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Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya

Addendum

The situation of indigenous peoples in Namibia*

Summary

In the present report, the Special Rapporteur on the rights of indigenous peoples examines the human rights situation of indigenous peoples in Namibia on the basis of research and information gathered, including during a visit to the country from 20 to 28 September 2012.

Indigenous peoples in Namibia have suffered injustices in the past that leave them disadvantaged, to varying degrees, in the present. Since the independence of Namibia in 1990, the Government has made many significant achievements in rolling back some of the destructive legacies left by colonialism and apartheid. However, certain indigenous peoples—including the San, Himba (Ovahimba), Ovazemba, Ovatjimba and Ovatue people—are disadvantaged relative to other groups in the country and have not seen the promises and benefits brought by independence fulfilled for them. These groups have expressed strong desire for greater inclusion in decision-making at all levels, to be able to genuinely set their own priorities for development and to regain or strengthen rights over lands and natural resources, particularly lands to which they retain a cultural attachment.

Especially in recent years, the Government has entered into some innovative arrangements with San tribes through which they have been able to increase their control over management of land areas and derive some substantial benefits. In full consultation with the affected peoples, these kinds of innovative arrangements should be expanded and

* The summary of the present report is circulated in all official languages. The report itself, which is annexed to the summary, is circulated in the language of submission only.

strengthened, along with greater efforts to ensure San peoples' security of land tenure, which is still all too vulnerable. In this regard, land resettlement initiatives appear to have positive elements and potential. However, more needs to be done to identify adequate lands for resettlement and to develop land-use planning arrangements, in consultation with the affected San communities, as well as to provide ongoing support for the sustainable development of resettled communities.

Indigenous peoples in Namibia express a sense of exclusion from decision-making processes, at both at the local and national levels, because of their ethnic identities. Recognition of the traditional authorities of indigenous peoples in Namibia is an important step in advancing their rights to self-governance and to maintaining their distinct identities. The State should work to promote the recognition of legitimate authorities selected in accordance with traditional decision-making processes. Steps should also be redoubled to ensure that indigenous peoples or tribes that are ethnically distinct from the majority tribes are adequately represented in legislative and administrative institutions at both the district and national levels.

Namibia has paid a high level of attention to education since independence, and has established important policies regarding mother-tongue and culturally appropriate education. However, the Government should increase efforts to address the troubling educational situation of, in particular, San and Himba groups, whose members continue to lag behind in educational attainment relative to other groups. In addition, concerted efforts are needed to address the structural factors contributing to the health problems suffered by indigenous peoples in the country, including poverty and a lack of access to their traditional lands and natural resources.

Annex

[English only]

Report of the Special Rapporteur on the rights of indigenous peoples on the situation of indigenous peoples in Namibia

Contents

I. Introduction

1. In the present report, the Special Rapporteur on the rights of indigenous peoples examines the human rights situation of indigenous peoples in Namibia on the basis of research and information gathered, including during a visit to the country from 20 to 28 September 2012. The issues addressed and recommendations made in the report concern culturally distinct peoples who are indigenous to Namibia and who have characteristics of non-dominance and marginalization similar to those of indigenous peoples in other parts of the world.

2. While in the capital city of Windhoek and during the course of his mission, the Special Rapporteur met with the Prime Minister, as well as with representatives of the Office of the Prime Minister and its Division of San Development; the Ministry of Environment and Tourism; the Ministry of Justice; the Ministry of Lands and Resettlement; and the Ministry of Education. In addition, the Special Rapporteur met with the Human Rights Ombudsman, and with representatives of several non-governmental organizations and various agencies of the United Nations.

3. The Special Rapporteur conducted field visits to various parts of Namibia, where he met with representatives and members of numerous San groups, including the Ju/'hoansi San in the Nyae Nyae Conservancy area in Tsumkwe; the Khwe San living in the Bwabwata National Park in the Caprivi and Kavango regions; and the Hai//om San living in and around Etosha National Park. He also met with representatives of the Himba, Ovazemba and other indigenous peoples in Opuwo. In Windhoek, the Special Rapporteur met with representatives of the Rehoboth Basters and the Nama people. The Special Rapporteur is grateful to all the indigenous communities and representatives with whom he met for sharing their concerns and aspirations and for the valuable information they provided.

4. The Special Rapporteur would like to thank the Government of Namibia for the openness it demonstrated in allowing him to carry out his work freely and independently. He would also like to express his gratitude to representatives of indigenous peoples, non-governmental organizations, members of civil society, and the United Nations Country Team in Windhoek, whose assistance in planning and carrying out of the mission was indispensable. The Special Rapporteur is grateful to the indigenous peoples who welcomed him into their communities and lands and for the hospitality he received.

II. Indigenous peoples in Namibia

5. The earliest inhabitants of present-day Namibia are generally assumed to have been the ancestors of the San and Khoe peoples, and have been in the area for at least 1,500 to 2,000 years – perhaps even longer. Traditionally, the San peoples of the Kalahari Desert region in Southern Africa were nomadic hunters and gatherers who managed limited plant, animal and water resources in the region within shared areas. Various Bantu-speaking groups, including the Owambo, Herero and Kavango started moving into the area that currently comprises Namibia around 500 years ago.

6. Today, Namibia has a relatively small yet multicultural population of approximately 2.1 million people, including numerous ethnically distinct groups. The Owambo people are the largest group in the country, comprising about half of the total population. Overall they are well represented in national politics and enjoy higher levels of social and economic well-being than other groups. In general the Herero and Kavango peoples also maintain a

relatively strong socioeconomic position in Namibia. Various other groups in Namibia experience relative marginalization, albeit in different ways and to different degrees.

7. The population of the diverse communities that make up the San peoples is currently estimated at between 30,000 and 36,000, or just less than 2 per cent of the total national population. Distinct San communities maintain their own language, traditions, customs and histories, with the principle San groups being the Hai//om, Khwe, !Kung, Ju/'hoansi, Naro and =Au//eisi, while smaller San communities include the //Anikwe, !Xõó, |'Auni, and N|u (/Nu-//en). Previously, San peoples as a group were referred to as "Bushmen", a term that has been used less in recent years due to its pejorative connotations. As will be described throughout the present report, the colonization process resulted in the San being marginalized and experiencing a significant loss of their lands and their customary livelihoods.

