

NAMIBIA

*Ruusa Ntinda**

1 Population indicators

1.1 What is the total population of Namibia?

According to the 2011 population census, the total population of Namibia is 2104 900.¹

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in Namibia and the criteria used to determine who falls within the class of persons with disabilities in Namibia?

The methodology used to determine the population and the total percentage of people with disabilities is the general household census of 2006.²

1.3 What is the total number and percentage of people with disabilities in Namibia?

According to the 2006 Namibia Inter-censal Demographic Survey, the population of people with disabilities is 102 100.³

1.4 What is the total number and percentage of women with disabilities in Namibia?

According to the 2006 Namibia Inter-censal Demographic Survey, the population of women with disabilities amounts to 52 433.⁴

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1 Republic of Namibia 'Namibia 2011 Population and Housing Census Preliminary Results' 2 http://www.gov.na/documents/10180/34849/2011_Preliminary_Result.pdf/0ea026d4-9687-4851-a693-1b97a1317c60 (accessed 31 May 2013).

2 Namibia Inter-censal Demographic Survey (2006) http://www.npc.gov.na/publications/census_data/NIDS_report_final_revised_04%20August%202010.pdf (accessed 03 June 2013).

3 2006 Inter-censal Demographic Survey (n 2 above) 16.

4 As above.

1.5 What is the total number and percentage of children with disabilities in Namibia?

Statistics on the total number and percentage of children with disabilities in Namibia are not available.

1.6 What are the most prevalent forms of disability in Namibia?

According to the National Planning Commission Disability statistics in Namibia 2004, the most prevalent forms of disability include:⁵

- Visual impairment: 35 per cent
- Hearing impairment: 21 per cent
- Speech and communication impairments: 11 per cent
- Developmental and intellectual impairments: 5 per cent
- Physical impairment: 37 per cent

2 International obligations

2.1 What is the status of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol to the Convention on the Rights of Persons with Disabilities in Namibia?

Namibia signed and ratified the CRPD and its Optional Protocol on 4 December 2007.⁶

2.2 If Namibia has signed and ratified the CRPD, when is/was its country report due? Which government department is responsible for the submission of the report? Has Namibia submitted its report? If not, what reason does the relevant government department give for the delay?

The CRPD initial report has been overdue since 2009.⁷ The responsible departments for the submission of the report are the Ministry of Health and Social Services which has the main obligation to promote and protect of the rights and welfare of persons with disabilities, and the Office of the Prime Minister which houses the nation's Disability Unit. No reasons were evident from the research as to the delay in the submission of the report.

5 CK Haihambo 'Inclusive education: Challenges of students with disabilities in institutions of higher education in Namibia' Doctoral thesis, University of South Africa, 2010 4.

6 United Nations enable, Development and human rights for all, Convention and Optional Protocol Signatures and Ratifications <http://www.un.org/disabilities/countries.asp?id=166> (accessed 19 August 2013).

7 Human Rights Council, Working Group on the Universal Periodic Review, Tenth session, Geneva, 24 January-4 February 2011 'Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1' Namibia <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/173/07/PDF/G1017307.pdf> (accessed 20 February 2013).

- 2.3 If Namibia has submitted the report in 2.2 and if the Committee on the Rights of Persons with Disabilities has reviewed the report, indicate if the Committee made any concluding observations and recommendations to Namibia's report. Was there a domestic effect in Namibia on disability issues due to the reporting process?**

As the country report was not submitted, there were no observations or recommendations to make.

- 2.4 While reporting under various other United Nations instruments, the African Charter on Human and Peoples' Rights or the African Charter on the Rights and Welfare of the Child, has Namibia also reported specifically on the rights of persons with disabilities in its most recent reports? If so, have concluding observations adopted by the treaty bodies, addressed disability? If relevant, were these observations given effect to? Was mention made of disability rights in Namibia's UN Universal Periodic Review (UPR)? If so, what was the effect of these observations or recommendations?**

Namibia has submitted its first, second and third periodic reports on the implementation of the United Nations Convention on the Rights of the Child and two optional protocols (1997-2008) which referred to children with disabilities. But according to the Legal Assistance Centre these reports did not capture a full or accurate picture and expert observations were not implemented.⁸

- 2.5 Was there any domestic effect on Namibia's legal system after ratifying the international or regional instrument in 2.4 above?**

In *Frans v Paschke & Others*⁹ (rights of the child) an international instrument was used. This case dealt with the common law rule that prohibited Frans, who was born out of wedlock, from inheriting from his father. The court held that, such laws are in violation of the Namibian Constitution of 1990 and international law obligations that form part of the Namibian law.

