

**REPUBLIC OF NAMIBIA**

**MINISTRY OF JUSTICE**

**Statement by Honourable Yvonne Dausab, Minister of Justice, MP**

**Delivered virtually at the 38th Session of the UPR WG**

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**(Please check against delivery) Geneva, Switzerland**

**Madame President,**

**Excellencies,**

**Ladies and Gentlemen,**

Namibia is honoured to join you virtually in Geneva to participate in this 38th Session of the UPR Working Group, as a state under review. I would like to express our profound appreciation to the Office of the High Commissioner for Human Rights, specifically the UPR Secretariat, for the well-coordinated manner in which this review is being conducted, especially under these extraordinary circumstances. I also wish to express our gratitude to the distinguished members of the Troika: Fiji, Venezuela (Bolivarian Republic of) and Sudan for the work they will be conducting in preparing the report of the Working Group.

**Madame President,**

Namibia continues to support the universal peer review mechanism as the most successful mechanism of the Human Rights Council which has received universal support and strong participation from other member states and from civil society. The unique and conducive nature of the UPR encourages our continued participation, allowing us to take stock of our own efforts towards the implementation of all human rights. I am therefore very proud to represent the Republic of Namibia and reaffirm our support for this distinct and effective mechanism, which was designed to prompt, support, and expand the promotion and protection of human rights on the ground. As a country and as a government we are painfully aware of the need to avoid human rights violations at all costs as such violations have the potential of causing tomorrow’s conflicts.

During the 2nd Cycle review, Namibia accepted 82% of the 219 recommendations received and has submitted the UPR state report setting out the progress made in implementing the accepted recommendations. Namibia’s UPR state report also highlights the persisting challenges which the Namibian Government continues to address through progressive interventions.

**Madame President,**

I wish to express our appreciation to the following States; Liechtenstein, the United Kingdom of Great Britain and Northern Ireland, Slovenia, Germany, Haiti, Panama, Uruguay, Portugal on behalf of Friends on National Mechanisms for Implementation, Reporting and Follow-up, Canada and Spain for the advanced questions forwarded for engagement at this platform. We also appreciate the participation of all States and civil society in this review today and look forward to engaging with them.

The Namibian Government highly values the work and contributions of civil society organisations, and non-governmental organisations and in compiling our report, consultative meetings were held with these key role-players. The general public was also informed of this review via the print media. Since the last review, Namibia has submitted about five reports to treaty bodies and we are working hard to submit the outstanding reports which are delayed due to various challenges.

**Madame President,**

Namibia is currently in its second term as a member of the Council, and we continue to participate in the work of the Council to contribute to the mandate of promoting respect for protection of all human rights worldwide. We firmly believe that peace and security is necessary for effective protection of human rights, and ensuring that no one is left behind. On the occasion of the 20th anniversary of Resolution 1325 on Women, Peace and Security, Namibia officially launched the International Women’s Peace Centre in Windhoek highlighting our recognition of the important role women play in peace and security as agents of change.

**Madame President,**

Whilst Namibia is a peaceful and politically stable country where the rule of law prevails, we are extremely burdened with an alarming number of cases on gender-based violence and sexual violence in our country and we continue to work hard to address this persisting evil. According to the Namibia Demographic Health Survey 2013, 33% of women aged 15-49 have experienced some forms of physical or sexual violence, gender-based violence. Violence against children is escalating, with nearly 4 out of 10 females and 9 out of 20 males having experienced physical, sexual or emotional violence in their childhood according to Namibia Violence Against Children survey of 2019. The Government has prioritised measures to combat gender-based violence and sexual violence through targeted policy, legislative amendments and institutional arrangements aimed at strengthening protective measures and budgetary allocations to fund preventative and combating measures. Our experience in this regard dictates that more emphasis should be placed on preventative and rehabilitative efforts with a victim-centred approach. The role of all members of society, especially boys and men cannot be over-emphasised. In promoting gender-equality as we cannot work with the advancement of women and the rights of our young girls in a vacuum. We remain thankful for and welcome cooperative support and technical assistance from fellow member states and international organisations including the Office of the High Commissioner for Human Rights, in strengthening our efforts.

We are also in the final stages of enacting a new legislation on divorce to make it less costly and less cumbersome for couples to terminate their marriage, and remove the common law requirement of fault as a ground for divorce. The Marriage Bill has gone through a number of processes for consideration such as the Cabinet Committee on Legislation (CCL).

