



Caprivi Concerned Group

Civil rights petitioner

Caprivi Strip

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- HUMAN AND CIVIL RIGHTS SITUATION IN CAPRIVI STRIP –

A report submitted by Caprivi Concerned Group to the UN Office of the Human Rights Commissioner in view of Namibia's 3rd cycle review for consideration by the during the 38th session of the Universal Periodic Review.

Caprivi Concerned Group ("CCG") is a civil rights petitioner in Caprivi Strip, established in April 2012. It does not have observer status with the United Nations Economic and Social Council and has not been involved in any United Nations activities before.

Caprivi Strip is the entire territory currently administered by the Republic of Namibia, which is found east of the 21st degree of east longitude and bound by Angola and Zambia (Barotseland) in the north and Botswana in the south.

I. INTRODUCTORY EXECUTIVE SUMMARY

1. Fifty-six (56) years ago during the liberation struggle, then leaders the current ruling party in Namibia (SWAPO) promised leaders of Caprivi African National Union (CANU) that at the attainment of Namibia's independence people of Caprivi Strip would be allowed to decide if they want to be independent or be part of Namibia, and the two entities therefore merged.¹
2. The agreement alluded to above is the context within which the current President of Namibia remarked as then Director of the United Nations Institute for Namibia in 1982 that if people wish to adjust borders [be independent from Namibia] it could be considered after Namibia's independence.²
3. In 1966, the International Court of Justice noted in its advisory opinion on South West Africa (Namibia) that inhabitants of Caprivi Strip had not yet advanced to a stage of political maturity; and nothing could or would in any way interfere with their political advancement towards possible self-determination, or frustrate opportunities for progress in that direction.
4. This report presents premeditated, systematic and continuous human rights violations by the Republic of Namibia, perpetrated against a people, denying them the right to self-determination .
5. The report further gives general inferences of the commission and or omission by the Republic of Namibia in Caprivi Strip in the context of the International Convention on Civil and Political Rights (ICCPR) and recommendations from previous Universal Periodic Review, and then conclude with submits six (6) recommendations for Namibia and the UN Human Rights Council.

II. HUMAN (CIVIL) RIGHTS VIOLATIONS

¹ This is narrated by Mishake Muyongo who was then leader of CANU in the merger negotiations in a 1998 interview on Namibia's national TV broadcaster, NBC. See and listen to the interview particularly from 6:45 to 7:27 seconds of the footage on <https://www.youtube.com/watch?v=q5E68qa0thc&t=363s>

² The promise by Dr. Hage Geingob, current president of Namibia is reflected in a communication by Botswana High Commission Secretary for external Affairs in Lusaka dated 26 October 1982

6. The United Democratic Party (UDP), a political party based in Caprivi Strip which is advocating for the independence of Caprivi Strip is currently banned by the Republic of Namibia since September 2006.³
7. CCG was banned from using public facilities in 2016;⁴ consequently, the organization was prevented by the regional commander of the Namibian police in Caprivi Strip from entering and using a community hall for a public meeting.⁵
8. A peaceful demonstration organized by the United Democratic Party on 18 May 2018 was banned by the Inspector General of the Namibian police.⁶
9. A press conference organized by CCG on 27 April 2018 was disrupted and called off by the Namibian police in Caprivi Strip.⁷
10. A public meeting organized by CCG with the intention to discuss the possibility of calling on Government of Namibia to prosecute⁸ police officers who tortured Caprivi secessionist suspects⁹ from 1999 and to unearth the mass grave found in Caprivi Strip where seven (7) Caprivians by the Namibian police¹⁰ was disrupted on 8 July 2018 and CCG leaders and members were arrested by Namibian police.¹¹
11. On 12 July 2018 the Inspector General of the Namibian Police said he would bring a bomb or a mob to “clean” members of CCG; and compared CCG members to

³ See <https://www.thenewhumanitarian.org/report/60892/namibia-caprivi-political-party-declared-illegal> and “Govt cracks down on UDP: <https://www.namibian.com.na/index.php?id=28295&page=archive-read>

⁴ Ndeitunga lays down the law against Caprivi group, <https://www.namibian.com.na/index.php?page=archive-read&id=153493>

⁵ See <https://www.youtube.com/watch?v=PG700yVpjx4&t=89s>

⁶ See <https://youtu.be/cmJ9Vu1wgi8>

⁷ See <https://youtu.be/ke06eNMovq0>

⁸ To implement HRC’s recommendation to Namibia on torture (paragraph 22(a) of 2016 observations)

⁹ See <https://www.google.com/amp/s/neweralive.na/amp/treason-suspects-tortured-ndeitunga>

¹⁰ See <http://www.caprivivision.com/ya-nangoloh-asks-police-exhume-7-missing-bodies/>

¹¹ See <https://youtu.be/24JdnnTbxhw> and <https://youtu.be/XbbIEDuH-Bs>

“mosquitos” which should be “fumigated” with “doom” (mosquitos killer); and further stated that members of the police force who are sympathizers of CCG or UDP should leave the force or else they can be rounded-up.¹²

