Towards a Namibia Fit for Children

Situational Analysis on the Status of Children’s and Adolescents’ Rights, 2010-2013

Republic of Namibia
Towards a Namibia Fit for Children

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Acknowledgements

This Report on the Situational Analysis on the Status of Children and Adolescents in Namibia is the combined effort of Government Ministries, UN agencies, and civil society, all of whom contributed throughout its development.

We extend our sincere appreciation to the many people who provided valuable insights for this report, particularly the National Planning Commission, Ministry of Health and Social Services, Ministry of Education, Ministry of Gender Equality and Child Welfare, Ministry of Justice, Ministry of Safety and Security, the Ombudsman’s Office, the University of Namibia, the European Union, USAID, Development Aid from People to People (DAPP), Legal Assistance Centre (LAC) and the Namibia NGO Forum (NANGOF) Trust.

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Foreword

T
wo years before the world assesses to what extent the Millennium Development Goals have been achieved, there is no doubt that women and children remain central to the final efforts in reaching these goals and to shaping the post 2015 agenda. While Namibia has made tangible strides towards achieving some of the goals, it is clear that on others there is still much more to be done. These involve women and children very directly, such as MDGs 4 and 5, on maternal health, nutrition and sanitation. As the leader of the socio-economic development sectors, it is clear that our journey to reduce disparities in our country will be measured, not only by our solid democratic systems and good economic growth, but by how successful we have been in helping all children and adolescents to realise their rights.

The Situation Analysis on the Status of Children and Adolescents in Namibia, 2013 updates the previous such report issued in 2010. It gives particular attention to the rights of Namibian children and adolescents, with focus on both international human rights systems and the body of rights enshrined in the African Union (AU).

The situation analysis observes that Namibia benefits from a well-developed set of key national policies and strategic plans to realise the broad spectrum of children’s rights. It shows progress in many areas, including in the quality of data gathering and analysis. At the same time, the report identifies a range of opportunities and unmet priorities for further action, including in the legislative reform for Namibia’s children. It also uncovers some of the trends in inequity and vulnerability by geographical region, and by levels of poverty. In addition, beyond describing the problem, it also illustrates examples of successful interventions to address these problems.

What emerges is a story of challenges and opportunity. There has been too little improvement in the number of neonatal deaths or maternal mortality since 1990. One in three children will not develop to their full potential due to chronic malnutrition or stunting. And too many children and young people are leaving school without viable learning or employment options. And finally, despite economic growth, the poor and vulnerable are bearing a disproportionate share of the disease burden, of deprivation and of rights violations.

And yet the report also indicates that Namibia is well positioned to rise above these challenges and continue to improve the status of children and adolescents. Through the right investment choices, policies and priorities, Namibia can be at the forefront of social progress and of advancing the cause of women and children’s rights. Indeed, recent progress is very encouraging. I urge all decision makers across the diplomatic and donor community, civil society, UN agencies, private sector and my own colleagues in government to, not only read this report carefully, but to consider it as a blueprint for collective action to support the most pressing development priority of our times, the children and adolescents in Namibia.

Dr. Hage Geingob
Prime Minister of the Republic of Namibia
Preface

All children have the right to develop to their full potential. They have dreams and aspirations. They want to become the best they can be.

It is our collective duty to ensure that the rights of every child in Namibia are realised. The UN Convention on the Rights of the Child was among the first international treaties that the newly independent Namibia ratified in 1990. This was followed by the accession to the African Charter on the Rights and Welfare of the Child in 2004 and the African Youth Charter in 2008 – showing Namibia’s great commitment to realise the rights of children from the start.

With the view to better inform policies and programmes with an equity lens, this 2013 Situational Analysis on the Status of Children and Adolescents in Namibia takes stock of the well-being of children and young people in Namibia, the services available to them and their families as well as the underlying legislation, policies and strategies.

The results of this analysis are encouraging, Namibia is committing a substantial share of its budget underlining legislation, policies and strategies.

Despite this progress, the lives of children and adolescents are not improving at the same pace. The maternal mortality ratio of 200 shows no improvement compared to 1990. One in three children are stunted. One in two children has no access to any toilet facility and only one in ten children in primary education, the introduction of birth registration in hospitals or the establishment of Health Extension Workers in remote rural areas has access to improved sanitation. Too many children experience violence and abuse at home, at school and in their communities. Child poverty, while reducing, continues to impact on the development of one in three children. Young people struggle to find work and economic independence after leaving school. National wealth continues to be highly unequally distributed with the majority of the Namibian people not adequately benefiting.

At the same time, new challenges are emerging as well. Climate change may lead to more extreme weather and result in more floods and droughts. More and more people, especially the young, are moving into the cities in search of work and a better life.

We have to harness the energy and ideas of children and young people to continue to build a Namibia that is fit for them. We all – Government, UN and other development partners, civil society, private sector, academia and all Namibians – have to work together to ensure that the rights of children are realised and that their dreams and aspirations come true.

Micaela Marques de Sousa
Representative
UNICEF Namibia

Acronyms and abbreviations

ACRWC African Charter on the Rights and Welfare of the Child
AFIC Africa Fit for Children
AIDS Acquired immune deficiency syndrome
ALHIV Adolescents living with HIV
ANC Antenatal care
APEC Action Programme to Eliminate Child Labour
ARI Acute respiratory infection
ART ARV treatment
ARV Antiretroviral
AU African Union
BCG Bacillus Calmette-Guerin
CEACR Committee of Experts on the Application of Conventions and Recommendations (ILO)
CEDAW Convention on the Elimination of All Forms of Discrimination Against Women
CRC Convention on the Rights of the Child
CSO Community service organization
DHS Demographic and Health Survey
DPT Diphtheria, pertussis and tetanus (vaccine)
ECA Economic Commission for Africa (UN)
ECED Early childhood development
EFA Education for All
EmOC Emergency obstetric care
EMS Education management information system
eMTCT Elimination of MTCT
EPI Expanded programme of immunization
ESA Eastern and southern Africa
ETSP Education and Training Sector Improvement Programme
GBV Gender-based violence
GDP Gross domestic product
GER Gross enrolment rate/ratio
GI Gender inequality index
GRN Government of the Republic of Namibia
HAART Highly active ART
HCT HIV counselling and testing
HDI Human Development Index
HDR Human Development Report
HEW Health extension worker
HIV Human immunodeficiency virus
HRC Human Rights Council (UN)
IHDI Inequality-adjusted HDI
ILO International Labour Organization
IMF International Monetary Fund
IMR Infant mortality rate/ratio
IYCF Infant and young child feeding
JMP Joint Monitoring Programme for Water Supply and Sanitation (WHO/UNICEF)
JSC Junior Secondary Certificate
LAC Legal Assistance Centre
MADF Ministry of Agriculture, Water and Forestry
M&E Monitoring and evaluation
MDG Millennium Development Goal
MGECA Ministry of Gender Equality and Child Welfare
MAHAI Ministry of Home Affairs and Immigration
MIR Maternal mortality rate/ratio
MoE Ministry of Education
MoF Ministry of Finance
MoHSS Ministry of Health and Social Services
MLM Ministry of Labour and Social Welfare
MPI Multidimensional poverty index
MTCT Mother-to-child transmission (of HIV)
MNSSC Ministry of Youth, National Service, Sport and Culture
NAC National Agenda for Children
NACCS Nutrition Assessment Counselling and Support
NAFIV Namibia Alliance for Improved Nutrition
NER Net enrolment rate/ratio
NGO Non-governmental organization
NHIES Namibia Household Income and Expenditure Survey
NMR Neonatal mortality rate/ratio
NPC National Planning Commission
NSA Namibia Statistics Agency
NSF National Strategic Framework for HIV and AIDS
OAU Organization of African Unity
OECD Organization for Economic Co-operation and Development
ORS Oral rehydration salts
OVC Orphans and vulnerable children
PEPFAR US President’s Emergency Plan for AIDS Relief
PMTCT Prevention of mother-to-child transmission

Micaela Marques de Sousa
Representative
UNICEF Namibia
Executive Summary

1. Introduction

This situational analysis of children and adolescents in Namibia updates the previous report of 2010. It especially emphasizes opportunities for strengthening national policy and areas in which actions may be better prioritized. This report gives particular focus to the rights of Namibian children and adolescents, paying attention to not only the international human rights system but also to the important body of rights for African children that has resulted from the African Union (AU) and its agencies and forums.

This report observes that Namibia benefits from a well-developed set of key national policies and strategic plans directed to the broad spectrum of rights of the child in terms of their wellbeing and development. In most of these areas, important recent reviews on progress have been helpful to the discussion and analysis within this report, as have marked improvements by the Government of the Republic of Namibia (GRN) in strengthened data gathering, statistical measurement, and monitoring and co-ordination mechanisms. This report also identifies a range of opportunities for better realising the rights of children as well as inadequately met priorities and needs, including long-overdue legislative reform.

Using a rights-based approach to analyzing the situation of children in Namibia brings attention to the persistent systemic problems of poverty and inequity in Namibia, and their negative impact on children.

The nature and extent of these problems represent a functional failure to adequately ‘invest’ in children. Fulfilling children’s rights and entitlement is as much about ensuring children’s current wellbeing as it is about investing in the nation’s future. Failure by any duty-bearer to meet their existing obligations to children creates a false economy – ultimately it will lead to greater costs down the line – and a lost opportunity. Notably, these are also areas in which the Government and its key development partners are moving towards far-reaching responses and sustainable reforms.

2. The national development framework

Human development indicators in Namibia have shown insufficient improvement, seemingly regardless of actual economic performance. Government policies to further Namibia’s economic and social development are guided by its Vision 2030, which is operationalized via a series of National Development Plans. In 2012, GRN adopted the Fourth National Development Plan for the period 2012/13 to 2016/17 (NDP4). More focused than its predecessors, NDP 4 aims at sustainable economic growth, increased employment and reduced income inequality, thereby indicating the Government’s acute awareness of its globally high income inequality and missed opportunity under NDP3 to improve its comparative human development ranking, especially as an upper-middle-income country. NDP 4 includes a strong implementation and monitoring mechanism with National Planning Commission (NPC) oversight, and with strong national
Namibia is strongly dependent upon global markets for its primary exports (notably in minerals) to proper sanitation, all of which result in adverse consequences for many Namibian children.

It also appears that national progress towards 2015 Millennium Development Goal (MDG) targets is likely to fall short across various indicators, although a majority of indicators remain achievable. MDG performance remains especially low in areas linked to maternal health, nutrition and access to proper sanitation, all of which result in adverse consequences for many Namibian children.

Namibia is strongly dependent upon global markets for its primary exports (notably in minerals) as well as on the South African economy and exchange rate. According to the NPC’s Annual Development Co-operation Report for 2010/11:

“The major paradox facing the Namibian Government is that positive economic growth, supported by prudent macroeconomic policies, has not generated the jobs and income-generation opportunities needed to overcome the inequitable distributions of income and the upliftment of the living standards of the rural and urban poor.

The GRN’s constructive development of public policy towards better harnessing of its natural resource base for stronger human development, equity and poverty reduction is a promising sign of political will. It will, however, depend upon regional co-operation in avoiding vulnerability to external capital terms-setting and footloose investment. In this regard, GRN has built up strong regional partnerships, as characterized by its commitment to Southern African Development Community (SADC) structures; this will hopefully enable improved national returns on its natural resources and the necessary level of interventionist redistributionist measures towards the elimination of poverty and systemic inequality.

Whilst the World Bank’s 2009 decision to classify Namibia as an upper-middle-income country is a positive endorsement of national economic performance, it is leading to a sharp reduction in development assistance and therefore carries negative consequences for a country that nevertheless has high rates of inequality and systemic poverty. This adversely impacts children, particularly within rural populations, effectively meaning that the primary victims of systemic economic inequality in Namibia are at risk of suffering an additional penalty.

Namibia has established a robust body of legislation, public policies and strategic plans across aspects of human development and wellbeing, including for children. These extend beyond the NDP framework and include the adoption of the National Agenda for Children (NAC) and the establishment of strong public agencies for furthering children’s rights, needs and interests. This is also being matched by stronger attention to implementation capacities and monitoring and review processes. As NDP 4 remains silent on protection issues for children, complementary roles of other national efforts for children are required. A notable shortcoming that repeats itself throughout this situational analysis is the ongoing failure of Government to adopt and promulgate the two critical pieces of enabling legislation for children’s rights and welfare, namely the Child Care and Protection Bill and the Child Justice Bill.

In terms of the NAC, progress needs to be made towards establishing the Children’s Council and the effective implementation and alignment of the Agenda with key policy frameworks, including NDP 4. There remains scope for improved synthesis of the monitoring, co-ordination and reporting processes with those of other frameworks, especially in better positioning the National Agenda and the Children’s Council in their leadership roles for children’s best interests. There is also a critical opportunity to explicitly align the Agenda with the Africa Fit for Children framework, and to examine the role of the Children’s Council in monitoring and to review roles regarding children’s rights, primarily concerning the UN Convention on the Rights of the Child (CRC) and the AU’s African Charter for the Rights and Welfare of the Child (ACWC). Perhaps most urgently, the Council needs to be adequately resourced. This, at the very least, requires the involvement of the Ministry of Finance (MoF) in assisting with costings to enable the Council to fulfill its programming mandates. It has also been noted that the monitoring of the Council’s operations should include attention to the adequacy of a single representative of a diverse non-governmental sector and absence of children’s direct representation, as well as the development of linkages with more participatory regional children’s forums in the execution of the Council’s mandate.

3. The national human rights framework

Namibia has established a sound constitutional and legislative foundation for ensuring the human rights of its people, and especially of its children. The domestic situation under the international human rights treaty system and accompanying continental system is more compliant for children than for other populations, not merely concerning ratifications but also in reporting. Nevertheless, the system requires strengthening, with more timely reporting and stronger legislative and administrative enforcement. Notable shortfalls are the need to ratify the CRC’s optional protocol on a communications procedure and report on the other two CRC optional protocols. The latter depends on how the CRC Committee might subsequently view Namibia’s most recent CRC periodic report in this regard. The GRN’s recent drafting of its African Charter on the Rights and Welfare of the Child (ACWC) initial state report is a welcome step, and its follow-up actions to its commitments to the recommendations of the UN’s Universal Periodic Review (UPR) process will considerably enhance the domestic human rights system.

There are a number of associated opportunities and priorities for improving the legislative domestication of the children’s rights system. Most important is the enactment of the two core child rights and welfare bills that are duly aligned with human rights guarantees and with attention to the key observations and recommendations of the UN Committee on the Rights of the Child in 2012. The CRC Committee noted the following main areas as being insufficiently implemented from the previous report in 1992: legislative reform (including inconsistencies between customary laws and the CRC: minimum age of marriage, divorce, inheritance), discrimination against girls and against children with disabilities, child labour, and juvenile justice. These are, implicitly, key areas where Namibia may be deemed to have been most tardy in its efforts to better ensure CRC compliance, and would be assisted by the establishment of the Children’s Advocate within the Ombudsman’s Office, as provided for in the Child Care and Protection Bill.
Two critical aspects of domestic law that require attention concern the relationship between domestic and international law.

