

Press Statement at the Conclusion of the Promotion Mission of the African Commission on Human and Peoples' Rights to The Republic Of Namibia

Jun 17, 2023

Further to its mandate under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter), and following authorization by the Government of the Republic of Namibia (Namibia), a Delegation of the African Commission on Human and Peoples' Rights (the Commission) undertook a Promotion Mission in Namibia from **12 to 16 June 2023**.

The Commission's Delegation comprised of **Honourable Commissioner Janet Ramatoulie Sallah-Njie**, Commissioner Rapporteur on the human rights situation in Namibia and Special Rapporteur on the Rights of Women in Africa; and Ms. Irene Desiree Mbengue, Senior Legal Officer at the Secretariat of the Commission.

The objectives of the mission were, inter alia: to promote the African Charter on Human and Peoples' Rights (the African Charter), and other regional and international human rights legal instruments; strengthen relations between the Commission and Namibia with regard to the promotion and protection of the rights guaranteed by the African Charter; collect information on the general human rights situation in Namibia; engage in dialogue with the Government on the legislative and other measures taken to give full effect to the provisions of the African Charter and other instruments ratified by Namibia, and identify the challenges faced; identify the progress made as well as the obstacles which hinder the exercise and full enjoyment of human rights; gather information on human rights issues, including, inter alia, the human rights situation of women and girls; refugees, migrants and internally displaced persons; freedom of expression and access to information; association and assembly; prevention of torture, situation of human rights defenders; civil and political rights; economic, social and cultural rights; independence of the judiciary; extractive industries and environment; indigenous populations/communities and minorities; older persons and persons with disabilities; persons living with HIV/AIDS; and situation of prisons and conditions of detention.

The Mission commenced with a courtesy call to the Ministry of Justice, led by **Hon. Yvonne Dausab**, Minister of Justice, and Member of Parliament; accompanied by the Executive Director **Mrs. Gladice Pickering**, and staff of the Ministry of Justice.

During the mission, the Delegation held discussions with various State and non-State actors involved in the promotion and protection of human and peoples' rights in Namibia.

The Delegation held Meetings with the **Hon. Netumbo Nandi-Ndaitwah**, Deputy Prime Minister and Minister of International Relations and Cooperation of Namibia, and Member of Parliament, accompanied by the Executive Director **Ambassador Penda Naanda**.

The Delegation also held meetings with the following Senior Government Officials:

- Chief Justice of the Supreme Court;
- Ministry of Home affairs, Immigration, Safety, and Security;
- Ministry of Health and Social Services;
- Ministry of International Relations and Cooperations;

- Electoral Commission of Namibia;
- Ministry of Gender Equality, Poverty Eradication and Social Welfare;
- Ministry of Information and Communication Technology; and
- Ministry of Education, Arts and Culture.

The Delegation had discussions with the following individuals from the Administrative and Political Sector:

- The Commissioner General of the Namibian Correctional Services;
- The Deputy Commissioner General of the Namibian Correctional Operations;
- The Ombudsman;
- The National Chairperson of the Popular Democratic Party; and
- The Secretary General of the Popular Democratic Party.

The Delegation also met with the following United Nations (UN) Agencies as follows:

- UNESCO;
- UNDP;
- UNICEF;
- UNFPA;
- WHO; and
- UNCHR.

The UN Resident Coordinator of Namibia presided over the meeting.

The Delegation met with the following Civil Society Organisations:

- Gender Diversity Movement Trust (RAM);
- Out-Right Namibia (ORN);
- Positive Vibes;
- Namibian Revolutionary Transport Union (NARETU);
- The Namibia NGO Forum Trust (NANGOF);
- Diversity Alliance of Namibia;
- Equal Rights Movement;
- Namibia Press Agency (NAMPA);
- Repentance & Holiness Ministry;
- Methealth;
- Alliance of Christian Churches in Namibia;
- Southern Africa Refugees Protection (SARP);
- Member Coalition of Churches;
- "Rights Not Rescue" Trust Organization;
- Breaking the Wall of Silence;

- Labour Resource and Research Institute (LARRI);
- Metal Allied Workers Union;
- Diversity Alliance of Namibia; and
- The Institute of Public Policy Research (IPPR).

The Delegation visited the Windhoek Central Correctional Facility; as well as the Klein Windhoek Police Holding Cells; and concluded the Mission with a Press Conference.

The Delegation commends the Government of the Republic of Namibia for its political will and commitment towards the effective enjoyment of human rights, including through the adoption of legislative and other measures to implement the African Charter and other ratified regional and international human rights instruments.

