

Background Report
Law and Regulation for the Reduction of Risk from Natural Disasters
in Namibia
A National Law Desk Survey
November 2012

Acknowledgements

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Law and Regulation for the Reduction of Risk in Natural Disasters in Namibia: A Country Desk Survey

Executive Summary

This is a desk survey of laws and regulations for the reduction from natural disasters in Namibia pursuant to the Terms of Reference for National Law Desk Surveys of 8 June 2012 to assist the IFRC and its partners in compiling a Global Synthesis Study on DRR and legislation.

Namibia is the most arid country south of the Sahel and faces a significant risk from hydrological and climate change related hazards. Namibia's National Emergency Management System (now known as NDRMS) was established in 1994 in the Office of the PM following Namibia's drought emergency of 1992/1993. In 2005 Namibia concurred to the adoption of the HFA, and launched its NDRMP in 2009 to reflect the objectives of the HFA, Kyoto Protocol and the Africa Regional Strategy on Disaster Risk Reduction. The NDRMP is the basis for Namibia's *Disaster Risk Management Act*, which was signed into law by the President on 1 August 2012. The Act seeks to give effect to the provisions of the Namibian Constitution on property rights and addresses operational needs for disaster management by establishing institutions for DRM, coordinating mechanisms, a National DRM Framework, programs and plans for improved institutional emergency preparedness and response capacity at local, regional, and national levels to ensure that disaster risk reduction management is mainstreamed into development plans, provides for compensations for death or injury and damage to property respectively; and establishes the National Disaster Fund. The NDRMP and the NCCP (2011) seek to complement one another and integrate/ mainstream climate change adaptation and mitigation, and DRM respectively into national policies, legal framework and development planning.

Hazard Specific Early Warning Regulations

The study did not find any independent laws that deal with early warnings and reduction of underlying risk factors in relation to: cyclones, tornadoes or storms, earthquakes/tsunami, heat/cold waves, insect infestations¹, landslides and avalanches, and volcanoes. There are limited risk reduction provisions but no early warning system or data collection regulation regarding fires and floods. The *Local Authorities Fire Brigade Services Act* (2006) allows LAs to operate fire brigade services to prevent, manage and control fires. Part VI of the *Forest Act* (2001) prescribes for the control and management of forest fire. The *Mine Health and Safety Regulations, Draft* (1999) regulates fires in mines; and the *Mountain Catchment Areas Act* (1970) provides for a fire protection committee and fire plan. NMS provides climatic data and issues warning and advisory bulletins. The NHS within the MAWF is involved in providing meteorological and hydrological data, however, the study was unable to ascertain any laws or regulations regarding its mandates.

Namibia's NDPS (1997) aims to shift responsibility for managing drought risk from government to the farmer, with financial and food security interventions only being considered in the event of an extreme or 'disaster' drought² being declared. NamWater can limit water supply during drought. The *Water Resources Management Act* (2004)³ established the WRMA which has the function of collecting, analyzing and sharing data concerning the conservation and management of water resources; and to monitor and review water usage. NamWater is to provide information regarding rainfall, river flows, groundwater levels, water abstraction from water resources; and water quality. The NDPS (1997) requires information relating to: household food security vulnerability, nutrition, rainfall, weather forecasting, vegetative growth, agro-ecological zoning; and local water supply services. The NEWFIS will gather, analyse and report on drought-related matters to the NDRMC who will issue regular bulletins.

Regulation of the Built Environment

¹ See: *Plant Quarantine Act*, No. 7 of 2008, 9 October 2008

² "A disaster drought refers to drought conditions so intense or protracted that they are beyond what can reasonably be dealt with in terms of normal risk management practices, and which justify State intervention." per National Drought Policy and Strategy (1997) at p. 3.

³ The *Water Resources Management Act* (2004) based on the National Water Policy White Paper (2000), seeks to repeal the *Water Act* (1956) but is not yet in force. Hence, the *Water Act* (1956) remains enforced although it "is not suited to either the country's hydrological conditions or to the political, social and economic realities of the post-apartheid era. See: National Water Policy White Paper, MAWRD, August 2000 at p.19.

The study was unable to locate Namibia's Standard Building Regulations; however, it did ascertain that Namibia currently follows the South African SANS[1]0400 building code⁴, which automatically apply in Namibia.⁵ The NDRMP recognizes the need for the revision of existing or development of new building codes, especially for low-cost housing, to withstand the impact of extreme weather patterns or other adverse conditions. The MRLGHRD has the mandate to ensure appropriate town planning and infrastructural development. Urban land development is governed by the *Town Planning Ordinance* (1954) (TPO), and *Flexible Land Tenure Act* (2012) (FLTA). The TPO (1954) established the NPAB and currently only applies to the City of Windhoek. The FLTA (2012) created the starter title and land hold title schemes, which are registrable under the *Deeds Registries Act* (1937) to provide tenure security for persons living in informal settlements or low income housing. The *National Housing Development Act* (2000) provided for low cost housing and created the Housing Revolving Fund to be administered by RCs and LAs. The MLS implements the *Agricultural (Commercial) Land Reform Act* (1995) (ACLRA) and *Communal Land Reform Act* (2002)(CLRA), which applies to rural land. The ACLRA (1995) seeks to promote equitable land reform. It established the LRAC, Lands Tribunal and the LADF. The CLRA (2002) provides for the registration of all land rights in communal areas, and established the CLB. Communal land is held in trust by the Government; it cannot be bought or sold, but can be transferred. The laws in relation to land use and planning do not take into account DRR measures, and include limited provision on infrastructure installation in new developments and access for emergency vehicles.

The *Deeds Registries Act* (1937) regulates the registration of deeds and applies to all regions of Namibia except for Rehoboth Gebiet, which has its own registry pursuant to *Registration of Deeds in Rehoboth Act* (1976). The *Sectional Titles Act* (2009) provides for the division of buildings into sections and common property. It established bodies corporate to control common property, the STRB and a Sectional Title Register. Land surveys are governed by the *Land Survey Act* (1993). All land registry and survey records (except for customary land rights⁶) are centrally managed by the MLS, and are being computerised for real time access.

⁴ REEEI, "Executive Summary - Revision of Namibian Building Codes to Incorporate Renewable Energy and Energy Efficiency", REEE Capacity Building Project, February 2008 at p.2. <http://www.reeei.org.na/admin/data/uploads/Revision%20of%20Namibian%20Building%20codes.pdf> (accessed 27 August 2012)

⁵ See footnote 4 at p.18 of REEEI, "Final Report - Baseline Study on Energy Efficiency in Buildings in Namibia", Namibia Energy Efficiency Programme in Buildings, November 2011. <http://www.reeei.org.na/projects/NEEP/NEEP%20Baseline%20Study%20FINAL%20report.pdf> (accessed 27 August 2012)

⁶ However, where the land has been surveyed under the *Land Survey Act* (1993) and the duration of the lease is for 10 years or more, the right of leasehold must be registered under the *Deeds Registries Act* (1937).

Article 10 of the 1990 Constitution states that all persons are equal before the law and Article 16 allows all Namibians to own property. Further, Article 23 provides for policies and programmes aimed at redressing social, economic or educational imbalances in the Namibian society arising out of past discriminatory laws or practices. However, there remains racial discrimination in inheritance laws⁷, which the Court in *Berendt v Stuurma* found unconstitutional, and ruled that they must be amended by mid 2005.”⁸ The laws regarding property rights are gender neutral. Women’s property rights are recognised under the *Recognition of Certain Marriages Act* (1991), *Married Persons Equality Act* (1996), and CLRA (2002). The Government also promotes women’s rights in Article 95(a) of the 1990 Constitution, National Gender Policy (1997) and National Land Policy (1998).

The *Prescription Act* (1969) provides that a person becomes the owner of land or other property possessed openly for an uninterrupted period of 30 years. Section 4(1) of the *Squatters Proclamation* (1985) allows the owner of land, without Court Orders or prior notice to any person, to demolish buildings which have been erected or is occupied without his consent. Section 43 of the CLRA (2002) allows the eviction of any person who occupies any communal land illegally. However, the Roman-Dutch law rule, *huur gaat voor koop* (lease overrides sale) allows a tenant to enforce rights against a landlord even if the tenancy has not been registered and the premises not controlled.⁹ The City of Windhoek has a local Access to Land and Housing Policy (2000), and Development and Upgrading Strategy (1999) to address informal settlement upgrading. Article 16(2) of the 1990 Constitution allows the Government to compulsorily acquired land in the public interest subject to just compensation. Except for some provisions in the *Town Planning Ordinance* (1954) the laws do not make any reference regarding land expropriation for the purpose of DRR, evacuation, or emergency or transitional shelter.

⁷ See: *Administration of Estates Act of 1965, Native Administration Proclamation of 1928, Intestate Succession Ordinance of 1946 and Administration of Estates (Rehoboth Gebiet) Proclamation of 1941.*

⁸ LAC, “A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia”, LEAD Project, LAC, 2005 at p.43. <http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallourown.pdf> (accessed 1 September 2012)

⁹ UN-Habitat, Namibia - Law, Land Tenure and Gender Review Series: Southern Africa”, 2005 at p.38. <http://www.unhabitat.org> (accessed 31 August 2012)

Regulation of the Natural and Rural Environment

The DWA within the MAWF has the overall responsibility for water resources management with the RCs and LAs implementing the laws and policies through BMC, WPUA and LWUA. The MH is responsible for the quality of drinking water. LAs and RCs are responsible for local water supply and sanitation. There is no specific mandate for DRR or preparedness for safeguarding water supplies in the face of natural disasters. Shared river and watercourse management is governed by the SADC Protocol on Shared Watercourse Systems (1995) and Sections 53 to 55 of the *Water Resources Management Act* (2004). The DF within the MAWF is responsible for forest management under the *Forest Act* (2001), which provides for forest fire management, soil and water conservation (with no references to landslides and floods) and hunting pursuant to the *Nature Conservation Ordinance* (1975). It also provides for community forests on communal land. The National Policy on Human Wildlife Conflict Management (2009) promotes appropriate land use planning aimed at avoiding and/or reducing human-wildlife conflict. The *Nature Conservation Amendment Act* (1996) established communal conservancy and provided communities with rights over wildlife and tourism management.

The MET is largely responsible for environmental protection and management. There are a range of environmental protection laws, regulations and policies. The *Environmental Management Act* (2007) (EMA) established the SDAC and the Environmental Commissioner. An EIF has also been established by the *EIF of Namibia Act* (2001). The EMA (2007) reinforced NEAP (1995) with an updated list of activities which are required to submit environmental assessments. The various environmental management legislations administered by the MET, MAWF and MFMR provide for human safety, preservation of livelihoods and food security according to the context of the legislation but not necessarily within an entire law or policy. There appears to be no law which regulates the exploitation of natural resources from the perspectives of human safety **during** natural disasters; it generally refers to environmental protection rather than natural disasters.

Information management and exchange, community level DRR education, and awareness

The collection and publication of meteorological, climatic and hydrological data are carried out by NMS and NHS with community access to advisory and warning bulletins. There is no law which specifically provide for the regulation of the collection and publication of baseline population data in high risk

areas. Namibia's recent population and housing census was on 28 August 2011, but it did not address the issue of DRM for population in high risk areas. The NDRMP seek to establish NamVAC to conduct vulnerability mapping to identify vulnerable groups. Both the NDRMP and NCCP seek to include DRR awareness in school curricula and develop public campaigns to raise awareness. Given the Government's decentralisation policy and recognition of customary law, it encourages local governance and community participation in general DRR activities, education and awareness campaigns.

List of Abbreviations

ACMAD	African Centre of Meteorological Applications for Development
Art.	Article
AU	African Union
AUC	African Union Commission
BMC	Basin Management Committees
CCU	Climate Change Unit
Ch.	Chapter
CLB	Communal Land Board
CSO	Civil Society Organization
DDRM	Directorate Disaster Risk Management
DEA	Directorate of Environmental Affairs
DF	Directorate of Forestry
DHHPTSC	Directorate Housing, Habitat Planning and Technical Services Coordination
DRR	Disaster Risk Reduction
DRM	Disaster Risk Management
DRWS	Directorate of Rural Water Supply
DSM	Directorate of Survey and Mapping
DWA	Department of Water Affairs
ECHA	European Commission Humanitarian Aid
EIF	Environmental Investment Fund
EIS	Environmental Impact Statement
EISS	Environmental Impact Statement System
EWS	Early Warning System
FAO	Food and Agriculture Organization of the United Nations
GFDRR	Global Facility for Disaster Reduction and Recovery
GN	Government Notice
GTZ	Gesellschaft für Technische Zusammenarbeit
HFA	Hyogo Framework for Action 2005-2015
ICT	Information, Communication and Technology

IFRC	International Federation of Red Cross and Red Crescent Societies
KPA	Key Performance Area
LAs	Local Authorities
LAC	Legal Assistance Centre
LADF	Land Acquisition and Development Fund
LRAC	Land Reform Advisory Commission
LWUA	Local Water User Associations
MAWF	Ministry of Agriculture, Water and Forestry
MD	Ministry of Defence
MET	Ministry of Environment and Tourism
MGECW	Ministry of Gender Equality and Child Welfare
MH	Ministry of Health
MHSS	Ministry of Health and Social Services
MLS	Ministry of Lands and Resettlement
MRLGHRD	Ministry of Regional and Local Government, and Housing & Rural Development
NA	Not Applicable
NamVAC	Namibia Vulnerability Assessment Committee
NamWater	Namibia Water Corporation
NCCC	National Climate Change Committee
NCCP	National Climate Change Policy
NDF	National Disaster Fund
NDMRF	National Disaster Management Risk Fund
NDPS	National Drought Policy and Strategy
NDRMC	National Disaster Risk Management Committee
NDRMP	National Disaster Risk Management Policy
NDRMS	National Disaster Risk Management System
NEAP	Namibia's Environmental Assessment Policy
NEPAD	New Partnership for Africa's Development
NEWFIS	Namibia Early Warning and Food Information System
NFPF	National Focal Persons Forum
NGO	Non-Government Organization

NHS	Namibia Hydrological Services
NID	Namibia Institute for Democracy
NMS	Namibia Meteorological Services
NNFU	Namibia National Farmers Union
NPAB	Namibia Planning Advisory Board
NPC	National Planning Commission
NSI	National Standards Institution
OMA	Offices, Ministries and Agencies
OPM	Office of the Prime Minister
PM	Prime Minister
R.	Regulation
RCs	Regional Councils
RDRMC	Regional Disaster Risk Management Committee
S./Ss.	Section/Sections
SADC	Southern Africa Development Community
SDAC	Sustainable Development Advisory Council
STRB	Sectional Titles Regulation Board
SWA	South West Africa
UNDP	United Nations Development Program
UNFCC	United Nations Framework on Climate Change
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNICEF	United Nations Children's Fund
UNISDR	United Nations International Strategy for Disaster Reduction
WHO	World Health Organisation
WFP	World Food Program
WPUA	Water Point User Associations
WRMA	Water Resources Management Agency
WWGN	Wetland Working Group of Namibia

(1) Introduction

In 2005, States, development and humanitarian organizations and other stakeholders adopted the Hyogo Framework for Action (2005-2015), which sets a series of priorities for global action to reduce disaster risk. The HFA priorities focus on the need to:

1. Ensure that disaster risk reduction is a national and local priority with a strong institutional basis for implementation, including through “policy, legislative and institutional frameworks”;
2. Identify, assess and monitor disaster risks and enhance early warning;
3. Use knowledge, innovation and education to build a culture of safety and resilience at all levels;
4. Reduce the underlying risk factors; and
5. Strengthen disaster preparedness for effective response at all levels.

Since 2005, a number of countries have adopted or begun to consider adopting new laws, policies and institutional arrangements for disaster risk reduction; however, important gaps still remain. As part of its Strategy 2020 to “advocate for laws, government policies and incentives for risk reduction”, IFRC undertook a series of case studies in Albania, Brazil, Dominican Republic, Nepal and South Africa to examine the strengths and perceived gaps in the current laws of disaster-prone countries whose governments, National Societies and civil society organizations are active in the field of risk reduction. Further, at its 31st International Conference of the Red Cross and Red Crescent Societies in November 2011, IFRC adopted Resolution 7 to encourage States with the support of their National Societies, IFRC and other relevant partners to review their existing legislative frameworks at all levels in light of the key gap areas identified in the *Law and Disaster Risk Reduction at the Community Level* Background Report to assess whether they adequately:

- a. Establish DRR as a priority for community-level action;
- b. Promote disaster risk mapping at the community level;
- c. Promote communities’ access to information about DRR;
- d. Promote the involvement of community representatives, National Societies, other civil society actors and the private sector in DRR activities at the community level;

- e. Ensure that development planning adequately takes into account local variability in hazard profiles, exposure, vulnerability and cost benefit analysis;
- f. Ensure full implementation of building codes, land use regulations and other legal incentives, taking into account areas of competence of various levels of government within countries, to reduce disaster risk at the community level in a manner that does not impinge unnecessarily on livelihoods or rights; and
- g. Promote strong accountability for results in reducing disaster risks at the community level.

In order to assist the project partners in promoting effective domestic legislation on DRR, IFRC and partners are carrying out research towards a Global Synthesis Study on DRR and legislation during 2012.

This is a desk survey of laws and regulations for the reduction from natural disasters in Namibia pursuant to the Terms of Reference for National Law Desk Surveys of 8 June 2012 to contribute to the Global Synthesis Study. The research was conducted from 8 August 2012 to 11 September 2012 via online searches only. Most of the Namibian laws available online were post 1990 Independence. Pre-independence laws inherited from South Africa remain applicable to Namibia until it is repealed or otherwise amended by Parliament. However, not all these laws were available online. The study has noted the relevant pre-1990 laws for completeness but was unable to ascertain their contents for analysis. All documents listed in the bibliography are accessible online via the web links stated therein.

(2) Summary of Main Natural Hazards and Risks in Namibia

Namibia has a population of 2.1 million people¹⁰ and 824,269 square kilometres of total land area, making it the second lowest population density in the world after Mongolia. Namibia is classified as an arid to semi-arid country with 22% of Namibia classified as desert, with a mean annual rainfall of less than 100 mm, 33% classified as arid, with a mean annual rainfall of between 100 and 300 mm, 37% classified as semi-arid, with a mean annual rainfall of between 301 and 500 mm, and 8 % as sub-humid, with a mean annual rainfall of between 501 and 700 mm. Associated with these low rainfall figures are high evapotranspiration rates and a high degree of variation from year to year, including a few years of exceptionally high and low rainfall, as well as variable rainfall distribution patterns within a year¹¹, rendering the country prone to droughts. Namibia's National Disaster Risk Management Policy (2009) defines a "drought disaster" as "*drought conditions so intense or protracted that they are beyond what can reasonably be dealt with in terms of normal risk management practices, and which therefore justify state intervention*".¹² The country experienced severe droughts that required state interventions in 1992/93, 1994/95, 1997/98, 2002/2003 and 2006/7. The drought of 2003 affected about 369,611 people. In 2004, the number of food assistance beneficiaries increased to 642,539 and over 540,000 people require drought relief in the 2008/9 season.¹³

The country also experiences floods caused by river and coastal flooding from immense rainfall or inundation associated with seasonal weather patterns. In February 2009, heavy rains led to flash floods, affecting almost 700,000 people in the northern and north eastern parts of Namibia. Of these, 56,545 people were displaced, an estimated 105 deaths reported and 545,000 people identified to be at risk of food insecurity during the 2009/2010 agricultural season.¹⁴

¹⁰ NPC & UNFPA, "Namibia 2011 Population and Housing Census Preliminary Results", NPC, April 2012 at p. 2. http://www.npc.gov.na/publications/2011_Preliminary_Result.pdf (accessed 8 August 2012)

¹¹ National Drought Policy and Strategy (1997) at p.3. http://www.environment-namibia.net/tl_files/pdf_documents/policy/National%20Drought%20Policy.pdf (accessed 3 September 2012)

¹² Namibia's Disaster Risk Management Policy, August 2009 at p.18

¹³ Ibid

¹⁴ IFRC, "Strengthening Legal Preparedness for International Disaster Assistance in Namibia - Draft Report", Namibia Red Cross Society and IFRC, 2012 at p.7, unpublished at time of access, 8 August 2012.

The National Disaster Risk Management Policy (2009) also noted that, “[i]n Namibia, 3.5 to 7 million hectares of forest and veld land burn every year. In 2002, 3.7 million hectares were burned and in 2001 total land burnt was 5 million hectares⁶. Although these figures fluctuate annually, they indicate the seriousness of the fire problem in Namibia.”¹⁵

Due to the stable geologic situation Namibia has practically no earthquake risk and pest hazards due to invader species exists but are not yet a major problem.¹⁶

In 2011 Namibia ranked second in the number of disaster mortality relative to its population size with 4.7 deaths per 100,000 inhabitants, and fifth in the proportion of victims affected by natural disasters, being 21.9%, and more specifically hydrological disasters¹⁷.

Summarized Table of Natural Disasters in Namibia from 1900 to 2012				
Type of Disaster	No. of Events	No. of People Killed	Total No. of People Affected	Damage Costs (US\$'000)
Drought	6	-	783,200	51,000
Epidemic				
Bacterial Infectious Diseases	3	30	511	
Parasitic Infectious Diseases	2	234	12,098	
Viral Infectious Diseases	1	10	47	

¹⁵ Op. Cit., Namibia’s Disaster Risk Management Policy, August 2009 at p.21

¹⁶ NPC, “Country Environment Profile of Namibia - Final Report”, National Planning Commission of Namibia, February 2007 at p.12. http://ec.europa.eu/development/icenter/repository/Namibia_CEP_final_report_200702.pdf (accessed 9 September 2012)

¹⁷ Guha-Sapir et al., “Annual Disaster Statistical Review 2011, The Numbers and Trends”, Centre for Research on the Epidemiology of Disasters, Institute of Health and Society, Universite catholique de Louvain, Brussels Belgium, July 2012 at pp.14-15. http://cred.be/sites/default/files/2012.07.05.ADSR_2011.pdf (accessed 8 August 2012)

Flood				
Unspecified	1	-	5,000	
Flash Flood	1	2	12,000	
General Flood	10	262	1,067,950	20,490
Source: "EM-DAT: The OFDA/CRED International Disaster Database, www.emdat.be - Université catholique de Louvain - Brussels - Belgium", Created 8 August 2012. http://www.emdat.be/country-profile				

(3) Governmental and Law-Making Structure

The Republic of Namibia (formerly, South West Africa) is a state in southern Africa with the Atlantic Ocean as its western borders and shares land borders with Angola, Zambia, Botswana and South Africa. It gained independence from South Africa in 1990 following the Namibian War of Independence and is part of the Commonwealth of Nations. The legal system in Namibia is a combination of Roman-Dutch law, common law inherited from South Africa, old English law and customary law prevalent in rural areas. The Government of the Republic of Namibia is established as a democratic and unitary state founded upon the principles of democracy, the rule of law and justice for all. The main organs of the state are the executive, legislature and judiciary.

The 1990 Constitution guarantees the separation of powers. The President is both the head of State and the head of Government. Executive power is exercised by the President and Cabinet. The president is elected by direct popular vote for a term of five years and can be re-elected for a second term of office. Namibia has a bicameral Parliament with the National Assembly as the lower house and the National Council as the upper house. The legislature makes laws, approves the executive's budget and exercises control over the government. The 72 voting members of the National Assembly are directly elected for a five-year term on the basis of proportional representation, and the president appoints an additional six non-voting members. The National Council consists of two members from each of the 13 geographic regions of Namibia. These 26 members are directly elected for a term of six years. The National Council reviews bills passed by the National Assembly and recommends legislation on matters of regional concern to the National Assembly.

Article 78 of the 1990 Constitution vests judiciary powers in the Supreme Court, High Court and Lower Courts (Magistrates, Regional and District Labour Courts), which are independent and are subject only to the Constitution and the law. Namibia's courts interpret and apply the laws in the name of the State. The Supreme Court is the highest court and is headed by the chief justice, who is appointed by the president upon the recommendation of the Judicial Service Commission. The Supreme Court hears and adjudicates upon appeals from the High Court, including on constitutional issues.

Namibia is divided into 13 regions and subdivided into 107 constituencies pursuant to Article 102 of the 1990 Constitution. The *Regional Councils Act*, No. 22 of 1992 and the *Local Authorities Act*, No. 23 of 1992 provided the legislative framework for the institutionalising of the decentralised government. A governor heads each region, while elected regional councillors head the constituencies and local councillors form the town, municipal and village councils. In 1998 the Decentralisation Policy was launched to decentralise functions from the line ministries to the regional councils and local authorities first by

delegation, and ultimately by devolution of the political and administrative responsibility of the service provision to the regional councils and local authorities. The importance of decentralisation was emphasised with the promulgation of the *Decentralisation Enabling Act*, No. 33 of 2000 and the *Trust Fund for Regional and Equity Provisions Act*, No. 22 of 2000.

Article 66 of the 1990 Constitution states that, “[b]oth the customary law and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary or common law does not conflict with this Constitution or any other statutory law.” Section 16 of the *Traditional Authorities Act* (2000) allows traditional authorities to exercise their powers, duties and functions under customary law as well as give support to the policies of the Government, regional councils and local authority councils, while refraining from any act, which undermines the authority of such institutions. Further, pursuant to Section 12 of the *Community Courts Act*, No. 10 of 2003, the community courts “shall have jurisdiction to hear and determine any matter relating to a claim for compensation, restitution or any other claim recognized by customary law, but only if - (a) the cause of action of such matter or any element thereof arose within the area of jurisdiction of that community court; or (b) the person or persons to whom the matter relates are in the opinion of that community court closely connected with the customary law.”

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1. Background information

Using secondary and legal sources, identify and describe briefly in the table below the governmental structure of the subject country to assist readers understand how the different levels of law and regulation relate to each other.

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Identify laws that indicate the structure of government, including the number of levels of government and the extent of decentralisation of governmental functions, such as: constitutional framework for different levels of government (e.g. national/provincial/local), and specific laws on decentralisation.			
1. How many levels of government are there, and what are they called? How many administrative areas are there (e.g. provinces, local government areas)?	1990 Constitution of the Republic of Namibia (as amended)	Ch. 5, Art. 27(1) Ch. 5, Art. 27(2) Ch. 7, Art. 44 Ch. 7, Art. 63(1) Ch. 7, Art. 66(1) & (2)	<p>“The President shall be the Head of State and of the Government and the Commander-in-Chief of the Defence Force.”</p> <p>“The executive power of the Republic of Namibia shall vest in the President and the Cabinet.”</p> <p>“The legislative power of Namibia shall be vested in the National Assembly with the power to pass laws with the assent of the President as provided in this Constitution subject, where applicable, to the powers and functions of the National Council as set out in this Constitution.”</p> <p>“The National Assembly, as the principle legislative authority in and over Namibia, shall have the power, subject to this Constitution, to make and repeal laws for the peace, order and good government of the country in the best interest of the people of Namibia.”</p> <p>“Both the customary law and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary or common law does not conflict with this Constitution or any other statutory law.</p> <p>Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament, and the application thereof may be confined to particular parts of Namibia or to particular periods.”</p>

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		Ch. 8	Chapter 8 established the National Council and sets out its powers and functions.
		Ch. 12, Art. 102(1)	“For purposes of regional and local government, Namibia shall be divided into regional and local units, which shall consist of such region and local authorities as may be determined and defined by Act of Parliament.”
		Ch. 12, Art. 102(2)	“The delineation of the boundaries of the regions and local authorities referred to in sub-article (1) hereof shall be geographical only, without any reference to the race, colour or ethnic origin of the inhabitants of such areas.”
		Ch. 12, Art. 102(3)	“Every organ of regional and local government shall have a Council as the principle governing body, freely elected in accordance with this Constitution and the Act of Parliament referred to in sub-article (1) hereof, with an executive and administration which shall carry out all lawful resolutions and policies of such Council, subject to this Constitution and any other relevant laws.”
		Ch. 12, Art. 102(4)	“For the purposes of this Chapter, a Local Authority shall include all municipalities, communities, village councils and other organs of local government defined and constituted by Act of Parliament.”
		Ch. 12, Art. 102(5)	“There shall be a Council of Traditional Leaders to be established in terms of an Act of Parliament in order to advise the President on the control and utilization of communal land and on all such other matters as may be referred to it by the President for advice.”
		Ch. 12, Art. 108	“Regional Councils shall have the following powers: <ul style="list-style-type: none"> • to elect members to the National Council;

1. BACKGROUND INFORMATION			
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		Ch. 12, Art. 111(2)	<ul style="list-style-type: none"> to exercise within the region for which they have been constituted such executive powers and to perform such duties in connection therewith as may be assigned to them by Act of Parliament and as may be delegated to them by the President; to raise revenue, or share in the revenue raised by the central Government within the regions for which they have been established, as may be determined by Act of Parliament; to exercise powers, perform any other functions and make such by-laws or regulations as may be determined by Act of Parliament.” <p>“The boundaries of Local Authorities, the election of Councils to administer the affairs of Local Authorities, the method of electing persons to Local Authority Councils, the methods of raising revenue for Local Authorities, the remuneration of Local Authority Councillors and all other matters dealing with or incidental to the administration and functioning of Local Authorities shall be determined by Act of Parliament.”</p> <p>Namibia is divided into 13 regions and 107 constituencies pursuant to the <i>Regional Councils Act</i> (1992) and <i>Local Authorities Act</i> (1992).</p>
		Ch. 20, Art. 143	<p>“All existing international agreements binding upon Namibia shall remain in force, unless and until the National Assembly acting under Article 63(2)(d) hereof otherwise decides.”</p>
		Ch. 21, Art. 144	<p>“Unless otherwise provided by the Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.”</p>

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			Note: <i>Application of Laws to the Eastern Caprivi Zipfel Act</i> , No. 10 of 1999, 24 June 1999 to provide for the application of certain laws to the Eastern Caprivi Zipfel, the operation of which was excluded by virtue of the provision of certain pre-independent laws.
2. Is there a separate law on decentralisation of government functions? How does it decentralise? For example, does it establish new institutions or delegate powers to provincial/local government?	Regional Councils Act, No. 22 of 1992, 28 August 1992 (as amended) Local Authorities Act, No. 23 of 1992, 28 August 1992 (as amended)	S.2 & S.6	Pursuant to Article 102 of the Namibian Constitution Namibia is divided into 13 regions and 107 constituencies. Each region has a regional council and shall be a juristic person (S.2 of <i>Regional Councils Act</i> (1992)). Each regional council shall have a management committee, which is headed by the Governor. In addition to the powers conferred upon a regional council by Article 108 of the Namibian Constitution, the powers and functions of the Regional Councils are prescribed in Part VI, Sections 28 to 30. “For purposes of local government, as contemplated in Chapter 12 of the Namibian Constitution, there shall be local authority councils in respect of (a) municipalities; (b) towns and (c) villages” governed by municipality councils, town councils and village councils respectively which shall be a juristic person. The powers, duties, functions, rights and obligations of Local Authorities are prescribed in Part V, Sections 30 to 31. See also: <ul style="list-style-type: none"> • <i>Trust Fund for Regional Development and Equity Provisions Act</i>, No. 22 of 2000, which established a trust fund to be used for financial and technical assistance to the development of regions and local authorities, and assistance with the implementation of decentralisation programmes. • <i>Decentralization Enabling Act</i>, No. 33 of 2000, 21 December 2000, which provides for and regulates the decentralisation of central government functions to regional and local authorities.

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> • A Decentralization Policy for the Republic of Namibia (1997) <p>Customary laws The <i>Traditional Authorities Amendment Act</i>, No. 25 of 2000, 21 December 2000 (repealed <i>Traditional Authorities Act</i>, No. 17 of 1995, 11 September 1995 (as amended) provides for the establishment of traditional authorities, the designation and recognition of traditional leaders and prescribes their functions, duties and powers. The functions of a traditional authority in relation to the traditional community which it leads shall be to promote peace and welfare amongst the members of that community, supervise and ensure the observance of customary law by its members (S.3); and to provide support to the policies of the Government, regional councils and local authority councils and refrain from any act which undermines the authority of those institutions (S.16). In the performance of its duties and functions the traditional authority is able to raise funds, which shall be paid into the Community Trust Fund of that community, hear and settle disputes between the members of the traditional community in accordance with customary law of that community; and make customary laws (S.3(3)(a), (b) & (c)). “The customary laws of a traditional community shall only be applicable to members of that community and to any persons who is not a member of that traditional community but who, by his or her conduct voluntarily submits himself or herself to the customary law of that traditional community” (S.14(b)).</p> <p>See also: <i>Council of Traditional Leaders Act</i>, No. 13 of 1997, 6 October 1997 (as amended)</p> <p>The <i>Community Courts Act</i> (2003) provides for traditional</p>

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>authorities within a community to apply for the establishment of community courts with the jurisdiction to hear and determine any matter relating to a claim for compensation, restitution, or any other claim recognized by customary law where the cause of action arose within the area of jurisdiction of the community. The community court is to apply the customary law of the traditional community residing in its area of jurisdiction.</p>
<p>3. Looking at the Constitution and/or decentralisation law, is there any mention of allocation of responsibility at the different levels for reducing risks related to natural disasters?</p>			<p>Article 95 of the Namibian Constitution provides that, “[t]he State shall actively promote and maintain the welfare of the people” with Article 95(l) in particular, referring to the “maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future”; and Article 26 of the Namibian Constitution allows the President to declare that a state of emergency exists in Namibia and to make such regulations as are necessary for the protection of public safety, but is otherwise silent in the area of disaster risk reduction management in relation to natural disasters.</p> <p>However, Articles 143 of the Namibian Constitution binds Namibia to all existing international agreements unless and until the National Assembly otherwise decides; and Article 144 provides that “[u]nless otherwise provided by the Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.” Given that Namibia has consented to the Hyogo Framework for Action 2005-2015; ratified the Kyoto Protocol and adopted the Africa Regional Strategy for Disaster Risk Reduction, the State has assumed responsibility for reducing risks related to natural disasters.</p> <p>The <i>Regional Councils Act</i> (1992) confers powers on Regional</p>

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Council to undertake planning of the development of the region regarding:</p> <ul style="list-style-type: none"> • “the physical, social and economic characters of such region has or is likely to have any effect on the physical development of that region (S.28(1)(a)(i); • the distribution, increase and movement and the urbanization of the population in such region (S.28(1)(a)(ii); • the natural and other resources and the economic development potential of such region (S.28(1)(a)(iii); • the existing and the planned infrastructure, such as water, electricity, communication networks and transport systems (S.28(1)(a)(iv); • the general land utilization pattern (S.28(1)(a)(v); and • the sensitivity of the natural environment.” (S.28(1)(a)(vi). <p>There is no specific referral to the allocation of responsibility for DRR in relation to natural disasters.</p> <p>The <i>Local Authorities Act</i> (1992) sets out the powers, duties, functions, rights and obligations of Local Authority Councils in Part V of the said Act but does not specifically refer to the responsibility for DRR in relation to natural disasters. In particular, the Local Authorities are responsible for supply of water (Part VI), sewerage and drainage (Part VII), cemeteries (Part VIII), streets and public places (Part IX), supply of electricity and gas (Part X), public transport services (Part XI) and housing schemes (Part XII). Notably, Section 36 allows Local Authorities to limit the supply or use of water during drought conditions.</p> <p>The <i>Traditional Authorities Act</i> (2000) provides in Section 3(2)(c) that a member of a traditional authority shall “ensure that the members of his or her traditional community use the natural resources at their disposal on a sustainable basis and in a manner</p>

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			that conserves the environment and maintains the ecosystems for the benefit of all persons in Namibia.”
4. Is this country a member of any regional organisation(s) that make(s) regulations or agreements or issues guidelines for member states that could impact on disaster management or risk reduction? Is so, please name the organisation(s).			<ul style="list-style-type: none"> • African Union (AUC, NEPAD, Africa Working Group on DRR & GFDRR) • Southern Africa Development Community (SADC Drought Monitoring Centre) • African Centre of Meteorological Applications for Development (ACMAD)

2. Institutional frameworks, resourcing and community participation in DRR:

The aim is to identify laws that establish the governmental institutions and structures relevant to DRR, and which set out their mandates, and resource allocation mechanisms, including the extent of involvement of communities and civil society. These may include specialist disaster management institutions, bodies established to implement the Hyogo Framework for Action, or authorities charged with planning for adaptation to climate change, as well as government bodies responsible for planning and oversight, public administration at all levels, land use planning, building controls, environmental management, and telecommunications. However, to avoid repetition, the sectoral institutions are not included in this question but are part of the data requested in the section on reducing underlying risks.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Part One. Disaster Management Law & Institutions			
The key question in relation to DM laws is whether they exist and, if so, the extent to which they incorporate longer term disaster risk reduction, as well as prevention. Issues for investigation include: progress in the development of comprehensive DM legislation (at national level, provincial and local levels), what, if any, elements of existing DM laws and regulations relate to risk reduction and prevention for natural disasters; and whether there is a specified DM role for communities, civil society and the National Red Cross or Red Crescent Society (especially in recognition of its auxiliary status in humanitarian response).			
A. Disaster Management Institutions			
5. Is there a national disaster management (DM) or civil protection law or regulation? - or a group of regulations? Describe.	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG		The Disaster Risk Reduction Management Bill was tabled in Parliament on 28 February 2012 by the honourable Deputy PM, Marco Mukoso Hausiku and signed into law by the President on 1 August 2012. In his speech the Deputy PM stated that, “[t]he Bill provides for the establishment of institutions for DRM in Namibia,

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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	54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)		<p>an integrated and co-ordinated disaster management approach, declarations of disasters; establishment of the NDMRF and other incidental matters". It is based on the principles of the NDRMP, which was approved by Cabinet in 2008 and by the National Assembly in March 2009. He noted that the Bill considers existing coping mechanisms of vulnerable communities, households and individuals by advocating the enhancement of coping capacities in the affected communities. The Bill seeks to establish the following institutions:</p> <ul style="list-style-type: none"> • The NDRMC chaired by the Secretary to the Cabinet, • The Village or Settlement DRM Committees, • The Namibia Vulnerability Assessment Committee (NamVAC), and • The Directorate Disaster Risk Management (DDRM). <p>Other provisions of the Bill highlighted by the Deputy PM include:</p> <ul style="list-style-type: none"> • Section 34, which gives effects to the provisions of the Namibian Constitution on property rights and addresses operational needs for disaster management; • Part II and III, which provide for coordinating mechanisms and a Disaster Risk Management Framework, Programs and Plans for improved institutional emergency preparedness and response capacity at local, regional, and national levels to ensure that disaster risk reduction management is mainstreamed into development plans; • Clause 3(c), which establishes the Vulnerability Assessment Committee; • Clauses 42 and 43 which provide for compensations for death or injury and damage to property respectively; and • Part V, which provides for the establishment of the National Disaster Fund and how such a Fund should be managed.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>“The overall goal of the Bill is to contribute to the attainment of sustained development in line with Namibia’s Vision 2030 through strengthening of national capacities to reduce risk and build community resilience to disasters, which is consistent with emerging international trends in disaster risk reduction. It provides for emergency preparedness, rapid and effective responses to disaster and post-disaster recovery.”</p> <p>(Source: Parliamentary Speech of the Honourable Marco Mukoso Hausiku, Deputy Prime Minister on the “Introduction of the Disaster Risk Management Bill”, National Assembly, Namibia 28 February 2012. http://www.opm.gov.na/ (accessed 9 August 2012))</p> <p>As at 30 October 2012, draft DRM regulations are being considered and circulated for comments.</p> <p>See also: National Action Plan for Capacity Development in Disaster Risk Reduction in Namibia, 2006 to 2015 at http://www.ddrm.gov.na/ (accessed 16 August 2012)</p>
6. Is there also a national disaster management policy? Is this established by a law? Provide details.	National Disaster Risk Management Policy, August 2009		<p>The NDRMP is premised on Articles 26 and 95 of the Namibian Constitution, and is aligned with the HFA, Kyoto Protocol and the Africa Regional Strategy for DRR. It re-organized the existing disaster management institutional framework to provide for the coordinated preparation and implementation of DRM strategies and plans and the National Disaster Fund.</p> <p>“The goal of the NDRMP is to contribute to the attainment of sustainable development in line with Namibia’s Vision 2030 through strengthening of national capacities to reduce risk and build community resilience to disasters” (S.4.2) through the following broad strategies:</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> • “the integration of DRR into sustainable development policies and planning at all levels; • the strengthening of disaster risk management structures, mechanisms and capacities to build resilience to hazards at national, regional, constituency and community levels; • the systematic incorporation of risk reduction approaches into the implementation of emergency preparedness, response and recovery programmes; and • the building of multi-stakeholder partnerships at all levels to contribute to the implementation of total DRM.” (S.4.3) <p>The NDRMP comprises five policy objectives, which aligns with HFA and are further translated into five key performance areas with corresponding imperatives and key performance indicators. The five key performance areas and imperatives are:</p> <ol style="list-style-type: none"> 1. Establishing sound, integrated and functional legal and institutional capacity for total disaster risk management in Namibia <ol style="list-style-type: none"> 1.1. Identify and establish mechanisms to ensure that political commitment to the application of total DRM is enhanced and maintained; 1.2. Develop and promulgate a DRM Act for Namibia; and 1.3. Strengthen and transform the existing NDRMS to enable it to implement total DRM. 2. Improving risk identification, assessment and monitoring mechanisms in Namibia <ol style="list-style-type: none"> 2.1. Establish mechanisms for conducting comprehensive multi-hazards disaster risk assessments to serve as an interface for DRM planning in Namibia; 2.2. Establish mechanisms to engage the participation of all stakeholders in disaster risk assessment processes; 2.3. Establish mechanisms for tracking, monitoring, updating

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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			<p>and archiving disaster risk information; and</p> <p>2.4. Establish mechanisms for quality assurance.</p> <p>3. Reducing the underlying risk and vulnerability factors by improving DRM applications at all levels</p> <p>3.1. Develop and disseminate a National DRM Planning Framework and guidelines that will facilitate the development and integration of DRM planning into the development plans and programmes of all sectors in the three levels of government and of other relevant stakeholders;</p> <p>3.2. Assign specific responsibilities for DRRM planning in Namibia; and</p> <p>3.3. Develop, implement and maintain an early warning system for Namibia.</p> <p>4. Strengthening disaster preparedness for effective response and recovery practices at all levels</p> <p>4.1. Establish mechanisms to strengthen disaster preparedness practices in Namibia;</p> <p>4.2. Establish mechanisms to ensure rapid and effective response to significant events and disasters;</p> <p>4.3. Establish mechanisms for the management of disaster relief and recovery operations;</p> <p>4.4. Establish mechanisms for the engagement of volunteers in support of disaster response effort; and</p> <p>4.5. Establish mechanisms for real time information management when a state of national disaster has been declared.</p> <p>5. Enhancing information and knowledge management for disaster risk management</p> <p>5.1.1. Develop and establish a comprehensive DRM information management and exchange system in Namibia;</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>5.1.2. Develop and establish mechanisms to enhance DRM knowledge management in relevant sections of school curricula in Namibia;</p> <p>5.1.3. Develop and establish mechanisms to enhance research in DRM in Namibia; and</p> <p>5.1.4. Develop and establish mechanisms to create public awareness on DRM in Namibia. (S.8)</p>
7. Is the DM law a national law applicable throughout the territory of the subject country? If so, does it establish an integrated national system with elements at provincial, local and/or community level?	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)		The DRM Act shall be applicable throughout Namibia and seeks to establish an integrated national DRM system at all levels of governments and involving all relevant stakeholders as prefaced by the NDRMP (2009).
8. Are there separate provincial or local DM laws? Are these connected with the national DM law in any way? e.g., is there a hierarchy of laws between them, or a common institutional structure?			The study did not locate or identify any separate provincial or local DM laws online as at 10 August 2012.
9. Does the DM or other law establish one or more specialist DM institutions? What are they (i.e. what are their names and what type of body are they) and what are their mandates?	National Disaster Risk Management Policy, August 2009		<p>The NDRMS (formerly the National Emergency Management System) was established pursuant to Cabinet Action Letter 5th/15.02.94/006. The NDRMS is responsible for the development and implementation of integrated DRM policy in Namibia by “developing, establishing and maintaining integrated and coordinated DRM in Namibia through the application of innovative approaches and technologies to build communities, infrastructure and environments in Namibia that are resilient to disaster risks.” (S.5.2)</p> <p>The NDRMC (formerly the National Emergency Management Committee) is the highest policy-making body and serves as the national multi-stakeholder platform responsible for DRM in</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Namibia, reporting to the President and PM. The Secretary of Cabinet shall be the chairperson of the NDRMC and the DDRM shall be the secretariat.</p> <p>The NDRMC comprises the following Permanent Secretaries from the following Offices and Ministries: PM, Finance, Health & Social Services, Labour & Social Welfare, Agriculture, Water and Forestry, Defence, Education, Information, Broadcasting & Technology, Mines & Energy, Regional, Local Government & Housing & Rural Development, Safety & Security, Works & Transport, National Planning Commission, Foreign Affairs, Home Affairs, Justice; and any other Secretary as the chairperson of NDRMC may appoint.</p> <p>The following organisations and development partners shall also be members of NDRMC: Association of Regional Councils, Association of Local Authorities in Namibia, UNDP, WHO, UNICEF, WFP, FAO, Namibia Red Cross Society, Namibia NGOs, Desert Research Foundation, University of Namibia, recognized labour organisations in Namibia, Namibia Economic Policy Research Unit, Namibia Chamber of Commerce & Industry; and any other organisations that the chairperson may appoint to serve on the NDRMC (S.5.5.6.1).</p> <p>The NDRMC is to establish a National Focal Persons Forum (NFPF) to provide a mechanism for all the relevant role players to consult one another and coordinate their DRM planning and operations. Each office, ministry, agency or organisation involved in DRM must appoint an individual who will act as its focal point for DRM (S.5.6.2).</p> <p>A multi-stakeholder Namibia Vulnerability Assessment Committee (NamVAC) is also to be established to conduct vulnerability</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>assessments to identify vulnerable groups, the prevalence and degree of any given risk, and their causes using agreed indicators and assessment tools, including food security issues. NamVAC shall comprise of: MHSS, MRLGHRD, MGECH, MAWF, MD, MET, NPC, University of Namibia, UNDP, WFP, FAO, UNICEF and the Namibia Red Cross Society (S.5.6.3.1).</p> <p>The DDRM within the Office of the PM is the executive arm of the NDRMS, which is mandated with the coordination of DRM in accordance with Cabinet Resolution 15.02.94/006, which include, <i>inter alia</i>,</p> <ul style="list-style-type: none"> • “facilitating and coordinating the development of a national DRM policy and legal framework for DRM, • guide the development of a comprehensive information management and communication system, • make provision for a national education, training and research strategy, • develop, implement and maintain dynamic DRM monitoring, evaluation and improvement programmes; • measure performance to evaluate effectiveness of DRM and risk reduction strategies, • monitoring compliance with the five DRM Key Performance Areas and initiatives for the mainstreaming of DRM into development planning at all levels; and • facilitate the training of regional staff in DRR.” (S.5.6.1). <p>Cabinet Resolution 15.02.94/006 also established:</p> <ul style="list-style-type: none"> • RDRMC (formerly Regional Emergency Management Unit); • Constituency DRM Committee (formerly Constituency Emergency Management Unit); • Local Authority DRM System; and • Settlement DRM Committee (formerly Settlement Emergency

