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**Committee on the Rights of the Child**

**Sixty-first session**

**Summary record of the 1732nd meeting**

Held at the Palais des Nations, Geneva, on Thursday, 20 September 2012, at 10 a.m.

 *Chairperson*: Mr. Zermatten

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 Consideration of reports of States parties (*continued*)

1. *Second and third periodic reports of Namibia* (CRC/C/NAM/2-3; CRC/C/NAM/Q/2-3 and Add.l)

*At the invitation of the Chairperson, the delegation of Namibia took places at the Committee table.*

**Ms. Sioka** (Namibia) introduced the combined State party report by providing demographic information on Namibia, a sparsely populated country with a very young population. She explained that article 15 of the Constitution recognized children’s rights and provided a framework for child protection. Namibia was a party to the Convention on the Rights of the Child and its first Optional Protocol, as well as to other international instruments, including the Convention on the Elimination of All Forms of Discrimination and the African Charter on the Rights and Welfare of the Child. The State party report, covering the period 1997–2008, had been prepared in consultation with line ministries, with substantial contributions made by the United Nations Children’s Fund (UNICEF), civil society, the private sector, non-governmental organizations (NGOs) and Namibian children themselves.

During the period under review the Government had enacted a range of new legislation. The Combating of Rape Act of 2000 and the Combating of Domestic Violence Act of 2003, for example, had led to the establishment of Women and Child Protection Units, which were manned by police and social workers. However, certain shortcomings in the reporting system had made it necessary to revise the data-collection system and staff training measures.

The National Disability Act of 2004, which complemented the National Policy on Disability of 1997, had provided for the establishment of the National Disability Council, which collected data and served as an advisory body to the Government. The 2001 Education Act prohibited school staff from administering corporal punishment, and teachers received training in alternative forms of discipline. The Education Act was currently under review with a view to abolishing school development funds in order to give effect to the principle of inclusive education.

While the 2006 Children’s Status Act covered areas such as custody, guardianship and inheritance for children born outside marriage, the Labour Act of 2007 prohibited child labour under the age of 14 and established an interministerial programme to abolish child labour. The Children’s Act of 1960 was being reviewed to address current needs, including intercountry adoption. Further legislative measures were planned in the field of child protection, including the Child Care and Protection Bill, covering areas such as foster care, kinship care, adoption and residential facilities, as well as children’s courts, the Child Welfare Advisory Council and the Children’s Ombudsman. The Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance would also be annexed to the Child Care and Protection Bill, thereby strengthening the Maintenance Act of 2003.

The “best interests of the child” constituted the guiding principle for the Bill, which provided for children’s participation in the decision-making process with regard to judicial matters. Children also participated in forums such as the Children’s Parliament, Junior Town Councils and the model United Nations, thus ensuring that their voices were heard.

The national policy framework included the Early Childhood Protection and Development Policy, which focused on all aspects of early child development, and the Education and Training Sector Improvement Programme, designed to support the poor. The recommendations of a national conference on education held in 2011 had resulted in the issuing of a directive stipulating that free primary education would be launched in phases starting in January 2013.

Access to education had improved in recent years with the building of new schools, and over 20 per cent of the national budget was allocated to the education sector. The Education for All National Plan of Action 2002–2015 aimed to ensure access to free compulsory education to all children, particularly girls and marginalized groups, and the Education Sector Policy on the Prevention and Management of Learner Pregnancy was currently being implemented.

The National Policy on HIV and AIDS for the Education Sector and the National Policy on Orphans and Vulnerable Children provided information to schools, parents and caregivers on exemptions from school fees as well as on social grants and support services for orphans and vulnerable children. The National Agenda for Children 2012–2016 aimed to ensure that all children were healthy and enjoyed access to development services, an improved standard of living, and protection from negligence, violence, abuse and exploitation.

Notwithstanding those measures, HIV/AIDS and poverty continued to pose challenges. It was difficult for children orphaned as a result of AIDS to fully enjoy their rights, and children whose parents lacked civil identification documents faced difficulties in obtaining access to grants. The Births, Marriages and Death Act of 1963 was currently under review in order to bring it into line with international standards. In the meantime, alternative or mobile registration facilities had been introduced, including in remote areas.

