

Namibia Gender Analysis 2017

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Chapter 1

Introduction

1.1 Overview

This gender analysis is based primarily on **empirical data**, with the goal of facilitating evidence-based interventions. This is important because public (and policy-maker) perceptions are not always backed up by factual data. Furthermore, the studies and statistics which are available are sometimes ignored in planning exercises. The analysis assembles empirical data on key gender topics so that it can serve as a reference document for Namibian policy-makers as well as for donors and development partners. It will hopefully be helpful as a reference document for various reporting exercises, and for comparisons with new data which becomes available in future. To better serve these purposes, the report is extensively footnoted. It also notes and discusses situations where data appears inconsistent or contradictory, often with detailed explanation in the footnotes. The report focuses on the most recent information available. Some of the research referenced comes from the last ten years, often because more recent data was limited or non-existent. Some recent studies on relevant topics not yet available at the time of writing are noted in the text as additional evidence to consult when they become available.

The empirical data was supplemented by insights garnered from **individual discussions with about 25 persons active in the field of gender**, from government, civil society, churches and development partners. The persons interviewed were promised anonymity, in order to encourage openness and candour.

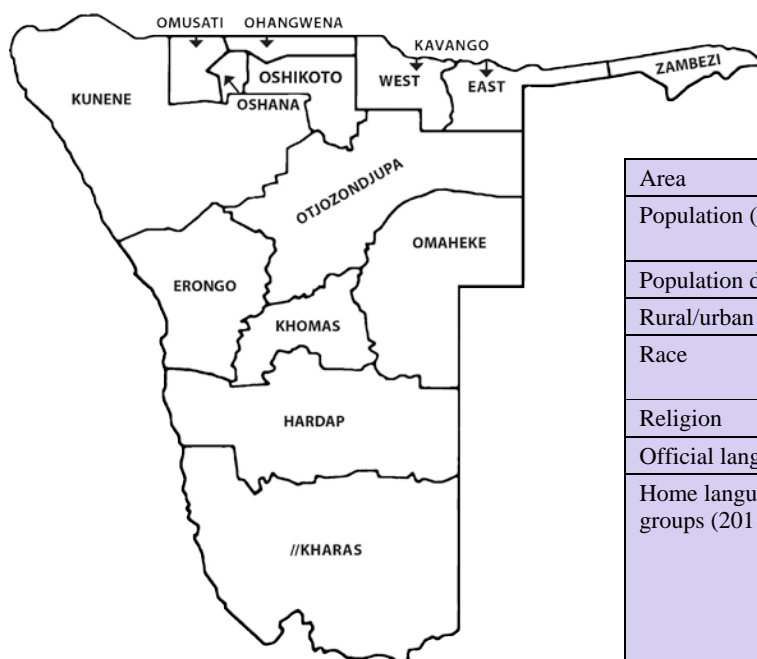
The analysis is not comprehensive. It cannot possibly be complete, as every conceivable topic has gender implications. However, it attempts to compile relevant information on some of the most important and topical gender issues in Namibia in 2017.

It should be noted that it was in many cases particularly difficult to obtain relevant information and sex-disaggregated statistics from Government. In many cases, sex-disaggregated data does not seem to exist. Future gender research initiatives would be immeasurably aided by more complete and accessible information, including regularly-collected sex-disaggregated statistical data.

1.2 Acknowledgements

This document was prepared by the Gender Research & Advocacy Project of the Legal Assistance Centre. The team which gathered information, conducted interviews and assembled the report consisted of Dianne Hubbard, Emelie Kozak, Alisan Oliver-Li, Yolande Engelbrecht, Ruth Murangi, Perri Caplan and Hannah Wirtz. We would like to thank the many persons who assisted us with documents, statistics and other information, and particularly those who spent time meeting with us to share their ideas.

Key Demographic Information



Namibia

Area	825 234 square kilometres (km ²)
Population (est 2015)	2.4 million female: 51% male: 49%
Population density	2.6 people per km ² (2011)
Rural/urban	urban 43%, rural 57% (2011)
Race	87.5% black, 6% white, 6.5% mixed race
Religion	predominantly Christian
Official language	English
Home language groups (2011)	Oshiwambo 49% Nama/Damara 11% Afrikaans 10% Otjiherero 9% Kavango 9% Caprivian 5% English 3% Other 4%

Marital status	persons age 15-49 (2013)	60% women never married 18% women married (civil or customary) 16% women living together informally with a partner 2% women divorced/separated 1% women widowed
	persons age 15+ (2011)	59% women never married 20% women married (civil marriage) 8% women married (customary marriage) 8% women living together informally with a partner 4% women widowed 2% women divorced/separated
Female-headed households (2011/2013)		44%
Married couples in a household (2011)		under 8% of households reported the presence of a spouse of the head of household
Life expectancy at birth (2015)		65.1 years (females: 67.5 years, males: 62.5 years)
Fertility (2011)		3.6 children per woman
Literacy (age 15 years and older, 2011)		89% overall (female: 88%, male: 89.5%)
Unemployment (2016)		36% overall (female: 38%, male: 30%)
Youth unemployment (2016)		43% overall (female: 49%, male 38%)
Poor / severely poor		28.7% population poor, 15.3% severely poor overall (2009/10) female-headed households: 22% poor, 11% severely poor male-headed household: 18% poor, 9% severely poor 18% poor, 11% severely poor overall (2015/16) sex-disaggregated figures not yet available
Gini coefficient		0.597 overall (female: 0.513, male: 0.622) (2009/10) 0.572 overall (sex-disaggregated figures not yet available) (2015/16)
Access to a mobile phone or internet at home (2014)		91% overall (female: 90%, male: 92%)

Population by sex: According to the *2011 Census* (Namibia's most recent¹), the total population was **2.1 million, with 51.5% of the population being female.**² In 2015, the estimated population was 2.43 to 2.46 million, with females still estimated as being about 51%.³ The proportion of males versus females has not changed much over time; in practical terms the ratio in 2011 translated to **94 men for every 100 women**, or nearly 70 000 more women than men in Namibia.⁴ The sex balance is 50:50 until age 25, at which point the proportion of women slowly increases. The sex differences increase in the older age cohorts, meaning that the primary cause of the difference in the total proportion of men and women is the longer life expectancy of women; in the over-80 age groups, the proportion of women is over 60%.⁵

Population growth: The population growth rate of the country is slowing, having changed from 2.6% between the first census in 1991 and the second census in 2001, to 1.4% between the second census in 2001 and the third census in 2011.⁶ The total fertility rate almost halved during this period, dropping from 6.1 in 1991 to 4.1 in 2001 to 3.6 in 2011.⁷ This drop has been attributed to increased contraceptive use, higher educational attainment by women, and increased female participation in the workforce.⁸ Declining fertility combined with the impact of HIV/AIDS are the primary factors behind the slowed growth rate, which had reportedly rebounded to almost close to 2% as of 2016, as increased coverage of anti-retrovirals has reduced the death rate from HIV/AIDS.⁹ In addition, although the life expectancy of both males and females declined from independence in 1990 to 2004, it entered a phase of increase after that, with a notable increase since the 2011 census. **Life expectancy at birth in 2016 was 65.1 years,**¹⁰ which is well above the Sub-Saharan African average.¹¹

¹ National censuses are conducted every ten years, with the first having taken place shortly after Namibian Independence, in 1991. Namibia Statistics Agency, *Namibia 2011 Population and Housing Census: Basic Report*, Windhoek: Namibia Statistics Agency, [2013] at 22 (hereinafter “**2011 Census**”).

² *2011 Census* at 29. According to the United Nations, the world population in mid-2015 was 7.3 billion, and was 50.4% male and 49.6% female. The population of Africa overall was almost 1.2 billion in 2015. *World Population Prospects: The 2015 Revision, Key Findings and Advance Tables*, New York: United Nations, Department of Economic and Social Affairs, Population Division, 2015 at 1 (available at <https://esa.un.org/unpd/wpp/Publications/Files/Key_Findings_WPP_2015.pdf>).

³ The Namibia Statistics Agency estimated in 2011 that the population was likely to be 2.43 million at most in 2015, and 2.48 million at most in 2016 (51% female and 49% male in both years). “Population Projections”, Windhoek: National Planning Commission, 2011 (high variant) (available at <<http://cms.my.na/assets/documents/p19dmrhrpm1bplljre1p3quqm1tjc1.pdf>>).

The Namibian population was estimated by the UN as being 2.46 million, 51.3% female and 48.7% male in 2015. *World Population Prospects: The 2015 Revision, Key Findings and Advance Tables*, New York: United Nations, Department of Economic and Social Affairs, Population Division, 2015 at 16.

The Namibian page of *The World Factbook* of the United States Central Intelligence Agency estimated the total Namibian population in July 2016 as being 2.43 million, based on population estimates compiled by the US Bureau of the Census (available at <www.cia.gov/library/publications/resources/the-world-factbook/geos/wa.html>, as updated on 12 January 2017).

⁴ *2011 Census* at 29. The figure of almost 70 000 is based on the difference of 690 253 between the female population in 2011 (1 091 165) and the male population in 2011 (1 021 912).

⁵ See datasets available at <<https://esa.un.org/unpd/wpp/Download/Standard/Population/>>.

⁶ *2011 Census* at 37.

⁷ *2011 Census* at 40. Fertility rates are discussed in more detail in Chapter 7.

⁸ Namibian pages of *The World Factbook* of the United States Central Intelligence Agency (“Demographic profile”), <www.cia.gov/library/publications/resources/the-world-factbook/geos/wa.html>, as updated on 12 January 2017.

⁹ Ibid; Institute for Health Metrics, *Namibia: State of the Nation's Health Findings from the Global Burden of Disease*, 2016 at 13, 18.

¹⁰ United Nations Development Programme, *Human Development Report 2016: Human Development for Everyone*, 2016 at 200.

¹¹ Life expectancy is discussed in more detail in Chapter 7.

and Omusati Regions have the highest percentages of out-migration, with more than 20% of the people born in those regions having their usual residence elsewhere.²⁰

Migration from rural to urban areas was historically male-dominated, as a result of the labour policies of the apartheid era, but female migration to urban areas has increased in the years since Independence with the result that the sex ratio in urban areas and in rural areas is now roughly the same.²¹

Race, language and religion: The censuses do not collect information on race, ethnic background or religion. However, it is estimated that the population is 87.5% black, 6% white and 6.5% mixed race.²²

English is the only official language, but there are at least 13 different languages in use. According to the *2011 Census*, home language distribution is estimated to be 49% Oshiwambo languages, 11% Nama/Damara, 10% Afrikaans, 9% Otjiherero languages, 8.5% Kavango languages, 5% Caprivian languages, 3% English, 2% other African languages, and just under 2% other languages.²³

Distribution of households by main language spoken		
Main language spoken	Main languages	
	Number of households	Percent
Namibia	464,839	100.0
Oshiwambo languages	227,103	48.9
Nama/Damara	52,450	11.3
Afrikaans	48,238	10.4
Otjiherero languages	40,000	8.6
Kavango languages	39,566	8.5
Caprivian languages	22,484	4.8
English	15,912	3.4
Other African languages	5,795	1.3
German	4,359	0.9
San languages	3,745	0.8
Other European languages	3,306	0.7
Setswana	1,328	0.3
Asian languages	461	0.1
Don't know	92	0.0

Source: Based on *2011 Census*, Table 6.5 at 81.

The predominant religion is Christianity, followed by an estimated 80-90% of the population, with the most common denomination being Lutheran.²⁴

Female-headed households: The *2011 Census* showed that 44% of households in Namibia were headed by women, with such households being somewhat more common in rural areas (46% of rural households were female-headed compared to 42% of urban households).²⁵ Across most regions, the majority of households were headed by men, but over half of households were headed by women in Ohangwena

²⁰ Id at 45.

²¹ Id at 30.

²² Namibian pages of *The World Factbook*, Namibian page, United States Central Intelligence Agency (available at <www.cia.gov/library/publications/resources/the-world-factbook/geos/wa.html>, as updated on 12 January 2017).

²³ *2011 Census*, Table 6.5 at 68.

²⁴ Namibian pages of *The World Factbook* of the United States Central Intelligence Agency (“Ethnic groups”, “Languages” and “Religions”), (available at <www.cia.gov/library/publications/resources/the-world-factbook/geos/wa.html>, as updated on 12 January 2017).

²⁵ *2011 Census* at 64.

(57%), Omusati (55%) and Oshana (54%).²⁶ Aside from providing figures on female versus male-headed households, there is no comparative data on these groups in the census report in terms of housing characteristics, access to services, income or other issues. The *2013 Demographic and Health Survey* also found that 44% of households in Namibia were headed by women (48% in rural areas and 41% in urban areas).²⁷

The *2011 Census* defined head of household as “the person of either sex who was looked upon by the other members of the household as their leader or main decision-maker”.²⁸ The report on *Preliminary Results of the 2011 Census* states: “A household consists of a person or a group of persons who live together in the same homestead/compound... and are answerable to the same household head”.²⁹ The *2011 Census* questionnaire asked respondents to identify an individual as the head of household, and then listed household relationships with reference to that person.³⁰ The failure to provide for identification of spouses or partners as joint heads of households reinforced an outdated decision-making concept as being a norm, in discussions which took place in every single household in the country.³¹ However, this could be a moot point to some extent, as less than 8% of households reported the presence of a spouse of the head of household – 13% of female-headed households and 2% of male-headed households.³²

The prevailing academic assumption seems to be that where there is a married couple, the man will normally be the head of household if he is present, with “female-headed households” usually denoting households where there is no adult male, or at least no male who is economically active. Such households are often identified as being particularly economically and socially vulnerable – but, if a female-headed household means one without adult men whilst a male-headed household may contain adult women, the perceived disadvantage of female-headed households can stem from the total number of wage-earners rather than the sex of the perceived “head”.³³ As far back as 1985, the Nairobi Forward-Looking Strategies adopted after the Third World Conference on Women called for the abolition of the term “head of household” and the introduction of alternative concepts which “are comprehensive enough to reflect

²⁶ Id at 64.

²⁷ *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 20 (hereinafter “*2013 Demographic and Health Survey*”).

²⁸ *2011 Census* at 81.

²⁹ *Namibia 2011 Population and Housing Census Preliminary Results*, Windhoek: National Planning Commission, April 2012 at 12.

³⁰ “Namibia 2011 Population and Housing Census Form A: Household/Institution Questionnaire”, available at <<http://cms.my.na/assets/documents/p19dmloejpm0u1q6oqn81ko0ith1.pdf>>.

³¹ Other countries have more progressive approaches in their censuses. South Africa’s most recent census was centred around a head of household conceptualised as the “main decision-maker” – but allowed for the possibility of equal decision-makers, in which case the oldest was treated as the head. Some countries (such as New Zealand and Australia) focus on a single “reference person” for each household to simplify questions about the relationships between the household members. The reference person is simply the person who answers the census questions and can be any individual in the household. Other countries (such as the USA) use the concept of “householder”, which means the person who owns or rents the dwelling. Where no such person can be identified, any adult, or the eldest adult present, is used as the reference individual. Dianne Hubbard, “The Head of Household Conundrum”, *The Namibian*, 4 September 2012, citing D Budlender, *The Debate about Household Headship*, South Africa Central Statistical Service, 1997 and Rochelle R Stewart-Withers, *Contesting Development: The Experience of Female-headed Households in Samoa*, doctoral thesis, Massey University, New Zealand, 2007.

³² *2011 Census* at 63-64 (Table 6.2.1). Some households may have included a cohabiting partner, but only 3% of female-headed households and 4% of male-headed households reported another non-relative in the household. The absence of spouses may stem from migration of one marital partner to urban areas for work in some cases.

³³ Dianne Hubbard, “The Head of Household Conundrum”, *The Namibian*, 4 September 2012.

women's role appropriately in legal documents and household surveys".³⁴ This issue would benefit from attention in Namibia.

Household size: Average household size decreased from 5.1 persons in 2001 to 4.4 persons in 2011.³⁵ This could be a result of multiple factors, such as decreased fertility, urbanisation and perhaps social and financial pressures that mean extended families may now struggle to live together. The *2001 Census Main Report* does not report household size separately for female- and male-headed households.

Literacy: According to the *2011 Census*, the 2011 literacy rate – with literacy being defined as the ability to read and write with understanding in any language – was 85% for the population age 5 years and above, with the literacy rate being only marginally higher for males (85.4%) than for females (85.1%). Looking at the population age 15 years and over, the literacy rate was almost 89%, still with only a small difference between males (89.5%) and females (88%). Interestingly, the literacy rate for youth age 15-24 years was 94% overall, with the literacy rate for females in this age group (95.3%) exceeding that of males (92.5%).³⁶

There was a notable difference in literacy between urban and rural areas for both females and males. In urban areas, the literacy rate was about 93% for both sexes, while in rural areas it was about 79% for both sexes. The regions with the lowest literacy rates for females and males age 5 years and older were Kunene and Omaheke. Most regions showed only slight differences in female and male literacy rates. However, female literacy was noticeably lower in Caprivi (now Zambezi; 77% for women versus 80% for men) and Kavango (75% for women versus 78% for men).³⁷

The *2013 Demographic and Health Survey* compiled literacy data for females and males age 15-49 who had either not attended school or attended only primary school; those with at least a secondary education were assumed to be literate. Overall, the percentage of literate girls/women was 93%, compared to 91% for boys/men. Literacy for both females and males varied based on age, residence, region and household wealth. Overall, younger women were more likely to be literate than older women; for women, the age group with the highest literacy was 20-24 years of age (at 96%) while the age group with the highest literacy among males was 15-19 years of age (at 94%). The difference in literacy in urban and rural areas was noticeable for females (96% versus 90%), but more pronounced for males (95% versus 85%). Regionally, literacy was lowest for both sexes in Kunene and Omaheke, which is consistent with the regional findings of the *2011 Census*. As for the relationship between literacy and household wealth, literacy for both women and men increased steadily from the lowest to the highest wealth quintile.³⁸

Access to channels of communication and information: Statistics on access to communication and information technology is important information for the dissemination of information about gender issues.

³⁴ The Nairobi Forward-looking Strategies for the Advancement of Women Adopted by the World Conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi, Kenya, 15-26 July 1985 at para 295: "The assumptions that underlie a large part of the relevant legislation, regulations and household surveys that confine the role of supporter and head of household to men hinder women's access to credit, loans and material and non-material resources. Changes are needed in these areas to secure for women equal access to resources. There is a need to eliminate terms such as "head of household" and introduce others that are comprehensive enough to reflect women's role appropriately in legal documents and household surveys to guarantee the rights of these women..."

³⁵ *2011 Census* at 63.

³⁶ *Id* at 49.

³⁷ *Ibid*.

³⁸ *2013 Demographic and Health Survey* at 34-35. Literate people were deemed to include those who attended secondary school or higher and those who could read a whole sentence or part of a sentence.

In 2011, over 68% of the population had access to radio, compared to about 38% who had access to television. Cell phone coverage was almost 53%, but only about 11% reported access to a computer.³⁹

Information on this issue was also collected in the *2013 Demographic and Health Survey*, which asked about ownership of information and communication technology in the household. The most commonly owned items by households were mobile telephones (89% of households surveyed), radios (68%) and televisions (44%). The rise in access to mobile phones since the *2006-07 Demographic and Health Survey* was particularly notable, with household ownership of mobile phones rising from 52% to 89% between the two surveys.⁴⁰

This increase appears to have continued. In 2014, the World Bank reported that 91% of the Namibian population age 15 and older had access to a mobile phone or internet at home, with little gender distinction; this applied to 90% of Namibian women and 92% of Namibian men in this age group.⁴¹

In 2015, Namibia had more mobile phone subscriptions than people (107 subscriptions for every 100 people).⁴² The International Telecommunications Union reports that in 2015, Namibia's mobile-broadband penetration stood at 62 subscriptions per 100 inhabitants, the fourth highest in Africa (after Cape Verde, Botswana and Ghana), referring to Namibia as "one of the frontrunners in Africa in ICT development".⁴³

Employment, unemployment and poverty indicators are discussed in Chapter 5.

Fertility rates and life expectancy are discussed in Chapter 7.

Educational attainment is discussed in Chapter 8.

Marital status is discussed in Chapter 9.

Note that the results of the *2017 Inter-census Demographic Survey* are meant to be released in July 2017.

³⁹ *2011 Census* at 47.

⁴⁰ *2013 Demographic and Health Survey* at 15.

⁴¹ "G20 Financial Inclusion Indicators", World Bank Global Partnership for Financial Inclusion website: <<http://datatopics.worldbank.org/g20fidata/#>>.

⁴² International Telecommunication Union, World Telecommunication/ICT Development Report and database, World Bank website: <<http://data.worldbank.org/indicator/IT.CEL.SETS.P2>>.

⁴³ *Measuring the Information Society Report 2016*, Geneva: International Telecommunications Union, 2016 at 51 (available at <www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2016/MISR2016-w4.pdf>).

Chapter 3

Development and Gender Equality Indicators

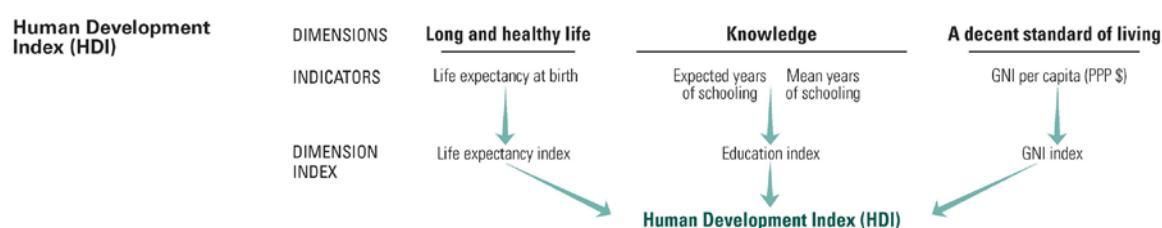
According to the United Nations Development Programme:

Composite indices have shown to be valuable instruments to capture multi-dimensional inequalities, which help generate attention, stimulate policy debate and analysis, support advocacy and monitor progress. Different entities have put forward different measures – each unique in its own way in the data that is used and how it is put together – and gained significant experience in their use.¹

3.1 Human Development Index (HDI)

The United Nations Development Programme ranks Namibia as a medium development country² based on the Human Development Index (HDI), which looks at progress in three dimensions of human development: a long and healthy life (measured by life expectancy), access to knowledge (measured by mean years of education among adults and expected years of schooling for children) and standard of living (measured by gross national income (GNI) per capita).³ **Namibia's 2015 HDI ranking is 125 out of 188 countries and territories worldwide.** Namibia's score on the HDI is better than the average for countries in Sub-Saharan Africa, but it ranks below its neighbours Botswana and South Africa (which were ranked at 108 and 119 respectively).⁴

Between 1990 and 2015, Namibia's HDI value increased by almost 11%, which was a function of the fact that during that period the country's life expectancy at birth increased by 3.8 years; the mean years of schooling increased by 1.1 years and the expected years of schooling by 0.6 years; and the per capita GNI increased by almost 66%.⁵



Source: United Nations Development Programme, “Human Development Report 2016: Technical Notes” (available at <http://hdr.undp.org/sites/default/files/hdr2016_technical_notes.pdf>).

¹ “Issue Paper Prepared for the Expert Group Meeting on Gender Equality in Human Development – Measurement Revisited”, United Nations Development Programme, Human Development Report Office, June 2015 at 2 (available at <http://hdr.undp.org/sites/default/files/hdro_issue_paper_on_gender_indices_with_cover.pdf>).

² United Nations Development Programme, *Human Development Report 2016: Briefing note for countries on the 2016 Human Development Report: Namibia* at 2 (available at <http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NAM.pdf>) (hereinafter “**UNDP Briefing Note: Namibia**”).

³ United Nations Development Programme, *Africa Human Development Report 2016: Accelerating Gender Equality and Women's Empowerment in Africa*, 2016 at 20 (hereinafter “**Africa Human Development Report 2016**”).

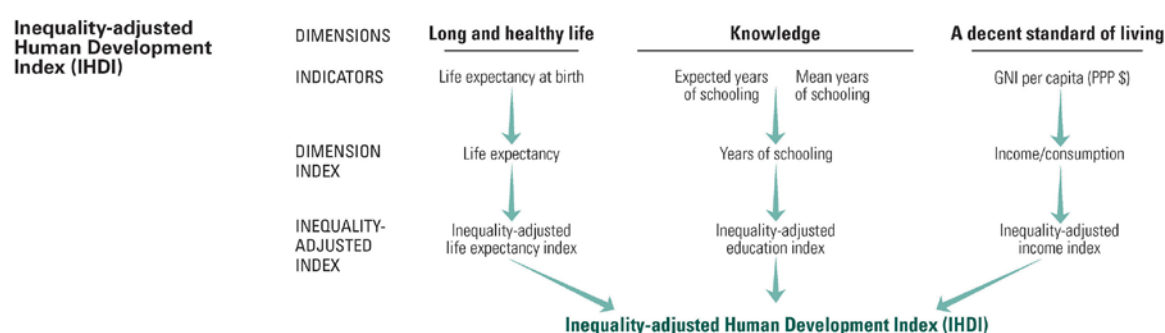
⁴ UNDP *Briefing Note: Namibia* at 2.

⁵ Ibid.

Because the HDI does not adequately consider sex inequalities in assessing human development, in 2010 the United Nations Development Programme introduced the Inequality-adjusted Human Development Index (IHDI).⁶ The IDHI demonstrates the level of human development when inequality is taken into account.⁷ Thus, the difference between the HDI and the IHDI indicates the loss in human development due to inequality; as a country's inequality increases, so too does that country's loss in human development.⁸ In Namibia, the overall loss in human development due to inequality is 35.2%.⁹ This percentage reflects a higher human development loss than the Sub-Saharan Africa average of 32.2%.¹⁰

Another way of assessing levels of inequality is to compare the difference between the HDI rank and the IHDI rank. This difference in respect of Namibia is -13, the third greatest negative difference in Sub-Saharan Africa after Botswana (-23) and Comoros (-18).¹¹

Namibia's loss due to inequality (35.2%) is greater than the average for Sub-Saharan Africa (32.2%) and more than South Africa (34.7%), but less than Botswana (37.9%).



Source: United Nations Development Programme, "Human Development Report 2016: Technical Notes".

Limitations of this index

According to the *SADC Gender Protocol 2016 Barometer*:

"The HDI... gives a single simple (some would say simplistic) measure of the average achievement of the country in terms of human development... The HDI – like all measures – can be criticised on many grounds. Some of the criticisms are relevant from a gender perspective.

Firstly, composite indices are appealing because there is only one number. But having a single number is not useful for policy-making purposes unless one knows WHY the single number is lower than one wants it to be...

Secondly, there are data problems. UNDP uses international data-sets in the interests of having a uniform approach. This is probably the only feasible approach for an index covering so many countries and compiled from a single office. However it results in the use of data that are relatively old, and thus indicators that [are] out-of-date...

Thirdly, the indicators are all based on averages, and thus do not capture inequalities within a single indicator."¹²

⁶ *Africa Human Development Report 2016* at 25.

⁷ United Nations Development Programme, *Human Development Report 2016: Human Development for Everyone*, 2016 at 194 (hereinafter "***Human Development Report 2016***").

⁸ *Africa Human Development Report 2016* at 25.

⁹ *Human Development Report 2016* at 208.

¹⁰ *Human Development Report 2016* at 209.

¹¹ *Human Development Report 2016* at 207-08. Note that human development loss values and differences from HDI rank are not available for the following five countries in Sub-Saharan Africa: Equatorial Guinea, Eritrea, Gambia, Seychelles and South Sudan.

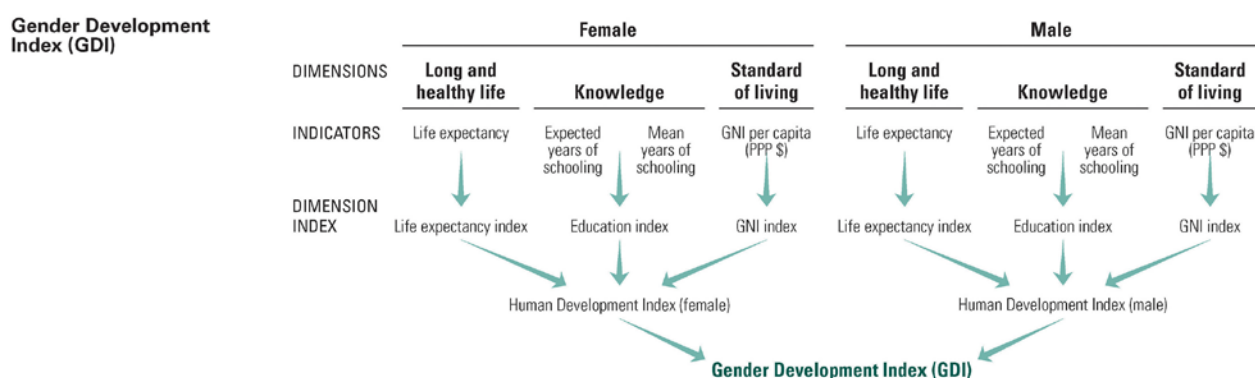
¹² Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 340 (hereinafter "***SADC Gender Protocol 2016 Barometer***").

3.2 Gender Development Index (GDI) and Gender Inequality Index (GII)

The key international gender-specific human development indicators are the Gender Development Index (GDI) and the Gender Inequality Index (GII). The GDI is not a measure of gender inequality, but rather a measure of gender disparities in the HDI. The GII is concerned with inequalities between men and women.

GDI: The GDI measures differences in achievement between males and females in three areas: health (measured by female and male life expectancy at birth), education (measured by female and male expected years of schooling for children and female and male mean years of schooling for adults) and command over economic resources (measured by female and male estimated GNI per capita).¹³ Thus, it essentially takes the HDI values and disaggregates them by sex.

In Namibia, the 2016 HDI value for women is just 1.4 percent lower than the HDI value for men, which is significantly better than Sub-Saharan Africa as a whole, where the HDI value for women is 12.3 percent lower than the HDI value for men.¹⁴ A score of 1 would indicate perfect gender parity on the selected indicators. Namibia's GDI value is 0.986, while the GDI value for Sub-Saharan Africa overall is 0.877. The value for Botswana is 0.984 and for South Africa is 0.962. It must be remembered, however, that both the HDI and the GDI are based on a very limited set of indicators – and women generally have a longer life expectancy than men worldwide,¹⁵ which is due at least in part to biological differences between the sexes.



Source: United Nations Development Programme, "Human Development Report 2016: Technical Notes"

Limitations of this index

According to the *SADC Gender Protocol 2016 Barometer*:

One problem with the GDI is that it assumes that equality on longevity would mean equal life expectancies for men and women. However, biologically women can expect to live longer than men. So when life expectancies are equal this suggests that women are disadvantaged in some way. This is not reflected in the GDI.

A confusing feature of the GDI is that the method uses only the male-female gap, without considering whether it is males or females who are "doing better". So a country where women outperform men in education will have the same penalty as a country where men outperform women by the same amount. We might think this is not a problem (in that men and boys should not be disadvantaged), but it does

¹³ *Africa Human Development Report 2016* at 27.

¹⁴ *Human Development Report 2016* at 212-213.

¹⁵ See, for example, World Health Organisation, "World Health Statistics 2014", 15 May 2014 (available at <www.who.int/mediacentre/news/releases/2014/world-health-statistics-2014/en/>).

complicate how we interpret the GDI if the index combines some components where males are advantaged and others where females are advantaged.

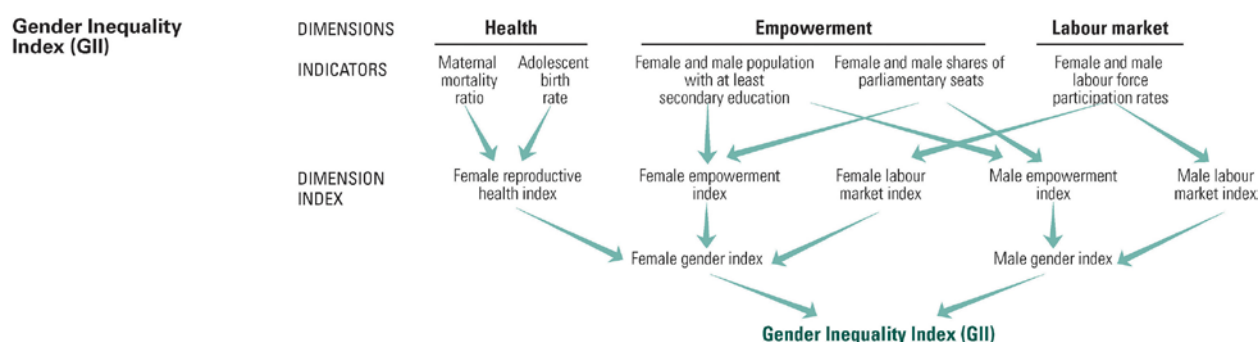
Probably the biggest problem with the GDI is that it is heavily influenced by the income variable, so that wealthier countries will – all other things being equal – be reflected as having less inequality than poorer countries. Analysis has shown that for most countries the earned-income gap is responsible for more than 90% of the gender penalty. Exacerbating this problem is the fact that the income estimates are based on “imputed” rather than real data... Yet another exacerbating feature is that the data for the 55 countries relate only to formal non-agricultural wages. Yet in many African countries only a small proportion of the workforce – and an even smaller proportion of employed women – is employed in the formal non-agricultural sector.

The final problem to be raised here is lack of sex-disaggregated data in some cases. As a result, each year there are fewer countries that have GDI scores than have HDI scores.”¹⁶

The GDI has also been criticized for its limitations in accurately capturing gender disparities and its omission of some critical gender issues, which is what led to the development of the Gender Inequality Index.¹⁷

GII: The Gender Inequality Index (GII) measures gender-based inequalities in the areas of reproductive health (measured by the maternal mortality ratio and adolescent birth rate), empowerment (measured by women’s share of parliamentary seats and comparative attainment of at least secondary education) and economic activity (measured by labour market participation).¹⁸ This scoring works contrary to that of the GDI; the closer a country’s GII value is to zero, the better that country’s gender equality – the value 0 indicates absolute equality while 1 indicates perfect inequality.¹⁹

The GII paints a less rosy picture of the situation of women in Namibia than the GDI. **Namibia’s 2015 GII value is 0.474 and it is ranked 108th out of the 159 countries for which there are GII values.**²⁰ As a point of comparison, the Sub-Saharan African GII value is 0.572. Botswana’s score is 0.435 placing it at the 95th rank and South Africa’s score is 0.394 placing it at the 90th rank.²¹



Source: United Nations Development Programme, “Human Development Report 2016: Technical Notes”.

¹⁶ SADC Gender Protocol 2016 Barometer at 340-341.

¹⁷ “Issue Paper Prepared for the Expert Group Meeting on Gender Equality in Human Development – Measurement Revisited”, United Nations Development Programme, Human Development Report Office, June 2015 at 2.

¹⁸ Africa Human Development Report 2016 at 30.

¹⁹ Human Development Report 2016 at 54; Africa Human Development Report 2016 at 30.

²⁰ Human Development Report 2016 at 216.

²¹ Id at 217.

Limitations of this index

The GII has been criticised for involving overly-complex calculations, for mixing indicators of well-being with indicators of empowerment and for combining absolute indicators and relative indicators (which measure only the differences between males and females) within the same formula. It has also been criticised for utilising indicators which may not have the same relevance in all countries or regions.²²

3.3 Global Gender Gap Index

This index, which is constructed by the World Economic Forum, is built around three basic concepts. First, it measures gaps rather than levels. This means that it measures gaps between women and men in access to resources and opportunities, regardless of levels of overall development. Second, it focuses on gaps in outcomes rather than inputs. This means that the index looks at, for example, the gap between men and women who are high-skilled professionals workers such as legislators, senior officials and managers (an outcome indicator), but not data on the length of maternity leave (a policy indicator). It is, one might say, results-oriented. Third, this index ranks countries according to gender equality and not women's empowerment. The top scores go to situations where outcomes for women equal those for men, with no additional scores (or penalties) for situations where women's outcomes have exceeded men's outcomes. The index is calculated from 14 indicators which are divided between four categories: *Economic Participation and Opportunity*, *Educational Attainment*, *Health and Survival* and *Political Empowerment*.

The scoring on the index is based on sex ratios, with 1 representing complete equality between men and women and 0 representing the worst possible inequality (with two exceptions based on biological differences: the ideal sex ratio at birth is 0.944 because normally more boys are born than girls, and the ideal ratio for healthy life expectancy is 1.06 because women generally live longer than men). The indicators are weighted on the basis of how achievable they have been worldwide and a score is calculated for each of the four categories. Then, these four scores are averaged to produce the overall score.²³

Namibia's 2016 overall score was 0.765, placing it at the 14th rank out of the 144 countries assessed.²⁴ It scored particularly well on health issues, but these were limited – looking only at sex ratios at birth and healthy life expectancy. Its global ranking in the other three categories was not nearly as high.

²² I Permanyer, "Are UNDP Indices Appropriate to Capture Gender Inequalities in Europe?", 110 (3) *Social Indicators Research* 2011; I Permanyer, "A critical assessment of UNDP's Gender Inequality Index", 2013, (available at <<http://paa2013.princeton.edu/papers/130872>>); S Klasen and D Schöler, "Reforming the Gender-Related Development Index (GDI) and the Gender Empowerment Measure (GEM): Some Specific Proposals", 2009 (available at <http://www2.vwl.wiso.uni-goettingen.de/ibero/working_paper_neu/DB186.pdf>).

²³ "Measuring the global gender gap", World Economic Forum website: <<http://reports.weforum.org/global-gender-gap-report-2016/measuring-the-global-gender-gap/>>.

²⁴ "Namibia country profile", World Economic Forum website: <<http://reports.weforum.org/global-gender-gap-report-2016/economies/#economy=NAM>>; *The Global Gender Gap Report 2016*, Geneva: World Economic Forum, 2016 at 268-269 (available at <http://www3.weforum.org/docs/GGGR16/WEF_Global_Gender_Gap_Report_2016.pdf>).

Global Gender Gap Index 2016 – Namibia			
Indicator	Score	Average score (based on all countries assessed)	Rank
Economic participation and opportunity	0.781	0.586	20
Labour force participation	0.892	0.665	36
Wage equality for similar work (survey)	0.653	0.622	64
Estimated earned income (US\$, PPP*)	0.761	0.502	16
Legislators, senior officials and managers	0.747	0.358	14
Professional and technical workers	1.000	0.862	1
Educational attainment	0.999	0.955	35
Literacy rate	0.996	0.897	1
Enrolment in primary education	1.000	0.980	1
Enrolment in secondary education	1.000	0.970	1
Enrolment in tertiary education	1.000	0.930	1
Health and survival	0.980	0.957	1
Sex ratio at birth	0.944	0.918	1
Healthy life expectancy	1.060	1.043	1
Political empowerment	0.299	0.233	31
Women in Parliament	0.705	0.269	10
Women in ministerial positions	0.278	0.238	56
Years with female head of state (last 50)	0.026	0.204	48

*PPP = Purchasing Power Parity

Source: Namibia country profile, World Economic Forum website:
<http://reports.weforum.org/global-gender-gap-report-2016/economies/#economy=NAM>.

3.4 Social Institutions and Gender Index (SIGI)

The Social Institutions and Gender Index (SIGI) is an index developed by the Organisation for Economic Co-operation and Development (OECD) Development Centre that measures discrimination against women in social institutions. The OECD defines discriminatory social institutions as “the formal and informal laws, attitudes and practices that restrict women’s and girls’ access to rights, justice and empowerment opportunities.”²⁵ There are five sub-indexes: discriminatory family code; restricted physical integrity; son bias; restricted resources and assets; and restricted civil liberties.²⁶ Higher SIGI values

²⁵ OECD Development Centre, Social Institutions & Gender Index, “About the SIGI” (available at www.genderindex.org/content/team) (hereinafter “About the SIGI”).

²⁶ The discriminatory family code sub-index “captures social institutions that limit women’s decision-making power and undervalue their status in the household and the family”.

The restricted physical integrity sub-index “captures social institutions that limit women’s and girls’ control over their bodies, that increase women’s vulnerability, and that normalise attitudes toward gender-based violence”.

The son bias sub-index “captures unequal intra-household investments in caring for, nurturing and allocating resources to sons and daughters reflecting the lower value given to girls”.

The restricted resources and assets sub-index “captures discrimination in women’s rights to access and make decisions over natural and economic resources”.

indicate higher inequality in the country in question. The most recent SIGI is from 2014, in which Namibia's SIGI value was 0.1173.²⁷ It should be noted that although Namibia's overall ranking was low, the ranking varied across the sub-indexes, with gender discrimination being particularly acute in the area of access to resources and assets (see table below).²⁸ One useful aspect of the SIGI is the brief narrative detail which is presented to justify the scorings.

Social Institutions and Gender Index (SIGI)	
Sub-Index	Ranking
Discriminatory family code	Low
Restricted physical integrity	Medium
Son bias	Very Low
Restricted resources and assets	High
Restricted civil liberties	Low

Source: OECD Development Centre, Social Institutions & Gender Index, "Country Profiles: Namibia".

Limitations of this index

The SIGI only covers non-OECD countries, since the chosen variables primarily measure social institutions that are relevant in developing countries.²⁹ Moreover, as admitted by its own authors, the SIGI depends strongly on the data provided by the social institutions themselves. Thus, the good performance of some regions might be partly due to the lack of indicators on gender gaps in social institutions there.³⁰

3.5 Multidimensional Poverty Index (MPI)

Based on ten indicators,³¹ the Multidimensional Poverty Index (MPI) identifies acute deprivations in the areas of health, education and standard of living.³² It shows the incidence of multidimensional poverty (the proportion of people who are multidimensionally poor), as well as the intensity of such poverty (the average deprivation experienced by poor people, expressed as a percentage).³³ The MPI classifies people as being vulnerable to poverty (with a deprivation score of between 20% and 33.3%), multidimensionally

The restricted civil liberties sub-index "captures discriminatory laws and practices that restrict women's access to public space, their political voice and their participation in all aspects of public life." ("About the SIGI").

²⁷ The spectrum is very low – low – medium – high – very high. OECD Development Centre, Social Institutions & Gender Index, "Country Profiles: Namibia", <www.genderindex.org/country/namibia>.

²⁸ Ibid.

²⁹ B Branisa, S Klasen and M Ziegler, "New Measures of Gender Inequality: The Social Institutions and Gender Index (SIGI) and its Subindices", 10 August 2009 at 5-6.

³⁰ B Branisa, S Klasen, M Ziegler, D Drechsler and J Jütting, "The Institutional Basis of Gender Inequality: The Social Institutions and Gender Index (SIGI)", 20 (2) *Feminist Economics* 29-64, 2014 at 58.

³¹ The indicators are nutrition, child mortality, years of schooling, children enrolled, cooking fuel, toilet, water, electricity, floor and assets. See United Nations Development Programme, Human Development Reports, "Multidimensional Poverty Index (MPI)", <<http://hdr.undp.org/en/content/multidimensional-poverty-index-mpi>>.

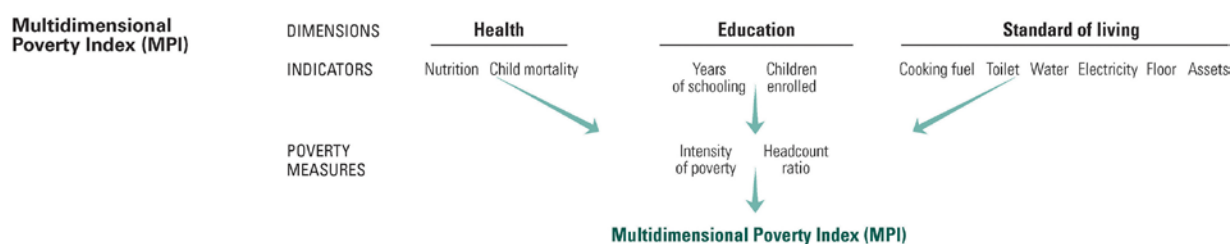
³² *Human Development Report 2016* at 54.

³³ Id at 195; Oxford Poverty and Human Development Initiative (OPHI), "OPHI Country Briefing 2017: Namibia", University of Oxford, Oxford Department of International Development, June 2017.

The MPI data in the *Human Development Report 2016* is largely based on data from the Namibia Demographic and Health Survey 2013 that was conducted by the Ministry of Health and Social Services. See United Nations Development Programme, Human Development Reports, "Frequently Asked Questions – Multidimensional Poverty Index (MPI)", <<http://hdr.undp.org/en/faq-page/multidimensional-poverty-index-mpi#t295n2435>>; Demographic and Health Surveys Program, "Survey Summary: Namibia: Standard DHS, 2013", <<http://dhsprogram.com/what-we-do/survey/survey-display-363.cfm>>.

poor (with a deprivation score of more than 33.3%), or in severe poverty (with a deprivation score of more than 50%).³⁴

In Namibia (based on 2013 data), this index indicates that almost 45% of the population lives in multidimensional poverty, with an average deprivation score of 45.5%. An additional 19% of the population is vulnerable to poverty, while 13% are living in severe poverty.³⁵ Looking at the three dimensions of the index (health, education and standard of living), deprivations in education account for about 45% of overall poverty in Namibia, followed by deprivations in living standards at 33% and deprivations in health at 22%.³⁶



Source: United Nations Development Programme, “Human Development Report 2016: Technical Notes”.

This index is useful because it shows that even people living above a certain income poverty line (US\$1.90 per day for this report) can experience deprivations in education, health and other living conditions. In Namibia, while 22.6% of the population had an income of less than US\$1.90/day, 44.9% of the population was experiencing multi-dimensional poverty or near-poverty.³⁷ The table below shows how Namibia compares to South Africa on this index. It is noteworthy that the Namibian national poverty line (as reported here) underestimates multidimensional poverty (in contrast to South Africa, where it overestimates multidimensional poverty).

	Year of data collection	MPI value	Population vulnerable to poverty (in “near multi-dimensional poverty”)	Population in multi-dimensional poverty	Population in severe poverty (a subset of population in multi-dimensional poverty)	Pop. below national poverty line	Pop. below income poverty line of US\$1.90/day	Intensity of deprivations of those in multi-dimensional poverty	Contribution to overall poverty deprivations		
									Health	Education	Living standards
Namibia	2013	0.205	19.3%	44.9%	13.4%	28.7%	22.6%	45.5%	39.2%	11.0%	49.8%
South Africa	2012	0.041	17.1%	10.3%	1.3%	53.8%	16.6%	39.6%	61.4%	8.4%	30.2%

Source: Based on *Human Development Report 2016* at 218 and *UNDP Briefing Note: Namibia* at 6-7.

A separate calculation based on this data identifies persons as “destitute” where they are deprived in at least one-third of a set of more extreme indicators than those used for the other calculations – for example, two or more children in the household have died (rather than one, which is the child mortality

³⁴ *Human Development Report 2016* at 195. “A person is multidimensionally poor if he or she is deprived in at least one third of the weighted indicators...The population vulnerable to poverty is defined as the percentage of the population at risk of suffering multiple deprivations – that is, those people with a deprivation score of 20-33 percent. The population in severe poverty...measures the percentage of the population in severe multidimensional poverty – that is those with a deprivation score of 50 percent or more.” See Oxford Poverty and Human Development Initiative (OPHI), “Global MPI Frequently Asked Questions”, University of Oxford, Oxford Department of International Development (available at <www.ophi.org.uk/multidimensional-poverty-index/mpi-faqs/#3>).

³⁵ These figures come from the *UNDP Briefing Note: Namibia* at 6-7. The Oxford Poverty and Human Development Initiative (OPHI) also calculates 19% of the population as being vulnerable to poverty, but it counts **15%** as living in severe poverty. “OPHI Country Briefing 2017: Namibia”, University of Oxford, Oxford Department of International Development, June 2017.

³⁶ *Human Development Report 2016* at 219.

³⁷ *UNDP Briefing Note: Namibia* at 6-7.

indicator used for the MPI), where no one in the household has at least one year of schooling (rather than six years, which is the indicator used for the MPI), where the household practices open defecation (as opposed to access to improved sanitation facilities) or where the household has no assets (rather than no more than one asset). On the basis of these more extreme indicators, over 18% of the Namibian population would be considered destitute.³⁸ Gender breakdowns were not provided for this data.

Limitations of this index

The MPI has been criticised for its choice of data and for the simplicity of its approach,³⁹ as well as for its choice to give equal weights to its component indices.

“On closer scrutiny, the embedded trade-offs (stemming from the weights chosen by the analyst) can be questioned, and may be unacceptable to many people. [...] How can one contend (as the MPI does implicitly) that the death of a child is equivalent to having a dirt floor, cooking with wood, and not having a radio, TV, telephone, bike or car?”⁴⁰

3.6 Africa Gender Equality Index

The Africa Gender Equality Index is compiled by the African Development Bank, and in 2015 covered 52 of Africa’s 54 countries. It investigates three dimensions of gender equality: economic empowerment, human development, and laws and institutions on the theory that these are all areas in which government action can bring about change to level the playing field between African women and men.⁴¹

Namibia was ranked as the third best country overall on this index in 2015 scoring. As in other indexes, its weakest point was economic opportunity for women. However, one issue which this index does not capture is the degree to which strong laws on gender equity are enforced in practice – an area in which Namibia might have scored less strongly.⁴²

Results of the Africa Gender Equality Index 2015 – Top 5 Countries							
	Overall	Economic opportunities		Human development		Laws & institutions	
Country	Score	Score	Rank	Score	Rank	Score	Rank
South Africa	74.5	63.4	21st	92.0	3rd	68.1	3rd
Rwanda	74.3	75.2	5th	79.4	12th	68.4	2nd
Namibia	73.3	64.7	20th	89.7	5th	65.5	4th
Mauritius	73.2	52.9	37th	97.6	1st	69.1	1st
Malawi	72.8	88.9	1st	68.6	21st	60.8	7th

Source: Africa Development Bank Group, *Empowering African Women: An Agenda for Action, Africa Gender Equality Index 2015* at 30. The scores ranged from 15.8 to 74.5, with an average score of 54.1. Id at 5.

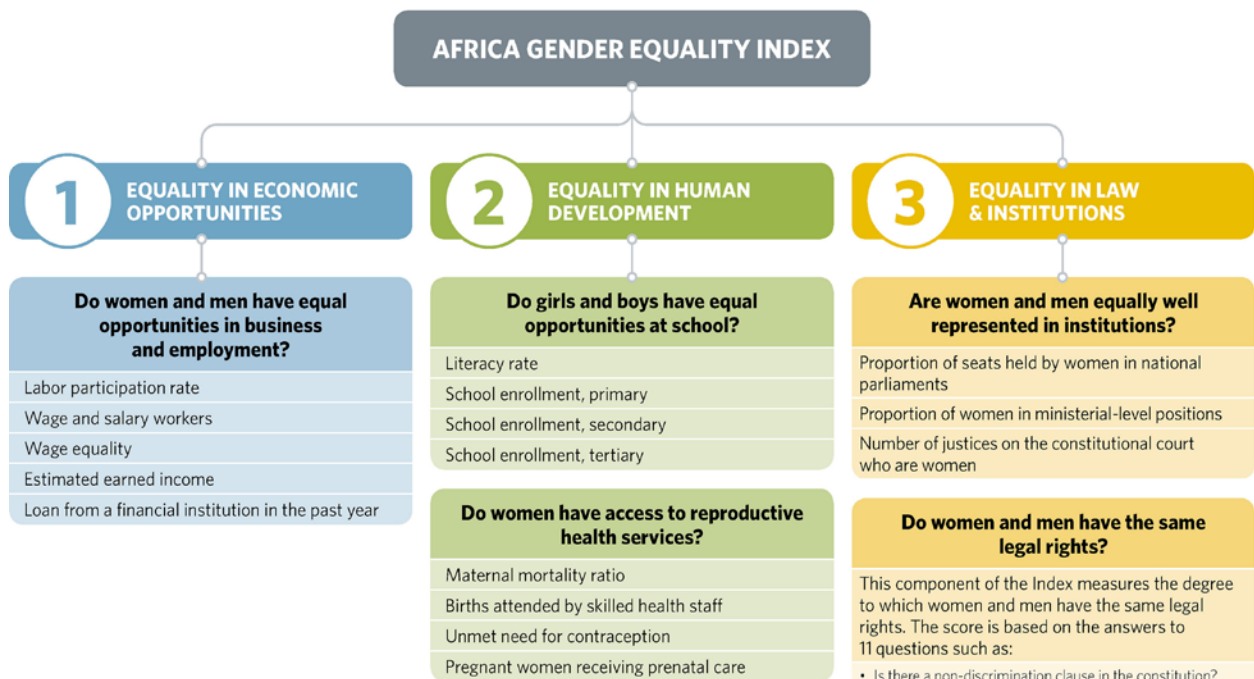
³⁸ Oxford Poverty and Human Development Initiative (OPHI), “OPHI Country Briefing 2017: Namibia”, University of Oxford, Oxford Department of International Development, June 2017 at 1, read together with United Nations Development Programme, “Human Development Report 2016: Technical Notes” at 9. There are discrepancies between the description of the MPI in the Technical Note and in the OPHI description regarding the indicators used.

³⁹ N Rippin, “A response to the weaknesses of the Multidimensional Poverty Index (MPI): the correlation Sensitive Poverty Index (CSPI)”, Briefing Paper 19, 2011 (available at <www.die-gdi.de/uploads/media/BP_19.2011.pdf>); SD, “Measuring poverty – A many-headed beast”, *The Economist*, 2 August 2010.

⁴⁰ M Ravallion, “Guest Blog: World Bank research director critiques the new UN poverty index”, 28 July 2010, <<https://oxfamblogs.org/fp2p/guest-blog-world-bank-research-director-critiques-the-new-un-poverty-index/>>.

⁴¹ Africa Development Bank Group, *Empowering African Women: An Agenda for Action, Africa Gender Equality Index 2015* at 2 (available at <www.afdb.org/en/topics-and-sectors/topics/quality-assurance-results/gender-equality-index>), and accompanying “Gender Equality Index Technical Note” (available at <www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Gender_Equality_Index_Methodological_Note.pdf>).

⁴² For a discussion of other gender indexes in development, see *SADC Gender Protocol 2016 Barometer*, Annex 2 at 340-ff.



1. The legal equality index is composed of the results of 11 questions:

- "Is there a non-discrimination clause in the constitution?"
- "Do women have the same rights to access credit and bank loans as men?"
- "Do women have equal legal rights to own and administer property other than land as men?"
- "Can a married woman apply for a passport in the same way as a man?"
- "Can a married woman choose where to live in the same way as a man?"
- "Does a woman's testimony carry the same evidentiary weight in court as a man's?"
- "Is there specific legislation in place against rape?"
- "Is there specific legislation in place against sexual harassment?"
- "Do women have equal legal rights to own and/or access agricultural land as men?"
- "Does the law mandate equal remuneration for men and women for work of equal value?"
- "Are there laws mandating non-discrimination based on gender in hiring?"

2. The household equality index is composed of the results of 11 questions:

- "Are married women required by law to obey their husbands?"
- "Can a married woman be 'head of household' or 'head of family' in the same way as a man?"
- "Do daughters have equal rights to their male counterparts as heirs?"
- "Do women have equal legal rights on legal guardianship of a child during marriage?"
- "Do women have equal legal rights on custody rights over a child after divorce?"
- "Are there laws on the minimum legal age of marriage that do not discriminate against women?"
- "Can a married woman confer citizenship to her children in the same way as a man?"
- "Do married couples jointly share legal responsibility for financially maintaining the family's expenses?"
- "Who legally administers property during marriage?"
- "Do widows have equal rights to their male counterparts as heirs?"
- "Is there specific legislation in place against domestic violence?"

Source: Africa Development Bank Group, *Empowering African Women: An Agenda for Action, Africa Gender Equality Index 2015* at 7.

3.7 African Gender Development Index (AGDI) and AU African Gender Scorecard

The African Gender Development Index (AGDI) is an index of gender equality introduced by the United Nations Economic Commission for Africa in 2004, and designed to capture gender issues in terms of the major African charters and documents on gender relations and women's empowerment. It consists of two parts: the Gender Status Index (GSI) and the African Women's Progress Scoreboard (AWPS). The GSI is based on quantitative data on social power, economic power and political power. The AWPS measures government policy performance on women's advancement and empowerment, with a focus on qualitative issues pertaining to women's rights, social power, economic power and political power. Countries have

been added to the AGDI progressively. Namibia has come on board in Phase III of the initiative, which is currently underway, with the relevant report not yet available.⁴³

The AU African Gender Scorecard is informed by the African Gender and Development Index. It is intended to complement the index as a simpler and quicker assessment tool based on regional frameworks such as Agenda 2063 and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. It scores countries on the basis of three clusters of indicators: economic empowerment (employment, business, access to land and access to credit), social empowerment (education and health), and political empowerment (women in parliament and in ministerial positions). The scoring method considers only how well women are doing in comparison to men, irrespective of the country's overall levels of achievement on the indicator in question. (For example, if men and women have similarly poor levels of school enrolment, there is a positive score on gender equality despite the generally poor access to education.) A score of 0 represents the highest level of gender inequality, while 10 represents perfect gender parity; a score higher than 10 represents instances where women have outperformed men in a particular sector.⁴⁴ Namibia's scores are shown in the box below. Further breakdowns for each indicator are available, showing comparative scores across Africa. This is a clear and accessible scorecard which provides quick visual comparative information on the indicators which it covers.

AU African Gender Scorecard			
Theme	Sector	Namibia's score	
Economic empowerment	Business	5	
	Access to Land	8	
	Access to Credit	8	
	Employment	8	
Political empowerment	Women in Politics and Decision-making	5	
Social empowerment	Education	12	
	Health	10	
Stand-alone indicators	Proportion of households within 15 minutes from a source of drinking water	Urban	95.2%
		Rural	57.6%
	Access to improved sanitation facilities	Urban	56.1%
		Rural	16.9%
	Maternal Mortality Ratio (per 100 000 live births)	2005	250
		2013	130

Source: Based on African Union Commission, *African Gender Scorecard*, 2015 at 25.

See Chapter 7 of this report for a detailed discussion of Namibia's maternal mortality rates.

3.8 SADC Gender and Development Index (SGDI)

The SADC Protocol on Gender and Development, adopted by most SADC member states (including Namibia) in 2008,⁴⁵ set 28 targets aligned to the Millennium Development Goals, to be achieved by 2015.

⁴³ See United Nations Economic Commission for Africa, "The African Gender and Development Index: Phase 4, Technical Note", May 2016 (available at <www.uneca.org/sites/default/files/uploaded-documents/Gender/AGDI4-2016/technical_note_agdi_4_18-05-162.pdf>). The draft report for Namibia was considered at a validation workshop in March 2017.

⁴⁴ African Union Commission, *African Gender Scorecard*, 2015 at 3-4 (available at <www.au.int/web/sites/default/files/documents/31260-doc-2015_auc_african_gender_scorecard_en.pdf>).

⁴⁵ The SADC Protocol on Gender and Development was signed on 17 August 2008. It came into force in the region on 22 February 2013, after being ratified by two-thirds of SADC's member states (Angola, Lesotho, Malawi, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe). It has

Since not all of these targets were actually achieved, a subsequent review set new targets pegged to the UN Sustainable Development Goals (SDGs) which are operational until 2030. This review identified ten thematic areas for continued action:

1. Constitutional and Legal Rights
2. Governance (Representation and Participation)
3. Education and Training
4. Productive Resources and Employment, Economic Empowerment
5. Gender Based Violence
6. Health, Sexual and Reproductive Health and Reproductive Rights
7. HIV and AIDS
8. Peace Building and Conflict Resolution
9. Media, Information and Communication
10. Climate Change.

Specific timeframes have been shifted from the SADC Protocol on Gender and Development to a separate Monitoring, Evaluation and Results Framework which is still being refined.⁴⁶

The Southern African Gender Protocol Alliance assesses progress using the **SADC Gender Development Index (SGDI)**. This index is based on 23 indicators in six sectors: education, political participation, the economy, health, HIV and AIDS, and the media.⁴⁷ This is accompanied by a **Citizen Score Card (CSC)**, which measures perceptions of women and men on the changes taking place around the issues covered by the SADC Gender Protocol. The idea is to capture nuances that may not be captured by the empirical data: “For example, while the SGDI records enrolment levels for boys and girls, the CSC includes qualitative aspects like safety in schools and gender biases in curriculum.” In addition to the six sectors covered by the SGDI, the CSC covers an additional four sectors: constitutional and legal rights, gender-based violence, peace building and implementation.⁴⁸ In 2016, the CSC was based on input from 41 139 persons (52% women and 48% men) in all 15 SADC countries (including 3 540 respondents in Namibia).⁴⁹

The highest possible score on the SGDI is 100. Namibia scored 73 in 2011, placing it 3rd out of the 15 SADC countries. In 2016 Namibia tied for top rank (with Seychelles) with a score of 80.⁵⁰ However, during the same time period, Namibia dropped in CSC scores from 1st place in 2011 with a score of 74 out of 100 points, to 8th place in 2016 with a score of 69.⁵¹ So, Namibia gained ground in measurable targets, but lost ground in public perceptions of gender equality.

3.9 Future gender equality comparisons: EDGE Project

The Evidence and Data for Gender Equality (EDGE) project – a joint initiative of the United Nations Statistics Division and UN Women – is an effort to improve the integration of gender issues into the regular production of official national statistics, with the ultimate aim of enabling evidence-based policies

been signed but not ratified by the DRC and Madagascar. Botswana and Mauritius have not yet signed it. *SADC Gender and Development Monitor 2016*, Southern African Development Community Gender Unit (SADC Secretariat) and Southern African Research and Documentation Centre (Beyond Inequalities Gender Institute), Table 9.1 at 76 (available at <www.sardc.net/books/BI/SADC_Gender_Monitor_%202016.pdf>).

⁴⁶ *SADC Gender Protocol 2016 Barometer* at 11-16.

⁴⁷ Id at 19, 31.

⁴⁸ Id at 31.

⁴⁹ Id at 32.

⁵⁰ Id at 35.

⁵¹ Id at 37.

which take gender into account more effectively. This project has developed a *Minimum Set of Gender Indicators* which is intended to guide the national production of gender statistics as well as future international comparisons.⁵²

The indicators are organised into five themes which are based on the Beijing Platform for Action:⁵³

1. Economic structures and access to resources
2. Education
3. Health and related services
4. Public life and decision-making
5. Human rights of women and children.⁵⁴

The indicators are also organized into three tiers:

Tier 1: Conceptually clear, with an internationally established methodology and standards, and data regularly produced by countries.

Tier 2: Conceptually clear, with an internationally established methodology and standards, but data not regularly produced by countries.

Tier 3: No internationally established methodology or standards, data not regularly produced.⁵⁵

As of 5 June 2017, the *Minimum Set of Gender Indicators* included 52 quantitative indicators and 11 qualitative indicators, divided between the three tiers (mostly in Tier 1).⁵⁶ The proposed methodologies are being piloted in seven countries: Georgia, Maldives, Mexico, Mongolia, Philippines, South Africa and Uganda. The plan is to use the lessons learned from the pilot surveys to inform the revision of the EDGE guidelines that will be presented to the UN Statistical Commission in 2017.⁵⁷

⁵² These were approved by the United Nations Statistical Commission in 2013 (Decision 42/102, E/CN.3/2013/33, 18 April 2013, <<https://unstats.un.org/unsd/statcom/44th-session/documents/statcom-2013-44th-report-E.pdf>>. They are summarised in “The United Nations Minimum Set of Gender Indicators: A product of the Inter-agency and Expert Group on Gender Statistics”, United Nations Statistics Division, 6 June 2017 (available at <<https://genderstats.un.org/files/Minimum%20Set%20indicators%20web.pdf>>).

⁵³ The Beijing Platform for Action is a blueprint for advancing women’s rights agreed upon at the Fourth World Conference on Women held in Beijing, China in September 1995.

Three of the 12 critical areas of concern in the Beijing Platform for Action are not covered by the *Minimum Set of Gender Indicators* because of the “unavailability of either data or clear concepts and definitions”. “The United Nations Minimum Set of Gender Indicators: A product of the Inter-agency and Expert Group on Gender Statistics”, United Nations Statistics Division, 6 June 2017 (unpaginated).

⁵⁴ Ibid.

⁵⁵ “Minimum Set of Gender Indicators”, United Nations Statistics Division website: <<https://genderstats.un.org/#/home>>.

⁵⁶ “The United Nations Minimum Set of Gender Indicators: A product of the Inter-agency and Expert Group on Gender Statistics”, United Nations Statistics Division, 6 June 2017 (unpaginated).

⁵⁷ “Overview”, United Nations Statistics Division website: <<https://unstats.un.org/edge/pilot/overview/>>.

Chapter 4

Women and Politics

4.1 Women in Parliament

The Namibian Parliament consists of two houses, the National Assembly and the National Council. Bills are initiated in the National Assembly and reviewed by the National Council. If the National Council proposes amendments, the bill is returned to the National Assembly for further consideration. If the National Council disapproves of the principle of a bill, it can be passed over these objections by the National Assembly only by a two-thirds majority.

The National Assembly is composed of 96 elected voting members elected on a party list system, and eight non-voting members appointed by the President. The National Council is composed of three representatives from each of Namibia's 14 regional councils, elected by the members of each such council. (The members of the regional councils are directly elected on a constituency basis.)

Amendments to the Namibian Constitution in 2014 expanded the size of Parliament, with the National Assembly increasing from 72 to 96 elected members, and the number of appointed non-voting members increasing from six to eight. This produced a total of 104 members. At the same time, the National Council increased from 26 members (two from each of Namibia's 13 regions) to 42 members (three from each of Namibia's now-14 regions).¹ This expansion of Parliament came about after Swapo's commitment to field a 50% slate of candidates on its party list for the National Assembly, so it is hard not to wonder if at least part of the motivation for the size increase came from male Parliamentarians who did not want to lose their seats.²

The most recent general election (for President and National Assembly) was in 2014, and the most recent local and regional elections were in 2015. Following the 2014 election, 40 women and 56 men took their seats from the party lists (41.7% women amongst the voting members), while the President appointed three women and five men, producing a total of 43 women and 61 men in the National Assembly (41.3% women overall). After the 2015 election, there were 10 women compared to 32 men in the National Council (23.8%).³

¹ Namibian Constitution Third Amendment Act 8 of 2014 (Government Gazette 5589).

² See, for example, "FACTSHEET: Namibia votes", researched by Kristen van Schie, *AfricaCheck*, [undated], <<https://africacheck.org/factsheets/factsheet-namibia-votes/>>. Whether or not this was the motivation, 56 males took seats in the National Assembly after the 2010 elections, and 56 males again took seats in the National Assembly after the 2015 elections.

³ *SADC Gender and Development Monitor 2016*, Southern African Development Community Gender Unit (SADC Secretariat) and Southern African Research and Documentation Centre (Beyond Inequalities Gender Institute) at 20 (available at <www.sardc.net/books/BI/SADC_Gender_Monitor_%202016.pdf>) (hereinafter "*SADC Gender and Development Monitor 2016*"). Note that the statement that the President may appoint additional non-voting members to the National Council is incorrect.

Taking Parliament as a whole (considering both houses), the most recent elections produced a Parliament of 146 members (including non-voting members), of which 53 were women (36.3%). If the voting members are not counted, women comprise 50 out of 138 members of Parliament (36.2%).

As of June 2016, Namibia ranked 11th in the world in respect of highest numbers of women in the larger house of Parliament (with 41.3% women in the National Assembly and 23.8% in the National Council, behind Rwanda, Seychelles, Senegal and South Africa in Africa, and sharing 11th position with Iceland and Nicaragua.⁴ As of May 2017, Namibia was still ranked 11th in the world on female representation in the larger house of Parliament, now the 4th best in Africa on this score (behind Rwanda, Senegal and South Africa).⁵

According to the *SADC Gender and Development Monitor 2016*:

Since no legal quotas are applied at national level, the advancement of representation by women is dependent on the implementation of voluntary quotas by the political parties. Awareness on equal representation at all levels as per the SADC Protocol on Gender and Development was intensified prior to the 2014 elections, and a National Conference on Women in Politics in Namibia was held in November 2013, targeting the women's wings of all political parties. Workshops and meetings for political parties and parliamentarians were held to discuss the importance of equal representation at all levels of decision-making. This contributed to placing the country among the top 3 in SADC.⁶

In fact, given Swapo's dominance of the National Assembly with 77 out of 96 members,⁷ it was Swapo's internal decision to adopt a "zebra list" of alternating male and female candidates which produced the strong gender showing in the National Assembly elections.⁸ Out of the 16 political parties which took part in the 2014 elections, only three had 50% or more women on their party lists while six had at least 50% women amongst their top ten candidates, crucial positioning given the small number of seats which most opposition parties gain in Namibia.⁹ Only Swapo applied a zebra style throughout its party list, but other parties took some steps to ensure female representation. The Republican Party (RP) over-represented women in its top 10 list positions, with six of the 10 being female (including four of the top five names on the list). The South West Africa National Union (SWANU) applied zebra style to the top 20 positions on its list, the Democratic Party of Namibia (DPN) to its top 19 positions, Congress of Democrats (CoD) to its top 10 positions, the National Democratic Party of Namibia (NDP) to its top eight positions and Christian Democratic voice (CDV) to its top six positions. The All People's Party (APP) placed two males at the top of its list, but then applied a zebra style from positions 2 to 29.¹⁰

⁴ *SADC Gender and Development Monitor 2016*, Table 2.2 at 16 and Table 2.3 at 17, citing data from the Inter-Parliamentary Union, June 2016. This list classifies countries in descending order of the percentage of women in the "lower or single house". This description does not entirely fit Namibia's National Assembly, which is the larger house but is superior to the National Council in terms of legislative power.

⁵ Inter-Parliamentary Union, *Women in national parliaments (situation as of 1st May 2017)*, available at <www.ipu.org/wmn-e/classif.htm#1>.

⁶ *SADC Gender and Development Monitor 2016* at 20.

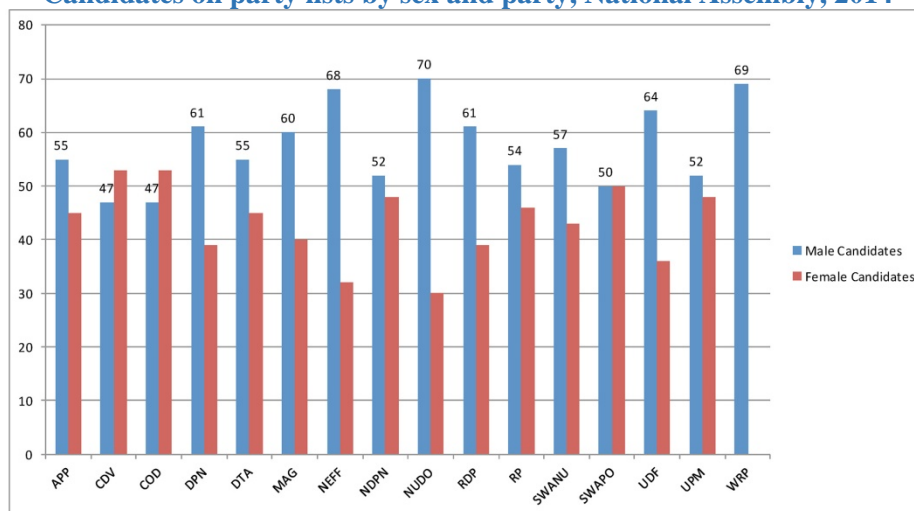
⁷ "Your Record of 2014 Election Results", *IPPR Election Watch*, Issue No. 11, 2014. This represented 80% of the votes.

⁸ Nangula Shejavali, "A Thorn in the Flesh for Gender Equality: How the gender gap in Namibia's Regional Council elections undermines the country's otherwise impressive gender equity gains at other levels of governance", *IPPR Election Watch*, Briefing Paper No. 2, December 2015 at 1.

⁹ "Will the parties deliver on gender equality?", *IPPR Election Watch*, Issue No. 8, 2014 at 2.

¹⁰ Ibid.

Candidates on party lists by sex and party, National Assembly, 2014



Source: Electoral Commission of Namibia, *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections* at 33.

Civil society recommended that the **Electoral Act 5 of 2014** should require all parties to submit 50:50 party lists in zebra style, but this recommendation was not successful.

Women in National Assembly since Independence		
National Assembly	% women elected	# of women amongst non-voting members
1990-1995 (1 st)	8.3% (6/72)	1/6
1995-2000 (2 nd)	12.5% (9/72)	2/6
2000-2005 (3 rd)	25.0% (18/72)	0/6
2005-2010 (4 th)	23.6% (17/72)	3/6
2010-2015 (5 th)	22.2% (16/72)	3/6
2015-2020 (6 th)	41.7% (40/96)	3/8

Women in National Council since Independence	
National Council	% women elected
1992-1998 (1 st)	3.8% (1/26)
1998-2004 (2 nd)	7.7% (2/26)
2004-2010 (3 rd)	26.9% (7/26)
2010-2015 (4 th)	26.9% (7/26)
2015-2020 (5 th)	23.8% (10/42)

Source: Based on Amanda Clayton, “Namibia at a Crossroads: 50/50 and the Way Forward”, *Institute for Public Policy Research (IPPR) Democracy Report*, Special Briefing Report No. 7, September 2014 at 2 (with terms of office for National Council corrected), with 2014-2015 election figures added from sources indicated above.

As of May 2017, the Speaker of the National Assembly was male with a female deputy, and the Chairperson of the National Council was female with a male deputy.¹¹

¹¹ See “Government Information Bulletin 2017” in *Namibian Government Directory*, Windhoek: Republic of Namibia, 2017 at 113-114.

4.2 Women in Cabinet

Women have in recent years comprised only about one-quarter to one-fifth of all Cabinet members. The 2010 Cabinet included five women out of 24 members (20.8%).¹² As of 2017, there are seven women out of 27 Cabinet members (25.9%).¹³ This includes Ministers, but not Deputy Ministers. Cabinet also includes Namibia's President and Vice President, who are both male, and the slightly lower-ranking Prime Minister and Deputy Prime Minister, who are both female.¹⁴

Gender balance has been achieved in respect of Deputy Ministers, with 16 women and 16 men amongst the total of 32 officials at this level.¹⁵

Women in Cabinet since Independence					
1995	2000	2006	2009	2012	2015
10% (2/20)	14.2%	27%	22.7%	22.7%	22.2% (6/27)

Source: Extracted from *SADC Gender and Development Monitor 2016*, Table 2.7 at 24. Another source reports that Namibia's Cabinet had 19% women in 2009, rising to 23% in 2015. Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 92 (Table 2.15).

4.3 Women in regional and local councils

The first regional and local authority elections were held in 1992. Until 2010, regional and local elections took place separately, in light of their respective six-year and five-year terms of office. Changes to the terms of office of regional councils brought them back into sync and they have taken place simultaneously since 2010. Note that differing sources for election figures report different numbers, both for total councillors and percentages of female representation (see footnotes to the text below).

Regional councils: During the most recent regional council elections in November 2015, only 15% of participating candidates were women,¹⁶ and only 16% of the 121 candidates elected as councillors were women.¹⁷ Looking at the change over time, only three women out of 95 regional councillors were elected

¹² Proclamation 8 of 2010, Announcement of appointments made under Articles 32 and 35 of the Namibian Constitution (Government Gazette 4468).

¹³ Based on the list of Cabinet members at <www.gov.na/cabinet>, as at 31 May 2017.

¹⁴ This count does not include the Attorney-General, who is male and also attends Cabinet meetings but is not included in the composition of Cabinet in Article 35(1) of the Namibian Constitution.

¹⁵ *SADC Gender and Development Monitor 2016* at 25. Another source reports that Namibia had 15 women amongst its 32 Deputy Ministers in 2015, which is equal to 47%. Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 93 (Table 2.16) (hereinafter "*SADC Gender Protocol 2016 Barometer*").

¹⁶ Nangula Shejavali, "A Thorn in the Flesh for Gender Equality: How the gender gap in Namibia's Regional Council elections undermines the country's otherwise impressive gender equity gains at other levels of governance", *IPPR Election Watch*, Briefing Paper No. 2, December 2015 at 1. This source refers to 15% women amongst 284 candidates. Contemporary news sources cite 43 women amongst 287 candidates, which is also 15%. Tuyeimo Haidula, "Govt ups campaign to have more women on boards", *The Namibian*, 14 June 2016; Theresia Tjihenua, "One Giant Step Back for Women Representation", *The Namibian*, 1 December 2015.

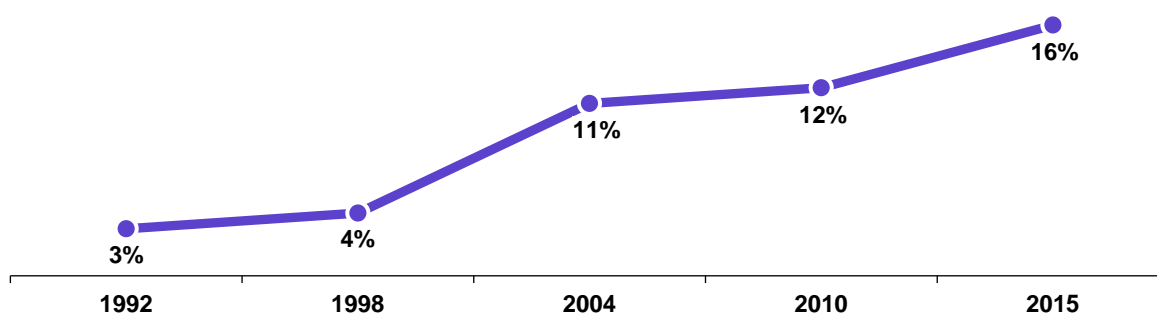
There were 121 constituencies across the country, but 26 of these constituencies were uncontested, leaving only 95 constituencies participating in the 2015 regional election process. However, candidates had to be nominated for all 121 constituencies. Electoral Commission of Namibia, *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections* at 10 (available at <www.ecn.na/documents/27857/180253/Post+Election+Report+2014/2d34cdf9-4a1c-4856-ac99-7baf790e9243>).

¹⁷ The numbers reported vary. The Electoral Commission of Namibia reports that only 21 out of 121 seats in the Regional Councils are occupied by women (17% of the total). Electoral Commission of Namibia, *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections* at 15. However, news sources contemporaneous with the elections report that 19 out of 121 regional councillors were

in the first regional elections in 1992 (3%), rising to four women out of 102 regional councillors elected in 1998 (4%).¹⁸ In 2004, female representation on regional councils rose to 11%,¹⁹ and in 2010, 13 regional councillors out of a total of 107 (12%).²⁰ After the 2015 elections, the Electoral Commission of Namibia commented:

The issue of women representation in Regional Councils is far below Namibia's commitment to gender equality. Drastic corrective initiatives must be designed to ensure the achievement of equal representation of women on Regional Councils country-wide.²¹

Proportion of women amongst regional councillors



Source: Based on data in text.

women after the 2015 elections (16% of the total). Tuyeimo Haidula, "Govt ups campaign to have more women on boards", *The Namibian*, 14 June 2016; Theresia Tjihenuna, "One Giant Step Back for Women Representation", *The Namibian*, 1 December 2015. (One news source reports that 20 women were amongst the 121 councillors, but seems to have calculated this backwards from the 16% figure; in fact, 19 women out of 121 is 15.7%, while 20 women out of 121 is 16.5%, so this report is somewhat unclear. "Women lose out in regional council elections", *New Era*, 30 November 2015.) It could be that some people who were initially elected were substituted by others before taking their seats, leading to some confusion.

It was reported that two regional councils (Omaheke and Zambezi) had no female councillors after the 2015 election, while eight regional councils had only one woman each (Hardap, //Kharas, Kavango East, Kavango West, Kunene, Oshana, Ohangwena and Omusati). Two regional councils had two women each (Erongo and Oshikoto). Only two of Namibia's 14 councils approached gender balance, with women in 4 out of 10 seats in Khomas and 3 out of 7 seats in Otjozondjupa. Theresia Tjihenuna, "One Giant Step Back for Women Representation", *The Namibian*, 1 December 2015. Another news report presented a similar description, but stated that Oshana had two women instead of one amongst its members. "Women lose out in regional council elections", *New Era*, 30 November 2015.

¹⁸ Gretchen Bauer, "'The Hand That Stirs the Pot Can Also Run the Country': Electing Women to Parliament in Namibia", *Journal of Modern African Studies*, Vol 42, No 4 (Dec 2004), 479-509 at 482.

¹⁹ The Legal Assistance Centre reported that the 2004 regional elections resulted in "only 12 women amongst the 107 persons elected to fill seats on the 13 regional councils, for a total of 11.2 %. Six of the 13 regions have no women at all on their regional councils, although the Khomas region bucked this trend with 6 women amongst its 10 councillors." Dianne Hubbard, "Gender Scorecard 2004", *The Namibian*, 23 December 2004.

²⁰ *National Gender Policy 2010-2020*, Windhoek: Ministry of Gender Equality and Child Welfare, 2009 at 16; Nangula Shejavali, "A Thorn in the Flesh for Gender Equality: How the gender gap in Namibia's Regional Council elections undermines the country's otherwise impressive gender equity gains at other levels of governance", *IPPR Election Watch*, Briefing Paper No. 2, December 2015 at 7.

²¹ *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections*, Windhoek: Electoral Commission of Namibia at 15.

Local authorities: The low percentage of women in regional councils is in marked contrast to the situation in local authority councils, where there is a statutory requirement of affirmative action for women. After the 2015 local elections, local authority councils approached gender parity at 48% women (who occupied 179 out of a total of 371 seats).²³

The percentage of women at the local level has been consistently high. In the first local authority elections in 1992, women filled 31.5% of all local authority seats (114 out of 362) even though the affirmative action requirements for that election were weaker (party lists had to include at least two women for local authority councils of 10 or fewer members, and at least three women for councils with 11 or more members).²⁴ In 1998, virtually every political party contesting local elections came close to the ideal of 50% representation of women on its party list,²⁵ with 136 women among the 329 local councillors who took seats as a result of those elections (41.3%).²⁶ Since then, the percentage of women in local government has remained high in each election. After the 2004 elections, about 43% of local councillors were women,²⁷ and after the 2010 elections, the figure was around 42%²⁸ – before women in local government reached the all-time high to date of 48% in 2015.

Legal issue

Local authorities are elected on a party list system. The **Local Authorities Act 23 of 1992** requires that a minimum of three women candidates must be on the party list for a local authority council of 10 or fewer members, and minimum of five women candidates where the local authority council has 11 or more members.²²

²² Local Authorities Act 23 of 1992, section 6(4).

²³ *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections*, Windhoek: Electoral Commission of Namibia at 15.

²⁴ If the 1994 Walvis Bay results are added to the results in the 1992 elections, then women accounted for 119 out of 372 seats (32%) in 52 local authorities. Note that the Electoral Commission of Namibia reports 101 women out of 320 seats (31.5%) for 45 local authorities. Personal communication from Electoral Commission of Namibia, June 2017. The *SADC Gender Monitor 2013* reports at 51 that the 1992 local elections produced 37% women. The Legal Assistance Centre figures are cited in the text as they were calculated shortly after the elections in question from primary sources.

According to the Legal Assistance Centre report at 9, the local elections (not counting the separate Walvis Bay election) initially involved 53 local authorities. However, councillors took seats in only 51 local authorities as there were no nominations for councillors in two local authorities, which were subsequently deproclaimed. In three local authorities, only one party put forward party lists, so its candidates were uncontested. However, this still does not account for the discrepancy between the LAC and ECN figures.

²⁵ One party (SWANU) slightly exceeded 50% women its 1998 party list.

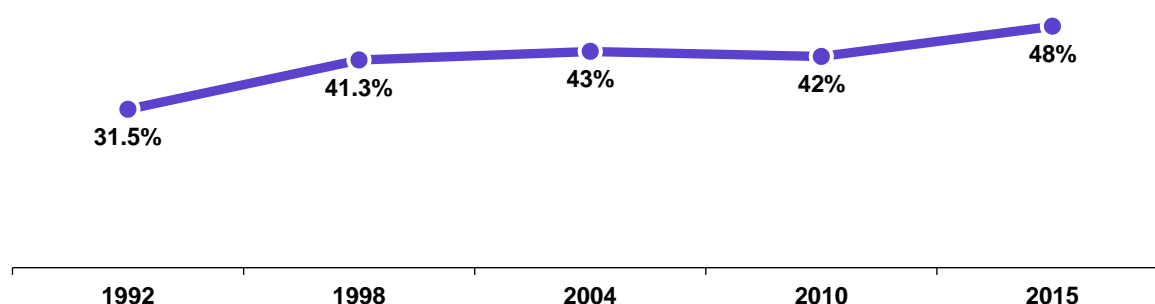
²⁶ All of the figures for the 1992 and 1998 elections come from Kapena L Tjihero, Doufi Namalambo and Dianne Hubbard, *Affirmative Action for Women in Local Government in Namibia: The 1998 Local Government Elections*, Windhoek: Legal Assistance Centre, 1998.

However, note that the Electoral Commission of Namibia reports 127 women out of 330 seats (38.5%). Personal communication from Electoral Commission of Namibia, June 2017. The source of the discrepancy is not clear. Both sources state that there were 45 local authorities in 1998. The LAC report states that 42 of these local authorities had 7 seats, two had 10 seats and one had 15 seats which produced a total of 329 seats. Some other sources also cite 41.3% female representation in the 1998 elections; see, for example, Christof Maletsky, “Women’s share in local govt up”, *The Namibian*, 19 May 2004 and *SADC Gender Monitor 2013* at 51. The Legal Assistance Centre figures are cited in the text as they were calculated shortly after the elections in question from primary sources.

²⁷ The Legal Assistance Centre reported in December 2004 that the local elections held in May of that year resulted in women increasing their presence from 41.3% to 43.4% (123 out of 283 seats). Dianne Hubbard, “Gender Scorecard 2004”, *The Namibian*, 23 December 2004. *SADC Gender Monitor 2013* at 51 also cites 43.4% women after the 2004 elections. However, the Electoral Commission of Namibia reports 124 women out of 290 seats (42.8%). Personal communication from Electoral Commission of Namibia, June 2017. The source of the discrepancy is not clear.

²⁸ Colleen Lowe Morna et al, eds, *SADC Gender Protocol 2014 Barometer*, Southern Africa Gender Protocol Alliance, 2014 at 81, stating that there were 135 women out of 323 local authority councillors. However, note

Proportion of women amongst local councillors



Source: Based on data in text.

4.4 Regional governors and local mayors

Regional governors are appointed by the President,²⁹ while mayors and deputy mayors are elected by local authority councils from amongst their members.³⁰

In 2015, there were only 5 female regional governors amongst the total of 14 who were appointed (36%).³¹ This is an improvement from the 2011 appointments, which included 3 women amongst the 13 regional governors (23%).³²

At the local level, as of May 2017, there were 57 local authorities, with women holding the position of mayor in 18 of these local authorities (32%) and deputy mayor in 24 local authorities (42%), meaning women comprised 37% of the total number of persons in both positions.³³ However, women accounted for only 7 of the 57 chief executive officers of local authorities (12%),³⁴ who are appointed by the councils.³⁵

4.5 Women and voting

Following the most recent General Registration of Voters (from 15 January to 2 March 2014), the Electoral Commission of Namibia reported that 1 158 925 persons had registered to vote within Namibia, plus 3 441 voters who registered at Namibia's foreign missions, for a combined total of 1 162 366 registered voters. The registered voter population was young, with about 44% of voters being between the

that the Electoral Commission of Namibia reports 134 women out of 336 seats (39%). Personal communication from ECN, June 2017. The source of the discrepancy is not clear.

SADC Gender Monitor 2013 at 51: "The proportion of women elected in 2010 local elections dropped slightly, but the women representation in local government remains at over 40 percent." *SADC Gender Protocol 2016 Barometer* at 80 (Table 2.7) lists Namibia as having 42% women representation in local councils in 2009, and 48% in 2015.

²⁹ Special Advisers and Regional Governors Appointment Act 6 of 1990, section 2(1).

³⁰ Local Authorities Act 23 of 1992, section 11(1).

³¹ "President announces governors", *The Namibian*, 10 April 2015 (listing the names of each governor). Appointments are supposed to be gazetted in terms of the applicable legislation (Special Advisers and Regional Governors Appointment Act 6 of 1990, section 2(2)), but no gazette for these appointments could be located.

³² Proclamation 1 of 2011 (Government Gazette 4645); Catherine Sasman, "Regional governors sworn in", *The Namibian*, 9 February 2011 (listing the names of each governor).

³³ Personal communication, Association of Local Authorities of Namibia (ALAN), June 2017.

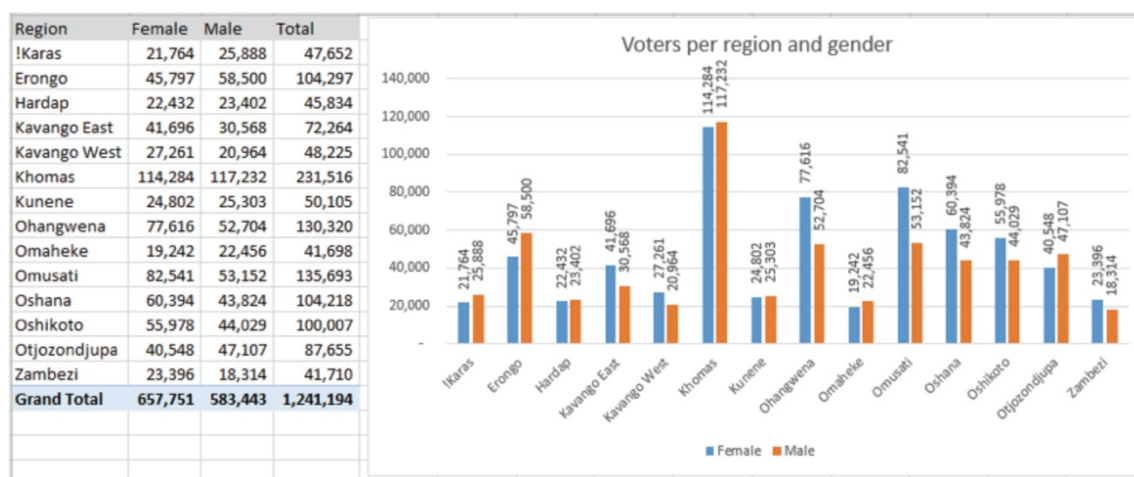
³⁴ Ibid.

³⁵ Local Authorities Act 23 of 1992, section 271.

ages of 18 and 32 and about 20% being “born frees” (persons born after the date of Independence, 21 March 1990). **About 53% of registered voters were female.** Voter registration is generally high, estimated to be over 90% of the voting age population.³⁶ After supplementary registration, the total number of registered voters increased to 1 241 194, still 53% female.³⁷

As the table below indicates, there were some regional gender disparities.³⁸ However, without more information, it is not possible to analyse these figures meaningfully.

Registered voters by sex and region, 2014



Source: Electoral Commission of Namibia, *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections* at 18.

Voter turnout for the 2014 Presidential and National Assembly elections was about 72%, but no sex breakdown is available.³⁹

The *2013 Baseline Study Report on Human Rights in Namibia* commissioned by the Office of the Ombudsman asked respondents about any forms of discrimination “that people generally face” in terms of the right to vote. The majority (55.5%) indicated that there was no discrimination at all. The most common forms of perceived grounds of discrimination were party-political affiliation (22.7%) and race or ethnicity (9.8%). About 7% of respondents believed that people experienced discrimination in terms of the right to vote due to sex. No details were collected and the report notes that responses did not differ significantly between men and women. A similar pattern of responses emerged when respondents were questioned about the barriers “that people generally face” in exercising their right to freedom of speech, with just over half the respondents indicating that there was no discrimination at all, while almost 36% perceived discrimination on the basis of party-political affiliation and 21% on the basis of race or ethnicity. However, in this case, more than one out of five respondents (22.1%) indicated a perception that people faced discrimination on the basis of sex in exercising this right. Again, responses did not vary

³⁶ “1,158,925 register to vote”, *IPPR Election Watch*, [undated], <www.electionwatch.org.na/?q=node/488>.

³⁷ Electoral Commission of Namibia, *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections* at 17 (available at <www.ecn.na/documents/27857/180253/Post+Election+Report+2014/2d34cdf9-4a1c-4856-ac99-7baf790e9243>).

³⁸ Electoral Commission of Namibia, *Performance Assessment and Post-Election Report: 2014 Namibian Presidential and National Assembly Elections* at 18.

³⁹ Id at 38.

significantly between the sexes.⁴⁰ It must be emphasised that the respondents were not reporting on actual experiences of discrimination, but on their perceptions of barriers in Namibian society.

4.6 Women in key government positions

Namibia's female representation in **senior government positions** below the level of Minister and Deputy Minister ranges from one-quarter to one-third.

	Permanent Secretary/ Director-General	Deputy Permanent Secretary/ Deputy Director-General	Directors / Heads of Departments
2011	23.1% women	not given	33.8%
2016	27% women	24%	32%

Sources: *SADC Gender and Development Monitor 2016*, Table 2.10 at 28; *SADC Gender Monitor 2013*, Table 10 at 54. Another source similarly reports that women accounted for 8 out of 35 Permanent Secretary/Director-General posts in 2016, which produces a 23% share. Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 94 (Table 2.19).

Female representation in **top diplomatic positions** has seesawed up and down in recent years. In 2017, there were 11 women (35.5%) and 20 men in the top positions at Namibian foreign missions.⁴¹ In contrast, there were reportedly 15% women in such posts in 2015 and 25% women in 2011.⁴² The variation presumably results from the small number of such posts, where a few changes in appointments can affect overall percentages dramatically.

4.7 Women in the uniformed services

The **Namibian Correctional Service** operates 13 institutions, all of which cater for both male and female prisoners.⁴³ In 2013, women accounted for about 36% of senior management positions (19 out of 53 posts), and there was one woman amongst the three Deputy Commissioners-General. According to the *SADC Gender Monitor 2016*, there is no female in the highest prison management post anywhere in the region.⁴⁴ It was reported in 2012 that the workforce of approximately 1 700 persons in the Namibian correctional service was 48% female.⁴⁵ No more recent statistics on the sex ratios of correctional service personnel could be located.⁴⁶

⁴⁰ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman at 129-13 (available at <www.ombudsman.org.na/wp-content/uploads/2016/09/Baseline_Strudy_Human_Rights_2013.pdf>). The national household survey on attitudes about human rights issues was targeted at 1 280 households (645 women and 635 men), with the actual interviews taking place in 2012 and closely approaching this target. Note that Table 98 in the report appears to be mislabelled.

⁴¹ See *Namibian Government Directory*, Government Information Bulletin 2017 (Windhoek: Republic of Namibia, 2017) at 115-123. Some of these foreign missions double as missions to regional organisations such as the AU and EU.

⁴² *SADC Gender and Development Monitor 2016*, Table 2.11 at 29.

⁴³ Namibian Correction Service website: <www.ncs.gov.na/structure>. These institutions include two open farms and three maximum security facilities.

⁴⁴ *SADC Gender and Development Monitor 2016* at 74.

⁴⁵ DCP Chiremba, ACP Nafuka & SSP Martin, "The Transformation Journey of the Namibian Correctional Service: Achievements and Challenges that remain", Presentation to Second African Correctional Services Association Conference, 2-5 October 2012 (available at <www.africancorrectionalservicesassociation.org/Docs.php>).

⁴⁶ The *SADC Gender Protocol 2016 Barometer* indicates that Namibia does not keep sex-disaggregated data on prison staff. *SADC Gender Protocol 2016 Barometer* at 257. This report also states that 3% of Namibia's prisons are female. Id. In 2013, the Namibian Correctional Service spent N\$4 866 per female offender and N\$6 023 per male offender for clothing, bedding and toiletries, while the amount spent on food was N\$6 023 per offender regardless of sex. Overall, the annual upkeep was N\$19 602 for a male offender and N\$18 178 for a female offender. Charmaine Ngatjiheue, "Prisoners gulp N\$82m", *The Villager*, 20 October 2014, citing a

Women comprise almost one-third of the **Namibian Police Force** (32% in 2013, 34% in 2014 and 31% in 2015).⁴⁷ NamPol has a Women Network which provides a platform to facilitate the sharing of best practices and solutions on gender issues.⁴⁸

In mid-2015, the Minister of Defence reported that 5% of the management portfolios in the **Namibian Defence Force** were held by women, while the entire force was 23% female.⁴⁹ Women continued to comprise about 23% of the Namibian Defence Force in 2016.⁵⁰ The *SADC Gender Protocol 2016 Barometer* reports:

Namibia still ranks second in SADC for the highest proportion of women in the defence force. The highest ranking female officer is a General (1 of 22 Generals). Namibia Defence Force has 16 women Colonels (out of 78) and three women Battalion Commanders. Namibia's impressive results are attributed to the concrete gender mainstreaming efforts and to discernible political will by the leadership. The aim of the NDF is to reach 30% representation for women.⁵¹

Namibia led the SADC region in the presence of women amongst peacekeepers deployed: 21% in 2013, 29% in 2014 and 36% in 2015.⁵² The presence of females in peace missions can be instrumental in demonstrating to host societies that women have a role in sectors traditionally dominated by men.

4.8 Women in the judiciary and magistracy

Namibia has never had a female Chief Justice or Judge President. As of 2017, there were no women amongst the five permanently-appointed Supreme Court justices, and only four women amongst the 15 permanently-appointed High Court judges (which is four women out of 20 superior court judges overall, or 20%).⁵³ The level of women in the judiciary (looking at the superior courts combined) is stagnant, with women comprising 18% of the judiciary in 2017, 15% in 2012 and 17% in 2010.⁵⁴

Magistrates have consistently had a much more even gender balance, with women comprising 50% of Namibia's 93 magistrates in May 2017 (47 males and 46 females),⁵⁵ compared to 45% in both 2012 and 2010.⁵⁶ As of May 2007, the Chief of the Lower Courts was female.⁵⁷

The underlying legal profession is fairly evenly divided between men and women, with women comprising almost 47% of the 782 active members of the Law Society of Namibia as of June 2017. This

written interview with the Minister of Safety and Security, Immanuel Ngatjizeko, along with the Namibian Correctional Services communication department.

⁴⁷ *SADC Gender and Development Monitor 2016*, Table 8.2 at 73; *SADC Gender Protocol 2016 Barometer* at 255 (Figure 8.3).

⁴⁸ See NAMPA, "NamPol women network has grown", 7 December 2016.

⁴⁹ Adam Hartman, "Army wants more women involved", *The Namibian*, 19 June 2015, quoting Minister Penda ya Ndakolo.

⁵⁰ *SADC Gender Protocol 2016 Barometer* at 253 (Figure 8.2).

⁵¹ *Id* at 254.

⁵² *Id* at 257, based on 2013, 2014 and 2015 Country Monthly Statistics for Peace Missions compiled by the United Nations Department of Peacekeeping Operations (UNDPKO). South Africa deployed the largest *number* of women, because it deploys many more peacekeepers overall than Namibia does.

⁵³ List of judges provided by the Office of the Judiciary, 31 May 2017. The permanent appointments include one judge appointed for a five-year term. The permanent judicial appointments are supplemented with acting appointments, which have included some female Supreme Court justices and High Court judges.

⁵⁴ *SADC Gender and Development Monitor 2016*, Table 2.8 at 27.

⁵⁵ Personal communication from the Office of the Judiciary, 31 May 2017.

⁵⁶ *SADC Gender and Development Monitor 2016*, Table 2.9 at 27.

⁵⁷ *Namibian Government Directory*, Government Information Bulletin 2017, Windhoek: Republic of Namibia, 2017 at 112.

is an enormous increase over the situation in 1990, where only 10% of the 107 admitted legal practitioners were women.⁵⁸ However, this data also suggests that women as a group probably still tend to have less seniority in the legal profession. The Namibian Women Lawyers Association, established in 2015, seeks to advance and promote women lawyers in Namibia by developing leadership skills through partnerships and committee work and by providing networking opportunities. The Association currently has a membership of over 300 female lawyers and law students.⁵⁹

4.9 Attitudes about women in politics and leadership

The 2014/2015 Afrobarometer survey⁶⁰ asked 1 200 Namibian respondents (roughly half men and half women) to indicate agreement or disagreement with two statements about sex and political leadership:

Statement 1: Men make better political leaders than women, and should be elected rather than women.

Statement 2: Women should have the same chance of being elected to political office as men.

Some 20% of the respondents agreed or agreed strongly with the first statement, but almost 80% agreed with the second statement (73% of the men and 82% of the women), suggesting that women are widely accepted as political leaders. In the 2011-2013 survey, about 30% agreed or agreed strongly with the first statement, compared to about 70% who agreed or agreed strongly with the second statement. In 2005/2006, about 32% agreed or agreed strongly with the first statement, compared to about 67% who agreed or agreed strongly with the second statement. This indicates **increasing acceptance of women as political leaders** over time.⁶¹

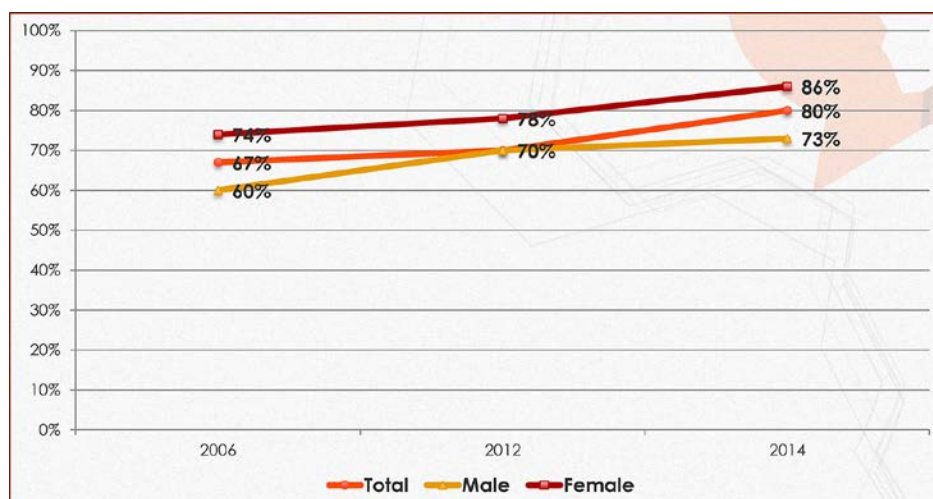
⁵⁸ Personal communication, Law Society of Namibia, June 2017.

⁵⁹ See Namibian Women Lawyers Association website: <<http://namibianwomenlawyers.com/>>; Nomhle Kangootui, “Lawyers stand up for the vulnerable”, *The Namibian*, 16 September 2016. The Association also provides free legal assistance for selected cases.

⁶⁰ Afrobarometer is an African-led, non-partisan survey research project that measures citizen attitudes on democracy and governance, the economy, civil society, and other topics. It began in 1999 with 12 countries and had expanded to 35 countries by Round 5 (2011-2013). The most recent Afrobarometer survey was Round 6 which took place in 2014-2015. Afrobarometer: Perceptions on gender equality, GBV, lived poverty and basic freedoms, IPPR, 13 February 2015 (available at <[http://ippr.org.na/wp-content/uploads/2015/02/NAM_R6%20%20Media%20briefing%20for%204th%20release_13Feb15_final%20\(2\).pdf](http://ippr.org.na/wp-content/uploads/2015/02/NAM_R6%20%20Media%20briefing%20for%204th%20release_13Feb15_final%20(2).pdf)>).

⁶¹ Afrobarometer online analysis tool, available at <<http://afrobarometer.org/online-data-analysis/analyse-online>>.

Changing support for women as political leaders



Source: “Afrobarometer: Perceptions on gender equality, GBV, lived poverty and basic freedoms”, Institute for Public Policy Research (IPPR), 13 February 2015.

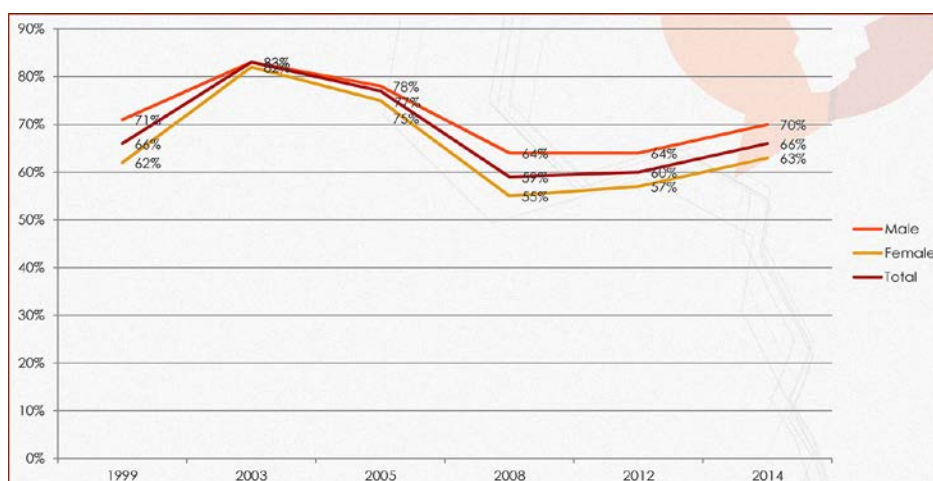
However, at the same time, **women tended to report lower levels of interest and participation in politics than men:**

Afrobarometer data shows that women are less interested in public affairs than their male counterparts: 63% of women say they are “somewhat” or “very” interested in public affairs, compared to 70% of men. Women also discuss politics less frequently than men (66% vs. 76%). Whilst interest in politics is rather strong across both sexes, differences in political engagement are generally consistent with trends across the continent, perhaps reflecting gendered socialisation in various cultural contexts. Interest in public affairs and the discussion of politics have, however, been growing since 2008 amongst both men and women.⁶²

The following tables illustrate the responses by sex to questions about interest in public affairs and personal civic participation of various forms.

