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Namibia

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Introduction

1. For the past 25 years, Namibia continues to enjoy a stable democracy with regular free, fair and transparent elections that have been observed to meet international standards. The last Parliamentary and Presidential elections took place in November 2014. The Electoral Act of 2014 makes provision for the judicial scrutiny of the electoral process and election results can be challenged in the courts.
2. The country is geographically divided into 14 regions. There are three layers of Government namely: the central Government which consists of the President and Cabinet of Ministers; the Regional Councils and local authorities of which consist of 18 municipalities, 17 town councils and 18 village councils.
3. Government business is conducted through the Executive, (the President and Cabinet) whose members are drawn from Parliament. The Executive is responsible for the daily management of the affairs of the State in the public interest. Article 27 (2) of the Namibian Constitution provides for an executive Presidency, with the President as the head of State and head of Government. H.E Dr. HAGE G GEINGOB, who took office as the President of the Republic of Namibia on the 21st of March 2015, is the third President since Namibia became independence in 1990. H.E the President established a Presidential Council which consists of former presidents and prime ministers as well as other individuals who in the opinion of the President are in a suitable position to advise him on issues that affect the nation.
4. Namibia has a bicameral system of parliament consisting of the National Assembly, which has legislative powers subject to the Constitution and a National Council, which in terms of article 63 (1) and 74 (1) (a) of the Namibian Constitution is a house of review.

I. Methodology and preparation of the report

5. The Inter-Ministerial Committee on Human Rights and Humanitarian Law¹ compiled this report based on information obtained from different line ministries, and all other Government institutions. The draft report was shared and shared with key stakeholders including NGO's and Civil Society Organizations for their comments and inputs before it was approved by Cabinet.
6. This report follows the general guidelines adopted by the Human Rights Council for the second cycle to include the methodology; developments, in particular normative and institutional developments; the situation on the ground; follow-up to the previous review; achievements and challenges; and priorities.

II. Institutional framework for the protection of human rights

7. All fundamental rights and freedoms are entrenched in the Namibian Constitution as the supreme law of the country. Namibia follows a monist approach and Article 144 of the Namibian Constitution makes provision for all international instruments on human rights, which Namibia has ratified to form part of the Namibian law. In order to give effect to the relevant provisions of the Namibian Constitution and other international instruments, Namibia has the following institutions and administrative measures in place to promote and protect human rights.

The Judiciary

8. The Judiciary is one of the three organs of state apart from the Executive and the Legislature. The relationship between these organs is influenced by the principles of the rule of law and that of separation of powers. These principles are an integral part of the system of governance in Namibia because it guarantees the independence of each organ of state while at the same time allowing for checks and balance inter-organs.

9. The independence of the Judiciary is guaranteed in terms of the Namibian Constitution² which is the Supreme Law of the country. The exerted independence of the Judiciary continues to play an important role in the promotion and strengthening of human rights in Namibia.

10. The Government in efforts to strengthen access to justice continues to establish lower courts in areas which are not serviced by permanent courts. In addition, a second seat of the High Court in the northern part of the country, where almost 50% of the country's population resides, was established and is being strengthened to handle civil and criminal cases.

Office of the Ombudsman

11. The Ombudsman carries a dual mandate in the classical sense as the protector of human rights. On the 9th of December 2014, H.E. the President of the Republic of Namibia launched the National Human Rights Action Plan for the period 2015-19 (NHRAP) to improve, respect and fulfil human rights in Namibia in line with Part 11, paragraph 71 of the Vienna Declaration on National Human Rights Action Plan of 1993. The Office of the Ombudsman facilitated a participatory and inclusive process for the preparation and drafting of the NHRAP. As part of this process, a baseline study on Human Rights in Namibia was completed in October 2013. The plan has 7 thematic areas being access to health services, access to justice, access to education, right to water and sanitation, right to housing, access to land and the right not to be discriminated against.

12. The Office of the Ombudsman in Namibia is the only Ombudsman's Office in Africa that has been accredited with "A" status in terms of the Paris Principles for the last nine years in 2006 and 2011.

13. The Ombudsman further assumed the responsibility of human rights education as an integrated part of the protection of human rights and had various projects towards public education on specific issues running. In 2012–2013 and 2013–2014 the Ombudsman embarked on a human rights education project aimed at school children with the theme "My school, My rights, My responsibilities".

14. The capacity of the Ombudsman was strengthened by an increase in the staff establishment to provide for inter alia a Children's Advocate. This division will assist the Ombudsman in carrying out his constitutional human rights mandate focussing in particular on children's rights and in general on the protection of human rights.

Ministry of Justice

15. In order for the Government to track the fulfilment of its obligations in promoting and protecting human rights in terms of the international instruments, the Government established the Inter-Ministerial Committee on Human Rights and Humanitarian Law (IMC). The objectives of the IMC is to advise and assist the Government in implementing and spreading knowledge on the international human rights and international humanitarian

law (IHL), and to make recommendations for amendments to the existing law to give effect to the obligations of the State Party. The Ministry of Justice is responsible for co-ordinating the work of the IMC and serves as secretariat for this committee.