**Madame President,**

Gender equality and the empowerment of all women and girls is a key priority in the national plan/strategy for the implementation of the Sustainable Development Goals; gender equality and empowerment of all women and girls as SDG number 5 is aligned to national development frameworks under National Development Plan 5, Harambee Prosperity Plan, National Gender Policy and Vision 2030. Namibia as a country has made significant improvement in the promotion of gender equality and women empowerment largely credited to the mainstreaming gender equality into existing legislative instruments. The Namibian Government continues to pursue macroeconomic stability, including fiscal discipline, which directly benefits women, especially rural women who are currently classified as vulnerable and extremely poor.

We remain committed to improving women’s participation at all levels of Government especially through representation of women in Parliament and is proud to report an increase from 41.6% to 46% representation in Parliament since 2015. Namibia regards itself as a leader in gender equality as the African Gender Index has ranked Namibia as one of only three countries in Africa to be in the top 10 across the overall AGI score, which measures economic, social and representation and empowerment. The World Economic Forum index in March 2021 has listed Namibia 6th, in the world and first in Africa for gender equality. This rating was based on 4 gauges, namely: economic opportunities, education, health and political leadership. I am also proud to inform that we have made progress in youth empowerment and inclusion as President Geingob appointed the Honourable Emma Theofilus, aged 23 as Deputy-Minister of Information and Communication Technology and Member of Parliament, and recently Honourable Patience Masua who was appointed as a Member of Parliament at the age of 22 and therefore Namibia’s youngest member of parliament.

**Madame President,**

The rights of the child and child welfare remains high on our human rights agenda. The Child Care and Protection Act, 2015 was operationalised in 2018 and places the welfare of children at the forefront of all matters that impact the Namibian Child. We are proud to inform you that this legislation is comprehensive in its protection of the rights and welfare of children, and prohibits harmful practices such as child marriage and sexual initiation practices, and also reaffirms the voice of the child by allowing children to consent to medical procedures and HIV/AIDS testing from the age of 14 years.

We are at an advanced stage of finalising the Child Justice legislation which is aimed at addressing children in conflict with the law and key interventions to promote rehabilitation and other diversion mechanisms for the benefit of the child, and the broader public interest. While we finalise that process, the Child Care and Protection Act, 2015 read with the Criminal Procedure Act, 1977 remain in place to ensure that children in conflict with the law receive the required support.

Namibia boasts with a solid policy and legal framework on education, which includes an Inclusive Education Policy, a Learner Pregnancy Policy and Policy Guide for School Culture Clubs for Development. In terms of The National Agenda for Children (2018 – 2022)all children have equal access to health, education, support, and rehabilitation services for children with disabilities and are strengthened and coordinated. The policy further aims to ensure that all children with disabilities have access to disability grants.

Namibia remains one of the highest spenders in education with an average spending of 19% of the annual budget on education. The spending on education includes all basic learning needs, such as competence and self-determination, but also school feeding programmes at all public schools. Whilst we are facing challenges in maintaining a consistent level of quality of education at all schools, we are confident that we will be able to do so with the help of all our partners and through the implementation of our General Education Educator Policy.

Namibia has also taken positive steps in enhancing access to inclusive education with the promulgation of the Education Act, 2020. The Ministry of Education continues to run mobile schools in Kunene Region, as well as schools in the Tsumkwe constituencies to improve access to basic education for children in marginalized communities (San, Ovatue, Ovatjimba and Ovazemba). In order to ensure the delivery of quality education, the Government has implemented a remote teaching incentive to attract qualified teachers to teach in the various remote areas of Namibia, and the schools are visited by regional education inspectors, and training has been done for the teachers on the new curriculum.

Despite these ongoing efforts, the COVID 19 pandemic has caused significant disruptions in our education sector and we are now gradually recovering from the set-backs we’ve suffered with the hope to eventually fully recover.

**Madame President,**

Despite a high HIV/ AIDS burden with an adult prevalence of 12.8%, Namibia has achieved the UNAIDS 90-90-90 HIV/AIDS treatment target by 2020 and is committed to achieving 95-95-95 target by 2030. The child mortality rates have dropped from 22 500 in 2010 to less than 17 000 in 2020, and maternal mortality rate declined from 355 to 195 per 100 000 live births between 2013 to date. Access to quality public health is vital and the Government implements targeted national response to combat pandemics such as COVID-19, the outbreak of Hepatitis-E, cancer, diabetes and kidney disease which severely impact our communities.

