



Paralegal Manual on LGBTQI+ RIGHTS in Namibia

**Gender Research & Advocacy Project
LEGAL ASSISTANCE CENTRE**



ABOUT THIS MANUAL



This training manual is designed to promote understanding and respect for LGBTQI+ rights.

We acknowledge that discussions around gender identity and sexual orientation can evoke strong emotions and differing opinions. We encourage all participants to approach this material with an open mind and a commitment to fostering a safe and inclusive environment. Please be aware that personal experiences and perspectives may vary, and we ask everyone to engage respectfully and thoughtfully.

The purpose of this manual is to guide paralegals who work within Namibia's LGBTQI+ community, and to educate them about the specific legal issues and challenges faced by this community, to enable them to effectively support LGBTQI+ clients, navigate relevant laws, and advocate for the community's rights.

Furthermore, this manual advocates for the inclusivity of LGBTQI+ persons into Namibian laws.

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The authors thank the many Namibian groups working with LGBTQI+ issues, and the entire Legal Assistance Centre team, for their interest and inputs.

**This manual is dedicated to LGBTQI+ activists, allies,
community volunteers and paralegals, and
Namibia's LGBTQI+ community at large.**

The Legal Assistance Centre encourages paralegals and other stakeholders to provide comments/feedback and any suggestions for future modules, via email to info@lac.org.na.

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THE LEGAL ASSISTANCE CENTRE



VISION

Namibia is a human-rights-based democracy founded on equality, justice and dignity.

MISSION

We, the Legal Assistance Centre, being a public interest law centre, collectively strive to make the law accessible to those with the least access, through education, law reform, research, litigation, legal advice, representation and lobbying, with the ultimate aim of creating and maintaining a human rights culture in Namibia.



MAIN ACTIVITIES

The LAC carries out its mission through three main activities:

- Legal advice and litigation
- Education and training
- Research, advocacy and lobbying.

These activities are carried out through the LAC's three main units:

Gender Research and Advocacy Project (GR&AP)

Works to promote gender equality and to empower women.

- Gender research for law reform and public debate
- Advocacy and lobbying for law reform
- Educational materials on family law issues with a focus on issues that affect women and children
- Education and training for communities and policymakers on legal issues related to gender

Social Justice Project (SJP)

Works directly to fight human rights violations.

- Human rights and constitutional test-case (impact) litigation – particularly about socio- economic rights
- Human rights educational materials
- Legal advice
- Training of candidate legal practitioners, government officials and law-enforcement agents
- Refugee rights

Land, Environment and Development Project (LEAD)

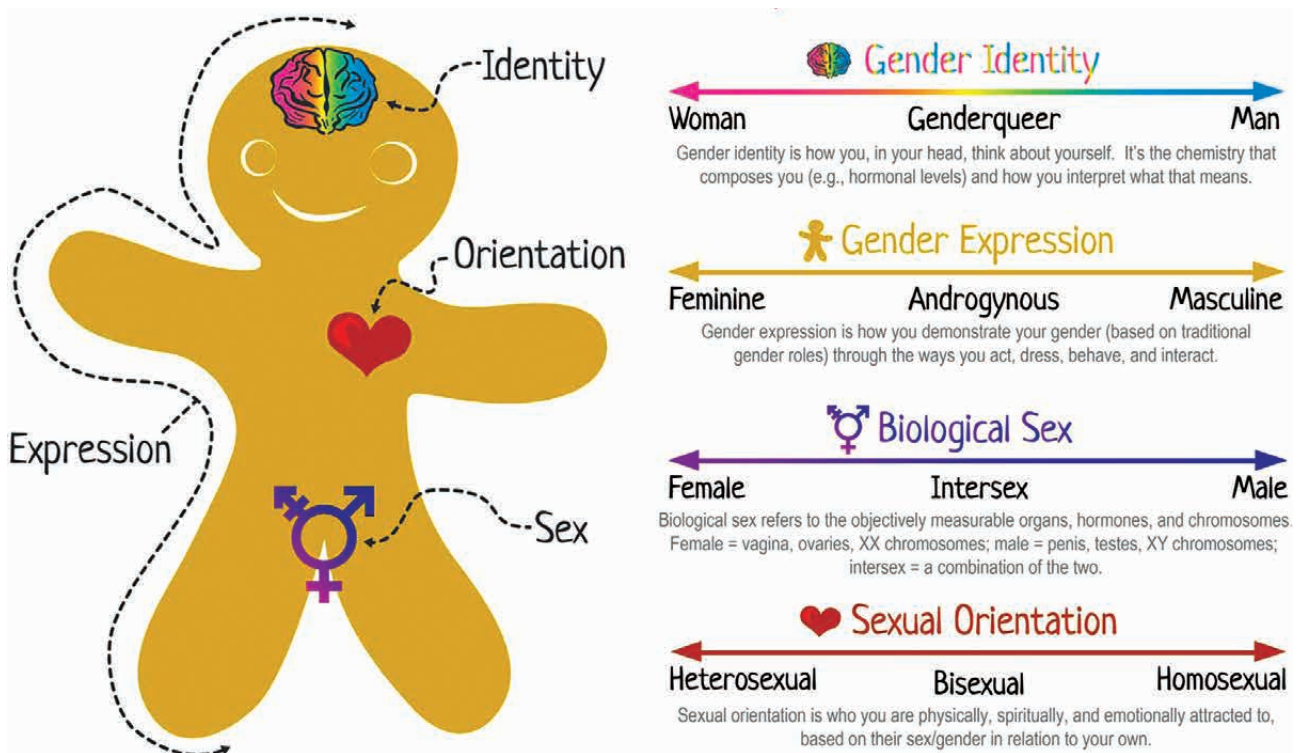
Works on land, environment and rural community empowerment issues.

- Test-case litigation on land disputes and access to land rights
- Legal support to community conservancies and community-based organisations
- Focus on wildlife crime
- Community dispute resolution
- Research and policy formulation on land rights
- Education and training on land rights and land administration

LGBTQI+ TERMINOLOGY



THE GENDERBREAD PERSON



The abbreviation “**LGBTQI+**” stands for
Lesbian, Gay, Bisexual, Transgender, Queer, Intersex
and all identities not encompassed in the abbreviation.

Asexual: A sexual orientation that reflects little to no sexual attraction, either within or outside relationships. This, however, does not necessarily imply a lack of libido or sex drive.

Bisexual: People who are sexually and/or romantically attracted to people of the same gender and people of another gender.

Cisgender: People whose gender identity is the same as the sex that they were assigned at birth.

Demisexual: A person who feels sexually attracted to another person only once they have established a deep emotional connection with that person.

FTM: A female-to-male transsexual.

Gay: An individual who identifies as a man and is sexually and/or romantically attracted to other people who identify as men. The term “gay” can also be used to describe women who are sexually and romantically attracted to other women.

Heterosexual: A person who, on various levels, is attracted to members of the opposite sex.

Homosexual: An attraction between two people of the same sex on various levels.

Intersex: Refers to individuals who have anatomical, chromosomal and hormonal characteristics that differ from medical and conventional understandings of male and female bodies.

Lesbian: An individual who identifies as a woman and is sexually and/or romantically attracted to other people who identify as women.

MTF: Male-to-female transsexual.

Nonbinary: An umbrella term for gender identities that are not just male or female, or are not male or female at all.

Pansexual: An individual who is sexually or romantically attracted to any person, regardless of gender identity.

Polyamorous: Individuals who have multiple intimate relationships, whether sexual or just romantic, with the full knowledge and consent of all parties involved.

Polysexual: Someone who is sexually and/or romantically attracted to multiple genders. It is not the same as being bisexual, polyamorous or pansexual.

Queer: Although once used as a derogatory term, today this term is often used as an umbrella term to describe the full range of LGBTQI+ identities.

Transgender/Trans: This is the umbrella term used to refer to people whose assigned sex at birth does not match their gender identity.

Transsexual: A transgender person seeking or undergoing some form of medical treatment to bring the body and gender identity into closer alignment.



LGBTQI+ PRIDE FLAGS



The Umbrella Flags



Gilbert Baker



Traditional



Philadelphia

The **Gilbert Baker Pride Flag** was the original rainbow pride flag created in 1978 after activist Harvey Milk asked artist Gilbert Baker to design a symbol of gay pride. Each colour represents a different part of the LGBTQI+ community: hot pink represents sex, red symbolises life, orange stands for healing, yellow equals sunlight, green stands for nature, turquoise symbolizes magic and art, indigo represents serenity, while violet symbolises the spirit of LGBTQ+ people.

The **Traditional Pride Flag** was created after high demand and manufacturing issues resulted in the hot pink stripe being removed. The turquoise stripe was removed by the flag's designer, Gilbert Baker. The six-colour flag is one of the most common LGBTQI+ flags.

The **Philadelphia Pride Flag** was commissioned by the Philadelphia City Council, to incorporate queer communities of colour through the addition of black and brown stripes.

