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| AFRICAN UNION |  | UNION AFRICAINE |
| الاتحاد الأفريقي African Commission on Human & Peoples' Rights | | UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples |
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58th Ordinary Session

6 - 20 April 2016 in Banjul, Islamic Republic of The Gambia

Concluding Observations and Recommendations on Sixth Periodic Reports of the Republic of Namibia on the Implementation of the African Charter on Human and Peoples' Rights (2011 - 2013)

I. INTRODUCTION

1. The Republic of Namibia (Namibia) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter), having ratified it on 30 July 1992.
2. Namibia submitted its Sixth Periodic Report in accordance with Article 62 of the African Charter on 23 November 2015 and the Report covered the period 2011 to 2013.
3. The African Commission on Human and Peoples' Rights (the Commission) considered the Report at its 58th Ordinary Session, held from 6 to 20 April 2016, in Banjul, Islamic Republic of The Gambia.
4. The Report was presented to the Commission by the Delegation from Namibia (the Delegation) which comprised the following officials:
 - Mr. I.V.K. Ndjoze – Permanent Secretary, Ministry of Justice (MOJ), (Head of Delegation)
 - Mr. Basillius Dyakugha – Deputy Chief, MOJ, Alternate Head of the Delegation
 - Mr. Christian Harris – Senior Legal Officer, MOJ
 - Ms. Delia Mubita – Assistant Commissioner, Ministry of Safety and Security(MSS)
 - Ms. Meriam Nicodemus – Deputy Director , Ministry of Labour, Industrial Relations and Employment (MLIRE)
 - Mr. Alex Tubaundule Zambwe – Legal Officer, MOJ
 - Mr. Aron Clase – Control Administrative Officer, Office of the President
 - Ms. Helen Mouton – Control Social Worker, Ministry of Health and Social Services (MHSS)

5. The Report highlights developments which have taken place in the country in the area of promotion and protection of human and peoples' rights, and the legislative, administrative and judicial measures put in place to comply with the country's obligations under the African Charter as well as other relevant regional and international human rights instruments.
6. The Commission appreciates the presentation of the Report by the high-level delegation from Namibia, and the constructive dialogue that followed the presentation.
7. The present Concluding Observations give an account of the positive aspects, the factors restricting the enjoyment of human rights and the areas of concern identified in the Report and information given during presentation of the Report. Finally, the Commission makes recommendations to the Republic of Namibia on measures needed to strengthen the enjoyment of human rights as guaranteed by the African Charter as well as other relevant regional and international human rights instruments.

II. POSITIVE ASPECTS

The Commission notes a number of positive aspects in Namibia's efforts towards the fulfilment of its obligations under the African Charter.

Reporting Obligation

8. The Commission:
 - i. Welcomes the efforts made by the State Party in preparing and presenting its report and commends the Republic of Namibia for its frankness in the Report and during the constructive dialogue as well as its commitment to implementing the provisions of Article 62 of the African Charter.
 - ii. Commends Namibia for implementing some of the recommendations of the Commission issued on the Combined Periodic Report and also providing an update on the level of implementation of the said recommendations.
 - iii. Welcomes further the efforts made in reporting for the first time on the implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).
 - iv. Appreciates the representation of relevant stakeholders during the process of preparation of the Report, including government agencies and Ministries and the Non-Governmental Organisations Forum (NANGOF).

