

<b>Country</b>	<b>Namibia</b>
<b>SIGI 2019 Category</b>	<b>Low</b>
<b>SIGI Value 2019</b>	<b>27%</b>

<b>Discrimination in the family</b>		<b>33%</b>
	Legal framework on child marriage	50%
	Percentage of girls under 18 married	6%
	Legal framework on household responsibilities	50%
	Proportion of the population declaring that children will suffer if mothers are working outside home for a pay	-
	Female to male ratio of time spent on unpaid care work	-
	Legal framework on inheritance	25%
	Legal framework on divorce	25%

<b>Restricted physical integrity</b>		<b>13%</b>
	Legal framework on violence against women	25%
	Proportion of the female population justifying domestic violence	28%
	Prevalence of domestic violence against women (lifetime)	25%
	Sex ratio at birth (natural =105)	105
	Legal framework on reproductive rights	25%
	Female population with unmet needs for family planning	17%

<b>Restricted access to productive and financial resources</b>		<b>26%</b>
	Legal framework on working rights	75%
	Proportion of the population declaring this is not acceptable for a woman in their family to work outside home for a pay	12%
	Share of managers (male)	60%
	Legal framework on access to non-land assets	0.25
	Share of house owners (male)	57%
	Legal framework on access to land assets	25%
	Share of agricultural land holders (male)	-
	Legal framework on access to financial services	25%
	Share of account holders (male)	49%

<b>Restricted civil liberties</b>		<b>35%</b>
	Legal framework on civil rights	25%
	Legal framework on freedom of movement	75%
	Percentage of women in the total number of persons not feeling safe walking alone at night	72%
	Legal framework on political participation	25%
	Share of the population that believes men are better political leaders than women	-
	Percentage of male MP's	59%
	Legal framework on access to justice	25%
	Share of women declaring lack of confidence in the justice system	65%

Note: Higher values indicate higher inequality. Percentages range from 0 to 100, while legal variables are categorised as 0%, 25%, 50%, 75% or 100%. See data source [here](#).

Source: OECD (2019), Gender, Institutions and Development Database, <https://oe.cd/ds/GIDDB2019>.

## Namibia

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

The Constitution regulates marriage limiting it to those who have reached ‘full age’ and requires that marriage should only be entered into with the free and full consent of intending spouses (The Constitution of the Republic of Namibia, Article 14). It also provides that men and women have equal rights when entering into a marriage and at its dissolution (The Constitution of the Republic of Namibia, Article 14). Same-sex marriages and polygynous marriages are also prohibited (Legal Assistance Centre, 2016).

Forced marriage is prohibited in Namibia, as the Constitution requires that all marriages be entered into ‘with the free and full consent of intending spouses.’ (The Constitution of the Republic of Namibia, Article 14).

Part of obtaining this consent is the disclosure of a number of factors including whether either partner has problems that would affect their ability to have children or engage in sexual intimacy. If these are not disclosed the spouse may apply to the court to have the marriage annulled (Legal Assistance Centre, 2016). In addition, if a woman is pregnant by a man other than her intended spouse at the time of the marriage, she must disclose this, or the marriage can be annulled (Legal Assistance Centre, 2016). However, the law is silent on whether men must disclose whether any other sexual partners are pregnant with their children (Legal Assistance Centre, 2016).

Civil marriages in Namibia carry the expectation that the spouses will co-habit, and that they will have sexual intercourse with one another. These are considered ‘marital duties’, and cannot be avoided, even with the drafting of an ante-nuptial contract (Legal Assistance Centre, 2016). If one partner continually refuses to have sex with the other this is a potential grounds for divorce (Legal Assistance Centre, 2016). However, marital rape is prohibited.

Women are able to retain their own surname even after marriage. If she chooses to take her husband’s surname this does not require any formal registration, only the use of the surname following the marriage (Legal Assistance Centre, 2016, and CEDAW Committee, 2005).

