

Submission to the UN Office of the High Commissioner for Human Rights for the consideration of the Universal Periodic Review of the Republic of Namibia during the 24th Session

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Key words: Rehoboth Basters, Namibia, land grabbing, traditional lands, culture, identity

I. INTRODUCTION

This report will focus on the main human rights violations in Namibia, with a special focus on the Rehoboth Basters. First of all, a brief introduction of the Rehoboth Basters will be given. Secondly, the human rights violations will be outlined. Finally, recommendations to protect the rights of the Rehoboth Basters will be given in the conclusion.

a. Rehoboth Basters

The Rehoboth Basters are an indigenous people living south of Windhoek, the capital of Namibia. Their community consists of approximately 35.000 people, and they live in an area of approximately 14-thousand square kilometers. Years before the Germans installed their colonial rule over Namibia in 1885, the Rehoboth's settled their lands and developed their own legislation.¹ The Rehoboth Basters are Christian, and their language is Afrikaans. Although the history of the Basters is much older, the living area of the Rehoboth Basters from 1870 until 1990 was called Rehoboth, which had an autonomous status. Currently, the area is divided into the Namibian administrative provinces Hardap and Khomas.

Their indigenously developed legislation was in use for more than 100 years. This guaranteed to them the right of self-determination throughout the colonial period. This right was recognized by the German Empire and the Government of the Union of South Africa. A 'Treaty of Protection and Friendship' was concluded between the Rehoboth Basters and the German Emperor. In the treaty, the rights and freedom that the Basters had acquired were recognized by the German Empire. During the colonial time, the Rehoboth Basters kept their rights to exercise self-determination.²

The purpose of the Germans to conclude the treaty was to enhance their influence and to protect German citizens in Rehoboth. In 1893, Germany demarcated the boundaries of the 'Rehoboth Gebiet'. This area was much smaller than the original area of the Basters, causing strong protests of the community. Moreover, 'Baster corps' were forcibly established, and the Basters had to provide aid in the military confrontations between the Germans and the Nama and Herero (other communities living in Namibia). The Nama and Herero were defeated, through which Germany's control of South West Africa was now complete. As a result, the Rehoboth Basters lost their position and their autonomy of Rehoboth.³ However, the Government of the Union of South Africa superseded the German Colonial Government in 1915.

It was decades later when the Basters received Self-Government based on their Paternal Laws by means of an Act of South African Parliament Act 56 of 1976 in 1979, which gave the Rehoboth Basters the opportunity to develop from 1979 to 1989. However, this situation was reversed when the new government of Namibia came into being in 1990. The consequences for the Basters were heavy, as all the land of their members was alienated, and as Rehoboth was further divided into the

¹ Rehoboth Basters: <http://rehobothbasters.org/news/241-who-are-the-rehoboth-basters-n?id=241>

² UNPO: <http://unpo.org/members/7881>

³ Zandberg J.: Rehoboth Griqua Atlas, 2nd Edition

current provinces of Hardap and Khomas. The traditional land owned by the community of the Rehoboth Basters was transferred to the Government of Namibia.⁴

Currently, the Rehoboth Basters are participating in political life through the United People's Movement (UPM). The UPM was established in 2009 and the movement's headquarters are in Rehoboth. Since 2010, the UPM is registered at the Namibian Election Commission. In the same year, the UPM won two seats in Rehoboth and one in Okahandja. The objective of the UPM is to unite the Rehoboth Basters and to provide them with a political voice.⁵ In December 2014, the UPM won a seat in the National Assembly of Namibia. The national chairperson, Jan Johannes van Wyk, represents the UPM in parliament. According to van Wyk, the UPM concentrates on issues of national concern, such as the provision of land and housing. Besides, the UPM focuses on land issues of the Rehoboth Basters, such as the expropriation of their properties by the Namibian Government and their quest for recognition as an indigenous people under the Paternal Law of 1872.⁶

