

# The Human Rights and Documentation Centre at UNAM

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## **Introduction**

The Human Rights and Documentation Centre (HRDC) at the Faculty of Law of the University of Namibia (UNAM) serves the central mission of promoting human rights, the rule of law, and democracy in Namibia. This paper examines the role, history and mission of the Centre in the context of its mandate. Brief reference to various project and university partnerships will demonstrate the importance of networking, internationality, and the Centre's diverse fields of activity.

## **Dawn of the Faculty of Law at UNAM**

Shortly after Namibia's independence, the University of Namibia (UNAM) was established by an Act of Parliament on 31 August 1992, as recommended by the Commission on Higher Education. With regard to its motto, "Education, Service and Development", UNAM's programmes are designed to meet national human resource requirements through quality teaching, research, consultancy, and community service.

The provision of facilities for legal education was one of the strong recommendations in the so-called Turner Report, which stated, *inter alia*, that

*[w]e have been impressed by the argument that in Namibia, law is a developmental subject; much of the current legal system was distorted by the tenets of apartheid. Although the ideology is now outlawed by the Constitution, a massive effort is needed to revise the legal system to make it a suitable expression of the Constitution.*

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267 Turner, JD. 1991. *Higher education in Namibia: Report of a Presidential Commission*. Windhoek: Government of the Republic of Namibia.

On 19 November 1991, the Cabinet of the Republic of Namibia approved the establishment of the Faculty of Law at UNAM. Thus, 1992 became a year of planning, and 1993 a year of implementation. The Law Faculty Subcommittee of the Office of the Vice Chancellor-Designate was put in place, and chaired by the Founding Dean of the Faculty, Prof. WJ Kamba. The late Adv. FJ Kozonguizi, Ombudsman of Namibia, functioned as its convener. The membership covered a broad spectrum, having representatives from all walks of the legal fraternity. The deliberations of the Subcommittee led to a comprehensive report on how the future Faculty should be shaped. After consultations with national and international experts, the report was eventually submitted to the Vice-Chancellor, and approved for implementation by the University by the end of 1992.

The Faculty of Law was officially inaugurated by the Chancellor, Namibia's Founding President, Dr Sam Nujoma, on 18 February 1994, and its first students were admitted the same year.<sup>268</sup> In 2000, the Departments of Public Law and Jurisprudence, Private and Procedural Law, and Commercial Law were established. Today, the Faculty of Law holds the generic responsibility in Namibia for academic and professional legal training for the B Juris and LL B degrees. The Faculty also avails its services to members of the community by providing tailor-made programmes for the civil service, and legal aid to indigent persons who cannot afford the services of legal practitioners.<sup>269</sup>

The report on how the future Faculty should be shaped also contained recommendations on what developed into two separate centres at the Faculty, namely the Justice Training Centre (JTC) and the Human Rights and Documentation Centre (HRDC). Both Centres were created by way of contractual agreements between the Ministry of Justice and UNAM. The memorandum of understanding between the two parties concerning the establishment of the HRDC was signed on 16 April 1993 by the then Minister of Justice, Dr EN Tjiriange, and the Vice-Chancellor, Prof. Peter H Katjavivi.<sup>270</sup>

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268 At the time of writing, the Faculty of Law had a total of 483 students.

269 The Faculty of Law has charged itself with the principal mission of producing high-quality graduates who are well-equipped to practice law and contribute to the development of law in Namibia, and who are endowed with the requisite academic and intellectual wherewithal to stand on their own in the international community. The Faculty is desirous to serve as a national and regional resource centre to undertake research which identifies the relationship between Namibian law and other elements in society within the overall objective of playing a meaningful role in the development and adaptation of the law to the rapidly changing socio-economic conditions in the country in particular and in southern Africa in general.

270 Today, Prof. Katjavivi is the Namibian Ambassador to Germany.

The formal launch of the JTC took place on 20 September 1993, while the HRDC was launched on the occasion of the Workshop on Human Rights Education and Advocacy in the 1990s, held in May 1993. Through the application of the Legal Practitioners Act, 1995 (No. 15 of 1995), the JTC presents a Legal Professional Training Course for all law graduates who wish to qualify for admission to practice law in Namibia. Since both the JTC and the HRDC have the status of Departments, the Directors of these Centres are ex officio members of the UNAM Senate.

