



Government of the Republic of Namibia

**State Party  
Report on the  
African Charter  
on the Rights and  
Welfare of the Child  
2004-2012**



**This report was prepared by the  
Ministry of Gender Equality and Child Welfare  
on behalf of the Government of Namibia**

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# Abbreviations

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ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
ANC	antenatal care
ARV	antiretroviral
ART	antiretroviral therapy
ECD	Early Childhood Development
ETSIP	Education and Training Sector Improvement Plan
GBV	gender-based violence
HIV	Human Immunodeficiency Virus
IECD	Integrated Early Childhood Development
IMNCI	Integrated Management of Childhood Illnesses
KAP	Knowledge, Attitudes and Practices (type of study)
LAC	Legal Assistance Centre
MGECW	Ministry of Gender Equality and Child Welfare
MHAI	Ministry of Home Affairs and Immigration
MHSS	Ministry of Health and Social Services
MLSW	Ministry of Labour and Social Welfare
MOJ	Ministry of Justice
MSS	Ministry of Safety and Security
MYNSSC	Ministry of Youth, National Service, Sport and Culture
NAFIN	National Alliance for Improved Nutrition
NDHS	Namibia Demographic and Health Survey
NDP	National Development Plan
NGO	non-governmental organisation
NHIES	Namibia Household Income and Expenditure Survey
NPC	National Planning Commission
OPM	Office of the Prime Minister
OVC	orphans and other vulnerable children
PHC	primary health care
PMTCT	prevention of mother-to-child transmission
SADC	Southern African Development Community
SDF	School Development Fund
TB	tuberculosis
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
WACPU	Woman and Child Protection Unit
WHO	World Health Organisation

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# Foreword

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Namibia is committed to the realisation of the protection of children's rights as prescribed by the African Charter on the Rights and Welfare of the Child (ACRWC). Namibia signed the ACRWC in 1999 and ratified it in 2004; this was preceded by the ratification of the United Nations Convention on the Rights of the Child (UNCRC) in October 1990. The Ministry of Gender Equality and Child Welfare is pleased to witness the completion of the State Party report for the ACRWC, shortly after the Government appeared before the panel of experts for the UNCRC. This is testament to our commitment to ensuring the fulfilment of children's rights as enshrined in the Namibian Constitution.

According to the Namibian Constitution (Article 144), the international instruments are binding and form part of the law of Namibia – that is, they are self-executing. The Constitution contains specific provisions to protect and promote children's rights, and in 1990 Namibia embarked on an active process to harmonise its laws and implement programmes to fulfil the relevant Charter rights.

More recently, the Child Care and Protection Bill has been developed to give effect to children's rights under the Constitution, the ACRWC and the UNCRC. Similarly, the National Agenda for Children, a five-year framework (2012-2016), was developed to guide all sectors in Namibia towards fulfilling their obligation to ensure that all the rights of children are met.

We express our appreciation to all those in government and civil society who contributed to the development of the State Party report for the ACRWC, and UNICEF for its technical and financial support for its development.

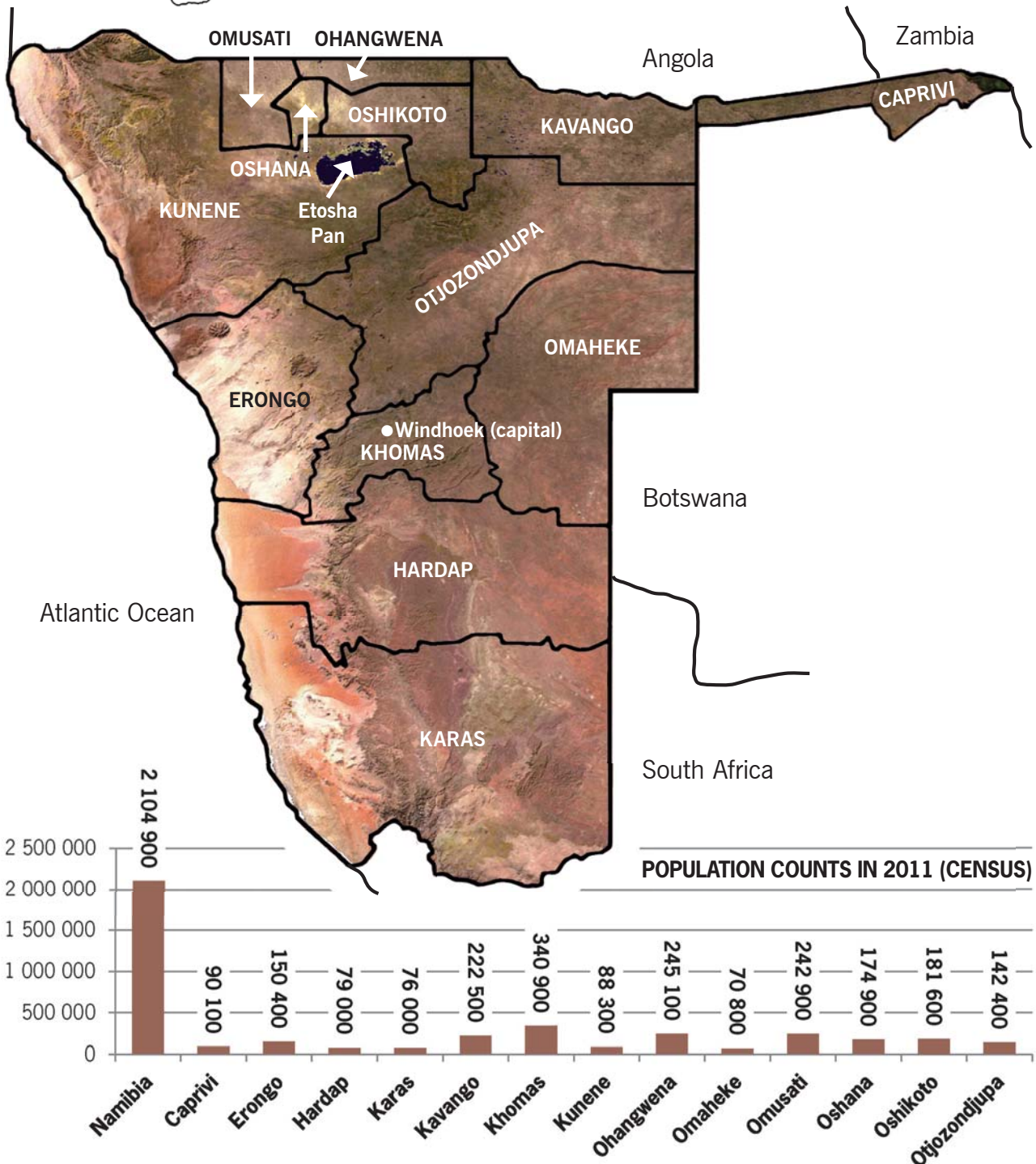
The Government of Namibia and its partners are committed to meeting the international obligations captured in international instruments such as the ACRWC and the UNCRC. The realisation of children's rights to survival, development and protection will be a significant contribution to our achievement of Vision 2030 and the Fourth National Development Plan, and an equitable society in which children are free from poverty and discrimination, and free to contribute to the continued development of a prosperous Namibia.



**Hon. Rosalia Nghidinwa, MP**

**MINISTER OF GENDER EQUALITY AND CHILD WELFARE**

# Namibia's Regions and Population



Source: National Planning Commission, "Namibia 2011 Population and Housing Census – Preliminary Results" (2012)



# Introduction

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Since gaining independence in 1990, Namibia has embarked on a development journey aimed at securing social and economic growth and development, a better quality of life, realisation of human rights, and equitable access to services for all of its citizens.

Namibia is a large (825 418 km<sup>2</sup>), sparsely populated country with one of the driest climates in the world. It has a total population of approximately 2.2 million, 42% of whom are under the age of 18 years, and 62% of whom live in rural areas (NHIES, 2009/10). The pre-independence social and economic legacy of inequitable resource allocation, high levels of income inequality and unemployment, high rates of poverty, and large under-serviced/unserved areas, alongside Namibia's unique geography and the predominantly rural distribution of a small population across a vast country, has created a challenging environment for reversing inequality and poverty, and for realising children's rights.

Despite these challenges, Namibia has succeeded in making some gains in reducing stubbornly high levels of poverty and inequality as well the inherited legacy of poor access to services. In 2009/10, 19% of households lived in poverty and 10% were severely poor compared to 28% and 14% in 2003/04. This translates into a reduction in poverty levels from 30% to 22% for female-headed households and 26% to 18% for male-headed households. However, poverty remains three times higher in rural areas where there is also a higher density of young people under the age of 20 years. Twenty-seven percent of rural households live in poverty and 4% live in severe poverty (NHIES 2009/10). Poverty also varies across the regions. The highest incidence of poverty is found in Kavango Region where 43% of households are poor and 24% are severely poor, compared to Erongo Region where only 5% of households are poor and 2% are severely poor. There have been small gains towards improved equality with a Gini Coefficient of 0,59 in 2009/10 compared to 0,60 in 2003/04. However, Namibia remains one of the most unequal countries in the world (NHIES 2009/10). Namibia has also made gains in improving equitable access to services. For example, since 2003/04, access to primary education has increased to almost 100%, literacy levels have increased from 83% to 88%, and the percentage of the population 15 years and older with no formal education has dropped from 17% in 2003/04 to 13% in 2009/10. On the health front, in 2006/07, 94,6% of women received antenatal care (ANC) compared to 87% in 1992 and 81,4% of women gave birth with the assistance of trained health staff in 2006/07, compared to 68% in 1992.

Despite these gains, the Government acknowledges that there has not been sufficient progress in improving access to a number of services, that the quality of a number of services, such as health care, is variable, and that access remains inequitable as between different regions and between rural and urban areas. For example, the number of households with no access to sanitation has dropped by only 7% from 57% in 1993/04 to 50% in 2009/10, and while only 14% of urban households did not enjoy access to this essential service in 2009/10, in rural areas the number was substantially higher at 77% (NHIES 2009/10).

Moreover, the Government recognises that children have been most severely impacted by socio-economic developmental delays and the high levels of inequality. The Government has therefore committed, in terms of Namibia's Fourth National Development Plan 2012/13 to 2016/17 (NDP4), to "expedite the implementation of its development strategy" through the prioritised realisation of a number of "Basic Enablers", which are the essential services deemed necessary for the realisation of the plan's goals of reducing poverty and inequality. Many of these are child-focused. For example, NDP4 elevates as national priorities and commits to improving the rates of access to Early Childhood Development (ECD) and completion of basic and secondary education; improving the quality of education; improving access to quality health services targeting the drivers of infant and maternal mortality; expanding the social grant system to cover children living in poverty; abolishing all school costs; expanding child nutrition programmes; and improving access to birth, death and marriage certificates.

Namibia's National Agenda for Children 2012-2016 provides the national strategy for the realisation of these and other national commitments to children. The strategy marks the culmination of two decades of policy development and reflection, and heralds a new "more comprehensive national response with an emphasis on building systems and strengthening national and local capacities and partnerships". It embraces an 'equity approach' – one which will focus on "strengthening the social protection and service delivery system to create a balance between reaching out to the broader group of vulnerable children and ensuring that most marginalised are accessing quality services". It "lays the foundation for more integrated service delivery which sustains delivery between multiple sectors and concurrently reduces child poverty through the lens of a child-sensitive social protection framework".

This report documents the developmental journey taken by Namibia for the benefit of its children, starting in 1990 with the abolition of inequitable and discriminatory laws, moving thereafter to focusing on the provision of services to especially vulnerable groups of children, and most recently, its current commitment in 2012 to a systemic framework which emphasises the realisation of children's rights protected by the Charter across the full life cycle of all children through a collaborative and coordinated national children's response.

This report has drawn from and built on the Government's most recent periodic reports on the fulfilment of its obligations in terms of the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC reports were developed through a consultative process which included extensive engagements with the different line ministries and agencies, independent institutions, civil society organisations and children. The supplementation of the information contained in this report involved further interviews with representatives from various line ministries, international development partners and civil society as well as a more broad-based workshop to verify and further supplement the information. A full list of interview and workshop participants who participated in the consultations in relation to the supplementation of the UNCRC report is included in this report as Annexure A.

# General Measures of Implementation

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## 1. Measures to recognise the rights, freedoms and duties in the Charter

- 1.1 Namibia signed the African Charter on the Rights and Welfare of the Child (ACRWC) in 1999 and ratified it in 2004. This was preceded by the ratification of the United Nations Convention on the Rights of the Child (UNCRC) and numerous other international and regional instruments (listed in Annexure A) in terms of which Namibia committed to the realisation of children's rights protected by the ACRWC.
- 1.2 In addition, Namibia is a member of the Southern African Development Community (SADC) and has committed to and is guided by a number of charters and programmes of action to work independently and collectively with other SADC members to strengthen the legislative and programmatic environment to improve children's rights to, inter alia, equality, health and health care, education, protection from abuse, neglect and exploitation, birth registration and social security. Commitments have been made in terms of, for example, the Protocol on Gender and Development, the Maseru Declaration on HIV and AIDS, SADC's Strategic Framework and Programme of Action for Comprehensive Care and Support for Orphans, Vulnerable Children and Youth (OVC&Y), and the SADC Care and Support for Teaching and Learning programme to mainstream care for vulnerable children through the education sector. Most recently, within the context of the Framework and Programme of Action for Comprehensive Care and Support for OVC&Y, SADC developed a minimum package of services and framework of psychosocial support for vulnerable children and children which commits to the provision of a holistic and integrated package of services and benefits to meet children's rights and needs, and to mitigate the common social and economic threats in the region to children's development, peace and security. The package of rights sought to be secured through the initiative is comprehensive. It includes political, social and economic rights, and as such is reflective of the approach implicitly required by the Charter; an approach which recognises and responds to the interdependence of children's rights in order to secure their holistic protection, survival and development. The Namibian Government has committed to the package and has integrated it into its National Agenda for Children.

- 1.3 In terms of the Constitution of the Republic of Namibia, the provisions of the ACRWC and other international instruments ratified by the State are by and large self-executing. Article 144 states: “Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.”
- 1.4 In addition, the Government has taken a number of legislative and other measures to give effect to the rights in the Charter and to discourage customs, traditions and cultural and religious practices that are inconsistent with the rights, duties and obligations contained in the Charter.
- 1.5 Given the prior ratification of instruments protecting similar rights to those protected by the ACRWC, the Government has already commenced with an active process of harmonising its laws and implementing programmes in 1990 in fulfilment of many of the relevant Charter rights prior to 2004.
- 1.6 The Namibian Constitution contains express provisions protecting and promoting children’s rights. Article 15 specifically guarantees children’s rights to a name and a nationality; the best interests of the child; protection against economic exploitation and hazardous work (for children under 16 years old), against work in factories or mines (for children under 14 years old), and against forced labour on farms; and protection for children under 16 years old against detention. In addition:
  - 1.6.1 Article 10 ensures equality and freedom from discrimination on any basis (sex, race, colour, ethnic origin, religion, creed or social or economic status) for all persons.
  - 1.6.2 Article 14 considers the family to be the natural and fundamental group unit of society, and to be entitled to protection by society and the State.
  - 1.6.3 Article 20 recognises the right to education for all people and makes primary education compulsory and free.
  - 1.6.4 Article 95 obliges the State to take measures to promote the right of all people to welfare and health, and to protect children from abuse.
- 1.7 Following Namibia’s Independence, the Law Reform and Development Commission, together with a number of line ministries, conducted a substantive national legal review. The process initially focused on removing apartheid-discriminatory legislation, but was expanded to evaluate compliance of domestic laws with the UNCRC. The resultant 2004 report concluded that, despite extensive efforts, various policies and laws required repeal and/or amendment, particularly in the fields of child care and development, children’s health, the protection of orphans and vulnerable children and child justice (MGECW and UNICEF, 2004).
- 1.8 Subsequently, a number of revised and/or new policies and laws were developed and implemented, including, for example, the following:

- 1.8.1 The Married Person's Equality Act No. 1 of 1996 amended the Marriage Act to set the age at which a child can be married in a civil marriage at 18. (The age was previously 18 for boys and 15 for girls.)
- 1.8.2 The Combating of Rape Act No. 8 of 2000 was introduced to strengthen the protection of children against sexual abuse. In terms of this Act, the age of consent remains 16 years, but the crime of coercive rape has been introduced (which attracts harsher sentences) in the case of sexual activity (whether consensual or not) between a child between the ages of 14 and 16 years and a perpetrator three or more years older than the victim. Coercive rape draws a harsher punishment. It further provides stiff minimum sentences, with the heaviest sentences being applicable to the rape of children.
- 1.8.3 The Combating of Immoral Practices Amendment Act No. 7 of 2000 makes sexual contact with boys and girls under the age of 16 years a criminal offence where the other party is more than three years older. Prior to the amendment, the law protected girls but not boys from such abuse.
- 1.8.4 The Education Act No. 16 of 2001 replaced the apartheid-era education laws; defines the ages of compulsory education; and makes provision for the introduction of school fee exemptions for children living in poverty. The Act is currently being reviewed (2012) so as to update it and bring it into alignment with international, regional and national obligations to children. For example, the Act is being revised to institutionalise inclusive education across the whole system so as to ensure the equal educational rights of children facing challenges to learning, and to abolish the School Development Fund so as to ensure that primary schooling is free for all children.
- 1.8.5 The Combating of Domestic Violence Act No. 4 of 2003 protects children against domestic violence.
- 1.8.6 The Maintenance Act No. 9 of 2003 clarifies the legal duty of parents to maintain their children and provides for improved enforcement mechanisms for defaulters.
- 1.8.7 The National Policy on Orphans and Vulnerable Children (2004) was developed for the provision of comprehensive care and protection of orphaned and other especially vulnerable children, including children living with a chronically ill caregiver, children with disabilities or living with a caregiver with a severe disability, children in households headed by older caregivers, and children in poor households and child-headed households. This has been supported by the development of a number of sectoral policies for the provision of care and support to orphans and other vulnerable children such as the National Policy on HIV/AIDS for the Education Sector (2003) and the subsequent Education Sector Policy for Orphans and Vulnerable Children (2008).

- 1.8.8 The Children's Status Act No. 6 of 2006 was enacted to address and equalise the custody, guardianship, access and inheritance rights of children born outside of marriage.
- 1.8.9 The Labour Act No. 11 of 2007 prohibits child labour for children under the age of 14 years, introduced restrictions on harmful labour practices for children between the ages of 14 and 16 years, and increased penalties for the illegal use of child labour.
- 1.9 The law review process recommended the repeal and/or amendment of further laws such as the outdated Children's Act No. 33 of 1960 and the Age of Majority Act No. 57 of 1972 in view of their lack of compliance with the UNCRC. The Government has since initiated the development of the following bills, which have yet to be finalised:
- 1.9.1 A Divorce Bill has been proposed, which will make provision for, inter alia, considering the child's interests, ensuring the best interests of the child, and protecting the child from domestic violence upon divorce.
- 1.9.2 The Intestate Succession Bill makes provision for the retention of positive inheritance practices, and outlaws discriminatory traditional practices which prejudice women and children in the devolution of the estate of their spouse or father.
- 1.9.3 The Recognition of Customary Marriages Bill makes provision for the legal recognition of customary marriages and protection of children born to the married couple, and legislates a minimum age of 18 years for customary marriages.
- 1.9.4 The Child Care and Protection Bill has been developed to give effect to children's rights under the Constitution, the ACRWC and the UNCRC. It regulates the age of the child; the protection of children against violence, abuse, neglect and exploitation; the provision of prevention and early intervention services; early childhood development services; parental responsibilities; the placement of children; foster care, kinship care and adoption; the registration and provision of services at facilities providing care for children, and related issues. It also outlaws child marriages and harmful customary practices. The Bill will repeal laws such as the Children's Status Act No. 6 of 2006, the Age of Majority Act No. 57 of 1972 and the Children's Act No. 33 of 1960.
- 1.9.5 The Child Justice Bill has been developed to give effect to the rights of children in conflict with the law in terms of the Constitution and international instruments. It regulates the minimum age of criminal capacity and the powers of the police and other child care workers, prevents the detention of children, institutionalises restorative justice and promotes diversion of children away from the criminal justice system. The Bill, which has been in the making since 2002, is at an advanced stage of development. An inter-ministerial committee led by the Ministry of Justice (MOJ) and including the Ministry of Gender Equality and Child Welfare (MGE CW), the Ministry of Safety and Security (MSS) and the Ministry of Youth, National Service, Sport and Culture (MYNSSC)

has been convened to discuss approval of the Child Justice Bill. It was recently confirmed that the MOJ will formally lead the process of finalising the bill. During the 2010 Universal Periodic Review for the Office of the High Commissioner for Human Rights, the Government internally recognised the Child Justice Bill as a priority.

- 1.10 At a Family Law Conference convened by the MGECW in 2012, the family law bills, such as the Divorce Bill and the Intestate Succession Bill, were placed on the legislative agenda after a 7/8-year hiatus. This revitalised process is likely to see the finalisation of these bills and the introduction of the proposed Recognition of Customary Marriages Bill into the parliamentary process. It is anticipated that these Bills will be addressed and finalised during 2013.
- 1.11 The Cabinet Committee on Legislation reviewed the most recent version of the Child Care and Protection Bill on 29 March 2012 and approved it subject to clearance by the legal drafters in the MOJ. The Bill is currently with the legal drafters, who are expected to return the Bill to the MGECW with comments shortly. The Bill is expected to be tabled before Parliament once the comments have been incorporated.
- 1.12 The courts have also played an active role in the alignment of domestic law with the Charter. For example, in case of *Tlhoru v Minister of Home Affairs* (Case No. (P) A159/2000) [2008] NAHC 65), the High Court held that Namibian citizens by birth or descent may hold dual citizenship; in *Detmold and Another v Minister of Health and Social Services and Others* 2004 NR 174 (HC) the High Court found a section in the Children's Act 33 of 1960 which completely banned the adoption of Namibian children by foreigners to be unconstitutional; and in the case of *IJT v AIE* (Case No. SA17/2005), the High Court ruled that, on the basis of the UNCRC, the best interest of the child is the paramount consideration that must be taken into account in all matters concerning the child; in the case of *Ex Parte: Attorney-General, In Re: CP by Organs of State*, the court ruled that corporal punishment, whether directed at adults or juveniles, is inhuman or degrading punishment, and is therefore in conflict with Article 8 of the Constitution. It further ruled that the corporal punishment of schoolchildren is also in conflict with Article 8, but it did not clearly state that corporal punishment is torture, cruel, inhuman or degrading punishment.
- 1.13 The realisation of children's rights has been recognised as a national developmental priority, and has been integrated into the national development agenda. NDP4 has prioritised the implementation of a number of progressive measures to secure the health, wellbeing, survival and development of children. For example, it recognises the importance of ECD and commits to the establishment of 100 free, government-run ECD centres in poor communities; it calls for a review of the laws governing birth registration to address remaining barriers preventing universal early access to birth certificates; it endorses the Child Care and Protection Bill as well as the emphasis therein on recognising and providing support, through a simplified administrative process, to extended family caregivers (kinship carers) caring for orphans and other vulnerable children; it promotes the expansion of social grants through the revision and replacement of current means-tested child maintenance grants with a universal grant

that is also available to kinship carers; furthermore, NDP4 recommends the abolition of the School Development Fund at all public primary schools to ensure compliance with the constitutional commitment to free education (this recommendation has since been implemented; and the plan recommends a renewed focus on household food security and nutrition, including the extension of school feeding to ECD centres, with the objective of reducing child malnutrition.

- 1.14 The Government recognises that the overarching and meaningful realisation of children's rights as a national developmental priority depends on the allocation of sufficient budgets to support and sustain relevant interventions for all children, including the most marginalised. There has been substantial growth in a number of relevant budgets, including the health and education budgets. These budgets are discussed in detail under the relevant sections of this report. There is, however, room to grow towards the development of a clear annual children's budget, in terms of which each line ministry allocates and accounts for a percentage of the relevant departmental budget specifically for meeting the rights and needs of children. This is not yet happening, but the MGECCW is engaged in ongoing awareness-raising and advocacy for the implementation of a systemic children's budget to reflect commitments to, and progress against, the roles and responsibilities assigned to the various ministries in terms of Namibia's National Agenda for Children 2012-2016.

## **2. Measures to promote positive customs and traditions and discourage those inconsistent with the Charter**

- 2.1 Namibia follows a dual legal system. The Constitution recognises the legitimacy of both customary and common law. This recognition is subject to the provision that the laws in question do not conflict with the Constitution or any other statutory law (Article 66(1)). In addition, Article 19 recognises and protects the right of all people to practise and promote their culture and tradition, subject to the provision that this does not infringe the rights of others or the national interest.
- 2.2 In addition, the Community Courts Act of 2003 was enacted to provide for the recognition and establishment of community courts for the adjudication of all disputes relating to a claim for compensation, restitution or any other claim recognised by customary law. The scope of their jurisdiction means that they may adjudicate a range of matters involving children. Given the difficulties in accessing civil courts, especially in rural areas, and the time involved in finalising matters through these fora, communities and households commonly use the Community Courts, including for matters involving children. A study conducted by the Legal Assistance Centre (LAC) confirms that in matters of sexual abuse of women and girls, there is a strong tendency for complainants to withdraw their case against the perpetrator and pursue the matter through traditional channels and claim compensation.
- 2.3 The Community Courts are obliged to apply customary law to the cases before them, subject to the proviso that no order may be made that is in conflict with the Constitution or any other



statutory law. In order to ensure compliance with this provision, especially in the context of sexual abuse cases, the MGEWC has engaged in a programme of training of community members and traditional leaders on, inter alia, the Constitution and constitutional law, family law, the Combating of Domestic Violence Act, the Combating of Rape Act and the Maintenance Act. Between 2002 and 2008, a total of 1 402 targeted beneficiaries were trained. This training, together with advocacy conducted by the MGEWC, Woman and Child Protection Units and NGOs such as the LAC on the legal obligation to pursue – and the value of pursuing – criminal legal action against perpetrators of violence and abuse, as well as the decision of the Office of the Prosecutor-General not to permit the attempted withdrawal of a charge related to a sexual offence against a child, has impacted positively on the rate of withdrawal of cases of sexual abuse against children.

