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### Совет по правам человека

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**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие**

### **Доклад Специального докладчика по вопросу о праве человека на безопасную питьевую воду и санитарию Катарины де Альбукерке**

Добавление

**Миссия в Намибию\***

#### *Резюме*

В настоящем докладе содержатся выводы и рекомендации Специального докладчика по вопросу о праве человека на безопасную питьевую воду и санитарию по результатам ее поездки в Республику Намибия 4–11 июля 2011 года.

Специальный докладчик начинает доклад с изложения правовых рамок права на воду и санитарию в Намибии. Затем она дает общую оценку осуществления права на воду и санитарию в стране, в том числе в отношении качества воды и загрязнения окружающей среды, санитарии и доступности. Далее она рассматривает конкретные вопросы, касающиеся сельских районов, неформальных поселений, горнодобывающей отрасли, неадекватной системы регулирования и бюджетных ассигнований. В заключительной части доклада она выносит рекомендации в адрес правительства Намибии.

\* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на языке представления.

## Annex

[English only]

### Report of the Special Rapporteur on the human right to safe drinking water and sanitation on her mission to Namibia (4–11 July 2011)

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## I. Introduction

1. From 4 to 11 July 2011, the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, undertook an official visit to the Republic of Namibia to assess the manner in which Namibia is realizing the human rights to water and sanitation. The Government exhibited excellent cooperation during the preparation stage and throughout the mission, as well as in the follow-up dialogue.

2. During the mission, the Special Rapporteur met with numerous Government entities. She was received by the Prime Minister of Namibia, and held meetings with the Ministry of Agriculture, Water and Forestry; the Ministry of Foreign Affairs; the Ministry of Regional, Local Government, Housing and Rural Development; the National Planning Commission; the Ministry of Justice; and the Ministry of Health and Social Services. She also met with NAM Water, a publicly held company responsible for supplying water in bulk to municipalities and industries, and with the Directorate of Rural Water Supply of the Ministry of Agriculture, Water and Forestry. Meetings were also held with the Ombudsman and members of Parliament. The City of Windhoek Municipality facilitated her visit to various informal settlements within the Katutura area of Windhoek, and the Ministry of Safety and Security arranged a visit to Windhoek Central Prison. In addition, the Special Rapporteur met with various civil society organizations, private investors, the United Nations Country Team and development partners. She also met with communities and individuals, including a group of women who have formed a savings group in Goreangab, and a community of Himba people in Epupa constituency in Kunene region. She had the opportunity to meet with regional and local authorities in Outapi and in Epupa, as well as traditional leaders in Epupa. She expresses her gratitude to everyone who shared their expertise and experience with her, in particular UNICEF Namibia for the support given before, during and after the mission.

3. Having achieved independence in 1990, Namibia is a young country which has made considerable progress in recovering from the wounds of apartheid and improving the standard of living in the country. This is evidenced, for instance, by the remarkable progress made to extend access to water to most in the country. In 1990, 64 per cent of the population had access to an improved water source, and by 2008, that percentage had risen to 92 per cent. The country is classified as a lower middle-income country, with a higher GDP per capita compared to other sub-Saharan African countries. However, poverty alleviation remains a significant challenge and the gap between rich and poor is one of the widest in the world. Between 1990 and 2005, GDP per capita in Namibia nearly doubled, but the proportion of people living on less than US\$1.25 per day remained virtually static at around 43 per cent.<sup>1</sup> Reportedly the wealthiest ten per cent of the population have consumption levels 50 times higher than the poorest ten per cent of the population. The unemployment rate in Namibia is over 50 per cent and this is an important feature of poverty in the country.<sup>2</sup> Access to water and sanitation is integrally linked to poverty, with those who are living in poverty being the least likely to enjoy access. Thus, improving access to water and sanitation in the country will require a holistic approach which also addresses broader deprivations.

<sup>1</sup> Department of Economic and Social Affairs, *Rethinking Poverty: Report on the World Social Situation 2010*, p. 22. Available at <http://www.un.org/esa/socdev/rwss/docs/2010/fullreport.pdf>.

<sup>2</sup> Namibia, Ministry of Labour and Social Welfare, *Namibia Labour Force Survey 2008* (Windhoek, 2010).

## II. Human rights framework in Namibia

4. Namibia has ratified the core human rights treaties which protect the rights to water and sanitation, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child. Furthermore, the 2006 Abuja Declaration, the 2008 Sharm El-Sheikh commitments and the 2008 eThekweni Declaration are among the recently adopted instruments acknowledging the critical role of sanitation for leading a dignified life. The Heads of State and Government of Africa and South America, meeting in Abuja in November 2006, recognized the right of their citizens to have access to clean and safe water and sanitation,<sup>3</sup> and to promote the realization of this right, the Heads of State and Government of the African Union, meeting in Sharm El-Sheikh in June 2008, made a commitment to significantly increase domestic financial resources for implementing water and sanitation development activities in their respective countries and the continent in general.<sup>4</sup> Further thereto, the ministers and Heads of delegations responsible for sanitation and hygiene in African countries, gathered for the AfricaSan+5 Conference in Durban, South Africa, in February 2008, pledged to establish specific public sector budget allocations for sanitation and hygiene programmes at a minimum of 0.5 per cent of GDP.<sup>5</sup>

5. The human rights to water and sanitation mean that everyone is entitled to water and sanitation that is available, accessible, affordable, acceptable and safe. These rights must be guaranteed in a non-discriminatory manner, and the State is obliged to take steps, to the maximum of available resources, to ensure enjoyment of these rights. While the rights to water and sanitation are not explicitly stated in the provisions of the Constitution of Namibia, they are understood to be protected under article 95 thereof, which states that “the State shall actively promote and maintain the welfare of the people by adopting, inter alia, policies aimed at [...] consistent planning to raise and maintain an acceptable level of nutrition and standard of living of the Namibian people and to improve public health.” Article 95 of the Constitution also provides for environmental protection; indeed Namibia is the first country in the world to include such a provision in its Constitution.

6. While the Special Rapporteur welcomes the Government’s recognition of the rights to water and sanitation, she notes that the rights under article 95 of the Constitution are not considered as justiciable. The ability to seek redress in a court of law, while often a last resort, is nonetheless a key component to ensuring economic, social and cultural rights, including the rights to water and sanitation. The Special Rapporteur further notes that, as a monist system, international treaties to which Namibia is a party are directly applicable in the country; as such the International Covenant on Economic, Social and Cultural Rights should be the relevant standard to be upheld in the country. The Special Rapporteur expresses her support to organizations seeking to use the courts to claim the rights to water and sanitation, but observed during the mission that there was an overall lack of awareness about economic, social and cultural rights. Training and awareness raising on these issues will be crucial for judges, prosecutors, students and others involved in the legal profession in order to precipitate an attitude shift towards the enforceability of these rights. Ratification of the Optional Protocol to the International Covenant on Economic, Social and

<sup>3</sup> Abuja Declaration adopted by the First Africa-South America Summit held in Abuja, Nigeria, 30 November 2006, para.18

<sup>4</sup> Sharm El-Sheikh Commitments for accelerating the achievement of water and sanitation goals in Africa adopted by the Assembly of the African Union held in Sharm El-Sheikh, Egypt, 30 June-1 July 2008, para. (i).

