



Home Office

# **Country Policy and Information Note**

## **Namibia: Sexual orientation and gender identity and expression**

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# Executive summary

The Constitution provides for equality and non-discrimination but does not specifically refer to sexual orientation or gender identity.

In June 2024, the High Court ruled that laws criminalising same-sex acts between men were unconstitutional and invalid. The government has appealed this ruling to the Supreme Court; at the time of writing the case had not been heard. In May 2023 the Supreme Court recognised same-sex marriages performed abroad. However, in July 2023, parliament passed 2 bills designed to criminalise same-sex marriages and the promotion of such marriages, including those performed abroad. At the time of writing, the bills were awaiting Presidential assent.

There is no legislation directly relating to sexual acts between women, or the status of trans or intersex people.

Even before the High Court and Supreme Court rulings, lesbian, gay, bisexual, trans and intersex (LGBTI) people were rarely prosecuted by the state. The police do not target the LGBTI community.

The introduction of the 2 bills banning same-sex marriage, together with statements made by political and religious leaders, triggered a rise in homophobic rhetoric and violent attacks against some LGBTI people. LGBTI people also report discrimination and barriers in accessing some basic services, such as healthcare.

The government operates a generally effective criminal justice system. The Namibian Police Force has made arrests in relation to violent crimes against LGBTI people. The police, however, are also reported to act with apathy towards to LGBTI people who ask for assistance.

LGBTI people form a particular social group.

Actual or perceived LGBTI people are unlikely to face treatment by state or societal actors that amounts to persecution or serious harm.

The state is likely to be able and willing to offer effective protection.

There are likely to be parts of the country, such as but not limited to Windhoek, to which a LGBTI person can relocate.

Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

All claims must be considered on their individual facts.

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# Assessment

## About the assessment

This section considers the evidence relevant to this note – that is the [country information](#), refugee/human rights laws and policies, and applicable caselaw – and provides an assessment of whether, in general:

- a person faces a real risk of persecution/serious harm by state or non-state actors because of their actual or perceived sexual orientation and/or gender identity or expression
- the state (or quasi state bodies) can provide effective protection
- internal relocation is possible to avoid persecution/serious harm
- if a claim is refused, it is likely to be certifiable as ‘clearly unfounded’ under [section 94 of the Nationality, Immigration and Asylum Act 2002](#).

This note provides an assessment of the situation for gay men, lesbians, bisexuals, trans and intersex (LGBTI) people, as well as those perceived as such. Sources often refer to LGBTI people collectively, but the experiences of each group may differ. Where information is available, the note will refer to and consider the treatment of each group discretely.

Decision makers must, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

For general guidance on considering claims made by LGBTI people, decision makers must refer to the Asylum Instructions, [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 1. Material facts, credibility and other checks/referrals

### 1.1 Credibility

- 1.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).
- 1.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 1.1.3 Decision makers must also consider making an international biometric data-sharing check (see [Biometric data-sharing process \(Migration 5 biometric data-sharing process\)](#)).
- 1.1.4 In cases where there are doubts surrounding a person’s claimed place of origin, decision makers should also consider language analysis testing, where available (see the [Asylum Instruction on Language Analysis](#)).

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## 1.2 Exclusion

- 1.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts.
- 1.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).
- 1.2.3 For guidance on exclusion and restricted leave, see the Asylum Instruction on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and the instruction on [Restricted Leave](#).

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## 2. Convention reason(s)

- 2.1.1 Actual or imputed particular social group (PSG).
- 2.1.2 LGBTI people form a PSG in Namibia within the meaning of the Refugee Convention because they share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it and have a distinct identity in Namibia because the group is perceived as being different by the surrounding society.
- 2.1.3 Although LGBTI people in Namibia form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question to be addressed is whether the person has a well-founded fear of persecution on account of their membership of such a group.
- 2.1.4 For further guidance on the 5 Refugee Convention grounds see the Asylum Instruction, Assessing Credibility and Refugee Status.

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### 3. Risk

#### 3.1 Risk from the state

- 3.1.1 LGBTI people are not likely to face persecution or serious harm from the state. The onus is on the person to demonstrate otherwise.
- 3.1.2 The Namibian Constitution provides for equality and non-discrimination but does not specifically refer to sexual orientation or gender identity (see [Legal context](#)). In June 2024, the High Court ruled that laws criminalising same-sex acts between men were unconstitutional and no longer valid. The government has appealed this ruling to the Supreme Court but at the time of writing the case had not been heard. Before this, sodomy and unnatural sexual offences were criminalised but rarely enforced (see [Same-sex acts](#)).
- 3.1.3 There is no information in the sources consulted that the state supports or permits conversion therapy (see [Conversion therapy or harmful practices](#)).
- 3.1.4 There is no provision in law for same-sex marriage, civil partnership or for adoption by same-sex couples. However, in May 2023, the Supreme Court recognised same-sex marriages conducted abroad. In July 2023, in response to that ruling, parliament passed 2 private members' bills to block the recognition of same-sex marriages in Namibia. The bills redefine the term 'spouse' to exclude transgender or intersex individuals from entering a heterosexual marriage; redefine the Marriage Act of 1961 to block the recognition of same-sex marriage; and seek to criminalise the solemnisation, participation in, or promotion of same-sex marriage. However, at the time of writing neither bill had received presidential assent to become law (see [Recognition of same-sex relationships](#)).
- 3.1.5 The law allows for trans and gender-diverse, including intersex, people to change their sex in official documents. Barriers, such as limited gender-reassignment services, can make this difficult in practice as evidence of a medical procedure is required for gender changes in the national civil registration database (see [Gender recognition](#) and [Healthcare](#)).
- 3.1.6 Politicians and public figures (mainly church leaders) use homophobic rhetoric and have spoken out against legislative changes that support or protect LGBTI rights (see [Statements made by government figures and public officials](#)). (see [Government programmes and policies](#), [Conversion therapy or harmful practices](#)).
- 3.1.7 A range of initiatives promote inclusivity. These include a commitment to the UN's 'Leave no one behind' campaign and the provision of grants to civil society organisations to promote civic engagement. The national human rights ombudsman also promotes values of non-discrimination and has attended workshops on sexual orientation and gender identification and the eradication of conversion therapy (see [Govt programmes and policies](#)).
- 3.1.8 The right to healthcare for all citizens is guaranteed by the Constitution. The ministry for healthcare has stated that healthcare should be accessible to all, including LGBTI people. However, access to some services is limited by a lack of provision, for example, hormone replacement therapy is not offered through the public health system (see [Healthcare](#)). HIV programmes are inclusive of LGBTI people, and the National Strategy Framework for

HIV/AIDS provides for a commitment to promoting quality healthcare for groups such as men who have sex with men, female sex workers and transgender persons. Sources also report some discrimination and stigmatisation of LGBTI people by healthcare practitioners, particularly trans persons, but details regarding the nature and frequency of these practices are limited (see [Healthcare](#), and [Government programmes and policies](#)).

- 3.1.9 LGBTI organisations are able to operate and provide practical, legal, and advocacy support. Most organisations are located in the capital, Windhoek, along with some LGBTI-friendly social venues. Annual pride events take place in the capital and other towns (see [Meeting places and events](#)).
- 3.1.10 For further guidance on assessing risk, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 3.2 Risk from non-state actors

- 3.2.1 LGBTI people are not likely to face persecution or serious harm from non-state actors. The onus is on the person to demonstrate otherwise.
- 3.2.2 Sources indicate that there is gradual shift in attitudes, with increasing social acceptance of LGBTI people. However, Namibia is a predominantly Christian country and churches actively oppose LGBTI rights and influence public opinion (see [Public attitude](#), [Statements made by government figures and public officials](#)).
- 3.2.3 There are also some reports of violence, harassment and ill-treatment of LGBTI people, including several murders. Sources noted an increase in violence since the bills opposing same-sex marriage were introduced to parliament in July 2023 (see [Recognition of same-sex relationships](#), [Treatment by non-state actors](#), [Statements made by government figures and public officials](#)).
- 3.2.4 Sources noted that LGBTI persons faced discrimination in employment and education but did not provide specific examples, or their prevalence (see [Education and employment](#), [Violence, intimidation, and discrimination](#)).
- 3.2.5 For more on assessing risk, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#), [Asylum Instruction on Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 4. Protection

- 4.1.1 A person with a well-founded fear of the state is unlikely to obtain protection.
- 4.1.2 The state is likely to be able and willing to provide protection to LGBTI people who fear a rogue state actor and/or a non-state actor. The onus is on the person to demonstrate otherwise.
- 4.1.3 The government operates a generally effective criminal justice system that is able to detect, prosecute and punish criminal acts against people, including through the police service and an independent judiciary. Sources indicate



that the police did not incite or perpetrate violence against LGBTI people or those reporting it. The US State Department noted that government officials acknowledged that the police had been reported to act with 'apathy' towards LGBTI people (see [Access to justice](#)).

- 4.1.4 Oversight mechanisms allow citizens to report human rights complaints. There are mechanisms in place for reporting rogue police officers, such as making a complaint to the Inspector-General or lodging a complaint with the Ombudsman. Sources indicate that the ombudsman is effective in identifying human rights abuses, however it lacked an enforcement mandate or other means to correct abuses generally (see [Oversight mechanisms](#)).
- 4.1.5 For further guidance on assessing state protection, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#) [Assessing Credibility and Refugee Status](#), [Asylum Instruction on Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 5. Internal relocation

- 5.1.1 Where the person has a well-founded fear of persecution or serious harm from the state, they are unlikely to be able to relocate to escape that risk.
- 5.1.2 LGBTI people are likely to be able to internally relocate to escape persecution or serious harm by a rogue state and/or non-state actors, primarily to larger urban areas such as Windhoek.
- 5.1.3 Namibia is a relatively large country, about 3½ times the size of the UK, but with a small population of just over 3 million. The largest city is Windhoek (approximately 486,000 people) but many people live in smaller towns and rural areas in the north and northeast of the country. The law provides for freedom of movement and the government generally respects this right (see [Freedom of movement](#)).
- 5.1.4 Windhoek has a LGBTI community and active civil society. The capital also hosts a number of LGBTI events, including Pride celebrations, regular drag nights and is the location of the first LGBTI health centre in Namibia. Other towns also held Pride events including Kunene, Swakopmund, and Walvis Bay (see [Civil rights groups and activities](#), [Healthcare](#)).
- 5.1.5 For further guidance on considering internal relocation and factors to be taken into account see the Asylum Instruction on [Assessing Credibility and Refugee Status](#) and [Sexual orientation in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 6. Certification

- 6.1.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 6.1.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

## About the country information

This contains publicly available or disclosable country of origin information (COI) which has been gathered, collated and analysed in line with the [research methodology](#). It provides the evidence base for the assessment.

The structure and content of this section follow a [terms of reference](#) which sets out the general and specific topics relevant to the scope of this note.

This document is intended to be comprehensive but not exhaustive. If a particular event, person or organisation is not mentioned this does not mean that the event did or did not take place or that the person or organisation does or does not exist.

Decision makers must use relevant COI as the evidential basis for decisions.