The Married Persons Equality Act does away with marital power within marriages, however spousal consent is required for certain major decisions (The Married Persons Equality Act, Act 1 of 1996, Articles 6 and 7). The repeal of marital power means that husbands and wives now have equal power to enter into contracts, take out loans, bring or defend court cases, register land in their own names, administer money and property, and be a company director or trustee. Families are free to decide amongst themselves who the head of the household is.

In Namibia, civil marriage is permitted in community of property, out of community of property, and out of community of property with accrual (The Married Persons Equality Act, Article 4 – 15). However, customary marriages are not regulated in the same way and the clauses relating to the abolition of

marital power do not apply to customary marriages (The Married Persons Equality Act, Article 16). However, law reform around customary marriages has been proposed and the Customary Marriage Bill could address these issues (CEDAW, 2015). The 'norm' for the particular property regime remains dictated by former Apartheid land policies, though legislative reform is underway to standardise the property regimes of marriages (Legal Assistance Centre, 2016).

### **b) Child marriage**

The legal age of marriage for both men and women in Namibia is 18, although adults under 21 require permission from their parents or a legal guardian, or where this cannot be acquired, they require special permission from the high court (The Marriage Act 25 of 1961, Article 26). As of 2016 law reform is being considered to provide for procedures and regulations where parental consent cannot be obtained, or where parents are withholding consent (Legal Assistance Centre, 2016).

At present, a person who performs a child or underage marriage is liable to a fine of N\$50 000 or to imprisonment for a period not exceeding ten years, or both (The Child Care and Protection Act, 2015, Article 226). However, the 2011 census findings revealed that both girls and boys were subject to child marriage, with approximately 3 828 girls and 1 699 boys living in a traditional marriage or consensual union at the time of the census (Government of Namibia and UNICEF, 2015).

Child marriage has been linked to teen pregnancy and school drop out for girls in Namibia (National Gender Policy, 2010 – 2020, Page 16).

### **c) Household responsibilities**

According to the Married Persons Equality Act (Article 15) both spouses are responsible for the upkeep of the household, either equally if married in community of property, or according to their means if married out of community of property. However, the law provides women with equal rights as men to choose where to live (The Married Persons Equality Act, Article 12). Both spouses have a duty to maintain one another until one dies, or they divorce (Legal Assistance Centre, 2016).

The majority of married women in Namibia report that they make joint decisions with their husbands on all major household purchases, and whether they visit their family or relatives. The majority of women make their own decisions about their own health care, however for 11% of women these decisions are made exclusively by their husbands. However, the same is true for men, where 10% report decisions on health care are made exclusively by their wives (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). Employed women and educated women are more likely than others to make these decisions (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014).

### **d) Divorce**

The Namibian Constitution provides women and men the same rights upon marriage and at its dissolution (Article 14).

Namibia uses a fault-based system to manage divorce, and this legal system was inherited from South Africa when Namibia was a territory thereof. Divorce law reform, in the form of the Divorce Bill, is

currently being considered in Namibia however there are no timeframes for its consideration (CEDAW, 2015). Divorce is possible if one spouse has committed adultery, a spouse is responsible for malicious desertion, a spouse has been imprisoned for at least five years and declared to be a habitual criminal, or a spouse is suffering from insanity that is incurable and has lasted for at least seven years (Legal Assistance Centre, 2016). Malicious desertion covers situations where one person has physically deserted the other, constructive desertion where one spouse forces the other spouse to leave (e.g. via alcohol abuse, domestic violence, or emotional deprivation), sexual desertion where one spouses refuses to have sex with the other, or life imprisonment (Legal Assistance Centre, 2016).

Customary law relating to divorce is different for different ethnic groups within Namibia, and is not regulated in a standardised way (US Department of State, 2016). However, within traditional legal frameworks it is commonly easier for men to initiate divorce than women (Frank, 2015).

The National Gender Policy (2010 – 2020, P. 19) notes, “issues such as customary marriage and divorce... have not been sufficiently addressed as yet in the law or policy framework.” Amongst the strategies recommended in the policy is the reform of divorce law to ensure equal administration of property and land, and to remove out-dated grounds and procedures for divorce (The National Gender Policy 2010 - 2020, P. 43).