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.5	<ul style="list-style-type: none"> • Local Authorities DRMC; and • Settlement DRMC. <p>The PM must establish the NDRMC to advise the President and the Cabinet. “The PM must appoint the Committee consisting of the following persons:</p> <ul style="list-style-type: none"> • the Secretary to Cabinet who is the chairperson; • the permanent secretaries of the Office of the PM and the National Planning Commission; • permanent secretaries of the Ministries responsible for the following: <ul style="list-style-type: none"> – finance, – health and social services, – agriculture, water and forestry, – defence, – education, – information and communication technology, – regional, local government and housing and rural development, – safety and security, – works and transport; and – gender, equality and child welfare; • one representative nominated by each of the following associations, organisations or institutions: <ul style="list-style-type: none"> – the Association for Regional Councils in Namibia; or – the Association for Local Authorities in Namibia; and • any other permanent secretary or representative from an association, organisation or institution that the PM may appoint to serve on the Committee [but shall not exceed 23 people].” <p>“The Committee is responsible for -</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.9(1)	<ul style="list-style-type: none"> a) making recommendations to the Cabinet in relation to the application of this Act, amendment to this Act and the making of regulations; b) advising the PM on the duties and functions to be performed in terms of this Act and on matters referred to the Committee by the PM; c) ensuring that the core concepts of disaster risk reduction are integrated into the activities of each relevant governmental institution and that each of the relevant governmental institution takes primary responsibility d) for disaster risk management within their sector; e) ensuring the establishment of effective and functional disaster risk management at all levels; f) ensuring that disaster risk reduction is integrated into all development policies, strategies and programmes at national, regional, constituency and local levels; g) supporting and mobilising resources for improved disaster risk assessment, the quality of information and data on disaster risk and for strengthening early warning systems; h) supporting the enhancement of skills and capacities for disaster risk management at national, regional, constituency and local levels; i) promoting and strengthening scientific, research and technical capacity in DRR; j) advocating the development of national information and knowledge management strategies and the establishment of stakeholder networks for DRM; k) reviewing and updating the disaster risk management policies; l) coordinating and supervising disaster response operations; m) administering the Fund; n) providing advice to Cabinet on disaster situations; o) promoting and supporting the integration of disaster risk

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.10	reduction training into tertiary education curricula and into school curricula;
		S.11(3)	<p>p) facilitating training opportunities in disaster risk management for policy makers;</p> <p>q) endorsing disaster risk management strategies and plans and giving guidance to the Directorate in all matters pertaining to DRM;</p> <p>r) periodically reviewing policy issues regarding international appeals, soliciting, the acceptance and the use of international assistance, including international personnel; and</p> <p>s) performing any other duty or function as may be assigned to it by the President, the PM or the Cabinet or as may be prescribed.”</p>
		S.11(4)	<p>“The Committee may establish one or more sub-committees as may be necessary, including sub-committees responsible for -</p> <p>a) health emergency management;</p> <p>b) drought management;</p> <p>c) emergency response, search and rescue;</p> <p>d) rehabilitation and recovery; and</p> <p>e) resource mobilization.”</p> <p>The Directorate acts as the secretariat of the NDRMC.</p> <p>“The Directorate is responsible for coordinating DRM in Namibia and executing the decisions of the Committee and to that extend it must facilitate the establishment of an integrated and coordinated system of disaster risk management in Namibia by -</p> <p>a) all government offices, ministries and agencies at national, regional and municipal level;</p> <p>b) relevant statutory bodies;</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.12(2)	<p>c) the private sector;</p> <p>d) other non-state role-players who are involved in DRM in Namibia; and</p> <p>e) communities.”</p> <p>“The Directorate is responsible for performing the following duties and functions:</p> <p>a) facilitate and coordinate the development of a national DRM policy and the framework for DRM in</p> <p>b) Namibia;</p> <p>c) facilitate the development, strengthening and transformation of the disaster institutions;</p> <p>d) facilitate and coordinate disaster risk assessments undertaken in partnership with stakeholders, regional councils and local authorities;</p> <p>e) facilitate and coordinate the development, implementation and maintenance of integrated DRM plans for DRM at all levels of government which include -</p> <p>i) specific disaster risk reduction strategies, aimed at building resilient areas, communities, households and individuals;</p> <p>ii) the development and testing of contingency plans of known priority risk at all levels of government;</p> <p>iii) the development of response and recovery plans to ensure rapid and effective response to disasters that are occurring or are threatening to occur and to mitigate the effects of those disasters that could not have been prevented or predicted; and</p> <p>iv) align and consolidate national early warning systems;</p>
		S.12(4)	<p>f) provide support to regional, constituency, settlement and local authorities disaster risk management committees or services to implement awareness programmes for the purpose of disaster risk reduction in vulnerable communities at risk to disasters;</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.13(1)	<p>g) assist with the establishment of mechanisms for creating public awareness instilling a culture of risk avoidance;</p> <p>h) guide the development of a comprehensive information management and communication system;</p> <p>i) make provision for a national education, training and research strategy;</p> <p>j) develop, implement and maintain dynamic DRM monitoring, evaluation and improvement programmes;</p> <p>k) measure performance to evaluate effectiveness of DRM and risk reduction strategies;</p> <p>l) monitor compliance with any DRM policy formulated and developed in terms of section 2 and ensure the</p> <p>m) integration of policies into development planning at all levels; and</p> <p>n) facilitate the training of regional staff in disaster risk reduction.</p> <p>“Every permanent secretary or head of office of a governmental institution and every head of office of an association, organisation or institution involved in DRM activities must ensure that there is at all times an official of his or her governmental institution, association, organisation or institution designated as the focal person for communication with the Director in relation to the disaster management procedures of the governmental institution, association, organisation or institution.”</p> <p>“The responsibilities of the national focal persons within their government ministry, office, agency, association, organisation or institutions is to do the following:</p> <p>a) facilitate and co-ordinate DRM arrangements and planning;</p> <p>b) facilitate the mobilisation of resources to manage significant events and disasters relevant to the functional area of the</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.13(2)	<p>sector;</p> <p>c) oversee the effective implementation of DRM activities;</p> <p>d) participate in disaster risk assessment processes including the assessment of post disaster impact;</p> <p>e) activate operational units according to their contingency plans;</p> <p>f) monitor and evaluate the capacity and resources of its organisation to meet demands of significant events and disasters;</p> <p>g) coordinate the analysis and review of disaster risk management policies and plans;</p> <p>h) facilitate the conduct of simulation exercises to test the contingency plans; and</p> <p>i) facilitate the training of staff in disaster risk reduction and participate in integrated disaster risk reduction training for regional staff in disaster risk reduction.</p> <p>“The Prime Minister must establish the Namibia Vulnerability Assessment Committee which consists of the following members appointed by the Prime Minister after consultation with the Committee -</p> <p>a) a staff member from the Office of the Prime Minister of at least deputy director level in the public service who is the chairperson;</p> <p>b) one or more staff members of at least deputy director level in the public service from the Ministries responsible for-</p> <p>i. health and social services;</p> <p>ii. regional and local government and housing and rural development;</p> <p>iii. gender equality and child welfare;</p> <p>iv. agriculture, water and forestry;</p> <p>v. defence;</p> <p>vi. environment and tourism; and</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>vii. the National Planning Commission;</p> <p>c) one representative who may or may not be a member of the Committee nominated by each of the following associations, organisations or institutions:</p> <p>i. the University of Namibia;</p> <p>ii. the United Nations Development Programme;</p> <p>iii. the World Food Programme;</p> <p>iv. the Food and Agriculture Organisation;</p> <p>v. the United Nations Children’s Fund;</p> <p>vi. the Namibia Red Cross Society; and</p> <p>vii. the World Health Organisation.”</p> <p>“The duties and functions of the Vulnerability Committee are to -</p> <p>a) collect vulnerability information including conformation on the prevailing food security status and tracking indicators in order to -</p> <p>i. inform early warning on pending disasters;</p> <p>ii. guide rural development strategies; and</p> <p>iii. inform poverty reduction and social safety net programming;</p> <p>b) assess disaster risk indicators to assess factors that influence vulnerability such as livelihoods and means of survival for communities in Namibia;</p> <p>c) assess the outcomes of impacts of disaster on livelihoods and the way the people affected will cope in the event of hazard shocks;</p> <p>d) update livelihood zones and baselines for monitoring vulnerability;</p> <p>e) maintain information for recording and storing vulnerability assessment information;</p> <p>f) compile regular vulnerability assessment reports and submit these to Cabinet through the Committee;</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>g) train regional and constituency officials on vulnerability assessment; and</p> <p>h) monitoring early warning information.”</p> <p>Other DRM institutions referred to in the DRM Act 2012 include:</p> <ul style="list-style-type: none"> • Regional DRMC - S.14, • Constituency DRMC - S.15, • Local Authorities DRMC - S17.; and • Settlement DRMC - S.16.
10. Does the DM policy use the same or different implementing institutions from the DM law? Describe.			The NDRMP retained the same implementing institutions established by Cabinet Action Letter 5 th /15.02.94/006 established following Namibia’s 1992/1993 drought post independence. The DRM Act 2012 adopts the same institutional framework specified by the NDRMP.
11. Does the DM law or other law deal with: a. Disaster response ¹⁸ ? b. Disaster preparedness ¹⁹ ? c. Disaster mitigation ²⁰ and prevention ²¹ ? d. Disaster risk reduction ²² (DRR)?	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)		The DRM Act is premised on the principles of the NDRMP, which is aligned with the HFA, Kyoto Protocol and Africa Regional Strategy for DRR and deals with disaster response, disaster preparedness, disaster mitigation and prevention and DRR.

¹⁸ “The provision of emergency services and public assistance during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected.”

¹⁹ “The knowledge and capacities developed by governments, professional response and recovery organizations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions.”

²⁰ “The lessening or limitation of the adverse impacts of hazards and related disasters.”

²¹ “The outright avoidance of adverse impacts of hazards and related disasters.”

²² “The concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events.”

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
e. If it includes DRR, how is it defined? (include definition)			<p>Section 1 defines “disaster risk reduction” as “the concept and practice of reducing disaster risks through systematic efforts to analyze and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, application of measures including environmental management, land-use and urban planning, protection of critical facilities, application of science and technology, partnership and networking, and financial instruments, early warning systems including forecasting, dissemination of warnings, preparedness measures and reaction capacities”.</p> <p>Note: The NDRMP does not define DRR per se, but does state that “DRM and DRR are about looking beyond hazards alone to considering prevailing conditions of vulnerability. DRM seeks to address the root causes of disasters, reducing the exposure and vulnerability of people and economic assets in order to reduce losses. Cost effective DRM requires being able to identify where hazards are most likely to strike, who or what will be exposed, and what vulnerabilities will lead to those assets being damaged or destroyed. DRM, therefore, depends not on identifying the consequences of disasters, but rather the causes. These causes need to be made visible and real so that the risks can be perceived, understood and reduced.” (S.7.2).</p>

Note: These definitions are taken from the 2009 UNISDR Terminology on Disaster Risk Reduction, obtained here: <http://www.unisdr.org/we/inform/terminology>.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
12. Does the DM law (or any other law) or policy allocate DRR responsibilities in one or more government ministries? If so, which ministries? Describe their allocated roles.	National Disaster Risk Management Policy, August 2009		<p>The NDRMP allocates DRR responsibilities to the NDRMC, which comprises the following Permanent Secretaries from the following Offices and Ministries: PM, Finance, Health & Social Services, Labour & Social Welfare, Agriculture, Water and Forestry, Defence, Education, Information, Broadcasting & Technology, Mines & Energy, Regional, Local Government & Housing & Rural Development, Safety & Security, Works & Transport, National Planning Commission, Foreign Affairs, Home Affairs, Justice; and any other Secretary as the chairperson of NDRMC may appoint.</p> <p>The following organisations and development partners shall also be members of NDRMC: Association of Regional Councils, Association of Local Authorities in Namibia, UNDP, WHO, UNICEF, WFP, FAO, Namibia Red Cross Society, Namibia NGOs, Desert Research Foundation, University of Namibia, recognized labour organisations in Namibia, Namibia Economic Policy Research Unit, Namibia Chamber of Commerce & Industry; and any other organisations that the chairperson may appoint to serve on the NDRMC (S.5.5.6.1).</p> <p>NDRMC is also responsible for the establishment of the NFPF, where each office, ministry, agency or organisation involved in DRM must appoint an individual who will act as its focal point for DRM (S.5.6.2); and NamVAC, which shall comprise of: MHSS, MRLGHRD, MGECH, MAWF, MD, MET, NPC, University of Namibia, UNDP, WFP, FAO, UNICEF and the Namibia Red Cross Society (S.5.6.3.1).</p> <p>The DDRM located in the Office of the PM shall be the secretariat</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.2	<p>of the NDRMC (S.5.6.1).</p> <p>The Regional DRM Committee shall comprise of: the heads of all relevant regional offices, ministries and agencies, representatives of the Local Authorities DRM System, representatives of development partners in the region, representatives of the current Civil Defence organisation, councillors, and representatives of the Namibia Red Cross Society in the region (S.5.6.4.1).</p> <p>The leading ministry for the following natural hazards are: Drought - Ministry of Agriculture, Water & Forestry Floods - Ministry of Agriculture, Water & Forestry Pest and animal diseases - Ministry of Agriculture, Water & Forestry Forest and veld fires - Ministry of Agriculture, Water & Forestry Epidemics - Ministry of Health & Social Services Desertification and environmental degradation - Ministry of Environment & Tourism</p> <p>“The Prime Minister is responsible for Namibia’s overall disaster risk management policy and, subject to the advice or recommendations of the Committee and the provisions of this Act, the Prime Minister is responsible for –</p> <ul style="list-style-type: none"> d) the initiation, formulation and development of policies on all matters pertaining to disaster risk management and for performing any functions assigned to him or her by or under this Act; e) advising the President, Cabinet and the disaster institutions on matters relating to disaster risk management; and f) the overall administration of this Act.” <p>See above Q.9</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>13. Does the DM law or policy prescribe a role in DM institutions for civil society? If so, how defined and what is the role? At what levels?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence Ordinance</i>, No. 3 of 1979)</p>	<p>S.4(d) & (e)</p> <p>S.8(9)</p> <p>S.9(3)(b)</p> <p>S.12(1) & (2), 13(1)(c), 14-18, 19(1), 25(1), 27(1)</p>	<p>To the extent that “[r]ecognized Labour Organisations in Namibia” and “[a]ny other organisation that the Chairperson may appoint to serve on the NDRMC” (S.5.5.6.1); “representatives of development partners in the region” are appointed to the RDRMC (S.5.6.4.1); “representatives of government at constituency level such as teachers, nurses, agriculture and other extension staff; NGOs operating in the constituency; traditional leaders; representatives of faith based organisations in the constituency; and local representatives of development partners in the constituency” are appointed to the Constituency DRM Committees (S.5.6.6.1); and “representatives of government at settlement level such as teachers, nurses, other health personal and agriculture extension officers; NGOs; traditional leaders; and faith based organisations” are appointed to the Settlement DRM Committees (S.5.6.7.1).</p> <p>The NDRMP’s Imperative 2 for KPA 1 states that the DRM Act must “provision for multi-stakeholder engagement which includes the participation of communities” (S.8.1.1).</p> <p>Imperative 1 for KPA 2 states that “[t]he disaster risk assessment process must start with the systematic collection of data at grassroots level by engaging communities and harnessing indigenous knowledge and historical data, which must be integrated with scientific and contemporary knowledge” (S.8.2.1). This is re-emphasized at Section 8.2.2, where it states “[t]he DDRM must establish mechanisms to ensure that all stakeholders including communities are engaged in disaster risk assessment processes.”</p> <p>Imperative 1 for KPA 3 states that the following strategy must be incorporated into DRM planning: “the introduction of creative</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>formal and informal initiatives that encourage risk avoidance behaviour on the part of individuals, the private sector and government” (S.8.3.1). Imperative 2 for KPA 3 at Section 8.3.2.4 states that, “Regional Councils must involve all relevant stakeholders including communities in the development of DRM plans by ensuring their representation in the multi-stakeholder planning teams established for this purpose.” The Regional, Local Authorities and Settlement DRM Plans must include contingency strategies and emergency procedures which provides for the allocation of responsibilities to the various stakeholders and coordination in its execution (Ss.8.3.2.4 & 8.3.2.5).</p> <p>Imperative 3 for KPA 3 states that the “EWS requires clear and reliable information and communication, which in turn will rely greatly on local community participation. The EWS must be people centred and systems must be developed that provide warnings that are timely and understandable to those at risk” (S.8.3.3).</p> <p>Imperative 1 for KPA 4 states that the DDRM is to “develop specific measures to engage the active participation and ownership of relevant stakeholders, including communities, in DRM and in particular to build a spirit of volunteerism; to engage the involvement of volunteers; and to clearly set out the mechanism for the deployment of volunteers” (S.8.4.1). Section 8.4.1.1 requires Community Based DRM Committees to be established to provide “leadership, ensure community ownership of and participation in, DRM and awareness programmes and facilitate preparedness at local level” and will provide the initial response to disaster.</p> <p>Imperative 4 for KPA 4 requires active promotion and encouragement of broad community participation and volunteers</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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			<p>in DRM. The mechanisms for the deployment of volunteers must be outlined in operational plans and a register kept by Regional, Constituency and Settlement DRM Committees. Volunteers shall be mobilized until the Regional DRM System steps in (S.8.4.4).</p> <p>Imperative 4 of KPA 5 states that in order to increase public awareness on DRM, the NDRMC must “engage respected local officials, religious and community leaders and other interest groups to disseminate information on DRR and popular participation in DRR activities” (S.8.5.4)</p> <p>To the extent that a member of the NDRMC includes one representative nominated by (i) the Association for Regional Councils in Namibia or (ii) the Association for Local Authorities in Namibia; and any other permanent secretary or representative from an association, organisation or institution that the PM may appoint to serve on the NDRMC.</p> <p>To the extent that the NDRMC “may invite any person who has expert knowledge of a matter before the Committee for consideration and decision to attend a meeting of the Committee and take part in discussions in relation to that matter, but such person has no right to vote.”</p> <p>Insofar as Section 11(3)(c), (d) and (e) require the Directorate of DRM to facilitate the establishment of an integrated and coordinated system of DRM in Namibia, which include the private sector, other non-State role players who are involved in DRM and communities; and to facilitate and coordinate disaster risk assessments undertaken in partnerships with stakeholders (S.11(4)(c)).</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>To the extent that the NDRMC can appoint sub-Committees which may “include any number of other persons”.</p> <p>“In order to ensure a mechanism for consultation by all stakeholders and the coordination of disaster risk management planning and operations the Committee must establish a national focal persons forum for national focal persons.</p> <p>Every permanent secretary or head of office of a governmental institution and every head of office of an association, organisation or institution involved in disaster risk management activities must ensure that there is at all times an official of his or her governmental institution, association, organisation or institution designated as the focal person for communication with the Director in relation to the disaster management procedures of the governmental institution, association, organisation or institution.”</p> <p>Representative members of the Namibia Vulnerability Assessment Committee shall be “nominated by each of the following associations, organisations or institutions:</p> <ul style="list-style-type: none"> i) the University of Namibia; ii) the United Nations Development Programme; iii) the World Food Programme; iv) the Food and Agriculture Organisation; v) the United Nations Children’s Fund; vi) the Namibia Red Cross Society; and vii) the World Health Organisation.” <p>Insofar as Regional DRMC are established to “coordinate disaster risk management among sector governmental institutions, local authorities, communities and other role-players involved in DRM at regional level” (S.14(1)(b)) and consist of representatives from “a</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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			<p>representative of any defence association, organisation or institution established in terms of the law if the association, organisation or institution is situated in the region (S.14(2)(f)) and “a representative from the Namibia Red Cross Society in the region (S.14(2)(g)). Further, the Regional DRMC can appoint sub-Committees which “may include any number of persons.” (S.14(15)(b))</p> <p>Insofar as Constituency DRMC are established to “coordinate DRM among sector governmental institutions, communities and other role-players involved in disaster risk management at constituency level” (S.15(1)) and consist of representatives from:</p> <ol style="list-style-type: none"> a) “representatives of governmental institutions at constituency level including teachers, nurses, the Namibian police force, agriculture and other extension staff; b) representatives of NGOs operating in the constituency; c) traditional leaders ; d) representatives of faith based organisations in the constituency; and e) local representatives of development partners in the constituency” (S15(2)). <p>Also, the Constituency DRMC can appoint sub-Committees which may “include any number of other persons” (S.16(6)(b)).</p> <p>Insofar as Settlement DRMC are established to “coordinate disaster risk management among sector governmental institutions, communities and other role-players involved in DRM in the relevant settlement” (S.16(1)) and consist of representatives from</p> <ul style="list-style-type: none"> • “governmental institutions at settlement area level including teachers, nurses, the Namibian police force, agriculture and other extension staff;

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> • NGO operating in the settlement area; • traditional leaders ; • faith based organisations in the settlement area; and • local representatives of development partners in the settlement area” (S.16(2)) <p>Insofar as Local Authorities DRMC are to “in partnership with stakeholders participate in disaster risk assessments processes and facilitate the development of DRM planning; (S.17(7)(j)).</p> <p>The PM may establish one or more DRM volunteer units.</p> <p>“A person who wishes to be a volunteer must in the manner prescribed apply to the -</p> <ol style="list-style-type: none"> a) Directorate, if he or she wishes to be a volunteer at national level; b) chairperson of the regional, constituency or settlement committee, if he or she wishes to be a volunteer at regional, constituency or settlement level respectively; or c) person who has been appointed to be the head of a local authority disaster risk management centre by a local authority council, if he or she wishes to be a volunteer to a local authority.” <p>To the extent that the National DRM Framework integrates strategies involving multi stakeholder participation (S.20(2)(a)).</p> <p>“Every regional council must formulate a composite and integral DRM plan for the region, governing the provision of necessary services before, during and after a disaster and the procedures under, and the manner in which governmental institutions, local authorities, non-governmental organisations and other persons will</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>respond to the disaster.”</p> <p>“Every settlement committee must formulate a DRM plan for the settlement area for which it is established, governing the provision of necessary services during a disaster and the procedures under, and the manner in which governmental institutions, non-government organisations and other persons will respond to the disaster.”</p> <p>Insofar as the National Crisis Committee consists of specialist person that may be appointed by the PM (S.40(1)(e)) and the Regional Crisis Committee consists of representatives from the Namibia Red Cross Society (S.40(2)(c)) and any other member that the regional governor considers essential (S.40(2)(d)).</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>14. Does the DM law or policy prescribe a role in DM institutions for the National Red Cross or Red Crescent Society? If so, how defined and what is the role? At what levels?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence Ordinance</i>, No. 3 of 1979)</p>		<p>The Namibia Red Cross Society shall have representation on the NDRMC, NamVAC, Regional DRMC and the Field Command Team (where established by the Regional Council).</p> <p>The <i>Namibia Red Cross Act</i>, No. 16 of 1991, 28 November 1991 recognizes the Red Cross as a voluntary aid society, which serves as an auxiliary to the Government in the implementation of DRM activities (S.10.1.11).</p> <p>The Namibia Red Cross Society shall have representation on NamVAC (S.13(1)(c)(vi)), Regional DRMC (S.14(2)(g)), and Regional Crisis Committee (S.40(2)(c)).</p> <p>Note: The Namibia Red Cross Society is not explicitly listed as a representative on the NDRMC in the DRM Act 2012 as provided for in the NDRMP (2009).</p> <p>displaced and are relocated to camps; and requires that women be engaged in camp management and in the organisation, coordination and the distribution of food.</p> <p>The language of the DRM Act 2012 is gender neutral.</p> <p>Insofar as there is representation from the Ministry of Gender Equality and Child Welfare on the NDRMC (S.4((2)(c)(x) and Namibia Vulnerability Assessment Committee (S.13(1)(b)(iii).</p>
<p>15. Is there any provision in the DM law or policy to ensure that women have a role and a voice in the DM institutions? If so, how is this regulated or encouraged by law? At</p>			<p>Section 1 states, “[m]ainstreaming gender in DRM is a pivotal component of DRM implementation. It is the process of fully considering and integrating the concerns of women and men in policies and programmes to prevent and mitigate disasters. Enhancing gender aspects involves increasing women’s</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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<p>what levels does the law provide for women's participation in DM institutions?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>			<p>participation in DRR to improve their chances of survival and resilience to livelihood risks.”</p> <p>Section 2 of the NDRMP states that it “shall uphold the protection of fundamental human rights and freedoms, respect of human dignity, equality and freedom from discrimination in accordance with Articles 5, 8 and 10 of the Constitution of the Republic of Namibia.”</p> <p>Section 8.4.3.1 provides for reproductive health and HIV/AIDS, and gender issues to be taken into account when communities are involved</p>
<p>16. Does the DM law or policy prescribe a role in DM institutions for communities? If so, how defined and what is the role? Does it specify any mechanisms to ensure a voice for all elements of the community in DRR, e.g.</p> <p>a. Women?</p> <p>b. Different cultural or ethnic groups?</p> <p>c. Vulnerable groups, including children, older persons, persons with disabilities?</p> <p>d. Socially isolated groups and the very poorest people?</p>	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence Ordinance</i>, No. 3 of 1979)</p>		<p><u>Communities</u> See above Q.13</p> <p><u>Women</u> See above Q.15</p> <p><u>Cultural or ethnic groups</u> <u>Vulnerable groups, socially isolated groups and the very poorest people</u></p> <p>There is no specific referral to any cultural or ethnic groups save to note the representation of traditional leaders on the Constituency DRM Committee (S.5.6.6.1 of NDRMP & S.15(2)(c) of DRM Act 2012) and the Settlement DRM Committees (S.5.6.7.1 of NDRMP & S.16(2)(d) of DRM Act 2012).</p> <p>There is no specific reference to the roles of any vulnerable groups, socially isolated groups and the very poorest people in DM institutions for communities. Generally, “[t]he disaster risk</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>assessment process must start with the systematic collection of data at grassroots level by engaging communities and harnessing indigenous knowledge and historical data, which must be integrated with scientific and contemporary knowledge” (S.8.2.1) and “[t]he DDRM must establish mechanisms to ensure that all stakeholders including communities are engaged in disaster risk assessment processes” (S.8.2.2). Broad community participation and volunteerism is to be actively promoted and encouraged (S.8.4.4).</p> <p>Note: The <i>National Youth Service Act</i> (2005) seeks to establish a National Youth Service, which is to “contribute to the socio-economic development of Namibia and the alleviation of poverty in the country and provide opportunities for youth to take part in national development on a voluntary basis” (S.4(1)(c) & (d)).</p> <p>See also: <i>National Youth Council Act</i>, No. 3 of 2009, 29 May 2009</p>
17. Describe the main differences in the scope of the DM law and the DM policy concerning prevention and disaster risk reduction.	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence</i></p>		<p>The DRM Act 2012 puts into legal effect the provisions of the NDRMP 2009 and established the institutional structure of the Namibia DRM System.</p> <p>The NDRMC is responsible to the President and PM with the overall responsibility for the institutional arrangements, and for the development of the DRM Policy and Plans for Namibia, and for submitting said policy and plans to Cabinet for approval (S.5.5.6); and is required to report to Cabinet quarterly on the progress of the implementation of the NDRMP (Appendix II). The Office of the PM has the overall responsibility for the operation of the NDRMS in Namibia and maintains the DDRM (S.5.5.4).</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<i>Ordinance, No. 3 of 1979)</i>		<p>“The Prime Minister is responsible for Namibia’s overall disaster risk management policy and, subject to the advice or recommendations of the Committee and the provisions of this Act, the Prime Minister is responsible for –</p> <ul style="list-style-type: none"> • the initiation, formulation and development of policies on all matters pertaining to disaster risk management and for performing any functions assigned to him or her by or under this Act; • advising the President, Cabinet and the disaster institutions on matters relating to disaster risk management; and • the overall administration of this Act.” <p>The PM is to establish the NDRMC to advise the President and Cabinet. The NDRMC has the overall responsibility for DRM including reviewing and updating DRM policies; coordinating and supervising disaster response operations; and administering the National Disaster Fund (see S.5) with the Directorate of DRM as its secretariat (S.11).</p>
18. Does the DM law or policy, or other legislation, provide for oversight mechanisms on DRR implementation, including reporting and/ or parliamentary oversight?	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978, No. AG 54 of 1978 and Civil Defence Ordinance, No. 3 of 1979)</i></p>	S.2	<p>The NDRMC is responsible to the President and PM with the overall responsibility for the institutional arrangements, and for the development of the DRM Policy and Plans for Namibia, and for submitting said policy and plans to Cabinet for approval (S.5.5.6); and is required to report to Cabinet quarterly on the progress of the implementation of the NDRMP (Appendix II). The Office of the PM has the overall responsibility for the operation of the NDRMS in Namibia and maintains the DDRM (S.5.5.4).</p> <p>“The Prime Minister is responsible for Namibia’s overall disaster risk management policy and, subject to the advice or recommendations of the Committee and the provisions of this Act, the Prime Minister is responsible for –</p> <ul style="list-style-type: none"> • the initiation, formulation and development of policies on all

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.4	<p>matters pertaining to disaster risk management and for performing any functions assigned to him or her by or under this Act;</p> <ul style="list-style-type: none"> • advising the President, Cabinet and the disaster institutions on matters relating to disaster risk management; and • the overall administration of this Act.” <p>The PM is to establish the NDRMC to advise the President and Cabinet. The NDRMC has the overall responsibility for DRM including reviewing and updating DRM policies; coordinating and supervising disaster response operations; and administering the National Disaster Fund (see S.5) with the Directorate of DRM as its secretariat (S.11).</p>
B. Hyogo Framework for Action & Climate Change Institutions			
19. Does legislation establish any institutions (including committees), or allocate to an existing body, implementation of the Hyogo Framework for Action? What institutions? What are their designated roles in DRR?			<p>The study did not locate any specific legislation online regarding the establishment of institutions responsible for climate change adaptation. The following information is extracted from the MET’s Second National Communication to the UNFCCC in July 2011.</p> <p>“The Cabinet of Namibia is the Government agency with overall responsibility for all decisions around Climate Change Policy. The Parliamentary Standing Committee on Economics, Natural Resources and Public Administration advises Cabinet on relevant policy matters. The MET is the climate change coordinating Ministry through the Climate Change Unit (CCU) established within the MET. The CCU assists directly with planning, development, implementation and coordination of climate change activities at the local, regional and national levels. The CCU is supported directly by a formalised multi-sectoral National Climate Change Committee (NCCC), also within the MET, for sector-specific and cross-sector implementation and coordination advice and guidance, and oversees the country’s obligations to the UNFCCC. The NCCC is a</p>

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			<p>technical committee established to advise the Government on issues of climate change adaptation and mitigation.</p> <p>NCCC's mandate is to:</p> <ul style="list-style-type: none"> • Develop national positions on climate change issues through inter-sectoral dialogue to feed into all relevant international fora, including Conference of the Parties to the UNFCCC, meetings of the Subsidiary Body on Scientific and Technical Advice, and other international and regional meetings; • Oversee the development of Namibia's ongoing national communications to the UNFCCC, including programme and project proposals to be included therein; • Define Namibia's climate change capacity building needs and institutional requirements, and devise an effective strategy for meeting these; • Devise a national strategy for adapting to climate change with emphasis on Namibia's extreme vulnerability as an arid African nation; • Oversee the implementation of the Clean Development Mechanism and other bilateral and multilateral mechanisms; and • Carry out work as needed by way of subcommittees, through the co-option of additional members or advisors as appropriate. <p>The NCCC is chaired by the MET, Directorate of Environmental Affairs. The deputy chair is the National Meteorological Service in the Ministry of Works and Transport. The NCCC reports to the Permanent Secretary of the MET via the head of the Directorate of Environmental Affairs. The NCCC has the powers to establish working groups and subcommittees as needed.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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			<p>The Meteorological Services Division of the Ministry of Works and Transport (MWT) carries out climatic monitoring, research and assessment. This unit will serve as the national Climate Analysis Unit that will support the CCU, MET, NCCC and line ministries with pertinent information and data. A broader civil society engagement on climate change known as the Contact Group on Climate Change supplements these structures in terms of public awareness, public debate, and focus on local and thematic issues.” (Source: MET, “Namibia Second National Communication to the UNFCCC”, July 2011 at pp.105-106)</p> <p>See also: “The Namibia National Climate Change Committee Evaluation and the Possibility of Establishing the Regional Climate Change Committee”, Africa Adaptation Project, Ministry of Environment and Tourism, undated</p>
20. Does legislation establish any institutions (including committees), or allocate to an existing body, planning and implementation for adaptation to climate change? What institutions? What are their designated roles in DRR?			<p>The NDRMP and the NCCP seeks to integrate/ mainstream climate change adaptation and mitigation, and DRM respectively into national policies, legal framework and development planning. Hence, the mandates of the NDRMC and the NCCC and their respective secretariats are complementary as they all work towards achieving Namibia’s Vision 2030.</p> <p>In particular, the NCCP states that, “[t]he DRM strategy recognises DRR as a frontline defence in adapting to impacts of climate change. To ensure disaster risk reduction and adequate preparedness for climate change induced disasters, the government will:</p> <ul style="list-style-type: none"> • Develop and implement a climate change induced disaster management strategy. • Establish and strengthen climate change induced disaster management institutions at regional and national levels to

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			<p>reduce causality and ensure preparedness.</p> <ul style="list-style-type: none"> • Provide basic needs to the victims of climate change induced disaster either in the form of financial assistance or donations of food, goods and services as the need arises in terms of economic losses.” <p>The NDRMP also noted that “developing capacities that deal with existing disaster risks is an effective way to generate capacity to deal with future climate change risk” (p.12). Imperative 1 of KPA 1 states that the Office of the PM “must harmonize and link such fields as environmental management, poverty reduction, social risk management and climate change with DRM practices”</p> <p>Note: The DRM Act 2012 does not explicitly refer to climate change adaptation. See also:</p> <ul style="list-style-type: none"> • Namibia Vision 2030 • Proposed Climate Change Strategy and Action Plan, MET, 2009
21. Do the implementation mechanisms for the Hyogo Framework, climate change adaptation and DM institutions intersect? If so, how? Are their mandates complementary or do they overlap? Describe.			<p>The NDRMP and the NCCP seeks to integrate/ mainstream climate change adaptation and mitigation, and DRM respectively into national policies, legal framework and development planning. Hence, the mandates of the NDRMC and the NCCC and their respective secretariats are complementary as they all work towards achieving Namibia’s Vision 2030.</p> <p>In particular, the NCCP states that, “[t]he DRM strategy recognises DRR as a frontline defence in adapting to impacts of climate change. To ensure disaster risk reduction and adequate preparedness for climate change induced disasters, the government will:</p> <ul style="list-style-type: none"> • Develop and implement a climate change induced disaster

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			<p>management strategy.</p> <ul style="list-style-type: none"> • Establish and strengthen climate change induced disaster management institutions at regional and national levels to reduce causality and ensure preparedness. • Provide basic needs to the victims of climate change induced disaster either in the form of financial assistance or donations of food, goods and services as the need arises in terms of economic losses.” <p>The NDRMP also noted that “developing capacities that deal with existing disaster risks is an effective way to generate capacity to deal with future climate change risk” (p.12). Imperative 1 of KPA 1 states that the Office of the PM “must harmonize and link such fields as environmental management, poverty reduction, social risk management and climate change with DRM practices”</p> <p>Note: The DRM Act 2012 does not explicitly refer to climate change adaptation. See also:</p> <ul style="list-style-type: none"> • Namibia Vision 2030 • Proposed Climate Change Strategy and Action Plan, MET, 2009
C. DRR priority and resource allocation in government			
22. Does the budgetary process provide for any dedicated budget line items for DRR and/or minimum percentages for DRR expenditure by government institutions? If so, is there a budget allocated to DRR at national level? How is this prescribed?	National Disaster Risk Management Policy, August 2009	S.6.1	“The OMAs, regional councils and local authorities must also make budgetary allocations for the procurement of emergency equipment and materials.”
		S.6.3	All government institutions, Regional Councils and Local Authorities are expected to avail required resources before, during and after disasters.
		S.6.4	“Each Regional Council and Local Authority must provide for DRM

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	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.6.5 S.45 S.46 S.48	<p>in their annual budget. Regional Councils and Local Authorities must set aside a proportion of their budget for DRR activities. Such funds should be raised through the creation of a DRM Account and approved fund raising activities.</p> <p>Regional Councils and Local Authorities may however access the funds from the NDF if a disaster or significant event is of such a magnitude that it exceeds the capacity of the Regional Council or Local Authority to manage using own resources.”</p> <p>The National DRM Framework is to ensure “the adequate allocation of resources to regional and local government to ensure that the most vulnerable communities can depend on reliable DRM services”.</p> <p>Every regional council must formulate a composite and integral DRM plan for the region which provides budget allocation for disaster risk management.</p> <p>Every settlement committee must formulate a DRM plan for the settlement area for which it is established, which includes “contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for -</p> <ul style="list-style-type: none"> i. the allocation of responsibilities to various stakeholders and coordination in the carrying out of those responsibilities; ii. prompt disaster response and relief; iii. the procurement of essential goods and the distribution of essential services; iv. the establishment of strategic communication links; and v. the dissemination of information”.

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		S.49	Every local authority must formulate a DRM plan for the local authority area for which it is established, which includes “contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for - i. the allocation of responsibilities to various stakeholders and coordination in the carrying out of those responsibilities; ii. prompt disaster response and relief; iii. the procurement of essential goods and the distribution of essential services; iv. the establishment of strategic communication links; and v. the dissemination of information”.
23. Is there a budget allocated to DRR at provincial/state level (if relevant)? How is this prescribed?	National Disaster Risk Management Policy, August 2009	S.6.3	“The OMAs and local authorities must mobilize their own resources for training their personnel in DRM. The DDRM must maintain a national budget for training at the national, regional, constituency, settlement and community levels.”
		S.6.5	All government institutions, Regional Councils and Local Authorities are expected to avail required resources before, during and after disasters.
		S.6.6	“Each Regional Council and Local Authority must provide for DRM in their annual budget. Regional Councils and Local Authorities must set aside a proportion of their budget for DRR activities. Such funds should be raised through the creation of a DRM Account and approved fund raising activities.
	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence</i>	S.20(2)(c)	Regional Councils and Local Authorities may however access the funds from the NDF if a disaster or significant event is of such a magnitude that it exceeds the capacity of the Regional Council or Local Authority to manage using own resources.”
		S.25(2)(f)	

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<i>Ordinance, No. 3 of 1979)</i>	S.27(2)(f) S.29(2)(g)	Every settlement committee must formulate a DRM plan for the settlement area for which it is established, which must include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies. Insofar as the Local Authority's DRM Plan accounts for its capacity to fulfil its DRM role and responsibilities.
24. Is there a budget allocated to DRR at municipal or local level? How is this prescribed?	National Disaster Risk Management Policy, August 2009 Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978, No. AG 54 of 1978 and Civil Defence Ordinance, No. 3 of 1979)</i>	S.6.4 S.6.5 S.6.6 S.27(2)(f) S.29(1)(e)	"The OMAs and local authorities must mobilize their own resources for training their personnel in DRM. The DDRM must maintain a national budget for training at the national, regional, constituency, settlement and community levels." All government institutions, Regional Councils and Local Authorities are expected to avail required resources before, during and after disasters. "Each Regional Council and Local Authority must provide for DRM in their annual budget. Regional Councils and Local Authorities must set aside a proportion of their budget for DRR activities. Such funds should be raised through the creation of a DRM Account and approved fund raising activities." Regional Councils and Local Authorities may however access the funds from the NDF if a disaster or significant event is of such a magnitude that it exceeds the capacity of the Regional Council or Local Authority to manage using own resources." Every settlement committee must formulate a DRM plan for the settlement area for which it is established, which must include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies.

