



REPUBLIC OF NAMIBIA

**MOTIVATION FOR THE RATIFICATION OF THE
AGREEMENT ON THE TRANSFER OF SENTENCED
PERSONS BETWEEN THE REPUBLIC OF NAMIBIA
AND THE REPUBLIC OF BOTSWANA**

**BY THE HONOURABLE DEPUTY MINISTER OF
HOME AFFAIRS, IMMIGRATION, SAFETY AND
SECURITY, DR. DANIEL KASHIKOLA, MP**

... OCTOBER 2022

The Transfer of Convicted Offenders Act, (Act No. 9 of 2005), provides for the transfer of convicted offenders between countries with Section 20 of the said act empowering the Minister responsible for the Correctional Service to enter into agreements on the transfer of convicted offenders, subject to the ratification of such agreement by the National Assembly.

During the meeting of the Botswana / Namibia Joint Permanent Commission on Defence and Security (JPCDS) that took place in Francistown, Botswana in August 2008, the need to have an agreement on the transfer of sentenced persons between the Republic of Namibia and the Republic of Botswana was discussed and the Namibian Correctional Service was tasked to draft the bilateral Agreement in this regard, which was submitted to Botswana in June 2009. This agreement was then finalised, a draft was agreed upon in September 2022 and was signed at the Inaugural Session of the Botswana-Namibia Bi-National Commission (BNC) in Gaborone, Botswana on 09 September 2022.

In compliance with the provision of section 20 (2) of the Transfer of Convicted Offenders Act, 2005 (Act 9 of 2005), I request this august house to ratify the Agreement on Sentenced Persons to give effect to the contents therein.

Honourable Speaker

Honourable Members

The latest statistics dated 01 September 2022, indicate that there was 1 sentenced Namibian national incarcerated in the Botswana Prison, while there were 3 sentenced Batswana nationals in Namibian Correctional facilities.

Although the above seems to be low, the importance of each and every inmate to serve their sentences close to their families cannot be over-emphasised, as it is critical for their rehabilitation and reintegration into society.

Studies have consistently found that inmates who maintain close contact with their family members while incarcerated, have better post-release outcomes and lower re-offending rates.

The transfer of foreign sentenced persons to serve their sentences in their home countries is an alternative way of implementing a sentence. All things being equal, sentenced persons who serve their sentences in their home countries can be rehabilitated, re-socialized and reintegrated into the community better than elsewhere. This is a positive reason for transferring sentenced persons to a State with which they have social links to serve their sentences.

Imprisonment in a foreign country, away from family and friends, may also be counterproductive as families are denied the opportunity to provide social support, which improves the likelihood of successful resettlement and reintegration.

Honourable Speaker

Honourable Members

The argument for encouraging the transfer of sentenced persons has a strong basis in international human rights law. Article 10, paragraph 3, of the International Covenant on Civil and Political Rights, which, Namibia has ratified and acceded to states that the “essential aim” of a penitentiary system is the “reformation and social rehabilitation” of offenders. The Standard Minimum Rules for the Treatment of Prisoners (affectionately known as the Nelson Mandela Rules), echo this duty to facilitate the social rehabilitation of offenders. Almost all instruments that regulate international offender transfers specify social rehabilitation as one of the grounds for supporting such transfers.

In addition, interviews conducted on the Batswana nationals incarcerated in Namibian correctional facilities to determine the level of their willingness to serve their sentences in Botswana, and all the 3 inmates responded positively. I am sure, the same applies to the Namibian national who is serving time in a Botswana prison.

Therefore, in view of the importance and the willingness of these inmates to serve their sentences in their countries of origin, the ratification by this Parliament and the subsequent operationalization of the Agreement on the Transfer of Sentenced Persons between the Republic of Namibia and the Republic of Botswana, is of utmost importance.