



NAMIBIA:

STAKEHOLDER REPORT: UNIVERSAL PERIODIC REVIEW

SECOND WEEK OF TENTH SESSION OF UPR WORKING GROUP
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EXTENDED VERSION

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WINDHOEK NAMIBIA JULY 2 2010

I. INTRODUCTION

This Stakeholder Report has been submitted under the Universal Periodic Review (UPR) of the Human Rights Council (HRC), in terms of paragraph 3(m) of HRC Resolution 5/1 of June 18 2007. It has been authored individually by Namibia's **National Society for Human Rights (NSHR)**, hereinafter referred to as the "Author Hereof". This Report focuses on Namibia's compliance and or non-compliance with both the letter and or spirit of: (1) the UN Charter, (2) the Universal Declaration of Human Rights (UDHR); (3) other extra-conventional human rights mechanisms (including voluntary pledges and commitments made by Namibia, hereinafter referred to State under Review (SuR), (such as national human rights policies and or programs implemented); and (4) conventional human rights mechanisms to which SuR is party as well as on the recommendations for the appropriate solutions to the shortcomings identified herein.

Author Hereof is a non-profit making and non-partisan human rights monitoring and advocacy organization in SuR. Founded on December 1 1989 by concerned citizens, Author Hereof envisages a world free of human rights violations and its mission is to stop human rights violations in SuR and the rest of the world.

Author Hereof bases its legal existence on the provisions of Article 21(1) (e) of SuR's Constitution as well as Article 71 of the UN Charter, read in conjunction with the UN Economic and Social Council (ECOSOC) Resolutions 1296 (XLIV) and E/1996/31. Author Hereof is lawfully registered, in terms of Section 21(a) of the Companies Act 1973 (Act 61 of 1973), as an association incorporated not for gain and is recognized as a *bona fide* and credible human rights organization with observer status in the African Commission on Human and Peoples' Rights of the African Union (AU) (in 1993) and in consultative status (category II) with ECOSOC (in 1997).

The aims and objectives of Author Hereof include: (1) to secure due recognition and observance of all human rights and fundamental freedoms, especially those enshrined in the Namibian Constitution and as enumerated in the international human rights and humanitarian treaties and declarations adopted by the UN, its specialized agencies and similar international bodies; (2) to promote democracy, respect for the rule of law, justice for all and the

independence of the judiciary; (3) to promote cultural, social and political tolerance for all; (4) to promote accessibility, responsiveness, accountability and transparency in public administration; and, (5) to promote representative political power based on active and informed public participation.

In order to give effect to its aims and objectives, Author Hereof conducts on a daily basis certain core activities, including: (1) proactive human rights monitoring; (2) reporting; (3) advocacy and lobbying; (4) civic education programs; (5) training and capacity building; (6) research, compilation and documentation; (7) rendering of paralegal services (i.e. defense of victims of human rights abuses); and (8) rendering of humanitarian assistance for indigent people. Author Hereof can be contacted as follows:

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I. EXECUTIVE SUMMARY

This Stakeholder Report has been submitted under the Universal Periodic Review (UPR) of the Human Rights Council (HRC) in terms of paragraph 3(m) of HRC Resolution 5/1 of June 18 2007 as well as under Section B of the General Guidelines for the Preparation of Information under the UPR. The Report has been authored individually by Namibia's National Society for Human Rights (NSHR), hereinafter referred to as the "Author Hereof". It focuses on Namibia's non-compliance with the letter and or spirit of: (1) the UN Charter, (2) the Universal Declaration of Human Rights (UDHR); (3) the extra-conventional human rights mechanisms (including voluntary pledges and commitments, if any, made by Namibia, such as national human rights policies and or programs implemented); and (4) the conventional human rights mechanisms to which Namibia is party, as well as on the recommendations for the appropriate solutions to the shortcomings identified herein.

