



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Combined sixteenth to eighteenth periodic reports submitted
by Namibia under article 9 of the Convention, due in 2019***

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Contents

	<i>Page</i>
Acronyms	5
Foreword	6
I. Introduction	7
II. Reporting methodology	7
III. Part I: Responses to the concluding observations of the Human Rights Committee.....	7
A. Recommendation 5 and 6: Disaggregated statistical data.....	7
B. Recommendation 7 and 8: National human rights institutions	8
C. Recommendation 9 and 10: Definition of racial discrimination	8
D. Recommendation 11 and 12: Racist hate speech	8
E. Recommendation 13 and 14: Special measures	8
F. Recommendation 15 and 16: Indigenous people	8
G. Recommendation 17 and 18: Violence against San women	9
H. Recommendation 19 and 20: Political participation of citizens including indigenous peoples	9
I. Recommendation 21 and 22: Access to education: equipping mobile schools with resources and learning materials.....	10
J. Language Policy in schools for indigenous communities.....	10
K. Information on drop-out rates among ethnic minority and indigenous children.....	11
L. Educational outreach programmes for children from ethnic minorities in particular those living in informal settlements, on communal farms, in rural areas and the refugee settlement	11
M. Recommendation 23 and 24: Land reform and resettlement	13
N. Recommendation 25 and 26: Complaints of racial discrimination and remedies.....	13
O. Recommendation 27 and 28: Non-citizens	14
P. Recommendation 29: Ratification of other human rights instruments.....	14
Q. Recommendation 30: Follow-up on the Durban Declaration and Programme of Action....	14
IV. Part II: Articles of the Convention (1–7).....	15
A. Article 1 – The definition of Racial Discrimination	15
Measures to ensure that its domestic laws conform to the international agreements ratified by Namibia.	15
B. Article 2 – Policy of eliminating racial discrimination in all its forms and promoting understanding among all ethnic groups.....	15
Specific and detailed information on legislative, Judicial, administrative or other measures	17
Socio-economic empowerment measures for marginalised communities	17
Construction of educational infrastructure and other amenities.....	18
Kunene Region	18
Otjozondjupa Region	18
Oshikoto Region	18
Ohangwena Region.....	18

	Omaheke Region	18
	Etosha National Park	19
C.	Article 3 and 4 – Prohibition of racial discrimination.....	20
	Measures taken to prevent, prohibit and eradicate racial segregation.....	20
D.	Article 5 – Report on the non-discriminatory implementation of each of the rights and freedoms referred to in article 5 of the Convention.	21
	The right to equal treatment before tribunals and all other organs administering justice	21
	The right of security of persons and protection by the state against violence and bodily harm.....	22
	Political rights.....	22
V.	Other civil rights	23
A.	The right to freedom of movement and residence within the borders of the state	23
B.	The right to leave and to return to one’s country	23
C.	The right to a nationality.....	23
D.	The right to marriage and choice of spouse	24
E.	The right to own property	24
F.	The right to inheritance.....	25
G.	The right to freedom of thought, conscience and religion	25
H.	Freedom of opinion and expression.....	26
I.	Freedom of peaceful assembly and association	27
VI.	Economic, social and cultural rights	27
A.	The right to work	27
B.	The Right to form and join trade unions.....	28
C.	The right to housing.....	28
D.	The right to public health, medical care and social security and social services	32
E.	Social Security	34
F.	Inclusion of vulnerable and marginalised socio-economic groups	34
G.	The old age pension grant.....	35
H.	Right to education.....	35
I.	Education and Teaching.....	35
J.	Social Accountability and Social Governance (SASG).....	36
K.	Universal Secondary Education and Sector Policy on Inclusive Education	36
L.	Resources allocated to ensure equal access to quality education.....	37
M.	Review of the education system	37
N.	The right to equal participation in the cultural activities	38
O.	The right to access public places and services.....	38
VII.	Information by relevant groups of victims or potential victims of racial discrimination	39
A.	Refugees and displaced persons.....	39
B.	Marginalised Minority groups (Indigenous minority groups).....	40
C.	Gender Equality	40

D.	Article 6	41
E.	Measures taken to ensure that victims have adequate information concerning their rights	41
F.	Types of reparation and satisfaction, with examples, which are considered adequate in domestic laws in cases of racial discrimination	42
G.	The burden of proof in civil proceedings for cases involving racial discrimination	42
H.	Article 7	42
	Education, Teaching and Culture	42
I.	Access to information, role of the media in combating racism	42
VIII.	Conclusion	43

Acronyms

GIMAC:	Gender Award from the Gender is my Agenda Campaign
HPP:	Harambee Prosperity Plan
HIV/AIDS:	Human Immuno Virus/Acquired Immune Deficiency Syndrome
ICCPR:	International Convention on Civil and Political Rights
ICERD:	International Convention on the Elimination of All Forms of Racial Discrimination
LPM:	Landless People's Movement
MGEW:	Ministry of Gender Equality and Child Welfare.
MET:	The Ministry of Environment and Tourism
NGSIP:	Namibian German Special initiated Program
NHAG:	Namibia Housing Action Group
NHRAP:	National Human Rights Action Plan
NBC:	Namibian Broadcasting Corporation
NDHS:	Namibia Demographic and Health Survey
NEFF:	Namibia Economic Freedom Fighters
NEFC:	National Empowerment Fighting Corruption
NAMPA:	Namibia Press Agency
NSF:	National Strategic Framework
NSA:	National Statistics Agencies
NGOs:	Non-governmental Organisations
OMAs:	Offices, Ministries and Agencies
SDFN:	Shack Dwellers Federation of Namibia
SSC-DF:	Social Security Commission- Development Fund
TB:	Tuberculosis
TIKA:	Turkish Cooperation and Coordination Agency
UNHCR:	United Nations High Commissioner for Refugees

Foreword

Namibia is pleased to submit its 16th to 18th periodic reports to the Committee on the Elimination of All Forms of Racial Discrimination (CERD). The report covers the period of 2015 to 2019. The Charter of the United Nations is based on the principles of dignity and equality inherent in all human beings. Namibia is a state party to seven out of nine core international human rights instruments and the International Convention on the Elimination of All Forms of Racial Discrimination is one of them.

The Namibian government continues to devise mechanisms aimed at redressing the impact of decades of racial discrimination. Upon the attainment of independence, government enacted laws and policies geared towards eliminating all forms of racial discrimination in the country.

Chapter 3 of the Namibian Constitution contains fundamental rights and freedoms. Article 10 of the Namibian Constitution provides that all persons shall be equal before the law and that no persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. Namibia takes pride in promoting and encouraging universal respect for and observance of human rights and fundamental freedom for all without distinction as to race, sex, language or religion.

As part of its efforts in eradicating racism and other forms of discrimination, Namibia has passed the Repeal of Obsolete Laws Act, (Act No.21 of 2018). The Act came into force on the 1st of March 2018. The Repeal of Obsolete Laws Act was necessitated because many of the by-laws, regulations, proclamations and ordinances are discriminatory on the grounds of race, sex, colour, ethnic origin, religion, creed and social and economic status. The aim of the government is to get rid of all outdated laws and to replace unjust laws with just laws.

In addition, the Office of the Ombudsman conducted an inquiry, under the heading “A nation divided: why do racism and other forms of discrimination still persist after twenty-seven years of Namibian independence, and the need for such an inquiry was to ascertain the extent to which human rights violations in terms of racism, racial discrimination, discrimination in general, tribalism, were still being perpetrated.

The inquiry was necessitated by the State’s responsibility to respect, protect and fulfil the rights contained in international, regional and sub-regional human rights instruments to which Namibia is a State party; the recommendations of the World Conference Against Racism contained in the Durban Declaration and Programme of Action; media reports on the persistence of racism, racial discrimination and tribalism; concerns expressed over that very few or no prosecutions under the Racial Discrimination Prohibition Act 26 of 1991 (as amended); and the Ombudsman’s responsibilities under the National Human Rights Action Plan (NHRAP) 2015–2019 with regard to the right not to be discriminated against.

Namibia therefore remains committed to protect and promote human rights in the country and fulfil its obligations under various human rights instruments. Moreover, Namibia will continue to work with regional and international bodies to ensure that human rights takes precedence in world affairs.

Hon. Yvonne Dausab, MP

Minister of Justice

I. Introduction

1. The Namibian Government prioritizes the promotion and protection of human rights in the country. In this regard, Namibia is a state party to a number of international and regional human rights instruments including the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). Namibia acceded to the Convention on the 11th of November 1982. This periodic report is submitted pursuant to Article 9, paragraph 1 of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) which requires States parties to submit a report within one year after the entry into force of the Convention for the state concerned, and thereafter every two years on the legislative or other measures taken with a view of giving effect to the rights and freedoms recognised and guaranteed by the convention. The information contained in the report covers the period 2015 to 2019. Namibia welcomes the position of the Committee to submit her sixteenth to eighteenth periodic report as one combined document.

2. The report consists of the introductory section which includes information on the reporting methodology; it then provides information and responses to the concluding observations of the Human Rights Committee on the last report considered as a combined thirteenth to fifteenth periodic reports of Namibia (CERD/C/NAM/13-15) which was submitted in one document, at its 2436th and 2437th meetings held on 4 and 6 May 2016 and at its 2446th meeting, held on 12 May 2016, were it adopted the concluding observations. Part IV of this report provides information on the substantive rights recognised under the relevant articles of the Convention since the last report.

II. Reporting methodology

3. In order to meet and respect her international obligations, Namibia established an Inter-Ministerial Committee on Human Rights and International Humanitarian Law. The operations of the Committee are coordinated by the Ministry of Justice. This report was compiled by the Ministry of Justice based on information received from Government Offices, Ministries and Agencies (OMAs) as well as statistical data and reports from relevant non-governmental organizations (NGOs). The report was submitted to NGOs for their input and comments. Input and comments on the report from NGOs were subsequently incorporated in the report.

III. Part I: Responses to the concluding observations of the Human Rights Committee

A. Recommendation 5 and 6: Disaggregated statistical data

4. The National Statistics Agencies (NSA) is mandated to collect and compile disaggregated statistical data on the demographic composition of the population and data disaggregated by language group on the enjoyment of economic and social rights. Below are statistics of the workforce profile of people from marginalised groups, people living with disabilities, in the labour force.

Table 1: Show the workforce profile

Job Category	Racially disadvantaged		Racially advantaged		Persons with disabilities		Non-Namibian(s)		Total	Grand Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	
Executive Directors	294	92	579	129	7	3	128	36	1 008	260	1 268
Senior Management	1 039	699	992	512	24	6	351	88	2 406	1 305	3 711
Middle Management	4 274	3 655	1 404	976	35	27	526	155	6 239	4 813	11 052
Specialized/senior supervisory	9 400	8 804	1 292	1 113	75	37	1 056	426	11 823	10 380	22 203
Skilled	3 495	34 222	1 163	1 168	157	103	432	495	36 703	35 988	72 691
Semi-skilled	40 809	29 087	256	322	220	120	53	30	41 338	29 559	70 897
Unskilled	28 508	22 574	52	43	184	86	3	6	28 747	22 709	51 456
Total Permanent	119 275	99 133	5 738	4 263	702	382	2 549	1 206	128 264	105 014	233 278
Casual/Temporary and seasonal	20 226	23 338	300	229	55	38	216	65	20 797	23 670	44 467
Total	139 501	122 471	6 038	4 492	757	420	2 765	1 271	149 061	128 684	277 745

Source: Ministry of Labour, Industrial Relations and Employment Creation.

B. Recommendation 7 and 8: National human rights institutions

5. The process of amending the Ombudsman's Act to include the protection and promotion of social, economic and cultural rights is underway.

C. Recommendation 9 and 10: Definition of racial discrimination

6. The State Party takes note of this recommendation and will consult with the relevant stakeholders on whether it is necessary to review or amend the existing legislation on racial discrimination.

D. Recommendation 11 and 12: Racist hate speech

7. The state party acknowledges that there is no specific law against hate speech in the country. However, article 8 of the Constitution deals with the right to human dignity and as such any individual or individuals who are victims of hate speech can approach the courts or the Office of the Ombudsman for an effective remedy.

E. Recommendation 13 and 14: Special measures

8. We refer the Committee to our responses in paragraph 23 of Article 2 of the Convention below.

F. Recommendation 15 and 16: Indigenous people

9. As a matter of government policy and practice, the formulation of public policies and strategies is subjected to rigorous public and stakeholder's consultations. Namibia's

marginalised people are therefore consulted in the planning, implementation and review of development programs aimed at improving their situation. The Office of the Vice-President has a division for marginalised people which is responsible for the monitoring of measures taken on the enjoyment of rights of the marginalised people. It makes recommendations on how policies and other measures are put in place to protect the rights of indigenous communities and to fully implement those rights.

