

# Exploring the implementation of the UNCRPD in Namibia. Perspectives of policymakers and implementers

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## Exploring the implementation of the UNCRPD in Namibia. Perspectives of policymakers and implementers

### Abstract

**Introduction:** Namibia signed the UNCRPD in 2007 without any reservation. The country uses a monist system prescribed in its Constitution. Therefore, the UNCRPD became part of the national binding document related to disability. This paper explored the perspectives of disability stakeholders on the implementation of the UNCRPD in Namibia.

**Methods:** An exploratory qualitative study using in-depth interviews was conducted in Omusati and Khomas regions, Namibia. Key stakeholders in disability policy formulation and implementation were included in the study. Policymakers (n=4), implementers (n=7) and representatives from Non-Government Organisations (n=3) were recruited via purposive sampling. Data were thematically analysed.

**Results:** The findings revealed evidence of fundamental national disability rights enabling strategies. These include disability rights enabling environment, national disability policy and legislative framework and disability rights enforcement strategies. However, there are setbacks in implementing the UNCRPD in Namibia, such as the challenges created due to insufficient collaborative and technical capacity, limited aggregated disability data and the misunderstanding of terminology to advance disability rights.

**Conclusion:** The disability sector may utilise the national disability rights enabling Namibia to develop an Integrated National Disability Strategy to address occupational freedom and justice for persons with disabilities.

**Keywords:** UNCRPD, implementation, perspectives, policymakers, implementers, disability rights

## Background

The United Nations General Assembly adopted the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) on 13 December 2006<sup>1</sup>. The UNCRPD provides the necessary legal and constitutional support to ensure the rights and privileges of persons with disabilities<sup>2</sup>. Article 33 of the UNCRPD outlines the National implementation and monitoring strategy for all States Parties (countries that have ratified or acceded to the UNCRPD)<sup>3</sup>, which includes the designation of a focal point within government to co-ordinate matters relating to the implementation of the UNCRPD and co-ordination and implementation mechanisms. In addition, the State Parties should establish legal and administrative frameworks to monitor implementation of the UNCRPD and to involve civil societies, persons with disabilities and their representative organisations in the implementation and monitoring process.

The UNCRPD entitles persons with disabilities to participate in occupations that fulfil their human potential and social inclusion<sup>4,5</sup>. It is a stimulus treaty in promoting occupational justice practices. Grounding the UNCRPD in the occupational justice framework empowers occupational therapists and other policy implementers in settings where persons with disabilities are deprived of opportunities to participate in meaningful occupations because of institutional, environmental, attitudinal and social barriers<sup>6</sup>. Therefore, the UNCRPD treaty can be used as a fundamental catalyst in addressing occupational deprivation, marginalisation, alienation and occupational imbalance, including potential barriers for persons with disabilities<sup>7</sup>.

Namibia became a signatory to the UNCRPD on 25 April 2007<sup>1</sup>. To date, there is no formal research documenting evidence on what has been done to promote the domestication of the UNCRPD in Namibia. The purpose of this study was to explore the perspective of the policymakers and implementers on the domestication of the UNCRPD treaty in Namibia to advance occupational justice and freedom of persons with disabilities. In Namibia, policymakers include persons responsible for formulating policies, while policy implementers are stakeholders responsible for delivering services to the beneficiaries guided by the formulated policies.

## Methods

### Study design

An explorative qualitative design was employed using in-depth interviews to determine policymakers and implementers' perspectives and systematic relationships on the implementation of the UNCRPD in Namibia. The design was appropriate because it enabled

greater insight into the participants' opinions on the implementation of the UNCRPD in a quest to promote disability rights.

### **Study setting**

The participants were recruited from two purposively selected regions in Namibia (Komas region and Omusati region). Komas region has the capital city of Namibia, Windhoek, which is the administrative city where policymakers and senior implementers, including development agencies who strategise policy formulation and implementation, are stationed. Omusati region serves the largest number (15 230) of persons with disabilities in Namibia<sup>8</sup>.

### **Study Population and Sampling**

Key stakeholders in policy formulation and implementation in Namibia were included in the study. Fourteen participants, including policymakers (n=4), policy implementers (n=7) and non-governmental organisations (n=3) were recruited via non-probability, purposive maximum variation sampling. The participants stratified by different characteristics (Table 1) were informed of the study by the first author and invited to participate in the study voluntarily.

