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IS SELF-REPORTING EFFECTIVE?

An analysis on the effectiveness of the self-reporting process within the United Nations Treaty Monitoring System. Evidence from the CEDAW Committee in South Africa, Botswana and Namibia.

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List of initials, acronyms and abbreviations:

CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
COs	Concluding Observations
CSOs	Civil Society Organizations
INGOs	International Non-governmental Organizations
LOI	List of issues

A. INTRODUCTION

“The protection of basic human rights is one of the most pressing and yet most elusive goals of the international community” (Hafner-Burton & Tsutsui, 2005; p.1373). However, with the adoption of the UN Charter in 1945 and the Universal Declaration of Human Rights in 1948, human rights were finally situated on the international legal agenda. Today, the vast majority of States bind themselves to an international treaty designed to protect a growing number of basic human rights through a system of international law. Within the international law system, many consider international human rights law the weakest link; “the forces that induce compliance with other law... do not pertain equally to the law of human rights.” (Henkin, 1979; p. 235). Thus, it is not surprising that one of the greatest questions in human rights research has always been whether human rights treaties have any effect on States’ behavior. A great majority of scholars, and non-scholars in general, believe human rights law is ineffective and useless, while a smaller number of researchers assure the positive impact it has made in improving human rights across the globe.

Most of the criticism arises from the fact that violations of the treaties go unpunished, for no enforcement mechanism has been created to sanction States’ actions. In fact, treaty implementation depends largely on *self-reporting*, which consists on the periodical submission of State reports, written by the States parties themselves, on any developments regarding the implementation of and compliance with the different human rights treaties. These reports are submitted to the various monitoring bodies in charge of reviewing them and making the appropriate observations and recommendations. However, although the reporting process under the UN human rights treaties is considered one of the most important universal mechanisms to monitor the implementation of human rights, its actual domestic effects have hardly been studied (Krommendijk, 2015).

This paper attempts to fill the scholarly neglect by examining the effectiveness of the self-reporting process in three countries: South Africa, Botswana and Namibia, to the CEDAW Committee. It also explores in a more general way some important theoretical concepts and the existing literature on treaty and self-reporting effectiveness. The results, which are based on an extensive document analysis presented in the Annexes, are used to test the hypotheses that the said process is in fact effective, calling into question earlier claims that self-reporting is inconsequential and confronting previous studies demonstrating that human rights treaties are ineffective.

1. RESEARCH QUESTION

After many studies, researchers have not been able to find quantitative data showing positive effects of human rights treaties on States' practices yet (Hathaway 2002; Neumayer 2005; Hill 2010). In fact, results are so spread that most studies were determined inconclusive. However, more recent scholars (Krommendijk, 2015; Creamer & Simmons, 2019) have claimed that the previous researches were inconclusive because they had been ignoring the effects of participating in the self-reporting process itself, and focusing on the correlation between the accession to the treaties and the development of human rights indicators instead. Thus, they claim that in order to assess treaty effectiveness, one has to first analyze the effectiveness of the self-reporting mechanism. As the only enforcement mechanism in human rights treaties, assessing the impact of participating in this process would tell us to what extent the process is useful. However, the "theoretical and empirical work linking this self-reporting process with states' actual human rights practices is quite underdeveloped" (Creamer & Simmons, 2019b; p. 3).

This paper will address the following research question: is the international human rights monitoring mechanism of State self-reporting effective? To what extent? This will be examined by looking at the direct effects of self-reporting on the government actions and policymaking of three States. The two main approaches that will be used in this paper are simplified versions of the ones developed by Jasper Krommendijk (2015) and by Creamer & Simmons (2019a; 2019b) in their corresponding studies on the effects of self-reporting in different regions. For this paper, the treaty under consideration will be the CEDAW and the evidence will be drawn from a small selection of African countries: South Africa, Botswana and Namibia.

The three countries have been chosen for several reasons: they have all ratified the Convention, they are linguistically more accessible than other countries, past researches on self-reporting effectiveness have never targeted the African continent, and within the region, these are some of the most democratic countries, which will make the research easier in terms of data transparency and government accountability. South Africa, Botswana and Namibia are not the most likely cases of effectiveness, for they are in continuous development, which makes results more unpredictable than in other cases. However, based on the optimistic past studies carried out in European and Latin American countries (Krommendijk, 2015; Creamer & Simmons, 2019.), this paper will be testing

the following hypothesis: The human rights treaty monitoring mechanism, known as the self-reporting process, is effective on the States that participate therein.

2. METHODOLOGY

The analysis will be carried in the following way. After a brief introduction to the country, with special attention paid to democracy and development indicators, each of the three countries will be evaluated. To begin with, the first factor that will be examined is the extent of the delays of each State party with regard to the submission of reports in each cycle. This information will be retrieved from the CEDAW Committee records and States reports and will give us a general picture of the State's commitment to the treaty monitoring systems.

Secondly, State commitment will also be examined through the quality of their State reports and overall participation in the process, including quality of the delegation and the presentation. According to Creamer and Simmons (2019a), the quality of the States reports demonstrates how seriously the States take the reporting process, what they call "elite socialization". An improvement in quality would indicate commitment to the social norms, which is one way of estimating effectiveness; more so if the quality improves from report to report after the Committee has expressed its discontent. Unlike Creamer and Simmons (2019a), for this analysis reports won't be given a score, only the general observations provided by the Committee and shadow reports will be used to determine their quality and the existence of any improvements between cycles.

Lastly, the main analysis will consist on the evaluation of the States' responsiveness to the recommendations presented by the Committee in the Concluding Observations (COs) at the end of each reporting cycle. This methodology was used before by Krommendijk (2015) in his study of domestic effectiveness of international human rights monitoring. As stated in his article, the starting point of research on the effectiveness of COs is the recognition that COs have "value if and only if they cause people to do things they would not otherwise do" (Mitchell, 1994; p. 425). Hence, when changes can be attributed to the COs, we speak of effectiveness. These changes can take many forms: policy or legislative measures, the establishment of an interdepartmental working group or committee, the commissioning of a report or evaluation, the establishment of a new institution or the allocation of extra budgetary resources (Krommendijk, 2015). These are the changes that will be looked for; however, only the information found in the reports

submitted to the CEDAW (from the State or CSOs) will be taken into consideration due to space and time constraints. In addition, all the information retrieved from the reports will be found in the different annexes that will be attached to this paper. However, stress must be put on the fact that any legislative, policy or other measure taken in response to the recommendation are only “partly” the result of the COs, for it is impossible to know the extent to which the government has been influenced by the recommendations unless publicly acknowledged.

Lastly, due to space constraints, only two articles of the CEDAW will be analyzed: Article 7 on “Women’s Political and Public life” and Article 12 on “Equality in Access to Health Care”; both will be developed more in depth below. Further information relevant to these two areas that may have been included under other articles or sections within the State reports or Committee recommendations will not be taken into account.

B. THEORETICAL FRAMEWORK: Human Rights

In order to understand international human rights law and human rights in itself, we must start from the bottom. Although opinions are varied, the concept of “human rights” refers to this idea of individual interests to which all persons around the world are entitled by the mere fact of being human, without discrimination (Stewart, 2018).

Before World War II, human rights were considered to be internal matters of the States, outside the competency of any international law (Donoho & Wilets, 2017). After the horrors lived in World War II, especially but not limited to the Holocaust, the international community vowed to never again abide such “unspeakable atrocities” (Brown, 2016). Since then, the international community began playing with the idea of establishing and codifying a series of fundamental rights and guarantees for all peoples regardless of their governments, “the most fundamental preconditions for a dignified human existence” (Stewart, 2018; p.1). In the aim of securing universal protection, “the most obvious ways for nations to secure human-rights norms among themselves is to conclude a treaty to that effect” (D’Amato, 1982; 1127). Treaties are one of the main sources of international law, defined as “international agreements concluded between States in written form and governed by international law” (Art 2.1 Vienna Convention on the Law of Treaties, 1969). Multilateral treaties (also known as conventions, covenants, protocols, etc.), can be adopted outside or within the framework of an international organization. In order to be part of and bound by a multilateral treaty, states must have expressed their consent to do so.

The main articulation of international human rights is found in the 1948 Universal Declaration of Human Rights (UDHR) and two multilateral treaties, the 1966 International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Stewart, 2018). The UDHR was originally formulated as “soft law”, hence not legally binding; however, the Covenants were very much binding (Brown, 2016). Since then, the number of treaties that address issues of human rights has grown “from a handful to hundreds” (Hathaway, 2003; p.1822), especially within the United Nations system. The UN Charter’s Articles 55-56 include ‘respect for fundamental rights’ and ‘freedom’ among the organization’s primary purposes (UN Charter), which makes the UN the principal and biggest promoter of human rights in the world; which doesn’t mean the most effective, considering the contributions made by regional human rights systems (Barelli, 2010). In fact, although

the UN's principal institutions (General Assembly, Security Council, etc.) have important human rights functions, these are limited. Most of the heavy lifting in human rights at the UN is done by subsidiary institutional bodies.

1. The United Nations Human Rights Systems

International human rights law in the UN has developed within two different systems, one based on the UN Charter and the other one based on the human rights treaties adopted by the UN. The Charter-based system includes those organs whose creation is directly mandated by the UN Charter, such as the General Assembly, the Security Council or the Human Rights Council (successor to the Commission on Human Rights); or which have been authorized by one of those bodies (Alston, Goodman & Steiner, 2007). The Human Rights Council consists of 47 Member governments chosen democratically by the GA, and similarly to the treaty-based system, it has also adopted a monitoring mechanism known as the Universal Periodic Review (UPR), by which states have to submit periodic reports on actions taken in order to improve human rights among other things (United Nations HRC). However, this paper will focus on the effectiveness of the Treaty-based system, which is explained hereafter.

1.1. The treaty-based system

As opposed to the Charter-based system, the treaty-based system is based on “a large number of human rights treaties drafted under UN auspices, that codify much of the international human rights law in existence today” and their corresponding institutional mechanisms established by these treaties in order to monitor compliance by the States parties (Buergethal, 2006; p. 788). “The number of international human rights codified in treaty form has exploded” since the UDHR (Creamer & Simmons, 2019a; p.1). There are now nine core multilateral human rights agreements, each with their own monitoring body and several optional protocols. These monitoring bodies or committees are in charge of overseeing the implementation of the treaty provisions in the State parties and are composed of independent experts; unlike the Human Rights Council, whose members are the Member states, with all the politization it implies (Alston & Crawford, 2000). Although it differs from one committee to another, normally the independent experts are nominated and elected for fixed renewable terms by State parties. Among other functions, like considering individual complaints or communications, the treaty bodies are in charge of receiving reports from the States parties on their human rights practices, in relation to the specific treaty the body oversees, and produce observations and recommendations in

what's called the "self-reporting" process. These State reports have to be submitted by the State parties at regular intervals to the respective treaty body.

2. The self-reporting mechanism

"The examination of State reports is the key mechanism established at the universal level to monitor the implementation of treaty obligations by contracting States" (Keller & Ulfstein, 2012; p.16). Indeed, self-reporting has become a common tool of regulatory compliance at all levels of governance, even at the national and regional level (Creamer & Simmons, 2019). For instance, The EU's Open Method of Coordination relies as well on national reports to assess regulatory progress, provide peer review, exchange best practices, and occasionally issue recommendations (Heidenreich & Zeitlin, 2009); and at the national level, for example, self-reporting systems have contributed to pollution abatement by reducing the costs of state monitoring (Malik, 1993). However, domestic and regional self-reporting systems differ in an important respect from most international systems: they are usually backed by some ability to punish violators if detected (Creamer & Simmons, 2019).

At the international level, and more specifically in human rights, international regimes have to rely on "moral suasion and peer pressure" for states to participate in the self-reporting process (Creamer & Simmons, 2019a; p.5), which is why they are more often than not referred to as ineffective. Still, self-reporting is a very common form of enforcement in international law (Florini, 1996). For example, in the area of arms control, 85 of the existing 227 agreements require self-reporting from the parties (Vaynman, 2014). Nonetheless, in the area of human rights, self-reporting has been the most common practice for almost a century. Already in the 1920s states had to report to Geneva on anti-trafficking measures (Creamer & Simmons, 2019).

Within the treaty-based system, in 1947, the Drafting Committee for the ICCPR already proposed a State reporting mechanism for "an explanation, certified by the highest legal authorities of the State concerned, as to the manner in which the law of that state gives effect to any of the said provisions of this Bill of Rights" (Bossuyt, 1987; p.616). Today, all nine core international human rights treaties have established their own independent treaty bodies, usually referred to as committees, comprised of ten to twenty-five independent experts nominated and elected by States parties for fixed, renewable terms of normally four years (Creamer & Simmons, 2019).

3. Introduction to the CEDAW

Although most treaty bodies work in very similar ways, there are some differences from one to another, therefore, for the purpose of the research question, we will be focusing on the CEDAW Committee.

The CEDAW was adopted at the UN General Assembly on 18 December 1979 and entered into force as an international treaty on 3 September 1981. Today, 189 States have ratified it, excluding the United States (Baldez, 2011). Since its adoption, the Convention has been an important tool used by national and international advocates of gender equality (Byrnes & Freeman, 2011). Regarding the question of to what extent it has been effective, there is an array of literature on human rights treaty effectiveness. However, in general terms, women's rights around the globe have in fact really improved since the adoption of the CEDAW, with pace varying throughout countries (Byrnes & Freeman, 2011). Whether these improvements are a causal effect of CEDAW ratification is yet to be examined.

The Convention is divided into 4 substantive chapters and an additional procedural one. Part I of the Convention includes Articles 1-6 in respect to the establishment of a definition for "Discrimination against Women and Girls" and the obligation of State parties to eliminate discrimination in all spheres. Part II of the Convention includes Articles 7-9 dealing with the elimination of discrimination in the political and public life, ensuring their participation at the domestic and international level, and the protection of women's rights in regard to acquiring, retaining or changing their nationality and their children's. Part III comprises Article 10-14 and covers the elimination of women's discrimination in education, in employment and in the economic and social life in general, as well as ensuring equal access to health care and family planning, especially for women in rural areas. Lastly, Part IV covers Article 15, which deals with gender equality before the law, and Article 16, which examines equal rights in the choice of whom to marry and whether to marry, and any matters relating to the birth, adoption, and raising of children

In Articles 17 to 30 (Part V), the Convention establishes the CEDAW Committee's administrating and monitoring provisions. The Committee is composed of 23 experts nominated by their Governments and elected by the State parties in a secret ballot for terms of four years, as stated in Article 17 (CEDAW). The State reporting procedure for the CEDAW Committee is included in Article 18 of the Convention, whereby States parties undertake to submit a report on the legislative, judicial, administrative or other

measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect; first, within one year after the entry into force for the State concerned; and thereafter at least every four years and further whenever the Committee so requests (CEDAW). Article 18 describes to a limited extent how reports should be submitted and does not reflect the circular nature of the examination of State reports that takes place over the course of the years. In order to fully understand how the self-reporting procedure works one must refer to the CEDAW Reporting Guidelines which can be found in the Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties (HRI/GEN/2/Rev.6).

3.1. Articles 7 and 12

As mentioned in the Methodology section above, the present study will only be studying the self-reporting effectiveness under two articles of the CEDAW: Article 7 on women participation in the political and public life, and Article 12 on women's equal access to health.