- 2.6 Do ratified international treaties automatically become domestic law under Namibia's legal system? If so, are there any cases where the courts applied international treaty provisions directly?**

Namibia is a monist state. International treaties become part of the domestic laws upon ratification as a whole by virtue of articles 143 and 144 of the Namibian Constitution, unless reservations are submitted. Therefore, no enabling legislation is required. There are however no cases that have considered the CRPD directly or indirectly.

⁸ 'Alternative report to Namibia's first, second and third periodic reports on the implementation of the United Nations Convention on the Rights of the Child and two optional protocols (1997-2008)' prepared by the Gender Research & Advocacy Project Legal Assistance Centre (January 2012) http://www2.ohchr.org/english/bodies/crc/docs/ngos/Namibia_LAC_GRAP_CRC61.pdf (accessed 31 May 2013).

⁹ (PI1548/2005) [2007] NAHC 49 (11 July 2007).

2.7 With reference to 2.4 above, has the United Nations CRPD, or any other ratified international instrument, or parts thereof, been incorporated verbatim in national legislation? Provide details.

The CRPD or parts thereof have not been incorporated verbatim or otherwise in national legislation. However, other international instruments such as the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights influenced the drafting of charter 3 of the Namibian constitution that contains the bill of rights.

3 Constitution

3.1 Does the Constitution of the Republic of Namibia of 1990 (the Constitution) contain provisions that directly address disability? If so, list the provisions and explain how each provision addresses disability.

There are no provisions in the Namibian constitution that directly addresses disability.

3.2 Does the Namibia Constitution contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

The Constitution contains some provisions that indirectly address disability. These include:

- Article 23 of the Namibian Constitution provides for affirmative action in order to remedy the injustices of the past. Article 23(2) states that it is for the advancement of persons in Namibia that have been disadvantaged by past discriminatory laws or practices. While women are mentioned in article 23(2), there is no reference to disability or persons with disabilities. However in terms of section 18 of the Affirmative Action (Employment) Act 29 of 1998 disability is listed as a targeted group.
- Article 10 of the Constitution deals with equality and freedom from discrimination. Under article 10(1) all are equal before the law and in terms of article 10(2) no person may be discriminated against. This can be used to argue that people with disabilities fall under 'all'. However this argument may be disputed on the basis that disability is not listed as a ground for non-discrimination. In addition, the grounds listed under article 10(2) are exhaustive or can be viewed as a closed list. This is due to the fact that 'other status' is not included.

4 Legislation

4.1 Does Namibia have legislation that directly addresses disability? If so, list the legislation and explain how the legislation addresses disability.

• The National Disability Council Act 26 of 2004

In terms of section 4(1) the Council has the power and function to make representations on behalf of any person with a disability before any organ of state,

or provide or procure legal assistance for any persons with disabilities, if the matter in question relates to the rights of, or the integration of persons with disabilities in society. It also has the duty to recommend to Cabinet the taking of necessary steps in order to facilitate compliance with the National Policy on Disability and the amendment of any law.

• **Affirmative Action (Employment) Act 29 of 1998**

This Act is aimed at addressing the injustices of the past. In order to place the previous disadvantaged groups on a par with other groups in society for the full realisation of their rights. According to section 18(c) of this Act, persons with disabilities are listed as one of the designated groups.

Furthermore, the Affirmative Action (Employment) Act sets out in section 19 the preferential treatment of such designated groups. It provides that in filling positions of employment a relevant employer shall give preferential treatment to suitably qualified persons of designated groups.

4.2 Does your country have legislation that indirectly addresses disability? If so, list the main legislation and explain how the legislation relates to disability.

