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South African Institute of Race Relations

*The power of ideas*



# LGBTQ RIGHTS IN SUB-SAHARAN AFRICA:

Perspectives of the region from the region

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*The power of ideas*

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# LGBTQ RIGHTS IN SUB-SAHARAN AFRICA:

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## Perspectives of the region from the region

October 2019

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## SECTION 1.1

### Introduction

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Views about homosexuality and about the Lesbian, Gay, Bisexual and Transgender (LGBT)+ communities are becoming more tolerant around the world. This is also the case for Sub-Saharan Africa, despite its being one of the more hostile regions for sexual minorities. A report by Afrobarometer, titled *Good neighbours?*, found that tolerance for homosexuals increased with age, and education levels (Afrobarometer, 2016: 13). Africans with a post-school education are three times as likely to be tolerant towards homosexuals than those with little to no education. In terms of age, 25% of people aged 18–25 said that they would not mind having gay people live next door to them compared to 17% of those aged 56–65. People in cities are also more tolerant, with 27% in urban areas displaying tolerance towards gay people compared to 17% in rural areas (Afrobarometer, 2016: 13). That Africans are rapidly urbanising and becoming more educated, along with the fact that younger people (the future leaders) are more tolerant, bodes well for the future of LGBTQ rights on the continent.

Lately, there have been a number of positive developments relating to LGBTQ rights in Africa. Some of these are noted in the International Lesbian, Gay Bisexual, Trans and Intersex Association's (ILGA) 2019 report: *State-sponsored Homophobia*. In 2012, male sodomy was decriminalised in Lesotho (ILGA, 2019: 181). And, on 18 May 2013, the country's first Gay Pride march took place in Maseru. In 2012, Sao Tome and Principe also legalised same-sex activity (ILGA, 2019: 182). Mozambique decriminalised homosexuality in 2015 when a new penal code came into force, replacing Portuguese colonial laws (ILGA, 2019: 182). Mozambicans are relatively liberal in their attitudes regarding homosexuality, with the majority (56%) being not opposed to having gay neighbours, according to the Afrobarometer study (2016, 12). The Seychelles remained true to its commitment in 2011 to the United Nations (UN) Human Rights Council and decriminalised homosexuality in 2016 by removing a 60-year-old section of its penal code that punished same-sex activity with up to 14 years' imprisonment (ILGA, 2019: 182). In 2018, Angola registered its first LGBTQ civil rights organisation and, a year later, went on to legalise same-sex activity after voting to adopt a new penal code that excludes the ban on 'vice against nature' (ILGA, 2019: 25) dating back to 1886. Earlier this year, Angola also made it illegal to discriminate on the basis of sexual orientation in employment and the provision of services (Reid, 2019). In June 2019, Botswana legalised same-sex activity (Bearak, 2019).

However, despite these recent positive developments, there have also been a number of setbacks. Nigeria's Same Sex Marriage (Prohibition) Act came into effect in 2014 (ILGA, 2019: 205). The law not only prohibits same-sex marriage, but also forbids any cohabitation between same-sex sexual partners and bans the public display of same-sex relationships. It further imposes a 10-year prison sentence on anyone who registers, operates or participates in or supports gay clubs, societies and organisations (ILGA, 2019: 220). In Tanzania in 2018, the Regional Commissioner of Dar es Salaam, Paul Makonda, established a 17-member task team to arrest people suspected of being homosexuals or practising homosexuality (ILGA, 2019: 223). Preceding Botswana's decision on same-sex activity, Kenya's high court ruled in favour of upholding laws that criminalise gay sex (HRW, 2019).



*Sub-Saharan Africa has thus had a hit-and-miss approach when it comes to furthering LGBTQ rights. However, laws are not the only way to measure a nation's tolerance towards sexual minorities.*

Since legalising same-sex marriage in 2006, South Africa has long been hailed as one of the most progressive countries in the world when it comes to LGBTQ rights. But having a progressive, enlightened Constitution does not necessarily mean that the protections enshrined in the document trickle down to society. South Africans, especially those in rural and poorer communities, still regularly experience discrimination and hate-driven crimes. Luleki Sizwe, a charity that helps victims of rape in the Western Cape, notes that corrective rape (a practice where men rape lesbians in the belief that it will 'cure' them) is common in and around Cape Town (Luleki Sizwe, 2019). A recent list issued by the Department of Home Affairs revealed that only 28.6% of their offices had marriage officers who were willing to marry same-sex couples (News24, 2018). It is also alarming that South Africa has done little to defend or promote LGBTQ rights in other African countries.

## SECTION 1.2

### Purpose of the study and Methodology

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Given these trends, this paper sought to track progress towards affirming LGBTQ rights in Sub-Saharan Africa. Looking primarily at the experiences of ordinary people, it seeks to tease out how countries' legislative frameworks impact on day-to-day life, to determine whether in fact some countries that may appear deeply homophobic on paper are perhaps more tolerant in reality, and to consider how LGBTQ rights can further be advanced.

The project was conducted through a combination of desktop and primary research. In particular, it used interviews to probe the opinions and experiences of stakeholders within the community. These people – some of whom preferred to remain anonymous – were of various backgrounds and standing within their societies. They provided a fascinating window on lived experiences, and the interplay between laws, social attitudes and political dynamics and the individuals' lives.

**Note:** The author of this report uses the terms 'LGBT', 'LGBT+', 'LGBTQ' and 'LGBTI' as umbrella terms for the Lesbian, Gay, Bisexual, Transgender and Intersex populations.

## SECTION 2

### LGBTQ rights in Africa: The current situation

As of June 2019, 32 out of 54 African countries outlaw same-sex activity, according to Human Rights Watch (HRW) (Komane, 2019). The situation in Africa differs significantly from Europe where same-sex activity has been legalised across the continent, and 28 of the 44 countries recognise either same-sex marriage or civil unions (WEF, 2019). Despite some recent positive developments in Africa, the continent as a whole remains one of the most hostile regions for LGBTQ people. Afrobarometer's 2016 study showed that although Africans display high tolerance for people from different ethnic, religious and national backgrounds, the same cannot be said for attitudes towards gay people. Only 21% of Africans surveyed indicated that they would either like or be indifferent to having gay people as neighbours (Afrobarometer, 2016: 1). Furthermore, only in Cape Verde, South Africa, Mozambique and Namibia did the majority of the population display high tolerance for gay people (Afrobarometer, 2016: 12).

Another global study conducted by ILGA, also attempted to gauge societal views of homosexuality and alternative gender identities. More than 96 000 respondents in 65 countries were surveyed on their perceptions of LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex) people. On the question of whether same-sex desire is a Western phenomenon, nearly half (47%) in the African region believed that homosexuality was a foreign concept imported from the West (ILGA, 2016: 29). A number of influential African political and business leaders espouse this belief. Rebecca Kadaga, Speaker of Parliament in Uganda, had the following reaction to efforts of some countries to include LGBT people in a declaration on migrants and refugees at the International Parliamentary Union (IPU):



*“We told you that if you insist, we are withdrawing... So if you are insisting on smuggling this issue, the Ugandan delegation... shall withdraw from the IPU” (Igal, 2018).*

Ezekial Mutua, CEO of the Kenyan Film Classification Board (KFCB), justified his efforts to clamp down on social media platforms with LGBTQ content by saying: “The bulk of these platforms are being run by foreigners bent on spreading vices such as homosexuality and promoting radicalisation among the youth’ (DeBarros, 2017). Commissioner Petunia Chiriseri said during a sermon in Zimbabwe:



*‘As a church, you (Robert Mugabe) took a firm stand against unbiblical, un-cultural, unacceptable practices which foreigners...seek to impose on Africa’ (Igal, 2017).*

The *Ghanaian Times* newspaper wrote that ‘...we are equally against LGBT rights and we at the *Ghanaian Times* will strongly support moves to reject the imposition of any foreign values on our country’ (Igal, 2018).

