

**COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN  
37<sup>TH</sup> SESSION (NEW YORK, 15 JANUARY – 2 FEBRUARY 2007)**

**NAMIBIA (2<sup>ND</sup> AND 3<sup>RD</sup> PERIODIC REPORT)**

Information Submitted to the Committee

On 17 January 2007, Namibia submitted its combined 2<sup>nd</sup> and 3<sup>rd</sup> periodic report,<sup>1</sup> under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as written responses<sup>2</sup> to the list of questions and issues<sup>3</sup> raised by the Committee on the Elimination of Discrimination against Women (the Committee). The Namibian delegation was headed by Hon. Marlene Mungunda, Minister of Gender Equality and Child Welfare.

The first part of the report provides an overview of the general, social, political, economic and legal structures in place in Namibia. The second part examines the general implementation of the Convention and discusses the adoption and further development of various programmes and policies, as well as the legislative and administrative advances that have occurred since submitting the initial periodic report<sup>4</sup> at the Committee's 17<sup>th</sup> session in 1997. Areas of focus include the National Gender Policy, participation in public and political life, violence against women and health care. The report addresses education in particular detail and supported its findings with substantial data. In all other areas, however, informative data was insufficient, providing an incomplete picture of the *de facto* situation of Namibian women.

The Committee's list of issues and questions focused on stereotypes, prostitution and trafficking, education, rural women and personal laws. It raised extensive questions with regard to the national machinery, violence against women, employment and health. One general concern was that gender mainstreaming initiatives are being slowed down by insufficient human and financial resources. The Committee was also disappointed with the limited gender-disaggregated data across all areas. Many of these questions repeated concerns raised in the Committee's previous Concluding Comments that were not adequately addressed in the State party's report. Namibia's responses outlined general steps being taken toward programme implementation and highlighted the legal and civil mechanisms in place to this end. Often, however, greater attention was placed on the purpose of these initiatives than on actual achievements. Specifically, while numerous national development plans and strategies for poverty reduction were cited as contributing to the implementation of the Convention, no assessment of these initiatives was provided. Similarly, while data disaggregated by sex and year is provided on promotion, repetition and drop-out rates in education, the data is highly inconsistent and irregular, making it difficult to spot a meaningful trend and raising questions about the data collection system.

One shadow report<sup>5</sup> was submitted by the National Society for Human Rights. It examines the status of all articles of the Convention and broadly concludes that discrimination against women has continued in

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<sup>1</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/N05/510/07/PDF/N0551007.pdf?OpenElement>.

<sup>2</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/N06/578/13/PDF/N0657813.pdf?OpenElement>.

<sup>3</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/N06/467/51/PDF/N0646751.pdf?OpenElement>.

<sup>4</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/N97/052/52/IMG/N9705252.pdf?OpenElement>.

<sup>5</sup> <http://www.iwraw-ap.org/resources/pdf/Namibia%20Shadow%20Report.pdf>.

most sectors in Namibia. Specifically, the report cites the prevalence of human rights abuses in rural and remote areas, violence against women and prevailing customs and traditions that adversely affect women and girls. The continued existence of these harmful practices, which include polygamous marriages, male-negotiated sexual practices and wife inheritance,<sup>6</sup> raised the question of exactly what role the Convention plays in the social and legal framework of the country. Overarching concerns were the broad lack of statistical data, sub-standard justice administration and ineffective awareness-raising strategies.

## Themes and Issues

### Implementation

The Committee began by commending the State party for its speedy adoption of the Optional Protocol to the Convention. The Committee was concerned, however, about the lack of specific reference to the Convention in domestic law and inquired about the effectiveness and impact of community courts,<sup>7</sup> particularly with regard to the review of customary laws. They reminded the delegation that after ratification, the Convention becomes a domestic law instrument, but as an instrument of international law, it takes precedence over anterior domestic and customary laws. The delegation assured the Committee that domestic law cannot waive international law.

### Participation in Decision-Making

The Committee requested clarity about women's *de facto* opportunities for participation in decision-making processes. The delegation outlined that all Namibians contribute to the law-making process and have recourse to participate in strategies of policy-making. It added that the people are empowered by training workshops and guidebooks, which are designed to educate them on these rights. The Committee did not seem impressed with these purported facts. While one Committee member congratulated the Government on progress made so far, she expressed a desire to learn more about the strategies, results and context of these workshops.

### Customary Law

The issues of customary law and the effectiveness of community courts were raised on several occasions by the Committee, but were met with little satisfactory responses with regard to the *de facto* protection of women's rights under the Convention. One Committee member asked whether women were subject to both secular and customary laws and inquired whether traditional leaders are expected to act in conformity with the Convention. The delegation responded indirectly by assuring the Committee that traditional leaders are a positive contribution to society and proceeded to set the historical framework for their ingrained cultural and social value. It added that the *Community Court Act* gives traditional leaders the right to react to violations of customary laws. This point did not seem to settle the Committee's

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<sup>6</sup> The traditional practice prevalent in some communities whereby the widow of a deceased man is transferred to his brother.

<sup>7</sup> Courts in rural areas run by traditional authorities, chiefs and headmen, to whom individuals and communities turn to resolve disputes.

misgivings and one Committee member reminded the delegation that customs and traditions are generally unfriendly towards women, pushing the delegation to address these issues more seriously.

