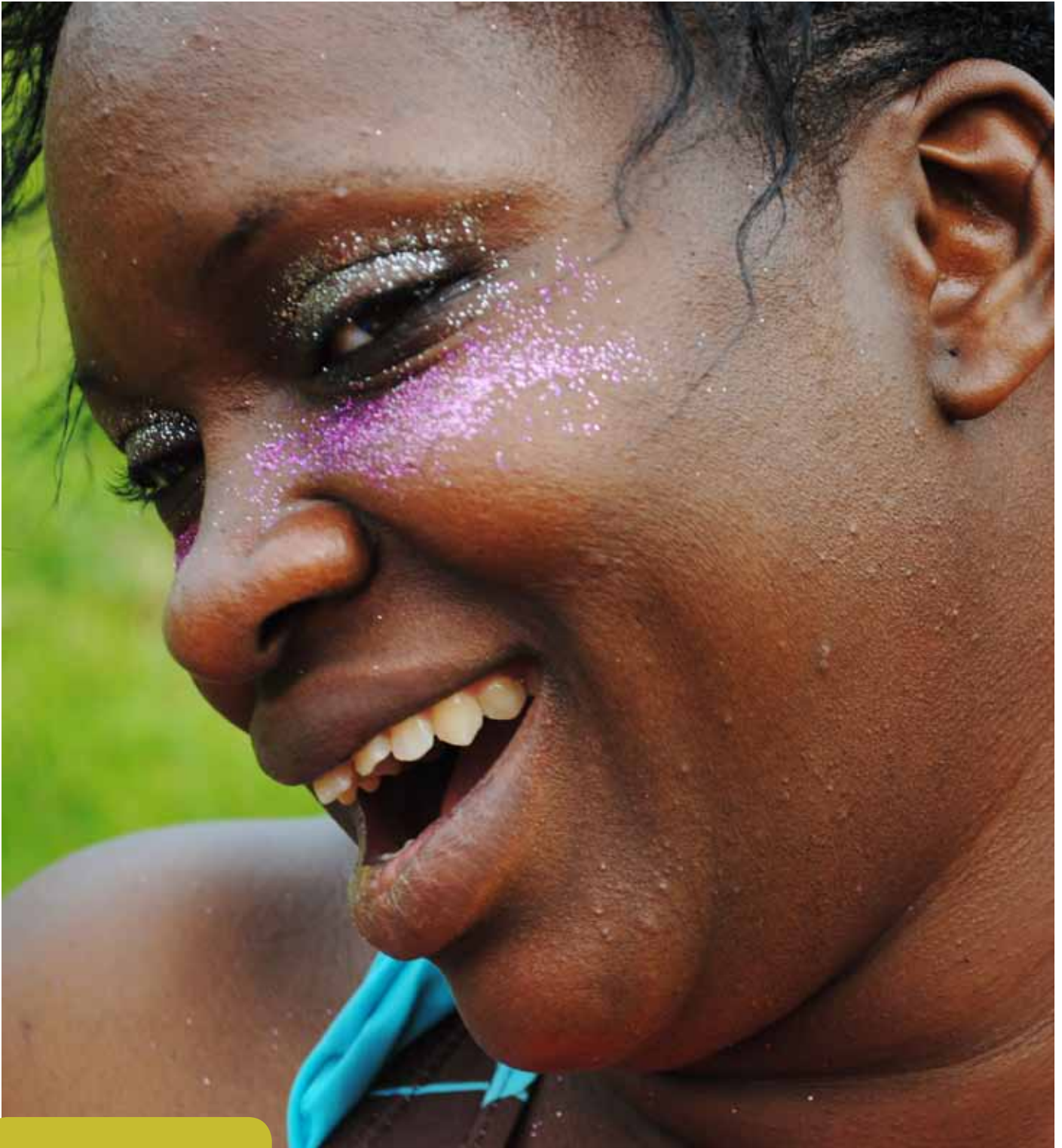


RESILIENCE AMIDST ADVERSITY:

Being gay and African in the new century



Case Study

Commissioned by The Atlantic Philanthropies and the OTHER Foundation
Written by Marian Nell and Janet Shapiro, February 2013

Photograph: Gay and Lesbian Coalition of Kenya ©

Front cover: Participant in the first ever Pride celebrations in Uganda, August 2012

