



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the third periodic report of Namibia*

1. The Committee considered the third periodic report of Namibia¹ at its 4081st and 4082nd meetings,² held on 6 and 7 March 2024. At its 4104th meeting, held on 22 March 2024, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Namibia and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies³ to the list of issues,⁴ which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided in writing.

B. Positive aspects

3. The Committee welcomes the following legislative, policy and institutional measures taken by the State party:

- (a) The adoption of the Access to Information Act (Act No. 8 of 2022);
- (b) The adoption of the Whistle-blower Protection Act (Act No. 10 of 2017);
- (c) The adoption of the Witness Protection Act (Act No. 11 of 2017);
- (d) The adoption of the Combating of Trafficking in Persons Act (Act No. 1 of 2018);
- (e) The adoption of the National Climate Change Strategy and Action Plan 2013–2020;
- (f) The adoption of the Social Protection Policy (2021–2030);
- (g) The adoption of the National Agenda for Children (2018–2022);
- (h) The adoption of the national plan of action to end violence against children;

* Adopted by the Committee at its 140th session (4–28 March 2024).

¹ [CCPR/C/NAM/3](#).

² See [CCPR/C/SR.4081](#) and [CCPR/C/SR.4082](#).

³ [CCPR/C/NAM/RQ/3](#).

⁴ [CCPR/C/NAM/Q/3](#).



- (i) The adoption of the National Plan of Action on Gender-Based Violence 2019–2023;
- (j) The establishment of the Register of Adoptable Children and Prospective Adoptive Parents.

C. Principal matters of concern and recommendations

National human rights institution

4. While welcoming the delegation's indication that the Ombudsman bill would make the Office of the Ombudsman a separate agency with its own accounting officer, the Committee is concerned at the long delay in the bill's adoption. Recalling its previous recommendations,⁵ the Committee remains concerned that insufficient resources are provided to the Office of the Ombudsman and that it lacks financial and operational autonomy.

5. The State party should increase the resources allocated to the Office of the Ombudsman to ensure that it can adequately fulfil its broad mandate in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It should also expedite the adoption of amendments to the Ombudsman Act (Act No. 7 of 1990), which ensure the financial and operational autonomy of the Office of the Ombudsman, including by enabling it to recruit its own staff and manage its own budget.

Anti-corruption measures

6. The Committee welcomes the State party's efforts to combat corruption through the adoption of an appropriate regulatory framework, which includes the Public Procurement Act (Act No. 15 of 2015), the Witness Protection Act and the Whistle-blower Protection Act, both adopted in 2017, and the Access to Information Act, adopted in 2022, and through the establishment of the Anti-Corruption Commission. The Committee is concerned by reports indicating that the existing framework is inconsistently enforced, most notably with regard to public procurement and to the declaration of assets and conflicts of interest, and that the Whistle-blower Protection Act has yet to be implemented (arts. 2 and 25).

7. The State party should expedite the full operationalization of the Access to Information Act, the Witness Protection Act and the Whistle-blower Protection Act and consider adopting a comprehensive framework for the declaration of assets and conflicts of interest. It should also strengthen institutions such as the Anti-Corruption Commission, in particular with a view to ensuring that public entities adhere to the transparency provisions contained in the Public Procurement Act.

Non-discrimination

8. While noting the measures taken to combat discrimination, the Committee is concerned that protection against discrimination is insufficient. It is particularly concerned about the continued prevalence of discrimination, marginalization and violence perpetrated against Indigenous Peoples such as the San, against persons with disabilities, including persons living with albinism, and against lesbian, gay, bisexual and transgender persons, including with regard to access to health care, education and employment (arts. 2, 7, 26 and 27).

9. The State party should take appropriate measures to eliminate all forms of discrimination, including by conducting extensive education and awareness-raising campaigns involving and targeting traditional leaders, public officials and the general public. It should:

- (a) **Take the measures necessary to address the marginalization and de facto discrimination faced by Indigenous Peoples, most notably with regard to access to**

⁵ [CCPR/C/NAM/CO/2](#), para. 8.

health care, education and employment. In this regard, it should expedite the adoption of the white paper on the rights of Indigenous Peoples in Namibia and take steps to increase the availability of medical practitioners and teachers who can speak Indigenous languages;

(b) Provide specific training for health-care providers and officials in the Ministry of Health and Social Services to address the discrimination in access to health care faced by disadvantaged populations, including Indigenous Peoples, persons with disabilities, including persons living with albinism, and lesbian, gay, bisexual and transgender persons, and ensure that they are provided with health-care services that meet their specific needs;

(c) Expedite the adoption of the bill on combating discrimination, discriminatory harassment and hate speech, ensuring that it explicitly prohibits discrimination based on sexual orientation and gender identity;

(d) Amend the Labour Act (Act No. 11 of 2007), the Combating of Domestic Violence Act (Act No. 4 of 2003) and the Combating of Rape Act (Act No. 8 of 2000) to extend the protection provided under these laws to lesbian, gay, bisexual and transgender persons, and abolish the common law crimes of sodomy and unnatural sexual offences.