To begin with, the Convention reiterates in its preamble that "the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields". Hence, Article 7 urges States parties to take appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure women are on equal terms with men regarding the rights: to vote, to be eligible for election to all publicly elected bodies, to participate in the formulation of government policy and its implementation, to hold public office and perform all public functions at all levels of government, and to participate in non-governmental organizations and associations concerned with the public and political life of the country (Art.7, CEDAW). General Recommendation No. 23 (1997a) dives further into the understanding of this article and demands States parties to, not only remove the de jure barriers, but to ensure the implementation of affirmative action by the governments to combat social, cultural and financial factors that may hinder women's full enjoyment of these rights. Temporary special measures are highly encouraged to this end, such as recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal, participation, setting numerical goals and quotas, etc.

(CEDAW, 1997a). Moreover, General Recommendation No. 23 also provides a series of appropriate steps to fully comply with the article, such as achieving a balance between women and men holding publicly elected positions; removing barriers resulting from illiteracy, language, poverty and impediments to women's freedom of movement; or recruiting processes directed at women that are open and subject to appeal. Lastly, it also instructs States parties on what to include in their State reports, such as statistical data disaggregated by sex, which many States struggle to achieve.

Article 12, on the other hand, is central to the health and well-being of women. It requires States parties to eliminate discrimination against women in their access to health-care services throughout the life cycle, especially in the areas particular to women, such as family planning, pregnancy, confinement and the post-natal period (Art. 12, CEDAW). The "duty to fulfil rights" principle obliges States parties to take "appropriate legislative, judicial, administrative, budgetary, economic and other measures to the maximum extent of their available resources to ensure that women realize their rights to health care" (CEDAW, 1999). Accordingly, for its fulfillment, General Recommendation No.24 of the CEDAW proposes the implementation of comprehensive national strategies to promote women's health aimed at both the prevention and treatment of diseases and conditions affecting women, as well as responding to violence against women, and to ensure universal access to a full range of high-quality and affordable health care, including sexual and reproductive health services. These national strategies should include the removal of all barriers to women's access to health services linked to lack of education and information; the provision of family planning services and sex education; the decriminalization of abortion, when possible; or the provision of health services to women by public, nongovernmental and private organizations (CEDAW, 1999).

3.2. The reporting process in the CEDAW

The first step of the reporting cycle is the preparation of the State report by the State party. State reports constitute two parts: a common core document and a document that specifically relates to the implementation of the Convention; the common core document is the first part of the report and should contain information "of a general and factual nature on the State's sex and gender dimensions" (United Nations International Human Rights Instruments, 2009). The second part of the report is the convention-specific document and contains all the information relating specifically to the

implementation of the Convention and the relevant general recommendations produced by the CEDAW Committee, as well as information of a more analytical nature on the impact of laws, the interaction of plural legal systems, policies and programmes on women (United Nations International Human Rights Instruments, 2009).

After the Initial report is submitted, the following reports are known as “periodic reports”. These should focus on the period between the previous report and the presentation of the new one. Periodic Convention-specific reports should be structured so as to follow the main clusters (parts I-IV) of the Convention and should include information on the implementation of the concluding observations made by the Committee on the previous report (OHCHR). Furthermore, the Committee recommends that States parties consult national non-governmental organizations in the preparation of their reports (OHCHR).

After the reports have been submitted by the States, the second step of the reporting cycle begins: the pre-examination of the report by the pre-sessional group and the drafting of a list of issues and questions regarding the report (OHCHR). The pre-sessional working group meets for five days (in closed meetings) and is composed of five members of the Committee (OHCHR). At this point, representatives of the specialized agencies and bodies of the UN, national human rights institutions as well as national and international non-governmental organizations, are invited to provide country-specific information to the working group in the form of “shadow reports” to ensure that matters of concern are included in the list of issues (International Women’s Rights Action Watch). The Committee then drafts a List of Issues (LOI) and questions to which the state must respond “several months in advance of the session at which the report will be considered” (Reporting Guidelines to the CEDAW).

The third step in the reporting cycle is the dialogue between the Committee and the State, usually represented by a governmental delegation; this part is also known as the Consideration of the Report (OHCHR). According to Rule 51 of the Rules of Procedure (HRI/GEN/3/Rev.3), the Committee shall notify the date of the examination to States parties as early as possible; however, if the State fails to respond to an invitation to attend the meeting of the Committee at which its report is being examined, the examination shall be postponed. But if it fails to respond for a second time, the examination of the report may proceed in the absence of a representative of the State (OHCHR). The Committee usually invites eight States parties to present their reports at each session (OHCHR).

During two public meetings, the Committee poses questions to the delegation in clusters following the four substantive parts of the Convention (OHCHR). After each cluster, the State party is given an opportunity to respond. In order to maintain the highest standards of impartiality in the process, individual members of the Committee are not allowed to participate in the consideration of reports of their own State, or any State where they would have a conflict of interests (OHCHR). The Committee may consider the implementation of the Convention in the absence of a report as a measure of last resort and in a case-to-case basis (OHCHR), given the fact that failing to submit a country report implies breaching the treaty itself, which is legally binding.

The fourth step involves the publication of a set of Concluding Observations (COs), which are discussed in close meeting by the Committee after the constructive dialogue. These always include a recommendation relating to a wide diffusion of the Observations in the State party, and also a paragraph requesting the State to submit information on the steps taken to implement two priority recommendations identified at the end of the COs (OHCHR). This requested information must be submitted within two years, which is known as the “follow-up procedure” (OHCHR). The COs also include the date in which the next State report must be submitted, and most importantly, recommendations on how to better comply with the treaty provisions. This way, one reporting cycle is closed and the next one begins.

In reality, States are not legally obligated to implement the COs made by the Committee. However, due to the “binding nature of the treaty obligations upon which they are based” and the role assigned to the treaty bodies, recommendations have considerable authority despite their non-binding nature (Keller & Ulfstein, 2012; p. 31). In fact, the ICJ referred to the COs of the Human Rights Committee (which monitors the implementation of the ICCPR) on Israel, as “authoritative interpretations of that country’s obligations under these Covenants” (Keller & Ulfstein, 2012; p.31). Nevertheless, a State party is always under legal obligation to uphold the rights in the treaties in “good faith” (art. 26 of the Vienna Convention on the Law of Treaties). The implementation of these recommendations will be one of the methods used in this study to determine the effectiveness of the self-reporting process.

4. Criticism and Reform: The treaty-body monitoring system

Many have argued that the human rights monitoring system is in crisis (Alston & Crawford, 2000). The first and most obvious issue has to do with the backlog of reports.

Despite having ratified the treaty long time ago, states more often than not, submit their reports very late (if they submit at all), with no sanctions or consequences for them (Keller & Ulfstein, 2012). For instance, as of 31 January 2016, there were a total of 81 overdue reports to the CEDAW Committee (CEDAW Secretariat, 2016). Regarding this issue, States claim that they feel burdened by having to produce reports for all nine treaty-monitoring committees, each with differing guidelines and with a lot of information overlapping, given that many treaties contain very, or even the same, provisions (Schöpp-Schilling, 2007). In addition to this, the preparation of one report implies high national costs in terms of resources, time and staff with the relevant expertise (Lhotský, 2019), which many States are not willing to spend, or can't.

A second issue often criticized about the self-reporting process is the delay within the Committees between the date of submission and the date of consideration, which originates from the lack of sufficient staff and resources in the Committees (Alston & Crawford, 2000). Indeed, the success story expressed in the almost universal ratification of some of the most important human rights instruments has not been matched by a “corresponding increase in the resources needed by the treaty bodies to discharge their mandate in a timely and efficient fashion” (Schulz, 2013). For instance, new reports submitted by a State party to the CEDAW Committee in 2013 “will be examined in 3 or 4 years at the earliest”, which is inefficient for the State party itself, the civil society and the Committee (Schulz, 2013). This, however, has not been observed in the study cases examined below.

A third issue has to do with the self-reporting of one's own wrong doings in a system based on good faith (Alston & Crawford, 2000). There is no need to explain how this poses an obstacle to the efficient operation of human rights monitoring. States are often reluctant to expose their own flaws, even more so if there are human rights violations carried out by the State. Therefore, shadow reports are key in offering a realistic view of the state of human rights in a given country and represent an effort by the treaty bodies to give voice to facts and views that may not be reflected in the government's reports (Creamer & Simmons, 2018). One may believe that shadow-reporting repressive and non-democratic states might be limited by access to information, however, “high-quality and responsive State reports are just about as likely to elicit shadow reporting as are low-quality and unresponsive official reports” (Creamer & Simmons, 2018; p.54). Other issues pointed out about treaty monitoring include vote trading and the influence

of political interests in relation to the composition of the Committees (Alston & Crawford, 2000), unjust criticism from the treaty bodies to States in complicated situations or that positive efforts are not sufficiently appreciated (Schöpp-Schilling, 2007).

According to some scholars, the CEDAW Committee has been confronted with additional specific challenges due to the nature of the various forms of discrimination against women and the fact that women constitute half of the world's population. Women are not just a "vulnerable group" like children or disabled people, which are specifically targeted in other treaties; women and girls are half of the population, making discrimination of women both quantitatively and qualitatively different from any of these other groups (Schöpp-Schilling, 2007). Regarding the nature of women discrimination, the CEDAW is plagued by a large number of substantive and far-reaching reservations justified in favor of cultural exceptions (Alston & Crawford, 2000). In theory, all reservations must be in accordance with the purpose of the Convention, however, the line is not easily drawn between reservations that do and do not undermine the Treaty's purpose (Damrosch et al., 2001). Sometimes, reservations are the price that needs to be paid in order for the rest of the treaty obligations to have effects on certain States.

Throughout the years, there have been many reform proposals to the treaty body system. In 2009, the UN high commissioner for human rights initiated a process to strengthen the treaty bodies which resulted in the adoption in 2014 of a resolution (A/RES/68/268). Some of the measures included were: additional meeting time to all treaty bodies in order to enable them to deal with their heavy backlogs more effectively, increase support of capacity-building activities to the States parties, and the introduction of videoconferencing in order to allow members of the delegations not present to participate in the meetings (Lhotský, 2019). Two years later, in 2016, the GA assessed the effectiveness of the 2014 measures in the form of a report (A/71/118), where it found it to have been "globally positive" as it "witnessed an increase in the number of State reports and communications, as well as initiating the new capacity-building program" (Lhotský, 2019; p.15). However, there is still a lot to be done, hence, in 2020 the General Assembly will review these measures again and consider additional actions to further improve the system (Creamer & Simmons, 2019), being one possible option an Integrated Treaty Body System.

C. LITERATURE REVIEW: The effectiveness of Human Rights Treaties

All the effort put into improving the treaty monitoring system seeks, above all, increasing human rights compliance and decreasing human rights violations, despite general skepticism. In fact, one of the greatest concerns with regards to international human rights treaties has to do with whether they have any influence on state behavior. While some believe that treaty bodies do make a difference, there is a high level of distrust among the general public because of the amount of treaty violations in States parties that take place without consequences. The real answer is much more complicated, with no consensus reached among scholars.

A lot of the research has focused on compliance with international norms, which is defined as a “state of conformity or identity between an actor’s behavior and a specified rule” (Raustiala, 2000; p.391). However, the problem with studying compliance is that full compliance may never occur even if a State has taken subsequent measures to address the issues, and the fact that there may be a situation of compliance independently from the international norms, thus, not telling us anything about the role or relative weight of the treaties (Krommendijk, 2015). Contrariwise, effectiveness refers to “the extent to which it [the treaty] requires states to depart from what they would have done in its absence” (Downs et al., 1996; p.383). Therefore, effectiveness is understood as the observable changes and effects in the State party’s behavior as the result of being part of the treaty, and consequently taking part in the self-reporting process.

A number of scholars have tried to empirically test the effects of human rights treaties and self-reporting on States parties. However, there is no simple or settled way of measuring effectiveness in a quantitative and qualitative way. While some scholars have developed sophisticated statistical methods to address the question, many others believe it is nearly impossible to measure effectiveness realistically. For instance, Keller and Ulfstein believe that it is too difficult to assess the impact of self-reporting given that recommendations are too general and imprecise and that, due to the insufficient and inconsistent follow up by the treaty bodies, there is a lack of availability of information that prevent scholars from coming even close to calculating the real effectiveness of the self-reporting process (Keller & Ulfstein, 2012).

Oona Hathaway was one of the first scholars to make an attempt at empirically analyzing whether human rights treaties made a difference (2002), she was “path-

breaking” according to Beth A. Simmons (2012; p.733). Already, she acknowledged the difficulty of measuring compliance and effectiveness due to “the relative scarcity of accurate information on state practices” and the difficult challenge of measuring state practices quantitatively (Hathaway, 2002; p.1963). After a preliminary analysis determining the relationship between treaty ratification and human rights ratings, she found that “countries that ratify human rights treaties often appear less likely, rather than more likely, to conform to the requirements of the treaties than countries that do not ratify these treaties” (Hathaway, 2002; p.1989). Based on previous studies seeking to explain cross-national variation in respect for human rights and including civil war or population size as control variables among many others, she could not find whether treaties were effective. The results for each treaty were different and did not show any statistically significant relationship between treaty ratification and human rights ratings. Moreover, she also did not find treaty ratification to be infrequently associated with worse human rights ratings than otherwise expected (Hathaway, 2002), suggesting that treaty ratification could also be associated with worse performance.

Although it did not tackle self-reporting specifically, Hathaway’s findings provided an interesting new theory on treaty effectiveness and paved the road for others to follow. Eric Neumayer (2005) attempted to answer very similarly whether international human rights treaties improved the respect for human rights in States parties. Despite a number of potential statistical problems explained in the study, he was able to take into account time and other different explanatory variables (individual country effects, culture and other time-invariant factors). However, no final answer was found (Neumayer, 2005). Thus, similarly to Hathaway, he found that “in the absence of civil society and/or in pure autocracies, human rights treaty ratification often makes no difference and can even make things worse” and that “treaty ratification often becomes more beneficial to human rights the more democratic the country” (Neumayer, 2005; p.950). He also pointed out at the fact that the results did not necessarily imply that treaties were ineffective, but that due to different statistical problems or the fact that a longer period of time was needed for effects to leave a statistical trace in the data, effectiveness could not be found (Neumayer, 2005).

Emilie M. Hafner-Burton has also contributed tremendously to the question of treaty effectiveness. In 2005 she published an article with Kiyoteru Tsutsui explaining the impact of human rights treaties as a “paradox of empty promises”, with not only no

effect on state practices, but in some cases even a negative one (Hafner-Burton & Tsutsui, 2005). They proved this, like the others, by building a single model of a data-generating process different to the ones used before but with similar control factors. The two core propositions of the analysis were, firstly, whether state ratification of international human rights treaties affects state compliance with human rights norms, and secondly, whether state linkage to INGOs affects human rights behavior. In relation to the first point, they found that ratification not only had no effect on human rights practices, but that at times, it even led to exacerbating human rights abuse (Hafner-Burton & Tsutsui, 2005). They called it “decoupling”, whereby states ratify human rights treaties as a deception in order to hide worsening practices (Hafner-Burton & Tsutsui, 2005). Be that as it may, regarding the second question and countering the first findings, they identified that global human rights norms embedded in the treaties proffered by the international civil society do contribute to real improvements in human rights practices (Hafner-Burton & Tsutsui, 2005). Therefore, treaties could be considered effective for triggering civil society mobilization, which in turn take on the task of pushing for State compliance. Still, by pulling all the results together, they concluded that there was no evidence of a systematically positive correlation between ratification and state human rights practices (Hafner-Burton & Tsutsui, 2005). Anyhow, Hafner-Burton and Tsutsui’s outlook on the civil mobilization sparked by human rights treaties opened a new window of possibilities of study and a new approach to effectiveness with international and domestic civil society as the central actors for change.