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			Insofar as the Local Authority's DRM Plan accounts for its capacity to fulfil its DRM role and responsibilities.
Part Two. Responsibility, accountability and liability for natural disaster risk reduction			
The aim is to identify relevant constitutional or other guarantees that may underpin government responsibility, liability and affected persons' rights to compensation. These may include rights to: safety /life; not to be discriminated against; protection of livelihoods; health; compensation; and to information relevant to DRR. One specific issue on the question of liability, is whether governments are liable for failure to prevent natural disasters affecting the population, including for failure to warn, or for making an erroneous warning. A second, related, issue is whether private individuals are liable for damage caused to others from their property during natural disasters, or for faulty advice/warnings given. A third element is whether there is any system of compulsory insurance against the effects of natural disasters.			
A. Constitutional Rights & Guarantees for the Population			
25. Are there any guarantees in the constitution or another law relating to individual or collective rights that may underpin government responsibility or liability, and affected persons' rights to compensation for damage from natural disasters? If so, do these relate to: a. DRR in general? b. Safety /Life c. Right to Food? d. Right to adequate shelter or housing? e. Non-discrimination, (and other relevant civil and political rights)? f. Livelihoods, Health (and other economic, social and cultural rights)? g. Compensation for losses due to natural disasters?	1990 Constitution of the Republic of Namibia (as amended)	Ch. 3, Art. 5	The Namibian Constitution does not explicitly refer to any guarantees that may underpin government responsibility or liability or affected persons' rights to compensation for damage from natural disasters. The Government's responsibility and liability could be inferred from the following provisions. Fundamental Rights & Freedoms "The fundamental rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all organs of the Government and its agencies and, where applicable to them, by all natural and legal persons in Namibia, and shall be enforceable by the Courts in the manner hereinafter prescribed." fundamental rights and freedoms: <ul style="list-style-type: none"> • Protection of life (Art. 6); • Protection of liberty (Art. 7); • Respect for human dignity (Art. 8); • Slavery and forced labour (Art. 9); • Equality and freedom from discrimination (Art. 10); • Arrest and detention (Art. 11);

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h. Information?		Ch. 3, Art. 23	<ul style="list-style-type: none"> • Fair trial (Art. 12); • Privacy (Art. 13); • Family (Art. 14); • Children’s rights (Art. 15); • Property (Art. 16); • Political activity (Art. 17); • Administrative justice (Art. 18); • Culture (Art. 19); • Education (Art. 20); • Fundamental freedoms (Art. 21): <ul style="list-style-type: none"> - freedom of speech and expression, - freedom of thought, conscience and belief, - freedom of religion, - freedom to peaceful assembly, - freedom of association, - freedom to withhold labour without criminal penalties, - freedom of movement, and - freedom of trade. <p>“The practice of racial discrimination and the practice and ideology of apartheid from which the majority of the people of Namibia have suffered for so long shall be prohibited and by Act of Parliament such practices, and the propagation of such practices, may be rendered criminally punishable by the ordinary Courts by means of such punishment as Parliament deems necessary for the purposes of expressing the revulsion of the Namibian people at such practices.”</p>
		Ch. 3, Art. 25(1)	<p>“Save in so far as it may be authorised to do so by this Constitution, Parliament or any subordinate legislative authority shall not make any law, and the Executive and the agencies of the Government shall not take any action which abolishes or abridges the</p>

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			<p>fundamental rights and freedoms conferred by this Chapter, and any law or action in contravention thereof shall to the extent of the contravention be invalid: provided that:</p> <p>a) a competent Court, instead of declaring such law or action to be invalid, shall have the power and the discretion in an appropriate case to allow Parliament, any subordinate legislative authority or the Executive and the agencies of Government, as the case may be, to correct any defect in the impugned law or action within a specified period, subject to such conditions as may be specified by it. In such event and until such correction, or until the expiry of the time limit set by the Court, whichever be the shorter, such impugned law or action shall be deemed to be valid.</p> <p>b) any law which was in force immediately before the date of Independence shall remain in force until amended, repealed or declared unconstitutional. ... “</p> <p>Legal Immunity The President has immunity from civil and criminal proceedings during his or her tenure of office as President (Art. 31). The privileges and immunities of members of the National Assembly (Art. 60) and the National Council (Art. 74(5)) are provided in the <i>Powers, Privileges and Immunities Act</i>, No. 17 of 1996, 26 July 1996.</p> <p>Ch. 7, Art. 66(1) “Both the customary law and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary or common law does not conflict with this Constitution or any other statutory law”</p> <p>Ch. 11, Principles of State Policy</p>

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		Art. 95	<p>“The State shall actively promote and maintain the welfare of the people by adopting, <i>inter alia</i>, policies aimed at the following:</p> <ul style="list-style-type: none"> • Enactment of legislation to ensure equality of opportunity for women, to enable them to participate fully in all spheres of Namibian society; ... • Enactment of legislation to ensure that the health and strength of the workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocational unsuited to their age and strength; • Ensurance that every citizen has a right to fair and reasonable access to public facilities and services in accordance with the law; • Ensurance that senior citizen are entitled to and do receive a regular pension adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities; • Enactment of legislation to ensure that the unemployed, the incapacitated, the indigent and the disadvantaged are accorded such social benefits and amenities as are determined by Parliament to be just and affordable with due regard to the resources of the State; • A legal system seeking to promote justice on the basis of equal opportunity by providing free legal aid in defined cases with due regard to the resources of the State; • Ensurance that workers are paid a living wage adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities; • Consistent planning to raise and maintain an acceptable level of nutrition and standard of living of the Namibian people and to improve public health; • Encouragement of the mass of the population through

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			<p>education and other activities and through their organisations to influence Government policy by debating its decisions; and</p> <ul style="list-style-type: none"> • Maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future; in particular, the Government shall provide measures against the dumping or recycling of foreign nuclear and toxic waste on Namibian territory.”
		Ch. 11, Art. 101	“The principles of state policy contained in this Chapter shall not of and by themselves be legally enforceable by any Court, but shall nevertheless guide the Government in making and applying laws to give effect to the fundamental objectives of the said principles. The Courts are entitled to have regard to the said principles in interpreting any laws based on them.”
		Ch. 20, Art. 143	“All existing international agreements binding upon Namibia shall remain in force, unless and until the National Assembly acting under Article 63(2)(d) hereof otherwise decides.”
		Ch. 21, Art. 144	“Unless otherwise provided by the Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.”
	National Disaster Risk Management Policy, August 2009	S.8.4.4.1	“The Government of the Republic of Namibia must reimburse and indemnify, to the extent and in such a manner as maybe prescribed, any volunteer or other person employed by government for any reasonable expense or liability incurred by

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		S.8.4.4.2	<p>such volunteer or other person as a result of:</p> <ul style="list-style-type: none"> • carrying out an order or performing any DRM activity; and • making available for the purpose of DRM any land or other property. <p>Any claim for payment of compensation on death or injury to any officer in the Public Service shall apply in relation to a volunteer or other person performing any duty related to disaster risk management. Such compensation shall be in accordance with the Ministry of Finance Treasury Instructions sections EC 0101, 0102 and 0103.</p> <p>Payment for the use of land and other property shall be based on a reasonable cost agreed on between the [Government of the Republic of Namibia] and the owner of the land or property.”</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>26. Do the above constitutional or other guarantees give residents any personal right of action against the state if the government breaches these rights? E.g. access to a constitutional court, or a claim in a human rights court or tribunal? If so, explain how the law enables this to occur, and who has the right to make such claims. E.g.</p> <p>a. Is it an individual or a collective right?</p> <p>b. Can claimants represent themselves?</p> <p>c. Are there costs that mean the poorest people cannot access the remedy? Are there financial limitations on any such claims (minimums or maximums)?</p>	<p>1990 Constitution of the Republic of Namibia (as amended)</p>	<p>Ch. 3, Art. 5</p> <p>Ch. 3, Art. 18</p> <p>Ch. 3, Art. 25(2)</p>	<p>There is no general personal right of action against the State for damages regarding its responsibilities and obligations pertaining to natural disasters in the Namibian Constitution. However, a personal right of action against the state may arise if the breach of such rights violates the fundamental rights and freedoms guaranteed by the Namibian Constitution pursuant to Article 5, which states:</p> <p>“The fundamental rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all organs of the Government and its agencies and, where applicable to them, by all natural and legal persons in Namibia, and shall be enforceable by the Courts in the manner hereinafter prescribed.”</p> <p>“Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed upon such bodies and officials by common law and any relevant legislation, and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a competent Court or Tribunal.”</p> <p>See: <i>Gunther Kessl, Heimaterde CC, & Martin Joseph Riedmaier v. Ministry of Lands and Resettlement, et al.</i>, (P)A 267/2005, where the High Court upheld the provisions of Article 18 of the Namibian Constitution in matters of land expropriations under the <i>Agricultural (Commercial) Land Reform Act (1995)</i>.</p> <p>“Aggrieved persons who claim that a fundamental right or freedom guaranteed by this Constitution has been infringed or threatened shall be entitled to approach a competent Court to enforce or</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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		Ch. 10, Art. 91	<p>protect such a right or freedom, and may approach the Ombudsman to provide them with such legal assistance or advice as they require, and the Ombudsman shall have the discretion in response thereto to provide such legal or other assistance as he or she may consider expedient.”</p> <p>The President has immunity from civil and criminal proceedings during his or her tenure of office as President (Art. 31) and members of the National Assembly (Art. 60) and the National Council (Art. 74(5)) have parliamentary privileges as enacted by the <i>Powers, Privileges and Immunities Act</i>, No. 17 of 1996, 26 July 1996.</p> <p><u>Ombudsman</u> Chapter 10 of the Namibian Constitution established the office of the Ombudsman.</p> <p>“The functions of the Ombudsman shall be defined and prescribed by an Act of Parliament and shall include the following:</p> <ol style="list-style-type: none"> a) the duty to investigate complaints concerning alleged or apparent instances of violations of fundamental rights and freedoms, abuse of power, unfair, harsh, insensitive or discourteous treatment of an inhabitant of Namibia by an official in the employ of any organ of Government (whether central or local), manifest injustice, or corruption or conduct by such official which would properly be regarded as unlawful, oppressive or unfair in a democratic society; b) ... c) the duty to investigate complaints concerning the over-utilization of living natural resources, the irrational exploitation of non-renewable resources, the degradation and destruction of ecosystems and failure to protect the beauty and character of Namibia;

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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	National Disaster Risk Management Policy, August 2009	S.8.4.4.1	<p>d) the duty to investigate complaints concerning private practices and actions by persons, enterprises and other private institutions where such complaints allege that violations of fundamental rights and freedoms under this Constitution have taken place; “</p> <p>Every person in Namibia is allowed to file a complaint when the environment is injured or damaged, regardless of whether s/he is directly affected by that damage. There is no need to establish that s/he is an aggrieved person such as required pursuant to Article 25(2) of the Namibian Constitution.</p> <p>See also: <i>Ombudsman Act</i>, No. 7 of 1990, 6 June 1990, which gives legislative effect to Chapter 10 of the Namibian Constitution.</p> <p>“The [Government of the Republic of Namibia] must reimburse and indemnify, to the extent and in such a manner as maybe prescribed, any volunteer or other person employed by government for any reasonable expense or liability incurred by such volunteer or other person as a result of:</p> <ul style="list-style-type: none"> • carrying out an order or performing any DRM activity; and • making available for the purpose of DRM any land or other property. <p>Any claim for payment of compensation on death or injury to any officer in the Public Service shall apply in relation to a volunteer or other person performing any duty related to disaster risk management. Such compensation shall be in accordance with the Ministry of Finance Treasury Instructions sections EC 0101, 0102 and 0103.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Legal Aid Act, No. 29 of 1990, 12 December 1990	S.8.4.4.2 S. 11(1) S. 12(1)	<p>Payment for the use of land and other property shall be based on a reasonable cost agreed on between the [Government of the Republic of Namibia] and the owner of the land or property.”</p> <p>“The O[ffice of the] PM, RDRMC, S[ettlement] DRM Committee, Local Authority, an employee or representative of the NDRMS, or any other person performing a function or exercising DRM activities in terms of this NDRMP, is not liable for any action taken in good faith in terms of or in furthering the objects of this NDRMP.”</p> <p><u>Legal Aid</u> “Any person who wishes to procure legal aid for the purpose of any civil proceedings may apply therefor to the Director.</p> <p>Where application has been made for legal aid in terms of subsection (1), the Director may, if in his or her opinion -</p> <ul style="list-style-type: none"> a) the applicant has reasonable grounds for instituting or defending, or otherwise becoming a party, to a proceedings; b) it is in the interest of justice that the applicant should be legally represented; and c) the applicant has insufficient means to enable him or her to engage a practitioner to represent him or her, <p>grant, on such terms and conditions as the Director may determine, legal aid to the applicant for the purposes of such civil proceedings or in relation to any aspect or part of such proceedings.”</p> <p>“A court may at any time issue a special aid certificate to any person who is a party in any civil proceedings, whether at first</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			instance or at appeal, in which the State is a party if the court is of the opinion that - a) it is in the interest of justice that such person should be represented by a practitioner other than the Director; and b) such person has insufficient means to enable him or her to engage a practitioner to represent him or her.”
		S.12(4)	“Where a special aid certificate has been issued under this section, the court may order the legally aided person to contribute to the costs of the legal aid afforded to him or her to such extent as the court may deem just and reasonable having regard to that person's means.”
		S. 21	“Where application is made for legal aid by a person acting in a representative capacity for the benefit of a deceased estate or a trust or any person who is subject to a legal incapacity and such representative is capable of instituting or defending proceedings in such capacity, the Director may, grant legal aid to such estate, trust or legally incapacitated person if, in his or her opinion - a) the representative concerned has reasonable grounds for instituting or defending the proceedings; and b) the means of the estate, trust or legally incapacitated person are insufficient to enable the representative concerned to engage the services of a practitioner.
		S. 22	“Notwithstanding anything to the contrary contained in this Act, legal aid may be granted to any person for the purposes of any proceedings held before a board, council, body or any other authority in terms of any law, if such person may, in terms of the law concerned, be legally represented at such proceedings.”
B. Liability & Insurance			
27. Does legislation (including case law,	National Disaster Risk	S.8.4.4.2	“The Office of the PM, RDRMC, Settlement+ DRM Committee, Local

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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where applicable) make government agencies liable for failure to prevent natural disasters affecting the population?	Management Policy, August 2009		Authority, an employee or representative of the NDRMS, or any other person performing a function or exercising DRM activities in terms of this NDRMP, is not liable for any action taken in good faith in terms of or in furthering the objects of this NDRMP."
	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.44	
	Local Authorities Act, No. 23 of 1992, 28 August 1992	S.33	<p>"Subject to the provisions of this Act, no compensation shall be payable by a local authority council, any member of a local authority council or any officer or employee employed in carrying out the provisions of this Act in respect of any done in good faith under this Act."</p> <p>To the extent that the government agencies' failure to prevent natural disasters affecting the population can be defined as a misconduct under Section 25 of the Public Services Act (1995).</p>
	Public Services Act, No. 13 of 1995, 24 July 1995	S.25	<p>"Any staff member shall be guilty of misconduct if he or she -</p> <ul style="list-style-type: none"> • contravenes or fails to comply with any provision of this Act; • performs or causes or permits to be performed, or connives at, any act prejudicial to the administration, discipline or efficiency of any office, ministry or agency or any organisational component thereof;

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			<ul style="list-style-type: none"> • disobeys, disregards or makes wilful default in carrying out any lawful order given to him or her by any person authorised to do so, or by word or conduct shows insubordination; • is negligent or indolent in the performance of his or her duties; • uses his or her position in the Public Service or utilises any property of the State to promote or prejudice the interests of any political party; • uses his or her position in the Public Service or utilises any property of the State to promote or prejudice the interests of any private business or private agency, except in the performance of his or her official duties; • absents himself or herself from his or her office or official duties without leave or valid cause; • with a view to obtain any privilege or advantage in relation to his or her official position or his or her duties, or to cause prejudice or injury to the Government or any office, ministry or agency or any member of the Public Service, makes a false or incorrect statement, knowing it to be false or incorrect; [or] • contravenes or fails to comply with any provision relating to his or her employment or conditions of service, or contravenes or fails to comply with any provision of a prescribed code of conduct.” <p>Staff members found guilty of misconduct shall be served with a charge of misconduct and suspended pending the inquiry (S.26). If found guilty of misconduct the staff member charged could be:</p> <ul style="list-style-type: none"> • cautioned or reprimanded, • fined up to N\$2,000, • transferred to any other post or retained in employment

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956) (as amended)) (not yet in force) See: Note at Q.90	S.127(2)	<p>additional to the establishment;</p> <ul style="list-style-type: none"> • demoted and/or have salary reduction, or • discharged or called upon to resign from the Public Service. <p>“The Minister or any other person is not personally liable for any damage or loss occurred as a result of an act or omission committed pursuant to the exercise of powers by the Minister or such other person under this section [ie measures to deal with water related emergencies+.” Note: Generally, in the enacted laws there is a limitation of liability clause similar to Section 127(2) of the Water Resources Management Act (2004) above. That is, the Minister or any other person acting under the direction of the relevant Ministry pursuant to the terms of the relevant laws is not personally liable for any damage or loss if it is done in good faith and without negligence.</p>
28. Are government agencies liable for failure to warn or for making an erroneous warning of natural disaster? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?			See above Q.27
29. Do government agencies that fail to warn or make an erroneous warning have legal immunity? If governments have immunity from liability, how extensive is this and/or how and where in law is it defined? Does it apply to all levels of government?			<p>“The O[ffice of the] PM, RDRMC, S[ettlement] DRM Committee, Local Authority, an employee or representative of the NDRMS, or any other person performing a function or exercising DRM activities in terms of this NDRMP, is not liable for any action taken in good faith in terms of or in furthering the objects of this NDRMP.”</p> <p>“The PM, a member of the Committee, a member of a regional,</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>constituency, settlement or local authority committee, a sub-committee established in terms of this Act, a local authority DRM centre or a person in the service of the State, a regional or local authority council, a volunteer or any person who exercises a power or performs a duty or function required to be performed in terms of this Act, is not liable for any loss or damage as a result of bodily injury, loss of life or loss of or damage to property, which is caused by or arises out of or in connection with anything which is done or performed in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of the provisions of this Act.”</p> <p>See also above Q.27</p>
<p>30. Are private persons (individual or corporate) liable for faulty disaster-related advice or warnings given? Does this apply to volunteers? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?</p>	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence Ordinance</i>, No. 3 of 1979)</p>	<p>S.8.4.4.2</p> <p>S.44</p>	<p>“The O[ffice of the] PM, RDRMC, S[ettlement] DRM Committee, Local Authority, an employee or representative of the NDRMS, or any other person performing a function or exercising DRM activities in terms of this NDRMP, is not liable for any action taken in good faith in terms of or in furthering the objects of this NDRMP.”</p> <p>“The PM, a member of the Committee, a member of a regional, constituency, settlement or local authority committee, a sub-committee established in terms of this Act, a local authority DRM centre or a person in the service of the State, a regional or local authority council, a volunteer or any person who exercises a power or performs a duty or function required to be performed in terms of this Act, is not liable for any loss or damage as a result of bodily injury, loss of life or loss of or damage to property, which is caused by or arises out of or in connection with anything which is done or performed in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of the provisions of this Act.”</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>“The Minister may take any reasonable measures to remove or to minimise the effects of an unauthorised blockage of a watercourse, and may recover from any person responsible for the blockage the costs of any such measures taken.</p> <p>Any person responsible for causing the unauthorised blockage of a watercourse is responsible for any damage to any person, property, or the environment caused as a result of the unauthorised blockage.</p> <p>The Minister has the right to bring an action for damages against any person responsible for unauthorised blockage of a watercourse that caused damage.”</p> <p>See also: Section 125 of the <i>Water Resources Management Act</i> (2004)</p> <p>“When, in the course of any prospecting operations or mining operations in any prospecting area, mining area or retention area, as the case may be, any damage is caused or done to the surface of any land or to any water source, cultivation, building or other structure therein or thereon as a result of such operations, the holder of the mineral licence in question shall be liable to pay compensation to the owner of the land, water source, cultivation, building or other structure, as the case may be, in relation to which such damage has been caused or done.”</p> <p>“When in the course of any reconnaissance operations, prospecting operations or mining operations carried on under any non-exclusive prospecting licence, a mining claim or a mineral licence, any mineral or group of minerals is spilled in the sea or on land or in any water on or under the surface of any land or the sea or such</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>land or water is otherwise polluted or any plant or animal life, whether in the sea, other water in, on or under land, is endangered or destroyed or any damage or loss is caused to any person, including the State, by such spilling or pollution, the holder of such licence or mining claim shall forthwith -</p> <p>a) report such spilling, pollution, loss or damage to the Minister;</p> <p>b) take at his or her own costs all such steps as may be necessary in accordance with good reconnaissance practices, good prospecting practices or good mining practices or otherwise as may be necessary to remedy such spilling, pollution, loss or damage.”</p> <p>If the licence holder fails to comply with Section 130(1)(b) the Minister “cause such steps to be taken as may be necessary to remedy such spilling, pollution or damage or loss and recover in a competent court the costs incurred thereby from such holder” (S.130(2)).</p> <p>Similar provisions to Sections 52(2) and 130(1) of the <i>Minerals (Prospecting and Mining) Act</i> (1992) are found respectively at Sections 16(2)(a) and 71 of the <i>Petroleum (Exploration and Production) Act</i>, No. 2 of 1991, 19 March 1991.</p>
31. Are private persons (individual or corporate) liable for damage caused to others from their property during natural disasters? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence</i></p>	<p>S.8.4.4.2</p> <p>S.44</p>	<p>“The Office of the PM, RDRMC, Settlement+ DRM Committee, Local Authority, an employee or representative of the NDRMS, or any other person performing a function or exercising DRM activities in terms of this NDRMP, is not liable for any action taken in good faith in terms of or in furthering the objects of this NDRMP.”</p> <p>“The PM, a member of the Committee, a member of a regional, constituency, settlement or local authority committee, a sub-</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<i>Proclamation 1978, No. AG 54 of 1978 and Civil Defence Ordinance, No. 3 of 1979)</i>		committee established in terms of this Act, a local authority DRM centre or a person in the service of the State, a regional or local authority council, a volunteer or any person who exercises a power or performs a duty or function required to be performed in terms of this Act, is not liable for any loss or damage as a result of bodily injury, loss of life or loss of or damage to property, which is caused by or arises out of or in connection with anything which is done or performed in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of the provisions of this Act.”
	Water Resources Management Act, No. 24 of 2004, 8 December (repealed <i>Water Act, No. 54 of 1956</i>) (as amended)) (not yet in force) See: Note at Q.90	Ss.78(2) to 78(4)	“The Minister may take any reasonable measures to remove or to minimise the effects of an unauthorised blockage of a watercourse, and may recover from any person responsible for the blockage the costs of any such measures taken. Any person responsible for causing the unauthorised blockage of a watercourse is responsible for any damage to any person, property, or the environment caused as a result of the unauthorised blockage. The Minister has the right to bring an action for damages against any person responsible for unauthorised blockage of a watercourse that caused damage.” See also: Section 125 of the Water Resources Management Act (2004)
	Minerals (Prospecting and Mining) Act, No. 33 of 1992, 16 December 1992	S.52(2)	“When, in the course of any prospecting operations or mining operations in any prospecting area, mining area or retention area, as the case may be, any damage is caused or done to the surface of any land or to any water source, cultivation, building or other structure therein or thereon as a result of such operations, the

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.130(1)	<p>holder of the mineral licence in question shall be liable to pay compensation to the owner of the land, water source, cultivation, building or other structure, as the case may be, in relation to which such damage has been caused or done.”</p> <p>“When in the course of any reconnaissance operations, prospecting operations or mining operations carried on under any non-exclusive prospecting licence, a mining claim or a mineral licence, any mineral or group of minerals is spilled in the sea or on land or in any water on or under the surface of any land or the sea or such land or water is otherwise polluted or any plant or animal life, whether in the sea, other water in, on or under land, is endangered or destroyed or any damage or loss is caused to any person, including the State, by such spilling or pollution, the holder of such licence or mining claim shall forthwith -</p> <p>a) report such spilling, pollution, loss or damage to the Minister;</p> <p>b) take at his or her own costs all such steps as may be necessary in accordance with good reconnaissance practices, good prospecting practices or good mining practices or otherwise as may be necessary to remedy such spilling, pollution, loss or damage.”</p> <p>If the licence holder fails to comply with Section 130(1)(b) the Minister “cause such steps to be taken as may be necessary to remedy such spilling, pollution or damage or loss and recover in a competent court the costs incurred thereby from such holder” (S.130(2)).</p> <p>Similar provisions to Sections 52(2) and 130(1) of the Minerals (Prospecting and Mining) Act (1992) are found respectively at Sections 16(2)(a) and 71 of the Petroleum (Exploration and Production) Act, No. 2 of 1991, 19 March 1991.</p>
32. Is there any system of compulsory insurance against the effects of	National Disaster Risk Management Policy, August		The NDRMP supports the concept of establishing public/private partnerships for the implementation of schemes for sharing risk

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natural disasters? If so, how is this established by law and what are the main elements of the scheme?	2009		and expanding insurance cover to increase the funding base for post disaster reconstruction and rehabilitation. KPA 3 states that “social and economic development practices must include initiatives to reduce disaster risk that support and promote the development of financial risk sharing mechanisms, particularly insurance and reinsurance against disasters.” (S.8.3)

3. Early warning and reduction of underlying risk factors through regulation

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Parts One and Two: Are there laws or regulations relating to preparedness, prevention and/ or risk reduction against the following specific natural hazards (if relevant)? Such regulations may include some specific laws on rapid-onset disasters – Part One – such as fire regulations and fire service, as well as building codes (e.g. earthquake, fire, hurricanes/cyclones), land zoning and land use planning regulations (e.g. flood plain exclusions, unstable land), disaster management / civil protection laws, and environmental management laws concerning rivers and forests (flood mitigation, erosion prevention against landslides and floods). There may be similar or a different range of laws concerning slow-onset disasters such as drought and other food security issues – Part Two. There may therefore be some overlap with the subsequent sections, but the main aim of Parts One and Two of this section is to identify which risks have separate regulation in the subject country, and in which laws.			
Part One. Rapid-onset disasters, sectoral and specific regulation based on identified risks and community participation			
A. Cyclones, tornadoes, or storms?			
33. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			No applicable independent laws found online; however, Section 84(1)(e) of the <i>Water Resources Management Act</i> (2004), which is not yet in force states that the Minister may “prescribe measures for the control and management of storm and flood risk within local authority areas.”
34. Does this law specify how management of this risk is financed?			NA

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
If so, describe.			
35. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 			NA
36. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			NA
37. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			NA

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
38. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			NA
39. If communities are involved in Early Warning Systems (EWS), does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			NA
B. Earthquake/Tsunami?			
40. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			No applicable laws found online. Namibia is ranked 148 th out of 153 countries in relation to human exposure to earthquake risks and is unranked in relation to tsunami risks. (Source: http://www.preventionweb.net/english/countries/statistics/risk.php?iso=NAM (accessed 20 August 2012))
41. Does this law specify how management of this risk is financed? If so, describe.			NA
42. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a. failure to warn, or false or faulty 			NA

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>warnings of this risk?</p> <p>b. failure to take preventive action including by reducing this risk?</p> <p>c. If so, who may be liable - or immune?</p> <p>d. Is it civil or criminal liability, or both?</p>			
43. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			NA
44. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			NA
45. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			NA

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
46. If communities are involved in EWS, does this law provide that they: <ol style="list-style-type: none"> Assist in the design of local and community EWS? Establish or maintain EWS? Provide information for the EWS? Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			NA
C. Fire?			
47. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?	Local Authorities Fire Brigade Services Act, No. 5 of 2006, 22 December 2006	S.8(2)	<p>Note: The <i>Local Authorities Fire Brigade Services Act</i> (2006) was noted by Namlex (2010) - Index to the Laws of Namibia to be unenforced as of 30 June 2010. The study has not been able to confirm whether the said Act is enforced as of 20 August 2012.</p> <p>Section 2 states that a local authority may establish and maintain a fire brigade service on a full time or part time basis.</p> <p>“A local authority may utilise its service for -</p> <ol style="list-style-type: none"> preventing the outbreak or spread of a fire; fighting or extinguishing a fire; the protection of life or property against a fire or other emergency; the rescue of life or property from a fire or other emergency; the rendering, subject to the <i>Public Health Act, 1919</i> (Act No. 36 of 1919), of an ambulance service as an integral part of the service; or the performance of any other function connected with any of

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.20(1)	<p>the matters referred to in paragraphs (a) to (e).”</p> <p>“A local authority may make, in the manner provided for by the <i>Local Authorities Act, 1992</i> (Act No. 23 of 1992), regulations not inconsistent with this Act in relation to -</p> <ul style="list-style-type: none"> a) the regulation, control, use and organisation of a service, including the uniforms, insignia and identification of members of a service of a local authority; b) the preventing and extinguishing of fires, and the preservation of life or property; c) the safety requirements to be complied with on premises in order to reduce the risk of a fire or other danger or to facilitate the evacuation of the premises in the event of such danger; d) the growth or accumulation on any land or premises of trees, bushes, weeds, grass or other matter in such manner as is likely to promote the kindling or spread of fire; e) the burning of rubbish, trees, bushes, weeds or grass, and the making of bonfires; f) the prevention of the dangerous or mischievous use, and the regulation, control, restriction or prohibition of the manufacture, storage, handling or conveyance of explosives, fire-works, petroleum or any other flammable or combustible substance, gas or any other dangerous substance; g) the servicing and maintenance of fire-fighting equipment; and h) any other matter which, in terms of this Act, may or is required to be prescribed or is considered necessary or expedient to achieve the purposes of this Act, and the generality of this paragraph is not limited by matters expressly referred to in this subsection.”
		S.20(2)	<p>“The Minister may make model regulations in relation to any matter referred to in subsection (1)”, which will apply if there are</p>

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	Forest Act, No. 12 of 2001, 6 December 2001 (as amended)	S.37	<p>no relevant local regulations.</p> <p><u>Forest Fires</u> The <i>Forest Act</i> (2001) established the Forestry Council to advise the Minister on forestry matters and develop and implement the national forest policy (Ss.2 & 3).</p> <p>Part VI of the <i>Forest Act</i> (2001) prescribes for the control and management of fire. Section 36 allows the Minister to declare a fire management area to areas contiguous or near a classified forest and establish a fire management committee for that fire management area.</p> <p>A fire management committee shall develop a fire management plan, which shall:</p> <ul style="list-style-type: none"> • “define the area to which it applies; • state the objectives and scope of the plan; and • contain provisions relating to - <ul style="list-style-type: none"> – circumstances in which burning of things is allowed; and – the prevention, control and extinguishing of veld and forest fires. • provide for the training of persons in fire management.” <p>Section 39 allows the Minister to declare any area to be a fire hazard area and state the measures and precautions which are to be taken during the period that the notice is enforced. The notice shall take precedence over any fire management plan.</p>
		S.40	<p>1) “No person shall light a fire or cause a fire to be lit in a forest reserve or a protected area, unless the fire is lit in a place which has been set aside for that purpose by a forest officer or the lighting of the fire has been authorised by a forest officer.</p>

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		S.41	<p>2) No person shall light a fire or cause a fire to be lit in a community forest or a forest management, unless in the case of a community forest, the lighting of the fire has been authorised by the management authority of the community forest and is done in accordance with the relevant management plan, or in the case of a forest management area, the fire is lit in accordance with the forest management agreement for the area.</p> <p>3) No person shall light a fire or cause a fire to be lit in a fire management area, unless the lighting of the fire is done in accordance with a fire management plan.</p> <p>4) No person shall, contrary to a notice made under section 39, light a fire or cause a fire to be lit in a fire hazard area.”</p> <p>1) “A person who contravenes section 40 is liable to pay compensation to a person who suffers damage as a result of that contravention.</p> <p>2) For the purposes of subsection (1) where it is proved that a fire originated from any land owned or occupied by any person, and the owner or occupier of that lit the fire or caused the fire to be lit, and did not take reasonable measures <i>to damage</i> [sic] that owner or occupier is liable for damage caused by that fire.”</p>
		S.42	<p>1) “A member of a fire management committee or a forest officer may require any person to assist in controlling or extinguishing a fire which is about to or is likely to cause damage to a classified forest or protected area.</p> <p>2) A member of a fire management committee, a forest officer or a person who under subsection (1) is required to assist, may for the purpose of controlling or extinguishing a fire, enter onto any land or take action which is reasonably necessary to</p>

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	<p>Mine Health and Safety Regulations, 10th Draft, MME, 1999.</p>	<p>R. 22.1</p> <p>R. 22.2(1)</p>	<p>control or extinguish the fire.”</p> <p>See also:</p> <ul style="list-style-type: none"> • Draft National Forestry and Veld Fire Policy (2004) -this document was referred to in the NDRMP, but the study was unable to locate said document online as of 20 August 2012 • SADC Protocol on Forestry (2002) <p><u>Fires in Mines</u></p> <p>“The mine manager shall plan, equip and work the mine so as to minimize the risk of fire and establish an effective organization for the conduct of firefighting work.”</p> <p>“The mine manager shall ensure that : -</p> <ol style="list-style-type: none"> a) any place where any flammable or combustible substance is stored or used is suitably signposted; b) any surface structure and support within a horizontal distance of 15 meters from all entrances to underground workings is, where reasonably practicable, constructed of incombustible material; c) no oil, grease or other flammable substances are stored in a mine except in a closed, leakproof and labelled fireproof receptacle; d) fuel oil and lubricants are conveyed only in suitable leakproof containers; e) fuel storage placed underground is located away from workshops, service stations or other places where persons are engaged in work and is not used for any other purpose; f) greasy and oily waste in underground workings is regularly removed to the surface in suitable containers and disposed of in a safe and environmentally sound manner;

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		R. 22.2(2)	<p>g) winding engine rooms, engine rooms, transformer rooms, workshops and any room where flammable substances are stored are constructed in a fireproof manner and are provided, where practicable, with a second outlet;</p> <p>h) any filling station has an impervious floor with arrangements for the collection of spillage oil;</p> <p>i) the refuelling of any vehicle is not carried out while the engine is running;</p> <p>j) gas bottles are stored, handled and used in accordance with the instructions issued by the manufacturer or supplier.”</p> <p>“No person shall at any mine -</p> <p>a) place, throw or leave or cause or permit to be placed, thrown or left any naked light or flame or any burning lighting torch, match, cigarette, tobacco, paper or other burning material on or near any combustible material or flammable substance where it may cause danger of fire or explosion;</p> <p>b) smoke or carry an open light or other burning material in any shaft conveyance or in any battery charging station or filling station;</p> <p>c) light a fire in any underground workings or on surface within a distance of 15m from any entrance to the underground workings unless he or she has been duly authorized to do so.</p>
		R. 22.3	<p>“The mine manager shall ensure that :-</p> <p>a) no flammable or combustible substance is stored or kept in the immediate vicinity of a place where any transformer, switchgear or other electrical apparatus or heating appliance is situated;</p> <p>b) stocks of flammable or combustible substances are not kept in the vicinity of any shaft or outlet from underground workings;</p> <p>c) at all places underground where a flammable or combustible</p>

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		R. 22.4(1)	<p>substance is kept the ventilation is arranged so that, in the event of a fire, as far as is practicable, the products of combustion are exhausted directly into the return airway;</p> <p>d) any storage tanks for flammable or combustible liquid are -</p> <ul style="list-style-type: none"> i) designed and constructed so as to be capable of resisting the maximum working pressures and stresses and made of suitable material for any projected contents; ii) maintained in such a manner that leakage is prevented; iii) contained within structures capable of holding 110 per cent of the contents of the tanks; iv) isolated or separated from ignition sources and combustible substances; v) vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying or atmospheric temperature changes; vi) provided with piping, valves and fittings capable of withstanding working pressures and stresses; vii) provided with suitable earthing devices or arrangements.” <p>Fire-fighting Equipment:</p> <ul style="list-style-type: none"> a) “the mine is equipped with a water mains circuit capable of delivering to all workplaces an adequate quantity of water at sufficient flow pressure for the purpose of fire-fighting, unless exempted by the Chief Inspector on grounds of natural conditions or size; b) where an outside fire-fighting organization is relied upon, uniform fittings or readily available adapters are provided for hydrants; c) special places of risk duly identified by the mine manager are provided with suitable fire extinguishers, sand or incombustible substance. d) fire extinguishers are examined and discharged and refilled as

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		<p>R. 22.4(2)</p> <p>R. 22.5</p>	<p>often as may be necessary to ensure that they are kept in good working order;</p> <p>e) a record is kept of each examination and refilling referred to in paragraph (d);</p> <p>f) fire extinguishers containing chemicals which are liable, when operated, to give off poisonous or noxious gases, with the exception of carbon dioxide, are not provided or used in underground workings;</p> <p>g) soda-acid or foam type extinguishers or water are not used for fighting fires caused by an electrical fault, except when the electrical apparatus causing the fault has been switched off or otherwise rendered safe;</p> <p>h) soda-acid type extinguishers or water are not used for fighting oil fires.”</p> <p>“Any places referred to in paragraph (c) of sub-regulation (1) shall include any :-</p> <p>a) parts of a mine where flammable or combustible substances are stored;</p> <p>b) driving unit of conveyors;</p> <p>c) electrical sub-stations and places having electrical switchgear and machinery;</p> <p>d) vehicles;</p> <p>e) battery charging stations, workshops and filling stations, on surface, at any entrance to underground workings and, in underground workings, at any station.”</p> <p>1) “Any person who notices a fire in or at a mine shall, if possible, extinguish any such fire or otherwise raise an alarm without delay and cause such steps to be taken that the occurrence of the fire is brought to the attention of the mine manager without delay.</p>

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	Mountain Catchment Areas Act, No. 63 of 1970, commenced on 7 October 1970	R. 22.6	<p>2) Any person, except any person directed by the mine manager to stay for the purpose of dealing with any emergency in consequence of such fire, shall be withdrawn without delay from all places likely to be affected by fire or smoke, and only persons duly authorized thereto by the mine manager shall enter such places.</p> <p>3) The mine manager shall ensure that suitable precautions are taken to prevent danger to persons from any noxious or asphyxiating gases or smoke emanating from any fire.”</p> <p>“The mine manager shall -</p> <p>a) prepare a fire-fighting plan showing all locations at a mine where a fire hazard exists, the nature of the hazard and location and type of fire-fighting equipment provided;</p> <p>b) ensure that adequate refuge chambers are provided which shall be suitably pressurised and equipped with water and first aid supplies;</p> <p>c) have systematic examinations made of the fire fighting equipment provided and record the results of such examinations;</p> <p>d) establish a fire alarm system to give prompt and adequate warning to persons who may be endangered by fire;</p> <p>e) provide for a team or teams of trained persons, compatible with the size of the mine and the number of persons employed, to deal with the situation in case of fire.”</p> <p><u>Mountain Catchment Areas Act (1970)</u></p> <p>Note: Section 19 states, “This Act shall apply also in the territory of South West Africa (SWA), including the Eastern Caprivi Zipfel.” This wording did not make amendments to the Act in South Africa</p>

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			<p>automatically applicable to SWA, and none of the amending acts were made specifically applicable to SWA. (Source: Namlex 2010 - Index to the Laws of Namibia)</p>
		S.7	<p>“The Minister may, if he deems fit, by notice in the Gazette establish a fire protection committee in respect of any mountain catchment area, and may by like notice withdraw any notice whereby a fire protection committee was established.”</p>
		S.8	<p>“(1) The Secretary may, after consultation with the advisory committee established in respect of any mountain catchment area, declare a fire protection plan to be applicable with reference to land situated in such mountain catchment area.</p> <p>(2) Any fire protection plan shall define the land with reference to which it applies and shall state the scope and object thereof and shall contain provisions relating to-</p> <ul style="list-style-type: none"> a) the regulation or prohibition of veld burning; b) the prevention, control and extinguishing of veld and forest fires; c) the functions, powers and duties of the fire protection committee established in respect of the mountain catchment area within which the land in question is situated, in relation to the execution of the fire protection plan; and d) the date of commencement of such plan; e) Provided that a fire protection plan shall not contain provisions which are inconsistent with the provisions of the Forest Act, 1968 (Act 72 of 1968). <p>(3) The Secretary -</p> <ul style="list-style-type: none"> a) shall, at least one month prior to the date specified under subsection (2), cause particulars of the fire protection plan to

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			<p>be published by notice in the Gazette;</p> <p>b) may, if he deems fit, at any time cause to be served on every owner or occupier of land with reference to which such fire protection plan is being or is to be applied and whose name and address are known to him, a copy of the fire protection plan.</p> <p>(4) Every owner and occupier of land with reference to which a fire protection plan has been applied under this section, and their successors in title, shall be bound by the provisions of such fire protection plan.”</p>
48. Does this law specify how management of this risk is financed? If so, describe.	<p>Local Authorities Fire Brigade Services Act, No. 5 of 2006, 22 December 2006</p> <p>Forest Act, No. 12 of 2001, 6 December 2001 (as amended)</p>	<p>S.2(3)</p> <p>S.11(1)</p> <p>S.38(2)</p>	<p>The Minister must subsidize local authorities from funds voted for the purpose by Parliament for the establishment and maintenance of the local fire brigade services.</p> <p>“A local authority may prescribe fees in respect of the services rendered by its service, including fees -</p> <p>a) if such service has been declared a training institution in terms of section 7(1), for the cost of attendance by members of other services of fire brigade training courses at the training institution;</p> <p>b) for the attendance of the service;</p> <p>c) for the use of the service and equipment; or</p> <p>d) for any material consumed in the course of training.</p> <p><u>Forest Fire</u> The <i>Forest Act</i> (2001) does not provide for how the management of forest fires is to be financed.</p> <p>“Where the fire management plan for a fire management area has not been approved by the Minister, or where a fire management committee has failed to implement a fire management plan</p>

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	Mountain Catchment Areas Act, No. 63 of 1970, commenced on 7 October 1970	S.10	<p>approved under section 37, an owner or occupier of land which is situated in the relevant fire management area may request the Minister to:</p> <ul style="list-style-type: none"> • authorise the taking of action which is necessary to control or prevent fire in the fire management area; and • oblige owners or occupiers of land which is situated in the fire management area to participate in the control and prevention of fire and to contribute to the costs which may be incurred.” <p>“The Minister may, in consultation with the Minister of Finance, from moneys appropriated by Parliament for the purpose, and subject to such conditions as he may determine, render financial aid by way of grants or otherwise -</p> <ol style="list-style-type: none"> a) to any fire protection committee; and b) to the owner and occupier of land in respect of expenses incurred by them in compliance with any provision of any fire protection plan or any direction.”
<p>49. Does this law attribute liability for damage caused by:</p> <ol style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 	Local Authorities Fire Brigade Services Act, No. 5 of 2006, 22 December 2006	S.18	<p>“Subject to section 9(2)(e), a local authority, a chief fire officer, a member of a service, a member of the Namibian Police Force or the Namibian Defence Force or a person referred to in section 9(4)(b), is not liable for any damage or loss as a result of bodily injury, loss of life or loss of or damage to property which is caused by or arises out of or in connection with anything done or performed <i>bona fide</i> in the exercise or performance of a power, function or duty conferred or imposed in terms of this Act.”</p> <p>Section 9(2)(e) provides that the chief fire officer and any member of the service may, in the exercise of his or her powers or the performance of his or her functions or duties “seize or make use of any material from any available source, whether or not such material is owned by or is under the control or management of the local authority concerned, but if such material -</p> <ul style="list-style-type: none"> • is not owned by or under the control or management of such

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			<p>local authority; or</p> <ul style="list-style-type: none"> is not the property of the proprietor or lessee of the premises on which the service is utilised, such local authority must subsequently compensate the owner of such material - <ul style="list-style-type: none"> to an amount as may be agreed upon between such local authority and such owner; or in the absence of such agreement, to an amount determined by arbitration in accordance with the <i>Arbitration Act, 1965</i> (Act No. 42 of 1965).” <p>Section 9(4)(b) refers to any persons aged from 16 years to 60 years whom may be called upon and are obliged to assist the chief fire officer or a member of the service in the execution of his or her duty.</p> <p><u>Forest Act (2001)</u> No</p> <p>See also Sections 40 and 41 of the <i>Forest Act</i> (2001) at Q.47.</p> <p><u>Mountain Catchment Areas Act(1970)</u> No</p>
50. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			<ul style="list-style-type: none"> <i>Local Authorities Fire Brigade Services Act</i> (2006) - No <i>Forest Act</i> (2001) - No <i>Mountain Catchment Areas Act</i> (1970) - No
51. Does this law provide for consultation and/or participation			<ul style="list-style-type: none"> <i>Local Authorities Fire Brigade Services Act</i> (2006) - No <i>Forest Act</i> (2001) - No

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<p>about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ol style="list-style-type: none"> Women? Different cultural or ethnic groups? Vulnerable groups, including children, older persons, persons with disabilities? Socially isolated groups and the very poorest people? 			<ul style="list-style-type: none"> <i>Mountain Catchment Areas Act (1970 - No</i>
52. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			<ul style="list-style-type: none"> <i>Local Authorities Fire Brigade Services Act (2006) - No</i> <i>Forest Act (2001) - No</i> <i>Mountain Catchment Areas Act (1970 - No</i>
53. If communities are involved in EWS, does this law provide that they: <ol style="list-style-type: none"> Assist in the design of local and community EWS? Establish or maintain EWS? Provide information for the EWS? Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			<ul style="list-style-type: none"> <i>Local Authorities Fire Brigade Services Act (2006) - No</i> <i>Forest Act (2001) - No</i> <i>Mountain Catchment Areas Act (1970 - No</i>
D. Floods?			
54. Is there a specific law about this hazard (i.e. not the main DM law)? If			Namibia Meteorological Services provides climatic data and issues warning and advisory bulletins. Its website,

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so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956)(as amended)) (not yet in force) See: Note at Q.90	S.84(1)	<p>http://www.meteona.com does not provide any information regarding relevant laws and policies.</p> <p>The Namibia Hydrological Services within the Department of Water Affairs & Forestry of the Ministry of Agriculture, Water & Forestry is also involved in providing meteorological and hydrological data, however, the website, http://www.mawf.gov.na/index.html contains limited information regarding laws and policies.</p> <p>Namibia is ranked 114th out of 162 countries in relation to human exposure to flood risks. (Source: http://www.preventionweb.net/english/countries/statistics/risk.php?iso=NAM (accessed 20 August 2012))</p> <p>“For the purpose of preventing or minimising the risk of flooding, flood damage and water pollution, the Minister may -</p> <ol style="list-style-type: none"> prohibit the construction on submersible lands of dykes, levees or other structures likely to hinder the runoff of floodwater, or authorise the construction of such structures if they are necessary for the protection of already existing residences or other private structures; alter or demolish dykes, embankments, levees, structures or other works, irrespective of their legal status, if in the Minister’s opinion, they hinder water runoff or extend the flood plain with harmful results; prohibit the growing of crops, the building of structures or the placing of deposits on land located between a watercourse and any protective dykes, embankments or levees; consult with regional and local authority councils in determining the geographic extent of floodplain areas and

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			<p>assist such councils in regulating the development and use of lands within such areas; or</p> <p>e) prescribe measures for the control and management of storm and flood risk within local authority areas.”</p>
		S.127(1)	<p>“If any threat relating to water arises or is about to arise, the Minister, by notice in the <i>Gazette</i>, may declare a water related emergency in respect of any area in Namibia, and, despite the provisions of any other sections, may take necessary measures to deal with the emergency by reducing or eliminating such threat, including, among others -</p> <p>a) the cancellation or suspension of a licence to abstract and use water or of a permit to discharge effluents or construct an effluent treatment facility or a disposal site in respect of such area, in whole or in part; and</p> <p>b) the issuance of instructions for the operation of a dam either to minimise the risk of flooding or to maximise available water supplies in case of water shortage.”</p>
	Water Act, 1956, commenced on 13 July 1956 (last amended by <i>Water Act</i> , No. 22 of 1985 and will be officially repealed once the <i>Water Resources Management Act</i> , No. 2 of 2004 is in force)	S.59(2)(a)	<p>“Whenever, in the opinion of the Governor-General-</p> <p>a) the flow of a public stream in any particular area should in the national interest be regulated or controlled by damming, cleaning, deepening, widening, straightening or altering the course of the channel or by taking such other steps as may be necessary for the prevention or control of silt or for the purpose of lessening the possibility of damage to land which is riparian to such stream in the event of flood; or</p> <p>b) any land is required for the protection of any portion of the catchment area of a public stream, the Governor-General may, by proclamation in the <i>Gazette</i> declare the channel of any such stream or any portion thereof, together with such portion of</p>

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			<p>the land on either side or on both sides of the said channel, or any other area situated within the catchment of such stream, as he may consider necessary for such purpose, and as may be defined in the proclamation, to be a catchment control area, and he may from time to time in like manner amend or repeal any such proclamation.”</p> <p>See also: Namibian Early Flood Warning SensorWeb Pilot Project at http://sensorweb.nasa.gov/NamibiaFlood.html (accessed 20 August 2012)</p>
55. Does this law specify how management of this risk is financed? If so, describe.	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956)(as amended)) (not yet in force) See: Note at Q.90	S.131(2) & (3)	<p>Insofar as it relates to the development of a water resource, the maintenance of a waterworks; or the protection of a water resource (S.131(1)).</p> <p>“Financial assistance -</p> <ol style="list-style-type: none"> must be paid from money appropriated by Parliament for such purposes; may be given in the form of a grant, loan or subsidy subject to the prescribed terms and conditions. <p>Before giving any financial assistance the Minister must -</p> <ol style="list-style-type: none"> consider equity; transparency; the redressing of the past racial and gender discrimination; and the financial position of the applicant.” <p><i>Water Act</i> (1956) - No</p>
56. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk?	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956) (as amended)) (not yet in force)	Ss.78(2) to 78(4)	<p>“The Minister may take any reasonable measures to remove or to minimise the effects of an unauthorised blockage of a watercourse, and may recover from any person responsible for the blockage the costs of any such measures taken.</p> <p>Any person responsible for causing the unauthorised blockage of a</p>

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<p>c. If so, who may be liable - or immune?</p> <p>d. Is it civil or criminal liability, or both?</p>	See: Note at Q.90	<p>S.127(2)</p> <p>S.135</p>	<p>watercourse is responsible for any damage to any person, property, or the environment caused as a result of the unauthorised blockage.</p> <p>The Minister has the right to bring an action for damages against any person responsible for unauthorised blockage of a watercourse that caused damage.”</p> <p>See also: Section 125 of the <i>Water Resources Management Act (2004)</i></p> <p>“The Minister or any other person is not personally liable for any damage or loss occurred as a result of an act or omission committed pursuant to the exercise of powers by the Minister or such other person under this section [ie measures to deal with water related emergencies].”</p> <p>“Neither the State nor any other person is liable for any damage or loss caused by -</p> <p>a) the exercise of any power or the performance of any function in terms of or under this Act; or</p> <p>b) the failure to exercise any power, or perform any function in terms of or under this Act,</p> <p>unless the exercise of or failure to exercise the power, or performance of or failure to perform the function, was unlawful, negligent or in bad faith.”</p> <p><i>Water Act (1956)</i> - No</p>
57. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what			Namibia Meteorological Services provides climatic data and issues warning and advisory bulletins. Its website, http://www.meteona.com does not provide any information regarding relevant laws and policies.