Photograph: David Robinson ©



Abbreviations

ACHPR	African Charter on Human and Peoples' Rights	LGBTI(s)	Lesbian, gay, bisexual, transgender and intersex (people)
AIDS	Acquired Immune Deficiency Syndrome	LGEP	Lesbian and Gay Equality Project
AJWS	American Jewish World Service	MDC	Movement for Democratic Change
amfAR	Foundation for AIDS Research	MP	Member of Parliament
AMShEr	African Men for Sexual Health and Rights	MSM	Men who have sex with men
ANC	African National Congress	NGO	Non-governmental organisation
AU	African Union	OSF	Open Society Foundations
BtM	Behind the Mask	OSF-SA	Open Society Foundation for South Africa
CAL	Coalition of African Lesbians	OSISA	Open Society Initiative for Southern Africa
CSO	Civil society organisation	ROHR	Restoration of Human Rights
DRC	Democratic Republic of the Congo	SIDA	Swedish International Development Agency
ECOSOC	United Nations Economic and Social Council	SIPD	Support Initiative for People with atypical sex Development
EU	European Union	SMUG	Sexual Minorities Uganda
FARUG	Freedom and Roam Uganda	STD	Sexually transmitted disease
GALA	Gay and Lesbian Memory in Action	STI	Sexually transmitted infection
GALCK	Gay and Lesbian Coalition of Kenya	TIC	The Inner Circle
GALZ	Gays and Lesbians of Zimbabwe	UHAI-EASHRI	East African Sexual Health and Rights Initiative
HIV	Human Immunodeficiency Virus	UK	United Kingdom
Hivos	Humanist Institute for Cooperation with Developing Countries	UN	United Nations
IAM	Inclusive and Affirming Ministries	UNAIDS	Joint United Nations Programme on HIV/AIDS
IGLHRC	International Gay and Lesbian Human Rights Commission	UNHRC	United Nations Human Rights Council
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association	US	United States
KHRC	Kenya Human Rights Commission	USAID	U.S. Agency for International Development
KNCHR	Kenya National Commission on Human Rights	ZANU-PF	Zimbabwe African National Union-Patriotic Front
LeGaBiBo	Lesbians, Gays and Bisexuals of Botswana		

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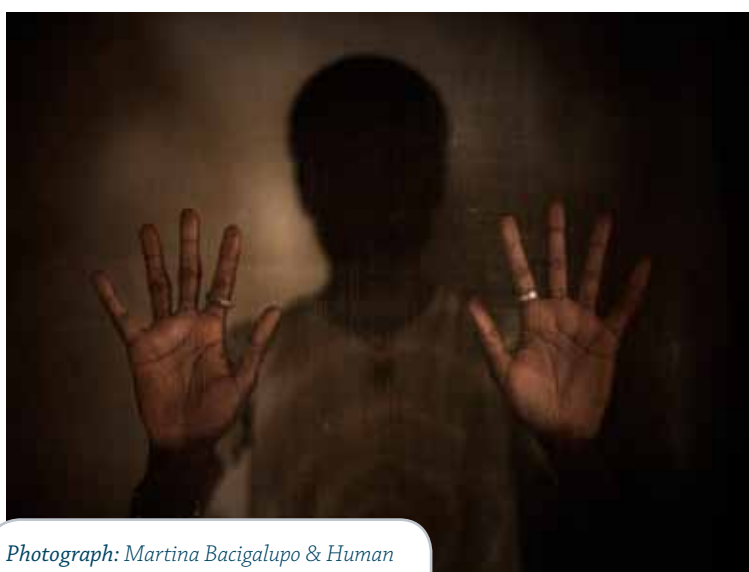
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Disclaimer

The views and opinions expressed in this report are those of the authors and are not necessarily shared by The Atlantic Philanthropies or the OTHER Foundation.

I. Introduction



Photograph: Martina Bacigalupo & Human Rights Watch ©

This report gives an overview of what it means to be gay and African in the early part of the 21st century. Commissioned by The Atlantic Philanthropies and the OTHER Foundation, it also highlights organisations working to improve the situation and the funders supporting such activities.

This is not an academic publication. It is meant to provide information about the conditions facing gay people throughout the continent and show that lesbian, gay, bisexual, transgender and intersex (LGBTI) people are often pawns, vulnerable pawns, for those seeking power. But the report will also show that there is a groundswell of gay people doing it for themselves throughout Africa.

Our overall feeling, despite some depressing scenarios, was a hopeful one. We found the remarkable scattering of LGBTI organisations and people prepared to fight for their rights all over sub-Saharan Africa particularly exiting. We had a sense that sexual orientation and gender identity are important parts of the human rights agenda, and that the LGBTI community was producing human rights 'warriors' who play a significant role in the battle to develop LGBTI and human rights in Africa.

II. Methodology

We worked on this report consistently between August 2011 and March 2012, although we began collecting information long before that. As the sands were constantly shifting, it was necessary to review and update the report in December 2012/January 2013, immediately prior to publishing.

Throughout the research process, we read countless documents, articles and books, interviewed and spoke to a large number of people individually or in groups – face-to-face, via Skype or telephone, or through e-mail – and tapped into social media conversations and debates. In short, we used every possibility we could think of to try to find out not only what was happening in the gay world of Africa, but also what people thought and felt about it.