Interest in public affairs

(percentage of respondents who said they were interested or very interested)

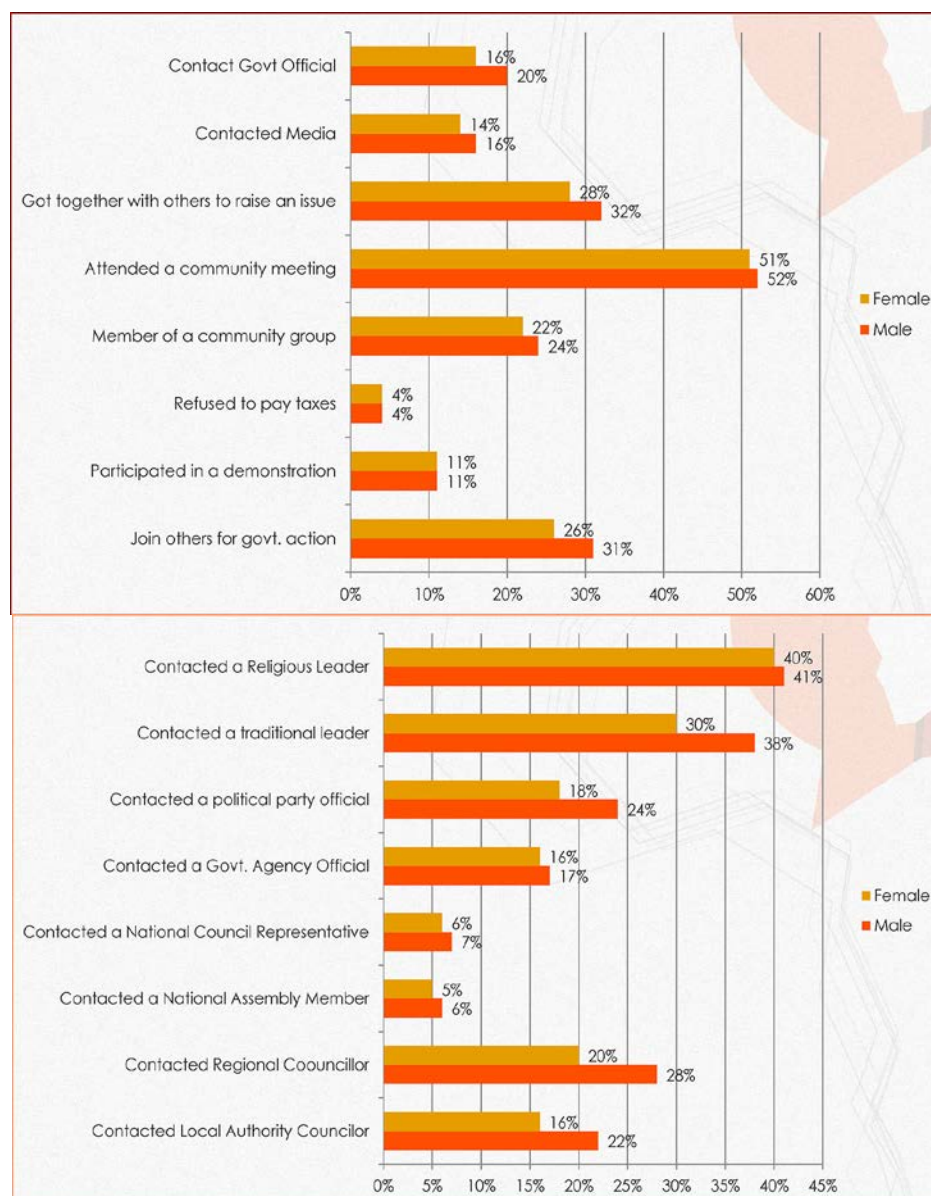


Source: “Afrobarometer: Perceptions on gender equality, GBV, lived poverty and basic freedoms”, Institute for Public Policy Research (IPPR), 13 February 2015.

⁶² Nangula Shejavali, “Gender in Namibia: Growing support for women’s leadership, concerns about violence”, *Afrobarometer Dispatch No. 22* at 3 (references to figures omitted).

Civic participation

Respondents were asked whether they had engaged in various forms of civic participation during the past year. The graph illustrates those who said that they had done so once, a few times or often.



Source: “Afrobarometer: Perceptions on gender equality, GBV, lived poverty and basic freedoms”,
Institute for Public Policy Research (IPPR), 13 February 2015.

The *Southern Africa Gender Attitude Survey 2016* compiled a “Gender Progress Score” for the 15 SADC countries based on 25 questions administered to over 46 000 male and female respondents.⁶³ Namibia scored third place in terms of progressive gender attitudes overall (behind Mauritius and Zambia), but the responses to some of the questions illustrated the contradictions which continue to characterise gender in Namibia. Whilst 72% of women and 73% of men in Namibia agreed with the statement that “people should be treated the same whether they are male or female”, 65% of women and 72% of men also agreed with the statement that “a woman should obey her husband” and 40% of women and 47% of men agreed with the statement that “a man should have the final say”. Although these questions did not pertain

⁶³ In Namibia, there were 4 292 respondents: 2 281 women and 2 011 men.

specifically to women in politics, they illustrate the backdrop of competing attitudes which can impact women's political attitudes and participation.⁶⁴

The same survey asked respondents to agree or disagree with the statement that "Women do not like the news – they are only interested in soaps and gossip". Just under half of Namibian respondents (44% of women and 49% of men) agreed with the statement,⁶⁵ reinforcing the Afrobarometer findings that women have a lower level of interest in public affairs than men and also suggesting that there are persisting gender stereotypes about women and their interests.

4.10 Women as politicians

A 2011 assessment by the Institute for Public Policy Research (IPPR) in Namibia gauged Parliamentary participation in the form of speeches, questions, replies and motions (excluding Ministerial statements, with a view to focusing on ordinary debate). This assessment covered 76 of the National Assembly's 78 members at the time (excluding the Speaker and the Deputy Speaker) during the three-month period between February and April 2011, using the aggregate number of lines from the various statements in Parliament during this period to determine the ranking of an individual MP. Two prominent female politicians were amongst the top ten performers in terms of participation,⁶⁶ whilst two women were also amongst the worst performers (the group of seven MPs who did not utter a single word during the assessment period). Generally, female MPs tended to fall into the mid to lower half of the participation rankings, suggesting "that women politicians largely still have not found or asserted their voice in legislative and national level decision-making processes":

Most female MPs made brief contributions to debates, excepting the Appropriation Bill. If female MPs are to improve their individual rankings they will have to do more than just introducing Points of Order, tabling reports and engaging in contentless interruptions in the House.⁶⁷

A similar IPPR assessment which covered the period from September 2005 to October 2007 found that male MPs participated in all aspects of parliamentary debates to a greater extent than female MPs,⁶⁸ with the sex distinction tending to be more pronounced in the ruling party (with opposition MPs of both sexes generally participating more in debates).⁶⁹

One female opposition MP interviewed about women's relative silence in 2012 remarked, "Women were not so active in Parliament and that frustrated me because I looked like the bad person at the end of the

⁶⁴ *SADC Gender and Development Monitor 2016* at 21-24. (Other results from this survey are discussed in Chapter 10.)

⁶⁵ *Id* at 30.

⁶⁶ The top performer in terms of amount of participation was Hon Netumbo Nandi-Ndaitwah (Minister of Environment and Tourism at the time), with a total of 729 lines in the Hansard during the assessment period. Also amongst the top ten performers was Hon Saara Kuugongelwa-Amadhila (then Minister of Finance), who came in at seventh overall with 502 lines in the Hansard.

⁶⁷ Ellison Tjirera, Elvis Muraranganda and Frederico Links, "Still Not Speaking Out", *IPPR Democracy Report*, Issue No. 5, 2011, quotes from page 4.

⁶⁸ Amanda Clayton, "Namibia at a Crossroads: 50/50 and the Way Forward", *IPPR Democracy Report*, Special Briefing Report No. 7, September 2014, at 9-10 (available at <http://ippr.org.na/wp-content/uploads/2014/09/DemocracyReport2014_7.pdf>).

The results on this point "hover around the threshold for traditional statistical significance (a corresponding p-value of 0.05, which indicates significance at the 95 percent confidence level)". *Id* at 10.

⁶⁹ *Id* at 10. "All of the average differences between male and female Swapo members hover around the traditional level of statistical significance, whereas the difference in averages by gender of opposition MPs generally do not approach statistical significance (however, this can also be in part a function of the smaller sample size of opposition MPs)." *Ibid*. (For more information, see Ellison Tjirera and Graham Hopwood, "Not Speaking Out: Measuring National Assembly Performance", *IPPR Comment No. 4*, September 2009.)

day. And they even asked me, ‘How does your husband cope with you, you are talking too much.’” Another female opposition MP interviewed in 2012 said, “I think they were scared... I think the women of Swapo are very afraid. They still have not broken the gender barrier... so they were scared and they didn’t want to lose their positions....”⁷⁰

A 2008-2009 survey of Namibian MPs by the African Legislature Project from the University of Cape Town attempted to assess policy differences between male and female Parliamentarians. The survey collected information from 37 members of the National Assembly (24 males and 13 females), which accounted for almost half of the MPs in this house of Parliament. However, the MPs who responded to the survey over-represent opposition MPs and back-benchers, who proved more willing to complete the survey than other MPs. (No members of the National Council were surveyed.)

Several survey questions shed light on differences between the male and female political perspective. Survey respondents were asked to identify the three most important problems facing the country that Government should address, and to indicate which of these was most significant. Nine of the 11 respondents who mentioned gender equality or women’s issues were female, with respondents tending to point to gender-based violence as a key issue.⁷¹ Another question asked about the unique contributions of women in Parliament, and 57% of the survey respondents mentioned the role women play in raising the issue of gender equality or issues that predominately affect women but may be overlooked by men.⁷² Responding to other questions, female MPs were more likely than male MPs to think that Parliament is doing badly or very badly at representing women’s interests, and to assess this as having either worsened or stayed the same over the last five years.⁷³ Both male and female MPs (54% of each group) reported that party views were the most important influence informing their position on an issue arising in Parliament, trumping the views of constituents, the national interests and personal convictions; both sexes rarely voted differently from the party view or abstained.⁷⁴ Virtually all male and female MPs agreed with the statement that “Women should have the same chance of being elected to political office as men”, while only two men and no women agreed with the statement that “Men make better political leaders than women, and should be elected rather than women.”⁷⁵ In summary,

in terms of self-reported behaviour and preferences, it appears that female MPs take seriously their responsibility to advocate for gender equality and do not think that the Namibian government is doing enough in this regard. Additionally, they do not appear any more (or less) susceptible to pressures from their political party than their male counterparts.⁷⁶

However, the differences in gender attitudes amongst women leaders can be over-estimated. An analysis of Parliamentary debates on several contentious gender issues between 2000 and 2009 concluded that female MPs cannot always be counted on more than male MPs to support progressive views on gender:

⁷⁰ Quotes from id at 11.

⁷¹ Id at 6-7. “The difference between the relative number of men and women who reported this response category is statistically significant at the 99 percent confidence level (p-value = 0.002).” Id at 7.

⁷² Id at 7.

⁷³ Id at 7-8. The difference between male and female responses to the question of how Parliament is doing on women’s issues was statistically significant at the 95 percent confidence interval (p-value = 0.039), the traditional threshold of statistical significance, while the sex differences in responses to the question about change over time reached the more conservative 99 percent confidence threshold (p-value = 0.002). Id at 8.

⁷⁴ Id at 8.

⁷⁵ Ibid.

⁷⁶ Id at 9. (For more information, see Joel D Barkan et al, *The African Legislatures Project: First Findings*, Centre for Social Science Research, Democracy in Africa Research Unit, CSSR Working Paper No. 277, 2010, available at <www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/pubs/WP277.pdf>.)

In sum, several laudable male MPs have shown support for progressive gender equality measures during parliamentary debates surrounding these issues; whereas some female MPs have been silent on these issues or at times even espoused reactionary positions. Despite this, a few outspoken female MPs have demonstrated the most ardent support for women's rights issues, and have done so amidst highly patriarchal remarks from among their male colleagues.⁷⁷

This is fair enough, as women are not homogenous, and should not be expected to toe a uniform line any more than men.

It remains to be seen if women's increased representation in Parliament after the 2014 elections will provide a critical mass that encourages them to be more outspoken about their views.

⁷⁷ Id at 15.

Chapter 5

Economics, Employment and Poverty

5.1 Introduction

According to Namibia's National Planning Commission (writing in 2015):

Namibia, with an estimated per capita income of US\$5 693.13, was classified as an upper-middle income country in 2009. This relatively high-income status masks extreme poverty, as well as inequalities in income distribution, general standard of living and quality of life. Over the past five years, the Namibian economy registered an average growth rate of 4.3 percent. However, with an unemployment rate of 29.6 percent, poverty incidence of 26.9 percent, and HIV prevalence of 16.9 percent, a large portion of the Namibian population remains vulnerable.¹

Namibia's 5th National Development Plan (NDP5) states that poverty fell from 28% in 2009/10 to 18% in 2015/16, even though the labour market was not able to absorb all new entrants.²

In 2016, according to NDP5, economic growth slowed to 0.2% (in contrast to a growth rate of 6.1% in 2015), due to drought and contraction of both primary and secondary industries.³ The World Bank reported slightly different figures evidencing the same trend, stating that the Namibian economy grew by only 1.2% in 2016, compared to average gains of over 5% during the preceding five years, attributing this primarily to low mineral prices, drought, the weak economic position of key trading partners (specifically Angola), and sharp reductions in public spending (mainly on capital projects) after public debt reached unsustainable levels.⁴

Looking to the medium-term future, the World Bank predicts a slow recovery in economic activity, fuelled by the expected start-up of the Husab uranium mine in 2017, a gradual upturn in the Angolan economy and recuperation in agricultural production. Fiscal consolidation is expected to continue through financial year 2019-20, when the budget deficit is projected to narrow as a result of further cuts in government spending and a gradual increase in fiscal revenues and Southern African Customs Union receipts.⁵ The World Bank (writing in April 2017) predicted modest economic growth in the medium term, but was not optimistic about Namibia's medium-term prospects for poverty reduction:

In the medium-term, growth is anticipated to recover gradually, reaching 4 percent by 2018, driven mostly by mining and services activities. Required fiscal consolidation is expected to continue, though the process will be highly reliant on mining sector revenues and SACU receipts.

Modest-to-no gain in poverty reduction is expected for 2017. Forecasts suggest that the proportion of Namibians living below \$1.9 per day will fall marginally from 17.1 percent in 2016 to 16.0 percent by

¹ *Poverty and Deprivation in Namibia*, Windhoek: National Planning Commission, 2015 at 2.

² *Namibia's 5th National Development Plan: Working Together Towards Prosperity 2017/18-2021/22*, Windhoek: Republic of Namibia, 2017 at xi (hereinafter "**NDP5**").

³ NDP5 at 2.

⁴ World Bank, "Macro poverty outlook for Namibia" at 1 (excerpted from "Macro Poverty Outlook", Washington, DC: World Bank Group, April 2017) (section on Namibia available at <http://documents.worldbank.org/curated/en/954101491415541302/pdf/113875-REVISED-NAMIBIA-mpo-sm17-namibia-nam.pdf>) (hereinafter **World Bank, "Macro poverty outlook for Namibia"**).

⁵ Ibid. As of May 2017, the Huseb mine was open but not yet in full production.

2019. At the \$3.1 per day poverty line, 39.1 percent of Namibians are expected to be poor in 2017, declining to 37.9 percent by 2019.⁶

The World Bank noted further that Namibia is vulnerable to “shocks from the external environment”, such as world mineral prices and the impact of economic management challenges in South Africa. Namibia also faces the longer-term challenge of “diversifying its economy and broadening economic opportunity”. The World Bank recommended that policy priorities for more inclusive growth should include “improving access-to and quality-of education and addressing significant labour market rigidities”.⁹

Within this overall picture, as the data below indicates, women are poorer, less likely to be employed and, even when employed, earning less than men on average in most sectors. The positive note is that Namibia has less of a gender gap than some other African countries in terms of the gendered nature of unemployment and poverty.

5.2 Gross National Income

Gross National Product (GNP) and Gross National Income (GNI) are broad measures of a state's total economic activity. GNP is the total market value of all goods and services produced by domestic residents. GNI is GNP plus income paid into the country by other countries for such things as interest and dividends, minus similar payments made by the state in question to other countries. GNI per capita is this sum divided by the national population.

According to the World Bank:

While it is understood that GNI per capita does not completely summarize a country's level of development or measure welfare, it has proved to be a useful and easily available indicator that is closely correlated with

Legal issues

- * The **Namibian Constitution** authorises affirmative action, noting that “it shall be permissible to have regard to the fact that women in Namibia have traditionally suffered special discrimination and that they need to be encouraged and enabled to play a full, equal and effective role in the political, social, economic and cultural life of the nation” (Art 23(3)).
- * Namibia is a party to the **Convention on the Elimination of All Forms of Discrimination against Women** and various **ILO conventions**, including the Convention concerning Discrimination in Respect of Employment and Occupation (No. 111).
- * The **Affirmative Action (Employment) Act 29 of 1998** establishes an Employment Equity Commission and provides for affirmative action measures to promote equal opportunity in employment for women as well as for racially disadvantaged persons and persons with disabilities.
- * The **Labour Act 11 of 2007** prohibits direct or indirect discrimination in any employment decision based on sex, marital status, family responsibilities, or pregnancy (amongst other grounds). It also provides protection against sexual harassment. All employees who have worked for an employer for at least six months are entitled to 12 weeks maternity leave. In addition to annual leave, the law provides for compassionate leave of five days/year for death or serious illness in the family.
- * Minimum wages have been set for a few sectors, including for the female-dominated occupation of **domestic workers**.⁷ The minimum wage, effective 1 April 2016, is N\$1 353.20/month. The wage order also contains rules about transport allowance, food and accommodation, health and safety, uniforms, trade union access and a written contract of employment. The minimum wage is, as of May 2017, being studied by a government commission to gauge its impact on the sector and to consider additional protections.⁸ Namibia is *not* party to the ILO Domestic Worker's Convention.

⁶ Id at 1-2.

⁷ Government Notice 258 of 2014 (Government Gazette 5638), as amended by Government Notice 53 of 2016 (Government Gazette 5978).

⁸ Government Notice 28 of 2017 (Government Gazette 6245).

⁹ World Bank, “Macro poverty outlook for Namibia” at 2.

other, nonmonetary measures of the quality of life, such as life expectancy at birth, mortality rates of children, and enrolment rates in school.¹⁰

The United Nations Development Programme's *Human Development Report 2016* provided sex-disaggregated measures of GNI for Namibia and other countries.¹¹ The sex disaggregation was derived by considering GNI in light of female and male shares of wages and female and male shares of the economically-active population.¹² The GNI per capita in Namibia is US\$9 770,¹³ which is well above the Sub-Saharan Africa GNI per capita of US\$3 383.¹⁴ Crude estimates of GNI per capita disaggregated by sex show that **the female GNI is 68% of the male GNI in Namibia** (a female GNI per capita of US\$7 971 compared to a male GNI per capita of US\$11 667¹⁵) **In Sub-Saharan Africa overall, the female GNI is 63% of the male GNI** (a female GNI per capita of US\$2 637 compared to a male GNI per capita of US\$4 165¹⁶). This means that Namibia shows **a slightly smaller than average gender gap in this measure.**¹⁷

5.3 Namibia Labour Force Surveys 2014 and 2016

KEY FINDINGS				
Labour force (2016) = 1 026 268 persons (F 50.3% M 49.7%)				
Overall unemployment (2016)	36%	F 38%	M 30%	8% gap
Rural unemployment (2016)	39%	F 44%	M 34%	10% gap
Youth unemployment (2016)	43%	F 49%	M 38%	11% gap
Unemployed persons without work for more than two years (2014)	62%	F 60%	M 40%	20% gap
Working population employed in informal sector (2014)	41%	F 38%	M 44%	6% gap

* women earned 97% of what men did on average, with industry-specific variations (2016)

The first full-scale Labour Force Survey in Namibia was carried out in 1997 as part of the National Household Survey Programme. Stand-alone Labour Force Surveys were conducted in 2012, 2013 and 2014. In 2015, the Labour Force Survey was included as a module in the 2015/16 National Household Income and Expenditure Survey, with no official publication on the labour force statistics alone, as this exercise was used as a pilot for determining the viability of producing quarterly labour force statistics. The most recent Labour Force Survey took place in 2016.¹⁸

¹⁰ World Bank, "Why use GNI per capita to classify economies into income groupings?" (available at <<https://datahelpdesk.worldbank.org/knowledgebase/articles/378831-why-use-gni-per-capita-to-classify-economies-into>>).

¹¹ GNI per capita is the "[a]ggregate income of an economy generated by its production and its ownership of factors of production, less the incomes paid for the use of factors of production owned by the rest of the world, converted to international dollars using PPP rates, divided by midyear population". United Nations Development Programme, *Human Development Report 2016: Human Development for Everyone*, 2016 at 201 (hereinafter "*Human Development Report 2016*").

¹² *Human Development Report 2016* at 200 and the accompanying Technical Note (available at <http://hdr.undp.org/sites/default/files/hdr2016_technical_notes.pdf>).

¹³ *Human Development Report 2016* at 200.

¹⁴ Id at 201.

¹⁵ Id at 212.

¹⁶ Id at 213.

¹⁷ As another way of comparing the data, there is a difference of 1.46 between the female and male measures in Namibia, versus a difference of 1.57 for Sub-Saharan Africa as a whole.

¹⁸ *Key Highlights of the Namibia Labour Force Survey 2016 Report*, Windhoek: Namibia Statistics Agency, May 2017 at 5 (hereinafter "*Key Highlights of the Namibia Labour Force Survey 2016*").

The objective of these surveys is to provide key socio-economic indicators to assess labour market conditions in the country.¹⁹ They present data on the labour market activities of persons aged 15 years and above who were living in private households at the time of the survey, thus excluding individuals living in non-residential dwelling units and those in institutions such as school hostels and army or police barracks.²⁰

The *Namibia Labour Force Survey 2014 Report*, published in 2015, is the most recent full report available on labour force participation in Namibia. In May 2017, the *Key Highlights of the Namibia Labour Force Survey 2016 Report* was released, but the full report was not expected before end-June 2017.

The 2016 Survey uses a “revised weighting methodology adjusted to control for the variation in the key parameters such as urban/rural, age grouping and sex distribution in addition to the regional distribution”.²¹ As a result, the calculations from previous surveys were revised to apply the same weighting, to ensure that the surveys conducted in different years are comparable.²² Except where otherwise indicated, this analysis uses the revised data for 2014 which is contained in the 2016 summary report.

Labour force: The population aged 15 years and above accounted for almost 64% of the total population of Namibia at the time of the 2016 Survey,²³ just as it did at the time of the 2014 Survey²⁴ – with **females comprising 52% of the working age population** in both cases.²⁵

This population is divided into two groups: an economically active group (which constitutes the labour force) and an economically inactive group. The economically inactive group includes everyone in the relevant age group who is unavailable for work by virtue of being full-time learners or students, homemakers (people involved only in unpaid household duties), ill, disabled or on early retirement.²⁶ The remainder is the economically active group.²⁷ Just over 69% of persons aged 15 years and above were considered economically active in both 2014 and 2016.²⁸

¹⁹ See *Namibia Labour Force Survey 2014 Report*, Windhoek: Namibia Statistics Agency, 2015 at 5 (hereinafter “*Namibia Labour Force Survey 2014*”).

²⁰ Id at 17, 20. The 2014 Survey defined a “private household” as “one or more persons, related or unrelated, who live together in one (or part of one) or more than one dwelling unit and have common catering arrangements. A person who lives alone and caters for himself/herself forms a one-person household.” Id at 34.

²¹ *Key Highlights of the Namibia Labour Force Survey 2016* at 5. The methodology is to be explained in the full report which will be released at a later date.

²² Id at 6.

²³ Calculated from id at 7. The national population at the time of the 2016 Survey was estimated to be 2 237 894 (51.4% female).

²⁴ Calculated from ibid. The national population at the time of the 2014 Survey was estimated to be 2 324 388 (51.3% female).

²⁵ Calculated from ibid.

²⁶ No specific age is given for retirement or “early retirement” in the Labour Force Surveys. See *Namibia Labour Force Survey 2014* at 57. Table 3.1 at 45 includes the 60-64 age group and the 65+ age group as part of the labour force. Table 3.3 at 46, which describes labour force participation by age group and area, also includes those age categories.

²⁷ *Namibia Labour Force Survey 2014* at 35.

²⁸ Calculated from *Key Highlights of the Namibia Labour Force Survey 2016* at 7.

The Namibian labour force is very slightly dominated by women – 50.3% of economically active people were women in 2016 and 50.7% in 2014.²⁹ The 2014 Survey notes that female and male participants in the labour force both increased slightly between 2013 and 2014,³⁰ with both increasing even more between 2014 and 2016.³¹

According to the *Namibia Labour Force Survey 2014* (before the figures were revised), the number of female labour force participants in urban areas increased by 9 696 from 2013 to 2014, and decreased by 22 334 in rural areas during the same time frame³² – indicating that **women are migrating to urban areas to work or to seek work**. The *Key Highlights of the Namibia Labour Force Survey 2016* does not include comparative data across time for this factor, but indicates that the female and male workforce in 2016 were both larger in urban areas, with 57% of the female workforce and 59% of the male workforce residing in urban areas.³³

The economically inactive population in 2014 (using unrevised figures) was also slightly dominated by females across regional, urban and rural areas, ranging from 52% to 62%.³⁴ Girls and women between the ages of 15 and 24 made up 55% of the female economically inactive population (40% for ages 15-19 and 15% percent for ages 20-24), and women 65 years and older accounted for 16% of the economically-inactive group.³⁵ As would be expected considering the ages of economically inactive females, 52% of economically-inactive females were students, followed by 20% who were elderly and 16% who were homemakers.³⁶ Comparable information is not yet available for the 2016 Survey.

Unemployed and employed population: Using the revised figures, **the overall unemployment rate in Namibia was 28% in 2014 and 36% in 2016** (reflecting persons of working age who were not in paid employment or self-employment despite being available for work).³⁷ **The unemployment rate is higher for females than for males, and the gap is widening.** Using the revised figures, the female unemployment rate was 31.7% in 2014, rising to 38.3% in 2016 (a difference over time of 6.6%), while the male unemployment rate was 24.1% in 2014, rising to 29.8% in 2016 (a difference over time of 5.6%); **the gender gap in unemployment rates in 2016 was 8.5%.** Looking at the figures from a positive angle, in 2016 62% of women in the female labour force were employed, compared to 70% of males in the male labour force, for a difference in respective employment rates of about 8%.³⁸

²⁹ Calculated from *ibid.* In 2016, out of a total of 1 026 268 individuals in the labour force, 516 224 were female (50.3%) and 510 044 were male (49.7%); in 2014, out of a total of 983 843 individuals in the labour force, 498 422 were female (50.7%) and 485 421 were male (49.3%).

³⁰ Calculated from *ibid.* Females in the labour force increased by 4 187 during this period, and males by 9 486.

³¹ Calculated from *ibid.* Females in the labour force increased by 17 788 during this period, and males by 24 623.

³² *Namibia Labour Force Survey 2014 Report* at 46.

³³ Calculated from *Key Highlights of the Namibia Labour Force Survey 2016* at 16.

³⁴ *Namibia Labour Force Survey 2014 Report* at 49.

³⁵ *Id.* at 50.

³⁶ *Id.* at 51.

³⁷ *Key Highlights of the Namibia Labour Force Survey 2016* at 7 and definition of “unemployment in the broad sense” at 9. Unemployment in the strict sense counts only persons who were actively seeking work during the reference period. Definition of “unemployment in the strict sense” at 10. The unemployment figures quoted refer to unemployment in the broad sense. Compare figures at 8 (explicitly employment in the broad sense) with those at 7.

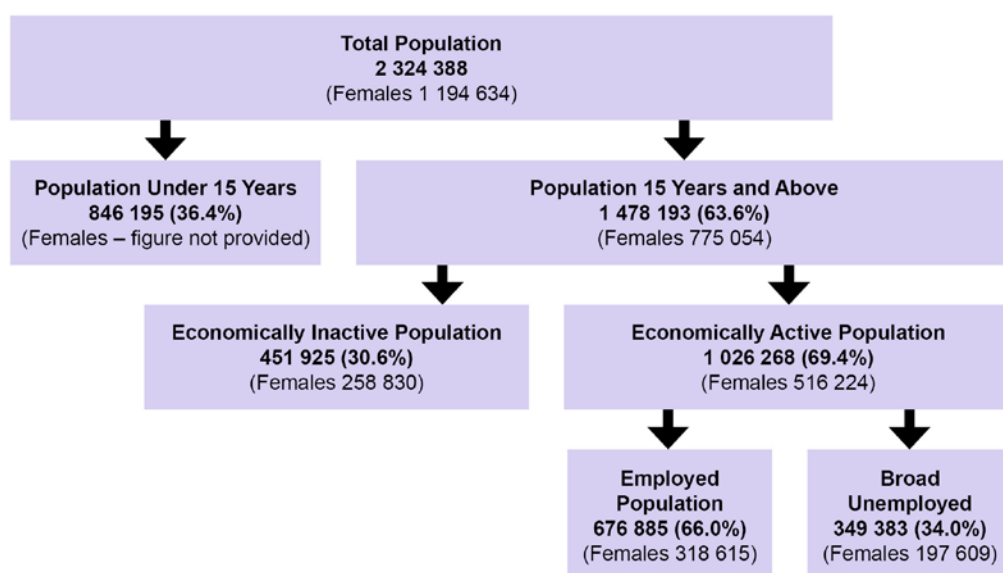
³⁸ Note that the *Key Highlights of the Namibia Labour Force Survey 2016* states at 12 that the ratio of employed males to employed females translates into “a ratio of 1 employed female to 8 employed males”. This is mathematically incorrect. The figures are 358 270 employed males, compared to 318 615 employed females, which is a ratio of 1.12 employed males to 1 employed female, or 112 employed males for every 100 employed females. The difference in employment rates is 8%.

Another relevant measure is the **absorption rate** by sex – which is the percentage of the entire working age population that is employed. **In 2016, 51% of males aged 15 and above were working, compared to 41% of females**, while the comparable rates in 2014 were 54% for males and 46% for females, once again showing **a widening gap**.³⁹

Unemployment is particularly acute for rural women. Just over 44% of the female rural labour force was unemployed in 2016 compared to 34% in urban areas (a 10% spread); for men, the 2016 unemployment figures were 34% in rural areas compared to almost 27% in urban areas (a 7% spread).⁴⁰

Women who are unemployed tend to be out of work for longer than men who are unemployed. In 2014 (using unrevised figures), 62% of unemployed persons reported being without work for more than two years, with women much more likely than men to be unemployed for such a long duration (65% of unemployed women were without work for more than two years, compared to 57% of unemployed men).⁴¹ (Comparable data is not yet available for the 2016 survey.)

Unemployment is likely to worsen in 2017, as the sudden cutbacks in government spending have led to retrenchments in several sectors, particularly construction.⁴²



Source: Constructed from *Key Highlights of the Namibia Labour Force Survey 2016*, diagram at 8 and figures at 7.

³⁹ *Key Highlights of the Namibia Labour Force Survey 2016* at 7.

⁴⁰ Id at 16. Note that the gap appears smaller in the bar graph at 12 because the numbers of employed men and employed women are compared to the rural and urban labour force of both sexes combined.

⁴¹ *Namibia Labour Force Survey 2014* at 72-73, with percentages for men and women calculated from Table 5.7. The percentages presented in the table compare length out of work for men and women to the total unemployed population of both sexes, which is perhaps less informative on sex differentials in respect of this indicator. For example, the table shows that, of all unemployed persons who were out of work for more than two years, 57% were women and 43% were men.

⁴² See, for example, Ndama Nakashole, “Construction industry on its knees”, *The Namibian*, 19 May 2017 (with the Construction Industries Federation reporting that 63% of its member businesses have either closed down, become dormant or scaled back operations dramatically, with 30% of the sector workforce being retrenched); Mark Itamalo, “Road contractor retrenches 300”, *The Namibian*, 29 May 2017. Another recent setback is the bollworm outbreak which has destroyed 500 metric tonnes of maize in two irrigation schemes that employ a combined 390 people. Theresia Tjihenuna, “Bollworm destroys N\$23m of grain”, *The Namibian*, 23 January 2017. Employment prospects may also be affected by budget cuts for youth training programmes involving more than 1 300 trainees. “Slashed budgets affect 1 300 trainees”, *The Namibian*, 25 January 2017.

Occupation and industry: Overall, the largest sector of economic activity in both 2014 and 2016 was agriculture, forestry and fishing (29% in 2014 and 20% in 2016), followed by wholesale and retail trade (14% and 10%). The third largest sector overall in 2014 was private households (9%) followed closely by construction (8%) – with these reversing position in 2016 (construction at 9% and private households at just under 9%).⁴³ Looking at the unrevised sex-disaggregated data by industry, as of 2014, **most economically-active women were engaged in the agriculture, forestry and fishing sector (30%)**, followed by wholesale and retail trade (17%) and private households (13%).⁴⁴ Note that these percentages include persons engaged in the sector in question as employers, employees, own account workers and unpaid family workers.⁴⁵ Women accounted for 71% of all domestic workers (although less than 10% of working women were employed as domestic workers), 66% of unpaid family workers in areas other than subsistence farming and 55% of unpaid family workers in subsistence farming.⁴⁶ Sex-disaggregated figures for occupation by sector are not yet published for the *Namibia Labour Force Survey 2016*.

It is important to consider the occupation data in conjunction with data on work status. It appears that **about 58% of economically-active women were paid employees in 2014** (including domestic workers), while **fewer than 9% were employers themselves** (mostly subsistence farmers with employees) and **about 12% were “own account workers”** (self-employed without employees). **Almost 20% of working women in 2014 were subsistence farmers without paid employees.**⁴⁷ (Comparing unrevised data on females and males engaged in subsistence farming in 2014 shows women’s less advantageous position in this sector compared with men. Many fewer female subsistence farmers had paid employees,⁴⁸ and more women than men were unpaid family workers in subsistence farming.⁴⁹)

Work status (2014 unrevised data)	Female %	Male %	Total %
Subsistence farmer without paid employees	19.7	9.4	14.4
Subsistence farmer with paid employees	0.7	1.0	0.8
Other employer	2.0	3.7	2.9
“Own account” worker (self-employed without employees)	11.8	7.7	9.7
Employee – domestic worker	9.5	3.6	6.5
Employee – other	48.8	69.1	59.3
Unpaid family worker (subsistence farming)	5.7	4.3	5.0
Unpaid family worker (other)	1.6	0.8	1.2
Other	0.2	0.3	0.2
Don’t know	0.1	0.1	0.1
Total	100 341 834 workers	100 368 637 workers	100 710 471 workers

Source: Based on *Namibia Labour Force Survey 2014*, Table 4.7 at 57. The table in the *Namibia Labour Force Survey 2014* shows the sex breakdown of each work status (eg what percentage of domestic workers are women compared to men). The numbers have been recalculated here to show what percentage of working women and working men fall into each status category (eg what percentage of working women are domestic workers, compared to what percentage of working men are domestic workers). Both approaches produce valid comparisons, but this table gives a more accessible picture of the workforce by sex.

⁴³ *Key Highlights of the Namibia Labour Force Survey 2016* at 13.

⁴⁴ *Namibia Labour Force Survey 2014* at 56.

⁴⁵ Compare *Namibia Labour Force Survey 2014*, Table 4.8 at 58, which does not provide sex-disaggregated figures.

⁴⁶ *Namibia Labour Force Survey 2014*, Table 4.7 at 56.

⁴⁷ Calculated from *Namibia Labour Force Survey 2014*, Table 4.7 at 57.

⁴⁸ *Namibia Labour Force Survey 2014* at 57. The comparative percentages were 37% for women versus 63% for men.

⁴⁹ Ibid. The comparative percentages were 55% for women versus 45% for men.

In 2014, using the unrevised figures on occupation categories, **the highest percentage of women were employed in elementary occupations at 25.8%, followed closely by skilled agriculture at 25.7%** and then by services and sales at 17.3%.⁵⁰

Occupational groups (2014 unrevised data)	Female %	Male %	Total %
Armed forces	0.6	1.7	1.2
Legislators and managers	2.8	3.3	3.1
Professionals	8.7	5.7	7.1
Technicians and associate professionals	6.1	4.7	5.4
Clerks	6.8	2.5	4.5
Service and sales	17.3	12.1	14.6
Skilled agriculture	25.7	20.8	23.2
Craft and trade	5.8	20.3	13.4
Machine operators	0.4	8.6	4.6
Elementary	25.8	20.1	22.8
Not recorded	0.1	0.1	0.1
Total	100	100	100

Source: Based on *Namibia Labour Force Survey 2014*, Table 4.4 at 56.

In terms of place of work, **the largest numbers of employed women and men worked in the formal private sector.** Using 2014 unrevised figures, 38% of working women were employed in formal private enterprises, 26% were employed in Government and 21% were employed in private households (with this percentage including 14% working in non-farm private households, which would be the category that captures most domestic workers, compared to 5% working as subsistence farmers and almost 3% on commercial farms). Comparative figures for men were 45% employed in formal private enterprises, 16% employed in Government and 22% employed in private households (mostly subsistence farmers at 10%, compared to 8% on commercial farms and almost 4% in non-farm private households).⁵¹

⁵⁰ Id at 56. The term “elementary occupations” is not defined in the report. According to the International Labour Organisation, elementary occupations “consist of simple and routine tasks which mainly require the use of hand-held tools and often some physical effort”. Examples of tasks performed in elementary occupations are “selling goods in streets and public places, or from door to door; providing various street services; cleaning, washing, pressing; taking care of apartment houses, hotels, offices and other buildings; washing windows and other glass surfaces of buildings; delivering messages or goods; carrying luggage; doorkeeping and property watching; stocking vending machines or reading and emptying meters; collecting garbage; sweeping streets and similar places; performing various simple farming, fishing, hunting or trapping tasks[,] performing simple tasks connected with mining, construction and manufacturing including product-sorting and simple hand-assembling of components; packing by hand; freight handling; pedalling or hand-guiding vehicles to transport passengers and goods; driving animal-drawn vehicles or machinery”. International Standard Classification of Occupations, “Major Group 9: Elementary Occupations”, <www.ilo.org/public/english/bureau/stat/isco/isco88/9.htm>.

⁵¹ Id at 59. In 2014, paid employees were asked about their entitlement to paid annual leave and sick leave. However, the data as presented in the *Namibia Labour Force Survey 2014* is somewhat misleading. The total number of “paid employees” cited in Tables 4.11 and 4.12 at 61 is 712 710. But Table 4.3 at 57, which lists status in employment counts only 467 473 persons who are apparently paid employees (domestic workers plus other employees), with the remainder of the 710 471 persons covered by that table being subsistence farmers, unpaid family workers, employers or own account workers (who would not be working for an employer who could provide paid annual leave or sick leave). The titles of Tables 4.11 and 4.12 and the accompanying text both indicate that the data relates only to “paid employees”, but the absolute numbers cited in these two tables seem to include *all* economically-active persons, and not just paid employees. Thus, if calculated in this way, entitlement to paid annual leave or sick leave is primarily a function of the form of economic activity in question.

If the absolute numbers of employees entitled to paid annual leave and sick leave from Tables 4.10 and 4.11 (318 838 in total entitled to annual leave and 298 565 in total entitled to sick leave) are compared to the total number of apparently paid employees (domestic workers plus other employees) in Table 4.6 (467 473 paid

Place of work (2014 unrevised data)	Female %	Male %	Total %
Formal private sector	38.3	45.1	42.2
Informal private sector	6.9	8.0	7.5
Government	25.5	15.9	20.0
Parastatal	6.4	7.2	6.9
Private Household – non-farm	13.8	3.5	7.9
Private Household – subsistence	4.8	9.9	7.7
Private Household – commercial farm	2.7	8.3	5.9
Non-profit organisation	0.5	0.9	0.7
Co-operative	0.5	0.8	0.7
Other	0.3	0.1	0.2
Don't know	0.2	0.3	0.2
Total	100	100	100

Source: Based on *Namibia Labour Force Survey 2014*, Table 4.9 at 59.

Monthly wages: In 2016, the average national wage for paid employees was N\$6 759 per month – ranging from a high of N\$19 907/month in professional, scientific and technical industries, to a low of N\$1 334/month in private households. The average 2016 wage represented an increase of N\$133 since 2014, when the average wage overall was N\$6 626. In 2016, females generally earned less (N\$6 642/month on average) than males (N\$6 850/month on average) – but the difference was not pronounced, with **women earning 97% of what men did on average.**⁵² The revised data on 2014 wages is not yet available but – **keeping in mind that the unrevised 2014**

Legal issues

- * Article 95(a) of the **Namibian Constitution** gives the State a duty to “ensure the implementation of the principle of non-discrimination in remuneration of men and women; further, the Government shall seek, through appropriate legislation, to provide maternity and related benefits for women”.
- * Section 5 of the **Labour Act 11 of 2007** explicitly states that it is sex discrimination “to differentiate without justification in any employment decision between employees who do work of equal value, or between applicants for employment who seek work of equal value”. Work of equal value is defined as work that is of the same or broadly similar nature as other work and “requires skills, abilities, responsibilities, working environment or other requirements which are of equal value to employees belonging to any sex”.

employees in total), this would suggest that 68% of paid employees are entitled to paid annual leave and 64% are entitled to paid sick leave.

Using the same method of calculation, the comparative figures for women and men would be as follows: 139 230 females entitled to paid annual leave and 129 397 females entitled to paid sick leave out of 199 165 paid female employees (70% entitled to paid annual leave and 65% entitled to paid sick leave), compared to 179 608 males entitled to paid annual leave and 169 168 males entitled to paid sick leave out of 268 309 paid male employees (67% entitled to paid annual leave and 63% entitled to paid sick leave). This would mean that women are doing slightly better than men on this score. Because this method of calculating the data may not be entirely accurate, these percentages are not presented in the text.

For both sexes, these numbers (if accurate) would suggest that the Labour Act 11 of 2007 is not being adequately implemented, or that employees are not well-informed about their rights in terms of the law. The Act defines employee very broadly as “an individual, other than an independent contractor, who works for another person and who receives, or is entitled to receive, remuneration for that work; or in any manner assists in carrying on or conducting the business of an employer”. All employees are entitled to paid annual leave and sick leave.

No comparable information is yet available from the 2016 data.

⁵² *Key Highlights of the Namibia Labour Force Survey 2016* at 14. The difference between the average male monthly wage and the average female monthly wage was N\$208, which is a little over 3% of the average female monthly wage of N\$6 642.

figures are not directly comparable to the 2016 figures⁵³ – the average monthly wage for females in 2014 was N\$6 164 versus N\$6 965 for males,⁵⁴ meaning that **women earned on average 88% of what men did in 2014.**

Of course, as the more detailed sex-disaggregated (unrevised) figures from the 2014 survey indicate, **the average difference conceals larger industry-specific differences.** Monthly wages varied substantially across industries in 2014, and women's average wages were lower than men's in most of the 21 industries listed. For example, the highest average monthly wage was in mining and quarrying at N\$21 749. However, women's average monthly wages in that industry were just N\$9 247 compared to men's average monthly wages of N\$24 424 (meaning that women earned 38% of what men did in this sector on average). However, **in 2014 women earned more than men on average in the following six industry categories:**

- agriculture, forestry and fishing (N\$2 265 versus N\$2 072; 109%);
- construction (N\$4 686 versus N\$4 093; 114%);
- public administration, defence, compulsory social security (N\$10 319 versus N\$8 719; 118%);
- information and communication (N\$16 289 versus N\$12 772; 128%);
- private households (N\$1 304 versus N\$902; 145%); and
- extraterritorial organisations and bodies (N\$4 117 versus N\$1 000; 412%).⁵⁵

Comparable data is not yet available for the 2016 Survey. **In both 2014 and 2016, domestic workers, who are predominately women, earned substantially less than other employees across most age groups.**⁵⁶

Among all of the households surveyed, about 52% reported salaries and wages as their main source of income, followed at a far second by subsistence agricultural activities at almost 16% – although in some regions, subsistence agricultural activities were the main source of income.⁵⁷

Informal employment:⁵⁸ The 2014 Survey based the distinction between the formal and informal sectors on the basis of size, registration with government authorities and perceptions. Employees and self-

⁵³ “Users should be aware that there are no changes in the methodology for calculating the labour statistics, and hence no significant differences in the estimated proportions/rates such as unemployment rate before and after the revision. The changes are sampling based and are observed only in the actual counts.” Id at 6.

⁵⁴ *Namibia Labour Force Survey 2014* at 63. The survey collected data on gross wages and salaries, in respect of paid employees only, thus excluding the informal sector. The figures reflect gross monthly income for individuals' first job only. Ibid.

⁵⁵ Ibid.

⁵⁶ *Key Highlights of the Namibia Labour Force Survey 2016* at 15; *Namibia Labour Force Survey 2014* at 64 (Table 4.15). Note that there appears to be a possible problem with the statistics in this table. The wages for domestic workers aged 15-39 are in the range of N\$517 to N\$1 145 per month. Then, for the 40-44 age group, the average wage shoots up to N\$15 107 per month, which seems highly unlikely. The average goes back down to N\$1 263 per month for the 45-49 age group, then rises to N\$7 013 for the 55-59 age group. These numbers contradict the statement in the text at 64 that “[t]he Table also reveals that wage levels increase with age up to the age group 45-49 years, but decline thereafter for the smaller number of people who remain in employment.” There appears to be either an error or some outlier values which have skewed the averages for the indicated age ranges.

⁵⁷ *Namibia Labour Force Survey 2014* at 41.

⁵⁸ Note that the *Namibia Labour Force Survey 2014* appears to use the terms “informal employment” and “informal sector” interchangeably. The report's explanation of how it categorised informal employers on the one hand and informal employees on the other is somewhat confusing:

“For the purposes of this report, the definition of the formal sector was based on registration, size of the establishment and perception. Thus **employers and own account workers** were categorised as operating in the formal sector if they said that their business was registered with the SSC, Ministry of Trade and Industry and/or Ministry of Finance. Employees were categorised as working in the formal sector if their status in employment

employed persons were categorised as being in the formal sector if the workplace had more than five employees, if the business was registered with one of several government authorities (for employers and own account workers), if the employer provided pension, medical aid or social security (for employees), or if the employer was reported to be a formal private enterprise, Government or a parastatal. Anything else was considered informal employment. Using this approach (and the unrevised 2014 figures), **41% of the total economically-active population was found to be in informal employment in 2014, with 38% of economically-active females and 44% of economically-active males being informal employees.** Informal employment was much more common in urban areas than in rural areas. Information on earnings was not collected for the informal sector.⁵⁹ Comparable data is not yet available for the 2016 Survey.

Vulnerable employment: The 2014 Survey considered vulnerable employment to constitute two groups – own-account workers and contributing family workers – on the theory that employees in these groups were particularly likely to lack formal work arrangements, benefits or access to social protection, as well as more likely to be affected by economic cycles, thus making their employment relatively precarious. Out of the total employed population of 712 752 persons (using the unrevised 2014 figures), **30% of employees were in vulnerable employment in 2014, with the vulnerable group being 62% females and 38% males.** Just over half of the women in vulnerable employment were subsistence farmers or communal farm workers, followed by other own-account workers at 31%. The majority of workers in vulnerable employment were in rural areas.⁶⁰

Time-related underemployment: Time-related underemployment denotes inadequate employment and is defined as “the percentage of employed persons who worked less than a specified threshold of hours during the reference period and were willing and available to work more hours than those worked in their job(s)”. In 2014, using the unrevised figures and using 35 hours per week as the cut-off, the overall time-related underemployment rate was just under 5%, up from 3.5% in 2013. **Disaggregated by sex, time-related underemployment in 2014 was 6% for females and 4% for males.**⁶¹ No comparable data is yet available from the 2016 Survey.

Unemployment and educational level: In 2014 (using unrevised figures), **the highest unemployment rate amongst women and girls was for those with junior secondary education (at 38%), followed by those with primary education (33%) and senior secondary education (31%).** Women and girls with no education had an unemployment rate of 26%. The unemployment rate for those with a certificate or diploma was still quite high at 21%, but **unemployment rates dropped substantially for women with post-secondary education** (8% for women with a university education, 2% for women with teacher training and just under 2% for women with post-graduate education).⁶²

Regional unemployment: In 2016, unemployment for women was *below* average in Oshana, Erongo, Khomas and //Kharas and above average in every other region, with the highest female

was reported to be a formal private enterprise, Government or a parastatal. Further, any employed person whose work place was reported to have more than five workers was classified as formal.

For **non-employees** the formal/informal employment categorisation followed that for the formal/informal sector. **Employees** were categorised as being in formal employment if their employer was reported to provide a pension scheme, medical aid and/or social security to them.”

Namibia Labour Force Survey 2014 at 64, emphasis added.

⁵⁹ Id at 64.

⁶⁰ Id at 66.

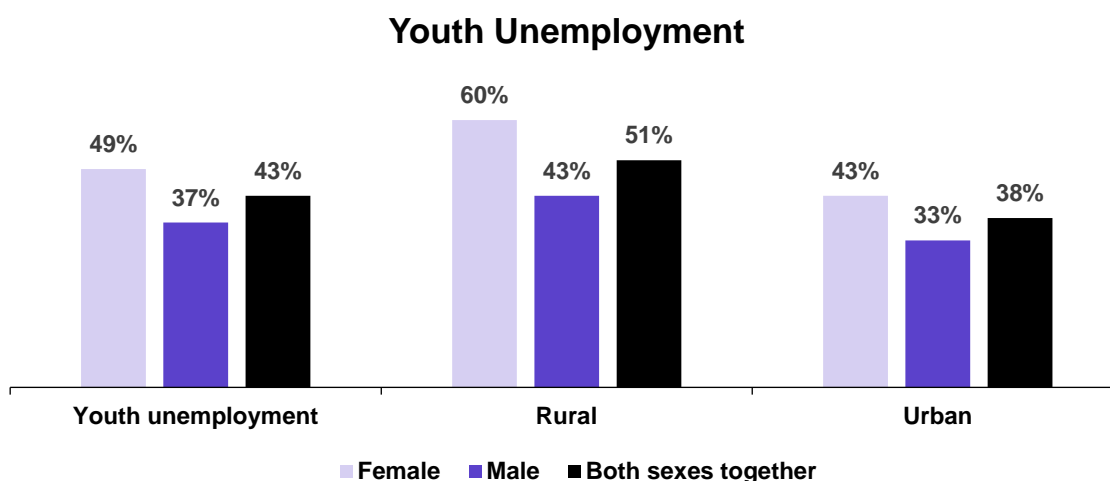
⁶¹ Id at 62.

⁶² Id at 71.

unemployment rates being in Zambezi, Hardap and Ohangwena. For men, unemployment was *below* average in Erongo, //Kharas, Omaheke, Khomas and Hardap, and above average in every other region, with the highest male unemployment rates being in Ohangwena, Omusati, and Kunene.⁶³

Youth employment: For the purposes of the surveys, youth are defined to include people between the ages of 15 and 34 (inclusive).⁶⁴ **In 2016, broad unemployment rates for youth were 43%,** which is an increase of 4.5 percentage points over the broad unemployment rate of 39% for youth in 2014. The 2016 results indicate that youth unemployment rates exceeded the national unemployment rate of 34% in every region except Erongo, //Kharas and Omaheke. The highest youth unemployment rates Namibia in 2016 were in Kunene (63%) and Zambezi (60%).⁶⁵

In 2016, female youth unemployment was 49%, compared to 38% for males;⁶⁶ the unrevised figures for 2014 were 45% for female youth, compared to 34% for male youth⁶⁷ – a gender gap which appears to be holding fairly steady in an overall situation that has become bleaker. Youth unemployment was higher for both sexes in rural areas compared to urban areas (51% compared to 48% in 2016, and 44% compared to 35% in 2014 using the unrevised figures).⁶⁸ Youth unemployment for females was 60% in rural areas in 2016, compared to 43% in urban areas. In contrast, youth unemployment for males in 2016 was 43% in rural areas and 33% in urban areas.⁶⁹



Source: Based on *Key Highlights of Namibia Labour Force Survey 2016*, Table 6 at 17. The percentages reflect youth (female, male or total) in the labour force who are unemployed, using the broad unemployment rate.

While higher unemployment rates among youth often occur because they are engaged in education or training rather than being part of the labour force, there is a certain percentage of youth who are neither in education nor employment or training. Overall, at the time of the 2014 Survey, 27% of female youth fell into this category, compared to 21% of male youth, with female youth more likely to be in this category

⁶³ *Key Highlights of the Namibia Labour Force Survey 2016* at 16.

⁶⁴ *Namibia Labour Force Survey 2014* at 74; *Key Highlights of the Namibia Labour Force Survey 2016* at 17.

⁶⁵ *Key Highlights of the Namibia Labour Force Survey 2016* at 17.

⁶⁶ *Ibid.*

⁶⁷ *Namibia Labour Force Survey 2014* at 76.

⁶⁸ *Key Highlights of the Namibia Labour Force Survey 2016* at 17; *Namibia Labour Force Survey 2014* at 78.

⁶⁹ *Key Highlights of the Namibia Labour Force Survey 2016* at 17.

in rural areas than in urban ones (29% versus 25%).⁷⁰ The data on this point from the 2016 Survey is not yet available.

5.4 Namibia Demographic and Health Survey 2013

KEY FINDINGS

- * More than one-third of women and girls who engaged in agricultural work received no pay for it.
- * Looking only at married persons, 54% of married women and 84% of married men aged 15-49 were employed in the year preceding the survey.
- * Married women who are working tend to earn less than their husbands.

These economic disparities could make women dependent on their husbands' income, which can have ramifications for responses to domestic violence or other relationship problems.

The *2013 Namibia Demographic and Health Survey* addresses certain employment issues, including women's employment status and occupation, earnings and continuity of employment in agricultural and non-agricultural work.

Employment status: Females and males aged 15-49 were asked whether they were currently employed,⁷¹ and if not, whether they had worked in the 12 months prior to the survey. The results showed that 43% of females and 56% of males were employed at the time of the survey,⁷² while another 3% of females and 6% of males who were not currently employed had worked at some point during the preceding 12 months.⁷³ The figures varied substantially for both females and males according to residence, with urban dwellers of both sexes far more likely to be in employment.⁷⁴ Females were more likely to be currently employed if they had higher education and higher household wealth.⁷⁵ While current employment levels were also higher for males with more education and increased household wealth, lack of education and low household wealth did not seem to impede males as much as females in terms of securing employment.⁷⁶

⁷⁰ *Namibia Labour Force Survey 2014* at 80-81.

⁷¹ "Currently employed" was defined as "having done work in the past 7 days. Includes persons who did not work in the past 7 days but who are regularly employed and were absent from work for leave, illness, vacation, or any other such reason." *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 38. This survey involved a nationally-representative sample of 11 004 households, where 9 940 women aged 15-49 and 842 women aged 50-64 were interviewed, along with 4 481 men aged 15-49.

⁷² Id at 38-39.

⁷³ Ibid.

⁷⁴ Ibid. "Not employed" meant that the person was not employed in the 12 months preceding the survey. In urban areas, 53% of women and 66% of men were currently employed, 4% of women and 5% of men had worked at some point during the preceding 12 months, and 43% of women and 30% of men were not employed. In comparison, in rural areas, 30% of women and 43% of men were currently employed, 2% of women and 7% of men had worked at some point during the preceding 12 months, and 69% of women and 50% of men were unemployed.

⁷⁵ Id at 38. For example, 30% of women with no education and 22% of women in the lowest wealth quintile were currently employed, as compared to 62% of women with post-secondary education and 55% of women in the highest wealth quintile.

⁷⁶ Id at 39. For example, 59% of men with no education and 41% of men in the lowest wealth quintile were currently employed – figures that are approximately double those for women in similar economic and educational circumstances.

Those who had worked in the preceding 12 months were asked about their occupation. The six possible categories of occupation for both women and men were professional/technical managerial; clerical; sales and

Women in agricultural work: In the 12 months preceding the survey, about 36% percent of females aged 15-49 who were engaged in agricultural work were not paid for their work (compared to about 7% of those engaged in non-agricultural work).⁷⁷ Just over half of the females engaged in agricultural work were seasonal workers (51%), while females engaged in non-agricultural work were more likely to be employed all year (78%).⁷⁸ However, a substantial portion (43%) of female agricultural workers were also employed throughout the year, as opposed to being seasonal workers.⁷⁹ The remaining 6% of female agricultural workers were considered occasional workers.⁸⁰

Employment and earnings of married persons: The survey also gathered information on the employment and cash earnings of females and males who were married at the time of the survey, finding that **54% of married females and 84% of married males aged 15-49 were employed at some time in the 12 months preceding the survey.**⁸¹ Out of the married females who were employed, 89% received cash only, 3% received cash and in-kind payments and just 0.4% received in-kind payments only.⁸² Almost 8% were not paid at all for their work, a substantial improvement over the 2006-07 *Demographic and Health Survey*'s finding that 24% of married females had not received any payment for their work.⁸³ Married males who were employed were more likely than female workers to receive payments fully in cash, at 94%. They were also much less likely to have worked without receiving any payment at all (at 2%)⁸⁴ – but as in the case of females, the percentage of males who were not paid for their work decreased significantly from the 2006-07 *Demographic and Health Survey*, when the figure was 13%.⁸⁵ However, it should be noted that employment overall for married females and males aged 15-49 also decreased since the 2006-07 *Demographic and Health Survey*, when 61% of married females and 90% of married males had been employed in the preceding 12 months.⁸⁶

Married women and girls who earned cash were asked how their earnings compared to their husbands' earnings. **Across all age groups for which there was data,**⁸⁷ **women tended to earn less than their husbands;** depending on the age group, between 62% and 74% of women earned less than their husbands.⁸⁸ Women between the ages of 45 and 49 were most likely of all age groups to have *higher* earnings than their husbands, even though this was true of only 16% of this age group. In comparison,

services; skilled manual; unskilled manual and agriculture. Women and girls aged 15-49 were most likely to be employed in sales and services (58%), followed by professional/technical/managerial positions (19%), clerical positions (12%), skilled manual positions (4%), unskilled manual positions and agriculture (3% each).⁷⁶ Men and boys aged 15-49 were most likely to be employed in skilled manual positions (33%), followed by sales and services (30%), professional/technical/managerial positions (16%), agriculture (9%), unskilled manual positions (8%) and clerical positions (4%). Id at 42.

⁷⁷ Id at 43.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid. No definition of "occasional worker" is provided in the *Labour Force Survey 2014*. Since the Labour Act 11 of 2007 defines employment very broadly, seasonal and occasional workers should have the same rights as any other employee. (Section 1 of that Act defines "employee as "an individual, other than an independent contractor, who (a) works for another person and who receives, or is entitled to receive, remuneration for that work; or (b) in any manner assists in carrying on or conducting the business of an employer".)

⁸¹ Id at 278.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid. For male employees, 4% received cash and in-kind payments and 0.3% received in-kind payments only – percentages similar to those which applied to women.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ The pool of available cases was too small to provide estimates for the 15-19 age group. Ibid.

⁸⁸ Id at 279.

fewer than 7% of women between the ages of 20 and 24 earned more than their husbands.⁸⁹ Higher educational attainment increased the likelihood that a woman earned more than her husband.⁹⁰ The data on whether married women earned more, less than or about the same as their husbands was similar in urban and rural areas, but there were many regional differences. Omusati was the only region where fewer than half of the married women surveyed earned less than their husbands, while the largest percentages of women who earned less than their husbands were in Ohangwena and Otjozondjupa.⁹¹

These economic disparities described in the survey could make women dependent on their husbands' income, which can have ramifications for responses to domestic violence or other relationship problems.

5.5 Maternity leave

The most recent Annual Report of the Social Security Commission for 2013/14 states that just over 500 000 employees were registered members of the Maternity Leave, Sick Leave and Death Benefit Fund in the year which ended on 28 February 2014.⁹²

Both men and women employees are supposed to be enrolled in the Fund. It is difficult to identify a basis for comparison, as the employment figures in the Labour Force Surveys include both persons in paid employment and self-employed persons for whom enrolment in the social security fund would be optional.⁹³ No estimates of coverage of the eligible workforce could be located. However, the good news is that the number of enrolled members increased steadily between 2009/10 and 2013/14.⁹⁴

Legal issues

- * In terms of the **Labour Act 11 of 2007**, employed women who have been working for the same employer for at least six months are entitled to at least 12 weeks of maternity leave, including 4 weeks of maternity leave *before the* expected due date and 8 weeks *after* the delivery of the baby (meaning that in some cases more than 12 weeks of leave will be required to comply with the law).
- * The **Social Security Act 34 of 1994** provides for payment of maternity benefits equivalent to full remuneration during maternity leave, up to a maximum ceiling which is raised from time to time (N\$13 000 in May 2017). The benefits are funded by a contribution of 1.8% of the employee's basic wage shared on a 50/50 basis by the employer (0.9%) and employee (0.9%), with a minimum contribution of N\$2.70 and a maximum contribution of N\$81.

The Annual Report of the Social Security Commission for 2009/10 states that there were 17 483 claims for maternity benefits in the 2009/10 financial year, more than double the number of claims in the 2008/09 financial year (8 467). The Social Security Commission ascribes this increase to broader awareness of the benefit scheme.⁹⁵

⁸⁹ Ibid.

⁹⁰ Ibid. Only 6% of women with no education had higher cash earnings than their husbands, compared to 9% of women with primary education, 11% of women with secondary education and 17% of women with post-secondary education.

⁹¹ Ibid. Women were most likely to earn more than their husbands in Omusati (at 22%) followed by Omaheke (at 16%), but in Ohangwena less than 6% of women were higher earners. The majority of women earned less than their husbands in all regions except Omusati, where about half of the married women surveyed earned less than their husbands. Women were most likely to be lower earners in Ohangwena (79%) and Otjozondjupa (77%). In Kunene, 26% of women earned about the same as their husbands, but in Ohangwena less than 3% did so.

⁹² *Social Security Commission Annual Report 2013-2014* at 50.

⁹³ See the definition of "employed" at 9 of *Key Highlights of the Namibia Labour Force Survey 2016*.

⁹⁴ *Social Security Commission Annual Report 2013-2014* at 50 (graph entitled "MSD Fund: Number of Registered Employees").

⁹⁵ *Social Security Commission Annual Report 2009-2010* at 4

The 2009/10 Annual Report notes that the processing time for maternity benefits claims was over 47 days on average,⁹⁶ suggesting that women without a financial buffer on hand may be forced to find some form of bridging finance while awaiting benefit payments, thus detracting from the practical utility of maternity benefits.

The Legal Assistance Centre, amongst others, has motivated an extension of the maternity leave period to six months, to accord with Namibia's National Agenda for Children, which states that the promotion of exclusive breastfeeding for the first six months of life is a government priority, and to align with the World Health Organisation recommendation that mothers should exclusively breastfeed their children for six months.⁹⁷ There are reportedly plans to introduce at least some gradual increases in maternity leave, starting with an increase from 12 to 14 weeks in the near future.⁹⁸

5.6 Affirmative action for women in employment

Legal issues

- * As noted above, the **Affirmative Action (Employment) Act 29 of 1998** provides for affirmative action measures to promote equal opportunity in employment for women as well as for racially disadvantaged persons and persons with disabilities.
- * One of the objects of the **Public Procurement Act 15 of 2015** is “the empowerment of Namibian registered small and medium enterprises, women and youth by creating economic opportunity for them and enhancing their participation in the mainstream economy”. The Act allows the Minister of Finance to determine procurement policy, which may include steps to realise the empowerment of persons or categories of persons who have been socially, racially, economically or educationally disadvantaged by past discriminatory laws or practices. In the section on “Open National Bidding”, the Act also allows a public entity to limit participation in such bidding to “entities incorporated in Namibia with no less than 51 percent equity that is owned by Namibian citizens of which no less than 30 percent is owned by previously disadvantaged persons, where such limitation is stated in the invitation for pre-qualification or bidding and is in accordance with the prescribed criteria”. The Act also provides for the establishment of a Central Procurement Board. This Board shall consist of nine members, of which more than five may not be of the same sex. Since this Act came into force only on 1 April 2017, it is too soon to assess its impact on the economic empowerment of women.
- * The **New Equitable Economic Empowerment Framework Bill**, which was still under discussion in June 2017, seeks to further economically empower “previously disadvantaged persons”, which includes racially disadvantaged persons, women and persons with disabilities. The best modalities for this empowerment are still a subject of heated national debate.

The implementation of affirmative action measures for women, racially-disadvantaged persons and persons with disabilities under the Labour Act 11 of 2007 is monitored by the Employment Equity Commission, which collates information from affirmative action reports submitted by companies that have

(available at <www.ssc.org.na/files/downloads/964_SSC%20AR%202009-%202010.pdf>).

The figures for claims for maternity benefits in 2013/2014 could not be located in the Annual Report for that period. For information about minimum and maximum contributions and benefits, see the Social Security Commission website: <www.ssc.org.na/funds/Maternity-Sick-Death-Benefit-Fund/23/>.

⁹⁶ *Social Security Commission Annual Report 2009-2010* at 4. The figures for time periods for maternity benefit payouts in 2013/2014 could not be located in the Annual Report for that period.

⁹⁷ “10 Reasons to Extend Maternity Leave to 6 Months after Birth”, Windhoek: Legal Assistance Centre, 2012.

⁹⁸ See Namibian Employers Federation Newsletter, September 2016 at 4, <www.nef.com.na/publications/NEF_Newsletter_Sep16.pdf>; personal communication from Special Advisor to the Minister of Labour, Industrial Relations and Employment Creation, April 2017.

more than 25 employees, as well as from offices, ministries, or agencies covered by the Public Service Act of 1995.⁹⁹

The most recent compilation covers the period 1 April 2015 to 31 March 2016 and includes data from 763 affirmative action reports, covering 199 126 employees across all industrial sectors.¹⁰⁰

The previous compilation, covering the period 1 April 2014 to 31 March 2015, was based on 691 affirmative action reports covering 168 288 employees.¹⁰¹

It should be noted that information on women in the public sector is particularly under-reported, since few public bodies submitted affirmative action reports; out of approximately 130 000 civil servants in Namibia, the 2014-2015 report provided data for only 23 703 of them.¹⁰² Government reporting increased substantially in the 2015-2016 report, which provided information on 60 631 public servants.¹⁰³

The key data from these two annual reports is summarised in the table below. Women have made few gains in management-level positions, but seem to have made particular gains in the category “specialised/skilled/senior supervisory” – however, there appears to be a possible overlap between the categories of “specialised/skilled/senior supervisory” and “skilled” if the 2014 numbers are compared to the 2016 numbers, so the appearance of gains may be somewhat overstated.¹⁰⁴

Female representation in permanent employment 2014-2016						
Job category	2014-2015			2015-2016		
	Women	Total	Percentage	Women	Total	Percentage
Executive director	189	954	20%	194	1024	19%
Senior management	976	2986	33%	1092	3287	33%
Middle management	2914	7044	41%	5045	10558	48%
Specialised/skilled/senior supervisory	7169	29443	24%	7751	16494	47%
Skilled	15339	34860	44%	26154	54004	48%
Semi-skilled	15552	38928	40%	14623	36196	40%
Unskilled	13842	35640	39%	12787	34803	37%
Total permanent	55981	149855	37%	67646	156366	43%

Source: Extracted from Table 1, Employment Equity Commission, *Annual Report 2014-2015* at 16 and Table 1, Employment Equity Commission, *Annual Report 2015-2016* at 22.

⁹⁹ See Government Notice 95 of 2006 (Government Gazette 3658). Therefore, the data presents information regarding equity in the labour force in larger companies but is not a picture of the entire labour force. A further issue is that whilst it is a legal requirement for relevant employers to submit an affirmative action report, the Employment Equity Commission has expressed concern over the low level of compliance. Employment Equity Commission, *Annual Report 2014-2015* at 10.

¹⁰⁰ Employment Equity Commission, *Annual Report 2015-2016* at 6, 22.

¹⁰¹ Employment Equity Commission, *Annual Report 2014-2015* at 10 (available at <www.eec.gov.na/documents/137464/172042/2014-2015+Annual+Report/dcc5a4e0-ba8a-4a53-8d99-9971dd88e3d7>).

¹⁰² *Annual Report 2014-2015*, Employment Equity Commission at 7.

¹⁰³ *Annual Report 2015-2016*, Employment Equity Commission at 118.

¹⁰⁴ Between the two surveys, the category of “specialised/skilled/senior supervisory” went down in total numbers while the category of “skilled” went up. If the two are added, the result is as follows:

	2014	2016
Total	64303	70498
Women	22508	33905
Percentage women	35%	48%.

Based on Table 1, *Annual Report 2014-2015*, Employment Equity Commission at 16 and Table 1, *Annual Report 2015-2016*, Employment Equity Commission at 22.

Overall, the Commission noted in 2014-2015 that although persons in designated groups (women, previously racially disadvantaged persons and persons with disabilities) accounted for 87% of the total number of employees covered by the reports submitted, they accounted for only 37% of executive director positions.¹⁰⁵ Previously racially disadvantaged persons accounted for 56% of management-level positions during the 2014-2015 review period, compared to 39% of managerial positions occupied by women.¹⁰⁶ In 2015-2016, the Commission observed that women accounted for 45% of employees covered by the reports (including temporary and seasonal workers) and occupied 44% of management posts¹⁰⁷ – this is true, but it should be noted that women are clustered in mid-level management (middle management and senior supervisory positions), being much less well-represented in higher levels of management.¹⁰⁸

Efforts to get figures from the Public Service Commission on male and female representation in the public service were unsuccessful. The degree of gender balance in political positions, the armed forces and the judiciary and magistracy and the underlying legal profession are discussed in Chapter 4 of this report.

Sexual harassment in the workplace

One information gap in respect of women in employment relates to sexual harassment. Although section 5 of the **Labour Act 11 of 2007** provides protection against sexual harassment, casting it as a form of sex discrimination, no statistical information on this issue could be located. There appear to be few instances of formal complaints about sexual harassment; although anecdotal evidence indicates that it takes place, it is not yet a concept which is prominent in public discourse. Section 137 of the Labour Act authorises the issue of Codes of Good Practice on any topic in the Act. A **Code of Good Practice** on preventing and responding to sexual harassment in Namibian workplaces might be a useful way to spotlight this problem and encourage victims to seek redress. The *2013 Baseline Study Report on Human Rights in Namibia* states that sexual harassment is “a fairly new field of law in Namibia”, with the result that the true incidence of “this menace at the workplace” is “under-researched”.¹⁰⁹

5.7 Women entrepreneurs

Between 2006 and 2013, approximately 33% of small and medium enterprises (SMEs) in Namibia had female participation in ownership.¹¹⁰

An enterprise survey conducted between April 2014 and February 2015 indicates that during that time, 41% of business enterprises had female participation in ownership, with majority female ownership in 26%.¹¹¹ As a point of comparison, in Sub-Saharan Africa as a whole, female participation

¹⁰⁵ Managerial positions include executive directors, senior management and middle management.

¹⁰⁶ *Annual Report 2014-2015*, Employment Equity Commission at 7.

¹⁰⁷ *Annual Report 2015-2016*, Employment Equity Commission at 6.

¹⁰⁸ The *Global Gender Gap Report 2016* reports that 27% of firms have women amongst their “top management”, but does not specify further details. The primary data source for this figure is not clear. *The Global Gender Gap Report 2016*, Geneva: World Economic Forum, 2016 at 269 (available at <http://www3.weforum.org/docs/GGGR16/WEF_Global_Gender_Gap_Report_2016.pdf>).

¹⁰⁹ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman at 50.

¹¹⁰ United Nations Development Programme, *Africa Human Development Report 2016: Accelerating Gender Equality and Women’s Empowerment in Africa*, 2016 at 69.

¹¹¹ World Bank Group, *Enterprise Surveys, Namibia (2014)* (available at <www.enterprisesurveys.org/data/exploreeconomies/2014/namibia#gender>). The 2014 Namibia Enterprise Survey interviewed business owners and top managers in 580 firms of varying sizes active in manufacturing, retail and other sectors.

in ownership was only 33%, and just 13% of firms had majority female ownership.¹¹² Moreover, **27% of firms in Namibia had a female top manager**, compared with 16% in Sub-Saharan Africa.¹¹³ (This survey also found that about one-third of permanent, full-time workers at Namibian firms were female;¹¹⁴ at manufacturing firms, women made up 26% of permanent, full-time production workers and 56% of permanent, full-time non-production workers.¹¹⁵)

5.8 Women's access to finance

Namibia's financial system is the second largest in Southern Africa, and relatively well-developed compared to regional peers.¹¹⁶ It includes four commercial banks,¹¹⁷ one microfinance bank, and one branchless E-bank (recently taken over by one of the five commercial banks). The banking sector is sound, profitable and adequately capitalized, with a low non-performing-loan ratio. The five main commercial banks (three South African, one Namibian and one majority Government-owned SME Bank) hold more than 95% of assets and deposits. The financial system also includes four autonomous Government-owned entities designed to broaden access to specific financial products – but, with the exception of PostBank, these have had limited success, with economies-of-scale problems and relatively large non-performing-loans.¹¹⁸

Government adopted a “Namibia Financial Sector Strategy 2011-2021: Towards Achieving Vision 2030” to address the weaknesses of the financial sector, with a strategy focusing on consumer financial literacy and protection and access to financial services and products (particularly by SMEs).¹¹⁹

Individual access to finance: Namibia has a high level of banked individuals, ranking third (after Mauritius and South Africa) amongst African countries where *FinScope Surveys* (which profile access to and uptake of financial products and services) have been conducted.¹²⁰ The increase in the banked population during the period 2007-2011 was largely a result of increased coverage of low-income earners, who tend to live in rural areas. A 2013 survey of financial literacy found that 60% of Namibians had bank accounts (which is slightly higher than the level observed in South Africa), but did not report responses by sex. **The 2014 Global Findex, a World Bank database on financial inclusion, similarly reports**

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ World Bank Group: Access and Markets, “Financial Inclusion in Namibia: Summary Note”, October 2016 at 6 (hereinafter **World Bank, “Financial Inclusion in Namibia”**). This note summarises various recent financial reports on Namibia.

¹¹⁷ The SME Bank is, as of June 2017, facing an uncertain future. See Shinovene Immanuel, “Schlettwein wants SME Bank closed”, *The Namibian*, 1 June 2017; Ndama Nakasholem “BoN [Bank of Namibia] takes over SME Bank”, *The Namibian*, 2 March 2017.

¹¹⁸ World Bank, “Financial Inclusion in Namibia” at 6.

¹¹⁹ Ibid.

¹²⁰ “The FinScope survey was developed by FinMark Trust and was first piloted in 2002 in South Africa. The survey was conducted in many other countries with the main objective to measure and profile the levels of access to and uptake of financial products/services (both formal and informal) in a particular country, across income ranges and other demographics. There are two types of FinScope surveys: FinScope Consumer and FinScope MSME.”

As of June 2017, FinScope Consumer surveys had been conducted in 26 countries (including 13 SADC countries and 6 other African countries). In Namibia, 1 200 face-to-face interviews were conducted during November 2011 and January 2012, and the data was weighted and benchmarked against the 2010/2011 National Household Income and Expenditure Survey.

As of June 2017, FinScope MSME surveys had been conducted in 7 SADC countries, but not yet in Namibia.

Finmark Trust website: <www.finmark.org.za/finscope/>.

that that 58% of Namibians had accounts at financial institutions.¹²¹ Women seem to enjoy relative parity here, with the 2014 *Global Findex* reporting that 59% of all adults and 57% of women had a bank account.¹²² The 2011 *FinScope Survey* also reported gender parity: 52% of both women and men in Namibia had bank accounts at the time of the survey, and there was a 17% increase in the banked population from 2007 to 2011, with almost similar growth for male and female adults in Namibia. The 2011 *FinScope Survey* also noted that Namibia is the only country surveyed where there is a higher uptake of informal financial mechanisms by men than by women.¹²³

However, although banking coverage is good, few people use banks to access credit. The 2014 *Global Findex* found that about 57% of Namibians save overall, with 27% saving at financial institutions, while only 7% borrow from financial institutions; the driver for banking services is transactional and savings products.¹²⁴ The 2013 *Financial Literacy Survey* found that few Namibians seek credit from a financial institution (only 4% borrowed from a bank), with most preferring to borrow from family and friends (57%) or from someone in the community (10%). The 2011 *FinScope Survey* found that the three most often-cited barriers to credit were fear of debt (51%), worry about not being able to repay the loan (30%) or having no need for a loan (26%).¹²⁵

Bank branches are still concentrated in urban areas, where 90% of people need an hour or less to reach a bank – in contrast to rural areas, where more than 40% of people need an hour or more to reach banks. Mobile banking has been cited as a promising option given the high level of access to mobile phones.¹²⁶ In 2014, the share of Namibian adults with a mobile money account was already about 10%.¹²⁷

Business access to finance: Most business enterprises in Namibia are informal or micro-enterprises, according to the 2009 *Namibia First National Enterprise/Establishment Census*, with many being essentially “subsistence businesses”.¹²⁸ Most of the country’s largest businesses are either state-owned enterprises or foreign multinationals. Between these extremes is a layer of medium-sized formal businesses

¹²¹ World Bank “Financial Inclusion in Namibia” at 6.

“The Global Findex database, the world’s most comprehensive database on financial inclusion, provides in-depth data on how individuals save, borrow, make payments, and manage risks. Collected in partnership with the Gallup World Poll and funded by the Bill & Melinda Gates Foundation, the Global Findex is based on interviews with about 150,000 adults in over 140 countries.” The Global Findex, which was launched in 2011, is also called the “Global Financial Inclusion Database”. World Bank website: www.worldbank.org/en/programs/globalfindex.

The 2013 Financial Literacy Baseline Survey aimed to create a national benchmark on financial literacy, with a view to monitoring the success of future activities on this issue. It was funded by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) on behalf of the German Government. See Embassy of the Federal Republic of Germany website, http://m.windhuk.diplo.de/Vertretung/windhuk/en/051/Bilateral__Affairs__Embassy/seite-financial-literacy-2014.html.

¹²² Asli Demirguc-Kunt, Leora Klapper, Dorothe Singer and Peter Van Oudheusden, *The Global Findex Database 2014 Measuring Financial Inclusion around the World*, World Bank Group, 2015 at 84 (available at <http://documents.worldbank.org/curated/en/187761468179367706/pdf/WPS7255.pdf#page=3>) (hereinafter “2014 *Global Findex*”).

¹²³ *FinScope Consumer Survey Namibia 2011*, Finmark Trust at 39, 3.

¹²⁴ World Bank, “Financial Inclusion in Namibia” at 7. The 2014 *Global Findex* also found that about 35% of Namibians receive domestic remittances, mostly via financial institutions. In 2011, 10% of households surveyed reported cash remittances (domestic and international) as being their primary income source, compared to 19% reporting their primary income to be wages and salaries from Government, and 12% old-age pensions. Id at 8-9.

¹²⁵ Id at 9.

¹²⁶ Id at 10.

¹²⁷ 2014 *Global Findex* at 12.

¹²⁸ As reported in World Bank, “Financial Inclusion in Namibia” at 10.

across a wide range of sectors – many of which are dependent on the public sector. **Access to finance is generally consistently perceived as a key obstacle to doing business in Namibia.** For example, the *2014 World Bank Enterprise Survey* in Namibia (which covered formal enterprises only) found a considerable increase in the percentage of firms identifying access to finance as a major constraint from 2006-2014 (rising from 18% to 37% during this period), with the increase primarily coming from smaller enterprises.¹²⁹ In general, while formal businesses tend to turn to commercial banks as their main source of credit, informal businesses are more likely to rely on credit from friends and relatives, citing as key barriers to bank loans the lack of skills and systems to generate appropriate data and business plans, along with the lack of collateral and credit history. The *2014 World Bank Enterprise Survey* found that only 1% of large enterprises consider access to financing as an obstacle to their business, compared to 41% of small businesses and 29% of medium businesses.¹³⁰

Interestingly, the overwhelming majority of loans or lines of credit for business enterprises come from private commercial banks. The *2014 World Bank Enterprise Survey* for Namibia found that over 90% of loans or active lines of credit to formal enterprises are provided by private banks, compared to 7% from state-owned banks, and only 2% from other financial institutions. The *2014 Global Findex*, which surveyed medium enterprises, found similar results; local commercial banks were the primary sources of finance, followed by the Development Bank of Namibia and other local institutions. Private commercial banks have consciously increased their engagement with SMEs, including the tailoring of products to meet the needs of small and medium enterprises. Many also provide additional support services to SMEs, such as training.¹³¹

Agribank: The most recent annual reports from the Agricultural Development Bank do not include any sex-disaggregated information on loans.¹³² However, a 2016 press report states that “a total of 2 089 women had access to credit facilities through Agribank between 1990 and 2015, compared to 5 059 men” – which means that about 29% of these loans go to women.¹³³ However, **figures provided by Agribank in 2017** paint a different picture when loan amounts are taken into consideration, with **women accounting for 22% of all loans, but only 10% of total loan amounts** (see table below).

Agribank loans, June 2017				
	Number of loans	% of total number of loans granted	Loan amounts granted	% of total loan amounts
Companies & close corporations	93	1%	276 478 577.87	8%
Co-operatives & groups	26	<1%	21 465 690.00	1%
Female	3 155	22%	334 394 639.34	10%
Male	7 757	55%	1 784 105 160.37	53%
Couples married in COP	3 101	22%	927 335 710.33	28%
Total	14 132	100%	3 343 779 777.91	100%

Source: Based on data provided by Agribank via personal communication, June 2017.

Development Bank of Namibia: The most recent annual reports of the Development Bank of Namibia also fail to include sex-disaggregated information on loans – although the 2014 Annual Report does state that total approvals “included projects with 23% women involvement, worth a total of N\$ 147 m”.¹³⁴

¹²⁹ World Bank, “Financial Inclusion in Namibia” at 11.

¹³⁰ Id at 14.

¹³¹ Id at 17-18.

¹³² *Agribank of Namibia: Annual Report 2014* and *Agribank of Namibia: Annual Report 2015*.

¹³³ “Thousands of women get commercial farms”, *New Era*, 6 September 2016.

¹³⁴ *Annual Report 2016*, Development Bank of Namibia and *Annual Report 2014*, Development Bank of Namibia (quote at 15).

Other support for income generating activities: Many ministries and local and regional councils include support activities for income-generating activities. For example, the Ministry of Sport, Youth and National Services has a Namibian Youth Credit Scheme which targets youth aged 18-35 for a loan guarantee programme aimed at providing financial support to youth who lack adequate collateral to access loans from the mainstream banking system.¹³⁵ The Directorate of Community and Integrated Early Childhood Development at the Ministry of Gender Equality and Child Welfare manages a grant scheme that supports innovative small-scale income-generating projects for community members; it supported 873 income generating projects between 2000 and 2011 (90% of which were owned by women).¹³⁶ There are numerous microfinance and microcredit companies registered with the Namibia Financial Institutions Supervisory Authority (NAMFISA); according to the *Namibia Financial Sector Strategy: 2011-2021*, the number of micro-lending institutions increased from 186 in 2006 to 347 in 2010.¹³⁷ Various non-governmental organisations also provide microfinance support and/or information.

5.9 Women in co-operatives

The potential of co-operatives to respond to the social and economic needs of communities, and to constitute a distinctive and dynamic sector of the economy, has been recognised internationally. The International Labour Organisation (ILO) views co-operatives as important tools for improving the living and working conditions of both women and men.¹⁴⁰

Legal Issues

The **Co-operatives Act 23 of 1996** requires any co-operative with a substantial number of women members to ensure that there is at least one woman on its board.¹³⁸ It also makes provision for women-only co-operatives, as a forum where women can learn to be more comfortable with business management.¹³⁹

The *Namibia Co-operative Policy 2017*, which is essentially a revision of Namibia's 1992 *National Co-operative Policy*, also recognises the importance of female participation in co-operatives:

Women form at least 50% of the population in Namibia, and their participation in Co-operative development, including participation at decision making levels, is essential for the success of the objectives of this Policy.

¹³⁵ This scheme offers loans ranging from N\$2 000–N\$20 000. The NYCS also provides training to beneficiaries in basic management practices, access to credit, follow-up training, counselling and mentoring of beneficiaries. See Ministry website: <www.msyns.gov.na/service>.

¹³⁶ "Namibia's 4th and 5th Periodic Report to the CEDAW Committee", CEDAW/C/NAM/4-5, 13 December 2013, at section 11.3.

¹³⁷ *Namibia Financial Sector Strategy: 2011-2012*, Ministry of Finance, undated, at para 26.

¹³⁸ This provision applies to any co-operative with more than five women amongst its members, or with women numbering more than one-third of its members (whichever is lesser). Co-operatives Act 23 of 1996, section 29(2)(b). Section 36(1)(b) of the Act also provides for the presence of women on the subcommittees of boards of certain co-operatives: "If provision is made in the by-laws of a co-operative for the establishment and constitution of subcommittees of the board, any such subcommittee shall in the case of a co-operative that has more than 20 women as members or if more than one-third of its members are women or the members who are women represent more than three percent of the total number of its members, whichever is the lesser, have at least one woman, as a member of such subcommittee." Section 36(2) provides: "If no woman is, in terms of paragraph (b) of subsection (1), elected or appointed as a member of the subcommittee, the subcommittee shall, at its first meeting held after such election or appointment has taken place, appoint a woman who is a member of the co-operative, and such woman shall have all rights, duties, liabilities and obligations as if she was so elected or appointed."

¹³⁹ Section 9(b)(i) of the Co-operatives Act 23 of 1996 forbids discrimination amongst members on various grounds such as race and ethnic origin, but sex is not listed so as to allow for single-sex co-operatives as an affirmative action measure for women.

¹⁴⁰ At the International Labour Conference in June 2002, the ILO adopted Recommendation No. 193 on the Promotion of Co-operatives, which calls for the adoption of special measures to enable co-operatives, as enterprises and organisations inspired by solidarity, to respond to their members' needs and the needs of society, including those of disadvantaged groups, in order to achieve their social inclusion.

Women form the majority of participants in economic activities in rural areas, and their repayment rate for loans is usually higher than that of men.¹⁴¹

The Policy also reinforces the legal requirements for women participation in decision-making by co-operatives¹⁴² and states that the Government will “encourage implementation of special development programs, including credit facilities, targeted at women in Co-operative organizations”.¹⁴³

However, despite the law and policy aimed at encouraging co-operatives, only a few co-operatives have been successful.¹⁴⁴ The majority of co-operatives have either failed to graduate from provisional registration, or did not attain economic vibrancy after full registration.¹⁴⁵ As of 1 June 2017, there were 152 registered co-operatives in Namibia, but only 8 were fully registered, of which one was dormant. The other 144 co-operatives were only provisionally registered. Furthermore, out of the total of 152 registered co-operatives, only 109 were active (which does not mean successful) and 43 were dormant.¹⁴⁶

According to the situation analysis provided in the 2017 Policy, Namibia had about 146 registered co-operatives in 2016, with a total membership of about 11 988 people, of which 7 647 (63.8%) were female and 4 341 (36.2%) were male. Almost 74% of all co-operatives and about 63% of all co-operative members were engaged in agricultural activities.¹⁴⁷ The table on the next page, adapted from the one provided in the 2017 Policy, provides a summary of different types of co-operatives and indicates membership by sex.

Though the majority of co-operatives in Namibia are not operating successfully, there is one very successful example involving women. The **Eudafano Women’s Co-operative** is a co-operative of rural women in Northern Namibia that produces marula oil, with 80% of the oil produced being exported for skin care products. This co-operative is the largest active fully registered co-operative in Namibia, with a total of over 2 000 registered members, all female. It provides training and harvesting equipment to its members along with information on the requirements of the market, and ensures that primary producers are paid fair prices. The co-operative itself cites the following achievements:

- 75% increase in membership from 1 432 women in 2008 to 2 500 members in 2016;
- member associations increased from 9 founding associations to 26 associations and 2 collection centres;
- income to members for raw materials quadrupled from US\$20 863 in 2012 to US\$104 712 in 2015;
- marula oil production increased from 8 tonnes annually to more than 12 tonnes annually to date;
- export sales for marula oil increased by 188% from 3 419 kg annually in 2009 to 9 880 kg in 2014.¹⁴⁸

¹⁴¹ *Namibia Co-operative Policy of 2017* at para 105.

¹⁴² *Id* at para 106, which repeats the legal requirement in section 29(20(b) of the Co-operatives Act 23 of 1996.

¹⁴³ *Id* at para 107.

¹⁴⁴ *Id* at para 16. See also “Cooperatives faltering: Shortcomings in policy dull performance”, *Namibian Sun*, 23 November 2015 (available at <www.namibiansun.com/news/cooperatives-faltering/>) and “Karas and Hardap cooperatives doing well”, *The Namibian*, 12 June 2012, which portrays co-operatives in //Kharas and Hardap involving women and youth as having promise despite the fact that many co-operatives in the two regions have closed.

¹⁴⁵ *Namibia Co-operative Policy of 2017* at para 16.

¹⁴⁶ Information provided by Registrar of Co-operatives, June 2017.

¹⁴⁷ *Namibia Co-operative Policy of 2017* at para 21.

¹⁴⁸ Martha K Kangandjo, Eudafano Women’s Co-operative, presentation for the 4th Bio Trade Congress held at Cancun in Mexico on 3 December 2016 under the heading “Breaking new ground for biodiversity based products”, <http://unctad.org/meetings/en/Presentation/2_5-ditc-ted-03122016-IVcongress-ewc.pdf>. See also Shigeo Watanabe & Katharine N Farrell, “An institutional analysis on the management of a Namibian women’s cooperative”, undated.

In March 2016, Namibia and Kenya signed a Memorandum of Understanding on co-operative development with the idea that Kenya, which has a long-standing vibrant co-operative sector, will assist Namibia with capacity building and technical support.¹⁴⁹

REGISTERED CO-OPERATIVES IN NAMIBIA (2015)				
Type of Co-operative	Number of co-ops	Number of members	Female members	Male members
AGRICULTURE Co-operatives				
Livestock breeding and marketing	73	5 057	2 259	2 798
Crop and vegetable production and marketing	32	2 181	1 345	836
Seed multiplication	3	262	159	103
Secondary Co-operative	1			
ARTS AND CRAFT Co-operatives				
Pottery	2	20	0	20
Wood carving	1	83	5	78
Weaving	1	13	4	9
Tourism	1	14	9	5
Event management	3	27	14	13
MINING Co-operatives				
Small-scale mining	5	159	71	88
MANUFACTURING Co-operatives				
Sewing and tailoring	3	59	48	11
Brick making, bakery	2	24	12	12
Oil processing from indigenous plants	2	3 137	3 125	12
Carpet manufacturing	1	10	6	4
Paper, charcoal, poles	3	35	12	23
Dairy	1	44	24	20
FINANCIAL Co-operatives				
Savings and credit	10	733	511	222
CONSTRUCTION Co-operatives				
Building	2	130	43	87
TOTAL	146	11 988	7 647	4 341

Source: Namibia Co-operative Policy of 2017 at 10. An updated list provided by the Registrar of Co-operatives in late June 2017, showing individual co-operatives with dormant co-operatives omitted, lists 11 580 co-operative members, 47% female (5 452 women compared to 2 643 men). Over 2 000 of the women listed are members of a single co-operative, the successful Eudafano Women's Co-operative, discussed above. However, the Registrar's office has indicated that these numbers are not entirely complete. (Personal communication, Registrar of Co-operatives, 22 June 2017).

5.10 Women and poverty

Understanding poverty and its gendered nature in Namibia depends on first understanding the nature of the methods used for calculating poverty. The Institute of Public Policy Research in Namibia provides a clear and succinct discussion of this issue:

<https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/9867/Watanabe_Shigeo_Namibian_Womens_Cooperative_May15.pdf?sequence=1&isAllowed=y>).

For other examples of co-operatives which seem to have enjoyed some success, see "Credo Co-operative targets public servants", *The Economist*, 17 October 2014

(available at <<https://economist.com/na/9648/markets/credo-co-operative-targets-public-servants/>>)

and Kaula Nhongo, "Co-operatives encourage women empowerment", *The Villager*, 20 May 2012

(available at <www.thevillager.com/na/articles/1675/Co-operatives-encourage-women-empowerment/>).

¹⁴⁹ Lahja Nashuuta, "Namibia, Kenya signs agreement on cooperatives development", *Southern Times*, 31 March 2016 (available at <<https://southernafrican.news/2016/03/31/namibia-kenya-signs-agreement-on-cooperatives-development/>>).

Poverty is a broad term that indicates a shortage of common things such as food, clothing, shelter and safe drinking water, all of which determine the quality of life. Measuring poverty is therefore not a straightforward exercise. Who is poorer: someone who earns enough money to send her children to school but doesn't have access to safe drinking water, or someone who has safe drinking water but can't pay for the education of her children? A common measure used to determine the welfare of a household is income, which can pay for many basic needs. However, it is difficult to measure household income in developing countries, where many people don't have formal jobs with salaries, but make a living from selling services or goods in the informal market. That is why consumption spending is often used as a better measure for welfare: by recording how many things a household buys over a period of time, we can learn something about the standard of living it enjoys. By combining the consumed goods with their typical prices, a consumption value in Namibia dollars can be calculated for each household. The more people live in a household, the more things they need to buy, of course, so household size has to be taken into account.

The data which is used to measure poverty and inequality in Namibia stems from country-wide surveys, in which households are questioned about their consumption. The households are asked to recall how much of some goods they consumed, and for more frequent goods (mainly food items) they have to keep a journal recording daily quantities. The interviewers also record characteristics for each household, such as the number of household members, where they live or what level of education each member has.¹⁵⁰

Namibia has considered poverty in four Namibia Household Income and Expenditure Surveys (NHIES), in 1993/94, 2003/04, 2009/10 and 2015/16. The most recent three surveys have utilised a "Cost of Basic Needs" approach. The starting point is the amount of money required to supply the minimum daily calorie requirement (2 100 kcal), adjusted for inflation. This is the Food Poverty Line. Then, the costs of other basic needs – such as shelter and clothing – are added to the cost of the minimum food required to lead a normal life, so as to calculate an absolute "poverty line". This is the Upper Bound Poverty Line. A household which spends less than that amount per adult household member is considered "poor". When non-food expenditures on basic needs are considered together with food expenditures, the result is that some households will not have sufficient money to meet their minimum daily calorie requirements. These households fall below the Lower Bound Poverty Line and are classified as "severely poor".¹⁵¹

- **Food Poverty Line** – the monthly amount in Namibian dollars required to buy 2 100 kcal/day per adult
- **Upper Bound Poverty Line** – the cut-off point below which persons or households are classified as poor (or severely poor)
- **Lower Bound Poverty Line** – the cut-off point below which persons or households are classified as severely poor.

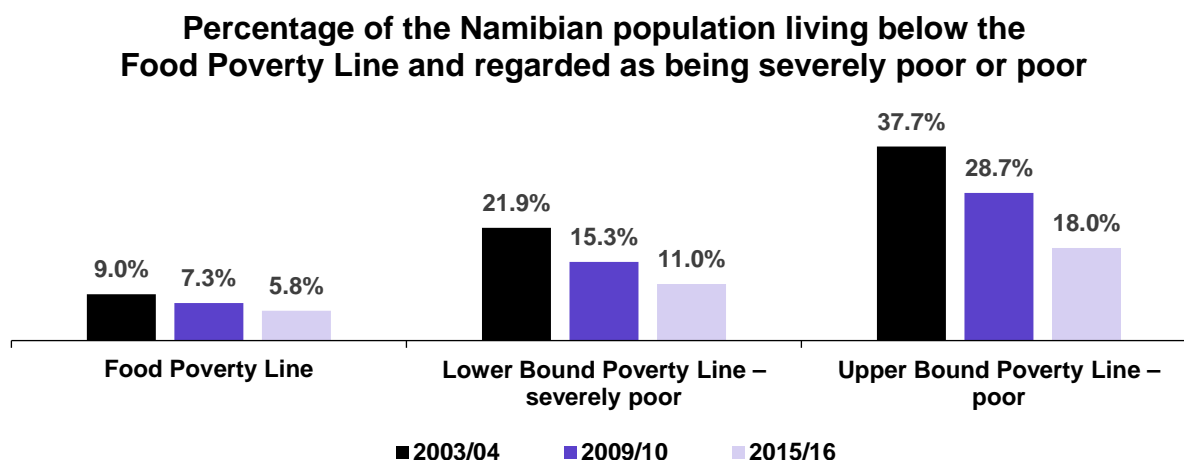
¹⁵⁰ Matthias Schmidt, "Poverty and Inequality in Namibia: An Overview", Windhoek: Institute of Public Policy Research, 2009 at 2 (footnote omitted) (available at <<http://ippr.org.na/wp-content/uploads/2010/06/Poverty%20and%20Inequality%20Research.pdf>>).

¹⁵¹ National Planning Commission, *A Review of Poverty and Inequality in Namibia*, 2008; Matthias Schmidt, "Poverty and Inequality in Namibia: An Overview", Windhoek: Institute of Public Policy Research, 2009 at 2; *Namibia Household Income and Expenditure Survey (NHIES) 2015/2016: Key Poverty Indicators (Preliminary Figures)*, Windhoek: Namibia Statistics Agency, 2016 at 8 (available at <http://cms.my.na/assets/documents/NHIES_2016_Key_Poverty_Indicators_Preliminary_Figures.pdf>) (hereinafter "*2015/16 NHIES Key Poverty Indicators*"); *Namibia Household Income and Expenditure Survey (NHIES) 2009/2010*, Windhoek: Namibia Statistics Agency, 2012 at 151 (hereinafter "*2009/10 Namibia Household Income and Expenditure Survey*").

Government previously used a Food Consumption Ratio to measure poverty, based on the food consumption as a percentage of total consumption; a household was "poor" if 60% or more of the household's total consumption was spent on food, and "severely poor" if 80% or more of household consumption was spent on food. *2003/2004 Namibia Household Income and Expenditure Survey: Main Report*, Windhoek: Central Bureau of Statistics, 2006 at 121.

Poverty Line	2003/04	2009/10	2015/16
Food Poverty Line	127.15	204.05	293.10
Upper Bound Poverty Line (“poor or severely poor”)	262.45	377.96	520.80
Lower Bound Poverty Line (“severely poor”)	184.56	277.54	389.30

Source: Based on figures in 2015/16 NHIES Key Poverty Indicators at 12.



Source: Adapted from “Economy Watch Namibia – December 2016”, Windhoek: Institute of Public Policy Research, 2016 at 1, based on 2015/16 NHIES Key Poverty Indicators at 11.

The data indicates a downward trend in overall poverty over the past 13 years. In 2003/04, 21.9% of the Namibian population was considered severely poor and 37.7% was considered poor, while in 2015/16 11% was considered severely poor and 18% was considered poor. Key factors for this reduction in poverty have been identified as robust economic growth (at least until the recent downturn); the expansion of the social safety net (including the increased coverage of various child-related grants)¹⁵² and increases in the amount of the monthly old-age grant¹⁵³ (which assists not only the recipients, but also their dependants).¹⁵⁴ However, there may be a worsening of poverty rates since the most recent poverty statistics were collected. While inflation averaged 3.4% in 2015 and 6.7% in 2016, it averaged 8.0% during the first two months of 2017 – and Namibia is also suffering from a deteriorating economy after a period of particularly strong growth between 2009 and 2015.¹⁵⁵

The chart below reflects the regional share of poor households overall at the time of the 2009/10 Namibia Household Income and Expenditure Survey.

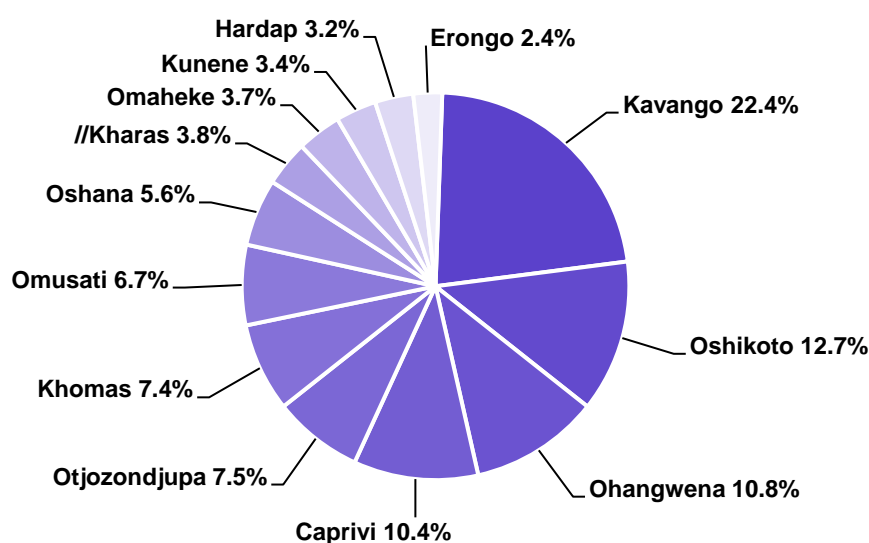
¹⁵² Coverage almost doubled from 111 624 in 2009/10 to 221 087 in July 2016. “Economy Watch Namibia – December 2016”, Windhoek: Institute of Public Policy Research, 2016 at 1 (available at <http://ippr.org.na/wp-content/uploads/2017/01/Economy_Watch_Dec16_final.pdf>).

¹⁵³ This grant was N\$600 per month in 2013, increasing to N\$1 000 in 2015 and N\$1 200 in 2017.

¹⁵⁴ “Economy Watch Namibia – December 2016”, Windhoek: Institute of Public Policy Research, 2016 at 1.

¹⁵⁵ Figures from Rowland Brown, “The National Budget 2017-18: Prioritising Personnel”, IPPR Special Briefing Report No. 19, May 2017 at 2 (available at <http://ippr.org.na/wp-content/uploads/2017/05/19_DB_Budget_WEB.pdf>).

Regional share of poor households overall



Source: Adapted from 2009/10 Namibia Household Income and Expenditure Survey at 159.

The 2015/16 NHIES Key Poverty Indicators Preliminary Report, which is all that is publicly available from the 2015/16 Namibia Household Income and Expenditure Survey as of May 2017, contains no sex-disaggregated data on poverty.¹⁵⁶ This means that the most recent poverty profile by sex comes from the 2009/10 Namibia Household Income and Expenditure Survey, which found that “the poor are proportionately located in rural areas, mainly pensioners or subsistence farmers, households with lower level[s] of education, women and households with bigger average household size”.¹⁵⁷

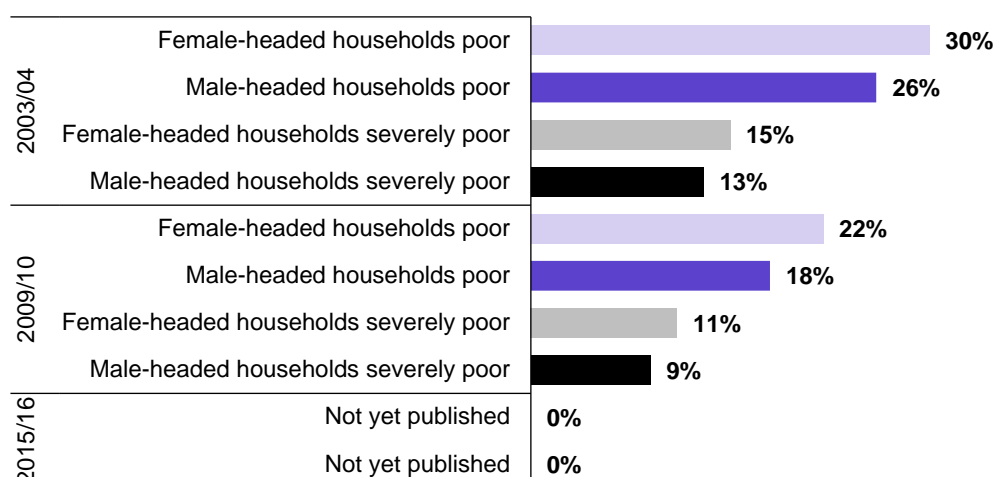
The 2009/10 Namibia Household Income and Expenditure Survey found that the incidence of poverty in female-headed households was 22% compared to 18% for male-headed households (a 4-point spread), with 11% of female-headed households being severely poor compared to 9% of male-headed households (a 2-point spread). In comparison, the 2003/04 Namibia Household Income and Expenditure Survey found that 30% of female-headed households were poor compared to 26% for male-headed households (a 4-point spread), and 15% of female-headed households were severely poor compared to 13% of male headed households (a 2-point spread). Thus, although overall poverty levels improved in the years between those two surveys (assuming that the methodologies of the two surveys are comparable¹⁵⁸), the degree of distinction between men and women remained unchanged.

¹⁵⁶ The full report is expected to be released only in August-September 2017, according to the Namibia Statistics Agency (personal communication, May 2017).

¹⁵⁷ 2009/10 Namibia Household Income and Expenditure Survey at 153.

¹⁵⁸ See National Planning Commission, *A Review of Poverty and Inequality in Namibia*, 2008 at 7-8 on the impact of the confidence levels on the 2003-04 data. National Planning Commission, *Poverty Dynamics in Namibia*, 2012 at 36 states that “inequality is higher among individuals living in male-headed households than among those living in female-headed households. Although, inequality declined among individuals living in both male and female headed households, the decline in both cases has been marginal.”

Findings of *Namibia Household Income and Expenditure Surveys*: share of female-headed and male-headed poor households overall



Namibia's Gini coefficient

The Gini coefficient is a measure of the income distribution amongst a nation's residents.¹⁵⁹ It is a commonly-cited measure of inequality. A Gini coefficient of 0 represents perfect equality (where everyone has the same income), while 1 represents perfect inequality (where one person has all the income). A score of 0.5 or higher is considered to reflect a high level of inequality in the society being measured.

According to NDP5, Namibia has a Gini coefficient of 0.57, which makes it one of the most unequal countries in the world, posing "a threat to the nation's macroeconomic and fiscal stability" and making it "essential for Namibia to address the skills deficit in its labour force so that more Namibians can obtain a living wage".¹⁶⁰ The severe inequalities seem particularly harsh in light of the fact that Namibia has been assessed as having the third wealthiest people in Africa, with 3 300 millionaires (net assets of US\$1 million or more) and 120 multi-millionaires (net assets of US\$10 million or more).¹⁶¹

Interestingly, when it comes to the inequality measure, the Namibia Statistics Agency notes that "**inequality is higher among individuals living in male-headed households than among those living in female-headed households.**"¹⁶² The report noting this finding does not speculate on the reasons which might explain it.

