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Namibia

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.



I. Background and framework

A. Scope of international obligations¹

1. International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1982)		OP-CAT
	ICESCR (1994)		ICRMW
	ICCPR (1994)		ICPPED
	ICCPR-OP 2 (1994)		
	CEDAW (1992)		
	CAT (1994)		
	CRC (1990)		
	OP-CRC-AC (2002)		
	OP-CRC-SC (2002)		
<i>Reservations and/or declarations</i>	CRPD (2007)		
	OP-CRC-AC (declaration, art. 3 (2), age of recruitment 18 years, 2002)		
<i>Complaints procedures, inquiries and urgent action³</i>	ICCPR-OP 1 (1994)		ICERD, art. 14
	OP-CEDAW, art. 8 (2000)		OP-ICESCR
	CAT, art. 20 (1994)		ICCPR, art. 41
	OP-CRPD, art. 6 (2007)		CAT, arts. 21 and 22 (1994) OP-CRC-IC ICRMW ICPPED

1. In 2015, the Committee on the Elimination of Discrimination against Women encouraged Namibia to consider ratifying ICPPED, ICRMW and the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).⁴

2. In 2012, the Committee on the Rights of the Child recommended that Namibia ratify OP-CRC-IC, OP-ICESCR, OP-CAT, ICPPED and ICRMW.⁵ It also recommended that it ratify the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption⁶ and the ILO Domestic Workers Convention, 2011 (No. 189).⁷

3. In 2012, the Special Rapporteur on extreme poverty and human rights urged the Government of Namibia to ratify OP-ICESCR, ICRMW and OP-CRC-IC.⁸

4. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged Namibia to ratify the UNESCO Convention against Discrimination in Education.⁹

5. The United Nations High Commissioner for Refugees (UNHCR) stated that the legal framework on nationality, governed by article 4 of the Constitution of the Republic of Namibia (Constitution) and the 1990 Act to Further Regulate the Acquisition or Loss of Namibian Citizenship, was silent on granting nationality to children who were found in Namibia but whose parents were unknown. It recommended that Namibia consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and that it revise the aforementioned legislation.¹⁰

2. Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide		UNESCO Convention against Discrimination in Education
	Rome Statute of the International Criminal Court		
	Palermo Protocol ¹¹		
	Conventions on refugees and stateless persons (except the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness) ¹²		1961 Convention on the Reduction of Statelessness
	Geneva Conventions of 12 August 1949 and Additional Protocols I and II ¹³		Additional Protocol III to the 1949 Geneva Conventions ¹⁴
	ILO fundamental conventions ¹⁵		ILO conventions Nos. 169 and 189 ¹⁶

B. Constitutional and legislative framework

6. The Committee on the Elimination of Discrimination against Women expressed concern that article 10 of the Constitution provides a closed list of prohibited grounds, which does not encompass discrimination on the basis of marital and HIV status. It recommended that Namibia adopt a comprehensive legal definition of discrimination in line with CEDAW.¹⁷

7. The Committee on the Rights of the Child expressed concern that the Constitution defined a child as anyone under the age of 16 years. It recommended that Namibia amend the Constitution and all existing legislation to harmonize the overall definition of the child to comply with CRC.¹⁸

8. Noting the existence of plural legal systems in Namibia, the Committee on the Rights of the Child expressed concern that customary law and practices were not consistent with CRC, particularly those relating to the age of marriage, to divorce and to inheritance. It recommended that, in cases of conflict, the constitutional provisions and statutory laws prevail over customary law.¹⁹

9. The Committee on the Rights of the Child expressed concern that the Married Persons Equality Act, which set the minimum age of marriage at 18 years, did not apply to customary marriages. It recommended that Namibia apply to customary marriages the provision of the Married Persons Equality Act relating to the minimum age for marriage.²⁰

10. The Special Rapporteur on extreme poverty recommended that Namibia revise the Birth, Marriage and Death Registration Act of 1963 in line with its human rights obligations, and that it review the Married Persons Equality Act of 1996 to eliminate all discriminatory provisions, including those affecting marriage, land ownership and inheritance rights.²¹

11. The Committee on the Elimination of Discrimination against Women noted with concern that a number of bills that have an impact on the enjoyment of women's rights, such as those on marriage, recognition of customary marriages, procurement, marital property, divorce and intestate succession, are pending and there is no specific time frame for their adoption.. It called on Namibia to urgently adopt those pending bills.²²

12. The Committee on the Rights of the Child urged Namibia to expedite the adoption of the Child Care and Protection Bill and the Child Justice Bill.²³