Some of the foundations and donors profiled in this report are undergoing, or have recently undergone, executive leadership changes and/or initiated strategic reviews of their work. The world of grantmaking and development aid is an ever-changing one, and as such we cannot vouch for the current accuracy of the donor information presented here. We refer readers to the websites of individual donors (see the Appendix) for the most up-to-date information on objectives, priorities, focus areas and grantmaking figures.

We have decided not to name any of our interviewees. Most of the people we spoke to specifically requested us not to, often for reasons of security, and we got a clear sense that many other interviewees implicitly felt the same – typically due to organisations, strategies or situations being in a more or less continuous state of flux. Our interviewees included LGBTI organisations, activists and donor representatives. We spoke to LGBTI refugees and interviewed LGBTIs who had been victims of xenophobia and found friendship in gay groups.

Without the input of all these people, we could not have written this report. We hope it provides a fair, realistic and informative picture of what African LGBTIs are confronted with in their daily lives.

III. Some background and context

The 2011 ‘Arab spring’ brought down undemocratic and repressive governments in Tunisia, Egypt and Libya, but elsewhere in Africa it is more likely that constitutional changes have allowed longer terms for despotic leaders.

Africa is no longer the ‘dark and unknown heart’ once imagined by author Joseph Conrad.¹ But although murmurs of the ‘African renaissance’ are still heard, and the ‘African agenda’ has become part of populist propaganda, countries on the continent continue to struggle with intransigent human rights challenges. These include lack of access to basic resources, an economically impoverished majority, militarism and violent conflict, as well as justice systems built on flawed understandings of democracy and human rights, or on fundamentalist beliefs which have little to do with human rights. There are muted pockets of progressive thinking, but they are few and far between. At the same time, conservative traditionalism at grassroots level and fundamentalist religion have been entrenched in many places.

The 2011 ‘Arab spring’ brought down undemocratic and repressive governments in Tunisia, Egypt and Libya, but elsewhere in Africa it is more likely that constitutional changes have allowed longer terms for despotic leaders. In Cameroon, Sudan and Zimbabwe, for instance, long-time rulers are holding on to power in the face of increasing unrest from citizens, especially young people. In some countries, democratic elections have produced encouraging results – for example, in Zambia and Senegal – but these are fragile islands in a sea of autocracy. And even in Egypt, despite the hope that the Arab Spring might bring changes, the government is vigorously pursuing arrests against “gay debauchery”.²

In 1996, when the final version of the South African Constitution was promulgated, the queer community of Africa might well have felt a thrill of hope. The *Bill of Rights* in the Constitution clearly places the rights of LGBTIs within the ambit of human rights in general.

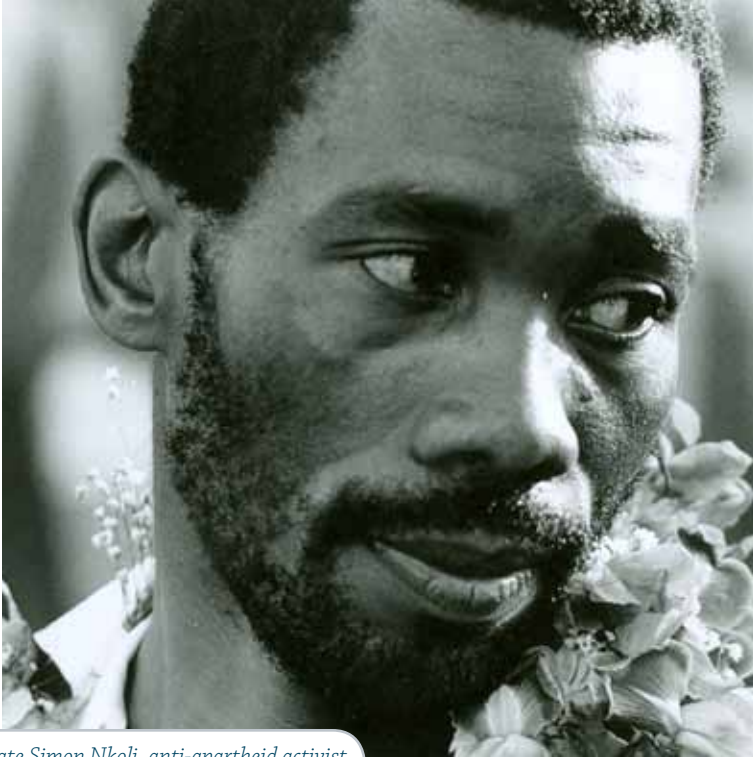
*The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.*³

South Africa had gone from pariah to lauded ‘rainbow nation’, with a

¹ Joseph Conrad, *Heart of Darkness*, first published in Blackwood’s Magazine: 1899.