Another question ILGA asked was whether respondents agreed that being gay, lesbian, transgender or intersex should constitute a crime. From the African region, 44% agreed or strongly agreed against 30% who disagreed and 20.0% who neither agreed nor disagreed (ILGA, 2016: 37). Same-sex activity carries a prison sentence for at least one year or more in South Sudan, Liberia, Senegal, Togo, Cameroon, Kenya,

Tanzania, Uganda, Eritrea, Ethiopia, Comoros and Zambia. Same-sex activity is also punishable by death in Sudan, Mauritania, Somalia and in some states in Nigeria. Also, a Human Rights Watch report, titled *Dignity Debased: Forced anal examinations in homosexuality prosecutions*, found that, in 2015, law enforcement officials in six African countries worked in tandem with medical personnel to subject men and transgender women arrested on homosexuality-related charges to forced anal examinations as a way to prove homosexual conduct (HRW, 2016: 1). Less than a third of African respondents agreed that adults should be allowed to have private consensual same-sex relationships (ILGA, 2016: 37). The majority (53%) disagreed with the statement (ILGA, 2016: 37). In North African countries such as Algeria, Egypt and Morocco, majorities of more than 60% of respondents disagreed with the statement.

As mentioned earlier, progress towards LGBTQ rights and anti-discrimination laws in Africa has been sporadic and uneven. The following is a brief summary of the situation in countries that have been at the forefront of cracking down on the LGBTQ community. This demonstrates some of the legislative and political hurdles the community faces.

## Uganda

Section 145 of Uganda's penal code states: Any person who permits a male person to have carnal knowledge of him or her against the order of nature commits an offence and is liable to imprisonment for life (ILGA, 2019: p383). Also, 53% of Ugandans strongly agree that homosexuality and being transgender and intersex should be a crime, as opposed to 31% who disagree (ILGA, 2016: 56). Simon Lokodo, Minister of Ethics and Integrity, recently prevented an LGBTQ NGO known as Sexual Minorities from organising a celebration of International Day Against Homophobia, Biphobia and Transphobia (ILGA, 2019: 605). Lokodo also aimed to block the Health Ministry's first annual conference on Key and Priority Populations, as it may encourage 'homosexuality and other dirty things'.



*People who in any way support same-sex marriages, civil unions, clubs or organisations will also be liable on conviction to a term of 10 years imprisonment (ILGA, 2019:359).*

## Nigeria

Under Section 5 of the Same-Sex Marriage (Prohibition) Act, a person who enters a same-sex marriage contract or civil union will be liable on conviction to a term of 14 years in prison. A person who registers, operates or participates in gay clubs, societies and organisations will be liable on conviction to a term of 10 years in prison. People who in any way support same-sex marriages, civil unions, clubs or organisations will also be liable on conviction to a term of 10 years imprisonment (ILGA, 2019: 359). Some parts of Northern Nigeria enforce Islamic Sharia laws, under which the maximum penalty for people guilty of same-sex conduct is death (ILGA, 2019: 359). More than half of Nigerians agree that homosexuality is a foreign phenomenon imported from the West (ILGA, 2016: 52). This is highly dangerous as it provides a fertile environment for power-hungry politicians to demonise sexual minorities and divert attention from the government's failure in uplifting Nigeria's poor. June 2018 saw more than 100 people at a party in Asaba arrested, detained and prosecuted for being or perceived as being gay or having a different gender identity. Lesbian Equality and Empowerment Initiative had its lawsuit challenging its non-registration dismissed by the Abuja Federal High Court (ILGA, 2019: 361).

## Kenya



*Under Kenya's Penal code, anyone found guilty of 'carnal knowledge against nature' is liable to imprisonment for fourteen years (ILGA, 2016: 334).*

Kenya's High Court recently upheld the Penal Code that makes consensual same-sex acts between adults illegal. A landmark case filed in 2016 by the Kenyan National Gay and Lesbian Human Rights Commission (NGLHRC) challenged sections of the Penal Code as being discriminatory towards the country's LGBTQ community. The High Court, however, found that the Penal Code was not unconstitutional or a violation of the rights to privacy and human dignity. The presiding judges concluded that the challenged provisions of the Penal Code did not single out LGBTQ people, but applied to everyone.

In the Afrobarometer study, only 14% of Kenyans said they would tolerate the idea of having gay people as neighbours (Afrobarometer, 2016: 12). In October 2018, Kenya's court ordered the seven-day suspension of a ban that the Kenya Film Classification Board had placed on *Rafiki* (an internationally renowned Kenyan LGBTQ film).

## Tanzania



*Only 21% of Tanzanians display high tolerance for LGBTQ people, according to Afrobarometer.*

Only 21% of Tanzanians display high tolerance for LGBTQ people, according to Afrobarometer. Tanzania's penal code sees to it that those guilty of 'carnal knowledge against the order of nature' will be imprisoned for life (ILGA, 2019: 199). Regional Commissioner of Dar es Salaam Paul Makonda announced in 2018 that he had set up a 17-member task team to target and arrest LGBTQ people in the region. The government has since distanced itself from Makonda's views. Still, since 2016, the government has escalated its efforts to crack down on the LGBTQ community which include hostile public statements from state representatives, widespread arrests and forced anal examinations, banning the import and sale of lubricants (which the government believes encourages same-sex activity) and limiting access to HIV/AIDS prevention, testing and treatment (ILGA, 2019: 374).



## SECTION 3

### Perspectives from the region

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In seeking to understand and present the views and experiences of LGBTQ people in Africa, we interviewed members of the LGBTQ community and activists face-to-face or by telephone. The intention was to include grass-roots level opinions on the state of LGBTQ rights on the continent, and try to establish whether or not the situation is improving and what more needs to be done to encourage positive change.



*It is a sad comment on lived realities that some interviewees asked to remain anonymous for their own safety and security.*

#### Lipian B. Mtandabari (Zimbabwe)

Lipian is a director of the International Gay and Lesbian Association (IGLTA), a leading network of LGBTQ+ tourism businesses. Originally from Zimbabwe, Lipian started two travel companies in the country after finishing school. Last year, he started his own tourism service company, catering for the LGBTQ community. He now resides in South Africa where he continues to work for IGLTA.

'Zimbabwe is a very traditional and political country' Lipian said. 'Many children are raised in Christian families and, as a result, homosexuality is not believed to be natural.' I asked Lipian to elaborate on his own experience with his family. He is the first of two children. When he was in Grade 7, his father left the home, and he and his brother were raised by their mother. Lipian suspected that his mother might be aware of his sexuality, though, for some time, he was reluctant to open up to her. 'She was super cool with all my male friends, even with the more flamboyant ones.' When he did eventually reveal his sexuality to his mother, her response was that it did not change anything. She said that Lipian was still her son, and that she wanted to embrace and love him fully for who he was. His relationship with his brother is 'perfect'.

At school, however, Lipian kept his identity secret. 'In most cases, there is no support system at all for LGBTQ pupils at Zimbabwean schools.' Due to the conservative nature of Zimbabwean society and most of the schools in the country, Lipian states that 'remaining in the closet was not a matter of choice'. 'Homosexuality was taboo and still is today. A lot of children still have to remain highly discreet during their time at school.' I asked Lipian about whether he happened to have more information on the gay Zimbabwean teacher, Neil Hovelmeier, who had to quit after receiving death threats for coming out publicly about his sexual orientation (Thornycroft, 2018). Lipian began by explaining that, in Zimbabwe, there are three types of schools – A schools, B schools and C schools. A schools are 'high density schools' and are typically underfunded, under resourced and enrol children from poorer households. The majority of B schools are government schools, and pupils from middle class backgrounds enter these institutions. C schools are the most prestigious and also tend to hold more liberal values. Hovelmeier taught at St John's College – a category C school in the capital of Harare.

According to a local online media news agency ZimLive (2018), Hovelmeier stood up in assembly and told the school that he was gay, reportedly to cheers from the students. In a letter penned to parents, Hovelmeier said that he had felt troubled by the fact that the school did little to curb incidents of bullying and discrimination against gay and bisexual students. He believed that in order to deal with the issue, he had to be 'fully open and transparent about himself'.