Section 2(1) of the Racial Discrimination Prohibition Amendment Act 26 of 1991 states that:

- (1) No person shall:
 - (a) deny any other person access to or the use of any public amenity or any facility in a public amenity;
 - (b) permit any other person such access or use on less favourable terms or conditions than those upon which he or she would otherwise permit such access or use; or
 - (c) require any other person to leave or cease to use any such amenity or facility,

This Act indirectly protects PWDs because the concepts of ‘no person’ and ‘any other person’ implicitly include PWDs.

5 Decisions of courts and tribunals

5.1 Have the courts (or tribunals) in Namibia ever decided on an issue(s) relating to disability? If so, list the cases and provide a summary for each of the cases indicating what the facts, the decision(s), the reasoning and impact (if any) the cases have had.

In conducting this research, the researcher was unable to obtain any court cases that dealt with cases that directly or indirectly deal with disability.

6 Policies and programmes

6.1 Does Namibia have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.

Policies and programmes that address disability issues in Namibia are as follows:

- Namibia has a National Policy on Disability 2004. It was put in place with the mandate to accept the principles of participation, integration and equalisation of opportunities defined by the United Nations in the World Programme of Action Concerning Disabled Persons and The Standard Rules on the Equalisation of Opportunities for Persons with Disabilities.
- The National Policy on Special Needs and Inclusive Education (2008) was put in place to enable the regular school system to meet the diverse educational needs of all children, and increase the opportunities available to students with disabilities.
- The National Policy for Mental Health (2005)

This policy has the mandate to regulate matters with regard to mental health and institutionalisation of people with mental disabilities. This policy is outdated. A new Mental Health Bill draft has been discussed to replace it. The eighth draft of a Mental Health Bill was circulated in 2011. The drafting process has been dragging on for years; there are doubts if it will ever be passed.¹⁰ The current mental health policy has been criticised in that there are no special provisions for children with mental disabilities. In addition, in terms of the policy, only 211 psychiatric beds are available for the mental health needs of over 1.8 million people in Namibia and only 90 registered psychologists nationwide.¹¹

6.2 Does Namibia have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

- The policy on 'Decentralization in Namibia' was adopted by the Ministry of Regional and Local Government and Housing in 1998. It is an inclusive policy which indirectly addresses disability. Its paragraph 2(1) reads: 'Decentralization is an instrument the state can use to bring about democratic participation to [all] people at lower levels of government'.
- Namibia's Environmental Assessment Policy for Sustainable Development and Environmental Conservation of 1995 was adopted for the benefit of all Namibians including those with disabilities. The Preamble states that: 'The State shall actively promote and maintain the welfare of the people by adopting policies ...'. PWDs are not excluded.
- Similarly, the Vision 2030 Document addresses 'people's quality of life' in chapter 4 and this includes PWDs.

10 LAC Alternative Report (n 8 above) 18.

11 LAC Alternative Report (n 8 above) 18-19.

7 Disability bodies

- 7.1 Other than the ordinary courts or tribunals, does Namibia have any official body that specifically addresses the violation of the rights of people with disabilities? If so, describe the body, its functions and its powers.**

Namibia has a National Disability Council that deals with violations of the rights of persons with disabilities. According to section 16(3) of the Namibia Disability Council Act, the Council may run programmes or conduct campaigns to inform the public to raise the awareness concerning an issue relating to disability. The National Disability Council was established so that line Ministries would be required to report annually to the Council on activities related to disability programmes. At every level programmes that are aimed at social, economic and political development include persons with disabilities in order to increase their visibility at all levels from decision making to implementation. Courts in Namibia have the jurisdiction to hear any case arising from the exercise of the functions and powers of the National Disability Council.¹²

- 7.2 Other than ordinary courts or tribunals, does Namibia have any official body that though not established to specifically address the violation of the rights of people with disabilities, can nonetheless do so? If so, describe the body, its functions and its powers.**

No such body exists.