The Delegation notes the following positive developments in the promotion and protection of human rights in Namibia:

- i. Ratification of regional and international human rights instruments, including its recent deposit of instrument of ratification for the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa in June 2023, making Namibia the 9th State to ratify the instrument;
- ii. Namibia's human rights record, in particular compliance and alignment with regional and international standards;
- iii. The Convenings of the Inter-Ministerial Committee, to consider the status of implementation of various treaties to which Namibia is a party within the UN; the African Union, and the SADC, including recommendations of Concluding Observations of the State's Periodic Report before the Commission;
- iv. Progressive legal and policy frameworks;
- v. Laws, Strategies and Programs to protect and promote the rights of women in Namibia, including the National Gender Policy; Combating of Domestic Violence Act; The National Plan of Action on Gender-Based Violence, 2019-2023; The Namibia Planned Parenthood Association (NAPPA) which safeguards Sexual Reproductive Health Rights; The establishment of a sex offenders' register and special courts to handle sexual and Gender-Based Violence (GBV) offences, with the aim of combatting violence against women; and the establishment of 17 GBV Protection Units in 14 regions in the country;
- vi. Namibia's (8th) position in the Global Gender Gap Report of 2022 (the highest-ranked African country for bridging the gap between women and men in economic opportunity, educational attainment, health and political empowerment measures), as well as the African Gender Award received by H.E Hage Geingob, President of Namibia;
- vii. Separation of powers, and the impartial, independent judiciary with the required integrity respected by citizens;
- viii. Commencing work on a National Action Plan for Business and Human Rights;
- ix. Food Bank Monitoring and Evaluation Framework by the Ministry of Gender Equality, Poverty Eradication and Social Welfare for Homeless People;
- x. Basic Social Grant for Older Persons;
- xi. Establishment of Information Commission which will be functional by end of 2023, and the establishment of an Office of the Information Commissioner;
- xii. Media Freedom, with Namibia ranked No.1 in Africa and 24th position globally;
- xiii. Appointment of an Independent Media Ombudsman to regulate the affairs of the media;
- xiv. Rehabilitation and reintegration programs for Prisoners;
- xv. The right of visitation to Prisons by Judges; the Ombudsman; the Red Cross and other

stakeholders;

- xvi. The Offender Risk Management Correctional Strategy, implemented by the Namibian Correctional Services to facilitate rehabilitation;
- xvii. Community Advisory Committee composed of people from various backgrounds appointed by Commissioner General, and mandated to inspect facilities, talk to inmates, amongst other things, which has improved Correctional Facilities;
- xviii. Increase in Disability Grant for children (from 250 to 1200 Nam Dollars);
- xix. Maternal and neonatal health services provided through the reproductive health program as components of Primary Health Care;
- xx. The Waiver Fee Policy for the vulnerable groups in the societies, including children, persons with disability and pregnant woman, to be exempted from paying health fees;
- xxi. The Nutrition Programme which includes maternal, infant and young child nutrition, growth monitoring and nutrition promotion, including the Baby Friendly Hospital Initiative;
- xxii. Clinical Handbook on integrated services to survivors of sexual and GBV developed by the Ministry of Health and Social Services;
- xxiii. Training by the Ministry of Health and Social Services, of 251 Community Health Workers (with the assistance of development partners), on how to respond to the increased reports of stunted and severely malnourished children;
- xxiv. Programs and Initiatives to improve school enrollment and retention including: The "After School Centre" which focuses on disadvantaged children, such as children working and living on the streets and children from economically challenged families and communities in Windhoek; "The Interim Night Shelter" which admits children between the ages of 6 to 18 years, and provides various services, overnight; and "The Income Generating Project" created to assist the parents of street children. This provides the opportunity for children to generate income on a lower level; and
- xxv. The Government's commitment and initiatives to combat corruption, including the protection of whistle-blowers.

In noting the positive developments, the Delegation also notes the following challenges in the promotion and protection of Human Rights in Namibia:

- i. Lack of implementation and enforcement of laws due to various challenges, including lack of resources, challenges in the justice sector and enforcement officials;
- ii. Lack of awareness, especially in rural areas on human and peoples' rights by the population, and pertinent regional and international instruments;
- iii. Lack of awareness on the role of the Commission in promoting and protecting human rights within the African Human Rights System and its operational modalities;
- iv. Outdated Colonial Laws still in the Statute Books;
- v. Challenges in access to land, especially by marginalised communities;
- vi. High prevalence of GBV, including assault to children especially amongst family members;
- vii. Persistent traditional harmful practices, including child marriage;
- viii. Challenges in respect of birth registration and other civil registration processes that may contribute to statelessness.
- ix. Alarming high rate of youth unemployment and challenges in addressing the number of street children and their reintegration into schools impacting on their right to basic education;
- x. Restriction on freedom of movement by refugees and migrants, which impacts on their enjoyment of their social and economic rights;
- xi. The high number of homeless people who have dwellings but no formal houses;
- xii. Lack of definition for 'Indigenous Populations' due to Post-Apartheid regime, and no national legislation specifically recognizing the rights of indigenous people (otherwise referred to as

