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Compilation on Namibia

Report of the Office of the United Nations High Commissioner for Human Rights*

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies^{1, 2}

2. The United Nations country team stated that Namibia had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, as recommended during the previous review.³

3. In 2016, the Committee on Economic, Social and Cultural Rights recommended that Namibia ratify, inter alia, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.⁴

4. In 2017, the Independent Expert on the enjoyment of all human rights by older persons encouraged Namibia to ratify all human rights treaties to which it was not yet party, notably the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.⁵

5. In 2017, the Committee against Torture recommended that Namibia accelerate the process of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with a view to establishing a national preventive mechanism.⁶ The Committee also recommended that Namibia make the

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declarations under articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recognizing the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction.⁷

6. The same Committee invited Namibia to issue a standing invitation to the special procedure mechanisms of the Human Rights Council.⁸

7. In 2016, the Committee on the Elimination of Racial Discrimination recommended that, when implementing the Convention on the Elimination of All Forms of Racial Discrimination in its domestic legal order, Namibia give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009.⁹

III. National human rights framework¹⁰

8. The Committee on Economic, Social and Cultural Rights noted that several economic, social and cultural rights were not recognized and protected in the Constitution and were thus not accorded constitutional supremacy in the legal order. It recommended that Namibia include all rights enshrined in the International Covenant on Economic, Social and Cultural Rights among the fundamental rights and freedoms protected by the Constitution.¹¹

9. The United Nations country team stated that the Constitution, which defined a child as anyone under the age of 16 years, was not aligned with the Child Care and Protection Act of 2015, which defined a child as anyone under the age of 18.¹²

10. The Independent Expert on older persons recommended amending the Constitution to include disability and age as prohibited grounds of discrimination. She encouraged Namibia to speed up the current review of laws and policies to rectify provisions that discriminated against older persons, including those with disabilities.¹³

11. In follow-up to the concluding observations of the Human Rights Committee, Namibia stated in 2018 that bills on civil marriages, intestate successions and customary marriages had been drafted and submitted to the Minister of Justice. Those bills would repeal the obsolete laws remaining from the apartheid era, which included the Native Administration Proclamation 15 of 1928.¹⁴

12. The Committee against Torture stated that Namibia should expedite the adoption of the bill on preventing and combating torture, ensuring that it contained a definition of torture in accordance with the provisions of the Convention against Torture.¹⁵ Namibia should also amend article 8 (2) of the bill to ensure that the exercise of universal jurisdiction was not left to the sole discretion of the Prosecutor-General.¹⁶

13. The United Nations Educational, Scientific and Cultural Organization (UNESCO) stated that a draft access-to-information bill had been tabled in the National Assembly on 12 June 2020 and encouraged Namibia to adopt that bill, after having ensured that it complied with international standards.¹⁷ The United Nations country team stated that opposition leaders and civil society organizations had expressed concerns about some clauses in the bill.¹⁸

14. The Committee against Torture recommended that Namibia adopt legislative and policy measures to prevent and criminalize the forced sterilization of people with HIV, particularly by clearly defining the requirement of free, prior and informed consent with regard to sterilization and by raising awareness among medical personnel of that requirement.¹⁹

15. The Independent Expert on older persons welcomed the plans by Namibia to enact new legislation on the rights, protection and care of older people, and called upon the Government to speed up the process of finalizing the legislation.²⁰

16. The Committee against Torture stated that Namibia should amend the Ombudsman Act of 1990 in order to enhance the mandate of the Office of the Ombudsman and give it greater independence, particularly with regard to conducting regular unannounced visits to

places of deprivation of liberty.²¹ The Independent Expert on older persons recommended broadening the mandate of the Office of the Ombudsman to include the promotion and protection of economic, social and cultural rights.²²

17. The Human Rights Committee stated that Namibia should consider establishing a specific mechanism to give full effect to the Committee's Views in order to guarantee effective remedies to victims of violations under the International Covenant on Civil and Political Rights.²³

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination²⁴

18. The Committee on the Elimination of Racial Discrimination recommended that Namibia review legislation that may allow for direct or indirect forms of discrimination and introduce revised legislation where necessary.²⁵

19. Noting relevant concerns, the Committee on Economic, Social and Cultural Rights recommended, inter alia, that Namibia expand the grounds for discrimination prohibited in the Constitution to include, among others, marital status, political or other opinion, HIV status, disability, sexual orientation, language, property and birth.²⁶

20. In follow-up to the concluding observations of the Committee on the Elimination of Discrimination against Women, Namibia stated in 2017 that, although article 10 of the Constitution did not expressly prohibit discrimination on the grounds of marital and other status, that provision could be broadly interpreted to include discrimination on such grounds.²⁷ The Committee nevertheless regretted the lack of measures taken by Namibia to adopt a comprehensive legal definition of discrimination.²⁸

