



**International Covenant on
Civil and Political Rights**

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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**List of issues in relation to the second periodic report of
Namibia**

Addendum

Replies of Namibia to the list of issues*

[Date received: 30 November 2015]

* The present document is being issued without formal editing.



**Constitutional and legal framework within which the Covenant is implemented
(art. 2) – In Response**

1. Under the Namibian Constitution, international law that is binding on Namibia is automatically part of Namibian law and enforceable by Namibian Courts. International law binding on Namibia should also be a guide to the interpretation of the Namibian Constitution. This was affirmed by the Namibian Supreme Court in the case of *Government of Republic of Namibia v. Mwilima and Other* accused in the Caprivi Treason Trial 2002 NR 235 (SC) (per Strydom CJ) at 260 H.

2. The Supreme Court found that the Caprivi Treason Trial Defendants must be provided legal aid. Since Namibia ratified both the international Covenant on Civil and Political Rights (ICCPR) and its Protocols, they form part of Namibian law and the courts are obliged to adhere thereto. The court stated that Article 14 (3) of the ICCPR is a combination of Article 12 (1) (e) and 95 (h) of the Namibian Constitution without the limitations of Article 95, providing for legal aid for an accused. This is because the ICCPR required Namibia to give free legal assistance to persons accused of crimes in cases where the interest of justice require legal representation and the accused do not have the means to pay for it.

3. Also in an earlier case of *Minister of Defence v. Mwandangi*, 1993 NR 63 (HC) (per Mohamed AJA) at 70B. The Supreme Court stated that the fundamental Rights and freedoms in the Namibian Constitution are international in character and that their interpretation calls for the application of international human rights norms.

4. With regard to the Committee's previous concluding observations (CCPR/CO/81/NAM, para. 6), 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.

5. In terms of the policy on local languages, it is compulsory that all children at lower primary school level should be taught in their vernacular languages 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.

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

7. In addition, Article 25 (2) of the Namibian Constitution provides for a mechanism, which gives aggrieved persons the right to approach a competent court for a remedy.

8. Namibia reiterates its first response on the Committee's Views adopted under the Optional Protocol (CCPR/CO/81/NAM, para. 8). That we are of the view that the issues which were raised in the case of *Müller and Engelhard v. Namibia* No. 919/2000 were properly addressed by Namibia's Supreme Court which indicated that it was justifiable in terms of our laws.

**Paragraph 1 – The functions of the Office of the Ombudsman on its mandate,
previous concluding observations (CCPR/CO/81/NAM, para. 7) – In Response**

9. The Namibian Ombudsman institution is a Constitutional office (Article 89), created by the Ombudsman Act No. 7 of 1990 as an independent office, subject only to the Constitution and the law. The main functions and duties remain the receiving and investigation of complaints relating to maladministration, violations of human rights and freedoms, misappropriation of public monies and misuse of government property and lastly

the overutilization of living natural resources and irrational exploitation of non-renewable resources.

10. Although the Act limits the mandate of the Ombudsman to civil and political rights, the Ombudsman includes economic, social and cultural rights in this mandate by virtue of Namibia's ratification of the Covenant on Economic, Social and Cultural Rights and the operation of Article 144 of the Constitution.

11. Once an individual complaint is received, it is fully investigated where after the outcome is communicated to the complainant and the offending party or institution. In meritorious matters the Ombudsman will assist complaints to institute civil claims for damages against the offending party or institution.

Proposed amendments to the Ombudsman Act:

- The definition of "fundamental rights and freedoms" in Section 1 must be broadened to include economic, social and cultural rights as set out in the Covenant on Economic, Social and Cultural Rights. That will give the Ombudsman "as broad a mandate as possible" in line with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).
- The duty to promote fundamental rights and freedoms should be expressly provided for under Section 3- Duties and functions of the Ombudsman.
- The duty to visit places of detention announced and unannounced should also be expressly provided for.
- To bring the Ombudsman Act in line with the Paris Principles, Section 7 (1) of the Act must be amended to give the Ombudsman the duty to recruit his own staff who will be appointed by the Public Service Commission.
- To bring the Ombudsman Act in line with the Paris Principle requirement of autonomy, section 9 must be amended to give the Ombudsman sole control over his budget.
- The Ombudsman is busy preparing the necessary amendments for submission to the Minister of Justice for tabling in the National Assembly.

Paragraph 2 – Non-discrimination, equal rights of men and women, right to life (arts. 2, 3, 6 and 26) – In Response

12. In compliance with the ICERD and DDPA recommendations to develop action plans against racism and racial discrimination, the Ombudsman initiated the development of a National Human Rights Action Plan (NHRAP). One of the seven themes of the NHRAP is the right not to be discriminated against. The Baseline study and consultative workshops revealed that the groups most likely to be victims of racism and discrimination are: people with disabilities, indigenous people, women and LGBTI persons. The NHRAP was launched on 9/12/14.

13. The specific objectives to be achieved under the NHRAP for the non-discrimination theme are:

- To enhance affirmation of the rights of people with disabilities, indigenous people, women and LGBTIs
- To have information on the extent to which human rights of people with disabilities, indigenous people, women and LGBTI's are infringed upon
- To intensify education and awareness raising

- To implement legal and regulatory reform that will give effect to non-discriminatory provisions in various international and regional instruments
14. To protect above groups from discrimination, new legislation will be developed to prohibit:
- Discrimination on grounds of albinism
 - Discrimination on grounds of race
 - Discrimination on grounds of gender
 - Discrimination on grounds of disability
 - Hate speech which will include racial name-calling
 - Harassment
15. The new legislation must also create equality courts which have to:
- Function in an informal fashion
 - Promote participation by all parties
 - Deal with complaints expeditiously and with due regard to the needs of access to justice to eradicate systemic discrimination and inequalities
 - Award damages or order a respondent to apologize unconditionally to the complainant

Paragraph 3 – Measures taken to encourage the registration of customary marriages – In Response

16. Article 66(1) of the Namibian Constitution recognizes both common and customary law, which provides that both customary and the common law applicable at the date of independence shall remain valid, provided it does not conflict with the constitution or statutory law. Both systems enjoy equal status and are subordinate to the Constitution and statutory (civil) law. Article 66 further provides that any part of the common or customary law may be repealed or modified by an Act of Parliament, and that the application thereof may be confined to particular parts of Namibia or particular periods. Therefore, the issue of polygamy will also be addressed by the draft Bill on customary marriages, which provide for the registration of customary marriages as well as the capacity to marry, which is still in consultation stages with different stakeholders.