² Egypt arrests seven men for running alleged gay sex ‘debauchery’ party network, Gay Star News: 1 November 2012.

³ Constitution of the Republic of South Africa, No. 108 of 1996, Chapter 2, Section 9(3).



The late Simon Nkoli, anti-apartheid activist and a pioneer in the South African struggle for gay rights, 1989

Photograph: Gordon Rainsford ©

Constitution hailed around the world, and this clause seemed to offer some hope for LGBTIs in the rest of Africa.

Yet, across Africa, the first years of the 21st century have seen a backlash against homosexuality and rights that would protect LGBTIs, as well as wavering commitment by South African leaders and state officials to the rights encoded in the country's Constitution and the promotion of these rights in other countries. Constitutionally, South Africa now looks like an anomaly, and the acceptance by the African

National Congress (ANC) of such gender rights is an exception to the views of other liberation movements in Africa.

Not only have other African countries refused to follow South Africa's lead in terms of LGBTI rights, but many have also mooted, promulgated or reinforced homophobic legislation of the most venomous kind. South Africa vacillates, sometimes endorsing its own human rights agenda, sometimes aligning itself with socially conservative attitudes in the African populace and endorsing such attitudes among African governments.

A donor representative working in the human rights field and interviewed for this report stated that what happens in South Africa has a considerable effect on what happens in neighbouring countries, and beyond – for good and for bad. Others dispute this, saying that South Africa's influence is very limited.

It can be argued that the principled stance of the South African Constitution gave courage to queers across the continent to come out publicly, even in the antagonistic environments of their own countries. At the same time, as political tensions grow and explode in African countries, there are numerous examples of queer rights becoming a convenient red herring to distract people from real problems.

Zimbabwean President Robert Mugabe, in power since 1980, began to make stridently anti-gay statements in the mid-1990s, just at the point when the political and economic situation in his country was reaching a point of deterioration and his government increasingly came under fire for corruption and repression.

Similarly, when faced with criticism for his country's involvement in the Congolese civil war, President Yoweri Museveni of Uganda produced anti-gay rhetoric; former President Frederick Chiluba of Zambia did the same when threatened by a coup, as did former Namibian President Sam Nujoma when criticised for amending Namibia's Constitution so he could serve a third presidential term; anti-gay rhetoric was also used by King Mswati III of Swaziland when confronted with pro-democracy movements. The issue of homosexuality may thus be an entry point for repressive states to expand

The issue of homosexuality is sometimes used as an entry point for repressive states to expand legal controls over critics from civil society.

legal controls over critics from civil society.⁴

Politicians in Southern Africa – facing shrinking public support and the threat of electoral defeat – began exploring how to make inequality a powerful slogan in itself.⁵

In the past, many African societies displayed a

relatively forgiving attitude to sexual 'play' so long as it was discreet and did not disturb wider kin networks. Indeed, abundant evidence shows that same-sex sexuality existed throughout Africa long before Arabs or Europeans colonised the bulk of it.⁶

Ironically, however, the rhetoric of many post-colonial African leaders tars homosexuality as 'un-African', blaming the colonial conquerors – and thus white people – for introducing homosexuality to Africa and ignoring the fact that in most cases the first anti-gay legislation in these countries was promulgated by those very colonial regimes. The following statement by Namibia's ruling party, the South West Africa People's Organisation, is a case in point.

Most of [the] ardent supporters of this perverts [sic] are Europeans who imagine themselves to be the bulwark of civilisation and enlightenment [...] We made sacrifices for the liberation of this country and we are not going to allow individuals with alien practices such as homosexuality to destroy the social fabric of our society.⁷

The anti-gay rhetoric runs the gamut from hate speech to hate crimes, including murder – sometimes sanctioned by the state. President Mugabe set the tone:

We don't believe they [gay men and lesbians] have any rights at all. It cannot be right for human rights groups to dehumanise us to the status of beasts [...] homosexuals are worse than dogs and pigs.⁸

In 1999, President Museveni instructed Ugandan police to lock up and charge homosexuals. In 2000, the Namibian Minister of Home Affairs urged graduating police officers to "eliminate" gays and lesbians "from the face of Namibia".⁹ As we report below, there are many more publicised homophobic attacks in these and other Southern African countries. And yet, the situation is not that simple: many of these anti-gay statements from government have been made in response to increasing demands for human rights, including gay and lesbian rights – which means that mobilisation and organisation on

⁴ Jessica Horn, *Winning and Defending LGBTI Equality in Africa*, unpublished paper: 2010.