8. The Himba, a subgroup of the Herero, are an indigenous people numbering approximately 25,000. They are known for the continued practice of their semi-nomadic pastoral way of life and their strong cultures and identities. The Himba reside in the mountainous Kunene region, which was formerly known as Kaokoland, in northwestern Namibia and speak the Otjihereo language. Their livelihood focuses on raising cattle, sheep and goats for food, which they supplement with some agriculture and gathering activities. The Herero people also encompass other smaller subgroups that live in the Kunene region, including the Ovatue, Ovatjimba and Ovazemba.

9. While most people in Namibia can be characterized in a strict sense as indigenous to the area, the San, Himba, Ovatue, Ovatjimba, and Ovazemba are recognized by the Government of Namibia as particularly marginalized groups and have been identified in various Namibian laws and policies as groups that merit special attention and concern. The conditions of these groups, especially relative to other segments of the population of Namibia, can be identified as similar to those of groups identified as indigenous worldwide.

10. Other non-dominant groups in Namibia include the Nama, a Khoesan people, and the Rehoboth Basters. The Nama are herders and pastoralists who are descendants of some of the first inhabitants of present-day Namibia. The Nama traditionally led a nomadic life in the vast areas between the Kalahari and the Namib deserts but suffered enormous losses during German colonization, which contributed to a breakdown of their tribal social structure. Today, the Nama have a population of roughly 80,000 people, who represent 14 distinct groups and reside throughout the whole of Namibia, with a significant presence in the Karas region in the south of the country.

11. The Basters are a mixed-race Afrikaans-speaking community descended from Dutch South African settlers and Khoikhoi and Nama peoples. The Basters migrated to the Rehoboth area of Namibia in the late 1860s. In 1872, they declared a republic and drafted a constitution, and throughout German and South African administrations they maintained a considerable degree of political autonomy. With a population of approximately 55,000, the Rehoboth Basters maintain a distinctive and strong identity within Namibian society.

III. Legal and institutional framework

12. Between 1883 and 1915, Germany colonized the area currently comprising Namibia, which was at the time known as South West Africa. Following the defeat of Germany in the First World War, the area became a mandated territory under the League of Nations and then under the United Nations. Under the mandate the territory was administered by South Africa and was eventually subjected to that country's racially discriminatory apartheid policies. From the late 1940s until independence, Namibians petitioned the United Nations in various forms against South African rule. In 1966 the South West Africa People's

Organization initiated independence efforts, and in 1988 South Africa agreed to end its administration, leading to the independence of Namibia in March 1990.

13. Namibian independence brought with it a Constitution that contains numerous progressive elements from a human rights perspective. For example, chapter three of the Constitution establishes the protection of fundamental rights and freedoms, including equality and freedom from discrimination, the right to property, the right to culture and the right to education, among other rights. The chapter also includes provisions related to apartheid and affirmative action, among which is the stipulation that Namibia can enact legislation "for the advancement" of people who have been "disadvantaged by past discriminatory laws or practices" (art. 23, para. 2).

14. Customary law is incorporated into the legal framework of Namibia through article 66, paragraph 1, which affirms that both customary law and common law are valid as long as those laws do not conflict with the Constitution or other statutory laws. This recognition of customary law is further elaborated in section 3 of the Traditional Authorities Act (Act 25 of 2000),[1] as discussed further in paragraphs 51 and 52 below.

15. Significantly, the Namibian Constitution affirms that all treaties binding upon Namibia, as well as "general rules of public international law", are incorporated into Namibia domestic law.[2] Thus, provisions of international human rights treaties to which Namibia is a party, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the African Charter on Human and Peoples' Rights, form part of the domestic laws of the land. Also significant is that Namibia voted in favour of adopting the United Nations Declaration on the Rights of Indigenous Peoples. Namibia is not a party to International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries, although ratification of this treaty is being considered by the Government.

16. In 2005, the Government approved the creation of the San Development Programme,[3] which is dedicated to the development of San communities so that they can be integrated into the mainstream society and economy, in accordance with Vision 2030, the development policy of the Government. In 2009, the Programme was transformed into the Division of San Development,[4] which currently operates within the Office of the Prime Minister and has a budget of approximately N$ 2.4 million (approximately US$ 240,000). The mandate of the Division has expanded since its creation to address the Ovatue, Ovatjimba and Ovahimba communities. The Division works in the areas of lands and resettlement, education, economic development and food security. The creation of the Division of San Development within the Office of the Prime Minister is a positive step and appears to have potential for improving the lives of the groups that it supports. However, the Division has been criticized for not being sufficiently effective in the execution of its work.

IV. Human rights concerns

17. Despite the many positive elements of the legal framework in Namibia, certain groups continue to face challenges as a result of their historic marginalization or because of

[1] Act 25 of 2000, Section 3.
[2] Article 144.
[3] Cabinet decision No. 25/29.11.05/001.
[4] Cabinet decision No. 9/28.05.09/005.

their ethnic identities. Overall, the Special Rapporteur was informed of and observed a lack of coherent Government policy that assigns a positive value to the distinctive identities and practices of these indigenous peoples. As discussed in this section, the major issues brought to the attention of the Special Rapporteur relate to lands and resources, self-governance and participation, education, and health. Featured here are the challenges faced by the San communities, which generally are understood to be the most vulnerable of the indigenous peoples in Namibia, although concerns of other marginalized groups are also noted.

A. Land and resources

18. In order to facilitate a stable transition from the previous apartheid regime and to promote reconciliation, Namibia adopted a purposefully cautious approach to land reform at independence. In 1991, the newly constituted Government of Namibia held a National Land Conference, during which it decided that land reform in Namibia would not include restoration of "ancestral lands", but that it should assist disadvantaged groups, in particular the San, to acquire land in accordance with their needs, thereby setting the foundation for the development of future land reform laws and policies. Under the Namibian land reform scheme there has been some land restitution for particular groups in the years since independence, as discussed further below. However, still today, some 40 to 50 per cent of the landmass of Namibia is owned by less than 10 per cent of the population, the majority of whom are descendants of European settlers.

19. While the loss of land by indigenous peoples during colonialism and apartheid was pervasive, by all accounts San groups in the country experienced the greatest loss and resultant social, economic, and cultural disruption, the legacy of which has not been overcome since independence. Today, San people use and occupy lands in Namibia under several different kinds of arrangements, with varying levels of security and control over lands and resources, none of which are wholly adequate and without problems. These land tenure arrangements include communal lands, conservancies, resettlement farms and occupation of lands within national parks.