17. Article 144(1) of the Namibian Constitution provides that all laws in force at the date of independence remain in force until repealed or amended by an Act of Parliament or declared unconstitutional by a competent court. One such law is the Native Administration Proclamation 15 of 1928, which regulates matters such as marriage and inheritance under customary law.

18. However, in the case *Berendt v. Stuurman A105/2003 High court of Namibia*, the court declared sections 18(1) and 18(2) of the Native Administration Proclamation 15 of 1928 as well as the regulations made under section 18(9) unconstitutional and invalid, because it sets up different rules in respect of marriage and inheritance and the determining factor being what race a person belongs to. The court further held that the common law rule did indeed become invalid and unconstitutional on 21 March 1990.

19. Even though we recognize that law reform is urgently awaited in respect of inheritance under customary law, we are of the opinion that any such attempt should not be done without wide consultations. This is the reason why law reform in this area is taking

long. If we fail to consult those most affected by any such reform efforts, we run the risk of creating mere paper laws.

20. The majority of Namibians live according to traditional cultural practices, which reflect values and beliefs held by members of that community for many years, which are based upon a collectivist view of family and social life. At present, a child who wants to enter into a customary marriage before the age of 18 need parental permission in terms of Section 14(2) of the Married Persons Equality Act No. 1 of 1996.

21. In addition, the Child Care and Protection Act which was passed in Parliament this year 2015, but not yet in force defines what the term “marriage” applies to both civil and customary marriages. The Act provides that a child must give his/her own consent and have permission from one or both parents to get married under civil or customary law. The Act also provide for punishment for forcing children to get married against their will to pay a fine of up to N\$ 50 000. (approx. \$ 3 700,00) and/ or imprisonment for a period not exceeding ten years.

22. There are recent cases where the Gender Protection Unit of the Namibian Police have arrested and charged adult men with statutory rape for impregnating and marrying young girls under the age of 18 years.

23. The provisions of Section 39 and Regulation 25 of the Communal Land Reform Act No. 5 of 2002 allow aggrieved women and men to appeal on decisions made by statutory institutions i.e. Traditional Authorities and Communal Land Boards for corrective actions to be taken. Women are protected in the communal land reform programme given the fact that the Ministry has revised the applications to include the spouses of married men and women on the revised application forms which are part of the amended regulations gazetted on 21 February 2014 as “Amendment of Regulations made under the Communal Land Reform Act, 2002”, approved by the Minister while awaiting proclamation of the commencement date of the Communal Land Reform Amendment Act No. 13 of 2013. All these measures are made to protect the rights of women in our communal land reform programmes.

24. A Mariental resident obtained a High Court order to stop the Witbooi Traditional Authority from cancelling a customary land right that the Hardap Communal Land Board registered in his name in December 2012. In terms of an order granted by the High Court, the Witbooi Traditional Authority, one of its senior traditional councillors, and a certain communal farmer were ordered not to unlawfully interfere with Applicant’s rights to occupy and farm on the land over which he has a registered customary land right.

Paragraph 4 – The status of the enactment of the Bill on Recognition of Customary Law – In Response

25. The draft Bill on customary marriages, which provides for the registration or recognition of customary marriages as well as the capacity to marry, is still in consultation stages with different stakeholders.

Papagraph 5 – Discrimination in inheritance and treatment of children born out of adulterous or incestuous relationships – In Response

26. 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. One of the main aims of the Act is the removal of discrimination against children born outside of marriage. Furthermore the High Court of Namibian has resolved the inheritance issue regarding children who are born out of wedlock in the case of *Lotta Frans v. Inge Paschke and others* Case No. (P) I 1548/2005.

27. The common law rule of South Holland of children born out of adulterous, incestuous or normal “out of wedlock” relationships (no illegitimate child could inherit from his/her father) found its way into Namibia by virtue of the Administration of Justice Proclamation, 1919, which provides that the common law of South West Africa shall be the Roman – Dutch law as “existing and applied” in the Province of the Cape of Good Hope.

**Papragraph 6 – Stigma and discrimination against persons living with HIV/AIDS
– In Response**

28. Since 1990, Namibia has moved away from a culture of discrimination towards a culture of rights. The Constitution gives all people in Namibia the right to equality and the right to protection against discrimination. The right to equality means that employees living with HIV/AIDS may not be treated any differently from employees not living with HIV/AIDS. This applies to both the public and private sectors.

29. Persons with HIV and AIDS are protected by the law, namely: the Namibian Constitution, the Labour Act No. 11 of 2007, Employees Compensation Act No. 18 of 1973 and Social Security Act No. 34 of 1994 as well as the National Code on HIV/AIDS in employment.

30. In the year 2000, the Government in consultation with representatives of commerce and industry, NGO’s, AIDS service organizations, trade unions, churches, the medical and nursing profession and people with HIV/AIDS developed the Namibian Charter on HIV/AIDS which was published by the Legal Assistance Centre the same year.

31. Tremendous efforts have been made to bring HIV treatment closer to where people live so that they do not have to travel long distances in order to access Anti-Retroviral Therapy (ART) services. Presently ART services have been rolled out countywide and are available at all 35 district hospitals as well as at all health centers and most clinics. Outreach services have also been established to cater for smaller clinics where there are no ART services. The availability of ART has increased the survival rate of many Namibians living with HIV and improved the quality of their lives.

32. Namibia has rapidly scaled up ART services, which has allowed 84% of eligible adults, and 82% of eligible children, to receive these services. Namibia has also extended ART to HIV-positive children younger than five years of age and to patients with hepatitis B, who are more likely to succumb to HIV infection.

33. A special cadre, Health Extension Workers, formerly known as community counsellors, was established since 2003 and specially trained in the issues of confidentiality in order to properly counsel persons with HIV and AIDS so that they can live positively with HIV and AIDS. All Health Care Workers, doctors and nurses who work with people with HIV and AIDS undergo special training to equip them with enough skills enabling them to deal with their clients in a professional manner and to reduce stigma and discrimination.

34. Health facilities, which provide antiretroviral treatment, have been renovated to provide increased confidentiality facilities. Special Monitoring and Evaluation Tools have been developed by the MoHSS to provide maximum confidentiality of HIV patient records.

