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**LAW REFORM AND DEVELOPMENT COMMISSION**  
**OF NAMIBIA**

To: **The Honourable Minister of Justice**

I have the honour to submit to you, in terms of section 9(2) of the Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991), the Commission's Annual Report for 2003.

Mr U D Nujoma  
**Chairperson**  
2004-04-29

**LAW REFORM AND DEVELOPMENT  
COMMISSION OF NAMIBIA**

The LRDC was established by the Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991) which came into operation on 15 July 1992.

The members of the LRDC on 31 March 2004 are:

Mr U D Nujoma (Chairperson – Full-time)

Mr A Vaatz (Legal Practitioner)

Adv. D Sauls (Legal Practitioner)

Mr G M Mutwa (Deputy Chief: Legislative Drafting in the Ministry of Justice)

Mr G N Ndauendapo (Legal Practitioner)

The office of Ombudsman (who is an *ex officio* member) is at present vacant – the Honourable Judge S V Mtambanengwe is acting as Ombudsman.

There are two other vacancies.

The Secretariat of the Commission (Directorate Law Reform) is housed in the Ministry of Justice,, Independence Avenue, Windhoek.

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## **Chapter 1**

### **Introduction**

1. The Commission is, in terms of section 9(2) of the Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991) (hereinafter referred to as the “LRDC Act”), required to submit before the end of February each year an annual report of its activities to the Minister of Justice who must table it in the National Assembly.
2. In March 2003 the Commission submitted a Report on its Activities for the period 1994 to 2002 to the Minister of Justice and in that Report the Commission gave the assurance that Annual Reports will again be submitted. The Report on the Activities from 1994 to 2002 was tabled during 2003 in the National Assembly as required by section 9(3) of the LRDC Act. It should be mentioned that a brief report of the Directorate Law Reform’s activities is however always also included in the Annual Reports of the Ministry of Justice.
3. The Commission concentrated during 2003 to make significant progress on some of its Projects that are long overdue. Such progress was indeed made, as will be reflected below. The Commission could however not finalize any major project, but is confident that a few projects will indeed be finalized in 2004. This Report is therefore very much a mere follow-up on the Report submitted last year and is therefore also very much in the same form.

## **Chapter 2**

### **Impediments**

1. In its previous Report the Commission elaborated on several factors that seriously hampered its success. This will not again be dealt with in detail.
2. LRDC Members:
  - 2.1 The Commission consisted of only six persons for most of the year and lost one very experienced member, Adv B Gawanas, towards the end of the year. (See Chapter 3; paragraph 4 below.) However, compared with some times in the past, 2003 was actually a very good year in this respect. Although the members, all of them with other demanding jobs, still find it difficult to give the attention to the Commission’s activities as they would have liked to give, this was not so much of a problem in 2003.
3. Staff:
  - 3.1 As far as turnover and vacancies are concerned, the Secretariat of the Commission probably experienced its best year since its establishment in 1992. (See Chapter 4; paragraph 2 below.) The value of the continuity gained by that will most definitely be experienced in due course.

- 3.2 Staff used by Ministry of Justice for other work: The Chairperson has during the year covered by this Report resisted as far as possible requests that staff members of the Directorate Law Reform be utilized for other activities of the Ministry of Justice. There seems to be an improvement, but the following still needs to be mentioned:
- 3.2.1 The Directorate Law Reform still handles the Secretariat of the Cabinet Committee on Legislation (CCL). This makes heavy inroads on the time of the Secretary of the Commission, Mr W J Potgieter, the Deputy Chief : Law Reform, Mr Awaseb, as well as administrative staff. There were 14 meetings of the CCL during 2003.
- 3.2.2 Dr A M Mtopa, who was transferred to the Directorate Law Reform with effect from 1 October 2002 and whose appointment on contract as a staff member in the Public Service ended on 3 June 2003, was throughout his time in the Directorate Law Reform utilized for other work of the Ministry of Justice.
- 3.2.3 Ms M N Nuujoma, who was transferred to the Directorate Law Reform with effect from 1 October 2003, still had to deal with the human rights responsibilities of the Ministry of Justice as she did before her transfer because the post that she vacated will only be filled in 2004.
- 3.2.4 The full-time Chairperson of the Commission, Mr U D Nujoma, is also the Chairperson of the Inter-Ministerial Committee on Human Rights and International Humanitarian Law, which obviously takes much of his time.
- 3.3 As mentioned in the previous Report, the Ministry of Justice is in the process of restructuring the Ministry and apart from requesting more posts for the Directorate Law Reform, the Ministry has also requested more professional posts for other components in the Ministry to handle the other work that is now so regularly given to staff of the Directorate Law Reform. Unfortunately not much progress was made with this restructuring in 2003.