The 2015/16 NHIES Key Poverty Indicators report concludes that inequality in Namibia is high by any standards and yet shows "a mild downward trend".¹⁶³

Gini coefficient	1993/94	2003/04	2009/10	2015/16
	0.646	0.600	0.597	0.572

Source: Based on 2015/16 NHIES Key Poverty Indicators at 12; Namibia Statistics Agency, *Poverty Dynamics in Namibia*, 2012 at 33.

Gini coefficient by sex of household head	1993/94		2003/04		2009/10	
	M	F	M	F	M	F
	0.671	0.547	0.628	0.523	0.622	0.513

Source: Based on Namibia Statistics Agency, *Poverty Dynamics in Namibia*, 2012, Table 35 at 37.

¹⁵⁹ It is named after Corrado Gini, the Italian statistician who developed it.

¹⁶⁰ NDP5 at 2.

¹⁶¹ *Africa Wealth Report 2017*, AfrAsia Bank (Mauritius), April 2017 at 8, 11 (available at <www.afrasiabank.com/media/180012/africa-wealth-report-2017.pdf>); summarised in Ndama Naksole, "Namibians 3rd wealthiest people in Africa", *The Namibian*, 24 April 2017.

¹⁶² Namibia Statistics Agency, *Poverty Dynamics in Namibia: A comparative study using the 1993/94, 2003/04 and the 2009/10 NHIES surveys*, 2012 at 36.

¹⁶³ 2015/16 NHIES Key Poverty Indicators at 12.

5.11 Sex work

There are no consistent estimates of the numbers of sex workers in Namibia.¹⁶⁴ A pair of 2013-2014 Integrated Bio-behavioural Surveillance Studies among female sex workers estimated the population of female sex workers aged 15-49 as ranging from 1 800 to 3 400 in Windhoek; 825 to 1 500 in Walvis Bay/Swakopmund;¹⁶⁵ 380 to 2 000 in Katima Mulilo; and 775 to 2 750 in Oshikango.¹⁶⁶

Namibia's *Demographic and Health Surveys* consistently show that very small percentages of men report paying for sex.¹⁶⁷ In the 2000 Survey, only 1% of men reported paying for sex in the 12 months prior to the survey. Of

these, about two-thirds reported using a condom during their most recent paid sexual intercourse, but this figure is unreliable as it is based on a small sample size.¹⁶⁸ In the 2006-07 Survey, 1.4% of men aged 15-49 reported paying for sex in the prior 12 months.¹⁶⁹ Of these men, 77% reported using a condom during their most recent paid sexual intercourse.¹⁷⁰ The 2013 Survey found that 1% of men aged 15-49 and 2% of men aged 50-64 reported paying for sex in the prior 12 months, with 67% reporting condom use during their most recent encounter.¹⁷¹

Prior to 2002, there had been only small-scale studies of commercial sex workers in Windhoek and Walvis Bay conducted by the Ministry of Youth and Sport and the Gender Research and Training Programme at the University of Namibia.¹⁷²

A study of sex work published by the Legal Assistance Centre in 2002¹⁷³ found that most sex workers had turned to their line of work out of desperation to support themselves and their families. Many had held

Legal issues

The act of exchanging sex for reward is not itself criminalised in Namibia, but a host of surrounding activities are. The **Combating of Immoral Practices Act 21 of 1980** prohibits the keeping of brothels, the procurement of prostitutes and soliciting by prostitutes, amongst other things. Municipal regulations, such as laws against loitering, are sometimes used against sex workers. The case of *Hendricks & Others v Attorney General, Namibia & Others* 2002 NR 353 (HC) found some provisions of this law unconstitutional, including portions of the broad definition of "brothel", certain presumptions and some offences relating to brothels.

¹⁶⁴ Matthew Greenall, *Sex Work and HIV in Namibia: Review of the literature and current programmes*, Windhoek: UNFPA and UNAIDS, 2011. None have been located since this overview was published.

¹⁶⁵ "Summary Results of Phase One of the Integrated Bio-behavioural Surveillance Study (IBBSS) among Female Sex Workers (FSW): Windhoek and Walvis Bay/Swakopmund, Namibia, 2013-2014", Windhoek: Ministry of Health and Social Services at 4.

¹⁶⁶ "Summary Results of Phase Two of the Integrated Bio-behavioural Surveillance Study (IBBSS) among Female Sex Workers (FSW): Katima Mulilo and Oshikango, Namibia, 2013-2014", Windhoek: Ministry of Health and Social Services at 4.

¹⁶⁷ The surveys did not ask women about paying for sex.

¹⁶⁸ *Namibia Demographic and Health Survey 2000*, Windhoek: Ministry of Health and Social Services, 2003 at 172-73.

¹⁶⁹ The survey did not report on payment for sex among men overall.

¹⁷⁰ *Namibia Demographic and Health Survey 2006-07*, Windhoek: Ministry of Health and Social Services and Macro International Inc, 2008 at 209-10.

¹⁷¹ *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 187-88.

¹⁷² Ministry of Youth and Sport, in Joint United Nations Programme on HIV/AIDS and Spanish Agency for International Cooperation (AECI), *Counselling News*, No. 4, February 1998 at 13 and "Young People involved in Commercial Sex Work", Research report for Windhoek: November-December 1998, Ministry of Youth and Sport. Key findings are summarised in "*Whose Body Is It?": Commercial Sex Work and the Law in Namibia*", Windhoek: Legal Assistance Centre, 2002 at 86-87.

other jobs in the past and occasionally did odd jobs concurrently with sex work, but could not survive on those wages alone. The field research showed that approximately 78% of the sex workers interviewed had dependents, ranging from one or two children to entire families. The research also showed that maintenance and sex work were strongly linked. Many sex workers entered and remained in sex work because they had to support their children. Some of the women entered the profession as young girls because their fathers deserted their families, or because they got pregnant during their teenage years. More than half of the sex workers interviewed suffered some form of abuse as a child. The key concerns of sex workers were health issues, particularly HIV/AIDS, and the problem of abuse from clients and at the hands of law enforcement officials. The sex workers interviewed also complained that the laws criminalising sex work activities meant that they had no recourse against clients who refused to pay for sexual services, or against clients who physically abused or raped them. They reported that some clients refused to wear a condom after they had agreed to do so and abused the sex worker if she tried to insist. Other sex workers complained that when they approached the police for help, they were abused by police officers or arrested for engaging in an illegal activity. Most respondents (78%) said that they used alcohol on a regular basis, with use of drugs and painkillers being reported to a lesser degree. Venues where alcohol is served were cited by many as places for connecting with clients. About one-third of the sex workers interviewed for that study reported having seen children engaged in sex work on the street and even at some clubs. The vast majority of the sex workers interviewed wanted to see sex work decriminalised, as a way to give them greater protection and security. In contrast, almost 70% of the members of the public surveyed felt that the laws should be changed to make sex work *illegal for both the client and the sex worker* while about 21% thought that the law should be changed to make sex work legal. Interestingly, more than 75% of the members of the public surveyed agreed that sex workers have the right to insist on the use of condoms and the right to protection from abuse – protections which are incompatible with criminalisation.

There were several small-scale studies of sex work in specific locations during the next few years.¹⁷⁴ For example, interviews conducted with sex workers in Windhoek found that the girls were on average age 16 when they started sex work, that the main reasons they entered sex work were largely poverty-related and

¹⁷³ “*Whose Body Is It?*”: *Commercial Sex Work and the Law in Namibia*, Windhoek: Legal Assistance Centre, 2002. This study was based on structured interviews with 148 sex workers in five towns. It also included a telephone survey with 315 persons from six different regions, as a way of gauging public opinion.

¹⁷⁴ In addition to the studies summarised in this paragraph, original research is contained in

- Carolina Hjorth, “Prostitution, HIV/AIDS and human rights: A case study of sex workers in the township of Katutura, Namibia”, Masters’ thesis submitted to Goteberg University, Centre for Study of Human Rights, 2005;
 - *Baseline Survey in Trafficking and Sex Work at Oshikango*, Windhoek: Ministry of Gender Equality and Child Welfare, 2007;
 - Rob Lorway, “Breaking a Public Health Silence: HIV Risk and Male-Male Sexual Practices in Windhoek Urban Area” in in Suzanne LaFont and Dianne Hubbard (eds), *Unravelling Taboos*, Windhoek: Legal Assistance Centre, 2007 at 280-289 (describing the situation of five transgender sex workers); also reported in R Lorway, “Dispelling ‘heterosexual African AIDS’ in Namibia: Same-sex sexuality in the township of Katutura”, 5 *Culture, Health and Sexuality*, Vol 8, 2006;
 - MK Kiremire, “Prostitution in Windhoek, Namibia: An exploration of poverty”, *Analyses and Views Series* 4:2, 2007 (which contains an inaccurate description of Namibian law);
 - K Macklean, N Goagoseb and A Shinana, *Mapping in Namibia*, Windhoek: African Sex Worker Alliance, 2010 (original focus group research based on a small sample of male sex workers in Windhoek);
 - A Fitzgerald-Husek et al, “‘I do what I have to do to survive’: An investigation into the perceptions, experiences and economic considerations of women engaged in sex work in Northern Namibia”, 35 *BMC Women’s Health*, Vol 11, 2011 (experiences of a sample of ten sex workers in Oshakati).
- For an overview of the literature up to 2011, see Matthew Greenall, *Sex Work and HIV in Namibia: Review of the literature and current programmes*, Windhoek: UNFPA and UNAIDS, 2011.

that sex workers were vulnerable to abuse from clients.¹⁷⁵ Research conducted in 2008 to assess linkages between HIV and sex work suggested that sex workers were at a high risk of contracting HIV/AIDS as most did not have the bargaining power to negotiate condom use with their clients due to lack of money. This report identified regional differences in the situation of sex workers, with those in poorer areas or where there is high competition (such as Rundu and Katima Mulilo) less able to negotiate condom use than those in more affluent areas (such as Walvis Bay).¹⁷⁶

A 2009 regional study that included data from Namibia presented similar findings, reporting that sex workers faces violence and abuse, unequal access to health services and stigmatisation. The study found that the majority of sex workers in Namibia advocated legalisation of sex work as a means of realising their rights.¹⁷⁷

A 2012 study of HIV among migrant persons in Walvis Bay¹⁷⁸ found that sex workers in Walvis Bay had a high level of knowledge about ways to prevent or reduce the risk of HIV transmission, and all of the sex workers surveyed knew where to get condoms. However, some felt they had no choice but to practise unsafe sex with clients; monetary pressure can be strong, as poverty is a significant factor that drives sex workers into the business. Other reasons for the failure to use condoms included where a sexual partner fooled a sex worker into sex without a condom, where a condom was not available or where the sex worker did not feel compelled to use a condom because he or she was already infected with HIV. Most sex workers surveyed reported having been abused by their clients, through robbery, accusations of robbery, refusal to pay or physical violence. Abuse by the police was also reportedly common, with sex workers saying that they felt powerless against police brutality. Though Walvis Bay is a region where the sex work industry is perceived as being large (the study estimated that there were some 500 sex workers in Walvis Bay, including 150 male sex workers¹⁷⁹), the supply of sex workers is regarded as higher than the demand. This affects sex workers' safety as the imbalance leads to violence among sex workers. Sex workers also reported incidents of abuse by their regular partners if they did not earn enough money. All 43 of the sex workers who responded to the survey indicated they had had an HIV test in the past. Almost all of them knew about sexually-transmitted infections and knew where to go for treatment for such infections. Nevertheless, those who had had sexually-transmitted infections did not seek treatment immediately but waited two to three days after noticing the symptoms – and about half of those sex workers continued to have sex despite having these symptoms.¹⁸⁰

¹⁷⁵ Suzanne LaFont, *Help Wanted: Sex Workers in Katutura*, Windhoek: Legal Assistance Centre, 2008; also reported in Suzanne LaFont, "The commercial sexual exploitation of girls and young women in Namibia", *Int. J. Gender Studies in Developing Societies*, Vol 1 No 1, at 77-89 (2015).

¹⁷⁶ Debie LeBeau, *Corridors of Mobility: Mobility and HIV vulnerability factors in four sites along transport corridors in Namibia*, Windhoek: International Organisation for Migration and Institute of Public Policy Research Namibia, 2007; also reported in Debie LeBeau, "The Economics of Sex Work; Implications for Sex Workers' HIV Risk-taking and Legal Alternatives", in Suzanne LaFont and Dianne Hubbard (eds), *Unravelling Taboos*, Windhoek: Legal Assistance Centre, 2007 at 255-275 and Christiaan Keulder and Debie LeBeau, "Ships, Trucks and Clubs: The Dynamics of HIV Risk Behaviour in Walvis Bay", IPPR Briefing Paper No. 36, May 2006.

¹⁷⁷ Jayne Arnott and Anna-Louise Crago, *Rights not rescue: A report on female, male and trans sex workers' human rights in Botswana, Namibia, and South Africa*, Open Society Institute Public Health Program, 2009.

¹⁷⁸ Sustainable Development Africa cc (SusDaf), *Health Vulnerabilities of Mobile Populations and Affected Communities in Selected Ports of Southern Africa-Walvis Bay*, International Organisation for Migration (IOM), 2014.

¹⁷⁹ Note that there is an internal inconsistency in this regard; the chart at 20 indicates 500 female sex workers and 150 men who have sex with men, while the text at 21 indicates 500 sex workers in total, of which 150 are men.

¹⁸⁰ Sustainable Development Africa cc (SusDaf), *Health Vulnerabilities of Mobile Populations and Affected Communities in Selected Ports of Southern Africa-Walvis Bay*, Namibia, International Organisation for Migration (IOM), 2014 at 146-7.

A 2013 report¹⁸¹ found that police practices of confiscating sex workers' condoms put sex workers at risk for HIV. It reported that 70% (14 out of 20) of sex workers interviewed in Namibia said that police had confiscated their condoms. Moving beyond mere confiscation, 50% (10 out of 20) of those sex workers said that police had destroyed their condoms between two and 14 times during the prior 12 months, such as by burning them. Those encounters led 75% (6 out of 8) of the sex workers to engage in unprotected sex during sex work, clearly increasing their risk of contracting HIV. The report also found that police have used possession of condoms as justification for detention and as evidence of illegal sex work. Such actions discourage sex workers from carrying condoms: 85% (17 out of 25) of sex workers interviewed in Namibia reported not carrying condoms for fear of police response. The report concludes that criminalisation of sex work is harmful to sex workers' safety, and that the described police practices, whether sanctioned or unsanctioned, discourage access to protection. It also found that criminalisation makes sex workers vulnerable to police exploitation, and discourages them from bringing charges for crimes committed against them in the context of their sex work.

The two Integrated Bio-behavioural Surveillance Studies among female sex workers conducted in 2013-2014¹⁸² found that HIV rates among female sex workers in these selected locations were higher than the prevalence rate estimated for pregnant women in the same areas, signalling a population in high need of HIV care.¹⁸³ Moreover, in all of the studied communities, female sex workers used condoms inconsistently during sex with multiple clients and with non-client partners – likely contributing to the spread of HIV from sex workers to others in the community. However, the studies also found that once female sex workers were diagnosed with HIV, there was high participation and retention in antiretroviral treatment programmes. Amongst the recommendations put forward were strengthened HIV testing and counselling programs for sex workers.

After holding public hearings in various locations, the National Council in 2005 noted that “social scientists and reputed academics across the globe strongly believe that sex-work should be legalized” and noted that if it were legalised, health authorities would be able to better monitor the health of sex workers to protect their health and that of their clients, which would help minimise the spread and impact of HIV/AIDS.¹⁸⁴ A 2010 survey of around 400 young people in Windhoek and selected rural areas found that the decriminalisation of sex work had some support amongst young people in Namibia, with 37% of those outside Windhoek supporting legalisation, compared to 27% in Windhoek.¹⁸⁵

¹⁸¹ *Criminalizing Condoms: How Policing Practices Put Sex Workers and HIV Services at Risk in Kenya, Namibia, Russia, South Africa, the United States, and Zimbabwe*, Open Society Foundations, 2013.

¹⁸² “Summary Results of Phase One of the Integrated Bio-behavioural Surveillance Study (IBBSS) among Female Sex Workers (FSW): Windhoek and Walvis Bay/Swakopmund, Namibia, 2013-2014”, Windhoek: Ministry of Health and Social Services; “Summary Results of Phase Two of the Integrated Bio-behavioral Surveillance Study (IBBSS) among Female Sex Workers (FSW): Katima Mulilo and Oshikango, Namibia, 2013-2014”, Windhoek: Ministry of Health and Social Services at 4.

¹⁸³ The comparisons of HIV prevalence among female sex workers versus pregnant women were as follows:

Female sex workers	Pregnant women
37.5% (Windhoek)	9.6% (Windhoek Central) / 14.4% (Katutura)
39.3% (Walvis Bay/Swakopmund)	17.2% (Walvis Bay) / 14.5% (Swakopmund)
52.3% (Katima Mulilo)	37.7% (Katima Mulilo)
31.0% (Oshikango)	19.3% (Engela).

¹⁸⁴ “Report of the investigation on the plight of sex workers, street kids and other vulnerable persons by the National Council Standing Committee on Gender, Youth and Information, conducted between 31 October and 28 November 2005” at 31.

¹⁸⁵ Suzanne LaFont, “Beliefs and Attitudes toward Gender, Sexuality and Traditions among Namibian Youth”, Windhoek: Legal Assistance Centre, 2010.

The *National Plan of Action on Gender-Based Violence 2012-2016* recommended reform of the provisions of the Combating of Immoral Practices Act 21 of 1980 to reduce the vulnerability of sex workers to abuse.¹⁸⁶ It also recommended the development and implementation of strategies and programmes which can provide women with alternatives to sex work and other transactional sexual relationships.¹⁸⁷

The then UN Special Rapporteur on extreme poverty and human rights, during her 2012 visit to Namibia, observed that the “de facto criminalization of sex work is a severe barrier to the equal enjoyment of sex workers of their basic human rights to health, education, freedom of movement, security of person, privacy and human dignity” and called upon the Government to repeal the provisions relating to sex work in the Combating of Immoral Practices Act 21 of 1980.¹⁸⁸

The *2013 Baseline Study Report on Human Rights in Namibia* states:

The non-recognition of sex workers as workers under the current legal regime has left them without recourse or redress from labour institutions. Similarly, the lack of safe and supportive working conditions render sex workers particularly vulnerable to HIV and fuel its transmission.¹⁸⁹

It also mentions that sex workers “are often denied access to health care services due to stigma and discrimination from health care professionals”,¹⁹⁰ and that “violence, extortion and abuse by law enforcement officials... severely compromises sex workers’ access to equal protection of the law and creates a climate of impunity that fosters further violence and discrimination against sex workers in the community-at-large”.¹⁹¹ The ensuing *National Plan of Action on Human Rights* cites problems relating to the criminalisation of sex work in connection with the right to health of sexual minorities,¹⁹² but stops short of making a formal recommendation on this issue.

A 2016 submission to the Committee against Torture asserted that the physical and sexual abuse of sex workers by police officers who use the threat of arrest as leverage, the failure of police to investigate allegations of client abuse and the stigmatisation of sex work constitutes cruel, inhuman, and degrading treatment of sex workers by law enforcement and healthcare workers. This report also found that law enforcement officials use the criminalisation of sex work as a justification to confiscate sex workers’ condoms, and that public health workers sometimes deny sex workers basic healthcare services, including access to HIV testing and treatment.¹⁹³ In its concluding observations, the Committee expressed concern about the reports of abuse of sex workers by some police and medical personnel and concern that some

¹⁸⁶ *National Plan of Action on Gender-Based Violence 2012-2016*, Windhoek: Ministry of Gender Equality and Child Welfare, point 8.12.

¹⁸⁷ Id, point 19.9.

¹⁸⁸ See Catherine Sasman, “UN issues damning report on poverty”, *The Namibian*, 9 October 2012; UN Special Rapporteur on extreme poverty and human rights, press statement, Windhoek, 8 October 2012 (available at <www.namibian.com.na/100883/archive-read/UN-issues-damning-report-on-poverty>).

The UN Special Rapporteur in question was Magdalena Sepúlveda; the current Special Rapporteur is Philip Alston (<www.ohchr.org/EN/Issues/Poverty/Pages/SRExtremePovertyIndex.aspx>).

¹⁸⁹ *2013 Baseline Study Report on Human Rights in Namibia*, Office of the Ombudsman, 2013 at 3. See also discussion at 99, 100 and 171.

¹⁹⁰ Id at 12.

¹⁹¹ Id at 100.

¹⁹² *National Human Rights Plan 2015-2019*, Windhoek: Republic of Namibia, [2014] at 38.

¹⁹³ “Torture of sex workers in Namibia” submitted to the Committee against Torture in connection with the examination of the State party’s report for the 59th Session, by Voice of Hope Trust, Rights not Rescue Trust and Walter Leitner International Human Rights Clinic in the Leitner Centre for International Law and Justice, October 2016 (available at <http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NAM/INT_CAT_CSS_NAM_25753_E.pdf>).

murders of sex workers have reportedly not been investigated. The Committee recommended that Namibia take all measures to prevent ill-treatment of sex workers.¹⁹⁴

5.12 Social protection measures

According to NDP5, social safety nets play a fundamental role in reducing poverty, and have expanded to cover over 400 000 beneficiaries.¹⁹⁵ Grants for children in particular can be particularly important for women, who generally care for children born outside marriage in a situation where getting adequate maintenance contributions from absent fathers is often difficult.

There have been several recent studies of grants in Namibia, with the most recent being an extensive study by the International Labour Organisation.¹⁹⁶

In brief, the Namibian state social protection system includes a system of grants:

- a universal old age pension;¹⁹⁷
- a child grant for children with disabilities up to age 16, followed by a grant for persons age 16 and older with disabilities, with the only criterion being a medical certification proving the disability;¹⁹⁸
- a war veterans' pension;¹⁹⁹
- a means-tested state child maintenance grant;²⁰⁰ and
- a non-means tested grant for persons caring for a child as foster parents in terms of a court order (along with per child grants for children's homes and places of safety).²⁰¹

These have been supplemented by a Food Bank established in the wake of the recent drought.²⁰²

It also includes several social insurance schemes:

- the Maternity, Sick Leave and Death Benefit Fund;²⁰³
- the Employees Compensation Fund;²⁰⁴ and
- the Motor Vehicle Accident Fund.²⁰⁵

¹⁹⁴ Committee Against Torture, *Concluding Observations on the Second Periodic Report of Namibia* (CAT/C/NAM/CO/2), Geneva: CAT, 2017 at paras 38–39 (available at <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NAM/CO/2>).

¹⁹⁵ NDP5 at 52.

¹⁹⁶ *Namibia Social Protection Floor Assessment*, International Labour Office (ILO) & Oxford Policy Management (OPM), 2014. See also *The Effectiveness of Child Welfare Grants in Namibia: Study Findings and Technical Notes*, Windhoek: Ministry of Gender Equality and Child Welfare, 2010; *Home Truths: Facing the Facts on Children, AIDS, and Poverty*, Joint Learning Initiative on Children and HIV/AIDS, 2009; *Making the Difference: The BIG in Namibia, Basic Income Grant Pilot Project Assessment Report*, Basic Income Grant Coalition, 2009.

¹⁹⁷ National Pensions Act 10 of 1992.

¹⁹⁸ Children's Act 33 of 1960; National Pensions Act 10 of 1992. As discussed in Chapter 12 of this analysis, the National Pensions Act 10 of 1992 also provides for an Attendant's Allowance for persons with disabilities who need carers, but this allowance has never been operationalised.

¹⁹⁹ Veterans Act 2 of 2008.

²⁰⁰ Children's Act 33 of 1960.

²⁰¹ Ibid.

²⁰² A progress report on the Harambee Prosperity Plan states that almost 100 000 Namibians (94 536) benefitted from the government food aid programme between June and October 2016. *Harambee Review 16*, Office of the President, 13 December 2016, under Pillar 3.

²⁰³ Social Security Act 34 of 1994.

²⁰⁴ Employees' Compensation Act 30 of 1941.

²⁰⁵ Motor Vehicle Accident Fund Act 10 of 2007.

The Social Security Act 34 of 1994 provides for additional social insurance schemes in the form of a National Medical Benefit Fund and a National Pension Fund, but these have not been made operational to date.

The ILO study reports that the social assistance system is estimated to have reduced headcount poverty by more than 30% in 2009/10, and severe poverty by an even bigger proportion.²⁰⁶

Weaknesses of the current system which are of particular concern to women are as follows:

- There is no support for the unemployed. Given that unemployed women tend to be out of work for longer than men,²⁰⁷ this leaves them particularly vulnerable.
- Maternity benefits, along with benefits for sickness and employment injury, are available only to those in formal employment, excluding Namibia's large informal economy.
- The current system of child grants is badly targeted. The state maintenance grant is available only on application by one parent in a situation where the other parent is absent due to death or imprisonment, or has a disability, and where the household income is below a very low threshold. A process is underway to change the criteria for this grant, to make it available to children whose parents are not taxpayers (because they have not met the minimum threshold income for tax liability), as something of a political compromise between a universal child grant and a means tested grant. The foster parent grant requires social worker and court intervention even though most foster parents are extended family members; this is in the process of being changed, so that persons who are engaged in such "kinship care" will be eligible for the state maintenance grant in the same way as a parent, with foster grants by means of court intervention reserved for "stranger foster care" outside the extended family.

Civil society, through the Basic Income Grant Coalition, piloted a universal "basic income grant" of N\$100/month in Otjivero-Omitara in 2008-2009. An assessment of this pilot found that the grant reduced poverty levels dramatically; increased economic activity, with many residents using the money to start small businesses and benefitting from the stimulation of local markets by households' increased buying power; reduced child malnutrition; assisted persons on anti-retrovirals to afford nutritious food which increased the efficacy of the treatment; increased school attendance and reduced the school drop-out rate; led to reduced debt and increased savings, which was reflected in increased ownership of livestock and poultry; and reduced the dependency of women on men for their economic survival, thereby reducing the pressure to engage in transactional sex.²⁰⁸ The Basic Income Grant is under discussion, but has not yet found complete favour with Government because of fears that it might lead to dependency;²⁰⁹ a universal child grant has been considered but not yet endorsed.²¹⁰

²⁰⁶ *Namibia Social Protection Floor Assessment*, International Labour Office (ILO) & Oxford Policy Management (OPM), 2014 at xi.

²⁰⁷ As discussed above in section 3.3, in 2014, 65% of unemployed women were without work for more than two years, compared to 57% of unemployed men. *Namibia Labour Force Survey 2014* at 72-73, with percentages for men and women calculated from Table 5.7.

²⁰⁸ *Making the Difference: The BIG in Namibia, Basic Income Grant Pilot Project Assessment Report*, Basic Income Grant Coalition, 2009.

²⁰⁹ The 2016 *Harambee Prosperity Plan* states: "When it comes to urban and peri-urban poverty one of the key strategies will be the introduction of Food Banks that will to a large extent be run and managed by the unemployed youth in the form of Street Committees, thereby also contributing towards youth employment. The unemployed youth will receive nominal monetary and in-kind remuneration for work rendered. In this sense this particular activity will constitute a conditional income grant and not a free grant as was promoted under the Basic Income Grant." *Harambee Prosperity Plan 2016/17 – 2019/20: Namibian Government's Action Plan towards Prosperity for All*, Windhoek: Republic of Namibia, 2016 at 39-40.

Amongst the recommendations in the ILO study were: retention of the universal old age pension; a system of child (or family) benefits which include the progressive introduction of a new universal child grant for children aged 0-17 years; an Employment Safety Net Programme in the form of a community-based public works scheme that would offer a maximum of two days of work per week to the unemployed or underemployed; and the operationalisation of the Attendant's Allowance for persons with disabilities.²¹¹

As of June 2017, the Ministry of Poverty Eradication and Social Welfare was considering ways to harmonise and rationalise Namibia's social protection system.²¹²

One local analyst states: "...while the introduction of a Basic Income Grant (BIG) has been the subject of discussions about welfare reform for years and is officially on [President] Geingob's agenda, its format is far from clear. The president seems to want a limited, means-tested grant while his anti-poverty minister, Bishop Zephania Kameeta, talks airily of a universal system. Either way, it looks like an unfeasible idea in the short-term as Namibia's finances are stretched as never before." Graham Hopwood, "Namibia's President Geingob one year on: A for effort, D for performance", 18 March 2016, African Arguments website: <http://africanarguments.org/2016/03/18/namibias-president-geingob-one-year-on-a-for-effort-d-for-performance/>.

²¹⁰ See, for example, *Namibia's Fourth National Development Plan (NDP4), 2012/13 to 2016/17*, Windhoek: Republic of Namibia, May 2012 at 64.

²¹¹ See Chapter 12 of this analysis at section 12.3.

²¹² Personal communication from Ministry personnel, June 2017.

Chapter 6

Housing, Land and Agriculture

6.1 Introduction and key policies

The topics of access to land and housing are receiving a great deal of government attention in 2017, particularly in respect of discussions around the forthcoming consolidated Land Bill (discussed below) and the implementation of Government's Harambee Prosperity Plan. Several civil society and political groupings have mobilised around the issue of land and housing, most notably Affirmative Repositioning¹ and the Landless People's Movement.² Thus, it is an area where plans and policies may change in the near future.

6.1.1 National Housing Policy

Namibia's *National Housing Policy* was first adopted in 1991 and revised in 2009.³ The National Housing Goal is outlined in the 2009 Housing Policy as follows:

The housing vision underpins the values of equality, sustainability, holistic and integrated development, people-centred and good governance. This vision focuses on both urban and rural areas in terms of providing housing and [promoting] sustainable living and closing spatial development discrepancies between urban and rural areas. Government efforts will be [complemented] by private sector and community-based housing development efforts and shall constitute a partnership network between public and private sector role players.⁴

There are nine principles that underpin the development and provision of housing, which the revised policy encourages actors in both public and private housing sectors to adopt: 1) partnership and collaboration between public, private and community actors; 2) innovation; 3) economic empowerment; 4) quality and affordability; 5) equity and economic justice; 6) sustainability and fiscal viability; 7) skills development; 8) integration and coordination; and 9) pro-poor orientation.⁵ The policy reflects the need to assist low income earners and communities facing poverty and acknowledges that people living in informal settlements lack adequate shelter, essential basic services and amenities. The equity and economic justice principle highlights the need for state housing policies and programmes to accommodate youth, persons with disabilities, single-parent families, rural households without formal tenure rights, those living in hostels and others with special needs.⁶ However, the policy does not address women specifically or consider gender inequalities in the provision of adequate housing and housing services.

¹ "Affirmative Repositioning – The Two Options", *New Era*, 13 February 2015. See also Heike Becker, "Namibia's Moment: Youth and Urban Land Activism", undated blog post on Review of African Political Economy website: <<http://roape.net/2016/01/18/namibias-moment-youth-and-urban-land-activism/>>.

² "Just who are the Landless People's Movement?", *New Era*, 17 February 2017.

³ Ministry of Regional and Local Government, Housing and Rural Development, *Namibia National Housing Policy*, July 2009.

⁴ Id at 17.

⁵ Id at 18-19.

⁶ Id at 19.

6.1.2 National Land Policy

Namibia's *National Land Policy* was adopted in 1998.⁷ It is based upon a set of fundamental principles that stem from the principles in the Namibian Constitution and the "national commitment to redress the social and economic injustices inherited from the colonial past."⁸ The principles are: equality before the law; a mixed economy; a unitary land system; focus on the poor; the rights of women; security and protection; sustainable use of land and natural resources; public accountability and transparency; land as property; 'land' as a renewable natural resource; and multiple forms of land rights.⁹

The principle on women's rights specifies that widows and widowers will be entitled to maintain the land rights they enjoyed during their spouse's lifetime.¹⁰ The principle goes on to describe what women's land rights will look like in practical terms:

Women will be entitled to receive land allocations and to bequeath and inherit land; government will actively promote the reform of civil and customary law which impede women's ability to exercise rights over land; policy will promote practices and systems that take into account women's domestic, productive and community roles, especially in regard to housing and urban development, agricultural development and natural resource management.¹¹

The principle on security and protection notes that the unitary land system will provide full and equal security and protection to all legal land rights, regardless of certain characteristics, including the gender of the rights holder.¹²

The *National Land Policy* is now nearly two decades old. Considering the ample changes that have occurred within the legal, socioeconomic and physical landscapes over the past twenty years, a thorough review of the policy is required. It has been noted that the policy is "no longer likely to address the complex set of land related issues that have either existed already or have developed over the years as a result of government and market interventions."¹³

Namibia's second national land conference was scheduled to take place in 2016, but was postponed by the Government late in the year.¹⁴ In April 2017, it was reported that the Ministry of Land Reform is undertaking preparations to hold the national land conference later in 2017.¹⁵

6.1.3 National Rural Development Policy

The *National Rural Development Policy* was adopted in March 2012 as a base component of the *National Rural Development Strategy 2013/14-2017/18*. Cutting across many sectors, and recognising that the standard of living in rural areas is much lower than that in urban areas, the overall goal of the policy is to

⁷ Ministry of Lands, Resettlement and Rehabilitation, *National Land Policy*, April 1998.

⁸ Id at 1.

⁹ Id at 1-3.

¹⁰ Id at 1.

¹¹ Id at 2.

¹² Ibid.

¹³ Wolfgang Werner, Department of Land and Property Sciences, Namibia University of Science and Technology, "The 2016 Land Bill: Making Law Without Consultation and Policy Review", Institute for Public Policy Research Democracy Report, February 2017 at 3.

¹⁴ Ellanie Smit, "Land conference postponed", *Namibian Sun*, 13 October 2016.

¹⁵ Namibian Broadcasting Corporation, "Lands ministry prepares for September Land Conference", 19 April 2017, NBC website: <www.nbc.na/land-conference-2017>.

produce sustainable economic and social advancement in rural areas.¹⁶ It recognises that high levels of poverty are most extreme among vulnerable groups, such as female and youth-headed households.¹⁷ The policy outlines seven strategic approaches to rural development, each of which involves a number of interventions:

1. coordination and integration of rural development action;
2. people's empowerment and civic participation;
3. rural infrastructure and services development;
4. environmental protection and sustainable use of natural resources;
5. social welfare services;
6. support to rural agriculture; and
7. sustainable rural economic development.¹⁸

There are only two references to gender or women in connection with these strategic approaches, which constitute the bulk of the policy. In the discussion of people's empowerment and civic participation, the policy states that rural development interventions "shall recognize and mainstream HIV/AIDS and gender issues".¹⁹ In the discussion of sustainable rural economic development, the policy notes that rural people – and especially youth, women and persons with disabilities – should have improved access to credit, financial support and market information.²⁰

6.1.4 Namibia Agriculture Policy

In 2015, Government issued a revised *Namibia Agriculture Policy*, replacing the 1995 policy.²¹ The revised policy is based on 21 principles:

1. Increase agriculture sector contribution to national development objectives of high and sustained economic growth, employment creation, increased income equality, and industrial development
2. Employment creation
3. Improve national and household food security and nutrition
4. Safeguard sustainable growth of the national agriculture sector and downstream industries
5. Special and Differential Treatment²²
6. Product development and diversification
7. Market development and diversification
8. Development and enforcement of agriculture related standards
9. Food Safety
10. Value addition
11. Develop technical regulations consistent with Namibian standards and values
12. Rural development
13. Integration of informal agriculture into the mainstream of national economy
14. Sustainable farming
15. Fair competition
16. Commitment to the Maputo Declaration²³

¹⁶ Ministry of Regional and Local Government, Housing and Rural Development, *National Rural Development Policy*, March 2012 at 10.

¹⁷ Id at 4.

¹⁸ Id at section 4, "Strategic Approaches to Rural Development", at 10-ff.

¹⁹ Id at 14.

²⁰ Id at 22.

²¹ *Namibia Agriculture Policy*, Windhoek: Republic of Namibia, December 2015 at iv.

²² This refers to a set of GATT provisions that exempts developing countries from the strict trade rules and disciplines which apply to more industrialized countries. Id at vii.

²³ This presumably refers to the *2003 AU Maputo Declaration on Agriculture and Food Security in Africa*, in which African leaders made a commitment to reverse the underinvestment in the agriculture sector by undertaking to allocate at least 10% of national budgets to agriculture and to achieve at least 6% annual agricultural growth. "The Maputo Commitments and the 2014 African Union Year of Agriculture", October 2013, produced by

17. Commitment to the Malabo Declaration²⁴
18. Most Favoured Nation with exceptions provided for under WTO and Namibia's PTAs²⁵
19. SADC Regional Agricultural Policy²⁶
20. National Treatment²⁷
21. Transparency through notification of agriculture technical regulations.²⁸

The policy contains only one explicit reference to women, articulating as a strategy for agricultural training and capacity-building the need to “[c]arry out targeted training programmes to impart agrobusiness skills and technology to women in agriculture and other vulnerable farming households”.²⁹

6.1.5 National Forest Policy

This 2001 policy is referred to variously as the “National Forest Policy”, the “Forest Policy Statement” and the “Development Forestry Policy”.³⁰ It is structured around four basic aims:

- (a) Reconcile rural development with biodiversity conservation by empowering farmers and local communities to manage forest resources on a sustainable basis.
- (b) Increase the yield of benefits of the national woodlands through research and development, application of silvicultural practices, protection and promotion of requisite economic support projects.
- (c) Create favourable conditions to attract investment in small and medium industry based on wood and non-wood forest raw materials.
- (d) Implement innovative land-use strategies including multiple use conservation areas, protected areas, agro-forestry and a variety of other approaches designed to yield forestry global benefits.³¹

This policy is notable for making specific reference to “gender equity” and “gender empowerment”:

ONE.ORG/40Chances – which found that as of 2013, Namibia had not met the target of allocating at least 10% of the national budget to the sector, but had achieved the related goal of spending 1% of the national budget on agriculture research and development (available at <https://s3.amazonaws.com/one.org/images/131008_ONE_Maputo_FINAL.pdf>).

²⁴ This presumably refers to the *2014 AU Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods*, which includes commitments to enhancing investment finance in agriculture, halving poverty by the year 2025 through inclusive agricultural growth and transformation, boosting intra-African trade in agricultural commodities and services, and enhancing resilience of livelihoods and production systems to climate variability and other related risks (available at <www.tralac.org/news/article/5874-malabo-declaration-on-accelerated-agricultural-growth-and-transformation-for-shared-prosperity-and-improved-livelihoods.html>).

²⁵ This presumably refers to favourable treatment under the Preferential Trade Arrangements of the World Trade Organisation, which can be accessed by country at <<http://ptadb.wto.org/>>.

²⁶ The *SADC Regional Agricultural Policy* (2013) includes a commitment to “promote and support the effective mainstreaming of gender issues of relevance to agriculture and food and nutrition security into regional and national policies and strategies” (Policy Statement 20.1) (available at <www.inter-reseaux.org/IMG/pdf/Regional_Agricultural_Policy_SADC.pdf>).

²⁷ “National treatment” is a principle that prohibits discrimination between imported and domestically-produced goods with respect to internal taxation or other government regulation. It is part of many World Trade Organisation agreements.

²⁸ Id at 5.

²⁹ Id at 20.

³⁰ As of June 2017, the link to the policy from the Directorate of Forestry website at <www.mawf.gov.na/web/mawf/forestry-services> is entitled “National Forest Policy”, while the linked document at <www.mawf.gov.na/documents/37726/186033/National+Forestry+Policy/59a90e4e-b01d-45c7-a99a-acdba399420d> is entitled “Forest Policy Statement”. Various FAO materials reference it as the “Development Forest Policy for Namibia” (see, for example, “Forest Policy Legal Institutional Framework Information Sheet” on Namibia at <www.fao.org/forestry/20026-0aeecec206790365e0ee8886fd1dffafb8.pdf>). A Ministry brochure at <www.mawf.gov.na/documents/37726/48258/Namibia%27s+Forest+Act+and+Policy.pdf/065c4c5d-9453-4f75-a8c0-4319bd48af2a?version=1.0> mentions the “Forest Policy”. These all seem to reference the same policy document available at <www.mawf.gov.na/documents/37726/186033/National+Forestry+Policy/59a90e4e-b01d-45c7-a99a-acdba399420d>.

³¹ “Forest Policy Statement” at 1-2, where the aims are listed with elaboration.

Gender equity. Traditional cultures often pose a glass ceiling preventing women from participating fully in organizing development efforts in rural areas. Women's roles are stymied by negative preconceptions and stereotypes about their development capabilities. Because of this, their participation in development cannot be simply proclaimed and assume that it will happen by fiat. The Directorate of Forestry, in collaboration with other State agencies operating in rural areas, is the critical change [agent] in rural development. They will determine barriers to women's advancement and proceed to design strategies that will bring about purposeful cooperation between women and men, in order to achieve specific forestry development objectives.³²

Gender and economic empowerment is indispensable to welfare improvement in the rural areas. The National Gender Policy seeks to resolve resistance to change in the roles that women could undertake in organizing development efforts through education and training. In the meantime, the State is initiating and supporting policy measures aimed at addressing overt discrimination against the meaningful participation of women in income generating activities. In the forest sector, training and education in forestry, as well as employment in the public forest service, will increasingly be opened up for women. Linkages between established women groups and forestry extension services will be pursued vigorously.³³

The section on financing also refers to “the design and implementation of strategies to ensure complementary roles of women and men in forestry development programs”³⁴

6.1.6 Other relevant policies

The 2008 *Green Scheme Policy* does not mention women or gender.³⁵

The 2000 *National Water Policy White Paper* mentions the need to redress past discrimination on the basis of race and gender and other grounds, but contains no more specific references to women in its aims and strategies.³⁶

The 2008 *Water Supply and Sanitation Policy* mentions women only in the statement that the provision of water supply should “[p]romote community based social development taking the role of women into special account”.³⁷

The 1997 *National Drought Policy & Strategy* makes no specific reference to women apart from mentioning the need to promote good nutrition for pregnant and lactating women.³⁸

³² Id at 6.

³³ Id at 8-9.

³⁴ Id at 7.

³⁵ *Green Scheme Policy*, Ministry of Agriculture, Water and Forestry, 2008 (available at <www.mawf.gov.na/documents/37726/48258/Green+scheme+policy+Booklet.pdf/0c095988-9b34-4ddd-b038-21c07c653798?version=1.0>).

³⁶ *National Water Policy White Paper: Policy Framework for Equitable, Efficient, and Sustainable Water Resources Management and Water Service*, Republic of Namibia, Ministry of Agriculture, Water and Rural Development, August 2000 at 28, 30, 42 (available at <www.mawf.gov.na/documents/37726/48258/Water+Policy+for+Namibia+August+2000.pdf/dbb4764d-77a5-401d-b97a-f7f04dc48957?version=1.0>).

³⁷ *Water Supply and Sanitation Policy*, Windhoek: Ministry of Agriculture, Water and Forestry, July 2008 at 4 (available at <www.mawf.gov.na/documents/37726/48258/wsaspolicy.pdf/75af9874-2d2e-4dd3-9856-214e15d916c2?version=1.0>).

³⁸ *National Drought Policy & Strategy*, National Drought Task Force, Republic of Namibia, Windhoek, November 1997 at para 69 (available at <<file:///H:/Word%20Docs/texts/GENDER%20ANALYSIS%20-%20Namibia/National%20Drought%20Policy%20&%20Strategy.htm>>).

Legal Issues

The **Agricultural (Commercial) Land Reform Act 6 of 1996** establishes mechanisms for the acquisition of agricultural land in order to make it available for agricultural purposes “to Namibian citizens who do not own or otherwise have the use of agricultural land or adequate agricultural land, and foremost to those Namibian citizens who have been socially, economically or educationally disadvantaged by past discriminatory laws or practices”.³⁹ Although this would include women, there is no specific reference in the law to the allocation of agricultural land to women.

The **Communal Land Reform Act 5 of 2002** provides for the allocation of rights in respect of communal land which is owned by the State. In terms of this law, customary land rights are meant to endure until the death of the person holding the right. If a husband dies, the communal land allocated to him must be re-allocated to his widow if she wishes, and she is entitled to remain on the land even if she re-marries. (The law is actually worded in gender-neutral fashion, but widowers were not historically forced off their land when their wives died.) If there is no surviving spouse when the holder of the land right dies, then the land will be re-allocated to a child of the deceased identified by the Chief or Traditional Authority as being the rightful heir. This rule applies to spouses in civil or customary marriage. However, widows often face significant practical difficulties in asserting their land rights, particularly in matrilineal communities. Moreover, although the Act provides for the allocation of land rights in the event that one spouse dies, it is silent on the rights of the husband or wife should a divorce occur. Another gap is the law’s failure to address the disposition of the land in the case of a polygamous marriage or to provide prohibitions or remedies for “land-grabbing” by relatives of the deceased.

The **Flexible Land Tenure Act 4 of 2012**, which is not yet in force, is intended to create alternative forms of land title that are simpler and cheaper to administer than existing freehold land title, with a view to providing security of title for persons in informal settlements or low-income housing. It creates a system of starter title for specified blocks of property, with provisions for the evolution of this form of title into freehold title. However, the Act is problematic for women in that it allows starter title rights to be held jointly only in the case of a couple married in community of property. Another problem is that the law provides for “heads of households” to be registered as the initial holders of rights in a starter title scheme; the term “head of household” is on its face gender-neutral, but due to its historic usage, this term is likely to be understood to mean the man in the household when such an individual is present.

A Land Bill was introduced in the National Assembly in November 2016, with the objective of consolidating and revising the Agricultural (Commercial) Land Reform Act 6 of 1996 and the Communal Land Reform Act 5 of 2002. However, this move was widely criticised on the grounds that public consultation had been inadequate, especially since the anticipated second national land conference had not yet occurred.⁴⁰ The Bill also suffered from drafting problems. It was withdrawn from Parliament just two weeks after it was introduced. From a gender perspective, there were a number of issues with this bill. For example, it weakened some of the existing protections for widows’ rights to remain on communal land in the current law and included a major change to the very concept of communal land by providing for customary land rights to be bequeathed by will, which could essentially “privatise” tracts of land, as well as undermine the position of widows. The Legal Assistance Centre recommended that a reformed Land Bill should include (a) a general prohibition on discrimination against women in the allocation and registration of communal land rights or resettlement leaseholds, and a requirement that these processes take into account the need for affirmative action for women; (b) provision for the registration of land rights jointly in the names of spouses in the case of married couples; (c) protection for multiple spouses in polygamous marriages; and (d) a prohibition on property-grabbing.

³⁹ Agricultural (Commercial) Land Reform Act 6 of 1996, section 14(1).

⁴⁰ See Wolfgang Werner, Department of Land and Property Sciences, Namibia University of Science and Technology, “The 2016 Land Bill: Making Law Without Consultation and Policy Review”, IPPR Democracy Report, February 2017 at 1; “Withdraw Land Bill and consult – NANGOF”, Access to Information Namibia, 24 November 2016, <<http://actionnamibia.com/2016/11/24/withdraw-land-bill-and-consult-nangof/>>.

6.2 Overview of asset ownership

6.2.1 Male and female ownership of houses and land

The *2013 Demographic and Health Survey* investigated women's ownership of a house or land (for women between the ages of 15 and 49). House and land ownership was sub-categorized by sole ownership, joint ownership and both sole and joint ownership.⁴¹ Overall, **only about 31% percent of women owned a house and just 21% percent owned land at the time of the survey.**⁴² However, these figures varied widely depending on age, residence, region, educational level and household wealth. Women between the ages of 45 and 49 were most likely to own a house (70%) or land (51%). House ownership by women was slightly higher in urban areas (32%) compared to rural areas (29%), while land ownership was higher in rural areas (24%) compared to urban areas (19%). At the regional level, women in Zambezi were most likely to own a house or land, while in Omusati only 20% percent of women owned a house and in Hardap only 15% of women owned land. Interestingly, women with no education were *most* likely to own a house (at 42%) or land (at 29%). As for household wealth, women in the lowest wealth quintile were also *most* likely to own a house (at 39%) or land (at 34%).⁴³

Surprisingly, *fewer men in the same age group owned a house or land at the time of the survey: 27% of men owned a house and 20% of men owned land*, both slightly lower percentages than those for women. **However, men were more likely than women to own a house or land on their own, rather than jointly: 17% of men versus 14% of women owned a house alone, and 13% of men versus 9% of women owned land on their own.**⁴⁴ As was the case with women, men were more likely to own property with increasing age, with male house ownership being higher in urban areas and male land ownership being higher in rural areas. Men in Omusati were least likely to own a house, while men in Kunene were least likely to own land. As with women, increased education was correlated with being *least* likely to own a house, as was increased wealth.⁴⁵

This question was apparently not asked in the *2006-07 Demographic and Health Survey*.

6.2.2 Widows dispossessed of property

The *2006-07 Demographic and Health Survey* asked about widow dispossession of property, but this question was apparently not repeated in the *2013 Demographic and Health Survey*. The 2006-07 Survey noted:

A common occurrence among widows in Namibia is the dispossession of property by her husband's relatives. Dispossession of property worsens the situation of people who care for children and the children themselves. It is important, therefore, to ensure that inheritance laws include enforcement mechanisms to protect the rights of

⁴¹ If not specified otherwise, these sub-categories have been added together to provide the percentage of women and men who owned a house or land at the time of the survey (either alone, jointly or alone and jointly).

⁴² *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 283 (hereinafter "*2013 Demographic and Health Survey*"). This survey involved a nationally-representative sample of 11 004 households, where 9 940 women aged 15-49 and 842 women aged 50-64 were interviewed, along with 4 481 men aged 15-49. The answers which refer to owning a house or land "both alone and jointly" would seem to refer to multiple properties.

⁴³ Ibid.

⁴⁴ Id, comparison of data in Table 14.9.1 at 283 and Table 14.9.2 at 294.

⁴⁵ Id at 283-284.

women and children to inherit property after the death of the husband or father. The 2006-07 NDHS asked women who had been widowed whether they received any of their late husband's assets or valuables.⁴⁶ Only 3% of women reported having ever been widowed, but of this group, 40% said that they did not receive any of their deceased husband's assets (316 women). This had occurred in every age group. The report noted that widows in the poorest households were twice as likely to be dispossessed as those in wealthier households.⁴⁷

CEDAW Committee recommendations

The Committee which monitors the Convention on the Elimination of All Forms of Discrimination against Women recommended in 2015, in response to Namibia's fourth and fifth periodic reports, that the Government should "adopt specific measures aimed at facilitating women's access to land, in particular in rural areas" and "intensify efforts aimed at curbing land grabbing, especially as regards women in rural areas, which affects the full enjoyment of the right to property by women".⁴⁸

6.3 Women and housing

A review of available publications, surveys and other information on housing in Namibia indicates a general lack of sex-disaggregated data and information on how women are affected by housing programmes and policies. Where limited data does exist, it is considerably outdated, leading to difficulties in evaluating current gender issues and inequalities in the housing sector.

6.3.1 Housing availability

The availability of affordable housing in Namibia is a heated topic of current political debate. In 2011, the Institute for Public Policy Research (IPPR) conducted a review of housing policy and delivery in Namibia. While the review provides valuable information regarding policies, programmes and issues concerning housing, it relies on information that is now significantly out of date. At the time of the review government spending on housing was at a near all-time low since independence, at just 0.3% of total expenditure.⁴⁹ Data based on the *2009/10 Namibia Household Income and Expenditure Survey* and the *National Housing Policy* also showed that there was a backlog of over 80 000 houses, with the housing shortage being particularly acute for the N\$0-N\$1 500 per month income group.⁵⁰ At the present time, it is difficult to assess the current overall housing situation without more up-to-date information. The Namibia Statistics Agency is currently compiling its findings from the *2015/2016 Namibia Household Income and Expenditure Survey*, but so far only preliminary figures on key poverty indicators are available. The complete *2015/2016 Namibia Household Income and Expenditure Survey* is scheduled to

⁴⁶ *Namibia Demographic and Health Survey 2006-07*, Windhoek: Ministry of Health and Social Services and Macro International Inc, 2008 at 265 (reference omitted).

⁴⁷ *Ibid.* This survey involved a nationally-representative sample of 9 804 women aged 15-49.

⁴⁸ "Concluding comments of the Committee on the Elimination of Discrimination against Women: Namibia", Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/4-5, 20 July 2015 at para 39(a) and (c).

⁴⁹ Els Sweeney-Bindels, *Housing Policy and Delivery in Namibia*, Windhoek: Institute of Public Policy Research, 21 October 2011 at 14.

⁵⁰ *Id* at 7.

be released by August or September 2017 and may be a useful source of information on the housing picture in Namibia.

What is clear from the IPPR review is that as of 2011, the housing sector in Namibia was facing numerous challenges, including lack of clear data on key programmes, slow delivery of housing units, limited availability of serviced land, gaps in housing supply and demand, limited use of alternative and local materials and technology, lack of integrative housing projects, insufficient use of private sector expertise and resources and lack of information on access to banking and mortgages.⁵¹ While highlighting these challenges and proposing useful recommendations to remedy the housing situation, the review did not address the gender dimensions of housing delivery.⁵²

The *2013 Baseline Report on Human Rights* by the Office of the Ombudsman uncovered troubling information regarding the housing situation in Namibia, with almost 67% of respondents surveyed indicated that unaffordability was a barrier to access to housing, while 47% felt that access to housing had gotten worse in the preceding five years. This report found that as a result of the housing shortage, even people with tertiary education were being forced to move to informal settlements. In addition to lack of affordability, the poor quality of housing was seen as a barrier to housing by 9% of those surveyed. Poor housing quality was a particular issue in informal settlements, where shacks are typically made of corrugated iron and discarded materials such as cardboard, plastic sheeting, flattened tins, old vehicles and carts.⁵³

One of the priority outcomes of the Harambee Prosperity Plan unveiled in April 2016, currently the key government strategy on poverty eradication, is the servicing of residential land and provision of low income houses. An assessment of progress on this plan in September 2016 reported that 2 240 plots had been delivered by Government and 1 624 were delivered or near delivery through public-private partnerships, for a total of 3 864 erven delivered out of the 5 000 targeted for Year 1 in Walvis Bay, Oshakati and Windhoek. The same assessment reported that 2 172 houses were completed against an annual target of 6 000, with 1 500 under construction at the time.⁵⁴ However, a June 2017 press article suggests that there are still administrative problems hampering the delivery of houses to beneficiaries, reporting that although 3 000-4 000 houses were built as part of the mass housing programme between 2014 and June 2017, only 850 were occupied by beneficiaries, reportedly due to unresolved issues relating to service provision.⁵⁵ It was also reported in the press in March 2017 that about 90 houses built under the mass housing programme had to be demolished because of poor quality work.⁵⁶

⁵¹ Id at 23-26.

⁵² It should be noted that the goal of the review was to provide a “global overview” of housing and to review housing policy and delivery in Namibia (id at 5, 34); it was thus not intended to delve into specific themes such as gender equality issues in the housing environment.

⁵³ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman, 2013 at 154-155.

⁵⁴ *Harambee Review 16*, Office of the President, 13 December 2016 (available at <www.op.gov.na/documents/84084/249910/HarambeeReview16-presentation-v6.pdf/550ed202-0a3a-40d6-a8de-af991c38691f>).

⁵⁵ Shinovene Immanuel and Tataleni Pinehas, “2 000 houses unoccupied... as Govt struggles with mass houses distribution nationally”, *The Namibian*, 7 June 2017.

⁵⁶ Eveline de Klerk, “Swakop demolishes 90 mass houses due to poor workmanship”, *New Era*, 13 March 2017.

6.3.2 Access to basic services

The concept of “adequate housing” also includes “access to services, such as safe drinking water, sanitation, safe energy sources (e.g. electricity connection in the house), and refuse removal”.⁵⁷ The *2013 Baseline Report on Human Rights* found that, while over 57% of people surveyed said they had gained better access to **drinking water** over the preceding five years,⁵⁸ 34% said that their access to **sanitation** had worsened over the same time period.⁵⁹ Female respondents were slightly more likely than male respondents to say that their access to sanitation had gotten worse, at 35% compared to 33%.⁶⁰

The *2013 Demographic and Health Survey* collected data on household characteristics and amenities such as drinking water, sanitation facilities, electricity and sources of energy. Out of all households surveyed, 87% had access to an improved source of **drinking water**; urban households were more likely than rural households to have such access, at 97.5% and 75.5%, respectively.⁶¹ Less than 1% of urban households obtained water from a non-improved source, while 13% of rural households did so.⁶² Information was also collected on the amount of time required to obtain drinking water, which is relevant to women in the household who are often primarily responsible for water collection;⁶³ almost 26% of rural households and 5% of urban households spent 30 minutes or longer collecting drinking water.⁶⁴ The *2013 Demographic and Health Survey* does not provide sex-disaggregated information on water collection. However, data from the *2006-07 Demographic and Health Survey* found that 27% of all rural households spent 30 minutes or more collecting water (which amounts to 41% of rural households without water on the premises).⁶⁵ This data indicated that the primary water collectors were adult women in 55% of rural households that did not have water on the premises, adult men in 20% of such households and children (most often female children) in 14% of such households.⁶⁶

⁵⁷ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman, 2013 at 155.

⁵⁸ Id at 181.

⁵⁹ Id at 190.

⁶⁰ Ibid.

⁶¹ *2013 Demographic and Health Survey* at 12. The Survey defines improved sources as “[s]ources that are more likely to provide water suitable for drinking”, which include piped sources into the dwelling, yard or plot, public taps or standpipes, tube wells or boreholes, protected wells, protected springs, rainwater and bottled water. Non-improved sources of water include unprotected wells, unprotected springs and tanker trucks or carts with drums. Id at 11-12.

⁶² *2013 Demographic and Health Survey* at 12.

⁶³ In 2016 an analysis was conducted regarding water collection among women and children in 24 countries in Sub-Saharan Africa. Adult women were the primary water collectors across all 24 countries. Among households that spent more than 30 minutes collecting water and in which children were primary water collectors, female children rather than male children predominantly undertook the task. Jay P Graham et al, “An Analysis of Water Collection Labour among Women and Children in 24 Sub-Saharan African Countries”, 11(6) *PLoS ONE* 1 (June 2016) at 8, 10.

⁶⁴ *2013 Demographic and Health Survey* at 12.

⁶⁵ *Namibia Demographic and Health Survey 2006-07*, Windhoek: Ministry of Health and Social Services and Macro International Inc, 2008 at 17 (available at <<http://dhsprogram.com/pubs/pdf/FR204/FR204c.pdf>>). The Graham article cited in footnote 62 above reports different percentages because it considers both urban and rural households without water supply together to calculate the percentage of women who spend more than 30 minutes a day collecting water (see note at the bottom of Table 2).

⁶⁶ Ibid. These figures are derived from the survey chart as follows: an adult woman collects water in 37.4% of rural households overall, but 32.3% of rural houses have water available on the premises and 0.1% of houses did not provide data on this question. Thus, 67.6% of rural households do not have water on the premises. This means that adult women collect water in 37.4/67.6, or 55% of such rural households. Similarly, adult men collect water in 13.6/67.6, or 20% of such households and children collect water in 9.3/67.6, or 14% of such households. As noted above, the Graham article reference in footnote 62 cites different percentages because it uses a different approach for the calculations.

The 2013 *Demographic and Health Survey* divided **sanitation facilities** into either improved or non-improved.⁶⁷ Overall, almost 34% of all households surveyed had improved, non-shared sanitation facilities, while 15% had sanitation facilities that would be classified as improved if they were not shared. But, more than half of households (51%) used non-improved sanitation facilities. There were stark differences in the types of sanitation facilities available in urban versus rural areas. While almost 49% of households in urban areas had improved, non-shared sanitation facilities, this figure was only 17% in rural households. Over three-quarters of households in rural areas (77%) used non-improved sanitation facilities as compared just over one quarter (27%) of urban households, with this figure including the 74% of households in rural areas and 21% of households in urban areas which had no sanitation facility at all.⁶⁸

In terms of access to **electricity**, the 2013 *Demographic and Health Survey* found that just 47% of households in Namibia had electricity, with figures differing drastically between urban and rural areas (at 72% and 21%, respectively). While the percentage of rural households with electricity rose by approximately 6% since the 2006-07 *Demographic and Health Survey*, access to electricity in urban households declined by approximately 6% during the same time frame.⁶⁹ As for types of **cooking fuel**, urban households were most likely to use electricity (at 58%), followed by wood (at 20%) and gas (liquid petroleum gas (LPG), natural gas or biogas) (at 16%). In contrast, the vast majority of rural households used wood for cooking (at 87%), with very few using electricity (7%) or gas (LPG, natural gas or biogas) (3%). Most cooking in both urban and rural households was done inside the house (at 78% and 53%, respectively).⁷⁰

The EU supported a Water and Sanitation Programme (NAWASA) which started in 2011, but progress in achieving improving sanitation has nevertheless been slow. In March 2017, the EU ambassador to Namibia cited a report from the Ministry of Agriculture's Directorate of Water Supply and Sanitation Coordination which stated that more than 89% of the rural population had access to potable water during 2015, while the percentage of urban households with access to potable water increased from 93% to 98% between 2012 and 2015. However, improved sanitation standards lagged. This report indicated that it took 12 years for an approximate 4% improvement of Namibia's sanitation, and that less than 19% of the rural population had access to decent sanitation facilities in 2015, while 30% of urban households lacked access to decent toilet facilities.⁷¹

⁶⁷ Citing a World Health Organisation/UNICEF report (*Progress on Drinking Water and Sanitation: 2012 Update*, WHO and UNICEF Joint Monitoring Programme for Water Supply and Sanitation, 2012), the 2013 *Demographic and Health Survey* states that a household is classified as having an improved toilet "if the toilet is used only by members of one household (i.e., it is not shared) and if the facility used by the household separates waste from human contact". Improved facilities include toilets that flush or pour flush into a piped sewer system, septic tank or pit latrine; ventilated improved pit latrines; pit latrines with a slab; and composting toilets. Non-improved facilities include toilets that flush or pour flush elsewhere than a sewer, septic tank or pit latrine; pit latrines without a slab or open pit latrines; buckets; hanging toilets or hanging latrines; and bushes or fields. 2013 *Demographic and Health Survey* at 13.

⁶⁸ Ibid. According to the 2011 *Census*, 50% of the population practises open defecation; this was the case for 14% of the urban population and 77% of the rural population. "Little progress has been made in recent years." "Namibia Country programme document 2014-2018", UNICEF, revised 2014 at para 5 (available at <www.unicef.org/about/execboard/files/2013-PL16-Namibia_CPD-final_approved-English.pdf>).

⁶⁹ 2013 *Demographic and Health Survey* at 14.

⁷⁰ Ibid.

⁷¹ "Govt neglects providing sanitation", *The Namibian*, 17 March 2017 (available at <www.namibian.com.na/162556/archive-read/Govt-neglects-providing-sanitation>). See also "European Union makes a last payment to the Namibian Water and Sanitation Programme", 17 March 2017 (available at <https://eeas.europa.eu/headquarters/headquarters-homepage/23211/european-union-makes-last-payment-namibian-water-and-sanitation-programme_it>).

6.3.3 Housing programmes

The Build Together Programme established in 1992 was the largest Government-funded housing programme in Namibia.⁷² Its housing loan sub-programme targeted households with a monthly income of N\$3 000 or less⁷³ and some of its main beneficiaries, according to the Office of the Ombudsman, were poor single mothers.⁷⁴ In 2013, this programme was incorporated into Namibia's mass housing initiative.⁷⁵ The mass housing programme is now being overseen by the Integrated Land Management Institute at the Namibia University of Science and Technology, which has been appointed by the Ministry of Urban and Rural Development "to revise the mass housing blueprint as well as to develop an implementation strategy for the programme."⁷⁶

Another housing programme is the National Housing Enterprise (NHE), which targets households with a monthly income of N\$5 000 to N\$20 000 (or a maximum joint monthly income of N\$30 000).⁷⁷ It describes itself as a lending institution and developer of affordable housing.⁷⁸ The NHE has been criticised for its slow progress on housing delivery. For example, despite a target of 1 200 houses per year, between 1990 and 2011, it delivered on average just 457 houses per year.⁷⁹ According to its website, the NHE's goal is to build 185 000 houses by 2030.⁸⁰ The NHE website does not appear to have sex-disaggregated information on housing delivery or loans.

The Shack Dwellers Federation of Namibia, according to its website, is a network of savings schemes which mobilises community savings to secure land and leverage additional government contributions for housing. As of 2017, it had 605 saving schemes with 20 400 members and had enabled these community groups to build over 3 488 houses and secure land for roughly 6 230 families over its 20 years of operation. It also runs a Community Land Information Program together with the Namibia Housing Action Group (an NGO that provides technical advice), to help ensure that informal settlement communities and local authorities are informed about the circumstances and needs of the relevant communities, so as to enable sound development planning and sustainable solutions for secure land and services. The first phase of this project created profiles of 235 informal settlements in 110 areas, created by the communities; the second phase currently underway will focus on collecting socio-economic data in informal settlements. The Shack Dwellers Federation estimates that that more than half a million people in Namibia live in informal settlements.⁸¹

⁷² Els Sweeney-Bindels, *Housing Policy and Delivery in Namibia*, Windhoek: Institute of Public Policy Research, 21 October 2011 at 3, 16.

⁷³ Id at 16.

⁷⁴ 2013 Baseline Study Report on Human Rights in Namibia, Windhoek: Office of the Ombudsman, 2013 at 149.

⁷⁵ "Mass housing absorbs Build Together", *The Namibian*, 26 November 2013 (available at <www.namibian.com.na/index.php?id=116995&page=archive-read>).

⁷⁶ New Mass Housing, "Welcome to Mass Housing", Namibia University of Science and Technology (NUST) website: <<http://newmasshousing.nust.na/>>. The Integrated Land Management Institute will be working on the project throughout 2017.

⁷⁷ Els Sweeney-Bindels, *Housing Policy and Delivery in Namibia*, Windhoek: Institute of Public Policy Research, 21 October 2011 at 18; "Home Financing Loan", National Housing Enterprise (NHE) website <www.nhe.com.na/nhe-home-financing-loan/index.htm>.

⁷⁸ Sweeney-Bindels at 18.

⁷⁹ Ibid.

⁸⁰ "Mass Housing", National Housing Enterprise (NHE) website: <www.nhe.com.na/mass-housing/index.htm>.

⁸¹ Shack Dwellers Federation website: <<http://sdfn.weebly.com/>>. The document containing the profiles of informal settlements did not seem to be available on the website. See Diana Mitlin, "Namibia's women lead the way in housing development", International Institute for Environment and Development, undated, for a

Housing initiatives are supported by the Habitat Research and Development Centre, a national research institution which investigates methods of sustainable development of the Namibian housing sector, including the use of local, indigenous building materials and designs.⁸²

6.4 Women and land tenure

6.4.1 Overview

Country-wide sex-disaggregated figures on ownership of commercial agricultural land, leases on resettlement farms and the allocation of communal land rights do not seem to exist. Applications for communal land allocation in most areas are submitted and handled manually, and there is no central database. As opposed to conducting research on this issue, it would be most useful to support the implementation of data-tracking systems which can be used to measure land tenure and access by women and men on a regular basis.

Both civil and customary marriages are recognised in Namibia, which has implications for women's land inheritance. The marital property arrangements within the civil system are for the most part either "in community of property" or "out of community of property" (unless the couple make an ante-nuptial contract setting up some other arrangement with the assistance of a lawyer). In a marriage in community of property, which is the most commonly-occurring system in Namibia, all belongings and debts of the husband and wife become part of the joint estate and are divided equally upon the dissolution of the marriage by divorce or death. In a marriage out of community of property, the belongings and debts of the husband and wife are kept separate, with each spouse retaining his or her own property when the marriage ends.⁸³ In terms of the Married Persons Equality Act 1 of 1996, either spouse in a marriage in community of property must obtain the consent of the other spouse for major financial transactions, including dealings in immoveable property.⁸⁴

Typically, women in customary marriages do not access communal land in their own names, although it is accepted in many communities for single women, especially older women or widows, to do so.⁸⁵ Inheritance rules vary based on whether the tribe follows a matrilineal, patrilineal or double-descent system – but in all systems, it is usually male relatives who inherit and control property. Two practices that have negatively impacted widows are widow inheritance and property-grabbing. In the case of widow inheritance, a male member of the deceased husband's family sometimes "inherits" the widow, literally or

discussion of some of the recent politics affecting the group (available at <www.iied.org/namibias-women-lead-way-housing-development>).

⁸² Habitat Research and Development Centre website: <www.murd.gov.na/hrdc>.

⁸³ *Guide to the Married Persons Equality Act*, Windhoek: Legal Assistance Centre, 2009 at 5-6 (available at <www.lac.org.na/projects/grap/Pdf/MPEAGuideENG.pdf>).

⁸⁴ Married Persons Equality Act 1 of 1996, section 7.

⁸⁵ Wolfgang Werner, *Protection For Women in Namibia's Communal Land Reform Act: Is it Working?*, Windhoek: Legal Assistance Centre, 2008 at 16 ("Where land is registered in the name of a married woman, she needs the consent of her husband to sign the application form, whereas single women can sign forms on their own. A significant number of single women were said to have registered land in their own names in Oshana and Oshikoto."); Hirut Girma, *Namibia: Good Practices and Lessons Learned for Gender and Communal Land*, Landesa Centre for Women's Land Rights, August 2016 at 14, showing in a chart that 42% of land applications in Oshana were from women, but of those applications, 96% came from single women and only 4% came from married women; at 15: "Although married women [in Oshana] can be allocated land under the CLRA, communal land is typically allocated to husbands in practice. ... Married women's ability to exercise their customary rights to communal land under the CLRA is also socially constrained."); but cf at 17: Unmarried women's ability to exercise their land rights [in Oshana] is considerably restricted by their limited financial means."

symbolically, ostensibly to ensure her maintenance. In the case of property-grabbing, relatives of the deceased husband strip the widow of her property upon his death before the estate is formally settled, often while she is still in mourning.

6.4.2 Protection for widows' communal land rights (2008)

A 2008 report by the Legal Assistance Centre found that widow dispossession remained an issue in the Omusati, Oshana, Ohangwena and Oshikoto regions which were the subject of the study. It identified widow eviction as a decreasing, though still extant, problem, and pointed to property-grabbing as a continuing major concern.⁸⁶

Despite the adoption of the *National Land Policy* of 1998 and the Communal Land Reform Act 5 of 2002, there were many reports that village headmen and community members, though aware of these policies, do not adhere to them. Compounding this problem was an environment in which widows were afraid to report illegal actions by the husband's family to the village headmen; for example, a widow might fear that the family would withdraw financial support for her children if she complained about their actions. Additionally, the report found that it was common for village headmen to require that widows pay fees in order to remain on the land, despite the customary and statutory laws to the contrary. Widows' ignorance of the applicable laws also served as a barrier to their legal protections.⁸⁷

Though widow eviction appeared to be a decreasing phenomenon, the report identified property-grabbing as a lingering concern. Property-grabbing refers to the situation where the deceased husband's family members claim ownership of moveable assets that belonged to the deceased. Such assets might include livestock, clothing, or millet containers, and dispossession of these assets from the widow could have substantial implications for her livelihood and food security. Additionally, though assets that the wife bought with her own money are theoretically out of reach of her in-laws, it is not uncommon for the in-law family members to assume that all assets belonged to the husband and claim them.⁸⁸ Moreover, in contrast to the legal protection provided for the widow's land rights,⁸⁹ property-grabbing remains legal in the eyes of traditional leaders.⁹⁰

The report recommended that the Namibian Government engage in an information campaign to inform widows of their rights. It also recommended reforms to the Communal Land Reform Act to make women's rights more explicit, and to allow aggrieved parties to bring cases to the Lands Tribunal for resolution. To address the practice of property-grabbing, it recommended that local communities and traditional leaders develop guidelines for property transfer and determine an appropriate forum for negotiations.⁹¹

6.4.3 Northern Communal Areas case study (2013)

In 2013, the Landesa Centre for Women's Land Rights (Landesa) published an evaluation of four land projects funded by the Millennium Challenge Corporation, including one in Namibia. The evaluation

⁸⁶ Wolfgang Werner, *Protection For Women in Namibia's Communal Land Reform Act: Is it Working?*, Windhoek: Legal Assistance Centre, 2008 at 3.

⁸⁷ Id at 22–25.

⁸⁸ Id at 27.

⁸⁹ Id at 11, 22.

⁹⁰ Id at 29.

⁹¹ Id at 30–33.

included case studies that assessed the gender analysis and the approach to gender issues applied by each project.⁹² In Namibia, a sub-activity of the Millennium Challenge Account-Namibia was communal land support. This activity was initiated in 2009 for a five-year period, with the goal of improving the administration and management of communal lands in the Northern Communal Areas, which included the regions of Kunene North, Omusati, Oshana, Oshikoto, Ohangwena and Kavango.⁹³

The case study provided a detailed summary of the background to the project and the gender policies that were either in place or being developed during its design and implementation. Moreover, it reflected on the communal land support sub-activity from a gender perspective, outlining the factors that led to successful integration of gender into the project and highlighting areas for improvement. The positive elements of the project from a gender perspective included early consultations with experts on women's land issues, oversight to ensure that gender remained a priority issue, awareness of and interest in gender issues by staff members and training of staff and field teams on women's issues.⁹⁴ One area that was noted for improvement was implementation of the gender and social integration strategy, or GSIS (developed after the project had already started), which was uneven in part due to lack of leadership on gender within the donor organisation as well as lack of qualified gender staff to ensure implementation of GSIS recommendations.⁹⁵

The case study also indicated that the following could have made the project more effective from a gender perspective: follow-up trainings for staff on gender, the establishment of clear roles for operationalisation, accountability targets for integrating gender, a broader analysis of inheritance and family laws, and targeted leadership training for headwomen and female members of Communal Land Boards.⁹⁶ Thus, the case study is useful inasmuch as it highlights best practices to follow and challenges to address in the context of integrating gender into projects on communal land, which could assist the design and implementation of future projects and interventions in the same or similar areas.

6.4.4 Gender and communal land study (2016)

In August 2016, Landesa released a paper on gender, communal land and land reform in Namibia.⁹⁷ It focused on Oshana and Kavango East, two regions that have taken differing approaches to the governance of communal land:

The Oshana region leads the implementation of the nationwide Communal Land Reform Act, 2002 that introduced the registration of customary land rights in communal areas, while the Kavango region declined to participate in the registration process and instead continues to independently administer customary land rights in accordance with its established customary system.⁹⁸

⁹² *Gender and Land: Good Practices and Lessons Learned from Four Millennium Challenge Corporation Compact-Funded Land Projects*, Landesa Centre for Women's Land Rights, December 2013. The other three land projects assessed were located in Mali, Benin and Lesotho.

⁹³ The Millennium Challenge Account-Namibia Compact was signed in 2008 and comprised three projects: Agriculture, Tourism and Education. Within the Agriculture Project, there was a land access and management activity composed of two sub-activities, one of which was the communal land support sub-activity. Id at 53.

⁹⁴ Id at 64-66.

⁹⁵ Id at 66.

⁹⁶ Id at 67-68.

⁹⁷ Hirut Girma, *Namibia: Good Practices and Lessons Learned for Gender and Communal Land*, Landesa Centre for Women's Land Rights, August 2016 (available at <www.landesa.org/wp-content/uploads/2016-Best-Practices-Case-Namibia.pdf>).

⁹⁸ Id at 3.

The specific situations reviewed in the paper were the enforcement of the Communal Land Reform Act in Oshana (Oukwanyama Traditional Authority) and the operationalisation of the customary system that governs communal lands in Kavango East (Shambyu Traditional Authority).⁹⁹

Oshana: The Communal Land Reform Act has been enforced in Oshana since 2003 and is supported by the Oukwanyama Traditional Authority. At the time of the paper's publication, women held 38% (or 5 out of 13) Communal Land Board positions in Oshana. The paper noted that the Ministry of Gender Equality and Child Welfare was not one of the represented line ministries, and suggested that MGECW participation would benefit the Communal Land Board.¹⁰⁰

As of June 2015, the Oshana Communal Land Board had received 17 028 applications for customary land rights, 58% submitted by men and 42% submitted by women. Amongst all applications submitted by married couples, less than 4% listed the married woman as the applicant. Out of the applications submitted by women, 96% were from unmarried women, while 73% of the applications from men involved married men.¹⁰¹ The paper noted that available information "suggests inequitable distribution of customary land rights", but also found that further data disaggregation and aggregation would assist in interpreting the results for different categories of women, such as widows.¹⁰²

The paper identified a number of barriers that women still face in the area in terms of customary land rights and tenure security, including the following:

- Communal land is generally allocated to husbands and married women are not likely to be named on certificates.
- Husbands often register communal land rights existing before the legislation came into force in their names, which means women do not benefit from registration under the Communal Land Reform Act.
- Married women face social and cultural obstacles when applying for land, which is considered to be the husband's domain.
- While it is possible for couples to apply jointly for titling, it is a voluntary practice which is not explicitly covered by the legislation and does not guarantee that married women's rights will be equally protected.
- The existence of discriminatory provisions in apartheid-era laws still in force (the Native Administration Proclamation 15 of 1928) make the default marital property regime for black couples in the north "out of community of property", meaning that women married under civil law in Oshana do not generally acquire an interest in assets in their husbands' names.
- Women in customary marriages are not covered by the protections in the Married Persons Equality Act 1 of 1996.
- Women in polygamous marriages are not likely to receive equal protection under the law.
- Some widows continue to face harassment and eviction by their deceased husbands' families.
- Widows who remarry and move to their new husband's village could be at risk of losing their existing land rights pursuant to a customary law that allows Traditional Authorities to cancel customary land rights where land is not used for three years.
- Widows of polygamous marriages might not have their rights recognised under some circumstances.

⁹⁹ Id at 4.

¹⁰⁰ Id at 13.

¹⁰¹ Id at 14.

¹⁰² Id at 14-15.

- Daughters may be disadvantaged in terms of inheritance of customary land rights as the youngest son is favoured for inheritance in the target communities.
- Gaps and inconsistencies in the law may negatively affect women in cohabitating or separated couples.
- Unmarried women are less likely to be able to afford fees associated with the application, registration and acquisition of land.
- Rights to quality land are often held by men or reallocated to their widows or children.
- Single women face discrimination by some headmen who believe that female-headed households threaten social stability.¹⁰³

Kavango East: Traditional Authorities in both Kavango East and West chose to operate independently from the customary land rights registration system of the Communal Land Reform Act.¹⁰⁴ Having a number of objections, the five Kavango Traditional Authorities sent a petition to the Minister of Lands and Resettlement to object and opt-out of the registration provision of the Communal Land Reform Act.¹⁰⁵ The customary law of the Shambyu Traditional Authority entitles women to request communal land regardless of marital status; remain on the land shared with their husband after the husband's death; be recognised as partners within civil, customary, polygamous and cohabitation contexts; appeal customary rights allocations; and hold all positions within the Traditional Authority.¹⁰⁶

Landesa's gender analysis of the Shambyu Traditional Authority's governance structure found that decision-making is gender inclusive and that women are represented at all levels, including leadership positions. Conjugal relationships are broadly defined under the relevant customary law to include both cohabitating and polygamous unions, and cohabitating couples reportedly do not perceive the lack of documentation of their union as a barrier to the exercise of their rights.¹⁰⁷ Requests for customary land rights are assessed by the Shambyu Traditional Authority on the basis of need. In practice, this principle "is likely to have gendered results" based on women's limited financial and labour resources, particularly due to the high poverty rate in the region.¹⁰⁸

The following practices of allocating land rights to women are used within the Shambyu Traditional Authority:

- Single or married women can request land from the Traditional Authority or can receive customary land from their kin group.
- If land is allocated to a woman in her natal village, it will remain her land regardless of changes to her marital status.¹⁰⁹

¹⁰³ Id at 15-18.

¹⁰⁴ Id at 18.

¹⁰⁵ Id at 18. "While the state and the relevant Traditional Authorities have been implementing the CLRA in Oshana and other parts of Namibia, Kavango (East and West) decided to opt out of registering customary land rights and continues to operate independently under their established customary system... The Traditional Authorities of Kavango (East and West) contend that the CLRA [Communal Land Reform Act] is designed to solve problems extraneous to their situation, including challenges related to women's land rights... They assert that their customary system contains mechanisms for effective land governance and that the CLRA is duplicating efforts... They articulate interrelated ecological, cultural, and political grounds for opting out of the nationwide customary land rights registration process." It is not clear how "opting out" of the law in this way could be allowed.

¹⁰⁶ Id at 19.

¹⁰⁷ Id at 19.

¹⁰⁸ Id at 20.

¹⁰⁹ The paper notes that "[t]his assumes couples are married under custom or formally married without a declaration expressing an intention to be married under in community of property regime." Id at 20.

- Although married and cohabitating women have some rights to the marital residence and farmland, they are unlikely to successfully claim rights to this land as it is often acquired at marriage from the husband's family.
- During marriage, women are strongly represented in decision-making about farm land, including crop and garden plots.
- Upon divorce or separation, custom indicates that the "outsider" (often the woman in practice) must vacate the land.
- If the husband is found at fault for the marriage or relationship breakdown, women may receive financial compensation for resettlement.
- The practice of widow inheritance is reportedly no longer a common occurrence in the communities that were targeted for the report.¹¹⁰

6.4.5 Baseline study on women's land use, ownership and land rights in Ohangwena, Omusati, Oshana and Oshikoto (2017)

A 2017 study which investigated women's land rights in the Ohangwena, Omusati, Oshana and Oshikoto regions found that, even though women may legally acquire own land in their own right, historical gender inequalities remain. For example, the study (which interviewed 402 respondents in the regions in question, with no sex breakdown provided¹¹¹) found that about 15% of women interviewed did not receive the land they applied for from traditional authorities; for a majority (66%) of them, the reason was that the village headman believed the land to be too large for a woman.¹¹²

Additionally, the custom of paying a fee to the village headman for land allocation, including a fee for re-allocation of land to a widow upon the death of her husband, survives despite being prohibited by the Communal Land Reform Act 5 of 2002;¹¹³ about 60% of respondents confirmed that widows still pay fees for re-allocation of their husbands' communal land, whether by force or willingly. In the Omusati region, for example, it is not uncommon for headmen to retaliate against persons who do not pay the fee. Such actions may include declining future help or allocating the parcel of land to someone else.¹¹⁴

Historical inequalities persist for married women as well. Although women have equal rights to land under both the Namibian Constitution and the *National Land Policy*, community perceptions do not accord with the legal situation. The study found that 86% of respondents indicated that a woman cannot register land in her own name if her spouse is alive.¹¹⁵

Registration of communal land rights (which is designed to provide proof of tenure over communal land that is State-owned land administered by traditional authorities) is also not working smoothly as yet. Although the study found that 87% of respondents had their communal land rights registered, only 53% had received a land registration certificate. Such certificates are particularly important for women, because of the security they provide.¹¹⁶

¹¹⁰ Id at 20-21.

¹¹¹ Martin K Shapi, et al, *Baseline Study: Women's Land Use, Ownership, and Land Rights in Ohangwena, Omusati, Oshana and Oshikoto Regions of Namibia*, Windhoek: Konrad-Adenauer-Stiftung and University of Namibia, 2017 at 7.

¹¹² Id at 19-20.

¹¹³ Id at 30. (See Communal Land Reform Act 5 of 2002, section 42 on fees.)

¹¹⁴ Id at 20-23.

¹¹⁵ Id at 43.

¹¹⁶ Id at 42.

Moreover, knowledge among women of the Communal Land Reform Act remains low: about 50% of survey respondents reported knowing nothing about it, and an additional 30% knew only a little. Those who did know of the law largely got their information from the media (43%) and the headman or headwoman (34%).¹¹⁷ Accordingly, about 75% of respondents had no knowledge of the Communal Land Boards established by the Act to verify and register land rights and to exercise control over land allocations by traditional authorities. As the Communal Land Boards exist to protect rights, this low knowledge of their existence hinders enforcement of the protections aimed at women.¹¹⁸

The report recommended improving land rights for women by increasing public awareness of the Communal Land Reform Act, and in particular of the Communal Land Boards. It also suggested improving the process of delivering land registration certificates to people who register their land.¹¹⁹

Recent awareness-raising efforts aimed at women

In respect of public awareness, it can be mentioned that the Legal Assistance Centre has in 2016 and 2017 produced radio shows which have aired on NBC Radio in English and Oshiwambo, along with a comic book in both of these languages – all aimed at increasing women’s understanding of relevant provisions of the law on communal land.¹²⁰



6.5 Women and agriculture

As the Government has pointed out, despite its marginal contribution to Namibia’s Gross Domestic Product, “the agriculture sector in Namibia remains central to the lives of the majority of the population” and supports the majority of the population directly or indirectly.¹²¹ Some indications of the direct involvement of women and men in subsistence agriculture can be found in the Namibian Labour Force Surveys discussed in Chapter 4 of this analysis.

6.5.1 Namibia Census of Agriculture 2013/2014 (Communal Sector Report)

In collaboration with the Ministry of Agriculture, Water and Forestry, the Namibia Statistics Agency conducted an agricultural census for the 2013/2014 agricultural year. The census covered two agricultural sub-sectors: “the capital intensive, relatively well developed and export oriented subsector (Commercial); and the subsistence-based, high-labour and low-technology sub-sector (Communal)”.¹²² The results of the

¹¹⁷ Id at 31-33.

¹¹⁸ Id at 30, 36-37.

¹¹⁹ Id at 48-50.

¹²⁰ This project was funded through the “One World, No Hunger” project of the Konrad Adenauer Stiftung.

¹²¹ *Namibia Census of Agriculture 2013/2014: Communal Sector Report*, Windhoek: Namibia Statistics Agency and Ministry of Agriculture, Water and Forestry, November 2015 at 13 (hereinafter “**2013/14 Agriculture Census**”).

¹²² Ibid.

communal sector portion of the census were published in November 2015 (Communal Sector Report), but the report on the commercial sector is apparently not yet finalised.¹²³

The Communal Sector Report provides data on the demographic characteristics of agricultural households, land use, access to extension services and facilities, equipment and infrastructure, access to credit facilities, farm management, aquaculture and fish farming, forestry, food security, other economic activities, labour inputs, usage and disposition of crops, and livestock. However, it must be noted at the outset that some of the findings in the report are confusing. Some individuals who work in the field of agriculture have cautioned that some statistics in the report should not be relied upon because of problems, such as unverified estimates of crop yield.

The target population for the Agricultural Census was all agricultural households in Namibia's 14 regions engaged in both commercial and communal farming activities.¹²⁴ The target population for the communal sector was "all the agricultural households in the rural communal areas of Namibia including the semi-urban areas around the urban centres".¹²⁵ The total sample size was 10 550 agricultural households.¹²⁶

In the communal sector, the total population of agricultural households was 907 715 individuals, 46% males and 54% females.¹²⁷ Regionally, women made up a larger proportion of the agricultural household population than men in Ohangwena, Omusati and Oshana (all with proportions of women at or close to the highest level of 55%), as well as in Oshikoto, Kavango East, Kavango West, Khomas, Zambezi and Kunene.¹²⁸ The main activity of the agricultural household population was crop production (84%), followed by livestock production (12%).¹²⁹ The majority of households indicated that millet/mahangu was their major crop, while maize and sorghum were also major crops for some households.¹³⁰ The data indicated that men managed 52% of agricultural plots and while women managed 48% – although the detailed statistics which produced this finding are confusing.¹³¹

Agricultural extension has been defined broadly as focusing on "the delivery of information inputs to farmers".¹³² Through farmer education, it applies scientific research to agricultural practices.¹³³ Agricultural extension is recognised as playing "a crucial role in promoting agricultural productivity, increasing food security, improving rural livelihoods, and promoting agriculture as an engine of pro-poor economic

¹²³ The report on the commercial portion of the census was expected in March 2017, but has apparently not yet been published. "Agri census nears completion". *New Era*, 6 December 2016.

¹²⁴ *2013/14 Agriculture Census* at 13.

¹²⁵ *Ibid.*

¹²⁶ *Id* at 14-15.

¹²⁷ *Id* at 17.

¹²⁸ *Ibid.*

¹²⁹ *Id* at 20.

¹³⁰ *Id* at 24-25.

¹³¹ *Id* at 11. The text at 23 refers to plots being "owned" by men and women, but this does not make sense in respect of the communal sector. It is also hard to make sense of the data in Table 3.2 at 23 on how plots of land were acquired (inheritance, purchase, clearing, use rights from local authorities, sharecropping, borrowed, rented or other) without more explanation as to how this applies in communal areas, and without data which is disaggregated between communal areas and semi-urban areas. It is strange that there was no choice referring to communal land allocation procedures.

¹³² Jock R Anderson and Gershon Feder, *Agricultural Extension: Good Intentions and Hard Realities* 19(1) *The World Bank Research Observer*, 2004 at 41, 42.

¹³³ Agriculture for Impact, "Agricultural Extension", <<http://ag4impact.org/sid/socio-economic-intensification/building-human-capital/agricultural-extension/>>.

growth.”¹³⁴ The Agricultural Census questioned agricultural households on the type of extension services they received. In the Communal Sector Report, the most common extension service received was on the selection of crops, followed by farm management, livestock husbandry and input use.¹³⁵ The Ministry of Agriculture, Water and Forestry was the main source of information on extension services for agricultural households, and farmers’ unions and cooperatives also played a role in providing information.¹³⁶

The majority of agricultural households used head loading as the main means of transport (where items are carried on the head), followed by use of a car or pick-up.¹³⁷ Overall, granaries were the predominant type of storage facility used for crop storage (probably referring in most cases to the traditional woven grain storage bins which are commonly used in the north), followed by bags and drums; the type of facility used for crop storage differed by region.¹³⁸ In terms of equipment ownership, almost all agricultural households (between 97% and 99%) owned the following agricultural equipment: hoe/etemo, axe, panga/machete, sheller spade, fork hoe, ox-plough and pail.¹³⁹

Out of a total of 159 484 agricultural households, only 1 494 households (about 1%) applied for loans during the five years preceding the census, with the majority of loan applicants (1 074, or almost 72% of applicants) successfully receiving loans.¹⁴⁰ Unfortunately, this information is not disaggregated by sex. Of those households which were loan recipients, 31% received loans for livestock, 26% received loans for “other agricultural purposes” (not defined in the report), 21% percent received loans for agriculture labour and 14% received loans for seeds.¹⁴¹ Less than 10% of the households received loans for fertilizer, trading agricultural produce, boreholes and tractors.¹⁴² Agribank was responsible for providing 23% of the loans, followed by family and friends (17%).¹⁴³

Members of agricultural households participated in other economic activities besides agriculture; gender differences were hard to assess here since most people of both sexes engaged in other economic activities which were not specified. Women were likely to engage in wholesale and retail trade (15% of all women engaged in supplementary economic activities), unspecified agricultural services (11% of all women engaged in supplementary economic activities), manufacturing (8% of all women engaged in supplementary economic activities) or unspecified other economic activity (61%). Men were similarly likely to engage in wholesale and retail trade (12% of men engaged in supplementary economic activities), unspecified agricultural services (10% of men engaged in supplementary economic activities), manufacturing (6% of men engaged in supplementary economic activities) or unspecified other economic

¹³⁴ “Agricultural Extension”, International Food Policy Research Institute website: <www.ifpri.org/topic/agricultural-extension>.

¹³⁵ 2013/14 *Agriculture Census* at 26.

¹³⁶ Id at 27.

¹³⁷ Id at 30. Some of the data is difficult to interpret. For example, Table 5.1 at 30 talks about owning, borrowing or renting various means of transport – but it is not clear what was meant when this is applied to head-loading.

¹³⁸ Id at 31.

¹³⁹ Id at 32.

¹⁴⁰ Id at 33.

¹⁴¹ Id at 34.

¹⁴² Id at 34.

¹⁴³ Ibid. Table 6.3 at 34 appears to contain an error as it ascribes 11% of loans to “Under Shelter/Outside”, followed by loans from microfinance institutions (10%). Table 6.5 at 35 also includes a reference to loans from “Under Shelter/Outside” – which seems to be a category that rather pertains to crop storage facilities (see Table 5.2 at 31), and is defined as “meaning that there are some shelters for storage, but not a house with complete walls” (at 71). This error seems to have originated with the questionnaire (see Section 08 of the questionnaire in Appendix B of the report.)

activity (64%).¹⁴⁴ As for other income sources, the table below shows that there were few differences between the sexes in terms of sources of supplemental income, except that women were somewhat less likely than men to have other paid employment and somewhat more likely to be receiving a government old age pension.¹⁴⁵

Income to members of agricultural households from sources other than agriculture		
Other income sources	Women	Men
Income derived from economic production	10%	9%
Income from paid employment	20%	27%
Investment income	1%	1%
Pension income	7%	7%
Remittances – internal (from within Namibia)	8%	9%
Remittances – external (from outside Namibia)	1%	<1%
Veteran social grant	1%	1%
Social grant	12%	13%
Old age pension grant	34%	26%
Other	7%	7%
Total	100%	100%

Source: Calculated from 2013/14 Agriculture Census, Table 11.2 at 52.

In terms of employment status, there were 609 211 agricultural household members involved in agricultural activities: 243 662 women, 199 766 men, 80 454 girls and 85 329 boys.¹⁴⁶ The majority of household members across all sex and age categories were permanently engaged in agricultural work.¹⁴⁷ The total number of paid employees utilised by these households was 100 414 (51% men and 49% women).¹⁴⁸ Livestock ownership was also assessed in the Agricultural Census. The Communal Sector Report indicates that 39% of all agricultural households owned livestock, with the percentages varying significantly by region (from 90% in Omaheke to 15% in Khomas).¹⁴⁹ Ownership of cattle by men far outweighed that of women for all cattle types, with men owning 78% of the total number of cattle reported while women owned 22%.¹⁵⁰ Women also owned less small livestock than men, (less than half of the total number of goats (36%) and sheep (16%)).¹⁵¹ As for other domestic animals, women owned more pigs (78%) and cats (55%) than men, and on average women owned a higher percentage of poultry (69%) than men.¹⁵² Cattle and sheep losses were most often due to starvation followed by disease, while

¹⁴⁴ Id, calculated from Table 11.1 at 51. The presentation of this data is not very helpful; the method of calculating and presenting percentages obscures the overall picture, and the category of “other” is so large that it makes the overall situation difficult to interpret.

¹⁴⁵ Id at 52.

¹⁴⁶ Id at 53. The Communal Sector Report classifies adult males and females as those aged 15 years and older, while boys and girls are below 15 years of age.

¹⁴⁷ Ibid.

¹⁴⁸ Id at 53. Question 1509 was “Did the household have any paid employee during the agricultural season?”. If yes, then respondents were asked “How many persons were in paid employment during the last 12 months?”. One wonders if the wording of the follow-up question could have been confusing; it is seeking to ascertain the number of paid employees the household used in connection with its agricultural work, but could have possibly been understood to be asking how many household members were themselves in paid employment. See Section 15 of the questionnaire on Labour Inputs in Appendix B of the report.

¹⁴⁹ Id at 58.

¹⁵⁰ Id at 59.

¹⁵¹ Id at 60.

¹⁵² Id at 61-62.

goat and pig losses were most often due to disease followed by starvation and poultry losses were most often due to predators followed by disease.¹⁵³

The findings on food security in the communal sector are discussed below in section 9.8.

6.5.2 Millennium Challenge Account-Namibia Assessments (2011-2012)

One of the interventions of the Millennium Challenge Account-Namibia was a Community Based Rangeland and Livestock Management programme aimed at reducing poverty in the Northern Communal Areas. This activity sought to promote best practices in communal herding and animal husbandry. The impact of the pilot programme drew on data from three sources: a household income and expenditure survey, a cattle assessment, and a rangeland assessment. Some of this data included gender information

In 2011, the Millennium Challenge Account-Namibia commissioned a Community Based Rangeland and Livestock Management Survey in six regions of Namibia. The findings were based on 2 964 interviews. Of these, 38% reported that the head of their household was female.¹⁵⁴ The survey found that the mean herd size in female-headed households was 10.48 cattle, compared to a mean herd size of 30.15 in male-headed households.¹⁵⁵ Unfortunately, the report contains no further analysis or discussion of gender distinctions.

In 2012, a report was published on livestock ownership and livelihood in the Northern Communal Areas, drawing on information from the household income and expenditure survey.¹⁵⁶ The final sample for this survey consisted of 3 786 households surveyed between December 2010 and March 2011, with respondents being split fairly evenly between males and females, and about 61% of the households being female-headed.¹⁵⁷ Some of the gender-related findings of the report were as follows:

- Over 21% of households had decision-makers who lived outside the household and were most often males (85%) identified as the head of household or as a cousin of the head of household; almost 19% of female-headed households had a male decision-maker who lived outside the household.¹⁵⁸
- Male-headed households tended to have herds which were twice as large as those of female-headed households, and male-headed households also tended to sell a larger percentage of their herds.¹⁵⁹
- Fewer female-headed households spent money on their cattle than male-headed households (58% versus 70%). For example, male-headed households were more likely to seek veterinary care for ill animals.¹⁶⁰

¹⁵³ Id at 64.

¹⁵⁴ *Implementation of Community-Based Rangeland and Livestock Management Household Income and Expenditure Surveys: Final Survey Report*, Windhoek: Millennium Challenge Account Namibia, 19 December 2011 at 6.

¹⁵⁵ Id at 8.

¹⁵⁶ *Innovations for Poverty Action, Livestock Ownership and Livelihood in the Northern Communal Areas: Using a randomised control trial to determine the impact of best practice and joint herding on farmers in Northern Namibia*, Windhoek: Millennium Challenge Account Namibia, 5 April 2012.

¹⁵⁷ Id at 17, 19, 23.

¹⁵⁸ Id at 25.

¹⁵⁹ Id at 34.

- With respect to small livestock, as for cattle, male-headed households held larger numbers of animals for each type of animal tabulated (poultry, pigs, goats, sheep, horses and donkeys).¹⁶¹
- “Perceived gender roles in the Northern Communal Areas assign cattle management to men and small stock management, such as poultry, to women.... [T]he primary caregiver in the household for cattle is identified as male for 82% of cattle owning households. Care of donkeys, horses, sheep, and goats are all male dominated, whereas primary care of poultry and pigs are assigned to women. Secondary and tertiary caregivers for poultry and pigs are also majority women.”¹⁶²
- “Paralleling the gender trends of the caretakers of livestock, household members in charge of selling cattle by-products were majority male, while the household members in charge of selling poultry by-products were majority female. Secondary and tertiary sellers of poultry by-products were split closer to 50/50, male and female.”¹⁶³
- “Those doing the majority of work on harvesting the crops tend to be slightly more female than male, though the split is close to 50/50. While livestock management or care trends towards one or two primary caretakers within the household, the harvest of crops points to the involvement of a larger portion of the household.”¹⁶⁴

6.5.3 Women and resettlement farms

Resettlement is a scheme whereby the Government acquires commercial farms and makes them available to “Namibian citizens who do not own or otherwise have the use of agricultural land or adequate agricultural land and foremost to those Namibian citizens who have been socially, economically, or educationally disadvantaged by past discriminatory laws and practices.”¹⁶⁵ This programme has received criticism from many quarters, and many of the pieces of land allotted are not really viable for profitable agricultural operations.¹⁶⁶

According to a 2016 press report in September 2016, 5 231 individuals benefitted from Namibia’s resettlement programme from its inception to that date, of which 1 405 were female, while 2 039 were male and the remaining 1 787 involved “group resettlement” – meaning that 27% of the persons resettled were women. In terms of the post-settlement support, south of the Veterinary Cordon Fence, women comprised about 26% of the resettlement farmers who receiving training, while in the northern communal areas, women comprised 41% of the total number of persons trained.¹⁶⁷

No other information on gender issues pertaining to resettlement farms was located.

¹⁶⁰ Id at 40, 43.

¹⁶¹ Id at 48.

¹⁶² Id at 49 (acronyms spelt out and bracketed information omitted).

¹⁶³ Ibid.

¹⁶⁴ Id at 63.

¹⁶⁵ Agricultural (Commercial) Land Reform Act 6 of 1995, section 14.

¹⁶⁶ See, for example, Sidney L Haring and Willem Odendaal, “No resettlement available”: As assessment of the expropriation principle and its impact on land reform in Namibia, Windhoek. Legal Assistance Centre, 2007, particularly at 17-ff.

¹⁶⁷ “Thousands of women get commercial farms”, *New Era*, 6 September 2016, based on information from Peter Nangolo, Director for Land Reform and Resettlement in the Ministry of Land Reform.

6.5.4 FAO assessment of gender and the agricultural sector

In August 2016, a country gender assessment in Namibia was commissioned by the UN Food and Agriculture Organization (FAO) and conducted by the Gender and Rural Development Trust. The assessment involved an analysis of the agricultural sector from a gender perspective “in order to identify gender inequalities in access to critical productive resources, assets, services and opportunities and identify needs and constraints of both women and men in FAO areas of focus.”¹⁶⁸ The results of the assessment, which will include recommendations and guidance on gender-sensitive programming and policy,¹⁶⁹ are scheduled for release in mid-2017.¹⁷⁰

6.6 Women in conservancies

Conservancies in Namibia are a component of community conservation, which aims to manage natural resources sustainably to generate returns for rural communities. Namibia’s Nature Conservation Ordinance 4 of 1975 was amended in 1997 to provide a legal framework for conservancies on communal land, to enable them to realise economic benefits from the sustainable management and utilisation of wildlife in the conservancy area.¹⁷¹ Communal conservancies are self-governing, democratic entities which are run by their members; they are recognised by the Ministry of Environment and Tourism, but operated in terms of constitutions established by the members and governed by committees elected by the members.¹⁷² Communal conservancies are required to have game management plans, to conduct annual general meetings, and to prepare financial reports. Hunting on conservancy land takes place on the basis of government quotas set according to annual game counts; trophy hunting brings in income to employ community game guards to prevent poaching, and communities can also hunt for meat without the quotas to provide a dietary supplement. Some communal conservancies have established tourism enterprises through joint ventures with the private sector, which supplies capital and experience and also creates employment for community members in some cases.

The first four conservancies were formally registered in 1998. As of 2017, there are 82 registered conservancies covering almost 20% of Namibia’s land area and involving almost 190 000 persons. There are a total of 42 joint venture lodges inside Namibian conservancies, with tourism surpassing trophy hunting as a source of income in some. Despite the income from tourism and hunting, farming is still the main source of livelihoods for most conservancy members – which has led to some conflict between wildlife and local farmers in conservancy areas.¹⁷³

The conservancy movement, which has been internationally lauded for years,¹⁷⁴ was recently hailed by the Minister of Environment and Tourism as “benefiting thousands of our rural communities through

¹⁶⁸ “Namibia enhances gender equality in the agricultural sector”, Food and Agriculture Organization of the United Nations (FAO), 24 August 2016, FAO website: <www.fao.org/namibia/news/detail-events/en/c/431503/>.

¹⁶⁹ Ibid.

¹⁷⁰ Personal communication, FAO representation in Namibia, May 2017.

¹⁷¹ Nature Conservation Ordinance 4 of 1975, section 24A, added by Act 5 of 1996, which came into force in 1997.

¹⁷² The Ministry does have the power to de-register a conservancy if it fails to comply with the relevant laws and regulations.

¹⁷³ Based primarily on text from the websites of the Namibian Association of Community Based Natural Resource Management Support Organizations (NACSO): <www.nacso.org.na/conservancies> and the Ministry of Environment and Tourism: <www.met.gov.na/services/conservancies/193/>.

¹⁷⁴ See, for example, “WWF Recognises community conservation in Namibia”, 25 October 2013, World Wildlife Foundation Global website: <http://wwf.panda.org/wwf_news/successes/?212897/namibia-recognised-for-pioneering-conservation>; WWF recognised Namibia’s communal conservancy programme with a Gift to the

employment, cash income, social projects and in-kind benefits” and thereby making a significant contribution to rural development.¹⁷⁵ However, conservancies in Namibia recently faced some stinging criticism from the Parliamentary Standing Committee on Natural Resources, which alleged that they are doing more harm than good because of the consequences of human-wildlife conflict and asserted that communities are unhappy with the meagre income produced.¹⁷⁶ This view has been disputed; for example, the Kavango and Zambezi conservancy associations publicly stated that the benefits accruing from wildlife are considerable, giving examples of community development projects they have supported such as the Kwandu Conservancy, which has used conservancy income to purchase five electricity transformers bought at a cost of N\$600 000 to bring power to almost 2 000 households, to construct permanent structures for local courts and to provide pipelines to pump water to about 6 000 people. In the Kavango conservancies which have lower incomes, there has been money for water pumps, zinc roofing for schools and community gardens. These conservancies also employ game guards who earn between N\$1 300 and N\$2 200/month, depending on the conservancy.¹⁷⁷

Within this overall picture, there have been a few studies which have considered the position of women within the conservancy movement.

Community Based Natural Resource Management (CBNRM) initiatives originally did not include women in leadership or decision-making processes. As a result, the women, the communities and the overall CBNRM initiative suffered. One example is palm tree management in Western Kaokoland. There, the conservation group gave local men the task of protecting a species of palm tree as they feared women’s use of the palm trees for basket making threatened the trees’ wellbeing. However, as a consequence of men taking over management from the women, the trees began dying at an accelerated rate. Another oversight was that initial CBNRM efforts focused on establishing all-male community game guard programmes, though women – having a large role in natural resource use, providing for community welfare and producing crops – were major stakeholders.¹⁷⁸

Once the CBNRM community acknowledged these deficiencies, it initiated measures to include women. The Namibian Association of CBNRM Support Organisations (NASCO) recognised that women initially had low representation in conservancies – indeed, the Salambala and Nyae Nyae Conservancies’ first committees were composed entirely of men – so it worked to increase gender equity in conservancies. NASCO’s efforts have led conservancies to employ female game guards, adopt practices that include women in decision-making processes, and elect women to conservancy committees. The Salambala and Nyae Nyae Conservancies’ committees now include women, the Torra Conservancy’s committee is one-third female, and the Uukwaluudi Conservancy’s initial committee was split evenly across gender lines and had a female chairperson.¹⁷⁹

Earth award, which is its “highest accolade to applaud conservation work of outstanding merit”. “Gift to the Earth”, WWF Global website: <http://wwf.panda.org/wwf_news/wwf_awards/wwf_gifts_to_the_earth/>.