Institutional and Policy Measures Promoting Human Rights

9. The Commission commends the following institutional measures in the promotion and protection of human rights:

- i. National Advisory Committee on Gender Based Violence.*
- ii. Inter-Ministerial Committee to monitor human trafficking and smuggling of migrants in Namibia.*

10. The Commission commends the adoption of the following policies to guarantee human rights:

- i. The National Development Plan (2013-2017)*
- ii. The National Plan of Action on Gender Based Violence (GBV) 2012-2016;*
- iii. The National Health Policy Framework (2010 - 2020);*
- iv. The Revised National Gender Policy (2010-2020);*
- v. The National Strategic Framework (NSF) for HIV and AIDS Response 2010/11 -2015/16;*
- vi. The National Sanitation Strategy 2010-2015*
- vii. The "Education for All (EFA)" National Plan of Action of 2001-2015*

Legislative Measures Promoting Human Rights

11. The Commission commends Namibia for the enactment of the following laws, among others, to guarantee human rights:

- i. Employment Service Act No 8 of 2011;*
- ii. Correctional Service Act No 9 of 2012;*
- iii. Prevention and Combating of Terrorist Activities Act No 12 of 2012; and*
- iv. Rules of the High Court of Namibia, under Section 9 of the High Court Act, Act No 16 of 1990*

Economic, Social and Cultural Rights

12. The Commission commends:

- i. The programmes implemented which are focused on resettlement, sustainable livelihood support programmes, education, land, income-generating initiatives and empowerment programmes for formerly marginalized communities;*

Right to Health

- ii. The National Health Policy framework 2010-2020 for the planning and implementation of the national primary health care including equity, inter-sectoral collaboration and community participation;*

- iii. The National Strategic Framework for HIV/AIDS Response 2010/11- 2015/16 to strengthen the capacity and management of HIV and AIDS response at community level;
- iv. Allocation of an amount of N\$ 7, 6 million (US\$ 800, 000) to fight HIV and AIDS and Prevention from 2005 to 2012;
- v. The various programmes initiated under the Fourth National Development Plan (2013-2017) to progressively enhance access to health care through the provision of relevant and affordable preventative, curative and rehabilitative services to all Namibians;
- vi. The programme to build dry toilets in rural areas throughout the country;
- vii. Reduction of malaria mortality rate from 7000 in 1990 to 10 in 2013 under the Fourth National Development Plan (2013 - 2017);
- viii. The various measures put in place to bring access to safe drinking water to the doorsteps of every Namibian and in particular, the provision of free water for human consumption to poor households;
- ix. Meeting the MDG drinking water target;

Right to Education

- x. The various policies and programmes adopted in the field of education;
- xi. The achievement of gender parity in 2012 in both primary and secondary education levels;
- xii. The implementation of Universal Primary Education in 2013;
- xiii. The Prevention and Management of Learner Pregnancy which is aimed at promoting the continued education of pregnant learners and to ensure the equal treatment of the female and male learners under the "Education for All (EFA)" National Plan of Action of 2001-2015;
- xiv. The construction of the first vision school;
- xv. The award of the UNESCO Confucius Prize for Literacy 2013 to the Namibia National Literacy Programme;

Right to Employment

- xvi. The promulgation and coming into force of Regulations relating to domestic workers which set the minimum wage and supplementary minimum conditions of employment for domestic workers as well as criminalising the employment of children under the age of 18 as domestic workers, pursuant to the Labour Act of 2007;

Right to Culture

- xvii. The organisation of annual cultural festivals to promote Namibia's diverse cultures through mutual understanding and

tolerance which is rotational in all the regions and also inclusive of all ethnic groups.

Civil and Political Rights

13. The Commission commends:

- i. The reforms put in place in the justice delivery system with a view to making justice available and accessible to everyone notably through provision of legal aid in all cases for indigents;
- ii. The application of human rights law and principles by the courts in cases and the implementation of the decision of the said courts by the Government;
- iii. The amendments made to the Criminal Procedure Act, Act No. 51 of 1977 to ensure that an accused person is entitled to legal representative from the time of arrest to the conclusion of the case.

