Nations Unies A/HRC/23/36/Add.1

Assemblée générale

Distr. générale
17 mai 2013
Français
Original: anglais

Conseil des droits de l'homme
Vingt-troisième session
Point 3 de l'ordre du jour
Promotion et protection de tous les droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement

Rapport de la Rapporteuse spéciale sur l'extrême pauvreté et les droits de l'homme, Magdalena Sepúlveda Carmona

Additif

Mission en Namibie (1er au 8 octobre 2012)*, **

Résumé

La Rapporteuse spéciale sur l'extrême pauvreté et les droits de l'homme a effectué une mission en République de Namibie du 1er au 8 octobre 2012, conformément aux résolutions 8/11 et 17/13 du Conseil des droits de l'homme. Dans le présent rapport, elle expose ses conclusions et recommandations concernant la protection et la promotion des droits des personnes vivant dans la pauvreté et l'exclusion sociale en Namibie.

Le rapport fait état des très fortes inégalités, héritées du régime colonial, qui existaient au moment de l'indépendance du pays. Tout en reconnaissant que la Namibie doit faire face à des difficultés dont les effet se cumulent − notamment liées à des capacités institutionnelles limitées et à une densité de population parmi les plus faibles du monde − la Rapporteuse spéciale estime que les progrès accomplis n'ont pas été assez rapides. Le niveau des inégalités fondées sur le sexe, la race, la religion, l'appartenance ethnique ou sociale demeure inacceptable.

Des recommandations précises sont formulées dans le rapport pour faire en sorte que les politiques et programmes bénéficient aux plus pauvres parmi les pauvres et leur permettent de jouir de leurs droits fondamentaux sur un pied d'égalité avec le reste de la population.

* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport, qui est joint en annexe au résumé, n'est distribué que dans la langue originale.
** Soumission tardive.

Merci de recycler

Annexe

[*Anglais seulement*]

Report of the Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona, on her mission to Namibia from 1 to 8 October 2012

Contents

		Paragraphs	*Page*
I.	Introduction	1–3	3
II.	General context	4–8	3
III.	Legal and institutional framework	9–16	4
IV.	Groups particularly vulnerable to poverty	17–53	5
	A. Women	19–29	6
	B. Children	30–40	8
	C. Persons with disabilities	41–45	10
	D. People living with HIV/AIDS	46–49	11
	E. Sex workers	50–53	12
V.	Challenges in the realization of specific rights by people living in poverty	54–86	13
	A. Right to education	54–59	13
	B. Right to health	60–66	14
	C. Right to adequate housing and access to land	67–72	16
	D. Right to work	73–76	17
	E. Right to social security	77–86	18
VI.	Obligations of international assistance and cooperation	87–89	19
VII.	Conclusions and final recommendations	90–91	20

I. Introduction

1. In the present report, the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda, documents the findings of her mission to Namibia from 1 to 8 October 2012. During the visit, the Special Rapporteur collected first-hand information that provided an overview of the human rights situation of people living in extreme poverty in order to conduct a human rights-based analysis of key public policies relating to poverty alleviation, development and social protection. The Special Rapporteur met with various government authorities, including the Prime Minister and representatives of the Ministries of Foreign Affairs, Labor and Social Welfare, Finance, Agriculture, Water and Forestry, Justice, and Home Affairs and Immigration. She also met with representatives of the National Planning Commission, the Social Security Commission, the Anti-Corruption Commission, the Ombudsman Office and with local authorities in Kavango (Rundu).

2. In addition, she also held meetings with representatives from international organizations, donors, civil society and grass roots organizations. She visited and met with communities living in poverty in the Omaheke, Kavango, Khomas and Karas regions. The main sources of the data included in the report are official documents of the Government of Namibia and United Nations agencies.

3. The Special Rapporteur expresses her gratitude to the Government of Namibia for its full cooperation during her mission. She also extends her thanks to the office of the United Nations Resident Coordinator in Namibia for providing support both before and during the visit. She is especially grateful to all those who met with her and shared their personal experiences of living in extreme poverty and social exclusion in Namibia.

II. General context

4. In 1990 Namibia emerged as an independent country, inheriting as legacies of colonial rule huge disparities in income, land distribution, participation in the labour market and access to services. Since independence, Namibia has enjoyed political stability and steady economic growth, achieving the status of a middle-income country.

5. While the Gross Domestic Product has increased considerably, the poorest sectors of Namibian society have not benefited equally; the benefits of economic growth have not trickled down to the poor. According to official estimates, 29 per cent of the population live below the poverty line and 15.3 per cent are severely poor.[1] When assessing vulnerability to poverty, most recent estimates indicate that almost half the population is at risk of falling into poverty.[2]

6. Although during the past two decades subsequent Governments have recognized the need to address endemic inequality, there has been little progress since independence and Namibia remains one of the most unequal countries in the world.[3] Poverty is particularly widespread in rural communities, where 62 per cent of Namibians reside. People living in

[1] Namibia Statistics Agency, "Poverty Dynamics in Namibia: A comparative study using the 1993/94, 2003/04 and the 2009/10 NHIES surveys", November 2012, pp. 10-11 and 40.

[2] Namibia Statistics Agency, "Child Poverty in Namibia: A child-centered analysis of the NHIES 2009-2010", November 2012, pp. 5-6.

[3] Namibia Statistics Agency, Namibia Household Income and Expenditure Survey 2009/2010 (NHIES 2009/2010), p. 141.

rural areas are twice as likely to be poor compared to those in urban areas and the incidence of severe poverty in rural areas is almost three times higher than in urban areas.[4]

7. Despite considerable budgetary investment towards public services over the years,[5] the accessibility and quality of public services essential for the enjoyment of rights such as health and education remains questionable for a large percentage of the population, particularly those living in rural areas and those belonging to marginalized groups (such as people living with HIV/AIDS, persons with disabilities and minority language groups). The limited access to services in rural areas is particularly disconcerting, as poverty in Namibia correlates positively with distance to facilities and access to services.[6]

8. While acknowledging the compounded challenges faced by Namibia – including the problematic legacies of apartheid and the fact that Namibia has one of the world's lowest population densities – much more can be done to comply with obligations in respect of economic, social and cultural rights. In particular, given the country's rich natural resources, the State must ensure the satisfaction of, at the very least, minimum essential levels of enjoyment of economic, social and cultural rights.

III. Legal and institutional framework

9. The Constitution of the Republic of Namibia (1990) enshrines in chapter 3 a list of "Fundamental Human Rights and Freedoms". However, this Bill of Rights includes mainly civil and political rights. Economic, social and cultural rights are referred to in Chapter 11 as "Principles of State Policy" (Art. 95) and are not justiciable.

. Nonetheless, as a State party to the core United Nations Human Rights treaties, such as the International Covenant on Economic Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, Namibia is under the obligation to ensure the realization of several economic social and cultural rights for all Namibians, without discrimination of any kind.

11. While Namibia has a monist approach to the domestication of international treaties (art. 144 of the Constitution), this has not been translated into practice. The Special Rapporteur is concerned that without legislative transposition the realization of human rights remains incomplete and depends on legal interpretation by the judiciary.

12. In addition to its constitutional and international obligations, Namibia has adopted a robust legal framework for the protection of rights that includes the Racial Discrimination Prohibition Act, Affirmative Action (Employment) Act, Married Persons Equality Act and Combating of Domestic Violence Act, Social Security Act and Education Act. However the Special Rapporteur observes that there are huge gaps between laws and policies and their implementation and monitoring. The challenges in implementation are major obstacles in the enjoyment of rights by the Namibian population.