### **Chapter 3**

#### **Establishment and Composition of Commission**

1. The Law Reform and Development Commission of Namibia was established by the LRDC Act that came into operation on 15 July 1992.
2. The Commission consists, in terms of section 3 of the LRDC Act, of the following members:
  - 2.1 A Chairperson, appointed by the President.
  - 2.2 The Ombudsman.
  - 2.3 A legal practitioner appointed by the President after consultation with the Law Society of Namibia.

(The LRDC Act has not yet been amended in line with the changes brought about to the legal profession by the Legal Practitioners Act, 1995 (Act No.15 of 1995) – it still provides for an advocate and for an attorney.)

- 2.4 A staff member of the Ministry of Justice, nominated by the Minister and appointed by the President.
- 2.5 Up to three other persons, appointed by the President.
3. The Commission proposed some changes to the LRDC Act with regard to the constitution of the Commission. A bill to give effect to such proposals will be introduced in the National Assembly during 2004.
  4. Only one change occurred in the composition of the Commission during 2003. The Ombudsman, Adv. B. Gawanas, resigned as Ombudsman with effect from 13 September 2003 to take up the position of Commissioner for Social Affairs of the African Union in Addis Abeba. Since then the Acting Ombudsman, the Honourable Judge S V Mtambanengwe, served on the Commission.
  5. The composition of the Commission in March 2004 is therefore as follows:

Mr U D Nujoma (Chairperson)

Adv D Sauls (Legal Practitioner – she is the member referred to in paragraph 2.3 above)

Mr G M Mutwa (Acting Chief : Legislative Drafting in the Ministry of Justice – he is the member referred to in paragraph 2.4 above)

Mr A Vaatz\*

Mr G N Ndauendapo\*

The Acting Ombudsman, the Honourable Judge S V Mtambanengwe.

(There are two vacancies.)

\*Mr Vaatz and Mr Ndauendapo are legal practitioners.

#### **Chapter 4** **Secretariat**

1. The Directorate of Law Reform, which is an organizational component in the Ministry of Justice, serves as Secretariat of the Commission.
2. There was only one change in the Directorate during 2003, namely Dr A M Mtopa's appointment as staff member on contract ended on 3 June 2003 and Ms M N Nuujoma was transferred, with promotion, from the Directorate Legal Services in the Ministry of Justice, to the vacancy left by Dr Mtopa with effect from 1 October 2003. The present establishment of the Directorate is as follows, with the present incumbents, as on 31 December 2003 as indicated:

[The designation of the posts are given as they were before 1996; the present "Wascom" gradings are given in brackets.]

- 1 X Chief : Law Reform (Grade 5B\*); Mr W J Potgieter
- 1 X Deputy Chief : Law Reform (Grade 5A\*); Mr H L Awaseb
- 3 X Principal Legal Officers (Grade 4A; Level 1); Mr E L Luanda; Mr Z B Wantenaar; Ms M N Nuujoma
- 1 X Chief Legal Clerk (Grade 3A;Level 1); Ms E V Kandjii
- 1 X Legal Clerk (Grade 1C;Level 1); Ms O N Mafale.

