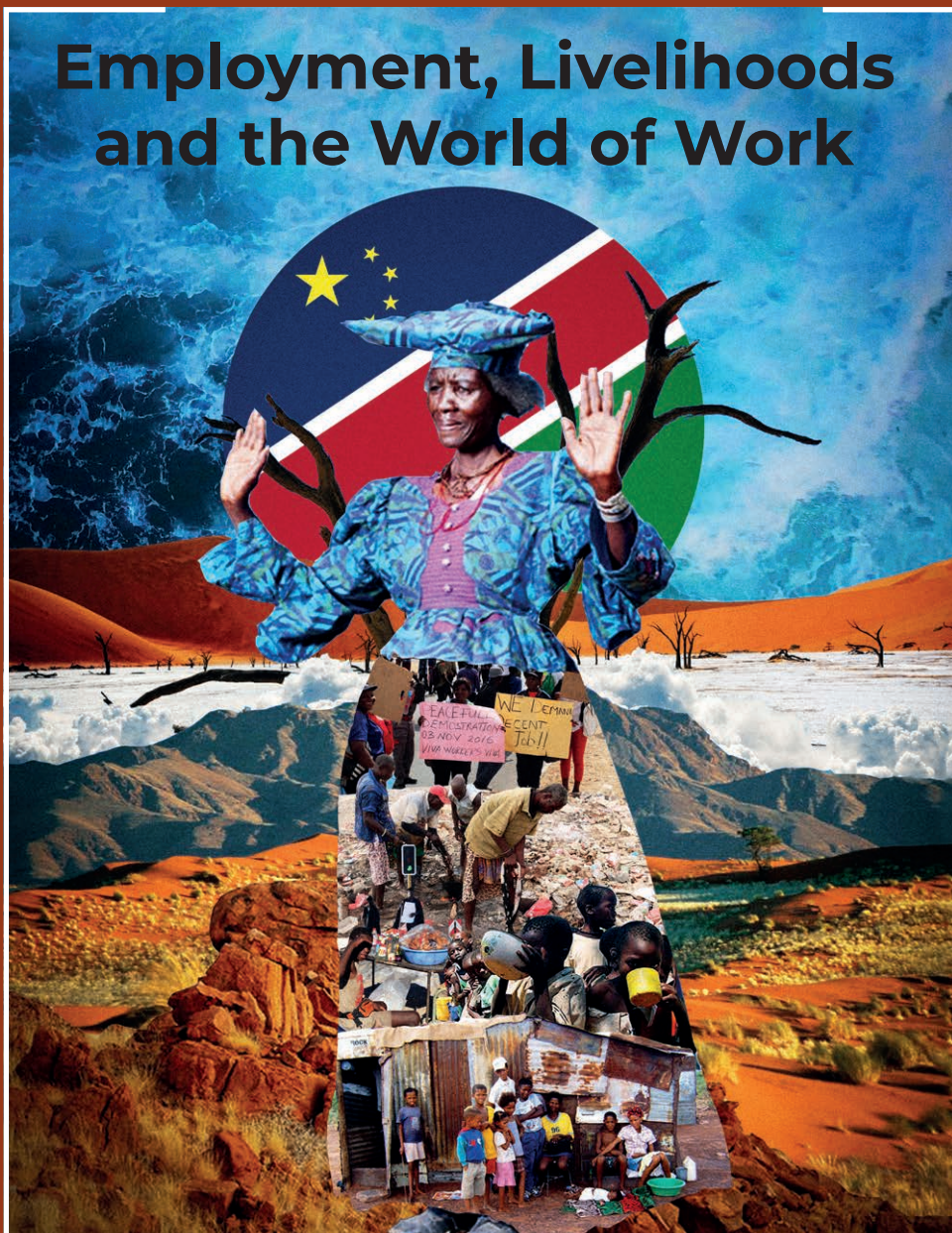


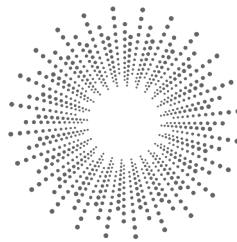
# Employment, Livelihoods and the World of Work



# **Employment, Livelihoods and the World of Work**

Volume 3

November 2023



Namibian  
Journal  
of Social  
Justice

[www.namsocialjustice.org](http://www.namsocialjustice.org)

## Table of Contents

Acknowledgements .....	4
Acronyms and Initialisms .....	5
Editorial .....	7
<b>Economic theories</b>	
Enclave Growth and Development in Africa.....	23
<i>Godfrey Kanyenze</i>	
<b>Livelihoods and human rights</b>	
Unemployment, Underemployment, and Livelihoods in Namibia: The Human Rights Connection.....	46
<i>John B. Nakuta</i>	
<b>Livelihoods and informality</b>	
Everyday Decolonisation: The Popular Urban Economy of Herero Mall.....	64
<i>Phillip Lühl</i>	
Namibia’s Flexible Land Tenure System: The Impact on Livelihoods in Gobabis .....	84
<i>Judy Tymon</i>	
Organising the Informalised: A Monumental Challenge for Namibia’s Trade Unions.....	106
<i>Herbert Jauch</i>	
Case Study: The Livelihood of an Informal Trader in Hakahana, Windhoek... 128	
<i>Casper Tichatonga Bowora</i>	
Case Study: Informality in Okahandja Park, Windhoek.....	133
<i>Nafimane Hamukoshi</i>	
<b>Livelihoods and migration</b>	
Trapped in Poverty and Informality: The Effects of Climate Change-Induced Migration on Women in Urban Settlements in Windhoek.....	136
<i>Bruno Venditto, Christian Nekare and Ndumba J. Kamwanyah</i>	