Limited financial and human resources posed difficulties for Namibia, and her delegation therefore wished to request the Committee for technical support in strengthening its implementation capacity. It also welcomed any initiatives that the Committee and other stakeholders might take to promote and protect children’s rights.

**Mr. Pollar** (Country Rapporteur), noting that Namibia had not entered any reservations to the Convention, asked whether the State party planned to reconsider its reservation to article 26 of the 1951 Convention relating to the Status of Refugees, which concerned the designation of places of reception, as it could have an impact on the rights of the child by restricting the movements of refugee children or their access to services.

He requested further clarification regarding the nature of the relationship between the State and civil society, namely the legal framework which permitted NGOs to operate. He enquired as to registration procedures and fees, and whether Government funding was available to support the activities of NGOs.

Turning to article 3 of the Convention, he asked whether domestic laws, programmes, policies and actions referred to the “best interests” principle, whether that principle was applied in practice, and whether there were measures in place for periodic assessments in that regard. Had specific measures been implemented – for example, to ensure that a representative was present to defend the rights of a child during judicial hearings?

He wished to know how a child’s right to privacy was protected in the family, in the alternative care system and in institutions or services. Could children receive confidential counselling? He also sought information on the management, monitoring and storage of information collected on children.

**Mr. Koompraphant** asked which Government agency was responsible for the implementation and monitoring of policies relating to the rights of the child. He also wished to know how the State party ensured coordination and asked for detailed information on the national strategy for the promotion of children’s rights in Namibia.

**Ms. Sandberg** asked for information on patriarchal attitudes and stereotypes leading to the marginalization of and discrimination against women and girls, as well as on the measures being taken to combat that problem. With regard to the problem of gender-based violence, she invited the delegation to comment on the gender aspect of violence against children in the State party. She would also like the delegation to comment on the higher levels of poverty among women and in female-headed households in Namibia, which could be linked to discrimination.

**Ms. Varmah** requested clarification as to whether the children of non-Namibian citizens could be registered and obtain Namibian citizenship. She asked when the review of the 1960 Children’s Act would be completed, and whether the State party intended to sign the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

With regard to the right to life, she drew attention to the existence of serious problems such as baby dumping, infanticide, infant mortality and malnutrition, and asked what measures the State party was taking to protect children’s right to life and survival.

**Mr. Madi** asked whether a Namibian woman married to a foreigner could pass her nationality on to her children. With regard to corporal punishment, he noted that certain schools condoned the practice and that there was a lack of training and awareness regarding that issue among teachers. Was corporal punishment still lawful in the home? He asked when the Child Care and Protection Bill would be passed and, noting that its provisions referred to the parents’ duty to respect the physical integrity of the child, asked whether the legislation would include an explicit prohibition of corporal punishment. Namibian legislation did not explicitly prohibit corporal punishment in alternative care settings, and he would like to see an explicit prohibition of corporal punishment in all settings.

**Mr. Kotrane** asked why the State party had rejected the recommendation made during the universal periodic review process that it should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as that instrument also had a bearing on the welfare of children. He also wished to know whether the State party had ratified any of the Hague Conventions, particularly the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. Welcoming the fact that the Namibian Constitution referred specifically to the rights of the child, he asked whether its provisions were directly applied by the courts and whether judges gave effect to the Convention in their rulings. He also wished to know what role the courts played in enforcing the Convention and whether international conventions prevailed over domestic law.

**Ms. Nores de Garcia** welcomed the budget allocations made to the education sector but expressed concern that that investment was not reflected in the services provided, and that regional inequalities existed in the distribution of funds. She wished to know the reasons for the poor level of mathematical and reading skills of Namibian pupils, notwithstanding high levels of investment, and asked whether corruption might be a problem. She asked whether the State party planned to implement results-based budgeting and what measures it could take to avoid discrepancies between the volume of resources allocated and the results achieved.

With regard to data collection, she said that there did not appear to be any centralized entity responsible for compiling and analysing statistics that could be used in drawing up public policies. She asked whether the State party planned to establish such an entity, and what steps could be taken to speed up the data-collection and processing systems to make data available more quickly and transparently.