[\*Motor vehicle allowances and housing allowances are however only on the level of staff on Grade 4B and 4A respectively.]

The Directorate further has the services of two Senior Private Secretaries (Grade 2B; Level 3), Ms I Shipena and Ms A R Bezuidenhout, for the Chairperson and the Secretary and Deputy. These posts are centralized in the Ministry. Ms Shipena resigned in January 2004.

3. Mr Potgieter has, in terms of section 11(1) of the LRDC Act, been designated by the Minister of Justice as Secretary of the Commission since its establishment.

## **Chapter 5**

### **Statutory Framework and Procedures**

1. The objects of the Commission are mapped out in section 6 of the LRDC Act and reads as follows:

“6. The objects of the Commission shall be to undertake research in connection with and examine all branches of the law of Namibia and to make recommendations for the reform and development thereof, including –

- (a) the repeal of obsolete or unnecessary enactments;
  - (b) the consolidation or codification of any branch of the law or the introduction of other measures aimed at making the law more readily accessible;
  - (c) the integration or harmonization of the customary law with the common and statutory law; and
  - (d) new or more effective procedures for the administration of the law and the dispensing of justice;
  - (e) to advise the Minister (of Justice) in regard to any matter which the Minister may refer to it.”.
2. In terms of section 7 of the LRDC Act the Commission must prepare a programme, in order of priority, and the Minister of Justice must approve it. The main reason for the requirement of the Minister’s approval is of course to indicate Government priorities and to ensure that the necessary coordination exists to avoid duplication of work.
  3. The Commission often experiences misunderstandings with regard to its responsibilities. The Law Reform and Development Commission is shaped along the lines of other law reform agencies in Commonwealth countries. Although virtually anything can be referred to the Commission for research

there are some guidelines on what to include in the programme of a law reform agency. The Commission is not responsible for all law reform and development in Namibia; as a matter of fact mammoth law reform has been done since Independence in 1990 by line Ministries in terms of their normal responsibilities with regard to the legislation to be administered by them. Such Ministries often went through law reform processes similar to that of the Commission, but with their own resources, often by way of consultants. The Commission is also not merely a channel for ideas for law reform to be passed on to the Government - the Commission must indeed do research and prepare bills.

4. In the first instance the Commission can only accept work that it can handle, i.e. it must match its programme with its capacity. In view of its limited capacity it therefore stands to reason that the Commission must rather concentrate on law reform that would not be dealt with as effectively through the normal political and administrative processes, i.e. through the normal activities of line Ministries, as it would be dealt with through a law reform agency process. A law reform agency should not be used as a “fire brigade” (it must do research, conduct consultations, etc. – which will take time); or a “lightning conductor” (there must be a strong likelihood for implementation of its recommendations); or a mere academic forum (its object is to recommend legislation).
5. The process of law reform should preferably go through various phases.
  - 5.1 The first step is usually to get clear terms of reference; this sometimes necessitates a preliminary study. This is essential: a law reform agency cannot afford to get into a project of which the scope will just become wider and wider as the research progressed as that will result in a situation where it will not be able to finalize something that the Government can take to Parliament within a realistic timeframe. At this point in time of a project an Issue Paper can then be published – this is often done by other law reform agencies, but the Commission has not yet done so with any of its projects.
  - 5.2 The Commission will then formally establish a project and get the necessary approval for it. The Commission will then usually appoint a Committee for the project, where necessary with the approval of the Minister, and a staff member will be assigned to the project as project officer.
  - 5.3 The next step is to do extensive research – sometimes not only of a legal nature, both also other research. This phase could lead to the publication of a Discussion Paper; sometimes the document is already in the form of a draft report.
  - 5.4 Sometimes such a document will not necessarily be published, but only referred to specific stakeholders for comments. Throughout the process consultations will be conducted; the specific project will determine when and where and it may of course become necessary to have further rounds of consultations if major changes are made to initial recommendations. The Commission has, in terms of section 7(5) of the LRDC Act, the powers of the

High Court to summon witnesses, etc. The Commission would of course not like to use this power – and the Commission can report that it has not yet been necessary to consider that.