8 National human rights institutions

- 8.1 Does Namibia have a Human Rights Commission or an Ombudsman or Public Protector? Does its remit include the promotion and protection of the rights of people with disabilities? If your answer is yes, also indicate whether the Human Rights Commission or the Ombudsman or Public Protector of Nigeria has ever addressed issues relating to the rights or persons with disabilities.**

Namibia has an Ombudsman provided for under articles 89 to 94 of the Namibian Constitution.¹³ His/her duties include the promotion and protection of human rights for all citizens, including persons with disabilities but there is no provision in the Ombudsman's mandate that directly makes provisions for the rights of persons with disability. There are no indications as to whether the ombudsman ever addressed issues relating to the rights of persons with disabilities.

¹² The National Disability Council Act 26 (2004), art 16(3).

¹³ The Constitution of the Republic of Namibia, 1990.

9 Disabled peoples organisations (DPOs) and other civil society organisations

9.1 Do you have organisations that represent and advocate for the rights and welfare of persons with disabilities in Namibia? If so, list each organisation and describe its activities.

There is a national umbrella disabled people's organisation in the country, known as the National Federation of People with Disabilities in Namibia. It has a strong working relationship with service providers in the disability sector, for example Leonard Cheshire, the Association for Children with Language, Speech and Hearing Impairments in Namibia and the Onyose Trust.¹⁴ The federation advocates for the rights and welfare of persons with disabilities. It was founded in 1990. It has six national affiliate members. These are:

- **The Namibian Federation for the Visually Impaired**
Provides services needed by the visually impaired, including rehabilitation; to promote the well-being of blind and partially sighted persons; promotes social integration in all fields of life; and disseminates information in order to promote a positive attitude among the community of Namibia towards visually impaired persons.¹⁵
- **Namibia National Association for the Deaf**
Provides training related to deafness and empowers deaf people.
- **National Association of Differently Able Women**
Builds organisational capacity for CRPD implementation; documents human rights abuses; and conducts advocacy with the Ministry of Transport to ensure accessible roads and transport.¹⁶
- **Namibian Association for Children with Disabilities**¹⁷
Builds organisational capacity of persons with disabilities and their allies such as parents and sympathetic educationalists; and advocates for and supports inclusive education.¹⁸
- **Albino association of Namibia**
Disseminates information and promotes education about albinism; and provides support services to persons with albinism.¹⁹

14 'Disability Policy Audit in Namibia, Swaziland, Malawi and Mozambique: Final Report' (July 2008) Research Commissioned by the Southern African Federation of the Disabled's DFID-funded Research Programme http://www.ucl.ac.uk/1c-ccr/downloads/DISABILITY_POLICY_AUDIT_RESEARCH_FINAL_REPORT.pdf (accessed 20 February 2013).

15 The Namibian Federation for the Visually Impaired: <http://visuallyimpairednamibia.com/> (accessed 29 May 2013).

16 Disability Rights Fund: <http://www.disabilityrightsfund.org/grantee/africa/2009/namibian-association-differently-abled-women-nadawo.html> (accessed 28 April 2013).

17 Policy Audit Report (n 14 above) 8.

18 Namibia Association of Children with Disabilities: <http://www.osisa.org/education/namibia/namibia-association-children-disabilities> (accessed 26 March 2013).

19 RN Ntinda 'The rights of people with albinism: A conceptual and rights based comparative analysis' LLB dissertation, University of Namibia, 2011 39 http://digital.unam.na/bitstream/handle/11070.1/834/ntinda_therights_2011.pdf?sequence=1 (accessed 20 February 2013).

9.2 In the countries in your region, are DPOs organised or coordinated at a national and/or regional level?

They are mostly organised at the national level under the National Federation of People with Disabilities in Namibia.

9.3 If Namibia has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

- By conducting consultations with the DPOs on issues surrounding the disability sector.
- By providing a conducive environment for NGOs and other organisations. It is noteworthy to mention that some of the executive members of the National Federation of People with Disabilities in Namibia (NFPDN) are also spearheading the disability department under the Office of the Prime Minister.

