of bad character, do you understand? I think that is the kind of issues that is being said that why should such evidence be relevant to the issue of rape, why should the fact that she had ten boyfriends, why should the fact that she is a bad woman, why should that make her less of a person to be believed than the other one. I think that is the issue, not so much the actual evidence that relates to the crime. But definitely that is not at issue here, it is the evidence that is not directly related to whether or not the crime has been committed. I think that deals with admissibility.

MR W POTGIETER: We don't ask in a theft case whether the person who has been robbed is negligent with his property.

### **FORMAL ADDRESS BY INSP. B B KERAMEN-NELL**

ADV. B GAWANAS: I am particularly interested in two aspects and that is the one about police ethic, the whole ethos upon which the Police Force is based. I would like to know what is it, because when one deals with domestic violence, when one deals with situations such as this, one will not just talk on the basis of individual police officers that have a commitment to the issue, but one is talking about an ethos within the Police Force overall that looks at this issue and looks at this issue in a totality. That is one. So I am here talking about the whole ethos of the Police Force, because you must remember, the Police Force is set up for law and order in the public sphere. In other words, law and order as defined, is there a need to redefine it, to make sure that it also applies to what was formally the private setting and coming back to the question of our understanding of crime. The second thing is the procedure when a woman or a child or say, questions of violence and abuse, when you take down statements - I am not talking about sitting in a nice charge office and letting people feel comfortable in terms of the way they give their statements, I am talking about, what is it that you want to get into that statement? Is it going to be the same as me coming there and reporting that my car is stolen, because I must admit that standing there at the police charge office and sometimes giving information. If I were the police officer I would say, but when I eventually sit down to investigate this case the problem is that I should have done better, I should have got more information. Now in the case of domestic violence, in the case of rape, in the case of violence and abuse against children, what kind of training do you give to police officers in order to take down statements that are comprehensive, statements that can give you data, not just a question of we have ten cases of domestic violence that have been reported, but can I go today to the police office and say I am doing research, I want to know the nature of the violence, all this kind of detail, because we are talking about something more than just a crime that has been committed. Also in terms of the training I would like to know more, because I think we are putting a lot of emphasis on the changing face of the Police Force. I agree with it, I agree that the police are changing, but my worry is that when you come to these kinds of questions, we are talking more about female police officers that are being trained, female police officers that have to be sensitive. How much is being done in terms of the actual training component, not people that are going there and being guest lecturers at police training colleges, but in terms of the actual curriculum as Dr Rose Junius was giving us this morning. What is the content of the police training curriculum? I would love to see that. Not just women solidarity to go there and give training or Bience Gawanas is invited as a guest lecturer, but what is the component of the training. I have got questions for the Women and Child Protection Unit but I will reserve it for later.

### **FORMAL DEPOSITION BY LT. GENERAL L P HANGULA**

### **FORMAL ADDRESS BY SGT. A KAHATJIPARA**

DEPUTY COMMISSIONER J SMIT: We have established these three Women and Child Abuse Centres of which a fourth one is also in progress at the moment in Walvis Bay. Persons are going to the Centres and they are attended to by means of referrals to Social Welfare and much more attention is paid to them at the Centres, and I stress that. But I must admit that at a place where there is no centre, I doubt it very much if they do get the necessary attention because the Police person will regard this as a private matter or a civil matter and he will most probably tell this lady, "listen, go to Social Welfare" or something like that. They don't have the facility as we have here with this Centre where we have specific social workers who are with the Unit, so they get much more attention than in place like, for instance, Aroab or wherever where there is no centre, because the policeman will regard this as a private

matter. We have the problem of persons withdrawing cases and then we can't act in a criminal way. You must realise that this is very irritating if you as a police person does a lot of work, you obtain statements, you go through all the investigations, medical examinations etc., and then this person comes back to you and says, "I want to withdraw the case". Now you have a sort of negative view from your police person, the investigator. First of all he will say, "oh, I will wait until tomorrow morning because you will come back and withdraw the case" and then she comes back and then nothing is done about the whole thing. It is just human.

ADV. B GAWANAS: Can I just come in there about the withdrawal of charges. I think during the hearings that we had around the country, quite a lot was said about the withdrawal of charges and that the police therefore are basically giving up. In other words, there are women who may be listed as they are always calling when they have problems, so this time if she calls I am not going to go there. You hear about that, but my question is, you must be having quite a lot of these cases, have the police ever done any research as to the reasons why, or does the police feel that it is not their duty to do that? If the police have a better understanding of the situation under which these women are withdrawing, then that kind of helplessness on the part of the police will not be there because there will be a greater understanding. So from the side of the police, was there ever a time that a question mark was put: Why is it that these women keep on withdrawing the charges after having come so far? Or do you merely see it as a waste of police time, we could maybe have caught some other criminals. I know that you have recommended that there must be a law, but we are trying to put a law into a question that we have not as yet answered and that is the reason why women would go as far as laying charges and withdraw.

DEPUTY COMMISSIONER J SMIT: I think it comes back to the answer I gave just now and I must admit that the second part of your question is really true, that the police regard it as just merely another complaint, that this person will come and withdraw the case eventually and that I could have done much more work instead of paying attention to this person and her complaints. That is true, I cannot deny that. As I have explained, the withdrawal of cases causes a negative approach from the police person as such, and I must tell you, to interfere or to discuss domestic problems with persons is not an easy job for a policeman who is not specifically trained to do that.

ADV. B GAWANAS: Is it not where it is necessary to have that?

DEPUTY COMMISSIONER J SMIT: It is perhaps necessary to have that but at the moment we don't have that.

ADV. B GAWANAS: Why I am asking this, when we talk about domestic violence and we are defining it in terms of a crime, then surely the first port of call for the victims of domestic violence will be the police, if not, the hospital, if not, social workers. In other words, what we are asked to do as law enforcement agencies are that we must have that extra put into our training to be receptive, to be understanding, because these are women and children that are crying out for assistance, and they are crying out for assistance from the police. Now, that is exactly where my point comes in about the ethics or the ethos of the Police Force. My understanding has always been that we are there to enforce law and order, and law and order being very broadly defined. Now there is another dimension to all that and that is the questions that we are having here. How do we make the Police Force to be responsive, not only in terms of its law and order function as we traditionally know it, but how do we change that ethic and ethos within the Police Force in order to achieve that? And that is closely linked to the question of the Protection Unit. Some of the problems that people are raising about this is, yes, the police have become sensitive, but they have become sensitive to the point whereby these kinds of issues are also becoming marginalised; marginalised because know that there is a Women and Child Protection Unit, the rest of the Police Force need not pay attention to the issues. The other question that I want to ask, what is the gender balance in terms of the top echelons within the Police Force? Do we have women that are higher up, because I am posing this question in terms of, when women are always talking about getting in positions of decision-making, is it certain they will be able to influence the decision-making process and influence the policies that eventually will inform the Police Force. Those are the questions I want to pose to you.

DEPUTY COMMISSIONER J SMIT: I am afraid with the last part of your question we are going into a policy matter where I am not supposed to answer.

ADV. B GAWANAS: But do we have, generally speaking, women in the higher ranks within the Police Force?

DEPUTY COMMISSIONER J SMIT: No, there are not. There are police female officers but not in the higher ranks. The highest rank is chief inspector, only one chief inspector, that is so. But again that is not for me to answer but that is true. The other part of your question, I must just correct myself here, it is not a matter that the police are not giving attention to these complaints from battered women. I don't say that. If a person comes to the police station the normal procedures are followed by obtaining statements from them, etc. Let me give you a particular case study. A female person entered the charge office, she complained that her husband was assaulting her and also breaking some of her property at the house. The police went out immediately, arrested the man because she was furious and there was obviously going to be bigger fights if we didn't take the man away. We were not entitled to arrest that man at that stage, but nevertheless, he was removed from his house and was brought to the charge office at Katutura. In the charge office he was standing and waiting to be locked up while they were obtaining a statement from his wife. He then turned around and ran out of the charge office. A policeman came in and as he was running out somebody shouted he is escaping and at that moment he drew his firearm and fired a warning shot, the normal things, and then shot him through the leg. The next morning or two days after that his wife came back and she withdrew the case. We are now sitting with a civil suit against us because of this whole thing. We have been highly criticised by another commission just recently where I had to testify as well concerning a person who was also taken away from his house on a Sunday morning when his wife was complaining that she was going to be killed by this man, and again he was locked up and something happened and again we are criticised about this whole thing and the whole case was withdrawn eventually. Yes, we do give attention to cases, but what I am trying to do is to get some more power for the policeman to do something more drastic with a person who is abusing his wife, especially. The children are something else, or the same thing, but let us talk about the women. That is why I made the suggestion of can't we have legislation so that the police can act on behalf of the women. But we do give attention, but please understand, what I am trying to say is, the police persons are human beings and it will happen that they will get negative and not do the proper work as far as these things are concerned. We are sitting with a very difficult situation.

ADV. B GAWANAS: Let me be positive about this, the purpose of this exercise is that we will not in the future say that we can't do anything. The purpose of this exercise should be that we are willing to do something about the situation and therefore this multi approach, that it is not just going to be the police, it is not just going to be the social worker, but it is going to be all of us together that, hopefully, would make a difference.

SGT. A KAHATJIPARA: The Namibian Police have already done much and continues to do a lot with regard to prevention of violence against women and children. It is against this background that I would like to make a few comments to give panel a view of the real situation in our residential areas, especially Katutura. The Namibian Police have already made a contribution towards the prevention of violence against women and children by establishing Women and Child Protection Units at Katutura Hospital, Oshakati and Keetmanshoop. Currently we are dealing with the following cases: Rape, attempted rape, incest, sodomy under the age of 18 years, abduction, indecent assault, assault GBH., common assault and child neglect, and we do also deal with general preference in cases like maintenance, general problems with children, domestic problems, assault, battery and child neglect and abuse. Allow me to make a brief statement on the role which the Namibian Police are playing. The Namibian Police have realised with the increase of lawlessness or the disrespect of the law and of human life, that dealing 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 prevention and stopping violence against women and children. We also realise that we must do what we have to do in what we are authorised by the Criminal Procedure Act to act in a manner which is not 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 testimony on such at public hearings. We are experiencing a tremendous increase in cases of rape, especially of 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, etc.

ADV. B GAWANAS: You have painted a very good picture of the Women and Child Protection Unit. Does it mean that you don't experience any problems at the Unit? I will tell you that during the course of the hearing and the workshops quite a lot of disappointment was expressed in terms of the Unit. I think many of us at the time that the Unit was set up thought it was a brilliant idea, it was good, and I think all

of us had interest in the Unit. Unfortunately, either the interest is no longer what it was before but also the feedback that one gets is that people go there, they do not get the assistance that they need. Sometimes because it was always posed as a kind of alternative charge office they also had problems that they are being dealt with as if they had gone to just an ordinary charge office. So I would want to hear from you what are the problems. Is it that expectations were raised that the Unit cannot meet? Is it a question of awareness that people maybe don't know what the terms of reference is or what the work is that is being done there. You said that you are treating and handling the sexual abuse victims. Sexual abuse how defined? Could you explain a little bit more about that?

SGT. A KAHATJIPARA: The sexual abuse cases include incest and rape and then sodomy also.

ADV. B GAWANAS: Domestic violence is not an issue that's dealt with there?

SGT. A KAHATJIPARA: We do deal with that. I mean, I think domestic violence comes in common assault and assault with intent to do grievous bodily harm. If a mother or a woman wants to lay a charge. That is why it comes as common assault and assault with intent to do grievous bodily harm.

ADV. B GAWANAS: And it is just treated as normal common assault or a normal GBH?

DEPUTY COMMISSIONER J SMIT: May I just come in here. In forming the Unit, decisions had to be taken of what cases we are going to deal with. You are quite right, we don't deal with battered women and domestic violence at the Unit, the reason being very simple. You said something, very, very important and that is the interest in this Unit and that the interest in the Unit might be fading and that is so. To keep everybody in the Unit is quite a job. If we deal with domestic violence we will have to increase our staff three times to deal with that and with common assault cases and assault GBH cases where females are involved. That is the reason why we don't deal with it, to give more attention to the more serious complaints we receive, being rape and what goes along with that.

ADV. B GAWANAS: Colonel Smit, if you are saying that domestic violence is not so serious, then a lot of women will definitely not understand that.

DEPUTY COMMISSIONER J SMIT: I understand what you are saying to me, but please appreciate what I am saying. I have a very small personnel and if I have to take these cases in I will have to triple them.

ADV. B GAWANAS: Why not do that? I mean, if we hear from research that 50% of cases of domestic violence are for example not reported and we are talking about the enormity of the problem in terms of domestic violence, in fact the whole exercise is to bring domestic violence in the open. Now if I hear that the Women and Child Protection Unit does not deal with domestic violence because of the fact that resources are not available, are those not the problems that should be mentioned at a hearing such as this, so that we should not just say that we cannot deal with it. It is a problem that needs to be dealt with and I think the best place to deal with this, in terms of police, would be that Unit.

DEPUTY COMMISSIONER J SMIT: Let me come back to you, I don't think we need the Unit to deal with these cases, we can do it separately at another place. The Unit that was firstly formed, the Windhoek Unit, was for the sexual abuse cases, in other words rape and that sort of thing. Domestic violence you can deal with at an ordinary police station. You will have to do certain arrangements or certain adjustments at this police station, but the idea of the Unit is to create an atmosphere for this person who was violated, as we call it, "a victim friendly approach", and there are a lot of adjustments that will have to be done if we deal with that type of cases as well.

MS M OLIPHANT: I would like to respond to the two police colleagues. The three of us here are social workers based at the Woman and Child Abuse Unit and I am afraid I don't agree with what was said about domestic violence because we do work with domestic violence. I would even go so far as to say that we as social workers, up to 50% of the cases we work are domestic violence. Those are my many cases, cases of people who don't want to lay a criminal charge but they are referred to us. Unfortunately because of the fact that there is no turn-off reference, that is a very, very delicate point that must be sorted out. The police won't work with the cases but the social workers do.

ADV. B GAWANAS: But let me just ask, if we are saying that charges are not laid, is it there and

then that charges are not laid or when people come there you can take the statements and you can tell the person. "don't do it right now, we have a statement, we have your medical whatever, go and think and when you decide then you come back." People would come there as the first port of call, but they may not at that stage be in a position to decide whether or not they want to lay charges. So are there instances where you give that kind of service and give women the chance to think about it and to come back and to say that they are laying charges?

MS M OLIPHANT: That is what we do. In many cases, because of the counselling by the social workers, the person would decide at a certain stage that now I would like to lay a charge and this person will be referred to the police. But also not to the police at the Woman and Child Protection Unit but the outside police stations. But we as Social Services staff do counselling with cases.

MS THERON: Yes, we do a lot of counselling with domestic violence and wife battering and for us it is not an issue whether a charge is laid or not. Most of the time we just safeguard the lady and the kid, and she is so hysterical and traumatised, she just wants to get out of that place. We even go physically with that lady to the house, maybe to remove some of her personal things. Then we put them in a safe-house for a day or two or up to two weeks and then it is for her to decide whether she is going to lay charges, but then we even call some of the police staff to take photos and things and keep it on our files. Afterwards if she wants to lay charges it is up to her. But we do a lot of counselling, we work with domestic violence.

SGT. A KAHATJIPARA: A question was asked about the people who go to the charge office. The problem is, just as my boss said, lack of personnel, that is why we are open from 8 to 5. I think that the aim was that we must be 24 hours open so that all the people can know that if I have been raped or I have a problem with my husband, then I can go direct to the Woman and Child Abuse Unit. But because we have a lack of staff, that is why we are just on call after hours. The other thing about domestic violence, if we are not dealing with that then we have to change our name, because our name was Woman and Child Abuse Unit, now it is Woman and Child Protection Unit. If we are not dealing with domestic violence, how can we protect women?

ADV. B GAWANAS: Just by listening to all of you who have been talking about the Protection Unit, I cannot help but think what the people out there are saying about the Unit. It bears testimony to the fact that there may not have been, right from the beginning, a very clear terms of reference. I mean, some people think it is a shelter, others think that it is this, that and the other. I think it is high time, with hindsight, having been in operation, to look back and to set clear goals and objectives for a unit such as that, because even amongst the social workers and the police officers at the same Protection Unit there is a divergence of views as to exactly what is the role of the Unit, and until such time that you have sorted out that within the Unit, you cannot hope to provide a service to those people that would approach the Unit. I think that is the kind of things that we are really interested in knowing, what are the problems, how can we assist through the recommendations that we would at the end of the day make. How many police officers are, for example, working there from eight to five and if you should think of 24 hours, how many more would you need. Concrete things so that at least we would be able to in our recommendations include that and say that if we want to make that Centre what it is supposed to be. But if you always give the impression that everything is going well, then surely how do people know, because you only hear it from the people that not everything is well at the Unit.

INSP. B KERAMEN-NELL: I am not going to comment, in fact, on the Unit's work, the only thing is, I would not like the public to get the idea that the police is totally doing nothing about domestic violence. It is so that we at the station level would first refer the person to the Woman and Child Protection Unit, but if they would be coming back, and it is also the truth what the Commissioner has said, in reality we do not have a code under which we can register a crime committed, like battering. But we have other different crimes that have a code that is kind of included in the whole word, "battering", like assault, assault GBH, common assault, crimen injuria or even trespassing. In many instances where the woman has left her husband and she stays at her place, he keeps on coming back to threaten her. So that is being attended to by the police stations. We are, like I mentioned, busy with the establishment of community policing groups and at the present moment, especially in Wanaheda, Katutura it is working very well and successfully. We are making use of those special units. We have special crime prevention units that give special attention to those types of family violence cases. At every police station we have more than one police officer, female police officer, who was identified by the members themselves to serve as an example. So when a person comes to the police station, then she attends to those complaints, and we do

help them, we don't let the woman go back empty-handed, even to go and help her to get her things out of the house, because they come and tell you, "I want to leave him but he doesn't want to give me my things." So we send our Crime Prevention Units with them and they get help.

ADV. B GAWANAS: Does it happen at all the stations or at some stations?

INSP. B KERAMEN-NELL: At most of the stations. Katutura especially is very active in that way. I cannot comment on Wanaheda. I am at Windhoek Police Station and if I get a call, if I get a complaint, I do exactly the same because I did help with the establishment of those units at Katutura and I am doing the same. During our lectures that is one of the things that we are trying to get teach members, to make them aware of the fact that domestic violence has got to be attended to, we cannot send them away.

## **FORMAL ADDRESS BY MS D ROOS**

DR HUARAKA: You mentioned that there are two stages which give the definition of the child's age, one saying 18 and the other one 21. I wonder how judges decides this, whether the case is being handled under the one says he is 21 or the one that says he is 18. Is there any case study that sort of has a uniform position that in Namibia the age limit is 18 or 21?

MS D ROOS: When youth are in court, then they are juvenile offenders when they are under the age of 18, but after sentence when they end up in prison, that is where the problem comes in because then they are treated as adults and they will be locked up with adults because according to the Prisons Act the age limit is 21. So you will find that someone who is 19, 20, 21 is also treated as a juvenile in prison and he is locked up with younger kids in prison. Then they normally take the food of the kids, they are the ones that are the bosses in the cells, they are the chiefs in the cells, so it is very difficult for prisons because of the Prisons Act. But when they are sentenced in Court they are sentenced as 18 and underneath.

MS SUPER: The Criminal Procedure's sentencing provisions also distinguish between 21 year old and 18 year old and anyone under the age of 21 years old can be sent to a reform school. There are no reform schools in Namibia. But there is that anomaly, although in prison it is under 21, in the Criminal Procedure Act if you are between 18 and 21 you don't necessarily have to go to prison, you can go to a reform school, whereas those over the age of 21 will go to a reform school.

MS D ROOS: When the Legal Assistance Centre's Juvenile Justice Programme started with the programme we found that 97% of all the kids were locked up, it does not matter how serious the offence was. Kids were locked up for the stealing of sweets, for example, and they were locked up in the same cell as others that committed crimes like rape, murder and all these things. Now our focus and our aim is to get them out, especially kids that are not a threat to the community and kids that were involved in petty offences, to get them out at least in the care of their parents. If they can be released in the care of the parents and then the parents can be warned to bring them the next day to court - they are not a threat to society. Instead of keeping them in cells where they will be abused and where they will become more hard-core criminals, it is rather better if they can be released and that is our focus. So, if they are not a threat they can be released, but that needs to be done after a screening process. Some kids are feeling that they are better off in cells because they are at least getting food. Especially kids that don't have a home and those that are sleeping under bridges are feeling that at least this is a place where they can eat and get food. At the moment we are dealing directly with juveniles. Every morning at the court there is a social worker who will screen the kids that have been arrested in the past 48 hours, so that if they are brought to court there is a social worker either from the Legal Assistance Centre or from the Ministry of Health and Social Services. So they are screened and then we look at the story that the juvenile is telling us, what the police are saying. We try to get hold of the complainant, talk to the complainant, find out, "do you mind if we give this child a chance because if he attends a programme there is a possibility that he will be rehabilitated and might stop getting involved in more serious offences." We find that complainants normally agree in most cases and they feel that they don't have, for example, the time to come to court every day, cases are postponed, so they rather prefer, if there is a possibility that this child will be helped, to let him rather go through that process instead of him coming to court every day and the cases are postponed and delayed. At the moment we are directly involved rendering a service to juveniles.

ADV. B GAWANAS: You were saying that there is no place of safety, that you would want to propose that, for example, awaiting trial juveniles be either released in the care of parents or whatever. Do you

also make a distinction on the basis of the crime that was committed?

MS D ROOS: If it is a serious offence we cannot do anything, we can't give a recommendation that he must be diverted. Serious offences are in the hands of the Prosecutor-General, but for offences that are not that serious, an offence like shoplifting, maybe stone-throwing, crimen injuria, those type of offences, we will contact the complainant and talk to the complainant, and if the complainant agrees, normally the prosecutor also goes along with the complainant because we need to discuss it first with the complainant. But if the charge is not a threat to society, it is rather better because it is in any case costing a lot to keep someone in prison or the police cells. So if he can await trial outside it is rather better and it is not that expensive and the chances that he will not be trained to become a criminal by the other inmates is higher when he is outside.

ADV. B GAWANAS: Do you also have instances where during the pre-trial process complainants would sometimes drop the charges?