II. DE JURE BACKGROUND AND FRAMEWORK

1. The *de jure* human rights situation in Namibia--hereinafter referred to as the State under Review (SuR)--is measured against its international obligation to respect, protect and fulfill human rights.

A. Scope of International Obligations

2. Author Hereof is satisfied that SuR has ratified and or acceded to altogether nine (9) UN sponsored international human rights treaties. Those treaties not ratified or acceded to by SuR are the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the International Convention on the Protection of All Persons from Enforced Disappearances.¹

¹<http://www.unhcr.ch/tbs/doc.nsf/NewhvVAllSPRByCountry?OpenView&Start=1&Count=250&Expand=120.9#120.9>

3. SuR's Constitution also protects the right of workers to form and join trade unions and SuR has ratified the core 29, 87, 98, 105, 111, 138 and 182 ILO conventions. However, contrary to ILO principles, the new Labor Act 2007 (Act 11 of 2007), which came into force in 2008, denies prison staff the right to form or join trade unions.

B. Constitutional and Legislative Framework

4. SuR's Constitution is framed and premised upon the internationally negotiated Geneva Principles concerning the Constituent Assembly and the Constitution of an Independent Namibia of July 12 1982 (i.e. UN Security Council document no.S/15287). The Constitution contains a Bill of Rights (i.e. Chapter 3) and under Chapter 11, which are wholly compatible with the provisions of the International Covenant on Civil and Political Rights (ICCPR). The Bill of Rights is permanently enshrined in SuR's Constitution. Author Hereof is satisfied that most, if not all, of the 20 provisions of the Bill of Rights can directly be invoked in SuR's national courts.
5. Author Hereof takes cognizance of the fact that all existing international treaties binding upon SuR remain in force and the general rules of public international law form part of the domestic laws of SuR as contemplated under Articles 143, 144 and 145, read in conjunction with Articles 95(d) and 96(d) of SuR's Constitution.
6. In terms of the Preambular paragraph 5(5) of its Constitution, SuR has been established, *inter alia*, as a democratic State "securing to all our citizens justice, liberty, equality and fraternity", while Article 1(1) of its Constitution defines SuR as a State founded upon the principles of democracy, the rule of law and justice for all.
7. Author Hereof is content that, in terms of Article 18 of SuR's Constitution: "Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed upon such bodies and officials by common law and any relevant legislation, and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a competent Court or Tribunal" while the general jurisprudential approach which informs SuR's Courts requires that the

Constitution must be “broadly, liberally and purposively interpreted so as to avoid the ‘austerity of tabulated legalism’ and so as to enable it to continue to play a creative and dynamic role in the expression and the achievement of the ideals and aspirations of the nation, in the articulation of the values bonding its people and in disciplining its Government.”²

C. Institutional and Human Rights Infrastructure

8. SuR’s Constitution as well as the Ombudsman Act 1990 (Act 7 of 1990), established the Office of the Ombudsman³ as an independent body with, *inter alia*, powers to promote and protect all human rights as well as fair and effective administration, combat corrupt practices and protect the environment and natural resources through independent and impartial investigation and resolution of complaints, as well as to raise public awareness thereon.

III. DE FACTO HUMAN RIGHTS SITUATION

9. However, Author Hereof is deeply concerned that SuR authorities largely pay only a lip service to their international obligations in terms of the various international human rights and other mechanisms, including:

A. Compliance or Non-compliance with Human Rights Mechanisms

10. SuR has, in many ways, failed to fulfill its international obligations to report to the respective treaty bodies on the measures adopted to implement and enforce in its domestic laws the obligations set out in the treaties. SuR has also failed to submit regular reports on the said measures as well as on the progress made in achieving the observance of the rights recognized in such treaties, including the fact that:

²*Government of the Republic of Namibia v Cultura* 2000 1993 NR 328 (SC) at 340C-E; See also: Ex parte Attorney-General; In re The Constitutional Relationship between the Attorney-General and the Prosecutor-General, 1998 NR 282 (SC) at 290 H-I and Chairperson of the Immigration Selection Board v Frank and Another, 2001 NR 107 (SC) at 171A-B

³<http://www.ombudsman.org.na/>

11. SuR has not yet submitted a single periodic report under ICESCR on the measures, if any, it has adopted and the progress it has made in the realization of the rights enumerated in this covenant. SuR's initial report under ICESCR was due on June 30 1997.
12. SuR has failed to submit its second periodic report under ICCPR, which was due on January 8 2008.
13. SuR has failed to declare under Article 14 of the International Convention on Racial Discrimination (ICERD) that it recognizes the competence of the supervisory CERD Committee to receive petitions from individuals or groups claiming to be victims of violations of the rights embodied in ICERD.
14. SuR has failed to submit its fourth and fifth periodic reports under UN Convention on Discrimination against Women (CEDAW), which were due on December 23 2009. SuR has also failed to recognize, in accordance with Article 2 of the Optional Protocol to CEDAW, the competence of the CEDAW Committee to receive and consider communications by or on behalf of individuals or groups in SuR claiming to be victims of a violation of any of the rights set forth in CEDAW.
15. SuR has failed to submit its second and third periodic reports under the UN Convention against Torture (CAT), which were due December 27 1999 and December 27 2003, respectively. SuR has also failed to declare under Article 22 that it recognizes the competence of the supervisory CAT Committee to receive and consider communications from or on behalf of individuals who claim to be victims of a violation by SuR authorities of the provisions of CAT.
16. SuR has failed to submit its second and third periodic reports in terms of the UN Convention on the Rights of the Child (CRC). These reports were due on October 29 1997 and October 29 2002, respectively. SuR authorities have also failed to submit their initial report under Optional Protocol to CRC, which was due on May 16 2004.

17. In addition SuR authorities have failed to submit its initial report under the UN Convention on the Rights of Persons with Disabilities (CPD), which was due on March 6 2010.

B. Cooperation with Extra-Conventional Mechanisms

18. Furthermore, Author Hereof regrets that, as of February 10 2010, SuR is not among the 68 UN Member States that have extended a standing invitation to any of the several UN Special Procedures or Thematic Procedures. For example:
19. SuR has ignored and or failed to act decisively on the October 7 2008 prompt intervention letter written by the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances concerning repeated intimidation, incitements and death threats against Mr. Phil ya Nangoloh, the Executive Director of Author Hereof, because of his cooperation with UN human rights bodies.⁴ On her part, the Special Representative on Human Rights Defenders also regretted that no replies have been received from SuR authorities to her two communications concerning serious allegations that Author Hereof and its Executive Director have been targets of hostile propaganda and a systematic defamation campaign as well as incitement and death-threats coming from certain leaders in the ruling SWAPO Party and its government.
20. The Special Rapporteur on Violence against Women, its Causes and Consequences regretted that she has not received a reply from SuR authorities to her Allegation Letter dated October 21 2009 regarding 40 of the more than 200 women living with HIV who allegedly were subjected to coerced sterilization.⁵
21. The Special Rapporteur on Freedom of Expression also regretted that she has not received a reply to her Allegations Letter of January 19 2010 addressed to SuR concerning the attacks against freelance journalist and investigative reporter John Grobler. Mr. Grobler was reportedly assaulted by prominent businessmen with close ties to the ruling SWAPO Party for having written an article in South Africa's

⁴<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/106/71/PDF/G0910671.pdf?OpenElement>

⁵<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/138/58/PDF/G1013858.pdf?OpenElement>

influential weekly *Mail and Guardian* in December 2009, in which he allegedly accused the ruling SWAPO Party of widespread vote-rigging during the Presidential and Parliamentary Elections in November 2009.⁶