10. In protecting and promoting the rights of people living with HIV/AIDS, including the marginalised communities, the National Policy on HIV/AIDS (2007) has been developed to provide an overall reference framework for all HIV/AIDS related policies and to guide the national HIV/AIDS responses of all sectors in society. It guides current and future health and multi-sectoral responses to HIV/AIDS in Namibia, to encourage all Namibian institutions to fulfil their obligations for responding to HIV/AIDS and to serve as a guiding framework for a coherent and sustained approach enhancing political commitment and participation of civil leadership at all levels.

11. In addition, the Ministry of Health and Social Services introduced the National strategic framework (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.

12. A multi-sectoral HIV/AIDS Policy Steering Committee was established to guide the process of developing the policy. Moreover, technical experts both from Namibia and abroad have been deployed in areas inhabited by marginalised communities to help them farm productively. Several green schemes owned by marginalised communities have greatly helped the said communities avoid hunger and/or starvation. Basic housing units are also being constructed and provided to some of the marginalised communities in areas that they reside.

G. Recommendation 17 and 18: Violence against San women

13. The state party acknowledges that cases of gender-based violence in Namibia are relatively high and all ethnic groups are affected including the San. To address this challenge, the Ministry of Gender Equality and Child Welfare continues to deploy Social Workers, Child Care Workers and Gender Liaison Officers in the region to ensure that immediate assistance is given to victims of this scourge. The Department of Marginalised Communities in the Office of the Vice President has also employed personnel whose duty is to visit areas where San communities reside to consult with the said communities on challenges afflicting them. Gender based violence is one such a challenge.

H. Recommendation 19 and 20: Political participation of citizens including indigenous peoples

14. The right to political participation is a guaranteed right of every Namibian citizen in terms of Article 17 of the Namibian Constitution, which states that “all citizens shall have the right to participate in peaceful political activity intended to influence the composition and policies of Government.

15. The Namibian Government has mechanisms, laws and policies in place that allows for the participation of all its citizens (including marginalised communities) in public and political life. The National Broadcaster, the Namibian Broadcasting Corporation (NBC) has radio services in local San languages. This radio service has call-in programs which allows citizens including marginalised people to air their grievances to government. The Office of the Vice-President has a specialised section that deals with the promotion of the welfare and rights of marginalised communities. In light of the above the Government requested the Ombudsman to undertake a study and develop a white paper on indigenous people in Namibia. It is hoped that the said study will assist government to adequately provide mechanisms of encouraging marginalised communities to play an active role in politics. Currently there is

only 1 member of the San community in parliament and a regional councillor for Tsumkwe Constituency.

16. The Electoral Commission's mandate is to register and educate the citizens who are eligible to vote on their rights and the procedures during elections. All communities are targeted for this education, including those living in remote rural areas. Mobile polling stations are set up during election to ensure that all eligible voters cast their votes unhindered.

I. Recommendation 21 and 22: Access to education: equipping mobile schools with resources and learning materials

17. There are currently 14 mobile schools in Kunene Regions with a total of 46 teachers and 1328 learners. Every unit has at least 1 teacher. The said schools are regularly visited by regional inspectors to ensure that quality education is offered. Furthermore, teacher training has been offered on the new curriculum. There are 5 schools in Nyae-Nyae village in Tsumkwe that cater specifically for San learners who are taught in Ju/'hoansi (San language).

Indigenous native attire for learners

18. There is no policy that prohibits learners from wearing their indigenous attire throughout their school career. In the regions where there is a higher concentration of Indigenous People's, learners are allowed to don in their native attires at Schools. Schools in Namibia generally encourage learners to wear school uniforms to demonstrate that all learners are equal. Government provides free school uniforms and allowances to marginalised children.

J. Language Policy in schools for indigenous communities

19. The language Policy for Schools of 1992 revised in 2015 facilitates the realisation of the substantive goals of education, namely access, equity, quality, democracy and lifelong learning. Access refers, amongst others, to learning and acquiring knowledge through language, and in particular through the home language. Equity has to do with fairness, including the fact that all learners should have access to home language instruction to gain meaning from teaching and learning. Access and equity are both measures of quality education, as is equipping teachers to teach their subjects in the home languages and providing quality teaching material in all home languages.

20. The Policy affirms the constitutional and international provisions pertaining to human rights, individual language rights and culture. The understanding is that the transferability of experience and knowledge from home to school through home language education and all national languages regardless of the number of speakers or the level of development of a particular language. The Language Policy for Schools states that:

“Pre-primary to Grade 3 shall be taught in the home language. English as a medium of instruction shall only be offered from Grade 1 at government schools with the written approval of the Minister of Education, Arts and Culture” Grade 4 shall be transitional during which the change to English as medium of instruction will take place. The home language may be used in a supportive role. Grades 4 to 12 shall be taught through the medium of English, and the home languages shall be offered as subjects in these grades. Where learners from the same language group are in the minority in Grades 1–3, provision should be made for them to be taught in their home language. If they are in the minority in Grades 4–12, provision should be made for them to study their home language as a subject. Where learners from the same language group are in the minority, provision should be made for them to study their home language from Grade 1 to Grade 12”.

21. Languages currently offered in the Namibian education system are: Khoekhoegowab L1, Oshikwanyama L1, Oshindonga L1, Otjiherero L1, Rukwangali L1, Rumanyo L1, Setswana L1, Silozi L1, Thimbukushu L1, Julhoansi L1, English L 1&2, Afrikaans L 1&2, German L1, French Foreign and Portuguese Foreign language.

K. Information on drop-out rates among ethnic minority and indigenous children

22. According to the Out of School Children Study done in 2015 some progress in enrolment has been made in recent years, partly because of the introduction of mobile schools but also, possibly, because of larger clusters of these groups settling for longer periods of time to access government and other services. According to the said study 43 % of San speaking learners aged 7 years are in school in comparison to 63% of Ovahimba children aged 7-year-old are in school.

23. In 2016, a national study was done on the root causes of drop-out among San learners in the country. To this effect, a committee has been established under the National School Health Task Force to implement the recommendations of the study and the conference. According to the 2015 Statistics for schools in the Otjozondjupa region that cater only for San learners the drop-out rates were as follows: Rooidakhek Primary School: 33 drop-outs up to April 2015; Bensekamp: 0 drop out; Aasvoelness Primary School: 12 drop-outs up to April 2015;/Nhoma: 0 drop out; Kanoevlei Primary School: 2 drops-outs up to April 2015.

L. Educational outreach programmes for children from ethnic minorities in particular those living in informal settlements, on communal farms, in rural areas and the refugee settlement

24. The Division of the marginalised communities in the Office of the Vice-President has a programme which ensures that learners from marginalised communities remain at school by sending inspectors to various schools where the said communities predominate. The Ministry of Education, Arts and Culture employs inspectors whose mandate is to ensure that learners living in informal settlements, communal farms and rural areas have access to quality education.

25. At Osire refugee settlement there are 2 schools for the learners, a Primary and a Secondary School. The number of learners at Osire refugee camp in Primary School is 685 and 283 in Secondary School. Both schools are beneficiaries of the Ministry of Education's school feeding programme.

Table 2: Shows the disabled student's enrolment by academic year and sex, cumulative

<i>Academic Year</i>	<i># Female</i>	<i># Male</i>	<i># Total</i>	<i>% Disabled Students</i>
2011	26	21	47	0.4
2012	27	25	52	0.4
2013	27	29	56	0.4
2014	35	41	76	0.6
2015	40	43	83	0.7
2016	32	48	80	0.6

Source: Namibian University of Science and Technology.

Table 3: Shows the disabled Students dropout rate by academic year and sex

<i>Academic Year</i>	<i>% Female</i>	<i>% Male</i>	<i>% Total</i>
2011	15.4	15.8	10.7
2012	12.0	8.0	7.0
2013	22.2	20.7	16.7
2014	27.3	10.05	14.6
2015	35.9	21.4	25.1
2016	n/a	n/a	n/a

Source: Namibian University of Science and Technology.

Table 4: Shows the enrolment by academic year, sex and cumulative of the San/Ovahimba/Zemba

<i>Academic Year</i>	<i># Female</i>	<i># Male</i>	<i># Total</i>	<i>% San/Ovahimba/Ovazemba Students</i>
2011	7	9	16	0.1
2012	6	14	20	0.2
2013	4	14	18	0.1
2014	10	20	30	0.2
2015	13	21	34	0.3
2016	12	21	33	0.3

Source: Namibian University of Science and Technology.

Table 5. Shows Students from marginalized communities and persons with disabilities enrolled between 2012 and 2015 at the University of Namibia

<i>Population</i>	<i>Female</i>	<i>Male</i>	<i>Indigenous with disability</i>	<i>Total enrolled</i>	<i>Number of drop out</i>	<i>Total enrolled (Minus dropouts)</i>	<i>Reasons for drop out</i>
Himbas	10	2	1	13 (16%)	4	9	Pregnancy Going to look after cattle Peer-pressure Failure
San	5	16	None	21 (26%)	3	18	Anti-social Peer-pressure Failure Access to classes
Student with Disabilities	23	25	None	48 (58%)	5	43 (+1 Indigenous)	Accommodation Financial issues
Grand Total	38 (46%)	43 (53%)	1 (1%)	82 (100%)	12 (15%)	70 (85%)	

Source: University of Namibia.

Table 6: Shows the drop out by Gender

<i>Population</i>	<i>Female</i>	<i>Male</i>
Disabilities	3	2
Himbas	3	1
San	2	1

Source: University of Namibia.

M. Recommendation 23 and 24: Land reform and resettlement

26. Land ownership is vested in the state by virtue of Section 17 of the Communal Land Reform Act, 2002 (Act No. 05 of 2002). The Namibian government has laws in place that provides limited use of communal lands to every citizen including marginalized communities. Section 17(2) of the Communal Land Reform Act, 2002 provides that no right conferring freehold ownership is capable of being granted or acquired by any person in respect of any portion of communal land. Indigenous/marginalized communities and other ethnic groups are consulted, and their informed consent is required prior to granting licenses to extractive industries. There is also a general understanding between government and mining companies that part of the latter's profits should be geared towards community development.

27. Namibia has several pieces of legislation and policies that may allow locals and indigenous people to benefit from natural resources. Namibia has legislation in place which can be invoked to address any grievances regarding extractive activities on land occupied by local people. The Mineral's Act states that:

“Any person who feels aggrieved with any action or decision taken or made by the Commissioner in terms of any provision of the Minerals Act, may, within 30 days from the date on which such action or decision was made known to such person, lodge an appeal against any such action or decision, and thereupon the Minister may confirm, set aside, or amend any such action or decision”.

28. Furthermore, the Commissioner and the Minister are often considered as administrative persons and any decision taken by them may be taken on review to the High Court of Namibia. The right to fair and reasonable administrative justice is guaranteed in terms of Article 18 of the Namibian Constitution.

29. Another piece of legislation which deals with extractive industries is the Environmental Management Act, 2007 (Act No. 7 of 2007). The aim of the act is to promote the sustainable management of the environment and the use of natural resources by establishing principles for decision making on matters affecting the environment; to establish the Sustainable Development Advisory Council; to provide for the appointment of the Environmental Commissioner and environmental officers; to provide for a process of assessment and control of activities which may have significant effects on the environment; and to provide for incidental matters. Among others, in terms of Section 3 (b), (c) the principles of the act are to involve community in natural resources management and the sharing of benefits arising from the use of the resources and participation of all interested and affected parties, and the decisions must consider the interest, needs and values of interested and affected parties.

N. Recommendation 25 and 26: Complaints of racial discrimination and remedies

30. The state party acknowledges the fact that racism and tribalism are still relatively prevalent in the country. However, the Government is working with stakeholders such as the Office of the Ombudsman to combat the scourge. The national curriculum of both primary and secondary education now has elements of non-discrimination and human rights.

O. Recommendation 27 and 28: Non-citizens

31. The refugees and asylum seekers have access to courts of law in Namibia. Refugees and asylum seekers may approach any court, to seek redress with regards to any violation of their rights.

32. The settlement at Osire has a police station and the United Nations High Commissioner for Refugees (UNHCR) office where refugees and asylum seekers may report instances of any ill-treatment or any other complaints pertaining to human rights violations. The Namibian Police Force provides free transport to refugees to attend any court sessions in which they are involved. The following facilities can be found at the Osire Refugees Settlement:

(a) A health facility at the level of a clinic to ensure that refugees and asylum-seekers including their children are provided with adequate health care services;

(b) There are education facilities such as a Kindergarten, Primary and Secondary schools up to Grade 12;

(c) Refugees and asylum seekers have access to a well-equipped library, youth and women centre as well as social clubs where they are busy with educational programmes and income generating activities;

(d) A police station.

