



THE REPUBLIC OF NAMIBIA

7TH PERIODIC REPORT (2015-2019)

ON

THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

AND

**THE SECOND REPORT UNDER THE PROTOCOL TO THE AFRICAN
CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF
WOMEN IN AFRICA.**

2020

PREFACE

Namibia is pleased to submit its 7th periodic report on the African Charter on Human and Peoples' Rights (ACHPR) and the second report under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The report covers the period 2016 to 2019. Namibia takes great pride in fulfilling its human rights obligations as spelt out in the African Charter on Human and Peoples' Rights. Protecting, promoting and fulfilling the human rights of all Namibians remains a priority of the Government of the Republic of Namibia.

Namibia has always been an ardent supporter of the African Union resolutions pertaining to human rights protection in general and the rights of the most vulnerable members of society in particular. The Government reiterates its commitment to promotion and protection of human rights in the country by continuously holding constructive engagements with Special Rapporteurs from the African human Rights system and the United Nations. The Government of Namibia will do its utmost best to submit periodical State reports timeously.

The Government is mindful of and recognises the fact that no country is free from allegations of human rights abuses and Namibia is no exception. Our nation therefore continues to strengthen its institutions to combat any acts of human rights abuse. To strengthen human Rights Protection, the Office of the Ombudsman's budget has since been increased to allow it to investigate cases of human rights abuses by organs of the State, individuals and corporations as well as to enable it to carry out human rights awareness programs throughout the country.

The Office of the Ombudsman facilitated the process for preparation and drafting of the National Human Rights Action Plan (NHRAP) as well as the White Paper on Indigenous people. As part of this process, a baseline study on Human Rights in Namibia was completed in October 2013 which was conducted by the University of Namibia at the request of the Office the Ombudsman. The NHRAP has 7 thematic areas being: access

to health services; access to justice; access to education; right to water and sanitation; right to housing; access to land; and the right not to be discriminated against.

Furthermore, Namibia has made tremendous strides in the protection and promotion of women and children's rights and welfare. Namibia as a State party to the African Charter has passed a number of gender and child friendly laws during the reporting period. These are: the Child Care and Protection Act, Act No 3 of 2015 as well as Combating of Trafficking in Persons Act, (Act No 1 of 2018). In an effort to strengthening the legal framework in relation to gender specific laws, Namibia is in the process of reviewing several gender specific laws, namely the Rape Act, Maintenance Act and the Combating of Domestic Violence Act.

In conclusion, Namibia as a state party to this charter is and will always be committed to having a human rights-based approach in governance and ensuring that every Namibian and by a large extension African, is fully enabled to exercise their inherent human rights.

Hon. Yvonne Dausab, MP
Minister of Justice

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ABBREVIATIONS

African Charter on Human and Peoples Rights (ACHPR)
Business and Intellectual Property Authority (BIPA)
Fresh Produce Business Hubs (FPBH)
Gender Based Violence (GBV)
Gross Domestic Products (GDP)
Harambee Prosperity Plan (HPP)
Human Rights and Documentation Centre (HRDC)
National Development Plans (NDPs)
Namibian Broadcasting Corporation (NBC)
Namibian Correctional Service (NCS)
New Equitable Economic Empowerment Framework (NEEEF)
Namibia Institute of Educational Development (NIED)
The National Employment Policy (NEP)
National Human Rights Action Plan (NHRAP)
Namibia Institute of Educational Development (NIED)
Ministry of Agriculture and Forestry (MAWF)
Ministry of Gender Equality and Child Welfare (MGECW)
Ministry of Health and Social Services (MOHSS)
Namibia Police Force (NAMPOL)
Namibia Training Authority (NTA)
Organisations of People with Disabilities (OPDs)
Prevention of Torture Training Manual for Police Officers (PTTMPO)
Primary Health Care (PHC)
Regional Integrated Strategic Plan (RISDP)
Southern African Development Community (SADC)
Sustainable Development Goals (SDGs)
Transitional National Development Plan (TNDP)
Small and Medium Enterprises (SME)
United Nations Office on Drugs and Crime (UNODC)
Violence against Children (VAC)
Violence against Women (VAW)

INTRODUCTION

This is the 7th periodic report of the Republic of Namibia as a State party to the African Charter on Human and Peoples Rights (ACHPR). This report is hereby submitted to comply with the provisions of Article 62 of the ACHPR. The report is on legislative and/or other measures taken with a view to give effect to the rights and freedoms recognised and guaranteed by the present charter. The report covers the period 2015–2019. The report consists of three sections. Section A covers responses to the concluding observations and recommendations of the previous report. Section B covers treaty specific information according to the clusters of rights contained in the charter. Section C contains Namibia's progress on the protection and promotion of women's rights in relation to its obligations under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

METHODOLOGY AND PREPARATION OF THE REPORT

The report was prepared by the Ministry of Justice in consultations with other line Ministries, and it was presented to civil society organisations for their input and comments. The second part of the report, namely, the Maputo Protocol was jointly prepared by the Ministry of Justice and the Ministry of Gender Equality and Child Welfare. Civil society organisations were also involved in the drafting a report on the said protocol.

SECTION A

CONCLUDING OBSERVATIONS AND RECOMMENDATIONS ON SIXTH PERIODIC REPORT OF THE REPUBLIC OF NAMIBIA ON THE IMPLEMENTATION OF AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS (2011-2014)

The responses to the concluding observation are structured in such a way that they are grouped together with concerns raised by the Commission that are related to the recommendations made by the same commission.

1. Human rights defenders

- 1.1 The State party wishes to inform the commission that Namibia does not have a specific law on human rights defenders, however, all human rights defenders in the country are protected under various laws. Article 25 (2) of the Namibia's Constitution states that any aggrieved person whose rights has been violated or infringed upon can approach a court of law or the Office of the Ombudsman for redress. The Namibian government continues to foster a good working relationship with various human rights institutions in the country including human rights defenders. For example, the Legal Assistance Centre, a public interest law firm and staunch human rights advocacy group, often trains government officials on issues pertaining to human rights. The provisions of the UN Declaration on Human Rights Charter are found in Chapter 3 of the Namibian Constitution which contains Freedoms and Fundamental Rights.

2. Participation of Non-governmental Organisations and women's human rights organisations in drafting the African Charter

- 2.1 The State party wish to stress that NGOs and other related organisations were involved in the preparation of the report.
- 2.2 The Inter-Ministerial Committee (IMC) which is tasked with drafting and compiling state reports consist of officials from line ministries, a local university as well as a representative from Non-Governmental Organizations (NGOs) and civil society.
- 2.3 In addition, the State party wishes to inform the Commission that contrary to the commission's observations, the Maputo Protocol part of the report was prepared with assistance from NGOs involved in women's rights.
- 2.4 The application of the protocol in national courts is guaranteed as Namibia follows a monist system of International Law. All the provisions of the protocol can be invoked directly by our courts without the need for a specific legislation to operationalize the protocol. However, domestic remedies must first be exhausted.

3. Concerns 29, 30 and recommendation 48: ratification of regional/international, human rights instruments

- 3.1 In 2017, the Government established a national sectorial committee on ratification of AU instruments and the other International Human right instruments. The committee was established in terms of a Cabinet Directive with the purpose of advising the government on the ratification of the AU instruments. The committee is coordinated by the Ministry of International Relations and Cooperation.

4. Concern 31 and Recommendations 49: Declaration under Article 34(6) of the Protocol to the African Court, accepting the jurisdiction of the court

4.1 The state party notes the Commission concerns and will consult with relevant stakeholders on the subject matter.

5. Concerns 32 and recommendation 50: Right to property

5.1 The Government acknowledges the fact that access to land and housing remains a challenge. However, several legislation and policies have been put in place to address the challenges of land and housing.

5.2 In alleviating housing shortages and in an effort to provide affordable housing to its citizens, the Government of the Republic of Namibia in 2013 embarked on a mass housing programme. The intention of Namibia's N\$45 billion Mass Housing Project is to build 185 000 houses by 2030. The Government through the Ministry of Urban and Rural Development is the custodian of Mass Housing Development Programme, while the NHE has been tasked to allocate and sell all houses constructed. By January 2017, the National Housing Enterprise had completed and allocated approximately 1500 houses to beneficiaries.

5.3 Moreover, in an effort to make rent affordable and in line with the rarely applied Rent Ordinance of 1977, the state party established the Rent Control Board in the regions of Oshana, Kavango East, Erongo and Khomas. The Build together and Shack dwellers housing programmes are still continuing and the private sector has also shown enthusiasm in these projects. Standard Bank Namibia, a Private Bank is

currently providing financial assistance to the Shack Dwellers Programme through a project called “Buy a brick”.

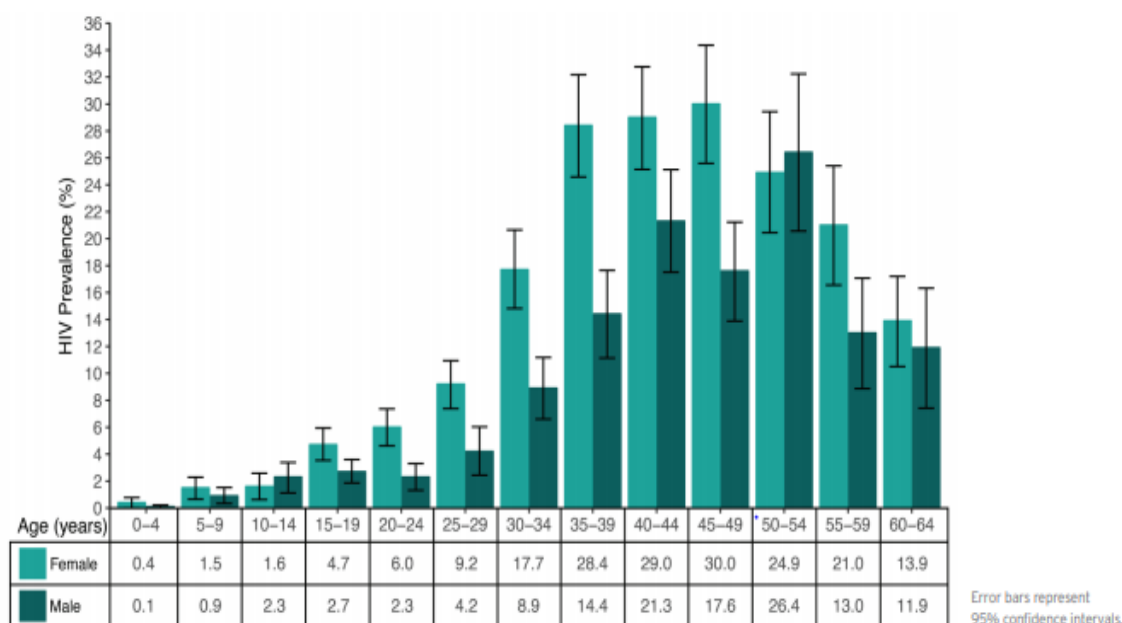
- 5.4 In relation to land, the state party held the Second Land Conference in October 2018. The said conference aimed, among other things to redress landlessness as well as the provision of serviced land in urban areas.

6. Concern 32 and recommendation 56: HIV / AIDS and other non-communicable diseases

- 6.1 Namibia like most of the countries in Southern Africa is affected by the scourge of HIV/AIDS and other related pandemics. During the period under review, the country has done well with regard to anti-retroviral drugs distribution and population coverage and has lessened the negative impact that HIV/AIDS could have had on the economy through affecting the productivity of the work force. To improve health outcomes for women and girls, the country is currently accelerating the development of human capabilities in the health sector and addressing the shortage of health infrastructure facilities.¹

¹ Republic of Namibia. 5th National Development Plan (NDP5). (2017/18-2021/22). National Planning Commission.

Figure 1: HIV Prevalence by Age and sex (NAMPHIA 2017)

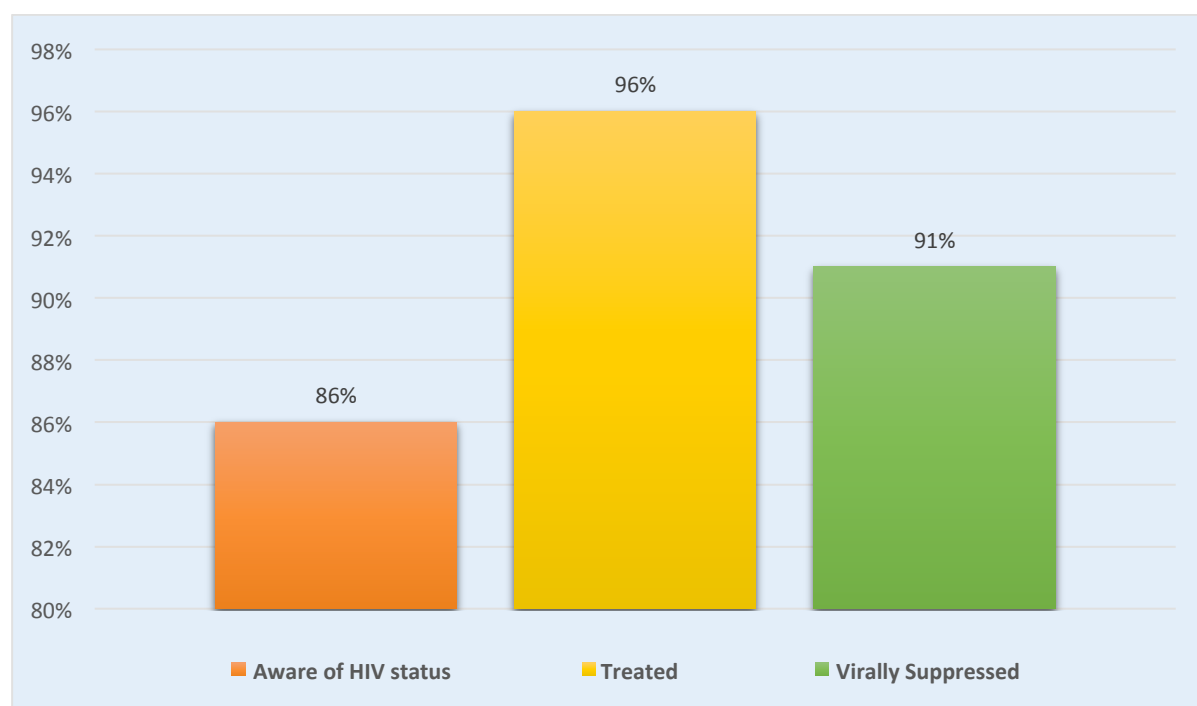


6.2 Namibia has made significant progress on eliminating mother to child transmission of HIV and AIDS. The 2013 Mid Term Review (MTR) suggests that mother to child transmission rates in Namibia is as low as 4%, putting the country on course to achieving the UN 2011 HLM Political Declaration on HIV/AIDS by end of 2015 – an aspirational goal, and to reduce substantially maternal deaths. The Prevention of Mother to Child Transmission (PMTCT) roll out prior to and during the NSF is impressive, with over 95% of health facilities providing HIV testing and ART for PMTCT. Over 95% of women were eligible to received ART for PMTCT. In order to Scale up ART services government has adopted task shifting allowing trained nurses to initiate, administer and manage ART; including plans to recruit and train Health Extension Workers (HEW) and post them to health facilities. HEW would serve as the link between health facilities and communities. Government is also absorbing health professionals that were previously paid for by development partners.

6.3 Data from the Namibia Population-based HIV Impact Assessment (NAMPHIA) shows that 77 percent of all HIV-positive adults have achieved viral load suppression, a widely used measure of effective HIV treatment in a population,

surpassing the Joint United Nations Programme on HIV/AIDS (UNAIDS) target of 73 percent by 2020 Compared with the UNAIDS 2012 estimates, Namibia has reduced its adult HIV incidence rate by 50 percent in the past five years. Namibia has reached or exceeded even the UNAIDS 90-90-90 targets among women and, nationally, by attaining 86-96-91 among adults Namibia accomplished this through the strategic expansion of HIV prevention and treatment services, with a focus on viral load suppression at the individual and community level, and the swift implementation of forward-leading HIV policies. NAMPHIA results also suggest that women ages 15-24 still have a far higher HIV incidence rate (0.99 percent) than same-aged young men (0.03 percent). This highlights the continued need for expanded primary HIV prevention in young women, including through the PEPFAR-led DREAMS Partnership, and ensuring all men 25-35 are virally suppressed through the new MenStar Coalition².

Figure 2: Progress to UNAIDS 90-90-90 Targets in Adults



² Republic of Namibia. (2018). *Namibia Population-based HIV Impact Assessment (NAMPHIA)*. Ministry of Health and Social Services

7. Concern 32 and recommendation 50: Right to quality health care services and ending discrimination and stigmatization limiting health care access for vulnerable groups in particular the LGBT community, commercial sex workers and other vulnerable groups.

7.1 Article 10 of the Namibian Constitution prohibits discrimination of any kind. Any individual who alleges discrimination against him/her for not receiving government services may approach the court of law or the Office of the Ombudsman for redress.

7.2 All vulnerable groups including the LGBT community, commercial sex workers in Namibia have unfettered access to public health care facilities countrywide. Government will continue to sensitize officials on the prohibition against discrimination and cultural bias towards the said vulnerable groups. The Ministry of Gender Equality and Child Welfare in conjunction with local organisations have embarked on programmes that are aimed at rehabilitating former sex workers and providing advice on health and human rights to those in the profession.

7.3 In alleviating the shortages of doctors and other health professionals the Ministry of Higher Education urged the country's universities and private health colleges to increase the enrolment of health professionals at their campuses. Currently, the University of Namibia, the Namibia University of Science and Technology, the International University of Management (private university) all offer health related courses.

7.4 The Ministry of Education through the Namibian Student Financial Assistance Fund (NSFAF) provides financial and continues to sponsor Namibian students to pursue health related courses in countries such as the Russian Federation, Ukraine, China, Cuba to mention but a few.

7.5 In addition, consultations are underway to come up with a specific law which gives the Minister of Health and Social Welfare the authority to send out doctors into the regions where the said medical practitioners are in short supply. The proposed legislation will require medical professionals to first work in the public sector for a set period of time before being licensed to work in the private sector. This will drastically alleviate the shortages of medical doctors in public hospitals and clinics countrywide.

8. Concern 32. Challenges regarding unemployment and national poverty levels

8.1 Unemployment, especially among the youth and poverty remain a major concern for the Government. In this regard the Government has embarked on a number of development programmes. For example, the Harambee Prosperity Plan was formulated to accelerate the implementation of the existing policies including poverty and unemployment in the country. There are currently a number of interventions that are aimed at creating employment which focuses on training and youth entrepreneurship. These practical interventions include Vocational Training Centres which have been built across the country. These centres equip students with the necessary technical knowledge and skills in order for the graduates to create employment for themselves and others. The National Development Bank, a State-Owned Enterprise offers flexible loans to Small and Medium Enterprises (SME) to all citizens, targeting mostly young people to start their own businesses.

8.2 Government is also in the process of enacting legislation aimed at fostering economic growth and attracting foreign investment. Once these laws are enacted, it is hoped that poverty and unemployment levels continue to drop or will be reduced.

9. Concern 33 and recommendation 51: Women and children's rights

- 9.1 In 2013, the Government established a commission of inquiry into the activities, affairs, management and operation of the Ministry of Health and Social Services. One of the recommendations was on child mortality which is very high for a country like Namibia. Thereafter, Cabinet gave directives to the Ministry of Health and Social Service to implement the recommendation of the Commission as contained in the report. As a result of this, the line Ministry came up with programmes to strengthen their primary health care system at grass root level.
- 9.2 According to Inter-Parliamentary Union, Namibia ranked as the fourth country in Africa on women representation in parliament and number 11 in the world. The percentage of women represented in parliament now stands at 46%. Cabinet women representation as of 2015 is at 22.2% and Women in Regional Councils stands at 16%. Parliament work on a party list system according to the principle of proportional representation. Internal political parties' policies are being debated at party congress level to have 50/50 representation of women and men in political positions.

10. Measures against child marriages

- 10.1 The Child Care and Protection Act, (Act No, 3 of 2015) define a child as a person below the age of 18 and further contains provisions, which are against harmful cultural practices that affect children's rights including child marriage, early sexual activity and child bearing. Although the State party acknowledges the fact that early and forced marriages do exist in some isolated cases, such traditional unions and civil marriages are against the law and once discovered the perpetrator will be charged with statutory rape.

11. Prosecution in cases of sexual harassment in employment and educational institutions

11.1 The government acknowledge the commission's concern that the requested information was not included in the last report. The state party will therefore engage with the office of the Prosecutor General to provide such requested information if it exists.

12. Measures in place to combat trafficking of children particularly unaccompanied minors

12.1 The Combating of Trafficking in Persons Act, (Act No 1 of 2018) was recently passed by parliament. The Act gives effect to the United Nations Protocol to prevent, suppress and punish trafficking in person especially women and children.

12.2 Before the enactment of the Combating of Trafficking in Persons Act, section 15 of the Prevention of Organised Crime Act, (Act No 29 of 2004) criminalized trafficking in persons. The definition of trafficking covers both forced labour and sexual exploitation and has similar provisions to Annex II of the United Nations Convention against Transnational Organised Crime which covers both sex trafficking and trafficking for forced labour.

12.3 Furthermore the Labour Act, (Act No 11 of 2007) prohibits all forms of forced labour, including child labour. The Combating of Immorality Practices Act, (Act No 21 of 1980) prohibits child prostitution.

