



NATIONAL HUMAN RIGHTS ACTION PLAN REPUBLIC OF NAMIBIA 2015 - 2019



INDEX

Table of Contents	Page
Acronyms	2
1. Introduction	3
2. Background	4
3. Namibia’s Human Rights Vision, Objectives and Core Values	5
4. Focus Area 1: The Right to Health	6
5. Focus Area 2: The Right to Education	12
6. Focus Area 3: The Right to Water & Sanitation	17
7. Focus Area 4: The Right to Housing	22
8. Focus Area 5: The Right to Land	26
9. Focus Area 6: The Right to Access to Justice	30
10. Focus Area 7: The Right not to be discriminated against	37
11. Monitoring and Evaluating Namibia’s NHRAP Implementation	40

ACRONYMS

ACHPR	African Charter on Human and People’s Rights	MoJ	Ministry of Justice
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	MoL	Ministry of Labour
CERD	Convention on the Elimination of All Forms of Racial Discrimination	MoSS	Ministry of Safety and Security
CEDAW	Convention on the Eradication of all Discrimination Against Women	MTI	Ministry of Trade and Industry
CRC	Convention on the Rights of the Child	MRLGHRD	Ministry of Regional and Local Government, Housing and Rural Development
CLB	Communal Land Board	MTEF	Medium-term Expenditure Framework
CRPD	Convention on the Rights of People with Disabilities	MWT	Ministry of Works and Transport
CSO	Civil Society Organization	NCHE	National Council for Higher Education
DBTP	Decentralised Built Together Programme	NHAG	Namibia Housing Action Group
ECD	Early Childhood Development	NHE	National Housing Enterprise
FAO	Food and Agriculture Organisation	NHI	National Health Institute
FLT	Flexible Land Tenure	NHIES	Namibia Household Income and Expenditure Survey
GDP	Gross Domestic Product	NHRAP	National Human Rights Action Plan
HEI	Higher Education Institutions	NIED	National Institute for Educational Development
HRDC	Habitat Research and Development Centre	NIPAM	Namibia Institute for Public Administration and Management
ICT	Information and Communication Technology	NLC	National Land Conference
ILO	International Labour Organization	NSFAF	Namibia Students Financial Assistance Fund
IP	Indigenous people	NTA	Namibia Training Authority
IWRM	Integrated Water Resource Management	NPC	National Planning Commission
LA	Local Authorities	OP	Optional Protocol
LGBTI	Lesbians, Gays, Bisexual, Transsexual, Intersex	OPM	Office of the Prime Minister
LRDC	Law Reform and Development Commission	PHC	Primary Health Care
MAWF	Ministry of Agriculture, Water and Forestry	PPE	Pre-primary Education
M&E	Monitoring and Evaluation	PPP	Public-private Partnership
MGECW	Ministry of Gender Equality and Child Welfare	PM	Prime Minister
MICT	Ministry of Information and Communication Technology	PTT	Permanent Technical Team on land reform in Namibia
MLR	Ministry of Lands and Resettlement	PWD	People with disabilities
MoE	Ministry of Education	RC	Regional Councils
MoF	Ministry of Finance	SDFN	Shack Dwellers Federation of Namibia
MoHSS	Ministry of Health and Social Services	SO	Strategic Objective
		SOE	State Owned Enterprises
		TA	Traditional Authorities
		UN	United Nations
		UNAM	University of Namibia
		UPR	Universal Periodic Review
		WATSAN	Water and Sanitation
		WCPU	Women and Child Protection Units

1. INTRODUCTION

- 1.1 The Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in Vienna, Austria in 1993, recommended that –“Each State consider the desirability of drawing up a nation action plan identifying steps whereby the State would improve the protection and promotion of human rights”. Since independence in 1990, Namibia has signed, ratified or acceded to the most important international and regional human rights instruments, documents and treaties.
- 1.2 In 2013 Namibia was elected as a member of the UN Human Rights Council, an honour which places a responsibility on Namibia to lead by exemplary example when it comes to respect for and promotion of human rights.
- 1.3 In line with the Vienna Declaration and in response to the call to increase knowledge and awareness of human rights and address the legacies of the past, the Office of the Ombudsman as the National Human Rights Institution in Namibia, was tasked to, on behalf of Government, take the lead in developing a National Human Rights Action Plan which would ensure the implementation of practical and attainable plans for the protection and promotion of human rights. In doing this, we hope to fully translate the fundamental rights and freedoms entrenched in the Namibian Constitution into practical realities.
- 1.4 While the UNHCR’s NHRAP development guidelines recommend the substantial coverage of civil and political rights as well as economic, social and cultural rights, the 2012 Baseline Study on Human Rights in Namibia established that, notwithstanding the existing challenges still prevalent under the so-called first generation rights, ordinary Namibians recommended the prioritization of second generation rights under the auspices of the International Covenant on Economic, Social and Cultural Rights (ICESR). Although many issues were identified in the Baseline Study, the most pressing are in the following areas, which are the focus areas of Namibia’s 1st NHRAP:

- Health
- Education
- Housing
- Land
- Water & Sanitation
- Justice
- Discrimination

Many of these areas are linked to unemployment and poverty, both of which were identified as major issues by the 2012 Baseline Study with many involving specific issues facing the so-called vulnerable or marginalized groups in Namibia – in particular women, children, indigenous peoples (IPs), people with disabilities (PWDs), people living with HIV/AIDS, sexual minorities, elderly people, prisoners and detained persons, refugees, migrant workers and asylum seekers.

- 1.5 A summary background of the consultative process followed since 2009 to develop the NHRAP is outlined in Section 2, with Section 3 providing an overview of the strategic framework for the NHRAP, i.e. overall vision for human rights in Namibia as well as the overall objectives that the implementation of the NHRAP will aim to achieve during the period 2015 – 2019. Sections 4 to 10 focus on the seven priority areas for the NHRAP interventions. The NHRAP concludes in Section 11 with the monitoring, evaluation and implementation essential for achieving the envisaged human rights outcomes.

2. BACKGROUND

- 2.1 The development of Namibia’s NHRAP commenced in 2009 with a National Human Rights Conference aimed at encouraging open discussion between government representatives, different practitioners promoting different rights and interests and different sectors of civil society, which resulted in constructive proposals to systematically continue with the development of the NHRAP.
- 2.2 The National Human Rights Conference was followed by training people in human rights action plan drafting, briefing and consultative sessions with civil society and the development of a framework for the development of the NHRAP. In October 2012, the Office of the Ombudsman commissioned the undertaking of a Human Rights Baseline Study which included a country-wide household survey, followed by a National Consultative Conference in November 2013 that was attended by various ministries and other stakeholders and which culminated in a consolidated draft consultative framework to support the consultative process towards the further development of the NHRAP. Both the Baseline Study as well as the November 2013 Conference informed the human rights focus areas of education, health, land, water and sanitation, housing, access to justice and the right not to be discriminated against, to be included in the NHRAP.
- 2.3 Before commencing with a broadened consultative process, the Ombudsman engaged some honourable Ministers of lead ministries to ensure support for the programme and commitment to the process.
- 2.4 The consultative process on the draft consultative framework for the NHRAP commenced with workshops in Windhoek, focusing on the various prioritized areas, to which lead ministries and other stakeholders, especially from civil society were invited. These workshops took place as follows:

Ministry	Focus Area	Period
Ministry of Health and Social Services	Health	21-22 May 2014
Ministry of Justice	Justice	2-3 June 2014
Ministry of Agriculture, Water and Forestry	Water & Sanitation	4-5 June 2014
Ministry of Regional, Local Government and Housing and Rural Development	Housing	9 June 2014
Ministry of Education	Education	10-11 June 2014
Ministry of Lands and Resettlement	Land	12 June 2014
Office of the Ombudsman	Discrimination	13 June 2014

- 2.5 Following the Windhoek-based workshops, the draft consultative framework was updated to include comments and inputs solicited during those workshops, before taking the consultative process to the regions. The following extensive programme took the draft NHRAP through regional consultative conferences where comments and inputs were solicited from regional stakeholders:

Region	Location	Period
Zambezi	Katima Mulilo	7-8 July 2014
Kavango East and West	Rundu	10-11 July 2014
Omusati, Oshikoto, Oshana & Ohangwena	Ondangwa	14-15 July 2014
Kunene and Otjozondjupa	Otjiwarongo	17-18 July 2014
Omaheke	Gobabis	23-24 July 2014
Karas & Hardap	Keetmanshoop	29-30 July 2014
Erongo	Swakopmund	5-6 August 2014

- 2.6 After the Windhoek and regional consultative conferences, which saw attendance and most valuable inputs and comments from ministry and regional council staff as well as stakeholders from a number of local authorities, parastatals and civil society/non-governmental organisations, a final draft NHRAP was compiled and presented to a gathering of representatives from all of the aforementioned organisations during a final Consultative Conference which took place in Windhoek from 3 – 5 September 2014, following which the draft NHRAP was submitted to Cabinet on 30 September 2014.

3. NAMIBIA'S HUMAN RIGHTS VISION, OVERALL OBJECTIVES AND CORE VALUES

- 3.1 The National Development Plan 4 articulates as values cherished by the Namibian nation, respect for human dignity and the recognition that everyone must contribute to the country's development irrespective of *"their race, colour, gender, age, ability, ethnicity, religious affiliation or political inclination"*. It further articulates the country's commitment to upholding the tenets of the Namibian Constitution, aimed at *"strengthening human rights, individual freedoms, civil liberties and multi-party democracy"*. This underpins the following vision that Namibia has for human rights:

That Namibia becomes a nation where *"the promotion and protection of human rights is the foundation for the delivery of its socio-economic development agenda, with guarantees for equality of treatment of all its citizens"*.

- 3.2 The overall objectives to be achieved over the implementation period of Namibia's 1st NHRAP are:

- to lay a firm foundation for entrenching human rights promotion and protection through structured instruments such as the National Human Rights Action Plan;
- to initiate and inculcate programmes and processes that will entrench a culture of respect and observance of human rights protection and promotion amongst all organs of state and the general population;
- to strengthen institutional arrangements that will actively drive the implementation of Namibia's human rights agenda; and
- to provide focused support and input to the interventions outlined in this National Human Rights Action Plan.

