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HUMAN RIGHTS COMMITTEE

Eighty-first session

SUMMARY RECORD OF THE 2201st MEETING

Held at the Palais Wilson, Geneva,  
on Wednesday, 14 July 2004, at 3 p.m.

Chairperson: Mr. AMOR

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Initial report of Namibia (continued) (CCPR/C/NAM/2003/1; CCPR/C/81/L/NAM)

1. At the invitation of the Chairperson, the members of the delegation of Namibia resumed their places at the Committee table.
2. Mr. NUJOMA (Namibia) said that his delegation would prefer to respond in writing to the remaining questions raised by the Committee at its previous meeting, and to continue with the replies to the list of issues.
3. The CHAIRPERSON said that Namibia could submit additional written information within the three days following the completion of the Committee's consideration.
4. Mr. GLÈLÈ-AHANHANZO said that he was particularly glad to welcome the delegation from Namibia, since States parties from that region did not often submit reports; moreover, the initial report of Namibia was most encouraging. He asked how the Government explained the high proportion of people who never married (report, para. 25); whether the reasons were cultural or legal; and what the Government was doing to remedy the situation.
5. Mr. NUJOMA (Namibia) said that in rural areas customary law marriages were commonplace; the custom of lobola (bride price), which required the groom to make a payment to the bride's family, was often followed. In urban areas marriages tended to be formalized by the church or the courts. Customary law marriages were not registered. The Government was considering empowering the traditional authorities or community courts to register such marriages, which would enable couples to have a valid marriage certificate. Difficulties arose when a husband died intestate: it had been accepted practice for the husband's family to chase the wife and children from the property. Fortunately, traditional leaders had now declared that it should be the wife who took over the property. The system for common law marriage, which provided for the division of property to be decided by the courts, remained in place.
6. The CHAIRPERSON asked whether the delegation considered customary marriage as practised in Namibia to be compatible with human rights, and in particular how polygamy could be reconciled with article 3 of the Covenant.
7. Mr. BHAGWATI asked whether it was correct that the property was confiscated from the wife when her husband died, leaving her without any means of subsistence, that women could not own land, and that teenage girls who fell pregnant were expelled from school as a punishment. He wished to know how the Justice Training Centre was connected with the Human Rights and Documentation Centre, and asked for details about the training of judges.
8. Ms. WEDGWOOD suggested that Namibia should work with the Angolan authorities to try to conduct a complete census of persons who had disappeared. She asked whether, in the light of the HIV/AIDS epidemic, a woman had recourse to a formal legal remedy to contest the

seizure of her deceased husband's property in the event that the traditional authorities did not provide her with adequate protection. She was interested in the effect of polygamy on women and their children; she knew a young woman whose mother had been left penniless when the husband had taken a second wife.

9. Mr. DEPASQUALE asked whether the statistics provided in paragraph 25 of the report were based only on civil law marriages or included customary law marriages, how the State monitored the number of customary law marriages that took place, and how parents' marital status affected any children born to them. He wished to know when the last official census had been conducted and what the gender balance of the population was.

10. Sir Nigel RODLEY said that he wished to acknowledge the important contribution made by the constitutional prohibition of the death penalty in Namibia, which had helped start a trend towards the abolition of the death penalty in Africa. He wished to make it clear that he had not wished to challenge the competence of magistrates to carry out inspections of places of detention; he merely wished to know whether such inspections could be sufficient. He suggested that independent inspections might also include a non-official dimension. He felt sure that any request by Namibia for assistance with capacity-building would be viewed positively by the relevant department of the Office of the High Commissioner for Human Rights.

11. Mr. SOLARI YRIGOYEN considered that the report illustrated Namibia's readiness to meet the concerns of the Committee. Although it did not strictly follow the drafting guidelines, he felt confident that Namibia's second periodic report would take due account of them. It was his understanding that, although some progress had been made, domestic violence remained a major problem. He expressed particular concern about limitations on freedom of expression, in particular in the light of threats that had reportedly been made against the President and several journalists; he requested further information on specific cases. He asked whether there was compulsory military service in Namibia and, if so, whether conscientious objection was permitted, and under what conditions.

12. Mr. KHALIL said that the number of bodies concerned with gender equality that had been established since independence was evidence that Namibia had the right attitude. He wished to know what effect the upgrading of the Department of Women's Affairs to Ministry level would have in practical terms.