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authority is responsible and what is their mandate?			<p>The Namibia Hydrological Services within the Department of Water Affairs & Forestry of the Ministry of Agriculture, Water & Forestry is also involved in providing meteorological and hydrological data, however, the website, http://www.mawf.gov.na/index.html contains limited information regarding laws and policies.</p> <ul style="list-style-type: none"> • <i>Water Resources Management Act</i> (2004) - No • <i>Water Act</i> (1956) - No <p>See also: Namibian Early Flood Warning SensorWeb Pilot Project at http://sensorweb.nasa.gov/NamibiaFlood.html (accessed 20 August 2012)</p>
58. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ol style="list-style-type: none"> Women? Different cultural or ethnic groups? Vulnerable groups, including children, older persons, persons with disabilities? Socially isolated groups and the very poorest people? 			<ul style="list-style-type: none"> • <i>Water Resources Management Act</i> (2004) - No • <i>Water Act</i> (1956) - No <p>See also: Namibian Early Flood Warning SensorWeb Pilot Project at http://sensorweb.nasa.gov/NamibiaFlood.html (accessed 20 August 2012)</p>
59. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community			<ul style="list-style-type: none"> • <i>Water Resources Management Act</i> (2004) - No • <i>Water Act</i> (1956) - No

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involvement in EWS?			See also: Namibian Early Flood Warning SensorWeb Pilot Project at http://sensorweb.nasa.gov/NamibiaFlood.html (accessed 20 August 2012)
60. If communities are involved in EWS, does this law provide that they: a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			<ul style="list-style-type: none"> • <i>Water Resources Management Act</i> (2004) - No • <i>Water Act</i> (1956) - No See also: Namibian Early Flood Warning SensorWeb Pilot Project at http://sensorweb.nasa.gov/NamibiaFlood.html (accessed 20 August 2012)
E. Heat/cold waves?			
61. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			No applicable laws found online.
62. Does this law specify how management of this risk is financed? If so, describe.			NA

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63. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both?			NA
64. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			NA
65. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people?			NA
66. Does this law provide for Early			NA

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Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			
67. If communities are involved in EWS, does this law provide that they: a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			NA
68. Describe form of regulation, and institutional responsibility.			Same question as Q.61
F. Insect Infestations?			
69. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			<p>No applicable laws found online.</p> <p>See: <i>Plant Quarantine Act</i>, No. 7 of 2008, 9 October 2008 (repealed <i>Locusts Suppression Proclamation</i>, No. 34 of 1923, <i>Agricultural Pests Ordinance</i>, No. 11 of 1927 and <i>Agricultural Pests Act</i>, No. 3 of 1973)</p> <p>The <i>Plant Quarantine Act</i> (2008) prohibits the importation of “plant pest” unless a person holds a permit issued under the Act. “Plant pest” is defined as “any species, strain, or biotype of plant, animal, or pathogenic agent injurious to plants or plant products”. Section 10 allows the Minister to declare, by notice in the <i>Gazette</i>, all or any part of Namibia or any land, area or premises which is</p>

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			infested or suspected of being infested with any plant pest to be a quarantine area, either in respect of all pests or such pests as are specified in the notice.”
70. Does this law specify how management of this risk is financed? If so, describe.			NA
71. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 			NA
72. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			NA
73. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? 			NA

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<ul style="list-style-type: none"> c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			
74. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			NA
75. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			NA
G. Landslides and avalanches?			
76. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			<p>No applicable laws found online.</p> <p>Namibia is ranked 139th out of 162 countries in relation to human exposure to landslide risk. (Source: http://www.preventionweb.net/english/countries/statistics/risk.php?iso=NAM (accessed 20 August 2012))</p>
77. Does this law specify how management of this risk is financed? If so, describe.			NA

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78. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 			NA
79. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			NA
80. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			NA

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81. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			NA
82. If communities are involved in Early Warning Systems (EWS), does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			NA
H. Volcanoes?			
83. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			No applicable laws found online.
84. Does this law specify how management of this risk is financed? If so, describe.			NA

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85. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 			NA
86. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			NA
87. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			NA

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88. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			NA
89. If communities are involved in Early Warning Systems (EWS), does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			NA
Part Two. Slow-onset disasters, sectoral and specific regulation based on risks and community participation			
I. Drought and related famine?			
90. Is there a specific law or institutional mandate for drought preparedness and risk reduction, especially for agriculture and related industries? In particular: <ul style="list-style-type: none"> a. Rain and river water storage, distribution and conservation measures? b. Development and maintenance of ground water extraction, storage and distribution? If so, describe the forms of	National Drought Policy and Strategy, 1997		Drought Policy The objectives of the National Drought Policy and Strategy (1997) are: <ul style="list-style-type: none"> • “ensure that household food security is not compromised by drought; • encourage and support farmers to adopt self-reliant approaches to drought risk; • preserve adequate reproductive capacity in livestock herds in affected areas during drought periods; • ensure the continuous supply of potable water to communities, and particularly to their livestock, their schools and their clinics;

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regulation. At what level(s) of government is this regulated?			<ul style="list-style-type: none"> • minimise the degradation of the natural resources base during droughts; • ensure that the health status of all Namibians is not threatened by the effects of drought; • finance drought relief programmes efficiently and effectively by establishing an independent and permanent National Drought Fund.” <p>“The policy aims to shift responsibility for managing drought risk from government to the farmer, with financial assistance and food security interventions only being considered in the event of an extreme or ‘disaster’ drought being declared. The thrust of the policy is a move away from regular financial assistance to large numbers of private-tenure and communal-tenure farmers to measures that support the on-farm management of risk. The Government’s involvement with drought will move beyond an exclusive focus on emergency drought programmes to a broader, longer term perspective.”</p> <p>“A disaster drought refers to drought conditions so intense or protracted that they are beyond what can reasonably be dealt with in terms of normal risk management practices, and which justify State intervention. Disaster drought will be declared only when severe and rare low rainfall conditions prevail. This will be judged according to a number of criteria. Assessment of these criteria will be subject to a meteorological threshold assessment. This threshold will be seasonal rainfall lower than that prevailing in the lowest 7 per cent of growing seasons in a particular area, which will trigger a disaster drought alert. This will occur, on average, once in 14 years.”</p> <p>Under the policy, instead of financing regular large-scale drought</p>

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			<p>relief programmes, the Government will examine ways to support farmers in the reduction of vulnerability to drought in the longer term [through]:</p> <ul style="list-style-type: none"> • Promoting drought mitigating technologies and practices <ul style="list-style-type: none"> - On-farm risk minimization: eg. crop diversification, <i>small scale irrigation, water-conserving farming, agro-forestry, rain water harvesting</i>; - Diversifying income sources; - Sustainable rangeland management; - Water supply and demand management: eg. the conjunctive use of different water sources (ie ground water, ephemeral surface water recycled water and perennial rivers) to form a supply network, aquifer management; use of non-conventional water sources including the reclamation of sewage water and the desalination of brackish ground water or sea water, rainwater harvesting, weather modification and fog harvesting. • Creating an enabling policy environment <ul style="list-style-type: none"> - Decentralisation; - Land user rights; - Poverty reduction; - Water pricing; - Tax provisions; - Agricultural research, extension and training, and veterinary services; - Agricultural finance; - Agricultural marketing; - Improved information gathering, analysis and dissemination. <p>National Agriculture Policy</p>

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			<p><u>Irrigation and Water Development</u> The National Agriculture Policy (1995) states that, the “Government will therefore encourage the use of cost-efficient irrigation methods that use low volumes of water to maximum effect, coupled with a pricing policy based on the scarcity of water and the long-term environmental sustainability. .. The use of cost-effective and low- cost irrigation methods, such as, but not limited to, community-based mini-dams or catchments basis for water harvesting and micro-irrigation techniques including drip irrigation cum mulching methods, will be encouraged through investment incentives.”</p> <p><u>Drought and Disaster Management</u> The National Agriculture Policy (1995) states that, “the Government will</p> <ul style="list-style-type: none"> • address vulnerability to drought and natural disasters through long-term drought preparedness planning. This includes the institution of emergency management systems with special emphasis on appropriate relief and rehabilitation mechanisms. • provide adequate budgetary allocation to deal with the occurrence of drought and other calamities, to strengthen joint Government and private sector drought and disaster management mechanisms, to rationalize the use of relief and rehabilitation resources, particularly subsidies and donor funds, and to mobilize people’s participation and self-help initiatives in drought and disaster management systems. • require concerned institutions to incorporate drought risk management into agricultural production planning and financing systems. • provide responsive relief and rehabilitation measures in handling other natural disasters, particularly pest and disease infestation, as well as occasional flooding in the northern and

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	Namibia Water Corporation Act, No 12 of 1997, 1 October 1997	S.10(1)	<p>other areas of the country.</p> <p>Further, practical mechanisms to cushion the adverse effects of drought and natural disasters will be researched and implemented as appropriate, with an emphasis on strengthening traditional methods of coping.”</p> <p>Water Management Laws The <i>Namibia Water Corporation Act</i> (1997) established the Namibia Water Corporation Limited, a public company, with the objectives of “carrying out efficiently and in the best interest of Namibia:</p> <ul style="list-style-type: none"> • the primary business of bulk water supply to customers, in sufficient quantities, of a quality suitable for the customers’ purposes, and by cost-effective, environmentally sound and sustainable means; and • the secondary business of rendering water-related services, supplying facilities and granting rights to customers upon their request.” (Ss.2 , 3 & 5) <p>“Subject to the provisions of subsection (3), whenever a condition of drought or other natural intervention causes an insufficient source yield, the Corporation may, with the prior written approval of the Minister, and after consultation with affected customers, temporarily interrupt or reduce the supply of water out of any waterwork or portion thereof to customers.”</p> <p>Section 10(3) refers to the corporation’s obligation to give notice to its customer before carrying out repairs and interrupting water supply.</p>

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	Water Resources Management Act, No. 24 of 2004, 8 December 2004	S.13(2)	<p>“The Corporation shall furnish the Department with such information in its custody as is reasonably requested by the Department in relation to:</p> <p>(a) rainfall measurements;</p> <p>(b) river flows;</p> <p>(c) groundwater levels;</p> <p>(d) water abstraction from water resources; and</p> <p>(e) water quality.”</p> <p><u>Water Resources Management Act (2004)</u></p> <p>Note:</p> <p>The <i>Water Resources Management Act (2004)</i> was signed by the President on 8 December 2004 and published in the Government Gazette on 23 December 2004, however, the said Act is not yet in force as the Minister has yet to determine the commencement date as prescribed in Section 138 of the said Act. The study has been unable to confirm whether the said Act is currently enforced as of 23 August 2012; however, the “Report of the Special Rapporteur on the human right to safe drinking water and sanitation - Addendum” dated 28 June 2012, also noted that the <i>Water Resources Management Act (2004)</i> is not yet in force. (Source: “Report of the Special Rapporteur on the human right to safe drinking water and sanitation - Addendum”, A/HRC/21/42/Add.3, 28 June 2012 at p.7 at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-42-Add3_en.pdf (accessed 23 August 2012)</p> <p>The <i>Water Resources Management Act (2004)</i> is to apply and promote the fundamental principles stated in Section 3, which include:</p>

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	(repealed <i>Water Act</i> , No. 54 of 1956 (as amended)) (not yet in force)		<ul style="list-style-type: none"> • “equitable access to water resources by every citizen, in support of a healthy and productive life; • access by every citizen, within a reasonable distance from their place of abode, to a quantity of water sufficient to maintain life, health and productive activities; • harmonisation of human needs with environmental ecosystems and the species that depend upon them, while recognising that those ecosystems must be protected to the maximum extent; • integrated planning and management of surface and underground water resources, in ways which incorporate the planning process, economic, environmental and social dimensions; • openness and transparency, by making available water resources information accessible to the public; • management of water resources so as to promote sustainable development; • facilitating and encouraging awareness programmes and participation of interested persons in decision-making; • meeting Namibia’s international obligations and promoting respect for Namibia’s rights with regard to internationally shared water resources and, in particular, to the abstraction of water for beneficial use and the discharge of polluting effluents; and • regional diversity and decentralisation to the lowest possible level of government consistent with available capacity at such level.” <p>The <i>Water Resources Management Act</i> (2004) provides for the establishment of:</p> <ul style="list-style-type: none"> • Water Resources Management Agency (S.7), • Irrigation Board (S.8),

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			<ul style="list-style-type: none"> • Water Advisory Council (S.11), • Basin Management Committees (S.12), • Water Point User Associations and Local Water User Associations and their respective committees (S.16), • National Water Master Plan (S.23), • Water Regulatory Board (S.85), • Water Tribunal (S.118) <p>Section 8 allows the Minister to declare an area as an irrigation area.</p> <p>Section 23 tasks the Minister to develop a National Water Master Plan.</p> <p>The functions of the Water Resources Management Agency include to collect, analyze and share data concerning the conservation and management of water resources in Namibia; and to monitor and review water usage by all water users and effluent discharges to assess compliance with the Act (S.7(2)(c) & (d)).</p> <p>The Water Advisory Council “must advise the Minister on any matter on water policy development or review, water resources management, water abstraction and use and any other matters relating to water”. (S.11(3(a))</p> <p>The functions of the Basin Management Committee include “[t]o protect, develop, conserve, manage and control water resources within its water management area” (as declared by the Minister). (S.13(a))</p> <p>The functions of a local water user association include promoting economic development and ensuring sustainability of the water services. (S.18(2)(a)(ii) & (iii)). The powers of a water point user association or local water user association include:</p>

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		S.27(1)	<ul style="list-style-type: none"> • the power contained in its constitution; • the power to make rules for the use of the rural water supply scheme or water point by members and non-members; • the power to prevent any person who does not comply with the rules or the constitution of a water point user association or local water user association from using such water point; • the power to adopt measures to prevent the wastage of water by any person; and • the power to plan and control the use of communal land in the immediate vicinity of the water point in cooperation with the communal land board and the traditional authority concerned.” (S.19) <p>“The Minister, with the concurrence of the regional councils concerned, may in the prescribed manner reserve part or all of the flow of a watercourse, including any groundwater resource and the water stored in a public reservoir to -</p> <ul style="list-style-type: none"> a) meet the domestic use of the water users concerned; and b) reasonably protect aquatic and wetland ecosystems, including their biological diversity, and to maintain essential ecosystem functions. <p>Subject to the Act “ownership of water resources in Namibia below and above the surface of the land belongs to the State” (S.4); hence, “a person may not abstract or use water, except in accordance with a license issued under this Act.” (S.32(1)).</p>
		S.35(1)	<p>“In deciding whether a license to abstract and use water should be issued, the Minister must consider the following criteria -</p> <ul style="list-style-type: none"> a) whether the proposed abstraction and use of water are consistent with - <ul style="list-style-type: none"> i) the objectives and principles referred to in sections 2 and

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			<p>3, respectively;</p> <p>ii) the Master Plan; and</p> <p>iii) any reservation of water made under section 27;</p> <p>b) the impact of the proposed abstraction upon existing water users, water resources and the water reserved or allocated for environmental uses;</p> <p>c) the safe yield of the aquifer from which the abstraction is proposed, if the application is for the abstraction of groundwater;</p> <p>d) the conformity of the proposed use with the efficient water management practices;</p> <p>e) the need to redress the effects of past racial and gender discrimination;</p> <p>f) the likely effect of the proposed abstraction -</p> <p>i) on the quality of any water resource, and on aquatic ecosystems dependent on the resource;</p> <p>ii) on Namibia's international obligations relating to internationally shared waters;</p> <p>g) the need to ensure the efficient and beneficial use of water resources;</p> <p>h) the existence of any traditional community and the extent of customary rights and practices in, or dependent upon, the water resource to which an application for the licence relates; and</p> <p>i) any additional criteria the Minister may prescribe."</p>
		S.35(2)	<p>"If the application for a licence to abstract and use water relates to a shared watercourse, the Minister, in addition to the criteria referred to in subsection (1), must consider the following matters -</p> <p>a) the volume of water abstracted and used by all concerned persons or communities;</p> <p>b) the nature of the uses dependent on the watercourse,</p>

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		S.37	<p>including the economic and cultural value of the use;</p> <p>c) the number of persons relying upon the watercourse for domestic, agricultural or commercial purposes;</p> <p>d) the date on which the abstractions of water from the watercourse commences;</p> <p>e) the availability and reliability of alternative sources of water to support existing uses; and</p> <p>f) the increases in demand for water from the watercourse reasonably expected to occur in the foreseeable future.”</p> <p>A licence to abstract and use water is issued subject to -</p> <p>a) the achievement of the goals and objectives of the Master Plan;</p> <p>b) the protection of the environment and water resource from which the abstraction will be made, the stream flow regime, and other existing and potential use of the water resource, including uses by virtue of customary rights and practices, by -</p> <p>i) setting out the specific volume of water or percentage of flow which may be abstracted;</p> <p>ii) setting out the rate of abstraction;</p> <p>iii) specifying the place where water may be abstracted;</p> <p>iv) specifying the times when water may be abstracted and used, or not used;</p> <p>v) limiting the volume of water which may be impounded and stored;</p> <p>vi) specifying locations where a watercourse may be impounded and where water would be stored;</p> <p>vii) requiring the licensee to become a member of a local water user’ association, where appropriate, before water may be abstracted; and</p> <p>viii) adding any such terms regarding protection of the water resource, the stream flow regime or existing or potential</p>

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			<p>uses of the water resource which the Minister determines to be appropriate.</p> <p>c) proper water management, by -</p> <ul style="list-style-type: none"> i) specifying efficient water management practices and general requirements for any water use, including water conservation measures; ii) requiring monitoring, analysis and reporting by the licensee on every water use dependent upon the licence, including bulk uses or local authority uses, by specifying the aspects of water use to be monitored and reported, and the devices to be used for such monitoring; iii) requiring the preparation and approval of a water management plan; iv) requiring the payment of water use charges; v) requiring the licensee to make water available to any person specified in the licence; and vi) adding any such terms regarding proper water management which the Minister determines to be appropriate; <p>d) the proper discharge or disposal of any return flow or effluent, by -</p> <ul style="list-style-type: none"> i) specifying the water resource to which and the manner in which return flow or effluent must be returned or disposed of; ii) specifying permissible levels for some or all of the chemical or physical components of the return flow or effluent; iii) specifying the treatment to which the return flow or effluent must be subjected, before it is returned or disposed of; iv) specifying the volume and rate of discharge of return flow or effluent which may be returned or disposed of; and v) adding such terms regarding discharge or disposal of

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			<p>excess flow or effluent which the Minister determines to be appropriate; and</p> <p>e) the accommodation of reasonable requirements of any traditional community.</p>
		S.46(1)	<p>“A person may not drill, construct, enlarge or otherwise alter a borehole, or engage in a borehole drilling programme, for the purpose of exploring groundwater, except in accordance with a permit issued under subsection (4).”</p>
		S.50	<p>“A person may not cause or allow any groundwater to run to waste from any borehole, except -</p> <p>a) for the purposes of testing the extent or quality of the supply, or cleaning, sterilising, examining or repairing the borehole; or</p> <p>b) if such water interferes or threatens to interfere with the execution of any underground mining operations or any other underground works, and no other method of disposing of such water is reasonably practicable.”</p> <p>Part XI deals with water pollution control.</p> <p>Section 72(1) allows the Minister to declare an area as water management area “for the purpose of protecting any water resource, riverine habitat, watershed, wetland, environment or ecosystem at risk of depletion, contamination, extinction or disturbance from any source, including aquatic and terrestrial weeds”, but s/he must consult owners or occupiers of land within a proposed water management area.</p>
		S.75	<p>“The Minister must prescribe procedures on how to develop and adopt efficient water management practises that minimizes wastage of water, encourage efficient water use and advance the</p>

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		S.77	control of pollution, either for regions in general or for a specific region, or for any area defined by the Minister.”
		S.78(1)	“A water user who has conserved irrigation water by successfully applying efficient water management practices may transfer such water, except groundwater, to another person on the approval of the Minister made upon application.”
		S.108(1)	“A person may not engage in any construction activity that impounds, blocks or otherwise impedes the flow of water in a watercourse without the Minister’s written approval authorising such activity.”
		S.127(1)	“A person who is authorised under this Act to abstract or use water or discharge effluent may (a) claim a servitude of - (i) abutment, (ii) aqueduct; or (iii) submersion; or (b) obtain an amendment to any existing servitude of abutment, aqueduct or submersion.”
			<p>“If any threat relating to water arises or is about to arise, the Minister, by notice in the <i>Gazette</i>, may declare a water related emergency in respect of any area in Namibia, and, despite the provisions of any other sections, may take necessary measures to deal with the emergency by reducing or eliminating such threat, including, among others -</p> <ul style="list-style-type: none"> c) the cancellation or suspension of a licence to abstract and use water or of a permit to discharge effluents or construct an effluent treatment facility or a disposal site in respect of such area, in whole or in part; and d) the issuance of instructions for the operation of a dam either to minimise the risk of flooding or to maximise available water supplies in case of water shortage.”

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	Water Act, 1956, commenced on 13 July 1956 (last amended by <i>Water Act</i> , No. 22 of 1985 and will be officially repealed once the <i>Water Resources Management Act</i> , No. 2 of 2004 is in force).	S.9A	<p><u>Water Act (1956)</u> Note: The <i>Water Act</i>, 1956, commenced on 13 July 1956 (last amended by <i>Water Act</i>, No. 22 of 1985). It will be officially repealed once the <i>Water Resources Management Act</i>, No. 2 of 2004 is in force, pending a date to be proclaimed in the <i>Government Gazette</i> by the Minister. As noted by the National Water Policy White Paper (2000), the “legislation was designed for South Africa and selectively applied to what was then South West Africa [and] [t]he existing legal regime is therefore not suited to either the country’s hydrological conditions or to the political, social and economic realities of the post-apartheid era.” (p.19) These rules include a system of riparian water rights and the private ownership of water resources that are inconsistent with Article 100 of the Namibian Constitution and Namibia’s national development goals. Further, the <i>Water Act</i> (1956) fails to account in any way for the natural environment’s new status under the Namibian Constitution wherein Articles 91, 95, and 100 of the Constitution make the environment itself a stakeholder in the formulation of resource management policy. However, until the <i>Water Act</i> (1956) is officially repealed it continues to remain a part of the laws of the land.</p> <p>“... the Minister may, whenever in his opinion a water shortage exists or is likely to arise, in his discretion from time to time by notice in the Gazette control, regulate, limit or prohibit, as he in the public interest may deem expedient and in the manner and subject to such conditions as he may think fit, the impounding, storage, abstraction, supply or use within any area specified in the notice (irrespective of whether that area consists of or is situated in an area which has been declared a Government water control</p>

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		S.56(1)	<p>area under Section 59(1) or includes such an area or a portion thereof or not) of water out of any public stream or natural channel for agricultural, urban or industrial purposes or specified agricultural, urban or industrial purposes.”</p> <p>“The Minister may, out of moneys provided by Parliament for the purpose, and subject to the provisions of this Act, construct any Government water work which he may deem necessary or desirable for the purpose of conserving or utilizing any water or the drainage of land, or for abstracting, storing or preventing the waste of or controlling any water derived from any underground source.”</p> <p>See also:</p> <ul style="list-style-type: none"> • National Water Policy White Paper (2000), which was the basis for the <i>Water Resources Management Act</i> (2004) • SADC Protocol on Shared Watercourse Systems (1995) • Water Supply and Sanitation Policy, July 2008 • “Policy Review on Issues Pertinent to the Improvement of Land Management and Biodiversity Conservation in Namibia, Extended Summary”, MET, March 2005 • NEPAD’s Comprehensive African Agricultural Development Programme (2002)
<p>91. Is there a specific law or institutional mandate for early warning and response to drought, to mitigate the effects of drought and help prevent famine? In particular:</p> <p>a. Is an institution legally mandated to issue drought early warnings? If so, how is this regulated?</p> <p>b. Is an institution legally mandated</p>			<p>Early drought warning</p> <ul style="list-style-type: none"> • <i>Water Resources Management Act</i> (2004) - No • <i>Water Act</i> (1956) - No • National Drought Policy and Strategy (1997) - No <p>No other applicable laws found online.</p> <p>Note: The MAWF has an EWS for food security. The National Early</p>

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<p>to impose water use restrictions? If so, at what level(s) of government?</p> <p>c. Is there legal provision for diversion, piping or transporting water to drought-affected areas? If so, at what level(s) of government?</p>	<p>Namibia Water Corporation Act, No 12 of 1997, 1 October 1997</p>	<p>S.10(1)</p>	<p>Warning and Food Information System issues two seasonal reports, which include: producer price index, food security situation, crop estimates and national food supply/demands, pasture conditions and livestock conditions.</p> <p>Water use restriction “Subject to the provisions of subsection (3), whenever a condition of drought or other natural intervention causes an insufficient source yield, the Corporation may, with the prior written approval of the Minister, and after consultation with affected customers, temporarily interrupt or reduce the supply of water out of any waterwork or portion thereof to customers.”</p> <p>Section 10(3) refers to the corporation’s obligation to give notice to its customer before carrying out repairs and interrupting water supply.</p> <p><u>Water Resources Management Act (2004)</u> No.</p> <p><u>Water Act (1956)</u> See above Q.90 re: Section 9A of the <i>Water Act</i> (1956) <u>National Drought Policy and Strategy (1997)</u> Insofar as the policy considers: “[w]ater demand management strategies such as water conservation measures, water awareness campaigns, and punitive water tariffs for heavy water consumers, [and applying] regulations to promote the responsible use of water resources by farmers.</p> <p>Water diversion to drought affected areas <u>Water Resources Management Act (2004)</u> The <i>Water Resources Management Act</i> (2004) does not specifically</p>

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			<p>provide for water diversion to drought affected areas; however, Section 77 allows for the transfer of conserved irrigation water where approved by the Minister.</p> <p><u>Water Act (1956)</u> Section 140(a)(1) states that, “[a]ny person entitled to the use of the water of a public stream may, subject to the provisions of this Act, acquire the right to divert such water at such point on the course of that stream as may be reasonably necessary to enable him to exercise his right to use the said water.”</p> <p><u>National Drought Policy and Strategy (1997)</u> The Policy noted that in the past drought was used as an opportunity to initiate long term rural water supply development programmes, which did not contribute to immediate drought relief needs. Hence, “long term water supply development projects, which do not also meet emergency needs in the required time frame, will not be undertaken under the guise of drought relief measures.”</p> <p>See also: “Policy Review on Issues Pertinent to the Improvement of Land Management and Biodiversity Conservation in Namibia, Extended Summary”, MET, March 2005</p>
92. Do the above laws or mandates specify how management of drought and famine risk is financed? If so, describe.			<p><u>National Drought Policy and Strategy (1997)</u> The National Drought Policy and Strategy (1997) provided for a National Drought Fund for drought relief programmes. “This fund would be legislated for, be a permanent institution, and be managed by an independent Board. It could receive funds from the Government annually, as well as from farmers in normal years, and through agriculture related industry levies. Donors may also contribute. Funds would be invested until such time as they were</p>

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			<p>required. The National Drought Fund will also finance the Government's various obligations with respect to agriculture, food security, health and water programmes in disaster drought years."</p> <ul style="list-style-type: none"> • <i>Namibia Water Corporation Act (1997)</i> - No • <i>Water Resources Management Act (2004)</i> - No • <i>Water Act (1956)</i> - No • <i>National Agriculture Policy (1995)</i> - See below Q.96
93. Do the above laws or mandates regulate the collection and distribution of information on drought and related famine risks? If so, what authority is responsible and what is their mandate?	Namibia Water Corporation Act, No 12 of 1997, 1 October 1997	S.13(2)	<p>Insofar as "[t]he Corporation shall furnish the Department with such information in its custody as is reasonably requested by the Department in relation to:</p> <p>(f) rainfall measurements;</p> <p>(g) river flows;</p> <p>(h) groundwater levels;</p> <p>(i) water abstraction from water resources; and</p> <p>(j) water quality."</p> <p><u>National Drought Policy & Strategy (1997)</u></p> <p>Insofar as the policy states that, "i]nformation will be gathered and disseminated to enable farmers and farming communities to adjust their operations and lifestyles to better anticipate low rainfall events. The collection and dissemination of improved weather and market information has the potential to improve on-farm decision making."</p> <p>The information system under the policy shall include the following:</p> <ul style="list-style-type: none"> • Household food security vulnerability mapping to be implemented by the Food Security and Nutrition Technical Committee (now, the Food Security and Nutrition Council); • Nutrition status monitoring through the health system; • Rainfall recording - information to be collected at regional and

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			<p>constituent level and provided to the Namibia Meteorological Service;</p> <ul style="list-style-type: none"> • Weather forecasting to be monitored by the Namibia Meteorological Service; • Vegetative growth monitoring to be implemented by MAWRD and local farmers associations; • Agro-ecological zoning; • Water supply services to be monitored by Water Point Committees. <p>Namibia Early Warning and Food Information System will continue to be the focal point for gathering, analysing and reporting on drought-related matters and report to the NDRMC who will issue regular bulletins as disaster drought conditions approach.</p> <p>Note: The MAWF has an EWS for food security. The National Early Warning and Food Information System issues two seasonal reports, which include: producer price index, food security situation, crop estimates and national food supply/demands, pasture conditions and livestock conditions.</p> <ul style="list-style-type: none"> • <i>Water Resources Management Act (2004)</i> - No • <i>Water Act (1956)</i> - No
94. Do the above laws or mandates provide for consultation and/or participation about drought and famine risk, early warning or general DRR regarding drought and famine by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts			<ul style="list-style-type: none"> • <i>Namibia Water Corporation Act (1997)</i> - No • <i>Water Resources Management Act (2004)</i> - No • <i>Water Act (1956)</i> - No • <i>National Drought Policy and Strategy (1997)</i> - No

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<p>of those communities, including:</p> <ol style="list-style-type: none"> Women? Different cultural or ethnic groups? Vulnerable groups, including children, older persons, persons with disabilities? Socially isolated groups and the very poorest people? 			
J. Other food security risks?			
<p>95. Is there a specific law or institutional mandate concerning threats to food security other than droughts? (e.g. predicted effects of climate change, such as inundation of agricultural land and/or mass migration).</p> <ol style="list-style-type: none"> If so, describe the form of regulation to reduce the impact of these risks (if any), and institutional responsibility At what level(s) of government is this regulated? 	<p>National Agricultural Policy, 1995</p>		<p>Agriculture Responsible authority: Ministry of Agriculture, Water and Rural Development</p> <p><u>National Agriculture Policy (1995)</u> The Policy seeks to provide “an enabling environment for increased food production by smallholder producers, as a means of improving employment opportunities, incomes, household food security and the nutritional status of all Namibians.”</p> <p>The objectives of the National Agriculture Policy (1995) are:</p> <ul style="list-style-type: none"> • “Achieve growth rates and stability in farm income, agricultural productivity and production levels that are higher than the population growth rate; • Ensure food security and improve nutritional status; • Create and sustain viable livelihood and employment opportunities in rural areas; • Improve the profitability of agriculture and increase investment in agriculture; • Contribute towards the improvement of the balance of payments; • Expand vertical integration and domestic value-added for agricultural products;

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			<ul style="list-style-type: none"> • Improve the living standards of farmers and their families as well as farm workers; • Promote the sustainable utilization of the nation’s land and other natural resources; and • Contribute to balanced rural and regional development based on comparative advantage.” <p>The Policy also looks at related rural development and cross-sectoral issues:</p> <ul style="list-style-type: none"> • Irrigation and water development (ie promotion of small scale irrigation systems, micro-irrigation, water storage, water harvesting and conservation practices); • Rural and regional development (ie rural poverty, food insecurity, unemployment and unequal income distribution; regional autonomy); • Sustainable natural resource management (ie Namibia’s Green Plan), • Land use and tenurial security (ie sustainable and productive land use, agro-ecological zoning, diversification of land use systems, community management of local land use and natural resources, land reform, and capacity building); • Rural infrastructure (ie , roads, transport, communication, and disease control); • Food security and nutrition (ie Namibian Food and Nutrition Policy and Action Plan), and • Drought and disaster management (ie long term drought preparedness and relief and rehabilitation mechanisms). <p>Namibia’s Green Plan contains environmental policies for Government action and proposes that:</p> <ul style="list-style-type: none"> • “Agricultural policy be innovative and include land use options

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	Marine Resources Act, No. 27 of 2000, 21 December 2000 (replaced Sea Fisheries Act, No. 29 of 1992)		<p>which are compatible with the country's fragile eco-system;</p> <ul style="list-style-type: none"> • Major environmental extension and training programmes for all farmers be initiated to avoid environmental degradation; and • Increased funds be provided for relevant agro-ecological research and environmental monitoring. <p>See also:</p> <ul style="list-style-type: none"> • National Food and Nutrition Policy (1995) - the study was unable to locate said policy online • "National Programme for Food Security - Programme Preparation Report - Final Draft", December 2007 • NEPAD's Comprehensive African Agricultural Development Programme (2002) <p>Fisheries and Marine Resources Responsible authority: Ministry of Fisheries and Marine Resources Mandate: "To sustainably manage the living aquatic resources and promote the aquaculture sector." (Source: www.mfmr.gov.na, accessed 4 September 2012)</p> <p><u>Marine Resources Act (2000)</u> This Act "provides for the conservation of the marine ecosystem and the responsible utilization, conservation, protection and promotion of marine resources on a sustainable basis ..." (Preamble). It established:</p> <ul style="list-style-type: none"> • Fisheries Inspectors (Ss4 & 6), • Fisheries Observer Agency and Fisheries Observers (Ss7 & 8), • Marine Resources Advisory Council (Part V), • Marine Resources Fund to defray the expenses of research, development, training and education relating to marine resources (S.45); and

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			<ul style="list-style-type: none"> • Fisheries Observer Fund to finance the activities of the Agency (S.46). <p>Pursuant to the Act no person shall harvest any marine resources for commercial purposes except under a right, an exploratory right or a fisheries agreement (S.32). When considering an application for rights to harvest marine resources for a commercial purpose, the Minister may have regard to “the contribution of marines resources to food security” (S.33(4)(k). The Act allows the Minister to set “total allowable catch” (S.38) and measures and quotas (S.39) relevant to harvest of marine resources for commercial purposes.</p> <p>Section 51 of the Marine Resources Act (2000) allows the Minister to declare an area to be a marine reserve for the protection or regeneration of resources.</p> <p>See also: <i>Regulations Relating to the Exploitation of Marine Resources</i>, MFMR, GN No. 241, 2 December 2001</p> <p><u>Marine Resources Policy (2004)</u> The Marine Resources Policy (2004) seeks to enhance food security through -</p> <ul style="list-style-type: none"> • promoting domestic fish consumption by encouraging the fishing and fish processing industries to increase the national supply of fish as a healthy food of high nutritional value; • increasing fish consumption through programmes that promote and supply fish; and • supporting distribution and marketing networks in collaboration with the private sector.

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			<p><u>Aquaculture Act, No. 18 of 2002, 23 December 2002</u> The <i>Aquaculture Act</i> (2002) does not provide any specific reference to food security and DRR measures. This Act provides for the regulation and control of aquaculture activities and the sustainable development of aquaculture resources (Preamble). It established the Aquaculture Advisory Council (S.3) and inspectors (S.36). Pursuant to Section 11 a person may not engage in aquaculture without a licence. Section 12(4) allows any persons affected by the application of an aquaculture licence to make objections or representations in connection with the application.</p> <p>Section 25 states that “[a]ny licensee or other person engaged in aquaculture shall immediately report to the Permanent Secretary or an inspector the presence of any disease or harmful organism in an aquaculture facility.”; and Section 26 requires the Minister to implement a water quality monitoring system to provide timely information to licensees of the occurrence or imminent occurrence of any pollution or natural phenomenon which may have a harmful or detrimental effect on the aquatic environment or any aquaculture product.</p> <p>Section 33 allows the Minister to declare any areas as an aquaculture development zone; however, before doing so s/he must consult “with the advisory council and any Ministry having jurisdiction in the proposed aquaculture development zone and undertake an environmental impact assessment with regard to the aquaculture development zone and establish the development objectives of the aquaculture development zone” (S.33(2)).</p> <p><u>Inland Fisheries Act, No. 1 of 2003, 3 April 2003</u> The <i>Inland Fisheries Act</i> (2003) does not provide any specific reference to food security and DRR measures. This Act provides</p>

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			<p>for the “conservation and protection of aquatic ecosystems and the sustainable development of inland fisheries resources [and] control and regulation of inland fishing” (Preamble). It established the Inland Fisheries Council (S.3) and inspectors (S.23). Pursuant to Section 11 a person may not engage in fishing in any inland waters by means of any regulated fishing gear without holding a fishing licence.</p> <p>Section 20 states that “[a]ny power conferred by any law on an authority to grant permission for the construction of a dam, or the erection or installation of any structure in a river or stream must be exercised after consultation with the Minister.”</p> <p>Section 22 allows the Minister to declare any area of inland waters as fisheries reserve if it is necessary to:</p> <ol style="list-style-type: none"> a) “preserve the aquatic environment; b) protect, preserve or rehabilitate the natural environment of fish, related ecosystems including wetlands, lakes, lagoons, nursery and spawning areas, which are essential to maintaining the integrity of an ecosystem, species or assemblages of species; c) promote the regeneration of fish stocks; [and] d) to protect fish resources and their environment from destruction, degradation, pollution and any other adverse impacts through human activities that threaten their health and viability. <p>Under Section 29 the Minister may make regulations to:</p> <ul style="list-style-type: none"> • prescribe conditions under which subsistence fisheries may be undertaken, including conditions as to methods or traditional fishing gear that may not be used (S.29(2)(b)); • prescribe conditions and restrictions for stocking or undertaking fisheries (S.29(2)(k));

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			<ul style="list-style-type: none"> • provide for the making of surveys and gathering of information regarding - <ul style="list-style-type: none"> - requirement and demand in respect of any fish; - the state and potential of any fish; and - the harvesting, processing, transportation, disposition and marketing of fish (S.29(2)(m). <p>See also: SADC Protocol on Fisheries (2001)</p> <p>Climate Change <u>National Policy on Climate Change for Namibia (2011)</u> In relation to food security the Policy states that, “[t]o effectively address the issue of food security and the sustainable resource base in Namibia as affected by climate change, the government will”</p> <ol style="list-style-type: none"> a) Encourage the integration of landscape ecology into land use planning. b) Integrate poverty-climate change issues into economic policies and plans across sectors. c) Promote diversification of the food base. d) Promote systems in the agriculture sector that are climate resilient.” <p>Further, “[i]n order to achieve sustainable agricultural production, the government will:</p> <ol style="list-style-type: none"> a) Make provisions and installation of water treatment plants as an integral component of all irrigation water supply schemes. b) Promote and encourage conservation agriculture and ecologically compatible cropping systems. c) Promote and encourage highly adaptive and productive breeds of livestock in both communal and commercial areas.

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			<p>d) Promote and encourage highly adaptive and productive crop cultivars in dry land or rain fed crop farming system.</p> <p>e) Promote and encourage agricultural production to best maintain and improve household income.</p> <p>f) Promote sustainable management of rangelands and pastures through preparation and implementation of integrated rangeland management plans to avoid land degradation and deforestation.”</p> <p>“To ensure sustainable management of fisheries and marine resources with the uncertainty of climate change, the government will:</p> <p>a) Promote integrated fisheries and marine resources management.</p> <p>b) Encourage any other approach that leads to sustainable management and utilisation of fisheries and marine resources.</p> <p>c) Strengthen and encourage integrated coastal zone management plans for the protection of marine life.”</p>
96. Does the above law or mandate specify how management of food security is financed? If so, describe.			<p>Agriculture <u>National Agriculture Policy (1995)</u> The policy states that the Government “is supporting the establishment of a national agricultural credit and savings scheme to increase the capacity of communal farmers to produce marketable surpluses, to enable subsistence farmers to become surplus producers and to encourage subsistence farmers to increase production of foodstuffs they would otherwise have to purchase.” The Government also seeks to “establish an efficient and sound agricultural financing system which will:</p> <ul style="list-style-type: none"> • Use interest rates on loans and deposits linked with those prevailing in the commercial sector. • Mobilize savings from the public for the generation of loan able funds;

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			<ul style="list-style-type: none"> • Strengthen cooperatives and credit unions; • Recognise and encourage informal sources of credit; • Encourage competition among banks and financial intermediaries; and • Improve the financial discipline of agricultural financing institutions.” <p>In exceptional circumstances the Government will make available subsidies to special targeted credit schemes. Further, “the Government will move away from taxation in the form of duties and levies on agricultural inputs, in favour of taxing income and land. The Government will also consider tax incentives as a drought-coping mechanism.”</p> <p>Fisheries and Marine Resources <i>Marine Resources Act (2000)</i> - No <i>Marine Resources Policy (2004)</i> - No</p>
97. Does the above law or mandate regulate the collection and distribution of information on hazards and risks to food security, particularly those relating to agricultural production? If so, what authority is responsible and what is their mandate?			<p>Agriculture The National Agriculture Policy (1995) does not make any specific references regarding the collection and distribution of information on hazards and risks to food security relating to agricultural production. It does refer to the Namibia Early Warning and Food Information System.</p> <p>Fisheries and Marine Resources <i>Marine Resources Act (2000)</i> - No <i>Marine Resources Policy (2004)</i> - No</p>
98. Does the above law or mandate provide for community consultation and/or participation about risk reduction from threats to food security? How? If so, does it provide			<p>Agriculture <u>National Agriculture Policy (1995)</u> Insofar as the Policy seeks to: -</p> <ul style="list-style-type: none"> • “Promote consultative and participatory approaches in the search for, and implementation of, solutions to identified

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<p>for participation or a voice for all parts of those communities, including:</p> <p>a. Women?</p> <p>b. Different cultural or ethnic groups?</p> <p>c. Vulnerable groups, including children, older persons, persons with disabilities?</p> <p>d. Socially isolated groups and the very poorest people?</p>			<p>constraints;</p> <ul style="list-style-type: none"> Recognise and encourage local organisations to participate as key actors in the development process; and Commit [the Government] to greater institutional pluralism and broad-based participation by the rural people and their organisations in their efforts to realize their development aspirations.” <p><u>Women and Youth</u> With regards to women and youth, the Policy states: “The Government acknowledges the constraints and discriminatory practices facing many female-headed households and the youth in rural areas throughout Namibia. The crucial role of women and the youth in agricultural development needs to be reemphasized, and their participation in agricultural organisations and related institutions ensured. Existing social norms and values relating to women and gender discrimination must be changed. Women will be assisted in overcoming constraints to their participation in development efforts related to their lack of knowledge, limited access to land, lack of security of tenure, discriminatory laws, shortages of labour and poor access to services and finance.”</p> <p>Fisheries and Marine Resources <i>Marine Resources Act (2000)</i> - No <i>Marine Resources Policy (2004)</i> - No</p>
Part Three. Early Warning, Hazard Mapping and Risk Information			
A. Early Warning			
99. In addition to the sectoral laws above, is there any general	National Disaster Risk Management Policy, August		Imperative 2 of KPA 1 states that the DRM Act “must make provision for the establishment of mechanisms for the

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<p>obligation to establish early warning systems (EWS) in the disaster management law?</p> <p>a. If so, does this include institutional mandates on EWS?</p> <p>b. Which institution(s) are involved and what are their mandates on EWS?</p> <p>c. Is there legal provision for financing of EWS?</p>	2009		<p>dissemination of early warnings and promote public awareness of known risks; and provide for rapid and effective response to significant events and disasters; and must facilitate rapid decision making (S.8.1.2).</p> <p>Imperative 1 of KPA 2 is to “establish mechanisms for conducting comprehensive multi-hazard disaster risk assessments in Namibia to serve as an interface for DRM planning” (S.8.2.1)</p> <p>Imperative 3 of KPA 3 is to “develop, implement and maintain an early warning system for Namibia”. “The organisations involved in scientific data collection and knowledge include:</p> <ul style="list-style-type: none"> • the Meteorological Services, • the Hydrology Department, • the Namibia Early Warning and Food Information Unit, • the Rapid Fire Warning System; and • electronic sources such as those provided by the UN Operational Satellite Applications and other international and regional information sources among others.” <p>The EWS requires clear and reliable information and communication, which in turn will rely greatly on local community participation. The EWS must be people centered and systems must be developed that provide warnings that are timely and understandable to those at risk. The EWS must include guidance for threatened areas, communities and households on the importance of heeding warnings and on how to act upon warnings in order to avoid risk. The EWS must support effective operations by disaster managers and other decision makers.</p> <p>At national level, the Government through the DDRM must establish mechanisms to ensure that early warning information is</p>

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			<p>delivered to the public without delay when any situation threatens to place people, infrastructure or the environment at risk.</p> <p>At regional level, early warning information from the sectors, institutions, constituency, settlements and villages must be communicated to the communities at risk through the Regional Governor and the Chief Regional Officer.</p> <p>Institutional capacities must be established to ensure that EWS are well integrated into governmental policy, decision-making processes and into emergency management systems at both the national and the local levels, and that they are subjected to regular system testing and performance assessments.” (S.8.3.3)</p> <p>The DDRM “must establish mechanisms at all levels to ensure a uniform approach to the dissemination of early warnings” (S.8.4.1).</p> <p>The RDRMC and the Local Authorities DRM System are to align regional early warning systems and facilitate the establishment of a regional disaster risk information database (Appendix VI & VII).</p>
	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.5(f)	The NDRMC is responsible for “supporting and mobilising resources for improved disaster risk assessment, the quality of information and data on disaster risk and for strengthening early warning systems”.
		S.11(4)(d) (iv)	The Directorate for DRM is responsible for facilitating and coordinating the development, implementation and maintenance of integrated DRM plans for DRM at all levels of government which include aligning and consolidating national early warning systems.