- 3.3 The key principles to guide Namibia's human rights interventions over the next five (5) years are structured around the so-called Panther principles for human rights and include:

Participation – aimed at ensuring people exercise their right to participate in decision-making regarding protection of their rights, while government will also endeavor to engage and support the participation of civil society on human rights matters.

Accountability – aimed at creating mechanisms of accountability for the enforcement of rights, i.e. put in place effective measures to be held accountable if those rights standards are not met.

Non-discrimination – aimed at guaranteeing human rights without discrimination of any kind. This further implies that Namibia will seek to systematically remove or review practices, regulatory and legal instruments that may have a discriminatory effect.

Transparency – aimed at government being open about all information and decision-making processes related to rights. This further implies that government will not only share information on a regular basis, but effect implementation arrangements that will allow representative structures access to platforms taking major decisions affecting rights.

Human dignity – aimed at value attached by the government to the inherent and immutable dignity of every person at all times, without exception. Furthermore, it speaks to government commitment to the provision of special services or measures that meet the unique needs of the poor, vulnerable, and marginalized sectors of society.

Empowerment – aimed at government acknowledging and respecting its peoples’ ability and capacity to find solutions to their problems given they receive support that is empowering.

Rule of law – aimed at government’s commitment to the observance of the principles and values of justice, equity, fairness, and impartiality in all policies, plans, decisions, procedures, relating to justice, law enforcement and public safety.

4. FOCUS AREA 1: THE RIGHT TO HEALTH

4.1 Introduction

The right to health is recognized in the *United Nations International Convention on Economic, Social and Cultural Rights*, Article 12, which states that countries who have ratified the Convention must recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and that they must take steps to achieve the full realization of this right including those necessary for:

- the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- the improvement of all aspects of environmental and industrial hygiene;
- the prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- the creation of conditions which would ensure medical services to all its citizens.

The right is also recognized in various international instruments to which Namibia is a party:

- The Universal Declaration of Human Rights, Article 21(1)
- International Covenant on Economic, Social and Cultural Rights (ICESCR), (Article 12)
- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5 (e) (iv)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Articles. 11 (1) (f), 12 and 14 (2) (b)
- The Convention on the Rights of the Child (CRC), Article 24
- The Convention on the Rights of Persons with Disabilities (CRPD), Article 25

Besides being party to a body of non-binding international standards and declarations relating directly or indirectly to the right to health, i.e. the Declaration of Alma-Ata, the United Nations Millennium Declaration and Millennium Development Goals and the Declaration of Commitment on HIV/AIDS, Namibia at the regional level also subscribes to the African Charter on Human and Peoples’ Rights as well as the African Charter on Rights and Welfare of the Child.

4.2 Situational Analysis

The key shortcomings highlighted by the 2011 Universal Periodic Review, the 2012 baseline survey and identified at the 2013 National Consultative Conference and the 2014 series of stakeholder consultative workshops include the following:

- Unacceptable attitudes of health professionals
- Cross-border health issues not receiving adequate attention for border towns
- Inadequate health infrastructure and equipment
- Poor supervision within health services
- Health processes and systems that are not responsive
- Information access and awareness lacking
- Inadequate staffing at health facilities
- Accessibility of health facilities and services
- Traditional medicine still preferred above formal health care
- Lack of partnership between public and private health care
- Lack of reliable and quality medicines
- Environment health (other contributing factors) not taken seriously
- Inter-sector approaches to planning and implementation lacking
- No special focus on health issues relating to vulnerable groups and IPs
- Inadequate or limited advisory support to health service users
- Outdated and inadequate legal and regulatory environment

4.3 Focus area vision and specific objectives

The vision to be achieved for the right to health is *“a Namibia where every citizen enjoys access to quality, affordable and accessible health care towards attaining and sustaining highest standards of physical and mental health”*.

The achievement of this vision will commence in the 1st NHRAP with strategic interventions aimed at achieving the following specific objectives:

No	Specific Objectives
SO1	Accessible and affordable health services
SO2	Quality health care services
SO3	Equitable health care provision
SO4	Public education and awareness on health care issues
SO5	Research and availability of information on health care
SO6	Having a responsive legal and regulatory framework for the health sector

4.4 Strategic interventions and responsible institutions

4.4.1 Accessibility and affordability of health care

The achievement of the objective of “accessible and affordable health services” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Improvement in patient/doctor ratio*
- *Satisfaction of population with access and affordability of health care, especially in remote and rural areas*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Increase qualified (skilled and competent) health professionals, especially in rural areas	MoHSS	
2. Promote and expand community-based health care service provision through the rollout of community health worker programmes	MoHSS	
3. Improve physical accessibility of the health infrastructure to accommodate people with disabilities	MoHSS	MWT
4. Increase mobile clinics for rural areas	MoHSS	
5. Introduce scheduled transport to health facilities and services for vulnerable people	MoHSS	
6. Computerize patients record systems to replace the health passport system	MoHSS	
7. Improve availability of 1 st line medicine at all health facilities and services	MoHSS	
8. Place more emphasis on non-communicable diseases	MoHSS	
9. Improve interpersonal and communication skills of health professionals, including dealing with children, IPs, sexual minorities and PWDs	MoHSS	MoE
10. Investigate the possibility of free health services to vulnerable people (e.g. children under age of 5 years or pregnant women)	MoHSS	
11. Promote the use of local languages in the health facilities	MoHSS	
12. Assess and possibly extend the implementation of health extension services in rural areas and encourage smart partnerships with civil society organisations to promote health for all	MoHSS	CSO's
13. Explore feasibility of a national health insurance (NHI) scheme for the poor	MoHSS	
14. Expand the accessibility and availability of sexual and reproductive health services in rural areas	MoHSS	
15. Formally explore PPPs in health care service provision	MoHSS	
16. Opening hours of clinics and health centres in outlying areas be extended	MoHSS	
17. ICT integration in health care – to deal with health service delivery	MoHSS	OPM
18. Explore the decentralization of PHC to local levels (including ambulances)	MoHSS	

4.4.2 Quality of health care service

The achievement of the objective to have “*quality health care services*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Satisfaction of general populace with health care quality*
- *Number of qualified professionals providing health care*
- *Improvement in multi-sector approaches to health care*
- *Improvement in standard of health facilities and infrastructure*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Review selection and recruitment criteria for the training of health professionals, e.g. use of psychometric screening	MoHSS	UNAM/Other Training Institutions
3. Introduce leadership and management training for all supervisory positions in the health services	MoHSS	NIPAM
4. Review, develop, introduce and enforce a comprehensive set of standards for health service delivery	MoHSS	
5. Improve procurement practices for health services and facilities	MoHSS	
6. Develop a comprehensive and responsive maintenance plan for health infrastructure	MoHSS	
7. Provide health professionals with training incorporating a human rights-based approach to health delivery	MoHSS	UNAM
8. Provide scholarships to people interested in obtaining a hospital management qualification	MoHSS	
9. Commission a comparative analysis study between private and public health facilities, with a view to improve public health service	MoHSS	
10. Sensitize and train health workers on a supervisory level about the effective implementation of existing health policies and laws	MoHSS	
11. Encourage multi-sector health care approaches for health services delivery at all levels	MoHSS	
12. Explore multi-sector approach to address malnutrition of children	MoHSS	MGECW
13. Encourage multi-sector approach needed for maternal education, awareness raising and nutritional counseling	MoHSS	
14. Provide training for ambulance drivers	MoHSS	
15. Re-introduce enrolled nurses training and employment in the health care service	MoHSS	
16. Explore more effective retention strategies for health professionals	MoHSS	OPM

4.4.3 Equity in health care provision

The achievement of the objective of “*equitable health care provision*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *PWD satisfaction with information access on health*
- *Satisfaction of IPs with access to quality health care*
- *Satisfaction of population with access to mental and physical health care*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Sensitize health workers not to discriminate against anyone	MoHSS	
2. Strengthen capacity for mental health services nationally	MoHSS	
3. Introduce comprehensive and accessible psychological and psychosocial services	MoHSS	
4. Develop information formats that are PWD friendly (e.g. big prints, audio, braille)	MoHSS	National Disability Council
5. Invest in developing skills and competencies for physiotherapy, speech therapy, occupational therapy, etc.	MoHSS	
6. Improve communication between health care practitioner and patients (e.g. informed-consent)	MoHSS	
7. Expand maternal healthcare services and facilities (e.g. emergency obstetrics and neonatal care) with trained staff in rural areas	MoHSS	
8. Introduce health care services that will accommodate the particular needs of IPs and PWDs (e.g. nomadic groups)	MoHSS	

4.4.4 Public education and awareness on health care

The achievement of the objective of “*public education and awareness on health care issues*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of health awareness campaigns*
- *Multi-media information resources*
- *% Of the population that know about their right to health*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Undertake awareness campaigns about the right to health and the Patient Health Charter	MoHSS	
2. Education and awareness programmes on teenage pregnancies, including counseling and support for pregnant adolescents	MoHSS	
3. Develop comprehensive awareness campaigns on specific health concerns (e.g. mental health)	MoHSS	
4. Initiate a campaign targeting parents on child health and nutrition, hygiene and sanitation, and sexual health	MoHSS	
5. Design education and awareness material for focusing on the concept of informed consent	MoHSS	
6. Support CSO involvement in awareness and education activities	MoHSS	
7. Support accompanying awareness campaigns on primary health care	MoHSS	

4.4.5 Research and information on health care

The achievement of the objective of “*research and availability of information on health care*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of research reports*
- *improved understanding or enhanced dialogue*
- *increased compliance by Namibia’s health sector to international and regional obligations*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Commission independent assessment of factors contributing to the attitudes of health professionals	MoHSS	
2. Undertake a comprehensive review of the conditions of service for health workers	MoHSS	OPM
3. Commission research on harmful cultural/traditional practices on women’s health and encourage dialogue and debate in traditional communities on findings	MoHSS	LRDC CSOs
4. Commission formal research on factors contributing to the migration of health workers from the country	MoHSS	
5. Commission formal research to assess the compliance of the national health strategy with Africa Health Strategy and the Maputo Plan of Action	MoHSS	
6. Formal research be commissioned on abortion before dialogue and debate is encouraged	MoHSS	

