

Namibia

FREE

77
/100

<u>Political Rights</u>	31 /40
<u>Civil Liberties</u>	46 /60

LAST YEAR'S SCORE & STATUS**77 /100 Free**

Global freedom statuses are calculated on a weighted scale. See the methodology.

**TOP**

Overview

While Namibia is a multiparty democracy, the South West Africa People's Organisation (SWAPO) has ruled since independence. Protections for civil liberties are generally robust. Minority ethnic groups accuse the government of favoring the majority Ovambo ethnic group in allocating services. The nomadic San people experience disproportionate poverty and societal marginalization. Other human rights concerns include police brutality, and discrimination against women and LGBT+ people.

Key Developments in 2022

- In January, the High Court ruled against two same-sex couples seeking legal recognition of their marriages conducted outside of the country. In March, a same-sex couple scored a partial victory when the Supreme Court ordered the government to reconsider their appeal for residence rights.
- In May, police forcibly dispersed a public protest related to counterfeit goods in Windhoek's China Town and attacked several journalists covering the protest. In September, a victim of police brutality was awarded 145,000 Namibian dollars (US\$8,900) in damages in a judgement that condemned the pervasiveness of police assaults and referred the case to the prosecutor general for further action.
- In July, the Namibian Supreme Court overturned a defamation ruling in which Namibia Media Holdings and one of its former editors had been ordered to pay damages and the cost of the suit to a game farmer and his company over a 2017 news article that claimed elephants at his farm were kept in "deplorable" conditions.

Political Rights

A. Electoral Process

A1 0-4 pts

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 2019, Hage Geingob of the South West Africa People's Organisation (SWAPO) was reelected with 56.3 percent of the vote. While international observers deemed polls peaceful and results credible, concerns were raised about electronic voting machines' lack of a verifiable paper trail, long waiting times, and delays in the counting and release of results.

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections?

4/4

The National Council, the upper chamber of the bicameral parliament, has 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.

SWAPO won a lower-house majority of 63 seats (65.5 percent of the vote) in the 2019 elections. The Popular Democratic Movement (PDM) won 16 seats, while the Landless People's Movement (LPM) won 4. International observers considered the polls competitive and credible, though concerns were raised about several aspects of the electoral process.

SWAPO also won a majority of votes cast in the regional elections in November 2020. In December 2020, the Electoral Court accepted a motion from the Electoral Commission of Namibia (ECN) to reject some results due to some irregularities flagged by the opposition All People's Party (APP) and ordered a recount in September 2021 for the Ndonga Linena constituency. The SWAPO candidate won the recount. In October 2021, President Geingob encouraged party supporters to retaliate against the ECN for permitting the rejection of the initial results.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?

3/4

The electoral framework is robust and generally well implemented. The 2019 polls were declared free and fair by international election observers, although they raised concerns over other aspects of the electoral process. Controversy around the use of electronic machines dominated the 2019 elections, with some party leaders expressing doubt about the results for want of a verifiable paper trail. The use of electronic voting machines without paper trails was ruled invalid in February 2020, and the ECN confirmed in June 2022 that the next elections will use paper ballots. In July 2020, the High Court ruled that the ECN acted unconstitutionally when it removed names from a PDM candidate list, and the ECN and PDM lost the case on appeal in May 2022.

In March 2022, the ECN stated it aimed to increase its operational independence during the launch of its five-year strategic plan for 2022–27. In April, opposition parties objected to the appointment of Gerson Sindano to the ECN on procedural grounds and because of his well-known political affiliation to the ruling SWAPO party.

B. Political Pluralism and Participation

B1 0-4 pts

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, and registration requirements are not onerous. However, candidate-registration fees and campaign financing can place an undue burden on smaller parties. Parties that hold parliamentary seats receive annual public support based on parliamentary representation, which disproportionately benefits SWAPO. Small parties lack financial resources or broad nationwide membership bases, impeding their ability to mobilize support.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections?

3/4

Opposition parties may freely compete in elections and generally do not encounter intimidation or harassment during election campaigns. Although opposition parties have historically been regarded as weak and fragmented, they gained several seats in the 2019 elections, dislodging SWAPO from the two-thirds majority it held since 2014. Eleven of the 15 parties that registered for the 2019 parliamentary elections secured seats. Opposition parties also did well in the November 2020 local and regional elections, though only six parties won regional seats.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?