- xiii. Difficulty in obtaining government identification cards by marginalized communities, due to lack of birth certificates or other identification, precluding their social, economic rights, and political participation;
- xiv. Limited access to education for poor communities especially marginalized groups and people from informal settlements, compounded by lack of data and statistics relating to enrollment rates;
- xv. Some dilapidated education facilities not conducive physically and mentally for learning;
- xvi. Allegations of police use of excessive force;
- xvii. Prolonged pre-trial detention and long delays in trials;
- xviii. Lack of an independent oversight Mechanism for places of detention for purposes of preventing torture, cruel, inhuman or degrading treatment or punishment;
- xix. Interruption of public demonstrations, particularly those intended to critique the government or promote unpopular issues;
- xx. Unequal access and lack of inclusiveness in healthcare services; education, public buildings, and transportation for people with disabilities;
- xxi. Allegations of hate speech and discrimination still persist despite the existing legislative framework;
- xxii. Resistance from the Government to implement the Basic Income Grant which is aimed at reducing poverty rate;
- xxiii. Increasing incidence of eviction of long-term farm workers, who have been living and working on such land, over generations, resulting in homelessness;
- xxiv. Lack of credible, reliable and timely data, readily accessible for various areas of human rights;
- xxv. Lack of dedicated Facility for Juvenile Offenders; and
- xxvi. Overcrowding in the Oluno Correctional Facility in the Northern part of Namibia.

The Commission will prepare a detailed Mission Report with specific recommendations for all the above referenced concerns. Meanwhile, the Delegation would like to recommend the following to Namibia:

- i. Consider ratifying outstanding regional and international instruments including the Optional Protocol to CAT (OPCAT); Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and People's Rights; Protocol to the African Charter on Human and People's Rights on the Rights of Older Persons; and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention);
- ii. Expedite the drafting and enactment of all pending laws, for the enjoyment of human rights in the country, including the draft Child Justice Bill;
- iii. Implement the Repeal of Obsolete Laws Act of 2018, aimed at repealing obsolete and outdated colonial laws in the country;
- iv. Government to support the work of the Law Reform and Development Commission, established to repeal obsolete laws which remain in force in Namibia;
- v. Government to provide material and financial resources to all sectors in the country to enable them function more effectively;
- vi. Government should ensure the effective implementation of the laws and strategies protecting women from GBV including the Combatting of Domestic Violence Act, amongst others, and devise strategies to influence attitudinal change and cultural practices that perpetuate GBV ;
- vii. Government should make efforts to provide the judicial apparatus with enough resources to enable them function effectively and also spread throughout the regions of Namibia to facilitate

access to justice;

viii. Government should take steps to increase budget allocated to health and education and ensure the enjoyment of economic social and cultural rights for all including, refugees; marginalized communities and people with disabilities;

ix. Continue institutional reform efforts in various sectors of Government, to ensure sustainable development and lasting peace;

x. Work with national and international development Partners to provide human rights training to the Judiciary, Magistrates and Lawyers in the country, especially on the interpretation of provisions of the African Charter in their judgements, as well as use of Jurisprudence of the Commission, the African Court and the African Committee of Experts on the Rights and welfare of the Child in domestic cases;

xi. Develop Government policy on collection of relevant data and reliable statistics related to various areas of human rights;

xii. Establish an Independent Police Oversight body to investigate allegations of violations committed by the Police and other law enforcement Officers;

xiii. Investigate allegations of discrimination and hate speech;

xiv. Intensify Government initiatives to address youth unemployment, and also provide them with professional training and life skills;

xv. Adopt alternative sentencing for petty crimes/offences including Community Orders, to reduce prison population;

xvi. Build dedicated Juvenile Facility or construct separate Units for Juvenile Offenders, to ensure they are separated from adults, in line with the UN Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and other regional and international standards;

xvii. Ensure that Juvenile Offenders have proper detention facilities, to ensure their rehabilitation and reintegration in society as responsible adults, including educational and recreational facilities;

xviii. Fastrack the construction of an additional correctional facility in Northern Regions to alleviate overcrowding in Oluno Correctional Facility;

xix. Develop strategies to influence attitudinal change and cultural practices that perpetuate Violence Against Children, especially by family members; provide counselling services; and reporting mechanisms for victims;

xx. Construct user-friendly establishments (including ramps and other features) to facilitate access for people with physical disabilities; and

xxi. Develop strategies and policies to address the incidences of homelessness, arising from eviction of farm workers, who have been living and working on such land, over generations.

The Delegation wishes to express its sincere gratitude to the Government of the Republic of Namibia, and in particular, to the Ministry of Justice, for the excellent coordination and facilitation of the mission. The Commission appreciates the frank and constructive dialogue held with all the stakeholders, and cross fertilization of ideas. The Delegation also expresses its gratitude to the Namibians for their hospitality.

The Delegation would like to accentuate its particular appreciation to the Ministry of Justice and Ministry of International Relations and Cooperation of Namibia, for courtesy extended to the Delegation, and for making the Mission a resounding success.

Done in Windhoek, Republic of Namibia, this 16th Day of June, 2023