ANNUAL REPORT
2016/2017

CELEBRATING 25 YEARS OF REVIEWING, REFORMING AND DEVELOPING NAMIBIA’S LEGAL LANDSCAPE

March 2018
Windhoek, Namibia

ISSN 1026-8391
## PUBLICATIONS OF THE LRDC

### ANNUAL REPORTS (ISSN 1026-8391)*

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<tr>
<th>Report</th>
<th>Year</th>
<th>ISBN</th>
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<tr>
<td>Second Annual Report</td>
<td>1993</td>
<td>0-86976-383-0</td>
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<tr>
<td>Report</td>
<td>2003</td>
<td>0-86976-643-0</td>
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<tr>
<td>Annual Report</td>
<td>2004</td>
<td>0-86976-667-8</td>
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<td>Annual Report</td>
<td>2005</td>
<td>0-86976-700-3</td>
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<td>Annual Report</td>
<td>2008</td>
<td>0-86976-790-0</td>
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<tr>
<td>Annual Report</td>
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<td>978-99945-0-101-4</td>
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### OTHER PUBLICATIONS (ISSN 1026-8405)*

| LRDC 9 Domestic Violence Cases reported to the Namibian Police – Case Characteristics and Police Responses | ISBN 0-86976-516-7 |
| LRDC 11 Report on Uniform Consequences of Common Law Marriages (Repeal of Section 17(6) of Native Administration Proclamation, 1928) | ISBN 999916-63-57-6 |
| LRDC 30 | Discussion Paper on the Transformation of the Polytechnic of Namibia into the Namibia University of Science and Technology (ISBN 978-99945-0-077-2) |

*Number of publication, ISSN and ISBN numbers not printed on all copies.
The Law Reform and Development Commission of Namibia (the “LRDC” or the “Commission”) is a creature of statute established by section 2 of the Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991) and came into operation on 15 July 1992. It has been 25 years since this Act came into force.

The core mandate of the Commission is to undertake research in connection with all branches of law and to make recommendations for the review, reform and development of such laws if and when necessary.

The current Commissioners are—

Ms. Yvonne Dausab, Chairperson, appointed in terms of section 3(1)(a); Adv John Walters, Ombudsman, appointed in terms of section 3(1)(c); Adv. Unanisa Hengari, appointed in terms of section 3(1)(d); Adv. Dennis Khama, appointed in terms of section 3(1)(d); Mrs. Felicity /Goagoses, appointed in terms of section 3(1)(f); Ms. Lineekela Usebiu, appointed in terms of section 3(1)(g); Mr. Silas Shakumu, appointed in terms of section 3(1)(e); and Mrs. Adrie Van der Merwe, appointed in terms of section 3(1)(e).

Under section 3 of the Law Reform and Development Commission Act, 1991, Commissioners are appointed by the President in consultation with the Minister of Justice and because the Chairperson is often appointed first, there is further consultation with the Chairperson in terms of the profile of Commissioners to be appointed. The full commission commenced duties on August 2015.

The Secretary to the Commission is Mr J.T. Namiseb, who heads the Directorate of Law Reform at the Ministry of Justice, resigned in June 2016 to serve as Deputy Permanent Secretary at the Office of the Judiciary.

The Directorate of Law Reform serves as Secretariat to the Commission, assisting the Commission in the exercise of its powers and the performance of its duties and functions under the Law Reform and Development Commission Act, 1991. The Commission and Secretariat are housed on the 1st Floor, Mutual Platz Building, Post Street Mall, Windhoek.

All correspondence to the Commission should be addressed to:

The Secretary
Law Reform & Development Commission
Private Bag 13302
Windhoek, Namibia

Fax: (+264-61) 240064
Tel.: (+264-61) 230008
E-mail: lawreform@moj.gov.na
Dear Honourable Minister,

RE: STATUTORY SUBMISSION OF THE ANNUAL REPORT BY THE LAW REFORM AND DEVELOPMENT COMMISSION (“LRDC”)

The LRDC is obliged to report annually on its activities to the National Assembly, through the Minister of Justice pursuant to section 9(2) of the Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991).

It is therefore my privilege as Chairperson of the LRDC to present to you this Annual Report for 2016/17, and in doing so, thank the previous and present Commissioners of the LRDC, stakeholders and the staff members involved in the work that has gone into the policy, legal and institutional reform for the years under review.

We look forward to the new-year with renewed strength to collectively serve the interest of all our people.

Yours faithfully,

Chairperson

[Signature]

Yvonne Bausab (Ms.)
Chairperson
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FOREWORD

The Commission (LRDC / Commission) is celebrating 25 years of its existence. Our 2016/2017 annual report celebrates this important milestone while sharing information on some of our work during the period under review.

The Commissioners that were appointed on 3 August 2015 for a period of 3 years were all new save for the Ombudsman, who is ex-officio and the Commissioner representing the Law Society of Namibia and who was a member of the Commission in the formative years of the Commission. This is important to note as the Chairperson was also new and it meant some of the initial months were spent having the Commissioners settle in their newly found responsibility to review, reform and develop the law. It also meant the Commissioners had to spend an enormous amount of time, both familiarizing themselves with pending and concluding projects and identifying new projects that will define their tenure. This they did, first by synthesizing the various thematic speeches of the Head of State for the development of a project or two that supports his vision for the nation, and second, by studying its core mandate to develop a programme that is responsive to the needs and demands of the Namibian people.

