

Positive Vibes Submission to the Special Rapporteur on extrajudicial, summary or arbitrary executions killing of LGBTIQ+ persons

Positive Vibes welcomes the opportunity to provide the Special Rapporteur on extrajudicial, summary or arbitrary executions with input for his report on the killing of LGBTIQ+ persons focused on our experience in Namibia. Positive Vibes is a Namibian-registered progressive, queer rights organisation. Positive Vibes works with LGBTIQ+, sex workers and women-led groups, supporting and accompanying individuals, communities and populations who are stigmatised, marginalised, oppressed, excluded and vulnerable to engage at local and national level – with social attitudes and service-delivery, with policy and programming, and at a structural level – to raise their voice, to more effectively make that voice heard, and to apply their capabilities and experiences to the work of influencing change.

In Namibia, we have witnessed a substantial increase in the murders of LGBTIQ+ people since late 2023 violating the right to life. With this submission, we wish to highlight the rise in murders of LGBTIQ+ Namibians due in part to the increasingly homophobic environment in Namibia and the failure of State officials in effectively protecting LGBTIQ+ individuals from life-threatening violence, which are relevant to the call for input on the killing of LGBTIQ+ people issued by the Special Rapporteur.

Rise in murders of LGBTIQ+ Namibians since late 2023

Immediately following the Supreme Court of Namibia's decision in May 2023 holding that same-sex marriages conducted overseas are recognized for the purposes of immigration,¹ there was a marked increase in anti-LGBTIQ+ speech by leaders and politicians in the country and a political backlash against the decision. In June 2023, the Prime Minister Saara Kuugongelwa Amadhila reportedly planned to introduce a bill in Parliament to prohibit the recognition of same-sex marriages in Namibia.² In the same month, a Member of Parliament, Jerry Ekandjo, introduced a Private Member's Bill that would prohibit the recognition of same-sex marriages in Namibia. Within six weeks of the Court's decision, the bill was drafted, introduced and passed by the Namibian Parliament and is currently before the President for assent.³

This rise in hate speech in turn contributed to a rise in homophobia resulting in a significant rise in violence and harassment of LGBTIQ+ people and then in September 2023 this violence and hate speech, which had remained unchecked, resulted in murders of LGBTIQ+ Namibians. As of May 2024, at least six individuals who identify as LGBTIQ+ have been brutally murdered. In all the cases, there is evidence that the arbitrary loss of life was due to their sexual orientation or gender identity. The six known cases are as follows:

¹ See *Digashu and others v Government of the Republic of Namibia and others; Seiler-Lilles v Government of the Republic of Namibia*, SA 7/2022; SA 6/2022. 16 May 2023.

² Prohibition of same-sex marriage a priority. *Informante* 6 June 2023. Available at <https://informante.web.na/?p=341161>

³ Eino Vatileni. Ekandjo wants answers on his anti-gay bills. *The Namibian* 7 March 2024. Available at <https://www.namibian.com.na/ekandjo-wants-answers-on-his-anti-gay-bills/>

- Gerome Helgrain was stabbed over 40 times resulting in his death in September 2023. A person has been charged with rape, murder and burglary in connection with Helgrain's murder.⁴
- Vernon Gavin was sexually assaulted and murdered in January 2024.⁵ Two men have been charged with the rape and murder of Gavin.⁶
- Queen Uwuseb was found murdered at a riverbed in February 2024. An individual has reportedly been arrested in connection with Queen's murder.⁷
- Gurney Elrich Uirab was murdered in March 2024.
- Stanley Cloete was robbed and murdered in March 2024. Three men have been arrested and charged for his murder.⁸
- Sexy Fredricks, a transgender woman, was stabbed 32 times, had her genitals cut off and placed on her chest in May 2024. Two men were arrested and charged for murder, defeating or obstructing the course of justice and violating a human body. In addition, two women were arrested for allegedly destroying evidence related to the murder.⁹

Although the police have taken some suspects into custody and charged others, the process of prosecuting and successfully convicting these perpetrators remains slow and unclear. Also, the charges that have been laid, do not reflect the prejudice-motivated nature of these murders. Rather each murder is treated as individual acts of random violence. This results in little systemic action being taken to protect other LGBTIQ+ individuals from their increased vulnerability to violence.

