



## **Republic of Namibia Submission to the UN Universal Periodic Review Maat for Peace, Development and Human Rights**

### **Introduction**

During the Second Universal Periodic Review (UPR) in 2016, Namibia received 219 recommendations,<sup>1</sup> and accepted 190, among which include: to ratify pending international human rights instruments and update national laws to be in line with those treaties; to review all legislation directed towards the discrimination of women and girls; to abolish all harmful and discriminatory traditional practices directed towards women, children, minorities and LGBT groups; to address issues of gender based violence; to enhance the law on the freedom of the media and promulgate laws on the freedom of expression; and to expedite the process for drafting and adopting legislation on the punishment of torture.<sup>2</sup> Among the recommendations received, 29 were noted including to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Maat outlines several concerns relating to the state of human rights in Namibia since 2016. More importantly, we underscore the failure of the government to uphold and implement some of the recommendations accepted during its examination under the Universal Periodic Review (UPR) with examples which are illustrative of forms of discrimination, against women and minority groups including LGBT groups and migrants; evidence of torture and the government's attempts to curb the freedoms of expression.

### **Current Situation of Human Rights in Namibia**

The government of Namibia generally upholds the provisions of the constitution regarding human rights. Civil rights have remained largely respected, and the government continues to pay special attention to the empowerment of women and girls and gender equality, by ensuring that ensuring that women's rights are protected in all areas, and to ensuring that women have access to services for education, health and employment, among others. In addition the Ministry of Justice introduced stricter measures in 2019 to punish state officials accused of torture<sup>3</sup>; furthermore, the enforcement of the Child Care and Protection Act by the Ministry Of Gender Equality And Child Welfare, is another positive move to ensure that the rights of every child are met.<sup>4</sup>

However, challenges still remain on these fronts. The government remains increasingly sensitive to criticisms of their performance and continue to restrict the freedom of expression

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<sup>1</sup> [https://www.upr-info.org/sites/default/files/document/namibie/session\\_24\\_-\\_janvier\\_2016/recommendations\\_and\\_pledges\\_namibia\\_2016.pdf](https://www.upr-info.org/sites/default/files/document/namibie/session_24_-_janvier_2016/recommendations_and_pledges_namibia_2016.pdf)

<sup>2</sup> [https://www.upr-info.org/sites/default/files/document/namibie/session\\_24\\_-\\_janvier\\_2016/recommendations\\_and\\_pledges\\_namibia\\_2016.pdf](https://www.upr-info.org/sites/default/files/document/namibie/session_24_-_janvier_2016/recommendations_and_pledges_namibia_2016.pdf)

<sup>3</sup> [https://www.upr-info.org/sites/default/files/document/namibie/session\\_24\\_-\\_janvier\\_2016/recommendations\\_and\\_pledges\\_namibia\\_2016.pdf](https://www.upr-info.org/sites/default/files/document/namibie/session_24_-_janvier_2016/recommendations_and_pledges_namibia_2016.pdf)

<sup>4</sup> <https://economist.com.na/42422/community-and-culture/child-protection-act-to-ensure-the-rights-of-every-child-are-met/>



and access to information.<sup>5</sup> Further, alienation and marginalization and abuse of indigenous groups, the LGBTI community, Migrant workers, women and girls and other minority still remains a problem and hampers their ability to openly advocate for their interests.

### **Elimination of all forms of discrimination**

As afore mentioned, the constitution guarantees the right to equality and prohibits discrimination on the grounds of ethnic or tribal affiliation, however it does not recognize the rights of indigenous peoples or minorities. As a result, the indigenous San community continue to be marginalized, and face widespread societal discrimination. They also suffer from significantly poor health outcomes due to discrimination in service provision. As a result Tuberculosis, HIV and malaria remain significant problems in many San communities.<sup>6</sup>

The constitution does not prohibit discrimination on the basis of sexual orientation and gender identity or expression.

Migrant workers also continue to face discrimination. It was reported that the Helao Nafidi town council restrictions implemented in 2017 mandate that migrant traders may only engage in business three days a week.<sup>7</sup>

### **Harmful Traditional Practices**

Although Namibia has made significant progress since its last periodic review, challenges to achieving full gender equality still exist. Women and girls continue to be subjected to cultural practices which perpetuate gender inequality. These restrictive socio-cultural norms and other harmful practices which exposes women to gender-based violence, early pregnancy, high risk of exposure to diseases such as HIV/AIDS and limits the full exercise of human and women's rights.