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## 7. Legal context

### 7.1 Same-sex acts

- 7.1.1 Prior to 21 June 2024, the common law offences of 'sodomy' and 'unnatural sexual offences' criminalised consensual same-sex conduct between male adults. Neither offence directly mentions women<sup>1</sup> and no other law referred to same-sex acts between women in the sources consulted (see [Bibliography](#)).
- 7.1.2 However, on 21 June 2024 in the case of a gay man, Friedel Dausab, the High Court ruled that the common law offences of 'sodomy' and 'unnatural sexual offences' were unconstitutional<sup>2</sup> and invalid<sup>3</sup>. Time Magazine noted that the judges in the case 'also invalidated sections of the Immigration Control Act and the Defence Act that criminalized homosexuality and condemned views that label the practice as an "abominable vice," saying they were based on prejudice and unfounded societal biases.'<sup>4</sup>
- 7.1.3 The Washington Blade, which describes itself as 'America's LGBTQ news source', referring to an earlier report by the Namibia Broadcasting Company, stated that on 20 July 2024 the government had sought to appeal the High Court ruling to the Supreme Court<sup>5</sup>.

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### 7.2 Same-sex relationships

- 7.2.1 Under domestic law, same-sex couples cannot enter into civil partnerships or marriages<sup>6</sup>. However, in May 2023, Namibia's Supreme Court ruled that same-sex marriages that were lawfully conducted outside of the country would be recognised by the state<sup>7</sup>.

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<sup>1</sup> HRW, ['Namibia Court decriminalises consensual same-sex conduct'](#), 25 June 2024

<sup>2</sup> HRW, ['Namibia Court decriminalises consensual same-sex conduct'](#), 25 June 2024

<sup>3</sup> HDT, [Dausab v The Minister of Justice Case Digest](#), 8 August 2024

<sup>4</sup> Time, ['Namibian Court Decriminalizes Homosexuality in Landmark Ruling'](#), 21 June 2024

<sup>5</sup> Washington Blade, ['Namibian government appeals ruling that struck down ...'](#), 25 July 2024

<sup>6</sup> HRW, ['Namibian court recognises foreign same-sex marriages'](#), 26 May 2023

<sup>7</sup> HRW, ['Namibian court recognises foreign same-sex marriages'](#), 26 May 2023

- 7.2.2 An August 2023 article by a researcher from the University of the Western Cape, published in the peer reviewed International Journal of Discrimination and the Law<sup>8</sup>, noted:

‘Namibian law does not expressly prohibit same-sex marriages. However, in [Immigration Selection Board v Frank \(2001\)](#), the Namibian Supreme Court held that same-sex marriages were not allowed in Namibia. Article 14 of the Constitution of Namibia protects the right to a family and states that:

‘1. Men and women of full age, without any limitation due to race, colour, ethnic origin, nationality, religion, creed or social or economic status shall have the right to marry and to found a family. They shall be entitled to equal rights as to marriage, during marriage and at its dissolution.’<sup>9</sup>

- 7.2.3 The same publication noted that ‘In *Chairperson of the Immigration Selection Board v Frank and Another (2001)*, where a Namibian and a foreign national were in a same-sex relationship although not married, the Namibian Supreme Court held that a “homosexual relationship, whether between men and men and women and women, clearly fall [sic] outside the scope and intent of Article 14.”’<sup>10</sup>

- 7.2.4 The Supreme Court ruling to recognise same-sex marriages lawfully conducted abroad was the result of [Digashu v Government of the Republic of Namibia](#). According to HRW:

‘The litigation was brought by two binational couples, one married in Germany and another married in South Africa, who had settled in Namibia. The foreign spouses were denied residency permits under the Immigration Control Act, which did not recognize them as a “spouse.” This restrictive understanding would have left their unions unrecognized for immigration purposes and would have forced the couples to leave the country or live apart.

‘In 2022, the country’s High Court, one level below the Supreme Court, considered the claims and ruled that it was unable to grant immigration benefits under existing precedent but expressed concern that the couples’ rights had been violated and emphatically decried discrimination against same-sex couples.

‘The Supreme Court agreed that their rights had been violated, finding that the discriminatory provisions of the Immigration Control Act violated the constitutional guarantees of dignity and equality.’<sup>11</sup>

- 7.2.5 Following the Supreme Court’s decision, a member of the National Assembly, Jerry Ekandjo, introduced two ‘private member’s’ bills (the Ekandjo Bills) to counter the Supreme Court’s ruling<sup>12</sup>. The International Lesbians and Gay Association (ILGA) is a global organisation that aims to ‘raise awareness of LGBTI human rights issues’ through advocacy,

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<sup>8</sup> Mujuzi, J D, ‘[Equality before the law and the recognition of same-sex](#)’, August 2023

<sup>9</sup> Mujuzi J D, ‘[Equality before the law and the recognition of same...](#)’, (Abstract) August 2023

<sup>10</sup> Mujuzi J D. ‘[Equality before the law and the recognition of...](#)’, (Introduction) August 2023

<sup>11</sup> HRW, ‘[Namibian court recognises foreign same-sex marriages](#)’, 26 May 2023

<sup>12</sup> The Conversation, ‘[Namibia’s sodomy laws have been overturned...](#)’, 7 July 2024

empowerment and research<sup>13</sup> noted:

‘... in July 2023, lawmakers from the SWAPO Party of Namibia submitted two private member bills that would prohibit same-sex marriages. The [Definition of Spouse \(Bill\) \(2023\)](#) invokes Articles 81 and 45 of the Namibian Constitution to contradict the Supreme Court decision to define the definition of "spouse" as "a person, being one half of a legal union between a man and a woman of the opposite sex of that person". The other bill, the [Marriage Amendment \(Bill\) \(2023\)](#), would also define the term "spouse" to only include those of the "opposite sex", in addition to introducing a clause that would prohibit same-sex marriages and not recognise foreign same-sex marriages as valid. Any person found to solemnise such marriages or "witness, promote or propagate" same-sex marriages would also be guilty of committing an offence, being liable, upon conviction, to a fine or to imprisonment. Both bills reportedly passed the National Assembly vote with minimal amendments, and on 19 July 2023, the National Council, Namibia's upper house, reportedly passed both bills.’<sup>14</sup>

- 7.2.6 On 5 May 2024, The Namibian reported that Max Katjimune, a member of the Popular Democratic Movement (PDM) opposition party had commented: “What is clear, however, is that the Ekandjo bills do pose a threat to members of the LGBTQI+ community if they are assented to by the president and become law, because they impose a sentence of six years direct imprisonment or N\$100 000 [£4,239.64<sup>15</sup>] fine for the ‘promotion’ of same-sex marriage in Section 3 of the marriage amendment bill”.<sup>16</sup>
- 7.2.7 ILGA noted that ‘In addition, the [Amendments to the Civil Registration and Identification Bill \(2023\)](#) was also introduced to define "spouses" as "a genetically born man of full age" and "a genetically born woman of full age".’<sup>17</sup> Additionally, in a February 2024 publication that this amendment ‘would place many trans, gender-diverse or intersex Namibians who have attained legal gender recognition in a position of being excluded from “heterosexual marriages”’.<sup>18</sup>
- 7.2.8 At the time of writing, according to the sources consulted, both bills were waiting for either the signature of, or rejection by, the President (see sources consulted in the [Bibliography](#)).

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## 7.3 Discrimination

- 7.3.1 The Constitution, adopted on 9 February 1990 but subsequently amended, outlines the fundamental rights and freedoms of the Namibian people but does not make specific mention of sexual orientation or gender identity. Article 10, Equality and Freedom from Discrimination, states:
- ‘(1) All persons shall be equal before the law.

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<sup>13</sup> ILGA, [‘What we do’](#), undated

<sup>14</sup> ILGA, [‘Namibia’](#), Legal Framework, no date

<sup>15</sup> XE.com, [‘100000NAD to GBP’](#), 22 August 2024

<sup>16</sup> The Namibian, [‘Hate Kills’](#), 5 May 2024

<sup>17</sup> ILGA, [‘Namibia’](#) (Legal Framework), no date

<sup>18</sup> ILGA, [‘Laws on us’](#) (page 153), February 2024

(2) No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion creed or social or economic status.’<sup>19</sup>

- 7.3.2 An August 2023 publication in the peer reviewed journal International Journal of Discrimination and the Law<sup>20</sup>, noted: ‘Article 10(1) of the Constitution of Namibia provides for the right to equality before the law. Article 10(2) prohibits discrimination on several grounds. The Constitution of Namibia...does not prohibit discrimination on the ground of sexual orientation ... the Constitution of Namibia does not prohibit same-sex marriages’<sup>21</sup>.
- 7.3.3 The same publication noted that Namibia ‘At the international level, practice shows that Namibia is not yet committed to stopping discrimination on the ground of sexual orientation. For example, it is one of the countries which abstained from voting on the UN General Assembly Resolution on ‘human rights, sexual orientation and gender identity’.<sup>22</sup>
- 7.3.4 The US State Department’s human rights report published in 2024, covering events in 2023, (USSD HR report 2023) noted that ‘The law did not prohibit discrimination by state or nonstate actors based on sexual orientation, gender identity or expression, or sex characteristics. In general, LGBTQI+ couples and their families were not recognized, nor were they granted rights equal to other persons ...’<sup>23</sup>
- 7.3.5 The Institute for Public Policy Research (IPPR) is an independent, Namibian not-for-profit organisation which aims to deliver research into social, political and economic issues that affect development in Namibia<sup>24</sup>. In a March 2024 report, the IPPR noted:
- ‘The draft Prohibition of Unfair Discrimination, Harassment and Hate Speech Bill has not been finalised and tabled in the Namibian Parliament as of December 2023. Chapter 2 of the draft Bill prohibits unfair discrimination on the grounds of race, sex or gender, and disability, as well as prohibiting hate speech. The draft Bill does not expressly refer to prohibiting unfair discrimination on the basis of sexual orientation, and neither does it prohibit discrimination on the basis of age.’<sup>25</sup> As of 12 August 2024, in the sources consulted, there was no indication that the bill enacted (see [Bibliography](#)).
- 7.3.6 The UNDP IGI Baseline report 2021 noted that ‘The Labour Act 11 of 2007 does not include a prohibition on discrimination based on sexual orientation or gender identity (unlike the former Labour Act 6 of 1992). No legal protection with regards to access to employment, healthcare or housing is provided for with regards to sexual and gender minority communities as a group who face discrimination.’<sup>26</sup>
- 7.3.7 In its National Report, dated 11 February 2021, submitted to the UN Human Rights Council (HRC), as part of the Universal Periodic Review (UPR), the

<sup>19</sup> Government of Namibia, ‘[The Constitution of the Republic of Namibia webpage](#)’, 1990

<sup>20</sup> Mujuzi, J D, ‘[Equality before the law and the recognition of same-sex](#)’, August 2023

<sup>21</sup> Mujuzi, JD, ‘[Equality before the law and the recognition of same-sex](#)’, Abstract, August 2023

<sup>22</sup> Mujuzi, J D, ‘[Equality before the law and the recognition of same-sex](#)’, Abstract, August 2023

<sup>23</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

<sup>24</sup> IPPR, ‘[About us](#)’, undated

<sup>25</sup> IPPR, ‘[The NGO Report to the UN Human Rights Committee for its 3rd...](#)’, March 2024

<sup>26</sup> UNDP, ‘[Inclusive Governance Initiative: Namibia Baseline Report](#)’, page 4, 2021



Government of the Republic of Namibia (GRN) noted that it ‘... continues to explore effective mechanisms to clarify its position on LGBTQ rights despite existing normative and religious barriers. In the meantime, the Government continues to implement the general right to non-discrimination in the promotion and protection of human rights for all persons in Namibia.’<sup>27</sup>

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## 7.4 Gender recognition

7.4.1 The USSD HR report 2023, noted that ‘Legal gender recognition was available only to individuals who had undergone gender-affirming surgery.’<sup>28</sup>

7.4.2 ILGA reported in an undated entry on its website:

‘According to Section 7B of the [Births, Marriages and Deaths Registration Act](#) (as amended), persons who have undergone surgical interventions may apply to have their gender marker amended. Medical practitioners who performed the surgery must draft reports for applicants to be eligible for gender marker change under the same section... However, in 2013 the Permanent Secretary to the Department of Home Affairs stated that the Department was reading Section 7B narrowly, to apply only to "complications at birth" in practice, on the basis that persons are "only born once, so [they] cannot be born a man today and tomorrow be a woman" [sic]. The Permanent Secretary went on to suggest that "if one is born as a man or a woman, he or she should remain like that until death".

