

# **Alternative Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Namibia**

**Submitted to** the Committee on the Rights of Persons with Disabilities

**Submitted by:** Organisations of Persons with Disabilities in Namibia namely, Albinism Association of Namibia, Autism Association of Namibia, Downs Syndrome Namibia, Epilepsy Foundation, Mental Health Association, Namibian Association of Children with Disabilities, Namibian Association of Differently Abled Women, Namibian Association of Persons with Physical Disabilities, National Federation of People with Disabilities in Namibia, Namibian Federation of the Visually Impaired, Namibian National Association of the Deaf, Namibian Organisation of Youth with Disabilities and Namibian Association of Wheelchair Users

**Coordinated by:** National Federation of People with Disabilities in Namibia (NFPDN)

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## Abbreviations and Acronyms

|         |  |
|---------|--|
| AAN     | Albinism Association of Namibia                                      |
| AAN     | Autism Association of Namibia  |
| DSN     | Downs Syndrome Namibia   |
| EEC     | Employment Equity Commission   |
| EF      | Epilepsy Foundation  |
| HRAP    | Human Rights Action Plan   |
| IDA     | International Disability Alliance                                    |
| ILO     | International Labour Organisation                                    |
| MHA     | Mental Health Association  |
| MGEPESW | Ministry of Gender Equality Poverty Eradication and Social Welfare   |
| MoHSS   | Ministry of Health and Social Services                               |
| NACD    | Namibian Association of Children with Disabilities                   |
| NADAW   | Namibian Association of Differently Abled Women                      |
| NDC     | National Disability Council  |
| NANASO  | Namibian Network of AIDS Service Organisations                       |
| NAPPD   | Namibian Association of Persons with Physical Disabilities           |
| NFPDN   | National Federation of People with Disabilities in Namibia           |
| NFVI    | Namibian Federation of the Visually Impaired                         |
| NNAD    | Namibian National Association of the Deaf                            |
| NOYD    | Namibian Organisation of Youth with Disabilities                     |
| NAWCU   | Namibian Association of Wheelchair Users                             |
| OPD     | Organisation of Persons with Disabilities                            |
| UNAM    | University of Namibia  |
| UNCRPD  | United Nations Convention on the Rights of Persons with Disabilities |
| UNFPA   | United Nations Population Fund                                       |
| WAD     | Women Action for Development   |
| WHO     | World Health Organisation  |

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National Federation of People with Disabilities in Namibia

## **Executive summary**

Namibia has a population of 2 113 077 people; it is one of the least populated countries in the world. The 2011 National Population and Housing Census determined that there were 98 413 persons with disabilities living within the country, representing 4.7% of the population. The Census further showed that there was an equal proportion of men and women, who were registered as persons with disabilities at 4.6% female and 4.8% male.

Approximately 21% of Namibians with disabilities are affected by hearing impairments, 35% with visual impairment, 11% with speech and communication impairments, 37% with physical impairments and 5% per cent with developmental or intellectual impairments. Relative to worldwide data related to disability, the numbers cited are low. Significant effort has been made by all concerned stakeholders to gather more comprehensive and accurate data in the future.

In 2020 Namibia submitted its combined initial, 1st to 6th State Report to the treaty body providing a comprehensive update on the progress in the implementation of the UNCRPD.

The organisations of persons with disabilities through their representative organisations undertook nationwide consultations with their constituents to reflect on the State Report to the treaty body and gather the views and experiences of persons with disabilities.

The findings of this report show the extent to which steps taken to undertake policy and legislative reforms have advanced the country's realisation of the rights of persons with disabilities. It is generally observed from the submissions that despite disability mainstreaming receiving high level attention through the Office of the Vice President the situation of persons with disabilities, especially women and children, remains inadequate with access to social services topping the areas of need.

## **Review of the state implementation of the Convention**

### **Article 1-4**

The National Disability Council Act, 2004 (Act No. 26 Of 2004) defines "disability" as a physical, mental or sensory impairment that alone, or in combination with social or environmental barriers, affects the ability of the person concerned to take part in educational, vocational, or recreational activities.

There is no evidence of any ongoing process to harmonise definitions of disability across policy and legislation at the time of writing this report. The State Report acknowledges three different definitions of disability. In addition, the National Pensions Act has its own definition used to determine eligibility for the disability grant, which the disability community finds vague. It has proved problematic in that it is interpreted in many ways by different doctors.

It is still essential that the State Party embarks on a process to put in place a specific law on the rights of persons with disabilities with the intent to domesticate the CRPD. There is acknowledgment of the importance of having laws that domesticate the CRPD and specifies a particular definition for disability, but nothing has been done.

Namibia still has legislation in force that violates the rights of persons with disabilities.

The disability community in Namibia calls upon the UNCRPD Committee to inquire from the State Party on the following:

1. [When will Namibia adopt a standard definition of disability that complies fully with the spirit of the CRPD given that various Acts and policies define disability in different ways? Particular attention needs to address the definition of disability in relation to the eligibility for the disability grant.](#)
2. [To what extent the Constitution of the Republic of Namibia provides for social, economic and cultural rights and specific rights for disadvantaged and minority groups such as persons with disabilities?](#)

3. What steps the State Party is taking to ensure that discrimination on the basis of disability including denial of reasonable accommodation is enshrined in the Constitution as one of the prohibited grounds of discrimination?

## **Article 5: Non-discrimination**

According to the State Report, Article 10 of the Namibian Constitution provides for the equality of all persons before the law and that no persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social economic status. This can be read with the provisions of the Racial Discrimination Prohibition Act, 1991 (Act No. 26 of 1991) which prohibits discrimination on racial grounds.

The Ombudsman proposed amendment to the Constitution to expand the grounds of discrimination in the Constitution. This was part of the HR Action Plan developed by the Ombudsman. The constitution does mention women / gender as a basis for the prohibition of discrimination but is silent on disability.

The disability community has evidence of unresolved cases of discrimination against persons with disabilities despite protection of the law. One example of “grave” discrimination on the basis of disabilities recorded by NFPDN but with no protection of the law through the government or the courts of law or the Ombudsman was when a child with a disability was denied air transportation. The matter was reported to the relevant authorities, but nothing was done, and it was reported in the media, but there was no action taken against the airline. The child missed a crucial appointment for a lifesaving surgical operation in May 2017.