- 2.4 Two studies commissioned by the Government show the potential conflict of customary laws with the Constitution and international and regional child rights instruments, and hence the danger of the application of harmful customary laws by Community Courts in the resolution of disputes involving children, as well as in the day-to-day practices in households that follow customary law and practices.
- 2.5 In 1996, the Law Reform and Development Commission commissioned a paper on Customary Law and the Constitution to provide a “mind setting frame for customary law research as well as to sensitise and provoke debate on the constitutional issues related with law reform in the customary law matter”. The report made a number of observations as to the disjuncture between the constitutional protection of children, international law and customary laws in Namibia, including the following:
- a. Under customary law, children did not enjoy any especially favoured position. The welfare of the family dominated and this often meant the subordination of the child’s interests to those of the family.
  - b. A child’s claim against the family for food and shelter was of little account, because it was taken for granted that all members of a family would be adequately maintained.
  - c. Children were expected to assist with the tasks of food production, no matter how onerous or time-consuming the tasks were. From an early age they had to be prepared for the lifelong duty of supporting kin – a vital obligation in a pre-capitalist society where the younger generation were the foundation of social security.
  - d. All juniors fell under the head of the household and lacked legal capacity. In dealings with the outside world they had to be represented by the head of the family.
  - e. The concept of a child in customary law differed to the concept under international law. Under customary law, childhood ended when the child reached a stage of physical and intellectual maturity and entered marriage as opposed to the legal termination of childhood upon reaching the age of 18 years.
  - f. “What might be thought harmful abuse in the common law could well be regarded reasonable chastisement in customary law.” There is a belief that children are wayward and in need of discipline which translates into a much wider definition of what is reasonable chastisement and consequently what constitutes acceptable levels of physical discipline meted out to children (Bennett, 1996).

- 2.6 In 2008, the MGECW commissioned a study on Factors and Traditional Practices that may Perpetuate or Protect Namibians from Gender Based Violence and Discrimination (MGECW, 2008). The study revealed that there were both positive and harmful attitudes and practices that protected children and women against violence, but also exposed them to a higher risk of violence and sexual abuse. For example, attitudes to, and the social acceptance of the physical disciplining of children created a risk of high levels of physical violence; a risk which was aggravated by a common belief among community members that advocacy around child rights and limits on the rights of parents to discipline their children physically were creating a discipline problem among modern-day children. In addition, the study found that even where laws had been enacted prohibiting harmful practices, there was little knowledge of such laws, and that some traditionalists who knew of the laws were inclined to disregard them because of the disconnect between the laws and customary attitudes and norms.
- 2.7 The Government has heeded the findings of these studies and enacted a number of laws prohibiting harmful customary practices, as well as laws promoting positive customary practices and laws. However, it is recognised that it is not sufficient to simply outlaw harmful practices, but that it is also necessary to consult meaningfully with traditional leaders and communities in the development of the relevant laws, and engage in awareness-raising and advocacy once the laws are enacted, to ensure acceptance of, respect for, and a willingness to comply with the prohibition or limitation of customary practices.
- 2.8 The following laws and bills, which were developed in consultation with affected stakeholders including traditional leaders, communities, caregivers and children, outlaw harmful practices as follows:
- 2.8.1 The Combating of Rape Act No. 8 of 2000 and the Combating of Immoral Practices Amendment Act No. 7 of 2000 outlaw sexual relations with both boy and girl children younger than 14 and 16 years with a person three years older than themselves; and all sexual relations with children younger than 14 years. This effectively outlaws, and requires the prosecution of customarily accepted engagement in sexual activity and/or marriage with a child once he/she reaches puberty, which can be as early as the age of 11 or 12 years.
- 2.8.2 The Maintenance Act compels the assumption of parental responsibilities for material support of their children.
- 2.8.3 While the prescription of a minimum age of 18 years for marriage in terms of the Married Person's Equality Act No. 1 of 1996 does not apply to customary marriages, the requirement that children under the age of 21 years require their parents' consent and must themselves consent to marry does apply to customary marriages, thus outlawing forced customary marriages.
- 2.8.4 The Child Care and Protection Bill introduces a number of provisions designed to discourage and/or prohibit harmful customary practices.

- Section 208(1) guarantees every child the right not to be subject to harmful social, customary and religious practices. Section 208(2) provides that no person may give a child in marriage or engagement who is below the minimum age for a valid marriage set by any law or custom related to civil or customary marriages. At present the Married Person's Equality Act only sets a minimum age of 18 years for civil marriages. Customary law sets different lower ages for a lawful marriage and on the current wording only these age limits would have to be complied with.
- In addition to the express prohibition of under-age marriages, the Bill makes provision for an open-ended consultative process for outlawing harmful customary practices by the Minister. Section 208 provides that the Minister may, only after consultation with interested parties, including traditional leaders, prohibit any harmful practices, and he/she may provide that any such practice constitutes an offence subject to a fine and/or imprisonment. Through this provision the Bill anticipates the prevention of a situation where a law prohibiting a practice is seen to be imposed on a community and hence is subject to the risk of rejection.
- In addition, parents are obliged, in terms of section 8(c), to protect their children from abuse. Abuse is defined to include the exposure of a child to social, cultural or religious practices that are detrimental to the child's wellbeing.
- The Bill includes a further provision which will ensure that traditional leaders acting as presiding officers in Community Courts respect governing child protection laws and proactively comply with the protective measures in the Bill. Section 128(2) provides that traditional leaders must, if during the course of performing their duties they suspect that a child may be in need of care and protection services, report the matter to the police or a social worker.
- Further relevant measures in the Bill which will discourage harmful customary practices are the prohibition of corporal punishment in children's centres; the prohibition of child labour; the requirement that in all decisions affecting the child that are made by parents or decision-makers, the child's best interests must be paramount; and the requirement that children must be afforded the right to participate and be heard in decisions affecting them, and may not be punished for expressing their views in such matters.
- In recognition of the concern among traditional communities that the protection of these and other rights, such as the right to be protected from corporal punishment and child labour, is creating discipline problems among the youth, the Bill balances these provisions with the complementary right of parents to be heard and participate in decisions affecting their children, as well as the further proviso that all rights and responsibilities should be exercised with due regard for children's duties and responsibilities to their family, community and nation.

2.9 In addition to the regulation of harmful practices, the Child Care and Protection Bill and the Child Justice Bill legislate and hence institutionalise protective customary practices such as restorative justice, the use of family and communal mediation to resolve child protection

issues (except for abuse cases), and the formal recognition, promotion of and support for traditional kinship care arrangements.

- 2.10 It is not only the legislature which has taken steps to outlaw harmful practices. In the leading case of *Ex Parte: Attorney-General, In Re: CP by Organs of State*, the High Court ruled that the traditionally accepted administration of corporal punishment as a form of discipline “by or on the authority of any Organ of State contemplated in legislation is per se; or in respect of certain categories of persons; or in respect of certain crimes or offenses or misbehaviours”, was illegal as it was in contravention of Article 8(2)(b) of the Constitution which prohibits punishment or treatment that constitutes torture, or is cruel, inhuman or degrading. Regarding the corporal punishment of schoolchildren, the court further found that such practice is also in conflict with Article 8, but it did not clearly state that it is torture, cruel, inhuman or degrading punishment.
- 2.11 The Government recognises that it is not enough merely to outlaw harmful practices, but that legislative interventions must be supported by advocacy and awareness-raising initiatives at community and household level in relation to the laws in question, in order to bring about changes in harmful attitudes. The MGECW, the Ministry of Health and Social Services (MHSS) and other ministries have engaged in campaigns of this nature in relation to a number of child protection laws. The MGECW has undertaken various advocacy campaigns, with the support of NGOs, to change harmful gender stereotypes and promote the assumption of equal parenting responsibilities by fathers and other men in communities, including a national campaign on fathers taking responsibility for their children, media and community outreach campaigns to promote positive discipline, and community-based educational campaigns targeting communities and traditional leaders to increase knowledge of and respect for human and children’s rights. In 2012, the MGECW set the target of training and sensitising 100% of 200 000 community members, including youth, adults, traditional leaders, and gender focal persons, in basic legal literacy and gender issues such as gender-based violence (GBV), sexual and reproductive health including HIV and AIDS, by 2013/14 (Ministry of Finance, 2012). In addition, the Child Care and Protection Bill makes specific provision for the Children’s Advocate, to be established within the Office of the Ombudsman, to engage in advocacy and raise awareness of the Act (section 26). Similarly, the MHSS has engaged in campaigns around safe circumcision practices and outreach campaigns targeting traditional leaders and community members to overcome traditional barriers to accessing health care services. Both the MGECW’s and the MHSS’s campaigns are discussed in more detail throughout this report.
- 2.12 There are a number of challenges around these advocacy campaigns, including the fact that until now the children’s directorates have not developed a systematic nationwide programme of action to address harmful practices and promote positive attitudes and customs. To date, these interventions have largely been pursued by the children’s directorates on an *ad hoc* project basis. The Directorate of Gender within the MGECW has been more systematic in its approach to the issue, but there is the risk that children’s issues get overshadowed by the overarching gender issues within these campaigns. As such the Government recognises that there is scope for a more focused and systematic approach by the children’s directorates

within all relevant ministries, including the MHSS, MGEWC and Ministry of Education (MOE), to the development and implementation of advocacy interventions to address harmful social and cultural practices, and to promote positive ones.

### **3. Structures to coordinate and monitor implementation of the Charter (including human rights institutes)**

- 3.1 Prior to 2002, responsibility for the implementation of rights protected by the Charter and other international instruments was fractured between various line ministries, with limited effective coordination across these functionaries. This changed in 2002 with the creation of the MGEWC which is mandated to provide a range of children's services and to coordinate the multi-sectoral national response to children documented in Namibia's National Agenda for Children 2012-2016. The Agenda provides a multi-sectoral plan of action which documents the responsibilities of the various line ministries to realise children's rights. As an interim measure, an interim High-Level Technical Committee will be established, made up of the Permanent Secretaries of the MGEWC, the MOE, the MHSS and the National Planning Commission (NPC), and one representative each for civil society, the private sector and international development agencies. This structure will be responsible for receiving reports from the various line ministries and NGOs on the fulfilment of their obligations in terms of the Agenda, and will compile a consolidated annual report to the Cabinet. The interim coordinating structure will ultimately be replaced by the National Advisory Council (NAC) to be established in terms of the Child Care and Protection Bill. The NAC will bring together key stakeholders from government, civil society and the private sector to encourage inter-sectoral collaboration on children's issues and advise the MGEWC on the law and matters pertaining to the child. The NAC will be the overarching national coordinating structure on all children's matters, and all other existing coordinating structures such as the OVC Permanent Task Force and the Integrated Early Childhood Development Committee will become sub-committees of the NAC.
- 3.2 In addition, the independent Office of the Ombudsman, established by the Ombudsman Act No. 7 of 1990, is responsible for the protection, promotion and enhancement of respect for human rights, including children's rights, in Namibia. The Head Office is in Windhoek, and regional offices were established in Keetmanshoop (Karas Region) and Oshakati (Oshana Region) in 2005.

The Ombudsman receives complaints of human rights abuses, and in 2006, of the 2060 complaints received, only 8.5% were related to human rights violations. At present the Office of the Ombudsman does not have dedicated capacity to address complaints of child rights abuses, however this is set to change once the Child Care and Protection Bill comes into effect: the Bill makes provision for the establishment of a Children's Advocate within the Office of the Ombudsman. The Children's Advocate will assist the Ombudsman in the performance of its functions in relation to children by receiving and acting on complaints related to children, by monitoring implementation of the UNCRC and the ACRWC, and by raising awareness of the Act and children's rights (Part II, Article 26).

## **4. Involvement of civil society, children and the youth in planning, monitoring and implementing the Charter**

- 4.1 Namibia has a vibrant civil society sector that contributes to the welfare of children at various levels. The support provided ranges from community-based implementation of child care and protection policies in hundreds of localities to major inputs into policy and legislative development on children's issues.
- 4.2 Through its monitoring and advocacy role, civil society plays an important role in placing children's issues on the national agenda and in the development of appropriate and responsive laws and policies.
- 4.3 As discussed under previous headings, civil society is also an active participant in core national children's rights coordinating and monitoring structures. For example, civil society has enjoyed representation on the OVC Permanent Task Force (PTF) which was established to mobilise collective responses in terms of the National Plan of Action for Orphans and Vulnerable Children (2006-2010). It was composed of regional representatives of the MGECW, and representatives of other line ministries and a number of NGOs.
- 4.4 In addition, civil society and children have been active participants in the development of national children's policies and laws, including the National Agenda for Children, the Child Care and Protection Bill and the Child Justice Bill. Civil society representatives have partnered with the Government in the drafting of the laws and policies through their participation in various technical task teams. In addition, extensive public consultation processes have facilitated massive participation by civil society and children in shaping the Child Care and Protection Bill through their inputs and commentary. One example of practical collaboration is seen in the joint development, with the participation of civil society, of a national child protection flowchart which identifies the roles and responsibilities of key government roleplayers and civil society organisations.

## **5. Measures to make the principles and provisions of the Charter known to children and adults**

- 5.1 Namibia has active platforms for bringing the ACRWC, its principles and the rights contained therein to society's attention, and public discussion of children's issues is a regular feature of Namibian life. For its small population, Namibia has a large number of print and broadcast media through which the private sector and civil society institutions focus on children's issues.
- 5.1.1 A major national daily newspaper, *The Namibian*, produces a weekly eight-page supplement called *Youthpaper*, which considers a wide range of issues from basic tutorials on school subjects to poverty, social relations, family concerns, exploitation,

sexuality and human interest stories. The supplement is produced by staff of the newspaper. *The Namibian* is widely read throughout the country, so the supplement is available to a broad range of children and parents.

5.1.2 In 2006, the Namibian chapter of LifeLine/ChildLine started a radio programme named Uitani ChildLine Radio. “*Uitani*” means “I will live” in the local Damara/Nama language. Originally, Uitani was broadcast in English on Omulungu Radio, a Windhoek-based private radio station with national reach. Uitani programmes are written and produced by child volunteers. In its first year of operation, 151 programmes and segments were broadcast.

5.1.3 The national radio service of the Namibian Broadcasting Corporation (NBC) and a community-based station in Windhoek, Katutura Community Radio, also broadcast Uitani, extending coverage to key audiences. In 2008, discussions began on the addition of Uitani to two further NBC language services, which would further increase the audience base.

5.2 The MGECW works through community meetings and community child protection forums to distribute information about the Charter. It has also distributed copies of the Charter to social workers and community-based partners such as youth officers to ensure that the main children’s service providers have knowledge of the Charter. On the commemorative days of the Namibian and African Child, the MGECW integrates African Union themes into its campaign activities, and in so doing disseminates information about the Charter.







# Definition of the Child (Article 2)

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1. Article 2 of the Charter requires the State to take measures to ensure that the law recognises that a child means every human being under the age of 18 years.
2. There are inconsistencies within the Namibian legal framework in this regard. Article 15 of the Constitution defines childhood as ending at the age of 16, but this lower-than-prescribed definition is not adhered to in child protection legislation or customary law.
3. In terms of the Children's Status Act (2006), childhood terminates upon attaining majority. In terms of the Age of Majority Act No. 57 of 1972, the age of majority is 21 years. Anyone over 21 is considered an adult with full legal capacity. Such a person can enter into contracts, institute legal proceedings and perform all other legal acts independently.
4. A further definition of the age of a child is found in customary law. As previously discussed in this report, the definition of a child under customary law is not linked to the child's age, but rather to his/her state of biological maturity and marriage.
5. The situation is complicated by the fact that some Namibian laws override this definition, and give minors specific legal powers. For example, minors aged 18 years can work in any type of job, drive a vehicle, buy alcohol, gamble, obtain a firearm licence, have a domicile independent of that of their parents, give independent consent to medical treatment and vote (although a person must be 21 years old to stand for public office).
6. This wide range of definitions complicates harmonisation with the Charter, but this situation is set to change with the enactment of the Child Care and Protection Bill which lowers the age of majority from 21 to 18, and repeals the Age of Majority Act. Given the requirement that customary law must not conflict with any statutory laws, this will ensure consistency as to the age of a child in customary law as well.
7. Children in conflict with the law receive special protection. The age of criminal capacity in Namibia is 7 years, although children between the ages of 7 and 14 can only be convicted when the State can prove that the child in question both knowingly intended to do wrong and understood the consequences of the wrongful act. Offenders under the age of 18 have

their cases tried in closed court, but they can be convicted and sentenced as if they were adults. However, in terms of the Constitution, children under the age of 16 years may not be imprisoned. A minor can also be held liable in a civil case, if it can be shown that the minor understood the consequences of his/her actions. The Child Justice Bill increases the age of criminal capacity to 10 years and introduces a rebuttable presumption of criminal incapacity of children between the ages of 10 and 14.

8. The Combating of Rape Act No. 8 of 2000 increased the age of sexual consent to 14 for both boys and girls. Irrespective of “consent”, if one participant in the sex act is under 14, and the other party is more than three years older, then the latter party is deemed to have committed rape by virtue of the age difference, together with the youthfulness of the partner. Prior to the promulgation of this Act, laws on rape assumed that the victims were necessarily girls or women, and that the perpetrator had to be male. The new Act is gender neutral. The minimum sentence for the rape of a child is 15 years and the maximum is life imprisonment.
  
9. An amendment to the Combating of Immoral Practices Act has given additional protection to boys and girls under the age of 16. Any sexual act or “indecent or immoral act” by a person who is three or more years older than a child between the ages of 14 and 16 years constitutes an offence. This is a less serious offence than rape, however, and does not attract a minimum sentence. The maximum penalty under this legislation is a fine of N\$ 40 000 (US\$ 4,000 – exchange rate of N\$1 to US\$10) or 10 years in prison, or both.



# General Principles

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## **1. The right to non-discrimination and protection against apartheid and discrimination (Articles 3 and 26)**

- 1.1 Articles 3 and 26 of the Charter require the implementation of measures to ensure that all children enjoy equal enjoyment of their rights regardless of their or their parents' race, ethnic group, colour, sex, language, religion, political opinion, national and social origin, birth or other status. They further provide that special measures should target children living in apartheid regimes, and that all measures should be taken to provide such children with material assistance and work towards the elimination of all forms of apartheid.
- 1.2 As noted in the previous section of this report, upon attaining independence the Government of the Republic of Namibia engaged in a systemic review and revision of laws to expunge racially and other discriminatory apartheid laws that impacted on, inter alia, children and their families.
- 1.3 In addition, it recognised that furthering national socio-economic development objectives depended on improved access to services and benefits and the reduction of poverty and inequality. As such, the elimination of inequality, equal access to services and benefits for Namibians, especially children, acquired and continues to enjoy the highest national priority. Vision 2030, developed in 2004, documents the national long-term development plan. One of its primary objectives is to ensure equal opportunities for disadvantaged children, including orphans, in order to prepare them for a meaningful and happy life. More recently, as noted previously, NDP4 prioritises the commitment of national resources to the correction of inequities in access to key enabling services for children, such as health, education, social grants and birth certificates.
- 1.4 In furtherance of these national commitments to equality, numerous policies and laws prohibit discrimination against children and require the adoption of special measures to ensure the inclusion of especially vulnerable groups of children, as per the requirements of the Charter.
- 1.5 Article 10 of the Constitution protects all persons, including children, from all forms of discrimination on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status.

- 1.6 The Government recognises that it is not enough to simply prohibit passive discrimination, but that special measures are required to identify and ensure that especially vulnerable groups of children are provided with the services in question. Thus, in addition to the general prohibition against discrimination, the Government has developed a number of targeted policies and programmes obliging the delivery of services to especially vulnerable groups of children, including girl children, marginalised indigenous children, children made vulnerable by their age (for example the very young and youth), children living in rural areas, children living in poverty, children with a disability, orphaned children and children otherwise affected by HIV and AIDS.
- 1.7 A San Development Programme was established in the Office of the Prime Minister which prioritises and provides dedicated funding for the social and economic development of the San, Ovatue and Ovatjimba communities (the latter two communities were included by Cabinet decision in 2007 but the programme name remains the same), who are made especially vulnerable through their rural, often nomadic lifestyles. A special San Development Fund was created in 2005 to support the programme interventions.

The overarching aim of the programme is to secure the social and economic development of these communities, and ultimately to integrate them into the mainstream economy. As such, many of the interventions target the holistic development of the community, such as their resettlement on farms and the development of livelihood and income-generating projects.

In addition, a number of services that impact on the rights and wellbeing of children are provided. In collaboration with the responsible line ministries, the programme identifies where and in which communities early childhood development (ECD) centres, schools, health care and birth registration facilities are not available, and what might be preventing access to available services in all communities. Thus, for example, the programme, using its own funds, has built ECD centres and facilitated training for community-based ECD practitioners, and has built schools and health centres and facilitated training for nurses to work at these centres. To ensure sustainability, these facilities are handed over to the relevant line ministries which then form part of the ministerial service delivery infrastructure. Over and above the provision of infrastructure, the programme works with the Ministry of Home Affairs and Immigration (MHAI) and the MOE to identify areas where mobile and other registration services should be made available, and to secure the implementation of programmes for the provision of material support to children to enable them to go to school. The latter included (until the end of 2012) the payment of the School Development Fund at primary school level, and still includes facilitation of exemption of learners in schools with high numbers of marginalised people from the payment of other school-related costs. Over and above this, the programme pays their transport, school uniform and stationery costs. Marginalised children are also exempt from the payment of hostel fees. Further details on the education programme for marginalised communities are provided later in this report in the section dealing with the right to education.

- 1.8 The National Policy on Orphans and Vulnerable Children (2004) and the accompanying National Plan of Action for OVC in Namibia 2006-2010 provide for the comprehensive care and protection of orphans and other vulnerable children in Namibia. The policy and plan call for collaborative special measures by the MHSS, MOE, MHAI and Ministry of Labour and Social Welfare (MLSW) to ensure the realisation of the rights of children who are living with a chronically ill caregiver or a caregiver who has a disability; are themselves disabled; are living in a household headed by an elderly caregiver; are living in a poor household; are living in a child-headed household; and/or are living in a household which has experienced the death of a caregiver in the preceding 12 months.

The Plan established a dedicated Orphans and Vulnerable Children Permanent Task Force (PTF) to spearhead the implementation and monitoring of the National Plan of Action, under the leadership of the MGECW. The PTF is a multi-sectoral/disciplinary body made up of representatives of a range of government departments and civil society stakeholders.

The targeted groups of children received a comprehensive package of services and support through collaborative multi-sectoral interventions discussed in more detail under relevant sections of this report, aimed at, for example, changing behaviour and attitudes, and providing protection from abuse, expedited free health care, and support to cover, inter alia, educational costs, access to food and nutritional support and access to psychosocial support.

- 1.9 Children affected by HIV and AIDS receive targeted support through a range of policies including the Namibian HIV and AIDS Charter of Rights (2002) and the National Policy on HIV/AIDS (2007). They aim to reduce stigma and discrimination against people (including children) affected or infected by HIV/AIDS. In addition, the policies commit to ensuring that children infected by HIV and/or orphaned or otherwise affected by the death or illness of their family members be cared for and supported within their communities, and that information about grants, services and benefits for AIDS orphans are made freely available. The National Strategic Plan for HIV/AIDS, Third Medium Term Plan 2004-2009 (revised to 2010-2014) provides a framework for the development and implementation of a coordinated multi-sectoral response. It commits various line ministries to taking special measures to ensure that this vulnerable group of children enjoy access to a range of services and support, including community-based support, psychosocial support, social assistance and education.
- 1.10 Within the education sector, a number of policies and programmes provide protection for various vulnerable groups of children by prohibiting discrimination and requiring additional measures to ensure their inclusion, retention, completion and optimal performance within the education system.
  - 1.10.1 The Education for All National Plan of Action 2001-2015 commits the Government of Namibia to realising education for all by prioritising access to complete, free and compulsory education of good quality for all children, with a focus on marginalised

children, including girls, children in difficult circumstances and those belonging to marginalised groups.

1.10.2 The Education and Training Sector Improvement Programme (ETSIP) is 15-year strategic plan (2006-2020) developed by the Namibian education sector in response to the demands of Vision 2030. It guarantees the provision of education and related support services to vulnerable children through the introduction of:

- a specialised training module on orphans and other vulnerable children (OVC) for ECD caregivers;
- measures to increase access to pre-primary school for OVC;
- increased educational and psychosocial support for OVC through schools, through the use of specialist staff and by providing strengthened counselling services at schools;
- a compulsory code of conduct to protect children against stigmatisation;
- support for educators to identify and support OVC;
- mechanisms to ensure that OVC are not excluded from schools by poverty and school costs; and
- a school-feeding programme for OVC.

1.10.3 The National Policy Options for Educationally Marginalised Children (2000) identifies various groups of children as educationally marginalised, and requires special interventions to ensure that they access school. Marginalised groups include children of farm workers, children in remote rural areas, street children, children in squatter areas and resettlement camps, children with disabilities and children in families living in extreme poverty.

1.10.4 The Education Sector Policy for Orphans and Vulnerable Children (2008) seeks to develop and implement support mechanisms necessary to address the economic, educational and psychological needs of OVC in educational institutions. The goal of the policy is to ensure that an increased number of OVC are able to access, remain in and complete general education of a good quality.