A draft National Population Registry bill was reportedly drafted in 2013 as well, to clarify the processes for legal gender recognition so as to allow applicants to amend their gender markers with medical interventions other than surgery.

‘June 2023 saw the submission of a similar [Civil Registration and Identification Bill \(2023\)](#). Clauses 21(2)(g) and 21(8) of this bill originally allowed for the Registrar-General to amend an applicant's gender marker with evidence of medical intervention, but not necessarily surgery. The following month, however, a series of amendments to the bill were published by the Ministry of Justice expunging the above clauses.’<sup>29</sup>

7.4.3 On 1 September 2021, The Namibian reported: ‘The ministry requires physical examination and confirmation for individuals who have gone through sex reassignment surgery (SRS) and provide recommendations to the Ministry of Home Affairs, Immigration, Safety and Security for gender changes in the national civil registration database.’<sup>30</sup>

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## 7.5 Other legislation

7.5.1 The USSD 2023 HR report noted ‘According to NGOs and LGBTQI+ community members, there were instances of “corrective” rape targeting LGBTQI+ individuals. Under the Combating of Rape Act, any sexual act

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<sup>27</sup> UN General Assembly, HRC, ‘[National report...](#)’ (paragraph 117(f)), 11 February 2021

<sup>28</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

<sup>29</sup> ILGA, ‘[Namibia](#)’, Legal Framework, no date

<sup>30</sup> The Namibian, ‘[Health ministry says LGBTQ community is catered for](#)’, 1 September 2021

committed under coercive circumstances was illegal, and the law provided for protection of victims.’<sup>31</sup>

- 7.5.2 A May 2023 UNDP article, written by a representative from Positive Vibes Trust, an African, queer, human rights organisation<sup>32</sup>, noted the case of [Lühl v Minister of Home Affairs and Immigration. In this case](#) Namibian Phillip Lühl and his Mexican husband fought for the right ‘...to have their child born through surrogacy in South Africa registered as a Namibian citizen.’<sup>33</sup>

- 7.5.3 The article noted:

‘Although both partners are listed on the South African birth certificate as parents, the Namibian Ministry of Home Affairs has refused to recognize the child’s citizenship. The High Court had overturned this decision in 2021, ordering that the child be granted citizenship by descent. However, on 20 March 2023 the Supreme Court overturned the ruling of the High Court, revoking their son’s citizenship on a technicality, ultimately refusing to make a ruling and set a precedent.’<sup>34</sup>

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## 8. State attitudes and treatment

### 8.1 Statements made by government figures and public officials

- 8.1.1 The state opposed the case that led to the decriminalisation of sodomy and unnatural sexual offences. On 3 May 2023, Afrobarometer, a ‘pan-African, non-partisan research network’ that conducts public attitude surveys, published an article where they discussed the case brought forward by well-known LGBT activist Friedel Dausab titled ‘Dausab vs the Minister of Justice’. Afrobarometer noted: ‘The state’s defence is grounded in the view that sexual acts such as sodomy are unnatural, abnormal, unusual, and therefore offensive to the morality of Namibian society. In this line of argument, for example, the state sees no difference between sodomy, on the one hand, and incest and bestiality on the other. Under the law these sexual acts are all unnatural and equally immoral and repulsive.’<sup>35</sup>
- 8.1.2 On 1 November 2023, The Namibian, a privately owned local newspaper, summarised the government’s argument against Friedel Dausab’s application stating:

‘Attorney general Festus Mbandeka is opposing Dausab’s application on behalf of the government. Mbandeka says, also in an affidavit filed at the High Court, that homosexuality is a highly controversial and emotional question, and that for many Namibians homosexual conduct is immoral and unacceptable ... Mbandeka also says the Constitution’s article protecting equality and freedom from discrimination does not include sexual orientation as one of the grounds on which discrimination is prohibited. The Constitution’s prohibition of discrimination on the ground of sex simply means discrimination on the basis of biological sex, and not sexual

<sup>31</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

<sup>32</sup> Positive Vibes, ‘[About us](#)’, no date

<sup>33</sup> UNDP, ‘[A Free and Inclusive Namibia: Celebrations and Challenges...](#)’ 18 May 2023

<sup>34</sup> UNDP, ‘[A Free and Inclusive Namibia: Celebrations and Challenges...](#)’ 18 May 2023

<sup>35</sup> Afrobarometer, ‘[Public opinion and tolerance of homosexuality](#)’, 3 May 2023

orientation, in his view.

‘Mbandeka says the criminalisation of sodomy and “unnatural sexual offences” is based on societal morals, just like laws against bigamy, incest, prostitution, bestiality and obscenity are.

‘According to Mbandeka: “[O]ne of the purposes of the ban on homosexual sodomy is the moral views of Namibians that certain forms of sexual behaviour are immoral and unacceptable”.’<sup>36</sup>

8.1.3 On 16 May 2023, Reuters reported that the Supreme Court’s May 2023 ruling on same-sex marriages, ‘drew mixed reactions in the socially conservative country ... opposition political party, Namibia Economic Freedom Fighters, said the Supreme Court was forcing foreign cultural views on Namibians....’<sup>37</sup>

8.1.4 On 22 May 2023, The Namibian, reported that the May 2023 Supreme Court ruling had elicited a negative response from politicians as well as churches<sup>38</sup>. It commented:

‘Online platforms like WhatsApp and Zoom are serving as gathering spaces for organising anti-gay meetings and discussions. Groups ... with close to 3000 members combined, have been created. Members of these groups are from political parties such as the United Democratic Front (UDF) [opposition party], Swapo [ruling party], the Rally for Democracy and Progress (RDP) [opposition party], and the National Democratic Party (NDP) [opposition party].’<sup>39</sup>

8.1.5 The same article reported:

‘... former Swapo lawmaker, Ellen Musialela, called on the ruling party to discipline the chief justice or to show him the door for allegedly undermining the trust of those who appointed him to the position. “It is time our party start doing the right things if they see that things are not good” she asks. National Democratic Party of Namibia (NDP) leader Martin Lukato also condemns the ruling. “We say no to the Sodom and Gomorrah judgement. It’s disgraceful, pathetic and disgusting to permit such a thing or action in our society and country at large. We can’t allow it,” he says.’<sup>40</sup>

8.1.6 On 30 June 2023, Open Democracy, an independent international media platform<sup>41</sup>, reported that following the Supreme Court’s May 2023 ruling, ‘Kuugongelwa-Amadhila’s SWAPO party put out a statement saying it “strongly condemns and repudiates all kinds of immoral and indecent acts” and “other associated acts that are either inconsistent with Namibian laws or against public policy”. SWAPO said it was instructing its government “to enforce all laws in force that are aimed at preventing and combating such acts”.’<sup>42</sup>

8.1.7 On 27 May 2021, The Namibian reported that Minister of Justice Yvonne

<sup>36</sup> The Namibian, ‘[Judgement on sodomy law challenge in May](#)’, 1 November 2023

<sup>37</sup> Reuters, ‘[Namibia’s top court recognises same-sex marriages formed elsewhere](#)’, 16 May 2023

<sup>38</sup> The Namibian, ‘[Politicians rise up against same-sex marriage](#)’, 22 May 2023

<sup>39</sup> The Namibian, ‘[Politicians rise up against same-sex marriage](#)’, 22 May 2023

<sup>40</sup> The Namibian, ‘[Politicians rise up against same-sex marriage](#)’, 22 May 2023

<sup>41</sup> Open Democracy, ‘[About](#)’, no date

<sup>42</sup> Open Democracy ‘[Fight for LGBTIQ rights in Namibia goes on after landmark...](#)’, 30 June 2023



Dausab had contributed to the on-going public debate about whether the government should consider abolishing the common laws on sodomy and unnatural sexual acts, describing them "clearly outdated and discriminatory".

- 8.1.8 The same article reported that Yvonne Dausab had commented "We cannot police and regulate the private life of fellow Namibians. Members of the LGBTQI community are human beings. They are entitled to all the protection afforded by the Namibian Constitution under the Bill of Rights and the principles of state policy".<sup>43</sup>
- 8.1.9 On 25 June 2024, the Namibian reported comments by a presidential spokesperson, Alfredo Hengari, that President Nangolo Mbumba 'will not give into pressure to remove justice minister Yvonne Dausab from her position'<sup>44</sup>. The article stated: "Individuals are not appointed on the basis of their sexual orientation," Hengari told The Namibian yesterday. Hengari said the president is guided by the values and principles of the Constitution, which he has pledged to uphold in the exercise of his duties. "Namibia is a constitutional democracy, which doesn't discriminate against its citizens on the basis of sex, creed or religion," Hengari said.<sup>45</sup>
- 8.1.10 On 9 July 2024, The Namibian reported Justice Minister Yvonne Dausab had faced negative public commentary regarding her sexuality and gender orientation from both members of the public and parliamentarians<sup>46</sup>. It noted that 'the president of the now deregistered Namibia Economic Freedom Fighters (NEFF) Epafraas Mukwilongo publicly attacked the minister in parliament, challenging her to state whether she was a man or a woman.'<sup>47</sup>
- 8.1.11 On 31 May 2024, The New Era Live, a state-owned Namibian newspaper, reported that 'Swapo lawmaker and deputy works minister Veikko Nekundi condemned gay marriage during a party campaign event held at Etayi in the Omusati region. He was quoted as saying "Namibia's hard-fought struggle and subsequent independence were not meant to create fertile grounds to advocate gay rights".'<sup>48</sup>
- 8.1.12 On 12 June 2024, The Namibian reported that 'According to Swapo deputy secretary general Uahekua Herunga, no one should be bullied or killed because they belong to a certain community and the party does not condone violence against anyone. Herunga, however, maintained that Swapo does not condone or support gay practices.'<sup>49</sup>
- 8.1.13 On 31 May 2024, The New Era Live reported:
- 'Gender and LGBTQI+ activists have recently challenged all political parties to pronounce themselves on the issue of LGBTQI+ rights, specifically the legalisation of same-sex marriage ... A study of the parties' manifestos and pronouncements of party officials shows that although some political parties include commitments to address women's or gender issues in their

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<sup>43</sup> The Namibian, '[We cannot police people's sex lives – Dausab](#)', 27 May 2021

<sup>44</sup> The Namibian, '[Mbumba wont hire, fireover sexual orientation](#)', 25 June 2024

<sup>45</sup> The Namibian, '[Mbumba wont hire, fireover sexual orientation](#)', 25 June 2024

