



**Ministry of Gender Equality and Child Welfare**

**NAMIBIA'S COMBINED 4<sup>TH</sup>, 5<sup>TH</sup> AND 6<sup>TH</sup> CONVENTION ON THE RIGHTS OF  
THE CHILD PERIODIC REPORT**

**Prepared jointly by the Ministry of Gender Equality and Child Welfare,  
the Ministry of Justice and civil society organisations.**

**2020**

## **ACRONYMS**

<b>AIDS:</b>	Acquired Immunodeficiency Syndrome
<b>BFHI:</b>	Baby Friendly Hospital Initiative
<b>CBOs:</b>	Church Based Organizations
<b>CCL:</b>	Cabinet Committee on Legislation
<b>CCPA:</b>	Child Care and Protection Act
<b>CESA:</b>	Continental Education Strategy for Africa
<b>CJB:</b>	Child Justice Bill
<b>CRC:</b>	Convention of Children's Rights
<b>CSE:</b>	Comprehensive Sexuality Education
<b>DHIS2:</b>	District Health Information Software 2
<b>ECD:</b>	Early Childhood Development
<b>ETSIP:</b>	Education and Training Sector Improvement Programme
<b>FAWENA:</b>	Forum for African Women Educationalists
<b>FBOs:</b>	Faith Based Organizations
<b>GBV:</b>	Gender Based Violence
<b>GBVPU:</b>	Gender Based Violence Protection Units
<b>GDP:</b>	Gross Domestic Product
<b>GPI:</b>	Global Peace Index
<b>HIV:</b>	Human Immunodeficiency Virus
<b>ID:</b>	Identification Document
<b>IECD:</b>	Integrated Early Childhood Development
<b>ILO:</b>	International Labour Organization

<b>IMC:</b>	Inter-Ministerial Committee on Human Rights and International Law
<b>LDC:</b>	Law Reform and Development Commission
<b>LFPR:</b>	Labour Force Population Rate
<b>M&amp;ER:</b>	Monitoring, Evaluation and Reporting
<b>MGECW:</b>	Ministry of Gender Equality and Child Welfare
<b>MLIREC:</b>	Ministry of Labour, Industrial Relations and Employment Creation
<b>MOEAC:</b>	Ministry of Education, Arts and Culture
<b>MOHSS:</b>	Ministry of Health and Social Services
<b>MSS:</b>	Ministry of Safety and Security
<b>MTCT:</b>	Mother-to-Child Transmission
<b>NAC:</b>	National Agenda for Children
<b>NACS:</b>	Nutrition Assessment and Counselling support
<b>NAMPHIA:</b>	Namibia Population -Based HIV Impact Assessment
<b>NANSO:</b>	Namibia Students Councils
<b>NCIS:</b>	Namibia Central Intelligence Services
<b>NDHS:</b>	Namibia Demographic Health Survey
<b>NDPs:</b>	National Development Plans
<b>NEEEF:</b>	Equitable Economic Empowerment Framework
<b>NGOs:</b>	Non -Governmental Organizations
<b>NHRAP:</b>	National Human Rights Action Plan
<b>NIED:</b>	National Institute for Educational Development
<b>NSA:</b>	National Statistics Agency
<b>NSF:</b>	National Strategic Framework

<b>NSSF:</b>	National School Safety Framework
<b>OPSC:</b>	Optional Protocol to Convention on Rights of Child on Sale of Children, Child Prostitution and Pornography
<b>OVC:</b>	Orphans and Vulnerable Child
<b>PHC:</b>	Primary Health Care
<b>PMTCT:</b>	Prevention of Mother-to-Child Transmission
<b>PTF:</b>	Permanent Task Force
<b>SDGs:</b>	Sustainable Development Goals
<b>SOPs:</b>	Standards Operating Procedures
<b>SRCs:</b>	Students Representative Councils
<b>SRH:</b>	Sexual Reproductive Health
<b>TIP:</b>	Trafficking In Persons
<b>UN:</b>	United Nations
<b>UNICEF:</b>	United Nations International Children’s Emergency Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UPE:</b>	Universal Primary Education
<b>USAID:</b>	United States Agency for International Development
<b>VAC:</b>	Violence against Children

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## **FOREWORD**

Namibia is committed to the realisation of the protection of children's rights as prescribed in the United Nations Conventions on the Rights of the Child (UNCRC) and other international human rights instruments. Namibia ratified the UNCRC in October 1990. Thereafter, the State Party signed the African Charter on the Rights and Welfare of the Child (ACRWC) in 1999 and ratified in 2004.

The Government of the Republic of Namibia is committed to ensuring that the rights and welfare of children are promoted and protected in the country. It is worth noting that the Namibian Government is guided by the rights-based approach in developing its policies and guidelines for Namibian children. In fulfilling its obligations under various human rights instruments, parliament passed the Child Care and Protection Act, 2015 (Act No.3 of 2015) which is guided by the "best interests of the child" and "child participation" principles.

The Ministry of Gender Equality and Child Welfare (MGECW) continues to champion gender equality and the well-being for children through the creation and promotion of sustainable socio-economic development projects. There is no doubt that every society depends on its ability to foster the health and well-being of next generation. In other words, today's children will become tomorrow's citizens, parents and leaders. Consequently, if we fail as nation to care and protect children, we place our prosperity and security at risk.

The MGECW is therefore delighted to submit the state party report to the UNCRC for consideration. The submission of the UNCRC report is evidence that the country is committed to fulfil its obligations under the said instrument. The report contains strategies and interventions undertaken by the state party in its efforts to promote and protect children's rights and welfare in the country from the period 2007 to 2019. The preparation of the report involved several meetings and consultations with key stakeholders such as government ministries, civil society organisations and children themselves. Namibia pledges to continue prioritising human rights in the country, Africa and the world at large.

**Hon. Doreen Sioka, MP**

**MINISTER OF GENDER EQUALITY AND CHILD WELFARE**



## **1. INTRODUCTION**

This report constitutes the combined 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> periodic reports of the Republic of Namibia as a State party to the Convention on the Rights of the Child (CRC) and its Optional Protocol on the Convention on the sale of children, child prostitution and child pornography. The report covers the period from 2007 – 2017 (In accordance with Article 44, paragraph 1 (a) of the Convention)

The report consists of 3 (three) parts, part 1 (one) covers the responses to the concluding observations and recommendations of the previous report (2012) (CRC/C/NAM/CO/2-3). Part 2 (two) covers the treaty specific information according to the clusters of rights contained in the CRC. Part 3 (three) contains the annexures indicating the statistical data. The report provides details of the legislative, policies, programmes and other measures taken by the state party to implement the Committee's concluding observations and the recommendations of the last report.

## **2. METHODOLOGY AND PREPARATION OF THE REPORT**

The report was prepared by the Ministry of Gender Equality and Child Welfare in consultations with other line Ministries particularly the Ministry of Justice, civil society organization, NGO's, selected children from the Osire Refugee Settlement and children in leadership positions. The draft report was then sent to political office bearers and subsequently approved by Cabinet for further transmission to the Committee on the rights and welfare of the child.

This report is based on the general guidelines adopted by the UN Committee on the Rights and the Welfare of the child.

### **3. RESPONSES TO THE COMMITTEE'S MAIN AREAS OF CONCERN AND RECOMMENDATIONS**

#### **A. GENERAL MEASURES OF IMPLEMENTATION (arts. 4, 42 and 44, para. 6 of the convention)**

##### **3.1 The Committee's previous recommendations No. 8 and 9**

Since last report, the Government through the Ministry of Gender Equality and Child Welfare has made various efforts to strengthen children's rights in terms of legislation, policies and programmes.

##### **3.2 Legislation**

The following legislation were passed by Parliament since the last report:

###### **Child Care and Protection Act, 2015 (Act No. 3 of 2015)**

The purpose of the Act is to give effect to the rights of children as contained in the Namibian Constitution and international agreements binding on Namibia; to set out principles relating to the best interests of children; to set the age of majority at 18 years; to provide for the establishment of a National Advisory Council on Children; to provide for the appointment of a Children's Advocate; to provide for the establishment of a Children's Fund; amongst other.

###### **The Repeal of Obsolete Laws Act, 2018 (Act No. 21 of 2018)**

The intention of the Act is to repeal certain obsolete laws by-laws, regulations, proclamations, ordinances which were discriminatory on the grounds of sex, race, colour, ethnic origin, religion, creed, social and economic status.

###### **Combating of Trafficking in Persons Act, 2018 (Act No. 1 of 2018)**

The purpose of the Act is to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially 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.

### **Witness Protection Act, 2017 (Act No.11 of 2017)**

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. This law will greatly aid authorities in combating cases of human trafficking and smuggling as well as other human rights violations.

### **The Judiciary Act, 2015 (Act No. 11 of 2015)**

Access to justice is among the most important fundamental rights covered under various international and regional human rights instruments. To ensure access to justice timeously and expeditiously for her citizens (including children), the State Party promulgated the Judiciary Act, 2015 (Act No 11 of 2015). The aim 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.

### **Namibian Citizenship (Second) Special Conferment Act, 2015 (Act No. 6 of 2015)**

The Act provides 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 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.

### **National Health Act, 2015 (Act No. 2 of 2015)**

The state party recognises and affirms the right to health for all her its citizens. To this effect the government enacted the National Health Act, 2015 (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.

### **One Stop Border Post Control Act, 2017 (Act No. 8 of 2017)**

order for the State Party to enhance cross border cooperation with neighbouring states, the government promulgated the abovementioned Act. 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.

### **Urban and Regional Planning Act, 2018 (Act No. 5 of 2018)**

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 abovementioned Act. The purpose of this Act is to consolidate the laws relating to urban and regional planning among other things.

### **3.3 Envisaged bills with human rights implications**

In an effort to protect and promote the rights and welfare of the child, the State Party is in the process of enacting various bills into laws.

#### **The Prohibition of Torture Bill**

The Bill aims to combat all forms of torture. The bill was tabled in Parliament and subsequently withdrawn for further consultations after it was found some provisions may be unconstitutional.

#### **Child Justice Bill**

This Bill is currently before the Cabinet Committee on Legislation for scrutiny and it is expected to be tabled during the first session of Parliament in 2020. 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 among other things.

#### **Education Bill**

Since the enactment of the Education Act, 2001 (Act No. 16 of 2001), significant national and international developments in the provision of free, inclusive, integrated and quality education for all have been achieved. 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 Namibia's national priorities 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). The Act will place the learners at the centre of education, it will promote an education which is free from any type of discrimination and promote an education that prepares the Namibian child for lifelong learning and sustainable development.

### **Combatting of Domestic violence amendment Bill**

The government is in the process of drafting the amendment bill on the Domestic Violence Act, which provides for strengthening safeguards for children who may be affected by domestic violence. The amendments focus on clarifying the requirements including provisions pertaining to custody and access in protection orders as well as to provide for temporary maintenance orders included in protection orders to be enforced.

### **Combatting of rape amendment Bill**

Draft amendment bill on the Rape Act, provides to clarify that the highest category of minimum sentences for the rape of person with physical, mental disabilities or other vulnerabilities; provide for additional duties to the Prosecutor towards complainants and vulnerable witness before the commencement of trials; impose upon the court the duty not to regard the testimony of a child as inherently unreliable or to treat in with special caution simply because the witness is a child.

## **3.4 Policies**

### **Education Sector Policy for Prevention and Management of Learner Pregnancy (2009)**

The goal of this policy is to improve the prevention and management of learner Pregnancy in Namibia, with the ultimate aim of decreasing the number of learner pregnancies and increasing the number of learner-parents who complete their education. This policy is based on six guiding principles - the right to education, and the need for Prevention, information, respect and support and respect for cultural and family values.