The disability community acknowledges that there was a public hearing on the stigmatisation and discrimination of persons with albinism held by the Ombudsman in August 2019. Organisations of persons with disabilities were availed a copy of the 64-page summary of “Public Hearings on Discrimination and Other Challenges Faced by Persons with Albinism in Namibia”. Nevertheless, the disability community observes that there has been no significant implementation of the recommendations from the report towards the protection of the rights of persons with albinism in Namibia. The state report remains silent on the protection of the law for girls and women with disabilities who continue to face multiple discrimination. Women with disabilities raised serious concerns during the consultative process of the development of this report.

In its report the State Party acknowledges that there are a number of challenges to the application of Article 5 of the CRPD. These include poverty; limited resources for litigation; lack of information in the use of rightful entities with regards to reporting any rights violation; communication barriers; limited capacity of judiciary and court staff to deal with disability issues; inaccessible buildings and transport; court papers not available in braille or in a font size accommodative to persons with partial sight/visual impairment; and limited provision of sign language services for the Deaf.

No efforts have been taken to address these challenges from the viewpoint of persons with disabilities other than the mere recognition that these are the problems encountered by most persons with disabilities. The disability community in Namibia would like the Committee to inquire on the following:

4. What evidence exists to prove that persons with disabilities are able to use and have used the law to protect and pursue interests on an equal basis with others through the judiciary?
5. Steps taken to develop mechanisms and systems that will ensure the protection of the rights of persons with disabilities through access to justice, especially for women with disabilities?

## **Article 6: Women with Disabilities**

According to the State Report, government has made a policy commitment to make sure that women with disabilities have equal opportunities to participate in all aspects of life equal to that of their fellow citizens by addressing the existing challenges through policy implementation and compliance monitoring. However, the disability community finds no evidence of specific provisions in the Combating of Domestic Violence Act, 2003 (Act No. 4 of 2003) and the Combating of Rape Act, 2000 (Act No. 8 of 2000) to address the specific challenges of women and girls with disabilities.

The State Report does not mention anything on the sexual and reproductive rights of women with disabilities. Furthermore, there are no specific measures to protect the rights of women and girls with disabilities to enjoy the sexual and reproductive health rights, especially to retain their fertility and to enjoy the right to found families.

The disability community acknowledges the fact that there has been very low participation of girls and women with disabilities in decision making and all matters affecting them at all levels of national development. This concern was raised by more than 88% of women with disabilities who directly participated in the consultative process of developing this report.

The disability community would like the Committee to inquire on the following:

6. To what extent does the Combating of Domestic Violence Act, 2003 (Act No. 4 of 2003) and the Combating of Rape Act, 2000 (Act No. 8 of 2000) and all other policies and laws outlined by the state report address the specific challenges of women and girls with disabilities, especially when it comes to protection against exploitation, violence and abuse including gender-based violence?
7. How the State will ensure that women with disabilities participate in compliance monitoring on the participation of women with disabilities in all aspects of life at all levels, especially in decision making and political life?
8. When the government will review the outdated National Policy on Disability to comprehensively address the participation of women with disabilities in public and political life?

## **Article 7: Children with Disabilities**

The disability movement in Namibia acknowledges the efforts the government of the Republic of Namibia has taken towards the recognition, promotion and protection of the rights of children with disabilities through the various pieces of policy and legislation as stated in its state report.

The disability community further commends the efforts of the government to establish special education units and schools in five regions of Namibia. Furthermore, the consultation process during the development of this report revealed that there was low or no participation of children with disabilities in the children's parliament at regional level (detailed data not available). The consultation process, however, revealed that there was some representation of children with disabilities at the national children' parliament.

The disability community would like to take this opportunity to pass gratitude for ensuring that Namibia played prominence by having children with disabilities from the national children's parliament participate at the International Children's Day which was held regionally in Kazungula (Zambia and Botswana).

During the consultation process, concerns were raised from all the 10 regions consulted over the continuance reference of children with disabilities to NISE in Windhoek and Eluwa special education school in the northern region of Namibia. Concerns were also raised over the extent at which inclusive education was been addressed in Namibia.

The disability community would like the Committee to inquire from the State Party on the following:

9. What policy and practical steps the state will take to ensure effective, quality inclusive education for children with disabilities in all the regions of Namibia and by when?
10. What legislative measures the state is or shall take to ensure the protection of the rights of children with disabilities who continue to be concealed within their homes or families without any form of intervention?
11. What measures is the government taking in order to increase the effective participation of children with disabilities in all matters that affect them in all domains of child development especially for children with multiple disabilities, intellectual disability deaf blindness and autism?

## **Article 8: Awareness raising**

We recognise the efforts the Government of the Republic of Namibia has put forth in carrying out awareness raising activities on disability issues as stated in the State Report. The disability community in Namibia observes that there

was minimum awareness raising around disability and the UNCRPD in the year 2010 as stated by the state. However, this awareness raising did not cover all the 14 regions of Namibia, especially rural areas. The awareness raising did not cover comprehensive aspects of disability, for instance, positive attributes achieved by persons with disabilities to depict role models, negative practices affecting persons with disabilities and specific messaging on the multiple discrimination and negative attitudes girls and women with disabilities face in Namibia.

The disability community appreciates the support the state has been giving towards the commemoration of the International Day of Persons with Disabilities and the National Day on Disability. However, the support is too often only visible in Windhoek whilst the rest of the regions observe that no support reached them and therefore were not involved in commemorating these two days.

Organisations of persons with disabilities through NFPDN have not been involved and consulted in the budgeting and planning for these two important commemorations.

There has been very little awareness raising and training of the media houses, thus the media still faces difficulties in covering disability issues widely, positively and in appropriate disability friendly language.

Awareness raising around the aspect of gender and disability, according to the disability community has not been done among the government departments, private sector, civil society and the media.

While the state report indicates that it has been creating awareness and promoting the principle of inclusive education, the disability community still believe this has been inadequate and has not been practically translated into the implementation of inclusive education.

