



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Thirty-seventh session

Summary record of the 759th meeting (Chamber A)

Held at Headquarters, New York, on Wednesday, 17 January 2007, at 10 a.m.

Chairperson: Ms. Simms (Vice-Chairperson)

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In the absence of Ms. Šimonović, Ms. Simms, Vice-Chairperson, took the Chair.

The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined second and third periodic reports of Namibia (CEDAW/C/NAM/2-3; CEDAW/C/NAM/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Namibia took places at the Committee table.*

2. **Ms. Mungunda** (Namibia) said that the report was a product of broad consultations involving stakeholders in Government, the private sector and civil society. The adoption of a National Gender Policy in 1997 had resulted in significant legal, institutional and administrative reforms geared towards gender equality and the empowerment of women. Efforts were currently under way to close existing gaps, in particular with respect to gender and HIV/AIDS, gender mainstreaming and monitoring mechanisms. In 2000, the former Department of Women's Affairs had been elevated to a fully fledged "Ministry of Women Affairs and Child Welfare", now the Ministry of Gender Equality and Child Welfare (since 2005). Its mandate was to secure an enabling environment for achieving gender equality and the well-being of children, the challenge being to protect the rights of women and girls and advocate for change in traditional practices and attitudes.

3. The participation of women in Parliament had increased from 20 per cent to 27 per cent following general elections in 2004. For the first time, women had been appointed to serve as Deputy Prime Minister, Deputy Speaker of the National Assembly, Deputy Chairperson of the National Council, Minister of Justice and Attorney General, and Minister of Finance. The national Employment Equity Commission raised awareness among employers of their rights and obligations under the Affirmative Action (Employment) Act and employers were required to submit annual progress reports. Non-compliance was punishable by law.

4. Basic legal literacy workshops were held in all regions to inform communities of their rights and obligations under the Constitution, the Combating of

Rape Act, the Combating of Domestic Violence Act and the Maintenance Act as well as under family law and inheritance law. The Women and Child Protection Units referred to in the report also provided protection to abused men. Health professionals, social workers and police were trained on how to deal with victims of domestic violence, with the assistance of international development partners. The Government was currently drafting a Recognition of Customary Marriage Bill aimed at tackling traditional practices that contravened the spirit of the Convention. It was also designed to address polygamous marriages and the registration of customary marriages.

5. Under the National Land Policy adopted in 1998, a unitary land system had been introduced giving all citizens equal rights, opportunities and security across a range of tenure and management systems. The Communal Land Reform Act made men and women equally eligible for rights on communal land and provided for the establishment of Communal Land Boards, with a quota for one-third female representation. Consultations were under way with relevant stakeholders throughout the country with a view to reforming the Labour Act of 1992, inter alia to ensure that women fully benefited from maternity leave. A comprehensive Education and Training Sector Improvement Programme had been developed and programmes were in place to encourage women to elaborate projects with the assistance of small and medium enterprises. Income-generating projects had been introduced in rural areas to alleviate poverty, including pottery, leather work, tailoring, brick-making, gardening and hairdressing. The Ministry of Gender Equality and Child Welfare also facilitated women's participation in trade fairs.

6. The Married Persons Equality Act of 1996 abolished the marital power of the husband and provided for equal power of spouses to jointly decide on the administration of any joint property. In November 2006, the Children's Status Bill had finally been passed by Parliament, representing a great achievement for Namibia. It ensured, inter alia, that children born out of wedlock enjoyed the same rights as those born within wedlock. A child care and protection bill was expected to follow. Her country had made significant progress since its last periodic review. However, challenges to achieve full gender equality remained. Much more would be achieved in future, since the Government was committed to implementing

its obligations under the Convention. The challenge was to keep women's issues on the front burner.

Articles 1 to 6

7. **Mr. Flinterman** applauded the fact that the delegation included ministerial-level representation. Almost 10 years had passed since the Committee's first constructive dialogue with Namibia. Among the important steps taken by the State since 2001 was its ratification of the Optional Protocol to the Convention. In light of that instrument's admissibility requirements, he wondered, however, what low-threshold domestic remedies existed for women (apart from the Ombudsman and High Court). The delegation should provide further information on the status and visibility of the Convention in the domestic legal order.