**Ms. Aidoo** asked whether the Convention had been translated into any of the major local languages, given that Namibia had many remote areas and communities. She asked whether the training provided to professionals, such as teachers, magistrates and social workers, focused on the gender dimension of children’s rights, for the situation of girls in Namibia was cause for great concern, given the high level of gender-based violence. Did awareness-raising measures emphasize the equal rights of girls and boys under the Convention? The principle of equality did not appear to form the cornerstone of training programmes, especially for teachers, and the high incidence of sexual harassment by teachers was likewise cause for serious concern.

Commending the State party’s efforts in the field of civil rights and freedoms, she asked how children obtained information that would empower them and allow them to express themselves, and what measures were taken to ensure that children were aware of the decision-making process. She requested information on the level of girls’ participation in all institutions, such as Learner’s Representative Councils, the Children’s Parliament and the model United Nations. Data on the education sector revealed a high dropout rate and the persistence of problems such as harassment and sexual violence. How were girls empowered to express their views and participate effectively in the decision-making process?

Lastly, she requested information on the State party’s approach to remote communities, which had their own traditions and a certain view of the role of children, as those communities had not been involved in the process of dynamic social change which had taken place in urban areas.

**Mr. Cardona Llorens** wondered whether there was a minimum age for marriage in cases in which persons who had not reached the legal age of majority were allowed to marry with parental consent. Noting that the age of criminal liability in Namibia was 14 years and that children as young as 7 years of age could be held liable under criminal law, he asked whether there were any differences in the treatment of adults and juveniles under the judicial system. He also noted that the age of sexual consent had been raised to 14 years and wondered whether children over the age of 14 were admitted to any type of employment. While the age of majority was set at 21 years of age, the State party seemed to treat children aged 14 to 18 years as adults. He wished to know what steps were taken to ensure that the rights of children in that age group were protected and requested clarification of the definition of a child in Namibia.

**Ms. Maurás Pérez** noted that Namibia was among the driest countries in southern Africa and was particularly vulnerable to the adverse effects of climate change, including droughts, floods and food shortages. She asked what steps had been taken to coordinate emergency response efforts among the relevant institutions and whether the Directorate of Child Welfare had been involved in disaster management to ensure that children were protected during emergencies. Further information was needed on water resource management, particularly in disaster-prone rural areas. She asked what efforts were being made to teach children about climate change and to involve them in environmental protection activities.

**Ms. Wijemanne** (Country Rapporteur) said that although corporal punishment was prohibited in Namibia under the law, it continued to be administered in schools, at home and in alternative care settings. She asked whether the State party had any plans to raise awareness among teachers, parents and other caregivers about alternative forms of discipline. Noting that the State party allocated a large share of its budget to the social sector, she wished to know whether specific budget allocations had been made for child-related matters and, if so, how much of the budget was actually spent on children. She welcomed the establishment of the Ministry of Gender Equality and Child Welfare; however, she would also be grateful to have details of the mechanisms in place to coordinate the efforts that were made by various other Government sectors, such as health and education, to support children. It was not clear why the Office of the Ombudsman had received so few complaints of rights violations from children; she would like to know whether that was owing to weaknesses in infrastructure and whether the Office had been made child-friendly.

**The Chairperson** said that the Committee had not received information on children’s opportunities to be heard in any judicial and administrative proceedings affecting them, in accordance with article 12 of the Convention. He would like to know what mechanisms were in place to ensure that children’s voices were heard. Noting that Namibia had both ordinary and customary laws and courts, he said that outside the capital customary law was most often invoked and customary courts were used on a regular basis. He would therefore like to know how children could be heard in customary courts, as proceedings in such courts tended to exclude children. It was not clear to what extent people were aware that they were entitled under the Constitution to appeal to an ordinary court if they wished.

1. *The meeting was suspended at 11.10 a.m. and resumed at 11.40 a.m.*

**Mr. Dyakugha** (Namibia) said that the Community Courts Act of 2003, which officially recognized the validity of customary law derived from traditional authorities, had not yet been implemented, as the Government was still working to determine how it would be carried out in practice. Customary law courts had existed in Namibia from time immemorial; they dealt mostly with civil cases and dispute resolution rather than criminal matters. When children were in conflict with the law, their cases were heard in the same courts as cases involving adults. However, court sessions were held in camera, and the public was prohibited from attending the proceedings.

