



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination 110th session

7–31 August 2023

Item 4 of the provisional agenda

**Consideration of reports, comments and information submitted  
by States parties under article 9 of the Convention**

### List of themes in relation to the combined sixteenth to eighteenth periodic reports of Namibia

#### Note by the Country Rapporteur\*

1. The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session<sup>1</sup> that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. The present document contains a list of such themes. It is not an exhaustive list; other issues may also be raised in the course of the dialogue. No written replies are required.

#### Demographic composition of the population

2. Updated and reliable information and statistics on the demographic composition of the State party's population, including on non-citizens. Economic and social indicators disaggregated by language spoken, sex, gender, age and ethnic origin.<sup>2</sup>

#### The Convention in domestic law and the institutional and policy framework for its implementation (arts. 1, 2, 4, 6 and 7)

3. Additional information on the compliance of the definition of racial discrimination, as set out in the Racial Discrimination Act of 1991, with the Convention, including information on consultations carried out for the purpose of review. Timeline for the entry into force and implementation of the Repeal of Obsolete Laws Act of 2018.<sup>3</sup>

4. Specific examples in which provisions of the Convention have been invoked before national courts or directly applied by them. Information on the measures taken to raise awareness of the Convention among judges, prosecutors and judicial officials.<sup>4</sup>

5. Measures taken to ensure the independence, in particular the formalization and application of a clear, transparent and participatory selection and appointment process, and the effectiveness of the Office of the Ombudsman, in particular the provision of adequate

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\* Agreement was reached to publish the present document after the standard publication date owing to circumstances beyond the submitter's control.

<sup>1</sup> A/65/18, para. 85.

<sup>2</sup> CERD/C/NAM/CO/13–15, para. 6.

<sup>3</sup> Ibid., para. 10.

<sup>4</sup> Ibid., para. 26.



human and financial resources, including for staff recruitment. Status of the adoption of the ombudsman bill tabled in the National Assembly.<sup>5</sup>

6. Information on complaints relating to racial discrimination, including the type and number, and their outcomes, brought to courts and tribunals, as well as to the Ombudsman. Information on sensitization training for judges, prosecutors, and judicial officials. Measures taken to inform individuals, including non-citizens in an irregular situation, about court proceedings and the justiciability of the rights enshrined in the Convention. Information on the availability of legal aid services and the allocation of adequate human and financial resources necessary for the proper functioning of the judiciary.<sup>6</sup>

### **Special measures**

7. Information on the effective implementation, within the reporting period, of legislation relating to special measures, including the Affirmative Action (Employment) Act of 1998. Information concerning developments during the reporting period relating to land distribution and on the effective implementation of the Agricultural (Commercial) Land Reform Act of 1995, the Communal Land Reform Act of 2002 and the Flexible Land Tenure Act of 2012. Measures taken within the reporting period to reduce economic inequalities between white citizens and tribal and Indigenous Peoples, including income inequalities and disproportionate levels of unemployment.

8. Status of the adoption and implementation of the white paper on Indigenous Peoples developed by the Office of the Ombudsman.

9. Information on existing legislation relating to the use of force by police and law enforcement officers. Measures taken to effectively prevent and protect individuals from racial profiling by law enforcement officers, including human rights education and training. Status and outcomes of investigations into the use of force by police, including in the context of peaceful assembly. Disaggregated data on the ethnic composition of the prison population.

10. Information on human rights and non-discrimination education, including within the national school curriculum, and public awareness-raising activities on racial discrimination and the rights enshrined in the Convention.

### **Racist hate crimes and speech (art. 4)**

11. Measures taken to adopt specific legislation prohibiting hate speech. Status of the adoption of proposed amendments to the Racial Discrimination Prohibition Amendment Act of 1998. Information on the recognition of racial motives as an aggravating circumstance under criminal law.<sup>7</sup>

12. Information on the channels of administrative bodies available for reporting complaints related to hate speech or hate crimes, as well as on their accessibility. Measures to combat racist hate speech, including that committed by politicians and public officials, including information on complaints, prosecutions and convictions for racist hate speech and racially motivated hate crimes, and the penalties imposed for such acts. Information on training provided on how to address racist hate crimes and hate speech, including for journalists and public officials.

### **Situation of minorities (art. 5)**

13. Measures to ensure, in law and in practice, the adequate political representation of individuals belonging to racial and ethnic minorities at all levels of government, including Parliament, and at all administrative levels, including within decision-making and representative institutions.

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<sup>5</sup> Ibid., para. 8.

<sup>6</sup> CEDAW/C/NAM/CO/6, para. 18 (b); and CCPR/C/NAM/CO/2, para. 32.