Discrimination against women

10. The Committee is concerned about the long delays in adopting bills that seek to address discriminatory aspects of the legislative framework with regard to gender, including the marriage bill, the bill on the recognition of customary marriages, the divorce bill and the uniform matrimonial property bill. While noting the delegation's statement that polygamy, which is regulated by customary laws, must be entered into voluntarily and be in conformity with the rights provided for under the Constitution, the Committee is concerned that polygamy is incompatible with equality between women and men, with regard to the right to marry (arts. 2, 3 and 26).

11. The State party should:

(a) Expedite the adoption of pending bills that seek to address discriminatory aspects of the legislative framework with regard to gender, including the marriage bill, the bill on the recognition of customary marriages, the divorce bill and the uniform matrimonial property bill;

(b) In consultation with traditional leaders, review existing customary marital laws and enact legislation to increase protection for women in polygamous unions, with a view to abolishing polygamy, in line with the Committee's general comment No. 28 (2000) on the equality of rights between men and women (para. 24).

Violence against women, including domestic violence

12. While noting the measures taken by the State party, the Committee is concerned about the prevalence of gender-based violence against women, including violence perpetrated through online means. It also notes with concern the continued prevalence of domestic violence, including marital rape and so-called "passion killings". The Committee is also concerned about the low level of reporting of gender-based violence, including sexual violence, due to factors such as fear of reprisals, about the low number of prosecutions and convictions handed down to perpetrators, and about reports of significant underresourcing of gender-based violence protection units and shelters, resulting in, inter alia, limited opening hours and a lack of appropriately trained staff (arts. 3, 6, 7 and 26).

13. The State party should:

(a) Remove all legal and de facto barriers to prosecuting and punishing perpetrators of domestic violence and implement the Combating of Domestic Violence Act, including by increasing the availability of specialized courts and ensuring that the gender-based violence protection units run by the Namibian Police Force are provided with appropriate financial and human resources;

(b) **Systematically undertake prompt, impartial and effective investigations to identify the perpetrators of violence against women, prosecute them and, if they are found guilty, punish them commensurately with the gravity of the crime, ensuring that police officers, prosecutors and judges are adequately trained in addressing issues of gender-based violence, including violence perpetrated through online means;**

(c) **Ensure that victims receive appropriate support, counselling and compensation and are protected from stigmatization and reprisals, including by ensuring effective access to adequately resourced shelters throughout the territory of the State party;**

(d) **Continue to implement awareness-raising policies and public education programmes involving and targeted at traditional leaders and the wider public, to make all forms of gender-based violence socially unacceptable;**

(e) **Take appropriate steps to tackle the root causes of gender-based violence, such as inequality, poverty, social exclusion and drug and alcohol abuse, including through engagement programmes and training for men.**

Termination of pregnancy and access to sexual and reproductive services

14. The Committee is concerned about the limited circumstances in which women can seek legal abortion under the Abortion and Sterilization Act (Act No. 2 of 1975), the onerous administrative procedures required to obtain authorization under the Act, and the criminalization of abortion in all other cases, which lead women to seek unsafe, clandestine abortions that put their lives and health at risk, or to resort to child abandonment. Furthermore, while noting the information provided by the State party regarding campaigns that have been undertaken to raise awareness of sexual and reproductive health, including access to contraceptives, the Committee is concerned by the reportedly high rate of adolescent pregnancies (arts. 3, 6 and 24).