4.4.6 Responsive legal and regulatory framework

The achievement of the objective of having a “*responsive legal and regulatory framework for the health sector*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Compliance with international human rights instruments*
- *Number of legal and regulatory instruments reviewed*

The interventions prioritized for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Ensure compliance of the health services legal and regulatory framework with regional and international obligations (i.e. audit and review)	MoHSS	
2. Initiate research on the legalization of abortion	MoHSS	
3. Undertake a formal review of mental health policy	MoHSS	
4. Review criteria for locating services	MoHSS	

5. FOCUS AREA 2: THE RIGHT TO EDUCATION

5.1 Introduction

The primary instrument recognizing the right to education is the *United Nation's International Covenant on Economic, Social and Cultural Rights*, which in Article 13 states that parties to the Covenant recognize the universal right to education of everyone, further compelling State parties to ensure general availability and accessibility of all levels of education, and progressive introduction of free education for secondary and higher education. The right to education is also recognized in various instruments to which Namibia is a party:

International

- Universal Declaration of Human Rights (Article 26)
- International Covenant on Civil and Political Rights (Article 18)
- Convention on the Rights of the Child (Articles 28 and 29)
- Convention on the Elimination of all forms of Discrimination against women (Article 10)
- General Comment No.11 of the Committee on Economic, Social and Cultural Rights (on article 14 plans of action for primary education)
- General Comment No.13 Committee on Economic, Social and Cultural Rights (on Article 13 the right to education)

Regional

The right to education is protected under Article 17 of the African Charter on Human and Peoples' Rights stating that "every individual shall have the right to education" and confirmed by Article 11 of the African Charter on the Rights and Welfare of the Child. The right to education is explicitly guaranteed under Article 20 of the Namibian Constitution, which also guarantees primary education to be compulsory and to be provided free of charge by the State.

5.2 Situational Analysis

The key shortcomings highlighted by the 2011 Universal Periodic Review, the 2012 baseline survey and identified at the 2013 National Consultative Conference and the 2014 series of stakeholder consultative workshops include the following:

- Early Childhood Development and Pre-primary education shortcomings
- Teaching and learning environment not conducive everywhere
- Public awareness and education lacking on rights to education
- Legal and regulatory framework requiring review and strengthening
- Equity in distribution of education resources and availability
- Leadership and management challenges confronting education
- Inadequate or limited monitoring and evaluation at local level
- Educational infrastructure inadequacies
- Special education needs neglected or inadequately provided for
- Vulnerable groups education needs neglected
- Staffing challenges for education in terms of under- and unqualified teachers
- Indiscipline at school level
- Adult education – illiteracy rates still concerning
- Service standards that are still significantly skewed
- Limited roll-out of support services for vulnerable children
- Relatively high drop-out rates at secondary education levels
- Academic orientation of the education system

- Accessibility of education facilities especially in remote areas
- Inadequate emphasis on parental involvement in education
- Lack of adequate human rights education in schools and higher learning institutions

5.3 Focus area vision and specific objectives

The vision to be achieved for the right to education *“Namibia has an inclusive, equitable and diversified education system in place that progressively guarantees every child access to quality education at all levels”*.

The achievement of this vision will commence in the 1st NHRAP with strategic interventions aimed at achieving the following specific objectives:

No	Specific Objectives
SO1	To have a strong foundation for ECD and PPE
SO2	Human rights education at all levels
SO3	Awareness about the right to education
SO4	Mainstreaming the needs of learners with learning disabilities
SO5	Supporting the teaching/learning environment for all levels of education
SO6	Education opportunities for IPs and vulnerable groups
SO7	To provide opportunities to teachers to enroll for accredited ECD and PPE programmes
SO8	To have a relevant and responsive legal and regulatory framework for education

5.4 Strategic interventions and responsible institutions

5.4.1 Foundation for ECD and PPE

The achievement of the objective of *“having a strong foundation for ECD and PPE”* will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Accredited standards and uniform curriculum for ECD & PPE*
- *Improvement in trained (qualified) teacher availability for ECD and PPE*
- *% Increase in enrollment for ECD and PPE (especially in rural areas)*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Develop accreditation standards and a uniform curriculum for pre-primary education and ECD	MoE	NIED
2. Implement measures to facilitate the accommodation of ECD under the MoE	MoE	MGECW
3. Prioritize the training of teachers for ECD and PPE	MoE	
4. Accelerate the rolling out of Grade 0 to all schools, especially those in rural areas	MoE	
5. Appoint truancy officers in regions for improving school enrollment	MoE	
6. Formally analyse and assess the regional disparities for ECD and PPE throughout Namibia	MoE	

5.4.2 Entrenching human rights education at all levels

The achievement of the objective of “*human rights education at all levels of education*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Human rights curriculum at all levels*
- *Improvement in culture of respect for human rights (tolerance and diversity)*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Introduce, promote and strengthen human rights education (including educating learners about the Namibian constitution) for all levels of education through appropriate curriculum development and rollout	MoE	NIED Ombudsman

5.4.3 Promoting the right to education

The achievement of the objective of “*increasing understanding and awareness of the right to education*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of awareness programmes*
- *Improved enrollment by IPs, girl-child*
- *Decrease in school dropouts*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Develop and deliver a comprehensive awareness programme on the “right to education”, including IPs, girl-child in rural and traditional communities	MoE	MGECW
2. Undertake awareness campaigns on universal primary education (UPE) policy targeting parents and community	MoE	Ombudsman
3. Undertake public awareness and education campaigns on right to education for IPs	MoE	Ombudsman

5.4.4 Mainstreaming needs of learners with disabilities

The achievement of the objective of “*mainstreaming the needs of learners with learning disabilities*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *More facilities for “special needs children”, especially in regions*
- *Improved teaching and learning environment for learners with disabilities*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Assess the effectiveness of existing child development programmes for children with special needs and implement measures that will ensure early detection of impairments (e.g. for hearing, sight, speech) and support interventions	MoE	MoHSS MGECW
2. Develop a strategy to accommodate all children with special needs	MoE	

5.4.5 Supportive environment for teaching and learning

The achievement of the objective to “*support the teaching/learning environment for all levels of education.*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *% Of children from remote or rural areas who have access to education materials*
- *Improvement in access to vocational and technical education opportunities*
- *Improvement in availability and quality of counseling and other support services for learners*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Establish a forum for multi-sector cooperation involving all role players for an integrated school health programme	MoE	MoHSS
2. Assess the impact of existing incentive schemes on qualified teacher availability across the country and improve if necessary	MoE	
3. Introduce transport systems for school children in rural areas	MoE	
4. Implement a comprehensive counseling programme for schools	MoE	MoHSS
5. Improve the availability of textbooks	MoE	
6. Assess the feasibility of vocational and technical schools as options at secondary school level	MoE	NIED
7. Develop and enforce guidelines to support children from disadvantaged backgrounds	MoE	MGECW
8. Use of ICT solutions in increasing access to distance education programmes	MoE	
9. Research causes of indiscipline at schools and recommend measures for improvement	MoE	
10. Explore measures for maintaining appropriate relationship between teachers and learners	MoE	

5.4.6 Education for IPs and vulnerable groups

The achievement of the objective “*to provide education opportunities for IPs and vulnerable groups*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- % Increase in number of IPs and vulnerable groups enrolled in education
- Educational resources available in IP languages

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Develop educational material for IPs that includes their history and culture	MoE	NIED
2. Establish an education programme that is aimed at eradicating the socio-cultural and material problems faced by San, Ovahimba and Ovahimba learners	MoE	OPM Ombudsman

5.4.7 Professional development of teachers

The achievement of the objective of “providing opportunities to teachers to enroll for accredited ECD and PPE programmes” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- Comprehensive human resource development plan for education
- Number of teachers enrolled for ECD and PPE programmes
- Positive impact on quality of education

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Develop and implement a comprehensive human resource development plan for teachers (including accredited in-service training)	MoE	NIED
2. Review career paths and promotional opportunities for teachers	MoE	OPM Teacher’s Unions
3. Review performance appraisal system for teachers	MoE	OPM Teacher’s Unions
4. Introduce management training programmes for teachers	MoE	

5.4.8 Responsive legal and regulatory framework

The achievement of the objective “to have a relevant and responsive legal and regulatory framework for education” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- Regulatory body for teachers in place
- Wellness policies and programmes for teachers and learners
- Number of legal and regulatory instruments reviewed, developed

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Ensure that the conditions for the funding of private schools are met (Review the per capita funding of private schools).	MoE	
2. Review language policy and explore the introduction of a Namibian language as a third language for learners.	MoE	
3. Encourage teacher enrollment for training in the teaching of indigenous languages	MoE	
4. Explore the feasibility of a regulatory body for educators	MoE	
5. Develop and implement a wellness policy and programmes for teachers and learners	MoE	
6. Review Education Act to include ECD, PPE and Inclusive education	MoE	
7. Develop an Action Plan to ensure the implementation of the policy on Inclusive Education	MoE	
8. Review the NSFAP guidelines to ensure equity throughout Namibia	MoE	NSFAF
9. Consult with HEIs about including the disadvantaged, marginalized communities and IPs in their enrollment policies	MoE	NCHE
10. Review the “Policy for the Prevention and Management of Learner Pregnancy”, including the encouragement of dialogue on the policy	MoE	MGECW

6. FOCUS AREA 3: THE RIGHT TO WATER & SANITATION

6.1 Introduction

In 2002, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) adopted its General Comment No. 15 on the right to water, which defines the right to water as the right of everyone “to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses”. The International Covenant on Economic, Social and Cultural Rights (ICESCR) in November 2010 issued a statement on the right to sanitation and reaffirms that it is fundamental to an adequate standard of living which is also enshrined in the Article 11 of the CESCR. The right to sanitation is also included under other Covenant rights, amongst others, the right to health, the right to housing, as well as the right to water. The rights to water and sanitation are also recognized in various international and regional instruments to which Namibia is a party:

International

- Convention on the Rights of the Child (CRC) (Article 24); (Article 24(10(2))); (Article 16.1); (Article 27.3)
- Convention on the Elimination of All Forms of Discrimination against Women (EDAW) (Article 14 (2); Article 5(e)(iii); (Article 14.2) (h)
- Convention on the Rights of Persons with Disabilities (CRPWD) (Article 28) (Article 28.1); (Article 28.2, (d))
- International Labour Organization (ILO) Convention N0.161 of 1985 on Occupational Health Services (Article 5)
- Universal Declaration on Human Rights (UDHR), Adequate standard of living (Article 25)
- International Covenant of Economic, Social and Cultural Rights (ICESCR), Adequate standard of living (Article 1 (1))
- General Comment no.15 of the (ICESCR)
- Resolution 64/292 of the United Nations General Assembly

In addition, related international human rights guidelines and principles with explicit reference to safe drinking water and sanitation are as follows:

- Standard Minimum Rules for the Treatment of Prisoners, Rule 15, 20(2)
- United Nations Rules for the Protection of Juvenile Deprived of their Liberty, Rule 34 & 37
- United Nations Principles for Older Persons, Principle 1
- Guiding Principles on International Displacement, Principle 18(1); 2(a)(d), 3
- ILO Recommendation No 115 of 1961 on Workers' Housing, Recommendation 7 (b), 9(c), 8(c)(d)
- Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national security (FAO), Guidelines 3.6 & 8.1

Regional

At the regional level, the rights to water and sanitation are protected under the African Charter on the Rights and Welfare of the Child, Article 14(10)(2)(c) and Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 15(a): Right to Food Security. Other important regional level instruments covering this right include:

- Resolution A/HRC/RES/15/9 of 6 October 2010 of the Human Rights Council
- 2008 eThekweni Declaration
- 2008 Sharm El. Sheikh Commitments
- 2006 Abuja Declaration
- 2002 World Summit on Sustainable Development, Johannesburg, South Africa
- The 2001 Declaration on Cities and Other Human Settlements in the New Millennium

6.2 Situational Analysis

The key shortcomings highlighted by the 2011 Universal Periodic Review, the 2012 baseline survey and identified at the 2013 National Consultative Conference and the 2014 series of stakeholder consultative workshops include the following:

Water:

- **Safety/Quality** - little ongoing monitoring of water quality at the local levels, absence of regulation and monitoring by government (the current quality checks done by Namwater through delivery checks and by MAWF when it sinks new boreholes), and the how water quality checks not being guaranteed could pose a potential health risk.
- **Accessible** – majority have a distance of between 1-2km to cover to access the source of drinking water. 2009/10 NHIES showed a strong relationship between income levels of households and the distance of the source of drinking water.
- **Affordable** – the lack of coordination and or guidelines between the tariffs charged by Namwater (usually approved by Cabinet) and that what is ultimately charged by the local Authorities, and how the current unemployment rate affects the economic accessibility of water for a great number of households.

Sanitation:

- **Physical accessibility** – accessibility of sanitation has worsen for 34% and equally perceived to have stayed as is by 35% of the respondents while 31% perceived accessibility to have improved. Women reportedly experienced greater difficulties in accessing facilities. Access to sanitation is biased towards urban households compared to rural households. 2009/10 NHIES showed that 49% of households practiced open defecation.

- **Availability** - The main concern is the non-availability in general and when available it is to be shared and the impact of the situation especially on the vulnerable groups such as women were emphasized. The situation of the non-availability of improved sanitation facilities extends to public institutions. The state of the sanitation facilities in public institutions such as the prisons and holding cells in Namibia has been highlighted in the baseline study findings as still undesirable and less than ideal.
- **Safe location of sanitation services** - Sanitation facilities especially in urban informal settlements and rural areas are regarded as unsafe for pregnant women and vulnerable groups such as people with disabilities, women, children and the elderly due to the location thereof. It is perceived not safe especially at night. There was a concern that in some public institutions such as holding cells sanitation facilities become health risks caused by burst pipes and delayed repairs as well as constant breakages of toilet facilities.
- **Other concerns include** - The poor are paying more for water, disjointed efforts of different stakeholders involved in providing sanitation solutions, lack of awareness and sensitization on dry-sanitation system in lieu of our water scarcity challenge, the need to address attitude and behaviour challenges (e.g. in terms of addressing cultural barriers to the use of sanitation facilities), potential contaminating water resources as sanitation facilities are located in close proximity to water sources in some remote areas, old water supply infrastructure in towns, and lack of public toilets in urban areas contribute to unhygienic situation.

6.3 Focus area vision and specific objectives

The vision to be achieved for the right to water and sanitation “a Namibia where everyone has access to clean, affordable, acceptable water and suitable sanitation facilities”.

The achievement of this vision will commence in the 1st NHRAP with strategic interventions aimed at achieving the following specific objectives:

No	Specific Objectives
SO1	To strengthen WATSAN Service Delivery
SO2	To improve research and information on WATSAN
SO3	To increase education and awareness on WATSAN
SO4	Strengthening WATSAN partnerships and coordination
SO5	To resource and fund WATSAN services
SO6	A relevant and responsive legal and regulatory framework for WATSAN service provision

6.4 Strategic interventions and responsible institutions

6.4.1 WATSAN Service Delivery

The achievement of the objective “to strengthen WATSAN Service Delivery” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Improvement in community skills to construct and operate WATSAN facilities*
- *% Increase in subsidies to sub-national governments for WATSAN facilities*
- *Increased access to WATSAN services by urban poor and vulnerable groups*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Provide training to local communities (including informal settlements in urban areas) in the construction, operation and maintenance of sanitation facilities	MAWF	MRLGHRD
2. Provide subsidies to local authorities and regional councils to strengthen WATSAN service delivery through life-line/social tariffs to people lacking secure tenure, those facing economic barriers, and other vulnerable groups	MAWF	MRLGHRD LAs & RCs
3. Increase support to self-help and other informal approaches to improve water and sanitation accessibility	MAWF	MRLGHRD
4. Establish an independent water regulator as required by the Water Resources Management Act 11 (of 2013)	MAWF	
5. Introduce measures for broad stakeholder participation in decision-making regarding priority spending in water and sanitation	MAWF	MRLGHRD
6. Promote community-based approaches for WASH (water, sanitation and hygiene) solutions	MAWF	MRLGHRD MoHSS
7. Promote women's and children's access to WATSAN in line with our international obligations	MAWF	MRLGHRD
8. Ensure that the construction of improved sanitation facilities meets the special needs of vulnerable groups	MAWF	MRLGHRD

6.4.2 Research and information on WATSAN

The achievement of the objective “to improve research and information on WATSAN” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- Accessible information on WATSAN situation
- Progress on meeting expenditure target for WATSAN

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Develop accessible intelligence (fact, figures & trends) on WATSAN service provision	MAWF	MRLGHRD
2. Assess progress of the expenditure target of 0.5% of GDP for sanitation as per eThekweni Declaration ¹	MAWF	MoF
3. Implement an applied research programme on sanitation solutions	MAWF	MRLGHRD HRDC
4. Assess climate change impact on the long-term water and sanitation accessibility	MAWF	MRLGHRD

¹ eThekweni Declaration is undertaking on sanitation and hygiene signed at the Durban (RSA) AfriSan+5 Conference, by African ministers pledging to create separate budget lines for sanitation and hygiene and to commit 0.5% of their countries GDP to fund related programmes and activities

6.4.3 Education and awareness on WATSAN

The achievement of the objective “to increase education and awareness on WATSAN matters” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of awareness and education campaigns*
- *Increased stakeholder awareness*
- *Improvement in behavior change with regard to WATSAN concerns*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Strengthen awareness about appropriate sanitation systems (e.g. dry-sanitation systems for the water scarce areas)	MAWF	MRLGHRD
2. Undertake awareness and education campaigns targeting the general public on knowledge about the rights to water and sanitation	MAWF	MRLGHRD Ombudsman
3. Awareness and education campaigns about WATSAN services in prisons and police cells targeting members of the parliament	MoJ	MoSS Ombudsman
4. Design and implement community awareness and sensitization programmes on sanitation aimed at behavior change	MAWF	MRLGHRD
5. Strengthen existing multi-sector platforms for WATSAN involving O/M/As and civil society organizations	MAWF	MRLGHRD

6.4.4 Partnership and Coordination for WATSAN

The achievement of the objective of “strengthening WATSAN partnerships and coordination” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of functional multi-sector forums*
- *Improvement in coordination between line ministries*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Strengthen and optimize the WATSAN forums to ensure cooperation and participation by all role players	MAWF	MRLGHRD
2. Promote access to bulk infrastructure to facilitate self-help sanitation solutions	MRLGHRD	
3. Strengthen coordination mechanisms between line ministries and other partners in sanitation service delivery targeting rural areas	MAWF	MRLGHRD

6.4.5 Resourcing and funding for WATSAN services.

The achievement of the objective “to resource and fund WATSAN services” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- Increase in funding for line ministries and sub-national governments
- Improvement in execution of WATSAN strategy and programmes

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Ensure that the relevant ministries allocate adequate funds to effectively address the sanitation deficit and accelerate the attainment of MDG Target 7C ² for Namibia	MoF	MAWF MRLGHRD

6.4.6 Regulatory & Legal Environment for WATSAN

The achievement of the objective “to have a relevant and responsive legal and regulatory framework for WATSAN service provision” will broadly be measured through assessing outputs and outcomes related to the following indicator:

- Progress with review of IWRM plan, WATSAN policies and National Sanitation Strategy

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Review Integrated Water Resource Management (IWRM) Plan	MAWF	
2. Undertake formal review of the WATSAN Policy and the National Sanitation Strategy	MAWF	MRLGHRD

7. FOCUS AREA 4: THE RIGHT TO HOUSING

7.1 Introduction

International Human Rights law recognizes everyone’s right to adequate standard of living, including adequate housing. The first UN Special Rapporteur on the right to adequate housing, Mr. Miloon Kothari, defined the human right to adequate housing as “the right to every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity”. The ICESCR identified seven key elements that need to be assessed to measure whether housing is ‘adequate’, namely, security of tenure, access to services, and access to affordable housing, habitable housing, accessible housing, adequate location, and housing which is culturally adequate. The right to adequate housing is also recognized in various international and regional instruments to which Namibia is a party:

International

- Convention on the Rights of the Child (CRC) (Article 24); (Article 16.1); (Article 27.3)
- Convention on the Elimination of All Forms of Discrimination against Women (EDAW) (Article 14 (2); Article 5(e)(iii); (Article 14.2) (h)