In the case of *State v Lukas*³, the first case of Human trafficking in Namibia, section 15 of the prevention of Organised Crime Act was used and resulted in the first prosecution of human trafficking that resulted in a 13-year conviction for trafficking of persons.

13. Measures in place to protect the rights of children in conflict with the law

13.1 The Government is currently finalizing the Child Justice Bill to cater for the rights of children in conflict with the law. It will provide guidelines/procedures on how best to deal with children in conflict with the law. In addition, the Child Care and Protection Act, (Act No 3 of 2015), sets out principles relating to the best interests of children to give effect to the rights contained in the Namibian Constitution and International Human Right Instruments to which Namibia is a party to.

14. Access to justice and rural women

14.1 Namibia is a vast country with a population of approximately 2.5 million people. There are magistrate courts in each and every town, as well as periodical court in populated settlement areas. Police stations or services offered by the police officers are widely found in almost every settlement area in the country which in turn assist rural women in accessing justice.

³ *State v Lukas*³ (CC 15/2013) [2015] NAHCMD 186

	Information Required	Response
(a)	Number of Magistrate Courts in Namibia	34
(b)	Number of Magistrates in Namibia	89
(c)	Number of Periodical Courts in the Country	37
(d)	Information showing whether justice is accessible to women in rural area	<p>The office has courts in a number of remote areas of Namibia, including the holding of periodical courts.</p> <p>There are currently no surveys that indicate whether there are impediments that hinder women to access the courts, be it due cultural financial factors or because of the remoteness of the court</p>

Source: Office of the Judiciary.

In villages there are Community Courts that are part of Judiciary system of Namibia and the Ombudsman in collaboration with the Law Society, Legal Assistance Centre which occasionally provides free legal advice to the communities' country wide on legal matters.

15. Enactment of the customary law marriage bill, divorce bill and the child justice bill

15.1 With exception of the Child Justice Bill which is being finalized, the other bills (Customary Law Marriage and Divorce) are delayed due to ongoing consultations with relevant stakeholders and other challenges thereto.

16. Alleged forced sterilization of women with HIV

- 16.1 The state party's response to this allegation was provided in the previous report which was considered in 2016. However, it is not a state policy for the Government to sterilize women without their prior and informed consent. All forms of sterilization are performed or carried out in accordance with the Abortion and Sterilization Act (Act 1975). The Ministry of Health and Social Services recently introduced new directives on sterilization. This directive emphasises the importance of prior and informed consent to women who intend to undergo the procedure.

17. Allegations of traditional healers claiming to cure HIV/AIDS resulting in deaths

- 17.1 Government is concerned about traditional healers who claim to cure HIV/AIDS, to this effect, the state party wishes to stress that these practices and beliefs are not wide spread. In this regard, the Ministry of Health and Social Service has been tasked to engage the Association of Traditional Healers to discourage them and their members from claiming that they can cure HIV/AIDS.

18. Concern 34 and recommendations 52: Right to freedom of assembly and association and access to information law

- 18.1 In terms of Namibia's criminal justice system, defamation is not a statutory offence but a common law offence. Although the offence of criminal defamation remains part and parcel of our legal system, in practice it is not used arbitrarily and our courts have used a broad interpretation of the law to ensure that there is a balance between freedom of expression and right to human dignity. In addition, according to

Reporters without Borders, Namibia has been consistently ranked as the freest nation when it comes to media freedom in Africa and in the world.

19. Lack of an Access to information law

- 19.1 The State party acknowledges the Commission's concern on the lack of access to information bill. Nevertheless, in 2016 the Government had consultations with various stakeholders and civil society to seek input in the draft bill, which will lead to enactment of Access to Information Act.

20. Proposed bill on public gathering

- 20.1 There is no such proposed bill on public gathering. However, Namibia has two pieces of legislation on public gatherings and demonstrations namely the Public Gathering Proclamation (AG.23 OF 1989) and Demonstration in or near Court Buildings Prohibition Act, (Act No 71 of 1982).

21. The protection of human rights defenders

- 21.1 All human rights defenders in Namibia are protected under the Constitution and various pieces of legislation. Any individual human right defender or organizations whose rights have been infringed upon can approach the Office of the Ombudsman or the courts for redress.

22. Concern 36 Recommendation 54: Due process and conditions of detention

- 22.1 All the correctional facilities in the country are in compliance with the Nelson Mandela Rules. The Namibian Correctional Service (NCS) has a health policy that addresses all the health issues of the inmates including public health problems like Tuberculosis, HIV/AIDS, Hepatitis and other infectious and contagious conditions. The Namibian Correctional Service Health Policy advocates for equal health standards to be offered to the inmates as they would be given to the general public. It also allows those inmates who can afford private health care services to access those health services.
- 22.2. In addition, the NCS has undertaken measures to renovate all of the countries correctional facilities with the aim of improving the living conditions of offenders. In 2019, the NCS constructed a female correctional centre at Windhoek Correctional Facility, which was recently completed. The female correctional centre has separate section for awaiting trial inmates and has both communal and single cells. It provides facilities such as programme areas, and a playground for young children. The male section of those individuals who are awaiting trial at the Windhoek Correctional Facility is undergoing renovation to further improve the living conditions of Offenders/Inmates.
- 22.3 NCS provides gratuities for offenders as a way of encouraging them to participate in rehabilitation programs as well as financial assistance to offenders to facilitate their reintegration into society. Six (6) programmes have been implemented of which two (2) are Core Structures Programs (these are structured interventions offered by NCS aimed at targeting evidence based factors that are directly linked to offenders' criminal behavior, in order to reduce reoffending); three (3) are In-house Support Programs (These are formalized interventions or activities that are aimed at supporting the outcomes of the Structured Programs / or address offenders' risks and needs); and One (1) is an externally sourced programme, to rehabilitate inmates in prisons.

Table 2 shows a total of number of offenders who have obtained higher qualifications while incarcerated from 2015 to 2019.

Correctional Facilities	2015	2016	2017	2018	2019
Windhoek	9	5	7	10	7
Hardap	0	2	3	5	6
E. Shikongo	2	2	3	4	3
E. Nepemba	3	1	2	3	2
Oluno	1	3	4	6	3
Walvis Bay	1	0	1	2	6
Divundu	1	2	3	4	0
Total	17	15	23	34	27

Source: Namibian Correctional Service

23. Provision of adequate resources to enable national correctional service institutions to effectively address educational and other rehabilitation needs of offenders.

23.1 Despite financial constraints, the Namibia Correctional Service has many programmes in place to provide offenders with rehabilitation programmes. Among such programmes are educational, religious, support and vocational programmes.

24. Concerns 37 and recommendations 59: Prohibition of torture and ill-treatment

24.1 We acknowledge the delay in the enactment of the Torture bill, however the State party wish to inform the commission that the completed Torture Bill will be among the 20 bills which will tabled during the 2020 parliamentary sessions.

24.2 Due to lack of the relevant legislation on torture the State party is unable to provide information in the report regarding the prohibition of torture, the numbers of victims of torture, the number of investigations and prosecution and the protection of victims and their families. However, the State party wishes to reiterate that once the Torture Bill is enacted most of the commission's concern will be addressed.

25. Concerns 38 and recommendations 56: Orphans with HIV/AIDS

25.1 Orphans and vulnerable children affected by the epidemic are catered for by the Ministry of Gender Equality and Child Welfare. The said children receive a grant of N\$250 per month. At the same time the children orphaned or infected by HIV/AIDS also receive free ARV treatment from public health care facilities.

26. Awareness programs against individuals who claim to cure HIV/AIDS

26.1 The State Party notes the recommendation and will engage with other stakeholders to embark on the campaign to educate the public on the dangers of seeking treatment from those who claim to treat HIV. Besides qualified medical practitioners and other health professionals recognized under law, no other persons are prescribed to treat any HIV related illness. Any unregistered person purporting to prescribe treatment for HIV can be tried criminally under the state's various laws.

27. Concerns 39 and recommendations 55: The elderly and persons living with disabilities

27.1 In terms of the National Pension Act, No 10 of 1992 persons (over 60 years old) and persons with disabilities are entitled to receive a monthly pension grant of N\$1250.

The state also offers free medical care in all public hospitals for the elderly and the disabled. Namibians with disabilities receive free medical care among others from state health facilities. Moreover, the state provides free funeral vis a vis burial services upon death to the elderly when applied for to the relevant government ministry. The services above are provided to all the elderly persons in Namibia in both rural and urban settings.

28. Concern 40 and recommendation 57: Refugees, IDs and migrant workers

28.1 Refugees Recognition and Control) Act, 1999, (Act No. 2 of 1999) governs all refugee related issues in Namibia. The said Act aims to regulate entry and departure of persons from Namibia and to provide for matters incidental thereto. This applies to both refugees and migrant workers.

28.2 Furthermore the Immigration Control Act, 1993 (Act No. 7 of 1993) aims to regulate and control the entry of persons into, and their residence in Namibia; to provide for the removal from Namibia of certain immigrants; and to provide for matters incidental thereto.

29. Concern 41 and recommendation 58: Allegations of human rights abuses of indigenous populations/communities

29.1 The state party will appreciate more detailed information from the commission regarding the concern on the above-mentioned abuse, particularly mentioning specific incidence, identity of the victims and the area where the said victim reside.

Such information will assist the relevant authority to look into the matter for investigation and possible prosecution, as the case may be.

30. Political participation of all indigenous communities

30.1 Namibia does not agree with the finding of the Commission as Namibia's political system is based on a multiparty system, which provides for several political parties to register with the Electoral Commission of Namibia to contest National, Regional and Local elections. The right to political participation is a guaranteed right of every Namibian citizen in terms of Article 17 of the Namibian Constitution, which states that "all citizens shall have the right to participate in peaceful political activity intended to influence the composition and policies of Government". The current ruling party has a policy in place to bring the indigenous people into elected party structures in order for them to be able to be elected into local, regional and national political position. For example, the Deputy Minister of Marginalised communities in the Office of the Vice President, Honourable Royal J.K. /Ui/o/oo is from the indigenous marginalised group and there is also a regional councillor of Tsumkwe Constituency. The mandate of the Electoral Commission is to register and educate the citizens who are eligible to vote on their rights and the procedures during elections. All communities are targeted for this education, including those living in remote rural areas. Mobile polling stations are set up during election to ensure that all eligible voters cast their votes unhindered.

31. Measures taken to comprehensively address indigenous peoples' specific needs in relation to land, education, health, employment and access to justice

31.1 Indigenous people are one of the targeted groups in terms of the land resettlement programme.

More than eight farms were procured for the marginalized communities since the inception of this programme in 2005 where about 1110 households were resettled. Between 2006 and 2013, over 45 000 ha of commercial land has been procured to resettle San communities with an additional communal land of about 70 000 ha.

31.2 The educationally marginalised children (EMC) are a diverse group, and their educational needs differ from community to community. This group is comprised of children of farm workers, San children, Ovatue and Ovahimba children. In efforts to improve access to education for the marginalised children the ministry, in collaboration with non-government organisations (NGOs) has introduced programmes such as the Nyae-Nyae Village School programme in Otjozondjupa Region where the curriculum is community based and the San language is the medium of instruction. In Kunene region there is a mobile project school known as the Ondao Mobile School. This kind of school is aimed at assisting the Ovahimba children to stay in schools.

31.3 Furthermore, learners from the marginalized communities are transported to and from their homes and school during holidays and out weekends. Uniforms are provided to learners where necessary and when funds are available. The Ovatue and Ovatjimba learners who fall under the Himba community are permitted to attend school in their traditional attires up to grade 6 and are assisted from grade 7 to 12 with uniforms. All learners from the Ovatue and Ovatjimba communities who graduated to secondary school are assisted financially by OPM in terms of school uniforms and toiletries. With regard to access to health, there has been a facilitation of training of health extension technicians, mobile clinics, training of nurses from marginalized communities.

32. Concern 42 and recommendation 60: Extractive industries and environment

- 32.1 According to Article 100 of the Namibian Constitution, land, water and natural resources below and above the surface of the land and in the continental shelf and within the territorial waters and the exclusive economic zone of Namibia shall belong to the State if they are not otherwise lawfully owned.
- 32.2 As a result extraction and exploration of natural resources such as minerals is regulated by various legislation including the Minerals (Prospecting and Mining) Act of 1992. In terms of this Act all prospecting and exploration vest in the State with the power to grant mining licenses given to the Minister of Mines and Energy. Mining claims are available only to Namibian citizens and mineral rights are granted to small scale operators and individuals with limited financial and other resources. A maximum of 10 such claims per person may be held for a three-year period, with the possibility of an indefinite number of two-year extensions. Similarly, a non-exclusive prospecting licence allows a person to prospect anywhere in the country including private owned farms with the sole exclusion being closed areas such as game reserves.
- 32.3 It is a government policy that when a licence is issued to a mining operator, that operator should give employment opportunities to the local people “within the proximity” of the project. And this policy does not only apply to mining but also to other government projects such as construction of roads, houses and dams.
- 32.4 The objective of the Environmental Management Act 7 of 2007 includes, but is not limited to, promoting communities’ involvement in the management and benefit-sharing of natural resources, promoting public participation in decisions affecting the environment.

34.5 Mining operators have social responsibilities in terms of the licence granted to them, which includes giving scholarship/bursaries to the local communities and assisting local schools and clinics in the area they operate.

35. Illegal mining activities and its impact on the environment as well the health of those who are engaged in such activities.

35.1 There have been isolated cases of illegal mining in Namibia reported in the local media and the relevant government ministries are dealing with the culprits in accordance with the law. It is worth noting that there exist laws that regulate the mining industry in the country. Illegal mining in all its forms is a criminal offence in the country.

36. Concern 44 and recommendation 61: Adequate support to human rights institutions

36.1 The Government continues to provide funds to national human rights institutions. The Office of the Ombudsman is financed through the budget of the Ministry of Justice and its staff members are appointed by the Public Service Commission. The Ombudsman has in October 2018 been re-accredited with an A-Status in terms of the Paris Principles. The complete independence of the Office of the Ombudsman is under consideration pending an amendment to the Ombudsman Act of 1990. An Amendment to the Ombudsman's Act is currently being drafted to include economic, social and cultural rights.

37. Recommendations 62: Cooperation with the Africa Commission on Human and People's Rights.

37.1 As a member of the African Union (AU) and the United Nations, Namibia will continue to promote and protect human rights under the auspices of these bodies.

37.2 Translation of the African Charter in all local languages and its wide dissemination to the general public

37.2.1 The above recommendation is noted. Namibia will endeavour to translate the African Charter into the most widely spoken vernaculars where possible. Not all local languages are developed into written languages and the limitations will be overcome through other innovative methods of disseminating the Charter to the local communities.

SECTION B

PROMOTION AND PROTECTION OF CIVIL AND POLITICAL RIGHTS

ARTICLE 1: NEW LEGISLATIVE AND POLICY FRAMEWORK SINCE THE LAST REPORT

LEGISLATION

38. The Repeal of Obsolete Laws Act 21 of 2018

38.1 It provides for the repeal of certain obsolete laws; and to provide for incidental matters thereto. The intention of the Act is to remove 143 proclamations, ordinances and Acts from the statute books.

Many of these laws, by-laws, regulations, proclamations and ordinances are discriminatory on the grounds of sex, race, colour, ethnic origin, religion, creed and social and economic status.

39. Prevention and Combating of Terrorist and Proliferation Activities Act 4 of 2014

39.1 In an effort to combat all forms of terrorism and in line with Namibia's international obligations, the state party enacted the Prevention and Combating of Terrorist and Proliferation Activities Act 4 of 2014. Terrorism and its associated acts prevent citizens from enjoying their human rights and freedoms.

39.2 The aims of the this Anti-terrorism Act is to provide for the offences of terrorism and proliferation and other offences connected or associated with terrorist or proliferation activities; to provide for measures to prevent and combat terrorist and proliferation activities; to provide for measures to give effect to the international conventions, Security Council Resolutions, instruments and best practices concerning measures to combat terrorist and proliferation activities; to provide for measures to prevent and combat the funding of terrorist and proliferation activities; to provide for investigative measures concerning terrorist and proliferation activities; to provide for measures to proscribe persons and organisations that conduct terrorist and proliferation activities; and to provide for the incidental matters thereto.

40. Combating of Trafficking in Persons Act 1 of 2018

40.1 The purpose of the Act is to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially of Women and Children; to criminalise trafficking in persons and related offences; to protect and assist victims of trafficking in persons, especially women and children; to provide for the

coordinated implementation and administration of this Act; and to provide for incidental matters.

41. Whistle-Blower's Act 10 of 2017

41.1 In line with Namibia's international obligations, government passed the Whistle-blower's Act, Act No. 10 of 2017 to afford whistle-blowers protection under the law. The Act is expected to curtail acts of corruption and assist government in enhancing human rights protection of its citizens.

42. Witness Protection Act 11 of 2017

42.1 The Act provides for the protection and assistance to those who have witnessed crimes and are providing evidence to the authorities. The Act further provides for the establishment of a Witness Protection Advisory Committee, protection programme and fund. These laws will greatly aid authorities in combating cases of human trafficking and smuggling as well as any other human rights violations.

43. The Judiciary Act 11 of 2015

43.1 Access to justice is among the most important fundamental rights covered under various international and regional human rights instruments. To make it easier for her people to access justice timeously and/or expeditiously, the state party promulgated the Judiciary Act, Act No 11 of 2015. The aims of this Act are to strengthen the independence of the Judiciary in line with Article 78(5) of the

Namibian Constitution; to provide for the administrative and financial matters of the Office of the Judiciary; and to provide for connected or incidental matters.

44. Namibia Citizenship (second) Special Conferment Act of 2015

44.1 To provide for the conferment of Namibian citizenship upon certain descendants of persons who left Namibia owing to persecution by the colonial government that was in control of the country before 1915; and to provide for incidental matters. This Act among other things will curtail incidences of statelessness and make it easier for non-citizens to acquire Namibian citizenship if they so wish.

45. National Health Act 2 of 2015

45.1 The state party recognises and affirms the right to health for all its citizens. To this effect the government enacted the National Health Act, Act No. 2 of 2015. This Act provides a framework for a structured uniform health system within Namibia; to consolidate the laws relating to state hospitals and state health services, and to regulate the conduct of state hospitals and state health services; to provide for financial assistance for special medical treatment of State patients; and to provide for incidental matters.

46. One Stop Border Post Control Act 8 of 2017

46.1 In order for the state party to enhance cross border cooperation with neighbouring states, the government promulgated the one stop border post control Act, Act 8 of 2017. This Act provides for the conclusion of agreements with adjoining States on the establishment and implementation of one-stop border posts; and to provide for

incidental matters. Issues of cross border criminal activities will be dealt with under this Act.

47. Public Private Partnership Act 4 of 2017

- 47.1 Public Private Partnership Act, 2017 (Act 4 of 2017), which in its section 25(2) dealing with the evaluation of public private partnership proposals, provides that any ‘evaluation criteria under the request for proposal must include a preference for the protection and advancement of previously disadvantaged persons...’

48. Urban and Regional Planning Act 5 of 2018

- 48.1 With rapid urbanisation experienced in most major towns and cities in Namibia, it is imperative to regulate urban and regional planning in an effort to improve the living conditions of citizens through the provisions of essential services. To this effect, the state party enacted the Urban and regional planning Act, Act 5 of 2018. The purposes of this Act is to consolidate the laws relating to urban and regional planning; to provide for a legal framework for spatial planning in Namibia; to provide for principles and standards of spatial planning; to establish the urban and regional planning board; to decentralise certain matters relating to spatial planning; to provide for the preparation, approval and review of the national spatial development framework, regional structure plans and urban structure plans; to provide for the preparation, approval, review and amendment of zoning schemes; to provide for the establishment of townships; to provide for the alteration of boundaries of approved townships, to provide for the disestablishment of approved townships; to provide for the change of name of approved townships; to provide for the subdivision and consolidation of land; to provide for the alteration, suspension and deletion of conditions relating to land; and to provide for incidental matters thereto.

50. Envisaged bills

51. The Prohibition of Torture Bill

- 51.1 The bill aims to combat all forms of torture. The bill is currently before the Cabinet Committee on Legislation before it is to be tabled in parliament during the course of 2019.

52. Child Justice Bill

- 52.1 The aim of the envisaged Act is to establish a– distinct criminal justice system for children who are in conflict with the law; to protect the rights of children entrenched in the Namibian Constitution and in international instruments; to set out principles relating to the best interest of children; to provide for the minimum age of criminal capacity for children; to delineate the powers and responsibilities of members of the Namibia Police Force and probation officers in relation to children; to provide for the detention of children and their release from detention; to entrench the notion of restorative justice; to incorporate diversion of cases from formal court procedures as a central feature of the process; to establish assessment of children; to establish a preliminary enquiry as a compulsory procedure in the process; to create special rules for a child justice court; to provide for legal representation for children; to extend the sentencing options available for children; to establish review procedures; to establish monitoring mechanisms to ensure the effective operation of this legislation; to establish a child justice commission; and to provide for matters incidental thereto.

