



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
10 December 2024

Original: English

Committee against Torture

Concluding observations on the third periodic report of Namibia*

1. The Committee considered the third periodic report of Namibia¹ at its 2140th and 2143rd meetings,² held on 30 and 31 October 2024, and adopted the present concluding observations at its 2165th meeting, held on 18 November 2024.

A. Introduction

2. Following the State party's acceptance of the simplified reporting procedure on 21 October 2015, the Committee adopted the list of issues prior to submission of the third periodic report of Namibia³ at its sixty-eighth session, held from 11 November to 6 December 2019. However, the State party submitted its third periodic report on 19 May 2021 under the standard reporting procedure, requiring the Committee to adopt a list of issues⁴ in relation to that report at its seventy-ninth session, held from 15 April to 10 May 2024. The Committee regrets that the State party subsequently failed to respond in writing to the list of issues before the public consideration of the periodic report at its eighty-first session.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the delegation of the State party and the responses to and written information on the questions and concerns raised during the consideration of the third periodic report.

B. Positive aspects

4. The Committee welcomes the State party's ratification in 2020 of the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.

5. The Committee also welcomes the adoption of the following legislative measures by the State party:

- (a) The Basic Education Act (No. 3 of 2020), which proscribes all forms of corporal punishment in both public and private schools;
- (b) The Combating of Trafficking in Persons Act (No. 1 of 2018);
- (c) The Whistleblower Protection Act (No. 10 of 2017);
- (d) The Witness Protection Act (No. 11 of 2017).

* Adopted by the Committee at its eighty-first session (28 October–22 November 2024).

¹ CAT/C/NAM/3.

² See CAT/C/SR.2140 and CAT/C/SR.2143.

³ CAT/C/NAM/QPR/3.

⁴ CAT/C/NAM/Q/3.



6. The Committee commends the State party for the initiatives it has taken to modify its policies and procedures in order to ensure better protection of human rights and to implement the Convention, in particular:

- (a) The adoption of the National Action Plan to Combat Trafficking in Persons (2023–2027);
- (b) The adoption of the National Action Plan on Women and Peace and Security (2019–2024);
- (c) The adoption in 2021 of the National Plan to End Violence against Children and Youth;
- (d) The establishment in 2019 of the Children’s Advocate, who plays a vital role in protecting the rights of children and children in conflict with the law, pursuant to the Child Care and Protection Act;
- (e) The adoption in 2018 of the Zero Tolerance for Corporal Punishment Policy.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations, the Committee requested the State party to provide information on the measures taken in follow-up to the recommendations on the adoption of the bill on prevention and combating of torture, conditions of detention and respect for the principle of non-refoulement.⁵ Noting the reminder from the Committee’s Rapporteur for follow-up to concluding observations, dated 20 August 2018,⁶ the Committee regrets that the State party did not provide that information. In the light of the information contained in its third periodic report, the Committee finds that the recommendation contained in paragraph 27 (c) was contested by the State party in that report and that the remainder of the recommendations have not yet been implemented. They are addressed in paragraphs 8, 9, 16, 17, 26 and 27 of the present document.

Criminalization of torture

8. The Committee takes note of the information provided by the State party on the constitutional provision prohibiting torture, the assertion made by the delegation during the dialogue that the Convention is directly applicable and enforceable in its domestic legal system and the information that national courts have discretion to adjudicate and punish perpetrators for acts of torture with imprisonment or a fine under common law. However, the Committee regrets that the State party has still not codified torture as a specific criminal offence, in accordance with article 1 of the Convention, and that the revised Prevention and Combating of Torture Bill has been awaiting parliamentary approval since 2019. The Committee also notes that the above-mentioned bill does not explicitly criminalize attempted torture and complicity or participation in the commission of torture, nor does it include acts of torture committed at the instigation of, or with the consent or acquiescence of, a person other than a public official acting in an official capacity. Furthermore, the Committee observes that the bill does not provide that the crime of torture may not be subject to a statute of limitations and that no mandatory minimum penalty is provided for acts of torture. The Committee regrets that the State party was unable to provide examples of cases in which national courts have convicted individuals for the crime of torture or directly invoked and applied the Convention (arts. 1 and 4).