22. Furthermore, the Special Representative on Human Rights Defenders also regretted that she has not received further information on the status of the Declaration on Human Rights Defenders and, hence, she has urged SuR authorities to adopt policies and programs to ensure an effective implementation of the Declaration.⁷

C. Equality and Non-Discrimination

23. Author Hereof is deeply concerned by the fact that, although women make up more than 50 percent of the country's two (2) million people, threats to their right to political security as well as forms of violence and discrimination against women remain pervasive. Women continued unabatedly to be under-represented and or un-represented in the decision-making processes of SuR.
24. Author Hereof is also deeply concerned by SuR's non-recognition of customary marriages as well as by about the deprivation of the rights of women and children with regard to inheritance and land ownership contrary to the stipulations of Articles 3, 23 and 26 of ICCPR.
25. Furthermore, Author Hereof is concerned about widespread societal discrimination against and marginalization of women, sexual minorities and indigenous people as well as against persons with disabilities.

D. Right to Life, Liberty and Security of the Person

26. Author Hereof is deeply concerned about the widespread practice of propaganda for war and incitement of national, racial or religious hatred as well as racism, racial discrimination, xenophobia and related intolerance coming especially from former

⁶<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/138/41/PDF/G1013841.pdf?OpenElement>

⁷<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/122/53/PDF/G0612253.pdf?OpenElement>

President Dr. Sam Nujoma. For example, on or around May 23 2009, Dr. Nujoma reportedly blamed the country's economic hardships on "foreigners" and "imperialists" and furiously threatened that "those foreigners who do not respect us can pack and go or they will face bullets in their heads."⁸ On June 14 2009, Dr. Nujoma reportedly threatened Evangelists of German extraction with violence and warned that Europe-based Germans will be shot in their heads if they dare come to the rescue of their fellow Germans in the country. Referring to the country's burgeoning crime rate, Nujoma reportedly urged citizens "to fully collaborate with the Police" by using anything at their disposal, including bows and arrows, machetes and knobkerries as well as axes to execute suspected criminals.⁹ On September 19 2009, Dr. Nujoma incited the public to kill whites by clubbing them with hammers on their heads.¹⁰

27. Author Hereof is deeply concerned that SuR has so far failed to implement the recommendations by the HRC Committee to undertake, as contemplated under Articles 6, 7 and 9 of ICCPR, extensive investigations in the gross human rights violations (including acts of torture, extra-judicial killings and disappearances) committed against the civilian population between 1994 and 2003 in the northern border areas of SuR.¹¹
28. Author Hereof deplores the chronic postponements of Lower Courts and High Court (HC) cases, resulting in congested court rolls and pervasive backlog of cases. This state of affairs is often referred to as "a judicial crisis" and or a "stumbling", "crumbling" or "collapsing" system of the administration of justice.¹²
29. Author Hereof is also deeply concerned by the slow pace by which the Prosecutor General takes decisions to prosecute or *nolle prosequi* in criminal cases, as well as about the sloppy and sluggish Police investigations. This scheme of things is enormously contributing to delayed justice and denied justice resulting in prolonged pre-trial detention. Unremitting gross inefficiency and a lack of resources also continue unabatedly to mar SuR's system of administration of justice, especially in the Lower

⁸Internal monitoring reports, NSHR, May 23 2009 and "Founding President Threatens 'Foreigners' – Except Angolans", *The Namibian online*, May 26 2009

⁹"Nujoma: Kerke loop weer deur", *Republikein online*, June 17 2009

¹⁰"Father of Nation Makes Crimes against Humanity Harangue", *Press Release*, NSHR, September 20 2009 and "Nujoma must be charged with genocide", *Press Release*, NSHR, September 23 2009

¹¹ <http://asiapacific.amnesty.org/library/Index/ENGAFR030022000?open&of=ENG-NAM>

¹²"Disrespect for the rule of law", *Namibian Human Rights Reports 2006-2008*

Courts Division. The right to a fair and speedy trial also continues to be undermined by the fact that numerous indigent trial-awaiting detainees remain in Police detention due to the never-ending lack of legal aid from the cash-stripped Directorate of Legal Aid.