<sup>5</sup> The eThekweni Declaration adopted by the Second African Conference on Sanitation and Hygiene held in Durban, South Africa, 18-21 February 2008, para. 6.

Cultural Rights would also be an important action by the Government to express its commitment to upholding these rights.

7. The Ombudsman, established by the Constitution, has the power to investigate allegations of maladministration, human rights violations, environmental issues relating to the over-utilization of living resources, as well as corruption or misappropriation of public monies and property. Some issues related to water and sanitation would come under the Ombudsman's mandate to investigate environmental issues, while other water and sanitation-related issues might be covered by prohibition of discrimination or allegations of corruption and maladministration. Nevertheless, the Special Rapporteur is concerned that the mandate to investigate human rights violations only refers to rights contained in the Namibian Bill of Rights, which protects mostly civil and political rights, in addition to the rights to culture and to education. The Special Rapporteur regrets that economic, social and cultural rights are not more firmly enshrined in the mandate of the Ombudsman, for the Ombudsman has an important role to play in advocating for economic, social and cultural rights, as well as raising awareness about the indivisible and interrelated nature of all human rights. She observes that the Ombudsman is a proactive institution, enjoying "A" status accreditation by the International Coordination Committee of National Human Rights Institutions; she is confident that, with adequate resources, it will carry out its mandate towards the protection of all human rights.

### **III. Institutional and legal framework with respect to water and sanitation**

8. Responsibility for water supply and sanitation in Namibia falls to several ministries. The Ministry of Agriculture, Water and Forestry is responsible for supplying water and sanitation in rural areas; while the Ministry of Regional and Local Government has overall responsibility for providing water and sanitation in urban areas, with local authorities and regional councils actually carrying out the distribution. There is a policy of decentralization in Namibia, which envisages handing over responsibility for water and sanitation provision to regional councils. While the division between rural and urban provision seems straightforward, there is reportedly a lack of clarity as to which ministry – Agriculture, Water and Forestry or Regional and Local Government – is responsible for providing water and sanitation to unproclaimed settlements.<sup>6</sup>

9. In addition to providing water and sanitation services in rural areas, the Ministry of Agriculture, Water and Forestry coordinates water and sanitation policies nationwide. This Ministry is also expected to act as the regulator of water and sanitation issues. The Ministry of Health has competencies related to hygiene awareness and tracking the incidence of water-borne disease, particularly diarrhoea. The ministries of Land and Resettlement, Education, and Environment and Tourism also have competencies in the areas of water and sanitation.

10. Water supply and sanitation are important areas addressed in the Government's main policy documents, "Vision 2030" and the "Third National Development Plan." Vision 2030 is a critical reference point for policymaking in the country because it is intended as a framework for all of Government to be clear on "where we are today as a nation, where we want to be by 2030 and how to get there".<sup>7</sup> This vision forms the basis for the Third National Development Plan (NDP3), which outlines the steps that the Government intends

<sup>6</sup> Government of Namibia, *Capacity-Building Plan for Sanitation in Namibia*, August 2010, p. 28.

<sup>7</sup> Government of Namibia, *Vision 2030: Policy framework for long-term national development* (Windhoek, 2004), foreword.

to take to realize its vision. With regard to water and sanitation, Vision 2030 identifies improvement of access to water and sanitation as part of efforts to reduce poverty. The Third National Development Plan builds on this, and states its goals for the water and sanitation sectors respectively: “to ensure that potable water supplied to the people of Namibia is suitable for drinking purposes” (p. 207) and “adequate sanitation available to all” (p. 209). The vision and the concrete measures provided for in NDP3 are critical for setting the course towards improved access to water and sanitation, and better protection of these rights.

11. The main policy documents covering the areas of water supply and sanitation are the 2008 Water Supply and Sanitation Policy and the 2009 National Sanitation Strategy. One of the objectives of the Water Supply and Sanitation Policy is that “essential water supply and sanitation services should become available to all Namibians, and should be acceptable and accessible at a cost which is affordable to the country as a whole.” The policy emphasizes “equity” as an overarching principle, and specifically provides for community participation. It also explicitly prioritizes water for personal and domestic use, a requirement that fits into the human rights perspective. The policy provides for the establishment of a water regulator, which has not yet been created. Under the policy, responsibility for sanitation was transferred from the Ministry of Health to the Ministry of Agriculture, Water and Forestry – bringing overall responsibility for water and sanitation under the same ministry.

12. The National Sanitation Strategy is an exemplary policy document which provides a solid foundation for improving access to sanitation throughout the country. The mission of the sanitation sector is “to provide, with minimal impact on the environment, acceptable, affordable and sustainable sanitation services for urban and rural households.” The comprehensive approach of the strategy includes identification of themes and objectives, definition of performance indicators for achieving the objectives and guidelines for the allocation of responsibilities among Government ministries. It also outlines the required budget and emphasizes critical success factors. The Special Rapporteur noted considerable commitment to the sanitation strategy within the Ministry of Agriculture, Water and Forestry, and encourages the Government to ensure that implementation of this important strategy receives priority attention.

13. The principal legislation governing water use in Namibia is the Water Act (1956). Adopted well before the Constitution, the Water Act does not take into account the significant environmental protections provided for in the Constitution. In this situation, over-abstraction of water, especially in the context of Namibia’s water scarcity, is a serious concern which is not adequately regulated. Once enacted, the Water Resource Management Act, adopted in 2004, will replace the Water Act.

#### **IV. General information on water and sanitation**

14. Namibia is an arid country with two major deserts – the Kalahari and the Namib – accounting for 16 per cent of its territory; 92 per cent of the land area is defined as hyper-arid, arid or semi-arid.<sup>8</sup> Rainfall is variable and seasonal, and some 83 per cent of rainfall evaporates. Most of the water available in Namibia comes from groundwater (300 million m<sup>3</sup>/year); ephemeral streams account for 200 million m<sup>3</sup>/year; 189 million m<sup>3</sup>/year comes from perennial rivers, which are located near or on Namibia’s borders and subject to watercourse agreements with neighbouring countries; and an additional 10 million m<sup>3</sup>/year comes from unconventional sources, bringing the total amount of water available annually

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<sup>8</sup> FAO’s Information System on Water and Agriculture, Namibia. Available at [http://www.fao.org/nr/water/aquastat/countries\\_regions/namibia/index.stm](http://www.fao.org/nr/water/aquastat/countries_regions/namibia/index.stm).

to 699 million m<sup>3</sup>/year.<sup>9</sup> The population of Namibia is expected to grow by 66 per cent between 2011 and 2031, which will put added pressures on Namibia's scarce water resources. This rapid population growth, combined with the effects of climate change, point to the need for continued priority attention to water resource management. The Water Resource Management Act, which has been drafted but is not yet in force, has the potential to play a critical role in this regard, and the Special Rapporteur urges its proclamation.