For instance, during this period the Commission undertook projects pertaining to: Rights of Persons with Disabilities, Road Safety Concerns, Laws Prohibiting Development, Administrative Justice and Family Law. The third key performance area for the Commission was to strengthen the institutional policy and systems framework for the enhancement of its own work ethic.

During the period under review, the objective was also to provide scope and opportunity for the researchers to develop and grow. This is particularly important given that issues of limited funding and a low number of research staff which affects the timely delivery of bills for the National Assembly to consider and exposes the potential inadequacies in the our public consultation process - a component of our work that we cherish tremendously.

The celebration of 25 years provides us with the much needed opportunity to reflect on the laws that have been passed through the work of the LRDC. It also gives us a chance to evaluate our performance as an institution and to honestly assess the impact of our laws on the lives of our people. Going forward, the LRDC would like to improve on our public consultation mandate and ensure that the review, development and reform of our laws, positively changes the lives of all people of our beautiful country.

It is therefore our hope that with this publication we will entice our people to increase their interest in the
work of the LRDC, but more particularly, that they get involved in our working groups as interested parties, and to be active participants in our public consultations on issues that we are working on.

Our relationship with the Minister of Justice in the execution of our mandate is extremely important and we value his support and counsel during the year under review. Other stakeholders such as the offices of both speakers of Parliament, the Attorney General, UNAM’s Faculty of Law, and all our external stakeholders are invaluable and we remain indebted for the support and cooperation we received during this year.

We look forward to another challenging but equally rewarding New Year.

YVONNE DAUSAB (Ms)
CHAIRPERSON
CHAPTER 1

REPORT BY THE SECRETARIAT

Appointment of the Secretary

In terms of section 11(1) of the Law Reform and Development Commission Act, 1991, the Minister of Justice designates an officer in the public service as Secretary to the Commission. In practice, the Minister designates the head (Chief) of the Directorate: Law Reform in the Ministry of Justice as Secretary, and together with the Directorate administrative and research staff are the Secretariat.

The Chief Law Reform (Secretary) together with the staff members within the establishment of the Directorate of Law Reform in the Ministry of Justice, are in terms of section 11(2) of the LRDC Act mandated to assist the Commission to carry out its mandate, functions and powers.

Staffing

The Directorate was not able to fill additional positions during the period under review, due to budgetary constraints, despite the approval of 67 (“sixty-seven”) positions on the structure.

Ms. A Bezuidenhout (Senior Private Secretary) & Mr. J. T. Namiseb (Chief: Law Reform and Secretary to the Commission)

The current staff compliment of the Directorate stands at a total of 14 (‘fourteen’) staff. These include 8 researchers and 6 (‘six’) administrative staff.

• 1x Chief;
• 1x Deputy Chief;
• 2x Chief Legal Officers;
• 3x Senior Legal Officers;
• 3x Legal Officers;
• 2x Clerks; and
• 2x Senior Private Secretaries.

The members of staff occupying these positions during the period under review are as follows:

• Mr. T J Namiseb, Chief Law Reform and Secretary to the Commission;
• Mr. W P Oosthuizen, Deputy Chief;
• Mr. C Uugwanga, Chief Legal Officer;

Mr. C. Jossob: Senior Legal Clerk
Furthermore, the staff establishment is complimented by additional student interns who serve the Secretariat on a voluntary basis. Given the budgetary constraints, which means that no funds were available to pay for the allowances of student interns during the period under review, they serve the Secretariat on a pro bono basis. Despite the financial challenges, the students consider this an opportunity to expand their knowledge and skill.

The Directorate will continuously and vigorously pursue to fill additional positions in the near future to address the shortage of staff that the Secretariat is currently faced with. An increase in staff compliment would allow for shorter deadlines and improve the quality of work submitted.

**Our International Interns**

In line with the Commission’s continued engagement with McGill University, another student, namely Mr Kevin Pinkoski served as the LRDC’s intern for 2017. His work was streamlined to primarily assist the Chairperson in her office. Similar to previous interns on this programme he was well exposed to international work, with a specific focus on working with various governments. His analytical, editorial and research skills were invaluable. He assisted with research pertaining to child marriages, disability rights and marine resource management to name a few. He was also the language editor for the Commissions’ first ever book titled ‘The Law Reform and Development at 25: A Quarter Century of Social Carpentry’ edited by Dunia P. Zongwe & Yvonne Dausab (2017). The work of the interns contribute immensely to the quality of work output by the LRDC, and they also provide much needed human resources capacity.

**Support Services**

The Commission, through its Secretariat, collectively provides technical support to external stakeholders by serving on various committees and served on the following committees during the period under review:

- Cabinet Committee on Legislation;
- Inter-Ministerial Committee on Human Rights and International Humanitarian Law;
- Mass Land Servicing Project (Legal Sub-Committee);
- Consumer Protection Technical Committee;
- E-Government Legal and Policy Working Committee;
- Committee on the Translation of the Constitution into indigenous languages;
- Technical Committee for the Namibian National Deaf Association; and
- Board for Legal Education.

