



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND  
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: [registry@ohchr.org](mailto:registry@ohchr.org) – [cedaw@ohchr.org](mailto:cedaw@ohchr.org)

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Excellency,

In my capacity as Rapporteur on Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honor to refer to the examination of the combined fourth and fifth periodic report of Namibia, at the Committee's sixty-first session, held in July 2015. At the end of that session, the Committee's concluding observations (CEDAW/C/NAM/CO/4-5) were transmitted to your Permanent Mission. You may recall that in paragraph 48 on follow-up on the concluding observations, the Committee requested Namibia to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 11 and 15 of the concluding observations.

The Committee welcomes the follow-up report received with a five-month delay in December 2017 (CEDAW/C/NAM/CO/4-5/Add.1) under the CEDAW follow-up procedure. At its sixty-ninth session, held in March 2018 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 11** of the concluding observations, calling upon the State party to “**adopt a comprehensive legal definition of discrimination in line with article 1 of the Convention, covering all prohibited grounds of discrimination, including marital and other status, either by amending Article 10 of the Constitution or by adopting other appropriate legislation**”: The State party indicated that Article 10 of the Constitution provides for equality of all persons before the law and prohibits discrimination on the grounds of sex and that the Superior courts had ruled against the narrow interpretation of the Constitution. Further referring to the Married Persons Equality Act of 1996, which provides for equality in marriage between husband and wife, the Communal Land Reform Act of 2002, which protects a widow against land dispossession, and the draft Divorce Act, which would recognize foreign divorce orders and facilitate divorce on grounds of “irretrievable breakdown of marriage”.

The Committee takes note of the information on a broad interpretation of the prohibition of discrimination in the Constitution. Nevertheless, it regrets the lack of measures taken by the State party to adopt a comprehensive legal definition of discrimination. The Committee therefore considers that the State party has not taken sufficient steps to implement the recommendations. It considers that the recommendation **has not been implemented**.

Her Excellency  
Ms. Sabine Böhlke-Möller  
Permanent Representative of the Republic of Namibia  
to the United Nations Office at Geneva  
Chemin Louis-Dunant 15 (1st Floor)  
1202 Geneva

Email: [info@missionofnamibia.ch](mailto:info@missionofnamibia.ch)

The Committee considers that the information provided by the State party was thorough and extensive, but fails to respond fully to the recommendation. It therefore considers that the information provided was **partially satisfactory**.

With regards to the recommendation calling upon the State party to “**urgently adopt pending bills, such as those on marriage, recognition of customary marriages, procurement, marital property, divorce and intestate succession**”: The State party indicated that these bills will be adopted by the second quarter of the year 2018.

The Committee welcomes plans to adopt its new Divorce Act in the course of 2018. It however regrets that since its recommendations in 2015, none of the bills on marriage, recognition of customary marriage, procurement, marital property, divorce and intestate succession have been adopted. The Committee also regrets the lack of information on reasons for this delay and on measures taken to accelerate adoption of these laws. The Committee considers that the State party did not take sufficient steps to implement its recommendations, and that the recommendation **has not been implemented**.

The Committee considers that the information provided by the State party was incomplete. It thus considers that the information provided was **unsatisfactory**.

The Committee recommends that, in relation to **paragraph 11** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

1. **Adopt a comprehensive legal definition of discrimination in line with article 1 of the Convention, covering all prohibited grounds of discrimination, including marital and other status, either by amending article 10 of the Constitution or by adopting other appropriate legislation.**
2. **Urgently adopt pending bills, such as those on marriage, recognition of customary marriages, procurement, marital property, divorce and intestate succession.**

In relation to the recommendation made in **paragraph 15** of the concluding observations, that the State party “**ensure that adequate funding is provided to the legal aid fund**”: The State party reported that its Legal Aid Fund is available to all indigent persons irrespective of gender provided they are without an income, earn below a monthly salary of 3,000 Namibian dollars.

The Committee takes note of the information provided by the State party about the conditions of access to the support of the Legal Aid Fund. It however regrets the absence of measures taken to provide adequate funding for free legal aid, with a view to increasing access to justice. The Committee considers that the State party did not take sufficient steps to implement the recommendation. It thus considers that the recommendation **has not been implemented**.

The Committee considers that the information provided by the State party fails to address the Committee’s recommendation. It thus considers that the information provided was **unsatisfactory**.

Regarding the recommendation that the State party “**ensure that women, in particular women pursuing divorce and gender-based violence cases, have effective access to justice in all parts of the State party**”: The State party reported that it introduced relatively inexpensive mediation services to reduce the costs of litigation in cases of divorce and that victims of gender-based violence are afforded free counselling services. It further informed on several proposed bills that aim at combating forms of gender-based violence, such as the Whistle-blowers Bill and the Witness Protection Bill, which protect those who report cases of gender-based violence, the Torture Bill that will include all forms of torture, including gender-based violence, and the

Combating of Trafficking in Persons Bill. The State party added that the new Divorce Act will reduce the costs and time that currently married couples spend in proving the current grounds for divorce. It further informed that the new law would also give jurisdiction to regional magistrates' courts to grant divorce orders.

The Committee welcomes efforts made by the State party to make divorce proceedings more accessible through the introduction of relatively inexpensive mediation services in cases of divorce. It further takes note of the planned introduction of further grounds for divorce, facilitating women's access to justice. It also welcomes the provision of free counselling services any victims of gender-based violence and takes note of proposed bills to facilitate reporting of gender-based violence and provide further grounds for prosecution of such violence. Nevertheless, the Committee regrets that those laws have not yet been adopted. Therefore, the Committee considers that the State party has taken some steps to implement its recommendations. It considers that the recommendation **has been partially implemented**.

The Committee considers that the information provided was thorough and extensive and relates directly to the recommendations. It thus considers that the information provided was **satisfactory**.

The Committee recommends that, in relation to **paragraph 15** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

1. **Provide adequate funding to the legal aid fund.**
2. **Reinforce measures to ensure that women, in particular women pursuing divorce and gender-based violence cases, have effective access to justice in all parts of the State party, including by adopting the Whistle-Blowers Bill, Witness Protection Bill, Torture Bill and the Combating of Trafficking in Persons Bill.**

Accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Hilary Gbedemah  
Rapporteur on follow-up  
Committee on the Elimination of Discrimination against Women