**Madame President,**

In enhancing access to justice, the Ministry of Justice seeks to mitigate cost of litigation by increasing the in-house capacity of our Directorate: Legal Aid. For the Financial Year ending 31 March 2021, we have granted an estimated number of 5,079 applications for legal aid, which includes criminal and civil cases. Legal Counsel is deployed at all district courts across the country and efforts are underway to enhance service delivery to indigent litigants. Additionally, the self-review of the Legal Practitioners Act, 1995 by the Law Society of Namibia includes the key consideration of *pro bono* legal services as a tool to enhance social justice which would complement Government efforts in improving access to justice. The Ombudsman Act, 1990 is currently also under review and the proposed reforms aim to improve the independence of the office of the Ombudsman and align the legislative framework to the Paris Principles on National Human Rights Institutions. It is envisaged that this will enhance the image of this important office as a public protector.

Namibia is a vast country, and currently there are magistrate courts in each town, as well as periodical court in populated settlement areas. Police stations and police services are widely found in most settlement areas in the country which in turn assist rural women in accessing justice. In rural villages there are Community Courts that are part of Judiciary system of Namibia and the Ombudsman in collaboration with the Law Society, Legal Assistance Centre occasionally provides free legal advice to the communities countrywide.

**Madame President,**

Today we commemorate the 30th anniversary of the Windhoek Declaration on Press Freedom and we are honoured to host the international community here in Windhoek today to celebrate, reflect on and take stock of the global progress made in ensuring the independence and freedom of pluralistic press. Namibia appreciates the crucial role of freedom of opinion and expression to good governance, and the promotion of all human rights. The World Press Freedom Index ranks Namibia first in Africa, and 24th in the world on press freedom. This ranking demonstrates the government’s resolve to uphold the Namibian Constitution and the decision of courts to protect the freedom of the press. In Director-General of the Namibian Central Intelligence Service and Another v Mathias and Another for instance, the Supreme Court of the Republic of Namibia upheld the right to information when a local newspaper published information implicating the National Intelligence Agency (NCIS) in the improper use of state resources.

**Madame President,**

Social and economic inequality, mostly representing remnants of our colonisation by an apartheid regime, but also caused by impediments such as corruption and unemployment continues to persist in Namibia. Namibia has the second highest Gini coefficient in the world, despite targeted interventions that include supportive and redistributive government policies. As a Government, we have declared war against poverty. The Ministry Gender Equality, Poverty Eradication and Social Welfare administers the social assistance programme and poverty eradication considerations are mainstreamed into other areas such as investment promotion, agriculture, education, innovation and employment creation. Furthermore, the budgetary allocation for social grants makes a significant impact on the social welfare of eligible Namibians who have attained the age of 60, child grants and Namibians with disabilities who are between the ages of 16 and 59. The indicators in governance, poverty and inequality and infrastructure development, demonstrate that Namibia has progressively improved the quality of life for citizens, the latest figures show that the poverty rate today is down to 18% from about 70% in 1993.

Unemployment, especially among the youth in addition to growing poverty remain a major concern for the Government. In this regard the Government has embarked on a number of development programmes to accelerate interventions that are aimed at creating employment with specific focus on training and youth entrepreneurship. These practical interventions include Vocational Training Centres which have been built across the country to equip students with the necessary technical knowledge and skills in order for the graduates to create employment for themselves and others. The National Development Bank, a State-Owned Enterprise offers flexible loans to Small and Medium Enterprises (SME) to all citizens, targeting mostly young people to start their own businesses.

**Madame President,**

Namibia recognises the slow progression in realizing the right to adequate housing and the adverse impact this has on the standard of living of our people. The housing sector is faced with many challenges, which include high prices prompted by high demand, low availability of serviced land as well as lack of access to financing. The acute need for housing was exposed during the COVID 19 pandemic with the largest backlog of housing being in the lowest income sectors. An estimated amount of N$76 billion is required for servicing of land and construction of houses. A total number of 34 952 houses have been built to date under partnerships with government which include 10 702 houses built by the National Housing Enterprise, 15 467 houses built under the “Build Together” programme. The Shack Dwellers Federation (SDF) with funding from the “Buy-a-Brick” initiative also built 5 800 houses. Government will continue to pursue viable partnerships with private sector partners to promote, protect and fulfil this right. In 2018 a Supreme Court Judgment in the case of *Standard Bank v Magdalena Shipala and 4 Others* necessitated policy change. As a result, the Ministry of Justice obtained Cabinet Approval to amend the High Court Act, 1990 and the Magistrates’ Court Act, 1944 to make provision for judicial oversight in matters affecting parties in the sale of immovable property. This process allows for time to investigate whether the parties can find other solutions to avoid the sale of primary immovable property. These amendments were finalised and the Amendment Bills were tabled in Parliament in February 2021 and are due for promulgation.