1.10.5 Programmes that have been developed in furtherance of these commitments by the education sector to include especially vulnerable children include the establishment of mobile schools for Ovahimba children, who together with their parents lead a semi-nomadic lifestyle in remote regions of Namibia; programmes implemented by NGOs and the Government to facilitate mother-tongue education for San children; a reorganisation of school hostels to supportively promote the education of OVC; the operation of the School Feeding Programme in all regions of the country to supplement the nutritional requirements of learners from poor families; and the launching of the MHA's Outreach Programme in 2008 to register children who for whatever reason had not yet been registered. Further measures are discussed later in this report in the section dealing with the right to education.

- 1.11 Historically, as is evident from the preceding list of policies, Namibia has adopted a fragmentary approach to providing targeted support to specific groups of children deemed especially vulnerable at different times. The most recently developed National Agenda for Children 2012-2016 has adopted a strategically different approach, in that it has established a more holistic and systemic framework of action which seeks to provide a comprehensive equity-driven social protection programme for all children. It recognises that the prior policies focused on children made vulnerable by HIV and AIDS, which meant that many vulnerable groups were excluded and that interventions were treated, in the main, as projects rather than as essential components of every responsible ministry. It has thus moved to a broader understanding and systemic approach which seeks to address the needs of all children through the provision of equitable and accessible services throughout the life cycle of the child, while simultaneously requiring additional measures to address the extraordinary needs of children made more vulnerable by their circumstances.
- 1.12 The National Agenda is more closely aligned to national development plans, and as such, interventions for addressing the rights and needs of all children, especially the most vulnerable, will be integrated into ministerial plans and budgets which must further the national development objectives. This design is intended to secure not only more systemic and sustained development and implementation of child equity programmes of action, but also larger and more appropriate supporting budgets.
- 1.13 The National Agenda also makes provision for a consolidated monitoring and evaluation (M&E) system and framework that will, as far as possible, secure the regular collection of data disaggregated by gender, disability, race, language and related categories. The M&E indicators in the National Agenda are cross-referenced from sectoral planning tools with the purpose of strengthening existing M&E systems, as opposed to replacing them. This development will allow for better assessments of progress and planning to address abiding service delivery gaps for marginalised groups.

## **2. The best interests of the child, respect for the views of the child, and the provision of information and promotion of participation (Articles 4, 7 and 12)**

- 2.1 Article 4 of the Charter requires that measures be taken to ensure that in all decisions, actions and proceedings, the best interests of the child are the primary consideration. In addition, it requires that measures be taken to ensure that all children be afforded a meaningful opportunity to be heard in all judicial and administrative proceedings. Article 7 requires that every child who is capable of communicating his/her own views should be assured the rights to express him/herself freely and disseminate his/her opinions, subject to any limits prescribed by law. Article 12 obliges the State to take measures to ensure children's right to equal participation in cultural, artistic, recreational and leisure activities.

- 2.2 Various policies, laws and bills require that decisions taken by all organs of state, and most recently also by parents through the Child Care and Protection Bill, be premised on the best interests of the child. Other policies and laws that promote this principle are the Maintenance Act (2003), the Children’s Status Act (2006) and the Divorce Bill.
- 2.3 In addition, social worker training includes instructions on this principle. The *Child Protection Manual* used for the training of all professionals dealing with children and community groups includes training on the best interests of the child.
- 2.4 The Government recognises that traditional values and attitudes often elevate the interests of the family, elders or the community above the best interests of the child. To address this, various parenting programmes and advocacy campaigns, discussed in more detail later in this report in the section on parenting and parental responsibilities, have been developed and implemented.
- 2.5 The right to freedom of expression for all, including children, is protected by Article 21 of the Namibian Constitution. Namibia is very respectful of this right – so much so that in 2005 and again in 2012, Reporters without Borders rated Namibia 25<sup>th</sup> worldwide in terms of press freedom. This ranking is just below the United Kingdom and above Australia and France.
- 2.6 Namibia has created a number of platforms to facilitate respect for this right and the right of children to participate in decision-making impacting on them, and to enable children to voice their opinions. Some of these platforms are supported through legislation. For example, the Education Act No. 16 of 2001 establishes Learner Representative Councils at Namibian schools. Others, such as the *Youthpaper*, an insert in a major daily newspaper, are initiatives of the private sector.
- 2.7 The Namibian legal system affords a number of opportunities to hear the views of children in judicial proceedings that impact on them. A child who is adopted or placed in foster care has a chance to express his/her views on the matter. Children in conflict with the law undergo a process of interviews and investigations by a social worker before their cases are heard. Through this process, a child is able to state his/her views on the situation. The Government has further implemented a number of child-friendly court processes to ensure that children are afforded an opportunity to be heard in judicial proceedings. These are described in detail later in this report in the section on special protection measures (child justice). In addition, the Child Care and Protection Bill obliges the presiding officer of a Children’s Court to order legal representation for a child involved in a matter before the court under certain circumstances, including where the child requests it, where a social worker recommends it, and where the case involves abuse against the child (section 53(2)).
- 2.8 The Government has further sought to facilitate the participation of children in all matters, not just judicial matters, concerning them. The Child Care and Protection Bill specifically provides that, “In any matter concerning the child, every child that is of a sufficient age, maturity and stage of development has the right to participate and express his/her views.”



(section 5) In furtherance of this right, children have been extensively engaged in the development of national children's laws and policies such as the Child Care and Protection Bill, the National Agenda for Children, the Standards for Residential Child Care Facilities and the Standards for Foster Care.

2.9 Various platforms and vehicles have been created within different institutions and sectors to facilitate the routine engagement with children in matters affecting them, and to allow for children to come together to express their concerns and debate potential solutions to their problems. For example, the Namibian Parliament established a Children's Parliament in 2007. At its first meeting, junior parliamentarians expressed concerns about the situation of OVC. These concerns were incorporated into Namibia's National Plan of Action for OVC. Participants in the second Children's Parliament, held in May 2008, were informed about how their contributions had been included in the National Plan of Action, and how they would be translated into action. Two issues which came to the fore in the second Children's Parliament were the need to establish Junior Regional Councils in all 13 regions of the country, and the need to find ways to sensitise adults regarding the rights of children. Subsequently, various cities/towns, including the city of Windhoek (Namibia's capital), have established Junior Municipal Councils. Within the education sector, Learner Representative Councils (LRCs) have been established at all levels of the education system, and these foster confidence in young children at primary level to speak openly. All but none of Namibia's 1661 schools have an LRC. In 1993, the National Youth Policy established the National Youth Council (NYC), the main goals of which are to empower the youth to become responsible citizens and to promote their own development. In this regard, the NYC assists children in making the transition to adulthood.



- 2.10 The Government recognises that the implementation of the governing laws requiring consideration of the child's views on, for example, foster and residential care placements, is unevenly implemented and that vulnerable groups of children, such as children with disabilities and children of indigenous minority groups, are often excluded from participatory processes. In moving forward, the Government will strive to ensure that these gaps are addressed through education, adequate budgets and related measures.

### **3. Survival and development (Article 5)**

- 3.1 Article 5 of the Charter requires the State to take measures to realise the rights of children to life, survival and development, and to ensure that the death sentence cannot be applied to children.
- 3.2 The death sentence has been abolished for all people in Namibia, and the right of children to life, survival and development is recognised in the Constitution as well as numerous laws discussed in this report. Article 6 of the Constitution provides: "The right to life shall be respected and protected. No law may prescribe death as a competent sentence. No Court or Tribunal shall have the power to impose a sentence of death upon any person. No executions shall take place in Namibia."
- 3.3 The rights to life, survival and development have been challenged by high levels of infant and under-five mortality, malnutrition, child abuse, teenage pregnancies, child poverty, infanticide and suicide, and by a lack of sanitation. Of particular concern in this regard is the high level of infanticide and babydumping in Namibia. Official figures of concealment of birth recorded by the police ranged between 6 and 23 per year in the years 2003-2011. Anecdotal evidence, however, indicates a much larger problem. For example, staff at the Gammans Water Care Works in Windhoek in 2008 reported finding up to 13 dead infants per month in the sewage. In rural areas the bodies of infants are dumped in the veld, thus it is likely that many are never found. There are a number of reasons for the high rate of infanticide, including cultural and economic reasons such as fear of rejection for having a child outside of marriage, fear of having to leave school, poverty, and a lack of knowledge of where to go to give the child up for fostering or adoption (NPC, 2010). While the matter has been raised in Parliament, the Government recognises that there is still work to be done in determining the full scope and causes of the problem, and for the development of appropriate interventions capable of responding to the scope and causes of infanticide in Namibia. (The other core challenges to the survival and development of children, and the Government's responses thereto, are discussed in detail under the sections of this report dealing with health and welfare services, protection from abuse and education.)

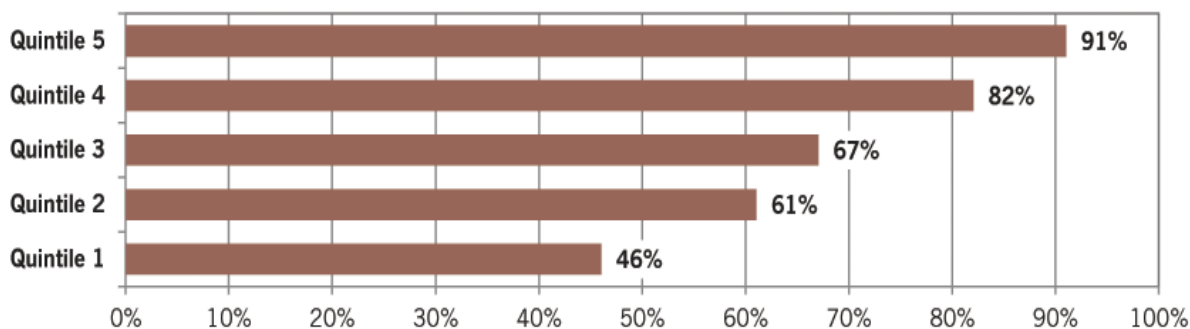
# Civil Rights and Freedoms

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## **1. The right to a name and nationality, identity and registration of birth (Article 6)**

- 1.1 In terms of Article 6 of the Charter, the Government has committed to guaranteeing the rights of every child to a name from birth, registration immediately after birth and a nationality, and to constitutionally recognising the principles according to which a child shall acquire a nationality of the country in which he/she is born, if at the time of birth he/she is not granted nationality by any other country.
- 1.2 The right to a name and nationality is particularly important for children in Namibia. Not only does the realisation of these rights through the process of birth registration result in the entry of the child into the National Population Register (NPR) which is essential for proper planning and budgeting of services, but also it is essential for accessing education, health, welfare and protection services, as well as for accessing an identity card later in life.
- 1.3 These rights have thus been afforded the highest national status. Namibia's Constitution guarantees the rights of all children, from birth, to a name and the right to acquire a nationality (Article 15). In addition, the National Agenda for Children (2012-2016) commits to ensuring that "All children are registered at birth, and have access to a deceased parent's death certificate if required."
- 1.4 The Ministry of Home Affairs and Immigration (MHAI) is responsible for the realisation of this right through the registration of births and the issuing of birth, death and marriage certificates and identity documents.
- 1.5 The rate of birth registration dropped from 70,5% in 2000 to 67,4% in 2006 (Namibia Demographic and Health Survey (NDHS) 2006/07). In addition there was a marked difference in the rates of registration, with lower rates in poorer communities and households and in rural versus urban areas. In 2006, the number of children under five years of age whose births were registered was twice as high in the wealthiest income quintile compared to the lowest. In addition, registration rates were as high as 82% in urban areas compared to 52% in rural areas (NDHS 2006/07).

**Chart 1: Percentage of children aged under 5 whose births were registered per income quintile**



Source: NDHS 2006/07

1.6 Some of the challenges to registration are as follows:

- a. Long distances to service sites, and poverty.
- b. Absent unmarried fathers could delay the registration process.
- c. Customary naming practices have prevented early birth registration among some communities. For example, women in the north-east of the country have delayed the registration of their children's births until after the annual return of the fathers from the mines to enable the men to name their children.
- d. The requirement that the parent/s of children must register their births has created difficulties for the registration of undocumented abandoned or severely neglected children, such as children living on the streets and children from homes with high levels of alcoholism among parents.
- e. Undocumented orphaned children have been especially difficult to register because of difficulties associated with proving their birth and nationality.
- f. A lack of knowledge of the process or understanding of the importance of birth registration among parents.
- g. Legal uncertainty as to the registration process for children of stateless people, migrants and refugees. For example, there is no definition of a "stateless child", and consequently there is no systemic legislative framework securing their rights to a name and nationality.

1.7 The Government responded to the decline in registration rates through the following innovations targeting the above-mentioned and other challenges to registration:

- 1.7.1 The MHAI has expanded its service delivery footprint, especially in the most marginalised communities. Since 2010, with the support of UNICEF Namibia, the Ministry has established birth registration facilities in 21 hospitals, and has increased the number of its regional offices from 13 to 60 and the number of its sub-regional offices from 7 to 26. It has also targeted hard-to-reach areas through collaborative outreach partnerships and mobile campaigns. The locations of new regional and sub-regional offices were chosen to ensure improved access for un- and under-serviced areas, and the hospital registration sites were chosen in

collaboration with the Ministry of Health and Social Services (MHSS). Areas with high birth rates, low birth registration rates and low access to services have been prioritised. The hospital registration rates have increased from 1748 in 2008 to 30245 in 2012 (MHAI, 2012).

- 1.7.2 The collaboration with the MHSS extends beyond the hospitals. Approximately 85% of births take place in hospitals, and 50% of these are registered immediately after birth through an in-house registration service (MHAI Regional Data, 2011). To improve this rate, nurses have been trained to inform pregnant women attending antenatal clinics of the hospital registration service and what documents they should take along to the hospital when they give birth to facilitate immediate registration.
- 1.7.3 In addition, the MHAI collaborates with the MHSS and the MGE CW in the design and implementation of mobile and community outreach programmes. Mobile campaigns in hard-to-reach areas registered more than 16 000 vulnerable children in 2009 and 22 000 in 2010. These campaigns also target internally displaced children. For example, during a recent flood emergency, MHAI staff registered 335 children in the relocation camps in Caprivi Region (MHAI, 2012). As far as possible, the mobile interventions have been systematised. For example, with UNICEF's technical support, an agreement was concluded with the National Agricultural Union for the distribution of information on the importance of birth registration and the registration processes through farmers. Most recently, in 2012, the MHAI agreed to join the MHSS health outreach teams for the Maternal Child Health Days. This will mean that births will be registered at the same time that children are immunised.
- 1.7.4 The Government has taken measures to ensure that poverty does not bar the registration of children's births. For example, birth certificates are free, as is the change of name on a child's birth certificate.
- 1.7.5 To raise awareness of birth registration processes among services providers and the public, the MHAI has developed and translated (into four languages) a host of publications, including booklets, comics, posters and banners. These have been distributed through a cross-sectoral network of service points such as clinics, social work offices and birth registration facilities.
- 1.7.6 The Government has responded to the delay caused by customary naming practices by engaging in collaborative awareness-raising campaigns with traditional and religious leaders to inform mothers that they may register the births of their infants at the time of birth and change their names thereafter (at no cost) – once the fathers have returned and named their children.
- 1.7.7 To realise the right of refugee children to a name and nationality, the Government has introduced a birth certificate for children born in Namibia to parents who are not Namibian citizens. Other measures taken to prevent the statelessness of children

include, for example, a working partnership between the MHAI and social workers to identify children living in Namibia without their parents. Where the MHAI can verify that their parents are Namibian citizens, the children are immediately registered. Children born to deceased non-Namibian parents are issued the above-mentioned birth certificate for non-Namibians. In addition, the MHAI helps children who were born to Namibian parents but are residing outside the borders of Namibia to obtain their Namibian birth certificates.

1.7.8 The MHAI has embarked on a process of institutional, system and monitoring strengthening to improve registration reach and rates. Key changes are as follows:

- The organisational structure of the MHAI has been changed to meet the increased institutional and human resource needs associated with the increase in registration sites and services. The new structure consists of a dedicated Department of Civil Registration alongside the Department of Immigration Control and Citizenship, and has been designed to decentralise population, immigration and support services to the regions.
- The birth, death and marriage registration process has been digitised, and a new integrated National Population Registration System (NPRS) has been developed. These two systems are currently being linked so as to enable all regional and sub-regional offices of the MHAI to verify identities online. This will expedite the registration process, minimise duplication and prevent fraud. In addition to the verification facility, the digitisation of the system will ensure that all births and deaths can be captured on the system at all regional and sub-regional offices. The digitisation process is supported by the establishment of internet networks in all offices.
- The MHAI has also implemented a strengthened monitoring system to routinely collect and collate registration data at national level, and in 2011, for the first time, key birth registration questions were included in the National Population and Housing Census.

1.7.9 The MHAI has taken a number of steps to improve staff knowledge and capacity, including the development and implementation of customer care and computer literacy courses for staff members. There is scope for increasing the training capacity and budget to maximise the benefit of these capacity-building initiatives.

1.8 As a result of these systemic reforms, birth registration rates in the first year of life have increased substantially from 31% in 2007 to 62% in 2011 (MHAI Regional Data, 2011). In addition there was a substantial increase in the number of ID documents issued, from 362 850 in the period 2001-2005 to 583 681 in the period 2006-2010 (MHAI, 2012).

1.9 Although the national averages reflect significant improvements, in 2011 there were still regional variations in registration rates. In 2011, early registration rates exceeded 90% in two regions (Hardap and Khomas), but dropped below 60% in five regions, and below 50%

in four regions, the lowest rates being in Kunene (47%) and Kavango and Caprivi (40%) (MHAI Regional Data, 2011). The latter were also the two regions with the highest levels of poverty in Namibia, with 43,4% and 41,7% of their populations living in poverty (Namibia Household Income and Expenditure Survey (NHIES) 2009/10).

1.10 The MHAI recognises that the following further innovations, which are currently in development, are necessary to overcome the remaining challenges:

1.10.1. The Ministry has recognised that some of its legal instruments, such as the Births, Marriages and Deaths Registration Act No. 81 of 1963, the Marriage Act, the Immigration Control Act and the Namibian Citizenship Act contribute to preventing the realisation of the right in question. It has thus initiated a comprehensive review and reform process of the full complement of relevant acts. The reform of laws that pose problems for obtaining documents is prioritised by NDP4.

1.10.2 The revised organisational structure makes provision for additional posts, but the Ministry does not currently have adequate capacity to universalise birth and death registration. The capacity problem has been aggravated by the low budget allocated to the MHAI which has received the lowest percentage of the national budget (0,6% of GDP expenditure) (MHAI, 2012). However, the budget (and capacity) situation is improving and is set to improve considerably during the course of the Medium Term Expenditure Framework. The 2012/13 budget has increased substantially to N\$ 254 315 000 (approx. US\$ 25.5m) from N\$ 151 741 000 (US\$ 15m) in 2008/09, and is set to increase further to N\$ 425 225 000 (US\$ 42.5m) in 2014/15 (MHAI, 2012; Ministry of Finance, 2012).

## 2. Freedom of expression (Article 7)

2.1 Article 7 of the Charter requires the State to take measures to secure the right of all children capable of communicating their own views to express their opinion freely in all matters.

2.2 Article 21 of the Namibian Constitution guarantees the right to freedom of expression for all persons, including children. Namibia has many platforms under which children are both encouraged and enabled to voice their opinions. Some of these platforms are supported through legislation. For example, the Education Act No. 16 of 2001 established Learner Representative Councils at Namibian schools. Others, such as the *Youthpaper*, an insert in a major daily newspaper, are initiatives of the private sector. The national radio stations, such as those broadcasting Uitani ChildLine Radio, also offer an important platform for children to express themselves on issues that affect them.

2.3 The right to freedom of expression is set to be strengthened through the Child Care and Protection Bill which embeds the right of participation and expression as fundamental principles to inform the implementation of the Act as well as in all other matters involving children. Section 5 of the Bill guarantees the right of every child of sufficient age, maturity and stage of development to participate in and express their views in all matters concerning

them. In recognition of the challenges created for participation in traditional households and communities as a result of customary attitudes to children, the Bill goes further and requires that all reasonable measures be taken to ensure that a child is not punished for expressing his/her views.

- 2.4 In addition, as previously noted, the Bill makes provision for the mandatory provision of legal representation to support a child in proceedings in a Children's Court to ensure the child's adequate and full participation and hearing where the child requests it, where it is recommended by a social worker, and/or where the case involves sexual, physical or psychological abuse.

### **3. Freedom of thought, conscience and religion (Article 9)**

- 3.1 Articles 19 and 21 of the Namibian Constitution protect the rights of freedom of association and freedom of political views. Article 21 provides for freedom of association and peaceful assembly. This is reinforced by Article 17 which establishes freedom of political activity, including association with a political party of the individual's choice.
- 3.2 Section 8 of the Child Care and Protection Bill provides, in accordance with the requirement in Article 9(2) of the Charter, that parents have a responsibility to guide and direct the child in the exercise of all of his/her rights under this Act or any law in a manner consistent with the child's evolving capacities.

### **4. The right to protection of privacy (Article 10)**

- 4.1 Article 10 of the Charter requires the State to take measures to ensure that no child is subject to arbitrary or unlawful interference with his/her privacy.
- 4.2 Article 13 of the Namibian Constitution protects this right, primarily with respect to state searches, which must be conducted in a manner respectful of children's right to privacy.
- 4.3 Examples of further protection of children's privacy include the following:
- 4.3.1 The identity of a child involved in court proceedings is protected by sections 153 and 154 of the Criminal Procedure Act 51 of 1977 and by the Child Care and Protection Bill. In terms of the former, all matters involving children must be held in-camera and no officer of the court may in any way make public the name of a child who has violated the law, is a victim of crime or has given evidence in court proceedings. This protection is reinforced in sections 56 and 57 of the Child Care and Protection Bill which prohibit the disclosure of the identity of a child in court proceedings and which further guarantee the confidentiality of court proceedings involving children.
- 4.3.2 Adoption records are kept confidential, with possible access for the child at a later stage in his/her life.



4.3.3 In addition, the confidentiality of children affected by HIV and AIDS is protected by the National Plan of Action for OVC 2006-2010, the education policy for OVC and the Child Care and Protection Bill.

4.4 The Government is increasingly recognising that there is a gap in the privacy laws to provide for protection of children's privacy in the context of the internet and social media, and will be directing its attention to addressing this in the future.

## **5. Protection against child abuse and torture (Article 16)**

5.1 Article 16 of the Charter requires the State to take specific legislative, administrative, social and educational measures to protect children from all forms of torture, inhuman or degrading treatment, and especially physical or mental injury or abuse, neglect and maltreatment while in the care of an adult. This article further requires that such measures specifically include the establishment of special monitoring units to provide the necessary support to the child and caregivers, as well as other forms of prevention and identification, reporting and referral, treatment and follow-up of instances of child abuse and neglect.

5.2 Article 8 of the Constitution guarantees that “no persons shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

5.3 The legal framework governing services and the regulation of conduct to realise this right is split between a number of policies and laws, and responsibility for realising this right is split between a number of ministries, departments, agencies and civil society organisations.

5.4 A host of policies, laws and programmes protect children against violence and abuse, including corporal punishment. These include the following:

5.4.1 The protection of children against violence and abuse is a national priority. Vision 2030 aims “to ensure that violence is completely eliminated in relationship at home as well as outside”, and the National Agenda for Children 2012-2016 commits to ensuring that all children are safe from neglect, violence, abuse and exploitation. In addition, in 2012 the Government finalised the National Plan of Action on Gender-Based Violence (NPA on GBV) to guide the implementation of the National Gender Policy. This is a result of the 2007 national conference on GBV, which established a National Advisory Committee on GBV to advise Cabinet and promote gender equality and the advancement of women. The NPA and the Committee are indicative of the high level of political commitment to reducing GBV, including violence against children.

5.4.2 Children are protected from abuse through the criminalisation of sexual abuse and domestic violence in terms of the Combating of Rape Act No. 8 of 2000, the Combating of Domestic Violence Act No. 4 of 2003 and the Combating of Immoral Practices Amendment Act No. 7 of 2000. In addition, children are protected from abuse and neglect in terms of the Children's Act No. 33 of 1960 which makes

provision for the protection of infants and children in need of care or protection, for places of safety, foster care, adoption and registration of child care facilities, and for the prevention of neglect, ill-treatment and exploitation of children. Furthermore, the Maintenance Act No. 9 of 2003 obliges parents to maintain their children and provides for improved enforcement mechanisms for defaulters.

- 5.4.3 In the education setting, section 56(1) of the Education Act of 2001 prohibits the use of corporal punishment in schools, and the Child Care and Protection Bill outlaws corporal punishment in all residential care settings (including schools and ECD centres) and in the home. The Supreme Court of Namibia has ruled that corporal punishment in schools is a criminal offence. A Code of Conduct for Teaching Service – a law-enforceable tool in the Regulations of the Education Act – was launched by the MOE in 2004 as a tool to set professional requirements and minimum standards of professional conduct for teachers. The code prohibits all forms of corporal punishment and all forms of sexual, physical, emotional harm or psychological humiliation or any abuse of any learner. In addition, the National Policy on HIV and AIDS for the Education Sector (2005) obliges all educational institutions to have systems and safeguards in place to prevent sexual harassment, abuse, exploitation or assault of learners. This policy also outlaws sexual relations between teachers and children, and requires the provision of a safe environment in hostels. In addition to the legal prohibition against corporal punishment – which is infrequently used to institute criminal prosecutions of perpetrators – the MOE, with the support of NGOs, has engaged in a number of complementary educational and advocacy campaigns.