In 2010, Daniel W. Hill Jr, based on the premise that both Hathaway and Neumayer had ignored the fact that “several of the state-level characteristics which are known to affect repressive practices also influence the likelihood of a state making a formal commitment to the human rights regime”, designed a different method in order to estimate the effects of human rights treaties on state behavior without presuming systematic heterogeneity across the *ratifiers* and *nonratifiers* (Hill, 2010; p.1161). Using a statistical method called the matching process, he created different models for each of the treaties under study. He found that the CAT (Convention Against Torture) was associated with worse torture practices than would be expected in the absence of ratification, hence having a negative effect rather than no effect at all (Hill, 2010). This negative correlation coincides with what Hafner-Burton and Tsutsui (2005) proved in a previous study. On the other hand, and surprisingly for him, the CEDAW was found to

have beneficial effects at least on one type of women's right (political rights), even though it wasn't found to have any effect on social or economic rights (Hill, 2010). Hence, although his empirical contribution to the discipline was highly valuable, like the others, he was not able to answer the question of whether human rights treaties were effective or not as a whole.

Yonatan Lupu (2013), based on the assumption drawn by previous researches that there is no way of deducing whether treaty commitment has a causal effect on a state behavior, took it upon himself to study the idea by using the Monte Carlo Simulations method (used to understand the impact of risk and uncertainty in prediction and forecasting models) and the propensity-score matching approach proposed by Simmons and Hopkins (2005) in their article "The Constraining Power of International Treaties: Theory and Methods", whereby covariates (the particularities of each states) are balanced in order to reduce or eliminate selection bias. He argues that Hill (2010) and other researches before had omitted a key factor: states' treaty commitment preferences (Lupu, 2013). Since each treaty has different effects on each country, according to Lupu, States' treaty commitment decisions, when analyzed systematically, "provide a significant source of information that can reveal their preferences toward individual treaties and predict commitments to those treaties with a high degree of accuracy" (Lupu, 2013; p. 912). He found that in the cases of the ICCPR and the CAT, committing to the treaty had no effect on the states' human rights practices. He does not deny Hafner-Burton and Tsutsui's "decoupling" theory, for he observed as well that human-rights abusers appeared to be more likely to join such treaties. However, he noticed that it was only a "selection effect", not a "treatment one", suggesting that committing to said treaties did not cause the human rights violations, but that they joined these treaties because of the violations (Lupu, 2013). Surprisingly, like Hill, with respect to the CEDAW, he found "robust results" showing that treaty ratification led to improvements in respect for women's political, economic, and social rights, in contrast to prior results (Hill 2010).

Most of the studies on effectiveness carried out until then only considered the correlation between commitment and effectiveness without considering the "middleman": the self-reporting process; the monitoring and enforcement mechanism created to hold state parties accountable and offer recommendations. One may argue that if self-reporting was effective, the treaty would be effective, hence, all the studies before would be valid in answering this question. However, none of the scholars mentioned

above looked at self-reporting as a key element of treaty effectiveness. In 2015 Jasper Krommendijk used self-reporting in order to analyze treaty effectiveness by looking at State responsiveness to the COs and the extent to which policy, legislative or any other measures were taken as a result of these (Krommendijk, 2015). Unluckily, as opposed to the studies before, he acknowledged that the only way of examining self-reporting effectiveness is case by case (until now), which is what scholars before had been avoiding with their complex formulas. Krommendijk examined the Netherlands, New Zealand and Finland under six main treaty bodies, as he considered them very likely cases of positive effectiveness (Krommendijk, 2015). He did it by looking at primary sources, such as parliamentary minutes, court judgments, newspaper articles, NGO websites and even interviews, and searching for the link between the latter and COs.

Looking at the results, out of a total of more than 1000 recommendations, more than 900 had had no effect on policy, legislative or similar in the three countries; however, 74 did (Krommendijk, 2015). He noticed that the largest number of ineffective COs are the more broadly and vaguely formulated ones, and that the rest had been rejected by the governments due to conflicting interests on budgeting or policy action (Krommendijk, 2015). He found proof that recommendations from different human rights treaty bodies had caused direct legislative or political responses, demonstrating human rights treaty effectiveness finally. When trying to explain why, he juggled two different hypotheses. First, he tried to analyze the results by trying to deduce whether governments had taken action in order to maintain a reputation towards the international community and whether they considered the bodies important and legitimate enough to act in accordance with; however he could not find empirical results to support this first hypothesis (Krommendijk, 2015). Secondly, he studied whether the positive results had anything to do with domestic and transnational mobilization, such as the work from domestic and international NGOs and political leaders in order to push for certain actions (Krommendijk, 2015). He found domestic mobilization to be a direct consequence of the self-reporting process and, at the same time, crucial for state compliance with the treaty body recommendations (Krommendijk, 2015).

Unlike scholars before, Krommendijk demonstrated that the proof was actually in the process and not in the human rights indicators and measurements that scholars had been to assess treaty compliance. Some authors had touched upon this topic before; for example Sally Engle Merry (2006), whose study of gender violence showed how NGOs

used the CEDAW Committee's concluding remarks to pressure governments into protecting women from violence; or a study by C.H. Heyns and Frans Viljoen (2001), which listed several observations and recommendations from treaty bodies that had directly influenced state action, such as the release of prisoners in Egypt (Creamer & Simmons, 2019). Hafner-Burton and Tsutsui (2005) had also trace effectiveness back to civil society mobilization. Still, positive accounts of the self-reporting process are rare and for the most part, scholars still criticize the self-reporting system as ineffective, inadequate and in crises.

More recently, in 2019, Cosette D. Creamer and Beth A. Simmons further examined this idea and released a study called "The Proof is in the Process: Self-Reporting under International Human Rights Treaties" (2019a) and "Do Self-Reporting Regimes Matter? Evidence from the Convention Against Torture" (2019b). In both of their studies, they examine different ways through which the self-reporting process can be found to contribute to human rights improvements. These mechanisms are elite socialization, learning and capacity building, domestic mobilization, and law development (Creamer & Simmons, 2019a).

Elite socialization, in the context of the reporting process, refers to the process through which officials participating in the periodic review come to understand what the international community means by implementation of and compliance with treaty obligations, and seek to gain this community's acceptance and respect (Creamer & Simmons, 2019a). In practice, this can be observed through, among other things, the level of the delegation in the constructive dialogue with the treaty body, or by submitting timely and transparent reports (Creamer & Simmons, 2019a). Creamer and Simmons examined to what extent states had "socialized" throughout the years under four core human treaties (ICCPR, CEDAW, CAT, and CRC) by using a "quality score" and a "responsive score" (Creamer & Simmons, 2019a). They found that, regarding the first score, with the partial exception of CRC and ICCPR reports in the more recent years, reports systematically improve in candor and transparency over time (Creamer & Simmons, 2019a). Moreover, the second analysis shows that State reports have become more responsive to Committee recommendations and concerns over time in general, though the ICCPR reports tend to be relatively less so than the rest (Creamer & Simmons, 2019a). Hence, one way in which

self-reporting is effective relates to the increase in elite socialization in the State parties deduced by a growth in commitment from public authorities.

Secondly, learning and capacity building also have direct effects on human rights practices and “learning exactly how to implement one’s treaty obligations is thus a highly plausible explanation for the correlation between cumulative reporting activity and rights improvements” (Creamer & Simmons, 2019a; p.31). Learning from other States’ experiences or from international organizations influences states practices (Meseguer, 2005). Some like to call this multilateral reporting regime a “global experimental governance” (De Búrca et al. 2014), for it creates a network of common problems and solutions publicly shared for others to learn. In fact, the constructive dialogues and COs contain suggestions that have been found to be effective elsewhere, which reinforces the learning and sharing of best practices (Creamer & Simmons, 2019a). However, learning also “involves the development of legal, technical, and institutional capacities to take action” (Creamer & Simmons, 2019; p.34) and a state’s willingness to improve these capacities. Given that gathering data is the first and most important step towards capacity building, Creamer & Simmons created report data scores across the different human rights treaties in order to see whether they included meaningful data provision (Creamer & Simmons, 2019a). They found that there was a clear upward trend between approximately 1995 and 2005, with more than 75% of reports containing meaningful data in all four treaties (Creamer & Simmons, 2019a). This suggests that States parties are improving their capacities as an effect of the self-reporting process.

Domestic mobilization and law development were already examined by Krommendijk in his study; the idea that domestic actors can pressure governments into taking certain actions and develop new legislation, but also the idea of State reports, shadow reports or committee recommendations, being cited in court rulings (Creamer & Simmons, 2019a). For instance, they found that in the last decade the ECHR and the IACHR continuously cite observations from the report-and-review process in their rulings (Creamer & Simmons, 2019a), making human rights treaties a legitimate source of normative power. Furthermore, in their analysis of domestic mobilization, they explain how public attention to the report-and-review process is central in order to mobilize and empower civil society organizations (Creamer & Simmons, 2019a). Shadow reports are both cause and consequence of this domestic mobilization, for they provide evidence of

the states' human rights practices, which trigger domestic mobilization and in turn demand state accountability. Media attention is one way of measuring to what extent does the public care about the reporting process. Creamer and Simmons found that, at least for the CEDAW and the CAT, local press attention to the review processes increased by more than double during the years of review for all Latin American countries (Creamer & Simmons, 2019a). This again proves that self-reports rarely go unnoticed by domestic actors serving as a catalyst for mobilization.

There is still a long way to go in the study of self-reporting effectiveness, however, later studies have shown how, by focusing on the process rather than on the results, evidences of effectiveness can be found, whether it is through a more direct and efficient way, such as the development of new legislation, or by the amount of media coverage that can spark domestic mobilization. Human rights improvements may take long to realize and manifest in Human Rights indicators, however, though civil activation one can expect these improvements to happen at last, although, at this moment, there is no sufficient data to assert such statement.

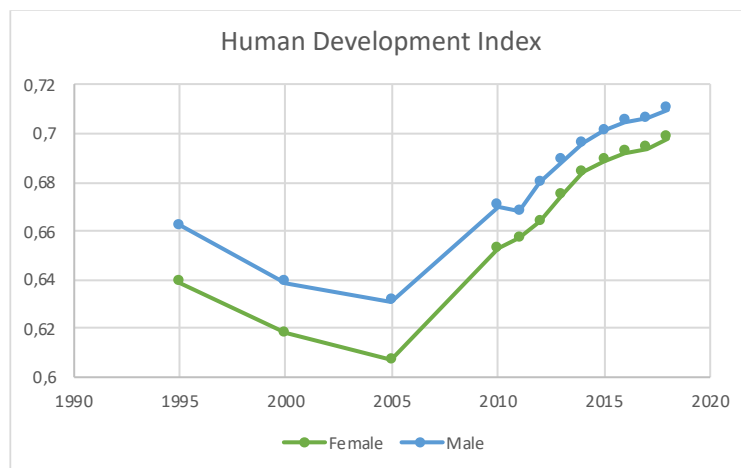
D. ANALYSIS OF COUNTRY EXPERIENCE

1. Self-reporting effectiveness in: SOUTH AFRICA

The first country where self-reporting effectiveness will be analyzed is South Africa. South Africa is the country in the south point of the African continent. Today, the South African economy shows at an aggregate level the typical structure of a developed country, with a clear dominance of the service sector (Oficina de Información Diplomática, 2019a). However, according to the Economist Intelligence Unit's (EIU) 2019 Democracy Index, South Africa falls into the category of flawed democracies, ranked 40th out of the 167 territories in the index. The country's weakest performance is in the political culture category, with a score of 5.00 out of 10, which analyses things like social cohesion and public preferences for different types of rule (The Economist Intelligence Unit, 2020).

Despite its developed economy, South Africa is considered one of the most unequal countries in the world; “while the end of apartheid in 1994 brought forth dramatic social and economic changes, inequality has remained at record highs” (UN DESA, 2020; p. 36). South Africa falls into the high human development countries category of the Human Development Index (HDI), with a score of 0.705 in 2018 (Human Development Report, 2019b). However, in terms of inequality, its IHDI (Inequality adjusted HDI) value is 0.463, resulting in a 34.4% loss of HDI due to inequality in the distribution of the HDI dimension indices (Human Development Report, 2019b). Nevertheless, gender-wise, the GDI, defined as a ratio of the female to the male HDI, South Africa scored 0.984, placing it into Group 1 (Human Development Report, 2019b).

FIGURE 1



[Own creation]. Source: Human Development Indicators 2019, UNDP

The GDI has really improved since joining the CEDAW in 1995, although not in a linear fashion. South Africa acceded to the Convention on the Elimination of Discrimination against Women, without reservations, on December 1995, in an effort to reconstruct its society after the oppressive apartheid regime (CEDAW, 1998; P.58). Apartheid consisted on a social system based on racial segregation and white minority rule that lasted from 1948 to 1994, with the victory of the African National Congress (ANC), which was led by Nelson Mandela, in the country's first democratic election (Callinicos, 1994).

South Africa's self-reporting history to the UN as well as other African human rights treaties "represents a gloomy picture", for they have taken self-reporting as a "mere formality and not as a self-critical assessment of its efforts", having a very low profile in the government (Chenwi, 2010; p.14). In terms of diligence, none of the South African reports were submitted in time. The initial report was received on February 1998, following a year's delay from its due date on January 1997 (Chenwi, 2010); South Africa did not submit the second and third report which were due in 2001 and 2005, instead a combined fourth report was submitted on July 2009, 10 years since the initial report (UN Doc. 2009); and lastly, the fifth report was presented with a four-year delay in May 2019 (UN Doc. 2019a). Although, as explained before, delays are very common (Keller & Ulfstein, 2012), the extent of the lag, especially for the first 4 reports, demonstrates a low level of commitment. However, the fact that the fifth report was submitted on its own instead of waiting for the next reporting period, already shows an intention of improvement for the future, and possibly a sign of self-reporting effectiveness.

Creamer and Simmons (2019) also considered the quality of the reports as a way of evaluating the implementation of and compliance with the treaty obligations. In this regard, South Africa has been more diligent. In the case of the Initial report, although it was called out by CSOs for lacking sufficient data disaggregated by sex (Chenwi, 2010), it was applauded by the Committee for its "clarity and frankness", for their "extensive replies to the questions posed by the Committee", and also for "the high-level delegation [...] which also included representatives of non-governmental organizations" (CEDAW, 1998; p.59). The Fourth combined report consisted of 172 pages, "far exceeding the prescribed page limitation of 70 pages as required for periodic reports" and failed to address the concerns and recommendations raised by the Committee in the previous

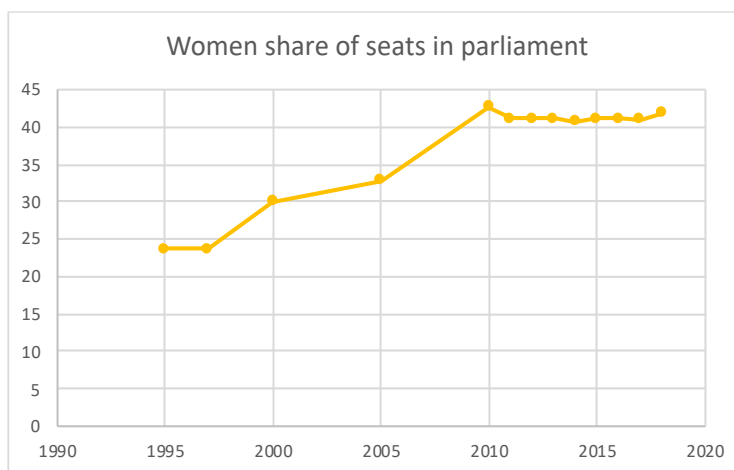
concluding comments (Commission for Gender Equality, 2010; p.9). Still, the Committee commended how well structured it was, following in general the Committee's guidelines for the preparation of reports, "although it lacked references to the Committee's general recommendations, and to some specific sex disaggregated data" (CEDAW, 2011; p.1). Moreover, civil societies emphasized how most of the General Recommendations of the Convention were not factored into the report and made no reference to the role played by civil society organizations during the report compilation process, as required (Commission for Gender Equality, 2010). Surprisingly, the Fifth report included an annex with detailed consultations "involving discussions with stakeholders in representing different, rent sectors as well as publication of the draft report for public comment" (UN Doc. 2019a; p.4). In fact, in August 2015 a draft of the report was made available to the public calling for public comment (Government Gazette, 2015). The great amount of consultation might have been the cause behind the four-year delay; however, this self-correction by the State party in their reporting process after being called out by the Committee in the previous reporting period can be considered as a sign of self-reporting effectiveness.