13. The Constitution and legislation also establish important institutions for the protection of rights. Prominently, the Ombudsman is empowered to investigate allegations concerning the violations of fundamental human rights and to protect, promote and enhance respect for human rights in the country. While the Ombudsman Office enjoys an "A" status accreditation by the International Coordination Committee of National Human Rights Institutions, concerns have been raised with regard to the low number of human rights

[4] "Poverty Dynamics in Namibia" (see Note 1 above), pp. 12 and 16-17.
[5] A/HRC/WG.6/10/NAM/1 and Corr.1, p. 15.
[6] "Poverty Dynamics in Namibia" (see Note 1 above), pp. 5 and 27.

complaints received, its limited presence outside the capital and the low level of compliance by the Government with its recommendations. The Special Rapporteur welcomes the initiative of the Ombudsman to develop a Human Rights Action Plan. Nonetheless, she is concerned that the mandate of the Ombusdman to investigate human rights violations only refers to rights contained in the Namibian Bill of Rights, which exclude most economic, social and cultural rights.

14. The Anti-Corruption Commission, established in 2006,[7] is an independent and impartial body empowered to receive, initiate and investigate allegations of corruption. While Namibia has adopted anti-corruption legislation and has ratified several regional and international anti-corruption instruments, reports received by the Special Rapporteur indicate that corruption is on the rise in Namibia. Moreover, there is a gap in the legislative framework with regard to access to information, protection of whistle-blowers, and transparency and accountability of the public sector, particularly in relation to the interface between the Government and the private sector.

15. The development vision and strategies have been incorporated into the country's long-term vision: "Vision 2030" (2004) and the Fourth National Development Plan (NDP4) (2012/2013 to 2016/2017). The development strategies have been aligned to the achievement of the Millennium Development Goals and acknowledge the State's commitment to uphold the Constitution, good governance and the strengthening of human rights.[8] However, the Government's implementation of these strategies is not succeeding in reversing the ever-widening gap between rich and poor in Namibia. During her mission the Special Rapporteur identified implementation gaps in almost all aspects of poverty reduction and development strategies. The absence of time-bound benchmarks, effective accountability and monitoring mechanisms, and a substantial skills gap in service provision have resulted in inefficient government spending, limited implementation and unsatisfactory results in the key areas for the enjoyment of rights such as education, health, housing and land reform and social protection strategies, which are analysed in the following sections.

16. Despite several positive initiatives (such as the consultation on the Child Protection Bill and the Participatory Poverty Assessment (2003-2006)), Namibia has not put in place the necessary structures to facilitate participation by people living in poverty in decision-making processes for the monitoring of the implementation of public policies and programmes. Meaningful participation of people living in poverty in Namibia is also hampered by the concentration of decision-making and resources in the capital. Despite the fact that Namibia has been undergoing a decentralization policy since 1998, this process has been slow and limited.[9]

IV. Groups particularly vulnerable to poverty

17. Although poverty is widespread, several groups are particularly vulnerable to poverty and social exclusion. The subsections below summarize the human rights concerns regarding some of these groups.

18. Despite the fact that indigenous groups are particularly vulnerable to poverty in Namibia, in the spirit of coordination and collaboration between human right mechanisms,

[7] Anti-Corruption Act No. 8 of 2003 (chap. 2) and article 94A, Namibian Constitution Second Amendment Act 2010 (Act No. 7 of 2010).

[8] Namibia's Fourth National Development Plan (NDP4), pp. 4-8.

[9] Clement Daniels and Frederico Links, "Towards a National Integrity System", IPPR Research Paper 1, Institute for Public Policy Research, May 2011.

this section does not provide an analysis of their situation and should be complemented with the report of the Special Rapporteur on Indigenous Peoples (A/HRC/24/41/Add.1), who also visited the country in 2012.

A. Women

19. Namibia provides robust legal protection for women through its Constitution and legislation[10] and the National Gender Policy provides mechanisms and guidelines for all relevant stakeholders to facilitate gender equality and women's empowerment in implementing developmental policies and programmes.

20. Despite the positive institutional and legal framework, women in Namibia continue to be economically and socially marginalized. Women are 1.23 times more likely to be poor than men and they are disproportionately affected by unemployment, HIV/AIDS and lack of access to land.[11] A combination of several structural causes, including legislation, macro-economic policies and discriminatory cultural practices is limiting women's entitlements in terms of access to land, credit facilities and public services, as well as their participation in public life. In addition their economic marginalization is perpetuated and they are prevented from enjoying their human rights on an equal footing with Namibian men.

21. In many spheres of life, and especially under customary law, women are still subject to unequal treatment due to traditional attitudes and gender stereotyping. The Communal Land Reform Act (2002), which aimed to increase women's access to communal land, has had a positive impact by repealing previously discriminatory customary practice which prevented widows from remaining on communal land allocated to their deceased husbands. However the Special Rapporteur is concerned that, according to information received, the implementation of the Act in rural areas is limited, hampering its effectiveness. Moreover, the Act failed to address the issue of "property grabbing", i.e. the removal of moveable assets that belonged to the deceased husband, which limits the ability of women to make productive use of the land.[12] Equally concerning is that, despite the great number of women married under customary law, the Equal Marriage Act does not apply to customary marriage.

22. Evidence suggests that the neglect of women's rights has continued despite more than two decades of independence, with maternal mortality remaining exceptionally high and with virtually no progress in this regard.[13] Inequitable access to health services as well as the HIV epidemic have played a part in the virtual doubling of maternal mortality from 271 in 2000 to 449 in 2006/7.[14] This is a tragic and totally preventable reality.

23. The Special Rapporteur is particularly concerned about the insufficient coverage of basic emergency obstetric care facilities, especially in the northern regions of Namibia.[15] Although Namibia has made tremendous progress towards ensuring that all mothers receive

[10] Article 10 of the Constitution of the Republic of Namibia, Labour Act 1992, Affirmative Action (Employment) Act 1998, and Local Authorities Act 1992.

[11] "Poverty Dynamics in Namibia" (see Note 1 above), p. 12.

[12] Dianne Hubbard, "Law reforms which promote women's rights to land and property: developments and proposals in Namibia", expert paper, Legal Assistance Centre (June 2012).

[13] WHO, *Trends in Maternal Mortality: 1990 to 2010, WHO, UNICEF, UNFPA and The World Bank estimates* (2012).

[14] UNICEF and UNAIDS, "Children and HIV and AIDS in Namibia", October 2011, p. 20.

[15] WHO, "Maternal and child health in Namibia" (2009), p. 9; World Bank, Namibia – Health sector note (2010), p. 40.

good antenatal care and have skilled birth attendants, access to postnatal care remains more limited, particularly in rural areas.[16]

24. Considering that complications of abortion is the second most important cause (20.7 per cent) of maternal mortality, the limited legalization of abortion and the complicated administrative process for obtaining approval for abortion are extremely concerning, particularly as this disproportionately affects poor women. The Special Rapporteur calls on the Government to address the fact that when women are forced to undertake illegal interventions, they face an increased risk of maternal mortality.[17] The criminalization of abortion has also been linked to the increasing phenomenon of infanticide and baby dumping,[18] making it an urgent priority for the State to reassess its policy, ensuring that the right to life of all women, without discrimination of any kind, is protected.