Keeping the Fire Burning: How Migrants Rejuvenate Relations with Spouses at Home: The Case of Gwanda District, Matebeleland South Province, Zimbabwe..... 168  
*Emelder M. Tagutanazvo and Vupenyu Dzingirai*

Opinion Piece: Inclusive and Universal Access to the Internet and Digital Technologies: The Right to Access Public Goods and Improved Livelihoods in Namibia..... 187  
*Dickson Kasote*

### **Livelihoods, natural resources and agriculture**

Case Study: Livelihood and Living Conditions of a Female Communal Farmer..... 192  
*Claudius Riruako*

### **Minerals-energy complex**

Case Study: The Right to Say No to Mining when it Destroys Livelihoods, the Environment and Cultural Heritage Sites..... 196

### **Green hydrogen (GH<sub>2</sub>) and solar energy**

Opinion Piece: Green Hydrogen: Reality or Fantasy? ..... 208  
*Bertchen Kohrs*

Opinion Piece: Germany's Hydrogen Rush in Namibia: Green Extractivism at its Best..... 217  
*Johanna Tunn and Franziska Müller*

Opinion Piece: Turning Katutura into a Transformative Namibian Social and Energy Powerhouse ..... 223  
*Andy Gheorghiu*

### **Book Review**

Ethnologists in Camouflage: Introducing Apartheid to Namibia (Robert Gordon)..... 229  
*Heike Becker*

# Unemployment, Underemployment, and Livelihoods in Namibia: The Human Rights Connection

*John B. Nakuta*

## **Abstract:**

*Namibia is grappling with an unemployment crisis. The youth, women, and people living in rural areas and informal settlements are disproportionately affected by the scourge of unemployment. The profile of the unemployed is a portrayal of the country's racist colonial and apartheid-induced inequalities. Viewing the unemployment crisis through a human*

*rights lens holds great potential. To start with, the right to work is recognised in several international treaties. The right to work is inextricably linked to several other human rights, including the right to human dignity, the right to non-discrimination, and the right to life. Importantly, an expansive interpretation of the right to life reads into it a right to livelihood. This was the*



*Most Namibian workers do not enjoy decent work. Photo: Herbert Jauch*

*finding of the Indian Supreme Court in the 1985 Olga Tellis. This case, arguably, holds tremendous persuasive value for potential social justice adjudication in the country. Achieving sustainable employment and livelihoods for all requires creative, imaginative and innovative thinking, as well as a mindset that acts 'outside the box' and is underpinned by a human rights-based approach.*

**Key terms: inequality; decent work; unemployment; precarious; livelihood; sustainable**

## **Introduction**

Namibia is currently burdened with frightening levels of unemployment. Women, young people, and those residing in urban areas disproportionately shoulder this burden. Furthermore, those fortunate enough to be employed are mostly doing menial, short-term, contract, and poorly paid work. Unemployment and underemployment both affect the lives and livelihoods of people. Consequently, terms such as 'in-work poverty' (Pembroke, 2019) have been conceptualised. The intersection of these variables is vivid and difficult to dispute. However, precarity is not just a labour market matter. It has far-reaching consequences outside of the workplace (Pembroke, 2019). It affects the lives and livelihoods of a great number of people. This requires the application

of an intersectional approach to these issues. Intersectionality provides us with a useful and powerful lens to better understand and overcome the underlying, deep-seated legacy of structural inequalities bedevilling our country. This is what the Constitution mandates. This is the position advanced in this article.

This article is premised on the assumption that a greater emphasis on the right to work, both in law and practice, could achieve greater dividends of social justice for the unemployed and underemployed in Namibia. The article begins by giving a brief synopsis of the right to work. It then proceeds to give reflections on the decent work deficit in the country. The scourge of unemployment, specifically, women unemployment and youth unemployment are used as the benchmark for the brief analysis in this regard. The final section of the article explores the theme of decent work and livelihoods for all. It makes the connection between the right to work, the right to life, and the right to livelihoods. Towards this end, it offers potential solutions for achieving greater social justice for both the unemployed and those trapped in precarious jobs.

## **Methodology**

Methodologically, the article falls in the discipline of law, and specifically in the area of international human rights

law. In this respect, it proceeds from the premise that states, including Namibia, should act in conformity with their human rights obligations.

The author gleaned data from various reliable sources relevant to the research. This primarily included secondary data sources consisting of policy documents, research project reports, academic books, and journal articles. Complementary to the above, statistical data, court decisions and newspaper articles were also collected to gain an impression of the prevailing outcomes in respect of the state of unemployment and underemployment in the country.