Since the accession to the treaty, women indicators have improved substantially, however, it has yet to be seen whether there is an actual causal relationship between participating in the self-reporting process and the improvement in women's rights across the different sectors. The Committee's COs for the initial report were published in June 1998. In regard to Article 7, South Africa was given 7 specific recommendations. Out of the 7, 3 were complied with while the rest were explicitly rejected or blatantly ignored, as can be seen in in Annex 1. The 3 that were partially followed had to do with the "use of temporary special measures, including quota systems in upcoming elections" and "extending quota systems to other governmental or governmentally appointed bodies to increase women's participation therein" with "particular attention paid to public bodies dealing with business and economic matters" (CEDAW, 1998; pp.60-61). Although South Africa did not have any quotas system built in within its Constitution or Electoral Act of 1998, it did set special targets, such as 30% of women in management positions in the Public Service by 2005, which was surpassed, or 50% representation of women at all levels in Senior Management Services in the Public Service by March 2009 (UN Doc. 2009). In fact, women represented 54.38% of Public-Service staff in 2011 (CEDAW, 2011). Moreover, in 2004 the ruling party (ANC) adopted a policy in terms of which 50%

of its candidates on party electoral lists would be women, and in 2007 took a decision to ensure gender parity in its decision-making structures (Commission for Gender Equality, 2010). Other measures were also adopted, such as the Strategic Framework for Gender Equality within the Public Service for 2006-2015 or the creation of a new Ministry for Women, Children and People with Disabilities.

Thus, although quotas were not used, temporary special measures were. In fact, these measures doubled the number of women in parliament and the public sector almost achieving complete parity, as seen in Figure 2. However, no measures were taken in those

FIGURE 2



[Own creation]. Source: IPU (2019). Women in national parliaments.

10 years in order to increase women participation in the judiciary (with only 26% women judges by 2011), being “one of the most disappointing areas with regard to achieving gender-balanced representation at all levels of decision-making” (Commission for Gender Equality, 2014; p.20). Also, the budgetary allocation for the commission on gender equality remained inadequate (see Annex 1).

In terms of equal access to healthcare (Art. 12), out of the 4 specific recommendations issued after the Initial report, only 2 were complied with. These requested the state to continue its efforts “to ensure equal access to health services throughout the entire country” and “to ensure women, particularly poor women, access to family planning programs and related information to increase women’s choices and as a means of empowerment” (CEDAW, 1998; p.61). It must be noted that both recommendations did not recommend any specific measures, but to continue with what the State party was already doing in the first place, which will also be considered as complying with recommendations. In this regard, South Africa made primary healthcare free to all and increased government spending on health in nominal terms (Commission for Gender Equality, 2010). However, according to the South African Human Rights Commission (SAHRC), “access to health care services, especially for the poor, is severely constrained by expensive, inadequate or non-existent transport, by serious shortages with

regard to emergency transport, and by long waiting times at clinics and other health care service providers” (Commission for Gender Equality, 2010; p.22). Hence, although efforts have continued, there is no real equality.

Regarding family planning and women’s choices, abortion is legal, sexual education in schools was introduced to promote personal and sexual health, and a teenage pregnancy prevention strategy was developed to improve their sexual health and rights through life-skills and reduce the rate of unintended pregnancy (UN Doc. 2011). Still, research found that “at least 37% of maternal deaths were avoidable” by 2010 (Commission for Gender Equality, 2010; p.22), most of them caused by HIV (Centre for the Study of Violence and Reconciliation & Co. 2011), but a National Strategic Plan on HIV/AIDS was approved for 2007 to 2011 making HIV a state priority from 2007 onwards (Centre for the Study of Violence and Reconciliation & Co. 2011). The other recommendations had to do with the investigation of Female Genital Mutilation and the prohibition of such practices within the national legislation (CEDAW, 1998), but South Africa responded by denying the existence of FMG in the country; but in case there was, it would be automatically prohibited by the basic human rights principles under the Constitution (UN Doc. 2011), although no data or research was used to back such statement.

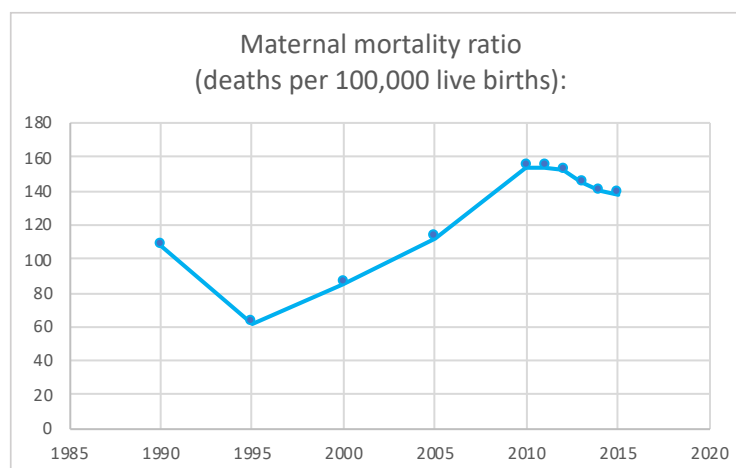
From the COs of the Fourth combined report, the Committee made 5 recommendations under each of the articles for the next period. It must be noted that, for this last cycle, the procedure is still in the first half of the self-reporting process and the list of issues drafted by the Committee have not yet been responded to by the state. First, for article 7, out of the 5 recommendations made by the Committee, only 1 of them could be considered to have been partially implemented. A few had to do with establishing policies “aimed at the promotion of women’s full and equal participation in decision-making [...] and temporary special measures [...] in particular within the judiciary” (CEDAW, 2011; p.7). South Africa did not introduce or adopt any policy or temporary special measure to this end. The Women’s Empowerment and Gender Equality (WEGE) Bill, which had been in the making since 2010, after passing from chamber to chamber with no final approval finally lapsed in April 2014 and is now non-existent (UN Doc. 2015a) Regarding women participation in the judiciary, although the percentage has risen (33.6% women judges, 40% women magistrates), no formal policy was introduced. One of the Committee’s recommendations had to do with targeted training and mentoring

programs for women in public offices. In 2007 (before the recommendations) “a nine months’ training program for aspirant women judges was initiated with the objective of dealing with the paucity of women on the bench and to encourage women to make themselves available for consideration when judicial vacancies arose in the High Courts” (Commission for Gender Equality, 2014; p.98). Even though the program was initially established to encourage women to join the judiciary, many women consider it “sexist”, for only women have to go through this course in order to become judges (Commission for Gender Equality, 2014; p.93). The only recommendation that took place was the monitoring of the “effectiveness of measures taken and results achieved”. A 20 Year Review was released in 2014 to commemorate the end of apartheid, however, it was too concise and did not focus only on women’s advancement. The last recommendations had to do with the implementation of awareness-raising activities, which was not mentioned in the State report at all. Lastly, the Committee deemed the performance of the private sector as dismal (CEDAW, 2020)

For Article 12, 4 of the 5 recommendations made by the Committee were adopted. “The implementation of the Maternal Child and Women’s Health Strategy (2009– 2014) has scaled up and a total of 72% of primary health care facilities providing basic antenatal care” (UN Doc. 2019a; p.27), as recommended. The service of Prevention of Mother to Child Transmission (PMTCT) of HIV achieved a reduction in mother to child transmission from 8% in 2008 to 2.0% in 2013 (UN Doc. 2019a), when the Committee’s recommendation only required 5%. Improvements can be seen in Figure 3. Also, as recommended, a policy was developed aimed at addressing multiple discrimination and violence against women with HIV/AIDS, namely, the National Strategic Plan (NSP) on HIV, STIs and TB (2012-2016) (UN Doc. 2019a). Moreover, the last recommendation that was implemented has to do

with awareness-raising campaigns on prevention, protection and maintenance of confidentiality in cases of HIV. Some of the campaigns introduced by the government are: the Sonke Gender Justice Network’s Community

FIGURE 3



[Own creation]. Source: UN Maternal Mortality Estimation Group 2017

Education and Mobilization (CEM), the One Man Can Campaign, the Brothers for Life Campaign or the Women in Partnership Against Aids (WIPAA) (UN Doc. 2019a).

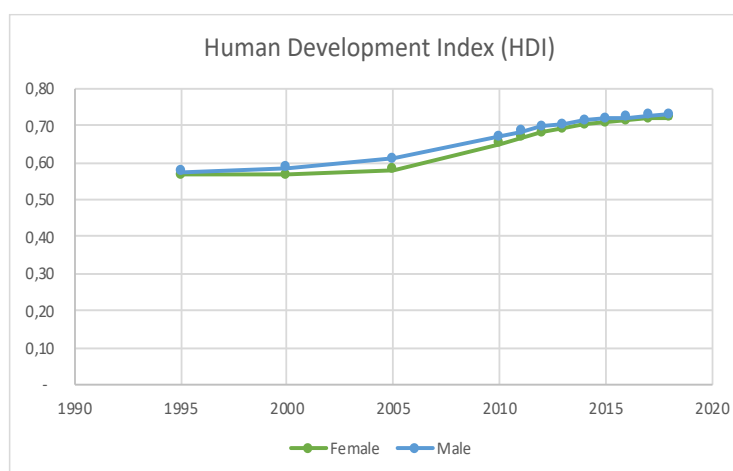
2. Self-reporting effectiveness in: BOTSWANA

The second country that will be analyzed is Botswana. It is bordered by South Africa to the south and southeast, Namibia to the west and north, and Zimbabwe to the northeast. When it gained independence from the United Kingdom in 1966, it was one of the poorest countries in Africa, however, due to the discovery of minerals and export of diamonds, over the past 35 years, the country has transformed from one of the least developed countries to a middle-income country “with 50 per cent of the labor force employed in formal sector activities” (World Bank, 2019a). In addition, since its independence on 1966, it has continuously held multiparty democratic elections, making it one the oldest democracies in the continent (Oficina de Información Diplomática, 2019b). However, according to the EIU’s 2019 Democracy Index, like South Africa, Botswana falls into the category of flawed democracies, despite being ranked 29th out of the 167 territories in the index with a score of 7.81, above countries like Belgium or Italy.

Although Botswana is all around considered to have good governance and prudent economic management, poverty and high levels of income inequality persist; 30% of the population remains just above the poverty line (World Bank, 2019a). Still, Botswana’s HDI score for 2018 was 0.728, making it into the high human development category (Human Development Report, 2019c). What’s most surprising is that, between 1990 and 2018, Botswana’s HDI value increased from 0.570 to 0.728, making it one of the most rapid developing countries in the world (Human Development Report, 2019c). In terms of gender equality, the 2018 female HDI value for Botswana was 0.723 in contrast with 0.731 for males, resulting in

a GDI value of 0.990 and placing it into Group 1 (Human Development Report, 2019c). Although in 2005 the GII (Gender Inequality Index) increased slightly around 2005, the general evolution of the HDI for men and women has been

FIGURE 4



[Own creation]. Source: Human Development Indicators 2019, UNDP

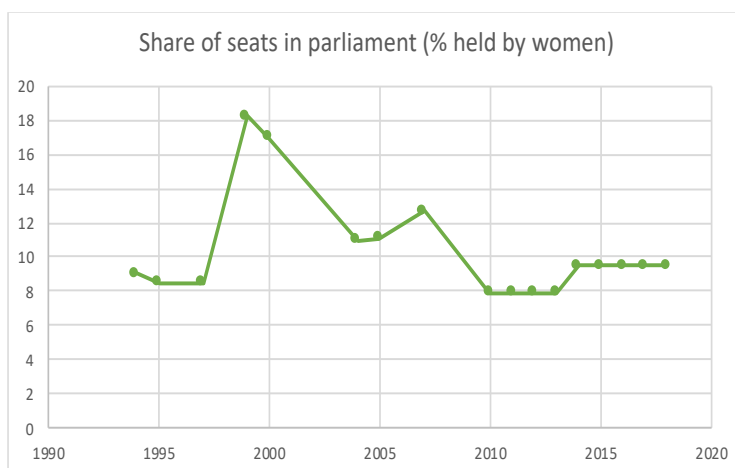
almost identical, as seen in Figure 4. In terms of Gender equality, Botswana's main obstacle is the intrinsic patriarchal culture, especially in the more traditional communities where customary law still prevails (BOCONGO, 2009) This makes change harder, for, despite the implementation of new measures and laws, new advancements do not reach all the population.

Botswana acceded to the Convention on August 13, 1996, without reservations and the Optional Protocol in 2007. Unlike in South Africa, there does not seem to be a steady growth in women-related indicators that correlates with the ratification of the CEDAW. The number of women in politics is incredibly low for the country profile, especially compared to its neighboring countries. and maternal mortality rate, although in a decreasing trend since the late 90s, has increased in the last 5 years despite the government's commitment to tackle the problem. In the case of Botswana, the first report submitted was a combination of the Initial report (which was due on 1997), the Second report (which was due in 2001), and finally, the Third report which was submitted on October 2008, despite having been due on 2005. Even though the backlog of reports is a common practice within the treaty bodies' monitoring mechanisms, Botswana's commitment at first was low. Nevertheless, the Fourth report was submitted on its own only 3 years late, on November 2017, in a similar fashion to South Africa.

With regards to the quality of the reports drafted by Botswana, both reports were very well done. The first report followed very diligently the Committee's guidelines (CEDAW, 2010), however, according to CSOs, there was an important lack of accuracy and in-depth information on the status of women within the reporting period (BOCONGO, 2009). In addition, in the dialogue with Botswana's delegation, the Committee noted that the delegation did not include any representatives from relevant ministries or offices, which limited the ability of the delegation to provide clear answers (CEDAW, 2010). The second report submitted was very well drafted; it was organized following the order and titles of the recommendations from the previous COs, as opposed to South Africa, as requested by the Guidelines. Moreover, the Committee commended its high-level delegation, which this time included representatives from different ministries (CEDAW, 2019), amending its previous mistake, evidence of self-reporting effectiveness.

Furthermore, with regard to the determination of the effects of the Committee’s recommendations after each reporting cycle on the State party, unlike South Africa, Botswana has only participated in the reviewing process twice, which means that there is only one set of recommendations to evaluate during one cycle, which, because they submitted their last report four years late, it consists of 7 years. For Article 7, after the Third combined report, the Committee was very concerned with the underrepresentation of women, in particular in Parliament, where women represented only 7.9 % in 2008 (CEDAW, 2010). The participation of women in the cabinet and local governments has been a little bit higher, always between 20-30% (UN Doc., 2008); however, even to this date, Botswana does have one of the worst participation rates in the region and the world. While there are no legal restrictions on women to stand for any elected public office, there is a socialized perception that women cannot be leaders (BOCONGO, 2009). Participation in politics goes against the cultural norm of women being submissive and staying at home and away from politics (UN Doc., 2008), but also, the low financial status of women severely “hinders their ability to meaningfully compete for political positions” (BOCONGO, 2009; p.32). Only three recommendations were made by the Committee on this regard: first, the implementation of measures to increase the number of women in decision-making positions, with concrete goals and timetables; second, the introduction of temporary measures; and lastly, the creation of awareness-raising programs to encourage women to participate in public life (CEDAW, 2010). None of them were implemented (see Annex 2).