However, according to Lipian, another letter went public well after Hovelmeier's resignation. This letter was written by a heterosexual student in Hovelmeier's class. Apparently, this student's family fell on hard times, so much so that the father of the student was unable to provide enough food for his family. Hovelmeier suspected that something was bothering the student. He was able to convince the student to reveal his situation to him. From then on, Hovelmeier prepared extra food every day, which he gave to the student discreetly so as not to embarrass him in front of the others. The student's letter was an attempt to draw attention to Hovelmeier's good deeds and that his sexual orientation did not make him a bad person.

I asked Lipian to describe to me what life was like as an adult gay man in Zimbabwe. Lipian was quick to emphasise the important role that social media such as Facebook had played in making his life easier in the country. On Facebook, he was able to *like* gay networking groups in order to get in touch with other gay and bisexual men. However, he soon realised that he risked exposing himself, especially with his public Facebook profile. He then went on to create a second Facebook profile account, with a different name and on which his pictures remained hidden until he felt comfortable to reveal them. With this second Facebook profile, he was able to get in contact with and meet other gay men whom he could converse with on issues only relatable to the LGBTQ community. With two Facebook profiles connecting him with two different groups of people, he essentially 'lived two lives'.

On what LGBTQ Zimbabweans could expect under current president Emmerson Mnangagwa, Lipian had mixed feelings. According to Lipian, when Mr Mnangagwa was running for president, the government reached out to GALZ (Gays and Lesbians of Zimbabwe) – an organisation championing LGBTQ rights in the country. This was regarded as a positive development, as, for the first time, the government seemed to indicate that it recognised LGBTQ people as part of Zimbabwean society. After the presidential elections, however, the government fell silent on the LGBTQ community. This was not necessarily a bad thing, Lipian felt. Where the previous Mugabe administration regularly derided and threatened the LGBTQ community, Mnangagwa's administration said nothing good or bad about them. This created the space for LGBTQ activists to campaign for equal rights under the radar. More recently, however, it has emerged that a bill that will uphold the ban on same-sex marriage is set to go before the country's parliament. This has dampened hopes that the situation for the LGBTQ community in Zimbabwe would steadily improve under Mnangagwa's rule.

Lipian was cautiously optimistic about the courts. One of his former gay friends was accused of raping a man and the story was featured in Zimbabwe's major news outlets. While the investigation was under way, Lipian confronted his friend about the matter. His friend told him that he met a gay man whom he invited over to his place. They had sexual intercourse, which his friend was adamant was consensual. The man left the friend's home the next day and went back to his family. Then, the family contacted Lipian's friend, accusing him of raping their family member. They demanded that he give them money, or they would have him arrested. Lipian's friend ignored the threats, but the episode culminated in his being arrested. Lipian states that the courts in Zimbabwe are mostly objective and thorough when interpreting the law. When it comes to cases of alleged rape, the courts will always seek to establish two things: first, that the people

involved were of consenting age, and, second, whether or not the act was consensual and voluntary. On these two points, the court found that the allegations against Lipian's friend were false and that he was innocent. 'The courts will analyse from an honest point of view, unlike police officials and society at large.' This demonstrates that Zimbabwe's courts are to some extent free from bias when the individuals on trial are part of the LGBTQ community. The same is true for Botswana, where the courts recently ruled that same-sex activity should be legalised, despite government misgivings.

## Mike (Eswatini)

The second person I interviewed asked that I keep his identity secret, as he believed that his opportunities would be diminished were his sexual orientation to become public. He will simply be referred to here as Mike. Mike was born and grew up in Eswatini before coming to South Africa to study, first at the North-West University Mahikeng campus, and, later, at Rhodes University in Makhanda (Grahamstown).

He acknowledged that his life as a young gay man in Eswatini had 'not been smooth'. Eswatini, he says, is a conservative Christian country and that the social and legal restrictions imposed on him prompted him to relocate to South Africa. When I asked Mike about his family, he conceded that his father 'took years to come around' after he opened up about his sexual orientation. His dad told him that even though he could not accept the fact that Mike was gay, he would nevertheless continue to love and support his son as a godly man. Mike's mother on the other hand has been very understanding, to the extent that Mike was allowed to bring his partner of more than 10 years to a family event at home.

Mike notes that there is a visible shift of perceptions of homosexuality amongst young people in Eswatini. He states that when he attended Eswatini's first Pride March in 2018, a lot of young people (many heterosexual) came out to support the parade. He further believes that with the conclusion of the second, larger Pride earlier this year, the LGBTQ community has become more visible to Eswatini society. He further states that while news outlets used regularly to expound anti-gay propaganda, this has changed and homophobic comments in the media are rare. Although he says that Eswatini is not yet at the level of South Africa, he is confident that the country is making progress.

Despite this progress, Mike says that several political elites and those in the upper-echelons of society still firmly hold to homophobic views. According to Mike, the King's sister had to renounce being lesbian during an initiation event in order to make it to parliament. Mike says that this indicates that in order to climb the social and corporate ladder, LGBTQ people have to keep their sexuality and identity a secret. This is also why he would like to remain anonymous in order to protect his future job prospects. Mike further states that even though South Africa is much more liberal than Eswatini, he still faces some level of prejudice as a black, gay man. He has had to work harder to convince people not to judge his skills set by his sexuality.

With regards to LGBTQ civil society organisations, Mike believes that activists in Eswatini have been fairly successful in getting the government and society at large to pay attention to the gay community by emphasising the health aspect. Due to lack of access to education on health-related matters as well as a lack of access to health facilities, HIV and AIDS have had a more devastating impact on the LGBTQ community. Through campaigns, LGBTQ activists have been able to destigmatise and create awareness of HIV and AIDS as well as sexual orientation.

When I asked what the best approach should be to cement LGBTQ rights in the country, Mike said that 'change needs to come from within Eswatini society'. He continued: 'Eswatini is a religious and a cultural country. There is a lot of patriotism and especially pride in Swazi culture. The strong emphasis on culture is partly the reason why Eswatini is still an absolute monarchy, for example. For this reason, change that is encouraged from outside might have been met with resistance. It could be interpreted as Western propaganda and neo-colonialism.' Instead, Mike advocates that LGBTQ civil society organisations such as the Rock of Hope encourage change from within the society by 'merging LGBTQ rights with Swazi culture'. In other words, he believes that popularising the idea that people who are Swazi can also be gay and proud of their Swazi heritage, and that culture and LGBTQ identity do not necessarily stand opposed to each other, can go a long way towards creating acceptance in the population of Eswatini.

## Alan Msosa (Malawi)

Alan identifies as a heterosexual man from Malawi, but he has done extensive research on LGBTQ-related issues and has worked closely with activists and rights groups over the years. His work also required him to engage regularly with the local gay community. Between 2001 and 2008, Alan worked in the Office of the Ombudsman in Malawi, before moving to Namibia in 2009 to do health-related work, which included HIV- and AIDS-related issues. Between 2011 and 2013, Alan was based in Pretoria. He later went back to Malawi to do field research for his PhD.

Alan said that it was during his time in Namibia in 2009 that two gay Malawian men, who married in a traditional ceremony, were arrested. Tiwonge Chimbalanga and Steven Monjeza tied the knot in a symbolic public ceremony – the first same-sex couple to do so in Malawi. Alan believes that the arrest (which made headlines across the country) was the first time most Malawians had ever seen or heard of a gay person. The ceremony, he believes, is also quite significant since, in many sections of Malawian society, traditional ceremonies enjoy greater recognition than a typical, formal Christian wedding. The men were sentenced to prison terms of 14 years, but were freed in 2010. When I asked about current anti-LGBTQ legislation in Malawi, Alan noted that the laws were conservative and traditionalist in nature and had become 'major symbols of oppression'. In some instances, these laws can be interpreted to target not just LGBTQ people, but anyone who looks, acts or dresses differently from the norm in Malawi. Alan further stated that even when these laws were not enforced by authorities, they created an atmosphere of fear and prejudice.

