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Responses to Information Requests

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3 August 2012

NAM104141.E

Namibia: Domestic violence, including state protection, services and recourse available to victims
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Situation

In a report submitted to the UN Human Rights Council in November 2010, the government of Namibia stated that violence against women is a "serious challenge" in the country and that rape and domestic violence are "widespread" (10 Nov. 2010, para. 80). According to the Windhoek-based newspaper *Namibian Sun*, the physical and sexual abuse of women and children is "the greatest form of abuse in the country" (18 Nov. 2011). Furthermore, numerous sources report that the number of reported cases of gender-based violence is increasing (*The Namibian* 5 July 2011; YWCA-Namibia 9 July 2012). In January 2011, President Hifikepunye Pohamba reportedly expressed "grave concern about the escalating incidence of violent crime against vulnerable members of society... [including] women, children and the elderly" (*The Namibian* 4 Jan. 2011).

Sources report that in 2010, almost 12,000 cases of gender-based violence were reported to the police (*The Namibian* 26 Nov. 2011; US 24 May 2012, Sec. 6; *Namibian Sun* 18 Nov. 2011). The *Namibian Sun* adds that the victims were primarily women and girls and that at least 1,070 of the reported cases involved rape (*ibid.*). The US Department of State's *Country Reports on Human Rights Practices for 2011* notes, however, that 3,074 of the cases reported in 2010 involved rape and that the true incidence of rape is likely to be higher than reported (US 24 May 2012, Sec. 6). According to the Legal Assistance Centre (LAC), a Windhoek-based human rights organization that does litigation, research, public education, and advocacy (LAC n.d.), a third of Namibian women have experienced intimate partner violence (17 Mar. 2010, 6). Another source indicates that the figure is closer to 50 percent (Misa Namibia 30 June 2011). A news article published 27 September 2011 stated that the police had recorded 26 incidents of rape in the preceding two weeks, as well as 22 "unnatural deaths," most of which were attributed to domestic violence (*The Namibian*).

According to the White Ribbon Campaign in Namibia, there is "inadequate public education and outreach" about the problem of domestic violence (2010). However, the LAC suggests that public awareness is slowly increasing (17 Mar. 2010, 8). Sources indicate that domestic violence is underreported to the authorities (*The Namibian* 26 Nov. 2011; LAC 2 July 2012). Marital rape is particularly underreported (WSN 4 July 2012; *Namibia* 10 Nov. 2010, para. 80) due to "strong social pressure" (*ibid.*). The government of Namibia indicates that victims of rape seldom press charges because their families prefer to "settle matters privately" (10 Nov. 2010, para. 80).

1.1 Forms of Violence

In a telephone interview with the Research Directorate in July 2012, the Director of Women's Solidarity Namibia (WSN), an NGO founded in 1989 that performs advocacy and public outreach on domestic violence

and women's economic empowerment, stated that physical and economic abuse are common forms of domestic violence (4 July 2012). Another source reports that according to police statistics on gender-based violence, the most common charge is assault with intent to do grievous bodily harm, followed by rape and murder with firearms or other weapons (*The Namibian* 26 Nov. 2011). The LAC states that 50 percent of domestic violence victims also receive death threats from the perpetrator (8 June 2012).

Sources report that most rapes in Namibia are committed by family members or acquaintances of the victim (LAC 17 Mar. 2010, 6; Namibia 10 Nov. 2010, para. 80). The Director of WSN indicated that marital rape is very prevalent, despite the fact that it is illegal (4 July 2012).

Sources indicate that gender-based violence among university students is a concern (*The Citizen* 10 Apr. 2011; *New Era* 20 June 2012). In a telephone interview with the Research Directorate in July 2012, a representative of Young Women Christian Association in Namibia (YWCA-Namibia), which, as a member of World YWCA, works on violence against women, sexual and reproductive health, and young women's leadership (World YWCA n.d.), provided two recent examples of female students who were killed by their ex-boyfriends, and explained that "passion killing" is very common in Namibia (9 July 2012; see also *New Era* 20 June 2012). A professor of sociology interviewed by the Dar es Salaam-based newspaper the *Citizen* stated that there is a "high level of tolerance" for gender-based violence in university residences and that students who witness such violence will ignore it because they consider it to be a private matter (10 Apr. 2011).