First is the question of constitutional capacity to override international law, not the least in the absence of associated reservations to such treaty provisions. A 2010 review of the status of AU legal instruments makes reference to the self-defeating attitude of many legislators and policy-makers who 'hide behind' domestic legislation in order to avoid the responsibilities to each that is in accordance with the provisions of the African Charter. This would be more in the interests of the Namibian child than the alternative suggestion of 'harmonized' treaty reporting on international instruments as advocated by the CRC Committee. One associated procedural issue concerns the respective roles of the Ministry of Foreign Affairs (MFA) (as the gateway on UN liaison) and line ministries that are the technical specialists on areas of treaty compliance. In view of current reforms in co-ordination and review mechanisms, it would seem most advantageous for children’s rights reporting by GRN to occur via the Children’s Council, with drafting and other technical functions done under the leadership of the Ministry of Gender Equality and Child Welfare (MGECW), and the Council duly reporting via Cabinet.

Collectively, this would constitute continentally significant national leadership in advancing a national children’s rights framework towards a Namibia Fit for Children.

4. Child poverty and deprivation

‘Child poverty in Namibia needs to be addressed immediately if the country is to achieve its Vision 2030.’ (NSA, 2012b, p. 4)

Namibian households, especially those with children, have suffered from exceptionally high income inequalities as well as high poverty levels compared to other medium human development countries. With child poverty being multidimensional, it therefore requires a multidimensional response. The social protection system defined by social grant payments is quite clearly a central component of the national response.

More generally, there is value for the Government – in co-operation with its key partners on children’s rights – to undertake an explicit alignment of national policy and legislative frameworks and co-ordinating machinery for children. This would include incorporating the obligations under the African Children’s Charter, the Pan-African Forum and the Africa Fit for Children (AFC) process into the NAC co-ordination framework. It should also pursue alignment of the children’s rights periodic reporting processes for the CRC and ACRWC and, it has been argued, work towards a single state report to each that is in accordance with the provisions of the African Charter. This would be more in the interests of the Namibian child than the alternative suggestion of ‘harmonized’ treaty reporting on international instruments as advocated by the CRC Committee. One associated procedural issue concerns the respective roles of the Ministry of Foreign Affairs (MFA) (as the gateway on UN liaison) and line ministries that are the technical specialists on areas of treaty compliance. In view of current reforms in co-ordination and review mechanisms, it would seem most advantageous for children’s rights reporting by GRN to occur via the Children’s Council, with drafting and other technical functions done under the leadership of the Ministry of Gender Equality and Child Welfare (MGECW), and the Council duly reporting via Cabinet.

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4. Child poverty and deprivation

‘Child poverty in Namibia needs to be addressed immediately if the country is to achieve its Vision 2030.’ (NSA, 2012b, p. 4)
The expected imminent reform to social grants in Namibia is also closely linked to measures to address serious inequities in material and service deprivation. The nature of such inequities and deprivations in Namibia requires a primary focus on structural barriers facing many rural communities and households.

NDP4 is instrumental in achieving the priorities of tackling poverty and inequality. It acknowledges key challenges, especially those associated with administration, citing the backlog in child registration, statutory requirements, and the shortage of social workers who are better assigned to child protection issues than to document-processing for grant eligibility. It recognizes that the proposed introduction of a Kinship Grant will be of assistance – especially in easing the administrative burden on social workers in the preparation of Foster Care Grant applications for court proceedings – but this still awaits GRN promulgation of the Child Care and Protection Act (as, it seems, do many overdue reforms for child welfare and protection). NDP4 acknowledges that the current means-testing of Child Welfare Grants is difficult to implement and argues that a Child Welfare Grant for all poor and vulnerable children should be universal or means-tested at a suitably high level. In addition, indexing the rates and periodical reviews of the real value of social grants is seen as necessary. NSA and MGE CW modelling would appear to demonstrate that a universal child grant or a grant that would be means-tested to reach 80 per cent of all children would achieve NDP4’s desired outcome 4 (the severe poverty rate being below ten per cent by 2017). Progressive realization of universal coverage is one of the three ‘core principles’ of social protection, according to UNICEF; the other two being national systems and leadership, and inclusive social protection, all of which are embraced within the GRN’s approach.

More importantly, from a policy perspective it would appear that with such high levels of child poverty, there is a weak case for means-testing. Rather, it would seem initially more important to ensure that the payments are sufficient and delivered effectively.

Recent national modelling on child grants does not include provision for fiscal claw-backs from improved household incomes (utilities, rent and services, for example). This requires attention in the monitoring of administrative practice at regional and district levels. Poor households that are being enabled to raise their standard of living must not be vulnerable to claw-back by public utilities. This had been the case prior to the beginning of 2013, with children required to pay the school development funds who were in fact exempted due to their grant receipt. The modelling also does not take into account beneficial ‘multiplier’ effects such as the impact of improved household consumption on local employment growth or household savings due to improved living standards and health status. These are amongst the returns on investment that will substantially benefit so many Namibian children, their families and their wider communities.

There is also a need to consider the incidence of household income dependency on expanded coverage of social payments. Such dependency appears to have increased, according to Namibia Household and Income Survey (NHIES) 2009/10 data, especially for female-headed households. However, the important consideration is the material and human consequences of improved household income levels for those below the poverty line and the effect of lifting people above it, rather than any trend(s) in ‘dependency’. This includes the importance of reviewing the extent to which children directly benefit from increased social grants to families, or at least how such public investments materially improve household conditions – a prerequisite to ensuring broader political and public support for those outlays. This raises important policy challenges such as possible social stigmaization for means-tested grants and ensuring longer-term economic independence and sustainable household self-reliance.

Similarly, it is important to note that the NDP4 acknowledges that cash transfers are not a means for tackling the causes of poverty. This is implicit within its discussion of social grants and improved food security, which also calls for increased ‘research into the causes of extreme poverty in order to address the causes rather than the symptoms’ (NPC, 2012, p. 67). A clearer understanding of measures for achieving sustainable poverty reduction will presumably feature in a post-NDP4 strategy.

This would amount to an important refinement to the national planning framework, as it may serve to better position the NDP process to be more strategically and operationally aware of the critical place of human rights – and of Namibia’s associated obligations – in ensuring that human development processes better understand that economic prosperity is a means and not an end in itself, that it is only a national measure to the extent that it serves the rights and welfare of its people – all of its people – and does so in an equitable and just manner. For now, the current alignment of Government institutions and public policy goals toward such ends is a positive indication of national development for the people, with children at the centre of such efforts, which is a prerequisite for building a Namibia Fit for Children.

5. Health and survival

Namibia has a well-developed countrywide national health system, although it remains poorly accessible for too many households and vulnerable to resource limitations. A strong set of health-related policies and strategy plans are in place within the framework of the overarching National Health Sector Strategic Plan 2009–2013. Problems of human resources and professional technical capacities were described in the 2010 situational analysis. Understaffing issues and the sizable numbers of vacancies across the health system are particularly impacting rural health centres, resulting in gaps in critical services in primary healthcare and in frontline responses to child and maternal health needs. This imperils post-natal care and essential service follow-up – the system seems to achieve high rates of initial service contact but comparatively weak subsequent visits. This presents a continuing challenge to Namibia’s sound approach to the integrated management of early childhood illnesses and to increasing efforts to tackle malnutrition. In addition, patterns of rural-to-urban population
movement are resulting in informal settlements on the urban fringes that seem to be outpacing important improvements in access in areas such as Katutura and Khomasdal.

As a large country with a relatively small and sparsely distributed population outside of primary population centres, Namibia formally acknowledged the importance of developing a community-based healthcare system when it adopted the National Policy on Community-Based Health Care in 2008. This aimed to improve equity of access to primary healthcare services and has led to measures to better link health services with communities via the implementation of a health extension worker (HEW) system, including through collaboration with non-governmental organizations (NGOs). HEWs are described by the Ministry of Health and Social Services (MoHSS) as a professional (i.e. paid and trained) bridge between health facilities and communities, operating either from the health post or from outreach posts. It is planned to extend the HEW strategy from a pilot basis to being fully funded from April 2013, with the commitment of N$58M for 2013/14 and N$120M in 2014/15. It envisages one worker per 100 households, with a total workforce of 4,113 employees. It sets village targets, a remuneration framework, a training regimen, a monitoring and evaluation (M&E) process and an implementation plan based on a phased rollout. Some initial funding from the MoF will enable MoHSS to start taking over the HEW programme, most likely from 2014.

The HEW strategy obviously adds significant demand to the national health budget, this being an estimated N$22.4 million per annum for salaries alone. Namibia has committed itself to the budgetary targets within the AUS Africa Health Strategy, which specifies the allocation of at least 15 per cent of public government expenditure to health (in accordance with the 2001 Abuja Declaration) and annual per capita health expenditure of US$34-40. However, the GRN continues to fall below this Abuja Declaration target, but it is above per capita targets for public health spending. Domestic budgetary commitment will continue to present a challenge for the Government in terms of maximizing the efficiency of resource allocations at a time of financial constraints and dwindling donor support.

The trends in the next few years in health sector staffing – HEW-related as well as doctors and other skilled medical specialists countrywide – and in domestic budget patterns and levels will need careful monitoring by GRN, with the support of key partners. This includes the need to ensure the acceleration of interventions in key areas of young child and maternal survival and wellbeing, even as commitments to the broader range of primary healthcare services are maintained.

Namibia appears to be on track to meet some MDG targets, but it will fall short of those in the areas of health and survival. Although child survival rates fell after the mid-1990s, the gains made in more recent years nevertheless remain inadequate to meet 2015 targets. Namibia still has high rates of maternal mortality as well as nutrition-related problems, especially given high child stunting rates. These are failings that have been to the detriment of many Namibian children and women, with the avoidable loss of many lives. Neonatal and maternal health interventions need to be improved, including follow-up to initial contact towards a course of four antenatal care (ANC) visits, better coverage and capacities of skilled birth attendants and of basic emergency obstetric care within health facilities, more effective postnatal care, including through low-cost technologies, stronger efforts to improve breastfeeding practices, and a better understanding of the nature of child mortality presently attributed to ‘injury’ and ‘other’ causes. The role of health extension workers will afford improved opportunities in reducing neonatal deaths, as may mobile-based tools and the promotion of teleconferencing. Meanwhile, MoHSS is introducing new vaccines for infants from 2013 that are expected to show strong improvements in child survival by 2018.

Two ongoing challenges are the very high rates of stunting and associated levels of malnutrition, and the continuing poor rates of access to improved sanitation facilities. These particularly threaten infant survival and child wellbeing. Namibia’s sanitation situation is very poor, even by regional standards, with extremely high rates of open defecation now spreading into urban fringe settlements. Post-2009 Government leadership on nutrition action, notably via the previous and current Prime Ministers, has been a very welcome development.

Another area characterized by strong Government leadership has been the marked improvements in the provision of services for reducing mother-to-child transmission (MTCT) of HIV. GRN has now accelerated national efforts towards the elimination of MTCT (eMTCT) under the Strategic Framework for HIV and AIDS Response 2010/11-2015/16 and the eMTCT Strategy and Action Plan for the same period. Monitoring progress towards the specified outcomes will be critical for the elimination of HIV in young children, a significant reduction in and management of HIV in the adult population, especially in women of child-bearing age, and associated strong progress towards pronounced reductions in infant (especially neonatal) and maternal mortality rates within Namibia. There has been improved access and coverage across HIV services, including expanded provision of antiretroviral treatment and a stronger focus on both treatment and prevention linked to improved knowledge across most at risk populations. For infants, the prospect of the national elimination of HIV transmission is now an achievable goal within a country that has been among those most adversely impacted by HIV in sub-Saharan Africa. At the same time, such progress also serves to emphasize the need for improved attention to paediatric HIV responses that strengthen the continuum of care from infancy to adolescence. There are, however, serious resource challenges looming in maintaining the sustainability of the national HIV response.

Within these diverse challenges and priorities, the 2013 Demographic and Health Survey (DHS) is keenly awaited and will provide a sound basis for review within the next situation analysis.

6. Basic education

As is the case with the national health system, the education sector has developed a strong policy and planning framework for a countrywide school service and teacher training system. GRN commits a high level of public funding to education and has achieved welcome improvements in access, enrolments and attendance, including in regard to gender equity. The Government’s
current expansion of early childhood development (ECD), with attention to children from poorer households, can potentially pave the way for achieving universal primary schooling and improved learning and retention rates, as well as the broader developmental and educational merits for children of ECD-based play and social skills. This needs adequate reflection within national data systems for ECD and pre-schooling efforts.

The overwhelming challenge is maintaining existing commitments, especially in terms of budgetary allocations, education policy goals, Ministry of Education (MoE) monitoring and EMIS (education management information system) standards, at the same time as accelerating improvements across areas of academic performance. Weak academic outcomes remain the main threat to Namibia’s education system. Good indicators are available, with improvements in teaching standards and a number of recent reviews that have yielded a valuable and consistent basis for reform and strengthening of the national education system. Those reviews mainly comprise the education and training sector improvement programme (ETISP) mid-term review, the external public expenditure review and the UNICEF-funded ‘trend and gap analysis’ towards improving quality and equity in education in Namibia, all of which were published in 2011. The structural reforms resulting from the implementation of the collective body of their recommendations requires close monitoring. A particular challenge for GRN will be to effectively intervene and restate existing budgetary outlays to more effective interventions, including for more equitable outcomes.

Given its large size and small population, Namibia has comparatively small school populations, making economies of scale difficult to achieve. Secondary schools have regional variations, ranging from 573 students in Khomas to 170 in Caprivi; yet GRN has achieved student/teacher ratios ranging from 26.5 in Ngwelu to 21.6 in Caprivi, with the corresponding figures for primary schools of 27.1 in Kunene to 30.7 in Otjozondjupa. These are good rates, and falling birth rates indicate that such ratios will fall further such that unit costs will rise, especially if compounded by current rural to urban household movement. This underlines the merit of GRN’s current system review towards improved reform.

Namibia’s adoption of standardized testing for Grades 5 and 7, the recent introduction of Early Grade Reading Assessment to assess reading fluency at Grades 2 and 3, and improving periodic SACMEQ (Southern African Consortium for Measuring Educational Quality) data for Grade 6 will be useful benchmarks of progress in coming years. This is necessary to better understand the extent of learning coinciding with grade advancement, to the extent that annual progression without academic measurement may compound school repetition and withdrawal and mask weak learning behind improving survival rates.

One shortcoming within the education system is the very poor physical standards across areas such as water and sanitation for students and teachers, and teacher accommodation in remote areas.

MoE has also made progress in improving educational access for children with disabilities and other special needs. The main challenges lie in the balance between specific education facilities for various special needs and creating access to mainstream facilities. Also, it remains difficult to adequately increase access to special needs education for a comparatively small population across a large geographic area. The ministry presently provides nine such facilities countrywide, with each focussing on a particular area of special need. The Sector Policy on Inclusive Education is a welcome initiative, although it is not yet evident to what extent the special needs of marginalized groups such as San children will be better met. With the EMIS-based annual data on children with special needs being dependent upon individual teacher’s judgements, there may be merit in conducting an informed independent review of the student population to provide a valuable benchmark on the accuracy of their conclusions.