I asked Alan to elaborate on the mixed signals coming from government in terms of LGBTQ rights. According to Malawi's penal code, homosexuality is punishable by up to 14 years' imprisonment (ILGA, 2019: 528). However, the ban is rarely enforced. Malawi was also one of a few countries in Africa to prevent American pastor Steven Anderson (who gained infamy for advocating for the extermination of gay people) from establishing a church (Collison, 2016). Yet, at the same time, the Malawian government has refused to take action against homophobic politician Ken Msonda (spokesperson of the former ruling People's Party), who once wrote on Facebook that the best way to deal with homosexuals was to kill them. According to Alan, the government's position on LGBTQ issues is largely influenced by prevailing values and beliefs in Malawian society. The vast majority (around 90%) of Malawians are Christians and still abide by the laws of tradition. 'Homosexuality is largely viewed as ungodly' says Alan. This, says Alan, is the reason why Malawian politicians have been reluctant to push for the decriminalisation of homosexuality. 'If they do, they fall out of favour with the voters'.

In 2017, the Malawi Human Rights Commission (MHRC) suggested that it should conduct a public inquiry to establish the depth and level of understanding of the public of LGBTI people as well as LGBTI issues and rights. The MHRC asked that the ban on homosexuality be suspended until it had concluded the inquiry. The proposed inquiry was met with fierce opposition from the Evangelical Association of Malawi (EAM). Instead of the inquiry, the EAM suggested that a referendum be held on whether to decriminalise homosexuality or not. EAM was probably fully aware that the results of such a referendum would overwhelmingly oppose decriminalising homosexuality. According to the Afrobarometer study mentioned earlier, only 6% of Malawians would feel comfortable having gay people living next door to them. However, Alan feels that the EAM would not have had anything to worry about. He believes that the MHRC's public inquiry would inevitably come to the wrong conclusion – that Malawi's current penal code should remain in place – because it would likely ask the wrong questions.



*For example, many people in the country interpret the definition of homosexuality as meaning not just same-sex activity between two male adults, but also same sex activity between an adult and a child. In other words, many Malawians tend to conflate homosexuality with paedophilia.*

So, said Alan, should the question be whether or not homosexuality should be legalised, a great number of Malawians participating in the inquiry would understand this to mean whether molestation of underage people should become legal. With this conclusion, they would reject outright the idea of legalising same-sex activity and therefore distort the results of the inquiry. Alan stressed, therefore, that when talking about homosexuality in Malawi, it should be made clear that sexual orientation and instances of paedophilia are not connected and should not be grouped together under the same term.

On the topic of societal views about homosexuality, there is a clear urban/rural divide, but not as one might have expected. Alan said that gay people were much more vulnerable to discrimination in the urban areas of Malawi than in the rural parts of the country. This is contrary to the popular belief that city-dwellers are more open-minded and tolerant than their rural counterparts. As mentioned earlier, Afrobarometer found that 27% of African people living in urban areas displayed high levels of tolerance towards gay people in comparison to only 17% of those living in rural areas. However, in Malawi's case, there are a few reasons as to why intolerance is higher in the cities. First, the message that homosexuality is abhorrent is communicated and emphasised more regularly in the cities by high officials, elites and lobby groups. Second, the proximity to the police also plays an important role. People in rural areas invariably live far away from police stations. Therefore, it is more difficult for rural Malawians to contact the police if they want someone who is or is suspected of being gay to be arrested. It is much easier to report an LGBTQ person to the authorities in a more urbanised environment. Lastly, rural Malawians face more critical problems such as poverty and hunger, which means that LGBTQ issues are typically not a priority in villages. 'People in villages may call gay people "silly" or "strange" but they have learned to co-exist with others who are different'.

Although Malawi is a signatory to a number of international agreements to promote human rights, such as the African Charter of Human and People's rights, the government has been reluctant to review the penal code and other anti-gay legislation. The current president, Peter Mutharika, has a somewhat strained relationship with the United Nations (UN), due to attempts by the international body to put pressure on the Malawian government to decriminalise homosexuality. Alan believes that pushing for gay

rights by taking the matter to court would have a favourable outcome, as in Botswana. Botswana's high court earlier this year outlawed discrimination based on sexual orientation. However, Alan says that the government is possibly aware that Botswana's High Court decision could be replicated in Malawi's High Court. The government has therefore found a number of ways to delay court cases brought by LGBTQ activists and human rights groups. On the question on what he believes should be done to encourage LGBTQ rights in the country, Alan recommended small steps. Gunning for marriage equality was a 'much harder battle'. Instead, activists and human rights groups should find ways to water down current anti-gay legislation.

## Jason (Zambia)

My next interviewee also indicated that he wished to remain anonymous. So, for the purpose of this section, he will be known as Jason. Jason has been an LGBTQ and human rights activist since 2008. He is the co-founder of a local LGBTQ organisation and has also worked for an international organisation in the public health sector. Jason has also held a position in government.



*Young people, as confirmed by the Afrobarometer study, tend to be more open-minded and educated on matters relating to sexual orientation.*

Yet Jason notes that Zambian youths remain highly divided when it comes to this issue. Some are highly accepting of the LGBTQ community while others scoff at the idea of allowing more rights for this group. In terms of the rural/urban divide, Jason says that the capital city of Lusaka is a 'diverse, cosmopolitan environment' in which the idea of gay people is 'nothing new'. Many people in Lusaka are, in other words, not concerned about whether their neighbours or colleagues might be gay or lesbian.

What is apparent from my interview with Jason is that the entertainment industry in Lusaka is a safe haven for LGBTQ people. Many LGBTQ people work within the wedding, fashion and performance arts (singers and dancers) sectors and attitudes within the entertainment industry are more favourable towards those with different sexual orientation and gender identities. South African personality and one of Africa's most high-profile gay celebrities, Somizi Mhlongo, was invited by PR Girl Media to be an official guest at the Lusaka July 2019 polo and fashion event, which confirms Jason's sentiments about a more open-minded entertainment industry. However, the Zambian government reportedly stepped in to ban Mhlongo from attending the event (Selisho, 2019). In a briefing at the New Government Complex in Lusaka, the Minister of National Guidance and Religious Affairs, Godfridah Sumaili, as well as a representative from the National Arts Council and two founders of PR Girl Media, addressed the controversy. Minister Sumaili said that performance artists had a strong influence in society and had the power to alter public perceptions. She went on to say that 'the government does not condone a situation where event managers are inviting people with questionable character that might undermine the morals of the land'. Chishimba Nyambe from PR Girl Media adopted a more conciliatory tone and stated that although she personally admired and supported Mhlongo, Zambia was not, unfortunately ready for him yet.

On that note, I asked Jason to elaborate on the government's position on the LGBTQ community. Zambia's current president, Edgar Lungu, has said that he will not agree to equal rights for gay people – even at the cost of international aid. I asked Jason if the sentiment held by the president reflected the views of everyone in government or whether some public officials were actively fighting for decriminalising homosexuality. According to Jason, the government – as in so many other African countries – uses the LGBTQ issue as a way of deflecting attention from more pressing problems that result from governance failure. They do this sort of scapegoating with reasonable success. However, Jason has noticed that Zambian society has in recent years become more aware of the government's deflection tactics. So, when public officials once again highlight the so-called 'LGBTQ problem' ordinary Zambians will likely respond: 'Okay, but what about corruption, poor service delivery and sky-high taxes?'

Jason also pointed out that LGBTQ activists and civil organisations had been successful in lobbying for gay and transgender rights by focusing on HIV and AIDS. An official government document outlining responses to HIV and AIDS in the country includes the necessity to focus on gay and transgender people. According to the government document, no one in Zambia should be left behind when it comes to fighting HIV and AIDS, including those from the LGBTQ community. The fact that LGBTI people are mentioned a lot in the public health sector can be seen as evidence of LGBTQ civil society organisations' most successful approaches in lobbying for greater acceptance and inclusion. Intersex people are also being focused on more by the health sector, and the tone on transgender people in the sector has softened.

Zambian LGBTQ organisations have also been successful in creating spaces where people can talk more openly about issues concerning the community. This is so much the case that visibility of LGBTQ people has increased in smaller towns outside Lusaka. Jason refers to himself as part of the 'old guard' that paved the way for younger LGBTQ people to be more prominent in pushing for equality. The newer generation is more vocal and more willing to participate in events such as an annual Gay Pride March.