MS D ROOS: Our programme is run in such a way, we got permission from the Prosecutor-General that we can divert them. So it is pre-trial diversion. We can divert them from the normal processes. It is important to contact the complainant because we can't just drop the charges. So even before he has appeared in court we screened him and we will just go and discuss it with the prosecutor that the complainant in this case is saying it is okay, he is ready to drop the charges on such and such conditions, maybe to attend one of our programmes on community service. Then it is done in such a way.

DR HUARAKA: We were of the view that first of all we must have a policy about youth. We have to think of what type of juvenile justice administration we can set up. I think at the moment we are at that level of really putting together our policy.

ADV. B GAWANAS: I mean, our people are so bent on the point that everybody who has done something wrong should go through the criminal justice system. There were discussions about community service and all that and I am sure that unless the communities are ready to accept it, prisons may be one alternative but it is not necessarily the solution to the problem. Who is supposed to do this public education on this whole issue of juvenile justice?

MS D ROOS: If a crime has been committed the newspaper are over-publicising it and it is playing on the feelings of community people, but if you directly deal with the person who was the victim of crime, you will find that that person has a different view. I think we should educate the public, all of us that are involved, make it our responsibility to educate them and maybe also use the people, some of the kids that were involved in crime. We cannot guarantee hundred percent that they will never commit a crime again, but at least we find there are a few who reform. One prosecutor, for example, told me that they are seeing that it is working. They knew the faces of most of the juveniles, they used to come back every week, but at least now they can see that those boys are not coming back like they used to come back every week or second week. The moment they are released they are back the next week. So at least it is working and I think that if the people who are involved directly, that are dealing with the juveniles themselves and family members can maybe do the informal education and also formal level it is going to have an impact.

### **FORMAL ADDRESS BY MR J W NYOKA**

DR HUARAKA: I was reading in the papers not long ago about the centre to be built in Caprivi. Is that where you intend to build? I don't know whether it is for young offenders or just sort of a big prison where you are going to put some of the hardened criminals.

DEPUTY COMMISSIONER J NYOKA: The intended centre for juveniles is supposed to be built at Rundu, a few kilometres away from Rundu. With regard to Caprivi, Katima Mulilo, we used to have a small camp there which was supposed to be a prison but we have stopped going on with that one. But there are some problems whereby we are looking at building an awaiting-trial, a remand prison there because we don't have any prison up to Grootfontein. So most of the awaiting-trials and the convicted ones currently have to stay in police cells in Katima before they are brought back to Grootfontein. It is an anomaly and that is why there are some plans to create a remanded prison at Katima to cater for the awaiting-trials and to cater for convicted prisoners with shorter sentences.

ADV. V ERENSTEIN YA TOIVO: Yes, Commissioner, it just so happens that I am a member of the Prisoner Release Board and I came from a meeting of the Prisoner Release Board this morning. We had seen large numbers of prisoners who are convicted of rape and indecent assault and actually we discussed it again this morning. We have repeatedly asked for information about what, if anything, is done with these prisoners in prison to try to rehabilitate them. There is a great concern that sooner or later such persons will get out prison and repeat the same thing. My impression, and I say this as we never received a report yet on any of the cases, my impression is that very little is done. At present the Prison Service has very little capacity to address these problems. Can you give me some information about what is done?

DEPUTY COMMISSIONER J NYOKA: The standing regulation is that as far as possible, there must be some kind of segregation and separation from crime to crime and from age to age. But given the situation of over-crowding of our institutions that is almost unattainable. But as far as possible, when we have a good record of this convict, what he did outside, we as far as possible try to separate him from the young ones. Even if it is a young one also, we have to separate him from those who have lighter sentences or lighter offences. We have a problem with the age limit. A juvenile to us is anyone who is 21 years and under. In the borderline age, someone who is 16 is still a juvenile, someone at 21 is still a juvenile. Where you are pressed with accommodation you will put them together, 16 and 21, because there are others who are 25. You cannot put them there. You have just two or three cells and you have as many young juveniles in that span of age, 16 to 21, and you have to put them together. That is the problem we are facing. That is why we say it is better to have a special centre for the juveniles. At least you will be able to segregate them in terms of age and in terms of offences. On the question of parole ...

ADV. V ERENSTEIN YA TOIVO: No, not parole, I want to know what, if anything, are you doing, what type of rehabilitation services do you offer for people who have been convicted of sexual offences?

DEPUTY COMMISSIONER J NYOKA: So far, in fact I know in other countries, like Australia, they have special programmes for prisoners with sexual offences, but as you know, we are still on the move. We have seen that one and we are trying to adopt it. We haven't started, taking into consideration that the new structure and the new move just started in 1996, last year. We have that plan to have special programmes for special categories, a special programme for sexual offences just like the one we saw in Australia. We have seen that one and we are looking forward to implementing it. But again we have a problem with manpower and, of course, we have to have some trained people, psychologists and we do not have them currently.

ADV. V ERENSTEIN YA TOIVO: I want to follow up because part of our responsibility is, the reason we are looking at what the needs are, is that we are looking at the question of what kind of trained personnel are needed in Namibia to deal in general with these kinds of problems. Do you have anything on paper where you have actually come up with a plan? Could you submit that to us?

DEPUTY COMMISSIONER J NYOKA: I will submit it to you.

ADV. B GAWANAS: Can I just come in with one or two questions? The first one is, I understand the Ministry is busy with amending the Prisons Act. Have you considered looking at this confusion that is caused between the ages in terms of 18 and 21 and see how you can synchronise?

DEPUTY COMMISSIONER J NYOKA: Yes, I think you are aware of that, we are together. We have taken 18 years.

ADV. B GAWANAS: You have taken 18 years. I want to turn to the women prisoners. It is true what you have said that on the one hand we are talking about violence and abuse against women and children and in that sense women are the victims, but in the case where they are in prison they are the perpetrators of violence. Do the circumstances under which female prisoners and male prisoners commit violent crimes differ?

DEPUTY COMMISSIONER J NYOKA: In what sense?

ADV. B GAWANAS: The violent crimes committed by men, are these crimes that you would find



committed, for example, against strangers, against whoever and those that are committed by women, would it involve close relationships, maybe their husband or their kids or whatever?

DEPUTY COMMISSIONER J NYOKA: In most cases you will see they are these domestic offences, child abuse, most of the ladies who are there.

ADV. B GAWANAS: If you, for example, say that amongst the juveniles there were eleven murders committed, that is all you would have, that this person was charged with murder and that's it, you wouldn't have whether it was committed against this or the other, that statistics you wouldn't have.

DEPUTY COMMISSIONER J NYOKA: Actually we don't have much information unless you make a follow-up and get it.

ADV. B GAWANAS: Why I am asking this question is, at the end of the day when one looks at rehabilitation and you look at what kind of assistance should you give to this particular person, then surely you will have to know some of these things, because even though all of them have committed murder, there will be different approaches towards the person who has committed the crime. Am I right?

DEPUTY COMMISSIONER J NYOKA: You are quite right. In fact, we are just being delayed by our Bill not coming up. We have extended, we have proposed something which we call correctional supervision. We have some officers, we call them reintegration officers, these people have to seek information outside from the court and know what happened to this lady or juvenile, what was the main cause of committing the crime. There is a clear follow-up, this is now in our Bill. We can't start it now because we have no mandate, but we are just waiting for it to come up and we will take care of it. It is there, there is a close follow-up. Despite that the magistrate will just simply write rape, but we want to know what is the nature of the rape, how did he commit it. So all these things are taken care of.

MS SUPER: I want to go back to the debate about the separation of juveniles from adults and hence the need for a single prison. Since the 1993 Prison Survey in which I actually participated there has been a vast improvement in separation of juveniles and adult in prisons. For example, in Wanaheda Prison there is total segregation, there is actually a separate wing for juveniles. In the Windhoek Prison juveniles are held in Section B and in prisons throughout the country there is a consciousness that juveniles and adults must be held separately. Obviously there are some gaps in the system, sometimes you will find that there are adults amongst the juveniles and that should be guarded against. But when I was reading a policy document from the Ministry of Prisons and Correctional Services last year, the rationale given for creating the Elizabeth Napembe Juvenile Detention Centre was not so much because of the need to separate juveniles from adults as the need to have a centre for the rehabilitation of juveniles, because with juveniles that are in prison there isn't much rehabilitation going on. Secondly, about the question of rape and the programme that is being run at the Hardap Prison. It is quite shocking that there are quite a few juveniles in the Hardap Prison who are actually there for rape and there is actually a woman who is running this programme called the Leadership Training Course. It was devised by somebody who worked extensively in South Africa, America and the United Kingdom, but I am sure there are many courses like this, and she takes these people, it is a group programme, she takes them through the whole programme and one of them who is actually in for rape, she asks them questions like, "if the NBC was interviewing you and they asked what made you become like you are, what was the life changing circumstance in your life", and he went back to the day when he was 10 years old and his sister has asked him to go to the shop and buy some milk powder for her baby and on the way he had actually gambled the money away, he had no money, he got to the shop and he stole the milk powder. The shopkeeper found the milk powder on him and made him stand outside - it was in Keetmanshoop - with a placard around his chest the whole day, saying "Ek is 'n dief", I am a thief. That incident that happened when he was 10 years old he carried it with him until his adult life, and I think it is just important to look at it from the point of view that there is a kind of abuse, whether it is emotional, physical or sexual, that occurs with children at that young age and which then has repercussions which come out later in life. So I don't think institutionalising everybody in the same prison is actually going to be a solution to the problem.

ADV. B GAWANAS: I can also maybe understand why under the circumstances there will be, because if it is that juveniles are spread in the different prisons and you have to have a rehabilitation

programme for them, then surely it is a question of resources. Can you set up rehabilitation programmes at the nine or ten prisons, whereas at least, for rehabilitation purposes, maybe do them together. But I mean you are right if you at the same time say the fact that at least there have been moves towards separating juveniles from adults at the prisons already, and that such a centre is maybe there to serve that purpose.

MS SUPER: I just want to say one more thing, maybe I was misunderstood. Those same people, I actually interviewed some of the juveniles at the Hardap Prison recently, and they were all complaining about the lack of contact with their families and how stigmatised they feel when they go back into the community, and I think experts in the field have actually said that one of the most important aspects of rehabilitation is contact with your community. I said that resources are important, but if you get community organisations involved and that not everything just falls on the Prison Service, then you don't actually need such a huge prison structure to rehabilitate. And also, if you only send the most hardened prisoners to prison, then you won't have such overcrowded prisons, if you have other alternatives. I am not saying that they should get off scot-free, just to make them accountable for their wrongdoing.

ADV. B GAWANAS: Anyway that is a debate that, I am sure, will go on and on.

MS D ROOS: I just wanted to say that, looking at, for example, South Africa, our neighbours, they built huge centres, centres for 1 000 juveniles, 500 juveniles and they are now in the process of closing down those centres because they found it is not working. So collecting all the juveniles from Namibia, for example someone who committed a crime in Karasburg, there will be a culture shock to that person. It is not going to solve the problem, we are going to create more and more problems. The other thing is just as Gail said, if we can, for example, make use of community people, get people in the community, train those people so that they can at least facilitate programmes in the prisons, whether it is for one juvenile or for two juveniles, at least there would be someone in the community who can assist instead of bringing 500 juveniles together. I can guarantee that at the end you will sit with 500 graduates from prison who are going to go back to their communities and commit more serious crimes after they have been arrested for shoplifting or even for housebreaking. They will come back and commit murder, rape and all these types of things. So I think prisons must look at communities to assist them in their programmes.

DEPUTY COMMISSIONER J NYOKA: I am not sure if you are quoting South Africa. It is a very good example in this aspect. They are our neighbours but you can just imagine that the rate of their crimes is amongst the leaders in the world, especially if you look at other countries that have a relevant situation. But really, the number of juveniles you have in South Africa is just too big compared to Namibia. As I said earlier, last year we had almost 1 934 convictions. But when you compare with South Africa they can be in the hundred thousands. So it is a bit different, it is the wrong example to quote as far as juvenile treatment is concerned.

ADV. B GAWANAS: I need to get clarity in terms of the comparison. Are you now saying that because there is a higher population in prisons that they don't need a decentralised system, that they can be dealt with at the prisons where they are and there are facilities for separating them from others and that they can have the rehabilitation at the established prisons? Is that what I am understanding?

DEPUTY COMMISSIONER J NYOKA: No, no, if there is a community solution it is okay, but it depends what the nature of the criminal is, what types of crimes. Someone who raped cannot just be given to a guardian, he has to go to a prison.

DR HUARAKA: The debate, as I see it, is now really in three stages. We have to think of the training of the Police Force in such a way that now every juvenile should end up before a judge. The majority, like the stealing of a tin of milk, should not really come up before a judge. That is the first basic most important rehabilitation, to try and prevent our young people from really facing the law itself. And then we have the debate whether certain long-term juvenile prisoners could not be sent to a certain centre where they could be separated from the adults and most important, be trained. Then of course there is the question, which is the best, do we really have the community and parents who are prepared to help in rehabilitating the youth? In some situations probably the parents are not even prepared to help them. But this debate, as I see it, is going to develop in those three areas.

ADV. V ERENSTEIN YA TOIVO: How many professionals are employed in the Prison system involved in rehabilitation as employees of the Prison system?

DEPUTY COMMISSIONER J NYOKA: We have all the social workers, we are yet to have psychologists. We made an advertisement but nobody turned up. So it is another problem, manpower.

ADV. V ERENSTEIN YA TOIVO: How many social workers are employed?

DEPUTY COMMISSIONER J NYOKA: I can't give it to you out of hand but they are not less than ten, they are more than ten. I don't have the figure right now here.

MS SUPER: For all the prisons more than ten?

DEPUTY COMMISSIONER J NYOKA: Yes, more than ten.

DR HUARAKA: But of course, the prison warders have to undergo special training, isn't it?

DEPUTY COMMISSIONER J NYOKA: Yes, they have special training. They are the first people who are facing the prisoners before they see the social workers. So they have some kind of orientation to know how to deal with the human mind and all these things.

MS SUPER: Something that is quite interesting, the institutional orders for the prisons, from the days when South Africa was still in charge. Everyone thought there was going to be a revolution and it was very security conscious, and actually, I think the prison wardens are trained to prevent escapes and they are not actually trained for rehabilitation. It is a security-orientated ethos that prevails in the prison, which was inherited from South Africa. I mean, institution orders haven't been changed since independence and you must see, they say in cases of riot control, into those kinds of things.

DEPUTY COMMISSIONER J NYOKA: The prevention of escapees is the usual terminology for any prison officer including the Commissioner himself. But when it comes to rehabilitation they have a role to play. In fact, the institutional order which you are talking about, every prison is supposed to have its own institutional order for the sake of the prevention of escapes. But again, with the introduction of our policy we have included some training which deals with rehabilitation, sociology, social ethics, all these things are in the course. So they are doing it.

ADV. B GAWANAS: The question that I posed in view of what Gail has just said to the police, I think also holds true for the prisons and holds true for many of the kind of institutionalised bodies, because if that was the basis or the objective, then surely it will take a while, or it will take deliberate and sustained training to get people to have really a different view, because I also know about prisoners that are saying that the way they are being treated by the wardens themselves are so dehumanising because they expect that they have to install a certain sense of discipline in the prison population, but at the same time, if they could just be a little bit more than they have always been then surely it would make a difference. That is also the kind of things you will hear when you are asking the police officers, whether just going through a training by itself will solve the problem or whether much more has to be done in terms of having an attitudinal change in terms of where are we going. So even though on the one hand the Ministry may have all these good intentions and good objectives, but for the people who are actually on the ground to internalise those objective, I think that is going to be the crucial test and I guess, the same with the police. Turning next to the battering of men, this does happen.

DR HUARAKA: It is true that we have men battering.

ADV. B GAWANAS: I would just like to venture a comment on that, I being a lecturer of gender law at the University of Namibia, would always pose the question when we are dealing with violence and abuse, and men would sit there and say "but look, we are also violated against" and I said "no-one is disputing that, but it is also not so that you have to ask society why it has created a situation where you cannot openly acknowledge that I have been beaten or you cannot go to a police station because the police, and not the female, but the male police officers will never take you seriously." So what we are trying to do, I think, through this process is to open up the debate even in so far as to get, what

was always assumed to be a woman's problem, out into the open and by doing that, hopefully also to get men to start talking about this. Just yesterday we were discussing how do we approach men that are, for example, violent? How do we deal with those kinds of situations? How do we deal with women who are violent? I think at the end of the day out of this whole exercise we will have to come up with something to deal with this kind of situation, being mindful of some of the issues that are being raised.

ADV. V ERENSTEIN YA TOIVO: I think you are raising an important point. From the perspective of gender analysis, the overwhelming situation is that women are victims of violence by men, so one then starts analysing these problems from the point of view of the victim. We found in the Law Reform and Development Commission in the area of maintenance, when we started out the Legal Assistance Centre was doing research on maintenance. They approached it from what I would like to call, for lack of a better term, a feminist point of view. There was an assumption made that what maintenance involved was women who had been victimised by the fathers of their children, that the problem with maintenance was women who were victimised by the fathers of their children. Then different issues came up, such as, some of these mothers are getting maintenance, they are neglecting their children, the children are being dumped with the grandparents, the mothers are getting the money and buying new clothes for themselves and the fathers are saying, we don't want to pay maintenance when the money isn't even going to the children. We then went from that point of view to a realisation that nobody has even asked the question, "are women always the best people to look after these children?"

ADV. B GAWANAS: And what is the situation on the ground?

ADV. V ERENSTEIN YA TOIVO: Yes, we are now talking in the case of fathers who are not married to the mothers. At present they have no right to custody of the children. This raises a lot of issues. I think it is partially the limitations in our own analysis or own ability to analyse these problems, but there is an area of abuse of children which is the area of neglect, and this is what has brought this to my mind, that we haven't really looked at, the forms of neglect of children. This whole question of young women having children. Who is raising these children, who is taking responsibility? What is the responsibility of the parents for the children? It is an area we haven't looked at and the responsibility of men in this process and their rights. It is not simply a separate question that one should look at in reforming the family law, there is a component that deals with the question of violence and abuse.

ADV. B GAWANAS: Although we are moving into looking at things from a gender perspective, I always believed what has informed that debate, the starting point was taken as women's particular experiences. It was always women's particular experiences and out of that it was always, "but shouldn't we also look at the other side of the coin?" But the starting point was women's experiences and I think this is how we get informed about the other side. Once you look at the perpetrator then you start saying to yourself, "but the perpetrator need not necessarily be a man." If you identify the causes, then you would say there is nothing natural about it being necessarily a man that has the propensity to commit violence. So I hope that out of this exercise that is where it would lead us to, not just to look at men as victims of violence but why men commit it. Is it natural? I think that is the question that I would like to get out of this exercise at the end of the day.

ADV. V ERENSTEIN YA TOIVO: From what I have seen so far, I am still of the opinion that we will not make great strides in our educational work unless men play some prominent roles in speaking out on these issues. We tried with our workshops with NANAWO and we tried with our hearings. We came up with guidelines to say who should be invited to participate, very consciously to not turn these things into women meetings. We succeeded to a certain extent.

## **FORMAL ADDRESS BY MS A W KRUGER**

ADV. B GAWANAS: Welcome Mrs Kruger of Life Line Child Line, Namibia. With me I have Dr Huaraka who is the Special Advisor to the Minister of Justice and who was our former ambassador to the United Nations, and then Mr Potgieter and Mr Bampton are with the Secretariat for the Law Reform and Development Commission. Welcome, we can kick off.

DR HUARAKA: I am just wondering whether you have tried to analyse the factors that made that big jump in substance abuse from 1995/96 to the present 1996/97. You mentioned from 10% to 14%. That is a big jump.

MS A KRUGER: We don't keep any names of people, so we can't even phone back to get the background, but as I am also counselling myself I can tell you that the present economic circumstances do have a role. The idea that people think that relationships and marriage is just a thing that, "if I am not satisfied with my spouse any more I can get divorced", that is adding to it definitely. Many people in Namibia do not realise what the importance or even what help can be provided by counselling, social workers, whoever. People don't think of counselling in the same way as they think of a medical doctor. When they have an emotional problem it is sort of "I don't say it because I am something like a sissy or something" and this is evident in calls of substance abuse. Another thing is that people are starting to talk. I don't think that people are necessarily drinking more, I think they are starting to speak up.

DR HUARAKA: This is the public awareness.

MS A KRUGER: But I cannot prove that. When a child calls in and they are stating their problem that they have been raped or sexually abused and there are no emotions, then I believe they are sort of in shock or something. And now I am not referring to hoax calls because we get hundreds of that. We teach our counsellors how to attend to that by asking questions in such a way that it is open end questions and that the child may feel free. Or you can even start getting to know that child better, even talking about his school or looking for something that is of interest to him, and if you can find that spot, even if you talk ten minutes about school or friends or whatever, only to get the trust of that child, then when he starts trusting you, he doesn't see your face and children do prefer to see your face, then we start to address the issue. We want to address the issue that is so harsh that he doesn't show any emotions. We will try to win his confidence and through that we will attend to the emotions with the hope that he will open up and start to talk. Sometimes they are merely asking questions and they say it is about their friend, but by now that in lay counselling they normally, when it is very near to their skin, they act as if it is for a friend. So we believe that nearly two-thirds of the calls, the third party call, is actually that they want the information themselves or they want to talk about the issue themselves.

ADV. B GAWANAS: You said, that dealing with abused children, children that have been violated against, must start with counselling and then follow the other steps. We have a Woman and Child Protection Unit and obviously when children will be coming there, I don't know whether they will come to the police to lay a charge because there are also social workers there. How would you see the relationship? Should children first, before they go to lay a charge, go to a social worker, be given counselling and not being told that "you must lay a charge." We tend to advise women that are coming to us two things: to get out of the relationship and to lay a charge. I don't know what you would think of a situation such as that because it seems to me that you are really trying to put a woman on the spot, you are not empowering her by giving her necessarily that advice. What else can you do to empower her and that she eventually makes those decisions by herself? When you talk to these children over the phone and give them counselling, do they ask where can they go to help and do you refer them also to other instances? I am also glad that you have mentioned that the increase in alcohol and substance abuse may not necessarily be because children have started to drink more or to use drugs more, it is maybe that they are coming out more. Are there children who, when they talk about their substance abuse and so on, do they say where they get these things from, because it is a problem. You hear sometimes that there are drug pushers hanging around Maerua Park and so on, so from your point of view, you maybe give counselling, but for those of us who are concerned with resolving the problem, what would be your advice?