15. In the context of this water scarcity reality, the Special Rapporteur acknowledges the Government's pioneering role in reclaiming and treating wastewater to the standard of drinking water. With the first reclamation plant established in 1968, water re-use and recycling will likely continue to be an important way for Namibia to augment its scarce water supply.

16. Although a vast country, Namibia only has a population of 2.2 million people, many of whom live in remote areas. Namibia's most recent Millennium Development Goal report indicates high rates of access to improved water sources in urban areas, at 97 per cent, while in rural areas, 80 per cent of the population have access to an improved water source. There are three main water supply systems in Namibia: (i) distribution by local authorities, although they reportedly face resource constraints; (ii) Namibia Water Corporation (NAM Water), a publicly held company, which delivers bulk water; and (iii) the Directorate of Water Supply and Sanitation within the Ministry of Agriculture, Water and Forestry which develops water infrastructure, including pipelines and boreholes, in rural areas as well as delivers water to public buildings. Water supply in Namibia is highly decentralized and founded on the principle of community-based management. With respect to boreholes, which are mostly located in rural areas, mechanisms such as water associations and water point committees aim to ensure community-involvement of both women and men in these decision-making bodies. Members of the committees are trained to make minor repairs, while the Directorate of Water Supply and Sanitation is responsible for handling major breakdowns.

17. The statistics with regard to improved sanitation facilities indicate that only 60 per cent of the urban population have access thereto, and 17 per cent of the rural population.<sup>10</sup> More than half of the population practices open defecation, and 1.4 million people, or 67 per cent of the population, do not have access to improved sanitation. The dispersed nature of the population has a serious impact on the ability of the Government to implement conventional solutions, such as networked supply. Monitoring water quality in this context is also complex. New technologies, especially sanitation technologies, will be important for Namibia, if the number of people having access to sanitation is to improve.

18. The health impact of lack of access to water and sanitation is already felt; indeed, some 23 per cent of children under the age of five die from diarrhoea in Namibia, while pneumonia accounts for 25 per cent of under-five deaths, and malnutrition for another 9 per cent. These conditions are related to the lack of access to sanitation and safe water, as well as poor hygiene practices; without considerable improvements in water, sanitation and hygiene, these health outcomes will not make progress. The situation is compounded by the fact that 24 per cent of health facilities in Namibia do not have a regular water supply, placing sick people who go to these facilities at further risk of acquiring additional diseases.

19. In Namibia, 12.7 per cent of the population between the ages of 15 and 49 are estimated to be HIV positive, and 18.8 per cent of pregnant women are HIV positive. In all, an estimated 178,000 people in Namibia are living with HIV and therefore have

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<sup>9</sup> Government of Namibia, *Third National Development Plan (NDP3)* (Windhoek, 2008), p. 121.

<sup>10</sup> WHO/UNICEF, *Progress on Sanitation and Drinking-water: 2010 Update*, p. 46. Available at [http://whqlibdoc.who.int/publications/2010/9789241563956\\_eng\\_full\\_text.pdf](http://whqlibdoc.who.int/publications/2010/9789241563956_eng_full_text.pdf).

compromised immune systems. Without clean water and sanitation they are more likely to become ill and develop opportunistic infections. A study shows that the majority of people living with HIV/AIDS have no or very limited access to adequate housing with access to safe drinking water and sanitation.<sup>11</sup> This is because people living with HIV/AIDS tend to enter a vicious cycle of losing incomes or jobs, losing access to adequate housing and treatment and an increased risk of sickness. When people living with HIV/AIDS get sick in Namibia, they often end up losing their jobs or incomes due to long absences from work and stigma. The Government does not have a policy to provide houses to people living with HIV/AIDS. Some Government officials explained that this is partly because the Government does not wish to expose people living with HIV/AIDS to stigma by identifying them. The Government should urgently develop a sustainable solution to ensure adequate housing with access to safe drinking water and sanitation for people living with HIV/AIDS.

20. Access to water and sanitation in schools is also crucial for ensuring the full realization of these rights. The Special Rapporteur was informed that more than 20 per cent of schools lack toilet facilities. In educational institutions where toilets are available, over 30 per cent do not have waterborne sanitation, and thus reportedly are unlikely to have water available for hand washing near the toilets.<sup>12</sup> Although basic hygiene awareness is included in the school curriculum, without facilities to practice such behaviour, school children are unlikely to fully benefit from the lessons. According to UNICEF, at the current rate of progress, Namibia will only have adequate toilet facilities for pupils in 100 per cent of schools in 2039.

21. The Special Rapporteur welcomed the opportunity to visit Windhoek Central Prison, and reiterates that all people are entitled to safe water and sanitation, including those held in custody. Windhoek Central Prison has 1,112 inmates, which reportedly exceeds the number that the facility should hold. The prison has been renovated and includes separate facilities for minimum, medium and maximum security prisoners. The Special Rapporteur visited different parts of the prison, including prisoners' cells located in different sections of the prison and subject to different security levels, and found everywhere to be generally clean and relatively spacious; the prisoners had access to toilets and showers, in conditions that ensured respect for their privacy and dignity. Even though soap was not visible on the washing basins, the Special Rapporteur was informed that each prisoner received a bar of soap on checking into the prison, which they kept in their respective cells

22. The Special Rapporteur, however, is concerned that the sanitation strategy does not prioritize prisons and detention facilities for earmarked funds allocated to construct improved sanitation facilities.

23. Access to water and sanitation in Namibia is further complicated by the reality of natural disasters, especially floods, which have caused extensive damage in the north of the country, where 60 per cent of the population live. Severe flooding has occurred every year in the recent past, normally between March and April. In 2008, the floods continued for five months in five regions in the north, displacing 65,000 people and indirectly affecting as many as 235,735 people;<sup>13</sup> while in 2009, 54,581 were displaced and some 700,000 people were affected in four regions in the north by the floods.<sup>14</sup> In 2010, flooding displaced 23,782 people and affected 110,000 people. More recently, in 2011, flooding in the

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<sup>11</sup> Legal Assistance Centre, *Realisation of the Right to Adequate Housing for People Living with HIV/AIDS in Namibia* (Windhoek, 2007).

<sup>12</sup> Response from the Ministry of Education to questions posed during the mission.

<sup>13</sup> Namibia Red Cross Society, *Newsletter*, October 2008. Available at [http://www.redcross.org.na/files/downloads/d90\\_Newsletter%20Sept%202008.pdf](http://www.redcross.org.na/files/downloads/d90_Newsletter%20Sept%202008.pdf).

<sup>14</sup> Namibia Red Cross Society, *Newsletter*, August 2009. Available at [http://www.redcross.org.na/files/downloads/952\\_RC\\_Newsletter\\_Aug\\_09.pdf](http://www.redcross.org.na/files/downloads/952_RC_Newsletter_Aug_09.pdf).



northern region caused 15,777 people to be relocated to camps and ultimately affected 228,482 people.<sup>15</sup> The fact that the northern regions have been hit by serious floods year after year has an impact on their ability to rehabilitate and reconstruct essential infrastructure. During all the latest floods, sanitation was identified as a priority need. In 2008 and 2009, cholera outbreaks were reported due to inadequate sanitation, and in 2011, reports indicated that pit latrines and sewage facilities were leaking into the flood water and contaminating the drinking water, resulting in a high risk of waterborne disease, including cholera. Fortunately, no cases of cholera were reported in 2011, which is an important achievement for Namibia's emergency response.