21. The Human Rights Committee expressed concern about the prevalence of de facto racial discrimination and of discrimination against indigenous peoples, persons with disabilities, persons who were HIV positive and lesbian, gay, bisexual and transgender persons. The Committee stated that Namibia should conduct extensive education and awareness-raising campaigns to eliminate all forms of discrimination. Furthermore, it should: repeal all laws that discriminate on the basis of race and finalize and adopt legislation on intestate succession so as to apply the same rules to all persons without discrimination; adopt legislation explicitly prohibiting discrimination based on sexual orientation and hate crime legislation punishing homophobic and transphobic violence; abolish the common law crime of sodomy and include same-sex relationships in the Combating of Domestic Violence Act of 2003 so as to protect same-sex partners; and combat discrimination against persons with disabilities and against persons who are HIV-positive.²⁹

22. In follow-up to the concluding observations of the Human Rights Committee, Namibia stated in 2018 that the law did not discriminate against any person. Article 10 of the Constitution guaranteed equality and freedom from discrimination and prohibited discrimination on the grounds of sex, race, ethnic origin, religion, creed or social or economic status. In addition, legislation had been enacted to address racial discrimination and promote equality. Lesbian, gay, bisexual and transgender persons were not discriminated against because of their sexual preferences.³⁰

23. The Independent Expert on older persons noted the persistence of certain harmful traditional practices and deep-rooted stereotypes regarding the roles and responsibilities of women and men within the family and society at large.³¹

24. Expressing relevant concerns, the Human Rights Committee stated that Namibia should take comprehensive measures to eliminate stereotypical conceptions of gender roles. It should also, inter alia, cooperate with traditional leaders to abolish discriminatory

customary laws and take comprehensive awareness-raising measures to eliminate all forms of stigmatization and discrimination against single mothers.³²

25. Noting the implementation of special measures, including the Affirmative Action (Employment) Act of 1998 and the Agricultural (Commercial) Land Reform Act of 1995, to advance the rights of “previously disadvantaged people”, the Committee on the Elimination of Racial Discrimination encouraged Namibia to consult affected communities to ascertain the effectiveness of the measures and recommended that, on the basis of those findings, Namibia extend the implementation of special measures to address additional priority areas with the active participation of the affected communities.³³

2. Development, the environment, and business and human rights

26. The Independent Expert on older persons noted that the changing climate was affecting the subsistence farming livelihood system and human well-being in north-central Namibia. There was a need for an in-depth analysis and mapping of persons in vulnerable situations, especially older persons.³⁴

B. Civil and political rights

1. Right to life, liberty and security of person³⁵

27. The Human Rights Committee noted that Namibia had taken insufficient measures to investigate reports of cases of enforced disappearance having taken place in the context of the liberation struggle and during the 1999 secession attempt in the former Caprivi region, now Zambezi.³⁶ The Committee also expressed concern about the lack of investigation of cases of torture.³⁷

28. Concerned by reports that no investigations had been made into allegations of acts of torture by law enforcement officials, the Committee against Torture stated that Namibia should ensure that all allegations of acts of torture and ill-treatment were investigated, prosecuted and punished, including those committed during the liberation struggle and the state of emergency of August 1999.³⁸

29. The same Committee expressed concern about the lack of information on the number of complaints, investigations, prosecutions and convictions for torture or other cruel, inhuman or degrading treatment or punishment involving members of the police force and stated that Namibia should ensure that all deaths in custody and all allegations of torture and ill-treatment were investigated promptly, thoroughly and impartially by independent bodies, and that there was no institutional or hierarchical connection between the investigators and the alleged perpetrator.³⁹

30. The same Committee recommended that Namibia establish training programmes on non-coercive investigation and inquiry techniques and strengthen procedural safeguards to ensure that the fight against torture was effective and employed techniques that respected human dignity and the presumption of innocence.⁴⁰

31. In follow-up to the concluding observations of the Human Rights Committee, Namibia stated that a training manual for police officers on the prevention of torture had been developed and was being used for that purpose.⁴¹

32. The Independent Expert on older persons expressed concern about violence against and abuse and maltreatment of older persons. She stressed the need for normative measures and mechanisms to ensure detection, reporting and investigation of all forms of abuse and maltreatment of older persons in institutional care and in family settings. The training of judges, lawyers and prosecutors was essential to ensure the investigation of such cases. Furthermore, caregivers, health professionals and law enforcement personnel needed to be further sensitized and trained on how to prevent and detect elder abuse and on the unique needs of older victims of abuse and neglect. There was also a need for safeguards to be put in place to prevent the financial exploitation of older persons.⁴²

33. The Human Rights Committee expressed concern about reported cases of violence and harassment against lesbian, gay, bisexual and transgender persons by the police.⁴³ The

Committee against Torture stated that Namibia should take all necessary measures to protect lesbian, gay, bisexual, transgender and intersex persons from threats and violence.⁴⁴