The MOE published two booklets for teachers containing alternatives to corporal punishment. Routine training of education officers has taken place, including in 2011 where 70 education officers were trained as trainers to prevent corporal punishment. The trained officers are expected to train other teachers in the regions. Unfortunately there has been no systematic follow-up mechanism to monitor and assess the coverage and effectiveness of the training. In 2010, the MOE convened a Corporal Punishment Workshop in schools, which was attended by 66 key education staff, civil society representatives and development partners. The workshop developed recommendations for the MOE, which will guide the development of alternative disciplinary models for learners and teachers, to be institutionalised, enforced and monitored. More time is required for fully operationalising these measures.

Civil society has supported the MOE in providing teachers with information about alternatives to corporal punishment, and to eradicate its use while ensuring that teachers feel confident that they can still maintain discipline. For example, the LAC has produced materials that can be used to help educate the teachers and the public about alternatives to corporal punishment. These materials include a 45-minute film, two 8-page comics, a poster and two short training guides. The LAC has also produced a comic highlighting the Code of Conduct for Teaching Service which outlaws corporal punishment in schools. (This comic also highlights the General Rules of Conduct for

Learners.) In addition, this NGO educates community members about alternatives to corporal punishment in workshops. Other NGOs, such as LifeLine/ChildLine and the PEACE Centre (People's Education, Assistance and Counselling for Empowerment Centre), are involved in supporting the MOE with counselling and support services for parents. Initially 'reasonable chastisement' was permitted, but the Government now focuses on a total ban of the use of corporal punishment and on raising awareness of alternatives to corporal punishment. The Government recognises that in moving forward, more clarity, guidance and advocacy is needed to advise on acceptable forms of discipline and prescribed corporal punishment limits within the family.

- 5.4.4 The pervasiveness of corporal punishment in schools is attributable in part to societal acceptance of the use of physical punishment of children. Public tolerance of violence against children is high. In a MGECW Knowledge, Attitudes and Practices (KAP) study on violence against children, 40% of the respondents believed that it is justifiable to hit a child, with as many as 75% agreeing that it is acceptable to hit a child for being 'disobedient' or 'talking back' to the parent (MGECW, 2008). Thus, stemming the use of this practice in schools requires a prior shift in attitude at household and community level. The MGECW and civil society have played an active advocacy role in promoting these shifts. The MGECW has developed various publications and two DVDs on positive discipline targeting parents and schools. In addition, when the MGECW engages in community advocacy to promote the use of positive discipline, it is mindful of the resistance of parents to the idea based on their belief that doing away with physical discipline has created a discipline problem among the youth. To counter this problem, the MGECW casts its advocacy message within the context of children's responsibilities which becomes the entry point for introducing the positive discipline approach.

The MGECW has also developed minimum standards for residential care, which outlaw the use of corporal punishment and physical violence, and require that children's basic health and safety needs are met. In addition, the standards provide concrete guidance on the use of positive discipline and parenting skills.

- 5.4.5 The Child Care and Protection Bill provides for a comprehensive and consolidated child protection system. It seeks to prevent abuse, and to provide support services for children and families affected by abuse. It requires that all parents protect their children from neglect, discrimination, violence and abuse (section 8). In addition it provides that the Minister may fund prevention and early intervention services to prevent abuse or the risk of abuse of children by strengthening family capacity and resources (Chapter 10). It further creates Children's Courts and statutory processes for the identification, removal and provision of support and services to children in need of protective services, including children who are abused or at risk of abuse (Chapter 11). Furthermore it places a mandatory duty on professionals (teachers, doctors, traditional leaders and traditional health practitioners) and others to report suspected child abuse cases to the police or social workers (section 128).

- 5.6 The Government is in the process of drafting legislation to criminalise torture to comply with the Convention against Torture.
- 5.7 A variety of ministries and agencies are responsible for the implementation of these laws and programmes, including the following:
- 5.7.1 The Woman and Child Protection Units (WACPU), located within the MSS, provide comprehensive support and offer an entry point into the criminal justice system for women and child victims of abuse. There are currently 15 WACPU across Namibia. The units are staffed by a total of 102 police officers who have received additional training in counselling, case management and the prevention of family violence, among other things. The WACPU are often the first point of contact for a family in crisis, and the avenue through which social support services from both the Government and civil society are made available. Close collaboration between the WACPU, the MGECW and the MHSS ensures that social workers are either available or accessible through each WACPU, and that WACPU staff members receive additional training on children's rights and programmes. At present, five MGECW social workers are based at the units in three regions, and in the remaining regions there is a close working relationship with MGECW social workers. The WACPU also play an advocacy role, and have provided training to traditional leaders on child protection issues. In addition, the WACPU make use of 500 community support officers (community agents who identify cases of child abuse and refer them to the WACPU) to advocate for child protection practices in traditional communities. In addition, the WACPU are working with traditional headmen who receive complaints and admissions of sexual abuse for purposes of prosecuting cases. The WACPU have observed a growing willingness among traditional leaders to work within criminal and civil frameworks, especially with regard to reporting cases of rape.

Progress has been made in improving the coverage, quality and capacity of child protection services through the provision of capacity support to the officers employed in the 15 WACPU, and to the community lay counsellors, through the development and utilisation of a *Child Protection Manual*; through support to shelters for victims of abuse; through mobilisation of Community Survivor Supporters for victims of abuse; and through the finalisation of the National Plan of Action on GBV. There are currently 102 police officers and social workers in the WACPU. However, it is noted that the training provided to the police and WACPU should include a module on recognising and addressing the needs of children with disabilities and mental illness.

The monitoring, prevention and response capabilities of the WACPU have been improved through a number of interventions. In 2008, the WACPU developed action plans and established 54 community support groups for improved outreach services. The support groups reached approximately 5 000 community members

(including a reported 1 499 primary and secondary school learners) with prevention messages. Inter-ministerial meetings reached 150 service providers in all 13 regions to strengthen collaboration between the police, social workers, public prosecutors, magistrates and medical doctors to improve case management. Fifty-one community lay counsellors in 16 towns in three regions, and 54 community members, were trained on providing protection, care and support to abused children and women in communities. In 2009, the WACPU's were dealing with 7 567 reported cases (including rape, attempted rape, murder and GBV), of which 11% involved children, and by 2012 this had increased to 9 539 cases nationally. The WACPU's have recently received additional material support including office equipment for child-friendly corners, anatomically correct dolls, hygiene packs, and 4x4 vehicles purchased for each of the units to expand their coverage. Forty police officers and social workers from all 13 regions were trained to use the dolls and diagrams when working with children.

- 5.7.2 The police officers employed in the WACPU's receive specialised training, and the Department of Police has revised its training curriculum to provide for training all new recruits on child and sexual abuse and related laws. In 2008/09, the Government developed a *Child Protection Manual* consisting of 13 modules to train police officers, social workers, magistrates, prosecutors and medical doctors on child protection issues. Between 2009 and 2011, 250 private and public social workers, police officers, immigration and customs officers and child care workers in 13 regions were trained from the manual, which equipped them with the skills and knowledge required to respond to and prevent child abuse and neglect.
- 5.7.3 To complement the work of the WACPU's, the Office of the Prosecutor-General has established specialised units for handling maintenance, sexual offence and domestic violence cases.
- 5.7.4 Both the MGECW and the MHSS provide support and services to victims of abuse. The MGECW's budget for its Care and Protection Programme is N\$ 363 604 000 (approx. US\$ 36m) in 2012/13, and will increase to N\$ 401 247 000 (US\$ 40m) in 2014/15. The MHSS's budget for Social Protection Services is N\$ 23 421 000 (US\$ 23m) in 2012/13, and will decrease to N\$ 17 726 000 (US\$ 18m) in 2014/15 (Ministry of Finance, 2012).
- 5.7.5 The MHSS offers medical assistance to abused women and children. The MGECW has established shelters in seven regions for survivors of GBV (including children), and has plans to purchase shelters in the remaining six regions. All these buildings are equipped with office equipment, furniture and household appliances such as fridges, stoves and microwaves, washing machines and beds. Staff members (social workers and police officers) have received in-service training on the operation of shelters. The Government also subsidises a shelter in Khomas Region (Friendly Haven Shelter), which provides victim support including therapeutic counselling,

court preparations, an aftercare programme and community outreach. From January to October 2009, the shelter accommodated 134 survivors (74 women and 60 children), and from January to November 2010 it accommodated 121 survivors (51 women, 44 girls and 26 boys). This local shelter was commissioned and served to document lessons learned and good practices that are currently being replicated in the establishment of shelters in other regions. (UNICEF is providing support for the publication of the documented lessons and best practices in a single volume which will be available for distribution to other shelters in early 2013.)

5.8 Despite the proliferation of laws, agencies and programmes, Namibia is marked by high levels of abuse and neglect of children. For example, 27,4% of the children under the age of 12 who participated in the MGECW's KAP study in 2008 had been subjected to physical violence (MGECW, *Knowledge, Attitudes and Practices: Study on Factors and Traditional Practices that May Perpetuate or Protect Namibians from Gender Based Violence and Discrimination*, 2009). Also in 2008, the MHSS's School-Based Student Health Survey found that more than a quarter of the children under the age of 12 (27,4%) reported being forced to have sexual intercourse, as did 17,7% of those aged 13-15 and 25% of those older than 16 years (MHSS, 2008b). Studies have also shown that girls experience sexual harassment and abuse at schools and in hostels, and that "corporal punishment is endemic in schools" (MOE, 2010; NPC, 2010).

5.9 More recent statistics indicate continuing high levels of violence and abuse of children.

**Table 1: Crime statistics, 2011**

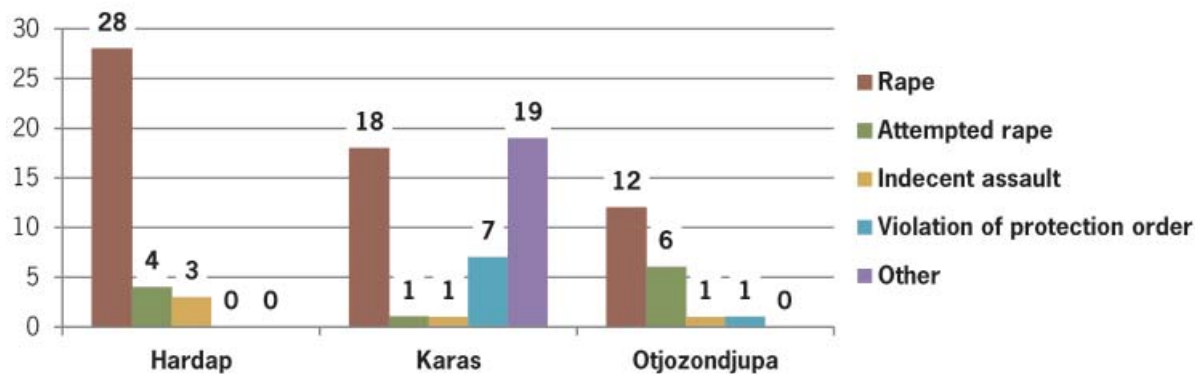
Crime	Boys	Girls	Total
Common assault	73	78	<b>151</b>
Assault GBH	114	51	<b>165</b>
Assault with intent to rape		1	<b>1</b>
Attempted rape	1	33	<b>34</b>
Cruelty, ill treatment, neglect of children	14	22	<b>36</b>
Indecent assault		19	<b>19</b>
Murder*	15	10	<b>25</b>
Rape	16	393	<b>409</b>
<b>Total</b>	<b>233</b>	<b>607</b>	<b>840</b>

\* The WACPU's do not deal with murder cases; they only provide support to survivors of violence.

Source: Minister of Safety and Security, 2012

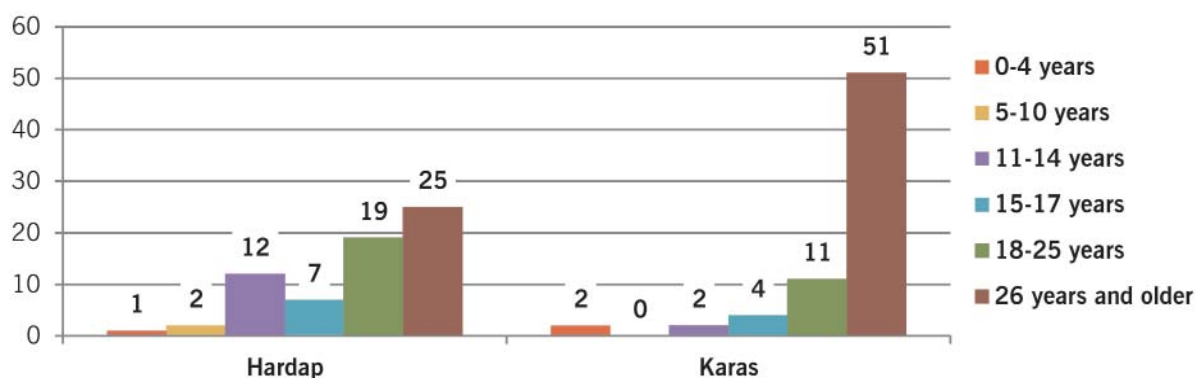
In 2011, the Namibian Police were dealing with 9 539 cases of violence (many dating back to 2000). They were unable to disaggregate these by gender or age, but usually the majority of such cases involve women and children.

**Chart 2: Types and number of offences in three sample regions, 2011**



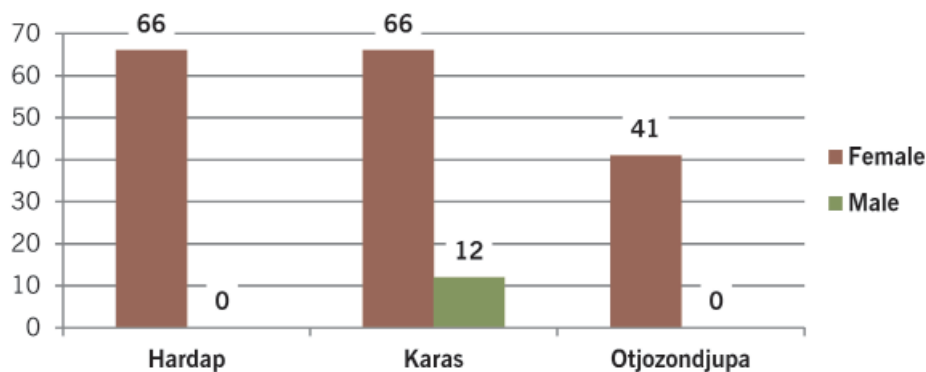
Source: WACPU data for 2011

**Chart 3: Age of victims in two sample regions**



Source: WACPU data for 2011

**Chart 4: Gender of victims in three sample regions**



Source: WACPU data for 2011

LifeLine/ChildLine is an NGO which runs a toll-free Child Helpline with counselling services. It works closely with government service providers, and addresses protection, gender, HIV prevention and behaviour problems. In 2011 they received 27706 phone calls through the helpline, provided information and counselling, and made referrals for 9567 of the calls. The following table is a useful proxy to give some indication of the cases of ill-treatment of children.

**Table 2: Phone calls received by LifeLine/ChildLine on the toll-free Child Helpline in 2011**

Breakdown by type of phone calls received	Total calls received
Abuse and violence	144
Commercial exploitation	182
Discrimination	214
Family relationships	188
HIV/AIDS (children infected/affected)	212
Homelessness / runaways / basic needs	51
Information requested	4 341
Legal matters	121
Peer relationships	147
Psychosocial, mental health	185
Physical health	76
School-related	157
Sexuality and sexual awareness	3 464
Substance use and abuse	77
<b>Total</b>	<b>9 567</b>

Source: LifeLine/ChildLine programme data, 2011

Preliminary data from a study on the implementation of the Combating of Domestic Violence Act suggests the following:<sup>1</sup>

- Two out of every 100 victims of domestic violence is a pregnant woman.
- For every victim of domestic violence, six other people are affected. Four are children.
- More than one out of five victims of domestic violence said that their children had been harmed or threatened by the abuser.

5.10 The disjuncture between the well-developed policy and institutional framework and the high levels of violence against children in Namibia is attributable to a number of challenges impeding implementation, including the following:

5.10.1 Resource constraints within, for example, the WACPU. These, however, have been addressed to some extent through the increased budgets and resources discussed earlier in this section of the report.

5.10.2 A more fundamental problem is the lack of systemic integration of the WACPU and their functions within the whole police system. This, however, is slowly starting to change as there is growth in the involvement, understanding and buy-in of the Criminal Investigations Directorate (CID) managers of the work being done by the WACPU. As a result, the WACPU are building a relationship with the other police

<sup>1</sup> Draft Legal Assistance Centre study (2012) which reviewed 1122 protection order applications between 2004 and 2006 from 19 of 31 magistrates' courts located in 12 of Namibia's 13 regions.



units and offices, and are receiving support from commanding officers. Progress is being made to mainstream the WACPU functions into the police service as a whole.

5.10.3 Delays in the prosecution and finalisation of cases are a significant challenge. Civil cases can take as long as six years to finalise, and this forces families and children to rather use Community Courts and informal processes for abuse cases. The WACPUs are addressing this problem by working with the prosecutors to expedite criminal cases in which the victim is a child. This intervention only started in 2012, thus there is no evidence as to its impact as yet. In addition, the High Court recently introduced a Judicial Case Management System to deal with the problem of delays to finalise both civil and criminal cases.

5.10.4 Perhaps the biggest challenge is the fragmentary nature of the child protection system which has resulted in little coordination of the responsible roleplayers and the loss of collaborative opportunities, as well as poor data collection. This situation is receiving priority attention. The National Agenda for Children commits the MSS and the MGECCW to strengthening collaborative linkages between key government ministries and civil society partners to better respond to violence against children. This will be achieved through child protection mapping and assessments, and the redesign of integrated protection services, so as to ensure accessibility, the continuum of care, prompt responsiveness and monitoring of children's right to protection. A practical measure that has been implemented to address fragmentation has been the collaborative development of a referral flowchart to link children with services provided by the different government ministries and civil society. Improvements in coordination will be accompanied by the development of a national unified data-collection system to allow for the regular collective collection of accurate data on violence against children across different line ministries. In addition, data-collection systems are being improved at ministry and agency level. For example, the WACPUs are currently working to improve data analyses, and are in discussion to potentially introduce an electronic database.





# Family Environment and Alternative Care

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## 1. Parental guidance and parental responsibilities (Article 20)

- 1.1 Article 20 requires the State to take steps to ensure that parents have the primary responsibility for the upbringing and development of their children, and obliges parents to ensure that the best interests of the child are paramount in all decisions, to secure necessary conditions of living, and to ensure that domestic discipline is administered with humanity. Further, where parents are unable to provide as required, the State must provide material assistance and support programmes, especially with regard to nutrition, health, education, clothing and housing, and must ensure that children of working parents are provided with care and facilities.
- 1.2 Article 14 of the Namibian Constitution recognises that the “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”
- 1.3 Poverty, inequalities in wealth and disparities in development inherited from apartheid have placed considerable burdens on Namibian families. The majority of Namibian families are of an extended nature with strong rural roots. However, urbanisation has weakened traditional family structures as migrants (particularly young people) move away from rural communities.
- 1.4 The Government has sought, through various laws, policies and programmes, to reaffirm family responsibilities for children, and to provide material and other support to enable families to fulfil their duties.
- 1.5 A core objective of the Child Care and Protection Bill is to promote protection of the family. It provides that parents have a responsibility to provide care, support and protection for their children, and to meet their material, health, education and related needs. In addition, the Bill expressly provides that parental responsibilities include the duty to take the best interests of the child into account in all decisions (sections 6 and 7). Further, in terms of the Child Care and Protection Bill, the Minister may fund and provide prevention and early intervention programmes aimed at strengthening family resilience (Chapter 10).

- 1.6 The MHSS and the MGE CW are primarily responsible for the programmes to give effect to these provisions, and have done so through the provision of parenting and material support.
- 1.7 Efforts to educate the public on parental responsibilities have previously lacked focus and coordination, but with the MGE CW assigned as the lead ministry for such efforts, progress is being made. The MGE CW has provided a number of parenting support programmes, including the development of a train-the-trainer programme which was run through the ECD programme, and participated in parent training in 2011 and 2012 in partnership with the MHSS.

In addition, the MGE CW provide parent training to foster parents through its foster care programme which is set to become more systematised with the planned implementation of a focused training manual as part of the rollout of the Foster Care Standards in 2013.

Paternal parenting has received dedicated attention in view of the high numbers of children who do not reside with their father, and the traditional attitudes to stereotypical division of parenting roles between mothers and fathers. The MGE CW developed and implemented a national campaign on fathers taking responsibility for their children, described previously in this report. Training on the use of positive discipline has also been provided as described previously in this report.

In addition, advocacy linked to national and international days for children's rights is part of the strategy for increasing awareness of parental responsibilities.

- 1.8 The MGE CW provides material support to parents to enable them to provide for their children's essential needs. This support includes the provision of a maintenance grant which is set to be rolled out for all children living in poverty in Namibia, as well as a child disability grant. The MHSS provides free health care to OVC. Children living in poverty are also exempted from paying school costs, and they receive school uniforms from NGOs and the MGE CW.
- 1.9 The MGE CW provides care for children of working parents through after-school centres, and the Child Care and Protection Bill makes provision for the registration and regulation of child care facilities, including those providing care of children while parents are at work.

## **2. Equal responsibilities to maintain the child (Article 18.3)**

- 2.1 In furtherance of the obligation to ensure that no child shall be deprived of maintenance by reference to the parent's marital status, the Maintenance Act (2003) creates an obligation on all parents to maintain their children and creates processes for the recovery of unpaid maintenance.

### **3. Protection of the rights of children separated from their parents, adoption and periodic review of placements (Articles 19, 24 and 25)**

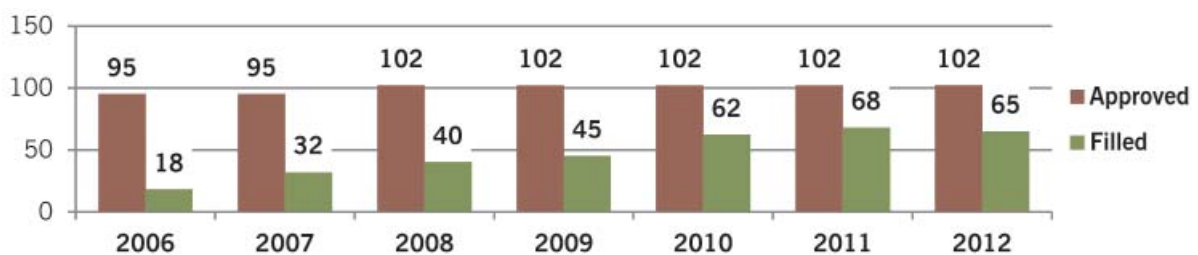
- 3.1 Articles 19 obliges the State to secure children's rights to parental care and protection, and wherever possible, to reside with their parents, and to be removed from the care of their parents only when such removal is ordered by a court. Article 24 obliges the State to ensure that the system of adoptions ensures the best interests of the child and protection of the child, recognises inter-country adoption in countries that have ratified the UNCRC and the ACRWC as being a measure of last resort, ensures the protection of children placed through inter-country adoptions, and establishes machinery to monitor the wellbeing of those children. Article 25 obliges the State to ensure the best interests, safety and protection of children placed in temporary alternative care.
- 3.2 The Government is committed to supporting family-based care for children in need of care and protection, and aims to prevent the separation of children from families. The Child Care and Protection Bill recognises and regulates not only adoption and foster care placements, but also traditional kinship care placements as a valid alternative care arrangement where children are cared for by extended family members by agreement with their parents.
- 3.3 The Children's Act 33 of 1960 makes provision for protecting children from arbitrary removal from their parents, and for providing court-appointed alternative care as well as remedial and therapeutic programmes to ensure, wherever possible, the reunification of children with their families. These protective measures are set to be substantially strengthened once the Child Care and Protection Bill comes into effect. The Bill guarantees that no child may be removed from his/her family without a court order. Provision is made for the emergency removal of a child in immediate danger of harm, but even these interventions require subsequent court scrutiny. In addition, where a child is in a potentially harmful situation and needs to be removed from his/her family, the Bill provides for a social worker investigation and a Children's Court child protection hearing. Only the court may order the child's removal into temporary foster care, kinship care, a place of safety, shared care or a children's home, or may make a permanent adoption order. When a child is removed, his/her family or caregiver must also, in terms of the Bill, be provided with rehabilitation, reconstruction and reintegration services, which are provided by the MGE CW and MHSS. A shortage of social workers and the onerous workload created by their social grant review responsibilities has meant the insufficient provision of these services. This is discussed in more detail in paragraph 3.4 below.
- 3.4 Foster care is regulated to ensure the safety, protection and best interests of the child. Following on the alternative care and foster care assessments (2008 and 2009), minimum standards were developed for residential child care facilities (2009), and for foster care (2011). Foster care guidelines, a social work training manual for assessing foster parents, a training workbook of prospective foster parents and a manual for training prospective

foster parents were developed in 2011, and 15 social workers were trained as trainers. An electronic foster care register was developed and linked to the national adoption register, and is currently being populated. Legislative provisions for foster care and kinship care have been included in the Child Care and Protection Bill. The MGECW is also developing child-friendly materials on the standards to improve child participation in this area.