## V. Water quality and pollution

24. Namibia's Vision 2030 recognizes that the country is extremely vulnerable to the effects of water pollution – mainly because of its limited supply of surface water and high dependency on groundwater sources. However, the framework in place to ensure water quality and prevent pollution is reportedly weak.

25. Ensuring that water is safe for human consumption is a fundamental part of guaranteeing the right to water. In this regard, water quality in Namibia is verified through different methods. NAM Water monitors the quality of the water it provides and assures that it delivers safe water. The Directorate of Water Supply and Sanitation also checks water quality when it sinks new boreholes. However, there appears to be little ongoing monitoring of water quality at the local level. Although water delivered to municipalities by NAM Water may meet quality standards, little is known about whether the water quality deteriorates in storage or through the local distribution networks. Similarly with boreholes, these do not appear to be subject to periodic testing, although groundwater quality can change over time due to pollution and/or over-abstraction.

26. The Special Rapporteur was informed that anyone can ask for a test of the quality of their water. There are laboratories for checking water quality, but these are all based in Windhoek. Thus, those who have concerns about the quality of their water may face challenges in getting it tested. In particular, samples for biological testing may not make it to the laboratory in a timely manner for accurate tests to be undertaken.<sup>16</sup>

## VI. Sanitation

27. As mentioned above, with about two-thirds of the population lacking access to improved sanitation and more than half practising open defecation, the situation of access to sanitation in Namibia is dire. Until relatively recently, the issue of sanitation received little attention or resources. However, there has been an important shift in this regard with the adoption of the National Sanitation Strategy in 2009.

28. The strategy is based on a situational analysis which indicated that 67 per cent of Namibians did not have access to improved sanitation; it highlighted some of the main challenges in the sector, including lack of coordination, lack of knowledge about sanitation, lack of beneficiary involvement, varied tariff structures and subsidy schemes, failure to include hygiene promotion in sanitation projects, and insufficient enforcement of regulations and national standards. The strategy aims to address these challenges under six

<sup>15</sup> United Nations Office of the Resident Coordinator, "Namibia Floods: Situation Report #4," 13 April 2011.

<sup>16</sup> Laura Ashipala-Namene, Ministry of Agriculture, Water and Forestry, "Water quality challenges in Namibia," March 2011, p. 7.

strategic themes: (i) sector coordination; (ii) institutional capacity building; (iii) community education and participation in hygiene and sanitation; (iv) construction of sanitation systems; (v) operation, maintenance, performance management and enforcement; and (vi) socio-economic-environmental outputs and outcomes. At this stage, much attention is being devoted to sector coordination and capacity-building as the foundations for further implementation of the plan.

29. Concerning coordination, a sanitation stakeholder forum has been established; as at the time of the mission, it had met twice and had plans to meet on a quarterly basis. This forum will be a critical mechanism for enhanced coordination in the area of sanitation and effective implementation of the sanitation strategy. Unfortunately, early reports indicate that not all stakeholders have been engaging in a meaningful manner with the forum. It is critical that representatives of all concerned ministries be active participants in the discussions of the sanitation forum so as to ensure a coordinated and unified approach. Without a coordinated approach, there is considerable risk that resources will be utilized ineffectively, duplicative initiatives will be undertaken and the current sanitation crisis in Namibia will continue unabated. For example, the Special Rapporteur was informed that the Ministry of Regional and Local Government continued to independently construct shared toilet facilities despite the fact that the sanitation strategy promotes the principle of one toilet per household.

30. The sanitation strategy notes the importance of capacity-building for implementing the vision. Strengthening capacity to implement and maintain sanitation solutions is a fundamental part of ensuring sustainability and reaping the benefits of improved sanitation. The Capacity-Building Plan for Sanitation reveals that there are only about 1,000 professionals working in the sanitation sector, compared with 3,000 working in the water sector.<sup>17</sup> This is undoubtedly a result of the significant attention devoted to water in the past 20 years, resulting in more trained professionals in that area. Building capacity in the area of sanitation will require intense training related to technology, as well as social mobilization methodologies and awareness-raising for professionals at the local, regional and central levels. The Special Rapporteur was pleased to learn that initial efforts are underway to build capacity to implement the community-led Total Sanitation approach, which places particular emphasis on awareness-raising and hygiene promotion. The vision of the sanitation strategy is highly dependent on successful scaling up of these capacity-building efforts.

31. The strategy also emphasizes the importance of consultation and beneficiary involvement in implementing sanitation solutions. The Special Rapporteur learned of cases in which initiatives to provide sanitation have been recently implemented but without due regard for the importance of beneficiary involvement. Public toilets have been built and then not maintained, and thus, not used. There was also reportedly a lack of attention, in some cases, to awareness-raising in local communities, whose populations continue to defecate in the open because they have not sufficiently understood the benefits of using improved sanitation. These cases were of concern to the Special Rapporteur, as building toilets without investing time and energy to ensure they are used does not help Namibia to address its serious sanitation problems, nor does it improve peoples' lives. She was encouraged to hear that the Government is aware of these past mistakes and that relevant ministries seem prepared to learn from them as they embark on future sanitation projects.

32. Another critical area for awareness-raising efforts is hygiene education, in particular in relation to hand washing. According to a survey carried out by UNICEF in 2010, of the 600 school children surveyed, over 75 per cent reported that they do not wash their hands after going to the toilet. In another survey carried out in the north by the Red Cross Society,

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<sup>17</sup> Government of Namibia, *Capacity-Building Plan for Sanitation in Namibia*, August 2010, p. 30.

369 households were questioned about their hygiene practices; 80 per cent reported that they do not wash their hands after using the toilet. While these surveys are not representative of the entire country, the findings raise serious concerns about the extent of hygiene awareness in Namibia. The Special Rapporteur also visited a school which has a separate building housing sex-segregated toilets, which are apparently accessible by persons with disabilities; however, none of the wash basins had a water connection, which made hand washing after using the toilet virtually impossible. The Special Rapporteur notes the need for more hygiene promotion activities to ensure that Namibians reap the full benefits of improved sanitation. Health extension workers will have an important role to play in working with communities, in close coordination with local authorities, to promote the benefits of safe sanitation, but also multiply those benefits by promoting good hand-washing behaviour.