34. Expressing concern about the high rate of HIV among prisoners and the lack of food and access to medical services in correctional facilities, the Committee against Torture stated that Namibia should improve prison conditions, including by reducing the rate of overcrowding, separating pretrial detainees from convicted prisoners, introducing measures to control the further spread of HIV, increasing the number of prison staff and improving the quality and quantity of food and water, as well as health care.⁴⁵

2. Administration of justice, including impunity, and the rule of law⁴⁶

35. The Committee against Torture was concerned by reports of the excessively slow functioning of the judiciary and of the continuation of unacceptably lengthy periods of pretrial detention. It stated that Namibia should expedite the modernization and reform of the justice system and take measures to reduce the duration of pretrial detention through the recruitment of additional judges and the use of alternatives to detention.⁴⁷

36. The Human Rights Committee stated that Namibia should develop a national policy for reducing the backlog of cases and provide effective remedies and compensation for those unlawfully held in custody.⁴⁸

37. The same Committee noted that recourse to appeal was frequently hampered by the excessive delay in the preparation of court records. It stated that Namibia should significantly accelerate the preparation of court records and ensure a swift appeal process.⁴⁹

38. The Committee against Torture expressed concern that juveniles were reportedly often held with adults in pretrial detention and stated that Namibia should ensure the availability of sufficient youth facilities so that all juveniles in pretrial detention were held separately from adults.⁵⁰

39. The Human Rights Committee expressed concern that a person might be held in custody beyond 48 hours if it was “not reasonably possible” to bring that person before a magistrate within that time frame, and noted that the 48-hour rule was repeatedly infringed.⁵¹

40. The Committee against Torture stated that Namibia should ensure that all detainees were afforded, in law and in practice, all fundamental legal safeguards from the outset of detention, according to international standards, including: the right to be promptly informed of their rights in a language they understood, the reasons for their arrest and the charges laid against them; the right to promptly contact a family member or any other person of their choice; the right to have prompt and confidential access to a qualified and independent lawyer, or to free legal aid when needed; access to a medical examination by an independent doctor; the right to be promptly brought before a competent, independent and impartial court within a maximum of 48 hours; and the right to have the legality of their detention challenged through a habeas corpus procedure and to have their detention recorded in a register at the place of detention and in a central register of persons deprived of their liberty.⁵²

41. The same Committee urged Namibia to expedite the Caprivi high treason trials, guaranteeing that all accused received a fair and speedy trial and ensuring that evidence obtained under torture was dismissed.⁵³

42. The Committee on Economic, Social and Cultural Rights recommended that Namibia, inter alia, raise awareness of the rights contained in the International Covenant on Economic, Social and Cultural Rights and their justiciability.⁵⁴

3. Fundamental freedoms⁵⁵

43. UNESCO stated that defamation was considered a crime and included the publication of material that could cause injury to a person’s reputation. Namibia should decriminalize defamation and make provision for such acts in the civil code.⁵⁶

44. UNESCO recommended that Namibia adapt its legislation in order to guarantee digital rights in line with international standards.⁵⁷

45. The Human Rights Committee expressed concern about allegations of self-censorship by journalists working for State-owned media, as well as reported cases of harassment of journalists. It stated that Namibia should protect journalists from any form of harassment and threats and investigate incidents of attacks on journalists.⁵⁸

4. Prohibition of all forms of slavery⁵⁹

46. The United Nations country team noted that Namibia had committed itself to eliminating all forms of trafficking in persons by adopting the Combating of Trafficking in Persons Act of 2018, which came into effect in November 2019. In addition, the national referral mechanism and standard operating procedures had been developed and a national coordinating body had been established to facilitate stakeholders' cooperation in preventing and combating trafficking in persons.⁶⁰

5. Right to privacy and family life⁶¹

47. UNESCO stated that the Communications Act of 2009 permitted the interception of telecommunications without a warrant in order to combat crime and protect national security.⁶²

48. The Committee against Torture stated that Namibia should consider decriminalizing sexual acts between consenting adult men.⁶³

49. The Human Rights Committee expressed concern about the high number of customary marriages that had not been registered, which deprived women and children of their rights, particularly in relation to inheritance and landownership.⁶⁴

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work⁶⁵

50. Noting with concern the persistently high unemployment and the large informal economy, in spite of stable economic growth, the Committee on Economic, Social and Cultural Rights recommended, *inter alia*, that Namibia place the realization of the right to decent work at the heart of such policies as the national employment policy and the industrial policy, that it prioritize investments in sectors that were labour intensive and that it promote the regularization of the informal economy by removing regulatory barriers and supporting small business in meeting the cost of social and fiscal contributions.⁶⁶

51. The same Committee recommended that Namibia introduce a statutory minimum wage indexed to the cost of living, which would enable a decent living for workers and their families. It also recommended that Namibia bring its legislation on occupational health and safety into line with international standards, equip the labour inspectorate with the necessary human and financial resources for the effective application of the Labour Act of 2007 and other relevant enactments, and provide effective remedies for aggrieved workers.⁶⁷