Obligations to protect the right to life

Under General Comment No. 36, countries have an obligation to protect individuals against the deprivation of life by non-state actors, including reasonably foreseeable threat and life-threatening situations. This obligation is heightened for vulnerable populations, including LGBTIQ+. In this case, Namibia has not taken the steps needed to protect LGBTIQ+ people as a group from life-threatening situations despite the evidence that there is a rise in violence against LGBTIQ+ people.

Further, countries have an obligation to adopt laws to protect life from all reasonably foreseeable threats and to investigate and prosecute. Currently, Namibia does not have specific laws aimed at preventing the heightened threat to the lives of LGBTIQ+ people, such as laws explicitly prohibiting discrimination on the basis of sexual orientation and gender identity or hate crimes laws.

Recommendations

⁴ Ellen Alberts. Rape and murder suspect in Lüderitz court. *The Namibian* 25 September 2023. Available at <https://www.namibian.com.na/rape-and-murder-suspect-in-luderitz-court/>

⁵ Adam Hartman. Walvis rape and murder suspects in court. *The Namibian* 4 January 2024. Available at <https://www.namibian.com.na/walvis-rape-and-murder-suspects-in-court/>

⁶ Roberto Igual. Namibia: Rise in Deadly Hate Crimes Against LGBTQIA+ Community. *The Namibian* 3 May 2024. Available at <https://www.namibian.com.na/walvis-rape-and-murder-suspects-in-court/>

⁷ Puyeipawa Nakashole and Shelleygan Petersen. Hate Kills. *The Namibian* 5 May 2024. Available at <https://www.namibian.com.na/hate-kills/>; Zorena Jantze. Member of the LGBTQ community found dead in the riverbed. *Informante* 6 March 2024. Available at <https://informante.web.na/?p=355378>

⁸ Namibian police arrest three men in Dorado Park murder/robbery case. *All Namibia News* 8 March 2024. Available at <https://facilit8.network/newsfeed/?p=80941>

⁹ Selma Iyambo. Women arrested for helping Otjomuise murder accused. *The Namibian* 7 May 2024. Available at <https://www.namibian.com.na/women-arrested-for-helping-otjomuise-murder-accused/>

In light of the above, we recommend the following:

1. The enactment of a hate crimes law that specifically addresses crimes committed against individuals based on their sexual orientation, gender identity, or any other characteristic. Such legislation should include provisions for enhanced penalties for perpetrators of hate-motivated violence and ensure that these crimes are effectively investigated and prosecuted.
2. The appointment of a dedicated LGBTIQ+ point person within Prosecutor's Office or in the Gender-Based Violence Protection Unit. This individual should be responsible for liaising with LGBTIQ+ communities, ensuring sensitivity in handling cases involving LGBTIQ+ victims, and facilitating access to justice and support services.
3. Adequate resources should be provided to the Office of the Ombudsman, Ministry of Justice, police, and other relevant stakeholders, including civil society organizations to establish systematic data collection procedures to accurately record and document incidents of hate crimes and violence targeting LGBTIQ+ individuals. This data should be disaggregated by relevant factors, including sexual orientation, gender identity, and location, to better understand the scope and nature of the problem and inform targeted interventions.
4. Strengthen the Office of the Ombudsman, including by increasing the resources allocated to the Office to ensure that it can adequately fulfil its broad mandate, including addressing violence against LGBTIQ+. Further, the government should ensure the financial and operational autonomy of the Office of the Ombudsman, including by enabling it to recruit its own staff and manage its own budget.
5. Implement comprehensive training and awareness programs aimed at combating anti-LGBTIQ+ crime. This should include integrating anti-LGBTIQ+ hate crime training into police academy curriculum and providing ongoing training to law enforcement officers, prosecutors, and magistrates. Training programs should focus on enhancing understanding of LGBTIQ+ issues, improving sensitivity in interacting with LGBTIQ+ individuals, and ensuring effective response to hate-motivated crimes.
6. Political leaders should publicly condemn all forms of violence and discrimination and hate speech against LGBTIQ+ individuals, including statements made by members of parliament. This includes issuing statements denouncing hate-motivated violence and affirming the rights and dignity of LGBTIQ+ persons.
7. Relevant government ministries, the Office of the Ombudsman should collaborate with civil society organizations and community groups to establish support services and safe spaces specifically tailored to the needs of LGBTIQ+ individuals. This includes providing access to counseling, legal assistance, healthcare, and shelter for victims of violence and discrimination.