According to the Director of WSN, the domestic violence situation is "mostly the same" in urban and rural areas, although violence in rural areas is less publicized (4 July 2012). She added, however, that there are some acts of violence that are more common in rural areas, such as the rape of elderly women and the use of donkey carts, a common form of transportation, to tie up and drag women through fields (WSN 4 July 2012). She also noted that it is more difficult for rural women to leave an abusive situation because of their geographic isolation and that travelling alone through farmland puts them at risk of being beaten, raped, or killed, if apprehended (*ibid.*).

The *Namibian Sun* reports that, according to the Director of Gender Equality at the Ministry of Gender Equality and Child Welfare (MGEWCW), alcohol abuse is one of the most significant contributing factors to domestic violence (*Namibian Sun* 18 Nov. 2011). This assessment is corroborated by other local sources (*The Namibian* 27 Sept. 2011; White Ribbon Campaign Namibia 2010).

2. Legislation

According to Namibia's 2003 Combating of Domestic Violence Act, domestic violence may include physical and sexual abuse, economic abuse, emotional and psychological abuse, verbal abuse, intimidation, and harassment (Sec. 2). The Act is applicable to heterosexual couples as well as family members in domestic situations (Namibia 2003, Sec. 3). It allows victims of domestic violence to apply, at no cost (*ibid.*, Sec. 20), for protection orders, which may forbid the perpetrator from communicating with the victim, grant the victim exclusive occupation of a shared residence, require the payment of rent for alternative accommodation for the victim, and grant custody of children, among other measures (*ibid.*, Sec. 14). A person who is found guilty of committing one of the 13 criminal offences listed in the Act (including common assault, assault with intent to do grievous bodily harm, rape, murder, kidnapping, and indecent assault) within a domestic context is subject to the penalties ordinarily applied to that offence (*ibid.*, Sec. 21, Schedule 1).

The Combating of Rape Act of 2000 prohibits and proscribes penalties for rape, which includes sexual acts carried out under "coercive circumstances" (LAC 2010b; Namibia 2000, Sec. 2), such as the use of force, threats, or intoxication (*ibid.*). Rape within a marriage or other relationship is specifically prohibited (Namibia 2000, Sec. 2.3). The minimum sentence for rape is five years imprisonment if it is a first conviction; however, rape under coercive circumstances carries a 10-year minimum term (*ibid.*, Sec. 3.1.a). Rape that causes "grievous bodily or mental harm," is committed against a child, is committed by a parent or guardian, is committed by a person who is aware that he or she has a sexually-transmitted infection, involves two or more perpetrators, or involves a firearm or other weapon, carries a minimum sentence of 15 years, and, in the case of subsequent convictions, 45 years (*ibid.*, Sec. 3.1.a-b).

Country Reports 2011 indicates that no information is available on the enforcement of the domestic violence law in cases not involving rape (US 24 May 2012, Sec. 6). According to the LAC, laws against gender-based violence are being applied, but problems remain in their implementation (17 Mar. 2010, 8), which was described by a LAC representative as "not optimal" (2 July 2012). Although the LAC indicates that protection orders have been filed at every magistrate's court in the country (17 Mar. 2010, 8), another source explains that "a large number of Namibians" are not aware of their legal rights (Misa Namibia 30 June 2011). For information on the procedures to obtain protection orders and their effectiveness, see the Response to Information Request NAM104144.

3. State Protection

3.1 Government Initiatives

Media sources report that President Hifikepunye Pohama has spoken out publicly against domestic violence (*The Namibian* 4 Jan. 2011; *The Citizen* 10 Apr. 2011) and has asked all citizens and institutions to work against it (*ibid.*). Sources indicate that the government launched a "zero tolerance" program (Misa Namibia 30 June 2011; *The Namibian* 26 Nov. 2011) in 2009, which was still in operation as of November 2011 (*ibid.*). The program is intended to increase public awareness of the problem and "highlight ways in which the public could help" in addressing it (Namibia 10 Nov. 2010, para. 82). The MGECW's five-year strategic plan for 2010-2014 includes the objective of "promot[ing] positive cultural practices and [beliefs]" to reduce the number of incidents of gender-based violence by 1,000 every year and to increase the number of convicted cases to 60 by 2014 (Namibia [2010], 10).