### **Policy on Inclusive Education (2013)**

The aim of this Sector Policy on Inclusive Education is to ensure that all learners are educated in the least-restrictive education setting and in schools in their neighbourhood to the fullest extent possible. The policy contributes to pedagogical and wider educational development, and correlates with the policy directions of the National Curriculum for Basic Education, the Curriculum Framework for Inclusive Education and the Education Sector Policy for Orphans and Vulnerable Children. The main objectives of the Sector Policy on Inclusive Education are

to expand access to and provision of quality education, especially for educationally marginalised learners and to support learners with a wide range of individual abilities and needs in compulsory education at Early Childhood Development (ECD), pre-primary, primary and secondary levels.

#### **National Gender policy (2010-2020)**

In 2010, a review of the 1997 policy was conducted, which showed that some progress had been achieved in the advancement of gender equality and women's empowerment in Namibia, particularly in economic, political, legal and educational spheres. However, despite this progress, many challenges still remained to be addressed to achieve true equality and thus a new policy was developed to address the gaps. The Namibia National Gender Policy (2010-2020) seeks to create an enabling environment for sectors to mainstream gender in line with National Development Plans (NDPs). It identifies who will be responsible for the implementation of the policy and who will be accountable for gender equality results. The state part is currently embarking on a review process on what has been achieved and challenges faced since its implementation.

#### **The National Health Policy Framework 2010 – 2020**

The Framework provides the overall orientation for health and health actions in Namibia. Furthermore, 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 and delivery and infant and childhood. 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.

### **3.5 National Plans**

#### **Harambee Prosperity Plan**

The Harambee Prosperity Plan (HPP) has a targeted Action Plan aimed at accelerating 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. The 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 National Development Plan 5 (NDP5)**

Under social transformation pillar. NDP5 sets out to drop the proportion of severely poor individuals in Namibia and households living in improvised houses. The Plan focuses on social protection to address poverty and child poverty in particular. On education, the NDP5 states that Namibian children should have a secure educational foundation, through access to ECD services and that all learners have access to equitable inclusive quality education that qualifies them to pursue higher education. It also calls for the inclusion of marginalized communities and their integration into the mainstream economy. Further, interventions addressing gender equality including gender-based violence and violence against children are also spelled out.

### **New Equitable Economic Empowerment Framework (NEEEF)**

The Government is currently developing the New Equitable Economic Empowerment Framework. 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. The NEEEF believes corporate social responsibility has become part and parcel of the modern business environment. Good corporate citizenship requires social investment in communities. The NEEEF funding mechanism encourages innovative funding solutions to address the overarching developmental challenges facing Namibia and to broaden entrepreneurship in the country. The private sector will be encouraged to propose innovative financing mechanisms for empowerment deals which will contribute to the deepening of the financial system.

### **Integrated Early Childhood Development Service Delivery Framework 2017-2022**

Integrated Early Childhood Development (IECD) services cater for a child's holistic development; cognitive, social, emotional and physical, from conception to the 8<sup>th</sup> year of life. IECD services fall under the mandate of three key ministries. The Ministry of Gender Equality and Child Welfare (MGEWC) responsible for ECD of children aged 0 to 4. The Ministry of Education, Arts and Culture (MoEAC) is responsible for pre-primary and primary education of children aged 5 and above. While the Ministry of Health and Social Services (MoHSS) is responsible for the health and immunization of all children, pregnant and breastfeeding women.

Thus, the IECD Framework was prepared as part of a collaboration of the three key ministries responsible for IECD, as a guiding document to strengthen inter-ministerial and inter-sectoral coordination and implementation of activities that comprise IECD services.

### **National Human Rights Action Plan (NHRAP) (2015-2019)**

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.

### **The National Agenda for Children (2018-2022)**

The National Agenda for Children (NAC) 2018-2022 is a multi-sectoral five (5) year strategy focusing on child protection programming in Namibia. It is well aligned with key national strategies. The main objective of this strategy, which is to ensure that the rights of the children are protected, is within the framework of higher-level strategies such as the Harambee Prosperity Plan and Vision 2030. The National agenda priorities are Child Protection and Social Protection; Child Education; Child and Adolescent Health, Child disability and Child Participation

### **National Strategic framework on HIV 2018/2022**

The National Strategic Framework (NSF) for HIV and AIDS places specific emphasis on addressing HIV and AIDS among children in a holistic way which include their mothers. The NSF calls for the elimination of Mother to Child Transmission (MTCT) of HIV and an overall reduction of HIV infections and AIDS related mortality. The NSF sets out to ensure adolescent girls and young women who are not infected with HIV remain negative, and those diagnosed with HIV are linked to care and treatment.



### **A Prioritised National Plan of Action 2019-2023**

The Prioritised National Plan on GBV 2019-2023 seeks to put survivors first by making sure that the services they receive are empathetic and correct. The Plan also stimulates a culture of care and GBV-watch amongst families, communities and institutions and promotes early help-seeking to prevent or limit harm. It also seeks to take the long view on changing social norms by focusing on providing young people with the tools for developing healthy relationships and harnessing their energy to change the discourse amongst their peers. It also addresses gaps in the law and in understanding of GBV and to ensure that sufficient resources are available to implement the Plan.

### **3.6 Legislation: Recommendation no. 10 and 11**

The Child Care and Protection Act, 2015 (Act No 3 of 2015) was passed into law in 2015 and the Regulations were gazetted on 30<sup>th</sup> January 2019 and it is in force. The Child Justice Bill is at an advance stage, and is expected to be in Parliament during the course of 2020.

Consultation on Recognition of Customary Marriage Bill are still underway

### **3.7 Comprehensive Policy and Strategy: Recommendation No. 12 and 13**

The Ministry of Gender Equality and Child Welfare at National level through the Permanent Task Force (PTF) is responsible for overall monitoring evaluation and implementation of National Agenda for Children (NAC). There are also Regional and Constituency Child Care Protection forums (RCCPF) which are coordinating committees responsible for implementation of programs at regional and constituency levels.

At Regional level: The role of the Regional Child Care Protection Forums is to identify and resolve regional challenges to ensure children access education, health care, protection, care and support services. Through the MGECW Secretariat, the RCCPF coordinate and monitor the Child Care and Protection Forums (CCPF) structure in the region, to ensure that Constituency CCP Forums are operating optimally.

At constituency level: Constituency Child Care Protection Forums identify children who are at risk and who are not accessing critical service and refer these children (or their families) to existing service providers. They also monitor services to children and the response from existing service providers in the constituency and to hold service providers accountable and disseminate information on children's services in their communities.

The Child Care and Protection Act makes provision for the appointment of the Children's Advocate and its function which includes monitoring and oversight of children's rights protection. One of its key roles is also to hold government accountable for child protection.

### **3.8 Coordination: Recommendation No. 14 and 15**

The Government has established a standing Inter-Ministerial Committee on Human Rights and International Humanitarian Law (IMC). The IMC consists of officials from the different line ministries and representatives from the NGO'S and the University of Namibia. The IMC is a technical committee which is charged with the responsibilities to compile and draft State reports.

Refer to paragraph 3.1 under comprehensive policy and strategy

### **3.9 Allocation of Resources: Recommendation 16 and 17**

The state party continues to allocate a generous budget to institutions concerned with the care and protection of children.

The Ministry of Gender Equality and Child Welfare (MGECW) received 2.1% of the total national budget in the financial year 2017/2018, from 1.2 % and 1.6% during 2015 and 2016 respectively. Of the 2.1% allocated to the MGECW in the financial year 2017/2018, 1.6% is allocated to the child grants (UNICEF, 2018)

A total of 23.6% was allocated to education including arts and culture in 2012/2013. This share has increased and it was expected to reach 25.3% in 2018/2019. The budget for education was equivalent to 10.6% of the country's Gross Domestic Product (GDP) in 2015. Between 74. % and 79.3 % of this total budget is dedicated to the basic education, arts and culture which includes pre-primary and secondary education, with the remaining amount being allocated to higher education, training and innovation (UNICEF, 2017)

Provision of health services has been the Government second key priority after education. The budget allocation to the Ministry of Health and Social Services (MOHSS) averaged to 9.9% of the total expenditure in the past ten years. This share was expected to rise to 11.1% in 2018/2019. The budget of the MOHSS was equivalent to 5.8% of the GDP in 2015 (UNICEF, 2017)

### **3.10 Data Collection: Recommendation 18 and 19**

In 2011, the Government established the Namibia Statistics Agency (NSA) through an act of Parliament, the Statistics Act, (Act No. 9, of 2011). The NSA main mandate is to obtain the

right statistics that are most relevant and needed for policy making and for monitoring the progress of Government activities.

The Ministry of Gender Equality and Child Welfare have a reliable database under the Office of the Prime Minister contains the number of children receiving child grant by type of grant, region, constituency, sex, age, and the amount being spend on monthly basis.

The Ministry also under the Child Welfare Directorate has introduced the database (DHIS2) which will help the staff members to collect, analyze and use accurate data related to child welfare directorate programs including cases of Violence against children.

The National Agenda for Children 2018-2022 has a Monitoring, Evaluation and Reporting (M&ER) strategy which includes regular data collection, report compilation and dissemination of performance as a vital part of the overall Agenda.

The Ministry of Gender Equality and Child Welfare, under the IECD program is hosting a database collecting and analysing data on children and Edu- carers in ECD centres.

However, it is acknowledged that there are limited resources, inadequate capacities and the lack of value for data collection related to children programs across line ministries.

In terms of Article 8 of the Namibian Constitution, Corporal punishment is illegal in Namibia, and it is a criminal offence to apply corporal punishment in public or private schools. Van Zyl versus the state (CA 25-2014) (2016) NAHCMD (05 September 2016).

### **3.11 Independent monitoring: Recommendation No 20 and 21**

In 2013, the Office of the Ombudsman, created a position of the Children's Advocate in the division of Human Rights and Legal Services.

The Children's Advocate assists the Office of the Ombudsman in the performance of its functions which relates to children by receiving and investigating complaints, from any source, including a child, concerning children and where appropriate, attempting to resolve such matters through negotiation, conciliation, mediation or other non-adversarial approaches.

### **3.12 Dissemination and awareness rising: Recommendations 22 and 23**

This recommendation is noted. Namibia will endeavour to translate the CRC into the most spoken local vernaculars where possible. Not all local languages are developed into written

languages and the limitations will be overcome through other innovative methods of disseminating of the Convention to the local communities.

### **3.13 Training: Recommendation 24 and 25**

The state party welcomes the committee's recommendation with appreciation. The Ministry of Gender Equality and Child Welfare continues to coordinate with all relevant stakeholders to plan and develop the training programme for all service providers who work with children.

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. Between October 2017 and July 2018, a total of 230 officials were trained on survivor centred services for victims of violence against children (VAC) and GBV throughout the country with the financial assistance of United Nation's Office on Drugs and Crime (UNODC).

The staff members employed in the Ministry of Gender Equality and Child Welfare particularly in the Directorate of Children are qualified social workers and holders of degrees and diplomas from various institutions of higher learning.

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. Respect for human rights is a cross curricula topic dealt with in other subjects besides life skills.

### **3.14 Child rights and the business sector: Recommendation 26 and 27**

The state party places high priority on the protection of the environment and have established clear regulatory frameworks for the mining and uranium producing industries operating in the country. Several pieces of legislation and policies have been developed to this effect.

Article 91 of the Namibian Constitution gives the powers and mandate the Ombudsman the duty investigate complaints concerning the over-utilization of living natural resources, the irrational exploitation of non-renewable resources, the degradation and destruction of ecosystems and failure to protect the beauty and character of Namibia. Namibia is also a State party to international conventions relevant to mining and environment.