⁵ *More Than a Name: State-Sponsored Homophobia and Its Consequences in Southern Africa*, Human Rights Watch & the International Gay and Lesbian Human Rights Commission: 2003, page 1.

⁶ Marc Epprecht, *Africa's Homophobia Is Queer Indeed*, Cape Times: 25 November 2010.

⁷ The Namibian: 5 February 1997.

⁸ Peter Tatchell, *Not tickling Mugabe's fancy*, Tribune: 24 October 1997.

⁹ *Namibian president announces purges against gays*, www.afrol.com: 20 March 2001.



Graphic Maps/World Atlas ©

the ground is having some public effect.

As at the beginning of 2011, 36 states in Africa had criminalised 'different' sexual orientations with penalties ranging from fines (Algeria, Tunisia) to the death penalty (Sudan, parts of Nigeria).¹⁰ Most African countries inherited anti-homosexuality laws from their colonial powers. Cameroon and Senegal, for example, added criminal penalties for homosexuality post-independence; Burundi has declared sexual relations between two people of the same sex illegal and punishable with a two-year prison sentence; and Rwanda has been attempting to do the same in recent times. In some cases, homosexuality is condemned in terms of sharia law. So, while same-sex sexual activity is not a Western concept, legislated homophobia, gay identity and gay rights are.

*Particularly for younger urban people, sexuality has become a matter of identity ("I am gay") rather than mere practice ("I sleep with other men"); an overt insistence on equality rather than a covert satisfying of desire, accommodated by social norms and traditions.*¹¹

¹⁰ Decriminalising sexual orientation: Three African states compared, www.polity.org.za: 23 November 2011.

¹¹ Mark Gevisser, *Homosexuality and the battle for Africa's soul*, Mail & Guardian: 4 June 2010.

As at the beginning of 2011, 36 states in Africa had criminalised 'different' sexual orientations with penalties ranging from fines to the death penalty.

Early accounts of European sailors alluded to the existence of non-heterosexual practices in Africa before the colonial onslaught, and some researchers¹² have explored the complex continuum of sexual interaction in pre-colonial times. It suited the new colonial masters to portray the 'natives' as 'uncivilised and close to nature' and as slaves to their sexual instincts.

For subsequent black writers and philosophers, there was some ideological power in asserting African manhood, but this did not sit easily with the notion of same-sex sexualities as existing before colonisation. They acknowledged only the forms of homosexuality that emerged from colonial practices and institutions, such as prisons, migrant-labour hostels and mines.

So, what transpires is a strange overlap between the views of racist conservatives and those of revolutionary black philosophers, strengthening the misconception of a pre-colonial Africa 'untainted' by relationships other than purely heterosexual ones. This has had far-reaching consequences – placing a political battering ram in the hands of self-seeking black leaders, encouraging extreme violence against non-heterosexual identities and behaviours, muddying the waters in the fight against HIV and AIDS, and polarising thinkers who might otherwise have addressed human rights issues more holistically.

In 2009, according to the Joint United Nations Programme on HIV/AIDS (UNAIDS), there were 1.8 million new HIV infections in sub-Saharan Africa; 1.3 million AIDS-related deaths; and 22.5 million people living with HIV.¹³

HIV has been associated with homosexuals, a result of the initial spread of HIV in the West being tied to homosexual sex. Homophobia therefore became a barrier to ending the AIDS pandemic. The stigma attached to homosexuality was transferred to HIV and AIDS, also in sub-Saharan Africa, despite the fact that the pandemic has spread largely through heterosexual sex.

The impact is twofold: HIV and AIDS are used as additional sticks with which to attack homosexuality. At the same time, the proven prevalence of HIV and AIDS among heterosexuals has meant that men who have sex with men (MSM) are excluded from public education campaigns to curb the spread of HIV.

*Most of us choose to stay home and wait for our fate rather than go to hospital and face discrimination.*¹⁴

Ironically, in countries where donors have had difficulty providing direct support to LGBTI communities, they have been able to gain a foothold through the fight against HIV and AIDS, and through programmes aimed at MSM. Because these men often have sex with women as well, excluding them from education on HIV prevention and care endangers the whole population.

¹² See for example Marc Epprecht, *Hungochani: The History of Dissident Sexuality in Southern Africa*, McGill-Queen's Press: 2004.

¹³ UNAIDS, *Report on the global AIDS epidemic 2010 and World AIDS Day Report 2011*.

¹⁴ Quote from a Kenyan man who has sex with men.

IV. Human rights

The understanding of human rights in Africa has hitherto been fairly piecemeal; sometimes opportunistic and reactive, but never proactive.