13. Mr. NUJOMA (Namibia) said that his delegation would answer all the questions it could immediately and would make prompt written submissions regarding those it could not. The Namibian Bill of Rights took precedence over customary law; consequently any customary law that was incompatible with the principles of human rights was null and void. His Government had been intervening purposefully in order to promote the evolution of customary law to encompass the progressive tenets of human rights law. Under the new procedure for the registration of customary marriages polygamy would be prohibited, the minimum age for marriage would be 18 and the explicit consent of both parties would be required. Under legislation on land reform, women could now buy and own land; indeed, there were many women farmers in Namibia. Some women had been given land under a government scheme to resettle landless families as a progressive move towards empowering the people to tackle the problem of poverty.

14. The punishment of teenage pregnancy by expulsion from school was strictly prohibited, and he did not know of any case of that happening. It was normal for a girl who fell pregnant to leave school to prepare for the birth, but she was then given the opportunity to return to school; the girl's mother would often help with childcare to allow her to do so.

15. The training of judges was undertaken in the Law Faculty of the University of Namibia. Those who had completed five years of legal training, followed by one year equivalent to the bar, could then work for the State or go into private practice; after a certain number of years' experience they could be called to the bench.

16. The Government had set up a joint commission comprising representatives of the police and military to tackle cross-border trafficking in drugs and arms, with the result that the security and political situation had improved considerably and the democratic process was taking root. Namibia and Angola were cooperating in a number of areas, with the two countries learning from one another. Thanks to the work of NGOs that were reporting on cases of disappearance, his Government had received a list of names of disappeared persons. The courts had awarded compensation to those who had been tortured and that had been paid by the Government.

17. Once the bill on the recognition of customary law marriages had been adopted there would be proper records of such marriages, which would make for more accurate statistics. The most recent census had been conducted in 2001 and its results published in 2003. Namibia was pleased to report that the abolition of the death penalty had not contributed to an increase in crime. It had trained six legal officers in total, but training and retention remained a problem, and he would be grateful for any assistance in the area of capacity-building.

18. Legislation prohibiting domestic violence had been enacted, which made it possible for the police or neighbours to intervene and for protection orders to be issued. He believed that domestic violence had declined considerably as a result. Freedom of expression was guaranteed in the Constitution. There were many newspapers in Namibia, and they tended to be white-owned or white-controlled. There had been some civil cases for defamation of character: those who felt aggrieved by a particular article had to take the matter to court, as was permitted in any democratic society. The Government had not taken action against newspapers that had defamed the character of politicians because it recognized the importance of a free press. He had no knowledge of any death threats. There was no compulsory military service in Namibia; persons who wished to join the army could apply to do so. Following its elevation to the status of a Ministry, the Department of Women's Affairs could influence decisions in Cabinet and in Parliament.

19. Mr. KATJAVIVI (Namibia) said that the issue of teenage pregnancy was of great concern to his Government. It was a problem that particularly affected young girls in rural areas and meant that they were unable to complete their schooling. A joint research programme by the University of Namibia and the University of Utrecht in the Netherlands had recently been carried out in order to investigate factors contributing to teenage pregnancy and raise public awareness. The results of the research had been disseminated to government members and public officials. Although it was too early to assess whether the research had had the necessary impact on reducing teenage pregnancy, it had been a practical way of raising awareness, which was particularly important in light of the spread of HIV/AIDS.

20. Since the restoration of peace in Angola, cooperation with Namibia had increased. Efforts were being made across southern Africa as a whole to increase development and combat poverty, and to make the southern African community a vehicle for regional integration and cooperation. One particularly positive development in the area of regional cooperation was the construction of a bridge between Zambia and Namibia. Although progress had also been made in capacity-building, it was evident that much remained to be done. His Government would make every possible effort, but faced restrictions due to limited technical resources, finance and personnel.

21. It was important for Namibia, as a democratic State, to have a free press, although the media must, of course, conform to certain norms. After Namibia had gained independence, an attempt had been made to establish a press council, which aggrieved persons could petition. At the time, the attempt had been unsuccessful, but the founding of such a council might be considered in the future, when Namibia had developed further. Written responses to the Committee's other questions would be forwarded in due course.

