



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Namibia

Concluding observations (116th session): [CCPR/C/NAM/CO/2](#), 23 March 2016

Follow-up paragraphs: 10, 22 and 24

Follow-up reply: [CCPR/C/NAM/CO/2/Add.1](#), 10 July 2018

Committee's evaluation: Additional information required on paragraphs 10[C][C], 22[B][C] and 24[C][B]

Paragraph 10: Non-discrimination

The State party should conduct extensive education and awareness-raising campaigns involving and targeting traditional leaders and the general public, both children and adults, to eliminate all forms of discrimination. It should:

- (a) Repeal all laws that discriminate on the basis of race and finalize and adopt legislation on intestate succession so as to apply the same rules to all persons without discrimination;
- (b) Adopt legislation explicitly prohibiting discrimination based on sexual orientation, including in the Labour Act (Act No. 11 of 2007), and adopt hate crime legislation punishing homophobic and transphobic violence and vigorously enforce it;
- (c) Abolish the common law crime of sodomy and include same-sex relationships in the Combating of Domestic Violence Act (Act No. 4 of 2003) so as to protect same-sex partners;
- (d) Intensify efforts to combat discrimination against persons with disabilities and against persons who are HIV-positive, and ensure their full integration into all spheres of public life.

Summary of State party's reply

- (a) Namibian laws do not discriminate against any person. For the past 10 years, the Law Reform and Development Commission has been conducting research on marriage and inheritance laws. In accordance with its recommendations, bills on intestate succession

* Adopted by the Committee at its 126th session (1–26 July 2019).



were drafted and submitted to the Minister of Justice. These bills will repeal old laws on intestate succession from the apartheid era;

(b) The Constitution guarantees equality and freedom from discrimination and prohibits discrimination on several grounds. In addition, protection from discrimination is provided in legislation on racial discrimination and on employment and labour, adopted in 1991, 1998 and 2007. Lesbian, gay, bisexual and transgender persons are not discriminated against or rejected by the Government because of their sexual preferences.

The Government adopted its first National Human Rights Action Plan for 2015–2019. It enhances affirmation of the rights of lesbian, gay, bisexual and transgender persons and includes educational initiatives, awareness-raising and stresses the implementation of legal and regulatory reforms that will give effect to non-discriminatory provisions in various international and regional instruments;

(c) No information provided;

(d) The National Human Rights Action Plan enhances affirmation of the rights of persons with disabilities.

Committee's evaluation

[C] (a), (b) and (d): The Committee regrets that the State party denies the existence of discriminatory laws and that no information was provided on efforts to repeal discriminatory racial laws in areas other than intestate succession. It would appreciate information on efforts in other areas. In addition, the Committee requires further information on the specifics of the bills on intestate succession submitted to the Minister of Justice, including their names and current status.

The Committee regrets that the State party denies the existence of discrimination against lesbian, gay, bisexual and transgender persons. It notes the information provided on the Constitution and the National Human Rights Action Plan, but regrets that no information was provided on specific legislation adopted to prohibit discrimination based on sexual orientation, including in the Labour Act, and that no information was furnished on the adoption of hate crime legislation to address homophobic and transphobic violence. The Committee notes that the two acts mentioned in the reply were adopted before the concluding observations were adopted and do not focus on discrimination based on sexual orientation. The Committee reiterates its recommendation.

The Committee appreciates the information on the goal in the National Human Rights Action Plan of combating discrimination against persons with disabilities. However, it requires more detail on specific measures taken, including on education, awareness-raising efforts and legal and regulatory reforms. The Committee would also appreciate information on efforts to combat discrimination against HIV-positive persons. The Committee reiterates its recommendations.

[C] (c): The Committee regrets that no information was provided on abolishing the crime of sodomy or including same-sex relationships in the Combating of Domestic Violence Act. The Committee reiterates its recommendation.

Paragraph 22: Prohibition of torture and ill-treatment

The Committee encourages the State party to adopt legislation on prevention and combating of torture, and provide training to all relevant professionals, including police and prison guards on its provisions. It should furthermore:

(a) **Ensure that perpetrators of torture and ill-treatment are identified, prosecuted and tried before ordinary courts, and, if found guilty, punished and victims adequately compensated;**

(b) **Ensure that all cases of torture and ill-treatment are properly investigated by an independent mechanism;**

(c) **Ensure that sex workers can report crimes without risking being prosecuted for their occupation and that they can participate in opt-out schemes.**

Summary of State party's reply

(a) A bill will soon be brought before the parliament criminalizing torture in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) The police force has established an Internal Investigation Directorate made up of investigators for all acts of torture and ill-treatment carried out by members of the police force. The Office of the Ombudsman monitors and investigates all cases of torture and ill-treatment committed by State agents;

(c) No information provided.

Committee's evaluation

[B] (a) and (b): The Committee welcomes the fact that a bill will be brought before the parliament criminalizing torture, but requires additional information, including the name and content of the bill and its conformity with the Covenant, as well as a timeline for adoption.