13. The Human Rights Committee requested Namibia to provide information as to whether it intended to abolish the "anti-sodomy" law, to reintroduce the prohibition of discrimination in employment based on sexual orientation or to include the protection of persons living in same-sex relationships in the Combating of Domestic Violence Act.²⁴

C. Institutional and human rights infrastructure and policy measures

Status of national human rights institutions²⁵

<i>National human rights institution</i>	<i>Status during previous cycle</i>	<i>Status during present cycle²⁶</i>
Office of the Ombudsman	A (2006)	A (2011)

14. The Committee on the Rights of the Child expressed concern about the limited staff and resources that had been provided to the Office of the Ombudsman. It urged Namibia to provide the Office with the necessary resources to ensure its independence and efficacy. It called upon Namibia to establish a children's rights division in the Office.²⁷

15. The Committee on the Rights of the Child noted with concern that the Ministry of Gender Equality and Child Welfare lacked adequate staff and resources. It urged Namibia to reinforce the coordination role of the Ministry, so that it could effectively coordinate actions for children's rights across different sectors and could effectively monitor the National Agenda for Children (2012-2016).²⁸

16. The Committee on the Elimination of Discrimination against Women welcomed Namibia's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the National Gender Policy (2010-2020) and the adoption of the National Gender Plan of Action (2010-2020).²⁹

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
Committee on the Elimination of Racial Discrimination	August 2008	2014	--	Thirteenth to fifteenth reports pending consideration
Committee on Economic, Social and Cultural Rights	--	2014	--	Initial report pending consideration in 2016
Human Rights Committee	July 2004	2014	--	Second report pending consideration in 2016
Committee on the Elimination of Discrimination against Women	January 2007	2013	July 2015	Sixth report due in 2019
Committee against Torture	May 1997	2015	--	Second report pending consideration
Committee on the Rights of the Child	January 1994	2009	October 2012	Fourth to sixth reports due in 2017; initial OP-CRC-AC and OP-CRC-SC reports overdue since 2004
Committee on the Rights of Persons with Disabilities	--	--	--	Initial report overdue since 2010

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
Committee on the Elimination of Racial Discrimination	2009	Customary laws; hate speech; and rape of San women ³⁰	-
Human Rights Committee	2005	Customary marriages; and criminalization of torture ³¹	-

B. Cooperation with special procedures³²

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	No	No
<i>Visits undertaken</i>		Water and sanitation Indigenous peoples Extreme poverty
<i>Visits agreed to in principle</i>		
<i>Visits requested</i>	Water and sanitation	Working Group on transnational corporations Human rights defenders
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, two communications were sent to the Government and no replies were received.	

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

17. Namibia contributed financially to OHCHR in 2012.³³

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

18. The Committee on the Elimination of Discrimination against Women expressed concern at the persistence of harmful practices, discriminatory stereotypes and deep-rooted patriarchal attitudes regarding the roles and responsibilities of women and men in the family and in society.³⁴

19. The Committee on the Rights of the Child expressed grave concern at the continued prevalence of sexual initiation practices and early marriage and that Namibia had not taken any steps to systematically document and curb such harmful practices, including through the introduction of sanctions.³⁵

20. The Committee on the Elimination of Discrimination against Women noted that Namibia had not yet conducted a study on the extent and prevalence of traditional harmful practices and on the impact of the implementation of the Traditional Authorities Act (No. 25 of 2000) and the Community Courts Act of 2003, in order to ensure that customs and practices that are harmful to women are discontinued.³⁶

21. The Committee on the Rights of the Child expressed concern about customary laws and practices that discriminated against women and girls, including those relating to marriage and inheritance.³⁷ The Committee recommended that Namibia combat discrimination faced by women and girls under customary law, and that it review all relevant civil laws to end legislative discrimination against women and girls, particularly

the Married Persons Equality Act (1996), including those provisions affecting marriage, land ownership and inheritance rights.³⁸

22. The Committee on the Rights of the Child expressed concern about widespread discrimination against children from indigenous communities, particularly Ovahimba and San, and discrimination against children with disabilities, those living in poverty, children in street situations and refugee and migrant children.³⁹

23. The Committee on the Rights of the Child expressed concern that only two thirds of children under the age of 5 had a birth certificate and that birth registration was low in rural areas, especially in Caprivi and Kavango regions, and among children living in poverty. It urged Namibia to provide all children with free birth certificates without any discrimination.⁴⁰

B. Right to life, liberty and security of the person

24. The Human Rights Committee requested information on the content and adoption of the bill on the crime of torture. It also requested Namibia to comment on reports alleging the use of excessive force and unlawful or arbitrary killings by the police, and on reports indicating that the police regularly detained sex workers and coerced the sex workers to have sex with them before release.⁴¹