## **Discrimination and Stereotyping**

Discrimination and gender stereotyping was a recurrent issue during the session. It was raised by the Committee in regard to gender violence, employment inequities, government participation and health. The Committee was displeased to note that the only area where this issue showed relative improvement was in education and linked the persistence of gender stereotyping to ineffectual awareness-raising and insubstantial gender sensitisation, as well as the absence of a precise process of data-collection. One Committee member was curious to know what efforts Namibia was taking to raise awareness of gender issues among the police and the army. The delegation expressed a willingness to provide this information at a later date. It added that Namibia has two NGOs working to sensitise men and boys to the issue of gender equality. The Committee was eager to learn more about these NGOs and the delegation agreed to provide pertinent websites, but did not elaborate further on the issue.

## **Violence**

The Committee commended the Government on progress made in the area of domestic violence, but was displeased to learn about the low rate of reporting victims. It reminded the delegation that the mere presence of laws does not decrease unlawful action, rather, that attitudes need to be changed and appropriate strategies put in place to address this phenomena. The delegation agreed, stressing that they have human rights and literacy programmes in place, which empower women to follow appropriate procedures and take action to report crimes.

## **Education/Teen Pregnancy**

The Committee was pleased to see that girls do better overall in school than boys, but was alarmed to note that there is a drastic drop in girls' performance after grade eight. Linking this phenomenon to pregnancy, the Committee voiced its concern for the lack of support for pregnant teens and young mothers, their difficulty reintegrating school and the negative social stigma attached to this issue. It proposed devising more pragmatic and creative measures to enable this target group to complete schooling. The delegation acknowledged that their report did not cover this issue at great length, but assured the Committee that NGOs are working on girls' education, life skills, HIV/AIDS awareness and pregnancy prevention. No details of this advocacy work were provided.

## **Health**

A variety of health issues were briefly discussed, most notably access to health care in rural areas and for ethnic groups and health education. The Committee regretted the lack of concrete information on how the goal of equitable access to health services for women is being implemented. The delegation reassured the Committee that all people have free and equitable access to medical care and services, that mobile clinics reach rural areas and that all-inclusive health education programmes are in place, which also target ethnic and rural groups. The issue was again raised in the follow-up questions, to no great avail. The Committee voiced concern that the Namibian Government is insufficiently attentive to the socio-cultural issues and power relationships that play a role in susceptibility to HIV infection, given its

overarching focus on condom use and abstinence. The delegation cited a reduction in HIV/AIDS infection and the issue was not further discussed.

On the issue of abortion the Committee was happy to note that women are educated on the dangers of illegal and unprofessional abortions, but expressed a desire to see these efforts lead to the legalisation of abortion. The delegation remained unclear about data and services tied to this issue, mentioning only that abortion was democratically rejected by the Namibian people.

## Other Issues

Employment was raised briefly, but with much concern. One Committee member expressed her profound disappointment for the report's prevailing lack of data and the general lack of clarity with regard to employment. She criticised the report for highlighting only the unemployment rate, while wholly disregarding more substantive data. The delegation was commended for the adoption of the *Land Reform Act*, but was pressed for a more details on women's situation in the labour market. The Committee again criticised Namibia's report for not detailing relevant monitoring mechanisms, enforcement measures and statistics.

The trafficking and exploitation of women was considered a non-issue in the report. The Committee strongly recommended that the Government pay closer attention to this issue in the future.

## Conclusions and Next Steps

In its Concluding Comments,<sup>8</sup> the Committee noted several obstacles to the promotion of women's rights in Namibia. These included discrimination arising from customary law, the general lack of public knowledge of human rights and the law and poverty, which prevents the majority of women in Namibia from fulfilling their aspirations. The State party was strongly encouraged to focus on the implementation of affirmative action, the impact of customary laws on women, violence against women, laws on abortion, health care for vulnerable groups, teenage pregnancy and sex education.

The State party was frank in stating that their report had not covered all the concerns raised by Committee in their initial concluding comments, but stressed that much has been accomplished since that time to address them. One declared accomplishment was the upgrading of the Department of Women Affairs to a fully-fledged Ministry of Women Affairs and Child Welfare. Namibia also considered the adoption of the National Gender Policy to be a milestone, despite the difficulties experienced in its implementation due largely to insufficient human and financial resources. Another achievement mentioned was the drafting of the Community Courts Bill, which will regulate the jurisdiction of traditional tribunals to conform with the provisions of the Constitution. They furthermore stressed that the *Affirmative Action Act* (29 of 1998) has significantly improved the representation of women in the formal workforce and pointed to the increasing number of women now occupying positions at management level of many organisations. Future initiatives included discouraging

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<sup>8</sup> [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/1a060611685c6f4380256500005a149b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/1a060611685c6f4380256500005a149b?Opendocument).

polygamy, registration of customary marriages and combating the pervasive negative attitude to gender equality, as well as the marginalisation of gender issues from mainstream programmes.

What emerged from the dialogue was that Namibia's ratification of the Convention is a good indication of their commitment to women's rights, but that much work remains to be done in order to ensure all women equal status, representation and protection in all areas of the Convention. The Committee occasionally commended and praised the State party for their accomplishments and acknowledged the obstacles it faces in terms of policy implementation. The Committee expressed its appreciation for the delegation's cooperation and its frank assessment of the situation of Namibian women. However, although the delegation responded in a timely and ordered manner to each question posed by the Committee, there nonetheless appeared to be some dissatisfaction with the content of these responses. Follow-up questions were posed at the close of each round due to the vague and peripheral nature of responses. The Committee repeatedly stressed the importance of collecting disaggregated data and statistical analysis, to which the delegation responded favourably. While there did not appear to be any major problems in communicating points of concern with the delegation, there were areas where they appeared inflexible. Customary laws and traditional practices were most notably among these, despite also being a point of concern for the Human Rights Committee. The delegation frequently stressed the importance of having the legal framework in place before being able to educate the public. The Committee also was firm in stating that the State party is too slow in enforcing new policy measures and too lax in their implementation of human rights education generally.