The concept of universal human rights is still contested in many parts of Africa. Political changes in several countries, along with pressure from the international community, have pushed towards recognition of the need for Africa to build shared values as part of democratisation.¹⁵ Shared values are a key concept, for instance, in the mandate of the African Union (AU) – which replaced the Organisation of African Unity in 2002 – and its development of human rights in Africa. The understanding of such rights has hitherto been fairly piecemeal; sometimes opportunistic and reactive, but never proactive. The AU has been slow to unify and coordinate its efforts, having to deal with problems such as civil war in Côte d'Ivoire and Libya, and the setting up of South Sudan as a separate country. Nevertheless, a number of instruments have been developed to try and solidify the concept of shared values and to link it to international interpretations of universal human rights, such as the *Universal Declaration of Human Rights* adopted by the United Nations (UN) General Assembly in 1948.

The preamble of the *Constitutive Act of the African Union* declares that the heads of state and governments involved are

*determined to promote and protect human and peoples' rights, to consolidate democratic institutions and culture, to promote good governance and the rule of law.*¹⁶

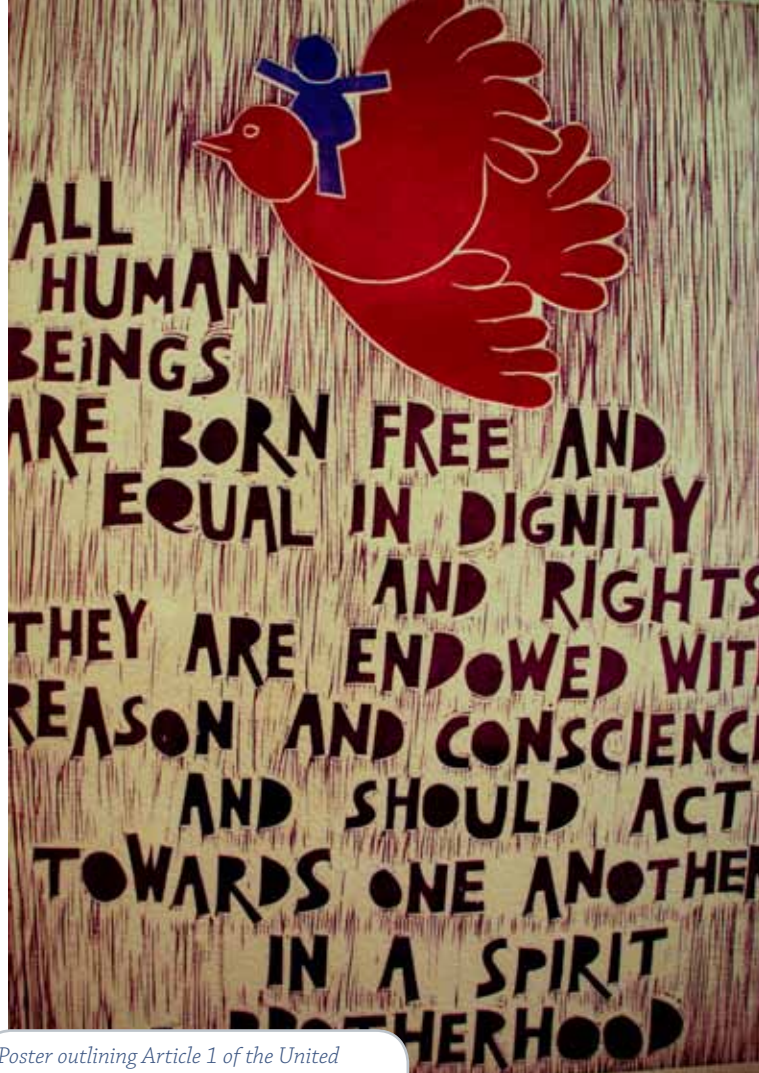
The *African Charter on Human and Peoples' Rights* (ACHPR) of 1981, in force since 1986, contains articles stipulating the material rights of individuals and peoples. The 2003 *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* links the condition of African women to universal rights, as does the *African Charter on the Rights and Welfare of the Child* of 1990 for children.

Speaking at the Hay Festival in Kenya in September 2011 at the invitation of the Gay and Lesbian Coalition of Kenya (GALCK), the Norwegian ambassador to Kenya spoke of

the universality of human rights as the cornerstone of international law

¹⁵ Alain Didier Olinga, *Towards a Human Rights Strategy for Africa*, working document, International Relations Institute of Cameroon: 2010.

¹⁶ *Constitutive Act of the African Union*, AU: 2000, page 3.