25. The Committee on the Rights of the Child expressed concern at the abandonment of new born children (“baby-dumping”) and infanticide, often resulting from high number of teenage pregnancies, child rape and inadequate access to sexual and reproductive health care. It reminded Namibia to ensure the right to life, survival and development for all children by addressing the root causes of teenage pregnancies, supporting pregnant adolescents and providing them with adequate sexual and reproductive health services.⁴²

26. The Committee on the Elimination of Discrimination against Women expressed concern at the high prevalence of violence against women and girls, such as rape and murder committed by intimate partners. It recommended that Namibia ensure that all cases of violence against women and girls are investigated and that perpetrators are prosecuted and adequately punished.⁴³ It also recommended that Namibia expedite the development of the proposed national database on gender-based violence.⁴⁴

27. The Committee on the Rights of the Child was alarmed at the high prevalence of abuse and violence against women and children, including rape and sexual abuse in schools and at home, at the high incidence of child rape by family members, caretakers, teachers and local leaders and at the pervasiveness of extrajudicial settlements, leading to impunity for perpetrators. It urged Namibia to enforce legislation relating to sexual abuse and exploitation and bring to justice perpetrators of such crimes, and to develop a national strategy to respond to the needs of child victims of sexual exploitation and violence.⁴⁵ The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child urged the Government of Namibia to amend without delay the Combating of Rape Act.⁴⁶

28. The Special Rapporteur on the rights of indigenous peoples stated that he had heard alarming reports of San girls suffering sexual abuse by teachers.⁴⁷ He stated that Namibia should investigate any allegations of sexual abuse of indigenous girls in schools.⁴⁸

29. The Committee on the Rights of the Child expressed concern at the prevalence of sexual initiation practices and early marriage.⁴⁹ The Committee called upon Namibia to impose adequate criminal and civil sanctions on individuals, including on traditional leaders, who encourage or are involved in sexual initiation practices.⁵⁰

30. The Committee on the Rights of the Child expressed the concern that corporal punishment remained widespread in all settings.⁵¹ The Committee on the Elimination of Discrimination against Women recommended that Namibia intensify law enforcement efforts to curb corporal punishment with a view to eliminating its use in all settings, particularly in schools, and to promote the use of non-violent forms of disciplining.⁵² The Committee on the Rights of the Child recommended that Namibia develop a comprehensive national strategy to prevent all forms of violence against children, with particular attention to the gender dimension of violence.⁵³

31. The Committee on the Rights of the Child reiterated its concern about prevalent child labour, particularly in the informal sector and rural areas; about reports of exploitation and abuse of children in the domestic and agricultural sectors, including physical abuse, denial of education and long working hours; and about the prevalence of the worst forms of child labour, including in hazardous work. It urged Namibia to address child labour, with particular emphasis on the worst forms of child labour.⁵⁴

32. The Committee on the Rights of the Child was concerned at reports that children in street situations were subject to exploitation, abuse, discrimination and stigmatization and to arrest and detention by police. It recommended that Namibia develop a comprehensive strategy to protect children in street situations, with special attention to the specific vulnerability of girls in street situations to sexual abuse, exploitation and early pregnancy, and that it promptly investigate complaints concerning ill-treatment and abuse of children in street situations by the police.⁵⁵

33. The Committee on the Elimination of Discrimination against Women welcomed the adoption of the Child Care and Protection Act of 2015, which contains a chapter on combating trafficking in children, and the first criminal conviction in 2015 involving a case of human trafficking. It was concerned that Namibia remains a source and destination country of trafficking in human beings.⁵⁶ The Committee on the Rights of the Child was concerned that children were trafficked within and to Namibia for employment in agriculture, road construction, vending, commercial sex work, livestock and child-minding work.⁵⁷ The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child recommended that Namibia elaborate and enact a comprehensive anti-trafficking legislation in line with international norms and standards.⁵⁸ The Committee on the Elimination of Discrimination against Women recommended that Namibia intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking particularly with neighbouring States.⁵⁹

C. Administration of justice and the rule of law

34. The Committee on the Rights of the Child expressed concern about the minimum age of criminal responsibility, which was 7 years of age; about the lack of special detention facilities for children, both boys and girls; about the incarceration of children with adults; and about poor detention conditions. It recommended that Namibia bring its juvenile justice system fully in line with relevant standards. The Committee urged the Government of Namibia to amend the age of criminal responsibility, to protect the rights of children deprived of their liberty and to improve their conditions of detention and imprisonment.⁶⁰