Ms. F. M. Bock-Kakombo: Senior Private Secretary, to the Chairperson: LRDC
The LRDC was engaged on the following media platforms during the period under review:

- Good Morning Namibia Show
- Talk of the Nation
- Social Media: LRDC Official Facebook page

The LRDC has, in purport of its statutory mandate to make the law accessible, resolved to engage local newspapers to create awareness of pertinent laws under scrutiny and to inform the public of relevant laws. This is an ongoing project and the LRDC anticipates to have articles published in local newspapers in the near future, and on a regular basis.

**Workshops and Conferences**

The LRDC held and participated in various workshops and conferences during the period under review. All these workshops relate to the mandate and function of the LRDC, its strategic plan and to the various law reform projects currently under its consideration.

**The LRDC participated in the following workshops as part of its projects:**

<table>
<thead>
<tr>
<th>Workshop</th>
<th>Place</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention against Torture</td>
<td>Accra, Ghana</td>
<td>4 - 8 April 2016</td>
</tr>
<tr>
<td>UNCITRAL Working Group 49th Session</td>
<td>New York, USA</td>
<td>30 April – 8 May 2016</td>
</tr>
<tr>
<td>Consumer Protection Technical Committee Meeting</td>
<td>Swakopmund, Namibia</td>
<td>30 May - 3 June 2016</td>
</tr>
<tr>
<td>Law via the Internet</td>
<td>Cyprus, EU</td>
<td>14 -16 August 2016</td>
</tr>
<tr>
<td>INSOL Africa Roundtable Insolvency</td>
<td>Accra, Ghana</td>
<td>5 - 8 October 2016</td>
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**The LRDC hosted the following workshops during the period under review:**

<table>
<thead>
<tr>
<th>Workshop</th>
<th>Place</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>NEEEB broad based nationwide consultations</td>
<td>Mariental, Otjiwarongo</td>
<td>21-29 July 2016</td>
</tr>
<tr>
<td></td>
<td>Rundu, Ongwediva</td>
<td></td>
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<tr>
<td>NEEEB broad based nationwide consultations</td>
<td>Mariental</td>
<td>8-11 July 2016</td>
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<td></td>
<td>Keetmanshoop</td>
<td></td>
</tr>
<tr>
<td>LRDC 25th Anniversary Conference and Launch NamibLII</td>
<td>Swakopmund</td>
<td>24-28 October 2016</td>
</tr>
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</table>

**The Directorate participated in the following management workshops of the Ministry of Justice:**

<table>
<thead>
<tr>
<th>Workshop</th>
<th>Place</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attend Technical Committee meeting with the Permanent Secretary</td>
<td>Oshakati</td>
<td>3 - 5 August 2016</td>
</tr>
<tr>
<td>Secretarial Convention</td>
<td>Windhoek</td>
<td>25 August 2016</td>
</tr>
<tr>
<td>2nd review of Annual Plan</td>
<td>Swakopmund</td>
<td>27 - 30 September 2016</td>
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</table>
The Secretariat was invited to attend a number of workshops as a stakeholder, partner or to present its institutional perspective on various topics on behalf of the Ministry of Justice and the Commission.

<table>
<thead>
<tr>
<th>Workshop</th>
<th>Place</th>
<th>Date</th>
<th>No. Staff Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>International</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Racial Discrimination</td>
<td>Geneva, Switzerland</td>
<td>1-8 May 2016</td>
<td>1</td>
</tr>
<tr>
<td>Regional Meeting of Experts and Stakeholders on albinism</td>
<td>Dar-Es-Salam, Tanzania</td>
<td>16-20 June 2016</td>
<td>1</td>
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<tr>
<td>National</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Governors and Councillors</td>
<td>Oshakati</td>
<td>11-14 April 2016</td>
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<tr>
<td>Whistle Blower and Witness Protection</td>
<td>Swakopmund</td>
<td>16-18 June 2016</td>
<td></td>
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<tr>
<td>Walvis Bay Massive Urban Land Servicing</td>
<td>Walvis Bay</td>
<td>1-2 September 2016</td>
<td></td>
</tr>
<tr>
<td>Conference on Advancing the Rights Of Persons with Albinism</td>
<td>Johannesburg</td>
<td>9-10 November 2016</td>
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</tr>
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</table>

Staff Members: Ms. L. Mulwa, Mr N. Murangi and Mr. D. Xoagub
Training

Since the introduction of the Performance Management System (‘PMS’), the Directorate has sent staff members to participate in training programmes as part of their Performance Agreement personal development objectives. The LRDC therefore, places great emphasis on staff capacity building and during the period under review, a number of staff members were allowed to undergo short and long term courses to capacitate them in order to enhance performance. The Secretariat ultimately projects to send more staff members for training, however securing the required funds has been challenging for the year under review.