22. The CHAIRPERSON invited the members of the delegation of Namibia to respond to questions 12 to 23 of the list of issues.

23. Mr. NUJOMA (Namibia), responding to question 12, said that in fact the statement in paragraph 295 of the report was no longer correct. The Namibian Refugees (Recognition and Control) Act had entered into force in September 2000, giving effect to certain provisions of the United Nations Convention relating to the Status of Refugees, the Protocol to that Convention and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, and allowed persons seeking refugee status to assert their rights under Namibian law.

24. Turning to question 13, he said that prosecutions in Namibia were the preserve of the Prosecutor-General, whose powers and functions were quasi-judicial. The Prosecutor-General was not a political appointee, since he or she was appointed by the President on the recommendation of the Judicial Service Commission. The Prosecutor-General was wholly independent in both law and practice, and no political officer or appointee could assume his or her functions or powers or dictate prosecution procedures. Under the Constitution, arbitrary arrest and detention were prohibited and all persons detained in custody were promptly informed of the grounds for their detention in a language they understood. All persons who were arrested and detained must be brought before the nearest magistrate or judicial officer within 48 hours of their arrest and had the right to apply for bail within that period. All accused persons could, at their first appearance in a lower court or at any time thereafter, apply to that court to be released on bail. Any court could release an accused person on bail when the stipulated sum of money had been transmitted either to the court or to the place of detention where that person was being held. Bail applications could be refused if the court deemed it in the interest of the public or the administration of justice to keep the accused in detention pending his or her trial. In the event that bail was refused or the accused considered the bail conditions unreasonable, he or she was entitled to appeal to the High Court.

25. All accused persons had access to all information pertaining to the charges against them, in order to enable them to prepare their defence. In order to secure a conviction, the State had to prove the guilt of an accused person beyond reasonable doubt. The right to be defended by a

lawyer of one's choice was a constitutional right, of which all undefended accused persons must be informed. In the event that a lower court referred a case to the High Court, and was of the opinion that the accused had insufficient means to engage a defence lawyer, the lower court must recommend that he or she be granted legal aid for the purposes of the trial.

26. The rule against self-incrimination was firmly embedded in Namibia's common law, and had been strengthened by constitutional provisions. Involuntary confessions were prohibited under the Criminal Procedure Act, which provided that confessions by accused persons must have been made freely, voluntarily and with a sound mind. If there was any doubt as to the admissibility of a confession, a trial could take place within the trial and the confession would be deemed admissible or inadmissible by the judicial officer alone. If a court was left in any doubt as to whether or not a confession had been made voluntarily, the confession must be rejected.

27. Although investigations had taken place, his Government had not found any information regarding Namibian citizens who had been forcibly returned from Botswana (question 14). The Ministry of Home Affairs had reported that 1,020 people who had fled to Botswana following an armed attack on Katima Mulilo had been returned to Namibia in 2002 and 2003 under joint arrangements initiated and implemented by the Botswana Government, the Namibian Government and the Office of the United Nations High Commissioner for Refugees. An extradition case involving 13 of the attackers who had fled to Botswana was due to be concluded in the near future.

28. In reply to question 15, he said that under current administrative practice in Namibia, portfolios were the responsibility of individuals, rather than offices. The Ministry of Information and Broadcasting had been under the control of the President as the competent Minister, not the Office of the President. His delegation had no information regarding complaints of violations of the right to freedom of expression. A new Minister had taken charge of the Ministry in May 2003.

29. The sections of the Publications Act referred to in question 16 were unconstitutional and were therefore no longer enforced. A decision would soon be taken to either repeal the Act or bring it into line with the Constitution.

30. Regarding the right of women and children to be protected (question 17), measures had been taken to reduce and eliminate child abuse, and new legislation had been passed with the aim of reducing violence against women and children. A more comprehensive law on combating rape had been introduced since Namibia's previous law on rape had not included provisions on marital rape or the rape of men. The law abolished the common-law rule that a boy under the age of 14 was presumed incapable of sexual intercourse and set new regulations for criminal proceedings relating to rape cases.

