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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Namibia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

1. The State Under Review (SuR) wishes to briefly inform the UN Human Rights Council of progress made in the promotion and protection of human rights since it appeared before the 10th Session of the UPR Working Group in January 2011.
2. The Government has identified 5 key sectors to create more employment and self employment opportunities; namely to strengthen vocational training, the Green Scheme, community conservancies, aquaculture, community forests and Small and Medium Enterprises (SME's). The Government has also set aside an amount of N\$ 14 Billion (US\$ 2 Billion) under a recent initiative called Targeted Intervention Programme for Employment creation and Economic Growth to create 180 000 jobs under the Medium Term Expenditure Framework (MTEFW) covering the period 2011–2014.
3. A newly built detention centre for juveniles was inaugurated by the President of Namibia in March 2011. This centre is equipped with excellent educational facilities and programmes need to be put in place for the effective implementation of this facility.
4. The Legal Officers of the Ministry of Justice did research on the outstanding International Instruments and submitted a report on these instruments as listed below to Cabinet for consideration for possible ratification.
5. The Child Care and Protection Bill was approved by Cabinet in May 2011 and is due to be tabled in Parliament soon.
6. Plans are under way for the visit of the UN Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque, which will take place from 4 to 11 July 2011. Ms. De Albuquerque's visit is aimed at examining crucial issues related to water and sanitation

I. Responses to Recommendations to which the SuR made reservations

7. During the initial review of the report on 31 January 2011, Member States made certain observations and recommendations during the interactive dialogue session for the consideration of the SuR.
8. A total of 120 conclusions and/or recommendations were made during the interactive dialogue by Member States. The Namibian delegation led by the Minister of Justice, Honorable Pendukeni Iivula-Ithana, accepted 90 of the recommendations which the SuR considered were already implemented or in the process of implementation
9. A total of 3 recommendations did not enjoy the support of the SuR, they were therefore rejected.
10. The SuR decided to reserve its position on 27 recommendations (Section No. 98 of the Draft Report on Namibia's UPR) and decided that responses responses to these recommendations will be given during the 17th Session of the Human Rights Council.
11. The recommendations to which the SuR made reservations were mainly related to the signing and ratification of some international human rights instruments to which Namibia is not yet a State party as well as extending standing invitations to the Special Mandate procedures, amongst others.
12. The instruments referred to are the following:
 - The Optional Protocol to the Convention Against Torture (OP-CAT);
 - The Optional Protocol to the International Convention on Economic, Social and Cultural Rights (OP-ICESCR);

- The Convention for the protection of Migrant Workers (CMW); and
- The International Convention for the protection of All Persons from Enforced Disappearance (ICPED);
- The Convention relating to the Status of Stateless Persons;
- The Convention on the reduction of Statelessness.

13. Following the 10th Session of the UPR Working Group, a report was submitted to Cabinet by the Honorable Minister of Justice. Included in the report was the Draft Report of the Working Group on the Universal Periodic Review which includes the accepted and rejected recommendations and those to which the SuR made reservations. Cabinet subsequently approved the responses found below.

14. Namibia's response to recommendations on ratification of instruments in general:

It should be noted that Namibia follows a monist approach. Article 144 of the Namibian Constitution provides that the general rules of public international law and international agreements binding upon Namibia shall form part of the law of Namibia. Thus the Namibian Constitution explicitly incorporate international law and makes it part of the law of Namibia. In light of the above the Government of the Republic of Namibia has decided that before any international instruments is signed, ratified, and/or acceded to, a thorough study of the international instruments to ensure that national laws are harmonized to meet the requirements of the international instruments. This approach shall be used for the consideration of all international instruments which Namibia has not yet ratified.

The recommendation to sign and ratify the Optional Protocol to the Convention Against Torture (OP-CAT).

15. Accepted.

Namibia is already a member State to the Convention against Torture and other Acts of Cruel, Degrading and Inhumane Treatment or Punishment which she acceded to in 1994. Namibia is yet to pass a legislation to criminalize torture to conform to the obligation of the Convention. A study has been commissioned by the Law Reform and Development Commission to assist Government to enact a law that would criminalize torture in line with the Torture Convention. A draft Bill is now ready and will be presented to the Cabinet for consideration.

The recommendation to sign and ratify the Optional Protocol to the International Convention on Economic, Social and Cultural Rights (OP-ICESCR).