52. The United Nations country team stated that although sexual harassment was defined in the Labour Act of 2007, it was not well understood and there was therefore a need to raise awareness through the development and popularization of sectoral sexual harassment policies in the workplace.⁶⁸

53. The country team also stated that sex-based occupational segregation in the labour market prevailed and that the representation of women in managerial positions in the private sector remained very low.⁶⁹

2. Right to social security⁷⁰

54. Expressing concern that the social security schemes covered primarily individuals working in the formal sector, the Committee on Economic, Social and Cultural Rights recommended that Namibia develop a universal social security system, with a view to achieving full coverage of all the segments of its population, including part-time workers, the self-employed and those working in the informal economy.⁷¹

55. The United Nations country team stated that Namibia was developing a database and a single registry system linked to the civil registration system that would overcome the current fragmented approach to social grants for orphans and vulnerable children.⁷²

3. Right to an adequate standard of living⁷³

56. Expressing relevant concerns, the Committee on Economic, Social and Cultural Rights recommended, *inter alia*, that Namibia put into place in the short term, independently of the planned expansion of the social protection systems, a basic income grant for those living in extreme poverty, that it include specific targets for the enjoyment of rights by the most disadvantaged and marginalized groups and that it implement a more redistributive fiscal policy and regularly assess its impact on combating inequalities.⁷⁴

57. The United Nations country team stated that approximately 1,500 families had been resettled and that an estimated 3 million hectares of land had been redistributed to black farmers through the ministerial land reform programme and the Agribank loan scheme. The resettlement programme had faced challenges, however, including the lack of a comprehensive valuation of the performance of resettled farms and the inadequate human, technical and financial capacity of the resettled farmers to enhance the productivity of their farms.⁷⁵

58. The Committee on Economic, Social and Cultural Rights expressed concern that the land reform programme had not addressed poverty and that security of tenure remained an enduring challenge, as a large number of individual and communal landowners were without title. It was also concerned that many resettled farmers had not been able to restore their livelihoods and earn an adequate standard of living. The Committee recommended, *inter alia*, that Namibia strengthen land registration procedures and render them affordable and accessible and that it assist resettled farmers, beyond the provision of infrastructure, in restoring their livelihoods and lifting them out of poverty.⁷⁶

59. The same Committee expressed concern about the high rates of poverty, especially in rural areas and among children, and recommended that Namibia address the problem by adopting specific measures targeting rural areas and children.⁷⁷

60. Noting with concern that many households were food insecure, a situation that was exacerbated by the high level of unemployment and poverty in rural areas, including among farmers, the same Committee recommended that Namibia continue to deliver food assistance to ensure that everyone was free from hunger and address food insecurity through agrarian reform and rural development. It also urged Namibia to develop agricultural and rural vocational training programmes in rural areas, improve access to credit, put into place a programme of subsidies for rural households and small-scale farmers, support the functioning of local markets, including through the development of processing facilities in the fresh produce business hubs, and involve small-scale farmers in the supply of food for the School Feeding Programme.⁷⁸

61. The same Committee expressed concern about the acute shortage of affordable housing and that a quarter of the population lived in poor-quality housing in informal settlements without security of tenure or access to water, electricity and sanitation facilities. It recommended adopting immediate measures to alleviate the acute shortage of affordable housing.⁷⁹

62. The Independent Expert on older persons urged Namibia to address the right to adequate housing of older persons and recommended that the ongoing public housing programme be complemented with better urban infrastructure development programmes. There was also a need to develop slum upgrading projects.⁸⁰

63. Noting that forced evictions carried out by the authorities had rendered a number of informal settlement dwellers and tenants homeless, the Committee on Economic, Social and Cultural Rights recommended, *inter alia*, that Namibia bring its enactments and practices on forced evictions into line with international standards. It urged Namibia to cease all forced evictions that may render individuals homeless or vulnerable to the violation of other human rights.⁸¹

64. Noting the increase in access to safe drinking water, the United Nations country team stated that access to safe drink water remained a concern in rural and isolated areas.⁸²

65. The Committee on Economic, Social and Cultural Rights expressed concern that the responsibility for collecting water in rural areas fell mostly on women and girls, who had to walk long distances to access water points. It recommended that Namibia take effective measures in rural areas to reduce the distance to water points.⁸³

66. The United Nations country team stated that access to sanitation remained a concern, with about half the population practising open defecation.⁸⁴

4. Right to health⁸⁵

67. The Committee on Economic, Social and Cultural Rights expressed concern about the high maternal and infant mortality rates among low-income groups. It was also concerned about the limited availability of health services in rural and remote areas and at the inequality in access to quality health services, with services of better quality in private facilities.⁸⁶

68. Expressing relevant concerns, the same Committee recommended that Namibia, inter alia, focus on delivering services to individuals who were HIV-positive and who did not have access to antiretroviral treatment, make condoms available in prisons to contain the spread of HIV/AIDS, clearly define the requirement of free, prior and informed consent with regard to sterilization and raise awareness among medical personnel of that requirement.⁸⁷