31. In connection with question 18, he said that Namibia's Child Status Bill dealt principally with prohibiting discrimination against children born out of wedlock, in particular by discouraging the use of the term "illegitimate". Children born in and out of wedlock had equal rights, and the Bill aimed to emphasize children's rights in terms of the Namibian Constitution and the United Nations Convention on the Rights of the Child. The Cabinet Committee on Legislation was currently conducting consultations on the Bill and it was hoped that it would be passed.

32. Domestic violence (question 19) was a statutory crime in Namibia under the Combating Domestic Violence Act. Since the Act had been passed in 2003, 243 complaints had been received by the police and had given rise to 62 prosecution proceedings. No victims had been compensated.

33. Moving on to question 20, he said that not all public service officials in Namibia were required to be fluent in English. The extent to which English was used varied between public departments and institutions, and therefore knowledge of the language was required only to the extent that it enabled a person to perform the duties required of him. English was a foreign language to approximately 97 per cent of the population.

34. Turning to question 21, he pointed out that Namibia was a secular country and religion did not play a role in public affairs. The Government was not aware of any cases where the enjoyment of human rights had been restricted due to religion. All citizens were free to choose and practise any religion without interference from any person or institution and without restriction of their rights and freedoms.

35. Afrikaaners were not a linguistic minority in Namibia and there was no evidence to suggest that they were in any way deprived of the right to use their language or promote their culture. There was also no evidence that the ethnicity of the Himba had adversely affected the protection of their human rights. Until Namibia had gained independence, the San had been greatly disadvantaged, but since then measures had been taken to promote their welfare and protect their rights. They took part in local government, regional council, parliamentary and presidential elections, and they were represented in Parliament. Their rights to use their language and promote the San culture had not been restricted. Since all persons in Namibia were equal before the law, the Government did not intend to take special measures to protect homosexuals. Any person who felt that their rights had been violated because of their sexuality or beliefs had the right to seek redress according to the law.

36. The task of the Law Reform and Development Commission (question 22) was to carry out research and propose legislation for adoption. Any Ministry proposing a bill for adoption must ensure that it fell within the provisions of the Constitution; the bill must then be certified by the Attorney-General before being tabled before Parliament. The Commission would address the issue of amending laws if necessary. Since 1990, several acts of Parliament had resulted from reports presented by the Commission: the Married Persons Equality Act, under which the husband was no longer legally the head of the household; the Combating of Rape Act; the Maintenance Act; and the Combating of Domestic Violence Act.

37. A Criminal Procedure Amendment Bill, which would probably be promulgated in 2004, would go a long way towards improving conditions for vulnerable witnesses, who were usually women and children. The purpose of the Inheritance and Succession Bill was to amend the Native Administrative Proclamation of 1928, by which widows and children of black citizens were disinherited upon the death of their husband or father, and aspects of customary laws of indigenous communities on inheritance and succession and their administration. The Bill also rectified the provisions in the 1928 Proclamation - declared unconstitutional by the High Court in 2003 - to the effect that the administration of estates of black people must be dealt with by magistrates and that of whites and coloureds by the Master of the High Court.

38. Responding to question 23, he said that human rights training and education was provided by the University of Namibia's Human Rights and Documentation Centre. The Ministry of Justice had also conducted training programmes in conjunction with the Centre, relying on foreign donor assistance, but it was now hampered by a shortage of funds.

39. Mr. SHEARER congratulated the delegation on the quality of the Namibian report. His impression was that Namibia was making very encouraging progress in the realization of human rights.

40. He was pleased to note that the wording of the 1999 Refugees Act closely resembled the wording of the United Nations Convention and Protocol relating to the Status of Refugees and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. He enquired about the number and provenance of seekers of asylum or refugee status. Noting that persons denied refugee status could appeal to a specially constituted Appeal Board, he asked whether there was any further appeal from that Board to the Supreme Court or other courts.

41. With regard to press freedom, he wished to know what proportion of media outlets were government-owned and whether any distinction was made between publicly and privately owned media in terms of registration procedures.

42. He was disappointed to hear that the education and training programmes of the Human Rights and Documentation Centre were being hampered by a lack of funds. Was there any prospect of funds being obtained from the Government or other sources to enable it to continue its valuable work? As there were no plans to set up a national human rights commission, the Centre seemed to be the only independent body, apart from NGOs, engaged in monitoring human rights.