33. The Ministry of Home Affairs and Immigration is in the process of locally integrating over 2400 former Angolan refugees into Namibian society. Non-citizens, including asylum seekers and refugees are not discriminated against when it comes to services such as health care, education and employment as well as identity documents. Upon request and after satisfying certain legal requirements, non-citizens can be given identity documents reflecting their status in the country. For example, identity documents stipulating their status in the country as either permanent residents, refugees, asylum seekers and so on. Children born to foreign parents living in Namibia are given a birth certificate which they can use in future to apply for full citizenship.

34. All human rights related laws of Namibia are applicable to everyone irrespective of nationality. Recently the Office of the Ombudsman instituted legal proceedings against immigration authorities and the Police over the detention of alleged illegal immigrants detained at the Windhoek police cells. A case was filed in the Windhoek High Court on the 10th February 2017 to this effect. The alleged illegal immigrants were being detained without signed warrants of detention, and that their detention did not comply with the provisions of the Immigration Control Act. The court confirmed an interim court order and ordered that the 46 alleged illegal immigrants be released and be dealt with the relevant provisions of the Immigrants Control Act.

P. Recommendation 29: Ratification of other human rights instruments

35. In 2017, the Ministry of International Relations and Cooperation with the approval of Cabinet established a Sectorial Committee on the ratification of treaties to which Namibia is not yet a party. We are of the opinion that many outstanding treaties may be ratified or acceded to by Namibia after a thorough study on whether they are beneficial to the country or not.

Q. Recommendation 30: Follow-up on the Durban Declaration and Programme of Action

36. The State Party takes note of the recommendation and will consult with relevant stakeholders on how best to implement the said declaration in the country.

IV. Part II: Articles of the Convention (1–7)

A. Article 1 – The definition of Racial Discrimination

Measures to ensure that its domestic laws conform to the international agreements ratified by Namibia

37. The Government will continue with its efforts to take measures to ensure that its domestic laws conform to the international agreements ratified by Namibia and will consult with the relevant stakeholders to this effect.

B. Article 2 – Policy of eliminating racial discrimination in all its forms and promoting understanding among all ethnic groups

38. As per the last report, Article 10 of the Namibian Constitution provides that all persons shall be equal before the law. No person may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. Non-governmental institutions continue to assist government to combat racial discrimination and foster peace/harmony among all Namibians.

39. The Office of the Ombudsman was in October 2018 re-accredited with the A-status in terms of the Paris principle. The Office of the Ombudsman launched the Human Rights Action Plan which aims amongst others to promote gender equality and combat discrimination of any kind. The Office has also launched a report into racism, racial and other forms of discrimination and tribalism and it was compiled after the office held public hearings across the country to establish the level of discrimination in Namibia.

40. In its quest to eliminate all forms of racial discrimination, the government enacted a number of legislation and policies during the reporting period. These are:

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

41. The New Public Procurement Act, (Act No. 15 of 2015) which came into operation on the 1st April 2017 provides for preferential treatment. Section 69 states that, “despite anything to the contrary in this Act or any other law, the Minister may grant preferential treatment in procurement in pursuance of the developmental empowerment policies of the Government. Businesses owned by women and indigenous minorities are expected to benefit from this law.

The Combating of the Trafficking in Persons Act, 2018 (Act No. 1 of 2018)

42. The Combating of the Trafficking in Persons Act, (Act No. 1 of 2018) was enacted in 2018. Trafficking in person is one of the violations, of human rights and dignity. This comprehensive law aims to criminalize trafficking in persons by imposing stiffer sentences on the perpetrators.

The Whistle-Blower Protection Act, 2017 (Act No. 10 of 2017)

43. This law will among other things protect the identity of individuals who report cases of maladministration and corruption to authorities. The same law will also protect whistle-blowers who report cases of gender-based violence and human trafficking.

The Witness Protection Act, 2017 (Act No. 11 of 2017)

44. The Act provides for the establishment of a Witness Protection Advisory Committee, protection programme and fund. This Act will also among other things, protect individuals who report cases of other forms of gender-based violence and human trafficking.

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

45. This Act aims to provide for the repeal of certain obsolete laws. The Act came into force on the 1st of March 2018. The Repeal of Obsolete Laws Act was enacted due to a number of by-laws, regulations, proclamations and ordinances which are discriminatory on the grounds of race, sex, colour, ethnic origin, religion, creed and social and economic status. The aim is to get rid of all outdated laws and to replace unjust laws with just laws.

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

46. This Act aims to give effect to the rights of children as contained in the Namibian Constitution and international agreements binding Namibia as well as to set out principles relating to the best interests of children.

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

47. The Government of the Republic of Namibia recognises that terrorism impacts the enjoyment of human rights. In an effort of combating terrorism and in line with Namibia's international obligations, the state party enacted the Prevention and Combating of Terrorist and Proliferation Activities Act. The Aim is to provide for measures to prevent and combat terrorist and proliferation activities.

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

48. The aim of the Act is to strengthen the independence of the judiciary in line with Article 78(5) of the Namibian Constitution to provide for the administrative and financial matters of the Office of the Judiciary, and to provide for connected or incidental matters. It is also to make it easier for citizens to access justice timeously.

Namibia citizenship (Second) Special Conferment Act, 2015 (Act 6 of 2015)

49. The aim of the Act is to provide for the conferment of Namibian citizenship upon certain descendants of persons who left Namibia owing to persecution by the colonial government that was in control of the country before 1915, the act will curtail incidences of statelessness and make it easy for Non-Namibians to acquire citizenship if they so wish.

Harambee Prosperity Plan:

50. Provides for additional flexibility in planning. The main aim is to achieve the following outcomes:

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

Foodbank programme

51. The programme is part of a wider system of national safety nets being implemented by the Government to reduce poverty and hunger.

National School Feeding Policy (2019)

52. The policy aims to improve the equitable access to quality learning and education for all children in Namibia. It provides ways for addressing hunger thus establishing the role of school feeding as a social safety net particularly for food insecure households. The policy advocates for the provision of balanced and diversified meals at schools that promotes nutrition and health of learners. The goal of policy is to provide a framework for improving school attendance and retention, nutrition and health and learning outcomes of all children in Namibia.

The National Development Plan 4 (NDP5)

53. It articulates values cherished by the Namibian nation, respect for human dignity and the recognition that everyone must contribute to the country's development irrespective of their race, colour, gender, age, ability, and ethnicity. It further articulates the country's commitment to upholding the tenets of the Namibian Constitution, aimed at strengthening human rights, individual freedoms.

The National Human Rights Action Plan (NHRAP)

54. The objectives to be achieved over the implementation period is to lay a firm foundation for entrenching human rights promotion and protection through structured instruments such as the national human rights action plan, to initiate programmes and processes that will entrench a culture of respect and observance of human rights protection and promotion amongst all organs of state and the general population.

Specific and detailed information on legislative, Judicial, administrative or other measures

55. The Government continues to ensure that all forms of racial discrimination in the work place are eradicated. Government officials and unions continuously disseminate information against racial discrimination to workers across the country. If racial discrimination in employment is reported it must be investigated by the Ministry of Labour, Industrial Relations and Employment Creation through its Labour inspectors and/or Employment Equity Commission. Any affected employee has the right to refer a case to the Labour Commissioner for mediation, arbitration/Conciliation.

56. The Government continues to strengthen the implementation of the Affirmative Action Act, 1998 (Act No. 29 of 1998) to institute procedures that contribute towards the elimination of discrimination in the recruitment and promotion of women in the public sector.

57. The Labour Amendment Act, 2012 (Act No. 2 of 2012) makes provision for non-discriminatory practices on various grounds, including disability, HIV status and pregnancy, among others.

Socio-economic empowerment measures for marginalised communities

58. The Government implemented a Cabinet directive to integrate the San and Himba communities into the mainstream economy and monitor and evaluate the impact of measures taken to accomplish this task. The Government through the Office of the Vice-President continue to explore mechanisms aimed at improving the livelihood of marginalised communities.

59. In order to ensure that quality education is accessible to all, The Government developed a National Policy on Inclusive Education. The said policy stipulates as follows:

“The education sector developed a national policy on inclusive education as a medium to attaining an accessible, equitable and sound education for all especially the educationally marginalised children through efficiency, democracy and solid advocacy for lifelong learning”.

60. The state party is in the process of implementing a white paper on indigenous peoples. The White Paper on indigenous people is a regulatory framework that guides the Division of Marginalised Communities which is under the Office of the Vice-President and constitutes policy guidance for promoting and protecting the rights of the indigenous peoples by ensuring their inclusion in a strong, resilient and tolerant Namibian house.

61. The overall aim of the white paper is to strengthen institutional frameworks, improve coordination and ensure effective consultation, participation and representation for San and Ovaherero communities. The white paper also makes policy and implementation recommendations regarding improving access to land and ensure secure land tenure; equal access to quality education and promoting languages; respect for cultures and traditional knowledge; improving health outcomes, gender equality, food security and access to employment.

62. The Government continues to provide food to the marginalised communities on a monthly basis. Free education policy was implemented and is now catering for both primary and secondary education. The Office of the Vice-President supports learners in Grade 10 and 12 with allowances which cater for their school uniforms, toiletries and stationeries while students at the higher learning institutions get full financial support.

63. In an effort to improve the socio-economic conditions of the marginalised communities, the State Party has embarked on a number of programmes/or projects as outlined below:

Construction of educational infrastructure and other amenities

Kunene Region

(a) Three (3) classrooms were constructed at Otjikojo village, and three (3) additional classrooms at Otjomuru, and two hostels at Otjikojo and Otjomuru. Two (2) clinics were constructed one at Otjomuru and the other Seringkop;

(b) A brickmaking project started at De-Riet village which made about 25 000 bricks. The bricks along with funds from government and donors awaiting will be used to build a school, teacher's quarters and a hostel for the learners.

Otjozondjupa Region

(a) One (1) school was constructed at Dobe village. A community centre with a kindergarten, including two (2) houses were constructed at Namapan village in Tsumkwe. One-Hundred and Thirty-One (131) cattle were provided to the San community at Ondera Ya Urua. In addition, ten (10) houses were constructed for the San community at the same village;

(b) The Turkish, government through its international agency (TIKA) helped with the provisioning of clothes, goats, cattle as well as agricultural implements to the San communities in the region;

(c) The Namibia Kalahari New Hope Project provided food parcels to the Tsumkwe San communities between 2018 and 2019, and it also provided clothes and funded the garden projects.

Oshikoto Region

(a) Farm Ondera was acquired by the Ministry of Land Reform in 2013 and is about 7000ha. About One Hundred and Twenty (120) households of Hai//Om San people have been resettled on that farm since 2013. The Office of the Prime Minister paid for pivot, a tractor, seeds and fertilizers and implements, they also provided a government pick up and a driver to transport produce to the markets;

(b) The Motor vehicle Accident Fund (MVA) provided fencing material for school, seed, fertilizers and diesel to the farm.

Ohangwena Region

(a) Twenty-six (26) houses were constructed and electrified for the San community of Omundaungilo in the Ohangwena region.

Omaheke Region

(a) Land with the size of 2600 ha was provided in the for the San communities of Otjinene and Epukiro during the 2015/2016 financial year;

(b) In Omaheke region the San communities were resettled, and the government was assisted by the Namibian German Special initiated Program (NGSIP) to drill boreholes and install infrastructure. The community were also provided with cattle with the assistance of NGSIP.

Table 7: Shows the number of members of the San community that were resettled in the Omaheke region

<i>San Community</i>	<i>Year of resettlement</i>	<i>How many households</i>	<i>Hectares of land</i>
/Nu/gumu	2014	12 households	35 000 ha
Otjiamapeta	2015	17 households	11 500 ha
Otjiuapeuri	2016	16 households	34 000 ha

Source: Ministry of Lands and Resettlement.

Etosha National Park

(a) A concession was awarded to the Hai//om San communities to generate income through tourism activities on top of the seven farms adjacent to the Etosha National Park;

(b) The Ministry of Environment and Tourism (MET) engaged the Hai//oms community on different activities to benefit from the natural resources in the Etosha National Park and on how they can contribute to the better management of the park. Moreover, the Hai//om community can visit their grave sites inside the Etosha National Park. However, the Ministry of Environment and Tourism must be informed of these visitations.

(c) In September 2012, MET awarded a tourism concession as well as a traversing right concession at Gobaub in the Etosha National Park to the Hai//om community. This includes the auxiliary right to develop and operate a tourism lodge on resettlement farms south of the Etosha National Park;

(d) In 2015 MET assisted with the construction of 37 houses on the resettlement farm for the Hai//om community. Other interventions are the construction of low-cost brick houses for the Hai//om community who were relocated from the park. MET provides employment to Sixty-four (64) members of the Hai//om community. The Ministry plans to facilitate the development of the wildlife core area on the farms Nuchas, Werdda and Tsabis pending the availability of funds.