Jason took time to elaborate on some of the bigger obstacles facing gay- and human rights groups in the country. One, he says, is that objective conversations around sexual issues, never mind LGBTQ issues, are not usually widely or openly held. This is because in many sections of Zambian society, the Bible is held as the supreme law. Because religion is so intertwined with politics, matters about sexuality and sex in general are neglected. In order for attitudes to shift in Zambia, there should be a greater focus on the country's constitution, and enshrining more rights, than an on religious texts. Media houses in Zambia are also partially to blame for the negative perceptions that Zambians have of the LGBTQ community. They are prone to 'sensationalism' and often lack 'professionalism'. It is very easy for anyone in Zambia to create a news vlog in which they can spread hatred and fake news about gay people.

Jason concluded by saying that court action would be the most appropriate way to push for LGBTQ inclusion. Now that the groundwork had been laid in the health sector, civil society and human rights groups had the foundation to build the fight for equality and dignity. 'LGBTQ people should be humanised. They are tax payers, they have families.'

## Tashwill Esterhuizen (South Africa)

Tashwill is a lawyer at the Southern Africa Litigation Centre (SALC). SALC promotes and advances human rights and the rule of law in southern Africa, primarily through strategic litigation support and capacity building. In our telephonic interview, Tashwill spoke about the events leading up to the decision of Botswana's High Court to scrap laws criminalising homosexuality. In the past, Botswana's main LGBTQ organisation, Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo), took steps to 'test' the courts on where they stood on LGBTQ rights and how they interpreted the law. According to Tashwill, laws in many African countries criminalising homosexuality do not actually criminalise homosexuality itself but rather homosexual conduct. In other words, usually sodomy is the crime, not homosexuality. LGBTQ people could thus be protected under the rights of freedom of association and freedom of expression. This was one of the approaches that LeGaBiBo took and this set the foundation upon which the decriminalisation case was built.

Tashwill thus emphasised that, in promoting LGBTQ rights in African countries, an 'incremental' approach was more suitable.



*'Make it clear that gay people have the right to exist under current laws and then it will be easier to decriminalise same-sex conduct.'*

## Tahila Pimental (Mozambique)

Tahila is originally from Mozambique and was, until recently, a gender researcher for Gender Dynamix – a prominent African transgender organisation. She collaborated with The Other Foundation to produce the *Canaries in the Coal Mine* report, which analysed LGBTI activism in Mozambique. I spoke to her about her findings in the report.

One of the recommendations in her report is to go 'Beyond programmes that target MSM (Men who have sex with men)' and to encourage the deconstruction of what MSM means as a key population. I asked her what she meant by this. According to Tahila, a lot of funding from foundations to support LGBTI communities in Africa including Mozambique is MSM- and HIV-focused. On the one hand, focusing on the health aspect has helped to direct more attention to people most vulnerable to HIV and AIDS, such as men who have sex with men. MSM work and HIV- and AIDS-related initiatives by the public health sector have provided space, visibility and funding for MSM and LGBTI activism in Mozambique. On the other hand, focusing only on MSM and HIV and AIDS when it comes to LGBTI rights has created a specific – and very stigmatised – narrative. In her *Canaries in the Coal Mine* report, she writes: 'MSM is often understood as cisgender men who have sex with men and trans women, and predominantly associates MSM populations with HIV/AIDS' (The Other Foundation, 2017: 17). Tahila proposes that there be an 'HIV and MSM breakaway' and more focus on other areas such as education and awareness campaigns when it comes to LGBTI activism. LAMBDA, Mozambique's most prominent LGBTI rights group, has managed to do so by creating programmes focusing specifically on transgender rights and gay and lesbian people.

As noted earlier, the 'homosexuality is unAfrican' narrative has been prominently used by some African elites to bolster anti-gay sentiment on the continent. Tahila said that during her research on LGBTI activism in Mozambique, she did not come across that particular discourse, which could point to a



populace more informed about the history of gay people on the continent. Mozambique appears to be one of the more liberal and tolerant countries on the continent when it comes to LGBTI rights. Mozambique decriminalised same-sex activity in 2015. According to Afrobarometer's study, cited earlier, a majority of 56% of people surveyed in the country indicated that they would not mind having gay neighbours. The research Tahila has done also includes some positive observations. While there are no LGBTI-only bars and clubs in Mozambique, there are specific places that are known to be LGBTI-friendly. La Biba and La Santa, a singer and performance group that is openly gay and cross dresses during shows, regularly features in Mozambican media (The Other Foundation, 2017: 11). LAMBDA is regularly invited to government events. In terms of religion, LAMBDA has found that so-called 'New Wave' churches which resonate more with younger generations, are more accepting of LGBTI people than traditional and orthodox churches (The Other Foundation, 2017: 11).

Since Mozambican society appears to be relatively tolerant, at least in comparison with other African countries, I asked Tahila whether she thought the country was ready to talk about issues such as transgender and intersex rights. 'Mozambique has all these beautiful laws and I want to be optimistic. However, I would have to say no.' She explained that the fact that LAMBDA had not been able to officially register in Mozambique spoke volumes about the government's position on LGBTI activism. In her report, she further lists areas of concern. LGBTI rights are for the most part still excluded from Mozambique's legislation. Furthermore, laws that focus on the family tend to be heteronormative and laws on transgender people and gender non-conforming people are absent. There is also a lack of media attention given to local LGBTI issues and most coverage of the topic tends to be international reportage. In one example, a prominent Mozambique radio journalist, Emilio Manhique, approached the issue of gay marriage on his programme in 2006. Most people who called in were shocked that the issue had even been raised. Despite the public health sector paying more attention to MSM work and LGBTI people, LGBTI people are still reluctant to approach medical institutions due to the high levels of stigmatisation they experience. Although LAMBDA operates with relative freedom, the Ministry of Justice has until recently not offered an explanation for the delay in registering the organisation. 'It is worrying for the organization's founders, staff and members, that the NGO is not operating 'legally' and can therefore suffer the consequences of 'illegality' at any moment' (The Other Foundation, 2017: 16).

## Paula Sebastio (Angola)

Paula works for an LGBTI activist group in Luanda, Angola. It has an array of objectives. One of its main goals is to memorialise content on gender and sexuality in Angola as well as translating existing LGBTI books, research reports and other documents, including an LGBTI manifesto created in Kenya. It also provides a shelter for the LGBTI community.

Angola's Penal Code, which criminalises 'indecent acts' and persons engaging in 'acts against nature', has been active since 1886. On 23 January 2019, Angola's government adopted its first new penal code since it gained independence from Portugal in 1975 (Reid, 2019). The new Penal Code excludes 'acts against nature'. This followed the government's decision to allow for the registration of Iris Angola – the country's main LGBTI organisation. Given these recent events, I asked Paula if she regarded Angola as one of the more 'gay friendly' countries on the continent. 'Compared to other African countries, I would agree that Angola is more tolerant. There is increased dialogue between LGBTI groups and certain ministries, especially the Justice Minister. There is definitely more space to have these conversations and the LGBTI community now has a seat at the table.' However, Paula also made it clear that a lot of LGBTI

people continue to be ejected from their homes and schools. Furthermore, women in the LGBTI community (lesbian, bisexual and transmen) remain largely 'invisible' and are to an extent excluded from the political, economic and social aspects of the movement.

Paula says there is limited to no conversation about transgender and intersex people. However, she did mention that transgender people were getting increased exposure thanks to a few popular Angolan artists who were open about their sexuality and gender identity. Furthermore, some culture groups had a relatively positive association with transgender people. Research by my previous interviewee, Tahila, mentions a report produced by the Human Sciences Research Council (HSRC) on Angola which captured some of these varying beliefs.



*According to the report, some culture groups in Angola believe that masculine-to-feminine cross-dressers and transgender people are 'powerful wizards' (The Other Foundation, 2017: 6).*

This differs from some views held by other culture groups in neighbouring African countries, which believe that transgender people are 'possessed' (The Other Foundation, 2017: 6). The narrative in the Angolan context at least has a more positive connotation, as transgender people are regarded as having special powers and being spiritually gifted.