² The MDG target 7C is about halving the proportion of the population without sustainable access to safe drinking water and basic sanitation by 2015

- Convention on the Rights of Persons with Disabilities (CRPWD) (Article 28) (Article 28.1); (Article 28.2, (d))
- International Labour Organization (ILO) Convention NO.161 of 1985 on Occupational Health Services (Article 5)
- International Labour Organization (ILO) Convention NO. 117 Concerning Basic Aims and Standards of Social Policy (Article 2) and (Article 5.2)
- International Labour Organization (ILO) Convention NO.110 Concerning Conditions of Employment of Plantation Workers (Article 88.1)
- International Labour Organization (ILO) Recommendation NO.115 Concerning Worker’s Housing
- Geneva Convention Relative to the Protection to the Civilian Persons in Time of War (Article 49); (Article 53); (Article 85) and (Article 134)
- The African Charter on the Rights and Welfare of the Child (African Children Charter) (Article 14)
- Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (African Protocol on the Rights of Women)
- Universal Declaration of Human Rights (Article 25.1)
- Convention Relating to the Status of Refugees (Article 21)
- International Covenant on Economic, Social And Cultural Rights (Article 11.1)
- Declaration on rights of Indigenous Peoples (Article 10); (Article 21.1); (Article 23); (Article 26); (Article 27); (Article 28) and (Article 32)
- General Comment No. 4: The right to adequate housing (Article 11(1)); Committee on Economic, Social and Cultural Rights
- General Comment No. 7: The right to adequate housing: forced evictions (Article 11(1)); Committee on Economic, Social and Cultural Rights

Regional

At the regional level, the right to adequate housing is not explicitly protected under the African Charter on Human and Peoples’ Rights, but derived through other rights recognized in the charter, i.e. “right to privacy, the right to property and peaceful enjoyment of possessions, and the right to protection of the family”. This right is not expressly provided for in the Namibian Constitution, however through Article 144 of the Namibian Constitution, the international obligations binding upon Namibia in terms of its ratification of the ICESCR and ACHPR makes this right enforceable domestically.

7.2 Situational Analysis

The key shortcomings highlighted by the 2011 Universal Periodic Review, the 2012 baseline survey and identified at the 2013 National Consultative Conference and the 2014 series of stakeholder consultative workshops include the following:

- **Affordability** - Housing is not affordable at all for the majority of the people. The shortage of service land, high interest rates and the high cost of building material were listed as some of the key drivers of un-affordability. Town planning and proclamation process as followed by Local Authorities is outdated and cumbersome and tends to inflate development costs and thus the prices of plots. NHIES 2009/2010 shows that housing is the second highest consumption item, after food, in the country. Namibians on average spend 23% of their income on housing.
- **Habitability** - The poor quality of houses was listed as the second highest barrier to access housing by the respondents in the baseline study. In Namibia, poor/inhabitable housing conditions are inextricably linked to informal settlements, with 24-25% of Namibia’s population living in distressing housing and living conditions in informal settlements and thus do not meet the requirements of habitability.

- **Availability of services, materials, facilities and infrastructure** - Namibian households especially in the informal settlement areas and rural areas face dire sanitation circumstances since many have no toilets or practices open defecation. In this regard, housing cannot be regarded as “adequate” for half of Namibian households who have no alternative but to use unimproved sanitation facilities, a fact which calls for immediate redress.
- **Security of tenure** – The critical situation is the illegal occupation of un-serviced land resulting in houses of poor conditions and not habitable at all. Also linked to this, is the reportedly increasing evictions and demolition orders of such illegal occupation. Often, people living in informal settlements lack legal ownership or any other legal security of tenure.
- **Others concerns raised** – include lack of rental control (Ordinance) – need for regulations and legislation, quality assurance for construction – who ensures that local conditions are catered for, housing not only in urban areas, but what about housing in rural areas (e.g. houses made of traditional building materials), lack of social housing for the elderly and PWDs, the discontinuation of the DBTP negatively affecting housing provision to the lower-income groups.

7.3 Focus area vision and specific objectives

The vision to be achieved for the right to housing in the long-term is “a Namibia where every woman, man, youth and child has access to a safe, secure and affordable home and community in which to live in peace and dignity”.

The achievement of this vision will commence in the 1st NHRAP with strategic interventions aimed at achieving the following specific objectives:

No	Specific Objectives
SO1	A sustainable, inclusive and comprehensive housing delivery programme
SO2	A financial regime for housing that is fair and accessible to all (diversified funding and financing)
SO3	Improving stakeholder awareness and education on housing delivery matters
SO4	To have a responsive legal and regulatory framework supporting housing

7.4 Strategic interventions and responsible institutions

7.4.1 Housing Solutions Delivery Programme

The achievement of the objective to have “a sustainable, inclusive and comprehensive housing delivery programme” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *LAs and RCs involvement in housing delivery*
- *Research reports*
- *Harmonized standards for low-cost housing*
- *Improvement in tenure security for low-income households*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Undertake comprehensive assessment of factors affecting affordability of housing and make recommendation to address the situation, including cost-effective housing for vulnerable groups	MRLGHRD	

Key Interventions	Responsible Agency(ies)	
	Lead	Support
2. Implement the Flexible Land Tenure Act 4 (of 2012), and assess the existing pilot programme	MRLGHRD	MLR
3. Investigate the use of alternative building materials	MRLGHRD	HRDC
4. Explore and implement strategies for the harmonization of building standards for low-cost housing	MRLGHRD	MWT LAs & RCs
5. Explore and implement incentive schemes to encourage private employers to provide housing subsidies to employees	MoL	
6. Assess and improve social housing solutions undertaken by local authorities and regional councils	MRLGHRD	LAs & RCs
7. Explore the expansion of self-help housing initiatives for low-income households	MRLGHRD	SDFN & NHAG
8. Establish a forum for multi-sector cooperation amongst all role players involved in housing provision to ensure that housing challenges are effectively addressed	MRLGHRD	LAs & RCs
9. Training of land development professionals	MRLGHRD	LAs & RCs

7.4.2 Financing and funding of housing

The achievement of the objective of having “a financial regime for housing that is fair and accessible to all (diversified funding and financing)” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- Subsidies given to LAs and RCs for housing
- Improvement in tenure security for informal settlement dwellers

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Implement social housing rental options through subsidization to LAs and RCs	MRLGHRD	LAs & RCs
2. Explore funding and financing mechanisms for prioritized upgrading of informal settlements throughout Namibia	MRLGHRD	LAs & RCs

7.4.3 Public Education and Awareness

The achievement of the objective “to improve stakeholder awareness and education on housing delivery matters” will broadly be measured through assessing outputs and outcomes related to the following indicator:

- Number of information campaigns on housing delivery

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Undertake public education campaigns to make people aware of the right to housing	MRLGHRD	

7.4.4 Regulatory & Legislative Framework

The achievement of the objective “to have a responsive legal and regulatory framework supporting housing” will broadly be measured through assessing outputs and outcomes related to the following indicator:

- *Number of regulatory and legal instruments reviewed/proposed*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Review the policy and regulatory framework for housing	MRLGHRD	
2. Explore appropriate regulatory and legal instruments for rental control in Namibia	MRLGHRD	
3. Explore policies and regulations relating to the eviction of people without secure tenure in urban settings	MRLGHRD	
4. Formalize a moratorium on sale of land (including urban land) to foreigners	MRLGHRD	
5. Undertake consultative national housing strategy development	MRLGHRD	NHE
6. Develop Namibian building standards and regulations	MRLGHRD	MWT

8. FOCUS AREA 5: THE RIGHT TO LAND

8.1 Introduction

The Namibian Constitution Article 16(1) provides for all persons to acquire, own and dispose all forms of immovable and movable property in any part of Namibia. Land rights especially in the developing countries context, are linked with the right to food, the right to work and a host of other rights. Fundamental human rights enjoyment are basically threatened by landlessness since access to land facilitates development and poverty reduction and improves access to economic, social, cultural, civil and political rights. Additional rights, including the right to water, the right to health, the right to work are all tied to access to land. In both urban and rural areas, people rely on the availability of adequate plots of land for shelter and the availability of resources. At the international level, no instruments exist that covers land rights explicitly, while at the regional level, land rights are “protected” under Article 14 of ACHPR guaranteeing the right to property and providing for conditions under which this right can be encroached upon, i.e. in the public or community interest and in accordance with the provisions of appropriate laws.

Namibia like other former colonies in southern Africa has a history of expropriation of land from indigenous peoples, which resulted in agricultural dualism of black subsistence agriculture on the one

hand and white commercial farming on the other. The constitutional references to land rights provide for “acquisition, ownership and disposability of immovable property” (Article 16(1), expropriation of land in public interest – with just compensation, the right of persons to move freely throughout Namibia and settle in any part of the country, for the development of policies and programmes to address past imbalances.

8.2 Situational Analysis

The key shortcomings highlighted by the 2011 Universal Periodic Review, the 2012 baseline survey and identified at the 2013 National Consultative Conference and the 2014 series of stakeholder consultative workshops include the following:

Commercial Land Reform

- Multiple farm ownerships and absentee land owners still prevalent
- Slow implementation of 1991 NLC recommendations

Communal Land Rights

- Fencing off of large tracts of communal land to the detriment of subsistence communal farmers and the resultant impact of diminishing grazing land
- Ethnic considerations in land allocation by TAs and CLBs
- Women’s rights to land are still not acknowledged due to cultural and traditional practices
- IPs and marginalized groups in national parks are experiencing continued threats to land rights (including conservancies), in terms of tenure security and land grabbing (under the disguise of providing access to investors in communal land areas)

Urban Land Rights

- Lack of security of tenure for impoverished urban households living in illegal and informal settlements
- Exorbitant land prices that exclude the poor
- Little transparency in land allocations with allegations of corruption in land administration
- Delays in proclamation of peri-urban areas (i.e. settlements in terms of security of tenure)
- Illegal occupation of land demarcated for development
- Unavailability of serviced land and affordability of urban land
- Urban land legal and regulatory framework outdated – contributing to cost
- Compensation challenges experienced by LAs and RCs

Resettlement

- Lack of clarity about resettlement
- Inconsistencies in application of selection criteria for resettlement as well as inadequate selection criteria
- Non-productive use of resettlement farms by beneficiaries
- Inadequate support for resettled farmers and groups
- Affordability of farm land for resettlement purposes

8.3 Focus area vision and specific objectives

The vision to be achieved for the right to land *“a Namibia where security of tenure is ensured, and transparent and equitable land distribution in the country’s development interest”*.