POLICIES

53. Harambee Prosperity Plan

53.1 Harambee Prosperity Plan is a targeted Action Plan to accelerate development in clearly defined priority areas, which lay the basis for attaining prosperity in Namibia. The Plan does not replace, but complements the long-term goal of the National Development Plans [NDPs] and Vision 2030. HPP introduces an element of flexibility in the Namibian planning system by fast tracking development in areas where progress is insufficient. It also incorporates new development opportunities and aims to address challenges that have emerged after the formulation of NDPs.

The plan aims to achieve the following key outcomes:

- A more transparent Namibia;
- A culture of high performance and citizen-centred service delivery;
- A significant reduction in poverty levels;
- A reputable and competitive vocational educational training system;
- A spirit of entrepreneurship resulting in increased youth enterprise development;
- Improved access to serviced land and housing;
- Guaranteed energy supply and sufficient water for human consumption and business activities.

54. The National Health Policy Framework for the period 2010 – 2020

54.1 The Framework provides the overall orientation for health and health actions in Namibia. Health problems in Namibia are in transition – infectious diseases are major contributors to the burden of disease as well as health problems related to

pregnancy, delivery, infant and childhood – the health system in Namibia has to be able to respond to such changes and hence the prioritisation of public health. The Primary Health Care (PHC) approach has shown its value as the key principle in health system. The values of service delivery, universal coverage, leadership and public policy are therefore embedded in this policy framework.

55. New Equitable Economic Empowerment Framework (NEEEF)

55.1 Government is currently developing the New Equitable Economic Empowerment Framework. The aim of the NEEEF is to provide a clear overarching policy framework into which all other policies will slot. The NEEEF will supersede all other transformation and empowerment policies of Government as well as provide the framework within which all private sector initiatives, past and future will be expected to conform to. Government will ensure its other policies are consistent and mutually reinforcing with the NEEEF.

Objectives

The objectives of the NEEEF include but are not limited to the following:

- Ensuring the sharing of Namibian resources in an equitable and sustainable basis by the people of Namibia
- Creating a socially just society
- Implementation of measurable policies of redress and redistribution
- Creating vehicles for empowerment
- Removing barriers of socio-economic advancement in order to enable previously disadvantaged persons to access productive assets and opportunities of empowerment
- Actively guarding against the repugnant tendencies of window-dressing, favoritism, nepotism and self-enrichment
- Providing measurement of empowerment targets

- Ensuring that an empowering act is meant to launch individuals to empower themselves in the future using the basis of their initial empowerment.
- Economic empowerment may be organized in the following forms of ownership: public, private, joint public-private, cooperative, co-ownership, and small-scale family owned
- Equitable empowerment is addressing disparities occasioned by class, gender and generational relationships

56. The National Development Plan 5 (NDP5)

56.1 The Fifth National Development Plan (NDP5) is the fifth in the series of seven five-year national development plans that outline the objectives and aspirations of Namibia's long-term vision as expressed in Vision 2030. NDP5 will be implemented from the financial year 2017/18 until 2021/22. NDP5 builds on the successes and achievements of the four previous five-year plans from the Transitional National Development Plan. (TNDP) to the Fourth National Development Plan. It also recognises the challenges experienced during the implementation of the previous plans.

56.2 The current plan is informed by the global, continental, regional and national development frameworks. These include the Global Sustainable Development Goals (Agenda 2030), African Union Agenda 2063, Southern African Development Community (SADC), Regional Integrated Strategic Plan (RISDP), Vision 2030 and Harambee Prosperity Plan (HPP).

56.3 The principle of sustainable development permeates NDP5. As such, the plan frames the achievement of progress within a framework of ensuring the ability of future generations to thrive. In the same spirit, NDP5 has four key goals, namely:

- Achieve Inclusive, Sustainable and Equitable Economic Growth,

- Build Capable and Healthy Human Resources;
- Ensure Sustainable Environment and Enhance Resilience; and
- Promote Good Governance through Effective Institutions.

57. National Human Rights Action Plan (NHRAP) (2015-2019)

57.1 The overall objectives to be achieved over the implementation period of Namibia's 1st NHRAP are:

- To lay a firm foundation for entrenching human rights promotion and protection through structured instruments such as the National Human Rights Action Plan;
- To initiate and inculcate programmes and processes that will entrench a culture of respect and observance of human rights protection and promotion amongst all organs of state and the general population;
- To strengthen institutional arrangements that will actively drive the implementation of Namibia's human rights agenda; and
- To provide focused support and input to the interventions outlined in this National Human Rights Action Plan.

58. The Ministry of Education, Arts and Culture's Strategic PLAN 2017/18-2021/22

58.1 The Ministry of Education, Arts and Culture 2017/18 - 2021/22 Strategic Plan builds on previous Strategic plans that have been implemented since Namibia's Independence in 1990. These include the Strategic Plan of 2001-2006; the Education and Training Sector Improvement Programme (ETSIP) 2005 -2020; and the Strategic Plan of the then Ministry of Education for 2012 - 2017.

58.2 Under the first Pillar of *Quality*, this Strategic Plan envisages that Namibian learners will achieve much better results in national examinations because of the improved motivation, and professional knowledge and skills of teachers. This implies improved and continued professional development, the provision of sufficient textbooks and other learning resources, including ICT, assistive technology for children with disabilities, and a conducive learning environment. Arts and culture are seen as an integral part of providing quality education through the school curriculum. Schools that embrace cultural diversity through arts and other social platforms provide for a vibrant learning school community.

58.3 Under the second Pillar of *Equity*, access is implied. This Strategic Plan foresees that the education system will play a role in redressing the imbalances of the past and ensure the access of the estimated 10% of primary school age children who are currently out of school. Standards of education in remote rural primary schools will be brought on par with schools in urban areas. The number of learners gaining access to senior secondary education will be fairly balanced between rich and poor, amongst regions and sexes. The rollout of pre-primary education in the regions will be equitable in the allocation of qualified teachers, teaching and learning support materials, and infrastructure. Implementation of inclusive education will bring all children to the education system, considering their particular abilities and needs. Lifelong learning will provide opportunities for those individuals and marginalised communities with an educational backlog.

58.4 Under the third Pillar of *Efficiency*, the Strategic Plan will ensure that all staff members have performance agreements in line with the Performance Management System. A coordinated response with clear accountability structures and prudent resource management which will drive quality, equity and efficiency. Efficient deployment of teachers will receive priority attention, including through a review of post allocations to schools, and through a reduction in repetition by learners. Arts and culture staff members in the regions will be increased and upskilled, particularly

to increase the number of Namibians who make a living in emerging cultural industries. The Ministry will be more efficient in issuing statistical and annual reports, and using such reports for planning and budgeting purposes.

59. The National Agenda for Children

59.1 Under this policy all children with disabilities have equal access to health, education and support. Rehabilitation services for children with disabilities are strengthened and coordinated. The policy aims to implement the disability grant to reach all children with disability.

INSTITUTIONS

60. The Ministry of Poverty Eradication and Social Welfare

60.1 The Ministry of Poverty Eradication was established to initiate, coordinate, advocate for and implement measures aimed towards Poverty Eradication and Social welfare.

61. Ministry of Public Enterprises

61.1 In 2015 the state party established the Ministry of Public Enterprises whose responsibility is to manage Namibia's Public Enterprises. The overall mandate of this Ministry is to transform Namibia's Public Enterprises into effective conduits and catalyst for the nation's economic development.

62. The Business and Intellectual Property Authority (BIPA)

62.1 In an effort to improve service delivery and ensure the effective administration of business and intellectual property rights (IPRs), the Business and Intellectual Property Authority (BIPA) has been established as the focal point for the registration of business and industrial property. BIPA is responsible for the administration and protection of business and intellectual property rights. BIPA is established as a juristic person in terms of section 3 of the BIPA Act, 2016 (Act No.8 of 2016) and is a Public Enterprise as defined in the Public Enterprises Governance Act, 2006 (Act No. 8 of 2015).”

63. International human rights instruments signed and ratified by Namibia

63.1 Namibia has ratified the following United Nations human rights instruments:

- International Covenant on Economic, Social and Cultural Rights, (Ratified 28 November 1994);
- International Covenant on Civil and Political Rights, including Optional and Second Optional Protocols, (Ratified 28 November 1994);
- Convention for the Elimination of All Racial Discrimination, (Ratified on behalf of Namibia by the United Nation Committee for Namibia on 11 November 1982);
- Convention for the Elimination of All Discrimination against Women, (Ratified 23 November 1992); Optional Protocol: (Ratified 26 May 2000);
- Convention Against Torture and Cruel and Inhumane Treatment, (Ratified 28 November 1994);
- Convention on the Rights of the Child, (Ratified: 30 September 1990);
- Optional Protocol: Sale of Children, (Ratified: 16 April 2002);
- Optional Protocol: Armed Conflict, (Ratified: 16 April 2002); and

- Rome Statute of the ICC, (Ratified: 25 June 2002).

63.2 Since independence, Namibia has signed, ratified and acceded to the following OAU/AU instruments:

- the African Charter on Human and Peoples' Rights, *on 30/07/1992*
- the Protocol relating to the Establishment of the Peace and Security Council of the African Union, *on 19/11/2003*
- the Protocol on the Pan-African Parliament, *on 13/08/2002*
- Constitutive Act of the African Union, *on 28/02/2001*
- Treaty Establishing the African Economic Community, *on 28/06/1992*
- The African Charter on the Rights and Welfare of the Child, *on 23/07/2004*
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of women, *on 11/08/2004*
- African Youth Charter, *on 17/07/2008*
- African Union Convention on Preventing and Combating Corruption, *on 05/08/2004*

63.3 Namibia signed but has not yet ratified the following instruments:

- AU (Kampala) Convention on Internal Displaced People, signed in *October 2009*
- the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, *on 9 June 1998*
- African Charter on Democracy, Elections and Governance, *on 10 May 2007*

63.4 Namibia has not yet signed or ratified the following AU/OAU instruments:

- OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, *adopted 10 September 1969.*
- the Protocol on the Statute of the African Court of Justice and Human Rights (*adopted on 1 July 2008, once entered into force, this Protocol will replace the 1998 Protocol above*)
- OAU Convention on the Prevention and Combating of Terrorism, *adopted on 14 July 1999*
- African Convention on the Conservation of Nature and Natural Resources, *adopted on in 1968 and was revised in 2003*
- African Union Non-Aggression and Common Defence Pact, *adopted on 31 January 2005.*
- Statutes of the Economic, Social and Cultural Council of the African Union, *adopted in July 2004*

64. Article 2. Non-discrimination

64.1 As previously reported, discrimination of any kind is proscribed under the Namibian Constitution and various pieces of legislation. To effectively combat all forms of discrimination, the Office of the Ombudsman launched a National Human Rights Action Plan in 2014. The plan devised mechanisms that are meant to combat bigotry and other forms of racial discrimination.

64.2 Moreover, in 2017 the Office of the Ombudsman launched a report on a national inquiry into racism, racial and other forms of discrimination and tribalism. The report is entitled ‘A nation divided: Why do racism and other forms of discrimination still persist 27 years after independence? The said report was compiled after the office held public hearings across the country to establish the level of discrimination in Namibia. The ultimate purpose of the inquiry was to find

ways of ridding our society of racism, racial and other forms of discrimination, and tribalism. In this report, the Office of the Ombudsman not only reminds government of its responsibilities in terms of international human rights treaties signed and/or ratified, but also makes substantive recommendations as to measures that can and should be implemented by various ministries in order to eradicate racism/discrimination. This report further makes recommendations to government and other stakeholders on ways to combat discrimination.

65. Article 3. Equality before the law

65.1 As per the last report, under the Namibian Constitution, equality before the law is a guaranteed right. All Namibians are treated equally before the courts. Namibian courts are independent and free from government interference.

66. Article 4. Inviolability of human rights

66.1 The right to life remains amongst the most protected rights in Namibia. As reported in the previous report, the death penalty is prohibited in the country under article 6 of the Constitution. All rights contained in chapter 3 of the Namibian Constitution are non-derogable.

66.2 In an effort to combat crime which was spiralling out of control, the State President in 2018 deployed members of the defence force to assist the Namibian police in its operations to reduce the high rates of criminal activities in mostly urban areas. Although the rationale behind this law enforcement operation was to root out crime. Regrettably, this resulted in the injuries and deaths of civilians. However, members of the law enforcement involved in these cases two (2) soldiers were arrested and charged with Murder and are awaiting trial. Moreover, civilians who sustain some injuries as a result of alleged assaults are currently suing the state for compensation.

66.3 The arrest of the said soldiers and pending lawsuits against the state is an indication that the Government is committed to combating impunity by the police force.

67. Article 5. Respect for human dignity and measures against all forms of exploitation

67.1 As per the previous report, the right to human dignity is guaranteed in Namibia. Any person –citizen or foreign nation can approach the courts and/or the Office of the Ombudsman to lay complaints of violation of this right. The Office of the ombudsman is empowered to investigate cases of this nature.

67.2 The Constitution proscribes all forms of slavery including the slave trade. To combat slavery and the slave trade the government with assistance from United Nations Office on Drugs and Crime (UNODC) developed the Combating of Trafficking in Persons Act 1 of 2018.

67.3 In 2015, the Office of the Ombudsman during embarked on a Prevention of Torture Project (PTP) and developed a Prevention of Torture Training Manual for Police Officers (PTTMPO) which resulted in training workshops for police officers in nine (9) regions of the country. A key important component of the PTP was the multimedia public awareness campaigns designed to reach as many people as possible with torture prevention information.

The campaign comprised of the following:

- Billboards;
- Adverts on the National Broadcasting Corporation (NBC);
- Three (3) different 30 second scripts were read live in all local languages on all stations of NBC radio.

68. Article 6. The right to liberty and arbitrary arrest and detention

68.1 As reported previously, the right to liberty and to the security of one's person is constitutionally protected. The right not to be deprived of one's freedom has been dealt with by the superior courts of the land.

68.2 In the case of *Minister of Safety and Security v Kabotana*,⁴ The court stated that article 11(3) is an aspect of the fundamental right to liberty guaranteed by article 7 and that the 48-hour requirement is undoubtedly an important constitutional right accorded to arrested persons which, in the light of our pre-independence history of detention without trial and other related injustices, should be guarded jealously. This article finds its place in the Constitution 'solely for the benefit of arrested persons and not for the benefit of the state'. The Court further stated that:

68.3 The 48-hour requirement must act as a flashing red light in the minds of the officers processing suspects for onward transmission to court. This is the vigilance with which we must guard this fundamental right to appear in court within 48 hours after being arrested unless it is not reasonably practicable to do so. The state was therefore held liable for its failure to have brought the respondent to court within 48 hours, whereas it was reasonably possible to do so in the circumstances of the case.

⁴ 2014 (2) NR 305 (SC).

69. Article 7. The right to fair trial

69.1 As previously stated in the last report the right to fair trial vis a vis the right to be heard is both a constitutional and statutory guarantee in Namibia. The right to be heard better known by its Latin name *audi alteram partem* rule is paramount in the Namibian legal system. The Ombudsman's office is mandated to protect and promote human rights in the country including the right to fair trial. This can also be done in confidence.

69.2 The retroactivity of laws is prohibited in Namibia. Collective punishment is also prohibited in the country and any form of legal punishment can only be imposed on the offender and not on his family members.

70. Article 8. Freedom of conscience, the profession and free practice of religion

70.1 These rights are protected and promoted by the Constitution as previously stated in the last report.

70.2 The case of *ES v AC*,⁵ dealt with the right to patient autonomy by referring to religious beliefs of a patient. The facts were as follows:

70.3 In August 2012, Mrs ES was pregnant with her third child. Her physician at this time was Dr G H Burmeister. Dr Burmeister had delivered the appellant's second child by caesarean section and was also the Mrs ES family doctor. On 21 August 2012, Mrs ES had an appointment for her final pre-delivery consultation with Dr Burmeister.

⁵ SA 57/2012. (2015) NASC 11

According to Mrs ES, during this appointment she stated that she would not accept a blood transfusion if complications arose during delivery. Mrs ES and her husband are both Jehovah's Witnesses. Accordingly, they believe in following a specific moral and religious code that includes a scriptural command to abstain from the ingestion of blood. Mrs ES has been a Jehovah's Witness for over 20 years, and during this time she has held firmly to her beliefs.

70.4 It was held that in the case concerning the refusal of an adult patient of full mental capacity to have a blood transfusion administered, the starting point must be the principle of patient autonomy, which embodies both Art 7 (protection of liberty) and Art 8 (respect for human dignity) of our Constitution. The principle of patient autonomy reflects that it is a basic human right for an individual to be able to assert control over his or her own body. Adhering to this principle requires that a patient must consent to medical procedures after having been properly advised of their risks and benefits, so that the consent is informed. Medical practitioners must inform their patients about the material risks and benefits of the recommended treatment but it is up to the patient to decide whether to proceed with a particular course of treatment. For this reason, it is the patient's judgment of his or her own interests that is the most important factor.

71. Article 9. The right to receive information and the right to express and disseminate opinions within the law

71.1 The state party acknowledges that there is no specific law that obliges the government to divulge information to any member of the public upon request. To address this shortcoming, government is in the process of enacting the Access to Information Act. The Act once promulgated, will make it easier for Namibians to access government information. In the absence of a specific law on the right to information, government recognises the need for information to be freely or cheaply available to the public through a variety of means.

Government ministries are under an obligation to publish newsletters about their mandate and avail the said newsletters to the public at easily accessible points.

71.2 The Ministry of Information and Communication Technology is tasked with the duty of disseminating all government information to the public. The Namibian Broadcasting Corporation (NBC) which is a public broadcaster is also tasked with the responsibility of disseminating information to the public. The office of the Ombudsman assists government in disseminating information on human rights to the public through awareness campaigns, production of newsletters and radio programmes.

71.3 Freedom to express and disseminate one's opinion is also guaranteed in Namibia. Namibians can air their grievance against government institutions in a variety of ways. They can do so via a call-in programme on national radio called "open line". They can also air their opinions freely in local newspapers without any intimidation from the state. Most Namibian media houses are privately owned and operate independently without fear from the state. In this regard, they serve as a pillar in promoting the right to freedom of speech.

72. Article 10 and 11. The right to free association and assembly

72.1 Namibians from all walks of life are allowed to join any association provided that such an association is legally recognised and functions within the confines of the law. These associations can be trade unions, political parties, youth's organisations, religious groups to mention but a few.

72.2 Section 6 of the Labour Act protects workers from any prejudice as result of their trade union's membership or participating in lawful activities of trade unions subject

to legal limitations as imposed by law. To this effect, Namibia has ratified all the International Labour Core Conventions including:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87);
- Right to Organise and Collective Bargaining Convention, 1949, (No.98).

73.3 The right to assemble freely with others is also fully respected in Namibia. All citizens

can assemble in public places and/or facilities with others without any restrictions.

The Police Act, Act 19 of 1990 allows police to safeguard places of assembly upon request. All peaceful protests are protected by the police.

74. Article 12. The right to freedom of movement and residence within the borders of a state

74.1 Freedom of movement is a guaranteed right in Namibia. Namibians can live and build a life anywhere in the territory of the Republic of Namibia.

74.2 The Immigration Control Act 7 of 1993 regulates and controls the entry of persons into, and their residence in, Namibia; to provide for the removal from Namibia of certain immigrants; and to provide for matters incidental thereto.

74.3 Whereas the Departure from Namibia Regulation Act 34 of 1955 regulates the departure of persons from Namibia and to provide for matters incidental thereto.

74.4 With regard to those individuals seeking refugee recognition, the Refugees Recognition Act, Act No.2 of 1999 makes provision for the recognition and control of refugees in Namibia; to give effect to certain provisions of the United Nations Convention Relating to the Status of Refugees of 28 July 1951, the Protocol Relating to the Status of Refugees of 31 January 1967 and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 10 September 1969; and to provide for matters incidental thereto.

75. Article 13. Citizen's participation in governance and access to government services and/or facilities

75.1 As stated in the previous report, Namibia is a multiparty democratic state, founded on the principles of democracy and rule of law. Namibians have the right to participate freely in the governance of their country. Social movements and political parties are formed on a regular basis and their activities are tolerated by government for as long as they are within the confines of the law. Since the last report, one social movement called Affirmative Repositioning (AR) and one political movement the Landless Peoples Movement (LPM) have been formed and are influencing the social and political discourse of the country.

75.2 Namibia will hold its general elections towards the end of 2019 and the Electoral Commission of Namibia (ECN) is tasked with the duty of holding voter education campaigns across the country's 14 geographical regions. A refresher guide entitled "Refresh your election knowledge: all you need to know about the upcoming 2019 elections" was developed by the ECN and contains essential information to guide the electorate in understanding the electoral process, the citizenry's rights and responsibilities in an election, and what is expected of the electorate during the upcoming Presidential and National Assembly elections on November 27, 2019.

- 75.3 To maintain Namibia's status as a country that conducts elections in a peaceful atmosphere, the ECN developed an election "Code of Conduct" guide and translated it into the country's main indigenous languages.
- 75.4 The public service is accessible to every citizen including non-citizens. Citizens who want to work for the government are allowed to apply for available and advertised vacancies. The recruitment of civil servants is done in a fair and transparent manner. However, it is only through the affirmative action programme that certain Namibians are favoured when it comes to accessing government jobs. This is meant to address past discriminatory practices under South Africa's apartheid regime which made it difficult for certain population groups to fully access the civil service.
- 75.5 Non-civil servants can access government services mostly for free, except in certain instances. Payment for certain government services are not meant for income generation, but rather for cost recovery.
- 75.6 Moreover, all citizens can access government services in languages that they understand and are competent in. In court proceedings, defendants and witnesses who are not proficient in the English language are provided with interpreters and translation services.
- 75.7 There are no laws that prohibits citizens and non-citizens from accessing public property. Government buildings are accessible to all. However, one will need special permission to access government buildings that are crucial to national security.
- 75.8 Public amenities and facilities such as sports infrastructure and leisure places are regulated by local municipal bylaws and are accessible to all.