Finally, it is important to acknowledge the Government’s decision in late 2012 to abolish the School Development Fund. This improves MoE’s compliance with the Constitution and with global human rights obligations. In view of some school-based administrative practice contrary to GRN policy, it should also serve to improve equity and access for many children from poor households. It also emphasizes the importance of adopting parallel reforms in education funding, in accordance with the recommendations of recent reviews. This calls for the development and implementation of a performance-based per capita funding formula in line with the proposals in the 2011 public expenditure review. The European Union has been assisting in this regard through the introduction of zero-based budgeting to improve efficiency in resource management, alongside its funding of the public expenditure review.

7. Child and adolescent protection and justice

The predominant barrier to sufficiently rights-based protection and justice frameworks for Namibian children and adolescents is the continued delay in the adoption and implementation of the two relevant bills: Child Care and Protection and Child Justice. Various aspects of these instruments need fuller alignment with children’s rights obligations, notably including the need to raise the minimum age of criminal responsibility from its colonial-era inheritance of seven years of age. It is unlikely that its proposed raising to ten years will meet those obligations.

Birth registration has recently undergone strong improvements since the 2006 coverage rate of 67 per cent. The recent progress mainly results from complementary reforms by the Ministry of Home Affairs and Immigration (MHAI) – which is responsible for such registration – and the Ministry of Health and Social Services (MoHSS). Nevertheless, some groups of children remain vulnerable, without such documentation, including unaccompanied and refugee children and undocumented rural poor children in families moving to urban areas.
Many children – especially girls – remain at great risk from pervasive, persistent and seemingly endemic levels of violence, especially from guardians and carers within families and schools. Even more children are the victims of violence perpetrated by a carer adult, mainly their mothers within the domestic setting. Improved legal provisions are resulting in increasing levels of associated court applications, despite persisting resistance to bringing many such matters to the attention of the police and courts, due in large part to concerns about formal processes. Accordingly, many cases of domestic violence – including sexual assault and rape – still find their way into the customary legal process, with poor levels of justice for victims but often more accepted, less invasive and more restitution-based processes and outcomes. This requires the formal justice system to be more responsive to domestic violence and victims of gender-based violence (GBV), especially children, to properly deal with serious offences.

All this notwithstanding, the endemic rates of violence against women and children demands far more concerted efforts in prevention as distinct from prosecution, including assisting behaviour change amongst young people in order to break the ‘culture’ of violence against women and children as being seen as acceptable. There is also a substantial unmet need across regions for appropriate support services, including shelters, and education on children and women’s rights in combatting such violence. Serious concerns about standards in many, if not most, school hostels and boarding houses need similar attention, especially to the extent that many may not even satisfy MGECW minimum standards for children’s residential facilities.

Responses to vulnerable children are undergoing a shift from ‘HIV-affected and otherwise vulnerable’ to ‘poverty-affected and otherwise vulnerable’. However, this still leaves a challenge for support services in responding to a multiple and often belated manifestation of such risk. What is required here is more rigorous policy analysis in informing suitable response and mitigation strategies (beyond the issue of poverty). For children vulnerable to labour exploitation, GRN has improved regulations governing the worst forms of child labour, increased workplace inspections, and initiated prosecutions of employees in breach of those regulations. Although such enforcement remains at low levels, it is a very welcome improvement in terms of compliance with associated ILO obligations.

Particular opportunities in responding to these ILO standards include putting in place suitable ongoing interventions within the IL0’s key child labour frameworks (APEC and TEC) to ensure Namibia has embraced, maintaining and strengthening Child Activity Surveys and timely publication of data and findings, continuing actions by labour inspectors in the investigation and prosecution of child labour violations, attention to the most serious forms of child labour such as forced involvement of children in illegal cross-border activities, and – once again – promulgation of the Child Care and Protection Bill. Namibia’s increased focus on reducing poverty and inequity also merits GRN’s attention to the ratification of, and compliance with, ILO Conventions Nos 156 (workers with family responsibilities), 183 (maternity protection) and 189 (domestic workers).

Opportunities for advancing the rights of children with disabilities include Namibia’s now overdue reporting on the UN Convention on the Rights of Persons with Disabilities, aligning the Child Care and Protection Bill with that Convention, mainstreaming early infant screening for disability as part of integrated neonatal services to enable early interventions, and reviewing community attitudes to disabilities in terms of positive cultural beliefs or practices. There is also a need to ensure that an improved system of social grants factors in the higher needs of poor households with children with a disability. This may require improvements in the national measurement of the nature and extent of child disability, given current methodological weaknesses (notably the annual MoH survey). MGECW reforms to the standards of institutional and alternative care of children have importantly emphasized kinship care, and institutional care standards have been improved through strengthened child protection standards and procedures. Particular attention needs to be given to the increasing demands on ministry social workers for administrative obligations, including the processing of Foster Care Grants, all too often at the expense of ensuring timely professional interventions and casework services for children.

Similarly, there is a need for expanded social worker roles in the juvenile justice system, given stronger judicial emphasis on the means of diverting children and younger adolescents from court processes (primarily withdrawing charges where feasible) and from detention where there are suitable community-based alternatives. The increasing resort to restorative justice responses, including within the customary system, requires adequate professional commitment and access to resource persons, including social workers. These are effective investments of public resources that yield strong community benefits in terms of reduced levels of repeat offending, opportunities to address root causes of offending, reduced fragmentation of families, and improved possibilities to reintroduce such adolescents to educational opportunities. The improvements in the juvenile justice system to-date require strengthened supplementary measures to deliver that larger potential, including consolidating efforts to build a system more compliant with international justice standards. The CRC Committee’s recent recommendations are especially pertinent and therefore merit review towards being resourced and operationalized, along with the key outcomes of a 2012 ‘rapid analysis’ and the lessons learnt from the Legal Assistance Centre’s pilot project on child witness support and court preparation for victims of violence (now transferred to MGECW).

Collectively, the opportunities highlighted in Chapter 7 represent critical and cost-effective investments to the strong mutual benefit of the broader Namibian community, especially to the large number of families and their children who are directly at risk. The review highlights the advances in recent years in building a stronger protective framework and a more rights-based justice system. The latter needs further strengthening in order to ensure the social returns on these efforts, beginning with overdue reforms to the legislative framework and improvements in the collection and publication of data on both protection and justice. In August 2012 the child justice training workshop conducted by MGECW sought to progress the Child Justice Bill towards its introduction into the Parliament. The Child Care and Protection Bill was revised by MGECW in early 2013 and is scheduled for tabling at the National Assembly at some point during the 2013/2014 financial year. Of similar importance is the imminent legislative reforms is the need for more committed and sustained political leadership in tackling such persistent, endemic and criminal levels of domestic and GBV and in ensuring a child- and adolescent-friendly justice system.
8. Adolescent participation and development

Today’s adolescents are intended as the primary beneficiaries of the core commitments made for the new millennium as well as the Millennium Declaration and its MDGs which were embraced when they were infants and newborns. The Millennium Declaration commenced with recognition of global leaders’ duties to, ‘in particular, the children of the world, to whom the future belongs’, and given effect by the focus across the various MDGs on measures to accelerate the survival and wellbeing of infants.

African adolescents, including those in Namibia, are guaranteed a stronger range of rights than adolescents elsewhere in the developing world. This is due to both the higher children’s rights standards of the ACRWC compared to the CRC and the provisions of the African Youth Charter, which specifically applies to children over 15 years of age. Combined with parallel guarantees for the African child’s right to participation and the meaning of African children’s ‘responsibilities’ alongside such rights, this adds up to a situation whereby GRN and its partners hold a range of duties towards Namibia’s adolescents, including in the building of national cultural and African unity.

These remain amongst the areas that merit closer attention within the National Agenda for Children (NAC) in its scope and implementation, as well as improved measures in child-sensitive and participatory public budgetary planning and reporting and resource allocation. Complementary to the NAC is the Government’s commitment to the Children’s Parliament, in terms of both expression of views and input into public policy processes. A current priority is for stronger progress towards the establishment of the National Advisory Council on Children, regardless of the status of the (purportedly enabling) Child Care and Protection Bill. Particular weaknesses within the Child Care and Protection Bill’s provisions for the Children’s Council merit an early review of its mandate and structure, which might usefully include attention to formal child and adolescent participation in accordance with AU standards, budgetary processes and child-sensitive budgeting, and the monitoring of children’s rights compliance and progress. The sustained commitment to and further development of school-level Learners Representative Associations and Junior Regional Councils represent strong local opportunities for further building a vibrant, effective and rights-compliant (and continually good practice) national child and adolescent participation framework for Namibia.

The latter should also be treated as an important means of engaging many more vulnerable and marginalized adolescents who would otherwise be left out of, or alienated from, more mainstream and formal participatory frameworks. This still requires actions to improve their access to information and technology, which also will assist them with expressing their views. Compared to radio and TV coverage, higher cell phone coverage suggests that mobile technology and messaging linked to wireless internet access are stronger means of reaching poor and remote households across Namibia. This can improve information dissemination and also advance systems of civic participation for marginalized and vulnerable young people.

Any consideration of the various aspects of adolescent vulnerability within Namibia will especially, but not only, concern girls. Adolescent Namibian girls remain at very high risk of predatory and exploitative practices, including serious offences of rape and GBV as well as persistent harmful traditional and cultural practices. Regrettably, there continues to be weak quantitative evidence in this regard and it is also clear that there is weak reporting, weak investigation and weak prosecution of such offences against girls and young women.

One specific example is rates of sexual exploitation of female students, which seem to rarely result in formal legal proceedings for what are commonly criminal offences and for which an internal MoE enquiries are manifestly inadequate, even if they lead to a teacher’s dismissal. It may be unsurprising, then, that the primary weakness in MoE’s Learner Pregnancy Policy seems to be institutional resistance to its diligent implementation. Other major barriers to girls’ continued education access are the troubling lack of suitable sanitation services in many Namibian schools and the poor quality of many boarding schools and hostels for students. For such a diverse and sparse population across so many regions of Namibia, safe and suitably maintained boarding schools and hostels have demonstrated their value in improving both school access and performance, but often continue to fall well short of adequate standards.

The persistence of harmful traditional practices – including child marriage, lobola and sexual initiation practices – must be understood within the African continent’s globally stronger prohibitions on such cultural or religious breaches of a child’s rights. The CRC Committee has recently expressed strong concerns in this regard, with GRN needing to take greater efforts to ensure both legal enforcement – including adequate sanctions on traditional leaders – and popular education and sensitization measures.

A key means of doing so for adolescents is through life skills education, which, despite some good and sustained programming efforts and experience, continues to offer inadequate coverage, insufficient levels of training for providers, and weaknesses in outreach to out-of-school young people. While programmes for both boys and for girls remain important, strengthened attention should be given to boys, given the importance of their improved knowledge, awareness and behaviour change, given that males are the predominant initiators of sexual encounters.

Nevertheless, it is important to acknowledge that Namibia has achieved good levels of adolescent awareness and improved practice in their sexual behaviour. This appears to be an outcome of more recent interventions, including those run via local health services. Even so, high-risk sexual behaviour persists and adolescent HIV counselling and testing (HCT) coverage needs to be further improved. Together, these indicate the very high risks for Namibia of any relaxation in current efforts, as this would almost certainly lead to a rapid reversal in recent progress, much to the detriment of very large numbers of Namibian families and children that current resource levels would be incapable of adequately servicing or protecting.
There remain particular challenges in the delivery of professional health services to adolescents, including in areas such as informed consent and fuller disclosure of one’s HIV status, moving more strongly towards universal knowledge of adolescent sexual and reproductive health rights, psychosocial support for vulnerable and affected adolescents, and stronger follow-up systems. The growing number of adolescents living with HIV (ALHIV) who were infected as infants and do not know their status emphasizes the importance of improvements in the continuum of care, with particular attention to paediatric responses as well as to improved age-disaggregated ALHIV data. Whilst MoHSS has put good policies and procedures into effect – including the National Guidelines for Adolescents Living with HIV – challenges to good practice remain. GRN and the UN have recently identified several areas for improvements to the National Strategic Framework:

- Taking steps to increase adolescent access to HCT, including addressing barriers to access and the issue of consent.
- Positioning HCT as a primary gateway to deliver comprehensive prevention services to young people, including reaching vulnerable sub-groups and identifying adolescents appropriate for new treatment approaches.
- Training clinic nurses and counsellors on youth-specific counselling issues and increasing resource capacity, including human resource standards and the need for youth counselling guidelines.

Taking such achievements and challenges together, it is apparent that Namibia is currently strongly positioned to build upon sound progress in areas that are among the most serious threats to the wellbeing and future of its adolescents. National policies and strategy plans are appropriate and in place, resourcing is focussing on priority areas, but it remains inadequate, and Government has been strengthening its associated monitoring and data systems towards further improvements in such performance.

Adolescence marks a critical transitional period covering the child’s strong dependence upon protection frameworks and more durable opportunities for participation and civic engagement. Namibia’s move towards more explicit attention to this age group reflects the situation of a country at upper-middle-income status. This requires – and is showing early signs of being characterized by – a strategic movement of public policy into the broader civil and political rights of children that ensures the constructive foundations of a participatory, peaceful and sustainable nation.

9. Towards a Namibia Fit for Children

This report describes strong achievements alongside lost opportunities in advancing the rights and welfare of Namibian children and adolescents.

The previous situational analysis concluded that two factors will shape Namibia’s ability to meet its obligations to children. First is the extent to which Namibia uses its comparative national wealth to address very high levels of poverty and inequality. Secondly is the degree to which stronger technical capacities are built across public agencies and programmes and whether or not these collectively address the ‘critical minority’ of the most vulnerable Namibians who are currently being inadequately served.

Arguably, these have been addressed in part by GRN and its core development partners over the current reporting period. There is a prevailing sense in which Namibia has established a strong framework for accelerating progress in many areas of current priority and vulnerability in many areas directly impacting children. This is so in aspects of health and survival, basic education, social protection, child protection, justice and contact with the law, and particular situations confronting adolescents.

Some of the indicators of a strong national framework by Government for progressing the situation of Namibian children are:

- The launch of the National Agenda for Children 2012–2016, the long-awaited but imminent promulgation of the Child Care and Protection Act (expected 2013), and anticipated rapid follow-up with the passage of the Child Justice Act.
- Government’s strengthened focus on child poverty and actions to address it in NDP4, and as exemplified by NSA’s 2012 analysis of ‘Child Poverty in Namibia’ and MGECW-led policy development to overhaul and transform child welfare grants.

Progress in accordance with the MDGs exhibits mixed results with respect child-related targets, even as the 2015 deadline draws near. Despite its direct relevance to children, NDP4 is effectively silent on one of the most critical challenges confronting Namibian children, namely violence, be it within communities, homes or, most persistently and with such frequent impunity, of serious (criminal) physical and sexual assaults of children. Quite simply, national development can be neither equitable nor sustainable with such pervasive and seemingly widely tolerated levels of violence against children and women.