CEDAW (2015) notes that many women struggle to access legal aid in cases of divorce, and divorce requires both parties to engage their own lawyer. In addition, in some situations of customary divorce, women may be required to repay the *lobola* (bride price) and thus this can make it even more expensive for women to seek divorce (Frank, 2015). This may serve as an economic barrier to divorce for women in Namibia, many of whom do not have sufficient finances to begin or complete the process.

#### **e) Inheritance**

Inheritance of surviving spouses is dependent on the marital regime and whether the deceased spouse left a will or not. Where no will is left then the property is divided between the surviving spouse and the deceased’s children, including all children born outside of the marriage (Legal Assistance Centre, 2016). The Intestate Inheritance Bill is still in draft format and it is not clear when this Bill will become law (CEDAW, 2015)

If the marriage was in community of property the surviving spouse’s share of the joint estate is taken into account when the property is being divided. Where children are not yet old enough to inherit (i.e. under than 18) their share of the inheritance is maintained by the State Guardian’s Fund, and can be allocated for living expenses such as education (Legal Assistance Centre, 2016). Where the deceased has a written will, then the property is divided according to the will. However, if the marriage was in community of property the joint estate must first be divided, and the deceased’s will only applies to his share of the estate (Legal Assistance Centre, 2016).

The Constitution provides the right to all persons to bequeath their movable or immovable property to heirs (Article 16), and prohibits discrimination on the basis of sex, thus providing girls and boys with the same right to inherit both land and other property. The Constitution also provides for surviving spouses of State employees to inherit their pension (Article 33).

Inheritance of communal land is determined by the Communal Land Reform Act (2002), which secures the rights of widows to land inherited from their husband, even if they should choose to remarry (Government of Namibia, 2015b). This Act does not specify how inheritance should occur in polygynous marriages, which do occur in customary systems. However, the Constitution provides that customary law is only valid in so far as it does not conflict with other legislation (Article 66).

### *More*

There are no formal laws that exist to specially protect widows from harmful practices or property grabbing. According to Frank (2015), in some communities in Namibia widows are required to undergo 'cleansing ceremonies' following the death of their spouse, and this can include forced periods of isolation, washing with particular herbs, and a sexual cleansing ritual. This puts widows at risk of sexually transmitted diseases including HIV and can limit their participation in inheritance decisions.

The practice of widow inheritance was noted by the CEDAW Committee as a challenge (CEDAW, 2015). Widows may be forced into marrying the brother or a male relative of their deceased husband to ensure that the husband's family continues to maintain and control the property. Where women refuse, they can risk losing their homes or their children (Frank, 2015).

## **2. Restricted Physical integrity**

Namibia does not have an overarching law covering all gender-based violence, however the National Plan of Action to combat Gender-Based Violence 2012 – 2016 is comprehensive in providing strategies and tactics aimed at preventing gender-based violence and in improving the response to crimes when they are reported. Namibia has signed both the Maputo Protocol and the Southern African Development Community (SADC) Protocol on Gender and Development.

### **a) Violence against women**

There is no overarching legislation related to gender-based violence or violence against women in Namibia. However, the National Plan of Action to combat Gender-Based Violence (GBV) 2012 – 2016 provides strategies and targets for preventing and addressing violence. The two key goals of this Plan of Action on GBV are to reduce the incidence of GBV, and to improve responses to GBV (Namibia National Plan of Action to Combat Gender-Based Violence 2012 – 2016, P. 2). The plan has four pillars, namely: prevention; response to GBV; data collection and research; and coordination and monitoring.

The plan expired in 2016, and the envisioned outcomes were reduced GBV, improved services for survivors, increased understanding and awareness of GBV in Namibia, and more efficient monitoring and interventions (Namibia National Plan of Action to Combat Gender-Based Violence 2012 – 2016). The plan committed governments to developing budgets to improve services, and includes a request for Parliament to consider a dedicated budget for addressing gender-based violence. There are high levels of intimate partner violence in Namibia, including intimate femicide (CEDAW, 2015).

