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LETTER DATED 7 JUNE 1989 FROM THE PERMANENT REPRESENTATIVE  
OF SOUTH AFRICA TO THE UNITED NATIONS ADDRESSED TO THE  
SECRETARY-GENERAL

I have the honour to enclose for your information and that of the Security Council, the texts of the following documents:

1. Proclamation by the Administrator-General for the Territory of South West Africa (approved by the State President on 6 June 1989):

Repeal of Proclamation R.101 of 1985 of the State President of the Republic of South Africa and Act No. 8 of 1985 of the National Assembly;

2. Proclamation by the Administrator-General for the Territory of South West Africa (approved by the State President on 6 June 1989):

Granting of amnesty to certain persons;

3. Proclamation by the Administrator-General for the Territory of South West Africa (approved by the State President on 6 June 1989):

Repeals of laws which may abridge or inhibit the objective of a free and fair election for a Constituent Assembly, and amendment of certain laws in so far as they may abridge or inhibit such objective.

I have the honour to request that this letter and its enclosures be circulated as a document of the Security Council.

(Signed) Jeremy B. SHEARAR  
Permanent Representative

Enclosure 1

Proclamation by the Administrator-General for the Territory of  
South West Africa

(Approved by the State President on 6 June 1989)

No. AG. \_\_\_\_

1989

REPEAL OF PROCLAMATION R.101 OF 1985 OF THE STATE PRESIDENT OF THE REPUBLIC OF  
SOUTH AFRICA AND ACT NO. 8 OF 1985 OF THE NATIONAL ASSEMBLY

Under the powers vested in me by Proclamation 181 of 19 August 1977, I hereby make  
the laws set out in the Schedule.

(Signed) Louis PIENAAR  
Administrator-General

Windhoek, 6 June 1989

Schedule

Repeal and amendment of laws

1. (1) Subject to the provisions of subsections (2) and (3), the laws specified  
in the annexure are hereby repealed or amended to the extent specified in the third  
column of that annexure.

(2) Subject to the provisions of section 2 any law of the National Assembly  
mentioned in section 2 of the South West Africa Legislative and Executive Authority  
Establishment Proclamation, 1985 (Proclamation R.101 of 1985), which immediately  
before the commencement of this Proclamation was in force in the territory of South  
West Africa and which is not repealed by subsection (1) shall continue to be in  
force in so far as it was so in force until repealed or amended by a competent  
authority.

(3) Anything done before the commencement of this Proclamation by the Cabinet  
specified in section 23 of the said South West Africa Legislative and Executive  
Authority Establishment Proclamation, 1985, or any of its members by virtue of the  
provisions of that Proclamation or any other law shall be deemed to have been done  
by the Administrator-General.

Transfer of certain powers, duties, functions, rights and obligations to the  
Administrator-General

2. As from the commencement of this Proclamation all the powers, duties and  
functions which:

(a) Vested in the Cabinet specified in section 23 of the South West Africa  
Legislative and Executive Authority Establishment Proclamation, 1985  
(Proclamation R.101 of 1985), by virtue of the provisions of that Proclamation on  
the date immediately before the commencement of this Proclamation;

/...

(b) Have been conferred upon or assigned to that Cabinet or any of its members under any other law and which vested in that Cabinet or member on that date; shall vest, together with the rights and obligations connected therewith, in the Administrator-General.

Claims against the State in respect of the Territory of South West Africa

3. (1) Any claim which is arising out of any contract lawfully entered into by or on behalf of the Administrator-General, or out of any delict committed by a servant in the government service mentioned in section 2 of the Government Service Act, 1980 (Act No. 2 of 1980), acting in his capacity within the scope of his authority as such a servant, and which would, if that claim had arisen against a person, be a ground of an action in a competent court shall be cognizable by such court.

(2) (a) In any action or other proceedings instituted by virtue of the provisions of subsection (1) the Administrator-General may be cited as nominal defendant or respondent;

(b) When the Administrator-General is cited in any action or other proceedings as contemplated in paragraph (a), he shall be cited by his official capacity and not by name.