¹⁷⁵ Desie Heita, “Conservancy windfalls: A tale of contradictions”, *New Era*, 16 April 2017.

¹⁷⁶ Ibid.

¹⁷⁷ Desie Heita, “More criticism of conservancy parliamentary report”, *New Era*, 17 May 2017. See also “Inaccurate wildlife conflict reports cost ministry”, *Namibian Sun*, 3 May 2017.

¹⁷⁸ Fiona Flintan, “Women and CBNRM in Namibia. A Case Study of the IRDNC Community Resource Monitor Project, Working Paper No 2 for the Engendering Eden Project”, Cork Ireland: The International Famine Centre, University College Cork, 2001 at 4-5. (The document is unpaginated; the page references listed in these footnotes all assume that the title page constitutes page 1).

¹⁷⁹ *Community Based Natural Resource Management (CBNRM): Enhancing Conservation, Development & Democracy in Namibia’s Rural Areas?*, Ministry of Environment and Tourism, undated at “An Empowerment and Capacity-Building Programme” (unpaginated).

Another initiative to include women was the Community Resource Monitors (CRM) programme, spearheaded by the non-governmental organisation, Integrated Rural Development for Nature Conservation (IRDNC).¹⁸⁰ This programme initially focused on utilising women for information-gathering, especially in respect of natural resources about which women had specialised knowledge, but evolved to include women in active resource management.¹⁸¹ CRM roles have developed to encompass a wide range of conservancy activities, such as forming crafts groups, monitoring resources and developing social maps, as well as providing input for committee formation and constitution development.¹⁸² The programme has led to social successes, including building women's confidence and elevating women's position in the community.¹⁸³ Additionally, women are playing increased roles in community decision-making processes.¹⁸⁴ However, men continue to dominate in traditional institutions and continue to be responsible for major community decisions. Moreover, a majority of conservancies have struggled to keep pace with their targets for including women in management roles.¹⁸⁵ Additionally, women worry that the CRM programme might not be sustainable without IRDNC backing.¹⁸⁶

There is also some criticism that normative perceptions of gender and the environment assume gender-specific knowledge of natural resource management and the environment.¹⁸⁷ For example, such perceptions emphasise female-specific roles in safeguarding nature, and plants in particular. However, as it is possible for men to take on such roles, true gender equality cannot be achieved until such social perceptions change.¹⁸⁸

6.7 Women and forest resource management

Community forests are another mechanism whereby rural communities are able to benefit from sustainable natural resources management.¹⁸⁹ Namibia's community forestry programme adopts "a participatory approach to facilitate the participation of all people" and has had a considerable positive impact on rural livelihood improvement.¹⁹⁰

In November 2016, a study was released on forest resource management and utilisation in Namibia from a gender perspective, with the objective to "investigate the equitable participation in harvesting and benefit of forest resources across gender and marginalized groups",¹⁹¹ recognising that the division of labour between women and men is based on cultural views of gender which affect access and control to

¹⁸⁰ Flintan at 18.

¹⁸¹ Id at 5-6.

¹⁸² Id at 9.

¹⁸³ Id at 14.

¹⁸⁴ Id at 15.

¹⁸⁵ Id at 15-16.

¹⁸⁶ Id at 17.

¹⁸⁷ Brigit Rudd, "Plants and Performance: Gender and Natural Resource Management in Namibia: A Dissertation Submitted by 63436 to the London School of Economics & Political Science, in part completion of the requirements of the MSc in Gender, Development and Globalisation", 2012 at 11.

¹⁸⁸ Id at 37-38.

¹⁸⁹ Forests Act 12 of 2001, section 15. Section 15(1) states: "The Minister may, with the consent of the chief or traditional authority for an area which is part of communal land or such other authority which is authorised to grant rights over that communal land enter into a written agreement with any body which the Minister reasonably believes represents the interests of the persons who have rights over that communal land and is willing and able to manage that communal land as a community forest."

¹⁹⁰ Immaculate Mogotsi et al, *Forest Resource Management and Utilisation through a Gendered Lens in Namibia*, 6(4) *Environment and Natural Resources Research* 79, 11 November 2016 at 81.

¹⁹¹ Ibid.

the use and management of forest products.¹⁹² It assessed seven community forests in Kunene, Omusati, Oshikoto, Oshana, Omaheke and Otjozondjupa.¹⁹³ The following table illustrates the leadership structures of the seven community forests.

Community Forest and Region	Leadership Structure
Ehrovipuka (Kunene)	Integrated conservancy committee consisting of 14 members (86% males and 14% females)
Uukolonkadhi (Omusati)	Two-layered leadership structure: 1) Forestry Management Committee consisting of 45 signed-up members (38% males and 62% females); 2) Executive Committee consisting of 11 elected members (82% males and 18% females)
Oshaampula (Oshikoto)	Forestry Management Committee consisting of 25 signed-up members (equal male and female representation, but more males are active)
Otshiku-Tshiithilonde (Oshana)	Forestry Management Committee consisting of 18 elected members (78% males and 22% females)
Talismanus (Omaheke)	No functional management body
Otjinene (Omaheke)	No functional management body
Okondjatu (Otjozondjupa)	Conservancy Committee consisting of 12 elected members (58% males and 42% females)

Source: Immaculate Mogotsi et al, *Forest Resource Management and Utilisation through a Gendered Lens in Namibia*, 6(4) *Environment and Natural Resources Research* 79, 11 November 2016 at 83-84.

With respect to community forest leadership, the study found that representation by women and minority groups was low. Where women were represented, they often occupied positions such as treasurer, vice-treasurer, secretary or vice-secretary, rather than chairperson. Local Traditional Authority members must be represented on every community forest committee and they often preferred to nominate males for the committee positions, which negatively impacted women's participation in leadership. In the Otjinene and Ehrovipuka community forests, both young and older women felt they were either discriminated against or not respected by the men at committee meetings. A related finding was that women in the eastern regions lacked confidence to take on leadership roles.¹⁹⁴

In terms of capacity building, men and women in five out of the seven community forests participated in training initiatives. The training for women mainly focused on production of crafts, honey, skin oil and beads, while the training for men was based on skills required for harvesting timber, veld-fire management, leadership and financial management.¹⁹⁵

Namibia's forestry policy allocates control of forest resources to local communities. Both women and men in community forests access forest resources either directly or with permission and permits from local authorities.¹⁹⁶ Factors inhibiting forest resource utilisation by poor and marginalised women included limited access to resources caused by illegal fencing, inability to afford permits and lack of access to vehicles for larger-scale harvesting.¹⁹⁷

¹⁹² Id at 80.

¹⁹³ Id at 82.

¹⁹⁴ Id at 84.

¹⁹⁵ Id at 85.

¹⁹⁶ Ibid.

¹⁹⁷ Id at 87.

Most of the products harvested by men, which are harvested for commercial purposes, are controlled through permits, while the products that women typically harvest for household use do not require permits or consent from Traditional Authorities. Traditionally, women were responsible for harvesting Devil's Claw for household and medicinal purposes. However, due to its viability as a commercial product, it is now being harvested at higher rates, which has led to the requirement of harvest permits.¹⁹⁸ Obtaining a harvest permit requires proof of training attendance, which could potentially disadvantage women; the study noted that even though training is offered to both men and women, "women still lag behind in the harvesting and commercial benefits of Devil's Claw."¹⁹⁹ Mopane worms were traditionally harvested by women but are now also being harvested by men, which has created competition for this commercially-viable resource.²⁰⁰ Similarly, gender-based conflict over red ochre had arisen within the Uukolonkadhi community forest in Omusati; while red ochre is traditionally used by Ovahimba women, it is now being commercialised by Ovazemba men.²⁰¹

Wood resources were considered highly valuable to both men and women across community forests. Whereas men used donkey-carts and vehicles to collect firewood from more far-off locations, distance proved to be an inhibiting factor in women's access to wood harvesting.²⁰²

Another notable finding of the study relates to fire management and patrolling. Forest fire fighting duties are normally undertaken by men, and the study found that women who engage in forest fire fighting have faced gender-based violence and sexual harassment from their male peers.²⁰³

Some of the most important concluding observations from the study are as follows:

- Distinct inequalities that vary based on gender, level of marginalisation and ethnicity are present in the "access, control, monitoring and use of forest resources."
- Women, as the carriers of indigenous knowledge about forest products, cannot share what they know without proper involvement in decision-making.
- Products traditionally harvested by women are now also being harvested by men, which "not only negatively affects the access of women to those resources, but also disrupts the social relations and learning process that women traditionally [engage] in when harvesting these resources."
- Reduced access to forest resources for women and marginalised groups, due to factors such as depleting resources and distance, increases their vulnerability.²⁰⁴

6.8 Women and food security

According to the Communal Sector Report, which as noted above compiled information from the Agricultural Census, a significant number of agricultural households (76%) experienced food insecurity in the 12 months preceding the census,²⁰⁵ with food shortages being particularly widespread (occurring in over 80% of agricultural households) in the regions of Kavango East, Kavango West, Kunene, Ohangwena and Omusati.²⁰⁶ Based on monthly data between January 2013 and June 2014, food shortages

¹⁹⁸ Id at 85.

¹⁹⁹ Ibid.

²⁰⁰ Id at 85.

²⁰¹ Id at 87.

²⁰² Id at 86.

²⁰³ Ibid.

²⁰⁴ Id at 88.

²⁰⁵ *2013/2014 Agriculture Census* at 45.

²⁰⁶ Ibid.

were most acute in January as compared to other months.²⁰⁷ The most common reasons reported as the causes of food shortages were loss of crops or insufficient production, followed lack of jobs.²⁰⁸ In order to alleviate food shortages, women, men and children of both sexes were most likely to obtain assistance from the government food relief programme, followed by using their savings to buy food.²⁰⁹

As natural and human-made disasters can have a significant impact on food security, the Agricultural Census surveyed agricultural households on their experience of facing disasters in the 12 months preceding the census. Of those agricultural households which reported experiencing a severe disaster, 48% reported severe drought and 27% reported pests or crop diseases.²¹⁰ Other disasters experienced by lower numbers of agricultural households included floods, erratic rains, man-made disasters, hailstorms and wild fires.²¹¹

Food security is related to women's nutritional well-being, which has important consequences for her health and for the health of her children – as discussed in Chapter 7 of this analysis. A 2015 report on global food insecurity patterns noted that discrimination against women makes it harder for them to access resources like land, credit or technology, which may hinder their competitiveness in the market, thus compounding food insecurity for them and their families.²¹² The Minister of Economic Planning has acknowledged that women's empowerment and women's access to land are important strategies to combat hunger in Namibia.²¹³ The Minister of Poverty Eradication and Social Welfare similarly acknowledged the importance of gender-specific planning, including women's empowerment, to combat hunger in Namibia, citing poverty as an issue that affects women more than men.²¹⁴ In this vein, the Government has stated that it intends to make landless women a priority group in arable land distribution programmes and that its employment-creation initiatives will give half of the newly-created jobs to women.²¹⁵

The Ministry of Poverty Eradication and Social Welfare runs a pilot food bank in Windhoek. It distributes food packages at a household level, rather than to individuals. Thus, each household receives the same package regardless of the number of individuals, with the caveat that households with fewer than three people receive a smaller version of the package. To qualify for the programme, a household's monthly income must be less than N\$400 per person.²¹⁶ As aid is distributed by household, however, there are no mechanisms to monitor how food is distributed within the household or to ensure that food is divided

²⁰⁷ Id at 46.

²⁰⁸ Id at 47.

²⁰⁹ Ibid.

²¹⁰ Id at 50.

²¹¹ Ibid. The reporting on this issue is somewhat confusing. One category includes "tidal waves", which do not occur in Namibia, and it is not clear what is meant by the category titled "insecurity". The questionnaire at section 13 (in Appendix B of the report) includes wildfires under both natural and man-made disasters, but Table 10.9 lists only one category for wildfires.

²¹² Food and Agricultural Organization of the United Nations, International Fund for Agricultural Development, World Food Programme, *The State of Food Insecurity in the World: Meeting the 2015 international hunger targets: taking stock of uneven progress*, Rome: FAO, 2015 at 34 (available at <www.fao.org/3/a-i4646e.pdf>).

²¹³ *Namibia Zero Hunger Newsletter*, Vol 1, [First Issue], January-June 2016 at 3 (available at <www.npc.gov.na/?wpfb_dl=272>).

²¹⁴ *Namibia Zero Hunger Newsletter*, Vol 2, Issue 2, July-December 2016 at 3 (available at <www.npc.gov.na/?wpfb_dl=280>).

²¹⁵ Id at 8.

²¹⁶ Lot Ndamanohmhata in "Ministry of Poverty Eradication and Social Welfare", *New Era*, 23 August 2016 (available at <www.newera.com.na/2016/08/23/ministry-poverty-eradication-social-welfare/>).

equally. Thus, this allows for a situation in which women, traditionally viewed as holding less social power, may not derive equal benefits.²¹⁷

6.9 Gender impact of drought

Drought in Namibia is a particular burden for women. A majority of the subsistence farmers in Namibia are women and as this sector is particularly vulnerable to the increasing frequency of drought, women suffer disproportionate effects. Though all people in the agricultural sector are affected by drought, men and women typically assume different responsibilities during such a period; women tend to remain responsible for food production and management of the household during times of drought, while men tend to leave to seek work in other industries or in urban areas. Thus, it is the woman's responsibility to provide water for the household and the livestock.²¹⁸ Under normal circumstances, 28% of households in Namibia must travel one kilometre or more to get water, with this distance applicable to 44% of rural households.²¹⁹ Moreover, under normal circumstances, this responsibility in rural households typically falls on women and girls, rather than men and boys.²²⁰ Drought conditions force women to travel longer distances to seek water, and the burden on women's time and energy leaves less time for them to care for themselves and look after their dependants.²²¹

Drought relief programmes may treat pregnant and lactating women as vulnerable populations, and accordingly prioritise drought relief for them.²²² Such care may include malnutrition early detection and referral programmes and Iron Folic Acid supplement distribution.²²³ However, if the Government is unable to provide relief, such populations will suffer.²²⁴ Moreover, if the Government implements food aid at a household level, it cannot guarantee that the food will go to the women of the household.²²⁵

A 2015 global report described how crises that lead to food shortages, such as drought, may impact women's food security and nutrition. Without protection, women may be more vulnerable to wrongs such as attempts to take their land when drought brings social strains. Also, pre-drought gender disparities may leave women with less money to accommodate increased food prices that a drought may cause.²²⁶

²¹⁷ Note that the Ministry of Agriculture, Water and Forestry produced an "Agricultural Input and Household Food Security Situation Report" in December 2016, but this report was apparently not printed due to budgetary constraints, and we were unable to obtain a soft copy. The similar 2013 report did not include gender-specific information.

²¹⁸ I N Kapolo, "Drought Conditions and Management Strategies in Namibia", 2014 at 4 (available at <www.droughtmanagement.info/literature/UNW-DPC_NDMP_Country_Report_Namibia_2014.pdf>).

²¹⁹ Namibia Statistics Agency, *Namibia Household Income & Expenditure Survey 2009/2010*, 2012 at 84.

²²⁰ *Namibia Demographic and Health Survey 2006-07*, Windhoek: Ministry of Health and Social Services and Macro International Inc, 2008 at 17, discussed in section 6.3.2 above.

²²¹ Kapolo at 4.

²²² See, for example, "National Drought Policy & Strategy", Windhoek: National Drought Task Force, 1997 at para 69 (available at <www.the-eis.com/data/literature/National%20Drought%20Policy%20and%20Strategy%201997.pdf>); Kapolo at 4.

²²³ Kapolo at 4; UNICEF Namibia, *Drought Situation Report #4*, 2013 at 2-4 (available at <www.unicef.org/appeals/files/UNICEF_Namibia_Sit_Rep4_Drought_12Dec2013.pdf>).

²²⁴ See, for example, Clemans Miyanicwe, "Kamanjab struggles to distribute drought food", *New Era*, 31 January 2017 (available at <www.newera.com.na/2017/01/31/kamanjab-struggles-to-distribute-drought-food/>); "National Drought Policy & Strategy", Windhoek: National Drought Task Force, 1997 at para 33 (listing several challenges the Government has had with vulnerable group food distribution.)

²²⁵ See, for example, "National Drought Policy & Strategy", Windhoek: National Drought Task Force, 1997 at para 69 ("The implementation of strategic food reserves should start at the household level.").

²²⁶ Food and Agricultural Organization of the United Nations, International Fund for Agricultural Development & World Food Programme, *The State of Food Insecurity in the World: Meeting the 2015 international hunger targets: taking stock of uneven progress*, Rome: FAO, 2015 at 39; but see "National Drought Policy &

6.10 Gender and climate change

Climate projections predict increases in events such as floods, droughts and insect outbreaks in Namibia. Indeed, residents report that droughts and floods are becoming more frequent and having more severe effects on food supplies. A 2016 Namibian study explored the impacts of climate change on Namibian women.²²⁷ Climate change will likely have the biggest adverse impact on communities in developing countries and those dependent on natural resources. This means that women are likely to be affected disproportionately, because a disproportionate number of women live in rural areas in Namibia and depend on subsistence agriculture, leaving them more vulnerable to negative climate effects. That pattern reflects a male tendency to move to urban environments to seek employment. In contrast, as women are traditionally more responsible for the wellbeing of the household and family, they are often less mobile and thus less able to seek better livelihoods elsewhere.²²⁸

Social inequalities also leave women at greater risk to adverse effects of climate change.²²⁹ An extreme, though possible, consequence of climate change is displacement, as food and water shortages cause social disruptions. Given extant gender inequalities, such displacement would likely affect the marginalised (eg female) populations disproportionately.²³⁰

Women also bear the burden of climate change in a more immediate sense. Women are generally tasked with the primary responsibility of agricultural production and the family's livelihood.²³¹ Such tasks, including providing food and water and harvesting medicinal plants, are more susceptible to climate variances.²³² Climate change leads to increased occurrences of flooding and droughts and associated stresses on the land, as well as plant and animal extinctions, which makes women's tasks harder.²³³ Such responsibilities may lead to extra emotional burdens, which could in turn contribute to social challenges that both sexes face, such as alcohol abuse and crime.²³⁴ Additionally, food shortage and animal extinction stresses predominantly affect the livelihoods of the poor.²³⁵ This has an additional disproportionate effect on women, who are already less wealthy and less likely to be employed than men.²³⁶

Climate change effects are not limited to agricultural industries. For example, any climate shifts that affect the predictability of the Benguela current, an important source of nutrients for the fisheries on the west coast, will threaten the productivity of those fisheries. Indeed, warming sea temperatures over recent

Strategy", Windhoek: National Drought Task Force, 1997 at para 34 (stating that food prices have not increased markedly in past droughts).

²²⁷ Margaret Ndapewa Angula, "Gender and Climate Change: Namibia Case Study", University of Namibia, 2016 at 27-28 (available at www.researchgate.net/profile/Margaret_Angula/publication/265179480_Gender_and_Climate_Change_namibia_case_study/links/56a6514d08aeca0fddeb4f77.pdf).

²²⁸ Id at 20. However, it must be noted that in Namibia female migration to urban areas has increased in the years since Independence. (See Chapter 2 of this analysis.)

²²⁹ Id at 14.

²³⁰ Id at 18.

²³¹ Id at 10, 14-15.

²³² Id at 12, 28.

²³³ Id at 16. For example, residents in Epyeshona explained that since women are mainly responsible for managing the fields, they are the ones expected to determine how to cope when the land becomes less productive. Id at 29.

²³⁴ Id at 35.

²³⁵ Id at 16.

²³⁶ See Chapter 5 of this analysis.

years have likely contributed to a decline in fish production. As such patterns affect the economy negatively, women will likely suffer most from the corresponding decrease in incomes and nutrition.²³⁷

Field research in Epyeshona revealed that women are the first to adapt to climate change challenges by diversifying their income stream. To raise money, they might make baskets, sell chickens or goats or ask neighbours for assistance.²³⁸ As women in Epyeshona are more likely to lack technical skills, they tend to engage activities such as these, rather than formal employment.²³⁹ To address gender-specific issues, the report recommended various climate change programmes, combined with steps to ensure that women have access to them. Additionally, it recommended implementation of information campaigns for women and increased gender-specific studies in the region.²⁴⁰

²³⁷ Id at 18.

²³⁸ Id at 31-32.

²³⁹ Id at 35.

²⁴⁰ Id at 37.

Chapter 7

Health, Health Care and Sexual and Reproductive Rights

7.1 Introduction and key policies

7.1.1 Overview of health system

At Independence, Namibia's health system was fragmented, with a curative focus and an emphasis on urban-based hospitals. Little attention was devoted to disease prevention, nutrition or health education. The years since Independence have been marked by a transition to primary health care, including community health, preventative measures and a referral system whereby most primary health care services are offered at outreach points and clinics, while more serious health conditions go to the secondary level of care at health centres and district hospitals; the most specialised care is provided by referral hospitals in some of the larger urban centres.¹ As of 2013, Namibia's public health services included 269 clinics, 44 health centres, 30 district hospitals, three intermediate hospitals (Oshakati Hospital in Oshana, Rundu Hospital in Kavango, and Katutura Hospital in Khomas), and the national referral hospital (Windhoek Central Hospital). There were also outreach services (mobile clinics) covering about 1 150 outreach points.² The private health sector is also extensive, with 844 private health facilities registered with the Ministry of Health and Social Services (MOHSS) as of 2010, including 13 hospitals, 75 clinics, and eight health centres – mainly in urban areas in Erongo and Khomas.³

Namibia regularly spends approximately 18% of its national budget on health and social services, which is generally the next highest expenditure after education.⁴ However, according to UNICEF, “only 1 per cent of the health budget is spent directly on maternal and child health services”.⁵

¹ See S El Obeid, JM Mendelsohn, M Lejars, N Forster & G Brulé, *Health in Namibia: Progress and challenges*, Windhoek: Research and Information Services of Namibia (RAISON), 2001 at 3-4 (available at <www.raison.com.na/1_introduction.pdf>).

² *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 3 (hereinafter “*2013 Demographic and Health Survey*”).

³ “Country profiles: Namibia, Analytical summary – Service delivery”, African Health Observatory, World Health Organization, <www.who.int/profiles_information/index.php/Namibia:Analytical_summary_-_Service_delivery>.

⁴ According to the Medium Term Expenditure Framework, almost N\$6.5 billion of the N\$63 billion budget for 2015/16 went to health and social services, constituting 17.9% of the budget. Medium Term Expenditure Framework 2015/16-2017/18, at 10 (available at <www.mof.gov.na/documents/27827/109194/MTEF+2015_2016+FINAL_1.pdf/62a85b5a-9cdf-4808-93ca-2b79e8cef21f>).

According to the annual budget statement for 2016/17, a total amount of N\$7.23 billion was allocated to the Ministry of Health and Social Services. Budget statement for 2016/17, delivered by Minister of Finance Calle Schlettwein on 25 February 2016 at 26 (available at Ministry of Finance website: <www.mof.gov.na/documents/27827/212715/2016+Budget+Statement+-+25+Feb+2016.pdf/48de88a2-98a0-4d56-bd66-283fc27fbd56>).

According to the annual budget speech for 2017/18, the Ministry of Health and Social Services received the second highest allocation at N\$ 6.51 billion. Budget statement for 2017/18, delivered by Minister of Finance

Overall, Namibia's main health challenges are HIV/AIDS, malaria and tuberculosis. While the prevalence of HIV infection is still high by international standards, it has been substantially reduced (as discussed in more detail in section 7.5 below). Malaria cases in Namibia were reduced by 98% and deaths from malaria by 95% between 2001 and 2015,⁶ although some regions still see periodic resurgences of malaria in the rainy season.⁷ Tuberculosis (TB) remains a serious problem, with new and relapse cases affecting twice as many males as females in most age groups (in 2015):⁸

Namibia reported a marginal increase in the number of notified TB cases from 9 882 cases in 2014 to 9 944 cases in 2015, making the country one of the worst affected by TB in the world. The number of reported cases of multidrug resistant TB also increased from 137 to 190 during the same period, partly due to scale up of laboratory testing for TB drug resistance during the anti-TB drug resistance survey.⁹

Non-governmental organisations active in the intersection of gender and health include Synergos,¹⁰ the Namibian Planned Parenthood Association¹¹ and the Namibia Women's Health Network.¹²

7.1.2 National Policy on Sexual, Reproductive and Child Health (2013)

The ultimate goal of the Policy is attainment of the highest possible standard of sexual, reproductive and child health through the provision of equitable, accessible and affordable health and nutrition information and services.¹³ One of the Policy's guiding principles is "Non-discrimination and gender equality",¹⁴ and it explicitly mentions that Namibia's widespread gender-based violence results in women and girls having less control over their sexual and reproductive health.¹⁵ The Policy states that all Namibians shall be provided with quality sexual and reproductive health services irrespective of their creed, age, gender, sexual orientation, religion, political affiliation or social-economic status.¹⁶ It also states that all Namibians shall be protected from "harmful practices which are detrimental to sexual, reproductive health",¹⁷ which presumably encompasses harmful cultural and traditional practices.

The following Policy provisions are of particular relevance to women's rights:

19. Women and men shall have the right to make their own decisions about their reproductive health and to make their own choice to involve their partner or family member if they so wish after receiving all the necessary information.

Calle Schlettwein on 8 March 2017 at 26 (available at Ministry of Finance website: <www.mof.gov.na/documents/27827/345303/Budget+Statement+2017.pdf/9310da77-51f1-4e76-8d2a-f37c987af344>); R Brown, "The National Budget 2017-18", 23 May 2017 at 6 (available at <http://ippr.org.na/wp-content/uploads/2017/05/19_DB_Budget_WEB.pdf>).

⁵ "Namibia Country programme document 2014-2018", UNICEF, revised 2014 at para 4, citing the *Medium-Term Expenditure Framework 2013/2014 to 2015/2016*.

⁶ "Malaria deaths in Namibia down by 95 percent – Kavetuna", *New Era*, 25 April 2016.

⁷ Id. See also Alvine Kapitako, "Over 20 malaria deaths since January", *New Era*, 15 March 2017. Details can be found in the Namibia country profile 2016 (2015 data), World Health Organization website: <www.who.int/malaria/publications/country-profiles/profile_nam_en.pdf>.

⁸ *National Tuberculosis and Leprosy Programme Annual Report: 2015-2016*, Windhoek: Ministry of Health and Social Services at 304. Note that the legend indicating females and males appears to be reversed in Figure 5 at 3; compare Figure 6 at 4.

⁹ Id at 1.

¹⁰ Website: <www.synergos.org/partnerships/publichealthnamibia.htm>.

¹¹ Website: <<http://nappa.com.na/>>.

¹² Website: <<https://nwhn.wordpress.com/about/>>.

¹³ *National Policy on Sexual, Reproductive and Child Health*, Windhoek: Ministry of Health and Social Services, 2013 at 9.

¹⁴ Ibid.

¹⁵ Id at 6.

¹⁶ Id at 16.

¹⁷ Ibid.

20. All persons who are sexually active, regardless of age or marital status, shall have the right to be fully informed about available family planning options and methods, and shall have the right to receive the family-planning method of their choice.
21. Adolescents can access sexual and reproductive health services including family planning and STI services without parental consent after thorough counselling.
22. A written consent shall be obtained from an individual (man or woman) when requesting for any surgical procedure including vasectomy and tubal ligation after a thorough counselling.
23. Medical termination of pregnancy as per “Abortion and Sterilization Act (1975), as amended through Act 48 of 1982”, shall be provided when the pregnancy poses a threat to the life of the mother, in cases of gross congenital malformation and when the pregnancy is due to rape or incest.¹⁸

The Policy also makes it clear that adolescents have a right to access sexual and reproductive health services without parental consent (except in the case of surgical procedures), a right to know their HIV status and to control disclosure of that information, and a right to confidential handling of all their personal health information.¹⁹

This Policy is supplemented by the *National Standards for Adolescent Friendly Health Services*, which outline the minimum essential service package that should be available to adolescents at public health facilities in Namibia. These essential services include clinical services, referrals for other medical conditions or referrals for social support and counselling, and educational services for girls and boys on a variety of issues including sexuality, contraceptive methods and gender equality.²⁰

7.1.3 National Policy on HIV/AIDS (2007)

The *National Policy on HIV/AIDS*, which sets out strategies to respond to HIV/AIDS, recognises in its preamble that the unequal position of girls and women in society makes women more likely to become infected with HIV/AIDS and to be more adversely affected than men.²¹ It also explains that the low status of women contributes to the prevalence of HIV, as women have less freedom to decide when, with whom and how to have sex. Moreover, the need to engage in sexual activities for payment or security contributes to this pattern.²² Accordingly, the Policy acknowledges that “[a]n effective response to the epidemic requires the rights to equality . . . particularly with regard to gender”²³ and states specific rights of women and girls. Such provisions include rights to:

- Equal access to HIV health services and women-friendly health services
- Ability to make decisions regarding their own reproductive health
- Protection against sexual violence, coerced sex and negative traditional practices
- Equality within the family
- Protection against workplace sexual harassment
- Equal access to technological advances regarding HIV risk mitigation
- The development of gender-specific HIV/AIDS programmes
- Support services for persons who suffer adverse consequences for asserting their sexual rights with their partners.²⁴

¹⁸ Id at 18.

¹⁹ Id at 19.

²⁰ *National Standards for Adolescent Friendly Health Services*, Windhoek: Ministry of Health and Social Services, August 2011 at 8.

²¹ *National Policy on HIV/AIDS*, Windhoek: Republic of Namibia, Directorate of Special Programmes, 2007 at 1.

²² Id at 3.

²³ Id at 5.

²⁴ Id at 8.

The Policy states that persons, especially women, are entitled to information regarding the property rights of a surviving spouse and how to protect them. Additionally, it states that persons engaged in transactional sex shall be supported through education and counselling regarding how to prevent HIV infection.²⁵ It also acknowledges that factors such as women's dependency on men, lack of women's empowerment and men taking insufficient responsibility for their behaviour all contribute to the risk of HIV infection. Accordingly, it includes provisions that aim to reduce such gender imbalances.²⁶

Namibia also has a *Policy on Male Circumcision for HIV Prevention* which aims to promote safe male circumcision services and involve women in this issue as partners and mothers.²⁷ This Policy notes that, while male circumcision has been shown to significantly reduce the risk of HIV infection in men, it offers no protection against HIV to women.²⁸

7.2 Life expectancy and causes of death

Life expectancy at birth in Namibia in 2016 was 65.1 years,²⁹ which was well above the Sub-Saharan African life expectancy of 58.9 years.³⁰ Disaggregated by sex, life expectancy for females was 67.5 years and for males was 62.5 years,³¹ while in Sub-Saharan Africa life expectancy for females was 60.2 years and for males was 57.6 years.³² There has been a notable increase in life expectancy for both females and males in Namibia since the *2011 Census*, which found life expectancy to be 56.8 years overall, 60.5 years for women and 53.3 years for men.³³

A 2016 analysis of the state of health notes that life expectancy for both males and females declined from independence in 1990 to 2004, then entered a phase of increase after that.³⁴ The current rates of life expectancy have topped the 1990 levels of 65.7 for women and 59.0 for men.³⁵

²⁵ Id at 10-11, 14.

²⁶ Id at 16-17, 30-31. For example, it promotes the policy of encouraging young people to stay in school, including the aim of making tertiary education affordable, especially for women. It pronounces that everyone have access to appropriate education and accurate information about HIV/AIDS, including information about relationships, preventing mother to child transmission, safe sex and non-discrimination. Further, in developing these programmes, it states that the government shall include relevant populations (including women) in designing such curricula.

²⁷ *Policy on Male Circumcision for HIV Prevention*, Windhoek: Ministry of Health and Social Services, 2010 at 11-12. The Policy states at 15: "Women and girls should be involved in discussions and decisions about [male circumcision]. Messages targeted directly to women and girls about [male circumcision's] risks, benefits, and limitations to both males and females are essential."

²⁸ Id at 3.

²⁹ United Nations Development Programme, *Human Development Report 2016: Human Development for Everyone*, 2016 at 200 (hereinafter "*Human Development Report 2016*"), citing United Nations, Department of Economic and Social Affairs, *World Population Prospects: The 2015 Revision*.

³⁰ Id at 201. This report lists 46 countries in Sub-Saharan Africa: Angola, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, Comoros, Congo, Democratic Republic of the Congo, Côte d'Ivoire, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, South Africa, South Sudan, Swaziland, United Republic of Tanzania, Togo, Uganda, Zambia and Zimbabwe.

³¹ Id at 212.

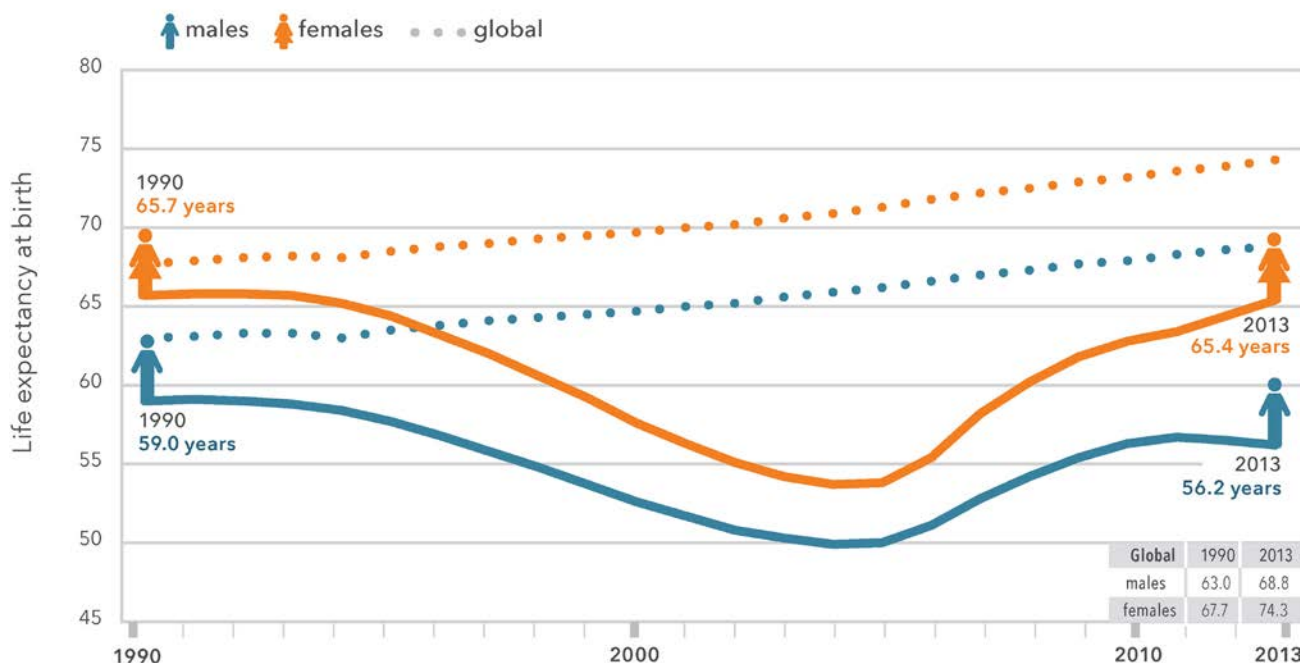
³² Id at 213.

³³ Namibia Statistics Agency, *Namibia 2011 Census Mortality Report*, 2014 at 12.

³⁴ Institute for Health Metrics, *Namibia: State of the Nation's Health Findings from the Global Burden of Disease*, 2016 at 13.
(available at <www.healthdata.org/sites/default/files/files/policy_report/2016/PolicyReport_Namibia_2016.pdf>).

The main cause for the change has been the reduction in HIV/AIDS-related deaths, which peaked in 2005. By 2013, rates of death from HIV/AIDS had more than halved for females and almost halved for males – although HIV/AIDS still remained the leading cause of death for both sexes in 2013, followed by tuberculosis.³⁶

Life expectancy for males and females in Namibia, 1990-2013



Source: Institute for Health Metrics, *Namibia: State of the Nation's Health Findings from the Global Burden of Disease*, 2016 at 13. As noted above, there has been a further increase in life expectancy for both women and men from 2013 to 2015. United Nations Development Programme, *Human Development Report 2016: Human Development for Everyone*, 2016 at 200, 212.

This analysis also notes:

Injuries, including suicide (self-harm), road injury, and homicide (interpersonal violence), disproportionately killed young males in 2013. *Almost half of all deaths in males 20-24 years old are from injuries, compared to just 15% for females.* Among the injury categories for males 20-24 years old, self-harm was the leading cause of death, followed by interpersonal violence.³⁷

Although violence against women has received a substantial amount of attention in Namibia, as it should, there has been little public discussion of the level of interpersonal violence between males – which ranked higher as a cause of death for males than for females in 2013. In fact, self-harm and interpersonal violence combined are responsible for almost a third (29%) of all deaths of males between the ages of 20 and 24 years.³⁸ When looking at the leading causes of death by sex (see the table on the next page), these differences stand out:

³⁵ The Institute for Health Metrics report noted, on the basis of 2013 life expectancy rates, that “life expectancy for males and females is still not at the level it was in 1990”. Ibid. However, the latest UN figures (cited above) indicate a further increase between 2013 and 2016.

³⁶ Institute for Health Metrics, *Namibia: State of the Nation's Health Findings from the Global Burden of Disease*, 2016 at 13, 18. In 2013, Namibia had the lowest rate of new cases of HIV/AIDS, and the lowest mortality rate from HIV/AIDS of any country in southern Sub-Saharan Africa (Namibia, Botswana, Lesotho, Swaziland, South Africa, and Zimbabwe). Id at 11.

³⁷ Id at 11 (emphasis added).

³⁸ Id at 20.

For males, injuries feature prominently in the top 10, with suicide (self-harm) and interpersonal violence both rising in importance from 2000 to 2013 (self-harm increased from eighth to seventh; interpersonal violence increased from 13th to 10th; road injuries remained ninth). These same causes do not feature in the top 10 causes of death for females (self-harm remained 20th, road injuries were 15th, and interpersonal violence was 18th).³⁹

Leading causes of death in Namibia 2013	
Female	Male
1. HIV/AIDS	1. HIV/AIDS
2. Tuberculosis	2. Tuberculosis
3. Cerebrovascular disease (stroke)	3. Lower respiratory infection
4. Lower respiratory infection	4. Ischemic heart disease
5. Ischemic heart disease	5. Cerebrovascular disease (stroke)
6. Diarrheal diseases	6. Diarrheal diseases
7. Diabetes	7. Self-harm
8. Hypertensive heart disease	8. Chronic obstructive pulmonary disease
9. Chronic obstructive pulmonary disease	9. Road injuries
10. Endocrine, metabolic, blood & immune disorders	10. Interpersonal violence
11. Asthma	11. Diabetes
12. Other cardiovascular	12. Asthma
13. Other neonatal	13. Other neonatal
14. Cardiomyopathy	14. Preterm birth complications
15. Road injuries	15. Hypertensive heart disease
16. Preterm birth complications	16. Malaria
17. Neonatal encephalopathy	17. Endocrine, metabolic, blood & immune disorders
18. Interpersonal violence	18. Chronic kidney disease
19. Chronic kidney disease	19. Drug use disorders
20. Self-harm	20. Neonatal encephalopathy

Source: Institute for Health Metrics, *Namibia: State of the Nation's Health Findings from the Global Burden of Disease*, 2016 at 18-19.

7.3 Fertility and family planning

7.3.1 Fertility rates

The most recent available data, from the *2013 Demographic and Health Survey*, indicate that the total fertility rate⁴⁰ in Namibia was 3.6 children per woman.⁴¹ Although this remained unchanged since the *2006-07 Demographic and Health Survey*,⁴² fertility has declined among women in Namibia across all age groups over the past 20 years.⁴³

The *2011 Census Fertility Report*, which relies on results from the *2011 Census*, found that the total fertility rate in Namibia was 3.9 children per woman, a slight decline from the *2001 Census* (which reported 4.1 children per woman).⁴⁴ According to age-specific fertility rates from the *2013 Demographic and Health Survey*, fertility peaked amongst women aged 20-29, decreasing slightly for women aged 30-39 and

³⁹ Id at 19.

⁴⁰ The total fertility rate is defined as “the number of children a woman would have by the end of her childbearing years if she were to pass through those years bearing children at the current age-specific fertility rates.” *2013 Demographic and Health Survey* at 56.

⁴¹ Id at 55.

⁴² Id at 56.

⁴³ Id at 57.

⁴⁴ Namibia Statistics Agency, *Namibia 2011 Census Fertility Report*, June 2014 at 8, 14 (hereinafter “*2011 Census Fertility Report*”).

significantly declining thereafter.⁴⁵ The *2011 Census Fertility Report* indicated a similar trend, with fertility peaking in the 25-29 age group.⁴⁶

Both the *2013 Demographic and Health Survey* and the *2011 Census Fertility Report* found that the total fertility rate was higher in rural areas than in urban areas (4.7 children per woman versus 2.9 children per woman according to the *2013 Demographic and Health Survey*, and 4.6 children per woman versus 3.2 children per woman according to the *2011 Census Fertility Report*), with higher rural fertility across all age groups noted in the *2013 Demographic and Health Survey*.⁴⁷ As would be expected, the *2013 Demographic and Health Survey* found that the total fertility rate also varied between regions. Ohangwena had the highest total fertility rate at 5.3 children per woman, followed by Omaheke and Kavango at 4.6 each, while Khomas had the lowest total fertility rate at 2.6 children per woman.⁴⁸

Linkages between education, wealth, occupation and fertility are also notable. According to the *2013 Demographic and Health Survey*, there was a steady decrease in fertility as women's education levels increased, from 5.3 children per woman among women with no education to 2.2 children per woman among women with post-secondary education.⁴⁹ This same trend was present in the data from the *2011 Census Fertility Report*, in which fertility levels decreased with higher levels of education.⁵⁰ The *2013 Demographic and Health Survey* found that women in the lowest wealth quintile had a total fertility rate of 5.5 children per woman, which decreased to 2.3 children per woman among those in the highest wealth quintile.⁵¹ Whether women were studying or working also appeared to affect their fertility levels. As reported in the *2011 Census Fertility Report*, students had the lowest total fertility rate at 1.98 children per woman. Women who were working had a lower total fertility rate than unemployed women, and homemakers had the highest total fertility rate at 5.9 children per woman. Among employed women, those in subsistence farming had a considerably higher total fertility rate than women in other employment activities, at 5.8 children per woman.⁵²

7.3.2 Age at first birth

The *2011 Census Fertility Report* does not include information on age at first birth. However, women surveyed for the *2013 Demographic and Health Survey* were asked about their age when they gave birth to their first child. Among women aged 20-49, less than 2% gave birth by age 15, 16% gave birth by age 18 and 35% gave birth by age 20. The median age at first birth for women aged 25-49 at the time of the survey was 21.6 years, a minor increase from 21.4 years as reported in the *2006-07 Demographic and Health Survey*. The median age at first birth for women aged 25-49 varies across regions; in Kavango it was 19.3 years, while in Khomas it was 23.1 years. The median age at first birth for women with secondary education was higher than for women with primary or no education (22.1 years versus 19.5 years), and higher for those in the highest wealth quintile than for those in the lowest wealth quintile (23.9

⁴⁵ *2013 Demographic and Health Survey* at 55-56.

⁴⁶ *2011 Census Fertility Report* at 9.

⁴⁷ *2013 Demographic and Health Survey* at 55-56; *2011 Census Fertility Report* at 8.

⁴⁸ *2013 Demographic and Health Survey* at 56. The *2011 Census Fertility Report* also found the total fertility rate varied by region, with the lowest total fertility rate in Khomas (3 children per woman) and the highest in Kunene (5.3), followed by Ohangwena (4.9), Omaheke and Kavango (4.6 each). *Namibia 2011 Census Fertility Report* at 8.

⁴⁹ *2013 Demographic and Health Survey* at 56.

⁵⁰ *2011 Census Fertility Report* at 16-17.

⁵¹ *2013 Demographic and Health Survey* at 56.

⁵² *2011 Census Fertility Report* at 17-16.

years versus 19.9 years).⁵³ In sum, it is evident that **lower levels of education and income correlate to giving birth for the first time at a younger age.**

7.3.3 Teen pregnancy

Among girls and young women aged 15-19 at the time of the *2013 Demographic and Health Survey*, almost 19% had begun childbearing (almost 14% had given birth and almost 5% were pregnant), although **less than 4% had begun childbearing by age 15 while almost 34% had done so by age 19.** Teen pregnancy (or those who had begun childbearing) was significantly higher among those in the lowest wealth quintile compared to the highest wealth quintile (28% versus 8%) and was slightly higher in rural versus urban areas (20% versus 17%). Regionally, Kunene had the highest proportion of teen pregnancy amongst girls aged 15-19 at 39%, followed by Omaheke at 36% and Kavango at 34%.⁵⁴

Legal issue

The current minimum age for civil marriage is 18. There is no set minimum age for customary marriage (traditionally allowed from puberty), but this will change when the **Child Care and Protection Act 3 of 2015** comes into force. It will make 18 the minimum age for marriage across the board, as well as criminalising arrangement of a child marriage. However, steps to popularise this new rule may be necessary to ensure that it is observed in practice.

The *2011 Census Fertility Report* indicates that births to persons in this age group accounted for 12% of the total live births in the year preceding the *2011 Census*.⁵⁵ While this reflects a noticeable proportion of births by adolescents, the figure decreased significantly from 23% as reported in the *2001 Census*.⁵⁶ The *2011 Census Fertility Report* also includes information on the fertility of girls aged 12-14, which is not covered by the *2013 Demographic and Health Survey*. Within that age group, as of 2011 the fertility rate was 13 births per 1 000 females, as compared to 68 births per 1 000 females amongst those aged 15-19.⁵⁷ Fertility levels among girls aged 12-16 were similar in rural and urban areas, with slightly higher rural fertility at ages 17-18 and noticeably higher rural fertility at age 19. **The 2011 Census Fertility Report notes that higher fertility in rural areas at age 19 was in part due to the rise in marriages or consensual unions at that age.**⁵⁸ Moreover, girls and young women aged 15-19 who had entered into a marriage or consensual union had fertility rates that were approximately five times higher than those who had never married,⁵⁹ leading to the following observation:

The persistent high fertility rate at young ages cannot be disconnected from early entering into marital unions; it can hence be concluded that marital unions have a significant influence on the high fertility rate of young mothers.⁶⁰

In terms of the effect of educational attainment, data from the *2011 Census Fertility Report* demonstrate that **girls and young women aged 12-19 with no formal education were more likely to give birth than those who attained at least some level of education.** In particular, rural females aged 15-19 with no formal education had the highest fertility rate. The *2011 Census Fertility Report* concludes that **young**

⁵³ *2013 Demographic and Health Survey* at 62-63.

⁵⁴ *Id* at 64.

⁵⁵ *2011 Census Fertility Report* at 23.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.* The definition of age-specific fertility rate in this report is “the number of births during a year to women in a particular age group per 1,000 women in a five-year age group at midyear.” *Id* at 9.

⁵⁸ *Id* at 24-25.

⁵⁹ *Id* at 25-26.

⁶⁰ *Id* at 26.

mothers with no education living in rural areas were especially vulnerable to unwanted pregnancies, owing to a lack of awareness and insufficient access to information on reproductive health.⁶¹

There has been some more detailed consideration of the factors that contribute to the high prevalence of teen pregnancy in the Kavango region, which has had consistently high rates of teen pregnancy.⁶² This 2011 study, discussed in more detail in the following chapter on education, found that about 90% of the teen pregnancies in this region were unwanted and resulted from “**delayed, inconsistent, or ineffective use of contraception**”.⁶³ Teens knew about family planning, but did not employ it regularly or correctly, and often not at all until after their first pregnancy.⁶⁴ Therefore, the study recommended friendlier adolescent health services, with strengthened outreach programmes, combined with improved communication on the specifics of contraceptive use – while also encouraging young people to be more proactive about managing their own futures and facilitating good communication between teens and the adults in their families and communities.⁶⁵ This study also found that the first sexual encounter for nearly 37% of the respondents who had ever had sex was not consensual,⁶⁶ and so recommended policy-level efforts to ensure proper implementation of the laws on child rape.⁶⁷

Policy issue

The **Education Sector Policy for the Prevention and Management of Learner Pregnancy** provides a flexible, case-by-case approach to pregnant learners and learner mothers, to take into account the specific needs of the mother and infant and the preferences of the family and school. The learner mother may choose to return to school as soon as she can show that the infant is being properly cared for, or she may choose to take a period of leave lasting up to one calendar year from the date she left school because of the pregnancy. She may take a longer leave of absence, but then her place at school will not be reserved. Learner fathers are encouraged to be involved and responsible fathers and to share in the duty of maintenance. They are allowed to continue their education so as to be in a better position to assist with future financial support for the child. This Policy is discussed in more detail in the following chapter.

7.3.4 Fertility preferences

The *2013 Demographic and Health Survey* asked women and men aged 15-49 specific questions regarding their fertility preferences: whether they wanted more children; if so, how long they wanted to wait before having their next child; and if they could start again, how many children they would want. Out of all married women and men surveyed, 72% of women and 59% of men stated that they wanted to either delay having their next child for two or more years, or not have more children at all. The more living children married women had, the less likely they were to want more children; 52% of women without children wanted to have a child soon, compared to just 4% of women with six or more children.⁶⁸

Married women in urban and rural areas were almost equally likely to want to limit childbearing, at 52% and 53%, respectively. Regionally, married women in Zambezi were least likely to want to limit childbearing (at 34%), while at the other end of the spectrum, 66% of married women in Omaheke did not

⁶¹ Id at 26-27.

⁶² PM Eloundou-Enyegue and Shirley Magazi, Global Health Technical Assistance Project, *Teenage Pregnancy in Kavango Region: Contributing Factors and Program Recommendations*, United States Agency for International Development, November 2011.

⁶³ Id at 28.

⁶⁴ Id at 21-22.

⁶⁵ Id at 29-30.

⁶⁶ Id at 26.

⁶⁷ Id at 30. The relevant laws are discussed in the chapter on gender-based violence.

⁶⁸ *2013 Demographic and Health Survey* at 65-66.

want more children. Interestingly, married women with greater educational attainment were *less* likely to want to limit childbearing; 60% of women with no education did not want more children, compared to 47% of women with post-secondary education.⁶⁹ There was no clear pattern between household wealth and preference to limit childbearing. However, regardless of residence, region, education level or household wealth, married women's desire to limit childbearing increased with the number of children they already had.

All women and men, irrespective of their marital status, were asked about their ideal number of children. The mean ideal number of children for all women was 3.2, with married women reporting a higher mean ideal number of 3.9 children.⁷⁰ It is interesting to note that the ideal number of children for all women was lower than the total fertility rate reported in the *2013 Demographic and Health Survey* (discussed above), which is 3.6 children per woman. However, the *2013 Demographic and Health Survey* notes that the relationship between the actual and stated ideal number of children must be considered when interpreting the data for the following reasons:

[T]o the extent that women are able to fulfil their fertility desires, those who want large families will achieve large families...because women with large families are, on average, older women, they may prefer a greater number of children because of the attitudes toward childbearing to which they were exposed during the early stages of their reproductive lives. Finally, some women may have difficulty admitting that they would prefer fewer children than they currently have.⁷¹

The mean ideal number of children varied based on age, residence, region, education and household wealth. Younger women tended to desire fewer children than older women and the mean ideal number of children was higher for rural women (3.5 children) than for urban women (3 children). Across regions, the mean ideal number of children ranged between 2.4 in Hardap and 4.1 in Ohangwena.⁷² In all but three regions (Erongo, Khomas, and Oshana), the mean ideal number of children was lower than the total fertility rate,⁷³ which could indicate that information about family planning and contraceptives was lacking in many regions of the country or that women did not have sufficient control over their fertility. The mean ideal number of children was lower for women with higher educational attainment and higher household wealth compared to women with no education and lower household wealth.⁷⁴

Interestingly, although married women with greater educational attainment were *less* likely than other women to want to limit childbearing, their expressed ideal number of children was also *lower*. There could be several reasons for this apparent contradiction. Firstly, although generally less-educated women were more likely to want to limit childbearing than more-educated women, it is possible that women with less education who *did* want children tended to want more of them – which would make the mean ideal number of children higher for this group as a whole. The difference may also relate to the number of children that women who answered the question already had (which was typically higher for women with less education); in other words, it is possible that a woman would have felt uncomfortable saying that her ideal number of children was two when she already had five children, for example, while she might have still acknowledged a desire to limit childbearing in response to a different survey question.

To determine levels of unwanted fertility, the *2013 Demographic and Health Survey* asked girls and women aged 15-49 whether children born to them in the five years preceding the survey (including any

⁶⁹ Id at 67.

⁷⁰ Id at 68.

⁷¹ Id at 67-68.

⁷² Id at 69.

⁷³ Id at 56, 69.

⁷⁴ Id at 69.

pregnancies they had at the time of the survey) were planned, mistimed or unplanned. The survey notes that the extent of unwanted births may have been underestimated since some women may have said that a pregnancy or birth they did not want was in fact desired. Among all women surveyed, 49% percent of births were wanted, 41% were wanted but at a later time, and 10% percent were unwanted. Younger women were more likely to have mistimed births (60% of births to women under 20 were wanted but at a later time), while older women were more likely to have a birth that was unwanted (27% of births to women aged 40-44 were unwanted). The number of unwanted births also increased based on birth order. While only 5% of first births were unwanted, 19% of births that came fourth or higher in birth order were unwanted.⁷⁵

The wanted fertility rate indicates the fertility levels that would supposedly exist if all unwanted births were prevented. According to the *2013 Demographic and Health Survey*, a birth is wanted “if the number of living children at the time of conception is less than the ideal number of children reported by the respondent.”⁷⁶ In line with the previously mentioned trend of a total fertility rate which is higher than the ideal mean number of children, the overall wanted fertility rate was 2.9 as compared to the national total fertility rate of 3.6. Across all regions and regardless of urban or rural residence, education level or household wealth, the wanted fertility rate was lower than actual fertility levels. The largest differences between wanted fertility and actual fertility were evident among rural women (a difference of 1.2 children), women living in Omaheke (a difference of 1.5 children), women with no education, and women in the lowest wealth quintile (a difference of 1.6 children in each of these cases).⁷⁷

7.3.5 Contraception

In Namibia, there is nearly universal knowledge (above 99%) of at least one method of contraception among women and men aged 15-49.⁷⁸ The *2013 Demographic and Health Survey* found that both women and men had knowledge of between seven and eight contraceptive methods on average, which is an increase from the *2006-07 Demographic and Health Survey* in which both sexes knew of six methods on average.⁷⁹ As for knowledge of the fertile period (the time period in which a woman can become pregnant), only 16% of girls and women surveyed knew that they were the most fertile midway through their menstrual cycles.⁸⁰

Over the past two decades, contraceptive use by women in Namibia has more than doubled.⁸¹ While just under 50% of all women were using a modern contraceptive method⁸² at the time of the *2013 Demographic and Health Survey*, figures regarding married women and sexually-active unmarried women indicated that 55% of the former and 78% of the latter were using a modern contraceptive

⁷⁵ Id at 69-70.

⁷⁶ Id at 70.

⁷⁷ Ibid.

⁷⁸ Id at 72.

⁷⁹ Ibid.

⁸⁰ Id at 80.

⁸¹ Id at 76.

⁸² The *2013 Demographic and Health Survey* classifies modern contraceptive methods as including female sterilization, male sterilization, the pill, the intrauterine contraceptive device, injectables, implants, male condoms, female condoms, the lactational amenorrhoea method, the contraceptive patch and emergency contraception. Id at 71.

The intrauterine contraceptive device is more familiarly known as an IUD or a coil. The lactational amenorrhoea method is a temporary contraceptive method that relies on exclusive breastfeeding, which can be used from birth up to six months afterwards as long as the woman has not yet resumed menstruation during this time.

method.⁸³ Married women were most likely to use injectables as a contraceptive method (at 27%) followed by male condoms (at 12%), while sexually-active unmarried women were most likely to use male condoms (at 40%) and then injectables (at 27%).⁸⁴ On average, less than 1% of all women were using traditional contraceptive methods.⁸⁵ However, it should be noted that 5% of married girls and young women aged 15-19 were using unspecified traditional methods of contraception,⁸⁶ which may be one reason for the prevalence of teen pregnancy in this age group in some areas.

Amongst all girls and women aged 15-49, use of contraception varied by number of children, residence, region, education level and household wealth. However, these figures should be interpreted with caution as it appears the survey sample included both sexually active and non-sexually active women, in which case the responses by non-sexually active women who were not using contraception may have significantly altered the results. Women residing in urban areas were more likely to use any contraceptive method than women in rural areas, at 56% and 43%, respectively. Regionally, women in //Kharas were most likely to use contraceptives (60%), followed by Oshana (58%) and Erongo (55%), but less than 40% of women in Ohangwena and Omusati were using contraceptives (39% and 37%, respectively). As education and wealth increased, so too did the use of contraceptives. While only 34% of women with no education and 40% of women in the lowest wealth quintile used any contraceptive method, 58% of women with post-secondary education and 54% of women in the highest wealth quintile did so.⁸⁷ With few exceptions,⁸⁸ injectables and male condoms were the most commonly used methods regardless of varying background characteristics.

It was much more common for girls and women to obtain their contraceptives from the public sector (73%) than the private sector (12%) or other sources, such as shops, friends and relatives or school (11%). Within the public sector, most girls and women received contraceptives from government primary health care clinics (48%) and government hospitals (22%), while just 2% received them from government health centres.⁸⁹ As for the information they were given when obtaining modern contraceptives, 65% of girls and women were told of other available methods, while just 57% reported being informed about side effects or health problems associated with their chosen method; only 51% were told what to do if side effects occurred.⁹⁰ In general, girls and women were more likely to receive such information if they obtained their contraceptives from a private doctor or hospital, rather than through the public sector.⁹¹

The discontinued of use of contraception was also addressed in the *2013 Demographic and Health Survey*, which found that 19% of episodes of contraceptive use that had been started in the five years preceding the survey were discontinued within 12 months. Episodes were discontinued for a variety of reasons, including switching to another method and wishing to become pregnant, but the most common

⁸³ Id at 73.

⁸⁴ Ibid.

⁸⁵ Ibid. Traditional methods include “fertility awareness methods such as rhythm (periodic abstinence), withdrawal, and various folk methods such as use of strings and herbs”. Id at 71.

⁸⁶ Id at 73.

⁸⁷ Id at 75.

⁸⁸ Women from Hardap were most likely to use injectables (24%), followed by female sterilization (9%) and male condoms (8%). Amongst women with post-secondary education, the pill was slightly more common than injectables (9% versus 8%), but male condoms were by far the most commonly used method (28%). Ibid.

⁸⁹ Id at 77.

⁹⁰ Id at 78. The girls and women who were asked for this information were those aged 15-49 who were using a modern contraceptive method at the time of the survey and who had started the last episode of use within the five years preceding the survey. Id at 77.

⁹¹ Ibid.

reason involved side effects and concerns about health.⁹² The reasons for discontinuation also varied depending on the specific contraceptive method used. Leaving aside the number of discontinuations that resulted from a desire to become pregnant, side effects and health concerns were by far the most common reasons for discontinuing the pill and injections (24% and 44%, respectively).⁹³ **The most common reason for discontinued use of the male condom was becoming pregnant while using it (28% of discontinuations),⁹⁴ which could indicate a widespread lack of knowledge about the proper use of male condoms.** A significant proportion of discontinued use of the pill (13%) also resulted from becoming pregnant. Notably, in cases of male condom use, 8% of discontinuations were caused by the husband's disapproval. Lack of access to contraceptives was not a significant problem for those using male condoms, being cited as the reason for less than 1% of discontinuations. However, girls and women using the pill and injections were more likely to discontinue use because of lack of access or distance issues (5% and 7% of discontinuations, respectively).⁹⁵

The *2013 Demographic and Health Survey* defined the following women as those with an unmet need for family planning: women who wanted to postpone their next birth for two or more years, or wanted to stop childbearing completely, but who were not using contraception; pregnant women with a mistimed or unwanted pregnancy; and amenorrhoeic women with a mistimed or unwanted last birth.⁹⁶ Thus, unmet needs encompassed both needs for spacing births and needs for limiting births altogether. Among all women aged 15-49, almost 12% had an unmet need for family planning, while **18% of married women and 14% of sexually-active unmarried women stated that their family planning needs were not met.** The women with significant unmet needs for family planning were rural women (15%), women with no education (24%), and women in the lowest wealth quintile (18%). At the regional level, 18% of women living in Kunene and 16% of women living in Kavango and Omaheke had unmet family planning needs, compared to 7% of women living in Erongo and 8% of women living in Oshana. The total demand for family planning among married women and sexually-active unmarried women was 74% and 92%, respectively.⁹⁷ Since 56% of married women and 78% of sexually-active unmarried women were using a family planning method, the percentage of demand for contraception that was satisfied (met need divided by total demand) was 76% for married women and 84% for sexually active unmarried women; for all women, the figure was 81%, which means that "81 percent of the potential demand for family planning is being met."⁹⁸

As messages about family planning are typically delivered through radio, television, newspapers and magazines, the *2013 Demographic and Health Survey* asked respondents whether they had received information about family planning from these sources in the few months prior to the survey. Among girls and women aged 15-49, 39% had recently heard family planning messages on the radio, 28% had recently seen messages on television and 31% had recently read them in newspapers or magazines, while 49% had had no exposure to family planning messages via any of these sources. The figures were quite similar for boys' and men's exposure to family planning messages. With the exception of women living in Khomas, women with post-secondary education and women in the highest wealth quintile, women throughout the country were most likely to hear about family planning on the radio. As would be expected, women in urban areas had more access to family planning messages via media sources as compared to women in

⁹² Id at 79.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Id at 80.

⁹⁷ Id at 81.

⁹⁸ Id at 80-81.

rural areas. Regionally, exposure to family planning messages was significantly lower in Ohangwena and Omusati, and to a lesser extent Kunene, as compared to other regions.⁹⁹

Besides media sources, information about contraceptive methods in Namibia is delivered through family planning providers. Women who were not using any kind of contraception at the time of the *2013 Demographic and Health Survey* were asked whether they had discussed family planning either with a health fieldworker or at a health facility in the 12 months prior to the survey. The vast majority of female respondents (85%) stated they had done neither. Less than 7% had talked about family planning during a fieldworker visit and only 11% discussed it during a visit to a health facility, while 37% attended a health facility but did not discuss family planning.¹⁰⁰ The *2013 Demographic and Health Survey* rightly states that this “indicates a missed opportunity for potential users of family planning who could be targeted for family planning information and counselling. Outreach services provided by health extension workers could be practical in reaching these women.”¹⁰¹

7.3.6 Abortion

The Office of the Ombudsman has found that abortion is prevalent in Namibia despite being illegal in most circumstances. Because women cannot access legal abortions, they resort to unsafe abortions or may turn to baby-dumping or infanticide. While some women can afford to travel outside Namibia to have a safe abortion, many women do not have that option, so the law has a disproportionately negative impact on women with lesser financial resources.¹⁰⁴ Thus, the Office of the Ombudsman has called for the legalisation of abortion,¹⁰⁵ recommending that the legislation on abortion be reviewed and amended so as to prevent “clandestine and unsafe abortions, unwanted pregnancies, maternal mortality and the abandonment of infants”.¹⁰⁶

Legal issue

Pursuant to the **Abortion and Sterilization Act 2 of 1975**, abortion is unlawful in Namibia unless it is procured by a medical practitioner under specific circumstances as described in the statute. These circumstances, which are exhaustive, are as follows: (1) the continued pregnancy endangers the life of the woman concerned or constitutes a serious threat to her physical health; (2) the continued pregnancy constitutes a serious threat to the mental health of the woman concerned; (3) there exists a serious risk that the child will suffer from a physical or mental defect that will result in that child being irreparably seriously handicapped; or (4) the foetus is alleged to have been conceived through “unlawful carnal intercourse”, including alleged rape, incest or unlawful carnal intercourse with a woman who is an “idiot or imbecile”.¹⁰² In each of these situations, two medical practitioners, neither of whom can perform the abortion and at least one of whom must have certain qualifications, must certify in writing their opinion on the nature of the circumstances and the necessity of the abortion.¹⁰³

⁹⁹ Id at 83.

¹⁰⁰ Id at 84.

¹⁰¹ Ibid.

¹⁰² Abortion and Sterilization Act 2 of 1975, section 3(1)(a)-(d). Section 3(1)(d)(bb) of the Abortion and Sterilization Act 2 of 1975, read together with section 11(2) on unlawful carnal intercourse with a woman who is an “idiot or imbecile”, references the South West African Girls’ and Mentally Defective Women’s Protection Proclamation 28 of 1921, which was replaced by the South West African Combating of Immoral Practices Act 21 of 1980 (still in force in independent Namibia). Section 15 of the 1980 statute makes it a criminal offence “to have unlawful carnal intercourse with any female idiot or imbecile in circumstances which do not amount to rape”, or to engage in certain related actions. It is not clear how this aspect of the Abortion and Sterilization Act 2 of 1975 would be interpreted now as there are no reported cases involving this provision.

¹⁰³ Abortion and Sterilization Act 2 of 1975, section 3(1)-(2).

¹⁰⁴ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman, 2013 at 51.

¹⁰⁵ Id at 18.

¹⁰⁶ Id at 21.

Namibia's *National Human Rights Plan 2015-2019*, approved by Parliament in late 2014, stops short of this stance, recommending that "[f]ormal research be commissioned on abortion before dialogue and debate is encouraged".¹⁰⁷

A 2017 media briefing by the Minister of Health and Social Services indicated that 7 335 abortions were recorded at State hospitals throughout the country in 2016,¹⁰⁸ and that only 138 of those abortions (almost 2%) were on medical grounds.¹⁰⁹ However, it is important to note that 7 197 of these "abortions" were in fact "spontaneous abortions", a medical term that refers to miscarriages.¹¹⁰ Out of the 138 abortions carried out on medical grounds, there is no data available regarding the cause of the procedures, such as how many were necessary to save the life of the mother or how many were the result of deliberately attempted abortions.

The *2013 Demographic and Health Survey* links unsafe abortions to maternal mortality, stating: "Prevention of unwanted pregnancies and provision of safe abortion services, as allowed by law, could reduce maternal deaths and injuries caused by unsafe abortions."¹¹¹

During 2013-2015, approximately 18 cases of illegal abortion were reported to the Namibian Police on average, with arrests typically being made in just over half of each year's cases.¹¹²

Reported cases of illegal abortion		
	Number of cases	Number of arrests
2013	23	11
2014	19	10
2015	13	8

Source: NamPol statistics, July 2016.

The Ministry of Health and Social Services conducted a study in 2006 on emergency obstetric care. This study showed that 21% of direct complications and 8% of deaths reported were attributed to abortion. However, it should be noted that only 12 deaths were recorded in total. Furthermore, it is not clear whether the definition of abortion differentiated between legal, illegal and spontaneous abortions.¹¹³

The *Southern Africa Gender Attitude Survey 2016* was conducted in Southern African Development Community (SADC) member countries to gauge public attitudes on various gender issues, with more than 4 000 persons being interviewed in Namibia.¹¹⁴ **One of the survey questions asked respondents to agree or disagree with the statement "A woman should be able to choose to terminate a pregnancy in the first three months of her pregnancy". Almost half of the respondents in Namibia agreed with this**

¹⁰⁷ *National Human Rights Plan 2015-2019*, Windhoek: Republic of Namibia, [2014] at 12.

¹⁰⁸ Media Briefing by Dr Bernard Haufiku, Minister of Health and Social Services, 27 March 2017 at 3.

¹⁰⁹ Ibid.

¹¹⁰ Dianne Hubbard, "Abortion: Numbers, Rights and Practicalities", *The Namibian*, 11 April 2017.

¹¹¹ *2013 Demographic and Health Survey* at 93.

¹¹² NamPol statistics, July 2016. All of the persons arrested were adults.

¹¹³ *Report on needs assessment for emergency obstetrics care*, Windhoek: Ministry of Health and Social Services, 2006 at 23. An earlier report on abortion conducted by the Ministry of Health and Social Services combined legal, illegal and spontaneous abortions. *Report of a hospital based study on abortion in Namibia*, Windhoek: Ministry of Health and Social Services, 2000.

¹¹⁴ Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016. In Namibia, this questionnaire was administered to 4 292 persons (53% women, 47% men) between 2 July 2015 and 17 June 2016, during gender-related village workshops or local government workshops. Id at 21.

statement (45% of women and 42% of men).¹¹⁵ This suggests that public opposition to liberalisation of Namibia's restrictive abortion laws is not as widespread as might have been supposed.

7.3.7 Forced sterilization

Sterilization that takes place without full, free and informed consent has been referred to as involuntary, coercive and/or forced sterilization, depending on the context.¹¹⁶ Coerced sterilization is defined as “the use of coercion in obtaining the necessary informed consent for the sterilization procedure”, while forced sterilization “refers to instances where the woman is unaware that she would be undergoing a sterilization procedure at the time of the surgery and only learns of the sterilization after the fact.”¹¹⁷

These practices are a violation of a number of human rights, including the rights to health, information and privacy, as well as the rights to decide on the number and spacing of children, to found a family and to be free from discrimination.¹¹⁸ Forced and coerced sterilization also violate the rights to bodily integrity, security of the person, dignity, equality, informed consent and confidentiality.¹¹⁹ Moreover, forced sterilization has been deemed a violation of the right to be free from torture and other cruel, inhuman or degrading treatment or punishment;¹²⁰ the UN Special Rapporteur has stated that in addition to violating these fundamental rights, forced sterilization is an act of violence and a form of social control.¹²¹ Women, including women with HIV, indigenous and ethnic minority girls and women, women with disabilities and transgender and intersex persons are especially vulnerable to sterilization that is forced or coercive.¹²²

In Namibia, forced sterilisation has particularly impacted women living with HIV. The International Community of Women Living with HIV/AIDS (ICW), a global network of HIV positive women, held a Young Women's Dialogue in 2008, in which three of the 30 participants indicated that they may have been sterilized.¹²³ Through subsequent focus groups and interviews,¹²⁴ ICW discovered that significant numbers of hospital staff were either coercing or forcing HIV positive women to be sterilized, as part of broader discriminatory practices against women with HIV concerning their sexual and reproductive rights.¹²⁵ Out of 230 HIV positive women who participated in focus group discussions and interviews, the majority reported “some form of discrimination in health services” and almost 20% indicated they had been subjected to coerced or forced sterilization.¹²⁶ In addition to sterilizing women who did not understand the consequences of the procedure or who did not even know they would be subject to sterilization, women were asked to sign a tubal ligation consent form before being given access to services such as abortion and caesarean section.¹²⁷

¹¹⁵ Id at 28. This was close to the regional average of 44% agreement by women and 44% agreement by men.

¹¹⁶ OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, *Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement*, 2014 at 1-2 (hereinafter “**Interagency statement**”).

¹¹⁷ International Community of Women Living with HIV/AIDS (ICW), *The Forced and Coerced Sterilization of HIV Positive Women in Namibia*, March 2009 at 24, note iii (hereinafter “**ICW**”).

¹¹⁸ *Interagency statement* at 1.

¹¹⁹ See ICW at 7-12.

¹²⁰ *Interagency statement* at 1.

¹²¹ United Nations Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Méndez, A/HRC/22/53, 1 February 2013 at para 48.

¹²² *Interagency statement* at 3-8.

¹²³ ICW at 4.

¹²⁴ The International Community of Women Living with HIV/AIDS and the Legal Assistance Centre partnered to conduct the focus group discussions and interviews.

¹²⁵ ICW at 4.

¹²⁶ Id at 6.

¹²⁷ Id at 10-11.

Based on these findings regarding the forced sterilization of HIV positive women in Namibia, the Legal Assistance Centre (supported by other civil society groups) brought an action against the government on behalf of three HIV positive women. The pleadings alleged that the women had been sterilized by medical practitioners in State hospitals without their consent.¹²⁸ In addition, the pleadings alleged that the sterilizations were conducted based on the women's HIV positive status, amounting to discrimination and a breach of their rights pursuant to the Namibian Constitution.¹²⁹

The High Court found that the government had failed to discharge its onus of proving that the women had provided informed consent for the sterilizations.¹³⁰ With respect to the claim that the women were sterilized because they were HIV positive, the Court held that there was “no credible and convincing evidence” that the sterilizations were done on the basis of the women's HIV status.¹³¹ The government appealed the case outcome, and in 2014 the Supreme Court upheld the High Court's decision. In addressing informed consent in the context of sterilization, the Supreme Court stated that “the woman must in fact be in a position to comprehend the nature and consequences of the operation to be performed on her. It follows that the patient must have the capacity to give her consent for it to amount to informed consent.”¹³² Moreover, the Court decisively rejected medical paternalism in decisions about sterilization, finding that the law should instead consider the fundamental principles of individual autonomy and self-determination.¹³³ Such principles, in the Court's view, “require that in deciding whether or not to undergo an elective procedure, the patient must have the final word”.¹³⁴ In addressing the claim of discrimination based on HIV status, the Supreme Court held that the High Court was correct in dismissing the claim, finding no evidence that a policy existed to sterilize HIV-positive women of child-bearing age.¹³⁵

Despite its failure to find that the sterilizations amounted to discrimination based on HIV status, the Supreme Court's decision was generally received positively by civil society – although rights groups noted that many more cases of forced sterilization exist in Namibia.¹³⁶ Since the judgment was released at the end of 2014, concern has been expressed regarding the government's failure to adequately protect the rights of HIV-positive women when it comes to forced and coerced sterilization. The Southern Africa Litigation Centre (SALC) highlighted the issue in a submission to the UN Human Rights Committee in 2015. Its key concerns were the government's failure to: address forced and coerced sterilization in its second periodic report to the Human Rights Committee; recognise that forced and coerced sterilization constitutes unfair discrimination against women living with HIV/AIDS; and implement policies to ensure the discontinuation of the practice.¹³⁷ The SALC also highlighted the government's failure to provide

¹²⁸ *LM and Others v Government of the Republic of Namibia* 2012 (2) NR 527 (HC) at para 1. There was an alternative claim that the medical practitioners had breached the duty of care they owed to their patients.

¹²⁹ Id at para 2.

¹³⁰ Id at para 80. Having allowed that claim, the Court did not rule on the alleged breach of duty of care.

¹³¹ Id at para 83.

¹³² *Government of the Republic of Namibia v LM and Others* 2015 (1) NR 175 (SC) at para 99.

¹³³ Id at para 106.

¹³⁴ Id at para 106.

¹³⁵ Id at para 2.

¹³⁶ See, for example, Nyasha Chingore-Munazvo, “A Win for Victims of Forced Sterilization in Namibia”, 17 December 2014, Open Society Foundations website: <www.opensocietyfoundations.org/voices/win-victims-forced-sterilization-namibia>; UNAIDS, “Press Statement: Namibia's Supreme Court Upholds the Dignity of Women Living with HIV”, 6 November 2014, UNAIDS website: <www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2014/november/20141106_PS_Namibia>; Al Jazeera, “Namibia court upholds sterilisation verdict”, 3 November 2014, Al Jazeera website: <www.aljazeera.com/news/africa/2014/11/namibia-court-upholds-sterilisation-verdict-2014113131658482362.html>.

¹³⁷ Southern Africa Litigation Centre, *Submission to the Human Rights Committee Regarding the Forced and Coerced Sterilization of Women Living with HIV/AIDS in Namibia*, 24 April 2015 at 2.

redress for its human rights violations and to deliver training to medical personnel on informed consent.¹³⁸

There does not appear to be more recent available information regarding steps the government has taken to address the practice of forced and coerced sterilization in Namibia. However, the Human Rights Committee has stated its concern that HIV-positive women who were subjected to forced or coerced sterilization have not received reparations, and it has recommended that the government adopt formal guidelines to ensure that medical personnel obtain the fully informed consent of women undergoing sterilization procedures.¹³⁹

There is anecdotal evidence that the pendulum has swung too far in some instances in the wake of the Court cases. Some women seeking sterilization have reported to the Legal Assistance Centre that they were being asked by healthcare workers to go to police stations to swear affidavits confirming their consent to sterilization, and even to provide additional written consent from husbands or boyfriends.¹⁴⁰ The Legal Assistance Centre produced a simple information pamphlet on “Sterilization and Consent”, explaining what happens in both male and female sterilization, setting out the requirements of informed consent and clarifying that Namibian law does not require that a spouse or partner give consent for a sterilization procedure.¹⁴¹

The 2013 *Demographic and Health Survey* found that almost 3% of all women surveyed between the ages of 15 and 49 had used sterilization as a contraceptive method.¹⁴² (In assessing fertility preferences, sterilized women and men were considered not to want more children, and thus were not asked questions about whether they wished to have more children.¹⁴³)

7.3.8 Baby-dumping

Unwanted pregnancies may result in baby-dumping, which occurs with tragic regularity in Namibia. Police statistics do not record separate figures for infanticide, which usually attracts a charge of murder (or attempted murder), but such cases normally include a charge of concealment of birth.¹⁴⁴ During the period 2013-2015, about 27 cases of concealment of birth were reported annually on average.¹⁴⁵

Reported cases of concealment of birth												
2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
6	13	17	15	23	12	22	18	21	21	33	26	23

Source: NamPol statistics, provided in 2012, 2013 and 2016.

Interviews on the topic of baby-dumping conducted in northern Namibia in 2007 identified a number of possible reasons for baby-dumping. Young women reported fearing rejection by their parents or the community if they had a baby outside of marriage, and so resorted to baby-dumping to try and conceal the

¹³⁸ Id at 5.

¹³⁹ United Nations Human Rights Committee, *Concluding observations on the second report of Namibia*, CCPR/C/NAM/CO/2, 22 April 2016 at paras 11(b) and 12(b).

¹⁴⁰ Information provided to Legal Assistance Centre by members of the public, 2016.

¹⁴¹ “Sterilization and consent” (information pamphlet), Windhoek: Legal Assistance Centre, 2016.

¹⁴² 2013 *Namibia Demographic and Health Survey* at 73.

¹⁴³ Id at 65.

¹⁴⁴ Although we cannot be sure that the concealment of birth cases are equal to the number of infanticides and infant abandonments, this is the best indicator which can be extracted from the statistics provided by the police.

¹⁴⁵ NamPol statistics, July 2016.

birth. Women often feared rejection by a partner, or worried that they would be unable to look after the child alone or unable to afford the child's maintenance.¹⁴⁶

Where a pregnancy is unwanted, women may be unaware of alternatives such as foster care or adoption. Some women who are HIV-positive may lack information about prevention of mother-to-child transmission and fear that their babies will also be infected and will die soon after birth. Learner mothers may abandon an infant to ensure that they can continue their studies. It has also been suggested that abandonments may ensue where the pregnancy is a result of incest or rape by a family member or close acquaintance, or that some young people may simply be unwilling to face the consequences of their actions.¹⁴⁷ The role of post-natal depression (a psychological condition that affects some women shortly after they have given birth) has also been noted.¹⁴⁸

A 2011 survey asked the public for opinions on why baby-dumping is such a problem in Namibia. The top three reasons cited by respondents were: (1) the father denies paternity; (2) the mother is a student; and (3) the mother does not know about options such as foster care, adoption and institutional care. The top three recommendations for preventing baby-dumping were the provision of more information about: (1) what the law says about abortion and baby-dumping; (2) foster care, adoption and institutional care; and (3) contraceptives.¹⁴⁹ The survey organisers responded to the requests for more information by

Legal issue

To encourage people to leave unwanted babies in safe places, the **Child Care and Protection Act 3 of 2015** provides that it is not an offence to leave a child in a safe place such as a hospital, police station, fire station, school, place of safety, children's home or other designated place – provided that the child does not show any signs of abuse or neglect. Some countries refer to such places as “safe havens”. A child who is left at one of the “safe havens”, or an abandoned child found anywhere else, must immediately be reported to the police and handed over to a social worker. The social worker will put the child in a place of safety for temporary care and carry out an investigation. This social worker will also advertise the recovery of the baby, to see if any parents or family members come forward to claim the baby, to make sure that the baby has not been kidnapped. If the child has not been claimed after 60 days, the child may be a suitable candidate for adoption. If the child is claimed by family members or by a parent who has had a change of heart, the social worker will continue to monitor the situation. The child will be returned to the parent only if the social worker is sure that the child will be safe.

¹⁴⁶ Field research by Christa Rudolf von Rohr, MA student in Social Anthropology and African Studies, University of Basel, Switzerland (translated in personal communication from author); see Christa Rudolf von Rohr, *Adoleszenz und Sexualität in Namibia: Wie Jugendliche Resilienz gegenüber einer ungewollten Schwangerschaft und dem Baby-Dumping entwickeln*, Universität Basel, 2010.

¹⁴⁷ Committee on Human Resources, Social and Community Development, “Report on the Motion of Baby-dumping in Namibia”, Windhoek: National Assembly, February 2010 at 5.

¹⁴⁸ Hansard, National Assembly, 26 September 2007 (Hon Schimming Chase); Hansard, National Assembly, 23 October 2007 (Hon Dr Amathila). Factors associated with the risk of post-natal depression include pre-natal depression or anxiety, low self-esteem, stresses associated with lifestyle or childcare duties, lack of social support or support from the child's father, a history of previous depression, low socioeconomic status and the fact of the pregnancy being unplanned or unwanted. See also MB Tibinyane, “An investigation into factors that influence the working-class girl-child to commit infanticide”, Northwest University, 2002 (reports on interviews with seven Namibian women aged 18-30 who abandoned infants).

¹⁴⁹ “Factsheet 1: Baby Dumping: what the public says”, Windhoek: Ministry of Gender Equality and Child Welfare, UNICEF and Legal Assistance Centre, 2011. The survey, which consisted of multiple choice questions, was published in two national newspapers and interested persons were asked to respond by text message. A total of 3 742 people responded to one or more of the questions in a usable manner, with the majority being women between the ages of 19 and 30.

producing a comic and a factsheet series on options to baby-dumping, both of which were placed in national newspapers and distributed directly to members of the public.¹⁵⁰

7.4 Maternal and childhood mortality

7.4.1 Maternal mortality

According to the *2013 Namibia Demographic and Health Survey*, “Maternal and child mortality are litmus tests of the status of women, their access to health care, and the adequacy of the health care system to respond to their needs.”¹⁵¹ The statistics on maternal mortality in Namibia are described here in some detail as they can be misleading if not examined with care.

The Ministry of Health and Social Services has a Health Information System which captures data on maternal mortality, but this covers only births and deaths which occur in a health facility. Thus, the information system may miss out on maternal mortality where the births or deaths takes place at home, and also may miss the link between birth and mortality in some cases (such as where a new mother leaves the health facility, develops a problem and dies after returning to a different unit for treatment). Also, information is captured on paper at the clinic level and entered electronically at the district level – a system which involves delays and allows mistakes to creep in.¹⁵²

The periodic *Demographic and Health Surveys* assembles data on maternal mortality from a sample of respondents which might not in fact be accurately representative. Moreover, the methodology used is based on respondents’ knowledge and memory, which allows for inaccuracies.¹⁵³ These Surveys are carried out only every six or seven years, and they report maternal mortality rates with a large margin of error. In fact, Namibia’s *2013 Demographic and Health Survey* emphasised that the reported maternal mortality rates must be viewed with caution:

It should be kept in mind that maternal mortality is difficult to measure because large sample sizes are required to calculate accurate estimates. The maternal mortality estimates presented here are subject to large sampling errors because cost and time considerations make it impossible to draw a sample large enough to keep sampling errors reasonably small. Thus, caution should be exercised when interpreting maternal mortality data collected in any survey, and especially when comparing two or more previously conducted surveys. Definite conclusions should be based on the confidence intervals associated with maternal mortality data. Changes can be reported as significantly different only when confidence intervals do not overlap. When confidence intervals overlap, one cannot conclusively state that there has been any change in rates or ratios over the periods being compared.¹⁵⁴

Each *Demographic and Health Survey* conducted in Namibia has calculated an estimate of maternal mortality for the 10-year period preceding the survey.¹⁵⁵ The *2013 Demographic and Health Survey* calculated the maternal mortality ratio in 2013 as being 385 (ie 385 maternal deaths per 100 000 live births).¹⁵⁶ This means that for every 1 000 live births, approximately four women died during pregnancy,

¹⁵⁰ “Factsheet 2: Adoption”, Windhoek: Ministry of Gender Equality and Child Welfare, UNICEF and Legal Assistance Centre, 2011; “Factsheet 3: Foster care”, Windhoek: Ministry of Gender Equality and Child Welfare, UNICEF and Legal Assistance Centre, 2011.

¹⁵¹ *2013 Namibia Demographic and Health Survey* at 99.

¹⁵² Personal communication from Namibian non-governmental organisation, June 2017.

¹⁵³ Ibid.

¹⁵⁴ *2013 Namibia Demographic and Health Survey* at 95-96.

¹⁵⁵ Id at 96.

¹⁵⁶ Id, Table 9.3 at 96.

childbirth or within two months of childbirth,¹⁵⁷ which accounts for almost 9% of all deaths among women aged 15-49.¹⁵⁸

The *2011 Census Mortality Report* cites Namibia's previous *Demographic and Health Surveys* to show that maternal mortality was on the rise in Namibia between 1992 and 2011.¹⁵⁹ However, **the 2013 Demographic and Health Survey finds that the maternal mortality ratio had actually remained unchanged across all four Demographic and Health Surveys conducted in Namibia from Independence to date (1992, 2000, 2006/07 and 2013):**

..., the confidence intervals surrounding the maternal mortality ratios calculated for all four surveys overlap. Because it is still possible for a difference to be statistically significant even if the confidence intervals overlap, a statistical test of significance was conducted. The test concluded that there is no significant difference between the [2013 Demographic and Health Survey] estimate of the [maternal mortality ratio] and all the previous survey estimates. Therefore, any change in the [maternal mortality ratio] estimates from the most recent [Demographic and Health Survey] and the three previous surveys was not large enough to be statistically significant.¹⁶⁰

The *Namibia 2011 Census Mortality Report*, based on data from the *2011 Census*, counted 375 maternal deaths and 62 046 live births during the 12 months prior to the census, which results in a reported maternal mortality ratio of 604 (604 maternal deaths per 100 000 live births).¹⁶¹ This data was based on questions about the number of deaths in the household in respect of females aged 21-54 where the death occurred during pregnancy, during child birth, or within two months after child birth and was caused by complications during pregnancy or maternity – thus *excluding* deaths during this time period unrelated to maternity, such as deaths from accidents.¹⁶² The *2011 Census* has no sampling errors which produce confidence intervals, since its coverage is universal¹⁶³ – but it does not seem to have produced a maternal mortality ratio which could be used for comparison.¹⁶⁴

As discussed above, the *2013 Demographic and Health Survey* found a maternal mortality ratio of 385 (385 maternal deaths per 100 000 live births) – but taking into account the confidence interval (ie the possible margin of error), the maternal mortality ratio could be anywhere between 259 and 511.¹⁶⁵ Note that the definition used in this survey differed from the approach used in the *2011 Census*: the *2013 Demographic and Health Survey* counted all deaths among women during pregnancy or within two

¹⁵⁷ Id at 96.

¹⁵⁸ Ibid.

¹⁵⁹ *Namibia 2011 Census Mortality Report*, Namibia Statistics Agency, June 2014 at 24 (hereinafter “**2011 Census Mortality Report**”). The maternal mortality ratio was 225 in the *1992 Demographic and Health Survey*, 271 in the *2000 Demographic and Health Survey* and 449 in the *2006/07 Demographic and Health Survey*.

¹⁶⁰ *2013 Demographic and Health Survey* at 96-97 (see also Figure 9.1 at 97).

¹⁶¹ *2011 Census Mortality Report* at 23. See discussion of methodology and data errors at 27-ff.

¹⁶² Id at 23 and Table 6.1 at 21. Respondents were asked how many people in the household died during the last 12 months, the sex and age of the deceased, and the cause of death (coded as illness, accident, murder, suicide, pregnancy-related, other or don't know). For maternal deaths for females aged 12-54, respondents were asked if the female died while pregnant, during childbirth, or within two months after childbirth – with categories for “other” and “don't know”. See Questions G1-G7, Form A, Namibia 2011 Population and Housing Census: Household/Institution Questionnaire, available at <<http://cms.my.na/assets/documents/p19dmloejpm0u1q6oqn81ko0ith1.pdf>>.

¹⁶³ See the discussion of different approaches to measuring maternal mortality in UN Maternal Mortality Estimation Inter-Agency Group, *Trends in maternal mortality: 1990 to 2015: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, Geneva: World Health Organization, 2015 at 38-39.

¹⁶⁴ There is no reference to a maternal mortality ratio in the *2001 Census Final Report*, and no 2001 ratio is cited as a point of comparison in the *2011 Census Mortality Report*.

¹⁶⁵ *2013 Demographic and Health Survey*, Table 9.1 at 96-97 and Figure 9.1 at 97.

months following the end of the pregnancy, *including* deaths from accidental or incidental causes.¹⁶⁶ This survey collected data on maternal mortality using the sibling survival model.¹⁶⁷

The UN Maternal Mortality Estimation Inter-Agency Group (MMEIG)¹⁶⁸ provides internationally comparable data.

The estimates for 1990 to 2015 presented in this report are the eighth in a series of analyses by the MMEIG to examine global, regional and country progress in reducing maternal mortality. To provide increasingly accurate maternal mortality estimates, the previous estimation methods have been refined to optimize use of country-level data and estimation of uncertainty around the estimates. The methodology used in this round by the MMEIG builds directly upon previous methods, but now provides estimates that are more informed by national data. It also supports more realistic assessments of uncertainty about those estimates, based on the quality of data used to produce them.¹⁶⁹

The MMEIG estimates indicate that as of 2015, Namibia's maternal mortality ratio was 265 (265 maternal deaths per 100 000 live births) – but with a large uncertainty interval, meaning that the ratio could be anywhere between 172 and 423. It also estimates that 11.1% of deaths among women of reproductive age in Namibia in 2015 were due to maternal causes (again with a large uncertainty interval, ranging from 7.2% to 17.8%).¹⁷⁰ Looking at Namibia's absolute numbers, MMEIG reported 190 maternal deaths in 2015, of which 4% percent were AIDS-related indirect maternal deaths¹⁷¹ (meaning AIDS-related deaths for which pregnancy was a substantial aggravating factor¹⁷²).

As a point of comparison, the maternal mortality ratio for Sub-Saharan Africa was very high, at 546 (with an uncertainty interval ranging from 511 to 652).¹⁷³ Sierra Leone was estimated to have the highest maternal mortality ratio in the world in 2015, at 1 360 (with an uncertainty interval ranging from 999 to 1 980). Eighteen countries in Sub-Saharan Africa were estimated to have very high maternal mortality ratios in 2015. Namibia was not one of these, but nor was it one of the only two countries in Sub-Saharan Africa to have a low maternal mortality ratio: Mauritius (at 53, with an uncertainty interval ranging from 38 to 77) and Cabo Verde (at 42, with an uncertainty interval ranging from 20 to 95).¹⁷⁴ As other points of comparison, South Africa's maternal mortality ratio in 2015 was 138 (with an uncertainty interval ranging from 124 to 154), while Botswana's was 129 (with an uncertainty interval ranging from 102 to 172).¹⁷⁵ **In fact, even Namibia's best case scenario (the lower end of the uncertainty interval at 172) puts it at or behind the worst possible scenario for Botswana and South Africa.**

¹⁶⁶ Id at 93.

¹⁶⁷ Each female respondent was asked to list all children born to her biological mother, starting with the firstborn, and then asked whether each of these siblings was still alive. For deceased siblings, the age at death and the number of years since the death were recorded. In the case of sisters who died at age 12 or older, the respondent was asked if the sister was pregnant when she died, if she died during childbirth or if she died within two months after the end of a pregnancy or childbirth. Id at 94.

¹⁶⁸ Comprising WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division.

¹⁶⁹ UN Maternal Mortality Estimation Inter-Agency Group, *Trends in maternal mortality: 1990 to 2015: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, Geneva: World Health Organization, 2015 at x (Executive Summary).

¹⁷⁰ Id at 54.

¹⁷¹ Ibid.

¹⁷² Id at 11.

¹⁷³ Id at 16.

¹⁷⁴ Id at 19.

¹⁷⁵ Id at 51-56.

MMEIG estimated maternal mortality ratios (MMRs) in 2015 – selected countries			
Country	Estimated MMR	Range of uncertainty (80% uncertainty interval) ¹⁷⁶	
		Lower estimate	Upper estimate
Botswana	129	102	172
South Africa	138	124	154
Zambia	224	162	306
Namibia	265	172	423
Swaziland	389	251	627
Zimbabwe	443	363	563
Lesotho	487	310	871
Sub-Saharan Africa	546	511	652

Source: Extracted from table at UN Maternal Mortality Estimation Inter-Agency Group, *Trends in maternal mortality: 1990 to 2015: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, Geneva: World Health Organization, 2015 at 51-56 and from information at 16.

Caution must be exercised when comparing the MMEIG to other Namibian data on maternal mortality, as methodological differences must again be noted. The MMEIG report states that estimates “have been computed to ensure comparability across countries, thus they are not necessarily the same as official statistics of the countries, which may use alternative rigorous methods”.¹⁷⁷ (This statement applies to the maternal mortality ratios as well as to the number of maternal deaths recorded in 2015 and the percentage of those that were AIDS-related indirect maternal deaths.)

However, the MMEIG estimates have been made regularly since 1990 and can provide a picture of Namibian trends over time. **As of 2015, Namibia showed marginal annual progress since Independence (changes of about 1% per year on average), and it completely failed to meet Millennium Development Goal 5A (to reduce maternal mortality by 75% between 1990 and 2015), showing a reduction of less than 22% over this time period.**¹⁷⁸

Namibia's Maternal Mortality Ratio 1990-2015 (MMEIG estimates)									
1990	1995	2000	2005	2010	2015	Overall change 1990-2015	Average annual change 1990-2015	Range of uncertainty on annual % change (80% uncertainty interval)	
								Lower	Upper
338	320	352	390	319	265	21.6 %	1.0%	-1.3%	3.1%

Source: Extracted from table at UN Maternal Mortality Estimation Inter-Agency Group, *Trends in maternal mortality: 1990 to 2015: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, Geneva: World Health Organization, 2015 at 74.

¹⁷⁶ This means that there is 80% certainty that the value lies between the lower and upper estimates.

¹⁷⁷ UN Maternal Mortality Estimation Inter-Agency Group, *Trends in maternal mortality: 1990 to 2015: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, Geneva: World Health Organization, 2015 at 56, footnote a.

¹⁷⁸ Id at 77, footnote d. The Ministry of Health and Social Services announced recent statistics in March 2017, but these are not discussed in the text because of the problems with comparing data across sources on this issue. According to the Ministry, between April 2012 and March 2015, there were 93 reported maternal deaths (0.05% of the total live births during that period). Between 1 April 2015 and 30 November 2016, a total of 103 maternal deaths were reported (percentage of live births not provided). Media Briefing by Dr Bernard Haufiku, Minister of Health and Social Services, 27 March 2017 at 2.

According to the Minister of Health and Social Services, the main causes of maternal mortality are hypertensive disease, obstetric haemorrhage, pregnancy related sepsis, abortion and anaesthetic complications.¹⁷⁹

The available information on maternal mortality points to the need for better data on this issue in Namibia, given the large range of uncertainty about the Namibian data. As the MMEIG report notes:

The broad uncertainty intervals associated with the estimates presented throughout this report directly reflect the critical need for better data on maternal mortality. Governments are called upon to establish well-functioning CRVS [Civil Registration and Vital Statistics] systems with accurate attribution of cause of death. Improvements in measurement must be driven by action at the country level, with governments creating systems to capture data specific to their information needs; systems that must also meet the standards required for international comparability. Globally, standardized methods for preventing underreporting should be established to enhance international comparability.¹⁸⁰

The notable decrease in maternal mortality in recent years may be due to Namibia's implementation of the **Programme for Accelerating the Reduction of Maternal and Child Mortality**, launched in 2013 through a partnership between the Ministry of Health and Social Services, the European Union and the World Health Organization.¹⁸¹ This programme officially ended in February 2017. At the closing ceremony, a number of achievements were highlighted, including capacity-building in maternal, newborn and child health care facilities; procurement and distribution of medical equipment to upgrade maternal and child care services; and the construction of maternity waiting homes in Katima, Okongo and Gobabis.¹⁸² Other aspects of the programme included improving access to primary health services; strengthening maternal and perinatal death information-gathering; supplying more ambulances to transport patients to medical facilities; utilising community advocates to encourage women to give birth in health facilities; and training health workers in emergency obstetric care.¹⁸³

The idea of the maternity waiting homes is to provide safe, hygienic facilities to replace the makeshift camps which rural women often use in the late stages of their pregnancies, while waiting near a health facility as their due dates approach. The homes are designed to have dormitory accommodation for up to 80 women, with communal kitchens, dining halls, bathrooms and meeting areas – with each woman either paying a small daily fee or volunteering to work in lieu of payment.¹⁸⁴ However, the need for maternity waiting homes remains unaddressed in many parts of Namibia.¹⁸⁵

One of the goals of Government's Harambee Prosperity Plan (discussed in Chapter 13) is the following:

¹⁷⁹ Media Briefing by Dr. Bernard Haufiku, Minister of Health and Social Services, 27 March 2017 at 2.

¹⁸⁰ UN Maternal Mortality Estimation Inter-Agency Group, *Trends in maternal mortality: 1990 to 2015: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, Geneva: World Health Organization, 2015 at 28.

¹⁸¹ World Health Organization Regional Office for Africa, "Accelerating achievement of MDGs 4 and 5: PARMaCM launched in Namibia" (27 February 2013), WHO website:

<www.afro.who.int/en/media-centre/pressreleases/item/5340-accelerating-achievement-of-mdgs-4-and-5-parmacm-launched-in-namibia.html>.

¹⁸² "PARMaCM strengthens Namibia health system", *Confidante*, 2 March 2017, Confidante website:

<www.confidente.com.na/2017/03/parmacm-strengthens-namibia-health-system/>.

¹⁸³ "Namibia: Maternity waiting homes protect newborns and mothers", January 2016, WHO website:

<www.who.int/features/2016/namibia-maternity-waiting-homes/en/>.

¹⁸⁴ Ibid.

¹⁸⁵ See, for example, "Back to square one at Outapi hospital", *The Namibian*, 7 June 2017 and "Health ministry says Outapi tents contract ended", *The Namibian*, 7 June 2017.

Infant and Maternal Mortality will be significantly reduced through the provision of essential drugs, deployment of community health workers and community midwives, introduction of a dedicated maternal/neonatal ambulance system and increased training in obstetrics and gynaecology.¹⁸⁶

The key strategies for achieving this goal are as follows:

- **Provision of Equipment:** There is a shortage of essential equipment at most health facilities in the country. We will ensure that by the end of the Harambee period, all hospitals delivering babies should have at least one functional ultrasound machine. In the same vein, delivery beds have been ordered for all units and we will ensure that there are functional operating theatres, oxygen, resuscitative and suction points at all times in all maternity wards by the end of the Harambee period.
- **[Introduction of quality ultrasound training countrywide]:** [missing text] essential component of obstetric care. Inaccurate estimation of gestational age is contributing to neonatal deaths and poor maternal outcomes. Multiple pregnancies are also often missed, as are structural anomalies. We will therefore ensure that during the Harambee period quality ultrasound training is introduced countrywide.
- **Provision of Essential Drugs:** We will ensure that essential drugs, such as ergometrine and anti-hypertensives, as well as monitoring equipment, in case of diabetic pregnancies to measure blood sugar level are available to pregnant women. This will allow for women to be discharged earlier, thereby freeing up bed space and minimizing risks of infection rates and thrombosis.
- **Adequate Staffing:** Some regions remain short staffed shortages of midwives and anaesthetists prevalence. We will initiate a rapid recruitment process to ensure a basic minimum of staffing levels at each hospital.
- **Maternal/Neonatal Transport System:** We will, as a matter of urgency, in year one of Harambee introduce a dedicated maternal/neonatal transport system, with dedicated trained staff in Namibia. This will allow for critically ill babies and mothers to be transferred with oxygen, ventilation or appropriate infusions; thereby reducing deaths on or before arrival at regional health facilities.
- **Maternal Shelters for Expectant Mothers:** Government will fast track the development of shelters for mothers who are travelling from remote rural areas to wait for the delivery of their babies. To this regard, the Social Security Commission has pledged to construct 4 such shelters at hospitals in Outapi, Rundu, Katima Mulilo as well as a clinic at Ausenkehr in //Karas Region. A similar programme funded by the European Union (EU) and supervised by the Office of the First Lady, will also be provided with the necessary technical support.¹⁸⁷

The interim review of progress on the implementation of Harambee as of September 2016 reported the following achievements:

- **1 646** community health workers trained and deployed to 14 regions;
- **60** new ambulances procured and distributed to hospitals countrywide;
- Upgrades of various maternity wards to improve access are underway;
- Guidelines on maternity waiting shelters finalized and tenders for the construction by Social Security Commission, have been finalized;
- **70** maternal delivery beds procured and distributed to regions as required, countrywide.¹⁸⁸

7.4.2 Childhood mortality

Categories of mortality rates: The *2013 Demographic and Health Survey* breaks down child mortality rates into five categories: neonatal, post-neonatal, infant, child and under-5 (several of which overlap),¹⁸⁹ while the *2011 Census Mortality Report* looks at only two categories: the infant mortality rate and the

¹⁸⁶ *Harambee Prosperity Plan 2016/17 - 2019/20: Namibian Government's Action Plan towards Prosperity for All*, Windhoek: Republic of Namibia, 2016 at 8.

¹⁸⁷ Id at 44.

¹⁸⁸ *Harambee Review 16*, Office of the President, 13 December 2016 (available at <www.op.gov.na/documents/84084/249910/HarambeeReview16-presentation-v6.pdf/550ed202-0a3a-40d6-a8de-af991c38691f>).

¹⁸⁹ *2013 Demographic and Health Survey* at 85.

child mortality rate.¹⁹⁰ These are described in the tables below. Note that no sex-disaggregated data is available.

2013 Demographic and Health Survey Childhood mortality (based on birth history of female respondents)	
Neonatal mortality (child dies within first month of life)	20 deaths per 1 000 live births
Post-neonatal mortality (child dies after first month but before first birthday)	19 deaths per 1 000 live births
Infant mortality (child dies between birth and first birthday)	39 deaths per 1 000 live births
Child mortality (child dies between first and fifth birthday)	16 deaths per 1 000 children surviving to first birthday
Under-5 mortality (child dies between birth and fifth birthday)	54 deaths per 1 000 live births

Source: 2013 Demographic and Health Survey at 85, 87.

2011 Census Mortality Report Childhood mortality (based on household deaths occurring in the 12 months prior to the census date as well as last live births by women in childbearing age)	
Infant mortality (child dies between birth and first birthday)	44 deaths per 1 000 live births
Child mortality (child dies between first and fifth birthday)	69 deaths per 1 000 live births

Source: 2011 Census Mortality Report at 7-8.

Trends over time: The differing methodologies prevent comparison between the two different survey types, but it is possible to consider trends over time between the various censuses and *Demographic and Health Surveys*. Both show an overall declining trend in child mortality over the past few decades.

According to the 2013 *Demographic and Health Survey*, infant mortality has declined by 32% and under-5 mortality has declined by 35% over the 25 years from 1987-2012.¹⁹¹ Neonatal and post-neonatal mortality have also seen declines, of 38% and 24%, respectively.¹⁹² It is interesting to note that while child mortality rates are generally lower, the 2006-07 *Demographic and Health Survey* reported a spike in levels of neonatal mortality, post-neonatal mortality, infant mortality and under-5 mortality as compared to the 2000 *Demographic and Health Survey*.¹⁹³ The 2013 *Demographic and Health Survey* saw child mortality rates decline again, and found more or less the same levels of neonatal mortality, post-neonatal mortality and infant mortality as the 2000 *Demographic and Health Survey*.¹⁹⁴ However, the 2013 *Demographic and Health Survey* reports under-5 mortality rates of 54 deaths per 1 000 live births as compared to 62 deaths in the 2000 *Demographic and Health Survey* and 69 deaths in the 2006-07 *Demographic and Health Survey*, which shows a notable decline.¹⁹⁵

Figures from the last three censuses show that the infant mortality rate in Namibia has decreased significantly over time, from 67 deaths per 1 000 live births in 1991, to 52 in 2001, to 44 in 2011.¹⁹⁶ While the child mortality rate declined markedly overall during the 1990s, it was only slightly

¹⁹⁰ 2011 Census Mortality Report at 7. Note that the text of the report indicates in several places that the child mortality rate covers all children under age 5, but the formula given at 7 indicates that it counts deaths amongst children aged 1-4 – ie all the under-5 deaths not included in the infant mortality rate.

¹⁹¹ 2013 Demographic and Health Survey at 87.

¹⁹² Ibid.

¹⁹³ Id at 88.