33. In rural and deprived urban areas, putting in place waterborne sanitation is not always an ideal solution. Firstly, Namibia's arid climate means that water scarcity is a considerable issue to be taken into account, not only now, but – given the predictable population growth – also in the future. Waterborne sanitation uses precious water resources, which, in the absence of effective reuse and reclamation systems, cannot be replenished. In addition, many people in Namibia, particularly those living in deprived urban areas and in rural areas, cannot afford water; installing flush toilets will increase the water bills of these households considerably. In this context, a group of poor women heads of household in Windhoek told the Special Rapporteur, “the water bills are killing us,” given the high price they must pay for water in order to be able to use flush toilets. The Special Rapporteur was informed that in some cases where waterborne sanitation is available, people still go to the bush because they do not want to or cannot afford to pay for the water used by the toilet.

34. These realities point to convincing arguments for adopting dry sanitation options to address the sanitation crisis in the country. The Special Rapporteur visited some projects which implemented dry sanitation solutions in informal settlements. In the Havana area of Katutura, a pilot project using dry sanitation (Otji toilets) has constructed one toilet per household. Previously, one toilet was allocated to several households, but this led to the containers filling up too quickly, and thus the project was changed. The City of Windhoek Municipality commits to emptying the containers once they are full, and the cost of this is included in the rental price of the land. Projects such as this could be scaled up so that more people living in informal settlements have access to safe sanitation.

35. The Special Rapporteur visited the Clay House Project in Otjiwarongo, where the Otji toilet was designed and is manufactured. The Otji toilet is a dry sanitation technology which uses urine diversion and dehydration to dispose of human waste. Once the collection container under the toilet is full of waste, it is moved to the drying area accessible via a black metal plate that is heated by the sun and with sun-activated ventilation. The dried waste can then be reused as fertilizer. The Otji toilet is made almost entirely of local materials (except for the toilet bowl), and makes optimal use of Namibia's natural climatic conditions, especially its abundant sunlight, to aid in the process of drying the waste. It is being used in informal settlements in Omaruru and Windhoek, and has thus far been considered a successful technology in the Namibian context.

36. However, there is much debate about dry versus wet sanitation with many disagreeing that dry sanitation is the future for Namibia. The Special Rapporteur observed the attitude that waterborne sanitation is for the affluent, and dry sanitation is for lower-income groups. As such, people from low-income groups often do not want dry sanitation solutions, considering them to be “second-class” solutions. Some politicians and influential people have exacerbated the debate by insisting that waterborne sanitation be the standard for everyone. The Special Rapporteur considers that waterborne sanitation may not be a sustainable choice for a country like Namibia with the constraints mentioned above. Dry

sanitation technologies are increasingly sophisticated and should be considered appropriate in all places – including Government buildings, hospitals, schools and other public places. The merits of dry sanitation should be highlighted as a viable solution for the entire country, rather than as a “temporary” solution for informal settlements or rural areas, so as to end the perception that dry sanitation represents lesser technology. Politicians, opinion leaders and others with influence could lead the way by installing dry sanitation for their own use and encouraging its use across the country.

37. Furthermore, the Government should undertake greater efforts to raise awareness among the population about the long-term costs of waterborne sanitation – not only in terms of the average water bill for a family using waterborne sanitation, but also in terms of the overall environmental costs for a water-scarce country.

## **VII. Affordability**

38. The Water Supply and Sanitation Policy places heavy emphasis on the importance of cost recovery principles. It states that “the basic premise of cost recovery is that water is an economic good with a social responsibility to make water available to the poor.” The Special Rapporteur agrees that paying for water is critical for the sustainability of safe and regular water provision. The policy sets out certain key principles aimed at guiding the determination of tariffs in the water sector. These include a ring-fencing provision which stipulates that money generated through water and sanitation tariffs “should not be used to subsidize water to any other economic activity,” and a pricing provision stating that water for industrial, commercial and mining uses should be priced at the full cost-recovery rate, which includes taking into account considerations of water scarcity and future water availability. More importantly, from a human rights perspective, the policy calls for a transparent system of subsidies for those who are unable to afford the tariffs; however, this has not yet been established. Many regional councils claim that it is very difficult, if not impossible, to ring-fence the revenue generated through water and sanitation tariffs in the absence of guaranteed financial subsidy assistance from the central Government, because often, the majority of the regional council’s customers are poor and unemployed and cannot afford water and sanitation services. In rural areas, water point committees are responsible for setting the tariff; often the members of a particular community will arrange cross subsidies among themselves when they know that a certain household is unable to afford to pay for water provision. Households that do not have money to pay often contribute in other ways, such as by maintaining the water point or other in-kind contributions.

39. In urban areas where households are connected to the water network, they pay the water tariff directly to the local supplier. NAM Water is the bulk water supplier to municipalities and therefore sells water to most urban areas in Namibia. Municipalities are then generally responsible for collecting tariffs from water users, which are used to cover the cost of the water from NAM Water, as well as costs incurred by the municipality. If a municipality does not pay NAM Water for the water supplied, situations have arisen where NAM Water has disconnected water supply to the municipality. NAM Water explained to the Special Rapporteur that the ability to disconnect water supply to municipalities is important so as to prevent those in charge from abusing power and keeping the water tariff revenues for themselves rather than paying the municipality’s water bills. Such cases are reported in the media so that the population usually becomes aware of the problem and pressures the municipality to pay. For example, NAM Water disconnected the water supply to Tses village for three days in December 2011 because the Village Council had not settled an outstanding bill of N\$2.8 million.

40. As mentioned above, the subsidy scheme to assist people who cannot afford to pay for water has not yet been established. The Special Rapporteur heard many complaints,

especially in urban areas, about the cost of water. In Windhoek, a rising block tariff structure has been adopted: the first tier of six cubic metres of water costs N\$7.13/m<sup>3</sup>; the second tier of six to 45 cubic metres during normal periods, and six to 36 cubic metres during times of water scarcity costs the full cost-recovery price of N\$12/m<sup>3</sup>; beyond 45 or 36 cubic metres, depending on the water-scarcity level, users are billed N\$22/m<sup>3</sup>.

41. According to this tariff structure, the base price is available to households which use up to 200 litres (0.2 m<sup>3</sup>) per day at a cost of about N\$43 per month. The tariff is reportedly calculated using a lifeline supply of about 33 litres per person per day. However, according to World Health Organization estimates, to live a life in dignity, people require more than the lifeline supply, for instance, at least 50 litres per day, for consumption and hygiene needs.<sup>18</sup> With that in mind, 200 litres per day at the basic rate would suffice for a household of four people. Considering the international guideline whereby a household's water bill should be between three and five per cent of household income, such household would have to be earning more than N\$860 per month.

42. The unemployment rate in Namibia is over 50 per cent, and many households may comprise more than four people. These facts suggest that many households in Windhoek are struggling to afford water, a situation which is reportedly similar in other urban areas of the country.<sup>19</sup> The Special Rapporteur was informed that in Windhoek, water supply is disconnected from as many as 280 households per day. She was informed of some of the challenges faced by the Government to implement a subsidy scheme for water and sanitation. She is pleased that the Government is studying options in this regard, and observes that a solution is urgently needed to alleviate the high cost of water for households who cannot afford it.

