

Submission to the UN Universal Periodic Review: Zambia 42nd session of the HRC UPR Working Group, Jan/Feb 2023

INTRODUCTION

1. In this submission, Transbantu (TBZ) provides information under section C (as stipulated in the General Guidelines for the Preparation of Information under the Universal Periodic Review):
 - a. In section C, we describe concerns related to the following violations of the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Zambia: lack of comprehensive sexuality education, criminal laws used to target LGBT people, failure to include young LGBTI people in decision and policy-making, and lack of a prohibition on discrimination based on sexual orientation, gender identity and sex characteristics.
 - b. We make a number of recommendations in the areas of concerns listed.
2. Transbantu (TBZ) is a youth-led organization that has been serving trans-diverse and intersex communities since 2012. TBZ seeks to create an enabling environment where trans-diverse and intersex people enjoy their full potential, access social justice and opportunities. It does this by supporting the trans-diverse and intersex communities in Zambia through evidence-based advocacy, collaboration, outreach and practical support, including peer and parent support groups, counselling. TBZ aims to build a strong trans-diverse and intersex movement through training and capacity building. TBZ advocates for policies and practices that respect the human rights of trans and intersex people.
3. The information in this submission is based on widely-available research and information collected through the course of the submitting organisations' work.

C: PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Lack of comprehensive sexuality education

We commend the government of Zambia on developing guidelines and curriculum on comprehensive sexual and reproductive health for in school and out of school adolescents and youth. This information has been included in both primary and secondary school curriculum.

Unfortunately, teachers and those in charge of implementing the curriculum do not have the information and knowledge to teach about issues related to sexual orientation and gender identity and thus often those aspects of the curriculum are not taught or available. Further, based on reports from our community, adolescents not in school do not have access to the comprehensive sexual and reproductive health curriculum. They often have to turn to the internet for information where they are unable to find locally and culturally-specific information on sexual orientation and gender diversity.

Schools have identified guidance teachers who work with health staff to ensure that girls in learning institutions have access to sexual and reproductive health services. However, contraceptives are not available in school resulting in young people and adolescents having to access health facilities for access to contraceptives, including condoms. This is a significant barrier especially for lesbian, gay, bisexual and trans adolescents who are reluctant to access health facilities for fear of stigma and discrimination from healthcare workers.

Further, the lack of clarity regarding the age of consent for when individuals can independently access contraceptives makes it more difficult for adolescents to access contraceptives.

Inclusion of young people in decision-making and policymaking

Young people continue to be left out of decision making and policy making design, consultation, or implementation of interventions that affect them. Places where young people's views and involvement are not considered include parliamentary forums, discussions on budgetary allocations for programmes addressing the needs of adolescents and young people's sexual and reproductive health, among others.

Difficulties in obtaining appropriately reflective identification documents

There is no clear process by which trans-diverse and intersex people can change their gender on official documentation increasing their vulnerability to discrimination and other rights violations.

Criminal laws used to target LGBT

Section 155 of the Penal Code criminalizes “[a]ny person who-(a) has carnal knowledge of any person against the order of nature;... or (c) permits a male person to have carnal knowledge of him or her against the order of nature.” Section 178 of the Penal Code criminalizes idle and disorderly persons, including “every person who in any public place solicits for immoral purposes.” Section 310A criminalizes an “intent to deceive”. These provisions have and can be used to target LGBT people. Further, they entrench stigma and discrimination facing our community and makes young LGBT people reluctant to access social and cultural spaces and health services and report violations of their rights.

Discrimination on the basis of sexual orientation and gender identity

Though LGBTI people face high levels of discrimination in a variety of settings, including sport, education and health, there is currently no clear prohibition of discrimination on the basis of sexual orientation, gender identity and sex characteristics. Trans-diverse and intersex people have been banned from participating in sports (soccer, athletics, judo and boxing) for being too masculine. In some instances, where the individual is a sensational athlete/ soccer player, there have been tests done by sport doctors who recommend surgery and hormone replacement therapy to reduce the natural testosterone levels of masculine athletes. Further, trans-diverse and intersex people have been subjected to strip searches in order to obtain a national identity card. This often occurs when they seek passports for traveling to and from Zambia.

F: RECOMMENDATIONS

To address **the lack of comprehensive sexuality education:**

1. Ensure sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) are included in the comprehensive sexuality education curriculum.
2. Train comprehensive sexuality education trainers—similar to HIV peer trainers—for areas and communities where teachers are unable to provide such information and for young people who may not be in school.
3. Take appropriate steps to ensure distribution of a full range of contraceptives, including preventive barriers accommodating difference sexual practices, in school.
4. Clarify age of consent for access to contraceptives and other sexual and reproductive health services in law and policy such that the age of consent is based on the evolving

- capacity of the child.
5. Incorporate SOGIESC issues in the teachers' training curriculum for CSE to better equip teachers.

To address the **lack of involvement of young people in decision- and policymaking:**

1. Take appropriate steps to include young people in all decision making and policymaking platforms relevant to their lives.

To address the **criminal laws used to harass LGBT people:**

1. Repeal sections 155(a), 155(c) and 178 of the Penal Code.
2. Train law enforcement, prosecutors and judicial officers to ensure that sections 155(a), 155(c), and 178 are not unjustly used to target young people based on their sexual orientation and gender identity.

To address **discrimination and stigma against LGBTI people:**

1. Enact a law prohibiting discrimination on the basis of sexual orientation, gender identity and sex characteristics.
2. Employ more humane approaches to documenting national identity documentation, including a focus on gender markers to replace sex markers.
3. Enact a law that provides for one to change their name and gender marker on official documentation, including academic qualifications.
4. Enact a law prohibiting the unconsented surgeries and hormonal replacement therapy to allow players to be admitted into sports disciplines or participate in competitions