MS A KRUGER: We regularly lose callers the moment we start to ask questions too soon. They just

put down the phone and you have lost them for ever. You don't know if they will ever call in again and that is very difficult and it is not a nice feeling when you lose a caller. That is the one thing. I do want to stress that the alcohol and drugs relate to adults and children. What I can tell you is that in the holiday months, especially in the hot summer months, there is a sharp increase in the calls, drug and alcohol related calls. Many mothers call in and they don't know what to do because this thing of disciplinary type of reaction, you lose the kid, and then it is for us to guide that mother with information, on the other hand, and with tact, on the other hand, to reach out to her child in such a way that the child will open up on this issue or will realise the dangers of it all. That's not easy. I cannot tell you do it like this or this because there is no straight blueprint on how to do it. We often tell our counsellors, "rely on your gut feeling." When you are busy with people and you talk to people a lot, you develop a gut feeling for certain things and rely on that too. But take into consideration your skills, use it, you don't always realise that you have got more skills that you use in normal terms. We very regularly refer kids to the Child Protection Unit. Before we knew that there was a full-time social worker we were not so eager to refer them, that I can tell you, and I can also tell you that I recommend my counsellors not to refer if they aren't sure that there is a professional to handle it. I do that and I tell it to you because I also take the responsibility when I refer. Then I am also thinking of the different categories of professionals in the Ministry of Health and Social Services too. It is important to me that when a child is sexually abused that he ends with a social worker and not with a welfare worker who is more administratively trained, because like they say it in counselling, a child will tell a story only once. Who will be the one hearing that story? Will it be a trained person or will it not be? If it is the wrong person he may never tell again or he will get such a fright that he will just shut down. I believe, from the profession of social work too, that is my background and counselling at Lifeline every day, that these issues start with counselling. I think that any normal child will get a serious fright if it starts in the police station. It is also important that when that person makes the statement that he is okay with it. There are many incidents of where the children put down a fantasy story and who will know what is the truth and what not? But if it is not the truth, why is he giving a fantasy story? There are psychological reasons for that and only a professional will be able to attend to that, not even a lay counsellor. So that is very, very important and I believe that in Namibia we are on our way yet we are still far from it in this whole field of referring and working as a team. I very much believe in the team effort and if the NGOs having lay counsellors, government, police, if we can work together I believe we will reach it. But if we all want to have our own project dealing with it, we will never arrive. That is my personal opinion.

DR HUARAKA: Have you started a process of trying to build up this teamwork and consolidating your efforts?

MS A KRUGER: Yes, we invite all these organisations, people like the personnel from the Legal Assistance Centre, the Multi-Purpose Youth Centre in Katutura, the Child Protection Unit, we invite them to our members' evenings to come and tell us what they are doing and what the purpose of their actions are, so that we can build a mutual trust. You know, when I am in a counselling situation and I must refer a person now, I want to trust that person on the other end to whom I am referring. So if all our counsellors build that trust they will easily refer. Otherwise it is merely a stating of numbers. But if I can tell them, even if it is a small child, "go to that woman, that's her name, go and tell her this is your problem", I am sure that kid will reach her. But if it is merely a number and there is no face to that number, no face to the place I am referring that child to, it will not work. Children, especially the primary school kids, think in concrete terms. They want to get a picture and if I can help them to get that picture in a positive way, I am sure they will reach the end where they will speak up. The simple reason why we don't have a crisis team at present going out to children and talking to them face to face is simply because of manpower. But I believe we can still do a lot more.

ADV. B GAWANAS: If you have the teamwork and you know that there are organisations that are doing that on the ground, then surely I think not everyone would be able to do counselling over the phone, not everyone will be able to do counselling on the ground. So what you are talking about is the whole question of making a connection so that within your limits you then do what you think you can best provide.

MS A KRUGER: You mentioned the distance, that it is even for you as a professional difficult to keep the distance, to keep a distance emotionally. To enable yourself to keep the distance and not become so involved that you can't really help that person is also important and our lay counsellors, most of them tell me, "please, don't let me do a face to face counselling session because I will become

too involved, I know myself." The telephone is allowing them to help that person without becoming so near to him. It is a difficult term for a person who doesn't know what counselling is all about, but if you can't leave your office at night-time, close that door and go home and not think about that, you will not survive in the field of social service. It sounds queer but it is a fact.

ADV. B GAWANAS: I know it is not going to be easy to maybe tell me, but the children, I am really interested in the children, that are calling, are they cutting across the racial groups?

MS A KRUGER: Yes. We don't allow in our statistics any more to put down whether this person is in this cultural group or that cultural group or which language they talk, but you pick it up from their way of talking or the way they approach questions, what is their level of education. I can prove to you that they are from all levels of society, rich and poor. But child neglect is a serious problem among the poor.

ADV. B GAWANAS: What is the nature of the complaints that you are receiving? Is it children that are saying that "my parents are drinking too much and it is affecting me". Is it children that are saying that they are not allowed to do this, that or the other? Can you maybe elaborate a little bit more?

MS A KRUGER: If I think of the secondary school kids, it is more a matter of relationships: "My parents don't understand me, they don't worry about me, they leave me alone but they would not allow me to be with my friends. I must work in the home to such an extent that I feel like a servant." But sometimes it is merely a matter of wanting to talk to you and that is the start. Sometimes you end with something completely different. And then the primary school kids, the smaller ones, they are normally calling in from the age of 8 to 12.

ADV. B GAWANAS: How much is the situation where you have full-time career mothers and obviously fathers and life is passing us all by being so busy, how does it impact on especially teenagers? They get away with doing so much and the parents don't notice and kids would come and say, "when I needed you, you were not there for me."

MS A KRUGER: I dare to say that it is more a matter of a lack of communication than a lack of being there. The primary school kids come in with more neglect things and sometimes I wonder if it is the truth or not the truth. We keep the statistics but it is anonymous, but the counsellor will write down, "is it perhaps a hoax call?" It is difficult to say about the primary school kids, but we appointed someone that only started to work with us this week and she will go out to schools and spread the PR word for Child Line and I believe in a year's time I will have quite a different picture in statistics from primary school kids if I must present something like this again. I think there is a general awareness still lacking.

SGT. A KAHATJIPARA: If a child phones at Lifeline complaining that her mother is abusing her or what kind of problem is in the house, what are you doing? Do you contact the parents or are you just referring the child to Social Services or whatever?

MS A KRUGER: I am going to repeat something now, but it is very important for us to reach out to that child in such a way that he feels at ease to talk about the problem and only after the counselling session we will refer them. Otherwise, the moment you start mentioning numbers and things, he says "goodbye" and he puts down the phone. We first reach out and the simple reason why we are not attending to it with a crisis team or so on, is on the one hand manpower, on the other hand we believe that our role is crisis intervention, not so much a long term intervention. That we believe is the role of the full-time social workers. But it might be the only time that he is speaking up and if he doesn't start to trust us, he will probably not react on the referral.

### **FORMAL ADDRESS BY MS P H COETZEE**

ADV. B GAWANAS: Yesterday people were talking about the need for the Children's Act. How far are we?

MS P COETZEE: I wish I can give you an answer now. It is something that I am asking continuously. Like you know, we have gone through that whole process, we have submitted a draft to the Cabinet Committee on Legislation who has discussed it with the previous Minister of Health and

then it was returned to the Ministry just at the time when the Ministers were swapped. So at various occasions we asked our Minister to please give attention to that. She promised to do that, it is one of her priorities as soon as she has settled in. That is what she has responded to us. When she was appointed she thought of first travelling the regions and visiting all the institutions and people around the country. I can just tell you from our side, whenever we see her, nowadays it is even a joke, if you stop the Minister it is "Children's Act?" So I don't know, I think we need some support also from somewhere.

MR W POTGIETER: Can I just point out there are two Acts, the Child Protection Act as well as the Children's Status Acts.

MS P COETZEE: Yes, a package. At the moment we are very much eager at least, and that is what we ask, if the Child Protection Act can go through. The Child Status Act, I think, has not gone so far.

ADV. V ERENSTEIN YA TOIVO: It is more problematic. In fact, I would just comment in another connection. Some of the things covered in the Child's Status Act were drafted or worked on such a long time ago that some of those things, the same topics are covered in the Married Persons Equality Act. Some of them also may probably belong somewhere else. I wanted to ask, I find it very interesting because we have heard in the workshops and the hearings that we held in different parts of the country, I would say there is a universal demand for shelters, and you are saying you don't advocate them. I would like to hear more about that because apparently the communities think there is a need for them.

MS P COETZEE: We are not ruling that out but we do not think the focus should be on establishing institutions. Definitely there is a need. But we also have to be realistic in the sense that, how can we sustain all the centres and how, if I am being beaten up tonight by my husband or partner and I go to that centre, I am standing out like a sore finger in my community. Very often people do not feel very comfortable to go to these types of shelters. In a place like Windhoek you can go there without so easily being noticed, but what about Koës or Opuwo, places like that? That is why I personally and from our side we would like to propagate that people be sensitised to open their homes, so that they know that these specific homes in the community are safe places, safe homes, like we also have with children. If you feel threatened, if you feel unhappy you can run to this person who will then, first of all, comfort you, give you a cup of tea or a glass of water and then get in touch with the social workers or the police, whatever intervention is needed. So shelters definitely, because you cannot send the woman back to the very same situation from where she comes. But I don't think the emphasis should be on the creation of shelters.

ADV. B GAWANAS: We have talked a lot about safe-houses, shelters and I think the move now is to set up as many shelters as possible and I think there is much to be said about the pluses and the minuses for shelters. We also, through this process, really wanted communities to start taking the issue seriously. Safe-houses is one of the ways within which the community can show that we are not just against violence and abuse but we are also there to give support to the victims or the survivors. But practically, how do you go about it, how do you make sure that within the next two, three weeks at least there is one or two or three safe-houses. I will tell you that one of the things about safe-houses is always the question that people may ask: Suppose that woman calls me, right there and then she is being beaten up by her partner, she wants to get out and she wants to come to my house, what protection can I offer her in my house if that man comes to my house, following her. So we should think of that as well, that yes, people will say come, but that is now in a situation where the woman wants somewhere to stay, but what to do in such a volatile situation. The woman calls you and says "I need to get out now" and you want to open up your house, you want to take this woman but you ask yourself if that man has found out that she has run to your house and he follows her, what protection would you give to such people.

MS P COETZEE: There are situations where somebody just needs to get away for a day, to sleep somewhere, or to go somewhere for comfort and consolation or for somebody to have access to the services, just to render that type of support. But every individual case, of course, will warrant a different type of intervention. That is why I am saying I am not ruling out shelters, but it is practically not possible to have shelters everywhere.

ADV. B GAWANAS: Can I just ask you a further question and that is on the professional



qualifications of social workers. I think it is four years. Obviously, in terms of just covering Namibia and in terms of the problems that Namibia experiences, we are talking about a lot of social workers. At the moment it is like a drop in the ocean.

MS P COETZEE: Less than a drop.

ADV. B GAWANAS: I am really talking about resources here. Four years is a very long time to put a person through. Is there another way of getting the same result but maybe training people for a shorter period of time, getting the person out there to start doing the work. Do you understand what I am driving at? It is fine in certain circumstances to talk about the professional qualifications, I think it is important, but just the turnover. You know, per year you would need say, hundred social workers to come through, but the four year programme, as it is, and the money and everything that goes with it, did you ever think of the alternative in terms of how to really make sure that you fill at least that gap that exists in between?

MS P COETZEE: In that regard I want to say just three things. One, in some places we have established that we have a ratio of 1:150 000, one social worker for 150 000 people, and in other areas it is even worse than that. Secondly, I have made a calculation, roughly, that for every 24 citizens in this country there is one civil servant. That is the ratio, 1:24, which is by far the highest in the world. Thirdly, the government is telling us to down-size. I would say let us right-size government, let us see where do we have to put our people. On some parts of your body you need more slimming than others, so you cannot just cut across the board and in this exercise of down-sizing government right-sizing should be the key word and not necessarily down-sizing. Having said that, to come back to your specific question, yes, that is why we feel with our new policy we will change our approach from actually rendering the services to individual people or to groups, but to change that to rather equip people in the community. We will be trainers of trainers and everybody else must take the responsibility, because we cannot afford and it is really a far-fetched dream if we think we can provide adequate social workers for this country. And I don't think even the solution is in that because then you are also only dealing with an individual. But you have to sensitise each and everyone, raise awareness in the community across ranks, whether you are an engineer or whether you are the priest, to know this, to know what can be done, what services are available and what role can each and everyone of us play in the community. With our policy we also aim to direct the Social Welfare sector in this country. At the moment we are scattered throughout ministries. You get rehabilitation officers in the Ministry of Lands, Resettlement and Rehabilitation. You have community activators in Regional and Local Government and Housing and community liaison officers; youth and sport people in the Ministry of Youth and Sport. So the Social Welfare sector is very much scattered.

ADV. B GAWANAS: And you have social workers that have left the profession.

MS P COETZEE: That's right. Now if we can join forces, if we can co-ordinate our services, I think we can make a much better impact. But now what do you find in a place like Okahandja. You find community liaison officers reporting to their supervisor, having their own little programme, competing for the attention of the very same 200 000 people of Okahandja. So you have community liaison officers, you have rehabilitation officers, you have youth and sport officers, you have social workers, you have primary health care workers. All of them there have their own little programme, competing for the very same people's attention, grabbing them to this workshop, to this training session and we are not co-ordinating our services, because the structure of the Public Service is wrong. I have to carry out my work plan because otherwise my director will be at my throat for not having fulfilled the obligations in terms of my work plan, and if I say that I have worked with Youth and Sport or with Rehabilitation, it is very often not appreciated because "what have you done?" If you are slotting into their programmes, then it is viewed that you have done nothing, you have just been hopping along with the work programmes of other people. So we have to look at that also, the expectations of our staff. Even if they want to work nicely together at a local level in communities, the structure is not right and conducive for them to do it because at the end of the day they will be penalised and we are wasting our people's time, we are wasting very precious resources and letting slip through our fingers a lot of very contentious issues.

ADV. V ERENSTEIN YA TOIVO: I would like to go further, let us just take the issue of violence. What kind of co-ordination do you think could be possible and who do you think should undertake the

co-ordination at the community level, and would it also involve NGOs?

MS P COETZEE: Definitely. NGOs, I feel very strongly that they should be involved.

ADV. V ERENSTEIN YA TOIVO: Let me just go back, if you look at this programme of who has been coming here to talk here, we are acutely aware of the need for the co-ordination because we are trying to put together the pieces of a mosaic. We have many, many agencies and players who are working. At the end of the day we - and I mean as a nation - have to come up with the answer as to how to maximise the resources. Do you have any thoughts on this because at the end of the day what we have to produce is a way to co-ordinate and make more effective efforts.

MS P COETZEE: Yes, I can give you an example of what we did with the five year programme for the mobilisation of women and children's rights, with those two projects, "Advocacy" and "Women and Children in especially difficult circumstances." The Directorate of Social Services is in the lead, the co-ordinating body, but we have involved partners from nearly every other ministry, Labour, Justice, Education, Youth and Sport, Home Affairs, the Legal Assistance Centre. The University of Namibia plays also a very important role especially with training and the development of material. But there is one co-ordinating body which is the Directorate of Social Services. We come together and review what we have done every three months and then we advise one another, maybe we should rather go there, and if you have a problem in this specific field we can assist you in carrying out that function. I think we should maybe approach this problem also in the same way to get people together in different sectors, for instance the social sector, I don't know what other sectors are there.

ADV. V ERENSTEIN YA TOIVO: Education, Prison Service.

MS P COETZEE: Yes, they are part of Social Services. If I talk about the social sector, then I talk about what we are doing, the Social Welfare sector, Education, Health. They all belong to the social sector. To get them together and for them to identify a specific co-ordinating body and our programmes so that each one knows who is doing what, so that we are not duplicating but complementing one another's programme.

ADV. V ERENSTEIN YA TOIVO: If I understood what you were talking about when you spoke about training, you were saying there should be one unit which is actually going to train people in different disciplines in-house.

MS P COETZEE: It doesn't have to be a specially created unit, but if we can select a group of people from different sectors and provide them with intensive training so that they can go out and train other people, and if we have a specific, what I would call, a curriculum or a guideline under which this training would take place then we could train successfully. But you don't have to create another unit, you just have to have a certain cadre of people that have the skills, that are properly trained who can train others.

ADV. V ERENSTEIN YA TOIVO: But who will take the responsibility in the long term, because I would think that this has to be a permanent function, the training. You train some people, you have a need to train other people. Who would take that responsibility?

MS P COETZEE: I hope you will be able to give us guidelines at the end of the day.

ADV. V ERENSTEIN YA TOIVO: No, I was just wondering whether you have any thoughts on it. But if I understand what you saying, it is wherever these people are, they will be dealing with teachers, police, pastors, social workers, nurses, whoever, and there will be one uniform approach as to what type of training is needed. Do I understand you correctly?

MS P COETZEE: Yes.

MS ZAAMWANI: I was hoping that you would say that individual groups doing their own training is one of the issues that you are addressing in your national policy, streamlining the whole training of social workers. Maybe you can shed some light on that. What has come through throughout this national hearing is that the emphasis seems to be on intervention, and I am glad to see that your department has now moved away from the traditional role of social welfare department where you are

just intervening when there is a crisis, but you are trying to actually instil in society the core values that would make that change very possible. At the same time you are exposing the children to sex education. This is a controversial issue all over the world, but there is very little emphasis being put on the other side, which is also good, that is of abstention, especially in school learners. I wonder whether you have any thoughts on these issues.

MS P COETZEE: I can just confirm that definitely there is a move away from the conventional type of case work that we used to concentrate on. Initially there was some resistance because social workers were trained to do case work only and it was not easy, but I think it is so nice nowadays to meet people, especially ones in the regions and if you hear what they are doing, how they go out and how they realise that all along I was just wasting my own time, building up my own frustrations because I couldn't see us moving anywhere. Nowadays they are reaching out to the schools, to community groups, they are invited, people are recognising our roles. Nowadays they are inviting us to church meetings, whatever meetings they are having to come and give a talk, which is a very good move. But it is also not fair to expect from our social workers just to automatically make that shift from a case work type of approach to a more pro-active approach, preventative work. It is difficult for them, it takes a lot self study, a lot of discussions. It is even difficult to remove a social worker for a week for training because then the community is up in arms, they want a social worker all along there and at some places we only have one social worker. So, those are the things that we are working on. On the issue of sex education, we are not really calling it sex education because we do not want the parents and the principles to bar us from entering schools, so we call it more life skills training, like the Horizon Programme and different types of activities. So we give them nice consumer-friendly names, but at the end of the day what is important is to achieve results. Then the training of social workers, we are now busy with the University of Namibia, we are working very nicely with them also to make the curriculum more responsive to the needs and the changing circumstances. We have already agreed on the curriculum on disability and so on. We also see that as a very positive move that the university is open to our ideas and that they are even prepared - we spoke to Dr Strydom, the head of the Social Studies Department - that if we want we can bring in guest lecturers for social workers. We have done that in one instance already.

MS M OLIPHANT: At the Woman and Child Abuse Units we also do outreach programmes at schools and in the community. Tomorrow morning early we will have to leave Windhoek for Mariental where we are also wanted in a workshop. So we do that at schools locally and outside.

DR HUARAKA: One thing I wrote here is "sore finger". I think that is a debatable point you made, that for the battered woman to go out in a small community she will stand out like a sore finger. I think it is the other way around, that we have rather to think of training the community to accept that person and not that the person would be afraid to go out. I think the whole exercise is about that. Definitely if we look at that, that the person is afraid to go out because it is a small community in Aroab and people will talk about it, then we have to think about turning around the community to be able to accept such a person.

ADV. B GAWANAS: Let me seek some clarity. If I am right you said that shelters, especially at smaller places ...

MS P COETZEE: It will stigmatise the woman.

ADV. B GAWANAS: Not just stigmatise, but the whole thing behind shelters, let us be frank, is that it must be a secret refuge for people. You said even in Windhoek it might be a pipe dream because this is a place where you are taking a person so that her husband or partner cannot follow. That is the whole essence I think of a shelter. That was just as a point of clarity.

MS P COETZEE: Yes, that is what I meant.

ADV. V ERENSTEIN YA TOIVO: I think that is one aspect of the shelter. I think the other aspect we will have to really think about how we can adjust it. It can't be adjusted by taking people into people's homes alone, because women who want to leave home, there are women who need to get out of their houses just for a couple of days, they need to change their lives, they need to actually leave their husbands. They need a place to go and think about what they are going to do: Can they go back, do they have to do something else, do they need training, etc., etc. I am not in a position here to say

what are the alternatives to a shelter, but there has to be something. You in fact talked about how social workers have to help. You were saying we need institutional support to help victims rebuild their lives and that cannot be done if somebody opens her home to you. From the little I understand about this, there is a value in really being together, women who are in similar circumstances being together and also to give each other support.

DR HUARAKA: I brought up the point as a sore finger, and I would really think that probably we look at it and we will see if we are talking about shelter and so on. At the moment I am looking at the situation where it will not be accepted in any place, whether it is a small community like Okakarara or a big one for a husband to beat up the wife. It will not be accepted at all. The husband would be a sore finger in society. This is my concept and I want us to look into that. Now, coming back to another thing you said, you said again this is perhaps a debatable point, that perhaps men in general, or men who beat up their partners or abuse their partners do so because they have been disempowered or there is a disempowerment of them as men due to unemployment or other factors. I think you did say something like that. So I am again taking issue with that. There is the concept that man must always be a provider, man is the head. Once he is disempowered he cannot provide, there is no employment, then he must turn his frustrations on his partner. I think that is a wrong approach and a wrong concept. We must move away from the perception that man must always provide. We must get to a position where the two partners must provide if necessary. It just depends who has the means to provide at that time. But to talk of disempowerment of men through employment and that causes their violent behaviour, I think we are going to move into a debatable point. I am with the Ministry of Justice now and one of the things I am trying to look at, is the formulation of a national policy on youth. I want to do this and the Minister of Justice was mandated to try and put together legislation about juvenile administration, juvenile delinquency, juvenile justice, but before we do that I think it is necessary to have a national policy on youth. You mentioned that we must have a policy as a country and as a government where we have to think of our children, bringing them up from childhood up to adulthood, making sure that we give them the necessary facilities and opportunities to grow up and to become responsible adult citizens. I am very much interested in your views. For instance, the other day the Minister of Agriculture mentioned in the National Assembly that we have to have national training to train the young people to be responsible. How do you think this could be done?