64. The government has made efforts to ensure that marginalised communities are not discriminated against with the back to school and stay at school campaigns, which also ensures that learners do not drop out of school due to discrimination. Positions for Development Planners were created for the purpose of ensuring that all marginalised communities are protected against any discrimination. These official's duties include among other things, ensuring that their daily wellbeing is catered for through targeted programs and interventions in collaboration with all line ministries.

65. In addition, coordinators were also appointed from marginalised communities to serve as focal persons. The responsibility of these persons is to mobilize communities to stand up for their rights and to report any kind of discrimination against them as well as to mobilize themselves to take charge of their development.

66. As stated above, one person from the marginalised communities is represented in parliament. He is also a Deputy Minister under the Office of the President which is responsible for the marginalised communities. In addition, five members from the marginalised community were appointed as staff members under the Office of the President, in the Division for the marginalised communities and one staff member from the Khwe San community was appointed as one of the assistants to the President of the Republic of Namibia.

67. The Office of the Vice-President regularly engages with stakeholders such as Governmental institutions, NGO's, Civil Society to implement the mandate of marginalised communities.

68. The Government takes note that consultation is a crucial element in the involvement of the marginalised communities in relation to development projects, policies and legislation that affects them. Project planning and development begins with requests from the communities and their leadership on what their needs are. This is done through carrying out thorough assessments on the predicament of the targeted communities. Formulation of

programmes and implementation thereof always involves the San communities, especially their leadership. The San communities are implementing their own projects with the support of the marginalised division in the Office of the Vice-President.

69. In an effort to address the land issue in Namibia, the Government held its Second National Land Conference on the 1st to the 5th October 2018. The Ministry of Land Reform was tasked to host the conference in order to take stock and review the progress made towards the achievements of the goals of land reform programmes in the country since independence. The Second National Land conference was intended to create a platform where Namibians are accorded an opportunity to deliberate on the current land reform programme and other emerging land related issues.

70. The Government has made considerable progress in providing land to the marginalised communities. A Commission of Inquiry on the claims of ancestral land rights and restitution was commissioned by the Head of State in 2019. The Commission will identify alternative restorative measures to restore social justice as well as ensure economic empowerment for the affected communities.

71. There has been cases involving San communities that have been before the courts on the claims for ancestral land rights. In the matter of *Tsumib v Government of the Republic of Namibia*¹ the applicants being members of a minority group, the Hai//om people applied for leave to represent the Hai//om people in an action they intended to institute against the Government in which they would claim ownership or exclusive beneficial occupation of what they claimed to be their ancestral land; a claim to the natural resources; a claim to develop the said land; a claim to the non-exclusive occupation of the said land; an alternative claim to that they be allocated a land in the same extent as their ancestral land as compensation.

72. The Court held that the competent body to launch the action sought by the applicants is the Hai//om Traditional Authority. The provisions of the Act cited by the applicants as constituting an impediment to the Traditional Authority being a viable body to assert the rights of the Hai//om people, are capable of being interpreted in a manner that is sensible and rights giving. The effect of the order sought by the applicants would lead to the establishment of a parallel representative and decision-making structures for the Hai//om people which is prohibited by the Act and constitutes a criminal offence.

C. Article 3 and 4 – Prohibition of racial discrimination

Measures taken to prevent, prohibit and eradicate racial segregation

73. As stated in the previous report, all forms of racial discrimination are prohibited under the Namibian Constitution and the Prohibition of Racial Discrimination Act as amended.² In this regard, the Ombudsman has produced a report compiled in October 2017, entitled “A nation divided: why do racism and other forms of discrimination still persist 27 years after independence. The said report was compiled after the office held public hearings across the country to establish the level of discrimination in Namibia.

74. Furthermore, Parliament enacted the Repeal of Obsolete Laws Act, 2018 (Act No. 21 of 2018) which aims to provide for the repeal of certain obsolete laws. It came into force on the 1st of March 2018. It was necessitated because many of the by-laws, the laws, regulations, proclamations and ordinances are discriminatory on the grounds of race, sex, colour, ethnic origin, religion, creed and social and economic status. It is aimed to get rid of all outdated laws that are discriminatory.

¹ (A206/2015)[2019] NAHCMD 312 (28 August 2019).

² Prohibition of Racial Discrimination Act, 1991(Act 26 of 1991) as amended.

D. Article 5 – Report on the non-discriminatory implementation of each of the rights and freedoms referred to in article 5 of the Convention.

The right to equal treatment before tribunals and all other organs administering justice

75. The Namibian Constitution guarantees access to justice. The State Party acknowledges that a relatively high number of Namibians do not have access to justice. To address this challenge, the Government of the Republic of Namibia has introduced several measures. These measures include the construction of new courts, including periodical courts across the country. In addition, the State Party ran a programme called “Aspiring Training for Legal Professional as Prosecutors and Magistrates”, which was meant to alleviate the critical shortage of Prosecutors and Magistrates throughout the country.

Table 8: Shows the number of Magistrates and Courts in Namibia

<i>Information Required</i>	<i>Response</i>
Number of Magistrate Courts in Namibia	34
Number of Magistrates in Namibia	89
Number of Periodical Courts in the Country	37
Information showing whether justice is accessible to women in rural area	<p>The office has courts in a number of remote areas of Namibia, including the holding of periodical courts.</p> <p>There are currently no surveys that indicate whether there are impediments that hinder women to access the courts, be it due cultural financial factors or because of the remoteness of the court.</p> <p>Police stations or services offered by the police officers are widely found in almost every smallest settlement in the country which in turn assist rural women in accessing justice.</p>

Source: Office of the Judiciary.

76. The Namibian legal system accords equal treatment to all individuals. Article 12 of the Namibian Constitution provides for a fair trial. Article 12(1) (d) provides that all persons charged with an offence shall be presumed innocent until proven guilty according to the law.

77. The independence of the judiciary in Namibia is respected and all persons have an equal opportunity in court to a fair trial. Namibian courts are independent and free from government interference. The state party acknowledges that the financial cost of legal proceedings remains a significant barrier to realising access to justice in Namibia. In an effort to improving the efficiency and accessibility of justice, the judicial case management system (JCM), came into full operation in 2014 along with mediation and electronic filling. All these initiatives continue to be of great value in the early finalization of cases and reducing litigation costs.

78. The Namibian government is aware of the fact that access to justice is among the most important fundamental rights covered under various international and regional human rights instruments. To make it easier for the Namibian people to access justice timeously, Namibia promulgated the Judiciary Act, (Act 11 of 2015). The aim is to strengthen the independence of the Judiciary in line with Article 78(5) of the Namibian Constitution, to provide for the administrative and financial matters of the Office of the judiciary; and to provide for incidental matters.

79. The legal aid scheme as administered by the Ministry of Justice provides legal aid to indigent Namibians who cannot afford private lawyers. In addition, the government employed over 16 new law graduates as Legal Aid Counsel, and they commenced their duties on the 3rd June 2019. The new legal aid counsels together with others already on board will be executing the mandate of the Directorate. In total, the Directorate of Legal Aid has 61 Legal Aid Counsels.

80. Furthermore, the Law Society of Namibia is in the process of implementing a comprehensive “Change Project” which aims to examine the legal profession in Namibia and propose reforms that will make the profession accessible, relevant and responsive to Namibian society.

81. In order to sensitize citizens of their rights as well to make them aware of Namibia’s obligations under various human rights instruments, the Ministry of Justice has compiled compendiums and booklets on all regional and international human rights reports to which Namibia is a state party and distributed them to various educational, cultural and community institutions and libraries across the country. Moreover, the Office of the Ombudsman regularly undertakes human rights campaigns across the country.

The right of security of persons and protection by the state against violence and bodily harm

82. All forms torture, cruel and inhuman treatment and punishment are prohibited under the Namibian Constitution. In March 2020, three (3) members of the police force were found guilty of murder. This is a clear indication that the government does not tolerate all forms of violence being perpetrated by organs of the state such as the police.

Political rights

83. The right to political participation is a guaranteed right to every Namibian citizen in terms of Article 17 of the Namibian Constitution. All citizens have the right to form and join political parties.

84. Three (3) new political parties recently registered with the Electoral Commission of Namibia. These are:

- (a) Namibia Economic Freedom Fighters (NEFF), registered on the 09th October 2014;
- (b) Landless People’s Movement (LPM), registered on the 08th February 2019;
- (c) National Empowerment Fighting Corruption (NEFC), registered on the 04th February 2020.

85. The marginalised communities (indigenous people) are also politically involved. The current ruling party has a policy in place to bring the marginalised people into elected party structures for them to be able to be elected into local, regional and national political position. For example, the Deputy Minister of Marginalised communities in the Office of the Vice-President, Honourable Royal J.K /Ui/o/oo is from the marginalised group. Another member of the San community is representing her community in the National Council.

86. Namibia has made a breakthrough in ensuring that women are adequately represented in the political decision-making structures as well as the judiciary system as illustrated in the tables below.

Table 9: Shows statistics on the number of women in political decision-making structures as well as the judiciary system

<i>Public Sector</i>	<i>Women</i>	<i>Men</i>
Members of Parliament	48	88
Cabinet Ministers	7	24
Higher positions in civil service and parastatals	138	227

<i>Public Sector</i>	<i>Women</i>	<i>Men</i>
Employment in the security forces	172	333
Judges of higher Courts	5	14
Magistrates of Lower Courts	50	49
Justices of Community Courts	1	21
Political Parties	4	33

Source: Ministry of Gender Equality and Child Welfare.

Table 10: Citizen's participation in the general elections held in 2014, 2015 and 2019

<i>Election Year</i>	<i>Estimated Population</i>	<i>Election Type</i>	<i>Registered voters</i>	<i>Voters cast</i>	<i>Voter Turnout (%)</i>
2019	2.5 Million	Presidential	1 358 468	826 198	60.8
		National Assembly		820 227	60.4
2015	2.2 Million	Regional Councils	1 247 399	504 399	39.8
		Local Authority		418 544	153 187
2014	2.1 Million	Presidential	1 241 194	890 738	71.7
		National Assembly		893 645	71.9

Source: Ministry of Gender Equality and Child Welfare.

V. Other Civil Rights

A. The right to freedom of movement and residence within the borders of the state

87. The Namibian Constitution guarantees the right of every citizen to move freely, reside and settle in any part of Namibia. However, the right to free movement can only be curtailed in the event the state of emergency has been declared by the Head of State.

88. In order to curtail incidences of statelessness and to make it easier for non-citizens to acquire Namibian citizenship if they so wish, the Namibia Citizenship (Second) Special Conferment Act, 2015 (Act No. 6 of 2015) was promulgated and it makes provisions for the conferment of Namibian citizenship upon certain descendants of persons who left Namibia because of persecution by the colonial government.

89. The status of immigration related laws has not changed since the last report. However, there have been developments in relation to laws pertaining to freedom of movement of citizens to and from neighbouring countries. In this regard, Parliament passed the One-Stop Border Post Act, 2017 (Act No.8 of 2017). The purpose of the Act is to provide for the conclusion of agreements with adjoining states on the establishment and implementation of one border posts.

B. The right to leave and to return to one's country

90. The information remains the same as reported in the last report.

C. The right to a nationality

91. As stated in the last report, article 4 of the Namibian Constitution regulates the acquisition and loss of citizenship.

92. In the case of *Marius Cornelius De Wilde v The Minister of Home Affairs*,³ the applicant sought a declaratory order declaring the minor child Bram Cornelius de Wilde (born on 27 October 2009) to be a Namibian citizen by birth in terms of article 4 (1)(d) of the Namibian Constitution, and that the court direct the respondent to issue Bram with a full Namibian Birth Certificate. The court concluded that the possession of a permanent residency permit is evidence of a person's intention to reside in Namibia and intention to permanent residence therein and accordingly evidence of being ordinarily resident in Namibia within the meaning of article 4(1)(d) of the Namibian Constitution.

D. The right to marriage and choice of spouse

93. As per the last report, Article 14(1) of the Namibian Constitution deals with marital relations. Men and women of full age are entitled to equal rights to marriage, during marriage and at its dissolution.

94. Section 226 of the Child Care and Protection Act, 2015 (Act No. 3 of 2015), which entered into force in 2018 provides that a person may not give a child out in marriage or engagement if such child does not freely consent to the marriage or engagement or is below the minimum age for marriage as contemplated in the Marriage Act as well as the Married Person's Equality Act. It states that "No boy or girl under the age of 18 years shall be capable of contracting a valid marriage except with the written permission of the Minister responsible for Home Affairs; and a person below the age of 21 years requires the consent of his or her parent, parents or guardian in order to marry.

95. A person who contravenes these subsections commits an offence and is liable on the conviction to a fine not exceeding N\$ 50 000 or imprisonment for a period not exceeding ten years or both such fine and imprisonment. These marital age restrictions serve as a safeguard against early child marriages which may have a detrimental impact on the child's well-being and development.

