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**Human Rights Council**

**Forty-eighth session**

13 September–1 October 2021

Agenda item 6

**Universal periodic review**

 **Report of the Working Group on the Universal Periodic Review**[[1]](#footnote-2)\*

 **Namibia**

 **Addendum**

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

 I. Introduction

1. The Government of the Republic of Namibia welcomes the recommendations made by member States during the 3rd Cycle of the Universal Periodic Review of the Republic of Namibia at the 38th Session of the Working Group on 3 May 2021.

2. The Government of the Republic of Namibia is pleased to inform that, out of 283 recommendations received, 229 recommendations have been accepted and enjoy the support of the State, and 54 recommendations are noted.

 II. The following recommendations are accepted, and enjoy the support of the State

3. 138.2, 138.26, 138.27, 138.28, 138.29, 138.30, 138.31, 138.32, 138.33, 138.34, 138.35, 138.36, 138.37, 138.38, 138.39, 138.41, 138.42, 138.44, 138.45, 138.46, 138.47, 138.48, 138.49, 138.50, 138.51, 138.54, 138.55, 138.56, 138.58, 138.59, 138.60, 138.61, 138.62, 138.63, 138.64, 138.65, 138.67, 138.68, 138.69, 138.70, 138.71, 138.72, 138.73, 138.74, 138.75, 138.76, 138.77, 138.79, 138.81, 138.82, 138.83, 138.84, 138.85, 138.86, 138.87, 138.88, 138.89, 138.91, 138.92, 138.93, 138.99, 138.100, 138.111, 138.112, 138.113, 138. 114, 138.115, 138.116, 138.117, 138.118, 138.119, 138.120, 138.121, 138.122, 138.123, 138.124, 138.125, 138.126, 138.127, 138.128, 138.129, 138.130, 138.131, 138.132, 138.133, 138.134, 138.136, 138.137, 138.138, 138.139, 138.140, 138.141, 138.142, 138.143, 138.144, 138.145, 138.146, 138.147, 138.148, 138.149, 138.150, 138.151, 138.152, 138.153, 138.154, 138.155, 138.156, 138.157, 138.158, 138.159, 138.160, 138.161, 138.162, 138.163, 138.164, 138.165, 138.166, 138.167, 138.168, 138.169, 138.170, 138.171, 138.172, 138.173, 138.174, 138.175, 138.176, 138.177, 138.178, 138.179, 138.180, 138.181, 138.182, 138.183, 138.184, 138.185, 138.186, 138.187, 138.188, 138.189, 138.190, 138.191, 138.192, 138.193, 138.194, 138.195, 138.196, 138.197, 138.198, 138.199, 138.200, 138.201, 138.202, 138.203, 138.204, 138.205, 138.206, 138.207, 138.208, 138.209, 138.210, 138.211, 138.213, 138.214, 138.215, 138.216, 138.217, 138.218, 138.219, 138.220, 138.221, 138.222, 138.223, 138.224, 138.225, 138.226, 138.227, 138.228, 138.229, 138.230, 138.231, 138.232, 138.233, 138.234, 138.235[[2]](#footnote-3), 138.236, 138.237, 138.238, 138.239, 138.240, 138.241, 138.242, 138.243, 138.244, 138.245, 138.246, 138.247, 138.248, 138.249, 138.250, 138.251, 138.252, 138.253, 138.254, 138.255, 138.256, 138.257, 138. 258, 138.259, 138.260, 138.261, 138.262, 138.263, 138.264, 138.265, 138.266, 138.267, 138.268, 138.269, 138.270, 138.271, 138.272, 138.274, 138.275, 138.276, 138.277, 138.278, 138.280.

 Recommendation 138.282

4. The Government conducted a qualitative study on stateless persons and those at risks of statelessness in Namibia, and a stakeholders’ workshop was held to validate the draft report. This report will inform Government’s action in identifying persons who are stateless or at risk of statelessness and device mechanisms to assist them. Namibia’s consideration of acceding to the 1954 and 1961 Conventions on the Reduction of Statelessness is at an advanced stage, and the National Action Plan is completed. In the meantime, Namibia continues to take steps to improve birth registration acknowledging that poor birth registration contributes to statelessness.

 III. The following recommendations are noted and are receiving consideration by the State

 Recommendations 138.1, 138.17, 138.18, 138.19, 138.22, 138.23, 138.24, 138.20, 138.21, 138.25, 138.40, 138.66, 138.281

5. The State is not yet in a position to ratify nor accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. However, migrants continue to enjoy protection under the Namibian legal framework. Namibia has finalised a comprehensive National Labour Migration Policy which aims to strengthen migration management capacity in Namibia, with the overall objective of supporting the Government in developing a comprehensive and coordinated approach towards migration management based on well-identified needs and priorities. The Policy further seeks to develop labour migration systems that benefit from developmental impact of migration to and from Namibia, and ensure an effective border control and sound management of migration flows while eradicating human trafficking, smuggling, child labour and forced labour. The principal legislation which regulates and controls the entry of persons into, and their residence in, Namibia; and which provides for the removal from Namibia of certain immigrants is the Immigration Control Act, 1993 (Act No. 7 of 1993). Refugees are treated same as nationals, the Labour Act, 2007 (Act No. 11 of 2007) applies to all persons employed without distinction on status.

 Recommendations 138.3, 138.5, 138.4, 138.6, 138.7, 138.8

6. Namibia is not in a position to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. However, the Government continues to cooperate with the Working Group on Enforced Disappearances by conducting due investigations and responding to the queries of the Working Group.