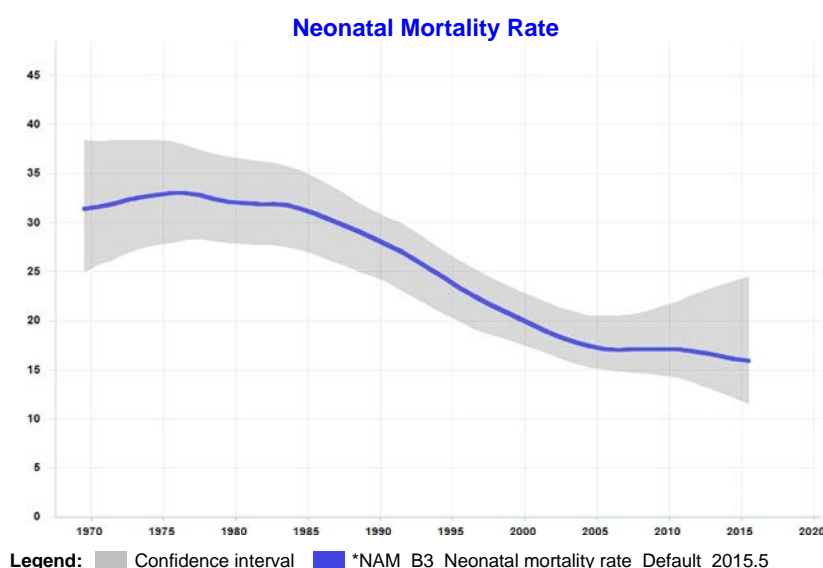
¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ 2011 Census Mortality Report at 8-9.

reduced between 2001 and 2011, from 71 to 69 deaths per 1 000 live births.¹⁹⁷ It is also troubling that in some regions, infant and child mortality increased, remained unchanged or only marginally declined between 2001 and 2011. Zambezi's infant mortality rate sharply declined between 1991 and 2001, but then increased quite significantly between 2001 and 2011.¹⁹⁸ The infant mortality rate in Kunene remained unchanged between 2001 and 2011, and during that same period declined only slightly in Kavango, Omusati and Oshana.¹⁹⁹ Between 2001 and 2011, the child mortality rate increased in Zambezi, Hardap, //Kharas and Kunene, remained unchanged in Kavango and Omusati and declined only slightly in Erongo and Oshana.²⁰⁰

More recent estimates of neonatal mortality rates, infant mortality rates and under-5 mortality rates are charted by the **UN Inter-agency Group for Child Mortality Estimation** on the Child Mortality Estimation (CME) Info database, which has a country page for Namibia and interactive charts that can be used to visualise country comparisons.²⁰¹ The latest data as of June 2017 shows continuing downward trends in all three measures of mortality.²⁰²



Source: CME Info database at <www.childmortality.org/index.php?r=site/graph#ID=NAM_Namibia>, updated to 2015.

¹⁹⁷ Id at 9-10.

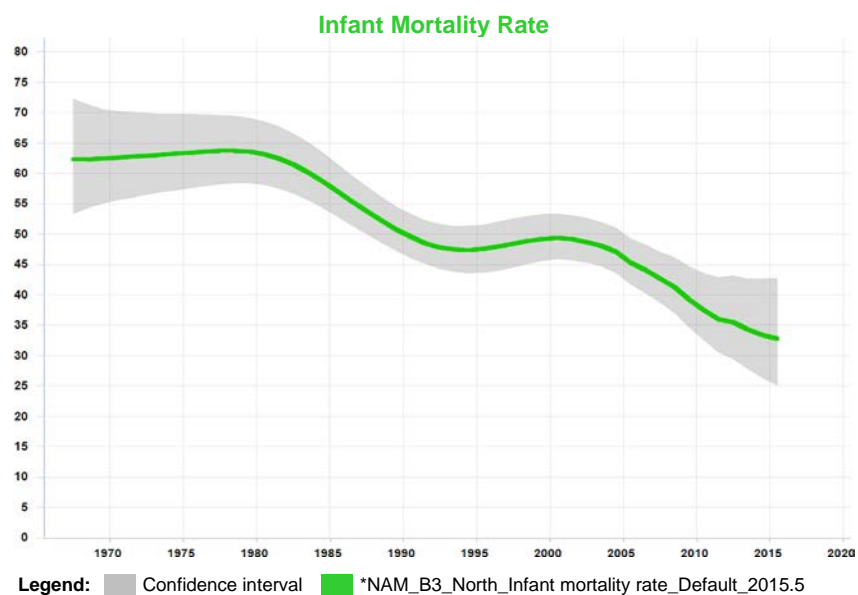
¹⁹⁸ Id at 9.

¹⁹⁹ Ibid.

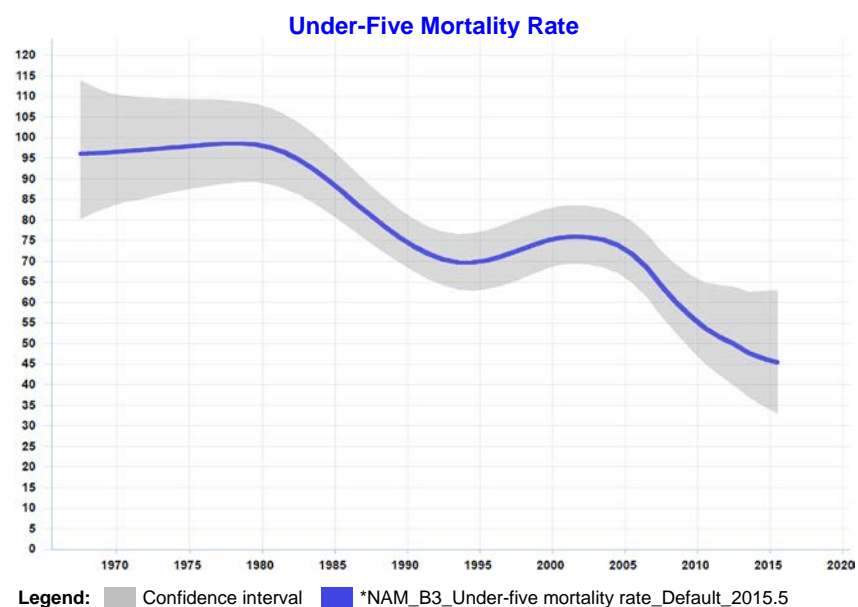
²⁰⁰ Id at 10.

²⁰¹ As of June 2017, the latest data available on the CME Info website dates to 2015. More information on childhood mortality rates can be found in UN Inter-agency Group for Child Mortality Estimation, *Levels & Trends in Child Mortality*, 2015 (available at <www.unicef.org/publications/files/Child_Mortality_Report_2015_Web_9_Sept_15.pdf>).

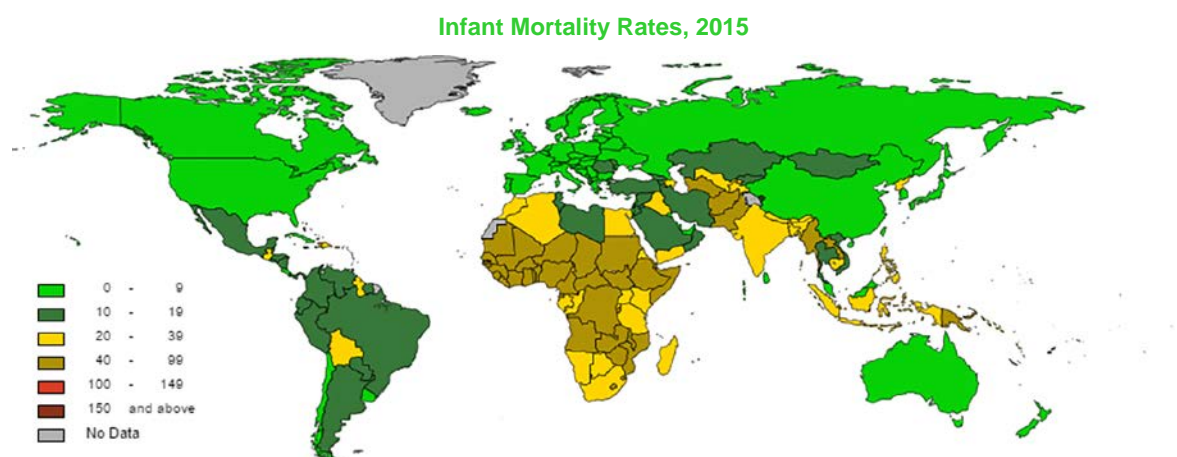
²⁰² A recent media briefing by the Minister of Health and Social Services reported that, between April 2012 and March 2015, there were 3 434 neonatal deaths (approximately 2% of total live births during that period). The media briefing also refers to the National Maternal Peri Neonatal Death Review Committee, which reviews maternal and newborn deaths to identify potential contributing factors and avoid recurrence of those that are preventable. Media Briefing by Dr Bernard Haufiku, Minister of Health and Social Services, 27 March 2017 at 2.



Source: CME Info database at <www.childmortality.org/index.php?r=site/graph#ID=NAM_Namibia>, updated to 2015.



Source: CME Info database at <www.childmortality.org/index.php?r=site/graph#ID=NAM_Namibia>, updated to 2015.



Source: CME Info database at <www.childmortality.org/index.php?r=site/map&language=>>, updated to 2015.

Sex of child: The various categories of childhood mortality reported in the *2013 Demographic and Health Survey* were all higher for male children than for female children, with the exception of post-neonatal mortality. The biggest gender gap was in the under-5 mortality rate (54 deaths per 1 000 live births among girls and 64 deaths per 1 000 live births among boys).²⁰³ There were slight sex differences in respect of various health issues, such as vaccination coverage,²⁰⁴ but the Survey report does not comment on any of them as being significant.

<i>2013 Demographic and Health Survey</i> Childhood mortality by sex			
	Total	Male	Female
Neonatal mortality (child dies within first month of life)	20	23	14
Post-neonatal mortality (child dies after first month but before first birthday)	19	21	23
Infant mortality (child dies between birth and first birthday)	39	44	37
Child mortality (child dies between first and fifth birthday)	16	21	18
Under-5 mortality (child dies between birth and fifth birthday)	54	64	54

Source: *2013 Demographic and Health Survey* at 89.

It must be noted that there are biological differences which affect the survival rates of infants and children of different sexes, even where boys and girls have the same access to resources such as food and medical care. New-born girls have a biological advantage in survival over new-born boys, because they are less vulnerable to certain medical conditions and infectious diseases. However, beyond this stage, girls do not enjoy an advantage in relation to the infectious diseases which most often lead to death in later infancy and in early childhood. Thus, in settings where overall childhood mortality is high, the gap between male and female mortality usually tends to narrow for children as compared to infants, with the sex ratio for under-five mortality tending to be intermediate between that for infants and that for older children. But in settings where living conditions improve, infectious diseases play a lesser role as a cause of death and the female advantage often increases, assuming that there are no other sex-specific changes. If girls are deprived of health care or proper nutrition in comparison to boys, this can affect the relative mortality rates of the sexes. Broadly speaking, situations where the survival of girls is lower than that of boys require investigation to determine whether some socioeconomic difference is affecting the expected biological-based distinctions.²⁰⁵

Rural/urban and regional rates: The *2013 Demographic and Health Survey* found post-neonatal, infant and under-5 mortality rates all to be higher in rural than in urban areas,²⁰⁶ but child mortality was slightly lower in rural than in urban areas.²⁰⁷ Regionally, Omaheke had the highest neonatal mortality rate.²⁰⁸

²⁰³ *2013 Demographic and Health Survey* at 89.

²⁰⁴ Id at 118.

²⁰⁵ United Nations, Department of Economic and Social Affairs Population Division, *Sex Differentials in Childhood Mortality*, 2011 at xv-xvi (available at <www.un.org/esa/population/publications/SexDifChildMort/SexDifferentialsChildhoodMortality.pdf>). Namibia was identified in this report as a country where male infant mortality appeared to be excessive, but the possible reasons for this were not discussed. Excess male mortality was based on a sex ratio higher than 130. The *2013 Demographic and Health Survey* at 89 indicates that the sex ratio for infant mortality had dropped by 2013 to 118.9 (44 male infant deaths compared to 37 female infant deaths).

²⁰⁶ *2013 Demographic and Health Survey* at 88. There were 48 infant deaths per 1 000 live births in rural areas versus 39 infant deaths in urban areas, and 74 child deaths per 1 000 live births in rural areas versus 61 child deaths in urban areas.

²⁰⁷ Ibid. Rural areas had 18 deaths per 1 000 children surviving to their first birthday, compared to 20 in urban areas.

²⁰⁸ Ibid. The regional neonatal mortality rate was 30 deaths per 1 000 live births.

Across all other child mortality categories, Kavango had the highest rates.²⁰⁹ The *2011 Census Mortality Report* noted both infant and child mortality rates to be higher in rural areas.²¹⁰ Regionally, infant and child mortality were notably higher in Zambezi and Kavango than in the other regions.²¹¹

Correlation with various socioeconomic factors: The *2013 Demographic and Health Survey* found that mothers with higher education had lower neonatal, post-neonatal, infant and under-5 mortality rates, and households in the highest wealth quintile had significantly lower child mortality rates across all categories than the other wealth quintiles.²¹² Mothers aged 20-29 had the lowest neonatal, post-neonatal and infant mortality rates; the data shows that these mortality rates were higher for both younger mothers (under 20 years of age) and older mothers (30 years of age and older). However, the higher the mothers' age at birth, the higher the under-5 mortality rate.²¹³ Child mortality rates were also generally higher with increasing birth order (with the exception of neonatal mortality).²¹⁴ Neonatal, post-neonatal, infant and under-5 mortality rates were much higher among women with birth intervals of less than two years,²¹⁵ which shows that adequate birth spacing is important to the survival of children under five years of age.

The *2011 Census Mortality Report* also addressed infant mortality in relation to the age, marital status and education of mothers aged 15-49. It found infant mortality to be lowest where mothers were between the ages of 20 and 34, with higher infant mortality for both younger and older mothers and a notable increase for mothers aged 45-49.²¹⁶ As for marital status, the highest percentage of infant deaths occurred when the mother was widowed (4%), followed by divorced or separated mothers (3%).²¹⁷ The report did not provide information regarding the causes of these infant deaths, but suggested an investigation into this issue. Infant deaths were more likely to occur among mothers with lower levels of education; those with tertiary education had by far the lowest percentage of infant deaths (at 0.3%), as compared to 3.3% among mothers with no education.²¹⁸

Perinatal deaths: The *2013 Demographic and Health Survey* also provided information on perinatal deaths, defined as pregnancy losses after seven completed months of gestation (stillbirths) and deaths of a live baby within the first seven days of life (early neonatal deaths).²¹⁹ Namibia's overall perinatal mortality rate was 24 deaths per 1 000 pregnancies of seven months or more.²²⁰ Regionally, the perinatal mortality rate was highest in Zambezi and Kunene, followed by Kavango and Oshana.²²¹

²⁰⁹ Ibid. Kavango's post-neonatal mortality rate was 35 deaths per 1 000 live births, its infant mortality rate was 62 deaths per 1 000 live births and its under-5 mortality rate was 97 deaths per 1 000 live births.

²¹⁰ *2011 Census Mortality Report* at 8.

²¹¹ Ibid. Zambezi had the highest infant mortality rate at 74 deaths per 1 000 live births and Kavango had the highest child mortality rate at 112 deaths per 1 000 live births.

²¹² *2013 Demographic and Health Survey* at 88.

²¹³ Id at 89.

²¹⁴ Ibid.

²¹⁵ Id at 89-90.

²¹⁶ *2011 Census Mortality Report* at 18.

²¹⁷ Id at 19.

²¹⁸ Id at 20.

²¹⁹ *2013 Demographic and Health Survey* at 90.

²²⁰ Id at 91.

²²¹ Ibid. Zambezi's perinatal mortality rate was 34 deaths per 1 000 pregnancies of seven months or more, Kunene's was 32, and the rate in both Kavango and Oshana was 30.

7.5 HIV/AIDS

7.5.1 Prevalence and trends

Namibia's National Health Policy Framework 2010-2020 indicates that HIV/AIDS is “a major public health problem and the highest national public health priority.”²²² Studies on HIV in Namibia have established that the virus continues to be a “major public health challenge” that affects women of all ages.²²³

For the 2013 *Demographic and Health Survey*, HIV testing was conducted for a representative sample of women and men between the ages of 15 and 64. The overall HIV prevalence among women aged 15-49 was 17%, compared to 11% among men of the same age.²²⁴ Among women and men aged 50-64, HIV prevalence rates were 17% and 16%, respectively.²²⁵ HIV prevalence rates were highest for both women and men aged 35-39, at 31% and 23%, respectively, while they were lowest in the 15-19 and 20-24 age groups (2.5% for females and 2.0% for males age 15-19 and 6.4% for females and 3.4% for males age 20-24).²²⁶ The table below outlines HIV prevalence from this testing sample by gender and age bracket.

HIV Prevalence by Sex and Age (2013)						
Age	Women		Men		Total	
	Percentage HIV positive	Number	Percentage HIV positive	Number	Percentage HIV positive	Number
15-19	2.5	835	2.0	860	2.3	1 695
20-24	6.4	815	3.4	734	5.0	1 548
25-29	16.3	647	9.4	614	13.0	1 261
30-34	28.0	566	16.6	465	22.8	1 031
35-39	30.9	513	22.6	429	27.1	942
40-44	27.1	376	21.9	313	24.8	689
45-49	28.6	300	21.8	265	25.4	565
50-54	22.0	320	16.7	177	20.1	497
55-59	15.5	187	19.4	141	17.2	327
60-64	8.7	183	11.0	121	9.6	303
Total 15-49	16.9	4 051	10.9	3 680	14.0	7 731
50-64	16.7	689	16.0	438	16.4	1 127

Source: 2013 *Demographic and Health Survey* at 209.

HIV prevalence among women and men by socioeconomic characteristics was broken down into age groups: 15-49 and 50-64. As would be expected, prevalence rates varied based on factors such as religion, employment, residence, region, education and household wealth. In the 15-49 age group, examples of girls and women exhibiting elevated HIV prevalence rates included practicing Roman Catholics (19%) and Seventh-Day Adventists (23%), women who were employed in the year preceding the survey (21%), rural women (21%), women with no education (27%) or only primary education (26%), and those in the lower and middle wealth quintiles (20% to 24%). Regionally, in the female 15-49 age group, Zambezi had the highest HIV prevalence at 31%, followed by Ohangwena, Omusati and Oshana, while Omaheke had the lowest prevalence at 7%.²²⁷

²²² *National Health Policy Framework 2010-2020*, Windhoek: Ministry of Health and Social Services, July 2010 at 6.

²²³ *Surveillance Report of the 2016 National HIV Sentinel Survey*, Windhoek: Ministry of Health and Social Services, November 2016 at 43.

²²⁴ 2013 *Demographic and Health Survey* at 209.

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Id at 210.

Among women aged 50-64, HIV prevalence rates were higher among practicing Roman Catholics (21%), urban women (18%) and those with secondary education (18%).²²⁸ In terms of household wealth, all wealth quintiles showed a prevalence rate for women aged 50-64 ranging between 17% and 19%, with the exception of the highest wealth quintile at 11%.²²⁹ Zambezi and Oshana had the highest HIV prevalence among women in this age bracket (both at about 38%).²³⁰

The most recent *National HIV Sentinel Survey* took place in 2016. Its general objectives were to estimate the national prevalence of HIV in pregnant women aged 15-49; identify geographic and socio-demographic characteristics linked to higher HIV prevalence; and monitor HIV prevalence trends over time.²³¹ It is important to note that the Survey provides information on HIV prevalence, not HIV incidence,²³² and that it does not examine HIV prevalence among men. The Survey collected data from 39 main sites and 98 satellite sites, which were representative of Namibia's geographical regions and health districts.²³³ Girls and women had to meet three criteria to be included: they had to be between 15 and 49 years old; they had to be receiving antenatal care for the first time during their current pregnancy; and they had to agree to a routine blood test for syphilis screening.²³⁴

The results from the Survey show that the overall HIV prevalence among pregnant women receiving antenatal care was 17.2%, slightly higher than the 2014 *National HIV Sentinel Survey* in which the overall HIV prevalence was 16.9%.²³⁵ Based on data from each *National HIV Sentinel Survey* (conducted on a biennial basis since 1992), the overall HIV prevalence peaked in 2002 at 22% and since then has followed a trend of slow decline and stabilisation.²³⁶ HIV prevalence was highest in the 35-39 age group and lowest in the 15-19 age group, at 32% and 6%, respectively.²³⁷ While the overall HIV prevalence in Namibia was approximately 17%, it was much higher at certain sentinel sites than others. For example, the sentinel site with the highest HIV prevalence was Katima Mulilo (at 33%), while the lowest HIV prevalence was found at the Opuwo sentinel site (at 5%).²³⁸ The prevalence of HIV among women in rural and urban areas was similar.²³⁹ However, HIV prevalence among girls and women aged 15-19 and 40-49 in urban areas was higher than that of girls and women of the same age in rural areas.²⁴⁰

Information was also collected on antiretroviral therapy coverage among women who tested HIV positive during the Survey. Overall, 62.5% of women who tested HIV positive were already on antiretroviral therapy. The 15-19 age group displayed the lowest percentage of those already on antiretroviral therapy at

²²⁸ Id at 211. Females who were practicing Seventh-Day Adventists had an HIV prevalence rate of 23.8%, but this was based only on 25-49 unweighted cases. Ibid.

²²⁹ Ibid.

²³⁰ Ibid. Note that the prevalence rate for Zambezi was based only on 25-49 unweighted cases.

²³¹ *Surveillance Report of the 2016 National HIV Sentinel Survey*, Windhoek: Ministry of Health and Social Services, November 2016 at 6.

²³² In epidemiology, *incidence* measures the number of new cases within a specified time period, while *prevalence* measures the number of cases in the population during a given time period or on a specific date.

²³³ *Surveillance Report of the 2016 National HIV Sentinel Survey*, Windhoek: Ministry of Health and Social Services, November 2016 at 7.

²³⁴ Id at 8.

²³⁵ Id at 17.

²³⁶ Ibid.

²³⁷ Id at 18.

²³⁸ Id at 21.

²³⁹ Id at 23. The rate was 16.7% in rural areas compared to 17.7% in urban areas.

²⁴⁰ Ibid. For the 15-19 age group, the urban rate was 7.3% versus a rural rate of 4.6%. For the 40-49 age group, the urban rate was 34.8% versus a rural rate of 29.4%.

25%, but the figures increased significantly in the older age groups, culminating at almost 89% for women aged 40-49.²⁴¹

One important finding from the Survey relates to HIV among young women. While there has been a sustained decrease in HIV prevalence since 2002, HIV prevalence did *not* decrease among young women between 2010 and 2016, which has led to the following conclusion:

These results clearly demonstrate that new HIV infections continue to occur among young women across Namibia at a rate that will sustain a generalized epidemic in the foreseeable future. Failure to achieve [National Strategic Framework] targets for reducing levels of HIV infection among young women suggest substantial, unmet prevention need among this demographic group that should be addressed in the development of Namibia's next [National Strategic Framework].²⁴²

Interestingly, there was a “substantial, statistically significant” decline in HIV prevalence between 2010 and 2016 among younger women in Rundu.²⁴³ The Survey recommends undertaking further research to determine the underlying factors associated with this decline, so as to apply lessons learned in other areas of the country.

7.5.2 Prevention and management

At the beginning of February 2017, the Ministry of Health and Social Services hosted a consultation convened by a number of domestic and international agencies and attended by participants from 12 countries in eastern and southern Africa. The goal of the consultation was to “consider how to move forward on the issue of HIV prevention for adolescent girls and young women in the context [of] sexual and reproductive health and rights.” Participants put forth several recommendations for combating HIV, including improved healthcare services for adolescents and young women and campaigns to increase access to contraceptives and sexual education. The consultation also identified a need for a comprehensive approach to sexual and reproductive health rights that incorporates HIV-related issues, violence against women and unintended pregnancies.²⁴⁴

The US President's Emergency Plan for AIDS Relief (PEPFAR) is active in Namibia and has collaborated with a number of stakeholders to address the HIV/AIDS epidemic. PEPFAR Namibia's 2016 *Country Operational Plan* (“COP 16”) focuses on working in areas with high HIV burden and unmet treatment needs.²⁴⁵ COP 16 recognises the links between gender inequalities and HIV, owing to deeply entrenched gender norms and inequalities across cultural and economic spectrums.²⁴⁶ PEPFAR Namibia has identified adolescent girls and young women aged 15-24 as a priority population and notes that they, as well as other vulnerable populations such as female sex workers, face barriers in accessing health and HIV services.²⁴⁷ Thus, PEPFAR's activities will include “[supporting] individualized risk reduction counselling, condom and lubricant distribution and HIV testing focusing on [adolescent girls and young women aged 15-24] and key populations through clinic and community-based services.”²⁴⁸

²⁴¹ Id at 24.

²⁴² Id at 44.

²⁴³ Ibid.

²⁴⁴ World Health Organization, “Working together to address HIV prevention in eastern and southern Africa”, 13 February 2017, WHO website: <www.who.int/reproductivehealth/topics/linkages/hiv-prevention-namibia-meeting/en/>.

²⁴⁵ US President's Emergency Plan for AIDS Relief (PEPFAR), *Namibia Country Operational Plan (COP 16): Strategic Direction Summary*, 25 May 2016 at 8.

²⁴⁶ Id at 12.

²⁴⁷ Id at 31-32.

²⁴⁸ Id at 33.

On 19 April 2017, the *Namibia Population-Based HIV Impact Assessment* (“*NamPHIA*”) was launched in Windhoek. Its primary objectives are to measure the following: the rate of new HIV infections in Namibia (incidence); estimates of HIV prevalence by region; and the effectiveness of HIV treatment, in terms of viral load suppression and antiretroviral treatment by region.²⁴⁹ During his remarks at the *NamPHIA* launch, the United States Ambassador to Namibia noted that adolescent girls are two to five times more likely to acquire HIV than boys of the same age, highlighting the need to acquire comprehensive data that shows how they are becoming infected to more effectively prevent HIV among girls.²⁵⁰ Data for *NamPHIA* will be collected in 2017 and the preliminary report is scheduled to be released in December 2017.

7.5.3 Preventing Mother-to-Child Transmission

A mother can transmit HIV to her child during pregnancy, labour, delivery or breastfeeding. A child infected by Mother to Child Transmission (MTCT) is at great risk of early death; without treatment, about half of infected children will die within the first two years of life. Prevention of such Mother to Child Transmission (PMTCT) is an important component of combatting HIV/AIDS. Such intervention can reduce the risk of MTCT from a range of 20-40% to about 5% among breastfeeding mothers and to less than 2% among non-breastfeeding populations.²⁵¹ In 2001, the UN General Assembly Special Session on HIV/AIDS set a prevention target for 2010 to reduce the number of infants infected with HIV by 50%, by ensuring that 80% of pregnant women accessing antenatal care (ANC) have sufficient access to HIV prevention services and treatments.²⁵² It did so in the context of supporting Millennium Development Goal 6 of combatting HIV/AIDS.²⁵³

Namibia has achieved great success on this front. In 2010, the World Health Organization acknowledged that Namibia had achieved the goal of providing prevention, treatment and care to 80% of pregnant women and had correspondingly reduced new infant infections significantly.²⁵⁴ By 2016, reports indicated that MTCT in Namibia might have reached a level as low as 4%,²⁵⁵ down from a level of 33% in 2002.²⁵⁶

Namibia’s successful PMTCT program was initiated in March 2002 as a pilot programme in two hospitals and expanded over the following years. By 2007, 189 health facilities provided PMTCT services as part of antenatal care, constituting 74% of Namibian health facilities that provide antenatal services and 56%

²⁴⁹ “About NAMPHIA”, Ministry of Health and Social Services, undated, <www.mhss.gov.na/namphia/>.

²⁵⁰ “Launch of the Namibia Population-Based HIV Survey (NamPHIA)”, US Embassy in Namibia, 19 April 2017, <<https://na.usembassy.gov/launch-namibia-population-based-hiv-survey-namphia/>>.

²⁵¹ *PMTCT Strategic Vision 2010-2015: Preventing Mother-to-Child Transmission of HIV to reach the UNGASS and Millennium Development Goals*, Switzerland: World Health Organization, 2010 at 6, 8 (available at <www.who.int/hiv/pub/mtct/strategic_vision.pdf?ua=1>).

²⁵² United Nations General Assembly, *Resolutions and Decisions Adopted by the General Assembly During its Twenty-Sixth Special Session 25-27 June 2001*, New York: United Nations, 2002 at 10 (Resolution S-26/2, annex para 54) (available at <[www.un.org/en/ga/search/view_doc.asp?symbol=A/S-26/7\(SUPP\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/S-26/7(SUPP))>).

²⁵³ United Nations Past Conferences, Meetings and Events, “Millennium Summit (6-8 September 2000)”, undated, <www.un.org/en/events/pastevents/millennium_summit.shtml>.

²⁵⁴ *PMTCT Strategic Vision 2010-2015: Preventing Mother-to-Child Transmission of HIV to reach the UNGASS and Millennium Development Goals*, Switzerland: World Health Organization, 2010 at 8.

²⁵⁵ Nomhle Kangootui, “Namibia: Understanding Mother-to-Child HIV Transmission”, *The Namibian*, 23 Nov 2016.

²⁵⁶ “Namibia Country programme document 2014-2018”, UNICEF, revised 2014 at para 3 (available at <www.unicef.org/about/execboard/files/2013-PL16-Namibia_CPD-final_approved-English.pdf>).

of health facilities in Namibia overall.²⁵⁷ By 2013, PMTCT resources were available in over 90% of health facilities.²⁵⁸

In considering some of the factors contributing to the programme's successful roll-out, it should be noted that the government policy of charging a small user fee for State health services exempts preventive services, which include PMTCT.²⁵⁹ Moreover, the *2009 Health Facility Census* found that training was relatively widespread, with 32% of delivery service providers having received training related to PMTCT in the prior year and an additional 27% having received such training within the last three years. This compares favourably to other areas in which such service providers received training.²⁶⁰ It must also be acknowledged that Namibia's progress on PMTCT has relied heavily on substantial funding from international sources,²⁶¹ meaning that sustaining the success without donor funding may be challenging.²⁶²

Namibia has adopted the World Health Organization's four-pronged approach to PMTCT, which includes 1) primary prevention of HIV infection in women of childbearing age; 2) prevention of unintended pregnancies by HIV-positive women; 3) prevention of transmission from an HIV-positive woman to her infant; and 4) providing comprehensive care to mothers living with HIV and their families.²⁶³ Accordingly, a full package of PMTCT services typically includes HIV testing and counselling for pregnant women; counselling of HIV-positive women on infant feeding practices and maternal nutrition; prophylactic drugs for HIV-positive women during pregnancy, labour, and delivery and to the newborn; and family planning counselling and/or referrals. However, this full complement of services is available only in about half of all facilities that provide PMTCT services. The degree of coverage typically depends on staffing resources and whether the facility offers both antenatal and delivery services. Regionally, facilities in Zambezi (16%) and Kavango (19%) are least likely to provide the minimum package, while those in Omaheke (85%) and Ohangwena (77%) are most likely to provide comprehensive services.²⁶⁴ Namibia must continue to take steps to ensure nationwide coverage and sufficient mother and child care and medical services.²⁶⁵

²⁵⁷ *Namibia Health Facility Census (HFC) 2009*, Windhoek: Ministry of Health and Social Services and ICF Macro, 2010 at 16 (available at <<https://dhsprogram.com/pubs/pdf/SPA16/SPA16.pdf>>).

²⁵⁸ *2013 Demographic and Health Survey* at 176.

²⁵⁹ *Namibia Health Facility Census (HFC) 2009*, Windhoek: Ministry of Health and Social Services and ICF Macro, 2010 at 70.

²⁶⁰ Id at 139-140. For example, the corresponding figures for training on delivery care were 19% in the previous year and an additional 16% within the previous three years. For training on neonatal resuscitation, the figures were 14% in the previous year and an additional 14% within the previous three years.

²⁶¹ Funding was provided by sources such as the Global Fund and the US President's Emergency Plan for AIDS Relief (PEPFAR) through the United States Agency for International Development (USAID).

²⁶² "Analytical Summary – HIV/AIDS", World Health Organization Regional Office for Africa, undated, <www.who.int/profiles_information/index.php/Namibia:Analytical_summary_-_HIV/AIDS>.

²⁶³ *PMTCT Strategic Vision 2010-2015: Preventing Mother-to-Child Transmission of HIV to reach the UNGASS and Millennium Development Goals*, Switzerland: World Health Organization, 2010 at 9; Ministry of Health and Social Services Directorate of Special Programmes, *National Guidelines for Antiretroviral Therapy Fourth Edition*, 2014 at 44 (available at <https://aidsfree.usaid.gov/sites/default/files/tx_namibia_2013.pdf>).

²⁶⁴ *Namibia Health Facility Census (HFC) 2009*, Windhoek: Ministry of Health and Social Services and ICF Macro, 2010 at 192-193.

²⁶⁵ "Analytical Summary – HIV/AIDS", World Health Organization Regional Office for Africa, undated.

7.6 Types of cancer specifically affecting women

Other illnesses that specifically affect women in Namibia include breast, cervical and other cancers. The Namibia National Cancer Registry,²⁶⁶ reporting on cancer incidence in Namibia from 2010 to 2014, noted that the top ten cancers amongst Namibian women (based on absolute numbers) were breast, cervix uteri, Kaposi sarcoma, eye, ovary, Non-Hodgkin lymphoma, melanoma of skin, corpus uteri, trachea/bronchus/lung and colon.²⁶⁷ Breast and cervical cancer accounted for 27% and 19% of all female cancers, respectively.²⁶⁸ The report also notes that the substantial increase in the overall incidence of cancer (excluding non-melanoma skin cancers) as compared to the previous reporting period must be “explored carefully”; in addition to the likelihood that the Cancer Registry has improved its collation of cancer data, the 2010-2014 reporting period showed less variability than the previous reporting period and was more likely to accurately reflect the cancer burden in Namibia.²⁶⁹ However, the considerable rise in the rates of certain cancers among both males and females (for example, the eye cancer rate among females tripled and the Kaposi sarcoma, breast and cervical cancer rates among females doubled) is underlined as a serious concern.²⁷⁰

A 2017 report on the human papillomavirus (HPV) and related diseases in Namibia found that cervical cancer is the third most common cancer among women aged 15-44. Estimations for 2012 show that approximately 132 new cervical cancer cases are diagnosed in Namibia each year.²⁷¹ Moreover, estimations for 2012 show that approximately 59 deaths occur annually in Namibia due to cervical cancer, making it the second leading cause of female cancer deaths in Namibia and the third leading cause of cancer deaths for Namibian women aged 15-44.²⁷² While there is currently no available data on the overall HPV burden in Namibia, estimates from Southern Africa show that at a given time, approximately 3% of women carry the two strains of HPV that are precursors to the majority of invasive cervical cancers.²⁷³ Vaccinations for those two main strains (HPV type 16 and HPV type 18) currently exist and could reduce the incidence of cervical cancers.²⁷⁴ However, although the vaccinations are in use in Namibia, national coverage has not yet been achieved.²⁷⁵ Cervical cancer screening coverage, which is another effective measure, was estimated in 2013 as covering only 24% of the female population (17% in rural areas and 28% in urban areas).²⁷⁶

In addition to improved coverage of screening and HPV vaccination, the Cancer Association of Namibia has recommended improved data collection methods to understand more precisely the cancer risks and

²⁶⁶ This is a project undertaken by the Ministry of Health and Social Services and the Cancer Association of Namibia. Its main goals are to: monitor the incidence of cancer among the Namibian population; use observed cancer trends to predict future patterns; provide information on cancer in different regions and among different ethnic groups; monitor the effects of cancer prevention programs, early detection or screening, treatment and palliative care; and provide information for research on causes of cancer among the Namibian population. *Cancer Incidence in Namibia Report 2010-2014*, Windhoek: Cancer Association of Namibia, Namibia National Cancer Registry, February 2017 at 11 (available at <afcrn.org/attachments/article/125/Cancer%20in%20Namibia%202010-2014.pdf>).

²⁶⁷ Id at 19.

²⁶⁸ Id at 7.

²⁶⁹ Id at 23.

²⁷⁰ Ibid.

²⁷¹ *Human Papillomavirus and Related Diseases Report: Namibia*, ICO Information Centre on HPV and Cancer, 19 April 2017 at 6 (available at <www.hpvcentre.net/statistics/reports/NAM.pdf>).

²⁷² Id at 14.

²⁷³ Id at 1.

²⁷⁴ Id at iii.

²⁷⁵ Id at 56.

²⁷⁶ Id at 57.

effects among varying Namibian populations, and suggests that the government should make cancer a reportable condition to improve the accuracy of statistics.²⁷⁷

7.7 Gender issues in nutrition

A woman's nutritional well-being has important consequences for her health and for the health of her children. A woman's malnutrition begets a whole host of risks, including increased risk of disease, an increased likelihood of pregnancy complications, and a heightened risk of death to her or her baby. A mother's malnutrition lowers the quality of her breastmilk, which has important implications, as 96% of Namibian children breastfed at some point in their lives.²⁷⁸ Indeed, as of 2013, 24% of Namibian children under the age of 5 were stunted (short for their age, an indicator of malnutrition), and 8% were severely stunted. A mother's body mass index had an inverse relationship with stunting incidence: 28% of children whose mothers were thin were stunted, while only 15% of children whose mothers were overweight or obese were stunted.²⁷⁹ High instances of undernutrition have associated costs. It is often more expensive for a country to treat an undernourished child than it is to provide adequate nourishment in the first place. Undernutrition also leads to lower performance in school, including higher drop-out rates. On a broader scale, a pattern of undernourishment has negative effects on national productivity.²⁸⁰

Three malnutrition indicators – being stunted (short for age), wasted (thin for height) or underweight (thin for age) – suggest that male children in Namibia are less well-nourished than female children. According to the *2013 Demographic and Health Survey*, male children were more likely to be stunted (27% of male children versus 21% of female children), wasted (9% versus 4%) or underweight (15% versus 11%).²⁸¹ Male children were also slightly less likely to have ever been breastfed (95.4% versus 96.0%)²⁸² and were estimated to be breastfed for a shorter period of time (with the median duration for any breastfeeding activity estimated to be 14.3 months for male children and 15.1 months for female children).²⁸³ Among children 6-23 months old, male children were less likely to be fed breast milk or milk products (70% of male children versus 74% of female children). The difference seems to be limited to milk. Patterns regarding other types of food intake – having four or more food groups (the minimum recommended for non-breastfeeding children) and the number of recommended daily meals – show only very slight differences by sex.²⁸⁴ The Survey did not offer any theories for these gender differences.

This nourishment pattern appears to continue into adulthood. A nutrition indicator for adults is Body Mass Index (BMI). Among adults aged 15-49, 14% of women were considered “thin” compared to 23% of men. For both genders, a BMI of 18.5 or less indicated that someone was “thin.”²⁸⁵

However, women in 2013 were more likely to be anaemic than men: 21% of women aged 15-49 were anaemic, compared with 12% of men.²⁸⁶ This has important consequences for maternal health, as anaemia

²⁷⁷ *Cancer Incidence in Namibia Report 2010-2014*, Windhoek: Cancer Association of Namibia, Namibia National Cancer Registry, February 2017 at 7, 26.

²⁷⁸ *2013 Demographic and Health Survey* at 129.

²⁷⁹ Id at 131-32.

²⁸⁰ *Namibia Zero Hunger Newsletter*, Vol 1, [First Issue], January-June 2016 at 11. (available at <www.npc.gov.na/?wpfb_dl=272>).

²⁸¹ *2013 Demographic and Health Survey* at 132.

²⁸² Id at 135.

²⁸³ Id at 138.

²⁸⁴ Id at 140-41.

²⁸⁵ Id at 147-48.

²⁸⁶ Id at 149-50.

may lead to health problems such as maternal mortality, spontaneous abortions and premature births. Anaemia is most often caused by inadequate consumption of nutrients such as iron, folic acid and vitamin B12.²⁸⁷

A separate report from 2013 found similar, but higher, levels of anaemia among women. This report indicated that 31% of pregnant women and 35% of non-pregnant, non-lactating women were anaemic. As both figures are above 20%, they meet the World Health Organization's standard for being classed as public health problems.²⁸⁸ The Ministry of Health and Social Services, as the ministry that oversees the Namibia Alliance for Improved Nutrition, presented a plan for alleviating nutrition burdens that contained actions such as training health workers on nutrition counselling for women of reproductive age and on the importance of giving vitamin A, zinc, and iron-folic acid supplements to women and young children.²⁸⁹

7.8 Women's access to health care services

Namibia's *National Health Policy Framework 2010-2020* proposes a combination of promotive, preventive, curative and rehabilitative services undertaken in collaboration with other sectors, communities, individuals and partners.²⁹⁰ The Framework includes among its principles and values a stated commitment to gender issues to ensure "that women and men, boys and girls can enjoy a healthy life and have access to health services according to their specific needs...."²⁹¹ It also identifies as one of its priorities the need to support maternal, neonatal and child health.²⁹²

The *2013 Demographic and Health Survey* addressed several aspects of maternal health care during pregnancy, childbirth and in the immediate postnatal period. It noted that access to emergency obstetric care was not uniform across Namibia, due to inadequate human resources and skills as well as the challenge of access to health services.²⁹³ The sheer size of the country means that as of 2013, approximately 21% of the population lived more than 10 kilometres from a health facility, and accessing emergency obstetric care required travelling long distances in many instances.²⁹⁴ This had an effect on the ability of women to give birth in health facilities. In the five years prior to the Survey, 12% of live births occurred at home.²⁹⁵ When women who gave birth at home were asked why they did not go to a health facility, 72% said that the health facility was too far away or they had no transportation to get there. While this figure was higher for women living in rural areas (75%) than in urban areas (60%), distance and lack of transport were clearly significant impediments to maternal health care access in both rural and urban contexts.²⁹⁶

In order to assess the factors leading to women's inadequate access to health care, the *2013 Demographic and Health Survey* asked girls and women aged 15-49 whether any of the following would be a barrier to

²⁸⁷ Id at 142.

²⁸⁸ *Multi-Sectoral Nutrition Implementation Plan, Results Framework & Dashboard of Indicators*, Windhoek: Namibia Alliance for Improved Nutrition, 2013 at 4 (available at <[www.unicef.org/namibia/Namibia_Report_on_the_Multi-sectoralCIP_100913\).pdf](http://www.unicef.org/namibia/Namibia_Report_on_the_Multi-sectoralCIP_100913).pdf)>).

²⁸⁹ Id at 16-17.

²⁹⁰ *National Health Policy Framework 2010-2020*, Windhoek: Ministry of Health and Social Services, July 2010 at 5.

²⁹¹ Id at 4.

²⁹² Id at 7-9.

²⁹³ *2013 Demographic and Health Survey* at 99.

²⁹⁴ Ibid, citing *National Policy on Sexual, Reproductive and Child Health*, Windhoek: Ministry of Health and Social Services, 2013.

²⁹⁵ Id at 105.

²⁹⁶ Id at 106.

medical care: permission to go for treatment (not specifying from whom), money for treatment, distance to a health facility and not wanting to go alone.²⁹⁷ Overall, the most common barrier to accessing health care was distance to the health facility (31%), followed by money for treatment (28%), not wanting to go alone (15%) and failure to get permission (6%). About 43% of women surveyed stated that at least one of these reasons was an impediment to accessing health care.²⁹⁸ Based on a number of background characteristics, some women were much more likely than others to experience one of these access barriers. For example, 74% of women in the lowest wealth quintile, 72% of women with no education, 62% of women with five or more children, 57% of women living in rural areas, and 54% of women who were divorced, separated or widowed faced at least one access barrier.²⁹⁹ In terms of health care access by region, women in Kavango were by far the most likely to experience at least one access barrier (77%), followed by Ohangwena (57.6%), Zambezi (57.5%) and Omaheke (56%).³⁰⁰

Considering that distance to health facilities and lack of transportation is fairly commonplace in Namibia, the use of mobile clinics has been an interesting intervention. In 2010, a pilot programme called Mister Sister utilised a public-private partnership to bring primary health care to remote and underserved populations in Namibia.³⁰¹ This programme has reportedly assisted thousands of registered patients who otherwise would be unlikely to have access to medical care. Some of its main services include confirmation of pregnancy, routine antenatal and postnatal care, family planning, immunisations, well-child care, screening for TB and sputum collection, voluntary counselling and testing for HIV, and diagnosis and treatment of routine communicable diseases.³⁰²

7.9 Menstruation and school attendance by girls

Specific studies on menstrual hygiene and education have come to different conclusions about the relationship between menstruation, access to menstrual products and school attendance by girls in lower and middle-income countries.³⁰³ Nonetheless, there is widespread concurrence that in general, girls face a

²⁹⁷ Id at 113.

²⁹⁸ Id at 114.

²⁹⁹ Ibid.

³⁰⁰ Ibid.

³⁰¹ The project was initiated by PharmAccess Namibia with support from the Ministry of Health and Social Services, a number of local companies (including Namibia Medical Care, Heineken Africa Foundation, the Health Insurance Fund, which utilised funding from the Dutch government, and the Ohlthaver & List Group) and USAID. The programme recently transitioned to Healthworks Business Coalition (formerly the Namibia Business Coalition on HIV/AIDS). PharmAccess Foundation, “Mister Sister mobile clinic program wins World Bank PPP Short Story Competition”, 16 June 2015, PharmAccess Group website: <www.pharmaccess.org/update/mister-sister-mobile-clinic-program-wins-world-bank-ppp-short-story-competition/>; “Integration of Mister Sister Mobile Clinics into [Healthworks] Business Coalition”, *Confidante*, 30 March 2017, available at <www.confidante.com.na/2017/03/integration-of-mister-sister-mobile-clinics-into-healthworks-business-coalition/>.

³⁰² “Integration of Mister Sister Mobile Clinics into [Healthworks] Business Coalition”, *Confidante*, 30 March 2017.

³⁰³ See, for example, Teketo Kassaw Tegegne and Mitike Molla Sisay, “Menstrual hygiene management and school absenteeism among female adolescent students in Northeast Ethiopia”, 14 *BMC Public Health* 1118 (2014); Emily Oster and Rebecca Thornton, “Menstruation, Sanitary Products, and School Attendance: Evidence from a Randomized Evaluation”, 3 *American Economic Journal: Applied Economics* 91 (January 2011).

One widely cited statistic is that one in 10 girls in Sub-Saharan Africa miss school during their menstrual cycles. However, this appears to be inaccurate. See “No data shows 1 in 10 African girls miss school because of menstruation”. AfricaCheck website at <<https://africacheck.org/reports/no-data-shows-1-in-10-african-girls-miss-school-because-of-menstruation/>>, which summarises existing studies on the topic. See also “Girls’ and women’s right to menstrual health: Evidence and opportunities”, *Outlook on Public Health*, February 2016 at 5 (available at <www.path.org/publications/files/RH_outlook_mh_022016.pdf>): “Research suggests that menstrual health challenges can lead girls to stay home from school while menstruating. The precise impact of menstruation

number of challenges in the school context both during menarche and each month thereafter when they are menstruating:

A body of research has documented menstruating girls' experiences of shame, fear, and confusion across numerous country contexts and the challenges girls face attempting to manage their menstruation with insufficient information, a lack of social support, ongoing social and hygiene taboos, and a shortage of suitable water, sanitation and waste disposal facilities in school environments.³⁰⁴

These challenges are particularly acute when girls do not have access to menstrual products and sanitation facilities. During the first Menstrual Hygiene Management in Schools Virtual Conference, an event co-hosted by UNICEF and Columbia University in 2012, UNICEF country offices shared their countries' menstrual hygiene management practices through online presentations. Many of them highlighted the importance of girls having access to sanitary pads and adequate toilet facilities at schools to promote girls' menstrual hygiene, privacy and comfort. Having such facilities may even result in improved school attendance. For example, 21.3% of girls in Sierra Leone reported that they missed school when they had their menstrual periods, due to reasons such as lack of menstrual hygiene facilities at school and fear of leakage.³⁰⁵ A 2014 publication by UNESCO highlighted access to menstrual hygiene materials as a component of girls' safety. While it was acknowledged that the evidence was mostly anecdotal and that further research was required, instances were reported of girls in Sub-Saharan Africa engaging in transactional sex so they could purchase disposable sanitary pads and continue attending school while they were menstruating.³⁰⁶

Anecdotal evidence in the Namibian context suggests a positive correlation between girls' access to menstrual products and school attendance and enjoyment. At present, girls who lack access to affordable menstrual products resort to options such as mattress and pillow stuffing, old clothes or newspaper as substitutes for pads, and crushed leaves as substitutes for tampons. There is anecdotal evidence that some girls resort to "sugar daddies" (transactional sexual relationships with older men) to obtain sanitary products.³⁰⁷

Sister Namibia, a women's rights organization based in Windhoek, has created SisterPADS in response to the finding that some girls miss three to five school days each month because they cannot afford sanitary products.³⁰⁸ SisterPADS are reusable, waterproof pads that Sister Namibia has distributed to numerous Namibian girls to encourage their sense of empowerment and fulfil their right to education. Sister Namibia cites numerous benefits of SisterPADS, such as mobility during menstruation, joy over no longer missing school, a sense of security, happiness over saving money, the opportunity to study, the ability to stay clean, and freedom from embarrassment about leaks.³⁰⁹ Power Pad Girls, a non-profit organisation that hosts events and awareness campaigns about women's sexual and reproductive health, has held a number of charity quiz nights in support of Sister Namibia and the SisterPADS initiative.³¹⁰ In

on girls' school attendance and other educational outcomes, however, is less clear. Studies have identified several possible reasons for absences: lack of sanitary supplies, pain associated with menstruation, lack of appropriate sanitation and hygiene facilities in the school, and fear or shame" (footnotes omitted).

³⁰⁴ Marni Sommer et al, "A Time for Global Action: Addressing Girls' Menstrual Hygiene Management Needs in Schools", 13(2) *PLOS Medicine* 1, 1-2 (23 February 2016).

³⁰⁵ Columbia University Mailman School of Public Health and UNICEF, *WASH in Schools Empowers Girls' Education: Proceedings of the Menstrual Hygiene Management in Schools Virtual Conference 2012*.

³⁰⁶ UNESCO, *Good Policy and Practice in Health Education Booklet 9: Puberty Education & Menstrual Hygiene Management*, 2014 at 16.

³⁰⁷ Personal communication, Sister Namibia, May 2017 (based partly on pre-test of SisterPads).

³⁰⁸ Sister Namibia, *SisterPADS*, Sister Namibia website: <<https://sisternamibia.com/sisterpads/>>.

³⁰⁹ Ibid.

³¹⁰ Power Pad Girls, *About Us*, Power Pad Girls website <www.powerpadgirls.com/about-us/>.

August 2016, *The Namibian* reported on the positive impact of the project and the “sense of security and joy” experienced by 760 schoolgirls who had received a SisterPADS kit.³¹¹ Each locally-made SisterPAD kit costs about N\$200 to make, and their manufacture has the capacity to be an income-generating project for Namibian women. It could also potentially be combined with corporate social responsibility programmes.³¹²

In Kenya, 2016 legislation removed state duty charges on raw materials used in the production of sanitary pads. In 2017, the Kenyan law on basic education was amended to impose a duty on Government to provide free, sufficient and quality sanitary towels to every girl who has reached puberty and is enrolled in a public institution for basic education. This law also requires Government to provide safe and environmentally-sound mechanisms for the disposal of used sanitary towels.³¹³

³¹¹ “Reusable sanitary pads bring joy to rural girls in Namibia”, *The Namibian*, 8 August 2016.

³¹² For example, Tulipamwe, a company which provides catering services to school hostels in the north, bought 700 kits from Sister Namibia in 2017 for free distribution in the school hostels they serve. Personal communication, Sister Namibia, May 2017.

³¹³ “Uhuru signs law on free sanitary towels for schoolgirls”, *Business Day*, 21 June 2017 (available at <www.businessdailyafrica.com/news/Uhuru-signs-law-on-free-sanitary-towels-for-schoolgirls/539546-3981752-1b8qrz/index.html>).

Chapter 8

Education

8.1 Overview

Namibian children enter primary education in the year that they turn seven. Primary education covers Grades 1 to 7, while full secondary education covers a period of five years from Grades 8 to 12. However, learners may receive a Junior Secondary School Certificate after successful completion of exams at the end of Grade 10, and many leave school at this stage. At the end of Grade 12, learners sit for the Namibia Senior Secondary Certificate which is offered at Ordinary and Higher levels.³ Curriculum development, educational research, and professional development of school teachers is organised by the National Institute for Educational Development (NIED) in Okahandja. A new curriculum for Grades 1 to 12 was introduced in 1998 and again in 2010.⁴ The medium of instruction is the child's mother tongue in Grades 1-3, with a transition to English in Grade 4.⁵ Primary education in government schools became free in 2013,⁶ as did secondary education in 2016. However, parents must still pay for uniforms and hostel accommodation for boarders. As of 2017, the Ministry of Education reported that Namibia has 1 796 schools countrywide, staffed by a total teaching staff of 27 886 (65% female).⁷

Legal issues

- * Article 20 of the **Namibian Constitution** guarantees the right to education. It makes primary education compulsory until it is completed or until the child turns 16, whichever comes first. It also requires that primary education at State schools must be provided free of charge.
- * Education at public and private schools is governed by the **Education Act 16 of 2001**, which will soon be replaced by new, updated legislation currently in advanced stages of preparation.
- * Tertiary education is governed by the **University of Namibia Act 18 of 1992** and the **Namibia University of Science and Technology Act 7 of 2015**. The former makes no reference to gender, but the latter requires that members of the University Council (aside from *ex officio* members) be selected with a view to achieving gender balance.
- * The Namibian Supreme Court ruled in 1991 that **corporal punishment** by organs of state, including in public schools, is a violation of children's constitutional right to human dignity.¹ The Education Act 16 of 2001 prohibits corporal punishment in both public and private schools. The application of this prohibition to private schools was clarified by the High Court in 2016, in a case stressing that no parent or learner can overrule the prohibition by giving "consent" to corporal punishment.²

¹ *Ex Parte Attorney-General, Namibia: Re: Corporal Punishment by Organs of the State* 1991 NR 178 (SC).

² *Van Zyl v The State* (CA 25-2014) [2016] NAHCMD 246 (5 September 2016).

³ See *The National Curriculum for Basic Education*, Okahandja: National Institute for Educational Development (NIED), Ministry of Education, 2009.

⁴ Ibid.

⁵ Id at 24.

⁶ Prior to this date, school boards were allowed to charge parents fixed amounts for School Development Funds which were used to supplement government allocations to each school. There were procedures for exemption from such fees for those who could not afford to pay, but these did not work effectively in practice. The payments were perceived as school fees and worked as an obstacle to education for children from poorer families.

⁷ Albertina Nakale, "Namibia among highest education spenders", *New Era*, 3 May 2017. The Minister reported that there are 18 140 females and 9 746 males amongst the total teaching staff.

Namibia has two State universities, the University of Namibia (UNAM) established in 1992,⁸ and the Namibia University of Science and Technology (NUST), which was previously the Polytechnic of Namibia, established in 1994. In addition, the Namibia Qualifications Authority⁹ has accredited 44 institutions for various programmes of continued learning, including one private university, the International University of Management (IUM). Other accredited institutions, such as the Namibian Academy for Tourism and Hospitality and Okakarara Vocational Training Centre, are vocational schools that offer vocational certificates.¹⁰

Namibia regularly allocates more than 18% of its national budget to education,¹¹ but education (like other sectors) has suffered from the recent government spending cutbacks, meaning that the amount of money spent on education has shrunk. Learner subsidies at primary level have reportedly been cut from N\$350/child to N\$250/child, and at secondary level from N\$500/child to N\$250/child for the 2017/28 financial year.¹²

A National Conference on Education was held in 2011 and attended by some 1000 participants, with the goal of deliberating on the state of education in Namibia and formulating recommendations to advance the educational agenda. The move to make education truly free of charge in Namibia followed on this consultation, as well as the scaling up of early childhood development programmes. However, with respect to gender issues, the conference recommendations referenced the sex of learners arose primarily in connection with learner pregnancy.¹³

⁸ In 2015, UNAM's enrolment was over 20 000 (including full-time, part-time, and distance education students). It had eight faculties (humanities and social sciences; education; law; agriculture; science; engineering; economics; and medical sciences) and incorporated the Namibia Business School. It also had 12 campuses in the various regions of Namibia. "Educational Transformation in Namibia, Address by Hon Prof Peter H Katjavivi, Speaker of the National Assembly of the Republic of Namibia, Founding Vice-Chancellor of the University of Namibia (UNAM) 1992-2003 at the Forum of the Commonwealth Council on Education Commonwealth Parliamentary Association, Westminster Hall, Palace of Westminster, London, United Kingdom, 26th May 2016" (available at <www.parliament.na/phocadownload/media/2016/speech_at_commonwealth_16.pdf>).

⁹ This body is established and governed by the Namibia Qualifications Authority Act 29 of 1996.

¹⁰ *Namibian institutions and their programmes accredited by the Namibia Qualifications Authority*, Windhoek: Namibia Qualifications Authority, 2016 (available at <www.namqa.org/files/files/Namibian%20Accredited%20Institutions.pdf>).

¹¹ According to the Medium Term Expenditure Framework, more than N\$11 billion of the N\$63 billion budget for 2015/16 went to The Ministry of Education, Arts and Culture, constituting the largest share (17.9%) of the national budget allocated to one sector. Medium Term Expenditure Framework 2015/16-2017/18 at 10 (available at <www.mof.gov.na/documents/27827/109194/MTEF+2015_2016+FINAL_1.pdf/62a85b5a-9cdf-4808-93ca-2b79e8cef21f>).

According to the annual budget statement for 2016/17, the Ministry of Basic Education, Arts and Culture received N\$12.7 billion of the total budget of N\$ 66 billion (19.4%). Budget statement for 2016/17, delivered by Minister of Finance Calle Schlettwein at 25-26 (available at <www.mof.gov.na/documents/27827/212715/2016+Budget+Statement+-+25+Feb+2016.pdf/48de88a2-98a0-4d56-bd66-283fc27fbd56>).

According to the annual budget statement for 2017/18, the Ministry of Basic Education, Arts and Culture received almost N\$12 billion of the total budget of N\$62.5 billion, constituting the highest budget allocation at 19.2%. Budget statement for 2017/18, delivered by the Minister of Finance Calle Schlettwein on 8 March 2017 at 26 (available at <www.mof.gov.na/documents/27827/345303/Budget+Statement+2017.pdf/9310da77-51f1-4e76-8d2a-f37c987af344>); R Brown, "The National Budget 2017-18", 23 May 2017 at 6 (available at <http://ippr.org.na/wp-content/uploads/2017/05/19_DB_Budget_WEB.pdf>).

¹² Theresia Tjihenuna, "Education buckles...", *The Namibian*, 18 April 2017. See also *The Namibian* editorial, "Trying to cheat the future?", 21 April 2017, which quotes education minister Katrina Hanse-Himarwa as stating in Parliament: "A negative impact on learner outcomes is anticipated for the 2017 academic year due to the reduction in the budget allocation for textbooks, school stationery and teaching aids."

¹³ *General Reader on the National Conference on Education*, Ministry of Education, [2014] at 79-87.

Between September 2009 and September 2014, the Millennium Challenge Account-Namibia¹⁴ made education one of its focus areas and injected substantial amounts of money into the sector. Amongst other things, this project upgraded, renovated and equipped 48 schools; delivered 1.7 million English, science and mathematics textbooks for Grades 5-12; supported the Community Skills Development Centres (COSDECs) that aim to develop entrepreneurial skills of youth in micro and small enterprises; assisted Government to set up a Continuous Professional Development Unit for the teaching profession; and trained “master trainers” who went on to train 1 479 of the 1 693 State principals for 25 days in instructional leadership.¹⁵

In 2013, Government cited the following as persisting challenges: “poor school management, lack of motivation among many educators, poor physical learning environments, slow roll-out of early childhood development, poverty, malnutrition and high levels of domestic violence”.¹⁶ Interventions identified to combat these challenges were: “improve school management structures at school, circuit, regional and national levels, strengthen procurement and distribution of textbooks especially to rural areas, continued improvement of physical learning environments, expedite roll-out of early childhood development centres, expand the school feeding scheme to include all children, enact the Child Care and Protection Bill, implement and enforce school codes of conduct for teachers and learners, and implement the teenage pregnancy policy”.¹⁷

In 2016, The Speaker of Parliament identified the following as particular challenges:

- high dropout rates;
- teenage pregnancies;
- drug abuse in schools;
- school absenteeism, especially in rural areas where children are required by their families to herd cattle rather than go to school;
- lack of teaching facilities;
- challenges relating to the nutritional programme in schools and hostels;
- the need for upgrading the skills of instructors in the vocational training programme; and
- inadequate pre-primary development.¹⁸

Namibia’s net enrolment rate for primary education was 99.6% in 2012.¹⁹ According to UNICEF:

Namibia has almost achieved universal primary education, but 9 per cent of children aged 6-16 years have never been to school. These children are from the most disadvantaged communities, including language minority groups. Education quality and learning outcomes are unsatisfactory, as reflected in high repetition rates, and only 44 per cent of children starting grade 1 reach grade 12. The 2010 Public Expenditure Review highlighted inadequate investment in teaching and learning. High levels of violence, especially sexual

¹⁴ The Millennium Challenge Corporation (MCC) is a bilateral United States foreign aid agency established in 2004. MCC administers the Millennium Challenge Account. When a country is awarded a compact, it sets up its own local Millennium Challenge Account entity to manage the projects. In Namibia, the areas for interventions were identified by the National Planning Commission after public consultations. The MCA Compact in Namibia spent US\$305 million in the areas of education, tourism and agriculture.

¹⁵ “National Factsheet Millennium Challenge Account Namibia”, 2014 (available at <www.mcanamibia.org/files/files/MCA%20National%20Fact%20Sheet%20Book%20Final%20Smallest.pdf>).

¹⁶ *Namibia 2013 Millennium Development Goals Interim Progress Report No. 4*, Windhoek: National Planning Commission, September 2013 at 10.

¹⁷ Ibid.

¹⁸ Quoted from “Educational Transformation in Namibia, Address by Hon Prof Peter H Katjavivi, Speaker of the National Assembly of the Republic of Namibia, Founding Vice-Chancellor of the University of Namibia (UNAM) 1992-2003 at the Forum of the Commonwealth Council on Education Commonwealth Parliamentary Association, Westminster Hall, Palace of Westminster, London, United Kingdom, 26th May 2016” (available at <www.parliament.na/phocadownload/media/2016/speech_at_commonwealth_16.pdf>).

¹⁹ “Achieve universal primary education: Where we are?”, <www.na.undp.org/content/namibia/en/home/post-2015/mdgoverview/overview/mdg2/> (30 June 2017).

violence – within families, schools and communities – put pre-adolescent and adolescent girls at particular risk of abuse, psychosocial stress and HIV infection. A very significant proportion of children in upper secondary school attend boarding schools, living away from their families.²⁰

Namibia's degree of gender parity at various levels of education is indicated in the table below, with females outnumbering males at pre-primary and secondary levels, but not at primary or tertiary levels.

Ratio of females to males in education and literacy in Namibia (2011-12)		
	Baseline Females per 100 males	Progress Females per 100 males
Pre-primary education	87.6 (2008)	101.2 (2012)
Primary education	102 (1992)	96.4 (2012)
Secondary education	124 (1992)	112.3 (2012)
Tertiary education	162 (1992)	85.25 (2011)
Ratio of literate females to males (15-24 years)	110 (1991)	103 (2011)

Source: MDG 3: Promote gender equality and empower women, "Status at a glance",
<www.na.undp.org/content/namibia/en/home/post-2015/mdgoverview/overview/mdg3/> (30 June 2017).

A 2013 analysis of Namibia's progress towards the Millennium Development Goals (MDGs)²¹ provided this observation of trends in education since Independence:

In the first decade of tracking the MDGs, Namibia had already achieved higher school enrolment rates for females than for males in all four levels of education – primary, secondary, tertiary, and adult literacy. As noted in the first MDG Report [2004], one reason for the much greater access to education for girls and young women at Independence was the fact that more young men than young women fought in the war of Independence, so it took the next decade for the school enrolment of boys to catch up with that of girls. This greater presence of girls in primary and secondary school had also led to a higher literacy rate among female youth than among male youth. Unlike many African countries facing the MDG education-gender challenge for females, Namibia actually needed to create a balance by encouraging a greater number of males to enrol in school, while maintaining the number of female students.

From 1999 to 2004, nationwide, there were 100 females for every 100 males in primary school, but this dropped slightly in 2005, and further decreased to the current (2012) figure of 96 girls per 100 boys...

...[S]ince 1992, girls have always been in the majority in the nation's secondary schools, with the most recent figure (2012) standing at 112 females for every 100 males. However, there are significant differences in this ratio between regions, and also at different grades within secondary school...

The significant drop in the ratio of females to males in tertiary education since 1991 may only be due to differing methods of calculating the figures or different definitions of "tertiary education". From the most recent available data (2011) the average total enrolment ratio is 85, but a wide variation in the ratio exists among the institutions....²²

Namibia's 2010 curriculum includes an interesting statement on gender equity:

Gender equity has many levels and many aspects. All elective subjects in a school must be available for any learner irrespective of gender. The guiding criteria for the selection of subjects should be the interest, aptitude and ability of learners, but teachers must encourage learners to study subjects across the boundaries of conventional gender role stereotypes, and emphasise the advantages of doing so. Similarly, perceptions

²⁰ "Namibia Country programme document 2014-2018", UNICEF, revised 2014 at para 6 (available at <www.unicef.org/about/execboard/files/2013-PL16-Namibia_CPD-final_approved-English.pdf>).

²¹ The United Nations Millennium Development Goals (MDGs) were eight goals that all UN Member States agreed to try and achieve by the year 2015. They were superseded by the 17 Sustainable Development Goals, which are "broader, deeper and far more ambitious in scope". See <www.who.int/topics/millennium_development_goals/en/>.

²² *Namibia 2013 Millennium Development Goals Interim Progress Report No. 4*, Windhoek: National Planning Commission, September 2013 at 38-40 (footnote, citations and graphs omitted). This is the most recent MDG report for Namibia which could be located online. See also "Eight Goals for 2015", UNDP website: <www.na.undp.org/content/namibia/en/home/post-2015/mdgoverview.html>.

that girls are less able to succeed in mathematics and natural science, and girls' own self-perceptions of this nature, must be discussed openly and dealt with.

At a deeper level, the teacher's own attitude, expectations of different achievements from boys and girls, and classroom behaviour are known to have a steering or filtering effect on the learners. The teacher may model positive role behaviour in terms of gender by being aware of how much attention and what sort of attention they pay to girls and boys, and by being aware of how girls and boys may react differently to certain types of behaviour, such as ironic comments, a negative facial expression, harshness, or apparent indifference. The learners' own stereotyped attitudes and behaviour towards each other, especially but not only, that of boys to girls, is a strong influence. Teachers must be sensitive to when it is advisable to intervene and take up gender issues arising from negative attitudes or conflict situations.

Gender issues should be taken up explicitly in all subjects, and learners should be encouraged to examine stereotype gender roles and behaviours and how they have arisen and been perpetuated, and to find positive role models in terms of gender equity. In teaching different subjects, the positive contributions that women have made and can make in areas of life where there has previously been male domination, and the value of men's participation in areas where there has previously been female domination, should be emphasised.

Learners must be empowered to challenge and change role behaviours in themselves and others which lead to any form of coercion or violence, especially towards girls and women. They must understand the importance of mutual respect and equal sharing of practical work, and caregiver responsibility in the home.²³

Two extra-curricular life skills programmes supported by UNICEF and aimed primarily at HIV prevention incorporate some issues pertaining to gender – “My Future My Choice” for Grades 8-12, and “Window of Hope” for Grades 4-7. In 2009, “My Future My Choice” was fully handed over to the Government, and declared mandatory for all Grade 8 learners in 2011. As of 2014, it took place over three full school days at the beginning of each school year.²⁴

Regarding the information below, note that the most recent national education statistics available from the Education Management Information System (EMIS) division within the Ministry of Education are from 2012.²⁵ The 2013 and 2014 EMIS statistics were never published. The release of the 2015 and 2016 EMIS statistics has been delayed and a publication date has not been formally set. Literacy rates are discussed in Chapter 2 on Key demographics. Education statistics on children with disabilities are presented in Chapter 12 on women and girls with disabilities.

8.2 Key policies

The *Education Sector Policy on the Prevention and Management of Learner Pregnancy* is a key gender policy and is discussed on its own in section 8.8 below.

8.2.1 Education and Training Sector Improvement Programme (ETSIP)

The Education and Training Sector Improvement Programme (ETSIP) – a 15-year strategic plan (2006-2020) developed by the Ministry of Education within the context of Vision 2030's national development goals – aims to address weaknesses identified by the Namibian Government²⁶ and by a 2005 World Bank

²³ *The National Curriculum for Basic Education*, Okahandja: National Institute for Educational Development (NIED), Ministry of Education, 2009 at 27-28.

²⁴ “Namibia Country programme document 2014-2018”, UNICEF, revised 2014 at para 15 (available at <www.unicef.org/about/execboard/files/2013-PL16-Namibia_CPD-final_approved-English.pdf>).

²⁵ *Education Statistics, 2012*, Education Management Information System (EMIS), Ministry of Education, April 2013 (hereinafter “**EMIS 2012**”). Note that the pagination of EMIS 2012 is not consecutive, but no pages are missing.

²⁶ “Report of the Presidential Commission on Education, Culture and Training: Towards a Learning Nation, Meeting the Challenge of Change”, Ministry of Education, 2000.

study which highlighted the poor quality of education, untrained teachers, and unsatisfactory performance of learners.²⁷ ETSIP was divided into three five-year cycles. Phase 1 of this plan (2006-2011) referenced ideals of gender equality and included as one of its objectives “equity and access”;²⁸ it also noted plans to include gender as an area of instruction in the school curriculum, along with subjects such as arts, human rights and democracy, HIV and AIDS and life skills.²⁹ Detailed plans for the subsequent phases of ETSIP could not be located.

8.2.2 Education Strategic Plan 2012-2017

The *Education Strategic Plan 2012-2017*, together with the annual Performance Agreements now made by all Ministries, are currently the key guidelines for the education sector. The only mention of gender in the strategic plan is the goal of achieving gender parity in both primary and secondary education.³⁰ It mentions the need to provide learners with knowledge and skill and sexual and reproductive health, but only in connection with HIV prevention; the “Window of Hope” and “My Future My Choice” programmes are mentioned only in the same context.³¹

8.2.3 National Policy on HIV/AIDS for the Education Sector (2003)

This policy recommends a variety of approaches for addressing HIV in school. Amongst other things, it prohibits schools from requiring HIV tests for admission or continued enrolment in school.³² However, beyond acknowledging that women and girls are particularly vulnerable to HIV³³ and stating a need to dispel the myth that sex with a young girl will cure HIV/AIDS,³⁴ the policy does not include gender-specific recommendations.

8.2.4 Education Sector Policy for Orphans & Vulnerable Children (2008)

This policy aims to increase the number of orphans or vulnerable children (OVC) who are able to access and complete education. It strives to ensure that OVC can attend school despite any financial challenges, material or psychosocial needs, stigma or discrimination. An orphan for the purposes of this policy is a child under 18 who has lost *one or both* of his or her parents. There are several situations that could lead one to be classified as a vulnerable child, such as living with a disabled caregiver or living in a poor household, but the policy does not list any gender-specific situations.³⁵ The policy outlines provisions to protect OVC, such as prohibiting a school from refusing admission to a child on account of the child not being able to pay and expanding the school feeding programme. However, the policy provisions are all gender-neutral.³⁶

²⁷ MT Marope, “Namibia Human Capital and Knowledge Development for Economic Growth with Equity”, World Bank, 2005.

²⁸ *Education and Training Sector Improvement Programme (ETSIP): Planning for a Learning Nation. Programme Document: Phase I (2006-2011)*, Windhoek: Ministry of Education, 2007 at 17.

²⁹ Id at 20.

³⁰ *Education Strategic Plan 2012-2017*, Windhoek: Ministry of Education, undated at 4, 12.

³¹ Id at 18.

³² *National Policy on HIV/AIDS For The Education Sector*, Windhoek: Ministry of Basic Education, Sport and Culture and the Ministry of Higher Education, Training and Employment Creation, 2013 at 4.

³³ Id at 1.

³⁴ Id at 7.

³⁵ *Educational Sector Policy for Orphans & Vulnerable Children*, Windhoek: Ministry of Education, 2008 at 5.

³⁶ Id at 14.

8.2.5 National Policy for School Health (2008)

Namibia's *National Policy for School Health* acknowledges that girls are more susceptible to sexual violence and abuse, putting them at increased risk to contract sexually transmitted infections including HIV, and notes that sexual abuse and early pregnancy are harmful to girls' physiological, social and intellectual development, undermining their educational and economic opportunities – and thus having a negative impact on the welfare of their own children.³⁷ It outlines a Comprehensive School Health Programme which should include health services, health education, nutrition and food services, quality physical education and recreational activities, a supportive school environment and collaboration with the surrounding community.³⁸ Amongst a number of gender-neutral interventions, this Policy set out a focus on tetanus immunization for girls aged 15 and older;³⁹ tetanus vaccination is recommended for females of child-bearing age to prevent maternal and neonatal tetanus.⁴⁰ The Ministry of Health and Social Services and the Ministry of Education, Arts and Culture have jointly initiated a School Health Programme in Namibia, in line with the World Health Organization's "Health Promoting School Initiative".⁴¹

8.2.6 Ministry of Education Sector Policy on Inclusive Education (2013)

Supporting its vision to enable "all children in Namibia to learn and participate fully in the education system," the Sector Policy on Inclusive Education's mission is "to create an enabling, supporting environment for every school for all learners and teachers."⁴² It aims to do this by focusing on educationally marginalised children, and it identifies the girl-child as one such type of child, along with the learner-parent, amongst the list of 16 categories of educationally marginalised children.⁴³ However, the policy does not present any gender-specific recommendations.

8.3 Educational attainment

The *2011 Census* collected data on educational attainment for people aged 15 and older by indicating what level of education they had completed prior to leaving school. As the table below indicates, **the gender disparities were relatively small, with females slightly more likely than males to complete primary or secondary education.**

Educational attainment by sex for persons <u>aged 15 and older</u> 2011 Census					
Sex	No formal education	Incomplete primary	Complete primary	Complete secondary	Complete tertiary
Female	2%	30%	19%	43%	6%
Male	2%	33%	18%	41%	6%

Source: Namibia Statistics Agency, *Namibia 2011 Population & Housing Census Main Report* at 51.

³⁷ *National Policy for School Health*, Ministry of Health and Social Services, 2008 at 4.

³⁸ Id at 6.

³⁹ Id at 8.

⁴⁰ See, for example, World Health Organization, "Maternal immunization against tetanus", undated, <www.who.int/reproductivehealth/publications/maternal_perinatal_health/immunization_tetanus.pdf>.

⁴¹ See Ministry of Education, Arts and Culture's School Health Portal, reporting on the First Annual School Health Forum, 29-30 October 2015, at <www.moe.gov.na/health_portal_view.php?id=1>.

⁴² Ministry of Education, *Sector Policy on Inclusive Education*, Windhoek: Ministry of Education, 2013 at 1.

⁴³ Id at 5. The list includes children of farmworkers, children in remote areas, 'street' children, children with disabilities, children who head households and child labourers, amongst many others. Inclusive education for children with disabilities is discussed in Chapter 12 of this report.

Looking at trends over time, the *2011 Census* showed a substantial improvement in educational attainment over the situation at the time of the previous census in 2001; only 15.5% of persons aged 15 and above had completed secondary school (15% of females and 16% of males),⁴⁴ rising to 42% in 2011 (43% of females and 41% of males).⁴⁵ This improvement in educational attainment has carried through to the workforce, particularly for women. In 2001, only 17% of employed women had completed secondary education (compared to 15% of men),⁴⁶ while this was the case for 44% of women in the workforce in 2011 (compared to 41% of men). Furthermore, 11% of employed women in 2011 had completed tertiary education (compared to 9% of men).⁴⁷ On the other hand, in 2011, one out of three Namibians either had no formal education at all or had left school before completing primary education – and only 6% of the total population had completed tertiary education.⁴⁸ Furthermore, secondary education was no guarantee of employment, with 41% of *unemployed* persons having completed this level of education.⁴⁹

Educational attainment was assessed in the *2013 Demographic and Health Survey* by looking at two main factors for female and male household members **aged 6 and older**, or **aged 15-49**: the highest level of schooling attended or completed; and the median number of years of education completed.⁵⁰ The following tables show the overall percentages of highest level of schooling ever attended for females and males.⁵¹

Highest level of schooling by sex for persons aged 15-49 <i>2013 Demographic and Health Survey (survey respondents)</i>						
Sex	No education	Some primary	Completed primary	Some secondary	Completed secondary	More than secondary
Female	5%	14%	6%	48%	18%	10%
Male	8%	17%	7%	44%	16%	9%

Source: Based on *2013 Demographic and Health Survey*, Tables 3.2.1 and 3.2.2 at 32-33. Data is presented separately in this Chapter of the report for persons who were directly interviewed for the survey in this age group.⁵²

Highest level of schooling by sex for persons aged 6 and older <i>2013 Demographic and Health Survey (de facto household population)</i>						
Sex	No education	Some primary	Completed primary	Some secondary	Completed secondary	More than secondary
Female	12%	33%	6%	31%	11%	7%
Male	14%	36%	5%	27%	10%	7%

Source: Based on *2013 Demographic and Health Survey*, Tables 2.11.1 and 2.11.2 at 23-24. This data covers the de facto household population, which includes all persons who stayed in the selected household the night before the interview, whether those persons were usual residents or visitors.⁵³

⁴⁴ *Namibia 2001 Population and Housing Census Main Report*, Windhoek: National Planning Commission, 2003 at 34 (hereinafter “*2011 Census*”).

⁴⁵ Id at 51.

⁴⁶ Id at 40.

⁴⁷ Id at 59.

⁴⁸ Id at 51.

⁴⁹ Id at 60. The report does not include a gender breakdown of this figure.

⁵⁰ *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 22 (hereinafter “*2013 Demographic and Health Survey*”). This survey involved a nationally-representative sample of 11 004 households, where 9 940 women aged 15-49 and 842 women aged 50-64 were interviewed, along with 4 481 men aged 15-49.

⁵¹ Id at 23-24.

⁵² See id at 29.

⁵³ It should also be noted that children generally begin primary school only at age six, in the school year during which they will turn seven (see, for example, World Bank, “Official entrance age to primary education (years)”, 2015 data, <<http://data.worldbank.org/indicator/SE.PR.M.AGES>>). In addition, note that there were until recently few opportunities for formal pre-primary education.

Because of the different methodologies and the different age groupings covered, the statistics in the *2011 Census* and those in the *2013 Demographic and Health Survey* are not directly comparable. The two tables from the *2013 Demographic and Health Survey* also report on different populations of different age groups.

In the *2013 Demographic and Health Survey*, the median number of years of education completed was 6.6 for females and 6.0 for males in respect of the de facto household population aged 6 and older,⁵⁴ and 9.1 for females and 8.7 for males in respect of survey respondents between the ages of 15 and 49.⁵⁵

Looking at the data for the de facto household population aged 6 and older, just 2% of girls and 3% of boys aged 10-14 had no education, which indicates “a gradual improvement in the level of education in Namibia over the last few decades”.⁵⁶ However, it is worrying that among the 6-9 age group, 32% of girls and 34% of boys had never attended school, which shows that many children were not accessing education in their most formative years.⁵⁷ However, the Namibian government has recently made early childhood development (ECD) a priority. Vision 2030 strives to improve ECD programming,⁵⁸ the Ministry of Gender Equality and Child Welfare developed an ECD policy in 2009, and most recently, its *National Agenda for Children 2012-2016* included ECD as one of its five key pillars.⁵⁹

Looking at the separate data on educational attainment for survey respondents aged 15-49, it should be noted that rural males and females were more likely to have had no formal schooling than urban males and females of the same age groups, and particularly in Kunene and Omaheke.⁶⁰ At a regional level, females were much more likely than males to have attained some secondary education in Oshikoto, Omusati, Oshana, Kunene, Omaheke, and Ohangwena. Correspondingly, males were much more likely than females to have any primary school (rather than any secondary school) as the highest education level attained in Omusati, Oshikoto, Oshana and Omaheke. In Kunene and Ohangwena, the difference is accounted for by men being more likely not to have had any education at all. Notably, this pattern was reversed in Otjozondjupa and Kavango, though in these regions the higher rates of secondary school education that men had were not as marked as those that women had in other regions.⁶¹

⁵⁴ *2013 Demographic and Health Survey* at 29.

⁵⁵ Id at 32-33.

⁵⁶ Id at 23-24.

⁵⁷ Ibid.

⁵⁸ Office of the President, *Namibia Vision 2030*, Windhoek: Office of the President, 2004 at 96 (available at <www.gov.na/documents/10181/12976/Chapter_4.pdf/d9a834c8-a220-4b53-aaa1-113dd9eba2f1>).

⁵⁹ *Namibia's National Agenda for Children 2012-2016*, Windhoek: Ministry of Gender Equality and Child Welfare, undated at ii, 17-18.

⁶⁰ *2013 Demographic and Health Survey* at 32-33. The figures were 22% for females and 30% for males in Kunene, and 17% for females and 19% for males in Omaheke.

⁶¹ The *2013 Demographic and Health Survey* at 32-33 provides the percentage of women aged 15-49 and men aged 15-49 with either “some secondary” or “completed secondary” education. Adding those figures for each population reveals the following patterns (top six region differentials shown):

	Women	Men	Difference (Percentage Points)
Oshikoto	68.2%	47.2%	21.0%
Omusati	67.1%	50.5%	16.6%
Oshana	76.6%	62.6%	14%
Kunene	52.0%	38.7%	13.3%
Omaheke	54.9%	43.5%	11.4%
Ohangwena	62.5%	53.3%	9.2%

Accordingly, in many (but not all) of these regions, there is a corresponding pattern in which men were more likely to have either “some primary” or “completed primary” as the highest level of education:

	Women	Men	Difference (Percentage Points)
Oshikoto	20.3%	33.5%	-13.2%
Omusati	24.5%	41.4%	-16.9%

8.4 Overall school enrolment

The *2011 Census* collected information on school enrolment for the “school-going population between the ages of 5 and 24 years.”⁶² Note that this provides a view of current educational attainment patterns among the youth at the time of the census, whereas the educational attainment rates of 15-49 year olds (discussed in the previous section) blends decades of past educational policy into a single view. However, the patterns here, which indicate slightly higher enrolment among women, confirm the historical trend explored in the previous section: females in 2011 had a slight advantage in educational attainment.

The *2011 Census* found that the total school enrolment rate was 62%, with slightly higher total enrolment for females than males.⁶³ Enrolment rates were above 80% for both girls and boys between the ages of 7 and 14 (inclusive) and declined steadily thereafter, with a sharp decline from age 17.⁶⁴ While not disaggregated by sex, the total enrolment rate was slightly *lower* in urban areas (62%) than in rural areas (64%). The regions with the highest enrolment were Omusati and Oshana (both above 70%).⁶⁵

According to the *2011 Census*, primary school enrolment for children aged 7-13 was 88% for girls and 86% for boys. In contrast to urban/rural enrolment for the 5-24 age group, primary school enrolment for the 7-13 age group was *higher* in urban areas (91% for girls and 90% for boys) than in rural areas (87% for girls and 84% for boys). The regions with the highest primary school enrolment were //Kharas, Omusati and Oshana (all at almost 92%), and primary school enrolment of girls was higher than that of boys across all regions.⁶⁶

As noted above in section 8.1, this situation has already improved with Namibia having achieved near universal enrolment at the primary level – but fewer girls than boys were enrolled at primary level in 2012, and more girls than boys at the secondary level. The next census, scheduled to take place in 2021, will provide an important point of comparison for the *2011 Census* data.

Oshana	11.6%	23.8%	-12.2%
Kunene	22.2%	25.2%	-3.0%
Omaheke	23.8%	31.9%	-8.1%
Ohangwena	29.3%	29.7%	-0.3%

In Kunene and Ohangwena, where there was not much of a gender difference among primary school attendance, the difference in secondary school is explained by disparities in percentages of men and women with *any* education. In Kunene, 30.2% of men but only 21.9% of women had no education. In Ohangwena, 13.6% of men but only 4.8% of women had no education.

Notably, this pattern is reversed in Kavango, where more men (52.5%) than women (48.5%) had any secondary school as their highest education level, a difference of 4.0 percentage points in favour of men. Here, however, the differential is much more pronounced at a primary school level: more women (42.2%) than men (29.5%) had any primary school education as their highest education level, a difference of 12.7 percentage points. This difference is so large because men were more likely to have attained greater than secondary school education (5.9% of men versus 2.7% of women) *and* because men were also more likely to have no education (12.1% of men versus 6.6% of women).

This pattern is also reversed in Otjozondjupa, where more men (66.8%) than women (62.1%) had any secondary school as their highest education level, a difference of 4.7 percentage points in favour of men. This difference is explained by a corresponding differential at the primary school level, where more women (23.4%) than men (18.7%) had any primary school as their highest education level, a difference of 4.7 percentage points.

⁶² *2011 Census* at 51.

⁶³ Ibid. Exact figures for female and male enrolment are not available, but in the chart provided they appear to be within a few percentage points of each other.

⁶⁴ Ibid.

⁶⁵ Id at 52.

⁶⁶ Id at 52-53.

8.4 Overall school attendance

The *2013 Demographic and Health Survey* investigated two measures to analyse school attendance rates: net attendance ratio (NAR) and gross attendance ratio (GAR). The **NAR** measures what percent of children of *official primary school age* (6-12) attend primary school, and what percent of children of *official secondary school age* (13-17) attend secondary school. As a result, the NAR cannot exceed 100%. In contrast, the **GAR** shows how many people of a *broader age group* (5-24) are enrolled in either primary or secondary school, as a percentage of the total number of children of the official school age (again, 6-12 for primary school and 13-17 for secondary school). Thus, the GAR calculation accounts for students who started late or those who repeated grades, as well as those who are especially advanced.⁶⁷ Unlike the NAR, the GAR *can* exceed 100%, since it compares a larger age range to a smaller one; it will be larger than 100% in the case of substantial overage or underage attendance at a given school level.⁶⁸

The *2013 Demographic and Health Survey* found that the primary school NAR was almost 90% for boys and 91% for girls, and the secondary school NAR was 46% for boys and 53% for girls⁶⁹ – showing a significant decrease in enrolment between primary and secondary school. The primary school GAR⁷⁰ was 133% for males and 126% for females and the secondary school GAR⁷¹ was 57% for males and 64% for females.⁷² These figures indicate that a particularly large number of students outside the official age range were attending primary school.

The female-to-male NAR and GAR ratios provide insight into attendance by gender, expressed as the Gender Parity Index (GPI) for each figure. A GPI of 1 indicates equal attendance by gender, while a GPI of greater than 1 indicates stronger attendance among girls. Here, the NAR female-to-male ratio indicates a small gender disparity in favour of females in primary school (GPI 1.01) and a greater gender disparity in favour of females in secondary school (GPI 1.17). This means that at each level, a higher proportion of *age-appropriate* females are attending school than age-appropriate males, with this pattern more pronounced in secondary school. (However, the primary school GPI is so close to 1 that it might not indicate any meaningful gender difference.) The GAR female-to-male ratios indicate that a higher percentage of males *in a broader age range* are attending primary school (GPI 0.95), while the pattern is reversed in secondary school (GPI 1.12). This could indicate that males are more likely to enter or re-enter primary school at older ages – while females move through school at the appropriate, government-designated age at primary level, but experience delayed education for some reason at secondary level.⁷³

Looking at the regional data, in terms of NAR at the primary school level there was either gender parity or gender disparity in favour of girls in every region except Oshana, Omusati and Zambezi. As for GAR, gender disparity at primary school level favoured females in Khomas, Kunene, Omaheke and Otjozondjupa. At the secondary school level, in terms of both NAR and GAR, there was gender disparity in favour of females in every region except Omaheke, Khomas and Kavango.⁷⁴

⁶⁷ For a clear explanation of these two measures, see, for example, Friedrich Huebler, “International Education Statistics”, 2005, <<http://huebler.blogspot.com/2005/04/primary-school-gross-and-net.html>>.

⁶⁸ *2011 Census* at 52-53.

⁶⁹ *2013 Demographic and Health Survey* at 25.

⁷⁰ “The GAR for primary school is the total number of primary school students expressed as a percentage of the official primary school age population.” Ibid.

⁷¹ “The GAR for secondary school is the total number of secondary school students expressed as a percentage of the official secondary school age population.” Ibid.

⁷² Ibid.

⁷³ Id at 26.

⁷⁴ Id at 25.

Age-specific attendance rates⁷⁵ showed that more females than males attended school from age 5 to age 14, while the situation was reversed from age 15 to 20. From age 20 to 24, once again more females than males attended school.⁷⁶

8.6 Early Childhood Development (ECD)

The *2011 Census* collected information on attendance by children aged 0-4 years in ECD programmes. Out of 283 501 children⁷⁷ in that age group, 13% were attending ECD programmes, with attendance by girls slightly higher than attendance by boys (13.8% versus 13%). The difference in ECD attendance in urban areas as compared to rural areas was striking. While 20% percent of girls and 19% of boys in urban areas were attending ECD programmes, just 10.3% of girls and 9.6% of boys in rural areas were doing so. There were significant regional differences as well, with the lowest attendance overall being in Omaheke, Hardap and Kunene. Girls had slightly higher attendance than boys across all regions except for Omaheke and Oshikoto, where attendance was marginally higher for boys. In general, children aged 0-4 were more likely to be attending Edu-care (ie daycare, crèche or kindergarten) than pre-primary programmes (ie those that children attend between kindergarten and primary school) (60% versus 40%). This was consistent across all regions except for Omaheke, where slightly more children attended pre-primary programmes.⁷⁸

In July and August 2012, the Ministry of Gender Equality and Child Welfare (MGE CW) conducted a nation-wide survey (“*ECD Survey*”) of 2 070 ECD centres. At least 84% of these centres were registered with MGE CW, compared to 15% unregistered centres, with the status of the remaining centres being unclear. It appears that the survey attempted to comprehensively cover all ECD centres in Namibia, as its methodology for determining enrolment rates was to compare the number of children at the ECD centres surveyed with the figures from the *2011 Census*.⁷⁹ Omusati had the greatest number of ECD centres (382), while Hardap and Omaheke had fewer than 50 centres each.⁸⁰

Out of a total of 61 218 children enrolled in ECD centres, 52% were girls and 48% were boys.⁸¹ A comparison of children aged 0-9 enrolled in ECD centres to all children in Namibia in the same age group

⁷⁵ Age-specific attendance rates are defined as “the percentage of a given age cohort that attends school, regardless of the level attended (primary, secondary, or higher).” Id at 26.

⁷⁶ Ibid.

⁷⁷ This figure is limited to children enumerated in private and institutional households. *2011 Census* at 48. The *2011 Census* does not specify which children are omitted, but that group may include homeless children or households omitted from the census for some reason.

⁷⁸ Ibid.

⁷⁹ *Early Childhood Development and Education in Namibia: Results of the 2012 Survey of Early Childhood Development Centres by the Ministry of Gender Equality & Child Welfare*, Windhoek: Research & Information Services of Namibia (RAISON), October 2014 at 2 (hereinafter “*ECD Survey*”).

⁸⁰ Ibid.

⁸¹ Ibid. It should be noted that the table titled “Numbers and percentages of **boys** enrolled in ECD by age groups in each region” at 14 indicates that the total number of boys was 28 290, rather than 29 307. The discrepancy seems to exist because the table at 14 contains an apparent error in that it omits the figures for the Zambezi Region from its calculation. If these figures are added, the sums in the table would match the total number and percentage given in the text.

Another source, the UNDP *Africa Human Development Report 2016*, reports a different trend indicating higher enrolment rates in pre-primary education for boys; it includes a chart showing that between 2005 and 2014, net pre-primary education enrolment was close to 20% for boys and about 5% for girls. *Africa Human Development Report 2016: Accelerating Gender Equality and Women’s Empowerment in Africa*, New York: UNDP Regional Bureau for Africa, 2016 at 123 (available at <www.undp.org/content/undp/en/home/librarypage/hdr/2016-africa-human-development-report.html>). However, a check of the source data for this report on the website of the UNESCO Institute for Statistics reveals a different pattern. First, raw data currently available on the UNESCO Institute website provides figures in that time period for Namibia only for the years 2006, 2012, and

showed that just 12% of girls and 11% of boys were enrolled.⁸² Enrolment varied according to age group, with the highest enrolment recorded for children aged 4-5 (25%) and 6-7 (19%).⁸³ Enrolment of girls was slightly higher than that of boys across all age groups. At the regional level, enrolment varied significantly by age group, with trends being similar for girls and boys in each case.⁸⁴

According to the *ECD Survey*, almost 36% of ECD centres did not have any trained caregivers. The three regions with the highest percentages of centres with untrained caregivers were Kunene (54%), Zambezi (48%) and //Kharas (47%).⁸⁵ The overall learning environment at each ECD centre⁸⁶ was evaluated according to twelve aspects.⁸⁷ After an average score was derived for each centre, all the centres were ranked from highest to lowest and divided into three groups. Approximately 50% of the ECD centres in Zambezi, Omusati and Oshikoto fell into the lowest tercile.⁸⁸ Thirteen aspects of the physical facilities at each ECD centre⁸⁹ were also evaluated so as to rank the centres from highest to lowest and divide them into three groups.⁹⁰ Over 50% of ECD centres in Omusati and Zambezi fell into the lowest tercile,⁹¹ which means that these regions had the greatest proportions of ECD centres with inadequate learning environments and physical facilities in the country.⁹² ECD centres with high scores for both learning

2013. (The range of 2005-2014 likely reflects more robust data availability for other countries appearing in the Human Development Report chart.) Secondly, the raw data shows pre-primary enrolment as follows:

2006: 32 736, with 16 322 (50%) girls and 16 414 (50%) boys

2012: 17 572, with 8 833 (50%) girls and 8 739 (50%) boys

2013: 24 745, with 12 536 (51%) girls and 12 209 (49%) boys.

Though the figures reflect a different magnitude of enrolment than in the *ECD Survey* discussed in the text, as well as odd fluctuations between years, it shows gender parity in pre-primary education, as does the *ECD Survey*. Data sourced at UNESCO Institute for Statistics website: <<http://data.uis.unesco.org/#>>, selecting the country “Namibia” with the indicators “Enrolment in pre-primary education, both sexes (number)”, “Enrolment in pre-primary education, female (number)” and “Enrolment in pre-primary education, male (number)”.

⁸² *ECD Survey* at 2.

⁸³ Id at 2-3, 13.

⁸⁴ Id at 13-14.

⁸⁵ Id at 8, 20. Omusati had the highest number of ECD centres in which none of the caregivers were trained (108 centres), followed by Oshikoto (102 centres) and Ohangwena (99 centres). Id at 9, 20.

⁸⁶ Only 1 998 of the 2 070 ECD centres were included in this portion of the analysis “as the remainder had no answers to any of the 12 questions.” Id at 9.

⁸⁷ The twelve aspects were: 1) children appear engaged; 2) children appear active; 3) play materials are available to children; 4) play materials are used by the children; 5) reading materials in mother tongue are available; 6) reading materials in mother tongue used by children; 7) caregivers/educarers appear warm and responsive to the children; 8) children appear to communicate freely with each other; 9) children appear to communicate freely with the caregivers/educarers; 10) centre appears to have a calm and ordered atmosphere; 11) evidence of positive discipline with no physical punishment; and 12) centre/facility has regular meetings with parents/guardians (once a term at least). Id at 30.

⁸⁸ Id at 9, 21. Among the 666 centres in the lowest tercile, the greatest numbers were in Omusati (192 centres) and Oshikoto (120 centres).

⁸⁹ Only 2 027 of the 2 070 ECD centres were included in this portion of the analysis “since none of the 13 questions had been answered for the remaining centres.” Id at 11.

⁹⁰ The thirteen aspects were: 1) safety of outdoor space (free from dangerous objects and unsafe areas); 2) outdoor area fenced; 3) sufficient shade available outside; 4) play equipment in good condition (swings, slides, chairs, and tables); 5) play equipment in safe condition (swings, slides, chairs, and tables); 6) toilet facilities are clean; 7) toilet facilities are functioning; 8) hand washing facility with soap; 9) centre/facility is accessible to persons with disabilities; 10) sufficient toys and materials for the number of children; 11) sufficient toilet facilities; 12) adequate indoor space (enough space, well ventilated and sufficient light); and 13) whether there a separate room for an office for the staff. Id at 31.

⁹¹ Id at 11, 22.

⁹² Ibid. Among the 676 centres in the lowest tercile, the greatest numbers were in Omusati (228 centres), followed by Kavango (85 centres) and Oshana (83 centres).

environment and facilities tended to have management boards, be registered with the MGECCW and be owned by private or faith-based organisations.⁹³

The results of the *ECD Survey* indicate that while gender parity does not appear to be an issue in ECD centres, overall enrolment rates are very low and a significant number of facilities have inadequate learning environments and facilities. Coupled with the lack of training of caregivers, particularly in certain areas, the ECD system is not benefiting Namibia's children as well as it could during the most important years of childhood development.

In 2016, the Office of the First Lady of Namibia commissioned a Needs Assessment for ECD centres. It analysed 32 ECD centres across eight regions, intentionally selecting centres that were remote and rural, located in poor constituencies and poorly resourced. Among those centres, it found a pattern of poor physical infrastructure, which led to poor adherence to safety standards. It also found patterns of poor adherence to health and sanitation requirements and nutritional requirements. It noted that the ECD centres did not meet children's physical, socio-emotional and cognitive needs, employed under-trained caregivers and did not provide teaching materials to the caregivers. It identified a number of resources that should be provided to ECD centres, without indicating how this could be funded. At a policy level, the assessment also recommended increasing parental involvement and improving coordination amongst relevant ministries and with relevant service providers.⁹⁴

8.7 Primary and secondary education

According to EMIS statistics, in 2012 there were 1 018 primary schools (956 State schools and 62 private schools) and 196 secondary schools in Namibia (184 State schools and 12 private schools).⁹⁵ In addition to primary and secondary schools, some schools are "combined", meaning that they offer both primary and secondary grades.⁹⁶ In 2012, there were 498 combined schools (453 State schools and 45 private schools).⁹⁷

Out of a total of 617 827 enrolled learners, 67% were primary school learners and 30% were secondary school learners (the remaining 3% were pre-primary learners).⁹⁸ Female learners constituted 49% of learners at the primary level and 53% of learners at the secondary level. This was generally consistent across regions, where female primary enrolment (compared to males) ranged between 48% and 51% and female secondary enrolment ranged between 48% and 54%.⁹⁹ At the senior secondary level, while female learners constituted 54% at the national level, the proportion of female learners was noticeably lower in Kavango (43%) and Omaheke (46%).¹⁰⁰

From 2006 to 2012, enrolment grew more among males (1.9% annually, on average) than females (1.5% annually, on average). Among both groups, the growth was largely driven by increased enrolment in

⁹³ Id at 9-12, 21-23.

⁹⁴ *Needs Assessment of Under-Resourced and Vulnerable Early Childhood Development Centres in Namibia*, University of Namibia Multi-disciplinary Research Unit, [2016] (available at <www.unicef.org/namibia/na.ECDNeedAssessmentCompactweb.pdf>).

⁹⁵ *EMIS 2012* (April 2013) at 20.

⁹⁶ The creation of combined schools has been based on a number of factors, "foremost the need to provide secondary grades in sparsely populated areas." Ibid.

⁹⁷ Ibid.

⁹⁸ Id at 27.

⁹⁹ Id at 28.

¹⁰⁰ Ibid.

secondary school (male: +3.3% annually on average; female: +2.9% annually on average), as a policy change increased promotion rates, allowing more students to advance to secondary school and correspondingly causing primary school enrolments to drop.¹⁰¹

Males tended to have wider age distributions per school year than females, and males tended to be older for their grade because they repeated grades more often than females.¹⁰² For example, while rates of new entrants were about evenly split across gender (tending to increase from 50% female in primary school to 54% female in Grade 12), males were generally more likely to repeat a grade (55% of repeaters were male). Re-entering learners were more likely to be male in lower grades and female in higher grades. From Grade 1 through 6, re-entrants were more likely to be male (ranging from 71% male in Grade 4 to 58% male in Grade 1). From Grade 7 through 12, re-entrants were more likely to be female (ranging from 59% female in Grade 7 to 79% female in Grade 12). This could indicate rates of girls returning to school after pregnancy.¹⁰³ Indeed, from 2011 to 2012, female learners had higher promotion and lower repetition rates than male learners through Grade 8. In higher grades, promotion rates and repetition rates were more equivalent, with slight advantages for males.¹⁰⁴

In 2012, the main reasons for a female learner to drop out of school were that her parents moved (34% of female drop-outs) or pregnancy (26%). In contrast, the main reasons for a male student to drop out of school were that his parents moved (50%) or unknown (22%). However, these figures derive from self-reported data, so they may underestimate the effect of teen pregnancy on female drop-outs.¹⁰⁵

8.8 Learner pregnancy

Learner pregnancy is a problem that affects girls disproportionately: in 2007, 1 465 students dropped out of school for pregnancy-related reasons, and 96% of them were female.¹⁰⁶ In 2010, 1 493 girls dropped out of school due to pregnancy.¹⁰⁷ A 2013 study of the Kavango, Kunene and Omaheke regions found that 83% of all female dropouts in those regions were due to learner pregnancies.¹⁰⁸

Although there is a societal tendency to pin blame on the female learners for this, many may become pregnant as a result of forced sex.¹⁰⁹ Male teachers may also be responsible for such pregnancies. Indeed, one press report states that 24 school principals, teachers and heads of departments were dismissed in

¹⁰¹ Id at Table 19.

¹⁰² Id at Table 26.

¹⁰³ Id at Table 29.

¹⁰⁴ Id at Table 30. From Grade 1 through 8, female promotion rates ranged from 60% (Grade 8) to 91% (Grade 3) and male promotion rates ranged from 58% (Grade 8) to 85% (Grades 3, 7). From Grade 1 through 8, female repetition rates ranged from 31% (Grade 8) to 9% (Grade 3) and male repetition rates ranged from 32% (Grade 8) to 12% (Grade 7). In Grade 9, 68% of females and 70% of males had been promoted; 24% of females and 23% of males were repeating. In Grade 10, 55% of females and 57% of males had been promoted; 12% of females and 9% of males were repeating. In Grade 11, 95% of females and 94% of males had been promoted; 2.7% of females and 2.6% of males were repeating. Grade 12 figures are not available.

¹⁰⁵ Id at Table 65.

¹⁰⁶ *School Policy on Learner Pregnancy in Namibia: Summary of Background Information*, Windhoek: Legal Assistance Centre, 2008 at 2 (available at <www.lac.org.na/projects/grap/Pdf/learnerpregnancysummary.pdf>).

¹⁰⁷ *General Reader on the National Conference on Education*, Ministry of Education, [2014] at 82.

¹⁰⁸ H Nekongo-Nielsen & N Mbukusa, "The educational consequences of teenage pregnancy in the Kavango Region", 2(2) *Journal for Studies in Humanities & Social Sciences* 51-64 (December 2013).

¹⁰⁹ For example, a 2006 study found that of girls aged 15-24 who had been pregnant, 40% of those pregnancies resulted from forced sex. *Knowledge, Attitudes, Practice and Behaviour (KAPB) Study In Namibia: Key Findings*, Windhoek: UNICEF, 2006 at 6-8 and 19, based on *Knowledge, Attitudes, Practice and Behaviour Study: Report by Research Facilitation Services*, Windhoek: UNICEF, 2006.

2015 for impregnating schoolgirls or having affairs with learners.¹¹⁰ In situations such as these where there are unequal power dynamics, girls may feel unable to assert their rights to abstain from sex or to use condoms. While age differences may contribute to these power dynamics, girls may still feel power inequality with boys their own age, due to gender norms in society.¹¹¹

The *Education Sector Policy on the Prevention and Management of Learner Pregnancy*¹¹² was approved by Cabinet in 2009, but meaningful roll-out began only in 2013.¹¹³ This policy takes a flexible approach which allows learners and their parents to choose an option that is suitable for their situation. It emphasises prevention and respects the constitutional right to education by supporting and encouraging learner-mothers (and learner-fathers) to complete their education, as well as providing measures to encourage them to be responsible parents.

The Policy allows pregnant learners to remain in school until four weeks before their due date if there is no medical contra-indication, but also allows them to leave earlier in the pregnancy if they wish. It allows the mother to return to school at any time after the birth, provided that the school is satisfied that both she and the baby are in good health and that she has an acceptable plan for the baby's care. The learner-mother may also take a leave of absence for up to one year without losing her place in school. The Policy places a responsibility on pregnant learners and learner-parents to keep up with their schoolwork during their absence, but encourages the school to support this effort. The Policy's provision for returning to school encourages openness about learner pregnancy, which ultimately contributes to the health of the child by encouraging antenatal care, prevention of mother to child transmission of HIV and access to information on foetal alcohol syndrome. Pregnant learners will be provided with an information booklet covering topics ranging from how to breastfeed to securing maintenance from absent fathers.¹¹⁴

Some critics of the Policy worry that it may contribute to more pregnancy among learners.¹¹⁵ The EMIS figures on drop-outs due to learner pregnancy will not give accurate information on the impact of the Policy, since learner pregnancies which were once hidden may now be openly acknowledged, and fewer girls may turn to drastic options such as illegal abortions or baby-dumping; on the other hand, learner-parents who return to school after a leave of absence will no longer be reflected in drop-out figures.

¹¹⁰ "Teacher-learner relationships on the rise", *Confidenté*, 29 July 2016.

¹¹¹ *School Policy on Learner Pregnancy in Namibia: Summary of Background Information*, Windhoek: Legal Assistance Centre, 2008 at 16.

¹¹² *Education Sector Policy on the Prevention and Management of Learner Pregnancy*, Windhoek: Ministry of Education, 2013.

¹¹³ Presentation by Ministry of Education, Arts and Culture at Permanent Task Force on Impact Mitigation on Vulnerable Children, 30 June 2017.

¹¹⁴ Ibid.

¹¹⁵ See H Nekongo-Nielsen & NR Mbukusa, "The educational consequences of learner pregnancy in the Kavango region", Windhoek: University of Namibia, 2013; Ministry of Education, Arts and Culture, UNESCO Institute for Statistics and UNICEF, *School Drop-Out and Out-Of-School Children in Namibia: A National Review*, Windhoek: UNICEF, December 2015 at 69; "Report of the National Council Women's Caucus on Outreach to //Kharas, Hardap, Omaheke, Zambezi, Kavango East, Kavango West and Ohangwena Regions from 12-16 September 2016", National Council, 2016. The National Council team recommended that the policy on learner pregnancy be re-visited. It made some other positive suggestions on how to reduce learner pregnancy – including improved communication between parents and teens; more extra-mural activities to prevent bored teens from turning to alcohol, drugs and sex for entertainment; increased education of both parents and teens on the health risks of early child-bearing; more robust enforcement of the laws meant to protect girls against sexual abuse; and creative endeavours such as the use of youth education theatre groups to encourage learners to take charge of their destinies and make informed decisions about their lives.