3.5 Namibia processes approximately 80 adoption applications annually, including local and inter-country adoptions (ICAs). The outdated Children’s Act 33 of 1960 is applied; it makes provision for local adoptions but not ICAs. All adoptions (local and ICAs) must go through a Commissioner of Child Welfare (located in magistrates’ courts) for final approval. The MGECW used to limit the number of ICAs with a preference for finding local family-based care solutions. However, in 2004 the High Court ruled (Detmold case) that it was unconstitutional to put a blanket ban on adoptions of Namibian children by non-Namibians. This ruling created a loophole by enabling ICAs to take place without the involvement of the MGECW which oversees all adoptions. This hindered the MGECW’s capacity to oversee inter-country adoptions and ensure the best interests of the child. As a result, in 2012 Cabinet issued a directive for the MGECW to facilitate the process of accession to the Hague Convention on Inter-Country Adoption. The MGECW has included this convention in the Child Care and Protection Bill, and steps are underway to establish a Central Authority so that accession can take place. As soon as accession takes place, all ICAs will take place through the approved Central Authority, thereby ensuring that adequate safeguards are in place.

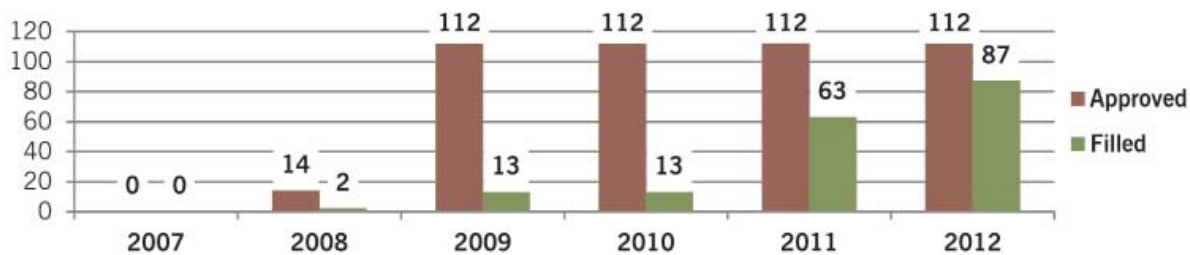
3.6 Government social workers are required to monitor placements, especially in residential child care facilities (RCCFs) and foster care, in terms of the Children’s Act (1960). They are guided in this respect by the norms and standards stipulated in the published *Minimum Standards for Residential Child Care Facilities in Namibia* (MGECW, 2009) and *Standards for Foster Care Services in Namibia* (MGECW, 2011). A key challenge in the implementation of this protection is created by the insufficient number of social workers in the system. This insufficiency, alongside the magnitude of demand for child welfare grants (maintenance, foster care and disability grants), means that social workers are on the whole overwhelmed by the work of assessing potential grant beneficiaries. Consequently there is limited post-placement support and monitoring. In response, the MGECW recently (April 2012) created 112 Community Child Care Worker posts and filled 87 of these in the 106 constituencies, and approved 102 Social Worker posts and filled 65 in the 13 regions.

**Chart 5: Approved versus filled Social Worker posts in the MGECW**



Source: MGECW, May 2012

**Chart 6: Approved versus filled Community Child Care Worker posts**



Source: MGECW, May 2012

3.7 In addition, once the Child Care and Protection Bill is enacted, kinship care placements will be monitored by the Clerk of the Children’s Court and Community Child Care Workers at community level. The MGECW plans to work closely with traditional leaders in further monitoring these placements once the Bill comes into effect.

## 4. Protection against abuse, neglect and exploitation (Articles 16 and 27)

Information on these matters was provided in this report under subsection (5) in the previous section on civil rights and freedoms.







# Health and Welfare

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## 1. Children with disabilities (Article 13)

- 1.1 Article 13 of the Charter requires the State to take special legislative, administrative and other measures to ensure the dignity of children with disabilities, and promote their self-reliance and active participation in the community; to ensure they receive assistance and access to training, preparation for employment and recreation opportunities; and to ensure their mobility and access to public institutions.
- 1.2 The 2006/07 Namibia Demographic and Health Survey found that 5% of people in Namibia have a disability. Disabilities include seeing, hearing, communication, physical, intellectual and other impairments. The majority are physical disabilities (39,9%), with more females than males with disabilities, and a higher prevalence of disability in rural than in urban areas (SINTEF Disability Living Conditions Survey, 2004).
- 1.3 The national regulatory framework for the provision of care and support for people with disabilities is provided through, inter alia, the following:
  - 1.3.1 The Constitution, which guarantees all people the fundamental right of respect for human dignity (Article 8), equality and freedom from discrimination (Article 10).
  - 1.3.2 The National Policy on Disability (1997) which adopts a social model of disability and obliges all sectors to take special steps to ensure the full social integration of people with disabilities in society, including raising awareness to educate and change public attitudes towards people with disabilities; prevention, early intervention and health education services, including the provision of rehabilitation and therapeutic aids, improvements in primary health care and education in health and social issues to benefit people with disabilities; the development of mandatory standards and guidelines to make the physical environment and facilities accessible to people with disabilities, including access to information.
  - 1.3.3 The National Disability Council Act (2004) makes provision for the establishment of a National Disability Council which is administered under the MHSS's Social Welfare Services Directorate. It is an advisory body with the mandate to provide strategic and expert advice on disability issues to the government. The Act makes provision

for 13 members to be appointed to the council, with seven members required to be from organisations of people with disabilities. The council's functions are to, inter alia, consult on the implementation of the National Disability Policy, comment on proposed legislation and monitor the implementation of the national policy. The council is hampered by organisational difficulties. As at November 2012, the second council which will operate for the next three years has not been inaugurated. While a secretariat is in place, it is experiencing organisational challenges.

1.3.4 In addition, a Disability Unit was established in 2001 in the Office of the Prime Minister which has established focal points within each line ministry to mainstream disability issues. Each line ministry is required to ensure the allocation of sufficient human and financial resources to ensure compliance with the Government's obligations in terms of the UN Convention on the Rights of People with Disabilities, and to record their commitments in a Disability Action Plan. In 2008, 11 focal point persons were appointed and 17 Disability Action Plans were drafted (Southern African Federation of the Disabled, 2008). The Sector Policy on Inclusive Education also makes provision for children with disabilities.

1.3.5 The MOE provides education to children with disabilities through a combination of mainstream and special schools which are discussed under the section dealing with the right to education. Education is also offered to sick children in hospitals, although the reach of the hospital schools is limited and needs to be expanded.

1.3.6 The National Policy for Mental Health (2005) commits to the establishment of community-based mental health services to remedy problems with the availability of, access to and quality of mental health services in Namibia. The MHSS is in the process of drafting amendments to the general regulations made in terms of the Mental Health Act regarding persons with mental health problems and the justice system which will make the system more accessible and responsive to the needs of people with disabilities.

1.3.7 The Policy on Orthopaedic Technical Services (2001) was developed to address the gross lack of access to prosthetics and orthotics, especially in rural areas in Namibia. The guiding principles of the policy are equity, availability, accessibility, affordability, community involvement, sustainability, inter-sectoral collaboration and care. To support the realisation of the policy objectives, the MHSS restructured the management of its orthopaedic technical services and built new orthopaedic workshops in regions with large rural populations to improve availability in those areas.

1.4 The MHSS bears the primary responsibility for the provision of services to people with disabilities under two directorates: the Directorate of Primary Health Care, which provides physiotherapy, occupational therapy, speech therapy, blindness prevention and medical rehabilitation; and the Directorate of Social Welfare Services, which provides support to organisations of people with disabilities, community-based rehabilitation, disability resource

centres and economic upliftment. The two directorates approach disability with two different but complementary models: a medical model and the social/human rights model.

- 1.5 Access to orthopaedic services in the form of assistive devices and treatment has increased substantially due to the expansion of the availability of these services to 10 of the 13 regions, the renovation of 67% of the orthopaedic facilities in three regions and the capacitation of service providers. For example, between 2000 and 2005, the number of patients provided with orthopaedic services increased to 17 930 of the 32 192 in need of these services (MHSS, 2008a). The National Programme for the Prevention of Blindness run by the MHSS at PHC level, which aims to prevent blindness through the provision of eye care services, has been particularly successful. The programme is available in all 13 regions, and has succeeded in preventing blindness and visual impairment through the scaled-up rate of cataract surgery, which increased from 700 operations/million population per year in 2001 to 1 880 in 2008, the training of eye care providers and the establishment of an eye care clinical network across the region.
- 1.6 Namibia is one of the few African countries that provide disability grants to both adults and children with disabilities. Currently there are 3 772 children (2 135 female and 1 638 male) with disabilities under the age of 16 who receive social grants. The maintenance grant for children with disabilities is currently N\$200 (US\$ 20) per month per child. The Child Care and Protection Bill increases assistance to children with disabilities by providing for the disability grant to be supplemented with the child maintenance grant.
- 1.7 A dedicated Division Responsible for Special and Inclusive Education Programmes has been established within the MOE to oversee the realisation of the right to education for children with disabilities. These children have the option of attending either mainstream or special schools, depending on the severity of their disability. Through both types of school, they receive specialised support from specially trained teachers as well as instructions through the specialised Curriculum for Special Needs. The MOE has developed a number of teacher development and support programmes to facilitate the training of teachers in special needs education. A manual for teachers and a training manual for facilitators were developed to guide all education sector employees to identify and support OVC. Every teacher in training at the University of Namibia (UNAM) is required to complete a module on Special Education and another on Inclusive Education. In 2010 there were 90 students, and 180 students enrolled for the Inclusive Education semester module for second year students in 2011. There is an elective year module for fourth year students on inclusive education, for which 26 students enrolled in 2010 and nine in 2011. A group of recent graduates of the Basic Education Teachers Diploma in Windhoek were trained as teacher sign language interpreters. As of 2012, UNAM offers a Master's Degree in Inclusive Education, and five students have enrolled. The MOE is developing a School Register of Needs, to provide an understanding of the special needs in schools as a step towards improving service provision.
- 1.8 Since 2008, the Education Management Information System (EMIS) has captured data on the number of children in the education system and their specific disabilities. However,

there is a challenge in accurately identifying the number of children with disabilities who are not enrolled in schools. The Government knows that many are not in school, but does not have systems in place to track and monitor children outside of the education system. At present they are tracked only through the national census conducted every 10 years, and the relevant census questions are not sufficiently specific to be useful for planning and monitoring purposes.

**Table 3: Learners with disabilities disaggregated by gender**

	Learning disorder	Autistic	Visual and hearing	Partially blind	Totally blind	Hard of hearing	Deaf
<b>Total</b>	<b>7 178</b>	<b>317</b>	<b>1 079</b>	<b>5 384</b>	<b>187</b>	<b>5 487</b>	<b>562</b>
Females	3 054	132	619	2 951	109	2 986	287
Males	4 124	185	460	2 433	78	2 501	275
	Epileptic	Behavioural disorder	Mild intellectual	Severe intellectual	Physical	Other	Total
<b>Total</b>	<b>1 317</b>	<b>6 098</b>	<b>3 623</b>	<b>1 033</b>	<b>1 511</b>	<b>1 235</b>	<b>35 011</b>
Females	781	2 013	1 562	427	636	591	16 148
Males	536	4 085	2 061	606	875	644	18 863

**Source:** Education Management Information System (EMIS) (2011)

- 1.9 Despite the preceding range of policies and programmes, access to many services is much poorer for people with disabilities. School attendance is lower for children with disabilities, especially among girls. Only 41% of girls with disabilities, compared to 37% of boys with disabilities, attended school in 2008 (SINTEF Disability Living Conditions Survey, 2004). Public health facilities do not provide adequate facilities to allow for access by people with disabilities (MHSS, 2008a). The primary causes are insufficient facilities, insufficient human, financial and transport resources, and a lack of capacity.
- 1.10 Two key developments are underway to address the challenges in question.
- 1.10.1 The draft Sector Policy on Inclusive Education for learners with disabilities guarantees the right to education for children facing barriers to education, including children with disabilities. It focuses on the inclusion of marginalised children and children with disabilities in formal education. The policy was developed as an Education and Training Sector Improvement Programme (ETSIP) response to the weaknesses identified in a Situational Analysis on the Provision of Special Needs Education commissioned by the MOE in 2004. Key findings were that the nine special schools, seven of which are based in Windhoek, are grossly inadequate for meeting the needs of disabled children; there is a general lack of capacity to build teacher expertise to teach children with disabilities; inadequate training is provided to teachers; and there is a general lack of adaptation of the curriculum for children with disabilities. In 2012, the policy (discussed in more detail in the section of this report dealing with the right to education) is on the table of the Minister of Education for his scrutiny before tabling in the Cabinet.

1.10.2 The Child Care and Protection Bill obliges the prioritisation of children's services for children with disabilities, and expressly requires that "Every person, authority, institution or other body must treat a child with disabilities in a manner which respects the child's dignity." Further, "A child with disabilities is entitled to appropriate care and protection and must have effective access, in so far as is reasonably possible and in the best interests of the child, to inclusive and non-discriminatory education, training, health care services, support services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to enabling the child to achieve the fullest possible social integration and individual development, ensuring his or her dignity and promoting his or her self-reliance and active participation in the community." (sections 10(1) and (2))

## **2. Health and health services (Article 14)**

2.1 In terms of article 14, the Government has committed to the following:

- a. Ensuring the physical, mental and spiritual health of all children by taking measures to, inter alia, reduce the infant and child mortality rate; provide children with the necessary medical assistance and health care, with an emphasis on primary health care; ensure the provision of adequate nutrition and safe drinking water; combat disease and malnutrition within the primary health care framework; ensure appropriate health care for expectant and nursing mothers; develop preventive health care and family life education and provision of services; and integrate basic health service programmes in the national development plans.
- b. Ensuring that parents, children and community leaders are informed and supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, and prevention of domestic and other accidents.
- c. Ensuring the meaningful participation of NGOs, local communities and the beneficiary population in the planning and management of basic service programmes for children, and in supporting the mobilisation of local community resources in the development of primary health care for children.

2.2 The health care system inherited by the State at independence was poorly organised and fractured, and was marked by significant gaps in the availability and quality of infrastructure and services for the majority of children and their caregivers. Upon independence the Government thus focused on consolidating the health system and developing infrastructure and health care programmes to provide basic health care services to all of its citizens.

2.3 Core developments included the building and renovation of health care infrastructure and service delivery models to reach all communities in the vast and sparsely populated regions of Namibia, the development and prioritisation of a Primary Health Care (PHC) Programme as the main vehicle for the universal delivery of maternal, infant and child health care, and the development and implementation of special programmes to provide

targeted interventions to address the most prevalent and common health epidemics in the country, including HIV and AIDS.

- 2.4 The strengthened post-independence institutional, service-delivery and programmatic health framework resulted in an increase in the number, accessibility, availability and quality of health care facilities and services for pregnant and lactating women, infants and children.
- 2.5 Access to health facilities, especially for the most marginalised communities, improved as a result of the MHSS building more facilities, and as a result of special projects initiated under the Office of the Prime Minister's programme for marginalised communities (discussed previously in Part C of this report). A massive infrastructure development programme meant that, by 2011, children and their families could access health services at 34 district hospitals, 3 intermediate hospitals, 1 national referral hospital, 44 health centres and 269 clinics. The determination of the location of new facilities was determined by, inter alia, the need to make services available in under-serviced areas with high levels of poverty, especially rural areas where the combination of poverty and distances to health facilities had a negative effect on access to services and the health and wellbeing of women and children. In consequence, access to health care facilities improved substantially. Between 1992 and 2006, the number of households within one hour of travel to the nearest clinic increased by almost 20% from 42,3% to 60%. In rural areas, the number increased from 22,7% to 37,2% (NDHS 2000 and 2006/07). By 2010, the situation had improved further, with 30% of households living within 2km of the closest health facility, and 93% of urban households and 46% of rural households having to travel only 6 km or less to the closest facility (NHIES, 2009/10). However, of concern for the Government is the ongoing poor standard of infrastructure at many of the health facilities. The 2009 Health Facility Census revealed serious inadequacies in the provision of the most basic services, such as a lack of running water and adequate sanitation in a number of facilities.
- 2.6 Access to health care and information about health and nutrition services for remote, rural and poor communities has further been improved through the introduction of a number of outreach and community-based health service delivery vehicles, including the following:
- 2.6.1 Namibia has a National Policy on Community Based Health Care and Guidelines for the implementation of the policy which is administered at regional, district and health facility level. In terms of the policy, 1150 outreach points are serviced by health care workers as part of the PHC Programme. In addition, the MHSS conducts regular outreach campaigns such as the annual Child Health Days where mobile teams of health practitioners visit remote areas to provide immunisation, vitamin supplementation and other essential preventive and diagnostic services. On a more systemic level, the PHC Programme includes a parenting support programme in terms of which committees at district hospitals link up with and advise parents in communities on child health care and promotion. Home-based health care is also provided by community-based health care workers in households, primarily in the context of HIV and AIDS programming. While these workers are employed by NGOs,

the MHSS provides them with training on the provision of community health services such as hygiene, home-based care and prevention of diarrhoea, and with home-based carer kits for home-based and palliative care. Their services are also regulated by the MHSS through the National Community Home-Based Care Standards (2010).

- 2.6.2 The MHSS has also developed and implemented a National Policy for School Health (2008), in terms of which each district hospital has a school health team that regularly visits schools in their catchment area to provide preventive and diagnostic health services such as health education. In addition, the policy makes provision for the development of Health Promoting Schools (HPS) with the aim of promoting and strengthening health services to all schoolchildren. In collaboration with the MHSS, HPSs provide safe water and sanitation, develop and implement school health policies, provide health education, and provide school-based health and nutrition services.
- 2.7 Improving the availability of health facilities has been accompanied by policy reforms which have increased the appropriateness and range of health services and programmes available through these facilities for children and youth, and pregnant and lactating women.
- 2.8 Namibia has always provided health care services at primary, secondary and tertiary level, but the emphasis for a long time was on curative, health-centred services. Since independence, Namibia has focused on moving the health system to a PHC-based system as a means of securing universal access to health care, especially for women and children.
- 2.9 The delivery of PHC services takes place through the MHSS's Regional and District Health Services Programme which receives the lion's share of the Ministry's budget. The Ministry's budget has grown substantially from N\$ 2 130 873 000 (approx. US\$210m) in 2008/09 to N\$ 3 975 968 000 (US\$400m) in 2012/13. Almost half of the budget (N\$ 1 682 711 000 or US\$168m) goes to Regional and District Health Services.

**Table 4: MHSS programme budget allocations 2012/13**

MHSS programme	2012/13 budget (N\$)	Approximate US\$ equivalent
Tertiary Health Care	666 701 000	67,000,000
Regional and District Health Services	1 682 711 000	168,000,000
Disease Control	43 412 000	4,300,000
Social Protection	23 421 000	2,300,000
Coordination and Support Services	1 559 723 000	156,000,000

**Source:** Medium Term Expenditure Framework 2012/13

- 2.10 The objective of the Regional and District Health Services Programme is to promote, protect and improve the health of families, especially women and children. Various PHC services, including the following, are provided at community level at clinics, health centres and district hospitals: family and reproductive health services, including the provision of information, education and training on health problems in families and communities

and ways of controlling these; promotion of proper nutrition in terms of the Strategic Plan for Nutrition (2011-2015); the adequate supply and utilisation of safe water; implementation of the Integrated Management of Childhood Illnesses (IMNCI) Programme which includes the provision of immunisations and the prevention and control of communicable diseases (diarrhoea, acute respiratory infections, malaria and HIV and AIDS) which cause child morbidity and mortality, and non-communicable diseases. The Division of Family Health also coordinates the delivery of school health services, adolescent-friendly health services and services to reduce teenage pregnancies.

2.11 In addition to PHC services, inpatient and outpatient services are provided at health facilities. These include wellness and prevention services, diagnosis, treatment, rehabilitation, ART and PMTCT services. Specialised services are provided through the Directorate of Special Programmes for the control, prevention and reduction of the impact of HIV and AIDS, tuberculosis (TB) and malaria.

2.12 Through the different health programmes and facilities, a package of health services and interventions are provided free to pregnant and lactating women, infants, children and youth, subject to payment of a registration fee (which varies according to the service provided). The registration fee may be waived for families who cannot afford it, and many especially vulnerable groups are exempted from payment, including people with disabilities and marginalised indigenous communities. Unfortunately, implementation of the exemption policy is not even across the country. No registration fees are charged for antenatal and postnatal care.

2.13 Antenatal and postnatal care and the prevention, diagnosis and treatment of childhood illnesses.

2.13.1 The MHSS provides antenatal and postnatal care for mothers and infants, which includes provision of, inter alia, PMTCT services, nutritional support, immunisation against common diseases and IMNCI services. However, despite the availability of a comprehensive package of services, child and maternal mortality rates in Namibia have remained tenaciously high. Maternal mortality rates were 449 per 100 000 live births in 2006/07, and the under-5 mortality rate was 69 in 2006/07 (an increase from 62 in 2000) (NPC, 2008).

2.13.2 There are a number of reasons for the poor maternal and infant outcomes in Namibia. Access to antenatal care (ANC) and related services is generally lower for women and children living in poverty, in rural areas, and with lower levels of education. Women's access to a trained health care assistant at the time of birth is, at 81%, lower than the Millennium Development Goal target of 95% (NPC, 2010). There is a marked irregularity in the rate of access to ANC services prior to delivery of babies in Namibia. While overall ANC attendance in eight of the nine districts exceeds 90%, with a national average of 94% in 2006/07, there are pockets of poor service delivery within these regions, the quality of the services provided is variable,



and many women do not attend ANC clinics sufficiently early in their pregnancy. While the majority of women (73% in urban areas and 68,4% in rural areas) made at least four ANC visits, far fewer attend ANC clinics 12/13 times during their pregnancy as per the MHSS's recommendations (NPC, 2010). Insufficient visits and delays in the initiation of ANC is especially problematic among teenage mothers. Immunisation coverage of children has increased: 80% of children were immunised against DPT-HepB-HIB3 in 2010. However, there is a significant dropoff rate after the first immunisations (WHO, 2010). In 2008, only 69% of children received their full course of immunisations (NDHS 2006/07). The poor quality of postnatal care is also a key contributory factor, and access to postnatal checkups is lower for women with lower levels of education and for those living in poverty (NPC, 2010). IMNCI services were implemented as from 1999 with the support of UNICEF and WHO. However, rollout of the programme has been slow, and by 2008 it had been implemented in only 47% of the 34 health districts and 157 of the 331 health facilities. The delayed rollout of IMNCI services, which includes the treatment of diarrhoea and acute respiratory infections, has contributed to these conditions continuing to dominate as the leading causes of infant and child mortality, alongside HIV and AIDS (MHSS, 2008a).

- 2.13.3 The reasons for poor access to services include poverty, long distances to clinics, the cost of travel, wanting to conceal the birth, and cultural attitudes among groups such as the Ovahimba which have, for example, prevented women from accessing ANC services early and giving birth in a hospital (MHSS, 2008b). While health care is free and a waiver of the registration fee is possible, many patients are unaware of this possibility, and there are no guidelines regulating the waiver, hence health care providers apply it at their discretion.
- 2.13.4 In addition to poor access to facilities and services, low levels of access to information to support health promotion and effective behaviour change (except for information related to HIV and AIDS) is a problem at health facilities, and is even more severe at community level (MHSS, 2008a). There have been only limited improvements in access to information and support in the use of health and nutrition information and services by parents, children, community leaders and workers (as required by Article 14(h) of the Charter). Improvements have largely been limited to those who make use of health services at clinics, and have largely been in the context of HIV and AIDS.
- 2.13.5 An additional factor undermining the effectiveness of the governing policies is the variable quality of health care services, especially for marginalised communities. For example, skilled birth attendants are often not available at health facilities, and there is a lack of emergency obstetric and neonatal care at lower and district levels of care. The underlying problems include the insufficiency of trained health care professionals, which is more severe in rural areas; declining donor funding; poor management and governance of health services, which has resulted in inefficient use of available funds; and an insufficient policy and regulatory framework (MHSS, 2008a; NPC, 2010; NDP4).

2.13.6 The insufficiency of resources as well as the skewed and preferential funding of special programmes, such as HIV and AIDS and TB, is recognised as a key contributor to the poor availability and quality of, and access to, key infant and maternal services such as the Expanded Programme on Immunisation (EPI). The imbalance has been further aggravated by the lack of coordination across different directorates and programmes within the health sector, resulting in the continued vertical implementation of key services such as the EPI, rather than the integration of infant, child and maternal health services into well-funded and broadly available services such as HIV and AIDS clinics (MHSS, 2008a).

2.13.7 The Government has recognised and put in place a number of measures to improve poor and variable access to and quality of services:

- The MHSS commissioned a comprehensive review of the health system in 2008, and on the basis of the findings, developed and implemented, inter alia, a costed Roadmap for Accelerating the Reduction of Maternal and Newborn Morbidity and Mortality (2007). The roadmap focuses on strengthening the resourcing and quality of PHC services, as well as access to these services, with the aim of rolling out and supporting a “Reach Every District” development approach. Specific aims include the strengthening of routine immunisation coverage. The 2012/13 budget vote commits to increasing immunisation coverage to 90% by 2015; extending health services into communities by recruiting paid community health extension workers; developing and implementing strategies to reduce maternal mortality; equipping all hospitals with emergency obstetric care and newborn resuscitation equipment; and building the capacity of health care workers to perform optimal newborn care practices. This is being complemented by Namibia’s adoption of the regional Campaign on the Reduction of Maternal Mortality in Africa (CARMA) in 2009.
- There have been a number of challenges preventing optimal implementation of community and home-based health services. Key problems relate to resource insufficiency and the resultant limited scale of interventions. The outreach/mobile services do not function effectively in many of the regions due to a lack of transport (MHSS, 2008a). Limited budgets and resources have also impacted negatively on the size of the community-based health care office within the MHSS, and on the employment of sufficient health care workers and sufficient PHC supervisors at district level. This has resulted in serious capacity deficits and low coverage of services such as visits to outreach points.
- To address this challenge, the MHSS, in 2012, is in the process of upgrading community health into a stand-alone department and scaling up community preventive health care and support as part of its PHC restructuring process. In addition, with the support of UNICEF and USAID, a community health extension worker project is being piloted in Kunene Region in 2012. The project has trained 34 community health extension workers whose primary focus is maternal and child health; HIV, TB and malaria; social welfare and disability;

and access to social services such as grants. Their role is to promote health and wellbeing and prevent illness among children and women at a community level, especially through health promotion interventions which include education and advocacy and the referral of community members to appropriate services and support. They are also trained in the provision of basic curative interventions such as the treatment of fever and provision of oral rehydration. After one year the pilot will be assessed, and if proven to be of value, it will be scaled up and implemented by the MHSS which will employ the trained community extension workers as full-time staff members. Similarly, in terms of the Community Based Rehabilitation (CBR) Programme, the MHSS utilises community volunteers in identifying and meeting the needs of children with disabilities – a strategy that is utilised internationally for improving the quality of life of persons with disabilities.