According to the YWCA-Namibia representative, a national board on violence against women that includes the MGECW launched a gender policy in March 2012 with input from local NGOs (9 July 2012). It focuses on specific issues to be targeted, including increasing women's economic empowerment to reduce their vulnerability to domestic abuse (YWCA-Namibia 9 July 2012).

3.2 Police and Judiciary

There are 15 Women and Child Protection Units of the police located around the country (LAC 2010a; Namibia 10 Nov. 2010, para. 82). According to the LAC, they are located in Katima Mulilo in Caprivi Region; Walvis Bay in Erongo Region; Mariental and Rehoboth in Hardap region; Keetmanshoop and Lüderitz in Karas region; Rundu in Kavango region; Windhoek in Khomas region; Opuwo in Kunene region; Eenhana in Ohangwena region; Gobabis in Omaheke region; Outapi in Omusati region; Sohakati in Oshana region; Tsumeb in Oshikoto region; and Otjiwarongo in Otjozondjupa region (LAC 2010a). According to the government of Namibia, the units are trained to assist victims of sexual assault (Namibia 10 Nov. 2010, para. 82). A 2005 LAC publication indicates that the units provide counselling and referrals to other services, assist in arrests and prosecution of perpetrators, arrange for temporary emergency shelter, and offer police protection (LAC 2005, 49).

According to the Director of WSN, the units are not always "friendly" towards victims (4 July 2012). She explained that the attitude of police officers reflects broader cultural attitudes towards domestic violence and that it remains problematic for women reporting their abuse; while there are some officers who are sensitized to the problem, others are "very hostile" or are unwilling to get involved in what they consider private matters (WSN 4 July 2012). WSN's director also noted that there have been reports of police officers raping rape victims who report their assault (*ibid.*). According to the representative of the LAC, reporting domestic violence to the police is often a "positive process," although there have also been reports of negative experiences (2 July 2012). She added that there is anecdotal evidence showing that police sometimes choose not to pursue domestic violence cases (LAC 2 July 2012). Both the WSN director and the LAC representative indicated that police officers do not consistently or accurately take records of domestic violence complaints (*ibid.*; WSN 4 July 2012).

According to the government of Namibia, factors that impede the investigation and prosecution of rape cases include "lack of police transport, poor communication between police stations, lack of expertise in dealing with child rape complainants, and the withdrawal of cases by rape complainants after they filed charges" (10 Nov. 2010, para. 81). The WSN director explained that although NGOs work on training officers on gender-based violence, results are difficult to maintain as officers are routinely transferred away to other stations and regions (4 July 2012). Other sources also suggest that women frequently withdraw their rape cases (*New Era* 20 Sept. 2010; US 24 May 2012, Sec. 6; YWCA-Namibia 9 July 2012). According to the YWCA representative, women withdraw domestic rape cases due to pressure from their partner and also because of their economic dependence on men, which leaves them with few alternatives (9 July 2012). According to *Country Reports 2011*, rape victims may also withdraw cases if they receive compensation from the perpetrator, are threatened, shamed, or pressured by family or others, or find the prosecution time to be too lengthy (US 24 May 2012, Sec. 6).

According to the 2011 report of the UN Working Group on the Universal Periodic Review for Namibia, a "number of rape cases [have] been prosecuted" in recent years and "other cases were pending before the courts" (UN 24 Mar. 2011, para. 19). *Country Reports 2011* states, however, that "only a minority of [reported] cases were prosecuted or resulted in conviction" (US 24 May 2012, Sec. 6).

According to *Country Reports 2011*, penalties for domestic violence in 2011 ranged from a fine of 300 Namibian dollars [C\$ 36 (XE 23 July 2012)] to a sentence of 10 years in prison (US 24 May 2012, Sec. 6). The *Namibian* reports that in July 2011, a man was found guilty of stoning to death his girlfriend and was

sentenced to a 45-year prison term for murder, which is reportedly one of the most severe penalties imposed for a domestic violence murder in Namibia (4 July 2011).