Training opportunities:

<table>
<thead>
<tr>
<th>Training</th>
<th>Place</th>
<th>Date</th>
<th>Staff Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>NamibLII</td>
<td>Cape Town University</td>
<td>15-17 May 2016</td>
<td>3</td>
</tr>
<tr>
<td>Protocol Diploma and event Management</td>
<td>Johannesburg</td>
<td>16-20 May 2016</td>
<td>3</td>
</tr>
<tr>
<td>Training on arbitration</td>
<td>Tanzania</td>
<td>4-11 June 2016</td>
<td>1</td>
</tr>
<tr>
<td>Protocol Diploma and event Management</td>
<td>Johannesburg</td>
<td>18-22 June 2016</td>
<td>2</td>
</tr>
<tr>
<td>Procurement Training</td>
<td>Windhoek</td>
<td>3-7 July 2016</td>
<td>3</td>
</tr>
<tr>
<td>PPP</td>
<td>Windhoek</td>
<td>15-17 August 2016</td>
<td>2</td>
</tr>
<tr>
<td>Management and Leadership Training</td>
<td>Windhoek</td>
<td>1-2 February 2017</td>
<td>1</td>
</tr>
<tr>
<td>Management and Leadership Training</td>
<td>Windhoek</td>
<td>20-24 February 2017</td>
<td>1</td>
</tr>
<tr>
<td>Management and Leadership Training</td>
<td>Windhoek</td>
<td>27-28 February 2017</td>
<td>1</td>
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Budget

The Budget of the Directorate of Law Reform (as the Secretariat) and the LRDC is provided for under the overall budget of the Ministry of Justice. The Directorate and the LRDC have one budget solely because the Directorate supports the functions of the LRDC. During the period under review, the government has implemented serious budget cuts and as a result a number of activities planned by the Directorate and the LRDC could not be carried out, especially in the areas of filling vacant positions, training and allowances for student interns.

The total budget amount approved and received by the Directorate and the Commission during the financial period under review, was N$3,000,500-00. We received the amount of N$3,000,500-00 for the year 2016-2017.
The Commission is, from time to time, required to submit a programme of its work to the Minister of Justice for approval, in terms of section 7 (1) of the Law Reform and Development Commission Act, 1991. During 2016/2017, the Commission worked on the following projects:

- Laws that Impede or Retard Development in Namibia
- Uniform Matrimonial Property Projects
- Divorce Law Project
- Road Safety Management Bill
- New Equitable Economic Empowerment Framework (NEEEF)
- Review of Administrative Justice in Namibia
- Domestication of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (“UNCAT”)
- The Repeal of Obsolete Laws Programme: Volume 1: Repeal of Obsolete Laws Administered by the Ministry of Agriculture, Water & Forestry

The LRDC conducted a number of consultations with stakeholders and the public on some of the projects during the period under review, as depicted below. (See also Chapter one for workshops held or attended)
Project Title:
Laws that Impede or Retard Development in Namibia

Project Officer:
Mr. Charles Uugwanga (Chief Researcher)

Project commissioners:
Adv. Silas-Kishi Shakumu
Adv. Unanisa Hengari

Project Committee (if any):
Adv. Silas-Kishi Shakumu
Adv. Unanisa Hengari
Mr. Charles Uugwanga

Consultant (if any):
Dr. K. F Mundia was engaged as a consultant at the initial stage of the Project. He is a full-time lecturer of law at the University of Namibia and currently the Head of Department for Commercial Law. Dr. Mundia is a holder of a BA Degree in Theology which he obtained from Andrews University in Zimbabwe. He subsequently obtained his LLB Degree from the University of KwaZulu-Natal and an LLM in Jurisprudence from the University of Free State. Furthermore, Dr. Mundia holds an LLD Degree which he obtained from the University of Pretoria.

Dr. Mundia is a former staff member of the Ministry of Justice under the establishment of the Directorate of Law Reform.

Background of Project:

Date of commencement:
1 June 2015

Project of LRDC or Stakeholder Assistance
The Project is an initiative of the Office of the President and the LRDC was requested by the Minister of Justice to undertake the project and to report thereon.

Approved by Commission:
The Project has been approved by the current Commission during August 2015 and therefore forms part of the three year Work Program of the current Commission.

How Project came to LRDC:
The Project came about as a result of an instruction by the Head of State, Dr Hage G. Geingob, to the Minister of Justice in mid-2015. The instruction required the Minister of Justice to investigate and identify laws that impede and or retard development in Namibia. This instruction was further re-stated in the Harambee Prosperity Plan and therefore became an activity for Year 2 of the HPP implementation Plan.

Justify Need for Reform:
The aims of the Project are to:
1. Identify laws that are considered to impede or retard development in Namibia.
2. Amend the laws identified as impeding or retarding development in order to undertake the project and to report thereon.

State whether any Benchmark Studies were done or International/SADC Relations Established in Respect of Project:
A benchmarking visit was undertaken by Mr T. Namiseb, Chief Law Reform accompanied by the consultant, Dr K.F Mundia, to the Law Reform agencies in South Africa and Botswana in July 2015.

1 Government has made the following commitment under Pillar 1 Effective Governance, HPP01 Goal: 
“A comprehensive review of existing legislation that may hamper the achievements of national objectives will be smooth implementation of national development policies and to fast track the attainment of development goals and targets.”
**Status of Project:**
The project is currently at the reporting stage in line with the HHP Year 1 Implementation Plan. The LRDC is busy preparing a report to the Minister of Justice in terms of section 9(1) of the Law Reform and Development Commission Act, 1991.