Access to safe drinking water sources improved to 98, 4% in urban and 87, 4% in rural areas respectively, which means Namibia has met the Millennium Development Goals target for safe drinking water. We are now on course to improve sanitation across the country as the Government in its 2019/20 emergency budget availed N$ 764 million for the provision of water and ablution facilities.

**Madame President,**

Many of the issues raised by the UN human rights committees and stakeholders relate to the enactment of domestic legislation on torture. I would like to provide an update on where we are in this process, the Prevention and Combating of Torture Bill was tabled before Parliament in late 2019. Parliamentary debates on the Bill highlighted policy issues, such as the stipulation of a maximum life imprisonment sentence, which the Ministry of Justice is required to address before the Bill can be re-tabled. The Bill will be re-tabled in Parliament later this year. I must however state that while this process is ongoing, the Namibian Constitution prohibits torture under Article 8(2), complemented by our obligations under the Convention Against Torture, public officials accused of torture and intimidation are liable to prosecution. The Namibian police has dismissed 56 members from the Police Force, while 41 others are currently on suspension pending the finalisation of their cases in the courts for various offences, including assault of members of the public. This is an indication that the Namibian Government does not condone acts of torture by its public officials. In an effort to curb occurrences of torture, the Ombudsman in 2016 developed a “Prevention of Torture Training Manual for Police Officers.” This was followed by conducting training workshops for police officers on the prevention of torture in 9 regions.

**Madame President,**

There were also concerns raised relating to the rights of persons with disabilities and the need for legislative reform to align domestic legislation to the Convention on the Rights of Persons with disabilities. Namibia is committed to protecting the rights of persons with disabilities, and in particular stigma suffered by persons with albinism. The Office of the Ombudsman and the Ministry of Justice of Namibia held public hearings to hear the concerns of persons with albinism and recommended informed and practical solutions for Government policies and legislation.

In addressing the challenges faced by persons with disabilities, the National Disability Council of Namibia is developing a Namibian Disability Standard in conjunction with the Namibia Standards Institute. The general objective of which is to ensure that public buildings and those meant for public use are accessible to all persons with disabilities and these developments will be consistent with the provisions of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) which Namibia ratified.

**Madame President,**

The Government acknowledges that discrimination against minorities, women, persons with disabilities and other vulnerable groups continue to be of concern, but is not government sanctioned and continuing efforts are made to create increased public awareness to respect human rights of others. Namibia has made great strides in ensuring that all persons are treated equally in all aspects of life. As a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Government is also considering the ILO’s Indigenous and Tribal Peoples Convention 169.

The Government has devised several mechanisms in the form of legislation, policies and action programmes aimed at promoting the rights and welfare of ethnic minorities. Notable ethnic minorities in Namibia are San and OvaHimba. The Government developed teaching and learning materials for the Ju//hoansi dialect of the San languages and this is taught from grade 1-3 in schools where San children predominate. The Language Policy for Schools states that:

*Pre-primary to Grade 3 shall be taught in the home language. English as a medium of instruction shall only be offered from Grade 1 at government schools with the written approval of the Minister of Education, Arts and Culture.*

Marginalised communities are among the targeted groups in terms of the land resettlement programme, more than eight farms were procured for the marginalized communities since the inception of this programme in 2005 where about 1110 households were resettled. Between 2006 and 2013, over 45 000 ha of commercial land has been procured to resettle San communities with an additional communal land of about 70 000 ha. The Ministry of Gender Equality, Poverty Eradication and Social Welfare has submitted the White Paper on the Rights of Indigenous People to the Cabinet for certification. This White Paper provides policy guidance for promoting and protecting the rights of the indigenous peoples by ensuring their inclusion in a strong, resilient and tolerant Namibian House.

Namibia’s political system is based on a multiparty system, which provides for several political parties to register with the Electoral Commission of Namibia to contest National, Regional and Local elections. The right to political participation is a guaranteed right of every Namibian citizen in terms of Article 17 of the Namibian Constitution, which states that “all citizens shall have the right to participate in peaceful political activity intended to influence the composition and policies of Government’’. The current ruling party has a policy in place to bring the indigenous people into elected party structures in order for them to be able to be elected into local, regional and national political position. For example, the Deputy Minister of Marginalised communities in the Ministry of Gender Equality, Poverty Eradication and Social Welfare, Honourable Royal J.K /Ui/o/oo is from a marginalised community. The mandate of the Electoral Commission is to register and educate all citizens who are eligible to vote on their rights and the procedures during elections. All communities are targeted for this education, including those living in remote rural areas. Mobile polling stations are set up during election to ensure that all eligible voters cast their votes unhindered.