96. The Ministry of Gender Equality and Child Welfare conducted a formative study on child marriages in Namibia. The purpose of the study was to describe the state of child marriages in Namibia to inform the development of evidence-based policies, legal reform, resource mobilization and programming.

97. Namibia is in the process of enacting and revising laws pertaining to women's rights in marriage. The following bills are currently being developed into Acts:

(a) The Uniform Matrimonial Property Bill: the aim of the bill is to provide a uniform matrimonial property regime for all civil marriages, to allow a determination and change of property regimes applicable to certain civil marriages contracted outside the redline determined in terms of the Native Administration Proclamation, 1928 (Proclamation No.15 of 1928), the bill seeks to remove the racial and geographical discrimination in the determination of the matrimonial property regime in civil marriages.

(b) The Divorce bill: the bill removes the common-law fault-based system as a ground for divorce. In terms of the bill spouses will be able to institute divorce without the need to prove wrongdoing on the part of the other spouse.

E. The right to own property

98. The right to own property is constitutionally protected by article 16 of the Namibian Constitution. In the case of *Agnes Kahimbi Kashela v Katima Mulilo Town Council and 7 Others*,⁴ the applicant in this argues that she acquired a customary land right in respect of riparian land that was designated as communal land by a representative of the Mafwe Traditional Authority, after her father's death in 2001. The defendants argued that the local authorities owned land and the plaintiff had no right thereof. The Court held that ownership of the land vested in the local authority as per the Local Authorities Act of 1992. The court

³ (A147/2013) [2014]NAHCMD 160 (22 May 2014).

⁴ (SA 15-2017) [2018] NASC (16 November 2018).

reached the conclusion that Ms Kashela acquired a right of exclusive use and occupation of the land in dispute upon the passing of her father and that the right survived and attached to the land even after its proclamation as town land. That right is enforceable by the courts of law which must, in the case of breach, tailor a remedy to meet the circumstances of the facts.

F. The right to inheritance

99. Inheritance in Namibia is regulated by a dual system with the effect that a person's estate can be distributed either in terms of civil or customary law, with geography being the determining factor.

100. On the 31st of December 2018, the Namibian Government promulgated the Administration of Deceased Estates Amendment Act, 2018 (Act No. 22 of 2018) to amend the Administration of Estates Act, 1965 (Act No. 66 of 1965). The amendments are aimed at protecting the interests of minor heirs and legatees and providing for the management of the guardian fund. The amendments provide for an investment framework, including an investment committee and policy to ensure more transparent and effective governance of the investments made by the Masters of the High Court.

G. The right to freedom of thought, conscience and religion

101. As per the last report, Article 21(1) (b) of the Namibian Constitution which states that "all persons shall have the right to freedom of thought, conscience and belief, which shall include academic freedom in institutions of higher learning. The scope of application of the enjoyment of academic freedom in Namibia has not yet been the subject of any litigation before the Namibian courts. If the petition were to reach Namibian courts, it would provide an opportunity for authoritative interpretation to be obtained on academic freedom. The Namibian Constitution lists religion as a category of non-discrimination.

102. In the case of *ES v AC*⁵ Mrs ES, a 38-year-old married woman, was the appellant in this matter. The respondent is Mr AC, the appellant's eldest brother. Mrs ES and her husband are parents to three minor children. Mrs ES being a Jehovah's Witness refused blood transfusion in accordance with the tenets of her faith. She had just delivered by caesarean section a premature baby and had lost a significant amount of blood.

103. Mrs ES appeals against the order made by the High Court on 13 September 2012, amongst others, appointing Mr AC as curator to the person of Mrs ES, principally it would appear, for the purpose of authorising the administration of medical procedures on her, including blood transfusions, if so advised by health professionals.

104. The Court concluded that patient autonomy enjoys a preferred position in our law to the children's right to be cared for by their parents.

105. It is worth noting that Namibia is a secular state and there is a complete separation between the state and organized religion. Although the Christian faith is the dominant religion in the country, other minority religions enjoy the same rights and protections as the former. Muslims, Jews, followers of the Baha'i faith, as well as followers of indigenous African religions are allowed to practice their religion without any interference or intimidation from the state.

106. In public schools, especially at primary school level, the subject religious and moral education is compulsory for all learners irrespective of their religious affiliation. The subject does not endorse a particular religion. Rather it is accommodative and teaches all kinds of religions to learners focusing mainly on their similarities instead of their differences. This approach promotes tolerance amongst learners from different religious background.

107. Religious institutions are allowed to run their own schools while applying the same curriculum approved by the government. e.g. the Catholic Church runs a number of private religious schools across the country. As stated above, the Christian faith has the largest

⁵ (SA 57/2012) [2015] NASC 11 (24 June 2015).

following in the country, therefore the Government recognizes several Christian holidays to this effect. Christian holidays such as Easter, Ascension Day as well as Christmas day have been declared as public holidays. Followers of minority religions such as those mentioned above are also allowed to celebrate and commemorate their religious holidays without any intimidation from the state and the general public.

H. Freedom of opinion and expression

108. Freedom of opinion and expression is guaranteed by Article 21 (1)(b) of the Namibian Constitution. In 2019 the World Press Freedom Index ranked Namibia as the highest African country respecting the freedom of expression. Namibia has Nine (9) Independent newspapers and One (1) state-owned. Citizens are allowed to air their grievances against the state in the said newspapers without any fear of retribution from the state. Radio call-in programmes in both state-owned and private owned radio stations also allow people to raise their concerns and criticise government policies without any repercussions from authorities.

109. Moreover, all social media platforms are easily accessible without restrictions from the state. There are two (2) television stations and forty-one (41) radio stations across the country. Furthermore, the presidency has a specialised office that specifically caters for the media. This office is headed by the Press Secretary who acts as a liaison between the Head of State and media houses.

110. Journalists in Namibia are not subjected to harassments, arrests or arbitrary detention on account of their work. Namibia highly values media freedom and implements a self-regulated media framework providing structures such as the Media Ombudsman and Namibia Open Forum to deal with complaints against the media.

111. The media has in recent times scored victories in courts in relation to accessing and publishing government information which is deemed as confidential. In the case of *The Director General of the Namibia Central Intelligence Service v Haufiku*,⁶ the third respondent, an independent newspaper, intended to publish an exposé on alleged corrupt activities and transgression of the State Finance Act in the Namibia Central Intelligence Service. When informed of the third respondent's intentions, the applicants the Director-General of the NCIS and the Government launched an urgent application to interdict the publication of the intended article. The interdict was sought on the strength of the Namibia Central Intelligence Service Act, 1997 (Act No 10 of 1997) and on the provisions of the Protection of Information Act, 1982 (Act No. 84 of 1982) which prohibited the possession and publication of classified information and on the basis that the publication would expose and be harmful to the operations of the security service. The respondents, being the journalist and editor in question, and the publishing entity inter alia relied in their defence on the freedom of speech and expression and the media guaranteed by Article 21(1)(a) of Namibian Constitution. The Court refused to grant the sought interdict as the court found that the applicants had failed to establish that an injury was actually committed or reasonably apprehended.

112. However, there has also been instances in which several media houses were ordered by courts to pay damages to individuals after publishing articles which were considered as defamation of character. In the case of *Du Toit v Amuphadhi and Others*,⁷ Judge Oosthuizen noted that fair comment requires the underlying facts on which comment is based to be true or substantially true. He also noted that the right to freedom of speech and expression, which is fundamental to a democratic society, is not a paramount value, and must be construed in context with other constitutional values, in particular the values of human dignity, freedom and equality.

⁶ (HC-MD-CIV-MOT-GEN-2018/00107[2018] NAHCMD 174 (18 JUNE 2018).

⁷ (2016/02822) (2019) NAHCMD 216.

I. Freedom of peaceful assembly and association

113. Freedom of peaceful assembly and association is guaranteed by Article 21(1)(d) and (e) of the Namibian Constitution. The right to peaceful assembly is governed by the Public Gathering Proclamation (AG 23 of 1989). Namibians are entitled to assemble peacefully in accordance with the law. In order to exercise this rights permission must be given by the Namibian Police Force. The Namibian Police Force is then required by law to ensure that, law and order is maintained throughout the said assembly. The Demonstrations in or near Court Buildings is governed by the Court Buildings Prohibition Act, 1982 (Act 71 of 1982).

114. In the case of *The Prime Minister & Others v Namibia National Teachers Union & Others*,⁸ the applicants filed an urgent application firstly, to interdict the 1st respondent's members from engaging in an industrial action and secondly, to have the decision of the conciliator set aside, in relation to strike rules pertaining to a seven-day notice period of the said industrial action and the distance at which picketing in support of the industrial action was scheduled. The 4th respondent was joined as a party to the proceedings, who purportedly had a security interest in the envisaged industrial action. His role in terms of his filed affidavits was to conduct a situation assessment of the security issue related to the strike and to advise accordingly.

115. The court held that dispute regarding the interpretation and application of strike rules by the parties does not constitute a dispute of interest as envisaged in the Act, in that it is not one between the employer and the employee and neither does it concern new or changed conditions of employment within the meaning of chapter 8 of the Act. The court held that there is no basis in law for the court to interdict a lawful strike.

VI. Economic, Social and Cultural Rights

A. The right to work

116. As previously stated in the last report, the Government continues with the implementation of Affirmative Action Act, (Act No. 29 of 1998) to institute procedures that contribute towards elimination of discrimination in the recruitment and promotion of women in both private and public sector. The aim is to achieve equal employment opportunities in accordance with Article 10 and 23 of the Namibian Constitution. There has been a slight increase in women being employed in management positions in both the public and private sector. The right to work does not discriminate against persons living with disabilities as they have also been catered for in the employment sector.

Table 11: Shows the number of Women and Men in the boards of economic decision-making bodies

<i>Economic decision-making bodies</i>	<i>Total No.</i>	<i>Male</i>	<i>Female</i>	<i>% Female</i>
Business and Intellectual Authority (BIPA)	7	3	4	57
Bank of Namibia	8	5	3	38
National Planning Commission	8	5	3	38
Ministry of Finance	40	21	19	48
Development Bank of Namibia	9	4	5	56

Source: Ministry of Gender Equality and Child Welfare. (MGEW).

⁸ (LC 151/2015) [2016] NAHCMD 41 (24 OCTOBER 2016).

Table 12: Shows persons with disabilities by Job category

<i>Job Category</i>	<i>Persons with Disability (Men)</i>	<i>Persons with Disability (Women)</i>
Executive Directors	7	3
Senior Management	24	6
Middle Management	35	27
Specialised/skilled/Senior Supervisory	75	37
Skilled	157	103
Semi-skilled	220	120
Unskilled	184	86
Total Permanent	702	382
Casual/temporary and seasonal	55	38

Source: Ministry of Labour, Industrial Relations and Employment Creation.

B. The Right to form and join trade unions

117. As reported in the last report, the Namibian Constitution under Article 21 (1) (e) provides for the freedom of association including the freedom to join and form trade unions, this freedom is afforded to all persons including non-Namibians.

118. The Labour Act regulates the registration and constitution of trade unions and employers' organisation. There are forty-one (41) registered trade unions and three (3) registered trade union federations. The freedom to form and join trade unions is generally not restricted to any profession. However, job categories designated as essential services are excluded from part-taking in certain activities related to trade unions such as strikes and lockouts.

C. The right to housing

119. The housing market in Namibia has a history of exorbitant house price inflation. The First National Bank housing index of June 2019 indicated that the national average property prices were at N\$ 1,066,908 (about US\$ 72,088). The First National Bank rental index report of May 2019 shows that the average national rental prices across the country stood at N\$ 7,387(US\$ 499). Majority of working-class Namibians (low and middle-income earners) cannot afford houses in this price range. The National Housing Enterprise (NHE) which is a state-owned enterprise, shows that NHE has about 91,000 applicants on its waiting list.

120. The Government aims to alleviate high costs of renting houses and apartments through the implementation of the Estate Agents Act, 1976 (Act No.112 of 1976). This Act has rarely been invoked until the government received a number of complaints from the public regarding the high renting costs in urban areas across the country. Under this Act, estate agency activities in the country are governed by the above Act, under the Ministry of Industrialization, Trade and SME Development. The Namibian Estate Agents Board was established for the purposes of regulating and controlling the activities of estate agents in the public interest. The board is tasked with protecting consumers in estate agency transactions while having regard to the interests of the industry; maintaining and promoting the standard of conduct of the industry; and regulating the activities of the estate agents in general. The Estate Agent Act is currently being reviewed. In terms of the Rents Ordinance 13 of 1977, (Section 2 and 3), the Rent Control Boards were established in the towns of Oshakati, Rundu, Walvis Bay, Swakopmund and Windhoek with the aim to regulate the rental market. To sum up, all these laws are aimed at preventing the exploitation of tenants by landlords.