<sup>46</sup> The Namibian Sun, '[Law Society slams bigoted attacks on Dausab](#)' 9 July 2024

<sup>47</sup> The Namibian Sun, '[Law Society slams bigoted attacks on Dausab](#)' 9 July 2024

<sup>48</sup> The New Era Live, '[Namibia: Lgbtqi+ Rights - Political Parties Remain Mum](#)', 31 May 2024

<sup>49</sup> The Namibian, '[Pressure mounts on Mbumba to reject anti-gay bill](#)', 12 June 2024

manifestos and constitutions, none of the parties explicitly stated their commitment to promote human rights for lesbian, gay, bisexual, transexual, queer and intersex (LGBTQI+) persons. While often making statements on issues in the public eye, local political parties' past election manifestos and internal policies remain largely quiet on the rights of queer people, and how that party would ensure that Namibians, regardless of their sexual orientation, enjoy protection.<sup>50</sup>

- 8.1.14 The New Era Live article noted that the official opposition party, Popular Democratic Movement (PDM) had 'not yet made a collective pronouncement on the recognition of these rights in Namibia'<sup>51</sup>. However, it commented:

'Party leader McHenry Venaani recently told a local English daily that while his party does not support or condone same-sex marriage in Namibia, it supports the rights of LGBTQI+ Namibians ... In their 2019 election manifesto under the section "gender equality and a dignified and fair system", the PDM reiterates the importance of achieving "true and meaningful gender equality", and commits to establishing a task team on LGBTQI+ as an "area of new focus".'<sup>52</sup>

- 8.1.15 On 7 July 2024, The Namibian reported that PDM secretary general, Manuel Ngarinombe, said "Our position is very clear that the PDM does not support LGBTQI+ issues. We don't even support same-sex marriage" ... "We cannot deny them access to healthcare and education. However, the practice of LGBTQI+ in Namibia is not legal, and we stand by that. However, we don't abuse their rights".<sup>53</sup>

- 8.1.16 The New Era Live article from May 31, 2024, covered the position of the opposition party, the Landless People's Movement (LPM). It reported:

'[LPM] maintained that the party recognised LGBTQI+ rights as human rights. "The LPM believes in restoring the dignity of Namibians; with the noted clear discrimination members of this community face. Therefore, we stand on the stance that LGBTQI+ should enjoy the liberties that the country awards them. They should be able to exist and not be discriminated against, especially when it comes to opportunities, interaction with State entities such as police or health professionals, and generally that they shouldn't be harmed or killed on the basis of their orientation," said LPM spokesperson Lifalaza Simataa.'<sup>54</sup>

- 8.1.17 On 5 May 2024, The Namibian reported that a number of members of parliament had responded to recent murders of members of the LGBTQI+ community<sup>55</sup> (see [Violence, intimidation and extortion](#)). The article reported that Minister of Agriculture, Water and Land Reform, Calle Schlettwein had commented: "I am greatly saddened and concerned about this senseless and brutal behaviour" ... "Such differential treatment of people in the same society is undermining the fundamental principle of equality. It is not only in

<sup>50</sup> The New Era Live, '[Namibia: Lgbtqi+ Rights - Political Parties Remain Mum](#)', 31 May 2024

<sup>51</sup> The New Era Live, '[Namibia: Lgbtqi+ Rights - Political Parties Remain Mum](#)', 31 May 2024

<sup>52</sup> The New Era Live, '[Namibia: Lgbtqi+ Rights - Political Parties Remain Mum](#)', 31 May 2024

<sup>53</sup> The Namibian, '[Constitution written by Western countries – Itula](#)', 7 July 2024

<sup>54</sup> The New Era Live, '[Namibia: Lgbtqi+ Rights - Political Parties Remain Mum](#)', 31 May 2024

<sup>55</sup> The Namibian, '[Hate Kills](#)', 5 May 2024

direct conflict with the Namibian Constitution, it is inhumane”.<sup>56</sup>

8.1.18 The same article reported: ‘Max Katjimune, PDM member of parliament ... said: “I do not have concrete evidence at my disposal to conclude that these murders were a result of the Ekandjo bills”.’<sup>57</sup>

8.1.19 An August 2024 article in the Namibian stated:

‘Of the presidential candidates, only Ally Angula (independent) has released “policy cards” outlining her proposed strategies ... The vacuum left by a lack of manifestos also allows candidates and parties to avoid taking a public stance on pressing issues – such as recent legislative changes and the ensuing backlash against vulnerable Namibians in the LGBTQI+ community.

Leaders of various political parties have commented publicly on these developments.

‘They have either taken a stance against decriminalising sodomy or have said that Namibia’s Christian values prevent them from supporting the legal amendment.

‘Putting aside the fact that Namibia is a secular state, there is another troubling aspect to parties’ failure to make their policies clear while publicly denouncing steps taken to protect all Namibians from discrimination. In recent years, public intolerance of members of the LGBTQI+ community has been on the rise and has arguably contributed to more discrimination.’<sup>58</sup>

8.1.20 On 19 June 2024, Amnesty International reported that it had, ‘received distressing accounts of ... frequent targeting and scapegoating by politicians before November 2024 elections.’<sup>59</sup>

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## 8.2 Government programmes and policies

8.2.1 The 2021 UNDP IGI Baseline report noted:

‘...the Safe Schools Framework... is an anti-violence program that includes measures to protect LGBTI students ... The current life skills curriculum...directly addresses sexual orientation. It links human rights with sexual orientation and addresses homophobia and transphobia. The curriculum includes correct references to different sexual orientations, human rights on sexual orientation, how to affirm different sexual orientations, and how to support people with different sexual orientations with activities that differentiate between sexual orientation and sexual behaviours.’<sup>60</sup>

8.2.2 The Office of the Ombudsman in Namibia ‘investigates complaints about the violation of fundamental rights and freedoms and about the administration of all organs of government’<sup>61</sup>. The 2022 Ombudsman Annual Report noted that officials participated in a regional workshop on eradicating conversion

<sup>56</sup> The Namibian, ‘[Hate Kills](#)’, 5 May 2024

<sup>57</sup> The Namibian, ‘[Hate Kills](#)’, 5 May 2024

<sup>58</sup> The Namibian, ‘[Elections: There’s More at Stake than Marriage Laws](#)’, 18 August 2024

<sup>59</sup> Amnesty International, ‘[Namibia: Ensure safety of LGBTI persons...](#)’ 19 June 2024

<sup>60</sup> UNDP, ‘[Inclusive Governance Initiative: Namibia Baseline Report](#)’, (page 11), 2021

<sup>61</sup> IPPR, ‘[Roles and responsibilities of the Ombudsman](#)’, August 2021

therapy practices in Africa<sup>62</sup>. The report noted that the workshop designed workable strategies which included enhancing case management systems to improve the collection of data on LGBTQI+ human rights infringements<sup>63</sup>.

- 8.2.3 In March 2023, the Namibian government published its '[National strategic framework for HIV and AIDS response in Namibia, 2023-24 to 2027-2028](#)', in which the government reiterated its 'commitment to the successful implementation of the National Strategic Framework to ensure access to safe, affordable and high-quality HIV care for all citizens.'<sup>64</sup>
- 8.2.4 The [Gender Action Plan III 2021-2025](#) Country Level Implementation Plan (CLIP) noted the government's commitment to developing 'policy and technical dialogue on "gender identities" and the promotion of the integration of "gender" in Early Childhood Development curricula development, including teacher's trainings.'<sup>65</sup>
- 8.2.5 In August 2023 an article in the peer-reviewed journal, Cogent Education, noted that 'The Namibian legal frameworks on education, such as the Inclusive Education policy and the Namibian constitution's stand on the rights of all Namibians, form the basis for providing education in Namibia ... the MoEAC [Ministry of Education, Arts and Culture] made several efforts to make the education system inclusive of diversity among learners at the national and school levels.'<sup>66</sup>
- 8.2.6 The 2022 Ombudsman Annual Report, covering the period December 2021 to December 2022, reported that the Ombudsman's office had hosted a workshop on sexual orientation and gender identification. The report noted that the workshop was attended by 'civil society representatives, human rights activists and persons from the LGBTQ community.'<sup>67</sup>
- 8.2.7 The UN Country Results Report 2023, an annual report that details key achievements and strategic initiatives through UN collaboration, observed: '... community-level interventions targeting a wide range of stakeholders have effectively cultivated a supportive ecosystem, enabling Adolescents and Young People (AYP) to access Comprehensive Sexuality Education (CSE) and Sexual and Reproductive Health (SRH) services. Endorsed by the UN, this initiative has been instrumental in equipping young individuals with the knowledge and tools necessary for making informed decisions regarding their health and well-being.'<sup>68</sup>
- 8.2.8 On 7 November 2023, The Namibian reported that correctional services' officers had taken part in a 5-day workshop that addressed new challenges in the justice system, including the humane and just treatment of LGBTQI+ individuals<sup>69</sup>. The article reported:

"The issue of the LGBTQI+ is an emerging issue. We are well aware that it

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<sup>62</sup> Office of the Ombudsman Namibia, '[2022 Ombudsman Annual Report](#)', (page 46), August 2023

<sup>63</sup> Office of the Ombudsman Namibia, '[2022 Ombudsman Annual Report](#)', (page 46), August 2023

<sup>64</sup> MoHSS, '[National strategic framework for HIV and AIDS response in Namibia...](#)', March 2023

<sup>65</sup> EU, '[Gender Action Plan III 2021-2025 – Namibia](#)', page 4, 6 October 2021

<sup>66</sup> Haitembu, '[Gender and sexual diversity: Inclusion in the Namibian education context](#)', August 2023

<sup>67</sup> Office of the Ombudsman Namibia, '[2022 Ombudsman Annual Report](#)', (page 47), August 2023

<sup>68</sup> UN, '[UN Country Results Report Namibia 2023](#)', page 32, 11 June 2024

<sup>69</sup> The Namibian, '[Prisons tackle LGBTQI+ challenges](#)', 7 November 2023

is a community that we have to handle in a way that is quite new to the correctional service,” said Namibia’s deputy commissioner general of Correctional Operations Sam Shaalulange at the opening of the event.

He outlined the balancing act facing prisons: “On one side you have to make sure that LGBTQI+ inmates are also protected as a vulnerable group, and on the other side, the protection might also impact their rights because you have to, for instance, isolate them from others, and for them, staying isolated is also not a good thing.”...Shaalulange emphasised the delicate nature of finding solutions that would serve both the correctional service and the LGBTQI+ community without impinging on the security of the facilities.

“The solution will be one where we are also not impacting the security of our facilities, so that balance will be the best. And that means policies to be established or developed that will serve the correctional service, as well as this community in the best way that we can”.<sup>70</sup>

8.2.9 In January 2023, the Independent Evaluation Office (IEO) of the UNDP published its Independent Country Programme Evaluation (ICPE) report covering the 2019-2022 programming period. The report stated that the UNDP had supported civil society organisations to engage in public dialogues on various governance issues, including the inclusion of LGBTQI communities<sup>71</sup>.