16. The Directorate of Legal Aid in the Ministry of Justice was established to administer the legal aid scheme pursuant to the Legal Aid Act of 1990. This Directorate has an obligation to render free legal aid in both civil and criminal cases. The criteria for granting legal aid are the level of income and the merits of the case as determined by the regulations adopted by the Minister of Justice. A person can apply for legal aid if he/she cannot afford the services of a private legal practitioner. An applicant may be provided with the services of a legal aid counsel or a private legal practitioner can be instructed to represent the applicant.

The Namibian Police Force

17. There are 132 police stations and substations in the country. Eight new police stations with holding cells for accused persons were built during the financial year 2012/2013, and 22 more police stations with holding cells were built during the 2013/2014 financial year. The Government's efforts to improve the existing police holding cells in order to improve the conditions of detention in the police holding cells country wide, and to build more police stations is on-going.

18. During 2013, the Namibian Police established a human rights department, which is manned by legal officers to provide advice and training to the Namibian Police on human rights. This department also coordinates with the internal investigation division to investigate alleged violations of human rights committed by police officials.

Criminal justice system and respect for civil liberties

19. Article 12 of the Namibian Constitution provides for the rights to a fair trial. The State bears the burden to prove the guilt of an accused person beyond reasonable doubt in a criminal case.

20. The Criminal Procedure Act, Act No. 51 of 1977 as amended (the CPA), is the principal piece of legislation which governs criminal procedure in the criminal justice system including regulating search and seizure, arrest, the filing of charges, bail, plea, testimony of witnesses and the law of evidence, the sentencing procedure as well as appeals. In terms of section 73 of the CPA, an accused who is arrested shall be entitled to the assistance of his/her legal representative from the time of his/her arrest to the finalization of the case. An accused also has the right to remain silent during the criminal procedure.

21. Accused persons have a right in terms of the Namibian Constitution to seek redress before a competent court in cases where their rights have been violated by the police or State agents. (*Iyambo v Minister of Safety and Security*³).

22. Namibia still faces some challenges regarding lengthy trials, due to factors such as a lack of capacity and compatibility between the investigation and prosecution of cases. The high legal cost is another common barrier to access to justice for most people because they cannot afford to pay private legal practitioners. The provision for legal aid services often remains inadequate due to budgetary constraints. Long distances to the courts also compound other barriers for many people's access to justice. A person in the rural areas whose rights are being violated may not be able to afford or have access to transport to the nearest town to file a lawsuit or afford the cost of staying there during the litigation.

III. Legislation passed by Parliament since the previous review

23. The following legislation and other enabling measures were enacted and introduced to comply with obligations under international human rights instruments since the last UPR report.

24. Employment Service Act, Act No. 8 of 2011. The Act provides for the establishment of the National Employment Service; to impose reporting and other obligations on certain employers and institutions; and to provide for the licensing and regulation of private employment agencies.

25. Correctional Service Act, Act No. 9 of 2012. The Act has entirely repealed and replaced the Prisons Act No 17 of 1998. The new Act provides for the establishment of the Namibian Correctional Service and matters incidental thereto.

26. Rules of the High Court of Namibia, under Section 9 of the High Court Act, Act No 16 of 1990, which came into operation on 16 April 2014. The new Rules repealed all the previous Rules of the High Court. Section 108 of the new Rules outlines procedures and conditions preceding the execution against immovable property and transfer of judgment. The new Rules were promulgated to prohibit the execution against or sale of immovable property without proof to the court that the execution debtor or person has insufficient movable property to satisfy the writ of execution. The rule further provides for judicial oversight over the sale in execution of immovable property, which was not the case in the past.

27. The Wage Order for Domestic Workers Regulations under Labour Act 11 of 2007. The Wage Order Regulations came into force on 16 December 2014. The Regulations set the minimum wage and supplementary minimum conditions for employment for Domestic workers.

IV. Media and press freedom

28. Media and freedom of expression is guaranteed under Article 21 of the Namibian Constitution. The Government recognizes the importance of media and press freedom to promote and expose civil, political and other human rights violations in the country. In this regard the Government supported the establishment of the office of the Media Ombudsman in 2009. The office of the Media Ombudsman form part of a self-regulating system as guided by the AU Declaration of Principles on Freedom of Expression⁴. Government is further committed to enact access to information legislation.

29. Namibia's media environment has received positive ratings from the Freedom House and Reporters Without Borders for the past two years. Reporters Without Borders World Press Freedom Index of 2015, ranked Namibia the 17th out of 180 countries in the world in the range of criteria that include media pluralism and independence, respect for the safety and freedom of journalists and the legislative, institutional and infrastructural environment in which the media operates.

V. Access to land

30. The Government continues with its land reform and resettlement programme, by giving land to the historically disadvantaged. The programme targets five categories of people: the San community; ex-combatants; displaced, destitute and landless people; people with disabilities; and people in overcrowded communal areas. In terms of the resettlement

policy, women are given preference if and when they apply through the Ministry of Land Reform to be resettled.

31. The National Land Policy on the other hand, makes specific reference to women's rights based on Article 95(a) of the Namibian Constitution. The Policy accords women the same status as men with regard to all forms of land rights, either as individuals or as members of family land ownership trusts.