35. The Labour Act, (Act 11 of 2007) prohibits discrimination in any employment decision directly or indirectly, or adopts any requirement or engage in any practice which has the effect of discrimination against any individual on the ground of AIDS or HIV status (see Section 5 (2) (f)).

36. In the event that any party’s right has been infringed, the aggrieved party may refer the dispute to the Labour Commissioner in accordance with Section 7(1)(b) or may approach the Labour Court in accordance with Section 7 (5) of the Act.

37. Namibia is in the process of aligning the National HIV/AIDS Code in Employment with the ILO Recommendation 200 concerning the HIV/AIDS and the World of Work.

38. In an earlier case of *Nanditume v. Minister of Defence* (2002) AHRLR (NaLC 2000), the Labour Court ruled against the Ministry of Defence that they have discriminated against the Applicant who applied for a job in the Namibian Defence Force. The Applicant, Mr. Nanditume applied for a job in the Namibian Defence Force. He was asked to do an HIV test as part of his medical examination, and when his test showed that he was HIV positive, the NDF refused to give him employment.

39. As a result of this case, the Defence Act was amended to exclude any person from being employed in the Namibian Defence Force who has a disease or ailment which: if it will impair his/her ability to undergo any form of training; if it's likely to deteriorate to the extent that it will impair his/her ability to undergo any form of training; or if its likely to be aggravated by his/her undergoing any form of training.

40. The following organisations are in place to advance the rights of people living with HIV and AIDS in Namibia:

- Lironga Eparu – a national association of people living with HIV.
- Catholic Aids Action – a faith-based organisation that offers counselling and home-based care to people living with HIV.
- AIDS Care Trust – an organisation that provides counselling and home-based care to people living with HIV, and assists with the design and implementation of HIV workplace programmes.
- AIDS Law Unit of the Legal Assistance Centre (LAC) – an LAC unit that provides legal advice on HIV/AIDS, helps to formulate policy on HIV/AIDS, advocates a rights-based approach to HIV/AIDS, and publishes materials on HIV/AIDS such as the Namibian HIV/AIDS Charter of Rights.
- Namibia Network of AIDS Service Organisation (NANASO) – a welfare organisation that advocate for the needs and rights of people affected and infected by HIV, as well as resources to HIV infected and affected people and their families.
- AIDS Rights Alliance for Southern Africa (ARASA) – a regional partnership of NGOs working together to promote a human rights approach to HIV/AIDS and TB in Southern Africa through capacity building and advocacy.
- Yelula-Ukhâi – an organisation that works with communities, individuals and marginalised groups in rural Namibia to strengthen their resources and support their vision in responding to the HIV and AIDS epidemic and supporting orphans and vulnerable children.

Paragraph 7 – Procedure to access abortion – In Response

41. In terms of the Abortion and Sterilisation Act (1975), as amended through Act 48 of 1982 (still applicable in Namibia), abortions are allowed only when continuing the pregnancy will “endanger the woman’s life or constitute a serious threat to her physical or mental health or there must be a serious risk that the child to be born will suffer from a physical or mental defect so as to be irreparably seriously handicapped, when the foetus is alleged to have been conceived in consequence of unlawful carnal intercourse (rape or incest); or when the foetus has been conceived in consequence of illegitimate carnal intercourse and the woman is, owing to a permanent mental handicap or defect, unable to comprehend the implications of or bear the parental responsibility for the ‘fruit of coitus’”.

42. In addition to the woman's doctor, two other doctors are required to certify the existence of grounds for an abortion, and the operation must be performed by a medical practitioner in a State hospital or an approved medical facility.

43. In terms of access to contraceptives by persons under 18 years of age the newly passed Child Care and Protection Act, Act 3 of 2015 allows children to give consent to medical treatment if they are at least 14 years old AND mature enough to understand the benefits, risks and implication of the medical interventions. Contraceptive that would be classed as a medicine or treatment such as the pill or a device inserted will be included under the change to the age of consent for medical interventions.

44. The Government does not have any intention to amend the current law on abortion.

Paragraph 8 – Previous concluding observations (CCPR/CO/81/NAM, para. 22), for protection against discrimination for LGBT persons – In Response

45. Namibia have noted the Committee's previous concluding observations and other similar calls as well as the statements which suggests that "Namibia has become notorious in its intransigence in accepting homosexuals as equal partners in a just society" Unfortunately, official attitudes do not seem to match the recent public opinion on this issue.

46. In 2013, the Office of the Ombudsman published the results of a national survey of 1280 households about human right issues. One of the topics covered in this survey was an attitude about LGBT rights. When asked if people with "a different sexual orientation" have equal rights in Namibia, 73.2% of the respondent said yes.

47. Another survey was conducted in the country in 2007/2008, also showed that LGBT's do have equal rights like any other citizens, but it was indicated that the issue of LGBT should be treated as a private matter.

48. Earlier in 2006, another survey was conducted in urban and rural areas, which targeted the Namibian youth. The survey found significant levels of support protecting gay and lesbian rights by law as well as relatively strong agreement with the idea that sexual orientation should be treated as a private matter, with urban youth being more tolerant of LGBT persons than rural youth. It is also worth mentioning that at international level, in 2013, the Pew Research Centre surveyed individuals in 39 countries about their acceptance of homosexuality and found a global divide on this question with broad acceptance in North America, the European Union and much of Latin America, contrasted with widespread rejection in predominantly Muslim nations and in Africa.

49. Article 10 of Namibian Constitution provide for equality and freedom from discrimination:

(1) All persons shall be equal before the law.

(2) No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status.

50. There are no records of cases of harassment or discrimination against LGBT reported to the Ombudsman or to the Namibian Police. The reality of today and the legal history of the Namibian people do not suggest that legalising LGBT is important or beneficial to our legal system. The Government consider the issue of LGBT in Namibia as a non-issue that is why we do not persecute or harass them provided they practice their choice in private. Nevertheless, the Government has no intention to repeal any laws including the common law on sodomy.

**Paragraphs 9 and 10 – Persons with disabilities and women in positions
– In Response**

51. Article 10 of the Namibian Constitution provides for the right to Equality and Freedom from Discrimination. Persons with disabilities are, in principle, able to use the law to protect and pursue interests on an equal basis with others.