35. The Committee on the Elimination of Discrimination against Women noted that the Legal Aid Act No. 29 of 1990, as amended by Act No. 17 of 2000, provides for a legal aid scheme. It remained concerned that women's access to justice continued to be limited, partly owing to reported cuts to the legal aid fund.⁶¹

D. Right to privacy, marriage and family life

36. The Human Rights Committee requested information on the establishment of interception centres provided for in part 6 of the Communications Act, 2009 (Act No. 8 of 2009), and also requested detailed information on the gathering and holding of private information under the Act or under any other laws.⁶²

37. The Committee on the Rights of the Child was concerned that 28 per cent of Namibian children under the age of 18 were orphans and/or “vulnerable”, 34 per cent did not live with one of the parents and only 26 per cent of all children lived with both parents. It recommended that Namibia avoid the separation of children from their family environment.⁶³

38. The Committee on the Rights of the Child was concerned that domestic and inter-country adoptions took place unofficially and noted with concern the absence of national legislation on inter-country adoptions, which exposed children to exploitation and child trafficking. It recommended that a comprehensive law on domestic and inter-country adoption be adopted.⁶⁴

39. The Committee on the Elimination of Discrimination against Women noted the efforts to regulate customary marriages by the drafting of a bill on the recognition of customary marriages and the introduction of the no-fault divorce regime under the proposed divorce bill. It called upon Namibia to protect the rights of women in de facto unions and ensure the equal distribution of marital property upon dissolution of marriage.⁶⁵

40. Referring to the ruling in the case of *Lotto Frans v. Inge Paschke and others*, case No. (T) I 1548/2005, in which it was declared that it was unconstitutional to prohibit children born out of wedlock from inheriting, and that “by design or result, the social stigma which attached to adulterous and incestuous children was transferred to children born out of wedlock”, the Human Rights Committee requested information on the treatment of children born out of adulterous or incestuous relationships, in particular on whether they experience discrimination in inheritance, and on the measures that were in place to combat de jure and de facto discrimination and stigma.⁶⁶

E. Freedom of movement

41. UNHCR recalled that a recommendation made during the 2011 universal periodic review of Namibia⁶⁷ to withdraw the reservation to article 26 of the 1951 Convention relating to the Status of Refugees had not enjoyed the support of Namibia,⁶⁸ and stated that there remained a significant gap in the legal framework concerning freedom of movement. In practice, the reservation was enforced through the Government’s legal directive under section 19 of the 1999 Namibia Refugees (Recognition and Control) Act, which provides that all asylum seekers and refugees are required to reside in the Osire refugee settlement. UNHCR stated that freedom of movement was a human right that was guaranteed by the Constitution. It recommended that the reservation be withdrawn and the Act amended.⁶⁹

F. Freedom of expression

42. UNESCO encouraged Namibia to adopt all-encompassing freedom of information legislation in accordance with international standards. It recommended that Namibia decriminalize defamation and make provisions for such conduct in the Civil Code in accordance with international standards.⁷⁰

G. Right to work and to just and favourable conditions of work

43. The Committee on the Rights of the Child expressed concern about the inconsistency between the minimum age for employment in the Labour Act, which was 14 years of age, and the age of completing education, which was 16 years. It recommended that Namibia amend the Labour Act and raise the minimum age for employment to the level of the age of completing education, and also raise the minimum age for employment in hazardous work to 18 years.⁷¹

44. The Committee on the Elimination of Discrimination against Women expressed concern about the high rates of unemployment among women. It also noted with concern the continued occupational segregation between women and men in the labour market.⁷²

45. The Committee on the Elimination of Discrimination against Women expressed concern that the right to maternity leave for the period of 12 weeks was only applicable to certain groups of employees in the formal sector of employment. It recommended that Namibia take necessary steps to ensure that the 12-week maternity leave is applicable to employees in the informal sector, and that it consider reviewing the 12-week period with a view to prolonging it.⁷³

H. Right to social security and to an adequate standard of living

46. The Special Rapporteur on the human right to safe drinking water and sanitation recommended that Namibia explicitly recognize the rights to water and sanitation as justiciable rights, and that it carry out awareness-raising activities, especially for judges and lawyers, about the nature and context of economic, social and cultural rights, including the rights to water and sanitation.⁷⁴

47. The Special Rapporteur on water and sanitation urged Namibia to enact the Water Resources Management Act and ensure sufficient resources for its effective implementation. She also urged Namibia to enact the Environmental Management Act and to ensure sufficient resources for its full implementation and for the full implementation of the Water Supply and Sanitation Policy and the Sanitation Strategy.⁷⁵