(3) No execution, attachment or like process shall in any such action or proceedings be issued against the nominal defendant or respondent or against any property of which the ownership vests in the Government of the Territory of South West Africa, but the amount (if any) which may be required to satisfy any judgement or order given or made against the nominal defendant or respondent in any such action or proceedings may be paid out of the Central Revenue Fund.

Pending judicial proceedings

4. In any legal proceedings instituted by or against the Cabinet mentioned in section 23 of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985) before the commencement of this Proclamation and in which the Cabinet is a party, the Cabinet shall be deemed to have been replaced by the Administrator-General as a party to those proceedings, and the proceedings may, after such notice, if any, as the court may deem expedient in any particular case, be proceeded with and disposed of by or against the Administrator-General as if the executive authority had at all relevant times been vested in the Administrator-General and the proceedings concerned had been instituted by or against the Administrator-General.

Short title and commencement

5. This Proclamation shall be called the Repeal of the Laws on the National Assembly, the Cabinet and the Constitutional Council, 1989, and shall be deemed to have come into operation on 1 March 1989.

Annexure

Laws repealed or amended  
(Section 1)

No. and year of law	Title of law	Extent to which repealed or amended
Proclamation R.101 of 1985 of the State President of the Republic of South Africa	South West Africa Legislative and Executive Authorities Establishment Proclamation, 1985	Repeal of the whole
Act No. 8 of 1985 of the National Assembly	Constitutional Council Act, 1985	Repeal of the whole
Act No. 19 of 1985 of the National Assembly	Constitutional Council Amendment Act, 1985	Repeal of the whole
Proclamation 222 of 1985 of the State President of South Africa	South West Africa Legislative and Executive Authority Establishment Amendment Proclamation, 1985	Repeal of the whole
Proclamation 25 of 1986 of the State President of South Africa	South West Africa Legislative and Executive Authority Establishment Amendment Proclamation, 1986	Repeal of the whole
Proclamation 157 of 1986 of the State President of South Africa	Second South West Africa Legislative and Executive Authority Establishment Amendment Proclamation, 1986	Repeal of the whole
Act No. 7 of 1986 of the National Assembly	Constitutional Council Amendment Act, 1986	Repeal of the whole
Proclamation R.73 of 1988 of the State President of the Republic of South Africa	South West Africa Legislative and Executive Authority Establishment Amendment Proclamation, 1988	Repeal of the whole

Enclosure 2

Proclamation by the Administrator-General for the Territory of  
South West Africa

(Approved by the State President on 6 June 1989)

No. AG. 13

1989

GRANTING OF AMNESTY TO CERTAIN PERSONS

Under the powers vested in me by Proclamation 181 of 19 August 1977, I hereby make the laws set out in the Schedule.

(Signed) Louis PIENAAR  
Administrator-General

Windhoek, 6 June 1989

Schedule

Definition

1. In this Proclamation, unless the context indicates otherwise, "Territory" means the Territory of South West Africa.

Amnesty and persons in respect of whom it applies

2. (1) No criminal proceedings shall after the date of commencement of this Proclamation be instituted or continued in any court of law against any person referred to in subsections (2) or (3), in respect of any criminal offence committed by such person in the Territory or elsewhere at any time before the said date.

(2) The provisions of subsection (1) shall, subject to the provisions of subsection (3), apply only in respect of a person born in the Territory, or the spouse or child of such a person, who immediately before the date of commencement of this Proclamation was ordinarily resident at any place other than within the territory and who on or after the said date enters the territory at any point of entry specified in the annexure or such other point of entry as may from time to time be designated by the Administrator-General and made known by notice in the Official Gazette, and to whom a document has been issued bearing an endorsement made at the time of such entry by a person in the government service designated by the Administrator-General for that purpose.

(3) The Administrator-General may in his discretion by notice in the Official Gazette direct that the provisions of subsection (1) shall, subject to such conditions as he may determine, apply to any person or category of persons other than a person referred to in subsection (2).

Short title

3. This Proclamation shall be called the Amnesty Proclamation, 1989.

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Annexure

Points of entry for the purpose of section 2 (2):

Windhoek Airport (old terminal building).