The **Progress Pride Flag** was created by the addition of white, pink and light blue stripes to represent the trans community. While the black and brown stripes still represent communities of colour, the black stripe is a tribute to the thousands lost to the community during the HIV/AIDS crisis in the 1980s and 1990s.



Progress



Intersex-Inclusive



Queer

The **Intersex-Inclusive Progress Pride Flag** adds the intersex community to the Progress Pride Flag.

The **Queer Pride Flag** was created in 2015 to represent all aspects of queerness as the label 'queer' has come to be more celebrated.



Sexual Orientation Flags



Lesbian



Gay Men



Bisexual



Pansexual

The **Lesbian Pride Flag's** shades of red, pink and orange represent the different types of femininity in the lesbian community.

This version of the **Gay Men's Pride Flag** contains the addition of different shades of green and blue to include non-cisgender gay men.

The **Bisexual Flag's** pink represents the bisexual individual's attraction to the same gender while the blue represents attraction to the opposite gender. The purple stripe in the middle represents attraction to two genders.

The **Pansexual Pride Flag's** pink stripe represents attraction to women while the blue stripe represents attraction to men. The yellow stripe is for everyone else in between and beyond the gender binary.

The **Asexual Pride Flag's** black stripe represents asexuality, gray means gay-asexuality and demisexuality, white stands for non-asexual partners and allies, and purple represents the community.

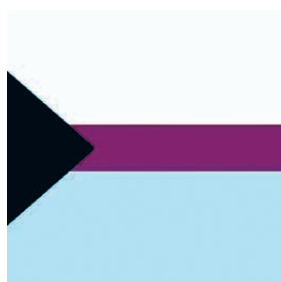
The **Demisexual Pride Flag's** black stripe represents asexuality, gray stands for demisexuality, white means sexuality and purple represents the community.

The new **Polyamory Pride Flag** represents different core values, with white for possibility, magenta for desire and love, blue for openness and honesty, gold for energy and perseverance, and purple representing the united non-monogamous community.

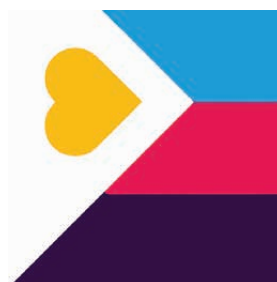
The **Polysexual Pride Flag** was created for people who are attracted to multiple genders, but not all genders, with blue standing for attraction to men, pink for attraction to women, and green for attraction to those outside of the binary.



Asexual



Demisexual

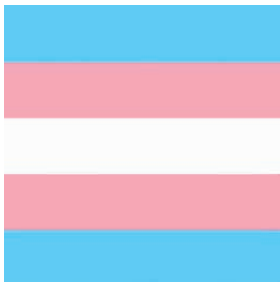


Polyamory



Polysexual

Gender Identity and Gender Expression Flags



Transgender

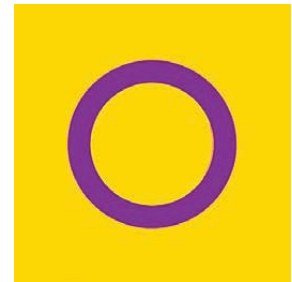
The **Transgender Pride Flag** symbolises the trans community's diversity and the rights for which this community is fighting. The blue and pink stripes represent traditional boy and girl colours, and the white stripe represents intersex, transitioning or undefined gender.



Nonbinary

The **Nonbinary Pride Flag** represents individuals who do not identify with any binary gender. Yellow represents a gender outside the binary, white is for multiple or all genders, purple is for those between male and female, and black stands for no gender.

The **Intersex Pride Flag** was developed for those born with various differences in their sex traits and reproductive anatomy. The creator chose yellow and purple as those are seen as gender-neutral colours.



Intersex



Genderfluid

The **Genderfluid Pride Flag** represents the fluctuating gender identities and expressions of individuals – pink for femininity, blue for masculinity, white for lack of gender, black for all genders, and purple for a combination of masculinity and femininity.

The **Genderqueer Pride Flag** represents individuals who reject traditional gender categories. It symbolises other queer identities and those outside the traditional gender binary. The green stripe symbolises those who fall outside of the binary.

The **Agender Pride Flag** was created to represent individuals who have an unidentifiable gender, are gender neutral or have no gender. The black and white stripes represent the absence of gender while the gray stripes stand for semi-genderless people. The green stripe represents non-binary people.

The **Bigender Pride Flag** represents those who have two genders. In some cases this is both male and female, but it can also include non-binary identities.

The **Demigender Pride Flag** represents people who have a partial feeling for, but not a full connection to, a particular gender identity or the concept of gender.



Genderqueer



Agender



Bigender



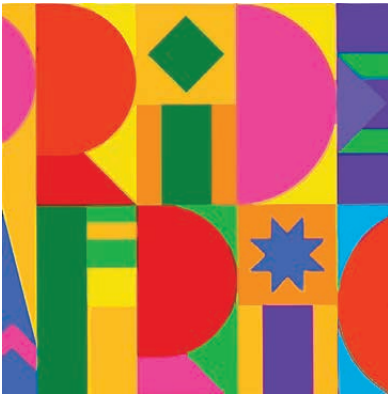
Demigender

Intersectionality Pride Flags

The **Pride of Africa Flag** is the first pan-African LGBTQI+ flag. It is inspired by the flags of all the countries in Africa.

The **Queer People of Colour Flag** rose to prominence in 2020 during the Black Lives Matter protests. The flag signifies how the struggle for racial equality and queer equality often intersect.

The **Two-Spirit Pride Flag** represents individuals who fall outside of the male-female binary. The feathers represent masculine and feminine identities. The circle signifies the unification of both identities into a separate gender, while the rainbow represents modern queer identities.



Pride of Africa



Queer People of Color



Two-Spirit



KEY ROLES, RESPONSIBILITIES AND SKILLS OF PARALEGALS



What is a paralegal?

Paralegals are not lawyers, but they have been trained to deal with common legal issues such as labour disputes and maintenance issues. Although they can provide legal advice, they are not allowed to represent individuals in court unless there are specific laws permitting this in certain types of cases.

To be a qualified paralegal, you need to enrol for a course in Paralegal Studies and graduate from it. The institution that offers the course must be recognised by the Namibian Qualifications Authority (NQA).

What does a paralegal do?

Paralegals give practical advice to communities and individuals about their legal rights, human rights, administrative matters, and constitutional and development problems.

The importance of paralegals

In your role as a paralegal, you act as a bridge between the community, administrative authorities and legal institutions concerning matters relating to access to justice. You play a crucial role in advocating for the rights, freedoms and social acceptance of the LGBTQI+ community.

Services performed by paralegals

- Guiding clients to the right resources, service providers or lawyers according to their legal needs
- Fact-checking information received from clients to ensure its accuracy before referring it to lawyers or other service providers
- Helping clients to gain access to public services and other public resources
- Mediating between communities and authorities
- Facilitating community workshops
- Simplifying laws and legislation so that community members can understand them
- Collaborating with organisations, government departments and local and traditional authorities to assist in meeting the community's needs



It is important to note that paralegals cannot give legal advice or perform duties reserved for licensed lawyers. When offering paralegal services, it is important to be forthcoming about our limitations. We should refrain from portraying ourselves as lawyers or claiming the ability to solve all community issues. Being transparent about the scope of our work can prevent disappointment and frustration among community members.

Your responsibility as a paralegal

- Help your clients to understand the law.
- Keep your clients' matters confidential.
- Provide punctual, useful, responsible and accurate services to your clients.
- Always be fair.
- Treat your clients with respect and care.
- Always gain more knowledge of the law to empower your clients by helping them to understand and claim their rights or to seek help from relevant service providers.

General skills that a paralegal must have

- Strong interpersonal skills
- Strong communication skills
- Honesty
- Ability to work effectively with others
- Mediation, administrative and conflict-resolution skills
- Ability to read and understand legal texts

Important communication skills

Out of all the skills listed above, communication skills are the most important for a paralegal. Let's look at practical skills necessary and useful when communicating with a client.

Interviewing the client

- Introduce yourself.
- Ask for their name and how they would like to be addressed.
- Ask the client what language they prefer to speak. If you cannot speak their preferred language, then you should get someone who can act as an interpreter (who understands both languages well).
- Explain the interview process to the client.
- Ask them what they need help with.
- Work out whether the person is willing or able to discuss their problem.
- If the client consents, take notes of the conversation. (Also offer to give the client copies of your notes.)
- Ask the client whether they have taken any steps to solve the problem before coming to see you.
- Discuss with the client what you think are the steps needed to sort out the problem.
- Determine whether the client only needs advice or whether they need to be referred to an agency for assistance. Action the necessary.

Other important communication tips

- Do not assume that the client knows the law.
- Listen carefully.
- Do not jump to conclusions about a client's matter.
- Maintain an impartial/unbiased mindset and attitude.