3/4

People are generally able to express their political choices without undue influence from external actors, including religious or traditional leaders. However, the historic dominance of SWAPO—an ideologically diverse party that often faces intraparty disputes—limits voters' ability to directly express a preference for particular policies.

B4 0-4 pts

Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities?

3/4

The constitution guarantees political rights for all. Nevertheless, women are often discouraged from running for office, and few contested the November 2020 regional and local elections. Women comprise 49 percent of the members of local authorities and municipalities—attributable to legislated gender quotas at those levels—and between 19 and 23 percent of the candidates in regional elections. Women hold 46 of 96 National Assembly seats but are less represented in the National Council, where 6 of the 42 parliamentarians are female.

Almost all ethnic groups are represented in parliament and senior political positions. However, members of the San ethnic group have faced restrictions on their political rights due to widespread discrimination and marginalization. LGBT+ people face discrimination that hampers their ability to openly advocate for their interests.

C. Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government?

3/4

The democratically elected government freely determines policies. However, 2014 reforms increased executive power, including by adding parliamentarians who are appointed by the president and by limiting the National Council's power to review certain bills. Concerns have been raised in the past over the Chinese Communist Party's influence and ties to Namibian political elites.

Parliament's ineffectiveness when passing legislation other than the national budget has raised concern. Bills including the Combating of Domestic Violence Amendment Act and Access to Information (ATI) law, which parliament finally passed in September and October 2022, respectively, have sometimes faced lengthy finalization processes. During the September session, critics highlighted the absenteeism of members of parliament.

The government suspended parliamentary sessions during parts of 2020 and 2021 due to the COVID-19 pandemic. In July 2021, SWAPO pushed through appointments for the leadership of the Anti-Corruption Commission (ACC) and the ECN during brief windows of time when parliament was not suspended. Opposition parties claimed the appointments were performed illegally, though their bid for the High Court overturn the appointments failed.

C2 0-4 pts

Are safeguards against official corruption strong and effective?

3/4

While Namibia has a sound legal anticorruption framework, concerns remain that anticorruption laws are inconsistently enforced, and difficulties in accessing government-held information present barriers to gathering evidence. The Witness Protection Act and the Whistleblower Protection Act, signed in 2017, have not been enforced.

Light sentences in high-profile cases and low prosecution and conviction rates undermine the work of the ACC, which is underfunded. In June 2022, the ACC reported that of the 730 cases it referred for prosecution since its inception there have been 184 convictions, and 242 cases are still active and before the courts.

In 2021, the National Assembly approved the president's extension of the ACC head, Paulus Noa, for another five years, a decision heavily criticized by those who believed that his 15-year tenure had been largely ineffective. Critics continue to question the appointment process, which lacks transparency, and Noa's efficiency. Nevertheless, in 2022 the ACC continued its investigation into the Fishrot scandal, in which six former ministers and other officials were accused of allegedly colluding with an Icelandic fishing company seeking preferential access to Namibian waters, with suspects in custody still awaiting trial.

C3 0-4 pts

Does the government operate with openness and transparency?	2 / 4
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Parliament passed an Access to Information (ATI) bill in 2022, which the president signed in November. The budget process lacks transparency, but the government is reported to be exploring more opportunities for public involvement.

In its April 2022 Namibian procurement tracker, the Institute for Public Policy Research (IPPR) criticized the lack of transparency in the 2021 awarding of a multibillion-dollar project to Hyphen Hydrogen Energy, a company that had only existed for six months. The government was accused of not publishing all the information about the award required by the 2017 Public Procurement Regulations, but stood by its processes.

A veil of secrecy exists over the extractive industry, military spending, statehouse upgrades, state security infrastructure, and private funding of political parties.

Political parties sometimes fail to submit financial statements to the ECN as prescribed by the Electoral Act, limiting insight into how they use public funds.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?

3/4

The constitution guarantees media freedom and freedom of expression. In practice, journalists face few legal restrictions and generally work without risking their personal safety. The judiciary has been credited with protecting media freedoms, and in July 2022, the Namibian Supreme Court overturned a defamation ruling against Namibia Media Holdings. The company and one of its former editors had been ordered to pay damages and the cost of the suit to a game farmer and his company over a 2017 news article that claimed elephants at his farm were kept in “deplorable” conditions.