The Environmental Management Act, 2007 (Act No.7 of 2007) has been enforced since 2014. The Act requires all existing prospecting and mining operations to comply with its mandates without exceptions. Any failure or circumvention of the environmental assessment requirement is considered as a criminal offence and it is punishable by law.

The Minerals (Prospecting and Mining) Act, (Act No.33 of 1992), require all mining licence applicants to post adequate and sufficiently liquid assets with the Government (e.g. a bond) to cover all of the estimated costs of mine closure, including reclamation, waste treatment and disposal, long-term post-closure monitoring, maintenance, and the investigation, analysis, and treatment of human and wildlife exposures. The Act further provides for background investigation corporations as well as individuals to check for prior environmental violations or any other history of illegal practice.

The Minerals Act, 1992 (Act No. 33 of 1992), provides that all mineral licence holders shall be liable to pay compensation for any damage done or caused to the surface of any land or any water source, cultivation or building or other structure therein or thereon as a result of any prospecting or mining activities.

### **3.15 Definition of Child (CRC): Recommendation No. 28 & 29**

The state party takes note of the Committee's recommendation. The CCPA repealed the Age of Majority Act and now provides that majority is attained at the age of eighteen years. This is applicable to customary marriages as well.

Section 226 of the CCPA criminalizes customary child marriages.

## **C. GENERAL PRINCIPLES (ARTS. 2, 3, 6 AND 12 OF CRC)**

### **3.16 Non-discrimination: Recommendation No. 30 & 31**

Article 10 provides that all persons are equal before the law, and shall not be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. In addition, respect for human dignity and freedom from discrimination are recognized within Chapter 3 of the Namibian Constitution as fundamental rights to be upheld by the executive, legislature, judiciary and all other organs of Government as well as by all natural and legal persons in Namibia. The above mentioned is the first constitutional protection and it is not only applicable to adults, but also to children.

The Sector Policy on Inclusive Education provides for a conducive educational environment where all learners are educated in the least-restrictive setting and ensure access to equity and quality education for all children including Ovahimba, San, and children with disability, refugee and migrant children. The policy specifically highlights a special group of children that are considered marginalised and are currently not benefitting equally from the education system.

Section 2, 5, 9 of CCPA refers to non-discrimination which focuses on protecting the child from direct or indirect discrimination on different grounds. Moreover, section 9 of the said Act makes special provision in relation to respecting the dignity of children with disabilities.

In addition, in 2015 the Government developed a National Human Rights Action Plan (NHRAP) for the period 2015 until 2019 to address 7 (seven) themes of human rights including non-discrimination, equality rights of girls and women. The Office of the Ombudsman coordinates the implementation of the NHRAP on behalf of the Government.

The state party also undertook a National Formative study on Child Marriages. The main objective of the study was to determine the extent of child marriages in the country. The recommendations of this study will inform strategies to curb child marriages.

The Ministry of Gender Equality and Child Welfare (MGECW) in collaboration with the University of Namibia conducted a study on the demographic profiles of street children. This study informed the development of a national strategy on street children which provides for responsive well-coordinated services to prevent, identify and intervene with child-centred and rights-based approaches to promote resilience in children on the streets.

The State Party acknowledges that there are challenges in relation to customary marriages and inheritance. In addressing these challenges pertaining to customary marriages and inheritance, the Namibian Government has drafted several bills to ensure that women in such marriages are legally protected. To this effect the following bills have been drafted, namely the Matrimonial Property Regime Bill and the Intestate Succession Bill.

The Matrimonial Property Regime Bill, 2019 submitted by the Ministry responsible for Home Affairs in September 2019. The Bill repeals the offensive and overtly racist Native Administration Proclamation Act, 1928 (Act No.15 of 1928). The law provides for a uniform matrimonial property regime for all civil marriages. It repeals the remainder of the

Proclamation, and provide measures of redress for those who have been unfairly affected by its discriminatory provisions on marital property regimes.

In 2012, the Law Reform and Development Commission provided a report on the Intestate Succession Bill to the Master of the High Court as a Custodian of the Bill. Master of the High Court is the appropriate authority on any further progress made on the Intestate Succession Bill.

Further, the proposed divorce law, which intended to repeal the Divorce Law Amendment Ordinance 18 of 1935 inherited from South Africa, is currently lined up to be tabled during any of the parliamentary sessions of 2020. While the Bill is primarily aimed at simplifying divorce proceedings. It also removes the so-called red line which divides marital regimes in the country and makes provision for equal rights to property and inheritance.

The Child Care and Protection Act, 2015 (Act No. 3 of 2015) removed the discrimination against children born outside marriage; it provides for custody, access to inheritance and guardianship in respect of both children born in marriage or outside the marriage upon the death of their parent or guardian.

One of the projects of the Law Reform and Development Commission (LRDC) is to remove and amend the old discriminating laws. On 31 December 2018 the Namibian Government promulgated the Administration of Deceased Estates Amendment Act, 2018 (Act No.22 of 2018). The amendments are aimed at further protecting the interests of minor heirs and delegates as well as addressing issues pertaining to the Guardian Fund. Furthermore, the amendments provide for an investment framework, including an investment committee and policy to ensure more transparent and effective governance of the investments made by the Master of the High Court.

The Government provides state grants targeting orphans and vulnerable children (OVC) including children from marginalised children to the amount of N\$ 250 per child per month. These grants are aimed at, inter alia, alleviating child poverty in vulnerable families.

Other Namibian's social protection systems are a universal old age pension; and war veterans' grant.

There are also social security measures such as the maternity benefits and unemployment benefit once a registered employee loses employment. In addition to the above a Food Bank established and rolled out in the country. In 2015, the Government established the Ministry of

Poverty Eradication and Social Welfare to develop and implement programmes and strategies to eradicate poverty. In this regard, the Ministry develop a policy (Blueprint) on Wealth Redistribution and Poverty Eradication framework aimed at advancing strategies for eradicating poverty and reducing inequality in Namibia.

The Ministry of Poverty Eradication and Social Welfare is responsible for implementing the poverty eradication universal programmes such as Social (Elderly and Disability) Grants and opened a donation account with treasury approval to receive financial donations. The funds are used to implement poverty eradication related programmes in the community.

### **3.17 Best interest of the Child: Recommendation No. 32 and 33**

The best interest of the child is the underlying general principle of the Child Care and Protection Act. Section 3 of the CCPA provides that the Act must be interpreted and applied in all matters concerning the care, protection and well-being of a child arising under this Act or under any proceedings, actions and decisions by an organ of State in any matter concerning a child or children in general. The best interests of the child concerned is the paramount consideration. The CCPA is the first Namibian law to make the best interest of the child the key consideration in matters concerning the child, and the first to recognize the child participation. The Child Justice Bill is also supporting the general principle of the best interest of the child and once it is enforced the provisions will be implemented.

In addition, the High Court of Namibia and the Master of the High Court is the custodian of the children's rights in terms of the High Court Act,1990 (Act No 16 of 1990).

### **3.18 Rights to Life, Survival and development: Recommendation No. 34 and 35**

In 2011, the MGECW with the financial and technical support of UNICEF, conducted a multiple-choice text message survey to find out more about public attitudes on baby-dumping. The public responses indicated that the top three reasons mothers dump babies are firstly, the father denies paternity, secondly the mother is still a student and thirdly, the mother does not know about alternatives such as foster care and adoption.

Section 227 of the Child Care and Protection Act provides for the establishment of approved authorities for unwanted babies, and provides safeguards against the misuse of such facilities as well decriminalizing baby dumping. The Government through the relevant line ministries



addresses the issue of baby-dumping, by providing alternatives such as increased awareness on Sexual Reproductive Health Education including family planning, foster care, adoption and legal grounds for abortion. Learners and students in particular are targeted with information about alternatives to baby-dumping and options for continuing their education after becoming parents in terms of the Prevention and Management of Learner Pregnancy Policy.

The enforcement of the Maintenance Act, 2003 (Act No. 9 of 2003) which provides that both parents have a legal duty to maintain their children, regardless of their marital status are efforts to prevent baby-dumping as well as an online Comprehensive Sexual Education (CSE) curriculum for life skills teachers are some of the measures in place to address the root causes of teenage pregnancy. A national integrated school health programme is in place and an integrated school health task force was established in all the regions to combat all issues related to adolescents and young people sexual reproductive health issues including teenage pregnancy. Adolescents and Young People Job Aid was developed in 2017, to guide all health workers on how to comprehensively assess adolescent and detect whether the adolescent engages in behaviours that could put one at risk of negative health outcome such as injecting drugs or having unprotected sex, and important factors in their environment that increase the likelihood of their engagement in those behaviours and support them. A teenage pregnancy Prevention Campaign is in place on Social Media platforms such Facebook, Instagram and Twitter, where adolescents, young people, technical people including the First Lady of Namibia, share and engage on prevention of teenage pregnancies.

### **3.19 Birth registration: Recommendation 36 and 37**

Article 15 of the Namibian Constitution provides that children have a right to a name and a nationality. A birth certificate is usually the first step to secure this right. Therefore, every parent has a duty to register the birth of a child as soon as possible following the birth of the child. The national birth registration rate is 87.8 % and 77.6% of children under the age 5 have a birth certificate, according to the Namibia Inter-censal Demographic 2016 Report. The birth registration has been fully digitalised, and is an integral part of the e-National Population Registration System, which caters for all vitals events from birth to deaths, including ID register. 82.9% of all Namibians hold an ID card.

The Ministry of Home Affairs and Immigration has established offices in all towns and cities, as well in 23 hospitals to encourage early birth registration. The parents should present

themselves in front of the Registrar if not married, or provide the other parents' statement under oath, claiming maternity/paternity of the child. In the event that the father denies paternity or is unknown, the mother can register the child on her surname, and father's details will be left blank. Any parent can register a child's birth as soon as possible after the birth of the child and birth registration is free. Registration can be done at the nearest office of the Ministry of Home Affairs and Immigration or at a hospital-based office. The Ministry also undertakes community outreach to register children who are in the hard- to- reach communities.

Section 232 (1) of the CCPA prohibits hospitals schools and hospitals to deny services on the basis on not being registered. Section 145 (3) (t) instructs the organ of state to assist the child in obtaining access of a public services to which a child is entitled e.g. Osire Settlement Centre for refugees provides all basic services including birth registration.

## **E. VIOLENCE AGAINST CHILDREN (arts. 17,37 (a) and 39**

### **3.20 Corporal punishment: Recommendation 38 and 39**

The information provided in the last paragraph 3.10 on recommendation 18 and 19 applies the same to this recommendation as well. In addition, Article 56 (1) of the Education Act, 2001 (Act No. 16 of 2001) prohibits corporal punishment in both State and private schools. Four teachers at the private school called Windhoek Gymnasium were found guilty in court after inflicting corporal punishment on a learner and were each fined N\$2000. Moreover, the National Schools Safety Framework (NSSF) initiated by the Ministry of Education reinforces positive discipline and alternatives to corporal punishment.