Many other threats and vulnerabilities are described herein. These include continuing challenges such as neonatal and maternal mortality; serious shortcomings in nutrition; alarming aspects of weak sanitation standards; emerging shortcomings in the continuum of care in HIV-affected children between infancy and adolescence; in part arising from the past success of HIV responses; poor academic standards throughout the stages of basic education; ongoing barriers to girls’ schooling and increasing problems in boys’ schooling; weaknesses within secondary school retention; the need for more systematic approaches to a child-friendly justice system; too many children with a disability lacking adequate access to developmental and support services; too many children still vulnerable to labour exploitation, despite recent improvements in labour inspections and prosecutions; threats to HIV responses that demand improved efforts with 15 to 24-year-olds, especially females; associated weaknesses in meeting adequate standards of adolescent sexual and reproductive health rights and access to life skills education; and continuing shortfalls in access to information and technology across rural and lower-income adolescents. Opportunities to give appropriate effect to more meaningful child and adolescent participation – in line with broader African standards – are also referred to.
These gaps and shortcomings collectively emphasize the central place of national development efforts, both within and complementary to NDP4. These include the strategic planning of many ministries that incorporate attention to the vulnerability and protection of children, and to overarching national reforms that include the NAC and establishment of the National Advisory Council on Children. It also requires that the implementation of the two upcoming core children’s laws be adequately resourced and that they are assured the strongest levels of political commitment.

**Accountability for investment in children**

Two further characteristics are apparent from the collective measures towards improving the rights and welfare of the Namibian child. The commitment of the requisite levels of resources is a logical, i.e. effective and affordable, investment in children and in desirable and sustainable futures for Namibian households and communities. The strength of the rights-based framework for children is in its accountability, not only to children and the oversight mechanisms of government, but also to the international and African children’s rights systems.

There are many examples cited within this report of improved national acknowledgement of, and commitment to, the extent to which increased public resourcing of child rights compliance is an investment and that it is being linked to systems of improved accountability. Even though rights compliance is an obligation regardless of whatever benefits may flow, such benefits do flow to more than children as rights-holders, including to their families, their future households, their communities and the nation as a whole.

In its ‘renewed call for action’ in November 2012, African Union member states embraced the theme of ‘Accountability for Investment in Children’. Those commitments need reference and actions that include national accountability. This would usefully include reference to national progress towards the recommendations submitted to GRN in 2012 by the UN Committee on the Rights of the Child and to the outcomes of the African Committee of Experts’ consideration of Namibia’s initial state report on the ACRWC.

Taken together, these comprise the primary benchmarks against which GRN and all of its partners in improving the situation of children and adolescents may be assessed as more comprehensively moving Towards Namibia Fit for Children. They also, one hopes, provide a critical benchmark against which the next situational analysis may assess such progress and establish the realization of the elimination of extreme child poverty as well as marked reductions in child poverty and inequality.
Introduction

1.1 Nature and scope of the report

This situational analysis of children and adolescents in Namibia seeks to take stock of the present in order to better understand current priorities for moving forward. In doing so, it builds on the two previous such situation analyses conducted after Namibia’s independence, in 1995 and 2010 respectively. Unlike the 2010 report, this document does not aim to be as detailed in its description of the situation of children across the broad spectrum of their rights and welfare. Rather, it aims to serve as a more strategic document in its awareness of the broader global and national legislative, administrative and policy environments.

This report views its rights-based approach as extending beyond the core rights of the child to include the broader international and continental human rights framework, and to do so with a gender-aware lens and a focus on systemic inequities in their various forms.

The situational analysis of 2010 included an extensive process of consultations with a range of key stakeholders and interested population groups, including children and adolescents. This report, on the other hand, is based on a desk review. It takes a complementary approach that is informed by recent core statistical, policy and research documents, and more explicitly positions the priorities for children in a more integrated national response framework (see next section).

It is a view running throughout this report that the measurement of progress against international and African human rights instruments is a central means by which the situation of children may best be measured. This means that commitments under such documents as the UN Convention on the Rights of the Child (CRC), the African Union (AU) African Charter on the Rights and Welfare of the Child (ACRWC or ‘the African Charter’) and the Declaration and Plan of Action from the 1st Pan-African Forum for Children (2001) and its successor commitments – as well as various other core global and continental instruments – collectively represent the primary benchmark against which to review the situation of Namibian children and adolescents (see Chapter 3).

In that regard, the recent CRC reporting by the Government of the Republic of Namibia (GRN) to the UN Committee on the Rights of the Child (CRC Committee) is notable, and the Committee’s observations and recommendations are important recent core reflections on the domestic status of Namibian children.

1.2 National policy linkages

The rights, development and welfare aspirations of Namibian people, including its children, are overwhelmingly about co-operation and partnerships. This is reflected within Namibia’s Constitution: Article 5 and the more specific provisions of the subsequent articles of Chapter 3 – Fundamental Human Rights and Freedoms, including those concerning children’s rights. Arguably, the single most important document in this regard is the UN Charter, with its emphases on sovereign equality (Article 2), international co-operation (Article 1) and respect for and
observance of human rights and fundamental freedoms’ (Article 55), as a consequence of which Namibia has voluntarily embraced international commitments for the benefit of all Namibians (UN, 1945).

Both the UN System and GRN have been active participants in the global process led by the Organization for Economic Co-operation and Development (OECD) of high-level forums on aid effectiveness. Convening in Rome in 2003, these forums gave rise to the Paris Declaration on Aid Effectiveness (2005) and the Accra Agenda for Action (2008) and were characterized by a critical shift in focus from ‘aid effectiveness’ to ‘development effectiveness’ to better ensure sovereign equality alongside sustainable progress. This culminated in the outcomes of the fourth and final such High Level Forum on Aid Effectiveness (Busan, 2011) – to which Namibia is a signatory state – and the focus on strengthening accountabilities and outcomes.7

The Busan Declaration on Aid Effectiveness acknowledges that while external conditionalities are inconsistent with sovereign national leadership and development ‘effectiveness’, meaningful and inclusive development requires a rights-based approach (OECD, 2011, pp. 107-8). This is in accord with the national Constitution, informed by the international human rights system and consistent with similar commitments made by UN member states within the Millennium Declaration.8

Namibia is fortunate to have put in place a coherent framework within which such mutual and essential goals may be achieved. As discussed in more detail in Chapter 2, Namibia’s Fourth National Development Plan (2012/13 to 2016/17) (NDP4) provides the primary national action framework. In view of Constitutional duties that Namibia has set for itself, and its international and continental obligations, NDP4 is essentially a ‘first among equals’ in the national framework of action, including legislative reform and policy development, in terms of meeting the rights and needs of Namibia’s people, children included. On its own, the framework may be insufficient, but it is clearly necessary and is well-served by complementary mechanisms, and obligations that this current report takes into account in better aligning children within those parallel national undertakings.

It is in this context that this situational analysis reviews the current conditions, priorities, and opportunities for children and adolescents in Namibia. The analysis pays attention not only to NDP4, but also to a number of complementary and related commitments and strategic environments. The country’s international and continental human rights obligations are essential components for advancing the rights and welfare of children, including the role of the new NAC and impending legislation such as the Child Care and Protection Bill in accelerating progress in this regard.

For UNICEF – the GRN’s primary global partner in child and adolescent rights, welfare, protection, and development – there are complementary obligations in shaping its national engagement in accordance with global and national priorities. Currently, UNICEF’s focus is undergirding its own process of setting priorities in the upcoming medium-term strategic plan for 2014–2017, including a stronger focus on addressing inequity, improved effective linkages between ‘child development’ and ‘children’s rights’ and the human rights system, and increasing assistance in areas of horizontal (or ‘South–South’) co-operation.

This report aims at being a strategic document for assisting the planning of action for Namibian children and adolescents, especially in informing priorities in areas of domestic laws, policies, programmes, and services. It not only highlights key needs and priorities in scaling-up or refining the efforts of Government, UNICEF and other partners, but also positions such efforts within a broader national development framework that strengthens the sustainability of rights-based and development-focused actions.

The reader will note that there is some degree of overlap and a sometimes artificial demarcation between chapters. This reflects the policy linkages between and multidimensional character of the breadth of issues affecting the child. Accordingly, it will generally be as important for the reader to make connections between the different chapters as it will be to refer back to the 2010 situation analysis (UNICEF, 2010a) for a more comprehensive understanding of the different aspects of the situation of the Namibian child.

A final comment is merited at this point about the reference to a ‘focus on equity’ with regard to children. Equity means that all children have an opportunity to survive, develop, and reach their full potential without discrimination, bias, or favouritism. According to UNICEF:

Inequities generally arise when certain population groups are unfairly deprived of basic resources that are available to other groups. Whether a disparity is “unfair” or “unjust” depends on the context. … Gender discrimination and other social, political, and economic forces that systematically deny the rights of specific groups – such as girls, children of minority groups, or children with disabilities – are cause for grave concern from an equity perspective. (UNICEF, 2010b, p. 4)

This is a widely acknowledged concern and priority for Namibian children, and is largely seen to be strongly linked to the character of poverty in Namibia. Structural or systemic inequities constitute a failure by duty-bearers, notably but not only the state itself, in meeting their obligations under international (human rights) law to children as rights holders. Key policy considerations include urban/rural disparities, sex-based differences (particularly impacting the girl-child), and the situation of minorities and marginalized populations. Monitoring these developments requires appropriately disaggregated data. This is an area in which Namibia faces weaknesses and challenges. There are, however, also some recent promising reforms in such areas as analysis of child poverty as well as the creation of the Namibia Statistics Agency (NSA) and its evolving fulfilment of its mandate.
The National Development Framework

This chapter presents an overview of the primary national context that shapes the child development environment. It is then overlaid by the subsequent chapter’s attention to the interlinked children’s rights framework. Taken together, Chapters 2 and 3 address the core overarching policy and action structure – or structures, to the extent that improved linkages and co-ordination remains necessary – for Namibian children and adolescents.

2.1 A socio-economic overview

Namibia has a population of 2.1 million (2011 Census), an increase of 15 per cent over the inter-censal decade. There was a 34 per cent growth in the same period in the number of households, pointing to a small but steady decline in household size from 5.1 in 2001 and 4.9 in 2003/04 to an average of 4.4 persons in 2011, ranging from 6.0 in Kavango to 3.3 in Erongo. The majority of Namibians (57 per cent) still live in rural areas, primarily in the northern regions, but the percentage has fallen from 67 per cent in 2001, revealing increasing numbers of people moving to urban areas (NSA, 2013).

The national median age is 22 years (males and females), with 43 per cent of the population being under 18 years of age. Twenty-nine per cent of all children are under five years of age (UNICEF global data, 2010). The annual average population growth rate is 1.4 per cent, with a fertility rate of 3.6 (down from 4.1 in 2001) and 94 males per 100 females (Ibid.). Life expectancy at birth is 62.1 years for males and 63.0 years for females (UNDESA data, 2010).

Census data is reported by five-year age groups, thus there is no specific data for 18-year-olds (covering 15-19 years of age). However, aggregating age data by sex and urban/rural spread shows a shift in population profiles between children/adolescents and adults.
The Targeted Intervention and Economic Growth.

Programme for Employment work, in comparison with its 'strict' unemployment measure which does not (it concerns those

By global standards, Namibia, according to the IMF, has very low labour force participation rates, a very low employment to population ratio, and has a very low ratio between pay levels and productivity rates (IMF, 2012, Figure 2). These – and, perhaps most notably, the latter of those three – are likely all related to Namibia having one of the globally highest rates of income inequality (see Chapter 4). It is, however, important to note that Namibia’s labour force participation rate has been growing, rising from 48 per cent in 2004 to 55 per cent in 2008 and to 66 per cent in 2012. This is also reflected in a declining dependency ratio, which dropped from 82 per cent in 2008 to 73 per cent in 2012 (NSA, 2013b, Tables 1 and 2.4). In the context of high poverty and declining dependency, this suggests a comparatively large and growing but poorly paid workforce that affords strong policy options for income-based poverty responses, as is raised further in Chapter 4. However, to strengthen sustainability, this needs to be complemented by attention to the IMF’s observation about the low ratio of pay levels and productivity rates.

The IMF has also expressed concern over the financial implications of the World Bank’s 2009 reclassification of Namibia as an upper-middle-income country. That decision was due to Namibia’s 2009 gross national income per capita exceeding the $3,946 threshold between lower- and upper-middle-income, and is especially problematic for a country with extremely high income inequality and thus serious presents economic and human development challenges that, according to the IMF, are improperly reflected in the Bank’s methodology. The reclassification has meant that Namibia is now ineligible for development assistance under the Millennium Challenge programme and receives only limited European Union concessional financing at a crucial time for Namibia’s development efforts (Ibid., p. 16, and annexed statement, p. 4).

The national Constitution was adopted in February 1990, just weeks before Namibia’s independence. It is strongly couched in terms of human rights: Chapter 3 deals with fundamental rights and freedoms, with Article 15 specifically providing for children’s rights. Chapter 9 concerns the administration of justice and Chapter 10 provides for an Ombudsman. An overview of these provisions was provided in the 2010 situational analysis (UNICEF, 2010a, p. 12).

Chapter 11 of the Constitution is also relevant to discussion later in this report. It sets down the principles of state policy, of which the first and most detailed is the promotion of the welfare of the people that requires laws on gender equality, protective labour laws (including for children), access to public facilities and services, systems of benefits and payments to women during maternity, aged persons, ‘the unemployed, the incapacitated, the indigent and the disadvantaged’, the provision of legal aid, and the assurance of ‘an acceptable level of nutrition and standard of living of the Namibian people’.

In 2011, the Namibian Parliament legislated for a National Statistics System and establishment of the Namibia Statistics Agency. The long-awaited Child Care and Protection Bill of 2009, which will replace and extensively update the Children’s Act of 1963, is still awaiting Parliamentary passage, as is the Child Justice Bill. The now-outdated Births, Marriages and Deaths Registration Act of 1963 is also undergoing review. These are among the overdue reforms needed to strengthen the legislative guarantees for the rights and welfare of Namibian children.

The UN Committee on the Rights of the Child has urged the GRN to expedite the latter two items of pending legislation. It has also expressed concerns about the continuing impact of Namibia’s customary law and practices that are to the detriment of children’s (and women’s) rights within a plural legal system, and has called for the Government to take measures to ensure that ‘the constitutional provisions and statutory laws prevail over the customary law, and that children and women have full access to the formal justice system’ (Committee on the Rights of the Child, 2012, parais 10-11).
2.3 Public policy and planning framework

Namibia generally has a strong child policy framework within Government, especially at the level of individual ministries (for an overview, including programmes and laws, see GRN’s CRC state report of 2009, Part B: Committee on the Rights of the Child, 2011, paras 14-34; UNICEF, 2010a, p. 15). Key sector-specific policies and associated plans are referred to herein in later chapters.

Most of Namibia’s government ministries provide support and assistance to or for children and adolescents. The 2010 report describes the core roles and services of ten ministries, along with civil society organizations (CSOs) and development partners (UNICEF, 2010a, pp. 16-24). Those ministries are:

- Agriculture, Water and Forestry
- Education
- Gender Equality and Child Welfare
- Health and Social Services
- Home Affairs and Immigration
- Information and Communication Technology
- Justice
- Labour and Social Welfare
- Regional and Local Government, Housing and Rural Development
- Safety and Security
- Youth, National Service, Sport and Culture.

In addition, the Office of the Prime Minister plays a central role in some key areas of child wellbeing and development, including nutrition standards and response, the situation of San children, children with disability, and its Directorate responsible for disaster risk management.