Always explain things in simple, everyday language and make sure the client understands you. It is helpful to explain things in a way that relates to the experience of the client. Concrete examples showing what might happen are often a good way to ask about and illustrate possible outcomes.

Referring clients

In Namibia, various assistance agencies in all regions specialise in solving specific legal issues. Sometimes, one agency may be better equipped to handle a particular problem than another. These agencies may be either privately operated or government-owned. An important role of a paralegal is to identify when a matter should be referred to a specialised agency and then make the necessary referral.



NAMES AND CONTACT DETAILS OF ORGANISATIONS IN NAMIBIA WORKING WITH LGBTQI+ RIGHTS

ORGANISATION	TELEPHONE	EMAIL	SCOPE OF WORK
Khaibasen Namibia	081-3572637	khaibasen.namibia@gmail.com	Deals with a comprehensive address to sexual and gender diversity.
Legal Assistance Centre (LAC)	061-223356	info@lac.org.na	A public-interest law centre that collectively strives to make the law accessible to those with the least access, through education, law reform, research, litigation, legal advice, representation and lobbying, with the ultimate aim of creating and maintaining a human rights culture in Namibia.
MPower Community Trust Namibia	081-6700686	mpowercommunitytrust@gmail.com	A community-based non-profit organisation that advances the health and human rights of LGBTQI+ and male commercial sex workers.
Namibia Diverse Women's Association (NDWA)	081-2528259	namibiadiversewomen@gmail.com	Aims to strengthen a collective women's, girls' and trans-diverse movement that envisions gender equality being systematically realised through the achievement of human rights for all by facilitating women's leadership, socio-economic development and social rights.
Namibia Equal Rights Movement	081-7173938	namibiaequalrightsmovement@gmail.com	Fights to end state-sanctioned homophobia and intersectional discrimination in Namibia.
Out-Right Namibia (ORN)	061-237329	reception@outrightnamibia.org.na	Works diligently towards the attainment of the full constitutional equality and equity of sexual and gender diverse people in Namibia through strategic advocacy, lobbying, evidence-based interventions and movement building.
Positive Vibes	061-245556	info@positivevibes.org	Works on enabling people who experience othering to claim their rights. Their stance is <i>"rights-forward we prioritise dignity, equity, structural and systemic reform, and civic participation, all of which are founded upon an awareness of, and conscious work towards, realising people's human rights."</i>

Rights for All Movement (RAM)	081-2015200	ramnamibia@gmail.com	Strives to empower, build self-efficacy, amplify sex worker voices, represent the sex worker community, advocate for the removal of all punitive laws, to ensure that our country's legislative frameworks are inclusive and protect the rights of sex workers, the right to work, the right to life, the right to dignity, freedom of speech, and the right to choose one's occupation.
Rights Not Rescue Trust	081-2068240	rightsnotrescue.na@gmail.com	Promotes access to Health Rights, Education and Safety of sex workers in Namibia.
Sister Namibia	061-230757	director@sisternamibia.org	Represents aspirational Afrofuturism and inclusive beauty, by providing a safe refuge for collective delight. We answer the call for more responsible, activist-driven media that leads bravely, and lobbies fearlessly.
Transgender, Intersex and Androgynous Movement of Namibia (TIAMON)	081-3999114	transdiversemovement@gmail.com	Aims to empower trans-diverse, intersex and androgynous people.
Voices for Choices and Rights Coalition		liberalizeabortionnamibia@gmail.com	Advocating for Sexual and Reproductive Health and Rights, Reproductive Justice, Women's Reproductive Health, Women's Rights and Abortion Rights in Namibia.
Wings to Transcend Namibia		wingstotranscendnamibia@gmail.com	Advocates and lobbies for equal rights of transgender citizens. Strives for proper access to services for transgender persons in Namibia and respect for human dignity regardless of gender identity or expression by eradicating transphobia, stigma, discrimination and violence against transgender people in Namibia.
Women's Leadership Centre	081-3094630	info@wlc-namibia.org	Conducts research and produces publications that teach women how to engage with the State and the policy-making process.
Young Feminists Movement Namibia Trust (Y-Fem)	081-4104990	yfem.na@gmail.com	A feminist human rights organisation dedicated to advancing women's human rights by promoting women's access to health, education and justice.

Community outreach

The importance of hosting workshops / community outreaches

Workshops are important for

- knowledge sharing,
- skill development,
- collaboration,
- networking,
- exchanging of ideas,
- motivation,
- professional development,
- preventative interventions,
- encouraging discussions, and
- community problem-solving.



Tips on how to host a successful workshop

1. **Define the purpose and goal clearly:** Clearly articulate what you want to achieve with the workshop. Establish specific objectives that align with the organisational goal.
2. **Identify the target audience:** Determine who will benefit from the workshop and tailor the content to their needs and interests.
3. **Promote the workshop:** Use various mediums (flyers, social media, radio, newspapers etc.) to advertise the workshop to attract the interest of others, depending on your target audience and the number of attendees.
4. **Develop an agenda:** Develop a detailed agenda that outlines topics, activities and time allocations. Including interaction elements to engage the participants.
5. **Be punctual:** Show up to the venue before the start time of the workshop. Set up everything that needs to be done. Stay on time with the agenda points/presentations.
6. **Engage the attendees:** Involve the attendees by asking them questions or having them ask you questions. Presenters can also use icebreaker games to help make the attendees feel comfortable.
7. **Language:** Speak clearly, with confidence and loudly enough for all attendees to hear you. Don't use offensive terms/language. At the beginning of the workshop, ask every attendee about their identity and how they wish to be addressed. Pay attention to the answers. If you forget someone's answer, ask again – DO NOT MAKE ASSUMPTIONS ABOUT A PERSON'S IDENTITY.
8. **Gather resources / educational materials:** Compile all materials that are necessary for the workshop (e.g. PowerPoint presentations). Ask other organisations to provide educational materials that you can share with the group at the end of the workshop – to encourage the attendees to read up on the topics discussed.

Namibian law

Paralegals need to have a good legal foundation. Let's take a look at the four sources of Namibian law, the different branches of law, the different types of lawyers, and the structure of the Namibian Government.

The four sources of Namibian Law

Statutes: These are laws that are passed by Parliament.

Common Law: This is law that comes from court rulings in individual cases over time.

Customary Law: This is law that has developed over the years in different traditional communities in Namibia.

International Law: This is law that comes from international agreements between Namibia and other nations.

The Namibian Constitution is the highest law in Namibia, and all other laws must comply with it to be valid.

Branches of law

Paralegals should know the different branches of law and what they deal with to be able to identify what type of matter their client faces and consequently the appropriate agency to refer the client to.

BRANCH	DEFINITION	EXAMPLES
Civil	Deals with non-criminal disputes between private parties	Contract breaches, assault, divorce, damage to property
Constitutional	Deals with legal relationships concerned with the State and law	Constitutional rights denied (e.g. the rights to a fair trial, equality and privacy)
Criminal	Deals with crime	Traffic offences, robbery, drug offences, rape, murder
Education	Deals with legal matters related to schools, their students and their staff	Safety of learners, access to education, discrimination and abuse of learners
Family	Deals with family matters and domestic relations	Domestic violence, child protection and maintenance, adoption
Health	Deals with safe and effective healthcare services to individuals and concentrates on policies implemented in the healthcare industry	The right to adequate state-provided healthcare, medical negligence
Immigration	Deals with regulating and controlling the entry of persons into, and their residence in, a country	Passports, permits, citizenship, domicile
International	Analyses the particulars of relations shared by nations across the globe	International treaties and agreements (e.g. African Charter on Human and Peoples' Rights)
Labour	Deals with the rights of workers and the relationships with their employers	Child labour, unfair dismissal, strikes, discrimination of employees
Private	Deals with legal issues between individuals and private entities	Breach of contracts between individuals and private entities/businesses
Property	Deals with legally protected claims to resources (land, personal and intellectual property)	Land/property (e.g. real estate), intellectual (e.g. inventions), personal (e.g. vehicles, furniture)

Types of lawyers

A lawyer is a person who has a degree in Law. Lawyers can apply to the High Court to be “admitted to practice”. They will be admitted if they pass a test to prove that they have the right knowledge and skills, and if they are fit and proper persons. Admitted lawyers, called “legal practitioners”, can give legal advice to members of the public and argue cases in court. There are two types of legal practitioners in Namibia:

- **attorneys**, who give legal advice to members of the public and often handle court cases on their own; and
- **advocates**, who specialise in appearing in court or in handling complex legal matters. A client cannot consult an advocate directly; only an attorney can approach an advocate for help.

The three branches of government

- **The Executive:** This branch is made up of the President, Vice-President, Prime Minister and Deputy Prime Minister, and the Cabinet. Its main task is to put laws into action.
- **The Legislative:** This branch is made up of the National Assembly and the National Council, which together form Namibia’s Parliament. Its main task is making laws (legislating).
- **The Judiciary:** This branch is made up of the Supreme Court, the High Court and the Lower Courts (Magistrates’ Courts and Community Courts). Its main task is interpreting and applying the Constitution to specific matters.