Grootfontein Airport.

Ondangwa Airport.

Border control post at: Oshikango;  
Buitepos;  
Venela (Katima Mulilo).

Enclosure 3

Proclamation by the Administrator-General for the Territory  
of South West Africa

(Approved by the State President on 6 June 1989)

No. AG. 14

1989

REPEAL OF LAWS WHICH MAY ABRIDGE OR INHIBIT THE OBJECTIVE OF  
A FREE AND FAIR ELECTION FOR A CONSTITUENT ASSEMBLY, AND  
AMENDMENT OF CERTAIN LAWS IN SO FAR AS THEY MAY ABRIDGE OR  
INHIBIT SUCH OBJECTIVE

WHEREAS a constituent assembly is to be elected for the territory of South  
West Africa in a free and fair election;

AND WHEREAS I am called upon

- to repeal all laws which are of such a discriminatory or restrictive  
nature that they may abridge or inhibit the objective of a free and fair  
election or to amend laws of that nature in so far as they may abridge or  
inhibit that objective; and
- to ensure that all laws which are in force in the territory of South West  
Africa shall not be applied by way of executive or administrative acts or  
measures or otherwise that such objective will thereby be abridged or  
inhibited;

AND WHEREAS I have identified certain laws which may abridge or inhibit such  
objective;

AND WHEREAS I foresee that further laws which may abridge or inhibit such  
objective may still be identified;

THEREFORE, under the powers vested in me by Proclamation 181 of  
19 August 1977, I hereby make the laws set out in the Schedule.

(Signed) Louis PIENAAR  
Administrator-General

Windhoek, 6 June 1989

### Schedule

#### Repeal and amendment of certain laws

1. The laws specified in the annexure which have been identified to be of such a discriminatory or restrictive nature that they may abridge or inhibit the objective of a free and fair election for the constitution of a constituent assembly for the Territory of South West Africa are hereby repealed or amended to the extent indicated in the third column of the annexure.

#### Further repeal or amendment of laws

2. (1) Any person having an interest in the election referred to in section 1 who is of the opinion that any provision of any law which is in force in the Territory of South West Africa is of such a discriminatory or restrictive nature that it may abridge or inhibit the objective referred to in that section may at any time, in writing and specifying the grounds on which his opinion is based, request the Administrator-General to repeal or amend such a law in so far as it may abridge or inhibit such objective.

(2) The Administrator-General shall consider a request made to him under subsection (1) as soon as possible, but not later than 21 days after receipt of such request, and shall:

(a) If he is of the opinion that the law specified in the request is of such a discriminatory or restrictive nature that it may abridge or inhibit the said objective, forthwith repeal or amend, subject to the provisions of section 38 (2) of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968), such a law in so far as that law may in his opinion abridge or inhibit such objective;

(b) If he is of the opinion that the law specified in the request is not of such a discriminatory or restrictive nature, as soon as possible notify the person concerned of his decision and of the reasons for that decision.

#### Application of laws

3. (1) Any person having an interest in the election referred to in section 1 who is of the opinion that any person who:

(a) Is in the government service mentioned in section 2 of the Government Service Act, 1980 (Act No. 2 of 1980);

(b) Is in the employment of a municipality established under section 2 of the Municipal Ordinance, 1963 (Ordinance No. 13 of 1963);

(c) Is in the employment of a village management board established under section 3 of the Village Management Boards Ordinance, 1963 (Ordinance No. 14 of 1963);



(d) Is in the employment of the Peri-Urban Development Board established by section 2 of the Peri-Urban Development Boards Ordinance, 1970 (Ordinance No. 19 of 1970);

(e) Is in the employment of any commission, board, corporation, committee, body or other institution established by or under any law;

has taken any decision or performed any act or has failed to take any decision or to perform any act by virtue of any provision of any law which is in force in the territory of South West Africa or by virtue of the fact that he is in such government service or is so employed, in such a manner that the objective referred to in section 1 is thereby abridged or inhibited, may at any time in writing and specifying the grounds on which his opinion is based, lay the matter before the person holding the office of Ombudsman by virtue of an appointment under section 3 of the Ombudsman for South West Africa Act, 1986 (Act No. 26 of 1986).

