

P O Box 604  
4 Marien Ngouabi Street  
Windhoek  
Namibia

Tel: Int +264 61 223356  
Fax: Int +264 61 234953  
E-mail: [info@lac.org.na](mailto:info@lac.org.na)  
Web: [www.lac.org.na](http://www.lac.org.na)



Toni Hancox (Director)

Corinna van Wyk  
Sharen Zenda  
Bradley Kho

## LEGAL ASSISTANCE CENTRE

Recipient of the UNICEF Maurice Pate Human Rights Award – 1997

JP Karuaihe Human Rights Excellence Award – 2008, 2010, 2014 and 2016 and Social Responsibility Award – 2013

---

### **PRESS STATEMENT: State of Emergency (COVID-19)**

In light of the World Health Organization's designation of COVID-19 (Coronavirus) as a global pandemic, the President of the Republic of Namibia on 17 March 2020, declared a state of (public health) emergency in Namibia.

#### ***What is a State of Emergency?***

Article 26 of the Namibian Constitution authorises the President to declare a state of emergency by Proclamation in the Government Gazette in all or specific parts of Namibia "at a time of national disaster or during a state of national defence or public emergency".

As a safeguard, a declaration of a state of emergency must be confirmed by a two-thirds majority of all the members of the National Assembly. Without this confirmation, the state of emergency lapses within 7 days (if the National Assembly is sitting) or within 30 days (if the National Assembly is not sitting). If the National Assembly approves the state of emergency, it can remain in place for up to six months – and extended for six months at a time by subsequent resolutions of a two-thirds majority of the members of the National Assembly. The National Assembly may also vote to revoke a state of emergency at any time.

#### ***What is the purpose of a state of emergency?***

In terms of the Constitution, the President shall have the power by Proclamation during such emergency to make such regulations as in his opinion are necessary for the protection of national security, public safety and the maintenance of law and order. Any such proclamation will have to be approved by the National Assembly by resolution, within 14 days of the National Assembly sitting, after the President passed such proclamation. Without this approval, the President's regulations would automatically lapse. This allows for quicker action than the usual law-making process.

A proclamation by the President during the state of emergency may impact some fundamental human rights protected by the Constitution – but only insofar as this is reasonably justifiable to deal with the emergency situation. Any proclamation that affects the constitutional rights of any person in Namibia must be of general application, must not take away the essential content of such rights, must not be aimed at a particular individual,

must specify the extent of such limitation, and must identify the authority in terms of the Constitution to pass the regulation.

***Can all Constitutional rights be suspended during a state of emergency?***

No. There are some rights that can never be taken away, not even during a state of emergency – including (amongst others) the right to life, the right to human dignity, the right to equality, freedom from discrimination, the right to a fair trial, freedom of speech and thought, freedom of association, and the right of access to lawyers and courts. During a state of emergency, people over age 16 can be detained without trial – but the Constitution also provides special protections for people who are detained during states of emergency. If detention without trial is introduced to deal with an emergency, the President must set up an Advisory Board consisting of up to five persons, including at least three persons who are judges or persons qualified to serve as judges – and who must be appointed on the recommendation of the Judicial Service Commission. This Advisory Board would be required to review all detentions without trial not more than one month after the person in question was detained, and again at intervals of not more than three months – and would have a duty to order release from detention in any case where it found that continuing detention was not reasonably necessary for the purposes of the emergency.

***Has Namibia ever had a state of emergency before?***

Yes. There have been three previous states of emergency under Article 26(1) of the Constitution: to deal with the secession attempt in the Caprivi in 1999, to deal with the national drought in 2016, and to deal with the national drought in 2019.



---

**TONI HANCOX**

**DIRECTOR- 18 March 2020**

**This press release is supported by the Action Coalition, a proponent of freedom of expression in Namibia.**

---

**Trustees of the Legal Assistance Trust:**

Clement Daniels (Chairperson)

Esi Schimming-Chase

Taamba Iithete

Dantago Garosas

Tangeni Amupadhi

Norman Tjombe

Toni Hancox (ex officio)