48. The Special Rapporteur on water and sanitation requested Namibia to coordinate its action on sanitation, including through the Sanitation Forum, in accordance with the Sanitation Strategy. She also requested Namibia to strengthen awareness-raising activities, including concerning hygiene addressed to the public at large, but also targeted towards members of the legislature, the judiciary and the executive, in cooperation with the Ombudsman's Office.⁷⁶

49. The Special Rapporteur on water and sanitation highlighted the necessity to devote special attention to the particular challenges in rural areas, including distance to water points and maintenance of water points, by, inter alia, taking steps to reduce those distances and by establishing an independent regulatory system to monitor water and sanitation service provision, especially with respect to performance, tariffs and water quality. The Special Rapporteur also recommended that Namibia ensure that funding to regional councils takes into account the poverty profile of regions and their level of marginalization and social exclusion, so as to ensure that the sanitary needs of the most marginalized and vulnerable groups in a given region are addressed.⁷⁷

50. The Committee on the Rights of the Child was concerned at limited access to sanitation and clean water, given that 67 per cent of Namibians did not have access to improved sanitation,⁷⁸ and recommended that Namibia implement the recommendation of the Special Rapporteur on water and sanitation on extending the mandate of the

Ombudsman to promote and protect economic, social and cultural rights, including the rights to water and sanitation.⁷⁹

51. The Special Rapporteur on extreme poverty highlighted the need to improve the identification of eligible beneficiaries, for social security, in order to ensure that existing schemes reach the poorest and most disadvantaged sectors of society, including those living in remote areas, and the need to remove all administrative barriers currently limiting the coverage of the existing grants, particularly by avoiding unnecessary documentation requirements and simplifying procedures.⁸⁰

52. The Committee on the Rights of the Child was concerned that 34.4 per cent of children lived below the poverty line and that malnutrition, mortality and morbidity rates of children in poverty were high. It called upon Namibia to address child poverty and vulnerability through, inter alia, targeted programmes for families that are vulnerable to poverty.⁸¹ It also recommended addressing the high rates of malnutrition of children.⁸²

I. Right to health

53. The Committee on the Elimination of Discrimination against Women remained concerned at the high prevalence of HIV/AIDS and unsafe abortions, which have contributed to the increase in the maternal mortality ratio.⁸³ The Committee on the Rights of the Child recommended that Namibia improve access to maternal care services, particularly in rural areas.⁸⁴

54. The Special Rapporteur on extreme poverty stressed the need for women to have access to appropriate health-care services relating to pregnancy, particularly in rural areas, and access to free health-care services where necessary and quality family planning services that include counselling and advice, focusing on the young and the poor.⁸⁵

55. The Committee on the Rights of the Child expressed concern at the poor standard of health facilities and health disparities among children living in rural and remote areas. It urged Namibia to address the existing health deficits.⁸⁶

56. The Committee on the Elimination of Discrimination against Women expressed concern at the high rates of teenage pregnancy.⁸⁷ The Committee on the Rights of the Child also expressed concern at the high number of teenage pregnancies, including those as a result of rape, and the high incidence of sexually transmitted infections. It recommended that Namibia ensure the accessibility and availability of sexual and reproductive health services, particularly in rural areas, that it address the high rate of teenage pregnancies and that it strengthen reproductive health education, including sex education for adolescents.⁸⁸

57. The Committee on the Elimination of Discrimination against Women welcomed the decisions of the High and Supreme Courts of Namibia in the case of *LM and Others v. Namibia*, in which the High Court found that three women living with HIV had been sterilized without their informed consent, in violation of their rights under Namibian law. The Committee expressed concern at the lack of information on the extent of the problem of forced sterilizations of women living with HIV.⁸⁹

58. The Committee on the Rights of the Child expressed concern at the high prevalence of HIV/AIDS infections among children, particularly adolescent girls, and the government policy by which children under than 16 years of age were required to obtain the consent of their parents or guardian to gain access to HIV/AIDS voluntary counselling and testing. It recommended that all children be given free and confidential access to medical counsel and assistance with or without parental consent and that policies and programmes be implemented to prevent HIV/AIDS infection.⁹⁰

59. The Committee on the Rights of the Child expressed alarm at the high level of suicides among children in Namibia and recommended that the number of psychological counselling services and social workers in schools and communities be increased.⁹¹

60. The Special Rapporteur on indigenous peoples recommended that Namibia make concerted efforts to address the structural factors contributing to the health problems suffered by indigenous peoples in the country, including poverty and a lack of access to their traditional lands and natural resources. Measures also needed to be taken to combat discrimination against indigenous peoples in health centres and to ensure that those people who use their own language can communicate with and understand medical staff.⁹²

