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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

**Namibia**

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\* The present document is being issued without formal editing.



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## Abbreviations

ART:	Anti-Retroviral Therapy
BIPA:	Business and Intellectual Property Authority
DBN:	Development Bank of Namibia
HHP:	Harambee Prosperity Plan
HRDC:	Human Rights Documentation Centre
IMC:	Inter-Ministerial Committee on Human Rights and International Humanitarian Law
NAC:	National Agenda for Children
NCS:	Namibian Correctional Service
NHRIs:	National Human Rights Institutions
NHRAP:	National Human Rights Action Plan
NIEIS:	National Integrated Employment Information System
NUST:	Namibia University of Science and Technology
NSPI:	National Standards and Performance Indicators
NGOs:	Non-Governmental Organisations
NEP:	National Employment Policy
NDPs:	National Development Plans
O/M/As:	Offices/Ministries/Agencies
OHCHR:	Office of High Commissioner for Human Rights
ORMCS:	Offender Risk Management Correctional Strategy
PHC:	Primary Health Care
PLHIV:	People Living with Human Immuno Virus
PSEMAS:	Public Service Employee Medical Aid Scheme
RISDP:	Regional Integrated Strategic Plan
MSME:	Micro, Small and Medium Enterprises
SACU:	Southern African Customs Union
SADC:	Southern African Development Community
SASG:	Social Accountability and School Governance programme
SOEs:	State Owned Enterprises
STEM:	Science, Technology, Engineering and Mathematics
TIP:	Trafficking in Persons
UNICEF:	United Nations Children's Fund
UPR:	Universal Periodic Review

## **I. Introduction**

1. Namibia last submitted its 2<sup>nd</sup> UPR report in 2015 and it was considered in January 2016. The UPR report for the 3<sup>rd</sup> cycle measures Namibia's progress in fulfilling its human rights obligations under the various treaty bodies of the United Nations.

### **Methodology and consultation**

2. The report was compiled by the Ministry of Justice in conjunction with other O/M/As and NGOs. After the compilation of the report, the draft was scrutinised by members of the IMC. The IMC is a Government committee led by the Ministry of Justice which consists of other key stakeholders involved in the protection and promotion of human rights in the country.

## **II. Achievements and good practices since the last review**

### **Democracy, rule of law and human rights**

3. Namibia continues to thrive as a constitutional democracy. The protection and promotion of human rights are paramount to any democracy and the Government continues to devise mechanisms aimed at strengthening democracy, rule of law and human rights. On 27 November 2019, Namibia held its 7<sup>th</sup> National and Presidential elections. The conduct of the elections was described by credible foreign observers as largely free, fair and reflective of the will of the people. Keeping up with its democratic tradition, several opposition candidates have challenged the outcome of the elections through constitutional means without any intimidation from the state. This reaffirms the independence and impartiality of the judiciary as an important arbiter to manage disputes and potential conflict. Trusts in the systems, processes and institutions of a country are anchors of constitutional democracy and Namibia maintains an acceptable standard in this regard.

4. Maintaining peace and stability remains a priority for the Government. The 2016 Global Peace Index ranked Namibia 55 out of 163 countries in the world. Namibia ranked eight out of 44 nations in the sub-Saharan Africa, and second among the five nations constituting SACU. Namibia remains one of the best governed African countries and strives to improve its ranking in the areas of human rights and inclusion, security and rule of law, and human development.

5. The country has experienced an increasing number of girls and young women graduating from secondary and tertiary institutions respectively over the last four years. Importantly, the country has also witnessed an increasing number of females graduating in Science Technology, Engineering and Mathematics (STEM) fields.

6. Moreover, Namibia has managed to maintain a reasonably stable gender parity in Parliament following the 2019 national and presidential elections when compared to 2015. Whilst women's representation in the diplomatic corps has not yet reached the desired parity levels, the Ministry of Gender Equality, Poverty Eradication and Social Welfare continues to lobby for more women's representation in the diplomatic service.

## Implementation of recommendations

### Acceptance of international norms

(Recommendations 137.1, 137.2, 137.3, 137.4, 137.5, 137.6, 137.7, 137.8, 137.9, 137.10, 137.11, 137.12, 137.13, 137.14, 137.15, 137.16, 137.17, 137.18, 137.19, 137.20, 137.21, 137.22, 137.23, 137.24, 137.25, 137.26, 137.27, 137.28, 137.29, 137.30, 137.31, 137.32, 137.33, 137.34, 137.35, 137.36, 137.37, 137.38, 137.39, 137.40, 137.41, 137.42, 137.43, 137.44, 137.45, 137.46, 137.47, 137.48, 137.49, 137.50)

7. Namibia welcomes the recommendation and is consulting with relevant stakeholders to assess whether the said Conventions and protocols are in harmony with the domestic policy, legal and institutional framework. However, it is important to state that the following treaties have already been ratified:

- (a) Optional Protocol to the Convention on the Rights of the Child (CRC); and
- (b) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

8. In addition to the above, Namibia remains a State party to the Rome Statute of the International Criminal Court, pending consideration of reassessing its position on its continuing membership in light of consistency with domestic arrangements and other global dynamics regarding the work and importance of this institution.

### Cooperation with treaty bodies, cooperation with special procedures

(Recommendations 137.98, 137.99, 137.100, 137.101, 137.101, 137.102, 137.103, 137.104, 137.105, 137.106, 137.107)

9. As a member of the African Union and the United Nations, Namibia welcomes the activities of special procedures appointed by these organisations and awaits formal requests for the promotional mission through diplomatic channels.

10. In fulfilling her obligations under various United Nations treaty bodies, Namibia has submitted the following reports since 2015 to date:

- (a) Convention on the Rights of the Child: 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> periodic reports;
- (b) Convention on the Elimination of All Forms of Discrimination against Women: 6<sup>th</sup> periodic report;
- (c) Convention on the Rights of People with Disabilities: Initial report;
- (d) International Convention on the Elimination of All Forms of Racial Discrimination: 16–18 periodic reports;
- (e) The African Charter on Human and Peoples Rights: 7<sup>th</sup> periodic report; and
- (f) Convention against Torture and Other Cruel and Inhuman Treatment or Punishment: 3<sup>rd</sup> periodic report.

11. Namibia has also commenced with stakeholder consultative meetings across the country to consider accession to the Convention on the Reduction of Statelessness as an important human rights imperative.