**Way Forward:**
To finalise a report which identifies laws that impede and or retard development and to prioritise the promulgation and amendment of identified laws, in order to address the impediments and retardations in such laws.

**Workshops/Seminars/Consultations:**
The LRDC undertook a number of individual consultations with all the O/M/A’s in order to obtain the necessary information for purposes of compiling the final report. The consultation process was part of the LRDC’s commitment to ensure that its reports are accurate, credible and inclusive. The consultation process took place during June 2016 – April 2017.

**Anticipated Date of Finalisation:**
The anticipated date of finalisation of the project is 30 May 2017.
Project Title: Divorce Law Project

Project Officer: Ms. Chisom Okafor (Senior Researcher)

Project Commissioners: Mrs. Adrie van der Merwe

Status of Project:
» Submitted a revised final report on Divorce towards the end of September 2016 to a professional editor and finally to the Chairperson of the LRDC for further consideration.

» In the process of finalising the revised Divorce Bill, after several comments on the Bill were received from the Law Society, Office of the Attorney General and the Legal Assistance Center.

Way Forward:
» Completion of a revised final report and lay man’s Bill. The Bill will then be submitted to the Minister of Justice for consideration at CCL.

» The final report will be submitted to the Minister of Justice as required under section 9 (1) of the Law Reform and Development Commission Act, 1991.

Workshops/Seminars/Consultations:
» None

Anticipated Date of Finalisation:
» June 2017

Project Title: Uniform Matrimonial Property Project

Project Officer: Ms. Chisom Okafor (Senior Researcher)

Project Commissioners: Mrs. Adrie van der Merwe

Status of Project:
» Submitted a revised final report towards the end of July 2016 on the Uniform Default Matrimonial Property Consequences of Certain Civil Law Marriages to a professional editor and finally to the Chairperson of the LRDC for further consideration.

» In the process of finalising the revised Uniform Matrimonial Property Regime Bill and Regulations, after several comments on the Bill were received from the Law Society, Office of the Attorney General and the Legal Assistance Center.

Way Forward:
» Completion of a revised final report and lay man’s Bill. The Bill will then be submitted to the Cabinet Committee on Legislation (CCL).

» The final report will be submitted to the Minister of Justice as required under section 9 (1) of the Law Reform and Development Commission Act, 1991.

Workshops/Seminars/Consultations:
» None

Anticipated Date of Finalisation:
» May 2017
Project Title:
Road Safety Management Bill

Project Officer:
Ms. Ruusa Ntinda

Project Commissioner:
Ms. Lineekela Usebiu

Project Committee:
Ms. R Ntinda;
Executive Secretary to NRSC Mr. E Tendekule;
Adv. D. Khama; and Ms. L Usebiu.

Background of Project:
The Commission approved the Road Safety Management Bill Project upon the request of the National Road Safety Council to assist with the consultation and reviewing of the Road Safety Management Bill. The project came to the LRDC at an advanced stage. The LRDC undertook to assist the National Road Safety Council with stakeholder’s consultations on the Bill as well as with the process of reviewing and validating the Bill, having regard to the fact that the proposed Bill will be to the benefit of all Namibian road users.

The Main Objectives of this Project are to:
1. Assist the National Road Safety Council in the reviewing and validation process of the Road Safety Management Bill through stakeholder consultations.
2. Bring about the required law reform.

The Terms of Reference are to:
1. Assist the National Road Safety Council with the reviewing and validation process of the Road Safety Management Bill through stakeholder consultations.

2. Provide the National Road Safety Council with a report on the consultation held on the Road Safety Management Bill and make any recommendations associated with it.

Road safety is a pertinent issue in Namibia due to high incidents of road crashes on our roads. Each year, over 600 people are killed and more than 5000 people are injured on our roads. Each crash entails cost, not to mention the social cost of pain, grief and suffering of the families of the victims. On average, one person is killed on Namibian roads and about 16 suffer serious injury on average, daily. The nation loses a huge portion of its youth each year as a result of road related fatalities. For instance, 43% of road related death are young people aged between 16 and 35 years, while children age zero to 15 years accounted for 14% of fatalities in the year 2015. These were young people at the prime of their lives and poised to become the leaders and economic drivers of the country. The number of people killed on Namibian roads has increased over the past five years since 2009, with 634 people killed in 2013, which indicated a 14% increase from the 2012 figures.

The Roads Safety Management Bill proposes the establishment of a Roads Safety Agency. The Agency will assist with the implementation of a national roads safety management plan and an integrated roads safety management system. The Bill will also provide for the continued existence of the Central Roads Safety Fund, to repeal the National Roads Safety Act, 1972 (Act No. 9 of 1972) and to provide for any other relevant matter. The Roads Safety Management Bill is intended to enable change by putting up institutions to ensure that road safety is efficiently planned and managed. The aim of the Bill is to bring about measures to limit the number of persons that perish on roads every year.

Bench-marking:
No bench-marking will be done by the LRDC under this Project. The National Road Safety Council will rely on the investigative and benchmarking report conducted prior to it handing over the project to LRDC for consultations with stakeholders.