76. Article 14. The right to property

76.1 As per our previous report, Article 16(1) of the Namibian Constitution guarantees all persons the right to acquire, own and dispose of all forms of property in any part of Namibia. The right to land falls within the scope of the said article in the constitution.

76.2 In an effort to address the skewed land tenure system in Namibia, the Government of Namibia in October 2018 held a second national land conference in the capital Windhoek.

76.3 The Conference sought to address the structure of land ownership in Namibia and debated the following issues, amongst others:

- To review progress made towards the implementation of the Resolutions of the 1991 National Land Conference and the Land Question in Namibia;
- To deliberate over what more could be done to fast track the implementation of the 1991 Land Conference and other related issues emerging during the implementation of the land reform programme;
- The willing-seller, willing-buyer principle;
- Ancestral land claims for restitution;
- Expropriation of Agricultural (Commercial) Land in public interest;
- Urban land reform and Resettlement Criteria;
- The Veterinary Cordon Fence, and other eminent land related issues.

76.4 In the case of *Agness Kahimbi Kashela v. Katima Mulilo Town Council*,⁶ The appellant's late father was allocated a piece of land in 1985 in the then Caprivi Region (now the Zambezi Region) by the Mafwe Traditional Authority (MTA) on communal land. Following independence on 21 March 1990, all communal lands in Namibia became the property of the State of Namibia by virtue of Art 124 read with Schedule 5(1) of the Namibian Constitution but, in terms of Schedule 5(3) of the Constitution, subject to, amongst other, the 'rights', 'obligations' and 'trusts' existing on or over that land. Appellant's father was still alive at the time of independence and continued to live without interference on the land (the land in dispute) allocated to him by the MTA with his family, including the appellant. In 1995, the Government of Namibia which by certificate of state title owned the communal land of which the land in dispute was part, transferred a surveyed portion of it to the newly created Katima Mulilo Town Council (KTC) in terms of the Local Authorities Act 23 of 1992. (LAA). The appellant's father was still alive then and continued to live on the land as aforesaid. He died in 2001 with the appellant as only surviving heir who continued to live on the land-according to her as 'heir' to the land in terms of Mafwe customary law.

76.5 Therefore the court held that Schedule 5(3) of the Constitution creates a *sui generis* right in favour of the appellant and those similarly situated over communal lands succeeded to by the Government of Namibia and such right continues to exist even when transferred to a local authority such as the KTC. In rejecting the respondent's argument to the contrary, held that such right did not need to be registered in terms of s 16 of the Deeds Registries Act 47 of 1937 to be enforceable. The court also held that a right created by Schedule 5(3) of the Constitution did not necessarily have to be vindicated in terms of Art 16(2) of the Constitution because the framers of the Constitution must have intended a remedy to be fashioned by the courts to give effect to the right created by the schedule. In other words, where there is a right, there must be a remedy.

⁶*Agness Kahimbi Kashela v. Katima Mulilo Town Council* (I. 1157/2012.) 2017 NAHCMD. 49

PROMOTION AND PROTECTION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

77. Article 15. The right to work under equitable and satisfactory conditions

77.1 The government of Namibia has undertaken many measures aimed at enhancing the rights of all workers in Namibia. The National Employment Policy came into effect in 2013. The National Employment Policy (NEP) guides government in reaching productive and decent employment for all. In addition, the enactment of the Employment Services Act, Act No. 8 of 2011 resulted in the establishment of the National Employment Service mandated to provide professional labour market services for the purpose of achieving full, productive and decent employment in Namibia. The National Employment Service consists of Employment Services Board and the Employment Services Bureau. The Employment Services Bureau is tasked with maintaining of a National Integrated Employment Information System and to monitor skills gaps and employment vacancies in the country.

77.2 Namibia has two types of minimum wage fixing machineries. These are the Collective Agreements extended to the entire industry and the Wage Order set up by the Wage Commission. There are currently three collective Agreements that regulate minimum wage in the following industries: Security, Agriculture and Construction. Whereas the Wage Order regulates minimum wage and condition of employment for domestic workers.

77.3 Under article 95(i) Namibia is under an obligation to ensure that workers are paid a living wage adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities.

78. Article 16. Right to physical and mental health

78.1 The Ministry of Health and Social Services developed a Patient Charter. The patient charter is another document which gives certain rights and privileges to the people and patient in Namibia. It was written for any person who gives or receives a health service. It recognises and protects the integrity and dignity of patients and clients. It sets out patients' rights and entitlements. It is also a yardstick to measure the quality of health care services provided at the health care facilities.

78.2 The right to physical health is covered under various laws and policies pertaining to healthy. Section 2 (1) and (2) of the National Health Act, Act No. 2 of 2015 states that:

78.2.1 The Minister is responsible for the administration of this Act and the initiation, formulation, implementation, monitoring, evaluating and development of policies required for optimal service delivery or performance and to protect, promote, improve and maintain the health of the population.

78.2.2 Without derogating from the general powers of the Minister in subsection (1), the Minister must, within the limits of available resources –

- (a) provide efficient, cost effective, appropriate and comprehensive quality health services at different levels of care;
- (b) provide rehabilitation services;
- (c) promote, regulate, support and conduct research to improve overall service delivery;
- (d) ensure the availability of trained human resources in the Ministry at various levels in order to strengthen and maintain professional standards; or
- (e) prepare and publish reports and statistics or other information relating to public health.

- 78.3 Whereas the right to mental health is provided for under the Mental Health Act of 1973. Government is in the process of repealing the 1973 Act and replacing it with a new Mental Health Act. This is expected to address the shortcomings of the 1973 Act. In an effort to promote the health of its workforce the Namibian government established wellness programs in the civil service. Under these programmes, civil servants are advised on how to cope with various ailments and on how to pursue a healthy lifestyle.
- 78.4 The state party has undertaken various and necessary measures to protect the health of its people and to ensure that they receive medical attention when they are sick. Access to state owned health facilities is affordable to many. Patients are only expected to pay between N\$ 9 and N\$15 to access health services in state owned facilities. The elderly and the disabled are exempted from paying any fees for accessing health facilities. Moreover, no state health facility will deny a patient treatment for not paying the required fee.
- 78.5 In its fight against HIV/AIDS government through the Ministry of Health and Social Services has launched the updated 2016 Treatment Guidelines that include test and treat and pre-exposure prophylaxis. Namibia implemented Option B plus for the Prevention of Mother to Child Transmission (PMTCT).

79. Article 17. Right to education and culture

- 79.1 The state party continues to invest huge amounts of money into the education sector. The Government expenditure on education is about 8, 4% of the GDP of the national budget every year. During 2014/2015, the Ministry of Education received a budget of N\$ \$13.1 billion. (Approx. US\$ 102 104 0593.00) which is one of the highest in Africa. In 2013 the Government introduced free primary education in terms of Article 20 of the Namibian Constitution, whereas free Secondary Education was introduced in 2016.

79.2 To encourage school attendance of students from low income households, the School Feeding programme was established and is provided in some primary schools including satellite and mobile schools. Currently, 1428 schools are benefitting from school feeding.

79.3 The Ministry of Education, Arts and Culture is providing school feeding scheme to needy primary school learners in all 14 regions in 1435 schools out of 1846 schools and this is approximately 80% of the schools in the country. The Ministry provides fortified maize blend consisting of maize meal (63%) salt (1 %) sugar (11%) and soya blend protein (23 %)

79.4 The Namibian school feeding programme expanded as follows over the past three years:

Table 3. Beneficiaries of the school feeding programme

Year	Number of Beneficiaries	Number of NSFP schools	Expenditure
2014/2015	320 000	1273	N\$ 89 000 000
2015/2016	330 000	1273	N\$ 107 000 000
2016/2017	364 354	1435	N\$ 120 000 000
2017/2018	365 854	1456	N\$ 130 918 000

Source: Ministry of Education, Arts and Culture

80. Mobile Units

80.1 The mobile units are established for marginalised communities that are in remote areas. 13 mobile units are in the regions. 38 mobile units of Ondao mobile PS in Epupa & Opuwo circuits.

81. Social Accountability and School Governance (SASG)

81.1 The Ministry of Education, Arts and Culture in its endeavour in providing quality and inclusive education for all learners in Namibia, has through the technical and financial support from UNICEF and with the funding of EU, launched the Social Accountability and School Governance programme (SASG). It aims at increasing the understanding of school communities and other stakeholders in education of their roles and responsibilities in the management and monitoring of the education system, especially at school level.

81.2 The pilot phase of the programme was completed in July 2016 and since then the Ministry of Education, Arts and Culture has been working on a progressive national upscale of SASG with a view to operationalise the National Standards and Performance Indicators (NSPI), the performance framework for the education sector in Namibia which is itself undergoing review in 2018. The key SASG activities aims to improve grassroots level engagement in school governance through the following, programmatically and methodologically, aligned interventions:

- Enhancing the capacity of school level stakeholders to understand and engage with educational rights, purposes, policies and practices through school board trainings which targets parents, teachers and education officials and edu-circles which target learners;
- Developing the capacity for implementation of social accountability mechanism and tools at school level through improved use of data for educational planning and management (Education Management Information Systems) and minimising health and safety barriers to education.

81.3 Materials for advocacy on social mobilisation on SASG have been finalised by the implementing partner Legal Assistance Centre. (LAC).

These comprises four comics and three posters covering various aspects of school governance and improved service delivery in education espousing the principles of social Accountability. These materials help to inform learners of their roles and responsibilities, and guide the Edu- circle learners in operationalizing SASG at school level. Materials for advocacy on social mobilisation against violence in schools have been finalised by the implementing partner Namibia Institute for Democracy Implementation.

81.4 Moreover to ensure that the school environment is conducive for children government Physical Education officially part of the curriculum at primary school. In addition, there are playing grounds in the residential areas and parks in most of the major towns for kids. In an effort to broaden access to higher education, the state party converted the former Polytechnic of Namibia into a University of Science and Technology. The change from the Polytechnic of Namibia to the Namibia University of Science and Technology would also provide students with a greater choice in higher education, and a national environment in which they will not be discriminated against in respect of scholarships, loans, grants and qualifications.

81.5 Furthermore, Namibia is in the process of repealing and replacing the Education Act of 2001(Act No. 16 of 2001). Since the 2001 Act was enacted, significant national and international developments in the provision of free, inclusive, integrated and quality education for all have been achieved. Although the Government of Namibia has achieved a lot in terms of providing education to its citizens, in 2015 it was deemed necessary to review the Act of 2001, to ensure that this legislation is aligned with the latest national policies and legislations as well as the international commitments in education. The new Act will better reflect the aims of Namibia's National Development Plans (NDPs) and Vision 2030, and the country's global and continental commitments under the new Sustainable

Development Goals (SDGs) and the Continental Education Strategy for Africa (CESA16-25).

81.6 The new Act will place the learners at the centre of education, and will promote an education which is free from any type of discrimination. It will also promote an education that prepares the Namibian child for lifelong learning and sustainable development.

82. Cultural Rights

82.1 As stated in the previous report, the right to culture is provided for under article 19 of the Constitution.

82.2 The 2001 Policy on Arts and Culture states that the government has the mission and goal to uphold unity in diversity so that all Namibians feel free to practice any culture, recognizing that such “unity is maintained by mutual understanding, respect and tolerance.” As part of promoting this unity in diversity, the 2001 Policy also states that it is the goal of the Namibian government to safeguard and promote linguistic heritage and acknowledges the role of education in the promotion of cultural diversity. Though not reiterated in the National Development Plan 4 (2013-2017), the National Development Plan 3 (2007-2012) recognized that “language is an essential carrier of culture” and that the biggest challenge post-independence was to heal the wounds of inequality and racism and recognize the wealth of Namibia’s multiculturalism.⁷

82.3 The language Policy for Schools of 1992 revised in 2015 facilitates the realisation of the substantive goals of education, namely access, equity, quality, democracy and

⁷ UNESCO Culture for Development Indicators.

lifelong learning. Access refers, amongst others, to learning and acquiring knowledge through language, and in particular through the home language. Equity has to do with fairness, including the fact that all learners should have access to home language instruction to gain meaning from teaching and learning. Access and equity are both measures of quality education, as is equipping teachers to teach their subjects in the home languages and providing quality teaching material in all home languages.

82.4 The Policy affirms the constitutional and international provisions pertaining to human rights, individual language rights and culture.

82.5 The understanding is that the transferability of experience and knowledge from home to school through home language education and all national languages regardless of the number of speakers or the level of development of a particular language.

82.6 The Language Policy for Schools states that:

“Pre-primary to Grade 3 shall be taught in the home language. English as a medium of instruction shall only be offered from Grade 1 at government schools with the written approval of the Minister of Education, Arts and Culture.

Grade 4 shall be transitional year during which the change to English as medium of instruction will take place. The home language may be used in a supportive role. Grades 4 to 12 shall be taught through the medium of English, and the home languages shall be offered as subjects in these grades.

Where learners from the same language group are in the minority in Grades 1 - 3, provision should be made for them to be taught in their home language. If they are in the minority in Grades 4 - 12, provision should be made for them to study their home language as a subject.

Where learners from the same language group are in the minority, provision should be made for them to study their home language from Grade 1 to Grade 12.”

82.7 Languages currently offered in the Namibian education system are:

Khoekhoegowab L1, Oshikwanyama L1, Oshindonga L1, Otjiherero l1, Rukwngali L1, Rumanyo L1, Setswana L1, Silozi L1, Thimbukushu L1, Julhoansi L1, English L 1&2, Afrikaans L 1&2, German L1, French Foreign and Portuguese Foreign language.

82.8 However, for the San people, Ju//hoansi an umbrella San language development is coordinated by the Namibia Institute of Educational Development (NIED) through Curriculum Panel Committee. Materials such as textbooks are developed to reflect the culture and context of the communities. Currently NIED is working literature and readers books for primary schools in Jul//hoansi.

82.9 Traditional Life Skills is an extra mural subject taught by parents and community members to equip learners in skills such as weaving, sewing, pottery and crafting for learners in Grade 4 to Grade 7. Funds for these activities can be sourced from UPE allocations.

82.10 Moreover, there is no policy that prohibits learners from wearing their indigenous attire throughout their school career. In the regions where there is a higher concentration of IP's there are no restrictions. It may depend on the school principal, but there is no legal framework which prohibits learners from wearing their traditional attire. Learners from different religious backgrounds (e.g. Muslim) are allowed to wear their religious attire.

83. Article 18. Protection of the family, women's rights and the rights of the elderly and persons living with disabilities

83.1 The state party has created an environment where the family is protected. This has been done through the promulgation of certain laws and policies to this effect. The Married Persons Equality Act of 1996 provides for equality between married couples. The state provides grants to vulnerable children belonging to underprivileged families. Free family planning is offered to women who require it.

83.2 Government has made great strides in promoting and protecting women's rights in relation to political representation. With regard to women representatives in parliament, the country has seen an increase from five women in the 1st National Assembly (1990-1994) to 48 women in the 6th National Assembly (2015-2020), making up 46 percent of the current National Assembly.

83.3 Women's right to reproductive health is recognised and protected by government. Family Planning service provision for all sexually active individuals and couples is affordable and given in almost all health facilities in the country. As a result of free family planning services, the national fertility has declined from 4.2 in 2000 to 3.6 in 2006, but has remained static at 3.6 in 2013 NDHS. It is higher in rural areas (4.3) compared to urban (2.8). The contraceptive prevalence rate is 55% NDHS 2013 having risen marginally from 53% in 2006-07 NDHS and from 26% in 1992. Urgent need for family planning is 3% for all women while for married women is 7%.

83.4 In combating gender-based violence the Ministry of Health and Social Services provides treatment and counselling to victims of this scourge. Gender Units, formally known as the Women and Child Protection Units at the Ministry of Health

and Social Services' sites welcomes all victims of violence and they are treated individually according to the merits of their cases.

- 83.5 In relation to children's rights, the Child Care and Protection Act, Act No.3 of 2015 has become operational and this important piece of legislation will address most issues pertaining to the rights and welfare of children.

84. The elderly and persons living with disabilities

- 84.1 The Namibian Government signed the United Nations Convention on the Rights of Persons with Disabilities on the 25th April 2007, and ratified the Convention (including the Optional Protocol on the 4th December, 2007).

- 84.2 The primary responsibility for disability within the Namibian Government lies with the Ministry of Health and Social Services. In addition, a Disability Unit was established in 2001 located in the Office of the Prime Minister (OPM). However, but since 2015 disability affairs have been brought under the auspices of the Office of the President and it is now headed by a Deputy Minister who reports directly to the Vice President. The Disability Unit represented the Government of Namibia at the Ad Hoc Committee meetings on the negotiations of the UN Convention on the Rights of Persons with Disabilities, in New York. A Disability Council has also been established through the National Disability Council Act, (Act no.26 of 2004) under the Ministry of Health and Social Services.

- 84.3 The Namibian Government has passed several pieces of legislation and adopted policies that have direct relevance to disability issues. The National Disability Council Act, (Act No.26 of 2004) makes provision for advisory body to be established, with a mandate to provide strategic oversight on the implementation of the National Disability Policy. It also has responsibility for commenting on any future legislation that had any direct and indirect impact on disability issues. The

Act explicitly mandates the Council to consult with Organisations of People with Disabilities (OPDs) regarding disability policy and practice.

84.4 The following legislation and policies are also in place to ensure equal protection for persons with disabilities in Namibia:

- National Disability Council Act, Act No. 26 of 2004
- National Policy on Disability (1997)
- Sector Policy on Inclusive Education (2013)
- Affirmative Action (Employment), Act No. 29 of 1998)
- National Policy Options on the Educationally Marginalized Children (2002)
- Education Sector Policy on Orphans and Vulnerable Children (2008)
- Educational Sector Policy on HIV/AIDS
- The National Policy on Special Needs and Inclusive Education (2008)
- Mental Health Policy (2013)
- Mental Health Act, Act No 18 of 1973
- Policy on Orthopaedic technical services
- Decentralisation Policy
- Labour Act, Act No. 11 of 2007
- Electoral Act, Act No 5 of 2014)

84.5 In addition to free health care in state health facilities, the elderly receives a monthly pension amount of N\$1350. The Ministry of Poverty Eradication and Social Welfare provides free funeral services upon death to those elderly persons upon request from the family.

85. Article 19 and 20. Equality of all persons and the prohibition of the domination of a person by another vis a vis right to existence and self-determination

85.1 Namibia being a product of the international community, adheres to the principles of the right to self-determination as spelt out in international legal instruments to which she is a state party. Namibia endeavours to support the right to self-determination in relation to colonised and oppressed peoples of the world insofar as such struggles for this right is within the bounds of international law.

86. Article 21. Right to freely dispose of the country's wealth and natural resources and the elimination of foreign economic exploitation

86.1 The Namibian Constitution is the supreme law governing all the country's mining activities. All pieces of legislation and policies derive their authority from the Constitution. Article 100 of the Namibian Constitution states that "Land, water and natural resources below and above the surface of the land and in the continental shelf and within the territorial waters and the exclusive economic zone of Namibia shall belong to the State if they are not otherwise lawfully owned".

86.2 The Namibian Ombudsman under article 91(c) is mandated to protect the environment in a variety of ways. The Ombudsman is an independent state official with the power to investigate complaints concerning Government or the Constitution. One of the Ombudsman's functions is to investigate complaints about the over-utilisation of living natural resources (such as plants and animals) the irrational exploitation of non-renewable resources (such as diamonds or natural gas) the degradation and destruction of ecosystems failure to protect the beauty and character of Namibia. The Ombudsman can take a variety of steps to remedy such problems, including negotiation between the parties concerned and court action

86.3 Article 98 (1) of the Namibian Constitution reads: “The economic order of Namibia shall be based on the principles of a mixed economy with the objective of securing economic growth, prosperity and a life of human dignity for all Namibians.”

Below are pieces of legislation and policies governing Namibia’s mineral sector.

87. The Minerals (Prospecting and Mining) Act

87.1 No person shall carry any reconnaissance, prospecting or mining operations in Namibia except in accordance with licences granted.

88. The Minerals Development Fund Act

88.1 This Act establishes the Minerals Development Fund and it is another vital piece of legislation governing mining activities in Namibia. Its main purpose is to safeguard the production and earning power of the mining sector through, amongst others, diversification of the production base and supporting the sector through improving national geological and mineral data and expanding training facilities and programmes.