16. Accepted.

The signing and ratification of International Convention for the protection of All Persons from Enforced Disappearance (ICPED).

17. Accepted.

Namibia was colonized for more than 100 years, and during the colonial rule the people of Namibia experienced gross human rights violations. Because of this sad history, the Namibian Government will always seek to provide and be part of the creating of solutions in the promotion and protection of human rights domestically and abroad.

This commitment is demonstrated by the Bill of Rights which is entrenched in chapter 3 of the Namibian Constitution and by the ratification, signing and accession

of the various international and regional Human Rights Instruments and Humanitarian Laws. Therefore, Namibia has no impediment against signing and ratifying this Convention. The signing and ratification of the above mentioned Convention will be done once Namibia has harmonized domestic laws to conform to the relevant convention.

The signing and ratification of the International Convention on the protection of the Right of All Migrant Workers and Members of their Families (ICRMW).

18. Rejected.

Article 10 of the Namibian Constitution expressly prohibits discrimination on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. The policy of equal treatment for all persons in Namibia is illustrated in two areas – prohibition of racial discrimination and affirmative action. Equal treatment of all races was a central tenant framed in the Namibian Constitution arising from the experience of apartheid. Even in the absence of the above Convention, Namibian labour laws are sufficient to cover any migrant worker who is employed in Namibia. However, it is of particular importance to establish clear guidance for bilateral and multilateral cooperation for lawful, humane, and equitable labour migration.

Standing invitation to the Special Procedures Mandate of the Human Rights Council.

19. Rejected.

The Government of the Republic of Namibia has up to date only received one request for a visit by the Special Procedures Mechanism, namely the Special Rapporteur on the human right to access to safe drinking water and sanitation, Ms. Catarina de Albuquerque who will visit Namibia from 4 to 11 July 2011. Namibia welcomes this visit and will work closely with the Human Rights Council in considering any future requested visits. The Namibian Government does not see the need to have a standing invitation, as it is open to receive requests for more visits by the Special Procedures Mechanism in the future.

Amendment of Namibia's Labour Act to address the inconsistency with regard to the minimum age to work and the school age for compulsory education and more vigorous enforcement of labour laws related to child labour.

20. Accepted.

The monitoring of the implementation of this recommendation will be carried out by the Inter-Ministerial Committee on Human Rights in conjunction with the relevant Ministries.

Review of Namibia's legislation on communication to bring it in line with international standards.

21. Accepted.

The communication legislation in Namibia is already in line with international standards.

Strengthen measures to end discrimination, exclusion and marginalization of Indigenous groups and minorities, in particular the San Community

22. Accepted.

The Government of the Republic of Namibia already has effective programmes for the San and other indigenous groups being implemented.

Review the reservation to article 26 of the Refugee Convention to authorize the free movement and residence of persons with recognized refugee status and to also extend this to asylum seekers.

23. Rejected

The Namibian Government took note of the concerns expressed by Member States towards migrants, refugees and asylum seekers, but as a country we reject the recommendation. In terms of the Vienna Convention on the Law of Treaties of 1969, reservations are allowed. The Namibian Government has made reservations to Article 26 of the 1951 UN Convention in terms of section 19 of the Namibia Refugees Recognition and Control Act of 1999 to regulate the movement of refugees and asylum seekers.

The Government allows refugees to leave the refugees settlement for up to 14 days or more depending on the reasons given by whoever wishes to visit a specific place whether inside the country or outside the country. Their movements are regulated via the office of the Camp administrator situated within the Osire Refugees Settlement. This is mainly done to safe guard their wellbeing and protection while they are away from the Settlement. There are private minibuses which make their way to the Osire Refugees Settlement to take refugees to and from the nearby town of Otjiwarongo on a daily basis for shopping and other activities.

II. Voluntary Commitments

24. Namibia shall continue to build the Namibian society in a spirit of harmony and national reconciliation.

25. Namibia remains committed to enhancing efforts towards the promotion and protection of human rights in order to improve the quality of life for the Namibian people.

26. Namibia commits herself to promote peace and international cooperation.

27. Namibia remains committed to implementing the recommendations that enjoyed her support during the first cycle of the UPR and to participating in the second cycle of the UPR in an open and constructive manner.

28. Namibia shall continue to engage constructively in the deliberations of the Human Rights Council, its subsidiary bodies and mechanisms.