69. The United Nations country team stated that Namibia had made tremendous progress by reaching or exceeding the 90-90-90 targets of the Joint United Nations Programme on HIV/AIDS (UNAIDS) among women and by attaining the rates of 86-96-91 among adults. That had been achieved through the strategic expansion of HIV prevention and treatment services with a focus on viral load suppression at the individual and community level and the swift implementation of forward-leading HIV policies.⁸⁸

70. The Independent Expert on older persons encouraged Namibia to make dementia a public health priority. There was a need, inter alia, to integrate dementia services at the primary health-care level and to further build the capacities of doctors in that regard.⁸⁹

71. The Human Rights Committee stated that Namibia should ensure that women subjected to forced or coerced sterilization had access to reparation as well as to sterilization reversal where possible and that Namibia should adopt formal guidelines to ensure that the fully informed consent of a woman undergoing sterilization is systematically sought by medical personnel.⁹⁰

72. Expressing concerns about the cumbersome procedures for getting a legal abortion, the same Committee stated that Namibia should, inter alia, remove unwarranted requirements for gaining access to legal abortions, adopt and implement awareness-raising policies to combat the stigmatization of women and girls who seek abortions, guarantee the availability of good-quality services for the management of complications arising from unsafe abortions and also guarantee immediate and unconditional treatment.⁹¹

73. The same Committee stated that Namibia should ensure access to information about the accessibility of contraception and sexual health services, particularly in rural and remote areas.⁹²

5. Right to education⁹³

74. UNESCO stated that all schools had been closed because of the coronavirus disease (COVID-19) pandemic and that parents had been required to oversee the learning of their children at home and to provide them with the necessary support.⁹⁴

75. The Committee on Economic, Social and Cultural Rights noted that, in spite of near-universal enrolment at the primary level of education, some individuals belonging to certain groups, such as indigenous peoples and those living in rural and remote areas, did not have access to education. The capacity of schools had not followed pace with the increased enrolment. The system of voluntary contributions by parents may have perpetuated or even aggravated inequality in access to quality education, as those schools in more affluent areas were able to raise more resources. The Committee recommended, inter alia, that Namibia

continue to devote particular attention and resources to those who did not enjoy their right to education, continue to develop the school feeding and the satellite and mobile schools programmes and to monitor their impact on the enjoyment of the right to education of the most marginalized groups, and address the root causes of children dropping out of school.⁹⁵

76. While welcoming the measures taken to overcome educational inequality and to increase access to education for ethnic minorities and indigenous peoples, the Committee on the Elimination of Racial Discrimination noted the continued challenges experienced by these groups in obtaining quality education. It recommended that Namibia *inter alia* continue to develop the mobile school unit programme, continue to adapt educational programmes to indigenous ways of life and culture and to address special needs, and address the root causes of young people dropping out of school.⁹⁶

77. The Human Rights Committee noted with concern that, according to the Research, Science and Technology Act of 2004, research projects, defined by the Act in particularly broad terms, required prior authorization. It stated that Namibia should make the necessary legal amendments to ensure that research may be carried out without State authorization.⁹⁷

78. The Committee on Economic, Social and Cultural Rights recommended the teaching of human rights at all levels of education.⁹⁸

D. Rights of specific persons or groups

1. Women⁹⁹

79. The United Nations country team stated that, despite the ongoing efforts, gender-based violence, particularly the number of incidents of rape and intimate partner violence, was still a great concern.¹⁰⁰

80. The Committee on Economic, Social and Cultural Rights noted that domestic violence and abuse were condoned or tolerated by the majority of the population and recommended, *inter alia*, that Namibia address the obstacles faced by victims of such violence in seeking remedies and obtaining protection.¹⁰¹

81. The Committee against Torture stated that Namibia should strengthen its efforts to raise awareness about violence against women and children, including by ensuring that children were educated about such violence, providing specialized training to police and law enforcement forces and ensuring the effective investigation, prosecution and punishment of perpetrators.¹⁰²

82. The same Committee remained concerned by the prevalence of traditional practices that were harmful to women and girls, particularly the ritual of Olufuko, which involved child marriage and sexual initiation rites. It stated that Namibia should strengthen its efforts to eliminate harmful traditional practices by criminalizing them and prosecuting alleged perpetrators.¹⁰³

2. Children¹⁰⁴

83. The United Nations country team stated that the Government had approved the Namibia School Feeding Policy 2019 and associated implementation action plan for 2019–2024 to address inequalities faced by orphans and vulnerable children and expand access to educational opportunities for all children, particularly those from food insecure households. The home-grown school feeding programme for 2019–2024 aimed to provide balanced and diversified meals at schools that promoted the nutritional health of learners.¹⁰⁵