## b) Domestic violence

The Domestic Violence Act (Act 4 of 2003) prohibits domestic violence and makes provisions for protection orders and for the police protection of victims who are at risk of further violence or abuse (The Domestic Violence Act, Act 4 of 2003, Section 8 (6)). The Act defines domestic violence to include physical, sexual, psychological and emotional abuse, intimidation, harassment, entering the property without permission. It covers domestic relationships in a variety of forms, including former relationships up to a limit of two years (Ibid, Section 3 (2)). There is no minimum sentence specified for acts of domestic violence, and sentences range from fines to imprisonment (US Department of State, 2016).

Despite this legislation, the government reports that domestic violence has increased over the past decade (The Government of Namibia, 2015a). The 2013 Demographic and Health Survey (DHS) administered in Namibia included questions around domestic violence for the first time. The DHS found that one in three women reported experiencing physical violence during their lifetime, and that rural women are slightly more likely than urban women to have experienced such violence (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). In addition the DHS found that women with no education are more likely than women with some education to have experienced physical violence. Current and former spouses are the most common perpetrators of physical violence (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). A quarter of women surveyed reported experiencing emotional abuse from a current or former spouse (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014).

Domestic violence in Namibia has strong connections with substance and alcohol abuse (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). Where domestic violence includes sexual violence, it is also strongly connected to other physical violence and injuries (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). Despite the extremity and prevalence of violence, less than a quarter of women had sought help, and seeking help became less and less likely the older the women in the survey were (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). When domestic violence is reported specialised units (Gender-based violence protection units) are required to respond (US Department of State, 2016).

There is a reported significant shortage of shelters for victims of domestic violence with most being privately rather than publicly run (Immigration and Refugee Board of Canada, 2012), and few women are able to access specialised witness protection (CEDAW, 2015).

## c) Rape

Rape is prohibited in terms of the Combating of Rape Act (Act 8 of 2000), and is defined as an intentional sexual act under coercive circumstances. Marital rape is prohibited (The Combating of Rape Act (Act 8 of 2000)). The minimum sentence as prescribed in this act is five years imprisonment. Increased sentences are provided for where coercive circumstances exist, and where the rape causes the complainant grievous bodily or mental harm, where the convicted person is infected with a serious sexually transmitted disease that is known to them at the time of the rape, in the case of gang-rape, in the case of rape with a weapon, and where the perpetrator has previously been convicted of another serious offence. These increased sentences range from ten to forty-five years (The Combating

of Rape Act (Act 8 of 2000), Section 3). Marriage does not constitute a defence to rape (The Combating of Rape Act (Act 8 of 2000), Section 2 (3)).

As a response to the high levels of rape, government established Women and Child Protection Units at police stations to respond to reports of rape and other forms of violence. However, the National Plan of Action on Gender-Based Violence 2012 – 2016 notes that women frequently do not report rape because of family pressure, shame, and threats of further physical harm from the alleged perpetrator (National Plan of Action on Gender-Based Violence 2012 – 2016, P.10). In addition, many rape cases are withdrawn because of the preference to resolve these cases in cultural courts, and seek compensation (National Plan of Action on Gender-Based Violence 2012 – 2016, P.20).

The National Plan of Action on Gender-Based Violence 2012 – 2016 included a number of programmes to address high levels of violence, including providing support to sexual offences survivors, providing therapeutic programmes for abusers to reduce repeat offenders, strengthening legislative and policy measures, improving funding and information sharing, and improving services via training and information.

The 2013 Demographic and Health Survey (DHS) found that 7% of women had experienced sexual violence in their lifetime, and that urban women are slightly more likely than rural women to have experienced sexual violence (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). Increasing education is linked to decreasing experiences of sexual violence (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). Current and former spouses are the most common perpetrators of sexual violence, followed by strangers (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014).