43. According to the delegation, Namibia had no penal code but a Criminal Procedure Act. Offences were therefore defined by legislation, or recourse was had to common law. As human rights issues often arose in connection with summary, police or public order offences, he asked whether such offences were covered by some form of general legislation or by specific legislation. An example was the question as to whether homosexuality was an offence.

44. Mr. KHALIL, thanking the delegation for its extensive reply to question 13 of the list of issues on fair trial, noted that the Judicial Service Commission consisted of the Chief Justice, a judge appointed by the President, the Attorney-General and two nominated members of the legal profession. He wished to know who nominated those two members. He would also appreciate more information about the tenure of judges and the authority that decided on issues such as promotion, which had a direct bearing on the independence of the judiciary.

45. He also requested more details on the practical application of constitutional and legal guarantees of a fair trial, for instance with respect to the presumption of innocence and guarantees of access to counsel. Although article 12 of the Constitution required trials to take place "within a reasonable time, failing which the accused shall be released", a provision described as being intended to bring a sense of urgency to criminal trials, the Committee had received information to the effect that there was a huge backlog of criminal cases in Namibia. For example, of 54,000 cases handled by the lower courts countrywide in 2002, some 32,000



were still pending on 31 December 2002, apparently owing to the lack of qualified judicial personnel. While he understood that it was not easy to find such personnel, especially if qualified nationals chose to emigrate, he nonetheless stressed the importance of giving high priority to action to deal with the backlog.

46. Mr. ANDO asked whether the draft law on children mentioned in paragraph 346 of the report had since been adopted. According to the report, both men and women attained majority at the age of 21 but in customary marriage unions, for which there was no registration requirement, “power relations were dominated by men”. However, responsibility for children born of such unions lay exclusively with the mother or her extended family. He asked for clarification of the wife’s status in civil marriage and customary unions.

47. Noting that reforms of customary law were being discussed, he enquired about the composition and competence of the bodies involved and the extent to which the proposed reforms would protect family rights.

48. According to paragraph 347 of the report, the Constitution provided for equality of the sexes but no legislation had been enacted to implement that principle. In view of the difference in the remuneration of men and women for work of equal value, he asked whether the Government intended to ratify the International Labour Organization’s Equal Remuneration Convention, 1951 (No. 100).

49. With regard to criminal responsibility, paragraph 360 of the report indicated that the State was required to prove criminal intent in the case of children between the ages of 7 and 14 and that children above the age of 14 were criminally liable. He asked whether, in cases where the criminal intent of, say, a 13-year-old boy was proved or where a child aged between 14 and 21 was found guilty of a criminal act, special less rigorous juvenile legislation would apply.

50. He enquired about the status of international humanitarian law, in particular the provisions of the Fourth Geneva Convention and the Additional Protocols thereto relating to the protection of children in time of war, in Namibian domestic legislation. Was there a child soldier problem in Namibia?

51. He was pleased to hear that the Government had repealed the 1996 Export Processing Zone (EPZ) Administration Amendment Act, under which labour law had not been applicable to such zones. Were employees in EPZs now guaranteed the same trade union rights as other workers?

52. He understood that in October 2002 the Ministry of Labour had announced an amendment to the Labour Act to simplify the procedure for settling labour disputes. Had the amendment been enacted and, if not, what was the reason for the delay? Apparently many employers, especially white ones, were hostile to trade unions. He enquired about the reasons for their hostility and asked what the Government was doing to make them more union-friendly or at least to ensure recognition of union rights?

53. With regard to child labour in rural areas, he asked why the Ministry of Labour found it difficult to gather data on child farm labour and what the Government was doing to address the issue.

54. Mr. BHAGWATI, associating himself with Mr. Khalil's questions to the delegation, asked whether judges could be removed by impeachment for misconduct and which authority would investigate the circumstances invoked to justify removal. Had any such action been taken in the past two years?

55. Given that accused persons were to be released in cases where there was an unreasonable delay in bringing them to trial, he asked why so many were still in prison awaiting trial. How many cases had been terminated as a result of the provision in question?

56. He noted that the Electoral Commission was composed of a judge or former judge of the Supreme Court or the High Court and four other persons appointed by the President. What was the basis for the selection of those four persons, who should, of course, be entirely independent of the ruling party? He failed to understand the statement in paragraph 364 of the report to the effect that "under the provisions of the Affirmative Action Act ... currently before Parliament, those previously discriminated against as regards their participation in public affairs would receive favourable treatment". What kind of favourable treatment was contemplated and what stage had the bill reached?