9. **In the light of the commitment made by the State party at its last universal periodic review,⁷ the Committee urges the State party to adopt the Prevention and Combating of Torture Bill as soon as possible and to ensure that its provisions define**

⁵ CAT/C/NAM/CO/2, paras. 9, 17 (b) and (c), 27 (c) and 46.

⁶ Available at

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FNAM%2F32200&Lang=en.

⁷ A/HRC/48/4/Add.1, para. 3, and A/HRC/48/4, para. 138.67.

torture as a specific offence in its domestic legislation, incorporating all the elements of article 1 of the Convention. The definition should include the notion that torture can be inflicted at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. National legislation should clearly provide for criminal liability for any act constituting complicity or participation in the commission of torture and attempts to commit torture, in accordance with article 4 (1) of the Convention. The State party should also ensure that the offence of torture is not subject to any statute of limitations and that it at least establish minimum penalties for those responsible for the crime of torture. Penalties should be commensurate with the gravity of the offence, in accordance with article 4 (2) of the Convention.

Fundamental legal safeguards

10. While noting that article 12 of the Constitution and chapter 11 of the Criminal Procedure Act guarantee the right to a fair trial and assistance to accused persons, as further established by case law, and additional steps taken by the State party to improve its legal aid system, the Committee remains concerned that the State party's legislation does not explicitly provide for all fundamental legal safeguards, as recommended in the previous concluding observations, and that in practice the procedural rights of all detained persons are not systematically guaranteed from the outset of their deprivation of liberty. In particular, the Committee is concerned about reports indicating shortcomings in guaranteeing the right of detained persons to be informed promptly of the reasons for their arrest, of the charges against them and of their rights in a language that they understand; to request and receive an independent medical examination; to inform a relative or a person of their choice promptly of their detention and whereabouts; to be brought before a judge within the statutory period of 48 hours; to have effective remedies to challenge the lawfulness of their detention; to have effective access to a lawyer, including, if necessary, to legal aid; and to have their deprivation of liberty properly registered at all stages of detention (art. 2).

11. The State party should ensure that all fundamental legal safeguards are guaranteed in law and in practice for all detained persons from the outset of the deprivation of their liberty, in particular the rights to be informed immediately in a language that they understand of the charges against them and their rights: (a) to request and receive a medical examination by an independent doctor, free of charge, or a doctor of their choice; (b) to inform a family member or another person of their choice of their detention; (c) to be brought before a judge within the 48-hour legal limit; (d) to challenge the legality of their detention at any stage of the proceedings; (e) to be assisted by a lawyer of their choice, including during interrogations, and to have access to qualified, independent and free legal aid, if necessary; and (f) to be properly registered at the place of detention at all stages.

Pretrial detention and the criminal justice system

12. The Committee is concerned at reports of prolonged pretrial detention, which routinely exceeds legal limits, with allegedly more than 50 per cent of detainees awaiting trial. It regrets the lack of clarification provided by the State party in this regard. It also notes with concern that, according to the information available to it, the majority of pretrial detainees are held in police detention facilities in poor, dilapidated and severely overcrowded holding cells, currently exceeding actual capacity by 32 per cent. Such facilities are reportedly not adapted to the conditions required for pretrial detention, particularly in view of the inadequate sanitary facilities, food shortages, lack of access to basic healthcare and recreational activities and the lack of outdoor exercise. Furthermore, the Committee notes with concern the reported shortcomings in the criminal justice system, such as the significant delays between arrest and trial due to slow and incomplete investigations, the low usage of alternatives to detention and the inaccessible and unaffordable bail system, a shortage of qualified judges and court staff and the delays in appeals, which contribute to the large backlog of cases of pretrial detainees. In this regard, the Committee notes the State party's commitment during the dialogue to raise awareness of the possibility of reducing bail under certain circumstances, in particular for unrepresented detainees (arts. 2, 11 and 16).