(2) The Ombudsman shall mutatis mutandis in accordance with the provisions of the said Ombudsman for the South West Africa Act, 1986, enquire into, and report to the Administrator-General on, any matter laid before him in terms of subsection (1) as if it is a matter that had been laid before him in terms of the said Act, and may make such recommendations as he may deem necessary or expedient in the circumstances.

(3) If it appears from a report submitted in terms of subsection (2) that any decision, act or failure referred to in subsection (1) is of such a nature that it abridges or inhibits or may abridge or inhibit the said objective, the Administrator-General shall take such steps as he may deem necessary or expedient in order to ensure that such objective is not so abridged or inhibited.

(4) The provisions of this section shall not be construed as prohibiting any person from instituting any judicial proceedings in the Supreme Court of South West Africa whereby an order is sought that any decision, act or failure referred to in subsection (1) is reviewed and corrected or set aside or whereby any other relief is granted on the ground thereof that such a decision, act or failure is unlawful.

#### Application of certain laws relating to aliens

4. For the purposes of any law relating to aliens any person who is the child or spouse of any person born in the territory of South West Africa shall be deemed not to be an alien, as referred to in such a law.

#### Short title

5. This Proclamation shall be called the First Law Amendment (Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election) Proclamation, 1989.

Annexure

Laws repealed or amended  
(Section 1)

No. and year of law	Title of law	Extent to which repealed or amended
Proclamation No. 3 of 1917 of the Administrator of the Territory of South West Africa	Control and Treatment of Natives on Mines and Works	Repeal of the whole
Proclamation No. 6 of 1919 of the Administrator of the Territory of South West Africa	Native Locations (Entry of Europeans) Proclamation, 1919	Repeal of the whole
Proclamation No. 6 of 1924 of the Administrator of the Territory of South West Africa	Natives employed on Mines and Works	Repeal of the whole
Proclamation No. 6 of 1925 of the Administrator of the Territory of South West Africa	Native Labour Regulation Proclamation, 1925	Repeal of the whole
Proclamation No. 15 of 1928 of the Administrator of the Territory of South West Africa	Native Administration Proclamation, 1928	(a) Amendment of section 1:  (i) By the deletion in paragraph (b) of the words "found guilty of any political offence, or";  (ii) By the deletion of paragraph (e);  (b) Repeal of section 26, in so far as it relates to section 17 (1) (k) of Proclamation No. 3 of 1917

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No. and year of law	Title of law	Extent to which repealed or amended
Proclamation No. 33 of 1929 of the Administrator of the Territory of South West Africa	Native Labour Regulation (Mines and Works) Proclamation, 1929	Repeal of the whole
Proclamation No. 35 of 1930 of the Administrator of the Territory of South West Africa	Native Labour Regulation (Mines and Works) Amendment Proclamation, 1930	Repeal of the whole
Proclamation No. 27 of 1931 of the Administrator of the Territory of South West Africa	Native Labour Regulation Amendment Proclamation, 1931	Repeal of the whole
Ordinance No. 13 of 1933 of the Legislative Assembly of the Territory of South West Africa	Criminal Law Amendment Ordinance, 1933	Repeal of the whole
Proclamation No. 16 of 1935 of the Administrator of the Territory of South West Africa	Native Labour Regulation (Mines and Works) Amendment Proclamation, 1935	Repeal of the whole
Proclamation No. 51 of 1937 of the Governor-General of the Union of South Africa	South West Africa Affairs Proclamation, 1937	Repeal of the whole
Proclamation No. 4 of 1939 of the Administrator of the Territory of South West Africa	Native Labour Regulations (Mines and Works) Amendment Proclamation, 1939	Repeal of the whole

No. and year of law	Title of law	Extent to which repealed or amended
Act No. 44 of 1950 of the Parliament of the Republic of South Africa	Internal Security Act, 1950	Repeal of the whole
Act No. 3 of 1953 of the Parliament of the Republic of South Africa	Public Safety Act, 1953	Repeal of the whole
Act No. 17 of 1956 of the Parliament of the Republic of South Africa	Riotous Assemblies Act, 1956	(a) Repeal of section 2;  (b) Amendment of section 4 by the deletion of the expression "section 2 (4) or";  (c) Amendment of section 5 by the deletion of the expression "2 or";  (d) Repeal of section 6;  (e) Amendment of section 7:  (i) By the deletion of paragraph (a) of subsection (1);  (ii) By the deletion in paragraph (b) of subsection (1) of the words "(whether or not the gathering has been so prohibited)".