25. The Special Rapporteur is also alarmed by incidents of forced sterilization of women who are HIV positive.[19] Poor women are particularly at risk of unwanted medical intervention, given that they have less access to information and legal recourse. During her visit the Special Rapporteur met with three women whose cases of forced sterilization have recently been brought before the courts. She was disturbed by the fact that the Government has appealed the case on the basis of a technicality, especially given that the main motivation of these women is for the Government to take active measures to stop the generalized practice of forced sterilization of women.

26. The socio-economic inequality of women and girls and some negative cultural practices are at the root of widespread gender-based violence in Namibia, which is a grave and persisting human rights concern. Poverty is both a contributing factor to, and a result of, gender-based violence. Women's lower economic status and lack of economic autonomy create relationships of dependence and increase their vulnerability to abusive relationships, poverty, social exclusion and disempowerment.

27. While Namibia has put in place a strong legal framework to address the various forms of gender-based violence and sexual exploitation,[20] ineffective implementation prevents Namibian women from enjoying their rights to life, security of person, and bodily integrity. Studies indicate that many female victims of violence experience continuing problems when turning to the police, including unsympathetic police attitudes, slow response times, failure to follow up on complaints, and inadequate investigations.[21]

28. There are currently 15 Women and Child Protection Units, intended as specialized police units, which can provide sensitive responses to gender-based violence. However, these units suffer from training shortcomings, frequent transfer of personnel, lack of adequate transport, lack of support and supervision for staff, staff shortages and lack of adequate facilities and equipment. There are currently only a few temporary shelters and places of safety in the country and risk assessments are not undertaken at an early stage. The implementation of the Combating of Domestic Violence Act 2003 has also encountered administrative difficulties. Significant problems have been identified with the

[16] World Bank, Namibia – Health sector note (see Note 15 above), p. 41.

[17] WHO, "Maternal and Child Health in Namibia" (2009), p. 18.

[18] Dianne Hubbard, "Baby-dumping and Infanticide", Monograph No. 1, Monograph Series, Legal Assistance Centre, 2008.

[19] High Court of Namibia, Case no. 1603, 3518, 3007/2008 *L. M., M. I. and N. H.* v. *the Government of the Republic of Namibia*, 30 July 2012.

[20] Combating of Rape Act (Act No. 8 of 2000), Combating of Domestic Violence Act (Act No. 4 of 2003).

[21] "Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003", summary report, Gender Research and Advocacy Project, Legal Assistance Centre, 2012.

processes of application for and serving of Protection Orders as well as compliance with their provisions.[22]

29. Economic dependency on men and discriminatory cultural practices lead to high rates of adolescent pregnancies (15 per cent of women aged 15-19). Adolescent pregnancies are strongly correlated with a mother's educational attainment, household wealth and regional location.[23] Teenage pregnancy in turn leads to early school dropouts and reinforces a vicious cycle of economic and social disempowerment. Despite this disturbing trend, counselling on reproductive health issues is often not available for adolescents and youth. It is reported that the measures taken by the Government have been insufficient to address the problem. For example, the uptake of the Health Promoting School Initiative implemented by the Ministry of Health and Social Services has been uneven and weak.[24]

B. Children

30. Namibia has a relatively youthful population, with 37.2 per cent of the population under 15 years of age and only 6.6 per cent over 60.[25] It is therefore of grave concern that children are disproportionately affected by poverty and malnutrition. About 34.4 per cent of children in Namibia live in poverty[26] and households with children are 77 per cent more likely to be poor compared to households without children.[27] When assessing the multidimensional aspects of poverty (such as material deprivation and lack of access to basic utilities), poverty is even more widespread.

31. Child poverty undermines the capacity of children to survive, develop and thrive and impedes the realization of their human rights, particularly the right to survival and development (see Convention on the Rights of the Child, art. 6). Poverty prevents children from enjoying equal opportunities and undermines family and community environments, leaving children vulnerable to exploitation, violence and discrimination. Poverty in childhood is also a root cause of poverty in adulthood.

32. The United Nations Children's Fund (UNICEF) has estimated that up to 40 per cent of children are undernourished to some degree, and moderate or severe stunting appears to have increased in recent years. Children's nutrition status is directly linked to the health and socioeconomic situation of the mother as well as to geography.[28] Malnutrition is a significant cause of child mortality and Namibia is not on track to achieve Millennium Development Goal 4. Much like maternal mortality, infant and child mortality is higher in rural areas and among the poorest.[29]

[22] Ministry of Safety and Security and Ministry of Gender Equality and Child Welfare, UNICEF, UNFPA and UNDP, Namibia: Assessment of women and child protection services in five regions to inform development of an integrated system, September 2011, pp. 11-12.

[23] World Bank, Namibia – Health Sector note (see Note 15 above) pp. 42-43; UNICEF and Namibia National Planning Commission, "Children and Adolescents in Namibia 2010: A Situation Analysis", (Windhoek, Namibia, 2010) pp. 78-79.

[24] "Children and Adolescents in Namibia 2010" (see Note 23 above), p. 80.

[25] National Planning Commission, UNFPA, *Namibia 2011 Population and Housing Census: Preliminary Results*, April 2012.

[26] "Child Poverty in Namibia: A child-centered analysis of the NHIES 2009-2010" (see Note 2 above), p. 5.

[27] UNICEF and UNAIDS, Children and HIV and AIDS in Namibia (see Note 14 above), p. 7.

[28] "Children and Adolescents in Namibia 2010" (see Note 23 above), pp. 63-66.

[29] WHO, "Maternal and Child Health in Namibia" (see Note 15 above), p. 31; Namibia Demographic and Health Survey 2006/7.

33. The Special Rapporteur welcomes recent government initiatives to address these problems, including the 2010 Road Map for Acceleration of the Reduction of Maternal and Neonatal Mortality, A Promise Renewed, the scaling up of the Anti-Retroviral Treatment and Prevention of Mother-to-Child Transmission of HIV programmes and the School Feeding Programme.

34. Violence against children remains widespread, including sexual violence. Four out of ten rape cases involve the rape of a child and over 25 per cent of children under 12 have been forced to have sexual intercourse.[30] The response of the legal and child protection system, in particular in cases of sexual violence against children, remains inadequate. Improvements are necessary in a variety of areas, from the availability and functioning of the Women and Child Protection Units, to the number of social workers, public awareness raising and police training.

35. Under its human rights obligations, in particular the Convention on the Rights of the Child, Namibia has the obligation to protect and promote the rights of all children in its territory, without discrimination of any kind and irrespective of the sex, race, national origin, ethnicity or other status of the child or their parent. Despite significant budgetary investment,[31] considerable gaps remain in both coverage and quality of basic services for children, with large socio-economic and geographical variations in access and significant challenges in quality. During the visit, the Special Rapporteur witnessed serious gaps in basic public service provision for poor children, children living in rural areas, non-registered children, children with disabilities, children living with HIV/AIDS, orphans and children born to non-Namibian parents

36. The situation of orphans is particularly concerning. Namibia has a large growing number of orphans and vulnerable children (OVCs), mainly as a result of the HIV/AIDS epidemic.[32] The Special Rapporteur acknowledges that Namibia has developed a system of alternative care and seeks, as far as possible, to keep a child within his or her social context, before options of removal to a residential facility or for adoption are considered. However, problems occur in coordination of services, training and support of staff. Lack of trained social workers, heavy workloads and time-consuming administrative tasks impact on the effectiveness and quality of services provided to orphans and vulnerable children. Facilities for children in need, such as places of safety or children's homes are also in short supply.[33]

37. Every child has the right to a legal identity, as laid out in the Convention on the Rights of the Child and stated in the Namibian Constitution. Without a birth certificate, children encounter difficulties in enrolling in school, receiving health care or child welfare grants. To ensure that children enjoy their rights, it is vital to register children at birth. In 2007 only around two-thirds of children had their births registered, with the poorest children almost half as likely to have been registered compared with children from the richest quintile.