32. The Government Land Acquisition and Distribution Programme have a target of 5 million hectares of land to be acquired by end of year 2020. Government has acquired more than 2, 8 million hectares of land through the willing seller willing buyer' policy during the period 1990–2014. Despite past land redistribution efforts, land ownership remains skewed in favour of a small number of predominantly white farmers. Government attempts to distribute land for the past 25 years have been rather slow and have not satisfactorily delivered land to many families who need land, because the prices at which agricultural land had been offered by the farm owners to Government was very high.

33. In this regard, the Government has established the Farm Price Negotiation Committee in terms of the Agricultural (Commercial) Land Reform Amendment Act, Act No. 1 of 2014. The Committee grants land owners the opportunity to negotiate with Government on the purchase price of their agricultural land. This legal framework is encouraging farm owners to release some of their agricultural land to the market.

VI Government strategies to address poverty and under development in the country

34. In an effort to tackle the issue of poverty in Namibia, the Government has introduced various programmes, which inter alia include, the establishment of the Ministry of Poverty Eradication and Social Welfare, with the mandate of co-ordinating all the programmes which aim to reduce poverty in the country. These programmes are in line with the country's vision 2030. The Programmes among others are: the Green Scheme, the San Development, Land distribution, the Mass Housing Programme, Water supply and Sanitation, Safe drinking water, and Equipment Aid Scheme to SMEs.

35. The Ministry of Gender Equality and Child Welfare is contributing to the spirit of prosperity by empowering women with knowledge and skills through women empowering programs, provision of small grants for projects, training and capacity strengthening for small business owners. Furthermore, this Ministry in conjunction with the National Planning Commission conducted a child poverty study that shows how poverty levels were positively influenced by the provision of social grants to the elderly and foster-care grants.

Promoting indigenous peoples' rights

36. Namibia continues to enhance its projects and programmes aimed at ensuring the protection and the rights of indigenous communities. In this regard, the Government bought six farms during the financial years 2011/2012 and 2012/2013 for the resettlement of the Hai//om San community near the Etosha National Park, which is also considered their ancestral land. In addition, Government has also built health facilities through- out the country, in the areas which are predominantly occupied by the indigenous communities such as at Tsumkwe, Farm Uitkoms, Seringkop, Tsintsabis, Omega and Ohaijuua to provide adequate health services to those communities.

37. A Deputy Minister for marginalised community was recently appointed in the President's office with the mandate to specifically look into the plight of the San people and other marginalised communities in the country.

Indigenous peoples right to education

38. In 2007 the Office of the Prime Minister (OPM) officially launched the "Back to School and Stay in School Campaign" with the objective of encouraging learners from the marginalized communities to attend school and remain in school. Furthermore, a booklet on child labour amongst San communities and a policy framework for the marginalized communities were also developed by the OPM.

39. In addition the following policies were developed to promote inclusion in education for marginalized children:

- Policy options for Educationally Marginalized Children;
- Sector Policy on Inclusive Education;
- Education Sector Policy for Orphans and Vulnerable Children;
- Education Sector Policy on the Prevention and Management of Learner Pregnancy;
- National Agenda for Children.

40. Other measures in place to keep children of the indigenous communities in school are:

(a) Mobile schools: The Ministry of Education introduced mobile schools to ensure that children from nomadic communities remain in school and complete compulsory primary education.

(b) School feeding Programme: The Ministry of Education introduced the feeding programme. Upon application by the school, children are given at least one meal per day to improve nutrition and enhance concentration. Studies have shown that the programme had a positive impact on school attendance and pass rates.

(c) Universal Primary Education: In 2013 the Government abolished the compulsory financial parental contribution to the School Development Fund for all primary learners, which makes primary education more accessible.

(d) Financial assistance: Government gives allowances to schools where San learners are enrolled for transport and other logistical expenses incurred to make education more accessible for the learners.

VII Improvements and achievements in social infrastructure

Access to safe drinking water and sanitation

41. Access to safe drinking water sources improved to 98, 4% in urban and 87, 4% in rural areas respectively since the last review. The National Household Income and Expenditure Survey (NHIES) of 2009/2010⁵ revealed that 72% of the households in the country have a distance of less than 1 kilometre to their source of drinking water. However, 24% of households have to cover between 1-2 kilometres to fetch drinking water, and almost 1 % has to travel more than 5 kilometres to their source of drinking water. The 2012 update on Progress on Drinking Water and Sanitation of the WHO/UNICEF Joint

Monitoring Programme (JMT), listed Namibia amongst those countries that have met the MDG safe drinking water target.

42. Access to sanitation facilities has also improved to 56, 1% in urban and 16, 9% in rural areas, but still 43, 9% of the population in urban and 83, 1% in rural areas do not have access to sanitation facilities.

43. In July 2013 the Government decided to provide free water for human consumption to poor households in the rural areas in terms of the Water Supply and Sanitation Policy of 2008.

44. The Government has a National Sanitation Strategy for the period 2010 until 2015, in which it has committed itself to build improved sanitation or toilets in the rural areas. However, the 2009/2010 NHIES reveals that 49% of the households in the country have no toilets. Efforts are being made to build dry toilets in rural areas throughout the country. The programme to build toilets started during the financial year 2010/2011.

