



REPUBLIC OF NAMIBIA

**Opening Statement by Honorable Lidwina Shapwa, Deputy
Minister of Justice, Namibia**

**On the occasion of the review of Namibia's 13-15th Periodic
Report by the Committee on the Convention on the Elimination
of All Forms of Racial Discrimination (CERD)**

89th Session, Geneva, Switzerland, 4 -6 May 2016

Esteemed Chairperson and distinguished members of the Committee,

It is an honour for my delegation to interact with the esteemed Members of the Committee on Elimination of Racial Discrimination. We are pleased to have submitted our 13th-15th periodic report for review by this Committee. This report was prepared by the Ministry of Justice assisted by the Inter-Ministerial Committee on Human Rights and Humanitarian Law (IMC), a standing technical committee comprised of officials from line ministries and Agencies who are charged with the responsibility to prepare and compile information for the country's reports on the implementation of the international human rights instruments to which Namibia is a state party. The IMC also conducted consultations with the Non-Governmental Organizations Forum (NANGOF), an umbrella organization for NGO's in Namibia on this report.

Namibia's reporting process regularly brings together various stakeholders, making the reporting system an important forum for discussing human rights issues at national level with all the relevant stakeholders.

Mr. Chairperson,

As it often has been said: "Racism is a refuge for the ignorant. It seeks to divide and to destroy. It is the enemy of freedom, and deserves to be met head-on and stumped out".

2015 marked 50 years since the adoption of the Convention and Namibia joined the international community in commemorating this golden jubilee. As indicated by the UN Secretary General Mr. Ban Ki Moon in 2015, despite the fact that this Convention is half a century old, we still witness persistent threats to non-discrimination and equality. In an interconnected world with changing national and international

demographics, the risks of xenophobia and racism are forever present. We see this most prominently today with the intolerance directed at many refugees, migrants and minority communities.

It is true that racial discrimination takes many different forms and no region is immune to this phenomenon. ICERD therefore remains as relevant as ever. Whenever we are confronted with behaviour that challenges the inherent equality of all human beings, ICERD provides the guideposts to keep us on the road of unity through diversity. We however also share the view of many States that we need an enhanced international framework in order to be able to address the changing dynamics of this phenomenon adequately. In this regard, Namibia actively participates in the discussions on the strengthening of the existing framework.

Mr. Chairperson,

During the past 26 years, Namibia has established an enviable track record of peace and stability, racial harmony, prudent macroeconomic policies, moderate economic growth and natural resource conservation. During the same period the Government has been active in the fight against racism. In this regard it adopted policies and passed the necessary legislation prohibiting direct and indirect discrimination on the basis of racial or ethnic origin at work, education and with regard to the access of goods and services. It also prohibits discrimination on other grounds, including religion, age, sex, and disabilities, particularly in the workplace.

At independence, the Namibian government adopted a policy of national reconciliation to unite and inculcate a sense of unity amongst its people. Namibia's deep attachment to safeguarding equal rights and opportunities without discrimination is grounded in our national Constitution, which is based on the Universal Declaration of Human Rights.

We believe that the promotion and protection of human rights is primarily the responsibility of the state and one of the pillars upon which our democracy is built.

The constitution of the Republic of Namibia prohibits discrimination on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. This remains the bedrock for our peaceful co-existence after suffering the scourges of racism and apartheid for centuries. This Committee more than any other treaty body committee knows and understands the impact and effects of racism and apartheid, which caused division and inequality in our societies. The Namibian nation is still struggling to overcome the effects of these divisions and inequalities.

A survey conducted by Afrobarometer in 33 African countries in 2014 and 2015, reveals that Namibia is the most tolerant society in Africa. Afrobarometer is a pan-African, non-partisan research network that conducts public attitude surveys on democracy, governance, economic conditions, and related issues. According to this survey Namibians showed high degrees of tolerance towards other ethnicities (96%), religions (96%), people living with HIV/Aids (94%), and for immigrants and foreign workers (85%).