The age of majority was set at 21 years. A child was defined by law as a person who had not reached 18 years of age. Persons 18 years of age and older had the right to vote and to enter into marriage. The Child Care and Protection Bill before Parliament addressed the issue of the age of majority, and the views of the people were currently being solicited on the question.

**The Chairperson** said that the Committee had conflicting information about the minimum age for marriage in Namibia, as the State party’s report and other sources indicated that there was no such minimum age. He would like to know which law specified that that age was 18 years.

**Mr. Dyakugha** (Namibia) said that the minimum age for marriage was stipulated in the Married Persons Equality Act of 1996. Men and women over the age of 18 had the right to marry. The law applied only to civil marriages; customary law marriages did not set a minimum age for marriage. However, marriage generally did not take place before puberty. Customary marriages were not regulated by any single law. The Government had been working on a bill on customary law marriages for some time, as the question was a very complex one that affected many customary communities.

**Ms. Aidoo**, acknowledging the challenge posed by the multiplicity of laws, asked what legal protection was afforded to a girl of 11 or 12, for example, who had reached puberty, wished to stay in school and did not want to marry. Could she appeal to a civil court? Did the law protect her from being forced into marriage? It was not clear whether there was a hierarchy of laws or whether civil law prevailed over customary law.

**Ms. Sioka** (Namibia) said that her Government was currently endeavouring to harmonize laws precisely to avoid such conflicts.

**Mr. Dyakugha** (Namibia) said that international instruments ratified by Namibia automatically became part of Namibian law. In other words, the country took a monist approach in its application of international law in its national system. However, since undergoing the universal periodic review, the Government had issued directives for thorough reviews to be undertaken before any international conventions were ratified. Namibia had taken the position that it should not rush into ratification of the Migrant Workers Convention. Domestic legislation already existed that covered migrant workers and their families living in Namibia. The Government would continue to explore whether current domestic law could be harmonized with the Convention and whether there was adequate domestic legislation on the issue.

Turning to the question concerning the reservation to article 26 of the Convention relating to the Status of Refugees, he said that refugees had been placed not in a camp but rather in a settlement. Refugees were entitled to send their children to schools, from the primary school to university level, throughout the country. Furthermore, there was a primary and secondary school in the settlement. Refugees also had the right to work in Namibia provided that they obtained a permit.

While the Constitution was silent on the issue of corporal punishment per se, article 8 prohibited the use of inhumane or degrading treatment. Furthermore, a case involving corporal punishment had been heard in 1991 by the Supreme Court, which had ruled that such punishment in public and private schools was contrary to article 8 of the Constitution. That decision applied also to traditional authorities, which were fully a part of government structures.

**The Chairperson** asked whether the State party intended to prohibit explicitly all forms of corporal punishment. He would appreciate clarification of how the Supreme Court decision applied to traditional authorities and asked whether it might not also cover such harmful customary practices as early marriage.

**Mr. Dyakugha** (Namibia) said that the Supreme Court decision did not take up the issue of whether corporal punishment at home was permitted under the law. However, in practice, such punishment was covered under the Domestic Violence Act, which required schools to report any signs of child abuse to the relevant authorities.

**Ms. Sioka** (Namibia) said that the Constitution was the supreme law in Namibia and had been translated into the local languages. Local people were aware of article 3 of the Constitution concerning human rights and fundamental freedoms, which was inviolable. Furthermore, children were entitled under the law to report any domestic abuse to the authorities.

**Ms. Kahikuata** (Namibia) said that corporal punishment was also prohibited under the Education Act. As her Government was aware that some teachers continued to administer such punishment, the Ministry of Education had published a booklet that outlined alternative forms of discipline. School counsellors also provided relevant training to teachers, including life skills teachers. In addition, information sessions, workshops and conferences were held to raise awareness about the issue and warn teachers that corporal punishment was a criminal offence. A case involving corporal punishment at a private school was currently pending before the court. The Legal Assistance Centre had produced a video that addressed the issue, and media campaigns had been launched to inform the public that corporal punishment was wrong.