### Constitutional and legislative framework

(Recommendations 137.56, 137.57, 137.58, 137.59, 137.60, 137.61, 137.62, 137.63, 137.64, 137.65, 137.66, 137.67, 137.68, 137.69, 137.70, 137.71, 137.72, 137.73, 137.74, 137.76, 137.77)

12. The Namibian Constitution is the supreme law of the land. In order to enact legislation, Parliament derives its authority from the Constitution. Chapter 3 of the Namibian Constitution contains the fundamental rights and freedoms. Since the last review, Namibia has passed a number of human rights related policies, laws and established institutions in consonance therewith. Below are some of the legal, policy interventions and other measures undertaken since the last report.

## **Legislative Interventions**

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

13. This Act provides for the repeal of certain obsolete laws and incidental matters related thereto. The intention of the Act was to repeal 143 proclamations, ordinances, by-laws and Acts which were outdated or discriminatory on the grounds of sex, race, colour, ethnic origin, religion, creed and social and economic status.

### *Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014)*

14. In an effort to combat all forms of terrorism and in line with Namibia's international obligations (i.e. United Nations resolution 1540), the Government enacted the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014.

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

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

16. 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 incidental matters.

### *Whistleblower Protection Act, 2017 (Act No. 10 of 2017)*

17. In line with Namibia's international obligations, Government passed the Whistleblower Protection Act, 2017 in order to afford whistleblowers protection under the law. The Act is expected to curtail acts of corruption and assist Government to enhance human rights protection of its citizens.

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

18. 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, and to provide for measures to be taken to protect witnesses and their relatives. This law will greatly aid authorities in combating cases of trafficking in persons, and smuggling of migrants and other human rights violations.

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

19. Access to justice is among the most important fundamental rights covered under various international and regional human rights instruments. To make it easier for her people to access justice timeously and/or expeditiously, the Government promulgated the Judiciary Act, 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 other incidental matters.

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

20. This 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 incidental matters. This Act among other things curtails incidences of statelessness and make it easier for non-citizens to acquire Namibian citizenship if they so wish.

*Public and Environmental Health Act, 2015 (Act No 1 of 2015)*

21. This Act provides a framework for a structured uniform public and environmental health system in Namibia and covers the notification, prevention and control of diseases. This Act has enabled Government to enforce public health regulations necessary for the fight against COVID-19 after the State of Emergency lapsed.

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

22. The Government recognises and affirms the right to health for all its citizens. To this effect the Government enacted the National Health Act, 2015 to provide a framework for a structured uniform health system within Namibia. The Act further seeks to consolidate the laws relating to state hospitals and state health services, regulate the conduct of state hospitals and state health services, and to provide for financial assistance for special medical treatment of State patients.

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

23. In order for Namibia to enhance cross border cooperation with neighbouring states, Government enacted the One Stop Border Post Control Act, 2017. This Act provides for the conclusion of agreements with adjoining States on the establishment and implementation of one-stop border posts, and cooperation on the prevention of cross border criminal activities.

*Public Private Partnership Act, 2017(Act No. 4 of 2017)*

24. The main objective of this Act is to provide a legal framework for public private partnership projects; to establish the Public Private Partnership Committee; and to regulate public private partnership projects through the stages of initiation, preparation, procurement, conclusion of public private partnership agreement and implementation.

*Public Procurement Act, 2015 (Act No. 15 of 2015)*

25. This Act aims, among other things, to ensure that women benefit from the state's tenders and that the bidding process is fair and transparent. Section 69 of this Act provides for preferential treatment to women-owned businesses to participate in bidding for public tenders, and section 70(3) of this Act requires women, among other groups of persons including the youth, to be given preference in order to promote and uphold women empowerment as provided for under Article 23(3) of the Namibian Constitution.

*The Basic Education Act, 2020 (Act No. 3 of 2020)*

26. To promote and regulate free and compulsory basic education; to ensure equitable inclusive quality education and lifelong learning; to promote and protect the right of learners to education; to provide for the establishment, accreditation, registration, governance and management of State and private schools and hostels; and to provide for the establishment of the National Advisory Council on Education, the regional education forums, the National Examination, Assessment and Certification Board, the Teaching Service and the Education Development Fund.

**Policies/Development Plans***National Gender Policy and its Plan of Action (2010–2020)*

27. The goal of the National Gender Policy is to guide actions towards the integration and mainstreaming of gender in the broader development framework. The policy is

designed to provide guidance for stakeholders and institutions at all levels, and to ensure that they plan from a gender perspective.

*Harambee Prosperity Plan*

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

*The National Health Policy Framework for the Period (2010–2020)*

29. The Framework provides the overall orientation for health and health actions in Namibia. 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.

*The National Development Plan 5 (NDP5)*

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

*National Human Rights Action Plan (NHRAP) (2015–2019)*

31. The Office of the Ombudsman was mandated to implement the NHRAP during the said reporting period and upon its expiry made recommendations on challenging areas that the Government still needs to address. (focus on the outcome and way forward. Contact Ombudsman's office)

*The National Agenda for Children (2018–2022)*

32. Under this policy all children have equal access to health, education, support, and rehabilitation services for children with disabilities and are strengthened and coordinated. The policy further aims to ensure that all children with disabilities have access to disability grants.

**Institutions and policies**

**(Recommendations 137.78, 137.79, 137.80, 137.81, 137.82, 137.83, 137.84, 137.85)**

33. During the period under review, Government created a number of institutions and enacted policies aimed at promoting and protecting human rights in the country. The role and functions of some of these institutions and policies are discussed below.

*Ministry of Gender Equality, Poverty Eradication and Social Welfare*

34. The Ministry of Gender Equality, Poverty Eradication and Social Welfare was established in 2020 to initiate, coordinate, advocate for and implement measures aimed towards the empowerment of girls, boys and women, the eradication of poverty eradication, expansion of social protection and social welfare. Before 2020, these functions were undertaken by the Ministry of Poverty Eradication and Social Welfare and the Ministry of Gender Equality and Child Welfare, respectively.

*Ministry of Public Enterprises*

35. In 2015, the Government established the Ministry of Public Enterprises with the responsibility to manage Namibia's public enterprises. The overall mandate of this Ministry



is to transform Namibia's public enterprises to become effective conduits and catalyst for the nation's economic development.

*The Business and Intellectual Property Authority (BIPA)*

36. In an effort to improve service delivery and ensure the effective administration of business and Intellectual Property Rights (IPRs), the Business and Intellectual Property Authority (BIPA) has been established as the focal point for the registration of business and industrial property. BIPA is responsible for the administration and protection of business and intellectual property. BIPA is established as a juristic person in terms of section 3 of the BIPA Act, 2016 (Act No. 8 of 2016) and is a public enterprise as defined in the Public Enterprises Governance Act, 2019 (Act No. 1 of 2019).