II. HUMAN RIGHTS ISSUES

Namibia has signed several international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination. Besides, Namibia has adopted the UN Declaration on the Rights of Indigenous Peoples. Moreover, the Constitution of the Republic of Namibia prohibits discrimination on the grounds of ethnic or tribal affiliation. However, the rights of minorities and indigenous peoples are not protected in the Constitution.⁷ Finally, Namibia did not sign the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).⁸

a. Freedom of Language

Although international treaties including the ICCPR, that are signed by Namibia contain several articles that prohibit discrimination on the basis of language, the Basters have been facing problems related to their 'Afrikaans' language for decades. One of the problems that the Basters are encountering is that the Namibian government does not actually allow the use of Afrikaans in the official communication with the government. Therefore, the Basters filed a complaint at the UNHRC on 17 November 1996. Although the UNHRC ruled in 2000 that this is in violation with the rights of the Rehoboth community, the decision did not improve the situation.⁹ According to article 3(1) of the Constitution of the Republic of Namibia, the official language of the country is English. However, before English became the only official language of Namibia, Afrikaans was the lingua franca. The current language policy faces challenges, as only 8% of the Namibians are native English speakers. The remaining Namibians speak Afrikaans or their home language [there are up to 30 languages spoken in the country] in daily life.¹⁰

⁴ UNPO: <http://unpo.org/members/7881>

⁵ Rehoboth Basters: <http://rehobothbasters.org/news/780-united-peoples-movement?id=780>

⁶ UNPO, 2014 December 9: <http://unpo.org/article/17765>

⁷ <http://www.iwgia.org/regions/africa/namibia>

⁸ http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103008

⁹ Zandberg J.: Rehoboth Griqua Atlas, 2nd Edition

¹⁰ <http://www.theguardian.com/education/2012/jan/10/namibia-english-crisis>

b. Recognition of Communal Land

The Rehoboth Basters have been losing recognition over their communal lands since the 1990s, as validation of their land claims have not yet been granted. This has resulted in the fact that the recognition of their traditional authority has also been lost, and that other (ethnic) groups have moved to their lands.¹¹ The loss of communal land means the traditional authority of the Basters is not recognized by the Namibian government.

The situation related to land issues in Namibia escalated in February 2014, when the Captains Council allocated 1072 plots in Kuvukiland and Bergershoek to the people of the community, as this was a fulfilment of a promise by the previous Kaptein (supreme head). The town council's chief executive officer, Theodor Jankowski, stated that: *"This is an illegal act and all people allocated plots will have to move. The Baster Paternal Law no longer exists. Everything has to be done according to the existing laws of Namibia."* However, according to Jan van Wyk, who represents the United People's Movement on the council, the distribution is legal, as the decision is in line with the instruction of the previous captain and as it was approved by Cabinet following the Rukoro Report of 1992. In the Rukoro Report of 1992 is written that displaced male residents who were born in Rehoboth and turned eighteen before independence should be given 3000 unserved 'erven' (land).¹² In May 2014, the Rehoboth Town Council obtained an interim court order that prohibits the Rehoboth Baster gemeente [community] and its leader, Kaptein John McNab, from continuing to allocate plots of land at the town to people.¹³ According to McNab, however, the Basters have the right to free land as it belongs to them.¹⁴

c. Cultural Rights

In 2013, the current Kaptein of the Captains Council, John McNab, expressed his concern over the fate of the Rehoboth Community. The Captains Council is the traditional leadership body of the Basters that consists of a captain and three members. According to McNab, the Rehoboth Basters lost their culture, sacred places and their traditional land after the government of Namibia came into being. He continued that the government refuses to give the Basters the right to self-determination. Their traditional authority is not being recognized anymore, as the government registered Rehoboth as commercial land. McNab states that this is against international law and minority rights, and that his community is in danger of extinction. He added that the Basters have lost their identity, and that their youth do not know anything about their culture anymore.¹⁵

¹¹ <http://rehobothbasters.org/media/files/2013-report-namibia-a-hrc-24-41-add1-en.pdf>

¹² UNPO, 2014 February 11: <http://unpo.org/article/16836>

¹³ UNPO, 2014 May 20: <http://unpo.org/article/17154>

¹⁴ http://www.namibian.com.na/indexx.php?archive_id=121924&page_type=archive_story_detail&page=1

¹⁵ UNPO, 2013 February 18: <http://unpo.org/article/15520>

III Recommendations

Measures to protect the rights of indigenous groups and minorities should be adopted by the Namibian government.

The Namibian government should recognize the traditional lands of indigenous peoples and minorities, including that of the Rehoboth Basters.

Namibia should make amendments in its national Constitution to ensure the protection of the rights of indigenous peoples and minorities, and to ensure that the Afrikaans language will be recognized as an official language, apart from English.

Namibia is recommended to sign and ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) to ensure a better protection of the rights of indigenous peoples and minorities.

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