1. Communal lands

20. Today, approximately half of the total population of Namibia live on lands designated as "communal lands", which make up around 40 per cent of the Namibian landmass. These communal lands, which were recognized following independence, are mostly constituted by the areas established by the Government of South Africa as "homelands" within its system of apartheid. Today, the Communal Land Reform Act (Act No. 5 of 2002) regulates the administration of communal lands, vesting ownership in the State of Namibia, but authorizing traditional authorities, in coordination with communal land boards, to allocate and administer the land for residential occupation, farming, grazing and other purposes.[5]

21. Only one homeland, Bushmanland, was reserved for San people prior to independence, with the town of Tsumkwe created as its administrative centre. This area comprised more or less the traditional hunting area (*n!ore*) of the Ju/'hoansi San and was occupied almost entirely by this group, although at the time of the establishment of Bushmanland, the Government of South Africa had planned to relocate other San groups into that homeland.

[5] See, in particular, sections 20 and 21 of the Act.

22. Today, San people constitute a majority in the communal lands within the former Bushmanland area, with Ju/'hoansi San living in the eastern side and !Kung San in the western side. The San living in former Bushmanland are the only San groups that constitute a majority within the communal lands in which they live, and are therefore the only San who have decision-making control over land administration of communal lands. For the purposes of natural resource management and control, and as discussed further below, the Ju/'hoansi have organized themselves into the Nyae Nyae Conservancy, and the !Kung into the N‡a Jaqna Conservancy. Despite continuing to face various issues related to tenure security, it is apparent that groups living within the former Bushmanland homeland are faring better than San groups living elsewhere, at least in terms of access to lands and resources.

23. Other San throughout Namibia live within the communal lands dominated by other ethnic groups, including within the lands of the former Hereroland and former Owamboland, and within the Kavango regions. As numerical minorities in these communal areas, the San are in a weak political position to advance their own interests, a situation that has also contributed to the breakdown of their own autonomous decision-making structures within these areas. These San typically face significant economic and social marginalization, competing for limited lands and resources with majority and dominant groups, and have a high level of dependency on the dominant tribes or Government for basic services and food.

24. Despite providing some measure of security of tenure and the appurtenant authority to administer lands, the communal land system continues to be problematic. For example, the tenure afforded the occupants of communal lands is one of mere usufruct and not full ownership, in contrast to the freehold titles by which private commercial farms typically are held. Additionally, communal lands of San and certain other indigenous groups, including the Himba, are under a continuous threat of encroachment by larger or more powerful groups who move into lands, raising fences to demarcate areas in which to graze their cattle, despite the fact that the erection of fences within communal land areas is prohibited under section 18 of the Communal Land Reform Act.

25. The Rehoboth Baster people have a unique history with respect to their communal land. Both the German and South African administrations recognized certain rights of the Basters to their lands, and a homeland was created for them. However, at the time of independence, Baster communal lands were reportedly expropriated by the Government of Namibia. Since the 1990s, community members have sought, but not yet been granted, validation of their land claims in both domestic and international forums. It was reported to the Special Rapporteur during his visit that the loss of the recognition of the Basters' communal lands has resulted in a loss of the recognition of their traditional authority and has facilitated the resettlement of other groups into their traditional area.

2. Conservancies

26. A significant benefit afforded to those living within communal lands is the option to form a conservancy. Under the Nature Conservation Amendment Act (Act No. 5 of 1996), "any group of persons residing on communal land" can apply to the Minister of Environment and Tourism to have their land, or a portion thereof, declared a conservancy for game management and economic opportunities.[6] There are currently 59 conservancy arrangements in Namibia. As noted earlier, two conservancies are managed by San groups, the Nyae Nyae and the N‡a Jaqna conservancies, which are located in the former Bushmanland area that is now recognized as communal land.

[6] Sect. 24A, para. 1.

27. Established in 1998 after significant efforts and years of advocacy by the Ju/'hoansi people, the Nyae Nyae Conservancy was the first conservancy created over communal lands, and is currently one of the most successful conservancies in the country.[7] Nyae Nyae is situated within the traditional lands of the Ju/'hoansi San, where there is a high diversity of wildlife, especially in the rainy season. Within the conservancy area, the Ju/'hoansi in Nyae Nyae have rights to manage natural resources and promote tourism, including through safaris and trophy hunting. They also have the right to hunt traditionally with bows and arrows; they are the only San group in the country that has this right under Namibian law. The conservancy is a community-based organization of the Ju/'hoansi people, although it has received over the years significant support from both the Government and non-governmental organizations, to which it owes much of its current success. Nyae Nyae, however, is facing ongoing encroachment by outsiders and the Government has not stepped in to remedy this situation.

28. Within the N‡a Jaqna Conservancy, which was created in 2003 in the western Tsumkwe area, the majority !Kung San people are authorized to harvest wildlife sustainably and collect wild foods. However, this conservancy is located in an area with minimal wildlife or other tourist potential, so it has not been able to draw the same economic benefits as has Nyae Nyae. Like Nyae Nyae, the N‡a Jaqna Conservancy is threatened by encroachment by outside groups and the erection of illegal fences. The conservancy is also threatened by the proposal to convert part of its land area into mixed farming settlements, a resettlement effort that, according to information received, is being pushed by the Ministry of Lands and Resettlement.

29. The conservancies are in a sense flagship programmes for the Government of Namibia and have been promoted as models for community-based resource management. Certainly the conservancies, especially Nyae Nyae, have allowed communities to have some measure of control over and derive benefits from the natural resources within the communal areas in which they live. However, a limitation of the conservancies is that they can be created only within communal lands or freehold lands, and thus, among the numerous disadvantaged San groups, only the Ju/'hoansi and !Kung San have been able to benefit from the conservancy arrangement.

30. In addition, the laws and policies affecting communal lands and conservancies, including the Communal Land Reform Act and the Nature Conservation Amendment Act, have yet to be harmonized effectively, resulting in a confusing and difficult-to-navigate regulatory regime within these areas. The Ministry of Lands and Resettlement, which has responsibilities with respect to communal lands, and the Ministry of Environment and Tourism, which has responsibilities with respect to conservancies, often promote competing uses over the same lands, according to sources consulted.