However, the Committee on the Elimination of Discrimination Against Women (CEDAW) found that there were low prosecution rates in cases of sexual violence and rape, and that many women withdrew their cases against the perpetrators (CEDAW, 2015). At present there is no option for witness protection for witnesses in sexual offences cases, and this has been noted as a legal impediment to prosecuting rape cases (CEDAW, 2015)

#### **d) Sexual harassment**

There is no overarching law related to sexual harassment. Sexual harassment is prohibited in terms of labour legislation, and the code of conduct for teachers in Namibia, however there are no prescribed criminal penalties (The Labour Act (Act 11 of 2007), Section 5(7)). Harassment is also defined as a crime in the Combating of Domestic Violence Act (Act 4 of 2003). Sexual harassment in the workplace is grounds for constructive dismissal, should the victim of harassment choose to resign as a result of the harassment (The Labour Act (Act 11 of 2007), Section 9).

#### **e) Female genital mutilation**

Female genital mutilation is not addressed in Namibian law or policy, but there is little evidence that this practice exists in Namibia (UNICEF, 2013).

## f) Abortion

Abortion is illegal under Namibian law under the Abortion and Sterilisation Act of 1975, legislation that was inherited from South Africa when Namibia was a protectorate thereof.

Abortion is however legal in certain restrictive circumstances including when it risks the physical or mental health of the mother, where the foetus is inviable, or where the pregnancy occurred as a result of unlawful or illegitimate sexual intercourse (The Abortion and Sterilisation Act of 1975, Section 3). In all cases abortion must be approved by two medical practitioners, who themselves cannot perform the abortion. In addition, for rape to be grounds for an abortion the case must have been reported to the police (The Abortion and Sterilisation Act of 1975, Section 3).

Awareness of these exceptions is limited, and many Namibians oppose abortion and may place pressure on women to carry their children to term (HEARD, 2016). There are reports that many women in Namibia therefore seek illegal abortion, or, where they can afford it, travel to another country to access the services (Kenyon, 2014). In addition, the difficulty in accessing abortion services for many women has led to a challenge of baby dumping in some cities (CEDAW, 2015).

Contraceptive prevalence among Namibian women is around 50% and has only slightly increased since the mid-2000s (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014). The majority of contraception is accessed from a public health facility (The Ministry of Health and Social Services and the Namibia Statistics Agency, 2014).

Namibia introduced the Child Care Protection Act (Act 3 of 2015), which provides that despite any law to the contrary; a child over the age of 14 may consent to a surgical procedure being performed on him/herself (The Child Care Protection Act (Act 3 of 2015), Section 220). The World Health Organisation reports that a high percentage (76.%) of adolescent girls are using some form of contraceptive to prevent pregnancy. Condoms and the injectable contraceptive are the most commonly used contraceptive (World Health Organisation, 2016).

### *More*

The Child Care Protection Act (Act 3 of 2015) criminalises the trafficking of children, and those who provide venues (offices, or buildings) for trafficking to take place. A person who contravenes this is liable, on conviction, to a fine not exceeding N\$1 000 000 or to imprisonment for a period not exceeding 20 years or both, or imprisonment without the option of a fine (The Child care and Protection Act (Act 3 of 2015), Section 202).

There are reports that forced and coerced sterilisation take place in Namibia, particularly linked to HIV positive women. In 2012 three HIV positive women sued the Namibian government, alleging that they had been sterilised without their consent following the birth of their children. They won the case, however the state appealed. In late 2014, the Supreme Court of Namibia sided with the women, finding that the state had violated their reproductive health rights as contained in the Constitution (Chingore-Munazvo, 2014).

Between 1992 and 2011 the maternal mortality ratio almost tripled, and as a result since 2011 the Government has prioritised providing maternal health services (The Government of the Republic of Namibia, 2015b). Strategies have included increasing maternal healthcare services, distributing staff more equitably between urban and rural areas, information and awareness campaigns on health issues, and increasing access to anti-retroviral drugs. HIV and AIDs is one of the major factors contributing to maternal mortality in Namibia (The Government of the Republic of Namibia, 2015b).