43. Furthermore, in certain circumstances, poor people are charged at higher rates than they should be. For instance, the Special Rapporteur visited a community in Goreangab, Katutura, where the women had saved money in order to buy a plot of land which they divided between 74 households. The water services provided by the municipality reach up to their property line only. Since their water consumption is measured as a group, they are billed at a flat rate corresponding to the full cost-recovery rate of the rising block tariff structure (that is N\$12/m<sup>3</sup>). Although the women clearly constitute a low-income group and do not consume a lot of water, they pay more than the basic rate, which puts a strain on their ability to afford other basic necessities. The Special Rapporteur received information about numerous other situations where low-income households seem to be paying too much for water.

44. The Special Rapporteur was also informed that due to the absence of guaranteed subsidies for water and sanitation from the central Government, local authorities do not adopt a lifeline or social tariff, and therefore find it difficult, if not impossible, to provide assistance to poor and vulnerable residents in their jurisdictions in order to make their access to water and sanitation affordable.

<sup>18</sup> World Health Organization, "Domestic water quality, service level and health," 2003 (WHO/SDE/WSH/03.02). Available at [http://www.who.int/water\\_sanitation\\_health/diseases/WSH03.02.pdf](http://www.who.int/water_sanitation_health/diseases/WSH03.02.pdf).

<sup>19</sup> In Gobabis, Omaheke region, for instance, a household of five persons spends 16 per cent, on average, of their monthly income on water and sanitation (see Namibia Household Income and Expenditure Survey 2003/2004; and National Planning Commission, Omaheke regional poverty profile (Namibia, 2006).

## VIII. Rural areas

45. Approximately two thirds of Namibia's population live in rural areas, predominantly in the northern regions of the country and the incidence of poverty is much higher in rural than in urban areas at 38.2 per cent and 12 per cent, respectively.

46. For some Namibians, collecting water can take a considerable amount of time. In rural areas, more than seven per cent of the population travel more than one kilometre to get water, and this percentage can reach as high as 15.4 per cent in the dry season. In some regions, there are considerably higher numbers of people travelling such distances: in Kavango, for instance, more than 18 per cent of the population must travel more than one kilometre to get water in the rainy and in the dry season. More than 15 per cent of the population in Kunene, Ohangwena, Omusati, and Oshikoto travel over a kilometre to collect water in the dry season.<sup>20</sup> Poor households suffer disproportionately from these distances and face greater challenges transporting water back to their households because they are less likely to have access to a means of transport besides walking. In this context, poor households are likely to turn to unsafe water sources which are closer to their homes.<sup>21</sup>

47. Responsibility for collecting water falls mostly on women (37.4 per cent) and girls (6.7 per cent) in rural areas,<sup>22</sup> while 2.6 per cent of boys (under the age of 15) and 13.6 per cent of adult males (over the age of 15) are also reported to be involved in water collection tasks. These household chores have an impact on children's ability to attend school, since the time it takes to collect water can be several hours. The heavy containers that children have to carry can also pose a risk to their health.<sup>23</sup> For adults as well, travelling long distances to collect water impacts their ability to engage in other productive activities for the household.

48. The Special Rapporteur met with a community of Himba people in Epupa. They reported that they walk two hours to reach the water point. Since it is far, they also rely on a water source close to their village, which contains visibly dirty water and is also used by animals. They also have no access to sanitation and practise open defecation. They reported that they had seen some public toilets but since they were dirty, they prefer the bush. They also explained that normally they do not wash their hands after defecating because the water point is far from the place where they defecate. They however admitted that this is slowly changing with awareness-raising efforts by the Government. Unsafe water and lack of access to sanitation combined with inadequate hygiene leaves this community, and other similar communities, vulnerable to disease. Furthermore, when they get sick, since the nearest hospital is very far away and they reportedly have to wait a long time before being seen, they normally do not seek treatment for the diseases.

49. The communities in rural areas are tasked with making small repairs to their water and sanitation facilities. However, in her meetings with organizations working on rural water supply and sanitation, the availability of spare parts was cited as a major challenge. Installing water and sanitation infrastructure without ensuring that spare parts are available to the community to make repairs can lead to disuse of the facilities. Indeed, this reflects a

<sup>20</sup> Namibia, Ministry of Health and Social Services, *Namibia Demographic and Health Survey 2006-2007* (Namibia, 2008), p. 17. Available at <http://www.measuredhs.com/pubs/pdf/FR204/FR204c.pdf>.

<sup>21</sup> UNICEF, *Children and Adolescents in Namibia: A situation analysis* (Namibia, 2010), p. 37. Available at [http://www.unicef.org/sitan/files/SitAn\\_Namibia\\_2010.pdf](http://www.unicef.org/sitan/files/SitAn_Namibia_2010.pdf).

<sup>22</sup> Namibia, Ministry of Health and Social Services, *Namibia Demographic and Health Survey 2006-07* (although it should be noted that adult women in this context refers to those over the age of 15, and girls under the age of 15, which is not in accordance with international standards defining the child as being under the age of 18 (art. 1, Convention on the Rights of the Child)).

<sup>23</sup> UNICEF, *Children and Adolescents in Namibia*, p. 45.

wider trend in Africa where, at any moment, up to 30 per cent of hand pumps are not functioning, often because of the lack of spare parts.<sup>24</sup>

## IX. Informal settlements

50. Namibia is experiencing rapid urbanization and it is estimated that 75 per cent of its population will be living in urban areas by 2030. Lacking the funds or assets to buy a plot of land or acquire a loan to purchase land, a growing number of people live in informal settlements where they lack secure tenure. The Katutura area in northern Windhoek, where several informal urban settlements are located, is reportedly growing at a rate of more than nine per cent annually.<sup>25</sup> A survey of informal settlements in Namibia has estimated that as much as a quarter of the entire Namibian population live in informal settlements.<sup>26</sup>

51. The Special Rapporteur visited informal settlements in Windhoek, especially in the Katutura area, as well as in the north in Outapi. In Windhoek, she had extensive discussions with representatives of the City of Windhoek Municipality about their success in upgrading some informal settlements, including ensuring access to water and sanitation. The municipality representatives noted key challenges such as inability to keep pace with the rate of urbanization, lack of free land and resources, and informal settlements established outside the drainage area (meaning dry sanitation would be required, although this technology is currently not a favoured choice by decision-makers as explained above). The Special Rapporteur was impressed by the efforts of the municipality, as well as the emphasis on engagement with and participation of the communities concerned. The municipality's efforts will need to be maintained and strengthened if the challenges related to informal settlements in Windhoek are to be addressed. Windhoek's successful programmes should be shared with other urban centres where the population living in informal settlements without access to services is also growing.

52. Access to sanitation is particularly limited in informal settlements; in a 2009 study, half of all households reported that they have no access to a toilet.<sup>27</sup> The numbers may be higher now given the rapid pace of urbanization. The high population density in these areas makes open defecation a more severe public health threat than in rural areas where people are more spread out. The closer proximity of people also has implications on the privacy and dignity of people who have no option but to go to the bush when nature calls.