15. **Bearing in mind paragraph 8 of the Committee's general comment No. 36 (2018) on the right to life, the State party should take all steps necessary to ensure effective access to safe and voluntary termination of pregnancy. The State party should:**

(a) **Remove onerous administrative requirements to obtain access to legal abortion and ensure that such requirements and the restricted access to legal abortion do not lead women to resort to unsafe, clandestine abortions;**

(b) **Ensure that criminal penalties are not applied to women and girls who have recourse to abortions or to professionals who provide them with medical care;**

(c) **Implement comprehensive education and awareness-raising programmes on sexual and reproductive health and related rights in all schools and communities and ensure effective access to appropriate and affordable contraception and sexual and reproductive health services, particularly in rural and remote areas;**

(d) **Combat the stigmatization of women and girls who seek abortions.**

Excessive use of force

16. The Committee is concerned that provisions in the Criminal Procedure Act (Act No. 51 of 1977), the Public Gatherings Proclamation (AG. No. 23 of 1989) and the Correctional Service Act (Act No. 9 of 2012) authorize the use of potentially lethal force in situations not limited to protecting life or preventing serious injury from an imminent threat, and hence are not consistent with international human rights standards on the use of force. The Committee is also concerned at the reported prevalence of excessive use of force by the Namibian Police Force, including violations of the right to life, and regrets the lack of information provided by the State party with regard to complaints received, investigations undertaken, sanctions handed down to perpetrators and compensation provided to victims and their families (arts. 2 and 6).

17. **The State party should take additional measures to effectively prevent and punish the excessive use of force by law enforcement officers, including by:**

(a) **Ensuring that all legislative and regulatory provisions governing the use of force are in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement and the Committee's general comment No. 36 (2018), which establish a requirement that law enforcement officers use potentially lethal force only when strictly necessary in order to protect life or prevent serious injury from an imminent threat;**

(b) **Introducing procedures to guarantee that law enforcement operations are properly planned and conducted, in order to minimize the risks to human life;**

(c) **Ensuring that all reports of excessive use of force by law enforcement officers are investigated promptly, effectively and impartially, perpetrators are prosecuted and, if convicted, appropriate penalties are imposed, and that adequate remedies are provided to victims of violations;**

(d) **Establishing an independent mechanism to investigate claims of serious misconduct, including excessive use of force, by all agents of the State tasked with law enforcement responsibilities;**

(e) **Ensuring that all law enforcement officers systematically receive training on the use of force based on international human rights standards and that the principles of legality, necessity and proportionality are strictly adhered to in practice.**

Prohibition of torture and ill-treatment

18. The Committee welcomes the delegation's indication that the State party is committed to ensuring that the bill on the prevention and combating of torture will be consistent with international standards, including with regard to its definition of torture. However, it is concerned about the very long delay in finalizing and enacting the bill. The Committee remains alarmed by continued reports that members of the police force regularly detain and rape sex workers and that victims do not report these crimes due to fear of prosecution for prostitution and fear of reprisals. The Committee regrets the lack of comprehensive, disaggregated information on complaints of torture and ill-treatment filed against the Namibian Police Force, the Namibian Defence Force and the Namibian Correctional Service, including details of investigations undertaken, sanctions handed down and redress provided to victims. The Committee is also concerned that the Office of the Ombudsman lacks sufficient resources to visit places of detention in order to monitor detention conditions in the absence of an independent national preventive mechanism in the country (arts. 2, 7, 10 and 26).

19. **The State party should:**

(a) **Finalize the drafting of the bill on the prevention and combating of torture and pass it into law as a matter of priority;**

(b) **Ensure that sex workers can report crimes committed against them by law enforcement officers without the risk of being prosecuted for prostitution and without fear of reprisals;**

(c) **Take all measures necessary to prevent torture and inhuman or degrading treatment or punishment, including by strengthening the human rights training provided to judges, prosecutors and law enforcement officials, including on the Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles);**

(d) **Ensure that all cases of torture and ill-treatment are promptly, independently and thoroughly investigated by an independent mechanism in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Minnesota Protocol on the Investigation of Potentially Unlawful Death, that perpetrators are prosecuted and, if found guilty, punished commensurately with the gravity of the crime, and that victims receive full reparations;**

(e) **Provide the Office of the Ombudsman with a clearly defined mandate to monitor detention conditions and treatment of detained persons in all places of deprivation of liberty, and ensure that it is provided with adequate resources for that purpose;**

(f) **Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, and establishing a national preventive mechanism.**

Trafficking in persons and child labour

20. The Committee acknowledges the significant steps taken by the State party to establish a comprehensive legislative, policy and institutional framework to combat trafficking in persons, including the adoption, in 2018, of the Combating of Trafficking in Persons Act and the launch, in March 2019, of the national referral mechanism and standard operating procedures for the identification, protection, referral and safe return of victims of trafficking. The Committee is nonetheless concerned that trafficking in persons for the purpose of forced labour and sexual exploitation remains prevalent, particularly from neighbouring countries, and that the number of prosecutions and convictions against perpetrators is seemingly low. The Committee is also concerned by the low number of victims identified, despite related measures being implemented, including training for relevant actors and awareness-raising campaigns. It furthermore notes with concern the continued prevalence of child labour and regrets the lack of information provided on measures taken to strengthen the labour inspection regime in rural and remote areas, on the number of victims of violations identified during inspections and on whether their cases have led to prosecutions and convictions under the Labour Act and the Child Care and Protection Act (Act No. 3 of 2015) (arts. 3, 7, 8 and 24).