38. The Special Rapporteur welcomes recent progress made by the Government towards ensuring universalization of birth registration. However, further efforts are needed to ensure that the poorest children, including those living in the most isolated areas, are registered. Furthermore, the Birth Marriage and Death Registration Act of 1963, which regulates birth

[30] Namibia National Plan of Action for Orphans and Vulnerable Children, 2006-2010 (Windhoek, 2007).

[31] The African Child Policy Forum (ACPF), "The African Report on Child Wellbeing 2011: Budgeting for children. Country brief: Namibia" (Addis Ababa, 2010).

[32] "Children and Adolescents in Namibia 2010" (see Note 23 above), p. 15. and 2010/11 estimates – UNICEF and UNAIDS, Children and HIV and AIDS in Namibia (see Note 14 above), p. 1.

[33] "Children and Adolescents in Namibia 2010" (see Note 23 above), pp. 42-44.

registration, is outdated and inadequate. It should be modified as a matter of priority with the aim of facilitating the registration of children.

39. The Special Rapporteur is particularly concerned with the status of orphan children born in Namibia to parents of Angolan origin. Many of these children are not registered at birth and have no proof of parentage and therefore are at risk of statelessness as they cannot demonstrate that they are Namibian or have acquired Angolan or another nationality by descent. These children are unable to receive any benefits or access public services. She notes that the 1961 Convention on the Reduction of Statelessness establishes a range of standards to prevent statelessness at birth and later in life; thus it is of central importance to full enjoyment of every child's right to acquire a nationality under the Convention on the Rights of the Child.

40. The Special Rapporteur welcomes the progress made in the drafting of the Child Care and Protection Bill and the extensive public consultation process undertaken. The Bill will provide mechanisms for the care and protection of Namibian children which are sorely lacking today, such as the recognition of kinship care and child-headed households, the regulation of alternative care, and protection of children against trafficking abuse and exploitation. Nonetheless, she regrets that the Bill has yet to be adopted. The enacting of this long-awaited Bill will be a crucial step towards securing children's rights in Namibia.

C. Persons with disabilities

41. According to the information available, approximately 5 per cent of Namibians live with a disability and the majority of persons with disabilities live in rural areas. They have significantly less access to education, employment opportunities, information, health facilities and transport and are disproportionately impacted by poverty. Unemployment is higher among persons with disabilities,[34] who are more highly represented amongst unpaid family workers and the self-employed, are underrepresented amongst the private and public sectors and have lower incomes.[35]

42. While the Special Rapporteur welcomes the fact that Namibia has ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol, it has not done enough to implement it in practice. Moreover, it has not yet submitted its first report to its supervisory body. The 1997 National Disability Policy has not been amended following the ratification of the Convention, and its implementation has been partial. There is a lack of coordination amongst the Ministries with responsibility for the design, implementation and evaluation of disability services. The National Disability Council was only appointed in 2008 and reportedly is not receiving the necessary budget for its operations.

43. Moreover, there is a lack of updated and disaggregated data on the characteristics and needs of this section of the population, thus preventing public policies from effectively reaching and addressing the needs of persons with disabilities. While the legal system addresses some issues of discrimination against persons with disabilities, particularly in the workplace,[36] the regulatory framework remains inadequate and the existing legislation is not effectively implemented. A major concern is the limited access for persons with disabilities to public buildings, public transport and information, in contravention of the

[34] Southern African Federation of the Disabled and United Kingdom Department for International Development (DFID), "Disability Policy Audit in Namibia, Swaziland, Malawi and Mozambique", Final Report, July 2008, pp. 27-28.

[35] Vision 2030, chap. 4, p. 118.

[36] Labour Act and the Affirmative Action Act (see Note 10 above).

obligations assumed under the Convention on the Rights of Persons with Disabilities (art. 9). Moreover, the negative attitudes of the community towards people with disabilities are an additional barrier preventing persons with disabilities from enjoying their human rights on an equal footing with the rest of society.

44. The Special Rapporteur is particularly concerned about reports that, according to unofficial estimates, as many as 50 per cent of children with disabilities never attend primary education.[37] There are currently only nine schools in Namibia specializing in children with disabilities, seven of which are based in Windhoek, and the integration of children with disabilities in regular schools is hampered by a lack of accessible facilities and inadequate teacher training.[38] While the Special Rapporteur welcomes the recently drafted National Inclusive Education Policy, currently pending adoption by the Cabinet, she calls on the State to take immediate measures to ensure access to education for children with disabilities.

45. Namibia is to be commended for putting in place a social grant system for persons with disabilities. However, as indicated below, the grant consistently fails to reach the majority of beneficiaries[39] and the value of the grant remains too low to meet their needs.

D. People living with HIV/AIDS

46. The HIV/AIDS epidemic is the most pressing health issue in Namibia, which is one of the 10 countries most affected by HIV/AIDS in the world.[40] HIV prevalence contributes to the high maternal mortality rate, as well as infant and child mortality. The epidemic has a disproportionate impact on women, and poor women are particularly vulnerable to HIV infection.[41] Women's economic marginalization forces them to depend on men and increases the likelihood of involvement in transactional and inter-generational sex, both of which are key drivers of the epidemic.[42]

47. The Special Rapporteur welcomes the significant programmes implemented to alleviate the epidemic, such as the Prevention of Mother to Child Transmission and Anti-Retroviral Therapy programmes, which achieved high levels of coverage and positive impact. She also welcomes the newly adopted National Strategic Framework for HIV and AIDS 2010/11-2015/16, which sets ambitious new universal access targets and prioritizes HIV prevention.

48. Nevertheless, the scale-up and effectiveness of the national response is hindered by the weak institutional setup and functioning of multisectoral coordination mechanisms within the Ministry of Health and Social Services and among civil society organizations, private sector and development partners. Moreover, the voice of people living with HIV/AIDS is not adequately incorporated in national, regional and local coordination and oversight mechanisms.

[37] "Disability Policy Audit in Namibia, Swaziland, Malawi and Mozambique" (see Note 34 above), (July 2008), p. 27.

[38] Children and Adolescents in Namibia 2010 (see Note 23 above), p. 46.

[39] Ministry of Finance, Government Accountability Report 2009-2010 (available at: http://www.mof.na/Downloads/Budget%20Documents/budget%202011/budget%20new/Government%20Accountability%20Report.pdf

[40] UNAIDS, "No Namibian should die from AIDS: Universal access in Namibia, scale up, challenges and way forward", June 2011, p. 7.

[41] UNAIDS, Global Report, UNAIDS Report on the Global AIDS Epidemic (2010) p. 130.

[42] Ibid.; Republic of Namibia, Ministry of Health and Social Services, USAID-Namibia and MEASURE EVALUATION, "HIV/AIDS in Namibia: Behavioral and Contextual Factors Driving the Epidemic", 2009.

49. Namibia has put in place a strong legislative framework and policies to deal with stigma and discrimination against people living with HIV/AIDS. However, according to information received, implementation of such policies falls short and people living with HIV/AIDS continue to face stigma and discrimination in their communities, workplaces and when accessing public services. The Special Rapporteur received disturbing testimonies of stigma and discrimination against people living with HIV by health workers in clinics and hospitals and of failure to respect their right to privacy. She also received information on high levels of unemployment among people living with HIV/AIDS, including those who had lost their jobs due to their HIV/AIDS status.