13. The State party should:

(a) **Ensure that the provisions governing pretrial detention are respected, including statutory limits on the duration of pretrial detention, and that it is resorted to only in exceptional circumstances, where strictly necessary and when no other measures can be applied, for limited periods and in accordance with the law;**

(b) **Discontinue the practice of placing pretrial detainees in police detention facilities and take the steps necessary to hold them in appropriate places of detention. Furthermore, the State party should take all measures necessary to improve the detention conditions in police detention facilities;**

(c) **Intensify efforts to reform the criminal justice system, including by increasing judicial capacity in order to reduce the backlog of cases and accelerate judicial proceedings and, whenever feasible, make more use of alternatives to pretrial detention, such as electronic supervision, travel bans, house arrest and bail, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). It should adopt further measures necessary to ensure a more accessible and affordable bail system, where feasible.**

National human rights institution

14. The Committee notes the information provided by the State party that the Ombudsman Bill of 2023 will be submitted to Parliament in 2024 or 2025. According to the information provided by the State party, the new law will separate the Office of the Ombudsman from the Ministry of Justice and establish it as an independent institution in the public service with its own budget, which could address the Committee's concerns about the current financial and operational shortcomings of the institution. However, it remains unclear to the Committee how the new law provides for a clear, transparent and participatory selection and appointment process for the members of the institution and whether it establishes a fixed term of office for the Ombudsman. Furthermore, the Committee notes that during the reporting period, the institution carried out visits to some places of deprivation of liberty, on average twice a year. It regrets, however, that the institution has neither a specific mandate to carry out unrestricted and unannounced visits to all places of deprivation of liberty, as enshrined in the Optional Protocol to the Convention, which the State party has not ratified, nor the financial and human resources to carry out such a mandate on a regular basis, in addition to its regular activities (arts. 2, 11 and 16).

15. The State party should:

(a) **Continue its efforts to adopt legislation to ensure a clear, transparent and participatory process for the selection and appointment of staff of the Office of the Ombudsman, while guaranteeing its independence, diversity and functional autonomy, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and ensure adequate consultation with and participation of relevant actors, including civil society, in the process of appointments relating to national human rights institution officials;**

(b) **Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with the aim of establishing a national preventive mechanism. Meanwhile, the State party should ensure that the Office of the Ombudsman is provided with the financial and human resources necessary to monitor all places of deprivation of liberty, in the light of current international standards,⁸ and ensure that it is authorized by law to conduct unannounced visits and conduct private and confidential interviews with persons deprived of their liberty without witnesses.**

⁸ Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, general comment No. 1 (2024) on the definition and scope of places of deprivation of liberty.

Conditions of detention

16. While taking note of the information provided by the State party with regard to the implementation of a health policy by the Namibian Correctional Service, the construction of a Female Correctional Centre at Windhoek Correctional Facility in 2019 and renovation works in other penitentiary establishments, as well as the introduction of community service as an alternative to a custodial sentence for certain offences, the Committee remains concerned about:

- (a) The lack of strict separation of convicted persons from pretrial detainees in correctional facilities;
- (b) Reported shortages of prison personnel and staff qualified to provide medical and psychological assistance to detainees, although the Committee notes the adoption of initial measures to address these shortcomings in correctional facilities, as explained during the dialogue, and insufficient psychiatric, social and psychological care for detainees with psychosocial or intellectual disabilities, including those held in forensic psychiatric wards;
- (c) The lack of provision of reasonable accommodation for detainees with disabilities and the high rate of HIV/AIDS among detainees, even though the Committee acknowledges the progress made in managing communicable diseases such as tuberculosis, HIV/AIDS and hepatitis;
- (d) The absence of information on steps taken to amend the Correctional Service Act (No. 9 of 2012) in order to explicitly prohibit corporal punishment in detention facilities;
- (e) The imposition of solitary confinement as a disciplinary sanction without guaranteeing adequate procedural safeguards, in accordance with human rights standards, notwithstanding the prison authorities' ongoing efforts to address this issue;
- (f) The limited progress made in addressing the overall lack of meaningful rehabilitation programmes, including educational, recreational and vocational activities for sentenced and remand detainees (arts. 2, 11–13 and 16).

17. **Reiterating its previous recommendations,⁹ the Committee urges the State party:**

- (a) To continue its efforts to improve the material conditions of detention in all correctional facilities, in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), including by avoiding overcrowding in such facilities by implementing appropriate measures, in line with international standards;**
- (b) To ensure the strict separation of detainees awaiting trial from persons serving a sentence;**
- (c) To strengthen its efforts to recruit a sufficient number of prison personnel to maintain security in prisons and to ensure that there are sufficient suitable medical personnel to improve medical services and healthcare in detention centres, including psychological and psychiatric support, to continue its efforts to prevent, detect and treat infectious diseases, notably HIV/AIDS, among the prison population, and to take specific measures to provide persons with disabilities with individualized reasonable accommodation and accessible facilities in prisons;**
- (d) To amend the Correctional Service Act (No. 9 of 2012) in order to explicitly prohibit corporal punishment in all places of deprivation of liberty;**
- (e) To bring its legislation and practice on solitary confinement into line with international standards, particularly rules 43 to 46 of the Nelson Mandela Rules, and to use solitary confinement only in exceptional cases as a last resort, for as short a time as possible (no more than 15 days) and subject to independent review, and only upon authorization by a competent official;**

⁹ CAT/C/NAM/CO/2, paras. 16 and 17.