### **The Right to Work in a Nutshell**

The right to work is enshrined in numerous international human rights treaties. The International Covenant on Economic, Social and Cultural Rights (ICESCR) is widely considered as the central instrument for the protection of the right to work. The right to work is expressly guaranteed in Article 6 of the ICESCR. The content and scope of the right to work is clarified in General Comment 18 of the Committee on Economic, Social and Cultural Rights (CESCR) – the United Nations Treaty body entrusted with overseeing the implementation of the ICESCR. The Committee clarified that the right to work should not be understood as an

absolute and unconditional guarantee of employment. Rather, it requires governments to undertake particular actions to facilitate employment as part of their overall human rights obligation to fulfil the enjoyment of rights. This includes safeguarding the right of everyone to the opportunity to gain their living by work which they freely choose or accept. Such work must not be forced. It must be voluntarily accepted and not entered into under threat of penalty. This right also implies that people not be unjustly deprived of work, and so requires adequate protection from unfair dismissal (CESCR, 2006).

The right to work encompasses both individual and collective dimensions. The individual dimension of the right guarantees to everyone the enjoyment of just and favourable conditions of work, and in particular, the right to safe working conditions. The collective dimension of the right to work, on the other hand, recognises the right of everyone to form trade unions and join the trade union of his/her choice, as well as the right of trade unions to function freely and to collectively bargain.

The right to work is also enshrined in the United Nations' Universal Declaration of Human Rights (Article 23(1)), and the Convention on the Elimination of all forms of

Discrimination against Women (CEDAW). In this context, Article 11 of CEDAW guarantees to all women the right to work, employment opportunities, equal remuneration, free choice of profession and employment, social security, and protection of health.

African human rights instruments similarly contain express provisions and references to the right to work. For instance, the African Charter on Human and Peoples' Rights (the African Charter), the continent's premium human rights instrument, provides that every individual shall have the right to work under equitable and satisfactory conditions (African Charter, Art.15). The African Commission on Human and Peoples' Rights (African Commission) in its Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights (2010) provides great clarity and substance in interpreting the right to work. For instance, the African Commission clarified that state parties to the African Charter have an obligation to take "appropriate steps to realise the right of everyone to gain their living by work which they freely choose and accept". It furthermore obliges states to "establish a system of social protection [...] for workers in both formal and informal sector[s], including [...] members of vulnerable and disadvantaged groups" (African Commission, 2010).

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) (African Commission, 2003) enshrines an elaborated list of work-related rights for African women under Article 13. In this respect, it enjoins state parties to, amongst other things, promote women's rights to "equality of access to employment", "equal remuneration for jobs of equal value for women and men", and the creation of conditions necessary to "promote and support the occupations and economic activities of women, in particular, within the informal sector" (African Commission, 2003, p. 14). From the aforementioned, it is clear that the right to work is not explicitly entrenched in either the African Charter on Human and Peoples' Rights or the Maputo Protocol per se. Both these instruments only entrench the subsidiary rights to work.

The right to work is also not explicitly recognised and guaranteed in the Namibian legal order. While certain labour-related rights are protected in the Namibian Constitution and other relevant laws, an explicit right to work is not one of them. Some of the core labour rights guaranteed in the Constitution and the Labour Act (11 of 2007) include the prohibition of forced and child labour, non-discrimination in employment, freedom of association, and collective bargaining. Importantly,



Namibia has a monist legal system. International treaties to which Namibia is a state party are directly applicable in the country (Namibian Constitution, Article 144). The ICESCR and CEDAW respectively guarantee the right to work as alluded to earlier. Namibia ratified both the ICESCR and the CEDAW. These instruments are accordingly the relevant standards to be upheld and invoked to claim the right to work in the country. In fact, the claw-back clause in Article 144, “unless otherwise provided by this Constitution or Act of Parliament”, is mitigated by the international law principle enshrined in the Vienna Convention on the Law of Treaties. In particular, Article 17 of this treaty mandates that a State party “may not invoke the provisions of (an) internal law as justification for its failure to perform a treaty” (Vienna Convention on the Law of Treaties, 1969).

Furthermore, the right to work may also be claimed in Namibia through the indivisibility principle of human rights. This right, as stressed by the African Commission, is essential for the realisation of other economic, social and cultural rights. For instance, it constitutes an inseparable and inherent part of human dignity. It is integral to an individual’s role within society. Access to equitable and decent work is at the core of respect for the fundamental rights of the human person and the rights of

workers regarding conducive working conditions, safety and remuneration. It can therefore also be critical for both survival and human development (African Commission, 2010).

It is important to stress though that “jobs at any cost”, to paraphrase Cooper, is a misnomer under international law (Cooper, 2009). The emphasis is on decent work as conceptualised by the International Labour Organization (ILO, 1999). The concept of decent work covers a wide range of issues and is categorised under four pillars, namely:

- employment creation and enterprise development;
- standards and rights at work;
- social protection; and
- governance and social dialogue (ILO, 2007).

Many countries, including Namibia, have embraced the Decent Work Agenda. In fact, Namibia and the ILO contracted the Namibia Decent Work Country Programme for the period 2010–2014 in April 2010.

The link between ‘rights at work’ and the concept of ‘decent work’ is also clarified in General Comment 18, referred to earlier, which affirms that the ‘work’ in the context of the Article 6-guaranteed rights connotes decent work. That, importantly, presupposes work that “[...] respects

the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration” (CESCR, 2006).

