

Immigration and Refugee Board of Canada

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Responses to Information Requests

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2 August 2012

NAM104147.E

Namibia: Treatment of sexual minorities by society and government authorities; recourse and protection available to sexual minorities who have been subject to ill-treatment
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Situation

1.1 Legislation

Sources report that sodomy is illegal in Namibia (INamibia 17 Nov. 2011; ILGA May 2012, 33). The US Department of State's *Country Reports on Human Rights Practices for 2011* indicates that sexual activity between men is illegal (US 24 May 2012, Sec. 6). In November 2011, the Prime Minister Nahas Angula, who was quoted by the news agency INamibia, stated that "[s]odomy is a crime in Namibia. If you are found sodomising someone, you will be arrested" (INamibia 17 Nov. 2011). Similarly, the *Guardian* indicates that Namibia criminalises homosexuality (*The Guardian* 14 Sept. 2011). However, according to the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), in Namibia, male to male sexual relationships are illegal, but female to female sexual relationships are not (ILGA May 2012, 33).

Sources indicate that in 2011, the government of Namibia rejected the UN Universal Periodic Review recommendations on LGBTI rights (US 24 May 2012, Sec. 6; UN 24 Mar. 2011, Para. 21). The recommendations included, among others, the adoption of legislative measures to "decriminalize consensual sexual relations between adults of the same sex including a provision on the prohibition of discrimination on the basis of sexual orientation" (*ibid.*, Para. 99.3). AllAfrica news agency reports that a justice minister, who represented the Namibian government at the UN Human Rights Council in Geneva in April 2011, indicated that the government did not have any plans to provide legal protection to gays (AllAfrica 8 Mar. 2011). Similarly, *Country Reports* indicated that politicians publicly stated their opposition to legislation which would protect the rights of LGBTI persons (US 24 May 2012, Sec. 6).

1.2 Societal Attitudes

Sources report of societal "discrimination" against the LGBTI community (US 24 May 2012, Sec. 6; NamRights 22 Mar. 2012, 9-10) and "stigma" associated with homosexuality (Namibia 2010, 34). According to a Namibian gender activist who participated in the 2010 international conference "Struggle for equality: Sexual orientation, gender identity and human rights in Africa," there are "many unwritten laws [in Namibia] that restrict LGBTI people from living their lives freely" (Heinrich Böll Stiftung 6 Apr. 2011). She stated that Namibian culture "doesn't allow for anything else than heterosexuality" (*ibid.*).

According to *Country Reports*, a lesbian was stabbed to death in Windhoek in September 2011 by a man because she had a conversation with another woman (US 24 May 2012, 22). Further information on this incident could not be found among the sources consulted by the Research Directorate.

Media sources report that there was a contest for "Mr. Gay Namibia" in 2011, and the winner entered the Mr. Gay World contest in 2012 (AP 8 Apr. 2012; *The Guardian* 9 Apr. 2012). According to sources, the winner of Mr Gay Namibia 2011 was attacked by two men who stole the money he won and beat him with a bottle on his head and ribs, causing him to be hospitalized for 24 hours (AFP 8 Dec. 2011; PinkNews 13 Dec. 2011). According to the Associated Press, the winner believed that the attack was a result of a mugging, rather than a hate crime (AP 8 Apr. 2012); although PinkNews reports that the winner expressed an opinion that he was attacked because of his sexual orientation or because of the money (PinkNews 13 Dec. 2011).

Sister Namibia, a Windhoek-based feminist women's rights organization (Sister Namibia n.d.b), in its annual report, entitled *Building the Feminist Movement in Namibia*, indicated that they conducted a three-day workshop with participants who work in the fields of women rights, human rights, sexual and reproductive rights, HIV and AIDS (ibid. June 2010, 11). The participants indicated that it is "very difficult" for lesbians and gays in the north to reveal their sexual orientation to their families and communities because those who did have experienced "hatred, extreme acts of violence or threats of violence and ostracism from their family and community members" (ibid., 8, 14). Younger people indicated to Sister Namibia that they feared being "expelled from their homes" and losing financial support for their education (ibid., 14). Mr. Gay Namibia was reportedly sent by his father to the psychiatric ward of a hospital after he told him he was gay (AFP 6 Feb. 2012; AP 8 Apr. 2012). According to the Associated Press, he eventually reconciled with his father, and his family was with him at the airport when he left for the Mr Gay World competition in 2012 (ibid.). A Namibian woman who moved to Canada in 2010, interviewed by the *Globe and Mail* in 2011, indicated that her family "used to harass" her because of her sexual orientation (*The Globe and Mail* 2 July 2011). Her mother and aunt told her cousin to rape her, so she could be "cured" (ibid.). Similarly, in an interview with Agence France-Presse, the Director of OutRight Namibia indicated that lesbians face a threat of rape from men "seeking to 'cure' them" (AFP 6 Feb. 2012). OutRight Namibia points out that LGBTI people face challenges in accessing healthcare services when they disclose their sexual orientation to healthcare personnel (14 Feb. 2012). OutRight Namibia is an organization founded in 2010 which aims to protect the rights of LGBTI people in Namibia (OutRight Namibia 26 May 2011).

2. State Response

2.1 National Strategic Framework

Country Reports 2011 states that, according to OutRight Namibia, in 2011 the Office of the Ombudsman and the Ministry of Health and Social Services "strengthened their relations with the LGBT community, which was included as a focus for assistance in the National Strategic Framework" (US 24 May 2012, Sec. 6). The framework focuses on government response to HIV and AIDS (Namibia 2010, III). The *National Strategic Framework for HIV and AIDS Response in Namibia 2010/11-2015/16* report acknowledges that "very little" is known about "men who have sex with men (MSM)" (ibid., 34). According to the report, the lack of empirical data on MSM groups limits "the ability to provide appropriate services" (ibid., 83).