30. Author Hereof condemns the unremittingly overcrowded Police cells and prisons. Most Police holding cells and prisons are poorly maintained and lack basic sanitation as well as adequate food.
31. Furthermore, Author Hereof is deeply concerned that SuR is not complying with its obligation to ensure the right to be tried without undue delay as consecrated in Article 14 (3)(c) of ICCPR.
32. Author Hereof is gravely concerned that passive and active threats to judicial independence remain solidly in place in SuR.¹³ One of the major criteria for judicial integrity and independence is the requirement that judicial officers must be persons of high moral character, impartiality and integrity. However, during 2007, then High Court Judge Sylvester Mainga expressed concern about cases of misconduct by judicial officers, ranging from incompetence, theft, untruthfulness, and drunkenness on duty to absenteeism, arrogance, impatience and insubordination.¹⁴

E. Torture or Cruel, Inhuman or Degrading Treatment (TCIDT)

33. Author Hereof is gravely concerned at SuR's failure to promptly and impartially investigate and prosecute those responsible for past and present acts of TCIDT. Author Hereof deplors the fact that there are no legal instruments in SuR dealing specifically with compensating victims of TCIDT and procedures for obtaining redress, compensation, and rehabilitation continue to be inadequate and, in many cases, non-existent.

¹³“Concern over Judicial Independence & Integrity”, *Press Release*, NSHR, July 22 2004

¹⁴“Magistrates taken to task”, *The Namibian online*, Wednesday, February 21 2007

34. Author Hereof is also gravely concerned by the persistent failure of SuR authorities to prosecute the more than 40 members of security forces accused of having severely subjected the alleged Caprivi secessionists to TCIDT.
35. Author Hereof is deeply concerned that, despite recommendations by the CAT Committee that it does so as a matter of priority, SuR has not integrated---as required by Articles 2 (1) and 4 (1) of CAT as well as Article 7 of ICCPR---the specific definition of the crime of torture into its penal legislation in terms that are legally consistent with the definition contained in Article 1 of CAT. In the absence of a strict legal definition of torture, it is impossible for SuR's courts to adhere to Article 4 of CAT as well as to the principle of legality of *nullum crimen, nulla poena sine lege previa*. In terms of SuR's principal penal legislation, the crime of torture is still considered a common law offense defined as assault to do grievous bodily harm (GBH) or *crimen injuria*.

F. Enforced Disappearances

36. Author Hereof notes with deep concern that SuR authorities have so far failed to deal with gross pre-independence and post-independence human rights violations and that SuR authorities have persistently rejected repeated calls by Author Hereof to institute a truth and reconciliation commission (TRC) to address such violations. Author Hereof also strongly condemns SuR's persistent failure to implement the several CAT Committee recommendations that the cases of enforced disappearances of former members of the now ruling SWAPO in exile must be promptly and impartially investigated as contemplated under Article 12 of CAT.

G. Administration of Juvenile Justice

37. Author Hereof is of the opinion that the system of administration of juvenile justice in SuR is not compatible with the provisions of Articles 37 and 40 of CRC, the Beijing

Rules, the Riyadh Guidelines and the UN Rules for the Protection of Juveniles Deprived of their Liberty.¹⁵

H. Expression and Opinion, Freedom of Religion, Association, Peaceful Assembly and the Rights to Participate in Public and Political Life

38. Author Hereof is also deeply concerned that even though Article 21 of SuR's Constitution---read in conjunction with the *Kauesa* and *Smith* case laws---guarantees the right to freedom of speech and expression, including freedom of the press and other media, several high-ranking SWAPO Party and or SuR officials routinely launched vitriolic attacks directed *ad hominem* at those exercising their freedom of opinion and expression. In this regard, Author Hereof deplores the ongoing ban on advertising in *The Namibian* newspaper as well as the summary cancellation on or around March 3 2009 of several popular radio phone-in programs on the publicly-funded Namibian Broadcasting Corporation (NBC) Radio. Author Hereof is also concerned that, although Article 17---read in conjunction with Article 21(1)(e) of the Constitution---guarantees the right of every citizen to engage in peaceful political activities and to form or join political parties of his or her choice, this right is severely restricted in practice in SuR.

