



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Republic of Namibia and welcome the constructive engagement of the Government of Namibia during the 38th session of the UPR Working Group in May 2021.

As the final outcome report on the review of Namibia was recently adopted by the Human Rights Council at its 48th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Namibia – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and recommendations made by 106 delegations and the presentation made and responses provided by the delegation of Namibia. I have also considered the actions taken by the Government of Namibia to implement the 190 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

It is recalled that at the adoption of the final outcome report, the delegation of Namibia stated that the country was heavily burdened by escalating cases of violence against women and children. While this is of concern, positive note is taken of the ongoing implementation of the national plan of action on gender based violence, as well as the number of relevant recommendations that enjoyed the support of Namibia, including a recommendation to implement those recommendations from the second cycle of the UPR relating to the rights of women and girls. I am confident that collective, coherent and systematic implementation of all of these recommendations, inter alia, through their integration into the national plan of action on gender based violence and other policy and development frameworks would significantly contribute towards combating violence against women and children.

Of concern is the fact that a significant number of recommendations relating to the rights of lesbian, gay, bisexual, transgender and intersex persons did not enjoy the support of Namibia. At the Human Rights Council, the delegation of Namibia stated that the Law Reform and Development Commission presented a report and a draft bill repealing certain sexual offences. While this may be a step in the right direction, more needs to be done to promote and protect the rights of lesbian, gay, bisexual, transgender and intersex persons.

I am pleased to note that the recommendations received at the review will be given due consideration through necessary policy, legal and institutional reforms with a clear and robust implementation plan. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution, which in the case of Namibia would be Office of the Ombudsman, and all civil society organizations and, where necessary, with the support of international organizations, including my Office and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

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H.E. Hon. Netumbo NANDI-NDAITWAH
Deputy Prime Minister and Minister of International Relations and Cooperation.
Republic of Namibia

I encourage Namibia to continue to work towards strengthening the national mechanism for comprehensive reporting and follow-up to recommendations received from all international and regional human rights mechanisms and to treaty obligations, linking them to the Sustainable Development Goals. To this end, I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf

Please note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting States with the implementation of the recommendations, following their review. One important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I welcome the practice of Namibia of submitting mid-term reports and encourage the Government of Namibia to continue with this practice and to submit a mid-term report on follow-up to the third cycle review by 2023.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals.”*

I am pleased to note that Namibia supported recommendations to enhance cooperation with relevant United Nations agencies and with OHCHR, including through receiving technical assistance to address challengers impeding the promotion and protection of human rights. OHCHR, particularly its Regional Office for Southern Africa, stands ready to support Namibia in this endeavour, especially in relation to the areas identified in this letter and its annex.

Please accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet
High Commissioner for Human Rights

cc: H.E. Hon. Yvonne DAUSAB
Minister of Justice
Republic of Namibia

Mr. Sen PANG
United Nations Resident Coordinator
Republic of Namibia

Ms. Abigail NOKO
Regional Representative of the United Nations Office of the High Commissioner for
Human Rights
OHCHR Regional Office for Southern Africa
South Africa



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Extending a standing invitation to all special procedures mandate holders of the Human Rights Council.

National human rights framework

- Enacting legislation explicitly prohibiting corporal punishment of children in all settings, including at home.
- Enacting legislation incorporating all the provisions of the Convention on the Rights of Persons with Disabilities and protecting the rights of persons with disabilities, particularly in relation to access to education and to justice.
- Enacting legislation on the prohibition of torture and other cruel, inhuman or degrading treatment and creating a national mechanism for prevention to combat torture.
- Strengthening the mandate of the Office of the Ombudsman to ensure its compliance with the Paris Principles.
- Establishing a national preventative mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Reviewing all laws and policies with a view to amending those provisions that discriminate against persons and those with disabilities, older persons and LGBTI persons, and establishing mechanisms to combat such discrimination.
- Developing a policy to guide the integration and mainstreaming of gender in the broader development framework.
- Taking the necessary measures to combat discriminatory practices against women and girls, including stereotypical conceptions of gender roles, and eliminating harmful traditional practices.
- Tackling the stigmatization and discrimination against persons infected with HIV/AIDS by prioritizing support and education.

Development, the environment, and business and human rights

- Ensuring that people living in or close to resource-rich areas benefit from social services and development projects, including through the enactment of relevant legislation.
- Prioritizing the fight against corruption by enacting an access to information law, fully implementing whistle-blower protections and empowering and adequately funding the Anti-Corruption Commission to fulfil its mandate.
- Exploring progressive law and policy reforms to address environmental challenges, including climate change adaptation and mitigation frameworks, and conducting awareness raising programmes on climate change and disaster risk reduction.

B. Civil and political rights

Right to life, liberty and security of person

- Strengthening initiatives to prevent torture, including by conducting trainings and workshops on the prevention of torture for all police officers.
- Improving prison conditions, including by implementing the Bangkok Rules and Nelson Mandela Rules, reducing prison overcrowding, ensuring adequate food, water and healthcare for prisoners and to persons deprived of their liberty, and developing and implementing a policy to address public health concerns in prisons, especially in relation to the prevention and treatment of HIV/AIDS.
- Ensuring that all juveniles in pre-trial detention are held separately from adults, including by making available sufficient youth facilities.