3. The land reform process and resettlement farms

31. Whatever the limitations of the communal land and conservancy regimes, it is apparent that those San and other groups that do not have recognized communal lands are currently faring worse than those groups that do. Most San groups in the country have been dispossessed of their traditional lands, both by private parties for the creation of agricultural farms and by the colonial and apartheid governments, including in the context of the process of creating national parks or other protected areas. Exacerbating this already devastating situation, following the dispossession of their lands many San lived, and

[7] For a history of the Ju/'hoansi in the Nyae Nyae, see Megan Biesele and Robert K. Hitchcock, *The Ju/'hoan San of Nyae Nyae and Namibian Independence: Development, Democracy, and Indigenous Voices in Southern Africa* (Berghahn Books, 2011).

worked as labourers, on the private farms established on those taken lands, creating a dependency on white landowners for generations of San and hindering the development of their own viable economies. Following the decline in commercial agricultural activities in the country, thousands of San people lost employment as farm labourers and today have no land base at all, living as squatters at the edges of the former or current private farms or in other precarious land tenure situations.

32. In accordance with section 2 of the Agricultural (Commercial) Land Reform Act (Act No. 6 of 1995), the Government may purchase lands to redistribute to landless groups who wish to be resettled, especially those that have been "socially, economically and educationally disadvantaged by past discriminatory laws or practices". The National Resettlement Policy of 2001 further elaborates that the resettlement "will focus on the resettlement of eligible persons in ways which are institutionally, sociologically, economically and environmentally sustainable and which will allow the beneficiaries to become self-supporting".[8] The National Resettlement Policy identifies the San as one of the main target groups, noting that they "have endured exploitation and discrimination at the hands of their fellow citizens throughout history".[9]

33. Although expropriation of lands for land reform is authorized under the Agricultural (Commercial) Land Reform Act, for political and other reasons the Government has mainly been purchasing lands under the principle of "willing buyer, willing seller". In accordance with this principle, the Government has the first option to buy any private farm that is up for sale at market value. All purchased land becomes State land, with the resettled groups having the right to a 99-year lease. However, it is not clear what happens once this lease term expires, thus the underlying issue of land ownership remains unresolved. In any case, the Special Rapporteur was informed that, as of yet, no leases – either communal or individual – have been given to resettled San groups.

34. To date, seven resettlement farms measuring some 6,000 hectares each have been purchased for San people, with the assistance of the Division of San Development. While achieving the important goal of providing some San groups with land, the resettlement process has been slow and plagued with problems. The Ministry of Lands and Resettlement, which is responsible for purchasing lands, has been hamstrung by inadequate funding and, according to the Government, there is also an overall shortage of landowners who are willing to sell as well as a shortage of good quality lands to buy.

35. In this connection, the Special Rapporteur was informed that a long-awaited deal to purchase a resettlement farm for members of the Oshivelo San community, which was originally evicted from Etosha National Park in the 1950s, did not advance because the seller ultimately withdrew the offer. Members of this community continue to await land, living on a small and crowded plot of land behind the police station in the town of Oshivelo, where the community has been squatting for some 20 years. Members of the Oshivelo community expressed to the Special Rapporteur their desire to have access to lands in the national park for tourism purposes as well as be provided with lands suitable for agricultural activities adjacent to the park.

36. Even when lands are available and purchased, these are not always sufficient or adequately situated for productive agricultural use or other economic purposes, even though under the National Resettlement Policy "land with sufficient resources" is the "most important and decisive factor in Resettlement".[10] Further, there have been minimal in-depth land-use planning studies carried out prior to the selection of lands or to the resettlement of

[8] National Resettlement Policy, p. 1.
[9] Ibid., p. 3.
[10] Ibid., p. 6.

San people to the lands bought. In this regard, the Special Rapporteur was informed that Hai//om representatives had requested that their community be moved to lands along a major road leading into Etosha National Park, which they saw as having greater economic development value, but were told that it was not possible for reasons unknown. In most cases, the purchased lands are also reportedly too small to sustain economically viable farms.

37. An additional problem has been that the communities that are resettled do not receive sufficient support following resettlement. This concern was uniformly expressed during the Special Rapporteur's visit to Seringkop, one of the more developed resettlement farms. At Seringkop, as at most resettlement farms, basic infrastructure, including for water and sanitation, has for the most part not yet been installed. Viable economies in these farms are very far from taking root and people have thus far been living on assistance from the Government or non-governmental organizations for almost everything. This situation exists despite the fact that the National Resettlement Policy states that resettlement beneficiaries will be expected to be "self-reliant and self-sufficient by the fourth year".[11] While some resettlement farms have agriculture and tourist potential, San people reported to the Special Rapporteur that they currently lack the experience and know-how to build thriving commercial farms or tourism ventures.

38. The Special Rapporteur heard that there is some discomfort on the part of the Government about restoring to San groups their traditional lands or resettling them to prescribed areas, given that doing so is sometimes viewed as reminiscent of apartheid policies in which ethnic groups were divided into administrative territories based on race. Yet, if the Government is to carry out a land reform process, which by all accounts is imperative in Namibia, it must move forward in accordance with the right of the San and other indigenous peoples to hold land collectively, a right that is affirmed in the United Nations Declaration on the Rights of Indigenous Peoples (art. 26, ff.). Programmes to secure this right are instrumental to promoting equality and providing all Namibians with opportunities for development, as contrasted with the racially discriminatory policies of apartheid. Despite the challenges, the Special Rapporteur observed some level of optimism for land reform in Namibia, given that it is a geographically large country with a relatively low population density, and the fact that there is a good level of political will and a legal framework to carry out land reform.

4. National parks

39. National parks in Namibia comprise lands that historically were used and occupied, and in some cases continue to be used and occupied, by San people. In multiple encounters with San groups and other knowledgeable sources, it was evident to the Special Rapporteur that San people continue to maintain a strong cultural attachment to their traditional lands within the parks.

40. The principal two parks in which San people live or have lived in are Etosha National Park, in the Kunene Region, and Bwabwata National Park, spanning the Caprivi and Kavango regions. Despite the fact that there exist strong indications that San groups have rights over lands and resources within the Etosha and Bwabwata national parks under international and common law standards, the Government of Namibia has not to date acknowledged San rights to lands within these parks. Thus, as discussed in the present section, while the Government has been, especially in recent years, demonstrating an increased openness to developing measures for San participation in managing and

[11] Ibid., p. 7.

benefiting from parks' resources, the fundamental issue of land rights has, problematically, yet to be resolved.

(a) The Hai//om San in and around Etosha National Park

41. Etosha National Park was created in the 1920s by the German colonial administration and is today one of the premier tourist attractions in the country. The Hai//om people were removed from the park in the 1950s, although they still maintain a cultural connection to lands within the park.[12] While previously the Hai//om were permitted to continue some hunting in the park, following their eviction in the 1950s, all open access to the park as well as hunting and gathering in it was banned. As noted, many of the Hai//om evicted from the park are now landless and awaiting resettlement, or have been recently resettled onto commercial farms.