While the state report indicates that the Disability Networking Forums are present in all 14 regions, the disability community only recognises that the national networking forum exists in two regions. The absence of the forums in the regions is as a result of an unclear organisational structure and inadequate funding to facilitate its operations.

The disability community would like the committee to inquire from the state party on:

12. When the government will adequately fund the commemoration of National Albinism Day to increase awareness on their rights?
13. What measures the State Party is taking to recognise and promote the role of OPDs in national awareness raising, in budgeting and planning of the IDPD and NDD to enhance full and effective participation of persons with disabilities?
14. To what extent the state, in cooperation with OPDs, will continuously train media houses on aspects of disability inclusion and gender in a more effective and sustainable manner to impact on the way they deliver messages to the public.
15. When the state will specifically focus and target awareness raising towards the respect and promotion of the rights of girls and women with disabilities who face multiple discrimination and negative attitudes in the society.

## **Article 9: Accessibility**

The disability community recognises that the National Disability Policy of 1997 under paragraph 3.4 provides for environmental accessibility and states that the state shall develop mandatory standards and guidelines to make the physical environment accessible to all people with disabilities. While this is expressed, the state has not developed any mandatory standards and guidelines on accessibility at the time of the writing of this report. Therefore, public buildings and facilities still remain highly inaccessible to different categories of persons with disabilities.

The disability community observes that the state has not availed information, especially information generally available to the public in accessible formats including braille, tactile for the deaf-blind, large print, electronic, and easy to read formats. Namibian Sign language is not recognised as a national language to ensure easy communication between persons who are deaf and the public including in the education, health and employment sectors.

There is very little progress, no laws or policies in place to ensure universal accessibility to persons with disabilities. The country still uses old South Africa Bureau of Standards guidelines. NDCN did have a project for developing guidelines on accessibility which would be a separate document, but the document does not have force of law, and therefore legislative measures are needed.

Accessibility standards need to be adopted as a law on its own and enforceable by planning authorities.

There is lack of recognition of sign language as a national language. The Namibian National Association of the Deaf (NNAD) still trying to make this happen.

The State Party decries the high cost of sign language interpreters. Persons with disabilities believe the expense is too often used as an excuse for not providing well trained Interpreters which is an abuse of rights of persons who are Deaf.

There remain limited institutionally trained sign language interpreters; and NNAD is working on training, but more is needed, including at university level.

There is lack of widespread infrastructural accessibility such as provision of elevators. This and other challenges persist when it comes to accessibility to physical structures.

The disability community in Namibia would like the UNCRP Committee to inquire from the State Party on the following:

16. When the state will develop mandatory standards and guidelines on accessibility for public buildings and facilities and at the same time avail such standards and guidelines to architects, engineers and planners in Namibia?
17. How far the state, through the National Disability Council, has gone in amending the National Disability Act to incorporate the aspect of standards for accessibility in public buildings and facilities including transport, communication, technology sports and recreation facilities, this should include the extent to which the state has ensured sign language interpretation on public and private television stations?
18. To what extent the state, in terms of number of mainstream schools, has provided computers installed with screen readers for visually impaired learners and sign language interpreters for learners with hearing impairments? The state should further avail the actual number of qualified sign language interpreters available in such mainstream schools.
19. When the state will extend the availability of accessible public buses for example as provided for by the municipality in Windhoek?
20. How far the state has gone in recognising NSL, to enable funding for promotion, training and research on the language while maximising the number of sign Language interpreters in the country and their employment in the state agencies.

## **Article 10: Right to life**

During the consultative process, the disability movement expressed their desire for equal protection of the constitution to their right to life. Furthermore, unlike in some African states, persons with Albinism expressed no knowledge of any threat to their lives through ritual killings or body mutilations.

## **Article 11: Situations of Risk and Humanitarian Emergencies**

The disability community recognises the different measures the state has taken to put in place interventions to manage and mitigate risk and emergency situations in general. However, there are no specific measures directed to persons with disabilities and their accessibility and inclusion requirements. Persons with disabilities from all the 10 regions consulted raised concern on not being given priority during times of risk and emergency situations like draught, floods, and national health emergency situations. They further raised concern on the absence of specific measures on intervention strategies to the prevention, management and treatment of COVID-19.

The disability community would like the Committee to inquire from the State Party on the following:



21. When the state will develop specific measures and strategies directed to the plight of persons with disabilities during risk, natural disasters and emergency situations, including national health emergency situations like COVID-19.

## **Article 12 - Equal Recognition before the Law**

The disability community in Namibia is concerned that disability is still not listed as a ground for prohibition of discrimination in Article 10 of the Constitution of Namibia. This gives leeway for discrimination on the basis of disability without any express protection by the Constitution from discrimination despite having legislation that recognises persons with disabilities as equal citizens of Namibia.

The Constitution of Namibia and other subsidiary legislation do not expressly provide for the right to legal capacity by persons with disabilities including those with psycho-social and intellectual disabilities.

The disability community in Namibia would like the Committee to ask the state party:

22. When the government will amend the Constitution of Namibia to include disability as a prohibited ground for discrimination?
23. When the government will enact legislation to recognise the right to legal capacity for persons with disabilities especially for those with psychosocial disabilities and intellectual disabilities and women with disabilities?

## **Article 13: Access to Justice**

The disability community realises that the state party recognises that access to justice for persons with disabilities is inhibited by many barriers including failure to provide reasonable accommodation which includes sign language interpretation, accessible holding cells and appropriate communication modes for different categories of persons with disabilities. It is recognised that persons with visual impairments are still required to identify perpetrators using "sight related means" despite them being blind. This tends to be grave especially for girls and women with visual impairments who are victims of rape or sexual abuse who in most instances cannot identify the perpetrators due to failure to see.

Officers working in the justice system have not been trained to handle persons with disabilities who come into contact with the justice system either as direct or indirect participants including at investigative stages

The disability community would like that the committee inquire on the following:

24. To what extent the government is ensuring that all premises housing the justice institutions and facilities are accessible to persons with disabilities in terms of the built infrastructure, language, and communication modes?
25. When the government will commence a permanent and sustainable training programme for officers working in the justice system in order for them to handle persons with disabilities who come into contact with the justice system including a technique to allow for easy identification of suspects by visually impaired victims especially girls and women.