Progress:
Discussion Paper to be considered by the Commission and handed over to the Road Safety Council.

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Project Title:
New Equitable Economic Empowerment Framework (NEEEF)

Project Officer:
Mrs. Lydia-Mutindi Mulwa/Jacobs
(Senior Researcher)

Project Commissioners:
Adv. Unanisa Hengari; and

Project Committee:
Ms. Mutindi Lydia Mulwa;
Adv. Unanisa Hengari;
Representative from Office of the Prime Minister

Namibia’s Journey Towards a Transformative Economy:
Namibia will soon be joining countries like South Africa, Zimbabwe, Malaysia and the United Arab Emirates in transforming its economy to a more equitable and transformative one.

Since the introduction of the New Equitable Economic Empowerment Framework (NEEEF), work has been done by the Commission together with the Office of the Prime Minister (OPM) to translate the policy document into a proposed law. To this effect, the NEEEF Bill was drafted and consulted on extensively during 2016.

The intention of NEEEF is to radicalise the Namibian economy and ascertain its representation of the country’s demographics. Radical means real change, a noticeable break from the past. Owing to Namibia’s historical context, the country’s economy was entrenched in the hands of the few, i.e. white males. Transformation aims to break these barriers and intends to introduce those who were previously excluded from economic intercourse into the economic space. Transformation calls for a skills revolution, one that benefits previously disadvantaged persons and unlocks their economic potential.

NEEEF proposes to transform the economic landscape of Namibia through 6 pillars, namely:

1. Ownership Pillar to promote ownership of productive resources by previously disadvantaged Namibians;
2. Management Control and Employment Equity Pillar to ensure that the management of enterprises and labour force reflect the demographic, gender and employment equity requirement and that the labour force more accurately reflects the demographics of the Namibian population;
3. Human Resources and Skills Development Pillar to promote staff development in respective enterprises and provide scholarships in the areas of scarce skills;
4. Entrepreneurship Development and Marketing Pillar to promote growth of new Enterprises especially those owned by previously disadvantaged Namibians;
5. Corporate Social Responsibility Pillar to encourage corporate social investment in communities; and
6. Value Addition, Technology and Innovation Pillar to encourage local processing of natural resources, innovation, invention and technology in the Namibian business sector.

The LRDC and OPM have just returned from a benchmarking trip to the Department of Trade and Industry (DTI) Pretoria, South Africa. The purpose of the exercise was to understudy the various departments and institutions involved in the facilitation of B-BBEE in South Africa as well as to understand their verification, funding and implementation processes and how we can shape these processes into our own experiences in facilitating the implementation of NEEEF.

The philosophical foundations provided by the South African experience are an important lesson for Namibia. The lessons learnt from this exercise were many and in particular Namibia will be emulating sentiments of Black Industrialisation, Equity Equivalent programs for companies that are unable to comply with the ownership requirement and the development of Accreditation Agencies to regulate Verification Institutions.

Way Forward:
Once we have made recommendations to Cabinet, it is envisaged that the Bill will be refined and consulted on once more, before it is finally implemented.

Project Officer: Mr. Samm Niingungo (Legal Officer)

Project Commissioner: Ms. Yvonne Dausab (Chairperson)

Project Committee (if any): Ms. Yvonne Dausab (Chairperson) Mr. Samm Niingungo

Consultant (if any): None

Background of Project:
Date of commencement
The review of the Namibia Red Cross Act, 1991 (Act No. 16 of 1991) has been on the LRDC work programme since 2015 and has been carried over to the Work Programmes of subsequent Commissions including the current Commission.

How project came to LRDC
A proposal from the Namibian Red Cross Society (NRCS) was introduced to the Chairperson of the Law Reform and Development Commission to have the Red Cross Act, 1991 (Act No. 16 of 1991) reviewed and amended to bring it into conformity with the requirements of the international Red Cross and Red Crescent Movement.

Justify need for reform
The law aims to achieve two broad objectives to:
1. Enable the Namibia Red Cross Society to create income generating activities to fund its own projects and be less dependent on external funding;
2. Exempt the goods donated to the NRCS to formalize the commitment of the public authorities to respect the duty and ability of the National Red Cross Societies; and
3. Provide a tax deductible benefit to persons who donate to the NRCS.

State whether any benchmark studies were done or international/SADC relations established in respect of project
It is important to acknowledge that a partnership was entered into by the LRDC and the Namibia Red Cross Society for the Review of the Namibia Red Cross Act Project. The partnership was undertaken with the understanding that the NRCS would provide the LRDC with insight into the internal mechanisms of the NRCS. This program undertakes to support initiatives that are geared towards bring the NRCS into conformity with the requirements of the international Red Cross and Red Crescent Movement.

Status of project
The final report and the draft Bill have been completed and submitted to the Namibia Red Cross Society for further action.