- In response to the cultural barriers to accessing health services, the MHSS has implemented a number of activities to promote positive traditional health care, address harmful practices of traditional health care providers, and train these health care providers. For example, training has been provided to traditional midwives and traditional health care providers to provide emergency deliveries and other forms of health care. This programme falls under reproductive health care while traditional healers fall under community health care. In addition, extensive interventions have been initiated in the context of male circumcision. Traditional health care providers have been trained by HIV groups to promote and practise safe circumcision. While the budget for the circumcision project is good (it is primarily donor-funded), other elements of the Traditional Health Care Project are not adequately funded, and there is scope for expanding its activities not only to more actively address harmful customary practices, but also to draw on positive customary practices such as extended and exclusive breastfeeding to promote national maternal and child health objectives.
- More recently, NDP4 has renewed the Government's commitment to improving the health system, and has committed the Government to ensuring that all Namibians have access to a quality health system and a comprehensive package of prevention, curative and rehabilitation services. It has further committed the Government to a number of strategies targeting the underlying challenges, including increasing the size, allocation and use of funding; the training, retention and equitable distribution of staff; the development of revised regulatory framework; improved coordination between all stakeholders; improved access to health facilities; and a reduction in the prevalence of disease.

## 2.14 HIV and AIDS, TB and malaria

- 2.14.1 The MHSS provides free prevention, treatment and palliative care in respect of HIV and AIDS, TB and malaria through, inter alia, its Directorate of Special Programmes which was allocated a budget of N\$ 43 412 000 (US\$4.3m) for 2012/13.

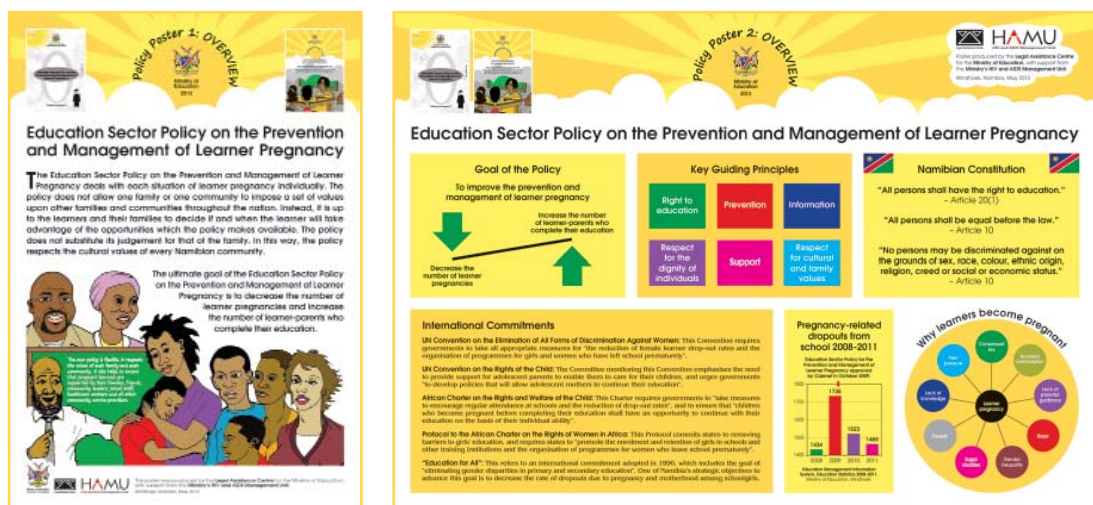
- 2.14.2 The HIV/AIDS pandemic has had a significant impact on Namibia's health profile, and is one cause for the rapid rise in maternal, infant and child mortality and the dramatic decrease in life expectancy. While the epidemic is now starting to stabilise in Namibia, infection rates remain high. In 2010, the prevalence rate in pregnant women (which is used to measure national prevalence rates) dropped to 18,8% from 22% in 2002 (MHSS, 2010). It is estimated that about 14 000 children aged 0-14 were infected with HIV by the end of 2010. Of these, 81 000 were in need of ART. The infection rate was estimated to grow by a further 4 400 infections in 2011. Moreover, the national rate is not an accurate reflection of the variable and often high prevalence rate in a number of regions, especially in those where the rate has increased. The prevalence rate is also higher in the northern part of the country.
- 2.14.3 Namibia has invested significantly in a comprehensive prevention, treatment, care and support programme in the fight against HIV and AIDS. The national multi-sectoral response is guided by the National Strategic Framework for HIV and AIDS Response in Namibia 2010/11-2015/16, which seeks to, inter alia, "maintain and improve the quality of life of Namibia's people by preventing new infections from occurring and by providing comprehensive and quality treatment, care and support to those already infected with HIV and AIDS". The framework makes provision for regions to develop their own plans so that they are adequately tailored to respond to the unique drivers and prevalence characteristics. The framework has four strategic intervention areas: prevention; treatment, care and support; impact mitigation; and response management. Children are prioritised across all four areas. HIV-related health services, which are provided by the MHSS, include prevention and awareness-raising campaigns to change behaviours (discussed in more detail in the following subsection (2.15) dealing with youth health services), testing and counselling, PMTCT services, ARV treatment, and home-, community- and clinic-based palliative care.
- 2.14.4 Coverage of these interventions is high: ANC coverage was 95% in 2006/07; 74% of facilities offered PMTCT in 2009; 93% of all pregnant women who attended their first ANC visit in 2010 received the HIV test result in 2010; and 77% of all HIV-positive pregnant women received a complete course of ARV for PMTCT in 2010 (MHSS, 2010).
- 2.14.5 Despite the good coverage of the ANC, PMTCT, testing and counselling and palliative care services, there is scope for improvement in two critical areas: early infant testing and exclusive breastfeeding. A vital element of a successful PMTCT service is early infant testing and treatment. While great strides have been made in increasing the number of pregnant women tested and on treatment, the rate of testing and treatment of infants is low: only 23% of HIV-exposed infants received a DNA/PCR test within eight weeks of birth (WHO/UNICEF/UNAIDS, 2010/11). Furthermore, although new guidelines were developed on infant feeding and HIV which addressed uncertainties around breastfeeding options for HIV-positive women, and which promote exclusive breastfeeding for six months, exclusive breastfeeding rates are very low.

- 2.14.6 Namibia was one of the first African countries to initiate its national Early Infant Diagnosis services in 2005. Its reach has expanded significantly since then. In addition, expanded treatment guidelines were adopted ahead of the WHO 2008 global guidelines change to make provision for the commencement of ARV treatment of all HIV-positive infants under the age of 12 months.
- 2.14.7 In addition to HIV interventions, the MHSS provides various services to prevent and treat malaria, including annual mosquito-spraying campaigns and the provision of mosquito nets to pregnant women.
- 2.14.8 TB services for children include TB screening of all children who come into contact with people with active TB, and putting all those under five years of age without signs of active TB on prophylaxis for a minimum period of six months if they have been in contact with persons diagnosed with TB.
- 2.14.9 Key ministerial targets in the Medium Term Expenditure Framework are to increase the number of health facilities providing ART to 278 by March 2015; reach 137 024 people with ART by the same deadline; reduce the malaria case fatality rate from the current level of 2.4/100 000 (2010/11) to 1.1 /100 000 by March 2015; and improve TB case management to attain a 90% cure rate.

## 2.15 Health care services for youth

- 2.15.1 The youth are an especially vulnerable group in relation to communicable diseases, and the MHSS has a well-developed youth health services programmes.
- 2.15.2 The MHSS has developed policies, guidelines and standards that address the health of adolescents, such as the National Policy for School Health (2008), the National Standards for Adolescent Friendly Health Services (2011) and the National Guidelines for Adolescents Living with HIV (2012). The latter guidelines provide a framework for the provision of a minimum package of essential multi-sectoral services to adolescents living with HIV through the integration of relevant services into all facilities and programmes by 2015/16.
- 2.15.3 The MHSS, through its Directorate of Primary Health Care, provides school health services, where each district hospital has a school health team that regularly visits schools in its catchment area. The services provided by the teams include health education on the following related topics:
- i. Abstinence, breast self-examination, HIV and AIDS prevention, sexually transmitted illnesses (STIs), pregnancy prevention and contraceptive methods including the female and male condoms.
  - ii. Information about sexuality, safe sex and relationships.
  - iii. Awareness and prevention information on commercial sex and risks.

- 2.15.4 The National Policy for School Health recommends the implementation of the Health Promotion School Initiative which promotes strengthening of health services for all schoolgoing children. It aims to empower children with the knowledge and skills they need to make informed decisions about their health and wellbeing, and to improve their quality of life. The MHSS and MOE are collaborating to increase the number of schools that can be deemed health-promoting schools. Such a school is one that constantly strengthens its capacity as a healthy setting for living, learning and working. The MOE also provides materials related to prevention of teenage pregnancy.
- 2.15.5 The Standards for Adolescent Friendly Health Services are in line with the draft National Policy on Reproductive Health, and outline the minimum essential service package which should be available to adolescents at public health facilities in Namibia. A minimum package of Adolescent Friendly Health Services includes counselling, education, clinical services and referrals. Currently, 20% of 411 of Namibia's HIV Counselling and Testing (HCT) sites, which are primarily at health centres and clinics, are characterised as adolescent friendly. The Namibian Family Planning Policy (1995) and draft National Policy on Reproductive Health allows for sexual and reproductive health services (including family planning) to be provided to all, regardless of age and without consent for minors.
- 2.15.6 The Education Sector Policy on Prevention and Management of Learner Pregnancy was approved by Cabinet in 2009, and includes a strong focus on the prevention of learner pregnancies. The policy allows pregnant girls to attend school until four weeks before giving birth, but does not require that they do so. Each situation is to be assessed and evaluated individually, with sensitivity regarding the learner's health and financial situation, options for child care, family support or lack of support, the timing of the delivery in relation to the school calendar and the needs of the newborn. Cabinet approved the policy in 2009, and practical steps towards its implementation were initiated in 2012. The MOE, with input from the Legal Assistance Centre, has developed a training manual on the policy as well as an information package and a series of seven posters to accompany the policy as part of the implementation plan.



2.15.7 The Government recognises that awareness of HIV status is a critical step towards providing comprehensive care for people living with HIV and AIDS. HIV counselling and testing (HCT) is also an entry point for HIV prevention services for adolescents. Knowing one's HIV status is very important: it enhances one's ability to reduce the risk of acquiring or transmitting HIV, to access HIV-specific care, treatment and support, and to make informed decisions about other aspects of one's life. In Namibia anyone who is 16 years of age or above is considered able to give full informed consent for HCT. According to the 2008 National Policy on HIV/AIDS, testing without parental consent is possible before age 16: "Youth over the age of 16 can access VCT [voluntary counselling and testing] without the consent of a guardian or parent. Children under the age of 16 shall be entitled to access VCT without the consent of a parent or guardian, provided that the child concerned is accompanied by an adult in a position of responsibility such as a religious leader or teacher or relative." The National Guidelines for HIV Counselling and Testing in Namibia (2011) say that anyone who is 16 years or older is considered able to give full informed consent for HCT, but children younger than 16 years who are engaging in behaviours that put them at risk of acquiring an STI, or who have already acquired one, should be considered 'mature minors' who can consent to HCT. The Child Care and Protection Bill also allows for children older than 14 to independently consent to HIV testing, and for a child younger than 14 to consent if he/she is sufficiently mature. The Bill contains provisions for testing as well as for pre- and post-test counselling of children.

Almost all health facilities (98%) in Namibia have an HIV-testing system and are able to offer HCT. Almost 90% of facilities with an HIV-testing system have registers for the test results of their clients; 84% of sites have a record for clients receiving their test result. There are no readily available estimates of VCT service utilisation by young people, but these can be estimated from two sources:

- National Strategic Framework on HIV and AIDS Response self-reports; and
- routine counselling and testing data.

**Table 5: Population-based estimates of testing behaviour of young people by sex and age group, 2000 and 2006/07**

	Male (years)			Female (years)		
	15-19	20-24	15-24	15-19	20-24	15-24
NDHS 2000	5%	21%	13%	9%	26%	17%
NDHS 2006/07	9%	30%	18%	19%	65%	40%

The preceding data from the NDHS 2006/07 suggests that counselling and testing is increasing for both young males and females over time, although testing behaviour is higher among girls and young women than among men. Testing behaviour is least common among 15- to 19-year-olds (especially boys), but increases dramatically by 20-24 years of age.

National Testing Day (NTD) data (Table 7) is potentially biased, given that it is based on a brief event. But without routine HCT data reports, it is not possible to ascertain

how well this data reflects the “background” testing behaviour in the population. However, 2008, 2009 and 2010 NTDs do reflect the National Strategic Framework finding that the testing ratio of 15- to 19-year-old females to males is approximately 2:1 or higher, that this ratio decreases somewhat by age range 20-24, and that testing behaviour generally increases among young people with age.

**Table 6: Estimates of testing behaviour from National Testing Day data (non-population-based, non-probabilistic sampling)\***

	Male				Female				Both			Overall
	0-14	15-19	20-24	15-24	0-14	15-19	20-24	15-24	0-14	15-19	20-24	15-24
2008	6%	6%	18%	24%	5%	11%	21%	32%	5%	9%	20%	29%
2009	Age/sex distributions not reported for 2009 and 2010											–
2010									5%	10%	22%	32%

\* Figures represent percentages of all persons tested during the National Testing Day events.

**Table 7: Repeat HCT behaviour seen during 3-day National Testing Day event, 2008\***

	Female count	Male count	Repeat testing	Percent Repeating
0-14	1020	809	178	9.7%
15-19	2208	827	480	15.8%
20-24	4380	2430	2004	29.4%
15-24	6588	3257	2484	25.2%

\* Such data was not reported for the 2009 and 2010 National Testing Days.

## 2.16 Food and nutritional support, including water and sanitation services

2.16.1 The poor nutritional status of children in Namibia is of particular concern to the Government, as is evidenced by its extensive response to the issue, documented below.

2.16.2 The MHSS provides various forms of support to ensure that pregnant women, infants and children receive adequate food and nutrition and do not suffer from malnutrition, including growth monitoring of infants and children; provision of supplements such as iron foliate, micronutrients and calcium to pregnant women; deworming (74% coverage); provision of vitamin A supplements to infants and children aged 6-59 months (68% coverage), and zinc supplementation for children with diarrhoea; promotion of breastfeeding; and promotion of complementary feeding through education and information, food supplements and/or cash transfers for children living in poverty; food and nutritional support and guidance for feeding of children living with HIV and AIDS and infants and young children; food fortification, such as salt iodisation; and health facility-based treatment (in all 34 districts) of severe and moderate acute malnutrition (available in 115 facilities in 2011) (SUN, 2012). The programmes in question are governed by a host of policies, laws and guidelines listed in Annexure C of this report. In addition to the listed policies, the MHSS has developed a Code for the Marketing of Breast Milk Substitutes (BMS) which is awaiting final approval and is expected to be implemented shortly.



2.16.3 It is not only the MHSS that provides food and nutritional support. Namibia's policy framework recognises adequate food, water and environmental health as a basic human right, and recognises that the realisation thereof depends on the collective action of multiple ministries, not just the MHSS. A full list of policies, laws and guidelines governing food, nutrition, water and sanitation is provided in Annexure C.

2.16.4 Other ministerial interventions include the following:

- Namibia's labour law provides for maternity leave for a period of 12 weeks to allow for, inter alia, breastfeeding.
- Nutritional education is provided to all children in terms of the National Policy for School Health (2008), and food is provided to primary school children living in poverty and to OVC in terms of the National School Feeding Programme and the Education Sector Policy for Orphans and Vulnerable Children. In 2011, 270 000 children at 1214 schools were receiving food at school (SUN, 2012). Food and nutritional support provided to OVC in terms of the Food Support Programme for OVC Phase II reached over 90 000 children between 2006 and 2008 (MGECW, 2010).
- The Water Supply and Sanitation Policy (2008) and supporting programmes aim to ensure that all Namibians have access to essential water and sanitation supplies so as to ensure their health and a hygienic environment. These objectives are realised through programmes such as the Ministry of Regional and Local Government, Housing and Rural Development's (MRLGHRD's) Build Together Programme which provides grants to small local authorities to provide basic services such as water, sewerage and electrification of informal settlements.
- The National Policy on School Health (2008) also supports the establishment of Health Promoting Schools (HPS). One of the four components of an HPS is the provision of safe water and sanitation as the first step towards a healthy learning environment. A further NGO-funded innovation at schools are hygiene clubs which provide information, knowledge and skills to children on good hygiene, including handwashing. The objective is that the children, in turn, become agents of change in their communities. In addition, UNICEF Namibia supports a number of school-targeted programmes around handwashing which it is advocating for the MOE to mainstream within its plans and budgets.
- The MHSS supports community-based awareness-raising and advocacy campaigns on hygienic behaviour such as regular handwashing.

2.16.5 In 2010, 84% of households had access to safe drinking water, 13% used stagnant water and 3% used flowing water; 99% of urban households had access to piped water compared to only 57% of rural households; 40% of households had access to flush toilets (significantly more urban households (78%) than rural households (10%) use flush toilets), 10% used pit latrines, less than 1% use bucket toilets, and 49% had no access to toilet facilities (NHIES, 2009/10).

2.16.6 Namibia has an expansive policy framework governing food, nutrition and environmental health for children and their families. However, according to WHO and UNICEF, the nutritional status of children in Namibia has remained particularly poor. In the period 2006-2011, 15,7% of infants were born with low birth weight, and only 23,9% of children aged 0-6 months were exclusively breastfed. In the same period, 29% of children under 5 years of age were stunted, 7,5% were wasted, 17% were underweight and 4,6% were overweight. In 2006/07, 24 005 children under 5 years of age were moderately or acutely malnourished, with 6 081 being in a severe state of acute malnutrition and requiring medical and nutritional care. Diarrhoea, caused in part by poor environmental hygiene, is a leading cause of child morbidity in Namibia (WHO, *Maternal and Child Health in Namibia*, 2009; UNICEF Multiple Indicator Cluster Survey (MICS) 4; NDHS Annual Reports cited in SUN, 2012). The 2006/07 NDHS found that 12% of children aged under 5 had had diarrhoea in the two weeks preceding the survey.

2.16.7 The Government has recognised the need for, and has taken a number of proactive measures to substantially improve implementation of the policies and the nutritional status of its children. It has become an active member of the global Scaling Up Nutrition (SUN) Movement which is a country-led initiative for effective national multi-sectoral systemic change to improve maternal and child health through improved nutrition. One of the measures taken in terms of Namibia's SUN affiliation has been the establishment of the multi-sectoral National Alliance for Improved Nutrition (NAFIN) within the Office of the Prime Minister, aimed at addressing high levels of stunting in Namibia. NAFIN is made up of 10 line ministries and a number of NGOs which work to coordinate and implement the multi-sectoral National Nutrition Strategy and strategically manage national nutrition-promotion activities. NAFIN was launched in December 2010, and in March 2011, Cabinet issued a resolution – “Report on Malnutrition in Namibia: The Time to Act is Now” – to support and expedite nutrition interventions in Namibia. The resolution recommends the implementation and/or strengthening of food fortification and agricultural bio-fortification programmes, feeding programmes and food distribution for vulnerable populations, advocacy to improve community awareness, community-based growth monitoring programmes, and nationwide deworming, immunisation and supplementation campaigns. NAFIN has recognised that a lack of alignment and accountability across different line ministries has hampered the efficacy of past collaborative interventions. In response, NAFIN is developing a Country Implementation Plan and Common Results Framework to ensure that cross-sector programmes are implemented to scale, and to ensure that gaps are identified and rectified.

2.16.8 Cabinet's resolution estimated that an additional US\$ 4.2 million would be required from public and private resources to effectively address malnutrition in Namibia. Unfortunately there is no specific government budget line for nutrition. NAFIN is funded through the Ministry of Finance which allocated N\$ 1 000 000 (US\$100,000) for the period 2011-2014. The MHSS has planned for expenditure in the sum of US\$7.8

million to reduce malnutrition in Namibia in the period 2009-2013. In addition, the Government has recognised the slow pace of change in ensuring universal access to adequate water and sanitation. It has sought to increase services through the allocation of substantial additional funds for the period 2010-2012 to address water and sanitation backlogs. In 2010/11 the budget share to address the housing and sanitation backlog increased from 3.3% to 3,8%, and in 2012/13 an additional N\$ 444 million (US\$ 44m) was allocated for rural water supply and sanitation services which had already benefited from a budgetary increase in 2011/12 from N\$ 452 million to N\$ 766 million (US\$ 45m to US\$ 77m) (Ministry of Finance, 2012).

2.16.9 The recently adopted National Agenda for Children 2012-2016 commits the Government to ensuring that all children under 5 years of age have access to adequate nutrition, growth monitoring and health services. The agenda commits to and prioritises implementation of the following strategies by the MHSS's Family Health Division provided for in the Strategic Plan for Nutrition 2011-2015: improvement of infant and child health, including ARV prophylaxis for infants of HIV-positive mothers; immunisation and micronutrient supplementation; promotion of optimal infant and young child feeding practices, with a focus on exclusive breastfeeding; integration of effective communication for behaviour change into ANC and immunisation services; the establishment and improvement of community-based nutrition surveillance and growth monitoring; the rollout of community-based integrated management of acute malnutrition; facilitation of salt iodisation; and provision of food supplements at ECD centres.

### **3. Involvement of children and the community in health services**

3.1 There is a framework for the involvement of NGOs and communities in the planning, implementation and monitoring of health services. As discussed in previous sections, advisory and oversight structures such as the National Disability Council are required to include individuals with disabilities, including members of organisations of people with disabilities. In addition, many NGOs are involved in the delivery of health services. NGOs, community-based organisations (CBOs) and faith-based organisations (FBOs) involved with different aspects of community-based care have grown dramatically. Much of this growth has been in response to challenges created by the HIV/AIDS pandemic. In 2007, a total of 290 organisations with approximately 20 000 volunteers provided some level of community-based health care (CBHC).

3.2 In addition, Namibia has a system of clinic committees which include community members and traditional leaders. The role of these committees is to oversee the day-to-day services provided by clinics. The 2008 review of the health system found that overall, 72% of health facilities had health committees, with one region (Oshana) having 100% coverage of these committees.

## 4. Social security and child care services

- 4.1 The Government has committed, in terms of Article 20(2) of the Charter, to assist persons in need who are responsible for children, to enable them to fulfil their responsibility of providing for the children's nutritional, health, educational, clothing and housing needs.
- 4.2 The Government provides a comprehensive package of support in respect of the health, nutritional and educational needs of children, which are described in detail in the relevant sections of this report.
- 4.3 In addition, Namibia is one of the only African countries that provide a comprehensive set of social grants: for adults, an old-age pension and a disability grant; and for children, a foster care grant, child maintenance grant, disability grant and place of safety allowance. Even though the grants have largely targeted orphans, they have expanded substantially in their reach. By late 2011, child welfare grants reached more than 135 000 children.
- 4.4 Having recently recognised child poverty as a key developmental challenge, the Government, in NDP4, has committed to expanding the reach of its child welfare grants by overcoming administrative hurdles through, inter alia, simplifying the means test, expanding the grants to reach all children living in poor households, and introducing a kinship care grant. In addition, it has committed to improving grant recipients' standard of living by introducing annual inflation-linked increases.
- 4.5 The Government has also started measuring the rate of reduction in child poverty through the inclusion of child poverty questions in the annual NHIES survey.

## 5. Care for orphans

- 5.1 In 2006/07, 28% of children in Namibia were deemed to be orphaned and/or vulnerable. Seventeen percent were orphaned (i.e. one or both of their parents were deceased), and the number of orphans had increased from 15% in 2000 (NDHS 2006/07).
- 5.2 The Government has developed and implemented a comprehensive multi-sectoral programme of support for OVC, which is described in detail in Part C of this report.



# Education, Leisure and Cultural Activities

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## 1. The right to education, leisure and cultural activities (Articles 11 and 12)

- 1.1 The ACRWC requires the State to realise, respect and promote the right of every child to an education, leisure and cultural activities by, inter alia, the following:
- a. Making education available and accessible to all children, especially the most vulnerable, by providing free and compulsory basic education; providing secondary education in its different forms and making it progressively free and accessible to all; making higher education accessible to all on the basis of capacity and ability; encouraging regular attendance and reducing dropout rates; and taking special measures to ensure equal access to education for female, gifted and disadvantaged students. With regard to female learners, the State is obliged to ensure, as far as possible, that girls who fall pregnant while at school are supported to enable them to return to school and complete their education (Article 11(6)).
  - b. Ensuring that school or parental discipline is administered with humanity and with respect for the inherent dignity of the child, and in conformity with the Charter (Article 11(5)).
  - c. Ensuring that the education system and curriculum are designed and implemented so as to promote the child's personality, talents and mental and physical abilities to their fullest potential; promote respect for human rights and fundamental freedoms; preserve and strengthen positive African morals, traditional values and cultures; prepare the child for responsible life in a free society in a spirit of understanding, tolerance, dialogue, mutual respect and friendship among all ethnic, tribal and religious groups; preserve and promote national independence and African unity and solidarity; develop respect for the environment; and promote the child's understanding of primary health care.
  - d. Ensuring that all individuals have the liberty to establish independent educational institutions, subject to the condition that they may be required to conform to minimum educational standards set by the State.