84. The Committee on Economic, Social and Cultural Rights expressed concern at the significant prevalence of alcohol consumption and drug use among school-aged children and urged Namibia to provide the children concerned with access to treatment for alcohol and drug addiction and to take measures to prevent substance abuse among children.¹⁰⁶

3. Persons with disabilities¹⁰⁷

85. The United Nations country team stated that neither the National Disability Council Act of 2004 nor the National Policy on Disability of 1997 were aligned with the provisions of the Convention on the Rights of Persons with Disabilities.¹⁰⁸

86. The Committee on Economic, Social and Cultural Rights expressed concern that children with disabilities were disadvantaged in accessing education and that very few persons with disabilities were engaged in gainful employment, as a result of a lack of both enabling policies and resources. It recommended that Namibia, inter alia, allocate resources for the implementation of the Sector Policy for Inclusive Education and implement special measures, as provided for in the Affirmative Action (Employment) Act of 1998, to promote the employment of persons with disabilities.¹⁰⁹

4. Minorities and indigenous peoples¹¹⁰

87. While noting that Namibia had recognized 50 traditional authorities under the Traditional Authorities Act of 2000, the Committee on the Elimination of Racial Discrimination remained concerned that there were other indigenous peoples that had not been included in that process. It recommended that Namibia take measures to ensure the effective and inclusive participation of all indigenous peoples in political and public life at all levels.¹¹¹

88. The Committee on Economic, Social and Cultural Rights expressed concern that the legislation did not recognize communities that had self-identified as indigenous peoples and that indigenous peoples' traditional uses and occupation of land were not recognized and protected. It recommended adopting legislation recognizing indigenous peoples on the basis of self-identification and protecting their rights.¹¹²

89. Noting relevant concerns, the Human Rights Committee stated that Namibia should ensure that indigenous peoples had titles over lands and territories that they traditionally occupied or resources they owned. Namibia should seek the free and informed consent of indigenous communities and give primary consideration to their opinions and decisions prior to granting licences to extractive industries.¹¹³

90. The Committee on Economic, Social and Cultural Rights noted that the San communities had remained disadvantaged in the enjoyment of their economic, social and cultural rights, in spite of the San Development Programme. It recommended, inter alia, that Namibia consult and involve the San communities in the formulation and implementation of programmes benefiting them.¹¹⁴

91. The Committee on the Elimination of Racial Discrimination expressed concern at the high rate of poverty and the challenging economic and social situation of indigenous peoples and recommended the involvement of indigenous communities in the planning, implementation and review of development programmes aimed at improving their situation.¹¹⁵

92. The Committee on Economic, Social and Cultural Rights recommended, inter alia, that Namibia promote the culture of the various groups that make up its population, including by teaching their histories and culture in school, that it promote the preservation of the traditional way of life of the various ethnic and language groups and that it provide not only teaching in children's home language but also curricula and school environments that are culturally appropriate.¹¹⁶

5. Migrants, refugees, asylum seekers and internally displaced persons¹¹⁷

93. The Committee against Torture recommended that Namibia repeal section 24 (1) of the Namibia Refugees (Recognition and Control) Act of 1999 in order to respect its obligations under article 3 of the Convention against Torture, which establishes an absolute prohibition of refoulement when there is a risk of torture, and that it ensure that individuals at risk of persecution because of their sexual orientation or gender identity were not subject to refoulement and have equal access to asylum without discrimination.¹¹⁸

94. The Committee on the Elimination of Racial Discrimination expressed concern about the restrictions placed on the freedom of movement of asylum seekers and refugees in the Osire refugee settlement.¹¹⁹