In 2009 the Government introduced a policy around teenage pregnancy. The Education Sector Policy for the Prevention and Management of Learner Pregnancy (2009) includes a goal of promoting the continued education of pregnant learners, and promotes the equal treatment of male and female learners.

### **3. Restricted Access to productive and financial resources**

#### **a) Secure access to land and assets**

More people in Namibia live in rural than in urban areas as of 2014 (Namibian Statistics Agency, 2015).

When Namibia gained independence from South Africa, the 1991 Land Conference resolved that no Namibian person would have claim to ancestral land. However, in order to assist indigenous groups and disadvantaged Namibians, the Government purchased and continues to purchase land for resettlement (United Nations Human Rights Council, 2011). Nevertheless, persistent societal discrimination continues to exist that disadvantages women in the allocation of land, and in hindering women's access to land (either via inheritance or having access to credit to purchase land) (United Nations Human Rights Council, 2011). In 2002 the government of Namibia passed the Communal Land Reform Act (Act 5 of 2002) that covered the composition of duties of the Land Rights Boards, which deal with the control over, and the allocation of communal land. The Act provides that these 12-person boards must have at least four women representatives (The Communal Land Reform Act, Act 5 of 2002, Section 4). Where traditional leaders allocate land, it is supposed to be approved by a Land Rights Board.

Women's access to property and other non-land rights is governed by the marital contract. Most marriages in Namibia are full community of property (The World Bank, 2016). However, the Married Persons Equality Act (Act 1 of 1996) also provides for married women to have the right to make decisions regarding property within marriages, abolishing marital power and outlining the process for which decisions around major assets must be made within marriages in a gender-equal way.

Despite this legislative progress, discrimination against women in access to land and inheritance processes is common. This is most common in rural areas, where land continues to be allocated according to customary law (University of Wyoming Human Rights Clinic, 2015).

Legislation around divorce continues to be based on common law as inherited from South Africa. This legislation is fault-based and in many instances it is only the female spouse who can be found to have committed any of the faults required for a divorce. Because access to divorce is difficult, many couples

instead live separately without ending the marriage officially (University of Wyoming Human Rights Clinic, 2015). This can result in property disputes when one partner passes away.

During customary divorces the distribution of land and other assets is determined by the customary courts in place, and varies significantly across Namibia (University of Wyoming Human Rights Clinic, 2015). In many instances, large and valuable property and assets are allocated to the husband, whereas smaller and household assets are allocated to the wife (University of Wyoming Human Rights Clinic, 2015). The Communal Land Reform Act does not deal with the rights of a spouse to remain on the property in conditions of divorce.

### **b) Secure access to formal financial resources**

There are no legal limitations on women's access to bank accounts or credit, however banks and financial institutions are generally inaccessible for residents of rural areas, and women often lack the collateral to make applications for credit (University of Wyoming Human Rights Clinic, 2015). CEDAW (2015) also reported that few women had access to information about opportunities to access credit and that there was a need to publicise these more effectively. The Namibian National Gender Policy seeks to address this challenge through improving training for small-scale entrepreneurs, and reviewing legislation to ensure that it promotes women's access to credit.

### **c) Workplace rights**

Namibia has signed and ratified ILO Convention 100 on equal remuneration, and Convention 111 on Discrimination in Employment and Convention (ILO, 2017).

Namibian legislation prohibits discrimination on the grounds of sex, and sexual harassment is prohibited within workplace settings (The Labour Act, Act 11 of 2007). Discrimination is prohibited in all 'employment decisions' including access to employment, access to particular jobs, advertisements, training, recruitment and selection, appointments, promotions and transfers, and remuneration and conditions of employment (The Labour Act, Act 11 of 2007). The legislation provides for equal remuneration for equal work. Women are able to work the same night hours as men, unless the employer is aware that they are pregnant (The Labour Act (Act 11 of 2007), Section 19). A pregnant woman may not work the same night hours for eight weeks before or after her pregnancy (The Labour Act (Act 11 of 2007), Section 19).