52. The following legislation and policies also ensure equal protection for persons with disabilities:

- Labour Act 11 of 2007
- National Disability Council Act 26 of 2004
- Affirmative Action Act, (Employment and Act 29 of 1998)
- Mental Health Act No. 18 of 1973, as amended
- Electoral Act no.24 of 1992 as amended in 2009
- Educational Sector Policy on HIV/AIDS
- The National Policy on Special Needs and Inclusive Education (2008)
- National Policy on Disability (1997)
- Education Sector Policy on Orphans and Vulnerable Children (2008)
- Sector Policy on Inclusive Education (2013)
- National Policy Options on the Educationally Marginalized Children (2002)
- Mental Health Policy (2013)
- Policy on Orthopaedic technical services
- Decentralisation Policy

53. Section 1 of the Racial Discrimination Prohibition Amendment Act 26 of 1991 prohibits discrimination based on disability. The Labour Act also prohibits discrimination in any employment decision based on a number of factors, including any “degree of physical or mental disability.” However, the Act makes exception in the case of a person with a disability if that person is, as a consequence of disability, unable to perform the duties or functions associated with the employment or occupation in question. Enforcement in this area was ineffective, and societal discrimination persisted. The National Disability Council of Namibia (NDCN) recorded in June 2013 that 22 cases of discrimination have been registered with the organization since its establishment in 2004. Persons with disabilities are to be further sensitized and empowered to claim these rights and further report any violations to rightful entities.

Statistics on affirmative action with regard to the number of women and people living with disabilities employed in mid-management to management level for 2012/2013

<i>Job Category</i>	<i>Racially disadvantaged</i>		<i>Racially advantaged</i>		<i>Persons with disabilities</i>		<i>Non-Namibian(s)</i>		<i>Total</i>		<i>Grand Total</i>
	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>	
Executive Directors	157	58	399	87	4	1	94	26	654	172	826
Senior Management	748	388	778	285	19	4	200	55	1,745	732	2,477
Middle Management	2,916	3,130	1,213	985	46	21	314	105	4,489	4,241	8,730

Paragraph 11 – Violence against women, including domestic violence (arts. 2, 3, 6, 7 and 26) – In Response

54. Gender-based Violence (GBV) is a serious concern in Namibia. The Government regard GBV as a violation of human rights that cannot be condoned in our society. Police records indicate that half of the survivors suffer violence at the hands of persons who are close relatives or their intimate partners.

55. The Government continues to work with all the stakeholders including the local NGO's to address and campaign against gender-based violence. In this regard, a 2nd National Conference on Gender Based Violence was held in July 2014. The Conference was attended by all stakeholders including representatives from traditional authorities, faith based organization, non-governmental organization and youth organization.

56. The Conference examined three themes namely: understanding the underlying cause and trends of GBV, national responses to GBV including Psychosocial, medical and legal approaches to prevent and combat GBV, and what went wrong within our society and coordination mechanism. The Conference adopted many recommendations which were approved by Cabinet, including improving and streamlining the process of reporting cases at police stations to make the procedures victim-friendly and discourage the withdrawal of GBV cases, imposing heavy tax on purchasing of alcohol, incorporate GBV prevention in curriculum in tertiary institutions and calling upon the Council of Traditional Leaders to redefine cultural beliefs that can help in combating GBV, and for them to reinforce traditional systems of governance and conflict resolutions within their communities.

Paragraph 12 – Harmful practices against women and girls – In Response

57. Most of the alleged harmful practices against women cited by the Committee is not practiced in Namibia judging from the words or terminologies referred to by the Committee. For example the word "mulaleka" can be loosely translated as using one's own spirit or doppelganger to have sexual intercourse with any women that one desire is a local language in Zambia.

58. The rest of other practices are not harmful at all. For example "kupaza" involves voluntary cuttings of one's body as a sign of tribal affiliation or to wade off bad spirits, more or less like tattoos in the western world. These body cuttings are not only restricted to women and girls but also to their male counterparts.

59. Research conducted by both Government and independent bodies indicate that Female Genital Mutilation is traditionally not practiced in Namibia.

60. The following legislation is in place, which criminalizes most of the harmful practices against women:

- Combating of Domestic Violence Act (Act No. 4 of 2003), the Act gives an extensive definition of domestic violence, including physical, sexual, economic, verbal, emotional and psychological, intimidation and harassment. It provides for the issuing of protection orders and police warnings in domestic violence matters.
- Combating of Rape Act, (Act No. 8 of 2000), the Act provides for an extensive definition of rape that focuses on acts of coercion used by the accused.
- The Criminal Procedure Amendment Act, (Act No. 24 of 2003) makes provision for special arrangements for vulnerable witnesses, mainly in rape cases and allows witnesses to testify via closed circuit television or from behind a one-way screen.

Paragraph 13 – Sexual harassment of employees – In Response

61. In terms of the Labour Act No. 11 of 2007, Section 5 (8), (9) and (10) stipulates the following:

In terms of section 33 (4), (a) & (b), the “5 (8) A person must not, in any employment decision or in the course of an employee’s employment, directly or indirectly sexually harass an employee.

(9) Where sexual harassment is perpetrated by an employer against an employee, and that employee resigns as a result of the sexual harassment, that resignation constitutes a constructive dismissal.

(10) A constructive dismissal contemplated in subsection (9) may constitute unfair dismissal for the purposes of section 33, which entitles the employee to remedies available to an employee who has been unfairly dismissed”.

62. In terms of section 33 (4), (a) & (b), the employee must establish that there was a dismissal (constructive dismissal in terms of section 5(10)) and it is presumed, unless the contrary is proven by the employer, that the dismissal is unfair.

63. The Labour Act ensures that the constructive dismissal cases for sexual harassment victims are dealt with the same way like a normal unfair dismissal case under section 33 of the Labour Act. The sexual harassment victims are thus protected against arbitrarily dismissal. Section 33 (4) put the burden of proof on the employer and in the event that the employer fails to discharge the burden, the dismissal will be regarded as unfair.

64. The Labour Commissioner’s Office did not register any dispute of sexual harassment during the period under review and thus no remedies were employed.

Measures in place to provide support and protection to victims of rape and of domestic violence, including increasing the number of shelters

65. The Criminal Procedure Act, Act 51 of 1977 makes provision for support to vulnerable witnesses. A vulnerable witness is anyone under the age 18; any victim/survivor of a sexual offense: rape, attempted rape, indecent assault, sexual offences under the Combating of Immoral Practices Act; a victim/survivor of any offence involving domestic violence; witness who has some mental or physical disability (if the disability creates special needs or may lead to undue stress).