Notes

- ¹ Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Namibia will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/NAindex.aspx.
- ² For the relevant recommendations, see A/HRC/32/4, paras. 137.1–137.2, 137.13–137.14, 137.41–137.45, 137.47–137.50, 137.86 and 137.98–137.107.
- ³ United Nations country team submission for the universal periodic review of Namibia, para. 7.
- ⁴ E/C.12/NAM/CO/1, para. 76.
- ⁵ A/HRC/36/48/Add.2, para. 79. See also E/C.12/NAM/CO/1, para. 75.
- ⁶ CAT/C/NAM/CO/2, para. 47. See also E/C.12/NAM/CO/1, para. 76.
- ⁷ CAT/C/NAM/CO/2, para. 48.
- ⁸ *Ibid.*, para. 49.
- ⁹ CERD/C/NAM/CO/13-15, para. 30.
- ¹⁰ For the relevant recommendations, see A/HRC/32/4, paras. 137.52–137.53, 137.60, 137.62, 137.69, 137.71, 137.74, 137.78–137.80, 137.82–137.85, 137.93–137.95 and 137.208.
- ¹¹ E/C.12/NAM/CO/1, paras. 4–5.
- ¹² United Nations country team submission, para. 16.
- ¹³ A/HRC/36/48/Add.2, para. 86.
- ¹⁴ CCPR/C/NAM/CO/2/Add.1, para. 1. See also CEDAW/C/NAM/CO/4-5, Add. 1, para. 7.
- ¹⁵ CAT/C/NAM/CO/2, para. 9. See also CCPR/C/NAM/CO/2/Add.1, para. 4.
- ¹⁶ CAT/C/NAM/CO/2, para. 25. See also CCPR/C/NAM/CO/2, para. 22.
- ¹⁷ UNESCO submission for the universal periodic review of Namibia, paras. 3 and 11.
- ¹⁸ United Nations country team submission, para. 64.
- ¹⁹ CAT/C/NAM/CO/2, para. 35.
- ²⁰ A/HRC/36/48/Add.2, para. 78.
- ²¹ CAT/C/NAM/CO/2, para. 13. See also CCPR/C/NAM/CO/2, para. 8, CERD/C/NAM/CO/13-15, para. 8, and E/C.12/NAM/CO/1, para. 11.
- ²² A/HRC/36/48/Add.2, para. 80.
- ²³ CCPR/C/NAM/CO/2, para. 6.
- ²⁴ For the relevant recommendations, see A/HRC/32/4, paras. 137.57–137.61, 137.63, 137.66, 137.68, 137.70, 137.72, 137.73, 137.81, 137.96, 137.108, 137.109, 137.111, 137.112, 137.119, 137.135, 137.148, 137.209, 137.212 and 137.215.
- ²⁵ CERD/C/NAM/CO/13-15, para. 10.
- ²⁶ E/C.12/NAM/CO/1, paras. 21–22 (a).
- ²⁷ CEDAW/C/NAM/CO/4-5/Add.1, para. 2.
- ²⁸ See https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NAM/INT_CEDAW_FUL_NAM_30900_E.pdf.
- ²⁹ CCPR/C/NAM/CO/2, paras. 9–10. See also United Nations country team submission, para. 37.
- ³⁰ CCPR/C/NAM/CO/2/Add.1, para. 2.
- ³¹ A/HRC/36/48/Add.2, para. 88.
- ³² CCPR/C/NAM/CO/2, paras. 11–12. See also E/C.12/NAM/CO/1, paras. 27–28.
- ³³ CERD/C/NAM/CO/13-15, paras. 13–14.
- ³⁴ A/HRC/36/48/Add.2, para. 99.
- ³⁵ For relevant recommendations, see A/HRC/32/4, paras. 137.16–137.30, 137.32–137.39, 137.75, 137.153 and 137.154–137.159.
- ³⁶ CCPR/C/NAM/CO/2, para. 19.
- ³⁷ *Ibid.*, para. 21 (c).
- ³⁸ CAT/C/NAM/CO/2, paras. 22–23.
- ³⁹ *Ibid.*, paras. 18–19.
- ⁴⁰ *Ibid.*, para. 45.
- ⁴¹ CCPR/C/NAM/CO/2/Add.1, para. 11.
- ⁴² A/HRC/36/48/Add.2, paras. 89, 90, 92 and 94.
- ⁴³ CCPR/C/NAM/CO/2, para. 21 (a).
- ⁴⁴ CAT/C/NAM/CO/2, para. 31.
- ⁴⁵ *Ibid.*, para. 17. See also CCPR/C/NAM/CO/2, para. 34, and the United Nations country team submission, paras. 91–93.