Decent work further entails a decent income – in other words, an income that allows workers to support themselves and their families (CESCR, 2006).

The right to work has a specific scope and content. Expressed differently, it is anchored on the existence of several interdependent and essential elements. These elements are crystallised around the so-called ‘AAAQ’ framework, in human rights parlance. In this context, the interdependent and essential elements of the right to work are the following:

- i. **Availability:** This requires the existence of specialised services to assist and support individuals to enable them to identify and find available employment.
- ii. **Accessibility:** This element essentially mandates that the labour market must be open to everyone; to this end, it
  - a) proscribes discrimination of any kind, whether direct or indirect;
  - b) it emphasises the physical accessibility of employment, especially, for persons with disabilities; and
  - c) it also emphasises information accessibility in respect of the

right to seek, obtain and impart information relevant to gaining access to employment.

**iii. Acceptability and Quality:**

These components pivot around the right of the worker to just and favourable conditions of work, particularly, to safe working conditions, the right to form trade unions, and the right freely to choose and accept work (CESCR, 2006).

Lastly, like all human rights, the right to work imposes three types or levels of obligations on the State. These are the obligations to respect, protect and fulfil. The obligation to respect the right to work requires States to refrain from interfering directly or indirectly with the enjoyment of that right. For example, organs for the State should not be ones violating the right of workers. The obligation to protect requires States to take measures that prevent third parties from interfering with the enjoyment of the right to work. This requires the State to prevent employers from violating the rights of their works and to intervene when such violations occur. The obligation to fulfil, on its part, includes the obligations to provide, facilitate and promote the right to work. This implies that States should adopt appropriate legislative, administrative, budgetary, judicial and other measures to ensure the full realisation of the right to work, for instance.

From the above it is clear that the right to work is a fundamental right and not a mere illusion. It is legally guaranteed, contains a specific content, and imposes unassailable obligations on the State. A curious and joint reading of the ILO's Decent Work Agenda and the CESC's General Comment 18 reveals a great amount of convergence between these authoritative soft law instruments. This allows for an assessment of the decent work deficit in Namibia.

### **The Decent Work Deficit in Namibia: Some Evidence**

An analysis of the Decent Work Agenda in Namibia is limited, due largely to the lack of data. The country has an acute gap in labour market information, especially regarding information relevant to the decent employment pillars. Data limitations aside, the existing literature on the labour market still allows for a cursory examination of the country's experiences in respect of the Decent Work Agenda. Only the strategic pillar most relevant to the theme under discussion, namely, employment creation, is explored.

#### *The scourge of unemployment in Namibia*

It is no exaggeration to assert that the rate of unemployment in Namibia has reached critical proportions. Official data sources affirm this. For instance, the most recent Namibia Labour Force

Survey (LFS) 2018 Report puts the overall broad unemployment rate for the country at 33.4%. This represents a slight decrease of 0.6% compared to the 34.0% official unemployment rate recorded in 2016 (Namibia Statistics Agency [NSA], 2019). These figures, importantly, do not reflect the job losses experienced during the COVID-19 pandemic. The scourge of unemployment disproportionately affects women, young persons, and those residing in rural areas. Women and young persons, in terms of General Comment 18, are amongst the demographic groups that must be prioritised in respect of job creation (CESC, 2006). The following sub-sections accordingly briefly reflect on the plight of unemployment that afflicts women and young persons in the country.

#### *(a) The burden of women's unemployment*

The 2018 LFS shows that unemployment rates for females in all age groups under 65 years are higher than for men in the corresponding age groups. The overall female unemployment rate is 38.3%, compared to 29.8% for males (NSA, 2019). The 2018 LFS, like all other official data sources, did not collect ethnically disaggregated data. Regrettably, empirical evidence on how women from the different ethnic and/or racial groups are differently impacted by unemployment is accordingly

lacking. The merit and demerits of the prohibition, and concomitant lack of population data delineated by 'race and ethnicity plus gender' (Sharpe, 2019), are beyond the scope of this article. Suffice it to say that women are not homogenous. Their lived experiences differ. For example, anecdotal evidence suggests that more women from the San communities are unemployed than white women. Similarly, more San women than Ovambo women are unemployed. This, in the words of Sharpe, amounts to a trivialisation of the importance of race-gender and ethnicity-gender data, which in turn has implications for policy planning. It also wreaks havoc with the accurate collection and analysis of data (Sharpe, 2019). It is difficult to dispel such assertions, and it is therefore understandable why the United Nations CESCR specifically urged Namibia to generate labour force data that is disaggregated by factors related to the most disadvantaged and marginalised groups (CESCR, 2016). Skirting around the edges of the structural inequality issues haunting Namibian society is not helpful, as it can only disguise and perpetuate the cycle and legacy of deprivation and exclusion (Rorke, 2011) the country inherited from her racist colonial past. That said, it is safe to state that the majority of the women reported to be shouldering the burden of unemployment in the country are black.

Furthermore, even where women are able to secure work in the formal

economy, this does not necessarily equate to decent work. In fact, many women, in 2018 LFS parlance, are engaged in vulnerable employment situations. This, arguably, is a euphemism for precarious work. There is, admittedly, currently no uniform definition of what constitutes precarious work (ILO, 2012). However, the broad contours of precarious working conditions include a combination of:

- low wages;
- poor protection from termination of employment;
- lack of access to social protection and benefits usually associated with full-time standard employment; and
- lack of rights at work, or limited capacity of workers to exercise such rights (ILO, 2012).