No. and year of law	Title of law	Extent to which repealed or amended
Act No. 44 of 1957 of the Parliament of the Republic of South Africa	Defence Act, 1957	<p>(a) Amendment of section 3 by the deletion of subsection (1);</p> <p>(b) Repeal of chapters IV, V and VI;</p> <p>(c) Amendment of section 56 by the addition of the following subsection:</p> <p style="padding-left: 40px;">"(4) The provisions of this section shall not be construed that any person may be required to undergo training as a cadet.";</p> <p>(d) Repeal of section 57;</p> <p>(e) Repeal of chapter VIII;</p> <p>(f) Repeal of chapter IX, except in so far as it relates to the payment of salaries, pay and allowances of members of auxiliary services who are such members immediately before the commencement of this Proclamation;</p> <p>(g) Repeal of sections 103 <u>bis</u>, 103 <u>ter</u> and 103 <u>quat</u>;</p> <p>(h) Amendment of section 118 by the deletion of paragraph (b) of subsection (1).</p>

No. and year of law	Title of law	Extent to which repealed or amended
Act No. 44 of 1958 of the Parliament of the Republic of South Africa	Post Office Act, 1958	<p data-bbox="976 433 1392 455">Amendment of section 118A:</p> <p data-bbox="976 498 1428 833">(a) By the substitution in subsection (1) for the words "Minister or a Minister who is a member of the State Security Council established under the Security Intelligence and State Security Act, 1972, or an officer delegated thereto by the Minister" of the word "Administrator-General";</p> <p data-bbox="976 870 1444 1050">(b) By the substitution in paragraph (a) of subsection (2) for the words "said State Security Council" of the word "Administrator-General";</p> <p data-bbox="976 1087 1444 1267">(c) By the substitution in paragraph (a) of subsection (3) for the word "A", where it occurs for the first time, of the word "The";</p> <p data-bbox="976 1304 1428 1426">(d) By the insertion of the following paragraph after paragraph (a) of subsection (3):</p> <p data-bbox="1056 1463 1444 1800">"(aA) The functionary shall not issue a direction under subsection (1) for the interception of any postal article, telegram or communication to or from any person who is entitled to vote at any election or to be registered as a</p>

No. and year of law	Title of law	Extent to which repealed or amended
		political party or to be a candidate at such election in order to obtain knowledge of anything in connection with such a person's or candidate's political views or the election campaign of such political party or candidate.";
		(e) By the deletion in paragraph (b) of subsection (3) of the words "or, if he is not available, any other functionary";
		(f) By the substitution in subsection (4) for the word "a", where it occurs for the first time, of the word "the".
Act No. 34 of 1960 of the Parliament of the Republic of South Africa	Unlawful Organizations Act, 1960	Repeal of the whole
Act No. 76 of 1962 of the Parliament of the Republic of South Africa	General Law Amendment Act, 1962	Repeal of the whole
Proclamation No. 148 of 1962 of the State President of the Republic of South Africa	Deportation of Undesirable Persons from South West Africa	Repeal of the whole
Act No. 37 of 1963 of the Parliament of the Republic of South Africa	General Law Amendment Act, 1963	Repeal of sections 3, 4, 5, 6, 7, 14, 15, 16 and 17