MS P COETZEE: I will just very briefly respond, I don't think you are contradicting me, what you are sketching there is what society should be. I was pointing out what it is at the moment, that this is unfortunately the reality, that people do not accept violence, of course, but they keep quiet sometimes or they turn a blind eye or they feel helpless in the process, what can they really do? They will just be bullied, the whole community can be bullied by a certain individual and this is one of the things that we are trying to sort out here, how can we empower our communities, how can we make it not acceptable in the mind of everybody, even the perpetrators and also to create the necessary support structures everywhere so that those who fall victim of this type of abuse have some kind of refuge. When Vicky was talking about the need to sometimes remove women for a longer time where they can be together, have contact with the family so that they can rebuild their lives, maybe they do not want to separate or maybe they want to separate but they want to separate in a nice way, so that that process can go on. That would be an ideal situation. Maybe we can use one of the farms donated by Mr List as a sanatorium where we can remove women and access the men.

ADV. B GAWANAS: There will be times that even those of us who are in comfortable relationships would also like to get away for a while.

MS P COETZEE: A place of healing, because Mr List, I think, in donating these farms has contributed to the healing process of the nation. So we must use one of these farms also for the healing of the individual in society and the problems in our society. On the disempowerment of men, once again I don't think we disagree. There is this traditional role, the man-child was brought up by the mothers from the lap, by society conditioned and socialised to fulfil a typical role, that of hunter, gatherer, provider, head of household and whatever, and just to tell somebody you are no longer that, you are an equal partner in the family, in society, in the community where you are operating, in the world, that brings about changes in how people think, how people get rid of their energy or their confusion. We have to change those perceptions and that is exactly what I said, that we should think about. The transition from that traditional role that was imprinted in our minds and even in the minds of the person, the transition to become an equal partner in society to see yourself as that, that we need to look at.

DR HUARAKA: But you provide services to the offenders.

ADV. B GAWANAS: We don't work with the offenders because you have to work with the victims.

MS P COETZEE: Our social workers also do that because we are providing services mostly to the families. Families are one of our main concerns, so in the family you have all these different role players. That is why we also work with the offender, whether the person is in that family or another family, because even if the person is from another family you have to look at the well-being of that family, they are also going through a very difficult stage. At this moment we are doing mostly counselling. With the juvenile justice forum we have a diversion programme, we are now looking into community work, making up with the victim and then for you to be diverted into that programme. We are going through all of these things, we are trying to find ways, we do not really have any model on which we can work in Africa. So we are trying to find our ways through trial and error. But with the offender it is mostly counselling at this stage. It is a new thing.

ADV. V ERENSTEIN YA TOIVO: I need some clarification. When you talk about the offender, can I assume you are talking of people who are in the community, not in prison.

MS P COETZEE: Yes.

ADV. V ERENSTEIN YA TOIVO: Because if I can just follow up, you see, to me there is a very concerted effort or concerted thinking on how to deal with rapists, people who have committed sexual assaults. There are a lot of people like this in Namibia, this is a very common crime, this is not an aberration. These people are in prison, they get out, they repeat these crimes, and I think there is a lot to be said about trying to understand the reasons why they do these things. I haven't heard anybody so far who has a clue on what we should try to do. I don't mean to say there aren't people in this world, but this is one of the reasons why we started with this project, because there are so many rapes and assaults and women being murdered and demonstrations and people saying something must be done. What is being done? I think more is being done in Namibia as the years have passed than was being done perhaps at the time of independence. But in this particular area of how to deal with these men who are committing these crimes, I really haven't heard anything. Do you know if there are any people who have any expertise in these areas in Namibia.

DR HUARAKA: In this case, for instance, where you have a situation of a husband who has beaten up the wife, of course you are concerned with the victim and so on, but do you also at that point try to talk to the husband?

MS P COETZEE: Yes, like I said, when a woman comes to report the case, immediately if the woman says "I do not want charges but I want my husband to stop this behaviour" or "I want to move away, I want you to assist me to get through a divorce", then we go and work with the offender, trying to understand, trying to counsel. That is a long process, that can take up to years where you work with cases like that. With rapists - I am just responding very briefly - we have social workers in prison. Once a person is in prison, in jail, it is out of our hands.

ADV. V ERENSTEIN YA TOIVO: Are there any social workers in prison who know anything about...

MS P COETZEE: I don't know, I can't talk for the prisons, what they are actually doing but they have social workers at prisons.

MS M OLIPHANT: Many social workers attended a course at the end of last year, November, on how to deal with the sexual offenders and Helen Ockhuysen at the prison currently wants to start a project for them, because there is a big need and research has shown that sexual abuse is addictive, so the person will do it again and again. From our cases we experienced that when the perpetrator comes out he will start abusing again. So there are social workers who want to work with the sexual offenders. We at the Unit work with the offenders under the age of 18 with the Juvenile Delinquency Programme to assist us. But we work with abuses in cases where it is only wife battering and domestic violence. It is only that we don't deal with the sexual offenders.

MS P COETZEE: There are some cases where people will get some very basic social worker training, but most of the skills training is done by other sectors of our community, like the Community Mobilisers, the Agriculture Extension Workers and other sectors of government and then the NGOs also play a very important role. So we do not think we should do everything ourselves, we should bring this issue to the table, make people aware of it and organise other partners in order for them to do the actual work with our people. On the rapists I know about a Bridge Programme in Mariental which I think is also a very good type of programme. Transition is very important, so that the person has a smooth reintegration with the community. The victim and everybody else in the community are ready to accept this person and assist the person in the process of being a community member. Lastly, to respond to the bringing up of our children, it is very difficult to monitor in every household what is happening, but I think the schools should play a much more important role especially in the socialisation of our children, how children are conditioned, how they are socialised. Sometimes you get frightened about the type of information that is being put in, except ABC, the other type of values that are carried over to children, and we have to realise we are coming from diverse cultures and backgrounds and no-one is superior to the other, but very often a certain specific type of value or norm will be carried over by a teacher on a very susceptible minor child. That is why I was very optimistic. I don't know what happened to that programme, but I know the Ministry of Education, when it was still one ministry, many years ago submitted to Cabinet the Culture of Care Programme. I don't know what happened to that. When I saw that I was saying, "this is it, this is our problem." We have to create in our society a culture of care.

ADV. B GAWANAS: It is not just the children, it is not just those who are on the other side of the law, it is also us as women that must start re-evaluating the values, because sometimes I think this whole thing of independence, women's rights and equality, within that context we have to revisit and to see whether that means that we should not hold dear to certain values. I will say that some of the mothers that have come to testify also at the hearings were saying, "we don't live in a utopia, we live in the real world and therefore there will always be the instances where I will have to tell my daughter when she goes to a night club, "please don't go and drink, don't do this and don't do that." Now if I do that I am being accused of not granting my daughter her rights as a citizen of this country, but I know if the phone rings at 4 o'clock in the morning, it is either from the hospital or from the police, saying that my daughter has been raped. So I will always be the one who will be faced with those circumstances. Those are the kinds of issues that we as women should start confronting within our own discussions and really talk about that. Economic empowerment, yes, that is one, but that self-respect and self-valuation, self-confidence, those things that no money can buy, that is more within yourself that you have to build that up, and I hope that through these kinds of discussions and hearings and workshops that we will come back to the fundamental aspect, and that is the values, the culture of care. Once we have that in place I think a great deal will become so much easier.

### **FORMAL ADDRESS OF MRS M OLIPHANT**

### **FORMAL ADDRESS OF MRS O G ABRAHAMS**

MS S DIPPENAAR: There are very, very few remedial teachers in Katutura. So that is a huge deficit. There is not one remedial teacher in Ondangwa East, there is one remedial teacher in Ondangwa West, none in Katima Mulilo Educational District, none in the Rundu district. I can tell you the sad story of children with learning problems that do not get help and that the poor teachers in the classrooms cannot help these children because they are overworked and they have lots and lots of children in their classrooms anyway.

MR HUARAKA: Indeed that is a major problem facing the whole country, isn't it? I think perhaps sometimes as a government we haven't realised there is a need. We just look at the basic thing, children have to go to school and we do not provide for those who are not able to cope like the others in the normal way. It seems to me that the Namibia Women's Association is focusing on problems that really affect the women out there in society and you are seeking to try and render a service where the family has broken down or where there is no assistance from outside agencies, and you are doing so perhaps at your own cost with assistance from perhaps donor agencies.

MS O ABRAHAMS: No, we are totally self-supporting.

MS ZAAMWANI: Now, I wonder whether you have any thoughts on another approach, where you

are trying to address the causes of the problems that we are trying to address today, i.e. violence and abuse of women and children.

MS O ABRAHAMS: Let me put it this way, we did not intend to be put in a position where we would be working - it is a crisis management issue. We were actually established in order to empower women, but we find that this problem is so overwhelming that we have been forced into a position where we are actually doing the work of social workers and we are not very happy with that situation. What we are aiming to do is the formation of social clubs, or clubs of women in this position where we have women getting together and telling each other about their own experiences and women together working out a solution to this specific problem, because we have only one organiser and instead of organising women into the organisation she is dealing with these problems. We are not actually empowering the women by doing what we are doing, but the problem of children not having food is so great that we are forced into a position where we are doing this. We have the case of one worker who works for Atlas Coop, sorry Metro, and he does not, for example, trust a woman because he says, "if I give her money she spends it on boyfriends." What they now do is, they put the money in the account of our worker and then she has to go and get the food for the child. I mean, that is so time-consuming we actually cannot do it. But we feel that once we have formed these social clubs, that women can get up and help themselves. In the same way we are now also forming clubs of women, for example, who have problems with divorce, where other women who have been divorced will come to the clubs and explain to the women what they did to cope with the situation because what we find is that when some women are faced with divorce there is a total breakdown, emotionally and otherwise. These are the issues that we are trying to work on. We work, as I said, with other organisations in the NGO sector and we also work with the Department of Women Affairs, for example, where seminars on gender sensitisation are held for men, principals of schools, etc. So, what I have told you about is only the work of the Namibia Women's Organisation but not the work that the Organisation does in conjunction with others. The other inspiring project that we are busy with, as I said, is the project on the affirmative action for the girl child, where we are actually seeking to place an alternative lifestyle in front of the children, because the census which was taken in 1994 shows that of all girls between the ages 14 and 18, 64% are either mothers or pregnant, and as a teacher I find that many girls leave school even in Grade 8 to become mothers of children whom they can't look after, and that just gives us more and more and more work and this has to stop somewhere. We feel that it doesn't make any sense to tell girls "don't have sex". What we want to do is to place an alternative lifestyle in front of the children. Those who have aptitudes to become politicians we are going to attach to the Women's Caucus during the holiday. Those who want to become lawyers we send to law firms during the holidays and those who want to do agriculture we will take to our projects during holidays. There is the prospect of scholarships for girls, there is this regional networks with other countries in the region and even the international network. We are trying to show children that there are other things to do apart from having babies at the age of fourteen. So we realise that this is a long term policy but we are doing what we can.

MS ZAAMWANI: I need some more clarification, I know you dealt with it, but you said something as a recommendation, that the wife should be given the right to sort of have a say in a child born out of wedlock. I wonder whether you could clarify that?

MS O ABRAHAMS: I can go to a specific case. A Mrs Boois came to us for help. Her husband had a baby with her sister and the sister lives in another place. So the husband brought this child home and she brought up this child and she is not a very rich woman. The husband, as she says, is often derailed and doesn't work because he is drunk and she is actually bringing up those children on her own. She saw herself as the mother of this child, but when the child had qualified matric, the mother decided that she wanted her child back and there was nothing that this woman could do because legally the child was not hers. This is an extreme case. Often husbands have children with other women and they bring the children home. I am sure all of you must know about many such cases and the wife is actually expected to act as mother for the child, but the mother cannot decide what the child can do or cannot do, to which school she can go. The mother has no locus standi at all. To me it seems extremely unfair and emotionally traumatic that I, for example, should act as the child of the mother. But if the real mother just feels like it, she can just come and take the child and I have no recourse to law. I think the law should actually look at who is the real mother of that child, not necessarily the biological mother and that the rights of the mother who actually mothers the child should be enshrined in law. I don't know how you can do it, but it seems to me very unjust that the real mother should have no rights.

DR HUARAKA: I visited your pre-school in Grünau in 1991. Mrs Riehl is the name of the principal and when I got there I was just going around, trying to find out. I was struck at that time that this woman's husband was a Father in the church and retired and he was earning N\$90 and she was keeping these small children, it is basically a boarding kindergarten. I think I found 2 years, 3 years, at that time in 1991 they were about five or so. They were sleeping at her place, she was keeping them and trying to make ends meet. I was really struck by that. This is the other side of the coin that mothers have children, they go and leave them with their grandparents. Even if they get the maintenance allowance from the fathers they probably don't give it for the children. So this way of finding a source, a bank or a set-up, maintenance association, where it would be paid in would probably help to assist. The other thing to comment on is the question of the girl child. I think it emerged out of the SADC meeting you had in Windhoek. Don't you think that girl child should really start at home with the parents, with the mothers? The mothers should stop when the daughter is 6 years old and the boy is 4 years old and the mother will tell the boy, "don't cry, you are not a girl." Don't you think that is where we have to start, it is the whole cultural upbringing and tradition.

MS O ABRAHAMS: That is true, but if you look at what actually happens in many cases, the girl has a child out of wedlock, the woman works, she takes the child, she drops the child in the reserve. The grandmother looks after the child, the child doesn't know the mother. At the age of 7 the mother fetches this child from the reserve, the child has probably never seen the printed word, the child is brought to a foreign environment, comes to Windhoek where the mother leaves the child in the morning because she has to go to work and comes home at night tired. I mean, where does the mother and the child ever bond? Where does the mother actually have the time to instil values in the child? I really think that some research should be done about the effect of this kind of thing, the impact emotionally on children by this kind of practice. As you mentioned, you found so many children in Grünau. I am sure she would have told you one is the sister's child and the brother's child and so on, and every year the number just increases. It seems to me as if there should be some national campaign to get parents to accept their responsibilities once they have children. If people have children at the age of 14 when they themselves are children, what can you talk to these people about? It is really a question of national concern and I think it is an issue which emotionally destroys many of these children, which exacerbates the problem which she mentions about remedial teachers. These are children which are not backward, they are not dyslectic, they have no other problem, they simply never had access to the written word whereas the child in the urban centres sometimes at the age of 3 can tell you what is a circle, what is a triangle, and in Grade 1 these two children are put in the same class.

MS S DIPPENAAR: I would like to comment on children educated by their grandmothers. I think the grandmothers really try very hard, but it has happened and the Ministry of Basic Education is very aware of it, where a child is being brought up by a grandmother and when it is time to go to school the child comes to Windhoek, which is understandable, but that mother and that child aren't mother and child, they are foreign to each other and these children many times have grave learning disability problems, because they don't want to be with this woman and they are very naughty because they don't accept this person as their mother, this is just a sister, why should I listen to the sister? But it is not his sister, it is his mother.

DR HUARAKA: Mrs Abrahams, any closing remarks you want to make?

MS O ABRAHAMS: We would just like to say that we really think it is time that the Children's Act is made law.

DR HUARAKA: The new Minister of Health and Social Services would like to have a look at the draft children's act. I have a copy, I have seen it, it went through the Cabinet Law Committee, but it is still back at the Ministry of Health and Social Services. I think very soon probably it will come again to be finally looked at and presented to the National Assembly, and I am sure at that point it may go into the committees and people will be invited to give their comments and so on. We, in the Ministry of Justice - and we don't have juvenile justice system in the country have just discovered that we don't know what is a juvenile in this country, whether it is 18 years or 21 years, but that is by the way. The question of parental control and who is a parent, that is another issue that probably we have to address at one point or another. I don't know whether it was here, perhaps it was in the US where I read something, there was an idea - of course the United States is a huge country - that a sex abuser who



gets out of prison and then he will move to another state and the idea was that that locality should be informed that a sex abuser has moved into their area. But then the question was the right of privacy of the person moving in and I think in certain situations the idea is that this sex abuser moves from California to the New York area and he will commit the same offence again. I think that was the whole idea why. I wonder whether this register, I don't know how it is going to be seen in the light of the freedoms and rights of the Namibian enshrined in the Constitution, but it is an issue we should debate and look at.

### **FORMAL ADDRESS BY MRS S DIPPENAAR**

MS S DIPPENAAR: It is not that we want this person to be stigmatised, but we know from research that with child molesters there are certain indicators which make them more likely to be reconvicted, like if they have never been married, but we need to protect children. Isn't it the right of children too to be protected? My study is a study about the effectivity of therapy, it is not an epidemiological study. So there is no statistic available in Namibia. The only statistics that we have is the stuff that has been kept by the Woman and Child Abuse Unit since its inception. What these people usually do, they go and they take the first year university students and they have a report that they fill in and that is how they get the information. But you know, university students aren't representative. So we are talking about a lot of money in order to do such research. But I would like to tell you that these statistics are perhaps for the United States and it is for South Africa but it is like that throughout. All the studies are usually around 30%, one-third of all woman children. Alright, it is not only South Africa and only the United States, it is all throughout the world and there is no reason to believe that Namibia is such a country that it won't be like that here.

ADV. V ERENSTEIN YA TOIVO: I have a few things. First on this point, I myself, I recall, had an experience as a child with a man who attempted to molest me on a number of occasions and I basically just found a way to hide from him. But I remember to this day consciously thinking about "should I tell my parents" and I was concerned that I would get this man into trouble and that he was a substitute for his wife who was my babysitter and I was concerned about his wife, I was concerned about what was going to happen to this man. It wasn't even so much, as I remember it, worrying about the shame of reporting something, but I was realising I was going to cause a lot of trouble. I was at the time maybe 10 or 11. I wanted to go into a few questions about the Ministry of Basic Education. What kind of training, if any, do the teachers have to identify this problem and what kind of training at the school level do they have to counsel children or to somehow assist them? I would like to know, in the curriculum, does Basic Education include secondary schools? I believe it does.

MS S DIPPENAAR: Up to Grade 10.

ADV. V ERENSTEIN YA TOIVO: At the various levels of the basic curriculum, how does the education system deal with the issues of gender inequality which has been identified by many of us as one of the real causes of violence against women. I want to know how are children prepared to respect human rights. The last presenter before the break, the presenter from the Ministry of Health, was talking about programmes that it seems the social workers are conducting in the schools which has something to do with moral integrity. We had testimony at our local hearing in Windhoek from the former principal of Centaurus who gave many, many experiences he had with learners who were sexually abused, who came forward and the system failed them in many ways. One of his very specific complaints, I believe, was about the Director of the Ministry of Education that you work in. I am not sure if it's the same one, your director is a psychologist. Among other things some fancy psychological terms were used but basically he was being told that he was transferring some problems that he had. I considered him to be a battered principal. But I think for our purposes of trying to make recommendations for the long run, we have to look at the institutions that we have both in government and in the community and see how they can be strengthened. So we need to have an idea, do you have a shortage of trained personnel to deal with these problems? What are the needs? As far as the Ministry is concerned, it is our view that it has a critical role to play in the education process to try to prevent these problems. I would like to get some sense of what the situation is.

MS S DIPPENAAR: The Directorate of Special Education consists of two divisions and one division is actively educating and training people.

MS A KRUGER: We have a system, head office is decentralised to the regions, each region has a

regional school counsellor and the regional school counsellor then deals with the matters in the region. When we speak of being educated I think there is a lack. What we have are people who are willing and have experience in psychology up to Psychology III training. They then train teachers in the schools on basic counselling skills to deal with the children in the school itself who have problems or give therapy in some or other way. But again it is willing people, it is not trained people in the field in which we work. People that can directly work as psychologists, we have three registered psychologists at head office who are also engaged in a lot of administrative and all the head office type of work. We do have a manpower shortage but we train people to at least identify the children to refer them and then we do referrals again to a social worker or wherever.

MS S DIPPENAAR: We have sent some of our regional school counsellors, one from Katima Mulilo and one from Ondangwa West, to Malawi where they have a two year programme and they come back and they conduct workshops on gender equality. That is one of the main aims of the programme. It is going to be an African Centre for Guidance Counselling and Youth Development. So we are training our regional school counsellors to also conduct gender sensitive work. About the curriculum, sex is in the curriculum by the way, which is wonderful, probably not as much as we would like it to be but we have to take into consideration what is happening in our society. Things can only change very slowly. We have a special person, her name is Mrs De Jager, who has projects and one of her projects is called, "The Choice is Mine" or something like that. It is throughout the country and it is about empowering children, being assertive, being able to say no, making choices for myself, knowing how important I am and that I am allowed to say no. So that is also happening at the Directorate of Special Education. I would like to say it is important not only to prevent but also to treat and really, I think, personally, we should have a person seconded to the Woman and Child Protection Unit from Education, a psychologist to work there, because the Woman and Child Protection Unit is multi disciplinary and what is Education not doing there? It should be there.

MS O ABRAHAMS: I would just like to say something on this question of the schools and this kind of thing. I don't know what the situation is in public schools but as I told you we have a community based school where I teach guidance to 440 children. I am the principal, I have to run the school, I teach. We have in our cycle one period per class for life skills. Now tell me really, how am I expected to pick up cases of children who are being sexually abused? I think that the Department of Education should actually get the idea very clearly that guidance is one of the most important subjects in school and if you can spend four or five periods on history, learning about Jan van Riebeeck in sixteen something, how can you give me one period a week to teach children to respect themselves and to say no? I don't know whether the status of guidance teachers is sufficient, that it justifies the position or the work that these people are doing, and I think there is also a problem about the payment of the salaries that these poor people get. You can talk about teaching across the syllabus and so on, but basically all this falls on the shoulder of the guidance teacher who sees 440 children once a week. I think the Ministry should reorientate themselves on this specific issue. Guidance is an important subject.

MS S DIPPENAAR: I would like to tell you that the Minister of Basic Education and Culture was a guidance teacher and I think our Minister is very pro-guidance, but you must remember that money is very important. What happens if the children do not have Maths text books? It is a very difficult situation that the Ministry is in. I do think the top structure knows the importance of guidance but there is a money problem always. But I was never trying to say that only guidance teachers have to see a problem, usually it is the class teacher, not the guidance teachers that finds out something is wrong and then ask the guidance teacher for help.