*Regional offices for the Ombudsman*

37. In an effort to make the office more accessible to the public, the Office of the Ombudsman recently opened several satellite offices at various towns throughout the country such as Katima Mulilo (Zambezi region), Otjiwarongo (Otjozondjupa region) and in Khorixas (Kunene region). The Office of the Ombudsman is spearheading the process of amending the Ombudsman's Act, 1990 (Act No. 7 of 1990) to align it to the Paris Principles on National Human Rights Institutions (NHRIs). The Office of the Ombudsman was re-accredited with an "A" status in terms of the Paris Principles in October 2018. A Children's Advocate, appointed in terms of the Child Care and Protection Act, 2015 (Act No. 3 of 2015) now forms part of the structure of the Ombudsman.

**Human rights education and training  
(Recommendation 137.118)**

38. Human rights related subjects are mainstreamed in both primary and secondary schools. The National Curriculum for Basic Education (2016) covers the social sciences learning area for understanding the development of society, the mechanisms of globalization, the importance of human rights and democracy as well as environmental issues through the following subjects: Environmental learning for pre-primary, Environmental Studies for grade 1–3, Social Studies grade 4–7, Religious and Moral Education pre-primary and grade 1–9, Life Skills from 4–12, Geography from grade 8–12, History from grade 8–12 and Development Studies from grade 11–12.

39. At institutions of higher learning, both the University of Namibia (UNAM) and the Namibian University of Science and Technology (NUST) offers human rights related subjects and short courses. The department of human sciences at NUST offers human rights related subjects such as Law for Public Managers, Labour Law and Human Rights Law. Whereas the Faculty of law<sup>1</sup> at the University of Namibia houses the Human Rights Documentation Centre whose function is to disseminate human rights related materials/information to the public.

40. The Office of the Ombudsman continues to conduct awareness campaigns as well as develop and distribute human rights material to all corners of the nation. The Office of the Ombudsman in collaboration with the University of Namibia introduced a subject called Ombuds Law currently taught under the Alternative Dispute Resolution Diploma in the Faculty of Law. In 2018, the Faculty of Law conducted a Certificate in Parliamentary Practice and Conduct program for members of the National Council. Some of the modules covered under the course include Constitutional Law, Customary Law and the Role of Parliament in a Constitutional Democracy. The overall objective of the course was to equip members of Parliament with relevant information on the operations of the National Council and to enable them to acquire skills to debate issues affecting the community. The Ministry of Gender Equality and Child Welfare regularly conducts human rights seminars as well as training to traditional authorities and members of the public on women and children's rights. All personnel in the Ministry of Defence undergo training on human rights and International Humanitarian Law upon induction and subsequent annual military courses such as basic military training, advanced military training, operations, exercises and officer's training.

**Non-discrimination****(Recommendations 137.57, 137.58, 137.59, 137.60, 137.61, 137.62, 137.63, 137.64, 137.65, 137.66, 137, 67, 137.67, 137.68)**

41. The Government acknowledges that discrimination against minorities, women, persons with disabilities and other vulnerable groups continue to be of concern, but is not government sanctioned and continuing efforts are made to create increased public awareness to respect human rights of others. Namibia has made great strides in ensuring that all persons are treated equally in all aspects of life.

42. The Government has devised several mechanisms in the form of legislation, policies and action programmes aimed at promoting the rights and welfare of ethnic minorities. Notable ethnic minorities in Namibia are San and OvaHimba. The Government developed teaching and learning materials for the Ju//hoansi dialect of the San languages and this is taught from grade 1-3 in schools where San children predominate. The Language Policy for Schools states that:

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

43. Grade 4 is a transitional year during which the change to English as medium of instruction takes place, the home language may be used in a supportive role. Grades 4 to 12 are taught through the medium of English, and the home languages shall be offered as subjects in these grades. In catering for children with disabilities, Government has developed the Sector Policy on Inclusive education. Some schools in the regions have established resource units in the mainstream schools to accommodate children with disabilities. However, Government acknowledges that sign language has not been formally recognised as a national language. This poses a challenge for people with hearing disabilities to fully access public services.

44. In addressing the challenges faced by persons with disabilities, the National Disability Council of Namibia is developing a Namibian Disability Standard in conjunction with the Namibia Standards Institute. The general objective of which is to ensure that public buildings and those meant for public use are accessible to all persons with disabilities and these developments will be consistent with the provisions of the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD) which Namibia ratified.

45. The Namibia National Gender Policy (2010-2020) created an enabling environment for sectors to mainstream gender in line with the NDPs. The policy prioritised implementation of, and accountability for goals and policies aimed at achieving gender equality. Compared to the first policy, this policy has 12 critical areas of concern, with two new areas of peace-building and conflict resolution, and natural disaster management; and gender equality in the family context.

**Prohibition of torture and cruel, inhuman or degrading treatment  
(Recommendations 137.64, 137.65)**

46. The Minister of Justice, in 2019, tabled the Prevention and Combatting of Torture Bill in Parliament. The Bill, once it becomes law, will define offences of torture and other forms of cruel, inhuman or degrading treatment, in line with the Convention against Torture and Other Cruel and Inhuman Treatment or Punishment. The proposed law will also be applied in cases where public officials coerce members of the public for the purpose of obtaining information or confessing. Moreover, public officials who torture and intimidate any person who has committed a crime or is a suspect of a crime, are liable to prosecution.

47. As part of its efforts in combating acts of torture, the Ombudsman in 2016 developed a "Prevention of Torture Training Manual for Police Officers". This was followed by conducting training workshops for police officers on the prevention of torture in nine (9) regions of the country.

48. An important component of the Prevention of Torture Project was the multimedia public awareness campaign, designed to reach as many people as possible with torture prevention information. The campaign comprised of the following:

- Billboards;
- Adverts on NBC Television;
- Three (3) different 30 second scripts were read live in all local languages on all stations of NBC Radio.

49. Moreover, the Namibian police recently dismissed 56 members from the force, while 41 others are currently on suspension pending the finalisation of their cases in the courts for various offences, including assault of members of the public. This is a clear indication that the Government does not condone acts of torture by its officials.