Paid maternity leave is provided for by the Labour Act (Section 26) for a minimum of 12 weeks, paid entirely by the employer. There are no provisions for paternity or other parental leave. Women's positions are secured during maternity leave.

A recent study on women's participation in the Namibian labour force found that women's increased educational achievements had a strong connection with their likelihood of entering formal employment. Of women who were employed, most were employed in elementary occupations, skilled agriculture or fisheries, and shops or markets, or professional industries (Mufune, 2013). Almost all domestic workers in all households are females, and the real estate and property industry in Namibia is predominately feminised as well.

Between 2013 and 2014 there was a decrease in the number of employed women in the formal sector (Namibian Statistics Agency, 2015). Women are more likely than men in Namibia to be unemployed and the female labour absorption rate is lower than the male labour absorption rate (Namibian Statistics Agency, 2015). Monthly mean wages are lower for women than they are for men in all industries except agriculture, forestry and fisheries, real estate, administrative and support services, and private households (Namibian Statistics Agency, 2015). Where women were economically inactive, it was most commonly attributed to being a student, old age, or the fact that they were homemakers (Namibian Statistics Agency, 2015). Although there are no legislative barriers or cultural barriers to women pursuing particular professions, CEDAW (2015) notes that women do not routinely pursue engineering courses.

### *More*

Namibia achieved gender parity in both primary and secondary education, and had equal enrolment ratios in primary schools, and more girls than boys enrolled in secondary schools as of 2012 (Government of Namibia, 2015b). In addition, the Forum for African Women Educationalists, a partnership between Government and NGOS aims to integrate vulnerable children, including the San children, into basic education with particular emphasis on girls. This is supplemented by the Office of the Prime Minister's Special Programme for Marginalised Communities which also provides for children's needs whilst attending school including uniforms, toiletries, transport, and hostel and examination fees (Government of Namibia, 2015b).

## **4. Restricted Civil liberties**

The Constitution recognises multiple forms of discrimination and prohibits discrimination on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. The National Statistics Act provides that all official statistics must be sensitive to gender, and that gender statistics may be collected (The National Statistics Act, Act 9 of 2011).

### **a) Citizenship rights**

Citizenship rights are governed by both the Constitution and the Citizenship Act (Act 14 of 1990). Women, both married and unmarried, have the same rights as men in terms of acquiring and losing citizenship, and in transferring their citizenship to their children.

Women and men are equally able to register the birth of their child, and the state is required to adopt policies to promote legislative awareness. One challenge reported in the 2015 CEDAW report was that birth registration using the unmarried mother's surname, and the subsequent transfer of nationality is difficult when the father is not present and the mother is not a Namibian citizen. This can affect her ability to register her children as Namibian citizens. The Committee noted concern regarding the requirement that both parents be present at registration, because it often had the impact of delaying birth registration (CEDAW, 2015). However, according to the Ministry of Home Affairs, where the couple is not married only the mother's name is required (Office of the Prime Minister)

Despite this, birth registration rates in Namibia are around 98% (US Department of State, 2016), and late registration is allowed at no extra charge (Namibian Ministry of Home Affairs, Date not specified). In addition, the Ministry of Home Affairs and Immigration has partnered with UNICEF to increase birth registrations and the issuance of birth certificates through mobile registration vans and birth registration offices at high-volume hospitals (US Department of State, 2016).

The National Gender Policy (2010 – 2010) also provides for raising education and awareness of all legislation, including the law around birth registration.

The Constitution provides all Namibians with the right to move freely within the country, to live in any part of the country, and to leave and return to the country (The Constitution, Article 21). All Namibians have the same ability to apply for identity cards and passports, however married women must provide the marriage certificate to indicate any change in surnames, and divorced women must provide divorce certificates if they have reverted to their maiden names (Namibian Ministry of Home Affairs, 2015).