- 5.5 The final step is to finalize a Report with the Commission's recommendations, to submit it to the Minister of Justice and to publish it.
- 6.1 It is for good reasons not a normal function of the Commission to comment on draft legislation prepared by the Government. The Commission's work method is through research and the Commission tries to reach consensus on all matters. But the Commission has been prepared to give such comments when required from it and also took the initiative in some cases.
- 6.2 The Commission has in November 2003 provided comments to the Ministry of Women Affairs and Child Welfare on the issue of children born out of marriage as well as adopted children as far as succession is concerned for the Ministry's consideration during their preparation of the Children's Status Bill and the Child Care and Protection Bill.

## **Chapter 6** **Committees**

1. Section 10 of the LRDC Act provides for Committees of the LRDC. The Commission appoints such Committees, but needs the approval of the Minister if persons who are not members of the Commission are appointed. This is of course necessary as it may have financial implications.
2. The section provides that a Working Committee may be appointed, but such a Committee has not been appointed and since the Chairperson serves in a full-time capacity this seems to be not necessary anymore. Further information on Committees is reflected under the various projects in Chapter 7 below.

## **Chapter 7** **Projects of the Commission**

### **A. Past projects:**

1. The previous Report deals in more detail with these past projects. Below is only a very brief reference to them. The Commission would like to do, as a law reform agency should, some monitoring of how the laws emanating from reports by it are applied in practice and to identify shortcomings, etc. The Commission will however not be able to do much in this regard if its capacity is not increased.
- 2.1 The Abolition of Marital Power and Equalization of Rights between Spouses (Project 1) – this project culminated in the Married Persons Equality Act, 1996 (Act No. 1 of 1996).

- 2.2 Law pertaining to Rape (Project 2) – this project culminated in the Combating of Rape Act, 2000 (Act No. 8 of 2000) and the Combating of Immoral Practices Amendment Act, 2000 (Act No. 7 of 2000).
- 2.3 Domestic Violence (Project 3): The Combating of Domestic Violence Act, 2003 (Act No. 4 of 2003) was passed in 2003 and put into operation on 17 November 2003.
- 2.4 Vulnerable Witnesses. This project was taken over by the Ministry of Justice. A bill, the Criminal Procedure Amendment Bill, was introduced in the National Assembly in November 2003.
- 2.5 Maintenance (Project 4): The new Maintenance Act, 2003 (Act No. 9 of 2003), prepared by the Ministry of Justice, with inclusion of recommendations made by the Commission, was passed in 2003 and put into operation on 17 November 2003.
- 2.6 Small Claims Courts (Project 5): The Commission submitted its Report on Small Claims Courts to the Minister of Justice in December 1997. It is still with the Ministry of Justice.

## **B. Present Projects:**

The Commission has the following projects on its programme:

1. **Succession and Estates** (Project 6) (This project was also sometimes referred to in the past as the “Inheritance Project”.)
  - 1.1 The main issue to be handled under this project is the repeal of what is without doubt the most notorious piece of legislation still on Namibia’s statute book that is at variance with the provisions of the Namibian Constitution on equality and non-discrimination, namely the remaining sections of the Native Administration Proclamation, 1928 (Proclamation 15 of 1928) (hereinafter referred to as “the NAP”). The remaining provisions of this statute have the totally unacceptable results that black persons from the northern part of Namibia are still subject to a different regime as far as matrimonial property matters are concerned and that the estates of black persons who die intestate are still not handled in terms of the Administration of Estates Act, 1965 (Act No. 66 of 1965). Unfortunately the solutions appear not to be so easy – in this regard it can be pointed out that South Africa too has yet to solve problems that are to some extent similar to that of Namibia.
  - 1.2 A major event in 2003 related to this project was the judgment given by the High Court in the “Berendt” case (Case No. (P) A 105/2003). The High Court declared the said sections of the NAP to be in conflict with the Namibian Constitution. It shall however be deemed to be still valid and Parliament is required to remedy the defect by 30 June 2005. The High Court further ordered that some interim arrangements be made, mainly that the Master of

the High Court can be requested to administer any estate that would otherwise have been administered by a magistrate.