The achievement of this vision will commence in the 1st NHRAP with strategic interventions aimed at achieving the following specific objectives:

No	Specific Objectives
SO1	To entrench pro-poor approaches for urban land accessibility (including vulnerable groups)

SO2	To diversify instruments in place for educating and informing stakeholders on the right to land
SO3	To increase access to serviced land in urban and peri-urban settings
SO4	To enhance resettlement processes and access to resettlement land
SO5	Having a just and responsive legal and regulatory framework

8.4 Strategic interventions and responsible institutions

8.4.1 Pro-poor approaches (including vulnerable groups)

The achievement of the objective “to entrench pro-poor approaches for urban land accessibility (including vulnerable groups)” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- Number of dialogue events on land issues for women and IPs
- Measures in place to remove threats to IP land rights

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Research discriminatory practices against women in respect of access to and ownership of land, including inheritance issues, with a view to law reform	MLR	MGECW LRDC Ombudsman
2. Commission a study to investigate threats to the land rights of the IPs	MLR	

8.4.2 Education and awareness on land

The achievement of the objective of “having diversified instruments in place for educating and informing stakeholders on the right to land” will broadly be measured through assessing outputs and outcomes related to the following indicator:

- Number of public awareness and education campaigns

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Undertake public education campaigns to make people aware of the provisions of the Communal Land Reform Act (No 5 of 2002, as amended) , the resettlement programme and the National Land Compensation policy	MLR	

8.4.3 Urban Land access

The achievement of the objective “to increase access to serviced land in urban and peri-urban settings” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Improvement in security of tenure for the urban poor*
- *Progress with Implementation of the Flexible Land Tenure Act (Act No 4 of 2012)*
- *% Increase in subsidies to LAs and RCs for developing small towns*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Introduce a strategy to allow the poor to access urban land	MRLGHRD	LAs & RCs
2. Implement the Flexible Land Tenure Act (Act No 4 of 2012)	MLR	MRLGHRD
3. Revive small towns and prioritize settlement development to provide secure land tenure and reduce urban migration	MRLGHRD	LAs & RCs
4. Undertake comprehensive consultative process and strategy development to problems relating to urban land rights and housing	MRLGHRD	LAs & RCs
5. Prioritize the servicing of land in urban areas	MRLGHRD	LAs & RCs

8.4.4 Agricultural Land Reform & Resettlement

The achievement of the objective “to enhance resettlement processes and access to resettlement land” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Improvement in resettlement criteria*
- *Reduction in fencing in communal areas*
- *Was the 2nd NLC held*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Review and improve resettlement criteria to include generational farm worker status and ancestral land ties, as well as properly defining ‘disadvantaged persons’	MLR	LRDC
2. Develop communal land for lease by small-scale communal farmers	MLR	
3. Undertake a formal review of the 1991 NLC recommendations on land ownership by foreigners, absentee landlords and multiple farm ownership	MLR	
4. Convene a 2 nd National Land Conference	MLR	
5. Review the Report of PTT ³ on land reform in Namibia tabled in November 2004	MLR	

³ The Namibian government set up a technical committee on land reform in Namibia to establish the status of land reform in August 2003. The Committee tabled a report to the Cabinet outlining strategic options and an indicative action plan for land reform in November 2004

Key Interventions	Responsible Agency(ies)	
	Lead	Support
6. Develop enforcement mechanisms for preventing and reversing fencing in communal areas	MLR	
7. Establish multi-sector post-settlement support (including training)for resettled farmers, including groups	MLR	MAWF

8.4.5 Legal and regulatory framework for land

The achievement of the objective of “*having a just and responsive legal and regulatory framework*” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Progress with review of National Land Compensation policy*
- *Progress with finalization of the Urban and Regional Planning Bill*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Review the National Land Compensation Policy with a view to enact legislation in this regard	MRLGHRD	LAs & RCs
2. Expedite finalization of the Urban and Regional Planning Bill	MRLGHRD	
3. Expedite finalization of the Land Bill	MRLGHRD	

9. FOCUS AREA 6: THE RIGHT TO ACCESS TO JUSTICE

9.1 Introduction

Access to justice is a human rights concept that promotes access to quality and affordable civil and criminal justice for everyone. It is not a single human right, but rather a collection of various interlinked rights, the most important being equality before the law; the right to a fair trial; the rights of arrested and detained persons; the right to legal representation, and the right to legal aid and assistance. It is also linked to other rights that must be respected to ensure that the rule of law is protected and that everyone is treated equally and fairly by the justice system; these include the rights to life, equality and freedom from discrimination, human dignity and the rights of vulnerable groups. While these rights may be protected by numerous international and regional instruments as well as the Namibian Constitution and legislation/policies, the Baseline Study identified problems experienced in the following broad areas: *prisoners and detained persons, access to courts, the right to a fair trial, juvenile justice and victims of crime*.

Numerous international and regional instruments that Namibia is a party to contain rights related to access to justice in the specific four areas identified by the Baseline Study, including:

International

- Universal Declaration of Human Rights
- UN International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights

- UN Convention against torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Protocols
- UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- UN Convention on the Rights of the Child (CRC), which includes the rights of young offenders
- UN Convention on the Rights of Persons with Disabilities (CRPD)
- UN Standard Minimum Rules for the Administration of Juvenile Justice (the 'Beijing Rules')⁴
- UN Standard Minimum Rules for the Treatment of Prisoners

Regional

At the regional level, both the African Charter on Human and Peoples' Rights, and the African Charter on the Rights and Welfare of the Child contain rights relating to access to justice – the latter in particular dealing with juvenile justice. The African Commission on Human and Peoples' Rights (created by the ACHPR) has also issued two declarations and resolutions of particular relevance to criminal justice in Africa:

- Dakar Declaration and Recommendations on the Right to a Fair Trial in Africa (1999)
- Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2003)

National

The Namibian Constitution contains numerous provisions relating to access to justice:

- Article 6 Protection of Life
- Article 7 Protection of Liberty
- Article 8 Respect for Human Dignity
- Article 10 Equality and Freedom from Discrimination
- Article 11 Arrest and Detention
- Article 12 Fair Trial

9.2 Situational Analysis

The key shortcomings highlighted by the 2011 Universal Periodic Review, the 2012 baseline survey and identified at the 2013 National Consultative Conference and the 2014 series of stakeholder consultative workshops include the following:

- Inadequate facilities, standards and regulatory environment for juvenile justice
- Inadequate legal and social protection for victims of crime
- Challenges facing prisoners and detained persons
- Inadequate infrastructure for the administration of justice in terms of existing and additional courts
- Problems experienced with the administration of the Legal Aid scheme
- Cost of private legal services
- Lack of incentives that may encourage magistrates and prosecutors to work in rural areas
- Ill-equipped/ill-trained police force that compromise quality of justice
- Outdated and inadequate legal and regulatory framework
- Ineffective procedures, guidelines and processes/systems contributing to delays in justice?
- Limited awareness on access to justice
- Problems experienced with community courts

⁴ Technically, countries do not become parties to Minimum Rules, Principles, Guidelines, Declarations and other 'policy' directives of international bodies, but they are included on the lists in this section for ease of reference.

- Labour arbitration and mediation problematic
- Lack of co-operation between role players in the justice sector

9.3 Focus area vision and specific objectives

The vision to be achieved for the right to justice in the long-terms is “a Namibia where everyone has access to quality and affordable justice that is swift and fair”.

The achievement of the vision for justice will commence in the 1st NHRAP with strategic interventions aimed at achieving the following specific objectives:

No	Specific Objectives
SO1	To strengthen justice service provision
SO2	To improve conditions for prisoners and detained persons
SO3	To improve conditions for juvenile offenders
SO4	To enhance social protection for victims of crime, especially women and children
SO5	To increase awareness about the right to access to justice
SO6	To strengthen the legal and regulatory framework for justice

9.4 Strategic interventions and responsible institutions

9.4.1 Strengthened justice service provision

The achievement of the objective “to strengthen justice service provision” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- Increase in number of courts
- Reduction in backlog of cases as well as in delays in the justice system
- Progress with the investigation to accredit paralegal services
- Improvement in service provision by police
- Revised curriculum for police training
- Improvement in co-operation between role players in the justice sector

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Investigate the establishment of small claims and night courts	MoJ	
2. Develop and implement accountability measures for officials involved in the administration of justice	MoJ	
3. Investigate the factors contributing to the poor performance in the justice sector and make recommendations to improve the effectiveness	MoJ	
4. Develop and implement incentives that may encourage judicial officers to work in rural/remote areas	MoJ	Magistrates Commission OPM
5. Roll-out court-accredited arbitration and mediation system to lower courts	MoJ	

6. Investigate and implement measures to accredit paralegal services	MoJ	
7. Encourage the implementation of alternative sentencing options and strengthen correctional services' mandate to supervise community service throughout the country	MoJ MoSS	
8. Increase legislative drafting capacity	MoJ	
9. Initiate discussions with the Justice Training Centre for the development of training programmes that would increase the skill and competency levels of staff involved in the justice sector	MoJ UNAM	
10. Resource specialized units in the Namibian Police (e.g. criminal investigations, national forensic science, internal investigations) with properly trained and skilled personnel	MoSS	
11. Review curriculum for police training to include how to deal with juvenile in detention, anti-human trafficking and GBV and solicit the assistance of judicial officers and the Ombudsman to assist with such training	MoJ	
12. Recruit experienced interpreters (including sign language) for deployment to charge offices country-wide	MoJ	
13. Review and implement comprehensive witness support programme	MoJ	Prosecutor General
14. Increase support and funding to UNAM Legal Aid Clinic	UNAM	
15. Formalize ongoing efforts for pro-bono work in partnership with Law Society	MoJ Law Society	
16. Review means test for legal aid applications	MoJ	
17. Introduce social workers in the MoJ staff establishment (for the courts, and juvenile justice needs)	MoJ	
18. Promote public interest law among law students	UNAM	
19. Roll out a case management system to all courts in Namibia	MoJ	
20. Train officials to recognise, register and respond appropriately to crimes against vulnerable groups	MoJ	
21. Create a forum for multi-sector co-operation between all role players in the justice sector	MoJ	
22. Explore the possibility of filing appeal documents in local languages	MoJ	MoSS