A 2011 article on the sentencing of rape cases under the Combating of Rape Act, published in the *Namibian Law Journal*, asserts that the courts take an "inconsistent and problematic approach to the sentencing of offenders" (Hassan 2011, 52). The author of the article argues that judges misapply their judicial discretion in favour of offenders by favouring mitigating factors and minimizing aggravating factors, citing, for example, a case of spousal rape in which the existence of a marriage between the victim and perpetrator was considered to make the crime less severe (*ibid.*, 50, 52).

4. Support Services

According to the MGECW website, social workers in the Ministry provide psychosocial support for "children and families going through difficult times," including violence (Namibia n.d.). The WSN director stated that MGECW social workers work with children, while counsellors from the Ministry of Health and Social Services provide support for adults (4 July 2012). Sources add that low-income victims of domestic violence may apply to receive legal aid (LAC 2 July 2012; WSN 4 July 2012). The director explained, however, that there are long wait times to access this service and that some people wait for years (WSN 4 July 2012). Similarly, the YWCA-Namibia representative indicated that women can apply for legal assistance from the government to obtain a divorce, but that the waiting period is long and leaves women vulnerable to violence during this time (9 July 2012).

4.1 Shelters

According to the Director of WSN, there is a significant need for safe houses for women, as most cases of death from domestic violence occur in the home when women are unable to leave an abusive situation (4 July 2012). She added that she was not aware of any government-operated shelters or hotlines but that there is one NGO-run women's shelter in Windhoek (WSN 4 July 2012). The YWCA-Namibia representative stated that there are currently no shelters for women in Namibia, although the government intends to establish one in each of the regions (15 July 2012). However, according to the LAC representative, there are seven government-run women's shelters across the country (2 July 2012). Meanwhile, *Country Reports 2011* indicates that the government of Namibia finished renovating five shelters for victims of domestic violence (24 May 2012, Sec. 6).

A directory of services for victims of sexual abuse, published by the LAC in 2005, lists the names, mandates, and contact information of four organizations that provide shelter to adult women facing domestic violence: Friendly Haven Shelter and Helping Hand Welfare Organisation in Windhoek; Karibib Shelter for Women in Karibib; and Tsumeb Women's and Children's Centre in Tsumeb (LAC 2005, 52-69). According to the LAC representative, the directory has not been updated since 2005 (28 June 2012). She stated, further, that "[s]ome of the information is still true; however, some will have changed" (LAC 28 June 2012). Additional information on the organizations listed in the LAC directory, other than that included in this section, was scarce among the sources consulted by the Research Directorate.

According to its website, the Windhoek-based NGO Friendly Haven provides shelter to women and children escaping abusive domestic situations, accommodating a maximum of 18 women with their children (n.d.a). Its services can be accessed by contacting the Windhoek Women and Child Protection Unit of the Namibian police; the LAC; or Lifeline/Childline (Friendly Haven n.d.b), a non-profit organization offering "emotional support and immediate crisis management" to "traumatized individuals" (*ibid.* n.d.c) by phone and in person in Windhoek, Ondangwa, and Rundu (LifeLine n.d.).

4.2 Other Services

According to the 2005 LAC directory, there are six organizations, including Lifeline/Childline, that provide in-person or telephone counselling services to victims of domestic violence and sexual abuse (LAC 2005, 71-92). Information on the continued operation or activities of these organizations in 2012 could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: A representative of Namibian Voices for Development was unable to provide information within the time constraints of this Response. Attempts to contact representatives of the following organizations were unsuccessful: Namibia Planned Parenthood, Namibia Women Movement, International Women's Association Namibia. A representative of Sister Namibia was unable to provide information for this Response.

Internet sites, including: Amnesty International; GBV Prevention Network; Hot Peach Pages; Human Rights Watch; Make Every Woman Count; MeasureDHS; Namibia – Central Bureau of Statistics, Ministry of Health and Social Services, Police; Peace Women; Southern African Development Community; United Nations – Development Programme, Information Centre Windhoek, Secretary-General's Database on Violence Against Women, Statistics Division.

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