89. The Minerals Policy of Namibia

89.1 This policy has 12 objectives which are mentioned below:

- Promote and stimulate investment in exploration and mining so as to discover new ore deposits that will lead to the development of new mines and also to maintain the existing ones;
- Promote a conducive environment for the mineral sector that encourages and facilitates the active participation of all stakeholders;

- Promote and encourage local participation in exploration and mining;
- Promote and encourage maximum local beneficiation of mineral products to ensure that as many of the economic benefits as possible are retained in Namibia for the benefit of all its citizens;
- Regularise and improve artisan and small-scale mining so that it becomes part of the formal mining sector;
- Promote research and development for improving technology in exploration, mining and mineral processing operations
- Ensure the establishment of appropriate educational and training facilities for human resources development to meet the manpower requirements of the minerals industry;
- Promote and facilitate marketing arrangements to increase the economic benefits of the sector;
- Ensure the adherence to the principle of socio-economic empowerment through appropriate measures;
- Ensure compliance with national environmental policy and other relevant policies to develop a sustainable mining industry;
- Review on a regular basis the legal, economic, social and political aspect of the Minerals Policy, to ensure that it remains internationally competitive, that it adequately addresses the mining industry's volatility and that it serves the common good of Namibians; and
- Ensure mining operations are conducted with due regard to the safety and health of all concerned.
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90. The Policy for Prospecting and Mining in Protected Areas and National Monuments (1999) provides as follows:

90.1 Granting of [Exclusive Prospecting Licenses and Mining Licenses]: Is generally permitted in Protected Areas and National Monuments . . . except areas within

parks and monuments, which are particularly sensitive or are of special ecological or touristic importance. Each application would be considered on a case by case basis.

90.2 The Policy further states that:

90.3 A full EA will usually be required for any prospecting or mining in a Protected Area and/or National Monument. The EA shall be conducted according to the procedures as stated in the Environmental Management Act. Should the [Minerals (Prospecting and Mining Rights) Committee] agree to recommend approval (after reviewing the EA) an Environmental Management Plan and an Environmental Contract shall be concluded before prospecting or mining may commence.

91. Environmental Management Act 7 of 2007

91.1 The Environmental Management Act has three main purposes:

- (a) To make sure that people consider the impact of activities on the environment carefully and in good time;
- (b) To make sure that all interested or affected people have a chance to participate in environmental assessments;
- (c) To make sure that the findings of environmental assessments are considered before any decisions are made about activities which might affect the environment.

92. Article 22. The Right to Socio-Economic and Cultural Development

92.1 The government strives to ensure that Namibians are economically empowered by creating a conducive environment where entrepreneurship is encouraged. The Development Bank of Namibia fosters, empowers and finances bold new ventures.

It provides the financial tools that allow businesses and ventures to grow and create new jobs. It also funds public and private projects that generate jobs, revenue, and investments for now and for the future. Development Bank of Namibia is dedicated to investing in growth and capital but it's not only economic growth; it's also human growth and capital—Namibia and Namibians realizing a rich, rewarding, and vibrant future. It is this investment and commitment that can help strengthen Namibia. The Ministry of Trade, Industrialisation and SME development offers grants to Namibians to start their own SMEs.

92.2 The revamped National Youth Policy is aimed at empowering young people. This means creating and supporting the enabling condition in which they can act on their own terms rather than at the direction of others. This policy illustrates Namibia's readiness to approach youth-related matters from a human rights perspective and, therefore, commit office bearers to satisfy youth needs," These include an economic and social base, political will, adequate resource allocation, a stable environment of equality, peace and democracy. Young Namibians should promote the policy of national reconciliation, promote peace, security and development and display tolerance and great respect for ethics in all aspects of life.

92.3 In 2018 and in terms of section 33(1) read with section 33(3) of the Marine Resources Act, 2000 (Act No. 27 of 2000), the Ministry of Fisheries and Marine Resources made an announcement of period for applications for rights and conditions for granting of rights to harvest certain marine resources for commercial purposes. This another way of ensuring that Namibians from all walks of life fully exercise the right to enjoy and utilise the country's natural resources.

93. Article 23. The right to national and international peace and security

93.1 Nationally, Namibia endeavours to promote peace and stability at all costs. To achieve this, the state party professionalised its police force and defence forces upon independence from apartheid South Africa in 1990. The Namibian Defence Force is constitutionally tasked with the mandate of protecting the territorial integrity of Namibia. It's an apolitical institution and under firm civilian control.

93.2 Namibia is a state party to many international organisations that promotes international peace and security. The Namibian government had sent peacekeeping troops in war torn countries in Africa and other parts of the world such as neighbouring Angola, Sudan, Democratic Republic of Congo and Cambodia.

93.3 Namibia is also part of the Southern African Development Contingent team that is mandated by the regional body to help the Kingdom of Lesotho resolve its political crisis which has threatened to spill into a full-blown civil war.

94. Article 24. All people shall have the right to a general satisfactory environment favourable to their development

94.1 Sustainable development is critical to Namibia's progress and the government has embarked on a number of programmes to this effect. Namibia is a supporter of and a participant in the United Nations sponsored Sustainable Development Goals (SDGs) initiatives. Namibia also recently submitted its Voluntary National Report on the implementation of the 2030 Agenda for Sustainable Development. This is one of the follow-up and review mechanisms aimed at accelerating the implementation of this ambitious agenda.

94.2 Namibia recognised the importance of the SDGs and committed itself to localise the implementation of SDGs by aligning it to the national planning processes that ensure integration into its National Development Plans e.g. NDP5 and Harambee Prosperity Plans (the country's development programme from 2016 to 2020, an action plan towards Prosperity for All). The country has also created extensive awareness on the importance of all sectors to mainstream the relevant SDGs, the Africa's Agenda 2063 and the Southern African Development Protocol (SADC) on Gender and Development in their sector planning and implementation.

94.3 In terms of coordinating the SDGs, existing three - tier mechanisms have been adopted, which consist of the following:

- Development Partners Forum at the highest level, which provides an oversight
- A multi – stakeholder National Steering Committee consisting of senior officials from government and development partners to track the implementation and
- The National Planning Commission (NPC) as a Secretariat, which is also the coordinator of all developments pertaining the SDGs

Alongside these mechanisms, the Namibia Statistics Agency, has the responsibility of collecting data for analysis and for reporting.

94.4 All stakeholders, including but not limited to government sectors, civil society and the diplomatic corps have been engaged at various platforms prior to the compilation of the National Voluntary Review of the 2030 Agenda for Sustainable Development. For purposes of coordination of SDGs, a three-tier mechanism had been established. This consists of the Development Partners Forum at the highest level to provide coordination oversight; at implementation level a multi-stakeholder National Steering Committee composed of Senior Officials to provide tracking of implementation; and then lastly the coordination Secretariat to coordinate reporting. The progress report was validated by the multi-stakeholder National Steering Committee and endorsed by Parliament.

94.5 Gender equality and the empowerment of all women and girls is a key priority in the national plan/strategy for SDG implementation. Gender equality and empowerment of all women and girls as SDG number 5 is aligned to national development frameworks (NDP5, HPP and Vision 2030). Namibia as a country has thus far registered significant improvement in the promotion of gender equality and women empowerment (GEWE). This is largely credited to existing legislative instruments that have been put in-place to ensure gender equality and women empowerment. In addition, there are number of programmes that have been developed for the implementation of the policy provisions. Government continues to pursue macroeconomic stability, including fiscal discipline, which directly benefits women, especially rural women who are currently classified as vulnerable and extremely poor. To date, 43 percent of parliamentarians, from just 25 percent in 2010, are women. Furthermore, 43 percent managerial positions in public service are held by women. In terms of governance, currently 40 percent of the national executive (22 ministers) is women.

94.6 Namibia is developing the Communication Strategy of the 2030 Agenda for Sustainable Development to create awareness and mobilization of the society' participation in the implementation of NDP5/Agenda 2030, as well as obtaining buy-in from OMAs/grassroots organizations on the same. NPC would develop target group specific key messages that will ingrain the contents of NDP5, Agenda 2030 and Agenda 2063 into the hearts and minds of Namibians to solicit buy-in for the strategy's implementation to ensure that the NDP5/SDGs is achieved by 2022 and 2030, respectively. This will include celebrating Namibian success stories to show Namibia's progress in the implementation of the Agenda 2030, along the national vision 2030. The roll-out plan for the communication campaign is being developed to illustrate the overall communication campaign (sequence of activities), as well as a detailed breakdown of major activities, including the measure, communication channel, target group, cost and time required etc.

95. Article 25. Dissemination, teaching, education and publication of the rights and freedoms contained in the African Charter on Human and Peoples Rights

95.1 The Ministry of Justice has compiled compendiums and booklets of all international and regional human rights reports submitted by Namibia to various regional and international treaty bodies. These compendiums and booklets have been distributed to various libraries and several NGOs offices across the country. In future the state party intends to translate these compendiums in all of the country's recognised national languages in order for most people to grasp what they entail.

95.2 The Human rights documentation centre of the University of Namibia assists government in disseminating information pertaining to human rights to students and the general public.

95.3 The Human Rights and Documentation Centre (HRDC) was established under the memorandum of understanding between the University of Namibia and Ministry of Justice in 1993. The HRDC is part of the Faculty of Law and its mandate is that of cultivating a sustainable human rights culture in Namibia and Southern Africa. To fulfil its mandate, the HRDC conduct different activities such as, organizing conferences, workshops, undertake research on human rights issues and dissemination of information on human rights matters through its documentation centre.

95.4 The Office of the Ombudsman visits Namibia's regions regularly to disseminate information about the functions of the office and record complaints. The Office of the Ombudsman continues to open satellite offices across the country to in order to make their offices accessible to as many people as possible.

95.5 In secondary school History as a subject in the Namibian curriculum promotes democratic principles and practices at the school level within the educational system, and in civic life. It also develop the learner's social responsibility towards other individuals, family life, the community and the nation as a whole; promote equality of opportunity for males and females, enabling both sexes to participate equally and fully in all spheres of society and all fields of employment; enable the learners to contribute to the development of culture in Namibia; promote wider inter-cultural understanding; develop a lively, questioning, appreciative and creative intellect, enabling learners to discuss issues rationally, make careful observations and analysis, experiment, think scientifically, solve problems, and apply themselves to tasks

95.6 Social studies is a compulsory subject that is taught at primary school in all Namibian schools. Topics pertaining to human rights and democracy are contained in this subject. This subject ensures that children are exposed to the ethos of human rights from an early age.

96. Article 26. Independence of the judiciary

96.1 In line with Article 78 (5) of the Namibian Constitution, Namibia has made the monumental move to establish an independent body of the Judiciary which separates it from the Ministry of Justice. Named the 'Office of the Judiciary' it is administratively and financially independent.

96.2 The formation of the Office of the Judiciary affects the Namibian legal environment, it's a huge benefit for the ordinary citizen and this forms the governing reasons for the establishment of the Office of the Judiciary.

96.3 In 2015 the state party promulgated the Judiciary Act, 2015 (Act No. 11 of 2015) to establish the Office of the Judiciary. The main purpose of this Act is to strengthen the independence of the Judiciary in line with Article 78(5) of the Namibian Constitution; to provide for the administrative and financial matters of the Office of the Judiciary; and to provide for connected or incidental matters.

96.4 Before the establishment of this act, the Ministry of Justice was responsible for providing support to the Judiciary. There were Directorates within the Ministry of Justice that were responsible for the administration of the Judiciary. Since the Ministry of Justice belongs to the executive arm of the State, the fact that the Judiciary resorted, administratively, under the Ministry of Justice was not fully compliant with the principles of the separation of powers and the independence of the Judiciary

96.5 The Act came into operation on 31 December 2015 and it brought the Office of the Judiciary into existence. The Office of the Judiciary is an Office within the public service. It consists of staff members and judicial officers. Staff members, who are all civil servants, are appointed by the Prime Minister on the recommendation of the Chief Justice. Staff members who were previously assigned by the Ministry of Justice to the Judiciary automatically have become members of the Office of the Judiciary on the date the Act came into operation. This legally means that the Judiciary now has its own Permanent Secretary, prepares its own budget, and determines its policies as well as priorities. The Chief Justice supervises the Judiciary, exercises responsibility over it and monitors the norms and standards for the exercise of judicial functions of all the courts.

97. Chapter II: Duties. Article 27, 28 And 29

The situation remains the same as stated in the last report.

98. Conclusion

Human rights, democracy and rule of law are the foundation of the Namibian state. Like many other democracies, protecting and promoting human rights remains government priority. In her quest to fulfil her obligations under various human rights treaties including the African Charter on Human and Peoples Rights, Namibia has passed a number of laws and devised policies meant to ensure that her citizen's rights and welfare are catered for. Chief among these mechanisms is the National Human Rights Action Plan (NHRAP) whose main objective is to ensure the implementation of practical and attainable plans for the protection and promotion of human rights. In doing this, we hope to fully translate the fundamental rights and freedoms entrenched in the Namibian Constitution into practical realities.

Namibia recognises the threats posed by the HIV/AIDS pandemic and in this regard, the government has put mechanisms in place to counter its socio-economic implications on society. To this effect government launched the National Strategic Framework for HIV and AIDS Response in Namibia 2017/18 to 2021/22. The National Strategic Framework for HIV and AIDS (NSF) 2017/18 - 2021/22 is the guiding force for the HIV and AIDS response over the next five years. A response that sits firmly aligned within the National Development Pyramid through the Ministry of Health and Social Services (MoHSS) Plan and the Fifth National Development Plan (NDPS), both framed in the same time period. At the apex of the pyramid, sit our long term visions of 2030 and 2063 for which strategies such as the NSF act as a conduit from vision and aspiration to action and boots on the ground.

Namibian citizens continue to enjoy their civil and political rights without any restrictions from the state. Namibia recently held its general elections in which over 10 political

parties took part. All Namibians of voting age including convicts exercised their right to vote without any form of intimidation from the state. The Namibian government will continue to safeguard its democratic gains by ensuring that institutions of democracy such as the Office of the Ombudsman and the Electoral Commission of Namibia are strengthened and given more autonomy.

Access to justice is a very crucial component in relation to the protection of human rights. To this effect, the government has built a number of courts throughout the country. Plans are underway to convert periodic courts into permanent courts. In order to cater for indigent persons who can't afford private legal aid, the state party has employed and stationed a number of Public Defenders to a several courts throughout the country.

SECTION. C

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA.

1. Introduction

Section C of the report contains the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The report covers the period 2016 – 2019. The Republic of Namibia ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (The Protocol) on 26 October 2004.

Article 26 of the Maputo Protocol obligates states parties are to submit periodic reports on their implementation of the Protocol every two years. The Inter-Ministerial Committee on Human Rights and International Humanitarian Law drafted the report with assistance from women's organisations and other human rights institutions in the country.

2. New legal, administrative and policy framework since the last report

2.1 Legislation

2.1.1 The repealing of the Native Administration Proclamation of 1928.

2.1.2 In 2018 Government hastened the process of abolishing the Native Administration Proclamation of 1928. This is an apartheid era law whose provisions discriminates against women in marriage. The said proclamation dictated that all civil marriages between black people, north of the old police demarcation zone, also known as the area beyond the 'Red Line', are automatically outside community of property, unless another arrangement was made with the marriage officer before the marriage took place.

3. Public Procurement Act 15 of 2015

3.1 The **Public Procurement Act 15 of 2015** deals with the procurement of goods and services in Namibia. Although it was passed by Parliament in 2015, it was only brought into force with effect from 1 April 2017. Section 2 of this Act provides that its objects are (b) to promote, facilitate and strengthen measures to implement the empowerment and industrialization policies of the Government including, among others (ii) the empowerment of Namibian registered small and medium enterprises, women and youth by creating economic opportunity for them and enhancing their participation in the mainstream economy.

3.2 In addition, section 70 (3) specifically requires women, among other groups of persons, to be given preference. It reads as follows:

(3) *In order to promote the empowerment of women, as provided for in Article 23(3) of the Namibian Constitution, and the youth:*

(a) *a code of good practice issued in terms of subsection (1); and*

(b) *any targets specified in a code of good practice in terms of subsection(2), must give priority to such groups and primarily to women who were socially, economically or educationally disadvantaged by past discriminatory laws or practices over any other category of previously disadvantaged persons.*

4. The National Plan of Action on Gender Based Violence 2019-2023

4.1 The Ministry of Gender Equality and Child Welfare is in the process of reviewing the National GBV Plan of Action (2012 -2016) which was developed after the launch of the Revised National Gender Policy in 2010. The Plan of Action outlines action by various stakeholders to prevent and reduce incidences of GBV, actions to improve the implementation of laws and services aimed at protecting and support victims and survivors of GBV and the plan encourages stakeholders to study root causes of GBV in order to deliver effective and efficient services. The validation meeting with relevant stakeholders was held and the Revised Plan of Action is in its final stages of printing and publishing.

5. Article 2. Elimination of Discrimination against Women

5.1 The Ministry of Gender Equality and Child Welfare is the leading institution that caters for the rights and welfare of women and children in the country. The Ministry advocates for women's rights against gender-based violence, exploitation and it campaigns for fair representation of women in politics.

5.2 The Office of the Ombudsman is also a government institution that promotes and protects women's rights in Namibia. The National Human Rights Action being spearheaded by the office is aimed at addressing all forms of discrimination against women.

- 5.3 Government also recognises the role of Non-governmental organisations in promoting and protecting women's rights. To this effect, government had worked with the Legal Assistance Centre to help disseminate human rights information pertaining to women. The LAC has a dedicated office that specifically caters for the promotion of women's rights.
- 5.4 Sister Namibia is another feminist and women's rights organization that has been a constant voice for women and women's equality throughout the lifespan of independent Namibia. The government through the Ministry of Gender Equality and Child Welfare continue to work with Sister Namibia in protecting and promoting women's rights in Namibia.
- 5.5 In disseminating information on women's rights, the organization publishes the Sister Namibia Magazine, first published in 1989, and is published four times per year and is designed to inspire and equip women to make free choices and act as agents of change in their relationships, their communities, and themselves. Additionally, Sister Namibia's website actively facilitates networks in order to promote women's empowerment and gender equality and can connect you to organizations that can assist you with gender related issues.

6. Article 3 and 4. Right to Dignity, Life, Integrity and Security of the Person

- 6.1 Government acknowledges that gender-based violence is challenge despite a plethora of laws and policies to this effect. The prevalence of crimes of passion is worrisome and courts have pronounced long prison sentences to perpetrators in order to send a message would be perpetrators that such crimes will not be tolerated. All anti-gender-based violence legislation reported in the last report are still in force. Government through the Ministry of Gender Equality and Child Welfare continues to disseminate information pertaining to gender based violence.

- 6.2 In 2018 Government enacted the Combating of Trafficking in Persons Act. This Act will greatly assist government in developing mechanisms that are aimed at alleviating cases of human trafficking.

Table 4: Trafficking in Persons Cases: 2014 – 2019

Reported	Finalized	Under investigation	At court pending trial
40	6 <ul style="list-style-type: none"> • Conviction – 2 • Not guilty – 0 • PG declined to prosecute – 4 	15	19

Source: Namibian Police Force

- 6.3 Training on human trafficking has been provided to members of the police, social workers, prosecutors, and customs and immigration officials. This training was jointly conducted between the GRN and UNODC.
- 6.4 A national referral mechanism and standard operating procedures for the identification, protection and safe return of victims of trafficking has been developed and was approved by Cabinet in 2018. This mechanism enhances coordinated and efficient response to trafficking in persons in Namibia. An inter-ministerial committee has been set up consisting of the Ministry of Labour Industrial Relations and Employment Creation, Ministry of Gender and Child Welfare and the Ministry of Safety and Security to monitor reports on human trafficking and smuggling of migrants in Namibia.
- 6.5 In an effort to identify the causes and consequences of violence against women as well as other violations of women’s rights, the government through the Ministry of Gender Equality and Child Welfare conducted a study entitled: “the National

Gender Based Violence Baseline Study” consolidating GBV prevention effort and fast-tracking Namibia’s response.

As part of its international human rights obligations Namibia compiled the Beijing +25 Report to report on the country’s progress pertaining to human rights as well as celebrate 25 years of existence of the Beijing since its inception in 1995.

- 6.6 As reported in the last report, the death penalty is outlawed in Namibia. This applies to all crimes including those which threatens the survival of the state.

7. Article 5. Elimination of Harmful Practices

- 7.1 Although Article 19 of the Constitution provides for the right to culture, however, such a right can only be protected if it is within the confines of the law and not contrary to the bill of rights contained in the same constitution. The state party wish to stress that harmful cultural practices are not tolerated and tend to occur in isolated cases across the country. No cultural group or Tribe in Namibia practices Female Genital Mutilation (FGM).
- 7.2 The Child Care and Protection Act, (Act No. 3 of 2015) contains provisions, which proscribe harmful customary practices that affect women and children’s rights including child marriage, early sexual activity and child bearing. Although the State party acknowledges the fact that early and forced marriages do exist in some isolated cases, such marriages are against the law and once discovered the perpetrators may person may be charged with the contravention of the CCPA Section 226). This criminalise harmful cultural practices and child marriage.
- 7.3 The Ministry of Gender Equality and Child Welfare conducted a formative study on child marriage in Namibia. The purpose of this study was to describe the state of

child marriages in Namibia to inform the development of evidence-based policies, legal reform, resource mobilization and programming. The same Ministry through its Gender Liaison Officers in the regions continues to make communities aware of the dangers of certain cultural practices as well as to encourage community members to report cases of these practices.