This indicates not only the extent to which attention to children cuts across Government services, but also the importance of co-ordination and overview. In its efforts to develop a Social Development Policy, the Ministry of Health and Social Services (MoHSS) has primarily addressed its own professional capacity-building for improved fulfilment of its social service mandate, but it has also emphasized the need for a more coherent and unified approach to social development. This includes recognition of the need for a national Social Development Policy to be based on a human rights approach as well as to be informed by the AU’s Social Policy Framework for Africa adopted by African Ministers of Social Development in Windhoek in 2008.  

2.3.1 The Ministry of Gender Equality and Child Welfare

This Ministry is the lead agency in Namibia for services to and advocacy on behalf of children, as well as for the poverty reduction outcome of NDP4. It is comprised of the following programme structures:

- Directorate of Child Welfare, which is responsible for a country wide child support programme, with regionally-based social workers responsible for, inter alia, the administration of child welfare grants – a role that has expanded considerably despite chronic professional staff shortfalls. The Directorate develops policies and guidelines for vulnerable children, maintains casework roles that include household visits and assistance to courts on matters affecting children, and oversees and monitors standards in institutions and agencies with vulnerable children, including residential care facilities.
- The community mobilization and early childhood development (ECD) programme, which provides training and support for women’s economic development and support for activities that advance national ECD policy, especially with respect to community-based pre-schools.
- The gender equality and women’s empowerment programme, which builds community-level awareness and capacities on a range of issues relevant to sustainable and gender-equitable development, including women’s rights and sexual and reproductive health (SRH) rights. It also measures response to gender-based violence (GBV) and access to services.

Key aspects of MGECW mandates are described in more detail in later chapters, most notably Chapter 4 (child poverty and grant payments) and Chapter 7 (child and adolescent protection and justice).

2.3.2 The National Planning Commission

The Commission is provided for within the Constitution (Article 129) and has responsibility for planning national priorities and directing the course of national development. This includes development research and planning and the co-ordination of international aid resources. Here, the NPC is guided by the primary policy framework set down in Vision 2030, which was launched in 2004. This framework is the core document underpinning NDP4, for which the Commission co-ordinates the development of sectoral strategic outcomes and oversees their implementation.

2.3.3 The Namibia Statistics Agency

This body was established via the Statistics Act No. 9 of 2011, and replaced the former Central Bureau of Statistics. The NSA has quickly established a strong working relationship with UNDP, UNFPA and UNICEF and produces statistics that are crucial to analysis and planning in areas of social demography and human development, with particular attention to issues of inequality and poverty and their impact on children and women. Of note is its November 2012 release of the Namibia Genera...

2.3.4 The Office of the Ombudsman

Chapter 10, Articles 89-94 of the Constitution provides for an independent Ombudsman appointed by the President (see Article 32). The main functions include the investigation of complaints about violations of fundamental rights and freedoms and the abuse of power by Government officials or organs, with the power to call for remedies. The Office is classified as a national human rights institution that is fully compliant with international standards (that is, ‘A’ status in line with the Paris Principles). It has regional offices in the north (Oshakati) and south (Keetmanshoop), with plans to establish a presence in the west (Swakopmund). The Office is presently working on the development of a human rights action plan.6

The CRC Committee has called upon GRN “to establish a children’s rights division in the Office of the Ombudsman that would be responsible for monitoring children’s rights violations and addressing children’s complaints in a child-sensitive manner” (Committee on the Rights of the Child, 2012, para 21). This must ensure that the associated mandate is in conformity with CRC and ACRWC provisions, given that children’s rights are predominantly economic and social, and that the Ombudsman’s mandate is limited to civil, political and cultural rights as well as the right to education (see, for example, HRC, 2012, para 7).

2.3.5 National Children’s Council

The adoption of the National Agenda for Children (NAC) was accompanied by the establishment of strengthened co-ordination mechanisms that effectively transform and upgrade the framework of the National Plan of Action for Orphans and Vulnerable Children, especially its Permanent Task Force chaired by MGECW. According to the National Agenda:

(a) since high-level engagement of government, civil society, the private sector and international development partners is a requirement for the success of this programme, it is proposed that a High-Level Technical Committee be established, composed of the Permanent Secretary of the MGECW as chairperson, the Permanent Secretaries of the MoE, the MoHSS and the NPC, and one representative each for civil society, the private sector and international development agencies. (GRN, 2012a, p. 42)

The Technical Committee is responsible for reviewing progress reports on the Agenda for submission to Cabinet and to relevant Cabinet Committees. This, however, is an interim arrangement. A Children’s Council will assume such roles from the Committee, as provided for within the Child Care and Protection Bill.

The Bill refers to that body as the National Advisory Council on Children, the functions of which are, firstly, to:

(a) encourage inter-sectoral cooperation on matters relating to children
(b) advise government on matters relating to the welfare of children who receive services under this Act and any other law relating to children
(c) advise and assist, where appropriate, any organ of state in the carrying out of its functions and duties under this Act and any other law relating to children
(d) advise the Minister and where appropriate, any organ of state on the need for reform of the law on matters relating to children
(e) prepare and submit annual reports to the Minister relating to the activities of the Council;
(f) design and recommend programmes of prevention, protection or care, as the Council considers necessary in the best interests of children, for consideration by the Minister and where appropriate, organs of state;
(g) study, investigate and monitor the implementation of this Act and other laws related to it for the purpose of making such recommendations for improvement to the Minister or any other relevant organ of state, as the Council considers to be in the best interests of children;
(h) perform any other function assigned to it by the Minister.

2 The Council must encourage and facilitate, as far as is practicable, the involvement of non-governmental organizations and members of the community at large in the establishment and promotion of services and facilities to advance the welfare of children. (GRN, 2012b, Section 12)

The 12-person Council will comprise public officials (seven of whom will be heads of key child-relevant ministries) and ‘one member representing different stakeholders in civil society, including non-governmental organizations, faith-based organizations and the community, who has particular knowledge of and experience in children’s issues’ (ibid., Section 14(2)(f)). The single representation of a diverse sector and absence of children’s direct representation within the national context of increased focus on meaningful child participation may place constraints upon the Council that merit later review. The absence within the Bill of formal linkages between the Council and regional and more child-inclusive forums need not translate to the absence of such linkages in practice, but similarly requires subsequent review.

2.4 Human development context

The key challenges to national human development, especially insofar as children and adolescents are concerned, are taken up elsewhere in this report in the context of access to and quality of services such as health and education, the impact of high levels of poverty and inequality, and the threats to children’s development due to high rates of violence, abuse and neglect.
The increasing attention to and usage of the HDI since its introduction in 1990 has been accompanied by a considerable growth in efforts to develop other composite measures of different aspects of development. One such child-related indicator is Save the Children’s Child Development Index. Although methodologically and conceptually similar to the HDI, its measurement of deprivation or shortfalls in the areas of child mortality, primary school enrolment and underweight prevalence as its proxy measures of child development means that the lower the index, the better. Namibia’s Child Development Index ranking – 92nd, 91st and 90th of all countries for 1995-99, 2000-04 and 2005-10 respectively – has corresponding indices of 25.2, 22.4 and 15.8 (Save the Children, 2012a, p. 23; a total of 141 countries). As with the HDI, Namibia is ranked at the two-thirds point of all countries. The improvement in the indices comparative to negligible change in the ranking means that Namibia is achieving absolute progress that maintains a relative global status quo.

As alluded to earlier in this section, whilst human development levels have generally been improving – in Namibia as elsewhere – there remains an important need to consider how equitable such improvements are for the country’s citizens. For this reason, an ‘inequality adjusted’ HDI (IHDI) was introduced in 2010 (see Alkire and Foster, 2010, for a technical discussion and, more generally, UNDP, 2010, pp. 87-9).

All countries display at least some decline in its IHDI over its HDI for each component, and generally the size of the fall is greater for low human development countries (UNDP, 2010, p. 87). Namibia is placed in the group of ‘medium human development’ countries, for which the average decline in life expectancy is 19 per cent and in education 30 per cent. It has similar corresponding falls (respectively, 21 per cent and 28 per cent), and it has fallen below its earlier placement in the middle of that group of countries (UNDP, 2013, Table 3). Overall, Namibia’s fall in the inequality-adjusted income index is an astounding 68 per cent compared to the average for all medium human development countries of 23 per cent. In fact, Namibia’s income-based deterioration due to inequality is the largest deterioration for any country for any of the HDI components, indicating the extent of Namibia’s income-based inequality (Figure 2.4).

Finally, one of the earliest observations (since the early 1990s) from the HDIs has been that strong human development is not necessarily dependent upon national economic wellbeing, as many countries have achieved high rates of progress in health and education in the absence of similarly strong economic growth (see successive Human Development Reports, including UNDP, 2013, Chapter 1). This demonstrates the importance of political will and good governance as being critical to human development, especially in the case of Namibia, where there is a comparatively strong economic base. Against this background, weak indicators and trends in

Figure 2.3: Trends in Namibia’s HDI component indices (2005–2012)
areas such as malnutrition, education and poverty underscore the importance of strong national strategic planning matched by leadership in implementation that is sensitive to inequality levels and redistributionist outcomes.

Figure 2.4: HDI loss due to inequality in income (medium human development countries) (%)
With reference to the 2010 national MDG report, it is useful to make some particular observations against the various MDGs:

- **MDG 1**: trends are difficult to determine given methodological changes in measuring household poverty status, including in national estimates of the Gini coefficient (the measure of income inequality) that have not, to-date, been taken up at a global level (see Chapter 2.7 for more detail).

- **MDG 2**: the subjective character of determining progress towards the 2015 targets is apparent, given that the 2008 MDG report deemed universal primary school survival ‘achieved’, whereas the 2010 report modified that estimate to ‘possible’ (whereas it continues to seem to be ‘unlikely’). A universal adolescent literacy rate was deemed ‘unlikely’ in 2008 but ‘likely’ in 2010, with little change in the available data.

- **MDG 3**: the estimation of gender parity similarly lacks nuanced understanding in the 2010 report, wherein a ratio of girls to boys in secondary school of 1.16 is said to be ‘achieved’, whereas it indicates a shortfall in (at least) boys’ participation, which could be explained by the primary school ratio of 0.975 (that is, girls making a more timely transition to secondary schooling than boys). A ‘low’ primary and ‘high’ secondary gender ratio does not necessarily indicate lack of gender equality, as it could simply reflect girls making that transition with fewer repeat years in primary. The 2010 report does not address this critical distinction, thus the rating of 2015 progress on gender equality lacks technical robustness (see further comment at Chapter 3.4).

- **MDG 4**: the 2010 report’s use of snapshot data for 1992 and 2006/07 for child and infant mortality conceals an alarming increase in child mortality in the intervening period. There needs to be recognition of infant mortality as being a subset of under-five mortality as analysis of the data is important to indicate the extent to which under-five rates are primarily explained by neonatal mortality as this carries vastly different implications for responses.

- **MDG 5**: it ought to be alarming that the 2010 report dedicates a single sentence over its six-page executive summary to the fact that, over the period since 1990, maternal mortality (a target that concerns preventable deaths) had doubled, with the progress table considering the achievement of the target of a 75 per cent reduction ‘unlikely’. This demands analysis in a national MDG report at least on a pair with other Goals, especially given the troubling claim that maternal death rates doubled despite national efforts to cut them. Together these provide a more sound basis upon which to determine a real reversal.
Most, if not all, of these areas of the MDGs are taken up further in subsequent chapters. Table 2.2 provides a summary of the various MDG indicators and the comparative list of the achievability of the associated targets, according to the 2008 and 2010 national MDG reports and with Table 2.1, including improvements (↑) or downgrades (↓) from the previous estimate.

### Table 2.2: Trends in Namibia’s estimated MDG progress

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<tbody>
<tr>
<td><strong>1. ERADICATE EXTREME POVERTY AND HUNGER</strong></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Proportion of poor (including severely poor) households</td>
<td>Possible</td>
<td>Possible</td>
<td>Likely (↑)</td>
<td></td>
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<tr>
<td>Proportion of severely poor households</td>
<td>Achieved</td>
<td>Likely (↑)</td>
<td>Likely (↑)</td>
<td></td>
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<tr>
<td>Poverty gap ratio</td>
<td>Possible</td>
<td>Possible</td>
<td>Possible</td>
<td></td>
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<tr>
<td>Poorest decile/quintile share in national consumption</td>
<td>Possible</td>
<td>Likely (↑)</td>
<td>Very unlikely (↓)</td>
<td></td>
</tr>
<tr>
<td>Children under five malnourished, stunted</td>
<td>Possible</td>
<td>Likely (↑)</td>
<td>Very unlikely (↓)</td>
<td></td>
</tr>
<tr>
<td><strong>2. ACHIEVE UNIVERSAL PRIMARY EDUCATION</strong></td>
<td></td>
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<tr>
<td>Net enrolment rate in primary education</td>
<td>Unlikely</td>
<td>Likely (↑)</td>
<td>Achieved (↑)</td>
<td></td>
</tr>
<tr>
<td>Survival rate from Grades 1 to 8</td>
<td>Achieved</td>
<td>Possible (↑)</td>
<td>Possible</td>
<td></td>
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<tr>
<td>Literacy rate of 15-24-year-olds</td>
<td>Unlikely</td>
<td>Likely (↑)</td>
<td>Unlikely (↓)</td>
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<tr>
<td><strong>3. PROMOTE GENDER EQUALITY AND EMPOWER WOMEN</strong></td>
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<tr>
<td>Ratio of girls to boys in:</td>
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<tr>
<td>Primary education</td>
<td>Likely</td>
<td>Likely</td>
<td>Achieved</td>
<td></td>
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<tr>
<td>Secondary education</td>
<td>Achieved</td>
<td>Achieved</td>
<td>Achieved</td>
<td></td>
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<tr>
<td>Tertiary education</td>
<td>Possible</td>
<td>Possible</td>
<td>Achieved</td>
<td></td>
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<tr>
<td>Women in wage employment, non-agricultural</td>
<td>Likely</td>
<td>Likely</td>
<td>Likely</td>
<td></td>
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<tr>
<td>Seats held by women in national Parliament</td>
<td>Possible</td>
<td>Possible</td>
<td>Unlikely (↓)</td>
<td></td>
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<tr>
<td><strong>4. REDUCE CHILD MORTALITY</strong></td>
<td></td>
<td></td>
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<tr>
<td>Under-five mortality rate</td>
<td>Unlikely</td>
<td>Unlikely</td>
<td>Possible (↑)</td>
<td></td>
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<tr>
<td>Infant mortality rate</td>
<td>Unlikely</td>
<td>Unlikely</td>
<td>Possible (↑)</td>
<td></td>
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<tr>
<td>Children (one year) immunized against measles</td>
<td>Likely</td>
<td>Likely</td>
<td>Likely</td>
<td></td>
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<tr>
<td><strong>5. IMPROVE MATERNAL HEALTH</strong></td>
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<tr>
<td>Maternal mortality rate</td>
<td>Unlikely</td>
<td>Unlikely</td>
<td>Very unlikely (↓)</td>
<td></td>
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<tr>
<td>Births attended by skilled health personnel</td>
<td>Likely</td>
<td>Possible (↑)</td>
<td>Possible</td>
<td></td>
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<tr>
<td>Contraceptive prevalence rate</td>
<td>Likely</td>
<td>Likely</td>
<td>Very unlikely (↓)</td>
<td></td>
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<tr>
<td>Adolescent birth rate</td>
<td>Likely</td>
<td>Possible (↑)</td>
<td>Very unlikely (↓)</td>
<td></td>
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<tr>
<td><strong>6. COMBAT HIV/AIDS, MALARIA AND OTHER DISEASES</strong></td>
<td></td>
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<tr>
<td>Proportion of population with advanced HIV infection with access to ARVs</td>
<td>Adults</td>
<td>Likely</td>
<td>Likely</td>
<td>Likely</td>
</tr>
<tr>
<td></td>
<td>Children</td>
<td>Achieved</td>
<td>Achieved</td>
<td>Achieved</td>
</tr>
<tr>
<td><strong>7. ENSURE ENVIRONMENTAL SUSTAINABILITY</strong></td>
<td></td>
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<tr>
<td>Proportion of households with access to safe drinking water</td>
<td>Urban</td>
<td>Possible</td>
<td>Likely (↑)</td>
<td>Achieved (↑)</td>
</tr>
<tr>
<td></td>
<td>Rural</td>
<td>Likely</td>
<td>Likely</td>
<td>Achieved (↑)</td>
</tr>
<tr>
<td>Proportion of households with access to improved sanitation</td>
<td>Urban</td>
<td>Unlikely</td>
<td>Unlikely</td>
<td>Very unlikely (↓)</td>
</tr>
<tr>
<td></td>
<td>Rural</td>
<td>Unlikely</td>
<td>Unlikely</td>
<td>Very unlikely (↓)</td>
</tr>
</tbody>
</table>

The revised estimates in Table 2.2 suggest that, as 2015 approaches, expectations are softening (more downgrades than upgrades, and more than half of the targets deemed unlikely to be met). Also, it appears that MDG 5 (maternal health) is faring particularly poorly in anticipated outcomes, as is child malnutrition/stunting and sanitation coverage. All three issues require multi-sectoral interventions, as they concern more than mainstream health sector responsibilities.