MS A KRUGER: I would just like to add a recommendation, Mrs Abrahams is making my hands strong in what I want to say. We need full-time life-skills teachers at all the schools. We had that and we were busy phasing that into all the schools. There were a lot of schools that had full-time life skills teachers and all they did was life skills and guidance and counselling. That is all they did. But because of the teacher-child ratio that was revised, the Ministry cannot afford full-time life skills teachers so they did away with that. A principal is obliged to appoint a life-skills teacher, but then he will have to say then I will not have a Maths teacher or whatever. That is a problem.

MS HAMUTENYA (SWAPO Women's Council/Directorate Legal Aid, Ministry of Justice): It is perhaps a contradiction that we should be defending the accused persons in crimes of violence and abuse. However, the basic principle is that the criminals have a constitutional right to be represented,

to legal representation and it is in that vein that the Legal Aid Directorate was established and money was set aside to make sure that legal representation is available even to those who cannot afford a legal representative of their own. What worries me more, which is not applicable here is a Legal Aid defence counsel being assigned to defend someone who has, for instance, misappropriated state property. Then state property is spent on the defence of such a person. That I find even a bigger contradiction than this one. I doubt that many of the perpetrators of these types of crime even know that there is Legal Aid. They come to know it when the judge asks them whether they have legal representation and gives them a certificate that legal aid can be given to them.

ADV. V ERENSTEIN YA TOIVO: I guess the question really is what role, if any, does Legal Aid play and if it doesn't play, what role do you see it playing in relation to representing victims of domestic violence, representing child rapists and representing victims of sexual assault in criminal cases? In other words, we are considering very seriously as part of the reform of the rape law, actually giving the victim the right to be heard in court, separate from the case of the prosecutor, in other words the right to be heard on the question of bail and certain other things. I don't know if the Legal Aid has ever considered these questions. I would like you to give us some insight, since I do think from what we have heard as we went around the country. We heard a lot of complaints about how, if you want to get a divorce, it takes a really long time if you need to get it through Legal Aid. One area, not in connection with this particular hearing, but one area of law reform which we are working on and researching, is divorce. There seems to be an overall demand for a cheaper, quicker, less difficult, less complicated way to get divorce. But in the course of divorce proceedings, domestic violence surfaces. Let me not say anything further, I asked you a number of questions. As regards the last one I would just like to know if you have any recommendations that might be helpful as regards effective remedies, legal remedies needed for domestic violence.

MS HAMUTENYA: Right now the only victims of these kinds of crimes who come to us are women who are basically looking to apply or trying to find out how they can get separated from their spouses because their spouses are threatening them with violence or because they have been assaulted several times because the legal procedures to get divorced is a long procedure. Most of the time we are not very successful in helping these types of people except to advise them perhaps to go somewhere else for the time being and wait it out until the legal process takes its course. You find a person who comes into your office crying and saying, "my husband did this and that and threatened to kill me and I know he is going to do it, what can I do? I went to the police and the police sent me over to you." First of all the police will not act until they have a request from a legal practitioner to give a warning to the perpetrator. Then you write a letter and they go back to the police and give them the letter. The police sometimes themselves grew up in those conditions and they don't see abuse as strange. We have had people who have come to say "I ran to the police station and he said sorry, we can't help you because it is your husband who is doing that and you are not divorced, we cannot get between the two of you." I believe that there are women who may have lost their lives in this way, trusting that the police were going to do something. However, I don't know to what extent this problem prevails within the Police Force, because I have also heard about the police going to confiscate, for instance, the weapon with which the woman is being threatened if there is a pistol or a revolver involved. They normally confiscate it but then later on they are bound to give it back, because the woman will normally go and withdraw the charges against her husband. The man will be given his pistol back and the whole thing starts all over again. I believe that violence in our society is a social problem that we need to tackle because the law is just not there in the house all the time to make sure that these two people respect one another. It is a question of education that we need to tackle right from the grassroots, tackle the education that our people know that even though that other person is physically less powerful than you are, he or she has rights and you don't have to trample over them. Then perhaps the legal system only comes in at the level of enforcing the law once a crime has been committed. I see a dominant trend in the minds of men to think that they can do to the children and women whatever they want and they normally tell them, "you go to these lawyers of yours and you come back, then I will beat you up thoroughly," things like that. Right now we have not represented any victims apart from the prosecutors who do that, because there is no provision for that. I also think that the female prosecutors are likely to be sensitive to these kinds of crimes, for the same reasons that I pointed out before. About cheaper divorce, I think you cannot get it cheaper than going through the Legal Aid Directorate, but quicker, there is an element of risk there in giving quicker divorces. You are looking at a family institution where children are involved and a lot of things are involved, and the tempers run high sometimes and someone will come and say, "I want a divorce" and if you give it quickly, tomorrow they will come back and say "we want to get married again" and in fact they do. I

had a lady who called me, I helped her several years ago to divorce her husband and then I moved from that firm to another place. When she called me she said. "do you remember me", I said yes I do and she said "I continued to live with that man, I didn't marry him, we continued to live together because he promised he is going to change and now he is such a problem and I don't know what to do." She said "I talked to the police, the police are saying you are no more married and I don't know what to do." I said, "I also don't know what to do because there is no legal relationship between you and this person any more." But sometimes they instruct you to institute action for divorce and then normally the males are successful in convincing their female spouses that they will try to mend the relationship and they will try to improve and normally they do withdraw such instructions. With women however, when the males decide they are tired of this relationship, it is very rare that they succeed to convince the others and I have also been involved in that situation where this lady was crying like hell and I knew she loved her husband and wanted the relationship to be mended and she realised also what was going wrong. In this particular case there was nothing that the husband was doing wrong, he wasn't assaulting her, he was not doing anything, it was she, the lady. The man was the victim in this particular situation and she really realised what she was doing wrong and wanted to mend the relationship. I went to court and the attorney on the other side came, calling for a quick divorce, saying "quick, quick, don't waste our time", and this lady was crying, saying "there are children involved here, please give us time" and luckily it so worked out that they gave us a four months trial date, so in the meanwhile we were hoping for reconciliation between these two. But these are difficult questions to decide on and I believe there was a reason why the statute was so drawn, that you give them four months waiting period to see whether they work things out among themselves before you finalise the divorce. You get this restitution of conjugal rights which is like a temporary, but not final, divorce and give them some more time before it is final. Sometimes they don't even go to the stage of finalising the divorce.

### **FORMAL ADDRESS BY MRS P NAKANYALA**

**MS M OLIPHANT:** I would like to make an observation about the High Court. We as social workers at the Woman and Child Abuse Unit, have to investigate and compile and submit a professional report to the court in connection with the victim of abuse. But we find that they ignore the social worker's report completely, they don't request a police report on the victim and even if we do submit our reports, they totally ignore us. We are not subpoenaed to appear in court, we sometimes have to beg just to be in court, to sit in the back seats but we cannot do anything, we must just sit there and observe this poor little victim. I have had personal experience about a month ago about an 8 year old child that was questioned by this lawyer for two hours non-stop until she had to ask the prosecutor, can't I just stop now, I am tired and I am hungry and I as a social worker had to sit there in the back bench and I could say nothing. We have as social workers of the Unit discussed it with the prosecutors already and they promised that they will request reports so that we can have an input, a very important input, because there is nobody for this child in court and they are even denying us that we can submit our professional reports. That is also what I mentioned in my presentation that I handed in. This we regard as very, very serious and as very unfair that we cannot be there for our victims in court. We have found that some of the prosecutors would sort of talk to the child, prepare the child just before the child goes into court, and of course, we as social workers see this witness on a continuous basis and also as part and parcel of our treatment. We prepare the child for the court appearance, also for the mother of this child. In our groups, for instance, we will hold, in the groups we have, for instance, mock courts to explain to the child. We will even go beforehand and show the court to the child and we prepare the child also for the fact that she will have to face the perpetrator. That is about all we can do, but otherwise we have all these constraints because they don't allow us to be of assistance in the court for the child.

**MS THERON:** There were also some cases where we promised the children that we will be there with them all the time and then the judge asked us to leave the court. We explained before the time to the prosecutor that we worked with the child for a long time, we want to be there and then he asked us to leave the room. The mother is taking sides for the perpetrator, so the child is alone, she was only eight and she was there alone. Then the child even doesn't trust the officials.

**MS P NAKANYALA:** I would like to comment on something. She asked why an ordinary person can withdraw the case. The law states clearly that the one who laid the charge has the authority to withdraw it. The State can refuse, but still if the person comes to court and says, "I said I don't want to proceed with the case", there is nothing the prosecutor can do.

DR HUARAKA: Commissioner Smit proposed that we must change the law and in fact, I think the whole process of this hearing is to criminalise child abuse and woman abuse.

MS P NAKANYALA: With regard to the social workers, you know, I must be honest to you, there are also new prosecutors there and some of them don't know the procedures and in most cases you can hear that today three prosecutors have resigned and we brought in some new people. If someone is new, she doesn't know what to do and if you are before the judge, you are before the judge, it is the final order. He can say "court in camera" like they used to say if the child is a minor, no one is allowed to be there except the judge, the prosecutor, the defence counsel, and the child itself. That is the rule of the Court unless it is changed.

ADV. V ERENSTEIN YA TOIVO: There are a number of ideas that come to mind. One is that I think we may have to discuss this matter with the judges also to get their point of view, because some of these problems can be solved without law, just with some training and some sensitisation. I appreciate what you are saying about the lack of training on the part of the prosecutors. We have heard of various situations where an inexperienced prosecutor is given a case with no training on how to handle a rape case or a case of child abuse and this is not something one can blame on the prosecutor. As far as I know there is no specific training in handling cases of this type for prosecutors and I think that is one area where we will have to make recommendations, particularly as regards the Justice Training Centre. Secondly, the fact that there is no gender training is very interesting, because I think none of the lawyers in the government sector have had the benefit of gender training, even those of us who were in such positions where we do a lot of work in these areas, and it has been identified as a need, have received no such training. Maybe it is a need that the Ministry of Justice overall must look at. But getting back to this question of delay, in the course of discussing reforms of the law of rape, there are plans to drastically transform the law relating to the crime of rape which hopefully will also result in making it easier to prosecute successfully. But we have heard many complaints about delay which are laid at the Office of the Prosecutor General. What is said is that all dockets, and first of all for the benefit of those of you who don't know it, most rape cases are not prosecuted in the High Court. They are prosecuted in the Regional Court. But all cases must go to the Prosecutor General in Windhoek for a decision. That is a delaying factor. This has been identified as a very serious problem. I don't know if the Prosecutor General's Office thinks it is a problem but we have heard this over and over again. A second problem which has been identified in the regional hearings is multiple postponements of cases once the case is supposed to go to trial as a factor which contributes to the withdrawal of charges. I think it is well-known that the trauma to the complainant continues, it doesn't disappear. The more times you have to go to court and the case doesn't go ahead, it is really a problem. Some people just give up and just for your information, we heard cases in several parts of the country where someone talked about going to the headman. I also heard the opposite story which is, charges were laid with the police in cases of rape. Because of the delays, we heard two stories where the defendants got private lawyers. The private lawyer was able to get delays, the complainant was now feeling victimised. Charges were withdrawn and lodged with the headman because at least the complainant felt maybe there would be some more equal treatment. After going through the system and nothing happening, not getting to the point of trial, but after going through delays and postponements, the charge was withdrawn and taken to the traditional leaders. I haven't studied this independently, I am only giving the stories that we have been given. There is a very strong perception that the major cause of delay is the office of the prosecutor-general. I don't know if any analysis has been done in the Prosecutor General's Office of this issue. But if it hasn't, I would suggest that it might be worth looking at because, perhaps, if one sees where the bottlenecks are, there may be procedures that the office itself could implement to overcome some of these problems.

DR HUARAKA: I am not really sure what is the position about video taped evidence, whether these are acceptable in courts in Namibia. Could you comment on that when you get a chance to speak?

MS HAMUTENYA: In terms of the Criminal Procedure Act it might qualify if such a statement was taken by one authorised to take a statement for purposes of prosecution from the accused or the victim. We are talking about the victim here, we are not talking about the accused. For instance, the police are only entitled to take a statement from the accused, not from the victim. I know that in the O'Linn Commission the question of hearing the victim's side of the story came up very strongly and that ties up with Vicky's question about Legal Aid representing the victim. It is because our law was

geared towards defending the accused and the rights of the victim are totally forgotten. The moment a charge is laid the victim is the accused, the perpetrator, no longer the victim, the person who suffered. That is where we said that our law should be looked into so that the victim's rights must be brought to the fore.

ADV. V ERENSTEIN YA TOIVO: I think there has to be a situation where a child witness can give testimony and can be cross-examined but under circumstances where the trauma is minimised. It doesn't have to be done in court, it can be done through the intermediary of a social worker or some trained person. A number of people, a number of companies have approached the government also by having these remote video court rooms. This is expensive stuff. A one-way mirror is not so expensive but I think that is one area. We have identified the area of children as witnesses and children as complainants as one major area where reform is needed. I think the challenge is going to be that we will find that in order to implement recommendations we will have to change people. I don't think we have at present the people. I mean, it may be that there are some cases where a social worker here, a psychologist there can help out, but to have a system really working properly you have to have people whose job it is to do this and if that is identified as a need, then we will have to send them to school to do it.

MS THERON: I think if we can just change the attitudes of some of the court officials it would help. Incest cases or molesting cases, they are not considered as seriously as rape cases and we can see it in our daily cases every day in court. When it is a brutal rape where the victim was tortured with a knife or what, the sentences will be 8 years and up, but we had cases where the father molested a girl for more than eight years, but he was so clever, he didn't penetrate with his penis, there was no medical evidence. But the things he did was so disgusting and they just lowered the charges, it was not rape any more, it wasn't indecent assault any more, it was in the end an indecent act. He got ten years and all ten were suspended. That very same victim had to go with that guy to the same house.

ADV. V ERENSTEIN YA TOIVO: We have been told other stories just like what you are talking about, where the child has to go with the father who is not serving any sentence.

MS HAMUTENYA: The problem is that there is no penal code when it comes to sentencing. Sentencing is not consistent, each presiding officer does what he wants, so he gives the sentence.

DR HUARAKA: But you do have the issue that the O'Linn Commission is trying to propose that in certain sentences the judge will have to be given a range, let us say from 5 to 15, and at least it must be within that range and not less.

ADV. V ERENSTEIN YA TOIVO: In fact in the rape statute, which we are considering should include indecent assault. We are recommending mandatory minimum sentences which means that the judge will not be allowed, if this is accepted, to go below that sentence. It is highly debatable, there are people who are against this but that is in the recommendations that we have already agreed upon.

MS HAMUTENYA: Another issue that has been raised here is the backlog in the Prosecutor General's Office. Also it has been mentioned that the centralisation of screening, authorising these cases is actually the problem. We have been talking of decentralisation at the Women's Council level, so that for speedier action there should be regional offices to deal with these cases and perhaps also to follow up the statistics, how many of them actually went to trial and how many acquittals and how many convictions there were.

ADV. V ERENSTEIN YA TOIVO: I am very much an advocate of decentralisation. I think that there have to be people who are in a position to decide whether to prosecute, somewhere closer to where the trial is going to take place.

DR HUARAKA: I think we have exhausted the topic. The next hearings would take place in Katutura Community Hall. That will be next Thursday and Friday.

## CHAPTER 2

### FORMAL ADDRESS BY MRS Z P FOURIE

MR W POTGIETER: I need to introduce the panel members. I am Potgieter, Secretary of the Law Reform Development Commission. Van der Merwe is one of our members of our Women and Law Committee of the Law Reform Development Commission and Adv. Gawanas is a member of the Commission and Ombudswoman. Anyone with questions? I have a few but you are welcome from your side. Can I just for the record ask, are you a registered welfare organisation?

MS Z FOURIE: We are registered as the Church Benevolent Board under the Dutch Reformed Church.  
MS VAN DER MERWE: Mrs Fourie, do you have any particular idea or suggestions what form preventative programmes should take?

MS Z FOURIE: I think we must start at the childhood level already. Women might grow up in a culture where they believe this is the way a husband should treat his wife or how men should treat women, because somewhere there came the misconception that women are inferior, somewhere in the past this has been established and that we must change. So I think we must start even at the primary school level to educate people, to educate boys that they should have respect for women, but also educate girls that they have a right, that they have a constitutional right not to be abused and that they should stand up and strengthen their egos. So we must start with programmes educating the children. And another thing we can do I think is to start with preventative programmes with women, even things in such an aggressive way like self-defence programmes, that they can stand up and defend themselves, so that when they come into a situation, they can physically defend themselves. I think we must start at the schools by educating people to change their attitudes.

MS VAN DER MERWE: For instance, in a programme like in a moral and religious education class as part of moral education.

MS Z FOURIE: Yes, I think so. In the past we ran programmes at schools with children about sexual abuse, to strengthen them and to empower them to say "no" to people who want to abuse them. I am thinking that we should work out programmes and make it a national strategy, going to schools, and getting their co-operation in the moral education period. You know, that is such a big programme, we started it in the past but our organisation is too small. We go to the school, you have one period in a week and it is not very effective. But if we can do this nationally and involve every school and even educate teachers to handle these issues, I think we can be more effective.

MR W POTGIETER: Can I just ask, the services rendered by the church, are they only available to members of the church?

MS Z FOURIE: No, no, we work with all kinds of groups in the whole community of Namibia. We are not just for the Dutch Reformed members.

MR W POTGIETER: Do you have any indication perhaps of more or less a percentage of non-members that you deal with?

MS Z FOURIE: Roughly I would say about 30% non-church members, 30 - 40%.

MS VAN DER MERWE: And how are referrals usually made to the board? How do people get to the organisation or reach the organisation?

MS Z FOURIE: Well, people can contact us by telephone or come to our organisation. We get referrals from Childline or Lifeline when people phone in with a problem that they cannot handle on telephonic conversation, then they refer it to us. We give attention to every referral that comes to us, we do not deny anybody a service, so people can come physically to our office or they can give us a phone call and we investigate all kinds of family problems.

MS VAN DER MERWE: Your suggestions for the change of the legal system, have you any regarding, for instance, the rights of the complainant or a child witness or the circumstances in a court. You say the

## CHAPTER 2

### FORMAL ADDRESS BY MRS Z P FOURIE

MR W POTGIETER: I need to introduce the panel members. I am Potgieter, Secretary of the Law Reform Development Commission. Van der Merwe is one of our members of our Women and Law Committee of the Law Reform Development Commission and Adv. Gawanas is a member of the Commission and Ombudswoman. Anyone with questions? I have a few but you are welcome from your side. Can I just for the record ask, are you a registered welfare organisation?

MS Z FOURIE: We are registered as the Church Benevolent Board under the Dutch Reformed Church.

MS VAN DER MERWE: Mrs Fourie, do you have any particular idea or suggestions what form preventative programmes should take?

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MS VAN DER MERWE: Your suggestions for the change of the legal system, have you any regarding, for instance, the rights of the complainant or a child witness or the circumstances in a court. You say the



idea one gets is that the legal system is not complainant friendly. What would you suggest would make it more acceptable to a complainant?

MS Z FOURIE: Regarding children, I would suggest that they may testify on a video camera, in camera and on video. We have the problem now, when a child is abused there are two Acts involved, the Children's Act which gives our social workers the right to act on behalf of the child, but usually the child is then removed from the situation. Say it happens in the family, then the child may be removed from the family and the Children's Court is usually held in camera to protect the child. When there is a case of child abuse this becomes a criminal act and that is tried in an open court. So the child is exposed to many people and usually the children are from the age of 3, 4 years. The child is so embarrassed and so rattled, she cannot stand up and say what happened whereas the attorney just wants to get his client loose. So they go and they ask that child questions which the child is not emotionally able to handle. I would suggest that these hearings must be in camera or that the child be allowed to testify in privacy and it be taped on a video camera and be played in the court, or otherwise that the social worker at least be permitted to support the client physically, and be with the child. But now they are saying we are sort of hampering the evidence, or we are influencing the child at this stage. The exposure of the victim must in some way be looked at. And even the long delay in cases. That's a practical problem. Once we heard them saying, "we will delay this case as long as possible in order that the child may forget some of the things and then we can get the culprit off the hook." So sometimes there are unnecessary delays in these cases. When this person is found guilty they seldom go to prison. We find that the sentences are inadequate.

MS VAN DER MERWE: Do you also come across violence against children from the side of mothers?

MS Z FOURIE: Not so often. It is not so significant that we even have significant statistics on that. The most abuse against children is sexual abuse. I think once in two, three years we have cases of serious physical abuse, but not in our society where we are mostly working, the physical abuse of children are not so significant. However, sexual abuse is very significant and also emotional abuse. But physical abuse is not such a big problem at this stage. I am speaking of my organisation, the situations where we are working. I am not saying it does not occur in Namibia.

MS VAN DER MERWE: And your organisation is mainly working in the Afrikaans-speaking community?

MS Z FOURIE: And in the central part of Windhoek.

MS VAN DER MERWE: When I say Afrikaans-speaking, it is all colours but the people speaking the language Afrikaans.

MS Z FOURIE: And the people living in the central part of Windhoek and the surrounding suburbs more attached to the central part.

MR W POTGIETER: Just on this section, abuse of children, it is very difficult to get any reliable statistics because apparently it is worse than ever before, but then sometimes people say it was there all the time but it did not really come to the surface. But from your experience, being more closely involved with this, would you say it has indeed increased alarmingly?

MS Z FOURIE: I really believe it increased. It is true that it was more concealed in the past, and you know the problem with sexual abuse is, it usually goes on for a long time before it comes to the surface. In the home situation, I did some research a few years ago on sexual abuse and one of the writers on this said that mothers are usually aware of the sexual abuse going on against the child in their own home by a stepfather or a brother or a grandfather, but she is not empowered, she doesn't know how to handle it. She is sometimes threatened by the culprit who says if anybody talks he will just pull out or he won't support them any more. So these things are going on for quite a while before it is revealed by somebody. That is a big problem but I am sure it is increasing.

MR W POTGIETER: Last week we had all kinds of testimonies from the law enforcement side, either the police or the prosecution and some people are suggesting that we should do something to prevent complainants from withdrawing the cases, because they say they put in a lot of effort and this is why they sometimes don't even bother to do anything because they know that the woman will withdraw the

case. But then you have the counter arguments that it is not conducive to reconciliation. What do you think, should one really get hard on this?

MS Z FOURIE: I think so because that is a problem. Women came to us two, three, four times and say "I have been abused again by my husband" and all we can do apart from therapy to her to empower her to stand up against it, is to get him in court and then she just withdraws for several reasons. I agree to that, something must be done that it can go through, because I can believe that the police get very fed-up with these things that they put all their time in and in the end nothing comes of it.

