

UN Human Rights Council

**c/o OHCHR Civil Society Unit
Geneva, Switzerland
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Dear colleagues,

Please find below information that the undersigned organizations would like to see included in the OHCHR's summary of stakeholder information to be provided for consideration during the Human Rights Council's Universal Periodic Review (UPR) of Namibia. We would be most appreciative if you could especially include the texts highlighted in italic type.

Universal Period Review – Namibia

The Namibian Women's Health Network (NWHN) comprises 13 coordinating members, 12 of whom are young women living with HIV. The coordinating committee, based in Windhoek, engages with women in each of the 12 regions of the country to represent local health issues affecting women and girls regardless of HIV status. The central committee meets with parliamentarians (MPs) to also address issues from different regions.

Ipas is an international non-profit organization that works globally to increase women's ability to exercise their sexual and reproductive rights and to reduce maternal morbidity and mortality related to unsafe abortion. We believe that women in all countries should be able to determine their own futures, to care for their families and to take decisions related to their own sexuality and reproduction.

In light of the upcoming Universal Periodic Review for Namibia at the Human Rights Council, we would like to present information about the situation of women's human rights in Namibia with regard to sterilization without informed consent of women living with HIV, lack of access to family planning information and services for young women, and failure to implement the law on abortion so that women are still resorting to unsafe abortions and abandonment of newborns.

I. Sterilization without informed consent of women living with HIV

For many women in Namibia, including women living with HIV, pregnancy and childbearing are central components of their self-esteem and personal satisfaction. Moreover, bearing children has immense cultural importance for women, not vis-à-vis the community but also in their personal relationships.¹ Nevertheless, during a workshop organized by NWHN for 30 young HIV-positive women in 2008, several of them related that they had been sterilized without their informed consent at public hospitals in Namibia. In all of the instances, the women were or had recently been pregnant. *A fact-finding exercise was subsequently undertaken among 230 women living with HIV in 3 regions of the country; 40 women indicated they had been subjected to forced or coerced sterilization. Documentation of these first*

¹ Jennifer Gatsi Mallet. June 2010. Motherhood denied. The forced and coerced sterilization of HIV positive women in Namibia. Presentation at the Women Deliver Conference, Washington, DC.

findings was submitted to the Deputy Minister of Health in August 2008 and NWHN continued to research the issue.

Most of the women interviewed had indeed signed a consent form, but they did so under pressure from doctors; in many situations, they had little choice but to agree to the procedure. Some women were told that unless they signed the consent form, the doctor would not perform the procedure that brought them to the clinic or hospital in the first place. A number of women were asked to sign the form either just before they underwent a caesarian section or just after they had a natural birth. Some women came for post-abortion care and were told that they must agree to sterilization for this treatment. Some women were misinformed, being told that if they did not agree to the sterilization, their antiretroviral treatment would not work. Other women were not informed about the repercussions of sterilization, so they thought it was a form of temporary birth control that would wear off after a few months. In addition, some women were asked to sign the English-language consent form although they did not speak English and could not understand what they were signing. Finally, a small percentage of women were not asked to sign a consent form and only found out about the sterilization when they sought family planning services. Women who underwent forced sterilization are now fearful of visiting clinics for other treatments, including antiretroviral therapy.²

With assistance from the Legal Assistance Centre, 15 women have now decided to take their cases to court to seek reparations for this violation of their human rights. In July 2009, the Ministry of Health and Social Services stated that their own investigations confirmed that there was no forced sterilization taking place in Namibian hospitals. However, they did not speak with the 15 women mentioned above and *NWHN and other civil society organizations are concerned that no remedial actions are being taken to avoid the further sterilizations of HIV-positive women without their informed consent.*

After several delays, the first three cases came to court in June 2010. After 3 days of testimony, the Court continued the case to be further heard from 1-10 September 2010.³

Coerced and forced sterilization violates a number of human rights guaranteed under national, regional, and international agreements. Not only does the constitution of Namibia guarantee the equal treatment of women living with HIV, but so do the regional and international charters which Namibia has signed, including the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention Against Torture.

2. Lack of access to family planning information and services for young women

A project carried out by NWHN/ICW and Ipas in 2008-2009 revealed that *young women do not feel able to access family planning services if they are unmarried due to judgmental attitudes on the part of service providers.* Young women who had unwanted pregnancies and clandestine abortions have told NWHN that nurses refused to give them a family planning method because the nurses felt they should not be sexually active. Sometimes young people are also misinformed about methods in order to

² Aziza Ahmed. 4 June 2010. Namibian High Court to hear cases of forced sterilization. *RH Reality Check*; <http://www.rhrealitycheck.org/blog/2010/06/03/namibian-high-court-hear-cases-forced-sterilization>

³ 8 June 2010. *Case to continue 01 September*; <http://endforcedsterilisation.wordpress.com/>

discourage their requests; for example, several young people related that they were told young women will become infertile if they use hormonal methods from an early age.