In this context, the 2018 LFS reveals that the rate of persons employed in precarious working situations in the country (as a percentage of the total employed) is as high as 31.6%. Most of these vulnerable workers are reportedly own account workers (44.1%), followed by subsistence/communal farmers (41.0%), whilst unpaid family workers account for 7.4% of the national total. The majority, namely, 65.1% of those employed under precarious working situations are reportedly found in rural areas (NSA, 2019). The same arguments ventilated above regarding the lack of disaggregated unemployment data

according to the ‘race and ethnicity plus gender’ lenses apply in respect of those employed under precarious working conditions. These arguments will not, as such, be repeated here.

Women’s precarity is intersectional. The main factors behind the high numbers of women in precarious work, as pointed out by Buckingham and others, include the disproportionate amount of time that they spend in caregiving roles and domestic work – both of which are unpaid and largely unrecognised, as are embedded stereotypes (Buckingham et al., 2020). For instance, gender segregation is a notoriously and deeply entrenched feature in the Namibian education system and in other occupations and sectors. These gender-based inequalities that women face in both paid and unpaid work, as correctly asserted by Buckingham and others, exacerbate their precarity and undermine their economic autonomy (Buckingham et al., 2020). Such women workers are exposed to highly exploitative working conditions and face almost

insurmountable obstacles to organising and bargaining collectively (ILO, 2012). Additionally, the gendered aspect of low wages and precarious work also impacts on household incomes (Cooper, 2009) and has a deep impact on both individual women and society at large.

### *(b) Youth unemployment*

International human rights mandates that young persons be prioritised in employment creation. The reasoning behind this is twofold: “Access to a first job constitutes an opportunity for economic self-reliance and in many cases a means to escape poverty. ... [In the same vein] young persons, particularly young women, generally have great difficulties in finding initial employment” (CESCR, 2006).

The definition of ‘youth’, in this context is young persons aged 15 to 34 years (NSA, 2019). Youth unemployment in Namibia is alarmingly high. A summary of the state of youth unemployment by age group and gender as extracted from the 2018 FLS is shown in Table 1 below.

**Table 1** *Youth Unemployment by Age Group and Sex*

Age group	Both sexes (%)	Female	Male
15–19	69.9	74.1	65.5
20–24	57.0	60.4	53.4
25–29	42.3	44.8	39.7
30–34	32.5	33.5	31.4
Total	46.1	48.5	43.7

Source: NSA, 2019

The overall youth unemployment rate is 46.1%. This represents an increase of 2.7% over the youth unemployment rate of 43.4% reported in the 2016 LFS. The trend of youth unemployment seems to be in step with that of the national unemployment rate. Youth unemployment is, similarly, feminised and rural, and a fairly high number of young workers are precariously employed.

The survey reveals that, in comparison to their male counterparts, more young women are unemployed. The total female youth unemployment rate at the time of the survey reportedly stood at 48.5%, compared to 43.7% for young men. Youth unemployment was found to be higher in rural areas (49.1%) than in urban areas (44.0%); unemployment was reportedly higher for female than male youths in most regions, with the exception on three, namely, Erongo, Oshana and Oshikoto. Youth unemployment rates were highest in Kavango East (62.5%) and Kunene (53.0%) regions. The 2018 FLS further reveals that the majority of young persons (32.7%) were employed in elementary jobs – menial, short-term and poorly paid work. Greater percentages of women than men, and rural than urban dwellers, were likewise employed in elementary jobs (NSA, 2019, pp. 65–68).

The issue of youth employment currently features strongly in the

national discourse. Social commentators such as Jauch (2023) argue that the State of the Nation Address (SONA) delivered by President Geingob on 16 March 2023 failed to recognise the magnitude of the unemployment problem. Indeed, a word count of the 76-page SONA document reveals that the word ‘unemployment’ only appears once, and ‘unemployed’ twice. The former was in reference to the announcement of new recruits for the Namibia Correctional Services, the Namibian Police Force (NAMPOL), and the Namibian Defence Force (NDF) during the 2023 financial year to “respond to the challenge of unemployment” (SONA, 2023). To this end, the Namibia Correctional Services, NAMPOL and the NDF were to recruit 300, 1 000 and 1 500 new personnel, respectively, during the 2023/24 financial year (SONA, 2023). Needless to say, these figures constitute a drop in the ocean of unemployment. Similarly, the word ‘unemployed’ was only used in the SONA document in reference to the announcement that an incentivised National Internship and TVET (Technical and Vocational Education and Training) Apprenticeship Programme would be rolled-out in 2023.

At this juncture it is opportune to buttress a point equally relevant to the right to work: that is, the right not to be discriminated against.