Women and Children's Rights

14. The Commission commends the:

- i. July 2012 decision of the Namibia High Court advancing women's sexual and reproductive rights by declaring that sterilisation of women for any reason without their informed consent is unlawful;
- ii. Creation of the Ministry of Gender Equality and Child Welfare (MGE CW) to promote women's rights as well as empower women in all spheres of activities;
- iii. Establishment of Gender Liason Offices in all the regions of the country including the rural areas to disseminate information, to promote legal literacy and to sensitize traditional leaders and the community at large on gender equality;
- iv. Appointment of gender focal persons in all Ministries in order to liaise with the MGE CW to ensure effective gender mainstreaming in plans, programmes and policies;
- i. Efforts made to improve gender equality and the quality of life for women, including indigenous women and notes in particular, the launch of the revised National Gender Policy 2010 – 2020 aimed at achieving gender equality for women with men;
- ii. Measures that have been put in place to coordinate efforts of various stakeholders in combating Gender Based Violence (GBV) and in particular, adoption of the National GBV Plan of Action which is aimed at strengthening integration and coordination of GBV programs;

- iii. Establishment of a National Advisory Committee on GBV composed of Cabinet ministers and chaired by the Minister of Gender and Child Welfare which has helped to improve the support services for survivors of GBV and also increased awareness raising on GBV;
- iv. Increase in access to anti-retroviral drugs to 90% and prevention of Mother to Child Transmission (PMCT) by 95% nationwide;
- v. Setting up of an inter-ministerial committee consisting of the Ministry of Labour and Social Welfare, Ministry of Gender and Child Welfare and the Ministry of Safety and Security to monitor reports on human trafficking and smuggling of migrants in Namibia;
- vi. Development of an Action Plan in 2011 for five Government line ministries namely, Ministry of Labour and Social Welfare, Ministry of Education, Ministry of Gender Equality and Child Welfare and the Ministry of Safety and Security to co-operate to eliminate child labour;
- vii. Creation of mobile clinics in all the regions which cater for the communities including the indigenous women in the remote rural areas;
- viii. Implementation of laws to give effect to the rights guaranteed under the Charter notably, the provision for women to apply for land rights in communal areas including the rights of widows to inherit communal land allocated to their late husbands, even if they remarry, and for women to be represented on the communal land boards to monitor the implementation of the Communal Land Reform Act of 2002 as well as the abolition of marital power, which gave equal rights to men and women during marriage and at its dissolution;
- ix. Recognition of women's rights to legally entitled inherit from their deceased husband's estate through a will/last testament or where there is community of property;
- x. Recognition of women as traditional leaders, such as chiefs and Councillors in their communities and participating in Government decision making process as well as determining cultural policies.
- xi. Special protection provided under section 62 of the Correctional Service Act, to the infant of a female offender within a correctional facility until the infant is two years, and thereafter by a fit and proper person who is able and willing to support such infant.

Right to Freedom of Expression and Access to Information

15. The Commission commends Namibia:

- i. On the appointment of a Media Ombudsman in 2013 by the media fraternity;

- ii. For being ranked 21st in the world and 1st in Africa on press freedom by Reporters Without Borders in 2013;
- iii. For allowing free access to the print, electronic and social media networks.

Right to Freedom of Assembly and Association

- 16. The Commission commends Namibia for implementing Article 21 of the Constitution which provides for freedom to assemble peacefully and without arms and for freedom of association, including freedom to form and join trade unions and political parties.

Due Process and Conditions of Detention

- 17. The Commission commends :
 - i. The efforts made by the courts to give effect to Article 12 (1) (e) of the Constitution which states that “All persons shall be afforded adequate time and facilities for the preparation and presentation of their defence, before the commencement of and during their trial, and shall be entitled to be defended by a legal practitioner of their choice”; by declaring that the requirement of this Article include the right of an accused person to be provided with the contents of the police case file and testimonies of witnesses;
 - ii. The efforts made by the courts in guaranteeing the payment of compensation to persons who have spent unlawful time in pre-trial detention;
 - iii. The implementation of the Commission’s recommendations by operationalising the role of the visiting justices to the prisons as provided in the prisons Act of 2012;
 - iv. The measures put in place to curb overcrowding in Detention centres including the use of alternative sources of sentencing such as Community Service Orders for less serious offences and construction of new prisons;
 - v. The recreational, rehabilitation and educational facilities and programmes available for prison inmates;
 - vi. The three square meals provided to prisoners;
 - vii. Providing access to free medical services including HIV/AIDs in all correctional facilities;
 - viii. Providing access to a variety of hygiene products to prison inmates;
 - ix. Provision for prisoner family visitation rights by section 77 of the Correctional Service Act of 2012.