One of such practices is the Sikenge an initiation ceremony, or rite of passage, where girls are isolated from society and taught how to be women. It is practiced particularly in communities in the Zambezi region.<sup>8</sup> While sikenge could be a way to provide young women with sexual education, it is also used to subjugate, torture girls and young women into the role set out for them to be submissive and to spend the rest of their lives pleasing men. In some cases, women and girls are made to demonstrate what they have learnt with older male relatives which leaves them vulnerable to pregnancy, sexually transmitted diseases and psychological trauma. Furthermore, according to the ministry of health's 2016 national HIV sentinel survey report, the Zambezi region has a reportedly HIV prevalence rate amongst women in Namibia.<sup>9</sup> 40% of women aged between 25 and 49 years have tested HIV positive over the past 10 years.<sup>10</sup>

<sup>5</sup> <https://www.namibian.com.na/193243/archive-read/Abusive-public-officials-face-harsh-penalties>

<sup>6</sup> <https://minorityrights.org/minorities/san/>

<sup>7</sup> <https://freedomhouse.org/country/namibia/freedom-world/2019>

<sup>8</sup> <https://www.namibian.com.na/161597/archive-read/Suffering-in-the-name-of-culture>

<sup>9</sup> <https://www.namibian.com.na/171180/archive-read/Zambezi-calls-for-dumping-of-harmful-cultural-practices>

<sup>10</sup> Ibid.



## **Gender based violence**

Although Namibia has some of the most progressive legislations in Southern Africa on violence against women, the National police statistics on rape, as well as figures of women murdered by their partners, show an alarming increase.

In August 2018 Former deputy commissioner Edwin Kanguatjivi noted that 56 rape cases were reported across Namibia between July and August 2018, of which 26 involved minors. In August 2019 he again reported an upward trend in the number of cases of rape involving minor children.<sup>11</sup> Similarly, Police Inspector-General Sebastian Ndeitunga revealed that 3,164 rape cases were reported between 2016 and 2018, 1,314 involving minors.<sup>12</sup>

In the same vein, police statistics show that 139 adult women were murdered by their partners mostly male between 2014 and 2019.<sup>13</sup> One of such deaths is Shannon Wasserfall mysteriously disappeared in April 2020 after dropping off her child at a friend's place. On October 7, 2020, the Erongo police confirmed the discovery of human remains suspected to be that of Wasserfall based on preliminary investigations linked to the clothes found on the scene after an anonymous tip about the location of remains.<sup>14</sup> Following the suspected murder, hundreds of activists staged a demonstration against gender-based violence in Windhoek where the police were accused of failing to commit sufficient resources to the case and also failing to properly investigate cases of missing women and gender based violence in general.<sup>15</sup>

## **Torture and Ill Treatment**

There are numerous cases of harassment, torture and ill treatment of members of the LGBTI community by state and non-state actors. On April 28, 2020, a video clip showing a transgender female tied to a chair and tortured by Chief Frans Goagoseb, a Khomanin Traditional Authority, former presidential candidate in 2009 elections and current ruling party activist in the Omaheke region, began circulating across Namibia and eventually other countries across the globe. Aided by an unmasked individual acting as videographer and another onlooker, Chief Goagoseb, could be seen using a donkey whip to torture a confession from the victim, while referring to her with derogatory words and ignoring her reverberating plea for help.<sup>16</sup> Following the release of the video, the victim was subjected to community wide scrutiny, threats and further discrimination, aggravating the trauma she faced.<sup>17</sup> However, Maat commends the rapid response from the Namibian police, the ministries of Justice and Gender and the law enforcement agencies for ensuring that the perpetrator and accomplices were arrested; and also, that the victim was relocated to a place of safety and psychosocial support was provided.

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<sup>11</sup> <https://www.dailymaverick.co.za/article/2020-02-04-namibian-government-to-tighten-laws-on-gender-based-violence/>

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> <https://nalebriety.com/public-figures-react-to-shannon-wasserfall-new-development>

<sup>15</sup> <https://www.garda.com/crisis24/news-alerts/387116/namibia-gender-based-violence-protests-held-in-windhoek-october-8>

<sup>16</sup> <https://ar-ar.facebook.com/informantenam/posts/2939318992801708>

<sup>17</sup> <https://www.arasa.info/blog-news-details/civil-society-statement-condemning-human-rights-violations-and-transphobia-in-namibia>



Furthermore, there have been several reports of abuse of suspects in custody by police officers. In October 2018, a suspected poacher reportedly died from injuries allegedly sustained when he was beaten and tortured during a police interrogation.<sup>18</sup>

### **Freedom of expression**

Namibia's constitution guarantees media freedom and freedom of expression. Although this is generally observed in practice, Namibia has unprogressive laws that may affect freedom of the press. Defamation remains a criminal offense under the common law. Hence majority of citizens and the media observe self-censorship and avoid criticizing the government.