#### **Conditions of detention**

**(Recommendations 137.153, 137.154, 137.155, 137.157, 137.158, 137.159)**

50. The Government acknowledges that there are challenges in ensuring that the rights and welfare of persons in places of detention are protected. According to the Ombudsman's 2019 Annual Report on places of detention, most police holding cells are overcrowded and offenders often experience food shortages. The Ombudsman's recommendations to address these challenges is receiving attention from the Ministry of Home Affairs, Immigration, Safety and Security, under whom the Namibia Correctional Services (NCS) resorts.

51. In addition, the NCS provides separate sections for trial awaiting persons from sentenced offenders at all correctional facilities and these facilities are guided by the Nelson Mandela Rules. The NCS adopted the ORMCS as the philosophy to guide the management and rehabilitation of offenders. However, the implementation of this strategy requires appropriate infrastructure, meaning that extensive changes and renovations have to be made to the existing correctional facilities to tailor them to the needs of rehabilitation. As part of the ORMCS, the NCS constructed a Female Correctional Centre at Windhoek Correctional Facility, which was recently completed and started operating in October 2019. The Female Correctional Centre has a separate section for trial awaiting inmates which has both communal cells and single cells. As a newly built facility, the Female Correctional Centre has a playground for young children. Further, the male section of awaiting trial inmates at Windhoek Correctional Facility is undergoing renovations to improve the living conditions and most of the cells has been completed.

52. The organizational structure of the NCS makes provisions for the construction of Remand Facilities that will accommodate trial awaiting inmates. These Remands will be located at Rundu, Ondangwa, Grootfontein, Windhoek, Walvisbay, Keetmanshoop and Outapi. The NCS started with the constructions of a new correctional facility at Ondangwa and the current Oluno Correctional Facility will be converted into a Remand Facility. However, due to financial constraints, the constructions of this new facility and all the Remand Facilities was put on hold.

#### **Prohibition of slavery, trafficking (Recommendations 137.162, 163)**

53. As stated in the last report, the Namibian Constitution prohibits all forms of slavery and trafficking. In 2018, Parliament passed the Combating of Trafficking in Persons Act, 2018 (Act No. 1 of 2018). The Act gives effect to the Protocol to Prevent, Suppress and Punish TIP especially Women and Children, which is a protocol to the United Nations Convention against Transnational Organized Crime.

54. Namibia has been upgraded to a Tier 1 country in the 2020 TIP report of the US Department of State for fully meeting the minimum standards for the elimination of human trafficking – the only country in Africa to achieve this ranking, joining 34 nations globally.

## Trafficking in Persons Cases: 2014–2019

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

*Source: Namibian Police Force 2019*

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

56. In *State v Lukas*, the first case of Human trafficking in Namibia, section 15 of the Prevention of Organised Crime Act, 2004 was used that resulted in a 13-year sentence for trafficking of persons.<sup>2</sup>

#### **Administration of justice and fair trial**

**(Recommendations 137.164, 137.165, 137.166, 137.167, 137.169, 137.170, 137.171, 137.172, 137.173, 137.174, 137.175, 137.178)**

57. Due to the high costs of litigation in Namibian courts, it remains a challenge for the legal aid scheme currently in place to deviate from a means and merit test. In mitigating the cost of litigation and with the aim to make the scheme more sustainable, the Government has during the period 2018–2019 added an additional 28 in-house legal aid lawyers to the establishment. At present, the Directorate of Legal Aid has a total of 65 in-house legal aid lawyers. The Directorate has a presence in all 34 courts countrywide.

58. In addition, the Law Society of Namibia is in the process of implementing a comprehensive “Change Project” which is intended to review the Legal Practitioners Act, 1995 (Act No. 15 of 1995) and consider measures that will use the law as a tool to enhance social justice. Among the measures considered is making legal provision for an obligation on legal practitioners to provide legal services *pro bono*. This aspect of the project will particularly complement Government efforts in improving access to justice.

59. There are magistrate courts in each and every district, and periodical courts in populated settlement areas. Police stations are widely found in most settlements in the country which in turn assist rural women in accessing justice.

	<i>Information required</i>	<i>Responses</i>
(a)	Number of Magistrate Courts in Namibia	34
(b)	Number of Magistrates in Namibia	89
(c)	Number of Periodical Courts in the Country	37
(d)	Information showing whether justice is accessible to women in rural area	The office has courts in a number of remote areas of Namibia, including the holding of periodical courts. There is currently no surveys that indicate whether there are impediments that hinder

<i>Information required</i>	<i>Responses</i>
	women to access the courts, be it due cultural financial factors or because of the remoteness of the court.

### **Freedom of opinion and expression (Recommendations 137.179)**

60. The Government continues to protect and promote the right to freedom of speech including the right to academic freedom. Private as well as Government owned media are free to operate and regularly criticise Government policies without any repercussions from the state. The World Press Freedom Index (2019) ranks Namibia first in Africa and 23<sup>rd</sup> in the world on press freedom. The High Court recently confirmed the importance of press freedom in a democratic society in the case of the *Director General Namibia Central Intelligence & Another v Haufiku: Mathias & Another*.<sup>3</sup> Furthermore, social media platforms are not censored or restricted by the state. Citizens can use social media platforms to engage the Government and criticise state policies without retribution from authorities. The State also uses social media to engage citizens on issues affecting the nation.

### **Right to an effective remedy, impunity (Recommendations 137.168, 137.176)**

61. Any Namibian whose rights have been infringed can approach the Office of the Ombudsman for redress. Some private and public interest law firms/NGO's such as the Legal Assistance Centre routinely assist indigent people to institute lawsuits against state organs accused of violating human rights.

62. The main Caprivi High Treason trial ended in September 2015, 30 accused persons were found guilty and sentenced to various terms of imprisonment and 79 were found not guilty and released from custody. Several of those found guilty are appealing their convictions in the Supreme Court and some of those acquitted are suing the state for malicious prosecution.

### **Rights related to marriage and family (Recommendations 137.61, 137.62, 137.63, 137.77, 137.178)**

63. The right to family and marriage is constitutionally protected under Article 14. In addition, Namibia has in recent years enacted laws to supplement the constitutional provisions pertaining to marriage and family. The Government is in the process of enacting a Divorce Law to make it less costly and less cumbersome for couples to terminate their marriage. The review and reform of the current law that governs marriage in Namibia is at an advanced stage as the Marriage Bill has gone through a number of processes for consideration such as the Cabinet Committee on Legislation (CCL).