The meaning of the term “rule of law”

- The country must be governed by law, not by force.
- Law must apply to all; no one is above the law.
- Law must treat all equally.
- The process of enacting and applying laws must be fair and transparent.
- Laws must protect basic human rights.

Courts of Namibia and the type of cases they deal with

TYPE OF COURT	WHAT IT DOES
Small Claims Court	Resolves disputes involving small monetary sums
Community Courts	Have the authority to hear and decide cases arising under the customary law of the community in the area where they operate
Magistrates’ Courts	Handle less-serious criminal and civil matters
High Court	• Has original jurisdiction (official power) to hear and adjudicate all civil disputes and criminal prosecutions. • Makes decisions on appeal cases from the Lower Courts
Supreme Court of Appeal	• The highest court in Namibia • Hears appeal cases from the High Court • Has the authority to make final decisions on any question about the Constitution
Constitutional Court	• The highest authority in constitutional matters • Deals with matters referred to it for decision under the Constitution

All courts in Namibia are independent and subject only to the Constitution and the rule of law.

Basic human rights and freedoms

Every person born in Namibia is born with the following fundamental rights and freedoms:

RIGHTS	FREEDOMS
The right to life and liberty	Freedom of speech and expression
The right to respect for human dignity	Freedom of thought, conscience and belief
Protection against slavery and forced labour	Freedom to practise any religion
The right to equality	Freedom to assemble peaceably
Protection against arbitrary arrest and detention	Freedom of association
The right to a fair trial	The right of workers to strike
The right to privacy	The right to move freely throughout Namibia
The right to marry and have a family	The right to reside and settle in any part of Namibia
Children's rights	The right to leave and return to Namibia
The right to property	The right to practise any profession, or to carry on any occupation, trade or business
The right to participate in peaceful political activity	
The right to administrative justice	
The right to culture	
The right to education	



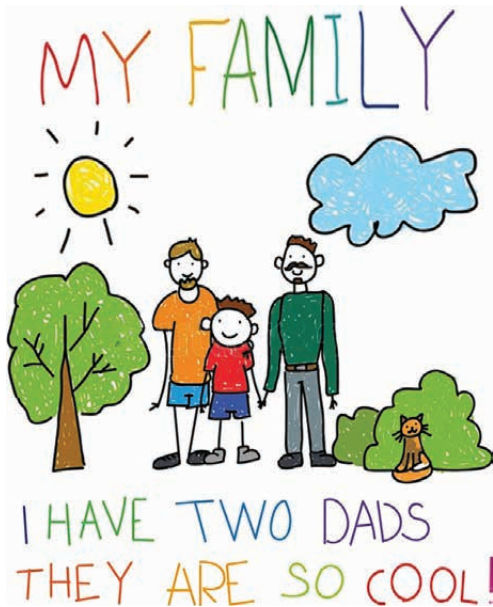
FAMILY LAW AND LGBTQI+ RIGHTS



ICEBREAKER

Ask the group: ***"If you could choose to be related to any local celebrity, who would it be and why?"***

Blood relatives cannot be chosen, which means that we may disagree with our family members on some things and agree with them on other things. When there are conflicts between family members, they can settle the conflicts legally, and that's when family law steps in.



On page 15 we learnt that family law deals with family matters and domestic relations. Many people think of family law only in the context of divorce, but this branch of law deals with a broad range of familial relationships and issues. We will now look at Namibia's laws on some of the family matters that are of particular relevance to LGBTQI+ persons and their rights in this country:

- Marriage
- Surrogacy
- Assisted reproductive techniques
- Adoption
- Cohabitation
- Domestic violence

Marriage

In Namibia you can be married under civil or customary law. A civil marriage is when you are married by a magistrate or a religious leader who is a marriage officer. A customary marriage is when you are married according to the customs of your community.

Only people of opposite sexes can be legally married in Namibia, and no Namibian court has decided whether the constitutional right to equality requires the law to provide for same-sex marriage.

Same-sex marriages concluded in other countries are also not recognised in Namibia except for immigration purposes. What does this mean? It means that after the 2023 Supreme Court ruling in the cases of *Digashu v Government of the Republic of Namibia* and *Seiler-Lilles v Government of the Republic of Namibia*, foreign same-sex spouses can apply for residency permits under the Immigration Control Act, which recognises them as "spouse."

Namibia recognises that couples who marry abroad have entered a legal union, and offers a practical option for many to remain and build a life with their families in Namibia.

If you are in a same-sex relationship and would like to formalise it, the best way is to make a written contract and a written will. A written contract can create a mutual duty of support between the partners and help to ensure that property is divided fairly if the relationship breaks up. This kind of contract is binding only on the two people who sign it, i.e. it does not affect people outside the relationship.

The contract could include:

- an agreement for a mutual duty of support;
- details about who owns what property; and
- how it should be divided if the relationship breaks up.

Unlike husbands and wives, people who live together without being married do not have any inheritance rights if one partner dies, unless there is a will.

Neither a written contract nor a written will can give a relationship all the rights and duties that a marriage entails, but they can give some protection to the economically weaker partner.

Another way to protect your rights is to make sure that any house you buy has both partners' names on the deed. Then both partners will have equal rights to the property, and any transaction involving the property will need both signatures.



EXAMPLE: Mr X and Mr Y, who are in a romantic relationship, would like to be married, but Namibian law currently prohibits same-sex marriage. To protect their interests as an unmarried couple, they should approach a lawyer to draw up and sign a legally binding contract that protects both parties against any loss that they might face in the event that the relationship breaks down and they separate.

Surrogacy

Surrogacy is an arrangement, often supported by a legal agreement, whereby a woman agrees to carry a child on behalf of another person. Namibia, however, has no laws on surrogacy. This means that there are no protections for married or cohabiting couples of the same or opposite sex who want to use a surrogate.

Case in Namibia: *Lühl v Minister of Home Affairs and Immigration*

- This case concerned the citizenship rights of a child born via surrogacy to a gay couple composed of a Namibian and a non-Namibian.
- The High Court ordered the Ministry of Home Affairs and Immigration to issue the minor with a Namibian citizenship certificate by descent.
- The Supreme Court overturned this decision on appeal by the Minister of Home Affairs and Immigration, which held that registration either inside or outside Namibia is a precondition for citizenship by descent under section 2(2) of Act.

Assisted reproductive techniques

Assisted reproductive techniques such as In Vitro Fertilisation (IVF) are available to help people with fertility problems to have a baby. IVF is a procedure used to overcome a range of fertility issues. It entails joining an egg and sperm outside the body, in a specialised laboratory. The fertilised egg (embryo) is allowed to grow in a protected environment for some days before being transferred into the woman's uterus, increasing the chance of a pregnancy.

Namibian law provides protections only for married couples who use assisted reproductive techniques to have a child. It does not provide any protections for cohabiting couples of the same sex or opposite sexes who use assisted reproductive techniques to have a child. And, because same-sex marriages are not legally recognised in Namibia, there are no protections for same-sex married couples who reside in Namibia and conceive via assisted reproductive techniques in other countries.

Adoption

In Namibia, the law allows only married couples to adopt a child jointly.

A person who is unmarried, divorced or widowed can adopt a child as an individual, so it may be possible for one of the partners in a same-sex relationship to adopt a child on their own. (But, if the relationship breaks down, the other partner would not have any legal rights over the child.)

Inter-country adoption is a cooperative process. If the adoptive parents and the adoptive child live in different countries, the authorities in both countries will normally be involved in approving the adoption.

In such instances Mr X, who is in the same-sex relationship with Mr Y, adopts a child as a single parent. The law does not confer parental rights to the other person in the same-sex relationship, because such a relationship is prohibited by Namibian law. Therefore, Mr Y will have no claim over the child even if Mr X dies while they are still together.



Cohabitation

When people get married, the law automatically applies certain rules to their relationship. They have a mutual duty to support each other financially. There are rules about how their property will be shared if the relationship ends because of death or divorce. Both same-sex AND opposite-sex cohabiting relationships lack legal status in Namibia. There are no automatic protections in Namibian law for people who live together in a romantic relationship without being married.

EXAMPLE: After living together in a same-sex romantic relationship of many years, Mr X and Mr Y break up. Neither of the parties to the relationship can claim certain rights, such as equal rights to properties or custody of children adopted, because these rights are not applicable or recognised for same-sex relationships.



Combating of Domestic Violence Act

Domestic violence is violent behaviour that takes place within a family, a marriage or another close relationship. Domestic violence can be physical, sexual, emotional or economic. Intimidation, harassment, trespass and threats can also be domestic violence.

Let's take a look at the different types of domestic violence, beginning with a short quiz.

QUIZ: IS THIS DOMESTIC VIOLENCE?

