



UPR Stakeholder Submission:

***Namibian Planned Parenthood Association and
Out Right Namibia***

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Who we are

Established in 1996, the Namibian Family Planning Association (NAPPA) is dedicated to providing services and assistance to people in need of sexual and reproductive health (SRH) care and support. The need is critical: women run a high risk of maternal death, child mortality levels are high, and HIV prevalence figures are among the poorest in the world.

Much of NAPPA's work to date has been focused on advocacy – lobbying the government and legislators to ensure that SRH and the human rights issues associated are given central consideration in the country's health, planning and community policies.

NAPPA operates 3 service points, including 2 clinics. The Member Association is relatively small, with a permanent staff of just 7 people, but it is building capacity to increase its coverage. In 2011, NAPPA delivered 94,000 condoms and 29,000 sexual and reproductive health services.

Youth groups are a particular target, and NAPPA is developing strong peer education projects to ensure that a new generation of Namibians is equipped to make informed decisions about individual SRH in the future.

NAPPA works in partnership with the Ministry of Health and with non-governmental organizations including Physically Active Youth and Lironga Epara (for people living with AIDS). Donors include UNAIDs, and the Association has close ties with other Namibian groups including Adolescent Friendly Health Services, the National Working Group on Female Condoms, the National Network of Aids Services, the Namibia Non-Governmental Forum, and the Namibia National AIDS Network.

Out Right Namibia works diligently towards the attainment of the full constitutional equality and equity of sexual diverse people in Namibia; through strategic advocacy, lobbying, evidence based interventions and movement building. Out-Right Namibia (ORN) was founded in March 2010 after the closure of the rainbow project (trp). LGBTI community activists pulled together and convened a meeting to discuss the future of the movement in Namibia. This meeting resolved that the survival of the movements is imperative in the continuous creation of an enabling and safe environment for LGBTI people to assert their fundamental human rights as proud sexually diverse Namibian citizens. It is this process that saw the registration and birth of Out-Right Namibia; a Namibian organization aimed at creating an enabling environment for LGBTI people through human rights based programme intervention.

Key issues / recommendation identified by NGOs

- Implement the 2004 Human Rights Committee recommendation and consider introducing of prohibition of discrimination on the grounds of sexual orientation and gender identify in the anti- discrimination legislation

Legal and statutory Framework – sexual orientation

Namibia maintains a firm stands in upholding the human rights and fundamental freedoms of all citizens over 25 years of independence. Homosexuality per se is not illegal in Namibia, however anal sex between two male has been considered illegal under the common law on sodomy provision inherited as part of the Roman –Dutch law by the time Namibia's of independence. The law is silent on the consensual sex between two

Constitutional provision guaranteed in Chapter Three clearly states:

Article Eight (8) for Human Dignity

- (1) The dignity of all persons shall be inviolable (2)(a) in any judicial proceeding or in other proceedings before any organ of the State, and during the enforcement of penalty, respect for Human Dignity shall be guaranteed.(b) No person shall be subjected to torture or to cruel inhuman or degrading treatment of punishment.

Article Ten (10) Equality and Freedom from Discrimination

- (1) All persons shall be equal before the law.
- (2) No person may be discriminated against on the ground of sex, race, colour, ethnic origin, religion, creed or social or economic status

Article Thirteen (13)

- (1) No person shall be subjected to interference with the privacy of their homes, correspondence or communication save as in accordance with the law as is necessary in a democratic society in the interest of national security, public safety or economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of rights or freedoms of others.

Several cases of alleged sodomy have been reported and till this date no prosecution has been filled in the Namibia courts due to the controversy of the sodomy laws.

Calls to repeal the punitive and discriminatory common law provision against sodomy that is silent on consensual sex between men and also silent on 'anal sex' amongst man and women had been advocated for as it is infringement of rights of persons with different sexual orientation for all people. As stated in a paper presented in 2000 by Diane Hubbard of the Legal Assistance Centre, 'WHY THE LAW ON SODOMY SHOULD BE REPEALED' a legal discussion of the common law crime of sodomy. This presentation was done in honor of Lesbian, Gay , Bisexual and transgender Awareness week.

“The law on sodomy is seldom enforced with respect to consenting adults, but does not mean that it sits benignly in the law books dying of disuse. It has been recently cited by prison official in Namibia as a justification for refusing to provide condoms to prisoners to prevent the spread of HIV. The argument is that since consensual sodomy is illegal, providing condoms might make prison official accessories of crimes”

Legal and statutory Framework – abortion

Namibia's Abortion and Sterilisation Act was inherited from South Africa in 1975, and since then abortions have been illegal for women and girls (except for extreme cases: rape, incest, or endangerment of the mother's or child's life).

Past these permanent injuries, failed procedures are regular. “The most common complication is an incomplete abortion,” said Thompson.

When this happens a healthy birth can take place, but more often the child is born physically damaged, or worse, dead. Whilst these risks are high, they are not evenly spread: they are faced by the poorest women in the worst circumstances.

“The current situation allows people with means to go to another country such as South Africa to access safe, legal abortions,” said Dianne Hubbard, coordinator of Gender Research and Advocacy at the Legal Assistance Centre. “While our restrictive laws expose the poorest and most vulnerable members of society.”

Recommendations

We therefore recommend that the Human Right Council, in its upcoming UPR review of NAMIBIA , urge the Namibia Legislature to bring its laws and health provision into conformity with its International Human rights and Health provision obligations by repealing all punitive and discriminatory laws that criminalise sexual activity between consenting adults of same sex, abortion , and ensuring that any such law are not used .