9.4.2 Prisoners and Detained Persons

The achievement of the objective *“to improve conditions for prisoners and detained persons”* will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Has a formal complaint system been implemented in correctional facilities*
- *Reduction in number of trial awaiting prisoners*
- *Improvement in water and sanitation facilities for prisoners and detained persons*
- *Improvement in access to health and education programmes for prisoners and detained persons*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Introduce an independent complaint system for prisoners throughout Namibia	MoSS	
2. Increase the budget allocation to the Namibian Police and Correctional Services for the provision of better quality food to prisoners, the renovation of police cells, and the construction of more remand prisons to address the overcrowding problem in police cells	MoSS	
3. Explore measures to reduce the number of trial awaiting detained persons	MoJ MoSS	
4. Improve water and sanitation in correctional facilities and police holding cells	MoSS	MWT
5. Strengthen collaboration between Correctional Services, MoHSS and MGECW for the rehabilitation and reintegration of female prisoners and juveniles	MoSS MoHSS MGECW	
6. Introduce a student attachment system for social work students to correctional facilities	MoSS	UNAM
7. Implement a comprehensive prisoner rehabilitation system	MoSS	
8. Establish all hour health clinics in correctional facilities staffed by qualified health professionals	MoSS	MoHSS
9. Improve health care provision in police holding cells	MoSS	MoHSS

9.4.3 Juvenile Justice

The achievement of the objective “to improve detention facilities for juvenile offenders” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Improvement in compliance with international juvenile detention standards*
- *Improvement in detention facilities and other infrastructure for juveniles*
- *Number of training events targeting professionals in juvenile justice system*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Invest in industrial and reformatory institutions for juvenile offenders	MoJ MoE	
2. Establish child-friendly courts in all the regions of Namibia	MoJ	
3. Provide training on the CRC and other international standards to all professionals working in the juvenile justice system	MoJ	Ombudsman
4. Establish special facilities in correctional facilities for children with conditions suited to their age and needs, and provide social services in all detention centres in the country	MoJ	MoHSS MGECW
5. Develop service standards for juvenile detention and continuously monitor	MoJ	

9.4.4 Victims of Crime

The achievement of the objective “to enhance social protection for victims of crime, especially women and children” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of social protection interventions for victims of crime*
- *Training workshops designed and conducted for justice officials*
- *Increase in availability of information regarding violence against women and children*
- *Number of resourced and effectively operating WCPUs in all regions of Namibia*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Building of safe houses for women and children who are victims of domestic violence	MGECW	MoJ MWT
2. Provide training to police officers to be more sensitive when dealing with victims of crime	MoSS	
3. Collect and analyse data to enable assessment of the effectiveness of policies and initiatives aimed at preventing and eliminating violence against women and children	MoJ MGECW	
4. Assess the effectiveness of the WCPUs with a view to make recommendations for improvement including sufficient human and logistic resources	MoSS MGECW	
5. Strengthen Namibia’s efforts to fulfill its obligations under CEDAW by introducing specific measures aimed at eliminating violence against women and children	MGECW	

9.4.5 Public Education and Awareness

The achievement of the objective “to increase awareness about the right to access to justice” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of public awareness campaigns*
- *Increased awareness amongst general public and targeted groups on topical issues*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Undertake comprehensive public awareness campaigns in different languages and formats on the justice system, legal rights and legal aid for the general public, prisoners as well as traditional authorities	MoJ	TA Council
2. Undertake education and awareness programmes targeting families, community leaders and society at large, including children themselves, to eradicate the practices of gender-based violence and sexual initiation rites and early marriages, particularly in rural areas	MoJ TA Council	

3. Allocate the resources necessary for the implementation of the 'Zero Tolerance Campaign against Gender Based Violence, and human trafficking'	MGECW	
--	-------	--

9.4.6 Legal and Regulatory Framework

The achievement of the objective “to strengthen the legal and regulatory framework for justice” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of legal instruments reviewed/initiated/drafted/ enacted*
- *Number of policies developed and implemented*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Commence with the drafting of the Anti-torture legislation	MoJ LRDC	
2. Review and effectively implement the Community Courts Act (Act No 10 of 2003)	MoJ	
3. Enact witness protection legislation	MoJ	
4. Review and amendment of the Combating of Domestic Violence Act (Act No 4 of 2003)	MoJ	LRDC
5. Decriminalize traffic offences and explore the establishment of municipal courts to deal with traffic offences throughout Namibia	MoJ	
6. Expedite the finalisation and implementation of the Child Care and Protection Bill and the Child Justice Bill	MGECW	MoJ
7. Finalize the Trafficking in Persons Bill	MGECW	MoJ
8. Introduce legal provisions to allow broadened <i>locus standi</i> in the public interest and constitutional litigation as well as create an avenue for class actions	MoJ	
9. Develop and adopt a juvenile justice policy	MoJ	
10. Review the legal framework including the Constitution to amend the overall definition of the child to comply with the international human rights law and the age of criminal responsibility	MoJ	
11. Explore the possibility of legally compelling legal practitioners to do pro-bono work	MoJ	
12. Review the “code of conduct” for the police	MoSS	

10. FOCUS AREA 7: THE RIGHT NOT TO BE DISCRIMINATED AGAINST

10.1 Introduction

The 2012 Baseline Study highlighted the right to protection against discrimination of vulnerable groups such as women, IPs, PWDs and LGBTIs.

10.2 Situational Analysis

The key shortcomings highlighted by the 2011 Universal Periodic Review, the 2012 baseline survey and identified at the 2013 National Consultative Conference and the 2014 series of stakeholder consultative workshops include the following:

- **People with Disabilities (PWDs)** - Key concerns include Namibia's failure to submit a state report on CRPD obligations, effectiveness challenges with respect to the operations of the National Disability Council, delayed drafting process of the Mental Health Bill, prevailing discrimination against PWDs in spite of Labour Act provisions, under representation of PWDs at every level of employment, teachers not equipped to deal with children with disabilities, structural adjustments related to lack of facilities (e.g. ramps) for PWDs to access buildings and other service infrastructure, inadequate provision of equipment/facilities and other services especially in rural areas. An additional concern expressed includes the National Disability Council's role of monitoring ministerial level interventions with regard to the implementation of the National Disability Council Act (Act No 26 of 2004) requirements that has not yet been implemented, as well as the lack of supporting policies for PWDs. The Namibian Constitution is also silent on disability as a prohibited ground of discrimination. Another concern is the lack of representation of PWDs in Parliament, LAs and RCs.
- **Indigenous Peoples (IPs)** - Key concerns included the fact that many IPs do not have recognized traditional authorities (i.e. some San and Ovahimba), continued discrimination faced by IPs, challenges related to participation and consultation of IPs on national development issues as well as programme and projects that target their own development, challenges experienced with IPs to own, develop and control communal land (including conservancies), continued marginalization of IPs in terms of access to education (especially women and girls), absence of health facilities where IPs live or are resettled (esp. the San) and the fact that only few IPs practice their traditional way of life. Also of concern is the prevailing discrimination against indigenous populations, impacting their access to health care, income, education and basic services. The lack of representation of IP's in Parliament, LAs and RCs is also a concern.
- **Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTIs)** – Key concerns included widespread social exclusion and rejection of LGBTIs (but evidence lack to support), the continued criminalization of sodomy, the omission of sexual orientation as a prohibited ground for discrimination in the work place, the continued criminalization of sex work and how it impacts the right to fair/just and safe work conditions, continued insensitivity by the Namibian police of the plight of LGBTIs, and the lack of extensive research on LGBTIs' human rights situation. Further concerns include discrimination, violence and punitive acts against homosexuals by the police and the lack of facilities to cater for LGBTI needs, especially in detention facilities or holding cells.
- **For women** – Key concerns in this area include the persistent societal discrimination against women especially through traditional practices, particularly regarding inheritance, land ownership and school access for young women, as a result of customary marriages. There is also a perception that gender-equality under MGECEW is neglected because the ministry's focus is on other responsibilities.
- **Work place** – Key concerns raised were about both public and private sector discrimination in the work place need to be investigated. Also, the government's compulsory screening of applicants for the uniformed forces were raised as a particular discrimination challenge, especially for people living with HIV/Aids. Particular emphasis was put on discrimination in the recruitment for public service positions in terms of ethnicity.

- **Other discrimination issues highlighted** – The existing Racial Discrimination Prohibition Act (Act No 26 of 1991) is considered toothless/useless, discrimination against the albino community, discrimination against mental health patients, tribalism and persistent discrimination on the grounds of ethnicity, discrimination against people living with HIV/AIDS.

10.3 Focus area vision and specific objectives

The vision to be achieved for the right not to be discriminated against, is that *“Namibia becomes a society based on equality and a country that acknowledges, recognizes, respects and values individual differences, common humanity, dignity and equality”*.