1. A teenage girl ends a relationship with a boy. The ex-boyfriend follows her around, watching who she talks to and where she goes.

Yes. *This is harassment, because a domestic relationship continues for one year after separation.*

2. A woman is living with a man. She says she doesn't want to have sex with him because he has other girlfriends. He threatens to have sex with her daughter if she continues to refuse him.

Yes. *This is sexual abuse and intimidation.*

3. A child has been naughty so his mother refuses to give him pocket money to buy sweets that week.

No. *This is not economic abuse. Domestic violence is not about small things or about parents reasonably disciplining children.*





PHYSICAL ABUSE

- Assault or any use of physical force
- Confining or detaining by force
- Depriving someone of access to food, water, clothing, shelter or rest



SEXUAL ABUSE

- Forcing someone to engage in any sexual contact
- Engaging in sexual conduct that abuses, humiliates or degrades someone
- Making someone look at sexual material that abuses, humiliates or degrades them (such as forcing someone to view pornography)
- Engaging in abusive, humiliating or degrading sexual contact or conduct with someone with whom the targeted person has close emotional ties, such as a family member or close friend.

ECONOMIC ABUSE

- Unreasonably depriving someone of goods or money which they need to live, reasonably expect to use or have a legal right to use
- Unreasonably selling, destroying or damaging property in which the complainant has an interest or a reasonable expectation of use
- Hiding or preventing use of property that someone else owns or has a reasonable expectation to use



INTIMIDATION

Intentionally making someone afraid by:

- threatening to physically abuse them;
- physically abusing or threatening their family member or dependant;
- exhibiting a weapon; or
- other behaviour that seems threatening.

HARASSMENT

- Repeatedly following or imposing unwelcome communications on someone or their family member or dependant
- Watching or loitering nearby
- Repeated telephone calls, including 'silent' phone calls
- Repeatedly sending letters, emails or other messages or objects

TRESPASSING

Entering someone's home or property without their consent

EMOTIONAL, VERBAL OR PSYCHOLOGICAL ABUSE

A pattern of seriously degrading or humiliating behaviour towards someone or their family member or dependant



VIOLENT BULLYING: Like in the case of domestic violence, violent bullying can be addressed through criminal charges, peace orders, High Court interdicts or civil actions for damages. If bullying occurs in the school setting, special codes of conduct apply.

Who is in a “domestic” relationship?

- People who are married (civil or customary marriage)
- People who are living together
- Girlfriend and boyfriend (or an engaged couple)
- Parents of a child (regardless of whether the parents are currently in a relationship with each other)
- Parents and their children
- Other family members related by blood, marriage or adoption, IF they have some domestic connection (i.e. if they live in the same house or have some other connection, such as an aunt who pays her niece’s school fees)

At present in Namibia, same-sex relationships are not legally classified as “domestic” relationships.

Options for addressing domestic violence in a same-sex relationship

Since the Combating of Domestic Violence Act does not specifically recognise same-sex relationships as “domestic” relationships, it does not provide protections for same-sex couples. Therefore, if one party in a same-sex relationship abuses the other, the victim cannot apply for a protection order.

However, there are several other options available to the victimised party:

- Lay a criminal charge such as assault or trespass.
- Apply for a Peace Order.
- Apply for an interdict from the High Court. (This is a court order that prevents the abuser from doing something, such as having further contact with the victimised party.)
- Bring a civil action for compensation for damages resulting from the violence (such as medical costs).

EXAMPLE: Mr X is in a violent same-sex relationship with Mr Y, but Mr X doesn’t want to open a case against his partner. Instead, he can approach a magistrate’s court for a Peace Order as a means to protect himself from any type of violence. The order applies to anyone, as long as there is proof of threats or assaults perpetrated by the suspect.

HOW TO APPLY FOR A PEACE ORDER

1. Go to a Magistrate’s Court. The victim does not need a lawyer to make this application. The Clerk of Court will assist the victim in filing for the application.
2. The victim will be asked to make an oath before the magistrate that the offender is conducting themselves violently towards them or is threatening to injure them or their property.

Being threatened or assaulted is also a reason to apply for a Peace Order, and no relationship of any kind should be present for one to apply for a Peace Order.

The abuser will have a chance to go to court to object to the order, and if necessary the magistrate will issue an order for the suspect to be arrested and brought before the Court.



How long does a Peace Order last? A Peace Order can last for up to **6 months**.

CONSEQUENCES OF BREACHING A PEACE ORDER

It is up to the magistrate to determine what the appropriate sentence for the offender will be, depending on the seriousness and type of offence committed by the perpetrator/offender.

If the police have a **reasonable suspicion** that a domestic violence offence has taken place, they can arrest **the suspected offender without a warrant** or **issue a formal written warning** to the suspected offender.

The complainant must be **notified** if the accused is released on bail, and should be told about any **bail conditions** that apply.

Sodomy and unnatural sexual offences

Same-sex intimacy between men was criminalised in Namibia under colonial rule. Sodomy is defined as anal intercourse between males.

Unnatural sexual offences used to include:

- mutual masturbation;
- masturbation of one party by the other;
- sexual gratification obtained by friction between the legs of another person;
- oral sex; and
- other unspecified sexual activity between men.

In June 2024, in the High Court case of *Dausab v The Minister of Justice*, the Applicant challenged these laws on the constitutional grounds of the rights to privacy, dignity, equality, freedom of expression, freedom of association and freedom from discrimination. The Court declared that the criminalisation of sodomy and other consensual sexual acts between men is unconstitutional and invalid, hence these are no longer criminal offences under Namibian law. However, in July 2024 the Government of Namibia filed an appeal against this High Court judgement, and this case has yet to be finalised.



LABOUR LAW AND LGBTQI+ RIGHTS



Namibia's Labour Act 11 of 2007 prohibits employers from discriminating against employees based on sex, marital status and family responsibilities in all aspects of employment, including promotions, transfers and selection for training programmes. The Act does not specifically address discrimination based on sexual orientation or gender identity. The first post-Independence labour law protected against discrimination based on sexual orientation, but this protection was removed from subsequent versions of the law.

Discrimination based on sexual orientation or gender identity could possibly fall under the prohibition on sex discrimination, since courts in other countries have found sex discrimination in cases involving workers who did not conform to traditional gender stereotypes and those who were dismissed due to being openly transgender.

Harassment

There is currently no law against online or offline harassment in Namibia. The only anti-harassment laws are the Combating of Domestic Violence Act (harassment in domestic relationships) and the Labour Act (sexual harassment of an employee by an employer or co-worker).

Sexual harassment refers to any unwarranted conduct of a sexual nature towards an employee that creates a barrier to equality in employment. It may be initiated by either the employer or a co-worker.

Sexual harassment can take place regardless of the sex or the sexual orientation of the victim and the perpetrator. The victim and perpetrator can be of the same sex or different sexes.

There are two ways to identify sexual harassment in the workplace:

- It is sexual harassment if the employee has indicated that the conduct is unwelcome – for example, where an employee keeps asking another employee to go out on a date after being asked to stop.
- It is sexual harassment if any reasonable person would consider the conduct unacceptable – for example, where an employee attempts to fondle another employee's breasts or buttocks in the workplace, which is inappropriate.

Employers have a duty to take reasonable steps to make the workplace free from sexual harassment.

If you are forced to leave your job to escape sexual harassment, you might be entitled to get your job back or to get compensation for the losses that you suffered.

Labour Act provisions

Family responsibility

Family responsibility refers to the obligation to provide care and support to a parent, spouse, child or dependant. Although the Labour Act does not specifically define “dependant,” the concept is comprehensive enough to encompass a same-sex partner and children being cared for within a same-sex partnership. This is also the case for compassionate leave.

Compassionate leave

Compassionate leave is leave required because of a death or serious illness in the family.

The Act defines “family” as being limited to a child (including children adopted by law, custom or tradition), a husband or wife, a parent or grandparent, a brother or sister, and a father-in-law or mother-in-law.

This means that compassionate leave is not legally required in the case of the death or illness of a partner in a same-sex relationship or a partner in an unmarried opposite-sex partnership.

Severance pay

Severance pay is paid when an employee who has been with the same employer for more than 12 months:

- is unfairly dismissed;
- resigns or retires after reaching 65 years of age; or
- dies in the course of employment.

The severance pay must be at least one week’s pay for each year of continuous service with that employer.

Death benefits and employees’ compensation for accidents in the workplace

- All employers and employees are required to pay into the Social Security Commission’s Maternity, Sick Leave and Death Benefit Fund. A single (once-off) payment is made out of this fund when an employee dies, retires or is classified as disabled.
- If an employee dies, the payment will be made to a dependant of the employee. The definition of “dependant” includes anyone who can show that he or she was dependent upon the deceased for maintenance. This could include a same-sex partner.
- If the deceased had a dependent spouse or children, the death benefit will go to these persons before a same-sex partner or other dependant.