Anticipated date of finalisation
The project has been finalised.
Project Title: Domestication of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (“UNCAT”)

Project Officer: Mrs. Jessica Gawachab (Senior Researcher)

Project Commissioner: Mrs. Felicity !Owoses-/Goagoses

Status of project
The LRDC was extremely excited at the finalisation of the Report on the Domestication of UNCAT in Namibia. The LRDC completed a comprehensive report that interrogates all key aspects of domesticating the UNCAT. The report primarily focussed on Namibia’s legal obligations under the UNCAT and findings in reports submitted by the UN Committee against Torture. The LRDC equally finalised the Prevention and Combatting of Torture Bill, which was informed by the research content of the report. The LRDC eagerly awaits the tabling of the Prevention and Combatting of Torture Bill in Parliament.

Way forward
The LRDC maintains its support in the implementation phase of its projects. The LRDC thus anticipates to provide legal support and guidance with regard to the content of the Bill at the Cabinet Committee on Legislation.

Project Title: The Repeal of Obsolete Laws Programme: Volume 1: The Repeal of Obsolete Laws administered by the Ministry of Agriculture, Water and Forestry.

Project Officer: Mrs. Jessica Gawachab (Senior Researcher)

Project Commissioner: Mrs. Felicity !Owoses-/Goagoses

Status of project
The LRDC has taken a resolution to transform the status of the project into a programme. The change of methodology adopts a ministerial approach. Such approach required all national laws that are potentially obsolete to be considered one ministry at a time. The programme commenced with the relevant laws of the Ministry of Agriculture for the first volume. The LRDC primarily changed the work methodology of this project due to the mammoth task of considering all laws that are potentially obsolete. The revised methodology allowed for continued progress and the work could be considered in a more manageable manner.

Way Forward:
The LRDC plans to compile a database of all the laws administered by the Ministry of Agriculture, Water and Forestry. The LRDC has requested each Ministry to appoint a liaison officer that will assist the project officer by providing feedback on how the laws are applied in practice. This allows the LRDC to ascertain which laws or provisions within specific laws are still administered, as well as an in-depth understanding of why certain laws need to be repealed or maintained.

Once the database is compiled and the liaison officer is identified, the LRDC will subsequently conduct desk and field research, in the determination of the obsoleteness of the laws administered by the Ministry of Agriculture, Water and Forestry. The finalisation of this programme would indeed serve the nation at large, as various laws have caused the impediment of effective and efficient administration within the government. In addition, in terms of section 6 of the Law Reform and Development Commission Act, 1991 the LRDC has a statutory mandate to ensure the repeal of all obsolete laws in Namibia and this programme aligns the LRDC with its statutory mandate.
The Namibia Legal Resources and Information Institute (NamibLII) has been established to play a critical role in making Namibian law widely accessible. The principle mandate of NamibLII is to ensure that the public has access to legal information and is hence in a position to participate effectively in constitutional, judicial and other processes. The execution of this mandate would therefore foster the spirit of the Namibian Constitution which advocates for the active participation of the Namibian people in the affairs of public institutions.

In pursuance to its legislative mandate to ensure that the populace has access to laws, state enactments, judgments, international agreements, conventions and treaties to which Namibia is a party, the LRDC had initially submitted a proposal to Cabinet for the establishment of the Namibia Legal Resources and Information Institute (NaLRII). Cabinet consequently authorised the establishment of NaLRII which was duly registered on 18 February 2014 in terms of section 21 of the Companies Act, 2004 (Act No. 28 of 2004).

NaLRII was successfully renamed NamibLII and now hosts legal information pertaining to Namibia.

The establishment of NamibLII falls within the ambit of the objects of the LRDC under the provisions of the Law Reform and Development Act, 1991 which mandates the LRDC to undertake research in connection with all branches of the law of Namibia.
and to make recommendations for the reform and development thereof. Section 6(b) in particular, directs the Commission to “consolidate or codify any branch of the law and introduce measures aimed at making the law more readily accessible”. The establishment of an E-Laws Portal providing free access to law is therefore an initiative which speaks directly to the statutory responsibility that the LRDC is tasked with.

The African Legal Information Institute (AfricanLII) is willing to assist Namibia in its efforts to finally set up a fully functional Legal Information website or an E-Laws Portal. AfricanLII offered the LRDC a technical solution referred to as “LII in a box” – which has been developed to enable countries like Namibia to develop their own online legal publication platforms, for free.

In fulfilling its legislative mandate of making laws readily accessible to the electorate the LRDC was under immense pressure to make sure that this resource becomes available as a matter of urgency to the Namibian people. On this basis, the offer made by AfricanLII was immediately taken up and meetings were held by both parties on 24 and 25 March 2016. The meeting was successful in setting out the modalities that would govern the engagement between the respective institutions. It was soon followed up by a week-long training session.

The website was launched on 25 October 2016 in Swakopmund to coincide with the LRDC Jubilee Anniversary celebrations.

Staff members of the Ministry of Justice during the Silver Jubilee Celebrations

Mr. R. Spiegel and Ms. T. Maletsky from the IT department.
CHAPTER 4

OUR PARTNERS: LOCAL, REGIONAL AND INTERNATIONAL COOPERATION

Introduction

During the period under review, the LRDC worked with various partners at local, regional and international level in the realisation of its objects under section 6 of the Law Reform and Development Commission Act, 1991:

Our Local Partners:

- The Office of the Vice-President: Department of Disability Affairs;
- The Office of the Prime Minister;
- The Office of the Attorney-General;
- The Ministry of Finance;
- The Ministry of Industrialization, Trade and SME Development;
- The Ministry of Home Affairs and Immigration;
- The National Road Safety Council;
- The Bank of Namibia; and
- AfricanLII.