8.2.10 The ICPE report noted:

‘The Namibian government also works with the UNDP IGI #WeBelongAfrica programme. The UNDP website states that the ‘programme is designed to support state entities in sub-Saharan Africa to become increasingly accountable and responsive to, and inclusive of, lesbian, gay, bisexual, transgender and intersex (LGBTI+) people and young key populations, which in turn will contribute to better laws, more responsive public sector services, and social norms that affirm these populations’ perspectives, needs and rights.’<sup>72</sup>

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### 8.3 Enforcement of the law pre- and post- June 2024

8.3.1 A report by the Namibian Law Reform and Development Commission in 2020 found that, ‘although there have been recorded cases of sodomy for non-consensual sexual activity ... there are no reported cases involving the prosecution of criminal charges of sodomy or unnatural sexual offences since Namibian independence ...’<sup>73</sup>

8.3.2 The USSD HR report 2023 noted that ‘There were no records or reports of enforcement of the law in recent years.’<sup>74</sup>

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### 8.4 Violence, harassment, and discrimination

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<sup>70</sup> The Namibian, ‘[Prisons tackle LGBTQI+ challenges](#)’, 7 November 2023

<sup>71</sup> UNDP, ‘[Independent Country Programme Evaluation: Namibia](#)’, page 32, 16 January 2023

<sup>72</sup> UNDP, ‘[We Belong Africa](#)’, no date

<sup>73</sup> LRDC ‘[Report on the abolishment of the common law offences...](#)’, November 2020

<sup>74</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024



- 8.4.1 The USSD HR report 2023 noted that: 'Police or other government agents did not incite or perpetrate violence against lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) individuals or those reporting such abuse'.<sup>75</sup>
- 8.4.2 A 2023 study titled 'Queering Housing Policy: Questioning Urban Planning Assumptions in Namibian Cities' noted that 'Institutional discrimination in governmental institutions, isolated instances of violence, hatred discourses sometimes disguised as harmful jokes, job discrimination, and isolation are all common in Namibian society'<sup>76</sup>. However, the source provided no information on the frequency of the described events to support the assertion that the incidents were 'common'.
- 8.4.3 Freedom House, in its Freedom in the World 2024 report (FH Report 2024), which covers the events of 2023, stated that 'In June 2023, two counterprotesters were reportedly arrested and later released after waving LGBT+ pride flags at a crowd demonstrating against the Supreme Court judgement that recognised same-sex marriages performed abroad.'<sup>77</sup>
- 8.4.4 No other information on adverse state treatment of LGBTI persons, such as harassment, violence or arbitrary arrest, was found in the sources consulted (see [Bibliography](#)).

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## 8.5 Protection and oversight mechanisms

- 8.5.1 The USSD HR report 2023 noted that 'Government officials confirmed reports of police responding with apathy towards LGBTQI+ victims of assault, however... Instances of violence were underreported due to fear of harassment or discrimination.'<sup>78</sup>
- 8.5.2 The same report stated that 'The constitution provided for an independent judiciary, and the government generally respected judicial independence and impartiality'<sup>79</sup>. Regarding trial procedures, it noted that 'The constitution and law provided for the right to a fair and public trial, and the judiciary generally enforced this right.'<sup>80</sup>
- 8.5.3 The Africa Organised Crime Index (AOC Index) 2023 noted:  
 'Namibia's judiciary is regarded as fairly effective and independent, although concerns about the appointment of judges and corruption scandals have eroded public trust in the ethics of judges. The justice system is burdened by backlogs, and criminal cases are often delayed, with inadequate resources and under-resourcing contributing to these problems... Namibia's law enforcement faces a range of challenges, including inadequate training, skills shortages, lack of resources, and corruption. Low salaries and poor accommodation for junior police officials have been identified as factors that impede their ability to perform their duties effectively. The mistreatment of

<sup>75</sup> USSD, '[2023 Country Report on Human Rights Practices: Namibia](#)', (Section 6), 22 April 2024

<sup>76</sup> Delgado and others, '[Queering Housing Policy: Questioning Urban Planning...](#)' Section 2.3, 2023

<sup>77</sup> FH, '[Freedom in the World 2024](#)', (E1) 29 February 2024

<sup>78</sup> USSD, '[2023 Country Report on Human Rights Practices: Namibia](#)', (Section 6), 22 April 2024

<sup>79</sup> USSD, '[2023 Country Report on Human Rights Practices: Namibia](#)', (Section 6), 22 April 2024

<sup>80</sup> USSD, '[2023 Country Report on Human Rights Practices: Namibia](#)', (Section 6), 22 April 2024

citizens by police officers is also common'.<sup>81</sup>

- 8.5.4 The World Justice Project (WJP) Rule of Law Index ranks countries against 8 factors including constraints on, and openness of government, corruption, fundamental rights, regulatory enforcement, order and security, and justice.<sup>82</sup> The country score and ranking is calculated by using two data sources: a General Population Poll (GPP) and a Qualified Respondents Questionnaires (QRQ), who are local experts<sup>83</sup>. The GPP was comprised of data from 1001 households in Namibia collected in 2018. The QRQ data was comprised of an average of 24 respondents per country and was collected from February 2023 and June 2023. Namibia scored 0.61 out of 1.0 rule of law score<sup>84</sup>. It ranked 44 out of 142 in WJP's 2023 global ranking, and 2<sup>nd</sup> in its region of Sub-Saharan Africa<sup>85</sup>. In terms of criminal justice, Namibia scored above the global average in its scores for impartiality of the criminal system, its lack of corruption and the criminal system's freedom from improper government influence<sup>86</sup>.
- 8.5.5 The FH 2024 report ranked Namibia 77/100 'Free' in its 'Global freedom status', calculated on a weighted scale, in relation to political rights and civil liberties<sup>87</sup>. However, it noted that Namibia does not have cyber harassment or data protection legislation, and this lack of legislative responses to communication technology-facilitated abuse leaves victims of misogynistic online abuse, such as members of the LGBT+ community, and other minority groups without adequate legal recourse<sup>88</sup>.
- 8.5.6 The FH 2023 report, which covers the events of 2022, noted that 'the rule of law and fair-trial rights are constitutionally protected, though equal access to justice is obstructed by factors including economic and geographic barriers, a shortage of public defenders, a lack of resources, and case backlogs.'<sup>89</sup>
- 8.5.7 The Bertelsmann Stiftung's Transformation Index (BTI) published their 2024 Country Report, which covers the period from 1 February 2021 to 31 January 2023<sup>90</sup>. The BTI country report 2024 noted:
- 'The Namibian judiciary stands as a beacon for upholding the rule of law. It operates with a high degree of autonomy and rarely engages in political favoritism. This holds particularly true for the High Court and the Supreme Court. However, at the regional (magistrate) court level, instances of preferential treatment and corruption have been reported. Additionally, a significant backlog of cases exists, which reflects the saying that "justice delayed is justice denied," highlighting a flaw in the system.'<sup>91</sup>
- 8.5.8 The BTI 2024 country report also noted that 'While hate speech is subject to prosecution, other forms of discrimination are not as rigorously scrutinized

<sup>81</sup> Africa Organised Crime Index, '[Namibia](#)', Criminal Justice and Security, 25 October 2023

<sup>82</sup> WJP, '[Rule of Law Index](#)', no date

<sup>83</sup> WJP, '[Rule of Law Index- Methodology](#)', page 182, 2023

<sup>84</sup> WJP, '[Rule of Law Index – Namibia](#)', 25 October 2023

<sup>85</sup> WJP, '[Rule of Law Index – Namibia](#)', 25 October 2023

<sup>86</sup> WJP, '[Criminal Justice Sub-factors for Namibia](#)', 25 October 2023

<sup>87</sup> FH, '[Freedom in the World 2024](#)', 29 February 2024

<sup>88</sup> FH, '[Freedom in the World 2024](#)', 29 February 2024

<sup>89</sup> FH, '[Freedom in the world 2023](#)', F2, 9 March 2023

<sup>90</sup> BTI, '[Namibia- Country Report 2024](#)', 2024

<sup>91</sup> BTI, '[Namibia- Country Report 2024](#)', (Rule of Law), 2024

and are sometimes downplayed under the guise of freedom of speech.<sup>92</sup>

- 8.5.9 The USSD 2023 HR report noted ‘There was an autonomous ombudsman with whom government agencies cooperated. Observers considered the ombudsman effective in identifying human rights abuses ... The Office of the Ombudsman, local human rights NGOs, and the ACC reported NAMPOL [Namibian Police Force] cooperated and assisted in human rights investigations.’<sup>93</sup>
- 8.5.10 Namibia’s Office of the Ombudsman was established in 1990 and its legal provisions are set out in Chapter 10 of the [Namibian Constitution](#) and the [Ombudsman Act \(No. 7 of 1990\)](#). In addition to human rights, the mandate covers administrative practices .... The Ombudsman is appointed by the President on the recommendation of the Judicial Service Commission and is either a judge or a person legally qualified to practice law<sup>94</sup>.
- 8.5.11 In August 2021 the Institute for Public Policy Research (IPPR), a not-for-profit organisation which conducts research into social, political and economic issues in Namibia, published a blog entitled ‘Role and Responsibilities of the Ombudsman’ which stated:
- ‘...The Office of the Ombudsman is intended to function as an independent. Broadly speaking, the Ombudsman in Namibia investigates complaints about the violation of fundamental rights and freedoms and about the administration of all organs of government. The Ombudsman can try to obtain a compromise between the parties concerned, bring the matter to the attention of the authorities, refer the matter to the courts, or seek judicial review ... Complaints may be submitted to the Office of the Ombudsman by any person, free of charge and without specific form requirements. The Office of the Ombudsman cannot investigate complaints regarding court decisions, however.’<sup>95</sup>
- 8.5.12 The Legal Assistance Centre (LAC) is a public interest law firm based in Windhoek. LAC’s website states ‘The LAC’s main objective is to protect the human rights of all Namibians’. The organisation’s website states that it is involved in Litigation, Information and Advice, Education and Training, Research, Law Reform and Advocacy<sup>96</sup>. The LAC published an undated brochure summarising the Police Act 19 of 1990 on their website, which provides information on how police officers are held accountable. The brochure outlines the procedure for filing a complaint against a member of Nampol, either through the Inspector-General or through the Ombudsman<sup>97</sup>.
- 8.5.13 On 9 January 2024, The Namibian reported that two Zambian men had been arrested and charged with attempted murder for the assault of a member of LGBTQ+ community near Walvis Bay on 4 January 2024<sup>98</sup>. The article stated that ‘the accused reportedly assaulted him following a sexual encounter

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<sup>92</sup> BTI, [‘Namibia- Country Report 2024’](#), (Rule of Law), 2024

<sup>93</sup> USSD, [‘2023 Country Report on Human Rights Practices: Namibia’](#), (Section 5), 22 April 2024

<sup>94</sup> IPPR, [‘Role and Responsibilities of the Ombudsman’](#), 6 August 2021

<sup>95</sup> IPPR, [‘Role and Responsibilities of the Ombudsman’](#), 6 August 2021

<sup>96</sup> LAC, [‘About us’](#), no date

<sup>97</sup> LAC, [‘Police Act 19 of 1990’](#), undated

<sup>98</sup> The Namibian [‘Zambian truck drivers charged with attempted murder’](#), 9 January 2024



upon realising he is biologically a man.’<sup>99</sup>

- 8.5.14 In the sources consulted, no other information or statistics were found relating to whether perpetrators of crimes or discrimination against LGBTI are prosecuted or penalised (see [Bibliography](#)).