It must be borne in mind that the progress rankings in the first two columns are taken from two the respective national MDG reports, whereas the rankings in the ‘current estimate’ column are derived on the basis of the data in Table 2.1. Given that there are some marked differences between these columns, the reader needs to exercise care in their interpretation. Hopefully, the
In summary, the NAC: to Cabinet once the CCPB is enacted. Committee is to be established, and subsequently replaced by a Children’s Council that reports key results and includes an ‘implementation and monitoring’ framework that specifies lead areas. Part II of the Agenda identifies measurable indicators and monitorable strategies for each of these priority commitments have been aligned with Vision 2030, the MDGs and NDP4 strategic areas. Part II of the Agenda identifies measurable indicators and monitorable strategies for each key result and includes an ‘implementation and monitoring’ framework that specifies lead agencies and key partners. Management and monitoring will be conducted via lead ministries’ strategic and operational plans, with MGECW as the ‘custodian’ agency. A High-Level Technical Committee is to be established, and subsequently replaced by a Children’s Council that reports to Cabinet once the CCPB is enacted.

In summary, the NAC:

- Provides an accountability framework that enables equitable resource allocation for children
- Ensures integrated programming by different sectors in the child’s best interests
- Supports the building of national systems and innovative programming
- Provides an accountability framework that enables equitable resource allocation for children
- Ensures integrated programming by different sectors in the child’s best interests
- Supports the building of national systems and innovative programming
- Provides for articulation of progress on each result through strengthened monitoring and co-ordination mechanisms (GRN, 2012a, p. 4).

These priority commitments have been aligned with Vision 2030, the MDGs and NDP4 strategic areas. Part II of the Agenda identifies measurable indicators and monitorable strategies for each key result and includes an ‘implementation and monitoring’ framework that specifies lead agencies and key partners. Management and monitoring will be conducted via lead ministries’ strategic and operational plans, with MGECW as the ‘custodian’ agency. A High-Level Technical Committee is to be established, and subsequently replaced by a Children’s Council that reports to Cabinet once the CCPB is enacted.

2.6 The National Agenda for Children

The NAC covers the period 2012–2016. It was adopted in June 2012 and contains five priority commitments to achieve 15 key results:

1. All children are healthy and well-nourished: under-fives’ access to nutrition, growth monitoring and health services; decrease in neonatal mortality and increase in child survival; water, sanitation and hygiene (WASH) access in all schools and childcare centres.
2. All children have equitable access to quality integrated ECD services, and pre-primary, primary, secondary and vocational education: universal access to quality education at all levels.
3. All children have access to age-appropriate quality HIV prevention, treatment, care and support: fewer HIV-affected young people, reduced mother-to-child transmission (MTCT); children with HIV receiving comprehensive treatment, care and support.
4. All children have an adequate standard of living and a legal identity: comprehensive national social protection system; social grants for vulnerable children; universal birth registration and access to deceased parents’ death certificates.
5. All children are safe from neglect, violence, abuse and exploitation: enabling legislation and policy environment; integrated protection services; reduced teenage pregnancies, with support services.

2.7 National Development Plan 4

Namibia’s NDP4 was adopted in July 2012. It is the primary national strategic plan for improving human development and national wellbeing and covers the period 2012/13 to 2016/17. Its key goals are:

1. High and sustained economic growth
2. Employment creation
3. Increased income equality.

However, NDP4 – both explicitly and implicitly – places higher economic growth as the primary goal. It improves upon the previous approaches by being ‘higher-level’ and more focused, with detailed implementation strategies and a formalized monitoring and accountability framework. The core document notes that its predecessor (NDP3) was accompanied by high rates of unemployment, weak progress in its HDI ranking, and insufficient reductions in income inequality, thus NDP4 includes a focus on ‘the execution of development strategies as well as monitoring and evaluating development’ (NPC, 2012, p. ix).

The plan has ten ‘guiding principles’, including gender equality and the empowerment of women and people-centred economic development, although neither is a strategic focus of the measures aiming to achieve the primary goal (economic growth). The implied assumption is that such principles will be well served by such growth and that they are more instrumentally met via actions toward the other two key goals (Ibid., p. 4). This is often characterized as a ‘trickle-down’ approach, which usually (and incorrectly) assumes causal linkages, to the detriment of many of the more vulnerable population sub-groups.

The Vision 2030 declarations include that there ‘is equity in income distribution across all groups, and the disparity between rural and urban living, in terms of social and economic conditions, is at its lowest’ (Ibid., p. 5). It further envisages that ‘Parents… fulfil their responsibilities to their children, while children remain disciplined and have an inalienable right to survival, development, protection and participation in society’, and that ‘Families are available and willing to accommodate orphans and other vulnerable children, and are assisted, where necessary, by the Government and community’ through a well-managed public foster care and social grant system (Ibid., p. 7).

NDP4 notes that in many cases NDP3 targets were not met, attributing key shortfalls to unforeseeable negative global economic factors, whilst also seeming to acknowledge weaknesses in monitoring progress and in implementation capacity. Accordingly, actual GDP growth was 3.6 per cent, against the NDP3 target of 5.0 per cent. NDP4’s GDP growth target – set in the context of that ‘global economic crisis’ – is an even more ambitious 6.0 per cent (Ibid., pp. 10, 20).
...the Gini coefficient was 0.6003 in 2003/04 and 0.5971 in 2009/10 (NSA, 2012a, p. 141). So, contrary to NDP4, it appears that NDP3 achieved no improvement in income inequality whatsoever.

The plan claims that it has met its target for reducing income inequality (as measured by the Gini coefficient), which fell from 0.70 in 1993/94 to 0.60 in 2003/04 and 0.58 in 2009/10. In fact, the 2009/10 rate was 0.60. NDP4 cited the NHIES preliminary results, which were corrected in the final NHIES report. According to the latter, the Gini coefficient was 0.6003 in 2003/04 and 0.5971 in 2009/10 (NSA, 2012a, p. 141). So, contrary to NDP4, it appears that NDP3 achieved no improvement in income inequality whatsoever. National data on inequality does not match internationally reported Gini – the World Bank estimates national rates of 0.74 and 0.64 for sometime over the decade 2000–2010 (UNDP, 2010, Table 3 and World Bank, 2012, Table 2.9, data for 2004, respectively). This indicates potential methodological concerns in consumption–versus income-based calculations, and it remains necessary to determine the global comparability and rigour of national Gini measures.

The plan establishes five ‘basic enablers’ toward achievement of the key goals, each of which is accompanied by its respective and quantifiable ‘desired outcome’. The former are described as ‘essential but not necessarily sufficient conditions for economic development’ (viz. the explicit key goal), and are as follows:

1. Institutional environment
2. Education and skills
3. Health
4. Extreme poverty
5. Public infrastructure.

Namibian children are explicitly ‘present’ in three of those ‘enablers’, but the others also impact children.

Education and skills

The ‘desired outcome’ is expressed in terms of increased pass rates for Grade 10 and Grade 12 students. Education is positioned as a long-term investment, with the main challenges being educational quality (commencing from ECD) and the mismatch between skills demand and supply. Associated strategies concern improving educational quality, ensuring entry into tertiary education and vocational education and training (VET), and targeted responses to skills shortages. Measures include specific actions to improve ECD access and quality, expanded ‘centres of excellence’ in mathematics, science and languages, and the promotion of graduate internships and apprenticeships.

Health

Here, the ‘desired outcome’ concerns improved access to the health system and increased life expectancy (from 57 years in 2011 to 59 years by 2017). It acknowledges Namibia’s comparatively low health spending in per capita terms and as a proportion of GDP, with some notable improved outcomes (for example, skilled birth attendance, ART coverage, immunization), but persistent poor rates of maternal mortality, life expectancy, HIV prevalence, and so on. Associated strategies are directed at health financing, ensuring an adequate supply of skilled medical health professionals, improved governance, access to health facilities, and reductions in morbidity and mortality.

Extreme poverty

In this area, the ‘desired outcome’ is a reduction of the proportion of the severely poor persons from 25.8 per cent (2009/10) to below ten per cent by 2017. NDP4 recognizes that Namibia has pursued a macroeconomic strategy and environment in which the private sector can flourish, at the expense of equitable standards of living. This required Government to expand the social protection system. Accordingly, 13.8 per cent of households were ‘severely poor’ in 2003/04, and higher for households with children (17.7 per cent) and with orphans (21.1 per cent). The rate for households without children was 3.9 per cent, underscoring the extent to which children bear a disproportionate brunt of poverty. According to the Namibia Household Income and Expenditure Survey 2009-2010 (NHIES), 10.3 per cent of households were ‘severely poor’ in 2009/10, translating to 15.8 per cent of people, as poorer households tend to have more children.

The main challenges in combating poverty as defined by NDP4 include:

• Children being at a higher risk of poverty than adults
• The rich/poor income gap has only narrowed marginally, and the share of total income for the poorest 15 per cent has only increased slightly
• Grant access is still hindered by lack of documentation that is in turn hindered by legislative obstacles in civil registration and statutory requirements
• Grant access continues to preclude large numbers of vulnerable children, and grant administration has high overheads, especially in means-testing
• Lack of indexation means that the real value of grants has declined, widening the income gap compared to better-off households that receive inflation-based adjustments (NHIES, pp. 63-4).

Tellingly, NDP4 states that little is known about the causes of extreme poverty in Namibia (Ibid., p. 66). Associated strategies combine multifaceted responses from other components of the plan (education and skills, health, infrastructure development, agriculture), with special attention to cash transfers. These include:

• strengthening and expanding the social protection system (social grants, especially child welfare grants; MGECV)
• increasing household food security (cash transfers to reduce malnutrition ; Ministry of Agriculture); and
• expanding research into the root causes of extreme poverty (in order to address causes rather than symptoms: NPC).

Other such basic enablers indirectly – even directly – impact children (and their parents and carers), not least being access to and the affordability of transportation services. The attention to transportation within public infrastructure seems, however, to prioritise commerce-related road transport over passenger-linked rail transport (the latter falling heavily short of its NDP3
It is important to bear in mind that NDP4 is silent on ‘safety and security’ matters, which are nevertheless critical to efforts to properly addressing poverty.

target) and to emphasize commerce-related rail development over passenger access (Ibid., pp. 73-4). This raises questions about less apparent linkages between different components of NDP4 insofar as children are concerned.

Taken as a whole, i.e. as a comprehensive policy framework, there is an uncomfortable impression that economic growth is still seen as the primary means of overcoming both poverty and inequality, despite so many adverse human consequences to date. It needs to be noted that NDP3’s poverty-related outcomes fell well short of targets, despite increased beneficiaries, which seems to indicate a structurally weak mechanism for tackling poverty and inequality beyond a reactive safety net response, as well as an entirely non-redistributive framework.

Growth in national economic wellbeing without explicit redistributive public interventions is perhaps the single largest cause of structural income inequality. For a comparatively wealthy country, redistribution is more critical than growth in this regard, as systemic poverty under such conditions is not sustainably addressed by a country ‘getting richer’. Given that it has attracted attention within the national planning process, the Gini coefficient needs to be standardized with the global framework and properly understood. A ‘low’ Gini means something very different for Switzerland than it does for Burundi (two countries with similar Gini measures); by any measure, Namibia’s Gini is too high, but it is difficult to argue that there is insufficient national wealth to enable a more equitable distribution.

In this context, the IMF’s observation of Namibia’s low ratio of workers’ pay versus productivity rates deserves repeating, and must be understood within the framework of household poverty. It is also important in informing the discussion in Chapter 4 on improved targeting – to include gender equity criteria – of cash transfers to households in poverty as an effective wealth redistribution response to the inequitable sharing of national wealth. Finally, whilst households in poverty are not the only victims of Namibia’s highly prevalent rates of GBV and domestic violence, they suffer particular consequences due to their greater vulnerability in leaving a violent ‘provider’ and their ability to secure suitable interventions. It is important to bear in mind that NDP4 is silent on ‘safety and security’ matters, which are nevertheless critical to efforts to properly addressing poverty.

2.8 Key observations and concluding comments

Human development indicators in Namibia have shown some albeit insufficient improvement, and seemingly unrelated to actual economic performance. GRN has adopted a stronger and more focused NDP4 that gives improved attention to implementation and monitoring mechanisms, with an accompanying political commitment that includes an acute awareness of the country’s globally high income inequality and missed opportunity under NDP3 to improve its comparative human development ranking, especially as an upper-middle-income country. Whilst the question of responses to poverty and inequality, including social grants, is discussed further in Chapter 4, there remain good reasons to be confident that NPC co-ordination of NDP4 and national political commitment will ensure its more equitable and sustainable impact. The next such situational analysis will hopefully be able to substantiate that such positive trends for children are evident.

It also appears that national progress towards 2015 MDG targets is likely to fall short across various indicators, although the majority do remain achievable. MDG performance remains worst in areas linked to maternal health, nutrition and sanitation access, resulting in adverse consequences for many Namibian children. Additionally, it appears that assessments of national MDG progress may be overstating achievements, or that such progress is weakening. The proposed 2013 national MDG report will hopefully provide a clearer understanding in this respect, and more explicitly address itself to national failings in critical areas of development linked to human survival, including of children and mothers, than it has done in the past.