66. Social workers in the Ministry of Gender Equality and Child Welfare are also providing support to vulnerable witnesses in terms of the Criminal Procedure Amendment Act, Act 24 of 2003, where special measures should apply.

67. The Ministry of Gender Equality and Child Welfare has established seven (7) Shelters for the temporary safety of survivors of abuse although they are not fully operationalize due to structural challenges in the adequate provision of this service.

Paragraph 14 – Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6 and 7) – In Response

68. Torture is specifically prohibited in terms of Article 8 (2) (b) of the Namibian Constitution, which provides for Respect for Human Dignity and which states that “No persons shall be subject to torture or to cruel, inhuman or degrading treatment or punishment”.

69. The last stakeholders’ consultative meeting on the Prevention and Combating of the Torture Bill in Namibia was held on the 7th of August 2015. The Bill will be tabled in Parliament during early 2016.

70. Section 2 (1) of the Bill define Torture as any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as:

- (a) Obtaining from him or a third person information or a confession;
- (b) Punishing him for an act he or a third person has committed or is suspected of having committed; or
- (c) Intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

71. The definition of torture in sub-clause 1 of this clause does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Paragraph 15 – Elimination of slavery, servitude and forced labor and measures to protect minors (arts. 8 and 24) – In Response

72. In terms of the Labour Act and regulations no child between the age of 16 and 18 must be employed in respect of:

- Any work between the hours of 20h00 and 07h00 or
- Work done underground or in a mine
- Construction or demolition takes place
- Goods manufactured
- Electricity generated, transformed or distributed
- Machinery installed or dismantled or
- Any work-related activities take place that may place the child health, safety, or physical, mental spiritual, moral or social development at risk

73. Exception: The above types of work can be permitted by the Minister by a regulation subject to any conditions or restrictions that may be contained in such regulations.

74. Child labour laws are part of the Labour Act and thus the Labour Inspectorate is mandated to enforce child labour laws. A Labour Inspector is empowered to issue a Compliance Order in the event that the inspector believes that there are reasonable grounds that the employer has not complied with the law.

75. Powers of the labour inspectors also authorized the interference with a person's right of privacy and the privacy of that person's home as guaranteed by Article 13 of the Constitution in certain yet reasonable circumstances. The labour inspectors do get access to private farms in most cases. In the event that they found farms inaccessible, they approach the Agriculture Regional Employers Forums that in turn to facilitate the accessibility to private farms. The farm workers and domestic workers on communal farms are firstly covered by the Labour Act and the Collective Agreement for Agricultural Sector. The Chapter on the Basic Conditions of Employment under the Labour Act covers both the farm workers and domestic workers on communal farms. If corporal punishments do take place, workers have the right to approach the Police and open criminal cases of assault. Assault is a criminal offence and is not be dealt with under the Labour Act in Namibia.

76. A draft Bill on Anti-Trafficking has been submitted to the Cabinet Committee on Legislations for approval. The Bill was returned for improvement. The line Ministries are

working on the improvements and once that is done the Bill will be forwarded again to the Cabinet Committee. In an effort to improve early identification as well as assistance to victims of trafficking, Government with the assistance of the UNODC as well as UNICEF conducted several training course in 2015.

77. There were two cases prosecuted in 2015. One was with an acquittal and the other the accused was sentenced to 13 years.

Paragraph 16 – Right to liberty and security of persons, right to fair trial and independence of the judiciary (arts. 9 and 14) – In Response

78. The Government established a Criminal Justice Forum, which consists of all the stakeholders to review the legal framework of the criminal justice system that would reduce the usage of pre-trial detention. However, the Government continues to observe and adhere to the implementation of the national laws and other legal instruments. Our courts have held that if a detained person's rights as set out in Article 11(1) and (2) as well as Article 7 of the Namibian Constitution will be infringed, such custody or their detention is unlawful. For example, if an accused is held in custody for more than 48 hours before being brought before a court.

79. In the case of *Minister of Safety and Security v. Kabotana* case No. SA 35/2012, Shivute CJ endorsed the foregoing views of Parker AJ and held that Article 11(3) is an aspect of the fundamental right to liberty guaranteed by Article 7 and that the 48-hour requirement is undoubtedly an important constitutional right accorded to arrested persons which, in the light of our pre-independence history of detention without trial and other related injustices, should be guarded jealously.

80. In the case of *Iyambo v. Minister of Safety and Security* (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. In the assessment of damages the court took into account the circumstances surrounding arrest of the plaintiff and treatment of the plaintiff by arresting police officials, and the period of unlawful detention being four days, plaintiff's loss of freedom of movement and loss of esteem among members of the local community where plaintiff worked as a primary school teacher. The Court then awarded damages of N\$ 12,000.00 (approx. US\$ 1,200.00).

81. The practical barriers of the right to appeal or review was dealt with by the Supreme Court in the case of *S v. Ganeb 2001*, Mr. Ganeb was convicted in the Magistrate's court on charges of stock theft. He sought to have a Judges certificate in terms of Section 309(4) (a) read with Section 305 of the Criminal Procedure Act No. 51 of 1977. A judge's certificate was a requirement for any person behind bars and who did not have access to a lawyer to get an appeal or a review. His application was turned down. Mr. Ganeb, not content with this rejection made his views known to the judge president who in turn sought to have the matter weighed against the Namibian Constitution.

82. The main question the court had to answer was: can an inmate without legal representation seek to have an appeal or review of a lower court judgment without procuring a judges certificate. The court found Section 309(4) (a) to be against Article 12 (the right to a fair trial) and Article 10 (all persons shall be equal before the law) of the Namibian Constitution.

83. In the case of *Louw v. Chairperson, District Labour Court, Windhoek* [2001], the court dealt with Article 12 (fair trial) of the Namibia Constitution, which states that an individual has the right to a free and fair trial. Ms. Louw could not put security for the appeal in accordance with of the Rules of the High Court of Namibia.

84. The issue the court had to determine was whether the rule compelling an appellant to provide security for the costs of the appeal contravenes the fair trial provision.

85. Due to Ms. Louw's financial position she could not raise enough money to have her appeal heard as required by Rules of the High Court of Namibia even though the amount sought was reasonable in her view. The court, in reaching its decision, followed the approach used by a South African court in the case of *Shepherd v. O'Niell and Others* 2000 (2) SA 10066 (N), which dealt with a similar issue. The court argued that the rule on the issue of security did not give it enough room to manoeuvre. For instance the court, according to the rules, cannot reduce or waive or even increase the amount of security being charged. It further argued that this might limit genuine appeals by persons who cannot afford to put up the security. The court further added that it should be able to exercise its discretion in such matters. The court therefore found that the rule that requires that security be paid before an appeal can be heard contradicts the enshrined right to fair trial.