J. Right to education

61. UNESCO noted that, during the 2011 universal periodic review of Namibia, the Government had expressed support for recommendations relating, inter alia, to the prioritization of education in the development plans, an increased allocation of resources for education and programmes and measures to improve the enjoyment of the right to education.⁹³ In that regard, UNESCO stated that Namibia had adopted plans to improve the quality of education and had made efforts to promote the access to education for all by abolishing the School Development Fees.⁹⁴ However, San and Himba communities continued to suffer discrimination in education. UNESCO encouraged Namibia to further promote non-discrimination in education, especially by adopting specific measures on the inclusion of San and Himba students.⁹⁵

62. The Committee on the Rights of the Child was concerned about disparities between urban and rural areas in terms of access to education, insufficient number of well-trained teaching staff and poor school infrastructure, and about low retention and high dropout rates in primary and secondary schools, particularly among girls owing to pregnancies. It recommended that Namibia ensure the accessibility of quality education for all children.⁹⁶

63. The Special Rapporteur on extreme poverty urged Namibia to commit substantive resources to minority language teacher training and the availability of teaching and learning materials in minority languages, so that all children have the opportunity to become literate in their home language.⁹⁷

K. Cultural rights

64. UNESCO recalled that Namibia was a State party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), and encouraged the Government of Namibia to fully implement the relevant provisions of the Conventions that promote access to and participation in cultural heritage and creative expressions and, as such, were conducive to implementing the right to participate in cultural life.⁹⁸

L. Persons with disabilities

65. The Committee on the Rights of the Child reiterated its concern regarding discrimination against children with disabilities and the social welfare approach to disability that had been adopted. It urged the Government of Namibia to adopt a human rights-based approach to disability. It recommended that all legislation on children include a specific prohibition of discrimination on the grounds of disability; that children with

disabilities be able to exercise their right to education and be included in the mainstream education system; and that health-care services for persons with disabilities be improved.⁹⁹

M. Indigenous peoples

66. The Special Rapporteur on indigenous peoples recommended that Namibia strengthen and adopt affirmative measures to protect the right of non-dominant indigenous groups to retain and develop the various attributes of their distinctive cultural identities. Laws and government programmes should be reviewed and reformed as needed to ensure that they do not discriminate against particular indigenous groups and that they accommodate and strengthen cultural diversity and adhere to the United Nations Declaration on the Rights of Indigenous Peoples.¹⁰⁰

67. The Special Rapporteur on indigenous peoples recommended that Namibia enforce the provisions of the Communal Land Reform Act that prohibit the erection of fences in communal lands. It also recommended that Namibia investigate allegations of illegal fencing in the Nyae Nyae and Nǃa Jaqna conservancy areas and in communal areas occupied by Himba people. It further recommended that efforts be made to harmonize any inconsistent laws and policies regarding conservancy areas and communal lands or other actions that promote competing interests on those lands,¹⁰¹ and that Namibia address the concerns over lands and natural resources of other groups, including the long-standing land claim of the Baster people and the concern over natural resource exploitation expressed by the Nama people.¹⁰²

68. The Human Rights Committee requested information on the mechanisms that were in place to provide redress and compensation for the loss of land by indigenous peoples, and on the measures taken to identify adequate lands for their resettlement, in particular regarding the Himba, Ovatjimba, Ovatue, Ovazemba and San.¹⁰³

N. Refugees and asylum seekers

69. UNHCR commended Namibia for its efforts in setting up a reception centre in the north-eastern border town of Katima Mulilo. The main purpose of the centre is to receive and process new arrivals entering the country to seek asylum. After being processed, the new arrivals will be sent to the Osire refugee settlement for further refugee status determination formalities.¹⁰⁴

70. UNHCR stated that the refugee status determination for all asylum seekers, conducted in accordance with the 1999 Namibia Refugees (Recognition and Control) Act, was not fully compliant with international standards and that the processing of asylum requests was not done within a reasonable time frame, which had led to a significant backlog. It also stated that the asylum process had been negatively affected by lack of capacity and sufficient staff resources.¹⁰⁵

71. UNHCR stated that the authorities have struggled for years to issue civil documentation, such as identity documents and birth certificates, to refugees and asylum seekers. In addition, identity documents that had been issued were not recognized as official government documents by many institutions, such as banks, making it difficult for refugees and asylum seekers to gain access to some of the vital services. UNHCR recommended that the Government of Namibia respect the right of refugees and asylum seekers to identity documents.¹⁰⁶