- 1.3 The Commission submitted a Report on Uniform Default Matrimonial Property Consequences of Common Law Marriages (Repeal of section 17(6) of Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928)) to the Minister of Justice in July 2003. This Report is not yet published. The Report recommended a “fast-track” approach for this one aspect. The indications are however that the Honourable Minister of Justice deems it advisable to rather not separate any particular aspect from the broader issue.
- 1.4 The Commission approved during November 2003 an extensive document prepared by the Secretariat for further consultation with stakeholders. The Secretariat must only make a few final touches to it.
2. **Customary Law Marriages** (Project 7) (This project also deals with the divorce aspect of these marriages.)

During the last two years the Chairperson of the Commission embarked on extensive consultations with traditional leaders, on the basis of a draft bill prepared by a Project Committee and approved for the purposes of such consultation by the Commission. This has been finalized in 2003 and the Commission should be able to finalize its report in this regard during the first half of 2004.

3. **Divorce** (Project 8)
  - 3.1 The main issue to be considered under this project is to bring Namibia’s law on divorce in line with the latest developments in the world, in particular to replace divorce based on fault with divorce based on irretrievable breakdown, and to simplify the divorce process.
  - 3.2 A Project Committee made its recommendations that were considered by the Commission for further consultations. During 2003 the changes required by the Commission were further researched and discussed with members of the Project Committee. Certain stakeholders were also consulted. The Commission hopes to finalize its Report during the first half of 2004.
4. **Publications** (Project 9)
  - 4.1 This project relates to pornography or other objectionable material in its various manifestations, including lately as on the Internet. It will include attention to, in particular, the Publications Act, 1974 (Act No. 42 of 1974), but also to the Indecent or Obscene Photographic Matter Act, 1967 (Act No. 37 of 1967) and parts of the Combating of Immoral Practices Act, 1980 (Act No. 21 of 1980). This matter was referred by the Minister of Justice to the Commission in October 1995.
  - 4.2 Progress with this project is still unfortunately delayed as a result of other priorities.

## 5. **Public Gatherings** (Project 10)

This issue was referred to the Commission during October 1997 by the Minister of Justice on recommendation of the then Attorney-General. Although good progress was made initially, the project officer had in the mean time to concentrate on other more urgent projects.

## 6. **Codification of the Criminal Law** (Project 11)

6.1 For an proper perspective of this project, it is necessary to again give some background:

6.1.1 The first Round-Table Consultation on the Codification of the Criminal Law was held on 16 March 1998. This was followed-up by an Expert Hearing on Codifying the General Principles of the Criminal Law on 5 and 6 November 1998. This was organized by the Ministry of Justice and sponsored by the GTZ. Knowledgeable persons from Namibia as well as other countries participated. A resolution was adopted at the end of the meeting which was conveyed to the Minister of Justice and upon which the Minister in June 1999 tasked the Commission with a project on codification. This is of course a very ambitious project.

6.1.2 The Commission could not make this a priority yet. The Commission has however collected many Codes and draft Codes of other countries and the Chairperson and staff members made contact with law reformers who have been involved in such projects in other countries. Valuable lessons, in particular to avoid mistakes as far as the processes are concerned, were learnt. It should in particular be mentioned that this project was discussed with the Law Commission of England and Wales and that the Commission invited Prof C R Snyman of the University of South Africa, who published a Draft Criminal Code for South Africa (with a commentary) in 1995, and Prof G Feltoe of the University of Zimbabwe, who has been involved in the drafting of a Criminal Code for Zimbabwe, to Windhoek for consultations during July 2002.

6.2 The Commission has made some progress during 2003 with the preparation of a Draft (General Principles) Criminal Code.