- ⁴⁶ For relevant recommendations, see A/HRC/32/4, paras. 137.124, 137.164–137.170, 137.173–137.174, 137.176 and 137.196.
- ⁴⁷ CAT/C/NAM/CO/2, paras. 14–15.
- ⁴⁸ CCPR/C/NAM/CO/2, para. 28.
- ⁴⁹ Ibid., paras. 29–30.
- ⁵⁰ CAT/C/NAM/CO/2, paras. 14–15.
- ⁵¹ CCPR/C/NAM/CO/2, para. 27.
- ⁵² CAT/C/NAM/CO/2, para. 11.
- ⁵³ Ibid., para. 21.
- ⁵⁴ E/C.12/NAM/CO/1, para. 7.
- ⁵⁵ For relevant recommendations, see A/HRC/32/4, para. 137.179.
- ⁵⁶ UNESCO submission, paras. 6 and 14.
- ⁵⁷ Ibid., para. 13.
- ⁵⁸ CCPR/C/NAM/CO/2, paras. 39–40.
- ⁵⁹ For relevant recommendations, see A/HRC/32/4, paras. 173.64, 173.76–173.77 and 137.162–137.163.
- ⁶⁰ United Nations country team submission, paras. 44 and 46.
- ⁶¹ For relevant recommendations, see A/HRC/32/4, paras. 137.177–137.178.
- ⁶² UNESCO submission, para. 5.
- ⁶³ CAT/C/NAM/CO/2, para. 31.
- ⁶⁴ CCPR/C/NAM/CO/2, para. 17.
- ⁶⁵ For relevant recommendations, see A/HRC/32/4, para. 137.46.
- ⁶⁶ E/C.12/NAM/CO/1, paras. 29–30.
- ⁶⁷ Ibid., paras. 35 and 37.
- ⁶⁸ United Nations country team submission, para. 36.
- ⁶⁹ Ibid., para. 40.
- ⁷⁰ For relevant recommendations, see A/HRC/32/4, para. 137.181.
- ⁷¹ E/C.12/NAM/CO/1, paras. 41–42.
- ⁷² United Nations country team submission, para. 56.
- ⁷³ For relevant recommendations, see A/HRC/32/4, paras. 137.88–137.92 and 137.182–137.189.
- ⁷⁴ E/C.12/NAM/CO/1, paras. 24–25.
- ⁷⁵ United Nations country team submission, paras. 28–29.
- ⁷⁶ E/C.12/NAM/CO/1, paras. 47–48.
- ⁷⁷ Ibid., paras. 54–55.
- ⁷⁸ Ibid., paras. 51–52.
- ⁷⁹ Ibid., paras. 56–57. See also United Nations country team submission, para. 32.
- ⁸⁰ A/HRC/36/48/Add.2, para. 98.
- ⁸¹ E/C.12/NAM/CO/1, paras. 59–60.
- ⁸² United Nations country team submission, para. 33.
- ⁸³ E/C.12/NAM/CO/1, paras. 61–62 (a).
- ⁸⁴ United Nations country team submission, para. 89.
- ⁸⁵ For relevant recommendations, see A/HRC/32/4, paras. 137.51, 137.190–195 and 137.197–199.
- ⁸⁶ E/C.12/NAM/CO/1, para. 64.
- ⁸⁷ Ibid., paras. 67–68.
- ⁸⁸ United Nations country team submission, para. 83.
- ⁸⁹ A/HRC/36/48/Add.2, para. 110.
- ⁹⁰ CCPR/C/NAM/CO/2, para. 12 (b).
- ⁹¹ Ibid., paras. 15–16.
- ⁹² Ibid., para. 16 (c).
- ⁹³ For relevant recommendations, see A/HRC/32/4, paras. 137.31, 137.200–137.206 and 137.218.
- ⁹⁴ UNESCO submission, p. 3.
- ⁹⁵ E/C.12/NAM/CO/1, paras. 71–72.
- ⁹⁶ CERD/C/NAM/CO/13-15, para. 10.
- ⁹⁷ CCPR/C/NAM/CO/2, paras. 41–42.
- ⁹⁸ E/C.12/NAM/CO/1, para. 7.
- ⁹⁹ For relevant recommendations, see A/HRC/32/4, paras. 137.67, 137.110, 137.113–137.118, 137.131, 137.133, 137.136–137.147, 137.149–137.152, 137.171–137.172 and 137.175.
- ¹⁰⁰ United Nations country team submission, paras. 48–53.
- ¹⁰¹ E/C.12/NAM/CO/1, paras. 45–46.
- ¹⁰² CAT/C/NAM/CO/2, para. 29. See also CCPR/C/NAM/CO/2, paras. 23–24.
- ¹⁰³ CAT/C/NAM/CO/2, para. 33. See also CCPR/C/NAM/CO/2, paras. 13–14, and E/C.12/NAM/CO/1, paras. 43–44.

- ¹⁰⁴ For relevant recommendations, see A/HRC/32/4, paras. 137.15, 137.54–137.55, 137.97, 137.125–137.130, 137.132, 137.160–137.161 and 137.214.
- ¹⁰⁵ United Nations country team submission, para. 22.
- ¹⁰⁶ E/C.12/NAM/CO/1, paras. 69–70.
- ¹⁰⁷ For relevant recommendations, see A/HRC/32/4, paras. 137.207 and 137.210–137.211.
- ¹⁰⁸ United Nations country team submission, para. 19.
- ¹⁰⁹ E/C.12/NAM/CO/1, paras. 19–20.
- ¹¹⁰ For relevant recommendations, see A/HRC/32/4, paras. 137.213, 137.216–137.217 and 137.219.
- ¹¹¹ CERD/C/NAM/CO/13-15, para. 10.
- ¹¹² E/C.12/NAM/CO/1, paras. 15–16.
- ¹¹³ CCPR/C/NAM/CO/2, paras. 43–44. See also CERD/C/NAM/CO/13-15, paras. 23–24.
- ¹¹⁴ E/C.12/NAM/CO/1, paras. 17–18.
- ¹¹⁵ CERD/C/NAM/CO/13-15, paras. 15–16.
- ¹¹⁶ E/C.12/NAM/CO/1, para. 74.
- ¹¹⁷ For relevant recommendations, see A/HRC/32/4, paras. 137.3–137.12 and 137.40.
- ¹¹⁸ CAT/C/NAM/CO/2, para. 27 (a) and (d). See also CCPR/C/NAM/CO/2, para. 36.
- ¹¹⁹ CERD/C/NAM/CO/13-15, para. 27.
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