In 2011, the Global Health Technical Assistance Project conducted a systematic study of the causes of teen pregnancy in Kavango, where teen pregnancy is statistically very high. The research team conducted a survey of a random sample of 676 in-school and out-of-school youth aged 12-22, spread across every constituency in Kavango, using life history calendars to reconstruct key reproductive events in respondents' teen years.¹¹⁶ This information was supplemented by focus group discussions, key informant interviews and direct observations. This study found that, although teen pregnancy was pervasive in the area – with about 68% of the respondents having already become pregnant by age 20 – ***about 90% of the teen pregnancies were unwanted.***¹¹⁷ The few teens who voluntarily chose pregnancy did so because they loved the baby's father, wanted to prove their fertility or simply wanted to have a baby.¹¹⁸ Although public perceptions attributed many pregnancies to sexual involvement with older men, the data indicated that most girls' steady sexual partners were about the same age as them or only slightly older.¹¹⁹ Claims that parents in the region encouraged their daughters to seek out rich boyfriends for financial gain were also unsupported by the data.¹²⁰ There was no evidence that transactional sex was more common in Kavango than elsewhere, or that girls in this area had more sexual partners than elsewhere – although the findings suggested that combinations of poverty, peer pressure, and gender inequality may have inspired girls to behave in riskier ways with their sexual partners. The researchers found little evidence that the Policy increased teen pregnancy in the region, noting that teen pregnancy rates were already high before the Policy was enacted and concluding that its impact was “modest at best”.¹²¹

The study found that the main cause of the high teen pregnancy rate was “the delayed, inconsistent, or ineffective use of contraception”.¹²² The study also cited the level of coerced sex as a factor of concern. ***Nearly 37% of the respondents who had ever had sex reported that their first sexual encounter was not consensual.***¹²³ ***Thus, a restrictive policy on return to school could end up “punishing” girls who are already victims.***

A 2015 survey aimed at informing the development of a new law on education asked learners, parents and educators in various positions about school response to learner pregnancies. There were two questions:

Question 1: Do you think that learner pregnancies are effectively addressed?

Question 2: If not, what changes would you recommend?¹²⁴

Overall response			
Total of 6 067 respondents	Learner pregnancies effectively addressed	3 834	63%
	Learner pregnancies ineffectively addressed	1 198	20%
	No answer	1 035	17%

Source: *Survey Report: Towards a New Education Act for Namibia*, Windhoek: Ministry of Education, Arts and Culture, 2016 at 18.

¹¹⁶ PM Eloundou-Enyegue & Shirley Magazi, *Teenage Pregnancy in Kavango Region Contributing Factors and Program Recommendations*, November 2011, Windhoek: US-AID at 11 (available at <http://pdf.usaid.gov/pdf_docs/pnady831.pdf>).

¹¹⁷ Id at 15.

¹¹⁸ Id at 16.

¹¹⁹ Id at 19.

¹²⁰ Id at 28.

¹²¹ Ibid.

¹²² Ibid.

¹²³ Id at 26.

¹²⁴ *Survey Report: Towards A New Education Act For Namibia*, Windhoek: Ministry of Education, Arts and Culture, 2016 at 21 (with misspelling corrected) (available at <[www.moe.gov.na/files/downloads/954_MoEAC%20-%20Towards%20a%20New%20Education%20Act%20-%20Survey%20Report%20\(Febuary%202016\)%20-%20Final%20\(web%20quality\)%20\(2\).pdf](http://www.moe.gov.na/files/downloads/954_MoEAC%20-%20Towards%20a%20New%20Education%20Act%20-%20Survey%20Report%20(Febuary%202016)%20-%20Final%20(web%20quality)%20(2).pdf)>).

Some respondents highlighted the need for more information about and access to contraceptives, and some emphasised the need for counselling and support. Many felt that the current Policy is not sufficiently punitive against learners who become pregnant or against those who impregnate schoolgirls. One Ministry official has stated that many educators who oppose the Policy do not accurately understand its terms (as evidenced by pre-testing prior to 2017 training sessions), or fail to see the links to the constitutional right to education.¹²⁵

A study of out-of-school youth published in 2015 cites learner pregnancy as a continuing barrier to education:

Amongst socio-cultural factors, the effect of learner pregnancy seems particularly pervasive, despite policies which encourage pregnant girls to continue with school. It appears that many school girls still drop out due to pregnancy. This problem is exacerbated by the combination of high levels of learner pregnancy and strong prejudice against pregnant girls continuing in school in many cases.¹²⁶

This report recommends further attention to ensuring that the official policy on learner pregnancy is implemented and “perhaps, more importantly, supported by teachers and education officials”.¹²⁷

The First Lady of Namibia, Monica Geingos, has been a consistent advocate for more open discussions and information-sharing with adolescent girls on sexual and reproductive rights. For example, she has called upon schools to include more information about sexual education in the school curriculum, and to empower young women to assert their sexual rights, and encouraged parents and caregivers to engage in more open and frank discussions of sexual matters with their children. State House hosted a panel discussion on adolescent sexual health and rights in February 2016, attended by more than 400 Windhoek-based learners, and participated in a “Day of Dialogue on Teenage Pregnancy” in October 2016, which also involved schoolchildren. In November 2016, the First Lady launched the “Be Free” Initiative in collaboration with UNAIDS and UNFPA; this initiative encourages more open discussion of sexual matters and promotes comprehensive sexuality education.¹²⁸ This prominent backing for comprehensive sexual education in schools could help to break down taboos which hamper the discussion of contraception and other sexual subjects in some communities.

As of 2017, UNECSO is reportedly in the process of undertaking a study on the links between teen pregnancy and harmful cultural practices, and the Global Fund is sponsoring outreach and awareness-raising about the learner pregnancy policy to the community, including traditional leaders.¹²⁹

¹²⁵ Presentation by Ministry of Education, Arts and Culture at Permanent Task Force on Impact Mitigation on Vulnerable Children, 30 June 2017.

¹²⁶ Ministry of Education, Arts and Culture, UNESCO Institute for Statistics and UNICEF, *School Drop-Out and Out-Of-School Children in Namibia: A National Review*, Windhoek: UNICEF, December 2015 at 13.

¹²⁷ Id at 14.

¹²⁸ Emma Mbekele, “UNFPA lauds First Lady’s interventions on adolescents and young people”, 9 February 2017, UNFPA Namibia website:

<<http://namibia.unfpa.org/en/news/unfpa-lauds-first-lady%E2%80%99s-interventions-adolescents-and-young-people>>;

“First Lady of Namibia takes part in Conversations with Young People at Windhoek Nightclub”, 10 November 2016, UNAIDS website:

<www.unaids.org/en/resources/presscentre/featurestories/2016/november/20161119_FLNamibia_befree>;

Namibia Press Association (NAMPA), “First Lady calls for sexual education in schools”, *The Namibian*, 4 February 2017.

¹²⁹ Personal communication, Ministry of Education, Arts and Culture, June 2017.

8.9 Sanitation in ECD centres and schools

The *ECD Survey* deemed toilet facilities at ECD centres to be adequate if there were 25 or fewer children per toilet.¹³⁰ Out of all 2 070 ECD centres included in the survey, only about one-third (34%) had adequate toilet facilities.¹³¹ While two-thirds (66%) had clean water, this differed substantially by region. For example, over 90% of ECD centres in Erongo, Hardap, //Kharas, Khomas, Kunene, Omaheke and Otjozondjupa had clean water, compared to less than 40% in Ohangwena and Omusati.¹³²

A 2013 situation analysis of Namibian children found that sanitation facilities in Namibia's schools are lacking, resulting in a particular negative effect on girls:

One shortcoming within the education system is the very poor physical standards across areas such as water and sanitation for students and teachers, and teacher accommodation in remote areas. This is not only a barrier to educational equity within rural populations and a health risk for students, but also reportedly acts as a factor in the withdrawal of some adolescent girls.¹³³

According to EMIS statistics, as of 2012, only 83% of schools had toilets for learners. The regions where schools were least likely to have toilets available to students were the Kavango region (56% of schools had toilets available to learners), the Caprivi region (75% of schools) and the Omusati region (82% of schools).¹³⁴

Moreover, even where schools have toilets, some are in such disrepair as to be unusable. This has important consequences for children as poor sanitation can cause illnesses such as diarrhoea, gastrointestinal illness and worms. Incidentally, as of 2013, such illnesses were the most common cause of death among Namibian children aged 1-13.¹³⁵ The availability of sanitation facilities for girls during menstruation is of particular importance, as the lack of such resources may lead some girls to stay home during their periods because they cannot “get through the day with dignity” at school.¹³⁶

¹³⁰ *Early Childhood Development and Education in Namibia: Results of the 2012 Survey of Early Childhood Development Centres by the Ministry of Gender Equality & Child Welfare*, Windhoek: Research & Information Services of Namibia, October 2014 at 6.

¹³¹ Id at 6, 18. The regions with the highest proportion of inadequate toilets were Ohangwena, Omusati and Kavango, where less than 20% of facilities were deemed adequate.

¹³² Id at 7, 19.

¹³³ UNICEF, *Towards a Namibia Fit for Children: Situational Analysis on the Status of Children's and Adolescents' Rights, 2010-2013*, undated at xiv-xv.

¹³⁴ *EMIS 2012* at 89.

¹³⁵ *Sanitation in Namibian Schools: A Dream or Reality?*, Windhoek, UNICEF, 2013 at 2.

¹³⁶ Id at 13.

8.10 Safety in schools and school hostels

Policies and Codes of Conduct

- * The *General Rules of Conduct for Learners* (2002)¹³⁷ obligate all learners to “respect the dignity, person and property of teachers, learners and members of the public” and order learners not to behave themselves “in a disgraceful, improper or indecent manner”.¹³⁸
- * The *Code of Conduct for the Teaching Service* (2004)¹³⁹ states that teachers “may not become involved in any form of romance or sexual relations with a learner or sexual harassment or abuse of a learner”. It defines sexual harassment as “unwanted behaviour or advance of a sexual nature which may include physical acts of unsolicited and unwanted touching, verbal, non-verbal, written or electronic invitations, suggestive and obscene remarks or jokes by a teacher towards a learner”. Failure to comply with the Code of Conduct constitutes misconduct.
- * The *Education Sector Policy for the Prevention and Management of Learner Pregnancy* requires schools to “strive to ensure that the school and the school hostel environment are safe and that learners are free from sexual harassment or sexual abuse by learners, teachers or other staff. Schools shall also make referrals to appropriate agencies if they suspect that a home environment is not safe or that a learner is suffering from sexual harassment or sexual abuse.”¹⁴⁰

Overview: In general, Namibian schools are not places where all learners feel safe. Corporal punishment in schools continues to be commonly practiced, despite it having been ruled unconstitutional¹⁴¹ and prohibited by the Education Act 16 of 2001.¹⁴² A 2009 survey of learners in four northern regions found that almost 73% had suffered corporal punishment in schools, with little difference between boys and girls in this respect.¹⁴³ Over half of the learners who responded to a national SMS survey in 2011, involving some 2 000 young people, said that they had been hit by a teacher.¹⁴⁴

The 2011 SMS survey also found that 45% of the learners (about evenly divided between boys and girls) did not generally feel safe at school.¹⁴⁵ A Namibian study published in 2011, based on information from youth between the ages of 12 and 19 in four northern regions, found that almost one out of ten (9%) felt fearful when travelling to and from school. Furthermore, physical violence within the school environment dominated discussions with learners, with almost 8% of the learners identifying a particular place at school that they were afraid of – with some naming classrooms or the principal’s office and other citing toilets and corridors.¹⁴⁶

¹³⁷ General Rules of Conduct for Learners, Government Notice 189 of 28 October 2002 (Government Gazette 2841).

¹³⁸ Id, regulations 1(d) and 1(h).

¹³⁹ Code of Conduct for Teaching Service, Government Notice 187 of 2002 (Government Gazette 2841), as amended by Government Notice 15 of 2004 (Government Gazette 3144).

¹⁴⁰ *Education Sector Policy on the Prevention and Management of Learner Pregnancy*, Windhoek: Ministry of Education, 2013, section 5.1.8.

¹⁴¹ *Ex Parte Attorney-General, Namibia: Re: Corporal Punishment by Organs of the State* 1991 NR 178 (SC).

¹⁴² Education Act 16 of 2001, section 56.

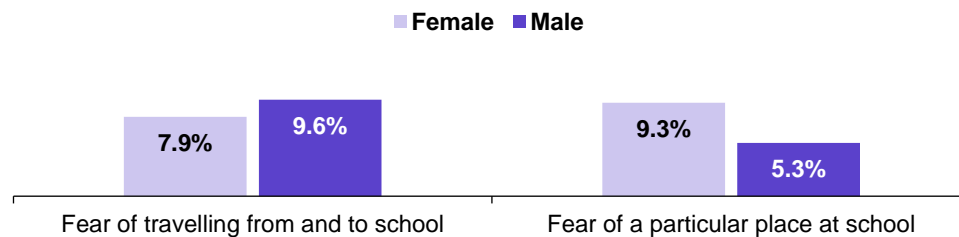
¹⁴³ Patrick Burton, Lezanne Leoschut and Maša Popovac, *Protecting the Flame: Overcoming violence as a barrier to education in Namibia*, Cape Town: Centre for Justice and Crime Prevention, 2011 at 20 (based on responses from 381 youths between the ages of 12 and 19 surveyed in the Ohangwena, Omusati, Oshana and Oshikoto regions) (hereinafter “**Burton et al**”).

¹⁴⁴ Theunis Keulder, *Improving civic participation of the Youth in Namibia through the use of mobile phones and engagement through a Study Circle program in schools*, Windhoek, Namibia Institute for Democracy, 2011 at 20-21.

¹⁴⁵ Id at 22.

¹⁴⁶ Burton et al at 18-20.

Feelings of fear at school, by gender (n=366)



Source: Patrick Burton, Lezanne Leoschut and Maša Popovac, *Protecting the Flame: Overcoming violence as a barrier to education in Namibia*, Cape Town: Centre for Justice and Crime Prevention, 2011, Table 7 at 20.

Violence in the school environment can lead to fear and absenteeism, which are not conducive to a productive learning environment. For example, the *2004 Namibia School-Based Student Health Survey*, which involved more than 6 000 learners, found that almost 38% of learners had missed at least one day of school in the 30 days prior to the survey because of feeling unsafe at school, or on the way to or from school.¹⁴⁷

Sexual abuse and harassment in schools: Levels of sexual abuse and harassment in schools and sexual relationships between learners and teachers are a concern, with the incidence of this problem probably being underreported.

The Education and Training Sector Improvement Programme (ETSIP) acknowledges that schools and school hostels are sites of sexual harassment and that steps must be taken to make them safer places for learners.¹⁴⁸ The 2009 survey of learners aged 12 to 19 in four northern regions mentioned above found that 46% had experienced sexual assaults at school, 32% had been sexually assaulted two to five times, and almost one out of five (23%) had been sexually assaulted *more than 10 times* while at school.¹⁴⁹ As examples, female learners complained that male learners sometimes forced the girls to touch their bodies, or used threats to force girls into relationships with them; that they were bullied because they refused to have sex with their boyfriends or because they had decided to end a relationship; or that they had received unwelcome text messages suggesting sexual activities or messages with sexually abusive comments or explicit pictures.¹⁵⁰

Namibian studies also report instances where male teachers threaten to fail female learners unless they agree to sexual demands or to a “relationship” with the teacher,¹⁵¹ and there are a number of anecdotal accounts of sexual harassment or abuse by teachers. While some people blame the schoolgirls in such situations for “seducing” the teachers, it must be recognised that this is an unequal power relationship in

¹⁴⁷ *Report on the Namibia School-Based Student Health Survey 2004*, Windhoek: Ministry of Health and Social Services, 2008, Table 3.4.1 at 15-16. The survey collected information from 6 367 Namibian learners in Grades 7-9; 15.1% of learners surveyed reported missing school once for this reason, another 9.9% missed school on 2-3 days for this reason, 5.2% missed 4-5 days and 7.7% missed 6 or more days because of such fears.

¹⁴⁸ *Education and Training Sector Improvement Programme (ETSIP): Planning for a Learning Nation, Programme Document: Phase I (2006 -2011)*, Windhoek: Ministry of Education, 2008 at 82.

¹⁴⁹ Burton et al at 18 (based on responses from 319 learners).

¹⁵⁰ Aune Ndeumona Sam, “An Investigation into the Nature of Bullying in Selected Secondary Schools in the Oshana Education Region of Namibia”, Master’s thesis, University of Namibia, 2011 at 55-56.

¹⁵¹ S Felton & C Haihambo-Muetudhana, *Girls’ Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at 20; Aune Ndeumona Sam, “An Investigation into the Nature of Bullying in Selected Secondary Schools in the Oshana Education Region of Namibia”, Master’s thesis, University of Namibia, 2011 at 55-56.

which the teacher is in a position of trust and has responsibility with respect to the learners.¹⁵² In fact, teachers can play contradictory roles in the lives of their learners; whilst some children are abused by teachers, teachers are also sometimes the people in whom abused children confide.¹⁵³ There are reports that some teachers who have caused pregnancies have offered settlements to the family in the form of cash or food to discourage the parents from pursuing the matter with the Ministry of Education.¹⁵⁴ A team from the Ministry of Education that visited key stakeholders in all regions in 2010 was told that some teachers are involved in sexual relationships with learners which result in teenage pregnancies, but then escape the consequences by resigning – only to be employed as teachers elsewhere. According to this report, “[t]he long and tedious procedures stipulated in the Public Service Act and the Public Service Staff Rules for handling disciplinary cases for teachers make the school principals and Regional Offices despair.”¹⁵⁵

Bullying: Bullying is problem for both male and female learners. Bullying in Namibian schools takes many forms – including being verbally teased, insulted or intimidated; being physically hit, kicked or punched; being made to feel scared or threatened with harm; being forced to do something the learner feels is wrong or being forced to do non-consensual physical acts.¹⁵⁶

In the *2004 Namibia School-Based Student Health Survey*, about half of the learners surveyed reported that they were bullied on at least one or two days during the 30 days prior to the survey. Male learners were somewhat more likely to be bullied (54%) than female learners (46%).¹⁵⁷ In the next *2013 Namibia School-based Student Health Survey*, bullying affected boys and girls about equally (46% of girls reported bullying during the 30 days prior to the survey, compared to 45% of boys).¹⁵⁸

The 2009 study of learners aged 12 to 19 in four northern regions mentioned above found that females were much more likely than males to experience most forms of bullying reported.¹⁵⁹

¹⁵² *School Policy on Learner Pregnancy in Namibia: Background to Reform*, Windhoek: Legal Assistance Centre, 2008 at 94, 100.

¹⁵³ Rachel Jewkes, Loveday Penn-Kekana, Hetty Rose-Junius, Josephine Malala, *Child Sexual Abuse and HIV: Study of Links in South Africa & Namibia*, Pretoria: Medical Research Council, 2003 at page 33.

¹⁵⁴ *School Policy on Learner Pregnancy in Namibia: Background to Reform*, Windhoek: Legal Assistance Centre, 2008 at 100.

¹⁵⁵ Hon Minister Abraham Iyambo & Hon Deputy Minister David Namwandi, “Issues Emerging from the Regional Consultative Visits, 24 May-7 July 2010”, Windhoek: Ministry of Education, 2010 at 4-5.

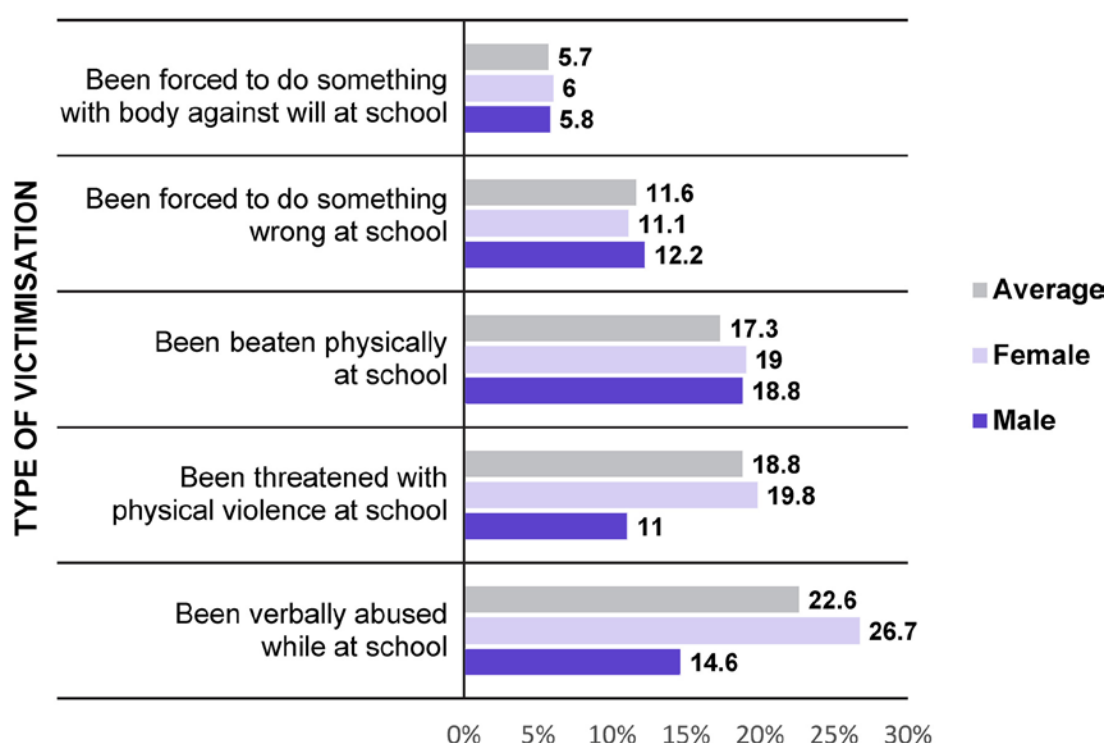
¹⁵⁶ Burton et al at 15.

¹⁵⁷ *Report on the Namibia School-Based Student Health Survey 2004*, Windhoek: Ministry of Health and Social Services, 2008 at 15, Table 3.3.4 at 14, and Table C.3.12 at 77. Note that the discussion of these statistics in the narrative of the report is misleading. The report (at 15) says that 22.7% of the learners were bullied on at least one or two days during the 30 days prior to the survey. But according to Table 3.3.4 at 14, at least 22.7% of the learners surveyed were bullied on one or two days during the 30 days prior to the survey, an additional 9.3% were bullied on 3-5 days during this period, an additional 4.9% on 6-9 days, an additional 4.3% on 10-19 days, an additional 2.3% on 20-29 days, and an additional 6.3% on all 30 days. This means that about half of the learners (49.9%) were bullied on one or more days during the month prior to the survey. There is a similar discrepancy in respect of bullying of males versus females. The figures reported here have been re-calculated from Table 3.3.4.

¹⁵⁸ “Global School-based Student Health Survey, Namibia 2013 Fact Sheet”, undated, <www.who.int/chp/gshs/2013_Namibia_Fact_Sheet.pdf>. No full analysis of the 2013 Survey in Namibia could be located.

¹⁵⁹ Burton et al at 16.

Bullying by sex in schools in Ohangwena, Omusati, Oshana and Oshikoto Regions (2009)



Source: Ministry of Education, Arts and Culture, UNESCO Institute for Statistics and UNICEF, *School Drop-Out and Out-Of-School Children in Namibia: A National Review*, Windhoek: UNICEF, December 2015 at 50, based on Patrick Burton, Lezanne Leoschut and Maša Popovac, *Protecting the Flame: Overcoming violence as a barrier to education in Namibia*, Cape Town: Centre for Justice and Crime Prevention, 2011.

Several studies involving Namibia have found that learners who are bullied are more likely to behave aggressively themselves.¹⁶⁰ One study also found associations between being bullied and engaging in risky health behaviours, including risky sexual activity.¹⁶¹

In July 2015, the Ministry of Education, Arts & Culture launched a National Anti-Bullying Campaign with support from the European Union and UNICEF Namibia. The aim of the programme is to raise awareness and coordinate action in the prevention and management of violence in Namibian schools. It features a cartoon character, “Edu”, who models positive behaviours, and “Edu-circles” have been established in 145 schools in selected regions of Namibia.¹⁶² As of mid-2017, UNICEF was in the process of preparing an issue paper on bullying.¹⁶³

¹⁶⁰ Emmanuel Rudatsikira, Seter Siziya, Lawrence N Kazembe & Adamson S Muula, “Prevalence and associated factors of physical fighting among school-going adolescents in Namibia”, 6 *Annals of General Psychiatry* 18 (2007); David W Brown et al, “Bullying among youth from eight African countries and associations with adverse health behaviours”, 2(3) *Paediatric Health* 289 (2008). These are both secondary analyses of data from the 2004 *Namibian School-Based Student Health Survey*.

¹⁶¹ Brown et al at 296.

¹⁶² See “Social Accountability”, UNICEF website: <www.unicef.org/namibia/education_17933.html> and the description of the “Edu” concept at <www.unicef.org/namibia/EDU_Newspaper_edition.compressed.pdf>. See also Ministry of Education, Arts and Culture press release, “Ministry, UNICEF launches anti-bullying campaign”, 9 July 2015, <www.moe.gov.na/news_article.php?type=pressrelease&id=183&title=Ministry>.

¹⁶³ Personal communication, Ministry of Education, Arts and Culture, June 2017.

8.11 Tertiary education

As of 2011, there were 85 females for every 100 males in tertiary education, but this varied widely amongst different institutions, as the table below indicates.

Enrolment by sex in selected tertiary institutions (2011)	
University of Namibia (UNAM)	153 females to 100 males (77% female)
Polytechnic of Namibia (now NUST)	127 females to 100 males (64% female)
International University of Management (IUM)	114 females to 100 males (57% female)
Zambezi Vocational Training Centre	82 females to 100 males (41% female)
Valombola VTC	61 females to 100 males (38% female)
Windhoek VTC	61 females to 100 males (38% female)
Rundu VTC	45 females to 100 males (31% female)
Okakarara VTC	39 females to 100 males (28% female)

Source: Based on figures in *Namibia 2013 Millennium Development Goals Interim Progress Report No. 4*, Windhoek: National Planning Commission, September 2013 at 38-40

There was also a wide variation amongst different faculties at Namibia's two main tertiary institutions – UNAM and the Polytechnic:

For example, at UNAM, the Faculty of Engineering and Information Technology has had significantly fewer women than men since it commenced in 2008, with a ratio of 33:100 in 2011 and in 2012. From 2002, the faculties of Science, and Agriculture and Natural Resources had fewer women than men, but this reversed in 2010 and 2011. Similarly, the Polytechnic School of Engineering and School of Information Technology had significantly fewer women than men in 2011 and 2012. The ratio of female enrolment to male was 33:100 for Engineering and 54:100 for IT, in each year.¹⁶⁴

During the 2009/2010 academic year, women constituted 58.5% of students enrolled at the two public universities, with female students outnumbering their male counterparts in all programmes except natural resources and tourism, and agriculture.¹⁶⁵ Within these two institutions, 43% of academic and research staff were female, although academic and research staff were predominantly male in certain fields, such as science, engineering and technology.¹⁶⁶

For the 2017 academic year, there were 24 759 registered students attending the University of Namibia, and 65% of them were female.¹⁶⁷

According to UNAM's 2015 annual report, the faculties with the greatest percentage of female students (across all degree levels) were the school of nursing and public health (82% female), the school of pharmacy (72% female), humanities and social sciences (71% female) and the school of medicine (70% female). The faculty with the lowest percentage of female students was engineering and IT (23% female). Indeed, it was the only faculty where fewer than 50% of the students were female.¹⁶⁸

¹⁶⁴ *Namibia 2013 Millennium Development Goals Interim Progress Report No. 4*, Windhoek: National Planning Commission, September 2013 at 38-40 (footnote, citations and graphs omitted). This is the most recent MDG report for Namibia which could be located online. See also "Eight Goals for 2015", UNDP website: <www.na.undp.org/content/namibia/en/home/post-2015/mdgoverview.html>.

¹⁶⁵ *A Profile of Higher Education in Southern Africa, Volume 2: National Perspectives*, Southern African Regional Universities Association (SARUA), 2012 at 66.

¹⁶⁶ Id at 67.

¹⁶⁷ "Student Population", UNAM website: <www.unam.edu.na/sites/default/files/student_population_2017.pdf>.

¹⁶⁸ Figures derived from *Annual Report 2015*, Windhoek: UNAM, 2015 at 15-17 (available at <www.unam.edu.na/sites/default/files/newsletter/annual_report2015web.pdf>).

Enrolment by faculty and sex, UNAM, 2015					
Faculty School Name	Female		Male		Total No.
	No.	%	No.	%	
Agriculture & Natural Resources	405		362		767
Economic & Management Sciences	1 945		1 563		3 508
Education	3 871		1 993		5 864
Engineering & IT	86		288		374
Faculty of Health Sciences: School of Medicine	276		121		397
Faculty of Health Sciences: School of Pharmacy	116		45		161
Faculty of Health Sciences: School of Nursing & Public Health	862		190		1 052
Humanities and Social Sciences	1 494		607		2 101
Law	512		358		870
Science	890		850		1 740
Foundation Programme	137		92		229
External Studies	2 623		1 326		39 49
Total	13 217		7 795		21 012

Source: Based on *Annual Report 2015*, Windhoek: UNAM, 2015 at 15-17.

According to NUST's 2015 annual report, there were 12 714 students enrolled at NUST in 2015, and 53% of them were female.¹⁶⁹ The majority of students (56%) were in the faculty of management sciences; the next most popular faculty was human sciences (13%). However, the report does not provide enrolment in faculties by gender.¹⁷⁰

¹⁶⁹ For a more direct comparison to UNAM, the UNAM annual report reported 21 012 enrolled students that year. Id at 17.

¹⁷⁰ *Annual Report 2015*, Windhoek: NUST 2015 at 6-7 (available at <www.nust.na/sites/default/files/documents/Annual%20Report%202015.pdf>) (some figures derived).

Chapter 9

Women in Family and Society

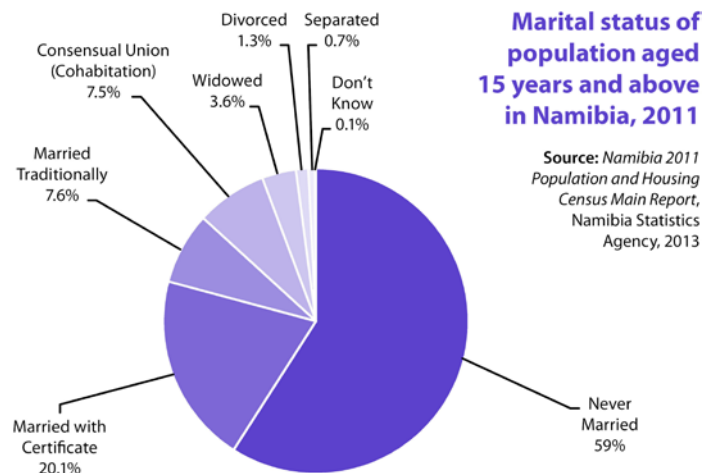
9.1 Introduction

The family seems to be the most challenging arena for progress on gender equality. As this chapter shows, gender stereotypes about masculine and feminine roles in the family persist. Much of Namibia's family law is outdated and inadequate to serve the needs of men or women, yet law reform in this sector has been dragging. Customary law in particular remains virtually untouched, despite the continued existence of overt sex discrimination in some aspects of customary law on marriage, divorce and inheritance. Furthermore, as Chapter 10 indicates, the family continues to be the site of much of Namibia's gender-based violence.

9.2 Marital status

Namibia has a low rate of marriage and a significant incidence of informal cohabitation. It is common for children to live in single parent situations, or to live apart from both parents (even where one or both parents are still living).

Marital status: According to the *2011 Census*, 20% of women aged 15 and above were married in a civil marriage, about 8% were married in a customary marriage, 7.5% were living together informally with a partner, 4% were widowed and 2% were divorced or separated. The majority (59%) had never been married.



Source: *2011 Census*, Figure 3.1.1 at 33.

The *2011 Census Fertility Report* gives more detailed information on marital status for men and women, focusing on the age groups when women are of child-bearing age (age 12 to 49). See the table below. Most women and men in this age group (69% of women and 75% of men) had never been married.¹

¹ *2011 Census Fertility Report*, Windhoek: Namibia Statistics Agency, June 2014, Table 5.1 at 20.

Marital status of women and men aged 12-49 (2011)									
Age group									
Marital status	12-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49	Total
FEMALES									
Never Married	100.0	94.0	80.9	64.8	52.0	44.0	37.0	31.1	69.1
Married with Certificate / Traditionally	0.0	2.7	9.0	20.3	32.4	40.6	46.7	50.5	20.3
Consensual Union	0.0	2.6	8.9	13.2	12.7	10.7	8.3	6.4	7.7
Divorced / Separated	0.0	0.4	0.8	1.2	2.0	2.7	4.0	5.0	1.6
Widowed	0.0	0.3	0.3	0.4	0.9	1.9	4.0	6.9	1.3
Don't Know	0.0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
MALES									
Never Married	100.0	97.2	92.2	78.2	61.6	46.9	34.5	26.3	75.3
Married with Certificate / Traditionally	0.0	1.4	3.5	11.0	23.6	37.5	50.6	59.8	16.7
Consensual Union	0.0	0.9	3.7	10.0	13.6	14.0	12.3	10.3	6.9
Divorced / Separated	0.0	0.3	0.4	0.6	0.9	1.3	1.9	2.4	0.7
Widowed	0.0	0.1	0.1	0.1	0.2	0.3	0.6	1.1	0.2
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Based on 2011 Census Fertility Report, Table 5.1 at 20.

The 2013 Demographic and Health Survey investigated the current marital status of women and men aged 15-49. It defined “married” to include civil and customary marriage, while “living together” denoted persons in living in an informal union as husband and wife. This survey found that 60% of women and 68% of men in these age groups had never been married, while 18% of women and 15% of men were married and 16% of women and 14% of men were living together; in other words, marriage and informal cohabitation occurred in roughly equal numbers. Only about 1% of both sexes were divorced, 3% of women and 2% of men were separated, and 2% of women and a tiny proportion of men (0.2%) were widowed.

Current marital status of women and men aged 15-49 (2013)								
Age group								
Marital status	15-19	20-24	25-29	30-34	35-39	40-44	45-49	Total
WOMEN								
Never Married	94.1	77.9	57.8	44.2	36.5	30.6	24.1	59.5
Married	0.6	5.0	13.8	27.1	32.1	38.1	41.4	17.9
Living together	4.8	14.6	23.7	23.3	21.3	16.2	13.1	16.1
Divorced	0.0	0.1	0.3	0.9	1.8	3.2	3.5	1.0
Separated	0.5	2.3	4.1	3.9	5.5	5.9	5.6	3.4
Widowed	0.0	0.1	0.4	0.7	2.8	6.0	12.3	2.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
MEN								
Never Married	99.3	90.0	72.1	53.4	40.9	30.2	18.6	68.3
Married	0.0	1.2	8.1	17.6	30.6	45.0	51.2	15.1
Living together	0.7	8.2	16.9	25.6	24.0	18.4	19.8	13.7
Divorced	0.0	0.0	0.3	0.6	0.8	1.7	6.1	0.8
Separated	0.0	0.6	2.6	2.8	3.1	3.7	3.2	1.8
Widowed	0.0	0.0	0.0	0.0	0.6	1.1	1.1	0.2
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Based on 2013 Demographic and Health Survey, Table 4.1 at 46.

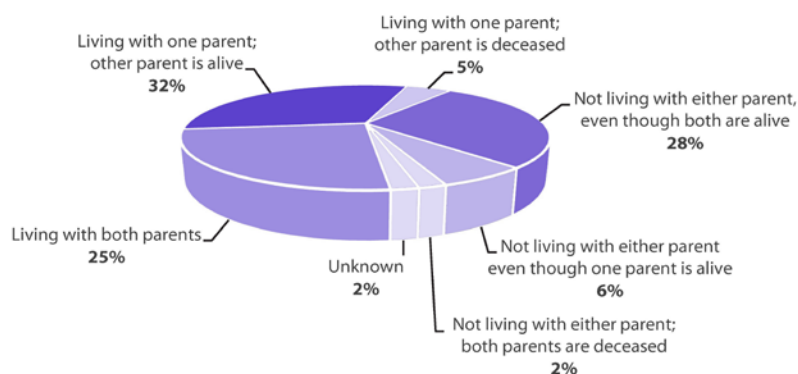
Age at first marriage: According to the 2013 Demographic and Health Survey, amongst women aged 20-49 at the time of the survey, almost 2% had been married by age 15 and almost 8% had been married by age 18.² These statistics are relevant inasmuch as they indicate that child marriage has affected, and likely

² Namibia Demographic and Health Survey 2013, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 49 (hereinafter “2013 Demographic and Health Survey”). This survey involved a

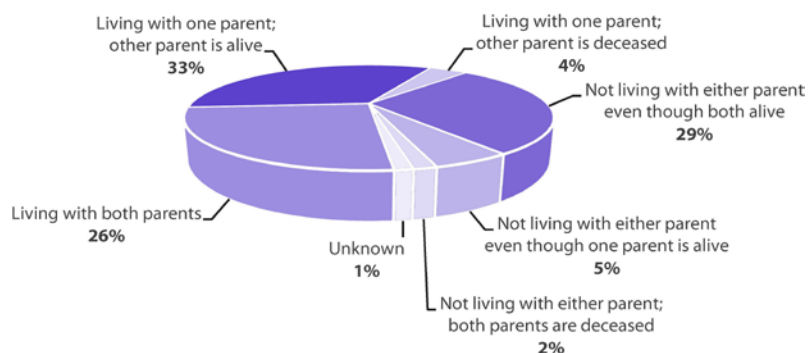
continues to affect, a proportion of Namibian girls under the age of 18. However, if one looks only at the marital status of females aged 15-19 *at the time* of the 2011 Census, only 3.4% were married, divorced/separated or widowed – and no girls below age 15 were married. In the 2013 Demographic and Health Survey, again looking only at the marital status of females aged 15-19 *at the time* of the survey, only about 1% were married, separated or divorced and none were widowed. These figures suggest that child marriages are in decline.³ The issue of child marriage is one that the Ministry of Gender Equality and Child Welfare has committed to investigating, through a forthcoming study on child marriage in selected regions in Namibia and its relation to HIV/AIDS and gender-based violence.⁴

Polygamy: Polygamy or polygyny (where a man has more than one wife) is not widespread. In the 2013 Demographic and Health Survey, only 6% of women aged 15-49 who were currently married or cohabiting reported that their husband had more than one wife.⁵ The practice of polygyny was more common in rural than urban areas, at 9% versus 4%.⁶ In general, women with more education and higher household wealth were less likely to be part of polygamous unions.⁷ The regions with the highest percentages of women in polygamous unions were Zambezi, Kunene, Kavango, Ohangwena and Omusati.⁸ A strong majority of men (63%) and women (60%) surveyed in Namibia in 2015-16 thought that polygamy should be abolished.⁹

Living arrangements of Namibian children under age 18



Living arrangements of Namibian children under age 15



Source: Based on 2013 Demographic and Health Survey, Table 2.10 at 22.

Living arrangements for children: Namibia has a wide diversity of family arrangements, with single-parent families being common. According to the 2013 Demographic and Health Survey, only one out of four children under age 18 (25%) live with both their parents. Far more children – about 37% of children

nationally-representative sample of 11 004 households, where 9 940 women aged 15-49 and 842 women aged 50-64 were interviewed, along with 4 481 men aged 15-49.

³ Id, Table 4.1 at 46.

⁴ Ministry of Gender Equality and Child Welfare, presentation on child marriage study at quarterly meeting of Permanent Task Force on Impact Mitigation on Vulnerable Children, Windhoek, 23 March 2017.

⁵ 2013 Demographic and Health Survey at 46. Only 76% of married women aged 15-49 reported being in a single-spouse marriage; for 18% of married women aged 15-49, the data was unavailable.

⁶ Ibid.

⁷ Ibid.

⁸ Id at 47.

⁹ SADC Gender Protocol 2016 Barometer, Southern African Gender Protocol Alliance, 2016 at 28-29. This survey involved 4 292 persons (53% women, 47% men), questioned between 2 July 2015 and 17 June 2016. See section 9.8 below.

under age 18 – live with only one of their parents, and 34% live with neither parent even though one or both parents is alive.¹⁰

9.3 Family law reforms since Independence

There have been many significant law reforms concerning gender since Namibian Independence, but action in the area of the “public” sphere of political participation and formal employment has taken precedence over action concerning the more “private” sphere of family relationships.¹¹

The **Married Persons Equality Act 1 of 1996** eliminated the common-law concept of marital power that previously applied to civil marriages and resulted in women being treated similar to minors. Couples married in community of property must now consult each other on certain major transactions (with husbands and wives being subject to identical powers and restraints), while couples married out of community of property have the right to deal with their separate property independently. The law made all husbands and wives equal guardians of children born in the marriage.¹² The symbolic import of this law is probably even more significant than its practical provisions, as it sends out a clear message that the law will no longer recognise husbands in civil marriages as “heads of household” – even though it mollified critics with the inclusion of a statement that nothing in the law “shall be construed to prevent a husband and wife from agreeing between themselves to assign to one of them, or both, any particular role or responsibility within the family”.¹³

The gender-based inequalities in customary marriage, which stem from a different source, were not addressed by this law – aside from giving husbands and wives in both civil and customary marriages equal powers of guardianship in respect of children of the marriage.¹⁴ In fact, no significant law reforms pertaining to women have taken place in respect of customary family law to date, with the exception of protection for widows’ rights to remain on communal land allocated to their deceased husbands under the **Communal Land Reform Act 5 of 2002**.¹⁵

Gender-based violence, including family violence, has seen a significant amount of legal attention. The **Combating of Rape Act 8 of 2000**, which introduced a gender-neutral definition of rape, also outlawed marital rape.¹⁶ The **Combating of Domestic Violence Act 4 of 2003** covers a range of forms of domestic violence – including sexual violence, harassment, intimidation, economic violence and psychological violence – and applies to a broad range of “domestic relationships”. It gives those who have suffered violence an alternative to laying criminal charges, by providing a simple procedure for getting a

¹⁰ 2013 *Demographic and Health Survey*, Table 2.10 at 22.

¹¹ D Hubbard, “Gender and Law Reform in Namibia: The First Ten Years” in Manfred O Hinz, Sam K Amoo and Dawid van Wyk, *The Constitution at Work: 10 years of Namibian Nationhood*, South Africa: UNISA, 2000. The observation continues to hold true in 2017.

¹² Married Persons Equality Act 1 of 1996, section 14. Both parents must consent to the contracting of a marriage by the minor child, the adoption of the minor child, the removal of the minor child from Namibia by either of the parents or any other person, the inclusion of the name of the minor child in a passport issued or to be issued to either parent and the alienation or encumbrance of immovable property or any right to immovable property vesting in the minor child.

¹³ Id, section 3(b).

¹⁴ Sections 12-13 of the Married Persons Equality Act 1 of 1996 also make a wife’s domicile independent of that of her husband in both civil and customary marriages, and provide that the domicile of children of any marriage will be the place with which they are most closely connected. However, these aspects of the law, although praiseworthy, are of practical relevance to few Namibians.

¹⁵ This is discussed in Chapter 6 of this analysis.

¹⁶ The Combating of Rape Act 8 of 2003, section 2(3), provides that “[n]o marriage or other relationship shall constitute a defence to a charge of rape under this Act.”

protection order from a magistrate's court. In cases of physical violence, this protection order can direct the abuser to leave the common home. No new crimes were created by the law, but existing crimes between persons in a domestic relationship are classified as "domestic violence offences" and made subject to special provisions which protect victims' privacy and encourage their input on bail and sentencing.

The **Maintenance Act 9 of 2003** addresses the problem of securing child support from absent fathers. The 2003 law replaced a 1963 law, making significant changes to the maintenance system to make it more efficient. The 2003 law provides for the sharing of expenses incurred during pregnancy, and makes it clear that all children must be treated equally – whether born in or out of marriage, and no matter what the order of birth. It also provides new methods of enforcement to use when maintenance orders are not obeyed, and penalises failure to use maintenance money for the child's benefit.

9.4 Family law reforms in process

The **Child Care and Protection Act 3 of 2015**, enacted by Parliament but not yet in force, amongst other things, provides procedures aimed at protecting children in dangerous family situations. It also sets the minimum age of marriage at 18 for all marriages, thereby bringing the minimum age for customary marriage in line with that for civil marriage (which was set at 18 by the Married Persons Equality Act 1 of 1996). The Act covers a number of other family-related issues, including adoption, kinship care, foster care and state grants for children. It is not yet in force because the regulations have not been finalised.

The Law Reform and Development Commission (a statutory body charged with law reform) is busy with a **Uniform Matrimonial Property Regime Bill** which would remove persisting racial discrimination in the rules on marital property regimes. Under the current law (the "Native Administration Proclamation 15 of 1928", which is still in force), there is one default regime for blacks in certain sections of the country and another default regime for everyone else. The Bill would make in community of property the default regime for everyone who enters into a civil marriage. It would also provide a grace period during which couples covered by the discriminatory apartheid-era law can change their property regime. This is a very positive development. However, it appears to be replacing a **Marital Property Reform Bill**, which was approved by the Law Reform and Development Commission in 2010. This Bill would have established a unified set of rules on marital property for everyone in Namibia, for both civil and customary marriage, by providing four standard options which any couple could select by indicating their choice on their marriage certificate after a standardised explanation by the marriage officer. The idea was to level the playing field between rich and poor, since couples who can afford a lawyer currently have more choices than those who cannot. The Bill would have required a couple who are entering into a marriage to actively pick a property regime, with no "default" scheme, to ensure that both parties understand the financial implications of marriage. A further innovation would have been to allow couples to change their property regime by agreement after the marriage, to cater for changed financial circumstances – something which is impossible under the current law. In addition, this Bill would have strengthened the provisions of the Married Persons Equality Act on joint administration of joint property by closing current loopholes (such as allowing consent to financial decisions after the fact and allowing consent to be given orally). The Uniform Matrimonial Property Regime Bill currently under discussion is much less ambitious and innovative, and the more comprehensive Marital Property Reform Bill seems to have been shelved by the Law Reform and Development Commission for the moment.

The Law Reform and Development Commission is also working on a **Divorce Bill**. The current antiquated law on divorce is fault-based. Divorces are currently processed only through the High Court in Windhoek, and a personal appearance is required – which necessitates arduous travel for many people. It

is virtually impossible to secure a divorce without the assistance of a lawyer, and legal aid is currently unavailable for divorces except in cases of very serious violence. This can mean that women often stay in a relationship even if it is violent because they are unable to get a divorce. Alternatively, couples often separate without obtaining a formal divorce, meaning that the legal protections for property rights are not implemented and there is no monitoring of the best interests of the children of the marriage. In a 2013 judgment in a divorce case, the Judge President of Namibia's High Court called the current divorce law "archaic" and stated that "a more fertile ground for violence in the family is hardly imaginable". The basic idea behind the Bill under development is to replace the fault-based regime with the ground of "irretrievable breakdown", and to make divorce simpler and more accessible as well as less acrimonious. However, the Bill in its current form has omitted the provisions on children which were in a previous version of the Divorce Bill that was recommended by the Law Reform and Development Commission to the Ministry of Justice in late 2004. The current revised Bill also re-inserts fault as a factor in decisions on spousal maintenance and property division (whereas the original Bill listed factors such as respective contributions of finance or labour – including childcare and housework – length of marriage and age of spouses, amongst other factors).

The Ministry of Home Affairs and Immigration is in the final stages of developing a **Marriage Bill** which would cover the procedure for solemnisation of marriages, introducing the concept of marriage permits which must be obtained in advance of the wedding ceremony. Currently it is very easy to get married in Namibia, which has led to a situation where "marriages of convenience" take place for residence purposes – although it is often the case that the economically weaker person (usually the woman) does not realise that the marriage is actually a sham. The introduction of more formal requirements for marriage should help to prevent sham marriages and bigamy, and thus better protect vulnerable partners. It is also expected to provide for more control over marriage officers, thus providing tools to combat fraud in this area.

The Ministry of Home Affairs and Immigration is also in the process of developing a **Civil Registration Bill** (with the name of this Bill still under discussion). The current law on birth registration makes it difficult to register a child's birth when the parents are unmarried. The law is also gender-biased; single fathers cannot register the births of their children at all, and single mothers sometimes defer registration hoping to get the father to participate. The new law will make it easier for single parents of either sex to register their children. It will also assist children whose parents lack documentation and who might otherwise end up stateless. The proposed Bill also covers registration of deaths, marriages and divorces, and provides for the new computerised regime with increased security measures which the Ministry is already putting in place. It would also institutionalise the Ministry's new system of e-notification of births by health facilities, as a way of providing information which can be used for verification and follow-up. This new law slots in with the World Bank's ongoing *ID4Africa* initiative.

A 2016 court case provides a succinct description of the current differences between civil and customary marriage in Namibia:

Our Namibian law recognises two types of marriage, ie civil law marriages and customary law marriages. The former are solemnised under state law and the consequences flowing therefrom are enforceable before a court of law and the parties' duties and obligations are codified by the Married Persons Equality Act 1 of 1996 (MPEA). Customary marriages, on the other hand, are conducted according to the customary laws of various communities and the consequences flowing therefrom relate to the specific community and are thus different from the next community. The obligations of the parties are in terms of the relevant customary laws and such marriages are not enforceable before a court of law. The type of marriage that parties engage in is a matter of choice and the system chosen should be able to resolve disputes arising out of the chosen union. Some of the significant protections accorded by the Constitution on customary unions are under art 12(1)(f) where no court may compel partners from a marriage by customary law to give testimony against each other and art 66(1) which allows the practising of a custom to the extent that it does not conflict with

the Constitution or any other law. An allegation that a customary law conflicts with the Constitution shall be proved by the applicant before such custom may be declared unconstitutional.¹⁷

In 2004, the Law Reform and Development Commission proposed a **Recognition of Customary Marriage Bill**. There has been little progress in this area despite the fact that currently there is no formal procedure for recognising customary marriage and no protection for property rights or the best interests of children upon customary divorce. The result is that women married under customary law are vulnerable both during the marriage and when the marriage ends by divorce or the death of one spouse. The grounds for customary divorce are also gender-discriminatory in many communities, and in some areas divorce is inaccessible because it requires the return of *lobola*. The draft Bill also recommended ending polygamy (although it might be unwise to take this step in the absence of any protection for informal cohabitation, which might replace polygamy if it were outlawed).

Another family law reform under consideration by the Law Reform and Development Commission is the **Intestate Succession Bill**, which would cover inheritance in the absence of a will. This is a crucial area for law reform as most people in Namibia do not make written wills, due to their belief that making a will anticipates death and also due to a lack of information on the correct procedure. The current law on intestate succession is still race-based.¹⁸ The proposed law would divide the lion's share of the deceased's property between the surviving spouse and children, with a smaller percentage going to customary heirs in cases where the deceased lived according to customary law. The proposed Bill would also introduce spousal maintenance from the deceased's estate (which does not exist under current Namibian law) and provide new protections against property-grabbing, which is a persisting problem in Namibia.

An area in need of legal attention is **informal cohabitation**. More and more men and women in Namibia are living together without being married under civil or customary law, for a variety of reasons. Many of these relationships resemble marriage in every way except that they lack protection under the law. When a cohabiting couple breaks up, or when one partner dies, individuals often suffer because there are no legal mechanisms in place for property distribution, maintenance or inheritance. Because men are still usually the breadwinners in Namibian society, women tend to be the most economically vulnerable partners in these situations. While no one is suggesting that cohabitation should be equated with marriage, there is a need for some basic financial protections. The Law Reform and Development Commission finalised an issue paper on cohabitation in late 2013, drawing on research carried out by the Legal Assistance Centre, but this paper does not appear to have been published and the issue does not appear to be moving forward.

The Committee which monitors the **Convention on the Elimination of All Forms of Discrimination against Women** has called upon Namibia to urgently adopt pending bills on marriage, recognition of customary marriages, marital property, divorce and intestate succession, and to protect the rights of

¹⁷ *LM v JM and Others* 2016 (2) NR 603 (HC) at para 8.

¹⁸ In June 2003, racially-discriminatory provisions in the Native Administration Proclamation 15 of 1928 were challenged in the High Court (*Berendt & Another v Stuurmann & Others* 2003 NR 81 (HC)). The High Court declared sections of this law to be unconstitutional and ordered Parliament to take remedial action. Parliament responded with the Estates and Succession Amendment Act 15 of 2005. The Act provides for small estates to be handled by magistrates' courts, thus increasing accessibility for many people, whilst giving the Master of the High Court ultimate authority over all estates – thus removing the racial discrimination which previously marked the *procedure* for administering estates. The Act repealed the race-based *substantive* sections of the Proclamation but astonishingly provided that these rules “continue to be of force in relation to persons to whom the relevant rules would have been applicable had the said Proclamation not been repealed”. Thus, the provisions which were found unconstitutional continue to be applied in practice despite their “repeal”.

women in de facto unions.¹⁹ It has also urged Namibia, in previous recommendations, to review the Married Persons Equality Act 1 of 1996, with a view to eliminating discrimination against women in customary marriages related to property rights, in order to bring such rights in customary marriages into line with those in civil marriages.²⁰

The Committee which monitors the **Convention on the Elimination of Racial Discrimination** in 2008 reiterated its concern “about the discriminatory character of some Namibian laws that remain in force, including with regard to the administration of intestate inheritance” and “aspects of customary laws of certain ethnic groups on personal status that discriminate against women and girls, including laws pertaining to marriage and inheritance.”²¹ It urged Namibia to ensure that the laws on marriage and inheritance in particular do not discriminate against women and girls of certain ethnic groups and suggested “introducing a system which allows individuals a choice between customary law systems and the national law while ensuring that the discriminatory aspects of customary laws are not applied”.²²

9.5 Women and customary law

Legal issues

- * Article 66 of the **Namibian Constitution** provides that customary law in force at Independence remains valid only to the extent that it does not conflict with the Constitution or any other statutory law. It also gives Parliament power to repeal or modify customary law, consistent with the Constitution. Article 19 on culture guarantees the right to practise and promote any culture, religion or tradition subject to the terms of the Constitution and to the condition that the right to culture does not “impinge upon the rights of others or the national interest”. These provisions make customary law subject to the constitutional prohibition on sex discrimination.
- * The **Traditional Authorities Act 25 of 2000** defines “customary law” to mean “the customary law, norms, rules of procedure, traditions and usages of a traditional community in so far as they do not conflict with the Namibian Constitution or with any other written law applicable in Namibia”.²³ This Act also requires traditional authorities to promote affirmative action, in particular by promoting “gender equality with regard to positions of leadership”.²⁴ The general lack of women in positions of traditional leadership surely influences the attitudes of Traditional Authorities towards family issues and gender equality.
- * The **Community Courts Act 10 of 2003** attempts to formalise traditional courts and processes and integrate them into the general court system of Namibia. It is discussed in more detail in section 10.5.4 of the text.

Customary governance structures and processes are often patriarchal, favouring men’s interests over women’s. Not only are most traditional leaders men, but men often dominate traditional courts, and customary norms generally favour men (such as being the recipients of most property rights).²⁵

¹⁹ “Concluding comments of the Committee on the Elimination of Discrimination against Women: Namibia”, Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/4-5, 20 July 2015 at paras 11(b) and 41.

²⁰ “Concluding observations on the combined fourth and fifth periodic reports of Namibia”, Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/3, 2 February 2007 at para 29.

²¹ “Report of the Committee on the Elimination of Racial Discrimination, Seventy-second session (18 February-7 March 2008), Seventy-third session (28 July-15 August 2008)”, UN General Assembly, A/63/18, 2008 at para 292.

²² Ibid.

²³ Traditional Authorities Act 25 of 2000, section 1.

²⁴ Id, section 3(1)(g).

²⁵ Janine Ubink, “The successful road towards inclusion of women in traditional governance institutions: the case of Namibia’s Uukwambi Traditional Authority”, in Oussematou Dameni et al, *Journeys from Exclusion to Inclusion*:

However, customary justice systems form the dominant legal arena for most people in the developing world and are the most accessible legal systems for rural residents in Namibia, who are at a geographical and financial disadvantage to approach state-administered courts.²⁶ The Committee on the Elimination of Discrimination Against Women has identified “discriminatory stereotypes and deep-rooted patriarchal attitudes regarding the roles and responsibilities of women and men in the family and in society” as a key gender concern, pointing to the need to ensure that customs and practices that are harmful to women are discontinued; the Committee suggested that Namibia should “expand public education programmes on the negative impact of discriminatory stereotypes on women’s enjoyment of their rights, in particular in rural areas, targeting traditional leaders who are the custodians of customary values”.²⁷

The Ministry of Gender Equality and Child Welfare reported that it trained a total of 173 640 community members and traditional leaders between December 2011 and February 2015 to influence changes in behaviours pertaining to gender related issues.²⁸

9.5.1 Gender equality in traditional leadership

The experience of the Uukwambi Traditional Authority in northern Namibia provides an example of how cultural norms about leadership can evolve towards greater gender equality. It has succeeded in making customary governance structures and processes more inclusive of and responsive to women by undertaking action in the three domains of customary governance: leadership, customary dispute settlement and substantive norms.

The selection of traditional leaders in this community is changing from a system based on ascription to one based on achievement. Previously, leaders were generally selected from the family of the last leader. Today, although candidates from that family stand a good chance of being selected, they now need to show they possess the necessary leadership qualities and skills for the job. At the same time, villagers in Uukwambi are demanding more influence in the selection of their leaders. Traditionally, the village leader was selected by the senior headmen and the Chief.²⁹ The changes now in process provide new opportunities for female leadership. A special group of women eligible for the position of village leader consists of headmen’s widows who are regarded as knowledgeable and skilled due to their proximity to their husbands. Women may also be given an opportunity to lead when no suitable men are available in the village.³⁰ This could be a transitional phase which will lead to more recognition of women as being as skilled and competent for leadership as men.

The Chief of the Uukwambi Traditional Authority has been actively promoting women’s leadership since the 1980s in public speeches and by appointing women at various levels of traditional leadership. As a

Marginalized women’s successes in overcoming political exclusion, Stockholm: International Institute for Democracy and Electoral Assistance, 2013 at 105 (hereinafter “**Ubink 2013**”).

²⁶ EA Peters and JM Ubink, “Restorative and flexible customary procedures and their gendered impact: a preliminary view on Namibia’s formalization of Traditional Courts”, *Journal of Legal Pluralism and Unofficial Law* 1-21, January 2015 at 2 (hereinafter “**Ubink & Peters**”).

²⁷ “Concluding observations on the combined fourth and fifth periodic reports of Namibia”, Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/4-5, 208 July 2015 at paras 18, 19(a).

²⁸ Ministry of Gender Equality and Child Welfare, Accountability Report 2014/15, Office of the Prime Minister website:

www.opm.gov.na/documents/108506/151750/VOTE+12+MINISTRY+OF+GENDER+EQUALITY+AND+CHILD+WELFARE.pdf/30c20f8a-ef71-43da-8e52-de0a9c6dd7a3.

²⁹ Ubink 2013 at 109.

³⁰ Id at 110.

result, Uukwambi has seen a significant rise in women traditional leaders, including a woman deputy in the Traditional Council and a woman as one of the five district senior councillors.³¹

A survey of 162 rural households in three districts in Uukwambi (Otuwala, Onamega and Ogongo) carried out in 2009/10 found that each district is headed by a senior headman or headwoman and contains up to 70 villages, each headed by its own headman or headwoman. At each level, leaders are supported by their councils. The Chief is the Chairman of the Uukwambi Traditional Council, which includes the senior headmen or headwomen as well as several other traditional councillors.

A large majority of survey respondents who were living in a village headed by a woman (80%) agreed or strongly agreed that their headwoman does her job well. Respondents in villages headed by a man showed a slight but insignificant difference, with 82% of the opinion that their headman does his job well. The same pattern appeared when the respondents were asked about the performance of the two senior headmen and the senior headwoman: leaders of both sexes were assessed similarly. However, it is notable that while men and women living in villages headed by a woman assessed the performance of their leader almost identically, male respondents were more positive about the leadership of male headmen than female respondents.³² The study concluded that the performance of women traditional leaders is widely seen as satisfactory and largely equal to men's performance.³³

Unfortunately, this did not result in changing attitudes amongst traditional leaders about the sex of their successor. Many headmen still see their sons as the preferred candidates, viewing their daughters as substitutes only if sons are absent or unsuitable.³⁴ When villagers were asked whether it would be good if more traditional leaders were women, 24% of male respondents agreed or strongly agreed, whereas 60% disagreed or strongly disagreed. Of the female respondents, 43% agreed or strongly agreed, as opposed to 49% who disagreed or strongly disagreed.³⁵ Thus, the community still regards men as the most suitable leaders in the abstract. This demonstrates that the shift in mind-set required for women to occupy a fully equal role in traditional leadership functions is not complete.

However, two important patterns emerged from this study. First, in villages led by a headman, male respondents displayed a significantly more negative view of female leadership than female respondents; this difference could not be found, or was much smaller, in villages with headwomen. Secondly, male respondents displayed a more positive general attitude towards female leadership in the abstract when they lived in a village led by a woman, compared to male respondents living in a village led by a man. This is significant as it indicates that men's opinions about female leadership – whether based on traditional values or preconceived opinions regarding character traits of men and women – undergo significant change as a result of actual exposure to successful female leadership.³⁶

9.5.2 Women's experience in traditional courts

Recent research conducted in three areas in Namibia (the Otjikaoko Traditional Authority, the Caprivi Region, since re-named Zambezi, and the Kunene Region) indicates that women have often been excluded from attending or speaking in traditional court meetings unless they were implicated as a party

³¹ Ibid.

³² Id at 110-111.

³³ Id at 111.

³⁴ Id at 112.

³⁵ Id at 113.

³⁶ Id at 114.

or witness to the case.³⁷ In both the Otjikaoko Traditional Authority and Caprivi, considerably more men than women attended the traditional court meetings and those women who did attend court did not participate as actively as men. As well, of the four traditional courts visited in Caprivi, only one had a female councillor. In the Otjikaoko Traditional Authority, the Himba culture even restricts women from reporting their own cases, requiring them to report cases via their parents or, if they are married, via their husbands.³⁸

Despite this gender difference, the study indicated that women tend to prefer the traditional court over the magistrate's court. The main reason reported by women was the fact that one gets compensation in the traditional court. However, women also trusted their traditional authorities, were generally content with the way traditional courts deal with cases and found the traditional courts closer to them both geographically and culturally, as well as being easier to use.³⁹

Most respondents, especially women, said they would prefer more female councillors in the traditional courts. Women more than men indicated that equal treatment would improve with an increase in female councillors.⁴⁰

This research identified a number of procedural aspects of traditional courts that could be negatively impacting women's participation. For example, the fact that one has to come to the traditional court physically in order to report a case, sometimes being sent away to return the next day, can form a barrier to access. This is especially true for women who do not have as much time to travel for reporting a case because they carry the day-to-day responsibilities for child-rearing, household chores and the bulk of agricultural work. Another strong barrier for Himba women is the requirement that they report cases through a husband or male relative; it is not difficult to see this would make cases such as domestic violence unlikely to be reported.⁴¹

The situation was different in the Uukwambi Traditional Authority, as a result of its concerted efforts to improve gender equality. In 1993 the Owambo Traditional Authorities convened a Customary Law Workshop in Ongwediva where it was unanimously decided that women should be allowed to participate fully in the work of community courts. In response to this decision, the Uukwambi Traditional Authority proclaimed that each village needed to select a woman representative, who would act as the village headman's deputy and would actively participate in traditional court meetings.⁴² The Traditional Authority also communicated to the Uukwambi village leaders that women were to be encouraged to actively participate in traditional court meetings. At first, these directives from the Traditional Authority were met with resistance. Over time however, women's participation in traditional court meetings, as well as at the level of the district court and the chief's court, has become an accepted feature of village life.⁴³

Against this background, unlike other traditional courts studied, in the Uukwambi Traditional Authority, the research found that women and men participated in customary dispute resolution on an equal basis. At all levels of Uukwambi traditional courts, women acted as traditional councillors and participated in

³⁷ Peters & Ubink at 6.

³⁸ Id at 7.

³⁹ Id at 10.

⁴⁰ Eline Peters, "Procedures in traditional courts in Namibia: Procedural justice, negotiability and the position of women in customary legal systems – a case study at traditional courts in the Kunene, Caprivi and Oshana regions", Research Masters Thesis, July 2013 at 59.

⁴¹ Peters & Ubink at 12.

⁴² Ubink 2013 at 115.

⁴³ Id at 115.

committees.⁴⁴ A survey of 162 rural households in three districts in Uukwambi (Otuwala, Onamega and Ogongo) found that 80% of male respondents and 68% of female respondents did *not* agree with the statement that it is difficult to speak up at a traditional court meeting; only 28% of female respondents strongly agreed with this statement, compared to 4% of male respondents.⁴⁵ Furthermore, respondents generally perceived the treatment of men and women by the traditional courts as being equal, along with their chances of receiving a fair decision. At the same time, whereas a majority of respondents felt that women and men were equally influential in decision-making, a substantial minority believed men to be more influential than women.⁴⁶

Again, there was a marked difference between respondents in villages with a headwoman and those with a headman. Female respondents were significantly more positive about the traditional court proceedings in female-headed villages in terms of overall performance, ability to participate in the proceedings and the equal division of power between the sexes. Male respondents were slightly more positive about the overall performance of traditional courts in male-headed villages but indicated that the division of power among the sexes was more equal, and that they spoke up more easily, in courts in female-headed villages.⁴⁷

9.5.3 Changes in substantive norms

The experience of the Uukwambi Traditional Authority also illustrates how customary norms can move towards greater gender equality. In this community, customary inheritance dictates that a man's estate is inherited by his matrilineal family, leaving his widow dependent upon his family. Despite the customary obligation on the husband's family to support needy widows and children, this often resulted in the widow and her children being chased out of the house and sent back to the widow's own matrilineal family, a practice referred to as "widow chasing" or "property grabbing". A related customary norm in this community is that when women elect to remain on the land they had occupied with their husbands, they are required to make a payment to their traditional leaders for the land in question.⁴⁸

It was unanimously decided at the 1993 Customary Law Workshop discussed above that widows should be allowed to stay on their land after the death of their husbands, without payment to the village headman or headwoman. As the workshop was not a law-making body, its decisions were to be regarded as recommendations for the councils of the various traditional communities. In the Uukwambi Traditional Authority, the protection of widows was included in the written Laws of Uukwambi.⁴⁹

The changed norms have become widely known and enforced in Uukwambi; the survey referenced above found that 81% of respondents had knowledge of the norms prohibiting property-grabbing and payments by widows to the headman or headwoman for re-allocation of the deceased husband's land. This stands in sharp contrast to research carried out in 1992/93 which asked 600 female Owambo respondents about property and inheritance in a customary marriage; of the 63 respondents from the Uukwambi Traditional Authority, 58% were convinced that they would not inherit anything on the death of their husbands.⁵⁰

⁴⁴ Peters & Ubink at 11.

⁴⁵ Ubink 2013 at 117.

⁴⁶ Id at 119.

⁴⁷ Ibid.

⁴⁸ Id at 119-120.

⁴⁹ Id at 120.

⁵⁰ Janine Ubink, "Stating the Customary: An Innovative Approach to the Locally Legitimate Recording of Customary Law in Namibia", in Janine Ubink and Thomas McInerney, eds, *Customary Justice: Perspectives on Legal Empowerment*, Rome: International Development Law Organization, 2011 at 143 (hereinafter "**Ubink 2011**").

Cases of property-grabbing in traditional courts and at Communal Land Boards now occur infrequently⁵¹ – a change which cannot be fully attributed to customary law since rules about re-allocation of land to widows are included in the Communal Land Reform Act 5 of 2002.

Some important lessons come from the Uukwambi Traditional Authority. Critically, the progress made has resulted from a bottom-up process undertaken by the Traditional Authority, with the active involvement of the Chief, grafted onto a broader effort by the combined Owambo Traditional Authorities to harmonise and modernise their customary laws. Another critical component was the promotion of the changes by the national government.⁵² To expand the success of the Uukwambi Traditional Authority to other regions, it would be important for any legal empowerment initiatives to engage local traditional authorities.

9.5.4 Community Courts Act 10 of 2003

Namibia's Community Courts Act 10 of 2003 was drafted to give legislative recognition to the traditional courts in Namibia, and to formalise their processes and integrate them into the general court system. In terms of the Act, traditional courts which satisfy certain criteria can be recognised as community courts. Community courts are intended to be courts of record (ie to keep records of their proceedings) and magistrates' courts have the jurisdiction to hear and determine any appeal against decisions in the community courts. The Act also gives community courts stronger powers to serve processes, summon witnesses and enforce decisions. In addition, it provides that parties must appear in person (an important rule for women in particular) but may be represented by any person of their choice if they wish.⁵³

As of mid-2017, 43 community courts had been recognised under the Act⁵⁴ and one appeal from a decision of a community court went directly to the High Court of Namibia because it alleged (unsuccessfully) that the issue involved a violation of constitutional rights.⁵⁵ The Minister of Justice has asserted that community courts are an alternative to litigation in the mainstream Namibian courts, which entails exorbitant legal costs.⁵⁶ Some practical problems have been reported with the operation of various community courts, and the Government is reportedly collecting input for possible amendments to refine the Community Courts Act.⁵⁷

While the Act could impact positively on the administration of justice by the traditional courts, it does not address all of the procedural issues identified as detrimental to the position of women, such as cultural restrictions that prevent women from reporting cases directly. It also fails to address gender balance in the customary justice system.⁵⁸

⁵¹ Ubink 2013 at 120.

⁵² Ubink 2011 at 52.

⁵³ Community Courts Act 10 of 2003, section 16: "A party to any proceedings before a community court shall appear in person and may represent himself or herself or be represented by any person of his or her choice." Strengths and weaknesses of the Act are discussed in Manfred O Hinz, "Traditional courts in Namibia – part of the judiciary? Jurisprudential challenges of traditional justice" in Nico Horn and Anton Bösl, eds, *The Independence of the Judiciary in Namibia*, Windhoek: Konrad Adenauer Foundation, 2008.

⁵⁴ Legal Assistance Centre, *Namlex*, entry on Community Courts Act 10 of 2003.

⁵⁵ *LM v JM and Others* 2016 (2) NR 603 (HC). See para 3 on jurisdiction: "It is further applicant's case that a specific customary law that is relied on contravenes her rights in terms of arts 8 and 10 [of the Namibian Constitution] and that in terms of art 80(2) of the Namibian Constitution, the High Court has inherent jurisdiction to hear this matter and not the magistrates' court despite the remedies provided by the Community Courts Act 10 of 2003."

⁵⁶ "Community courts mitigate rising legal costs", *New Era*, 16 September 2015.

⁵⁷ See, for example, Hileni Nembwaya, "Traditional court officials face abuse", *Confidenté*, 26 May 2017.

⁵⁸ See Peters & Ubink at 14.

The contrasting experience with a similar proposed law in South Africa is instructive in this regard. South Africa's *Traditional Courts Bill 2012*, earlier introduced as the *Traditional Courts Bill 2008*, aimed to formalise and enhance the position of South Africa's traditional courts. However, it was withdrawn by Parliament after fierce criticism by civil society for conferring extensive powers of sanctioning on the traditional courts with limited possibility to appeal, while denying individuals the right to opt out of the traditional courts' jurisdiction. The law was also critiqued for entrenching apartheid divisions and negatively impacting on women's rights and securities.⁵⁹ For example, critics noted that the Bill did not provide for gender parity in the appointment of presiding officers and so was likely to leave untouched the tradition of such positions following the male line. Another criticism of the Bill was that it did not expressly exclude cases of maintenance and domestic violence from the jurisdiction of traditional courts, which raised concerns that these topics might suffer because of cultural bias against women and the absence of specific mechanisms to address domestic violence under customary law. There were also concerns that cultural practices like *lobola* potentially increase a woman's vulnerability to domestic violence and decrease her ability to resist or flee abusive situations, as well as fears that traditional courts might not assist a woman in a violent marriage if the family was not able to return the *lobola*.⁶⁰

9.6 Harmful traditional and cultural practices

There are some traditional and cultural practices in Namibia that are particularly harmful to women and girls. Such practices – which include genital stretching, testing of girls' sexual readiness by male relatives and widow cleansing – have significant negative effects on women and girls, including physical harm, degradation, and increased risk of contracting HIV. Moreover, they rely on and perpetuate societal perceptions that women are subservient to men.⁶⁴

Legal issues

- * The Committee which monitors the **Convention on the Elimination of All Forms of Discrimination against Women** has called upon Namibia to conduct national studies to establish the extent and prevalence of harmful practices such as widow inheritance, sexual initiation practices and polygamy, and to introduce specific measures aimed at eliminating them – such as expanding public education programmes on discriminatory practices against women, targeting traditional leaders, and working with the media to raise awareness about eliminating gender stereotypes.⁶¹
- * The **African Charter on the Rights and Welfare of the Child** requires States to take measures to eliminate harmful social and cultural practices affecting children.⁶²
- * The **Child Care and Protection Act 3 of 2015** (passed by Parliament but not yet in force) contains a broad statement that “a person may not subject a child to social, cultural and religious practices which are detrimental to his or her well-being”, and explicitly forbids child marriage and betrothal. It also provides that the Minister may, after consultation with interested parties including traditional leaders, prohibit by regulation any other social, cultural or religious practice – including any form of sexual initiation – which in the Minister's opinion may be detrimental to the well-being of children.⁶³

⁵⁹ Peters & Ubink at 2.

⁶⁰ Jennifer Williams & Judith Klusener, “The Traditional Courts Bill: a woman's perspective”, 29 (2) *South African Journal on Human Rights* 276, 2013.

⁶¹ “Concluding comments of the Committee on the Elimination of Discrimination against Women: Namibia”, Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/4-5, 208 July 2015 at paras 18-19.

⁶² African Charter on the Rights and Welfare of the Child, Article 21.

⁶³ Child Care and Protection Act 3 of 2015, section 226.

⁶⁴ For example, see *Violence is not our culture: Women claiming their rights in Caprivi Region*, Windhoek: Women's Leadership Centre, 2010 at 4-5 (available at <www.wlc-namibia.org/images/downloads/violence_is_not_our_culture_eng.pdf>).

The Women's Leadership Centre (a Namibian NGO) has conducted fieldwork in the Zambezi Region and compiled detailed information regarding harmful cultural practices in that region.⁶⁵ This discussion draws heavily on that fieldwork, but does not mean to suggest that harmful cultural practices exist only in that region, nor does it intend to minimise the harm that women face in other regions.

Labial stretching: In some Zambezi communities, girls are taught to stretch their labia minora based on the belief that long labia are more sexually appealing and satisfying to a male partner. Women often view this practice as being essential to finding a husband. Indeed, a husband may send a girl back to her family after their wedding night if he judges her labia not to be long enough. Girls and women stretch their labial flesh by using sticks and other instruments, and they are instructed to do so continuously as long as they remain sexually active. This practice can cause pain, sores and exposure to infection, including HIV.⁶⁶

Dry sex: Dry sex is a practice that occurs in many communities, including some Zambezi and Ovaherero communities. Women put herbs, medicines, stones, salt, baby powder or even chemicals into their vaginas to dry and tighten them before sexual intercourse, with a view to increasing sexual pleasure for the man. These substances cause sores and itchiness and may suppress the vagina's natural bacteria, increasing the likelihood of infection. Additionally, without lubrication, the man must force his penis into the woman's vagina; the added friction leads to tearing in the vaginal wall which, in addition to being painful, can increase the risk of HIV transmission. Moreover, condoms cannot be effectively used during dry sex, further contributing to the increased risk of HIV transmission. A study in the Zambezi region found that 66% of women reported practising dry sex, 46% reported experiencing pain during the sexual act, and 37% reported experiencing injuries immediately after sex.⁶⁷

Removing 'growths' from a mother's vagina or anus: In some communities, including both urban and rural communities, when a woman's child becomes sick, the *woman* is inspected for growths – *sijabana* – inside her vagina or around her anus which are then removed by traditional healers. Unsanitary practices, such as using the same blade on multiple women or performing this procedure with open sores on one's hands or without gloves, risk spreading infections such as HIV. Moreover, many women have reported ongoing pain, bleeding, sores and other ill effects as a result of this practice.⁶⁸

Aspects of *sikenge*: In many Zambezi communities, female elders will subject girls to physical and psychological violence once they begin menstruation, as part of an initiation process called *sikenge*. The elders will isolate the girls, force them to perform hard labour and severely beat them if they protest or tire. They do so to teach the girls endurance and subservience, so that they may better serve their future husbands. In addition to causing physical harm to the girls, this practice has negative psychological

(hereinafter "***Violence is not our Culture*, 2010**"); *NGO Shadow Report to the Namibia Fourth and Fifth Periodic Report to the CEDAW Committee*, Namibia: Namibia Non-Governmental Organisation Forum Trust, 2015 at 2 (hereinafter "***NGO Shadow Report 2015***").

⁶⁵ Elizabeth IKhaxas, "Women's rights, violent and oppressive cultural practices and HIV/AIDS: A case study of the Caprivi Region in Namibia", undated, at 1-2 (hereinafter **IKhaxas, "Case study of the Caprivi Region"**).

⁶⁶ IKhaxas, "Case study of the Caprivi Region" at 2; *NGO Shadow Report 2015* at 8; Elizabeth IKhaxas, "Press Statement 13 December 2006" at 1 (hereinafter **IKhaxas, "2006 Press Statement"**); *Violence is not our Culture*, 2010 at 12-13.

⁶⁷ *NGO Shadow Report 2015* at 9; IKhaxas, "Case study of the Caprivi Region" at 2; /Khaxas, "2006 Press Statement" at 2; *Violence is not our culture*, 2010 at 11-12 (listing types of substances used for drying).

⁶⁸ *Violence is not our culture*, 2010 at 14-15; *NGO Shadow Report 2015* at 9; IKhaxas, "Case study of the Caprivi Region" at 3-4.

effects, being designed to break the self-esteem of the girls and to teach them that their husbands have the right to abuse them.⁶⁹

Isolation for cleansing: In some Zambezi communities, traditional cultural beliefs dictate that a girl's body and blood are diseased. When a girl begins to menstruate, she is isolated so she does not spread her 'disease' to men – who believe they can become ill from a menstruating girl just by sharing the same chair. This can have harmful psychological effects on the girl. Moreover, she is not allowed to wash herself during this period, increasing the risk that she herself will suffer from health problems. These beliefs about a woman's uncleanness persist throughout her lifetime. Men believe they can get sick from a woman who is menstruating, has recently miscarried or aborted, or has recently given birth. There is a widespread belief that men can catch the illness *kahomo* – an illness with the same symptoms as HIV – in such a way. Not only does this belief place the blame for men acquiring HIV on women, it may also lead men not to get tested for HIV, further putting girls and women at risk for acquiring HIV from a partner who does not know he is infected.⁷⁰

Incest and testing for sexual readiness: In many Zambezi communities, as part of the initiation process called *sikenge*, girls must learn how to “dance” to please their future husbands sexually. They are also taught to clean the husband after sex and that they must always provide sex when he wishes. After the initiation, uncles or other male relatives will have sex with the girls, to test and ensure that they have learned to “dance” well. They do not use condoms or contraceptives during this process, putting the girls at risk for HIV and pregnancy. Consequently, this may lead to unsafe abortions or to girls leaving school due to pregnancy. Additionally, though girls cannot refuse the testing, this practice is not viewed as incest or rape.⁷¹

Similarly, in Ovahimba communities (Kunene Region) and Ovaherero communities (Otjozondjupa and Omaheke Regions), men traditionally have the right to have sex with their female cousins once they begin menstruating, and the girls have no right to refuse. These cultures also do not view this practice as incest or rape.⁷²

In some Zambezi communities, girls are put into a state of semi-consciousness, in a process known as *mulaleka*. In this drugged “dream state” they cannot resist as their male relatives, such as uncles and grandfathers, have sex with them. Men may also use this practice to have sex with their mothers or sisters, under a superstition that it will bring good fortune.⁷³

Scarring or “flower cutting”: In some Zambezi communities, girls are subject to involuntary scarification to make them more attractive to future husbands, or with the view that it will make the girls stronger should they have to have sex with an older man. Someone, often a girl's grandmother, will make deep incisions in the girl's flesh – on her waist, back, arms or whole body – and rub herbs into them to

⁶⁹ *NGO Shadow Report 2015* at 9; IKhaxas, “Case study of the Caprivi Region” at 2; *Violence is not our culture*, 2010 at 7-8.

⁷⁰ *NGO Shadow Report 2015* at 10; IKhaxas, “Case study of the Caprivi Region” at 3; Talavera at 45 (the Talavera publication is not previously referenced so will need a full citation here); *Violence is not our culture*, 2010 at 13-14.

⁷¹ *NGO Shadow Report* at 10; IKhaxas, “Case study of the Caprivi Region” at 3; IKhaxas, “2006 Press Statement” at 2; *Violence is not our culture*, 2010 at 8-9.

⁷² *NGO Shadow Report 2015* at 10.

⁷³ *Id* at 10; IKhaxas, “Case study of the Caprivi Region” at 3.

increase the likelihood of scarring. This process is often conducted in unhygienic ways, such as using the same blade on multiple people, increasing girls' risk of HIV.⁷⁴

Widow cleansing: In some Zambezi communities, widows are viewed as unclean upon the deaths of their husbands. A widow's in-laws may isolate her in a hut for months to cleanse her of the spirit of her dead husband. She is silenced during this time: she may only speak in whispers to an appointed caregiver. This period may culminate in a sexual cleansing ritual, in which the widow must have sex with another man to become fully cleansed. As the man's semen is viewed to be the cleansing agent, the woman is prohibited from using a condom.⁷⁵

Subordination through beating: Some cultural practices justify the beating of wives by husbands as a way for men to exert control over their wives and to demonstrate women's subordinate place in family and society. Physical violence includes such acts as beating, kicking and slapping.⁷⁶

Aspects of *olufuko*: *Olufuko* is a traditional ceremony of the Ongandjera, Ukwambi, Ukolonkadhi, Ukwaluudhi and Okalongo areas in the Omusati Region.⁷⁷ It is a festival with dancing and songs that nominally aims to prepare girls for womanhood and present them as potential brides for male suitors.⁷⁸ About 80 years ago, Christian authorities banned the festival and it consequently died out.⁷⁹ However, under the patronage of former Namibian President Sam Nujoma, the town of Outapi (Omusati Region) revived the ceremony in 2012 as a way to attract tourists.⁸⁰ Indeed, the modern version has been described as "a mass economic tool today rather than a cultural tool" even by someone who praised its cultural importance.⁸¹ The festival has grown from 17 girls participating in 2012 to 104 girls in 2015. The 2016 festival gala dinner raised N\$3.3 million for that year's activities.⁸²

Critics of the revival characterise the festival as a human rights violation, and as a practice that objectifies women and girls.⁸³ Though some girls feel they have a choice in whether to participate,⁸⁴ others do not.⁸⁵ Girls as young as 10 participate,⁸⁶ though it is more common for participants to be between the ages of 14

⁷⁴ *Violence is not our culture*, 2010 at 10; *NGO Shadow Report* 2015 at 11; IKhaxas, "2006 Press Statement" at 2-3.

⁷⁵ *NGO Shadow Report* 2015 at 11; IKhaxas, "Case study of the Caprivi Region" at 3; *Violence is not our culture*, 2010 at 10-11, 15-16.

⁷⁶ *Violence is not our culture*, 2010 at 6-7.

⁷⁷ Phil ya Nangoloh, *25 years of the Convention on the Rights of the Child: Olufuko, a harmful tradition still practiced in Namibia*, New York: UNICEF, 2014 at 2-3

(available at <[www.unicef.org/crc/files/OLUFUKO_Phil_ya_Nangoloh_sw\(1\).pdf](http://www.unicef.org/crc/files/OLUFUKO_Phil_ya_Nangoloh_sw(1).pdf)>) (hereinafter "ya Nangoloh").

⁷⁸ Shinovene Immanuel, "Olufuko initiation starts", *The Namibian*, 22 August 2012 (available at <www.namibian.com.na/index.php?id=99005&page=archive-read>).

⁷⁹ ya Nangoloh at 2-3.

⁸⁰ Shinovene Immanuel, "Olufuko initiation starts", *The Namibian*, 22 August 2012.

⁸¹ Shivute Kaapanda, "Olufuko: the definition of African dignity", *New Era*, 28 August 2015 (available at <www.newera.com.na/2015/08/28/olufuko-definition-african-dignity/>).

⁸² Nampa (Namibia Press Agency), "N\$3 million raised for Olufuko", *The Namibian*, 1 August 2016 (available at <[www.namibian.com.na/153871/archive-read/N\\$3-million-raised-for-Olufuko](http://www.namibian.com.na/153871/archive-read/N$3-million-raised-for-Olufuko)>).

⁸³ Hildegard Titus, "Olufuko – Standing the test of time", *The Namibian*, 1 September 2016 (available at <www.namibian.com.na/155096/archive-read/Olufuko-%E2%80%93-Standing-the-test-of-time>).

⁸⁴ Jordaania Andima, "Olufuko – a tradition worth preserving?", *The Namibian*, 8 September 2014 (available at <www.namibian.com.na/index.php?id=127751&page=archive-read>).

⁸⁵ Verua Kavezeri, "103 girls initiated at Olufuko", *The Namibian*, 27 August 2015 (available at <www.namibian.com.na/index.php?id=141130&page=archive-read>).

⁸⁶ Selma Shipanga, "More condemnation of Olufuko", *The Namibian*, 28 August 2012 (available at <www.namibian.com.na/index.php?id=99246&page=archive-read>).

and 20.⁸⁷ The ceremony involves rituals that girls must undergo, such as parading bare-breasted, adorned in jewellery, for potential suitors and onlookers.⁸⁸ Accordingly, opponents of *olufuko* have criticised the practice as promoting the sexualisation of children. Women's Solidarity, an NGO that works with women in abusive relationships, describes the photos of bare-breasted young female participants as "sexually enticing and pornographic" and claims that the ritual promotes sexual abuse.⁸⁹ Moreover, the practice of parading half-naked girls in front of male politicians and businessmen fully clothed in Western suits has the effect of perpetuating gender power inequalities.⁹⁰ Additionally, the Evangelical Lutheran Church in Namibia claims that the practice promotes promiscuity, which leads to increased incidence of HIV among children. In a similar vein, the NGO NamRights describes *olufuko* as a "sexual initiation practice".⁹¹

During the ceremony, men place bracelets on the wrists of girls they want to marry, before discussing the arrangement with the bride's parents.⁹² Though it is ostensibly up to the girl to accept the proposal,⁹³ at least some girls feel that they have no real say in whether they marry the suitor their parents choose.⁹⁴ Accordingly, opponents of *olufuko* also criticise it as promoting child marriage, which can increase maternal and infant mortality, and deprive girls of their childhood and education.⁹⁵

In the ceremony, each potential bride must reportedly undergo a pregnancy test in which she must conduct physical labour to prove she is not pregnant. If pounding grain causes her to vomit, she fails the test and is disqualified from the rest of the rituals.⁹⁶ One human rights activist has described initiation processes such as these as being "humiliating" for the girls.⁹⁷

Proponents of *olufuko* celebrate it as a treasured cultural tradition. Some view it as a way to restore a culture and dignity that existed before colonialism and apartheid.⁹⁸ To some, the revival of *olufuko* symbolises a return of indigenous power – a point of pride and a way to embrace indigenous heritage and eschew foreign influences.⁹⁹ At least some participants view the ritual as a way to connect to the tradition of the elders and ancestors, as well as a way to learn to uphold morals and perform domestic duties.¹⁰⁰

Arranged and forced child marriage: Many cultures, such as San, Ovahimba, Owambo, Kavango and Zambezi communities, maintain a practice of parents sending girls as young as 13 to be married. The parents decide on the husband, who is often much older than the bride – creating a power dynamic in

⁸⁷ In 2012, the age range was 16 to 19. Shinovene Immanuel, "Olufuko initiation starts", *The Namibian*, 22 August 2012. In 2014, the age range was 14 to 21. Jordaania Andima, "Olufuko – a tradition worth preserving?", *The Namibian*, 08 September 2014. In 2015, the age range was 14 to 20. Verua Kavezeri, "103 girls initiated at Olufuko", *The Namibian*, 27 August 2015.

⁸⁸ Shinovene Immanuel, "Olufuko initiation starts", *The Namibian*, 22 August 2012.

⁸⁹ Selma Shipanga, "More condemnation of Olufuko", *The Namibian*, 28 August 2012.

⁹⁰ NGO Shadow Report, 2015 at 14.

⁹¹ ya Nangoloh at 5-6.

⁹² Shinovene Immanuel, "Olufuko initiation starts", *The Namibian*, 22 August 2012.

⁹³ Ibid.

⁹⁴ Hildegard Titus, "Olufuko – Standing the test of time", *The Namibian*, 1 September 2016.

⁹⁵ ya Nangoloh at 2; Selma Shipanga, "More condemnation of Olufuko", *The Namibian*, 28 August 2012.

⁹⁶ Shinovene Immanuel, "Olufuko initiation starts", *The Namibian*, 22 August 2012.

⁹⁷ ya Nangoloh at 2.

⁹⁸ Shivute Kaapanda, "Olufuko: the definition of African dignity", *New Era*, 28 August 2015; Paul T Shipale, "Condemnation of Olufuko Cultural Festival challenged", *Swapo Party*, undated [presumably 2012] (available at <www.swapoparty.org/condemnation_of_olufuko_cultural_festival_challenged.html>).

⁹⁹ Nampa (Namibia Press Agency), "21 girls go through initiation at Olufuko", *The Namibian*, 29 August 2013 (available at <www.namibian.com.na/index.php?id=113491&page=archive-read>); Paul T. Shipale, "Condemnation of Olufuko Cultural Festival challenged", *Swapo Party*, undated [2012].

¹⁰⁰ Hildegard Titus, "Olufuko – Standing the test of time", *The Namibian*, 1 September 2016.

which both age and gender are factors.¹⁰¹ Early marriage also puts girls at risk of early childbearing, which increases the chances of both maternal and infant mortality.¹⁰²

Forced widow marriage: In some Namibian cultures, a widow may be forced to marry her former husband's relative, to keep the deceased husband's property in the extended family. She may also be at risk of losing her property through property-grabbing if she does not comply. In some cases, she may be viewed as part of the estate the husband's family can inherit.¹⁰³

Polygamy: In Namibia, customary law allows for polygyny (where one man may have multiple wives), commonly referred to in Namibia as polygamy, but not polyandry (where one woman may have multiple husbands).¹⁰⁴ Women in the Zambezi region report that polygynous marriages can create tensions in the household, which can lead to conflicts between wives or domestic violence.¹⁰⁵ Additionally, by increasing a man's number of sexual partners, polygamy increases each woman's chances of contracting HIV.¹⁰⁶

Bride price: The tradition of bride price – known by several names, including *lobola* – is widespread in Namibia. There is a trend for the bride's family to ask for increasingly large amounts of money from the prospective husband. For example, in the Otjiherero tradition, the bride price a decade ago would have been on the order of two to three cows and about N\$2 500. As of early 2016, a bride's family might ask for five herds of cattle, N\$15 000 in cash and other expenses.¹⁰⁷ This encourages some couples to cohabit without marrying, meaning that they forego legal protections under civil and customary law. In addition, a bride price must in some communities be re-paid upon divorce, meaning that if the wife or her family cannot afford the re-payment, the wife may remain stuck in an unhappy or abusive marriage.¹⁰⁸ *Lobola* was traditionally seen as proof that a man could support his bride, but is viewed in some quarters as a payment for the woman, her future domestic production and her children.¹⁰⁹ (See the attitudinal survey discussed in section 9.8 below.)

The Women's Leadership Centre continues to implement a number of projects to address stereotypes and harmful cultural practices with a particular focus on the Zambezi region. Its activities have included working directly with communities, traditional authorities and community leaders and developing information materials for the public – with some activities carried out in collaboration with the Ministry of Gender Equality and Child Welfare. Other organisations such as the Ombetja Yehinga Organisation (OYO), LifeLine/ChildLine, Legal Assistance Centre, Women's Action for Development, Regain Trust and Women's Solidarity all contribute their voice towards the elimination of gender stereotypes and harmful cultural practices.

¹⁰¹ *NGO Shadow Report*, 2015 at 11; IKhaxas, "Case study of the Caprivi Region" at 4; IKhaxas, "2006 Press Statement" at 2. For example, one woman from the Caprivi region stated that her cousin was forced to marry a 53-year old man when she was 16. *Violence is not our culture*, 2010 at 16.

¹⁰² *NGO Shadow Report*, 2015 at 11; IKhaxas, "Case study of the Caprivi Region" at 4; IKhaxas, "2006 Press Statement" at 2.

¹⁰³ IKhaxas, "Case study of the Caprivi Region" at 4; IKhaxas, "2006 Press Statement" at 3; *Violence is not our culture*, 2010 at 19.

¹⁰⁴ *NGO Shadow Report*, 2015 at 12.

¹⁰⁵ *Violence is not our culture*, 2010 at 18; *NGO Shadow Report*, 2015 at 13.

¹⁰⁶ Suzanne LaFont, "An Overview of Gender and Sexuality in Namibia", in Suzanne LaFont and Dianne Hubbard, eds, *Unravelling Taboos: Gender and Sexuality in Namibia*, Windhoek: Legal Assistance Centre, 2007 at 9.

¹⁰⁷ Rosalia David, "Demystifying the Lobola Practice", *Prime Focus Magazine*, January-February 2016 (available at <www.primefocusmag.com/articles/949/demystifying-the-lobola-practice/>).

¹⁰⁸ *Violence is not our culture*, 2010 at 17; *NGO Shadow Report*, 2015 at 12.

¹⁰⁹ LaFont at 9; *Violence is not our culture*, 2010 at 17.

In February 2017, a two-day national conference on “Prevention of harmful cultural practices to women in the Zambezi Region” was held in Katima Mulilo, organised by the Women’s Leadership Centre, with funding from the British High Commission in Namibia. The conference was aimed at raising awareness on the need to prevent the violation of girls’ and women’s human rights through harmful cultural practices. This was a ground-breaking event which provided an opportunity for a much-needed dialogue on positive and negative attributes of culture.

9.7 Women’s decision-making powers in the family

Within Namibian society, women and girls face discrimination and other barriers that prevent them from becoming full participants in the country’s political, socioeconomic and cultural spheres.¹¹⁰ Underlying factors that contribute to gender inequality include the low status of women and girls and cultural perceptions of gender roles that are detrimental to women.¹¹¹ The Office of the Ombudsman has reported that Namibian households are rooted in patriarchy and despite progress in the protection and respect of women’s rights, there remains a gap in the exercise of those rights for women as compared to men.¹¹² In its concluding observations on Namibia’s combined fourth and fifth period reports pursuant to the Convention on the Elimination of All Forms of Discrimination against Women, the monitoring committee noted its concern regarding persistent discriminatory stereotypes and patriarchal attitudes about familial and societal gender roles.¹¹³

Financial decision-making: To assess women’s empowerment, the *2013 Demographic and Health Survey* looked at the magnitude of women’s earnings as compared to those of their partner (discussed in Chapter 5 of this analysis), and women’s control over their earnings. The population surveyed was married women between the ages of 15 and 49 who had earned cash through employment in the year prior to the survey. Overall, almost 40% of women were the main decision-makers on how their own earnings were used, while 51% of women decided jointly with their husbands how to spend the money. For 8% of women, their husbands were the main decision-makers on how their earnings were used.¹¹⁴

The likelihood that a woman would decide independently, jointly or not at all on how to spend her own earnings varied by age, number of children, residence, region, educational level and household wealth. Women aged 35-39 were most likely to be the main decision-maker on how their earnings were used (at 45%), while women aged 40-44 were most likely to decide jointly with their husbands (at 55%).¹¹⁵ Younger women (age 25-29) and older women (age 45-49) were most likely to have their husbands decide how their earnings were used.¹¹⁶ The more children a woman had, the more likely she was to be the main-decision maker regarding her earnings,¹¹⁷ while women with no children at all were most likely to decide jointly with their husbands about how to use their earnings.¹¹⁸ The percentages of urban and

¹¹⁰ United Nations Development Programme, *Women’s Empowerment: Overview*, UNDP website: <www.na.undp.org/content/namibia/en/home/ourwork/womenempowerment/overview.html>.

¹¹¹ Ibid.

¹¹² *2013 Baseline Study Report on Human Rights in Namibia*, Office of the Ombudsman, 2013 at 43.

¹¹³ “Concluding comments of the Committee on the Elimination of Discrimination against Women: Namibia”, Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/4-5, 208 July 2015 at para 18.

¹¹⁴ *2013 Demographic and Health Survey* at 279.

¹¹⁵ Ibid.

¹¹⁶ Ibid. The figures were 10.4% for the younger age bracket 10.2% for the older age bracket. It should be noted that there were not enough cases on which to base estimates for women aged 15-19.

¹¹⁷ Ibid. Some 34% of women with no children were the main decision-makers compared to 48% of women with five or more children.

¹¹⁸ Ibid.

rural women who decided how to spend their own earnings were similar, but rural women's husbands were more likely to decide on how to spend their earnings.¹¹⁹ Regionally, it was most likely that women's husbands would decide how to spend their earnings in Otjozondjupa and Oshana.¹²⁰ Women with higher levels of education were more likely to decide jointly with their husbands on how to spend their earnings,¹²¹ and the likelihood that a woman's husband would be the main decision-maker about her cash earnings steadily declined as her educational level increased.¹²² Decreasing household wealth increased the likelihood that the husband would decide on how to spend the wife's earnings.¹²³

Household decision-making: The *2013 Demographic and Health Survey* also addressed women's participation in household decision-making as an indicator of women's empowerment. Women aged 15-49 who were married at the time of the survey were asked about their participation in decision-making on their own health care, on major household purchases and on visits to their family or relatives. A large majority of women reported being participants in all three decisions, but it is troubling that a noticeable proportion of women were not involved in making decisions that directly affected their daily life. Over half of the women surveyed made joint decisions with their husband about major household purchases and visits to family or relatives.¹²⁴ However, 16% reported that their husband was the main decision-maker on major household purchases and 11% reported that their husband made the decisions about visiting family or relatives.¹²⁵ In the case of their own health care, slightly less than half of the women were the main decision-makers or joint decision-makers with their husbands, but almost 11% reported that their husband mainly made health care decisions.¹²⁶

Nearly three-quarters of the women surveyed participated in all three decisions, while only 6% did not participate in any of the three decisions.¹²⁷ As women's age increased, so did the likelihood that they would participate in all three decisions.¹²⁸ Women who were earning cash incomes were more likely to participate in all three decisions than unemployed women or those who were employed but did not earn cash.¹²⁹ Women in urban areas were more likely to participate in all three decisions than women in rural areas.¹³⁰ Decision-making participation also increased with women's higher educational attainment, and with increasing household wealth.¹³¹

¹¹⁹ Ibid. The figures were 13% for rural women compared to 7% for women in urban areas.

¹²⁰ Ibid. In Hardap, couples were most likely to decide jointly on how to spend the wife's earnings (at 59%), compared to Kavango where they were least likely to do so (at 36%). Women in Oshikoto were most likely to be the main decision-maker regarding the use of their earnings (at 55%), followed by Kavango (at 50%), and least likely to be the main decision-maker in Hardap (at 26%).

¹²¹ Ibid. Approximately 39% of women with no education or primary education made this decision jointly, while the percentage rose to 51% and 62% for women with secondary and post-secondary education, respectively.

¹²² Ibid. The figures ranged from 17% of women with no education to 4% of women with post-secondary education.

¹²³ Ibid. The husband would decide how to spend the wife's earnings in 6% of couples in the highest wealth quintile compared to 18% in the lowest wealth quintile.

¹²⁴ Id at 285.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Id at 287.

¹²⁸ Id at 286.

¹²⁹ Ibid.

¹³⁰ Ibid. Regionally, more than 80% of women participated in all three decisions in Hardap, Kunene, Erongo, Oshikoto and Khomas, but just 59% of women in Otjozondjupa did so.

¹³¹ Ibid.

9.8 Attitudes about gender equality

The *Southern Africa Gender Attitude Survey 2016* administered a 25-question survey to respondents in Southern African Development Community (SADC) member countries to gauge attitudes on various gender issues. In Namibia, this questionnaire was administered to 4 292 persons (53% women, 47% men) between 2 July 2015 and 17 June 2016, during gender-related village workshops or local government workshops¹³² – which may have self-selected people with some interest in gender issues.¹³³

The table below indicates the level of agreement on the part of Namibian men and women with some of the statements posed. Some contradictions are evident. Almost three-quarters of both male and female respondents in Namibia agreed with the statement that “People should be treated the same whether they are male or female.” However, a substantial majority of both women and men surveyed also agreed with the statement that “A woman should obey her husband,” and close to half agreed that “A man should have the final say.” More than half of respondents thought that a woman has a right to refuse to have sex with her husband, but about one-third believed that a husband has the right to punish a woman who does something wrong, while over a quarter thought that a beating by a man is a sign of love.¹³⁴ The report on the survey suggests that such “confusing and contradictory responses” are a reflection of societies in transition on gender issues.¹³⁵

It is also noteworthy that 38% of the Namibian women and 43% of the Namibian men surveyed thought that a man who has paid *lobola* for his wife owns her, but almost two-thirds of both men and women thought that polygamy should be abolished.¹³⁶ Agreement with the statement that a working woman should give her earnings to her husband was low, and about two-thirds of both male and female respondents thought that men should share in housework.¹³⁷

Looking at these attitudes in context, other questions in the survey (some of which are discussed in other chapters of this report) probed attitudes on abortion, sex work and rights of gays and lesbians, rape and domestic violence, a woman’s right to insist on condom use, and issues relating to gender stereotypes in media.¹³⁸ Scores on all 25 questions about gender attitudes were tallied to produce a “Gender Progress Score” for each SADC country: “The scores for the 25 questions add up to 100 with one being least progressive and 100 most progressive. The percentage score is thus a measure of where women and men stand on key gender issues in SADC.”¹³⁹ Namibia, like most countries in the region, scored somewhere in the middle; Namibia’s Gender Progress Score was 56 (57 for female respondents and 53 for male respondents), compared to the average country score of 53.¹⁴⁰ The intention is to administer the survey at least every two years “to track progress in changing attitudes and mindsets.”¹⁴¹

¹³² Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 21 (hereinafter “*SADC Gender Protocol 2016 Barometer*”).

¹³³ The report on the survey asserts that “the overall sample is robust and sufficiently diverse in all countries to provide a good indication of the GPS [Gender Progress Score] at country level.” Id at 22.

¹³⁴ Id at 23-27.

¹³⁵ Id at 30.

¹³⁶ Id at 25.

¹³⁷ Id at 28 and 29.

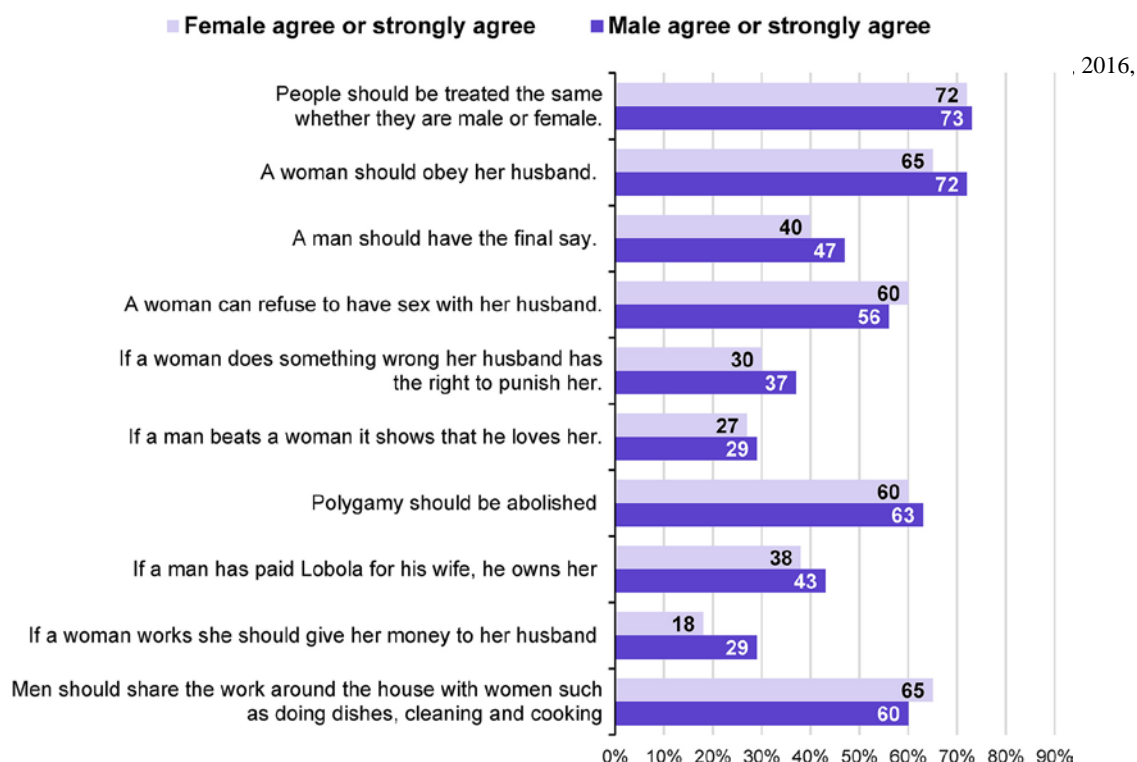
¹³⁸ Not all of the answers were disaggregated by country in the report.