53. In a recent survey conducted by Shack Dwellers Federation of Namibia, people living in informal settlements prioritized toilets as a key development need – those with the lowest income prioritizing it more than their wealthier neighbours.<sup>28</sup> In these areas, a commonly proposed solution is public or communal toilets. The survey concluded that sanitation solutions involving communal toilets require the full participation of residents if they are to be successful – something that has not always happened. This engagement is key to ensuring that those using the toilets are investing in their upkeep. The survey also found that latrines which were built by local authorities without participation by the

<sup>24</sup> Anthony Oyo, *Spare part supplies for handpumps in Africa*, Water and Sanitation Program (WSP)/World Bank (Washington, D.C., October 2006). Available at <http://www.rwsn.ch/documentation/skatdocumentation.2007-06-04.2775193546/file>.

<sup>25</sup> UNICEF, *Children and Adolescents in Namibia*, p. 30.

<sup>26</sup> Community Land Information Program (CLIP), *Profile of Informal Settlements in Namibia* (Namibia, March 2009), p. 8. Available at [http://www.sdinet.org/media/upload/countries/documents/NAMclip\\_.pdf](http://www.sdinet.org/media/upload/countries/documents/NAMclip_.pdf).

<sup>27</sup> *Ibid.*, p. 9

<sup>28</sup> *Ibid.*

community were more likely to be vandalized. The research suggests that shared latrines between specific households, who are also responsible for maintaining the toilets, are more sustainable than public toilets that are open to everyone.<sup>29</sup>

54. Concerning access to water in informal settlements, while most people appear to have access, affordability remains a problem, as mentioned above. The Special Rapporteur also visited some informal settlements where pre-paid meters have been installed to ensure access to water for these communities. She also received written information about the use of pre-paid meters in other areas of the country. While pre-paid meters are not contrary to human rights per se, safeguards need to be in place to at least ensure that everyone has access to minimum amounts of water to protect their health. In Outapi, the Special Rapporteur was informed that the system of pre-paid meters has not worked well and the company which had provided the solution had gone bankrupt. A new system, linked to the Internet, has been implemented, but reportedly, when electricity goes off, there are problems accessing water through these meters.

55. Information received by the Special Rapporteur also indicates that the use of pre-paid meters can also have significant cost implications for people using those water points. The card itself could be costly. In one case reported to the Special Rapporteur, the card was initially given free-of-charge to households, but if it is lost, the household must pay N\$180 to replace it. In addition, there may be a requirement to purchase a minimum amount of credit in order to use the card. For example, in one instance, users are required to buy at least N\$10 worth of credit in order to have access to water, and many families do not have as much as N\$10 on hand. People also have to purchase jugs or containers to carry the water from the water point to their homes, which is another added cost that many cannot afford, so they use less hygienic options such as buckets. Given all of these costs, there is reportedly a lack of transparency concerning the actual price of water – people do not know how much water they get for their money and are not informed of rate changes.

56. Furthermore, the place where one is able to buy credits may be far away and its opening hours may be during normal business hours on weekdays only. People who are employed would have to take a day off work to obtain the credits; and sick, elderly or disabled people are often unable to travel the distance. The pre-paid system also fails to address the situation of people who have no money at all, and who frequently resort to begging for money and for water, missing school and going without water for days. Moreover, the Special Rapporteur was also informed that in case of emergency, such as a fire, if people in the community start using water to extinguish the fire but do not have credit on said card, the water will automatically be cut off.

## X. Mining sector

57. The mining sector represents one of the most important industrial activities in Namibia, which has the fifth largest mining sector in Africa.<sup>30</sup> The industry contributes the most to the country's GDP, after Government services, generating N\$5.5 billion annually.<sup>31</sup> While recognizing the importance of this industry for the economic development of the country, the Special Rapporteur notes concerns about negative human rights impacts that mining activities can have if not subject to proper oversight. With regard to water, she is

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<sup>29</sup> Ibid.

<sup>30</sup> Legal Assistance Centre of Namibia and Stamford Law School, *Striking a Better Balance: An Investigation of mining practices in Namibia's protected areas* (Namibia, 2009), p. 3. Available at <http://www.lac.org.na/projects/lead/Pdf/StrikingaBetterBalance.pdf>.

<sup>31</sup> Ibid., p. 4



particularly concerned about the potential of over-extraction of groundwater, as well as potential water pollution as a result of mining activities.

58. As mentioned above, the Namibian Constitution specifically provides for protection of the environment and the Ombudsman is expressly mandated to undertake investigations relating to environmental harm. In addition, the Water Resources Management Act, adopted in 2004 and intended to replace the largely outdated Water Act (1956), which has serious deficiencies in terms of providing for a regulatory framework for the use of water, recognizes basic principles, such as the essentiality of water in life, safe drinking water as a basic human right, and the need to manage water resources so as to promote sustainable development. However, the Water Resources Management Act is not yet in force and thus the gaps in regulatory oversight reportedly persist. Similarly, the Environmental Management Act, passed by Parliament in 2007, has important provisions pertaining to environmental impact assessments prior to licensing and monitoring compliance with the law. However, this Act has also not entered into force, leaving serious gaps in the regulatory framework.

59. The Special Rapporteur is concerned that mining activities in Namibia continue, and are expanding,<sup>32</sup> without the necessary regulations in place to ensure that such activities do not endanger the supply of water for personal and domestic use, both in terms of availability and quality. She is also concerned that these circumstances could lead to irreparable harm to the environment in Namibia.

## **XI. Inadequate regulation**

60. Although the Water Supply and Sanitation Policy provides for the establishment of a regulator, such a mechanism has not yet been created. According to the policy, the regulator should harmonize the expectations of consumers and policymakers without compromising the financial sustainability of the service providers. It is essential to control the tariffs set by service providers, assess the performance of service providers through performance indicators, and evaluate their service plans. The above-mentioned challenges in relation to affordability point strongly to the need for a regulator. Furthermore, establishment of a regulator could address the lack of a comprehensive water quality monitoring system, as well as some of the above-mentioned problems related to pre-paid water meters.

61. In her discussions with the Government, it seemed that the Ministry of Agriculture, Water and Forestry was playing the role of regulator. While locating the regulatory functions within the Ministry might be a workable solution, it is crucial that these tasks be more specifically allocated and that those carrying out these functions are shielded from political interference. The Special Rapporteur urges the Government to pay specific attention to the need for an independent regulatory system, and to endow such a body with the resources and power to monitor water and sanitation service provision in the country, most notably with respect to performance, tariffs and water quality. Such regulatory system is a crucial feature for ensuring accountability.

## **XII. Budget allocations**

62. The 2009 National Sanitation Strategy set the goal for the Government to spend N\$1.6 billion between 2010 and 2015 to make meaningful progress in terms of access to sanitation services. Expenditure on sanitation by the Ministry of Regional and Local

<sup>32</sup> Namibia, National Planning Commission, *Second Millennium Development Goals Report: Progress at mid-term, September 2008* (Namibia, 2008) p. 43.