8. He wished, in particular, to know whether women could invoke its provisions directly in the courts and what relevance article 144 of the Namibian Constitution might have for full implementation of the Convention, since, in its concluding observations on Namibia in 2004, the Human Rights Committee had expressed concern that the provision might negatively affect implementation of the Covenant on Civil and Political Rights (CCPR/CO/81/NAM, para. 6). The introduction in 2003 of the Community Courts Bill was most welcome; the delegation should provide details of relevant case law to date. Were the community courts empowered to revise "Customary Law" and did the legal literacy workshops make direct reference to the Convention?

9. **Ms. Pimentel** requested information on the participation of the judiciary, legislature and civil society in the elaboration of Namibia's report. The enactment in 2003 of the Community Courts Act was very welcome; the delegation should, however, provide information on its impact to date. She would also appreciate details of strategies being implemented to combat existing discriminatory practices and stereotypes, with a focus on problems encountered and results achieved. The delegation should also provide information on the contents of the Gender Training Manual and Resource Guide used at workshops.

10. **Ms. Schöpp-Schilling** said that the Government must be congratulated on progress made despite the very difficult socio-economic context. She would, however, have appreciated a more in-depth discussion in the report of obstacles to women's advancement in

Namibia, including customary laws detrimental to women. What percentage of women were covered by such laws? The report indicated that the National Gender Policy, based on the Beijing Platform for Action, was not a legal document and that non-implementation was therefore not sanctioned. However, the Committee had made it clear since 1996 that the Platform was easily linked to the articles of the Convention and that it served to spell out strategies for a State's implementation of its legal obligations under the instrument. Thus, implementation of the National Gender Policy was obligatory. In that context, had all national plans, including the National Development Plan, Mid-term Expenditure Framework and Vision 2030 been gender mainstreamed? The introduction of an Affirmative Action (Employment) Act was to be commended, however she would appreciate information on its impact to date, as well as details of problems encountered. Lastly, the delegation should explain how affirmative action plans were implemented given that women — who accounted for more than 50 per cent of the population — were also a subset of "blacks" and "people with disabilities", the other two categories benefiting from special temporary measures under the new legislation.

11. **Ms. Neubauer** noted that considerable progress had been achieved in strengthening institutional structures for the development of gender equality policies. She was satisfied that the delegation was aware that existing monitoring mechanisms should continue to be assessed for weak points impeding effectiveness. It was unclear, however, whether the National Gender Plan of Action for 1998-2003 had been replaced by a new instrument. She would appreciate information, also, on follow-up to the SWOT analysis carried out in Namibia in 2001 to identify the nature and level of existing capacity for gender mainstreaming. She was concerned that activities to tackle gender stereotypes seemed confined to the field of education, since the report made no mention of the role of the mass media in that regard.

12. **Ms. Haitembu** (Namibia) said that article 144 of the Constitution provided that any international agreement ratified by Namibia automatically became part of national law. Accordingly, the Convention was part of national law, and women could cite its provisions in cases brought before the courts concerning the enjoyment of their rights. In addition, any provision of customary law that contradicted the

Convention constituted, by definition, a contravention of national law.

13. The Community Courts Act regulated traditional tribunals and abolished certain discriminatory practices that had prevailed under customary law. For example, in 1993, traditional leaders had agreed that, when a man died, his wife and children had the right to continue living on his land rather than being forced either to move or to pay for the land. The Community Courts Act enshrined that change in law.

14. **Ms. Mungunda** (Namibia) said that civil society had been closely involved in the preparation of Namibia's report. In addition, the public was given the opportunity to participate in hearings on draft laws and policies at every stage leading up to their adoption by Parliament. In that connection, the Government disseminated material that explained such draft laws and policies in simple terms and, when funds permitted, the material was also translated into different local languages. A gender training manual had been elaborated and workshops were held to raise public awareness of gender issues. Attendance at such workshops was encouraged through outreach to local communities.

15. **Ms. Ausiku** (Namibia), referring to obstacles that still needed to be overcome, said that national law currently did not require the registration of customary marriages. Such marriages were not, therefore, recognized for legal purposes. A bill on the registration of customary marriages was in the process of being drafted.