42. In a recent positive development, the Government, through its Ministry of Environment and Tourism, granted Hai//om San a tourism concession within Etosha National Park – the first of its kind. Under this concession, the Hai//om have exclusive rights to run tourism operations at the Gobaob watering hole, a spot that attracts a high number of wild animals and is also of central cultural significance to the Hai//om, being the birthplace of many of their ancestors.

43. The concession agreement was signed during the course of the Special Rapporteur's visit to Namibia, and was met with optimism by both Government and Hai//om representatives alike. However, Hai//om people with whom the Special Rapporteur met also expressed the concern that only those groups that move to the resettlement farms will benefit from the concession, and that those people who choose to not move to the farms will not be able to profit from tourism activities. In addition, the Hai//om have a strong desire to establish a tourism lodge within the boundaries of the park as part of the concession, an undoubtedly more attractive option in terms of tourism potential than a lodge outside of the park; however, their proposal in this regard was rejected by the Ministry of Environment and Tourism, with the justification that only Namibia Wildlife Resorts, a State-owned enterprise, may operate lodges within protected areas in Namibia.

44. In any event, overall, Hai//om representatives expressed to the Special Rapporteur their feeling that the Government is trying to "erase" the Hai//om connection with the park, an assertion that appears to the Special Rapporteur to have some merit. At the very least, there is clearly no official policy or activities to reflect the Hai//om connection to Etosha or to strengthen that connection. Indeed, there is a dearth of information within Etosha National Park that links that area's history with the Hai//om San, apart from basic signage indicating Hai//om names for watering holes, gathering places or other spots of significance. The Special Rapporteur was informed also that a concession previously granted to a Hai//om group to perform traditional dances for tourists was not renewed by the Ministry of Environment and Tourism.

45. Finally, the majority of employees in Etosha National Park are not Hai//om and there is no hiring preference for Hai//om people, a fact that is a source of frustration for them, and there is also a lack of Hai//om input into decision-making about the park management at all levels. However, during a meeting of the Special Rapporteur with representatives of the Hai//om and the Ministry of Environment and Tourism, Hai//om members proposed the establishment of a Hai//om advisory body in relation to the Etosha National Park, and representatives of the Ministry indicated a willingness to consider this proposal.

[12] For a history of the Hai//om in the area of Etosha National Park, see Christina Longden, ed., *Undiscovered or Overlooked? the Hai//om of Namibia and their Identity* (Windhoek, Working Group of Indigenous Minorities in Southern Africa, 2004).

46. There is still one group of Hai//om people living within the boundaries of Etosha National Park, namely in Okaukuejo, a community established for park workers that is situated on the outskirts of a large tourist lodge. Most of these people are current or former park employees. The Government is encouraging San people living in Okaukuejo to move to the resettlement farms that it has purchased adjacent to the park. Representatives of the Ministry of Environment and Tourism informed the Special Rapporteur that the reason for moving the members of the community is because they make "too much noise", especially "wailing during funerals", which according to the Government disturbs tourists and wild animals. The Minister stated: "We must protect the tourists … they pay a lot of money." However, from a human rights perspective, this is clearly an inadequate justification for removals. The community has lodged a legal complaint against the Government, asserting their right to stay and their rights over lands within Etosha National Park.

(b) The Khwe San in and around Bwabwata National Park

47. Bwabwata National Park was created in 2007 on the area that had been designated as a game reserve prior to the independence of Namibia. The designations of both the game reserve and the national park were made without consultations with the some 1,000 to 2,000 Khwe San people living within the park's boundaries, who were also excluded from participating in the design or management of the park. Khwe people living in the park have a still undefined legal status with respect to park lands (there is not even any written acknowledgment of the right of the Khwe to continue to occupy these lands), and there does not appear to be any intention on the part of the Government to resolve this issue in the short or medium term. The Khwe likewise have no right to hunt game, traditionally or otherwise, within the park's boundaries, and may only gather, in specific ungazetted areas, some essential subsistence items, including firewood.

48. Decisions regarding natural resource management within Bwabwata National Park are made by the Ministry of Tourism in consultation with the Kyaramacan Association, a non-governmental organization that represents people living within the park. Importantly, in recent years, the Ministry of Environment and Tourism has facilitated the establishment of some innovative land-use and benefit-sharing arrangements for the people within Bwabwata National Park. The Khwe, with the assistance of the Kyaramacan Association, have been granted hard-won concessions to benefit economically from big game trophy hunting and to build a tourism lodge near the Popa waterfalls. However, despite these promising developments, the Khwe communities undoubtedly face numerous challenges ahead. The Khwe will need significant assistance, both economic and in terms of capacity-building, to get their development initiatives off the ground.

49. The majority of Khwe people in the area of Bwabwata National Park are living in situations of abject poverty and marginalization. The Special Rapporteur was informed that the Khwe face heightened discrimination because of their prior association with the South African Defence Force, which occupied the Bwabwata park area during the apartheid regime and used Khwe San people as trackers because of their keen knowledge of the area's lands and resources. Further, as discussed in the following section, the Khwe are the only San group in the country to not have their traditional authorities recognized under the Traditional Authorities Act, which contributes to their condition of marginalization and lack of voice in decision-making in the area.

B. Participation and self-governance

50. An important aspect of the ability of indigenous peoples to maintain their distinct identities is the capacity to maintain and develop their own institutions of authority and effectively participate in all decisions affecting them. Yet representatives of indigenous

peoples with whom the Special Rapporteur met overwhelmingly expressed a sense of exclusion from decision-making processes, at both at the local and national levels, because of their ethnic identities.

1. Recognition of traditional authorities

51. The Traditional Authorities Act allows a traditional community, which is defined in section 1 of the Act as "an indigenous homogeneous" group that shares "a common ancestry, language, cultural heritage, customs and traditions" and "inhabits a common communal area", to apply for State recognition of its traditional leadership (sects. 1; 2, subsect. 1; and 4). Traditional authorities administer and execute customary laws, and are responsible for protecting and promoting "the culture, language, tradition, and traditional values" of a community and preserving cultural sites, works of art and traditional ceremonies (sect. 3, subsect. 1). Recognized traditional authorities receive funding from the Government to carry out their functions.

52. Under the Traditional Authorities Act, the Minister for Regional and Local Government has the discretion to deny a group's application on several grounds (sect. 3, subsect. 1, paras. (a) and (b)). On this basis, the Minister has declined to recognize the traditional authorities of various groups, including dozens of Himba and Ovazemba chiefs with whom the Special Rapporteur met during his visit. However, concerns were expressed to the Special Rapporteur that the traditional chiefs recognized by the Government tend to be those who are aligned with the dominant South West Africa People's Organization political party, and questions were raised about their legitimacy.