### **Human rights and extreme poverty (Recommendations 137.182, 137.185, 137.186, 137.187, 137.188, 137.189)**

64. The Government acknowledges that poverty remains a challenge in the country. In this regard, the Government continues to devise laws and policies aimed at reducing relatively high rates of poverty. One of these interventions is NDP5. The NDP5 is the fifth in the series of seven five-year national development plans that outline the objectives and aspirations of Namibia's long-term vision as expressed in Vision 2030. NDP5 will be implemented from the financial year 2017/18 until 2021/22. NDP5 builds on the successes and achievements of the four previous five-year plans from the Transitional National Development Plan (TNDP) to the Fourth National Development Plan. It also recognises the challenges experienced during the implementation of the previous plans.

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

alleviate the impact of drought in rural areas, the government allocated an amount of 131 million Namibian dollars (Approx. 8.8 million USD) to this effect. This amount is meant to help communal farmers who are mostly poor.

66. On the educational front, government continues to ensure that learners from poorer families attend school. In this regard, the Ministry of Education, Arts and Culture established a Primary and Secondary Education Grant to assist in the promotion of the wellbeing of learners from poor families. Moreover, the Namibian school feeding programme is ongoing and has expanded to additional schools. In 2019, about 468 457 learners from 1524 Schools benefited from this programme. Social protection is one of the core programmes of the Government. The Ministry of Poverty Eradication and Social Welfare administers this programme. The main purpose of this programme is to administer social grants to eligible Namibians who have attained the age of 60 and Namibians with disabilities who are between the age of 16 and 59.

67. The Ministry is committed to increase the coverage for the social grants in order to reach all eligible beneficiaries. In this regard, the Ministry recorded an overall increase in the number of social grant recipients from 211, 447 beneficiaries in 2017/18 to 218 586 during the 2018/19 financial year, representing a 3.2% increase. The Ministry maintained a reasonable coverage of 97% and 70% for pensioners and disability grant beneficiaries respectively during the year under review. The Ministry further implemented the increment of the social grants from N\$1,200 to N\$1,250 per month (Approx. 81 USD), for the 2018/19 financial year.

68. As the result of the announced increase in the budgetary allocation for social assistance by the Minister of Finance, the social grants administered by the Ministry of Poverty Eradication and Social Welfare was increased by N\$50 per month to reach N\$1,300 per month (Approx. 87 USD), during the 2019/20 financial year. The Ministry pays a maximum of N\$3,200 (Approx. 215 USD) funeral cover per beneficiary, to ensure that social grant beneficiaries are afforded a dignified burial. A total of 6915 funeral claims were registered during the 2018/19 financial year. These claims amounted to 56 Million Namibian Dollars (Approx. 3.7 Million USD) for the period under review. An amount of 78 Million Namibian Dollars (Approx. 5.2 Million USD) was allocated for the provision of these services during the 2019/20 financial year.

69. The Ministry further formulated a Blueprint on Wealth Redistribution and Poverty Eradication, which is a Policy Framework to guide national strategies and activities for eradicating poverty and reducing income inequality in Namibia, to be undertaken by O/M/As, SOEs, the private sector and civil society organisations. Furthermore, the Namibian University of Science and Technology in conjunction with the National Disability Council sponsored an entrepreneurship course for persons with disabilities. The said course was aimed at equipping participants with knowledge on running small businesses and other income generating activities.

70. In addition, several line ministries have programmes and projects aimed at empowering individuals and communities. For example, Ministry of Trade and Industry offer generous loans and, in some instances, grants to Small and Medium Enterprises (SME's). Ministry of Gender Equality and Child Welfare continues to provide grants to women across to country to start businesses. Ministry of Gender also provides social grants to orphans and vulnerable children. Over 250,000 children below the age of 18 are beneficiaries of these grants. The Ministry of Sport, Youth and National Service through the National Youth Council they provide training and skills development to unemployed youth. Graduates of these programmes are expected to create employment for themselves hence free themselves from poverty. Whereas the Ministry of Health and Social Services provide subsidies to welfare organisations with various target populations. Currently 8 welfare organisations have benefitted at the cost of 2 million Namibian Dollars (Approx. 130 000 USD).

**Human rights and drinking water and sanitation. (Recommendations 137.183, 137.185,)**

71. It is worth noting that Namibia is the driest country South of the Sahara and as a result the government has over the years embarked on a number of programmes/projects aimed at alleviating water shortages. The Water Resources Management Act, 2013 (Act No. 11 of 2013) which is not yet in force 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.

72. Access to safe drinking water sources improved to 98, 4% in urban and 87, 4% in rural areas respectively, which means Namibia has met the Millennium Development Goals target for safe drinking water; however, the target for sanitation was not satisfactorily achieved.

73. The government continues to prioritise the right to sanitation in the country. Schools, especially rural schools lack ablution facilities. In addressing this challenge, Government in its 2019/20 emergency budget availed N\$ 764 million for the provision of water, ablution and hostel facilities.

74. As part of Government's efforts to provide safe and clean water to its citizens, the Neckartal Dam was recently completed, and in addition to providing safe and clean drinking water to citizens, the dam will also stimulate agricultural activities in the southern part of the country. Water from the dam will be used for irrigation purposes for both small scale farmers and major government projects.

**Right to just and favourable conditions of work (Recommendations 137.160, 137.161, 137.162, 137.163)**

75. The Government has undertaken many measures aimed at enhancing the rights of all workers in Namibia. The National Employment Policy came into effect in 2013. The National Employment Policy (NEP) guides government in reaching productive and decent employment for all. In addition, the enactment of the Employment Services Act, 2011 (Act No. 8 of 2011) resulted in the establishment of the National Employment Service mandated to provide professional labour market services for the purpose of achieving full, productive and decent employment in Namibia.

76. In an effort to further protect and promote the right to just and favourable conditions of work, Namibia has ratified the International Labour Organisation (ILO) Convention (C02) and Protocol (P029) that supplements the Convention of 2000 and 2017 respectively. In addition, Namibia ratified both the Protocol on Forced Labour and the Convention on Labour Inspection in 2017 and 2018 respectively. Namibia, on 09 December 2020, also ratified the Convention on Violence and Harassment at the Workplace (No. 190) and the Domestic Workers Convention (No. 189).

77. As part of the Government's relentless efforts to ensure that the right to just and favourable conditions of work are respected, the Ministry of Labour, Industrial Relations and Employment Creation employed 57 labour inspectors across the country. The Ministry intends to employ 20 more in the next financial year.