The aforementioned recruitments were all marred in controversy. For example, the outcome of the recruitment process of police cadet officers for //Karas Region revealed that the majority of the 183 shortlisted candidates have Oshiwambo-origin surnames (Joseph, 2023) – this, despite the fact the Nama ethnic group constitute the majority in the region. Not surprisingly, this caused a major public outcry, with NAMPOL being accused of tribal bias in the recruitment process. Such accusations are by no means isolated. In fact, several opinion pieces, SMS (short message service) pages, and call-in radio programmes in the mainstreaming media have made similar assertions. Indeed, the recurrent complaint in this regard relates to the perceived over-representation of the Ovambo tribe in almost all government ministries and agencies, and especially in NAMPOL, the NDF, and the recently established NamRA (Namibia Revenue Agency). It is important to stress that there is substantial agreement in juristic thought that justice must not only be done, but must manifestly be seen to have been done. The appearance of injustice is the denial of justice (see, for example, the 1985 *Olga Tellis* case). Moreso, the temper of the right not be discriminated against repudiates all forms unfair discrimination – whether perpetrated intentionally or unintentionally. This cardinal principle and standard equally applies to systemic

discrimination, which, as clarified by the CDESCR in its General Comment 20, can be: “[...] understood as legal rules, policies, practices or predominant cultural attitudes in either the public or private sector which create relative disadvantages for some groups, and privileges for other groups” (CESCR, 2009, par.12).

There is a strong argument to be made that the growing perception of the resurgence of a one-tribe-dominance in the public service in respect of recruitment, employment and promotions amounts to indirect systemic discrimination. Importantly, the accessibility mandate of the right to work enjoins, amongst other things, equal employment opportunities for all, irrespective of tribal background or affinity. It is therefore encouraging to read about the “80-20 regional natives” recruitment policy directive in respect of all future NAMPOL recruits, as recently announced in the National Assembly by the Minister of Home Affairs, Immigration, Safety and Security, Albert Kawana (Joseph, 2023). According to Kawana, 80% of all future police recruitments will be reserved for persons indigenous to a given region whereas the remaining 20% will be allotted to ethnic groups associated with other regions. This public policy directive, albeit a knee-jerk response to the public outcry concerning the matter, is a step in the

right direction. After all, this is what the Constitution mandates. It is imperative that the Government of the Republic of Namibia stay true to the spirit, purport, and letter of the Constitution – in both law and practice. This policy directive should, logically, be extended to all other government offices, ministries, and agencies – more specifically, to the NDF.

At the time of writing, the National Assembly was similarly seized with the issue of youth unemployment. The Parliamentary Standing Committee on Human Resources and Community Development were conducting public hearings on youth unemployment. This was as a consequence of a motion on youth unemployment tabled by a Member of Parliament, Inna Hengari, in July 2022. The motion “seeks to discuss and debate the youth unemployment crises in Namibia” (Hengari, 2022). The key discernible issues from the motion include the following:

- ever-increasing graduate unemployment;
- the disconnect between the education system and the labour market;
- an education system that emphasises theory over practice (at all levels);
- the over-representation of young persons in precarious jobs;
- the proliferation of exploitative

insecure work arrangements as being the main driver of precarity for those fortunate enough to be employed; and

- the inescapable link between youth unemployment and social issues such as alcohol and drug abuse, and sex work (Hengari, 2022).

The motion made several calls for urgent action, including:

- increased investment in horticultural production and other essential agricultural commodities;
- access to land for young entrepreneurs to venture into commercial farming;
- action to address the access-to-information challenges faced particularly by rural unemployed young persons;
- action to address the intersectional development challenges such as electricity in both rural settings and informal settlements in urban areas; and
- the implementation of effective monitoring and evaluation systems (Hengari, 2022).

Hengari characterises youth unemployment as a generational crisis requiring extraordinary and urgent interventions. Against this backdrop she called for youth unemployment



to be declared a national state of emergency. However, President Geingob expressed reservations about declaring youth unemployment a state of emergency during the debate on his SONA. Responding to questions on this, the President reportedly said: “[...] I am worried about declaring a state of emergency on youth unemployment, although I agree it is a serious problem” (Shipena, 2023).

The above global level analyses attempted to show that the issues of unemployment, underemployment, lives, and livelihoods are intertwined.

### **Decent Work and Livelihoods for All**

The 2030 Agenda for Sustainable Development (United Nations, 2015) pledges to leave no one behind. This commitment is underpinned by the notion of inclusive and equitable development, and is a recognition of the fundamental dignity of the individual (Lynch et al., 2019). The commitment to leave no one behind, as empathetically stressed by Lynch and others, requires that the needs of the most marginalised, discriminated against, impoverished, and vulnerable populations be prioritised (Lynch et al., 2019). The unemployed and working poor are, undoubtedly, within the frame of the “leave no one behind” commitment. Indeed, Goal 8 of the SDGs (“Decent work and economic

growth”) under Target 8.5 ambitiously aims to achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, by 2030. This, in the context of the theme under discussion, triggers the questions: Is there a right to livelihood? If so, how, if at all, is this right linked to the right to work?

Answers to these questions are discernible in the jurisprudential work of the Indian Supreme Court, known to be conscious of social justice issues. Specifically, in the *Olga Tellis* case the Court was called upon to decide whether the right to life includes within its ambit the right to livelihood. The Court affirmed the notion that the sweep of the right to life is wide and far-reaching, and further that the right to life connotes life that is more than mere animal existence. The Court was unequivocal in holding that the right to livelihood is an integral component of the right to life. In the view of the Court, to deprive a person of his/her right to livelihood equates to depriving him/her of their life. This is so because no person can live without the means of living – that is, the means of livelihood. In fact, excluding the right to livelihood from the right to life would effectively deprive a person of his/her very right to life. Thus, depriving someone of his/her/their means of livelihood, in the phraseology of Article 22 of the

Namibian Constitution, would negate the essential content of the right to life.