<sup>7</sup> CERD/C/NAM/CO/13-15, para. 12.

14. Measures to ensure the effective exercise of the right to vote by individuals belonging to racial and ethnic minorities, including measures to address discriminatory stereotypes and incitement by politicians and public officials and to prevent violence.

#### **Situation of tribal and Indigenous Peoples (art. 5)**

15. Measures to guarantee, in law and in practice, the consultation, participation and representation of Indigenous Peoples in all policymaking and decisions that affect them. Additional measures to guarantee the right to public participation, including adoption of the proposed reforms to the process of recognition and appointment of traditional authorities.<sup>8</sup>

16. Measures to guarantee, in law and in practice, the rights of Indigenous Peoples in relation to their history, culture, traditions, traditional knowledge and customs. Measures to secure, in law and in practice, the rights of Indigenous Peoples to own, develop, control and use their traditionally occupied or used lands, resources and communal territories, including with respect to tenure rights and land demarcation. Information on the number of claims submitted to the Ancestral Land Rights Commission and their outcomes. Measures taken to prevent, in law and in practice, fencing and the forced eviction of Indigenous Peoples in cases concerning conflicting interests over lands and resources.<sup>9</sup>

17. Measures to guarantee, in law and in practice, the free, prior and informed consent of Indigenous communities affected by development and mining projects, including the San peoples in Kavango East and Kavango West affected by the exploration and extraction of oil and gas. Information on the effective implementation of the Minerals (Prospecting and Mining) Act of 1992 and the Environmental Management Act of 2007, including on impact assessments completed in consultation with the affected peoples and communities. Information on the appeals submitted to the respective authorities designated under the Minerals (Prospecting and Mining) Act of 1992 and the Environmental Management Act of 2007, including the number, type and outcomes of the appeals.

18. Additional information on measures taken to adapt educational systems to the cultures of tribal and Indigenous Peoples. Information on community consultations, including those involving tribal and Indigenous communities, for the development of policies, including the national policy on inclusive education, and reforms, including of the school curricula, led by the Ministry of Education, Arts and Culture. Information on the allocation of adequate human and financial resources necessary for the proper functioning of inclusion programmes, including the mobile school unit programmes.<sup>10</sup>

#### **Situation of tribal and Indigenous women**

19. Measures taken to ensure, in law and in practice, the protection of tribal and Indigenous women from multiple and intersectional forms of discrimination, including with respect to labour market discrimination, land ownership and inheritance.<sup>11</sup>

20. Measures taken, in law and in practice, to protect tribal and Indigenous women from sexual and gender-based violence, including the number of cases to which the social workers, childcare workers and gender liaison officers deployed by the Ministry of Gender Equality, Poverty Eradication and Social Welfare have responded and the number of prosecutions and convictions of perpetrators. Information on the inclusion of tribal and Indigenous women in public awareness campaigns relating to sexual and gender-based violence faced by tribal and Indigenous women. Measures taken to address the prevalence of harmful traditional practices, including sexual initiation rituals such as sikenge.

<sup>8</sup> Ibid., paras. 16 and 20.

<sup>9</sup> Ibid., para. 24.

<sup>10</sup> Ibid., para. 22.

<sup>11</sup> Ibid., para. 18.

**Meaningful participation and effective reparations to the Ovaherero and Nama peoples for the genocide and crimes committed between 1904 and 1908 (arts. 2, 5 and 6)**

21. Status of the 2021 Joint Declaration by the Federal Republic of Germany and the Republic of Namibia. Measures to obtain the free, prior and informed consent of the Ovaherero and Nama peoples through self-elected representatives with respect to the discussions concerning the recognition of the genocide perpetrated between 1904 and 1908. Measures to ensure adequate reparation for the harm suffered as a result of killings, starvation, torture, gender-based and sexual violence, enslavement and forced labour, as well as the loss of property and means of livelihood, by way of restitution, compensation, rehabilitation and satisfaction, including through the unqualified recognition of the genocide and crimes committed and through the return of looted human remains. Measures to memorialize the colonial history of Namibia, including the genocide against the Ovaherero and Nama peoples and sexual and gender-based violence faced by women and girls.

**Non-citizens, including migrants, asylum-seekers, refugees and stateless persons (art. 5)**

22. Information on existing legislation guaranteeing non-citizens access without discrimination to basic services, including education, the labour market, housing and health-care services. Information on existing legislation and policies outlining procedural guarantees for non-citizens with respect to their applications for status determination, registration and identification. Measures taken to prevent trafficking in persons.<sup>12</sup>

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<sup>12</sup> Ibid., para. 28.