

Democracy under siege

A socio-legal perspective

Context



SLAPPED ... A commotion ensued at a Swapo meeting at Mix settlement near Windhoek on Saturday, after a resident called out the party for not delivering on promises to develop the area.

Source, The Namibian, 8/4/24

MUSHELENGA SUMMONS EU AND GERMAN ENVOYS OVER ITULA MEETING



Africa Press, 11/4/24

Namibia

FREE

77
/100

Political Rights

31 /40

Civil Liberties

46 /60

LAST YEAR'S SCORE & STATUS

77 /100 ● Free

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



Governance Impact Factors:

- ❑ Corruption levels
- ❑ Rule of law
- ❑ Press freedom, and
- ❑ Political rights.

Country	Grade (A-E)	World Economics Governance Index	Corruption Levels Index	Rule of Law Index	Press Freedom Index	Political Rights Index
Mauritius	B	69.3	56.7	72.1	59.0	90.7
Namibia	B	69.1	54.4	62.6	80.2	79.1

Grade definitions:

A: Very good

B: Good

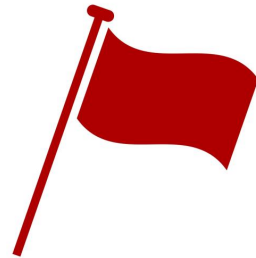
C: Average

D: Poor

E: Very poor

The colonial legacy

- Chosen route for dealing the legacies of colonial past troubling
- Genocide
- Land dispossession (ancestral land)
- Lubango dungeon saga
- Perverted definition of a veteran (Veterans Act 2 of 2008)
- Historical injustices unresolved
- Similarly, transitional justice issues
- Bygones can't be bygones!



The ticking time bomb...

- ❑ Poverty, unemployment, and inequality
- ❑ One of the biggest threats to democracy
- ❑ A hungry person is an angry person
- ❑ Both literally (hunger) and figuratively (need & wants)
- ❑ Per the African Charter:

‘[...] the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights.’ (Preamble)



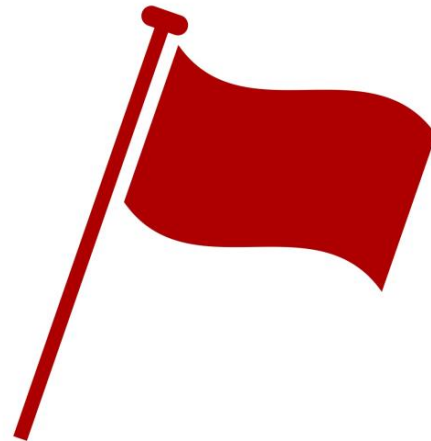
Contemporary forms of discrimination

- ❑ Racism constitutionally prohibited (Art.10(2))
- ❑ Racial Discrimination Prohibition Act 26 of 1991
- ❑ Question: Did racism end in 1990?
- ❑ The scourge of racism not only persist but continually assumes new forms
- ❑ IHRL recognises contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- ❑ Namibia: state-actioned xenophobia (speeding passing of Private Citizens Acts)
- ❑ The elephant in the room = Systemic/institutional/structural discrimination
- ❑ **“Systemic discrimination can be understood as legal rules, policies, practices or predominant cultural attitudes in either the public or private sector which create relative disadvantages for some groups, and privileges for other groups.” – UN CESCR, GM 20, par. 12.**

Systemic Discrimination

Central Procurement Board of Namibia (CPBN)

Namibia Revenue Agency



PUBLIC ANNOUNCEMENT

Dr. John B. Nakuta, 13 April 2024, Swakopmund

Worrying emerging trends

- Attacking the civic space
- Observing a worrying trends to slow, hamper, or prevent civil society organisation activities
- Through legislation, administrative processes, and even criminalisation
- Think:
 - 1) Prohibition on 21 March 2023, Independence Day youth unemployment march
 - 2) Cops Demand Payment From Taxis To Oversee Protest – The Namibian, 27 July 2022
 - 3) Suspension of the managing editor of New Era (Editorial = ‘No confidence in secretive judiciary)
 - 4) Proposed Public Gathering Bill (2024)



The Paradox

- ❑ Per Keulder and Wiese: **“Namibia is a democracy without democrats (2002).”**
- ❑ Incongruence between the supply and demand of democracy.
- ❑ Supply outstripped demand
- ❑ Consultation, participation, transparency, access to information and accountability are **Not Nice-to-Haves**
- ❑ Neither are they privileges
- ❑ **Procedural obligations** in decision-making processes under IHRL + key features of democracy
- ❑ Think, amongst others:
 - i) Green Hydron project
 - ii) Hyphen MOU
 - iii) Joint Declaration



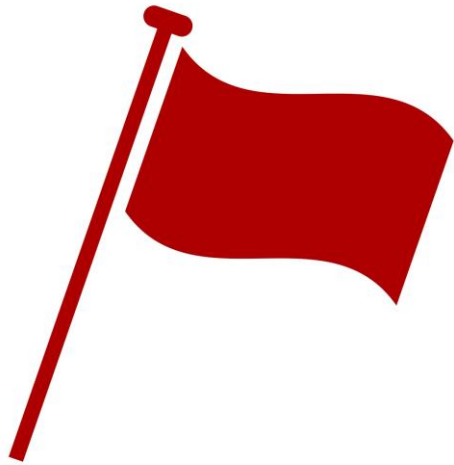
Independence of State institutions

- State institutions supporting constitutional democracy
- Think:
 - 1) ECN
 - 2) The Ombudsman
 - 3) ACC
 - 4) Auditor General
 - 5) **Environmental Commission**
- Institutional and financial/budgetary independence are suspect
- Invariably affects the effectiveness of these institution
- Question= by default or design?



Democracy under siege?

- Some worrying happenings
- Have may serious consequences if not urgently addressed



- Lower level of worrisomeness
- But serious enough to be concerned about



To Conclude...