Access to schools

45. Government expenditure on education through the Ministry of Education is about 8, 4% of the GDP of the national budget every year. During 2014/2015, the Ministry of Education received a budget of N\$ \$13.1 billion. (approx. US\$ 102 104 0593.00) which is one of the highest in Africa.

46. The NHIES of 2009/2010 reveals that about 49% of the households in Namibia are situated less than 2 kilometres to the nearest primary school and 25% live within a distance of 2-3 kilometres. About 8 % of the households in the country still live more than 20 kilometres from the nearest primary school. The situation in urban areas is different, where 71% of the households live within 1 kilometre to a primary school compared to 31% of households in the rural areas.

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

48. In 2012, gender parity was largely achieved at both primary and secondary levels, with equal enrolment ratios in primary schools, and more girls than boys enrolled in secondary schools.

49. The “Education for All (EFA)” National Plan of Action of 2001-2015, aims at ensuring that by 2015 all children particularly girls and those from the marginalized groups have access to free and compulsory primary education. In terms of this policy, the Government strives to improve and ensure access to education by building schools within 5 km walking distance.

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

Access to health facilities

51. All Namibians have access to health facilities in the country. Since 2011, the Government has built 90 new primary healthcare clinics, 45 health centres and four new

hospitals. In addition, a total of 11 health centres, 23 hospitals and 38 clinics across the country were renovated. 75% of the newly built clinics were in the rural areas. The NHIES of 2009/2010 indicates that 30% of households in Namibia are situated within 2 kilometres of the nearest health facility and 36% within 5 kilometres. However, about 7% still have to travel more than 40 kilometres to reach a health facility, especially in the rural areas.

52. The Government through the Ministry of Health and Social services continues to ensure access to health services for its population. Through the Sexual and Reproductive Health and Integration project substantial work has been undertaken to strengthen bi-directional linkages and incorporate SRH/HIV linkages and integration both at policy and service delivery level. The Ministry of Health and Social Services with support from partners is piloting SRH/HIV integration services through delivery models in selected pilot sites using the primary health care approach.

53. In addition to health facilities in the regions, the Government through the MoHSS provides outreach services on a regular basis to communities where there are no health facilities.

54. Through the Fourth National Development Plan (2013–2017) the Government has identified access to quality health services as a key priority to increase the standard of living for people living in urban and rural areas.

55. The Government monitors the progress on maternal mortality through periodic Demographic Health Surveys (DHS). The latest DHS was carried out in 2013 and the report was issued in 2014. The maternal mortality ratio has increased from 225 deaths per 100,000 live births in 1992 to 449 deaths per 100,000 live births in 2006/2007. The Namibian Household Census of 2011 indicates that maternal mortality rate was 604 per 100,000 live births. Since then the Government has prioritized maternal mortality as a matter of urgency by providing increased maternal healthcare services and a more equitable distribution of trained staff between urban and rural areas, amongst others. HIV and AIDS was one of the major factors contributing to the high maternal mortality in the country.

56. The following major interventions and policies were put in place to reduce maternal mortality in Namibia:

- Road map for acceleration of reduction in maternal and neonatal mortality and revision of scope of practice for the health profession for Nurses and Midwives.
- Increase in capacity building (Establishment of Namibia School of Medicine and other regional nursing training centers).
- Information awareness campaign on health issues. Prevention of Mother to Child Transmission (PMCT) currently stands at 95%.

57. The Government has committed to cover 70% of the cost of HIV/AIDS national response by 2016/17. This is an increase from 50% in 2010/11 to 55% in 2012/13 up to 64% in 2013/2014. To increase access to HIV treatment, the Government also adopted the 2013 WHO guidelines to start ARV treatment earlier at a count of 500 CD4, treat all HIV pregnant women; treat all Tuberculosis patients who are HIV+ and all children who are HIV+ under 15 years and discordant couples.

58. Namibia is the first country to achieve the universal target of under 5% of transmission moving from 20% in 2003 to 4% in 2013 and 95% of pregnant woman who are HIV+ have access to PMTCT services.

59. The Government provide antiretroviral medicine free of charge at public health facilities and encourage those who are infected to seek such treatment. Access to ARV Treatment currently stands at 90%. The reduction in the malaria mortality rate from 7000

in 1990 to 10 in 2013 is an achievement as the incidence of malaria was also one of the contributing factors to high maternal mortality among expecting mothers.

60. The policy guidelines on reproductive health have been revised in order to create more awareness among couples to make informed decisions about reproductive health and births.

61. Guidelines for completing the maternal and perineonatal death review are in place and maternal audit committees are in place at national, regional and district levels to review and assist the quality of services provided to pregnant women.

62. There is a decline in new HIV cases amongst pregnant women attending antenatal clinics (ANC). During 2011/2012, 18, 2% of women tested HIV positive, compared to 18, 8% 2009/2010. The prevalence of HIV and AIDS for adults from 15 years and older for 2013 is estimated at 12, 18%.

63. The country still faces some challenges with regard to shortages of skilled and experienced health personnel. In this regard, Government has approached neighbouring countries to second and recruit qualified personnel to mitigate the situation.