53. Nearly all of the six major San groups in Namibia have had their traditional authorities recognized, the sole exception being the Khwe. The Khwe first applied for recognition of their traditional authority in 1997 and have reapplied for recognition since then without success. Currently, the Khwe are under the jurisdiction of the chiefs of other traditional communities who apparently do not represent Khwe interests and who, in fact, have discriminated against the Khwe and actively resisted the confirmation of the Khwe's own traditional authority.

54. Although nearly all San groups have had their traditional authority recognized, as a practical matter, most do not have significant authority to administer lands, given their small numbers relative to other groups in the areas in which they live. Under the Communal Land Reform Act, "communal land areas" over which traditional authorities have jurisdiction cover basically the same area as the former homelands (sects. 15 and 16, and schedule 1). Thus, since no San groups besides the Ju/'hoansi and !Kung in the Tsumkwe district constitute a majority in recognized communal lands, these San authorities do not have the power to administer communal land areas.

2. Participation in governance and decision-making at the national level

55. Importantly, Namibia has maintained a stable democratic governance system since independence. However, representatives of all of the indigenous groups with whom the Special Rapporteur met expressed concerns that their disadvantaged conditions and small populations relative to dominant groups within Namibia result in challenges in participation in governance structures at the national level. Since independence, national politics have been dominated by the South West Africa People's Organization party, which despite being open to all ethnicities and tribes in Namibia, is viewed as a predominately Owambo party, given that the Owambo make up around 50 per cent of the population.. Representatives to the National Assembly are also elected on the basis of party list proportional representation; thus, the parties that have the highest membership receive the most seats in the National Assembly, helping to solidify the dominance of the South West Africa People's Organization in national decision-making.

56. The Special Rapporteur also received information about the lack of participation of indigenous groups in decisions related to natural resource extraction, a mainstay of the Namibian economy. Decisions regarding extraction and development of natural resources are largely managed from Windhoek, with few benefits going to communities affected by these activities. Nama people informed the Special Rapporteur of inadequate participation in planning and development of mineral extraction, especially diamonds, in the areas where they live. Similarly, Himba of the Kunene Region noted that neither their communities nor traditional leaders were informed about mining activities being carried out in their traditional territories and grazing lands. Further, there is also strong opposition by Himba, Ovazemba, Ovatue, and Ovatjimba peoples to the proposed construction of the Baynes hydroelectric power project. The proposed dam would be constructed on the Kunene River in an area that these various groups, and the Himba in particular, regard as their traditional territory and that is connected to their livelihoods and to cultural practices associated with ancestral graves.

C. Education

57. In 1990, the Government of Namibia inherited a national educational system defined by apartheid policies, under which generations of black indigenous Namibians received an education far inferior to that of the white minority. The effects of these discriminatory educational policies continue to the present day, and disparities in learning outcomes persist between blacks and whites. However, children in marginalized indigenous groups, in particular the San and Himba, continue to face the greatest challenges with respect to access to education and achievement levels.

58. Since independence, a constitutional and policy framework has been put in place to make education accessible to all Namibians. The 1990 Constitution requires that primary education shall be compulsory and free (art. 20, para. 2). Significantly, within the first years of independence, the then Ministry of Education, Culture, Youth and Sport developed the Language Policy for Schools, which calls for the use of the mother tongue as the language of instruction during the first three years of formal education, with a transition to English thereafter.[13] Further, the education sector receives the largest portion of the national budget.

59. The Government also has specific policies and programmes in place to address the educational challenges of what are considered vulnerable groups within Namibia. The National Policy Options for Educationally Marginalised Children of 2000 recognized San and Himba children as "educationally marginalized", meaning that they experience difficulties in gaining access to basic education, drop out of school prematurely, or are "pushed out from the formal education system by the system itself".[14] In the National Policy Options document, the Government proposes the use of "special efforts" to facilitate greater access by marginalized groups to the education system and greater retention of such groups in the system.[15] It also provides several options for combating poverty and discriminatory attitudes towards marginalized children.[16]

60. For its part, the Division of San Development supports the development of early childhood centres, as well as literacy programmes for San pensioners, and provides scholarships for schools having a significant number of San learners, to offset costs. In

[13] Namibia, The Language Policy for Schools: 1992–1996 and Beyond, p. 4; see also Namibia, The Language Policy for Schools in Namibia, Discussion Document (2003), para. 2.4.

[14] Namibia, National Policy Options for Educationally Marginalised Children, pp. 2-3.

[15] Ibid., pp. 1 and 25.

[16] Ibid., pp. 25-30.

addition, in 2010 the Division launched the Back to School and Stay in School campaign, which encourages students who are considered vulnerable to attend and stay in school.

61. Despite these positive policies, marginalized indigenous groups in Namibia face continued and unique challenges. San children experience the most troubling educational indicators in the country. Recent Government figures indicate that 62 per cent of San-speaking children are enrolled in lower primary school, which includes grades 1 through 4, and 23 per cent are enrolled in upper primary school, which includes grades 5 through 7.[17] The enrolment of San-speaking students in higher levels of education remains disturbingly low, with only 7 per cent of San-speaking children enrolled in junior secondary school and less than 1 per cent enrolled in senior secondary school.[18] According to various sources consulted, in the entire country only 10 to 12 San students are currently attending university.

62. As already indicated, a significant barrier that impedes San and Himba children from gaining access to education is the discrimination they face in schools, both from other students and from teachers. The National Policy Options for Educationally Marginalised Children acknowledges the pervasive discriminatory attitudes of the general student population and teachers as a major factor contributing to why marginalized children drop out of school or are reluctant to attend.[19] The Special Rapporteur heard almost uniformly that discrimination, teasing and negative stereotyping of San children characterize their educational experiences. Himba people with whom the Special Rapporteur met voiced similar concerns, adding also that their children were forced to change their traditional haircuts and dress at schools.

63. Also contributing to low levels of educational attainment by some indigenous children is the overall lack of education that is delivered in a culturally and linguistically appropriate way. Currently, Ju/'hoansi is the only San language that is an official teaching language of the Ministry of Education. However, in line with the Language Policy for Schools, the Ministry of Education, in collaboration with the National Institute for Educational Development, is developing educational resources in the principle San languages with a focus on grades 1 through 3. One positive model is the Nyae Nyae Village Schools Project of the Tsumkwe district, which provides San children with educational opportunities in their native language near their homes. However, overall there is a lack of San language teachers, and the relatively small numbers of San learners significantly complicate the implementation of linguistically appropriate education.