FIGURE 5



[Own creation]. Source: IPU (2019). Women in national parliaments and Botswana’s State report.

Concerning the first recommendation, the government of Botswana did not implement any official measure (UN Doc., 2017). However, although there were less than 10% of women in parliament in 2017, as seen in Figure 5, out of all the high political

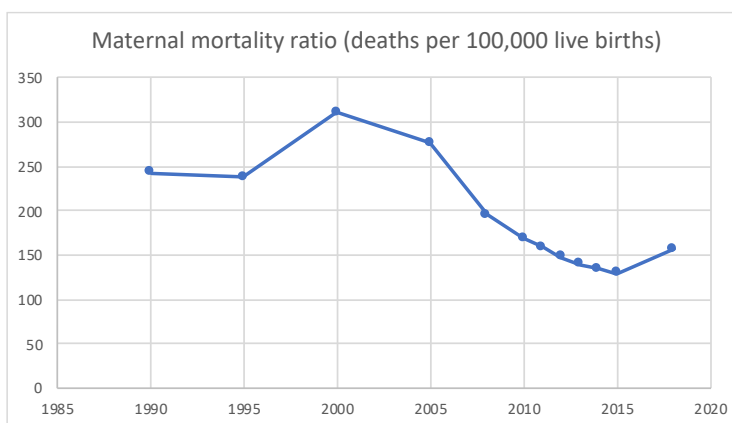
posts and other public life positions in the country, the total of women amounted to 26,6% (UN Doc., 2017). Moreover, in 2015 Botswana signed on to the SADC Protocol on

Gender and Development (SADC Gender Protocol) (BOCONGO, 2019). Steps were in fact taken, but not enough to fulfill the recommendation. The second recommendation did not take place either; however, the National Policy on Gender and Development prioritized the “adoption and application of affirmative measures as necessary to address identified gender gaps” (UN Doc., 2017; p.17), which did lead to the increase in the appointment of women (BOCONGO, 2009). The government didn’t fulfill the third recommendation either, for the awareness-raising programs implemented by the government during the specific period under evaluation did not focus on political participation, but on gender violence (UN Doc., 2017). Nevertheless, even though the government did not officially implement the recommendations, domestic civil society organizations, such as Emang Basadi or Gender Links, provided guidance and support in capacity and skills development for female political participation and leadership by offering training, consultative platforms, literature and capacity building in order to promote women in political decision making in Botswana (UN Doc. 2019b). In many occasions, these efforts have taken place with the support of the government, UN agencies and other international foundations (UN Doc. 2019b). Thus, despite not following the Committee’s recommendations, there is proof of intention.

The new recommendations for the upcoming cycle were very similar to the ones above. Since the cycle ended in 2019 with the publication of the COs in March 2019, some important steps have been taken within the administration in order to have more women in high political positions. Although, in the 2019 general elections only three women were elected from the 57 seats in parliament, Mokgweetsi Masisi, president of Botswana, appointed an additional four women as Specially Elected Members of Parliament (MPS), out of the six MPS positions (Chikura, 2019). In addition, the president had already allocated cabinet seats to all the women in parliament when assuming office in April 2018 (Rasesigo, 2018). Although no quotas or policies have been implemented yet, there are reasons to believe the new Administration will be more engaged in gender parity and the empowerment of women.

Regarding Article 12 on access to healthcare, the Committee’s main concern was the high maternal mortality rate and the fact that no strategies had been developed during the three reporting cycles since the accession (which was the time covered by the report), as well as lack of statistical data and information in general (CEDAW, 2010). Out of the

FIGURE 6



[Own creation]. Source: UN Maternal Mortality Estimation Group 2017 and Botswana's State Repots.

7 recommendations, only 4 can be considered to have been implemented (see Annex 2). The first recommendation, which consisted on putting in place a system of data collection on all aspects of women's health, was completely neglected in the last periodic report. The second recommendation called on the State to conduct a thorough study aimed at identifying the reasons for the persistence of a high maternal mortality rate and to provide detailed information on the measures taken (CEDAW, 2010). To this end, in 2013, the Ministry of Health in Botswana designed and implemented a new initiative: The Maternal Mortality Reduction Initiative (MMRI). It was meant to accelerate the reduction of maternal mortality, however, data showed that the maternal mortality ratio (MMR) in 2018 was 156.6/100 000, higher than in 2012, when the rate was 148/100 000 (UN Doc. 2019b), as can be seen in Figure 6. This is an example of a recommendation being implemented but not having the desired effect. The third recommendation dealing with the provision of information on reproductive health and contraception to women and girls was also implemented (UN Doc., 2017). There are now free family planning services in all the country and sexual education is also provided in and out of school; but mostly, the Government provides CSOs with financial support in order to raise awareness on safe sex practices (UN Doc. 2019b). In addition, LGBT groups criticize Botswana's National Strategic Framework (NSF) on sexual reproductive health for its very narrow focus on most at risk populations, which do not include LB women (Black Queer DocX, 2019), as well as sex workers (Sisonke Botswana Organization & Co. 2019), further perpetuating their discrimination.

One of the main reasons for such high MMR in Botswana are clandestine and unsafe abortions (UN Doc., 2017), which is why the Committee's fourth recommendation dealt with effectively implementing provisions in order to regulate legal abortion. However, abortion is illegal and punishable by law and it is only permissible in limited cases, such as rape or incest (BOCONGO, 2009). There seems to be no intention

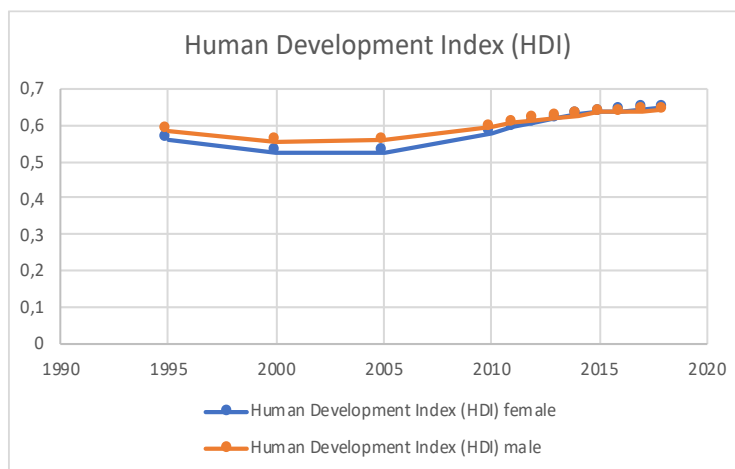
in changing it, which is why the recommendation was directly ignored in the last report. The fifth recommendation had to do with addressing the impact of HIV/AIDS on women and girls, and although important measures were implemented in order to reduce the number of infections neither the State nor the shadow reports acknowledge any official effort taken to address the situation of those already living with HIV/AIDS (UN Doc. 2019b). The sixth recommendation urged the State to enhance its focus on women's empowerment and to include a gender perspective in its policies and programs on HIV/AIDS. However, even though the 2012 Revised National HIV and AIDS Policy and the National Strategic Framework II (2010 – 2016) did stress the need to embrace gender sensitivity as one of the guiding principles, the programs implemented underneath made little impact in reducing the disproportionate vulnerability of girls and young women to HIV infection “owing largely to issues of behavior change” (UN Doc. 2019b; p.12). Thus, again, although the recommendation was implemented, it did not cause the desired outcome. Lastly, the seventh recommendation urged the State to take measures to address the situation of child-headed households and to report on measures taken and results achieved in its next report. As a response, the State claimed that the Department of Social Protection safety net for child-headed households was accessible to all girls deprived of their parents as a result of HIV and AIDS, which the Committee simply endorsed, also considering this last recommendation as having been effective.

3. Self-reporting effectiveness in: NAMIBIA

Lastly, the third country to be analyzed will be Namibia. Namibia is bordered by Botswana to the east and South Africa to the south and southeast. With a population of 2.5 million inhabitants (2020), its income per capita is among the highest in sub-Saharan Africa; however, like South Africa, it masks profound inequalities resulting from the apartheid period (Oficina de Información Diplomática, 2019c). In 1920, the League of Nations granted South Africa the mandate to govern South West Africa (now, Namibia), however, it wasn't until 1988 that South Africa agreed to Namibian independence (BBC, 2019). In 1989 Namibia held its first elections and adopted its new Constitution in 1990. The Constitution enshrines the great democratic principles: elections every 5 years, market economy, respect for human rights and separation of powers (Oficina de Información Diplomática, 2019c). Nevertheless, according to the 2019 Democracy Index from the EIU (2019), Namibia only received a score of 6.43, below South Africa and Namibia.

Development wise, Namibia’s natural mineral riches have made it an upper-middle-income country (World Bank, 2019b). Its political stability and sound economic management have been key in reducing poverty (World Bank, 2019b). However, the extreme socio-economic inequalities inherited from the apartheid system persist (World Bank, 2019b). Namibia’s HDI for

FIGURE 7



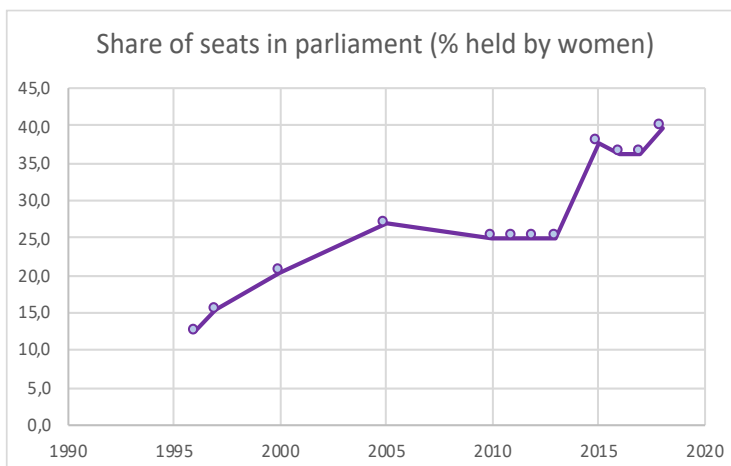
[Own creation]. Source: Human Development Indicators 2019, UNDP

2018 was 0.645, which makes it the worst out of the three countries analyzed in this study and places it in the medium human development category, still above most countries in Sub-Saharan Africa (Human Development Report, 2019a). However, when the value is discounted for inequality, the HDI falls to 0.417, a loss of 35.3% (more than South Africa’s) (Human Development Report, 2019a). Yet, in 2018 the female HDI value was 0.647 in contrast with 0.641 for males, resulting in a GDI value of 1.009, placing it into Group 1 (Human Development Report, 2019a), and making Namibia the only country out of three analyzed where women have higher HDI than men.

Namibia ratified the CEDAW without reservations on November 1992, as a newly independent nation, although with a big legacy of racism and sexism (CEDAW, 1997b). As of 2020, Namibia has participated in the self-reporting process a total of 3 times, and rather diligently. The Initial report was submitted in November 1996, although it was due on December 1993. The second submission happened in March 2005, with a combined report of the Second and Third report, which were due on 1997 and 2001 respectively. Similarly, the Fourth and the Fifth report were submitted together on July 2013, which had been due on 2005 and 2009. There seems to be a pattern by which they submit reports in pairs with a 4-year delay. If they were to stick to it, it would be considered in their favor in terms of commitment to the treaty and its monitoring system. Still, Namibia has been the most efficient out of the three in this regard.

In terms of quality, the Initial report was well-structured and contained detailed information, it “presented a clear and frank picture of the situation of women in Namibia”

FIGURE 8



[Own creation]. Source: IPU (2019). Women in national parliaments and Namibia's State report.

and NGOs were involved in its creation (CEDAW, 1997b; p.84); the Committee also complimented the director general of the Department of Women Affairs (DWA) for her “lucid and frank presentation”. With regard to the Third combined report, it followed

the Committee’s guidelines as well and included references to their implementation of the Beijing Platform for Action but did not refer to the Committee’s General Recommendations (CEDAW, 2007). Moreover, the Committee was also happy with the high-level delegation and the quick response to the LOI, which was done within months. This was also commended by the Committee on the last reporting cycle, where the report was also very well drafted (CEDAW, 2015). In brief, Namibia has been the most responsible out of the three in terms of reporting and participating in the process as a whole, which is a sign of compliance and effectiveness as determined by Creamer and Simmons (2018; 2019).

The first set of COs (1997b) were not very extensive. With respect to Article 7 the Committee only made two recommendations: the introduction of measures and programs, to increase women’s participation at all levels of the judiciary; and to encourage political parties in Namibia to encourage the participation of women and to take all appropriate measures in that regard (CEDAW, 1997b). The first recommendation regarding the judiciary was not implemented. Regardless, the number of women in the judiciary did increase between 1995 and 1998: the number of magistrates increased from 20% to 29%, the number of state prosecutors increased from 40% to 44.59%, and the number of legal advisors increased from 40% to 60% (UN Doc., 2005). In addition, two women were appointed as Ombudswoman and Attorney General (UN Doc., 2005). Nevertheless, the second recommendation was in fact implemented. To begin with, the government committed itself to a 30% benchmark of women in parliament by 2005, and in 2003 women already accounted for 22.1% of seats in the National Assembly, an increase of almost 10% since 1996 (UN Doc., 2005), as can be seen in Figure 8. Moreover, the

government also introduced the Affirmative Action Act (Act No.29 of 1998) and a National Gender Policy, which enhanced women participation, but only in the areas of employment and women's political representation at the local level (CEDAW, 2007).

In terms of equality in access to healthcare, the only recommendation made by the Committee dealt with the adoption of “the necessary measures to review the laws containing punitive measures against women who had undergone illegal abortions” (CEDAW, 1997b; p.87), for the number of illegal abortions and the high rate of maternal mortality was highly concerning. Namibia's Abortion and Sterilization Act (Act 2 of 1975) makes it a crime for a woman to “seek an abortion, or to terminate her own pregnancy”. According to the State report, the Ministry of Health of Namibia proposed a draft law on abortion in 1996 but was withdrawn in 1999 because the majority of Namibians were not in favor of the law (UN Doc., 2005). If the draft bill had been proposed after the publication of the previous COs, the recommendation could have been considered as effective. The government responded however by providing education to the general public on the dangers of unprofessional abortions (UN Doc., 2006). To this extent, between the first and the Third combined report, only one of the three recommendations was implemented under those two articles.