8. Article 6. Marriage

- 8.1 Article 14 of the Namibian Constitution provides that “marriage shall be entered into only with the free and full consent of the intending spouses between a man and woman of full age without any limitation due to race, colour, ethnic origin, nationality, religion, creed or social or economic status. It further provides for the right “to marry and found a family”.
- 8.2 Given the supremacy of the Namibian Constitution, all actions and statutes must be consistent with the rights catalogued in the constitution, which are anchored on privacy, human dignity and non-discrimination.
- 8.3 In addition to the constitutionally protected rights, civil marriages in Namibia are currently regulated by the Marriage Act, 1961 (Act No. 25 of 1961) and the Married Persons Equality Act, 1996 (Act No. 1 of 1996).
- 8.4 The Married Persons Equality Act restricts the right to marry by age and consent. In other words, a child as defined under the Age of Majority Act, 1972 (Act No. 57 of 1972) will not be allowed marriage unless emancipated to marry. In this regard the Married Persons Equality Act amended section 26 of the Marriage Act and provides that “no boy or girl under the age of 15 years shall be capable of contracting a valid marriage except with the written consent of the Minister”.

8.5 Moreover, section 226 of the Child Care and Protection Act, 2015 (Act No. 3 of 2015), provides that a person may not give a child out in marriage or engagement if such child does not freely consent to the marriage or engagement or is below the minimum age for marriage as contemplated in the Marriage Act as well as the Married Persons Equality Act. More specifically it states that:

“No boy or girl under the age of 18 years shall be capable of contracting a valid marriage except with the written permission of the Minister responsible for Home Affairs; and a person below the age of 21 years requires the consent of his or her parent, parents or guardian in order to marry.

8.6 A person who contravenes these subsections commits an offence and is liable on the conviction to a fine not exceeding N\$50, 000 or imprisonment for a period not exceeding ten years or both such fine and imprisonment”.

8.7 These marital age restrictions serve as a safeguard against early child marriages which may have a detrimental impact on the child’s well-being and development. Despite the existence of a matrimonial regime in the form stated above matters pertaining to marriage resorts under the Ministry of Home Affairs and Immigration given the outdated nature of the Marriage Act, a Marriage Bill has since been considered.

9. Article 7 Separation, Divorce and Annulment of Marriage

9.1 Two types of marriages are recognised under Namibian law: Civil and customary marriages. Civil marriages are governed by the Marriages Act of 1962 and the Married Persons Equality Act of 1996. On the other hand, customary marriages are uncodified and governed according to the specific laws of a particular ethnic group.

- 9.2 Civil marriages can only be dissolved in the High Court. However, plans are underway to accord Magistrate Courts the power to dissolve civil marriages. To minimise the cost of divorce, the High Court of Namibia introduced a court accreditation mediation system. This has largely reduced the backlog of divorce cases as well as the cost of litigation in the High Court of Namibia.
- 9.3 Women's right to property after and before the dissolution of marriage are determined by the type of matrimonial property regime agreed to by the parties. These can be either Marriage in community of property or marriage out of community of property.
- 9.4 The issue of child custody is determined by both divorcing parties during or after the divorce proceedings. No law in Namibia prevents a woman from having custody of her children after the dissolution of marriage.
- 9.5 The Divorce Bill is under development and once promulgated it will make divorce flexible as it will do away with the fault based system currently in place under the existing Divorce Laws Amendment Ordinance 18 of 1935.
- 9.6 The state party is hard at work at holding consultations with all stake holders including traditional authorities who are the custodian of different norms and culture. This will help to accommodate different opinions aimed at doing away with the fault based system currently in place under the existing Divorce Laws Amendment Ordinance 18 of 1935.

10. Article 8: Access to Justice and Equal Protection before the Law

10.1 The Namibian legal system accords equal treatment to all individuals residing in the country irrespective of their gender. Indigent women who can afford private legal representation can apply to the Directorate of Legal Aid for assistance. However, such an application can only be entertained if the applicant is either unemployed or earns less than N\$2500 per month. Legal assistance centre, a public interest law group often takes on human rights cases that have far reaching implications on the enjoyment of human rights in the country.

10.2 The University of Namibia's Faculty of Law has an arrangement with the National Radio in which the faculty has a slot where they give a lecture and provide advice on human rights including women's rights. The Office of the Ombudsman regularly undertakes human rights campaigns across the country. These campaigns include women and children's rights.

11. Article 9: Right to Participation in the Political and Decision-Making Process

11.1 Namibia has steadily built up an extensive body of instruments and policies relevance to gender equality and empowerment of women at all levels. There are several other instruments and policies at national and regional levels, as well as subsequent to the formulation of multi-sectoral Coordination Mechanism for the Implementation of the National Gender Policy (NGP) (2010-2020). For the efficient and effective coordination of Namibia National Gender Policy across all sectors, in 2014 Cabinet approved the Coordination Mechanism for the implementation of the National Gender Policy.

11.2 This Coordination Mechanism includes a High-Level Gender Advisory Committee (GAC) at Cabinet level chaired by the Right Hon. Prime Minister. The Advisory organ provides overall political oversight for the implementation of the NGP.

Reporting to the GAC is the National Gender Permanent Task Force (NGPTF). Under the NGPTF there are 6 clusters one of which is on Gender Based Violence and Human Rights.

11.3 At the legislative level they have parliamentary committee on Gender, Youth and Information Communication Technology and Committee on Women Caucus to ensure that laws and policies that are passed in parliament they are gender sensitive. The current Namibian parliament has reached a level of almost equal representation in the National Assembly. The judiciary has more women at lower courts, however, judges' positions at high and supreme courts are mostly occupied by men. Beside that we have many women in parliament when it comes to executive; there are few women with full ministerial position. The challenges still remain that at these levels, the understanding of gender equality is slowly filtering.

11.4 In addition, the land mark achievement on gender equality and empowerment of women at all levels; sectors specific policies and laws: while Namibia has an overall policy and legal framework that is gender responsive, the past two years revealed that the existence of laws and policies that neither take into account the country gender realities nor provide remedies to gender imbalances that if addressed would enhance the achievements on gender equality and empowerment of women and development goals pursued by the specific national sectors.

Table 5: Statistics of women in decision-making positions

Public Sector	Women	Men
Members of parliament	58	88
Cabinet ministers	7	24
Higher positions in civil service and parastatals	138	227

Employment in the security forces	172	333	Source: Ministry of Gender Equality and Child Welfare
Judges of higher courts	5	14	
Magistrates of lower courts	50	49	
Judges of traditional courts	1	21	

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11.5 Women in Namibia can seek any political office without any restrictions from the state. It's a state policy to encourage all political party formations to include women in their party lists.

Table 6: Number of women in the judiciary

	Women	Men
Judges of higher courts	5	14
Magistrates of lower courts	50	49
Judges of traditional courts	1	21

Source: Ministry of Gender Equality and Child Welfare

12. Article 10 and 11. Right to Peace and Protection of Women in Armed Conflicts

12.1 Currently no Namibian police force women are deployed in decision making positions in conflict and peace building processes. Female Police officers currently on deployment are performing functions of police advisors only and not decision-making level. Policies and programmes advocating for equal representation are in place aiming at availing equal opportunities for female officers at all levels of

decision making in peace building structures. Gender mainstreaming and advocacy is taking place within the Namibian Police despite the low level of female officers that are qualified to take up top positions in international organisations (SADC, AU and UN) structures.

12.2 Namibia is in the process of finalising the draft National Plan of Action (NPA) on Women, Peace and Security. The NAP priority areas are:

- Participation of women in political and security decision making processes and structures.
- Prevention of conflict and all forms of violence against women and girls.
- Prevention of impunity for sexual and gender-based violence.
- Protection of women and children in conflict and non-conflict situations.
- Promotion of women's participation in relief and recovery efforts.

12.3 The NAP aims at strengthening women's influence and meaningful participation in peace processes, including peace negotiations and mediation, as well as in broader peace building and state building. This will mean creating an environment conducive for women's participation, empowering women through education and continuous capacity building and training, institutionalizing mechanisms to protect them from violence, and working in collaboration with continental and international intergovernmental organizations and development partners.

Table 7: Statistics of women in the Namibian Police Force deployed in various peace keeping missions abroad.

Mission	Male	Female
UNAMID (Darfur)	32	13
UNISFA (Abyei)	2	2
UNMISS (South Sudan)	8	5
TOTAL	42	20

- 12.4 Anti-gender-based violence laws mentioned in the previous report can be invoked to protect the rights of asylum-seekers, women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.

13. Article 12: Right to Education and Training

- 13.1 The right to education is provided for under the Namibian Constitution. Article 20 states that:

- (1) All persons shall have the right to education.
- (2) Primary education shall be compulsory and the State shall provide reasonable facilities to render effective this right for every resident within Namibia, by establishing and maintaining State schools at which primary education will be provided free of charge.
- (3) Children shall not be allowed to leave school until they have completed their primary education or have attained the age of sixteen (16) years, whichever is the soonest, save in so far as this may be authorised by Act of Parliament on grounds of health or other considerations pertaining to the public interest.
- (4) All persons shall have the right, at their own expense, to establish and to maintain private schools, or colleges or other institutions of tertiary education: provided that:

- (a) Such schools, colleges or institutions of tertiary education are registered with a Government department in accordance with any law authorising and regulating such registration;
- (b) The standards maintained by such schools, colleges or institutions of tertiary education are not inferior to the standards maintained in comparable schools, colleges or institutions of tertiary education funded by the State;
- (c) no restrictions of whatever nature are imposed with respect to the admission of pupils based on race, colour or creed;
- (d) no restrictions of whatever nature are imposed with respect to the recruitment of staff based on race or colour.

Moreover, both public and private schools in Namibia follow the same curriculum as approved by the Ministry of Education, Arts and Culture (MOEAC) and they also write the same national examinations.

13.2 Institutions of higher learning have in recent year recorded an increase in enrolment of courses by females in fields which were historically male dominated, namely: law; medicine; engineering. The graduation (completion) rates at tertiary institutions for the past 4 years under the period of review are skewed in favour of females.

**Table 8: Enrolment Distribution by Higher Education Institutions and by sex
2015/2016.⁸**

HEI	2015		2016	
	Male	Female	Male	Female
UNAM	37.0%	63.0%	36.1%	63.9%
NUST	46.2%	53.8%	48.2%	51.8%
NAMCOL	8.6%	91.4%	7.8%	92.2%
Total Public HEIs	38.5%	61.5%	38.1%	61.9%
INTERNATIONAL UNIVERSITY OF MANAGEMENT (IUM)	33.5%	66.2%	33.7%	66.3%
HEADSTART	4.3%	94.7%	16.3%	83.7%
INSTITUTE OF OPEN LEARNING (IOL)	17.7%	82.2%	16.1%	83.9%
MONITRONICS COLLEGE	47.9%	52.1%	54.4%	45.6%
LINGUA COLLEGE	31.6%	68.4%	39.3%	60.7%
NETS	73.7%	26.3%	74.1%	25.9%
IOB	35.0%	65.0%	24.3%	75.7%
TRIUMPHANT COLLEGE	67.0%	32.7%	55.7%	44.3%
ULTS-PAULINUM	65.2%	34.8%	59.0%	41.0%
ALI	26.1%	73.9%	21.4%	78.6%
ST.CHARLES LWANGA	93.9%	6.1%	93.1%	6.9%
Total Private HEIs	29.9%	69.9%	30.0%	70.0%
All Institutions	36.0%	64.0%	36.0%	64.0%

Source: Ministry of Higher Education

⁸ Republic of Namibia. (2015/16). Namibia Higher Education Statistical Yearbook (NHESY). National Council for Higher Education.

Figure 3: Enrolment by STEM NQF Fields of Learning, 2016⁹

Qualification NQF Field of Learning	Number			Per Cent		
	Male	Female	Total	Male	Female	Total
Agriculture and Nature Conservation	542	594	1,136	2.8%	1.7%	2.1%
Manufacturing, Engineering and Technology	1,317	369	1,686	6.8%	1.1%	3.1%
Health Sciences and Social Services	917	2,697	3,614	4.7%	7.9%	6.7%
Physical, Mathematical and Computer Sciences	2,477	1,695	4,172	12.8%	4.9%	7.8%
Physical Planning and Construction	504	315	819	2.6%	0.9%	1.5%
Services and Life Sciences	115	215	330	0.6%	0.6%	0.6%
Total STEM	5,872	5,885	11,757	30.4%	17.1%	21.9%

Source: Ministry of Higher Education

13.3 The Namibian government through Namibia Students Financial Assistance Fund (NSFAF) provides loans to students from low income families to pursue their tertiary education. The private sector often provides bursaries and grants to those who have met their requirements.

13.4 The revised Life skills curriculum provides the following on Education for Human Rights and Democracy:

13.5 The cross-curricular issues include Environmental Learning; HIV and AIDS; Population Education; Education for Human Rights and Democracy (EHRD), Information and Communication Technology (ICT) and Road Safety. These have

⁹ Republic of Namibia. (2015/16). *Namibia Higher Education Statistical Yearbook (NHESY)*. National Council for Higher Education.

been introduced to the formal curriculum to be dealt with in each subject and across all phases, because each of the issues deals with particular risks and challenges in our Namibian society. All of our learners need to:

- understand the nature of these risks and challenges
- know how they will impact on our society and on the quality of life of our people now and in the future
- understand how these risks and challenges can be addressed on a national and global level
- understand how each learner can play a part in addressing these risks and challenges in their own school and local community.

13.6 The main risks and challenges have been identified as:

- the challenges and risks we face if we do not care for and manage our natural resources
- the challenges and risks caused by HIV and AIDS
- the challenges and risks to health caused by pollution, poor sanitation and waste
- the challenges and risks to democracy and social stability caused by inequity and governance that ignores rights and responsibilities
- the challenges and risks we face if we do not adhere to Road Safety measures.

13.7 Since some subjects are more suitable to address specific cross-curricular issues, those issues will receive more emphasis in those particular syllabuses. In the syllabus below, the following are links to cross-curricular issues:

Table 9: Cross-curricular issues as contained in primary school syllabus

Cross-curricular issues	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9
EHRD	Freedom	Abuse and Neglect	Rights and Responsibilities Gender Based Violence	Human Trafficking Child Labour	Gangs Criminal behaviour Defamation of Character	Gender-based violence Witness in court Freedom of speech

Source: Ministry of Education, Arts and Culture

14. Aims of Sexual comprehensive education in schools

14.1 Both Namibian Ministries of Education at the time developed a strategic and operational plan on HIV and AIDS in 2001 and this was followed by the Namibian Policy on HIV/AIDS for the Education Sector of 2003. This Policy requires, inter alia, that "Learners and students must receive education about HIV/AIDS on an ongoing basis in the context of sexual health and life-skills education. Stand-alone life-skills, sexual health and HIV/AIDS education programmes should be reinforced through the inclusion of these topics in the whole curriculum. Information should be presented in a scientific but understandable way. Appropriate course content should be included in the pre-service and in-service training of educators to enable them to adequately respond to HIV/AIDS in schools."

14.2 The policy further states that "The purpose of education about HIV/AIDS is to prevent the spread of HIV infection, to reduce excessive fears about the epidemic,

to reduce the stigma and discrimination associated with HIV/ AIDS, and to foster non-discriminatory attitudes towards persons with HIV/AIDS. Educators should ensure that learners and students acquire age- and context-appropriate knowledge and skills in order that they may adopt and maintain behaviour that will protect them from HIV infection." The Policy further stresses the appropriate training of all teachers concerning HIV and AIDS.

14.3 In addition, the Policy looks to an alliance with parents concerning sexuality education. "Parents and caregivers must be encouraged and assisted by educational institutions to provide their children with sexual health (including sexuality) education and guidance regarding sexual abstinence until marriage and faithfulness to their partners. Such education and guidance should be provided in addition to sexual health and life skills education being provided by education sector employees. Sexually active learners and students must be counselled both at home and at educational institutions to practise safe sex and to use condoms. Learners and students must be educated both at home and at educational institutions about their rights concerning their own bodies, to protect themselves against rape, violence, risky sexual behaviour and contracting HIV." The policy also requires the availability of condoms at schools.

14.4 More recently, in 2013, twenty education Ministers from ESA (including Namibia) issued a Ministerial Commitment on CSE and sexual and reproductive health (SRH) services for adolescents and young people. Noting, inter alia, that the region is more heavily affected by adolescent maternal mortality and morbidity than any other region in the world, the Ministers committed themselves to the achievement of ten targets, for instance concerning availability of a good quality CSE curricula, SRH and CSE training of teachers, health and social workers, reduction in the number of early and unintended pregnancies among young people, and the elimination of gender-based violence and child marriage.

14.5 Against this international, regional and national policy backdrop it can be observed that the following positive steps have been taken by the Namibian education system concerning life-skills-based HIV and sexuality education:

- The strategic importance of HIV and sexuality education in Basic Education (Pre-Primary, Primary and Secondary Education) seems to be well appreciated. After all, some 700 000 learners make up a substantial proportion of the total population of 2.2 million.
- A management structure is in place for HIV in education.
- Specific and cross-cutting curricula have been developed concerning HIV and sexuality.
- Specialized, full-time Life Skills Teachers have been appointed to schools with more than 250 learners
- Inter-sectoral alliances are being established, particularly concerning the health of young people.
- Access to quality education has been improved through measures such as free primary and secondary education, closer monitoring of learner performance, and the registration of orphans and vulnerable children.

14.6 However, in terms of the policy and international guidelines summarised above it would appear that the following areas need more attention, and will be explored later in this study:

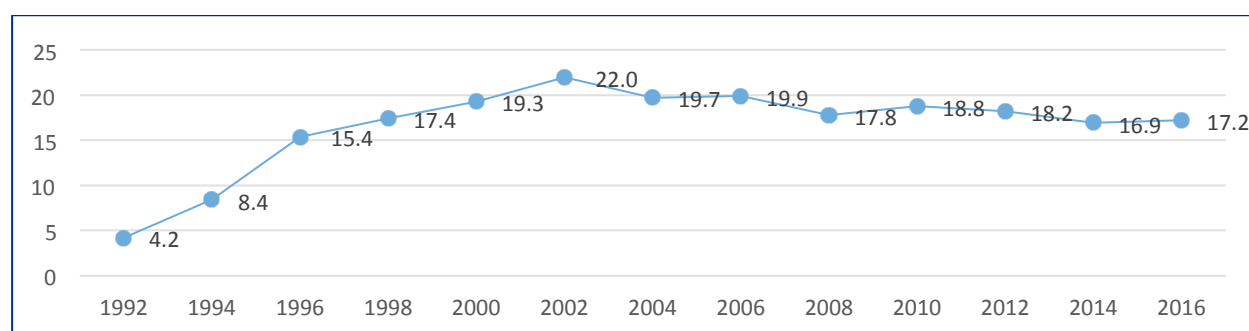
- Clear structures and accountability for the implementation of HIV and sexuality education.
- The training of teachers in sexuality education, both pre-service and in-service.
- Support structures for teachers of life skills and sexuality at regional, circuit, cluster and school level.
- Supporting and educating parents concerning sexuality and their role in the education and support of their children.
- Condom availability in schools in compliance with policy, probably partly because of the previous point.

14.7 Closer attention to these points may help to bring about that transformation of education that was foreseen by Kelly to be necessary for the education system to respond adequately to challenges posed by HIV and AIDS, teenage pregnancy, sexuality, marriage and domestic violence, amongst other vulnerabilities.

15. Youth and HIV and AIDS, Teenage Pregnancy, Sexual Intercourse, Marriage, and Violence

15.1 Namibia has made great strides toward responding to HIV and AIDS since the first HIV infection in 1986. The HIV epidemic has progressed to a generalised epidemic with a current adult (15-49 years of age) HIV prevalence of 17.2 percent. Namibia continues to record one of the highest HIV prevalence rates in Sub-Saharan Africa, although an overall decline has been experienced from around the year 2002 when the prevalence rate peaked at 22.0 percent.

Graph 1: Adult HIV prevalence, 1992-2016 (%)

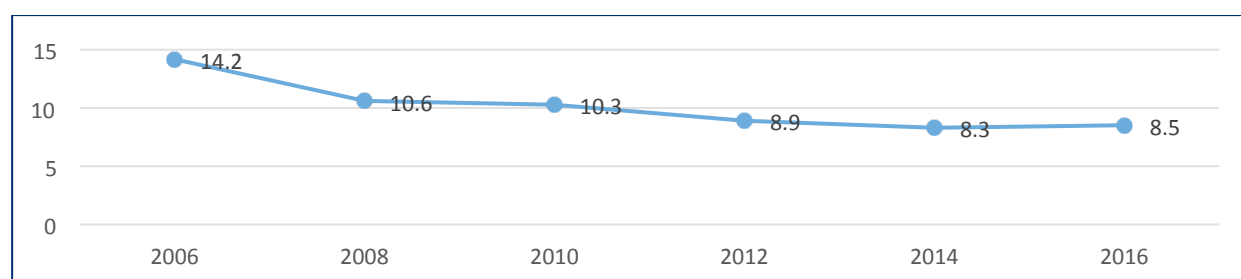


Source: Ministry of Health and Social Services

15.2 HIV prevalence has been reported in HIV Sentinel Surveys carried out every two years for the past 25 years. The 2016 HIV Sentinel Survey reported that the highest HIV prevalence rate was found amongst the 35-39 year olds and the lowest among the 15-19 year olds, followed by 20-24 year olds. The HIV prevalence for 15-24 year olds was 8.5 percent in 2016, which shows a steady decrease in prevalence over

the past 10 years from a high of 14.2 percent in 2006 (statistically significant change ($P \leq 0.05$) in HIV prevalence from 2010-2016) (MoHSS, 2016). The highest HIV prevalence amongst this age cohort in the year 2016 was recorded in Rosh Pinah (13.8 percent), followed by Otjiwarongo (12.1 percent) and Tsumeb (11.2 percent). 68.3 The lowest HIV prevalence among this age group was recorded in Opuwo and Okakarara (2.9 percent respectively), followed by Windhoek Central (3.3 percent) and Nyangana (4.1 percent). The aim should therefore be to reduce new infections in areas where it is high and to continue to keep new infection low in areas where it is already low, or to reduce in its entirety.