In May police fired rubber bullets at several journalists who were covering a protest at China Town in Windhoek. Earlier, in February, two freelance investigative reporters were briefly detained for allegedly trespassing at a private farm while investigating the alleged illegal sale of pregnant wild elephants, purchased at a controversial government auction, to unidentified groups in Dubai.

While self-censorship is common in state media, private media remain critical of the government. Journalists faced impediments during the COVID-19 pandemic. In September 2021, the labor minister, Utoni Nujoma, filed a defamation suit against the owners of the weekly *Windhoek Observer* and its editor over a 2019 article alleging he had extorted money from a farmer in 2017 and 2018. The case was referred for mediation.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private?	4/4
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Religious freedom is generally respected in practice.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination?	4/4
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Academic freedom is guaranteed by law and generally respected in practice.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?	3/4
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Freedom of expression is legally guaranteed and generally observed in practice. However, Namibia lacks cyberharassment or data-protection legislation. The lack of legislative responses to communication technology-facilitated abuse leaves victims of misogynistic online abuse—in particular prominent women, journalists, girls, the LGBT+ community, and other minority groups—without adequate legal recourse. The government reportedly maintains significant capabilities to conduct surveillance on citizens, which may discourage people from expressing dissent. In March 2021, the government published new regulations of the 2009 Communications Act that would enable interception of telecommunications by national intelligence and the police.

Defamation laws may also discourage free speech. In February 2022, Namibia's first lady won 250,000 Namibian dollars (US\$15,300) in a defamation suit against an opposition party figure, Abed Hishoono, who was accused of spreading false and defamatory content about her. She later issued a statement in June saying she forgave him and would not seek compensation after he showed remorse. In August, former education minister Katrina Hanse-Himarwa was sued for defamation over Facebook comments she made in 2021 about a former SWAPO councilor; the two settled out of court in October.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?	3/4
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Freedom of assembly is legally guaranteed and is usually observed in practice. Restrictions on public gatherings that were imposed during the government's state of emergency to address the coronavirus have been lifted. In May 2022, police forcibly dispersed a protest related to counterfeit goods in Windhoek's China Town, and several journalists were reportedly injured when police fired rubber bullets at them. The police also arrested two activists—Michael Amushelelo of the Namibia Economic Freedom Fighters (NEFF) and Dimbulukeni Nauyoma of the Affirmative Repositioning (AR) movement—and others who were part of the protest for inciting public violence, though charges were provisionally withdrawn in November. In September the High Court condemned the prevalence of police assaults against citizens in *Owoses v. Government of the Republic of Namibia* and referred the case to the prosecutor general for further action.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?	4/4
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Human rights groups generally operate without interference, though government leaders sometimes use public platforms to criticize civil society groups.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations?	4/4
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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 public-service sector and the mining, construction, and agriculture industries. Union membership has declined in recent years, with 25 percent of the labor force unionized. In 2022, labor unions accused the labor minister of being reluctant to resolve several issues, including amendments to the Labor Amendment Act and the introduction of a national minimum wage, a national pension, and medical aid.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?	3/4
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By law and in practice, the separation of powers is observed, and judges are not frequently subject to undue influence. However, the judiciary lacks adequate resources and is vulnerable to budget cuts. Judges are appointed by the president upon the recommendation of the Judicial Service Commission, which the president has some influence over. Public access to court documents and proceedings has been restricted in recent years; in 2019, documents implicating the president and justice minister in a fraud case were kept out of public view by a court ruling. Women are underrepresented in the judiciary.

F2 0-4 pts

Does due process prevail in civil and criminal matters?	3/4
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The rule of law and fair-trial rights are constitutionally protected, though equal access to justice is obstructed by factors including economic and geographic barriers, a shortage of public defenders, a lack of resources, and case backlogs. In October 2021, the High Court overturned a 2018 corruption indictment of two men, including National Assembly member Tobie Aupindi, on the grounds that they did not receive a fair trial. In February 2022, High Court judges set aside a

2019 conviction and reprimanded a new magistrate for failing to inform a defendant of his rights and explain court processes to him. In September 2022, the High Court sent a case related to the Fishrot bribery scandal back to the Windhoek Magistrate's Court for review after finding irregularities in its court proceedings.

Some cases were postponed, and services were severely affected in lower courts due to government-imposed public health restrictions intended to curb the spread of COVID-19.