## **Article 14: Liberty and Security of Person**

26. What measures including community based programmes is the state party putting in place to accelerate de-institutionalisation of persons with disabilities?

## **Article 15: Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment**

The disability community in Namibia would like the Committee to inquire on the following:

27. When shall the proposed law be enacted which prohibits torture, inhuman and degrading treatment?
28. When Namibia shall ratify the optional protocol on the Convention against torture?

## Article 16: Freedom from Exploitation, Violence and Abuse

The disability community in Namibia observes that while the government of Namibia took different legislative and administrative measures to ensure all protective steps against exploitation, violence and abuse includes persons with disabilities, the disability community is concerned that in Namibia there are no specific interventions that are gender and age appropriate targeted at persons with disabilities who fall victims of exploitation violence and abuse.

There is little evidence of any measures to educate persons with disabilities in particular persons with intellectual and those with psychosocial disabilities on how to avoid and protect themselves from exploitation, violence and abuse. Furthermore, the disability movement is concerned that mechanisms to provide support to persons with disabilities who are victims of exploitation, violence and abuse and their families are not well coordinated and structured and very few persons with disabilities are aware of such structures if they are there.

During the consultative process it was discovered that in the Zambezi and Kunene regions of Namibia, girls and women including girls and women with disabilities, have got no say in their marital or sexual relationships with their spouses. Women with disabilities raised concerns that they faced a lot of sexual exploitation, violence and abuse from their spouses with no form of protection from the law due to the existing traditional customs and beliefs.

The disability community would like the committee to ask the government the following:

29. When the government of Namibia will put in place clear mechanisms known to persons with disabilities and their families on the protection of persons with disabilities who are victims of exploitation and how such protective mechanisms will provide support to victims.
30. Whether the government of Namibia will take measures to ensure the protection of girls and women with disabilities facing sexual exploitation violence and abuse in the Northern region of Namibia through different measures including education and awareness, and if so, when?

## **Article 17: Protecting the Integrity of the Person**

## **Article 18: Freedom of Movement and Nationality**

## **Article 19: Living Independently and Being Included in the Community**

Despite the fact that persons with disabilities are entitled to be prioritised in the government housing scheme, persons with disabilities face systemic challenges to access this facility worsened by their poverty situation and lack of access to information on the same. Although this facility is supplemented by the government's disability grant of N\$1300 per month and a special maintenance grant (for children) of N\$250, the disbursements are still far too inadequate to make any lasting impact on beneficiaries.

The disability community in Namibia would like the UNCRPD Committee to inquire from the state party on the following:

31. How many persons with disabilities have benefitted from the government housing programme? Are these recipients in the mainstream of society or are in a segregated setting?

## **Article 20: Personal mobility**

Despite the National Policy on Disability of 1997 providing for measures to ensure access to assistive devices to enhance independent living, persons with disabilities especially in rural areas continue to go without support for prolonged periods. They complain of inefficiencies in the supply and distribution and general lack of devices that are built to their individual needs.

The Namibia Association of Wheelchair Users reports of countless testimonies of people with disabilities who were denied driver's license at NATIS in Windhoek based on their disabilities, but the same persons with disabilities could go and take the same test in a different town and their disability is not even regarded, as long as they can drive. There seems to be no uniformity or guide for testing and awarding driver's licenses to people with disabilities at NATIS.

The disability community would like the Committee to inquire from the state on

32. [What measures the government has taken to make the general availability of different assistive devices to persons with disabilities, including those in rural areas, at a more affordable cost within reasonable time?](#)
33. [When will the state have a driver's license testing procedure that takes into account the impairments of persons with disabilities to facilitate easy access to the driving license?](#)

## **Article 21 - Freedom of Expression and Opinion, and Access to Information**

In all the ten regions of Namibia that were consulted, concerns were raised by persons with disabilities that information which was generally meant for use by the public was not received in accessible formats for the different categories of persons with disabilities, especially in Braille and sign language.

Persons with disabilities, especially those who are deaf and with intellectual disabilities raised concern that they could not impart or deliver information to relevant authorities, both in the public and private sector on matters concerning their health and participation and delivery of services to them using their language and communication mode of their choice.

Concerns further included information on COVID-19 prevention, treatment and management in accessible language and communication mode of their choice.

The disability community would like the committee to inquire from the state:

34. [When the government will officially declare sign language as a national language for use in official meetings, gatherings and public / private media?](#)

## **Article 22: Respect for privacy**

The disability community appreciates the general protection of the right to privacy for all citizens as provided for by the Constitution of Namibia. The disability movement, however, from its consultation process gathered that persons who are deaf still face difficulties in having their privacy protected when it comes to their personal, health and rehabilitation information.

Instances were cited where persons who are deaf had to share their personal HIV/AIDS status and psycho-social counselling (rehabilitation) information with their personal assistants or sign language interpreters who sometimes may not uphold the principle of confidentiality and privacy. This was also shared by persons with visual impairments who complained of having their guides or personal assistants present when seeking health or rehabilitation information. Interestingly, women with disabilities especially, those with visual impairments raised concerns on their privacy to personal sexual reproductive health information because they require other third parties to read or interpret what is written when accessing such information.

The state party should provide clarity to the Committee on:

35. [When the state will provide a sustainable training programme on disability inclusion, and sign language for frontline officers in the health sector, including providers of HIV services, sexual reproductive health services and national emergency health services like situations of COVID-19?](#)

## **Article 23 - Respect for Home and the Family**

During the consultation process, women with disabilities from all the ten regions consulted raised concerns that they have been directly or indirectly denied the right to make their own informed choices when it came to their own personal decisions on relationships and marriage. While the Constitution of Namibia, in its Article 14 expressly provides for prohibited grounds of discrimination when it comes to marriage, it does not provide for disability as a prohibited ground for discrimination thus women with disabilities and the disability movement in Namibia feel women with disabilities are not protected by law when it comes to discrimination in relationships and marriage.

Women with disabilities further raised concerns over the negative attitudes of many health workers when accessing sexual reproductive health services like family planning information. They complained that information was not in accessible formats and was generally not available in rural areas.