MR W POTGIETER: The other suggesting coming always through this testimony is the compulsory, mandatory reporting of cases by the doctors, maybe even by the broader society, the teachers and so forth, that they should be forced to at least report abuse if they get into touch with it.

MS Z FOURIE: Our experience with especially doctors is that they don't want to be involved in court cases. They keep the secret of the patient but that is a problem to us, because that is sometimes our main source of information. The first thing you do when the child is abused or a woman is raped, you go to the doctor and you must have that testimony, and if the doctor doesn't want to give it the case usually falls through. That is a big problem and I think if something can be done on that, that would be a big help to us.

MS VAN DER MERWE: I would also like to know, do you find an increase in violence amongst children? Is society becoming more violent on the child level? Sometimes you hear people saying that television encourages violence and that children are learning to think in a violent manner subconsciously. Do you find it in your social field?

MS Z FOURIE: I really find it and when you work with children, you find that they play more violently. Even when they look at television programmes they prefer the violent programmes, but it is quite another field to talk about the influence of television and violence on children. But I really think so, children play more aggressive and they use more aggressive language and there is definitely an increase in violence in our society. They get bored with things that don't have this aggressive attitude, so they want that. Children are getting more aggressive, I would say so.

MR W POTGIETER: I want to ask a short question and then come to something else. The funding of your organisation, is it completely dependent on the church or do you get government subsidies or something?

MS Z FOURIE: We only get government subsidies for the salaries of social workers. At this stage our main other source of income is from the Dutch Reform Church, the congregations themselves. Sometimes we went to other churches to ask for support, funding, because we also help their members, but we didn't get any reaction from them. So we create our own funds at this stage.

MR W POTGIETER: You had a lot of testimony about the need for shelters for women when they get abused, usually during the evenings or so, either to get them at least for the night away from the husband, but sometimes also for two or three days, depending on whether she is really married or whatever, and it seems that this is only working in Windhoek because of the size of the city. In all the smaller places everybody is trying to do their own thing and they don't really have the funding. Is this a need and can something be done in a co-ordinated way to provide these kinds of shelters. It was also said that at least if you have a shelter it is a neutral place, neighbours and family don't want to get involved because the husband may come there and then proceed with the fight, whereas if you have an official neutral place with some social service backing or police backing, the husband will know that he should stay out of there. Is this a need, can one do something about this?

MS Z FOURIE: Shelters are very effective because it is usually the first step to get the woman and the children out of the situation and to calm things down. So we have a shelter in Windhoek and it is used quite effectively. We also made use of it a few times and it is very helpful. But you must prevent people from just getting dependent on going there, staying there. It is an expensive thing, so I think in the rural areas it might be a problem for people to have this service and it must be run effectively to be effective. You cannot just get a house there and everybody is coming and going as they like. If there can be established a house with control and personnel in it to render services it would be of big help, and I think there is still a lack of this kind of service.

MR W POTGIETER: So your shelter in Windhoek, there are not people there all the time but only when necessary?

MS Z FOURIE: It is not our shelter, we use it, it is some or other women's organisation running it. But I think they have quite an effective service there. We have a children's home where we take children in when they are abused and the Children's Court may then order that they must be removed out of the home situation. We have our own children's home where we can keep these children for a while.

MR W POTGIETER: Just to take this co-operation and co-ordination in the rural areas a little further, could it be an idea to get a separate welfare organisation in some of the smaller towns with a membership from all these other welfare organisations, like yours and other churches and so forth, because it is quite clear that your Benevolent Board operates in bigger towns, whereas there is also a need in the smaller towns.

MS Z FOURIE: I can refer to Walvis Bay as an example. All the social workers of the different organisations, the Ministry and our organisation and some other private organisations work together. They have a Society for Social Workers and they run very, very effective programmes. They join forces and they do things together. So, I think this is a need because there are social workers from the Ministry in most rural areas in even the smallest town. So it would be fine if they could join forces. I don't know what actually is the problem but that is the ideal. They should do it and they should run programmes together to be more effective. Some people should sit down and work out a national programme. Our experience when we went to schools was that we found there was an overlapping of services. We go to a school and give our little programme and the next week there is another organisation giving a programme and there was a lot of overlapping and later on the schools found it difficult to accommodate all these people. That is the kind of problem we have. But if we can work in a national strategy, work on an organised basis, say these schools are located to this organisation, those schools to that, then I think we can work more effectively.

### **FORMAL ADDRESS BY MR O NEKONDO**

MS VAN DER MERWE: How does the Roman Catholic Church provide services to abused women or abused children currently?

MR O NEKONDO: At this specific moment we do not have specific institutions or personnel who are dealing with this issue. The church is handling the issue through its various church ministers, priests in parishes, whereby if someone is being abused and the information has been given to that specific parish priest, then the help or assistance is always available. But we do not have specific people. We have also, in our hospitals for instance, doctors and nurses who are somehow giving some kind of counselling, but as I said, this is done as part of the mission of the church as a moral institution.

MS VAN DER MERWE: But does the church intervene when they find out there is abuse? What would such a minister do? Do you have the structure that you can remove people from a home where it is unsafe or does the priest not go that far?

MR O NEKONDO: So far we are not going so far as to really remove someone from the place. The church is very much concerned about defending the family fabric, so we are always trying to see to it that reconciliation and peace and everything concerning the welfare of the society must start with the family. What we always try is really to see to it that the man who is abusing his wife should stop doing that and that peace must prevail. We are not going so far as to say the wife must maybe leave the homestead because this will be regarded from the society as if the church is really contributing to separation of families and divorce.

MS VAN DER MERWE: And what have your priests found, is there a way of stopping the violence? What has the church found to be effective, still maintaining the family but preventing or ending the violence, because I don't get the idea that the church ever involves the police or the justice system.

MR O NEKONDO: We do not have a system whereby a culprit can be charged and maybe punished. We do co-operate with the law-system. For instance, if we see that a certain woman comes and lays a complaint with me in my office, whereby she feels that she is being violated, then definitely I can refer

her to the Legal Assistance Centre, for instance, and that is how far we can go. We have no courts or maybe police to go and arrest those people, but in a way we help in co-operation with other agencies.

MR W POTGIETER: Your church doesn't have social workers?

MR O NEKONDO: We do have but they are very, very small in number.

MR W POTGIETER: I am asking this because there is a very significant difference with your church having, I think, far more than any other churches, schools and hospitals, in other words different facilities to, in one way or another render certain services. Some of the other churches have a lot of social workers but they don't have any hospitals or schools, so there is a difference.

MR O NEKONDO: Well, we do have some social workers in place, but as I said before, the number is very, very little. But some have been leaving the church for one or other reason, I cannot say, but it is also quite obvious that even those who are doing this work at various places, they are still also members of our church. Therefore we can say, although they do not do it in the name of the church, I think they are doing things which are the wish of the church to do. Of course, it is not all of them, but I think part of the social workers have been also educated in Catholic schools, that is also another contribution the Catholic Church has made to society.

MR W POTGIETER: I am asking these questions because you mentioned the possibility of a network where one could co-ordinate all the available facilities and resources.

PARTICIPANT: Is there anything, a platform the church uses when people are abused. For example, sometimes the husband is abusing the wife and the children, but sometimes they are shy to speak up. Is there anything the church is doing to try and combat these things?

MR O NEKONDO: I will just repeat what I said before, that the Catholic Church does not so far have something like police and courts, but whenever someone is coming, standing up and give the information either to the parish leader or to someone who belongs to the church leadership or either to an ordinary faithful member of the church and this message reaches the leadership, before we act the way of, let me say, letting someone be arrested and be brought before a court of law, the church first tries to intervene where possible to try and reconcile those people and to ensure that the problem is internally solved. This is because we believe in defending the ethic and the fabric of the family in the society. But still, if nothing changes, then it is not for ourselves to go and arrest the person, but we will give the idea as to what the person can do. But this is being done in the way that we cannot expose ourselves as if we are a government, for instance, but we do not withhold information from anybody as to what kind of action he or she can take.

PARTICIPANT: I was just asking because sometimes it happens that people are shy to come out and the parish leader or whoever is in charge of the Mission might consider this, that these women are always abused but they are shy to come out. So, I was just thinking in terms of the priest standing up himself, going to these people, talking or trying to find out what actually is happening there.

MR O NEKONDO: Yes, of course, it depends from person to person or if maybe that priest in that parish does not stand up and involve himself in these activities, maybe for one or other reason, then it cannot be said that the church is not doing anything. But of course, I can also admit that in some instances the church contributed also to the way of women being quiet, because they are always being reminded of their vows they made during their marriage, that they have to live in good and bad days, and this of course contributed to the women being always silent, so that they do not reveal what is going on in the house. There are also of course many other things which contribute to that.

MS VAN DER MERWE: Just for interest sake, has the church taken a stance at this stage, are they changing their attitude to a certain extent in encouraging the women members to be more expressive and less submissive or wouldn't you go that far?

MR O NEKONDO: Oh yes, that is something which nobody can avoid. I think the church is part and parcel of the civil society and if the civil society is also now busy doing that, why not the church?

MR W POTGIETER: At our regional hearings at some of the smaller places we heard of the problem

where a woman goes to the police when she has been beaten up. The police are not refusing to take the charge but they know that most probably she will withdraw it the next day or whatever and they try also to solve the problem. Then they refer the woman, they ask from which church she is and then they refer her to the church. When it comes to the pastor or reverend, whoever, apparently they open up more and he then realises that this is the kind of case where justice intervention is necessary, this is not just a case for talking. But in his capacity he may be very reluctant to really again take it back to the police, he may just tell her to go to the police again, whereas it seems to me that if you have registered social workers available this could be done in a more formal way. People are very reluctant to get involved in the courts or in the judicial system if they do not have any specific formal functions. In such a case you may probably assist the woman to take up the case.

MS Z FOURIE: That is true. I think the social worker works in a structure where she is better equipped to give people this kind of advice, because the reverend has a certain job of helping people to stay together and to reconcile and all those kinds of things. So it is so. However, the social worker is also hampered by the person's own courage to do something. The social worker can assist her, especially in an emotional way and help her to get in contact with the right people. But in the first place this person must be prepared to go through with it and to lay charges and that is again our big problem when people are reluctant to go through with their cases, and that makes even social workers and policemen reluctant later on to get involved, especially if it is a certain person that is on your doorstep every fortnight. Later one feels, "oh well, she likes to be treated like that" and that is sometimes true that people get a pay-off from some kind of treatment. Then you must refer her to a psychologist to help her to overcome this thing in herself and she must be prepared to take this kind of treatment. Indeed, social workers, attorneys and psychologists can be more supportive in getting action. The pastor is in the difficult position that he has to solve and help people to reconcile.

MR O NEKONDO: If a woman is abused somewhere in a public place or if the culprit is really some stranger, then this is always exposed to the public and the person will be arrested and prosecuted. But if it is done in the privacy of the home, then even the police are reluctant of course, because they will regard it as a private thing or as a family matter. There is a general belief that in homes people have the right to do whatever they like to the other family members, which is not true. Because of this, of course, women are always reluctant even to come out in public as to what they are experiencing in their respective homes. But as I said, we do have some ministers who are strong on that point that you have to stay, you have to carry your cross, and there are also those who say, no, this is really bad and it is against the law of the society and it is also against the commandment of love; you have to love your neighbours, you have to love yourself, why should you treat someone like that? But I think they will also be reluctant to go and lay a charge against that culprit on behalf of the women, but the advice is always available. My department is there for these kinds of things. If someone comes up with such kind of thing, then definitely we won't hesitate to refer her to where she can get assistance. If a woman is unemployed then she may stay in the marriage for economical reasons because if she goes then she will stop getting some support. Some are also maybe staying because of the children. If I go, then how will my children survive. We men are really dishonest, I can say. If my wife lays a charge against me, then I will pick it up as if she doesn't want me any more and that must be the end of our marriage. So just for the sake of that I am not ready to regret what I had really done to her. So that is of course why our women tend to be reluctant to come out publicly.

MR W POTGIETER: Perhaps I can just say when I discussed it earlier with Father Nordkamp, one thing that he mentioned which he is very worried about is the fact that generally people don't want to get married any more, they just want to live together, in other words just short term commitments and not long term commitments, and that this can also be a reason for exactly what you said now, that to the woman with her children sometimes it is just a convenient temporary home which may increase this violence and abuse phenomena.

MR O NEKONDO: Yes, that is one thing but the other is also that women are now becoming aware of all these things, and because of that they don't want to go into marriage. They want really to stay together so that they can be able to go any day they want to do so. There are some women who said, "I do not want to marry because I do not want to live like Mary or Anne who is really living in hell in their home". Or maybe she can say, "I only want to stay and then I marry later if I really discover that this man is a peaceful man." I think the abuse of women is also contributing to the reluctance of women to go into marriage.

## **FORMAL ADDRESS BY REV. B TJINGAETE**

**MS VAN DER MERWE**: Rev. Tjingaete, this Uniting Reformed Church is the VGK, is that correct?

**REV. B TJINGAETE**: That is correct.

**MS VAN DER MERWE**: Does it have a formal structure for dealing with violence, the social problem of violence or does it deal with it in a more informal manner like we heard from the Roman Catholic Church, that it is a matter of counselling by the priest or the pastor?

**REV. B TJINGAETE**: For sure we do not have a structure for these kinds of issues, most of the time we are only dealing with our members. So we are within the church all the time. I think instead of moving out, we seem to be leaving these problems to the law, to the government to deal with it while we think of dealing with our own household problems within the church. So we do not have a structure as such that deals with these kinds of problems, but as we have united during the past few weeks, I think it is one of the most important issues that we would like to deal with. More especially, as from today I should, as I am the man of the law in our church, I think I will try and fight hard in order to have these kinds of structures within our own church to combat these kinds of crimes and problems in our communities.

**MS VAN DER MERWE**: Do you deal with violence a lot? Is it prevalent in the society that you serve?

**REV. B TJINGAETE**: Of course, of course we do.

**MS VAN DER MERWE**: And what do you find to be the most effective way of dealing with these issues?

**REV. B TJINGAETE**: I should say that as we are dealing with our own members, we most times come to them in a spiritual way, talking from the Bible's point of view to let them understand what God really wants us to be. That is almost the only way and I should say that we are reaping fruits.

**ADV. B GAWANAS**: I also have a couple of questions. As you may be aware, we had regional workshops, we had public hearings all over the country, these are just part of a process that we started last year and the people that were testifying, giving their input into this whole programme raised a number of issues, and I want to put it to you as a person representing the church, the one is on the question of equality. A lot of the inputs had to do with the question of respect, that women are equal with men, and many of them are saying that there is a contradiction in terms in the church's teachings and what the Constitution grants women at the same time. For the Law Reform and Development Commission the issue also became quite clear during the time we were working to have the Married Persons Equality Bill, now the Act accepted. So maybe it would be good if you could just express yourself on that point. I will tell you that the women felt that the reason why they are being devalued within society is that they are not regarded as people that are also having equal dignity and equal worth, and that the church's teachings on the other hand which say women must be obedient to men also contribute to a great extent to the contradictions within the relationship. The other question that I want to put to you is the whole question of marriage. Violence does not only take place within the context of marital relationship, it takes place between people that are not married but also live together as husband and wife. Now, this is obviously a thing that the churches have to grapple with because the recognition that is given is that of marriage and a lot of persons have made the choice not to marry because of various reasons. The role reversal, that thing of the husband as the head of the family and all that, people are saying that that is creating more and more the conflicts between men and women and especially between husband and wife. What would be your comment on that?

**REV. B TJINGAETE**: On the first issue of equality, Ms Convenor, I think that the Bible is clear about that. I am just afraid that sometimes we exaggerate things, we as human beings. Each and every human being, be it a man or a woman, has got his or her own sphere in life. More in particular I know what is to be done by a man and what is to be done by a woman. Of course, there are lines. That is why I consider this as, if we look back into the Bible, the Bible does not only say that a woman should be obedient to man only, the issue at hand is love. A woman should love her husband but a man as well should love his wife, and we cannot say that love from a woman to her husband is different from love from the side of the husband to a wife. Love is just love, that is the love of God, and if we depart from this point of view, then we don't have what we think as human beings today, that the husband should be up there and the

woman should be down here. In loving one another they are equal. In loving one another they should help each other on an equal basis. God gave us, what do you call it, God gave us our own - *wat God vir ons gegee het, is die kennis tot elke mens*. Each and every one receives his own knowledge. I may be wise in this and you in that, but if we are husbands and wives we have to bring this together to help one another and to build something good out of it. It is not that if a woman is good in one area, she should just submit that goodness in her to a man and just sit down. She must come forward with things that are in herself in order to build a good family, a good household.

ADV. B GAWANAS: This misconception about the role of husband and wife or about equality between husband and wife seems to be mostly misinterpreted by men. What does the church do in educating men that women are indeed their equals?

REV. B TJINGAETE: Yes, as I have said, we do not have a particular structure at all on this, but teaching from the "kansel", teaching from our own discussion as groups in the church we try to put this case very clearly that we, husband and wife, belong together on an equal basis. But as I have also mentioned in this paper, we know somehow in strength, statistically, men are more powerful than women, but it is not to say that once we are more powerful than women we should be their head. Not at all. We should love them, we should bring them up, we should consider those things that are good in them and that actually makes them equal to men. I think this is the point, we should know this, and I think we should really tackle this point, we from the "kansel", we as pastors, as churches, as young people we should know that. I don't know whether it is clear.

ADV. B GAWANAS: It is clear. The final question is that we all make our vows when we get married and we say till death do us part, in sickness and in health, in richness and poorness, all those. If a woman is violated, she is in a violent relationship and she comes to the church and she says, "that look, this is the situation within which I am finding myself, I have made these vows, I would like to keep the vows but unfortunately the situation is such that I cannot", what would be your advice to such a woman?

REV. B TJINGAETE: If it is for the first time, then I will try to go deep into this marriage of the two people to try and bring husband and wife together in order to sort out these problems within their marriage. To let them know the vows they made altogether, I think that is the first option, that is what I will do in the first stage. But if they persist, if they keep on, then I will also try to look for some advice, for some social workers. I will try to refer them to someone whom I think is also able to assist them in those kind of matters and if they do not want to listen to that as well, and I am now talking from the point of my members within the church, if they do not want to listen to that, by then of course I think they should have been separated. Either the wife should have gone back to her family or whatever. The other option is talk to the families, the mothers. You know, it is hard to see two people parting. They might be having children and they are the people to suffer in the future. They are the people that are now left open, they do not know to whom to belong. So it is really not an easy task, it is not an easy problem to solve, but really from our side we should try our utmost best to convince them, to bring them together, to try and look at the root of evil to try and solve that evil root. I am really requesting from all of us, let us try hard not to say as quick as possible, "no, if that is the case, go back to your family" or whatever. Let us try to bring them together because these things are really hurting, it is really painful. So the parting should be our last option after we have tried everything and no more else.

MS VAN DER MERWE: Reverend, what do you perceive as the main reason for violence in the family, your personal perception?

REV. B TJINGAETE: It is maybe drunkenness, alcohol. It is then that you find that maybe a man starts beating his wife or whatever.

ADV. B GAWANAS: Alcohol by both or just one?

REV. B TJINGAETE: By both as well, but now you should know that if it is the man who is taking alcohol, in most case coming back to his own home he is the one who starts beating the wife or children. But in the case of the wife it is only her duty at home that she is not performing, she is not giving attention to the children and husband. That is what is taking place, the men are complaining of "no, she is staying out, she is not seeing to me or she is not looking to the children". So both. But on the side of the men, I should say in most cases you will hear that he is beating the children, beating the wife, so the wife is no more happy. She knows that once he is away and he is coming back from there, it is just

beatings from his side. That is the one. The second is and I should say this is really a problem in our community, a man may be having someone besides his wife, that is adultery. That is the other main problem as well, and that really leads to the parting of the two people, the husband and wife. Those are the problems that are occurring within our members.

MS VAN DER MERWE: We have spoken now mainly about violence between husband and wife or women and men. Do you come across violence and abuse of children? Is it ever reported to the church?

REV. B TJINGAETE: No, not yet. I haven't so far in these ten, eleven years in church heard about that.

MS VAN DER MERWE: Do you think that it is an undisclosed problem, that it is there but it isn't discovered, or do you have the idea that there is little violence against children?

REV. B TJINGAETE: Yes, I think there is little, because sometimes you will hear of a child coming down to my house, saying, "Pastor, I am not happy at home." Then trying to find out what is the problem, "why are you not happy", then he says, "no. I think the father does not love me, he loves the other children more than me, he is not buying clothes for me and it is only my mother, so I am getting tough with the father in this connection." So that is little, not a big problem. I don't recall any other problems in that connection.

ADV. B GAWANAS: Thanks very much, Rev Tjingaete. Anyone else who wants to ask or make comments?

MR GAWESEB: I am from the Department of Women's Affairs. I just want to give some comments or my opinion about equality of men and women. In the first place, as human beings God created all of us to his image and from that point of view I see that we are equal in the eyes of God, because also in society, if we are looking to law, everyone is equal before the law, and so before God everyone is equal before God. The grace and love of God is free to every human being to make use of it. There is no discrimination. If you are rich, even if you are poor, if you are a man, woman, even a kid, we are equal before God. On the other hand, if I come to the side of the marriage, equality of man and woman, which is a controversial issue in our day, I think in some cases when marriage starts, it starts from a mutual trust or a mutual agreement. Somewhere, sometime people that decided to marry have an agreement between them and so I should say from my side that somewhere the church did fail in educating people the right way right from the beginning. In most cases men are dominating their wives because they are physically stronger than the wives, but I think men should see women or their wives as their life partners, to share in everything, to assist each other on every ground where it is needed. So in the past we saw that men took all the decisions in the home, they decided about everything and what men said was the last word or was seen as the law. He said and it is finished. But I don't think it is the right case, there must be a mutual trust, a mutual co-ordination, communication, and I think often there is a communication gap and an absence of the right information. For me, it is important that men must know that they are equal in the marriage life and to give the necessary, should I say, acknowledgement to their wives also and take their wives into consideration when making decisions, because for me, I think, it is very important that there be equality between men and as women. As far as it concerns me I think there is a misconception in the society about equality between men and women and the church has a very great task to clarify this misconception and to orientate and to educate people in the church. Right from the beginning I should say the marriage officers, when people want to marry, should start there and educate the people, what is wanted from them and to give them specific clarification about equality, what is equality and what does the equality law enhance or entitle. I think what we are doing all the time is that we are departing from the traditional point of view, and it is from this point of view that we should try to bypass and start from the Christian point of view. That is when we will really have the real equality in our community.