E. Sex workers

50. The criminalization of sex work in Namibia lies at the foundation of a climate of stigma, discrimination and violence surrounding sex work. During her visit, the Special Rapporteur heard testimonies from sex workers of recurring police abuse and high levels of violence, including the confiscation of condoms, arbitrary detention and rape. Such abuse severely compromises sex workers' personal safety as well as their right to equal protection of the law. Moreover, it creates a climate of impunity that fosters further violence and discrimination against sex workers in the community at large.

51. Stigma, discrimination and violence often discourage sex workers from accessing public services, particularly health care, thereby violating their rights as well as hampering efforts to reduce the spread of HIV/AIDS.[43] It also discourages them from seeking justice and redress when their rights are violated. The discrimination that they suffer is also often evident in other spheres such as education and employment.

52. Particularly concerning is the lack of access by sex workers to comprehensive sexual and reproductive health services, including access to safe and legal abortion.[44]

53. Due to these multifaceted human rights violations, sex workers remain disproportionately affected by HIV.[45] The Special Rapporteur welcomes the National Strategic Framework for HIV and AIDS 2010/11-2015/16, which identifies sex workers as a priority; however, the information on the extent of sex work in Namibia and the needs and challenges faced by sex workers remains limited. There are no national guidelines for effective, rights-based programming for this sector of the population. In line with its human rights obligations, Namibia is obliged to provide all persons equal and effective protection of the law and take measures to prevent and combat indirect systemic discrimination on the form of legal rules, policies, practices or predominant cultural attitudes in either the public or private sector which create relative disadvantages for some groups in the enjoyment of their rights.[46]

[43] United Nations Population Fund (UNFPA) and UNAIDS, "Sex work, HIV and Access to Health Services in Namibia: National Meeting report and recommendations" (2011).

[44] Ibid., pp. 10-15.

[45] UNFPA and UNAIDS, "Sex work and HIV – Reality on the ground: Rapid assessments in five towns in Namibia" (2011).

[46] Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

V. Challenges in the realization of specific rights by people living in poverty

A. Right to education

54. Education is a human right and a vehicle for empowerment, by which economically and socially marginalized groups, particularly children, can lift themselves out of poverty and obtain the means to participate fully in their local communities and broader economic and public life. This is clearly illustrated in Namibia, where poverty is declining alongside an increase in educational attainment.[47]

55. The Constitution of Namibia (article 20) and the Education Act of 2001 guarantee the right of every citizen in Namibia to free compulsory primary education. Since independence, Namibia has achieved impressive results in primary school enrolment rates and is on track to achieve Millennium Development Goal 2 by 2015.[48] Namibia is also to be commended for the significant and consistent levels of investment in the education sector since independence. Nonetheless, the Special Rapporteur is concerned that, despite the significant investment in education, the education system remains of poor quality and lags behind in international rankings. Investment has not translated into good quality education for all, a fundamental element of the right to education.[49] While low educational outcomes are in part a legacy of the colonial era, independent Namibia has not managed to address these weaknesses significantly in the last two decades.

56. The inequitable distribution of wealth and income mirrors inequalities in education. Urban children from relatively wealthy and well-educated families are performing better at primary school and therefore achieving greater access to secondary school and subsequent economic opportunities than children from rural, remote and less well-off families.[50] Several factors, such as distance from schools in rural areas, lack of available and affordable transportation, and costs of uniform and materials, often impede access to education and contribute to significant dropout rates and low educational outcomes, particularly for the poorest and most marginalized children.

57. Despite the fact that the Government has identified the lack of infrastructure and qualified teachers as barriers to improving the quality of education,[51] severe gaps in school infrastructure and availability of schooling materials persist. Many schools, particularly in disadvantaged areas, are in a bad state, lacking sanitation facilities, equipment and materials.[52] According to information received, education outcomes are additionally hampered by an insufficient teacher-student ratio and poor teacher training.

58. The Special Rapporteur is also concerned about the limited implementation of the Language Policy for schools.[53] The lack of teachers and teaching materials in minority languages means that marginalized groups, such as the San, are not able to receive

[47] "Poverty Dynamics in Namibia" (see Note 1 above), p. 21.
[48] UNICEF Namibia, "Improving quality and equity in education in Namibia: a trend and gap analysis", 2011, p. 10.
[49] Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999) on the right to education.
[50] UNICEF Namibia, "Improving quality and equity in education in Namibia" (see Note 48 above), pp. 3, 27 and 28.
[51] NDP4 (see Note 8 above), pp. 45-50.
[52] UNICEF Namibia, "Improving quality and equity in education in Namibia" (see Note 48 above), pp. 3 and 19.
[53] "Children and Adolescents in Namibia 2010" (see Note 23 above), p. 70.

instruction in their mother tongue,[54] in contravention of international human rights principles.[55] The Special Rapporteur welcomes the Ministry of Education's recent pledge[56] to supply textbooks to all Namibian children by the end of 2013. However, she stresses the importance of ensuring that textbooks are available in minority languages.

59. During her visit, the Special Rapporteur expressed particular concern with regard to the negative impact of the School Development Fund (SDF) scheme on the enjoyment of the right to education. Therefore, she welcomes a recent decision by the Ministry of Education to eliminate the SDF and its commitment to providing schools with the necessary fund from State budget. This is indeed a very positive development. Nonetheless, she stresses that the elimination of the SDF is not sufficient in itself to enable the most disadvantaged children to enjoy their right to quality education, and that to this end comprehensive measures must be taken.

B. Right to health

60. In recent years, Namibia has made a substantive investment in public health. The improvement of public health outcomes is a core component of the country's development strategy and in the 2012/13 national budget the health sector received the second largest share of the budget.[57] The Government has also recently scaled up institutions and programmes to address maternal, infant, and under-five mortality rate, as well as the prevalence of HIV/AIDS.[58]

61. However, Namibia continues to face significant public health challenges, particularly a high maternal and infant mortality ratio and prevalence of communicable diseases, in particular HIV and tuberculosis. Life expectancy and maternal mortality are at the same levels as at independence.[59]

62. The enjoyment of the right to the highest attainable standard of health varies considerably depending on socio-economic status and geographic location. Stark inequalities exist between rich and poor in access to health services. For example, 98 per cent of births of the wealthiest 20 per cent of the population are attended by skilled health personnel by comparison with 60 per cent for the poorest 20 per cent. Under-5 mortality is also substantively lower in the wealthiest 20 per cent.[60] The persistent inequalities in access to and quality of health services between regions and socio-economic groups are particularly disturbing.

63. The Special Rapporteur is concerned about the limited accessibility and affordability of health services[61] due to the policy of imposing "user fees" in the public health-care system. While health user fees are seemingly low (between 4-8 Namibia dollars), for the poorest segments of the population the payment of even the smallest user fee poses an

[54] Ibid., p. 74.

[55] Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 4, para. 3.

[56] http://www.newera.com.na/articles/50032/One-child--one-textbook---Iyambo

[57] NDP4 (see Note 8 above), pp. xv and 54.

[58] Ministry of Health and Social Services: National Health Policy Framework 2010-2020; Strategic plan for nutrition 2011-2015; Guidelines for the Prevention of Mother-to-Child Transmission of HIV, National Strategic Framework for HIV and AIDS Response in Namibia 201011 –2015/16 and the Roadmap for Accelerating the Reduction of Maternal and Neonatal Morbidity and Mortality (2010).

[59] NDP4 (see Note 8 above), p. 59.