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## 9. Non-state actors – attitudes and treatment

### 9.1 Public attitudes

- 9.1.1 On 3 December 2023, Queer in the World, an online LGBT magazine noted: ‘In recent years, there has been a gradual shift in public opinion towards LGBTQ+ rights in Namibia.’ The same report noted that: ‘... while Namibia is considered more tolerant than other African countries, individuals may still face discrimination or hostility ... local [LGBTQ+] residents face legal challenges and resistance toward their rights...’<sup>100</sup>
- 9.1.2 A 2022 study conducted by Afrobarometer network ranked Namibia as the third most tolerant country in Africa in terms of homosexuality<sup>101</sup>.
- 9.1.3 The Afrobarometer study was repeated in 2024. The study used questions that probed public feelings about having members of certain groups as immediate neighbours<sup>102</sup>. The results are based on interviews conducted on a ‘nationally representative, random, stratified probability sample of 1,200 adult Namibians between 14 March and 2 April 2024’<sup>103</sup>. Participants were asked: ‘For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Homosexuals?’<sup>104</sup>. The results are summarised by CPIT below<sup>105</sup>:

| (%)                     | Urban | Rural | Men  | Women | Total |
|-------------------------|-------|-------|------|-------|-------|
| <b>Strongly dislike</b> | 27.4  | 34.0  | 33.5 | 27.2  | 30.4  |
| <b>Somewhat dislike</b> | 17.3  | 19.3  | 19.0 | 17.5  | 18.2  |
| <b>Would not care</b>   | 33.9  | 30.2  | 29.7 | 34.8  | 32.2  |
| <b>Somewhat like</b>    | 13.6  | 11.7  | 11.9 | 13.6  | 12.7  |
| <b>Strongly like</b>    | 7.1   | 4.8   | 5.4  | 6.6   | 6.0   |
| <b>Don’t know</b>       | 0.7   | 0.1   | 0.5  | 0.3   | 0.4   |

- 9.1.4 In summary, the results indicated that urban residents and women tend to have a more positive or neutral attitude towards homosexual neighbours compared to rural residents and men, who are more likely to express dislike.
- 9.1.5 The 2023 study titled ‘Queering Housing Policy: Questioning Urban Planning Assumptions in Namibian Cities’ noted ‘The current situation is one of increasing social acceptance, with the development of a vibrant queer

<sup>99</sup> The Namibian ‘[Zambian truck drivers charged with attempted murder](#)’, 9 January 2024

<sup>100</sup> Queer in the World ‘[LGBT Rights In Namibia: Everything You Should...](#)’ 3 December 2023

<sup>101</sup> Afrobarometer, ‘[Public opinion and tolerance of homosexuality](#)’, 3 May 2023

<sup>102</sup> Afrobarometer, ‘[Summary of results- Round 10, 2024](#)’, page 87, 13 August 2024

<sup>103</sup> Afrobarometer, ‘[Summary of results- Round 10, 2024](#)’, page 87, 13 August 2024

<sup>104</sup> Afrobarometer, ‘[Summary of results- Round 10, 2024](#)’, page 87, 13 August 2024

<sup>105</sup> Afrobarometer, ‘[Summary of results- Round 10, 2024](#)’, page 87, 13 August 2024

cultural life, despite continuous displays of homophobia in public life... [P]ublic views combine a mixture of tolerance (or veiled avoidance) and conservative distance...<sup>106</sup>

- 9.1.6 In the 2023 Outright Pride report, Namibian activist Jholerina Timbo was asked how Pride events can help shape public perception<sup>107</sup>. It noted:
- ‘[Jholerina Timbo] explained that there has been an increase in the defense against homophobic vitriol particularly on social media, as a result of awareness and visibility initiatives such as Pride. She stated: “As someone who has been active in the movement since 2003, when I look to social media, I see a great shift in the conversations that happen. Back in the day, we were the ones defending ourselves against homophobic rhetoric in the media. But gradually, now, there are a lot of allies actively defending our causes. The visibility, awareness and engagements have shifted people’s perceptions on who we are”.’<sup>108</sup>

- 9.1.7 In May 2024, The Informanté, a privately owned Namibian news platform, reported that in a statement to the President, the Chairperson for the ‘Stop Homosexuality and Same Sex Marriage’ movement in Namibia, Pendapala Nakathingo, called for the removal of Yvonne Dausab from office<sup>109</sup>. The statement noted:

‘We register here our serious concern of Ms. Yvonne Dausab continuously occupying the public office as a Minister of Justice while busy pushing to destroy fundamental rights and culture as enshrined and protected by chapter 3 of the Namibian Constitution ... It is a public information, that Minister Yvonne Dausab in 2022 entered into a same sex marriage with a fellow Namibian woman, a local media personality.

‘It is common knowledge that Namibian laws particularly sodomy laws do not support same sex marriages or homosexual relationships. Dausab’s conduct is a serious violation of our laws and inconsistent with her oath of office and cannot be ignored.

‘She engages herself in immoral practices by engaging herself in unnatural sex in that marriage, which is a criminal offence in terms of the Combating of Immoral Practices Act, 1980 (Act No. 21 of 1980). We as citizens (Men and Women) and sovereignty of this country are right to conclude that she is no longer proper and fit to be Minister of Justice and the Chairperson of the Cabinet Committee on Legislation (CCL) which is the custodian of our laws because she is directly in conflict with our laws and is no longer impartial.’<sup>110</sup>

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## 9.2 Violence, intimidation, and discrimination

- 9.2.1 Freedom House, in its Freedom in the World 2024 report (FH Report 2024), which covers the events of 2023, stated that: ‘LGBT+ people ... face widespread discrimination. The May 2023 Supreme Court decision that

<sup>106</sup> Delgado and others, ‘[Queering Housing Policy: Questioning Urban Planning...](#)’ Section 2.3, 2023

<sup>107</sup> Outright International, ‘[Outright Pride Report 2023](#)’, (page 30), 21 June 2023

<sup>108</sup> Outright International, ‘[Outright Pride Report 2023](#)’, (page 30), 21 June 2023

<sup>109</sup> The Informante, ‘[President given 21 days to sign anti-gay marriage bill](#)’, 18 May 2024

<sup>110</sup> The Informante, ‘[President given 21 days to sign anti-gay marriage bill](#)’, 18 May 2024

recognised same-sex marriages performed abroad for immigration purposes sparked an anti-LGBT+ backlash.’<sup>111</sup>

9.2.2 The USSD HR report 2023 noted that ‘Significant human rights issues included credible reports ... of violence against members of the lesbian, gay, bisexual, transgender, queer, or intersex community’.<sup>112</sup> The same source reported: ‘Members of civil society reported that assaults on LGBTQI+ persons increased following the National Assembly’s passage on July 11 and 19 of two bills criminalizing same-sex marriage and excluding same-sex spouses from receiving immigration status.’<sup>113</sup>

9.2.3 The BTI 2024 country report noted that ‘Members of the LGBTQ+ community often face discrimination, even though they are allowed to openly express their preferences ... This includes expressions of homophobia.’<sup>114</sup>

9.2.4 The Inclusive Governance Initiative (IGI) is a United Nations Development Programme (UNDP) regional project that aims to support countries to become increasingly accountable to their entire populations, including sexual and gender minorities<sup>115</sup>. In its 2021 Baseline Report on Namibia, IGI noted ‘The Combating Domestic Violence Act 4 of 2003 does not recognize same sex relationships and therefore the Protection Orders system made available as a form of police and state protection to applicants facing domestic violence are not available to those in same sex relationships.’<sup>116</sup>

9.2.5 In June 2023, Vice, a digital media and broadcasting company, reported on the impact of Namibia’s ‘anti same-sex marriage bill’ on the LGBT community:

‘As the [May 2023] Supreme Court judgement was announced and LGBTQ groups celebrated, a series of WhatsApp groups were created to fight the ruling – thousands of people joined the groups, openly voicing their hatred towards the LGBTQ community.

‘One group called “Anti-Same Sex/Gay Marriage Campaign 2023”, has a description which says: “We are aware of the advancement of an evil agenda to instigate the interest of sexual immortality – gay marriage – in Namibia, which is against our Christian values as a nation” ... In one message, members are encouraged to wear armbands with a swastika “to identify the non gays.” Someone else adds: “Gays should be burned”.

‘While exposing the details of an in-person LGBTQ community gathering, a member of the group wrote: “Let’s have an eradication of these citizens, and bring back the two genders that we were also meant to identify as.” Another poster responded “eradicate, behead, torture.”

“There will be no lesbians and no gay marriage in Namibia!” one person said. “Let us fight against same-sex marriage rights in Namibia”, they add, “Let’s stand up for our beautiful country and stop this.”<sup>117</sup>

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<sup>111</sup> FH, ‘[Freedom in the World 2024](#)’, (F4) 29 February 2024

<sup>112</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

<sup>113</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

<sup>114</sup> BTI, ‘[Namibia- Country Report 2024](#)’, (Rule of Law), 2024

<sup>115</sup> UNDP, ‘[Inclusive Governance Initiative: Namibia Baseline Report](#)’, page 4, 2021

<sup>116</sup> UNDP, ‘[Inclusive Governance Initiative: Namibia Baseline Report](#)’, page 4, 2021

<sup>117</sup> Vice, ‘[“We’re Scared”: Namibia’s New Gay Rights Are Already at Risk](#)’, 7 June 2023

9.2.6 A June 2023 article in New Era stated:

‘The Coalition of Christian Churches has demanded the home affairs ministry drafts legislation to outlaw same-sex marriages in Namibia.

The request comes amidst a heated national debate on same-sex marriages in the wake of the recent Supreme Court’s ruling that instructed the home affairs ministry to recognise all civil marriages, including of the same sex, solemnised in jurisdictions outside the country.

‘On Friday, the Coalition and anti-LGBTQ+ supporters held a demonstration against the controversial Supreme Court ruling. The demonstrations took place in Windhoek, Rundu, Nkurenkuru, Katima Mulilo, Omuthiya and Keetmanshoop.’<sup>118</sup>

9.2.7 In May 2024 the UN Human Rights Committee published its concluding observations on the third periodic report of Namibia. The report stated: ‘While noting the measures taken to combat discrimination, the Committee is concerned that protection against discrimination is insufficient. It is particularly concerned about the continued prevalence of discrimination, marginalization and violence perpetrated against ... against lesbian, gay, bisexual and transgender persons, including with regard to access to health care, education and employment...’<sup>119</sup>

9.2.8 On 7 May 2024, The Namibian published a joint statement by LGBTQI+ organisations regarding a recent spike in violence<sup>120</sup>. The statement noted:

‘The lesbian, gay, bisexual, transgender, queer/questioning, and intersex (LGBTQI+) community in Namibia hereby expresses our deep concern at the deadly violence meted out to members of our community in recent months ... The undignified killings of LGBTQI+ Namibians are a direct result of the parliament legislating hate and sanctioning hate crimes ... For the past eight months, six queer people have been murdered in the most gruesome way.’<sup>121</sup>

9.2.9 In June 2024, a Human Rights Watch article stated:

‘Since the Supreme Court of Namibia’s recognition of certain unions contracted abroad [between same sex couples](#) in 2023, there has been a heated debate in Namibia about respect for LGBT people’s human rights. Parliament passed [two bills](#) aimed at [banning marriage equality and criminalizing any form of support, celebration or promotion of same sex unions](#). While the bills have yet to be signed into law by President Nangolo Mbumba, they have contributed to a hostile environment for the LGBT community with reports of an increase in verbal attacks, including crackdown on queer organizations by [some religious groups](#).