121. Every citizen enjoys the right to housing without any discrimination. Key aspects worth mentioning in terms of the Government's efforts in this regard is the security of tenure.

The Flexible Land Tenure Act, 2012 (Act No. 4 of 2012) was formulated to give households in informal settlements access to security of tenure; availability of services and infrastructure, it forms part of the basic services such as water and sanitation provided to the inhabitants. Government has adopted a participatory upgrading process, whereby the citizens are part of the decision-making affecting them as well as being part of the upgrading process and subsequently construction of their own houses; there are various initiatives/programmes for low-income households to acquire low-cost land and to build affordable houses.

122. The Namibian Constitution does not provide for a distinct right to housing, however, the inclusion of the right to all persons is provided for through the interpretation of other fundamental rights. The Government has adopted several policies and legislation in order to implement the provisions of the convention. The policies and initiatives on housing are as follows:

Namibia Housing Policy

123. The policy was adopted to make resources available for the development of infrastructure and facilities so that every Namibian family will be given a fair opportunity to acquire land with water, energy and a waste disposal system, and to facilitate access to shelter in suitable locations at costs and standards which are affordable to the family.

Flexible Land Tenure Act, 2012 (Act No. 4 of 2012)

124. The Act addresses the challenges of tenure insecurity in informal settlements, the Government in 2018 passed the regulations for the operation of the Flexible Land Tenure Act. It was specifically designed to facilitate land ownership and proper housing for informal settlement dwellers, by enabling them to secure tenure security in a simplified way and considering their income level and housing affordability without involvement of the conveyancers.

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

125. The Act provides for a single and uniform spatial planning framework, integrated spatial planning and development in the country and has introduced more efficiency in land use planning and approval process through the following reform measures:

(a) Combining the functions that are currently being performed by two advisory bodies, namely the Namibia Planning Advisory Board (NAMPAB) and Townships Board, into a single body the Urban and Regional Planning Board;

(b) Decentralisation or transfer of some of the approval procedures to the Regional and Local Government levels, thereby fast-tracking land and housing delivery.

The Harambee Prosperity Plan (HPP) 2016/2017–2019/2020

126. This sets out clear goals, desired outcomes and measures to be taken to address housing, urban land delivery and sanitation in the country. The Harambee Prosperity Plan has identified housing and urban land and sanitation as some of the critical areas whose development needs to be accelerated.

The 2012 National Rural Development Policy and Strategy

127. The Policy and strategy are focused on improving the living conditions of rural communities. At the centre of the policy is the creation of conditions to address poverty, food security, unemployment and underdevelopment of rural areas.

128. The initiatives and interventions undertaken by Government also involve other stakeholders such as the private sector and the community. The programmes or initiatives are as follows:

Build Together Programme

129. The programme was launched and kicked off in 1992 and entails budgetary allocations to local authorities and regional councils to enable them to provide serviced land and home

loans on concessional terms to the poor and low-income individuals to build decent houses or expand their existing house structures. Some 30 400 housing units have been constructed under this programme since its inception.

130. The Build Together Programme was established in order to enable the most disadvantaged and marginalised individuals and groups to have access to affordable housing. Under the Build Together Programme, there is provision made for social housing to accommodate the marginalised and the vulnerable groups. The local authorities and the regional councils are responsible for constructing these houses and provide accommodation to the marginalised and the vulnerable groups. The said groups are only required to pay a minimal fee for rent thereto.

Mass Housing Development Programme (MHDP)

131. In order to accelerate housing and urban land delivery in a coordinated manner, the Government in 2013 adopted the Mass Housing Development Programme as the umbrella or framework for all initiatives on housing. 3958 housing units have been completed under this programme and were handed over to the needy in various areas of the country since 2014.

Table 13: Shows the mass housing development programme per region and Local authorities

<i>Region</i>	<i>Per Region</i>	<i>Local Authorities</i>	<i>Per Local Authorities</i>
Khomas	362	Windhoek	362
Otjozondjupa	78	Otavi	78
Kunene	179	Khorixas	106
		Outjo	20
Erongo	1 837	Walvis Bay	263
		Henties Bay	53
		Swakopmund	1 521
Hardap	130	Rehoboth	62
		Mariental	68
Karas	493	Keetmanshoop	281
		Karasburg	150
		Luderitz	62
Zambezi	288	Bukalo	86
		Katima Mulilo	202
Kavango West	185	Rundu	185
Kavango East	69	Nkurenkuru	69
Oshana	209	Oshakati	209
Omusati	128	Oshikuku	78
		Okahao	50
11 Regions	3 958	24 Sites	3 958

Source: Ministry of Urban and Rural Development

Grant financial support to housing group savings community-based organisations

132. The Government has embraced and been working with and providing technical and financial support to housing group savings community-based organisations in Namibia such as the Shack Dwellers Federation of Namibia. The assistance given to this organisation is aimed at boosting its capacity to assist homeless citizens to acquire land and to build affordable houses.

Informal settlement upgrading programme

133. The Government through the Ministries of Urban and Rural Development and of Land Reform, in partnership with UN Habitat and the Shack Dwellers Federation of Namibia are implementing various initiatives aimed at improving conditions of people who are residing in informal settlements especially in urban areas. The measures taken and being pursued are:

(a) The participatory slum upgrading programme, which is being piloted in the local authorities of Walvis Bay, Opuwo and Aroab; and

(b) The piloting of the flexible land tenure system in Windhoek, Gobabis and Oshakati will inform the full roll out of the programme countrywide.

Standard Bank buy a Brick Project

134. The Shack Dwellers Federation of Namibia (SDFN) / and Namibia Housing Action Group (NHAG) have been working together with Standard Bank Namibia since 2006. In 2017 a Memorandum of Understanding was signed between the parties on issues of cooperation and Standard Bank has since been making financial contributions in the amount of N\$ 6.8 million to the SDFN and the Buy a Brick initiative only started in June 2015. Since that period, a total of 199 houses have been constructed in various areas through this initiative.

Table 14: Shows statistics of the 199 houses that were constructed

<i>Region</i>	<i>Town</i>	<i>No. of Beneficiaries</i>
Hardap	Rehoboth	41
	Mariental	20
//Karas	Berseba	20
Omaheke	Otjinene	15
	Gobabis	9
Ohangwena	Oshikango	10
	Okongo	39
Oshikoto	Omuthiya	21
Otjozondjupa	Otjiwarongo	24
Total		199

Source: Ministry of Urban and Rural Development.

Ohorongo Cement/First National Bank (FNB)/Pupkewitz Foundation

135. The Ohorongo Cement/First National Bank (FNB)/Pupkewitz Foundation was started in 2015. The initiative brought about a total of 253 houses to date, in various part of the country.

Table 15: Shows the houses built as per locality

<i>Region</i>	<i>Town</i>	<i>No. of Beneficiaries</i>
Erongo	Omaruru	26
	Henties Bay	24
Oshikoto	Tsumeb	32
Omusati	Tsandi	13
Otjozondjupa	Otavi	59
//Karas	Keetmanshoop	15
Hardap	Mariental	20
Zambezi	Katima Mulilo	30

<i>Region</i>	<i>Town</i>	<i>No. of Beneficiaries</i>
Kunene	Outjo	34
Total		253

Source: Ministry of Urban and Rural Development

136. During the Second National Land Conference which was held on the 1st to the 5th October 2018, identified topical issues were discussed and amongst the topics was the urban land/housing prices and one of the resolutions of the conference amongst others, is to include the right to housing as a human right in the Namibian Constitution. Namibia is faced with a challenge in the delivery of serviced land especially in the urban areas due to various factors. The short supply and accessibility of serviced urban land has resulted in the spiralling of the prices of urban land and housing and the consequent inability of the majority of the citizens to afford and access these essential commodities. The most affected are the poor, and low-income groups.

D. The right to public health, medical care and social security and social services

137. The Ministry of Health and Social Services is responsible for the public health of all people in Namibia. A minimal administrative fee is required for provision of health services at state health facilities, however in terms of the Government policy no one may be sent home due to the inability to pay the administrative fees. Elderly persons and persons with disabilities are exempted from paying the said administrative fee for healthcare services.

138. The Government has placed high premium on provision of health care services as stipulated in Article 95 of the Namibian Constitution. Health care services is being provided to all inhabitants irrespective of their colour, gender, race, creed, socio-economic status, or political affiliation. There is no specific interventions designed for the marginalised communities. However, they equally enjoy the health care services provided to all citizens and non-citizens alike. Welfare organisations in terms of the National Welfare Act, 1965 (Act No. 79 of 1965), as amended have been registered in order to render services to the vulnerable, disadvantaged and marginalised persons in communities as well as refugees. A total of 41 welfare organisations have been registered in Omaheke, Otjozondjupa, Khomas, Kunene, Oshikoto, Oshana and Erongo regions.

139. The Ministry of Health and Social Services pays special attention to remote and under-serviced areas by ensuring that communities living in these areas are equally provided with quality health services. This is done through outreach services and fixed health facilities. Another way to reach out to the communities is through introduction of community health programme, where community health workers, drawn from their communities, were trained to serve in the same communities.

140. In the Kavango East and Kavango West regions, there are prefabricated facilities where TB patients from San communities receive their TB medicines under supervision to ensure adherence and prevent drug resistance. The same initiative is implemented in Otjozondjupa region, where a soup kitchen was established to serve the San TB patients with soup before taking treatment.

Table 16: Shows health facilities constructed in marginalised communities

<i>Name of facility/project</i>	<i>Date/year of completion</i>	<i>Region</i>	<i>Comments</i>
Otjomuru Clinic	2018	Kunene	
Queen Sofia Clinic	2016	Kunene	
Ceringkof clinic	2018	Kunene	This is a container clinic sponsored by private entities

<i>Name of facility/project</i>	<i>Date/year of completion</i>	<i>Region</i>	<i>Comments</i>
			(Standard Bank, Namport, and others). The facility is fully operating as a clinic and there is staff accommodation.
Etoto Clinic	Practically completed, but there are a few outstanding project activities yet to be addressed.	Kunene	
Utuseb Clinic	The project is practically completed, with only a few outstanding project activities to be addressed.	Erongo	
Ohaiwa Clinic	A proper clinic is yet to be constructed; health services are provided by community health workers from a temporary zinc structure. Ministry of Health and Social Services provides medicine.	Kunene	
Rikwaterera TB Dot Point		Kavango East	This is a container facility donated by USAID
Bravo TB DOT Point		Kavango West	Container facility donated by USAID

Source: Office of the Vice President.

141. Forty-one (41) new health facilities were constructed (clinics, health centres, Regional Management Team offices and staff accommodation), while 31 health facilities were upgraded (clinics, health centres, hospitals and offices) during the implementation of the Ministry of Health and Social Services strategic plan which ended in 2016/17. In 2012 the Ministry of Health and Social Services piloted a Community Health Worker Programme, and following the successful pilot project in Opuwo, the programme was extended to the rest of the country.

142. The Ministry of Health and Social Services launched and started with the implementation of the Ministry of Health and Social Services roadmap in 2014. The roadmap provides a strategic long-term framework for governance, human resources development, health facility upgrading and the establishment of specialised services and institutions. It was operationalised through annual action plans, national development plans, the medium-term expenditure framework, development assistance and public private partnerships. This roadmap is currently under revision to further address the needs of the Namibian society. In order to increase the health workforce and, as a result, improve access to health services, the training of health workers is part of the priority strategic framework.

143. The Ministry of Health and Social Services facilitated the training of medical undergraduates, medical interns, postgraduate training, medical specialists, nurses (basic and specialists). Over 100 students were admitted for their studies in Medicine and Pharmacy at People's Friendship University and First Moscow Medical University in Russia respectively.

144. The Government introduced the National Strategic Framework for HIV and AIDS response programme for the period of 2017/18 to 2021/22. This framework is a five-year HIV and AIDS policy and planning document developed to guide planning, programming and implementation of the national, multi-sectoral and decentralised HIV and AIDS response.

145. The Ministry of Health and Social Services has also recruited and trained health extension workers who serve as the link between health facilities and communities. These factors contributed to an increased proportion of HIV positive people being on ART. Namibia has thus successfully managed to control the HIV epidemic through its HIV prevention and treatment programmes. The 2017 Namibia Population-Based HIV Impact Assessment (NAMPHIA) indicates that the HIV prevalence rate in adults aged 15–64 years is at 12.6% which is a decrease from the 2013 Namibia Demographic and Health Survey (NDHS), which stood at 14%.

146. The number of patients referred to hospitals in Namibia increased from 934 in 2014/15 to 1092 in 2015/16. The Ministry of Health and Social Services has launched the master plan on non-communicable diseases (2017/18–2021/22) in order to address morbidity and mortality due to non-communicable disease.

