



LEGAL ASSISTANCE CENTRE
Fighting for human rights in Namibia since 1988



Pro Bono

INFORMATION ABOUT NAMIBIA'S LAW

RULE OF LAW SERIES

Rule of Law Article #5 KNOWING THE LAW

One key ingredient of the rule of law is that it must be possible for everyone to know what the law says. But this is not so easy.

A major source of law in Namibia is the **statutes** enacted by Parliament. There were, until recently, almost 500 different primary statutes in force in Namibia along with many amending acts – with some of these inherited from South Africa at independence, some enacted by the “South West African” Administration prior to independence, and some enacted by the government of independent Namibia. Parliament recently repealed a large number of obsolete laws, but this still leaves us with a multitude of statutes to navigate.

No legislation in Namibia comes into force before it is published in the *Government Gazette*. Most law offices and law libraries have *Government Gazettes*, and they are available in many public libraries in Namibia. Anyone can subscribe, for a fee, so that they receive new issues every week by post or email. *Government Gazettes* issued since Independence can be found on the websites of Parliament and the Legal Assistance Centre (LAC).

But Namibia’s complicated history means that some of the laws in force were published long ago, in *Gazettes* of the South African Government or the South West African Administration. These are also available in many libraries, but they are harder to locate.

And there is another complication. Laws do not stand still. They are often amended over the years. Take the Income Tax Act, 1981 – it has been amended 30 times so far.

Suppose you wanted to know what the current version of that Act says. You could go to a library and look up the Income Tax Act together with all 30 of its amendments in their different *Government Gazettes*. But looking up each amendment individually would take a very long time, so it is not really a practical option.

There are companies which provide updated versions of the statutes in force. But none of the commercial services are comprehensive or completely accurate, and subscriptions to these services are expensive. Recognising this problem, Parliament commissioned a set of annotated statutes and regulations, covering both pre-Independence and post-Independence legislation.

“Annotated” means that each law is presented with all of its amendments, so that each one is up to date. These annotated laws are available on the Parliamentary and LAC websites,

where they are freely accessible to everyone. They are updated regularly, so that everyone in Namibia can know what the law currently says.

If you need an overview of a statute instead of the actual text, you can consult a document called Namlex on the LAC website. This document is a bit like the Wikipedia of Namibia laws. It gives a short overview of each statute, and lists references to all the amendments, regulations, notices, court cases and commentary pertaining to it. This information is regularly updated, and free to everyone.

Of course, statutes are only one source of law in Namibia. Another part of law is the **common law**, which is the law developed over time through decisions in individual cases decided by the High Court and the Supreme Court. These cases are available to anyone for free on the websites of the Namibia Superior Courts and the Namibia Legal Information Institute (NamibLII).

International law, in the form of agreements between nations joined by Namibia is also part of the law of Namibia, as long as such agreements are consistent with the Constitution, and provided that Parliament has not passed a statute which says otherwise. A digest of these agreements, with links to their online texts, is available on the LAC website in a document called the Namlex Appendix.

Last but not least, the fourth component of Namibia law is the **customary law** that has developed over the years in different traditional communities in Namibia. Customary law changes gradually over time as people change their ways of doing things. It is not generally written down, because the people in the community know how things are usually done in that community and because customary law evolves over time. Like every other law in Namibia, customary law is valid only where it does not conflict with the Namibian Constitution. Questions about customary law are usually decided by traditional courts, chiefs, headmen or other traditional leaders.

It is a crucial component of the rule of law that the sources of law must be accessible to everyone. Legal language is not always easy for non-lawyers to understand, but that is no justification for not making laws available to all.

If laws are freely accessible by the public, they can be questioned, discussed, explained and followed. We all have a right to know the laws that govern us.

Where to find the laws of Namibia:

LAC website: www.lac.org.na

- Namlex (overview of statutes in force)
- Namlex Appendix (overview of international law applicable to Namibia)
- Annotated statutes and regulations
- *Government Gazettes*

Parliament website: www.parliament.na

- Annotated statutes and regulations
- *Government Gazettes*

Namibia Superior Courts website: www.ejustice.moj.na

- cases decided by High Court and Supreme Court

NamibLII website: namiblii.org

- cases decided by High Court and Supreme Court.

This series of six articles was made possible by support from the Hanns Seidel Foundation.