Paragraph 17 – Treatment of persons deprived of their liberty (art. 10) – In Response

86. There are a total of thirteen (13) gazetted correctional facilities countrywide. Namely, Windhoek, Hardap, Oluno, Walvis Bay, Omaruru, Grootfontein, Swakopmund, Keetmanshoop, Lüderitz, Gobabis, Elizabeth Nepemba, Divundu and Evarastus Shikongo. The current official bed capacity of the Namibian Correctional Service facilities is 4,475, and as illustrated by the 2010/2011 offender statistics, the total offenders detained were 4,445. The following correctional facilities are currently experiencing overcrowding: Oluno Correctional Facility (79%), Omaruru Correctional Facility (64%), Grootfontein Correctional Facility (54%), Windhoek Central Correctional Facility (44%), Walvis Bay Correctional Facility (31%) and Swakopmund Correctional Facility (10%). The designated capacity of Oluno Correctional Facility is 557 and the actual number is 692 therefore as of May 2014 the facility is overcrowded with over 135 which represents 24%.

87. Several measures pertaining to the standards of living in prisons are being taken. These include the renovation of the old prisons to increase accommodation and ventilation, where applicable to transfer inmates to less populated prisons, review of diet menu at regular intervals, and two ambulances were bought by the Ministry of Safety and Security for the Windhoek Correctional Facility and the Oluno Correctional Facility. The Ministry of Health and Social Services provides ten (10) HIV/AIDS counsellors to ten of the thirteen correctional facilities.

88. Inmates held at correctional facilities have access to medical services including HIV/AIDS services. The NCS organisational structure makes provision for each correctional facility to have a Health Care Services sections in case of bigger facilities and Nursing Services, in case of smaller ones. Therefore, inmates are treated on site and in case of serious cases are referred to State health facilities. Further, all HIV patients have access to ARV treatment.

89. The newly passed Correctional Services Act, Act No. 9 of 2012, Section 122 provides for Visiting Justices. The Act recognizes a variety of persons as visiting justices e.g. Judges of the Supreme and High Court of Namibia, Cabinet Ministers, Members of Parliament, the Permanent Secretary (of the Ministry of Safety and Security), Governors and regional council members of a specific region for Correctional facilities in the specific region as well as the magistrate for that specific region. The visiting justices perform a variety of functions that range from visiting the whole facility including the persons in solitary confinement as well as testing the food being served. They can also investigate any complaint received by them and make recommendations to parliament.

90. The Correctional facilities are open for inspection by the Ombudsman's office. The Prisons Act, Act No. 17 of 1998 was repealed and replaced by The Correctional Service Act, Act No. 9 of 2012, which provides for Visiting Justices whose responsibility, amongst others, is to inspect the facilities.

Paragraph 18 – Refugees and asylum seekers (arts. 7, 6, 13) – In Response

91. Despite the statements of the former Commissioner for Refugees Mr. Mushelenga, and contrary thereto, the Namibian Refugees (Recognition and Control) Act No. 2 of 1999 stipulates the criteria and the grounds to be considered for asylum seekers in the country on individual basis.

92. The Act provides for protection of asylum seekers who have a well-founded fear of being persecuted in his/her country for reasons of race, religion, nationality, membership of a particular social group or political opinion. These are the same criteria/grounds contained in the 1951 Convention Relating to Status of Refugees and its 1967 Protocol.

93. Namibia entered a reservation to Article 26 of the 1951 Geneva Convention and this is domesticated through Section 19 of the Namibian Refugees (Recognition and Control) Act, 1999. As result of this reservation, all refugees and asylum seekers are expected to reside in the Refugee Settlement.

94. The Government identifies this resettlement in order to better protect and provide for asylum seekers and refugees. They are provided with basic necessities at one central place. E.g. food, shelter, clothing, primary health care, both primary and secondary education etc. The refugees and asylum seekers do have freedom of movement as they leave Osire Settlement with permits issued to them for that purpose. Just like all other foreigners, refugees are also granted Study Permits and Employment Permits to study and work outside the Settlement.

95. The case of *Tao Hua Zhu v. Minister of Home Affairs & Another* 2004 NR 170 (HC) must be distinguished from matters pertaining to asylum seekers and refugees. The case being referred to pertained to a person whose employment permit had expired and became an illegal immigrant and his case was dealt with in terms of the Immigration Control Act, Act 7 of 1993. Mr. Tao Hua Zhu was neither an asylum seeker nor a refugee and therefore the provisions of the Namibia Refugees (Control and Recognition) Act did not find application.

Paragraph 19 – Fair trial and due process (art. 14) – In Response

96. The Community Courts Act (Act 10 of 2003) clarifies what cases these courts may hear, the processes they must follow and who their justices (judges) will be. The Act provides for appeals to be taken from Community Courts to Magistrates' Courts and eventually to the High Court.

97. The Community Courts have jurisdiction to hear and try cases of members of a traditional community in respect of which a community court have been established. In other words, the jurisdiction of a community court is community bound rather than geographical.

98. There is no distinction between civil and criminal law jurisdiction with regard to community courts. Section 12 of the Act states in general terms that community courts shall have jurisdiction to hear and determine any matter relating to compensation, restitution or other claim recognized by the community law.

99. Section 22 of the Act provide for orders of the community courts, that a community court may in proceedings before it make any of the following orders:

- (a) An order for compensation, damages, restitution or specific performance according to customary law;
- (b) Any order as to costs, fees or other charges.

100. The Act does not have any provisions regarding punishment of offenders similar to the powers of civil courts, imposed by the Magistrate or other superior courts.

101. Section 26 of the Act provides for appeals against orders or decision of community courts. A party to any proceedings in a community court who is aggrieved by any order or decision of the Community Court may appeal to the magistrate's court, and the execution of any such order or decision shall be suspended until the appeal has been decided.