Turning to the question of children’s participation in decision-making, she said that the Education Act stated that children must be represented on the school governing body. A national advisory council on education also had student representatives. Regional education forums also included students. Regarding teachers’ conduct and sexual harassment, she said that a teachers’ code of conduct existed; under public service regulations, sexual relations between a teacher and a student were regarded as misconduct. Teachers had also received training to deal with violence in school, bullying, suicide, trauma and bereavement. Although there was room for improvement, an appropriate system had been put in place. In addition, the position of life skills teachers, who offered psychological and social support to teachers and students, had been changed from part-time to full-time. Lastly, even though more than 20 per cent of the national budget went for education, most of the money was spent on salaries, which left too little money for programme implementation. Nevertheless, the Government had made efforts to measure educational performance in schools and adjust the curriculum and human and financial resources accordingly.

**Ms. Aidoo** asked whether data on teachers’ conduct were collected and trends analysed to determine whether misconduct or mismanagement was prevalent in particular regions. That would help the State party to come up with targeted responses.

**Ms. Kahikuata** (Namibia) said that data collection remained a challenge for the Ministry of Education. Work was currently under way to input all the available information concerning teachers into an electronic system. That ought to prevent any teachers who had resigned from a post after having had a misconduct case brought against them from being hired to teach in a different region.

**The Chairperson** requested more information on data collection in the State party. He wished to know what steps had been taken to harmonize procedures and ensure that the data collected could be used to identify priority areas and develop appropriate strategies.

**Ms. Sioka** (Namibia) said that while the Office of the Prime Minister had taken the lead in improving data collection and analysis, there was much room for improvement in the ministries. She would emphasize the need to prioritize data collection to her colleagues in Government.

**Mr. Negonga** (Namibia) said that birth registration was compulsory for all children born in Namibia. Registration could take place in civic affairs offices and hospitals and could also be overseen by the traditional authorities. Children did not automatically become citizens of Namibia once their births had been registered; an application for citizenship had to be made to the Ministry of Home Affairs and Immigration. A child born in wedlock to a Namibian mother and a foreign father could apply for citizenship of the father’s country of origin, if the parents so wished. Abortion and abandonment of a child were both crimes under Namibian law.

**The Chairperson** asked what measures the Government was implementing to increase the rate of birth registration, particularly in rural areas. Children whose births were not registered risked having their rights violated on numerous counts and were ineligible for the State party’s education grants.

**Mr. Pollar** requested additional information concerning reports that poorly documented migrants and vulnerable caregivers and parents were often unable to register their children’s births. He also asked for details of the grounds on which the authorities could refuse to issue a birth certificate.

**Mr. Negonga** (Namibia) said that some parents found it difficult to access the relevant authorities to register their children’s births, particularly in rural and remote areas. In addition, many people who lived in areas along the borders with Angola, Botswana and Zambia did not possess identity documents. That made it difficult for the authorities to issue their children with birth certificates and to ascertain whether the children had been born in Namibia. However, the system was under review.

**The Chairperson** said that since the authorities were aware that many parents lacked identity documents, it was the State party’s responsibility to implement special measures to ensure that their children received birth certificates. Under the Convention, all children had the right to birth registration.

**Mr. Negonga** (Namibia), responding to the question about climate change, said that Namibia had experienced the most severe floods in its history between 2008 and 2010. Given that the disaster management system that had existed before 2008 had been overwhelmed by the magnitude of the flooding, a new disaster management committee had been set up in the Office of the Prime Minister. All the relevant stakeholders were represented on the committee, including the Ministry of Gender Equality and Child Welfare, which ensured that child protection was a priority in all decisions. Together with the Ministry of Education, it had also been working to put contingency plans in place to ensure that children’s education would not be unduly disrupted in the event of another major disaster. Early warning systems were being put in place so that areas that were at risk could be cleared and the residents moved to safe ground. The new Child Care and Protection Bill also included provisions governing disaster situations.

