

Proposed research law to be challenged

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THE Legal Assistance Centre (LAC) intends to take government to court over a proposed research regulation of the Ministry of Education, which it considers unconstitutional.

The controversial regulation falls under the new Namibia Commission on Science Research and Technology (NCSRT) and compels any organisation or individual conducting any activity that could be termed as research to apply for permission before proceeding with such research.

Toni Hancox, the director of the LAC, confirmed to The Namibian last Friday that they are in the process of challenging the regulation.

“Yes, I am in the process of drafting the founding affidavit which should be forwarded to counsel next week to finalise,” she said.

The enforcement of the regulation has been a source of concern for non-governmental organisations (NGOs), as they were informed that Attorney-General Albert Kawana had given the green light for the regulations to be enforced.

As per the Act, failure to get such permission could result in a N\$20 000 fine or five years in jail and an indefinite ban on conducting further research in Namibia for the individual or organisation.

Kawana declined to comment on whether he authorised the enforcement of the regulation, referring the newspaper to the education ministry. The Namibian reported last year that a pupil doing a science project at school, or a doctor conducting a battery of tests to diagnose a patient, would need formal approval from a body appointed by the government if new rules added to the Research, Science and Technology Act 23 of 2004 go through in their current form.

The Namibia Non-governmental Organisations Forum (Nangof), backed by the Institute for Public Policy Research and the LAC, issued a joint statement last week with their concerns about NCSRT.

The civil society claims that the NCSRT will hinder national development programmes and funding mechanisms – “that will begin to set out priority research areas for Namibia – on the basis of such fundamentally defective legislation”.

NGOs said the unlawful regulations place unacceptable restrictions on academic freedom enshrined in the Namibian Constitution, limit creative thinking, create uncertainty around research carried out by NGOs, researchers, and institutions of higher learning, and introduce far-reaching restrictions.

“These concerns have thus far not been addressed either by the Ministry of Education or the NCRST,” Ivin Lombardt, the executive director of Nangof said in the statement.

Lombardt said they had engaged the Minister of Education, David Namwandi, on their concerns last year.

“However, the most fundamental issues with regard to the law and the research regulations still remain unresolved. The Minister promised in May 2013 to get back to us after consulting his advisers but has not kept that promise,” Lombardt said.

The NGO’s insist that the ministry must withdraw the research regulations and institute a new consultation process that will help create an environment where quality research is encouraged.

The non-governmental organisations thus asked other civil societies not to be involved in the “fundamentally flawed process of developing NCRST programmes and attending NCRST events when the profound concerns about the law and regulations have not been addressed”.

Minister Namwandi yesterday confirmed that he had received legal opinion from the AG about the research regulations. He said that he will communicate the decision to NGOs this week. Namwandi said the concerned groups have the right to go to court if they feel that the opinion they will get from him is not in their favour as it is their democratic right.