57. He asked what steps were being taken in practice to implement the principle of non-discrimination and what results had been achieved. To what extent had the authorities succeeded in integrating all ethnic and other groups into Namibian society?

58. Mr. YALDEN said that while he had been quite satisfied with the delegation's response to the Committee's question about the requirement of fluency in English, he wondered what was being done in practice to maintain and reinforce the situation of other languages such as Oshiwambo, for example by using them as a medium of instruction in schools.

59. According to the delegation, a great deal was being done to promote the welfare of the San people but a number of NGOs maintained that their situation could still be very bleak. He would welcome more detailed information on government action, possibly in writing in view of the time constraint.

60. The response to the Committee's question about protection for homosexuals had been somewhat cavalier - that Namibia did not intend to take special measures to protect homosexuals any more than it intended to take such measures to protect heterosexuals. He pointed out that heterosexuals were not threatened but that homosexuals in most societies were to some degree at risk and needed protection.

61. Mr. GLÈLÈ-AHANHANZO wished to know whether the State party had undertaken any studies to collect information on active customary practices that were considered to constitute customary law. He asked for information on genital mutilation in Namibia and wondered whether the Government had taken measures to eradicate that practice. The concept of levirate marriages was in conflict with the principles of the Covenant and he invited the delegation to comment on the situation in the reporting State regarding that practice.

62. He asked whether trafficking in children was a problem in the State party and said that he would welcome information on the extent of HIV/AIDS infection. It would be useful to learn of measures taken to combat the pandemic. He asked whether law enforcement officials received training in human rights and what steps had been taken in the field of human rights education and dissemination of the Covenant.

63. Sir Nigel RODLEY said that, while the written replies seemed to suggest that the State party was endowed with a perfectly functioning legal aid system, in practice that did not always appear to be the case. He asked for clarification on the nature of the Namibian legal aid system and wondered what measures had been taken to ensure compliance with the Covenant.

64. He asked how the definition of torture had been incorporated into domestic legislation.

65. Ms. WEDGWOOD asked whether it was true that pregnant girls were often suspended from school during pregnancy. If so, she wondered whether it might not be possible for the Government to ban that practice as it was not justifiable and violated the right to education. In addition, the resulting stigmatization might preclude the return to school once a girl had given birth.

66. She would like to know whether the Government had taken steps to enforce implementation of constitutional provisions that guaranteed speedy trials. In that connection, she suggested that a defendant might apply for legal aid at the time of his or her arraignment to allow for timely processing.

67. She said that she had been surprised at the extremely low percentage of reported cases of domestic violence and asked whether the Government had taken steps to ensure that domestic violence was recognized by the police as a serious offence. Experience had shown that acts of domestic violence were often carried out with impunity, owing in part to a lack of vigilance on the part of the police. In the absence of shelters for battered women, victims of domestic violence were deprived of protection, which might discourage them from reporting a case. She asked whether the establishment of such a facility was planned.

68. It was a known fact that homosexuals were often subjected to harassment or even violence. They therefore warranted special protection and sensitization campaigns were an essential element in alerting the police to the problem.

69. She asked whether the delegation could provide information on the reporting State's comparative success in controlling HIV/AIDS.

70. Mr. SOLARI YRIGOYEN said that, contrary to the delegation's claims, there were reported cases of threats to Namibian journalists. The President himself had reportedly threatened the editor of the Windhoek Observer, Hannes Smith, in reaction to a published article. In November 2003, several members of the Special Field Forces had arrested Paulus Sackaria for an article he had written in the daily paper Die Republikein and threatened to shoot him. Mr. Sackaria had later been released. He asked the delegation to comment.

71. The CHAIRPERSON invited the delegation to reply to the questions raised by Committee members.

72. Mr. NUJOMA (Namibia) said that most asylum-seekers in Namibia were Angolan nationals. More recently, there had also been gradual refugee influxes from the Democratic Republic of the Congo, Zambia and, to a lesser extent, Rwanda and Burundi. In collaboration with the United Nations High Commissioner for Refugees, the Governments of Namibia and Angola had set up a programme to facilitate the voluntary repatriation of Angolan refugees. While some had already returned home, the majority currently remained in Namibia. The Appeal Board was entrusted with status determination procedures for refugees. Recourse against any violation of refugees' rights was available through the courts.