I. Right to Work and to Just and Favorable Conditions of Work

39. Furthermore, Author Hereof is deeply concerned that trade unions that are not affiliated with the ruling SWAPO Party continue to be marginalized and that the independent Trade Union Congress of Namibia (TUCNA) and its affiliate Namibian Nurses' Union (NANU) are the main target of this hostility coming from SuR authorities. SuR remains one of the countries with the highest unemployment rates in the world, which is in excess of 51 percent.

¹⁵[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.14.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.14.En?Opendocument)

J. Right to Social Security and to an Adequate Standard of Living

40. Author Hereof strongly condemns continuing poverty and extreme poverty as well as the gross income disparities prevailing unabatedly in SuR, with the result that SuR is rated as one of the world's worst income distributors among its population.
41. The overwhelming majority of the country's population face grave social security threats, such as poverty, hunger, ignorance, destitution and diseases as well as natural disasters and this is in addition to the fact that SuR continues to face 'UNICEF's' "triple threat" characterized by the HIV-AIDS pandemic, food insecurity and lack of government capacity.¹⁶The maternal mortality rate has almost doubled in six years from 271 deaths per 100 000 live births in 2000 to 449 deaths per 100 000 live births in 2006.¹⁷The child mortality rate has also increased over the same period, from 62 per 1 000 live births to 69 per 1 000 live births, while the infant mortality rate also went up from 38 per 1 000 live births to 46 per 1 000 live births over the same period.¹⁸

K. Right to Education and to Participate in the Cultural Life of the Community

42. Both SuR's Constitution and the *Education Act 2001* (Act 16 of 2001) stipulate that pre-primary and primary education shall be provided free of charge. However, Author Hereof is deeply concerned at the situation of children in especially difficult circumstances and children from poorer families who are also less likely to be educated because they are unable to *inter alia* pay the so-called school development fund fees.

L. The Right of Minorities and Indigenous Peoples

43. Author Hereof is deeply concerned that even though the law states that all indigenous groups should be allowed to actively participate in decisions affecting their lands, cultures, traditions and allocations of natural resources, indigenous groups, in particular the San people, still face systematic and widespread exclusion and exploitation.

¹⁶“NAMIBIA: Joblessness, poverty challenge progress, report”, *IRINNews online*, October 16 2006

¹⁷“New Strategy Could Reduce Maternal Mortality”, *New Era online*, March 2 2009

¹⁸“Maternal Death Rate Shoots Up”, *New Era online*, January 29 2008

44. A major issue for minority groups in SuR is achieving political recognition. SuR authorities continue to withhold official recognition from certain traditional leaders, even in opposition to local preference. For example, in February 2008, Katjamba Tjambiru, a female chief of the Ovahimba community, claimed that SuR has rejected her application for official recognition as a traditional leader because she did not support the ruling SWAPO Party. Instead SuR authorities subsequently recognized Chief Katjamba Tjambiru's nephew Vemuii Tjambiru, who is a ruling SWAPO Party supporter. SuR has also persistently withheld recognition of the indigenous minority Kxoe traditional authority in Western Caprivi for the same political reasons.

M. The Right of Migrants, Refugees and Asylum Seekers

45. Author Hereof is deeply concerned that the rights of refugees and asylum seekers--- which are of civil and political nature---are not listed under SuR's Bill of Rights. SuR authorities should institute proper procedures in order to comply with Article 3 of the Refugee Convention to enable refugees to apply for residence in cases where substantial grounds exist for believing that they would be in danger of being subjected to summary execution, TCIDT and or enforced disappearance if expelled, returned or extradited to another country.

