



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eightieth session

**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH
THE CONSIDERATION OF THE INITIAL REPORT OF
THE REPUBLIC OF NAMIBIA (CCPR/C/NAM/2003/1)**

**Constitutional and legal framework within which the Covenant and
the Optional Protocol are implemented (art. 2)**

1. What measures does the State party envisage to implement the Covenant in domestic legislation (paras. 198 and 229)? Have there been any examples of cases in which the Covenant has been invoked before the courts? Please give details of relevant cases, if any.
2. Please provide further information on the role of the Ombudsman and of the Inter-Ministerial Technical Committee for Human Rights (Ministry of Justice) (para. 191) in implementing Covenant rights in Namibia. Please state how many complaints have been received and how many investigations have been undertaken by the Ombudsman and with what results. Furthermore, does the State party envisage the establishment of a National Human Rights Commission?
3. What measures has the State party taken to implement the Views of the Human Rights Committee with regard to Case No. 760/1997 (*Diergaardt et al. v. Namibia*) (para. 180)? With regard to case No. 919/2000 (*Müller and Engelhard v. Namibia*) (paras. 370-379), have the Committee's Views concerning the order that costs should be awarded to the successful party been implemented?

Gender equality and prohibition of discrimination (arts. 3 and 26)

4. It is reported that Namibian women continue to face legal and cultural discrimination under customary law and traditional societal practices and that practices which permit family members to confiscate the property of deceased men from their widows and children still

continue to exist. Please provide information on measures taken or envisaged to eliminate discriminatory practices faced by women in customary marriages. Please also provide information on measures, if any, being taken or envisaged to allow for the registration of customary marriages (para. 352).

5. Please describe the main objectives of the National Gender Policy (para. 202) and what performance indicators exist to show that the National Gender Policy is achieving these objectives. Moreover, please provide information with regard to the reforms being discussed by the Women and Law Committee of the Law Reform and Development Commission (para. 213).

6. Though the principle of sexual equality is enshrined in the Namibian Constitution, “there is no subsidiary legislation which contains a general prohibition on sex discrimination” (para. 347). Is the adoption of legislation to prohibit discrimination at work on the ground of sex in all spheres envisaged?

**Right to life; prohibition of cruel, inhuman or degrading treatment;
right to be free of arbitrary arrest and detention (arts. 6, 7 and 9)**

7. According to information before the Committee, human rights violations such as arbitrary arrests, excessive use of force, disappearances and extrajudicial killings continue to occur in Namibia, especially in the Caprivi region (para. 237). The use of torture by the police and the Special Field Forces to extract confessions from suspects is also reported. Please provide information on these allegations and on measures adopted to prevent excessive use of force by the police, including torture, arbitrary detention and other abuses. Furthermore, paragraph 251 of the report states that “there is no national legislation prohibiting torture”. Does the State envisage enacting legislation making torture a criminal offence?

8. Paragraph 238 of the report refers to allegations that hundreds of persons had disappeared in the north of Namibia. What were the results of the investigations undertaken by the police? How many complaints on enforced or involuntary disappearances have been received during the last five years? What has been done to investigate these complaints, and what were the results?

Liberty and security of the person; treatment of prisoners (arts. 9 and 10)

9. How is pre-trial detention for periods lasting up to one year compatible with article 9, paragraph 3, of the Covenant, especially in cases of detainees from the Caprivi region? What steps does the State party envisage taking to remedy this state of affairs?

10. What measures have been taken, or are envisaged, to ensure compliance with article 11 of Namibia’s Constitution, which stipulates that all persons in custody shall be brought before the nearest magistrate or judicial officer within 48 hours after arrest (paras. 235 and 263)?

11. Paragraph 269 of the report explains the internal complaints system in place in Namibia’s prisons. Is the establishment of an independent body for the inspection of detention centres and the investigation of complaints envisaged?

Expulsion of aliens (art. 13)

12. Paragraph 295 of the report states that “Namibia has yet to enact a law dealing with refugees This omission may make it difficult for persons seeking asylum to assert their rights effectively”. Is the enacting of a law concerning refugees envisaged?

Right to a fair trial (art. 14)

13. Please provide details about how the rights enshrined in article 14, paragraph 3, of the Covenant are guaranteed, in particular, access to counsel, trial without delay, and the prohibition of compulsion to testify against oneself or to confess guilt.

14. Please provide specific information about the treatment of Namibian citizens forcibly returned from Botswana.

Right to freedom of belief, opinion and expression (arts. 18 and 19)

15. Please give detailed information about the extent of control exercised by the Office of the President of Namibia over the Ministry of Information and Broadcasting. To what extent does this control have adverse effects on the exercise of the right to freedom of expression enshrined in article 19 of the Covenant?

16. Section 1 of the Publications Act No. 42 (1974) requires that the “Christian view of life should be recognized” in applying this Act (para. 317). Please elaborate on the practical consequences of this requirement. Section 9 of the Act authorizes “the Committee” to prohibit publications it considers undesirable. Please elaborate on the composition and functions of the Committee and provide details of cases of texts that have been prohibited.

Right of women and children to be protected (arts. 23 and 24)

17. Please provide information on measures taken to prevent child abuse, in particular rape and incest, as well as on campaigns and awareness-raising programmes undertaken to protect children against these abuses.

18. According to paragraph 346 of the report, “a draft law on children is in process of formation ... which would remove all existing discrimination against parents and children born outside marriage”. What is the current status of this draft law?

19. Is domestic violence regarded as a crime under Namibian law? If so, please provide detailed information as to the number of complaints received, investigations carried out, persons prosecuted and victims compensated. If not, what other laws and programmes exist, or are envisaged, to address the problem of violence against women, including domestic violence and rape? What is the status of the proposed Domestic Violence Bill?

**Right to take part in public affairs; non-discrimination before the law;
protection of national minorities (arts. 25, 26 and 27)**

20. In light of the fact that English is the official language of the Republic of Namibia, please provide information on whether fluency in English is required for employment in public service. If so, what effect does this have in practice on the participation of linguistic minorities in public service?

21. Please describe the ways and means by which persons belonging to different ethnic, religious or linguistic minorities, such as the San, the Himba and the Afrikaans people, can enjoy their rights, together with other members of their community, as provided in article 27 of the Covenant. Please also provide information on measures taken to protect sexual minorities, including homosexuals, in Namibia.

22. Please provide information on the proposals made by the Law Reform and Development Commission of the Ministry of Justice to amend laws that go against the spirit of Namibia's Constitution. What steps are being taken to give effect to these proposals? Is it envisaged that this Commission should examine the compatibility of Namibian laws with the Covenant? Please also provide information on the amendments made to the Native Administrative Proclamation of 1928, by which widows and children of black citizens are disinherited upon the death of their husband/father (para. 382).

Dissemination of information relating to the Covenant (art. 2)

23. Please describe the steps taken to disseminate information on the submission of reports and their consideration by the Committee. Do programmes exist for the training of members of the judiciary, law enforcement officers and other public officials (e.g. schoolteachers) about the provisions of the Covenant and their application? If not, are such programmes envisaged?