(f) **To strengthen rehabilitation and reintegration programmes in all places of deprivation of liberty, in particular by promoting educational, recreational, social and employment integration activities.**

Deaths in custody

18. The Committee regrets the lack of complete data provided by the State party on deaths in custody, which limits the Committee's ability to assess the situation accurately. The Committee is also concerned about information received indicating that deaths in custody are insufficiently investigated (arts. 2, 11–14 and 16).

19. **The State party should adopt measures to ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, including by means of forensic examinations, with due regard to the Minnesota Protocol on the Investigation of Potentially Unlawful Death and, where appropriate, apply the corresponding sanctions. The State party should maintain and publish up-to-date and disaggregated data on deaths in all places of detention, their causes and the outcomes of investigations.**

Juvenile justice

20. The Committee notes with concern that the Child Justice Bill has not yet been adopted,¹⁰ and that children between the ages of 7 and 12 can be found criminally responsible, as there is a rebuttable presumption of lack of criminal responsibility. Furthermore, the Committee remains concerned that the Child Justice Bill continues to set the minimum age of criminal responsibility at 12 years, which is below internationally acceptable standards. It is also concerned at reports that children awaiting trial are sometimes held in detention facilities for adults, although it notes the State party's statement to the contrary. The Committee regrets the lack of information on the steps taken to promote non-custodial and non-judicial measures, and on the rehabilitation programmes specifically designed for children in conflict with the law (arts. 2 and 11).

21. **The State party should intensify its efforts to adopt the Child Justice Bill and should raise the minimum age of criminal responsibility to at least 14 years of age and ensure the full implementation of juvenile justice standards, as indicated by the Committee on the Rights of the Child in its general comment No. 24 (2019). The State party should promote non-custodial and non-judicial measures, ensure that imprisonment is used only as a measure of last resort for the shortest possible period of time, and ensure that children in detention are kept strictly separate from adults, in accordance with rules 13.4 and 26.3 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules). The State party should also strengthen existing rehabilitation programmes and develop comprehensive new programmes in line with international standards, allocate more time for meaningful activities encouraging prosocial behaviour and provide children deprived of their liberty with adequate recreational activities conducive to their social integration.**

Investigation and prosecution of acts of torture and ill-treatment, including the excessive use of force

22. While taking into account the information provided in the State party's report on the prosecution, dismissal and suspension of a number of police officers for misconduct, the Committee notes with concern the information indicating that acts falling within the definition of torture contained in article 1 of the Convention, when prosecuted, are often classified as crimes of murder, assault and assault with intent to cause grievous bodily harm, owing to the absence of a specific offence of torture in domestic legislation. Moreover, the Committee is concerned about the allegations received of police violence during peaceful protests and ill-treatment and excessive use of force accompanied by verbal threats and abuse

¹⁰ [CRC/C/NAM/CO/4-6](#), para. 46.

by police officers during apprehension and the taking of statements. Furthermore, the Committee remains concerned about the lack of independence and impartiality of the Internal Investigation Directorate, which deals with complaints against police officers, as that body continues to be placed under the competence of the Namibian Police. The Committee also notes various inconclusive statistics provided by the State party, including 300 complaints lodged against police and prison officers during the reporting period, 34 complaints of torture received by the Office of the Ombudsman between 2015 and 2023 (particularly in the absence of a clear definition of the crime of torture) and 334 cases brought against police officers registered by the Internal Investigation Directorate between 2019 and 2024 for crimes such as attempted murder and assault. The Committee regrets the lack of comprehensive information on the investigations opened and prosecutions carried out by the Office of the Prosecutor-General in this regard, disaggregated by the type of offence, alleged perpetrator involved (prison or police officers) and the outcome, except for the 16 fines imposed on prison officers in cases of assault between 2018 and 2024 (arts. 12–14 and 16).