The High Court’s ruling is an important reminder that legalizing discrimination against a specific group not only violates fundamental human rights but fosters violence and abuses against them.’<sup>122</sup>

<sup>118</sup> New Era, ‘[Coalition of churches demands anti-gay bill...](#)’, 5 June 2023

<sup>119</sup> UN Human Rights Committee, [Concluding observations on the third ...](#) (paragraph 8), 3 May 2024

<sup>120</sup> The Namibian ‘[LGBTQI+ community statement on violence against members](#)’ 8 May 2024

<sup>121</sup> The Namibian ‘[LGBTQI+ community statement on violence against members](#)’ 8 May 2024

<sup>122</sup> HRW, ‘[Namibia Court decriminalises consensual same-sex conduct](#)’, 25 June 2024

- 9.2.10 On 19 June 2024, Amnesty International reported that ‘In recent weeks, Amnesty International has observed alarming rhetoric threatening LGBTI persons in Namibia,’ said Khanyo Farise, Amnesty International’s Deputy Regional Director for East and Southern Africa ... This disturbing pattern echoes the aftermath of another case last year concerning the rights of LGBTI individuals, which led to a notable surge in discrimination and hostile rhetoric against them in Namibia”.<sup>123</sup>

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## 10. Access to services and support

### 10.1 Education and employment

- 10.1.1 The USSD 2023 HR report noted that ‘LGBTQI+ persons encountered discrimination in education, employment ...’<sup>124</sup>, but did not provide any details regarding the frequency or nature of this discrimination. It also did not specify whether it was perpetrated by state or non-state actors.
- 10.1.2 The same report noted that ‘The law prohibits discrimination based on HIV status, and according to the Namibian Employers’ Federation, discrimination based on HIV status was not a major problem in the workplace... Some jobs in the civilian sector require a pre-employment test for HIV; however, there were no reports of civilian employment discrimination specifically based on HIV or AIDS status.’<sup>125</sup>
- 10.1.3 An August 2023 article in the peer-reviewed journal, Cogent Education, noted that some learners were bullied based on their diverse gender and sexual identities<sup>126</sup>.
- 10.1.4 No other information was found in the sources consulted regarding discrimination against LGBTI in employment (see [Bibliography](#)).

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### 10.2 Healthcare

- 10.2.1 The National Strategic Framework for HIV and AIDS Response in Namibia (2023/24 to 2027/28) noted that ‘The Namibian Constitution provides and guarantees healthcare for all citizens. Healthcare services, including HIV prevention and treatment services, are provided for free to everyone in the country.’<sup>127</sup>
- 10.2.2 The 2021 UNDP IGI Baseline report noted that ‘HIV programming (and therefore the health sector) demonstrates the highest levels of inclusion of sexual and gender minority issues than in any other sector in Namibia.’<sup>128</sup>
- 10.2.3 Mamba Online, an online magazine that reports on LGBTI issues and news<sup>129</sup>, reported that the first LGBTI-dedicated health centre opened in

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<sup>123</sup> Amnesty International, ‘[Namibia: Ensure safety of LGBTI persons...](#)’ 19 June 2024

<sup>124</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

<sup>125</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

<sup>126</sup> Haitembu, ‘[Gender and sexual diversity: Inclusion in the Namibian education context](#)’, August 2023

<sup>127</sup> MoHSS, ‘[National strategic framework for HIV and AIDS response in Namibia...](#)’, March 2023

<sup>128</sup> UNDP, ‘[Inclusive Governance Initiative: Namibia Baseline Report](#)’ (page 4), 2021

<sup>129</sup> Mamba online, ‘[Home](#)’, no date



Windhoek in May 2018<sup>130</sup>.

10.2.4 On 1 September 2021, The Namibian reported:

“The [health] ministry has comprehensive programmes for all, addressing all areas, irrespective of gender or sexual orientation, or preference. Healthcare facilities where most of these activities take place are equally open to all Namibians and will remain open to all, indiscriminately,” health ministry deputy executive director Petronella Masabane said.

‘Despite the lack of a national comprehensive health plan for the lesbian, gay, bisexual, transgender, and queer (LGBTQ) community, the Ministry of Health and Social Services says the existing frameworks and guidelines suffice irrespective of gender, race or sexual orientation. However, LGBTQ persons have complained that access to health care in Namibia depends on nurses or doctors on duty at any given day.

‘Masabane told The Namibian that the ministry does not have specific programmes or medical resources like hormonal therapy for the LGBTQ community. “At the moment, our public health system does not offer hormonal therapy. The ministry is challenged with a lack of specialists, limiting our ability to offer certain services”<sup>131</sup>

10.2.5 In January 2022, IntraHealth Namibia, a local non-profit organisation that aims to improve access to quality health services<sup>132</sup>, announced it was working with the Ministry of Health and Social Services (MoHSS) in a project to increase access to HIV services for key populations- men who have sex with men (MSM), female sex workers (FSW) and transgender (TG) individuals<sup>133</sup>.

10.2.6 The article noted that the team had ‘... held a series of online workshops for health workers who serve Key Populations in the ten districts. The trainings encouraged and enabled health workers to honour their oaths by treating all clients with dignity, respect, and care, with a focus on empathy.’<sup>134</sup>

10.2.7 In July 2022, in its concluding observations on the sixth periodic report of Namibia, the Committee on the Elimination of Discrimination against Women (CEDAW) noted concerns regarding the ‘limited access for ... lesbian, bisexual, transgender and intersex women, to sexual and reproductive health care.’<sup>135</sup>

10.2.8 The USSD 2022 HR report noted that ‘In January an LGBTQI+ rape survivor alleged discrimination by police and health-care providers, citing denied services in his attempt to report an assault and receive appropriate medical attention.’<sup>136</sup> The USSD 2023 HR report noted that LGBTQI+ people encountered discrimination in health care<sup>137</sup>, but did not provide further detail.

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<sup>130</sup> Mamba online, ‘[Namibia's first LGBT health centre opens in Windhoek](#)’, 21 May 2018

<sup>131</sup> The Namibian, ‘[Health ministry says LGBTQ community is catered for](#)’, 1 September 2021

<sup>132</sup> IntraHealth Namibia, ‘[About us](#)’, no date

<sup>133</sup> IntraHealth Namibia, ‘[Delivering Comprehensive Safe, Stigma-Free HIV Care...](#)’, 10 January 2022

<sup>134</sup> IntraHealth Namibia, ‘[Delivering Comprehensive Safe, Stigma-Free HIV Care...](#)’, 10 January 2022

<sup>135</sup> CEDAW, ‘[Concluding observations on the sixth periodic report of Namibia](#)’, 12 July 2022

<sup>136</sup> USSD, ‘[2022 Country Report on Human Rights Practices: Namibia](#)’ 20 March 2023

<sup>137</sup> USSD, ‘[2023 Country Report on Human Rights Practices: Namibia](#)’, (Section 6), 22 April 2024

- 10.2.9 In a press statement on 21 June 2024, UNAIDS applauded the High Court of Namibia for declaring the laws that criminalised same sex relationships as unconstitutional. It stated that the law had ‘perpetuated an environment of discrimination and fear, often hindering access to essential healthcare services for LGBTQ+ individuals ... The climate created by the law discouraged LGBTQ+ individuals from seeking HIV testing and treatment, undermining efforts to control the epidemic.’<sup>138</sup>
- 10.2.10 The Voice of America (VoA) in an article of 17 October 2024 reported ‘Namibians who are part of the LGBTQ+ community often find it difficult to get decent health care and many report discriminatory practices within the health care system.’ The VoA went on to give the example a 20-year-old gay man saying he was refused contraception by a nurse at a public health facility because of his sexual orientation<sup>139</sup>.
- 10.2.11 However, the VoA article also noted the views of the Namibian government:
- ‘The executive director of Namibia’s Ministry of Health, Ben Nangombe, said that discrimination in health care based on sexual orientation is against the law and that practitioners who refuse health care to patients for any reason can lose their jobs.
- “The official position [of the] government on this matter is that the Namibian government provides health care services to all Namibians who need it without any discrimination whatsoever,” he said.’<sup>140</sup>
- 10.2.12 And the same article noted that there had been ‘A recent two-day training workshop facilitated by the group Our Equity Advocacy was aimed at encouraging health care practitioners in Namibia to not discriminate against sexual minorities.’<sup>141</sup>

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## 11. LGBTI groups and activities

### 11.1 Ability to operate

- 11.1.1 BTI’s 2024 report noted that ‘in general, civil and political liberties, including the right to protest, are widely respected in Namibia. LGBTQ+ activists are able to organize public gay parades without interference, and drag shows are held in public venues’.<sup>142</sup> The FH Report 2024 stated that: ‘LGBT+ people face discrimination that hampers their ability to openly advocate for their interests.’<sup>143</sup>
- 11.1.2 The 2021 UNDP IGI baseline report noted that ‘LGBTI organisations are very vocal and active within the broader development and human rights space in Namibia, and that they are included and their contributions are generally welcomed by wider civil society.’<sup>144</sup>
- 11.1.3 On 25 May 2023, Mamba Online reported that the organisers of Drag Night

<sup>138</sup> UNAIDS, ‘[UNAIDS applauds Namibian High Court's decision to declare...](#)’, 21 June 2024

<sup>139</sup> VoA, [Namibia hosts workshop on health care access to LGBTQ+ community](#), 17 October 2024

<sup>140</sup> VoA, [Namibia hosts workshop on health care access to LGBTQ+ community](#), 17 October 2024

<sup>141</sup> VoA, [Namibia hosts workshop on health care access to LGBTQ+ community](#), 17 October 2024

<sup>142</sup> BTI, ‘[Namibia- Country Report 2024](#)’, (Political participation), 2024

<sup>143</sup> FH, ‘[Freedom in the World 2024](#)’, (B4) 29 February 2024

<sup>144</sup> UNDP, ‘[Inclusive Governance Initiative: Namibia Baseline Report](#)’, page 4, 2021

Namibia had decided to cancel an upcoming show due to safety concerns following a rise in anti-gay sentiments in the aftermath of the May 2023 Supreme Court ruling. However, in June 2023, The Namibian reported that the monthly event was returning, with a show planned in June<sup>145</sup>.

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## 11.2 LGBTI organisations

11.2.1 Out-Right Namibia's (ORN) website describes itself as a 'leading LGBTIQ+ human rights-based organisation that was formed in March 2010... and officially registered on 21 October 2017 as a Trust with the Masters of the High Court in Windhoek'<sup>146</sup>. The website states that the organisation operates in 14 regions of Namibia<sup>147</sup>.

11.2.2 ORN's website lists its services as:

1. Human Rights Advocacy and Defense,
2. Sexual and Reproductive Health Rights (SRHR) and HIV/AIDS services to support LGBTIQ+ persons,
3. Psychosocial and Counselling Services
4. Legal Literacy Trainings
5. sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) Trainings
6. Legal and Policy Reform
7. Public Outreach on Sexual and Gender Diversity
8. Research to Support LGBTIQ+ Programming<sup>148</sup>

11.2.3 The LAC has published extensive reports examining topics such as criminal laws relevant to the LGBT community, protection against violence and hate speech, labour law issues and access to health care and family law issues. It also looks at the possibility of legal challenges to discrimination against members of the LGBT community<sup>149</sup>.