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

- They have taken steps in order to be actively involved in the processes taken by the government on disability issues. This is in terms of section 3(1)(d) of the National Disability Council Act that states that before a law relating to persons living with disabilities is passed, there must be consultations with persons with disabilities, organisations of persons with disabilities, and organisations rendering services to persons with disabilities, taking into consideration relevant information regarding the implementation of the National Policy on Disability.²⁰
- Ensuring that persons with disabilities are consulted in all disability matters. This is made possible by the fact that some of the executive members of the National Federation of People with Disabilities in Namibia (NFPDN) – which is the national umbrella disabled people's organisation in the country – are also spearheading the disability department under the Office of the Prime Minister.

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

The barriers faced by DPOs in engaging with implementation include the lack of resources and the lack of interest by the general public on disability matters.

9.6 Are there specific instances that provide 'best-practice models' for ensuring proper involvement of DPOs?

- Namibia has a member of parliament with albinism, Mr S Ankama, who is also the Deputy Minister of Works and Transport. But since albinism is not recognised as a disability in Namibia it is unclear if this will be seen as a best practice but it is in the researchers view that albinism be viewed as a disability due to the stigmatisation and discrimination that persons with albinism experience.
- Inclusive education and community-based rehabilitation represent complementary and mutually supportive approaches to serve those with special needs. By adopting community-based rehabilitation as a strategy, the government further strengthens its principle of decentralisation of programme implementation.²¹

20 Responses by the Government of Namibia, Human Rights Resolution 17/11 on violence against women and girls and disability (2011) 3 <http://www2.ohchr.org/english/issues/women/docs/.../Governments/Namibia.do> (accessed 24 May 2013).

21 Responses by the Government of Namibia (n 20 above) 7-8.

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

There are no specific outcomes regarding the recognition of the rights of persons with disabilities. The situation for persons with disabilities still remains the same as it was before the ratification of the CRPD as there has been no change in law. The old policy on disability prior the CRPD still operates.

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

The University of Namibia promotes capacity building and provides support in relation to research on disability matters, by providing and recommending such DPOs, people with disabilities and others for research grants. The university also has a disability unit and offers a module on inclusive education under the Bachelor of Education degree.

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

- There is a need for proper implementation monitoring and evaluation of the laws in place to protect the rights of persons with disabilities.
- There is a lack of coordination and overlapping of duties among the relevant Ministries who have responsibility for the design, implementation and evaluation of disability services.²²
- In order for Namibia to put in full and effective operation of the rights-based approach to disability, more human and financial resources need to be committed.²³ However, Namibia still perceives disability under welfare and charity and not under human rights even after ratifying the CRPD.²⁴
- Accurate data on the persons with disabilities is needed. It will provide policy makers and service providers with information on all persons with disabilities in order to better tailor programmes to meet the actual needs and anticipate future developments.²⁵
- There is a need for the rights and needs of all disabled people to be incorporated in all sectors.²⁶

22 Policy Audit Report (n 14 above) 10.

23 As above.

24 As above.

25 Statistics, Data and Evaluation, and Monitoring 'Programme monitoring and evaluation: The disability perspective in the context of development' Annex II 'Data and statistics for disability-sensitive policies and programmes' <http://www.un.org/esa/socdev/enable/monitor/dme62.htm> (accessed 20 February 2013).

26 Responses by the Government of Namibia (n 20 above) 7.

9.10 Are there specific research institutes in your region that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

The research institution in the region working on the rights of people with disabilities is the Centre for Human Rights, University of Pretoria.

10 Government departments

10.1 Does Namibia have a government department or departments that is/are specifically responsible for promoting and protecting the rights and welfare of persons with disabilities? If so, describe the activities of the department(s).