[60] World Health Organization Namibia: health profile, 4 April 2011.

[61] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health.

insurmountable barrier to accessing health-care services, especially as this cost comes on top of transportation and other indirect costs that they have to bear to reach health centres. Although a waiver system exists, it is inconsistently implemented and poor people (including people living with HIV/AIDS) are often stigmatized or refused adequate treatment on the basis of their inability to pay the fees. Given the regressive nature of the user fee system, abolishing it may be a direct way to increase access to health services for the most disadvantaged segments of society and to diminish the existing inequalities in health service provision.

64. The inequality in the enjoyment of the right to health is also reflected in the severe gaps in institutional capacity as well as the shortage of skilled health-care professionals, particularly in rural by comparison with urban areas.[62] There is a disproportionately large number of health-care facilities and health workers in urban areas as compared to rural areas (76 per cent of doctors work in urban areas as compared to 24 per cent in rural areas). There is also a significant misdistribution of health human resources between private and public health services.[63] Substantial differences in geographical distances to medical facilities exist between urban and rural areas, and transport costs to health-care services have been identified as a major limiting factor for low-income and poor people in accessing health services.[64]

65. Information received by the Special Rapporteur also suggests that health-care personnel often lack appropriate training, discriminate against vulnerable and disadvantaged groups such as persons living with HIV/AIDS and sex workers, and that there are no effective accountability mechanisms when they fail to respect the rights of patients, such as the right to informed consent and confidentiality or to address dishonest or unlawful practices such as a high level of absenteeism and requests for illegal payments.

66. The Special Rapporteur is also concerned about information received on the obstacles that particular groups such as prisoners and lesbian, gay, bisexual and transsexual (LGBT) persons encounter in accessing condoms, a situation that is hampering their enjoyment of their right to health.

C. Right to adequate housing and access to land

67. Given that most Namibians live in rural areas[65] and depend on subsistence farming, access to land is a precondition for poverty reduction. While acknowledging that at independence Namibia had massive levels of land dispossession affecting the black majority, the Special Rapporteur notes that land reform has been a slow and ineffective processes and the criteria for selection of beneficiaries has been unclear and complicated. While the Affirmative Action Loan Scheme provides financial support to buy farms, lack of farming skills and shortage of capital has resulted in reduced productivity.

[62] Ministry of Health and Social Services (MoHSS) [Namibia], and ICF Macro 2010, "Namibia Health Facility Census 2009: Key Findings on Family Planning, Maternal and Child Health, and Malaria".

[63] Ibid., pp. 25-27.

[64] "Children and Adolescents in Namibia 2010" (see Note 23 above), p. 56, NHIES 2009/10 (see Note 3 above), p. 34.

[65] *Namibia 2011 Population and Housing Census: Preliminary Results* (see Note 25 above), (April 2012), p. 4.

68. The Special Rapporteur recognizes that the need to support the poor by improving access to land is articulated in several official documents; however, the allocation of land seems not to have been among the Government's priorities in poverty alleviation efforts.[66]

69. Since independence the Government has implemented several housing programmes (e.g. Build Together Programme), and has set up institutions to facilitate further development of affordable housing (e.g. National Housing Enterprise). A National Housing Policy has been in place since 1991 and was reviewed and updated in 2009. Despite these notable policies and programmes, implementation has been slow and ineffective. The Special Rapporteur is concerned that the Government's housing delivery has failed to keep up with demand and that housing delivery has actually substantially declined in recent years, while the housing deficit is at an all-time high, with an estimated backlog of over 80,000 houses.[67] Moreover, housing provision has failed to reach the poorest segments of society as the housing provided by Government initiatives is usually too expensive for most Namibians. Affordability of housing is one of the core elements of the right to adequate housing, which the State is failing to comply with.[68]

70. One of the key challenges in housing delivery in Namibia is the lack of available serviced land,[69] which is both slowing down the process of housing delivery and pushing up prices of serviced land. The limited availability of serviced land is mainly due to a lengthy and outdated approval process for proclamation, surveying, subdivision and registration of land, limited financial capacity and a lack of surveyors and other qualified personnel at local levels.

71. The housing deficit, together with the limited access to land and the increased urbanization process, has resulted in the expansion of informal settlements in urban areas. The majority of the urban poor in Namibia are now living in 235 informal settlements where over 120,000 households reside.[70] During her visit, the Special Rapporteur visited several informal settlements, in Windhoek and Keetmanshoop, where she witnessed the acutely precarious situation of one quarter of the Namibian population. The residents of informal settlements are forced to live in overcrowded shacks built with corrugated iron or plastic, without adequate protection against the weather, insufficient access to electricity and water and almost no access to sanitation facilities, public transportation and other public services.

72. The Special Rapporteur welcomes the recent adoption of the Flexible Land Tenure Act to enable poor households to secure tenure. However, security of tenure is only one aspect of the right to adequate housing. In order to address the issue of informal settlements and national housing shortage, the broader aspects of the right to adequate housing need to be addressed in a holistic and coordinated manner. These include issues of affordability, accessibility, location, habitability, security of tenure and availability of adequate public services and employment opportunities.

[66] This subsection should be complemented with the report of the Special Rapporteur on the rights of indigenous peoples (A/HRC/24/41/Add.1), who also visited Namibia in 2012.

[67] Els Sweeney-Bindels, "Housing Policy and Delivery in Namibia – Report, Institute for Public Policy Research", 2011, p. 7.

[68] Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing.

[69] NDP4 (see Note 8 above), p. 77.

[70] Informal Settlement Communities and the Shack Dwellers Federation of Namibia, "Profile of Informal Settlements in Namibia", Community Land Information Program (Clip), March 2009, p. 9.

D. Right to work

73. Recent economic growth has not translated into job opportunities for the majority of the population, particularly the young. Unemployment rates have increased for the past two decades, reaching a startling level of 51.2 per cent by 2008.[71]

74. The impact of unemployment is also very unequal. While it remains high across the whole country, the situation is particularly grave in rural areas, where almost half of the population is unemployed, as compared to less than a third of the urban population.[72] Unemployment also disproportionately affects women, youth[73] and persons with disabilities.

75. The Special Rapporteur welcomes the commitment of the Government to directly tackle the unemployment crises. Nonetheless, she remains concerned about the ability of the recently adopted Targeted Intervention Program for Employment and Economic Growth (TIPEEG) to ensure the creation of sustainable decent work for all. Despite extensive budget allocation to the programme, it has already encountered implementation problems due to institutional and capacity constraints.[74] Moreover, most of its implementation to date has concentrated on infrastructure development through public works programmes. These programmes are likely to generate only a limited number of sustainable jobs and will not address the needs of the unskilled labour force and subsistence farmers. She is also concerned at reports which suggest that the programme was not designed with the participation of its intended beneficiaries and does not address the specific challenges to employment faced by women, despite the fact that women's unemployment rates exceed those of their male counterparts in almost all age groups.

76. In line with its human rights obligations, Namibia not only has the obligation to take specific measures to expand opportunities for persons living in poverty to find decent work in the formal labour market, including through vocational guidance and training and skills development opportunities, but also to ensure that all workers are paid a wage sufficient to enable them and their families to have access to an adequate standard of living and enjoy just and favourable working conditions. To achieve this end, it is necessary to establish an appropriate legal framework including minimum wage legislation, as well as sufficiently resourced labour inspectors.