102. The criterion for eligibility for legal aid, as well as on the functioning and financing of the legal aid system was addressed in the case of *S v. Gadu* 2004(1) NCLP 48 at 56. Manyarara AJ suggested a simple format to inform an accused person of his/her right to legal representation:

- (a) That he has a right to be defended by a lawyer;
- (b) That he has the right either to hire and pay a lawyer of his choice or, or alternatively apply to the legal aid officer for a lawyer to be provided by the State;
- (c) That if he chooses to apply for a legal aid lawyer, the clerk of the court will assist him in completing the necessary forms; and
- (d) That the legal aid office will consider his financial circumstances and, based on its findings, it will decide and inform him whether he will be required to make any contribution towards the cost of the legal aid lawyer to be provided to represent him. In this instance, as in the other matters, the failure by the magistrate to inform the accused of his entitlement to legal aid is fatal.

Paragraph 20 – Right to privacy (art. 17) – In Response

103. Section 70 of the Communication Act, (Act 16 of 2009) provides for establishment of interception centers. Part 6 of the Act has not yet entered into force. However, the interception addressed in the Communications Act has nothing sinister about it, safe for securing the peace, order, stability and safety of the Namibian nation.

104. Section 70 (1) of the Act provides that the President must establish such interception centres as are necessary for the combating of crime and national security. This provision clearly explains the main reason behind the establishment of the interception centres, that the aim is combating crime and for national security. In attempting to ensure that interception centres are not abused, the legislator in Section 70 (3) provides that any staff member, before performing any function relating to interceptions must take an oath before the Judge-president in chambers.

105. Under the oath, the staff member makes a promise to perform his duties in accordance with the law of Namibia. The oath stands to ensure that no one carries out an unlawful interception, which is otherwise contrary to the laws of the country. Section 75 of the Act lays down the penalty for contravention of the regulations regarding interceptions according to the Act. Anyone who is convicted may be liable to a fine of N\$ 100,000 or ten years imprisonment, or both.

106. Section 75 must be seen as one of the attempts by the legislator to ensure that interceptions of communications is not abused, and only made with the aim or reason of which such information was intended. Staffs members who are to be penalised are those

who reveal information that may not provide the information sought, and use the information for other purposes other than for which it was intended, or provide information that is not part of the information in terms of Section 70(1), Section 70 (3) and Section 75 lawful interception or monitoring. The provisions are broad enough that they also include employees of service providers who may assist in intercepting communications.

Paragraph 21 – Protection of the family, the right to marriage and equality of the spouses (art. 23) – In Response

107. Sporadic child marriages in some traditional communities remain a challenge in the country. However, in terms of the Combating of Immoral Practices Act (Act 21 of 1980) it is an offence for someone to impregnate or marry someone younger than sixteen years old. The Namibian Police and the Women and Child Protection Unit have a strict order to arrest and charge with the offence of statutory rape anyone who is accused of having impregnated or married a young girl.

108. At present, a child who wants to enter into a customary marriage before the age of 18 need parental permission in terms of Section 14(2) of the Married Persons Equality Act No. 1 of 1996.

109. In addition, the Child Care and Protection Act which was passed in Parliament this year 2015, but not yet in force defines what the term “marriage” means, stating that it applies to both civil and customary marriages. The Act provides that a child must give his/her own consent and have permission from one or both parents to get married under civil or customary law. The Act also provide for punishment for forcing children to get married against their will to pay a fine of up to N\$ 50 000.00 (approx. \$ 3 700.00) and/ or imprisonment for a period not exceeding ten years.

110. Article 14 of the Namibian Constitution prescribes that all men and women shall be entitled to equal rights as to marriage, during marriage and at its dissolution. Divorces are adjudicated in terms of common law in the High Court of Namibia based on proof of fault on the part of a spouse. Divorces and annulments can only be final once the court has granted a final order which include decisions as to how their properties including the common home should be shared.

Paragraph 22 – Freedom of expression, peaceful assembly and freedom of association (arts. 19, 21 and 22) – In Response

111. Permission or authorization for academic research or projects at Government institutions is necessary for administrative purposes only. The policy actually helps and assists the researcher to have easy access to the institution he/she is doing the research at any time including during working hours. The permission also authorizes the employees or the staff members at the institution to provide, avail the information and respond to the questionnaires of the researcher.

112. Academic freedom is afforded the status of a fundamental freedom by the Namibian Constitution in terms of Article 21(1) (b) which state that:

“Freedom of thought, conscience and belief, which shall include academic freedom in institutions of higher learning.”

113. However, some institution of higher learning have strong policies against active political participation by its staff members. One can only imagine the possible interference by political parties if institution of higher learning’s staff members were allowed to hold political office.

Paragraph 23 – Protection of children (arts. 24, 6) – In Response

114. The Child Justice Bill has not yet been tabled in Parliament; it is still with the Cabinet Committee on legislation for their comments and approval.

115. The draft Child Care and Protection Bill was passed in Parliament during the second parliamentary sitting in 2015. It is now the Child Care and Protection Act, Act 3 of 2015.

116. The Ministry of Home Affairs and Immigration has taken measures to ensure that every child is registered and receives citizenship. The Ministry continues to have its services of birth registration at hospital- based facilities throughout the country to ensure that no mother leaves a hospital without registering the birth of the child and being issued with birth certificate. Registration of birth is for all children born on Namibian soil regardless of their nationalities. For children born in Namibian but who do not qualify for Namibian citizenship, the birth certificate issued to them is used as proof of birth to register them for citizenship with their parents' countries of citizenship through their respective foreign missions.

117. The registration of birth does not automatically result in granting of citizenship for children born by non-Namibians. Citizenship for non- Namibian children may be obtained through application and those meeting the criteria set out in Article 4 of the Namibian Citizenship (Second) Special Conferment Act, Act 6 of 2015, whichever is applicable.

118. Access to education is not restricted to citizens; even non-Namibian can go to school in Namibia. What is required of them is to have legal status in the country, which can be in the form of domicile or study permits.

119. A juvenile is a person below the age of 18 years by virtue of section 1 of the Correctional Service Act, Act 9 of 2012. In accordance with the provisions of section 41(1) of the mentioned act, juveniles are supposed to be separated and detained separately.

120. Juvenile offenders detained in our Namibian correctional facilities are not detained with adult offenders. However, immediately after they become 18 years old, they are regarded as adult and from that moment they are not treated as juveniles.

121. The Namibian correctional service has no special facilities for juvenile offenders, as the number of juveniles admitted to be detained in our facilities does not justify having a special facility for juveniles. When a juvenile is admitted in a correctional facility, arrangement is made for such juvenile to be accommodated separately from adult offenders.