O. Right to development, and environmental issues

72. The Committee on the Rights of the Child took note that Namibia was one of the countries most affected by climate change and the increasing impact of natural hazards, leading to changes in the disease patterns, reduced agricultural outputs and food insecurity.¹⁰⁷

73. The Committee on the Rights of the Child was concerned that multinational and national companies, notably the mining and uranium-producing industries, were operating in Namibia in the absence of clear regulatory frameworks to protect natural resources, persons, families and communities affected by high levels of radioactive toxicity and pollution. It noted with concern that the Environmental Management Act had not entered into force. The Committee on the Rights of the Child recommended that Namibia ensure that the business sector complies with international and national human rights, labour, environment and other standards, and that it establish a clear regulatory framework for the mining and uranium-producing industries.¹⁰⁸

Notes

¹ Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on Namibia from the previous cycle (A/HRC/WG.6/10/NAM/2).

² The following abbreviations have been used in the present document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

³ Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: ICPPED, art. 30.

- ⁴ See CEDAW/C/NAM/CO/4-5, para. 47 and 33.
- ⁵ See CRC/C/NAM/CO/2-3, para. 77.
- ⁶ Ibid., para. 50.
- ⁷ Ibid., para. 37.
- ⁸ See A/HRC/23/36/Add.1, para 91.
- ⁹ See Contribution of UNESCO to Compilation of UN information: Namibia (UNESCO submission for the universal periodic review of Namibia), para. 40 (3).
- ¹⁰ Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights compilation report - universal periodic review: second cycle, twenty-fourth session, Namibia (UNHCR submission for the universal periodic review of Namibia), pp. 6 and 7.
- ¹¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ¹² 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness.
- ¹³ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/IHL.
- ¹⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/IHL.
- ¹⁵ International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182).
- ¹⁶ ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169); and Domestic Workers Convention, 2011 (No. 189).
- ¹⁷ See CEDAW/C/NAM/CO/4-5, paras. 10 and 11.
- ¹⁸ See CRC/C/NAM/CO/2-3, paras. 28 and 29.
- ¹⁹ Ibid., paras. 10 and 11.
- ²⁰ Ibid., paras. 28 and 29.
- ²¹ See A/HRC/23/36/Add.1, para 91.
- ²² See CEDAW/C/NAM/CO/4-5, paras. 10 and 11.
- ²³ See CRC/C/NAM/CO/2-3, para. 11. See also CRC/C/NAM/CO/2-3, para. 74.
- ²⁴ See CCPR/C/NAM/Q/2, para. 8.
- ²⁵ According to article 5 of the rules of procedure of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights Sub-Committee on Accreditation, the classifications for accreditation used by the Sub-Committee are: A: voting member (fully in compliance with each of the Paris Principles), B: non-voting member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination), C: no status (not in compliance with the Paris Principles).
- ²⁶ The list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights is available from <http://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart.pdf>.
- ²⁷ See CRC/C/NAM/CO/2-3, paras. 20 and 21.
- ²⁸ Ibid., paras. 14 and 15.
- ²⁹ See CEDAW/C/NAM/CO/4-5, para. 5.

