

Rape Withdrawal Study Launched

30 Sept 2009: People who file rape cases most often withdraw their rape cases because of receiving compensation from the rapist, a new report from the [Gender, Research and Advocacy Project \(GR&AP\)](#) of the LAC has found.

The study reveals that the prevalence of compensation as an alternative to the prosecution of rape cases can take several forms. In some areas compensation is likely to be administered by a traditional chief and be paid in the form of livestock. In other places, compensation is more likely to take the form of a sum of money that is agreed between the families of the complainant and the accused.

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Withdrawn: Why Complainants Withdraw Rape Cases in Namibia identifies the 10 most common reasons for the withdrawal of rape complaints:

1. Compensation
2. Family pressure
3. Shame
4. Threats of physical harm
5. Prosecution of the rape case takes too long
6. Fear that there is insufficient evidence to convict the rapist
7. Lack of information
8. Status of the rapist
9. Bribery to withdraw the case
10. Financial distress.

Over a year in the making, this groundbreaking study provides detailed information about the reasons behind rape case withdrawals. The LAC collected information from six different regions by means of focus group discussions and community member interviews.

“The goal of the study is to better understand rape complaint withdrawal, and to develop recommendations which could respond to some of the issues raised,” says Norman Tjombe of the Legal Assistance Centre. “Because rape is so pervasive in Namibia, almost every participant in the study knew someone who had been raped. It is clear that rape victims need more support and encouragement not to become discouraged with the criminal justice process. ”

A total of 78 different reasons for case withdrawal were in fact named in the focus group discussions. The reasons given may be organised into six broad topics:

1. Concerns about the legal process
2. Economic pressures
3. Problems with police response
4. Negative community attitudes
5. Family influence
6. Factors personal to the individual rape victim

Examining the causes of rape complaint withdrawal by type reveals that many of these causes result from problems and insufficiencies within the legal process and the criminal justice system.

“It is understandable why some rape complainants choose the alternative of compensation. Compensation is speedy and private, and it can give the rape complainant a sense that concrete reparation has been made,” says Dianne Hubbard, coordinator of the Gender Research & Advocacy Project at the LAC. “But the problem is that rape complainants are sometimes pressured into this choice, or not even consulted about it. Most importantly, this alternative does nothing to prevent repeat rapes since it allows the rapist to walk free. ”

Recommendations

A number of recommendations have been made to help reduce the number of rape case withdrawals in Namibia. In broad terms, the Legal Assistance Centre suggests that Namibia needs

1. To create new programmes that provide direct assistance to victims of rape.
2. To strengthen and improve the many services already in place, and eliminate insensitive conduct and institutional inefficiencies that have inspired some women to withdraw their cases.
3. To educate communities to overcome the prejudice and the stigma associated with rape.
4. To provide rape complainants with more information about the criminal justice process, including information about the pros and cons of withdrawing their cases. One of the key recommendations in the report is that government and civil society should work together to establish sustainable victim support programmes to assist complainants before and after the resolution of their rape cases. We also suggest that prosecutors should be assigned to rape cases at an early stage, and ensure that complainants receive ongoing information about the case and about victim-friendly courts (where these are available) and other options for reducing the trauma of a court appearance.

Some of the other specific recommendations in the report are as follows:

For the Law Reform and Development Commission: Consider enacting a law specifically prohibiting “coercive compensation” which would clearly prevent the rapist or anyone else from pressuring complainants to accept money for withdrawing charges”.

For the Woman and Child Protection Units: Assign a social worker, counsellor or community survivor supporter to every rape complainant at the time the docket is opened and require the signature of a social worker to finalise a rape complainant’s withdrawal statement.

For Nampol and the Office of the Prosecutor-General: Arrest and prosecute those who attempt to coerce victims to withdraw their case as obstruction of justice, and take steps to deny or revoke bail if the rapist threatens the complainant.

For the Ministry of Gender Equality and Child Welfare: Increase the capacity of shelters, or create a placement program for rape complainants who are afraid to continue with their cases because of pressure at home or threats of physical harm from the rapist or his family.

For Traditional Leaders: Refuse to sanction exchanges of compensation that are arranged without the personal involvement and unpressurised agreement of the rape victim.

For civil society: Design counselling programmes which connect willing rape complainants with one another during the months and years following the report of their rape cases.

As one step towards helping provide more support for rape complainants, the Legal Assistance Centre is launching along with the report a pamphlet about case withdrawal which can be provided to rape complainants at all Woman and Child Protection Units. Our goal is to help complainants who may be feeling traumatised by a rape to make clear and informed choices about whether they want to proceed with their cases, and to try to allay some of their fears.

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“The lady was encouraged by the parents to forgive the man. Then she forgive.... But it was not her willing. It was just for the willing of the parents.” *Female interviewee, Oshakati*

“I have heard... of women who have withdrawn cases because of briberies. Or a woman has withdrawn a case because of the family; they are related to one another and they are afraid of destroying this relationship. Sometimes the victim is afraid of the rapist if he have an expensive lawyer who can defend him in court.” *Male interviewee, Oshakati*

“These perpetrators are not brought to justice, because there is always a way for them to get what they want.” *Female interviewee, Keetmanshoop*