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		S.13(2)(a) (i), (b) & (h)	The duties and functions of the Vulnerability Committee include collecting “vulnerability information including conformation on the prevailing food security status and tracking indicators in order to inform early warning on pending disasters”, assessing “disaster risk indicators to assess factors that influence vulnerability such as livelihoods and means of survival for communities in Namibia” and “monitoring early warning information”.
		S.14(3)(i)	The Regional DRMC is responsible for “align[ing] regional early warning systems and facilitate the establishment of a regional disaster risk information database”.
		S.16(3)(c) & (e)	The Village DRMC is responsible for “sensitis[ing] the community to the importance of understanding and heeding early warnings, the effects of disaster and appropriate responses” and “develop[ing] a settlement disaster contingency plan including early warning system and activation of emergency response”.
		S.17(7)(p)	The Local Authority DRMC is responsible for “align[ing] regional early warning systems and facilitate[ing] the establishment of a regional disaster risk information database”.
			<p>Note:</p> <p>The MAWF has an EWS for food security. The National Early Warning and Food Information System issues two seasonal reports, which include: producer price index, food security situation, crop estimates and national food supply/demands, pasture conditions and livestock conditions.</p> <p>The Hydrology Unit of the MAWF monitors causes of floods and issues warning through a daily flood bulletin distributed through</p>

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			<p>emails and cellular phones. (Source: Giorgis D., "Design of An Improved Climate Risk Management Early Warning System and EWS Information Centres", Africa Adaptation Project in Namibia, undated at pp.11-12)</p>
100. Does EWS regulation include requirements for community consultation and participation in development of EWS? Describe.	National Disaster Risk Management Policy, August 2009		<p>Imperative 2 of KPA 1 states that the DRM Act "must make provision for multi-stakeholder engagement which includes the participation of communities (S.8.1.2).</p> <p>To the extent that the "disaster risk assessment process must start with the systematic collection of data at grass roots level by engaging communities and harnessing indigenous knowledge and historical data, which must be integrated with scientific and contemporary knowledge." (S.8.2.1)</p> <p>Imperative 2 of KPA 2 is to "establish mechanisms to engage the participation of all stakeholders in disaster risk assessment processes", including communities (S.8.2.2).</p> <p>Imperative 1 of KPA 4 is to "establish mechanism to strengthen disaster preparedness practices in Namibia", which requires the establishment of Community Based DRM Committees (CBDRMC) to provide leadership, ensure community ownership of and participation in DRM and awareness programmes and facilitate preparedness at local level. The Constituency DRM Committee must facilitate the establishment of CBDRMCs and provide the necessary training and where possible equipment to support their roles. Further, as part of an advocacy for more responsive and effective governance, national and state level governments must consider integrating CBDRMCs in their policy and implementing procedures. (S.8.4.1.1)</p>

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	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.11(4)(c) S.13(2) S.14(3)(a) S.17(7)(j) S.20(2)(a) & (b)	<p>Insofar as the Local Authorities DRM System are to “in partnership with stakeholders participate in disaster risk assessments processes and facilitate the development of DRM planning” (Appendix VIII).</p> <p>The DRM Act 2012 does not explicitly refer to community consultation and participation in the development of early warning systems.</p> <p>Insofar as the Directorate of DRM is to “facilitate and coordinate disaster risk assessments undertaken in partnership with stakeholders, regional councils and local authorities”.</p> <p>To the extent that NamVAC collects vulnerability information from relevant communities to inform early warning on pending disasters and monitor early warning information.</p> <p>Insofar as the Regional DRMC is to “participate in disaster risk assessment processes and facilitate the development of DRM planning in partnership with other stakeholders within the region”.</p> <p>Insofar as the Local Authority DRMC “in partnership with stakeholders participate in disaster risk assessments processes and facilitate the development of DRM planning”.</p> <p>To the extent that the National DRM Framework “integrate[s] strategies involving multi-stakeholder participation” and considers “timely disaster risk reduction actions that contribute to sustainable development by limiting the loss of life and livelihood and environmental and property damage”.</p>
101. Does EWS regulation provide for community-based early warning data	National Disaster Risk Management Policy, August		Insofar as the CBDPMC participates in DRM at the local level (S.8.4.1.1) and the Local Authorities DRM System is to “in

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
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collection? Describe.	2009 Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.13(2) S.14(3)(i) S.15(3)(a) S.16(3)(a) S.17(7)(b), (j) & (p)	partnership with stakeholders participate in disaster risk assessments processes and facilitate the development of DRM planning” (Appendix VIII). To the extent that NamVAC collects vulnerability information from relevant communities to inform early warning on pending disasters and monitor early warning information. Insofar as the Regional DRMC is required to “align regional early warning systems and facilitate the establishment of a regional disaster risk information database”. Insofar as the Constituency DRMC is to “conduct community based disaster risk assessments within the constituency”. To the extent that the Settlement DRMC’s participation in disaster risk assessment, disaster risk reduction activities and disaster response include community based early warning data collection. To the extent that the Local Authority DRMC “conduct[s] disaster risk assessments within the local authority’s area of jurisdiction ... in partnership with stakeholders participate in disaster risk assessment processes and facilitate the development of DRM planning”, and “align regional early warning systems and facilitate the establishment of a regional disaster risk information database”.
102. Does EWS regulation provide for timely and reliable access for at-risk communities to EWS, meteorological or seismological data (as relevant)? Describe.	National Disaster Risk Management Policy, August 2009		Imperative 1 of KPA 5 is to “develop and establish a comprehensive DRM information management and exchange system in Namibia.” The DDRM is tasked to design and implement such said system. “The system must have capabilities that will enable risk to be managed on an ongoing basis and must facilitate timely decision making when significant events and disasters occur

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			<p>or threaten to occur”; and also support “information on funding for DRM and for exercising financial control.”</p> <p>“The design of the system must include capabilities for:</p> <ul style="list-style-type: none"> • providing understandable information on disaster risk and protection options and on actions to reduce risks and build resilience in high-risk communities and areas; • promoting the use and application of appropriate information and communication technology, space-based technologies and related services to support DRR for training and information dissemination; • promoting and improving dialogue and cooperation among scientific communities and practitioners working on DRR, and encouraging partnerships among stakeholders, including those working on the socioeconomic dimensions of DRR; • acquiring, sorting, storing, analysing, disseminating and maintaining an integrated DRM database; and • communication links with all DRM stakeholders and including two way emergency communication links to communities and areas at risk.” (S.8.5.1)
	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.5(i)	Insofar as the NDRMC is required to “advocate the development of national information and knowledge management strategies and the establishment of stakeholder networks for DRM”.
		S.11(4)(g)	Insofar as the Directorate of DRM is required to “guide the development of a comprehensive information management and communication system”.
		S.14(3)(h)	Insofar as the Regional DRMC is required to “guide the development of a comprehensive information management and

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		S.15(3)(h)	effective communications system". To the extent that the Constituency DRMC effectively "act[s] as the channel of communication for the community on all issues related to DRM".
		S.16(3)(b) & (c)	To the extent that the Settlement DRMC effectively "serve[s] as an information source and reporting channel for the community with regard to DRM matters", and "sensitise[s] the community to the importance of understanding and heeding early warnings, the effects of disasters and appropriate responses".
		S.17(g), (i) & (o)	To the extent that the Local Authority DRMC effectively "facilitate[s] the implementation of public information and public awareness programmes in its area ... act[s] as the channel of communication for the community on all issues related to DRM", and "guide[s] the development of a comprehensive information management and effective communication system".
		S.20(2)(b)	Insofar as the National DRM Framework incorporates "timely disaster risk reduction actions that contribute to sustainable development by limiting the loss of life and livelihood and environmental and property damage".
		S.25(2)	A Regional DRM Plan must - a) "anticipate the types of disaster that might occur in the region and their possible effects; b) identify the communities and areas at risk; c) provide for appropriate disaster risk reduction strategies; g) contain contingency plans and emergency procedures in the event of a disaster, that provide for -

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		S.27(2)(f)	v. the establishment of strategic communication links; and vi. the dissemination of information". A DRM Plan for settlements must - "include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for - iv. the establishment of strategic communication links; and v. the dissemination of information".
		S.29(2)(g)	A DRM Plan for local authorities must - "include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for - iv. the establishment of strategic communication links; and v. the dissemination of information".
103. Does the law regulating telecommunications infrastructure and delivery include any DRR criteria in general, or any specific measures such as: a. geographical coverage of telecommunications to include remote and/or at-risk areas? b. priority access to communications technology for at-risk communities and responders to disaster? c. access for vulnerable groups such as the elderly and persons with disabilities? d. Support for early warning systems?	Communications Act, No. 8 of 2009, 28 October 2009	S.2	The objects of this Act, includes, to: <ul style="list-style-type: none"> • "promote the availability of a wide range of high quality, reliable and efficient telecommunications services to all users in the country; • encourage local participation in the communication sector in Namibia; • increase access to telecommunications and advanced information services to all regions of Namibia at just, reasonable and affordable prices; and • advance and protect the interests of the public in the providing of communications services and the allocation of radio frequencies to the public". <p>The <i>Communications Act</i> (2009) provides for the establishment of a Communications and Information Policy Unit (S.3) and the Communications Regulatory Authority of Namibia (CRAN) (S.4).</p>

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		S.57(1) & (2)	<p>The CRAN may impose conditions on Telecom’s licence to include the provision of emergency call services (S.45(d)).</p> <p>The CRAN may prescribe universal services required by licensees. “Universal service may be specified in one or more of the following manners:</p> <ul style="list-style-type: none"> • As a minimum number of prescribed telecommunications facilities or services that must be made available to a community of a prescribed size; • in the form of specified equipment that should be made available in order to cater for the telecommunications needs of a specified category of community; • in the form of specified services to be made available to specified categories of customers in specified categories of communities; • in the form of specified telecommunications services that are available to the public or that are rendered to schools, hospitals, or any other specified category of place that serves the needs of the public or that are available for use by the public; • in the form of the deployment of any technology that will promote the availability of telecommunications and information services in Namibia; and • in any other manner that may be necessary to specify the form, scope, nature or any other aspect of the services in question.” <p>A Universal Service Fund (S.56) is to be established and an annual universal service report is required for accountability services (S.58).</p>

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	<p>National Disaster Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence Ordinance</i>, No. 3 of 1979)</p>	S.8.4.5.3	<p>The <i>Communications Act</i> (2009) does not make any specific provisions for DRR criteria in general or provide for the said specific measures.</p> <p>The <i>Posts and Telecommunications Act</i> (1992) (as amended) does not include any references to DRR criteria in general or provide for the said specific measures.</p> <p>Imperative 5 of KPA 4 is to “[e]stablish mechanisms for real time information management when a state of national disaster has been declared”.</p> <p>“Good communication is essential for effective response. Since normal communication systems may be adversely affected as a result of the impact of the disaster, a reserve communication system must be established. The reserve communication system must include field communication with support from the Namibia Police, the Namibia Defence Force, the Namibia Telecom or other relevant communication systems that could be used in disaster situations. The communication systems must serve as the link between the Central, Regional and Field Command Teams.”</p> <p>See above Q.102 re: DRM Act 2012</p> <p>See also:</p> <ul style="list-style-type: none"> • Overarching ICT Policy for the Republic of Namibia (2009), which is the basis for the <i>Communications Act</i> (200) • SADC Declaration on ICT (2001) • SADC Protocol on Transport, Communications & Meteorology (1996) • SADC Telecommunications Policies and Model

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			<p>Telecommunications Bill (1998)</p> <ul style="list-style-type: none"> African Charter on Broadcasting (2001)
<p>104. Does the above law impose, or allow for the imposition, of any restrictions on use of certain types of telecommunications equipment</p> <p>a. Generally throughout the territory?</p> <p>b. In specified areas?</p> <p>c. Under specified circumstances?</p>	<p>Communications Act, No. 8 of 2009, 28 October 2009</p>	<p>S.37(1) & (2)</p> <p>S.59(6)</p> <p>S.83(1) & (2)</p>	<p>“No person may provide a telecommunication service except under and in accordance with a licence issued to that person in terms of this Chapter, unless any other provision of this Act or a regulation made in terms of subsection (5) expressly authorises the provision of such service without a licence.</p> <p>No person may construct, operate or use an electronic communications network except under and in accordance with a licence issued to that person in terms of this Chapter, unless any other provision of this Act or a regulation made in terms of subsection (5) expressly authorises the performance of such action without a licence.”</p> <p>“When the exercise of rights referred to in this Part may affect national security or the safety of the President or a member of Cabinet the Director-General may forward a directive to the CRAN indicating any requirements with which the telecommunications facilities in question must comply.”</p> <p>Section 80 allows CRAN to regulate and set standards for telecommunication equipment.</p> <p>“No person may broadcast or otherwise operate a broadcasting service or do or permit anything to be done for which a broadcasting licence is required in terms of this Act, unless he or she is in possession of the appropriate licence so required, in addition to any other licence or certificate which may be required by this Act for the transmission or operation of a broadcasting service undertaken by him or her or for the doing of that thing.</p>

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		S.86(1) & (2)	<p>A broadcasting licence is also required in respect of any broadcast transmitted from outside Namibia if such broadcast is intended to be received only by persons who subscribe to the service in question or provide any other consideration to receive that service.”</p> <p>“The Authority may impose such conditions on broadcasting licensees as are appropriate for the category of broadcasting licence issued to the licensee concerned. The conditions referred may include conditions in relation to:</p> <ul style="list-style-type: none"> • the frequencies that may be used and the power limitations of transmitters used in connection with the broadcasting services in question, the technical servicing and inspection of equipment and any other technical matters; • the prevention of electric and other disturbances of radio reception or of transmissions over any telecommunications line; • the broadcasting of reports, announcements, news or other information which is required to be broadcast in the public interest; • the location of a transmitter and the specific geographical area to which the broadcast may be made; • the manner in which the information must be modulated upon the radio waves in question, including whether the service must be digital or analog; • the duty to make spare capacity on transmitters, masts and towers available to other licensees, the conditions under which such duty exists, the extent of the duty, the payment for the use of such capacity, the rights of the person who provides such capacity and any other matter relating thereto; and • any matter relating to masts, towers or other facilities effecting the environmental or aesthetic impact of such

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			facilities.”
		S.101(1)	<p>“Unless expressly provided otherwise by this Act, no person may -</p> <ul style="list-style-type: none"> a) transmit any signal by radio waves; b) use radio apparatus to receive any signal transmitted by radio waves; or c) instruct, permit or fail to prohibit any person in his or her employ or under his or her control to perform any action referred to in paragraph (a) or (b), <p>except under and in accordance with a licence issued in terms of subsection(2) and if applicable a certificate or authority issued in terms of subsection (3).”</p>
		S.102(1)	<p>“Subject to section 101(15), no person may have in his or her possession any radio apparatus unless he or she is in possession of a permit issued by the [CRAN] in terms of this section or a spectrum licence issued in terms of section 101 authorising such possession.”</p>
		S.114(1) & (2)	<p>“Any person who provides telecommunications or broadcasting services or owns or operates a network for which a licence is required by this Act without a licence to provide such services is liable to a penalty contemplated in section 115(4) and guilty of an offence and on conviction liable to a fine not exceeding N\$1m or to imprisonment for a period not exceeding three years.</p> <p>Any person who provides broadcasting services or telecommunications services or owns or operates a telecommunications network outside the scope of a licence or who does not comply with a condition of the licence held by that person is liable to a penalty contemplated in section 115(4) and guilty of an offence and on conviction liable to a fine not exceeding</p>

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		S.130	<p>N\$500 000 or to imprisonment for a period not exceeding two years.”</p> <p>“During the continuance of a declared war in which Namibia is engaged or during a state of emergency declared under Article 26 of the Namibian Constitution, the President may if in his or her opinion it is necessary for the national defence and security, direct that such communications as may be essential to the national defence and security will have preference or priority with any licensee or provider of telecommunications services or owner of a network.</p> <p>The President may give instructions to licensees, providers of telecommunications services or owners of networks for such time as the state of emergency lasts as may be reasonably related to a direction given under subsection (1).</p> <p>Holders of telecommunications service licences, other providers of telecommunications services or owners of networks must receive just compensation for any loss or damage caused by reason of complying with the directions of the President and will not be held liable for any loss due to their compliance with the instructions of the President.”</p>
	1990 Constitution of the Republic of Namibia	S.26(5)	<p>“During a state of emergency in terms of this Article or when a state of national defence prevails, the President shall have the power by Proclamation to make such regulations as in his or her opinion are necessary for the protection of national security, public safety and the maintenance of law and order.</p> <p>The powers of the President to make such regulations shall include</p>

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			the power to suspend the operation of any rule of the common law or statute or any fundamental right or freedom protected by this Constitution, for such period and subject to such conditions as are reasonably justifiable for the purpose of dealing with the situation which has given rise to the emergency: provided that nothing in this Sub-Article shall enable the President to act contrary to the provisions of Article 24 hereof.”
B. Risk identification, assessment and monitoring			
105. In addition to the sectoral laws above, does the disaster management law regulate the collection and distribution of information on hazards and risks (risk mapping)? If so, what authority is responsible and what is their mandate?	National Disaster Risk Management Policy, August 2009		<p>“A fully institutionalized Namibia Vulnerability Assessment Committee (NamVAC) must be established. [It] is a multi-stakeholder committee that conducts vulnerability to identify vulnerable groups, the prevalence and degree of any given risk, and their causes using agreed indicators and assessment tools. [It] also forms an institutionalised information system to collate vital information and conduct multi-disciplinary analysis of the kind required to tackle vulnerability reduction and food security issues that will inform policy and decision makers.” (S.5.6.3)</p> <p>Imperative 1 of KPA 2 is to “establish mechanisms for conducting comprehensive multi-hazard disaster risk assessments in Namibia to serve as an interface for DRM planning.” The DDRM is to “develop national standards and guidelines for conducting comprehensive disaster risk assessments that determine the nature and extent of the risk to which Namibia could be exposed. ... The disaster risk assessment process must start with the systematic collection of data at grass roots level by engaging communities and harnessing indigenous knowledge and historical data, which must be integrated with scientific and contemporary knowledge. Information emanating from local disaster risk assessments must be consolidated to generate regional disaster risk profiles, which in turn must be consolidated to generate a national disaster risk profile for Namibia.” (S.8.2.1)</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Imperative 3 of KPA 2 is to “establish mechanisms for tracking, monitoring, updating and archiving disaster risk information”. The DDRM is tasked to “establish mechanisms to ensure that all sectors at national, regional, constituency and local authority level develop and implement clear and documented mechanisms and capacity to track, monitor and update disaster risk information relevant to their functional area; and for making such information available to the DRRM and other relevant stakeholders. Mechanisms must be identified and implemented for the archiving for disaster risk assessment information and for the development of integrated hazard and risk maps to identify geographical areas and communities at risk through the use of Geographical Information Systems and other relevant software.” (S.8.2.3)</p> <p>Imperative 3 of KPA 5 is to “develop and establish mechanisms to enhance research in DRM in Namibia”. The NDRMC is tasked to develop and establish mechanisms to enhance research in DRM in Namibia through”</p> <ul style="list-style-type: none"> • “promoting and strengthening scientific, research and technical capacity in DRR; • strengthening the technical and scientific capacity to develop and apply methodologies, studies and models to assess vulnerabilities to and the impact of geological, weather, water and climate-related hazards, including the improvement of monitoring capacities and assessments; and • encouraging academic disciplines, private sector and key government actors in the collection, synthesis, dissemination and use of available information.” (S.8.5.3) <p>Imperative 4 of KPA 5 is to “develop and establish mechanisms to create public awareness on DRM in Namibia”. The NDRMC is</p>

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			<p>tasked to:</p> <ul style="list-style-type: none"> • “promote the engagement of the media to stimulate a culture of disaster resilience and strong community involvement through sustained public education and consultations; • make DRM information accessible free of charge to all; • secure continued resources for implementing awareness campaigns; • establish relationships with media professionals and other commercial and marketing interests for sustained public awareness campaigns; and • engage respected local officials, religious and community leaders and other interest groups to disseminate information on DRR and popular participation in DRR activities.” (S.8.5.4) <p>Imperative 5 of KPA 4 is to “establish mechanisms for real time information management when a state of national disaster has been declared”. (S.8.4.5)</p>
	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)	S.5(f) & (i)	Insofar as the NDRMC is required to “support and mobilise resources for improved disaster risk assessment, the quality of information and data on disaster risk and for strengthening early warning systems”, and “advocating the development of national information and knowledge management strategies and the establishment of stakeholder networks for DRM”.
		S.11(4)(f) & (g)	Insofar as the Directorate of DRM is required to “assist with the establishment of mechanisms for creating public awareness instilling a culture of risk avoidance”, and “guide the development of a comprehensive information management and communication system”.

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		S.13(2)	<p>“The duties and functions of the Vulnerability Committee are to -</p> <ul style="list-style-type: none"> a) collect vulnerability information including conformation on the prevailing food security status and tracking indicators in order to - <ul style="list-style-type: none"> i. inform early warning on pending disasters; ii. guide rural development strategies; and iii. inform poverty reduction and social safety net programming; b) assess disaster risk indicators to assess factors that influence vulnerability such as livelihoods and means of survival for communities in Namibia; c) assess the outcomes of impacts of disaster on livelihoods and the way the people affected will cope in the event of hazard shocks; d) update livelihood zones and baselines for monitoring vulnerability; e) maintain information for recording and storing vulnerability assessment information; f) compile regular vulnerability assessment reports and submit these to Cabinet through the Committee; g) train regional and constituency officials on vulnerability assessment; and h) monitoring early warning information.”
		S.14(f), (g), (h) & (i)	<ul style="list-style-type: none"> f) “provide support to constituency and settlement disaster risk management committees to implement awareness programmes for the purpose of disaster risk reduction in communities exposed to specific hazards; g) assist with the establishment of mechanisms for creating public awareness to instil a culture of risk avoidance; h) guide the development of a comprehensive information

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>management and effective communication system; i) align regional early warning systems and facilitate the establishment of a regional disaster risk information database”.</p> <p>S.15(3)(f) & (h) Insofar as the Constituency DRMC is required to implement public information and public awareness programmes in their area, and “act as the channel of communication for the community on all issues related to DRM”.</p> <p>S.16(3)(a) & (b) Insofar as the Settlement DRMC is required to “participate in disaster risk assessment, disaster risk reduction activities and in disaster response”, and “serve as an information source and reporting channel for the community with regard to DRM matters”.</p> <p>S.17(7)(g), (i), (n),(o) & (p) Insofar as the Local Authority DRMC is required to -</p> <ul style="list-style-type: none"> • “facilitate the implementation of public information and public awareness programmes in its area; • act as the channel of communication for the community on all issues related to DRM; • assist with the establishment of mechanisms for creating public awareness to instil a culture of risk avoidance; • guide the development of a comprehensive information management and effective communication system; [and] • align regional early warning systems and facilitate the establishment of a regional disaster risk information database”. <p>S.20(2)(b) To the extent that the National DRM Framework incorporates “timely disaster risk reduction actions that contribute to sustainable development by limiting the loss of life and livelihood</p>

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		S.22(1)(c)	and environmental and property damage". To the extent that the DRM programme of governmental institutions consist of "public education on risks to public safety and on disaster preparedness, response and recovery".
		S.24(1)(c)	To the extent that the DRM programme of regional councils consist of "public education on risks to public safety and on disaster preparedness, response and recovery".
		S.25(2)	A Regional DRM Plan must - d) "anticipate the types of disaster that might occur in the region and their possible effects; e) identify the communities and areas at risk; f) provide for appropriate disaster risk reduction strategies; h) contain contingency plans and emergency procedures in the event of a disaster, that provide for - vii. the establishment of strategic communication links; and viii. the dissemination of information".
		S.27(2)(f)	A DRM Plan for settlements must - "include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for - vi. the establishment of strategic communication links; and vii. the dissemination of information".
		S.29(2)(g)	A DRM Plan for local authorities must - "include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for -

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>vi. the establishment of strategic communication links; and vii. the dissemination of information”.</p> <p>See also above Q.102</p>
106. Does the disaster management law, or another law, regulate the collection and publication of seismological, meteorological and climatic data relevant to natural disasters? If so, what does it require and who is responsible for this, and under what law?	<p>National Disaster Risk Management Policy, August 2009</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence Ordinance</i>, No. 3 of 1979)</p>		<p>Both the NDRMP and DRM Act 2012 do not specifically address the regulation of the collection and publication of seismological, meteorological and climatic data relevant to natural disasters.</p> <p>See above Q.105</p> <p>The Meteorological Services of Namibia provides the meteorological and climatic data relevant to natural disasters and issues warning alerts and bulletins; however, the study was unable to locate any legal mandate.</p> <p>See also: SADC Protocol on Transport, Communication and Meteorology, ratified on 19 September 1997</p>
107. Does the disaster management law, or another law, regulate the collection and publication of baseline population data, especially in high risk areas? If so, what does it require and who is responsible for this, and under what law?	<p>Identification Act, No. 21 of 1996, 6 November 1996</p> <p>Statistics Act, No. 9 of 2011, 2 August 2011 (repealed Statistics Act, No. 66 of 1976 and Statistics Amendment Proclamation, No. AG. 16 of 1981)</p>		<p>Both the NDRMP and DRM Act 2012 do not specifically provide for the regulation of the collection and publication of baseline population data in high risk areas.</p> <p>The <i>Identification Act</i> (1996) provides for the compilation and maintenance of a population register in respect of the population of Namibia and for the issuance of identity documents. It does not provide for the regulation of the collection or publication of baseline population data for DRM purposes.</p> <p>The <i>Statistics Act</i> (2011) provides the legal framework which tasks the Namibia Statistics Agency (formerly Central Bureau of Statistics) to undertake a population and housing census every 10 years. Namibia’s last population and housing census was on 28</p>

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			August 2011. The said census did not specifically address the issues of DRM for population in high risk areas.
Part Four. Regulation of the Built Environment			
The aim is to outline the laws and regulations that set out building and construction standards, relevant approvals and enforcement processes, as well as planning and construction of roads & bridges, and land use planning and zoning, such as: urban and rural planning and zoning, including prohibitions on development of high risk sites, public open space for evacuation, access for rescue services such as fire and ambulance, and including regulation of informal settlements; regulation and responsibility for water storage, distribution and quality control for human consumption, flood mitigation construction and other water management against flooding; land tenure, including mapping and registration of tenure rights (especially participatory land mapping with communities) and any recognition of indigenous land rights and occupiers' rights; regulation of emergency and transitional shelter; and regulation or treatment of informal settlements.			
A. Building Codes			
Identify building and construction codes, including fire, flood and earthquake safety, as relevant to identified risks, including any differences in regulation, such as between large urban construction and small residences in rural villages; building regulations, including approvals, inspection and enforcement; and any regulation of emergency and transitional shelter, and informal settlements.			
108. Is there a national building and construction law? If so, what authority is responsible for its implementation?			<p>The <i>Standards Act</i> (2005) repealed the <i>Standards Act</i>, No. 33 of 1962; however, Section 35(3) of said Act states that, “[a]ny standard building regulation which was framed and published in terms of section 14<i>bis</i> of the <i>Standards Act</i>, 1962 (Act No. 33 of 1962), and which was in force immediately before the commencement of this Act, remains in force, as if that section had not been repealed by this Act, until otherwise provided by any other law.”</p> <p>The <i>Standards Act</i> (2005) established the Namibian Standards Institution (NSI), which is managed and controlled by the Namibian Standards Council (S.2 & 3). The objects of the NSI include “to promote standardisation and quality assurance in the industry, commerce and the public sector in Namibia, with the aim of improving product quality, industrial efficiency and productivity,</p>

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			<p>and to promote trade, so as to achieve optimum benefits for the public of Namibia in general” (S.4(a)), and its functions include “to prepare, issue and promote Namibian standards and other standards, including specifications and codes of practice, in relation to any commodity” (S.5(2)(a)); and “to collect, disseminate and provide information relating to standards and related technical matters on international, national and regional level” (S.5(2)(e)).</p> <p>NSI’s website, www.nsi.com.na did not provide any information on Namibia’s building regulations or standards.</p> <p>Namlex (2010) - Index to the Laws of Namibia referred to “Standard Building Regulations contained in RSA GN No. 1431 of 17 August 1973” established pursuant to Section 14<i>bis</i> of the <i>Standards Act</i> (1962). The study was unable to locate the Standard Building Regulations online as of 27 August 2012.</p> <p>The executive summary of the report, “Revision of Namibian Building Codes to Incorporate Renewable Energy and Energy Efficiency”, February 2008, stated that, “Namibia currently follows the South African SANS[1]0400 building code. South Africa has initiated work for an additional standard for energy efficiency in buildings which Namibia could follow once legislated.” (p.2) (Source: http://www.reeei.org.na/downloads.php (accessed 27 August 2012))</p> <p>Further, the “Final Report - Baseline Study on Energy Efficiency in Buildings in Namibia”, November 2011 notes that “[a]ccording to the Namibian Standards Institution, by agreement, South African standards of the South African Bureau of Standards automatically apply in Namibia.” (footnote 4 at p.18) (Source: http://www.reeei.org.na/projects/NEEP/NEEP%20Baseline%20Stu</p>

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			<p>dy%20FINAL%20report.pdf (accessed 27 August 2012)</p> <p>South Africa's national building code, SANS 10400 - 1990 was developed by the South African Bureau of Standards pursuant to <i>National Building Regulations and Building Standards Act, No. 103 of 1977</i> (as amended). The SANS 10400 - 1990 national building code has recently been amended following amendments in 2008 and 2011 to the <i>National Building Regulations and Building Standards Act (1977)</i>. The "Baseline Study on Energy Efficiency in Buildings in Namibia" (2011) did not consider these amendments. The study did not access the amended SANS 10400 national building code, which is for sale on SABS' website.</p> <p><u>National Disaster Risk Management Policy (2009)</u> KPA 3 states that, "[s]ocial and economic development practices must include initiatives to reduce disaster risk that support and promote: ...</p> <ul style="list-style-type: none"> • protecting and strengthening critical public facilities, utilities and physical infrastructure through proper design, retrofitting, rebuilding and preventive maintenance in order to render them adequately resilient to hazards"; • the revision of existing or the development of new building codes and standards, and • the revision of rehabilitation and reconstruction practices at national and local levels with the aim of making them more applicable in the local context, particularly in informal and marginal human settlements and to reinforcing capacity to implement, monitor and enforce such codes." <p>Imperative 1 of KPA 3 requires "the introduction of mechanisms for setting and implementing minimum building standards, especially for low-cost housing, to ensure structural soundness</p>

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			<p>that withstands the impact of extreme weather patterns or other adverse conditions” (S.8.3.1).</p> <p><u>Disaster Risk Management Act (2012)</u> S.20(2)(f) states, that the National DRM Framework is to incorporate “the introduction of mechanisms for setting and implementing minimum building standards, especially for low-cost housing, to ensure structural soundness that withstands the impact of extreme weather patterns or other adverse conditions”.</p> <p><u>National Policy on Climate Change for Namibia (2011)</u> In relation to infrastructure the Policy states that, “[t]o effectively ensure sustainable management of infrastructure and developmental challenges related to climate change, the government will:</p> <ol style="list-style-type: none"> a) Establish and enforce standards for infrastructure development such as roads, housing, and water infrastructure; etc., through monitoring and reporting systems. b) Encourage the integration of climate change issues into development planning strategies. c) Develop a national strategy for infrastructural developments that take into account the risks related to climate change and that are environmentally friendly. d) Encourage the adoption of town planning standards and principles to make cities and towns more climates resilient.”
109. If there is not a national building and construction law, is this issue regulated at provincial/state or local level? If sub-national regulation only, can you find an example of such a law?			NA
110. Does the building and construction			South Africa’s National Building Code SANS10400 (as amended)

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>law include detailed building codes, regulations or rules? Are these codes mandatory and binding? What areas do they cover (e.g. fire, earthquake, general building design and construction, health requirements, water & sanitation etc.)? List these categories of regulation.</p>			<p>covers:</p> <ul style="list-style-type: none"> • Part A - Administration • Part B - Structural Designs • Part C - Dimensions • Part D - Public Safety • Part E - Demolition Work • Part F - Site Operations • Part G - Excavations • Part H - Foundations • Part J - Floors • Part K - Walls • Part L - Roofs • Part M - Stairways • Part N - Glazing • Part O - Lighting and Ventilation • Part P - Drainage • Part Q - Non-Water-Bourne Means of Sanitary Disposal • Part R - Stormwater Disposal • Part S - Facilities for Disabled People • Part T - Fire Protection • Part U - Refuse Disposal • Part V - Space Heating • Part W - Fire Installation
<p>111. Does this law include mechanisms for individual building approvals? If so, which institution(s) have responsibility for this?</p>			<p>The study was unable to locate the relevant laws online to ascertain its contents.</p> <p>The Study did locate a brochure from the Municipality of Walvis Bay on “Submission of Building Plans” at http://www.walvisbaycc.org.na/wp-content/uploads/Building-Plans.pdf (accessed 27 August 2012) and a “Checklist for Building Compliance Certificate”, Division of Building Control, City of Windhoek at http://www.namibia-</p>

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			<p>realestate.com/attachments/CityBuildingChecklist.pdf (accessed 27August 2012).</p> <p>It appears from these documents that the Local Authorities are responsible for building controls, approvals, permits and inspection. The checklist did not provide any references to disaster risk measures except for fire protection.</p>
<p>112. Does this law include mechanisms for building inspections? If so, which institution(s) have responsibility for this? Does it apply to:</p> <ol style="list-style-type: none"> New buildings? Renovations / extensions of existing buildings? Existing buildings where there is no building application, such as old buildings that may no longer be safe? 			<p>The study was unable to locate the relevant laws online to ascertain its contents.</p>
<p>113. Does this law include mechanisms for enforcement of codes, including sanctions? What type of sanctions (e.g. fines, whole or partial demolition orders)? If so, which institution(s) have responsibility for this?</p>			<p>The study was unable to locate the relevant laws online to ascertain its contents.</p> <p>The South African SANS10400 - 1009 does provide for sanctions for offences against the National Building Code.</p>
<p>114. Do the building regulations have special standards or requirements for:</p> <ol style="list-style-type: none"> schools? hospitals? fire stations? other public buildings that may also be required as collective 			<p>The study was unable to locate the relevant laws online to ascertain its contents.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
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centres in case of disaster (e.g. ministries, sports complexes, churches, mosques etc.)?			
115. Do the building regulations or land use planning laws (or other special laws) include regulation of large commercial buildings and developments (such as multi-storey shopping centres, office buildings and factories)? Identify & describe.			<p><u>Building Regulations</u> The study was unable to locate the relevant laws online to ascertain its contents.</p> <p><u>Land Use Planning Laws</u> No applicable laws found online.</p>
116. Do the building laws/regulations include large, multi-storey apartment buildings? Identify & describe.			The study was unable to locate the relevant laws online to ascertain its contents.
117. Do the building laws/regulations include small self-built constructions? Identify & describe.			The study was unable to locate the relevant laws online to ascertain its contents.
118. Do the building laws/regulations differ as between urban and rural settings? If building laws/regulations are different in rural settings, what are the main differences compared with urban settings? E.g. <ul style="list-style-type: none"> a. the extent of regulation? b. the level of government at which it is regulated? c. other? 			The study was unable to locate the relevant laws online to ascertain its contents.
119. Do the building/planning laws/regulations include emergency and transitional shelter? If so, what form of regulation and which institution(s) have responsibility for this?			The study was unable to locate the relevant laws online to ascertain its contents.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>120. Do the building laws/regulations include:</p> <p>a. Inspections?</p> <p>b. programmes and/or incentives for making existing buildings safe (e.g. retro-fitting for earthquake resistance, addition of fire escapes, condemning unsafe buildings including demolition orders, tax or funding incentives for owners to fortify buildings)?</p> <p>If so, what form of regulation and which institution(s) have responsibility for this?</p>			<p><u>Inspections</u> See above Q.111</p> <p><u>Programs and Incentives for Safe Buildings</u> The study was unable to locate the relevant laws online to ascertain its contents.</p>
<p>121. What if any provision is there for planning, approval and construction of public roads, bridges and related public works? – describe the authority(s) & mandate(s).</p>	<p>Roads Authority Act, No. 17 of 1999, 6 October 1999 (as amended)</p>	<p>S.16(1)</p>	<p>Section 2 of the <i>Roads Authority Act</i> (1999) established the Roads Authority to “manage the national road network in accordance with Section 16 with a view to achieving a safe and efficient road sector.” (S.3)</p> <p>“The Authority shall undertake the management of the national road network, including-</p> <p>a) the planning, designing, construction and maintenance of roads which are part of the national road network;</p> <p>b) the quality control of materials required for the proper construction and maintenance of roads;</p> <p>c) the supervision of work contracted out in terms of subsection (2);</p> <p>d) the operation of road management systems;</p> <p>e) subject to any other law, the prevention of the excessive damaging of roads by road users or any other parties; and</p> <p>f) the performance of any other function assigned to it by or under any law, or by the Minister by notice in the <i>Gazette</i>, which is necessary in order to achieve the objectives of this Act</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
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			<p>or for any purpose relating to road traffic or road transportation.”</p> <p>Section 16(5) allows the Minister to “prescribe minimum standards and measures for the management of the roads comprising the national road network, and minimum standards for the maintenance of such road network which are reasonably required to -</p> <ol style="list-style-type: none"> a) achieve a safe road system; b) ensure compliance with the international obligations of the State; or c) cause the least possible disruption of the environment, but subject to the provisions of any other law.” <p>See also:</p> <ul style="list-style-type: none"> • <i>Roads Contractor Company Act (1999)</i>(as amended), which provides for the incorporation of a company to “undertake work relating to the construction or maintenance of roads in accordance with sound and generally accepted business principles” (S.4). • <i>Road Fund Administration Act (1999)</i>, which established the Road Fund Administration and Road Fund for the implementation of the works of the Roads Authority and other costs. • Roads Ordinance, No. 17 of 1972 (as amended), which was noted by Namlex - Index to the Laws of Namibia, however, the study was not able to locate said Ordinance.
122. Are there other matters relevant to DRR that are regulated in the building and construction laws of the subject country?			No applicable laws found online.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
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B. Land Use Planning Laws			
The aim is to identify whether there are national laws and statutory authorities with responsibility for land zoning and/or land use planning. If there is not a national law or authority, the issue may be regulated at provincial/state or local level and examples of these laws may not be available. However, although land use planning is frequently regulated at local government level, the underlying principles or institutional responsibilities may be included in national or provincial laws. Also, many major cities now have planning law overlays that cross local government boundaries, and may be determined under national or provincial/state laws. In other cases, special regimes have been established to manage the course of a major river that crosses many local boundaries (and these laws may also refer to bilateral treaties about cross-boundary water management - for DRR as well as water use – which may bring them under national law through the treaty powers).			
123. Are there national laws and statutory authorities with responsibility for land zoning and/or land use planning?			<p>Responsible authorities Ministry of Regional and Local Government, Housing and Rural Development The MRLGHRD has the most comprehensive legal powers and institutional framework to carry out planning, hosting a dedicated division for urban and regional planning. It has the mandate to ensure appropriate town planning and infrastructural development.</p> <p><u>Directorate of Housing, Habitat Planning and Technical Services Coordination</u> The mission of said Directorate is “[t]o provide support to Regional Councils and Local Authorities to ensure effective and efficient provision of shelter, physical planning and municipal services in order to improve social and living conditions in general and of low-income groups within the concept of human settlements development.”</p> <p><u>Division, Housing Coordination (within DHHPTSC)</u> The objectives of the Division of Housing Coordination are:</p> <ul style="list-style-type: none"> • Strengthen policy formulation and implementation action through the enhancement of an enabling institutional

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			<p>environment</p> <ul style="list-style-type: none"> • Ensure effective monitoring of the decentralized functions to Regional Councils/ Local Authorities • Establish effective mechanisms in order to follow holistic coordinated approach in meeting appropriate and affordable demand of housing and infrastructure in general and particularly of low and ultra low income groups <p>The MRLGHRD has also established the Habitat Research and Development Centre to “promote the use of local, indigenous building materials and designs, to engage multi-disciplinary teams in basic research, the adaptation of existing knowledge and applied research to achieve a holistic approach to problem solving in the field of housing and its related issues.” (Source: www.mrlgh.gov.na, accessed 29 August 2012)</p> <p>Ministry of Lands and Resettlement <u>Division of Land Use Planning and Allocation</u> (within Directorate of Land Reform under the Department of Land Reform and Settlement)</p> <p>The DLUPA is “the national systematic assessor of the natural resources potential, make alternatives for land use, economic and social conditions in order to select the best land use options; mainly responsible for developing land use plans for commercial and communal land, coordinating inter-sectoral land use activities.”</p> <p>Its core functions are:</p> <ol style="list-style-type: none"> 1. “Implementation of the <i>Agricultural (Commercial) Land Reform Act</i> (No.6 of 1995) <ol style="list-style-type: none"> a. Identify loopholes in the Act and seek for amendments b. Seek legal advice on the implementation of the Act

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			<p>c. Produce, maintain and update farm database</p> <p>2. To acquire agricultural land for resettlement purposes in accordance with the <i>Agricultural (Commercial) Land Reform Act</i> (No.6 of 1995)</p> <p>a. Identify suitable farms for resettlement purposes</p> <p>b. Acquired farms offered to the government for sale through willing seller willing buyer and expropriation</p> <p>c. Carry out farm assessment and demarcation</p> <p>d. Process waiver/exemptions certificate for the disadvantage Namibians</p> <p>e. Process consent applications for the foreign nationals</p> <p>To develop and update Integrated Regional Land Use Plans (IRLUP)</p> <p>f. Formulation of land use plans</p> <p>g. Produce, maintain and update GIS database</p> <p>h. Develop guidelines and Participatory Land Use Planning manuals</p> <p>i. Monitoring of compliance for the implementation IRLUP".</p> <p>It also provides administrative functions to the Land Tribunal.</p> <p><u>Division of Land Boards, Tenure and Advice</u> (within Directorate of Land Reform under the Department of Land Reform and Settlement)</p> <p>The mission of the DLBTA is "mission is to fairly administer Namibia's communal land policies and legislation, through Communal Land Boards and Traditional Authorities and to ensure an effective development and sustainable utilization of communal land. The Division is therefore tasked to administer the National Land Policy, the National Land Tenure Policy and the <i>Communal Land Reform Act</i>, to coordinate Communal Land Boards, and develop communal areas (excluding land that falls under the jurisdiction of Local Authorities) and to render advisory service on land tenure systems."</p>