Mr. Chairperson,

The Prohibition of Racial Discrimination Act of 1991 prohibits racial discrimination in Namibia. However, Namibia takes note that the current provisions in the said law do not include the offence of hate speech; therefore the Act of 1991 is under consideration with the aim to align it with the Convention in this regard. Although the Namibian Government attained success in legally prohibiting racism and racial discrimination many challenges in empowering the previously disadvantaged people remain.

The Republic of Namibia has taken special measures such as affirmative action for the sole purpose of securing adequate advancement of previously disadvantaged people.

Mr. Chairperson,

I will now provide the Committee with the latest developments following the submission of our report as well as summary of our responses to the list of issues raised by the distinguished members of the Committee.

Efforts undertaken by Government to uplift and empower Marginalized Communities and Persons with disabilities:

The Government has established two offices in the Presidency. One, which is charged with Marginalized Communities was elevated from the Office of the Prime Minister to the Presidency, while a new office dealing with persons with disabilities was created. Both these offices are headed by members of these respective groups at the level of Deputy Minister.

Steps taken by the Government following the judgment of 30th July 2012 to ensure that women should not be sterilized without their informed consent

The Ministry of Health and Social Services (MoHSS) has issued a directive, entitled “Guidelines on the provision of Family Planning Methods including Sterilization”. The purpose of this directive, amongst others, is to provide guidance on the interpretation of various stipulations related to the provision of family planning services in general and in particular, to women who are HIV positive and who may approach health service providers requesting for family planning services including sterilization.

The mentioned directive introduced a revised consent form for sterilization; managers are tasked to ensure that all staff members are fully acquainted on how to use the form. Patients must acknowledge in writing that they have received counseling regarding

alternatives (contraceptives, oral and injectable, IUCD, condoms, spermicides and implants) to sterilization as well as a confirmation that detailed counselling (as indicated in the circular) was given that she or he chooses to be sterilized. Where there is a medical reason for sterilization, the medical reason is clearly set out on the form and the patient should acknowledge that she or he understands why the sterilization is advised. Sterilization is done only with written consent. It is a requirement that such written consent must be in a form of an affidavit commissioned by the police.

The MoHSS instructed staff that the consent process must take place at a separate time from the surgery e.g. in the antenatal clinic or on the antenatal ward and should not be done as an emergency, unless there has been prior discussion. This applies to all persons and not only person living with HIV. New doctors are orientated and informed of these rules and theatre nurses are required to always check whether the appropriate consent forms are correctly completed.

Strengthening institutional framework

The budget for the Office of the Ombudsman has been increased to enable it to investigate cases of human rights abuses and carry out awareness programs. The staff establishment of this Office has been expanded to make provision for a division responsible for human rights education. The Office of the Ombudsman completed a draft White paper on the rights of marginalized communities, and facilitated the process for the preparation and drafting of the National Human Rights Action Plan (NHRAP). This plan, which was adopted by Government in December 2014, has 7 thematic areas. These are: access to health services; access to justice; access to education; right to water and sanitation; right to housing; access to land; and the right not to be discriminated against. The Office of the Ombudsman in Namibia has been accredited an A-status for

three consecutive times. We are aware of the recommendations made by the Committee on NHRI's on the deficits regarding the full autonomy of the Office of the Ombudsman and Government is considering the amendments to the enabling legislation to address these deficits.

Mr. Chairperson,

The overriding challenges Namibia faces today are to effectively tackle and overcome the problem of unemployment and persistent poverty of its citizens. The Namibian Government has embarked upon a poverty eradication strategy, which is more ambitious than a poverty reduction plan. To that end, a new ministry on Poverty Eradication and Social Welfare was established in 2015.

Its mandate is to coordinate all programs aimed at eradicating poverty in the country. The percentage of people receiving social grants such as disability grants, old age pension and grants for orphans and vulnerable children, have drastically increased. The social grants have been increased during the 2015/16 budgetary years and a decision has been taken to increase it during the next three financial years.