Namibia is strongly dependent upon global markets for its primary exports (notably in minerals) as well as on the South African economy and exchange rate. According to the NPC’s Annual Development Co-operation Report for 2010/11:

*The major paradox facing the Namibian Government is that positive economic growth supported by prudent macroeconomic policies has not generated the jobs and income generation opportunities needed to overcome the inequitable distributions of income and the upliftment of the living standards of the rural and urban poor.* (NPC, 2011, p. 2)

The GRN’s constructive development of public policy towards better harnessing its natural resource base for stronger human development and poverty reduction outcomes is a promising sign of political will to more sustainably leveraging greater equitable national outcomes (see Johnson, 2011). It will, however, depend upon regional co-operation in avoiding vulnerability to external capital terms-setting and footloose investment. In this regard, GRN has built a strong role in regional partnerships, as characterized by its commitment to Southern African Development Community (SADC) structures, and this will hopefully enable improved national returns on its natural resources and the necessary level of interventionist redistributionist measures toward the elimination of poverty and systemic inequality.

Although the World Bank’s decision to classify Namibia as an upper-middle-income country in 2009 was a positive endorsement of national economic performance, it has negative consequences for a country with very high rates of inequality and systemic poverty. This reclassification negatively impacts children in particular, especially those in rural populations and female-headed households. The result is that the primary victims of systemic economic inequality in Namibia are at risk of suffering an additional penalty.

Namibia has, however, established a robust body of legislation, public policies and strategic plans across different aspects of human development and wellbeing, including for children. These extend beyond the NDP4 framework and include the adoption of the NAC and the putting in place of strong public agencies for progressing children’s rights, needs and interests, including the mandates of MGECW, NSA and NPC. As is noted throughout the following chapters, this is also being matched by stronger attention to implementation capacities and monitoring and review processes that may avoid some of the shortcomings of NDP3. Even so, given the significance
of protection issues for the Namibian child and their absence within NDP4, the plan requires the complementary roles from other national efforts for children. One notable shortcoming to which the following chapters refer is the current continued failure of Government to adopt and promulgate the two critical pieces of enabling legislation for children’s rights and welfare: the Child Care and Protection Bill and the Child Justice Bill.

For the NAC, the present need progress towards establishing the Children’s Council and an effective implementation and alignment of the Agenda with key frameworks, including NDP4. Scope remains for improved synthesis of the monitoring, co-ordination and reporting processes with those other frameworks, especially in better positioning the National Agenda and the Children’s Council in their leadership roles for children’s best interests. There is also a critical opportunity to explicitly align the Agenda with the Africa Fit for Children framework agreed to by the Pan-African Forums for children in 2001, 2007 and 2012, and to examine the role of the Children’s Council in monitoring and review roles in the area of the human rights of children, primarily concerning the CRC and the ACRWC. What is perhaps most urgent, is the need to ensure the Council’s adequate resource base. At the very least, this requires the involvement of the Ministry of Finance in assisting with castings, including those for co-ordination and monitoring of resources necessary to enable the Council to fulfil its programming mandates. It has also been noted that the monitoring of the Council’s operations should include attention to the adequacy of a single representative of a diverse non-governmental sector and the absence of children’s direct representation, not to mention the development of linkages with more participatory regional children’s forums in the execution of the Council’s mandate.

The National Human Rights Framework

Article 144 of the Namibian Constitution provides that:

Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.

Accordingly, GRN has advised the UN Human Rights Council (HRC) that:

In terms of Article 144 of the Namibian Constitution, Namibia has adopted monist approach in reception of international law into the national legal system. Thus, all human rights instruments ratified or acceded to by Namibia are part and parcel of the domestic law and should apply as such, unless they are in conflict with an existing Act of Parliament, or where they are not in conformity with the Constitution. Namibia is attentive that there is a need for parliament to enact legislations to give effect to some of these instruments. (HRC, 2010, para 4)

Namibia evidently interprets international human rights law it has ratified as applicable only where it is not overridden by domestic law (HRC, 2011b, para 14). This appears to be the case even in the absence of Namibia lodging any reservations to such effect to any of the associated treaties. It seems inconsistent to argue a monist approach to such laws when it is evident that the absence of enabling domestic legislation may effectively deny legal rights. On the other hand, it has been claimed that, as a statement of ‘monist law theory’, Article 144 is to be interpreted as meaning that the CRC – and other international human rights laws that Namibia has ratified – is ‘self-executing’, to the extent that its provisions are ‘express, certain and unequivocal’ (Schulz, 2012a, p. 10).

International and continental legal instruments voluntarily entered into by Namibia carry binding obligations toward compliance, which may often extend far beyond the provisions of national policies and strategic plans. Accordingly, timely state reporting on compliance with those formal instruments, complemented by continuous domestic processes of monitoring and review of progress, is critical to ensuring that the national human rights framework is in conformity with its legal obligations and that the state is duly meeting its duties under international and continental law.

This chapter provides an overview of such obligations, placing public policy for the rights and welfare of the child into a formal and enforceable framework, with primary attention to the core UN and AU instruments for the child.
### 3.1 The international human rights treaty system

The international human rights framework comprises the treaty-based system and the system of special procedures. The treaty-based system carries obligations for the UN member state in timely periodic reporting and review. The status of those UN treaties with respect to Namibia is shown in Table 3.1.

Table 3.1: The status of UN human rights instruments in Namibia

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Status of domestic effect</th>
<th>Reporting status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UN human rights treaties</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International Covenant on Economic, Social and Cultural Rights (1966)</td>
<td>In force (accession: 28 November 1994)</td>
<td>No state reports have been submitted¹</td>
</tr>
<tr>
<td>International Covenant on Civil and Political Rights (1966)</td>
<td>In force (accession: 28 November 1994)</td>
<td>No state reports have been submitted¹</td>
</tr>
<tr>
<td>Optional Protocol: Communications Procedure (1986)</td>
<td>No action</td>
<td></td>
</tr>
<tr>
<td>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)</td>
<td>In force (accession: 28 November 1994)</td>
<td>Initial report received 1996</td>
</tr>
<tr>
<td>Optional Protocol: communications procedure (2011)</td>
<td>No action</td>
<td></td>
</tr>
<tr>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)</td>
<td>No action</td>
<td></td>
</tr>
</tbody>
</table>

¹. GRN appears to view its combined 2nd and 3rd periodic report as incorporating its initial reports on the two optional protocols.
². However, this is not what is provided for within the CRC reporting requirements and does not appear to be how the CRC Committee has viewed that reporting status.

### UN human rights treaties

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Status of domestic effect</th>
<th>Reporting status</th>
</tr>
</thead>
</table>

### ILO Conventions

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Status of domestic effect</th>
<th>Reporting status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abolition of Forced Labour Convention, 1957 (No. 105)</td>
<td>In force (ratification: 15 November 2000)</td>
<td></td>
</tr>
<tr>
<td>Discrimination (Employment and Occupation) Convention, 1958 (No. 111)</td>
<td>In force (ratification: 13 November 2001)</td>
<td></td>
</tr>
<tr>
<td>Minimum Age Convention, 1973 (No. 138)</td>
<td>In force (ratification: 15 November 2000)</td>
<td>(minimum age specified: 14 years)</td>
</tr>
<tr>
<td>Worst Forms of Child Labour Convention, 1999 (No. 182)</td>
<td>In force (ratification: 15 November 2000)</td>
<td></td>
</tr>
<tr>
<td>Other ILO Conventions</td>
<td>No action</td>
<td></td>
</tr>
<tr>
<td>Workers with Family Responsibilities Convention, 1981 (No. 156)</td>
<td>No action</td>
<td></td>
</tr>
<tr>
<td>Maternity Protection Convention, 2000 (No. 183)</td>
<td>No action</td>
<td></td>
</tr>
<tr>
<td>Domestic Workers Convention, 2011 (No. 189)</td>
<td>No action (not yet in force)</td>
<td></td>
</tr>
</tbody>
</table>

3. GRN claims to have submitted a periodic report in 2010 (HRC, 2010, para 43).
4. GRN claims to have submitted a periodic report in 2006 (Ibid.).
5. GRN appears to view its combined 2nd and 3rd periodic report as incorporating its initial reports on the two optional protocols. However, this is not what is provided for within the CRC reporting requirements and does not appear to be how the CRC Committee has viewed that reporting status. A number of periodic state reports remain overdue.
within the agricultural sector, the main areas of activity by children aged under 14 years concerned such forms as water and firewood gathering and grinding grains.

Namibia has lodged no reservations to the above instruments, although it did submit a non-essential declaration to the CRC Optional Protocol on the involvement of children in armed conflict. The country has yet to ratify or accede to the following instruments:

- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- International Convention for the Protection of All Persons from Enforced Disappearance
- The Optional Protocols on a communications procedure for the:
  - International Covenant on Economic, Social and Cultural Rights
  - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

In its response to HRC recommendations arising from the UPR process, GRN has advised of its commitment to ratify the enforced disappearance convention and the optional protocols for economic, social and cultural rights and for torture. The optional protocol on the CRC post-dates that process, but will presumably be ratified consistent with GRN’s accession to the other communications protocols. GRN has rejected ratifying the migrant workers’ convention, claiming that it breaches its constitutional prohibition on discrimination and because migrant workers are already sufficiently protected under domestic law (HRC, 2011b, para 178). Holding the position that a UN human rights instrument is discriminatory will likely lead to further scrutiny via the UPR process, but compliance with domestic laws is rarely grounds for non-accession. Situations regarding children within the UN treaty system are considered in the next section.

With respect to International Labour Organization (ILO) conventions, Namibia has ratified all eight of the ‘core conventions’. For the two specific child labour instruments – Conventions 138 and 182 – in 2012, the ILO’s Committee of Experts on the Application of Conventions and Recommendations acknowledged GRN’s Action Programme to Eliminate Child Labour in Namibia (2008–2012) and associated activities to give it effect across various ministries and through CSO measures. The Committee noted problems with the Labour Act’s limited scope on children engaged in the informal economy, with few – if any – labour inspections in that area, but acknowledged the Act’s prohibition of hazardous work by children under 16 years and, effectively, under 18 years, in view of the minister failing to utilise powers to regulate for it. The Committee welcomed Government’s efforts in labour inspections within the agricultural sector, including child labour, and noted that the main areas of activity by children aged under 14 years concerned such forms as water and firewood gathering and grinding grains. Finally, the Committee noted that legislative prohibition on human trafficking only came into effect in 2009, but that the protection of children from prostitution and procurement for illicit activities continued to await passage of the Child Care and Protection Bill, approved by Cabinet in May 2011.11

With regard to national protective measures, important legislative changes since the CRC’s previous examination include:

- administrative practice: improving efforts in advancing various children’s rights in terms of Namibia’s stronger attention to employment growth and poverty reduction, and with regard to improved equity, as the provisions of these Conventions would serve as valuable benchmarks for the protection of vulnerable families. This is all the more so given the high numbers of female-headed households, the need to address women’s vulnerabilities as employees, and their persistently greater bearing of family responsibilities toward children. Ratification of Convention 183 would also give improved effect to the guarantee in Namibia’s Constitution that the Government adopts policies that ‘seek, through appropriate legislation, to provide maternity and related benefits for women’ (Article 95(1)), and be complementary to current reforms in strengthening the social protection system in response to high rates of poverty and inequality. It is, however, understood that GRN is in the process of ratifying ILO Convention No. 169 – the indigenous and tribal peoples convention of 1989 – which will benefit many of those ethnic populations that the Government categorizes as ‘vulnerable’ rather than ‘indigenous’.

3.2 CRC status and progress

The CRC monitoring and review process is the primary means by which the obligations of each UN member state and its institutions as duty-bearers to children may be ascertained by the UN Committee on the Rights of the Child. The process includes a detailed state report every five years, with scope for an ‘alternative’ or ‘shadow’ report from non-governmental or civil society representatives, the state party’s ‘defence’ of its report, and the Committee’s issuance of its observations and recommendations to improve national compliance.

Whilst Namibia got off to a strong start in ratifying the CRC in its first year of independence – coincidentally the first year of the Convention itself – it lost momentum in its commitment to the treaty process, especially to the valuable elements of national stocktake and UN feedback, there being a lengthy 17-year gap between its first and subsequent reports. Namibia has yet to submit its initial reports on the two optional protocols to the CRC (following which such periodic reporting may be incorporated within the CRC periodic reports), both of which were due in 2004 (see Table 3.1, Note 5).

The CRC Committee met with a GRN delegation to review the combined second and third periodic reports in September 2012. In its formal report of that meeting, the Committee issued a range of observations and recommendations for the Government’s consideration of priority actions to strengthen compliance with children’s rights. The recommendations are summarized in Annex B. The majority relate to the scope of the subsequent chapters, but broader reference should be particularly made to:

- legislative strengthening – improving the alignment of domestic laws with principles and provisions on child rights; promulgating the Child Care and Protection Bill, and subordinate customary laws to statutory provisions, especially given those laws’ adverse impact (denial of rights) on children and women
- children’s rights co-ordination: strengthening national co-ordination on children’s rights, through MGECW, and ensuring adequate resourcing of the Office of the Ombudsman (including for a specific child rights capacity) and the NAC
- administrative practice: improving efforts in advancing various children’s rights in

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11 The Committee’s report is to the 31st session of the International Labour Conference can be viewed at http://www.ilo.org/ilolearn/ilsconventions/docs (accessed 1 February 2013).
practice, including the application of the ‘best interest’ principle in formal proceedings and decision-making affecting children.

Annex B may usefully serve as a reference point for key areas of reform in the period up to the next periodic report (due by October 2017).

3.3 The African child and adolescent rights framework

At continental level, there are ten African Union legal instruments and four policy frameworks deemed fundamental to the eradication of poverty, the promotion of justice, and the realization of political, economic and social rights in Africa (Continental Advisory Research Team, 2010, p. 1). A 2010 study of the situation within ten African countries (not including Namibia) concluded that there is an ‘alarming gap’ between the commitments within these instruments and country-level practice (ibid., p. 28).

Table 3.2: Current status of African Union Protocols and Legal Instruments

<table>
<thead>
<tr>
<th>Legal instrument</th>
<th>Status of Namibia</th>
</tr>
</thead>
<tbody>
<tr>
<td>African Charter on Democracy, Elections and Governance (not yet in force)</td>
<td>Signed only (10 May 2007)</td>
</tr>
</tbody>
</table>

Policy framework                                      Date adopted

| Comprehensive Africa Agricultural Development Plan (CAADP)                  | June 2002 (Conference of African Ministers of Agriculture) |


3.3.1 African Charter on the Rights and Welfare of the Child

The primary continental instrument for children’s rights is the African Charter on the Rights and Welfare of the Child (ACRWC), although others are also of particular importance, most notably the Protocol on the Rights of Women and the African Youth Charter. Namibia is a party to all three instruments.

State reporting on the ACRWC is generally consistent with the reporting format for the CRC. The primary difference between the two instruments is that, generally, the provisions of the African Charter are both broader in their scope and stronger in their effect than the CRC. Apart from different reporting frequencies, any state party to both, such as Namibia, would be best advised to report in accordance with the provisions of the ACRWC, with some reference to the CRC in the few areas (such as some aspects of juvenile justice) where it asserts higher provisions for the child (Johnson, 2013).