23. The State party should:

(a) **Ensure that all complaints of torture and ill-treatment, including excessive use of force by the police, are promptly investigated in an impartial manner by an independent body, that there is no institutional or hierarchical relationship between that body's investigators and suspected perpetrators of such acts, and that the suspected perpetrators are duly tried and, if found guilty, punished in a manner that is commensurate with the gravity of their acts. To this end, the State party should take specific steps to guarantee the independence of the Internal Investigation Directorate and the procedure in place to interact with the Office of the Prosecutor-General when conducting criminal and disciplinary investigations of police officers;**

(b) **Ensure that the authorities open investigations on their own initiative whenever there are reasonable grounds to believe that an act of torture and ill-treatment, including excessive use of force by police, has been committed, and that alleged perpetrators are immediately suspended from duty for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged act, to carry out reprisals against the alleged victim or to obstruct the investigation, while also ensuring that the principle of the presumption of innocence is observed;**

(c) **Inform the Committee about the number of complaints received relating to torture and ill-treatment, including excessive use of force by the police, disaggregated by ethnic group, race, age and sex of the victim, and about the criminal and disciplinary investigations resulting from those complaints, including those initiated ex officio, as well as the prosecutions, convictions and criminal and disciplinary sanctions imposed;**

(d) **Continue to strengthen the mandatory and comprehensive training for law enforcement officers on non-coercive interviewing and investigation techniques, including the Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles), introduce advanced investigative tools and establish a system for gathering forensic evidence, as well as training on the use of force, in line with international standards, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, and develop clear guidelines, if necessary, incorporating the principles of lawfulness, necessity and proportionality and the precautionary principle. The State party should also consider incorporating the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests into its training curricula.**

Impunity for past crimes of torture and disappearances

24. The Committee is concerned about the State party's failure to investigate and ensure effective remedy for crimes of torture and disappearances reportedly committed during the liberation struggle and the prescription of prosecution for crimes of torture reportedly committed during the secessionist attempt in the Caprivi region in August 1999 (arts. 2, 12, 13 and 16).

25. **Reiterating the recommendations made in its previous concluding observations,¹¹ the Committee requests the State party to open an investigation into the allegations of torture and disappearances and to end impunity by ensuring that all persons who have committed acts of torture are brought to justice and punished in accordance with the seriousness of their acts, and that victims and their family members receive redress, including medical and psychological assistance, full compensation and the means for full rehabilitation. In this connection, the State party should ensure that acts of torture are not eligible for amnesties or subjected to a statute of limitation. The Committee encourages the State party to consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.**

Non-refoulement, migration and statelessness

26. In the light of its previous recommendation,¹² the Committee regrets the State party's indication that it may not repeal section 24 (1) of the Refugee Recognition and Control Act, 1999, which authorizes the relevant minister, in accordance with a prescribed procedure established in sections 24 and 26 of the Act, to request the expulsion of a recognized refugee or protected person if it is in the interests of, inter alia, national security, decency or morality. In addition, the Committee is concerned that no legislative action has been taken to remove the offence of sodomy as a ground for refusal of entry from schedule 1 of the Immigration Control Act. The Committee notes the State party's assertion that no deportation notices have been issued to refugees or asylum-seekers in Namibia and that 1,096 applications for asylum were received and 642 granted between 2016 and 2019. Nevertheless, it regrets that the State party failed to provide statistics on the number of asylum-seekers whose applications were accepted on the grounds that they had been tortured or might be in danger of being tortured if returned to their country of origin. Moreover, the Committee is concerned about the lack of comprehensive information on the investigations opened into allegations of past sexual abuse and exploitation of refugees in the Osire refugee settlement and the reported poor material and living conditions in the settlement. While noting the measures taken to address statelessness, including the implementation of the national action plan and the birth registration outreach programmes, notably in rural areas, the Committee is concerned about reports indicating the continued existence of de facto stateless persons living in tribal and traditional communities. The Committee regrets that, despite the regional consultations carried out by the State party, it has not taken steps to ratify the international instruments that provide a framework for the international protection of refugees and stateless persons. The Committee notes, however, the ongoing efforts to develop national legislation to address the situation of stateless persons (arts. 3, 12–14 and 16).