## **History, mission and role of the HRDC and its UNESCO Chair**

### *The HRDC*

The HRDC is a semi-autonomous component of the Faculty of Law. In this respect, the Faculty of Law and the HRDC – namely the Dean of the Faculty and the Directorate of the Centre – traditionally cooperate closely.<sup>271</sup> Although the HRDC and the Ministry of Justice have a strong relationship, the Centre's academic independence is guaranteed by UNAM statutes. The HRDC serves the central mission of creating and cultivating a sustainable culture of human rights and democracy in Namibia. Focusing on this mission, the HRDC promotes the implementation of human rights by organising workshops, seminars, and conferences, and by reviewing the human rights situation in Namibia and the southern African region as a whole. The HRDC also organises and conducts training programmes for the broadest variety of target groups, and prepares and disseminates information on human rights and related issues.

The HRDC is funded both publicly and privately. UNAM provides office facilities, support services and remuneration for the Centre's staff, while grants are received from a number of national and international sources, including the Namibian government; the United Nations Educational, Scientific and Cultural Organisation (UNESCO); the Office of the UN High Commissioner for Human Rights (UNHCHR); and other sources.

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271 For example, Prof. N Horn, the current Dean of the Faculty of Law, was the previous Director of the HRDC, whereas Prof. MO Hinz, the current holder of the UNESCO Chair at the HRDC, was Dean of the Law Faculty until 2004.

## **UNESCO Chair at the HRDC**

In 1994, the UNESCO Chair for Human Rights and Democracy was established at the HRDC with UNESCO support. The Chair is linked to the HRDC and is part of the university-twinning (UNITWIN) Network of four southern African and four European universities.<sup>272</sup> The UNITWIN Network was established in 1992 under the auspices of UNESCO by the Rectors of the Universidade Eduardo Mondlane University (Mozambique) and Utrecht University (The Netherlands), and the Vice-Chancellors of the Universities of the Western Cape (South Africa), Namibia and Zimbabwe. The Network was joined by the Ruhr Universität Bochum (Germany) and Lund University (Sweden) in 1993, and the University of Porto (Portugal) in 1995. The Network aims at –

- contributing to the development of human resources
- supporting the building up and strengthening of research, teaching and training capacities as well as of scientific and technological transfer and capacity
- promoting an understanding of the social, economic, political and academic conditions, issues and problems not only in each of the twinned countries, but also in the southern African region as a whole, and
- stimulating academic and scientific discourse and an exchange of ideas.

One of the main features of the UNITWIN Network was the assignment of responsibilities for a cluster of disciplines to each of the southern African partners. For this reason, the UNESCO Chair was established. Its intention is to foster scientific advancement through high-level research and teaching in the relevant disciplines, to increase the knowledge base, and to serve as the nucleus of a centre of excellence. The holder of the UNESCO Chair is expected to be a specialist in human rights law. The Chair is also intended to assist in networking, and in exchanging and sharing experience and expertise in the field of human rights among participating universities within the Network.

The founding Dean of the Faculty of Law, the late Prof. Walter Kamba, was the first appointee to the UNESCO Chair for Human Rights and Democracy. The position is currently held by Prof. Manfred Hinz. The HRDC is deeply indebted

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272 Hinz, MO. 2003. “The Human Rights and Documentation Centre and the Namibian UNESCO Chair: Human Rights and Democracy: Part of the UNITWIN Network for southern Africa”. In Hinz, MO, N Horn & C Mchombu. *The human face in the globalising world, 1993–2003*. Windhoek, pp 5–10.

to both Professors for their strong engagement in moving the HRDC forward as an important component of the work of the Chair for Human Rights and Democracy. The Chair's main focus is to –

- promote awareness of human rights in Namibia and in the southern African region
- explore the concept of *constitutionalism* and its relationship to human rights and the rule of law
- explore the relationship between human rights and economic and socio-cultural development, and
- examine the management of the biophysical environment and development relevance of human rights.

Several activities have been undertaken as part of the programmes of the UNESCO Chair for Human Rights and Democracy and the HRDC. These include –

- capacity-building and training of law students in the field of human rights
- training of government officials in the skills of state reporting to international human rights organizations
- conducting of research and presentation of papers to the Law Reform and Development Commission on several issues, and
- development of a documentation centre for human rights materials.

## **Current activities and partnership projects of the HRDC**

### *Activities and services*

The Centre's activities include –

- research and publication in the field of human rights and related areas
- dissemination of information and materials for the use of individuals and institutions, and
- the training of law students, lawyers, judges, magistrates, traditional authorities and law enforcement officers in human rights.