**Right to health (Recommendations 137.51, 137.190, 137.191, 137.192, 137.193, 137.194, 137.195, 137.196, 137.197, 137.198, 137.199)**

78. Namibia's spending on health is among the highest in Africa. During the 2018/2019 financial year, the Ministry of Health and Social Services received second highest allocation totalling an amount of N\$6.5 billion complimented by a N\$2.6 billion allocation to PSEMAS. However, due to the economic recession afflicting the nation since 2016, the Government has been struggling to fulfil some of its human rights obligations in relation to health. These include shortages of critical drugs such as Antiretroviral drugs (ARVS), aging infrastructure, medical equipment and medical personnel. Namibia has achieved the

UNAIDS 90-90-90 HIV/AIDS treatment target by 2020 and is committed to achieving 95-95-95 target by 2030. Currently Namibia's progress in this regard stands at 95-90-91.

79. Despite the above challenges, Government has introduced a number of interventions to this effect. The National Health Policy Framework for the Period 2010–2020 is in place. 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 health system in Namibia has to be able to respond to such changes and hence the emphasis on public health priority. 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.

80. Due to concerted efforts by Government and its development partners, Namibia's Maternal mortality rate has steadily declined in recent years'. It now stands at 195 deaths/100,000 live births (2017 est.). Whereas the percentage for infant mortality now stands at 30.7 deaths per 100,000 live births.

81. Namibia has also made tremendous progress in the fight against the HIV/AIDS pandemic. The HIV prevalence rates of adults aged 15–19 continues to drop. From a high of 14.3 in 2010 to 12.1 percent in 2018. Namibia introduced ART in 2003. The number of PLHIV on ART has increased annually, rising from 75,681 in 2010 to approximately 198,090 in 2018.

#### **Right to education**

**(Recommendations 137.200, 137.2001, 137.202, 137.203, 137.204, 137.205, 137.206, 137.207, 137.208)**

82. The right to education is constitutionally guaranteed. Section 9(5) of the Basic Education Act, 2020 (Act No. 3 of 2020) extends the compulsory age for education to 21 years. 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, Arts and Culture received a budget of N\$ \$13.1 billion. (Approx. US\$ 102 104 0593.00) which is one of the highest in Africa.

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

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

85. An amount of 85 million Namibian dollars (Approx. 5.6 million USD) was sourced from development partners in order to provide improved access to Pre-Primary education. To this effect, 87 classrooms built at a cost of 49 million Namibian dollars (Approx. 3.2 million USD) were constructed across the 14 regions. An additional 8 million Namibian dollars (Approx. 531 561 USD) was spent on training 1516 teachers as well as on the procurement of teaching and learning materials.

86. The Ministry of Education, Arts and Culture has mechanisms in place to cater for learners with disabilities as well as orphans and vulnerable children. Through the Primary and Secondary Education Grant, Resource schools (for learners with learning disabilities) are given 3 times the number of mainstream schools. The department of disability affairs in the office of the vice president provides funding for children with disabilities, through the NSFAF.



87. With financial and technical assistance from UNICEF, the Ministry of Education, Arts and Culture launched the National Safe School Framework in 2018. The National Safe Schools Framework (NSSF) is a comprehensive document that provides a vision and the guiding principles for building safe and supportive school communities, centred on the wellbeing of learners and educators.

**Right to protection of property, land rights and financial credit  
(Recommendations 137.88, 137.89, 137.90, 137.91, 137.97)**

88. Article 16(1) of the Namibian Constitution guarantees all persons the right to acquire, own and dispose of all forms of property in any part of Namibia. The right to land falls within the scope of the said article in the Constitution. In an effort to address the skewed land tenure system in Namibia, the Government in October 2018 held a second National Land Conference in the capitol Windhoek. The Conference sought to address the structure of land ownership in Namibia. As it stands, the country's minority white population own about 70% of the country's arable land.

**Right to financial credit**

89. The DBN views finance for SMEs as vital to the economy of the nation. Finance through the DBN SME Centre, or through DBN offices in Walvis Bay in the Erongo region, is provided for start-up enterprises and enterprises that need finance to grow. DBN defines SMEs as enterprises that have an annual turnover of N\$10 million or less. The minimum loan amount is 150,000 Namibian dollars (Approx. 9 966 USD).

90. Finance can be provided for:

- Manufacturing;
- Tourism;
- Transport and logistics;
- Business services;
- Retail and wholesale outlets;
- Commercial property;
- Construction;
- Franchises;
- Private educational institutions.

**Gender based violence and women empowerment schemes  
(Recommendations 137.133, 137.134, 137.135, 137.136, 137.137, 137.138, 137.139,  
137.140, 137.141, 137.142, 137.143, 137.144, 137.145, 137.146, 137.147, 137.148,  
137.149, 137.150, 137.151, 137.152)**

91. Agribank, a state-owned bank for agricultural activities provides soft loans at very low interest rates to both commercial and communal farmers. Loans can be used to purchase commercial land, agricultural equipment, livestock and feeds. Private Banks also provide credit facilities to persons who meet certain requirements. Single women and women married out of community of property are entitled to enter into loan agreements without permission from a third party.

92. The Government acknowledges that gender-based violence remains a serious concern in the country. According to the Namibia Demographic Health Survey 2013, 33% of women aged 15-49 have experienced some forms of physical or sexual violence. Orphans in rural areas are particularly vulnerable to exploitation through trafficking and other forms of forced labour.

93. A National Plan of Action on Gender-Based Violence 2019-2023 was adopted. This five-year plan is based on a socio-ecological model and is designed to provide a home for coordinated national action. The Plan of Action comprises of four Action Areas which support either a long-term movement that targets root causes or short-term goals that will

improve response systems and community safety in general to ensure that survivors and victims' no longer feel unsafe or untrusting of protection structures. This Plan seeks to put survivors first by making sure that the services they receive are empathetic and correct. The Plan also stimulated a culture of care and GBV-watch amongst families, communities and institutions and promotes early help-seeking to prevent or limit harm.

94. Government has completed a draft Bill to amend the Combating of Domestic Violence Act.<sup>4</sup> The proposed amendment Bill aims to amend the definition of "child" and inset a definition of "primary caretaker"; to clarify the necessity to show urgency in order to obtain an interim protection order on an *ex parte* basis; and to simplify the requirements for protection orders. The amendment Bill also seeks to assist the complainant and respondent to secure property and direct the respondent to take part in a counselling or treatment programme; to clarify the requirements pertaining to custody and access in protection orders; to strengthen the safeguards for children who may be affected by domestic violence; to provide that temporary maintenance orders included in protection orders may be enforced, and to provide for incidental matters.