E. Right to social security

77. Namibia stands out as being one of the few African countries providing non-contributory social grants for some of the most vulnerable segments of society such as older persons, persons with disabilities and orphans. Over the past decade it has considerably

[71] Ministry of Labour and Social Welfare, "Namibia Labour Force Survey 2008", p. 2. Most recent data available at the time of writing.

[72] Frederic Lapeyre, Godfrey Kanyenze, Report of the Exploratory Mission to Namibia on Employment Policy: Policy Environment Assessment, 22-26 November 2010, January 2011 (International Labour Organization (ILO)) p. v-vi; Ministry of Labour and Social Welfare, *Labour Force Survey 2008 (NLFS 2008). Report of Analysis*, p. 3.

[73] *NLFS 2008. Report of Analysis* (see Note 72 above), p. 3.

[74] Institute of Public Policy Research, Democracy Report, Special Briefing Paper No. 3, "National Budget 2012/13 – Show us the Jobs" (Windhoek, March 2012).

expanded the social grant system, both in terms of coverage and value.[75] Undoubtedly, the social security system has a substantive impact on reducing poverty in Namibia.[76]

78. The Special Rapporteur particularly welcomes the universal non-contributory old age grant, which not only enables compliance with human rights obligations towards older persons, but is also having a positive impact on child poverty.[77]

79. Despite these major achievements, due to problems in the design and implementation of the social protection system, some of those most in need of social protection have been consistently excluded from receiving the benefits that they are entitled to. Additional measures to improve the design and implementation of the non-contributory system and to remove barriers that prevent the poorest and most marginalized sectors of society from enjoying their right to social security must be taken as a matter of priority.[78]

80. According to information available, eligible persons cannot access State grants because of a myriad of barriers, such as lack of information, geographical distance from registration offices or distribution centres and administrative barriers. The Special Rapporteur is particularly concerned by the fact that some documentation requirements, such as birth and death certificates, hospital certification of disability and cumbersome application processes are excluding many of those who are most in need.[79]

81. A lack of coordination and the fragmentation of the social protection system are also limiting its impact and preventing the most vulnerable from accessing it. Moreover, this unnecessarily increases administrative costs that could be better used to expand coverage. Problems with the identification and targeting of eligible beneficiaries are also a cause for concern as many people living in extreme poverty are not reached through the existing programmes. The Special Rapporteur is particularly concerned about the negative impact of the means testing methodology applied in some of the grants, with the result that the poorest sector of society is not being reached. The limited coverage of the grant for persons with disabilities is also a cause for concern. According to official estimates the grants only reach 22 per cent of eligible beneficiaries.[80]

82. The Special Rapporteur is also concerned about the limited targeted approach of the child welfare grant system. As the grant is designed to benefit only orphans, children with disabilities and children in foster care, it has been ineffective in addressing the high level of poverty and vulnerability among children in the country. While child welfare grants provide essential support for orphans and some vulnerable children, the broader group of extremely poor children cared for by impoverished parents is excluded. The social protection system should cover equally all children living in poor households.[81]

[75] For example the coverage of grants for orphans and vulnerable children has expanded more than tenfold from 2002 to 2010 – Ministry of Finance, Government Accountability Report 2010-2011.

[76] In the absence of any grants, the child poverty rate would be 61.9 per cent instead of 38.9 per cent – Child Poverty: A child-centered analysis of the NHIES 2009-2010" (see Note 2 above), pp.18-19.

[77] "Poverty Dynamics in Namibia" (see Note 1 above), p. 12; Child Poverty: A child-centered analysis of the NHIES 2009-2010" (see Note 2 above), pp. 18-19.

[78] See previous reports on the topic (A/HRC/14/31, A/64/279 and A/HRC/11/9).

[79] Ministry of Gender Equality and Child Welfare and the National Planning Commission, Assessment of the effectiveness of the social protection system in reducing child poverty: Community-based analysis, Final Report, August 2012, pp. 60-64.

[80] Ministry of Finance, Government Accountability Report 2009-2010.

[81] Committee on Economic, Social and Cultural Rights, general comment No. 19 (2008) on the right to social security.

83. Information received about the significant delays in the implementation of the Foster Care Grant are also concerning.[82] The cumbersome application and approval process as well as social services staff constraints are disproportionately impacting the most marginalized families. Given that the majority of orphans are cared for within their extended families, the Special Rapporteur welcomes the initiative to simplify the process, as integrated into the draft Child Care and Protection Bill and calls for its immediate implementation.

84. The low levels of the grants available should also be revised. In most cases, the grant is too low to enable beneficiaries to cover basic needs and enjoy a minimum standard of living. The level of most of the grants has declined due to inflation as they have not been adjusted in line with increasing costs of living.

85. The Special Rapporteur acknowledges that the Government is aware of some these problems and is considering ways to effectively tackle them. In this regard, she welcomes the commitment made in NDP4 for a universal child grant that would progressively include all children. A universal child grant will ensure that all children are provided with equal protection against poverty and vulnerability and will significantly contribute to closing equality gaps between children.

86. She also calls on the Government to assess the positive impacts of the Basic Income Grant pilot that has been implemented in the Otjivero settlement for the past three years. During her visit, the Special Rapporteur visited the Otjivero community, where she witnessed the positive outcomes of the Basic Income Grant in reducing poverty, improving access to health and education, diminishing crime and increasing social cohesion. She commends the efforts of Namibian civil society organizations in initiating and implementing this project and calls on the Government to study the viability of extending a Basic Income Grant throughout the country.

VI. Obligations of international assistance and cooperation

87. In terms of economic growth Namibia now enjoys the status of a middle income country. As a result, aid flows have continued to decline in recent years and several bilateral donors have stopped their activity in the country.

88. The Special Rapporteur would like to stress that the high level of inequality and the substantive institutional and capacity challenges in Namibia necessitate continued support from the international community, particularly with regard to capacity-building and skills development.

89. Moreover, in the face of limited resources, donors should strengthen coordination, in the spirit of the Paris Declaration on Aid Effectiveness, and ensure that the Government of Namibia has ownership and leadership in the development process.

VII. Conclusions and final recommendations

90. **Recognizing the immense levels of inequality that existed at independence as a legacy of colonial rule, and the compounded challenges faced by Namibia – including the fact that Namibia has one of the world's lowest population densities – the Special Rapporteur notes that since independence, progress in the reduction of inequality has not been fast enough and unacceptable levels of inequality persist along the lines of**

[82] Ministry of Gender Equality and Child Welfare, "The Effectiveness of Child Welfare Grants in Namibia", 2010.

gender, race, region, ethnicity and class. While a number of poverty reduction goals have been reached (such as an increase in primary and secondary school enrolment), disappointing outcomes in some key policies are disproportionately impacting the enjoyment of rights by the poorest segments of the population.

91. **The report includes recommendations in each of its sections, but the Special Rapporteur would like to especially urge Namibia to take the following steps to improve the enjoyment of rights by the poorest sectors of society:**

Legal and institutional framework

(a) Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Rights of Migrant Workers and Members of Their Families; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;

(b) Adopt, without further delay, the Child Care and Protection Bill and allocate the necessary budgetary and human resources for its effective implementation;

(c) Revise the Birth, Marriage and Death Registration Act of 1963 in line with human rights obligations;

(d) Review the Married Persons Equality Act of 1996 to eliminate all discriminatory provisions, including those affecting marriage, land ownership and inheritance rights;

(e) Strengthen the institutional and operational capacity of the Office of the Ombudsman by allocating sufficient human and financial resources to carry out its work to the full potential, particularly regarding the development of a National Human Rights Action Plan; ensure compliance with its recommendations and consider extending the mandate of the Ombudsman to include the promotion and protection of all economic, social and cultural rights;

(f) Develop a national anti-corruption strategy, strengthen the cooperation between the Anti-Corruption Committee and other law enforcement agencies; and consider strengthening the anti-corruption legislation with the adoption of an access to information law and legislation to protect whistleblowers.