Employees who live and work on agricultural land

- The Act says that an employer of farmworkers must provide sufficient housing, sanitation, food or money to buy food, or land for workers’ livestock or crops, and water for the workers and their dependants.
- “Dependants” are defined as including only the worker’s spouse and any dependent children of the worker or the worker’s spouse. This means that a farmworker cannot insist on housing and food to meet the needs of a same-sex partner. (This also applies to opposite-sex unmarried partners.)

What are the consequences when an employer fails to follow the Labour Act?

An employer could be asked to:

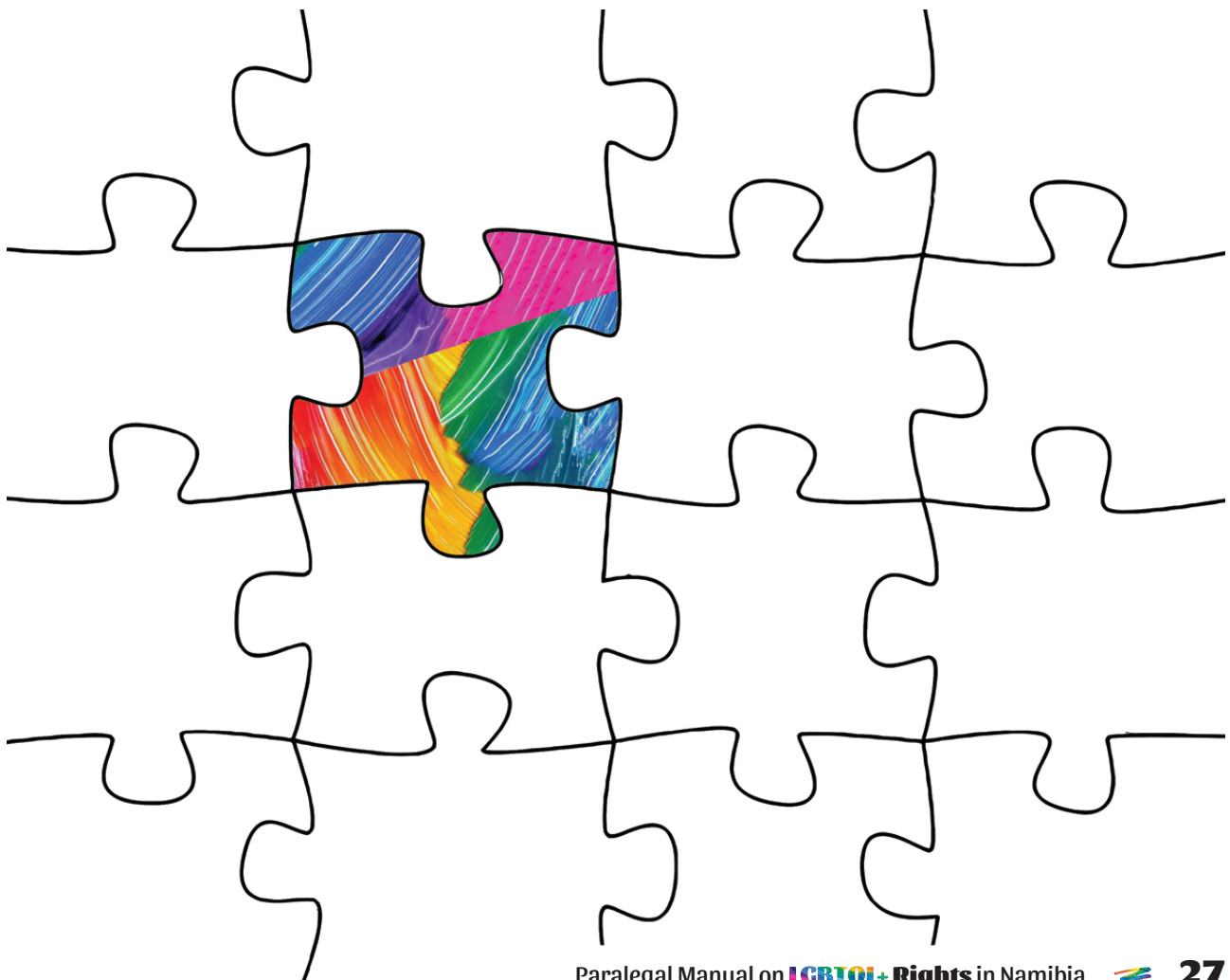
- reinstate an employee who was unfairly dismissed;
- pay compensation to the employee; or
- take other steps ordered by a Labour Inspector or the Labour Court.

Sex work

It is not an offence to engage in sexual acts for reward. This means that sex work is not illegal. However, the Combating of Immoral Practices Act criminalises surrounding offences, such as:

- pimping;
- running a brothel; and
- public solicitation (making a proposal to a person in a public place for immoral purposes, or exhibiting oneself in an indecent dress or manner in public).

Some *protective* provisions in this law would not cover males (e.g. enticing a male into sex work, detaining a male in a brothel for purposes of sex, or pimping a male sex worker).



HEALTH AND LGBTQI+ RIGHTS

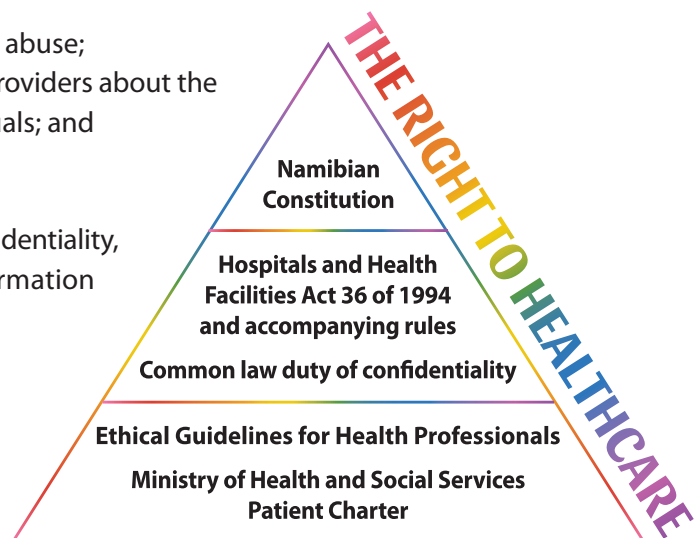


Everyone in Namibia has the right to access healthcare services without discrimination, and everyone has the right to be treated with dignity. LGBTQI+ individuals often face barriers to accessing healthcare due to stigma, discrimination or lack of understanding from healthcare providers. The barriers they face include:

- prejudice;
- lack of respect, often demonstrated by verbal abuse;
- lack of knowledge on the part of healthcare providers about the specific healthcare needs of LGBTQI+ individuals; and
- violation of patient confidentiality.

Healthcare providers have to respect patient confidentiality, therefore they may not reveal any personal information about you or your medical treatment.

Namibia's Constitution and the right to healthcare



The Constitution states that the State must implement policies to enhance public health. The term “public” includes lesbian, gay, bisexual and transgender individuals. It also affirms that all individuals are equal and every individual’s dignity must always be respected. Failure to provide healthcare services to lesbian, gay, bisexual or transgender individuals would violate their constitutional rights to equality and dignity.

Hospitals and Health Facilities Act

The Hospitals and Health Facilities Act says that every person in Namibia must have access to state health facilities. It also says that every person in Namibia is entitled to receive medical treatment and to benefit from state health services. This includes lesbian, gay, bisexual and transgender people.

Ethical Guidelines for Health Professionals

The Health Professions Councils of Namibia has issued Ethical Guidelines for Health Professionals. According to these guidelines, patient care should not be affected by the personal beliefs of the medical professional, including beliefs related to lifestyle, gender or sexual orientation. The guidelines also affirm the right of every person to lodge complaints about healthcare services, have their complaints properly investigated, and receive a comprehensive response regarding the outcome of the investigation.

Patient Charter

Namibia has a *Patient Charter* developed by the Ministry of Health and Social Services to protect the rights of all patients throughout the health sector. This Charter was updated in 2016. It outlines the rights of every patient to access safe and effective public healthcare services, and to receive respectful and compassionate treatment. It emphasises the importance of healthcare providers respecting diversity of culture, beliefs and values, and upholding the core value of impartiality. This means that all patients should be treated equally regardless of status, religion, political beliefs, race, colour, gender or sexuality.



The *Patient Charter* also encourages patients to provide feedback about healthcare services. If someone is unhappy with how a complaint was handled by a healthcare facility, they can request assistance from the Quality Assurance Division of the Ministry of Health and Social Services, which will assign a review officer to investigate the case.

Confidentiality

Healthcare providers are legally obligated to safeguard patient confidentiality unless there are compelling reasons for making an exception, such as reporting child abuse or a highly contagious disease that could endanger public health.

Breaching patient confidentiality without a valid reason may result in disciplinary action for the healthcare provider. In addition to disciplinary action, a healthcare provider who discloses confidential information without the patient's consent may also be required to compensate the patient for invasion of privacy.