## **FORMAL ADDRESS BY BISHOP P HILUKILUAH**

BISHOP P HILUKILUAH: Violence against women and children is a common thing in our community. I am speaking from the perspective of the church and I am also speaking from the perspective of a black person. We have physical abuse of women and children, simply meaning we experience almost every day in our ears, probably in our eyes also, beating up of wives and children, a common thing, as simple as that. It doesn't matter whether it is a beating up with a fist or with a stick or with kicking, and then there is verbal abuse where a man looks at a woman, looks at a child as a thing to be abused, to be insulted, as you like. And then there is sexual abuse, sexual abuse between spouses in the home.



Although this is not commonly brought to the church, it is a thing that is happening in our communities, be they Christians or not. It is common knowledge that there is sexual abuse between some spouses. I think the reason why this kind of behaviour is not brought to church has to do with culture. In our culture, for example, discussion concerning sex is not very welcome. Particularly when husband and wife are concerned, nobody from our culture is free to come forward and talk about their sex life in the home, be it beautiful, be it abusive. They don't talk about it. Probably that is the reason why they don't come forward to the church to complain about sexual abuse between spouses. Then we have extra-marital relationships, this is a very common thing that is happening among Christians in our churches. But it is one-sided, it is mostly happening with men. Men feel more free to engage in extra-marital sexual relationships than women. Again, here I blame our culture because in our culture, before Christianity, even during Christianity, men seem to have been given the freedom to exercise their sexual desires whether with their wives or other women, and there is no complaint about that. Even our women in our culture have accepted to a degree that this is a responsibility of the man and not of the woman. They have that freedom to go and look for sexual pleasure outside. There is another very serious and very common behaviour that is taking place, particularly nowadays, the problem of cohabitation, where our men are not marrying any more. They are not going to civil courts for marriage, they are not going to church for marriage, they are not even following the cultural norms of marriage, they are simply grabbing women and living with them. For this I am not blaming our culture, because our culture forbids cohabitation. Even if it looks loosely with regard to sexual relationships between married men and married women, it forbids cohabitation. It is not permitted, not by parents, not by the communities, not by community leaders, whether Christians or not. It is not allowed, it is not the norm. But we have taken it nowadays as a kind of norm. If you go about asking children in the church about marriage, some of them don't even know because some of them are even second generation children born out of wedlock. They know nothing about that. And then there is rape, a serious problem again committed by men towards the weaker sex - as some people call it. This kind of problem is not commonly brought to the church probably for the reason of being too involved, it is too personal sometimes and people do not come forward to the church to complain about rape. When offenders are caught and taken to court, one often hears that the reason why that particular man committed rape is because he was drunk. "I was drunk and I didn't know what I was doing." And then coming to the children, I think the problem of abuse against women is the problem of abuse against the children. Children are beaten up in the homes just like it is the normal kind of thing to do. Especially from our culture again, when a child has done something, the normal way of disciplining that child is to give the child the cane and depending on the behaviour of the person who is giving the cane, some use small canes, some huge clubs, some even with the fists, some push the child, it depends on the individual. There is no cultural law that says you beat a child with what, but a child must be beaten in order for the child to go straight. Again, people are not coming forward to complain about child abuse. They are not coming to say, "my husband beats us up too much, beats me up and our children, what can we do?" It is not very common, people are not coming forward. And then children are also raped. The category of rape involves all ages, from a child of probably one year to an old woman of 60. All these people are raped. There are stories in the papers of this nature. And then we have teenage pregnancies. I have brought this into the category of children because teenagers are still children. There is teenage pregnancy which again I would put in the category of abuse, because in many, many cases these girls are impregnated by adult men like myself. It is very serious. Some are school children who are impregnated but not by their fellow school mates but by teachers, including principals. This is abuse. I don't know what has gone before, I might have repeated, you will have to forgive me, but I would like to stop here for a while as far as abuses are concerned against women and against children. I would like to touch also on the question of action, what does the church do. The mission of the church is three-fold: to preach the Word of God for salvation, to teach and to heal. This the church looks at as administering to the whole person, from the person's mentality, from the person's spirituality and from the person's physical being. That is the function of the church. How the church does that is a huge problem, that is a big problem, because in many, many cases - in my case, for example, in the Anglican Church - we have no means of delivering this message perfectly to the whole person. We may have the means of preaching the gospel because we have the Bible and we have educated and trained ministers for the Bible, but we may not have enough qualified personnel to deal with the mental and to deal with the physical. We don't even have facilities because we have no money, no finances. In my opinion, in order for us as communities to deal effectively with the problem of abuse and violence against women and children, we need to co-operate with government, we need to work hand in hand with NGOs and all institutions that are set up to deal with the problem of abuse and violence. If we can put all our resources together I am sure we will succeed. But if we work individually we will be defeated because the devil likes to isolate in order to do his work perfectly. That is why we even declared in those days that apartheid was evil, was a sin, because it was trying to divide

the people in order to do its work. The government has the means while the church is better disposed to people. I am sure if we work together we will go somewhere. Thank you.

ADV. B GAWANAS: I am really glad that you are recognising that in order to really campaign effectively against violence, that one will have to network, one will have to work together, be it government and church, be it NGOs, be it just ordinary men and women in the community.

MS VAN DER MERWE: Do you get women that come to you as a pastor who complain about violence perpetrated against themselves or against their children? Do they come to you in person or do you find out via the comments of other persons that there is a problem in a certain family? And if it has been brought to your attention, what action does the church take? I posed the same question to Rev. Boas Tjingaete, that I would like to know what is the Anglican approach and is it successful, does it remedy the problem? That is the one aspect. The answer of Rev Tjingaete, which I expect will be also yours, is that you can concentrate on the biblical principles, but would there be a similar thing in secular circumstances that one would be able to use?

BISHOP P HILUKILUAH: The first question is how we receive complaints. I have a congregation and in that congregation the structure is governed by a parish council, which consists of people from all walks of life. We have representatives from women's groups, the Mothers' Union for example, men's groups, Fathers' Union for example, choir groups, youth groups, teenagers. We have representatives from all these groups and every month we meet and discuss matters that concern the congregation as a whole, and because all these people come from the community it is possible that they can bring complaints to the meeting. One would come up and say, "our neighbour who is also a church member is suffering very much because the husband is so brutal; he is drinking all the money and he is beating up the wife and the children and there is no food in the house, what shall we do?" That is one way of knowing. And then we would come up with whatever solution. Maybe one or two or three senior people in the congregation can be appointed to go and approach. Sometimes it works, sometimes it does not work, depending on the attitude of the person concerned. Some people get very angry, they chase you away, you are interfering in the domestic affairs of other people and you go in peace because in the Bible it says if they don't accept you, you brush off the dust off your feet and leave it with them. We are trying our best, but we don't have trained people. For example, if a person comes along, the person who receives the abuse, say a wife, comes to me as her pastor in confidence and they talk about their home problems, sometimes I come across situations where I myself am not able to deal with it because I am not a social worker, I am not a psychologist, I am not qualified to deal with alcoholism, but I use all my qualifications to help this person to see qualified people. Sometimes they are not very comfortable to go away from the parameters of the church. So if we had qualified people within the church itself and a structure outside the church building where people can be free to go, I am sure we would do a better job in that way. The approach, probably I would like to add, because the Bible is our constitution, we go by that. That is the foundation of the church. It guides us, we live by it, it is our food, we use it in all aspects of life, spiritual, mental, physically, because we believe Jesus came to do these very same three things, do the spiritual, mental and the physical. So we use the Bible plus whatever will bring relief to these three categories.

ADV. B GAWANAS: I just wanted to come back to the question of resources and qualified people. I am sure that within the congregation there are social workers. There may be people that have got counselling skills. Have you tried, not so much because they are social workers working somewhere in formal institutions but as social workers that can play a role in the church, have you tried to canvas their support, for example, people that would make their time available to assist the church in delivering its mission?

BISHOP P HILUKILUAH: Yes, we do have qualified people in some aspects and we are very grateful for their services, because as I have already stated, all these people who make up the parish council use their time and talents they have learned elsewhere. They are not paid by the church. We try to use these people and their talents in the way they feel comfortable. But we do not have structures where you can refer people who suffer from alcohol and say, "go to the Anglican Church because they have an institution that deals with that". But we do have people who are qualified in certain things.

ADV. B GAWANAS: In terms of the working relationship, say with the government, in solving the problem, do you see for example the parish council or people that are volunteering to do the work but may not have the skills to do it - and I am talking about counselling - that maybe the church could

approach the government to provide people that can train people within the church to deal with it, because a lot of people are saying we have to somehow move away from the traditional approach to counselling. I know that you have mentioned that the church finds its basis within the Bible, but I am also sure that within the congregation, as much as people believe in the Bible, that one is confronted with a real situation sometimes where people want not just to be advised spiritually, but people want to be advised more than that. I think that is what one talks about, redefining the church in terms of the new role that is now thrust onto the church about community problems that may not be as it was a couple of years ago. So maybe one should think along those ways as well.

BISHOP P HILUKILUAH: Yes, I agree with you very much, that is why I say it is Bible plus, you have to add to it.

ADV. B GAWANAS: You also mentioned the question of rape. A lot of people have testified at the hearings that the one problem that they also have is marital rape, in other words, husbands that are forcing sex onto their wives, and people have called upon the Law Reform and Development Commission to also propose a law that punishes husbands and not just husbands, but obviously wives, if we assume that rape can be committed by both, that they be punished. What would be the view of the church in this respect?

BISHOP P HILUKILUAH: I don't think I will represent the church in this regard because when you ask about the view of the church it is a large body and I cannot speak for that. I can probably speak on my behalf as a person who has a congregation. I don't know whether a law to deal with a husband or a wife who forces sex with their spouse will be effective enough, simply because of the question of approach. Who is coming? Will the husband come to the police or whatever institution to complain about his wife who forces sex on him or will the wife come? As I have said before, people are very reluctant, particularly where I come from, the background where I come from, they are very, very reluctant to come forward and talk about sex within the home. Probably it is the Anglican Church, probably it is my congregation in Katutura. Maybe other congregations receive such complaints. You are in a better position to know about that because you have had hearings about that. What my suggestion would be, whether it is to choose between government law and education - I choose education - our people, both husbands and wives need to be educated of their rights and when we are stepping beyond these rights. Our women, many black women regard themselves as instruments to be used by their husbands. No law can deal with that kind of situation effectively but education will. The Bible is clear, we are all equal, we are all human beings, hundred percent human beings. No one is half here, no one is half there, we are full human beings whether we are male or female. That is why He says, "male and female created He, them together in his image".

ADV. B GAWANAS: That's the problem, I just want to fill in before you move away from that. It is that when you are talking about education, who should provide that education, because when we discussed those issues, whether it is in women's organisations, whether it is outside of the church, for example, and you are telling people that yes, women and men are equal, you have to respect each other's dignity and all that, then there will always be the argument that is being brought forward that it is the Bible, it is religion which says that men and women are not equal. Who am I, for example, to sit there and say but what you are saying is not true? Is it not where the church has to pronounce itself very clearly?

BISHOP P HILUKILUAH: Yes.

ADV. B GAWANAS: Also on the question of marital rape, I think we have concrete examples. People are no longer staying as husband and wife until such time that they have legally divorced. We know in our society there are a lot of people who are not divorced but they may live separately and we also know that husbands had forced themselves into those houses where the wives may have fled and had sexual intercourse with them against their will. Under those circumstances, there are women that want to go to the police and lay a charge, but the law does not recognise that because the law is saying a husband can never rape his wife. Again, based on a biblical understanding that the wife has, that by being married to the husband, she has submitted herself to him and therefore there cannot be something like forced intercourse between husband and wife. Much of it centres around religion. What role can the church play in talking not just about love, but also talking about that very basis of marriage, and that is that if you have sexual intercourse you don't do it from the basis that you are mine and therefore I should have it, but rather that it is between the two of you to work it out, that there may be a yes and no in such

circumstances. So from the point of view of a lot of people, yes, they would say law can be used as a last resort. But before we get to the law, what role can the churches play in that?

**BISHOP P HILUKILUAH:** I will give you a practical example from our congregation. Say a young mother comes along with a baby and she wants this baby to be baptised, she comes to the office during office hours and she speaks about that. This is treated as a counselling opportunity. Therefore only one person is allowed to come into the office to present whatever they want from the church. During that counselling a question may come, "who is the father of the child, is this the only child", "no there are two others." "How long have you been living together?" "Five years." "Any talk of marriage?" "How can I talk about marriage when I am a woman?" That is the answer. "But has he not spoken about marriage?" "No." "So, do you want to live like that for the rest of your life?" "No, I would like to be married." We have designed classes for this type of people, not only for the young mothers, not only for women but for men as well. We discourage classes together because we do not regard them as husband and wife, therefore we do not want them to come to the classes together as if we recognise their union. It is during these classes when we talk about the equality of men and women. In Oshivambo we don't have those kinds of problems. So we devise these classes very carefully to deal with the question of cohabitation, is it proper or not, is it cultural or not, is it community based or not, is it community acceptable or not, is it government acceptable or not. To these questions the answer is always "no". "Why do you do it, why are you still in it?" This is the kind of education. People ask questions which reveal that they have really been ignorant. They feel they have been married that way. Men likewise are also ignorant. Some of them do it deliberately and this is a sin. Some are ignorant, particularly the young ones. Because they have seen it, they feel once they have impregnated a girl it is now their freedom to live together and they live together because they know nothing else. Some of them have never seen a wedding party and therefore to them it is a strange story. When you tell them for the first time they open their eyes and they ask questions, "is that true what you are saying?", "it is true." Because they are not born within marriages they know nothing. This is the kind of education that we are giving in our congregation but it is very small and we don't have the resources. It is only one minister who is doing that kind of thing in a whole community of people. The resources are very important. If you come and observe where we do it you will not want to join our church. That is one small way of dealing with the problem of education. Also, at the pulpit, we bring these questions to the pulpit, for example, during baptisms. We baptise once every month and we baptise between ten to twenty children during this one month, and you are lucky if in one month you baptise one child out of wedlock, very lucky. So it is during these occasion that you talk about the evil of cohabitation, the evil of impregnating young children, the ones that you only see. You don't see a school teacher coming to the church and saying "I have impregnated a young girl, I would like to be restored in the church." They don't come because they know it is embarrassing, it is not acceptable, not in the church, not in the community, not in the government. Nobody wants it except the devil.

**ADV. B GAWANAS:** But how can we reverse it now because some years ago we did not have the phenomena in the same way as we have it today of teenage pregnancies and teenage pregnancies are what lead to single parenthood. How does one deal with that kind of reality, how do the churches deal with it? I hear what you are saying and being a Christian myself I think I subscribe to it, but at the same time, the majority of teenagers don't have time for church. So where do they hear the Word, where do they get to be exposed to the teachings of the church if they have basically moved outside of the church? I think those are maybe the kinds of questions that we will have to carry forward, that we will have to continue debating. Also the question of how does the church deal with culture, because even though we are talking about culture as culture, we must also accept that as much as we are criticising the law and we are criticising whatever, there are also aspects of our cultures that we also have to question.

**BISHOP P HILUKILUAH:** The Bible needs to be interpreted contextually. When it was interpreted 2000 years ago things were not the same. When Jesus behaved in a Jewish way because the people were behaving that way that time, it was not the same as today. If He was around today he would approach certain problems differently. Therefore the church needs prophets, not of doom, but those who can go along with the times. We are changing, even our cultures are changing and when culture changes nobody stops it, and if it does not want to change nobody has the power to force its change. We used to stay with our parents in our homes listening to their stories. We don't do that any more. There is no time, there is no opportunity to do that. I grew up with my parents but my children are not with me, they are in hostels, they have gone to university, their time with me is probably 5% throughout the year. So you can't achieve anything in this 5% of the period that you are with your child today. So we have to devise ways and means of approaching situations in our changing world.

## **FORMAL ADDRESS BY REV. A //KHEIBEB**

MS VAN DER MERWE: Mr Kheibeb, where would you say that the most effective education will take place, where should the approach focus?

REV. A //KHEIBEB: I think we need to focus at the primary level. We should start with our children. We should educate them that they should respect each other.

MS VAN DER MERWE: Through the school?

REV. A //KHEIBEB: Through the school curriculum. There should be maybe a subject also in these periods of school that children should be taught what is human dignity, what does it mean to respect each other.

ADV. B GAWANAS: But is the problem not that by the time the children reach primary school, that their socialisation within the home has already denied them that outlook on life and at that stage of primary school to undo what has been created within the home. I take what you are saying, that we must discourage violence on television, but the problem is that it starts right there in the home. That is the first exposure that our children have to questions of violence. Children who see that their fathers are beating up their mothers or beating them up, how does one start, because I believe it is socialisation, the environment within which our children grow up that contributes to a great extent. It is like when we were trying through our research to get to the bottom of what causes violence, it was discovered also that many of those that commit violent acts had also experienced abuse or violence somewhere along the line. So it is like you are creating a vicious circle. Where do we try and intervene in this cycle of violence?

REV. A //KHEIBEB: I think you are right when you say the home relationship is a broken one. The children are growing up in this situation. I think what we need is to start - that is also the approach of the church - education should start at home, but I think while we are busy with this, there should be a continuation of this process of educating our children also at the primary level, at school.

ADV. B GAWANAS: What should be the role of fathers in the upbringing of their children? I know that many of us had gone through child-hoods without ever having received a hug or a kiss from our fathers because it was below their manhood or fatherhood, you don't touch babies, you are just there as the disciplinarian. How does one change that image of the role of fathers in the upbringing of their children, because I think they have an important role to play but a lot of time they are denying that role to their own children. So the image that is being created is that men are not involved in the upbringing of children.

REV. A //KHEIBEB: You are quite right, I am a pastor, a spiritual leader always baptising children and we are baptising four times a year more than maybe 300 children. You will get, if you are lucky as a pastor, you will get two men, two of them, at these counselling sessions of holy baptism. That is the problem that we have. Therefore we in the ELCRN have decided that we have these different groups in our church, the Men's League and so forth, that we should address the responsibility of the father at these conferences, because this is really a problem. You don't get husbands, they are not there, even those that are married. They say to baptise children is the problem of the wife, let her go to the pastor, I don't want to go to the pastor.

ADV. B GAWANAS: The church has recognised that for a very long time. What has the church tried to do to change the situation? Let me put it this way, the only time that some of us get in touch with that problem is at the maintenance court when single parents have to basically force fathers of children to take responsibility over their children. But we also realise that again there is a limit. You cannot force a father through law to be a father. A father must right from the onset recognise that he has brought into this world a child and that no law can enforce upon a father. So how do we make sure that that is from the onset there, because I believe if you can make that change then we would have less problems at the maintenance court. Then we don't have to put a lot of resources into having more magistrates or more court personnel. Then maybe those resources can go somewhere else, because the whole purpose of the maintenance court is to force fathers to take responsibility.

REV. A //KHEIBEB: I think the baptism counselling sessions are not a suitable place to talk with the fathers. What I am doing is, after this then I identify the fathers who were not there and then I visit them and talk with them very generally about their responsibility, because I know they will not turn up for this very reason at the baptism of the children. But when I am talking generally in the church in my sermons, or visiting them individually, then I think I will get them to understand the issue. That is the way I am doing things. But I do not think the church has up to now a definite programme to involve fathers in this whole process.

ADV. B GAWANAS: When the congregation comes to you as their pastor with problems, firstly involving violence and abuse, what type of complaints do they bring to you, especially looking at this whole question of violence and abuse?

REV. A //KHEIBEB: What is happening in our days is that people don't come with marital problems to a pastor. It was there but this thing is dying out at this point in time. They are saying this is a private issue. Even if the wife came to your office and you go to their house, the man will say, "Pastor, don't, this is a private matter." There is a reluctance to talk with each other. It is the spirit going on in our communities. Marriage is becoming a very private thing. You will get two or four people coming to you with especially this violence, "my husband has beaten me up", but with this forced sex and this kind of thing they will never come. I don't know what is the problem behind this.

ADV. B GAWANAS: How does one encourage it to become a public problem? I mean, marriage is a private institution, granted, when two people decide to get married they are forming a bond, a union, and I don't mind if people are saying our marriage is a private affair, provided they have come to a point where, as you have quite rightly pointed out, that even if there are differences, they have come to a point of resolving those problems peacefully. I think one would recognise that. But where there are problems within the house and these are always resolved through violence, then how far can one still say that it is a private matter and how does one really impact or intervene in such a situation? The same applies to the law. A lot of people who have testified have said that even if they go to the police and lay a charge against their husbands or partners, the police would usually be reluctant to intervene because it is a domestic dispute. And we have been trying to get the police and everyone to realise that it is no longer a private problem, it is not a domestic problem because it affects the upbringing of our future generations. It affects broader communities. That is the crux of this whole problem of domestic violence. How does one get it out of being merely a domestic affair to become a national problem? A couple of years ago no one would have had the guts to even come to a public gathering to talk about domestic violence. But the fact that people are starting to talk about that, does that not open the door a little bit for those of us who are concerned to get in? Will people come to us and say to us that here I am, can you resolve it, or should we try and keep our ears and eyes open to see the symptoms somewhere and then take the initiative?

REV. A //KHEIBEB: I have already started family enrichment programmes. Then you are not talking about a specific problem of a specific household, you are talking in general about sex. What is sex in marriage, what is sex all about? What is the role of the husband and the wife in the house? How should money be spent? These are topics to be discussed at these kinds of conferences. I think that should be done in our society and that will help a lot, because if you as leaders start to talk about this thing publicly, then I think the people will be used to it to talk about that in their homes and so on. Therefore I will encourage these kinds of things to be launched in our societies, especially in our churches, to have a breakthrough in this kind of silence.

