DEDICATION

This booklet is dedicated to all those who made this Constitution possible through commitment and sacrifice, towards achieving a free, democratic and independent Namibia.

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A SUMMARY OF THE CONSTITUTION OF THE REPUBLIC OF NAMIBIA

The Constitution is the most important law in Namibia. It protects the basic rights of all people and guarantees that there will be equal rights for all.

The Constitution explains how Namibia will be governed. It establishes Parliament and the office of the President, as well as other important government positions. It also sets up courts of law which enforce and protect the rights of all people in Namibia.

The Constitution explains what the President and the other elected representatives of the people can and cannot do. All the other laws in Namibia can be tested against the Constitution. No one is allowed to violate the rights that the Constitution protects.

The Constitution begins with an introduction that explains why it is so important. A Constitution is needed to protect the gains that have been achieved in the victorious struggle against apartheid, racism and colonialism.

All people have certain basic rights. These rights can best be protected by a Constitution which ensures that there will be a democratic government in a united Namibia where all people are equal.
THREE BRANCHES OF GOVERNMENT

The Republic of Namibia is an independent, democratic, united nation that is based on democracy, the rule of law and justice for all.

The rule of law means that everyone must obey the law, even people in positions of power. It also means that the law must apply equally to all people, and that everyone has the right to seek help from the courts if the law is not followed.

All power belongs to the people of Namibia. The people can exercise this power by democratically electing representatives to the government.

There are three branches of government:

- the executive (the President and the Cabinet)

- the legislature (Parliament, which includes the National Assembly and the National Council)

- the judiciary (the courts of law).

The power to run the government is divided up among the three different branches so that they can check and balance each other. This helps to make sure that no one person becomes too powerful, and that governmental power is not abused.
GOVERNMENT

FOR THE PEOPLE
BY THE PEOPLE
LANGUAGE

The official language of Namibia is English. However, schools will be allowed to use other languages also, where this is necessary for effective teaching. Also, government officials and courts in different parts of Namibia will be allowed to use the languages which are spoken by the people in those regions.

CITIZENSHIP

The following people are citizens of Namibia:

- Any person who was born in Namibia to a parent who ordinarily lives in Namibia.
- Any person with a father or mother who is a Namibian citizen.
- Any person who has a Namibian husband or wife AND has lived in Namibia for at least 10 years since the marriage.
- Any person who has lived in Namibia for at least 10 years and applies for citizenship.
Fundamental human rights and freedoms are the rights that are the most important in a democratic society. The rights which are listed in the Constitution must be respected by all government bodies and officials, and by all people in Namibia. The courts have a duty to help enforce these rights. They are as follows:

**THE RIGHT TO LIFE** (Article 6)

All people have the right to life. The death sentence cannot be used in Namibia any more, no matter what crime has been committed.

**THE RIGHT TO LIBERTY** (Article 7)

Liberty is the right to be free. No one can take another person’s liberty away, unless this is done according to the law.

This means that the law must be followed whenever a person is arrested. This helps to make sure that arrests are not misused for political reasons.

**RESPECT FOR HUMAN DIGNITY** (Article 8)

The dignity of every human being must be respected. This means that all government bodies and all courts must treat the people who appear before them with respect.

No one can be tortured or punished in any cruel way, not even a person who has been convicted of a crime.
FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

THE RIGHT TO LIFE
THE RIGHT TO LIBERTY
RESPECT FOR HUMAN DIGNITY
SLAVERY AND FORCED LABOUR
EQUALITY AND FREEDOM FROM DISCRIMINATION
ARREST AND DETENTION
FAIR TRIAL
PRIVACY + FAMILY
CHILDREN'S RIGHTS
PROPERTY + CULTURE
POLITICAL ACTIVITY
ADMINISTRATIVE JUSTICE
EDUCATION
FUNDAMENTAL FREEDOMS
SLAVERY AND FORCED LABOUR (Article 9)

There will be no slavery or forced labour in Namibia.

EQUALITY AND FREEDOM FROM DISCRIMINATION (Article 10)

All people shall be equal before the law. This means that the Constitution forbids apartheid and sexual discrimination.