These confidentiality rules apply to doctors, dentists, nurses, clinical psychologists and many other medical professionals, but do not currently extend to social workers, pharmacists and traditional healers.

Medical aid

The definition of "dependant" in the law governing private medical aid funds is broad enough to allow for coverage of a same-sex partner. Some of these private funds in Namibia do provide such coverage. If your medical aid provider does not, you can ask them to do so. Even if your provider does not change their policy immediately, they may consider changing it in the future.

The Public Service Medical Aid Scheme (PSEMAS), serving the Government, is not governed by the same law as private funds are. It covers only the members' spouses and children or stepchildren as dependants.

Many medical aid funds in Namibia, including PSEMAS, will not cover the costs of gender reassignment surgery or other medical interventions arising from intersexuality (i.e. mixed sex characteristics that are congenital, meaning present at birth).

Birth registration

Namibian birth registration allows for only male or female registration, but the form could be left blank to be completed at a later date.

Mental health and social services

The Ministry of Gender Equality, Poverty Eradication and Social Welfare has social workers who are responsible for the wellbeing of all Namibian children/minors (below the age of 18), and the Ministry of Health and Social Services has social workers who help all adult Namibian citizens (18 years old and above), irrespective of their sexual orientation or gender identity.

The responsibilities of a social worker are:

- 🌈 conducting interviews and assessments to evaluate clients' needs and challenges and offer counselling;
- 🌈 working with multidisciplinary teams including healthcare professionals, legal services and community organisations to provide comprehensive care;
- 🌈 supporting victims or helping those with social problems to navigate through them;
- 🌈 maintaining accurate records of client interactions, progress and treatment;
- 🌈 advocacy for their clients to ensure that their rights are upheld and that they receive needed help; and
- 🌈 providing immediate support during crises and helping clients to navigate urgent situations such as domestic violence.

Citizens can access these services across the country by simply going to either Ministry with their Namibian identification document or birth certificate and requesting the help needed. These services are free of charge.

LGBTQI+ bodily autonomy rights

The link between LGBTQI+ health and bodily autonomy rights is rooted in the fundamental principle that individuals should have control over their own bodies and health decisions. For LGBTQI+ individuals, bodily autonomy includes the right to make choices regarding their sexual and reproductive health, gender identity, and access to healthcare services without discrimination or coercion.

Key points of this link include the following:

1. **Informed consent:** Bodily autonomy emphasises the importance of informed consent in medical treatments, including those related to gender-affirming care for transgender individuals. This ensures that patients make decisions about their health with full awareness and understanding.
2. **Mental health:** The mental health of LGBTQI+ individuals can be adversely affected by societal discrimination and lack of support. Upholding their bodily autonomy rights can lead to better mental health outcomes through affirming and respectful care.
3. **Reproductive rights:** For LGBTQI+ individuals, particularly those in same-sex relationships, bodily autonomy includes the right to make choices about reproduction, whether through assisted reproductive technologies or other means.

Advocating for bodily autonomy rights is crucial for addressing health disparities experienced by LGBTQI+ individuals and for implementing policies that protect their health and rights.

How to make a complaint about a healthcare problem

If you have a complaint about a health professional, you should write down what happened in a statement that includes:

- the name of the healthcare practitioner, if possible;
- the institution or medical practice where the incident took place;
- the dates and times of the events, as far as is possible; and
- your full contact details and your signature.

Although not a strict requirement, it will be helpful if you swear in front of a Commissioner of Oaths that your complaint is true. (All legal practitioners are Commissioners of Oaths, and there are Commissioners of Oaths at all police stations.)

You should address your complaint to the Registrar of the Health Professions Councils of Namibia (HPCNA) – see <https://www.hpcna.com> for contact details.

The Registrar may ask you to sign a consent form to allow access to your medical records, in case this is necessary to investigate the complaint. The Registrar will forward the complaint to the council that governs the medical professional in question.



OTHER ISSUES THAT AFFECT LGBTQI+ PERSONS



Hate speech



Hate speech is any form of written or verbal communication that exposes a person or group of people to hatred because of a particular attribute, such as race, religion, disability, ethnicity, gender, sex, sexual orientation or marital status.

The Namibian Constitution protects freedom of speech and expression, but it also protects the rights to dignity, non-discrimination and privacy. These rights must be balanced.

Namibia has a law that forbids hate speech based on race, but there is no law that specifically covers hate speech based on sexual orientation or gender identity.

All hate speech is covered by the crimes of *crimen injuria* (injury to dignity), criminal defamation (injury to reputation) and incitement to crime (trying to convince someone to break the law). This means that you can lay a charge with the police if someone uses hate speech against you because of your LGBTQI+ status.

COMMON LAW CRIMES	CIVIL OFFENCES
<i>Crimen injuria</i>	Injury to personal dignity
Criminal defamation	Defamation
Incitement	Invasion of privacy

You can also bring a court case claiming compensation for damages to your dignity, your reputation or your privacy because of hate speech.

Rape

Rape is defined as “**the intentional commission of a sexual act under coercive circumstances**”. Coercive circumstances means any of the following:

- **physical force** against the victim or another person;
- **threats of physical force** against the victim or another person;
- **threats to cause other kinds of harm** to the victim or another person, in circumstances where it is **not reasonable to ignore the threats**;
- the victim is **under age 16** and the perpetrator is **more than 3 years older** (more on this further on);
- the victim is **unlawfully detained**;

- the victim is **physically or mentally disabled, drunk, drugged or asleep** (and so cannot understand what is happening OR cannot communicate unwillingness);
- the **rapist pretends to be another person**;
- the **rapist pretends that what is happening is not actually a sexual act** (e.g. when a doctor pretends that it is a medical treatment); or
- the presence of **more than one person** is used to **intimidate the victim**.

Rape can take place even where sexual activity started with mutual consent. If coercion comes into play at any stage, then the sexual act becomes rape. It is rape if coercive circumstances are used to “commit” or to “continue to commit” a sexual act.

Rape is gender-neutral and can happen to anyone regardless of their sex or sexual orientation.

The Combating of Rape Act covers a wide range of sexual acts, including:

- sexual intercourse** (insertion of a penis into a vagina, to even the slightest degree);
- insertion of a **penis** into a mouth or anus;
- insertion of **any other body part** (such as a tongue or a finger) into a vagina or anus;
- insertion of **any part of an animal** into a vagina or anus;
- insertion of **any object** (e.g. a bottle or a broomstick) into a vagina or anus (except for genuine medical purposes, with consent);
- oral stimulation** of female genitals; or
- any other form of **genital stimulation** (such as stimulation of another person’s genitals with the hand, or forcing someone to masturbate themselves).

This means that the Act protects men, women, girls and boys from all kinds of sexual abuse. The Combating of Immoral Practices Act provides additional protection for boys and girls under the age of 16 when there is sexual contact with someone who is more than 3 years older.

Gang Rape:

- If one person forces the victim to have sex with another person, both can be accused of rape.
- If three people assist each other to take turns to rape a victim, each of them can be charged with committing three rapes.

Child Rape:

- A sexual act is rape if the victim is under age 14 AND the other party is at least 3 years older, even if there is no other coercive circumstance. (Combating of Rape Act)
- Any kind of sexual act or “indecent or immoral act” is a crime if the victim is under age 14 AND the other party is at least 3 years older. (Combating of Immoral Practices Act)
- The age gap makes these forms of contact crimes even if there was “consent” and no other kind of coercion.
- The law does not define “indecent or immoral act”. This probably covers touching the genitals or breasts. It might cover other things also.

Bail in cases of rape:

If a perpetrator applies for bail, the rape victim has a right to be informed of a bail application. The rape victim also has a right to give information on bail, either directly or indirectly. If bail is granted, the court must impose bail conditions that prevent the accused from having contact with the victim. The rape victim must be informed if bail is granted, and informed about the bail conditions.

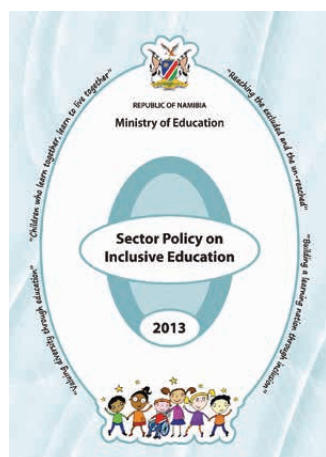
Duties of a police officer investigating rape:

- The investigating officer must inform the prosecutor of any reason to believe that the victim would be in danger if the accused person is released on bail.
- The investigating officer must also inform the prosecutor of any other investigations involving the same accused person.
- Once bail is granted, the investigating officer must inform the prosecutor right away if the accused person violates any of the bail conditions.



Indecent assault

Indecent assault is when a person touches another person in an inappropriate way without consent, such as touching the genitals or other private parts of another person's body, or attempting to touch someone in this way, even through clothes. This crime covers forced sexual contact which is not rape. For example, it is not rape for a woman to touch another woman's breasts against her will, or for a man to force his tongue into another man's mouth. But these forms of forced sexual contact are indecent assault.