## Eric (Tanzania)

Until now, I have recorded the views and experiences of people who are originally from Africa. However, it is useful to include the experiences of individuals from outside Africa who currently – or used to – reside on the continent for the purpose of work/study or tourism. I came across a European student who studies in Tanzania and who agreed to share some of his experiences in the country as a gay foreigner. For security reasons, he asked to remain anonymous, so for the purpose of this report he will be known as Eric.

Legislation aside, I asked Eric what he perceived as some of the main differences between Tanzania and his country of origin. First, Eric pointed out that the legal situation in Tanzania was 'reflected more by its citizens'. In other words, Tanzanians' beliefs and attitudes about the LGBTQ community were closely aligned with the country's laws on sexual orientation and same-sex activity. Furthermore, homosexuality was an obscure topic that was rarely discussed openly amongst citizens. In fact, Eric says that matters relating to sexual orientation often only get talked about when a prominent member of government, religion or the media decides to bring it to the table for discussion.

Another major perceived difference for Eric is how the people in his country identify a flamboyant male compared with Tanzanians. For example, a man who has flamboyant mannerisms and acts in an effeminate manner may be perceived by many Europeans as possibly being gay. However, according to Eric, when a European visitor in Tanzania displays these characteristics, the citizens are unlikely to connect that with a homosexual orientation. Instead, many of them will brush it off as a quirks of Europeaness. This phenomenon is also applied when it comes to family structure. According to Eric, people in Tanzania are more likely to marry early and have children at a younger age. Where he comes from, people tend to wait longer before marrying and may or may not have children. When, for example,

an older Tanzanian man has not married and does not have children, people in the country might suspect that something is wrong with him. Older, single Westerners are relatively free from such judgements.

I asked Eric whether there were any underground venues for the LGBTQ community to safely come together to socialise. He mentioned that the one or two LGBTQ-friendly places in Tanzania that he knew of, were frequently raided by police. He doubted whether they were still operating. Furthermore, four-star hotels, especially big chain hotel groups located in the cities such as Dar es Salaam, were the safest places for Westerners to meet someone and have privacy. But he says that even using the word 'safe' is a stretch. 'There are no safe spaces in Tanzania.' He likens the situation with a war-zone. In a war-torn country, even the safest places are not safe. It just means they get bombed less frequently.

Eric has met a few LGBTQ internationals in Tanzania – some who only stayed for a few months, while others stayed for much longer. Those who stayed for a short period did not actively try to connect with other LGBTQ people in the country. Those who stayed longer, however, used an online app for LGBTQ people. This online app is relatively safe to use, as a user's location is not displayed – making it harder, for an undercover policeman, for example, to track LGBTQ members through the app. According to Eric, many users do not have a face picture on their profile. Also, a number of sex workers use the app, too. When using the app, most LGBTQ Westerners prefer to connect only with other internationals. One of the main reasons for this is that there have been incidents of blackmail. According to Eric, some locals using the app would initially indicate that they were interested in dating – but, after the date, would threaten to report the visitor to their friends in the police unless he or she paid a certain amount of money. This had made many Westerners and other foreign nationals wary of connecting with locals. Many Tanzanians prefer to connect only with internationals for the same reason. Internationals, especially people from the West, where gay rights are well-established, are perceived to be much more trustworthy for locals. Also, many locals hope that connecting with a foreigner may be their ticket out of Tanzania.

Eric highlighted other prevailing cultural aspects in Tanzania that made the situation harder for the country's local LGBTQ citizens. First, Tanzanian society had a top-down structure. 'You do not question authority'. Many police officials were also inclined to abuse their authority. They would purposely try to find a reason to arrest someone, and they would loosely interpret the law to make it easier to do so, unless you paid a hefty bribe. There were limited spaces for civil society organisations, and freedom of speech in general. Second, even feminism was regarded as a Western import. 'The country is quite patriarchal. And the idea that feminism is against God is quite popular.' Third, Tanzania was a highly conservative religious society. Christianity and Islam were the two biggest religions, and many in Tanzania used their religious texts to condemn homosexuality.

Lastly, I asked Eric what he thought should be done to further LGBTQ rights in Tanzania. Eric said that approaching gay rights as a singular topic would not accomplish much. Instead, through education and other means, a culture of showing compassion to those who were most vulnerable – those with disabilities, the elderly, women – should be created. After achieving this, it would be an easier road to embark on when it came to fighting for LGBTQ rights.

## SECTION 4

### Summary and additional findings

There is a clear link between education and LGBTQ tolerance. However, there seems to be a reluctance among school authorities to include information on sexual orientation and gender identity in the curriculum. In the case of Zimbabwe, most schools are highly conservative and LGBTQ pupils are most likely to remain closeted until they graduate. As the Zimbabwean case shows, only the most prestigious schools in the country have a relatively tolerant view of people with alternative sexual orientations and gender expressions. Even in South Africa, there are some major stumbling blocks in the education system. The Other Foundation's Progressive Prudes report showed that there is modest support for more education about the human rights and social inclusion of gay and lesbian people. However, when asked if learners should be taught about gay and lesbian rights at school, nearly 50% of respondents in the survey disagreed, compared to 33% who agreed and 17% who either don't know, neither agreed nor disagreed or had no opinion (The Other Foundation, 2016: 50). Furthermore, when asked whether there should be community-based education to make South Africans aware of gay and lesbian rights, only 38% agreed, while 42% disagreed (The Other Foundation, 2016: 50).



*Access to education that informs people about sexual orientation, gender identity and social inclusion of the LGBTQ community is still largely absent in many African countries.*

In a number of the interviews, religion as an issue came up, especially in countries such as Zimbabwe, Eswatini, Malawi, Zambia and Mozambique. In the case of Malawi, a public enquiry to investigate the public's understanding of LGBTI people and issues was strongly opposed by the EAM. The Bible is regarded in some countries as the supreme law of the land, as in the case of Zambia. Because of this, the government and churches have a close relationship and this relationship is often the reason why anti-gay legislation remains in place. Yet, in other cases, the winds of reform are blowing into places of worship. Malawi was one of the first African countries to prevent Steven Anderson (American Independent Baptist pastor) from establishing a church which would advocate killing gay people. In Mozambique, New Wave churches have adopted a more tolerant stance towards LGBTQ people.



*In South Africa, the High Court in Pretoria ruled that the Dutch Reformed Church's exclusion of same-sex couples and queer clergy is unconstitutional. Nevertheless, a lot of work needs to be done to reconcile religious views with LGBTQ acceptance in Africa.*

Media has proved to be a powerful tool in advancing LGBTQ rights on the continent. As in the case of Lipian from Zimbabwe, social media such as Facebook has allowed him to connect with other LGBTQ members in a safe and anonymous manner. LAMBDA heavily relies on social media for activist initiatives and campaigns. 'LAMBDA hosts gay parties and LGBTI-focused events that are mostly advertised through emails, text messages and WhatsApp groups.' (The Other Foundation, 2017: 12). Furthermore, LAMBDA's Facebook page has 40 000 likes and is amongst the top 10 most-accessed Mozambican pages (The Other Foundation, 2017: 19).



*Media has proved to be a powerful tool in advancing LGBTQ rights on the continent.*

The use of language is another important issue to consider. In the case of Malawi, questions on decriminalising homosexuality can easily be misunderstood by many to mean decriminalising paedophilia. This is because the two words in a Malawian context are confused, with damaging repercussions for the local LGBTQ movement.

During the Other Foundation's field work for their Progressive Prudes Report, it became clear that some language groups do not have equivalent terms for the English words 'sexual orientation' and 'gender expression' (2016:19). Through their research, The Other Foundation managed to establish that there were half a million people in South Africa in 2016 who identified as either gay, lesbian, bisexual or transgender (LGBT) (2016: 29). They did however state that the results were established by asking about 'identity' rather than 'same-sex attraction' (2016: 30). Had the survey question rather focused on 'same-sex attraction' than 'identity', the results would have been quite different.