While the government's policy is that emergency contraception should be available at all clinics, this is not the case. NWHN managed to obtain availability of emergency contraception (and post-exposure prophylaxis for HIV) after writing to the Ministry of Health in 2009 to demand the services for two clinics in Windhoek and a clinic in the rural town of Dordabis. Whether the services are accessible at other clinics throughout the country can be questioned.

The lack of family planning services for young women violates several of their rights: to health and health care, to self-determination, to decide whether and when to have children, to the benefits of scientific progress and their right to information.

3. Failure to implement the abortion law

It is legal to have an abortion in Namibia in cases of danger to a woman's life or physical or mental health, in cases of fetal malformations and in cases of rape and incest. However, *access to safe abortions is almost non-existent for three reasons:*

- 1) *the law specifies that three health-care providers must attest to the legality of the request, a difficult hurdle to surpass in areas with few health-care providers;*
- 2) *the government speaks about abortion as if it were illegal;*
- 3) *the government does not inform women about legal indications for abortion and does not take measures to provide services.*

In 2009, NWHN learned that the government had prepared a draft reproductive health policy; upon reviewing the draft, it appeared that no mention was made of legal abortion services. NWHN and other civil society groups provided a number of recommendations on gaps in the policy, including a need to introduce vacuum aspiration methods for post-abortion care (recommended by WHO) and to offer legal abortion services. The government acknowledged receipt of the recommendations but still has not issued a final version of the policy and it is unknown whether they will include abortion-related services in the guidelines.

These failures on the part of the government to implement the abortion law and to provide abortion-related care as recommended by WHO violate women's rights to: health and health care, self-determination, decide whether and when to have children, the benefits of scientific progress, freedom from discrimination (as abortion care is a medical treatment needed only by women), and freedom from cruel and inhuman treatment.

Two major results of the lack of accessible family planning and legal abortion services are that many women have unsafe clandestine abortions and there is a high incidence of "baby dumping" (abandonment of newborn infants).

In September 2008, the Minister of Health and Social Services in Namibia said that thousands of women have abortions every year. Recent statistics are not available, as the government does not appear to systematically collect abortion-related data, but it was found that between November 1995 and 1998, 7147 women were treated for abortion-related problems; that does not include the women who did not go to hospital afterwards. Only 107 women were able to have their pregnancies legally terminated. A

WHO report on obstetric complications treated in hospitals in 2005 stated that abortion complications accounted for about 38%.⁴

In October 2009, the Minister of Health stated that: "Fifty-nine percent of the women dying of abortion related complications were under the age of 25. This is consistent with other reports that increasingly young people resort to unsafe abortion or even commit suicide because of unwanted pregnancy."⁵

In 2008, it was estimated that the bodies of 13 newborn babies were found at the Gammams Water Care Works in Windhoek each month, having been flushed down the toilet. Other newborns are found in the bush, in waste bins and on the streets. That same year, the Namibian Police Public Relations Officer in the Oshana Region said that baby dumping was of major concern in that region.⁶ In 2007, a Parliamentary debate was heard on the issue, yet few measures have been taken to deal with the phenomenon.

In 2007, the CEDAW Committee recommended that the State of Namibia take: "measures to increase knowledge of and access to affordable contraceptive methods, so that women and men can make informed choices about the number and spacing of children, as well as access to safe abortion in accordance with domestic legislation." It further requested the government "to take steps to ensure accurate recording of maternal deaths."

There is increasing advocacy within the country to implement the existing abortion law and, where necessary, to reform the law. Civil society organizations have been raising the issue in meetings with government officials and In April 2010, *The Namibian* published a front-page article on abortion, quoting the National Ombudsman, who said: "Abortion, baby dumping and infanticide is a grave concern, but we should come up with measures to address these concerns...Is legalising abortion such a holy cow that we should not debate it and engage all stakeholders in constructive dialogue?" The National Society of Human Rights also publicly reiterated their support for law reform.

Conclusion

We hope that the following recommendations will be made during Namibia's UPR:

- Acknowledge the cases of forced sterilization of women living with HIV and take remedial action to prevent further sterilizations of HIV-positive women without their informed consent/
- Ensure that young people – and their parents – have access to comprehensive education on sexuality and reproduction.
- Ensure that all women (including young women) have access to modern contraceptive methods, regardless of age and marital status.
- Ensure that all women and girls know about and have access to emergency contraception.
- Ensure that the new reproductive health policy addresses abortion-related care, both with regard to introducing vacuum aspiration and medications for post-abortion and legal abortion care and with regard to ensuring that women have easy access to legal abortions as permitted by law.

⁴ WHO. 2005. *Report on Maternal and Child Health in Namibia*.

⁵ Patience Nyangove. 7 October 2009. *Illegal abortions common despite risks*.
<http://ipsnews.net/africa/nota.asp?idnews=48759>

⁶ Dianne Hubbard. 2008. *Baby-dumping and Infanticide*. Windhoek, Legal Assistance Centre

We are grateful for this opportunity to present information to the Human Rights Council in the context of the Universal Periodic Review and are available to provide further information as needed.

Sincerely,

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