Women

(a) Take all appropriate measures to eliminate prejudices and negative practices that undermine women's enjoyment of rights in line with the obligations assumed by Namibia under the Convention on the Elimination of Discrimination against Women;

(b) Review, analyse and modify policies and programmes on poverty reduction to ensure that gender concerns are taken into account in effective ways;

(c) Ensure that women have access to land and productive resources; ensure the effective implementation of the Communal Land Reform Act 2002, particularly in rural areas.

(d) Ensure that women have access to appropriate health care services related to pregnancy, particularly in rural areas, granting free services where necessary, and provide quality family planning services that include counselling and advice, focusing on young and poor populations;

(e) Ensure that well-equipped Women and Child Protection Units are available throughout the country; invest in police training and increase public awareness with regard to the negative impact of gender-based violence; improve access for victims of gender-based violence, particularly those living in rural areas, to justice, counselling and shelter;

(f) Simplify the legal and administrative process for protection orders under the Domestic Violence Act;

(g) Take a strong public stand against the practice of forced sterilization of women with HIV/AIDS and establish a mechanism to assess the extent of the practice, taking concrete measures to actively prevent and protect women against it.

Children

(a) Ensure the effective implementation of the National Agenda for Children, which calls for an integrated response to vulnerable children, encompassing issues of child protection and social protection;

(b) Improve governance, resource allocation and monitoring mechanisms for effective implementation of child protection services;

(c) Take immediate steps to reduce newborn and under-five mortality, including building capacity of health workers to provide quality maternal and newborn health care, equipping health facilities with the necessary medicines and equipment, improving community transportation to health facilities, particularly in rural and remote areas, and improving referral systems and community-based services.

(d) Ensure immediate and universal birth registration of all children without discrimination of any kind; ensure that the lack of a birth certificate is not an impediment for children accessing basic public services such as education, health and social protection;

(e) Ensure that every child under its jurisdiction enjoys the right to acquire a nationality; accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;

(f) Establish a children's rights division in the Office of the Ombudsman, to be responsible for monitoring children's rights violations.

Persons living with HIV/AIDS

(a) Establish mechanisms to ensure that stigma and discrimination towards persons living with HIV/AIDS are eradicated in both the public and private sectors, including effective mechanisms for accountability and redress;

(b) Take immediate measures to provide training to health service providers on health-related human rights issues, particularly in terms of non-discrimination and confidentiality; establish accountability mechanisms to ensure that health staff abide by the relevant laws and standards;

(c) Mobilize the necessary financial and technical resources necessary for the effective realization of the Strategy Framework for HIV and AIDS 2010/11-2015/16.

Persons with disabilities

(a) Ensure that national legislation is in line with the obligations of Namibia under the Convention on the Rights of Persons with Disabilities;

(b) Take appropriate measures to ensure that persons with disabilities have equal access to transportation, information and communications; progressively remove barriers to accessibility in buildings, roads, transportation and other facilities, including schools, medical centres and workplaces;

(c) Effectively implement the National Policy on Inclusive Education and provide the human and financial resources necessary to make this policy a reality; ensure access to free primary education to all children with disabilities;

(d) Improve health-care services for persons with disabilities, particularly community-based health services programmes;

(e) Undertake research and gather updated, disaggregated data on the characteristics and needs of this population.

Sex workers

(a) Repeal the provisions relating to sex work in the Combating of Immoral Practices Act (Act 21 of 1980) and all similar municipal regulations;

(b) Provide training to all health service providers and law enforcement agents, in relation to their obligations and attitudes towards sex workers;

(c) Ensure that law enforcement personnel are held accountable for any act of violence or abuse against sex workers and improve mechanisms of legal recourse for sex workers; develop support systems (legal and counselling) for sex workers;

(d) Strengthen the capacity of organizations representing sex workers by, inter alia, providing a platform for their participation in public decision-making processes that affect them.

Education

(a) Ensure that the abolition of the School Development Fund scheme is fully and immediately implemented and ensure that schools most in need of additional resources receive adequate funding from the State;

(b) Increase efforts to improve the quality of education through a more efficient use of resources, standardization measures and monitoring of results;

(c) Solidify a universal pre-primary education system;

(d) Prioritize improvement of school infrastructure, especially with regard to sanitation facilities, availability of schooling materials and improvement of teaching and learning in rural and remote schools;

(e) Commit substantive resources to minority language teacher training, and the availability of teaching and learning materials in minority languages, so that all Namibian children have the opportunity to become literate in their home language.

Health

(a) Remove the system of health-care "user fees";

(b) Strengthen programmes to ensure health-care provision in remote areas; ensure that health-care centres in rural areas are well resourced, including by

establishing a mechanism of incentives to ensure the provision of quality professional staff in rural areas;

(c) Ensure access to adequate sexual and reproductive rights for women and address the root causes of teenage pregnancies by allocating resources commensurate with the scale of the problem;

(d) Ensure universal and equal access to quality maternal health care, including postnatal and emergency obstetric services; improve neonatal and nutrition services; ensure availability of skilled birth attendance at all levels of care, particularly in rural and remote areas;

(e) Ensure equitable distribution of trained staff between urban and rural areas and between the private and public sectors;

(f) Expand and strengthen community-based health care services and strengthen delivery of low-cost interventions;

(g) Improve the quality of the provision of health services by improving and better equipping health facilities and training health-care professionals, in particular with regard to non-discrimination, the right to informed consent and confidentiality of patients.

Adequate housing and access to land

(a) Review the National Housing Policy, specifically with regard to the provision of funding for low-income housing;

(b) Assist local authorities in increasing the supply of serviced residential land by, inter alia, simplifying the approval process for land acquisition, providing the necessary budget and qualified human resources to local authorities required to service land;

(c) Develop slum upgrading projects and provide serviced land and support for effective community initiatives.

Work

(a) Reassess unemployment reduction policies following a broad consultation process with a diverse spread of Namibian society;

(b) Ensure that employment generation policies target the specific needs of groups most severely affected by unemployment such as women, youth, people living in rural areas and indigenous peoples.

Social security

(a) Continue the universal non-contributory old age grant programme; introduce a universal, non-conditional, child grant based on sustainable resource allocation; assess and consider the wider implementation of the Basic Income Grant pilot;

(b) Improve the identification of eligible beneficiaries, in order to ensure that existing schemes reach the poorest and most disadvantaged sectors of society, including those living in remote areas;

(c) Remove all administrative barriers currently limiting the coverage of the existing grants, particularly by avoiding unnecessary documentation requirements and simplifying procedures;

(d) Regularly adjust the value of the existing grants according to the inflation rate and regularly review the amount to assess whether it should be raised in real terms;

(e) Consolidate existing social grants schemes, so as to diminish fragmentation and bureaucratic procedures;

(f) Ensure that non-contributory grants are complemented with broader poverty alleviation policies, in particular those aimed at improving access to public services, agricultural productivity and job opportunities.

International assistance and cooperation

(a) The international community should continue to provide assistance to Namibia, including financial and technical support;

(b) Donors should align their country assistance strategies and interventions to the priorities identified in NDP4;

(c) The Namibian Government should increase efforts to take ownership over services currently provided with the assistance of the donor community and international agencies.