The National Disability Council and the Ministry of Health and Social Services have the main obligation for the promotion and protection of the rights and welfare of persons with disabilities in line with other ministries. In addition, the Office of the Prime Minister also has a Disability Unit which was established in 2001.²⁷ However despite the existence of these structures, there appears to be limited action directed at promoting the rights and welfare of persons with disabilities. For example, according to the most recent annual report from the Office of the Prime Minister (2008-2009), the Disability Unit did not appear to conduct any activities regarding improving access to healthcare services for children with disabilities. The functioning of the National Disability Council also appears to be problematic. The state report states that 'Namibia's National Disability Council Act creates a council tasked with monitoring the implementation of Namibia's National Policy on Disability'.²⁸ This policy, which was adopted by the executive Cabinet in 1997, identifies children with disabilities as a key target group. However, there are no available reports documenting actions conducted by the Council. Although government ministries are required to submit a report on the implementation of the Disability Policy to the Council, such reports have not been submitted. Neither has the Council drafted annual reports which should be submitted to the Minister of Health and Social Services and then to the National Assembly as required by the National Disability Council Act.²⁹

27 Policy Audit Report (n 14 above) 8.

28 LAC Alternative Report (n 8 above) 53.

29 LAC Alternative Report (n 8 above) 16.

11 Main human rights concerns of people with disabilities

11.1 What are the contemporary challenges of persons with disabilities in Namibia? (For example, in some parts of Namibia ritual killing of certain classes of PWDs such as people with albinism occurs. Tanzania has been in the headlines in this regard. We should have a way of interrogating customary practices that discriminate, injure and kill persons with disabilities).

Disabled people encounter multiple levels of exclusion and discrimination, as evidenced by the 2004 Disability Living Conditions Survey.³⁰ There are many customary practises, for instance disabled persons are abandoned as they are believed to be a sign of bewitchment, that violate the rights of person's with albinism especially in the rural areas.³¹

11.2 How does Namibia respond to the needs of person with disabilities with regard to the areas listed below:

- **Access to public buildings**

Public and private facilities have taken the needs of people with disabilities into account. Public buildings provide access to wheelchair users. Public toilet facilities cater for persons with physical disabilities. The parking areas have designated parking bays for persons with disabilities that are situated as near to the entrance of the building as possible.

- **Access to public transport**

The Disability Council Act also addresses Environmental Accessibility and stipulates that, the state must develop mandatory standards and guidelines to make the physical environment accessible to all persons with disabilities. Furthermore, the state must ensure that architects, construction engineers and others who are professionally involved in the design and construction of the physical environment have access to the disability policy and the requirements for making public places accessible to disabled people.³²

- **Access to education**

According to the 2004 Disability Living Conditions Survey, disabled children are more than twice as likely not to have received a primary education as their non-disabled counterparts.³³ As a result, access to education is one of the areas that the government heavily invests in, in terms of the National Policy on Special Needs and Inclusive Education (2008) and the National Policy Guidelines for Educationally Marginalised Children (2002). In addition, since the beginning of this year, the government has provided free primary education. Educational

30 Policy Audit Report (n 14 above) 8.

31 See R Ntinda 'Customary practices and children with albinism in Namibia: A constitutional challenge?' in OC Ruppel (ed) *Children's rights in Namibia* (2009). This article dealt extensively with this matter.

32 Responses by the Government of Namibia (n 20 above) 5.

33 Policy Audit Report (n 14 above) 10.

services for children with disabilities are provided through a total of nine special schools. However, mainstream schools which accept learners with learning disabilities but often do not have special facilities to assist these learners. According to statistical data from the Ministry of Education, 32169 learners with disabilities were enrolled in the education system in 2009.³⁴

- **Access to vocational training**

This is provided for in terms of the National Vocational Training Act 18 of 1994.

- **Access to employment**

According to the 2004 Disability Living Conditions Survey about 98 per cent of disabled people were unemployed.³⁵ This is a clear indication that the government is not doing enough to provide persons with disabilities with access to employment.

- **Access to recreation and sport**

Access to recreation and sport is provided for through special programmes such as Disability sports Namibia and the Special Olympic Namibia. The organisations provide year-round sports training and athletic competition in a variety of Olympic-type sports for children and adults with intellectual disabilities. These activities provide persons with disabilities with opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship.³⁶

- **Access to justice**

The Legal Aid Department in the Ministry of Justice provides legal aid services for every Namibian who is not able to afford a private lawyer. It ensures that persons with disabilities receive general information on the Namibian legal system as well as specific information on how to seek and qualify for legal aid. This information is also readily available to people with sensory loss in Braille and in large prints respectively. This information is also being made available to persons with hearing impairments, especially when requiring legal assistance. Furthermore, trained sign language interpreters are made available in courts for deaf people who use this form of communication.³⁷