Government increased both in amount and percentage of GDP in the past few years. The expenditure on sanitation was N\$130 million in the fiscal year 2008/2009; N\$161 million in 2009/2010 and N\$158 million in 2010/2011.<sup>33</sup> The sanitation expenditure represented 0.08 per cent of GDP in 2008/2009; 0.12 per cent in 2009/2010 and 0.19 per cent in 2010/2011.<sup>34</sup> Based on the strategy, N\$496 million have been allocated for sanitation in 2011/2012, while N\$392 million and N\$684 million are expected to be allocated to the sector in 2012/2013 and 2013/2014, respectively.

63. One example of the targeted implementation of the sanitation strategy accompanied by an adequate budget was the elimination of the bucket system in some towns. For instance, Kalkrand, one of the four towns targeted in the strategy, received approximately N\$18 million in 2007/2008 from the National Planning Commission through the Ministry of Regional and Local Government to install a vacuum sewer system. Since its installation in 2010, the residents' health situation has improved significantly. According to a local nurse, cases of diarrhoea have dropped by 75 to 80 per cent and cases of urinary tract infections in women, mainly caused by unhygienic sanitation facilities, have also declined by as much as 90 per cent. Women and children were among the greatest beneficiaries from the initiative undertaken to eliminate the bucket system. Similar vacuum sewer systems have been also installed in Gibeon and Stampriet.

64. However, Government expenditure on rural sanitation has been much slower than that devoted to urban and peri-urban areas.<sup>35</sup> One of the challenges facing Namibia is how to address the imbalance between urban and rural areas. Efforts have been made to prioritize the most marginalized rural regions, namely Kavango, Omusati and Otjozondjupa and they have been allocated a higher budget in the past few years. A more strategic and consistent approach, however, will be needed to improve rural sanitation. For instance, financial assistance to regional councils for sanitation is supposed to be determined according to population and geographical size, number of settlement areas, existing infrastructure, income and performance level of the region. However, a recent analysis conducted by auditors from the Office of the Auditor General found that the actual subsidy allocation to the regional councils is not determined according to the said criteria.<sup>36</sup> The study further indicates that regions that are geographically vast with a high population, low income levels and poor infrastructure receive less subsidy than regions that are small with a low population, but with better income levels and infrastructure.

65. In Namibia, there is no data available on the amount of the budget allocated for sanitation by the other lead ministries (i.e., Health and Social Services, Education and Agriculture, Water and Forestry) because a budget related to sanitation is embedded in the sector budget of each ministry. For example, the construction of a school by the Ministry of Education would imply the construction of sanitation and ablution facilities, however, there is no separate sanitation budget line that can be monitored. Therefore, the Special Rapporteur was informed that it is difficult to monitor the budget allocated for and spent on sanitation by these ministries. Without a separate budget line for sanitation, it is not

<sup>33</sup> Information from the Ministry of Finance of Namibia.

<sup>34</sup> Source of the estimated GDP is the World Bank.

<sup>35</sup> Expenditure on rural sanitation amounted to 0.08 per cent of GDP in 2009/2010; 0.025 per cent in 2010/2011; and 0.094 per cent of GDP in 2011/12.

<sup>36</sup> Namibia, Office of the Auditor General, *Performance Audit Report on the Service Delivery by the Regional Councils in the Ministry of Regional and Local Government, Housing and Rural Development, Financial Years 2006, 2007, 2008 and 2009* (Windhoek, November 2011), p. 24. Available at [http://www.oag.gov.na/report/reports/1008\\_ServiceDelivery\\_RegionalCouncils\\_06\\_09.pdf](http://www.oag.gov.na/report/reports/1008_ServiceDelivery_RegionalCouncils_06_09.pdf).

possible to monitor whether expenditure by the concerned ministries is being compiled based on the sanitation strategy.

66. The sanitation deficit in the country is not necessarily caused by a lack of financial resources per se. Issues such as prioritization, lack of a common vision, absence of effective coordination among the different ministries and between the central and local governments, as well as deficient monitoring and evaluation systems, are some of the real bottlenecks that hinder greater progress in this area.

67. During the tabling of the 2012/2013 budget, the Minister of Finance announced the creation of a new budget line for Housing and Sanitation as a strategic sector under the current Medium-term Expenditure Framework. While the Special Rapporteur welcomes this initiative, it is also important to separate budget lines for housing and sanitation in order to track expenditure on the provision of sanitation services.

### **XIII. Conclusions and recommendations**

68. **The Special Rapporteur perceived a readiness and willingness on the part of the Government to realize its vision of increased access to safe, affordable and acceptable water and sanitation for everyone. While challenges remain to reach this objective, she was impressed by the dedication of staff of the Ministry of Agriculture, Water and Forestry. In this spirit, she offers the following recommendations to the Government in its move towards better implementation of the rights to water and sanitation in the country.**

(a) **Explicitly recognize the rights to water and sanitation as justiciable rights and carry out awareness-raising activities, especially for judges and lawyers, about the nature and context of economic, social and cultural rights, including the rights to water and sanitation.**

(b) **Extend the mandate of the Ombudsman to promotion and protection of economic, social and cultural rights, including the rights to water and sanitation.**

(c) **Enact the Water Resources Management Act and ensure sufficient resources for its effective implementation.**

(d) **Enact the Environmental Management Act and ensure sufficient resources for its full implementation.**

(e) **Ensure full implementation of the Water Supply and Sanitation Policy, and the Sanitation Strategy.**

(f) **Strengthen consultation with communities in implementing water and sanitation solutions and ensure community participation in the design, implementation and monitoring of these initiatives.**

(g) **Establish a more thorough water quality testing system throughout the country to ensure that water reaching peoples' homes is safe to drink.**

(h) **Coordinate Government action on sanitation, including through the Sanitation Forum, in accordance with the Sanitation Strategy. Strengthen awareness-raising activities, including concerning hygiene addressed to the public at large, but also targeted towards members of the legislature, the judiciary and the executive. These activities could be carried out in cooperation with the Ombudsman's Office.**

(i) **Promote dry sanitation as a sustainable sanitation solution for a variety of situations in Namibia, given the scarcity and price of water.**

(j) Urgently address and solve the situation of people who cannot afford to pay their water bills. In those cases where the high water bill is due to the use of flush toilets, provide support so those concerned may adopt an alternative sanitation solution. Consider the adoption of lifeline or social tariffs in order to enable low-income households to have access to affordable water and sanitation.

(k) Devote special attention to the particular challenges in rural areas, including distance to water points and maintenance of water points, by, inter alia, taking steps to reduce these distances.

(l) Devise solutions for access to water and sanitation which are affordable and acceptable for people lacking secure tenure.

(m) Establish an independent regulatory system to monitor water and sanitation service provision in Namibia, especially with respect to performance, tariffs and water quality.

(n) Ensure that funding to regional councils takes into account the poverty profile of regions, as well as their level of marginalization and social exclusion, so as to ensure that the sanitary needs of the most marginalized and vulnerable groups in a given region are addressed.

(o) Undertake an in-depth analysis to ascertain whether budget allocations for sanitation are being fully and efficiently expended.

(p) Establish a separate budget line for sanitation, better target funds and closely monitor the implementation and impact of sanitation policies and programmes.

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