Furthermore, people have to eat to live. That they can do only if they have the means of livelihood. This where the relevance and co-dependency of the rights to life, to livelihood, and to work become pronounced. Again, the Indian jurisprudence aptly illustrates the indivisibility of these rights. For instance, Justice Douglas in the *Baksey v Board of Regents* case held the following to illustrate the indivisible nature of these rights: “The right to work is the most precious liberty because, it sustains and enables a man to live and the right to life is a precious freedom.”

The African Commission in its General Comment 3 on the Right to Life made similar clarification:

*[...] a number of other rights which might, collectively, be constitutive of the condition of life, especially a dignified life, its progressive realisation of various economic, social and cultural rights will contribute to securing a full and dignified life. Violations of such rights may in certain circumstances therefore also entail violations of the right to life.*

The dominant conclusion emerging from this discussion is that employment and livelihood issues are not new (Pawar, 2021). The question is: How do

we address the menace of under- and unemployment in the country? There is, admittedly, no simple answer to this question. It is clear, though, that sustainable employment and livelihoods for all require creative, imaginative and innovative thinking and acting ‘outside the box’ that will develop new policies and programmes (Pawar, 2021).

That, minimally, will require the introduction of legislation that protects the standard employment relationship and confronts the insecurity and unpredictability associated with non-standard employment (Pembroke, 2019). There is, similarly, a strong case to be made for reducing the standard full-time work week, without a concomitant reduction in salary (Veal, 2021). That would be a laudable way to expand decent and sustainable employment to all in tandem with the “leave no one behind” principle, and to subserve the common good. Lastly, to address the sustainable employment deficit, the introduction of a basic income grant remains key to ensuring livelihoods for the masses of unemployed and precariously employed persons who are struggling to survive. When we, to paraphrase Pawar, carefully address the core issues and causes of unemployment and underemployment, providing sustainable employment and livelihoods for all is not beyond our reach (Pembroke, 2019).

## Conclusion

The purpose of this article was not to propose that a right to work should necessarily be included in the Namibian Constitution. It bears repeating that even under the current constitutional dispensation, the interests and values underlying the right to work may be attained through an expansive interpretation of other rights guaranteed in the Constitution. Similarly, because of lack of space, this article has not sought to explore the relationship between the right to work and the issue of social protection, or the plight of those working in the informal economy.

The aim of this article has been more modest, namely, to establish the connection between the internationally guaranteed right to work for all; unemployment and underemployment; and lives and livelihoods. The central thrust of the article is that the right to decent work is an internationally guaranteed right. Namibia is a state party to some of the core human rights treaties that guarantee this right. Namibia is accordingly expected to implement this right progressively, i.e., over time and to the full extent of its available resources.

Human rights are only meaningful if there are ways to protect and uphold them. Namibia's court system is the country's primary means of protecting

rights. However, to date, Namibian courts have not yet been called upon to consider the right to work per se – this, whilst Rome is proverbially burning. The Namibian state must undoubtedly be held accountable for the prevailing decent work deficit in the country. The hordes of unemployed and underemployed youth, women, and rural residents should, as rights-holders, consider using the court system to ensure that the Namibian government uphold the right to decent work in accordance with the standards of international law. Achieving sustainable employment and livelihoods for all requires creative, imaginative and innovative thinking, and acting 'outside the box' to meet the demands of the Decent Work Agenda and human rights imperatives.

## References

### **International Legal Instruments**

*Convention on the Elimination of All Forms of Discrimination Against Women*, adopted 18 December 1979, 1 249 UNTS 13 (entered into force 3 September 1981). <https://www.refworld.org/docid/3ae6b3970.html>

*International Convention on the Elimination of All Forms of Racial Discrimination*, adopted 21 December 1965, 660 UNTS 195 (entered into force 4 January 1969). <https://www.refworld.org/docid/3ae6b3940.html>

*International Covenant on Economic, Social and Cultural Rights*, adopted 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976). <https://www.refworld.org/docid/3ae6b36c0.html>

*Vienna Convention on the Law of Treaties*, adopted 23 May 1969, 1155 UNTS 335 (entered into force 27 January 1980). <https://www.refworld.org/docid/3ae6b3a10.html>

### **African Regional Human Rights Instruments**

African Commission on Human and Peoples' Rights. (2003). *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* [Maputo Protocol], adopted 11 July 2003 (entered into force 25 November 2005). [https://au.int/sites/default/files/treaties/37077-treaty-charter\\_on\\_rights\\_of\\_women\\_in\\_africa.pdf](https://au.int/sites/default/files/treaties/37077-treaty-charter_on_rights_of_women_in_africa.pdf)