## 2. The education system, progress and budgets in Namibia

- 2.1 The Government has recognised education as both a fundamental right of all children and a national developmental priority. The Namibian Constitution states that “all persons shall have a right to education”. The Education for All National Plan of Action 2001-2015 recognises that, “[for] the Namibian nation education and socio-economic development are inextricable”. This link is clearly reflected in the elevation of the status of education as a “basic enabler” – that is, an essential condition for economic development without which sustained development cannot take place – in NDP4. Desired Outcome 2 of NDP4 is that “Namibia is characterised by a high-quality and internationally recognised education system that capacitates the population to meet current and future market demands for skills and innovation.” In addition, the Government has committed to realising the right of all children to basic education, in terms of Namibia’s National Agenda for Children 2012-2016, by ensuring that “All children have equitable access to quality integrated ECD services, and pre-primary, primary, secondary and vocational education.”
- 2.2 The Government provides a comprehensive education system for children which makes basic and further education available in the form of early childhood and pre-primary education, primary and secondary education, vocational education and training, and tertiary education. In addition, various leisure and cultural activities are provided through the education system.
- 2.3 Enrolment and retention rates at primary level are good, with a gross primary enrolment rate in excess of 100% and a net enrolment rate of almost 90%. The primary school attendance rate is 90%, as is the primary school completion rate. Since 2003/04, literacy has increased from 83% to 88%. In 2012, gender parity has largely been achieved at both primary and secondary levels, with equal enrolment ratios in primary schools, and more girls than boys enrolling in secondary school. The student-teacher ratio is good at 29.9 pupils per teacher in primary schools and 24.6 pupils per teacher in secondary schools.
- 2.4 These improvements have come about as a result of a substantive education reform process initiated by the Government at independence. In addition to having sought reforms to address the racial inequalities of the inherited apartheid education system, the Government has sought, and continues to work to address the following key challenges:
- 2.4.1 A high dropout rate among primary and senior secondary school learners.
- 2.4.2 Providing education to the country’s sparsely populated areas, the inhabitants of which are mainly indigenous communities.
- 2.4.3 A legacy of inequity in the distribution of resources between regions and between rural and urban areas.

- 2.4.4 A legacy of poorly qualified teachers. At independence, 36% of teachers had no professional training.
- 2.4.5 Poor educational outcomes and substantial variation in outcomes between higher and lower socio-economic groups and between urban and rural children (SACMEQ III, 2010).
- 2.4.6 The high prevalence of HIV and AIDS, and the impact these have had on children and teachers.
- 2.5 After independence, Namibia undertook substantive educational reforms to address its inherited inequalities and to promote the realisation of international legal and developmental commitments made by the Government pursuant to its ratification of instruments such as the UNCRC. The reforms, which aimed to improve educational access (especially at primary school level), equity, quality and democracy, were pursued through the development of a number of revised policy documents and position papers such as *Towards Education for All* (1993), the National Development Plans of 1996 and 2002, the *Report of the Presidential Commission on Education, Culture and Training* (1999), the Ministry of Basic Education, Sport and Culture (MBESC) Strategic Plan 2001-2006 and the Ministry of Higher Education, Training and Employment Creation (MHETEC) Strategic Plan. In subsequent years, these reforms have been supplemented and strengthened through further innovations targeting: (a) improvements in access to education for emerging vulnerable groups such as children affected by HIV and AIDS; (b) improvements in the availability of, and access to, secondary education; (c) the introduction of more children to early childhood development (ECD); (d) further improvements in the quality of education; (e) the development of vocational education to improve the skills of young people to meet social and economic demands; and (e) improving the efficiency of the use of educational resources to optimise outcomes. In 2011, the Government hosted a National Education Conference with the overall aim of providing a platform for all stakeholders to interrogate the education system in Namibia and contribute to improved learning outcomes at all levels of education. Resolutions taken at this conference were tabled at Cabinet level and approved as directive to be executed as such. Resolutions centred on the following:
- 2.5.1 Management, structure and decentralisation: leadership and strategic management; improving the organisational structure of the MOE; and auditing human resource.
- 2.5.2 Budgeting system: new “zero budgeting system”; development budget; and adherence to the Namibian Constitution in terms of Universal Primary Education.
- 2.5.3 Legislation: review of the Education Act 16 of 2001.
- 2.5.4 Early Childhood Development (ECD) and Pre-Primary Education: construction of ECD facilities and classrooms for pre-primary education; curriculum development; development of teaching materials; full implementation of the policy on ECD; and teacher training.

- 2.5.5 Quality improvement of primary and secondary education: training programme for school principals and school boards (school governing bodies); Continuous Professional Development (CPD) opportunity development; review of the promotion policy; expanding the School Feeding Programme; securing teachers from friendly countries; textbook allocation per learner (per capita budget allocation); review of the language policy in education; approval of the Sector Policy on Inclusive Education; introduction of compulsory mathematics; development of an effective school cluster system; curriculum reform and review, including vocational subjects; English Language Proficiency Programme (ELPP); teacher education (University of Namibia to introduce diploma courses for pre-primary and primary education); and teacher training on the Education Sector Policy on Prevention and Management of Learner Pregnancy.
- 2.5.6 Vocational education and training: encouraging vocational centres to generate own income by doing simple maintenance tasks at schools, such as painting and replacing broken windows; and expanding vocational education and training.
- 2.5.7 Higher education: reform of higher education; higher education funding formula; job attachments and internships for students in higher education; Namibian Students Financial Assistance Fund (reform of the fund, restructuring the fund and building strong partnership with reputable institutions).
- 2.5.8 Lifelong learning and libraries: expansion of libraries and community learning resource centres; and expansion and diversification of open and distance learning.
- 2.6 Responsibility for the provision of education, sport, leisure and culture is split across three Ministries: Education; Gender Equality and Child Welfare; and Youth, National Service, Sport and Culture.
- 2.7 These three ministries' budgets supporting the realisation of the right to education, sport and culture have grown substantially.

**Table 8: MOE, MGECW and MYNSCC budgets 2008/09 and 2012/13**

Ministry	2008/09 (N\$)	US\$ (±)	2012/13 (N\$)	US\$ (±)
Ministry of Education	4 782 761 000	478m	9 415 973 000	942m
Ministry of Gender Equality and Child Welfare	264 887 000	26m	567 988 000	57m
Ministry of Youth, National Service, Sport and Culture	319 168 000	32m	528 699 000	53m

**Source:** Ministry of Finance, Medium Term Expenditure Frameworks 2008/09 to 2009/10 and 2012/13 to 2014/15

- 2.8 As Table 8 shows, the MOE budget (which covers pre-primary, primary, secondary, vocational and tertiary education) has increased from N\$ 4 782 761 000 in 2008/09 to N\$ 9 415 973 000 in 2012/13. At almost 25%, the education budget constitutes the largest share of the total national budget in 2012 (Ministry of Finance, 2009 and 2012).



- 2.9 The MOE's budget is divided between a number of programmes, including General Education, Vocational Education and Training, Higher Education, HIV and AIDS response, and Planning, Coordination and Support services.
- 2.10 General education receives the largest share of the education budget, at N\$ 6 024 907 000 (approx. US\$ 600m) in 2012/13. (This share was increased by over 100% between 2005 and 2011). General Education encompasses pre-primary education; primary education; secondary education; curriculum, research and teacher professional development; and national examinations and learning assessments. Table 9 shows the budget allocation for these General Education programmes.

**Table 9: MOE budget 2012/13**

General Education programmes	2012/13 (N\$)	Approx. US\$ equivalent
Pre-primary education	1 955 000	196,000
Primary education	4 493 216 000	449,000,000
Secondary education	1 095 912 000	110,000,000
Curriculum, research and professional development	52 379 000	5,200,000
National examination and learning assessment	77 149 000	7,700,000

**Source:** Medium Term Expenditure Framework 2012/13 to 2014/15

- 2.11 In 2012/13, N\$ 270 319 000 (approx. US\$27m) has been allocated to Vocational Education and Training, N\$ 1 553 851 000 (US\$155m) to Higher Education, and N\$ 10 760 000 (US\$1.8m) to the MOE's HIV and AIDS response.
- 2.12 The budgets for the MGE CW and MYNSSC have also grown to reach a total of N\$ 567 988 000 (US\$57m) and N\$ 528 699 000 (US\$53m) respectively in 2012/13. A significant percentage of these budgets support the realisation of children's rights to education.
- 2.13 The MGE CW budgeted N\$ 52 770 000 (US\$5.3m) for its Community and Integrated Early Childhood Development Programme in 2012/13, which is to be used for, inter alia, a monitoring, evaluation and information management system; establishing and maintaining ECD centre infrastructure; and building human resource capacity to implement ECD and support the delivery of ECD services.
- 2.14 The MYNSSC has allocated N\$ 238 766 000 (US\$24m) for youth development in 2012/13. This includes youth empowerment interventions for training rural unemployed youth in entrepreneurship and business development services; the National Youth Service, which aims to promote volunteerism, internship and entrepreneurship among the youth so as to enable them to acquire the skills, exposure and experience necessary to access employment; the National Youth Council (NYC), which aims to foster a spirit of national identity, a sense of patriotism, a sense of unity, self-respect and awareness of social, economic, political, educational and cultural prospects and adversities among the youth; and the provision of multi-purpose youth centres, hostels, youth skills training centres and rural youth development centres.

- 2.15 The MYNSSC is responsible for the provision of sport, arts and culture. It has progressively increased its budgets to realise these rights, as shown in Table 10.

**Table 10: MYNSSC budgets 2005/06 to 2010/11 (N\$ millions; approximate US\$ equivalent)**

Programme	2005/06		2006/07		2007/08		2008/09		2009/10		2010/11	
	N\$m	US\$	N\$m	US\$	N\$m	US\$	N\$m	US\$	N\$m	US\$	N\$m	US\$
Sport	29 893	3.0	49 097	5.0	44 967	4.5	55 509	5.6	54 372	5.4	53 019	5.3
Arts	15 793	1.6	27 013	2.7	34 823	3.5	35 917	3.6	37 383	3.7	38 856	3.9
Culture	15 793	1.6	27 014	2.7	32 859	3.3	31 150	3.1	32 386	3.2	36 184	3.6

Source: MGECW, First, Second and Third Namibia Country Periodic Reports on the Implementation of the UNCRC (1997-2008).

### 3. Early childhood care and education

- 3.1 Early childhood development (ECD) is recognised as central to the attainment of national developmental objectives, and is afforded priority status in the governing national development plans. One of the objectives of Namibia’s Vision 2030 is “to promote and support quality, sustainable holistic, Integrated Early Childhood Development for children aged 0-6 years and to develop capacity of care-givers to increase quality”. The recently published NDP4 recognises the centrality of universal access to quality ECD to attaining broader educational objectives, and commits the Government to providing more government-owned and government-funded ECD centres for the poorest children aged 0-4; to improving the quality of ECD; and to increasing government support to ECD centres. In addition, NDP4 commits the Government to increasing the availability of pre-primary education, and to increasing the Government’s focus on quality and efficiency in the use of resources towards the realisation of these goals. NDP4 commits the Government to the provision of 100 free, government-run, strategically located ECD centres by 2017, focusing on the poorest sections of society; increased provision of and support for ECD teacher training; increased ministerial capacity to implement and support ECD centres; and to the transfer of responsibility for ECD from the MGECW to the MOE.
- 3.2 There are a number of policies and programmes in place that have laid the foundations for the realisation of the NDP4 and Vision 2030 ECD objectives.

3.2.1 The MGECW and MOE are responsible for the provision of ECD for children aged 0-4 years, and pre-primary education for children aged 5-6. The MGECW developed an Integrated Early Childhood Development (IECD) Policy in 2009 “to make provision for family and community-based sustainable and integrated ECD programmes that are accessible to all young children and their families, with a special focus on the development of IECD programmes for young children living in difficult circumstances”. It has instituted an IECD programme which encompasses the following:

- Support for the establishment of ECD care centres and home-based ECD programmes. The centres, which are run by private individuals, provide services for groups of children aged 2-4 years, and provide them with child care, nutrition

and a stimulating learning environment offering school readiness interventions. The MGECW provides information on the range of integrated services that ought to be provided at the centres, and on service standards, and a small budget is provided to cover start-up costs for construction and instruction materials. The home-based care programme, which targets children aged 0-1 year, provides mothers with improved knowledge and skills in integrated ECD services and support, offers a safe and stimulating environment for children, gives mothers time to take part in income-generating projects, strengthens children' and mothers' interaction, increases women's self-confidence and promotes their adoption of new roles.

- A Parenting and Community Education Programme, aimed at educating mothers, daughters, fathers and sons about the importance of ECD, strengthening their skills, motivating parents and communities to take part in ECD, and promoting adult education. This programme will be complemented by a manual that the MGECW has developed on male parenting responsibilities, with a view to raising awareness of the importance of the role of fathers and other males in the child's development, and with a view to promoting the equal sharing of parental rights and responsibilities as required by Article 18(2) of the Charter. The programme, which is expected to be implemented in 2012, will target the training of different groups of men at community and family level, including traditional leaders, fathers and boys, professional groups and church groups. The training will also emphasise positive African traditional parenting values that support strong paternal and male involvement in the development and wellbeing of children, as is required of all education programmes in terms of Article 11(2)(c) of the Charter.
- The Family Visitors Programme, which is a community-based programme targeting children aged 0-6 years who do not benefit from ECD services as a result of distances to centres and/or their personal difficult circumstances. The programme targets especially vulnerable children, including orphans, street children and children with disabilities. Services and support are provided at household level by Family Visitors selected by the community. At the time of writing in 2012, this programme is operational in three regions.

3.2.2 As noted previously, the MGECW is supported in realising its ECD objectives in marginalised communities through the Office of the Prime Minister's (OPM's) Special Programme for Marginalised People. The OPM invests in the building of ECD centres in the targeted communities, the training of ECD teachers in those communities and the payment of an allowance to the teachers.

3.2.3 The MOE is responsible for curriculum development and the implementation of the pre-primary commitments made in terms of the Education and Training Sector Improvement Programme (ETSIP) 2006-2020. The ETSIP ECD objectives include improving equity in, access to, the management and monitoring of, and the quality of ECD and pre-primary education. The MOE has, inter alia, developed a 12-week training programme for caregivers as well as a 10-week school readiness programme

as part of the Grade 1 curriculum. The MOE has also started rolling out pre-school classes at schools. Since 2006 it has implemented this facility at 10 schools per year, with the overall objective of making it available at all schools throughout the country. The MOE has committed funds from its 2012 budget to build an additional 300 pre-primary classrooms, and to provide playground equipment, stationery, teaching and learning support materials, and in-service training for pre-school teachers (Ministry of Finance, 2012).

- 3.3 Access to ECD has improved since independence. By 2010, an estimated 7 554 children aged 5-6 years were enrolled in the Government Pre-Primary Education Programme, and an estimated 50 000 children aged 3-6 years were attending ECD centres throughout Namibia (NPC, 2010).
- 3.4 Despite this progress, there is still some way to go to realise the ECD objectives spelt out in the National Development Plans. Challenges include the lack of government-owned ECD centres and the associated lack of ECD sites and programmes, especially in rural areas; the lack of legal regulations for centres (until the Child Care and Protection Bill comes into effect); a lack of qualified ECD teachers; the undervaluing of ECD educators; the variable quality of ECD services; and insufficient ECD budgets (NDP4, 2012/13 to 2016/17).
- 3.5 The elevation of ECD and related objectives as national developmental priorities in, inter alia, NDP4, is likely to ensure the progressive remediation of these challenges given the national imperative on all relevant ministries to align their planning, budgeting, monitoring and evaluation processes with the national developmental priorities as articulated in NDP4.

## **4. Provision of free and compulsory primary education (Universal Primary Education) and secondary education**

- 4.1 The Constitution guarantees the rights of all children to free and compulsory primary education (Article 20(2) and (3)) in primary education. Moreover, the Constitution requires that the Government provide and maintain schools at which primary education is provided free of charge.
- 4.2 In furtherance of its constitutional and regional obligations to make educational facilities available to all children, the Government engaged in a massive educational reform process at independence. This was necessitated by the massive exclusion of the majority of children in Namibia by the pre-independence apartheid education system which was fragmented along racial and ethnic lines, and marked by skewed resource allocations between regions, insufficient infrastructure, poorly qualified teachers, insufficient teachers and teaching and learning materials, and undemocratic decision-making processes within the system.

4.3 The newly independent State consolidated its education system into one unified system, made primary education compulsory for all children, and focused on building more public primary and secondary schools and training its many unqualified teachers. In the years 2000 to 2006, 128 schools were constructed (MGE CW, 2009). In 2008, 20 078 classrooms, 438 special teaching rooms, 455 workshops and 589 laboratories were constructed. In 2012 there were 21 374 classrooms, 2166 special teaching rooms, 628 workshops and 1 017 laboratories in total (EMIS, 2012). In 2012, Namibia had a total teaching staff of 24 660, of whom only 1 208 (825 females and 383 males) had no teaching qualification. This translates into a mere 5% of all teachers (3% female and 2% male) without teaching qualifications in 2012. In terms of gender, 5% of all female teachers and 4% of all male teachers had no formal qualification – an insignificant disparity (EMIS, 2012).

4.4 A number of steps have been taken to make primary schooling free and to address other poverty-linked challenges to education. The Education Act 16 of 2001 provides that “All tuition provided for primary and special education in state schools, including all school books, educational materials and other related requisites, must be provided free of charge to learners until the seventh grade.” In addition to relief from payment of fees, the prevailing per capita funding formula was implemented to address the pre-independence inequitable distribution of resources across the 13 regions. The funding formula aims to secure the distribution of resources on a more pro-poor and equitable basis. Resources are allocated on the basis of the number of children in a school, the number of poor children enrolled, the distances that affect the region and the poverty index of the region.

While this provision made primary education more accessible, with a resultant enrolment rate of almost 100% (97% in 2011), the same Act has allowed schools to raise a School Development Fund (SDF) from parents. In consequence, most primary and secondary schools have charged parents an annual SDF contribution of N\$ 250 (US\$ 25) at primary level and N\$ 500 (US\$ 50) at secondary level. However, some schools, especially in urban areas, violated the Education Act by charging more than the Act stipulates. In addition, the availability of schools was undermined for children with additional educational needs because of a lack of facilities and infrastructure at the schools that were made available. These factors have undermined the constitutional guarantee, and have served to bar a number of children from primary education, especially those who were most vulnerable, including children living in poverty, children of indigenous minority communities, orphans and children living in households affected by HIV and AIDS. Numerous policies and programmes have been implemented to exempt, from payment of the SDF contributions, especially vulnerable groups of children such as indigenous marginalised children and those who have been orphaned or otherwise made vulnerable by the health and related circumstances of their caregivers, or otherwise to materially support them.

In December 2012, the MOE amended its national education policies to abolish the SDF at all public primary schools. In its draft Action Statement on the Provision of Free and Compulsory Primary Education (2012), the Ministry has committed, and defined the scope of its commitment, to providing free, compulsory, quality and inclusive primary education.

It provides that “education provision in primary education shall be free of charge with no demand for monetary contribution from the learner, the parents or the guardian ... Any monetary contribution by a learner, parent or guardian ... shall be made of free will.” The Action Statement further commits the MOE to developing a substitute staff policy to address teacher absenteeism; procuring specialised equipment and furniture to ensure access for learners with additional needs; and providing instructional and learner resource material to all learners in primary school. Schools offering primary education receive a “school grant” to address the immediate needs previously covered by the SDF. All learners with disabilities in special schools, regardless of age or grade, are beneficiaries of this school grant. The revised free primary school policy, however, does not cover the cost of school uniforms, educational excursions, extramural activities and boarding fees. The MOE has spent N\$212 million on the school grants distributed to each primary school, including all special schools for realisation of Universal Primary Education.

- 4.5 In addition to general pro-poor funding formulae and fee waivers, the MOE has sought to address various other challenges to access to education and to performance in school through its Language Policy and its policies and programmes targeting especially vulnerable and indigenous children.
- 4.6 The Sector Policy on Inclusive Education covers all previous policies for special groups, and also targets the education system in general, with a view to ensuring that the system in general responds to diversity and addresses the needs of all learners. Other policies and laws developed to date to secure the educational inclusion of especially vulnerable groups are: the Education Sector Policy for Orphans and Vulnerable Children (2008); the National Policy on Disability (1997); the National Policy Options for Educationally Marginalised Children (2000); the Education for All National Plan of Action 2001-2015; and the Education and Training Sector Improvement Programme (ETSIP) (a 15-year strategic plan – 2006-2020). All of these are discussed in more detail in previous sections of this report.
- 4.7 Marginalised children have received special attention through further measures such as the introduction of 45 mobile schools for the Ovahimba children. The teaching content is adapted to the Ovahimba culture, the school timetables are flexible in different seasons of the year, and irregular attendance of children is accommodated without strict sanction. For the San children, the Office of the Prime Minister (OPM) established the “Back to School and Stay at School Campaign” in 2010 as part of the San Development Programme. This campaign is aimed at encouraging learners in San, Ovatua and Ovatjimba communities to attend and remain in school so as to receive an education like other citizens of Namibia. In 2011 the campaign toured several Ovatua and Ovatjimba community settlements in Kunene Region.

While there has been a slight increase in enrolment rates for San children, most marginalised children have very limited access to education. Parents are unable to pay SDF contributions for secondary schools learners and to purchase uniforms, due in part to high levels of poverty. The OPM’s programme pays the SDF for schools with high numbers of marginalised

learners. Provision has also been made for exempting learners from marginalised communities from the School Development Fund (SDF) at secondary education level, and from payment of hostel and examination fees.

The MOE, in collaboration with other ministries as well as NGOs, has implemented the Forum for African Women Educationalists in Namibia (FAWENA) project which aims to integrate the San into national life by providing them with relevant, culturally appropriate and functional basic education, with a special focus on the education of girls. Practically, FAWENA provides marginalised children with basic educational needs such as a school uniform, stationery, money for the SDF, toiletries, transport, examination fees and hostel fees, in support of the same material support provided by the San Development Programme of the Office of the Prime Minister. In 2012 FAWENA reached 160 San learners, 208 Ovahimba learners and 213 children with disabilities. FAWENA also provides scholarships, psychosocial support and mentoring activities for learners to improve school retention and academic performance. Furthermore, FAWENA mobilises and sensitises members of marginalised communities to the importance of education for both girls and boys, and the importance of the community members' involvement in the children's education. The private sector and NGOs such as the Working Group of Indigenous Minorities in Southern Africa (WIMSA) assist tremendously in this regard.

- 4.8 In addition, the MOE has developed and is implementing the Education Sector Policy on Prevention and Management of Learner Pregnancy. This policy allows for pregnant girls to attend school until four weeks before giving birth, but does not require that they do so. Each situation is to be assessed and evaluated individually, with sensitivity regarding the learner's health and financial situation, options for child care, family support or lack of support, the timing of the delivery in relation to the school calendar and the needs of the newborn. Cabinet approved the policy in 2009, and practical steps towards implementation were initiated in 2012. The MOE, with input from the Legal Assistance Centre, developed a training manual on the policy as well as an information package and posters to accompany the policy as part of the implementation plan. Relevant implementers were trained and continue to receive training.

## **5. The quality and aims of education**

- 5.1 The Government has actively sought to improve the quality of teaching and learning to improve both educational outcomes and the skills match between learners and the needs of Namibia's modern and growing economy. The relevant interventions, which have been guided by the overarching ETSIP, have included improving teaching and learning infrastructure as well as materials through the Capital Project on the Construction of Physical Facilities; curriculum development through the revised National Curriculum for Basic Education (2010); and the development of teachers' skills and qualifications through pre- and in-service training, and through the establishment of both a National Standard Setting Body for the Teaching Profession and a Continuous Professional Development Unit at the University of Namibia.

5.2 In addition, through its Life Skills curriculum, the MOE has sought to promote cultural diversity and tolerance as well as respect for children's rights. The Ministry now appoints full-time Life Skills teachers – unlike in the past where the Life Skills subject was an add-on for teachers to meet the set teaching load.





# Special Protection Measures

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## 1. Children in emergency situations (Articles 23 and 25)

- 1.1 Articles 23 and 25 oblige the State to take all necessary measures to ensure that refugee and internally displaced children receive appropriate protection and humanitarian assistance; to cooperate with international organisations to protect and assist child refugees to trace their parents or relatives; and to ensure that if no parent is found, the child in question receives the same protection as any other child who is temporarily or permanently deprived of his/her family environment.
- 1.2 Namibia has ratified the 1951 Convention relating to the Status of Refugees as well as the 1967 Protocol relating to the Status of Refugees. Since 1990, the country has hosted refugees, mainly from conflicts in Angola and the Democratic Republic of the Congo.
- 1.3 Namibia hosts refugees at the Osire Refugee Camp located approximately 250 km north of Windhoek. The Government engages with the embassies of the applicable countries to facilitate the return of children to those countries. If the Government is aware of Namibian children residing in other countries, it assists them to obtain documents and facilitates either their placement in homes and schools in those countries, or their return to Namibia.
- 1.4 The rights of refugee children in Namibia to education and health care services are protected. Primary education is free and available to all children, including refugee children. The primary school in Osire Refugee Camp is run jointly by the MOE and the Office of the UNHCR. There is also a junior secondary school in the camp that accommodates all children who pass their Grade 7 examinations. Early childhood education services are provided by a kindergarten in the camp. The MHSS, in partnership with the Office of the UNHCR, operates a health care centre in the camp, where antenatal and postnatal services are available for all mothers. Health awareness education is conducted in the camp, targeting all refugees and asylum seekers. All refugee children receive the same health services as Namibian children, including immunisations and access to ARVs.
- 1.5 Parts of Namibia are subject to regular floods which cause temporary internal displacement. Caprivi Region along the Zambezi River is the most frequent site of floods, while the Cuvelai Basin in north-central Namibia is also flooded, though less frequently. The Government responds to these floods largely with its own resources, with efforts being coordinated by the Office of the Prime Minister. Flooding in the Cuvelai Basin occurred during the 2008

rain season and again in 2009. In 2008, approximately 2 800 people were unable to find their own shelter and were cared for by the Government.