Rights of Older Persons and Persons with Disabilities

- 18. The Commission commends :

- i. The provision of subsidies to private residential care facilities for older people;
- ii. The provision of subsidies to support social housing programmes for the elderly and people with disabilities under the National Housing Policy;
- iii. The enactment of laws and adoption of policies to protect the rights of Persons with Disabilities;
- iv. Exemption of senior citizens by the City of Windhoek, from paying for transport when using the buses of the city of Windhoek municipality;
- v. The modification of traffic lights in Windhoek to enable the visually impaired and people on wheel chairs to cross the streets safely on their own.
- vi. The acquisition by the City of Windhoek, of buses that can be used by people on wheel chairs;
- vii. The 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.

HIV/AIDS

19. The Commission commends :

- i. The access to free anti-retroviral (ARV) treatment to all those with HIV/AIDS including prisoners;
- ii. The efforts made to significantly increase the number of people on ARV treatment from 69% in 2010 to 90% in 2012/2013 financial year, as well as the reduction in the Mother to Child transmission of HIV.

Death Penalty and Extrajudicial Killings

20. The Commission commends :

- i. The abolition of the death penalty in the statutes and the prohibition of extradition from Namibia, of persons, that are likely to face the death sentence upon conviction;
- ii. The constitutional guarantee provided in Article 131 prohibiting the re-introduction of the Death Penalty.

Refugees, IDPs and Migrant Workers

- 21. The Commission commends the Namibian Government for approving a policy framework to locally integrate refugees in Namibia and for directing the Ministry of Home Affairs and Immigration to integrate the remaining 2400 Angolan refugees into the Namibian society.

Indigenous Populations/Communities

22. The Commission commends Namibia for the various measures put in place to protect the rights of indigenous populations/communities such as resettlement programmes and provision of land to San families and extension of the access to education programme to the children of the Ovaherero and Ovahimba communities/populations.

Prohibition of Torture and Cruel, Inhuman and Degrading Treatments

23. The Commission commends Namibia for:

- i. The Supreme Court decision in the case of *Namunjembo and Others v Commanding Officer, Windhoek Prison and another* which prohibits prison authorities from shackling prisoners;
- ii. The power given to the Office of the Ombudsman to investigate allegations of torture and ill-treatment by state agents.

Extractive Industries and the Environment

24. The Commission commends Namibia for:

- i. Providing in the law that, a mineral licence holder shall before exploiting any private land, enter into an agreement with the land owner and pay compensation to the latter for the use of the land.
- ii. Providing an avenue for review by the High Court of Namibia, of, any action or administrative decision taken by the Commissioner and the Minister pursuant to the Minerals Act.
- iii. The various laws in place to regulate the mining operations including mitigating the adverse impacts on the environment, people and wildlife.

Human Rights Institutions

25. The Commission commends :

- i. The concrete measures taken by the office of the Ombudsman in providing training on human rights as well as its inclusion in the Training Curricular of the Namibian Police Force and Correctional Services respectively;
- ii. The independence of the Office of the Ombudsman in accordance with the Paris Principles and its accreditation with "A" status for three years in a row by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights;

- iii. Establishment of three permanent regional offices of the Ombudsman with another two to be established in the next four years to make it accessible to the populations;

III. FACTORS RESTRICTING THE ENJOYMENT OF THE RIGHTS GUARANTEED IN THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

- 26. Despite the Government's efforts to comply with the provisions of the African Charter, the limited resources at its disposal especially finances, human resources and infrastructure inhibit its ability to ensure that all its citizens enjoy their rights.
- 27. Namibia continues to experience prolonged drought which has made it more difficult and challenging for the Government to address issues of poverty and inequality in the country.
- 28. The African Charter is not widely disseminated to the public for them to know and hold duty bearers accountable for non-implementation of the provisions therein.