147. The Ministry of Health and Social Services (MOHSS) through its National Health Policy Framework 2010–2020, recognises that health and social well-being are fundamental human rights. All Namibians have the right to enjoy good health through access to primary care and referral level services according to their needs. This framework underscores the fact that health and social welfare services will be affordable, and the principle of equity and fairness and that special attention will be given to the needs of the vulnerable groups. MOHSS applies the principle of impartiality and treats all patients and clients equally, irrespective of status, religion, political belief, race, colour, gender and sexuality. Patients are treated based on their health needs and not based on ethnicity.

148. The Government has passed the National Health Act, 2015 (Act No. 2 of 2015) to provide a framework for a structured uniform health system within Namibia; to consolidate the laws relating to state hospitals and state health services, and to regulate the conduct of state hospitals and state health services; and to provide for financial assistance for special medical treatment of state patients.

E. Social Security

149. The social protection system consists of the provision of social assistance, social insurance and occupational and private pension. Social assistance consists largely of a universal benefit for the elderly and disabled, a war veteran's subvention and a number of welfare grants to parents of children under certain limited conditions (e.g. for fostering needs, disability, or lack of maintenance ability).

150. Occupational and private retirement funds, health insurance funds and medical aid schemes cater for the upper end of the labour market. Social insurance consists of two schemes run by the Social Security Commission (SSC), that is, a Maternity Sick Leave and Death Benefit Fund (MSDF) and the Employees Compensation Fund (ECF). In addition, there is a Motor Vehicle Accident Fund (MVAf) for accident insurance for those who qualifies. There are also a number of Government schemes aimed at poverty alleviation, such as State grants, job creation and promotion of tertiary and vocational education and training

F. Inclusion of vulnerable and marginalised socio-economic groups

151. Social Security Commission uses the vehicle of its Development Fund to cater to the needs of marginalised communities and ensure their social inclusion. Under the study loan and bursary schemes of the Social Security Commission-Development Fund (SSC-DF) gives preferential treatment to applicants from marginalised communities (San, Himba, Ovaherero, Topnaars, etc) as well as people with disabilities. Under the SSC-DF training scheme, a condition was placed in each contract that is signed with the training service providers to ensure in their pool there is a minimum of 8 trainees from the marginalised communities.

152. A contract was signed with the University of Namibia (UNAM) that saw the training of 330 domestic workers and resulted in their registration with the Social Security Commission (SSC). The SSC has designated farmworkers, domestic workers, hawkers and small traders, and some categories of self-employed as vulnerable groups due to the precarious nature of their employment, and their status of having very few or no employment contracts, low wages, with little or no social security benefits.

153. In order to address these shortcomings and bring more of these vulnerable members into the social safety net, the SSC embarked on a project slated for the 2019 financial year, to sensitise these workers on social security benefits, and to actively register members from these groupings in field visits and public campaigns in three of the most economically active regions in the country, i.e. Khomas, Oshana and Erongo regions.

154. Under existing arrangements and in terms of the Social Security Act, 1994 (Act No. 34 of 1994) the self-employed are covered by all schemes under the SSC. Although participation is voluntary, they are covered provided they register and pay double contribution, as both employer and employee.

155. Currently there is no differentiation between part-time and full-time workers from the Namibian perspective. Both employers of these two groups should register and pay contributions as per existing rules and regulations. About 40 percent of the Namibian workforce is employed in the informal sector. It was observed in practice that very few individuals or sub-groups in this sector are registered for social security. Having realised the need for the full inclusion of this sector, Government in conjunction with the SSC commissioned a limited research study on the characteristics of the informal sector in Namibia in 2016.

G The old age pension grant

156. The Ministry of Poverty Eradication and Social Welfare (MPESW) implements poverty eradication universal programmes such as social (elderly and disability) grants and coordinates sectoral programmes through the Blueprint on Wealth Distribution and Poverty Eradication. The MPESW is also in the process of transforming the current fragmented social protection interventions including old age pensions and other social grants by various Ministries into an integrated, uniform and efficient social protection system. The Government continues to provide monthly pension grants to the elderly, and the amount stands at N\$ 1300. The elderly have unrestricted access to all public health facilities where they are not required to pay any fees for seeking medical assistance.

H. Right to education

157. The Namibian Constitution continues to promote and provide education as contemplated in Article 20 of the Namibian Constitution. The Government has since independence intensified efforts to ensure that every child residing in Namibia has access to education. Such efforts include the building of mobile schools for marginalised groups such as the San and Ovatwe/Ovahimba who are living a nomadic life. The Government is also providing primary education to refugees at the Osire Refugee Resettlement Camp. Through these efforts the Government is striving to fulfil its mandate as enshrined in the Constitution of the Republic of Namibia. The expenditure on education is about 8.4% of the GDP of the national budget every year.

I. Education and Teaching

158. The Ministry of Education, Arts and Culture provides school feeding programme to needy primary school learners in all 14 regions in 1435 schools out of 1846 schools and this constitutes approximately 80% of the schools in the country.

Table 17: Namibian school feeding programme. 2014–2018

<i>Year</i>	<i>Number of Beneficiaries</i>	<i>Number of NSFP schools</i>	<i>Expenditure</i>
2014/2015	320 000	1 273	N\$ 89 000 000
2015/2016	330 000	1 273	N\$ 107 000 000
2016/2017	364 354	1 435	N\$ 120 000 000
2017/2018	365 854	1 456	N\$ 130 918 000

Source: Ministry of Basic Education, Arts and Culture.

J. Social Accountability and Social Governance (SASG)

159. The Ministry of Education, Arts and Culture in its endeavour to provide quality and inclusive education for all learners in Namibia, has through the technical and financial support from United Nation International Children’s Emergency fund (UNICEF) and with the funding of European Union (EU), launched the Social Accountability and School Governance programme (SASG). It aims at increasing the understanding of school communities and other stakeholders in education of their roles and responsibilities in the management and monitoring of the education system, especially at school level.

160. 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).

K. Universal Secondary Education and Sector Policy on Inclusive Education

161. The Ministry of Education, Arts and Culture introduced free secondary education in 2016 to ensure further access beyond primary education. The ministry has launched the sector policy on inclusive education in 2013 and has conducted training across the regions. The sector policy on inclusive education aims to provide access, equity and equality education to all children. Although the policy is aimed at ensuring that the education system becomes inclusive, sensitive and responsive to needs of all children, it has a specific focus on children and young people who have been, or are likely to be educationally marginalised which includes foreign nationals and refugees.

162. To date 1268 principals and teachers of all primary schools across the country have been trained. Training for secondary and combined schools has only been done in Okavango East and West with 78 principals and teachers having been trained. There is a board responsible for coordination of the Continuing Professional Development (CPD), housed by the Ministry of Higher Education, Training and Innovation at the University of Namibia, in the centre for professional development, teaching and learning improvement. The coordination of the CPD is done in collaboration with the Ministry of Education, Arts and Culture (MoEAC). The MoEAC in 2016 launched the in-service teacher education diploma in Junior Primary Education to address the shortage of teachers, as well as to improve the subject content in pedagogical and delivering methods in literacy and numeracy from Pre-primary to Grade 7. The MoEAC and the University of Namibia have collaborated and re-introduced a three-year education diploma programme to meet the demand for qualified teachers and to strengthen the education foundation at early phase, such as pre-primary.

163. The syllabus states that inclusive education is the right of every learner and thus promotes access to and participation in the full range of educational programmes and services offered by the education system in mainstream schools. It is based on the principle of supporting and celebrating the diversity found among all learners and removing all barriers to learning.

164. The textbooks that are developed and or approved for use in schools under the current curriculum review contains plenty of relevant and useful suggested activities to support multi-ability learning. All approved textbooks promote an awareness and understanding of people with physical, sensory or other specific learning difficulties, and the teacher's guide provides suggestions on ways that the teacher can accommodate learners with such difficulties.

165. In all subjects in the revised curriculum, the teacher should accommodate learners with special educational needs by adapting this syllabus to the needs of the learner through differentiation of teaching methods and material as indicated in the Curriculum Framework for Inclusive Education (2013). Different syllabuses promote equality of opportunity for males and females, enabling both sexes to participate equally and fully. All teachers should know and understand how to treat learners equally and all materials should support gender equity.

L. Resources allocated to ensure equal access to quality education

166. The Government has allocated resources to ensure equal access to quality education by making funds available through the Education and Training Sector Improvement Program (ETSIP) and Millennium Challenge Account (MCA) for purchasing of textbooks. The provision of textbooks and instructional materials was being substantially increased to reach a learner to textbook ratio of 2:1 for core subjects. Cabinet approved a textbook policy to underpin and guide further increases in the provision of books and instructional materials.

167. The National Institute for Educational Development (NIED) has been working in collaboration with stakeholders to upgrade the content knowledge of teachers in Physics and Chemistry. There is a tailor-made course offered by B2Gold mine to teachers in the regions, especially in Khomas, Otjozondjupa and Karas regions.

168. The University of Namibia established Kopano, a virtual platform for teachers and education officials with the assistance from UNESCO China Fund in Trust (UNESCO C-FIT). Through Kopano, educators could share ideas related to their subject or field of interest in their different groups. The content developed for Mathematics congress is then shared through kopano so that all educators in the Mathematics group can have access to this content.

M. Review of the education system

169. The Ministry of Education, Arts and culture has embarked on a review of the school system. Cabinet approved the curriculum reform for basic education with the implementation from 2015 in the Junior phase (Pre-Primary – Grade 3) to Secondary phase in 2020. The basic education is divided into four school phases, Junior Primary (Pre-Primary, Grade 1–3), Senior Primary (Grade 4–7), Junior Secondary (Grade 8–9) and Senior Secondary (Grade 10–12)

170. The curriculum for the Junior Primary (Pre-Primary and Grade 1–3) phase was revised and implemented in 2015 and the Senior Primary (Grade 4–7) was revised and implemented in 2016. The implementation of the revised curriculum in the Junior Secondary Phase started in 2017 in Grade 8 and was completed in 2018 in Grade 9.

171. The Senior Secondary phase for the new Namibian Senior Secondary Certificate Ordinary (NSSCO) level (Grade 10–11) began this year (2019) and will be completed in 2020. It is a two-year course. The Namibian Secondary Certificate Advanced Subsidiary (NSCAS) Grade 12 will be implemented in 2021.

172. The reformed curriculum is aimed to strengthen the foundation level of basic education by formulising the pre-primary grade to be part of the Junior Primary phase. It strengthens the literacy and numeracy skills, including the promotion of mother languages as medium of instruction during the formative years of early schooling. The new curriculum has introduced basic pre-vocational skills course for learners with special needs in resource and selected schools were introduced. The programme aims to improve the educational as well as employment possibilities of learners with special needs and disabilities.

N. The right to equal participation in cultural activities

173. The Ministry of Education, Arts and Culture is responsible for promoting culture in the country. Culture forms part of the school curriculum in subjects such as Social Studies in primary schools and History in secondary schools. The Ministry plans fairs which focus on cultural exchange within the areas of cultural dance, traditional cuisine, attire and traditional medicine. The fairs take place at a circuit, constituency, regional and national level. At national level learners are invited from all regions to participate. The ministry has a programme at schools, where they are requested to start “school culture club for development.

174. The 2001 policy on Arts and culture states that the government has the mission and goal to uphold unity in diversity that all Namibians are free to practise any culture and recognising that such unity is maintained by mutual understanding, respect and tolerance. It also states that it is the goal of the Namibian government to safeguard and promote linguistic heritage and acknowledge the role of education in the promotion of cultural diversity.

175. All public schools are encouraged to hold cultural festivals. Institutions of higher learning often hold annual cultural festivals in which students from all cultural backgrounds showcase their rich cultural heritage. The duty to promote culture is not solely on Government, various communities/traditional authorities and private organisations are also involved. Most traditional authorities in Namibia hold their own cultural festivals to preserve their cultural identities.

176. In 2018, the Museum Association of Namibia held weeklong activities showcasing Namibia’s rich cultural heritage in what was called the Heritage week. The Omagongo cultural festival is celebrated in the northern regions of the country and attracts people from across the country. The Wika festival and the Oktoberfest are cultural activities celebrated by German-speaking Namibians and other Namibians.

177. The Namibian Broadcasting Corporation (NBC) highlights the cultural activities of the different groups in Namibia. Olufuko is the theme of an annual festival, hosted in Outapi, Omusati Region, Namibia. The Olufuko Festival was launched in 2012. The Rehoboth Basters gather at Sam Khubis, some 80 km South-West of Rehoboth for a two-day festival commemorating the “volks’ victory over German colonial forces.

178. Every year the traditional Herero Ovambanderu cultural festival is held in Okahandja and other places. At this festival para-military groups parade before the chiefs and women line the streets proudly wearing their beautiful bright traditional dresses and hats. The cultural identity is strong and represents a great deal of not only the past of the Herero but also the past of the Namibian people.