 Recommendations 138.12, 138.13, 138.14

7. The State takes note of the recommendation to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR). Economic, social and cultural rights form part of the Namibian Constitution with some of the rights covered under chapter 3 on fundamental rights and freedoms and others catered for under chapter 11 on principles of state policy.

8. Recommendations 138.15, 138.16 are noted.

9. The State under review highlights that the rights of the child are comprehensively addressed in the Child Care and Protection Act, 2015 which is aligned to the Convention on the Rights of the Child. Section 25 of the Act appoints a Children’s Advocate in the Office of the Ombudsman to deal with matters affecting the rights of the child, represent interests of children in court in protection of their rights. The Act also provides for Children’s court and conduct of court proceedings under chapter 4. Corporal punishment is prohibited in the home and school setting in terms of the Basic Education Act, 2020 and the Child Care and Protection Act, 2015.

10. Recommendation 138.9 is noted.

11. Recommendations 138.10, 138.11, 138.90, 138.273, 138.279 are noted.

12. In the Namibian context, indigenous people are, as a state policy, regarded as marginalised communities. The rights and welfare of indigenous peoples remain a government priority. The Draft White Paper on Indigenous Peoples was thoroughly scrutinised by marginalised communities and all relevant stakeholders. In addition, the division of Marginalised Communities under the Office of the Vice -President also appointed coordinators from the said communities to serve as focal persons. These focal persons are tasked with the duty of mobilising communities to stand up for their rights and to report any kind of discrimination against them.

13. The Ministry of Home Affairs, Immigration, Safety and Security facilitates the issuance of national documents to members of the marginalised communities.

14. Namibia has made the following provisions for marginalized communities:

* Signing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Government has also worked with the ILO on consultations to ratify the ILO’s indigenous and Tribal Peoples Convention 169.
* Namibia has entered into innovative arrangements with one of the largest marganilized groups, the San, who have increased their control over land management.
* Projects under the Division of San Development, a part of the Office of the Vice-President: Veteran Affairs and Marginalized People, have included resettlement through the purchase of commercial farms; and vocational training including in construction skills.
* The Division in the Office of the Vice-President is responsible for ‘drought relief’ to San and Ovatue communities—the distribution of maize and other items of food to insecure communities.

 Recommendation 138.43

15. This recommendation finds no basis because when opportunities arise all interested persons in Namibia are free to participate. The process of nominating candidates is merit-based and transparent.

 Recommendations 138.78, 138.80, 138.94, 138.95, 138.96, 138.97, 138.98, 138.101, 138.102, 138.103, 138.104, 138.105, 138.106, 138.107, 138.108, 138.109, 138.110, 138.135

16. The Namibian Government does not persecute members of the Lesbians, Gays, Bisexual, Transgender and Intersexed (LGBTI) community and homosexuality is not illegal in Namibia. The Government continues to explore effective mechanisms to clarify its position on LGBTQ rights despite existing normative and religious barriers. In the meantime, the Government continues to implement the general right to non-discrimination in the promotion and protection of human rights for all persons in Namibia, as provided for under Article 10 of the Namibian Constitution. Further, Namibia’s National Human Rights Action Plan 2015-2019, which was approved by Parliament in late 2014, identifies the Lesbian Gay Bisexual Transgender and Intersex population (LGBTIs) as a “vulnerable group” and points to the need to protect members of vulnerable groups against discrimination.

17. On 17 May 2021, the Law Reform and Development Commission presented a report to the Minister of Justice on abolishment of the common law offences of sodomy and unnatural sexual offences. The report includes a draft repeal legislation for the consideration and further action of the Minister of Justice. The Minister of Justice will table the report on the abolishment of sodomy and unnatural sexual offences in Parliament for discussion and consideration to kickstart progressive reform of the common law and legislative provisions to better promote the rights of LGBTQ persons. Currently, it must be noted that Namibia does not have laws that criminalise homosexuality.

 Recommendations 138.52 and 138.53

18. The Namibian Constitution does not contain a definition of a child. Article 15 of the Namibian Constitution has been misconstrued as defining a child when in fact it provides for children as persons under the age of sixteen (16) years for purposes of protecting young children from economic exploitation and detention, and age of fourteen (14) for purposes of child labour. The definition of a child is contained in the Child Care and Protection Act, 2015 (Act No. 3 of 2015), and this definition is aligned to the definition of a child as set out in the CRC, as a person who has not attained the age of 18 years. Section 226 of the Child Care and Protection Act, 2015 prohibits harmful social, cultural, and religious practices against children, including child marriage.

19. Recommendation 138.57 is noted.

20. This recommendation is receiving consideration of the State.

 Recommendation 138.212

21. The Abortion and Sterilization Act 1975, (Act No. 2 of 1975) provides for circumstances under which women and the girl child can access safe and legal abortions. The Government acknowledges that illegal and unsafe abortions do occur in the country. Nevertheless, medical treatment is offered without discrimination to women who had undergone illegal and unsafe abortions. The Government through the Ministry of Gender Equality and Child Welfare and the Ministry of Health and Social Services regularly carries out awareness campaigns on the alternatives to abortions, access to contraceptives and family planning services including the use of various contraceptives. The Deputy Minister of Health and Social Services tabled a motion on abortion in the National Assembly in 2020, to stimulate discussion and advance the dialogues amongst the different stakeholders for purposes of establishing the general views of Namibians on abortion. Parliament is now seized with the matter.

22. Recommendation 138.283 is noted.

1. \* The present document is being issued without formal editing. [↑](#footnote-ref-2)
2. Olufuko is the theme of an annual cultural festival, hosted in Outapi, Omusati Region, it does not involve child marriage. Harmful cultural practices are prohibited in terms of section 226 of the Child Care and Protection Act, 2015. [↑](#footnote-ref-3)