REV. B TJINGAETE: We are leaders and we have people that we are leading. I think that we should be open ourselves, we should let the people understand whom we are. Our people should first understand us, should come to know us. It is only then that they will be open to come up with their problems to us. Sometimes we are self-centred, we are closed and then if a problem arises we think of someone with a problem to come down to us and to tell us their problems while we are close all the time. I will have a problem with a member of my own church who is having a problem in his marriage and when it comes to me going to them and him telling me this is private, that means either I do not know him or he does not know me. He does not know who I am and what I am to him. That is why I say we should open ourselves, we must open ourselves in order to be understood by the people we are leading. I could see that all the churches do have structures, but somehow, I seem to find that we have only our structures within our own church, we are not going out, we are not talking to the other churches in order to find out what they are doing within their own structures. We are only dealing with our own. That is how we are

sometimes experiencing problems in solving some problems. We tend to say that "this is my member and this is my problem, I cannot go out to someone else" and it is also there where I think that social workers' organisations should and must be open to everybody. We must try to find some other means, organisations, groups and try and find out as to how they are dealing with problems in order to help the whole community. It is not a matter of going around and about our own members but the whole community as such. That is why the structure that we have should maybe try to answer the question what about the members that do not belong to the church? What are we going to do with them? Are we going to leave them for a certain period until they will think of coming to the church themselves, because it seems we are mostly restricted to our own members. So we should do something as churches. We should think of coming together in trying to sort out some means and ways how to go about this. It is very rare to hear about men organisation or men groups, even in the church. So it seems it is only women who are more concerned about these problems, it is only women that are coming together to discuss these problems. What about men? We should maybe also encourage the men to come and to have their own groups and organisations to solve problems, because right now we are equal, men are not the only breadwinners, each and everyone is a breadwinner. So we should try to be what the others are, we should try to have organisations that belong to men as well.

### **FORMAL ADDRESS BY MS L VRIES**

MS VAN DER MERWE: Ms Vries, specifically on the information on the shelter, what kind of victim is referred to your shelter and for how long do they stay and what happens thereafter?

MS L VRIES: All of our cases are referred by the Woman and Child Abuse Centre. The screening is also done there. We accommodate our victims, or let me refer to them as cases, for a period of two weeks. Although we know two weeks is not sufficient to go through the trauma and restoring self-respect and dignity of a person, for two weeks the person is accommodated at the shelter whereby he or she gets continuous counselling through the Woman and Child Abuse Centre and some of our counsellors also.

MS VAN DER MERWE: And do the people who are accommodated in the shelter, do they also go ahead with criminal cases or not necessarily?

MS L VRIES: Most of our cases up to this stage, are the victims who basically are in the process of a criminal case or victims who were taken away from their families due to the fact that the circumstances, the environment, was not such that they would benefit from it. But I will ask my member which is also a social worker from the Woman and Child Abuse Centre to respond on that question, Mrs Theron.

MS THERON: Not all the cases we refer to the shelter are criminal cases, most of them are domestic violence where the lady just needs safety for some time. So not all of them are criminal cases. Some of the cases are rape victims, cases of incest where the abuser is in the house. We take that two weeks to put her in the shelter and then we make further arrangements for permanent placements. So the two weeks is only to make other arrangements.

MS VAN DER MERWE: And do you find that the people you have accommodated then find alternative accommodation, that they don't go back to where they come from?

MS THERON: Most of the cases, even the members of the Shelter and then the social workers at the Unit help them to look for other accommodation. Some of the victims decide to go back to their houses where the abuse took place and we respect that. But in most of the cases it happened that we get other suitable place for them.

MS VAN DER MERWE: Is your general impression then that if a battered person just gets the opportunity to - if one can put it that way - have her self-esteem built up, she would take the independent decision to start somewhere else anew?

MR THERON: Yes, that is the impression. Sometimes they just need time to think, time to be alone on their own where the abuser is not there to influence them to make decisions. So in these two weeks' time we also refer them to other organisations like the Legal Assistance, if they decide that a divorce will be the solution, but definitely the two weeks help them to make the right decision, I think.

MS VAN DER MERWE: Just another question, I get the impression that you deal more with battered women than children. Are children also referred to the Shelter?

MS THERON: Children also.

MS VAN DER MERWE: With or without their mothers?

MS THERON: Sometime we also get children on the street after hours that just went missing. Then we make use of the Shelter just for a place of safety for a night or two. If necessary we screen them on TV to look for the parents and the next day we return them to their parents.

MS L VRIES: In addition, of the 24 cases, most of the cases were children that were put into the Shelter independently with no parents accompanying them.

MS THERON: With no parents, missing children and then children who have been sexually abused where, maybe the parents are not supportive.

MS VAN DER MERWE: And if I may ask, did you get the idea that the parents knew or that the parents were involved themselves in the abuse of the children?

MS THERON: Sometimes the parent or the father or the stepfather is the abuser and the mother takes the side of the father because of various reasons, like financial support or there are also other kids in the house that she must take care of, and through counselling, she decides we can remove the child and it is best for her to stick to the father because there are also other kids involved.

MS VAN DER MERWE: We have been told by one of the other social workers who testified yesterday that when they are dealing with an abused child, they very rarely get another form of violence against the child than sexual abuse. Is that also your experience that you are mainly dealing with sexual abuse of children?

MS THERON: I would say all the forms of abuse are involved. When a child is sexually abused there is also a lot of emotional abuse inside, physical abuse and neglect.

MS VAN DER MERWE: Do you get children that are just plainly neglected or physically abused other than sexual abuse?

MS THERON: The multiple cases are more sexual related. I think on the neglect side this is more due to poverty, unemployment, so there are not reasons for criminal charges against the parents. Alcoholism we refer to the alcohol unit so that the parents can go for rehabilitation. But the cases we deal with at the Unit are more sexual related.

MS VAN DER MERWE: And that is why they are taken away and put into a Shelter?

MS THERON: Yes, when the presence of the abuser poses a threat to the child then we must remove.

MS VAN DER MERWE: I would like to ask you a question in the sense that I have seen some material in other countries where they have a system where an abuser is ordered to leave the house, that you actually get a court order, a court interdict whereby an abuser is refused entrance into the house. Would that also be a form of a solution or don't you think...

MS THERON: Yes, that can be a solution but you know, most of the time the abuser is the breadwinner in the house and the abuser is the owner of the house and we see now cases where the abuser also has the right to get bail. So if he gets bail it is his right to come back to his house and then the mother or the child doesn't have the money or the financial backup to pay for an interdict. An interdict costs a lot of money.

MS L VRIES: And in addition to that, in most of our families, say for instance a father is the abuser, he is culturally speaking the authority in the house and so attitudes should also be changed, the rights of people should be changed before that could be seen as a solution, because culture does play a very vital role.



MS VAN DER MERWE: Do you find in all cultures the same attitude?

MS L VRIES: No, not in all cultures, but culture does play a role.

MS VAN DER MERWE: In the cases that you are dealing with, do you get help from any churches or are the people that you are helping mostly not involved in any congregation?

MS L VRIES: Our group, The Social Diaconic Action Young Women comprises of different denominations. So to a large extent the churches are involved basically with our Shelter. But not all cases that are referred to the Shelter are linked to a church, and basically the church that you belong to isn't of such a prime importance, so that only Lutheran, only Roman Catholics should be admitted to the Shelter. So we do get cases which come from churches which are not even represented on our group as such.

MS THERON: What the members of the Shelter did in the past, we wrote letters to the different churches wherein we just made them aware that there is a Shelter, not where the Shelter is of course, there is a Shelter like that and then we also got some financial help from them. Some of the churches already donated money and from that money we buy food and maybe it helps us transport the victims.

MS VAN DER MERWE: And the location of the Shelter is a secret?

MS THERON: That is totally confidential. We also have a lot of rules at the Shelter and when we, the social workers at the Unit, screen the victims or the clients, we go through a set of rules. The first rule is that the residential area or address must be confidential. So the family of the client or the victim is not allowed to come and visit the Shelter.

MS L VRIES: And that is why we made it one of our recommendations to the law, the legislation of confidentiality, so that we at the end of the day are also protected, to prevent for instance, a journalist stating that the Shelter is situated in this street, so that the location is kept totally confidential.

MR W POTGIETER: The first thing I want to say is that we have heard it all throughout the country that there is no question about the need for such shelters. And secondly also, that you are a success story of being an organisation comprising different denominations and in the necessary co-ordinated way doing this work. What about the problem of people who, late at night, when they are abused or battered, come to the police and the police have testified often to us that they have no idea what to do because, you cannot send the woman back, and they cannot accommodate her. Do you also cater for such cases, because I don't think there is then a possibility of a screening process at that stage.

MS THERON: Yes, this is where the members of the Woman and Child Abuse Unit play a vital role, there are three police officers on duty after hours and one social worker. So if there is a case at the local police station, they contact the person on duty, the social worker or the police officer, and then it is for them to go out to see whether this case has the merits or the criteria and then they screen the case and take the person physically to the Shelter.

MR W POTGIETER: Then I am jumping to something else, the funding. You mentioned a few recommendations here, so at this point in time you have no subsidies or any government assistance whatsoever?

MS L VRIES: No, we are totally self-sustainable. We got several donations from special funds that were made available by the Namibian Development Trust. We purchased the house. We received funds from the Office of the President and then most of our projects are organised by the members themselves and that is the way of fund-raising. But in our planned activities the enlargement of the current shelter and so forth, the needs are becoming more and more and the financial burden is constraining us.

MS THERON: And then, what I also want to add is that all members of the Shelter are full-time workers. They are very committed and dedicated. We delegate two members to go out and ask for donations. Like a few weeks ago we received a lot of blankets from Pep Stores. We approach a lot of business places and they really help us with some sponsors like food, baby clothes and stuff. We are in the process of writing letters to churches where we ask for second-hand clothes, because a lot of these

children are coming in, who went missing or what, they don't have clothes and there are no clothes available at the shelter. That is why we ask for second-hand clothes.

MS NIKODEMUS: Do you have cases where victims often return to the Shelter for a second time and is something different done in these cases?

MS THERON: So far it was only one-time accommodation. There is also the question on our admission form whether the person contacted the Shelter before or not, but since January up to now there were no people who returned to the Shelter.

MR W POTGIETER: This kind of shelter, the best way that it can be established and run is indeed by an organisation more or less the same as your organisation with dedicated people but with also some official funding by way of subsidies?

MS THERON: Yes.

MR W POTGIETER: My feeling is that the government cannot run something like this.

MS THERON: Yes, and I think it is also high time for the community to get involved in a project like this, because it is our community members who must be admitted, it is people in our community that go through the abuse. You cannot expect everything from the government, but for sure we can do with more funds. The space is not that big, that is why the maximum period for a person to stay there is two weeks. We had cases where the person stayed more than two weeks, so there are also exceptions to the rule. It is a very small house.

MR W POTGIETER: And your financial support, do you get anything from other welfare organisations?

MS L VRIES: Other welfare organisations? No. What happened in the past was that members visited these shelters and basically the contribution that we got from them was advice and materials that were made available, but no financial contributions.

MS THERON: We also wrote proposals to different embassies to ask for sponsors and donations, because currently there is nothing to keep the persons busy at the Shelter. There is, for example, no TV, there is nothing that can keep their minds off their problems. There is no social worker who comes and does counselling, does group therapy, there is nothing else to keep them busy so what we plan to do, when we can extend the place is to ask for sewing machines to keep the ladies busy, that is also income generation for the Shelter.

MR W POTGIETER: I am asking this against the background of the saying that nothing succeeds like success, so once you are starting to become really successful then obviously you will have a stronger position to get this kind of assistance. It is just strange to me that you are still struggling to get it. Any reasons for that?

MS L VRIES: For the Social Diaconic Action Young Woman, this is one of their projects which was started and initiated by them, but they were very actively involved in building up the Tabita Shelter, the Tabita Old Age Home in Khomasdal. The Tabita Old Age Home is now basically a self-sustainable project, so it was handed over and they continued with a new project. So this project is very much in the early stages and that is why funding is not yet up to standard.

MR W POTGIETER: Do you have some hope?

MS L VRIES: No, we will definitely continue and we will get the necessary funds.

MS THERON: I think we achieved a lot since we are paying the lady who is a full-time worker there. So far we could assist the clients there with transport. Sometimes it is a lady with children who must go to different schools and then we must also pay the taxi for them. So I think there are a lot of achievements, it is just that we need more training for the members and then the space is a bit of a problem.

MS L VRIES: What should always be taken into consideration is that all of our staff members are employed in different jobs. So the time that they give to the Shelter is after hours. There is only one person at the Shelter as a caretaker, on duty for 24 hours and then we have a system whereby if she is off, the other members have to stand in and so forth.

MS VAN DER MERWE: And is this Shelter responsible for municipal accounts, water and electricity accounts?

MS L VRIES: Yes.

MS VAN DER MERWE: You haven't succeeded in getting an exemption from the municipality?

MS THERON: No.

MS L VRIES: We put in such a request to Telecom but unfortunately they refused the application. And specifically also coming back to the municipality, that's why we want legislation on a piece of paper saying that land can be made available, because to enlarge is a medium term objective of ours but we in our aims we also stipulate that we want to see more of these shelters countrywide and if land is made available then it will be so much easier to start off with other shelters.

MS VAN DER MERWE: Thank you very much, I think it was very informative.

### **FORMAL ADDRESS BY MR R MATTHEWS**

MR W POTGIETER: Mr Matthews, perhaps in developments of the last two or three years if we look at satellite television as well as the Internet, then it seems that any particular country or its government are not really in a position any more to control within their countries visual materials. Do you have any suggestions on that?

MR R MATTHEWS: That is very true, but I think it is up to the individual man in the street who has a conscience, who is a Christian or a person who understands the nature of God as an individual. The individual can make an input by insisting that the media should produce real love orientated practices and programmes, so that the impact can be felt by the individual. It is remarkable that there are instances where the abuser, that is the person who perpetrates the abuse, has as a result of programmes like these been converted and reformed and themselves become assistants in eliminating child abuse.

### **FORMAL ADDRESS BY MS B B KERAMEN-NELL**

MR W POTGIETER: How many congregations of the Methodist Church are there in Namibia or is it not structured in that way?

MS B KERAMEN-NELL: No it is. We have Methodist congregations nationally. There is one in Lüderitz, we have one in Keetmanshoop, in Windhoek and one in Mariental. In central Windhoek we have three congregations, central Windhoek, Khomasdal as well as in Katutura. Then we have one down in Walvis Bay and one in Rundu. There was one in Tsumeb but I think it dissolved. Then we have one down in Oranjemund.

MS VAN DER MERWE: And probably at Rehoboth as well?

MS B KERAMEN-NELL: Yes. In fact, we have two in Rehoboth. There is one on a farm called Aroab. In Gobabis there was one some time back but I think it doesn't exist any more.

MS VAN DER MERWE: Is it correct that your church regards the fact of equality or the perceptions of equality as very important, or let me rephrase and say, that the church regards the perceptions of inequality as one of the reasons for the abuse of women?

MS B KERAMEN-NELL: Exactly, that is the perception of the church.

MS VAN DER MERWE: And as for the abuse of children, would you say that it is a lack of acknowledgement of rights of children?

MS B KERAMEN-NELL: Well, that is the standpoint of the church, that is the reason why also our church did take part in the drawing up of the Rights of the Child Convention and they signed it as well.

MS VAN DER MERWE: Does the church involve itself in assisting victims of abuse? Do people come to the Methodist Church, is there somewhere where they go for help?

MS B KERAMEN-NELL: Well, like I said, here in Namibia we don't have any established type of projects yet, but all over South Africa they do have centres. Homes for the aged as well as abused women and children, especially after the executive meeting last year and also as expressed by our newly elected presiding bishop, it is his great concern that in every connection such centres should be established. So these are existing in South Africa, but not here.

MS VAN DER MERWE: But they do have in South Africa shelters with congregations?

MS B KERAMEN-NELL: Yes.

MS VAN DER MERWE: So if someone in Namibia, belonging to the Methodist Church, would have a problem, they would just go to the pastor or the minister for counselling?

MS B KERAMEN-NELL: Well, that is what is in fact happening at the moment.

MS VAN DER MERWE: With most of the other churches as well?

MS B KERAMEN-NELL: Yes, and that was our great concern, which is the reason why he is now here in Namibia and he brought the idea with him that the church has got to establish something like that and discussions are on the way. We have got a place, it is just that it needs a little bit of renovation, etc., and we do intend to make use of voluntary workers. We are lucky that we have a lot of ambassadors in our church, we have a lot of doctors, nurses, welfare workers, psychologists, etc., and we intend to make use of them on a voluntary basis.

MS VAN DER MERWE: But you say you already have a place that you could utilise.

MS B KERAMEN-NELL: Yes, we already have a place, we have already identified a place right at the church in central downtown.

MR W POTGIETER: You are very much involved in the Woman and Child Abuse Centre and also the shelters. I think there is a distinct possibility that, especially in the smaller places, one can set up organisations where different denominations can join forces and set up these things, provided of course that there can be money.

MS B KERAMEN-NELL: Exactly. For instance, Mariental is in fact a very small congregation, but I should say that the soup kitchen of Mariental was the one who ran until the last moment, until they couldn't cope with it any more and it was the one that ran quite professionally I should say, and it also catered for, especially children who stay down in the black residential area, and they were quite active in that. We also had a very small congregation down in Gibeon, which was in fact run by my own father, but after his death nobody in fact took it upon him or her. But the minister down in the south, Rev. Prince has started again with reviving that congregation and it is also his intentions to see whether they could not start something like that there at Gibeon.

### **FORMAL ADDRESS BY MS M ISAACS**

MS M ISAACS: We find at our crèches signs of maltreatment of children and we don't know sometimes what is the reason, but as someone who is working with children, it is very easy for you to observe which children are coming from which house and how they are treated, because when you are in a class with children for more than six or seven months, you will exactly know that somewhere there is something wrong with this child. He is not taking part in anything that you are doing, the child is not concentrating and even if you look into his lunch box sometimes, you will find there is nothing in the box, and in the winter times if you can see how the child is dressed, that also gives you a lot to think about. Sometimes, when you approach the parents over this and say to them, "listen here, it looks to me that John didn't

have bread yesterday and why is John not well protected? It's so cold today and he doesn't even have some takkies or shoes on his feet. What is the problem with John's relationship in your home or you as a parent? Why do you do this?", then you will always get the answer from the parents, "I haven't got money" or "I can't afford it." But in the meantime, if you look at the parents themselves, then you will find that this lady is absolutely well dressed. Some of them even travel by car to work and just drop the child there, but then later on it looks as if you are interfering in the life of this child or maybe you are interfering in family matters. Then later on you will see that these parents become nasty towards you as if you are doing too much. But sometimes if we approach parents we do succeed in this.

MS VAN DER MERWE: It is just a matter of attitude of the parent?

MS M ISAACS: Yes, exactly, it is always a matter of the attitude of the parents towards you and it also depends how you as a person approach these parents.

MS VAN DER MERWE: And has the Red Cross come across serious neglect in some of the crèches?

MS M ISAACS: Yes, we sometimes see serious neglect of children.

MS VAN DER MERWE: What do you do about it if you have now spoken to the parent or if you decide this is a serious matter? Does the Red Cross take action in any form?

MS M ISAACS: Yes, we do take action sometimes. I always go to the parents, to the place where the child stays and whenever I go there I will speak to the parents and ask them, maybe they need something like food or something and if there is food at the Red Cross at that moment, I usually provide for them. Then I can even provide for them some blankets, I can give them some mealie-meel and I can go into one of those boxes and see if there are some jerseys or something, just to assist the family itself. But financially we cannot assist.

MS VAN DER MERWE: And do you sometimes take further steps? Was it ever necessary, that you can remember, to report to the police?

MS M ISAACS: Yes, as somebody who has been working for a long time with children I did this once. I didn't go to the police but I went to the people of Social Welfare and what I got from those people was that they went to the house, they did what they had to do and what the parents did, they took the child out of the kindergarten. So, I was going too far. They thought I was going too far into their family life so they took the child out of school. But as a human being I followed it up and found out what happened to the child and the grandma told me, the mother took the child to the farm. So I think that was just a way to keep me away, by telling me that the mother took the child to the farm. But I think they have done something wrong.

MS VAN DER MERWE: Have you ever found at the crèches signs of sexual abuse?

MS M ISAACS: Yes, we had a case last year, not last year, it was in 1995, we had a case and this case was really very serious. Usually at the Day Care Centre we give you a form to sign who will come and fetch your child and who will bring the child in the morning, so you will have to send a responsible person to fetch the child and to bring the child. On this specific day this is what happened. They sent a young son to come and fetch the little Lena at the Day Care Centre. Lena said she wanted to wee-wee and she went under the tree and she sat down there, and somebody was coming from the other side while this boy was busy taking off the panty of Lena. So the parents didn't even take much consideration about this boy, they simply made a rape case against him for Lena. And now the case is still going on. We feel so sorry for Lena because Lena is now four years old and every time she had to go to Court. We discussed this with the police and asked them why do they always come and fetch Lena because it seems to us that Lena is no more concentrating on school work and she is a very clever girl, but lately we find that she is going backwards, she is not the same Lena that we used to know. We spoke to the mother, but it seems to me they don't understand what we want from them. We want them to release Lena from this court case so that she can be the same person as she was before.

MS VAN DER MERWE: Was that the only incident that you have come across?

MS M ISAACS: That was the only incident we had at the Red Cross I am working for. This was the

first and I hope this will be the last. Before we never had such a thing.

MS VAN DER MERWE: But probably the people that do take the trouble of putting their children in a crèche are already one step ahead of the real neglecters.

MS M ISAACS: I would absolutely not agree with that. The reason that most of the children are in the crèche arises from the problem of the single mother. You, as a domestic worker, you have to stand up 7 o'clock in the morning and in the olden times 7 o'clock was the time when some of the people were in the kitchen already. It is lately that some people now start at 8. half past eight, nine, and the only option for these people is that they must take their children somewhere. That is why we at the Red Cross also used to start at 6:30 in the morning to accommodate those children. But lately life has changed, everything is dangerous now for a woman in the street at night or in the morning. Some of us have even been assaulted while on our way to work, so we decided we stop now, we only start at 07:00. In that case I will say it is very necessary for a mother who is working to find a safe place for her child in the Day Care Centre.

MR W POTGIETER: Apart from the Day Care Centres, do you have any other services or facilities that can support treatment of abused women and children?

MS M ISAACS: I would say that the Red Cross here in Namibia, is trying to do something. We had one case where a woman was abused and we went into the case and we reported it to the police and we even made her tell us the whole truth of the story. The Red Cross really assisted and made a case against the man and that was the end of the story and now she is no more abused by anybody. But the Red Cross can only act in a limited way due to financial constraints. We had a certain project for the abused and that was embroidery, so that they can earn something. This embroidery is then sold to the public and the money that they earn financially supports them.