The disability community would like the Committee to inquire from the state party on the following:

36. When the Government will amend Article 14 of the Constitution of Namibia to include disability as a prohibited ground for discrimination when it comes to relationships and marriage, especially against women with disabilities?
37. Steps taken by Government to educate all frontline health workers on the rights of girls and women with disabilities to access freely and on an equal basis with other women sexual and reproductive health services, including information on family planning, in accessible formats and appropriate communication modes without any form of stigma and discrimination?

## **Article 24: Education**

Article 20 of the Namibian Constitution provides for the right to education for all, compulsory and free primary education and the Government's responsibility to the provision of education and resources to schools. The strategic plan of the Ministry of Education includes among others, accessible and equitable inclusive education. Despite these provisions, the government still needs to increase its efforts to provide adequate resources, including assistive technology and devices, Braille and specialised equipment for science and mathematics for learners with disabilities.

The Ministry of Education states that it has been piloting inclusive education long before the approval of the Sector Policy on Inclusive Education in 2013. These pilots, if practically available have not yielded any positive results to justify scaling up to fully fledged inclusive education programmes in all regions. The approved Sector Policy on Inclusive Education has not yet been implemented in as far as the disability community is concerned and this is a great worry to us. In addition, there are inadequate specialised educational resources procured for both mainstream schools to include learners with disabilities and for special education schools.

At the time of writing its State Report, the government states that the curriculum was being reviewed to be more skill oriented for children with disabilities. The curriculum Framework for Inclusive Education (for learners with disabilities) was to be approved by the Examination Board. We believe this has not yet been approved and implemented.

Namibia's Fourth National Development Plan (NDP4: 2012) had prioritized Early Childhood Development and Education hence transferal of oversight of this program to the Ministry of Education at the time of writing the State Report. The Sector Policy on Inclusive Education has as one of its guiding principles, inclusion in education to occur as early as at ECD level. We are concerned that despite these positive proclamation, effective inclusion of children with disabilities to reflect the concepts of inclusive education are not being implemented at ECDE level.

Article 20(2) of the Namibian Constitution states that primary education shall be free and compulsory. The Ministry of Education has implemented Universal Primary Education (UPE) from January 2013, and children with disabilities benefit from the school grant given to primary schools to assist with needs at school level. Children with disabilities benefit from this grant regardless of their age or grade. The disability community has learnt with concern from the consultative process that children with disabilities who find themselves in mainstream schools do not benefit from these grants directly to assist them with their specific and appropriate learning resources, including assistive technology and devices.

We further observe that despite the many pieces of laws and policies providing for inclusive education, children with disabilities are generally referred to NISE in Windhoek and Eluwa special school in the Northern Region. Many schools and other learning institutions are still very physically inaccessible to learners with disabilities.

The Centre for Communication and Deaf Studies (under the Ministry of Education), has the following mandates: the research and development of Namibian Sign Language; development of teaching and learning material for

education offering to Deaf learners and adults, and training on Namibian Sign Language and interpreting skills. Arising from this, interpreting services are supposed to exist for learners who are deaf and are schooling in inclusive schools. Apparently, there is little in terms of sign language teaching and interpretation in the referred to inclusive schools. Learners who are deaf are still referred to special education schools where some sign language teaching exists.

In Namibia, Braille is considered an official mode of instruction for blind learners. At the time of writing its State Report, the government through the Ministry of Education had established a task force that would look into establishing a Braille production unit at the National Institute of Special Education.

The University of Namibia and the Ministry of Education offer a Namibian Sign Language subject for teacher interpretation in the Education Bachelor course. According to the government, the graduates are employed as Teacher Sign Language Interpreters in schools. Despite this training and posting of sign language teachers, we find that schools still do not have adequate teachers for learners who are deaf especially in mainstream schools placed as inclusive education schools.

The Ministry of Education in collaboration with UNICEF conducted and published an assessment of Inclusive Education in Practice in Namibia: Challenges and opportunities in leaving no child behind in 2018. The Assessment found that implementation of inclusive education had increased favourably but that there remained serious challenges for children with disabilities. This raises concerns to the disability community in that while the implementation of inclusive education had increased favourably, there still remained serious challenges for children with disabilities. We agree and the serious challenges identified still persist to date.

At the time of writing the State Report, Government had drafted a Basic Education Bill to amplify the obligation towards providing free and compulsory basic education through accessible, equitable, qualitative and democratic education service and life-long learning. One of the main features of the draft legislation is the prohibition against discrimination with specific reference to disability as a prohibited ground for discrimination in schools and in the implementation of education policies. Despite this, discrimination of children with disabilities on the basis of their disabilities is still prominent. Children with disabilities are denied enrolment in mainstream schools; they do not receive adequate and appropriate learning resources on an equal basis with other learners and school infrastructure is very inaccessible to them. Thus, a majority of them do not attend schools with such discrimination tendencies.

The disability community would like the Committee to ask the state party the following:

38. Steps taken by the government to fulfil Article 20 of the Constitution of Namibia to provide adequate resources – financing, specialised teachers, accessible infrastructure, Braille and large print, sign language teaching and interpretation, appropriate assistive technology and devices - to schools to ensure learners with disabilities receive quality education on an equal basis with other learners without disabilities?
39. When the Ministry of Education will finally scale up the implementation of comprehensive and sustainable inclusive education to all regions after piloting inclusive education “long before the approval of the Sector Policy on Inclusive Education in 2013?
40. Whether the Curriculum Framework for Inclusive Education which was developed has been approved by the Examination Board of Namibia and how far implementation has gone to benefit children with disabilities in mainstream schools?
41. Practical steps taken to ensure that effective inclusion of children with disabilities begins at ECDE level as provided by the Sector Policy on Inclusive Education?
42. How many children with disabilities, by gender and disability disaggregation, have benefited from the school grant provided to primary school under the Universal Primary Education (UPE) each year beginning from 2016 to 2020?