IV. SPECIFIC RECOMMENDATIONS

46. Author Hereof is concerned that, in the absence of their formal incorporation into domestic laws of all international treaties to which SuR is party, such international treaties cannot be enforced by the courts of SuR. Hence, systematic domestication of all international human rights treaties to which SuR is party is strongly recommended as a priority.
47. Since all human rights are indivisible, interrelated and interdependent, Author Hereof strongly recommends that an appropriate amendment of SuR's Constitution should be made to place ESC and CP rights on the equal footing and to give effect thereto at the

same level. Currently, the majority of the ICESCR provisions are listed under Chapter 11 of the SuR's Constitution and as such they cannot be directly invoked in the national courts of SuR.

48. SuR authorities must strengthen both the institutional and operational capacity of the Office of the Ombudsman by providing such Office with adequate human and financial resources, so that it may be in a position to fulfill its mandate effectively and efficiently.
49. SuR should take effective measures to encourage the registration of customary marriages and to grant spouses and children of registered customary marriages the same rights as those married under civil law.
50. SuR authorities must introduce measures to reduce the huge accumulation of court cases resulting inter alia in illegal prolonged pre-trial detention and which state of affairs violates the right for defendants to be tried within a reasonable time. Moreover, SuR should ensure respect of the 48-hour rule, and should monitor closely all the cases where this rule was not respected. A strong and independent mechanism is also urgently required for the investigation of frequent allegations of police brutality.
51. SuR should enact a law defining the crime of torture in terms of Article 1 of CAT and should integrate this definition into SuR substantive and procedural criminal law system.
52. Author Hereof urges SuR authorities to establish without any further delay an independent national truth and reconciliation commission (TRC) to address past gross and systematic human rights violations.
53. SuR authorities must ensure the right of citizens to effective access, on a non-discriminatory basis, to and to participate in, the conduct of public affairs, which includes the right to form or join the political parties of their choice as well as to voice

criticism regarding the functioning or non-functioning of governmental ministries, agencies and other organizations concerned with public affairs.

54. SuR authorities must consistently consult, include and incorporate the views of Civil Society and human rights defenders in the decision-making processes, including the legislative process, formulation of national policies and reporting to regional and international human rights mechanisms.
55. SuR authorities must as a matter of priority put an end to the widespread violence against women and must address the specific needs of women as well as those of the LGBTI community.
56. SuR authorities must also bring to an end all and any systematic discrimination, marginalization and exclusion of indigenous minority groups in the country, including especially but not exclusively the San (Bushman) peoples.
57. Author Hereof recommends that the high incidence of child labor, particularly on farms and in the informal sector, and the number of children dropping out of school, as well as the issue of many children of indigenous and rural families who do not attend school, must be addressed as a matter of priority.
58. SuR authorities should carry out systematic civic awareness and human rights education programs in its schools in order to foster tolerance and respect for human rights and in order to ensure the human dignity of every individual in society is respected, protected and fulfilled.
59. The controversial marathon Caprivi High Treason Trial is procedurally flawed and is gross miscarriage of justice. As such it must be brought to its logical conclusion as a matter of priority. The torturers of Caprivi detainees must be brought to justice as a matter of utmost urgency.

60. SuR authorities must undertake prompt, thorough and transparent investigation of all human rights violations, in particular attacks against human rights defenders and journalists, in order to create a safe and enabling environment in which human rights defenders and media workers can carry out their activities without unlawful hindrances. To this effect, SuR authorities must also ensure that the ruling SWAPO Party desists from hostile propaganda and other acts of extreme hostility towards Author Hereof, in particular, and other independent human rights defender organizations in the country, in general, *inter alia*, for their cooperation with UN and other international human rights mechanisms.

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