To this end, the Centre collects, processes and disseminates human rights information in Namibia and southern Africa. The materials collected thus far consist of more than 6,000 documents, which include monographs, reports, and periodicals, as well as selected videos and CD-ROMs.<sup>273</sup> The HRDC is a research

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<sup>273</sup> For further information, see [http://www.unam.na/centres/HRDC%20brochure\\_2008.pdf](http://www.unam.na/centres/HRDC%20brochure_2008.pdf); last accessed 15 March 2008.

Centre, meaning that – except for UNAM lecturers’ purposes – materials do not circulate outside the Centre. Admission to the Centre is open to the general public. The Centre provides access to its collection through a publication database. Entries in the database can be searched by author, subject, date of publication, publisher, or geographic region. Awareness services are offered, and information is disseminated to lecturers, researchers and students. Furthermore, the Centre collects newspaper clippings on human-rights-related issues in Namibia, and delivers online resource services. An extensive HIV/AIDS collection can be found in the specialised library, where a photocopying service is available. The broad compilation of bibliographic material on human rights is supported by electronic library services as well as referral services. In addition, various publication and research projects were able to be realised in the past few years, covering a broad spectrum of human-rights-related issues such as HIV/AIDS, gender, cultural rights, and indigenous knowledge – to name but a few.

Furthermore, the Centre provides advocacy and reviews the human rights situation in Namibia, gives consultancy, and contributes to capacity-building and advocacy in the field of human rights. In the light of the above, courses, conferences, seminars and workshops on human rights are organised on a frequent basis.

Lastly, the HRDC assists the University Central Consultancy Bureau (UCCB) with constantly improving UNAM’s knowledge and skills base by engaging its staff and students to participate in projects that contribute to the betterment of the social, political cultural, economic and environmental milieu of Namibia, the Southern African Development Community (SADC), and the African continent.

### ***The HRDC and UNESCO Chair’s project partners***

Various projects currently run under the HRDC and the UNESCO Chair for Human Rights and Democracy in cooperation with and with the assistance of national as well as international governmental organisations and NGOs. Hence, the HRDC is closely involved in projects on the rule of law and democracy with the KAF.<sup>274</sup> One of the current projects deals with women’s rights in Namibia, while another is concerned with the SADC Tribunal. The Tribunal only became ready to receive cases in April 2007, and received its first complaint in October

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274 <http://www.kas.de/namibia>; (last accessed 18 March 2008).

2007.<sup>275</sup> A third project, also made possible with KAF assistance, is on the African human rights protection system.

The HRDC also works closely with the US Embassy in Windhoek. For example, the Embassy provides grants to conduct basic legal and human rights training in the country. Through the French Mission for Cooperation and Cultural Affairs, the HRDC offers staff at the Office of the Ombudsman training in advocacy and investigation skills to enable them to deal with human rights and environmental complaints. Apart from this, the HRDC and the Office of the Ombudsman<sup>276</sup> have traditionally cooperated closely. Other assistance may come from recent discussions with the Spanish Ambassador to Namibia, which hold promise in terms of prospective cooperation in the field of children's rights and orphanages in Namibia. Financial assistance from the Embassy of Finland in Windhoek has enabled the HRDC to engage in various projects on customary law in Namibia.<sup>277</sup> Other projects with the Finnish are planned on the issue of climate change and renewable resource management.

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275 Case 2/2007 is that of *Mike Campbell v the Republic of Zimbabwe*. Campbell first appealed against seizure of his property at the Zimbabwean Supreme Court in March 2007, but took his case to the SADC Tribunal after what his lawyers said was an "unreasonable delay" by Zimbabwe's highest court in dealing with the matter. In December 2008, the Namibia-based Tribunal barred President Robert Mugabe's government from evicting Campbell from his Mount Carmel farm in Chegutu, pending a final ruling on the farmer's main application: thus challenging the legality of the Harare administration's controversial programme to seize white-owned land for redistribution to landless blacks. Campbell requested the SADC Tribunal to find Harare in breach of its obligations as a member of the regional bloc after it signed into law the Constitution of Zimbabwe Amendment No. 17 two years ago. The amendment allows Mugabe's government to seize farmland without compensation, and bars courts from hearing appeals from dispossessed white farmers. The white farmer also asked the Tribunal to declare Zimbabwe's land reforms racist and illegal under the SADC Treaty, adding that Article 6 of the Treaty bars member states from discriminating against any person on the grounds of gender, religion, race, ethnic origin or culture.

276 <http://ombudsman.org.na>; last accessed 10 March 2008.