12. A peaceful demonstration organized by the UDP in October 2019 to call for political dialogue and a referendum for people of Caprivi to freely determine their political status was disrupted and called off by the Namibian Police, and the Regional Commander of the Namibian Police in Caprivi Strip said at the event that no demonstration about Caprivi Strip will be allowed even in future.¹³

13. After thirteen (13) to sixteen (16) years of incarceration and subsequently discharged or acquitted, if decisions by Supreme Court in *Minister of Safety and Security and Others v Mahupelo Richwell Kulisesa*¹⁴ where it was held that there was evidence establishing reasonable and probable cause as well as the lack of malice in the prosecution of Mr Mahupelo, and by High Court¹⁵ on violation of constitutional rights where it was reasoned that where the Supreme Court found that his prosecution was lawful, awarding constitutional damages is inappropriate are to be taken as precedents for all, all former Caprivi political prisoners will never be compensated for malicious prosecution or unlawful detention by the Republic of Namibia.

14. Following the Supreme Court decision in the foregoing paragraph, legal aid provided by Government of Namibia to all other former Caprivi political prisoners for similar pending cases was withdrawn, and legal aid availed lawyers also withdrew their services.¹⁶

¹² See <https://www.youtube.com/watch?v=itBXu7Ky-K8>

¹³ See <https://youtu.be/GOFgxIQc2EQ> and <https://www.namibianewsdigest.com/banned-udp-stopped-from-holding-peaceful-demonstration/>

¹⁴ <https://namiblii.org/na/judgment/supreme-court/2019/2>

¹⁵ <https://allafrica.com/stories/202005200503.html>

¹⁶ This account was narrated to the author of this report on 15 October 2020 by Mr. Elvis Puteho, a former high treason suspect who has a letter of withdrawal from his appointed lawyer. See also the withdrawal of a similar case for reasons inherently related to withdrawal of legal aid services:

[https://www.namibian.com.na/95653/read/Acquitted-treason-accused-drops-N\\$75m-lawsuit](https://www.namibian.com.na/95653/read/Acquitted-treason-accused-drops-N$75m-lawsuit)

15. Regardless of recommendations by three medical doctors for one of the Caprivi political prisoners to be released on medical grounds due to medical complications caused by kidney failure, hypertension and diabetes.¹⁷

III. PRELIMINARY INFERENCE

16. Paragraphs 6 to 15 above collectively demonstrate systematic and premeditated human rights violations and political oppression against people of Caprivi Strip by the Republic of Namibia, purposefully denying people of Caprivi Strip the right to self-determination which includes the right to freely determine their political status, in violation of Article 1 of the ICCPR and the UN Charter.

17. Contrary to Article 2 of the ICCPR and the recommendation in paragraph 6 of the 2016 concluding observations on Namibia by the Human Rights Committee (HRC), there are no lawful efforts and measures adopted and implemented by Namibia to protect civil rights of people of Caprivi Strip, but Namibia has rather been emotional, dismissive and violent in its approach to address any matter relating to Caprivians' right to self-determination.

18. Contrary to the recommendation found in paragraph 22(a) of the Concluding observations by the HRC on Namibia (2016), no one was ever prosecuted or reprimanded for serious human rights violations committed by the Namibian police and army against same people from 1998 to date.

19. No one in the Namibian history even under apartheid rule endured twenty-one (21) years of political incarceration, therefore, the continued incarceration of Caprivi political prison is far-stretched, abusive, cruel, inhuman and degrading.

20. Paragraph 13 and 14 above demonstrate a disregard of recommendations in paragraphs 28 and 32 of the 2016 HRC concluding observations on Namibia which recommends effective remedies and compensation for those unlawfully held in custody, and availing free legal aid in the interest of justice, respectively.

¹⁷ <https://www.namibian.com.na/199174/archive-read/jailed-ex-MP-sues-in-bid-for-release>

21. Paragraph 15 above shows a deviation from the recommendation for non-custodial sentences in paragraph 34 of the HRC 2018 concluding observations on Namibia of 2016.

IV. RECOMMENDATIONS

22. Namibia should lift the ban imposed on the United Democratic Party and Caprivi Concerned Group.

23. Namibia should investigate and prosecute all those responsible for human rights violations, including those who committed similar human rights violations in 1999 in Caprivi Strip, as was recommended by the HRC in paragraph 6 of its April 2016 concluding observations on Namibia.

24. Namibia should unearth the mass grave highlighted in paragraph 10 above, and provide financial and technical assistance, so that the remains can be handed over, to the families for decent memorial and burial.

25. Namibia should consider proclaiming amnesty to all Caprivi high treason prisoners and all Caprivians in exile for reasons or circumstances related to the Caprivi political dispute as soon as possible.

26. Namibia should initiate and approve a self-determination referendum in Caprivi Strip under Article 63(2)(g) of her Constitution so that people of Caprivi Strip would determine their political status in accordance with public international law.

27. The United Nations Human Rights Council should recommend Caprivi Strip to the UN Decolonization Committee to be listed as a Non-Self-Governing Territory.