21. **The State party should ensure that existing frameworks to combat trafficking in persons are implemented effectively, including through enhanced identification of victims, systematic prosecution of perpetrators and the provision of gender- and age-sensitive measures to protect, rehabilitate and compensate victims. Furthermore, the State party should strengthen the labour inspection regime, in particular by increasing its capacity to carry out inspections in rural and remote areas, including on private farms, and ensure that perpetrators of prohibited forms of child labour are prosecuted and, if found guilty, punished commensurately with the gravity of the crime, and that victims receive full and age-sensitive reparations.**

Police custody and pretrial detention

22. The Committee notes with concern the excessive recourse to pretrial detention in the State party and its frequently excessive duration due, inter alia, to systemic shortcomings in the justice system. The Committee notes the information provided by the State party regarding legal provision for access to bail but is concerned at reports that bail is often unaffordable for those entitled to it (arts. 9 and 14).

23. **In the light of the Committee's general comment No. 35 (2014) on liberty and security of person, the State party should:**

(a) **Ensure that pretrial detention is used only as an exceptional measure and for as short a time as possible;**

(b) **Increase the availability of and recourse to alternatives to pretrial detention in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), including when delays occur in complex investigations or trials;**

(c) **Review current bail conditions, most notably with a view to ensuring that bail is affordable to those entitled to it;**

(d) **Address systemic shortcomings in the justice system, including through the streamlining of case management practices and the allocation of adequate human and financial resources, with a view to reducing delays and addressing the backlog of cases;**

(e) **Establish systematic judicial monitoring of the duration of pretrial detention and provide effective access to judicial review of the legality of detention and to remedies for those unlawfully held in custody beyond statutory limits.**

Detention conditions

24. While noting the information provided by the State party on progress in renovating and constructing detention facilities, the Committee remains concerned about conditions of detention in the country, in particular the reportedly dire conditions in many police holding cells used for pretrial detention, including overcrowding, inadequate sanitation, nutrition and access to health care, and reports of ill-treatment (art. 10).

25. **The State party should continue its efforts to improve conditions in its detention facilities, in line with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), especially in police holding cells. It should also address overcrowding, including through increased recourse to alternatives to detention by, in particular, ensuring effective access to bail and expanding the roll-out of the community service orders programme to all courts in the country.**

Treatment of refugees and asylum-seekers

26. The Committee regrets the lack of data provided by the State party regarding the number of refugees and asylum-seekers who have successfully obtained employment permits or exit permits to leave settlement areas and is concerned that budget cuts, drought and other factors have led to a significant deterioration in conditions in the Osire settlement, particularly regarding access to food, water, health care and social support. The Committee also regrets the lack of information provided by the State party regarding the measures in place to ensure that all asylum-seekers are provided with information on asylum procedures in a language they can understand and have access to legal assistance when necessary (arts. 2, 9 and 13).

27. **The State party should facilitate and support the access of refugees and asylum-seekers to the labour market, including by removing restrictions on their ability to move freely within the country and, in the meantime, ensure effective access to employment permits and exit permits for refugees and asylum-seekers required to live in settlements. The State party should regularly review conditions in the Osire settlement and ensure an adequate standard of living for those settled there, including adequate food, water, health care and social support. The State party should also ensure that all asylum-seekers are provided with information on asylum procedures in a language they understand and have access to legal assistance when necessary, including at border entry points.**

Access to justice and right to fair trial

28. While welcoming the State party's indication that enhancing funding for and access to legal aid is a priority and that access has been enhanced through extension of the availability of legal aid to areas outside Windhoek, the Committee is concerned by reports that the Directorate of Legal Aid within the Ministry of Justice is severely underfunded and that the costs of obtaining access to justice are relatively high. The Committee notes the information provided by the State party concerning the functioning of community courts but regrets the lack of information on the legal aid actually provided for bringing appeals against community court rulings before the magistrates' courts, and the lack of more detailed information on the reviewing of case records and the training provided to justices and assessors in the community courts (art. 14).