IV. AREAS OF CONCERN

Whilst acknowledging the efforts made by the Government of Namibia to promote and protect human rights, the Commission is concerned about the following:

Reporting Obligation

- 29. The Commission is concerned that:
 - i. The Report does not provide specific and comprehensive responses to some of the issues in the previous Concluding Observations by the Commission particularly with regard to the ratification of human rights instruments and enactment of legislation to give effect to the rights contained in the African Charter;
 - ii. The Report does not for example provide a comprehensive response on the issue of the protection of human rights defenders and implementation of the UN Declaration on Human Rights Defenders;
 - iii. Namibia did not fully comply with the Guidelines for State Reporting under the Maputo Protocol, in particular the lack of information on whether individuals and organisations working on gender issues were involved in the preparation of the Report and insufficient background information especially regarding the application of the Protocol in

national courts, reservations entered if any, the state institutions, gender budgeting and gender audit of laws.

Ratification of Regional/International Human Rights Instruments

30. Namibia has not ratified the following human rights instruments:

- i. *The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention);*
- ii. *The African Charter on Democracy, Elections and Governance in Africa;*
- iii. *The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court;*
- iv. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (The Kampala Convention);*
- v. *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT);*
- vi. *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;*
- vii. *The African Union Convention on the Elimination of Mercenaries in Africa;*
- viii. *Protocol of the Court of Justice of the African Union;*
- ix. *OAU convention governing the specific aspects of refugee problems in Africa*
- x. *The ILO Convention 169 on Indigenous and Tribal Peoples;*
- xi. *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families;*

31. Namibia has also not made the Declaration under Article 34(6) of the Protocol to the African Court, accepting the jurisdiction of the Court.

Economic, Social and Cultural Rights

32. The Commission is concerned about:

- i. Challenges associated with access to land and housing especially poor households;
- ii. Challenges associated with the HIV/AIDS epidemic, tuberculosis, malaria, emerging non-communicable diseases and environmental health;
- iii. Discrimination and stigmatization practices that limit health care access for vulnerable groups in particular the Lesbian, Gay Bi-sexual and Transgender (LGBT) community, commercial sex workers and other vulnerable groups;
- iv. Challenges regarding unemployment and national poverty levels;
- v. Challenges regarding shortages of skilled and experienced health (doctors, nurses, pharmacists) and social workers.

Women and Children's Rights

33. The Commission is concerned about:

- i. The latest Demographic Health Survey (DHS) carried out in 2013 which has shown that maternal mortality ratio has increased from 225 deaths per 100,000 live births in 1992 to 449 deaths per 100,000 live births in 2006/2007;
- ii. Low representation of women in Parliament and in other decision making positions contrary to the 50/50 mark recommended under the SADC Protocol on Gender and Development;
- iii. On-going traditional harmful cultural practice of child marriage, in some communities and lack of consistency in the legal definition of a child thereby subjecting some children to the risk of being married early contrary to the provisions of the Maputo Protocol ;
- iv. Lack of specific information on prosecution of cases of sexual harassment in places of employment and educational institutions;
- v. Lack of sufficient information on the measures put in place to combat trafficking of children particularly of unaccompanied minors;
- vi. Lack of information on the measures in place to protect the rights of children in conflict with the law;
- vii. Challenges particularly rural women, in accessing justice due to poverty and the physical distance of courts, as most courts are located within the towns;
- viii. Delay in the enactment of draft bills in particular the Customary Law Marriage Bill, Divorce Bill and the Child Justice Bill;
- ix. Forced sterilisation of Women with HIV;
- x. Traditional healers claim to cure HIV/AIDS resulting in deaths.