16. **Mr. Shipoh** (Namibia) said that the bill in question would also prohibit polygamous marriages, which still sometimes occurred under customary law. That measure would eliminate the problem of disputes between spouses over inheritance rights. Training courses and workshops were held to educate people about human rights issues and to help them understand their rights and obligations under the law. Information was provided about the assistance available in cases of domestic violence. Efforts were also being made to increase public awareness of the fact that gender issues were human rights issues, and that they were relevant to men as well as women.

17. **Ms. Mungunda** (Namibia), referring to affirmative action, said that experience had shown that acts of Parliament were more effective than mere policies in achieving the empowerment of women. For

example, the local authority elections act had set a minimum target of 30 per cent for the number of women in local government. In fact, following the adoption of the act, a figure of over 40 per cent had been achieved. In the public sector, 33 per cent of management positions were occupied by women. Gender mainstreaming programmes were in place, and gender focal points had been appointed in ministries and other Government institutions.

18. It was true that affirmative action had to date focused on three groups — women, members of racial minorities and persons with disabilities — since those groups had traditionally been most affected by discrimination. However, she agreed that affirmative action should also specifically target women who were disabled or belonged to a racial minority group, who might suffer double discrimination. A number of non-governmental organizations (NGOs) were engaged in advocacy on behalf of racial minorities and persons with disabilities. In all political institutions and forums dealing with issues that affected women or particular minority groups, a target of 30 per cent had been set for the number of representatives from the relevant group.

19. **Ms. Ausiku** (Namibia) said that gender issues had been mainstreamed in the national Poverty Reduction Strategy, and the same process was to be applied to the National Development Plan and other Government policies. Guidance on gender-mainstreaming in all areas had been issued. The Economic Commission for Africa (ECA) had provided assistance with the review of the National Gender Policy. A new Plan of Action would be developed on that basis, building on the successes of the 1998-2003 Plan of Action.

20. Gender focal points did not always achieve the desired results because some of them did not work on gender issues full-time. However, the Cabinet had ordered that all ministries should appoint a gender focal point, and it was expected that more attention would be paid to gender-mainstreaming as a result. The question of incorporating gender education into the school curriculum, particularly at primary level, was currently under consideration.

21. **Ms. Shin**, having welcomed Namibia's early ratification of the Optional Protocol to the Convention, asked what steps had been taken since then to ensure that women knew about the additional mechanism

which the Optional Protocol offered for the protection of their rights.

22. She welcomed the new definition of rape and the heavier sentences established by the Combating of Rape Act, which could serve as a model for other African countries. However, the report noted that only about 1 in 20 rapes were reported to the police, and no specific information had been provided about the number of prosecutions and convictions. She asked how the impact of the new Act was being monitored and whether the reporting rate had gone up or down since its adoption. Was information systematically collected on cases reported to the police and brought before the courts and on how such cases were handled? If such information was not available at present, it should be provided in the next report.

23. The adoption of the Combating of Domestic Violence Act was another welcome development, but she would like to know what was being done to disseminate information about it, so that more victims would report incidents. She also asked what training measures were in place to improve the way the police dealt with such cases. Lastly, she was pleased to note that two men's NGOs were involved in combating violence against women and requested more information about those organizations, their size and their activities.

24. **Ms. Gabr** said that, despite the progress made in Namibia in implementing articles 5 and 6 of the Convention, negative stereotypes persisted with regard to women. It was important to conduct a study on that issue and to collect information and statistics, and she asked whether the State party had any plans to do so. Seminars and training courses on combating stereotypes, particularly for staff of the justice system and law enforcement agencies, should also be organized in cooperation with international agencies. Such action would also help to combat domestic violence and rape. She requested information about cases of domestic violence and rape brought before the courts. Lastly, with regard to trafficking in persons, she had information indicating that the problem was more serious than the State party's report suggested and, therefore requested more information on that issue.

25. **Ms. Coker-Appiah** commended the Government for the progressive laws that had been put in place to combat violence against women but noted that they had not resulted in increased reporting by victims. That was

no doubt due to such factors as the subordinate position of women in society and the persistence of stereotypes. Moreover, women were sometimes reluctant to report acts of marital violence against them out of a concern to preserve their marriages. Strategies must therefore be developed to bring about changes in cultural values and in mentalities. She urged the Government to give fresh thought to ways of addressing the issue. She said that the question of trafficking in persons was treated too lightly in the report and asked about the time frame for the study planned in that connection.