Our Regional Partners:

Association of Law Reform Agencies of Eastern and Southern Africa (“ALRAESA”)

Amidst Silver Jubilee Festivities the LRDC took it upon itself to expand intellectual capacity and host the annual ALRAESA Conference. The said Conference included both the Annual General Meeting (“AGM”) as well as the Executive Committee (“EXCO”) Meeting as per the ALRAESA Constitution. The ideology of this LRDC resolution was supported by and entrenched in article 3 of the ALRAESA Constitution, namely that the establishment of ALRAESA served to:

- exchange and share ideas on best practices in law reform;
- exchange and share ideas on the development of law, within the countries of the member agencies in accordance with the principles of human rights, good governance and rule of law; and
- collectively contribute to the attainment of the objectives of member agencies, with regard to their individual jurisdictions. (Article 4 of the Constitution sets out the objectives).

The LRDC thus deemed it fit to explore this platform to exhaust the resources, at the benefit of being an ALRAESA member. Suitably, the theme of the Silver Jubilee Conference outlined objectives parallel to that of ALRAESA member state objectives.

With regard to key projects prioritised by ALRAESA, the following discussions guided the approach employed to actualise the objectives of the network:

The Model Electoral Laws Project

In terms of ALRAESA General Meeting resolution adopted, member states identified a need to adopt a model law on elections. However, most member states had previously subjected their electoral laws to legislative review and preferred the compilation of a compendium of electoral laws. Namibia as an EXCO Member supported this initiative as a member state that had recently reformed the National Electoral Reform Project. The LRDC engaged the Centre for Human Rights at the University of Pretoria to assist ALRAESA with the said objective. The University has expressed a willingness to share expertise and all relevant parties are discussing financial implications.
Formal Training for Staff Members of Law Reform Agencies

In purport of securing fully capacitated law reform agencies, ALRAESA endorsed a project to formally train staff members on various aspects and principles of law reform aspects. The LRDC has in the year under review commenced discussions on establishing certificate level courses in law reform at the University of Namibia.

Conclusion

ALRAESA was pleased to welcome an additional member. Mauritius attended the ALRAESA Conference in Swakopmund, Namibia. Mauritius offered to host the following ALRAESA Conference. Members of ALRAESA extended their gratitude to Namibia for the invitation and the opportunity to share in the success and celebrations of the LRDC.
Our International Partners:

Commonwealth Association of Law Reform Agencies (“CALRA’S”)

The LRDC is one of over 60 permanent Law Reform Agencies that form part of CALRAs. It has been a little over 24 months since I joined the LRDC as its Chairperson and I had the opportunity to join one of the CALRAs flagship events during March 2017 in Melbourne, Australia. The CALRAs platform creates opportunity both to reaffirm the importance of collective action and to share experiences that will enhance law reform in our various jurisdictions. This is invaluable to the success of the LRDC.

During the Melbourne conference, over 20 members from various commonwealth jurisdictions gathered to discuss wide ranging issues pertaining to law reform and development. The conference was titled “Effective Law Reform: Sharing Together Across The World”, and arranged with the assistance of the Victorian Law Reform Commission (VLRC). The discussion topics were carefully selected to support the content and form of the conference title. A judicial panel consisting of Judge Kollapen, from the South African Law Reform Commission, and Judge Felicity Hampel, from the County Court of Victoria, discussed what often seems like a rhetorical question -- “should sitting judges be a part of law reform commissions”? Some jurisdictions, like the South African and the Victoria Law Reform Commission, have specific provisions that allow judges to be part of law reform commissions. Namibia does not have a similar provision.

The key proposition from this relatively interactive discussion is that the independence of the judiciary and a particular judge is not compromised by the mere presence of a judge on the commission. In fact, it is argued that this participation adds additional value to the content and scope of the commission’s work while leveraging the profile and credibility of the commission. Because of the important work law reform agencies undertake in their respective jurisdictions, it is important that their work is seen as objective, independent, credible and responsive to the needs of the people it ultimately serves. The decision to either include or exclude a sitting judge on the commission should, however, be left to each jurisdiction to decide given their own needs and their particular context.

Other equally important topics were key characteristics of good law reform, and the relationship between law reform and government. The essence of these topics were anchored around independence, survival and effectiveness of law reform. The work of the LRDC should maintain objectivity that transcends bureaucrats but does not lose the importance of the necessary relationship with government. The conference delegates further engaged presenters and panelist on aspects of ‘victims of crime’, small reform agencies and what else LRAs can do once a report is submitted to the relevant Minister for consideration.

These exchanges, in their various styles and formations, are invaluable. The CALRA’s provides an opportunity for established and experienced law reform agencies to share their resources and experiences with otherwise smaller and lesser experienced LRA’s. The scope of growth and development that comes from being a member of CALRA’s cannot be over emphasized, and participation must continue.
The Chairperson of the LRDC with the Secretariat staff members, celebrating 25 years of reforming the law
End.