No person can be discriminated against in any way on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status.

ARREST AND DETENTION (Article 11)

No one can be arrested or detained unless there is a fair reason, and correct legal procedures must be followed.

Anyone who is arrested must be told of the reason for the arrest, in a language that he or she can understand.

Anyone who is arrested must be brought before a magistrate within two days of the arrest. This will give the person a chance to ask for bail, or to tell the magistrate about any mistreatment.

FAIR TRIAL (Article 12)

Anyone who has been charged with a crime has a right to a fair trial by an independent and impartial court.

An independent court cannot be told what to decide by anyone, not even by a government official or the President.

An impartial court will not be influence by a person’s race, sex or political beliefs. It will look only at the facts of the case and at the law.
Each person must have an equal chance to try to convince the court to decide in his or her favour.

All trials must take place within a reasonable time. This rule prevents people from being charged with a crime and then held in prison for a long time before they have a chance to defend themselves.

**PRIVACY** (Article 13)

All people have a right to privacy in their own homes. The government cannot open their letter or listen to their telephone conversations. However, there can be exceptions to this rule for reasons of national security or safety, or for the protection of the community.

**FAMILY** (Article 14)

All adult men and women have the right to marry and to have a family, no matter what their race, ethnic origin, religion or social or economic status.

Men and women must have equal rights in marriage and on divorce.

People cannot be forced to marry against their will. This applies to both men and women.

The family is the basic unit of the community, and so it must be protected by society and by the state.

**CHILDREN’S RIGHTS** (Article 15)

All children have the right to a name and a nationality. They also have the right to know and be cared for by their parents, although the best
interests of the child will be the most important factor in any laws that are passed on the role of parents.

Children are protected against economic exploitation. Children under the age of 16 cannot do work that is dangerous to their health or well-being, or work that interferes with their education.

No farmer or other employer can force children to do work simply because their parents are employees.

PROPERTY (Article 16)

All people have the right to own land and other kinds of property in any part of Namibia.
POLITICAL ACTIVITY (Article 17)

All Namibian citizens have the right to take part in peaceful political activity. They can join political parties or form new political parties.

All citizens have the right to participate in the government of Namibia, either by holding a public office themselves, or by electing representatives to the government.

Every citizen who is at least 18 years old can vote. Every citizen who is at least 21 years old can be elected to a public office.
ADMINISTRATIVE JUSTICE (Article 18)

Every government official must comply with the law. Any person who has been treated unfairly by a government official can go to the courts for help.

CULTURE (Article 19)

All people have the right to their own culture, language, traditions and religion, but no one can use this right in a way that interferes with the rights of any other person or with the national interest of Namibia.

EDUCATION (Article 20)

All people have the right to an education. Primary education is free for all, and all children must go to school until they have finished their primary education, or until they are 16 years old.
WOMEN & MEN

ARE EQUAL
FUNDAMENTAL FREEDOMS (Article 21)

All people have these rights:

- **Freedom of speech and expression**
  This is the right of all people to say what they like, even if it is a statement that is critical of the government or an idea that is very unpopular. It includes freedom of the press (newspapers, radio and television). Freedom of speech ensures that important issues can be freely discussed and debated by all Namibians.

- **Freedom of thought, conscience and belief**
  This means that all people are free to think and believe whatever they wish, as long as this does not interfere with the rights of anyone else.

- **Freedom to practise any religion**
  The government cannot forbid any religion. All people are free to worship as they like.

- **Freedom to assemble peaceably**
  People are free to gather together for meetings, as long as they are peaceful and carry no weapons.

- **Freedom of association**
  This is the freedom to join together with other people for any lawful purpose. It protects the right to form groups such as trade unions and political parties.
• **The right to strike**  
The government cannot make it a crime for workers to go on strike.

• **The right to move freely in Namibia**  
No one can be restricted to a particular area. Everyone in Namibia is free to travel to any part of Namibia.

• **The right to live in any part of Namibia**  
No part of Namibia can be reserved for people of a single ethnic group.

• **The right to leave and return to Namibia**  
All Namibian citizens have the right to get a Namibian passport and travel to other countries.

