

Human rights in Namibia: 10 years after Security Council  
resolution 435

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I am honoured by your invitation to present a paper at this conference especially at this time. It came as no surprise to me, that the Black Sash has planned a special focus on Human Rights as your way of commemorating the 40th anniversary of the Universal Declaration of Human Rights. Your organisation has a record of fighting for Justice, Peace and Democracy in South Africa. You have a history of commitment to guarding the Integrity of God's Creation. Your decision to focus on Human Rights is a logical outflow of this commitment because the denial of human rights in this country affects the moral fibre of the people, all of them. Forty years in the history of a people can also be seen within the context of the life of two, even three generations - which have been robbed of the opportunity to develop to their full potential and to contribute to the development of a just and peaceful society precisely because their fundamental human rights are not guaranteed. In such a situation, organisations like yours have a very important role to play in conscientising people in this country about the dangers of the suppression of Human Rights. Your contribution now, will not only allow you to participate as you do in the present struggle, but it will also qualify your organisation for participation in the difficult task of reconciliation and the creation of a new society.

Most Namibians however, will not be aware of this anniversary because it is overshadowed by two major events in our history: the 10th anniversary of United Nations Security Council Resolution 435 and the 10th anniversary of the Cassinga massacre. Whilst both have something to do with the whole question of Human Rights, for Namibians, the connection between these two events has left a deep and painful scar. Not just because almost 600 Namibians died at Cassinga, but because the SADF raid on the Cassinga refugee camp took place at the time that South Africa was heavily engaged in negotiations leading up to the adoption of UN SCR 435 in August 1978. The people who died at Cassinga, left Namibia precisely because they were denied every conceivable human right in the country of their birth and decided to search for it somewhere else. Regrettably the same forces responsible for their plight, were instrumental in robbing them of their right to life.

The actions of the SADF, at that time, of crucial importance as an indication of the double-tracked strategy which formed an integral part of the policies South Africa was to pursue for the next 10 years. On the one hand SA presented the facade of being ready to negotiate on Namibia's future whilst simultaneously creating obstacles to a negotiated settlement on Namibia's future, by engaging on wholesale aggression against the Namibian

people and the destabilisation of its neighbours. In other words, the denial of Fundamental Human Rights is not only limited to the people of South Africa, but to the people of the SADC countries as well, and most of all to the Namibians - a people who under the Sacred Trust of The League of Nations were put in the care of the SA Government to be prepared for independence irrespective of race, colour or creed and in accordance one would assume, with universally accepted Human Rights. And instead have suffered the steady corrosion of what little rights they may have had.

Let me attempt to lead you through the last 10 years in the life of the Namibian people. IN doing this, I will endeavour to concentrate only on the major events because an in-depth analysis of Human Rights Violations in Namibia during this period necessitates a seminar with various participants from all walks of life, perpetrators and victims, if one wants to do justice to the history of our struggle.

#### Legalised Denials of Human Rights:

1979: Within a few months of agreeing to the implementation of UN SCR 435, South Africa's representative in Namibia proclaimed legislation which in terms of the denial of fundamental human rights surpassed anything which existed previously.

AG 26 was introduced providing for detention without trial for a period of up to one year. This was immediately implemented by way of a big spate of detentions.

As if AG 26 was not draconic enough, it was followed by AG 9 (later amended), providing for detention without trial for a period of up to 30 days - extended at will for "as long as the arresting officer is not satisfied himself with the answers given during interrogation." The extent to which this new proviso can be abused was shown last year when relatives of the detained Swapo leaders appealed to the courts for the release of their husbands. The detainees were released because the courts established that they had not even been questioned. In other words, the arresting officer did not even take the trouble to "satisfy himself with answers".

These two proclamations are usually exclusively for the detention of members of the liberation movements or so-called non-combatants. In the case of trained cadres of PLAN or "terrorists" in the military jargon, section 6 of the Terrorism Act is applied.

1980 heralded more wide-reaching extremes. The Defence Act was applied and here one needs to mention only section 103 Ter, which accords the SA Minister of Law and Order the right to declare any proceedings void if it is deemed to be in the interests of State Security. This has meant that court cases in which members of the SADF have faced charges of murder were stopped because State security was deemed of greater importance than justice. In the same year Conscription was introduced.

For Namibians, this meant an occupational force which was ruling the country in violation of the UN Resolution terminating the mandate, was imposing Civil War on a people who did not elect the government and who had made it clear to the international community that they did not want the SA regime to be in Namibia.

An Administration which had robbed us of our sacred right of self determination was forcing our sons to sacrifice their lives, they had to fight against their brothers on the other side.

To a mother conscription meant that a government that gave you no assistance in bringing up your son, that provided inferior education, grossly underpaid employment (if any) that made no provision for anti-natal care or maternity leave, no adequate housing to name but a few internationally accepted norms decided at the time that all your suffering and sacrifices have brought your son to the threshold of adulthood, that you no longer have a say in his life, in fact that he is no longer yours. The instruments of that government now forcibly remove your son and force him to go and fight against his brother in order to secure the continued occupation of his motherland and the violation of all his Human Rights.