VIII Gender-based violence

64. Gender-based Violence (GBV) is a serious concern in Namibia. Police records indicate that half of the survivors suffer violence at the hands of persons who are close relatives or their intimate partners.

65. Namibia has committed itself to eliminate all forms of GBV as manifested in the National Gender Policy (2010–2020), which provides a framework for efforts to achieve gender equality. The main objective of the Policy is to provide overall guidance to various stakeholders to integrate a gender perspective in their programming processes as part of national efforts to address GBV. A National Plan of Action on Gender-based Violence (2012–2016) was developed to provide a mechanism that guides various stakeholders to improve prevention of and response to GBV. In addition, there is substantial legislation that criminalized gender-based violence: the Combating of Rape Act, Act No. 8 of 2000 and the Combating of Domestic Violence Act, Act No. 4 of 2003.

66. The Government through the MGECSW has launched several multi-media public awareness campaigns such as “Spot It To Stop It” and a National Protection Referral Flowchart which was collaboratively developed with several key ministries, and civil society.

67. Fifteen (15) specialized Women and Child Protection Units (WCPUs), which is renamed as Gender Based Violence Investigating Units were established in all fourteen regions to protect and provide services to survivors of gender based violence.

68. The Government has established a Coordination Mechanism for the implementation of the National Gender Policy, which consists of six clusters including a GBV and Human Rights Cluster. The aim of this GBV and Human Rights cluster, is to advise the government and all stakeholders on the best strategies of rooting out the scourge of GBV in our society. The said cluster is composed of professionals from government institutions such as law enforcement agencies as well as the representatives from NGOS, civil societies, faith based organizations and development partners.

69. As part of the efforts to find solutions to GBV, in 2014, the Government through the Office of the Prime Minister held the 2nd National conference on GBV. The conference provided a platform for dialogue between national and regional leadership, duty bearers and rights holders the root causes and contributing factors of GBV. The recommendations

included development of national guidelines on provision of integrated GBV services; strengthen male engagement and addressing youth issues. The recommendations from the conference were widely disseminated to all stakeholders. The Office of the Prime Minister is mandated to monitor the implementation of these recommendations.

70. Government has other on-going programs in place to combat GBV such as; legal literacy program targeting key service providers (life skills teachers, traditional and church leaders, Police, Defence Force members and community members); mass media campaign as well as commemoration of the 16 Days of Activism against GBV.

Child care and protection

71. A Permanent Task Force (PTF) on Children was established in 2004. The PTF consists of representatives from different line ministries, non-governmental organizations, and key development partners. This Permanent task Force meets on a quarterly basis and is further responsible for the implementation of the obligations under the international and regional instruments that Namibia ratified.

72. In addition, the Government has purchase property for the establishment of shelters and safe houses across the country for survivors of GBV where they are also offered counselling.

73. Namibia has successfully implemented the UN guidelines on Alternative Care of Children and promotes the placement of children who are orphaned or in need of care with family members when the situation is found to be in the best interest of the child, alternatively to secure a placement of such children in places of safety.

IX Implementation of recommendations accepted and supported during the first cycle of the UPR

74. Namibia accepted 104 out of 128 recommendations during the 1st cycle of the country's UPR. We are pleased to report that more than 40 recommendations were fully implemented by the end of November 2013. Namibia submitted a mid-term implementation report to this effect. Further implementation measures are set out below.

Recommendations no. 22 and 23: Policy of equality and non-discrimination, racial discrimination

75. Article 10 of the Constitution guarantees equality and freedom from discrimination and prohibits discrimination on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. In addition to constitutional provisions the Government has enacted legislation to address racial discrimination and promote equality such as the Racial Discrimination Act of 1991, Affirmative Action (Employment) Act No. 29 of 1998 read in conjunction with the Labour Act No. 2007 are some of the legislation that prohibits all forms of racial discrimination in Namibia.

Recommendation no. 61: Sexual education, prevention of early pregnancy

76. Namibia is committed to address HIV infection among young people and has introduced various policy framework and educational programmes. These include the National Guidelines on Adolescents Living with HIV, policy on Prevention and

Management of Learner Pregnancy, Education Sector HIV/AIDS Policy, Adolescents Friendly Health Guidelines, National School Health Policy. These policies and programmes have contributed to the reduction of the HIV prevalence rate. HIV prevalence among pregnant women attending antenatal services in 2014 stood at 16.9%, with prevalence declining among women aged 15–24 from 14.2% in 2006 and 8.9% in 2012 to 8.3% in 2014.

77. HIV Counselling and Testing Coverage has shown a remarkable increase in the last six years, from 55 percent of women and 34 percent of men age 15–49 in the 2006–07 NDHS survey to 81 percent and 63 percent, respectively, in 2013 (DHS).

78. Children aged 18 and above can give full informed consent for health care treatment and for children less than 18 years, a parent or legal guardian's consent is required.

79. All adolescents have the right to know their HIV status and to disclose to others out of their own free will. Adolescents living with HIV and AIDS have access to comprehensive care, treatment and support services. In terms of the National HIV/AIDS Policy (2007), the age for consent is 16 year old. Children below the age of 16, a parent or legal guardian's consent is required for testing unless the child is considered to be a mature minor.