27. The State party should:

(a) **Repeal section 24 (1) of the Refugee Recognition and Control Act, 1999, to fulfil all of its obligations under article 3 of the Convention, thereby guaranteeing the absolute principle of non-refoulement, and remove the crime of sodomy from schedule 1 of the Immigration Control Act, 1993;**

(b) **Update and maintain complete statistical data, disaggregated by gender, age and country of origin, on asylum-seekers, refugees, stateless persons and migrants in Namibia, including information on expulsion and deportation procedures and repatriations conducted on a voluntary basis;**

(c) **Carry out prompt, impartial, independent and effective investigations into all allegations of sexual abuse and exploitation of refugees at the Osire refugee settlement, prosecute all persons responsible for such acts and provide redress to victims, as well as strengthening its efforts to improve the material and living conditions in the settlement and guaranteeing access to basic rights and adequate social, educational, mental and physical health services;**

(d) **Consider acceding to the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969, the Convention**

¹¹ CAT/C/NAM/CO/2, para. 23.

¹² Ibid., para. 27.

relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961 and ensure that the currently drafted national legislation on stateless persons is in line with international standards.

Gender-based violence

28. The Committee takes note of the legislative and policy measures adopted by the State party to combat gender-based violence, including the adoption of the Combating of Domestic Violence Amendment Act and the Combating of Rape Amendment Act in 2022, the establishment of special courts for gender-based violence offences and the capacity-building activities undertaken. However, the prevalence of violence against women, including rape, domestic violence, sexual exploitation and abuse of children and violence against women from Indigenous communities, remains extremely high, as has been pointed out by other treaty bodies,¹³ and is a challenge acknowledged by the State party. The Committee is concerned that the root causes of such violence have not yet been adequately addressed and that the National Plan of Action on Gender-Based Violence (2019–2023) reportedly lacked adequate resources for its implementation and did not include a comprehensive gender perspective. Also of concern is the limited access to protection orders, shelters and psychosocial support for women victims, particularly in rural areas, although the Committee takes note of the increase in the number of victims who were placed in shelters for support in 2021 and 2022. The Committee notes with interest the information provided by the delegation on the reported decrease in the number of cases of gender-based violence in 2023 as a result of its ongoing efforts and on the development of a new gender policy for the period 2024–2030 (arts. 2, 12–14 and 16).

29. The State party should ensure that all acts of gender-based violence, in particular those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims and survivors or their families receive redress, including adequate compensation and rehabilitation, and have access to legal assistance, safe shelters and the necessary medical care and psychosocial support. The State party should continue its efforts to promote education and awareness-raising among the general public regarding gender-based violence, with a specific focus on outreach in rural areas and among men and boys, in order to combat the social stigma experienced by survivors of gender-based violence, and build trust between survivors and the relevant authorities. The State party should also continue adopting the measures necessary to encourage and facilitate the lodging of complaints by victims and to address effectively the barriers that may prevent women from reporting acts of violence against them or from seeking protection measures, and provide safe and adequately funded shelters for victims of gender-based violence throughout the country, including in rural and remote areas. It should ensure that its new gender policy for 2024 to 2030 addresses the root causes of, and the challenges identified in combating, sexual and gender-based violence, including domestic violence, applying a gender perspective in full compliance with international standards.

Harmful traditional practices

30. The Committee remains concerned that the harmful traditional practice of child marriage under customary law persists in some communities, despite its prohibition in article 226 of the Child Care and Protection Act and the awareness-raising campaigns conducted by regional gender liaison officers and social workers. The Committee also notes the pending Marriage Bill, which contains a prohibition against child marriage aimed at further strengthening the normative framework (art. 16).

31. The State party should strictly enforce its legislation on the legal prohibition of child marriage and address the harmful consequences of that practice. It should

¹³ [CRC/C/NAM/CO/4-6](#), paras. 23 and 24; [CERD/C/NAM/CO/16-18](#), paras. 26 and 27; and [CEDAW/C/NAM/CO/6](#), paras. 27 and 28.

continue conducting awareness-raising activities for the general public and the media, as well as the affected communities.