### **Data Collection**

Informed consent was solicited from each participant before the commencement of in-depth interviews. A total of 14 individual in-depth interviews were conducted at a location of their choice, mostly in their own offices. The available literature on the implementation of the UNCRPD informed the development of a semi-structured interview guide. Field notes were documented during the interview. The interviews were conducted in English language. The interviews took between one hour to two hours and were digitally audio-recorded. Data collection and analysis co-occurred to facilitate additional recruitment of participants. Data were collected until a level of redundancy was reached, resulting in similar issues being raised.

### **Data analysis**

Data analysis methods are procedures for examining data to answer the research question, usually by identifying significant patterns<sup>9</sup>. All audio recordings were transcribed and checked for accuracy against the recordings by the principal author. Inductive thematic analysis was used through the organisation of data into codes, which were then unified and organised into categories. The categories were unified and organised into themes that the co-authors reviewed. Verbatim quotes were utilised to maintain the voices of the participants and provided thick descriptions.

### **Trustworthiness and Ethics**

To enhance trustworthiness, transgressive validity was applied to this study. This enabled the authors to assess how knowledge was created, evaluated, and whether the research accomplishes its goals intended to achieve. In addition, triangulation was ensured through cross verification from the multiple sources of data on the implementation of the UNCRPD<sup>10</sup>. The participants from the two regions had different levels of functions (policymakers and implementers) and belonged to various ministries and *Non-Governmental Organisation* (NGOs). This enabled maximum variation from a diverse group of participants. The questioning approach of the principal author was consistent at each level of functions to ensure dependability. However, transferability will depend on contextual similarities. The principal author checked the descriptions produced with the participants for approval (member checking) and acceptance (respondent validation)<sup>9</sup>. The co-authors and peers verified the acceptability of the overall research process, with emphasis on the data collection and analysis process. The principal author created an audit trail by documenting every decision made at every stage of the study, from design to reporting.

### **Ethical considerations**

The University of KwaZulu-Natal, Biomedical Research Ethics Committee (BE022/19), and the Namibia Ministry of Health and Social Services Research Management Committee (17/3/3GC) granted ethical approval for this study. Ethical principles were upheld, including obtaining informed consent from the participants, and explaining the right to withdraw. Principles of confidentiality and anonymity were maintained throughout the study.

### **Demographic information**

Demographic information of the participants is presented in Table I.

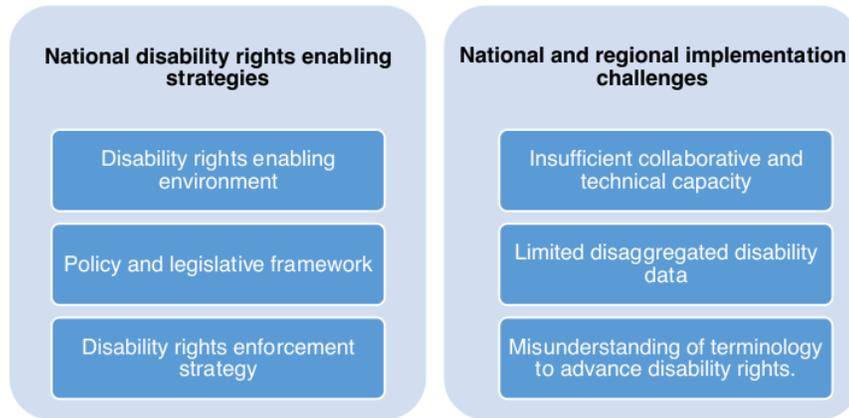
**Table II** Description of stakeholders (n=14)