Administration of justice, including impunity, and the rule of law

- Reforming the justice system with a guaranteeing access to justice and fair trial, including by reducing the backlog of cases, addressing the lengthy periods of pre-trial detention and ensuring that all detainees were afforded the fundamental legal safeguards in accordance with international standards.
- Addressing the obstacles faced by victims of domestic violence and gender-based violence in seeking remedies, including by ensuring their access to magistrate's courts and police stations and undertaking effective investigation, prosecution and punishment of perpetrators.

Fundamental freedoms

- Ensuring the promotion and protection of digital rights in accordance with international standards, including by undertaking the necessary legislative reforms.
- Implementing concrete steps to improve the safety of journalists, investigate incidents of attacks on journalists, and implement the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

Prohibition of all forms of slavery

- Allocating sufficient resources to fully train law enforcement officials and judicial staff in the implementation of the Combatting of Persons in Trafficking Act (1 of 2018).

Right to privacy

- Ensuring that legislation regulating cybercrime, data protection and privacy is in full compliance with international human rights standards.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Implementing rigorous measures to stem occupational segregation in the labour market based on gender, including by facilitating the appointment of women to managerial positions.
- Recognizing the role of health and essential workers in promoting and protecting human rights during the COVID-19 pandemic and providing a safe and enabling environment for them.

Right to an adequate standard of living

- Ensuring access to adequate housing by adopting measures to alleviate the acute shortage of affordable housing and complementing the current housing programme with better urban infrastructure development programmes.
- Strengthening policies aimed at reducing poverty and improving the standards of living, and consider putting in place, in the short term, independently of the planned expansion of the social protection, a basic income grant for those living in extreme poverty.
- Addressing food insecurity through agrarian reform and rural development and through the introduction of agricultural and rural vocational training programmes.
- Improving access to safe drinking water and taking effective measures in rural areas to reduce the distance to water points.

Right to health

- Guaranteeing equal access to health services, inter alia, by expanding investment in the public health sector, addressing the limited availability of health services in rural and remote areas and by ensuring that health services in public medical facilities were comparable to services in private medical facilities.
- Addressing maternal and infant mortality through the improvement of health services and in particular, by increasing medical services in rural and remote areas.
- Combating HIV/AIDS, including through the prevention of mother-to-child transmission, and focusing on delivering services to persons who were HIV positive and who did not have access to antiretroviral treatment.

Right to education

- Developing a culturally responsive educational environment and addressing the challenges in access to education experienced by ethnic minorities and indigenous peoples and adapting educational programmes to indigenous culture and ways of life.

- Reducing the school dropout rate and addressing the root causes of children dropping out of school.
- Strengthening institutional capacity to delivering quality comprehensive sexuality education.
- Ensuring that human rights is taught at all levels of education.

D. Rights of specific persons or groups

Women

- Enhancing measures to address gender-based violence and sexual violence, including its root causes, and ensuring appropriate and adequate remedies and protection for the victims, including by (a) providing specialized training to police and law enforcement officials and by ensuring effective investigation, prosecution and punishment of perpetrators of such crimes; and by (b) providing adequate shelters for victims of such violence.
- Eradicating traditional practices harmful to women and girls, such as the ritual of Olufuko, which involves child marriage, by criminalizing such practices and prosecuting alleged perpetrators.

Children

- Addressing the concerns expressed by the Committee on Economic, Social and Cultural Right that there was significant prevalence of alcohol consumption and drug use among school-aged children and providing the children concerned with access to treatment for alcohol and drug addiction and taking measures to prevent substance abuse among children.
- Increasing efforts to combat violence against children and ensuring that victims of such violence receive sufficient support.
- Implementing the necessary measures to eradicate child marriage and to address teenage pregnancy.

Persons with disabilities

- Ensuring the full implementation of the provisions of the Convention on the Rights of Persons with Disabilities, including through the alignment of relevant legislation with the Convention, the strengthening of existing policies and the adoption of new polices.
- Ensuring increased access to education and vocational training for children with disabilities.

Indigenous peoples

- Allocating adequate resources for programmes promoting indigenous well-being and addressing discrimination and abuse of indigenous peoples in the health care and education systems.
- Involving the San communities in the formulation and implementation of programmes benefitting them, particularly as these communities remained disadvantages in the enjoyment of their economic, social and cultural rights, in spite of the San Development Programme, as noted by the Committee on Economic, Social and Cultural Rights.



- Addressing the concerns of the Human Rights Committee by, inter alia, ensuring that indigenous peoples had titles over lands and territories that they traditionally occupied or resources they owned, and that free and informed consent of indigenous communities is sought prior to the granting of licences to extractive industries for the extraction of natural resources on their traditional lands.

Refugees and asylum seekers

- Ensuring that asylum seekers at risk of persecution because of their sexual orientation or gender identity were not subject to *refoulement* and have equal access to asylum without discrimination, as recommended by the Committee against Torture.