

# HUMAN RIGHTS

---

## COMMENTARY

F Nghiihililwa, “The Constitutional Prohibition on Torture” in M Hinz, S Amoo and D Van Wyk (eds), *The Constitution at Work: Ten Years of Namibian Nationhood*, Windhoek: UNAM Publishers, 2000

Nico Horn & Anton Bösl (eds), *Human Rights and the Rule of Law in Namibia*. Windhoek: Macmillan Education, 2008, available at [www.kas.de](http://www.kas.de)

Oliver C Ruppel, “The protection of children’s rights under international law from a Namibian perspective” in Oliver C Ruppel (ed), *Children’s Rights in Namibia*, Konrad Adenauer Stiftung, 2009, available at [www.kas.de](http://www.kas.de)

A Bösl & J Diescho (eds), *Human Rights in Africa: Legal Perspectives on their protection and promotion*, Windhoek: Macmillan Education, 2009

Law Reform and Development Commission, Report on the Domestication of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, LRDC 34, 2017, available at [www.namiblii.org](http://www.namiblii.org).

## INTERNATIONAL LAW

*Note: The topic of human rights is a very broad one. The international treaties listed here are core human rights documents which cover a range of issues. International treaties covering more specific topics have been listed under those topics.*

### UNITED NATIONS

The **United Nations** (UN) was established on 24 October 1945. Today, nearly every nation in the world belongs to the UN. The Republic of Namibia joined the UN on 23 April 1990. Admission to the UN includes the acceptance of the **Charter of the United Nation**, which sets out basic principles of international relations. According to the Charter, the UN has four purposes: (1) to maintain international peace and security; (2) to develop friendly relations among nations; (3) to cooperate in solving international problems and in promoting respect for human rights for all “without distinction as to race, sex, language, or religion”; and (4) to be a centre for harmonizing the actions of nations.

All UN Member States are represented in the **General Assembly**. Each Member State has one vote. Decisions on “important matters,” such as international peace and security, admitting new members, the UN budget and the budget for peacekeeping, are decided by two-thirds majority. Other matters are decided by simple majority. There is usually an effort to reach decisions through consensus, rather than by taking a formal vote.

Primary responsibility for maintaining international peace and security rests with the **Security Council**. Under the Charter, all Member States are obligated to carry out the Security Council’s decisions. The Security Council has 15 members. Five of these – China, France, the Russian Federation, the United Kingdom and the United States – are permanent members. The other 10 are elected by the General Assembly for two-year terms. Decisions of the Security Council require nine votes.

According to Art 93 of the Charter of the United Nations, all members of the UN are automatically parties to the **Statute of the International Court of Justice** annexed to the Charter of the United Nations. The International Court of Justice is the main judicial organ of the UN. It consists of 15 judges elected by the UN General Assembly and the UN Security Council. The

Court decides disputes between countries. Participation by States in a court proceeding is voluntary, but if a State agrees to participate, it is obliged to comply with the Court's decision. The Court also provides advisory opinions to the General Assembly and the Security Council upon request.

The UN General Assembly adopted the *Universal Declaration of Human Rights* on 10 December 1948. This document has been referred to as an "international bill of rights". Although it is not a binding international treaty, many commentators have argued that provisions of this document have become part of customary international law which is binding on all states. Some of the provisions of the Namibian Constitution are modelled on language in the Universal Declaration. At the 1993 Vienna Conference on Human Rights, representatives of 171 nations, including Namibia, affirmed by consensus their "commitment to the purposes and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights".

Namibia has ratified several of the core international human rights treaties developed under the auspices of the UN, as reflected in the list below.

**Date of admission to United Nations:** 23 April 1990

- includes acceptance of the *Charter of the United Nations*
- includes adoption of the *Statute of the International Court of Justice* annexed to the Charter of the United Nations

***African Charter on Human and Peoples' Rights (Banjul Charter), 1981***

*Protocol to the African Charter for Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2003*

***African Charter on the Rights and Welfare of the Child (ACRWC or Children's Charter), 1990***

***Charter of the United Nations (UN), 1945*** (which includes the *Statute of the International Court of Justice as an integral part*)

***Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984***

***Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979***

*Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women, 1999*

***Convention on the Prevention and Punishment of the Crime of Genocide, 1948***

***Convention on the Rights of Persons with Disabilities, 2006***

*Optional Protocol to Convention on Rights of Persons with Disabilities, 2006*

***Convention on the Rights of the Child, 1989***

*Amendment to Article 43(2) of the Convention on the Rights of the Child adopted by the Conference of the States Parties, 1995*

*Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000*

*Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000*

*†International Convention on the Elimination of All Forms of Racial Discrimination, 1966*

*†International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973*

*International Covenant on Civil and Political Rights (ICCPR), 1966*

*Optional Protocol to the International Covenant on Civil and Political Rights, 1966*

*Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty, 1989*

*International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966*

*SADC Protocol on Gender and Development, 2008*

See also **INTERNATIONAL ISSUES**.