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			<p>Its mandate are:</p> <ul style="list-style-type: none"> • “To implement the <i>Communal Land Reform Act</i> (No. 5 of 2002); • To amend the <i>Communal Land Reform Act</i>; • To provide administrative support to Communal Land Boards countrywide; • To ensure development of communal land; and • To oversee and facilitate the administration and management of communal land in all regions.” <p><u>Directorate of Resettlement</u> (within the Department of Land Reform and Settlement) The Directorate of Resettlement is responsible for allocation of resettlement farms (resettlement process), resettlement rental fees and lease agreements, post settlement support, etc.” (Source: www.mlr.gov.na, accessed 28 August 2012)</p> <p>The applicable laws include:</p> <ul style="list-style-type: none"> • <i>Town Planning Ordinance</i>, No. 18 of 1954 (as amended) • <i>Flexible Land Tenure Act</i>, No. 4 of 2012, 14 May 2012 • <i>Agricultural (Commercial) Land Reform Act</i>, No. 6 of 1995 (as amended) • <i>Communal Land Reform Act</i>, No. 5 of 2002 (as amended) • <i>National Housing Enterprise Act</i>, No. 5 of 1993 (as amended) • <i>National Housing Development Act</i>, No. 28 of 2000 (replaced the <i>National Housing Levy and Contributions Ordinance</i>, No. 22 of 1961 and <i>Housing Ordinance of the Administration of Coloureds</i>, No. 4 of 1983) • <i>Land Survey Act</i>, No. 33 of 1993 (replaced <i>Land Survey Act</i>, No. 9 of 1927) • <i>Sectional Titles Act</i>, No. 2 of 2009 (replaced <i>Sectional Titles Act</i>,

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			<p>No. 66 of 1971)</p> <p>Urban Land Development <u>Town Planning Ordinance (1954)</u> Section 1(1) of the <i>Town Planning Ordinance (1954)</i>(as amended) requires that - “Every town planning scheme shall have for its general purpose a co-ordinated and harmonious development of the local authority area, or the area or areas situate therein, to which it relates (including, where necessary, the re-construction and re-development of any part which has already been sub-divided, whether there are or are not buildings thereon) in such a way as will most effectively tend to promote health, safety, order, amenity, convenience and general welfare, as well as efficiency and economy in the process of development and the improvement of communications.”</p> <p>Every Local Authority to which the Ordinance applies is required to prepare a town planning scheme (Ss. 5, 6 & 43) subject to the approval of the Minister (Ss.16, 21 & 22) and appeals by aggrieved persons (S.19) and right of objection by any owner or occupier of immovable property within the area to which the scheme applies (S.24); and can appoint a town planning committee (S.8).</p> <p>The Ordinance established the Namibia Planning Advisory Board (formerly the South West Africa Planning Advisory Board), which functions include “to formulate in general terms a town planning policy for the Namibia with special reference to various types of development in their relation to roads, railways, residential, commercial and industrial areas, educational and other public institutions, townlands, places of recreation, open spaces, water supply, sanitation, soil suitability and the like, including also the</p>

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			<p>administrative and financial implications which certain types of development would have in respect of local government control”, and “to undertake any survey within the Namibia and to assign plans in connection therewith”. (Ss.12(2)(b) & (c))</p> <p>The Third Schedule notes that the Ordinance only applies to Windhoek.</p> <p>See also: <i>Town and Regional Planners Act, No. 9 of 1996 (as amended)</i>, which established the Namibian Council for Town and Regional Planners and provides for the registration and training of town and regional planners.</p> <p><u>Flexible Land Tenure Act (2012)</u> Section 2 states that “[t]he objects of this Act are:</p> <ul style="list-style-type: none"> • To create alternative forms of land title that are simpler and cheaper to administer than existing forms of land title; • To provide security of title for persons who live in informal settlements or who are provided with low income housing; • To empower the persons concerned economically by means of these rights.” <p>Section 3 states that, “[s]tarter title schemes and land hold title schemes may only be established on land situated within the boundaries of a municipality, town or village council or within the boundaries of a settlement area.”</p> <p>The Act allows the Minister to establish Land Rights Offices (S.4) and requires the Registrar of Deeds to establish a land hold title register and a starter title register (S.6(1)).</p>

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			<p>Under Section 9(1) of the Act, “the holder of a starter title right has the right -</p> <ul style="list-style-type: none"> a) to erect a dwelling on the blockerf at the specified location of the specified size and nature; b) to occupy the dwelling referred to in paragraph (a) in perpetuity; c) on his or her death to bequeath the dwelling to his or her heirs and to lease to another person; d) subject to subsection (3), to utilise such services as may be provided to the scheme as a whole by a local authority or any other person; e) to transfer his or her rights to any other person, (whether that person is the heir of the holder of that rights or whether the transfer is another transaction recognised by law); f) to be a member of the association of the scheme concerned.” <p>Further, “[e]xcept for persons who are married in community of property, a starter title right may not be held by more than one person jointly” (S.9(9)); and “[n]o natural person may hold more than one starter title right and no person may acquire a starter title right if he or she is the owner of any immovable property or a land hold title right in Namibia” (S.9(10)). No juristic person may hold a starter title (S.9(8)).</p> <p>Under Section 10(1) the holder of land hold title has the following rights —</p> <ul style="list-style-type: none"> a) “subject to the provisions of this Act, all the rights in the plot concerned that an owner has in respect of his or her erf under the common law; b) may subject to the provisions of this Act, perform all the juristic acts in respect of the plot concerned that an owner may perform in respect of his or her erf under the common

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			<p>law;</p> <p>c) has an undivided share in the common property;</p> <p>d) is a member of the association of the scheme concerned.”</p> <p>A starter title scheme could be upgraded to a land hold title scheme if at least 75% of the rights holder in the starter title scheme consent (S.14(1)). Both the starter title scheme and land hold title scheme could be upgraded to full ownership if it is situated within the area of an approved township (S.15(1)).</p> <p>Any person having a substantial interest in any decision of the Registrar may appeal to the Magistrates Court of the district in which the property concerned is situated (S.19).</p> <p>Rural Land Development <u>Agricultural (Commercial) Land Reform Act (1995)</u> The object of this Act is to “provide for the acquisition of agricultural land by the State for the purposes of land reform and for the allocation of such land to Namibian citizens who do not own or otherwise have the use of any or of adequate agricultural land, and foremost to those Namibian citizens who have been socially, economically, or educationally disadvantaged by past discriminatory laws or practices” (S.14). The State has preferent right to purchase agricultural land (S.17(1) subject to certain exceptions. The owner of agricultural land cannot alienate the land unless s/he has first offered the sale of the land to the State and been provided with a certificate of waiver in respect of such land (S.17(2)).</p> <p>“Except with the prior consent of the Minister, any farming unit purchased under this Part shall not be used for any purpose other than agricultural purposes and for the occupancy by the purchaser</p>

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			<p>and the family of the purchaser and the necessary employees of the purchaser and their families (S.55(1)).</p> <p>The Act established the Land Reform Advisory Commission (Part I) and Lands Tribunal (Part VII). The amendments in 2000 established the Land Acquisition and Development Fund.</p> <p><u>Communal Land Reform Act (2002)</u> This Act provides for the recording and registration of all land rights in communal areas, either as customary land rights or as rights of leaseholds. As communal land is held in trust by the Government, it cannot be bought or sold, but it can be transferred (S.42).</p> <p>Section 2 provides for the establishment of Communal Land Boards by the Minister following consultations with the Traditional Authorities that may be affected. The functions of the Communal Land Board include:</p> <ul style="list-style-type: none"> • Control the allocation and cancellation of customary land rights by Chiefs or Traditional Authorities; • Decide on applications for rights of leasehold; and • Create and maintain registers for the allocation, transfer and cancellation of customary land rights and rights of leasehold. <p>Under Section 16, with the approval of the National Assembly, the President may by proclamation:</p> <ul style="list-style-type: none"> • declare any defined State land to be communal land, • add any State land to an existing communal land area, or • withdraw a defined area from communal land, provided that the State has: <ul style="list-style-type: none"> – acquired all the rights of people affected by the withdrawal (such as customary land rights and rights of

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			<p>leasehold), and</p> <ul style="list-style-type: none"> - paid just compensation for these rights. <p>The Act takes a strong position against the erection of fences. Section 18 prohibits the erection of fences without proper authorisation.</p> <p>Section 19 provides for the allocation of the following rights in respect of communal land:</p> <ul style="list-style-type: none"> • Customary land rights, which include - <ul style="list-style-type: none"> - a right to a farming unit; - a right to a residential unit; and - a right to any other form of customary tenure that is recognized and described by the Minister; and • Rights of leasehold. <p>Pursuant to Section 20 the Chief of a traditional community or the Traditional Authority of the particular community has the primary power to allocate or cancel any customary land rights. The allocation and cancellation of customary rights needs to be ratified by the Communal Land Board before it is legally enforceable (Ss.24 & 27). Existing customary land rights holder must apply for recognition and registration of their existing customary land rights within 3 years of the date announced by the Minister subject to any extensions (S.28(3)).</p> <p>Any person with rights to communal land existing at the time of the commencement of this Act, which are not recognized by customary law (eg. Permission to Occupy) are also required to apply for the recognition of such right and registration of a leasehold within 3 years of the date announced by the Minister subject to any extensions (S.35).</p>

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			<p>See also: MLSR's Notice No. 37 of 2003 dated 24 February 2003, which prescribed the Regulations for the <i>Communal Land Reform Act</i> (2002) annexed in LAC & NNFU, "Guide to the Communal Land Reform Act (2002)", 2003, at http://www.met.gov.na/Documents/communal%20land%20reform%20guide.pdf (accessed 28 August 2012)</p> <p>Note: A review commenced in 2007 to consolidate and amend the <i>Agricultural (Commercial) Land Reform Act</i> (1995) and the <i>Communal Land Reform Act</i> (2002) into the one Land Act.</p> <p>National Housing Development <u>National Housing Development Act (2000)</u> This Act established the National Housing Advisory Committee (S.2), whose functions include: advising the Minister on any aspect of national housing, including the formulation and implementation of specific policies and programmes relating to low cost residential accommodation, determine appeals from regional councils or local authority council regarding decisions of the Decentralized Building Together Committee, and review decisions of regional councils and local authority councils on matters relating to housing (S.5).</p> <p>The Act requires every regional council and local authority council to establish and administer the Housing Revolving Fund (S.8(1) & 15(5)). The objects of the Housing Revolving Fund are:</p> <ul style="list-style-type: none"> • "to grant loans to persons for the purpose of constructing or acquiring low cost residential accommodation, or for the purpose of acquiring land, in geographical areas; • to acquire land or materials for the purpose of constructing

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			<p>low cost residential accommodation in geographical areas, to construct such accommodation and to let or sell such accommodation to any person;</p> <ul style="list-style-type: none"> • to grant loans to persons for the purpose of constructing low cost residential accommodation in geographical areas on behalf of other persons; and • to do anything which is necessary in order to attain the objects and purposes of this Act.” (S.9) <p>Pursuant to Section 23(1) the “Housing Revolving Fund shall have a preferent right, subject to the other provisions of this section, to purchase property -</p> <ol style="list-style-type: none"> a) acquired by any person by means of the proceeds of a loan granted by such Housing Revolving Fund to such person pursuant to any provision of this Act; or b) sold by such Housing Revolving Fund to such person under Section 21, if such person intends to alienate such property.” <p>Section 26 established the Decentralized Build Together Committee for each region. The functions of the said Committee are:</p> <ol style="list-style-type: none"> a) “inform the inhabitants of a geographical area about the existence, objectives and purposes of a Housing Revolving Fund; b) receive applications from person who apply for assistance by a Housing Revolving Fund; c) determine whether applicants for assistance are eligible, by virtue of their being inhabitants of a geographical area, for assistance by a Housing Revolving Fund; d) submit applications referred to in paragraph (b), together with written recommendations made by the Committee, to the regional councillor local authority council concerned;

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			<p>e) submit quarterly reports to the regional council or local authority council concerned, as the case may be, relating to -</p> <ul style="list-style-type: none"> i. the activities of a Housing Revolving Fund within; and ii. the housing needs of the inhabitants of, the geographical area concerned; and <p>f) perform such other functions as the Minister may designate to it in writing.”</p> <p>See also: <i>National Housing Enterprise Act, No. 5 of 1993 (as amended)</i></p> <p>National Policies <u>National Housing Policy (1991)</u> The study was unable to locate said policy online. The following is extracted from Sweeney-Bindels E., “Housing Policy and Delivery in Namibia”, Institute for Public Policy Research, undated (c.2011) at pp.10-11. http://www.az.com.na/fileadmin/pdf/2011/az/Housing-Policy-10-24-11.pdf (accessed 27 August 2012)</p> <p>“Strategies outlined in the National Housing Policy are:</p> <ul style="list-style-type: none"> • Housing as an agent of economic growth <ul style="list-style-type: none"> – The policy provides for the establishment of a Home Loan Credit Guarantee Trust to be established to provide and facilitate accessibility to technical and financial resources for those who are unable to afford credit facilities offered by commercial and development financing institutions. – Promotion of capital investment in local and regional infrastructure to speed up the process of land delivery – Local and regional authorities are responsible for developing and providing land for public and low-cost housing development purposes, but central government is stated as providing grants, subsidies and possibly soft loans

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			<p>to invest in local infrastructure.</p> <ul style="list-style-type: none"> - It states that the approval process of proclamation, surveying, subdivision and registration of municipal land should be shortened to a period of six months or less. - It prescribes a minimum erf size of 300m², with possible exemptions for smaller erven. - Mobilisation of domestic savings and affordable credit to provide and finance housing - The Government Institutions Pension Fund and other private pension funds should provide investment capital for housing and should serve as guarantee mechanisms to back home loan facilities of their members • Provision of subsidies and grants by government and development partners to support social housing <ul style="list-style-type: none"> - For basic shelter for individual citizens and families without income - Includes the Build Together Programme and community based initiatives • Creating sustainable human settlements through an integrated housing development approach <ul style="list-style-type: none"> - Upgrading of informal settlements - Extending housing to rural areas - Making housing an integral part of development efforts • Promotion of the use of appropriate and alternative technologies, methods and services in order to provide affordable housing solutions <ul style="list-style-type: none"> - Use of alternative building materials and technologies, alternative housing types, alternative service levels and standards, and alternative forms of ownership - Focus on minimising cost and making housing more affordable • Introduction of a four-based housing mix

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			<ul style="list-style-type: none"> - Houses for sale, rental accommodation (including rent to buy option), social/subsidy housing, houses built by people themselves • Strengthening the housing regulatory environment <ul style="list-style-type: none"> - Amendment of National Housing Development Act of 2000 - Set up of a Namibia Housing Code and the Housing Industry Regulatory Council to regulate the housing sector. This will include registration of all housing developers. • Enhancing institutional capacity and cohesion within the housing sector <ul style="list-style-type: none"> - Organisation of national housing forums on an annual basis and national housing conferences - The Skills Development Resource Centres from the Habitat Research and Development Centre (HRDC) should provide technical support to Local Authorities and Regional Councils to manage and operate the Build Together Program and to community based housing initiatives such as SDFN. • Supporting people housing processes <ul style="list-style-type: none"> - Government shall provide financial resources in the form of housing subsidies, facilitation and grant funding - Decentralised Build Together Programme will be strengthened”. <p><u>National Land Policy (1998)</u> The study was unable to locate said policy online. The following is extracted from “A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia”, LEAD Project, LAC, 2005 at p.30. http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallouro wn.pdf (accessed 1 September 2012)</p>

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			<p>“This policy provides for a unitary land system for the country that accords all citizens equal rights, opportunities and security across a range of land tenure and management systems. The policy contains a special gender provision, in line with Article 95 of the Namibian Constitution, according women the same status as men with regard to all forms of land rights, either as individuals or as members of family land ownership trusts. The policy provides that all widows and widowers are entitled to retain the land rights they enjoyed during their spouse’s lifetime. It provides for multiple forms of land rights ranging from customary grants to leaseholds and freehold titles, licences, certificates or permits and state ownership. In addition it sets the direction for addressing the situation of the urban poor: informal settlements will receive attention through appropriate planning, land delivery and tenure, registration and financing, with environmental sustainability borne in mind.</p> <p>The policy requires the establishment and proclamation of urban areas as townships and municipalities where appropriate, to promote decentralisation and the close involvement of communities in their own administration. It states that particular attention must be given to establishing a transparent, flexible and consultative local authority planning system and development regulations. It also recommends the enactment of legislation enabling the compulsory acquisition of land by central or local governments for public purposes in accordance with Article 16 of the Constitution.”</p> <p><u>National Resettlement Policy (2001) and Affirmative Action Loan Scheme (AALS)</u></p> <p>The National Resettlement Policy aims to redress past imbalances in the distribution of economic resources, particularly land and</p>

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			<p>secure tenure. The government's classification of beneficiaries for resettlement covers a wide range of people, and arguably virtually every poor person in Namibia. Under the programme, the government has purchased farms for resettlement purposes and constructed and allocated houses. The AALS managed by the Agricultural Bank of Namibia on the government's behalf was introduced by Cabinet in 1992. The main purpose of the AALS is to resettle well-established and strong communal farmers in commercial farming areas to minimise the pressure on grazing in communal areas.</p> <p>(Source: "A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia", LEAD Project, LAC, 2005 at pp.31-32. http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallouro wn.pdf (accessed 1 September 2012))</p> <p>See also:</p> <ul style="list-style-type: none"> • Namibia's Vision 2030 and National Development Plans • National Land Tenure Policy - the study was unable to locate said policy online <p>Note:</p> <p>The following laws were noted in Namlex - Index to the Laws of Namibia (2010), however, the study was not able to locate said laws online.</p> <ul style="list-style-type: none"> • <i>Crown Land Disposal Proclamation</i>, No. 13 of 1920 (as amended) authorised the Administrator of South West Africa to set aside Crown Lands as reserves "for the use and benefit of aboriginal natives, coloured persons and Asiatics", as well as for various public purposes." • <i>Land Titles Proclamation</i>, No. 2 of 1921 (as amended) makes provisions for the issue of registered title to certain lands in

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			<p>Namibia.</p> <ul style="list-style-type: none"> • <i>Small Settlements Commonages Subdivision Proclamation</i>, No. 13 of 1926, which provides for the subdivision of commonages assigned to “Small Settlements” established by the German administration. • <i>Control of Sites (Churches, Schools and Missions) Proclamation</i>, No. 31 of 1932, empowers the Administrator to set aside portions of land designated as “reserves for natives or coloured persons” as sites for churches, schools or missions. • <i>Townships and Division of Land Ordinance</i>, No. 11 of 1963 (as amended) relates to the establishment of townships. • <i>Subdivision of Agricultural Land Act</i>, No. 70 of 1970 (as amended) controls the subdivision of agricultural land. • <i>Removal of Restrictions Ordinance</i>, No. 15 of 1975, provides for the alteration, suspension or removal of restrictions on the usage of land. • <i>Expropriation Act</i>, No. 63 of 1975 (as amended) provides for expropriation by the Railway Administration. • <i>Promotion of the Density of Population in Designated Areas Act</i>, No. 18 of 1979 (as amended) provides for the designation of certain areas for the promotion of population density and farming activities. <p>See also:</p> <ul style="list-style-type: none"> • Jones B. T. B., “Policy and Legislative Review on Land Use Planning in Namibia”, March 2009 • Haub O., “Understanding of Land Use Planning and Its Relevance to Namibia”, Namibia Land Management Series Number 1, Namibia Institute for Democracy and Ministry of Lands and Resettlement, 2009 • Raith J., “Legal Aspects of Land Use Planning in Namibia”, Windhoek, June 2011

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			<ul style="list-style-type: none"> LAC, "A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia", LEAD Project, LAC, 2005.
124. Is this issue regulated at provincial/state or local level? If so, can you find an example of such a law at each level?			<p>The laws and policies noted at Q.123 are regulated at the national level; however, the Namibian Government promotes a decentralised system of governance through Regional Councils, Local Authorities and Traditional Authorities.</p> <p><u>Regional and Local Authorities</u> Section 28 of the <i>Regional Councils Act</i> (1992), provides Regional Councils with the legal power and mandate to undertake development planning in their regions with a view to:</p> <ul style="list-style-type: none"> Physical, social and economic characteristics, Distribution, increase, movement and urbanisation of the population, Natural and other resources, Economic development potential, Existing and planned infrastructure, General land utilisation patterns Sensitivity to the natural environment. <p>The functions of local authorities in relation to housing are defined in the <i>National Housing Development Act</i> (2000) and Part XII of the <i>Local Authorities Act</i> (1992), which allows local authorities to establish housing schemes and a housing fund. They include:</p> <ul style="list-style-type: none"> formulating local housing policies; developing land for housing; developing plots at a cost affordable for the low-income population through subsidies, community work and appropriate technologies; and overseeing the housing construction process.

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			<p>The study was unable to locate an example of regional or local land use planning laws online but have extracted the following excerpt regarding the Housing Policy of the City of Windhoek.</p> <p>“The City of Windhoek Housing Policy serves as a guideline in addressing the need for access to housing and security of land tenure. The policy’s vision is to provide adequate and affordable access to land with secure tenure, housing and services for all low-income residents of the city, as a means to reduce poverty and improve quality of life among the poor. The policy objectives are:</p> <ul style="list-style-type: none"> • to strive towards providing all low-income target groups of the city with a range of access and housing options in accordance with their levels of affordability; • to establish uniform housing standards for different development options; • to set parameters for orderly incremental upgrading; • to facilitate access to land, services, housing and credit facilities; • to establish a participatory process for self-reliance and partnerships, and to facilitate self-help development; • to secure land tenure; • to promote a safe and healthy environment; and • generally to improve quality of life.” <p>(Source: “A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia”, LEAD Project, LAC, 2005 at pp.75-76. http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallouro wn.pdf (accessed 1 September 2012))</p> <p>The City of Windhoek adopted the Development and Upgrading Strategy in 1999 to address informal settlement upgrading and</p>

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			<p>affordable land delivery referred to in the articles below; however, the study was unable to locate it online to ascertain its contents.</p> <p>See also:</p> <ul style="list-style-type: none"> World Bank, "Upgrading of Low Income Settlements - Country Assessment Report - Namibia", January 2002 De Kok, J. S., "Security of Land Tenure: Meeting Expectations Through A Community Driven Process - A City of Windhoek Perspective", Decision Makers Meeting: Good Administration of Lands & Land Administration for Poverty Reduction and Economic Growth, City of Windhoek, 7-8 December 2006, 3 December 2006 <p><u>Traditional Authorities</u> With respect to land use planning, traditional authorities have the following duties under the <i>Traditional Authorities Act (2000)</i>:</p> <ul style="list-style-type: none"> To assist and cooperate with the government, regional councils and local authority councils in the execution of their policies and to keep the members of the traditional community informed of developmental projects in their area (S.2(b)). To ensure that the members of the traditional community use the natural resources at their disposal on a sustainable basis and in a manner that conserves the environment and maintains the ecosystems for the benefit of all persons in Namibia (S.2(c)).
<p>125. Does the land use planning and/or zoning law include processes for:</p> <ol style="list-style-type: none"> Formal release of land for new developments? Approval of each new urban development? Approval of major commercial 			<p><u>Formal release of land for new developments</u></p> <ul style="list-style-type: none"> <i>Town Planning Ordinance (1954)</i> - No <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No <i>Sectional Titles Act (2009)</i> - No <i>Land Survey Act (1993)</i> - No <i>Communal Land Reform Act (2002)</i> - No <i>National Housing Development Act (2000)</i> - No

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developments?			<ul style="list-style-type: none"> • <i>Flexible Land Tenure Act (2012)</i> - No <p><u>Approval of each new urban development</u></p> <ul style="list-style-type: none"> • <i>Town Planning Ordinance (1954)</i> - Yes - See above at Q.123 • <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No • <i>Sectional Titles Act (2009)</i> - No • <i>Land Survey Act (1993)</i> - No • <i>Communal Land Reform Act (2002)</i> - No • <i>National Housing Development Act (2000)</i> - No • <i>Flexible Land Tenure Act (2012)</i> - No <p><u>Approval of major commercial developments</u></p> <ul style="list-style-type: none"> • <i>Town Planning Ordinance (1954)</i> - No • <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No • <i>Sectional Titles Act (2009)</i> - No • <i>Land Survey Act (1993)</i> - No • <i>Communal Land Reform Act (2002)</i> - No • <i>National Housing Development Act (2000)</i> - No • <i>Flexible Land Tenure Act (2012)</i> - No
126. Does the land use planning and/or zoning law include prohibitions on development of high risk sites (e.g. unstable land prone to subsidence, flood plains, and contaminated sites)?			<p><u>Communal Land Reform Act (2002)</u></p> <p>Insofar as the Minister may make regulation in relation to “the combating and prevention of soil erosion, the protection of the pastoral resources and the limitation and control of the grazing of stock (S.45(1)(i)).</p> <ul style="list-style-type: none"> • <i>Town Planning Ordinance (1954)</i> - No • <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No • <i>Sectional Titles Act (2009)</i> - No • <i>Land Survey Act (1993)</i> - No • <i>National Housing Development Act (2000)</i> - No

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			<ul style="list-style-type: none"> • <i>Flexible Land Tenure Act (2012)</i> - No
127. Does the planning / zoning law include public open space for evacuation?			<ul style="list-style-type: none"> • <i>Town Planning Ordinance (1954)</i> - No • <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No • <i>Sectional Titles Act (2009)</i> - No • <i>Land Survey Act (1993)</i> - No • <i>Communal Land Reform Act (2002)</i> - No • <i>National Housing Development Act (2000)</i> - No • <i>Flexible Land Tenure Act (2012)</i> - No
128. Does the planning / zoning law allocate or require allocation of land for emergency or transitional shelter in preparation for potential disaster?			<ul style="list-style-type: none"> • <i>Town Planning Ordinance (1954)</i> - No • <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No • <i>Sectional Titles Act (2009)</i> - No • <i>Land Survey Act (1993)</i> - No • <i>Communal Land Reform Act (2002)</i> - No • <i>National Housing Development Act (2000)</i> - No • <i>Flexible Land Tenure Act (2012)</i> - No
129. Does the planning / zoning law include provisions for infrastructure installation (water and drainage, sewers, telecommunications, energy) in new developments?			<p><u>Town Planning Ordinance (1954)</u> Yes - insofar as the town planning schemes is to take into account “public utilities: water supply, electricity, telephones, sewerage; etc” as per the First Schedule to the Ordinance.</p> <p><u>Communal Land Reform Act (2002)</u> Insofar as the Minister may make regulations in relation to “matters relating to roads, fences, pounds, watercourses, woods and the use of water, wood, clay and stone on communal land” (S.45(1)(g)).</p> <p><u>National Housing Development Act (2000)</u> Insofar as the Minister may make regulations in relation to “the establishment by regional councils and local authorities of construction units for the purpose of constructing and providing low cost residential accommodation, and the conditions subject whereunto such construction units may be so established” (S.32(j)).</p>

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			<p><u>Flexible Land Tenure Act (2012)</u> Insofar as the relevant authority may impose conditions upon a starter title scheme and land hold title scheme relating to:</p> <ul style="list-style-type: none"> • the nature of buildings or structures that may be erected on the blocker concerned (S.12(6)(b)); • the nature of buildings or structures that may be erected on the plot concerned which conditions may relate to - <ul style="list-style-type: none"> - the distance between buildings and the boundaries of the plot; - the maximum height of any building or structure that may be erected on the plot (S.13(6)(a)); • the laying, maintenance and protection of such pipes, conduits, wires, cables and sewers as may be necessary to lay on, under or over the blocker concerned, whether related to the provision of services to the scheme or not (S.12(6)(c) & S. 13(6)(b)). <ul style="list-style-type: none"> • <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No • <i>Sectional Titles Act (2009)</i> - No • <i>Land Survey Act (1993)</i> - No
130. Does the planning / zoning law include street width regulations for future traffic flow and to ensure access for emergency services such as fire and ambulance?			<p><u>Town Planning Ordinance (1954)</u> The Second Schedule to the Ordinance requires the town planning scheme to consider:</p> <ul style="list-style-type: none"> • “[s]treets with particular reference to - <ul style="list-style-type: none"> - their grades and widths and their intersections with other streets; - the volume and character of the traffic which they may be expected to carry in the future, and measures to ensure the safety of the travelling public; - the closing or deviation of existing streets; and - the cultivation of trees and the like and the provision of

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			<p>ornamental works intended to improve the appearance of streets”; and</p> <ul style="list-style-type: none"> the reservation of land for new roads or the widening or other improvement of existing roads or for purposes of recreation or for parks and other open spaces, aerodromes, the parking of vehicles and other matters generally of a public nature.” <p>There is no reference to emergency services access.</p> <p><u>Communal Land Reform Act (2002)</u> Insofar as the Minister may make regulations in relation to “matters relating to roads, fences, pounds, watercourses, woods and the use of water, wood, clay and stone on communal land” (S.45(1)(g)). There is no reference to emergency services access.</p> <p><u>National Housing Development Act (2000)</u> Insofar as the Minister may make regulations in relation to “the establishment by regional councils and local authorities of construction units for the purpose of constructing and providing low cost residential accommodation, and the conditions subject where to such construction units may be so established” (S.32(j)). There is no reference to emergency services access.</p> <ul style="list-style-type: none"> <i>Agricultural (Commercial) Land Reform Act (1995)</i> - No <i>Sectional Titles Act (2009)</i> - No <i>Land Survey Act (1993)</i> - No <i>Flexible Land Tenure Act (2012)</i> - No
131. Does the planning / zoning law differ as between urban and rural settings? If different in rural settings, what are the main differences compared with urban settings? E.g.			<p>See above Qs.123 and 124</p> <p><u>Urban Development</u> See:</p> <ul style="list-style-type: none"> <i>Town Planning Ordinance (1954)</i>

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a. the extent of regulation? b. the level of government at which it is regulated? c. other?			<ul style="list-style-type: none"> • <i>Sectional Titles Act</i> (2009) • <i>Flexible Land Tenure Act</i> (2012) <p><u>Rural Development</u> See:</p> <ul style="list-style-type: none"> • <i>Agricultural (Commercial) Land Reform Act</i> (1995) • <i>Communal Land Reform Act</i> (2002) <p><u>Housing Development</u> See:</p> <ul style="list-style-type: none"> • <i>National Housing Enterprise Act</i> (1993) • <i>National Housing Development Act</i> (2000) • <i>Local Authorities Act</i> (1992) <p><u>National Policies</u></p> <ul style="list-style-type: none"> • National Housing Policy (1991) • National Land Policy (1998) • National Resettlement Policy (2001) • National Land Tenure Policy
132. Does the planning / zoning law include any other matters relevant to disaster risk reduction?			The above planning and zoning laws do not include any other matters relevant to DRR
C. Land tenure			
133. Is there a national system of land title registration established under law? a. If sub-national regulation, at what level of government does this occur, if at all? If sub-national, can you find an example of such a law? b. Does the legal mandate for this system require computerisation			<p>The <i>Deeds Registries Act</i>, No. 47 of 1937 (as amended) regulates the registration of deeds and applies to all regions of Namibia except for Rehoboth Gebiet, which has its own registration of deeds pursuant to <i>Registration of Deeds in Rehoboth Act</i>, No. 93 of 1976 (as amended). (Source: Namlex - Index to the Laws of Namibia (2010)).</p> <p>The study was unable to locate the above Acts online to ascertain its contents.</p>

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and/central record at national level? If not, how and where does it require records to be kept?			<p>A Deeds Registries Bill has been drafted to consolidate and update the <i>Deeds Registries Act (1937)</i> and <i>Registration of Deeds in Rehoboth Act (1976)</i> and may be considered at the 2012 Parliamentary Session.</p> <p>(Source: Smit N., "Laws on Property Deeds Get Revamped", <i>The Namibian</i>, 20 June 2011. http://www.namibian.com.na/index.php?id=28&tx_ttnews[tt_news]=83715&no_cache=1 (accessed 1 September 2012))</p> <p><u>Land Survey Act (1993)</u> This Act regulates the survey of lands, and established the office of the Surveyor-General (S.2), whose functions include to "take charge of and preserve all records pertaining to surveys of land filed and kept in the Surveyor-General's office as records of that office" (S.3(f)) and the Survey Regulations Board (S.4). The Act does not apply to "surveys performed by mine surveyors, surveys for purposes of railway or harbour construction performed by employees of Transnamib Ltd or surveys performed by officers of the Ministry of Agriculture, Water and Rural Development carrying out their duties under the law relating to irrigation provided any such survey is not used for the purpose of effecting the registration of land in the deeds registry or the definition of a boundary of land." (S.43)</p> <p><u>Sectional Titles Act (2009)</u> This Act provides, amongst other matters, for "the division of buildings into sections and common property and the acquisition of separate ownership in sections coupled with joint ownership in common property, the establishment of bodies corporate to control common property (Part IX) and to establish the Sectional Titles Regulation Board (S.55)". It allows for the opening of a</p>

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			<p>sectional title register and the registration of a sectional plan.</p> <p><u>Flexible Land Tenure Act (2012)</u> Section 6(1) of the <i>Flexible Land Tenure Act</i> (2012) requires the Registrar of Deeds to establish “a land hold title register and a starter title register.”</p> <p><u>Digital Records</u> Namibia has developed a digital cadastral system and land information system to provide online, real time service to all stakeholders. (Source: Surveyor-General’s “Country Report on the Development and Innovations of the Namibian National Geospatial Information System”(2011) presented at the High Level Forum on Global Spatial Management Information, Seoul, 24 - 26 October 2011, accessed 30 August 2012)</p> <p>See also mandate of Division of Survey and Land Information below at Q.134.</p> <p>Section 4 of the <i>Sectional Titles Act</i> (2009) states that the Registrar of Deeds must keep documents by means of a computer or/and in any other manner as the Registrar may determined.</p> <p>Section 6(2) of the <i>Flexible Land Tenure Act</i> (2012) states that “[the land hold title register and starter title register] may be recorded in a computer system or in any other appropriate manner: Provided that it must be possible to readily retrieve any information that is required by this Act to be recorded in the register concerned.”</p> <p>Section 25 of the <i>Communal Land Reform Act</i> (2002) states that if the Communal Land Board ratifies the allocation of a customary</p>

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			<p>land right under Section 24(4)(a) it must ensure that such right is registered in the prescribed register in the name of the applicant, issue a certificate of registration to the applicant and keep a duplicate of every certificate of registration issued. Similarly, if the Communal Land Board cancels a customary land right, it must enter the cancellation in the prescribed register (S.27(5)).</p> <p>Where the Communal Land Board grants leasehold rights, it must ensure that such right is registered in the prescribed register in the name of the applicant, and issue the relevant certificate of leasehold; however, where the land in question has been surveyed under the <i>Land Survey Act</i> (1993) and the duration of the lease is for 10 years or more, the right of leasehold must be registered under the <i>Deeds Registries Act</i> (1937).</p>
<p>134. Are there institutions mandated to survey land and/or register title? Does this mandate:</p> <ol style="list-style-type: none"> require or allow community participation in land mapping or surveying for the purpose of establishing titles and/or occupancy and/or usage rights? establish a timeframe for the conclusion of land mapping? allocate resources for land mapping? 			<p><u>Land title registration</u> Responsible authority: Directorate of Deeds Registration within the Department of Land Management in the Ministry of Lands and Resettlement The directorate has two offices, namely the Windhoek Deeds Office and the Rehoboth Deeds Office.</p> <p>Its webpage is under construction as at 28 August 2012.</p> <p><u>Land Survey</u> Responsible authority: Directorate of Survey and Mapping within the Department of Land Management in the Ministry of Lands and Resettlement</p> <p>There are three divisions with the DSM:</p> <ul style="list-style-type: none"> • Division of Survey and Land Information • Division of Mapping and Geographical Information System • Division of Geomatics

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			<p>The main objectives of the DSM are:</p> <ul style="list-style-type: none"> • Examination and approval of cadastral survey records diagrams • Digitizing and revision of topographical maps • Creation of digital cadastral database • Acquisition of up to date aerial photography <p>(Source: www.mlr.gov.na, accessed 28 August 2012)</p> <p>See also:</p> <ul style="list-style-type: none"> • <i>Land Survey Act (1993)</i> • <i>Professional Land Surveyors, Technical Surveyors and Survey Technicians Act (1993)</i> <p>Section 41(1) and 41(2) of the <i>Communal Land Reform Act (2002)</i> states that:</p> <p>“A board may, with the prior approval of the Minister, but subject to Subsection (2), cause any area of communal land within its region to be surveyed and a diagram and plan to be prepared in respect of the surveyed area.</p> <p>The survey of any area of land and preparation of a diagram and general plan in accordance with Subsection (1), must be carried out in accordance with a lay-out plan which the board must cause to be prepared with the co-operation of the Traditional Authority concerned.”</p> <p>Community Participation <u>Town Planning Ordinance (1954)</u> Insofar as aggrieved persons are able to appeal against the town planning scheme (S.19) and any owner or occupier of immovable property within the area to which the scheme applies are able to exercise their right of objection to the town planning scheme</p>

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			<p>(S.24).</p> <p><u>Agricultural (Commercial) Land Reform Act (1995)</u> Insofar as any “owner of agricultural land who is aggrieved by a classification by the Minister of such land as under-utilized land or of such land or any portion thereof as excessive land” is allowed to appeal the decision before the Land Tribunal before the Minister acquires the land (S.14(9)).</p> <p><u>Land Survey Act (1993)</u> Insofar as the contiguous owner relative to the land under survey is able to object to a beacon or boundary adopted in the land survey (Ss.8(5), 8(7)(b), 8(8), S.9(1)(b), S.14(1), 15(3), 15(8)(b), 15(11), 17, 27(4), & 28(7)). The Act also allows owners of “not less than one half of a section or block of land, other than a township” to request for a resurvey of the section or block (S.15(1)(a)); and owners of land abutting a river to submit an agreement as per Schedule 1 that “the middle of the river is acknowledged as being the river boundary of that subdivision (S.28(6)).</p> <p><u>Communal Land Reform Act (2002)</u> Insofar as any members of the traditional community may object to the application of an allocation of customary land right in respect of communal land and make representation in connection with the application (S.22(3)(b)).</p> <p>Timeframe <u>Communal Land Reform Act (2002)</u> Customary land rights holder must apply for recognition and registration of their existing customary land rights within 3 years of 1 March 2003. The Minister may extend this period in a public notice. Similarly, rights holder of communal land existing at the</p>

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			<p>time of the commencement of this Act, which are not recognized by customary law (eg. Permission to Occupy) are also required to apply for the recognition of such right and registration of a leasehold within 3 years of the date announced by the Minister (S.35).</p> <p>(Source: Guide to the Communal Land Reform Act, LAC & NNFU, 2003 at pp.17 and 28.</p> <p>http://www.met.gov.na/Documents/communal%20land%20reform%20guide.pdf (accessed 28 August 2012)</p> <p>Resources</p> <p>Generally, financial resources for land mapping come from the Government's general appropriation funds and the relevant Ministry's budget.</p>
<p>135. Does the land title system allow anyone to purchase or own land, or does it exclude anyone? E.g. can the following own and inherit land under this system:</p> <p>a. Women?</p> <p>b. All ethnic or religious groups?</p> <p>c. Non-nationals?</p>	<p>1990 Constitution of the Republic of Namibia</p>	<p>Ch. 3, Art. 10(1) & (2)</p> <p>Ch. 3, Art.16(1)</p> <p>Ch.3, Art. 23(1)</p>	<p>General</p> <p>"All persons shall be equal before the law. No person may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status."</p> <p>"All persons shall have the right in any part of Namibia to acquire, own and dispose of all forms of immovable and moveable property individually or in association with others and to bequeath their property to their heirs or legatees: provided that Parliament may by legislation prohibit or regulate as it deems expedient the right to acquire property by persons who are not Namibian citizens."</p> <p>"The practice of racial discrimination and the practice and ideology of apartheid from which the majority of the people of Namibia have suffered for so long shall be prohibited and by Act of Parliament such practices, and the propagation of such practices, may be rendered criminally punishable by the ordinary Courts by</p>

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		<p>Ch. 3, Art. 23(2)</p> <p>Ch.3, Art. 23(3)</p> <p>Ch. 11, Art. 95(a)</p>	<p>means of such punishment as Parliament deems necessary for the purposes of expressing the revulsion of the Namibian people at such practices.”</p> <p>“Nothing contained in Article 10 hereof shall prevent Parliament from enacting legislation providing directly or indirectly for the advancement of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws or practices, or for the implementation of policies and programmes aimed at redressing social, economic or educational imbalances in the Namibian society arising out of past discriminatory laws or practices, or for achieving a balanced structuring of the public service, the police force, the defence force and the prison service.”</p> <p>“In the enactment of legislation and the application of any policies and practises contemplated by Sub-Article (2) hereof, it shall be permissible to have regard to the fact that women in Namibia have traditionally suffered special discrimination and that they need to be encouraged and enabled to play a full, equal and effective role in the political, social, economic and cultural life of the nation.”</p> <p>“The State shall actively promote and maintain the welfare of the people by adopting, <i>inter alia</i>, policies aimed at the following:</p> <ul style="list-style-type: none"> • Enactment of legislation to ensure equality of opportunity for women, to enable them to participate fully in all spheres of Namibian society; “ <p><u>Inheritance Laws and Race</u></p> <p>“There is an overlapping and confusing set of old inheritance-related laws still applicable in Namibia, some of which violate Article 16 of the Constitution by discriminating on the basis of race,</p>

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			<p>examples being the <i>Administration of Estates Act of 1965</i>, the <i>Native Administration Proclamation of 1928</i>, the <i>Intestate Succession Ordinance of 1946</i> and the <i>Administration of Estates (Rehoboth Gebiet) Proclamation of 1941</i>. Only one court to date, hearing the case of <i>Berendt v Stuurman</i>, has found these laws unconstitutional, and the Court ruled that all of these laws must be amended by mid 2005.”</p> <p>(Source: “A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia”, LEAD Project, LAC, 2005 at p.43. http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallouro wn.pdf (accessed 1 September 2012))</p> <p>Women</p> <p>The laws regarding property rights are generally gender neutral.</p> <p><u><i>Recognition of Certain Marriages Act, No. 18 of 1991, 28 November 1991</i></u></p> <p>This Act provides for the recognition of marriages contracted in terms of the SWAPO Family Act (1977) and for the adoption of children in terms of the Act. Property relations between the spouses are governed by Articles 47 to 54 by the Schedule attached to the said Act. In particular,</p> <ul style="list-style-type: none"> • Article 47 - “The property which has belonged to either spouse at the time of marriage shall remain his/her own and s/he shall retain the right to manage it and dispose of it independently.” • Article 48 - “The property acquired by the spouses through work in the course of marriage shall be their joint property. ... Either spouse may manage their joint property independently, but for the conduct of affairs beyond the scope of everyday administration, the consent of the other spouse shall be required.”