<b>Category</b>	<b>Stakeholder Representation</b>	<b>Participant ID</b>	<b>Region</b>
<b>Policy Maker (n=4)</b>	Ministry of Justice	PM1	Khomas
	Ministry of Health and Social Services	PM2	
	Ministry of Disability Affairs in the Office of the Vice President	PM3	
	Ministry of Education, Arts and Culture	PM4	
<b>Policy Implementer (n=7)</b>	Regional Occupational Therapist	PI1	Khomas
	National Disability Council	PI2	
	Regional Social Worker	PI3	
	Office of the Ombudsman	PI4	
	Association of differently-abled women	PI5	Omusati
	National disabled youth council chairperson	PI6	Khomas
	National Federation of Disabled Persons in Namibia.	PI7	
<b>Non-Governmental Organisation (NGO) (n=3)</b>	United Nations Children's Fund (UNICEF)	NGO1	
	United Nations Development Programme (UNDP)	NGO2	
	United Nations Population Fund (UNFPA)	NGO3	

## **Results**

Two key themes emerged from the data, that is: (i) National disability rights enabling strategies and (ii) national and regional implementation challenges. Fig 1 highlights the two major themes and categories related to each identified theme. The perspectives of the participants are discussed under each theme and substantiated by relevant quotes.

**Figure 1** Themes and Categories



### **Theme 1: National disability rights enabling strategies**

Theme 1 has three subthemes, that is, disability rights enabling environment, policy and legislative framework and disability rights enforcement strategy.

#### ***Disability rights enabling environment***

This category explains the government's organisational structures to create a conducive environment that enables the advancement of disability rights in Namibia. Policymakers perceived this as a great success and strategy for resource mobilisation and advancing disability rights.

*"One of the notable decisions is the one that the President has taken to establish a focal office dealing entirely with disability issues in the Office of the Vice-President". (PM3)*

The participants cherished the role played by the disability focal office. Since the inception of the disability focal office, the previously fragmented disability and rehabilitation services, that hampered service delivery and contributed to the delays experienced in reporting the UNCRPD progress/ country report, was being addressed .

All participants appreciated the collaboration between the government ministries and international organisations, specifically the United Nations (UN) and European Union (EU), led by the disability focal office to support the advancement of rights for persons with disabilities as enshrined in the UNCRPD.

*“UNICEF provides us with technical and financial assistance. For example, the guidelines that we have developed – they have taken it on their budget, they will now send it to a graphic designer for layouts and that, and then print it for us. Just in terms of providing funds or training, and things like that”. (PM4)*

The development agencies offer various support to different organisations, and OPDs conducting UNCRPD awareness-raising and disability commemoration activities to uplift the welfare of people with disabilities.

Furthermore, the participants recognised the introduction of the department of Occupational Therapy and Physiotherapy at the University of Namibia to administer the training of occupational therapy and physiotherapy professionals in 2018 as a significant milestone.

*“We are now training our children in this country who will treat us and help us to fight for our freedom and rights. We are happy as a nation for persons with disabilities”. (PM3)*

### **Policy and legislative framework**

The government of Namibia embraced the need to accelerate disability rights through ratification of the UNCRPD in 2007. One participant (PI4) stressed that article 144 of the Namibia Constitution makes the UNCRPD binding upon Namibia since it was ratified without reservation. The policymakers identified the National Policy on Disability of 1997, National Policy on Orthopaedic Technical Services of 2001, National Policy on Mental Health of 2005 and Sector Policy on Inclusive Education of 2013 as significant policy frameworks providing specific guidance toward implementing strategies on disability issues in health, rehabilitation and education sector. In addition, the National Pension Act of 1992 and the Children’s Care and Protection Act of 2015 were prescribed to provide socio-economic amenities to persons with disabilities. Currently, the National Disability Policy of 1997 and the National Policy on Orthopaedic Technical Services of 2001 exist in the offices of implementers as the important guiding documents for planning, budgeting and execution of disability activities. Policy implementers tend to lean towards the outdated National Disability Policy of 1997. However, the policymakers stated that the UNCRPD is used to complement planning, budgeting and execution of disability activities.

*“Yes, positive things are happening and our Office in the Office of the vice president was tasked with the implementation of these policies, International and National policies. We are also trying our level best to domesticate the International policies such as the UN Convention. Currently we are busy amending the National Disability Council Act and the National disability Policy to bring it in line with the UN CRPD”. (PM3)*

All the participants called upon the need to comprehensively strengthen and consolidate the policy and legislative framework to strengthen disability rights. Policymakers anticipated that an amended National Disability Policy informed by the UNCRPD would be a game-changer in advancing disability rights as evidenced by the latest amended policies, for example, Sector Policy on Inclusive Education. However, the law reform officer highlighted some issues to be discussed with the disability stakeholders before the amendment of the National Disability Policy.