O. The right to access public places and services

179. The public service is accessible to every citizen including non-citizens. Non-civil servants can access government services mostly for free, except in certain instances. Payment for certain government services are not meant for income generation, rather for cost recovery.

180. All citizens can access government services in languages that they understand. In court proceedings, interpreters are provided for when the witness or the parties to the case cannot speak or understand English. There are no laws that prohibit citizens and non-citizens from accessing public buildings. Government buildings are accessible to all. However, one will need special permission to access government buildings that are crucial to national security.

181. Public amenities and facilities such as sports infrastructure and leisure places are regulated by local municipality by-laws and are nevertheless accessible to all. Moreover, municipality buses have ramps intended for persons with disability.

VII. Information by relevant Groups of Victims or Potential Victims of Racial Discrimination

A. Refugees and displaced persons

182. The refugee community in the Republic of Namibia is not and has not been at risk of expulsion or return to countries where their lives or freedom would be threatened. The legislative and policy environment has not changed and, the situation remains the same since the last report. The Government treats asylum seekers and refugees equally without any discrimination. The refugees are issued with identity card and travel documents to enable them to move freely within the country and outside the borders of Namibia.

183. The refugees have the right to own a business and as such some refugees own and manage their own businesses. Some are employed in various sectors of the Namibian economy, education, agriculture, transportation. The refugees school going population are enrolled in school both at Osire Refugees school and public-schools country wide. The settlement has clinic and personnel to attend to those requiring health services. Shelter is provided at the settlement and foodstuff on monthly basis.

184. The Ministry of Home Affairs and Immigration has conducted Regional consultations on the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa, the UN Convention Relating to the status of Stateless Persons and the 1961 UN conventions on the Reduction of Stateless Person. During the consultation inputs for Namibia to ratify the 2009 AU Convention on the Protection and Assistance of Internal Displaced Persons in Africa, or commonly known as the Kampala Convention was solicited.

185. The rationale for these regional consultations were to solicit regional inputs on the said Conventions with a view to determine whether Namibia will sign and ratify them so as to work towards addressing statelessness in Namibia by 2023 to meet the UN deadline to end statelessness by 2024. In order to achieve this, a National working Committee on Statelessness to spearhead the implementation of the said plan has been established and a Draft National Action Plan on Statelessness to serve as a guiding tool has also been produced.

186. No exit notices have been issued to any refugee or asylum seekers in Namibia. The Government treats all asylum seekers and refugees equally regardless of their sexual orientation or gender identities and the principle of non-refoulement is given due consideration.

Table 18: Shows disaggregated data for asylum seekers and refugees in Namibia from 2017–2018

Year 2017

Country of Origin	0–4 years		5–11 years		12–17 years		18–59 years		60+ years		Grand Total	Grand Total	
	M	F	M	F	M	F	M	F	M	F			
Burundi	7	9	1	4	1	1	16	9	0	0	F	23	48
Democratic Republic of Congo	87	73	79	57	40	39	207	107	3	1	M	416	693
											F	277	
Grand Total													741

Source: Ministry of Home Affairs and Immigration.

Year 2018

Country of Origin	0-4 years		5-11 years		12-17 years		18-59 years		60 Years		Total	Grand Total	
	M	F	M	F	M	F	M	F	M	F			
Burundi											M	20	
	2	5	0	1	1	2	17	1	0	0	F	9	29
Cameroon											M	11	
	0	0	1	1	2	0	8	4	0	0	F	5	16
Central African Republic											M	11	
	6	1	2	2	0	0	3	3	0	0	F	6	17
Democratic Republic of Congo											M	449	
	94	105	75	63	44	44	233	154	3	6	F	373	822
Eritrea											M	1	
	0	0	0	0	0	0	1	0	0	0	F	0	1
Rwanda											M	0	
	0	2	0	0	0	0	0	1	0	0	F	3	3
Somalia											M	2	
	0	0	0	0	0	0	2	0	0	0	F	0	2
South Sudan											M	1	
	0	0	0	0	0	0	1	1	0	0	F	1	2
Grand Total													892

Source: Ministry of Home Affairs and Immigration.

B. Marginalised Minority groups (Indigenous minority groups)

187. The office of the President has a division for marginalised people which is responsible for the monitoring of measures taken on the enjoyment of rights by indigenous people and it continues to improve the livelihood of the marginalise communities in guiding and expediting the process of integration for the marginalise communities.

188. The Namibian government has mechanisms, laws and policies which allows, for the participation of all its citizens including marginalised communities in public and political life. The Namibian Broadcasting Corporation has radio services for local San languages. This radio service has call in programs which allows indigenous people to air their grievances to the government.

C. Gender Equality

189. The Government has made efforts to create awareness and sensitize people on issues pertaining to gender equality by promoting equal economic independence for women and men, advancing gender balance in decision making, ending gender-based violence and promoting gender equality. The Ministry of Gender Equality and Child Welfare has created positions for gender liaison officers in all the 14 political regions of the country and their responsibility is to sensitize communities on gender equality which includes women's rights.

190. On the 6th June 2018, the government received an African Gender Award from the Gender is my Agenda Campaign (GIMAC) steering committee in recognition of the progress the country has made in promoting gender equality and the empowerment of women, and for especially promoting women's representation in the decision-making positions. The advancement of women into decision making roles has been a key objective of the

government to get rid of gender gaps and promote gender equality and in the process eradicate gender-based violence. Currently, Namibia ranks 11th globally in terms of the number of women in parliament, with 46%.

191. The Ministries of Gender Equality & Child Welfare, Safety and Security and Justice, civil society organizations are beginning to work actively in conjunction with one another, to sensitize men and boys to the types of attitude and behaviour that perpetrate gender-based violence through campaigns such as the annual 16 Days of Activism. In addition, the government has adopted the National Gender Policy (2010–2020) to promote gender equality and run national anti-violence campaigns.

192. To identify and understand the root causes and consequences of violence against women and girls, the Ministry of Gender Equality and Child Welfare conducted a National Gender Based Violence (GBV) baseline study (Consolidating GBV Prevention Effort and fast-Tracking Namibia Response) in 2017. The main objective was to synthesize information on knowledge, attitudes and good practices to address GBV. The study revealed that most drivers of GBV were relationship factors that were deeply entrenched within socio-cultural norms and escalated to societal level factors.

193. In raising public awareness towards changing of attitudes and behaviours; the 2009 National Zero Tolerance Campaign, was revamped in July 2015 under the theme “Love is “The campaign focuses on three main issues: Domestic Violence; Rape and Mental illness. Radio drama series were developed in English. The said English drama series are being translated into local Namibian languages such as Oshiwambo; Silozi; Rukwangali; Afrikaans; Herero; Damara-Nama; San and Setswana.

194. To mobilise communities to fight violence against women and girls, community support groups were established in Zambezi, Ohangwena and Omusati regions. The support groups have been effective in discussing issues related to GBV including negative cultural practices. Male engagement program has also been intensified and the training manual is available.

195. In October 2018 a male engagement training of trainers’ workshop on the use of the training manual for Men and Boys was conducted. The overall aim was to enhance the knowledge and skills of the Regional Community Gender Liaison Officers; key Ministry of Gender Equality and Child Welfare staff; Civil Society and NGOs as well as youth organisations for the promotion of sexual and reproductive health and rights; prevention of the GBV and HIV and AIDS.

D. Article 6

Information on legislative, judicial, administrative or other measures which give effect to the provisions of article 6 of the convention, and the practice and decisions of courts and other judicial and administrative organs

196. As reported in the previous report, the Racial Discrimination Prohibition Act criminalises discrimination on racial grounds and it was amended to provide offenses relating to the disseminating of ideas in respect of racial superiority, it creates certain defences against prosecution in terms of the Act, it also increases the penalties in respect to the offences.

E. Measures taken to ensure that victims have adequate information concerning their rights

197. The Ombudsperson does not have an expressed constitutional or legislative duty to promote human rights. It is an assumed duty which the Ombudsman fulfils to the best of his abilities, limited only by resources. The ombudsman initiated the following measures:

(a) In 2009 the Ombudsman decided to develop a national human rights action plan (NHRAP), preceded by a baseline survey. This resulted in the 2013 baseline study report on Human Rights in Namibia which was followed by the National Human rights Action Plan 2015–2019. The Focus Area 7 deals with the right not to be discriminated against;

(b) The Ombudsman also initiated the development of a white paper on Indigenous Peoples Rights. The draft was submitted to the Office of the Vice-President; Division of the Marginalised communities. Workshops were held during 2017 & 2018 where indigenous communities were consulted.

198. The Ombudsman is appointed in terms of Article 91 of the Namibian Constitution. The mandate of the Ombudsman is to receive and investigate complaints relating to maladministration, the violation of human rights and freedoms, the misappropriation of public monies and misuse of property by officials and the protection of the environment. In order to carry out an inquiry the Ombudsman invoked the following powers conferred on him in terms of the Ombudsman Act:

(a) Enquire into and investigate complaints concerning alleged or apparent or threatened instances or matters of violations or infringement of fundamental rights and freedoms;

(b) Call any person to appear before him in relation to the inquiry;

(c) Ask such person who appears before him to give evidence or to make submissions;

(d) Questions such person who appears before him in connection with any matter which the Ombudsman may deem necessary in connection with the inquiry.

F. Types of reparation and satisfaction, with examples, which are considered adequate in domestic laws in cases of racial discrimination

199. The information is the same as provided in the previous report. In addition, the aggrieved person can be satisfied by going to the court or approach the office of the Ombudsman, as they have a constitutional and statutory responsibilities to call public and private institutions to order whenever they are guilty of racial discrimination, as part of its mandate to promote and protect fundamental human rights.

G. The burden of proof in civil proceedings for cases involving racial discrimination

200. In the Namibian legal system, it is worth noting that civil proceedings for cases involving racial discrimination, the onus to prove wrongfulness lies on the balance of probabilities.

H. Article 7

Education, Teaching and Culture

201. We refer you to our response in 50–53 above.

I. Access to information, role of the media in combating racism

202. Namibia has three media establishments owned by the state namely, New Era newspaper, Namibian Broadcasting Corporation (NBC) and Namibia Press Agency (NAMPA). The purpose of these media institutions is to inform, educate and entertain the public through information dissemination. With regards to the dissemination of information to combat racial prejudices, the mandate of these institutions are as follows:

(a) To ensure that such information on combating racial discrimination reaches all parts of the country in all news media formats (print, radio, TV and news media);

(b) To ensure that the information to be disseminated in condemnation of racial discrimination is translated in all indigenous languages;

(c) To ensure that information to be disseminated is broken-down to the basics and presented in an easy-to-understand format such that it is easily consumed;

(d) Citizen education by interviewing knowledgeable resource persons to spread the message about changes effected to policies and laws that are meant to address issues of racial profiling, racial prejudices and racial discrimination.

203. In addition, the government is in the process of enacting the Access to Information Act. Government recognises the need for information to be freely or cheaply available to the public through a variety of means. Government Ministries are under an obligation to publish newsletters about their mandate and avail the said newsletters to the public at easily accessible points.

204. The Ministry of Information and Communication Technology is further tasked with the duty of disseminating all government information to the public. The Namibian Broadcasting Corporation (NBC) is also tasked with the responsibility of disseminating information on human rights to the public through awareness campaigns, production of newsletters and radio programmes.

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

VIII. Conclusion

206. Namibia has since its independence recognised that discrimination of any kind is contrary to the spirit of human rights. In this regard, the government of the Republic of Namibia continues to devise mechanisms aimed at ensuring that the rights and welfare of its citizen's remains a state priority. To this effect, laws such as the Repeal of Obsolete Laws Act was enacted. This Act aims to provide for the repeal of certain obsolete laws. The Act came into force on the 1st of March 2018. The Repeal of Obsolete Laws Act was enacted because there is still a number of by-laws, regulations, proclamations and ordinances which are discriminatory on the grounds of race, sex, colour, ethnic origin, religion, creed and social and economic status. The aim is to get rid of all outdated laws and to replace unjust laws with just laws.

207. Furthermore, the Namibian government has made tremendous efforts in improving the socio-economic and cultural rights of marginalised/indigenous peoples such as the San and the Himbas. Several schools in areas predominantly inhabited by these communities have been built. The number of school drop outs among the San and Himba communities have steadily declined since the last report. Moreover, a number of income generating projects for San communities have also been initiated. These includes the declaration of certain state land as conservancies and employing San and Himba communities to partly manage these establishments. The state party acknowledges that only a few members of marginalised/indigenous communities are represented in the political sphere. To address this challenge, the Office of the Vice-President under which issues pertaining to marginalised affairs falls, has initiated programmes aimed at encouraging San and Himba communities to partake in political affairs of the country. The Electoral Commission of Namibia has carried out awareness campaigns on the importance of political participation in the affairs of the state in areas inhabited by marginalised/indigenous communities.