80. Training of Health Assistants (HAs) on Adolescents Friendly Health Services (AFHS) was integrated into the curricula for in-service training of health workers at the NHTC/RHTC and the pre-service training at the University of Namibia. Health information including information on sexual reproduction is readily available at public health centres and one need not be a patient to access such information.

Recommendation no 63: Micro-credit and financing schemes

81. The National Planning Commission has formulated the Fourth National Development Plan (NDP4) for the period (2012/2013–2016/2017) with three overarching goals namely, High and Sustained Economic Growth, Employment Creation and Increased Income Equality. Therefore, all the strategies and initiatives in NDP4 are geared towards achieving these three goals.

82. One of the key strategies outlined in NDP4 that speaks directly to the second part of the recommendation, involves the implementation of the Namibian Financial Sector Strategy, which aims to increase access to finance for small and medium scale enterprises (SMEs) and to formalize the informal sector as per ILO recommendation.

83. The Government has established the following credit scheme programmes through various institutions to narrow the gap of income inequality:

- SME Bank was created by the Government of Namibia in 2012 following the dissolution of the Small Business Credit Guarantee Trust (SBCGT) that was transformed into a fully-fledged Commercial Banking Institution. The SME Bank mission is to provide superior, well designed, targeted banking products and services to Small, Medium, Micro and informal enterprises to enable them to start, grow, compete and prosper in a global setting.
- The Ministry of Youth, Sports, Culture and National Services provides grants to unemployed youth to create employment in their communities.
- The Ministry of Gender Equality and Child Welfare (MCEGW) also provide grants to small businesses as part of its community development initiatives.
- The Development bank of Namibia provides flexible loans to potential entrepreneurs in the country

- The Agricultural Bank of Namibia provides affordable loans and grants to small scale farmers.
- The Social Security Developmental Fund provides grant, loans and other forms of financial aid including training to the socio-economically disadvantaged persons who are unemployed.
- The Ministry of Trade and Industry has various programmes and facilities in place to assist the small and medium enterprises (SME) sector to establish and grow their businesses. The Equipment Aid Fund, for example, aims at assisting SMEs to acquire manufacturing equipment needed to increase their production potential.

Recommendation no 70: Formulation of a white paper in accordance with the UN declaration on the rights of indigenous peoples

84. The Office of the Ombudsman has drafted a national White Paper on Indigenous Peoples' Rights in Namibia, which has been submitted to key stakeholders for their inputs.

Recommendation no 7: Ensure that the national legislation is in line with the obligations of the convention on the rights of persons with disabilities and its optional protocol (CRPD)

85. Namibia ratified the UN-CRPD and its Optional Protocol in December 2007. Government established the Disability Advisory Unit (DAU) in the Office of the President with the mandate to be the coordinating body on matters relating to Persons with Disabilities. Namibia adopted a human rights based model of disability mainstreaming and social integration and economic empowerment as the best model.

86. The Government has recognized its obligation as to what is required in terms of Article 27 of the CRPD. The Government gives preference to employment opportunities for Persons with Disabilities by placing a note on all its job advertisements that states "people with disabilities are encouraged to apply". Although the National Disability Council Act was enacted before the inception of CRPD there is no need to align it with the Convention, because the provisions of this Convention are part of Namibian Law by virtue of Article 144 of the Namibian Constitution.

Recommendation no 2: Crime of torture

87. A draft Bill criminalizing torture as a specific offence is currently being developed. The provisions of the Bill incorporate the definition of torture as contained in Article 1 of the Convention. In the meantime, the Namibian Constitution prohibits torture and ill treatment in Article 8(2)(b) and no evidence obtained through torture or other cruel inhumane means shall be admissible in a court of law.

Recommendation no 3: Human trafficking legislation

88. Although Namibia enacted the Prevention of Organized Crime Act, Act No. 29 of 2004, which criminalizes human trafficking, the Government has embarked on the drafting of a comprehensive legislation on Human Trafficking.

89. The use or the procurement of children for the purpose of prostitution is prohibited under Combating of Immoral Practices Amendment Act, Act No.7 of 2000. Furthermore,

the Namibian Labour Act, Act No.11 of 2007 as amended prohibits children under the age of 14 years from engaging into remunerative work.

Recommendation no 6: Strengthen the mechanisms of legal and social protection of children against sexual violence. Strengthen measures to combat discrimination and violence, particularly sexual, against children

90. The Government acknowledges that violence against children is a serious concern in the country. This is considered to be part of GBV and we refer to the information in the preceding paragraphs on this topic. In addition, the Child Care and Protection Act was passed by Parliament in 2015. This legislation contains provisions combatting all types of abuse towards children. This Act is however not yet in operation. A Child Justice Bill was also finalized and will be submitted to Parliament in the near future.