*“The disability movement wants a piece of their own specific law but as the legal fraternity, we know that is not going to work. That is going to be one piece of legislation just like the current policy on disability. We feel it should just have to be worked in every piece of legislation. If you are going to deal with defense ministry, we include the disability aspect. If you are going to deal with Marine, we include the disability aspect, as in UNCRPD. We don't feel is right to have a specific law for one group, it is not going to work I feel that is going to further the discrimination, further the isolation, because now if you come to me I will tell you that I am not the administrator of your bill on disability. Go to a disability and fix your issue”. (PM1)*

#### **Disability rights enforcement strategy**

This category describes the modus operandi of strategies used to enforce the UNCRPD in Namibia. The disability rights enforcement strategies include monitoring strategy, using Organisations of Persons with Disabilities (OPDs) and entering into a partnership with international development agencies and local business communities.

The government established the National Disability Council of Namibia (NDCN) in 2004 to enforce and monitor the implementation of the national disability policies before the ratification of the UNCRPD.

*“NDC is a watchdog, holding the government accountable to the promises it has made through tools like the UNCRPD and any other problems indicated in the constitution of Namibia where they say they want to better the lives of the persons with disabilities”.. (PI2)*

In addition, the Office of the Ombudsman also focuses on protecting human rights in general, even though they do not necessarily focus on persons with disabilities. They also address disability rights-related matters.

*“The ombudsman is a state institution agreed to the mandate to protect the rights of people in Namibia or to investigate matters pertaining to the human rights. So we owe*

to take it that we can investigate if the matter has to do particularly with the violation of the human rights for anyone". (PI4)

The Office of the Ombudsman participant indicated that their services have been underutilised in addressing issues of discrimination against persons with disabilities and the acceleration of awareness programmes on the role of the Office of the Ombudsman to different disability stakeholders the country at large.

Furthermore, the National Federation of Persons with Disabilities in Namibia (NFPDN), which was established in 1991 as an umbrella body for Organisation of Persons with Disabilities (OPDs) in Namibia, plays a crucial role in enforcing disability rights. A network of OPDs supports the NFPDN. The policy implementers highlighted the development of the National Policy on Disability (1997) and the National Disability Council Act (2004), the establishment of a focal office of disability affairs in the Office of the Vice President and the rolling out of the UNCRPD into different regions as some of the fundamental projects influenced by the NFPDN and OPDs in Namibia.

"Our task is to mobilise persons with disabilities in order to collectively fight for our rights to education; access to health care; employment and access to public facilities. We also train them on the UNCRPD and organise them to do different activities and income generating project for self-sustainability". (PI5)

The policymakers highlighted the use of the OPDs as one of the enforcement strategies of the UNCRPD and disability rights at large in Namibia. The policy implementers indicated that OPDs mobilises resources for use to advance programmes for persons with disabilities. In addition, the policy implementers use the OPDs to mobilise persons with disabilities during the commemorations of the national and international day for persons with disabilities.

## **Theme 2: National and regional implementation challenges**

Insufficient collaborative and technical capacity deficiency limited disaggregated disability data, and the misunderstanding of terminology to advance disability rights contribute to the national and regional setbacks in implementing the UNCRPD in Namibia.

### **Insufficient collaborative and technical capacity deficiency**

All the participants noted the OPDs and National Disability Council of Namibia (NDCN) in Namibia as the most significant obstacle in advancing disability rights. Most participants felt that members of most OPDs do not have the operational ability, good qualifications, knowledge and experience to challenge policymakers, disability rights violators and any other organisations in this highly contested disability rights issue. This makes it difficult for OPDs to

manage their finances as well as their affairs. Despite low qualifications, the leaders are elected into office through votes to lead the OPDs. This was seen as a significant concern by the policymakers and NGOs given that they have to challenge educated persons with no disabilities, as indicated by some participants.