122. There are only two sentenced juvenile offenders, one is at Oluno Correctional Facility and the other is at Gobabis Correctional Facility.

Paragraph 24 – Sexual violence or abuse, including child prostitution – In Response

123. Violence against women and children is a serious concern to the Government. The Namibian Police do not have records regarding child prostitution in the country. However, prostitution (the exchange of sex for money), and brothels are not legal in Namibia.

124. The Government through the Ministry of Gender Equality and Child Welfare provides social workers to work in partnership with the police, who counsel or otherwise assist victims of violent crimes, including human trafficking. Law enforcement and other officials refer victims to NGOs and other entities that provided short-term shelter facilities.

125. The Gender Protection Unit of the Namibian Police Force designated examination rooms in major hospitals for treatment of victims of violent crimes that are staffed by physicians trained to deal with trauma victims. It provides sensitise and integrated services to victims of violence and many forms of abuse. It also provides police protection, and it offers sympathetic ear to traumatised victims of rape, battering and other forms of assault,

respond to general enquiries on child maintenance, child abuse and neglect, other problems involving children.

126. The Ministry of Gender equality and child welfare has developed a national plan of action on Gender Based Violence of 2012-2016, whose aim is to ensure the partial fulfilment of its mandate to ensure gender equality, equitable socio economic development of women and men, and the wellbeing of children.

127. These are some of the strategies and planned activities to be undertaken under the national plan of action on gender-based violence:

- Conduct national campaigns and initiatives aimed at preventing gender based violence
- Involve children and young people in prevention initiatives
- Provide school going youth with a comprehensive orientation to gender based violence issues as part of the official school curriculum, starting from pre-school
- Institute child friendly reporting measures with regard to gender- based violence

128. The Government enacted the Prevention of Organized Crime Act No. 29 (POCA) of 2004, which explicitly criminalizes all forms of trafficking. Under the POCA, persons who participate in trafficking offenses or aid and abet trafficking offenders may be fined up to \$ 133,000 and imprisoned for up to 50 years. The Act does not differentiate between trafficking for commercial sexual exploitation and trafficking for non-sexual purposes.

Paragraph 25 – Right to vote (art. 25) – In Response

129. Section 29 (1) of the Electoral Act, (Act 5 of 2014) provide for appeal against refusal to register as a voter for any elections in Namibia. It provide that a person whose application for registration has been refused under Section 28 and who desires to appeal against the refusal, may, on the day, at the time and the place determined in terms of subsection (2) and of which he or she must be notified in writing, appeal against the refusal to the electoral tribunal concerned in respect of the constituency or local authority area in respect of which the person has applied for registration.

130. The electoral tribunal must determine the day, which day may not be later than 7 days after the date of the refusal, and the time and place for the hearing of an appeal according to the rules and procedures of the electoral tribunal, but the rules and procedures of the electoral tribunal may provide for an extended period for appeals for refusal that emanate from registration periods outside Namibia.

Paragraph 26 – Rights of minorities (art. 27) – In Response

131. Land tenure rights in Namibia are classified into State land (communal and protected areas), urban land and Commercial land. The Government through the Ministry of Land Reform has been committed to ensure that all previously disadvantaged and landless Namibians irrespective of their status in the society are catered for through land reform programme in order to correct imbalance of land ownership created by the apartheid regime. The land reform programme established after independence is implemented through allocation of land and registration thereof in communal areas in the form of Customary Land Rights and Leasehold, and acquisition of commercial farms in commercial areas and allocate it through resettlement programme.

132. The Government established a “San/Marginalised Development Programme” under the Office of the Prime Minister (OPM) to specifically attend to the societal needs of the San community and other marginalised groups.

133. With regards to the San Community, Government acquired farms and handed them over to OPM during 2006-2013: Resettlement for San Communities particularly the Hai//Om and //Om in or along the Etosha National Park the surrounding area.

<i>No.</i>	<i>Farm Name</i>	<i>Region</i>	<i>Year acquired & Handed over</i>	<i>Size (ha)</i>	<i>Number of People Resettled</i>
1	Uitkomst No. 514	Otjozondjupa	2006/07	6389.11	53
2	Mooiplaas No. 462	Kunene	2009/10	6538.6759	270
3	Seringkop No. 454 & Koppies No. 457	Kunene	2007/08 & 2008/09	7967.8704	275
4	Bellalaika No. 458	Kunene	2009/10	3527.6445	280
5	Nuchas No. 468	Kunene	2010/11	6361.4237	-
6	Werda No. 469	Kunene	2010/11	6414.18	-
7	Toevlug No. 461	Kunene	2011/12	6217.6238	-
8	Ondera No. 308 / Kumewa No. 1072	Oshikoto	2012/13	7147.5963	-
9	Tsabis No. 470	Kunene	In the process of acquisition	8025.1507	-
Total				58,589.28	878

134. Other acquired land in both communal and commercial areas for the San Community Projects, of which five (5) are in Communal areas namely:

- Bravo in Kavango Region
- Donkerbos/Sonnerblom in Omaheke Region
- Mangetti Dune in Otjozondjupa Region
- Okongo – Eendobe, Ekoka, Onamatadiva and Oshana Shiwa in Ohangwena Region and
- Western Caprivi/Zambezi in Kavango/Zambezi Regions (in Bwabwata National Park) with size of 18,333 ha, and four (4) farms are in Commercial areas namely
- Skoonheid No. 735, measuring 7,104 ha, and Farm Drimiopsis, measuring 2,262 ha in Omaheke Region
- Excelsior No. 825, measuring 6,225 ha and Tsintsabis No. 878, measuring 3,000 ha in Oshikoto Region with a combined extent of 9,225 ha

135. The Government Continue to support these projects financially.

Paragraph 27 – Dissemination of information relating to the Covenant and the Optional Protocol (art. 2) – In Response

136. The report was prepared by the Ministry of Justice with extensive assistance of the Inter-Ministerial Committee on Human Rights and Humanitarian Law, a technical committee comprised of officials from line ministries and Agencies who are charged with responsibility to prepare and compile information for the country's state reports on the implementation of the international human rights instruments to which Namibia is a state party. The Ombudsman is an ex-officio member of the Committee. Namibia Non-governmental Organization (NANGOF) is also represented at the Committee to represent the interest of the NGO's and civil society.

137. The report was not disseminated to the public before it was submitted to the Treaty body, but it was submitted to Cabinet for approval and copies were widely distributed to Government ministries and agencies.