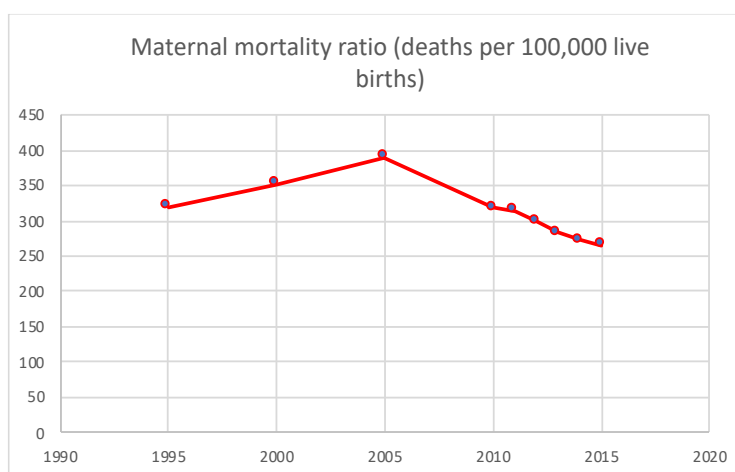
For the next reporting period, regarding Article 7, seeing the rapid development in the area despite no affirmative action from the government, the Committee only made one recommendation: “the use of temporary special measures in all appropriate areas of political, economic, social and cultural life so as to accelerate the achievement of women's de facto equality with men” (CEDAW, 2007; p.3), which was not implemented. As of 2009, female representation in parliament as a whole was 25% (UN Doc., 2013), nevertheless, those achievements were based only on voluntary commitments by political parties. For instance, in the Local Authority Councils, where there was in fact a statutory requirement of affirmative action for women, women accounted for 40% of the seats (UN Doc., 2013), proving that only affirmative action can deliver distant results. Still, according to the State report, political parties showed a serious intention of meeting the gender parity in their lists with great support of the civil society, who lobbied for 50/50 representation even generating debates on the media about this “zebra-style” party lists (UN Doc., 2013). However, the low representation of women persisted in the judiciary, ministerial positions and senior positions. For instance, women in senior management positions accounted for 27.8%, almost the SADC target of 30% (UN Doc., 2013), but not

enough for the Committee (CEDAW, 2015). Moreover, a National Conference on Women in Politics in Namibia was held in 2013, which targeted the women’s wings of all political parties, as well as several workshops and meetings for political parties and parliamentarians with the aim of sensitizing them on the importance of equal representation in politics (UN Doc., 2015b).

With regard to Article 12, the monitoring process was more effective (see Annex 3). All of the six recommendations made by the Committee were indeed implemented. As requested by the Committee, the Namibian government took concrete measures to enhance women’s access to health care, in particular to sexual and reproductive health services. The government implemented Vision 2030, the Third (2009-2013) and Fourth (2013-2017) National Development Plan, and the Roadmap to Maternal, Newborn and Child Health (UN Doc., 2013). It also provided pre-natal care, deliveries and postnatal care services through its Safe Motherhood programme in all health facilities countrywide, resulting in 95% of women receiving antenatal care from a skilled service provider and 70% of the women making the WHO-recommended four antenatal visits (UN Doc., 2013). The reduction of maternal mortality between the Third and the Fifth report can be clearly seen in Figure 9, although the number is still very high. Nonetheless, shadow reports revealed that in 2008, the Namibia Women's Health Network (NWHN) and the International Community of Women Living with HIV “uncovered cases of almost 40 HIV positive women being subjected to coerced sterilization in Namibia” (SALC & Co., 2015; p. 7). Eighteen of the survivors filed lawsuits against the Government but only three of the cases had been heard in

court in 2015, with the ruling recognizing that the women had not given their consent (SALC, 2015). However, the Government of Namibia made an appeal to the High Court, which “failed to recognize the practice as constituting discrimination against HIV-positive women citing a lack of sufficient evidence” (SALC, 2015; p.2).

FIGURE 9



[Own creation]. Source: UN Maternal Mortality Estimation Group 2017 and Namibia’s State Report.

Moreover, the government also adopted measures to increase knowledge of and access to affordable contraceptive methods. For instance, they distributed more than 30 million condoms and 1 million femidoms during the 2008-2009 financial year (UN Doc., 2013). Education on family planning was also included in Safe Motherhood programs mentioned above and the importance of family planning and sex education were recognized in the Ministry of Education. The Ministry of Gender Equality and Child Welfare (MGECW) also implemented activities, including trainings on family planning, nutrition, contraception, negotiation in relationships and empowerment (UN Doc., 2013). CSOs worked closely with the Government in all areas of HIV/AIDS prevention; for example, the AIDS Law Unit at the Legal Assistance Centre conducted training on HIV/AIDS and human rights for HIV/AIDS regional coordinators in 6 regions in 2008 (UN Doc., 2015b). The government also ensured the effective implementation of its National Strategic Plan 2004-2009 and monitored its results, as recommended. The corresponding progress report showed that the national response to HIV infection reduced the prevalence of infection in 15-24 year-olds; however, the burden of the epidemic moved to people in their thirties (UN Doc., 2013). This new problem was addressed in the later National Strategic Framework (2010-2015), but also in the new National Health Policy 2010-2020 and the Third Medium Term Plan (MTP3), which aimed at reducing the incidences of HIV/AIDS below the epidemic threshold of one percent (UN Doc., 2015b).

Lastly, the government also ensured an accurate recording of maternal deaths, although with large sampling errors, according to the State report (UN Doc., 2013). Unfortunately, the maternal mortality rate had risen from 0.38 in 2000 to 0.52 in 2006-2007, mainly due to insufficient emergency care facilities available and an inequitable distribution of services is across the country (UN Doc., 2013). As a result, the Namibian government put in place interventions and policies geared towards the reduction of maternal mortality in Namibia, such as an increase in capacity building with the establishment of Namibia School of Medicine and other regional nursing training centers (UN Doc., 2015b), or the creation of incentives for health-care professionals to work in the public rather than private sector (UN Doc., 2013), which as seen in Figure 9, had a positive effect. In closing, this was the most effective set of recommendations out of the three countries under article 7 and 12.

E. LIMITATIONS TO THIS STUDY

Before addressing the results and conclusions of the analysis, there are an array of limitations to this study that must be acknowledge and taken into account by the readers. These limitations vary in nature. Among the limitations regarding the object of the study, it must be stressed that it is impossible to know the extent to which the recommendations really influence the State behavior, unless publicly acknowledged by any of those involve in legislation. Hence, as recognized before by Krommendijk (2015), the effectiveness in the context of the self-reporting history analysis is to be understood only as “partly” the result of the Concluding Observations.

In addition, there are many other limitations which belong to the form of the study, length and time constraints, as well as the lack of resources. For this matter, only three countries were examined. These three countries had very similar social and historical characteristics, hence, the results are not representative of the majority of State parties to the CEDAW, not even in the region. In fact, no sample of three countries could ever be. Furthermore, only the effect of two articles of the CEDAW were examined (Art. 7 and 12), and the results for each of the articles already varied notably. Thus, the extent of effectiveness of the rest of the CEDAW could vary tremendously. Also, only the information included in the reports submitted to the CEDAW Committee was used in the evaluation of effectiveness, including those by UN Agencies and CSOs. Any information that did not appear in those reports was not taken into account.

Thus, any further investigation on this issue should include a larger amount of countries and articles for their evaluation. Further research on the influence of the CEDAW on the governments’ actions would also be optimal; for instance, with personal interviews with government representatives. Only then we would be closer to really knowing the extent to which the self-reporting system is at all effective, and to identify those areas that need to be improved in the order to empirically justify the importance of human rights treaty monitoring systems.

F. RESULTS AND CONCLUSIONS

With regard to the timing, although Namibia has been the best one in this respect, none of them have been very committed to submitting the reports in time. South Africa submitted a combination of the Second, Third and Fourth report in 2009 (10 years since the Initial report) and Botswana also submitted a combination of the first three reports 12 years after its accession to the treaty. Nonetheless, both countries submitted their last reports on their own and in less than a 4-year delay, which is a big improvement. Because the delay in reports is a common practice for most countries in all treaty monitoring systems, it cannot really be considered as a lack of commitment from the State parties. As explained before, these have to produce reports for all nine treaty-monitoring committees (Schöpp-Schilling, 2007) with all the high national costs in terms of resources, time and staff that it implies (Lhotský, 2019). In the case of these three countries, the mere submission of the reports is already a success and demonstrates conformity and acceptance of the norm; they know they have to submit the reports and every cycle they make the effort to submit them earlier. In this regard, the self-reporting process has been effective.

The frequent delay is compensated with the great quality of the reports and presentations by the delegations. Despite some missteps in the first reports, once called out by the Committee they all seem to be submitting very well drafted reports and bringing high level delegations to its consideration. For example, in the case of South Africa, after the Initial report, the Committee reproached the lack of sufficient data disaggregated by sex and the lack participation from the civil society; by the last report both issues had been amended. In the case of Botswana, during the first reporting cycle the Committee called the State out for not including any representatives from other relevant ministries in their delegation; in the second reporting cycle they did. Namibia did great from the beginning in this sense. All the above proves the level of commitment and the effectiveness of the Committee's recommendations in this matter.

In terms of responsiveness to the COs, the analysis showed that there is a general propensity in South Africa, Botswana and Namibia to take measures as a result of the COs. Out of the 41 recommendations in total, 21 of them were (partly) implemented by the States parties, which is more than 50%. Only "partly" because, as explained previously, it is impossible to fully link the implementation of certain measures with the

COs, even when they coincide. The outcome is a big success in contrast with the big disappointment with the human rights treaties expressed by many scholars. In addition, for Article 7, out of the 18 recommendations posed by the Committee only 5 were implemented, and 4 of them were in South Africa. Nonetheless, for article 12, out of the 22 recommendations, 16 were implemented. Hence, for Article 7 only 27% of the recommendation were (partly) implemented, and for Article 12, it was 54%. This proves that governments are always more willing to take affirmative action to provide basic services, such as access to health, than to reshape patriarchal traditions and stereotypes that prevent women from performing traditionally male roles, which usually always meets with more debate and opposition from society and other political parties. However, except for Botswana; Namibia and South Africa are two of the countries with the most women in parliament in the world, which goes to show that not complying with the recommendations does not mean not complying with the treaty. Lastly, to compare between the three countries, Namibia has implemented 70% of the recommendations, South Africa 47%, and Botswana 40%. However, looking back at the women indicators, in terms of maternal mortality, for example, Namibia has the worst record, despite being the country out of the three where the self-reporting system has been the most effective—which serves again to discredit the original studies on effectiveness where general indicators were used to determine treaty effectiveness.

This serves as evidence to show that not following the Committee's recommendations does not necessarily mean disapproval or inaction. The same objectives can be attained in different ways, maybe even without any affirmative action from the governments, like in the case of Namibia's female representation in parliament. This is why the effectiveness of the monitoring process cannot be automatically linked to gender indicators like scholars often do, for many times indicators may be achieved outside the monitoring structure, and sometimes implementing a recommendation does not automatically mean improving said situation. The most accurate way known to date to measure the effectiveness of the self-reporting system is by observing the direct or indirect reactions of the States to the recommendations written for them in the COs. And still, it would not be the most accurate picture, for only governments can know to what extent the recommendations have influenced their actions, unless publicly expressed of course. Other approaches can be used, such as the amount of public attention received in local newspapers or the extent to which a society is mobilized, but still, the effects would be

even more ambiguous. However, despite everything that has been said above, even if the whole reporting process caused a State party to do only one thing they would not otherwise do, the process would have still been effective. Hence, to conclude, the hypothesis is accepted.

G. RECOMMENDATIONS

First, in the aim of better assessing effectiveness in the future, reports should include a section where States themselves recount the extent to which they have been influenced by the previous COs in the realization of these, backed with appropriate evidences. From the analysis, it can be seen that State parties are usually commended by their frankness; hence, this section would be just as susceptible of being fabricated as the rest of the report. But maybe, it would encourage governments to pay more attention to the nature of their actions and facilitate the study of human right treaties' effectiveness. If all around effectiveness could be empirically justified, the reputation of the human rights systems would gain enough strength to legitimize their existence against all the criticism. Besides, the Committees, and the States as well, should also put more effort into publicizing their work outside the UN circle, for treaty bodies do make a difference, as has been demonstrated.

The Committees, however, even with all the delays in submissions, are barely able to keep on top of the reports the states submit (Pillay, 2019). The amount of time they have to fully review each State report, and their respective shadow reports, and produce the COs, which has profound real-world consequences as it has been proved, is absurd. Many of the recommendations don't seem to have taken into account all the information provided by the States and recommendations are far from specific to each case. Hence, any future reforms should be aimed at improving the conditions under which the Committees carry out their work in order to bring them into more direct contact with the State parties and civil societies, so the process can even be more effective. This can be achieved in many different ways: by increasing the size of the committees, by having sections per regions, by simplifying the process, etc. One of the most popular possible reforms is the creation of an ITBS (Integrated Treaty Body System), which would strengthen the coherent interpretation of human rights and monitor the whole spectrum without division (Lhotský, 2019); specially in the face of a growing number of treaty ratifications.

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I. ANNEXES

1. ANNEX 1: South Africa's self-reporting history and legislative development

* Information in **blue** has been retrieved from shadow reports

INITIAL REPORT (Feb. 1998)

Quality of the report	(COM) Clarity and frankness of the report and the oral presentations. Extensive replies to the questions posed by the Committee. High-level delegation, headed by the Minister for Welfare and Population Development, which also included representatives of non-governmental organizations. The CEDAW Committee also noted the lack of sufficient data disaggregated by sex.
Delay	Its initial report was received on 5 February 1998, following a year's delay. It was originally due Jan. 1997

Concluding Observations (A/53/38/Rev.1) (June 1998)	RECOMMENDATIONS
Participation in political and public life (Art. 7)	
1	Continue the use of temporary special measures , including quota systems , in upcoming elections.
2	Urged to assess ways of extending quota systems to other governmental or governmentally appointed bodies to increase women's participation therein.
3	Particular attention should be paid to public bodies dealing with business and economic matters to facilitate women's achievement of decision-making positions in those fields.
4	The Government is further urged to ensure that supportive mechanisms are in place for beneficiaries of temporary special measures .
5	The Committee also suggests that the Government consider carefully the advantages and disadvantages of different electoral systems for the representation of women (<i>since, according to the report, the proportional representation system favors women</i>)
6	The Committee recommends that special temporary measures be used to address the low number of women in the judiciary .

7	The Committee raised concerns that the national machinery and the Commission on Gender Equality do not have sufficient financial and human resources available and encouraged the State party to provide it with adequate resources.
Equality in access to healthcare (Art. 12)	
General comments	“The Committee is concerned about the uneven distribution of health care services in the country. It notes that insufficient data disaggregated by sex are being kept on birth rates and in disease registers”.
1	Continue its efforts to ensure equal access to health services throughout the entire country.
2	Continue its efforts to ensure women, particularly poor women, access to family planning programs and related information to increase women’s choices and as a means of empowerment.
3	Recommends further research into the prevalence of female genital mutilation and other harmful practices, such as witch burning.
4	Recommends that the Government ensure the prohibition and eradication of such practices.

FOURTH COMBINED REPORT (July 2009)

Quality of the report	Well-structured and, in general, followed the Committee’s guidelines for the preparation of reports, although it lacked references to the Committee’s general recommendations, and to some specific sex disaggregated data, and was long overdue. The CGE prepared a CEDAW Report. CGE (2010) → Consists of 172 pages, far exceeding the prescribed page limitation of 70 pages as required for periodic reports. Most of the General Recommendations (GR) of the Convention were not factored into the Report.
Delay	Reporting backlog/requirements for 2001 (second report), 2005 (third report) and the fourth report (due 14 January 2009). Submitted in July 2009.