73. Replying to a question on press freedom, he said that all newspapers but one were privately owned and journalists were free to exercise their profession. The case mentioned by the Committee member was rather particular. The editor of the Windhoek Observer, Hannes Smith, had been very vocal in his criticisms of the State. He claimed to have contributed to Namibia's struggle for independence and to have been neglected by the Government afterwards. The Windhoek Observer had recently published an anonymous letter whose author had stated that he wanted the President to die soon so the people in the north could urinate on his grave. Incitement to violence had historically led to serious problems in Africa, as demonstrated in the case of Rwanda, and the danger of such a publication was self-evident. Although the Government certainly discouraged publications of that nature, no action had been taken against Mr. Smith.

74. The Human Rights and Documentation Centre played an important role in the dissemination of information on human rights and international humanitarian law, and he invited donors to come forward and support the Centre in its important task.

75. Namibia was a predominantly Christian country and the public display of homosexual affection caused offence to most people and was therefore discouraged. Given that in Western countries he had visited, he had seen no public display of homosexual affection, he did not see why African countries should be thought to encourage such a practice. Currently, a homosexual act was categorized as a common law offence.

76. Judges had lifetime tenure and could only be removed from office on grounds of misconduct.

77. His Government recognized the problem posed by the significant backlog of court cases. The recently created magistrates' commission was an independent body intended to address problems relating to magistrates' courts. It was thus the commission's responsibility to find a workable solution for the backlog. Additional State funding would be made available if necessary.

78. Replying to a Committee member's question relating to article 23 of the Covenant, he said that Namibia had ratified the Convention on the Rights of the Child and was in the process of drafting a children's status bill that would also include provisions on juveniles.

79. It was increasingly common for young people to choose cohabitation without marriage. Under normal circumstances that practice did not pose a problem. However, in the case of the premature death of either partner, it was often left to the State to determine adequate division of

property and assume guardianship of the children. The Government promoted marriage as the preferable arrangement for cohabitation, where existing legal provisions regulated issues such as property regimes and guardianship of children.

80. The Law Reform and Development Commission had been established to undertake the modernization of domestic legislation and ensure compliance with the Constitution, the Bill of Rights and international human rights instruments to which Namibia was a party. The Commission was composed of seven independent commissioners and cooperated closely with NGOs.

81. The Namibian Constitution provided for gender equality and persons whose rights had been violated could seek redress in the courts or lodge a complaint with the ombudsman.

82. As to its international commitments, Namibia had recently integrated all four Geneva Conventions in its domestic legislation and Namibian soldiers had participated in a number of United Nations peacekeeping operations. Military service in Namibia was voluntary.

83. The Electoral Commission was an independent body whose members were required to be free of any political party allegiances. Elections in Namibia were free and fair, and there had never been a problem with intimidation of voters.

84. His Government did not condone child labour and regular labour inspections were carried out to eliminate that practice. It was true that white farmers in particular were often hostile to labour inspections, but efforts were made to promote the usefulness of such inspections. The introduction of the minimum wage had similarly met with considerable resistance, since agricultural workers in particular had traditionally worked under extremely exploitative conditions. The situation was, however, gradually improving.

85. While English was the official language in Namibia, schools were encouraged to offer classes in other languages. Children most frequently chose Afrikaans, German or one of the vernacular languages.

86. The Government was committed to providing assistance to marginalized groups and encouraged their participation in local, regional and national decision-making bodies. While it was true that the San community was the most vulnerable, government policy was aimed at the alleviation of poverty and increased participation for all sectors of society.

87. The University of Namibia had documented most customary law practices and attempts had been made to unify customary law. However, it was difficult to reconcile the wide range of customary practices.

88. Female genital mutilation did not exist in Namibia. Owing to increasing awareness of the health risks involved in circumcision, in particular infection with HIV/AIDS, that practice was becoming less common. At present, most circumcisions were carried out by a doctor. The Government condemned the practice of circumcision and had taken steps to eradicate it.

The meeting rose at 6 p.m.