Violence against individuals on the basis of their actual or perceived sexual orientation or gender identity

32. The Committee is concerned about the criminalization of consensual sexual relations between persons of the same sex under the offence of sodomy (schedule 1 and section 269 of the Criminal Procedure Act), although it notes with interest the High Court decision of 21 June 2024, currently under appeal, which declared those provisions unconstitutional. The Committee is also concerned about the reported persistent violence, including harassment, hate speech and hate crimes, against individuals on the basis of their actual or perceived sexual orientation or gender identity, some of which have resulted in death, the underreporting of such cases and the lack of effective investigation and prosecution of such cases as hate crimes (arts. 2 and 16).

33. **The State party should take effective measures to prevent violence on the basis of actual or perceived sexual orientation or gender identity, provide safety and security to lesbian, gay, bisexual, transgender and intersex persons and ensure that all acts of violence, including those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are investigated and prosecuted promptly, effectively and impartially, that perpetrators are brought to justice and that victims are provided with redress. The State party should also collect detailed information and statistics on the number and type of crimes committed on the grounds of actual or perceived sexual orientation or gender identity, the administrative and judicial measures taken to investigate and prosecute such crimes and the sentences imposed. The Committee recommends that the State party repeal laws criminalizing sodomy and other related offences with a view to decriminalizing consensual same-sex relations.**

Corporal punishment of children

34. While welcoming the proscription of all of forms of corporal punishment in both public and private schools, the Committee is concerned about the lack of an explicit prohibition of corporal punishment, however light, of children in the home and the continued acceptance of corporal punishment of children in other settings.¹⁴ While noting the information provided by the State party that such a prohibition is included in section 228 (1) of the Child Care and Protection Act, which obliges persons with parental responsibility to respect the child's constitutional right to dignity, the Committee underlines the important deterrent and educational effect of an explicit prohibition of the use of corporal punishment by parents against their children (arts. 2 and 16).

35. **The Committee recommends that the State party ban corporal punishment in the home in its national legislation and conduct awareness-raising and educational campaigns for the general public to inform everyone of the prohibition of corporal punishment against children and its consequences.**

Trafficking in persons

36. While acknowledging the State party's legislative and policy efforts to combat trafficking in persons, the Committee remains concerned that the phenomenon is still prevalent in Namibia, notably for the purposes of sexual and labour exploitation.¹⁵ The Committee is also concerned about the low rate of reported cases (only 40 between 2014 and 2019), the slow progress in investigating these cases and the low number of convictions (only 2 between 2014 and 2019). Furthermore, the Committee is concerned about the lack of resources allocated to effectively implement the National Action Plan to Combat Trafficking in Persons (arts. 2, 12–14 and 16).

¹⁴ [CRC/C/NAM/CO/4-6](#), para. 25.

¹⁵ [CCPR/C/NAM/CO/3](#), paras. 20 and 21; and [CRC/C/NAM/CO/4-6](#), para. 45.

37. **The State party should reinforce its measures to combat and prevent all forms of trafficking in persons, ensuring that such cases are thoroughly investigated, that suspected perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims obtain full redress, including adequate compensation and rehabilitation. The State party should strengthen its efforts to encourage reporting of cases by raising awareness among the general public of the risks of trafficking, and train judges, law enforcement officials and immigration and border control officers in the early identification of victims of trafficking and their referral to appropriate social and legal services. The State party should also ensure the full implementation of its National Action Plan to Combat Trafficking in Persons and monitor and evaluate the results, so as to build lessons learned into its future initiatives. Furthermore, the State party should compile and provide the Committee with updated statistical data on the number of complaints, investigations, prosecutions, convictions and sentences recorded in cases of trafficking in persons.**

Psychiatric institutions

38. The Committee notes with concern the outdated Mental Health Act of 1973, which allows for excessive use of mechanical means of restraint and seclusion in psychiatric hospitals. Nevertheless, the Committee appreciates the information provided by the representatives of the State party during the dialogue on the current proposal for a new Mental Health Bill, which is expected to prioritize non-coercive de-escalation engagement techniques, rather than coercive methods, and to explicitly prohibit the forced sterilization of women with disabilities (art. 16).

