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Freedom House

Freedom in the World 2019 - Namibia

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Overview:

Namibia is a multiparty democracy, though the ruling party, SWAPO, has been in power since independence. Protections for civil liberties are generally robust. Minority ethnic groups accuse the government of favoring the majority Ovambo in allocating services. Nomadic San people suffer from poverty and marginalization. Other human rights concerns include the criminalization of same-sex sexual relations under colonial-era laws, and discrimination against women under customary law and other traditional practices.

Key Developments:

Key Developments in 2018:

- In May, two former SWAPO members of Parliament were among a group of defendants found guilty of defrauding the Social Security Commission. However, both men were sentenced to a fine of N\$60,000 (US\$4,400) or three years imprisonment, which allowed them to avoid jail time for their roles in the crime.
- In June, the Namibia Central Intelligence Service (NCIS) lost a court case to prevent the *Patriot* newspaper from reporting on allegedly corrupt land deals involving former intelligence officials.
- In October, Namibia held the long-awaited Second National Land Conference, which resulted in the passage of 40 resolutions, including a resolution that calls for allowing expropriation of agricultural land owned by foreigners with "just compensation," and another that allows expropriation of underused land owned by Namibians.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 29 / 40 (−1)

A. ELECTORAL PROCESS: 10 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

The president is both chief of state and head of government, and is directly elected for up to two five-year terms. In the 2014 election, Hage Geingob defeated numerous rivals for the presidency, winning 87 percent of the vote. The polls were deemed competitive and credible by election observers, though some logistical glitches with electronic voting machines were reported.

A2. Were the current national legislative representatives elected through free and fair elections? 3 / 4

The National Council, the upper chamber of the bicameral Parliament, is comprised of 42 seats, with members appointed by regional councils for six-year terms. The lower house, the National Assembly, has 96 seats filled by popular election for five-year terms using party-list proportional representation.

The 2014 polls were seen as competitive and credible by election observers, though some logistical glitches with electronic voting machines were reported. SWAPO won 80 percent of the vote, giving it 77 National Assembly seats. The Democratic Turnhalle Alliance of Namibia (DTA) followed, winning 4.8 percent of the vote for 5 seats, and eight additional parties won the remaining seats. While voter intimidation was not reported, opposition parties had some difficulty achieving visibility due to the dominance of SWAPO, which some observers said was reinforced by provisions of the Third Constitutional Amendment.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 3 / 4

The 2014 polls were the first held under the Third Constitutional Amendment, which increased the number of members in Namibia's bicameral legislature by 40 percent. SWAPO was criticized for rushing passage of the new law, which was seen to be in its favor given its dominant position in politics, in advance of the elections. However, the electoral framework is otherwise robust and well implemented.

B. POLITICAL PLURALISM AND PARTICIPATION: 11 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4

Political parties may form and operate freely. However, candidate registration fees can place an undue burden on smaller parties with limited resources. In 2015, ahead of regional elections, opposition parties claimed it would have cost them nearly N\$300,000 (US\$21,500) to run candidates in all of the country's 121 constituencies. Political parties represented in Parliament receive funding annually from the government based on the number of seats they hold, which disproportionately benefits SWAPO due to its dominant position in Parliament.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 2 / 4

Opposition parties may freely compete in elections and generally do not encounter intimidation or harassment during election campaigns. However, in practice the opposition is weak and fragmented, and does not pose any significant threat to SWAPO's political dominance. SWAPO's significant financial advantage over opposition parties further consolidates its control of the political system, making it difficult for rival parties to compete effectively in elections.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4

People are generally able to express their political choices without any undue influence from actors that are not democratically accountable. However, the continued domination of SWAPO—an ideologically diverse "big tent" party whose energies are often consumed by intraparty disputes—limits voters' ability to directly express a preference for particular policies.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

The constitution guarantees political rights for all, and the government makes efforts to uphold these rights. Namibia has made great strides in increasing women's representation in Parliament; women now hold 48 of 104 seats in the National Assembly, making it more likely that women's interests and voices are robustly represented in the political sphere. Nevertheless, societal attitudes can discourage women from running for political office.