*“If your leadership is uneducated and unqualified and they cannot reason with the educated and the technical people on the ground or take the government to account nothing will move”. (PM1)*

In addition to lack of qualifications, the participants from the OPDs were concerned with limited co-ordination of activities and resources among the OPDs. This caused the duplication of needs and service provision, which confuses their members, leading to loss of membership and support. The OPDs participants emphasised that OPDs do not speak with one voice.

*“They (persons with disabilities) run to disability affairs or the National Disability Council (NDC), bypassing the OPDs that are there. If the Disability Affairs and the National Disability Council have some kind of method in place whereby everybody that goes for help with simple letters are send back to the OPDs or any minor problem. Nevertheless, if it is a problem that the OPDs cannot solve then they should be forwarded to the bigger organisations. In that way the OPD’ will at least be playing a vital role in trying to solve issues for people with disabilities. If that does not happen, OPD will die out one day because they wouldn’t be having any sort of function or responsibilities”. (DPO2)*

#### **Limited aggregated disability data**

The policymakers stated that the country relies on the Namibia 2011 Population and Housing Census statistics gathered by the Namibia Statistics Agency (NSA). The participants argued that the tools used in the population census did not use the definition for disabilities as informed by the UNCRPD means that the disability statistics could have been compromised hence the differences in percentages of persons with disabilities noted by the participants. For example, according to participants at the policy-making level, the prevalence of persons with disabilities in Namibia is about 5% of the population. The participants from the NGOs believe that the prevalence value has been underestimated. The policy implementers' participants expressed that no one knows precisely how many persons with disabilities are in Namibia. The definition of disability in the national disability policy of the government is inconsistent to the one in the UNCRPD. All the participants agreed that the lack of detailed statistics on disability data affects planning, resource allocation, and progress monitoring on disability activities.

*“We do not have credible disability data apart from the National Population Housing Census, but we say we need to have data, maybe also sectoral data. We need to look at what is currently happening in each sector in terms of disability. We do not know how credible that data is. For example, Ministry of Education, how disability is defined may depend on the teacher, how the teacher thinks that the child has a disability. Therefore, we do not really have data that is based on the children diagnosis of disability”. (NGO1*

The NGOs and the policymakers viewed the lack of detailed statistics on disability data as a source of resource constraints. This has created difficulties in inclusive budgeting and has been seen as a source of resource under-allocation by the participants from policy implementers and NGOs. This is the basis of the debate on how much money is needed to address disability issues in Namibia.

### **Misunderstanding of terminology to advance disability rights**

All the stakeholders shared a common feeling that many people in Namibia do not understand the terminology in the tools used to advance disability rights. This, in their view, has hampered the implementation of the UNCRPD. For example, many implementers like teachers did not understand inclusivity to address inclusive education, while construction workers did not comprehend the idea of a reasonable accommodation to improve the accessibility of persons with disabilities. There is limited expertise among implementers to tackle matters related to disability inclusivity. The disconnect between what the UNCRPD policy dictates and implementation knowledge, was raised as a significant concern by the NGOs and policymakers.

*“We go to many schools and teachers will tell you that they are just Life skills teachers or they were not trained on how to address these children and that’s where we need to look at how, as Namibia we need to invest into tertiary education to really produce qualified inclusive teachers, because currently, we don’t have”. (NGO1)*

### **DISCUSSION**

The national disability rights enabling strategies were identified as critical elements in promoting disability rights in Namibia. However, the identified national and regional implementation challenges of the UNCRPD complicates the disability rights discourse.

The creation of disability rights enabling environment in Namibia demonstrated by the availability of national policy, and legislative framework that supports disability, including the UNCRPD<sup>11</sup> is a recipe that could promote occupational justice and occupational freedom for persons with disabilities<sup>12</sup>. The contextual actions taken by the government of Namibia to ratify the UNCRPD without reservations are positive steps towards creating an inclusive

environment that fosters occupational justice for persons with disabilities. In addition, the noted disability rights enforcement strategies through establishing institutions to spearhead co-ordination and implementation mechanisms are key achievements<sup>3</sup>. This includes monitoring of the implementation of disability rights. For example, the National Disability Council and the Office of the Ombudsman, are permanent and independent institutions, mandated to co-ordinate the implementation mechanisms of the national policy and legislative framework. Furthermore, the designation of a focal office, the Disability Affairs Ministry within the Office of the Vice President to co-ordinate the implementation of the UNCRPD<sup>13,14</sup> are more contextual specific actions taken by the government of Namibia.