26. **Ms. Mungunda** (Namibia), in response to the question about the publicity given to the Convention in Namibia, said that all treaties and laws were brought to the attention of the population through workshops, seminars and radio talks organized under private-public partnership arrangements. On 8 March 2006, International Women's Day, the First Lady had launched a database on domestic violence, and in the same year information had been entered in it on the number of cases registered, the injuries sustained and the measures taken. NGOs and other partners including United Nations agencies had contributed to that effort. She stressed that the reporting rate had in fact increased. That did not necessarily mean that there were larger numbers of victims but that the Government's efforts to empower victims were proving successful. Special police training was being provided for the questioning of victims, and abuse centres had been set up to help them. An NGO known as Namibian Men for Change was doing valuable work through its school programmes aimed at training people to be peaceful at home and to refrain from domestic violence.

27. **Ms. Ausiku** (Namibia) said that the Ministry of Gender Equality and Child Welfare had established regional forums with church leaders and other stakeholders to further its gender equality strategy. It also had compiled statistics, which could be provided to the Committee, for the period 2002-2005. On the question of reporting, rates varied from one region to another. A conference on domestic violence was planned for June 2007 with a view to developing a national strategy; it would also address the issue of trafficking in persons.

28. **Ms. Mungunda** (Namibia) agreed that laws alone could not bring about change but had to be aided by practical strategies. The silent suffering of the Namibian people formed part of its historical legacy of

poverty and illiteracy. The Government had therefore undertaken empowerment programmes aimed at teaching people about their rights and the remedies available to the victims of abuses. As a result, literacy rates had improved significantly: 90 per cent of the population could write their names rather than having to rely on a thumbprint. Such action had proved invaluable in promoting better understanding of individual rights, but it had first been necessary to adopt a legal instrument.

29. **Mr. Flinterman** said that he would be grateful for further information about the status of the Convention in the domestic legal order since it could enable women to assert their rights both nationally and internationally. He wished to know whether the fact of its being part of domestic law meant that its status was equal to that of other domestic laws and could therefore be set aside by subsequent laws; or whether, like the Constitution, it precluded the adoption of any law not in conformity with it. As a part of domestic law, its provisions should be able to be invoked in the courts; however, no reference seemed to be made to it in judicial proceedings, nor to the Committee's interpretations of it. He wondered what was being done to bring the Convention to the attention of the judiciary.

30. **Ms. Shin** requested yearly statistics on violence against women and information about the membership and activities of the two men's NGOs operating in Namibia.

31. **Ms. Neubauer** said that the Government had had enough time to develop measures to remedy the weaknesses previously identified by the Committee and asked for relevant information. She also wished to know what had been done to strengthen the role of the media, which had a positive role to play in the promotion of women's rights.

32. **Ms. Haitembu** (Namibia) said that before any international treaty was submitted to Parliament for approval it was examined in the light of national general and customary law. It might then be deemed necessary to enter reservations or to amend existing national legislation before ratification. Since Namibia had ratified the Convention without any reservations, none of its provisions could be waived. Information about the Convention had been provided in the official Gazette, while the line ministry was entrusted with the

responsibility of telling people how to claim the rights thus recognized.

33. **Mr. Shipoh** (Namibia) said that all laws, including international legal instruments, incorporated into Namibia's legislation had to be in conformity with its Constitution and that the provisions of the Convention could be invoked in the courts whenever necessary. Namibian Men for Change was an organization that sought to promote peace and to induce men to change their attitudes towards women, in particular by combating stereotypes. It was active in schools where it taught boy children to respect girl children as equal human beings. He had no immediately available information about its membership.

34. **Ms. Ausiku** (Namibia) said that the media played an important role in increasing awareness of gender issues. Media outlets were encouraged to draft their own gender policy and some had undertaken awareness-raising campaigns on their own initiative. There were also two men's non-governmental organizations, Namibian Men for Change and Men against Violence against Women, that were active in promoting women's rights.

35. Her Government had identified, in consultation with stakeholders, a number of problem areas relating to women's rights. They included: gender-based violence, which would be the topic of a national conference in June 2007; HIV/AIDS; awareness of human rights and relevant legal protections; children orphaned or made vulnerable by HIV/AIDS; the need to increase the representation of women in public life; poverty and the need to empower women economically as a means of improving their status; and women's health and reproductive services.