Right to Freedom of Expression and Access to Information

34. The Commission is concerned about the:

- i. Existence of criminal defamation law in Namibia's statute books despite the fact that it has not been used in practice to prosecute/intimidate journalists;
- ii. Lack of an Access to Information Law;
- iii. Proposed Bill on public gathering which has the potential to infringe on the right to access to information and the right to assembly and association.

Right to Freedom of Assembly and Association

35. The Commission is concerned about lack of sufficient information in the Report concerning the protection of human rights defenders.

Due Process and Conditions of Detention

36. The Commission is concerned that:

- i. There is no comprehensive policy dealing with all public health concerns in Prisons especially those relating to HIV/AIDS;
- ii. Lack of adequate resources to enable National Correctional Service institutions effectively address educational and other rehabilitation needs of offenders.

Prohibition of Torture and Ill-treatment

37. The Commission is concerned that:

- i. The Draft Torture Bill has still not been enacted since the last reporting period;
- ii. There is no sufficient information in the Report regarding the prohibition of torture, the numbers of victims of torture, the number of investigations and prosecution and the protection of victims and their families.;

HIV/AIDS

38. The Commission is concerned that:

- i. The Report does not indicate measures put in place to support children orphaned, or affected by HIV/AIDS;
- ii. The Report does not indicate measures put in place to proscribe persons claiming to treat HIV and those going to them for treatment.

Older Persons and Persons with Disabilities

39. The Commission is concerned that the Report does not indicate how the measures and policies put in place to protect the rights of older persons and persons with disabilities have been effectively implemented in the rural areas bearing in mind their own realities as compared to their counterparts in the cities and towns.

Refugees, IDPs and Migrant Workers

40. The Commission is concerned that there is no specific legal framework/legislation to protect the rights of Refugees and Migrant Workers in Namibia.

Indigenous Populations/Communities

41. The Commission is concerned that:

- i. There is no information on human rights abuse against indigenous peoples, and measures taken by the Government to investigate and punish the perpetrators;
- ii. Political participation of all indigenous communities is not adequately ensured;
- iii. Comprehensive measures are not taken to comprehensively address indigenous peoples' specific needs in relation to land, education, health, employment and access to justice.

Extractive Industries and Environment

42. The Commission is concerned that:

- i. The Report does not provide sufficient information on how people/communities living in or near resources rich areas benefit from amongst others; employment opportunities especially in the unskilled and semi-skilled positions, procurement/provision of services, scholarships/bursaries, social services such as schools, clinics and other development projects;
- ii. No information is provided regarding consultation, participation of communities in the process of granting licence and issues of compensation in the case of dispossession of land;
- iii. No information is provided on cases of illegal mining activities and its impact on the environment and the health of those who are engaged in such activities.

Human Rights Institutions

44. The Commission is concerned that adequate support has not been given commensurate with the additional/expanded responsibility of the Ombudsman and its expansion activities to reach everyone in Namibia.

V. RECOMMENDATIONS

45. In view of the foregoing, the Commission makes the following recommendations to the Government of Namibia:

Reporting Obligations

46. Namibia should:

- i. Comply with its obligations under Article 62 of the African Charter by implementing these recommendations;

- ii. Implement the outstanding recommendations in the previous concluding observations;
- iii. Comply with the Commission's State Reporting Guidelines under the Maputo Protocol in its next Reporting Period.

Ratification of Regional/International Human Rights Instruments

47. Namibia should report on regional/international human rights instruments ratified/acceded to during the reporting period.