- **Access to health care**

According to the 2004 Disability Living Conditions Survey³⁸ the majority of disabled people are able to access health services, with over two-thirds of respondents actually doing so.³⁹ It was found that hospitals and primary health care clinics were the most accessible. However, there was gross inadequacy in the provision of vocational rehabilitation, counselling services and access to assisted devices.⁴⁰ The right to health is a controversial issue as it is not justiciable. Patients at state health facilities are expected to pay a fee of approximately US\$1 per visit and, although a waiver system exists, the government admits that it is 'uneven' in its application.⁴¹ A recent study assessing the experience of parents of children with learning disabilities or mental health problems access to healthcare services, noted that many patients are not exempted from this fee and some do not access healthcare services because of the cost involved.⁴²

34 LAC Alternative Report (n 8 above) 15.

35 Policy Audit Report (n 14 above).

36 JP Kennedy Jr Foundation for the Benefit of Persons with Intellectual Disabilities (2013); Special Olympics Namibia: <http://www.specialolympics.org/Regions/africa/Locations/Special-Olympics-AF-Namibia.aspx> (accessed 26 May 2013).

37 Responses by the Government of Namibia (n 20 above) 6-7.

38 Policy Audit Report (n 14 above) 10.

39 Policy Audit Report (n 14 above) 10.

40 Policy Audit Report (n 14 above) 10.

41 LAC Alternative Report (n 8 above) 20.

42 LAC Alternative Report (n 8 above) 16.

11.3 Does Namibia provide for disability grants or other income support measures for persons with disabilities?

The government has a pension and a social grant scheme for persons with disabilities, provided they are registered. These are administered by the Ministry of Health and Social Services.

11.4 Do people with disabilities have a right to participation in political life (political representation and leadership) in Namibia?

Persons with disabilities have a right to participation in political life (political representation and leadership, and voting independently). Voting centres provide access to wheelchair users. However, there is no provision for Braille for people who cannot see partially or fully. They cannot vote independently and must be accompanied by someone they trust. Namibia has Mr Ankama who is a person with albinism who is a member of parliament as a Deputy Minister of Works and Transport.

11.5 Specific categories experiencing particular issues/ vulnerability:

• **Women with disabilities**

According to the Disability Council Act the state must ensure that women with disabilities have comparable opportunities to participate in all aspects of life equal to that of their fellow citizens.⁴³ In addition general protection for women's rights is provided for and protected under the following provisions of the Constitution: article 5 which provides for the protection of human rights; article 10 which provides for equality; and article 25(4) which provides for the enforcement of human rights.

• **Children with disabilities**

The Disability Council Act requires parents of children with disabilities to be provided with information about services available so that they can make informed decisions about the needs of their children in cases where these children cannot do so themselves. Early intervention, such as stimulation and education must be provided to children as early as possible in order to prevent developmental disabilities. Furthermore the state must ensure that children with disabilities have equal opportunities and equal access to education, sports and recreation and all other services in the community such as health care.⁴⁴ There is a need for an explicit focus on the problem of children with mental health disabilities.⁴⁵

• **Other (for example, indigenous peoples)**

They are provided for under the equality clause (article 10) and the affirmative action clause (article 23) of the Constitution.

43 Responses by the Government of Namibia (n 20 above) 4.

44 Responses by the Government of Namibia (n 20 above) 4.

45 LAC Alternative Report (n 8 above) 17.

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in Namibia at the moment?

In conducting this research, no information was found in this regard.

12.2 What legal reforms are being raised? Which legal reforms would you like to see in Namibia? Why?

The researcher did not come across any proposal for law reform on disability in Namibia. However, there is a need for the disability policy to be reformed and move away from a medical to human rights based approach. There is also a clear need for more proactive public programmes to address the needs of children and their families, with a particular focus on marginalised groups, including children with disabilities and indigenous minorities.⁴⁶

46 LAC Alternative Report (n 8 above) 1.