### **3.21 Sexual exploitation and abuse: Recommendation No. 40 and 41**

The state party acknowledges that there has been a steady increase in a number of cases of sexual exploitation and abuse in the country. In an effort to address this issue the government promulgated Criminal Procedure Amendment Act, 2003 (Act No. 24 of 2003) among other pieces of legislation. The Criminal Procedure Amendment Act makes provision for special arrangements for vulnerable witnesses in rape cases giving testimony via closed circuit television. Currently there are ten (10) court rooms equipped with witness friendly facilities in the country. Office of the Judiciary in the development of a blue print for new court structures has considered victim friendly facilities as a standard feature for all court rooms. In addition, the Witness Protection Act, 2017 (Act No 10 of 2017) caters for effective protection of

witnesses. The national response to online child sexual exploitation, include preventing wider child sexual exploitation and abuse through effective prevention programmes, investigations and prosecutions, safeguarding of victims and offender management. The country has adapted the Model National Response in Action for child online protection with targeted interventions such as awareness raising and advocacy campaigns (Safer Internet Day), research on online exploitation, legislations to incorporate the prohibition of child pornography and training of key stakeholders on how to respond to actual cases. The country has also established a multi-stakeholder taskforce at national level to drive the agenda on protection at all levels. The taskforce meet every quarter and has effectively established a national agenda for the country such as hosting a biannual national conference on online protection. The national child witness program in the country was instituted to capacitated professionals including the police, prosecutors and judges to better deal with child victims and witnesses.

### **3.22 Harmful Practices Recommendation No. 42 and 43**

The state party recognizes that there have been isolated incidences of harmful cultural practices reported in the country. In combatting harmful cultural practices, the government has devised legal and policy framework mechanisms to this effect.

The Child Care and Protection Act, 2015 (Act No. 3 of 2015) contains provisions, which are against harmful customary practices that affect children's rights including child marriage, early sexual activity and child bearing. As stated above the State Party acknowledges the fact that early and forced marriages do exist in some isolated cases, however such marriages are against the law and once discovered the perpetrators shall be charged with contravening Section 226 of the CCPA. Furthermore, the Ministry of Gender Equality and Child Welfare conducted a formative study on child. The purpose of this study was to describe the extent of child marriages in the country to inform the development of evidence based policies, legal reform, resource mobilization and programming.

### **3.23 Freedom from all forms of violence: Recommendation No. 44 and 45**

Despite the existence of a variety of anti-gender-based violence legislations, cases of this nature remain stubbornly high. As stated in the last report the Combatting of domestic violence Act and the Combatting of Rape Act are the two main pieces of legislation often invoked by the courts when dealing with cases of gender-based violence including violence against

children. These two pieces of legislation are currently under review and may be amended in order to strengthen them and make them more effective. In addition, Section 60 A of the Criminal Procedure Act 51 of 1977 as amended in bail application makes provisions for the rights of complainant where the accused is charged with rape or domestic violence.

The state party is reviewing some of its GBV laws. Awareness campaigns on GBV are ongoing as part of collaborative effort between key Ministries and Civil Society organizations. A National Prayer Day on GBV was a high political intervention in an effort to address GBV.

The Ministry of Gender Equality and Child Welfare has conducted a survey on violence against children (VAC) to obtain data on the prevalence of violence against children and to propose strategies to address issues around VAC.

The social service workforce is strengthened through a GBV and HIV sensitive case management system which is an integrated response between social workers, police officers important stakeholders. Standard operating procedures (SOP) for Gender-Based Violence Investigation Unit (GBVIU) and shelters were developed to improve service delivery to survivors of GBV and violence against children. The police training manual was reviewed to include provisions of the CCPA and all new recruits are trained based on the manual.

## **F. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (articles 5, 18 (paragraph 1-2) 9-11, 19-21, 25, 27 (paragraph 4) and 39**

### **3.24 Family environment: Recommendation No. 47 and 48**

The State Party recognizes the shortage of Social workers in the employment of the government and has made considerable efforts to fill all budgeted vacant positions. In an effort to address the shortage of Social workers the Ministry of Gender Equality and Child Welfare and the Ministry of Health and Social Services developed a matrix on collaboration and the integration of Social work services. The effective parenting program is evident of the collaboration between the two ministries to fill the gaps in the provision of effective services delivery. Further, the Social Workers from the Ministry of Gender Equality and Child Welfare were trained on protective behaviours methods to empower children to identify risk behaviours that would harm them.

### **3.25 Adoption: Recommendation No. 49 and 50**

The Child Care and Protection Act, (Act No 3 of 2015) was passed into a law in 2015, which is a comprehensive law on adoption and Inter- country adoption. The regulations have been finalised and the law is now enforced.

Namibia acceded to the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption in 2015, and deposited its instrument of ratification in the same year. The country is again in the process to accede to the following Hague Convention to become fully compliant with the CRC on Inter-country adoption:

- Hague Convention on Civil Aspects of International Child Abduction,
- Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, and
- Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance also referred to as The Hague Maintenance Convention.

### **G. DISABILITY BASIC HEALTH AND WELFARE (article 6, 18 (paragraph 3) 2,24,26,27 (paragraph 1-3) of the convention**

#### **3.26 Children with disabilities: Recommendation No. 51 and 52**

According to the 2011 Namibia Population and Housing Census, the proportion of persons with disabilities is higher in rural areas (5.7%) than in urban areas (3.3%). The Census further revealed that in terms of limitations, 42% of the persons with disabilities had difficulties to engage in any learning and/or economic activity. However, recent statistics further shows that about 21,000 children in Namibia between the age of 6 and 19 years have a disability, representing 3.3 percent of the population in that age group.

The Government has policies and guidelines which aim to remove the social inequalities for persons with disability. The most relevant legislation and policies pertaining to children with disabilities in Namibia include the National Policy on Disability (1997), the National Disability Council Act, 2004 (Act No.26 of 2004) and the Mental Health Policy

The policy framework follows the principles outlined in the UN Standard Rules on the Equalization of Opportunities for Persons with disability and incorporates various rights protecting the persons with disabilities. It also recognizes that persons with disability are an

integral part to development and they should be accorded equal access in all areas and exempted such as rehabilitation, assistive devices and orthopaedic services.

According to a survey done by Sintef Health Research in collaboration with University of Namibia, Central Statistical Office and National Federation of Persons with Disability in Namibia (NFPDN) earlier in 2004, over 70 % of persons with disabilities had access to health care services when the need arose. The Regulations of 2010 relating to Classification of State Hospitals, Admission of Patients to State Hospitals, and Fees Payable by Patient Receiving Treatment in, at or from State Hospital: Hospitals and Health Facilities Act, 36 of 1994 states that a person may not be refused admission to a state hospital for treatment in, at or from that hospital on the grounds that he or she is not able to afford the payment of the prescribed fees for treatment.

The Education policy provides that basic education is received by all Namibian children. In this regards, the Ministry of Education, Arts and Culture has implemented inclusive education for all Namibian children including those who are with disabilities. This process of inclusion entails developing the capacity of the regular school system to enable it to meet the diverse educational needs of all children.

To address the needs of children with disabilities in country, the Ministry of Education, Arts and Culture with the support of UNICEF conducted a rapid analysis aimed at documenting the implementation of inclusive education in Namibia. The main purpose of this analysis was to identify the needs and barriers that may hinder the full participation of children with disabilities and children with special education needs. The analysis identified many challenges including the lack of disability-friendly infrastructure in and around schools, classrooms and in hostels and lack of supporting technology.

### **3.27 Health and health services: Recommendation 53 and 54**

The Mental Health Bill and Regulation still with the Cabinet Committee on Legislation and is at the final stage. The Bill was referred back by CCL for public consultation. The mental Health Policy will only be reviewed after the bill has been finalized.

The National Health Policy Framework 2010-2020 provides for promotion, preventive, curative and rehabilitative services undertaken in collaboration with other sectors, communities, individuals and partners. The policy includes among its principles and values a

stated commitment to gender issues to ensure that women and girls can enjoy a healthy life and have access to health services according to their specific needs. The policy also identifies as one of its priorities the need to support maternal, neonatal and child health.

The Government is still addressing many challenges in the health sector, including inadequate human resources and skills personnel as well as the fact that approximately 21% of the population mainly in the rural areas still live more than 10 kilometres from the nearest health facilities.

To address the issue of distance to health facilities and lack of transportation in rural areas, the Government continues to promote the use of mobile clinics and it has been an interesting intervention. A pilot programme called Mister Sister utilised a public-private partnership to bring primary health care to remote and underserved populations was introduced. This programme has assisted thousands of registered patients who otherwise would be unlikely to have access to medical care. Some of its main services include confirmation of pregnancy, routine antenatal and postnatal care, family planning, immunisations, well-child care, screening for TB and sputum collection, voluntary counselling and testing for HIV, and diagnosis and treatment of routine communicable diseases.

Children living with HIV, TB and other chronic diseases are put on treatment and monitored according to the set standards. The ministry also trained and employ Community Health Workers based in the community to identify and refer cases.

Nutrition Assessment, Counselling and Support (NACS) is an approach designed to provide:

- Nutrition services as part of standard care and treatment, with strong links to community services
- Routine nutrition screening in the community and nutrition assessment in health facilities
- Nutrition counselling based on the results of nutrition assessment
- Therapeutic and supplementary food prescribed as take-home rations to clinically malnourished target individuals for a limited time, based on clear admission and discharge criteria

MoHSS ensure that all health facilities have sanitation. Educate community at large on the importance of sanitation and coordinate with other stakeholders.

The Government recognised 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, 2013 (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.

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.

According to the Demographic and Health Survey of 2013, only 34% of the population has access to improved sanitation but this is set to change, following a change in policy direction that will see the emphasis on the provision of potable water and proper sanitation, shift to informal and rural settlements.

The Government water developmental master plan makes provision for the expansion of the water supply infrastructure network in the whole country.

### **3.28 Mental Health: Recommendation No. 55 and 56**

The Mental Health Bill and Regulations are still with the Cabinet Committee and at the final stage. The Mental Health Policy will only be reviewed after the bill had been finalized.

Due to the Increasing suicide incidents in the country, Namibia has conducted a National Study in the Prevalence of and Intervention in Relation to Suicide in Namibia during 2016. The Study Report is finalized and was launched during October 2018. The stakeholder's workshop on the development of National Strategic Plan (2018-2023) on Suicide Prevention was conducted during October 2018.

### **3.29 Adolescent health: Recommendation 57 and 58**

Abortion remains illegal in Namibia and administered in exceptional cases in accordance with the Abortion and Sterilization Act, 1975 (Act 2 of 1975).

All Namibians, without discrimination, have access to public health facilities across the country and there is no Government policy, which authorizes any official at any of these facilities to refuse anyone medical care, even when such person is unable to pay the minimal fee imposed.



Most of the public health facilities in the country provide integrated sexual reproductive health/HIV with other services depending on the level of the health facility. In addition, Namibia introduced SRH/HIV Integrated with other services (one-stop-shop service) in 2016 and the following programmes and services are provided at these facilities:

- Expanded Programme Immunization
- Growth Monitoring and Nutrition Assessment and Counselling Services
- Ante Natal and Post Natal care Services
- Family planning Services
- Full screening /History Taking including mental health, diagnosis and treatment
- HIV Testing Services, diagnosis, treatment and care
- Prevention of Mother to child Transmission (PMTCT) services
- Prevention and treatment of sexually transmitted diseases.

### **3.30 HIV/AIDS: Recommendation 59 and 60**

National Policy on HIV/AIDS for the Education Sector of 2003 recommends a variety of approaches for addressing HIV in school. Amongst other things, it prohibits schools from requiring HIV tests for admission or continued enrolment in school.

Namibia is ranked 3<sup>rd</sup> in Africa at 60% for the young people aged between 15 and 24 years who had correct and comprehensive knowledge about HIV/AIDS, according to the 2018 Joint UN Programme on HIV/AIDS report. Namibia is also one of the countries in Africa where adolescents do not require parental consent to access sexual and reproductive health services.

The Namibia Population-Based HIV Impact Assessment (NAMPHIA), 2017 indicates that HIV prevalence amongst 0-14 year olds is 1.0% (1.1% for females and 1.0% for males); and 4.0% amongst 15-25 year olds (5.4% for females and 2.5% for males). The HIV prevalence for 15 – 64 year olds are 12.6% (15.7% for females and 9.3% for males).