African Commission on Human and Peoples' Rights. (2010). *Principles and Guidelines on the implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights* [Nairobi Reporting Guidelines on ECOSOC]. [https://archives.au.int/bitstream/handle/123456789/2063/Nairobi%20Reporting%20Guidelines%20on%20ECOSOC\\_E.pdf?sequence=1&isAllowed=y](https://archives.au.int/bitstream/handle/123456789/2063/Nairobi%20Reporting%20Guidelines%20on%20ECOSOC_E.pdf?sequence=1&isAllowed=y)

Organisation of African Unity. (1981). *African Charter on Human and Peoples' Rights* [Banjul Charter], 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) (entered into force 21 October 1986). <http://hrlibrary.umn.edu/instreet/z1afchar.htm>

### **United Nations Documents**

Committee on Economic, Social and Cultural Rights. (2006, February 6). *General Comment 18: The Right to work (Art. 6 of the International Covenant on Economic, Social and Cultural Rights)*, United Nations Doc. E/C.12/GC/18. <https://www.refworld.org/docid/4415453b4.html>

Committee on Economic, Social and Cultural Rights. (2009, July 2). *General Comment 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, United Nations Doc. E/C.12/GC/20. <https://www.refworld.org/docid/4a60961f2.html>

Committee on Economic, Social and Cultural Rights. (2016). *Concluding observations on the initial report of Namibia*. UN Doc. E/C.12/NAM/CO/1. <https://digitallibrary.un.org/record/831870?ln=en>

United Nations General Assembly. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development*. UN Doc. A/RES/70/1. <https://www.un.org/>

en/development/desa/population/migration/generalassembly/docs/globalcompact/A\_RES\_70\_1\_E.pdf

### **National Legal Instruments**

The Constitution of the Republic of Namibia. (1990).

### **Reports of International Organisations and Government Agencies**

Buckingham, S., Fiadzo, C., Dalla Pozza, V., Todaro, L., Dupont, C., & Hadjivassiliou, K. (2020). *Precarious work from a gender and intersectionality perspective, and ways to combat it* [Report]. European Parliament Committee on Women's Rights and Gender Equality. [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/662491/IPOL\\_STU\(2020\)662491\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/662491/IPOL_STU(2020)662491_EN.pdf)

Lynch, A., LoPresti, A., & Fox, C. (2019). *The 2019 US Cities Sustainable Development Report*. Sustainable Development Solutions Network. <https://www.sustainabledevelopmentreport/reports/2019-us-cities-sustainable-development-report/>

Namibia Statistics Agency. (2019). *Namibia Labour Force Survey 2018 Report*. [https://nsa.nsa.org.na/wp-content/uploads/2021/05/Labour\\_Force\\_Survey\\_final\\_-\\_2018.pdf](https://nsa.nsa.org.na/wp-content/uploads/2021/05/Labour_Force_Survey_final_-_2018.pdf)

Rorke, B. (2011). *Beyond Rhetoric: Roma Integration Roadmap for 2020*. Open Society Foundations. <https://>

[www.opensocietyfoundations.org/publications/beyond-rhetoric-roma-integration-roadmap-2020](http://www.opensocietyfoundations.org/publications/beyond-rhetoric-roma-integration-roadmap-2020)

### **Books**

International Labour Organization. (1999). *Report of the Director General: Decent Work*. <https://www.ilo.org/public/english/standards/relm/ilc/ilc87/rep-i.htm>

International Labour Organization. (2007). *Toolkit for Mainstreaming Employment and Decent Work: Country Level Application*. [https://www.ilo.org/wcmsp5/groups/public/-/dgreports/-/exrel/documents/publication/wcms\\_172612.pdf](https://www.ilo.org/wcmsp5/groups/public/-/dgreports/-/exrel/documents/publication/wcms_172612.pdf)

### **Journal Articles**

Cooper, C. (2009, January 1). Women and the right to work. *South African Journal on Human Rights*, 25(3), 573–606. <https://journals.co.za/doi/10.10520/EJC53345>

Pawar, M. (2021). Sustainable Employment and Livelihoods for All. *The International Journal of Community and Social Development*, 3(3), 191–197.

Pembroke, S. (2019). Precarious work leads to precarious lives: The Irish experience and policy responses. *Irish Quarterly Review*, 108(432), 446–453.

Sharpe, R.V. (2019, July 30). Disaggregating data by race allows for more accurate research. *Nature Human Behaviour*, 3, 1 240. <https://doi.org/10.1038/s41562-019-0696-1>

### **Media Articles**

Jauch, H. (2023, April 4). Arrest the unemployment crisis – not the youth! *The Namibian*. <https://www.namibian.com.na/arrest-the-unemployment-crisis-not-the-youth/>

Joseph, E. (2023, June 13). Police jobs: Govt to recruit 80% regional natives. *Namibian Sun*.

Shipena, J. (2023, March 17). Declaring state of emergency on youth unemployment gives Geingob headache. *Eagle FM*. <https://www.eaglefm.com.na/news/declaring-state-of-emergency-on-youth-unemployment-gives-geingob-headache/>

Veal, A. (2021, July 13). The success of Iceland's 'four-day week' trial has been greatly overstated. *The Conversation*. <https://theconversation.com/the-success-of-icelands-four-day-week-trial-has-been-greatly-overstated-164083>

### **Foreign Case Law**

*Olga Tellis & Others v Bombay Municipal Corporation & Other*, 10 July, 1985.