Protection in the education sector

The LGBTQI+ community is protected by national and international laws, including the Namibian Constitution, which states that all persons shall be equal before the law. Namibia's **Sector Policy on Inclusive Education** (2013) calls for access to high-quality education for all Namibian learners, free from discrimination based on gender or sexual orientation, language, culture, religion, health or disability, pregnancy, socio-economic background or geographic location.



ADVOCACY FOR EQUAL RIGHTS FOR LGBTQI+ PERSONS



Public marches and demonstrations

Public events about an issue might take the form of marches, demonstrations or vigils. You can use public events to inform and educate the public. You can use public events to show the government that you have public support for your cause or to attract media attention and publicity for your issue.

1. **Participation:** Make sure that there are a reasonable number of people who are willing to attend. A poor turnout is likely to send the wrong message. You may need to organise transport if your supporters need to come far to attend the event.
2. **Clear message:** Focus the event around one clear issue. If possible, focus on a call for specific action. Your message will get lost if there are signs or speeches on many different issues. If the purpose of the event is unclear, it will have less impact. 🌈



3. **Location:** Choose a location that will reach a large number of people, such as the centre of town or a place with symbolic importance. For example, if your concern is a law, you may want to march to Parliament to take your message to the law-makers.
4. **Timing:** It might be difficult to get people to take part during working hours, so you may want to organise your event at lunchtime or on a weekend. You may want to schedule your event on a significant date, such as International Women's Day or Independence Day. If you are targeting a particular person or group to receive your message, make sure that the person or group will be present at the time of the event.
5. **Agenda:** Decide on the order of activities in advance. Keep the agenda short and focussed, so that people maintain their enthusiasm.
6. **Getting noticed:** Make sure that anyone who is speaking can be seen and heard by everyone. Arranging for a well-known person to speak may help to attract attention. Attract attention with big banners or placards with simple images or messages. If your protest is in the evening, people can hold candles or torches. Have everyone wear the same colour shirt, or a particular kind of hat. Think up a chant that people can shout, or sing a song that fits the message, or invite a band or a choir to perform.
7. **Publicity:** Give advance notice to your supporters, the public and the media, and be sure that everyone knows the correct place and time. You can hand out leaflets, put up posters, arrange for advance announcements on radio, or ask community and church leaders to inform people. Designate a person as the spokesperson, and let the media know that this person will be available to explain more about why the event is being held. Make sure that you include the time, date and location of the protest. Be sure to put photos of the event on social media.

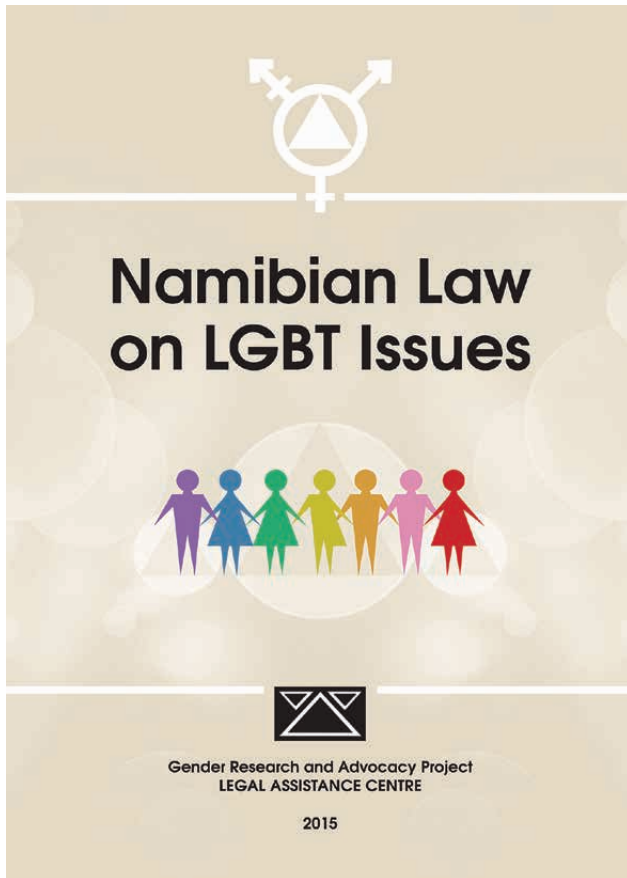
Advocacy tips

- 🌈 Advocate for a pension plan that does not discriminate against same-sex partners.
- 🌈 Advocate for a medical-aid scheme that covers unmarried opposite-sex and same-sex partners.
- 🌈 Same-sex partners cannot adopt a child jointly, but one partner can adopt as a single parent.
- 🌈 Same-sex partners can own property jointly.
- 🌈 Make written contracts and wills to regulate maintenance and inheritance.
- 🌈 Run public education and awareness campaigns aimed at eradicating discriminatory practices against LGBTQI+ persons and others, involving churches and community leaders.
- 🌈 Incorporate human rights education and tolerance education into the school curriculum.
- 🌈 Incorporate training on a human-rights approach in dealing with LGBTQI+ persons into the training curriculum of law-enforcement officials.
- 🌈 Review laws and policies to identify and rectify provisions that discriminate against vulnerable groups, including sexual minorities.

In summary, while Namibia has made strides in recognising LGBTQI+ rights, significant legal and social challenges remain, necessitating continued advocacy and reform to ensure full equality and protection for all individuals, regardless of sexual orientation or gender identity.



FOR MORE INFORMATION

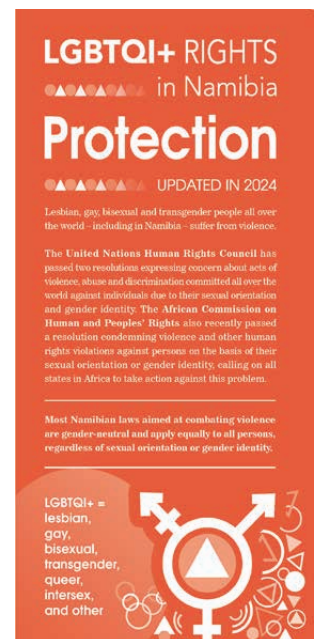
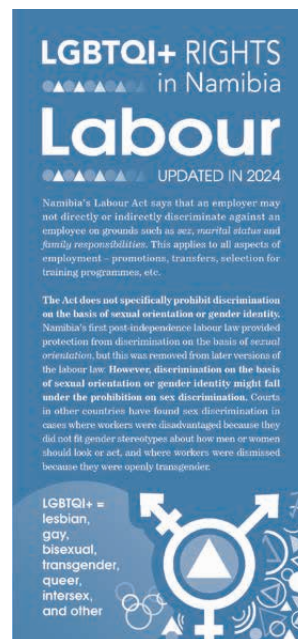
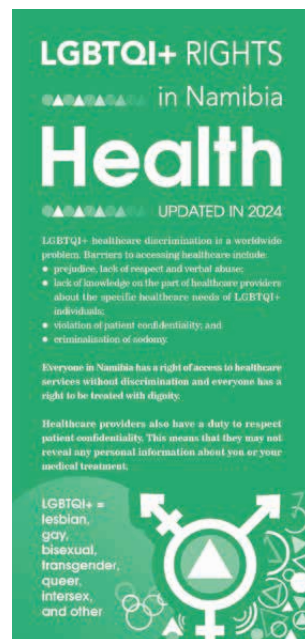
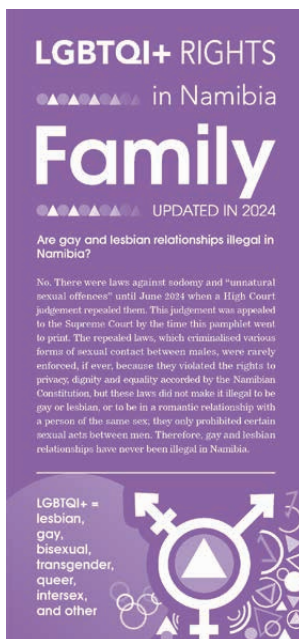


The publications pictured on this page are available on the **LAC website** (www.lac.org.na).

They can be accessed from either the **Gender Research & Advocacy Project page** (www.lac.org.na/index.php/projects/gender-research-advocacy-grap) or the **Publications page** (www.lac.org.na/index.php/publications).

In 2015, GR&AP published an extensive report, ***Namibian Law on LGBT Issues***, which examines topics such as criminal laws relevant to the LGBTQI+ 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 LGBTQI+ community.

For shorter summaries of some of the issues covered in the report, see our series of pamphlets pictured below, first published in 2015 and updated in 2021 and 2024.





Paralegal Manual on LGBTQI+ RIGHTS in Namibia

Gender Research & Advocacy Project
LEGAL ASSISTANCE CENTRE



LEGAL ASSISTANCE CENTRE

2025