Graph 2: HIV prevalence from 2006 - 2016, 15–24 year olds (%)



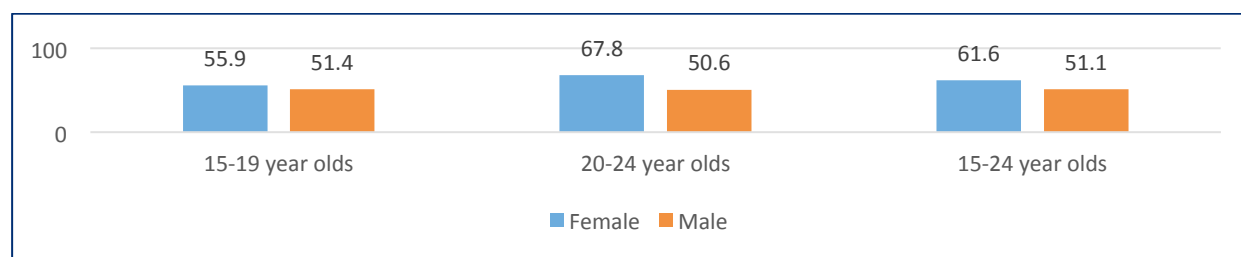
Source: Ministry of Health and Social Services

16. Comprehensive knowledge about HIV and AIDS

16.1 Comprehensive and correct knowledge about HIV and AIDS is essential for the reduction of new infections, complemented by positive sexual behaviour change and positive attitudes towards PLWHA. The 2013 Namibia Demographic and Health Survey (NDHS, 2014) defines comprehensive HIV and AIDS knowledge as “knowing that consistent use of condoms during sexual intercourse and having just one uninfected faithful partner can reduce the chance of getting the AIDS virus, knowing that a healthy-looking person can have HIV, and rejecting the two most common local misconceptions about HIV transmission (that the AIDS virus can be transmitted by mosquito bites and that a person can become infected by sharing food with a person who has the AIDS virus).” Overall comprehensive knowledge

of HIV and AIDS decreased slightly between 2006/07 and 2013, while women were found to be more likely to have comprehensive HIV and AIDS knowledge compared with men. The graph below shows that women in the age cohort of 15-24 are more likely to have comprehensive knowledge about HIV and AIDS, and that the difference in knowledge for male and female for the age cohort 20-24 is 17 percentage points. The 2013 NDHS further noted that “the youngest women (age 15-19), those who have never had sex, those who are currently married, and those living in rural areas are less likely than other women to have comprehensive knowledge of HIV/AIDS”. It is important to check comprehensive knowledge against prevention methods, such as knowing a source for condoms. More males than females were knowledgeable of a condom source. A low of 85.3 percent of 15-19 year old females knew where to get a condom, compared to 90.0 percent for males. Almost all (96.6 percent) females between 20-24 years of age knew where to access a condom compared to 98.4 percent of males.

Graph 3: Comprehensive knowledge of HIV and AIDS, 15 – 24 year olds (%)



Source: Ministry of Health and Social Services

17. Sexual debut

17.1 Of the key objectives of transferring knowledge about HIV/AIDS and life skills to young people is to delay sexual intercourse. Sexual debut in Namibia is unfortunately at a very young age for some young people, and not by choice. The 2013 NDHS found that 13 percent of young men and five percent of young women had sex before the age of 15. In addition to the above, 42 percent of women and

57 percent of men between 18 and 19 years of age had sexual intercourse before the age of 18.

Table 10: First sexual intercourse before 15 years of age and 18 years of age (%)

Age Cohort	Age 15-24 who had first sex before 15 years of age		Age 18-24 who had first sex before 18 years of age	
	Female	Male	Female	Male
Age 15-17	8.2	13.3	na	na
Age 18-19	5	13.5	47.4	59.4
Age 20-22	4	12.8	41.2	26.1
Age 23-24	3.8	12.5	36.9	53.8

Source: Ministry of Health and Social Services

17.2 The proportion of young people who have had their first sexual encounter before the ages of 15 and 18 decreased overall from the year 2007 to 2013 as per the 2013 NDHS. Age at first sex before 15 years of age for those between 15 and 19 years of age decreased by half between the years 2000 and 2013, while it decreased by three percentage points for females over the same period. Age at first sex before 18 years of age for those between 18 and 19 years of age decreased by 12 percentage points for females and 15 percentage points for males between the years 2000 and 2013. This could be an indication that prevention strategies and activities are effective and bring about positive sexual behaviour.

Table 11: Trends of sexual intercourse before the age of 15 and 18, 2000-2013 (%)

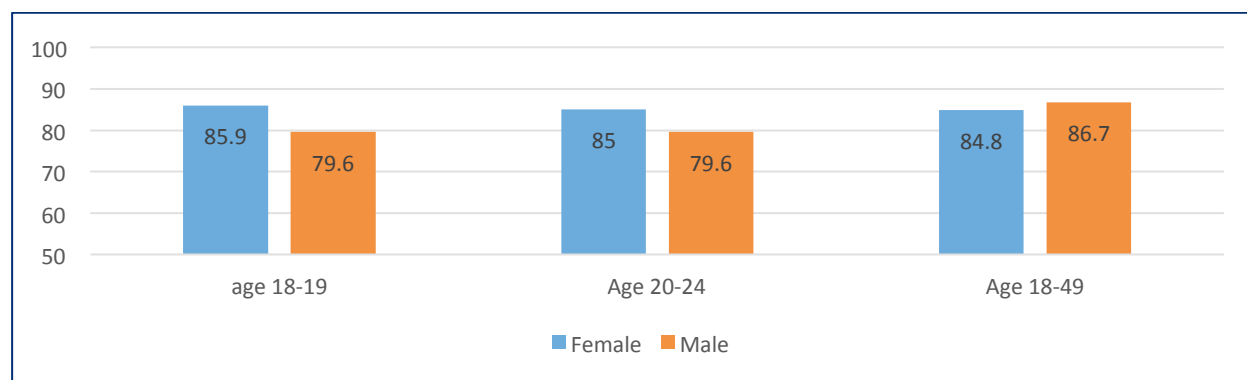
Sexual intercourse by age and se	2000 NDHS	2006-07 NDHS	2013 NDHS
Females 15-19 who had sexual intercourse before age 15	10	7	7
Males 15-19 who had sexual intercourse before age 15	31	19	13
Females 18-19 who had sexual intercourse before age 18	59	50	47
Males 18-19 who had sexual intercourse before age 18	74	61	59

Source: Ministry of Health and Social Services

18. Condom use

18.1 With such an early sexual debut, it is important to protect oneself from STIs, including HIV and early and unintended pregnancy. The 2013 NDHS found that almost all respondents were aware of at least one form of contraception. Almost all respondents were aware of condoms: male condoms (99 percent) and female condoms (94 percent). Sexually active unmarried women between 15 and 24 years of age were more likely (77.7 percent) to use contraception than married women (53.7 percent). Half of the sexually active unmarried females between the ages of 15-19 used male condoms, in comparison to only 5.8 percent of the married females in the same age cohort. Contraceptive use amongst women (15-49 years of age) has increased from 38 percent in 2000 to 50 percent in 2013. A high percentage of men and women between the age 18-49 agreed that children aged 12-14 should be taught about using a condom to avoid HIV infection.

Table 12: Percentage of women and men who agree that children age 12-14 should be taught about using a condom to avoid AIDS (%)



Source: Ministry of Health and Social Services

19. Attitudes towards PLWHA

20. Respondents were asked about their willingness or unwillingness to buy vegetables from an infected shopkeeper or vendor, to let others know the HIV status of family members, and to take care of a member of their family with AIDS in their own household. They were also asked whether an HIV-positive female teacher who is not sick should be allowed to continue teaching. Taking all the above into consideration, it was found that about one out of four respondents had accepting attitudes toward PLWHA.

Table 13: Accepting attitudes toward PLWHA (%)

Age cohort	Female	Male
Age 15-19	23.9	22.4
Age 20-24	29.2	24.3
Age 15-24	26.5	23.3

Source: Ministry of Health and Social Services

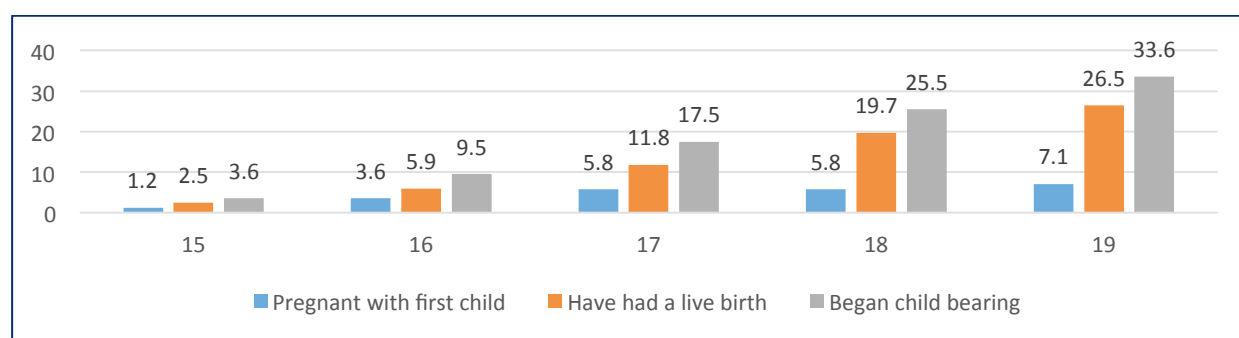
21. Early marriages

- 21.1 Early marriages have the potential to negatively affect you children's ability to fully develop socially and emotionally. In Namibia, girl children are more likely to engage in early marriages than boy children. The 2013 NDHS reported that 0.9 percent of 15-19 year olds were married by the age of 15 and 1.6 percent of 20-24 year olds were married by the age of 15. Of those between 25 and 49 years of age, 1.8 percent noted that they have married by the age of 15.

22. Teenage pregnancy

22.1 Unintended teenage pregnancy is a serious social, emotional and economic challenges for many teenagers and their families. The NDHS found that one out of five female teenagers (19 percent of 15-19 year olds) had fallen pregnant and/or given birth by 2013. When this percentage is extrapolated to the 238,863 teenagers between 15 and 19 years of age in 2011, a total of 11,943 teenagers had their first pregnancy in 2011 and 33,441 had had a child, totalling 45,384 teenage pregnancies by 2011. The number of pregnancies grew rapidly the older the teenagers. Teenage pregnancy was also found to be on the increase, four percentage points from the 2006/07 to 2013 NDHS. Teenagers with only primary education and rural teenagers were more likely to start childbearing earlier than their counterparts. The number of teenage pregnancies were highest in Kunene Region (38.9 percent), followed by Omaheke (36.3 percent) and Kavango (34.4 percent) and lowest in Oshana (9.0 percent), followed by Omusati (11.1 percent) and Khomas (12.3 percent).

Graph 4: Teenage pregnancy and motherhood, 2013 (%)



Source: Ministry of Health and Social Services

23. Violence against women

23.1 Slightly more than one out of three women (34.4 percent) aged 15-19 have experienced physical and sexual violence in their lives. Close to one of three women in Namibia have experienced physical violence in their lives. A high of 31.5 percent of young women between the ages of 15 and 19 and 35.3 percent of young women between the ages of 20 and 24 have experienced physical violence in their lives since the age of 15. Regionally, most physical violence against women was recorded in the Kavango Region (49.3 percent) while the least physical violence against women was recorded in the Omusati Region (19.2 percent). Women who were divorced, employed not for cash, not educated and poorer were more likely to have experienced physical violence since age 15. Most of the violence towards women (15-19 years of age) was perpetrated by current husband/partner (49.9 percent), former husband/partner (19.5 percent), mother/stepmother (9.4 percent), former boyfriend (6.9 percent) and sister/brother (6.8 percent).

23.2 Sexual violence was experienced by 7.2 percent of women between 15 and 49 years of age. Similarly, 7.5 percent of young women 15-19 years of age experienced sexual violence and 4.8 percent among 20-24-year-old women. Women with no education, divorced/separated/widowed, more children and richer were more likely to have been sexually violated. Perpetrators of sexual violence against women 15-49 years of age were mostly current husband/partner (46.0 percent), followed by former husband/partner (24.3 percent), strangers (11.6 percent), and other relatives (6.4 percent).

23.3 Six percent of women experienced violence while pregnant, while a higher number of teenagers (7.7 percent) 15-19 years old experienced violence while pregnant. Poorer women, with no education, more children and divorced/separated/widowed experienced violence while pregnant.

- 23.4 The Life Skills curriculum in Namibian schools is supposed to provide CSE, as one intervention to reach the ESA goals. HIV and sexuality education are also covered under the extra-curricular programmes WoHWHO for senior primary and MFMC for secondary phase and out of school adolescents. HIV has been mainstreamed into the core curriculum particularly in Biology, Life Science and Environmental Studies. Life Skills as a compulsory separate subject, though not as a promotional subject, was introduced in the early 1990s for secondary school and in 2006 for Senior Primary.
- 23.5 The curriculum was reviewed in 2012/13 as part of Ministry of Education's periodic national curriculum revision. It was also reviewed as part of a ten country CSE curriculum scan. That review concluded that "areas that are less strong include certain cognitive, affective and skill-based objectives and competencies that affect risk behaviors. These include, for example, communication and decision-making in relationships; gender norms and human rights; and sexual health topics, including HIV transmission and prevention, puberty, reproduction and contraception and condoms. A number of sexuality topics and objectives are not framed in ways that lead to positive behavior change. In addition, a number of topics are presented too early or too late over the eight-year span of these syllabi".
- 23.6 Subsequently sexuality education content was strengthened, and a new curriculum was released. The new curriculum for Grades 4 – 7 was rolled out in 2016. The one for Grade 8 was rolled out in 2017. Grades 9-11 will be introduced as shown in the table below.

Table 14: Life Skills curriculum per grade and year of introduction

Phase	Grade	Life Skills as Separate Subject	Previous Life Skills Curriculum	Introduction of new Life Skills Curriculum
Senior Primary	Grade 4	2016	N/A	2016
	Grade 5	2006	2007	2016
	Grade 6	2006	2007	2016
	Grade 7	2006	2007	2016
Junior Secondary	Grade 8	Early 1990s	2007	2017
	Grade 9	Early 1990s	2007	2018
Senior Secondary	Grade 10	Early 1990s	2007	2019
	Grade 11	Early 1990a	2010	2020
	Grade 12	Early 1990s	2011	Not yet developed

Source: Ministry of Education, Arts and Culture

24. Provision of access to counselling and rehabilitation services to women who suffer abuses and sexual harassment.

24.1 Survivors of GBV receive treatment (HIV pre and post-test counselling) at all health facilities including the 2 functional Gender Based Violence Units, Health professionals received training and still going to be capacitated on rendering GBV friendly services to survivors after the launch of the clinical Handbook on the victims subjected to Violence during 2018/19 Financial Year.

24.2 Namibia only has one Non-Governmental Organisation shelter which is functional and is used for Gender Based Violence Victims. 50% houses were purchased by the Government of the Republic of Namibia for GBV Shelters but they are not functional. A total of 290 victims have been sheltered of which 180 were children. 0.2% of the Regions in Namibia have crises rooms at police stations.

24.3 Moreover, the health protocols of the MOHSS provide information on clinical management of GBV. (Protocols on HIV and AIDS, ART guideline, PMTCT, Voluntary Medical Male Circumcision (VMC). Moreover, Rape Kits are available at all health facilities. Below are some of the guidelines available to survivors of Gender Based Violence.

- To reduce the risk of HIV infection, the state party through the Ministry of Health and Social Services has availed Post exposure Prophylaxis at most health facilities. Sexual Transmitted treatment is also available at most state-owned health facilities. It is imperative that the survivor of GBV should be seen within all public health facilities.
- A medical doctor, where possible a senior doctor should examine and treat the rape/sexual abuse survivor. This is especially necessary to ensure that the doctor is seen as a reliable expert witness.
- In cases where the survivor wishes to report the case Fill out the J-88 form
- If no doctor is available, organize a referral to a health facility where a doctor is available
- When referring the survivor, contact the receiving unit to ensure the survivor receives priority care
- It is advisable, if a survivor comes to a health facility without reporting to the police and wishes to do so, the police should be called to the health centre to take a statement.

To sensitise citizens on the scourge of gender-based violence and as per the previous report, the state party continues to commemorate events below:

- The 16 Days of Activism Against Gender Based Violence.
- 8 march (International Women's Day)
- Combating of Trafficking in Persons Day
- 10 December (Human Rights Day)

24.4 During these commemorations key stakeholders in both the private and public sectors are invited to sensitise citizens about gender-based violence including human trafficking. Below are statistics on the number of participants in the above activities in recent years.

Table 15: Number of participants in anti GBV initiatives

Financial Years	Male	Female
2016/2017	6180	7694
2017/2018	8186	11736
Total	14366	19430

Source: Ministry of Gender Equality and Social Welfare

25. Article 13. Economic and Social Welfare Rights

25.1 The Namibian government strives to ensure that both men and women have equal access to employment. The National Employment Policy came into effect in 2013. The National Employment Policy (NEP) guides government in reaching the goal of creating productive and decent employment for all. The enactment of the Employment Services Act, Act No. 8 of 2011, saw the establishment of the

National Employment Service empowered to provide professional labour market services for the purpose of achieving full, productive and decent employment in Namibia. The National Employment Service consists of the Employment Services Board and the Employment Services Bureau. The Employment Service Bureau is tasked with maintaining a National Integrated Employment Information System and to monitor skills gaps and employment vacancies in the country.

25.2 Moreover the Ministry of Labour, Industrial Relations and Employment Creation together with its social partners that is organised labour and employers is in the process of drafting the new Decent Work Country Programme (DWCP) for the period 2018-2022. The DWCP will be developed through a participatory planning process involving all tripartite constituents in Namibia, namely the Ministry of Labour, Industrial Relations and Employment Creation (MLIREC) on behalf of Government, the Namibian Employers Federation (NEF) on behalf of employers, and the National Union of Namibian Workers (NUNW) and Trade Union Congress of Namibia on behalf of workers. This programme will strengthen the efforts of the Ministry in ensuring that decent work is achieved. The Programme is anticipated to have four priority areas namely: Coordinate and Maximise Employment Creation; Strengthen Social Dialogue and Industrial Peace; Advance Social Justice at Work; Unlock the potential of the informal economy towards formalisation.

26. Article 14: Health and Reproductive Rights

26.1 Government recognises women's right to health and reproductive rights as paramount. In 2012 the Ministry of Health and Social Services piloted the Community Health Worker Programme (CHWP), and following the successful pilot project in the north eastern town of Opuwo, the Ministry of Health and Social

Services have since expanded this programme to the rest of the country. Over 1600 Community Health Workers (CHWs) have been trained thus far.

26.2 The CHWP is a cost-efficient way to deliver primary health care services at community level. With 15, 47 CHWs, the programme was cost efficient in delivering the package of preventive and promotive services to a total of 140,203 households (588,855 people). On average each Community Health Worker served 91 households (381 people). The CHWP has contributed to the improvement of maternal, new born and child health indicators.

26.3 Maternal and child deaths have been reduced in the last 3 years. The decrease in maternal deaths is mainly attributed to CHWs activities including early identification of pregnancy, increased ANC, and increased referral of mothers, and more women with birth plans leading to increased health facility delivery. The decrease in child deaths was attributed to improved maternal health, decreased illnesses as a result of immunisation, early health seeking behaviour, and immediate management of diarrhoea and referral of other childhood illnesses.

26.4 As a result of the various activities undertaken by CHWs, the community understood the importance of ANC, immunisation, institutional delivery, and the possible adverse negative effects of home delivery. CHWP contributed to improved health seeking behaviour and increased utilisation of maternal, new born and child health. CHWP has contributed to increased uptake of ANC, health facility deliveries, PNC, and immunization. It also contributed to early health seeking behaviour, identification of defaulters, and referral of clients including mothers and children.

26.5 In Namibia, women tend to be the most infected and affected when it comes to the HIV/AIDS pandemic. In response, the Government has introduced the National

Strategic Framework (NSF) for HIV and AIDS response in Namibia 2017/2018 to 2021/22. This framework is a five-year HIV and AIDS policy and planning document developed to guide planning, programming and implementation of the national multisectoral and decentralised HIV and AIDS response. The design of the NSF on the Investment Framework and Results-Based Management (RBM) approaches. These approaches have also mainstreamed gender and human rights issues. The NSF has prioritised interventions that will contribute to the achievement of the following impact results by 2022:

- Priority 1: HIV new infections reduced by 75%
- Priority 2: HIV related deaths reduced by 75%
- Priority 3: Elimination of MTCT to less than 2%
- Priority 4: 100% of newly identified PLHIV enrolled and retained on ART
- Priority 5: TB/HIV mortality reduced to 21 per 100, 000 population by 2021
- Priority 6: Domestic contribution towards the national multi-sectoral HIV and AIDS response increased to 80%.