**Ms. Wijemanne** requested additional information on steps being taken to reduce the high rates of infant, under-5, neonatal and maternal mortality in the State party, particularly by increasing the number of attended births and improving access to emergency obstetric care. She also enquired about measures being implemented to reduce the rate of malnutrition, including any initiatives to encourage exclusive breastfeeding for the first six months. She asked whether the State party had taken action to incorporate the International Code of Marketing of Breast-milk Substitutes into domestic legislation and policy and to ensure that it was effectively implemented. It would be useful to know how hospitals were assessed to ascertain whether they could be designated “baby-friendly”. The Committee would welcome news of any efforts to improve the health infrastructure in order to increase access to primary health care. Given the high levels of HIV/AIDS among children, young people and women, she asked how the State party planned to improve access to antiretroviral drugs, particularly for pregnant women.

**Mr. Pollar** asked whether the State party planned to ratify the Convention on the Civil Aspects of International Child Abduction. He also wished to know whether the State party had concluded any agreements with neighbouring countries to ensure that children that were taken across an international border were returned to their place of abode. It would be useful to know if there were any data available on such repatriations, both to and from the State party.

The Committee would welcome details of any steps being taken to identify children living in the State party who had been involved in armed conflict and to provide them with the special protection they needed. In particular, it would be useful to know what steps had been taken to implement the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

**Mr. Gastaud** asked whether court cases in which the accused was a child were tried according to special rules and by judges specializing in juvenile justice. He also wished to know whether alternative forms of punishment were applicable to minors that would keep them from being sent to prison. It would be useful to learn whether any training programmes in juvenile justice existed for judges and social workers. Were there any rehabilitation or re-education programmes for children who were sent to prison?

**Ms. Al-Shehail** drew attention to the alarming data on rape and other forms of sexual abuse of children in the State party and asked which agency took the lead role in coordinating and financing child protection units. It would be useful to know what measures the Government had taken to strengthen its role in preventing violence against children and raise awareness about positive parenting. She requested details of any child rights advocacy campaigns against abuse that the Government had launched or supported. The Committee would also welcome information on training provided to the staff of the child protection units on rehabilitation for victims of abuse. She enquired to what extent the public was aware of the existence of the toll-free child helpline and of the services available to victims of abuse.

**Mr. Madi** wished to know the age at which children could legally be employed in hazardous work. In the light of reports that many children worked in agriculture, family businesses and the charcoal industry, he asked whether the Government planned to raise the minimum age at which children could work to bring it into line with the end of compulsory education. It would be useful to hear about the results of the National Action Programme on the Elimination of Child Labour and any new legislation or regulations that were planned in that context.

**Ms. Herczog** asked whether reproductive and sexual health education was provided in schools and whether campaigns were carried out to raise public awareness of issues in those areas. She wished to know whether natural birth control was taught and whether other forms of contraception were available to young people. While the State party was to be commended for introducing the National Standards for Adolescent Friendly Health Services, she would welcome data on the age group covered by the Standards and on the results of their implementation.

**Mr. Koompraphant** asked whether there was a system in place to protect children who witnessed acts of sexual abuse, who were often the victims’ siblings. He wished to know how the authorities identified and contacted child victims and witnesses of sexual abuse and what action was taken with regard to the parents of such children. It would be useful to learn what measures were taken during criminal proceedings to protect child victims and witnesses of sexual abuse.

**Ms. Nores de García** asked which agency was in charge of domestic adoptions, how adoptions were monitored and what plans were in place to ensure that accurate data on adoption were available. It would be useful to know what progress had been made to prevent cultural practices that were harmful to children and how the Government planned to stamp them out definitively.

**Ms. Sandberg** asked what measures existed to support parents and children in the family environment, such as increasing the number of qualified social workers in the public sector. She requested additional information on the financial support provided to children and single-parent families. The basic income grant, a non-means tested cash transfer provided by civil society and funded from voluntary contributions from all sectors of Namibian society, appeared to have resulted in a significant drop in household poverty. She asked whether the Government would consider undertaking such a project again in the future.

**Ms. Aidoo** asked when school development funds would be definitively abolished. It would be useful to know how the Government planned to reduce the proportion of the education budget that was spent on teachers’ salaries. She wished to know whether the Ministry of Gender Equality and Child Welfare was the focal ministry for the early childhood development programme and, if so, whether it had the capacity to oversee its effective implementation. Given that so many children did not pursue their education after the age of 16, she wished to know what second-chance education and vocational training programmes were in place to give them access to training and qualifications.

*The meeting rose at 1 p.m.*