277 For example, the Land and Minority Rights Project focuses on the most pressing issue for traditional authorities presently, namely land. Both in southern Namibia and in the area of Tsumkwe, traditional authorities feel threatened by the fact that the Communal Land Boards are not sensitive to their needs and newcomers are being advantaged. Research on the Communal Land Reform Act, 2002 (No. 5 of 2002) is conducted, focusing on the modus operandi and the results of the Board's actions, as well as the possible assistance that the Convention on the Rights of Indigenous Minorities can give these communities should the government decide to support the treaty. Another project concerned with customary law is the so-called Ascertainment Project. This project has the goal to collectively publish all the individual customary laws of Namibia.

Moreover, the UNESCO Chair is partnered with Biodiversity Transect Africa (BIOTA) Southern Africa,<sup>278</sup> which is mainly funded by the German Federal Ministry of Education and Research.<sup>279</sup> Interdisciplinary research projects concentrate on environmental studies in Namibia and the western parts of South Africa.<sup>280</sup>

### ***University partnerships***

Apart from the above-mentioned UNITWIN partners with the UNESCO Chair, UNAM's HRDC and the Faculty of Law have numerous university partnerships at international level, amongst which are the University of Bremen (Germany),<sup>281</sup> the University of Stellenbosch (South Africa),<sup>282</sup> the School of African and Oriental Studies at the University of London (England),<sup>283</sup> and Stanford University (USA).<sup>284</sup> With these partners, the HRDC aims to foster academic exchange towards excellence in research. Recently, the Munich School of Philosophy<sup>285</sup> has drawn the HRDC's attention to a project on climate change and global poverty, which may lead to future cooperation. Moreover, recent discussions with the Finnish Embassy have led to the deliberation to expand and elaborate on partnerships in relevant fields with institutions of higher learning in Finland.

### ***The Human Rights Forum of Namibia***

In February 2008, the Namibian Human Rights Forum was informally established by various key actors who endeavour to promote respect for human rights, the rule of law, and democracy in Namibia. So far, the Forum consists of politicians, law professors, NGOs, legal practitioners, members of the Law Society, the Anti-corruption Commission, and the Office of the Ombudsman, amongst others. The Forum intends to monitor the human rights situation in Namibia and the SADC

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278 <http://www.biota-africa.org>; last accessed 25 February 2008.

279 Hinz, MO. 2005. *Preliminary results of BIOTA II, S.11.4 Work package and prospects for BIOTA III*. Windhoek: Faculty of Law, University of Namibia.

280 See e.g. Hinz & Ruppel (Forthcoming), supra.

281 <http://www.uni-bremen.de>; 13 March 2008.

282 <http://www.sun.ac.za>; 13 March 2008.

283 <http://www.soas.ac.uk>; 13 March 2008.

284 <http://www.stanford.edu>; 13 March 2008.

285 <http://www.hfph.mwn.de/igp/klima>; 13 March 2008.

region. Its objective is to promote human rights and protect the national democratic space by highlighting potential threats and abuses.

The Forum recently requested the HRDC to investigate the legal and social conditions associated with Police and holding cells in Namibia. The findings of this report, coupled with those of the Ombudsman's 2006 report on the same matter,<sup>286</sup> depicted that holding cells throughout the country were continuously beset by poor sanitary conditions, overcrowding, insufficient food supplies, unsafe infrastructure, stagnant water, lack of access to medical care facilities and potable water, and insufficient bathroom and shower facilities.<sup>287</sup>

## **Conclusion**

The HRDC is an active and important institution when it comes to safeguarding, upholding and encouraging respect for human rights, the rule of law and democracy in Namibia and southern Africa. The Centre provides advocacy, reviews the human rights situation, and contributes to capacity-building in the field of human rights law in Namibia. The HRDC's UNESCO Chair contributes significantly to scientific advancement through high-level research, teaching and networking. Highlights in its history include high degree of involvement by members of the Centre in research and community service, and the contribution the Centre has made to legal education in respect of human rights in Namibia through its academic programmes and project outputs. Members of the Centre also serve as consultants on human rights issues to a range of national and international institutions. On a national level, the HRDC cooperates closely with, amongst others, governmental and non-governmental organisations, legal practitioners, members of the Law Society, the Anti-corruption Commission, the Office of the Ombudsman. Internationally, the HRDC aims to foster academic exchange towards excellence in research with various renowned institutions of tertiary education around the globe.

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286 Walters, JR. 2006. *Special Report on Conditions prevailing at Police Cells throughout Namibia*. Windhoek: Office of the Ombudsman.

287 A report by the HRDC on the conditions at Police and holding cells in Namibia will be published soon.