36. The primary institution responsible for women's rights was the Ministry of Gender Equality and Child Welfare. Although gender focal points had been established in Government departments, the individuals in question had simply had gender affairs added to their existing responsibilities. It was therefore a priority to make the focal points full-time positions devoted exclusively to gender affairs. Her Government also was trying to increase the number of women in Parliament and would make the passing of enabling legislation for the Gender Commission a priority.

Articles 7-9

37. **Ms. Saiga** requested more information on the electoral process, on the effect of the Affirmative Action (Employment) Act in increasing the representation of women in public life and on whether, as recommended in the Committee's concluding observations to the initial report of the State party, the political parties and the Government had taken steps to increase the representation of women, for example by establishing minimum quotas for women candidates. She asked how many of the six appointed members of the National Assembly were women and requested clarification on the situation of women in local, regional, community and traditional bodies.

38. **Ms. Halperin-Kaddari** noted that, according to Namibia's consolidated reports, traditional structures were dominated by men. She therefore wondered whether there were two parallel systems of law, one being rather repressive, with women subject at various times to either or both, and whether traditional structures were in fact not subject to the provisions of the Constitution or the Convention, even though the State party had made no reservation to that effect.

39. According to the State party's written responses there had been significant increases in the representation of women in public life, including at the highest levels, attributable no doubt to the Affirmative Action (Employment) Act. More information would however be welcome on the Employment Equity Commission, including whether it had the power not only to monitor gender issues but also to prosecute violations. If that was indeed the case, she asked what the procedure for prosecutions was and what sanctions could be imposed.

40. **Ms. Mungunda** (Namibia) said elections were held every five years; the next elections would be in 2009. The National Assembly and local authorities were elected by a system of proportional representation, whereas the National Council was elected through a first-past-the-post system, where it was more difficult for women candidates to be elected. The Local Authorities Act had been amended to ensure that more women were elected at the local level and currently 45 per cent of local councillors were women. Parties at the national level were being encouraged to set quotas for women candidates. The goal of the Affirmative Action (Employment) Act was to reach the African Union benchmark of 50 per cent women in

management positions in the public sector. Enforcement of the Act was the responsibility of the Ministry of Labour, which was also responsible for the Employment Equity Commission. The Ministry of Labour gave priority to firms that had made progress towards achieving gender equality.

41. Her Government's goal was to increase the representation of women in Parliament and the Government; currently 27 per cent of the members of the National Assembly and the National Council were women. Women were less well represented on the regional councils, which were elected by a first-past-the-post system. Traditional governance structures, after having been neglected during colonial times, had been deliberately revived following independence. They were not necessarily a barrier to the emancipation of women; some clans and tribes had for example taken effective steps to combat HIV/AIDS and domestic violence.

42. **Ms. Coker-Appiah** said that she understood the State party's desire to maintain traditional culture but stressed that that should not be used as an excuse to perpetrate stereotypes. Tradition and custom should be adapted to reflect the human rights guarantees contained in the Constitution.

43. **The Chairperson**, speaking in her personal capacity, enquired whether marital rape was criminalized in the State party's laws relating to the crime of rape.

44. **Ms. Mungunda** (Namibia) confirmed that marital rape was a punishable offence. She said that gender mainstreaming was a top-down process, including in traditional structures. The chief of the largest tribe in the country was a woman, and there were many women high-level civil servants and ministers. All the country's leaders recognized the importance of promoting women's rights within traditional cultures, addressing problems such as HIV/AIDS and eliminating harmful practices while preserving traditional culture.

45. **Ms. Ausiku** (Namibia) said that traditional structures were governed by the Traditional Authority Act, which governed the choosing of traditional leaders and their advisers. Her Government was working to encourage women to play a more active role at that level, and there were already a number of women traditional leaders. Turning to the representation of

women in the judiciary, she said that 39 per cent of judges were women.

46. **Ms. Haitembu** (Namibia) explained that customary law coexisted with and complemented civil law. Civil law applied to all, although at times civil laws could be implemented through traditional mechanisms. In addition, traditional laws at times reflected old measures that had applied only within specific regions of the country. The Constitution, as the supreme law of the country, took precedence over customary law. Likewise, international conventions, before being ratified, were reviewed to ensure that there was no conflict between their provisions and the Constitution.

The meeting rose at 1 p.m.