### **b) Voting**

All men and women have equal right to vote as soon as they are 18 and all citizens over 21 are able to run for office. The Constitution (Article 17) provides all Namibians with the right to participate in peaceful political activity and to join and form political parties.

The National Gender Policy (2010 – 2010) acknowledges the unequal participation in elections by women, and provides several strategies to improve women's political participation through voting including eliminating cultural practices which perpetuate gender inequality in power and decision making, educating women on all aspects of their lives to ensure that they are able to vote in an informed way and participate politically, encouraging and facilitating women's access to traditional leadership, and educating women on their right to vote and the importance of voting.

There are no reports in CEDAW or the Shadow reports of discriminatory practices in relation to the voting rights of women.

### **c) Political voice**

All Namibians over the age of 21 have the right to be elected to public office, including the legislature, executive and judiciary (The Constitution of the Republic of Namibia, Article 17). There are no quotas in place for women's representation in any branch or level of government, though the National Gender Policy includes a strategy to encourage such quotas (The National Gender Policy 2010 – 2020). In addition, it includes strategies encourage participation of rural women in decision-making roles in local and regional and national levels by addressing physical (i.e. geographical barriers), cultural and educational barriers. In addition, it provides for gender-sensitisation and skills development for women to improve their ability to play an active role in important decisions (The National Gender Policy 2010 – 2020). One challenge to women's equal representation in Namibia is the way that political parties are structured and a lack of transparency around how women can enter into political parties and can assess strategies to advance in parties when they do become members (Clayton,

2014). In addition, the fact that quotas are voluntary has limited their reach across political parties (CEDAW, 2015).

The Constitution provides the possibility of the State introducing legislation to address women's representation and equality (Article 95). Some political parties, including the ruling party, do have voluntary quotas. The National Gender Policy (2010 – 2020) provides for the establishment of a Parliamentary Gender Caucus (The National Gender Policy 2010 – 2020, Page 47) to raise awareness amongst both male and female parliamentarians on the importance of women's representation in Parliament, as well as broader gender issues.

Namibia has had a female Prime Minister and Deputy Prime Minister since 2015 (The Government of the Republic of Namibia, Office of the Prime Minister). Three of the President's five advisors are currently female (The Government of the Republic of Namibia, Office of the President).

#### **d) Access to justice**

Men and women have equal rights to sue and be sued, are equal before the law, and have the right to a fair trial (The Constitution of the Republic of Namibia, Article 10). Women's testimony carries equal weight in all civil and criminal proceedings (The Constitution of the Republic of Namibia, Article 10 and 12). The National Gender Policy includes strategies to improve access to justice and legal literacy and to increase the availability of legal aid to women who cannot afford legal representation. In addition, it includes strategies to demystify the law-making process by sharing awareness and information in the media and through educational material (The National Gender Policy 2010 – 2020).

There are no dedicated or specialised courts or tribunals for women's access to justice, though some magistrates' courts provided special courtrooms with one-way glass, and child-friendly waiting rooms to protect vulnerable witnesses from testifying in open court (US Department of State, 2016).

Namibian law recognises customary courts and practices only in so far as they are in line with the Constitution (The Constitution of the Republic of Namibia, Article 66). However, traditional authorities in some areas may not apply customary law in a gender-neutral way and many people are unaware that this therefore renders the interpretation of the law invalid (Joint Civil Society Submission to the second cycle Universal Periodic Review of Namibia, 2016). In addition, people who disagree with the finding of traditional courts are able to appeal through regular courts; however, there may not be sufficient legal literacy around this (Joint Civil Society Submission to the second cycle Universal Periodic Review of Namibia, 2016).

The National Gender Policy (2010 – 2010) commits the Ministry of Gender Equality and Child Welfare is responsible for establishing a permanent National Permanent Gender Task Force and regional structures with the same purpose. The National Permanent Gender Task Force was envisioned as an advisory and consultative body that comprises of key stakeholders in the government, academic institutions, development organisations, NGOs, faith groups, media houses, and civil society.

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