2.2 Police

According to the report submitted by Namibia to the UN Human Rights Council, members of the police force receive human rights training every year (Namibia 10 Nov. 2010, para. 39). Training is conducted by the Legal Assistance Centre (LAC), a local organization, and the Faculty of Law of the University of Namibia (LAC n.d.a).

However, *Country Reports 2011* indicates that, according to OutRight Namibia, police generally did not take complaints of violence against LGBT persons seriously. OutRight Namibia claimed police often ridiculed LGBT persons when they reported cases of abuse, and this secondary victimization often dissuaded victims from reporting abuses. (US 24 May 2012, Sec. 6)

For instance, *Country Reports* states that in August 2011, a transgender woman, who was stoned in the town of Keetmanshoop, did not report the incident to the police because police "failed to act on similar complaints she made in the past" (ibid.). In an interview with Agence France-Presse, the Director of OutRight Namibia indicated that if women want to submit a complaint for rape to the police, the police officers sometimes tell them that they "'asked for it'" and that their dockets went missing (AFP 6 Feb. 2012). Mr. Gay Namibia reportedly submitted a complaint about his attack to the police, but was told that the docket was lost when he followed up two months later (ibid.).

A representative of the LAC, in correspondence with the Research Directorate, indicated that the organization was not aware of any specific problems related to the police treatment of sexual minorities (LAC 28 July 2012). The representative expressed an opinion that crimes against sexual minorities would not be dealt with differently to any other crimes (ibid.).

2.3 Judiciary

In a publication of cases handled by the LAC's Human Rights and Constitutional Unit, LAC provides an example of two men who were caught engaging in a sexual act in a private bar, arrested and charged with sodomy (LAC n.d.b). LAC representatives agreed to act on behalf of the men, but the prosecutor withdrew the sodomy charges against them (ibid.). Further information on the judiciary could not be found among the sources consulted by the Research Directorate.

According to a UN report for the Universal Periodic Review, "since independence, no single case of discrimination on the basis of sexual preference or orientation had appeared before the courts" (UN 24 Mar. 2011, Para. 21).

3. Support Services

Sources name several organizations active in protecting and promoting the rights of sexual minorities in Namibia (US 24 May 2012, Sec. 6; OutRight Namibia 26 May 2011; Sister Namibia n.d.a). For instance, OutRight Namibia is an organization which advocates for LGBTI rights (US 24 May 2012, Sec. 6; OutRight Namibia 26 May 2011). The mandate of the Windhoek-based organization is the attainment of the full constitutional equality and equity of LGBTI individuals in Namibia through strategic advocacy and lobbying, among other activities (ibid. n.d.). The members of the Board of Trustees include the names of people who work for the city of Windhoek, and the Ministry of Trade and Industry and Ministry of Health and Social Services, among others (ibid. 26 May 2011). According to the website of OutRight Namibia, regional networks have been established in Erongo, Karas, Khomas, Oshana, Oshikoto and Otjozondjupa regions (ibid.). The group depends on external donations and does not receive financial support from the government (ibid. 14 Feb. 2012). The organization emphasizes that it does not have enough funding to provide social support services such as counselling (ibid. 14 Feb. 2012).

LGBTI Namibia, a Windhoek-based organization, was founded in 2010 (ILGA n.d.; LGBTI Namibia April 2011). The organization has 5 trustees and 15 management members (ibid.). LGBTI Namibia advocates for equal human rights and provides networking support for the community (ibid.). It attempts to provide emotional support, organizes social gatherings and, among other activities, offers social and legal advocacy (ibid.). Further information on LGBTI Namibia could not be found among the sources consulted by the Research Directorate.

According to the website of Sister Namibia, the organization advocated for women's rights and, among other activities, organizes sexual rights campaigns (Namibia n.d.b). Based in Windhoek, Sister Namibia conducts training workshops and publicity campaigns (ibid. n.d.a). For instance, in 2011, Sister Namibia held several sexual rights workshops (ibid.). The organization publishes *Sister Namibia* magazine which, among other topics, focuses on LGBTI issues in Africa (ibid. June 2010).

LAC, which is funded by national and international donor organizations and individuals, is a law firm that takes on public interest cases (LAC n.d.a). It also provides legal information and advice on issues related to HIV/AIDS, gender equality, and human rights and the constitution, among others (ibid.). LAC runs training workshops for communities and service providers, including police and social workers, on basic human rights, gender and HIV/AIDS, among others (ibid.). LAC's services are free of charge with the exception of litigation where clients may be asked to cover some costs (ibid.). The head office of the organization is located in Windhoek and another office is in Ongwediva, in the north of Namibia (ibid. n.d.c).

Further information on the support services could not be found among the sources consulted by the Research Directorate within time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Representatives of the following organizations were unable to provide information within the time constraints of this Response: Behind the Mask, Coalition of African Lesbians, International Gay and Lesbian Human Rights Commission, Namibia Rights and Responsibilities, OutRight Namibia and Pan Africa ILGA. Attempts to contact representatives of the following organizations were unsuccessful: International Lesbian, Gay, Bisexual, Transgender and Intersex Association, Sister Namibia.

Internet sites, including: African Court on Human and People's Rights; Amnesty International; BBC; Behind the Mask; Fédération internationale des ligues des droits de l'homme; Human Rights Watch; International Gay and Lesbian Human Rights Commission; Konrad Adenauer Foundation; Minority Rights Group International; Namibia – the Office of the Ombudsman; Open Society Initiative of Southern Africa; Pan-Africa ILGA; UN – Integrated Regional Information Networks, Joint United Nations Programme on HIV/AIDS, UN Development Program, UN Population Fund, UNHCR.

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