11.2.4 Positive Vibes' (PV) website describes the organisation as 'an African, queer, human rights organisation' that works globally with its roots in Africa<sup>150</sup>. The national office for PV is in Windhoek<sup>151</sup>. The website states that the organisation aligns itself 'with the interests of groups, organisations and movements of people whose human rights are unjustly limited or denied'<sup>152</sup>, and currently the organisations' strongest focus is on work the LGBT+: sex workers, adolescent girls and women, people living with disabilities, people living with HIV and migrants and displaced people<sup>153</sup>.

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<sup>145</sup> The Namibian, '[Drag night back after hate break](#)', 27 June 2023

<sup>146</sup> Out-Right Namibia, '[Home](#)', no date

<sup>147</sup> Out-Right Namibia, '[Home](#)', no date

<sup>148</sup> Out-Right Namibia, '[Our Services](#)', no date

<sup>149</sup> LAC, '[LGBTI](#)', no date

<sup>150</sup> PV, '[About us](#)', no date

<sup>151</sup> PV, '[About us](#)', no date

<sup>152</sup> PV, '[About us](#)', no date

<sup>153</sup> PV, '[About us](#)', no date



- 11.2.5 Positive Vibes is also an implementing partner of UNDP's #WeBelongAfrica: Inclusive Governance Initiative<sup>154</sup> (see [Government programmes and policies](#)).
- 11.2.6 Namibia Equal Rights movement or Equal Namibian, established in 2021, is a 'youth-led social movement for equality, championed by grassroots activists and community organizers, supported by a coalition of civil society organisations, fighting to end state-sanctioned homophobia and intersectional discrimination'<sup>155</sup>. According to Civic +264, Equal Namibia leads the Namibia Pride Week committee<sup>156</sup>.
- 11.2.7 Wings To Transcend Namibia (WTN) 'is a Namibian Transgender Organization Advocating and lobbying for the Equal Rights of Transgender citizens. The Organisations Strives for proper Access to Health care, Legal Gender recognition, Psycho-social support, Safe spaces and Well-being of every Transgender person, Reducing and Eradicating Transphobia ,Stigma, Discrimination and Violence against Transgender Community In the republic Of Namibia.'<sup>157</sup>
- 11.2.8 The Women's Leadership Centre (WLC), established in Windhoek in 2004, is 'a Namibian-based feminist organisation'<sup>158</sup>. WLC runs a 'Lesbian Empowerment Programme', the objective of which is 'strengthened feminist critical analysis, transformative leadership, visibility, voice, courage and solidarity among young lesbians in Namibia, and increased awareness of the dignity and rights of young lesbians among their communities and the general public.'<sup>159</sup>
- 11.2.9 Khaibasen Rural Action Foundation is a 'community based organization working in the field of human rights, religious dialogue and community led civic participation' that serves the LGBTI community<sup>160</sup>.
- 11.2.10 Voice of Foundation Hope Namibia is an organisation based in Swakopmund that provides assistance to the LGBTI community and sex workers through community mobilisation, media responses and public education<sup>161</sup>.
- 11.2.11 According to Civic+264, MPower Community Trust is a community-based non-profit organisation that 'advances the health and human rights of LGBTIQ+ and male commercial sex workers in the Erongo, Otjozondjupa and Khomas regions of Namibia.'<sup>162</sup>
- 11.2.12 According to its website, Hivos is an international development organization that aims to contribute towards just, inclusive and life sustaining societies where people have equal access to opportunities, rights and resources<sup>163</sup>. It runs a programme in Namibia called 'Free to be me' that 'builds and maintains a movement of self-confident and diverse LGBTIQ+ organizations

<sup>154</sup> UNDP, '[A Free and Inclusive Namibia: Celebrations and Challenges...](#)' 18 May 2023

<sup>155</sup> Civic+264, '[Namibia Equal Rights Movement](#)', no date

<sup>156</sup> Civic+264, '[Namibia Equal Rights Movement](#)', no date

<sup>157</sup> WTN, '[About](#)', no date

<sup>158</sup> WLC, '[About](#)', no date

<sup>159</sup> WLC, '[Lesbian Empowerment Programme](#)', no date

<sup>160</sup> Catalyst2030, '[Khaibasen Rural Action Foundation](#)', no date

<sup>161</sup> HIV Justice Network, '[Voices of Hope Foundation](#)', no date

<sup>162</sup> Civic+264, '[MPower Community Trust](#)', no date

<sup>163</sup> Hivos, '[About Hivos](#)', no date

and activists who advocate for their human and socio-economic rights.<sup>164</sup>

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### 11.3 Meeting places and events

- 11.3.1 LGBTQ Nation, an online LGBTI news magazine, noted that ‘Namibia’s first Pride parade, held in 2013 in the township of Katutura, included about 100 people. Bolstered by the court cases, the 2021 Pride was the biggest in the country’s history.’<sup>165</sup>
- 11.3.2 Outright International’s Outright Pride report 2023 noted that ‘beyond the capital city of Windhoek, the regions of Kunene, Swakopmund, and Walvis Bay all saw Pride events in 2022.’<sup>166</sup>
- 11.3.3 According to the Outright Pride report 2023:  
‘Pride activities included a march, a queer art exhibition in partnership with a feminist organization, comedy show, drag night, a roadshow involving a dance group to promote destigmatization of HIV/AIDS during the Worlds Aids Day campaign, a book reading by American nonbinary writer and performer Alok Vaid-Menon, and a theatre performance and workshop discussing the state of LGBTIQ rights in the country through lenses such as decolonization. Organizers also held the first “Spectrum” awards to honor LGBTQ creatives and activists. In a public show of support, the United Nations House in Windhoek, Namibia also hoisted the LGBTIQ flag for the first time ever “to demonstrate the UN’s commitment to creating ‘safe spaces,’ free of stigmatization and discrimination.’<sup>167</sup>
- 11.3.4 In November 2022, WLC reported that the Namibian Lesbian Festival 2022, held in Windhoek, ‘brought together 35 young lesbians from six regions of Namibia for a week of sisterhood and solidarity, which included healing sessions, discussions on feminist movement building, and creating music, dance and poetry performances...’<sup>168</sup>
- 11.3.5 In September 2023, LGBTQ Nation reported that ‘Public protests, court hearings, and Pride parades have encouraged the birth of a new generation of activists and campaigners who use visibility as one of their most powerful tools. Vibrant monthly drag nights have popped up in Windhoek, the capital, and young campaigners have stepped into the limelight at home and internationally to advocate for queer rights in Namibia and across the continent.’<sup>169</sup>
- 11.3.6 In November 2023, The Namibian reported that Pride Pop-Up Namibia had celebrated its 3<sup>rd</sup> year in Windhoek<sup>170</sup>. The article noted that Pride Pop-Up is ‘a series of events organised by young adults from Amenaave Entertainment annually [sic]. The platform further focuses on creating cohesion among the LGBTQI+ community, bridging the gap between entrepreneurs and

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<sup>164</sup> Hivos, ‘[Free to be me](#)’, no date

<sup>165</sup> LGBTQ Nation, ‘[Portraits of a movement: The activists bringing radical...](#)’, 17 October 2023

<sup>166</sup> Outright International, ‘[Outright Pride Report 2023](#)’, 21 June 2023

<sup>167</sup> Outright International, ‘[Outright Pride Report 2023](#)’, (page 28), 21 June 2023

<sup>168</sup> WLC, ‘[Namibian Lesbian Festival 2022](#)’, 24 November 2022

<sup>169</sup> LGBTQ Nation, ‘[Portraits of a movement: The activists bringing radical...](#)’, 17 October 2023

<sup>170</sup> The Namibian, ‘[Pride Pop-Up to celebrate three years](#)’ 23 November 2023

entertainers, as well as celebrating lives'<sup>171</sup>

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## 12. Freedom of movement

- 12.1.1 Namibia's National Statistics Agency (NSA) reported that, as of 2023, the population of Namibia was 3,022,410<sup>172</sup>. The largest city is the capital, Windhoek, with a population of about 486,000<sup>173</sup>. The next-largest cities are Rundu and Walvis Bay, with about 118,000 and 102,000 people respectively<sup>174</sup>. Approximately 51% of the population lives in urban areas, 49% in rural areas<sup>175</sup>.
- 12.1.2 The FH 2024 report noted that freedom of movement is constitutionally guaranteed and generally observed in practice<sup>176</sup>. The USSD HR 2023 report stated that 'The law provided for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.'<sup>177</sup>
- 12.1.3 No information was found in the sources consulted regarding the freedom of movement of LGBTI persons specifically (see [Bibliography](#))

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<sup>171</sup> The Namibian, "[Pride Pop-Up to celebrate three years](#)" 23 November 2023

<sup>172</sup> NSA, '[Population](#)' no date

<sup>173</sup> NSA, '[Khomas](#)', no date

<sup>174</sup> NSA, '[Population](#)' no date

<sup>175</sup> World Population Review, [Namibia](#), no date

<sup>176</sup> FH, '[Freedom in the World 2024](#)', 29 February 2024

<sup>177</sup> USSD, '[2023 Country Report on Human Rights Practices: Namibia](#)', (Section 6), 22 April 2024.

# Research methodology

The country of origin information (COI) in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual](#), 2024. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources

Commentary may be provided on source(s) and information to help readers understand the meaning and limits of the COI.

Wherever possible, multiple sourcing is used and the COI compared to ensure that it is accurate and balanced, and provides a comprehensive and up-to-date picture of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote.

Full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

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# Terms of Reference

The 'Terms of Reference' (ToR) provides a broad outline of the issues relevant to the scope of this note and forms the basis for the [country information](#).

The following topics were identified prior to drafting as relevant and on which research was undertaken:

- Legal context
  - Recognition of same-sex couples, including civil union and marriage
  - Same-sex sexual activity
  - general anti-discrimination provisions (and inclusion or absence of reference to LGBTI people)
  - gender reassignment/transition, and recognition of gender identity of trans people
  - other legislation that may impact LGBTI persons
- State attitudes and treatment, incl.
  - statements made by government figures and public officials
  - government policies/programmes that assist or discriminate against LGBTI people
  - enforcement of law in relation to LGBTI people /organisations
  - access to justice
  - oversight mechanisms including avenues of redress
- Access to services and support
  - access to education and employment incl. policies that may restrict or help
  - access to healthcare
- Treatment by non-state actors
  - public attitude, including tolerance and anti-LGBT movements
  - treatment by the public or groups
- Civil rights groups and activities
  - The ability for LGBT organisations to operate without restriction or backlash
  - operation, activities and restrictions of LGBTI civil society and other supportive groups or associations, including websites
  - Meeting places and events for LGBTI people, including Pride events, nightlife and celebrations
- Freedom of movement
  - geography and demography
  - legal freedom of movement/ restrictions, including documentation

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# Version control and feedback

## Clearance

Below is information on when this note was cleared:

- version **3.0**
- valid from **29 October 2024**

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### Official – sensitive: Not for disclosure – Start of section

The information in this section has been removed as it is restricted for internal Home Office use.

### Official – sensitive: Not for disclosure – End of section

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## Changes from last version of this note

Updated COI, including High Court ruling to invalidate sodomy and unnatural offences law.

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## Feedback to the Home Office

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the [Country Policy and Information Team](#).

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The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support them in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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