The Namibian Government is also aware of the impact of unemployment on the poverty levels in our country. We are happy to report that the Wage Order for Domestic Workers Regulations under the Labour Act of 2007 was passed and came into force on 16 December 2014. The Regulations set the minimum wage and supplementary minimum conditions for employment for domestic workers. Discussions are underway to introduce a national minimum wage in Namibia.

Mr. Chairperson,

I am pleased to inform the Committee that the Law Reform and Development Commission has completed a draft legislation to criminalize torture which will be tabled in Parliament before the end of this year. The envisaged legislation defines the crime of torture as explicitly stated under the Convention against Torture.

Namibia continues to place great emphasis on the rights and welfare of children. To this effect, Parliament passed the Child Care and Protection Act in 2015. The Act deals with aspects such as juvenile justice, adoption, and protection from harmful cultural practices, to mention a few. The Act will soon come into operation since the drafting of the regulations is almost completed. This Act makes provision for position of Children's Advocate within the Office of the Ombudsman.

To demonstrate our commitment to enhance access to quality education, the Government in 2014 implemented free universal primary education in public schools. This has been extended to secondary education in public schools this year 2016.

Mr. Chairperson,

Namibia has 23, 1% of women representation in Parliament and 12% in the Regional Councils and 42% in the Local Authority Councils, which is the third country in Africa after Rwanda and South Africa with more women in Parliament, and the 12th in the world out of 190 countries.

According to the Annual Report for 2012/13 of the Employment Equity Commission of Namibia, women comprised 45% of the total number of employees across all sectors. The Traditional Authorities Act, Act No 25 of 2000, which provides procedures for official recognition of traditional authorities, requires that traditional authorities

“promote affirmative action amongst the members of that community” particularly by “promoting women to positions of leadership”.

The revised National Gender Policy (2010-2020) provides mechanisms and guidelines for all sectors and relevant stakeholders for planning, implementing and monitoring gender equality strategies and programmes in order to ensure effective strategies for gender equality and women’s empowerment.

Despite the existence of progressive legislation, the evil phenomenon of violence against women and children remains a serious concern to the Namibian Government.

The Government continues to work with all the stakeholders including the local NGO’s to address this issue. Government has improved the support services for survivors of gender-based violence and increased awareness raising through the National Advisory Committee on GBV, which consists of Cabinet Ministers. We are currently in the process of reviewing the Combating of Domestic Violence Act with a view to increasing penalties.

Accessibility of people with disability to buildings

There is a directive from the Office of the Prime Minister that all government buildings must make provision for ramps and elevators in order to facilitate physical access for people with disabilities.

The traffic lights in Windhoek have been modified to enable the visually impaired and wheel-chaired to cross the streets safely on their own. In the capital City of Windhoek public transport buses are equipped to transport wheel-chaired people. Other Local

authorities are encouraged to render their public facilities appropriate for use by persons with disabilities.

Mr. Chairperson,

The Namibian Government approved a policy framework for local integration of refugees in Namibia and directed the Ministry of Home Affairs and Immigration to integrate some of the Angolan refugees into the Namibian society after the repatriation process, which started in 2012 was completed. The UNHCR country office closed its operations in Namibia in December 2015 and support is now provided through the UNHCR regional office in South Africa.

Mr. Chairperson,

As a country we are not where we ideally ought to be, however we have made great strides from where we used to be. Although our legislative framework may be inadequate in some areas, draft Bills such as the Customary Law Marriage Bill, Divorce Bill and Child Justice Bill are priority projects of the Ministry of Justice and are soon envisaged for tabling in Parliament.

Lastly Mr. Chairperson,

Namibia remains committed to her obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and other international human rights instruments and will always engage constructively with the human rights mechanisms to improve, promote, respect and fulfill the human rights of its citizens.

We now look forward to engage constructively with the members of the Committee and I will provide responses to the questions, as may be posed by the committee. I will also

give the floor to the members of our delegation where necessary to elaborate on detailed answers.

I thank you Mr. Chair and I also thank the Secretariat for their kind assistance during this process.