## 7. **Compensation to Victims of Crime** (Project 12)

7.1 During the discussion of the Combating of Rape Bill in the Cabinet Committee on Legislation in 1999 the possibility of providing some compensation to victims of rape was again considered. It was however decided that the issue needed more research and that it should also be broadened to victims of other crimes as well. The Committee decided that the Minister of Justice should refer the issue to the Commission and the Minister of Justice then in June 1999 requested the Commission to include it in its programme.

7.2 Up till now the Commission could not give any significant attention to this project and merely collected material on the issue. The Commission is also aware that the Ministry of Justice has made good progress with a new Criminal Procedure Bill which of course will, as the existing Criminal Procedure Act, 1977 (Act No. 51 of 1971), include provisions on compensation.

#### 8. **Criminal Defamation** (Project 13)

8.1 This issue was referred to the Commission by the Minister of Justice during March 2000. The need for such a project arises from the judgment in *S v F* (1967 (3) 407 (SWA)) in which it was confirmed that the common law offence of written defamation does not exist any longer in Namibia.

8.2 The Commission submitted a report in this regard, also dealing with related issues, to the Minister of Justice in June 2003. It is not published yet. The Commission hopes to thoroughly discuss it further with the Minister of Justice during the first half of 2004.

#### 9. **Obsolete Statutes** (Project 14)

9.1 This is not a project in the sense of the other projects of the Commission. The Commission envisages looking at all the laws that are still on Namibia's statute book, to categorize them under different line Ministries and then, in consultation with those Ministries, to address those which should be repealed or replaced. Line Ministries are of course continuously doing such work themselves, but this project rather refers to the real "dead wood" that may be overlooked.

9.2 Up till now only a list on the statutes to be administered by the Ministry of Agriculture, Water and Rural Development was prepared. It seems that the Commission will struggle to make the intended progress with this project as a result of other priorities and insufficient staff.

#### 10. **Consumer Issues** (Project 15)

10.1 It is quite common for law reform agencies to be involved in projects dealing with consumer issues. The Commission has been aware of a need in Namibia for law reform on consumer issues for some time, but could not initiate anything in view of other urgent priorities and the Commission's very limited resources. The Commission was also aware that the Ministry of Trade and Industry envisaged tackling some issues in this regard.

10.2 After initial discussions with that Ministry, the Commission decided in April 2002 to embark on such a project. The Minister of Justice consulted the Ministry of Trade and Industry and the Commission could include this project in its programme during October 2002.

- 10.3 The Commission has accepted the following as broad terms of reference that must still be refined: The Commission will look, *inter alia*, at the following areas:
- unfair stipulations in contracts;
  - merchantable quality and warranties;
  - product's liability;
  - business practices;
  - credit agreements.
- 10.4 The Commission appointed some of the members of a Project Committee for this project in November 2003, but must still finalize the appointment of some other members.

## **Chapter 8**

### **Office Accommodation and Budget**

1. The Commission has unfortunately to report that no progress was made with finding the Commission more suitable office accommodation. The Chairperson and Secretariat of the Commission are still accommodated in the head office building of the Ministry of Justice in the central business district of Windhoek. The accommodation is not at all enough and is also in a poor condition.
2. The funds for the Commission's activities are budgeted under the Main Division for "Law Reform" (previously 09; 04 from 2004/5) of Vote 16 (Ministry of Justice). The details thereof are therefore reflected in the Government's Estimates of Expenditure, the Auditor-General's Reports, etc., and are not repeated in this Report.
3. In general it must be pointed out that the Commission has very limited funding for its operational activities. About 84% of the Directorate Law Reform's budget goes for conditions of service of the full-time Chairperson and staff members. The provision for travel and subsistence allowances must also cover the expenditure of the Chairperson for his responsibilities in respect of human rights (See Chapter 2; paragraph 3.2.4) and of the staff members for other activities of the Ministry of Justice.
4. The Commission has therefore up till now, relied very heavily on funding from the GTZ (see Chapter 10). Unfortunately, as is pointed out in Chapter 10, the financial support from the GTZ will come to an end in mid-2004. In view of this the Directorate of Law Reform's budget should have been increased; however, all indications are that it will be reduced as the Ministry of Justice cannot stay within its guideline amounts. The Commission can therefore hardly afford to consider taking on more projects, appointing experts, arranging more workshops, etc.