48. Namibia should ratify the following human rights instruments:

- i. *The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention);*
- ii. *The African Charter on Democracy, Elections and Governance in Africa;*
- iii. *The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court;*
- iv. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (The Kampala Convention);*
- v. *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;*
- vi. *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT);*
- vii. *The African Union Convention on the Elimination of Mercenaries in Africa;*
- viii. *Protocol of the Court of Justice of the African Union;*
- ix. *OAU convention governing the specific aspects of refugee problems in Africa;*
- x. *The ILO Convention 169 on Indigenous and Tribal Peoples;*
- xi. *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.*

49. Namibia should also make a Declaration under Article 34(6) of the Protocol to the African Court to allow the Court to receive cases from individuals and Non-Governmental Organisations (NGOs) directly.

Economic, Social and Cultural Rights

Right to Property

50. Namibia should:

- i. Put in place comprehensive policies, plans and programmes aimed at making acquisition of land and housing accessible to and affordable for all its citizens, particularly the poor and those in the rural areas;

Right to Health

Namibia should:

- ii. Effectively implement the Fourth National Development Plan (2013-2017) to ensure that access to quality health care and services aimed at improving the standard of living for the people is provided;
- iii. Invest in the training of quality doctors, nurses pharmacists and social workers to overcome the shortage of skilled health workers;
- iv. Provide attractive working conditions for qualified health workers in order to retain experienced and motivated workforce in health facilities countrywide;
- v. Increase the provision of medical services particularly in the rural areas and for the population requiring mental health services.
- vi. End discrimination and stigmatization limiting health care access for vulnerable groups in particular the LGBT community, commercial sex workers and other vulnerable groups;
- vii. Include in its next Report, information and gender disaggregate data on the number of doctors, nurses, pharmacists and social workers in all the hospitals and health facilities countrywide and the ratio of a doctor to a patient;

Right to Work

Namibia should:

- viii. Monitor and evaluate the legislative and policy framework to ensure the effective implementation of the right to employment, especially the women and youth, and to reduce poverty levels.

Women and Children's Rights

51. Namibia should:

- i. Put in place adequate resources in combatting maternal and child mortality and development of effective IEC tools to provide information and services to women on their reproduction rights and health;
- ii. Implement the 50/50 mark recommendation under the SADC Protocol on Gender and Development to guarantee equal opportunities in the political sphere and decision making positions for women;
- iii. End traditional practice of child marriage by enacting 18 years as the minimum age of marriage that will apply to everyone;

- iv. Adopt other strategies to end child marriage such as proactive multi-faceted strategies at the national and community levels including *inter alia*; empowering girls with information, skills and support networks; educate and rally parents and community members on the dangers of the practice;
- v. Review the existing pieces of legislation relating/affecting children rights with a view to harmonise the definition of a child in line with international human rights standards;
- vi. Provide information on prosecution of cases of sexual harassment, particularly women and girls, in places of employment and educational institutions and measures put in place to eradicate it in Namibia.
- vii. Implement policies and programmes that would make justice accessible to rural women;
- viii. Provide information on the measures in place to protect the rights of children in conflict with the law;
- ix. Provide statistical data on indigenous women who have served in Government structures and those who are chiefs and queens of their communities;
- x. Strengthen and institutionalise a gender specific mandatory training course for all legal and law enforcement officials and health service personnel to ensure their full capacity in responding to all forms of violence against women and children.
- xi. Continue its efforts to combat trafficking particularly of unaccompanied minors;
- xii. Speedy enactment of draft bills in particular the Customary Law Marriage Bill, Divorce Bill and the Child Justice Bill.

Right to Freedom of Expression and Access to Information

52. Namibia should:

- i. Take appropriate measures to repeal the criminal defamation laws in Namibia;
- ii. Enact an Access to Information Law;
- iii. Review the proposed Bill on public gathering so that it does not infringe on the right to access to information and the right to assembly and association.