- 1.6 The current legal framework makes it difficult to place unaccompanied undocumented children in foster care or other forms of alternative care. However, this situation is set to improve with the strengthened protective legal framework for refugee and/or unaccompanied/undocumented children provided in the Child Care and Protection Bill. The Bill makes provision for the following protective measures and services:
  - 1.6.1 Article 213 provides that no health care facility or school may exclude a child, including a refugee or migrant child, on the basis of his/her nationality, immigration status or lack of identification documents.
  - 1.6.2 Furthermore, where children lack documents, an order of the Children's Court will constitute a sufficient basis for the child to access a social grant.
  - 1.6.3 Article 214 provides for the special protection of children in the refugee application, repatriation and detention processes. An unaccompanied refugee child is permitted to apply for asylum without adult assistance. However, in any interview with the child, a social worker must be present. No child may be repatriated without proper arrangements for his/her reception and care upon return, and where the child is the subject of a Children's Court order, the court must confirm the repatriation. Furthermore, a refugee child may not be detained, except as a measure of last resort, and those who are detained may not be detained with adults. The only exception is where a refugee family is detained, in which case the children may not be separated from the adult family members.
  - 1.6.4 Article 127 recognises an unaccompanied migrant/refugee child as one in need of protection services. As such, an unaccompanied migrant/refugee child must be referred to a social worker for an investigation, and to the Children's Court for a child protection hearing and placement order. As such, this category of children is entitled to all the same protective benefits as any other child in need of protection services, including rehabilitation, reconstruction and reintegration services, and to a placement order, including a foster care order, or an order for placement in a place of safety or a children's home, or in the care of a designated caregiver.

## **2. Children in armed conflict (Article 22)**

- 2.1 Article 22 requires that State Parties take all necessary measures to ensure that no children take part in hostilities, and that children are not recruited into the armed forces.
- 2.2 Namibia was one of the first countries that signed the CRC Optional Protocol on the Involvement of Children in Armed Conflict in September 2000. Namibia has neither

conscription nor any other form of compulsory service. The Coalition to Stop the Use of Child Soldiers notes that there are no reports of children serving in the armed forces. The age for voluntary recruitment is 18, and recruits are required to provide certified copies of their identity document and birth certificate before they are accepted (Coalition to Stop the Use of Child Soldiers, 2008).

### **3. Children in conflict with the law, victims and witnesses (Article 17)**

- 3.1 The Government has committed, in terms of Article 17, to taking steps to set a minimum age of criminal capacity, and to ensure that every child accused or found guilty of committing a crime receives special treatment in that no detained child may be subjected to torture, inhuman or degrading treatment or punishment; all detained children must be kept separate from adults; all children must be informed of the charges against them in a language they understand; all must be provided with legal assistance; all shall have the matter determined as speedily as possible; the press/public must be barred from trials; and the purpose of sentencing should be to reform, reintegrate and rehabilitate the child.
- 3.2 According to a study conducted by the Ministry of Labour and Social Welfare in 2008 (MLSW, 2008) and a study conducted by the Ministry of Gender Equality and Child Welfare in 2012 (report forthcoming in 2013), 10-30% of children in conflict with the law were used by adults to commit crimes.
- 3.3 A number of protective measures are in place, governed by a host of laws and implemented by a range of roleplayers including the police, the Office of the Prosecutor-General, the courts and the prisons. For example, the Children's Act No. 33 of 1960, the Criminal Procedure Amendment Act No. 24 of 2003 and the Correctional Service Act No. 9 of 2012 (which replaces the Prisons Act No. 17 of 1998 but is not yet in force) provide the primary framework for the child justice system. These are complemented by other pieces of legislation, such as the Combating of Rape Act No. 8 of 2000, which contain protections for children in conflict with the law.
- 3.4 The proposed Child Care and Protection Bill will further define children's rights, and the longstanding Child Justice Bill will consolidate, strengthen and harmonise the full set of protective measures for children in conflict with the law with international legal instruments as well as the ACRWC.
- 3.5 Until such time as these Bills are enacted, the current protective measures in place include the following:
  - 3.5.1 Children aged under 7 years are not legally competent, and those aged 7-14 cannot be convicted of a crime nor incarcerated, except under compelling circumstances.

- 3.5.2 Children under the age of 18 are tried in special, closed courts, but they can be incarcerated if found guilty of a crime. Children under the age of 16 who are arrested must be released to a parent/guardian while awaiting trial. In addition, children under the age of 18 are not subject to any of the minimum sentences prescribed by, for example, the Combating of Rape Act.
- 3.5.3 In cases where children have to testify, special child-friendly courts are available to allow for the child's isolation from the proceedings, and for the adoption of child-friendly procedures, such as the presiding officer wearing informal clothes rather than a robe. While child-friendly courts have been established in Windhoek, Mariental and Otjiwarongo, the Government recognises that there are not enough of these courts, and that there is an urgent need for development in this regard. In addition, the procedures currently followed have not been set out in any guidelines or regulations. The consolidation and regulatory development of child-friendly procedures would aid in the systematisation of child-friendly court processes. In 2012, a process is underway to systematise and strengthen the child witness protection framework. A workshop was convened to develop a plan of action to systematise a national child witness protection programme through steps such as scaling up the programme of child support persons which currently operates in courts in three regions under the guidance of the LAC. The plan is for the MGE CW to take over and scale up the programme. The system has been further hampered by the insufficient numbers of prosecutors, who, due to their overwhelming workload, have little time or patience to apply child-friendly procedures. To resolve this problem, the Office of the Prosecutor-General has submitted a bid for additional funds to employ additional prosecutors.

Historically there have been delays in the prosecution of all cases, including those involving children. It can take years for a matter to come to court. The Office of the Prosecutor-General has implemented a process, referred to as prosecutor-guided investigations, aimed at expediting cases involving child victims, in terms of which prosecutors make a special request to the police to refer the matter to the Office of the Prosecutor-General as soon as possible. The office then monitors the progress of the case with a view to speeding up investigations. This has worked in some cases where cooperation between the police and prosecutors is good. Sometimes, however, where the relationship is not optimal, the supervision stalls. Currently this process is applied only in cases involving child victims, not children in conflict with the law.

- 3.5.4 Social workers are an integral part of Namibia's child justice system. They conduct an investigation into all cases and evaluate the child's situation, whereafter they submit to the presiding magistrate a report on the child's situation and recommendations as to sentencing and treatment options.
- 3.5.5 One of the recommendations that the social workers may make is that the child be diverted. A primary goal of child justice is diversion of children away from the formal

criminal justice system into rehabilitative and therapeutic programmes run by the MYNSSC. Programmes may include (depending on the social worker's evaluation) basic skills training, educational assistance and counselling. Diversion provides an alternative to the formal criminal justice system, and successful completion of a diversion programme leaves the child with no criminal record. While diversion appears to be successful (the number of children detained in Namibian prisons dropped from 567 in 2000 to 297 in 2007), the Government recognises that it is not used as often as it could be. One of the reasons for the poor implementation of protective measures, including diversion, is the manner in which the police are currently dealing with child offenders. They are falling through the cracks as they are being dealt with and investigated by the ordinary Criminal Investigations Directorate (CID) units, rather than the WACPUs. The CID units have not received adequate training, and tend to treat child offenders as they would an adult offender, i.e. as a criminal rather than a victim. The WACPUs are currently advocating for the transfer of this role to the WACPUs. The problem with the anticipated transfer is the lack of personnel.

3.5.6 Children under the age of 16 may not be incarcerated. Children who are incarcerated are placed in special sections of the 13 existing prisons around the country, isolated from the adult population. These sections are staffed by officers who have received special training on dealing with incarcerated children. At present there is a preference for using local facilities to incarcerate children, because in most cases this makes it easier for family members to visit the child. Section 69 of the Correctional Service Act 9 of 2012 deals with the custody of children awaiting trial or awaiting conclusion of trial. According to this section, a juvenile who is awaiting trial or awaiting the conclusion of his/her trial must not be detained in a correctional facility, unless, in the opinion of the court, such detention is necessary and no suitable place of detention as defined in the Children's Act 33 of 1960 is available for his/her detention.

## **4. Children of imprisoned mothers (Article 30)**

4.1 Article 30 of the Charter requires the State to take measures to provide special treatment to expectant mothers and mothers of infants and young children who have been deprived of their liberty. In particular, the State is required to consider a non-custodial sentence as the first option; establish and promote alternative institutions for holding such mothers; ensure that mothers are not imprisoned with their children; and provide reformation, reintegration and rehabilitation services for such mothers.

4.2 Namibia's current criminal justice system recognises pregnancy as a mitigating factor in sentencing. The Correctional Service Act No. 9 of 2012 makes special provisions for the sentencing, treatment and accommodation in prison of expectant mothers and mothers of infants and young children.

## **5. Children in situations of exploitation and abuse, including commercial and sexual exploitation and abuse, sale, trafficking and abduction of children**

- 5.1 The Namibian Constitution protects children under the age of 16 years from economic exploitation, and prohibits hazardous work and any work that interferes with education. The Labour Act No. 11 of 2007 also regulates child labour and makes provision for the investigation and prosecution of child labour. The Labour Act gives more detailed protection. For example, it provides that children aged 14-16 years may not work in the evening after 20h00 or in the morning before 07h00. Provisions in the Child Care and Protection Bill complement the Labour Act by providing additional protections against the worst forms of child labour. The Bill also provides limited exceptions (with safeguards) for child actors and children who take part in various other activities, such as concerts and beauty pageants.
- 5.2 The Ministry of Labour and Social Welfare (MLSW) has a multifaceted advocacy and educational Action Programme on the Elimination of Child Labour. The Government and civil society recognise the impact of traditional attitudes and practices on the rate of child labour in Namibia. The MLSW's Action Programme includes advocacy, awareness-raising and outreach campaigns targeting traditional leaders and communities to educate them about the harm caused by child labour. In addition, the LAC has successfully engaged with traditional leaders on child labour.
- 5.3 The MLSW conducted a National Child Activities Survey (NCAS) in 2005 to address the lack of updated socio-economic data on the activities of Namibia's child population. The Government recognised the need to undertake a survey to generate data that would enhance the understanding of the problems faced by children, including child labour. The survey posed questions to establish whether a child had worked in the preceding 12 months and during the reference week (7 days). A person was considered to have worked if he/she had performed any activity for pay (cash or in kind), profit or family gain during the reference period. This work also included unpaid family activity in a family business or farm. Of the total household population of 1 450 767, children aged 6-17 years amount to 568 635 or 39.2%. Of these children, 408 638 or 71,9% were found to be working. The overall rates of child participation in work activities was 71,9% for both sexes, 72,5% for females and 71,2% for males. Of the total of 408 638 working children in the country, 349 130 were in rural areas, implying that the phenomenon of working children in Namibia is overwhelmingly rural. The 2005 NCAS data reveals that of all working children, 23 253 or 5,7% (6,7% males and 4,7% females) had never attended school or any training institution. Most of the working children in the country combine work with schooling/training; 86,1% of them were still attending school or a training institution and 8% had left school. For those attending school or a training institution and also working, 11,5% said that their work affected their attendance. The 2005 NCAS data indicate that the use of tools, equipment or machines by working children in the workplace was fairly widespread, whereas injuries or incidents of illness were rare among working children. Overall, only 1,6% of children who were working reported having suffered from an illness or injury due to work or caused at the place of work.

5.4 As a result of the NCAS assessment, the MLSW, through its Inspectorate Division, conducted joint child labour follow-up inspections in the agricultural sector. Joint teams comprised of labour inspectors, social workers, police officers and representatives of the MOE were formed and visited nine regions where child labour were prevalent in the initial inspection in 2009. The aims of the inspections were to withdraw all children found engaged in child labour activities; issue compliance orders; lay criminal charges against employers found to be persisting with employing children in contravention of the Labour Act; and create public awareness against child labour through the media. The findings were as follows:

- Ninety percent of the employers had complied with the compliance orders issued during the 2009 inspections.
- Most communities, employers and parents lacked knowledge and information about the prohibition and restriction of child labour.
- Difficulties were experienced in the placement of children in places of safety following their withdrawal from labour.
- The lack of schools and hostel facilities in close proximity to many farms and villages obstructs many children's and parents' desire for school attendance.
- Poverty is the main cause of child labour, and the working children, most of whom live on a farm with their parents, are from poor families.

Three criminal cases were opened against employers who had failed to comply with the orders previously issued.

5.5 The 2009 Prevention of Organised Crime Act 29 of 2009 explicitly criminalises human trafficking, and the Child Care and Protection Bill make provision for the prohibition of trafficking, and for the protection and provision of services to victims of trafficking. Labour inspectors have started removing children from exploitative situations. In 2010, 10 children were removed from cattle herding and domestic work in Caprivi Region.

5.6 Provision is also made for protecting children from sexual abuse and prosecuting abusers. These measures are dealt with extensively in previous sections of this report.

## **6. Child victims of harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child**

This issue is dealt with extensively in preceding sections of this report.

## **7. Protection against discrimination of children belonging to minority groups**

This issue is dealt with extensively in preceding sections of this report.

## 8. Children who need special protection on account of being in risky or vulnerable conditions

This issue is dealt with extensively in preceding sections of this report.

## 9. Any other emerging or unforeseen problem (Article 26)

- 9.1 Climate change is increasing the frequency, intensity and impacts of natural disasters, which has significant consequences for children. It has the potential to impact on their education, access to their documents, and on their livelihood, food security, health, and basic water and sanitation services.
- 9.2 The Government has responded, with the support of the UN System and NGOs, by developing a National Policy for Disaster Risk Management (2010). However, the Policy needs strengthening so as to ensure the protection of children.
- 9.3 A comprehensive *Namibia School Manual on Emergency Preparedness and Response*, based on groundwork of the MOE, the Directorate of Disaster Risk Management in the Office of the Prime Minister, the various Regional Education Directorates, UNICEF and UNESCO, will be distributed to all schools in the country in early 2013.





# Responsibilities of the Child (Article 31)

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1. As noted previously in the discussion on general measures of implementation, the Namibian Government has recognised its obligation to take measures to ensure that children fulfil their responsibilities to their families, society, the State and other communities as required by Article 31. The legislative framework for these measures is provided in the Child Care and Protection Bill's balancing of children's rights and parental responsibilities with children's responsibilities – a balance which is important for ensuring traditional acceptance and promoting children's rights.
2. In addition, various ministries and other roleplayers have engaged in a range of awareness-raising initiatives to increase awareness among children of their rights and responsibilities. They have also created different platforms for children to participate in decision-making at national, regional and community level as a means of fulfilling their civic responsibilities.
3. Measures include the development of a child-friendly version of the UNCRC; meetings in which children have been trained on their rights and responsibilities; the systematisation of training on relevant rights and responsibilities through schools; the biannual Children's Parliament for which children from different groups, including children with disabilities and children of indigenous minorities in all 13 regions, are identified for participation in national discussions on core children's issues, such as corporal punishment; children's participation in the development of children's laws such as the Child Care and Protection Bill, as described earlier in the section on the right to participate and be heard; and children's participation in community-level child protection committees. There are also initiatives aimed at increasing children's engagement at SADC regional level.
4. Concerns have been expressed about the level of meaningful engagement with children. The MGECCW has engaged in a targeted campaign to ensure that children's civic engagement is not mere 'window-dressing'. The Ministry has sought to do this through the child protection committees, the involvement of children in national and regional coordination structures, and the establishment of junior counsels at municipal level.



# Annexures

## Annexure A: Participants in the consultative processes for the development of this report

### INTERVIEWEES

<b>Helena Andjamba</b>	Director of Child Welfare, MGECW
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<b>Veronica Theron</b>	Control Social Worker, MGECW
<b>Lydia Shikongo</b>	Deputy Director of Grants, MGECW
<b>Rahimisa Kamuvingona</b>	Control Social Worker, MGECW
<b>Celeste Feris</b>	Control Social Worker, MGECW
<b>Brigitte Nshimiyimana</b>	M&E Officer, MGECW
<b>Reinette Cronje</b>	Chief Inspector, Woman and Child Protection Units, MSS
<b>Advocate Nuyoni</b>	Office of the Prosecutor-General
<b>Amon Ngavetene</b>	Legal Assistance Centre
<b>Lydia Kandetu</b>	Head of Civil Registration, MHAI
<b>Anette Bayer-Forsingdal</b>	Programme Specialist, MHAI
<b>Hilma Auala</b>	Deputy Director of Family Health in Primary Health Care, MHSS
<b>Marjorie van Wyk</b>	Programme Nutritionist, MHSS
<b>Frieda Taapopi</b>	Programme Administration for Adolescent Health and Family Planning, MHSS
<b>Sophie Nicodemus</b>	Micro-nutritionist, MHSS
<b>John Ruta</b>	Chief Dentist, MHSS
<b>Roswitha Gomachas</b>	Law Reform and Development Commission
<b>Rachel Coomer</b>	Legal Assistance Centre
<b>Charles Avelino</b>	UNICEF – Education
<b>Myo-Zin Nyunt</b>	UNICEF – Health

### WORKSHOP PARTICIPANTS

<b>CAFO</b>	Mr Uugwanga	<b>MOE</b>	Dr Kahikuata-Kariko
<b>LifeLine/ChildLine</b>	Mr Bhutyaweto	<b>MOJ</b>	Mr Dyakugha
<b>MGECW</b>	Ms Andjamba		
	Ms Feris	<b>OPM</b>	Mr Kamatuka
	Ms Kamuvingoma	<b>Private</b>	Mr Muhipa
	Ms Martin		
	Ms Shipoh	<b>REPSSI</b>	Ms Bessinger
	Ms Theron		Mr Betts
<b>MHAI</b>	Ms Bayer-Forsingdale	<b>UNICEF</b>	Mr Dalling
	Ms Kandetu		Mr Palombi
<b>MHSS</b>	Mr Nashandi		Ms Laurentin
	Mr Natanael	<b>WACPU</b>	Ms Cronje
	Mr Shumba		Ms Imbandy
	Ms Coetzee		

## **Annexure B:**

# **International and regional instruments ratified by the Government of the Republic of Namibia**

- Universal Declaration of Human Rights (1948)
- UN Convention on the Rights of the Child (ratified in 1990)
- Convention on the Elimination of all Forms of Discrimination Against Women (ratified in 1992, entry into force in 2000) and its Protocol
- Convention against Torture and Other Cruel, Inhuman and Degrading Treatment (ratified in 1994)
- Convention on the Elimination of All Forms of Racial Discrimination (ratified in 1992)
- International Covenant on Civil and Political Rights, and two Optional Protocols (ratified in 1994)
- International Covenant on Economic, Social and Cultural Rights (ratified in 1994)
- SADC Declaration on Gender and Development (1997) and the Addendum on the Prevention and Eradication of Violence against Women and Children
- SADC's Maseru Declaration on HIV and AIDS
- United Nations Millennium Declaration (2000)
- SADC Protocol on Education and Training (2000)
- UNGASS Declaration of Commitment on HIV and AIDS (2001)
- UNESCO's Education for All Declaration (1990) and the Dakar Framework for Action (2000)
- Optional Protocol on the Involvement of Children in Armed Conflict (ratified in 2002)
- SADC Protocol on Culture, Information and Sport (2001)
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified in 2002)
- Charter of Fundamental Social Rights in SADC (2003)
- SADC Declaration on HIV and AIDS (2003)
- African Charter on the Rights and Welfare of the Child (signed in 1999, ratified in 2004)
- SADC Protocol on the Facilitation of the Movement of Persons
- African Youth Charter (2006)
- International Labour Organisation (ILO) Convention 138 on the Minimum Age for Admission to Employment and Work (1973, ratified in 2000, applied through the Labour Act No. 11 of 2007);
- ILO Convention 182 on the Prohibition and Immediate Elimination of the Worst Forms of Child Labour (1999, ratified in 2000)
- Convention Against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (both signed in 2000 and ratified in 2002)
- Convention on the Rights of Persons with Disabilities (ratified in 2007)
- SADC Protocol on Gender and Development (2008)
- SADC Declaration on Poverty Eradication and Sustainable Development (2008)

## **Annexure C:**

# **Policies, laws and guidelines governing food and nutritional support, and the provision of water and sanitation for children in Namibia**

- National Strategic Plan for Nutrition (2010) – MHSS
- National Guidelines in Infant and Young Child Feeding (2011) – MHSS
- Establishment of a National Alliance for Improved Nutrition (NAFIN) (2010) – Office of the Prime Minister
- Cabinet Resolution: Report on Malnutrition in Namibia – The Time to Act is Now (2011) – Office of the President
- National Declaration on Food and Nutrition (1995) – National Food Security and Nutrition Council
- Food and Nutrition Policy for Namibia (1995) – National Food Security and Nutrition Council
- Prevention, Control and Treatment of Vitamin A Deficiency Policy Guidelines (1999) – MHSS
- The Prevention and Care of Malnourished Children in Our Communities and Health Facilities (1999) – MHSS
- Food and Nutrition Guidelines for Namibia (2000) – National Food Security and Nutrition Council
- Guidelines on How to Use the Child Growth Chart to Promote Growth (2000) – MHSS
- Nutrition Management for People Living with HIV/AIDS Guidelines (2007) – MHSS
- Guidelines for the Prevention of Mother to Child Transmission of HIV (2008) – MHSS
- Nutrition Assessment Counselling and Support Guidelines (2010) – MHSS
- Salt Iodization Legislation No. 883 (1994)
- Implementation Code of the Marketing of Breast Milk Substitutes (BMS) (draft measures awaiting final approval in 2012) – MHSS
- Maternity protection provisions in the Labour Act No. 11 of 2007.
- National Gender Policy – MGECW
- National Agricultural Policy (1995) – Ministry of Agriculture, Water and Forestry (MAWF)
- National Water Supply and Sanitation Policy (2008) and Water and Sanitation Programme – MAWF
- National Policy for Reproductive Health (2001) – MHSS
- National Health Emergency Preparedness and Response Plan (2003) – MHSS
- National Policy on HIV and AIDS (2007) – MHSS
- National Plan of Action 2006-2010 for Orphans and Vulnerable Children in Namibia (2006) – MGECW
- National Sanitation Strategy (2009) – MAWF
- National Health Policy Framework: Take Control of Your Health (2010) – MHSS
- National Community Home-Based Care Standards (2010) – MHSS
- National Policy for School Health (2008) – MHSS
- National School Feeding Programme – MOE
- National Agenda for Children 2012-2016 (2012) – MGECW
- Fourth National Development Plan (NDP4) (2012) – National Planning Commission

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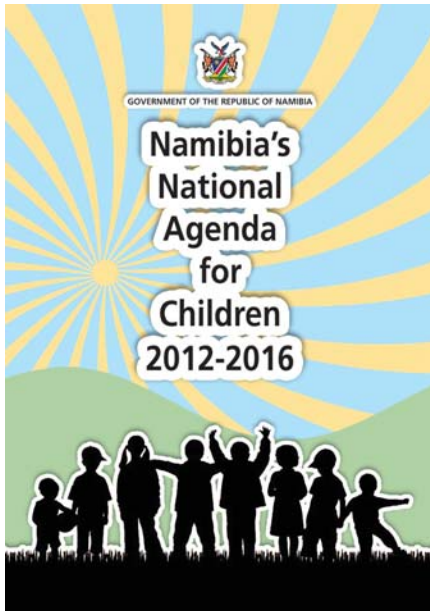
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# Summary of the National Agenda for Children 2012-2016

The National Agenda for Children is organised around five priority commitments and fifteen key results.

COMMITMENTS	RESULTS
<p>1. All children are healthy and well nourished</p>	<p>1.1 All children under 5 years of age have access to adequate nutrition, growth monitoring and health services.            1.2 Neonatal mortality is decreased and child survival is improved.            1.3 All children in schools and childcare facilities have access to clean drinking water and sanitation.</p>
<p>2. All children have equitable access to quality integrated ECD services, and pre-primary, primary, secondary and vocational education</p>	<p>2.1 All children access quality integrated early childhood development (ECD) services and pre-primary education.            2.2 All children access quality primary education.            2.3 All children access quality secondary education and vocational education.</p>
<p>3. All children have access to age-appropriate quality HIV prevention, treatment, care and support</p>	<p>3.1 Fewer young people are HIV positive.            3.2 Fewer infants are infected with HIV as the rate of mother-to-child transmission is reduced.            3.3 Children with HIV receive comprehensive treatment, care and support.</p>
<p>4. All children have an adequate standard of living and a legal identity</p>	<p>4.1 The national integrated social protection system for addressing child vulnerability is strengthened.            4.2 Vulnerable children have improved access to social grants.            4.3 All children are registered at birth, and have access to deceased parents' death certificates if required.</p>
<p>5. All children are safe from neglect, violence, abuse and exploitation</p>	<p>5.1 Children benefit from an enabling legislative and policy environment.            5.2 Children benefit from integrated protection services.            5.3 Teenage pregnancies are reduced and support services are in place.</p>



# A few of Namibia's many recent publications relevant to the ACRWC