64. Extreme poverty makes it difficult for San children in particular to attend and stay in school Despite the fact that the Constitution requires that primary education be provided free of charge, the Education Act (Act No. 16 of 2001) allows for schools, on an individual basis, to charge fees towards a "school development fund" that goes towards maintenance of facilities and to "improve educational, sport and cultural activities".[20] While there is an exemption for students who cannot afford to pay the fee,[21] the Special Rapporteur heard that San students are routinely turned away from schools for not paying development fund fees. San children are also more likely than other children to leave school to seek employment due to the extreme poverty they face.

[17] Namibia, Ministry of Education, Education Management Information System, Education Statistics 2011, p. 41.

[18] Ibid.

[19] Namibia, National Policy Options, p. 23.

[20] Sect. 25, subsect. 1, paras. (a)-(b).

[21] Education Act, sect. 25, subsect. 9, para. (b).

65. The distances that children must travel to attend schools presents another major barrier to education. Schools are in many cases located far away from the student's home community, and public transportation is costly and provided irregularly. In order to facilitate access to schools for San children from remote areas, the Government has established school hostels. But the Special Rapporteur heard of several problems associated with these hostels, including bullying and poor living conditions. In this regard, the Special Rapporteur observed the dire conditions of the school hostel at the Seringkop resettlement farm, where approximately 40 boy and girl students were housed in two makeshift corrugated tin and canvas structures behind the school.

66. Another way that the Government has sought to provide access to education in remote areas is through the establishment of mobile schools. The National Policy Options for Educationally Marginalised Children recommends the use of mobile schools for Himba learners in the Kunene Region as a way to address the challenges resulting from their semi-nomadic lifestyle, in which they move with their livestock depending on available pasture lands and water. Yet, Himba representatives reported that the conditions of mobile schools have deteriorated significantly since the Government of Namibia has taken over management of the schools from outside sponsors.

67. The Special Rapporteur heard alarming reports that San girls have suffered sexual abuse by teachers. He was also informed that principals and teachers have turned away teenage mothers who wished to return to school after their children had reached a certain age.

D. Health

68. Similar to education, health care in Namibia prior to independence was provided along racial lines, with the white minority receiving markedly better care than the black majority, who had little or no access to doctors and hospitals, particularly in communal land areas. Since independence, the Ministry of Health and Social Services has focused on providing health care to all Namibians, which more recently has included a shift of resources to "disadvantaged regions" – areas where historical deprivation of health services has resulted in greater health-care needs.[22] This shift includes the delivery of basic services through clinics, mobile health teams and community health-care providers.[23]

69. Disaggregated data on the health situation in Namibia is scarce. However, available statistics indicate a problematic health situation of marginalized groups, especially in rural areas. San and other indigenous people have been denied medical treatment or expelled from hospitals because they are unable to pay for services. San mothers in the Divundu area informed the Special Rapporteur that they had been forced out of hospital facilities the same day they gave birth because they could not afford care.

70. The remote character of many San and Himba groups often aggravates their vulnerabilities with regard to health and health care. Estimates are that over 80 per cent of San live more than 80 km away from any type of health facility.[24] Numerous San community members from different villages told the Special Rapporteur that it is not uncommon for individuals to die while being transported long distances to receive health

[22] Namibia, National Policy on Community Based Health Care (Windhoek, 2008), p. 6. Available from www.lac.org.na/projects/alu/Pdf/cbhcpolicy.pdf.

[23] Ibid.

[24] Report of the African Commission's Working Group on Indigenous Populations/Communities on its mission to Namibia, adopted by the African Commission on Human and Peoples' Rights at its 38th ordinary session (2005), p. 21.

services. In many places, the great distances between San communities and health facilities cause San people to rely heavily on mobile outreach units, which reportedly do not maintain a regular visitation schedule and are poorly equipped and understaffed.

71. Undoubtedly, stereotypes and discriminatory attitudes towards marginalized indigenous peoples figure into the poor health of members of their communities. Throughout the mission, San and Himba community members repeatedly informed the Special Rapporteur that health workers treated them poorly, and Himba representatives added that health workers did not want to touch them if they were dressed in their traditional clothing. A reported dearth of health-care professionals who speak or understand local indigenous languages also frustrates basic services delivery and can result in improper diagnosis. San community members expressed to the Special Rapporteur a strong desire to have access to educational opportunities that would prepare them for professional health-care positions to help close the health service gap resulting from cultural disconnects.

72. The National Policy on Community Based Health Care of 2008 has the potential to mitigate discrimination issues in health care.[25] The policy, developed by the Ministry of Health and Social Services, seeks to empower and strengthen community-based responses to support health through preventative measures and palliative care[26] primarily in rural settings.[27] A key component of the policy involves the delivery of health services through community resource persons, including traditional healers and traditional birth attendants, who can provide insight into the cultural context in which health services are being provided. The National Policy on HIV/AIDS of 2007 similarly calls for traditional, cultural and spiritual leaders to be involved in organizing community responses to HIV/AIDS, and acknowledges that delivering health care to San and Himba peoples can be complicated by cultural issues such as language and the distance to many of their communities.

73. The precarious land situation of San people in Namibia also affects their health. Specifically, insecure land tenure and restrictions on hunting and gathering traditional foods interferes with the San peoples' ability to rely on their traditional food sources and results in many San relying on government food aid as a principle means of substance. However, food aid is often unreliable and insufficient, leading to situations of persistent hunger among San communities, which compromises their immune systems and their ability to resist disease.

V. Conclusions and recommendations

Overarching issues

74. **Indigenous peoples in Namibia have suffered injustices in the past that leave them disadvantaged, to varying degrees, in the present. Since the independence of Namibia in 1990, the Government has made many significant achievements in rolling back some of the destructive legacies left by colonialism and apartheid. However, certain indigenous peoples—including the San, Himba, Ovazemba, Ovatue and Ovatjimba people—are disadvantaged relative to other groups in the country and have not seen the promises and benefits brought by independence fulfilled for them.**

75. **Namibia is a country rich with diverse indigenous cultural and ethnic identities, including those of indigenous peoples who have suffered marginalization in various aspects of life. However, overall, the Special Rapporteur observes a lack of coherent**

[25] See the Office of the Ombudsman, Guide to Indigenous Peoples' Rights (2012), p. 32.
[26] Namibia, National Policy on Community Based Health Care, p. 11.
[27] Ibid., p. 9.