## **Chapter 9** **Publications**

The Commission has not, apart from the Report on Activities from 1994 to 2004, published anything in 2003 (see also Chapter 7; paragraphs B.1.3 and B.8.2).

## **Chapter 10** **Donor Assistance**

1. The Commission still enjoyed during 2003, as since 1992, financial and technical assistance under the Legal Capacity Building Programme of the German Agency for Technical Cooperation (GTZ), as implementing agency of donor support from the Federal Republic of Germany.
2. The support could unfortunately not be as much as in the past during 2003, mainly because of the GTZ's extensive support for computerization in the Ministry of Justice and the Office of the Attorney-General (the so-called JUSTNET / NAMCIS project) – of which the Commission of course also benefits. The support to law reform was however still valuable and much appreciated. The main support was for the conference referred to in Chapter 11; paragraph 2.1. The Commission would like to thank Ms Regina Falkenberg of the GTZ for her cooperation.
3. This support will come to an end in mid-2004 thereby ending an era of assistance by the GTZ. The Commission would like to, once again, put on record its utmost thanks and appreciation to the Federal Republic of Germany and the GTZ.

## **Chapter 11** **Contact with other Law Reform Agencies; Associations;** **Attendance of Conferences, etc.**

1. The Commission has made contact with the law reform agencies of the Commonwealth as well as with some of other countries. The Commission has also received the publications of those agencies, on a reciprocal basis, and has therefore build up a sizable library in which all kinds of other law reform material are stored. Lately however such publications are not always so readily available in hard copy since they are usually available on the Internet.
- 2.1 The Commission reported in its previous Report on the initiative and developments to establish a body of law reform agencies for regional cooperation. The Commission can now proudly report that such an association, namely the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA), was launched in Windhoek in August 2003 at the end of a two-day Conference hosted by Namibia with the generous financial support of the GTZ.

- 2.2 The primary purpose of the Association is basically two-fold: firstly to exchange and share ideas on best practices in law reform; and secondly, to exchange and share ideas on the development of law within the countries of the member agencies in accordance with the principle of human rights, good governance and the rule of law.
- 2.3 The founding members of ALRAESA are the law reform agencies of Kenya, Lesotho, Malawi, Namibia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe. Membership is however open, upon application to be made to the Executive Committee, to all law reform agencies (including other agents and government departments that undertake law reform activities) in Africa.
- 2.4 The first office-bearers elected for the new Association are as follows:
- 2.4.1 The Chairperson of the Law Reform and Development Commission of Namibia (LRDC), Mr. U.D. Nujoma, is the new Chairperson of the Association;
- 2.4.2 The two Vice-Chairpersons of the Association are Professor Joseph M.N. Kakooza, Chairperson of the Uganda Law Reform Commission, and Mr. Justice Elton Singini, Chairperson of the Malawi Law Commission;
- 2.4.3 The Secretary-General of the Association is Mr. Justice Anthony Bahati, Chairperson of the Law Reform Commission of Tanzania;
- 2.4.4 The Treasurer of the Association is Mr. W. Henegan, Secretary of the South African Law Reform Commission;
- 2.4.5 The two additional members of the Association are Mr. Kathurima M'Inoti, Chairperson of the Kenya Law Reform Commission and Dr. M.B. Kamuwanga, Executive Secretary of the Zambia Law Development Commission.
3. The need to establish an Association of Commonwealth Law Reform Agencies was mooted at the Australian Law Reform Agencies Conference in Perth, Australia in 2000 and taken further at the next Conference in Darwin, Australia in 2002. The Secretary of the Commission served on a Steering Committee in this regard. The Association was then established during the traditional "Law Reform Agencies Day" just before the 13<sup>th</sup> Commonwealth Law Conference in Melbourne, Australia in April 2003. It has however not become fully operational in 2003, but it is expected that it will become so operational in 2004.
4. During 2003 the Chairperson and staff members of the Secretariat made the following trips and attended the following conferences, workshops, seminars, outside Namibia:
- 4.1 It should be mentioned that the Chairperson often travels to attend to matters relating to human rights (see Chapter 2; paragraph 3.2.4) and obviously then sometimes combine law reform activities with such visits. He e.g. also visited