The achievement of the vision for non-discrimination will commence in the 1st NHRAP with strategic interventions aimed at achieving the following specific objectives:

No	Specific Objectives
SO1	To enhance affirmation of the rights of PWDs, IPs, women and LGBTIs
SO2	To have information on the extent to which the human rights of PWDs, IPs, women and LGBTIs are infringed upon
SO3	To intensify public education and awareness raising
SO4	To implement legal and regulatory reform that will give effect to non-discrimination provisions in various international and regional instruments

10.4 Strategic interventions and responsible institution

10.4.1 Affirming rights of PWDs, IPs, women and LGBTIs

The achievement of the objective *“to enhance affirmation of the rights for PWDs, IPs, women and LGBTIs”* will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Increase in the improvement of physical structures to allow access to buildings for PWDs*
- *Improvement in suitability of working environments for PWDs*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Assess the physical accessibility of buildings and suitable working environments for PWDs	National Disability Council	
2. Focus on gender equality mandate	MGECW	

10.4.2 Research to establish the extent of discrimination against vulnerable groups

The achievement of the objective *“to have information on the extent to which the human rights of PWDs, IPs, women and LGBTIs are infringed upon”* will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Information available on the infringement of the human rights of PWDs, IPs, women and LGBTIs*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Undertake formal research on gender-responsiveness of the national budget with recommendations for improvement	MGECW NPC	Ombudsman
2. Commission research on discrimination, exclusion and marginalization of IPs and other vulnerable groups such as women, children, PWDs and make recommendations for elimination thereof	Office of Deputy PM	Ombudsman
3. Commission research on growing tribalism problem in the country and recommend actions	Ombudsman	
4. Commission research on discrimination in the work place/recruitment that is currently characterizing recruitment in the public service	MoL Ombudsman	

10.4.3 Public Education, Awareness and Training

The achievement of the objective “to intensify public education & awareness raising” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of public awareness and education campaigns on targeted topics*
- *Increase in awareness among the public on the situation of IPs, PWDs, women and LGBTIs*
- *Number of training programmes for law enforcement officials*
- *Extent to which human rights education was incorporated into school curriculum*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Undertake public education and awareness campaigns aimed at eradicating discriminatory practices, also against PWDs, IPs, LGBTIs and other vulnerable groups; involve churches and community leaders	Ombudsman	
2. Incorporate human rights education and tolerance education into school curriculum	MoE Ombudsman	
3. Incorporate training on a human rights approach in dealing with LGBTIs into training curriculum of law enforcement officials	MoSS	Ombudsman
4. Sensitize magistrates, judges and police about the provisions of the Combating of Domestic Violence Act (Act No 4 of 2003) and gender based violence in general	MoSS MoJ	Ombudsman

10.4.4 Legal and Regulatory Framework

The achievement of the objective “to implement legal and regulatory reform that will give effect to non-discrimination provisions in various international and regional instruments” will broadly be measured through assessing outputs and outcomes related to the following indicators:

- *Number of reports on regulatory framework reviewed*
- *Number of research papers on legal instruments for PWDs*

- *Introduction of a policy on accessibility standards for buildings*

The interventions proposed for the achievement of the objective are as follows (with lead and support agencies indicated):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Comprehensive review of the regulatory framework to assess non-discrimination compliance	LRDC	Ombudsman
2. Review of the regulatory framework to include the removal of derogatory terms (i.e. deaf and dumb, etc.)	National Disability Council	Ombudsman
3. Develop a White Paper on Indigenous Peoples Rights'	Ombudsman	Office of Deputy PM
4. Research comparable legal instruments providing protection of the rights of PWDs and develop benchmarks (e.g. building design standards)	National Disability Council	
5. Amend the Namibian Constitution to include disability and age as prohibited grounds for discrimination	LRDC	Ombudsman
6. Research and review laws and policies to identify and rectify provisions that discriminate against vulnerable groups (i.e. women, children, elderly persons, sexual minorities, PWDs and IPs)	LRDC	Ombudsman
7. Explore the legalization of customary marriages	LRDC	
8. Review the Affirmative Action (Employment) Act (Act No 29 of 1998) with a view to establish the continued relevance of race as part of affirmative action criteria	MoL	
9. Review the current Racial Discrimination Prohibition Act (Act No 26 of 1991) with a view to enact new legislation against discrimination	LRDC	Ombudsman

11. MONITORING AND EVALUATING NAMIBIA'S NHRAP IMPLEMENTATION

11.1 Introduction

The success of the NHRAP will depend on the robust monitoring and evaluation systems underpinning its implementation. The successful implementation of Namibia's NHRAP will also require that the following critical success factors receive immediate attention:

11.1.1 Stakeholder participation – While stakeholder involvement in the development stages of the strategic plan is important, their involvement in both the implementation and monitoring of the progress is important. In fact, stakeholder involvement may even be more important on an activity-to-activity basis and should be undertaken in the context of diversity of stakeholder interest and relevance.

11.1.2 Regular Planning and Review – The NHRAP is a 5-year plan that will need translation into more intermediate plans, i.e. annual plans by the lead ministries. Such planning processes will need to involve stakeholders in the prioritization of activities envisaged and will form the basis for

monitoring and evaluating the implementation progress of the NHRAP. The annual plans must by nature be more detailed in terms of time-frames, activity targets and resource implications.

11.1.3 Sub-national government involvement – The implementation of economic, social and cultural rights requires substantial involvement of sub-national government, i.e. local authorities and regional councils by virtue of their mandates for service provision in urban and peri-urban settings. The actions proposed for the realization of rights such as housing, land (urban), water and sanitation will require significant involvement of this level of government to achieve meaningful outcomes and impact. Against this background it is important to establish a formal platform where relevant role players can meet to discuss ways of ensuring this level of government’s involvement in implementation structures and processes.

10.1.4 Resource Mobilization – The responsibility to mobilize adequate resources for the implementation of the NHRAP remains the key responsibility and performance areas of management of lead ministries. It is also important that resourcing of the NHRAP finds adequate integration or accommodation into the annual budget cycle (or even the MTEF) - with deliberate fiscal commitments being made towards its implementation. The management of lead ministries and agencies will have to actively seek alternative solutions to raise financial and technical resources towards the implementation of the NHRAP. For substantive sub-national government involvement, as articulated under some objectives as actions, central government will need to consider increased subsidies to empower local authorities and regional councils to play their part in the implementation of Namibia’s 1st NHRAP.

10.1.5 Namibia’s International Obligations – It is essential that Namibia embark on a structured approach for achieving compliance to different international⁵ and regional human rights instruments that it ratified. Although Namibia has submitted country reports to various treaty bodies under prioritized conventions, it still lags behind in terms of reports that are overdue, some even for over 10 years⁶. Such a structured approach will entail an education and awareness campaign on the relevant conventions, a formal review or assessment of the human rights landscape in terms of country obligations spelt out in the relevant conventions and a complementary interventions schedule that will be informed by a consultative process that engages all relevant stakeholders. This must eventually result in Namibia meeting its reporting commitments to UN treaty bodies.

11.2 Monitoring and Evaluation Framework

The monitoring and evaluation framework proposed below is aimed at the creation of activities that will directly or indirectly influence implementation activities of lead ministries and other relevant multi-sector agencies responsible for implementing the rights emphasized in the NHRAP.

Individual and Joint Programme Development – The implementation of the NHRAP requires the translation of the 5-year national action plan into individual annualized implementation plans by lead ministries. The various plans can be consolidated into a joint annual programme to be shared broadly with stakeholders.

Progress Reporting on NHRAP – Permanent Secretaries of lead ministries are responsible to report on the overall progress made with the implementation of planned activities referred to in 11.1.2

⁵ Namibia ratified 13 of the 18 core international human rights instruments inclusive of core and optional protocols (ICERD, ICCPR, ICCPR-OP1, ICCPR-OP2, ICESCR, CEDAW, OP-CEDAW, CAT, CRC, OP-CRC-AC, OP-CRC-SC, CRPD and OP-CRPD)

⁶ Namibia has 6 reports overdue, i.e. 4 initial reports (under ICESCR, CRC-OP-SC, CRC-OP-SC, CRPD), and 2 periodic reports (under ICCPR and ICERD)

above. Such reports should reflect the different activities implemented as well as outcomes achieved relating to the performance indicators outlined in the NHRAP.

M&E Structures for NHRAP – It is envisaged that multi-sector committees be set up for each right that will be responsible for monitoring and evaluation purposes. Such structures should get appropriate representation from lead ministry and other relevant ministries, i.e. Director and or Deputy Director level representation. It is envisaged that these structures meet twice a year. A further structure proposed is the annual M&E forum to be convened by the Office of the Ombudsman that will perform inter-sector rights monitoring and evaluation.

Evaluation of the NHRAP implementation – It is foreseen that a formal and independent assessment of progress be commissioned that will give an objective account of the implementation and related outcomes of the NHRAP. For this purpose an M&E reporting format should be developed, e.g. -

- *Mid-term Independent Evaluation* – This evaluation is envisaged 2.5 years into the implementation of the NHRAP and should be done through the procurement of an M&E expert that will provide independent opinion on the performance progress for the NHRAP implementation.
- *End-of-term Independent Evaluation* – This evaluation is envisaged at the end of the 5-year period for the implementation of the NHRAP and should also utilize an independent expert to undertake an objective assessment of outputs and outcomes resulting from the NHRAP implementation.

Specific M&E measures proposed for lead ministries – The consultative process also made specific recommendations with regard to monitoring and evaluation activities for specific rights as indicated below:

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Evaluate at set intervals the effective implementation of health policies and laws (including standards)	MoHSS	
2. Monitoring and oversight for SOEs receiving funding from the MoE (improving accountability of institutions, and value-for-money service provision)	MoE	SOE Council
3. Extend an invitation to the UN to provide us with an expert to assess the issue of human rights obligations related to access to safe drinking water and sanitation	MWAF	
4. Develop and implement effective monitoring systems for WATSAN services	MAWF	
5. Review, improve and implement performance (service) standards for the justice sector	MoJ	
6. Monitor ministries' compliance with the provisions of the National Disability Council Act (Act No 26 of 2004)	National Disability Council	Ombudsman
7. Compile and submit a report to Parliament relating to progress made with anti-discriminatory practices in Namibia	Ombudsman	

10.2 International human rights obligations

In this regard, the Human Rights Division in the Office of the Ombudsman will champion activities elaborated below to chart a clear compliance path for Namibia in regard to its international and regional human rights obligations (CCPR, CCESCR, CRC, CEDAW, CERD, CRPD, etc):

Key Interventions	Responsible Agency(ies)	
	Lead	Support
1. Develop material for public education and awareness campaigns on core human rights instruments	Ombudsman	MoJ
2. Provide lead ministries with the core international and regional instruments as well as the concluding observations and recommendations of the treaty bodies to enable them to implement the recommendations	Ombudsman	
3. Preparation and submission of reports to Treaty Bodies for prioritized human rights instruments	MoJ	Ombudsman
4. Support the submission of shadow reports to treaty bodies by NGOs and CSOs	NGOs CSOs	Ombudsman
5. Designation of focal points within ministries responsible for the implementation of the CRPD	Deputy Prime Minister	Ombudsman
6. Implementation of the Durban Declaration and Programme of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance	Ombudsman	
7. Implement the United Nations “Protect, Respect and Remedy” Framework on Business and Human Rights	MoL M TI	Ombudsman