### **3.31 Breast feeding: Recommendation 61 and 62**

The Ministry of Health and Social Services (MoHSS) has adopted a primary health care strategy in the delivery of health services to the Namibian population. One of the components of primary health care programs is maternal and child care including family planning, immunizations and promotion of breastfeeding up to the age of 6 months and nutrition. In Namibia the Baby and Mother Friendly Initiative (BMFI) was launched in 1992. The initiative

aims to promote, support and protect breastfeeding practices and is adopted from the global Baby Friendly Hospital Initiative (BFHI). The BMFI guidelines were developed and health workers were trained on breastfeeding management and promotion. According to the 2006/7 NDHS only 23.9 percent of children under the age of 6 were exclusively breastfed. This proportion gradually increased to 48.5 percent in 2013. The practice of exclusive breastfeeding in Namibia at age 0-1 months was recorded at 72 percent, 52.7 percent at 2-3 months and 26.8 percent among 4-5 months old infants. In reality many mothers are unable to practice exclusive breastfeeding as advocated and there is paucity of scientific data on reasons why exclusive breastfeeding is not practiced optimally.

Train health professional on breastfeeding or breast milk substitutes country wide (MHSS)

#### **H. education leisure and cultural activities (article 28, 29 and 31 of the convention):**

##### **3. 32 Education: Recommendation 63 and 64**

To eliminate all type of hidden or additional fees in school system school development fund was abolished in primary and secondary school.

The Government expenditure on education is about 18% of the GDP of the national budget every year. In 2013, the Government implemented Universal Primary Education (UPE) (free education) for primary school in line with Article 20 of the Namibian Constitution and Universal Secondary Education in 2016.

The Government through the Ministry of Education, Arts and Culture, in collaboration with the UNICEF, has been working on the new Education Bill to legislate free education in Namibia from pre-primary to secondary education levels

Access to education has been greatly improved during the past 5 years by the adoption and implementation of several policies, such as; the Education Sector Policy for Orphans and Vulnerable Children (2008), Education Sector Policy for the Prevention and Management of Learner Pregnancy (2009), Sector Policy on Inclusive Education (2013), and the implementation of Universal free Primary Education (2013).

In 2012 there were a total of 1604 schools compared to 2016 with 1826 schools which resulted to 222 schools being established in order to increase access to education.

In addition, government has made provision for learning opportunity for Out of School Youth to acquire knowledge, skills and positive attitude to enable them to participate in the social, economic and national development and improve their livelihood.

In order to increase access to education for orphans and vulnerable children (OVC) learners receive hostel exemption at all government schools. Over 2000 OVCs are beneficiaries from the provision of scholarships to orphans and vulnerable young people.

National study conducted on Out of School Children (2015) to identify major challenges with regard to drop out and retention of learners; National Conference Held on Out of School Children (2016); Annual Advocacy campaigns for learner enrolment.

### **3.33 Early childhood development: Recommendation No. 65 and 66**

Early child development interventions are driven at the central Government, through the relevant line Ministries as well as Faith Based Organisation, Community Based Organisation, NGO's and Development Partners. However, certain functions were decentralised. The main goal of these interventions are to ensure that all children from 0-8 years of age have access to quality early childhood development services with the focus on the most vulnerable children.

In July and August 2012, the Ministry of Gender Equality and Child Welfare (MGECW) conducted a nation-wide survey ("*ECD Survey*"). The Survey revealed that there are 2 070 ECD centres in the country. At least 84% of these centres were registered with MGECW, compared to 15% unregistered centres. The survey attempted to comprehensively cover all ECD centres in Namibia, as its methodology for determining enrolment rates was to compare the number of children at the ECD centres surveyed with the figures from the *2011 Census*.

The EDC Survey recorded a total of 61 218 children were enrolled in ECD centres, 52% were girls and 48% were boys. A comparison of children aged 0-9 enrolled in ECD centres to all children in Namibia in the same age group showed that just 12% of girls and 11% of boys were enrolled. Enrolment varied according to age group, with the highest enrolment recorded for children aged 4-5 (25%) and 6-7 (19%).

In 2016, the Office of the First Lady commissioned a needs assessment for ECD centres. It analysed 32 ECD centres across eight regions, intentionally selecting centres that were remote and rural, located in poor constituencies and poorly resourced. The Government will use the information and the recommendations to improve the implementation of the ECD centres in the country.

Section 66 of the CCPA makes provisions for the regulation of all ECD facilities in the country by the Ministry of Gender Equality and Child Welfare.

## **I. OTHER SPECIAL PROTECTION MEASURES (articles 22, 30, 38, 39, 40 (37 (b) - (d) 32 -36 of the convention**

### **3.34 Economic exploitation, including child labour: Recommendations 67 and 68**

The state party has taken notice of the Committee's recommendation to amend the Labour Act for

minimum age of employment to be 16 years and 18 years for hazardous work respectively

The Government has established institutional mechanisms for the enforcement of laws and regulations on child labour, including its worst forms. The Ministry of Labour, Industrial Relations and Employment Creation (MLIREC) enforce child labour laws and investigate allegations of violations, including forced labour and cases involving human trafficking and commercial sexual exploitation of children. The Ministry employs about 52 labour inspectors country wide responsible for inspections. The Ministry works with other line Ministries such as the Ministry of Safety and Security (MSS); Ministry of Gender, Equality, and Child Welfare (MGEWC); Namibia Central Intelligence Service (NCIS); and the Ministry of Basic Education Arts and Culture (MOE) on child labour matters and on joint labour inspections/outreaches. Training of the Labour Inspectors on enforcement of the applicable Namibian laws on child labour was also conducted.

In 2016, the Government made a moderate advancement in efforts to eliminate child labour by reactivating the Inter-Ministerial Committee on Child Labour, which consist of the above-mentioned line ministries including officials from the office of the Ombudsman. The Government also drafted the National Action Plan Against Child Labour and Domestic Work.

Namibia Labour Force Participation Rate (LFPR) 2016 Survey indicates that LFPR for 15-19-year olds is 21.3% (24.9% urban, 19.4% rural), and 15-19 year olds represent 42.3% (39.5% urban, 44.1% rural; 37.2% female, 49.1% male) of the inactive population across all age groups. For the 15-19-year-old population, this is an increase in the LFPR that appears to be entirely attributable to a sizable increase in the urban LFPR, and a small fall in its share of the inactive population, mainly for females.

Government has also introduced the following social programs to address child labour:

- Namibian School Feeding Program provides mid-morning meals to school children
- National Youth Service offers training in civic education, national voluntary service, and job skills to unemployed youth, some of whom have never attended school,

- Shelters and victim services are established for women and children to assist victims of sexual assault, gender-based violence, and the worst forms of child labour. The low risk cases of child labour are dealt with through other child protection programs.

In addition, the Government ratified the following international Conventions on Child Labour:

- ILO Convention No. 138 on Minimum Age
- ILO Convention No. 182 on Worst Forms of Child Labour, and
- Palermo Protocol on Trafficking in Persons

### **3.35 Children in street situations: Recommendations 69 and 70**

The MGECW has developed a national strategic plan for children on the street. The strategy aims to protect children in street situations and reducing their number by identifying underlying causes such as poverty, family violence, and lack of access to education. Children living on the streets are considered as children in need of protective services. The Child Care and Protection Act (CCPA) makes provisions for children living and working on the street streets by including them within the definition of children in need of protective services and, therefore, of the requirement for mandatory reporting by professionals for appropriate referral (S. 131(1)). It also specifies such children as having the right to shelter accompanied by the provision of basic services (S. 67(1)). The government currently provides shelters and basic services for these children with the purposes of formally bringing children on the streets into the formal system of care and protection.

The Ministry has a special program that specifically focus on family reunification and educational reintegration of children on the street. One such example is the After School Centre based in Windhoek.

Article 10 (2) provides that no person shall be discriminated on the ground of sex, race, colour, ethnic origin, religion or social or economic status and this article also applies to children. The Ministry has established the National Street Children Committee, and the Namibian Police and Windhoek City Police are represented at this committee and sensitized on how to deal with children found on the street.

Social workers from the MGECW conduct Regular Street and cell visits to ensure the safety of children.

### **3.36 Sale, trafficking and abduction: Recommendation 71 and 72**

Namibia has enacted the Combatting of Trafficking in Persons Act, 2018 (Act No. 1 of 2018) which came into operation on 14 November 2019. The purpose of this act is to give effect to the United Nations Protocol to prevent, suppress and punish trafficking in persons especially women and children; to criminalize trafficking in persons and related offences; to protect and assist victims of trafficking in person, especially women and children.

The Government continues to make efforts to combat trafficking in persons by creating awareness, building capacity of service providers. It has improved the identification and reporting of cases and providing shelter to Trafficking in Persons (TIP) victims, repatriation and reintegration of victims. In this regard, the Government established a Cabinet steering committee in 2016 to strengthen inter-ministerial coordination on trafficking cases.

The Government has also developed a National Referral Mechanism which includes the Standard Operating Procedures with its accompanying tools to ensure standardization of service provision for victims of trafficking by all key stakeholders.

Trafficking of children is largely focused on labour exploitation and sexual exploitation and legislation that curbs this issues are the following: The Prevention of Organized Crime Act, 2004 (Act No. 29 of 2004) which criminalizes human trafficking; the Labour Act , 2007 (Act No. 11 of 2007) prohibits the engagement of children under the age of 14 years in paid employment; the Combating of Immoral Practices Amendment Act, 2000 (Act No. 7 of 2000) prohibits the procurement of children for the purposes of prostitution.

The rapid expansion in access to the internet has increased concern about its role in the sexual exploitation of children. This primarily involves the exploitation of children in the production and distribution of child pornography and in the online grooming of children for exploitative purposes. The Government is having a reporting portal where images of children being exploited can be reported, as well as a toll-free helpline where children can report abuse.

The government have developed an Immigration Standard Operation Procedure Manual, for the training of immigration officials to identify possible victims of trafficking. All immigrations officers are capacitated in this regard.

Regulation 91 of the CCPA state that a person who holds parental responsibilities and rights over the child is required to give consent to enable a person to take or send a child out of Namibia as contemplated in section 236 of the Act. In terms of children found in need of protective services, the Minister of Gender Equality and Child Welfare is required to give for the child to leave the country according to section 88 (1), (2) of the CCPA.

If the child does not return to Namibia on the date stated in the consent, the person who consented to the departure of the child from Namibia may report the failure of the child to return

In the matter of *S v Lukas* (CC 15 -2013) (2015) NAHCMD 186 (08 October 2015) the High Court handed down the country's first conviction in terms of the Prevention of Organized Crime Act, Act No 24 of 2004, which made trafficking in persons a criminal offence in Namibia. The Government also initiated prosecution in two trafficking cases of seven defendants, the same number as in 2015. In 2016, the Government conducted eight trafficking investigations, three for sex trafficking and five for forced labour, compared to seven in 2015

The Government continues to implement its program by offering anti-trafficking training to immigration officers and other law enforcement officers.

### **3.37 Administration and juvenile justice: Recommendation No. 73 and 74**

The State party acknowledge the concern of the committee and in addressing this issue the Child Care and Protection Act, 2015 (Act No. 3 of 2015) has been passed in 2015 and is now in operation since 30 January 2019. In respect to the Child Justice Bill, the consultations are still in progress because of the complex nature of the Bill. Therefore, it is necessary to consult widely with all stakeholders and engage a consultant who possess significant legal knowledge and expertise on juvenile justice to make sure that the Bill meet the international legal standard as well as the domestic laws of the country.