43. How many learners with disabilities, by gender and disability, have benefited from the Students Financial Assistance Fund at higher institutions of learning each year beginning from 2016 to 2020?
44. Practical measures taken to ensure physical infrastructure in schools and other learning institutions are accessible to all categories of learners with disabilities?
45. How many mainstream schools provide comprehensive inclusive education with sign language teaching and interpretation for learners who are deaf and Braille and mobility training for learners who are blind in each of the 14 regions of Namibia by end of 2020?
46. How many teachers have graduated from the University of Namibia, by gender and disability/non-disability, Bachelor's Degree in sign language for teacher education each year from 2018 to 2020?
47. How many teachers with hearing and visual impairments, by gender and impairment, have been employed by the Ministry of Education each year beginning from 2016 to 2020?
48. How many teacher assistants for learners who are deaf, blind, deaf-blind and those with intellectual disabilities has the government employed, by gender and disability disaggregation from 2016 to 2020

## **Article 25: Health**

The National Policy on Disability of 1997 outlines the responsibility of the Ministry of Health and Social Services to contribute to the prevention and rehabilitation of disability. The responsibility was distributed between the Directorate of Social Services and the Division of Disability Prevention and Rehabilitation under the Ministry of Health. Responsibility for disability has changed over time with various government ministries having oversight. This placement apparently promotes the perception of disability from the medical model mirror. This is concerning to the disability community in Namibia in that almost all disability-related affairs are coordinated by the Ministry of Health under the Directorate of Social Services and the Division of Disability Prevention and Rehabilitation. The aspect of viewing disability from the wider social and human rights models is by implication not existing within the Ministry of Health.

The disability community in Namibia greatly appreciates the fact that, in its policies, the Government promotes the integration of persons with disabilities in all domains of society, and Community Based Rehabilitation (CBR) is a critical approach in realising goals and purpose of the various policies. However, we observe that the implementation of CBR in the different regions of Namibia is insignificant, not effective and not comprehensive if ever it exists.

On the other hand, while the Government states that it has trained volunteers to provide Community Based Rehabilitation (CBR) services at community level, the work and impact of these volunteers is also insignificant to persons with disabilities within their communities.

The Government also provides cryotherapy for persons with albinism and sunscreen is listed on the National Essential Medical List for persons with Albinism and the Government provides sunscreen throughout all state and district hospitals at no cost to the persons with albinism. Persons with albinism in the regions, especially those from rural areas raised concerns on the inconsistent availability of sunscreens to them in the hospitals. Many persons with albinism stated that they have to purchase their own sunscreen from private pharmacies when they can afford, but it is costly and not easy for the majority of them.

The National Health Policy Framework 2010 – 2020 recognises the fact that the needs of the people with disability are not sufficiently covered, stating that services for people with disability are centralised, inadequate and there is little systematic involvement of communities in rehabilitation efforts. This is of great concern to the disability community especially that the government has been emphasising CBR within community level. We value the full and effective participation of the community in all CBR programmes and if their participation is not there, CBR remains questionable.

The Ministry of Health and Social Services has been working on the Mental Health Bill to repeal the Mental Health Act, 1973 (Act No. 18 of 1973), the Bill seeks to provide a human rights-based approach to mental health in accordance with the obligations under CRPD. However, this process has taken far much too long than desirable despite the Government having ratified the CRPD in 2007.

Inquiries during the consultation process revealed that girls and women with disabilities face a lot of stigma and discrimination from some of the health workers whenever they want to access sexual and reproductive health services, including HIV/AIDS services. MOHSS does not have data on the numbers of girls and women with disabilities accessing their sexual and reproductive health services. This is of concern because statistics provide a basis for the determination of quality health services to different categories of girls and women with disabilities.

The disability community in Namibia would like the Committee to ask the Government the following:

49. Steps taken to strengthen a more effective and comprehensive CBR programme in different regions and communities? The Government should also name any successful CBR programme which has been operational since 2016, where it exists and how many beneficiaries such a programme has with gender and disability disaggregation.
50. How many rehabilitation professionals and volunteers the Government has trained from 2016 to 2020 by gender and disability disaggregation? The Government should also state under which CBR programme such professionals and volunteers are operating from.
51. Which hospitals have been consistently stocking and providing free sunscreen to persons with albinism in each region? How many persons with albinism have benefited from free sunscreens from the provided hospitals in each year from 2016 to 2020?
52. When the Ministry of Health and Social Services will enact the new Mental Health Act which reflects the principles of the CRPD to repeal the 1973 Act?
53. Steps taken to increase access to sexual and reproductive health services, including information in accessible formats and communication modes, to girls and women with disabilities, especially those in rural areas without any form of stigma and discrimination?
54. When MOHSS will produce statistics on the number of girls and women with disabilities accessing sexual and reproductive health services, including HIV/AIDS services by age classification?

## **Article 26: Habitation and Rehabilitation**

In line with the Government policies, the choice of persons with disabilities to participate in habilitation and rehabilitation services is fully protected. Rehabilitation services offered by the Department of Primary Health Care are guided by national policies of the Ministry of Health and Social Services and are aimed at helping persons with disabilities to attain maximum independence and full inclusion in all aspects of life. The disability community remains adamant regarding avoiding the medical model when appropriate, focusing on the social/ human rights approach. While we recognise that social services joined together with health services in this Ministry, habilitation and rehabilitation services should have been placed in an establishment that reflects the social and human rights model of perceiving disability with much focus on CBR. This has occurred with the transfer of many disability issues being placed under Disability Affairs, MGEPEWS.

Community Based Rehabilitation (CBR) has been adopted by Government as the underlying philosophy to the provision of rehabilitation services. The Government observes that successfully implemented services offered within a CBR approach, are crucially dependant on effective relationships between Government and the various civil and organizational actors within the disability sector. The disability community commends Government for this realisation.

General habilitation and rehabilitation programmes for persons with disabilities are made available by the Ministry of Health and Social Services, as well as civil society and organizations of persons with disability (OPDs). While more formal programmes exist in urban and well-developed areas, OPDs and civil society organisations in partnership with Government and the private sector, play a critical role in making programmes accessible in rural communities. This is another positive realisation by the Government.

We however are concerned that Government does not in any way support the OPDs supplementing its provision of CBR in rural areas through supporting them with specific grants for such programmes. The disability community, especially in rural regions of Namibia complain of non-availability of CBR professionals and volunteers belonging to Government being attached to or collaborating with OPDs doing some work on CBR.