¹³⁹ Id at 21.

¹⁴⁰ The highest score was 60 for Mauritius followed by Zambia at 58, and the lowest score was 45 for Lesotho. Id at 22.

¹⁴¹ Id at 30. A small survey covering attitudes about some traditional cultural practices and other gender-related issues similar to those covered in the *Southern Africa Gender Attitude Survey 2016* was administered to 395 urban and rural youth aged 16-20 during 2007 and 2008, supplemented by information from follow-up focus groups, but this

Agreeing or strongly agreeing by sex – women's rights



9.9 Women and the church

Christianity is the predominant religion in Namibia. According to the *2013 Demographic and Health Survey*, 89.6% of women and 86% of men identify as belonging to a Christian denomination. The most represented group is the Evangelical Lutheran Church in Namibia (ELCIN): 44% of women and 43% of men identify themselves as members of ELCIN. The second most popular denomination among women is Protestantism/Anglicanism (21% of women and 13% of men), while the second most popular denomination among men is Roman Catholicism (20% of women and 26% of men).¹⁴² Anecdotally, women's attendance in church is much higher than that of men, though there do not seem to be any studies to quantify this differential.¹⁴³ This pattern aligns with a broader finding that women worldwide tend to be more religious than men.¹⁴⁴ Leadership in church organisations indicate some acceptance of gender equality, given that the Council of Churches in Namibia (CCN) has had at least two heads that have been female.¹⁴⁵ Little other data on women's involvement in church leadership could be located, but most pastors in Namibia continue to be male. Pastors' wives often play an important role in community support and could possibly be mobilised for more work on women's issues.

data is not reported here as it is now outdated. Suzanne LaFont, *Beliefs and Attitudes toward Gender, Sexuality and Traditions amongst Namibian Youth*, Windhoek: Legal Assistance Centre, Monograph 5, 2011.

¹⁴² *2013 Demographic and Health Survey* at 30.

¹⁴³ Personal communication, Council of Churches in Namibia, June 2017.

¹⁴⁴ *The Gender Gap in Religion Around the World*, Pew Research Center, 2016 (available at <www.pewforum.org/2016/03/22/the-gender-gap-in-religion-around-the-world/>). This study concludes that women "are generally more religious than men, particularly among Christians".

¹⁴⁵ Dianne Hubbard, *Celebrating 20 Years of Progress Towards Gender Equality*, Windhoek: Legal Assistance Centre, Gender Research & Advocacy Project, 2010 at 5 (available at <www.lac.org.na/projects/grap/Pdf/20yearsspeech.pdf>).

The pervasive presence and influence of churches in Namibia give them the potential to be important agents for change, and they could possibly be more involved in advancing gender equality within religious paradigms.

9.10 Women and the media

The media are the main source of information for most people in Namibia.¹⁴⁶ Thus, the media can be of great help in the process of advancing gender equality and changing the perception of women in society.¹⁴⁷ Guaranteeing access to media, therefore, is deeply linked to advancing gender equality.

According to the Gender and Media Progress Study women constitute only 40% of all media workers and 34% of media managers, whereas women comprise 64% of media students.¹⁴⁸

Despite the fact that there are women working in the media in reasonable numbers in Namibia, news stories are still told overwhelmingly from a male perspective. Women constitute only 19% of Namibian news sources, and the proportion has remained the same over the last 12 years.¹⁴⁹ Advertising is the only genre where women and men are equally represented.¹⁵⁰ However, unrealistic images and female stereotypes are frequently used for advertisement.¹⁵¹

¹⁴⁶ C van Wyk & FJ Mwilima, “The Objectification and Sexualisation of Women in the Namibian Mainstream Print Media”, 3(1) *Asian Journal of Humanities and Social Studies*, February 2015 at 52-53 (available at: <<file:///C:/Users/alewis/Downloads/1798-8365-1-PB.pdf>>).

¹⁴⁷ *SADC Gender Protocol 2016 Barometer* at 264.

¹⁴⁸ Id at 261; T Tjihenuna, “Only 40% of women represented in media”, *The Namibian*, 18 August 2016.

¹⁴⁹ *SADC Gender Protocol 2016 Barometer* at 277.

¹⁵⁰ Id at 278.

¹⁵¹ Id at 278; C van Wyk & FJ Mwilima, “The Objectification and Sexualisation of Women in the Namibian Mainstream Print Media”, 3(1) *Asian Journal of Humanities and Social Studies*, February 2015 at 54.

Chapter 10

Gender-Based Violence

10.1 Introduction

Gender-based violence (GBV) is one of the most thoroughly-examined topics in Namibia, although some studies are now out-of-date.¹

¹ Since Independence, at least six major empirical studies have investigated aspects of gender-based violence in Namibia: (1) *Domestic Violence Cases Reported to the Namibian Police: Case Characteristics and Police Response*, Windhoek: Legal Assistance Centre and Law Reform Development Commission, 1999. (2) C García-Moreno et al, *WHO Multi-country Study on Women's Health and Domestic Violence against Women, Initial results on prevalence, health outcomes and women's responses*, Geneva: World Health Organization, 2005; (3) *Rape in Namibia: An Assessment of the Operation of the Combating of Rape Act 8 of 2000*, Windhoek: Legal Assistance Centre, 2006; (4) N Andersson, A Ho-Foster, S Mitchell, E Scheepers and S Goldstein, "Risk factors for domestic violence: eight national cross-sectional household surveys in southern Africa", *BMC Women's Health*, 2007; (5) Social Impact Assessment and Policy Analysis Corporation (SIAPAC), *Knowledge, Attitudes and Practices Study on Factors that may Perpetuate or Protect Namibians from Violence and Discrimination: Caprivi, Erongo, Karas, Kavango, Kunene, Ohangwena, Omaheke and Otjozondjupa Regions*, Windhoek: Ministry of Gender Equality and Welfare, 2008; (6) *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, Legal Assistance Centre, 2012.

Several small-scale studies have also examined domestic violence, and studies on other issues have generated some important information on attitudes about gender-based violence. One of the most recent small-scale studies is Aniko Mgbangson, ed, *Gender Based Violence in Namibia: A Response Driven Approach, Technical Report 2015*, Windhoek: University of Namibia, Multidisciplinary Research Centre, Social Sciences Division, 2015 (seven qualitative thematic studies on various aspects of GBV).

The functioning and shortcomings of the Gender-based Violence Investigation Units (previously known as Women and Child Protection Units) have also been examined in at least three dedicated studies, while many other studies have included recommendations on their functioning: (1) SMH Rose-Junius, VN Tjapepua and J de Witt, *An investigation to assess the nature and incidence of spousal abuse in three sub-urban areas in the Karas Region*, Windhoek: Ministry of Health and Social Services, 1998; (2) *Assessment of the Woman and Child Protection Services in Kavango, Karas, Khomas, Omusati & Omaheke regions in Namibia: Synthesis report*, Windhoek: Republic of Namibia, 2012; (3) *The Voice of the Survivors: Discussion Paper*, Windhoek: Regain Trust, [2015].

Legal issues

- * The **Combating of Rape Act 8 of 2000** contains a gender-neutral definition of rape and covers a range of sexual acts. It focuses on the presence of coercive circumstances rather than the absence of consent and includes provisions aimed at meeting some of the needs of the rape survivor, such as increased privacy protection and procedures to make sure that the rape survivor has an opportunity to place information before the court at the bail hearing. This statute also provides stiff minimum sentences for rapists; depending on the circumstances, the minimum sentence for a first offence is 5, 10 or 15 years' imprisonment.
- * The **Combating of Domestic Violence Act 4 of 2003** covers many types of violence, including emotional and psychological violence, and a broad range of domestic relationships. It provides an alternative to criminal charges by creating a simple procedure for getting a protection order from a magistrate's court. In cases of physical violence, this protection order can even direct the abuser to leave the common home.
- * The **Labour Act 11 of 2007** includes a prohibition on sexual harassment in the workplace, although it is rarely invoked.

Political will to address GBV has been evident in many statements, conferences and plans which focus on GBV, but implementation continues to lag despite this sincere good will, and most would agree that no significant strides have been made in prevention or reduction of GBV and that state response to victims is still inadequate.

The first Woman Child Protection Unit – now known under the more gender-neutral name “GBV Investigation Unit”² – was established in Windhoek 1993, and Units are now operational in every region. However, these specialised police stations have not yet achieved their promise of providing comprehensive and sensitive victim services under one roof.

Large national conferences on GBV were held in 2007 and 2014, but follow-up on implementing conference outcomes was lacking.³ A Gender Justice Colloquium, convened by Ministry of Gender Equality and Child Welfare and the Ministry of Justice, in partnership with UNICEF on 1-3 October 2014, traversed much of the same ground.⁴ A high-level government committee launched by the President

In addition, there are at least two unpublished assessments of the Units: (1) Ministry of Gender Equality and Child Welfare, “Woman And Child Protection Units/One Stop Centre”, 2009. (2) Eileen Skinnider, “Gender-Based Violence One Stop Centre, Standard Operating Procedure Scoping Mission: Mission Report to Support the Government of Namibia’s Efforts Towards Enhancing a Coordinated Multi-disciplinary Cross-agency Approach to Responding to Gender-Based Violence”, United Nations Office on Drugs and Crime (UNODC), November 2016. The recommendations from most of these studies were summarised in “How to Improve the Services of Woman and Child Protection Units (WCPUs) in Namibia”, Windhoek: Legal Assistance Centre, October 2013.

Two relatively small-scale Namibian studies have collected information from the perpetrators of gender-based violence: (1) SMH Rose-Junius, VN Tjapepua and J de Witt, *An investigation to assess the nature and incidence of spousal abuse in three sub-urban areas in the Karas Region*, Namibia, Windhoek: Ministry of Health and Social Services, 1998; (2) *Understanding the Perpetrators of Violent Crimes Against Women and Girls in Namibia: Implications for Prevention and Treatment*, Windhoek: Women’s Action for Development, University of Namibia and Namibia Prison Service, undated.

² See, for example, “Woman and Child Protection Unit renamed”, NAMPA, 5 April 2015 (available at <www.nampa.org/index.php?model=featured&function=display&id=116267>).

³ The recommendations from the First National Conference held in 2007 were summarised in a special edition of the Ministry of Gender Equality and Child Welfare newsletter, “National Conference on Gender-Based Violence, 19-22 June 2007: Unifying action to eliminate GBV in our society”, *Echoes for Action*, August 2007 edition.

The Second National Conference on Gender-based Violence in Namibia took place on 2-4 July 2014. According to Government: “The Conference was attended by all stakeholders including representatives from traditional authorities, faith based organization[s], non-governmental organization[s] and youth organization[s]. The Conference examined three themes namely: understanding the underlying cause and trends of GBV, national responses to GBV including Psychosocial, medical and legal approaches to prevent and combat GBV, and what went wrong within our society and coordination mechanism. The Conference adopted many recommendations which were approved by Cabinet, including improving and streamlining the process of reporting cases at police stations to make the procedures victim-friendly and discourage the withdrawal of GBV cases, imposing heavy tax on purchasing of alcohol, incorporate GBV prevention in curriculum in tertiary institutions and calling upon the Council of Traditional Leaders to redefine cultural beliefs that can help in combating GBV, and for them to reinforce traditional systems of governance and conflict resolutions within their communities.” International Covenant on Civil and Political Rights, “List of issues in relation to the second periodic report of Namibia, Addendum: Replies of Namibia to the list of issues”, CCPR/C/NAM/Q/2/Add.1, 10 December 2015 at paras 55-56.

⁴ According to the Facebook page on this meeting (<www.facebook.com/pg/Unicef-Namibia-225507610905360/photos/?tab=album&album_id=580933178696133>, accessed 28 June 2017): “The Ministry of Gender Equality and Child Welfare and the Ministry of Justice, in partnership with UNICEF, hosted the Gender Justice in Namibia Colloquium: “Strengthening Community-Based Prevention and Response to Violence against Women and Children and Gender Based Violence” from 1 to 3 October 2014. A gathering of over 100 participants from ten countries including Namibia, Western and Southern African countries, and United States of America gathered for the three day best practices sharing and learning. The platform aimed to build consensus amongst participants to advocate, raise awareness and take action on violence against children and women prevention and response. The meeting stressed the crucial role families, communities, governments,

in 2008 to improve coordination around GBV initiatives across sectors became defunct, having attracted little high-level support after its formal inauguration.⁵ It was replaced in a sense by the Gender-Based Violence and Human Rights Cluster, one of six clusters which are part of the coordinating mechanism for the implementation of the National Gender Policy, but this group does not generally attract sufficiently-senior participation or consider strategic issues.

In February 2014, Cabinet issued 13 key recommendations on GBV⁶ – most of which have, to date, not been implemented. The Government convened a National Day of Prayer against Gender-Based Violence on 6 March 2014.⁷ The Council of Churches of Namibia participated in the international “Decade to Overcome Violence 2001-2010”, which involved facilitating member churches in addressing gender-

civil society and individuals play in scaling up prevention, rescue, protection, and rehabilitation measures that have proven to work in Southern Africa and other parts of the world; and discussed the role that laws and budgets play in providing justice for survivors of violence while holding governments accountable to their commitments and obligations.” See also UNICEF Press Release, “The 1st Gender Justice in Namibia Colloquium unveils to end violence against children and women and gender based violence”, 1 October 2013 (available at <www.unicef.org/namibia/na.Gender_Justice_in_Namibia_Colloquium_Final_press_release_.pdf>).

⁵ The terms of reference of this committee were contained in a pamphlet published by the Ministry of Gender Equality and Child Welfare on the “High-Level Strategic Inter-Ministerial Committee on Domestic Violence and Violence in General”, dated 25 November 2008.

⁶ See “Address to the Nation by His Excellency Dr Hifikepunye Pohamba, President of the Republic of Namibia, on the Introduction of Measures to Address Gender-Based Violence in the Country”, 21 February 2014. The measures were:

1. The Criminal Procedure Act of 1977 should be amended, in order to tighten the requirements for bail in cases of gender-based violence.
2. The Correctional Service Act of 2012, should be amended, in order to deny parole, to persons who are accused and convicted of gender-based violence.
3. The Ministry of Justice, is directed to introduce legislation aimed at imposing longer prison sentences to persons who are convicted and sentenced of gender-based violence offences.
4. The Ministry of Education is directed to ensure that the curricula of schools and other institutions of learning should include aspects of educating the youth, about the need to avoid, prevent and discourage gender-based violence.
5. A Campaign, against gender-based violence, be initiated involving Government leaders, members of Parliament, religious leaders, traditional leaders, community leaders, civic organizations, Regional Councils, Local Authority Councils and the business community.
6. A suitable date and time be identified, during which all persons in Namibia, will be required to observe a minute of silence, in honour of all women and girls, who are the victims of gender based violence, and that all bells in the country should ring concurrently.
7. To fast track, the investigation and trial, of gender-based violence cases.
8. To provide mandatory counselling, to all persons who have committed gender-based violence. To also offer counselling to the victims of gender-based violence and their families.
9. That a second national Conference on Gender-Based Violence, should be convened as soon as possible, and that the Office of the Prime Minister coordinates preparations of such Conference.
10. A national day of prayers, should be declared on Thursday, 6 March 2014, starting at 10h00, and that political leaders, students, civil servants, workers, youth, peasants, traditional leaders, religious leaders, business leaders, civic organizations, community leaders and all Namibians from all parts of our country, and from all walks of life, be mobilized, to participate in the planned event, and that, I deliver a message to the nation, on that occasion, in my capacity, as Head of State and Government.
11. Government and other public leaders should speak out against gender- based violence, whenever they address meetings and other public gatherings.
12. A witness protection programme, should be introduced, by the Ministry of Justice, to protect witnesses, who testify against accused persons, in cases of gender-based violence.
13. That effective measures, be adopted by Government, in order to address alcohol and drug abuse, in the country.

<[www.dnea.gov.na/documents/10192/435819/ADDRESS+TO+THE+NATION+BY+HIS+EXCELLENCY+DR+HIFIKEPUNYE+POHAMBA,%20PRESIDENT+OF+THE+REPUBLIC+OF+NAMIBIA,%20ON+THE+INTRODUCTION+OF+MEASURES+TO+ADDRESS+GENDER-BASED+VIOLENCE+IN+THE+COUNTRY+\(2014+02+21\)/1a8f5191-51b1-4181-a809-f162940db538](http://www.dnea.gov.na/documents/10192/435819/ADDRESS+TO+THE+NATION+BY+HIS+EXCELLENCY+DR+HIFIKEPUNYE+POHAMBA,%20PRESIDENT+OF+THE+REPUBLIC+OF+NAMIBIA,%20ON+THE+INTRODUCTION+OF+MEASURES+TO+ADDRESS+GENDER-BASED+VIOLENCE+IN+THE+COUNTRY+(2014+02+21)/1a8f5191-51b1-4181-a809-f162940db538)>.

⁷ See “National Prayer Day”, *New Era*, 6 March 2014.

based violence.⁸ The Ministry of Gender Equality and Child Welfare has an ambitious *National Plan of Action on GBV 2010-2020* (discussed in Chapter 13 since it covers topics which go beyond GBV),⁹ but implementation of this plan has been limited to date.

Key non-governmental organisations active in the area of GBV include the following:

- **Legal Assistance Centre**, which provides research and recommendations on law reform and the implementation of GBV-related laws as well as legal information and advice to victims of GBV;
- **LifeLine/ChildLine**, which provides free telephone counselling hotlines for adults and children, supplemented by face-to-face counselling and outreach programmes; operates a weekly radio service presented by children (Utani ChildLine Radio); and works in the area of male engagement
- **Friendly Haven Shelter**, which provides short-term emergency accommodation for abused women and their children;
- **Regain Trust**, which offers free psychological therapy for survivors of abuse and rape;
- **Men Engage**, a Namibian chapter of a global organisation, which works closely with LifeLine/ChildLine and provides guidelines and capacity-building for engaging men and boys on gender issues;
- **Women's Action for Development**, which amongst other things facilitates grassroots workshops on issues concerning gender, culture and GBV;
- **Ombetja Yehinga Organisation (OYO)**, which aims to create social awareness amongst youth through arts, using tools such as film, dance and a regular youth magazine which addresses GBV and related issues (along with other topical social issues).

A number of other NGOs and smaller community-based groups have also been active around the issue of GBV.

Recent information on the prevalence of GBV in general comes from the *2013 Demographic and Health Survey*. **This survey found that 32% of all women aged 15-49 surveyed had experienced physical violence since age 15**, and that 14% experienced physical violence in the 12 months prior to the survey. The incidence of violence was highest in Kavango, Omaheke, //Kharas and Kunene and lowest in Omusati.¹⁰ Looking at sexual violence specifically, **7% of women age 15-49 had experienced sexual violence since age 15**, and 4% had experienced such violence in the 12 months prior to the survey. Sexual violence was relatively high in //Kharas, Otjozondjupa and Khomas, and lower than average in Oshana, Omusati and Ohangwena.¹¹ **About 6% percent of the women surveyed reported experiencing physical violence during a pregnancy**, and 15% of Namibian women who had experienced violence had never sought help or told anyone about the violence.¹²

⁸ See, for example, Lindsay Dentlinger, "Namibian churches to up anti-violence drive", 30 March 2004. See also *Overcoming Violence The Ecumenical Decade 2001-2010*, World Council of Churches, 2011 (available at <www.overcomingviolence.org/fileadmin/dov/files/OvercomingViolence.pdf>).

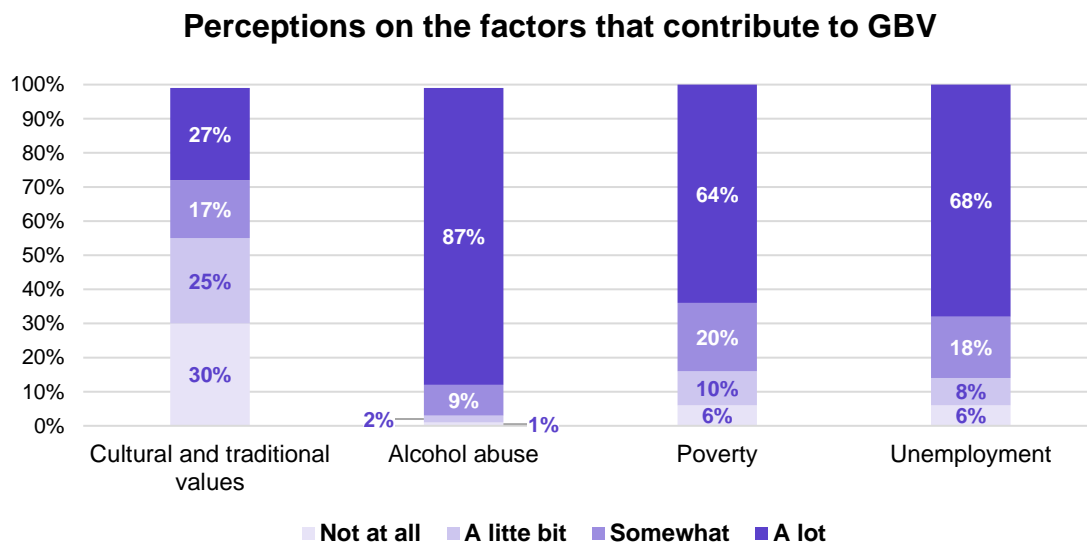
⁹ *National Plan of Action on Gender Based Violence 2010-2020*. Windhoek: Ministry of Gender Equality and Child Welfare, undated.

¹⁰ *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 297-298. A total of 2 226 women were successfully interviewed for the violence module (at 297). (Note that the box summarising key findings at 295 contains an error; the first bullet should refer to all women aged 15-49, not to "ever-married" women. Compare Table 20.1 at 298.)

¹¹ Id at 299.

¹² Id at 295.

Another source of recent information is the 2014 Afrobarometer survey in Namibia.¹³ This survey found that **about one in seven women (14%) and one in 12 men (8%) said that they or their family members were victims of GBV in the past year**, with 7% of women and 2% of men saying that this had occurred two or more times. Also, 48% of women and 37% of men reported feeling unsafe walking in their neighbourhoods during the past year, while 34% of women and 27% of men reported that they feared crime in their home during the past year, which could relate to concerns about GBV and/or other crimes. To gain insight into the factors that cause GBV, respondents were asked their opinions on how much four factors contribute to the high levels of GBV in Namibia: unemployment, alcohol abuse, poverty and culture/tradition. The possible answers were “Not at all”, “A little bit”, “Somewhat” or “A lot”. Alcohol abuse was perceived as a major contributing factor, with 87% of respondents perceiving that it contributes “a lot” to GBV. About two-thirds of respondents believed that poverty and unemployment were important contributing factors, while only 27% of respondents thought that cultural and traditional values contributed a lot to GBV, along with 17% who thought that they played somewhat of a role.



Source: “Perceptions on gender equality, GBV, lived poverty and basic freedoms”, IPPR presentation on *Afrobarometer 2014*, 13 February 2015 at 23.

Regarding causative factors, others have theorised that persistent patriarchal views in Namibia, combined with outmoded stereotypical and limited constructs of “masculinity” and “femininity”, are the deepest root causes of gender-based violence in Namibia.¹⁴

¹³ Afrobarometer is an African-led, non-partisan research network that conducts public attitude surveys on democracy, governance, economic conditions and related issues across more than 30 countries in Africa. Six rounds of surveys were conducted in Namibia (in 1999, 2003, 2005, 2008, 2012 and 2014). Afrobarometer conducts face-to-face interviews in the language of the respondent’s choice with nationally representative samples of between 1 200 and 2 400 respondents. In the most recent Namibian survey, the Afrobarometer team led by Survey Warehouse and the Institute for Public Policy Research (IPPR) interviewed 1 200 adult Namibians (half male, half female) in a nationally-representative sample across all 14 regions in October 2014. Nangula Shejvali, “Gender in Namibia: Growing support for women’s leadership, concerns about violence”, *Afrobarometer Dispatch No. 22*, Windhoek: IPPR, April 2015 at 1; “Perceptions on gender equality, GBV, lived poverty and basic freedoms”, IPPR presentation on *Afrobarometer 2014*, 13 February 2015 at 6.

¹⁴ See, for example, Hannah Britton and Lindsey Shook “‘I Need to Hurt You More’: Namibia’s Fight to End Gender-Based Violence”, 40(1) *Signs: Journal of Women in Culture and Society* 153-175 (Autumn 2014); Jill Brown, James Sorrell and Marcela Raffaelli, “An exploratory study of constructions of masculinity, sexuality and HIV/AIDS in Namibia, Southern Africa”, 7(6) *Culture, Health and Sexuality* 585-598 (2005); H Becker, “Becoming Men: Masculine Identities among Young Men in two Namibian Locations”, 3(2) *Development Update* 54-70, (July 2000).

10.2 Rape

In Namibia, police statistics for 2003-2015 indicated that **over 1 000 persons report rape each year, with the vast majority of rape victims being women.** Between 2004 and 2012,¹⁵ men have accounted for only 2% to 8% of rape victims each year.

Looking at police statistics for rape alone, **41% of the rapes reported in 2003-2012 were perpetrated against children – with no substantial variation between male and female rape victims.**¹⁶ During 2003-2012, on average, 35% of all victims of rape, attempted rape and assault with intent to commit rape combined were under age 18. This proportion again was roughly similar for both male and female victims.¹⁷ **In 2012, 36% of all reported rapes were committed against children,** as well as 31% of reported rapes, attempted rapes and assault with intent to commit rape combined.¹⁸ If the 2015 population is estimated at 2.45 million,¹⁹ the 1 015 reported rapes for 2015 equate to **40 reported rapes for every 100 000 people in Namibia.** As a point of comparison, the rape rate for South Africa in 2015/16 has been estimated as being 77 per 100 000 population.²⁰ It is likely that rape – and particularly child rape – is under-reported.

The number of rapes reported per year has not shown a large variation in recent years. Looking at the numbers over time, it must be kept in mind that increases in reports of rape could be a product of increased public confidence in the police system, increased police capacity and presence, increased awareness of the crime on the part of both police and members of the public and the general empowerment of women – rather than a sign of an actual increase in the occurrence of the crime.²¹ Conversely, the fact that the absolute number of rapes reported has decreased slightly since 2012 levels, despite a population increase during that period, does not necessarily mean that rape in Namibia has lessened. It is impossible to determine the prevalence of rape from the numbers of reported rapes alone.

¹⁵ We were unable to obtain sex breakdowns for the years since 2012 in time for this report. In 2013, which had a low number of reported rapes overall, men accounted for 15% of all rape victims.

¹⁶ During this time period, male juveniles comprised 43% of the total male rape victims and female juveniles comprised 41% of total female rape victims.

¹⁷ During this time period, male juveniles comprised 39% of the total male victims and female juveniles comprised 35% of total female victims. See also *Rape in Namibia: An Assessment of the Operation of the Combating of Rape Act 8 of 2000*, Windhoek: Legal Assistance Centre, 2006 at 15.

¹⁸ See the tables provided in the text, which are based on statistics provided by NamPol. In South Africa, in 2012/13, 43% of reported rapes involved child victims. Kate Wilkinson, “GUIDE: Rape statistics in South Africa”, undated, Africa Check website: <<https://africacheck.org/factsheets/guide-rape-statistics-in-south-africa/>>.

¹⁹ This figure was chosen as being between the varying estimates of 2.43 million and 2.46 million for the 2015 population. The Namibia Statistics Agency estimated in 2011 that the population in 2015 was likely to be 2.43 million. Republic of Namibia, “Population Projections, Windhoek, National Planning Commission, 2011 (High variant) (available at <<http://cms.my.na/assets/documents/p19dmrhrpm1bpl1jre1p3quqm1tjc1.pdf>>). The Namibian population was estimated by the UN as being 2.46 million in 2015. *World Population Prospects: The 2015 Revision, Key Findings and Advance Tables*, New York: United Nations, Department of Economic and Social Affairs, Population Division, 2015 at 16.

²⁰ Kate Wilkinson, “GUIDE: Rape statistics in South Africa”, undated, Africa Check website: <<https://africacheck.org/factsheets/guide-rape-statistics-in-south-africa/>>. South Africa provides a useful point of comparison since its rape law, like Namibia’s, also covers penetrative sexual acts other than intercourse. However, unlike Namibia, its definition of rape is based on absence of consent (rather than the presence of coercive circumstances).

²¹ See untitled document produced by NamPol Crime Statistics Sub-Division, available at <www.nampol.gov.na/documents/139923/140403/Crime_Statistic_2012_13_fin_year_3.pdf/f62f30e9-66a8-4577-ae8-439ca0b7315f>, at 1.

Rape												
Year	Adult			Juvenile			Totals			Children as % of totals		
	Male	Female	Total adults	Male	Female	Total juvenile	Male	Female	Total	Male	Female	Total
2003	47	80	127	28	338	366	75	418	493	37%	81%	74%
2004	38	509	547	22	345	367	60	854	914	37%	40%	40%
2005	46	536	582	12	348	360	58	884	942	21%	39%	38%
2006	44	523	567	38	349	387	82	872	954	46%	40%	41%
2007	29	516	545	18	384	402	47	900	947	38%	43%	42%
2008	6	542	548	17	375	392	23	917	940	74%	41%	42%
2009	12	644	656	12	386	398	24	1030	1054	50%	37%	38%
2010	26	630	656	20	363	383	46	993	1039	43%	37%	37%
2011	15	661	676	16	393	409	31	1054	1085	52%	37%	38%
2012	10	710	720	24	375	399	34	1085	1109	71%	35%	36%
2013	–	–	–	–	–	–	–	–	1043	–	–	–
2014	–	–	–	–	–	–	–	–	1070	–	–	–
2015	–	–	–	–	–	–	–	–	1015	–	–	–

Source: Based on statistics provided by Namibian Police.²²

Rape, attempted rape & assault with intent to rape												
Year	Adult			Juvenile			Totals			Children as % of totals		
	Male	Female	Total adult	Male	Female	Total juvenile	Male	Female	Total	Male	Female	Total
2003	64	275	339	31	360	391	95	635	730	33%	57%	54%
2004	57	707	764	24	378	402	81	1085	1166	30%	35%	34%
2005	57	734	791	17	381	398	74	1115	1189	23%	34%	33%
2006	47	700	747	38	383	421	85	1083	1168	45%	35%	36%
2007	38	692	730	21	420	441	59	1112	1171	36%	38%	38%
2008	10	729	739	19	407	426	29	1136	1165	66%	36%	37%
2009	14	836	850	13	415	428	27	1251	1278	48%	33%	33%
2010	29	861	890	23	396	419	52	1257	1309	44%	32%	32%
2011	23	905	928	17	427	444	40	1332	1372	43%	32%	32%
2012	16	945	961	27	409	436	43	1354	1397	63%	30%	31%
2013	–	–	–	–	–	–	–	–	1285	–	–	–
2014	–	–	–	–	–	–	–	–	1294	–	–	–
2015	–	–	–	–	–	–	–	–	1229	–	–	–

Source: Based on statistics provided by Namibian Police.

The only detailed study of rape cases in Namibia was published in 2006.²³ This study found that 12% of the cases in its sample clearly involved rapes by strangers. **The vast majority of rapes in the sample – at least 67% – involved persons known to the victim. Most shockingly, one-fourth (25%) involved family members, spouses or intimate partners (including past partners).** This study found that the detection rate in Namibia was very good, with about 70% of the accused perpetrators in the sample being arrested. But only 40% of the cases in the sample resulted in a completed criminal trial. **One-third of the**

²² The police provide online statistics, which are as of June 2017 current to financial year 2012/13 (available at <www.nampol.gov.na/documents/139923/140403/Crime_Statistic_2012_13_fin_year_3.pdf/f62f30e9-66a8-4577-ae8-439ca0b7315f> and <http://209.88.21.122/documents/836442/838196/Crime_Statistic_2012_13_fin_year_3.pdf/2caf572c-1beb-488e-b054-b0885b214347>). Because the police now compile crime statistics by fiscal year instead of calendar year, the online figures may not match the ones in the table provided here, which refers to calendar year.

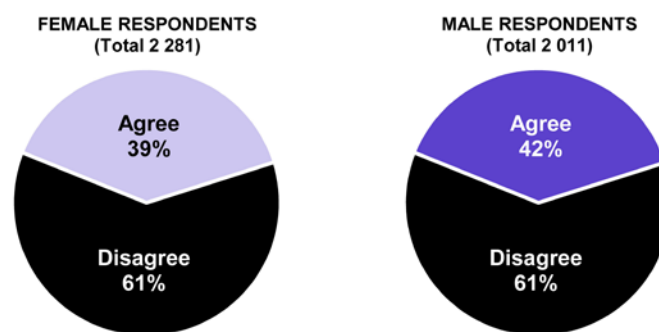
²³ *Rape in Namibia: An Assessment of the Operation of the Combating of Rape Act 8 of 2000*, Windhoek: Legal Assistance Centre, 2006. The data in the study was drawn from a wide range of sources, including police statistics, a sample of 409 police dockets, entries in court registers for 547 rape cases and interviews with 58 key informants including police, doctors, prosecutors, legal aid lawyers, magistrates and rape survivors. The preliminary findings were discussed at a consultative workshop attended by 33 participants from 6 regions, and their input was incorporated into the final report. Id at 152-155.

complainants in rape cases asked to have their cases withdrawn. Also, the Office of the Prosecutor-General sometimes decides not to prosecute a case, usually because of insufficient evidence. The real surprise here is that case withdrawals for rape cases were about the same as for other crimes in Namibia at the time of the study – although the conviction rates for the rape cases which proceed to trial were lower than those for other crimes. **Only 16% of the perpetrators accused of rape or attempted rape were convicted of either of these crimes.** This important concern often goes unnoticed amidst regular public calls for heavier sentences.

A 2009 follow-up study which examined the reasons for the withdrawal of rape cases in more detail²⁴ found that the most common reason was that the woman received compensation for the rape.²⁵ Compensation has several immediate advantages above criminal prosecution – it allows the matter to be finalized within a short time period, it is perceived as being more private than a criminal case, it is arranged by families or traditional authorities who are part of the community and share its values, and it can provide welcome financial assistance to the person who has suffered the wrong. However, the key drawbacks of this option are that it may be difficult to enforce the agreed-upon compensation, that the compensation may be given to the head of the household rather than to the rape victim and (most importantly) that this alternative does nothing to prevent repeat rapes since it allows the rapist to walk free. In some communities compensation was viewed as a respected and legitimate practice, but other communities spoke of it as a mechanism whereby a perpetrator with greater wealth or status than the victim can “buy” the victim’s right to prosecute her case.

Some recent information on attitudes about rape comes from the *Southern Africa Gender Attitude Survey 2016*, which administered a 25-question attitude survey to respondents in Southern African Development Community (SADC) member countries, to gauge attitudes on various gender issues and attitudes. One of these questions asked respondents to agree or disagree with the statement “If a woman wears a short skirt she is asking to be raped”. While less than half of Namibian respondents agreed with this statement, the fact that 39% of female respondents and 42% of male respondents did agree indicates that complicated attitudes about gender and sexual autonomy persist in Namibia.²⁶

If a woman wears a short skirt she is asking to be raped



Source: Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 27.

²⁴ *Withdrawn: A Study of Rape Case Withdrawals*, Windhoek: Legal Assistance Centre, 2009. Information was collected in six different regions by means of focus group discussions, community member interviews and key informant interviews. Id at Chapter 2.

²⁵ After compensation, the most commonly-cited reasons for withdrawal were family pressure, shame on the part of the victim, threats by the accused or a perception that the prosecution of the rape case would take too long.

²⁶ Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 27. In Namibia, this questionnaire was administered to 4 292 persons (53% women, 47% men) between 2 July 2015 and 17 June 2016, during gender-related village workshops or local government workshops. Id at 21.

10.3 Domestic violence

10.3.1 Occurrence of domestic violence

Various Namibian studies suggest that at least one out of three women have experienced intimate partner violence in their lifetimes.²⁷

In 2001, the World Health Organization (WHO) conducted a 10-country survey on intimate partner violence which included Namibia.²⁸ This study found that **more than one-third of women in Namibia (36%) had experienced physical or sexual violence, or both, inflicted by an intimate partner at some point in their lives.** Current levels of violence were higher amongst women who were separated or divorced than amongst those who were still married, and also amongst women who were cohabiting with partners without being formally married. Almost one-third (30%) of the Namibian women who had experienced physical or sexual violence from an intimate partner reported physical injuries from this violence, and 10% reported that their partners had either tried or threatened to kill them. Of those women surveyed who had been pregnant, 6% were beaten during at least one pregnancy, with about half of these having been punched or kicked in the abdomen. Reports of emotionally-abusive behaviour by an intimate partner included being belittled in front of others, scared on purpose or threatened with harm, with 49% of the ever-partnered Namibian women reporting at least one such an experience.

A 2002 survey across eight Southern African countries, including Namibia, questioned women and men aged 16 to 60 years about their experience of physical intimate partner violence during the 12 months prior to the survey.²⁹ In Namibia, 15% of men and 17% of women said that their partner had beaten, kicked or slapped them in the last year. The gender gap in these responses was negligible and little difference was found between the responses of urban and rural residents. However, income discrepancies *within* a household (where one partner controls more resources) were associated with higher levels of physical violence, and persons with multiple sexual partners were also more likely than others to have been involved in violent altercations with a partner. Nearly 75% of respondents said they considered domestic violence to be a serious problem in their communities, and more than half believed that their community had the power to do something about this problem.³⁰

A 2007-08 study of women and men in eight Namibian regions³¹ found that one-third (34%) of all respondents had experienced physical gender-based violence, with 41% of women reporting physical or

²⁷ See *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, Windhoek: Legal Assistance Centre, 2012 at 92.

²⁸ C García-Moreno et al, *WHO Multi-country Study on Women's Health and Domestic Violence against Women, Initial results on prevalence, health outcomes and women's responses*, Geneva: WHO, 2005. In Namibia, 1 500 women between the ages of 15 and 49 were surveyed in Windhoek.

²⁹ N Andersson, A Ho-Foster, S Mitchell, E Scheepers and S Goldstein, "Risk factors for domestic violence: eight national cross-sectional household surveys in southern Africa", *BMC Women's Health*, 2007. In Namibia, 1 167 men and 1 465 women were interviewed, covering both urban and rural areas.

³⁰ A repeat survey across the same countries in 2007 reportedly produced similar overall results on the incidence of intimate partner violence, but these results do not seem to have been published.

³¹ Social Impact Assessment and Policy Analysis Corporation (SIAPAC), *Knowledge, Attitudes and Practices Study on Factors that may Perpetuate or Protect Namibians from Violence and Discrimination: Caprivi, Kunene, Ohangwena, and Otjozondjupa Regions (Final Report)*, Windhoek: Ministry of Gender Equality and Welfare, 2007; Social Impact Assessment and Policy Analysis Corporation (SIAPAC), *Knowledge, Attitudes and Practices Study on Factors that may Perpetuate or Protect Namibians from Violence and Discrimination: Caprivi, Erongo, Karas, Kavango, Kunene, Ohangwena, Omaheke and Otjozondjupa Regions*, Windhoek: Ministry of Gender Equality and Welfare, 2008. Data was collected in Kunene, Ohangwena, Otjozondjupa and Caprivi in

sexual violence from a partner during the previous seven or eight years, compared to 28% of the men. **Although both men and women reported experiencing physical forms of domestic violence, four times more women than men reported injuries at the hands of an intimate partner in the past year.** The physical violence suffered by men and women may be intertwined, as 62% of respondents (including both men and women) reported that they had physically “fought back” against their partners. In fact, the study found that much of women’s violence against men appears to be “women striking back” at a violent partner. Almost 18% of the women who had ever been pregnant had suffered physical violence from an intimate partner during their pregnancies. Emotional violence by intimate partners was the most common form of domestic violence reported (affecting 59% of all respondents), as measured by asking respondents if their most recent partner had perpetuated a range of emotionally abusive or controlling behaviours, such as keeping them from contacting their family, ignoring them or humiliating them in front of others.

Most recently, the *2013 Demographic and Health Survey* reported that, **of women aged 15-49 who had ever been married, 33% had experienced physical, sexual and/or emotional violence from their spouse at some time, and 28% had experienced such violence in the past 12 months.**³² Looking at the various forms of violence individually, 23% of the ever-married women reported physical violence from their husband, 8% reported sexual violence and 25% reported emotional violence.³³ The incidence of violence was higher for women who were divorced, separated or widowed (50%), compared to women currently married (31%).³⁴ The experiences of rural and urban women were similar, but levels of spousal violence overall were highest in Kavango and lowest in Oshana. Unemployed women were particularly vulnerable to spousal violence.³⁵ Domestic violence is suffered less by more educated women, and it is committed less by husbands who are more educated – but educational discrepancies in a marriage were problematic, with spousal violence being much higher among couples in which the husband is better educated than the wife as compared to couples where both partners have the same level of education (28%).³⁶

There was a very strong relationship between women’s experience of domestic violence and husbands who often get drunk – although violence was higher where husbands did not drink at all (22%) than in situations where the husband drinks but never gets drunk (10%), showing that the link between alcohol and domestic violence is complex. The study found an inconsistent relationship between women’s participation in household decisions and their experience of violence – with greater empowerment for the woman within the household not necessarily leading to more, or less, violence against the woman. A woman who grew up in a household where her father beat her mother was much more likely to experience violence in her own marriage than a woman who grew up in a more peaceful environment.³⁷

2007, and extended in Erongo, Karas, Kavango and Omaheke in 2008. The study surveyed 210 people aged 18-49 in each region, producing a total sample of 1 680 respondents (half men and half women).

³² *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014 at 295. A total of 2 226 women were successfully interviewed for the violence module (at 297), with 963 of these women having ever been married (Table 20.1 at 298).

³³ Id at 305.

³⁴ Id at 306.

³⁵ Ibid.

³⁶ Id at 314.

³⁷ Ibid.

Some 5%-6% of the women questioned had initiated physical violence against their spouses, particularly women who had been physically abused by their husbands and women with husbands who often get drunk or display at least one of numerous controlling behaviours.³⁸

Only 21% of the women who experienced physical or sexual violence from *anyone* sought help from any source, with family members being turned to far more commonly than police.³⁹

The survey also examined marital control by husbands, noting that an attempt to closely control and monitor a wife's behaviour is an important warning sign and precursor of violence in a relationship. The main controlling behaviours wives experienced from their husbands were:

- insisting on knowing where she is at all times (40%)
- jealousy or anger if she talks to other men (38%)
- frequently accusing her of being unfaithful (25%)
- trying to limit her contact with female friends (19%)
- not trusting her with money (16%)
- trying to limit her contact with her family (11%).⁴⁰

10.3.2 Operation of the Combating of Domestic Violence Act

A study published in 2012 explored the operation of the Combating of Domestic Violence Act.⁴¹ It found that every magistrate's court in the country had received at least one application for a protection order by the end of 2008, with over 1 000 applications nationwide in that year. This widespread use of the protection order mechanism has continued, with a follow-up telephone survey finding that at least 1 679 protection order applications were made nationwide in 2015.⁴² Women submit 9 out of 10 protection order applications, meaning that one out of 10 comes from a man. Most of the applications involved spouses or intimate partners, but the law was also used to address abuse between parent and child and between other family members. The vast majority of protection order applications during the period studied came from persons in urban areas – probably because of lower public awareness of the law in rural areas, longer distances from courts and possibly greater reliance on extended family or traditional authorities to deal with such matters.

Some people were worried that people might abuse the law by going to court for trivial arguments, especially since the law covers non-physical forms of violence such as economic and psychological abuse. However, three-fourths of the complainants in the study had suffered physical violence and almost all had a history of being abused. Nearly two-thirds had been injured by the violence at some point in the past, and more than half had been physically injured in the most recent incident of abuse – with almost half of these persons having injuries that were serious enough to cause them to seek medical attention. Moreover, one in five complainants said that their children had been harmed or threatened by the abuser. Most complainants reported that the abuse had recently become worse and one out of every two

³⁸ Id at 312.

³⁹ Id at 315-316.

⁴⁰ Id at 303-304.

⁴¹ *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, Windhoek: Legal Assistance Centre, 2012. The study was based on data from court files for 1 122 protection order applications initiated during the years 2004-2006, from 19 different magistrates' courts in 12 regions; 60 interviews, mainly with magistrates and clerks of court, during 2006-2007; group discussions with traditional leaders, police and magistrates during 2006 and 2011; reported and unreported judgments of the High Court.

⁴² This figure is based on data obtained telephonically from 27 of the 31 magistrates' courts (with Bethanie, Khorixas, Okakarara and Oshakati unable to provide statistics).

complainants had received a death threat. Furthermore, one-quarter of the abusers reportedly had previous criminal convictions – mostly for violent crimes and almost one out of four owned weapons of some sort, with 13% owning firearms.

The study found that applications for interim protection orders are usually successful, but far fewer cases result in a final order. About one in five complainants withdrew their applications before they received a final order. Some apparently reconcile with their abusers, but some complainants may be threatened or intimidated into abandoning their attempts to get help. Where a complainant does not appear at an enquiry, the court is supposed to request the station commander of the closest police station to investigate to make sure that no intimidation has taken place, but there was evidence of requests for such investigations in less than one quarter of the cases where complainant did not show up – and only two files contained police replies. So some domestic violence victims may be left at the mercy of their abusers after they try to reach out for help.

Protection orders can include an order for exclusive occupation of a joint residence. Some people worried that women might start accusing men of domestic violence as a ploy to get access to their houses. In fact, women were found to be most often using the law to try and get peaceful occupation of *their own homes*. Thus, fears that protection orders might be maliciously abused to undermine the property rights of innocent respondents appear to have been misplaced.

The data indicated that for every victim of domestic violence, six other people are affected on average, with four of these being minor children. But the mechanism whereby the court is supposed to alert the Ministry of Gender Equality and Child Welfare about children at risk does not appear to be followed in practice – meaning that no social worker is monitoring the situation to see if the children are safe. Thus, the system is not helping children who are being caught in the cross-fire of family conflict.

10.3.3 Attitudes about domestic violence

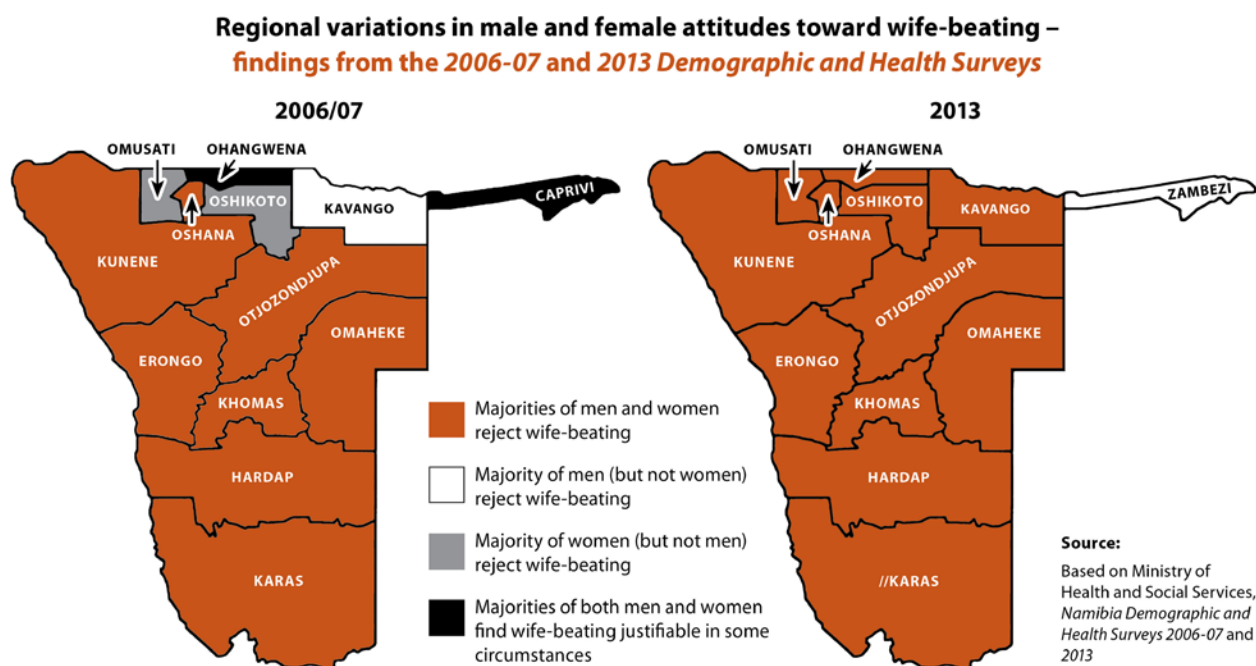
Large national samples of men and women were surveyed about attitudes relating to intimate partner violence and sexual autonomy in the 2000, 2006/07 and 2013 *Namibia Demographic and Health Surveys* conducted on behalf of the Ministry of Health and Social Services. The 2000 *Namibia Demographic and Health Survey*⁴³ asked men (but not women) about their attitudes about wife-beating. Overall, 44% of men surveyed felt that physical violence against a wife is justified in at least one of three suggested circumstances: because she neglects the children, argues with him or refuses sex. The 2006-07 *Namibia Demographic and Health Survey*⁴⁴ asked both men and women about their attitudes about wife-beating. Overall, 41% of men and 35% of women believed that it is justifiable for a husband to beat his wife in at least one of five suggested circumstances: if she burns food, argues with him, goes out without telling him, neglects the children or refuses sex. In the 2013 *Namibia Demographic and Health Survey*,⁴⁵ 28% of women and 22% of men aged 15-49 thought wife-beating was justified in at least one of the same five suggested situations. These numbers indicate a significant attitudinal change since the previous two surveys. In the 2013 survey, the proportion of both women and men who think that wife beating is

⁴³ *Namibia Demographic and Health Survey 2000*, Windhoek: Ministry of Health and Social Services, 2003. This survey involved a nationally-representative sample of 6 755 women aged 15-49 and 2 054 men aged 15-59.

⁴⁴ *Namibia Demographic and Health Survey 2006-07*, Windhoek: Ministry of Health and Social Services and Macro International Inc, 2008. This survey involved a nationally-representative sample of 9 804 women aged 15-49 and 3 915 men aged 15-49.

⁴⁵ *Namibia Demographic and Health Survey 2013*, Windhoek: Ministry of Health and Social Services and ICF International, 2014. This survey involved a nationally-representative sample of 11 004 households, where 9 940 women aged 15-49 and 842 women aged 50-64 were interviewed, along with 4 481 men aged 15-49.

justifiable was found to decrease with increasing education and wealth. There was significant regional variation, with wife-beating being *most* acceptable to women in Kavango and men in Ohangwena, and *least* acceptable to women in Erongo and men in Kunene and Otjozondjupa.



Source: “Domestic Violence in Namibia”, Legal Assistance Centre Research Brief, 2016

The *2013 Baseline Study Report on Human Rights in Namibia* commissioned by the Office of the Ombudsman also asked respondents questions about their attitudes about the acceptability of husbands “disciplining” wives. About half of the respondents thought that this is acceptable when the woman disobeys her husband, when she does not look after the children properly and when she disrespects the husband’s parents – with half of the respondents stating that “disciplining” a wife is never acceptable. Sex breakdowns were not provided for this data, but the views expressed by men and women were reportedly similar.⁴⁶

When is it acceptable for a husband to discipline his wife?						
	Yes		No		Total	
	N	%	N	%	N	%
When she misbehaves (disobeys husband/partner)	589	49.5	602	50.5	1191	100.0
When she does not do household chores	414	35.1	766	64.9	1180	100.0
When she does not look after the children properly	534	45.0	653	55.0	1187	100.0
When she disrespects the husband’s/partner’s parents	569	48.5	605	51.5	1174	100.0
It is never right to do so	438	50.4	431	49.6	869	100.0
Other	49	46.2	57	53.8	106	100.0

Source: *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman, Table 49 at 48.

⁴⁶ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman at 48. The national household survey on attitudes about human rights issues was targeted at 1 280 households (645 women and 635 men), with the actual interviews taking place in 2012 and closely approaching this target (study report available at <www.ombudsman.org.na/wp-content/uploads/2016/09/Baseline_Strudy_Human_Rights_2013.pdf>).

10.3.4 Perpetrators of domestic violence

A 2006 study which solicited information from 200 male prisoners convicted of violent crimes against women or children found that almost half had observed or experienced parental violence during their childhoods. It was not clear whether the high alcohol consumption levels of the majority of the inmates interviewed served as a contributing factor or an excuse. The partner's 'disobedience' or refusal of sex were both often cited as contributing factors to violence.⁴⁷

Internationally, the primary cause of all forms of violence against women is patriarchy: the systemic domination of women by men – probably also interrelated with various social challenges such as unemployment, poverty, alcohol abuse and changing family and community norms. Some think that the changing dynamic of gender relations provokes violence against women by men who feel threatened by the push for equality. Others think that domestic violence has increased because of frustrations related to poverty and unemployment, coupled with alcohol abuse, in the context of a 'culture of violence' stemming from long years of colonialism and apartheid. Still others assert that domestic violence has not actually increased since Independence, but has simply come out in the open because increased rights for women have made women feel freer to report cases of domestic violence. The various Namibian studies indicate that many people find violence to be an acceptable channel for addressing problems within intimate relationships – although social acceptance of intimate partner violence is gradually decreasing in Namibia over time.

A range of post-Independence studies found gender-stereotyping across Namibia's cultures, with women being associated with domestic, submissive, reproductive, household roles, and men being viewed as powerful providers, protectors and decision-makers in the family and community. Alcohol use was also associated with manhood in several surveys.⁴⁸

⁴⁷ Women's Action for Development (WAD), the University of Namibia (UNAM) and the Namibia Prison Service (NPS), *Understanding the Perpetrators of Violent Crimes Against Women and Girls in Namibia: Implications for Prevention and Treatment*, WAD/UNAM/NPS, undated.

⁴⁸ Panduleni (Pandu) Hailonga, *"Adolescent sexuality and reproductive behaviour in Namibia: A sociohistorical analysis"*, The Hague: Institute of Social Studies, 2005; Jill Brown, James Sorrell and Marcela Raffaelli, "An exploratory study of constructions of masculinity, sexuality and HIV/AIDS in Namibia, Southern Africa", 7(6) *Culture, Health and Sexuality* 585-598 (2005); Scholastika Iipinge, Kathe Hofnie and Steve Friedman, *The Relationship Between Gender Roles and HIV Infection in Namibia*, Windhoek: University of Namibia, 2004; Debie Lebeau, Eunice Iipinge and Michael Conteh, *Women's Property and Inheritance Rights in Namibia*, Windhoek: Multi-Disciplinary Research and Consultancy Centre, Gender Research and Training Programme and Department of Sociology, University of Namibia, 2004; C Nengomasha et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Ohangwena Region*, Windhoek: University of Namibia/UNFPA, 2004; T Shapumba et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Oshana Region*, Windhoek: University of Namibia/UNFPA, 2004; Britt Pinkowsky Tersbøl, "How to make sense of lover relationships – Kwanyama culture and reproductive health" in V Winterfeldt, T Fox and P Mufune, eds, *Namibian Sociology*, Windhoek: University of Namibia, 2002; Philippe Talavera, *Challenging the Namibian perception of sexuality: A case study of the Ovahimba and Ovaherero culturo-sexual models in Kunene North in an HIV/AIDS context*, Windhoek: Gamsberg Macmillan, 2002; EM Ipinge, EA Phiri and AE Njabili, *The National Gender Study, Volume I (Main Study)*, Windhoek: University of Namibia, 2000 and EM Ipinge, EA Phiri and AE Njabili, *The National Gender Study, Volume II (Annexures 1 and 2)*, Windhoek: University of Namibia, 2000; H Becker, "Becoming Men: Masculine Identities among Young Men in two Namibian Locations", 3(2) *Development Update* 54-70, (July 2000).

10.4 Gender-based violence against children

Behaviours that can be classified as domestic violence against children include excessive discipline, neglect, sexual abuse within the family, harmful cultural and traditional practices (discussed in a separate chapter of this report), exposure to domestic violence between other family members, encouraging alcohol use by children and abuse of children in intimate partner relationships by their partners. Much violence against children in Namibia, as in all countries, is likely to be unreported. Much of this violence affects girls and boys alike and so is not discussed as part of this gender analysis.

Many Namibian studies have highlighted the problem of sexual abuse of children. This affects both boys and girls, and it can warp attitudes about sexuality in both sexes in a way that contributes to gender-based violence later in life. Power imbalances which can make adolescent girls vulnerable to intimate partner violence are particularly pronounced in “sugar daddy” relationships where young girls engage in a sexual relationship with a much older man as a route to economic benefits.⁵¹

For example, one out of five women interviewed in Windhoek in 2001 for a study on intimate partner abuse reported that they were sexually abused before age 15, with family members being cited as the most common culprits, and 6% reported that their first sexual experience was forced upon them.⁵² A 2002 study of

Legal issues

- * The **Combating of Rape Act 8 of 2000** covers a broad range of sexual acts and does not require proof of penetration, which was in the past sometimes a bar to proof that sexual intercourse had taken place with a young child. One coercive circumstance is age, so that a sexual act committed with a boy or girl under 14 by someone who is more than three years older than the victim is automatically rape– even in the absence of any other coercion.
- * The **Combating of Immoral Practices Act 21 of 1980** gives additional protection to boys and girls under the age of 16 where there is a sexual act or any “*indecent or immoral act*” with someone more than three years older.
- * The **Child Care and Protection Act 3 of 2015** provides special rules for consent to the medical examination of abused children, where the parent or guardian might be the culprit or might wish to protect the perpetrator. It also includes guidelines designed to ensure that the examination can take place with the least possible trauma to the child.
- * The **Namibian Supreme Court** ruled in 1991 that corporal punishment by organs of state, including in public schools, is a violation of children’s constitutional right to human dignity.⁴⁹ The **Education Act 16 of 2001** prohibits corporal punishment in both public and private schools. The application of this prohibition to private schools was clarified by the High Court in 2016, in a case stressing that no parent or learner can overrule the prohibition by giving “consent” to corporal punishment.⁵⁰ The **Child Care and Protection Act 3 of 2015** says that anyone who has control of a child, including a parent, must respect the child’s constitutional right to dignity. It also prohibits corporal punishment in many settings: residential child care facilities, foster care, places of care, shelters, early childhood development centres, public and private schools, prison, police cells or any alternative care which results from a court order. The Act also gives the Minister of Gender Equality and Child Welfare a duty to provide education and awareness-raising programmes on the rules on corporal punishment and to promote alternative forms of discipline which have a more positive impact on children in all regions of Namibia. The elimination of corporal punishment could help to change attitudes about violence in general and so contribute to the reduction of gender-based violence.

⁴⁹ *Ex Parte Attorney-General, Namibia: Re: Corporal Punishment by Organs of the State* 1991 NR 178 (SC).

⁵⁰ *Van Zyl v The State* (CA 25-2014) [2016] NAHCMD 246 (05 September 2016).

⁵¹ Panduleni (Pandu) Hailonga, “*Adolescent sexuality and reproductive behaviour in Namibia: A sociohistorical analysis*”, The Hague: Institute of Social Studies, 2005.

⁵² *An Assessment of the Nature and Consequences of Intimate Male-Partner Violence in Windhoek, Namibia: A sub-study of the WHO multi-Country Study on Women’s Health and Domestic Violence*, Windhoek: Ministry of Health and Social Services, 2004 at 26. This study involved 1 500 women aged 15-49.

adolescents and youth in seven Namibian regions found that 13% of the female respondents who had already engaged in sexual intercourse had been forced to have sex against their will.⁵³

A 2003 study of persons in various age groups in five Namibian locations found that 9% of girls and 10% of boys between the ages of 16 and 24 had been physically forced to have sex.⁵⁴ Another study of child sexual abuse published in 2003 examined 35 cases of child sexual abuse which were reported to the Windhoek Woman and Child Protection Unit and found that fathers allegedly raped their own biological daughters in six of these cases, while others involved rapes by uncles, a stepfather, a step-brother and a grandfather. In several of these cases, the abuser had also beaten the girl, and sometimes the mother as well, on many occasions before the sexual abuse took place.⁵⁵

The 2004 Namibia School-based Student Health Survey found that one-fifth of the learners surveyed had been physically forced to have sexual intercourse, with no differences between males and females. This problem was worst for children age 12 or younger, with 27% of this age group reporting that they had been physically forced to have sexual intercourse.⁵⁶ This same study found that 13% of the respondents had been hit, slapped or otherwise physically hurt by a boyfriend or girlfriend in the last 12 months. This finding is more dramatic when it is noted that almost half (48%) of the students surveyed reported that they did not have a girlfriend or boyfriend in that period – meaning that more than one-quarter (26%) of those who had boyfriends or girlfriends had experienced physical violence in the course of the relationship. Unexpectedly, more boys than girls reported such violence: 29% of boys with girlfriends and 22% of girls with boyfriends said that they had been hit, slapped or otherwise hurt by a romantic partner.⁵⁷

A 2006 study⁵⁸ found that, generally, looking only at those respondents who reported that they had already engaged in sex, 42% of the 10-14 year-olds with sexual experience and 18% of the 15-24 year-olds with sexual experience reported that they had been forced to have sex, whilst another 6-8% of both age groups said that they exchanged sex for payment or a gift. Most shocking of all was the finding that *one out of four* respondents in the 10- to 14-year-old sample had experienced sexual abuse from a parent or caregiver: 12% of this group had been sexually touched by a parent/caregiver, 15% had been forced to touch a parent or caregiver sexually, and 15% had been forced to have sex with a parent or caregiver. Some of the children had experienced all three of these forms of sexual abuse. The levels of sexual abuse

⁵³ Digital Solutions, *2002 Baseline Survey on Sexual and Reproductive Health and HIV/AIDS Among Adolescent and Youth*, Windhoek: University of Namibia/UNFPA, 2004 at 25 and 33. This study involved 1 452 adolescents and youth between the ages of 15 and 24 (about half and half male and female) in Caprivi, Karas, Khomas, Kunene, Ohangwena, Oshana and Otjozondjupa.

⁵⁴ Social Impact Assessment and Policy Analysis Corporation (SIAPAC), *Quantitative survey of sexual knowledge, attitudes and practices (KAP), reproductive health, access to and perceived impacts of health materials, utilisation of and attitudes to voluntary counselling and testing (VCT): Baseline assessment in Windhoek, Walvis Bay, Oshakati, Katima Mulilo and Rundu* (Namibia), [draft, 2003] at 62 and A75. Quantitative questionnaires were administered to 1499 persons, about half male and half female, in randomly-selected households across five locations: Windhoek, Oshakati, Katima Mulilo, Walvis Bay and Rundu. One-third of the interviews were held with each of the following age groups: 16-19, 20-24 and 25-35.

⁵⁵ Rachel Jewkes, Loveday Penn-Kekana, Hetty Rose-Junius and Josephine Malala, *Child Sexual Abuse and HIV: Study of Links in South Africa and Namibia*, Pretoria: Medical Research Council, 2003.

⁵⁶ *Report on the Namibia School-Based Student Health Survey 2004*, Windhoek: Ministry of Health and Social Services, 2008 at 11-12. This survey included information collected from 6367 Namibian learners in grades 7-9.

⁵⁷ Id at 11. The data published to date on the similar 2013 survey does not include comparable information.

⁵⁸ Research Facilitation Services, *Knowledge, Attitudes, Practice and Behaviour Study: Key Findings*, Windhoek: UNICEF, 2006. This study included three regions (Kavango, Ohangwena and Omaheke) and was based on a total of 1 000 interviews in four age groups including 10- to 14-year olds, 15- to 19-year-olds still in school and 15- to 24-year-olds out of school.

amongst the 15- to 24-year-olds in the survey were somewhat lower, although still alarming.⁵⁹ Male and female children in both age groups were amongst the victims of such abuse, with no major gender gap.

A 2007 study⁶⁰ reported that 6% of the children interviewed reported being touched in a sexual manner by a household member and 8% (mostly girls) reported that they had been forced to have sex.

Two cross-sectional surveys carried out in 2003 and 2007 in 10 southern African countries, including Namibia, explored forced or coerced sex among school-going youth between the ages of 11 and 16.⁶¹ Across the 10 countries, the 2007 survey found that sexual violence affected one in every five children in the age group studied, with 25% of male students and 29% of female students reporting that they had experienced forced or coerced sex by the time they were 16. There was considerable variation between countries. Namibia was in the mid-range, with 24% of males and just over 29% of females reporting sexual abuse of this nature – and with no significant change from the situation in 2003. In general, older boys and girls were more likely to have experienced forced or coerced sex, along with both poorer boys and girls (those who did not have enough food in the house during the week prior to the survey). Students attending schools where alcohol use or forced sex were more common were more likely to report sexual abuse. Another risk factor was living in communities where transactional sex was accepted or where levels of adult intimate partner violence were high. Also very disturbing is the 2007 finding that one in every 10 male students and one in every 20 female students said they had *perpetrated* forced sex on someone else, with those who were themselves victims of forced or coerced sex being more likely to become a perpetrator.

As a caveat to the various findings on child sexual abuse, a 2012 review of HIV/AIDS risk factors which also assessed the incidence of forced sex in Namibia cautioned that “during the review of different studies, there were doubts in some instances about the veracity of the results – all based on self-reporting by informants; for example, young boys and girls in particular, possibly giving socially desirable answers to questions about first sex such as it being forced rather than sought”.⁶² On the other hand, the authors of

⁵⁹ Of this older age group, 15% reported sexual abuse by a parent or caregiver: almost 9% had been touched inappropriately by a parent or caregiver, 7% had been forced to sexually touch a parent or caregiver, and 8% had been forced to have sex with a parent or caregiver.

⁶⁰ “*I just want to have a good life*”: OVC and human rights in five regions of Namibia, Windhoek: Legal Assistance Centre, Aids Law Unit, 2009. This study collected data about Orphans and Vulnerable Children (OVC) in five regions (Caprivi, Karas, Kavango, Khomas and Omusati), interviewing 250 individuals aged 9-16 and conducting focus group discussions with another 250 OVC in the same age range.

⁶¹ Neil Andersson et al, “Prevalence and risk factors for forced or coerced sex among school-going youth: national cross-sectional studies in 10 southern African countries in 2003 and 2007”, *BMJ Open*, Volume 2(2), January 2012 (available at <<http://bmjopen.bmj.com/content/bmjopen/2/2/e000754.full.pdf>>). The survey covered 445 schools drawn from a stratified (urban/rural) random sample of census enumeration areas across the 10 countries (Botswana, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Zambia and Zimbabwe). Within each school, the field teams randomly selected one class per grade for the survey, in grades covering students aged 11 years and above. In a few schools, at the request of the head teacher, they covered all the two to three classes per grade. The 2003 and 2007 surveys used the same instruments, training and data collection methods in the same settings to ensure comparability. Over 60 000 questionnaires were administered in 2007. This study emanated from a CIET (Centro de Investigación de Enfermedades Tropicales) study commissioned by Soul City and funded by the EU.

The report noted (at 2): “Despite its importance as a public health problem and human rights violation, and its clear relevance to the HIV epidemic in southern Africa, there is little empirical data available on sexual violence against children in this region, especially data allowing comparisons between countries and over time. Internationally comparable surveys such as the Demographic and Health Survey do not collect information about sexual violence in this age group.”

⁶² *Risks and Vulnerabilities Among Young People in Namibia: A desk study of possible behavioural and contextual factors driving the HIV epidemic in Namibia among young people*, Leusden, The Netherlands: ETC Crystal, 2012 at 60.

the findings of the 10-country surveys in 2003 and 2007 noted: “As with any self-reported experience, some students declined to answer questions and some may have given false answers. We recognise reasons not to report but we have no basis to expect respondents to fabricate a history of coerced sex; we expect this bias underestimated true rates.”⁶³

10.5 Trafficking

The extent of child trafficking in Namibia is unknown. Although there is a suspicion that child trafficking takes place, there are few confirmed cases. A 2007 study based on fieldwork in 11 regions found that children were being sexually exploited in two forms – through both transactional sex and outright child prostitution – but found no evidence of sex tourism or the use of children in pornography. A total of only eight potential cases of child trafficking emerged during this field research.⁶⁵ This study also found anecdotal evidence that Angolan and Zambian children were trafficked into Namibia for livestock and child-minding work, and that Namibian children have been trafficked internally for exploitation in domestic service, agriculture work, charcoal production, road construction, vending and prostitution. Two-thirds of the adult stakeholders interviewed believed that child trafficking exists in Namibia, but none were familiar with an official definition of trafficking.⁶⁶

Legal issues

- * The **Prevention of Organized Crime Act 24 of 2004** criminalises various aspects of trafficking, with penalties of fines of up to N\$1 million or 50 years’ imprisonment.⁶⁴
- * The **Labour Act 11 of 2007** prohibits forced labour as well as various forms of exploitative child labour, subject to strict penalties.
- * The **Child Care and Protection Bill 3 of 2015** criminalises various offences related to child trafficking and provides for comprehensive support and services for child trafficking victims, including provision for counselling for any child victims, extending health and education services to any foreign victims of child trafficking, and, if needed, provisions for an adult escort to take the child back to the child’s usual home or to another safe place.

A 2008 survey investigated the issue of sexual exploitation and trafficking of women and children at the Oshikango Border Post, but found no evidence of trafficking and no indication of any organised trafficking networks.⁶⁷ In 2009, the Ministry of Gender Equality and Child Welfare commissioned a baseline study of trafficking in Namibia, which collected data from over 100 key informants in 8 regions. This study collected information on a few instances of adult trafficking and a handful of possible instances of child trafficking.⁶⁸ This study also found other suspected cases of child trafficking which could not be confirmed, including suspected cases of Angolan boys being brought to Namibia for

⁶³ Neil Andersson et al at 7.

⁶⁴ Prevention of Organized Crime 24 of 2004, section 15.

⁶⁵ Dr Elizabeth M Terry, *Child trafficking linked to child labour and commercial sexual exploitation of children in Namibia: A child labour-related rapid assessment study*, Windhoek: Ministry of Labour/ILO, 2007 at 30-31. The data sources included interviews with 63 adults and 22 children as well as 32 focus group discussions with 289 children.

⁶⁶ Ibid.

⁶⁷ Immaculate Sechoge, “Baseline survey: investigating sexual exploitation and trafficking of women and children at the Oshikango border post”, Windhoek: National Social Marketing Programme Namibia, 2008, based on interviews with 141 sex workers (25 of whom were under age 18) and 10 key informants.

⁶⁸ *A Baseline Assessment of Human Trafficking in Namibia*, Windhoek: Ministry of Gender Equality and Child Welfare, 2009 at 63-64.

agricultural work, children from Katima Mulilo being moved internally to engage in cattle-herding or domestic work in private households and San children being trafficked internally for domestic service.⁶⁹

The US State Department produces an annual Trafficking in Persons Report which grades countries on three-tiered scale, where Tier 1 is best and Tier 3 is worst. The most recent such report, the 2016 Trafficking in Persons Report⁷⁰ moves Namibia off of the “Tier 2 Watch List” to merely being “Tier 2”. It summarises the current position on trafficking as follows:

Namibia is a source and destination country for children, and to a lesser extent women, subjected to forced labour and sex trafficking. Some victims are initially offered legitimate work for adequate wages, but are then subjected to forced labour in urban centres and on commercial farms. Domestically, Namibian children are subjected to forced labour in agriculture, cattle herding, and domestic service, and to sex trafficking in Windhoek and Walvis Bay. A media report alleged that foreign sex tourists from southern Africa and Europe exploit child sex trafficking victims. Namibians commonly house and care for children of distant relatives to provide expanded educational opportunities; however, in some instances, these children are exploited in forced labour. Among Namibia’s ethnic groups, San and Zemba children are particularly vulnerable to forced labour on farms or in homes. NGOs reported persons in prostitution being taken aboard foreign vessels off the Namibian coast, some of whom may be trafficking victims. Children from Angola, Zambia, and Zimbabwe may be subjected to sex trafficking and forced labour in the fishing sector and in organized street vending in Windhoek and other cities. Angolan children may be brought to Namibia for forced labour in cattle herding. There were reports in 2013 of labour violations – potentially including forced labour – involving foreign adults and Namibian adults and children in Chinese-owned retail, construction, and fishing operations.

The Government of Namibia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government investigated seven trafficking cases and prosecuted two suspected traffickers during the reporting period, in comparison with none in 2014, and obtained its first trafficking conviction in June 2015.⁷¹ The government continued its efforts to finalize and enact anti-trafficking legislation, which included frequent consultation with NGOs and experts during the year. The government identified and provided shelter to five trafficking victims, although it did not institute formal victim identification and referral processes. The government established a national committee, chaired by the deputy prime minister, in February 2016. The government also appointed the permanent secretary of the Ministry of International Relations and Cooperation (MIRCO) as the formal lead for anti-trafficking efforts and convened the first meeting of the technical committee to combat trafficking in November 2015. The government increased prevention efforts and conducted anti-trafficking trainings and awareness activities during the reporting period.

...In partnership with an international organization, the police established a curriculum for new recruits and immigration officials that included training on identifying and assisting trafficking victims. The government provided anti-trafficking training to 126 police officers during the reporting period. The Ministry of Gender Equality and Child Welfare (MGEW) trained 300 police and other government officials with its curriculum on gender-based violence, including trafficking...

⁶⁹ Id at 65. A 2010 report on organised crime in Namibia mentions no instances of such involvement in trafficking in Namibia. John Grobler, “Namibia” in Institute for Security Studies (ISS), *Organised Crime in Southern Africa*, Cape Town: ISS, 2010.

⁷⁰ US Department of State, Office to Monitor and Combat Trafficking in Persons, “2016 Trafficking in Persons Report” (available at <www.state.gov/j/tip/rls/tiprpt/countries/2016/258828.htm>).

⁷¹ The US State Department report does not give details about this case. A United Nations Office on Drugs and Crime (UNODC) article states: “In August 2015, the Windhoek High Court handed down the country’s first conviction under the national Prevention of Organised Crime Act ... The offender in this case was found guilty on charges of trafficking in persons and rape, including in recruiting and grooming of two minor girls for sexual exploitation in exchange for money. As explained during the trial by an expert, whose presence was facilitated by UNODC, traffickers exploit the vulnerability and immaturity of children through a grooming process, which entails creating a seemingly loving and caring relationship to establish trust and loyalty, while slowly normalizing exploitative behaviour. The offender was sentenced to 13 years in prison.” “Namibia secures first conviction for trafficking in persons”, undated, UNODC website: <www.unodc.org/southernafrica/en/stories/namibia-secures-first-conviction-for-trafficking-in-persons.html>.

...The government conducted activities to raise awareness about trafficking, including holding workshops on child trafficking, distributing awareness material in several dialects, and training on identifying trafficking victims, reaching more than 1,700 Namibians.⁷²

10.6 Child online protection

An exploratory research study on knowledge, attitudes and practises of ICT use and online protection risks by adolescents in Namibia conducted in 2016⁷³ found that 68% of respondents reported having seen sexual content they did not wish to see, 31% had been sent sexually explicit images of people they did not

know, 29% had seen sexual content which included children and 63% had seen disturbing or violent images.⁷⁴ Girls reported more of certain kinds of negative experiences, including seeing violent content they did not wish to see (67% of girls compared to 58% of boys), being stalked (30% of girls compared to 14% of boys) or being asked to provide sexual images (19% of girls and 11% of boys).⁷⁵

Legal issue

The **Electronic Transactions and Cybercrime Bill** currently under discussion is expected to include provisions aimed at child online protection.

As a backdrop to this finding, the vast majority of the respondents reported that they use the internet (all but 7%), mainly on smartphones,⁷⁶ with most using the internet to watch videos, movies or TV online; for school work (particularly girls); to access social networking sites; or to look for health information. The main difference between boys and girls on this score was that boys were far more likely than girls to play online games.⁷⁷ Just under half (47%) reported that they spoke to parents, guardians or caregivers about their online activities. While both sexes consulted adults in this way, female respondents were significantly more likely to report that a parent or guardian advised them about internet use (43% of boys versus 51% of girls).⁷⁸

Girls were more likely to feel embarrassed or afraid in the case of most of the varieties of negative online experiences,⁷⁹ and also more likely than boys to report negative incidents to someone (with both sexes reporting most often to friends or acquaintances, followed by mothers, step-mothers or siblings of the same sex).⁸⁰ Incidents involving sexual images and messages were the least likely to be reported, especially by boys, suggesting that they are either less bothered by such images or that they had less support.⁸¹

⁷² US Department of State, Office to Monitor and Combat Trafficking in Persons, “2016 Trafficking in Persons Report”, unpaginated.

⁷³ “Voices of children: An exploratory research study on knowledge, attitudes and practices of Information and Communication Technology (ICT) use and online safety risks by children in Namibia”, Windhoek: Government of the Republic of Namibia/UNICEF, [2016]. The field research was comprised of a survey of 735 young people aged 13-17, randomly selected from high schools in 15 constituencies in 5 regions (Kavango East, Khomas, Karas, Erongo and Omusati) and including slightly more girls than boys. Id at 5, 14-15.

⁷⁴ Id at 6, 27.

⁷⁵ Id at 27.

⁷⁶ Id at 17.

⁷⁷ Id at 5, 19.

⁷⁸ Id at 5, 22.

⁷⁹ Id at 32-34.

⁸⁰ Id at 34-35.

⁸¹ Id at 37.

Amongst the recommendations made by this report were activities to increase digital literacy, efforts to teach children about online safety (particularly the dangers of sharing personal information with strangers) and encouraging children to report unwanted events to a trusted adult.⁸²

With support from UNICEF, a National Stakeholder Task Force on Child Online Protection has been established. Namibia has joined the #WeProtect Global Alliance to End Child Sexual Exploitation Online,⁸³ and Namibia is in the process of establishing online portals and platforms for awareness-raising and reporting and implementing various training and awareness-raising initiatives about online safety targeting parents, teachers and children.⁸⁴

10.7 GBV Investigation Units

Gender-based Violence Investigation Units, formerly known as Woman and Child Protection Units, are specialised police centres that were set up to provide a coordinated multi-sectoral approach to detecting, investigating and preventing gender-based violence in Namibia. Each Unit is intended to provide victim-friendly services that give survivors of GBV access to the services of a specially-trained police officer who will investigate their cases and take statements, a medical doctor who will examine them after they have been assaulted to collect forensic evidence and treat their injuries, and a social worker to provide counselling and support. There are now 15 Units across the country.⁸⁵

Practice has not kept up with promise, however, with many stakeholders being of the opinion that the services being provided are not sufficient to serve as a true “One-Stop Centre”. For example, the Units are open only during office hours on weekdays, although police officers from each Unit are on call after hours. The staff deployed at the Units do not always receive any special training; medical personnel are shared with emergency rooms and unavoidably sometimes slow to attend to victims; and social workers are in short supply. Moreover, the intended coordination across ministries has not worked smoothly. As an example, the Windhoek Unit as of June 2017 was staffed by 25 police officers who generally work in shifts of five to six persons and two social workers in a run-down office sorely in need of maintenance and refurbishment, which does not provide adequate facilities for the basic comfort or privacy of GBV victims or staff. Prosecution is not well-integrated with investigation, the collection of forensic evidence does not always go smoothly, and the government has encountered delays in bringing into operation shelters meant to serve each Unit.⁸⁶ The overstretched social work staff component is inadequate to ensure appropriate counselling for victims. No State psychologists or psychiatrists are attached to the Units. The most important shortcoming relates to public complaints that they do not receive a well-informed or sympathetic service from Unit staff in many cases, which is coupled with Unit staff complaints that they receive inadequate training and support for what can be a difficult and emotionally-draining job.

A 2015 study conducted qualitative interviews with 63 abused women in Windhoek who were clients of state institutions and service providers during or after situations of abuse.⁸⁷ Over 60% of these women approached an ordinary police station (at least initially), and the majority did not find the police workforce friendly or helpful. Many stated that they had approached the police as a last resort, after

⁸² Id at 8.

⁸³ See the #WeProtect website: <www.weprotect.org/>.

⁸⁴ Task Force meeting held on 13 June 2017, Windhoek.

⁸⁵ Confirmed in personal communication with Nampol, June 2017.

⁸⁶ At least seven shelters are equipped and ready but not yet fully functional because of lack of staff. As of June 2017, they are sometimes used on an *ad hoc* basis to provide emergency accommodation.

⁸⁷ *The Voice of the Survivors: Discussion Paper*, Windhoek: Regain Trust, [2015].

seeking to deal with the abuse in the family, through their church or through discussions with their partner.⁸⁸ About 60% of the women went to, or were referred to, the GBV Investigation Unit. Service from the Unit was rated more positively, with 92% of the women who were assisted at the Unit being satisfied with the friendliness of the workforce, and 86% finding the staff to be helpful and competent. About 60% received counselling from a social worker attached to the Unit, although some complained of harsh questioning or unsympathetic treatment by social workers. However, 67% were not ultimately satisfied with the results achieved by the Unit, with complaints about delays, lack of follow-up, failure to render meaningful assistance to keep the client safe and the problem of the Unit's limited opening hours.⁸⁹ Many women also complained about being sent back and forth between the police station and the local GBV Investigation Unit.⁹⁰

Several studies have provided recommendations on how to improve the Units, but not many of these recommendations have been put into action.⁹¹ A few concrete steps have moved forward in the last few years with support from development partners – such as the provision of more anatomically correct dolls for use with children, combined with training on how to use these dolls, as well as a regular programme of child witness preparation and a review of the police curriculum on GBV. Other discrete, long-standing suggestions – such as the use of specially-trained forensic nurses for evidence collection and round-the-clock opening hours – have not moved forward. This is an area where bold and innovative intervention is particularly warranted.

10.8 Obligations under international law

Gender-based violence has been highlighted in reviews of Namibia's treaty obligations at various international forums.

For example, amongst the recommendations on GBV in 2015 from the Committee which monitors the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** were steps to ensure that all cases of violence against women and girls are thoroughly and effectively investigated and prosecuted, and that root causes of GBV be identified and addressed. The Committee also recommended a needs assessment regarding shelters, followed by the establishment of adequate shelters and sufficiently-resourced shelters and legal aid for women pursuing GBV cases.⁹²

The 2016 GBV-related recommendations of the Human Rights Committee which monitors the **International Covenant on Civil and Political Rights** included awareness-raising measures targeting traditional leaders and the public at large with a view to making GBV socially unacceptable; prompt, impartial and effective investigations of so-called “passion killings” (murders of intimate partners); increased of magistrates and other authorities to issue protection orders and provide access to justice on a daily, 24-hour basis; expanded shelter facilities for domestic violence victims along with psycho-social

⁸⁸ Id at 39-43.

⁸⁹ Id at 43-46, 73-75.

⁹⁰ Id at 40-41.

⁹¹ The recommendations from various studies are summarised in “How to Improve the Services of Woman and Child Protection Units (WCPUs) in Namibia”, Windhoek: Legal Assistance Centre, October 2013.

⁹² “Concluding comments of the Committee on the Elimination of Discrimination against Women: Namibia”, Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/4-5, 20 July 2015 at paras 15, 21 and 23.

counselling and compensation; protection for victims of violence from stigmatization and reprisals; and adequate training GBV for police, prosecutors and judges.⁹³

In 2012, the Committee which monitors the **Convention on the Rights of the Child** recommended, amongst other things, more effective enforcement of legislation relating to sexual abuse and exploitation; steps to strengthen the capacity of the Women and Child Protection Units in all regions, including child-friendly procedures; mechanisms to receive, monitor and investigate complaints; awareness-raising amongst children, especially girls, to encourage the reporting of sexual violence and abuse in schools; and a national strategy to respond to the shelter, health, legal and psychosocial needs of child victims of sexual exploitation and violence.⁹⁴

10.9 Pending studies and information gaps

Pending studies: The following research studies were underway as of June 2017:

- The Office of the First Lady of Namibia was in the process of finalizing a two-part study on gender-based violence, one part being a study of survivors carried out by University of Namibia social work students and the other part involving perpetrators. As of June 2017, this study was still in draft form and not yet available to the public.
- A “National Gender Based Violence Baseline Study” by the Ministry of Gender Equality and Child Welfare examined intimate partner violence by current or former partners, rape and harmful traditional practices. The statistical data is based on a very small sample: 50 men and 80 women participated in in-depth qualitative interviews, with this sample being drawn from one urban and one rural constituency in each of Namibia’s 14 regions. Therefore, the findings should be viewed with extreme caution, particularly in respect of regional comparisons, since this amounts to fewer than 10 people per region. This information was supplemented by an unspecified number of focus group discussions, key informant interviews and individual personal accounts from victims (“i-Stories”). The draft recommendations appear to reinforce those of previous studies in great part, with additional emphasis on gaps between civil law and customary law. This study was available only in draft form as of late June 2017.⁹⁵
- The Ministry of Information and Communication Technology announced in September 2016 that it was conducting research on the magnitude of gender-based violence in Namibia through the lens of reports in the print media.⁹⁶ As of late June 2017, the Ministry was unable to provide the expected date of publication of this study.⁹⁷
- The Centre for Disease Control in Namibia, working in collaboration with relevant Namibian government stakeholders, was as of June 2017 in the planning stages of a major study on violence against children, including sexual abuse. The large, nationally-representative study which is being planned should help to fill this serious information gap and hopefully re-focus national attention on this neglected aspect of GBV.⁹⁸

⁹³ Human Rights Committee, “Concluding observations on the second report of Namibia”, CCPR/C/NAM/CO/2, 22 April 2016 at para 24.

⁹⁴ Committee on the Rights of the Child, “Concluding observations on the consolidated second and third periodic reports of Namibia, adopted by the Committee at its sixty-first session (17 September–5 October 2012)”, CRC/C/NAM/CO/2-3, 16 October 2012 at para 41.

⁹⁵ *National Gender Based Violence Baseline Study Report* (draft), Ministry of Gender Equality and Child Welfare, 20 June 2017, circulated for purposes of a validation workshop on 22-23 June 2017.

⁹⁶ Letter from Ministry of Information and Communication Technology to Legal Assistance Centre, dated 23 September 2016.

⁹⁷ Personal communication, Ministry of Information and Communication Technology, June 2017.

⁹⁸ Personal communication, CDC-Namibia, June 2017.

Information gaps: Violence against children and the elderly is under-examined in Namibia (although a study of violence against children was in preparation at the time of writing), and there are fewer studies about domestic violence against men than against women. We also know little about violence within gay and lesbian relationships. However, there is a danger that action may become paralysed by the desire to collect more information.

Instead of further one-off studies, at this stage it would be more useful to focus on institutionalising data-collection systems which can produce reliable ongoing information. It should be noted that the Committee which monitors CEDAW suggested that Namibia should ensure that there is a national database on gender-based violence with up-to-date statistical data on cases involving all forms of violence against women, including domestic violence, disaggregated by age, type of offence and relationship between perpetrator and victim.⁹⁹ In the same vein, in 2012 the Committee which monitors the Convention on the Rights of the Child urged Namibia to collect systematic data on cases of violence against children, with all data collected disaggregated by age and sex amongst other grounds.¹⁰⁰

The Combating of Domestic Violence Act 4 of 2003 prescribes a simple official form for police record-keeping on domestic violence cases, which was intended to provide regular information. However, this form has apparently never been put into routine use, and the legal requirement that police compile data from these forms into a report tabled annually in Parliament is not being observed in practice.

The GBV Investigation Units, and indeed all police stations, should be gathering standardised data about the sex and age of victim and perpetrator (which has been included in police statistics since 2003), the relationship between victim and perpetrator, case outcome (unfounded, undetected, withdrawn or prosecuted and, where the trial is completed, information on conviction and sentence). There should also be records of support provided to victims in respect of court appearances (court preparation services, special support for child witnesses and use of child-friendly court facilities or any of the legal provisions designed to protect vulnerable witnesses). In addition, it would be useful to have regular, reliable records on health services, including PEP, pregnancy prevention, treatment for STIs and HIV testing in rape cases and information on victim counselling and referrals.¹⁰¹

⁹⁹ “Concluding comments of the Committee on the Elimination of Discrimination against Women: Namibia”, Committee on the Elimination of Discrimination against Women, CEDAW/C/NAM/CO/4-5, 20 July 2015 at para 21(c).

¹⁰⁰ Committee on the Rights of the Child, “Concluding observations on the consolidated second and third periodic reports of Namibia, adopted by the Committee at its sixty-first session (17 September–5 October 2012)”, CRC/C/NAM/CO/2-3, 16 October 2012 at para 19.

¹⁰¹ See *Rape in Namibia: An Assessment of the Operation of the Combating of Rape Act 8 of 2000*, Windhoek: Legal Assistance Centre, 2006 at 564-565; *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, Legal Assistance Centre, 2012 at 574.

Chapter 11

Sexual Orientation and Gender Identity

11.1 Overview of Namibian situation

The rights enshrined in the Namibian Constitution are in theory applicable to everyone, regardless of sexual orientation or gender identity. Article 10 of the Constitution addresses equality and freedom from discrimination, stating that everyone is equal before the law – even though the only court case to discuss the topic indicated (somewhat obliquely) that the express prohibition of discrimination on the basis of “sex” in this provision does not encompass “sexual orientation”.¹

Namibia’s criminalisation of sodomy was raised in 2011 in Namibia’s Universal Periodic Review, which recommended the de-criminalisation of consensual homosexual activities. However, these recommendations were the only ones that “did not enjoy the support of Namibia”.²

However, Namibia’s *National Human Rights Plan 2015-2019*, approved by Parliament in late 2014, highlights the need to protect members of vulnerable groups against discrimination – and lists amongst these vulnerable groups LGBTI (lesbian, gay, bisexual, transgender and intersex) persons. The Plan cites as key concerns widespread social exclusion and rejection, the continued criminalization of sodomy, the labour law’s omission of sexual orientation as a prohibited ground for discrimination in the workplace, the continued criminalization of sex work, insensitivity by the Namibian police to the plight of LGBTI persons, and the lack of extensive research on the human rights situation of the LGBTI community, as well as discrimination, violence and punitive acts against LGBTI persons and the lack of appropriate facilities for LGBTI persons in detention facilities or holding cells.³

The *National Human Rights Plan 2015-2019* recommended the following as key interventions on LGBTI persons as a vulnerable group:

¹ *Chairperson of the Immigration Selection Board v Frank and Another* 2001 NR 107 (SC). The Court stated at 149G-H: “Whereas the word ‘sex’ can be defined as ‘being male or female’, or ‘males or females as a group’, ‘sexual orientation’ could encompass in theory ‘any sexual attraction of anyone towards anyone or anything’. The prohibition against discrimination on the grounds of sexual orientation is so wide, that a case may even be made out for decriminalizing the crime of bestiality, particularly, when done in private” (citation omitted). The Court also noted “in passing” at 145E-F that the International Covenant on Civil and Political Rights specifies “sex” as one of the grounds on which discrimination is prohibited but not “sexual orientation”. In fact, in March 1994 (*before* Namibia’s ratification of the Covenant), the Human Rights Committee charged with monitoring the Covenant stated that the references to “sex” in the provisions on discrimination are “to be taken as including sexual orientation”. *Toonen v Australia* Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

² *Report of the Working Group on the Universal Periodic Review: Namibia*, Human Rights Council, Seventeenth Session, 24 March 2011, A/HRC/17/14 at para 99 (available at <www.upr-info.org/IMG/pdf/a_hrc_17_14_namibia_e.pdf>).

³ *National Human Rights Plan 2015-2019*, Windhoek: Republic of Namibia, [2014] at 38.

- * commissioning research on discrimination, exclusion and marginalisation of vulnerable groups;
- * commissioning research on discrimination in the workplace and in recruitment, especially recruitment in the public service;
- * public education and awareness campaigns aimed at eradicating discriminatory practices against LGBTIs and others, involving churches and community leaders;
- * incorporating human rights education and tolerance education into the school curricula;
- * incorporating training on a human rights approach in dealing with LGBTIs into the training curricula of law enforcement officials;
- * research and review of laws and policies to identify and rectify provisions that discriminate against vulnerable groups, including sexual minorities;
- * review of the current Racial Discrimination Prohibition Act 26 of 1991 with a view to enacting new legislation against discrimination.⁴

In 2016, the United Nations Human Rights Committee, which monitors States Parties' compliance with the International Covenant on Civil and Political Rights, expressed concern that discrimination on the basis of sexual orientation is not explicitly prohibited, recommending the adoption of legislation to that effect.⁵

Namibia's 2016 Universal Periodic Review again recommended that Namibia should adopt the necessary measures to de-criminalise sexual relations between consenting adults and eliminate discrimination against LGBTI

Legal issues

The Namibian legal framework relevant to LGBTI issues was comprehensively examined in a study by the Legal Assistance Centre published in 2015.¹

- * The **Namibian Constitution** contains no explicit references to sexual orientation but provides that all persons are equal before the law (Article 10(1)).
- * Being homosexual is not illegal in itself in Namibia. However, although rarely enforced, **consensual sexual activity between men is criminalised in terms of the common law**. There are no laws that criminalise consensual sexual activity between women.
- * The **Combating of Rape Act 8 of 2000** and the **Combating of Immoral Practices Act 21 of 1980** give equal protection to males and females against coercive sexual contact without reference to the sex of the perpetrator.
- * The **Combating of Domestic Violence Act 4 of 2003**, which provides for protection orders to combat violence in domestic relationships, expressly excludes same-sex relationships. This leaves lesbian and gay persons with abusive partners in a more vulnerable position than heterosexual couples, although "peace orders" which serve a somewhat similar function are available under the Criminal Procedure Ordinance 34 of 1963.
- * The **Labour Act 11 of 2007**, while explicitly prohibiting discrimination in employment on a number of grounds, does not include a prohibition on discrimination based on sexual orientation or gender identity – unlike Namibia's former Labour Act 6 of 1992.
- * **It is not possible for same-sex couples to marry**, and neither same-sex nor opposite-sex cohabiting couples in Namibia receive any legal recognition or protection.
- * **Same-sex couples may not adopt children jointly** (Children's Act 33 of 1960, about to be replaced by the Child Care and Protection Act 3 of 2015 which takes the same position).
- * The **Births, Marriages and Deaths Registration Act 81 of 1963** provides for alteration of the birth register in the case of a sex change, and it is applied in practice provided that the person in question can supply medical records to document the sex change.

⁴ *National Human Rights Plan 2015-2019*, Windhoek: Republic of Namibia, [2014], summary based on "Key interventions" listed at 40.

⁵ United Nations Human Rights Committee, *Concluding observations on the second report of Namibia*, CCPR/C/NAM/CO/2 (22 April 2016) at paras 9(c), 10(b) and 10(c).

persons.⁶ In discussions, the government delegation – citing Namibia’s *National Human Rights Plan 2015-2019* – stated that “[n]ew legislation would be adopted to prohibit discrimination”.⁷ However, the government delegation maintained that LGBTI persons were “not victimised or persecuted for practising their preferred sexual orientation”, citing the protection of the constitutional right to privacy. The Government stated that no one is requested to disclose sexual orientation on any official government forms or documents, and that “no person could be refused access to public or private services on the basis of their sexual preference”.⁸ The official Namibian response also stated that “the Government has no intention to repeal any laws including the common law crime of sodomy” and that the “reality and the legal history of the Namibian people [do] not suggest that legalising same sex marriages is important or beneficial to our legal and cultural system” meaning that the Government “considers the issue of same sex marriages in Namibia as a non-issue”.⁹ The Government also maintained that there are “no records of cases of harassment or discrimination reported to the Ombudsman or the Namibian police”.¹⁰

In 2016, Namibia abstained from voting at the 32nd session of the UN Human Rights Council on a resolution to appoint an Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.¹¹ During this session, Namibia referenced Article 10 of the Constitution and stated that the Government was opposed to any violence based on sexual orientation and gender identity, with such acts being prohibited and punishable under domestic criminal law.¹² However, Namibia expressed concern that the Independent Expert’s mandate would interfere with “sensitive issues at the national level.”¹³ Despite these somewhat inconsistent remarks, at least one international group took the view that Namibia’s abstention was brave since it broke with the more negative African group position and pioneered a somewhat more rights-affirming stance.¹⁴

On a follow-up visit to Namibia in August 2016, members of the UN Human Rights Committee met with several government and civil society representatives. According to one Committee member, the main problem that arose during the meetings was “strong resistance” to LGBTI rights:

Authorities met by the Delegation confirmed that Namibia does not prosecute LGBTI people, and maintained that Namibia does not discriminate on the basis of sexual orientation or gender [identity]. But some officials also asserted that Namibian culture, religion and tradition do not permit recognition of LGBTI rights in the laws of Namibia.¹⁵

⁶ *Report of the Working Group on the Universal Periodic Review: Namibia*, Human Rights Council, Thirty-second Session, 15 April 2016, A/HRC/32/4 at paras 137.69, 137.70, 137.71, 137.72 and 137.73 (available at <www.ombudsman.org.na/wp-content/uploads/2016/10/Report-of-the-Working-Group-on-the-UPR.pdf> or <www.refworld.org/docid/5761759e4.html>).

⁷ Id at para 40.

⁸ Id at para 41.

⁹ *Report of the Working Group on the Universal Periodic Review: Namibia, Addendum*, Human Rights Council, Thirty-second Session, 14 June 2016, A/HRC/32/4/Add. 1 at para 30 (available at <www.ombudsman.org.na/wp-content/uploads/2016/10/Report-on-the-Working-Group-on-UPR-addendum.pdf>).

¹⁰ Ibid.

¹¹ United Nations Human Rights Council Res 32/2, UN Doc A/HRC/RES/32/2 (30 June 2016).

¹² *Appointing an Independent Expert on Sexual Orientation and Gender Identity: An Analysis of Process, Results and Implications: 32nd Session of the Human Rights Council, June 13 – 1st July, 2016*, ARC International at 49.

¹³ Id at 51.

¹⁴ Id at 52. This comment on the nature of the abstention applied to Namibia, Botswana and Ghana.

¹⁵ “Human Rights Committee members concerned about discrimination and gender-based violence in Namibia”, undated, Centre for Civil and Political Rights website: <<http://ccprcentre.org/ccprpages/un-human-rights-committee-members-visit-namibia>>.

In contrast, Namibia's Ombudsman has called for the inclusion of sexual orientation in the Constitution as a prohibited ground of discrimination and stated that same-sex couples should have the option to marry if they choose.¹⁶

In practice, the traditional and socially conservative nature of Namibian society has led to a general lack of acceptance of sexual orientation and non-traditional gender identities, although this attitude may be somewhat stronger in Government than in society at large. In past years, a number of prominent government leaders have made inflammatory or homophobic statements,¹⁷ but this seems to have abated in recent years. Media reports on the experiences of LGBTI persons in Namibia have noted that they face shame, social isolation, humiliation, bullying, social stigma and a lack of support from family and friends.¹⁸

One source of recent information about Namibian attitudes is the *Southern Africa Gender Attitude Survey 2016*, which asked respondents in Southern African Development Community (SADC) member countries to agree or disagree with the statement "People who are attracted to the same sex should be outlawed". Somewhat more than half of the 4 292 Namibian respondents agreed with this statement (55% of female respondents and 60% of male respondents), thus suggesting a majority disapproval of gay and lesbian couples.¹⁹

On the other hand, there is evidence of some degree of acceptance of homosexuality in Namibian society. The *2013 Baseline Human Rights Survey* commissioned by the Office of the Ombudsman surveyed 1 280 households across the country to "assess perceptions, attitudes and understanding of human rights issues";²⁰ when asked whether people with a different sexual orientation have equal rights in Namibia, 72% of respondents answered "yes". Nonetheless, the final report still referenced Namibia's unwillingness to accept sexual minorities as equals and the pervasive social exclusion faced by LGBT communities.²¹

The recent *Afrobarometer* survey which sampled 1 200 adult Namibians (half male, half female) in a nationally-representative sample across all 14 regions in October 2014²² asked respondents how they would feel about having homosexuals as neighbours, with the choices being "somewhat/strongly like it", "somewhat/strongly dislike it" or "not care". The degree of societal tolerance was equated with the

¹⁶ Denver Kisting, "Let gays be – Walters", *The Namibian*, 23 August 2016.

¹⁷ See *Criminalisation of Homosexuality*, Human Dignity Trust (updated 25 October 2015) at 1-2; OutRight Action International, "Namibia: African NGOs Respond to Statement by Namibian Deputy Minister on Gays and Lesbians 'Betraying the Fight for Freedom'", 13 September 2005 (available at <www.outrightinternational.org/content/namibia-african-ngos-respond-statement-namibian-deputy-minister-gays-and-lesbians-betraying>);

Gwen Lister, "Tough times for LGBTI in Namibia too" (4 May 2013), Open Society Initiative for Southern Africa (OSISA) (available at <www.osisa.org/lgbti/blog/tough-times-lgbti-namibia-too>).

¹⁸ See Denver Kisting, "Depression and LGBTI – No Match Made in Heaven", *The Namibian*, 7 October 2016; Jeremy Schmidt, "Open Letter to Govt on the LGBT Community", *The Namibian*, 2 September 2016.

¹⁹ Colleen Lowe Morna, Sifiso Dube & Lucia Makamure, eds, *SADC Gender Protocol 2016 Barometer*, Southern African Gender Protocol Alliance, 2016 at 25. In Namibia, this questionnaire was administered to 4 292 persons (53% women, 47% men) between 2 July 2015 and 17 June 2016, during gender-related village workshops or local government workshops. Id at 21.

²⁰ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman, 2013 at 26.

²¹ Id at 96, 98. The Legal Assistance Centre has noted "some methodological flaws with the formulation of the question; some may have understood it as a descriptive question about the Namibian Constitution or the factual situation on the ground, while others may have understood it as a normative question about what *should* be the case in Namibia." *Namibian Law on LGBT Issues*, Windhoek: Legal Assistance Centre, 2015 at 14, footnote 10.

²² Nangula Shejvali, "Gender in Namibia: Growing support for women's leadership, concerns about violence", *Afrobarometer Dispatch No. 22*, Windhoek: IPPR, April 2015 at 1; "Perceptions on gender equality, GBV, lived poverty and basic freedoms", IPPR presentation on *Afrobarometer 2014*, 13 February 2015 at 6.

percentage of respondents who said they would “strongly like,” “somewhat like,” or “not care”. Namibia was one of the only four out of the 33 African countries surveyed where a majority of respondents (55% in Namibia) were tolerant of having homosexual neighbours. Looking at Africa as a whole, tolerance increased with increased education levels; younger persons were more tolerant of homosexuality than older ones; and urban dwellers were more tolerant than rural ones.²³

The LGBTI community in Namibia is gradually becoming more open and visible – which may inspire a backlash of non-acceptance in some quarters in the short-term. For example, Windhoek has been the site of a Mr Gay Namibia pageant on at least two occasions since 2011²⁴ and at least two “Gay Pride Parades” have been held in Namibia.²⁵ In May 2017, a penal discussion was held in Windhoek on “the situation of LGBTI Christians in the church today”, where the Namibian non-governmental organization TULINAM discussed its efforts to create safe spaces for sexual minorities in church communities, by doing outreach to clergy and individual congregations and convening dialogues between church leadership and members of the LGBTI community.²⁶ There are a number of NGOs working in the field of LGBTI rights, although this NGO community is a rapidly-changing one as many groups are small and lacking in secure funding. The table at right lists groups working in this area as of June 2017.

NGOs working with LGBTI issues
<p>Positive Vibes LifeLine/ChildLine Namibia Out-Right Namibia Rights not Rescue Voices of Hope Trust Rural Out Namibia Wings to Transcend Namibia MPOWER Trans-Diverse, Intersex and Androgynous Movement Of Namibia (TIAMON) Coalition of African Lesbians Namibia Women’s Leadership Centre Rights for All Movement (RAM) Tulinam Namibia Diverse Women’s Association (NDWA) Legal Assistance Centre (legal issues)</p> <p>Sources: Positive Vibes, June 2017; Michael Kayunde, “The dark side of being different”, <i>Namibian Sun</i>, 16 May 2017.</p>

²³ “Africans tolerant on religion, ethnicity, nationality, and HIV, but not on homosexuality, Afrobarometer survey finds”, *Afrobarometer News Release*, 1 March 2016 (available at <http://afrobarometer.org/sites/default/files/press-release/round-6-releases/ab_r6_pr4_tolerance_in_africa_ENG.pdf>); “Good neighbours? Africans express high levels of tolerance for many, but not for all”, *Afrobarometer Dispatch No. 74*, 1 March 2016 (available at <http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r6_dispatchno74_tolerance_in_africa_eng1.pdf>). The other three countries in this group were Cape Verde, South Africa and Mozambique.

²⁴ See the Mr Gay World website for the years 2012 and 2013: <www.mrgayworld.com/delegates/delegates-2012/> and <www.mrgayworld.com/delegates/delegates-2013/>.

²⁵ In Katutura (Windhoek) in December 2013 (“Namibia Celebrates Pride”, 9 December 2013, Mamba website: <www.mambaonline.com/2013/12/09/namibia-celebrates-pride/>) and in Swakopmund in June 2016 (“Namibia’s Swakopmund celebrates its first Pride march”, 7 June 2016, Mamba website: <www.mambaonline.com/2016/06/07/namibias-swakopmund-celebrates-first-pride-march/>); images of this event can be found at <www.gettyimages.com/event/the-first-ever-gay-pride-parade-in-namibia-644866731#participants-of-the-swakopmund-gay-pride-walks-on-the-main-street-of-picture-id538097094>.

²⁶ Personal communication, May 2017. The panel discussion coincided with the meeting of the Lutheran World Federation in Windhoek. See also Theresia Tjihehuna, “Pastors accused of shying away from gay debate”, *The Namibian*, 16 May 2017.