Recommendation no. 45 and 50: Improve the living conditions and infrastructure of detention facilities; and improve facilities in local prisons

91. The Namibian Government through the Namibian Correctional Service (NCS) department have been enlarging and modifying several correctional facilities around the country to improve management and the welfare of offenders. Apart from constructing Correctional Facilities, the NCS has new mandate to build remand facilities to ease the pressure created by overcrowding and thus, plans to construct seven remand Correctional Facilities across the country with the first one in Ondangwa to start in November 2015. Other remand facilities will be constructed as soon as land and funds are made available. The NCS has upgraded and renovated the following Correctional Facilities in the Country:

- Windhoek Correctional Facility (renovated and upgraded);
- Elizabeth Nepemba (Upgraded);
- Swakopmund Correctional Facility (Renovated);
- Hardap Correctional Facility (Renovated);
- Windhoek Female Correctional Facility (Construction completed);
- Evaristus Shikongo Correctional Facility (Completely upgraded).

Recommendation no. 76: continue pursuing appropriate policies, such as the action programme to eliminate child labour in Namibia 2008–2012, in particular with regard to ILO convention no. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour, to address the phenomenon of child labour

92. During the period under review, the Ministry of Labour and Employment Creation continued to conduct annual inspections at farms in the country, to identify and exposing child labour in the country. The inspections target known problem areas, such as border areas and certain communal areas.

93. Promotional materials on child labour were developed and distributed at the Annual Trade Fairs throughout the country as part of awareness campaign to eliminate the worst form of child labour in the country.

94. The Government formulated the Action Programme on the Elimination of Child Labour (APEC) with the assistance of International Labour Organization (ILO). In addition, the Government also compiled a list of the hazardous child labour, and the list of light work. The lists were developed with the assistance of ILO–APEC through TECL II⁶ programme that ended in 2011.

Recommendation no. 102: Independent national mechanisms for the inspection of places of deprivation

95. Sections 122 to 125 of the Correctional Services Act of 2012 provides for Visiting Justices and Ministers of Religion to all correctional facilities in the country. These Visiting Justices are Magistrates, Judges and Parliamentarians. The Ombudsman conducts visits to the said facilities to receive and resolves complaints, inspects the facilities, and thereafter makes recommendations to Government.

Recommendation no. 47 and 48: Backlog of cases and speedy trials

96. The Namibian judiciary system has introduced a number of measures aimed at reducing the accumulation of criminal cases in the courts, as follows:

97. The Criminal Procedure Act, Act 51 of 1977 has been amended by inserting section 57A to give prosecutors authority to issue admission of guilt fines in cases where the prosecutor on reasonable grounds believes that a magistrate's court, on convicting an accused of an offence, will not impose a sentence of imprisonment only or of a fine exceeding N\$6 000. Previously, this was only possible in cases where the prosecutor believes the sentencing court might only impose N\$300 or 3 months imprisonment. With this amendment, it is possible to dispose a number of cases without requiring persons to appear in court thereby reducing the backlog in the criminal caseload.

98. The Government through the Ministry of Justice has set up two dedicated special courts to deal with the backlog of cases in the district of Windhoek at magistrate court level; one court is dedicated to deal with corruption cases while the other deals with other offenses/crimes and will roll over to other parts of Namibia in due course. The Magistrate's Commission, a semi-autonomous branch of the Ministry of Justice is considering the possibility of operating Saturday courts specifically dealing with backlog cases.

99. The Ministry initiated a magistrate's project on the training of magistrates to increase the numbers of magistrates and prosecutors in the country. From 2008 to 2012 a total of 52 aspirant magistrates and prosecutors were trained.

100. The Government also entered into bilateral agreements with neighbouring countries, namely Zimbabwe and Zambia to employ magistrates and prosecutors on contractual basis to help reduce the backlog of cases.

Recommendation no 16: Disaggregated data to enable assessment of the effectiveness of policies and initiatives aimed at preventing and eliminating violence against women

101. To enable Government to collect and assess data, the Government established Namibian Statistical Agency (NSA) to this effect. The main functions of the NSA are to collect, produce, analyze and disseminate official information and other statistics in the country. In addition to collecting and assessing specific data for gender based violence and other offenses, the government introduced the following measures.

E-Policing System

102. The Ministry of Safety and Security has developed the E-Policing System. This is a system that captures, analyze, store and disseminate information related to violence as per country crime codes. The information is captured in systematic manner that comprises among others dependent and independent variables that help to trace and makes investigation and prosecution possible. Those variables includes but is not limited to age, sex, educational background, employment, locations and family composition, of both victim, suspect and witness. Those variables are key to the effective development and implementations of national initiative to eliminate Gender Based Violence including Human Trafficking.

Monthly Return Cases (Manual Exercise using Police Dockets)

103. The Ministry of Safety and Security established 14 Police Regional Commands with satellite and sub-stations including Police Gender Violence Investigating Units that deal with gender based violence. These Regional Commands receive statistics of crime reported which are compiled into a monthly return that is sent to the National Police Headquarters for record keeping, analysis and dissemination.

Data collection through research and surveys

104. The Ministry of Gender Equality and Child Welfare through its Directorate of Gender Equality and Research in collaboration with the NSA conduct desk and field research on Gender Based Violence and Human Trafficking. The said research is conducted at intervals of one to three years.

Recommendation no 32, 34: Traditional customs and women's rights

105. In terms of Article 66 of the Namibian Constitution, customary law and common law are equal and shall be promoted provided they are not in conflict with the provision of the Constitution or any other statutory law. Therefore, any customary practice that is deemed unconstitutional is prohibited and sanctioned by the courts of law. The Combating of Immoral Practices Act and the Combating of Rape Acts provides for penalties for any sexual conducts involving minors under the age of 16.