Right to Freedom of Assembly and Association

53. Namibia should:

- i. provide adequate information and statistical data on the number of NGOs and CSOs in the country;
- ii. provide specific information on the situation of human rights defenders in its next Periodic Report;
- iii. take legislative and other measures to protect and promote human rights in conformity with the UN Declaration on Human Rights Defenders, the African Charter, the Kigali

Declaration and other regional and international human rights instruments that guarantee the right to freedom of association and assembly; and

Due Process and Conditions of Detention

54. Namibia should:

- i. Review its policy on public health concerns in prisons with a view to deal with all issues comprehensively including HIV;
- ii. Provide adequate resources to enable correctional service institutions address the rehabilitation needs of offenders;
- iii. Utilise the Commission's Guidelines on the Conditions of Arrests, Police Custody and Pre-trial Detention in Africa (Guidelines) and General Comment No. 3 on the Right to Life, when conducting training to the Police, Correctional Service and other Security Outfits.

Older Persons and Persons with Disabilities

55. Namibia should state how the measures and policies put in place to protect the rights of older persons and persons with disabilities have been effectively implemented in the rural areas.

HIV/AIDS

56. Namibia should:

- i. Provide information and statistics on children orphaned or affected by HIV/AIDS as well as measures taken to support them;
- ii. Develop and implement campaigns that will educate the public on the dangers of seeking treatment from those who claim to treat HIV and to proscribe such persons from making such claims.

Refugees, IDPs and Migrants Workers

57. Namibia should adopt specific legislation which protects the rights of refugees and migrant workers as well as provide for proper management of Refugee and migrant worker issues in the country.

Indigenous Populations/Communities

58. Namibia should:

- i. Include information on human rights abuse against indigenous peoples, and measures taken by the Government to investigate and punish the perpetrators;
- ii. Ensure political participation of all indigenous communities;
- iii. Take urgent measures to address indigenous populations/communities specific needs in relation to land, education, health, employment and access to justice, and further ensure that affirmative action policies and measures adopted in this respect effectively and adequately benefit them.

Prohibition of Torture and Ill-treatment

59. Namibia should:

- i. Expedite the passing of the Draft Bill on Torture into law to ensure protection of all victims of torture and effective prevention and response to torture and ill-treatment in conformity with the Convention Against Torture(CAT) and the Robben Island Guidelines;
- ii. Ensure the dissemination and training of relevant stakeholders on the Robben Island Guidelines with a view to popularise them nationally;
- iii. Establish a database in respect of the numbers of victims of torture, the number of investigations and prosecution in order to determine the prevalence of torture in Police Stations, detention centres and other private places.
- iv. Ensure prompt, impartial investigations and prosecution of perpetrators of torture;

Extractive Industries and Environment

60. Namibia should:

- i. Enact legislation that ensures adequate consultation with affected communities in the process of granting mining licences.
- ii. Put in place the necessary legislative measures to ensure that people/communities living in or near resources rich areas benefit from amongst others; employment opportunities especially in the unskilled and semi-skilled positions, procurement/provision of services, scholarships/bursaries, social services such as schools, clinics and other development projects;
- iii. Provide information on cases of illegal mining activities which do not provide for the management and protection of the environment as well as measures put in place to eradicate illegal mining activities.

Human Rights Institutions

61. Namibia should provide more support to the Office of the Ombudsman.

Cooperation with the Commission

62. Namibia should:

- i. Authorise the Commission and its Special Mechanisms to undertake a promotional mission to the country;
- ii. Provide, information and data on all relevant sectors as well as on activities of institutions with a human rights mandate;
- iii. Translate the African Charter in all local languages and widely disseminate it to the general public for their consumption;
- iv. Inform the Commission, in its next periodic report, of the measures taken to address the above issues of concern and to ensure the effective implementation of the recommendations contained in the present and previous Concluding Observations.

**Adopted by the African Commission on Human and Peoples' Rights at its
20th Extra-Ordinary Session held from 9 to 18 June 2016 in Banjul, Islamic
Republic of The Gambia**