11.2 Violence against LGBTI persons

There is anecdotal evidence of violence and discrimination against LGBTI persons, although there are no systematic studies of this problem to date. The AIDS and Rights Alliance for Southern Africa (ARASA) has noted that lesbians, transgender and gender-nonconforming persons face violence and discrimination merely for exercising their right to gender expression.²⁷ This report found that transgender women in particular face a heightened risk of violence and humiliation. For example, in order to ‘verify’ their gender, transgender sex workers have reportedly been forced to strip naked both in public and in custody.²⁸ Mama Africa, a transgender woman and advocate, was raped in prison while being held in an all-male cell; rather than providing her with protection, she alleges that police officers applauded her rapists and refused to allow her to open a case.²⁹ Another example of degrading treatment occurred when a transgender woman approached the police after being beaten and forcibly removed by her landlord’s relatives; she reported that, instead of taking her statement, the police officer asked her “inappropriate questions concerning her gender identity and expression including ‘whether she was male or female’ and why she was wearing a dress.”³⁰ A 2013 human rights report by the United States Department of State indicated that police refused to take action after seven men beat a transgender woman in the northern part of Namibia.³¹

The US State Department’s 2014 human rights report on Namibia stated:

OutRight Namibia, an organization that advocates for LGBT rights, continued to report that police generally did not take complaints of violence against LGBT persons seriously. It claimed police often ridiculed LGBT persons when they reported cases of abuse, and this secondary victimization often dissuaded victims from reporting....

The Ombudsman’s Office reported that LGBT persons were often subject to ridicule and even physical and verbal abuse when they walked in a different neighbourhood from their own....The Ombudsman’s Office reported that many cases of human rights violations against LGBT persons went unrecorded, including the use of “corrective rape” against lesbians, families disowning LGBT children, and the beating of LGBT persons.³²

The Human Rights Committee has noted its concern about reports of police violence and harassment against LGBT persons in Namibia.³³ Furthermore, the UN Committee against Torture, which monitors compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recently expressed concern in its concluding observations on Namibia’s second periodic report that LGBTI persons in detention suffered ill-treatment and that transgender women were placed in detention with men, leading to high risk of sexual assault.³⁴ The Committee also expressed concern about reported failures to investigate, prosecute and punish an array of serious crimes against LGBTI persons.³⁵

One form of violence against LGBTI persons is “corrective rape”, which occurs when lesbians, bisexual women, transgender men or other gender non-conforming persons (or those who are believed to fall into

²⁷ *Identifying Injustice: Law and Policy on Sexual Orientation, Gender Identity and HIV in Southern Africa*, Windhoek: AIDS and Rights Alliance for Southern Africa, 2016 at 130.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Id at 131.

³¹ United States Department of State, *Country Reports on Human Rights Practices for 2013: Namibia* at 24.

³² United States Department of State, *Country Reports on Human Rights Practices for 2014: Namibia* at 23.

³³ United Nations Human Rights Committee, “Concluding observations on the second report of Namibia”, CCPR/C/NAM/CO/2, 22 April 2016, at para 21(a).

³⁴ United Nations Committee against Torture, *Concluding observations on the second periodic report of Namibia*, CAT/C/NAM/CO/2, 1 February 2017 at para 30.

³⁵ Ibid.

any of these categories) are raped in order to “cure” them of their homosexuality or non-traditional gender identity.³⁶ Civil society organizations and the Office of the Ombudsman have found that “corrective rape” exists in Namibia, but there is no data on its prevalence other than anecdotal examples.³⁷ OutRight Namibia, an organization that advocates on behalf of LGBTI persons, has found that men have threatened lesbians with rape as a means to “cure” them and police do not provide any protection when the women seek help.³⁸ In its 2014 country report on Namibia’s human rights practices, the United States Department of State reported that a man raped a lesbian woman in Windhoek so as to “cure” her of her homosexuality. When the woman went to a state hospital for help, the receptionist told her to return later and then publicly announced what had happened.³⁹ As for the term “corrective rape”, the women’s rights organization Sister Namibia has explained its objection to the use of this term by the media:

Using the term “corrective rape” is highly problematic – partly because it indicates that the rape has a purpose (that it is something different from “ordinary rape”) and partly because it suggests that there is, in fact, something about the victim that can be “corrected”. Whilst many journalists put the term “corrective rape” and “cure” within quotation marks this does nothing to challenge the hetero norm that dominates our world society. Rather, it reproduces the heterosexual ideal and implies that the victim’s sexuality is the core explanation to why she was subjected to this crime.⁴⁰

Note that the term is used in this report to reflect local usage, and should not be understood to imply acceptance of the assumptions which it embodies.

11.3 Sexual and gender diversity-related violence in schools

In 2014-2015, UNESCO supported a five-country study in Southern Africa (covering Botswana, Lesotho, Namibia, South Africa and Swaziland) on the scope and nature of violence and gender-based violence in schools, including violence related to sexual and gender diversity. This study revealed that stigma and discrimination against LGBTI persons is present in Namibian schools.⁴¹

As part of this study, a survey was conducted among 2 523 Grade 11 students (aged 16-17, on average) and teachers in 37 schools Botswana, Lesotho, Namibia and Swaziland.⁴² The survey used culturally-sensitive terms by talking about “diversity-related violence” that targets students who are “perceived as different in terms of their gender, such as boys who look or act like girls and girls who look or act like boys”.⁴³ The key findings of the survey were:

- There are extremely high levels of violence in schools in all four countries.
- Diversity-related violence occurs in all four countries, with 41% of respondents in Namibia reporting that this type of violence occurs in schools. In response to the question “Who are mostly the victims of violence and/or bullying in schools?”, almost 18% of Namibian respondents

³⁶ *Identifying Injustice: Law and Policy on Sexual Orientation, Gender Identity and HIV in Southern Africa*, Windhoek: AIDS and Rights Alliance for Southern Africa, 30 June 2016 at 139.

³⁷ See, for example, *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman at 100.

³⁸ *Namibian Law on LGBT Issues*, Windhoek: Legal Assistance Centre, 2015 at 83.

³⁹ United States Department of State, *Country Reports on Human Rights Practices for 2014: Namibia* at 23. See “Raped because she was lesbian?”, *Namibian Sun* 17 September 2014 <www.namibiansun.com/news/raped-because-sheurtms-lesbian> and “There is nothing corrective about rape”, *Namibian Sun*, 17 September 2014 (<www.namibiansun.com/news/there-is-nothing-corrective-about-rape>).

⁴⁰ Sister Namibia, “A Rape is a Rape – There is Nothing ‘Corrective’ About it”, 22 September 2014 (available at <<https://sisternamibia.com/tag/rape/>>).

⁴¹ “*Out in the Open: Education sector responses to violence based on sexual orientation and gender identity/expression*”, UNESCO, 2016.

⁴² Id at 36. The report is not entirely clear as to whether this number is the total across all four countries where the survey took place, or the number of persons surveyed in each country. It appears to be the former.

⁴³ Id at 37.

mentioned “students different in terms of gender”. When asked “Why does the violence occur?”, 23% of Namibian respondents said “Because some people are perceived as different in terms of their gender” – with this being the second reason cited in Namibia.⁴⁴

- School violence is mostly verbal, but frequently also physical. Sexual violence is less prevalent, although the study noted that in-depth interviews and focus group discussions which accompanied the survey suggested “that the extent of sexual violence may have been underreported by the survey respondents. This is because the unwanted touching of breasts, bottoms and other parts of the body may have been normalized in schools and is no longer perceived as violence”.⁴⁵
- The vast majority of perpetrators of violence are older boys and the targets of violence are most often younger boys and younger girls. In Namibia, boys and girls were equally targeted for school violence.
- “The study found that teachers and other school staff holding discriminatory attitudes and beliefs hinder the effective reporting and support for students that experience gender-based violence in general and diversity-related violence in particular.”⁴⁶
- Overall, only one-third of respondents said their school is a safe space for students who are perceived as different in terms of gender.⁴⁷

The study noted that, while Namibia has general legal and policy frameworks that are conducive for addressing violence in schools, none of its education policies make explicit reference to sexual and gender diversity. Of the five countries studied, only South Africa had explicit policies to deal with homophobic bullying in education. The advantage of addressing these issues specifically is that this signals “that violence is unacceptable, that students’ safety is important and that sexual and gender diversity is accepted and valuable”.⁴⁸ Another shortcoming is the failure of school curricula to address sexual diversity in an appropriate way.⁴⁹ Research in other countries suggests that curricula featuring sexual orientation and gender identity/expression positively impact students’ and teachers’ attitudes, encourage critical thinking and increase feelings of safety at school, in addition to helping to reduce school violence.⁵⁰

11.4 Information gaps

Aside from the study of school violence discussed above, as Namibia’s *National Human Rights Plan 2015-2019* points out, the issue of discrimination and violence against LGBTI persons in Namibia is under-examined. There is no systematic empirical research on the experience of LGBTI persons on the ground. Such research would be a useful contribution, although given the sensitivity of the topic in Namibia, it would need to be thoughtfully undertaken. More comprehensive and nuanced data about public attitudes about LGBTI issues would also be a helpful contribution to the political debate.

⁴⁴ Ibid. The first reason cited by Namibian respondents is not indicated.

⁴⁵ Ibid.

⁴⁶ Id at 38.

⁴⁷ Ibid.

⁴⁸ Id at 78-81, quoted text at 79.

⁴⁹ Id at 85-ff.

⁵⁰ Id at 86.

Chapter 12

Women and Girls with Disabilities

12.1 Introduction

Namibia has adopted a “human rights-based model of disability mainstreaming and social integration and economic empowerment” as the best model for protecting and advancing the rights of persons with disabilities.¹

The **National Policy on Disability** lists women with disabilities as a special target group (along with children and elderly people with disabilities and persons with disabilities living in rural areas),² but the only specific action point on women is the “inclusion of women with disabilities in all development programmes”.³ It also cites community-based rehabilitation as the main strategy for implementing programmes on prevention, rehabilitation, integration and equalisation of opportunities for persons with disabilities.⁴

Namibia has a government focal point for disability issues, the **Office of the President: Disability Affairs**, which has spearheaded an Inter-Ministerial Committee on Disability

Legal issues

- * The **Namibian Constitution** fails to mention disability as a specifically-prohibited ground of discrimination in **Article 10(2)**.
- * Namibia is a party to the **Convention on Rights of Persons with Disabilities** and its 2006 Optional Protocol.
- * The **National Disability Council Act 26 of 2004** (brought into force on 30 October 2009) establishes a National Disability Council and provides for its functions and powers. Namibia’s **National Policy on Disability** is appended to the Act.
- * The **Affirmative Action (Employment) Act 29 of 1998** establishes an Employment Equity Commission and provides for affirmative action measures to promote equal opportunity in employment for racially disadvantaged persons, women and persons with disabilities. This law defines “disability” as “any persistent physical or mental limitation which restricts such person’s preparation for, entry into or participation or advancement in, employment or occupation”.
- * The **Labour Act 11 of 2007** prohibits direct or indirect discrimination in any employment decision based on physical or mental disability. This Act defines “person with disability” as “an individual who suffers from any persistent physical or mental limitation that restricts that individual’s preparation for, entry into or participation or advancement in, employment or an occupation”.
- * The **New Equitable Economic Empowerment Bill**, which is still under discussion in May 2017, seeks to further economically empower “previously disadvantaged persons”, which includes racially disadvantaged persons, women and persons with disabilities. The appropriate modalities for this empowerment are still a subject of heated national debate.

¹ “National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Namibia” (“Namibia Universal Periodic Review”), United Nations General Assembly, A/HRC/WG.6/24/NAM/1, 28 October 2015, at para 85. Neither the Namibian country report nor the committee recommendations in the most recent periodic review were gender-specific. See also the 1997 National Policy on Disability reproduced in the National Disability Council Act 26 of 2004.

² National Policy on Disability reproduced in the Schedule to the National Disability Council Act 26 of 2004, at para 2.5.1.

³ Id at para 4.3.12.

⁴ Id at para 4.5.

Mainstreaming.⁵ This office has a staff complement of only five persons at its head office in Windhoek, including no social workers, occupational therapists, psychologists or other health professionals. It also has regional representatives, again without any special professional skills.⁶ Its key activities are to strengthen and coordinate the implementation of policies and laws on disability issues, to raise awareness and to initiate programmes that enable children and youth with disabilities to have access to education, health and employment opportunities.

The National Disability Council of Namibia, a State-owned enterprise established under the **National Disability Council Act 26 of 2004**, which resorts under the Office of the President: Disability Affairs, operates in accordance with the slogan “Nothing about us without us”. It defines persons with disabilities to include “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.⁷

Civil society organisations working with persons with disabilities have an umbrella grouping, the **National Federation of People with Disabilities in Namibia**. This group, which received EU funding for several years, virtually ceased operation for a time due to various institutional challenges. However, with financial and technical support from the Ministry of Health and Social Services and the Office of the Prime Minister, the Federation was revived in 2015 under new leadership and it remains operational in 2017.⁸

Namibia is a party to the **Convention on Rights of Persons with Disabilities** and also to its 2006 Optional Protocol. Namibia’s first report was due on 3 June 2010, but has not been submitted to date.⁹

In 2008, a **Health and Social Services System Review** conducted in Namibia found that problems confronting persons with disabilities included:

the delayed establishment of the National Disability Council; the outdated Disability Policy; limited access for people with disabilities to public buildings, public transport, information, education, employment, healthcare, counselling services and other services due to environmental barriers (including the lack of Braille materials and sign language interpreters and the inaccessibility of physical environment); and negative attitudes of the community towards people with disabilities.¹⁰

There is no data available for the number of children with disabilities living in institutions or outside their families (such as in foster care).¹¹

⁵ As of May 2017, this portfolio was headed by Deputy Minister Alexia Manombe-Ncube. A total of three Deputy Ministers with varying portfolios resort under the Vice President in the Office of the President, reporting to the Minister of Presidential Affairs.

⁶ Personal communication from Office of the President: Disability Affairs.

⁷ *Disability Annual Monitoring Report*, National Disability Council of Namibia, 2016 at 7 (available at <www.ndcn.com.na/documents/report.pdf>).

⁸ For a brief overview of the organization’s history, see the website of the Southern Africa Federation of the Disabled at <<http://safod.net/safod-content/cid/93/>>.

⁹ United Nations, Office of the Human Rights Commissioner website page on Namibia (accessed 1 May 2017), <http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=NAM&Lang=EN>. Namibia ratified the Convention on 7 December 2007, but it came into force internationally only on 3 May 2008. Parties are required to submit their first report two years after accepting the Convention, and every four years thereafter.

¹⁰ *First, Second, and Third Namibian Country Periodic Reports on the Implementation of the United Nations Convention on the Rights of the Child and Two Optional Protocols 1997-2008*, Windhoek: Ministry of Gender Equality and Child Welfare at 62 (spelling corrected), based on *Health and Social Services System Review*, Windhoek: Ministry of Health and Social Services, 2008.

¹¹ Id at 56.

The **National Human Rights Action Plan 2015-2019** identified the following key concerns in respect of persons with disabilities:

Namibia's failure to submit a state report on the Convention on Rights of Persons with Disabilities obligations, effectiveness challenges with respect to the operations of the National Disability Council, delayed drafting process of the Mental Health Bill, prevailing discrimination against people with disabilities in spite of Labour Act provisions, under-representation of people with disabilities at every level of employment, teachers not equipped to deal with children with disabilities, structural adjustments related to lack of facilities (eg ramps) for people with disabilities to access buildings and other service infrastructure, inadequate provision of equipment/facilities and other services especially in rural areas.¹²

It also mentioned the fact that the Namibian Constitution is silent on disability as a prohibited ground of discrimination, and the lack of representation of people with disabilities in Parliament and in local and regional authorities.¹³

The *2013 Baseline Human Rights Survey*, which informed the development of this Plan, made the following findings:

Lack of employment and discrimination were listed as the two major challenges faced by people with disabilities in Namibia. Similarly, the high costs of assistive devices, the inaccessibility of streets and the lack of proper pavements and inaccessible buildings were also singled out as some of the structural challenges faced by people with disabilities in the country. The absence of sign language interpreters at clinics or hospitals [was] reported as [one] of the major impediments [that persons] with disabilities face in accessing health care facilities and services. In the same vein, teachers were said to be ill-equipped to deal with children with disabilities. The 2008 National Policy on Special Needs and Inclusive Education of the Ministry of Education seeks to address such concerns and issues. People with disabilities living in informal settlements are said to face particular challenges in accessing potable drinking water and proper sanitation facilities.¹⁴

The Ministry of Gender Equality and Child Welfare's **National Gender Policy 2010-2020** references some special measures for women with disabilities – increasing access to services in rural areas, providing appropriate educational media (such as literature in Braille, in large print or on tape for the blind, and media in sign language for the deaf), awareness-raising on the right to health and encouraging families to send children with disabilities (and particularly girls) to school.¹⁵ However, the proposed outputs in the accompanying *National Gender Plan of Action* lack specificity in their targets.¹⁶

Anecdotal evidence indicates that some women with disabilities may be specific targets of gender-based violence and research suggests that the victim has a disability – in most instances a mental disability – in about 3% of reported rape cases (most of which involved young female complainants). In half of these cases, the perpetrators were persons known to the rape victims, ranging from stepfathers to landlords.¹⁷

The *National Plan of Action on Gender-Based Violence 2012-2016* includes the following observations:

Persons with disabilities are likely to be more vulnerable to rape than others for many reasons, the most obvious one being that they often have less capability for physical self-defence. Other sources of vulnerability may include difficulty in reporting rape due to communication problems, a greater amount of

¹² *National Human Rights Action Plan 2015-2019*, Windhoek: Office of the Ombudsman at 38 (with acronyms in quoted text spelt out).

¹³ Ibid.

¹⁴ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman at 2 (with acronyms in quoted text spelt out).

¹⁵ *National Gender Policy 2010-2020*, Windhoek: Ministry of Gender Equality and Child Welfare, 2009.

¹⁶ *National Gender Plan of Action 2010-2020*, Windhoek: Ministry of Gender Equality and Child Welfare, 2013. For example, one output is "Increased gender responsiveness in the provision of education to persons with disabilities in terms of resources, infrastructure, curriculum, learning and teaching materials" (at 46). Another example is "Review teaching and learning materials, curriculum to ensure positive portrayal for people with disabilities and gender responsiveness" (at 47, with acronym spelt out).

¹⁷ *Rape in Namibia: An assessment of the Operation of the Combating of Rape Act 8 of 2000*, Windhoek: Legal Assistance Centre, 2006 at 168 (available at <www.lac.org.na/projects/grap/Pdf/rapefull.pdf>).

dependence on other people for care (who may in some cases take advantage of this situation) or the lack of a caretaker to protect them from harm. Persons with disabilities may also be hampered in laying charges. Furthermore, even when charges are laid, the fact of the disability may interfere with the victim's ability to provide convincing evidence of a rape. For instance, a blind victim cannot provide a description of a rapist's appearance, and a mentally disabled victim is unlikely to be a credible witness.

Anecdotal evidence indicates that the extent of GBV against persons with disabilities is likely to be much larger than reported cases would indicate. Because persons with disabilities often find themselves isolated from mainstream society, and because some forms of disability may interfere with the ability to communicate, such persons may endure sexual abuse for longer periods of time than others before it comes out into the open. Persons with mental disabilities or disorders in particular may face other forms of abuse or neglect by their care takers, either at home or in institutional care.¹⁸

The **National Plan of Action on Gender-Based Violence 2012-2016** recommends that that the Combating of Rape Act of 8 of 2000 be amended to make the rape of persons with physical or mental disabilities a basis for imposing the highest category of minimum sentence; that community members and relevant institutions be trained on how to equip persons with disabilities to protect themselves where the nature of the disability might make them vulnerable to abuse; that community members be encouraged to report gender-based violence of persons with disabilities to the appropriate authorities; that educational materials on gender-based violence be produced in forms which are accessible to persons with disabilities; and that a system be introduced whereby information on disabilities is systematically recorded in gender-based violence cases to allow for further information-gathering on factors affecting vulnerability.¹⁹

The issue of disability has received scant public or political attention. For example, the Disability Network Forum at Walvis Bay recently noted that most Namibian institutions are still unaccommodating to those living with disabilities, citing the inaccessibility of public buildings, the lack of information in Braille, a shortage of sign language services and Air Namibia's lack of planes and equipment suitable to facilitate travel by wheelchair-bound passengers.²⁰

Women with disabilities often face "double discrimination" as both women and persons with disabilities, often compounded by poverty. In addition, women who give birth to children with disabilities may be blamed, cursed or discriminated against, and the burden of caring for a family member with a disability often falls on women in the family.²¹

There is a widespread lack of awareness and understanding of the needs and challenges faced by persons with disabilities.

12.2 Key statistics (2011 Census)

Population with disabilities by sex: The most comprehensive national statistics on women with disabilities in Namibia come from the *Namibia 2011 Census Disability Report* ("2011 Census Disability

¹⁸ *National Plan of Action on Gender-Based Violence 2012-2016*, Windhoek, Namibia: Ministry of Gender Equality and Child Welfare, undated, citing *Rape in Namibia: An assessment of the Operation of the Combating of Rape Act 8 of 2000*, Windhoek: Legal Assistance Centre, 2006.

¹⁹ Id at 53-54.

²⁰ Taati Niilenge, "Disability forum condemns discrimination", *The Namibian*, 26 May 2017.

²¹ Information from Office of the President: Disability Affairs. May 2017.

Namibian population with disabilities, by type of disability and sex (2011)						
Disability type	Number			Percent		
	Total	Female	Male	Total	Female	Male
Blindness	10 855	5 964	4 891	11.0	11.9	10.1
Visual Impairment	17 084	9 501	7 583	17.4	19.0	15.7
Deafness	6 257	3 196	3 061	6.4	6.4	6.3
Hearing Difficulties	9 440	5 218	4 222	9.6	10.4	8.7
Mute	5 908	3 063	2 845	6.0	6.1	5.9
Speech Impairment	6 056	2 788	3 268	6.2	5.6	6.8
Physical Impairment – Upper Limbs	10 789	5 042	5 747	11.0	10.1	11.9
Physical Impairment – Lower Limbs	22 209	11 011	11 198	22.6	22.0	23.2
Mental Disability	13 948	6 570	7 378	14.2	13.1	15.3
Albinism	1 206	619	587	1.2	1.2	1.2
Autism	1 327	652	675	1.3	1.3	1.4
Other	5 319	2 699	2 620	5.4	5.4	5.4
Don't Know	294	132	162	0.3	0.3	0.3

Note: The total is the number of persons with a disability. This is not the total in the column as some persons have multiple disabilities.

Source: *Namibia 2011 Population and Housing Census, Basic Report*, Windhoek: Namibia Statistics Agency, [2013] at 54.³¹

Educational attainment: As for educational attainment, according to the *2011 Census*, out of a total of 40 421 females with disabilities aged 15 years and above, almost 37% had no formal education, 23% had incomplete primary education, 27% had completed primary school, less than 8% had completed secondary school and just over 2% had completed tertiary education. The patterns of educational attainment for males were similar.³² The regional statistics on educational attainment are not disaggregated by sex, but they demonstrate that persons with disabilities were most likely to have no formal education in Ohangwena (17.7%), Omusati (17%) and Kavango (16.4%), while Khomas had the highest rates of completed secondary and tertiary education for persons with disabilities (at 31% and 45% respectively).³³ As for educational attainment and type of disability, the majority of women and girls without any formal education were either visually impaired (19.8%) or blind (19.6%). However, those with visual impairment also constituted the highest proportion of women with disabilities who had completed tertiary education, at 34%.³⁴ (Other aspects of education for persons with disabilities are discussed below in section 12.4.)

Literacy rate: The literacy rate for persons with disabilities aged 15 years and above demonstrated a relative similarity among the sexes: 67% of women/girls and 72% of men/boys could read and write in some language with understanding. For persons with disabilities aged 5 years and above, the national literacy rate was almost identical to that of the older age grouping, at 67% for females and 71% for males. Women and girls with disabilities in rural areas had a literacy rate of 61% while their male counterparts' literacy rate was 66%; in urban areas, the literacy rate was more similar, at 83% for women and girls and 84% for men and boys. Literacy rates for women and girls with disabilities varied substantially at the regional level: above 80% in Khomas, Erongo, //Kharas and Oshana, hovering around 50% in Omaheke and Zambezi and well below 50% in Kunene.³⁵

³¹ The Namibia Statistics Agency used the term “mute/dumb” in its report. There were objections to the use of the word “dumb” because of its double meaning of “mute” and “stupid”. See “NSA offends disabilities deputy minister”, *The Namibian*, 2 June 2016. We have changed the terminology here to read merely “mute”.

³² *2011 Census Disability Report* at 33. Percentages were calculated from the total numbers in Table 3.7.

³³ Id at 32.

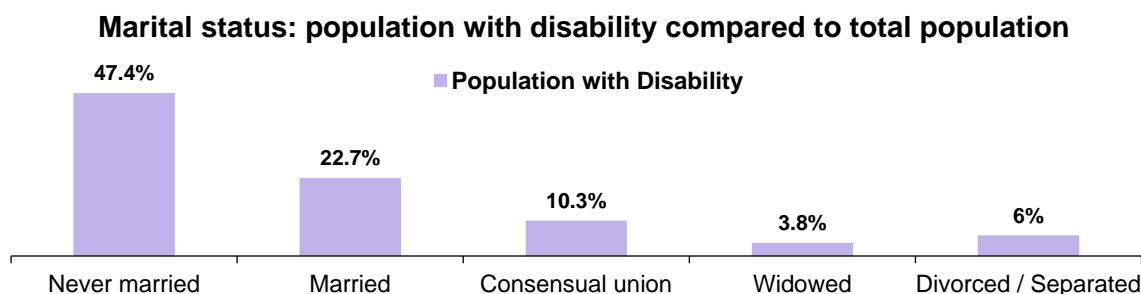
³⁴ Id at 33.

³⁵ Id at 36-37.

Economic activities: While the *2011 Census* asked questions on the economic activities of all persons aged eight years and above, the *2011 Census Disability Report* focuses on persons aged 15 years and above.³⁶ The overall unemployment rate for persons with disabilities was 39%, but it was greater for females (44%) than for males (35%). Women and girls with albinism, which was categorized as a disability in the *2011 Census*, had the highest rate of unemployment at approximately 52%. Women and girls with disabilities experienced higher, and sometimes substantially higher, rates of unemployment than their male counterparts across all disability types.³⁷

Sources of income: There were 36 041 households³⁸ headed by persons with disabilities throughout Namibia (47% headed by females and 53% headed by males).³⁹ The regions in which households headed by women or girls with disabilities exceeded the national average were Ohangwena (55%), Oshana (52%), Omusati (52%), Zambezi (50%) and Oshikoto (48%).⁴⁰ In households headed by females with disabilities, old age pensions were the main source of income (at 38%), followed by farming (at 20%).⁴¹

Marital status: Interestingly, persons with disabilities were *more* likely to have been married at some point than the general population – but also much more likely to be divorced. The *2011 Census* found that about 47% of persons with disabilities aged 15 years and above had never been married, compared to 59% of the total population (which incorporates persons with disabilities). Almost 23% of persons with disabilities were married at the time of the *2011 Census*, compared to 28% of the total population; 10% of persons with disabilities were living with a partner informally, compared to 7.5% of the total population; 6% were divorced, compared to 1.3% of the total population; and just under 4% of both sets of persons were widowed.⁴² No sex disaggregation of the data on marital status of persons with disabilities was provided in the *2011 Census Disability Report*.



Fertility: In the year prior to the *2011 Census*, 1 970 children were born to women with disabilities.⁴³ This makes the Crude Birth Rate for women with disabilities 20.0 births per 1 000 population, compared to 29.4 for all women (including women with disabilities).⁴⁴ (The Crude Birth Rate is the total number of

³⁶ Id at 39.

³⁷ Id at 40.

³⁸ The *2011 Census* defined a household as “a person or a group of persons – related or unrelated, who live together in the same homestead/compound but not necessarily in the same dwelling unit and share the same common catering arrangements.” Id at 48.

³⁹ Id at 50.

⁴⁰ Ibid.

⁴¹ Id at 58-59.

⁴² Id at 16-17, compared to *2011 Census* at 33.

⁴³ Id at 83.

⁴⁴ Ibid, compared to *2011 Census* at 39.

live births per 1 000 persons in the country's population for a given year, based on the mid-year population.)

The Total Fertility Rate for women with disabilities was 3.3 births, compared to 3.6 births for all women.⁴⁵ (Simply put, the Total Fertility Rate calculates the number of children that an average woman is likely to have over her lifetime if she survives to the end of her reproductive life – assuming that the “average woman” as she passes through each age category of her reproductive life gives birth at the average rate which applies to that age category at the time of the data collection.)

The Age Specific Fertility Rates for women with disabilities generally followed a similar pattern as the rates for the total female population. However, fertility levels for women with disabilities appear to peak slightly earlier (at 20-24 years) than general fertility levels (which peaked at 25-29 years).⁴⁶ Also in line with general fertility trends was the finding that fewer children were born to women with disabilities who had higher education levels than to those with no formal education or lower schooling levels.⁴⁷ Looking at fertility rates by type of disability, the lowest rates were recorded for women with autism, albinism and mental disabilities.⁴⁸

12.3 Disability grants

Children with disabilities are eligible for a grant (known as a “special maintenance grant”), with eligibility being based on a medical certificate and a social worker report. No means test is applied. This grant amount is currently N\$250/month.⁴⁹ Children above age 16 are eligible for a disability grant under the National Pensions Act 10 of 1992, which defines “disabled person” to mean “any person who is, owing to any physical or any mental disability, incapable to obtain from any employment or the practising of any profession or trade, or from the rendering of any service, the means needed to enable him or her to adequately provide for his or her own maintenance, and has attained the age of 16 years”.⁵⁰ In practice, the persons in question must be certified as being disabled by a State medical officer, and present themselves for verification once a year at a pension office. There is no means test.⁵¹ The grant amount will be N\$1200/month from mid-2017.⁵²

⁴⁵ Ibid, compared to 2011 Census at 40.

⁴⁶ Id at 85.

⁴⁷ The Total Fertility Rate for women with disabilities with tertiary and secondary education was 1.9 births and 2.5 births respectively, followed by women with disabilities with no formal education (3.2 births), primary education (3.3 births) and incomplete primary school (3.9 births). Id at 87.

⁴⁸ Id at 86.

⁴⁹ Personal communication from Ministry of Gender and Child Welfare, June 2017. The grant amount has been N\$250 since 2014. The grant criteria are defined administratively rather than by legislation. However, child disability grants will in future fall under the Child Care and Protection Act 3 of 2015, which has been passed by Parliament but has not yet come into force (as of 30 June 2017). Section 241(3) of that Act states: “A child disability grant may be paid in addition to a state maintenance or other grant paid in terms of this Chapter.” The idea was that a child disability grant should be additional to any other child grant to provide for the extraordinary expense incurred in caring for children with disabilities.

⁵⁰ National Pensions Act 10 of 1992, section 1. The administration of social welfare grants for adults was previously administered by the Ministry of Labour and Social Welfare, but later moved to the Ministry of Poverty Alleviation and Social Welfare. Child disability grants continue to be administered by the Ministry of Gender Equality and Child Welfare.

⁵¹ Ministry of Labour and Social Welfare, “Disability Grant” pamphlet, undated, <www.gov.na/documents/10181/12007/Brochure_for_Disability.pdf/10d3e7f8-9d98-4ac2-9ea8-67de2c4a4b49>).

⁵² “Increase in pensioner, disability grants”, *New Era*, 8 June 2016.

A press report in April 2016 stated that 35 217 people with disabilities were registered to receive social grants from the Government (with no sex disaggregation).⁵³ In response to an enquiry in May 2017, the Ministry of Poverty Alleviation and Social Welfare, under which the disability grants now resort, reported that 39 530 persons between the ages of 16 and 60 were receiving disability grants, and confirmed that they do not have statistics which are disaggregated by sex.⁵⁴

Other contradictory figures on disability grant coverage have been reported.⁵⁵ Most recently, the performance report of the Ministry of Labour claimed that coverage of disability grants increased to 70% by 2016/17 (with no sex disaggregation) as a result of country-wide outreach programmes and awareness campaigns.⁵⁶ The *2011 Census Disability Report* (published in 2016) indicates that the *2011 Census* recorded 53 692 persons with disabilities between the ages of 15 and 60.⁵⁷ This is not an exact fit with the age coverage of the disability grant (16-60), and the 2011 numbers may well have increased by 2017. However, this data tends to support the assertion that coverage is about 70%. The key gender issue here is the need to keep statistics which are disaggregated by sex, as well as by age and by disability, in order to assess which groups are not experiencing adequate grant coverage.

Persons with certain disabilities may need a “life assistant” to help them with daily tasks, but this is very expensive. The National Pensions Act 10 of 1992 makes provision for the payment of an “attendant’s allowance” to or on behalf of any person in receipt of a disability pension or an old age pension “who is in such a physical or mental condition that he or she needs to be cared for”.⁵⁸ However, this aspect of the law is not yet operational.⁵⁹ An ILO assessment of social grant coverage in Namibia pointed out how this grant would benefit persons with disabilities and their families:

This is an important allowance because, in some cases, people who need to have someone look after them permanently may not have direct family that can take care of them or the financial means to hire someone. Even in instances where a family member is willing to take care of them, the carer will have to forego potential income they could have earned working. An Attendant’s Allowance will assist in both cases, allowing them able to pay someone to look after them or give their family member some money to take care of themselves as well.⁶⁰

Although gender is not specifically mentioned here, implementing the “attendant’s allowance” would be likely to assist women in particular, since they often carry the burden of care of the elderly and persons with disabilities as well as children in the household.

⁵³ “Namibia: Close to 195 000 People Receiving Social Grants”, *The Namibian*, 7 April 2016.

⁵⁴ Personal communication from the Ministry of Poverty Eradication and Social Welfare, May 2017.

⁵⁵ The *2011 Census Disability Report* states at 58: “According to figures provided by the Ministry of Poverty Eradication and Social Welfare to date 33.0 percent of people with disabilities in Namibia receive disability grants”.

The Ministry of Labour reported in April 2013 that disability coverage was 24% in 2011/12, rising to 65% in 2012/13 (with no sex disaggregation). Ministry of Labour and Social Welfare, “Budget Motivation Statement 2013/14” (at 5), <www.mol.gov.na/documents/432260/3409901/Budget_Motivation_Speechx1x.pdf/1323d0d3-4468-4392-bc02-48b64b7a73b0;jsessionid=efcfbb929dfa1bc969ae79079d6c?version=1.0>).

In contrast, the *2013 Baseline Study on Human Rights* asserted that the coverage of the disability grant was only 19% – without providing the source for this statistic (or any sex disaggregation). *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman at 9.

⁵⁶ Ministry of Labour, Industrial Relations and Employment Creation, Accountability Report submitted to the Office of the Prime Minister, Office of the Prime Minister website: <www.opm.gov.na/documents/108506/151750/VOTE+14+MINISTRY+OF+LABOUR%2C+INDUSTRIAL+RELATIONS+%26+EMPLOYMENT+CREATION.pdf/c9eae0ee-ddcd-4e7c-879d-e402a386d459>).

⁵⁷ Calculated from *2011 Census Disability Report*, Table 2.2 at 11.

⁵⁸ National Pensions Act 10 of 1992, section 2(1)(c).

⁵⁹ International Labour Office and Oxford Policy Management, *Report to the Government: Namibia Social Protection Floor Assessment*, 2014 at 135-137 (available at <www.ilo.org/public/libdoc/ilo/2014/114B09_139_engl.pdf>).

⁶⁰ Id at 135.

12.4 Education for children with disabilities

Namibia's 2013 *Sector Policy on Inclusive Education* is designed to ensure that all children participate fully in the education system, with all learners being educated in the least-restrictive education setting and in schools in their neighbourhoods insofar as possible.⁶¹ It targets 16 categories of educationally-marginalized children for inclusion, including "children with disabilities and impairments".⁶² Its strategies on the inclusion of children with disabilities do not include any gender-specific recommendations.

There are about a dozen schools for children with disabilities countrywide.⁶³ According to the *Sector Policy on Inclusive Education*, these schools will be transformed into "Resource Schools" which focus on resource provision and training. Although mainstream schools accept learners with disabilities, at present they often lack the facilities and skills to assist these learners appropriately. It was reported in 2015 that "disability prevents many children from attending school either because access to classrooms is restricted or because of stigmatisation because of disability".⁶⁴ The same report noted that learners with special needs often enrol in school late,⁶⁵ making them overage for their grade levels.

Early Childhood Development: According to the *2011 Census*, 87% of children aged 0-4 who had disabilities were not attending ECD programmes.⁶⁶ Interestingly, this number does not differ from the rate of children aged 0-4 overall.⁶⁷ Non-attendance by children with disabilities of both sexes was much higher in rural versus urban areas. Non-attendance by girls was most acute in Oshikoto (at 17%), followed by Omusati (at 14%), Kavango (at 13%) and Ohangwena (at 12%).⁶⁸ As the *2011 Census Disability Report* states, the high prevalence of ECD non-attendance is at odds with the Education Policy on inclusive education for all Namibian children, including those with disabilities.⁶⁹

In July and August 2012, the Ministry of Gender Equality and Child Welfare (MGEWCW) conducted a nation-wide survey ("*ECD Survey*") of 2 070 ECD centres.⁷⁰ This Survey assessed enrolment of children

⁶¹ *Sector Policy on Inclusive Education*, Windhoek: Ministry of Education, 2013 at 1, 4.

⁶² Id at 5

⁶³ See *Education Statistics, 2012*, Education Management Information System (EMIS), Ministry of Education, April 2013, based on Tables 61, 62 and 62B at 10 (hereinafter "**EMIS 2012**"); "A Namibia Fit for Children: Inclusive Education", UNICEF Factsheet, undated, UNICEF website: <www.unicef.org/namibia/Inc_education_fact_sheet_print.pdf>. No complete and up-to-date list could be located, but we believe that the following are operational:

Khomas Region: NISE (National Institute for Special Education), NISE School for the Visually Impaired, NISE School for the Hearing Impaired, Môreson (a State school for learners with intellectual impairments), Dagbreek (a private school for learners with intellectual impairments), Pionier Boys (learners with learning disorders), Eros Girls (learners with learning disorders), Welwitschia School (a private school for learners with learning difficulties like ADHD, dyslexia or epilepsy)

Hardap Region: Klein Aub (learners with learning disorders)

Ohangwena Region: Usko Nghaamwa Special Primary School (school for the hearing impaired)

Omusati Region: Outapi Special School (learners with learning disorders)

Oshana Region: Eluwa Special School (learners with hearing and visually impairments).

⁶⁴ Ministry of Education, Arts and Culture, UNESCO Institute for Statistics, and UNICEF, *School Drop-Out and Out-Of-School Children in Namibia: A National Review*, Windhoek: UNICEF, December 2015 at 54.

⁶⁵ Ibid.

⁶⁶ *2011 Census Disability Report* at 23.

⁶⁷ *2011 Census* at 47 (indicating that 13% of children aged 0-4 were attending ECD programmes nationwide).

⁶⁸ *2011 Census Disability Report* at 24.

⁶⁹ Id at 23.

⁷⁰ *Early Childhood Development and Education in Namibia: Results of the 2012 Survey of Early Childhood Development Centres by the Ministry of Gender Equality & Child Welfare*, Windhoek: Research & Information

with disabilities in ECD centres, in comparison to the numbers in the *2011 Census*. The ECD Survey recorded 2 124 children with disabilities under age 10 at ECD centres, which accounted for 17% of all children with disabilities under the age of 10 as recorded in the *2011 Census*.⁷¹ Interestingly, this percentage is significantly *better* than the 11.5% enrolment ratio for children *without* disabilities.⁷² The survey notes that the higher proportion of children with disabilities at ECD centres could be attributed to different criteria for recording disabilities, noting that “learning disabilities were probably reported more frequently by caregivers in ECD centres than by parents or guardians at home”.⁷³ As for type of disability, children with disabilities enrolled at ECD centres were most likely to have learning difficulties (1 368 children), followed by hearing impairments (324 children), physical handicaps (271 children) and visual impairments (161 children).⁷⁴

Children under age 10 with disabilities attending ECD Centres in Namibia, by sex and region (2012)				
	Girls		Boys	
	Number	%	Number	%
Erongo	33	20.0	60	35.7
Hardap	10	7.2	13	8.7
//Kharas	41	30.6	46	33.8
Kavango	248	30.7	213	22.5
Khomas	50	9.1	52	9.0
Kunene	44	20.0	36	12.4
Ohangwena	111	14	134	16.1
Omaheke	21	14.3	36	20.8
Omusati	231	26.8	252	26.1
Oshana	89	17	95	17.1
Oshikoto	57	6.2	79	8.2
Otjozondjupa	42	8.3	42	7.8
Zambezi	34	15	55	21.5
NAMIBIA	1,011	16.9	1,113	17.0

Source: *Early Childhood Development and Education in Namibia: Results of the 2012 Survey of Early Childhood Development Centres by the Ministry of Gender Equality & Child Welfare*, Windhoek: Research & Information Services of Namibia (RAISON), October 2014 at 17. The percentages compare the 2012 enrolment to the total population of children with disabilities (by sex and region) in the *2011 Census*.

School attendance: According to the *2011 Census*, amongst the general population, 13% of people age 5 or older had never attended school.⁷⁵ In contrast, among persons with disabilities, 29% of people age 5 or older had never attended school. This pattern was slightly more pronounced among women (30%) than men (28%). Among women age 5 or older, blindness was the disability that most hindered education (47% of blind women never attended school), followed by mental disability (34%) and upper limb physical impairment (31%). Men show a similar pattern, with blindness (42%) and mental disability

Services of Namibia (RAISON), October 2014 at 2. Though the report does not specify how it elected which ECD centres to survey, it appears the study attempted to comprehensively survey all ECD centres in Namibia, as its methodology for determining enrolment rates was to compare the number of children at ECD centres surveyed with the figures from the 2011 census.

⁷¹ Id at 5, 17. It is not clear why the survey applied to children under age 10, when Early Childhood Development is aimed at children between the ages of 0 and 4. See Ministry of Gender Equality and Child Welfare website: <www.mgecw.gov.na/community-integrated-early-childhood-development>. Perhaps this was intended to accommodate children who start their schooling late.

⁷² Id at 5.

⁷³ Ibid.

⁷⁴ Id 5-6, 18.

⁷⁵ *2011 Census* at 50.

(34%) being the greatest hindrances. Amongst men, upper limb physical impairment was a smaller hindrance (26%) than among women. Amongst both sexes, albinism was the disability that least hindered beginning school: 15% of women with albinism and 16% of men with albinism had never attended school.⁷⁶

In Namibia overall, 23% of people age 5 or older were *currently* attending school at the time of the *2011 Census*.⁷⁷ In contrast, only 17% of disabled people in that age group were currently attending school. The disabilities that most hindered current school attendance were the same across sexes: blindness (only 7% of blind women age 5 or older were currently attending school; 9.5% for men), upper limb physical impairment (10% for women; 12% for men), and visual impairment (13% for women, 15% for men). The disabilities that were most accommodating for current school attendance were also the same across genders: albinism (35% of women with albinism were currently attending school; 35% of men) and speech impediment (27% for women; 28% for men).⁷⁸ The regional statistics on school attendance are not disaggregated by sex. However, overall, Ohangwena and Kavango had the highest rates of persons with disabilities who had never attended school (at about 17% in beach region), while Omusati and Khomas saw the highest dropout rates (at 15% and 14% respectively).⁷⁹

Over time, the proportion of persons aged 5 and older with disabilities who never attended school has decreased (51% in 1991; 30% in 2001; 29% in 2011). However, there has also been an increasing trend in such persons leaving school (37% in 1991 had left school; 46% in 2001; 49% in 2011). The net effect is a slight increase in current school attendance: 11% in 1991, 17% in 2001 and 17% in 2011.⁸⁰

There are no pronounced differences by sex in the highest education level completed among persons with disabilities age 15 or older. While women with disabilities were more likely to have completed no formal education (37% of disabled women aged 15 or older had had no formal education; 34% for men), that differential does not last through primary school. Men with disabilities were more likely than women with disabilities to have incomplete primary school education (25% of disabled men aged 15 or older had incomplete primary school education; 23% for women), and higher-level education rates were essentially equal for both sexes.⁸¹

There are some differences by region in educational attainment among persons with disabilities. Of such persons age 15 or older, 31% lived in urban areas and 69% lived in rural areas. However, rural inhabitants

⁷⁶ *Namibia 2011 Census Disability Report* at 28.

⁷⁷ *2011 Census* at 50.

⁷⁸ *Namibia 2011 Census Disability Report* at 28.

⁷⁹ *Id* at 30.

The following summary of school attendance appears in “A Namibia Fit for Children: Inclusive Education”, UNICEF Factsheet, undated, <www.unicef.org/namibia/Inc_education_fact_sheet_print.pdf>, based on information in Ministry of Education, Arts and Culture, UNESCO Institute for Statistics and UNICEF, *School Drop-Out and Out-Of-School Children in Namibia: A National Review*, Windhoek: UNICEF, December 2015. The statistics referred to are drawn from the *2011 Census*. We could not independently verify the accuracy of the summary from the *2011 Census*, but it seems consistent with the 2011 Census data.

UNICEF supported a study on out-of-school children in 2014 to get a better picture of children who are excluded from education and to inform programming. The findings show that just over 21 000 Namibian children aged 6 to 19 have a disability, 3.3 per cent of the population in that age group. Of the children in this age group with disabilities, about 65 per cent attend school compared to 79 per cent of those without a disability. This means that around 4 600 more children with disabilities are not in school. This differential in school attendance between children with and without disabilities does not vary much by age. A substantial part of the difference in school attendance arises because the proportion of children with disabilities who never attend school is high, at 16 per cent, whilst this proportion is only 6 per cent amongst other children.

⁸⁰ *Namibia 2011 Census Disability Report* at 28.

⁸¹ *Id* at 33.

were disproportionately likely to lack formal education: of persons with disabilities with no formal education, only 18% lived in urban areas and 82% lived in rural areas. Correspondingly, urban inhabitants with disabilities were disproportionately likely to have completed tertiary education: 76% of persons with disabilities who completed tertiary education lived in urban areas, and only 24% lived in rural areas.⁸²

The Education Management Information System (EMIS) statistics provide more sex-disaggregated information. The most recent EMIS statistics available at the time of writing were for 2012. In 2012, there were 32 404 learners with disabilities enrolled in Namibian schools, 47% of which were female (15 150). Among girl learners, partial blindness (20%), hearing impairment (19%) and learning disorders (17%) were the top three classifications of disability. Among boy learners, learning disorders (21%), behavioural disorders (20%) and hearing impairment (14%) constituted the top three classifications. The top disorder for girls, partial blindness, was only the fourth most common disability among boys (13%). The regions with the highest proportions of all the learners with disabilities enrolled in school were Kavango (18%), Khomas (15%), Omusati (12%) and Ohangwena (11%). The regions with the highest percentage of girls among learners with disabilities were Kavango and Kunene (in both cases, 49% of learners with disabilities were female). The regions with the lowest percentage of girls were Omusati (43% girls) and Oshikoto (44% girls).⁸³

Learners with disabilities by type of disability, sex and region (2012)

Region		Total	Both Visual and Hearing	Partially Blind	Totally blind	Heard Hearing	Deaf	Epileptic	Behavioural Disorder	Mild Intellectual	Severe Intellectual	Physical	Learning Disorder	Autistic	Other
National	Total	32 404	1 157	5 302	261	5 399	667	1 311	5 078	3 074	877	1 519	6 104	298	1 357
	Females	15 150	621	2 974	148	2 925	343	816	1 651	1 277	364	636	2 544	105	746
	Males	17 254	536	2 328	113	2 474	324	495	3 427	1 797	513	883	3 560	193	611
Regions															
Caprivi	Total	1 522	131	317	21	321	19	88	208	153	36	101	107	4	16
	Females	719	66	157	13	160	9	72	83	65	11	38	40	2	3
	Males	803	65	160	8	161	10	16	125	88	25	63	67	2	13
Erongo	Total	1 233	48	291	12	132	4	50	268	72	44	33	213	31	35
	Females	581	31	190	7	71	3	34	81	33	11	14	84	9	13
	Males	652	17	101	5	61	1	16	187	39	33	19	129	22	22
Hardap	Total	1 417	9	195	2	151	8	87	234	206	65	58	282	17	103
	Females	669	3	120	-	84	6	61	73	97	33	31	119	7	35
	Males	748	6	75	2	67	2	26	161	109	32	27	163	10	68
Karas	Total	999	21	143	14	172	22	74	136	105	21	37	209	10	35
	Females	454	12	83	8	98	11	42	36	38	6	18	93	3	6
	Males	545	9	60	6	74	11	32	100	67	15	19	116	7	29
Kavango	Total	5 968	316	907	46	1 371	121	144	860	523	159	313	1 078	39	91
	Females	2 902	141	481	34	729	66	89	334	250	75	130	508	15	50
	Males	3 066	175	426	12	642	55	55	526	273	84	183	570	24	41
Komas	Total	4 774	163	969	47	520	139	185	774	517	98	142	687	50	483
	Females	2 286	96	559	25	290	65	109	225	172	44	60	251	11	379
	Males	2 488	67	410	22	230	74	76	549	345	54	82	436	39	104
Kunene	Total	1 320	32	212	4	151	4	58	330	105	27	57	299	7	34
	Females	644	23	132	2	67	3	40	125	43	13	23	150	5	18
	Males	676	9	80	2	84	1	18	205	62	14	34	149	2	16
Ohangwena	Total	3 686	92	390	18	629	67	133	597	401	115	201	865	43	135
	Females	1 657	56	202	13	352	36	81	183	168	49	90	348	15	64
	Males	2 029	36	188	5	277	31	52	414	233	66	111	517	28	71
Omaheke	Total	1 100	46	204	7	206	2	42	180	99	37	50	186	1	40
	Females	510	26	108	6	113	1	26	61	42	15	15	81	-	16
	Males	590	20	96	1	93	1	16	119	57	22	35	105	1	24
Omusati	Total	3 760	96	509	33	709	17	190	547	255	120	213	810	42	219
	Females	1 624	51	285	12	390	8	108	147	102	40	83	307	16	75
	Males	2 136	45	224	21	319	9	82	400	153	80	130	503	26	144
Oshana	Total	2 380	54	512	43	352	236	72	284	170	46	116	413	14	68
	Females	1 142	32	295	23	197	120	42	86	70	25	51	160	6	35
	Males	1 238	22	217	20	155	116	30	198	100	21	65	253	8	33
Oshikoto	Total	2 251	53	334	13	382	16	83	335	270	64	141	495	22	43
	Females	995	32	169	5	213	9	49	95	109	23	56	204	9	22
	Males	1 256	21	165	8	169	7	34	240	161	41	85	291	13	21
Otjozondjupa	Total	1 994	96	319	1	303	12	105	325	198	45	57	460	18	55
	Females	967	52	193	-	161	6	63	122	88	19	27	199	7	30
	Males	1 027	44	126	1	142	6	42	203	110	26	30	261	11	25

Source: EMIS 2012, Table 61. This set of data does not report comparisons of children with disabilities in mainstream versus special schools by sex, as some previous EMIS reports did.

⁸² Id at 32.

⁸³ EMIS 2012, based on Tables 61, 62 and 62B.

A 2015 survey aimed at informing the development of a new law on education asked learners, parents and educators in various positions about inclusive education for persons with disabilities. There were two questions:

Question 1: Do you think that enough is being done to ensure access to schooling for learners with disabilities?

Question 2: If not, what changes would you recommend?⁸⁴

Overall, less than half of the respondents thought that enough was being done to cater for learners with disabilities – with almost no school inspector or chief/senior education officer thinking that the educational response was adequate.⁸⁵

Overall response			
Total 6 067 respondents	Access to schooling for learners with disabilities effectively addressed	2 669	44%
	Access to schooling for learners with disabilities ineffectively addressed	1 688	28%
	No answer	1 710	28%

Source: *Survey Report: Towards a New Education Act for Namibia*, Windhoek: Ministry of Education, Arts and Culture, 2016 at 21 (with errors in chart labels corrected).

None of the suggestions for improvement were gender-specific. The recommendations from those surveyed included these ideas:

- Build schools and hostels which are disability friendly, with features such as ramps, rails, disability-friendly toilets and lifts for wheelchairs in multi-storey buildings. Some suggested that Government should build at least one disability-friendly school per region.
- Provide Braille machines, hearing aids, computers and other appropriate teaching aids.
- Train and appoint teachers who are qualified to teach learners with disabilities.
- Provide support services such as transport, meals and healthcare to learners with disabilities.
- Government should encourage learners with disabilities to attend school and encourage their parents to send them to school.
- Provide schools with support staff or teacher assistants to assist learners with disabilities.
- Sensitise teachers, learners and communities to promote respectful treatment of children with disabilities.⁸⁶

12.5 Affirmative action for persons with disabilities

The implementation of affirmative action measures for women, racially-disadvantaged persons and persons with disabilities under the Affirmative Action (Employment) Act 29 of 1998 is monitored by the Employment Equity Commission. The most recent compilation of annual reports which are required from relevant employers (those with more than 25 employees)⁸⁷ covers the period 1 April 2015 to 31 March 2016.⁸⁸ Overall, a mere 0.4% of the almost 200 000 employees covered by these reports were persons with disabilities, of whom 65% were men.⁸⁹ The report also notes that the Employment Equity

⁸⁴ *Survey Report: Towards A New Education Act For Namibia* Windhoek: Ministry of Education, Arts and Culture, 2016 at 21 (with misspelling corrected) (available at <[www.moe.gov.na/files/downloads/954_MoEAC%20-%20Towards%20a%20New%20Education%20Act%20-%20Survey%20Report%20\(Feb%202016\)%20-%20Final%20\(web%20quality\)%20\(2\).pdf](http://www.moe.gov.na/files/downloads/954_MoEAC%20-%20Towards%20a%20New%20Education%20Act%20-%20Survey%20Report%20(Feb%202016)%20-%20Final%20(web%20quality)%20(2).pdf)>).

⁸⁵ Id at 23.

⁸⁶ Id, summarised from suggestions at 21-22.

⁸⁷ See Government Notice 95 of 2006, *Government Gazette* 3658.

⁸⁸ *Annual Report 2015-2016*, Employment Equity Commission at 6. The Commission received 763 affirmative action reports covering 199 126 employees across all industrial sectors in respect of this period.

⁸⁹ Id at 22. There were 570 men compared to 308 women out of the total of 878 employees.

Commission received several complaints of unfair discrimination on the basis of race and sex during the reporting period, but there was no mention of complaints involving persons with disabilities.⁹⁰

The results were similar in the previous annual report for the period 1 April 2014 to 31 March 2015,⁹¹ when only 0.5% of the almost 170 000 employees covered by these reports were persons with disabilities, of whom 75% were men.⁹² This report states that the Employment Equity Commission received several complaints of unfair discrimination against persons with disabilities, but found that many of these “were based on perception rather than concrete facts” and so were difficult to prove.⁹³ Given the small numbers, further analysis of workforce positions does not seem very useful.

In 2012, the National Disability Council of Namibia and the Namibia University of Science and Technology (NUST) signed a Memorandum of Understanding to “provide capacity-building initiatives to people with disabilities and equip them with the necessary skills to run successful businesses and make meaningful contributions towards the local economy.”⁹⁴ The Centre for Enterprise Development at NUST has been offering a seven-month entrepreneurship programme for persons with disabilities, with small groups graduating from the programme in 2015 and 2016. In both classes over half of the graduates were women.⁹⁵

12.6 Mental health issues

Mental health is a neglected area in Namibia, and little information is available on the gender dimensions of this issue.

Of the 5% of people in Namibia with a disability, 11% are classified as having a mental health disability (with no sex-disaggregated statistics being reported).⁹⁶ A 2008 Ministry of Health report estimates that just over 2% of the population was being treated for mental health disorders annually.⁹⁷ These statistics suggest that the incidence of mental health disorders in Namibia is lower than the global incidence

⁹⁰ Id at 6.

⁹¹ *Annual Report 2014-2015*, Employment Equity Commission at 10 (available at <www.eec.gov.na/documents/137464/172042/2014-2015+Annual+Report/dcc5a4e0-ba8a-4a53-8d99-9971dd88e3d7>).

The Commission received 691 affirmative action reports covering 168 288 employees in respect of this period.

⁹² Id at 16. There were 803 men compared to 275 women in the total of 1 078 employees.

⁹³ Id at 11-12.

⁹⁴ Namibia University of Science and Technology, “Graduates Prove Disability Not Inability” (18 December 2015), online: NUST, <www.nust.na/?q=news/graduates-prove-disability-not-inability> (accessed 29 March 2017).

⁹⁵ Ibid; “Entrepreneurs with Disabilities Graduate”, 9 December 2016, <www.nust.na/?q=news/entrepreneurs-disabilities-graduate>.

⁹⁶ *2006 Namibia Inter-censal Demographic Survey*, Windhoek: National Planning Commission, 2010 at 16-17.

⁹⁷ *Health and Social Services System Review*, Windhoek: Ministry of Health and Social Services, 2008 at 72 states that 42 124 people with a mental health diagnosis (2.34% of the population) were treated at outpatient clinics, while 40 940 of these persons revisited outpatient clinics and were admitted owing to a mental health disorder between April 2007 and March 2008.

Incidence figures cited in 2005 are similar, estimating that 2-3% of adults in Namibia have serious mental health disorders and 10% have common mental health disorders, whilst 0.1-1% of children under the age of 15 have serious mental health disorders, with an additional 1% having learning or behavioural problems. *National Mental Health Policy*, Windhoek: Ministry of Health and Social Services, 2005 at 5.

estimates of 10% for adults and 20% for children,⁹⁸ but it is likely that this is due to a lack of recognition of mental health problems rather than to a lower incidence of such disorders.⁹⁹

The 2013 report of the Presidential Commission on Health found that mental health care is poor in all regions¹⁰¹ and recommended that mental health services should be addressed as a matter of urgency by constructing a suitable room in each hospital and providing adequate mental health facilities at Oshakati and Windhoek Central Hospitals, along with training of mental health professionals¹⁰² – including training of more nurses in mental health to provide mental health services at district hospital, health centre, clinic and community level.¹⁰³

In general, psychiatric services in the entire country are rendered from old-fashioned and poorly designed facilities. All district hospitals visited by the Commission do not have standard rooms to keep acute psychiatric patients before they are transferred to referral psychiatric units. Hygienic conditions and maintenance at the two psychiatric units in Oshakati and Windhoek are not well managed.... There is a dire need for MoHSS to address the psychiatric health services in the country. A cadre of specialised nurses is needed in psychiatric facilities and in selected health facilities across the country. The idea would be to avoid institutionalisation of many patients but to instead promote community based mental care.¹⁰⁴

Legal issues

- * The relevant legislation is the **Mental Health Act 18 of 1973**, which was inherited from South Africa and has not been amended since independence. The process of drafting updated legislation has been underway for many years now and seems to have been bogged down, although news reports indicate that a draft Mental Health Bill was approved by Cabinet in May 2017.¹⁰⁰
- * **Medical aid schemes** in Namibia provide much lower coverage for hospitalisation for mental illness than for physical illness – even though this is an unclear distinction. Given the lack of awareness about mental health disorders, few people have the capacity to lobby against this discriminatory approach.

In 2008, another government report noted:

Mental illness is a major cause of morbidity as well as some mortality amongst the population of Namibia. Major constraints include lack of adequate skilled labour and mental health facilities and equipment, and inaccessibility of services by majority of the population particularly those in rural areas.¹⁰⁵

The 2004 *School-based Student Health Survey* of 6 367 Namibian learners in grades 7-9 found that 32% had made a plan about how to attempt suicide during the previous year and an astonishing 37% said that

⁹⁸ V Patel, “Alcohol use and mental health in developing countries”, *Annals of Epidemiology*, 17 (5; Supplement), S87–S92; World Health Organization, *Mental health atlas 2005*, Geneva: World Health Organisation.

⁹⁹ Data from neighbouring South Africa also suggests that the information for Namibia underestimates the true incidence of mental health disabilities and disorders. The South African Stress and Health (SASH) study, the first large-scale population-based study of common mental disorders conducted in South Africa, showed an adult prevalence of mental health disorders in 30.3% of the study participants. As Namibia and South Africa have many social and historical similarities, this data suggests that there is also a high level of unmet need for mental health services in Namibia. AA Herman et al, “The South African Stress and Health (SASH) study: 12-month and lifetime prevalence of common mental disorders”, *South African Medical Journal*, 99, 339-344, 2009.

¹⁰⁰ Ndanki Kahiurika, “Cabinet gives Mental Health Bill the nod”, *The Namibian*, 29 May 2017.

¹⁰¹ “Report of the Presidential Commission of Inquiry: Ministry of Health and Social Services to His Excellency Hifikepunye Pohamba, January 31, 2013” at iv.

¹⁰² Id at xi.

¹⁰³ Id at 45.

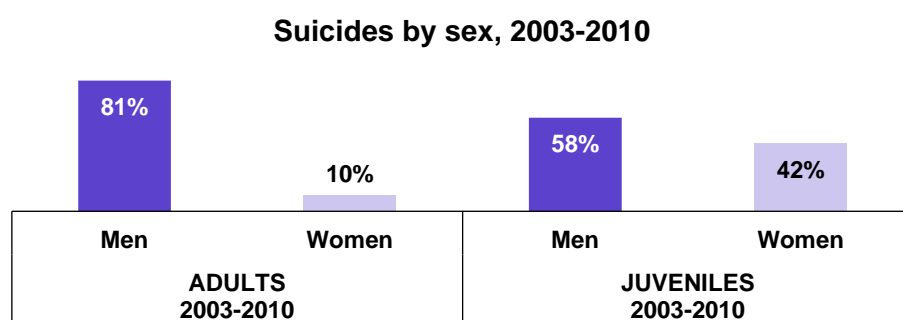
¹⁰⁴ Id at 37 (para 44.1).

¹⁰⁵ *Health and Social Services System Review*, Windhoek: Ministry of Health and Social Services, 2008 at 72 (available at <http://pdf.usaid.gov/pdf_docs/Pnadx735.pdf>).

they had attempted suicide one or more times during the previous year (with these proportions being similar for male and female learners) – while between 9 and 10% of respondents of both sexes reported having attempted suicide *twice or more* in the previous year. The most commonly-cited reason was “family problems”. The second most commonly-cited reason was “I was/fell pregnant”, followed by “I was not doing well at school”, “I had boyfriend/girlfriend relationship problems” and concerns about HIV or other diseases.¹⁰⁶

These shocking findings do not appear to be an anomaly; the 2013 School-based Student Health Survey, which surveyed 4 531 Namibian students, again reported high rates of suicidal thoughts – with more than one out of five students (21%) aged 13-17 reporting that they had seriously thought of attempting suicide in the previous year, and more than one out of four (26%) reporting that they had actually attempted suicide in the previous year – again with the proportions being similar for male and female learners). The reasons for the suicidal thoughts in the 2013 survey are not included in the data published to date.¹⁰⁷ These statistics are alarming, but have not generated any widespread public interest to date.

During the period 2003-2010, Namibian police figures indicated an average annual suicide rate of 441. This translates into 21 suicides per 100 000 population, which is far above the global average of 15-16 suicides per 100 000 population and amongst the highest in the world. Adult men were far more likely to commit suicide than women, but the difference narrowed for juveniles under age 18.¹⁰⁸



Source: Based on “Curbing a killing spree”, *insight* magazine, August 2011, citing NamPol statistics.

The suicide rate has remained high in more recent years, with 489 suicides in 2011 (83% male);¹⁰⁹ 437 suicides in 2012;¹¹⁰ 473 (82% male) in 2013;¹¹¹ 448 in 2014 (83% male);¹¹² 464 in 2015 (84% male);¹¹³ and 368 in 2016.¹¹⁴

As of 2016, there were only two State mental health treatment centres – a department within the Windhoek Central Hospital with a bed capacity of some 212 and a forensic psychiatric unit with 90 beds, and the Oshakati Psychiatric Unit in the Oshakati Hospital, which has 80 beds but admits up to 100

¹⁰⁶ *Report on the Namibia School-Based Student Health Survey 2004*, Windhoek: Ministry of Health and Social Services, 2008.

¹⁰⁷ Global School-based Student Health Survey, Namibia 2013 Fact Sheet.

¹⁰⁸ “Curbing a killing spree”, *insight* magazine, August 2011.

¹⁰⁹ Denver Kisting, “Close to 500 commit suicide in 2011”, *The Namibian*, 15 March 2012.

¹¹⁰ Nomhle Kangootui, “Stressed Namibia is suicidal”, *The Namibian*, 26 April 2016.

¹¹¹ “Nam suicide rate one of world’s highest”, *The Namibian*, 18 March 2014.

¹¹² Nomhle Kangootui, “Stressed Namibia is suicidal”, *The Namibian*, 26 April 2016.

¹¹³ Ibid.

¹¹⁴ “2 190 suicides recorded in last five years”, *New Era*, 13 January 2017.

patients.¹¹⁵ According to the annual report of the Health Professions Council of Namibia, there were 117 registered clinical psychologists, 22 educational psychologists and 15 registered intern psychologists in Namibia in 2015/16.¹¹⁶ However, the WHO 2014 *Mental Health Atlas* counted only 1.79 psychologists and 0.17 psychiatrists for every 100 000 persons in Namibia.¹¹⁷

The majority of services for children with learning disabilities and mental health problems are provided by civil society.¹¹⁸ Public awareness about mental health conditions is also limited, with the public having few places at which to access information.¹¹⁹ A further problem is that medical insurance providers provide much lower coverage for hospitalisation for mental illness than for physical illness – even though this is an unclear distinction. Given the lack of awareness about mental health disorders, few people have the capacity to lobby against this discriminatory approach.¹²⁰

12.7 Disability Annual Monitoring Reports

In 2016, the National Disability Council of Namibia instituted a requirement that a broad range of employers and institutions in the public and private sectors must submit a Disability Annual Monitoring Report, with the first reports due in April 2017.¹²¹ For purposes of the report, persons with disabilities are defined to include “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.¹²² This requirement applies to all government ministries, offices and agencies; all State-owned enterprises; local and regional authorities and the private sector.¹²³ It is noteworthy that the forms provided for the reports request sex-disaggregated data in most instances.

The plan is that the Council will issue a Disability Compliance Certificate to any organization that meets the minimum requirements in terms the National Disability Council Act 26 of 2004, the Convention on the Rights of Persons with Disabilities and the Continental Plan of Action for the African Decade of Persons with Disabilities. Those organizations that do not meet the minimum requirements will be given a report detailing corrective measures that need to be implemented in order to achieve compliance. It is not clear what consequences will attach to non-compliance.¹²⁴ Information extracted from the various reports

¹¹⁵ “Over 8 000 treated for mental health”, *New Era*, 12 April 2016.

¹¹⁶ *Annual Report of the Health Professions Council of Namibia 2015/2016* at 62 (available at <www.hpcna.com/images/publications/ANNUAL%20REPORT.pdf>).

¹¹⁷ “Mental Health Atlas Country Profile 2014: Namibia”, <www.who.int/mental_health/evidence/atlas/profiles-2014/nam.pdf?ua=1>. These figures appear to be inconsistent; it may be that not all of the registered mental professionals are in active general practice.

¹¹⁸ Legal Assistance Centre, “Alternative report to Namibia’s first, second and third periodic reports on the implementation of the United Nations Convention on the Rights of the Child and two optional protocols (1997-2008)”, 2012 at 18.

¹¹⁹ Ibid.

¹²⁰ Id at 19.

¹²¹ *Disability Annual Monitoring Report*, National Disability Council of Namibia, 2016 at 5 (available at <www.ndcn.com.na/documents/report.pdf>).

¹²² Id at 7.

¹²³ Id at 8. This initiative appears to fall under the information-gathering powers of the Council pursuant to section 15 of the National Disability Council Act 26 of 2004. Section 17 on annual reports by government ministries is also pertinent.

¹²⁴ Section 22 of the National Disability Council Act 26 of 2004 states that anyone who obstructs the Council in the performance of its functions under section 15 commits an offence punishable by a fine of up to N\$16 000 or imprisonment for up to 4 years, or both. However, section 15 refers only to the Council’s information-gathering powers.

is to be included in the annual report of the Council which is supposed to be tabled annually in the National Assembly.¹²⁵

However, this process is still under way as the information-gathering mechanisms proved to be in need of improvement.¹²⁶

12.8 Attitudes about persons with disabilities

The *2013 Baseline Study Report on Human Rights in Namibia* commissioned by the Office of the Ombudsman asked respondents about any forms of discrimination “that people generally face” in terms of the right to vote. Almost 8% of respondents believed that people experience discrimination in terms of the right to vote due to disability. No details were collected and the report notes that responses did not differ significantly between men and women. Even more concern about discrimination against persons with disabilities emerged when respondents were questioned about the barriers “that people generally face” in exercising their right to freedom of speech, with 17.6% indicating a perception that people face discrimination on the basis of disability in exercising this right. Again, responses did not vary significantly between the sexes.¹²⁷ It must be emphasised that the respondents were not reporting on actual experiences of discrimination, but on their perceptions of barriers at work in Namibian society.

Respondents in this survey were also asked to rate access to social services (land, housing, education, healthcare, etc) for various social groups in the five years preceding the 2012 survey. More than half (51%) thought that access to services had improved for persons with disabilities, while a third (33%) thought this had remained the same and 16% thought that it had worsened.¹²⁸ In response to a question about whether the right to participate equally in national politics has improved for various target groups during this 5-year period, about 69% thought that this right had improved for persons with disabilities, while 22% thought this had remained the same and 9% thought that it had worsened.¹²⁹

When asked about the problems faced by persons with disabilities, respondents cited lack of employment (35%), discrimination (21%), lack of access to resources (16%) and lack of access to education (12%).¹³⁰ Participants in a focus group discussion held with persons with disabilities in Katutura reported that most health facilities are not geared to persons with disabilities, who often find it difficult to access the buildings, noting that facilities such as toilets are not suitable to meet the needs of persons with disabilities and that medical staff are not equipped to deal with persons with visual impairments.¹³¹ Another focus group discussion pointed to the non-availability and inaccessibility of proper sanitation facilities for people with disabilities.¹³²

¹²⁵ National Disability Council Act 26 of 2004, section 21. No annual reports of the Council could be located to date.

¹²⁶ Personal communication, Office of the President: Disability Affairs.

¹²⁷ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman at 129-130. The national household survey on attitudes about human rights issues was targeted at 1 280 households (645 women and 635 men), with the actual interviews taking place in 2012 and closely approaching this target. Note that Table 98 in the report appears to be mislabelled.

¹²⁸ Id at 199, with responses being similar for men and women.

¹²⁹ Id at 129.

¹³⁰ Id at 77.

¹³¹ Id at 172.

¹³² Id at 191.

Almost all respondents (97%) believed that schools should provide special facilities for disabled pupils and over 80% believed that disabled people had equal rights – although the wording of this question (“*Do you think people living with disabilities have equal rights in Namibia?*”) seems ambiguous as to whether it was asking about the current situation on the ground, or the rights guaranteed in theory by the law and the Constitution.¹³³

¹³³ Id at 79.

Chapter 13

Key National Plans

Namibia has produced a plethora of policies, plans and international and regional commitments. There are so many blueprints that, while they do not contradict each other, they articulate so many priorities that they endanger the concept of prioritization. Only the Harambee Prosperity Plan is receiving consistently high-profile public attention and monitoring. This chapter looks at the key Namibian plans which are pertinent to gender. It does not consider international commitments, such as the principles contained in the various international and regional agreements to which Namibia is party, or the Sustainable Development Goals.

13.1 Vision 2030 (2004)

Vision 2030¹ is Namibia's long-term development plan, which defines development goals by envisaging what Namibia should look like in the year 2030:

It is designed as a broad, unifying vision which would serve to guide the country's five-year development plans, from NDP 2 through to NDP 7 and, at the same time, provide direction to government ministries, the private sector, NGOs, civil society, regional and local Government authorities.²

The key vision is that Namibia will by 2030 be a “prosperous and industrialised Namibia, developed by her human resources, enjoying peace, harmony and political stability”.³ The document identifies eight themes which are key to the realisation of the vision, each of which is the subject of a separate “strategic study”:

1. Inequality and social welfare
2. Peace and political stability
3. Human resources, institutional- and capacity-building
4. Macro-economic issues
5. Population, health and development
6. Natural resources and environment
7. Knowledge, information and technology
8. Factors of the external environment.⁴

Vision 2030 also recognises “gender equity” as being one of five broad “driving forces” for realising Vision 2030, along with education, science and technology; health and development; sustainable agriculture; and peace and social justice.⁵

The document's analysis of gender and development provides a good description of the gender impacts of Namibia's history, and its description of the situation in 2004 is in most respects still true today:

¹ *Namibia Vision 2030: Policy Framework for Long-Term National Development (Main Document)*, Windhoek: Office of the President, 2004 (hereinafter “**Vision 2030**”).

² Id at 9.

³ Id at 38.

⁴ Id at 228, 231-234.

⁵ Id at 11.

The colonial era strengthened women's traditional subordination. The migrant labour structure forced women to take over the tasks of men in the subsistence agriculture areas and to raise their children alone. During drought years, the women were dependent on remittances from male family members, which deepened traditional patriarchal domination. Deteriorating conditions in rural areas forced many women to migrate to urban areas to look for work, but more than 60 percent ended up as low paid domestic servants.

Before Independence, women were poorly represented in all positions of influence. Only two women occupied senior positions in the civil service. No women were school principals, inspectors or heads of departments. Girls were underrepresented in science and economic studies and were mainly being trained to be nurses or teachers.

The following are still strongly present in the Namibian society:

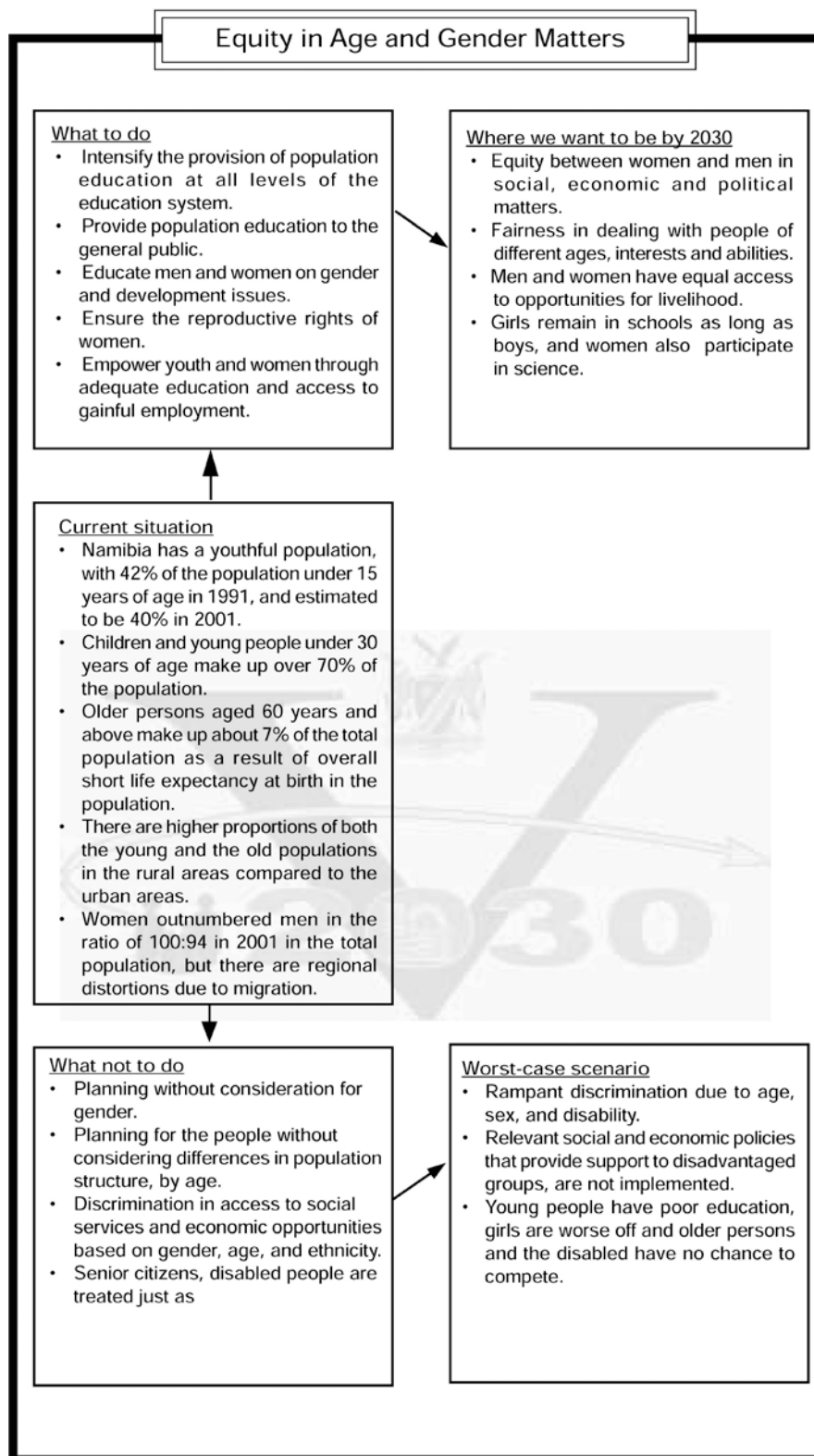
- A large percentage of Namibia's households are female-headed. Female households are often worse off than male-headed households. Opportunities for employment are limited and the women juggle many different burdens at the same time, and this will intensify with the spread of HIV/AIDS.
- Regional disparities still exist in enrolment of girls in schools.
- The high number of rapes that occur in Namibia each year reflects the past and current unbalanced situation between men and women. In addition to the direct physical and psychological damage done to the rape victims, the threat of rape makes many women live in fear and often restricts their movement and activities.
- Gender-based Affirmative Action in employment has largely focused on the educated middle class.
- In addition to Affirmative Action issues, women have made gains in other areas related to labour and employment. The Labour Act has for the first time included labour legislation relations in the domestic and agricultural sectors, allowing domestic workers and farm workers some access to the judicial arm of the state. "Unlike reforming labour legislation, the practical aspects of enforcing these laws will not be easy." The domestic work sector happens to be one of the most vulnerable sectors in the Namibian labour market.
- In 1996, there were an estimated 24 000 domestic workers; about 10% of all employed women work as domestic workers, and one in every 20 women over the age of 15, is a domestic worker.
- In recent years the focus on empowerment of women in society has been to promote women to positions in public office. Although important, this will not resolve fundamental issues affecting women.
- Legally binding quotas for women on party lists have also enhanced participation of women at local government levels, but participation of women remains weak at regional and national elections.
- Many long-awaited laws that affect women have not yet been finalised, including laws on child maintenance [in fact enacted in late 2003], inheritance, the recognition of customary marriages and divorce. There is a solid network of various NGOs working on the issues, and government, with the creation of the Ministry of Women Affairs and Child Welfare [now the Ministry of Gender Equality and Child Welfare], has shown how seriously it takes the strengthening of the role of women in Namibian society.

The position of women is discussed in connection with many topics, and sex-disaggregated evidence is cited in many places. Women feature explicitly in two of the Main Document's "sub-visions", and gender issues are interwoven into many of the other sub-visions; for example, domestic violence is highlighted in the discussion and strategies around increasing public safety.⁶ The two sub-visions which place particular emphasis on women relate to the principles of equity and gender and development:

Equity in age and gender matters: *"Namibia is a just, moral, tolerant and safe society with legislative, economic and social structures in place to eliminate marginalisation and ensure peace and equity between women and men, the diverse ethnic groups and people of different ages, interests and abilities."*⁷

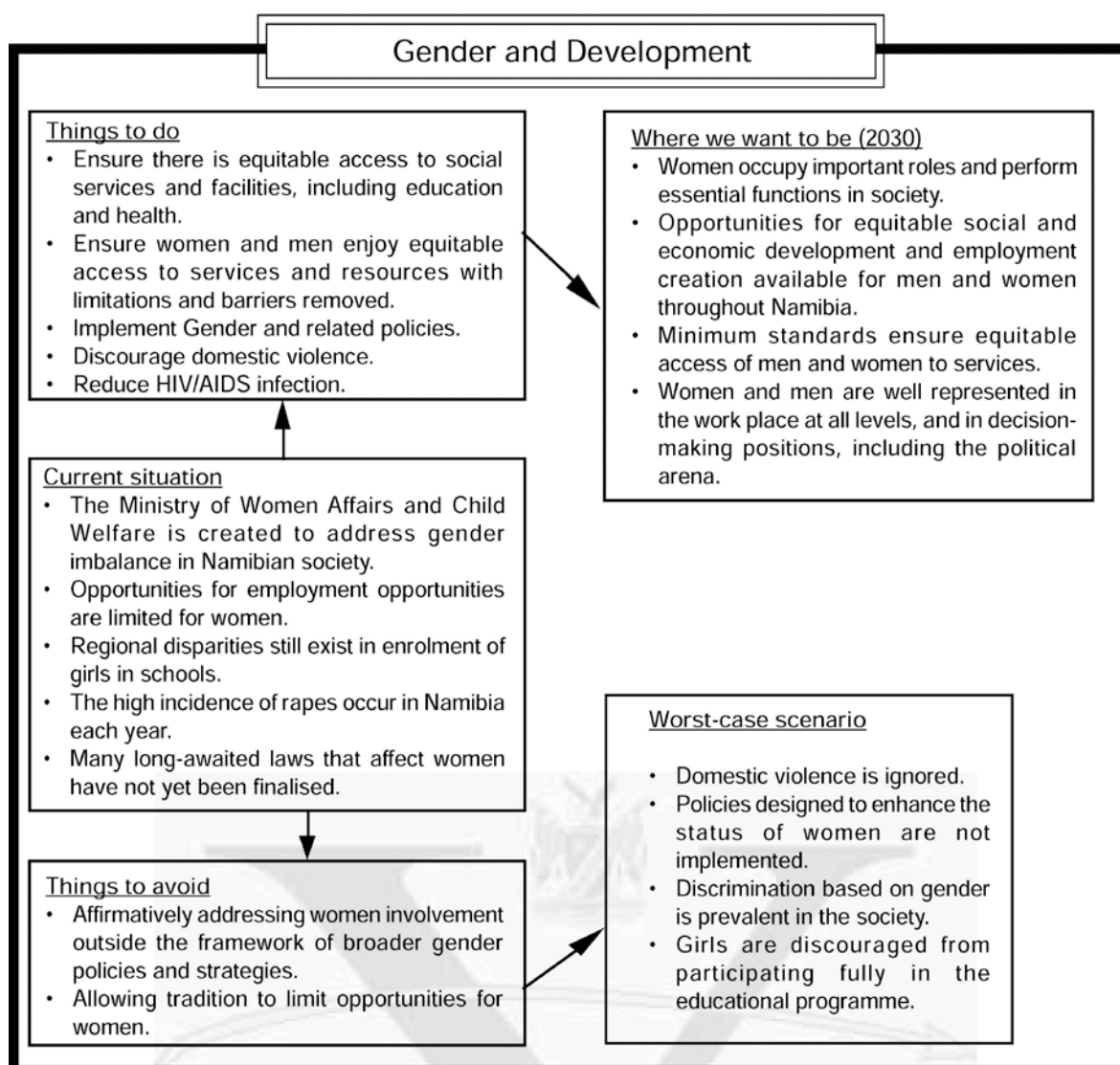
⁶ Id at 128-ff.

⁷ Id at 51.



Source: *Vision 2030* at 52.

Gender and Development: “Namibia is a just, moral, tolerant and safe society, with legislative, economic and social structures in place that eliminate marginalisation and ensure peace and equity between women and men, the diverse ethnic groups, and people of different interests.”⁸



Source: Vision 2030 at 110.

There has been some recent criticism and scepticism about whether Namibia is generally on track to realise Vision 2030, with some analysts asserting that the targets are unrealistic⁹ – particularly given the recent weakening of economic growth, the absence of a socioeconomic programme which successfully reduces wealth inequalities, the failure of capital injection into public infrastructural programs to result in meaningful employment creation, and questioning whether the industrialisation envisaged by Vision 2030 is in fact the best route for the nation.¹⁰

⁸ Id at 109.

⁹ See, for example, Steve Hedden, “Turning vision into reality: Namibia’s long-term development outlook”, Institute for Security Studies Paper 288, November 2015.

¹⁰ Berny Baisako, “Vision 2030 an illusion – critics”, *The Villager*, 24 February 2017, with comment from Tom Alweendo, Henning Melber, Graham Hopwood and Frans Uusiku.

13.2 Harambee Prosperity Plan (2016)

The Harambee Prosperity Plan¹¹ launched in 2016 (during the State of the Nation Address in April 2016) has become a national focal point for efforts to eradicate poverty and wealth disparities in Namibia. It has garnered more political attention than any other plan or policy in Namibia to date, and it contains more specific targets and timelines than most similar plans and policies, coupled with a refreshing political emphasis on implementation. It is intended to complement Vision 2030 and Namibia's National Development Plans.

The Harambee Prosperity Plan is structured around five pillars: (1) effective governance and service delivery; (2) economic advancement; (3) social progression; (4) infrastructure development and (5) international relations and cooperation. However, it has been criticised by civil society for inadequate attention to gender issues.¹²

The main area in the Harambee Prosperity Plan where women are specifically discussed is in their role as mothers, in respect of the strategies for reducing infant and maternal mortality. Although the interventions in question are much needed, this focus could suggest to some that women are first mothers and only secondly economic players. The Plan fails to set specific numerical targets pertaining to gender balance. For example, the target of delivering prosperity to a youthful nation identifies youth and "in particular young women" as key target beneficiaries for development (as well as being key implementing partners and participants), but there is no specific milestone relating to young women. Similarly, one target of the plan is "Economic empowerment leading to higher inclusion of disadvantaged groups into the formal economy"; previously-disadvantaged groups obviously include women, but there is no specific action or milestone pertaining to women in the formal economy.

As the Institute for Public Policy Research (IPPR) has pointed out, "aside from the Monitoring and Evaluation components for tracking reductions in infant and maternal mortality..., there is no mention of specific actions/milestones concerning women's development, nor is the Ministry of Gender mentioned anywhere in the Harambee Plan either as a champion or partners in ensuring that the stated priorities are met."¹³

Despite the dearth of specific references to women, many of the Harambee Prosperity Plan's goals will be of specific benefit to women. For example, increased rural electrification and improved water and sanitation services will have a profound impact on women's health, safety and workload. Reductions in poverty and increased food security will benefit women as well as men, and economic disparities based on gender are part of the overall inequalities in the distribution of wealth which the Harambee Prosperity Plan aims to redress. Quoting IPPR again:

¹¹ *Harambee Prosperity Plan 2016/17 - 2019/20: Namibian Government's Action Plan towards Prosperity for All*, Windhoek: Republic of Namibia, 2016.

¹² In April 2016, the Legal Assistance Centre sent a critique of the treatment of gender in the *Harambee Prosperity Plan* to the Office of the President, combined with recommendations for remedying this through gender-sensitive implementation. The Namibia Institute for Public Policy Research (IPPR) published a Special Briefing Report in November 2016: Nangula Shejaval, "Women in the Harambee Prosperity Plan: Does the Harambee Prosperity Plan Fast-Track Women's Development towards Achieving Vision 2030, the SDGs, and the AU's Agenda 2063?", IPPR, Nov 2016 (available at http://ippr.org.na/wp-content/uploads/2017/01/IPPR_BRIEF_Harambee.pdf).

¹³ Nangula Shejaval, "Women in the Harambee Prosperity Plan: Does the Harambee Prosperity Plan Fast-Track Women's Development towards Achieving Vision 2030, the SDGs, and the AU's Agenda 2063?", IPPR, Nov 2016 at 12.

The fact that the Plan itself is gender neutral is important in that it does not exclude women from the priorities highlighted in the plan, and is inclusive of both sexes. However, the plan does not promote women's development specifically... [W]hile the HPP assumes gender equality, it makes no real effort to include women in a way that recognises how they have been disenfranchised in the past, or that honours the fact that they are in a worse socio-economic state than men....¹⁴

IPPR concludes that the Harambee Plan “does not prioritise gender equality or women's development at a broad or specific level”.¹⁵

This neglect of gender is one of the hazards of “gender mainstreaming” in practice. Without a dedicated focus on gender issues as a specific policy component, gender tends to be lost in the shuffle completely, or acknowledged in passing without meaningful analysis.

The Legal Assistance Centre made suggestions on how to make implementation of the plan more gender-sensitive, including the use of sex-disaggregated statistics in monitoring the Plan, prioritising long-outstanding family law reforms to ensure that increased prosperity will be gender-equal and incorporating feedback on responses by the GBV Investigation Units into the Citizen Satisfaction Surveys to be undertaken in terms of the Plan.¹⁶ The Institute for Public Policy Research identified amongst the major gender gaps the omission of gender mainstreaming, gender budgeting and monitoring and evaluation of gender impacts (including through the tracking of sex-disaggregated data).¹⁷

None of the mid-term assessments of the Harambee Prosperity Plan include any sex-disaggregated statistics.¹⁸

13.3 Namibia's 5th National Development Plan (NDP5) (2017)

Namibia's 5th National Development Plan (“NDP5”),¹⁹ launched at the end of May 2017, focuses on four pillars:

- 1) **Economic progression:** inclusive, sustainable and equitable growth, with the key strategy being the move to a knowledge-based economy.
- 2) **Social transformation:** to build capable and healthy human resources, through investment in youth, education and health, to be measure by improvement in Namibia's ranking on the Human Development Index
- 3) **Environmental sustainability:** sustainable management and utilisation of natural resources and sustainable management of the environment
- 4) **Good governance:** upholding the rule of law, having a transparent and accountable government and improving service delivery to the satisfaction of citizens.

¹⁴ Ibid.

¹⁵ Id at 15.

¹⁶ Letter from Legal Assistance Centre to the Office of the President, April 2016.

¹⁷ Nangula Shejvali, “Women in the Harambee Prosperity Plan: Does the Harambee Prosperity Plan Fast-Track Women's Development towards Achieving Vision 2030, the SDGs, and the AU's Agenda 2063?”, IPPR, November 2016 at 17.

¹⁸ See *Harambee Review 16*, Office of the President, 13 December 2016 (available at <www.op.gov.na/documents/84084/249910/HarambeeReview16-presentation-v6.pdf/550ed202-0a3a-40d6-a8de-af991c38691f>) and *Harambee Review 16: Interesting Facts and Figures*, Office of the President, undated (available at <www.op.gov.na/documents/84084/249910/Harambee+Fact+%26+Review16/b24d0959-fbc9-49cd-9ce6-20c40ffe8ef5>).

¹⁹ *Namibia's 5th National Development Plan: Working Together Towards Prosperity 2017/18-2021/22* Windhoek: Republic of Namibia, 2017 (hereinafter “**NDP5**”).

NDP5 mentions Namibia's standing on the Gender Development Index but the discussion of this conflates two different measures: the Gender Development Index (which is based on life expectancy at birth, years of schooling and estimated GNI per capita) and the Gender Inequality Index (which is based on the maternal mortality ratio, adolescent birth rate, women's share of parliamentary seats, women's attainment of at least secondary education, and women's labour market participation).²⁰

There is a notable lack of sex disaggregation, both in discussions of the current situation or of development goals.

There is a subsection on gender equality in NDP5, which articulates the goal that women will by 2022, be "empowered and free from gender-based-violence". The key issues mentioned in this section are:

- **enhanced services for the prevention, protection and response to victims of GBV, human trafficking and violence**, particularly by improving coordination through Memoranda of Understanding (MoUs) and Standard Operating Procedures (SOPs);
- **the enactment of laws "protecting the rights of women and children that are in line with international standards"** – but with the only laws specifically mentioned in this regard being legislation on children in conflict with the law and on trafficking in persons (issues which do not directly affect the vast majority of women), and no mention of family law areas in need of legal reform, such as customary marriage, divorce, cohabitation and inheritance, which affect women across the country;
- **the need to "mainstream gender"** in the policies, programmes and budgets of all offices, ministries and agencies;
- **ensuring the availability of gender-disaggregated data** to inform planning, budgeting and policy;
- **financial inclusion for women in micro, small and medium enterprises**, especially in agribusiness, the blue economy and extractive industries;
- **ensuring that women in the informal sector are integrated into the formal economy** and receive targeted interventions;
- **developing a National Women Economic Empowerment Framework/Programme, supported by a Women's Economic Fund**, to ensure equitable and gender-responsive redistribution of productive resources.

This section proposes three key indicators for measuring women empowerment:

Desired outcome indicators and targets						
Indicator	Baseline	Targets				
		2017/18	2018/19	2019/20	2020/21	2021/22
% of women in politics and decision making	47% (2015)	47%	47%	50%	50%	50%
GBV prevalence rate	33% (2013)	30%	28%	25%	23%	20%
Women employment rate	68% (2014)	70%	72%	74%	76%	76%

There are four desired outcomes:

- **increase % of women in politics and decision making from 47% to 50%** (as indicated in the table)
- **reduce the GBV prevalence rate from 33% to 20%** (as indicated in the table)
- **ensure financial inclusion for women** (represented in the table by an increased employment rate)

²⁰ See NDP5 at 1; see also chapter 3 of this report.

- **“Namibia is safe, secure, and peaceful with a high respect for the rule of law, women have been empowered.”**

The text in this section on gender quality notes that poverty amongst women “is linked to their unequal access to, control over and benefit from an uneven distribution of productive resources such as land, capital, education, labour and limited participation in political and economic institutions”, but no outcomes on these issues are proposed; perhaps these issues are to be addressed in the National Women Economic Empowerment Framework/Programme.

The coupling of women and children is problematic, as it reinforces the perception of women as being primarily mothers – and undercuts the identification of men as fathers, which needs reinforcement in a society where men often fail to take emotional or financial responsibility for their children.

The emphasis on trafficking is disproportionate to the number of people affected by trafficking in Namibia, and is quite likely donor-driven rather than being a widespread public concern.

Another issue of note is that, ironically, although some of the goals for gender quality are sex-disaggregated data and gender mainstreaming, there are few mentions of women and girls in other sections of NDP5, and no sex-disaggregated data in any other sections aside from fertility-related statistics²¹ and the information that female outnumber males at a ratio of 100 to 94.²² The other specific strategies mentioned for targeting or including women are as follows:

- In connection with rural economic development: **“Encourage youth and female entrepreneurship through a value chain approach of providing skills, and access to finance and market information through rural development centres.”**
- In connection with social transformation: **“Accelerate demographic transition through investments that facilitate rapid fertility decline, enhance child survival, and improve education and general empowerment of women.”**²³
- As a strategy for promoting youth health and wellbeing: **Provide “high-quality information on Sexual and Reproductive Health and Rights (SRHR) and related services for youth, including disabled youth”.**²⁴
- On empowering people and communities through sports: **“Create public awareness campaigns to encourage participation in sports regardless of age and gender.”**²⁵

²¹ “Namibia has significantly reduced maternal and neonatal mortality... HIV/AIDS in pregnant women has reduced from a peak of 22% in 2002 to 16.9% in 2014. Antenatal services are available in all health facilities in the country, resulting in 87% of all births occurring in health facilities and 88% attended to by skilled birth attendants....The percentage of mothers who feed their infants through breastfeeding has grown to 48% in 2013 from 23% in 2006. Prevalence of iron deficiency anaemia is 22% in women and 48% among children...” NDP5 at 63.

As a challenge to youth empowerment” “teenage pregnancy persist[s] with the proportion of teenagers who have had a live birth [rising] rapidly with age, increasing from 3% at age 15 to 27% at age 19”. Id at 71.

²² Id at 32.

²³ Id at 51.

²⁴ Id at 72.

²⁵ Id at 74.

- In connection with **environmental awareness** campaigns: “**Particular attention to be paid to educating and skilling women** in the community.”²⁶
- On **indicators on progress in implementing NDP5**, the **requirements for minimum documentation include disaggregation by “region, gender etc”**.²⁷

Women are not neglected, but nor do they yet seem to be fully-integrated as active agents in society. For instance, there is no mention of women’s role in the agricultural economy, no sex-disaggregated targets for vocational training, no mention of ensuring that women and men both have access to the internet, no mention of mechanisms to ensure that women have direct access to housing and land in their own right and not just as wives or daughters and no discussion of steps to promote gender equality within the family. It is commendable that women’s role as economic players is acknowledged in the section on gender equality, but the indicators on this issue should capture women as entrepreneurs and not just employees.

13.4 National Human Rights Action Plan (2015)

The *National Human Rights Action Plan*,²⁸ developed through a consultative process following on a baseline study of human rights in Namibia,²⁹ is structured around seven focus areas:

- 1) The Right to Health
- 2) The Right to Education
- 3) The Right to Water & Sanitation
- 4) The Right to Housing
- 5) The Right to Land
- 6) The Right to Access to Justice
- 7) The Right Not To Be Discriminated Against.

The interventions which mention women explicitly, or are of particular relevance to women by virtue of their subject matter, are as follows:

Health

- Expand the accessibility and availability of sexual and reproductive health services in rural areas. (section 4.4.1)
- Investigate the possibility of free health services to vulnerable people, such as young children and pregnant women. (section 4.4.1)
- Encourage a multi-sectoral approach to “maternal education”, awareness raising and nutritional counselling. (section 4.4.2)
- Expand maternal healthcare services and facilities, such as emergency obstetrics and neonatal care, with trained staff in rural areas. (section 4.4.3)
- Commission research on harmful cultural/traditional practices on women’s health and encourage dialogue and debate in traditional communities on findings. (section 4.4.5)
- Commission formal research on abortion to guide dialogue and debate. (section 4.4.6)

Education

- Develop and deliver a comprehensive awareness programme on the “right to education”, including the realisation of this right for girls, in rural and traditional communities. (section 5.4.3)

²⁶ Id at 84.

²⁷ Id at 102.

²⁸ *National Human Rights Action Plan 2015-2019*, Windhoek: Republic of Namibia, [2014].

²⁹ *2013 Baseline Study Report on Human Rights in Namibia*, Windhoek: Office of the Ombudsman, 2013.

- Review the “Policy for the Prevention and Management of Learner Pregnancy” and encourage dialogue on the policy. (section 5.4.8)

Water and sanitation

- Promote women’s and children’s access to water and sanitation. (section 6.4.1)
- Ensure that the construction of improved sanitation facilities meets the special needs of vulnerable groups. (section 6.4.1)

Housing

- There is no specific discussion of women’s needs in this area.

Land

- The analysis notes that women’s rights to land are still not acknowledged due to cultural and traditional practices and recommends research on discriminatory practices against women in respect of access to and ownership of land, including inheritance issues, with a view to law reform. (section 8.4.1)

Access to justice

- Strengthen collaboration between relevant agencies for the rehabilitation and reintegration of female prisoners and juveniles. (section 9.4.2)
- There are a number of recommendations on interventions relating to gender-based violence
 - the building of more shelters for victims of domestic violence;
 - training of police officers to encourage more sensitivity to crime victims in general;
 - collecting and analysing data to assess the effectiveness of current policies and initiatives on violence against women and children;
 - assessment of the effectiveness of the Gender-based Violence Investigation Units and making recommendations for improvement;
 - introducing specific measures (which are not articulated) aimed at eliminating violence against women and children;
 - conducting education and awareness programmes aimed at eradicating gender-based violence, sexual initiation rites and early marriages, particularly in rural areas; and
 - reviewing and amending the Combating of Domestic Violence Act 4 of 2003.
 (sections 9.4.4- 9.4.6)

Discrimination

- Encourage the Ministry of Gender Equality and Child Welfare to give more attention to gender equality, responding to a perception that this issue is neglected because the Ministry’s focus is on other responsibilities. (section 10.4.1)
- Undertake formal research on the gender-responsiveness of the national budget with recommendations for improvement. (section 10.4.2)
- Commission research on discrimination, exclusion and marginalization of indigenous peoples and other vulnerable groups such as women, children and persons with disabilities with a view to making recommendations for eliminating these problems. (section 10.4.2)
- Commission research on discrimination in the work place and in recruitment in the public service. (section 10.4.2)
- Sensitize magistrates, judges and police about the provisions of that law and about gender-based violence in general. (section 10.4.3)
- Research and review laws and policies to remove provisions that discriminate against various vulnerable groups, including women and sexual minorities. (section 10.4.4)
- Explore the legalization of customary marriages. (section 10.4.4)

These key interventions are prioritised and broken down in more specific steps in annual implementation plans for each thematic area.

Attention to women is woven throughout the plan, but many of the key interventions focus on research rather than action. It is of course important to collect relevant information to guide action, but in some areas – such as improving the service provision of the Gender-based Violence Investigation Units – calls for more research are unnecessary and sidestep more direct action.

More concrete and specific actions on women's issues would strengthen the gender aspects of the Action Plan, but perhaps these will be provided in the successive sector plans.³⁰

13.5 National Gender Policy and Plan of Action (2010)

In 2010, the Ministry of Gender Equality and Child Welfare published a *National Gender Policy (2010 - 2020)*, with the aim “to guide actions towards the integration and mainstreaming of gender perspectives in the broad development framework”,³¹ and “to achieve gender equality and the empowerment of women in the socio-economic, cultural and political development of Namibia”.³² The policy is very comprehensive, with 12 different programme areas, each with multiple strategies:

1. Gender, Poverty and Rural Development
2. Gender, Education and Training
3. Gender, Health, Reproductive Health and HIV and AIDS
4. Gender-Based Violence
5. Gender, Trade and Economic Empowerment
6. Gender, Governance and Decision-Making
7. Gender, Media, Research, Information and Communication
8. Gender and the Environment
9. The Girl-Child
10. Gender, Legal Affairs and Human Rights
11. Gender, Peace-Building, Conflict Resolution, and Natural Disasters Management
12. Gender Equality in the Family.

The accompanying Plan of Action organises the 12 programme areas into six clusters:

- 1) Gender based violence and human rights
- 2) Health, HIV and aids
- 3) Education, training and the girl child
- 4) Poverty, rural and economic development
- 5) Governance, peace, security and disaster management
- 6) Media, research, information and communication

Each cluster lists 8-27 strategies.

The comprehensiveness is commendable, but the Policy fails to prioritise a manageable set of strategies.

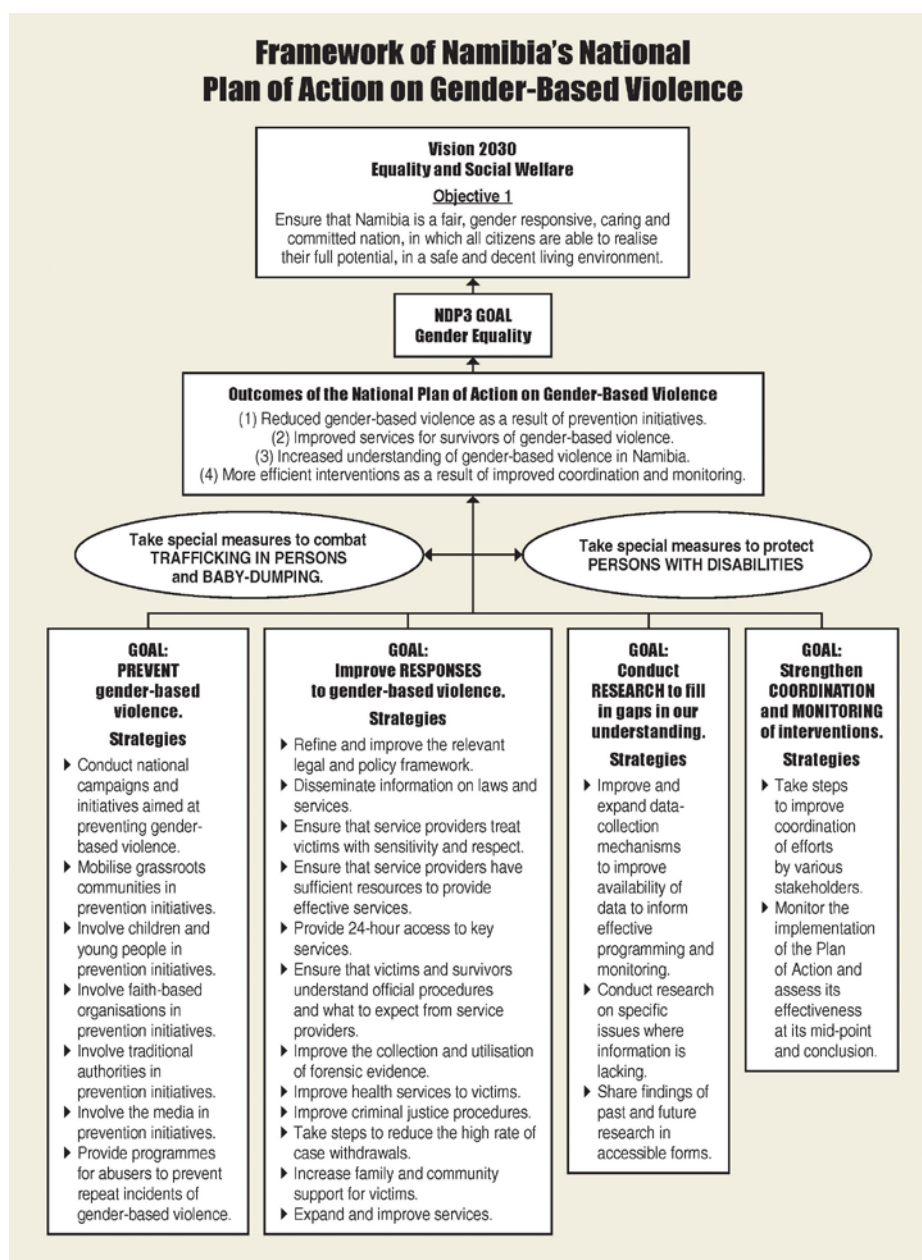
³⁰ We were unable to obtain the implementation plans for Year 2 (2016/17) of the *National Human Rights Action Plan*.

³¹ *National Gender Policy (2010 - 2020)*, Windhoek: Ministry of Gender Equality and Child Welfare (MGECW), March 2010 at 10.

³² Id at 20.

13.6 National Plan of Action on GBV (2012)

The *National Plan of Action on Gender-Based Violence*³³ is an adjunct to the *National Gender Policy 2010-2020*. It includes a chart which provides a concise summary of the key strategies (reproduced below). As in the case of the underlying *National Gender Policy*, the National Plan of Action is very comprehensive, but it fails to set manageable priorities and clear targets.



Source: *National Plan of Action on Gender-Based Violence 2012-2016*, Windhoek: Ministry of Gender Equality and Child Welfare at 22.

³³ *National Plan of Action on Gender-Based Violence 2012-2016*, Windhoek: Ministry of Gender Equality and Child Welfare, undated.



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