The Committee appreciates the information provided on the Internal Investigation Directorate of the police force and the oversight mechanism of the Ombudsman. The Committee requires clarification as on whether these bodies operate independently and how the State party ensures cases of torture and ill-treatment are investigated properly by these mechanisms. In addition, the Committee requires information on measures taken to ensure that perpetrators of torture and ill-treatment are identified, prosecuted and tried before ordinary courts. It also requires information on specific cases of perpetrators who have been found guilty and victims who have been adequately compensated since the adoption of the concluding observations.

[C] (c): The Committee regrets that no information was provided on measures taken to ensure that sex workers can report crimes without risking prosecution for their occupation and on their ability to participate in opt-out schemes. The Committee reiterates its recommendation.

Paragraph 24: Torture, violence, including sexual violence against women, and the right to life

The State party should:

(a) **Adopt and implement awareness-raising policies and public education programmes involving and targeted at traditional leaders and the public at large, to make such violence socially unacceptable, as well as train traditional leaders on the elimination of gender-based violence;**

(b) **Systematically undertake prompt, impartial and effective investigations to identify the perpetrators of so-called "passion killings", to prosecute them and, if they are found guilty, to punish them;**

(c) **Dismantle all legal and practical barriers to prosecuting and punishing perpetrators of domestic violence and to implementing the Combating of Domestic Violence Act (Act No. 4 of 2003) including by increasing the availability of magistrates and other authorities to issue protection orders and ensure access to justice on a 24-hour daily basis;**

(d) **Fully operationalize and expand shelter facilities for domestic violence victims across the State and ensure that all victims of violence have effective recourse to shelter while the protection order is processed, as well as access to psychosocial counselling and compensation;**

(e) **Protect victims of violence, including of rape and sexual harassment, from stigmatization as well as from reprisals, and adopt legislation on witness protection;**

(f) **Ensure that police, prosecutors and judges are adequately trained in addressing issues of gender-based violence, that victims of rape and other such**

violence receive appropriate support, counselling and compensation, and are protected from stigmatization and reprisals. The State party should also adopt pending legislation that would allow sexual violence prosecutions to proceed if the victim withdraws the complaint, to ensure that perpetrators are prosecuted and punished.

Summary of State party's reply

(a) The State party carried out education and awareness-raising campaigns with traditional leaders from 2008 to 2010. The National Gender Policy (2010–2020) and the National Plan of Action on Gender-based Violence (2012–2016) provide guidance to stakeholders on how to integrate gender perspectives into their programming and how to improve prevention of gender-based violence;

(b) No information provided;

(c) The number of magistrates in the country has increased and magistrates have been trained in the procedures and points of law involved in implementing the Combating of Domestic Violence Act;

(d) No information provided;

(e) The Witness Protection Act (Act No. 11 of 2017) and the Whistle-blower Protection Act (Act No. 10 of 2017) were enacted to ensure that adequate legal measures are in place to protect witnesses;

(f) The police are trained yearly on how to act in domestic violence cases and awareness-raising campaigns are conducted for them on gender-based violence. The Namibian police force contains a gender-based violence unit, which leads investigations into crimes involving sexual violence, gender-based violence and domestic violence. Several members of that unit were trained from 2014 to 2016 on sex crimes and crime scene investigations. In 2014 and 2015, some 21 magistrates and social workers were trained on gender-based violence.

Committee's evaluation

[C] (a), (b), (c), (d) and (f): While noting the education and awareness-raising campaigns that were conducted with traditional leaders, the Committee notes that the campaigns mentioned were conducted before the adoption of the concluding observations. The Committee reiterates its recommendations and requests updated information on efforts taken since the adoption of the concluding observations.

The Committee regrets that no information was provided on any investigations conducted to identify, prosecute and punish perpetrators of “passion killings”.

The Committee appreciates the efforts made to increase the availability of magistrates in order to issue protection orders and ensure access to justice. The Committee notes, however, that the number of magistrates cited and training provided for magistrates refer to the period prior to the adoption of the concluding observations and that no information on subsequent measures taken is provided. The Committee reiterates its recommendations and requests updated information on efforts taken since the adoption of the concluding observations.

The Committee regrets the lack of information on measures taken to operationalize and expand shelter facilities for domestic violence victims and to ensure that they have effective recourse to shelter. The Committee reiterates its recommendations.

The Committee notes the information provided on training for police officers on gender-based violence. The Committee regrets that no information was received on similar training for prosecutors and that the information received with regard to magistrates deals only with measures taken prior to the adoption of the concluding observations. The Committee requires information on: (a) how victims of rape and other such violence receive appropriate support, counselling and compensation, and how they are protected from stigmatization and reprisals; and (b) any draft legislation currently pending adoption that

would allow sexual violence prosecutions to proceed if the victim withdraws the complaint, to ensure that perpetrators are prosecuted and punished.

[B] (e): The Committee welcomes the legislative measures enacted to protect witnesses. The Committee seeks clarification on how these laws operate in practice. The Committee also requests further information on how victims of violence are protected from stigma and reprisals.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be addressed in the State party's next periodic report.

Next periodic report: 31 March 2020.