The age of criminal capacity responsibility for children was raised to 12 years in terms of Section 7 of the CJB. Section 85 of the CJB established the Children's Court which will be also known as child justice court. Section 85 (1) further provide that child justice court is a court at district court level which must adjudicate on all cases referred to that court in terms of the Act.

We refer the committee to the State Party response No.15 above

Key stakeholders such as Police Officer, Social Workers and Prosecutors have been trained on relevant international standards on working with child offender. The standards have been institutionalised in the training curriculum for Police Officers and Prosecutors.

The State has a program where the Social Workers conduct inspection to ensure that children in detentions are separated from adults; and also check on the overall wellbeing of the children in those detention centres. These inspections guarantee the separation of children from adults in all prisons and pre-trial detention centres throughout the country.

### **3.38 Child victims and witnesses of crimes: Recommendation 75 and 76**

The Witness Protection Act, 2017 (Act, No.11 of 2017) enacted. This Act provides the framework and procedures for protection measures, on behalf of the state, to witnesses and related persons who face potential risk or intimidation due to their being witnesses or related persons.

The Criminal Procedure Amendment Act, 2003 (Act, No.24 of 2003) makes provision for the protection and support of vulnerable witnesses and for special measures to be applied for. In enhancing the protection of child victims, social workers, police officers and prosecutors have been trained on child witness support and protection. A training manual for professionals (social workers, police and prosecutors) who work with child victims and witnesses of crimes was developed. Child friendly courts that makes provision for special measures to be applied is also in place. In addition, the Office of the Prosecutor General have introduced vulnerable Witness support program to support children while testifying during the court proceedings. Volunteers from all regions in the country were recruited and trained under the program.

The following objectives are the reasons why the Government enthusiastically want the CJB to become a law:

- to establish a separate 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 Namibian 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.

**J. RATIFICATION OF OUTSTANDING TREATIES: Recommendation 77 and 78**

The Government is continuously engaged in a thorough study of the international instruments to ensure that national laws are harmonized to meet the requirements of the international instruments before they are signed, ratified and/or acceded to. This approach is used for the consideration of all international instruments which Namibia has not yet ratified.

The state party takes note of the committee recommendation on the outstanding report on the optional protocols.

**K. COOPERATION WITH REGIONAL AND INTERNATIONAL BODIES:**

**Recommendation 79**

The state party takes note of the recommendation.

Namibia is both a member of the United Nations and African Union. Cooperation with these international organisations is based on mutual understanding that the Government should be notified on time about the visit of Special Rapporteurs in order to cope with unannounced and unrestricted visits in the country. Namibia will continue to render assistance to the international organisation and other human rights experts in order to achieve the effective implementation of human rights instruments.

#### **L. FOLLOW-UP AND DISSEMINATION: Recommendation 80 and 81**

This recommendation is noted. Namibia will endeavour to translate the Convention on the Rights of the Child into the most spoken local vernacular where possible. Not all local languages are developed into written languages and the limitation will be overcome through other innovative methods of disseminating of the convention to the local communities.

### **PART TWO (2)**

#### **4. GENERAL MEASURES OF IMPLEMENTATION (Art. 4, 42 and 44 para 6 of the Convention)**

Article 144 of the Namibian Constitution explicitly incorporates international law and makes it part of the law of the land. Thus, public international law is part of the law of Namibia: it needs no transformation or subsequent legislative Act to become in force.

However, Parliament passed the Child Care and Protection Act, (Act No 3 of 2015) (CCPA) into a law in 2015, to give effect to the rights of children as contained in the Namibian Constitution, the CRC and other international agreements binding on Namibia.

The CCPA is a stand-alone comprehensive legislation which addresses children issues which are contained in the Convention amongst others; to set out principles relating to the best interests of children; to set the age of majority at 18 years; to provide for the establishment of a National Advisory Council on Children; to provide for the appointment of a Children's Advocate and adoption and Inter- country adoption to mention a few.

In addition, Namibia acceded to the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption in 2015, and deposited its instrument of ratification in the same year. The Child Justice Bill also known as the juvenile justice Bill is at an advance stage.

#### **Responsible Ministry with authority**

The MGECW is mandated to coordinate and ensure that the wellbeing of children in Namibia should be promoted and protected. In 2004, the MGECW was directed by Cabinet to establish the Permanent Task Force (PTF), a national level body which constitutes representatives from different line ministries, NGOs, CBOs, FBOs and key Development partners to coordinate the

implementation of the children's initiatives in the country. The work of the PTF is centred on the National Agenda for Children (2018-2022) Refer to response on recommendation no. 8 & 9.

## **5. DEFINITION OF THE CHILD**

A child is defined as a person under the age of 18 years according to Section 1 of the Child Care and Protection Act, Act 3 of 2015. The Majority Act (Act No. 57 of 1972) which set the age of majority at the age of 21, was repealed with the enactment of the CCPA.

Prior to the enactment of the CCPA a minor which was a person under the age of 18 years old was allowed to work and be in any type of job, could obtain a driver's licence, buy alcohol, could gamble, obtain a firearm licence and give independent consent to medical treatment and most importantly could vote (although a person must be 21 years of age to stand for public office) be tried for a crime as an adult and locked up in a prison with adults. The CCPA has repealed the Majority Act (Act No. 57 of 1972) which set the age of majority at 21 years with the exception of a person under the age of 21 still requires the consent of the parent or guardian to enter into marriage. The lowering of the age of majority to 18 years brings the Namibian law in line with the CRC and the ACRWC.

## **6. GENERAL PRINCIPLES (Art. 2, 3, 6 and 12)**

### **Non-discrimination**

For the past 10 years, the Government has enacted various legislation and policies to address discrimination against children. Furthermore, the Law Reform and Development Commission (LRDC) have conducted research to reform the marriage and inheritance laws in the country. Following the LRDC's recommendations, Bills on the civil marriages, intestate successions and the customary marriages have been drafted and submitted to the Minister of Justice. Extensive consultations on customary marriages and intestate succession Bills were held with traditional leaders and local communities in 2016. These Bills will repeal the obsolete laws remaining from the apartheid era, laws including the Native Administration Proclamation 15 of 1928.

The State party reiterate that Namibian law do not discriminate against any person. It is our submission that Article 10 of the Constitution guarantees equality and freedom from

discrimination and prohibits discrimination on the grounds of sex, race, ethnic origin, religion, creed or social or economic status.

Furthermore, the Government adopted its first National Human Rights Action Plan (NHRAP) for the period 2015 to 2019 and mandated the Ombudsman to oversee and monitor the implementation of this Plan. The specific objectives under this Plan include enhancing affirmation of the rights of people with disabilities, indigenous peoples including women and children.

### **Best interest of a child**

The High Court of Namibia is the ultimate guardian of children, it plays its part not only by way of its judgments, but also by using its powers as far as its law-making authority function in terms of case laws to ensure that it promotes laws that protect our most vulnerable children of Namibia in terms of the High Court Act, 1990 (Act No 16 of 1990).

However, the Child Care and Protection Act as well as the provisions of the Child Justice Bill has comprehensively covered the principle of the best interest of the child to comply with the international law and standard.

The State Party has adopted Minimum Standards for Residential Child Care facilities that guide the operations of facilities that care for children as well as Standards for Foster Care. Standard Operating procedures for shelters of Gender – Based Violence, Violence Against Children and Trafficking in Person victims as well as Standard Operating Procedures for gender Based Violence Protection Units are also in place.

### **The rights to life, survival and development**

The Namibian Constitution has abolished the death penalty. In cases where extra-judicial killings of children took place, officials responsible were tried, convicted and sent to prison.

We also refer the Committee to our response on recommendations 34 & 35.

### **Respect for the views of the child**

Article 21 of the Namibian Constitution guarantees fundamental freedoms including the freedom of thought, expression, association and peaceful assembly.

The National Agenda for Children (2018-2022) provides for interventions on child participation.

The Namibia National Students Organisation (NANSO) and the various university Students Representative Councils (SRCs) represent learners and students at schools and institutions of higher learning respectfully. The student's organisations were established to organize, mobilize, and unite all learners and students of Namibia so as to enable them to participate fully in the social, cultural, economic and political life of the society. These organizations also strive for research-based reform and democratization of education in order for it to respond positively to the developmental needs of the Namibian society.

In 2012, the Government established a Children's Parliament. The primary goal of the Children's Parliament is to lobby or advise Government and its agencies responsible for law-making and their implementing machinery to fast track policies that would improve the rights and welfare of children and young persons in accordance with national legal instruments and international convention provisions. The Children's Parliament seat every two years.

Junior Town Councils are operational in certain towns and serves as an extension of the council managing the towns. These councillors are exposed to leadership and management, decision making and advocacy platforms that enhance their development and skills.

Namibia does not have legislation on access to information, however most Government information and Acts of parliament are readily available online and in all the libraries across the country. Laws in Namibia are published in the Government Gazette upon promulgation, and members of the public may obtain a copy at the Ministry of Justice or at Parliament for a minimum fee. Furthermore, all Namibians including children are free to access social media networks such as Facebook, twitter and other social media.

Namibia's education policies are progressive in terms of meeting the educational requirements of its children from the minorities. For example; the Education Sector Policy on Inclusive Education of 2013, aims to enable all children in Namibia to learn and participate fully in the education system. Its mission is to create an enabling, supporting environment for every school for all learners and teachers. It further aims to do this by focusing on educationally marginalised children, and it identifies the girl-child as one such type of child, along with the learner-parent, amongst the list of 16 categories of educationally marginalised children.

The majority of San children attend school in the lower-primary grades (Grades 1-3) especially if there is a school in close proximity to their homes. However, there is a sharp decline in the enrolment of marginalised children in upper-primary and secondary school grades. The reasons

for the high and early dropout rates among the marginalised especially the San learners are manifold, and reflect interplay of economic, cultural and social factors.

In order to ensure that the Ovahimba and Ovazemba children get access to education, the Ministry of Education, Arts and Culture introduced mobile school units for the Ovahimba and Ovazemba community in Kunene Region. This intervention is aimed at providing access to education to the Ovahimba and Ovazemba children without uprooting their traditional way of nomadic life.

CCPA Section 4 makes provision for children with barriers such as disabilities, language or any form of discrimination

#### **7. CIVIL RIGHTS AND FREEDOMS (arts. 7,8, and 13-17)**

We refer the Committee to our response on recommendations 36 and 37 respectively.

#### **8. VIOLENCE AGAINST CHILDREN (arts. 19, 24, para. 3, 28, para. 2, 34, 37 (a) and 39)**

The use of corporal punishment is not permitted in Namibian schools. The Namibian Supreme Court ruled that corporal punishment in schools is a violation of children's constitutional right to human dignity.

Section 132 of the Child Care and Protection Act read together with Section 131 provide that there should be mandatory reporting by all persons who have a "reasonable belief" that a child "may need protection". This requirement supersedes all rules about professional confidentiality except for confidential discussions between lawyers and their clients.

The information provided under paragraph 3.16 on response on recommendation 38 and 39. Corporal punishment and any violence against children whether at School or at home are treated as a criminal offence in Namibia.

#### **9. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (arts. 5,9-11, 18, paras.1 and 2, 20, 21, 25 and 27, para.4)**

The parental duty to maintain children is recognised in the Namibian Constitution. Article 15(1) provides that children have a right to be cared for by their parents. The Maintenance Act, (Act No 9 of 2003) recognises the right of a child to be cared for by both parents. The Maintenance Act was specifically passed to provide a legal basis of monitoring and ascertaining that parents, especially fathers, take full responsibility for all their children.

However, in terms of common law and Namibian customs and tradition both parents have a legal and moral responsibility to contribute to the costs of raising their children.

The Maintenance of a child is most often needed when the parents of a child live separately and one parent fails to provide for the needs of the child. However, the law can also be used by a person who has charge of the day-to-day care of a child (the primary caretaker) to seek contributions for the child's maintenance from one or both parents.