Government policy in Namibia that assigns a positive value to the distinctive identities and practices of these indigenous peoples, or that promotes their ability to survive as peoples with their distinct cultures intact in the fullest sense, including in relation to their traditional lands, authorities and languages.

76. **The Government should strengthen and adopt affirmative measures to protect the right of non-dominant indigenous groups to retain and develop the various attributes of their distinctive cultural identities. Laws and government programmes should be reviewed and reformed as needed to ensure that they do not discriminate against particular indigenous groups, and that they accommodate and strengthen cultural diversity and adhere to the United Nations Declaration on the Rights of Indigenous Peoples. Furthermore, in consultation with indigenous peoples, the Government should look to ratify International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.**

Lands and resources

77. **Especially in recent years, the Government has entered into some innovative arrangements with San and other groups through which they have been able to increase their control over management of lands and natural resources, and derive some substantial benefits. However, in accordance with international standards, much more needs to be done to recognize and respect the rights of marginalized indigenous peoples over their traditional lands and resources, and to provide redress for any land that has been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.**

78. **The Government of Namibia should step up efforts to address the problem of landlessness of San groups and to carry out initiatives to secure for them rights to land, and do so, to the extent compatible with the rights of others, in accordance with their historical or traditional land tenure patterns.**

79. **The Ministry of Lands and Resettlement should be provided with an increased budget to purchase lands for the purpose of resettlement. The selection of lands should be done in close coordination with the groups concerned and in accordance with prior feasibility studies. Lands purchased should be sufficient in size, location, and quality to guarantee that resettled groups have a sustainable basis for their economic, social and cultural development.**

80. **Resettled San groups should be provided with the necessary financial and technical support to ensure that they are able to establish viable communities, and support should continue for as long as may be required to achieve this purpose. Non-governmental organizations in Namibia and abroad should also consider providing assistance to resettled San communities.**

81. **The Government should give high priority to purchasing adequate resettlement lands for the Hai//om people living in Oshivelo and other similarly situated San groups who were removed from the Etosha National Park in the 1950s. When selecting lands, the Government should make all efforts to accommodate the Oshivelo community's desire to have access to lands in Etosha National Park for tourism purposes and also receive lands adjacent to the park suitable for agricultural and other economic activities.**

82. **Namibia should take measures to reform protected-area laws and policies that now prohibit San people, especially the Khwe in Bwabwata National Park and the Hai//om in Etosha National Park, from securing rights to lands and resources that they have traditionally occupied and used within those parks. The Government should**

guarantee that San people currently living within the boundaries of national parks are allowed to stay, with secure rights over the lands they occupy.

83. **In addition, the Government should take steps to increase the participation of San people in the management of park lands, through concessions or other constructive arrangements, and should minimize any restrictions that prohibit San from carrying out traditional subsistence and cultural activities within these parks.**

84. **The Government should review its decision not to allow the Hai//om San people to operate a tourism lodge within the boundaries of Etosha National Park under their current tourism concession. Further, management of concessions should not be limited to only those Hai//om groups that opt to move to the resettlement farms.**

85. **The Government should enforce the provisions of the Communal Land Reform Act that prohibit the erection of fences in communal lands. It should also investigate allegations of illegal fencing in the Nyae Nyae and N‡a Jaqna conservancy areas and in communal areas occupied by Himba people. Furthermore, efforts should be made to harmonize any inconsistent laws and policies regarding conservancy areas and communal lands or other actions that promote competing interests on those lands.**

86. **The Government should also address the concerns over lands and natural resources of other groups, including the long-standing land claim of the Baster people and the concern over natural resource exploitation expressed by the Nama people.**

Self-governance and participation

87. **Recognition of the traditional authorities of indigenous peoples in Namibia is an important step in advancing their rights to self-governance and in maintaining their distinct identities. The State should review past decisions denying the recognition of traditional authorities put forth by certain indigenous groups, with a view to promoting the recognition of legitimate authorities selected in accordance with traditional decision-making processes.**

88. **In this regard, the Government should confirm the traditional authority of the Khwe San in Caprivi as a matter of priority. Further, allegations of discrimination or abuse by the traditional authorities of the dominant tribes in areas inhabited also by other, smaller tribes live should be investigated and actions taken to sanction any mistreatment.**

89. **Indigenous peoples or tribes that are ethnically distinct from the majority tribes are underrepresented in legislative and administrative institutions at both the national and district levels. Affirmative measures should be further developed and implemented, in consultation with the affected peoples, to enhance representation by indigenous groups at all levels and in all institutions of government, including in administrative and legislative bodies at both the national and district levels.**

90. **Consultations should be carried out with the communities that might be adversely affected by development projects and the exploitation of natural resources, including mining taking place near the lands of Nama people, with the aim of obtaining their free, prior and informed consent for the potential project activities.**

91. **The creation of the Division of San Development within the Office of the Prime Minister is a positive step towards tackling some of the issues faced by indigenous and marginalized groups, and appears to have potential for improving the lives of indigenous peoples in the country. However, the Division should review its work, in consultation with the groups that it supports, in order to ensure that it is responding effectively to the needs of those groups.**

Education

92. **The Special Rapporteur takes note with satisfaction of the high level of attention that Namibia has given to education since independence. The Government should also be commended for its progressive laws and policies regarding mother-tongue and culturally appropriate education.**

93. **However, more needs to be done to address the troubling educational situation of San and Himba groups in particular, whose members continue to lag behind in educational attainment relative to other groups. In this connection, Namibia should work to remove the barriers that are keeping the San, Himba and other groups from accessing education, including in relation to school development fees, distances from schools, and bullying faced in schools. Himba people should not be forced to abandon their traditional, semi-nomadic way of life in order to gain access to education, and thus the Government should strengthen efforts to provide mobile schools in remote areas.**

94. **The Government should make greater efforts to respond to the problems facing indigenous women and girls and investigate any allegations of sexual abuse of indigenous girls in schools.**

Health

95. **The Government should make concerted efforts to address the structural factors contributing to the health problems suffered by indigenous peoples in the country, including poverty and a lack of access to their traditional lands and natural resources. Measures also need to be taken to combat discrimination against indigenous peoples in health centres and to ensure that those people who use their own language can communicate with and understand medical staff.**

96. **Namibia must strengthen efforts to collect data disaggregated by ethnicity in order to appropriately identify, monitor and evaluate health services provided to disadvantaged indigenous peoples.**