Courts have been an important player in the success of LGBTQ movements. In the case of Lipian's friend who was falsely accused of raping a man, the court in Zimbabwe acted in an objective way by focusing on the circumstances rather than being swayed by the accused's sexual orientation. The High Court in Botswana has also found in LGBTQ activists' favour to decriminalise homosexuality, despite objections from the government. In fact, the High Court of Botswana has been pivotal in advancing LGBTQ rights in the country. In 2016, it ordered the government to register LeGaBiBo – Botswana's main gay rights organisation. And, in 2017, it ruled that transgender people have the right to legally change their gender. My interviewee from Malawi believes that the decisions made by Botswana's High Court will most likely be repeated in Malawi – thus the government's determination to delay many of these court cases. According to my interviewee from SALC, an effective way to go about pushing for decriminalisation is to focus more on the queer community's right to freedom of expression and association rather than on same-sex activity.

Focusing on HIV and AIDS has helped to shift attention to the LGBTQ community. Members of this group are highly vulnerable when it comes to HIV and AIDS and, since many African countries' constitutions require that all citizens deserve access to quality healthcare, LGBTQ people have gained greater visibility through public health campaigns. Health campaigns are usually the first step that many activists use to garner awareness on LGBTQ rights. However, this is a double-edged sword scenario, as Tahila from Mozambique explains. Using the HIV and AIDS epidemic and other health aspects to inform more people on the rights of the LGBTQ community could result in a more stigmatised image of this group. Many people might say that 'they are being punished with the disease for their lifestyle', for example. Tahila believes that LGBTQ movements should move away from just focusing on the health aspects and bring in other issues, such as education, employment, and other awareness campaigns.

## SECTION 5

### Additional recommendations

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*As shown in the literature review and the interviews I have conducted, many Africans still believe that same-sex activity and LGBTQ rights are Western practices and, thus, alien to the continent.*

However, there is a wealth of historical evidence that disproves this narrative. An early researcher in Africa, John Weeks, reported in 1909 that sodomy between men was quite common among the Bangala of the Congo and was ‘regarded without shame’(Neil, 2009: 53). Homosexuality was commonplace among unmarried Tutsi and Hutu men in Rwanda, while lesbian relationships were common among the Nandi of Kenya, and basically universal among unmarried Akan women of Ghana (Neil, 2009: 53). In the Langi tribe of northern Uganda, people who were born intersex or who were regarded as impotent, would be labelled as a third gender known as mudoko dako. Mudoko dako people were legally and socially allowed to marry a man or woman and acquired either traditional male or female roles (Prower, 2018). Studies and observations in Tanzania also warrant the view that homosexuality is not foreign to Africa or to the country specifically. It has been recorded that same-sex practices were said to be very common among the Nyakyusa men prior to marriage in the mid-1930s (Moen et al, 2012: 9). During the 18th and 19th centuries in the Ashanti Kingdom, male concubines in Ghana were a common sight (Prower, 2018). These male concubines were sex slaves who were expected to dress and act as women. In the Dahomey Kingdom in Ghana, males castrated during rituals served as royal wives within the upper courts (Prower, 2018). These eunuchs were regarded as more female than male and occupied influential positions in the courts, thus, granting them extensive power. Although these examples are well-documented, a high proportion of Africans are not aware of these facts. Distributing this information more widely and making it more accessible to the general population could go a long way to change people’s minds about homosexuality.



*If African governments refuse to acknowledge LGBTQ rights for moral reasons, then they should do so for economic ones.*

The United States has done extensive research on the power of the Pink Dollar, the purchasing power of the LGBT community. According to Witeck Communications (a leading strategic communications firm), the Pink Dollar was valued at \$917 billion in 2015, up from \$790 billion in 2012 (Witeck Communications, 2016). To put this into perspective, the Pink Dollar rivals the buying power of other minority groups in the US. Research by the University of Georgia’s Selig Centre for Economic Growth estimated the purchasing power of African-Americans to be valued at \$1.2 trillion in 2015, while Hispanic buying power totalled \$1.3 trillion and Asian buying power reached \$825 billion. A more recent study, published in 2019, found that Kenya loses hundreds of millions of dollars each year due to anti-gay discrimination. The study was conducted by Open for Business (a coalition of global companies), and was able to quantify the economic losses that countries such as Kenya suffer due to the implementation of homophobic laws. According to the study, Kenya was set to lose at least \$140 million in tourism revenue (Open for Business, 2018: 31).

Tourism is one of Kenya's most important sectors so any limitation on this industry severely hurts the country. Second, it is estimated that anti-gay legislation in Kenya escalates healthcare costs to up to \$1 billion (Open for Business, 2018: 21). This, the report says, is because lack of rights has led to depression and HIV and AIDS having a devastating impact on the local LGBTQ community. Finally, the report notes that the underutilisation of human capital also has a detrimental effect on the economy. Kenya loses up to \$105 million due to economic exclusion of LGBTQ members, resulting in unemployment, underemployment, lost wages, less tax and lower productivity (Open for Business, 2018: 32). Thus, there are clear economic benefits to be derived from extending human rights to marginalised and excluded minorities such as the queer population.



*Business can also play an important role in advancing human and LGBTQ rights around the world.*

Earlier in 2019, Brunei was in the process of implementing the death penalty for those found guilty of adultery and homosexual sex (with the penalty being death by stoning). There followed an international outcry, with businesses and business and organisations leading the charge. The *Financial Times*, Deutsche Bank, and TV Choice magazine cancelled events scheduled to take place at the Dorchester Hotel chain group, owned by the Sultan of Brunei (Hancock et al, 2019). STA Travel, a large Swedish-owned travel company for students, announced that it would no longer sell flights on Brunei's national carrier (Hancock et al, 2019). The state government of Queensland, Australia suspended plans to partner-up with Royal Brunei Airlines. Following the backlash, Brunei has since backtracked on enforcing the laws (The Guardian, 2019). This demonstrates that sanctions from businesses can play a major role in preventing further marginalisation of the LGBTQ community. In the Brunei case, businesses played a largely reactive role. They can however be more proactive in encouraging gay rights, as in the case of tech giant, Microsoft. Recently, Microsoft South Africa has entered a partnership with the Jozi Catz Rugby Club – Africa's first LGBT and inclusive competitive rugby club (Boucher, 2019). Not only will the Jozi Catz receive cloud-based services from the technology company, but the partnership will support the Club's growth and their goal to promote inclusivity in sport domestically and north of South Africa's borders. Microsoft has a well-established reputation as an ally of the LGBTQ community. In 1993, Microsoft became the first Fortune 500 company to provide same-sex domestic partnership benefits, and is one of the first to include sexual orientation in its non-discriminatory corporate policy (Whitney-Morris, 2018). As a major multi-national company, Microsoft has not only encouraged LGBTQ rights in its parent country (the United States), but has also pushed for non-discrimination practices globally. In 2016, Microsoft established a team to further policy and advocacy of global human rights, including LGBTQ rights. Microsoft also supported gay marriage in Ireland and has committed itself to supporting marriage equality in every market it operates in. These examples, including the partnership with Jozi Catz, indicates how major businesses such as Microsoft can play a role in promoting LGBTQ equality globally. Earlier years saw businesses remaining neutral whenever governments passed legislation regarding sexual orientation. However, in recent years, a growing number of businesses have been willing to play a proactive role –as Microsoft has –in pushing for LGBTQ rights. Not only are business leaders openly supporting their LGBTQ employees and customers, but many are mobilising to take a stand against oppressive anti-LGBTQ laws being implemented or strengthened in some parts of the world. International businesses could support the local LGBTQ community through their local and regional headquarters by providing employment and funding charities.