RECOMMENDATIONS (from previous report)	Implemented?	Information from State report, Response to LOI and Shadow reports.
Art. 7		

1	yes	<p>(CGE, 2014) The representation of women in the South African Parliament increased from 27.8% in 1994 to 43.3% in 2009. But, South Africa does not have any quotas provided for within its Constitution or Electoral Act of 1998. It has special targets (30% by 2005). However, the Electoral Act requires every registered party and candidate to encourage full and equal participation of women in political activities. (CGE, 2010) The Public Service Act also does not make it mandatory for government departments to ensure equal representation. Local Government Municipal Structures Act, 1998 (December) - makes party lists to have women and men evenly distributed (2003 amend.) (GCE, 2014) The COPE party did as well in 2008, 50% rep. The legislative frameworks in place to ensure representation of women at local level are not sufficient. (Centre for the Study of Violence and Reconciliation, 2010) The government does not monitor performance of gender equity in all political parties</p>
2	yes	<p>(CGE, 2010) In 2007, the ruling party took a decision to ensure gender parity in its decision-making structures and with respect to representatives in national parliament and provincial legislatures. (Masimanyane Women’s Support Centre, 2011) The progress made by the State is impressive with many Ministers, Deputy Ministers, Director Generals and other senior managers being women. More women (55.8%) than men (44,2%) are employed by the state. Proposed Gender Equality Bill which will be developed in 2011 will enforce these measures (will elapse in 2014). (CGE, 2014) Efforts by the DPSA to promote gender equality include the development of the Strategic Framework for Gender Equality within the Public Service (2006-2015), commonly referred to as the 8 Point Principles</p>
3	yes	<p>Minister of Public Enterprise was a woman in 2008 - 2010. Major ministries dealing with economy/business were led by men. However, since More women (55.8%) than men (44,2%) are employed by the state, it is possible women in “public bodies dealing with business and economic matters” held decision-making positions. Still, no temporary or permanent measures were adopted for this area specifically, hence, it has only been implemented partially.</p>
4	no	<p>Regarding, supportive mechanisms for beneficiaries of temporary special measures – no temporary special measures, hence, no supportive mechanisms.</p>
5	no	<p>ZAF did not consider carefully the advantages and disadvantages of different electoral system.</p>

6	no	<p>In 2005, women constituted about 28 (13.52%) of 207 of the country's judges, one of whom was a Deputy Judge President. 30% women in 2008 comprise judges and magistrates. Still male dominated. (CGE, 2010)</p> <p>One of the most disappointing areas. South Africa has not made significant progress in ensuring that women are sufficiently represented in the judiciary. BUT In 2003 the Department of Justice & Constitutional Development held a Women Judges' Conference. The Minister of Justice undertook to prioritize gender representation in future appointments of judges. (CGE, 2014) In 2007, a nine-month program was initiated to train women, to encourage women and automatically include them in the pool of candidates. In 2010, the Commission established an Ad Hoc Committee to investigate the reasons for the paucity of women candidates (women were not making themselves available). No official measure taken, but government support for Women Judges/Lawyers association.</p>
7	no	<p>Sufficient financial and human resources available: The budget for the Ministry for 2010/2011 fiscal year was approximately R31million, of which approximately R7million rand was allocated to the Women's Empowerment and Gender Equality branch itself. The budgetary allocation still remains inadequate.</p>
Art. 12		
1	yes	<p>First it removed user fees for children under six and pregnant and lactating women. Later, user fees for people with disabilities were also removed. Primary health care was also made free to all. (CGE, 2010) The South Africa Constitution, Act 108 of 1996, specifically recognizes the right of access to healthcare in section 27: health care, food, water and social security. NEG: According to the South African Human Rights Commission (SAHRC) access to health care services, especially for the poor, is severely constrained by expensive, inadequate or non-existent transport, by serious shortages with regard to emergency transport, and by long waiting times at clinics and other health care service providers. National Operational Plan for Comprehensive HIV and AIDS Management, Treatment, Care and Support (NOP)</p>
2	yes	<p>School Health Services: promotion of personal and sexual health and the prevention of intentional and unintentional pregnancies. Teenage pregnancy prevention strategy has been developed to improve their sexual health and rights through life-skills and reduce the rate of unintended pregnancy. Abortion is legal. (CGE, 2010) Research into access to safe motherhood found that at least 37% of maternal deaths were avoidable. A variety of factors contributed to the deaths, including the poor treatment of women, and an extremely demotivated corps of midwives and doctors.</p>

		(CSVR, 2011) High Maternal, Infant And Child Mortality Shaped By Inequalities most deaths are caused by HIV. (Amnesty International, 2011) In late 2001 the Treatment Action Campaign (TAC) obtained an order in the Pretoria High Court requiring the government to supply antiretroviral medication to pregnant women. The National Strategic Plan on HIV/AIDS for 2007 to 2011 (NSP).
3	no	No research was carried out. Female Genital Mutilation is not a practice amongst the peoples of South Africa. There are no formal statistics. It has no policy on Female Genital Mutilation because it is not a public health problem but would not allow it on basic human rights principles. Under the Constitution. (WLC, 2010) Virginity testing - a national problem. Defendants claim HIV prevention. But leads to psychological abuse, more prominent of suffering sexual violence, invasion of privacy ... This practice is forbidden under the constitution (discrimination, dignity, rights of the child and the Children's Act. (CGE, 2014) Research has revealed that in South Africa, female genital mutilation is practiced in Venda.
4	no	-

CONCLUDING OBSERVATIONS (April 2011)

RECOMMENDATIONS	
Art. 7	
1	Policies aimed at the promotion of women's full and equal participation in decision-making as a democratic requirement in all areas of public, political and professional life
2	Continuing to adopt , wherever necessary, temporary special measures in order to accelerate women's full and equal participation in public and political life, in particular within the judiciary .
3	Implement awareness-raising activities on the importance of women's participation in decision-making for society as a whole.
4	Development of targeted training and mentoring programs for women candidates and women elected to public office, as well as programs on leadership and negotiation skills for current and future women leaders
5	Carefully monitor the effectiveness of measures taken and results achieved and inform the Committee thereof in its next report.

Art. 12	
1	Ensure the implementation of the Maternal Child and Women's Health Strategy (2009-2014)
2	Take continued and sustained measures to address the impact of HIV/AIDS on women and girls, as well as its social and family consequences;
3	Take measures to broaden and strengthen PMTCT services in order to achieve its target rate of 5 per cent for Mother to Child Transmission, as indicated in the State party's replies to the list of issues and questions;
4	Develop policies aimed at addressing multiple discrimination and violence against women , based on the intersection between violence and HIV/AIDS ;
5	Undertake awareness-raising campaigns throughout the State party and among Government personnel in respect of prevention, protection and maintenance of confidentiality , in order to systemize and integrate approaches for multiple government sectors.

FIFTH REPORT (May 2019)

Quality of the report	Detailed consultation report: involving discussions with stakeholders in representing different sectors as well as publication of the draft report for public comment.
Delay	Original deadline Feb. 2015. Date of submission: May 2019 (4 year delay)

RECOMMENDATIONS (Initial report)	Implemented?	Information from State report, Response to LOI and Shadow reports.
Art. 7		
1	no	No new policy has been in place since the last reporting period. Decline in the percentage of women representation in the National Assembly from 43.3% in 2009 to 41% in 2014. However, considerable progress has been made. Remarkable increase in the percentage of women judges (33.6% judges, 40% magistrates). (CGE, 2014) Despite the lack of formalized quota systems, South Africa has been commended by the international community for the number of women parliamentarians and is ranked fourth in the world. The Women empowerment and Gender Equality Bill ELAPSED (was never introduced).

2	no	No measures have been implemented. If you are a woman you have to go on a course to become a judge, but a man can simply serve as an acting judge and apply for the job.
3	no	Not mentioned. Representation of Women in Corporate Position (2012): CEO 3.6%, Executive managers 21.4%.
4	no	No new training programs were created. The training program to encourage women to become judges was established way before in 2007 (CGE, 2014).
5	yes	20 Year Review released in 2014, although does not focus on women specifically.
Art. 12		
1	yes	The implementation of the Maternal Child and Women's Health Strategy (2009– 2014) has scaled up and a total of 72% of primary health care facilities providing basic antenatal care was reached. 96.9 % pregnant women agreed to be tested for HIV. A total of 81% maternity facilities conducted monthly maternal and perinatal morbidity and mortality meetings.
2	no	No measures were taken. The prevention component only focuses on advocacy and social mobilization, training of peer educators, provision of male and female condoms and correct treatment of sexually transmitted infections.
3	yes	Progress has been recorded in scaling up Prevention of Mother to Child Transmission (PMTCT) of HIV from 71% in 2009 to 99% in 2013, resulting in reduction in mother to child transmission from 8% in 2008 to 2.0% in 2013
4	yes	South Africa developed a National Strategic Plan on HIV, STIs and TB 2012– 2016 which consists of five goals. The goals that relate to violence against women are (i) ensuring an enabling and accessible legal framework that protects and promotes human rights and (ii) reduce self-reported stigma related to HIV and TB by at least 50%. it does mention the MDGs as an influence. And mentions CEDAW (among other international obligations) as norms to be aligned with.
5	yes	Programmes to reduce barriers faced by women in accessing HIV/AIDS services are in place such as eliminating user fees, addressing stigma and discrimination in health care setting. The Sonke Gender

		<p>Justice Network's Community Education and Mobilisation (CEM) unit works in many communities - aim to inspire community activism and encourage community members to form community action teams (CATs). The One Man Can Campaign; The Brothers for Life Campaign; Women in Partnership Against Aids (WIPAA); Commercial Sex Workers programme; LoveLife; First-Things-First Campaign (2013).</p>
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2. ANNEX 2: Botswana's self-reporting history and legislative development.

* Information in **blue** has been retrieved from shadow reports

COMBINED INITIAL, SECOND AND THIRD PERIODIC REPORT (Oct. 2008)

Quality of the report	Followed the Committee's former guidelines for preparation of reports, but which was long overdue. It notes that, except for the Acting Director of the Women's Affairs Department within the Ministry of Labour and Home Affairs, the delegation did not include any representatives from other relevant ministries or offices. (BOCONGO, 2009) It still fails to present the full account of the status of women within the reporting period.
Delay	Initial report was due on Sept. 1997. Second report in 2001. 3rd report was due in Sept. 2005. It was finally submitted on Oct. 2008 .

Concluding Observations (CEDAW/C/BOT/CO/3/Add.1) (March, 2010)	RECOMMENDATIONS
Participation in political and public life (Art. 7)	
General comments	The Committee is concerned about the underrepresentation of women in political and public life, in particular in Parliament (where women represent 7.9 per cent), in the Ntlo ya Dikgosi (House of Chiefs), in local authorities and in appointed decision-making bodies.
1	Implement measures to increase the number of women in decision-making positions , in particular at the local level, in Parliament and in the Ntlo ya Dikgosi (House of Chiefs) - concrete goals and timetables to accelerate women's equal participation in public and political life at all levels.
2	Introduce temporary special measures.
3	Implement awareness-raising programmes , including with traditional chiefs, to encourage women to participate in public life.

Equality in access to healthcare (Art. 12)	
General comments	“Noting with appreciation the availability in the State party of comprehensive health coverage, the Committee is nonetheless concerned that the maternal mortality rate. Concerned that no strategies for the reduction of maternal mortality have been developed. Lack of statistical information provided by the State party about the access for vulnerable groups of women, in particular in rural areas, to reproductive health-care services. Lack of information on services and counselling available for women suffering from mental health problems”.
1	Put in place a system of data collection so as to strengthen the knowledge base for effective policy development and implementation on all aspects of women’s health.
2	Conduct a thorough study aimed at identifying the reasons for the persistence of a high maternal mortality rate in Botswana - including the impact of clandestine and unsafe abortions on maternal mortality, and provide detailed information on measures taken to reduce it and the impact of such measures in its next periodic report to the Committee.
3	Improve the provision of information on reproductive health and contraception to women and girls and to promote widely sex education targeted at girls and boys, with special attention to the prevention of sexually transmitted diseases and teenage pregnancy.
4	Carry out measures in order to effectively implement the provisions that regulate legal abortion.
5	Continued and sustained efforts to address the impact of HIV/AIDS on women and girls, as well as its social and family consequences.
6	Urges the State party to enhance its focus on women’s empowerment and to include clearly and visibly a gender perspective in its policies and programmes on HIV/AIDS.
7	Committee further urges the State party to take measures to address the situation of child-headed households and to report on measures taken and results achieved in its next report.

FOURTH REPORT (Nov. 2017)

Quality of the report	They organised the report according to the recommendations made by the COM in the previous COs. Really took into account. The Committee commends the State party on its high-level delegation, which included representatives from different ministries.
Delay	Due Feb 2014. Submitted Nov. 2017

RECOMMENDATIONS (from previous report)	Implemented?	Information from State report, Response to LOI and Shadow reports.
Art. 7		
1	no	Still lagging behind. Out of 1,611 of all those individuals who participate in high political posts and other public life, 429 are women (26,6%). Efforts at national level are ongoing to promote participation of women in decision making. (BOCONGO, 2019) Botswana only recently signed on to the SADC Protocol on Gender and Development (SADC Gender Protocol) after years of ambiguity (2015). The participation of women in decision making positions in the Public sector and within the NGO sector continue to be at higher levels as compared to other sectors. In 2013 women in the Public sector accounted for 42% of all persons holding positions of Deputy Director to Permanent Secretary. (BOCONGO, 2010) The socialized perception that women cannot be leaders while at the same preserves the leadership roles for men, is a practice that is naturally compounded by the women's inability to compete due to limited access to economic resources, makes it a huge challenge for women to fully engage in political life. Low financial status of women that hinders their ability to meaningfully compete for political positions.
2	no	Special temporary measures to accelerate political participation of women are not yet in place. However, the National Policy on Gender and Development prioritizes adoption and application of affirmative measures as necessary to address identified gender gaps. This Policy and its National Operational Plan have a 5-year timeframe. Civil Society Organisations (CSOs) such as Emang Basadi, Gender Links, Letsema, Botswana Council of Churches have worked in partnership with the Government and Development Partners such as the UN agencies, Friedrich Ebert Foundation and USAID; to provide guidance and

