

**REPUBLIC OF NAMIBIA**

EMBASSY/ PERMANENT MISSION OF THE REPUBLIC OF NAMIBIA

**NAMIBIA’S SUBMISSION REGARDING 2021 REPORT ON 20TH ANNIVERSARY OF DDPA**

*12 August 2021*

**1. Description of the role of the DDPA in combating contemporary forms of racism and racial discrimination at the national**

The Namibian Government continues to devise mechanisms aimed at redressing the impact of decades of racial discrimination. Upon the attainment of independence, Government enacted laws and policies geared towards eliminating racism and all forms of racial discrimination.

The primary provision on the prohibition against racism and racial discrimination in Namibia is Article 10 of the Namibian Constitution which provides that all persons shall be equal before the law and that no persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. Article 23 of the Namibian Constitution further explicitly prohibits racial discrimination and apartheid and provides for the advancement of persons who have been socially, economically, or educationally disadvantaged by past discriminatory laws or practices through affirmative action. These foundational provisions are complemented by specific and general legislation and policies, with the prohibition against racial discrimination being mainstreamed into multiple pieces of legislation and policies.

The principal legislation enacted pursuant to the preamble and Articles 10 and 23 of the Namibian Constitution is the Racial Discrimination Prohibition Act, 1991 (Act No. 26 of 1991). This Act was enacted a year after independence almost a decade before the DDPA. The role of the DDPA in Namibia is therefore complementary and it has served as a useful reference in the enactment of subsequent legislation and policies including the Labour Act, 2007, Repeal of Obsolete Laws Act, 2018, Child Care and Protection Act, 2015, National Development Plans, Harambee Prosperity Plan and National Human Rights Plan of Action, to mention a few.

The recommendations of the DDPA continue to be implemented in Namibia in various ways. In 2017 the Office of the Ombudsman conducted an inquiry, under the heading “A nation divided: why do racism and other forms of discrimination still persist after twenty-seven years of Namibian independence.” Amongst the matters that necessitated this inquiry by the Ombudsman was the recommendations of the World Conference Against Racism as contained in the DDPA.

**2. Information on the main challenges faced to integrating the DDPA into national legislation and policies and measures adopted to overcome those challenges.**

The attached report on Namibia’s implementation of the DDPA illustrates that Namibia has comprehensive legal and policy framework prohibiting all forms of racial discrimination and related intolerances. Articles 10 and 23 of the Namibian Constitution read with the Racial Discrimination Prohibition Act, 1991 and many other pieces of legislation reflect the objectives of the DDPA. Challenges faced in meeting these objectives and effectively eliminating the occurrence of racism, racial discrimination and related intolerances therefore manifest as challenges in the implementation of the policy and legislative framework against racism and racial discrimination in Namibia.

The Ombudsman has a constitutional and statutory responsibility to call public and private institutions to order whenever they are guilty of acts of racial discrimination, in the enforcement of fundamental human rights. The Ombudsman may bring cases against persons, Government, and organisations on behalf of any complainant. However, challenges in raising awareness on the right to non-discrimination and the prohibition against racism and racial discrimination, and the available remedies remain. In the few cases on racism or racial discrimination that have been prosecuted, the courts have held that the constitutional commitment to equality, the proscription and eradication of racial discrimination, apartheid and its consequences is deep and unequivocal, and that this commitment is a fundamental aspect of Namibia’s public policy.

In 2017, the Office of the Ombudsman conducted a national inquiry to ascertain the extent to which human rights violations in terms of racism, racial discrimination, discrimination in general, amd tribalism, were still being perpetrated. The report on this inquiry, coupled with cases reported to the police and in the media are indications of the challenges in the implementation of the non-discriminatory laws in Namibia. Despite the criminalisation of racism and racial discrimination, related incidents still occur. In his report, the Ombudsman makes a number of recommendations to the state to address these challenges.

Recently, as part of its efforts in eradicating racism and other forms of discrimination, Namibia has passed the Repeal of Obsolete Laws Act, (Act No. 21 of 2018). This Act was necessitated by various by-laws, regulations, proclamations, and ordinances which remained in force from the colonial and apartheid regimes that were discriminatory on the grounds of race, sex, colour, ethnic origin, religion, creed and social and economic status. These laws had no place in a post-independence era of human rights, equality, and non-discrimination. Additionally, to effectively combat all forms of discrimination, the Office of the Ombudsman launched a National Human Rights Action Plan in 2014. The plan devised mechanisms that are meant to combat bigotry and other forms of racial discrimination.

**3. Achievements and good practices in ensuring the effective implementation of the DDPA at national level**

Please see the attached report on **Namibia’s implementation of the Durban Declaration and Programme of Action**.

In addition to the laws and policies set out in the attached report, the Government is working with the office of the Ombudsman to develop a plan of action on discrimination in the workplace and to finalise work on a draft legislation aimed at combating unfair discrimination, hate speech and harassment. These measures are in response to the recommendations of the Ombudsman following the national inquiry on racism and other forms of discrimination. The Government has ensured that the Office of the Ombudsman is decentralised through regional offices to bring the services of the Ombudsman closer to the people, so far five regional offices (Otjozondjupa, Oshana, Zambezi, Erongo and //Kharas regions) have been operationalised. Financial constraints and lack of resources have halted the progress of broader decentralisation of the Office of the Ombudsman through regional presence. The Ministry of Justice is currently finalising the Ombudsman Bill which will enhance the independence of the Ombudsman and further align it with the Paris Principles.

**4. Information on the design, adoption and implementation of a national action plan combating racism, racial discrimination, xenophobia and related intolerance. If possible, please provide a copy. Information on the main barriers preventing the design, adoption and implementation of such national actions plans**

Combating racism is a constitutional obligation stemming from Chapter 3 of the Namibian Constitution and complemented by Namibia’s obligations arising from international human right law, and voluntary declarations such as the DDPA. Namibia takes a progressive approach to its domestic laws, policies and practices based on the principles of the Namibian Constitution.

**5. Views on how the implementation and visibility of the DDPA can be amplified at the international level, including within the United Nations System**

The Outcome Document of the DDPA review conference contains adequate recommendations on measures to improve and enhance the implementation and visibility of the DDPA. These recommendations should be considered by states and the United Nations mechanisms in the implementation of the DDPA.

The United Nations system should continue to offer technical assistance to states, as the OHCHR has done in the past, to enable them to develop and implement policies and legislation that encompass the objectives of the DDPA. The United Nations system should also avail adequate administrative, technical, and logistical support and resources for the work of the DDPA-related mandate holders, including the new international expert mechanism to further the agenda towards transformative change for racial justice and equality in the context of law enforcement globally as decided in Resolution 47/21 of the Human Rights Council. States should also be assisted through technical assistance to put effective monitoring and follow-up mechanisms in place to allow for informed implementation and legislative reforms when necessary.

**End.**