Namibia was ready to welcome the Special Rapporteur on the rights of indigenous peoples during the first quarter of 2020, but due to the outbreak of the Covid-19 pandemic the visit was put on hold. We remain committed to engaging the Special Rapporteur on issues affecting marginalised communities and how better to address them, we will therefore negotiate with the Special Rapporteur to arrange for future dates in this regard. This would be the second visit to Namibia by the Special Rapporteur on the rights of indigenous peoples, which clearly demonstrates our commitment to openly engage with the UN human rights mechanisms even in the absence of standing invitations for mandate holders.

**Madame President,**

In response to one of the advance questions asked by the delegation of the United Kingdom, I am pleased to report that Namibia has effectively operationalised The Combating of Trafficking in Persons, 2018 (Act No. 1 of 2018), which aims to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; to criminalise trafficking in persons and related offences; to protect and assist victims of trafficking in persons, especially women and children; to provide for the coordinated implementation and administration of this Act; and incidental matters. Two convictions were obtained thus far in terms of this legislation and Namibia has been upgraded to a Tier 1 country in the 2020 TIP report of the US Department of State for fully meeting the minimum standards for the elimination of human trafficking – the only country in Africa to achieve this ranking, joining 34 nations globally.

In 2019, the Ministry of Gender Equality and Child Welfare in coordination with the National Coordinating Body (NCB) and with the support from the UN Migration Agency (IOM) launched the National Referral Mechanism and Standard Operating Procedures for the identification, protection, referral and safe return of victims of trafficking (VoTs) in Namibia. The Ministry of Safety and Security with the support from IOM and UNICEF launched a Police and Prosecutor training manual and pocket manual on Trafficking in Persons.

**Madame President,**

Noting the high participation recorded at the recent UPR sessions, I would like to state that the international community has demonstrated its commitment to the promotion and protection of human rights. Namibia will steadfastly play its role in ensuring that the aims of the Working Group are met.

There is no question that the implementation of laws, policies, treaty obligations and recommendations remain a challenge to all States and more so in times of crises, but we must demonstrate our resilience and emerge victorious against these challenges. We will rise above them.

As we forge ahead, our purpose must remain to ensure that we all acknowledge and respect that all human beings are born free and are equal in dignity and rights. Our commitment is to lasting peace and security to end tragic human suffering, which we witness in the world today. In this vein, the world is faced with the unprecedent fight against the Covid 19 pandemic which has devastated economic and social livelihoods, many Nations including Namibia are confronted with vaccine shortages and while we all recall the UN high level meeting on universal health care in 2019 efforts towards realizing universal health care remain lacking. To illustrate this point, only 0.2% of people in developing countries are vaccinated, while over 30% have been vaccinated in developed countries. In emphasizing the importance of vaccine equality, Namibia is grateful to the countries that have donated vaccines and offered support in ensuring that the Namibian Government makes progress in providing vaccines to the Namibian people. Collaborative efforts demonstrated by some during the fight against this pandemic is an indication that we can come together to build a fairer and healthier world.

I will end here and to give enough time to the States to engage in the dialogue and convey their constructive interventions and recommendations. We are happy to respond to any additional questions at a later stage.

I thank you Madame President.

**CONCLUDING REMARKS BY HONOURABLE YVONNE DAUSAB, MP, MINISTER OF JUSTICE, DELIVERED AT THE 38TH SESSION OF THE UNIVERSAL PERIODIC REVIEW WORKING GROUP, 3 MAY 2021**

**Madame President,**

On behalf of my delegation, we thank you for your excellent leadership in steering the discussions today.

We also wish to thank all the delegations that took the time to participate during our review today. Your valuable input, comments and recommendations serve as guidance to us in our continued efforts to ensure full implementation of human rights for the benefit of our people. The high participation demonstrated through interventions and advanced questions received during this review is highly encouraging and serves as motivation for Namibia’s commitment to human rights. Questions which we could not answer today will be addressed at the 48th Session of the Human Rights Council. We will defer our positions on the recommendations received here today in order to consult the Cabinet and Government at large, and provide an informed response at the said session of the Human Rights Council.

Allow me to once again express our appreciation to Fiji, Venezuela (Bolivarian Republic of) and Sudan for their commitment to the compilation of the Working Group report as members of the Troika. We further express our gratitude to the Secretariat for their guidance and support and the impeccable organisation of this review.

Once again, I thank you Madame President for your encouraging leadership.

**I thank you.**