• **The right to do any kind of work**  
All jobs must be open to any person who has the necessary skills, regardless of race, ethnic origin, or sex.

Pariament can make laws about how these rights are exercised, but it cannot take any of them away.

**APARTHEID AND AFFIRMATIVE ACTION** (Article 23)

The practices of racial discrimination and apartheid which have caused the majority of the Namibian people suffering for so long are now illegal. Anyone who continues these practices may be severely punished.
Parliament may pass laws that will give special help to people who have suffered from race or sex discrimination in the past. It may also take steps to ensure that government jobs are not dominated by whites or any other ethnic group, or by men, and to ensure that all people in Namibia have equal opportunities.

The Constitution points out that women have suffered special discrimination in the past. It says that Parliament may need to take special steps to help women play an equal role in all areas of life in Namibia.

**ENFORCING FUNDAMENTAL RIGHTS AND FREEDOMS (Article 25)**

No one has the authority to take away another person’s fundamental rights and freedoms – not a chief or any government official, not even Parliament or the President.

People who think that someone has interfered with their rights can go to a court for help, and the court can make an order that will protect them.

If there is a law that is in conflict with the Constitution, the court can decide that the law is no longer in force.

The court can also award money to people who have suffered damages because their rights have been violated.

People can also make complaints to a government official called the Ombudsman. The Ombudsman is a lawyer or a judge appointed by the President to guard against corruption and injustice in the government and to help protect the fundamental rights and freedoms of all people.
For example, people who feel that they have been treated unfairly or discriminated against by any government official can make a complaint to the Ombudsman. The Ombudsman will then look into the problem and take any action that is needed to correct it.

People who feel that any person or business or organisation has interfered with their fundamental rights can go to the Ombudsman for help.
STATES OF EMERGENCY

If there is a situation that is threatening the life of the nation or the existence of the government, the President and the National Assembly can declare a state of emergency.

During a state of emergency, people can be detained without trial, but the Constitution provides many special protections for people who are detained. The President is allowed to take away some of the fundamental rights and freedoms during a state of emergency, but there are some rights that can never be taken away – such as freedom of speech and thought, the right to life and human dignity, the right to consult a lawyer, and the right to go to a court for help.

THE EXECUTIVE BRANCH

The President

The President is the Head of State and the Commander-in-Chief of the Namibia Defence Force. The President is also in charge of the executive branch of the government.

All the citizens of Namibia elect the President directly. This means that voters will go to a polling place and make a mark beside the name of the person they want for President. A person must receive more than half of all the votes cast in a Presidential election to become President.

Each President is in office for 5 years, and one person can be elected as President only twice. There can be no President-for-Life in Namibia.
Each President must take an oath to uphold and defend the Constitution as the Supreme Law of the Republic of Namibia. The National Assembly can remove a President from office if the President disobeys the Constitution or any other law, or if the President is guilty of some other serious misconduct.

The President chooses a Vice-President, the Prime Minister, a Deputy Prime Minister and many other important government officials. The President also sets up different departments in the government to take care of the business of the government, and chooses people to be in charge of each of these departments. The people in charge of the most important departments are called Ministers and Deputy Ministers.

Any action taken by the President can be reviewed and changed by the National Assembly, if two-thirds of the members of the National Assembly think that this is necessary. This is part of the balance of power between the executive branch and the legislative branch.

**The Cabinet**

The Cabinet is a group of government officials which includes the President, the Vice-President, the Prime Minister, the Deputy Prime Minister and the Ministers of each government department.

The duties of the Cabinet are to supervise the work of all the government departments and to help make decisions on government policies.
THE LEGISLATIVE BRANCH

The National Assembly

The National Assembly has the power to make laws for Namibia. The members of the National Assembly must represent all the people of Namibia. They must be guided in their decisions by the Constitution, by the public interest and by their own consciences.

There are 96 members of the National Assembly who are elected by the people every 5 years. Voters vote for the political party of their choice. Then the political parties choose the individuals who will go to the National Assembly on their behalf.

The President has the power to appoint 8 people who have special experience, skills or positions to the National Assembly. These appointed members do not have the right to vote in the National Assembly.