The disability community would like the Committee to inquire on the following:

55. Measures, in terms of grants (financial support) and attachment of CBR professionals and volunteers to OPDs providing CBR especially in rural areas, taken by Government to strengthen such programmes where the Government has limited capacity to reach?
56. Steps taken to adopt a more multi-disciplinary approach to CBR with increased participation of persons with disabilities and their OPDs and communities to strengthen more comprehensive CBR programmes?

## **Article 27: Work and employment**

The disability community in Namibia commends Governments for its realisation that the employment disparities of people with disabilities still remains a challenge for the Government even though Government has developed some instruments to ensure the right to work and employment is protected and ensured. With the realisation by Government, we expected more robust steps and practical measures towards increasing the employment opportunities of persons with disabilities in the mainstream competitive and open labour market. Women with disabilities remain with high levels of unemployment in comparison to other women without disabilities thus making them continue to live in abject poverty and vulnerability.

The Labour Act, 2007 (Act No. 11 of 2007) in section 5(1) (e) defines a person with disability as “an individual who suffers from any persistent physical or mental limitation that restricts that individual’s preparation for, entry into or participation or advancement in, employment or an occupation”. This definition is highly discriminatory and systemically causes the exclusion of persons with disabilities from certain forms of employment. This poses great concerns to us. Law must never discriminate on the basis of disability especially after the Government ratified the CRPD.

Despite the above discriminatory definition in law, we are comforted in that section 5(2)(e) of the Labour Act, 2007 prohibits direct or indirect discrimination based on any degree of physical or mental disability in employment. Nevertheless, we have not yet witnessed any punitive action, using the law, taken against any employer who has discriminated against a person on the basis of their physical or mental disabilities in employment.

The Affirmative Action (Employment) Act, 1998 provides that...”in filling vacant positions, the employer shall give preferential treatment to racially disadvantaged persons, women and persons with disabilities who are suitably qualified; Government policy requires all O/M/A’s to include an invitation to persons with disabilities to apply for advertised vacancies in the public service”. This is yet to be witnessed by the persons with disabilities in Namibia.

According to the Affirmative Action Report issued by the Employment Equity Commission of Namibia (EEC) for the review period of 2017/2018, a total of 277 745 persons were hired across all employment sectors during the period, representing an increase of 5% employees recruited during the previous review period. Women comprised 46% of the total employees hired during this review year, while persons with disabilities accounted for a mere 0.4%. This raises serious worries on the percentage of persons with disabilities employed across different sectors.

In terms of numbers, persons with disabilities that were employed in this review period was 1 177, of which 757 are male and 420 are female, this is out of total workforce of 277 745 employed during the 2017/2018 period. This signifies a low number of women with disabilities absorbed in the different sectors of employment.

The disability community would like the Committee to inquire from the Government on the following:

57. When the Government will repeal the Labour Act of 2007 to align its definition of a person with a disability to the terminology provided for in the CRPD and depict a person with a disability in a more dignified manner and with respect for human rights?



58. How many persons with disabilities, with gender disaggregation, have been employed through the provisions of the Affirmative Action (Employment) Act, 1998 which encourages persons with disabilities who qualify to apply for advertised vacancies in the public service?
59. Steps taken by the Government to increase the numbers of persons with disabilities in employment, with particular attention to women with disabilities, in order to redress the insignificant number of 0.4% depicted by the Affirmative Action Report issued by the Employment Equity Commission of Namibia (EEC) for the review period of 2017/2018?

## **Article 28: Adequate Standard of Living and Social Protection**

Persons with disabilities have the right to an adequate standard of living, not only for themselves, but for their family. An 'adequate standard of living,' includes food, housing, clothing, needed social services, as well as medical care. It includes the right to security should the person become unemployed, experience an illness, become a widow or widower, or reach an age where support becomes needed. The disability community in Namibia gathered during the consultation process of developing this report, agreed that the standard of living for the majority of persons with disabilities, especially girls and women, is far from being considered adequate.

An adequate standard of living also involves support in the event that a person with disability should experience lack of livelihood in circumstances that are beyond their control. Mothers, as well as children, have the right to care and assistance. Every child has a right to the same social protections despite ability. The living standard of many children with disabilities is far below being adequate when it comes to accessing disability related health services like physiotherapy, nutrition, clean water / sanitation and psycho-social support.

According to government policy, persons with disabilities are entitled to be prioritised in the Government housing scheme. We are concerned that there is little evidence of this priority being provided to persons with disabilities in any government housing scheme. Persons with disabilities consulted expressed no knowledge of any government housing scheme from which they can benefit as persons with disabilities. Persons with disabilities, in particular those in rural areas live in dilapidated huts without any accessible clean water and sanitation source.

The Government is providing a disability grant of N\$1300 per month for persons with disabilities above 16 as administered by the Ministry of Gender Equality Poverty Eradication and Social Welfare. It also provides a special maintenance grant of N\$250 for children with disabilities under 16 as administered by the same Ministry.

The disability community in Namibia would like the Committee to inquire from the government on:

60. How many persons with disabilities, with gender and disability disaggregation, have benefited in terms of being housed under the government housing scheme in each year from 2016 to 2020?
61. Steps taken by government to ensure persons with disabilities, in particular girls and women, collect clean water from accessible water sources close to their habitats?
62. Steps taken by government to have children with disabilities, especially those in rural areas access adequate health services like physiotherapy, nutrition, clean water and psycho-social services?
63. When the state will increase the special maintenance grant for children with disabilities to cater for the increasing costs of the needs of children with disabilities especially those with multiple disabilities?

## **Article 29: participation in political and public life**

Article 17 of the Namibian Constitution states that all citizens shall have the right to participate in peaceful political activity, intended to influence the composition and policies of the Government. Article 17(1) of the Namibian Constitution states that all citizens shall have the right to form and join political parties and, subject to such qualifications prescribed by law as are necessary in a democratic society, to participate in the conduct of public affairs, whether directly or through freely chosen representatives. This is satisfactory to citizens with disabilities because this right is guaranteed by law whether guaranteed in practice or not. While this is guaranteed for persons

with disabilities, the electoral laws in Namibia still restrict or prohibit persons with mental disabilities from freely exercising their right to vote or voted into public office.