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			<ul style="list-style-type: none"> • Article 49 - "The property acquired by either spouse in the course of marriage by inheritance and/ or gift shall be his/ her own property." • Article 50 - "The spouses may agree to include their own property in the joint property. The agreement shall be done in writing. A verbal agreement shall be made in the presence of three adult witnesses not related to either spouse." <p><u>Married Persons Equality Act , No. 1 of 1996, 20 May 1996</u> The <i>Married Persons Equality Act</i> (1996) provides for gender equality in <i>civil</i> marriages and is not applicable to customary marriages S(.16). This Act abolished the common law rule by which a husband acquired marital power over the person and property of his wife (S.2). It provides that the effect of the abolition of the marital power is "... to remove the restrictions which the marital power places on the legal capacity of a wife to contract and litigate, including but not limited to, the restrictions on her capacity to register immovable property in her name" (S.3).</p> <p>Section 5 provides that "[a] husband and wife married in community of property have equal capacity –</p> <ol style="list-style-type: none"> a) to dispose of the assets of the joined estate; b) to contract debts for which the joined estate is liable; and c) to administer the joined estate." <p>However, a spouse cannot alienate or mortgage immovable property without the other spouse's consent (S.7(1)(a) & (b)).</p> <p>The property arrangement applying to customary marriages are determined solely by customary laws and discrimination on the grounds of sex is not uncommon. A Customary Marriage Bill has been drafted and reviewed by the Law Reform and Development</p>

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			<p>Commission in 2005 but it has not been passed.</p> <p><u>National Gender Policy (1997)</u> This policy outlined the framework by which implementation of constitutional provisions can be encouraged, supported and sustained, but makes no direct reference to either land or housing. It states that due to traditional attitudes and gender stereotyping, women continue to be under-represented in all sectors of Namibian society. The government therefore recognises that empowerment of women and gender equality are prerequisites for achieving sustainable political, social, cultural and economic security in Namibia, and seeks to attain these prerequisites through affirmative action policies and by supporting the integration of women and a gender perspective into the mainstream of national, regional and local development initiatives.</p> <p><u>National Land Policy (1998)</u> This policy (unlike the National Resettlement Policy) contains a special gender provision in line with Article 95 of the Namibian Constitution, which accords women the same status as men with regard to all forms of land rights, either as individuals or as members of family land ownership trusts.</p> <p><u>Communal Land Reform Act (2002)</u> Section 26(2)(b) of the <i>Communal Land Reform Act (2002)</i> provides a spouse with a ‘first refusal’ right to customary land rights, stating, <i>inter alia</i>: “Upon the death of the holder of a right referred to in subsection (1) such right reverts to the Chief or Traditional Authority for re-allocation forthwith - a) to the surviving spouse of the deceased person, if such spouse consents to such allocation; or</p>

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			<p>b) in the absence of a surviving spouse, or should he or she not consent as contemplated in paragraph (a), to such child of the deceased person as the Chief or Traditional Authority determines to be entitled to the allocation of the right in accordance with customary law.”</p> <p><u>International laws</u> Pursuant to Articles 143 and 144 of the 1990 Namibian Constitution the following international laws are applicable in Namibia:</p> <ul style="list-style-type: none"> • <i>Convention on the Elimination of All Forms of Discrimination against Women</i> (1979), accession date: 23 November 1992 and its Optional Protocol, which was approved by Parliament on 17 May 2000. • <i>Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa</i> (2003), ratified by Parliament on 8 July 2004 with a reservation to Article 6(d) until it has enacted legislation regarding the recording and registration of customary marriages. • <i>SADC Protocol on Gender and Development</i> (2008), ratified by Parliament on 7 October 2009. <p>See also: Hubbard D. (editor), “Marital Property in Civil and Customary Marriages - Proposals for Law Reform”, Gender Research and Advocacy Project, LAC, 2005. http://www.lac.org.na/projects/grap/Pdf/marriageprop.pdf (accessed 1 September 2012)</p> <p>Non Nationals <u>Immigration Control Act, No. 7 of 1993, 6 August 1993</u> No person shall “let or sell or in any manner make available any</p>

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			<p>immovable property in Namibia” who is in Namibia in contravention of the provisions of this Act or any condition imposed by or under this Act.” (S.30(3)(j))</p> <p><u>Agricultural (Commercial) Land Reform Act (1995)</u> Section 58(1) of the <i>Agricultural (Commercial) Land Reform Act (1995)</i> requires foreign nationals to obtain written consent from the Minister prior to the acquisition of “agricultural land through the registration of transfer of ownership in the deeds registry or entering into an agreement with any other person whereby the right to the occupation or possession of agricultural land or a portion of such land is conferred upon the foreign national for (i) a period exceeding 10 years or (ii) for an indefinite period or for a fixed period of less than 10 years, but which is renewable from time to time, and without it being a condition of such agreement that the right of occupation or possession of the land concerned shall not exceed a period of 10 years in total” subject to Section 62.</p> <p>Section 62 exemptions for foreign nationals include:</p> <ul style="list-style-type: none"> • “Any succession <i>ab intestato</i> or testamentary disposition, • A public company conducting business as a banking institution as defined in Section 1 of the <i>Banks Act, 1965</i> (No. 23 of 1965), • A company with shares listed on a licensed stock exchange in Namibia as defined in Section 1 of the <i>Stock Exchanges Control Act, 1985</i> (No. 1 of 1985).”
136. If there is no standardised land title, is there another way to legally recognise land tenure rights (e.g. indigenous title based on ancestral lands, or established occupation or use, or other traditional rights to use resources such as gathering or			NA

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		Ch. IV, S.18	<p>“The provisions of this Act shall not affect the provisions of any law prohibiting the acquisition of land or any right in land by prescription.”</p> <p><u>Squatters, Eviction and Demolition</u> <u>Case law</u></p> <p>In the case of <i>Shaanika & Ors v Windhoek City Police & Ors</i>, the applicants, who were informal settlers who have erected shacks or whose shacks have been demolished by the Windhoek Municipal Council, obtained a <i>rule nisi</i> -</p> <ul style="list-style-type: none"> • “Interdicting and restraining the [Windhoek City Police] and [Windhoek Municipal Council] from demolishing and/or removing, together with its contents, any structure or building belonging to the Applicants and other residents • Declaring Section 4(1) of the <i>Squatters Proclamation</i>, Proclamation No. 21 of 1985 to be unconstitutional, invalid and of no force or effect. • Declaring Section 4(3) of the <i>Squatters Proclamation</i>, Proclamation No. 21 of 1985 to be unconstitutional, invalid and of no force or effect.” <p>On appeal to the High Court of Namibia this ruling was discharged on the grounds that the Applicants could not apply to the court for said relief because they were in unlawful and illegal occupation of the land belonging to the Windhoek Municipal Council on the basis of the doctrine of “dirty hands”.</p> <p>Section 4(3) of the <i>Squatters Proclamation</i> (1985) states: “Unless a person first satisfies the Court on a preponderance of probabilities -</p> <p>a) that he is lawfully entitled to occupy the land on which any</p>

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			<p>building or structure has been erected; and</p> <p>b) in the case of any person whose right of occupation is based on the consent of any person other than the owner of such land, that such other person is lawfully entitled to allow other persons to occupy such land, such third-mentioned person shall not have recourse to any court of law in any civil proceedings founded on the demolishing or removal or intended demolishing or removal of such building or structure under this section and it shall not be competent for any court of law to grant any relief in any such proceedings to such last-mentioning person.”</p> <p>Section 4(1) of the <i>Squatters Proclamation</i> (1985) states: “Notwithstanding anything to the contrary in any law contained and without the authority of an Order of Court or prior notice of whatever nature to any person -</p> <p>a) the owner of land may demolish and remove together with its contents any building or structure intended for human habitation or occupied by human beings which has been erected or is occupied without his consent on such land;</p> <p>b) any building or structure intended for human habitation or occupied by human beings which has been erected on land within the area of jurisdiction of any local authority, without the prior approval of that or any former local authority of any plan or description of such building or structure required by law, may at the expense of the owner of the land be demolished and removed together with its contents by the local authority or the Secretary or any officer employed in his department and authorised thereto by him.”</p> <p>(Source: <i>Shaanika & Ors v Windhoek City Police & Ors</i>, Case No. A249/2009, at http://www.saflii.org/na/cases/NAHC/2010/171.rft</p>

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			<p>(accessed 31 August 2012))</p> <p><u>Communal Land Reform Act (2002)</u> Section 43 of the <i>Communal Land Reform Act (2002)</i> states: “No person may occupy or use for any purpose any communal land other than under a right acquired in accordance with the provisions of this Act, including a right referred to in section 28(1) or 35(1).</p> <p>A Chief or a Traditional Authority or the board concerned may institute legal action for the eviction of any person who occupies any communal land in contravention of subsection (1).”</p>
139. If there are parallel systems for recognition of land tenure, such as customary law vs. registered freehold title, does one type of legal claim take precedence over the other?			<p>Namibia inherited a colonial land registration system, where about 60% of its population live on land historically excluded from any land registration system.</p> <p>The <i>Communal Land Reform Act (2002)</i> only applies to rural communal areas and provides for the registration of customary land rights and leasehold rights. All communal lands are owned or kept in trust by the Government, hence, they cannot be sold or bought, but can be transferred.</p> <p>The <i>Flexible Land Tenure Act (2012)</i> applies to proclaimed urban/town lands in communal areas and provides for the registration of freehold title for the whole block of land at the Deeds Registry and the fact that a starter title or land hold title registry exists. Individual starter title or land hold title rights within the block are not visible in the Deeds Registry, but only in starter or land hold registry in the land rights office. It also allows starter titles to be upgraded to land hold titles, and for both titles to be upgraded to full freehold ownership if it is allocated within an approved township.” The Act does not address the issue where</p>

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			<p>the proclaimed town is situated within communal areas.</p> <p>(Sources: "A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia", LEAD Project, LAC, 2005 at pp22 - 28. http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallouro wn.pdf (accessed 1 September 2012) and "Namibia - Law, Land Tenure and Gender Review Series: Southern Africa", UN-Habitat, 2005. http://www.unhabitat.org (accessed 31 August 2012))</p>
<p>140. Is there any law or legal mechanism that allows government authorities to compulsorily purchase or requisition land for public purposes? If so, do these purposes include:</p> <p>a. risk reduction from natural disasters?</p> <p>b. land to be kept for evacuation or emergency or transitional shelter?</p>	<p>1990 Constitution of the Republic of Namibia</p> <p>Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i>, No. AG 54 of 1978 and <i>Civil Defence Ordinance</i>, No. 3 of 1979)</p>	<p>Ch. 3, Art. 16(2)</p> <p>S.34(2) to (10)</p>	<p><u>General</u></p> <p>"The State or a competent body or organ authorised by law may expropriate property in the public interest subject to the payment of just compensation, in accordance with requirements and procedures to be determined by Act of Parliament."</p> <p>2) "An authorised officer may, while a declaration of a state of national disaster is in force -</p> <p>a) take possession of or control over any land or other property for the purpose of dealing with the situation; or</p> <p>b) direct any person who is the owner of or who has possession of or control over any land or other property which is required for the purposes of dealing with the disaster situation to surrender the use of such land to a specified person or to a specified authority or to deliver or make available such property to a specified person in the service of that authority.</p> <p>3) After taking possession or control of land or property or giving a directive in terms of subsection (2), an authorised officer must cause written notice of such taking or directive to be served on any person owning or possessing such land or property.</p> <p>4) If it is expedient to do so, the authorised officer must cause the</p>

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			<p>written notice referred to in subsection (3), to be served before taking possession or control of the land or property concerned or giving the directive.</p> <p>5) A person from whom possession or control of any land or property has been or is about to be taken in terms of this section may, if he or she objects to such taking, notify the authorised officer concerned.</p> <p>6) Where an authorised officer is notified in terms of subsection (5), he or she must, within 14 days apply to a competent court for a determination of his or her entitlement to exercise his or her powers in terms of subsection (2).</p> <p>7) On an application in terms of subsection (6) the competent court may -</p> <p>a) confirm the order if it is satisfied that the exercise of the power by the authorised officer concerned in terms of subsection (2) was reasonably justifiable in the circumstances of the situation arising or existing as a result of the disaster concerned or giving rise to the declaration of the state of disaster for the purpose of dealing with that situation; or</p> <p>b) order the authorised officer to return any land or property which he or she has taken into his or her possession or control or to cancel his or her notice of intention to take possession or control thereof or to cancel his or her directive, if it is satisfied that exercise of the power by the authorised officer was not reasonably justifiable in the circumstances of the situation.</p> <p>8) When the continued possession or control by an authorised officer of any land or property taken in terms of subsection (2) is no longer reasonably justifiable as referred to in subsection (7), that land or property must, wherever possible, be promptly returned in the condition in which it was at the time</p>

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	Town Planning Ordinance (1954)(as amended)	S.29	<p>of such taking of possession or control.</p> <p>9) The owner or any other person entitled to the return of any land or property in terms of subsection (8) or entitled to compensation in terms of section 42 may apply to a competent court for the return of the land or property or for the determination of the right to or the amount of such compensation, as the case may be, and the competent court must make such order..</p> <p>10) No land or other property owned or possessed by the State may be taken in terms of this section without the consent of the Minister responsible for the land or property.”</p> <p><u>Town Planning Ordinance (1954)</u> “The responsible authority may with the prior approval of the Minister purchase or exchange other land by agreement for any land or any interest in land to which the scheme applies, which it requires for any of the purposes of the scheme. If it is unable to purchase by agreement such land or interest in land it may, with prior approval of the Minister, under the provisions of the <i>Expropriation of Lands Ordinance (1927)</i>, expropriate the same as though it were a municipal council.”</p>
		S.33	<p><u>Risk Reduction from Natural Disasters</u> Insofar as the town planning scheme -</p> <ul style="list-style-type: none"> • “prescribes the space about buildings; • fixes building lines; • regulates the position of buildings on each lot in relation to other buildings; • regulates or empowers the responsible authority to regulate the character, size, height, harmony, design or external appearance of buildings, including the materials used in the

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	Agricultural (Commercial) Land Reform Act, No. 6 of 1995, 15 February 1995	S.20(1)	<p>construction of buildings;</p> <ul style="list-style-type: none"> • limits the number of buildings which may be erected on any lot; • prescribes the maximum area which may be built upon on any lot; • restricts the manner in which buildings may be used; • regulates, in the interests of safety, the height and position of existing and proposed walls, fences or hedges near the corners or bends of streets; • prohibits or restricts building operations permanently on the ground that, by reason of the situation or nature of the land, the erection of buildings thereon would be likely to involve danger to life or danger or injury to health, or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services; • prohibits (otherwise than by way of prohibition of building operations) the use of land for a purpose likely to involve danger to life or danger or injury to health or serious detriment to the neighbourhood, or restricts (otherwise than by way of restriction of building operations) the use of land so far as may be necessary for preventing such danger, injury or detriment; • limits the number or prescribes the sites of new roads entering an existing road or the site of a proposed road”. <p>There is no provision regarding land expropriation for the purpose of evacuation or emergency or transitional shelter.</p> <p><u>Agricultural (Commercial) Land Reform Act (1995)</u> “Where the Minister decides to acquire any property for the purposes of Section 14(1) and the Minister, acting on the recommendation of the Commission, and the owner of such property are unable to negotiate the sale of such property by</p>

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			<p>mutual agreement, or the whereabouts of the owner of such property cannot be ascertained after diligent inquiry, the Minister may, subject to the payment of compensation, in accordance with the provision of this Act, expropriate such property for such purpose.”</p> <p>The provisions of the <i>Expropriation Ordinance</i> (1978) shall not apply to any expropriation of property pursuant to Section 14, but may apply otherwise (S.35).</p> <p>There is no provision regarding land expropriation for the purpose of disaster risk reduction or evacuation or emergency or transitional shelter in the <i>Agricultural (Commercial) Land Reform Act</i> (1995).</p> <p><u>Section Titles Act (2009)</u> Section 21 of the <i>Sectional Titles Act</i> (2009) provides for the expropriation of common property or rights therein and distribution of compensation without any references to the purposes of the expropriation being for disaster risk reduction or evacuation or emergency or transitional shelter.</p> <p>Note: Namlex (2010) - Index to the Laws of Namibia referred to:</p> <ul style="list-style-type: none"> • <i>Expropriation Act</i>, No. 63 of 1975 (as amended), which deals with the expropriation of land but only applies to South West Africa in respect of expropriations by the Railway Administration. • <i>Expropriation Ordinance</i>, No. 13 of 1978, which deals with the expropriation of land for public purposes and is administered by the Minister responsible for Works, Transport and Communication. <p>However, the study was unable to locate these Acts online to</p>

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			ascertain its contents. See also: <i>Gunther Kessl, Heimaterde CC, & Martin Joseph Riedmaier v. Ministry of Lands and Resettlement, et al.</i> , (P)A 267/2005, where the High Court upheld the provisions of Article 18 of the Namibian Constitution and held that the Minister must act “fairly and reasonably” and comply with the relevant provisions of the <i>Agricultural (Commercial) Land Reform Act (1993)</i> during the expropriation process.
141. Is there a land tribunal or other dispute resolution mechanism that provides for resolution of land tenure disputes? If so, is this accessible to communities? – to individuals? a. Can people without financial means access this system? E.g. are there fees, or requirements to engage lawyers? b. Are such tribunals or mechanisms available throughout the territory, including in rural areas?			Lands Tribunal “The Lands Tribunal is an independent statutory body established under Section 63(1) of the <i>Agricultural (Commercial) Land Reform Act, 1995</i> (No. 6 of 1995). The Lands Tribunal is mainly tasked with the determination of the purchase price of farms in the event where the farm owners concerned do not agree on the counter offer made by the Minister in respect of the farm offered and the owner makes an application to the Lands Tribunal.” (Source: www.mlr.gov.na , accessed 28 August 2012) <u><i>Agricultural (Commercial) Land Reform Act (1995)</i></u> Part VII of the <i>Agricultural (Commercial) Land Reform Act (1995)</i> established the Lands Tribunal. Section 67(2) states that the Lands Tribunal shall have jurisdiction to: <ul style="list-style-type: none"> • “Decide any appeal lodged with it in terms of any provision of this Act; • Consider and give a decision on any application made to it in terms of any provision of this Act; • Generally to inquire and adjudicate upon any matter which is required or permitted to be referred to it under any provision of this Act or any other law.”

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			<p>Other Jurisdictions</p> <p><u>Flexible Land Tenure Act (2012)</u> Section 19 of the <i>Flexible Land Tenure Act</i> (2012) provides that “any person have a substantial interest in any decision made by a Registrar may appeal to the magistrate’s court of the district in which the property is situated.”</p> <p><u>Communal Land Reform Act (2002)</u> Section 39(1) of the <i>Communal Land Reform Act</i> (2002) states that “[a]ny person aggrieved by a decision of a Chief or a Traditional Authority or any board under this Act, may appeal in the prescribed manner against that decision to an appeal tribunal appointed by the Minister for the purpose of the appeal concerned.”</p> <p><u>Community Courts Act (2003)</u> “Section 12 of the <i>Community Courts Act</i> (2003) gives community courts the jurisdiction in rural communal areas to hear and determine any matter relating to a claim for compensation, restitution or any other claim recognised by customary law, but only if -</p> <ol style="list-style-type: none"> a) the cause of the action of such matter or any element thereof arose within the area of jurisdiction of that community court; or b) the person (or persons) to whom the matter relates believes that the community court is closely connected with the customary law. <p>In other words, community courts and the Communal Land Boards do have jurisdiction to solve communal land disputes outside proclaimed communal town/urban areas.” (Source: “A Place We Want to Call Our Own - A Study on Land</p>

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			<p>Tenure Policy and Securing Housing Rights in Namibia”, LEAD Project, LAC, 2005 at p.29. http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallouro wn.pdf (accessed 1 September 2012)</p> <p>Costs Section 70 of the <i>Agricultural (Commercial) Land Reform Act (1995)</i> provides that a party to any proceedings before the Lands Tribunal may appear personally or by an advocate or attorney.</p> <p>There are no provisions in the above Acts regarding financial assistance for legal representation or associated costs.</p> <p>See above Q.26 - re: <i>Legal Aid Act (1990)</i></p> <p>Access Section 67(1) of the <i>Agricultural (Commercial) Land Reform Act (1995)</i> states that “[t]he seat of the Lands Tribunal shall be Windhoek, but the functions of the Lands Tribunal may be performed at any such place in Namibia as the chairperson of the Lands Tribunal may determine.”</p>

D. Informal and precarious settlements

Informal settlements (also called slums or shanty towns) are areas of housing constructed on land to which the occupants had no prior legal claim. The housing is generally constructed by the occupants from available materials and does not comply with building and planning laws. These unplanned settlements are not served with public infrastructure such as water, sewers/drainage, roads or telecommunications, or public services such as schools and medical facilities. They are especially vulnerable to the effects of natural disaster, as they are often built on high-risk land (precarious settlements), with poor construction materials and methods, and the residents are not protected from the effects of, for example, water contamination during flooding. Informal settlements sometimes arise from mass migrations to the outskirts of large cities following disaster (including slow-onset disasters such as drought and famine). However, many of these settlements exist for many years and become established townships. Approaches taken by governments tend to follow one of three paths: (1) ignore informal settlements for the purpose of regulation, (2) relocate residents either through forced evictions and demolition, or planned resettlement schemes, or (3) regularize them. The latter approach has been taken in Brazil under its Statute of the City administered by the Ministry of Cities, which seeks to progressively regularize and integrate under local government, existing informal and precarious settlements.

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<p>142. Is there a law that mandates clearing of slums / informal or precarious settlements?</p> <p>a. If so, what is the policy reason given (if any) for such clearance?</p> <p>b. Does it require or empower government authorities to evict or resettle residents? Or to demolish such settlements?</p> <p>c. If residents are to be moved, does this law require the provision of alternative housing? If so, how is this financed?</p> <p>d. If mandated, is there a process for eviction? E.g. notice periods, dispute resolution through land tribunals?</p> <p>e. Are there any other protections for the human rights and livelihoods of residents who are evicted or relocated?</p>			<p>The study was unable to locate the <i>Squatters Proclamation</i> (1985) online to ascertain its contents; however, the case of <i>Shaanika & Ors v Windhoek City Police & Ors</i> suggests that -</p> <ul style="list-style-type: none"> • the government authorities are allowed to evict and demolish informal settlements which are illegally established; • there is no provision for alternative housing for evicted residents; • there is no process for eviction; and • there is no other protections for the human rights and livelihoods of residents who are evicted or relocated.” <p>See above Q.138 re: Squatters</p> <p>Note: Below is an extract on “Evictions” from “A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia”, LEAD Project, LAC, 2005 at pp40-41. http://www.lac.org.na/projects/lead/Pdf/aplacewewanttocallouro wn.pdf (accessed 1 September 2012)</p> <p>“According to the Windhoek Municipality, eviction is uncommon. An eviction is usually due to water and electricity payment arrears continuing for long periods. Namibia inherited South Africa’s common law eviction procedures, which generally still apply. The procedure that the Windhoek Municipality follows before an eviction order is issued to a person in arrears with municipal bills must be in line with the <i>Local Authorities Act</i>. The City has to find a balance between socio-economic needs and rendering affordable sustainable services and an eviction is the very last sanction exercised by the City after all else has failed. If an acceptable arrangement cannot be made with a defaulter and there are no assets whatsoever to be used to repay municipal rates or services</p>

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			<p>rendered, the matter is handed over to the City's legal practitioners to seek the necessary relief in either the Magistrate's Court or the High Court. This usually happens after a period of 1-2 years of defaulting. Legal procedures in cases of payment arrears may result in removal of movable property for auction, monthly deductions from the debtor's salary or an eviction order.</p> <p>The following housing alternatives are available to people who have been evicted:</p> <ul style="list-style-type: none"> • <u>Upgrading areas</u> In identified upgrading areas, the first aim is to accommodate those in need of settlement. If this is not possible due to a dangerous situation or because the density has been exceeded, the community is consulted on how to finalise the upgrading area, or who to relocate to affordable alternative housing in 'green fields'. People evicted may be among those relocated. • <u>Formal housing or land sold in instalments</u> The house owner is first invited to seek an alternative solution such as transferring the financial obligation to an identified family member or caretaker, or securing accommodation elsewhere. If no alternative is found, and if the city has a bond secured or the arrear amount is unacceptably high, the matter will be dealt with in terms of the magistrate's court or High Court procedures. A property is not attached if the amount owing is minimal. Accounts are handed over to legal practitioners only if 'unacceptably high' and this would depend on individual circumstances. The City has a policy not to evict pensioners and registered receivers of state welfare support."
143. Is there a law that mandates recognition and/ or regularization of slums/ informal settlements?			<p>No applicable laws found online.</p> <p>See:</p>

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<p>a. If so, describe the legal regime for regularization, including the responsible institutions.</p> <p>b. Does regularization include the introduction of building codes? Are these mandatory and binding?</p> <p>c. Does regularization include the construction of public infrastructure? If so, how is this financed?</p> <p>d. Does this law authorise or mandate the provision of social services to informal settlements?</p> <p>e. Does this law include any other regulatory measures to address the vulnerability of such settlements to risk from natural disasters?</p>			<ul style="list-style-type: none"> • Above Q.123 re: <i>Flexible Land Tenure Act (2012)</i> • “Community Land Information Program (CLIP) - Profile of Informal Settlements in Namibia”, Informal Settlement Communities & Ors, March 2009. • UN-Habitat, “Namibia - Law, Land Tenure and Gender Review Series: Southern Africa”, 2005 • LAC, “A Place We Want to Call Our Own - A Study on Land Tenure Policy and Securing Housing Rights in Namibia”, LEAD Project, LAC, 2005. • World Bank, “Upgrading of Low Income Settlements - Country Assessment Report - Namibia”, January 2002 • De Kok, J. S., “Security of Land Tenure: Meeting Expectations Through A Community Driven Process - A City of Windhoek Perspective”, Decision Makers Meeting: Good Administration of Lands & Land Administration for Poverty Reduction and Economic Growth, City of Windhoek, 7-8 December 2006, 3 December 2006 <p>Note: The City of Windhoek has a local Access to Land and Housing Policy (2000) and Development and Upgrading Strategy (1999) to address informal settlement upgrading and affordable land delivery.</p>
<p>144. Does any law require that informal settlements are included in:</p> <p>a. Early Warning Systems?</p> <p>b. Community based DRR education and training?</p>			<p>The DRRMP do not differentiate between informal settlement communities and ‘formal’ communities per se. It seeks to encourage participation of all stakeholders, especially at community level; and given the Government’s devolution of powers to local authorities, it is reasonable to anticipate the inclusion of informal settlements within their jurisdiction to be included in early warning systems and community based DRR education and training.</p> <p><u>National Disaster Risk Management Policy (2009)</u></p>

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			<p>Section 8.3.2.5 of KPA 3 states that, “[e]ach local authority and settlement in a region must prepare a disaster risk management plan. The disaster risk management plan of a local authority and settlement must anticipate the types of disaster that might occur in the local authority’s area of jurisdiction and must identify communities and areas at risk to those disasters”.</p> <p>See:</p> <ul style="list-style-type: none"> • Part 3, Early Warning, Hazard Mapping and Risk Information • Part 4, Information management and exchange, community level DRR education and awareness
<p>145. Does any law provide a mechanism for recognition of tenure for residents of informal settlements?</p> <p>a. If so, what types of tenure (e.g. full title, right to occupy or use, right to purchase, tenancy)?</p> <p>b. If so, and such settlements are on privately owned land, is there provision for compensation of those with prior legal tenure?</p>			<p><u>The <i>Huur Gaat Voor Koop</i> Rule</u></p> <p>The Roman-Dutch law rule <i>huur gaat voor koop</i> (lease overrides sale) allows a tenant to enforce rights against a landlord even if the tenancy has not been registered and the premises not controlled. A lease contract therefore offers sufficient protection to the lessee such as backyard shack dwellers who have informal rental agreements with landlords. Long term leases of 10 years or more may require control or registration to establish the lessee’s real right.</p> <p>(Source: “Namibia - Law, Land Tenure and Gender Review Series: Southern Africa”, UN-Habitat, 2005 at p.38 (see footnote 127). http://www.unhabitat.org (accessed 31 August 2012))</p> <p><u>Flexible Land Tenure Act (2012)</u></p> <p>Under the <i>Flexible Land Tenure Act</i> (2012) the Government endorses the idea that urban dwellers, especially in informal settlements, should be entitled to hold rights to urban land on the basis of group tenure. The Act provides for starter title schemes and land hold title schemes on proclaimed urban/town lands. It does not provide any provisions regarding compensation of those with prior legal tenure.</p>

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			See above Q.123 re: <i>Flexible Land Tenure Act (2012)</i>
Urban Water and Flood Management			
146. Is there one or more national laws regulating and allocating institutional responsibility for water storage, distribution and quality control for human consumption? Is urban water management principally a national, or provincial/state or local responsibility?	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956 (as amended)) (not yet in force) See: Note at Q.90	s.25	<p>The Department of Water Affairs within the MAWF has the overall responsibility for water resources management through the Directorate of Resource Management and the Directorate of Rural Water Supply (DRWS) with the Regional Councils and Local Authorities being responsible for the implementation of the laws and policies through Basin Management Committees, Water Point User Associations and Local Water User Associations and its respective committees.</p> <p>“Without derogating from the provisions of any law relating to public health, the Minister responsible for health must ensure that the water supply is healthy and safe for all Namibians.</p> <p>For the purposes of health and safe water supply under this Act, the Minister must assist the Minister responsible for health in -</p> <ul style="list-style-type: none"> a) the development of standards of healthy and safe water supply, including maximum levels of concentration of waterborne contaminants; b) the development and maintenance of the capacity to test, monitor and verify the quality of any water supply; c) the establishment and maintenance of such laboratories as are necessary to assure the quality of any water supply, including the development of certification and licensing requirements for water laboratory technicians; and d) the development of criteria for the quality of recycled water which ensure that such water is safe and suitable for its intended use.”
		S.26	“The Minister must ensure that all Namibians are provided with an affordable and a reliable water supply that is adequate for basic

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			<p>human needs.</p> <p>For the purposes of ensuring the adequacy, affordability and reliability of water supply, the Minister must -</p> <ul style="list-style-type: none"> a) develop reliable standards of performance and facilities that are applicable to any person who supplies water for domestic, commercial, industrial or agricultural use; b) periodically review the performance of every person who supplies water for domestic, commercial, industrial or agricultural use to evaluate compliance with the standards of performance developed pursuant to subparagraph (a); c) take corrective action with regard to any water supplier who fails to meet a standard of performance, that may include - <ul style="list-style-type: none"> i. the secondment of managerial or technical personnel; ii. the repair or replacement of water supply works; or iii. the amendment, suspension or cancellation of any relevant licence to abstract and use water, and d) establish an administrative mechanism that will enable water users to be heard regarding the adequacy and reliability of their water supply. <p>If the Minister incurs any expense in taking any corrective action under subsection (2)(c), the Minister may recover any loss from the water supplier.”</p> <p>S.27</p> <p>“The Minister, with the concurrence of the regional councils concerned, may in the prescribed manner reserve part or all of the flow of a watercourse, including any groundwater resource and the water stored in a public reservoir to -</p> <ul style="list-style-type: none"> a) meet the domestic use of the water users concerned; and b) reasonably protect aquatic and wetland ecosystems, including their biological diversity, and to maintain essential ecosystem functions.”

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			<p><u>Water Supply and Sanitation Policy (2008)</u> This Policy replaced the Water Supply and Sanitation Policy (1993) and is in aligned with the principles of integrated water resources management with a strong focus on water demand management. It recommends that the functions for rural sanitation be transferred from the MHSS to the MAWF's DRWS, which shall be renamed the Directorate of Water Supply and Sanitation Coordination with full responsibility for the overall coordination of the country's water supply and sanitation services. Local Authorities and Regional Councils will be responsible for implementation of water supply and sanitation in urbanised areas and rural settlements. Water supply and sanitation services will be governed by the Water Resources Management Act.</p> <p>The Policy takes into account the following components:</p> <ul style="list-style-type: none"> • “Essential water supply and sanitation services should become available to all Namibians, and should be acceptable and accessible at a cost which is affordable to the country as a whole. • This equitable improvement of water and sanitation services should be achieved by the combined efforts of the government and the beneficiaries, based on community involvement and participation, the acceptance of a mutual responsibility and by outsourcing services where necessary and appropriate, under the control and supervision of government. • Communities should have the right, with due regard for environmental needs and the resources and information available, to determine which water and sanitation solutions and service levels are acceptable to them within the boundaries of the national guidelines. Beneficiaries should contribute towards the cost of the water and sanitation

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			<p>services.</p> <ul style="list-style-type: none"> • Environmentally sustainable development and efficient utilisation of the water resources of the country and environmentally sustainable development of sanitation services should be pursued in addressing the various needs, and should be strongly supported by information campaigns and continuous educational interventions at all levels.” <p><u>Water supply objectives</u> “To improve the provision of water supply in order to:</p> <ul style="list-style-type: none"> • Contribute to improved public health; • Reduce the burden of collecting water; • Promote community based social development taking the role of women into special account; • Support basic water needs; • Stimulate economic development; and • Promote water conservation. <p>The operative strategy would be to develop reliable and accessible sources of safe water with sufficient capacity on a sustainable basis to serve all in Namibia at an affordable cost.”</p> <p><u>Sanitation objectives</u> To improve the provision of sanitation services in order to:</p> <ul style="list-style-type: none"> • “Contribute towards improved health and quality of life; • Ensure an hygienic environment; • Protect water sources from pollution; • Promote conservation of water; and • Stimulate economic development. <p>The operative strategy would be to guarantee safe and affordable sanitation, encouraging decentralised sanitation systems where</p>

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			<p>appropriate. The strategy should also promote recycling through safe and hygienic recovery and use of nutrients, organics, trace elements, water and energy or the safe disposal of all human and other wastes, including sewage and industrial effluent, in an environmentally sustainable fashion.”</p> <p>The Policy gives priority to domestic use of water over industrial/economic use.</p> <p>With respect to irrigation the Policy states: “Irrigation schemes should be developed, owned and managed by the owner in individual cases or through a common body in all other cases where more than one farmer is involved. Where bulk water is supplied by the government the distribution network and land management (including the drainage system) should be the responsibility of the beneficiaries. The quality of drainage water and the possible pollution aspects related thereto should be controlled by the MAWF in accordance with legislation to be enacted.”</p>
147. If there is a national water authority, does its mandate include risk reduction or preparedness for safeguarding the water supply in the face of natural disasters?	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956 (as amended)) (not yet in force) See: Note at Q.90	S.7(2)	<p>The functions of the Water Resources Management Agency, include -</p> <ol style="list-style-type: none"> a) the integrated management of water resources in Namibia; b) technical analysis of applications for licences to abstract and use water and permits to discharge effluent or to construct an effluent treatment facility or disposal site, including applications for renewal of such licences and permits; c) the collection, analysis and sharing of data concerning the conservation and management of water resources in Namibia; d) the monitoring and review of water usage by all water users and effluent discharges to assess compliance with this Act; e) technical analysis of the need for water management areas, including recommendations regarding the establishment of

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		S.8	<p>such areas, their geographical boundaries and any limitations to be imposed on such areas;</p> <p>f) guiding, assisting and coordinating the basin management committees; and</p> <p>g) the collection and analysis of information necessary for the development of the Master Plan and the information concerning internationally shared water resources.</p> <p>Section 8 established the Water Advisory Council to advise the Minister on</p> <p>a) “any matter on water policy development or review, water resources management, water abstraction and use, and any other matters relating to water referred to it by the Minister or upon its own initiative; and</p> <p>b) Water resource matters raised by any basin management committee and which the Council considers it proper to be taken up for advice.”</p> <p>There is no specific reference in the mandates for risk reduction or preparedness for safeguarding the water supply in the face of natural disasters.</p> <p>Water Supply and Sanitation Policy (2008) - No.</p>
148. Does a national law allocate responsibility for flood mitigation construction and other water management against urban flooding (if relevant to the subject country)? If so, what authority is responsible?			<p>Yes. See above Q.54</p>
149. If flood mitigation and water management against urban flooding is regulated at the sub-national level,			<p>No applicable laws found online. See:</p>

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at what level of government does this occur? Can you find an example of such a law?			Namibian Early Flood Warning SensorWeb Pilot Project at http://sensorweb.nasa.gov/NamibiaFlood.html (accessed 20 August 2012)
Part Five. Regulation of the Natural & Rural Environment			
Outline the laws and regulations concerning environmental management from the perspective of human safety, preservation of livelihoods and food security, including the regulation of exploitation of natural resources, water management, and reducing risks from natural events such as floods, earthquake, drought, landslides, and wildfires, such as: forestry regulation concerning wildfires, deforestation and erosion relevant to prevention of landslides and floods; environmental impact assessments; river and water catchment management relevant to flood prevention and mitigation, and water storage and distribution for human and agricultural consumption; prevention measures relating to drought, especially protection of people, livestock and crops in the face of drought, including water reserves against the risk of drought; and other prevention and risk management mechanisms to maintain food security, including measures to prevent desertification.			
A. Human Risks in Environmental Change			
150. Is there legislation on environmental protection? If so, what institution has responsibility?			<p>Responsible authority: Ministry of Environment & Tourism</p> <p>The mission of the MET is to “maintain and rehabilitate essential ecological processes and life-supported life-support systems, to conserve biological diversity and to ensure that the utilization of natural resources is sustainable for the benefit of all Namibians, both present and future, as well as the international community, as provided for in the Constitution.”</p> <p>The objectives of the MET are:</p> <ul style="list-style-type: none"> • “To conserve the natural environment in Namibia; • To protect biological diversity and life support systems, in partnership with other ministries, organizations and individuals; • To expand, develop, manage and control the country’s conservation areas; • To manage and coordinate natural resources and to encourage the development of appropriate wildlife- and forestry- based industries;

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			<ul style="list-style-type: none"> • To foster the sustainable use of all living resources, in partnership with other ministries, organizations and individuals; • To conserve wilderness, and to protect the character and beauty of Namibia; • To initiate and/or participate in all land-use planning with regard to natural resources and the preparation, implementation and management of community-based conservation and development programmes; • To initiate and/or participate in the development of the natural resource-base and methods of utilization so that people obtain the maximum sustainable benefits; • To apply appropriate environmental, social and economic assessment procedures to development proposals, plans and projects; • To develop, coordinate and promote tourism on a sustainable basis, both within proclaimed conservation areas and in the country as a whole, in partnership with other organizations; • To control standards on environmental pollution; • To conduct and promote environmental education, extension and awareness programmes, in partnership with other ministries and organizations; • To conduct and promote research, monitoring and evaluations, and the coordination of these activities, in support of the above objectives, as well as the communication of results at local, national and international levels; • To develop, apply and evaluate environmental policies, plans and legislation so as to allow this Ministry to achieve the above objectives; and • To create and maintain an environment where every employee is able to reach his or her maximum potential in a climate, favoring innovation and excellence.”

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			<p>There are five directorate within MET:</p> <ul style="list-style-type: none"> • Directorate of Administration and Support Services, • Directorate of Environmental Affairs, • Directorate of Parks and Wildlife, • Directorate of Scientific Services, and • Directorate of Tourism. <p>MET's projected budget for 2012/2013 is N\$309,143,000</p> <p>The main functions and objectives of the Directorate of Environmental Affairs are to:</p> <ul style="list-style-type: none"> • "promote sustainable development; • protect biological diversity; • improve environmental awareness; • encourage democratic environmental planning and management and • involve Namibia in regional and global environmental issues, programmes and treaties." <p>The Directorate of Environmental Affairs has a projected budget of N\$29,585,000 for 2012/2013. (Source: http://www.met.gov.na (accessed 23 August 2012))</p> <p>Other authorities whose portfolio is incidental to environment protection include the MAWF and the MFMR. See above Qs 146 and 95 for their respective mandates.</p> <p>There are a range of environmental protection laws. The major environmental protection and related laws include:</p> <ul style="list-style-type: none"> • <i>Soil Conservation Act</i>, No. 76 of 1969 (as amended) • <i>Mountain Catchment Areas Act</i>, No. 63 of 1970

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			<ul style="list-style-type: none"> • <i>Hazardous Substances Ordinance</i>, No. 14 of 1974 • <i>Nature Conservation Ordinance</i>, No. 4 of 1975 (as amended) • <i>Atmospheric Pollution Prevention Ordinance</i>, No. 11 of 1976 • <i>Prevention and Combating of Pollution of the Sea By Oil Act</i>, No. 6 of 1981 (as amended) • <i>Game Products Trust Fund Act</i>, No. 7 of 1997 (as amended) • <i>Marine Resources Act</i>, No. 27 of 2000 • <i>Forest Act</i>, No. 12 of 2001 (as amended) • <i>Environmental Investment Fund of Namibia</i>, No. 13 of 2001 (as amended) • <i>Aquaculture Act</i>, No. 18 of 2002 • <i>Inland Fisheries Act</i>, No. 1 of 2003 • <i>Water Resources Management Act</i>, No. 24 of 2004 • <i>Atomic Energy and Radiation Protection Act</i>, No. 5 of 2005, • <i>Biosafety Act</i>, No. 7 of 2006 • <i>Environmental Management Act</i>, No. 7 of 2007 (came into force on 6 February 2012) • <i>Plant Quarantine Act</i>, No. 7 of 2008 <p>Environmental and related policies include:</p> <ul style="list-style-type: none"> • National Agricultural Policy (1995) • Namibia's Environmental Assessment Policy for Sustainable Development and Environmental Conservation (1995) • National Drought Policy and Strategy (1997) • Namibia Forest Statement Policy (1992) • National Water Policy White Paper (2000) • Namibia's Draft Wetland Policy (2004) • Namibia's Marine Resources Policy (2004) • Water Supply and Sanitation Policy (2008) • National Policy on Human Wildlife Conflict Management (2009)

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	<p>Namibia's Environmental Assessment Policy for Sustainable Development and Environmental Conservation (1995) (approved in August 1994 by Cabinet Resolution 16.8..94/002)</p> <p>Environmental Investment Fund of Namibia Act, No. 13 of 2001, (as amended)</p>	S.3	<ul style="list-style-type: none"> National Policy on Climate Change (2011) <p>See also: Namibia's Green Plan (1992)</p> <p>See "Environmental Law and Policy in Namibia" website, http://www.environment-namibia.net/about.html for more information.</p> <p>Note: Most of the laws and policies available online are post 1990 Independence.</p> <p><u>Namibia's Environment Assessment Policy (1995)</u> The Policy states that all listed policies, programmes and projects, whether initiated by the Government or the private sector, should be subjected to the established environmental assessment procedure as set out in Appendix A. A list of policies, programmes and projects requiring an environmental assessment is set out in Appendix B. The Policy refers to an Environment Assessment Act, which has not been drafted, but the principles of the Policy are captured by the <i>Environmental Management Act</i> (2007).</p> <p><u>Environmental Investment Fund (2001)</u> This Act established an Environmental Investment Fund of Namibia (S.2) to be managed by the Environmental Investment Fund of Namibia Board (S.5).</p> <p>The Fund consists of -</p> <ul style="list-style-type: none"> "moneys appropriated by Parliament for the Fund; moneys collected in respect of levies imposed under this Act;

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		S.4	<ul style="list-style-type: none"> • moneys donated or accruing to the Fund from any source; and • interest and other income derived from the investment of moneys standing to the credit of the Fund.” <p>“The objects of the Fund are to procure moneys for the maintenance of an endowment fund that will generate income in perpetuity and to allocate such income to activities and projects aimed at promoting -</p> <ol style="list-style-type: none"> a) the sustainable use and management of environmental and natural resources; b) the maintenance of the natural resource base and ecological processes; c) the maintenance of biological diversity and ecosystems for the benefit of all Namibians; and d) economic improvements in the use of natural resources for sustainable rural and urban development.”
	Environmental Management Act, No. 7 of 2007, 21 December 2007 (came into force on 6 February 2012)	S.2	<p><u>Environmental Management Act (2007)</u></p> <p>“The object of this Act is to prevent and mitigate, on the basis of the principles set out in section 3, the significant effects of activities on the environment by -</p> <ol style="list-style-type: none"> a) ensuring that the significant effects of activities on the environment are considered in time and carefully; b) ensuring that there are opportunities for timeous participation of interested and affected parties throughout the assessment process; and c) ensuring that the findings of an assessment are taken into account before any decision is made in respect of activities.”
		S.3(2)	<p>“The following are the principles of environmental management: -</p> <ol style="list-style-type: none"> a) renewable resources must be used on a sustainable basis for

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			<p>the benefit of present and future generations;</p> <p>b) community involvement in natural resources management and the sharing of benefits arising from the use of the resources, must be promoted and facilitated;</p> <p>c) the participation of all interested and affected parties must be promoted and decisions must take into account the interest, needs and values of interested and affected parties;</p> <p>d) equitable access to environmental resources must be promoted and the functional integrity of ecological systems must be taken into account to ensure the sustainability of the systems and to prevent harmful effects;</p> <p>e) assessments must be undertaken for activities which may have a significant effects on the environment or the use of natural resources;</p> <p>f) sustainable development must be promoted in all aspects relating to the environment;</p> <p>g) Namibia’s cultural and natural heritage including, its biological diversity, must be protected and respected for the benefit of present and future generations;</p> <p>h) the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term must be adopted to reduce the generation of waste and polluting substances at source;</p> <p>i) the reduction, re-use and recycling of waste must be promoted;</p> <p>j) a person who causes damage to the environment must pay the costs associated with rehabilitation of damage to the environment and to human health caused by pollution, including costs for measures as are reasonably required to be implemented to prevent further environmental damage;</p> <p>k) where there is sufficient evidence which establishes that there</p>

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			<p>are threats of serious or irreversible damage to the environment, lack of full scientific certainty may not be used as a reason for postponing cost-effective measures to prevent environmental degradation; and</p> <p>l) damage to the environment must be prevented and activities which cause such damage must be reduced, limited or controlled.”</p> <p>Section 6 of the Act established the Sustainable Development Advisory Council, the members of which include “four persons whom the Minister reasonably believes represent the interests of organisations, associations or institutions concerned with environmental matters” (S.8(1)(b)). The Environmental Commissioner is an <i>ex officio</i> member of the Advisory Council and may not vote at its meetings (S.8(2)).</p>
		S.17	<p>Section 16 of the Act refers to the appointment of the Environmental Commissioner, whose functions are:</p> <p>(a) “advise organs of state on the preparation of environmental plans;</p> <p>(b) receive and record applications for environmental clearance certificates;</p> <p>(c) determine whether a listed activity requires an assessment;</p> <p>(d) determine the scope, procedure and methods of an assessment;</p> <p>(e) review the assessment report in accordance with this Act;</p> <p>(f) issue environmental clearance certificates in terms of this Act;</p> <p>(g) maintain a register of environmental assessments undertaken in terms of this Act;</p> <p>(h) maintain a register of environmental clearance certificates issued and environmental plans approved in terms of this Act;</p> <p>(i) conduct inspections for monitoring compliance with this Act;</p>

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		S.27	<p>and</p> <p>(j) perform any other duty or function which the Minister may assign or prescribe.</p> <p>The Minister can also appoint Environmental Officers to enforce compliance under the Act. (S.18).</p> <p>Section 24 required every organ of state identified by the Minister to exercise functions which may affect the environment to prepare an environmental plan which takes into account existing environmental plans and ensure consistency. All environmental plans will be scrutinised by the Environmental Commissioner and approved by the Minister (S. 25). All organs of state must comply with the environmental plan and report annually to the Minister on its implementation (S.26).</p> <p>The activities which may not be undertaken without an environmental clearance certificate (unless exempted by the Minister under S.28) include:</p> <ul style="list-style-type: none"> a) "land use and transformation; b) water use and disposal; c) resource removal, including natural living resources; d) resource renewal; e) agricultural processes; f) industrial processes; g) transportation; h) energy generation and distribution; i) waste and sewage disposal; chemical treatment; j) recreation; and k) any other area which the Minister considers necessary for the purpose of listing."