It is a common situation in Namibia for a grandmother to be the primary caretaker for her grandchildren. For example, the grandmother might keep the children in the rural area while the parents are away working in the city. In the case of a child living in an institution such as a children's home, the institution would be the primary caretaker.

In case of divorce, the husband and wife will eventually come to an agreement about issues such as dividing their property, making arrangements for custody and access to the children, and maintenance for the children and possibly for the financially weaker spouse. The court will accept such an agreement between the spouses only if it is sure that both spouses entered into the agreement freely, and that any arrangements for children are in the best interests of the child. If the husband and wife cannot reach agreement on these issues, then the court will decide the issue of custody and access in the best interest of the children.

Matters relating to separation from parents, family reunification, children deprived of a family environment, illicit transfer and non-return as well as abuse and neglect including physical and psychological recovery and social integration are comprehensively covered in the Child Care and Protection Act.

The Child Care and Protection Act further provides one parent must be the primary custodian. If the parents cannot agree on who will do this, then the court must decide. The guiding principle will be the best interests of the child. The custodian is also the guardian. The guardian must consult the other parent on certain major decisions; for example, giving the child up for adoption or taking the child out of Namibia for longer than one year.

Adoptions whether local or outside the country, are regulated by the Child Care and Protection Act, (Act No 3 of 2015). The Act covers and addresses comprehensively all matters relating to adoption. In 2015, Namibia acceded to the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption and deposited its instrument of

ratification in the same year. Namibia is in the process to ratify and accede to other Hague Conventions.

The Namibian Police has established a Gender Based Violence Protection Unit (GBVPU) to provide sensitised and integrated services to victims of violence and many forms of abuse. More specifically, the Unit take on cases involving rape, sodomy (and attempted rape or sodomy), child abuse and neglect, indecent assault and assault with intent to do grievous bodily harm especially where the victim is a female or male under the age of 18 years of age. The unit further focus on crimes such as the abuse, neglect, abandonment and abduction of children, child stealing and incest; and repeat domestic violence offences.

The Unit also provide other services such as police protection; offer a sympathetic ear to traumatised victims of rape, battering and other forms of assault; temporary shelter for victims in dire need of protection-, counselling, advise and refer victims to other agencies as deemed necessary, such as the State Hospital, the Directorate of Social Services in the Ministry of Health & Social Services, Ministry of Gender Equality and Child Welfare including arresting the perpetrators.

All Residential Child Care Facilities are essentially a place of safety for neglected children, but it also functions as a temporary place of safety for abused children. Referrals to the home must be made either by social workers in the Directorate of Social Services. The homes can accommodate a large number of children, and there is no maximum period of stay - the children can stay at the home until a suitable foster home is found for them, or until they can be placed back with their own family. All meals and the necessary social welfare support are provided.

Section 62 of the Correctional Service Act, (Act No. 9 of 2012) provide that a female offender may be admitted into a correctional facility for custody with her infant. The infant will be supplied with clothing and other necessaties by the State until such infant attains the age of two years, in which case the officer in charge must, on the recommendation of the medical officer and on considering the best interests of the infant and being satisfied that there is a relative or friend of the infant able and willing to support such infant, and be handed over to such relative or friend; or if in his or her opinion there is no relative or friend able and willing to support that infant, hand such infant over, subject to the relevant laws, to the care of such welfare



authority as the Commissioner-General may approve for that purpose. Mothers who are in custody are kept separately from other female offenders.

## **10. DISABILITY, BASIC HEALTH AND WELFARE (Art. 6, 18, para.3, 23, 24, 26, 27, para.1-3 and 33)**

### **Dignity of children with disability**

The Inter-census Survey of 2016 surveyed six types of disabilities and these were, blindness, deaf, impairment of the hands, impairment of the legs, impaired speech and mentally disabled/mentally ill. The results further show that 5% of the Namibian population disabled and most live in the rural areas.

Inter-census survey of 2016 in urban 36 404 people with disabilities. Rural areas 72 588 people with disability. Total population of people with disabilities are 4.7% (new information) Page 57 – 61.

While there is little information about Gender Based Violence against persons with disabilities, there are some indicators that this is another very vulnerable group in the community. Namibia has adopted a “human rights-based model of disability mainstreaming and social integration and economic empowerment” as the best model for protecting and advancing the rights of persons with disabilities. The National Policy on Disability of 1997 lists women, children and elderly people with disabilities as a special target group.

However, there are still many challenges facing persons with disabilities particularly children in the country. The 2013 Demographic and Health Survey indicates that about 87% of children with disabilities between the ages of 0-4 years have never attended early childhood development (ECD) programmes, whereas the proportion of children with disabilities aged 5 years and above that never attended school is also high, especially in the rural areas at 82.1%, and 17.9% in the urban areas.

However, despite the prevailing gaps highlighted above, significant progress to include and support persons with disabilities has been high on the agenda of Government for the last 10 years. The empowerment of persons with disabilities has been articulated and outlined in numerous legal frameworks, including the Namibian Constitution, the National Disability Policy (1997), the National Disability Council Act (Act No 26 of 2004); the Sector Policy on

Inclusive Education (2013) and the Child Care and Protection Act (Act No. 13 of 2015), and the National Development Plans, particularly the NDP5 for 2017/18-2021/22.

The Sector Policy on Inclusive Education of 2013 was designed to ensure that all children participate fully in the education system, with all learners being educated in the least-restrictive education setting and in schools in their neighbourhoods insofar as possible. It targets 16 categories of educationally-marginalized children for inclusion, including children with disabilities and impairments.

Namibia has also signed and ratified the United Nations (UN) Convention on the Rights of Persons with Disabilities (UNCRPD), which is part of the Namibian laws in terms of Article 144 of the Namibian Constitution.

In 2015, the Government established the Department of Disability Affairs in the Presidency to give prominence to the disability issues.

Some of the key activities of the office are to strengthen and coordinate the implementation of policies and laws on disability issues, to raise awareness and to initiate programmes that enable children and youth with disabilities to have access to education, health and employment opportunities.

The Child Care and Protection Act provides for a child at the age of 14 years can consent to medical interventions and surgical interventions as well as HIV testing.

Section 71 of the Liquor Act, (Act No. 6 of 1998) makes the buying and selling of liquor to persons under the age of 18 a criminal offence. In particular Section 56 of the Liquor Act provide that no licensee, or manager or employee of such licensee, shall, in the course of business conducted in terms of a licence, sell to any person under the age of 18 years, or supply such person with, or any drink or substance which contains more than three per cent of alcohol by volume.

However, underage drinking has become a challenge in Namibia. A Ministry of Health study on substance use amongst Namibians found that 53.5% of youths aged 13-30 use alcohol. In this regard, the Government strengthened the law to make it a criminal offence for any adult person to sell or offer any liquor to a child. Section 230 of the CCPA provide that any adult commits an offence, if that adult coerces any child to drink any liquor or methylated spirits or to take any illegal drug; allows, induces or encourages any child under the age of 16 years to drink

any liquor or methylated spirits except as part of a generally recognised religious sacrament; or allows or induces any child to take any illegal drug.

### **Basic health and welfare**

Namibia's healthcare system is a mixture of public and private financing. The public system provides services to the majority of the population and is predominantly funded through general taxation while the private health care system, which provides either comprehensive or partial health care coverage, is funded largely through employee and employer contributions.

Namibia regularly spends approximately 7% of its national budget on health and social services, which is generally the next highest expenditure after education. All Namibians have access to health facilities in the country. In addition, the Government has adopted a waiver fee policy for the vulnerable groups in the societies this includes children under the age of 6 years, persons with disability, pregnant woman and the elderly people over the age of 60 years.

The Ministry of Health and Social Services is the main implementer and provider of public health services with a four-tier system: outreach points to clinics and health centres, district hospitals and intermediate and referral hospitals. In addition, faith-based organisations and civil societies also provide health services in the regions for the MoHSS on an outsourcing basis. Whereas the private sector is sizeable, with 844 private health facilities registered with MOHSS.

Children with disabilities are eligible for a grant, the amount is currently N\$ 250 per month (known as a "special maintenance grant"), a medical certificate and a social worker report is required to qualify for grant. However, children above age 16 are eligible for a disability grant of an amount of N\$ 1 200 per month under the National Pensions Act, 1992 (Act No 10 of 1992).

The Child Care and Protection Act, 2015 (Act No.3 of 2015) provides for short term emergency grants or assistance in kind, as well as residential child care facility grant to support children in need of nutrition, clothing and housing.

In order to provide integrated, affordable, and accessible quality health care and social services responsive to the needs of the population, the Ministry of Health and Social Services has developed a Roadmap of 2014, which provides a strategic long-term framework for

governance, human resource development, health facility upgrading and the establishment of specialized services and institutions. The Roadmap will be operationalised through annual action and national development plans, the medium-term expenditure framework, development assistance and public private partnerships. The implementation of the roadmap is currently hampered by financial resources.

Mental health services in Namibia lag behind other health services. The Mental Health Act, 1973 (Act No. 18 of 1973), is the relevant legislation which has not been amended since independence. The process of drafting updated legislation is at an advance stage as the Bill was approved by Cabinet in May 2017. The Mental Health Bill and Regulation still with Cabinet Committee and at the final stage. Section (2) of the Mental Health Act, 1973 (Act No.18 of 1973) provides that no person who suffers from or is alleged to suffer from mental illness shall by reason of such illness be received or detained at any place otherwise than in accordance with the provisions of this Act. In terms of the Act, if the court find that the person accused of the crime will not be held responsible for it because of his/her mental illness which prevented the full comprehension of the act. The person will be referred to as a “State President’s Decision Patient” (or “President’s Patient”) and detained in a psychiatric hospital or correctional facility.

The mental health policy addresses the major mental health issues facing Namibia. It defines the approaches for intervention. The basis of the mental health policy is the promotion of mental health, the extension of services to communities and families and the protection of the rights of people with mental disorders. Management of mental health problems involve multi-sectoral action and support by the relevant ministries, non-governmental organizations, private and traditional sectors. Therefore, it is important to strengthen partnerships and networking among these key players and stakeholders at all stages of development. The Mental Health Act will be reviewed in line with this policy.

The 2013 Namibia Demographic Health Survey reveals that knowledge of contraception is universal in Namibia; nearly all women and men have heard of at least one method and that 50% of women age 15-49 use a method of contraception, with 73% of them are obtaining it from the public sector. The National Policy on Sexual, Reproductive and Child Health 2013 is revised and a Reproductive, Maternal & New-born, Child and Adolescent Health & Nutrition (RMNCAH &N) Strategy is at the final stage. It will enhance the attainment of the highest possible standard of sexual, reproductive, child, adolescent health and nutrition for the

Namibian population through the provision of equitable, accessible and affordable health and nutrition information and services.

National Policy on Sexual, Reproductive and Child Health (2013) states that all Namibians shall be provided with quality sexual and reproductive health services irrespective of their creed, age, gender, sexual orientation, religion, political affiliation or social-economic status. It also states that all Namibians shall be protected from “harmful practices which are detrimental to sexual, reproductive health”, which should include harmful cultural and traditional practices. The Policy has been reviewed and a draft National Reproductive, Maternal and New Born, Child and Adolescent Health & Nutrition Strategy is developed and at final stage of finalization.

The Ministry of Health and Social Services developed a Patient Charter. 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.

## **11. EDUCATION, LEISURE AND CULTURAL ACTIVITIES (Art. 28, 29, 30, and 30)**

Article 20 of the Namibian Constitution guarantees the right to education. It makes primary education compulsory until it is completed or until the child turns 16, whichever comes first. Furthermore, the Education Act, 2001 (Act No.16 of 2001) governs education at public and private schools, which will soon be replaced by the new Act. Consultations of the updated legislation with all stakeholders are currently taking place.

