

Bridging the gap between the law and the application of the law in combating gender-based violence

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Namibia is the second best ranked African country, second to Ghana, in terms of press freedom.¹ This press freedom and freedom of expression is of utmost importance to our democratic system. I read the comments in the Namibian Newspaper SMS section every day, to ensure that careful attention is paid to the citizens that are brave enough to take up their rights and speak about issues which hamper their economic and social development and prosperity.

The recurring theme in the SMS section is that the laws in Namibia are too lenient and must be amended to combat gender-based violence. Before I speak any further on the issue of gender-based violence I want to inform the public, once again,² of the proposed amendments to the Combating of Domestic Violence Act, 2003 (Act No. 4 of 2003) which will be brought into force this year.

There are two major amendments that have been suggested to the Act that relate to protection orders and intimidation of a vulnerable witness.

Protection Order

Firstly, the process of obtaining an interim protection order on an urgent basis has been clarified to prevent persons from obtaining an interim order in the heat of the moment and then failing to follow the rest of the process to finalise the order. It drains court and police resources when someone lays a complaint on a Friday and withdraws it on Monday morning, as is seen too often in practice. Alternative methods for dealing with such instances have been developed such as assisting the complainant to secure safe property and to add the possibility of a provision directing the respondent to take part in a counselling or a treatment programme instead.

[¶] Keynote Address by the Honourable Minister of Justice at the opening of the University of Namibia Law Week for 2019 in Khomas Region, Windhoek on Monday, March 11, 2019.

¹ The Namibian Newspaper 26 April 2018 available at <<https://www.namibian.com.na/176867/archive-read/Namibia-drops-in-press-freedom-ranking>> last accessed on 07 March 2019.

² On November 08, 2018 the Honourable Minister of Justice made a Ministerial Statement in the National Assembly, Tintenpalast, Windhoek, calling for public input on amendments to legislation relating to gender-based violence. Only three recommendations were received.

Intimidation

Secondly, due to the personal nature of domestic violence the Combating of Domestic Violence Act, 2003 will be amended to strengthen safeguards against intimidation of complainants and to apply the provisions for vulnerable witnesses contained in section 158A of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) to proceedings relating to protection orders and domestic violence offences.

These two amendments will make the implementation of the Combating of Domestic Violence Act, 2003 easier, yet, as I have said time and again, the law alone will not eradicate gender-based violence. Namibia has some strong laws that address gender-based violence. However, they are just words on paper unless people believe in the laws and put them into practice.

Local knowledge and a desire for change at the community level are vital if a reduction in gender-based violence is to be achieved.³ You might ask me how one sparks a desire for change at community level to combat gender-based violence? First one must understand that gender-based violence is not a fight between male and female.

Instead the word “gender” refers to the roles and responsibilities men and women have. Combating gender-based violence therefore has to do with how men and women are socialised into their gender roles. We have the responsibility to educate each other and to ensure that respect for human rights is paramount to former cultural norms for gender stereotyping. This responsibility I place upon the community leaders, church leaders, teachers, and other people to whom society looks for leadership.

Gender-based violence in Namibia is violence that is related to the way men and woman are expected to behave. If we change the way men and women behave towards one another, we will eradicate gender-based violence. Previously it was found that a woman is beaten for failing to perform a chore, like cooking dinner on time, or a man had to prove his manhood by showing aggression to a woman. We have moved on from such thinking.

I urge you to discard some of these regressive gender roles. They cannot be operable in this day and age.

³ R. Coomer, ‘Addressing Gender-based violence through community empowerment’ Gender Research and Advocacy Project (2008) available at < <http://www.lac.org.na/projects/grap/Pdf/gender-basedviolence.pdf> > last accessed on 08 March 2019.

Some of the best chefs in the world are men. Why must only women be expected to cook? In Namibia we have examples of incredibly powerful women in businesses previously dominated by men. These women are also in loving relationships, have children and run their homes. There is no reason to limit men and women's capabilities to their former traditional roles. Many men and women may still choose to fulfil traditional gender roles, but it remains a choice, and one that does not negate from the fulfilment of their individual potential. The most important standard between men and women is respect for each other's human rights. Therefore, do not get me wrong, culture can evolve and enhance human rights instead of it being perceived from the lens of Afro-pessimist views as only negative.

You will be pleased to note that this year, the Ministry of Justice will be tabling a number of laws for review, aimed at enhancing the already protective legal framework that exists for people subject to gender-based violence. That box has been checked. Now the Ministry moves on to education and enforcement of the law.

Several studies have indicated that acts stemming from gender-based violence are associated with critical health problems, including physical damage, gynecological problems and psychological disorders such as depression.⁴ The same studies indicate that victims of violence turn primarily to healthcare institutions such as hospitals and emergency rooms for assistance. For this reason, it is of great importance to provide adequate training and resources to the Ministry of Health and Social Services.⁵ I also want to take this opportunity to urge the young people in the audience to consider a career in the medical field. Namibia is in desperate need of caring, skilled allied health professionals in the nursing and social work departments.

We will soon develop a uniform reporting standard for dealing with cases of gender-based violence to ensure that the change of custody for evidence is kept and that a register of regular victims and offenders is also maintained for purposes of opposing the granting of bail.⁶

⁴ N Abrahams 'Combating Gender-based violence' *International Journal of Gynaecology & Obstetrics* (2009) 107 2 available at <<https://obgyn-onlinelibrary-wiley-com.ergo.southwales.ac.uk/doi/epdf/10.1016/S0020-7292%2809%2960002-3>> last accessed 10 March 2019.

⁵ Ö. Gürkana & N. Kömürcüb 'The effect of a peer education program on combating violence against women: A randomized controlled study' (2017) *Nurse Education Today* 57 available at <<https://www-sciencedirect-com.ergo.southwales.ac.uk/science/article/pii/S0260691717301636>> last accessed 09 March 2019.

⁶ L. Gahongayire 'Combating gender-based violence in Rwanda' *International Journal of Development and Sustainability Online* (2012) 1 available at <<https://isdsnet.com/ijds-v1n2-27.pdf>> last accessed 09 March 2019.

Lastly I want to ask each of you to start playing a role in combating gender-based violence. Challenge each other to steer clear of harmful, derogatory gender-stereotypes. Most importantly, ensure that your circle of friends is comfortable with discussing issues of sexual health, gender-based violence and gender discrimination. These topics are not taboo and need to be discussed with as much gusto as some of you discuss the lives of Namibian politicians on social media. This would be a productive use of your time.

In conclusion, I would like to say that the legal framework for combating gender-based violence has been put in place and has strong enforcement mechanisms. The responsibility for bridging the gap between the law and the enforcement there of, lies with both the Government and the people of Namibia.

Let us reconsider traditional gender roles in our immediate circle of friends and in our relationships. Men, help with the home chores. Women stop relying on men to provide for you. Take up responsibility for yourself and be a complete, self-fulfilling person with autonomous human rights. Do not permit anyone to make you a victim – champion your rights! You are no one's chattel.

I thank you.

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