In line with this as government officials continue to speak harshly about the media, which, may be intended to intimidate journalists and subdue freedom of expression. In January 2019, Stanley Simataa, the Minister of Information and Communication Technology (MICT) warned citizens against insulting leaders.<sup>19</sup> In June 2019, members of the SWAPO Youth League threatened to monitor the activities of state owned media perceived to be critical of the ruling party.<sup>20</sup> It has also been reported that the government acquired significant capabilities to conduct surveillance of citizens on various forms of communication.<sup>21</sup> In September 2019, the defense minister warned citizens and journalists not to record videos of the soldiers and police.<sup>22</sup>

In October, the Namibian Broadcasting Corporation reportedly defied an instruction from the ruling party to rerun coverage of their rally, manipulating and augmenting how large the crowd looked.<sup>23</sup>

### **Freedom of Association and Assembly**

Freedom of assembly is guaranteed by law and is usually observed in practice; however, the government occasionally prevents peaceful protests and have increasingly used force and violence to disperse demonstrators.

In July 2018, several members of the Caprivi Concerned Group, which advocates for secession of the Zambezi Region, were arrested while they were attempting to hold a public meeting near Katima Mulilo. Six members of the group were subsequently charged with three counts of conspiring to commit treason, incitement to public violence and obstructing police officers in the execution of their duties.<sup>24</sup>

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<sup>18</sup> <https://freedomhouse.org/country/namibia/freedom-world/2019>

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> <https://freedomhouse.org/country/namibia/freedom-world/2019>

<sup>23</sup> Ibid.

<sup>24</sup> <https://allafrica.com/stories/201807110733.html>



In August 2018, student protesters in Windhoek, who had marched to the Higher Education Ministry to protest the non-payment of tertiary education fees by the Namibia student's financial assistance fund (NSFAF), were assaulted by police. However, the police claimed that the aggressive force applied was in response to demonstrators acting in a "disorderly" manner, which the student activists denied.<sup>25</sup>

### **Recommendations**

Maat is concerned by the failure of the Government of Namibia to meaningfully implement some of the recommendations it accepted relating to the aforementioned issues during its previous review in 2016. In light of this, the following recommendations are made

#### **Regarding instruments and policies**

The government of Namibia should

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- Strengthen and enforce domestic legislation to prohibit torture and ill-treatment;
- Abolish all harmful and discriminatory customary laws and practices which are directed towards women and girls;
- Take measures to review all relevant legislation with a view to end discrimination against minority groups including the LGBTI community;

#### **Regarding the Elimination of all forms of discrimination and harmful traditional practices, and Gender based violence**

The government of Namibia should

- Abolish explicitly all harmful and discriminatory customary laws and practices which subject women to gender-based violence;
- Intensify awareness raising campaigns on the negative impact of harmful and discriminatory customary laws and practices, specifically targeting traditional authorities;
- Ensure proper investigation of reported cases; maximum punishment for perpetrators and protection and rehabilitation of the victims.
- Stand by its zero-tolerance stance against human rights violations, including those faced by the LGBTI community and other minority groups by taking effective action to monitor, investigate, prosecute, and punish violence targeted toward them;
- Restrain from homophobic and transphobic hate speech, harassment and discrimination towards members of the LGBT community.

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<sup>25</sup> <https://action-namibia.org/action-alert-police-action-threatens-human-rights-and-democracy/>



- Consider stronger measures to make it easier for women and girls and other minority groups to report issues of rape, abuse and other crimes without victimization.

### **Regarding Freedom of expression**

The government of Namibia should

- Create an enabling environment that guarantees journalists and civil society to operate in accordance with the rights enshrined in the Constitution of Namibia, and other international treaties;
- Investigate all cases of intimidation and harassment of members of the press and bring the perpetrators to justice;
- Guarantee at all times the physical and psychological integrity of the media, civil society activists and human rights defenders.