Furthermore, the Government subsidizes Integrated Early Childhood Development (IECD) programmes in the country which includes capacity building for Edu carers, subsidizing their monthly stipends, providing educational and building materials to centres in marginalised communities. In addition, the government has made provision in the CCPA to regulate the operations of early childhood development centres.

A child enters primary education in the year he/she turns seven years old. Primary education covers Grades 1 to 7, while full secondary education covers a period of five years from Grade 8 to 12. However, learners may receive a Junior Secondary School Certificate after successful

completion of the examinations at the end of Grade 10. At the end of Grade 12, learners sit for the Namibia Senior Secondary Certificate which is offered at Ordinary and Higher levels. Curriculum development, educational research, and professional development of school teachers is organised by the National Institute for Educational Development (NIED).

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. To complement the education Act and other legislation, the Government has the following policies and programmes in place to address equal access to education to all the Namibian children regardless of their social status.

The National Policy for School Health (2008), this policy acknowledges that girls are more susceptible to sexual violence and abuse, putting them at increased risk to contract sexually transmitted infections including HIV, and notes that sexual abuse and early pregnancy are harmful to girls' physiological, social and intellectual development, undermining their educational and economic opportunities and thus having a negative impact on the welfare of their own children. It outlines a Comprehensive School Health Programme which includes health services, health education, nutrition and food services, quality physical education and recreational activities, a supportive school environment and collaboration with the surrounding community. The MoHSS in collaboration with MoEAC developed the Training of Trainers Manual on Integrated School Health, Government of the Republic of Namibia, 2016.

The Education and Training Sector Improvement Programme (ETSIP), it is a 15-year strategic plan (2006-2020) which was developed by the Ministry of Education, Arts and Culture within the context of Vision 2030's national development goals. The aim is to address weaknesses identified by the Namibian Government and by the World Bank study in 2005 which highlighted the poor quality of education, untrained teachers, and unsatisfactory performance of learners.

The Ministry of Education, Arts and Culture's Strategic Plan 2012-2017, the Ministry of Education managed to provide learners with knowledge and skills and information on sexual and reproductive health, especially in connection with HIV prevention such as the "Window of Hope" and "My Future My Choice" programmes. The above-mentioned programmes are integrated into the new revised National Curriculum for Basic Education.

Physical education is officially part of the curriculum at primary school. Most schools if not all Government schools including the kinder gardens are built with sport fields and play grounds as a requirement from the Ministry of Education. In addition, there are play grounds in the residential areas and parks in most of the major towns.

The Government through the Ministry of Education, Arts and Culture in collaboration with other key stakeholders has implemented the Forum for African Women Educationalists in the country (FAWENA) project which aims to improve retention, integrate the vulnerable children, including the San children into the basic education system, with the special focus on the education of girls.

The Government allocates fairly higher amount of resources to education and training compared to other social sectors. There is intra-institutional co-ordination, programming, prioritization, targeting and linkages from primary, secondary, tertiary and industrial in terms of development of physical infrastructure and bursary awards, technology experimentation and demonstration. In addition, the government has invested in the upgrade of under qualified teachers to improve the quality of education.

## **12. SPECIAL PROTECTION MEASURES (Art. 22, 30, 32, 36, 37, (b)-(d), 38, 39, and 40)**

The Namibian Refugees (Recognition and Control) Act No. 2 of 1999 stipulates the criteria and the grounds to be considered for asylum seekers in the country on individual basis including children. The Act provides for protection of asylum seekers who have a well-founded fear of being persecuted in his/her country for reasons of race, religion, nationality, membership of a particular social group or political opinion. These are the same criteria/grounds contained in the 1951 Convention Relating to Status of Refugees and its 1967 Protocol. Namibia only have isolated cases of migrant children who at times require protective measures of which the government provide services to, as the need arise. Similarly, Namibia has not experienced cases where children have been seeking asylum without parents or guardians. Nevertheless, the Government provides protection to refugees against expulsion or return to countries where their lives or freedom would be threatened.

The Osire Refugee Settlement, which accommodates most refugees in the country, has permanent school's infrastructures which are administered by the government. Refugee children start school at Grade 1 until Grade 12 and they are allowed to attend schools of their choice throughout the country. The government also advocates for family reunification on a voluntary basis when it is safe to do so.

In terms of the CCPA, asylum seekers may be considered as temporary caregivers for unaccompanied foreign children, to remain living within a particular refugee community. In addition, the Act makes provision to consider refugee children as children in need of protective services, and also such children may not be repatriated without proper arrangements for their reception in the receiving country.

In relation to the plight of street children, we refer to our response on recommendations 69 and 70 above.

On issues pertaining to economic exploitation, including child labour, we refer the Committee to our response on recommendations 67 and 68 above.

### **Sexual exploitation and sexual abuse (Arts. 34, 35)**

The following legislation is in place which criminalizes most of the sexual exploitation and sexual abuse of children:

- Combating of Domestic Violence Act, (Act No. 4 of 2003), the Act gives an extensive definition of domestic violence, including physical, sexual, economic, verbal, emotional and psychological, intimidation and harassment. It provides for the issuing of protection orders and police warnings in domestic violence matters.
- Combating of Rape Act, 2000 (Act No 8 of 2000), the Act provides for an extensive definition of rape that focuses on acts of coercion used by the accused including a mere touch of a private part of the victim will be regarded as rape.
- Combating of Immoral Practices Amendment, 2000 (Act No. 7 of 2000) provides for extensive prohibition of sexual or indecent acts with youths and to provide for matters incidental thereto. In terms of the Combating of Immoral Practices Act, (Act 21 of 1980) it is an offence for someone to impregnate or marry someone younger than sixteen years old. The Namibian Gender Based Violence Protection Unit (GBVGPU) have a strict order to



arrest and charge with the offence of statutory rape anyone who is accused of having impregnated or married a young girl.

- The Criminal Procedure Amendment Act, 2003 (Act No. 24 of 2003) makes provision for special arrangements for vulnerable witnesses in most rape cases giving testimony via closed circuit television or from behind a screen including Prohibition on publication or disclosure of the child's identity.
- The Liquor Act, 1998 (Act No.6 of 1998) and the Child Care and Protection Act, 2015 (Act No.3 of 2015) makes provision for the prohibition of sale of alcohol and illicit drugs to children under 18 years.
- Child Care and Protection Act, 2015 (Act No.3 of 2015) makes provision for protective measures to be applied to children who have experienced any form of sexual exploitation, abuse and neglect. They are considered as children in need of protective services.

Children in conflict with the law, as well as the administration of juvenile justice are covered in Part 1 and 2 of the Child Care and Protection Act. The Child Justice Bill which is a stand-alone proposed legislation on juvenile justice contains provisions on matters relating to administration of Juvenile justice in the country. The Bill covers the issues of children deprived of their liberty and measures to ensure that any arrest, detention or imprisonment of a child shall be used as measures of last resort and for the shortest amount of time and that legal and other assistance is promptly provided.

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.

### **Economic exploitation, including child labour (art. 32)**

In terms of the Labour Act, 2007(Act No.11 of 2007), children between the ages of 14 and 16 may not do work that will stop them from attending school as well as any work which is dangerous, unhealthy or that will affect their physical, mental, spiritual, moral or social development. The Act further prohibit children between the ages of 14 and 16 not to do any

work in the evening from 20h00 until 07h00. Children between the ages of 14 and 16 may also not work on a construction or demolition site, in a place where work is done underground or in a mine, in manufacturing industries where goods are manufactured, at a power plant and where machinery is put together or taken apart.

The Child Care and Protection Act, 2015 (Act No.3 of 2015) also strengthened the prevention and elimination of child labour in that it regulates children's participation in remunerative activities.

Steady progress has been made in the Government's quest to combat and eliminate child labour as per the Action Programme which was developed during 2011 with five Government line ministries. These include the Ministry of Labour, Industrial Relations and Employment Creation, Ministry of Education, Ministry of Gender Equality and Child Welfare and the Ministry of Safety and Security.

The Ministry of Labour, Industrial Relation and Employment Creation conducts periodic inspections in different sectors e.g Agriculture (farms), domestic/private households, Construction, Security and other industries/sectors of employment to identify cases of child labour. During inspections compliance orders are issued to those who do not adhere or those who are in contraventions with the basic conditions of employment. Educational awareness is also done to those who are not aware of the law. The Employer must comply with a compliance order issued, or appeal to the Labour Court as per the Labour Act, 2007 (Act No. 11 of 2007). In cases where a minor Child is in employment, that child is withdrawn immediately, investigations done and a Criminal charge is opened which can lead to immediate arrests.

The Labour Act, 2007 (Act No. 11 of 2007) has statutory provisions in place to regulate child labour. Chapter Two (2) provides for the Fundamental Rights and Protections. Section 3 (1) (2) provides for the prohibition and restriction of child labour whilst Section 4 (1) (2) of the Act provides for the prohibition of forced labour. Both Section 3 (6) and 4 (3) provide for the punishment and remedies a court can apply if a person is found guilty of the offence.

### **13. OPTIONAL PROTOCOLS TO THE CONVENTION ON THE RIGHTS OF THE CHILD**

### **Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (CRC–OPSC)**

Namibia ratified the above Optional Protocol (CRC–OPSC) on 16 April 2002. No report has been submitted to provide information regarding the implementation of the Protocol. Namibia is also a State party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the Convention against Transnational Organized Crime which was ratified in 2003.

With respect to sexual abuse, the Combating of Rape Act, 2000 (Act No 8 of 2000) and the Combating of Immoral Practices Act, 1980 (Act No. 21 of 1980) as amended, prohibit the rape or sexual abuse of children including any immoral or indecent act. These pieces of legislation imposes harsh penalties for these crimes. In the case of rape, the highest categories of minimum sentences will apply when the rapist is a parent, guardian or caretaker or otherwise in a position of trust or authority over the victim.

However, Namibia has addressed the issues of commercial sexual exploitation of children comprehensively in the Combating of Trafficking in Persons Act, 2018 (Act No.1 of 2018). The Act makes it a crime to use, procure, offer or employ a child for purposes of commercial sexual exploitation.

### **14. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT (CRC–OPAC)**

Namibia ratified the CRC–OPAC on 16 April 2002. In terms of Article 3 of the CRC–OPAC, States parties are obliged to deposit a binding declaration upon ratification of the Protocol that sets forth the minimum age at which they will permit voluntary recruitment into their national armed forces, as well as a description of the safeguards that they have adopted to ensure that such recruitment is not forced or coerced. The respective declaration may only be withdrawn if it is substituted by a declaration prescribing a higher minimum voluntary recruitment age, not a lower one.

Pursuant to this provision, Namibia has declared that it does not practise conscription or any form of forced obligatory service. Voluntary recruitment to the Namibian Defence Force is permitted at the minimum age of 18 years of age in terms of Regulation 17 (1) (d) of the

Defence Act, 2002 (Act No. 1 of 2002). Candidates are required to prove their age by showing a certified copy of a legally recognised Namibian identity document as well as a birth certificate.

Namibia is one of the few countries in Africa that has consistently enjoyed peace and stability. The country is ranked 43rd in the world, 6th in Sub-Sahara Africa according to Global Peace Index (GPI) of 2018, with virtually no civil strife resulting from political turmoil. Democracy has expanded to a level where the country now has 15 registered political parties, which all vied for votes during the last elections in 2015. Therefore, since independence Namibia has not experienced any armed conflict or any other volatile situation which require additional recruitment of child soldiers to the defence force.

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