Almost all of the country's ethnic groups are represented in Parliament and in senior political positions. However, members of the ethnic San have faced restrictions on their political rights due to widespread discrimination and marginalization. Members of the LGBT (lesbian, gay, bisexual, and transgender) community face societal discrimination that hampers their ability to openly advocate for their interests.

C. FUNCTIONING OF GOVERNMENT: 8 / 12 (–1)

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

Namibia has a functioning system of democracy with a government and a national legislature that freely execute duties and determine policies. However, 2014 reforms increased executive power, including by permitting new president-appointed members of Parliament and limits on the National Council's power to review certain bills.

C2. Are safeguards against official corruption strong and effective? 3 / 4

Namibia has a sound legal framework for combating corruption. However, anticorruption laws are inconsistently enforced. The Anti-Corruption Commission (ACC) has moved slowly on cases involving high-profile public officials, and in 2017, its head was accused of ignoring recommendations by ACC staff for reforms that could have increased the commission's independence and effectiveness.

In March 2018, Minister of Education, Arts, and Culture Katrina Hanse-Himarwa was charged with corruption for allegedly providing government funds for housing to relatives during her time as governor of the Hardap Region. Hanse-Himarwa's trial began in October and was ongoing at year's end. In May, two former SWAPO members of Parliament were among a group of defendants found guilty of defrauding the Social Security Commission. However, both men were sentenced to a fine of N\$60,000 (US\$4,400) or three years imprisonment, which allowed them to avoid jail time for their roles in the crime.

C3. Does the government operate with openness and transparency? 2 / 4 (-1)

Namibia lacks access-to-information laws and does not have an institutional culture of transparency. Accessing information from many government agencies remains a challenge. There is not frequent disclosure of private interests by public representatives. A veil of secrecy exists over the extractive industry, military spending, State House upgrades, and state security infrastructure.

At times, the government has withheld relevant information that is potentially sensitive or controversial from the public, often on national security grounds. In September 2018, the prosecutor general informed the *Namibian* newspaper that records of the closed-door trial proceedings of an official from the NCIS, who killed himself during his trial in August, would remain secret unless the High Court ordered the information released. The government claimed that the trial of the official, who was accused of fraud and corruption, was held secretly due to national security concerns.

After delaying the release of a list of beneficiaries from a controversial land resettlement program, the Ministry of Land Reform finally produced the document in August, following threats by the ombudsman to sue the ministry for the information.

Score Change: The score declined from 3 to 2 because the continued absence of an access to information law reduces transparency, and government agencies are largely unresponsive to requests for information.

CIVIL LIBERTIES: 46 / 60 (-1)

D. FREEDOM OF EXPRESSION AND BELIEF: 14 / 16

D1. Are there free and independent media? 3 / 4

Namibia's constitution guarantees media freedom and freedom of expression. In practice, journalists face few legal restrictions and may generally work without risking their personal safety. While self-censorship is common in state media, private media remains critical of the government. State officials, including President Geingob, have frequently spoken harshly about the media, which, according to observers, is intended to intimidate journalists.

In June 2018, the NCIS lost a court case to prevent the *Patriot* newspaper from reporting on allegedly corrupt land deals involving former intelligence officials. The NCIS claimed that publishing the story would threaten national security, but rights activists viewed the High Court ruling as an important step forward for press freedom and transparency.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

Religious freedom is generally respected in practice.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4

Academic freedom is guaranteed by law and generally respected in practice.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

Freedom of expression is guaranteed in law and generally observed in practice. Social media is increasingly used to express political dissent. The 2009 Communications Act allows the government to conduct surveillance on various forms of communication without a warrant. In early 2018, the *Namibian* published a series of articles stating that there was evidence of widespread surveillance of online and mobile communications by authorities, and that the government has purchased a significant trove of surveillance technology from abroad.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 11 / 12 (-1)

E1. Is there freedom of assembly? 3 / 4 (-1)

Freedom of assembly is guaranteed in law and is usually observed in practice, but can be restricted during a national emergency. Authorities occasionally prevent peaceful protests from taking place, and have increasingly used violence to disperse demonstrators. In August 2018, student protesters in Windhoek, who had marched to the Higher Education Ministry to hand over a petition demanding government funding for tuition fees, were assaulted by police. The police claimed that the force applied was in response to demonstrators acting in a "disorderly" manner, which the student activists denied.