95. The Government has also completed a draft Bill to amend the Combating of Rape Act, 2000 (Act No.8 of 2000), the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and the Combating of Immoral Practices Act, 1980 (Act No. 21 of 1980) so as to provide additional coercive circumstances for rape. The amendment Bill will clarify that the minimum sentences for rape apply equally to attempted rape; assign the highest category of minimum sentences for the rape of persons with physical, mental disabilities or other vulnerabilities; impose upon the court the duty to neither regard the testimony of a child as inherently unreliable nor to treat it with special caution simply because the witness is a child; ensure the admissibility of previous statements by child witnesses and to ensure the protection of the accused's rights; alter the minimum sentences for rape; remove the defence of marriage from sexual offences with youths under the Combating of Immoral Practices Act, 1980; and to provide for matters incidental thereto.

96. NDP 5 also addresses GBV. Under NDP 5, the Government aims to increase financial and human capacity of service providers. This strategy will enhance financial and human capacity (police, justice, security and education) of service providers for integrated prevention, protection and response services for victims of GBV, human trafficking and violence.

#### **Children: definition, general principles, protection**

**(Recommendations 137.120, 137.121, 137.122, 137.123, 137.52, 137.54, 137.55, 137.56, 137.57, 137.56)**

97. The Child Care and Protection Act, (Act No. 3 of 2015) (CCPA) has repealed the Age of Majority Act, (Act No. 57 of 1972), which previously made provision for the age of majority to be 21 years. However, Section 10 of the CCPA provides that a person attains the age of majority upon turning 18 years old, to be in line with the Convention on the Rights of the Child.

98. The CCPA proscribes all forms of child marriages and further contains provisions, which are against harmful cultural practices that affect children's rights including child marriage, early sexual activity and child bearing. The Government acknowledges the facts that early and forced marriages do exist in some isolated cases, however, such traditional unions and civil marriages are against the law and once discovered the perpetrator will be charged with statutory rape. The Government through the Ministry of Home Affairs, Immigration, Safety and Security has an e-birth Notification System in place which allows for timely birth registrations. The system is accessible in all district Hospitals.

99. 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. There are large regional disparities. //Kharas in the south has birth registration rate of 96.2%, while the Kavango West region in the northeast has the country lowest birth registration rate of 67.3%. The birth registration has been fully digitalised, and is an integrated part of the e-National Population Registration System, which caters for all vital events from birth to deaths, including ID register. 82.9% of all Namibians hold ID cards.

### **The National Agenda for Children**

100. The National Agenda for Children (NAC) 2018-2022 is the main strategy for child welfare issues in Namibia for the next five years. It is well aligned with key national strategies such as the MGECW strategic plan, the Fifth National Development Plan and the National Strategic Framework for HIV and AIDS which run parallel in more or less the same period. The main objective of this strategy - to ensure that the rights of the children are met, 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**

101. In addition, the Ministry of Health and Social Services introduced the NSF for HIV and AIDS response in Namibia for the period 2017/18–2021/2022. This was the Third National Strategic Framework for HIV and AIDS in Namibia. The NSF uses investment approach thinking to identify the key populations, services and sites that will produce the highest coverage and impact results from intensified programming.

102. The NSF for HIV and AIDS places specific emphasis on addressing HIV and AIDS among children in a holistic way which includes 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.

### **Children: family environment and alternative care**

103. Section 56 (1) of the Education Act, 2001 prohibits corporal punishment in both State and private schools. Four teachers at a private school (Windhoek Gymnasium) were found guilty of inflicting corporal punishment on a learner and were each fined N\$2000<sup>5</sup> (Approx. US\$ 132). Moreover, the National Schools Safety Framework (NSSF) initiated by the Ministry of Education reinforces positive discipline and alternatives to corporal punishment. The CCPA further prohibits corporal punishment in school and public settings.

### **Persons with disabilities (Recommendations 137.209, 137.210, 137.211)**

104. The Government recognises that persons with disabilities face a number of challenges including discrimination. However, the Government continues to hold constructive discussions with civil society organisations that cater for the rights of persons with disabilities to find ways of addressing their challenges. In October 2020, the Ministry of Justice in collaboration with UNDP held a one-day consultative meeting with organisations representing persons with disabilities across the country. During the said consultative meeting, officials from the Ministry of Justice presented a topic on the United Nations human rights system and on state reporting.

105. Namibia has an adequate legal framework that addresses issues pertaining to children with disabilities, especially the Child Care and Protection Act, 2015 and the Combating of Trafficking in Persons Act, 2018, the Combatting of Rape Act, the Education Act, 2020.

106. In an effort to cater for students with disabilities, the Government established resource units in various regions to cater for learners with various disabilities/pre-vocational. Moreover, section 12(1) of the Basic Education Act, 2020 stipulates that:

*The Minister must –*

- (a) *ensure that the national policy on inclusive education is applied in all schools;*
- (b) *ensure that there are available resources, tools and facilities required to effectively implement national policy on inclusive education;*

(c) *provide for a separate vote for the funding of education for learners with disabilities to cater for inclusive education and resource schools in accordance with the decentralisation policy;*

*and*

(d) *where it is reasonably possible, establish specialised centres of resources which support schools in the implementation of the policy on inclusive education addressing the specific needs of learners with disabilities and special needs in education.*

107. In 2019 the Office of the Ombudsman conducted formal hearings on discrimination against persons with albinism, customary practices and myths associated with persons with albinism, violence against persons with albinism and other challenges faced by them. The Ombudsman also invited proposals on how the issues could be addressed, either in new legislation or amending existing legislation or through any other appropriate means. It is worth noting that albinism is regarded as a form of disability in Namibia.

**Members of minorities/marginalised communities including sexual minorities  
(Recommendations 137.69, 137.70, 137.71, 137.72, 137.73, 137.74, 137.212, 137.213,  
137.214, 137.215, 137.217, 137.218, 137.219)**

108. In the Namibian context, indigenous people are, as a state policy, regarded as marginalised communities. The rights and welfare of indigenous peoples remain a government priority. The Draft White Paper on Indigenous Peoples was thoroughly scrutinised by marginalised communities and all relevant stakeholders. Following the preliminary validation by Government and community representatives, the final draft of the document has been submitted to the Ministry of Justice for legal drafters for further processing.

109. The Government continues to ensure that members of marginalised communities receive adequate nutrition. Many members of marginalised communities are beneficiaries of the government sponsored food bank program. The Food Bank program is a pilot project initiated by government to alleviate hunger and starvation in Namibia and its principal target are the poorest communities in Namibia.