This was followed in 1981 by the creation of the so-called Minister's Council. Namibians of all races were chosen by the SA government to carry out its policies in Namibia. We were not only robbed of the right to select our own government but the people chosen were not answerable to the Namibians. In fact, their greatest "contribution Namibian Human Rights" was the notorious "Notification of Meetings Act" which for the next five years was to rob Namibians of their freedom of speech and association. This act may be binding for all liberation movements to inform the magistrate of any intention to hold a meeting of more than 20 people. They had to indicate the place and time of the meeting, names and addresses of all the speakers and the chairperson. In addition, the applicant had to provide, on demand, the constitution of the party. Since the constitution of Swapo was banned, anybody providing it was liable to prosecution for possessing a banned document. It was left to the court in the case of Max, Ksmbangula and others (Swapo leaders) in 1986 to declare this act to be in violation of Human Rights.

But all these violations are only the forerunners of the worst denial of Human Rights. In 1986, The SA Government imposed the so-called Government of National Unity by an act of Parliament. This was preceded by discussions between the Administrator General and the so-called internal parties. A group of parties came together as a Multi-Party Conference. Despite the fact that on their own admission and that of the SA Government the MPC is not representative of the People of Namibia, they were installed as the government and the de facto administration of the day to day existence of Namibians. In an act of unprecedented political propaganda, these people adopted the Human Rights Charter as an integral part of the Act Government. Whilst one would have expected an improvement in the Human Rights record, the situation

has gotten worse. Let me just mention The Police Act, The Official Secrets Act, The Defence Act, and the State of Emergency in the north which has been in effect for more than 20 years, all these are being applied in the same way as before.

The most inhuman and degrading aspect of it all is that despite the fact that all these interim governments are imposed on us against our will we have to fund these experiments through our taxes and SAfrica's financial contribution to all this will most probably be presented to us on Independence as a National Debt to be repaid with the funds we will need to develop our country. Can one still talk of Human Rights when unborn generations have to pay for the exploitation of their forefathers?

We do not control our wealth. Namibia's natural Resources are being depleted at an unprecedented rate. A Governmental Commission of Enquiry has found that apart from "legal" exploitation of our resources, millions of rands worth of minerals are leaving the country illegally, in addition, We are not aware of what is happening at the Uranium fields. There are indications that our right to health is threatened and there is talk of making Namibia a nuclear wastage dump.

We had no right to decent Health Care. Curative rather than preventive health care is the practice. Our health system is geared to the treatment of diseases prevalent in a developed society rather than those of a poor majority. In the rural areas, health care is totally inadequate.

We have no right to work. Unemployment is high and the streets in the cities are littered with unemployed youth waiting to do any occasional job.

We have no free and equal education. Parents and pupils have no say in their education. And when they try to start their own schools they are beaten up, teargassed and detained. The JC and the Matriculation results of last year are tangible proof of the criminal state of affairs.

Students of the academy who demanded English as the medium of instruction just last week were beaten up by the police.

- we have no freedom of religion. When the churches organised a Corpus Christi procession, the government banned it. When the courts granted an interdict allowing the procession to continue armed hooligans members of some of the parties in the Government of National Unity, beat up some of the participants.

- we have no Freedom of Association. Many Namibians are arbitrarily refused passports and those who want to visit them cannot obtain visas.

- the number of people detained without trial is increasing. Mr Katofa was detained without trial. The courts found that the detention was illegal and he had to be released. He has been re-

detained.

- cases of disappearances and deaths in detention are on the increase. Mr Kakuva's case was of historical importance. He was detained and disappeared. The court found that he had been killed in detention.

- we have no right to life. After the court decision that Swapo can hold meetings, elements of Koevoet were brought to such meetings to disrupt them so that the authorities could use their excuse of public safety.

In November 1986 we have a Mr Shifidi was killed and many people injured at such a public meeting.

As a result, there is a court case going on. Newspapers report some of the proceedings. From the evidence, it is clear that the security forces were brought from the North to investigate the violence. What this means, is that the oppressed have to go to what they deem to be colonial courts to get some relief.

Freedom of the press is selective - Newspapers critical of the government had to deposit R20 000 whereas those supportive of the government need to pay only R10. There is at present a court case against the SWABC because although it is funded by tax monies, it openly discriminates against all those critical of the government.

The Labour Laws control trade unionism.

- there is no protection of life and property.

The list is long. I can continue with examples but let me conclude by saying that the People of Namibia have experienced more than a century of colonisation.

The international community through the UN have not only terminated the mandate, thus making SA's presence in Namibia illegal but they have adopted UN SRC 435 which to date is the only peaceful solution to the Namibian question and which has been accepted by all parties including the SA government. Yet up to now, the people of Namibia are denied their Right to self-determination and it is this denial that facilitates and condones the denial of all other human Rights and this is happening at a time when the so-called "Government of National Unity" proudly claims to have adopted a Bill of Rights.