F3 0-4 pts

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 and the abuse of suspects in custody are problems. There is no independent police oversight mechanism as investigations are conducted by an Internal Investigation Directorate. In the *Owoses v. Government of the Republic of Namibia* case, the High Court awarded \$145,000 Namibian dollars in damages (US\$8,900) to the plaintiff, condemned the pervasiveness of police assaults and lack of accountability, and referred the case to the prosecutor general for further action.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population?

2/4

While the constitution prohibits discrimination, challenges remain. The San people face widespread discrimination and marginalization and lack land access. In October 2021, Amnesty International issued a report condemning the government's "rampant discrimination" against the San communities in the Omaheke and Otjozondjupa regions. In September 2022, the Deputy Minister of Marginalised People observed in an interview that a dedicated ministry could better serve the needs of San communities and people living with disabilities.

Same-sex sexual relations remain criminalized, though the prohibition is not enforced. LGBT+ people, people living with disabilities, and women face

widespread discrimination. In January 2022 the High Court ruled against two gay couples seeking legal recognition of their foreign marriages in Namibia, but acknowledged that they had been discriminated against based on sexual orientation. In March, the Supreme Court ruled that the government must reconsider its decision to deny residency rights to the same-sex partner of a Namibian man.

In September, the Namibian Correctional Services defended its controversial decision to demand pregnancy tests from recruits for its sports teams.

In October 2020, an organization representing members of the Baster and Zambesi groups noted widespread discrimination in a report to the Office of the UN High Commissioner for Human Rights (OHCHR).

G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?

3/4

Freedom of movement is constitutionally guaranteed and generally observed in practice. However, it was restricted when authorities imposed COVID-19-related restrictions when a state of emergency was declared in March 2020.

The illegal fencing of communal land, condemned by the Commission of Inquiry into Ancestral Land Rights in January 2021, and its impact on freedom of movement and access to resources found in communal areas remains a challenge. In September 2022, President Geingob registered his concern with traditional leaders over this corrupt and illegal practice and urged them to address it.

In March 2022, the Supreme Court directed a government ministry to reconsider an appeal for residency rights from a member of a same-sex couple. The applicant claimed that he should not need a visa when entering the country because he permanently resides there with his same-sex partner, whom he married outside of Namibia.

G2 0-4 pts

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 largely respected in practice. The constitution prohibits expropriation without compensation. There are no legal barriers to women's access to land. However, customs regarding inheritance procedures and property rights limit women.

Land rights remain a contentious and unresolved issue. The Commission of Inquiry into Ancestral Land Rights and Restitution presented its report to President Geingob in July 2020. The Indigenous Hai//om group sued the government in an effort to gain recognition for its ancestral rights to land in Etosha National Park, but ultimately lost on appeal in the Supreme Court in March 2022. In June, the Land Reform Ministry rejected the Affirmative Repositioning (AR) movement's petition calling for a ban on foreign nationals owning land; the ministry reported that it had plans draft legislation on the issue.

G3 0-4 pts

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

Same-sex marriages are not recognized, and many churches have in the past indicated their unwillingness to recognize or perform them. In January 2022 the High Court ruled against two same-sex couples seeking legal recognition of their marriages concluded outside of Namibia, but the court acknowledged that they had been discriminated against. In another case, the Supreme Court directed the government to reconsider the residency application of a same-sex couple living in Namibia.

Rates of gender-based violence (GBV) and rape of minors are high. In September 2022, parliament passed the Combating of Domestic Violence Amendment Act, which was criticized for excluding same-sex couples. The Combating of Rape

Amendment Act, which introduces harsher sentences for rape, was promulgated in October. Namibia lacks appropriate cybercrime and data protection laws to address online GBV.

Abortion is only available for those in medical danger and for survivors of rape and incest. Forced and child marriages occur; 7 percent of girls are married before turning 18. A 2020 study by the Ministry of Gender Equality found that the Kavango region had the highest rate of child marriage among girls, at 40 percent, followed by Kunene region, at 24 percent.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic exploitation?

2/4

Slavery and servitude are constitutionally outlawed. However, forced child labor is prevalent in the agricultural sector and in domestic settings. San and Zemba children are especially at risk.

Human trafficking remains a challenge. In April 2022 police reported a syndicate had smuggled 26 Namibian women to Oman. In September, a Congolese national was sentenced to three years in prison for smuggling migrants into Namibia. The US State Department reported in its 2022 *Trafficking in Persons Report* that Namibia fully met minimum antitrafficking standards.



On Namibia

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