106. The Child Care and Protection Act contain provisions which are against harmful customary practices that affect women's rights including child marriage, early sexual activity and child-bearing. The sets the minimum age for customary marriage at 18 years old, to match the minimum age for civil marriage-which is 18 for both boys and girls.

Recommendation no 37 and 38: The use of other languages other than English to ensure access to public services

107. The Namibian National Language Policy is in place and calls for the promotion of all local languages in Namibia. As an extension to this policy the Government in collaboration with stakeholders continues to translate all essential Government services in the local languages in order to enhance service delivery.

108. It terms of the policy on local languages, it is compulsory that all children at lower primary schools should be taught in their vernacular with special focus on marginalized groups such as the San and OvaHimba. It is in this light, that all national and regional education authorities are to ensure that the policy on local languages is implemented. Teaching materials are currently being developed in various languages.

109. In court sessions, defendants or accused persons are entitled to speak in the language of their choice and trained interpreters assist them.

110. The National State Broadcaster (Namibian Broadcasting Corporation) has Television and Radio programmes daily in eight (8) local languages.

111. Several daily and weekly newspapers have sections or are wholly in indigenous languages. For example, New Era newspaper, which is government owned has sections for all recognized indigenous languages in the country. Kundana is also state owned and is wholly published in the Oshiwambo language.

Recommendation no 52: strengthen existing women's and children's units in the country which are staffed with police officers with sufficient human and logistical resources

112. Fifteen (15) specialized Women and Child Protection Units (WCPUs) in all fourteen regions were recently renamed to "Gender Based Violence Investigation Units" to ensure an inclusive and gender neutral name and encourage all people including men and boys to seek information and services. The recently upgraded and expanded Units capacity was strengthened with the provision of human and logistical resources.

Recommendation no. 60: Sterilization of HIV/AIDS infected women

113. It is not a state policy to sterilize HIV/AIDS infected women in Namibia. HIV/AIDS infected women have the right to reproduction and the Government offers necessary facilities to them such as the prevention of mother-to-child transmission.

114. In April 2010, the Ministry of Health and Social Services issued Government Notice No. 73. Regulation 7 of the Notice deals with State Patient benefits and responsibilities. Regulation 7 (1) (a) and (c) and Regulation 7 (1) (c) (X) to (XII) were issued to reiterate the Ministry's position on informed consent.

Recommendation no 55 and 73: registration of customary law marriages and Women and children's rights to property in terms of customary law marriages

115. In terms of the Children's Status Act, Act No. 6 of 2006 all children are treated equal in terms of inheritance from the parents. Furthermore the High Court of Namibian have resolved the inheritance issue regarding children who are born out of wedlock in the case of Lotta Frans vs Inge Paschke and others.⁷

Recommendations no. 91, 92 and 111: sign and ratify the Conventions and Protocols to which it is not a party

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

Recommendation no 64 and 66: Women's Access to adequate health facility and sexual reproductive health services

117. All health facilities in the country provide adequate sexual reproductive health services depending on the level of the health facility. In terms of the MoHSS Reproductive Health Policy, the following programs and services are provided in most health facilities amongst others:

- Prevention of Mother to Child Transmission (PMTCT) services;
- Ante Natal and Post Natal Care services;
- Rapid Testing for HIV;
- Family planning;
- Prevention and treatment of sexual transmitted diseases.

X Conclusion

118. Civil Society and NGOs participation in the country is encouraged and Government acknowledges that it plays an important role in socio-economic development. Namibia has a small but meaningful civil society that focuses mainly on efforts to reduce poverty, to promote good governance and respect for human rights. The Government through the parliamentary committee on public accounts engages with them during the national budget to make their advocacy for greater access and resources for the poor.

119. In addition, to address the root causes of poverty, hunger and to uplift the living conditions of the poor, the President and Cabinet ministers frequently visit all the regions in the country to conduct public meetings in order for the people at the grass roots to be uplifted and to form part of the solutions and decision-making process and not come across as helpless and hapless recipients of Government handouts.

Notes

¹ A standing technical committee consists of various line Ministries, charged with the responsibility of drafting State reports on international instruments. Namibia Non-Governmental Organization Forum (NANGOF) is represented on the committee.

² Article 78(2) of the Namibian Constitution.

³ (I 3121/2010) [2013], the plaintiff's action was based on unlawful arrest and detention by defendant, the Ministry of Safety and Security. The plaintiff was brought before a magistrate court four days after arrest and was detained in violation of Article 11(3) of the Namibian Constitution. The Court awarded damages to the plaintiff.

⁴ in particular Principle 9.3 which state that effective self-regulation is the best system for promoting high standards in the media.

⁵ The National Household Income and Expenditure survey (NHIES) is conducted every five years in the country by the National Statistics Agency.

⁶ Towards the Elimination of the worst forms of Child Labour.

⁷ Heard on 28 June 2007 and delivered on 11 July 2007 by the High Court of Namibia (Case No. (P) I 1548/2005).