29. **The State party should increase funding for its legal aid scheme as part of its broader efforts to promote access to justice, ensuring that legal aid is, at minimum, available where the interests of justice so require. The State party should also ensure, when applicable criteria are met, that legal aid is made available in practice for appeals against decisions of the community courts and that all assessors and judicial officers are provided with appropriate training on relevant human rights standards.**

Data protection and right to privacy

30. The Committee notes with concern the delay in adopting the data protection bill and reports indicating that the absence of data protection and cybersecurity legislation has led to numerous incidents of data breaches and cybercrimes. The Committee is also concerned that the data retention regulations currently being implemented under part 6 of chapter V of the Communications Act (Act No. 8 of 2009) may not provide adequate protections and safeguards for personal communications data. In addition, the implementation of the aforementioned regulations coincides with the implementation of mandatory SIM card registration, which raises concerns, especially for persons with a particular need for confidential or anonymous communications, such as journalists, whistle-blowers and human rights defenders (arts. 17 and 21).

31. The State party should prioritize the finalization and enactment of the data protection bill in line with international standards, ensuring that individuals can be informed of the data held on them and have it corrected as applicable, and adopt appropriate cybercrime legislation. It should also ensure that the management of the database for SIM card registration is subject to appropriate safeguards in order to prevent hacking, data leaks and unauthorized access by private entities and State authorities, including by establishing appropriate judicial or legislative authorization requirements for State authorities wishing to obtain access to the database.

Freedom of expression

32. The Committee welcomes the adoption, in 2022, of the Access to Information Act but remains concerned about allegations of self-censorship by journalists working for State-owned media and a reported lack of transparency in the appointment of board members of the Namibia Broadcasting Corporation and the Communications Regulatory Authority (arts. 9 and 19).

33. The State party should ensure that the safeguards necessary to guarantee the independence of State-owned media are in place, including by ensuring transparency in the process for appointing board members of key bodies, such as the Namibia Broadcasting Corporation and the Communications Regulatory Authority.

Right of peaceful assembly

34. The Committee is concerned that section 2 of the Public Gatherings Proclamation provides for criminal sanctions, including up to two years' imprisonment for the organizers if they fail to follow the stipulated notification requirements or for any person who participates in a gathering for which the requirements were not followed, and that, under section 3 of the Proclamation, authorities are allowed to impose any conditions they see fit on the organization of a gathering, including its dispersal, on the basis of broadly defined criteria that do not meet the standard for the imposition of restrictions set out in article 21 of the Covenant. The Committee is also concerned that section 6 of the Proclamation allows for the use of firearms or other weapons likely to cause serious bodily injury or death for the dispersal of non-peaceful assemblies that cause or risk causing damage to valuable property, which is not in line with international standards on the use of force by law enforcement officials, and that rubber bullets were used by law enforcement officers to disperse assemblies in 2020 and 2022, resulting in injuries to protesters and journalists in circumstances that were reportedly not in conformity with the principles of necessity and proportionality (arts. 6 and 21).

35. In the light of the Committee's general comment No. 37 (2020) on the right of peaceful assembly, the State party should review and consider amending its legislation and practices to ensure that individuals fully enjoy their right of peaceful assembly and to guarantee that any restrictions of that right comply with the strict requirements of article 21 of the Covenant. It should also ensure that its legislation allows the use of potentially lethal force by law enforcement officers in the context of assemblies only as a last resort and only when necessary to protect life or prevent serious injury from an imminent threat. The State party should ensure that members of law enforcement and security forces receive specific training on non-violent methods for policing assemblies,

in addition to training on international standards for the appropriate use of force, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.

Rights of the child

36. While acknowledging the significant steps taken by the State party to increase the birth registration rate, including through the development of the civil registration and identification bill, the Committee is concerned by the persistently low birth registration rates in some regions, particularly among marginalized communities such as the San. The lack of birth registration further exacerbates their marginalization, as they are unable to obtain national identification cards, which they need in order to gain access to social programmes and to register to vote. The Committee welcomes measures being implemented by the State party to address child abuse, including sexual abuse, but is concerned by the prevalence of violence against children and regrets the lack of information provided on action taken to combat growing concerns about online child sexual exploitation and abuse. The Committee is concerned by the continued prevalence of child marriage under customary laws, despite its prohibition under the Child Care and Protection Act, and regrets the lack of information provided on the implementation of the recommendations made as part of the Government's study on child marriage, conducted in 2020 (arts. 2, 7 and 24).