GRN’s initial state report was due in 2006 and periodic reports were due in 2006 and 2012. Namibia completed its first report on the African Charter for the period 2004–2012 in late 2012. It is well informed by its recent CRC periodic report, even explicitly acknowledging that it drew from and built on the latter (GRN, 2013, p. 2). The primary differences between the two are that the CRC report included comprehensive detail on progress made and actions taken since the previous such report, whilst the initial ACRWC report discussed the current situation post-2009 and also met the more detailed ACRWC reporting standards of an initial report. For African states to meet their periodic reporting obligations under both the ACRWC and the CRC requires a state report slightly less than every two years. Accordingly, GRN needs to examine the merit of a reporting approach that not so much harmonizes CRC reporting with other UN human rights treaties, as requested by the CRC Committee, but rather aligns the two child rights-related state reports (see Committee on the Rights of the Child, 2012, para 82 and Johnson, 2013, pp. 21 respectively).

It is important to note that the African children’s rights framework is stronger than the international framework in several important areas (for a more detailed comparison, see Johnson, 2013, pp. 5-12). It better safeguards children from harmful traditional and cultural practices, better establishes the child’s right to an education (especially the girl-child), prohibits underage marriage and the sexual exploitation of children, and more explicitly defines inter-country adoption as the ‘last resort’. It is stronger on the policy purposes of juvenile justice but weaker than the CRC in some associated provisions. Importantly, it adds a provision on the responsibilities of the child that focus on strengthening family cohesion, national solidarity and cultural values, and the promotion of African unity.

3.3.2 The African Youth Charter

The African Youth Charter is a similarly important instrument for children aged 15 years and over. It is the only human rights instrument to specifically provide for the right to participation (Article
3.4 Gender equity

All human rights treaties regard gender equity as a core right. Such provisions are primarily set down in the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and, for African states, complemented by the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (‘African Women’s Protocol’). These two instruments, taken together with the CRC and the ACRWC, constitute a powerful body of legal obligations by African state parties to the girl-child in particular.

In its concluding comments in 2007 on Namibia’s combined second and third periodic reports, the UN Committee on the Elimination of Discrimination against Women called for improvements in national statistics and monitoring, and accelerated efforts in measures towards women’s equality. It urged a review of the Traditional Authorities Act (2000) and the Community Courts Act (2003) to ensure that customs and traditional practices neither harm nor discriminate against women and girls. It called for improved measures to enforce laws on gender-based violence (GBV), improved knowledge on trafficking in women and girls, measures to better advance the return to school of girls after childbirth, and improved female access to sexual and reproductive health services. The Committee also advocated for a review of the Married Persons Equality Act (1996) in order to eliminate gender discrimination in customary marriage in property rights, and the means to ensure the registration of such marriages and compliance with the minimum 18 years of age for marriage. Finally, it requested Namibia’s submission of its combined 4th and 5th periodic reports in 2009 (Committee on the Elimination of Discrimination against Women, 2007).

In Namibia’s Universal Periodic Review (UPR) process at the HRC in 2011, concluding recommendations generally reflected these Committee comments, primarily in areas of combating GBV and in eliminating gender discriminatory provisions in traditional and customary practices, including marriage. At the UPR session, GRN advised of its support, inter alia, for ensuring women’s equal property rights in customary marriages and for formulating a national action plan to eliminate GBV (HRC, 2011a, paras 96-8). On property rights, UNDP has cited Namibia – along with Rwanda and Tanzania – as being ‘among [those] countries that have passed land reforms that include gender parity in ownership of communal land’ (UNDP, 2010, p. 77).

Since its 2010 ratification, Namibia is now a state party to the SADC Protocol on Gender and Development (2008), which requires that all member states ‘review, amend and or repeal all laws that discriminate on the grounds of sex or gender by 2015’ and adopt legislation that advances women’s equality (Article 6). Article 11 on the girl- and boy-child provides for measures to ensure gender equality between girls and boys. State parties are required to put in place national action plans to implement the Protocol and to report to SADC every two years on progress towards the Protocol’s provisions (Article 35).

African heads of state and governments adopted the AU Solemn Declaration on Gender Equality in Africa in 2004. This was a globally unique decision that committed member states to various time-bound initiatives towards gender equality within the context of existing commitments, and to reporting annually on progress (AU, 2004). Namibia lodged its first report in 2006 and its second report in 2009.

Periodic state reporting on the AU Women’s Protocol is in accordance with the provisions of the African Charter on Human and Peoples’ Rights, and is required every two years (Article 63). Namibia’s last report was submitted in 2009; it is currently preparing for the submission of its combined 2010, 2011 and 2012 reports. Matters related to the application and implementation of the Protocol are the mandate of the African Court on Human and Peoples’ Rights, which still requires full operationalization. As a general observation across many African countries, it has recently been said that:

> there is insufficient synergy between the office of the legal counsel, the ministry responsible for AU affairs and Parliament. Attempts to follow up on key documents and processes of ratification have proved particularly frustrating. This has been most notable in the case of the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Continental Advisory Research Team, 2010, p. 9).

Since 2010, the main international approach to monitoring national progress and comparative performance has been the UNDP Gender Inequality Index (GII). This replaced earlier measures and is consistent with the HDI. The GII includes measures of reproductive health and of women’s empowerment and labour force participation. In 2011, Namibia’s GII was 0.466, but by 2012, it had risen to 0.455, ranking the country 86 out of 148 countries.
it had risen to 0.455, ranking the country 86 out of 148 countries. This is comparatively better than its HDI ranking of 128 out of 187 countries and slightly below the 0.457 GII average value for all medium human development countries (UNDP, 2013, Table 4). Country values for the individual GII components are not provided in the Human Development Reports (HDRs), but it is useful to refer back to the HDR for 2009 that provided such data for life expectancy, educational attainment and income components of the Gender-related Development Index. While there were small differences between the first two, there was a visible inequity in the third, with estimates of $5,339 for males and $4,006 for females (UNDP, 2002, Table 3; 2007 USS purchasing power parity data).

The UN Economic Commission for Africa (ECA) developed the African Gender and Development Index (AGDI) as a means of measuring and promoting gender equality across the continent. It is a composite index combining measures of gender inequality (Gender Status Index) and of women’s empowerment and advancement (African women’s progress scorecard), and similarly aims to overcome qualitative and rights-based limitations in those earlier UNDP indices.2 When publication commences, it will include measures for Namibia and be considerably broader in its scope than the GII. Put simply, this means ‘different’ rather than a ‘better’ or ‘worse’ policy utility, provided that the meanings of, and differences between, each such measure are understood. Meanwhile, the ECA’s African Women’s Rights Observatory has ranked 53 African states according to their commitments to core women’s rights instruments, namely the ratification of CEDAW without reservations as well as its Protocol, ratification of the African Women’s Protocol, and reporting status to the AU Solemn Declaration on Gender Equality in Africa. Notably, it has named Namibia as one of only three African countries to be meeting treaty commitments, even though its CEDAW periodic report is overdue.3

Namibia can reasonably be deemed to have adopted strong measures in pursuit of both the reaping of women and the achievement of greater gender equality. It was one of the early adopters of a National Gender Policy (in 1997) and has recently substantially strengthened that strategic framework with the National Gender Policy (2010–2020), which is shaped by the National Constitution, Vision 2030 and the NDP and harmonized with the obligations and commitments of continental and international instruments on gender equality and women’s rights. The policy includes an objective on the girl-child, namely to promote and protect the rights of girls and eliminate discrimination against them in education and training, an institutional framework in which MGECW is the lead agency, supported by a National Permanent Gender Task Force and a Parliamentary Gender Caucus, and an M&E mechanism and implementation timeframe (MGECW, 2010a).

Even so, the measurement of gender equity progress in accordance with the MDGs needs to be treated with caution. In terms of the MDGs, the single ‘target’ for achieving gender equity is having an equal number of girls and boys in education, even though the associated indicators also include numbers of women in waged employment and Parliament. Namibia’s progress in these regards (see Table 2.1 and Table 2.2) remains an important but insufficient measure of national gender equality and of women’s progress. This is especially so as girls’ education does not necessarily lead to their equitable participation in national economic relations or the paid labour force. The following observation is as applicable to Namibia as it is to many other countries, especially in view of the national analysis of poverty and its impact on women:

The trickle of benefits from economic growth to those living in poverty has enabled the systemic barriers to sustainable poverty reduction to be largely left intact. For women, this is doubly disastrous, given the domestic and social spheres where power relations operate to their disadvantage: condition may improve, but position is largely left unchanged. . . . Of course, the education of girls, with particular emphasis on poor families and communities, is absolutely essential: essential in guaranteeing rights to all, essential in overcoming gender inequalities, essential in combating poverty, essential in optimising human development and wellbeing. . . . While the education of girls and women is necessary in improving the condition of women, it is not enough on its own to redress the inequitable position of women. The failure of the MDGs . . . may also emanate from a failure, yet again, to explicitly address the systemic barriers to gender equality, even for those states that are able to meet MDG targets. (Johnson, 2005, pp. 63-4)

3.5 UN Special Procedures

Complementary to the international human rights treaty-based system are the elements of the UN Charter-based system within the work of the Human Rights Council. This comprises the body of special rapporteurs and independent experts engaged on specific areas of human rights (‘special procedures’), supplemented within the work of the HRC by the Universal Periodic Review process and a complaints mechanism. The UPR process commenced in 2008 and is now the primary focus of country-based reviews on human rights outside the treaty-based process, with each UN member state submitting to a review every five years.

Namibia’s report to the HRC is a significant document, especially in providing a unified description of the national human rights situation. This includes coverage of the national legal and institutional framework, an overview of the treaty-based situation, and the status of specific areas of human rights (HRC, 2010).

Namibia’s situation was last reviewed in January 2011 and concluded with GRN responses to a large number of recommendations, either by indicating its support for, its agreement to further examine, or its opposition to those recommendations (the latter being confined to recommendations concerning Namibia’s criminalization of consensual adult same-sex relationships (HRC, 2011a, paras 96-9). Child-relief measures that were advanced and supported generally concerned actions to improve CRC compliance. GRN’s formal response to those remaining UPR recommendations was submitted to the HRC in May 2011; some aspects of that response are referred to earlier in this chapter.

Of considerable importance to the scope of this situational analysis are the outcomes of the October 2012 mission to Namibia by the Special Rapporteur on extreme poverty and human rights. This visit was carried out at the invitation of the Government as a consequence of its focus on measures to tackle poverty and inequality. In her preliminary statement at the conclusion of
As at February 2013, the Special Rapporteur was unavailable to conduct a country mission to Namibia in September 2012, but his mission report was submitted as of February 2013.

Her mission, the Special Rapporteur identified a number of ‘pressing issues without substantive budgetary implications’ the GRN should undertake. These were:

- the abolition of Health User Fees and the School Development Fund (SDF) scheme that, despite the waiver policy for low-income persons, continue to be levied arbitrarily and at the expense of health service provision and school access for many such persons, including children;
- the enactment of the Child Care and Protection Bill, accompanied by the provision of adequate financial and human resources for its implementation;
- prompt actions to prevent any recurrence of forced sterilization of women, the withdrawal of GRN’s appeal against the High Court’s decision on such a case by three affected women, and their fair compensation;
- the repeal of the provisions relating to the de facto criminalization of sex work in the Combating of Immoral Practices Act (1980) and all similar municipal regulations (UN Special Rapporteur, 2012);
- strengthening the national social protection system, including a universal child welfare grant.

The Special Rapporteur’s formal country mission report was published in June 2013.

3.6 Key observations and concluding comments

Namibia has established a sound constitutional and legislative foundation for ensuring the human rights of its people, especially of its children. The domestic situation under the international human rights treaty system and the accompanying continental system is more compliant for children than for other populations, notably concerning ratifications but also in reporting. Even so, this requires strengthening, and with more timely reporting and stronger legislative and administrative enforcement. Many areas of concern are discussed further in later chapters herein, but notable shortfalls are the need to ratify the CRC’s optional protocol on a communications procedure and to report on the other two CRC optional protocols, depending upon how the CRC Committee may subsequently view Namibia’s most recent CRC periodic report in this regard. GRN’s recent drafting of its ACRWC initial state report is a welcome step, and its follow-up actions to its commitments to the UN UPR process will considerably enhance the domestic human rights system.

There are a number of associated opportunities and priorities in improving the legislative and administrative enforcement. Most important is the enactment of the two core child rights and welfare Bills, duly aligned with human rights guarantees and with attention to the key observations and recommendations of the CRC Committee in 2012. The Committee noted the following main areas as being insufficiently implemented from the previous report in 1992: legislative reform, to address inconsistencies between customary laws and the CRC and the minimum age of marriage, divorce, inheritance; discrimination against girls and children with disabilities; child labour; and juvenile justice (Committee on the Rights of the Child, 2012, paras 9–10). These are, by their implication, key areas where Namibia may be deemed to have been most tardy in its efforts to better ensure CRC compliance. Progress would be strengthened by the establishment of a children’s rights division within the Ombudsman’s Office (as called for by the CRC Committee), a body that should clearly include economic and social rights mandates that are insufficiently covered under that Office’s present scope. The Child Care and Protection Bill provides for a Children’s Advocate to be located within the Ombudsman’s Office, with complaints-handling and monitoring roles and the capacity to bring judicial proceedings in the child’s best interests (see Part II of Chapter 3 of the 2012 version of the draft Bill).

There are two critical aspects of domestic law that require attention concern the relationship between domestic and international law. First is the question of the Constitutional capacity to override international law, not least in the absence of associated reservations to such treaty provisions. A 2010 review of the status of AU legal instruments made reference to the self-defeating attitude of many legislators and policy-makers who “hid behind” domestic legislation in order to avoid the responsibilities they had agreed to at continental level. It notes that to do so is a violation of Article 27 of the Vienna Convention – to which all African States are a party – which provides that a state ‘cannot plead provisions of its own law or deficiencies in that law’ to justify being in breach of a treaty obligation (Continental Advisory Research Team, 2010, p. 12). In laymen’s terms, civil servants and politicians cannot use the national constitution and domestic laws to evade obligations under international treaties that have come into force as a consequence of voluntary national ratification. Namibia’s arguments to the HRC in the recent UPR process appear to be unsustainable under international law and likely oblige GRN to lodging significant reservations to all human rights instruments that may in fact invalidate ratification.

Second is the need to address the extent to which customary law applies in serious offences that frequently carry adverse gender-based consequences contrary to the rights of women and girls that would otherwise be protected within the formal justice system. This is acknowledged as being a difficult issue to resolve, as is evident from discussion in Chapters 7 and 8. Whilst customary law often fails to ensure justice for the female victim of, for example, GBV or rape or in gender-just outcomes of domestic disputes, many such victims prefer the customary legal process (as distinct from outcome) because they do not want to go through the protracted hearings of the formal justice system’s, the invasive investigative process, and the absence of attention to restitution. As is noted in Chapter 7.4, customary law does provide some important opportunities in its use of restorative justice with young offenders. Nevertheless, it remains imperative that the gender discriminatory character of customary law be addressed, including a judicial demarcation that confines serious offences – especially those with gender dimensions – to the formal system. This must be accompanied by more focused reform to ensure improvements in investigative and judicial processes in their treatment of, and consequences for, female victims.

Shortfalls in action to improve human rights compliance have a particularly adverse impact on the girl-child and adolescent females. This is despite them having strong continental human rights provisions, especially in areas of healthcare, reproductive health, protection from harmful traditional and