the Law Commission of England and Wales in February 2003 when he attended the Commonwealth Red Cross and Red Crescent Conference on International Humanitarian Law in London.

- 4.2 The Chairperson and Mr H L Awaseb attended a meeting of the Steering Committee for ALRAESA (see paragraph 2.1 above) in Dar Es Salaam in January 2003.
- 4.3 The Chairperson and the Secretary, Mr Potgieter, attended the 13<sup>th</sup> Commonwealth Law Conference in Melbourne, Australia in April 2003 and the traditional Law Reform Agencies “Day” just before the Conference.
- 4.4 Mr E. I. Luanda attended a Workshop on E-Commerce and Current Commercial Law in Sandton, Johannesburg, South Africa in August 2003.
- 4.5 The Chairperson accompanied the Minister of Justice in October 2003 on a visit to Zambia during which he also visited the Zambia Law Reform and Development Commission.

## **Chapter 12**

### **Acknowledgments**

1. During May 2003 the first Minister of Justice of Independent Namibia, the Honourable Dr. Tjiriange, was given a different portfolio. The Commission would like to thank him, on behalf of the Namibian nation, for his vision as far as law reform is concerned. Under his leadership Namibia’s own law reform agency, i.e. the Law Reform and Development Commission, was established virtually as soon as it was possible, i.e. in 1992. The Commission can also again put on record that as far as the acceptance and implementation of its recommendations are concerned, it has a very good record - and the role of the Honourable Tjiriange in this is indeed highly appreciated.
2. The Commission would further like to avail itself of this opportunity to welcome on board his successor as Minister of Justice, the Honourable Dr Kawana, and the new Deputy Minister of Justice, the Honourable Naruseb. As far as the Honourable Kawana is concerned, the Commission of course already enjoyed a fruitful relationship with him since Independence, first in his capacity as Permanent Secretary and then as Deputy Minister of Justice. Apart from them, the Commission would also like to thank the Secretary of Justice, Ms L Shapwa, for her assistance as well as all the staff of the Ministry of Justice on which the Commission’s Secretariat are so dependant for their day to day activities.
3. The Commission would like to pay tribute to Adv Bience Gawanas who served on the Commission since its establishment in 1992 and who was also from August 1995 until April 1997 its Chairperson. Ms Gawanas will in particular be remembered for the work that she did as Chairperson of the Woman and Law Committee during the 1990’s. The Commission has indeed

lost a member who made enormous contributions to law reform in Namibia, in particular in the field of women's rights, but not only limited to that. We shall miss her; we congratulate her on her new position and our best wishes accompany her on the road forward. (See also Chapter 3; paragraph 4.)

4. The Commission would further like to put on record its thanks and appreciation to all Namibian organizations and individuals who take the need for law reform at heart and who assisted the Commission in its tasks in various ways, even constructive criticism. They are many, but the Commission would like to in particular mention the Legal Assistance Centre and Prof Hinz of the Law Faculty of the University of Namibia. The Law Reform and Development Commission Amendment Bill that will be introduced in the National Assembly in 2004 will provide for a lecturer of the Law Faculty of the University of Namibia to serve on the Commission and the Commission indeed sees that as a further significant step towards closer cooperation between the Commission and the academic institutions.

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