110. The ‘back to school and stay at school’ campaign continues to ensure that learners from marginalised communities are not discriminated against and do not drop out of school due to discrimination. Moreover, the Government appointed a number of Development Planners to ensure that all marginalised communities are protected against any form of discrimination. These officials are tasked to ensure that their daily wellbeing is catered for through targeted programs, interventions in collaboration with all line ministries. In addition, the division of Marginalised Communities under the Office of the Vice -President also appointed coordinators from the said communities to serve as focal persons. These focal persons are tasked with the duty of mobilising communities to stand up for their rights and to report any kind of discrimination against them.

111. The Ministry of Home Affairs, Immigration, Safety and Security facilitated the issuance of national documents to members of the marginalised communities during the reporting period. The issuance of these national documents to marginalised communities is the prerequisite to accessing social services.

112. In ensuring that marginalised communities are catered for in the existing labour legislation, a compliance order was issued to farmers who are not adhering to the minimum wage of farmworkers as stipulated in the collective agreement.

113. Sexual minority issues are currently being flagged by the sodomy report and under the obsolete law project under the law reform and proposals for further review and possible areas for reform identified.

### III. Status of implementation of voluntary pledges

114. Namibia has maintained effective working relations with other member states towards ensuring a positive and constructive environment within the Human Rights Council. We remain committed to participating in the streamlining of work of the Human Rights Council and the Office of the High Commissioner for Human Rights, and rendering support to the mechanisms of the Council. Namibia continues to value and support the universal peer review as an effective mechanism which allows for states to engage on issues in a conducive and constructive manner. We further remain committed to retaining our strong engagement in the Third Committee, and will continue to engage with civil society and non-governmental organisations and fellow member states in promoting good governance and human rights at national and international levels.

115. The Covid-19 pandemic has affected the commitment and ability of member States to uphold and protect human rights all over the world. In Namibia, the challenges posed by the Covid-19 pandemic have significantly impacted Namibia's efforts to promote and protect all human rights during the period under review. On 17 March 2020, the Government declared a State of Emergency in terms of article 26(1) of the Namibian Constitution, read together with section 30(3) of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012) on account of the outbreak of Covid-19. The State of Emergency persisted for a period of six (6) months and during that time limited the rights of people to conduct certain business operations and the rights to movement, subject to compliance with articles 21(2) and 22 of the Namibian Constitution which delineate the manner in which fundamental rights and freedoms may be limited. The State of Emergency also included the suspension of certain laws that would otherwise impose heavy burdens on the Namibian people and government throughout the pandemic. Despite any limitations however, the Government was able to efficiently promote the right of persons to health and to water and sanitation through targeted policies that were aimed at ensuring that the country as a whole is poised to fight the Covid-19 pandemic.

116. While other human rights, particularly the right to education and the right to development, have been adversely impacted by the Covid-19 pandemic, it is important to clarify that the Government remains committed and continues to promote these and other human rights through political engagements, socio-economic support and consistent review of policies and regulations.

### IV. Challenges to the protection and promotion of human rights in the country

117. Namibia has experienced the following challenges in the protection and promotion of human rights for all, and welcomes the technical assistance of the OHCHR in addressing these challenges through capacity building:

(a) The absence of a specific law against torture and other cruel inhuman treatment and punishment makes it difficult to prosecute cases of this nature but the legislation is pending and should address these concerns;

(b) Aging infrastructure, the ongoing economic recession and lack of adequate medical professionals affects the full enjoyment of human rights in relation to health;

(c) Although Government has done well in the protection and promotion of rights of persons with disabilities, challenges remain in a number of areas, for example:

- There are no temporary holding cells for PWDs in police stations across the country;
- Access to justice for PWDs remains a challenge as many judicial officials and police officers are not trained on how to assist them;
- Cases of GBV against PWDs remain stubbornly high. There are no statistics to indicate incidences of this nature;

- Negative cultural beliefs towards PWDs still occur in some isolated cases across the country; and
- PWDs are not well represented in politics. Currently there are only two members of Parliament with disabilities and not enough is done to encourage MPs without disabilities to initiate debates and issues regarding disability rights thus leaving persons with disabilities fending for themselves in most instances.

(d) Although the Government has made great strides in providing clean drinking water to most of its citizens, it still lags behind in relation to the provision of sanitation. Less than 50% of Namibians have access to flushing toilets. The situation is dire in rural areas and the Zambezi region is among the hardest hit in the country;

(e) Gender Based Violence and sexual violence continue to hamper Namibia's socio-economic progress. There is a plethora of policies and legislation addressing gender-based violence, sexual violence and any form of assault and violence, however the number of cases remain alarmingly high;

(f) The Government continues to explore effective mechanisms to clarify its position on LGBTQ rights despite existing normative and religious barriers. In the meantime, the Government continues to implement the general right to non-discrimination in the promotion and protection of human rights for all persons in Namibia.

118. Namibia continues to implement human rights based on the principle of equality and the rule of law, and ensuring access to justice and fair trial in its efforts to promote and protect human rights. Namibia remains committed to strengthening its policy and legislative frameworks in order to improve the implementation of human rights for all by addressing challenges to full implementation. We will continue to engage key stakeholders, and take note of international best practices emanating from our international relations in order to achieve the 2030 Agenda and drive the universal goal towards respect for human rights.

#### *Notes*

- <sup>1</sup> The Faculty of Law also offers human rights related subjects such as Humanitarian Law, Labour Law, Human Rights Law, Environmental Law, Public International Law, Ombuds Law, Customary Law, Gender Law, Constitutional Law, Family Law and Divorce, Administrative Law. The Faculty of Law also has a Legal Aid Clinic where students are expected to initiate community impact projects and to make them more responsible citizens.
- <sup>2</sup> (CC 15/2013) [2015] NAHCMD 186. Two other prosecutions have resulted in convictions on charges of trafficking in persons: *S v Jonas* (CC-2017/14) [2019] NAHCMD 262 (31 July 2019) and *S v Koch* (CC-2017/20) [2018] NAHCMD 318 (11 October 2018).
- <sup>3</sup> SA 33/2018) [2019] NASC 7 (12 April 2019).
- <sup>4</sup> Combating of Domestic Violence Act, 2003 (Act No. 4 of 2003).
- <sup>5</sup> *S. v. Van Zyl* (CA 25-2014) (2016) NAHCMD (05 September 2016).