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.36(1)	<p>Part VIII provides for the environmental assessment process.</p> <p>In reviewing the application for an Environment Clearance Certificate the Environmental Commissioner may -</p> <ul style="list-style-type: none"> a) consult any person, institution, or authority on any matter concerning the application, the assessment or any submission received in relation to the application; b) carry out, or appoint a person or a committee of persons to carry out, an investigation, including a process of public consultation, in relation to any matter concerning the application, the assessment or any submission; or c) hold a public hearing.” <p>An Environment Clearance Certificate remains effective for a period not exceeding three years and cannot be transferred without the permission of the Environmental Commissioner (Ss. 40 and 41).</p>
		S.52	<p>“The State or any other person is not liable for any damage or loss caused by -</p> <ul style="list-style-type: none"> a) the exercise of any power or the performance of any duty under this Act; or b) the failure to exercise any power, or perform any function or duty under this Act, <p>unless the exercise of or failure to exercise the power, or performance or failure to perform the duty was unlawful, negligent or in bad faith.”</p> <p>Pursuant to Section 27 of the <i>Environmental Management Act</i> (2007) the Minister has provided a list of activities which may not be undertaken without an environment clearance certificate, which was published in GN No. 29 dated 6 February 2012. The list</p>

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			<p>covers the following broad areas:</p> <ul style="list-style-type: none"> • energy generation, transmission and storage activities, • waste management, treatment, handling and disposal activities, • mining and quarrying activities, • forestry activities, • land use and development activities, • tourism development activities, • agriculture and aquaculture activities, • water resource developments, • hazardous substance treatment, handling and storage, • infrastructure; • construction of military demonstration and testing sites; and • construction of cemeteries, camping, leisure and recreation sites. <p>See also: Environmental Impact Assessment Regulations, MET, 18 January 2012, GN No. 30 dated 6 February 2012</p>
151. Does the above mandate include environmental management from the perspective of: a. human safety? b. preservation of livelihoods? c. food security, especially concerning protection of crops and livestock?			The various environmental management legislations administered by the MET, MAWF and MFMR do provide for human safety, preservation of livelihoods and food security according to the context of the legislation as not all three aspects are necessarily considered within an entire Act or policy.
152. Does this law provide for environmental impact assessments (EIAs) of any proposed new private and public industrial developments?			<p>See above Q.150 re: <i>Environmental Management Act (2007)</i> and <i>Environment Assessment Policy (1995)</i></p> <p>Other laws providing for environmental assessments requirements include:</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> • Section 50 of the <i>Minerals (Prospecting and Mining) Act</i> (1992) • Section 12 of the <i>Petroleum (Exploration and Production) Act</i>, (1991) • Section 34(3) of the <i>Marine Resources Act</i> (2000) • Section 23(2) of the <i>Forest Act</i> (2001) • Section 12(2) of the <i>Aquaculture Act</i> (2002)
<p>153. If there are EIAs, do the criteria include:</p> <p>a. human risk factors from changes to the environment, including life and health as well as livelihoods and food security?</p> <p>b. assessment in light of the known natural hazards affecting the relevant locality, or downstream communities (where relevant)?</p>	<p>Environmental Impact Assessment Regulations, MET, 18 January 2012</p>	R.8	<p>An application for an Environmental Clearance Certificate is to be accompanied by a scoping report. "A scoping report must include -</p> <p>a) the curriculum vitae of the Environmental Assessment Practitioner (EAP) who prepared the report;</p> <p>b) a description of the proposed activity;</p> <p>c) a description of the site on which the activity is to be undertaken and the location of the activity on the site;</p> <p>d) a description of the environment that may be affected by the proposed activity and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed listed activity;</p> <p>e) an identification of laws and guidelines that have been considered in the preparation of the scoping report;</p> <p>f) details of the public consultation process conducted in terms of regulation 7(1) in connection with the application, including -</p> <p>i. the steps that were taken to notify potentially interested and affected parties of the proposed application;</p> <p>ii. proof that notice boards, advertisements and notices notifying potentially interested and affected parties of the proposed application have been displayed, placed or given;</p> <p>iii. a list of all persons, organisations and organs of state that were registered in terms of regulation 22 as interested and affected parties in relation to the application; and</p> <p>iv. a summary of the issues raised by interested and affected</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>parties, the date of receipt of and the response of the EAP to those issues;</p> <p>g) a description of the need and desirability of the proposed listed activity and any identified alternatives to the proposed activity that are feasible and reasonable, including the advantages and disadvantages that the proposed activity or alternatives have on the environment and on the community that may be affected by the activity;</p> <p>h) a description and assessment of the significance of any significant effects, including cumulative effects, that may occur as a result of the undertaking of the activity or identified alternatives or as a result of any construction, erection or decommissioning associated with the undertaking of the proposed listed activity;</p> <p>i) terms of reference for the detailed assessment; and</p> <p>j) a draft management plan, which includes -</p> <p>aa) information on any proposed management, mitigation, protection or remedial measures to be undertaken to address the effects on the environment that have been identified including objectives in respect of the rehabilitation of the environment and closure;</p> <p>bb) as far as is reasonably practicable, measures to rehabilitate the environment affected by the undertaking of the activity or specified activity to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development; and</p> <p>cc) description of the manner in which the applicant intends to modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation remedy the cause of pollution or degradation and migration of pollutants.”</p>

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		R.15	<p>Where the Environmental Commissioner requires an assessment report, the proponent must instruct an EAP to prepare one. The assessment report must include:</p> <ul style="list-style-type: none"> a) “the curriculum vitae of the EAP who compiled the report; b) a detailed description of the proposed listed activity; c) a description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity; d) a description of the need and desirability of the proposed listed activity and identified potential alternatives to the proposed listed activity, including advantages and disadvantages that the proposed activity or alternatives may have on the environment and the community that may be affected by the activity; e) an indication of the methodology used in determining the significance of potential effects; f) a description and comparative assessment of all alternatives identified during the assessment process; g) a description of all environmental issues that were identified during the assessment process, an assessment of the significance of each issue and an indication of the extent to which the issue could be addressed by the adoption of mitigation measures; h) an assessment of each identified potentially significant effect, including - <ul style="list-style-type: none"> aa) cumulative effects; bb) the nature of the effects; cc) the extent and duration of the effects; dd) the probability of the effects occurring; ee) the degree to which the effects can be reversed;

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			<p>ff) the degree to which the effects may cause irreplaceable loss of resources; and</p> <p>gg) the degree to which the effects can be mitigated;</p> <p>i) a description of any assumptions, uncertainties and gaps in knowledge;</p> <p>j) an opinion as to whether the proposed listed activity must or may not be authorised, and if the opinion is that it must be authorised, any conditions that must be made in respect of that authorisation; and</p> <p>k) a non-technical summary of the information.”</p> <p>See also: Procedures and Guidelines for Strategic Environment Assessment (SEA) and Environmental Management Plan (EMP), MET, GN No. 1 dated April 2008.</p>
154. Is there a law that makes any authority responsible for the regulation of exploitation of natural resources from the perspective of human safety during natural disasters? For example, preventing cross-contamination from industrial sites during flooding, or control of extraction methods to manage flooding and/or erosion?			<p>There appears to be no law which makes any authority responsible for the regulation of exploitation of natural resources from the perspectives of human safety during natural disasters. As shown below the laws generally refer to environmental protection.</p> <p>Mining Responsible authority: Ministry of Mines and Energy</p> <p><u>Minerals Development Fund of Namibia, No. 19 of 1996, 26 July 1996</u> This Act provided for the establishment of the Minerals Development Fund of Namibia managed by the Minerals Development Fund Control Board. “The Fund shall consist of:</p> <p>a) any moneys, including interest, received by means of, or in respect of, the repayment of money lent in terms of the Sysmin Agreement to the mining sector;</p> <p>b) moneys, including interest, received by means of, or in respect</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Minerals (Prospecting and Mining) Act, No. 33 of 1992, 16 December 1992	S.3	<p>of the repayment of any loan granted from the Fund in terms of section 5(a);</p> <p>c) interest derived from the investment of moneys standing to the credit of the Fund;</p> <p>d) moneys appropriated by Parliament for purposes of the Fund and paid for the benefit of the Fund at such times and in such manner as the Minister may determine;</p> <p>e) moneys accruing to the Fund from any other source, including moneys donated for the benefit of the Fund.”</p> <p>“The object of the Fund is</p> <p>a) to safeguard the production and earning power of the mining sector;</p> <p>b) to broaden, through diversification and horizontal and vertical integration, the production base of the mining sector into the national economy;</p> <p>c) to support the mining sector by -</p> <p>i. improving the national geological, geophysical and mineral data base; and</p> <p>ii. expanding the national training facilities and programmes.”</p> <p><u>Minerals (Prospecting and Mining) Act (1992)</u></p> <p>“Subject to the provisions of this Act, no person shall (a) carry on any reconnaissance operations, prospecting operations or mining operations in, on or under any land in Namibia, except under and in accordance with a non-exclusive prospecting licence, a mining claim or a mineral licence, as the case may be; or transfer any mining claim, exclusive prospecting licence, mineral deposit retention licence or mining licence, or grant, cede or assign any interest in any such claim or licence to any other person, or be joined as a joint holder of such mining claim, licence or interest otherwise than in writing and with the approval in writing of the</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.8	<p>Minister.”</p> <p>Section 4 provides for the appointment of a Mining Commissioner and Section 9 established the Minerals Board of Namibia.</p> <p>“No compensation shall be payable by the State or by the Commissioner or any other officer employed in carrying out the provisions of this Act in respect of any act done in good faith under this Act.”</p> <p>All the application for the above licences, rights and entitlements referred to in Section 3 shall include the following particulars:</p> <ul style="list-style-type: none"> • “the condition of, and any existing damage to, the environment in the area to which the application relates; and • an estimate of the effect which the proposed prospecting operations and mining operations may have on the environment and the proposed steps to be taken in order to minimize or prevent any such effect.” <p>(See: Ss. 33(2)(c)(vi), 48(1)(c), 68(f), 72(1), 73(2), 79(f), 84, 91(f), 96(1), and 97)</p> <p>Section 91(f) includes a further requirement: “the manner in which it is intended to prevent pollution, to deal with any waste, to safe guard the mineral resources, to reclaim and rehabilitate land disturbed by way of the prospecting operations and mining operations and to minimize the effect of such operations on land adjoining the mining area”</p> <p>“In considering any application [for registration of claims], the Commissioner shall take into account the need to conserve and protect the natural resources in, on or under the land to which the application relates and in, on or under adjoining or neighbouring</p>

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		<p>S.43(2)(c)</p> <p>S.48(3)(b)(i)</p>	<p>land.” (See: Ss. 34(3), 48(1)(c).</p> <p>“The Commissioner shall not grant an application for registration unless the Commissioner is satisfied that in the course of any such mining operations or any prospecting operations which may be carried on in lieu of’ such mining operations appropriate measures will be taken to minimize or prevent any pollution of the environment.” (See: Ss. S.35(e)(iii)</p> <p>The holder of the above licences, rights and entitlements shall take -</p> <ul style="list-style-type: none"> • “all reasonable steps necessary to secure, in accordance with any applicable law, the safety, welfare and health of persons employed in such claim area, and to prevent or minimize any pollution of the environment; • in accordance with any applicable law, reasonable steps to warn persons who may from time to time be in the vicinity of any accessory works of the possible hazards resulting there from”. <p>(See: Ss.41, 74, 86, and 98)</p> <p>“Where a mining is abandoned, the holder of such mining claim shall take all such steps as may be necessary to remedy to the reasonable satisfaction of the Minister any damage caused by any prospecting operations and mining operations carried on by such holder to the surface of, and the environment on, the land in the claim area in question”</p> <p>Section 48(3)(b)(i) In his consideration of the application the Minister “may require the person concerned by notice in writing to carry out or cause to</p>

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		S.50	<p>be carried out such environmental impact studies as may be specified in the notice” and “shall take into account the need to conserve and protect the natural resources in, on or under the land to which the application relates and in, on or under adjoining or neighbouring land.”</p> <p>“(f) The holder of mineral licences shall prepare in such form as may be determined in writing by the Commissioner for the approval of the Commissioner -</p> <ul style="list-style-type: none"> i. an environmental impact assessment indicating the extent of any pollution of the environment before any prospecting operations or mining operations are being carried out and an estimate of any pollution, if any, likely to be caused by such prospecting operations or mining operations; ii. if any pollution is likely to be so caused, an environmental management plan indicating the proposed steps to be taken in order to minimize or prevent to the satisfaction of the Commissioner any pollution of the environment in consequence of any prospecting operations or mining operations carried on by virtue of such mineral licence; <p>(g) from time to time as circumstances change to revise such environmental management plan either out of his or her own motion or if required by the Commissioner”.</p>
		S.57(1)	<p>“The Minister may, with due regard to good reconnaissance practices, good prospecting practices or good mining practices by notice in writing addressed and delivered to the holder of a mineral licence, give directions to such holder in relation to -</p> <ul style="list-style-type: none"> (b) the protection of the environment; (c) the conservation of any natural resources, including mineral resources, and the prevention of the waste of such resources”.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Petroleum (Exploration and Production) Act, No. 2 of 1991, 19 March 1991 (as amended)	S.46(2)(i)	<p>Section 92(2)(c)(ii)(bb) states that, “[t]he Minister shall not grant a mining licence unless he is satisfied that the proposed mining operations will ensure adequate protection of the environment.”</p> <p>If any relevant mining licences has expired or been cancelled or any area within the licence is abandoned or ceased to be a part of the licence, the Minister may require the licence holder to “take all such steps as may be necessary to remedy to the satisfaction of the Minister any damage caused by any prospecting operations and mining operations carried on by such holder to the surface of, and the environment in, such area” (S.128(1)(b)).</p> <p>See also: Minerals Policy of Namibia (undated)</p> <p><u>Petroleum (Exploration and Production) Act (1991)</u> “Applications for a production licence shall contain a proposed programme of production operations and of the processing of petroleum in question which shall include -</p> <ul style="list-style-type: none"> vi. the manner in which it is intended to prevent pollution, to deal with waste, to safeguard the natural resources, to reclaim and rehabilitate land disturbed by way of the production operations and to minimize the effect of such operations on land adjoining the production area; vii. a statement setting out any significant effect which the carrying out of such production operations are likely to have on the environment and the manner in which it is intended to control or eliminate such effect”. <p>Similarly, Section 24(c)(iii) provides that “an application for a reconnaissance licence shall contain particulars of an estimate of the effect which the proposed reconnaissance operations may</p>

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	Forest Act, No. 12 of 2001, 6 December 2001 (as amended)	S.22(1)	<p>have on the environment.” The same applies for a renewal of a reconnaissance licence under Section 25(c)(iii), an exploration licence under Section 32(c)(iii), and a renewal of an expiration licence under Section 33(c)(iii).</p> <p>See also: Regulations Relating to the Health, Safety and Welfare of Persons Employed and Protection of Other Persons, Property, the Environment and Natural Resources, In, At or In the Vicinity of Exploration and Production Areas (pursuant to the <i>Petroleum (Exploration and Production) Act (1991)</i>), No. 190 Windhoek, 23 September 1999.</p> <p>Forestry <u>Forest Act (2001)</u> Part IV of the <i>Forest Act (2001)</i> provides for environmental protection.</p> <p>“Unless otherwise authorised by this Act, or by a licence issued under subsection (3), no person shall on any land which is not part of a surveyed erven of a local authority area as defined in section 1 of the <i>Local Authorities Act, 1992 (Act No. 23 of 1992)</i> cut, destroy or remove -</p> <p>(a) vegetation which is on a sand dune or drifting sand or on a gully unless the cutting, destruction or removal is done for the purpose of stabilising the sand or gully; or</p> <p>(b) any living tree, bush or shrub growing within 100 metres of a river, stream or watercourse.”</p>
		S.22(4)	<p>“A licensing officer may require the holder of a licence issued under subsection (3) to plant vegetation on the land in question or impose conditions which are reasonable and necessary in the</p>

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	Marine Resources Act, No. 27 of 2000, 21 December 2000	S.24(1) & (2)	<p>circumstances.”</p> <p>“Forests and forest produce shall, in Namibia, subject to the permission of the owner of the land or the management authority of a classified forest and to the terms of a licence issued under this Act, be used in accordance with an applicable management plan.</p> <p>No person shall-</p> <ul style="list-style-type: none"> a) destroy or damage vegetation or harvest forest produce; b) carry out any activity for the purpose of mining minerals; c) build a road, building or structure; d) disturb or remove soil; or e) carry out agricultural activities or graze animals; <p>in a classified forest unless he or she has been authorised to do so by a management plan, a forest management agreement or a licence issued under this Act.”</p> <p>See also below Qs.155 and 156</p> <p>Fisheries and Marine Resources <u>Marine Resources Act (2000)</u> Section 47(3) of the <i>Marine Resources Act</i> (2000) is limited to general environmental protection relative to marine resources.</p>
		S.43	<p>“The Minister may prescribe measures for the conservation of marine resources, for the control of harvesting of such resources and for the protection of the marine environment, including -</p> <ul style="list-style-type: none"> a) the place and time in which harvesting operations may be conducted; b) species, size and other characteristics and quantity of marine resources that may be 'harvested; - c) methods and gear that may be used; and

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Aquaculture Act, No. 18 of 2002, 23 December 2002	S.52(4)(d)	d) measures to limit the amount of harvesting capacity.” “Any person who in a marine reserve, without having been granted permission to do so under section 51(3), dredges or extracts sand or gravel, discharges or deposits waste or any other polluting matter, or constructs or erects any building or structure or in any way disturbs, alters or destroys the natural environment shall be guilty of an offence and liable on conviction to a fine not exceeding N\$500 000.”
		S.2(1)	<u>Aquaculture Act (2002)</u> “The Minister must from time to time, taking into account relevant economic, social and environmental factors and on the basis of the best scientific information available and in consultation with the advisory council, formulate the general policy with regard to aquaculture in Namibia with a view to - a) the promotion of sustainable aquaculture; b) the management, protection and conservation of marine and inland aquatic ecosystems; c) the promotion and operation of aquaculture projects.”
		S.12(2)	“After receipt of an application [for an aquaculture licence], the Minister must, with the concurrence of the Minister responsible for environment and in accordance with such legislation or policy dealing with environmental assessments determine whether the applicant is required to submit an environmental assessment of the proposed aquaculture project.” Pursuant to Section 13(1) the Minister may not issue a licence unless he is satisfied that an environmental clearance has been issued (S.13(1)(c)).and the grant of the licence does not create a significant risk of pollution or otherwise adversely affect the

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		S.25(1)	environment (S.13(2)(b)). “Any licensee or other person engaged in aquaculture shall immediately report to the Permanent Secretary or an inspector the presence of any disease or harmful organism in an aquaculture facility.”
		S.33(2)	“Before declaring a place as an aquaculture development zone, the Minister must consult with the advisory council and any Ministry having jurisdiction in the proposed aquaculture development zone and undertake an environmental impact assessment with regard to the aquaculture development zone and establish the development objectives of the aquaculture development zone.” See also: Namibia’s Draft Wetland Policy, Final Revision, MET, DEA & WWGN, November 2004.
B. Forests			
155. Is there legislation on forest management (if relevant to the subject country)? If so, what institution has responsibility?	Forest Act, No. 12 of 2001, 6 December 2001 (as amended)		Responsible authority: Directorate of Forestry (MAWF) The mission of the Directorate of Forestry is to “promote a well organised forestry sector that is socially, environmentally and economically sustainable, while creating significant and equitable wealth and opportunities.” Its functions relate to: “forest inventories, maps, indigenous land units classifications, permit, seedlings, community forestry programmes and training.” (Source: http://www.mawf.gov.na/Directorates/Forestry/forestry.html (accessed 23 August 2012)

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		S.14	<p>the purposes of managing forest resources of national importance or to preserve the ecosystems and other components of biological diversity; and effective management cannot be achieved through management of that communal land as a community forest.”</p> <p>“Where on reasonable grounds a regional council is satisfied that any communal land situated in the region for which it was established needs to be managed as a classified forest for the purposes of managing forest resources of national importance or to preserve the ecosystems and other components of biological diversity; and effective management cannot be achieved through management of the communal land as a community forest; it may, in writing, request the Minister to have the communal land in question declared a regional forest reserve.”</p>
		S.16(1)	<p>“The Director may enter into a forest management agreement with any person or institution for the creation of a forest management area on land which does not form part of a classified forest, but which land is owned by that person or institution or can be legally used by that person or institution.”</p>
		S.22	<p>Section 21 allows the Minister to declare an area as a “protected area”.</p> <p>“Unless otherwise authorised by this Act, or by a licence issued under Subsection (3), no person shall on any land which is not part of a surveyed erven of a local authority area as defined in Section 1 of the <i>Local Authorities Act, 1992</i> (Act No.23 of 1992) cut, destroy or remove -</p> <p>a) vegetation which is on a sand dune or drifting sand or on a gully unless the cutting, destruction or removal is done for the purpose of stabilising the sand or gully; or</p>

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		S.23(1)	<p>b) any living tree, bush or shrub growing within 100 metres of a river, stream or watercourse.”</p> <p>“Unless approval has been given by the Director, no person shall -</p> <p>a) plant trees, other than fruit trees, on more than 15 hectares of land on any piece of land or several pieces of land situated in the same locality;</p> <p>b) clear the vegetation on more than 15 hectares on any piece of land or several pieces of land situated in the same locality which has predominantly woody vegetation; or</p> <p>c) cut or remove more than 500 cubic metres of forest produce from any piece of land in a period of one year.”</p>
		S.24(1)	<p>“Forests and forest produce shall, in Namibia, subject to the permission of the owner of the land or the management authority of a classified forest and to the terms of a licence issued under this Act, be used in accordance with an applicable management plan.”</p>
		S.24(2)	<p>“No person shall -</p> <p>a) destroy or damage vegetation or harvest forest produce;</p> <p>b) carry out any activity for the purpose of mining minerals;</p> <p>c) build a road, building or structure;</p> <p>d) disturb or remove soil; or</p> <p>e) carry out agricultural activities or graze animals;</p> <p>in a classified forest unless he or she has been authorised to do so by a management plan, a forest management agreement or a licence issued under this Act.”</p>
		S.24(3)	<p>“Notwithstanding subsection (2), the owner or legal occupier of any land, including communal land may, subject to any applicable management plan, in which harvesting limits are set in or an agreement entered into under this Act and section 26, without a</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			licence, harvest forest produce from the land he or she owns or occupies and dispose of that forest produce in any way he or she likes.”
		S.24(4)	“Notwithstanding subsection (2), a person who resides in or near a forest reserve or a person who resides in or near a community forest may, subject to a relevant management plan and section 26, cut and remove from the forest reserve or community forest, forest produce for use as household fuel or for the construction of shelter for himself or herself or for his or her livestock.”
		S.24(5)	<u>Wildlife</u> “The hunting of wild animals in a classified forest shall be done in accordance with the applicable management plan and no authorisation to hunt in terms of the <i>Nature Conservation Ordinance, 1975</i> (Ordinance No.4 of 1975) which is contrary to an applicable management plan shall be granted.”
		S.44(1)	“Unless authorised by this Act, no person shall allow an animal which is under his or her charge or control to enter into a classified forest.
		S.44(2)	“Where an animal enters a classified forest contrary to Subsection (1), an authorised officer may seize that animal and detain it at a place prescribed by the Minister.”
			<u>National Policy on Human Wildlife Conflict Management (2009)</u> The objectives of the National Policy on Human Wildlife Conflict Management are: <ul style="list-style-type: none"> • to develop future human - wildlife conflict management legislative framework, • to develop a standardised monitoring system for human -

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>wildlife conflict management,</p> <ul style="list-style-type: none"> • to establish best practice mitigation measures for human - wildlife conflict management, • to develop innovative mechanisms to reduce the level of human - wildlife conflict; and • to provide clarity on the questions of compensation with regard to damages caused by wildlife. <p>In particular, all individuals, organisations and State agencies are to take responsibility for carrying out appropriate land use planning and developing integrated measures that are aimed at avoiding and/or reducing human - wildlife conflict. The policy seeks to:</p> <ul style="list-style-type: none"> • create sufficient economic and other benefits from the use of wildlife so that rural communities will view wildlife as an asset rather than a liability, • provide safeguards that specific animals are destroyed for good reason, • promote the development and application of appropriate and effective plans and measures to prevent or reduce human - wildlife conflict, • establish a national database and evaluate effective mitigation measures, • reduce the impacts on park residents and neighbours of wildlife that leaves the protected areas and cause problems and providing economic and other benefits from protected areas to park neighbours, • establish a system to assist affected families with funeral costs; and • generate income from problem causing animals to avoid future conflicts and address the losses of affected persons. <p>See also:</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			Community Based Tourism Policy, MET Circular No. 20 of 1995, June 1995 re: communal conservancy. The <i>Nature Conservation Amendment Act</i> , No. 5 of 1996, 4 June 1996 established communal conservancy and provided communities with rights over wildlife and tourism management within the relevant communal land.
157. Does the law recognize customary laws and practices as to the use and management of forests and their resources?	Forest Act, No. 12 of 2001, 6 December 2001 (as amended)	S.33	<p>Insofar as, “[n]otwithstanding section 24(2), but subject to the customary law applicable in a relevant communal land, the inhabitant of communal land may, on communal land which is not legally occupied by any person and which is not a classified forest, cut, take and remove forest produce for use as household fuel, for the construction of shelter for himself or herself or for his or her livestock or for the construction of structures used to protect his or her agricultural crop.”</p> <p>Generally customary laws are recognized pursuant to Article 66 of the 1990 Namibian Constitution and <i>Traditional Authorities Amendment Act (2000)</i>.</p>
158. Does the law provide for use, conservation or management of forests and their resources by communities?	Forest Act, No. 12 of 2001, 6 December 2001 (as amended)	<p>S.15(1)</p> <p>S.15(2)</p>	<p>“The Minister may, with the consent of the chief or traditional authority for an area which is part of communal land or such other authority which is authorised to grant rights over that communal land enter into a written agreement with any body, which the Minister reasonably believes represents the interests of the persons who have rights over that communal land and is willing and able to manage that communal land as a community forest.”</p> <p>“The agreement referred to in subsection (1) shall -</p> <ol style="list-style-type: none"> provide for the creation of a community forest; identify the geographical boundaries of the proposed community forest; include a management plan for the proposed community forest; confer the rights, subject to the management plan, to manage

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			<p>and use forest produce and other natural resources of the forest, to graze animals and to authorise others to exercise those rights and to collect and retain fees and impose conditions for the use of the forest produce or natural resources;</p> <p>e) appoint the body which is party to an agreement made in terms of subsection (l) to be the management authority for the community forest and require that management authority to manage the community forest in accordance with the management plan;</p> <p>f) provide for equal use of the forest and equal access to the forest produce by members of the communal land where the community forest is situated; and</p> <p>g) provide for adequate reinvestment of the revenues of the forest and for the equitable use or distribution of the surplus.”</p> <p>See also: Community Forestry Guidelines, MAWF (2005) at http://www.the-eis.com/data/literature/community_forestry_guidelines.pdf (accessed 23 August 2012)</p>
C. Rivers and watercourses			
159. Is there legislation on river and watercourse management (if relevant to the subject country)? If so, what institution has responsibility?			<p>Responsible authority: Department of Water Affairs (MAWF)</p> <p>The Department of Water Affairs has two directorates: the Directorate of Resource Management and the Directorate of Rural Water Supply.</p> <p>The mission of the Directorate of Resource Management is to “promote and facilitate the environmentally sustainable development, management and utilization of water as a scarce resource to achieve, on behalf of and with all the citizens of the nation, sound socio-economic development in Namibia.”</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956 (as amended)) (not yet in force) See: Note at Q.90	S.53	<p>The mission of the Directorate of Rural Water Supply is to “ensure a sustainable supply of safe water to rural communities in communal areas.” (Source: http://www.mawf.gov.na (accessed 23 August 2012))</p> <p>Internationally Shared Water Resources <u>Water Resources Management Act (2004)</u> “In its dealings with neighbouring states and other riparian states in relation to internationally shared water resources, the Republic of Namibia -</p> <ol style="list-style-type: none"> a) exercises its rights, and observes and complies with all its duties as conferred and imposed upon it by any international treaty, convention or agreement to which it is a signatory; and b) must uphold such principles and rules of customary international law as are accepted and observed by all nations and as are reflected in - <ol style="list-style-type: none"> i) the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses; and ii) the Southern African Development Community Protocol on Shared Water Courses.”
		S.54	<p>The powers and functions of the Minister in relation to internationally shared water resources are -</p> <ol style="list-style-type: none"> a) to participate with riparian states in the establishment and continuous development of a common database regarding the description and use of shared water resources; b) to engage in the joint management, planning and development of joint projects with other basin states within the Southern Africa Development Community for the purpose of promoting economic growth, environmental integrity and common understanding; c) to establish and promote institutional relationships between

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.55	<p>river basin organisations within Namibia and international river basin organisations;</p> <p>d) to ensure the participation of interested persons in the development of Namibia's position concerning internationally shared water resources;</p> <p>e) to develop and improve Namibia's capacity for participation in shared water resource consultations and international river basin organisations; and</p> <p>f) to establish mechanisms, or participate in the re-establishment of mechanisms, for the prevention, management and resolution of disputes relating to internationally shared water resources.</p> <p>In performing his or her functions with respect to internationally shared watercourses, the Minister must collect and analyse data including, among others -</p> <p>a) the volume of water abstracted and beneficially used within Namibia from each shared watercourse;</p> <p>b) the nature of the beneficial uses within Namibia supported by each shared watercourse, including the economic value of the uses;</p> <p>c) the number of persons within Namibia who rely upon each shared watercourse for domestic, agricultural or industrial purposes;</p> <p>d) the relevant date or dates upon which the abstraction of water from each shared watercourse for beneficial use within Namibia commenced;</p> <p>e) the availability and reliability of alternative sources of water to support existing beneficial uses within Namibia if abstractions from a shared watercourse are curtailed;</p> <p>f) the increases in demand for water from each shared watercourse reasonably expected to occur within Namibia in</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>the foreseeable future;</p> <p>g) the volume and composition of waste discharged from within Namibia into each shared watercourse;</p> <p>h) the relevant date or dates upon which the discharge into each shared watercourse commenced;</p> <p>i) the estimated waste load capacity of each shared watercourse;</p> <p>j) the availability and reliability of alternative means of waste disposal within Namibia if discharges into a shared watercourse are curtailed; and</p> <p>k) the increases in demand for the waste load carrying capacity of each shared watercourse reasonably expected to occur in Namibia in the foreseeable future.</p> <p>See also:</p> <ul style="list-style-type: none"> • Above Q.90 re: Water Management Laws • SADC Protocol on Shared Watercourse Systems (1995) • National Water Policy White Paper, MAWRD, August 2000 • Water Supply and Sanitation Policy, July 2008
<p>160. Does the above mandate include river management from the perspective of natural disaster risk reduction, such as:</p> <p>a. Riverbed management relevant to flood prevention and mitigation?</p> <p>b. Water storage and distribution for human, agricultural and industrial consumption in rural areas?</p> <p>Describe the scope.</p>			<p><u>Flood prevention and mitigation</u></p> <p>See:</p> <ul style="list-style-type: none"> • Above Q.33 • Above Qs.54 to 60 <p><u>Water storage and distribution</u></p> <p>See:</p> <ul style="list-style-type: none"> • Above Q.90 • Above Qs 146 to 149
<p>161. Does the law recognize customary laws and practices as to the use and management of rivers and their resources?</p>			<p>Generally customary laws are recognized pursuant to Article 66 of the 1990 Namibian Constitution and <i>Traditional Authorities Amendment Act (2000)</i>.</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p><i>Water Act (1956)</i> - No</p> <p><u><i>Water Resources Management Act (2004)</i></u> Section 35(1) of the <i>Water Resources Management Act (2004)</i> states that “[i]n deciding whether a licence to abstract and use water should be issued, the Minister must consider ... h) the existence of any traditional community and the extent of customary rights and practices in, or dependent upon, the water resource to which an application for the licence relates, ... “.</p> <p>Section 37(b) states that a licence to abstract and use water is issued subject to customary rights and practices and “the accommodation of reasonable requirements of any traditional community.” (S.37(e)).</p> <p>Similarly, a permit to drill bore holes or to engage in a borehole drilling programmes requires the Minister to consider the application in view of “the existence of any traditional community and the extent of customary rights and practices in, or dependent upon, the water resource to which an application for the licence relates” (S.46(c)).</p> <p>Section 53(b) provides that, “[i]n its dealings with neighbouring states and other riparian states in relation to internationally shared water resources, the Republic of Namibia must uphold such principles and rules of customary international law as are accepted and observed by all nations and as are reflected in - i. the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses; and ii. the Southern African Development Community Protocol on Shared Water Courses.”</p>
162. Does the law provide for use, conservation or management of			<i>Water Act (1956)</i> - No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
rivers and their resources by communities?	Water Resources Management Act, No. 24 of 2004, 8 December 2004 (repealed <i>Water Act</i> , No. 54 of 1956 (as amended)) (not yet in force) See: Note at Q.90	S.13	<p>“The functions of a basin management committee are: ...</p> <p>b) to promote community participation in the protection, use, development, conservation, management and control of water resources in its water management area through education and other appropriate activities;</p> <p>e) to promote community self-reliance, including the recovery of costs for the operation and maintenance of waterworks”.</p> <p>Part V provides for the establishment of water point user associations and local water user association and their respective committees.</p>
		S.16	<p>1) “Any group of rural households using a particular water point for their water supply needs may form a water point user association to maintain the water point and to manage water supply services at the water point.</p> <p>2) The members of a water point user association must elect a water point committee to manage the affairs and the day to day activities of the water point user association, including financial matters.</p> <p>3) A water point committee must consist of not less than five and not more than seven members elected in accordance with its constitution and rules.</p> <p>4) A group of water point user associations and other persons using a particular rural water supply scheme for their water supply needs must form a local water user association to coordinate the activities and management of their water points and to protect the rural water supply scheme against vandalism and other damages.</p> <p>5) The members of the local water user association must elect a local water committee to manage the day to day activities of the local water user association, including financial matters.</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		S.18(1)	<p>6) A local water committee must consist of not less than five and not more than seven members elected in accordance with its constitution and rules.</p> <p>7) A water point user association or local water user association is a non-profit making entity.”</p> <p>“The functions of a water point user association are -</p> <ul style="list-style-type: none"> a) to manage water supply at its water point; and b) to maintain its water point and protect it against vandalism and other damages.”
		S.18(2)	<p>“The functions of a local water user association are -</p> <ul style="list-style-type: none"> a) to coordinate and oversee the activities and management of water supply service by its members so as - <ul style="list-style-type: none"> i to foster a sense of ownership among the users; ii to promote economic development; and iii to ensure sustainability of such service; and b) to protect the rural water supply scheme concerned against vandalism and other damages.”
		S.19(1)	<p>“Subject to this Act, the powers of a water point user association or local water user association, include -</p> <ul style="list-style-type: none"> a) the powers contained in its constitution; b) the power to make rules for the use of the rural water supply scheme or water point by members and non-members; c) the power to prevent any person who does not comply with the rules or the constitution of a water point user association or local water user association from using such water point; d) the power to adopt measures to prevent the wastage of water by any person; and e) the power to plan and control the use of communal land in the immediate vicinity of the water point in cooperation with the

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>communal land board and the traditional authority concerned.”</p> <p>Water point user associations and local water user associations need to register with the Minister who must, through the traditional authority concerned, invite interested persons to make written objections, if any, against the application S(.21).</p>
D. Drought and food security			
163. Is there any legislation providing for risk reduction and prevention measures relating to drought (if relevant)? If so, does this include any institutional mandate or responsibility to protect people, livestock or crops in the face of drought?			See 3, Part Two, I. Drought and related famine?
164. Does the above mandate include the construction and maintenance of water reserves, including against the risk of drought?			See 3, Part Two, I. Drought and related famine?
165. Is there any other legislation relevant to risk management to maintain food security in the face of natural disasters, including any special measures to prevent desertification (if relevant)?			<p>See:</p> <ul style="list-style-type: none"> • Part 3, Two, I. Drought and related famine? • Part 3, Two, J. Other food security risks?

4. Information management and exchange, community level DRR education & awareness

Most elements of information, education and awareness will normally be done through policy rather than law, but the legal framework may require public institutions to make DRR information available to the public and/or to carry out public and school education and awareness on reducing risk from natural disasters. For example, there could be a Ministerial directive under the Education Act requiring the inclusion of DRR in the school curriculum. [If this requires repetition of information given above, please note 'see above' and refer to the relevant question number.]

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
166. Is there a law that regulates the collection and publication of seismological, meteorological and climatic data relevant to natural disasters? a. If so, what does it require and who is responsible for this, and under what law? b. Does it provide for community level access to the data?			See above Qs. 57, 91, 93, 102, 105 and 106
167. Is there a law that regulates the collection and publication of baseline population data, especially in high risk areas? a. If so, what does it require and who is responsible for this, and under what law? b. Does it provide for community level access to the data?			See above Q.107
168. Does the education law or regulations require inclusion of DRR awareness in the school curriculum? Does this law or another law such as the DM law also require community DRR education?	National Disaster Risk Management Policy, August 2009	S.8.5.2	Imperative 2 of KPA 5 is to “develop and establish mechanisms to enhance DRM knowledge management in relevant sections of school curricula [in] Namibia”; the task of which is given to the DDRM. “The mechanisms must serve to: <ul style="list-style-type: none"> • promote the integration of DRM knowledge in the school curricula at all levels;

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)		<ul style="list-style-type: none"> • promote the integration of DRM knowledge in the relevant training and learning programmes for stakeholders including development planners, emergency managers and local government officials; • establish standards, mechanisms for accreditation and registration of DRM training that are compliant with the Education Act; • facilitate widespread community-based DRM training programmes considering the role of volunteers, as appropriate, to enhance local capacities to mitigate and cope with disasters; and • ensure equal access to appropriate training and educational opportunities for women and vulnerable constituencies; promote gender and cultural sensitivity training as integral components of education and training for DRR.”
		S.5(n)	To the extent that the NDRMC is responsible for “promoting and supporting the integration of disaster risk reduction training into tertiary education curricula and into school curricula”.
		S.11(4)(h)	To the extent that the Directorate of DRM is responsible for “mak[ing] provision for a national education, training and research strategy”.
		S.14(3)(j) & (n)	To the extent that the Regional DRMC is responsible for “mak[ing] provision for education, training and research strategy at regional level”, and “promot[ing] the recruitment, training and participation of volunteers in disaster management in the region”.
		S.15(3)(f)	To the extent that the Constituency DRMC is responsible for the “implementation of public information and public awareness

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		& (i)	programmes in their area”, and “promote the recruitment, training and participation of volunteers in disaster management in the constituency area”.
		S.16(3)(c) & (g)	To the extent that the Settlement DRMC is responsible for “sensitis[ing] the community to the importance of understanding and heeding early warnings, the effects of disasters and appropriate responses”, and “promot[ing] the recruitment, training and participation of volunteers in disaster management in the settlement area”.
		S.17(7)(g), (n), (q) & (s)	To the extent that the Local Authority DRMC is responsible for - <ul style="list-style-type: none"> • “facilitate[ing] the implementation of public information and public awareness programmes in its area; • assist[ing] with the establishment of mechanisms for creating public awareness to instil a culture of risk avoidance; • mak[ing] provisions for education, training and research strategy; [and] • promot[ing] the recruitment, training and participation of volunteers in disaster management in the local authority area”.
		S.24(1)(c)	Every regional council must develop and implement a DRM programme consisting of “public education on risks to public safety and on disaster preparedness, response and recovery”.
169. If there is a national disaster management policy, does this require any public authorities to conduct public education and awareness on DRR? a. If so, which authorities and what are they required to do? b. In particular does it require DRR	National Disaster Risk Management Policy, August 2009		<u>Public education and Awareness</u> Imperative 4 of KPA 5 is to “develop and establish mechanisms to create public awareness on DRM in Namibia”. The NDRMC is tasked to: <ul style="list-style-type: none"> • “promote the engagement of the media to stimulate a culture of disaster resilience and strong community involvement through sustained public education and consultations; • make DRM information accessible free of charge to all;

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
education in schools?	National Policy on Climate Change for Namibia, 2011		<ul style="list-style-type: none"> • secure continued resources for implementing awareness campaigns; • establish relationships with media professionals and other commercial and marketing interests for sustained public awareness campaigns; and • engage respected local officials, religious and community leaders and other interest groups to disseminate information on DRR and popular participation in DRR activities.” (S.8.5.4) <p><u>DRR Education in Schools</u> See above Q.168</p> <p>The National Policy on Climate Change for Namibia (2011) states that, “[t]o effectively address challenges brought by climate change in Namibia, the government and its stakeholders will:</p> <ul style="list-style-type: none"> • mainstream climate change into the formal education system, at all levels (primary to tertiary) and support educational institutions; • support specialized post graduate training of Namibians to address climate change science, impacts, vulnerabilities, adaptation and mitigation, • strengthen institutional capacity of higher learning and government ministries through provision of equipment, infrastructure and financial resources to enable them[to] effectively implement the policy.” (S.4.11) <p>See also: School Manual on Emergency Preparedness and Response, Namibia, 2010</p>
170. If the above law or the national disaster management policy requires public education, does this provide	National Disaster Risk Management Policy, August 2009		See above Qs. 100 and 169

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
for community level DRR awareness? If so, does this make any provision for community participation in the development and delivery of public education and awareness campaigns?	Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)		
171. Does legislation provide for any designated role for the Red Cross or Red Crescent National Society as an auxiliary to government in DRR education and awareness at community level?	National Disaster Risk Management Policy, August 2009 Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence Proclamation 1978</i> , No. AG 54 of 1978 and <i>Civil Defence Ordinance</i> , No. 3 of 1979)		The NDRMP refers to the <i>Namibia Red Cross Act (1991)</i> as being complimentary to the policy by serving as an auxiliary in the implementation of DRM activities. It did not make any specific references to DRR education and awareness at community level. The Namibia Red Cross Society shall have representation on the NDRMC, NamVAC, RDRMC and the Field Command Team (where established by the Regional Council). The DRM Act 2012 is silent on this matter. Section 2 of the <i>Namibia Red Cross Act (1991)</i> states that, "The Namibia Red Cross is hereby recognised as a voluntary aid society, auxiliary to the public authorities, for the purposes of the Geneva Conventions, the Fundamental Principles of the Red Cross, and otherwise" without any elaboration on its specific roles in Namibia.
172. Does legislation provide for any designated role for Civil Society in DRR education and awareness at community level?	National Disaster Risk Management Policy, August 2009 Disaster Risk Management Act, No. 10 of 2012, 1 August 2012 (repealed <i>Civil Defence</i>		Both the NDRMP and DRM Act 2012 do not designate any specific role for civil society in DRR education and awareness at community but it does provide for civil society to play a role in DRM activities. See above Qs. 13, 100 and 169

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<i>Proclamation 1978, No. AG 54 of 1978 and Civil Defence Ordinance, No. 3 of 1979)</i>		
<p>173. Does any law provide for community-level results in DRR, such as:</p> <p>a. Natural disaster warnings that extend to community level?</p> <p>b. Implementation of incentives to carry out community based DRR, or disincentives to ignore or increase risks from natural disasters?</p> <p>c. Community involvement in land-use and urban planning?</p> <p>d. Community involvement in and education concerning building codes?</p>			<p><u>Natural disaster warning</u> See above Q.101</p> <p><u>Incentives to implement community DRR activities</u> No</p> <p><u>Land use and urban planning</u> The land use and planning laws provide for community participation but does not provide for any specific reference to disaster risk reduction.</p> <p>See also:</p> <ul style="list-style-type: none"> • Above Q.158 re: community forestry • Community Based Tourism Policy, MET Circular No. 20 of 1995, June 1995 re: communal conservancy. The <i>Nature Conservation Amendment Act</i>, No. 5 of 1996, 4 June 1996 established communal conservancy and provided communities with rights over wildlife and tourism management within the relevant communal land. <p><u>Building Code</u> The study was unable to locate the relevant laws online to ascertain its contents.</p>

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<http://www.gfdr.org/gfdr/sites/gfdr.org/files/publication/AFR.pdf> (accessed 8 August 2012)

News Articles

Smit N., "Laws on Property Deeds Get Revamped", *The Namibian*, 20 June 2011.
[http://www.namibian.com.na/index.php?id=28&tx_ttnews\[tt_news\]=83715&no_cache=1](http://www.namibian.com.na/index.php?id=28&tx_ttnews[tt_news]=83715&no_cache=1) (accessed 1 September 2012)

Useful Websites

Laws and Regulations

Legal Assistance Centre at <http://www.lac.org.na/index.html>

African Centre of Meteorological Applications for Development at <http://www.acmad.org>

Government Ministries and Agencies

Ministry of Environment and Tourism at <http://www.met.gov.na/Pages/DefaultNew.aspx>

Parliament of Namibia at <http://www.parliament.gov.na/index.php>

Other

Environmental Law and Policy in Namibia at <http://www.environment-namibia.net/about.html>