- ³⁰ See CERD/C/NAM/CO/12, para. 33.
³¹ See CCPR/CO/81/NAM, para. 24.
³² For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx.
³³ OHCHR Report 2012, p. 117.
³⁴ See CEDAW/C/NAM/CO/4-5, para. 18.
³⁵ See CRC/C/NAM/CO/2-3, para. 42.
³⁶ See CEDAW/C/NAM/CO/4-5, paras. 18 and 19.
³⁷ See CRC/C/NAM/CO/2-3, para. 30.
³⁸ *Ibid.*, para. 31.
³⁹ *Ibid.*, paras. 30 and 31.
⁴⁰ *Ibid.*, paras. 36 and 37.
⁴¹ See CCPR/C/NAM/Q/2, para. 14.
⁴² See CRC/C/NAM/CO/2-3, paras. 34 and 35.
⁴³ See CEDAW/C/NAM/CO/4-5, paras. 20 and 21.
⁴⁴ *Ibid.*, para. 21.
⁴⁵ See CRC/C/NAM/CO/2-3, paras. 40 and 41.
⁴⁶ *Ibid.*, para. 41, and CEDAW/C/NAM/CO/4-5, para. 23.
⁴⁷ See A/HRC/24/41/Add.1, para. 67.
⁴⁸ *Ibid.*, para. 94.
⁴⁹ See CRC/C/NAM/CO/2-3, para. 42.
⁵⁰ *Ibid.*, para. 43.
⁵¹ *Ibid.*, paras. 38 and 39.
⁵² See CEDAW/C/NAM/CO/4-5, para. 31.
⁵³ See CRC/C/NAM/CO/2-3, para. 44.
⁵⁴ *Ibid.*, paras. 67 and 68.
⁵⁵ *Ibid.*, paras. 69 and 70.
⁵⁶ See CEDAW/C/NAM/CO/4-5, paras. 24 and 25.
⁵⁷ See CRC/C/NAM/CO/2-3, paras. 71 and 72.
⁵⁸ See CEDAW/C/NAM/CO/4-5, para. 25; CRC/C/NAM/CO/2-3, paras. 71 and 72.
⁵⁹ See CEDAW/C/NAM/CO/4-5, para. 25.
⁶⁰ See CRC/C/NAM/CO/2-3, paras. 73 and 74.
⁶¹ See CEDAW/C/NAM/CO/4-5, paras. 14 and 15.
⁶² See CCPR/C/NAM/Q/2, para. 20.
⁶³ See CRC/C/NAM/CO/2-3, paras. 47 and 48.
⁶⁴ *Ibid.*, paras. 49 and 50.
⁶⁵ See CEDAW/C/NAM/CO/4-5, paras. 40 and 41.
⁶⁶ See CCPR/C/NAM/Q/2, para. 5.
⁶⁷ See A/HRC/17/14.
⁶⁸ See A/HRC/17/14, para. 98.17, and A/HRC/17/14/Add.1, para. 23.
⁶⁹ UNHCR submission for the universal periodic review Namibia, pp. 3 and 4.
⁷⁰ See UNESCO submission for the universal periodic review of Namibia, paras. 41 and 42.
⁷¹ See CRC/C/NAM/CO/2-3, paras. 67 and 68.
⁷² See CEDAW/C/NAM/CO/4-5, paras. 32 and 33.
⁷³ *Ibid.*, paras. 32 and 33.
⁷⁴ See A/HRC/21/42/Add.3, para. 68.
⁷⁵ *Ibid.*.
⁷⁶ *Ibid.*.
⁷⁷ *Ibid.*.
⁷⁸ See CRC/C/NAM/CO/2-3, para. 45.
⁷⁹ *Ibid.*, paras. 53 and 54.
⁸⁰ See A/HRC/23/36/Add.1, para. 91.
⁸¹ See CRC/C/NAM/CO/2-3, paras. 45 and 46.
⁸² *Ibid.*, para. 54.
⁸³ See CEDAW/C/NAM/CO/4-5, paras. 34 and 35.
⁸⁴ See CRC/C/NAM/CO/2-3, para. 54.
⁸⁵ See A/HRC/23/36/Add.1, para. 91.

- ⁸⁶ See CRC/C/NAM/CO/2-3, paras. 53 and 54.
⁸⁷ See CEDAW/C/NAM/CO/4-5, paras. 30 and 31.
⁸⁸ See CRC/C/NAM/CO/2-3, paras. 57 and 58.
⁸⁹ See CEDAW/C/NAM/CO/4-5, paras. 36 and 37.
⁹⁰ See CRC/C/NAM/CO/2-3, paras. 59 and 60.
⁹¹ Ibid., paras. 55 and 56.
⁹² See A/HRC/24/41/Add.1, para 95.
⁹³ See A/HRC/17/14, paras. 97.6, 97.12, 97.13, 96.23, 96.44, 96.54, 96.61, 96.67, 96.68 and 98.24.
⁹⁴ See UNESCO submission for the universal periodic review of Namibia, para. 39.
⁹⁵ Ibid., para. 40 (4).
⁹⁶ See CRC/C/NAM/CO/2-3, paras. 63 and 64.
⁹⁷ See A/HRC/23/36/Add.1, para 91.
⁹⁸ See UNESCO submission for the universal periodic review of Namibia, para. 41.
⁹⁹ See CRC/C/NAM/CO/2-3, paras. 51 and 52.
¹⁰⁰ See A/HRC/24/41/Add.1, para 76.
¹⁰¹ Ibid., para. 85.
¹⁰² Ibid., para. 86.
¹⁰³ See CCPR/C/NAM/Q/2, para. 26.
¹⁰⁴ See UNHCR submission for the universal periodic review of Namibia, p. 2.
¹⁰⁵ Ibid., p. 4, and UNHCR submission for the universal periodic review, p. 4.
¹⁰⁶ Ibid., pp. 5 and 6.
¹⁰⁷ See CRC/C/NAM/CO/2-3, para. 7.
¹⁰⁸ Ibid., paras. 26 and 27.
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