Poster outlining Article 1 of the United Nations Universal Declaration of Human Rights

Photograph: Zack Lee & Flickr ©

and international human rights law [...] Freedom from discrimination on any grounds is likewise a cross-cutting principle in international human rights law. It constitutes a basic and general principle.¹⁷

He pointed out that although the Kenyan Constitution did not refer to sexual orientation, its *Bill of Rights* says the state shall not discriminate directly or indirectly against any person on any grounds. The ambassador quoted UN Secretary-General Ban Ki-moon as saying that

*where there is tension between cultural attitudes and universal human rights, universal human rights must carry the day.*¹⁸

Not all African countries are signatories to all these instruments; the ACHPR, though, seems to have been accepted – at least nominally – by all African states. Hence, albeit still in fragmented form, a basis for thinking about human rights in an African context does exist. Yet, how the rights

of LGBTIs fit into this thinking is somewhat tenuous, even when – as in South Africa – they have been constitutionally clarified.

South Africa, however, has behaved strangely in some areas of foreign affairs in terms of its stance on LGBTI rights. One vivid example would be the appointment of veteran journalist Jon Qwelane as South African ambassador to Uganda in 2010. The appointment took place at a time when Uganda was contemplating homophobic legislation. Earlier, Qwelane had been taken to the Equality Court in South Africa for hate speech against queers, based on an article he published saying that he agreed with President Mugabe's view of gays and lesbians.

Moreover, South African foreign policy – especially in relation to the rest of Africa – has often been stumbling and contradictory. Justice Edwin Cameron of the South African Constitutional Court, though, believes there are encouraging signs in more recent statements and actions of the South African government, but that much still needs to be demonstrated in terms of consistency.¹⁹ This point was also made by one of the donors we spoke to, who described South Africa's stance on rights and foreign policy as “dodgy” and “five steps forward and ten back”.

We can trace some of these contradictions via the stand taken on gay

¹⁷ www.norway.or.ke/News_and_events/Human-rights-and-sexual-minorities.

¹⁸ Ibid.

¹⁹ Constitutional Court Justice Edwin Cameron speaking at a panel discussion on collective rape organised by the Helen Suzman Foundation, 29 September 2011.



'67 Minutes of Shame' protest in Johannesburg, South Africa, against government's silence on the murder of four LGBTIs in 2012

Photograph: Jabu C Pereira ©

rights by South African representatives at the UN and the AU.

In June 2010, Jerry Matjila, South Africa's then representative at the United Nations Human Rights Council (UNHRC) in Geneva, said that to

protect gay people "demeans the legitimate plight of victims of racism".²⁰

A month later, the full United Nations Economic and Social Council (ECOSOC) voted in favour of a resolution led by the United States (US) to grant the International Gay and Lesbian Human Rights Commission (IGLHRC) consultative status at the body. The IGLHRC became the 10th organisation working primarily for lesbian, gay, bisexual and transgender human rights to gain such status at the UN; it came after a three-year application process filled with deferrals, homophobic questioning and procedural roadblocks.

In July 2010, Egypt tabled a resolution at the AU Summit that called on member states to

*reject the divisive nature of efforts at the UN seeking to impose controversial concepts, falling outside the internationally and regionally agreed legal framework on human rights, in particular regarding social and value systems and matters.*²¹

On the face of it, this seems innocuous – no specific mention is made of sexual orientation. But LGBTI activists saw it as a way for African states to break away from the UN's position and insist on exceptions to universal human rights.

The notion of limiting protection to only those human rights that are universally recognised was worrying when rights were being debated, when there was no one static, monolithic African vision – and where plurality and diversity were essential to the debate. Activists pointed to the fact that tradition, culture and social value systems had been used to justify genital mutilation and marital rape, among other issues. Claims for cultural diversity can undermine human rights for each person by privileging national sovereignty and culture, it was argued.

In the end, the AU summit decided to support the UNHRC as a global forum for dialogue on human rights issues based on the principles of mutual respect, cooperation, objectivity and non-selectivity – this in response to months of lobbying by LGBTI activists.

In November 2010, Arab and African nations succeeded in getting a UN General Assembly panel to delete a specific reference to killings that take place as a result of sexual orientation from a resolution condemning arbitrary executions.

²⁰ Peter Fabricius, *SA fails to back UN effort to protect gays*, Independent Online News: 23 June 2010.

²¹ Sibongile Ndashe, *The battle for the recognition of LGBTI rights as human rights*, Gunda Werner Institute/Heinrich Böll Foundation: undated.

In 2010, Arab and African nations succeeded in getting a specific reference to killings that take place as a result of sexual orientation removed from a UN resolution condemning arbitrary executions.