In July, police arrested several members of the Caprivi Concerned Group, which advocates for secession of the Zambezi Region, while they were attempting to hold a public meeting near Katima Mulilo. Six members of the group were subsequently charged with sedition and several other crimes, but the charges were quickly dropped.

Score Change: The score declined from 4 to 3 due to aggressive police responses to protests in 2018, including assaults on peaceful protesters.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 4 / 4

Human rights groups generally operate without interference, though government leaders sometimes use public platforms to attack civil society.

E3. Is there freedom for trade unions and similar professional or labor organizations? 4 / 4

Constitutionally guaranteed union rights are respected and observed in practice, though essential public-sector workers do not have the right to strike. Collective bargaining is not widely practiced outside the mining, construction, agriculture, and public-service industries. Union membership has declined in recent years, with 25 percent of the labor force unionized.

F. RULE OF LAW: 11 / 16

F1. Is there an independent judiciary? 3 / 4

The constitution provides for an independent judiciary. In practice, the separation of powers is observed and judges are not frequently subject to undue influence. The establishment of the Office of the Judiciary separate from the Ministry of Justice in late 2015 affords the former administrative and financial independence. However, the judiciary is underresourced. Judges are appointed by the president upon the recommendation of the Judicial Service Commission, a body whose composition the president has some influence over.

F2. Does due process prevail in civil and criminal matters? 3 / 4

Namibia's constitution protects the rule of law and the right to a fair trial. However, equal access to justice is obstructed by many factors, including economic and geographic barriers, a shortage of public defenders, and delays and backlogs in the court system that can last up to a decade.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 3 / 4

Namibia is free from war and insurgencies. However, police brutality is a problem, and several incidents of abuse of suspects in custody during the year concerned rights activists. In October 2018, the human rights group NamRights reported that a suspected poacher died from injuries allegedly sustained when he was beaten during a police interrogation. The police promised a full investigation into the man's death. Namibia currently lacks an antitorture law.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

While the constitution guarantees the right to equality and prohibits discrimination, challenges remain. The indigenous San people face widespread societal discrimination and remain marginalized, and San languages are not taught in schools.

Same-sex sexual relations remain criminalized (though the prohibition is not enforced) and women face discrimination under customary law and traditional societal practices. However, discrimination against people living with albinism is reportedly decreasing due to government and NGO programs to educate the public about the condition, as well as support from the government for the albino population.

A government job-placement program for "struggle kids"—children born or raised in exile during the independence movement from South Africa—has drawn criticism for favoring SWAPO members and Ovambo speakers.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 10 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

Freedom of movement is a constitutionally guaranteed right generally observed in practice. However, in 2017, the Helao Nafidi town council passed a resolution that placed restrictions on the free movement of Angolan and other non-Namibian traders.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 3 / 4

Private property rights are guaranteed in law and the constitution prohibits expropriation without compensation. There are no legal barriers to women's access to land. However, customary norms regarding inheritance procedures and property rights limit women. The Helao Nafidi town council restrictions implemented in 2017 mandate that non-Namibian traders may only engage in business three days a week.

Land rights remain a contentious issue, and a government land resettlement program faced intense public scrutiny and allegations that certain groups are favored. The long-awaited Second National Land Conference took place in October 2018. Forty resolutions were passed, including a resolution that allows expropriation of agricultural land owned by foreigners with "just compensation," and another that allows expropriation of underused land owned by Namibians. None of the resolutions passed are legally binding.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Not all groups enjoy social freedoms. LGBT people face harassment, discrimination, and attacks. Same-sex marriages are not recognized and many churches have indicated their unwillingness to recognize or perform them, though the state ombudsman in 2016 expressed support for the legalization of same-sex marriage. Rates of gender-based violence are high. Forced and child marriages do occur. Approximately 7 percent of girls are married before they turn 18.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

The constitution outlaws slavery or servitude. However, forced child labor is rife in the agricultural sector and in people's homes. Human trafficking is a challenge, and Namibia still lacks minimum standards required to confront it. In March 2018, President Geingob signed the Combating of Trafficking in Persons Act, but the law had not yet become operational at year's end.

ecoi.net summary:

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