The civic society and OPDs role in Namibia reflected through their engagement in policy development and implementation of the UNCRPD<sup>13</sup> and rolling out of the UNCRPD awareness programmes was crucial in creating the national disability rights enabling strategies. These functions are consistent with the role of stakeholders in promoting occupational justice practices within the communities<sup>15</sup>. The role of OPDs and civil society has been acknowledged by the Namibian Deputy Minister in Disability Affairs Ministry<sup>13</sup>.

Despite the disability rights enabling environment, persons with disabilities continue to experience economic inequalities and discrimination, contributing to their underdevelopment, marginalisation, unequal access to resources and service provision<sup>16</sup>. This could be attributed to the national and regional implementation challenges of the UNCRPD in Namibia. For instance, Namibia has no specific national legal framework for the UNCRPD, which weakens the implementation of the UNCRPD treaty. In addition, the policy implementers who work at various levels within the disability fraternity struggle to correctly interpret and apply a policy or a National Framework, including understanding how the monist system in the constitution works within the Namibian context<sup>17,18</sup>. Such misunderstanding of terminology to advance disability rights calls for Namibia to reconsider developing national interpretive guidelines or to incorporate international laws into its domestic laws like its neighbouring country South Africa<sup>19</sup>. To improve the impact of the UNCRPD and the identified policy and legislative framework, the disability stakeholders need to have adequate knowledge and skills to interpret and implement policy consistently to support the balance between policy formation and its practice<sup>14,16</sup>.

The limited aggregated disability data experienced in Namibia could be linked to how disability is described within the local, national policy and legislative framework instead of the definition in the UNCRPD. Possibly this could be the cause of low-quality disability data or limited data to use in inclusive budgeting and planning for persons with disabilities<sup>20</sup> by policy implementers or disability stakeholders at large. Therefore, this research calls for the disability

stakeholders to adopt the definition of disability within the UNCRPD, develop national and regional indicators, including adopting indicators available at Sustainable Development Goals Indicator Framework <sup>20,21</sup>.

The insufficient collaborative and technical capacity deficiency of the OPDs and the civic society has reduced their national impact in creating occupational freedom for persons with disabilities and accelerating the implementation of the UNCRPD. More so, international aid was reported to develop undesirable and disempowering effects among the OPDs<sup>22,23</sup>. This may suggest that the OPDs are at risk of losing credibility and influence within their administrative regions<sup>24,25</sup>. Power dynamics further complicate this within OPDs due to intersecting identities, risk discrimination, disunity, oppression and inadequate partnership-building mechanisms among the OPDs<sup>26,27</sup>. Different disability stakeholder professionals, for example, occupational therapists should consider occupational justice from the view of a community health care provider's perspective rather than from a practice standpoint to influence occupational freedom, thereby affecting the implementation of the UNCRPD<sup>7</sup>.

## **Conclusion**

This article noted the policy and legislative framework, disability rights environment, monitoring strategies, partnership strategy, and the use of the OPDs as evidence of national disability rights enabling and the UNCRPD enforcement strategies aimed to promote disability rights in Namibia. However, there is a need to address identified national and regional implementation challenges of the UNCRPD, which forms bottlenecks in implementing the UNCRPD within Namibia. These bottlenecks included insufficient collaborative and technical capacity of the OPDs, limited disaggregated disability data, and misunderstanding of terminology to advance disability rights. The disability stakeholders can use their professional and/or political power and civic courage to address the identified national and regional implementation challenges of the UNCRPD, thereby enabling occupational justice for persons with disabilities.

## **Authors' contributions**

XX (corresponding author), YY and ZZ conceptualised the research. XX conducted the study as a post-graduate student. YY & ZZ were supervisors who provided guidance throughout the study process and assisted in the interpretation of data in the analysis phase. YY & ZZ provided key input in the development of the manuscript that XX drafted. All authors read and approved the final manuscript.

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## **Declaration of Interest**

The authors declare no conflict of interest.

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PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10

PAGE 11

PAGE 12

PAGE 13

PAGE 14

PAGE 15

PAGE 16

PAGE 17

PAGE 18