The right to participate fully in political and public life for persons with disabilities, has been evident from Government's appointment of persons with disabilities in Parliament holding portfolios of ministers and deputy-ministers. The disability community appreciates highly the nomination or appointment of persons with disabilities to Ministerial or Parliamentary Office by the President. We raise the issue of having a political environment within political parties and outside which will create real space for willing persons with disabilities to join political parties of their choice and be voted into public office. We are concerned that government has not practically done much to create that free and friendly political environment for persons with disabilities to directly engage in partisan politics.

The National Voter Education Policy guides the education of voters by officials appointed as voter educators, the Policy sets out the role of one as a voter educator. The policy regulates and ensures that all electorates understand their roles, their rights and the Namibian political system. The Policy states that information conveyed should be gender and disability sensitive and designed to be relevant to all voters. We appreciate the policy proclamation on voter education. Persons with disabilities, especially those in rural areas raised concerns that the voter education information does not reach them in accessible formats, e.g., Braille for literate persons who are blind. Persons who are deaf also raised concerns that the voter education information is not communicated in sign language on television and voter education meetings. Many persons with disabilities express ignorance on any specific voter education materials targeted to guide or educate them on their voting needs as different persons with disabilities, for instance how to cast a vote secretly or independently or with assistance when you are a person who is blind or illiterate with a disability.

The Electoral Act, 2014 (Act No. 5 of 2014) provides for assistance of persons with disabilities to vote as follows:

Section 100 and Section 103 of the Act governs the manner of voting and assistance of voters in elections respectively. Section 103(2) provides that a voter who is incapacitated by blindness or any other physical cause from voting in any prescribed manner, may request the presiding officer to assist the voter in the presence of the person accompanying the voter and to vote on behalf of the voter in the presence of the person accompanying the voter. Despite these progressive provisions, and as already stated above, persons with *disabilities* are not provided with this voter education on such provisions before the day of voting. This has caused some persons with disabilities to shun voting because of fear of how they would be assisted.

The disability community is concerned that despite the legal provisions that the voting procedure shall be by a secret ballot, persons who are blind still cannot exercise their right to a secret ballot because the voting process is still using inaccessible ballot materials.

The disability community would like the Committee to ask the following:

64. Measures taken in practice to ensure all voter education information, print or electronic, is in accessible formats and appropriate communication modes for different categories of persons with disabilities including those in rural areas or are illiterate?
65. Measures taken in practice to ensure that persons with disabilities are well educated as voters and how to effectively participate in the voting process as provided by law?
66. Steps taken by the Government to guarantee the right to a secret ballot by persons who are blind and do not wish to use an assistant?

### **Article 30: Participation in Cultural Life, Recreation, Leisure and Sport**

Sports clubs for persons with disabilities have been established through Paralympics which enables persons with disabilities to be trained in sports and to compete worldwide. We truly commend Government for supporting the Paralympics and encouraging the private sector to participate financially and technically sponsoring sports for persons with disabilities. Persons with disabilities in several regions in the north raised concerns that they were not aware of any sports clubs or Paralympic branches being supported by government.

We realise that the intellectual property or copyright laws in Namibia require that permission should be sought from the publishers or owners of any print materials in case of reproduction or transcription into any format. This affects transcription of any print materials, including recreational or educational materials into Braille or large print. This causes institutions or organisations involved in transcribing such print materials into Braille or large print be deemed practicing illegality or breaking the copyright laws although none have been prosecuted. This requires the government of Namibia to sign and ratify the Marrakesh Treaty which does not require institutions to seek copyright permission when transcribing into Braille or large print for persons who are blind or with visual impairments.

The disability community would like the Committee to ask the following:

67. What measures is the state party putting in place to ensure an increase in funding to Paralympics and to make recreation and cultural amenities in rural areas accessible to persons with disabilities with financial and technical support solicited from the private sector by government?
68. When the Government will sign and ratify the Marrakesh Treaty?

### **Article 31: Statistics and Data Collection**

According to the Government, the Namibia Statistics Agency has significantly re-modelled its approach towards mainstreaming disability considerations into its operations following the ratification of the CRPD. We are yet to practically witness this measure as the disability community.

Disaggregation of disability-related statistics and data across all Government institutions remains a challenge, including the reliability of such data where it exists.

### **Article 32: International Cooperation**

### **Article 33: National implementation and monitoring**

The Government has established the National Disability Council through the National Disability Council Act, 2004. The Council is currently housed under the Ministry of Health and Social Services (at the time that the State Report was being developed, but currently it falls under the MGEPSW. The NDC Act states in the definitions, the Minister “responsible for rehabilitation”. The Council’s functions are outlined in section 2 of the National Disability Council Act, 2004 as follows:

- Monitor the implementation of the National Policy on Disability in the manner as provided for in this Act;
- Identify provisions in any law, which may hinder the implementation of the National Policy on Disability and make recommendations in that regard;
- Advise any person responsible for the enforcement of existing legislation which provides for equal opportunities for all people in Namibia on the enforcement of that legislation;
- Comment on proposed legislation which may affect persons with disabilities in any manner;
- Consult with persons with disabilities, organisations of persons with disabilities and organisations rendering services to persons with disabilities, and take any other steps in order to obtain necessary information on the implementation of the National Policy on Disability;
- Initiate amendments to the National Policy on Disability in order to ensure that it takes account of changing circumstances; and
- In general, take all necessary steps in order to improve the situation of persons with disabilities in Namibia.

Under Article 33, the government is supposed to designate the independent human rights institution to be the independent body to monitor the implementation of the CRPD. We are concerned that the Government has not yet officially designated the National Human Rights Institution to be the independent monitoring mechanism for the implementation of the CRPD.

The disability community would like the Committee to ask the following:

69. When the Government will through the enactment of a National Disability Law that will domesticate the CRPD, and thus designate one or more focal point or coordinating mechanisms for the implementation of the CRPD within the government?
70. Steps taken officially in terms of law to designate the National Human Rights Institution as the independent mechanism for the monitoring of the implementation of the CRPD?
71. Steps taken to practically engage persons with disabilities, through their representative organisations in monitoring the implementation of the CRPD, with the active engagement of women with disabilities?
72. How many complaints, by disability and gender disaggregation, have been handled and resolved by the office of the Ombudsman between the year 2016 and 2020?

End.