Of course, as it emerged in my interviews, there is a fine line to tread for foreigners, foreign governments and entities when it comes to promoting LGBTQ rights in Africa and other homophobic regions in the world. An aggressive approach risks being interpreted as Western governments trying to undermine the authority of African leaders and traditional African values and beliefs. During the 138<sup>th</sup> Inter-Parliamentary Union (IPU) Assembly in Geneva in 2018, for example, Uganda's Speaker of Parliament, Rebecca Kadaga, threatened to withdraw her country from the gathering should some nations (mainly European) insist on pushing for the inclusion of LGBT people in a declaration on migrants and refugees. Kadaga's rant was followed by a renewed call by members of parliament in Uganda to introduce an anti-gay law, based on the premise that homosexuality is unAfrican. Second, LGBTQ foreign donors (although well-meaning) could unwittingly contribute to the stigmatisation of LGBTQ Africans through funding of health-related projects and HIV and AIDS campaigns. Foreigners also need to be conscious of the fact that terms such as homosexuality might have different interpretations and connotations in some African cultures. International support, however, is vital to uplifting the African LGBTQ community. Therefore, foreign donors and campaigners should try to focus on empowering local LGBTQ organisations. Local LGBTQ organisations have a better understanding of the contexts in which they operate and any change they bring will be better received by the general population than change being pushed from so-called 'outside forces'.

## SECTION 6

### Conclusion

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Sub-Saharan Africa remains one of the most hostile regions for the LGBTQ community. However, in each of my interviews, I was able to find reasons for hope. From the heterosexual student publicly standing up to defend his gay teacher in Zimbabwe, to the a large number of straight people coming out in droves to support Eswatini's first LGBTQ parade, the official government document on combating HIV and AIDS that explicitly includes gay and transgender people in Zambia, the Botswana High Court siding with LeGaBiBO, churches in Mozambique becoming more inclusive of LGBTQ people, and increased dialogue between LGBTQ groups and the Justice Minister in Angola, it is clear that progress is happening. Africa is moving in the right direction, but the pace will be slow, especially in countries such as Tanzania, Zambia and Malawi.



*Through increased partnerships between progressive international organisations and local LGBTQ network groups and civil society institutions, I have no doubt that the pace will accelerate.*



## REFERENCES

- 1 Afrobarometer, *Good neighbours? Africans express high levels of tolerance for many, but not for all*, 1 March 2016.
- 2 Bearak, M. *Botswana legalises gay sex, striking down colonial-era laws*, The Washington Post, 11 June 2019. [https://www.washingtonpost.com/world/africa/botswana-legalizes-homosexuality-striking-down-colonial-era-laws/2019/06/11/7b3f9376-8c0f-11e9-b08e-cfd89bd36d4e\\_story.html](https://www.washingtonpost.com/world/africa/botswana-legalizes-homosexuality-striking-down-colonial-era-laws/2019/06/11/7b3f9376-8c0f-11e9-b08e-cfd89bd36d4e_story.html)
- 3 Boucher, Q. *Did you know the Jozi Cats are Africa's first inclusive gay rugby team?*, The New Castilian, 27 August 2019. <https://newcastilian.co.za/2019/08/27/did-you-know-the-jozi-cats-are-africas-first-inclusive-gay-rugby-team/>
- 4 Collison, C. *Malawi government says 'kill the gays' pastor will not be received' in the country*, Mail&Gaurdian, 24 October 2016. <https://mg.co.za/article/2016-10-24-00-kill-the-gays-pastor-now-trying-to-infiltrate-malawi>
- 5 DeBarros, L. *Is South Africa helping Kenya censor LGBTQ expression?*, Mambaonline, 16 May 2017. <https://www.mambaonline.com/2017/05/16/south-africa-helped-kenya-censor-lgbti-expression/>
- 6 Hancock, A., Gross, A., Evans, J & Reed, J. *Brunei-owned hotels boycotted over law against gay and extramarital sex*, Financial Times, 5 April 2019. <https://www.ft.com/content/48ac8ca2-56ef-11e9-91f9-b6515a54c5b1>
- 7 Human Rights Watch (HRW), *Dignity Debased: Forced anal examinations in homosexuality prosecutions*, July 2016
- 8 Human Rights Watch (HRW), *Kenya: Court upholds archaic anti-homosexuality laws*, 24 May 2019. <https://www.hrw.org/news/2019/05/24/kenya-court-upholds-archaic-anti-homosexuality-laws-0>
- 9 Igual, R. *Ghanaian newspaper warns of "international conspiracy" to push LGBT rights*, Mambaonline, 26 May 2018. <https://www.mambaonline.com/2018/05/26/ghanaian-newspaper-warns-international-conspiracy-push-lgbt-rights/>
- 10 Igual, R. *Uganda's Speaker of Parliament blasts efforts to protect LGBT refugees*, Mambaonline, 31 March 2018. <https://www.mambaonline.com/2018/03/31/uganda-speaker-parliament-blasts-efforts-protect-lgbt-refugees/>
- 11 Igual, R. *Zimbabwe human rights commissioner praises Mugabe's homophobia*, Mambaonline, 24 April 2017. <https://www.mambaonline.com/2017/04/24/zimbabwe-human-rights-commissioner-praises-mugabes-homophobia/>
- 12 Komane, K. *Analysis: Gay-bashing in Africa is a 'colonial import'*, Daily Maverick, 25 June 2019.
- 13 Luleki Sizwe, accessed 25th September 2019, <https://www.luleki-sizwe.com/>
- 14 Moen, K., Aggleton, P., Melkizedeck, T & Middleton, L&A. *Same-sex practicing men in Tanzania from 1860-2010*, 29 March 2012.
- 15 Neil, J. *The origins and role of same-sex relations in human societies*, 14 January 2019.
- 16 News24, accessed 23rd September 2019, <https://www.news24.com/SouthAfrica/News/have-your-say-on-home-affairs-officials-refusing-to-marry-same-sex-couples-20180921>
- 17 Open for Business, *The economic case for LGBT+ inclusion in Kenya*, 16 December 2018.
- 18 Prower, T. *Queer Magic: LGBT+ Spirituality and culture from around the world*, 8 June 2018.
- 19 Reid, G. *Angola decriminalises same-sex conduct: Discrimination based on sexual orientation banned*, 23 January 2019 <https://www.hrw.org/news/2019/01/23/angola-decriminalizes-same-sex-conduct>
- 20 Selisho, K. *Somizi makes front page news in Zambia for slamming homophobic minister*, The Citizen, 4 July 2019.
- 21 The Guardian, *Brunei says it will not enforce gay sex death penalty after backlash*, 5 May 2019. <https://www.theguardian.com/world/2019/may/05/brunei-says-it-will-not-enforce-lgbt-gay-sex-death-penalty-after-backlash>
- 22 The International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), *State-sponsored homophobia 2019*, 13th ed, March 2019.
- 23 The International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), *The personal and the political: Attitudes to LGBTI people around the world*, October 2016.
- 24 The Other Foundation, *Canaries in the coal mines: An analysis for LGBTI activism in Mozambique. 2017*. [http://theotherfoundation.org/wp-content/uploads/2017/06/Canaries\\_Mozambique\\_epub\\_Draft2\\_CB2.pdf](http://theotherfoundation.org/wp-content/uploads/2017/06/Canaries_Mozambique_epub_Draft2_CB2.pdf)
- 25 The Other Foundation, *Canaries in the coal mines: An analysis of spaces for LGBTI activism in Angola. 2017*. [http://theotherfoundation.org/wp-content/uploads/2017/02/Canaries\\_Angola.pdf](http://theotherfoundation.org/wp-content/uploads/2017/02/Canaries_Angola.pdf)
- 26 The Other Foundation, *Progressive Prudes: A survey of attitudes towards homosexuality & gender non-conformity in South Africa. 2016*.
- 27 Thornycroft, P. *Gay Zim teacher forced to quit saddened by 'level of intolerance'*, Independent Online, 30 September 2018. <https://www.iol.co.za/news/africa/gay-zim-teacher-forced-to-quit-saddened-by-level-of-intolerance-17276167>
- 28 Whitney-Morris, C. *The rainbow ripple effect: How Microsoft and its LGBTQ+ employees push for change across borders*, 1 June 2018. <https://news.microsoft.com/life/pride/>
- 29 Witech Communications, *Media release: America's LGBT 2015 buying power estimated at \$917 billion*, 20 July 2016. <https://www.rivendellmedia.com/assets/LGBT-Buying-Power-2016.pdf>
- 30 World Economic Forum (WEF), Stonewall 50. *Where next for LGBT+ lives?*, 28 June 2019.
- 31 ZimLive, *'I'm gay' teacher declares at assembly of top Harare boy school*, 21 September 2018.



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