37. **The State party should:**

(a) **Continue and expand measures aimed at increasing access to birth registration, particularly among marginalized communities in rural and remote areas, and expedite the finalization and adoption of the civil registration and identification bill, in line with international standards;**

(b) **Ensure full implementation of the national plan of action to end violence against children and take the steps necessary to combat online child sexual exploitation and abuse, including through the finalization and adoption of the combating of sexual exploitation bill, in line with international standards;**

(c) **Bearing in mind the recommendation by the Committee on the Elimination of Discrimination Against Women,⁶ address the root causes of child marriage.**

Participation in public affairs

38. The Committee is concerned by the very low level of participation by Indigenous Peoples in political life and public administration, noting the near absence of members of these communities in governance structures at the national and local levels, including the Parliament and regional councils. The Committee notes that the Division of Disability Affairs and Marginalized Communities within the Ministry of Gender Equality, Poverty Eradication and Social Welfare encourages self-representation at different levels but does not focus on representation in governance structures, and that it targets only certain Indigenous Peoples, namely the San, Ovatue and Ovatjimba. The Committee is also concerned about the lack of recognition of the traditional chiefs of some Indigenous Peoples under the Traditional Authorities Act (Act No. 25 of 2000) even though they are recognized by their own people, which prevents them from autonomously managing the communal land allocated to them (arts. 25 and 27).

39. **The State party should take the measures necessary to increase the representation of all Indigenous Peoples in governance structures and public administration, ensuring their effective participation in decision-making structures and the development of related policies. It should also review the process and criteria relating to applications for the recognition of traditional chiefs under the Traditional Authorities Act, in consultation with unrepresented Indigenous Peoples or peoples that contest their appointed representative.**

⁶ CEDAW/C/NAM/CO/6, para. 26 (a).

Rights of Indigenous Peoples

40. The Committee is concerned that the State party does not recognize communities such as the San, Himba, Ovatie, Ovatjimba, and Ovazemba as Indigenous Peoples, referring to them as marginalized communities, notwithstanding the fact that Indigenous Peoples are entitled, under international standards, to rights related to their cultural, social and economic development, as well as to free, prior and informed consent on issues that affect them. The Committee remains concerned that Indigenous Peoples are insufficiently consulted regarding the extraction of natural resources on their lands, with a view to obtaining their free, prior and informed consent. The Committee notes that, under the Environmental Management Act (Act No. 7 of 2007), an environmental impact assessment must be undertaken and an environmental clearance certificate obtained prior to commencing a mining or development project, but is concerned at the lack of safeguards to ensure meaningful consultation with affected peoples and to promote their involvement in natural resource management and the sharing of benefits, as per the terms of the Act (arts. 1, 2 and 27).

41. The State party should consider recognizing communities such as the San, Himba, Ovatie, Ovatjimba and Ovazemba as Indigenous Peoples with the concomitant rights recognized in international standards, such as the United Nations Declaration on the Rights of Indigenous Peoples, and ensure meaningful consultation of Indigenous groups prior to granting licences to private enterprises seeking to exploit resources on the lands of Indigenous Peoples, with a view to obtaining their free, prior and informed consent.

42. The Committee notes the information provided regarding the inclusion of the San as a target group of the National Resettlement Policy but is concerned that other Indigenous Peoples are not included and that land allocated under the Policy is not always in line with the needs of resettled communities and remains vested in the State. The Committee remains concerned that the ancestral lands that previously belonged to Indigenous Peoples remain under State ownership, and while noting the information provided by the State party with regard to the report by the Commission of Inquiry into Claims of Ancestral Land Rights and Restitution, it regrets that more specific information was not provided on the commission's recommendations and how the State party intends to implement them (arts. 1, 2 and 27).

43. The State party should ensure that Indigenous Peoples benefit fully from the National Resettlement Policy and that land allocation criteria take account of ancestral land ties. It should also take appropriate measures with a view to promoting the restitution of ancestral lands to affected communities, including Indigenous Peoples.

D. Dissemination and follow-up

44. The State party should widely disseminate the Covenant, the two Optional Protocols thereto, its third periodic report and the present concluding observations, with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the periodic report and the present concluding observations are translated into the official languages of the State party.

45. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 29 March 2027, information on the implementation of the recommendations made by the Committee in paragraphs 5 (national human rights institution), 23 (police custody and pretrial detention) and 41 (rights of Indigenous Peoples) above.

46. In line with the Committee's predictable review cycle, the State party will receive in 2030 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its fourth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2032.