26.6 Furthermore, the Ministry of Health and Social Services has launched the updated 2016 Treatment Guidelines that include test and treat and pre-exposure prophylaxis. Namibia implemented Option B plus for the prevention of Mother to Child Transmission (PMTCT).

26.7 Remarkable efforts have also been made to bring HIV treatment closer to where people live so that they do not have to travel long distances in order to access ART services. ART services have been rolled out countrywide and are available at all 35 district hospitals, as well as at all health centres and most clinics. Outreach services have also been established to cater for smaller clinics where there are no ART services. The availability of ART has increased the survival rate of many Namibians living with HIV and improved the quality of their lives.

26.8 Namibia has rapidly scaled up anti-retroviral therapy (ART) services, which has allowed 73% of eligible adults to receive these services. Namibia has also extended ART to HIV positive children younger than five years of age and to patients with Hepatitis B who are more likely to succumb to HIV infection.

26.9 Moreover, the 2017 Namibia Population-based HIV Impact Assessment (NAMPHIA) indicates that the HIV prevalence in adults aged 15-64 years is at 12.6% (it decreased from the 2013 NDHS, which indicates 14%).

26.10 UNAIDS and affected countries have set the 90-90-90 targets by 2020: 90% of all PLHIV will know their HIV status; 90% of all people with diagnosed HIV infection will receive sustained antiretroviral therapy (ART); and 90% of all people receiving ART will have viral suppression. In Namibia, 86% of PLHIV aged 15-64 years reported knowing of being aware of their HIV status: 89.5% of HIV positive females and 79.6% of HIV positive males. Whereas 86% of PLHIV aged 15-64 years reported knowing their HIV status: 89.5% of HIV positive females and 79.6% of HIV positive males who knew their HIV status self-reported current use of ART. Among PLHIV aged 15-64 years who self-reported current use of ART and/or has a detectable ARV in their blood, 91.3% were virally suppressed: 92.2% of HIV positive females and 89% of HIV positive males were virally suppressed.

26.11 With regard to maternal health or safe motherhood, new-born care and prevention of Mother to Child transmission of HIV and syphilis facilities have been established. A total of 333 (94%) out of 355 health facilities are providing prevention of Mother to Child Transmission (PMTCT) country-wide and 87% of all births occurred in the health facilities, while 88% of births are attended to by skilled birth attendants. The mother to child transmission rate of HIV has decreased from 13% in 2012 to 3% in 2017.

27. Article 15. Right to Food Security and the provision of clean water

27.1 Namibia is the driest nation south of the Sahara and water scarcity is a perennial challenge to the state. However, the Government recognises that access to sufficient quantity of potable drinking water within a reasonable distance to support a healthy productive life is essential basic human rights. The Water Resources Management Act, (Act No. 11 of 2013) which is not yet enforce has provisions that will ensure that water resources of Namibia are managed, developed, used, conserved and protected in a manner consistent with, or conducive to, the principles of equitable access for all people to safe drinking water.

27.2 It is worth noting that access to safe drinking water sources improved to 98, 4% in urban and 87, 4% in rural areas respectfully which means Namibia has met the Millennium Development Goals target for safe drinking water; however, the target for sanitation was missed dismally.

27.3 The Ministry of Agriculture, Water and Forestry provides heavily subsidised seeds and fertilisers to women farmers in the country. Moreover, Government provides Agricultural Extension Officers in various farming districts, including in communal areas to provide advice on crop production and animal husbandry. The Ministry of Trade, Industrialisation and SME development provides grants to women farmers to buy agricultural equipment.

27.4 The Namibian Water Cooperation (NAMWATER) is a state-owned entity that regulates water related activities in the country. NAMWATER ensures that the water supplied to the city, towns and villages is of good quality. The department of rural water supply in the Ministry of Agriculture, Water and Forestry is tasked with supplying subsidised water to rural settlements in the country.

- 27.5 In its quest to ensure food security, the state party created the Agro-Marketing and Trade Agency. AMTA is a newly established agency under the Ministry of Agriculture, Water and Forestry (MAWF) responsible for the management of Fresh Produce Business Hubs (FPBH) and National Strategic Food Reserve (NSFR) facilities, ensuring high quality standards to achieve food security. The agency currently runs and/or manages two Fresh Produce Business Hubs at Oshakati in northern Namibia and Rundu in north-eastern Namibia. In an effort to provide adequate nutrition to the poorest members of society who are mostly women, the Ministry of Poverty Eradication and Social Welfare established a food bank where food rations are distributed to the needy.
- 27.6 The Ministry of Agriculture, Water and Forestry (MAWF) has embarked upon Vocational and Training (VET) in Agriculture and the first intake commenced during the 2016/17 where 15 learners spent twelve months at Tsumis Arid Zone Agricultural centre in the Hardap Region, southern Namibia. The training was a Certificate in Animal Husbandry at NQA Level 2.
- 27.7 The second intake for 2017/2018 commenced in September 2017 at Mashare Agricultural Development Institute (MADI) in the Kavango Region. North-eastern Namibia. Twenty learners were selected for this training and were expected to obtain a Certificate in Crop Husbandry and Horticulture at NQF level 2 for the next twelve months. Various Unit Standards, as per the Namibia Training Authority (NTA) have been developed, followed by curriculum development for the two certificates which were approved and registered by the NTA.
- 27.8 As alluded to above, the Vocational and Training in Agriculture is an initiative undertaken between the Ministry of Agriculture, Water and Forestry and the Namibia Training Authority (NTA) to improve skills in the agriculture sector especially for the rural communities. Consequently, the entire training is a custodian of the NTA and governed under its Act and the Ministry of Agriculture and Forestry (MAWF) co-signed a Memorandum of Understanding in this regard.

27.9 The Federal Republic of Germany, through its agency, the GIZ, is prominently involved to ensure that VET in agriculture is a success. To expedite the training process, other vocational training centres viz the Rundu Vocational Training Centre, in the Kavango West Region, the Zambezi Vocational training centre in the Zambezi Region have also begun with vocational training in Agriculture. It is sufficing to say that all rural communities will greatly benefit from this initiative as the major target groups are high school dropouts and any other interested individuals who are farming and they want to improve their production and productivity on their farms.

27.10 Moreover, there are no restrictions that prevents women from accessing bank loans, mortgages and other forms of financial credit for as long as one meets the financial institutions' terms and conditions.

27.11 Women are also entitled to own and dispose of property as per Article 16 of the Constitution of Namibia. The Communal Land Reform Act of 2005 protects women, especially widows against eviction from the land.

28. Article 16. Right to Adequate housing

28.1 The state party acknowledges that the provision of affordable houses to its citizens remains a challenge. However, there are no laws or policies that prevents women irrespective of their socio-economic status from acquiring a house and reside in a residential area that they prefer.

28.2 To alleviate the critical shortage of affordable housing in the country, government embarked on a Mass housing program. The intention of Namibia's N\$45 billion Mass Housing Project is to build 185 000 houses by 2030. The Government through the Ministry of Urban and Rural Development is the custodian of the Mass Housing Development Programme, while the NHE has been tasked to allocate and sell all houses constructed. By January 2017, the National Housing Enterprise had allocated approximately 1500 houses to beneficiaries.

29. Article 17: Right to Positive Cultural Context

29.1 The Ministry of Education, Arts and Culture is responsible for promoting culture in the Country. Culture forms part of the school curriculum in subjects such as Social Studies in primary schools and History in secondary schools. Furthermore, all public schools are encouraged to hold cultural festivals. Institutions of higher learning such as University of Namibia, Namibia University of Science Technology and International University of Management often hold annual cultural festivals in which students from all cultural backgrounds showcase their rich cultural heritage.

29.2 The duty to promote culture is not solely on Government, various communities/traditional authorities and private organisations are also involved. Most traditional authorities in Namibia hold their own cultural festival to preserve their cultural identities. Private organisations continue to organise various cultural activities of their own. In 2018, the Museum Association of Namibia held week long activities showcasing Namibia's rich cultural heritage in what was called the Heritage week. Private entities and businesses continue to fund the annual /Ai// Gams festival in the capital Windhoek. The Omagongo festival is celebrated in the northern regions of the country and it attracts people from across the country. The Wika festival and the Octoberfest are cultural activities celebrated by German – speaking Namibians and other Namibians from all walks of life. Among other notable cultural festivals includes the fish-consumption week held at various coastal towns and the traditional cattle shows held in various parts of the country.

30. Article 18 and 19. Right to a Healthy and Sustainable Environment

30.1 In 2018, the Ministry of Environment and Tourism included Gender in Environmental Impact Assessments. (EIA) The state party realizes that Women and other vulnerable sections of the society are the first and most affected by

consequences of developmental processes like displacement or relocation, loss of livelihood and reduction in access to natural resources, damage to the environment and increase in pollution levels. Therefore, EIA processes can provide a good opportunity to address gender issues at an early stage of project planning, and explore means to reduce adverse impacts on women.

30.2 Government enacted the **Access to Biological and Genetic Resources and Associated Traditional Knowledge Act, 2017 (Act No. 2 of 2017)** to encourage the participation of women in decision making concerning the development of their communities. Section 2 of the Act provides that:

2. *The objects of this Act are to provide for the conservation, evaluation and sustainable use of biological and genetic resources and associated traditional knowledge to -*
 - (e) *ensure the effective participation of concerned local communities, with a particular focus on women, in making decisions as regards the distribution of benefits which may derive from the use of their biological and genetic resources and associated traditional knowledge;*
 - (h) *promote biological and genetic resources including those of agricultural, horticultural, sylhicultural, aqua cultural and medicinal value with a particular focus on the major role women play; and*

30.3 Furthermore, section 6 (3) (n) of the Act provides that the powers and functions of the Biological and Genetic Resources and Associated Traditional Knowledge Office are:

- (n) *to develop procedures for and to ensure protection of the intellectual property rights of local communities and other rights holders, with due regard for gender equality, wherever access to biological and genetic resources and associated traditional knowledge in local communities is granted;*

30.4 While section 9(6) with regard to prior consent provides that:

- (6) *The right holders must ensure the full and equal participation of women in the decision-making processes in matters relating to the giving of prior informed consent and benefit sharing under this Act.*

31. Article 20 and Article 21: Widows' Rights and right to Inheritance

31.1 It should be noted that there is no stand-alone legislation that deals with the rights of widows and widowers. The Intestate Ordinance Act 12 of 1949 provides in section 1 that,

- 1) The surviving spouse of every person who after the commencement of this Ordinance dies either wholly or partly intestate, is hereby declared to be an intestate heir of the deceased spouse according to the following rules: -
 - (a) if the spouses were married in community of property and if the deceased spouse leaves any descendant who is entitled to succeed *ab intestato*, the surviving spouse shall succeed to the extent of a child's share or to so much as together with the surviving spouse's share in the joint estate, does not exceed fifty thousand rand in value (whichever is the greater);
 - (b) if the spouses were married out of community of property and if the deceased spouse leaves any descendant who is entitled to succeed *ab intestato*, the surviving spouse shall succeed to the extent of a child's share or to so much as does not exceed fifty thousand rand in value (whichever is the greater);
 - (c) if the spouses were married either in or out of community of property, and the deceased spouse leaves no descendant who is entitled to succeed *ab intestato*, but leaves a parent or a brother or a sister (whether of the full or half-blood) who is entitled so to succeed, the surviving spouse shall succeed to the extent of a half

share or to so much as does not exceed fifty thousand rand in value (whichever is the greater);

- (d) in any case not covered by paragraph (a), (b), or (c) the surviving spouse shall be the sole intestate heir.

31.2 In addition the **Communal Land Reform Act 5 of 2002** provides in section 26 that:

26. Subject to section 27, and unless the right is relinquished by the holder thereof, a customary land right allocated under this Act endures for the natural life of the person to whom it is allocated.

- (2) Upon the death of the holder of a right referred to in subsection (1) such right reverts to the Chief or Traditional Authority for re-allocation forthwith:
 - (a) to the surviving spouse of the deceased person, if such spouse consents to such allocation; or
 - (b) in the absence of a surviving spouse, or should he or she not consent as contemplated in paragraph (a), to such child of the deceased person as the Chief or Traditional Authority determines to be entitled to the allocation of the right in accordance with customary law.
- (3) If, after the allocation of a customary land right to a surviving spouse referred to in subsection (2), such spouse enters into a second or subsequent marriage, then, upon the death of such surviving spouse, the right in question reverts to the Chief or Traditional Authority for re-allocation of such right forthwith -
 - (a) to the surviving spouse, if any, of such second or subsequent marriage, if he or she consents to such allocation; or
 - (b) in the absence of a surviving spouse from such second or subsequent marriage, or should he or she not consent as contemplated in paragraph (a), to such child, either from the first or such second marriage or any such

subsequent marriage, as the Chief or Traditional Authority determines to be entitled to the allocation of the right in accordance with customary law.

- (4) Upon the death of a surviving spouse of a second or subsequent marriage contemplated in subsection (3) to whom a customary land right has been allocated in terms of that subsection, such right reverts to the Chief or Traditional Authority, who then, subject to subsection (5), must determine the person to whom the right must be allocated, who may include -
 - (a) a surviving spouse of a further marriage which the deceased person referred to in this subsection has entered into subsequent to the allocation of the right to him or her in terms of subsection (3);
 - (b) any child from any of the marriages contemplated in the provisions of this section; or
 - (c) any other person.
- (5) For the purpose of determining the person to whom a customary land right must be allocated in the circumstances contemplated in subsection (4), the Chief or Traditional Authority concerned must first consult with such members of the family or families concerned as the Chief or Traditional Authority considers necessary or expedient to consult in accordance with customary law.
- (6) Any reference in this section to a child must be construed as including an adopted child.
- (7) If, in any of the circumstances provided for in the preceding provisions of this section, no surviving spouse or any children can be found to whom a customary land right can be allocated, or should the surviving spouse and such children decline to accept such allocation of a right, the Chief or Traditional Authority may allocate the right in question to any person as the Chief or Traditional Authority thinks fit.

32. Article 22: Special Protection of Elderly Women

32.1 As reported in the previous report, the government of Namibia continues to provide monthly pension grants to the elderly. The amount paid to the elderly stands at N\$1250. The elderly has unlimited access to all public health facilities where they are not required to pay any fees for seeking medical assistance.

32.2 The government through the Ministry of Poverty Eradication provides free funeral services for the deceased elderly persons irrespective of their economic standing.

32.3 Government further subsidises agricultural equipment, seeds and water for the elderly in rural communities. In an effort to cure and treat certain diseases that affects the elderly, the Ministry of Health and Social Services often dispatches mobile health clinics to rural communities to assess their health needs.

32.4 The Ministry of Health and Social Services continues to provide free cataract surgeries to the elderly irrespective of their social and economic standing in society. Hundreds of elderly people had their eyesight restored in recent years.

33. Article 23: Special Protection of Women with Disabilities

33.1 The National Disability Policy (Women with Disabilities) affirms the fact that in many areas women have been discriminated against and subjected to cultural, social and economic disadvantages. As a result, this has impeded their access to education, training and employment. The Government will make sure that disabled women have equal opportunities to participate in all aspects of life equal to that of their fellow citizens.

- 33.2 Namibia has undertaken a number of actions in order to raise awareness on the rights of persons with disabilities and to inform persons with disabilities and society in general about the obligations contained in the CRPD and national legislation and policies.
- 33.3 National workshops for Government officials, disabled people's organisations and civil society were organised with the purpose to popularise the CRPD predominantly at national level.
- 33.4 The Government has also facilitated sensitization training workshops for Police Officers, Defence Force officers; Ministry of information trained 22 regional officers on sign language and Journalists on basic Sign-language skills in order for them to enhance the; interaction with people with hearing impairments.
- 33.5 The Government recognizes the 3rd of December which is the international day of people with disabilities. The day is celebrated widely in Namibia. The ~~state~~ Government has further set aside the 10th June as the national disability day which is commemorated annually in Namibia. Ministry of Education, Arts & Culture Deaf awareness week takes place every two years in September.
- 33.6 The International White Cane day on the 15 October, the national disability prevention and rehabilitation awareness week in June and the regional disability networking forums are also utilized for purposes of raising awareness on disability related issues. The Regional disability networking forums have been established in all the 14 regions of Namibia.
- 33.7 Albinism week on October of every year was established by the Ministry of Health & Social Services in 2002.

33.8 Moreover, Electoral Commission of Namibia (ECN) training officials on mainstreaming disability in electoral processes since 2010.

33.9 The Ministry of Education, Arts and culture runs awareness radio program to for awareness on the right to education of people with disabilities. The program highlights various legal frameworks including the UNCRPD which promote and their rights to education and in general. The ministry's newsletter was once dedicated to publish information to educate the persons with disabilities. The Ministry of Education, Arts and Culture also created a website called "SignWiki" which focuses on Namibian Sign Language and Deaf Education in general which is being facilitated in collaboration with the Namibian National Association of the Deaf. Furthermore, the marketing of the concept to Inclusive Education and the right to education is done at every national or regional conference.

33.10 The Deaf theatre is used as a form of raising awareness on capabilities and gifts of deaf children by the Ministry of Education in collaboration with the NNAD.

33.11 Section 16 (3) of the National Disability Council Act states that the Council may run programmes or conduct campaigns to inform the public to raise the awareness of the public concerning an issue relating to disability. The Council has launched a booklet titled mainstreaming disability in public services with the purpose to educate public services on disability mainstreaming. The Council also takes lead in organising the commemoration of the International day of persons with disabilities.

34. Article 24: Special Protection of Women in Distress

- 34.1 The state party acknowledges that poverty affects mostly rural women in the country and those belonging to marginalised communities are the most affected. However, government continues to develop mechanisms aimed at addressing this challenge. Poor women qualify for free food handouts from the state through the food bank project. Government conservancy schemes are aimed at providing employment and income for rural women.
- 34.2 The rights for pregnant and nursing women in detention are protected. Pregnant or nursing women are separated from other inmates. They are housed in a single separate cell with a shower and toilet but they are not restricted to associate with others if they so wish. They are provided with special high protein diets consisting of eggs, milk fruits and vegetables on top of the normal standard diet. The Government doctor provides routine and regular check-ups but if they choose to use their own private doctors they are taken to their private doctors.
- 34.3 They pregnant inmates are provided with maternity dresses and sanitary pads upon labour. The nursing inmates and their babies are provided with standard formula (NAN), clothing and baby cribs. Their babies are allowed to stay with their until the age of two, when an assessment is done by social workers to determine the suitability of family members that can take care of the baby or the baby can be taken for Government House until the mother is released.

35. Article 25: Remedies

- 35.1 With the recent passage of both the Whistle-blowers Act and the Witness Protection Acts, it is expected that women's rights in relation freedom from gender-based violence, human trafficking and the like will be enhanced.
- 35.2 The state party is in the process of either amending or reviewing several gender related laws as part of its efforts to protect and promote women's rights in the country. The Combating of Rape Act, the Combating of Domestic Violence Act as well as the Maintenance Act are currently under review.
- 35.3 The Ministry of Gender Equality and Child Welfare in collaboration with the Office of the Prosecutor General have conducted multi-sectoral trainings on Vulnerable Witness programs and Gender Based Violence programs. Trainings targeted Social Workers, Police Officers and Prosecutors. A total of 230 officials including social workers from the Ministry of Gender Equality and Child Welfare (MGE CW), Ministry of Health and Social Services (MOHSS), Namibian Police Force (NAMPOL) and OPG have been trained on survivor centred services for victims of Violence against children (VAC), violence against women (VAW) and gender based violence (GBV) between October 2017 and July 2018 throughout the country with the financial assistance of United Nation's Office on Drugs and Crime (UNODC).
- 35.4 Conversely, most of the staff members employed in the Ministry of Gender Equality and Child Well Fare particularly in the directorate of Children are qualified social workers and holders of degrees and diplomas from various institutions of higher learning.

35.5 Training of trainers were conducted for school councillors to train educators on the response to sexual violence in schools. The new life skills curriculum integrates human rights, inter alia child rights and all teachers offering life skills from Grade 4 to Grade 10 has been trained on the new curriculum since 2008. Human rights is a cross curricula topic dealt with in other subjects besides life skills.

36. Conclusion

The Republic of Namibia will continue to devise mechanisms by way of policies and legislation that are aimed at ensuring that the rights and welfare of women are protected and promoted. Namibia has made great strides in empowering women since the last report. Women are now well represented in parliament when compared to other countries in the region. Namibia ranks 12th in the world in terms of the number of women in parliament and government will ensure that the country maintains or improves on this ranking.

On the educational front, the percentage of girl children dropping out of school has dropped significantly. Whereas at tertiary institutions, more and more females are enrolling in and completing courses which were traditionally male dominated such as Medicine and hard sciences. Overall, all of Namibia's three main Universities have recorded higher percentages of female graduates than their male counterparts.

Furthermore, the government of the Republic of Namibia through the Ministry of Gender Equality and Child Welfare will continue to raise awareness campaigns in relation to women's rights including efforts to combat harmful cultural practices such as child marriages. The state party acknowledges that Gender Based Violence is a serious issue in the country. This is despite a plethora of laws specifically meant to combat this scourge. To address this unfortunate phenomena, government will continue engaging stakeholders such as NGOs, faith based organisations, Universities and the like to find lasting solutions to the scourge of Gender Based Violence.