39. **The Committee urges the State party to accelerate the process of reforming its mental health legislation to bring it into compliance with international human rights standards, including prohibiting the use of physical and pharmacological restraints and seclusion, forced sterilization and the involuntary institutionalization of persons with psychosocial or intellectual disabilities merely on the basis of impairment. The State party should ensure that the use of restraints and seclusion is limited only to circumstances in which it is absolutely necessary and proportionate, subject to strict regulation, and for the shortest possible period of time to prevent the risk of harm to the individual concerned or to others, and only when all other reasonable options would fail to satisfactorily contain that risk. The State party should promote deinstitutionalization in favour of alternative and community-based care services and other forms of outpatient treatment programmes.**

Redress

40. The Committee notes the information provided by the State party that victims of torture and ill-treatment can lodge civil claims and compensation for damages and seek treatment in a health facility. Nevertheless, the Committee observes that the State party provided information about only 167 civil claims for unlawful arrest and detention lodged between 2015 and 2019, out of which only 9 claims were successful, and about only 52 civil claims involving human rights violations settled by the Namibian Police Force between 2016 and 2023, without identifying their nature. It also notes with concern that the State party has failed to report on reparation programmes for victims of torture or ill-treatment, including those providing specialized treatment for trauma and other forms of rehabilitation. Furthermore, the Committee takes note of the ongoing follow-up negotiations on the recognition of the genocide committed against Ovaherero and Nama peoples in the former German South-West Africa colony between 1904 and 1908 as well as the Joint Declaration made by Germany and Namibia in June 2021, particularly with respect to ensuring access to truth and redress in line with the Convention (art. 14).

41. **The State party should ensure that, in law and in practice, all victims of torture and ill-treatment can obtain redress, including by ensuring an enforceable right to fair and adequate compensation and the means for as full a rehabilitation as possible. The State party should provide the Committee with comprehensive information on redress, including means of rehabilitation, ordered by the courts or other State bodies and actually provided to victims of torture or ill-treatment. In addition, the State party**

should provide information on any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, as well as the allocation of adequate resources to ensure the effective functioning of such programmes. The Committee encourages the State party to implement the recommendations of the Committee on the Elimination of Racial Discrimination with respect to the right to redress for victims of historical injustices, including torture.¹⁶

Training

42. While taking into account the training project on prevention of torture conducted by the Office of the Ombudsman for law enforcement agencies, the development of the Prevention of Torture Training Manual for Police Officers, the provision on compulsory training foreseen in the Prevention and Combating of Torture Bill and the Namibian Correctional Service human rights curriculum, which includes the Nelson Mandela Rules and provisions on the use of force and weapons, the Committee remains concerned about the lack of information on mandatory initial and in-service training delivered during the reporting period to all public officials, including judges, prosecutors and military personnel, who may be involved in the custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment. In addition, the Committee regrets not having received comprehensive information on whether training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised, is provided to medical professionals dealing with persons deprived of their liberty (art. 10).

43. **The State party should:**

(a) **Continue to develop and implement mandatory initial and in-service training programmes to ensure that all public officials, in particular law enforcement officers, military personnel, judicial officials, prison staff and others who may be involved in the custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment, are well acquainted with the provisions of the Convention, especially the absolute prohibition of torture, and that they are fully aware that violations will not be tolerated and will be investigated and that those responsible will be prosecuted and, if convicted, appropriately punished;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify and report cases of torture and ill-treatment, in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised;**

(c) **Develop and apply a methodology for assessing the effectiveness of educational and training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation and investigation of such acts, as well as the prosecution of those responsible.**

Universal jurisdiction

44. The Committee is concerned about the lack of legal provisions, including in the Prevention and Combating of Torture Bill, that would enable the State party to establish universal jurisdiction over the crime of torture (art. 5).

45. **The State party should establish universal jurisdiction over crimes of torture, in accordance with article 5 (2) of the Convention, and incorporate the relevant provision in the Prevention and Combating of Torture Bill before its adoption.**

Follow-up procedure

46. **The Committee requests the State party to provide, by 22 November 2025, information on follow-up to the Committee's recommendations on the criminalization of torture, pretrial detention and the criminal justice system, and conditions of**

¹⁶ CERD/C/NAM/CO/16-18, paras. 30 and 31.

detention (see paras. 9, 13 (a) and (b) and 17 (c) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, the remaining recommendations in the present concluding observations.

Other issues

47. The Committee encourages the State party to consider making the declarations under articles 21 and 22 of the Convention recognizing the competence of the Committee to receive and consider inter-State communications and communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by the State party of the provisions of the Convention.

48. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.

49. The Committee requests the State party to submit its next periodic report, which will be its fourth, by 22 November 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its fourth periodic report under article 19 of the Convention.