Like the President, all the members of the National Assembly must take an oath to uphold and defend the Constitution.

The members of the National Assembly are the servants of the people of Namibia. They are required to behave with dignity, and they must not do anything to enrich themselves improperly or to separate themselves from the people.

The meetings of the National Assembly must ordinarily be open to the public.
The National Council

The National Council helps the National Assembly with its task of making laws.

The National Council has 3 members from each region in Namibia. The residents of each region elect people from their region to the Regional Council. Then each Regional Council selects 3 of its members to serve on the National Council for 5 years.

The main task of the National Council is to give advice to the National Assembly about the laws that the National Assembly is considering. The National Council does not have the power to make laws on its own. It can only make suggestions to the National Assembly.

THE JUDICIAL BRANCH

The judicial branch is the third branch of government. It includes all the courts of law in Namibia.

All the courts are independent. This means that they follow only the Constitution and the law. No one can tell the courts how to decide a case, not even someone from the other branches of the government.
The highest court in Namibia is the **Supreme Court**. The head of this court is called the Chief Justice. At least three judges must work together to decide any case in the Supreme Court.

A decision of the Supreme Court must be obeyed by all the other courts and by all people in Namibia. The Supreme Court has the special duty of making final decisions on any questions about the Constitution and the fundamental rights and freedoms that the Constitution protects.

The next highest court in Namibia is called the **High Court**. There are also **Lower Courts**, including magistrates’ courts, which listen to cases that are not so serious.

All the judges for the Supreme Court and the High Court are appointed by the President. All judges must take an oath to defend and uphold the Constitution as the Supreme Law of Namibia and to fearlessly administer justice to all people without favour or prejudice.

## HOW LAWS ARE MADE

Although the National Assembly has the main responsibility for making laws, all three branches of government have a part in this task.

A proposal for a law is called a “bill”. A bill can be suggested by the President, by a member of the Cabinet or by a member of the National Council or the National Assembly.

**Any bill proposing a law is presented to the National Assembly for a vote.** The National Assembly can discuss the bill and make changes to it if it wishes. The bill might also be sent to a committee for special study. The bill must be approved by more than one-half of the members of the National Assembly to go forward.
The National Assembly then sends the bill to the National Council for advice. The National Council can take up to 3 months to study the bill. It can then make recommendations to the National Assembly. The National Assembly is not required to follow all the recommendations of the National Council, but it must vote on the bill again after it has heard the opinion of the National Council.

If the National Council has strong objections to a bill, then it must be approved by at least two-thirds of the members of the National Assembly in order to go forward.

All bills must be signed by the President before they can become laws. If the President disagrees with a bill and refuses to sign it, then the National Assembly must vote on the bill again. If a bill is approved by at least two-thirds of the members of the National Assembly, then the President cannot prevent it from becoming a law.

If the President refuses to sign a bill because he or she thinks the bill may violate the Constitution, then the courts may be asked to decide this question. If the courts decide that the bill is in conflict with the Constitution, then the bill cannot become law.

All of the laws that were in force at the time of independence stay in force until they are taken away or changed by Parliament, or until the courts decide that they are in conflict with the Constitution. This includes customary laws, which are the laws that are administered by chiefs and headmen.
LOCAL GOVERNMENT

Namibia is divided into regions on the basis of where people live – the regions may not be based on the race, colour or ethnic origin of the people. The people of every region elect a Regional Council to deal with matters affecting their region.

There are also smaller units of local government. Each unit of local government has a council that is elected by the people in the community to take care of community matters.

There is also a Council of Traditional Leaders which advises the President on the control and use of communal lands.

AMENDMENT OF THE CONSTITUTION

The Constitution can be changed only if the change is approved by either:

1) two-thirds of the members of the National Assembly and two-thirds of the members of the National Council

OR

2) two-thirds of the members of the National Assembly and two-thirds of the people of Namibia who show their opinions in a vote.

But no one is allowed to make a change to the Constitution that takes away any of the fundamental rights or freedoms.

These rights are protected by the Constitution for all Namibians, forever.
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