		<p>support in capacity and skills development for increased representation of women in political leadership. Letsema on the other hand offers training of women in politics, in partnership with development partners such as the British High Commission in Botswana; Westminster Foundation for Democracy and the Botswana Resource Support for Women in Politics. (BOCONGO, 2010) While commending the Government for making women in politics one of its critical areas of concern, which has largely led to the increase in the appointment of women, it is still up to the discretion of the head of State to appoint women even to higher positions of decision making.</p>
3	no	<p>Indeed, they carried out awareness campaigns but NOT on women participation in public life. They were on violence and stereotypes in general. A series of consultative platforms and capacity building for women candidates conducted by Gender Links in 2014 leading to the 2014 general elections. These efforts resulted in identifying impediments to women's participation in politics as: patriarchy; lack of resources; limited political savvy; and the electoral system (collaboration between Gender Links and Botswana Association of Local Authorities (BALA) Emang Basadi Women's Association which is a major contributor in the promotion of women in political decision making in Botswana facilitates with literature and information on women in politics and undertakes various capacity building initiatives such as focus group discussions. National Study for Increased Women's Representation in Politics by 2019 undertaken by Emang Basadi. There is no much activism either. It was bigger in the 90s, but has decreased</p>
Art. 12		
1	no	Not mentioned in the reports.
2	yes	<p>Studies reveal that there have been decreases in number of maternal deaths in Botswana. From the year 2008: at 195.7 per 100,000 live births, to 147.9 per 100,000 live births in 2012. The Maternal and Neonatal Health Programme initiated the National Roadmap for Accelerating the Reduction of Maternal and Newborn Mortality to strengthen institutional mechanisms to address child and maternal mortality. Emergency Obstetric and neonatal care is employed to reduce the impact of clandestine and unsafe abortion (main reason for high maternal mortality rate). Recent maternal mortality ratio (MMR) is 156.6/100 000 (Stats Botswana, 2018). Measures taken to reduce the MMR include monitoring of adherence to clinical care</p>

		standards to address the top 4 causes of maternal mortality under the Maternal Mortality Reduction Initiative at pre-natal period and have now expanded to pregnancy monitoring to improve management for the 4 main causes of maternal death
3	yes	Adapted the WHO Medical Eligibility Criteria Wheel (MEC) which provides guidance to health-care workers in ensuring safety while initiating contraceptives as well as increasing access to family planning services. In order to improve access to contraception Family Planning- a IEC Toolkit was designed. Various strategies are used to disseminate family planning information to eligible women. This has contributed to the increase in the contraceptive prevalence rates from 52% in 2007 to 76.1% in 2008. Free family planning services are provided nationally. Long Acting Reversible contraceptive methods are being rolled to the whole country. Comprehensive sexuality education is being provided in and out of school through teachers and in collaboration civil society organization. In order to raise awareness among men and women on safe sex practices, Government provides financial support to CSOs involved in raising awareness on safe sex practices. (BOCONGO, 2010) the prevailing cultural stereotypes and religious practices have worked to counteract against these efforts
4	no	(6) Abortion is illegal and punishable by law and it is only permissible in limited cases. The effect is that women and girls are forced to resort to clandestine methods of abortion especially among rural women and young girls - When women cannot obtain safe reproductive health services, including abortion, their rights to health and to the benefits of scientific progress are violated.
5	no	They didn't address the impact – but the causes. The Botswana AIDS Impact Survey IV (BAIS IV) shows that the national HIV prevalence for 2013 stands at 18.5% for population aged 18 months to 64 years compared to 17.6% in 2008. The Revised National Population Policy (2010) made HIV one of its priorities. Country is implementing a five Year Comprehensive Cervical Cancer Prevention and Control Strategy (2012–2016) with the help of WHO, Centre for Disease Control and Prevention (CDC) Botswana, Pink Ribbon Red Ribbon (PRRR) and World Bank through National AIDS Coordinating Agency (NACA), to build capacity in this regard. See and Treat Services which are offered free and are offered in 20 districts to date, and preparations are ongoing to introduce it in the remaining 7 districts by April 2019. For the year 2017, a total of 26,109 women were screened for cervical cancer using the See and Treat and the Papanicolaou tests (PAP smears)

		screening methods. The 'epicenter' of the global HIV epidemic. The government of Botswana's comprehensive response to the HIV epidemic, particularly its commitment to the national anti-retroviral (ARV) treatment program, using mostly domestic funding, has made the country a leader in Africa's HIV response
6	<i>no</i>	The 2012 Revised National HIV and AIDS Policy and the National Strategic Framework II (2010 – 2016). stresses the need to embrace gender sensitivity as one of the guiding principles of the national response to HIV and AIDS. However, programmes implemented under NSF II made little impact in reducing disproportionate vulnerability of girls and young women to HIV infection owing largely to issues of behaviour change.
7	<i>yes</i>	The Department of Social Protection safety net for child- headed households is accessible to all girls deprived of their parents as a result of HIV and AIDS.

3. ANNEX 3: Namibia's self-reporting history and legislative development

* Information in **blue** has been retrieved from shadow reports

INITIAL REPORT (Nov. 1996)

Quality of the report	The report was well-structured and contained detailed information. It also complimented the director general of the DWA for her lucid and frank presentation. Was also satisfied with the detailed analysis given in the report. Presented a clear and frank picture of the situation of women in Namibia. Non-governmental organizations had been involved in the preparation of the report
Delay	Due December 1993. Submitted in November 1996 . The delay was on purpose, for they wanted to report on development since independence in 1992.

Concluding Observations (A/52/38/Rev.1) (Jan. 1997)	RECOMMENDATIONS
Participation in political and public life (Art. 7)	
1	The Committee recommended that the Government introduce measures and programmes, including affirmative action, to increase women's participation at all levels of the judiciary.
2	The Committee strongly urged the State party to encourage political parties in Namibia to encourage the participation of women and to take all appropriate measures in that regard.
Equality in access to healthcare (Art. 12)	
General comments	Concerned about the high number of illegal abortions in Namibia and the high rate of maternal mortality, and the fact that the inadequacy of the existing law on abortion contributed to the problem.
1	The Committee recommended that the Government of Namibia adopt the necessary measures to review the laws containing punitive measures against women who had undergone illegal abortions.

THIRD (COMBINED) REPORT (Mar. 2005)

Quality of the report	Followed the Committee's guidelines for the preparation of reports, while regretting that it did not refer to the Committee's general recommendations. The Committee commends the State party on its high-level delegation. Notes with satisfaction that the report includes reference to the implementation of the Beijing Platform for Action. The response to the LOI were done within months.
Delay	2nd report was due on Dec. 1997. 3rd report was due Dec. 2001. Finally submitted on March 2005 .

RECOMMENDATIONS (from previous report)	Implemented?	Information from State report, Response to LOI and Shadow reports.
Art. 7		
1	no	No affirmative action was implemented in the judiciary, although the number increased in very short period of time. Magistrates: (1995 - 20%) (1998 - 29%). State prosecutor: (1995 - 40%) (1998 - 44.59%). Legal Advisors (1995-40%) (1998 - 60%). In addition to the Ombudswoman, a woman has been appointed as Attorney General. For the 2000 academic year, the University of Namibia has reported the intake of 79 female students to 71 male students, out of 150, for the Faculty of Law.
2	yes	The government made the effort to encourage participation. Women participation in the political, social, economic and cultural life is explicitly encouraged in the constitution - Article 23(3). Committed itself to a 30% benchmark to ensure women's participation by 2005. Affirmative Action Act and National Gender Policy. (from 12.5 in 1996 to 22.1 in 2003). Women participation in the political, social, economic and cultural life is explicitly encouraged in the constitution - Article 23(3). Committed itself to a 30% benchmark to ensure women's participation by 2005. Affirmative Action Act and National Gender Policy (from 12.5 in 1996 to 22.1 in 2003 in national assembly). COs: While welcoming the adoption of the Affirmative Action (Employment) Act (Act No. 29 of 1998), to encourage the participation of women in the workforce, and the Local Authority Act (Act No. 23 of 1992), to ensure higher representation of women in the decision-making process, the Committee is concerned that these temporary special measures are limited to the areas of employment and women's political representation at the local level.

Art. 12		
1	no	<p>Abortion is still illegal. Although information is being more disseminated. The Ministry of Health proposed a draft law on abortion in 1996 but it was withdrawn in 1999 because a majority of Namibians were not in favor of the law. Namibia's Abortion and Sterilization Act (Act 2 of 1975) makes it a crime for a woman to seek an abortion, or to terminate her own pregnancy. The general public is being educated on the danger of unprofessional abortion, which is done illegally without medical experts. The general public is being educated on the danger of unprofessional abortion, which is done illegally without medical experts.</p>
Additional information		<p>In response to LOI - Yes, the Government has included a gender perspective in the strategic operational plan on HIV/AIDS developed by the Ministry of Education. The National Strategic Plan on HIV/AIDS: Third Medium Term Plan (MTP III) 2004-2009 which is consistent with the United Nations General Assembly Special Session Declaration of Commitment. Also, the Ministry of Health and Social Services has developed a National HIV/AIDS Policy. In Namibia there is only one cancer screening unit. A very limited number of health service providers at health facilities have skills to screen for breast and cervical cancers. Training on cervical and breast cancer screening has been planned by the Ministry of Health.</p>

Concluding Observations (CEDAW/C/NAM/CO/3) (Feb. 2007)	RECOMMENDATIONS
Participation in political and public life (Art. 7)	
1	<p>The Committee recommends that the State party use temporary special measures in all appropriate areas of political, economic, social and cultural life so as to accelerate the achievement of women's de facto equality with men.</p>
Equality in access to healthcare (Art. 12)	
1	<p>The Committee urges the State party to take concrete measures to enhance women's access to health care, in particular to sexual and reproductive health services</p>
2	<p>It also recommends the adoption of measures to increase knowledge of and access to affordable contraceptive methods,</p>

	so that women and men can make informed choices, as well as access to safe abortion in accordance with domestic legislation.
3	It further recommends that sex education be widely promoted and targeted at adolescent girls and boys, with special attention paid to the prevention of early pregnancy and the control of sexually transmitted diseases and HIV/AIDS .
4	Ensure that its National Strategic Plan (MTP III) 2004-2009 is effectively implemented and its results monitored and that the socio-economic factors that contribute to HIV infection among women are properly addressed.
5	The Committee urges the State party to improve women's access to maternal health services, including antenatal, post-natal, obstetric and delivery services .
6	It encourages the State party to take steps to ensure accurate recording of maternal deaths and to obtain assistance for this from the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA) and the World Health Organization (WHO).

FIFTH (COMBINED) REPORT (July 2013)

Quality of the report	It appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group and welcomes the oral presentation of the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.
Delay	Due Feb 2014. Submitted Nov. 2017

RECOMMENDATIONS (from previous report)	Implemented?	
Art. 7		
1	no	AS OF 2009: Female representation in Parliament as a whole is 25%. 5 Ministers and 5 Deputy Ministers are female. 12% regional councillors. 23% regional governors. Local Authority Councils, where there is a statutory requirement of affirmative action for women -

		<p>women in 40% of the local authority counsellor seats. In the 2009 national elections, some political parties showed serious intention of meeting gender parity in their election lists. Civil society lobbied for 50/50 representation and following the elections there was debate in the media regarding the need for “zebra-style” party lists alternating women and men. The percentage of women in senior management positions in public service is on a par (27.8%) with the SADC target of 30%. As of the end of 2009 there were no female judges in the Supreme Court, there is one female judge in the High Court, and 32 female magistrates. Awareness on equal representation at all levels as per SADC Protocol on Gender and Development was intensified prior to 2014 National elections, thus the increase in women representation in politics. A National Conference on Women in Politics in Namibia was held in November 2013, which targeted the women’s wings of all political parties. Several workshops and meetings for political parties and parliamentarians were held to sensitise them on the importance of equal representation in politics and at all levels of decision making.</p>
Art. 12		
1	yes	<p>The Government is committed to improving maternal health, as shown in Vision 2030, the third National Development Plan and practical guidelines such as the Roadmap to Maternal, Newborn and Child Health. The Government provides pre-natal care, deliveries and postnatal care services through its Safe Motherhood programme. These services are provided at all health facilities countrywide. Government provides mothers with antenatal care services during pregnancy, safe midwifery, delivery services during labor and post-natal care services. The Government introduced rapid testing in 2005 at approximately 110 public health facilities around the country. The Fourth National Development Plan (2013-2017) the Government has identified access to quality health services as a key priority to increase the standard of living for people living in urban and rural areas. The goal is to increase access to quality health systems, in terms of prevention, cure and rehabilitation. The Ministry of Health and Social Services which receives the fourth largest budget in the Government will work with all relevant partners to ensure that this goal is met. (SALC & Co.) access to health remains a concern, particularly for minorities, such as people living with HIV, persons with disabilities, those from the LGBTI community and sex workers. Reports that migrants are being charged higher fees for accessing health services</p>
2	yes	<p>The Government distributed 30,314,800 condoms and 1,162,000 femidoms during the 2008-2009 financial year. The NGO NASOMA also distributed 1,595,277 condoms and 19,446 femidoms. Education on family</p>

		<p>planning has been included in Safe Motherhood programmes (discussed below). The importance of family planning and sex education has also been recognised in the Ministry of Education.</p>
3	yes	<p>Education on family planning has been included in Safe Motherhood programmes. The importance of family planning and sex education has also been recognised in the Ministry of Education. The MGECW has implemented many activities to improve the health of women and girls in Namibia including trainings on family planning, nutrition, contraception, negotiation in relationships and empowerment. The Ministry includes both men and women in its trainings. Education on family planning has been included in Safe Motherhood programmes. The importance of family planning and sex education has also been recognised in the Ministry of Education. The MGECW has implemented many activities to improve the health of women and girls in Namibia including trainings on family planning, nutrition, contraception, negotiation in relationships and empowerment. The Ministry includes both men and women in its trainings.</p>
4	yes	<p>The MoHSS published a progress report on the MTP III in 2008/2009. The report cites evidence to show that the national response to HIV infection has reduced the prevalence of infection in 15-24 year-olds. However, the burden of the epidemic is now affecting people in their thirties. In 2008, HIV prevalence was 17.8%, a decrease from 22% in 2002. The prevalence of HIV infection in those aged 15-19 and 20-24 years has decreased from 11% to 5.1% and 22% to 13.9% respectively between 2002 and 2008. The MoHSS is in the process of completing the next national strategic framework for HIV and AIDS (MTP IV). (SALC & Co.) the report is not easily accessible, and it is therefore difficult to verify whether these recommendations have been implemented. No further information on the recommendations has been made available to the general public or civil society. National Strategic Framework for HIV and AIDS Response in Namibia 2010/11 – 2015/16 relies on strengthening the capacity and management of HIV response at community level. The Government adopted a National Health Policy 2010-2020. Most of the Primary Health Care Policies of the World Health Organization have been incorporated into this Policy. The Government also launched the Third Medium Term Plan (MTP3). The MTP3 national goal purpose is to reduce the incidences of HIV/AIDS below the epidemic threshold of one percent.</p>
5	yes	<p>Approximately 95% of women receive antenatal care from a skilled service provider. 27% of mothers in urban areas receive antenatal care from a doctor compared with 7% of women in rural areas (nurses and midwives). Seventy percent of women make the WHO-</p>

		<p>recommended four antenatal visits. The percentage of women receiving assisted deliveries by trained personnel has risen from 75% in 2000 to 81.4% in 2006-07. Approximately 20% of women did not receive any post-natal care. (SALC & Co.) In 2008, the NWHN and the International Community of Women Living with HIV uncovered cases of almost 40 HIV positive women being subjected to coerced sterilisation in Namibia. However, women seeking sterilisations from public hospitals are now being required by medical personnel to obtain a police affidavit indicating their desire for the procedure. In Namibia, the International Community of Women with HIV/AIDS (ICW Global), together with the Namibia Women's Health Network, has supported eighteen survivors of forced or coerced sterilizations to file lawsuits against the Government. Three of the cases have to date been heard in court, with the ruling recognizing that the women did not give their consent. However, met with an appeal by the Government of Namibia, which is currently before the High Court. (SALC) The High Court, however, failed to recognize the practice as constituting discrimination against HIV-positive women citing a lack of sufficient evidence. (SALC & Co.) Furthermore, information has not been made publicly available regarding steps being taken. Civil society organisations and women living with HIV have not been consulted in the development of any policies and guidelines relevant to informed consent and sterilisation. In addition, the authorities have failed to take steps to ensure redress – including reversal of sterilisation where possible - to those women who have been subjected to coerced sterilisation.</p>
<p>6</p>	<p>yes</p>	<p>The maternal mortality rate has risen (from 0.38 in 2000 to 0.52 in 2006-2007 - large sampling errors as the 95 percent confidence intervals indicate that the maternal mortality ratio varies from 341 to 557). The MoHSS conducted assessment for emergency obstetrics care in 2006. The report concluded: insufficient emergency care facilities available. The distribution of current services is also inequitable across the country. Also: that associated conditions, such as HIV and malaria have to be addressed. UNICEF recommended more training for birth assistants, a more equitable distribution of trained staff between urban and rural areas, and incentives for health-care professionals to work in the public rather than private sector. The Government monitors the progress on maternal mortality through the Demographic Health Survey (DHS). Major interventions and policies in place geared toward the reduction of maternal mortality in Namibia (RLOI, P.14)</p>