No. and year of law	Title of law	Extent to which repealed or amended
Act No. 62 of 1966 of the Parliament of the Republic of South Africa	General Law Amendment Act, 1966	Repeal of sections 3, 4, 5, 6, 22 and 23
Act No. 83 of 1967 of the Parliament of the Republic of South Africa	Terrorism Act, 1967	Repeal of the whole
Ordinance No. 21 of 1975 of the Legislative Assembly for the Territory of South West Africa	Education Ordinance, 1975	Amendment of section 78 by the deletion of subsection (2)
Act No. 42 of 1974 of the Parliament of the Republic of South Africa	Publications Act, 1974	Amendment of section 47 by the deletion in paragraph (e) of subsection (2) of the words "safety of the State"
Proclamation AG. 9 of 1977	Security Districts Proclamation, 1977	Repeal of the whole
Proclamation AG. 26 of 1978	Detention for the Prevention of Political Violence and Intimidation Proclamation, 1978	Repeal of the whole
Proclamation AG. 34 of 1978	Security Districts Amendment Proclamation, 1978	Repeal of the whole
Proclamation AG. 26 of 1979	Detention for the Prevention of Political Violence and Intimidation Amendment Proclamation, 1979	Repeal of the whole
Act No. 9 of 1979 of the National Assembly of South West Africa	Security Districts Amendment Act, 1979	Repeal of the whole
Proclamation AG. 23 of 1979	Security Districts Amendment Proclamation, 1979	Repeal of the whole



No. and year of law	Title of law	Extent to which repealed or amended
Proclamation AG. 27 of 1979	Second Security Districts Amendment Proclamation, 1979	Repeal of the whole
Proclamation AG. 3 of 1980	Amnesty Proclamation, 1980	Repeal of the whole
Proclamation AG. 11 of 1980	Security Districts Amendment Proclamation, 1980	Repeal of the whole
Act No. 20 of 1980 of the National Assembly of South West Africa	Security Districts Amendment Act, 1980	Repeal of the whole
Proclamation AG. 59 of 1980	Second Security Districts Amendment Proclamation, 1980	Repeal of the whole
Proclamation 131 of 1980 of the State President of the Republic of South Africa	Defence Matters in South West Africa Proclamation, 1980	Repeal of the whole
Proclamation 198 of 1980 of the State President of the Republic of South Africa	Second Defence Matters in South West Africa Proclamation 1980	Repeal of the whole
Act No. 20 of 1981 of the National Assembly of South West Africa	Security Districts Amendment Act, 1981	Repeal of the whole
Act No. 22 of 1981 of the National Assembly of South West Africa	Prohibition and Notification of Meetings Act, 1981	Repeal of the whole
Proclamation AG. 14 of 1983	State Council for South West Africa Proclamation, 1983	Repeal of the whole
Proclamation AG. 5 of 1985	Defence Matters in South West Africa Amendment Proclamation, 1985	Repeal of the whole

No. and year of law	Title of law	Extent to which repealed or amended
Proclamation AG. 8 of 1985	Security Districts Amendment Proclamation, 1985	Repeal of the whole
Act No. 33 of 1985 of the National Assembly	Residence of Certain Persons in South West Africa Regulation Act, 1985	<p data-bbox="984 567 1190 590">Amendment of:</p> <p data-bbox="984 629 1323 783">(a) Section 3 by the substitution for paragraph (a) of subsection (2) of the following paragraph:</p> <p data-bbox="1063 822 1448 969">"(a) Who was born in the territory or who is the natural child or the spouse of such a person;"</p> <p data-bbox="984 1009 1448 1218">(b) Section 9 by the substitution in paragraph (a) of subsection (1) for the expression "3 (2) (d) or (e) or any person born in the territory" of the expression "3 (2) (a), (d) or (e)".</p>
Proclamation 204 of 1986 of the State President of the Republic of South Africa	Defence Matters in South West Africa Amendment Proclamation, 1986	Repeal of the whole
Act No. 16 of 1988 of the National Assembly	Protection of Fundamental Rights Act, 1988	<p data-bbox="984 1446 1448 1469">(a) Repeal of section 2; and</p> <p data-bbox="984 1508 1420 1690">(b) Amendment of section 3 by the substitution for the words following on subparagraph (iv) of paragraph (e) of the following words:</p>

No. and year of law	Title of law	Extent to which repealed or amended
		"shall be guilty of an offence and liable on conviction to a fine not exceeding R20,000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.".