The logo of the African Union

Every two years, the General Assembly has passed a resolution condemning extrajudicial, summary and arbitrary executive and other killings. The 2008 declaration included an explicit reference to killings committed because of the victims' sexual preferences. In 2010, Morocco and Mali introduced an amendment on behalf of African and Islamic nations that called for deleting the words 'sexual orientation' and replacing them with 'discriminatory reasons on any basis' – although a litany of other specific reasons was included by name. The amendment narrowly passed by 79 votes to 70 and – when it went to the 192 member states – it passed with 165 in favour, 10 abstentions and no votes against.²²

The South African delegation voted to remove the specific reference to sexual orientation, standing together with the six states that still impose the death penalty for consensual sexual acts between adults of the same sex: Iran, Nigeria, Saudi Arabia, Sudan, the United Arab Emirates and Yemen was sharply criticised by South African human rights activists, who called it

*[an] egregious error against lesbian, gay, bisexual, transgender and intersex people [...] We do not believe that this vote is the official position of the government.*²³

The activists called on President Jacob Zuma and Minister of Foreign Affairs Maite Nkoane-Mashabane to issue a public apology, recall South Africa's ambassador to the UN, issue a clear statement on equality on the basis of sexual orientation and gender identity, and meet with a delegation of civil society organisations (CSOs) to discuss the matter. None of this took place.

The vast majority of the countries that had voted for the amendment were African – they included Angola, Botswana, Kenya, Namibia and Rwanda. In supporting this action, South Africa was being inconsistent with its own stated constitutional values of non-discrimination, including sexual orientation, as grounds for specific protection. It placed South Africa in the conservative African camp and led to intense challenges from civil society. In the end, South Africa changed its vote, and an amendment reinserting 'sexual orientation' into the resolution was successful. This process did not, however, encourage confidence in South Africa's commitment to human rights.

In June 2011, in what seemed a strange about-turn, South Africa presented a resolution to the UNHRC requesting that the High Commissioner for Human Rights prepare a study on violence and discrimination on the basis of sexual orientation and gender identity. The resolution called for a panel discussion to be held at the UNHRC to discuss the findings of this study in a constructive and transparent manner. The resolution did not seek to create new rights, but simply to affirm the application of existing human rights standards to people facing violations because they are LGBTI. It called for further information

²² DA expresses concern over UN gay reference vote, Mail & Guardian: 25 November 2010.

²³ South African government violates Constitution at the United Nations General Assembly, petition circulated by Zackie Achmat: 2010.



Artwork from GALA's Art for Activism workshops in 2011 and 2012

Photograph: Gay and Lesbian Memory in Action ©

and dialogue on discrimination and violence based on sexual orientation and gender identity, to be followed by responses to recommendations made.

The UNHRC adopted the resolution, the first UN resolution on the human rights of LGBTIs. The vote was close: 23 for and 19 against, with three abstentions, one of which was China.²⁴ African and Arab countries voted against the resolution. As a minimum, the resolution should give weight to the right of LGBTIs to turn to the international system for protection.

*[It is] a lifeline to those struggling for their rights around the world who now know that they have the weight of the United Nations behind them, that they're not alone [...] When they're abused, when they're subject to violence, they can reach out and the Human Rights Council and the high commissioner for human rights are there to support them [...] Gay rights have arrived at the United Nations as of today.*²⁵

In practice, the resolution established a concern with gay rights as human rights as the international norm, extending the existing principle of universality specifically to LGBTIs.

It is worth noting that the Egyptian representative at the meeting where the resolution was tabled expressed his anger that South Africa had not canvassed the African bloc before introducing the resolution. The representative of Nigeria – where same-sex sexual activity is punishable by death by stoning in the 12 states in Nigeria that have adopted sharia law, and by up to 14 years in prison in the rest of the country – said that African countries and “more than 90% of the African people”²⁶ did not support the resolution, and that it disregarded the universality of human rights and put individual conduct above international instruments.

But views can change and evolve. In September 2011, South Africa's former representative at the UNHRC, Jerry Matjila, had become the Director-General of the Department of International Relations & Co-operation, and he now saw LGBTI equality as a constitutional obligation for South African foreign policy: “Our constitution enjoins us to tackle this issue.”²⁷ There are hopeful signs that this will be South Africa's consistent position. In February 2012, Marius Fransman, Deputy Minister for International Relations & Cooperation, said:

²⁴ Julia Zebley, *UN rights council passes first gay rights resolution*, Jurist: 17 June 2011.

²⁵ US Deputy Assistant Secretary of State for International Organization Affairs, Suzanne Nossel, quoted from *Briefing on LGBT Resolution at U.N. Human Rights Council*, IIP Digital/US Embassy: 17 June 2011.

²⁶ *Africa heads gay backlash*, Mail & Guardian: 9 September 2011.

²⁷ *South Africa's New Foreign Policy Leadership on LGBTI Issues*, Black Sash: 10 September 2011.

Despite opposition to LGBTI rights in Africa and South Africa's somewhat ambivalent attitude, the human rights of gay people in Africa are gradually becoming institutionalised, at least on paper.

South Africa is committed to the process of strengthening protection mechanisms for victims of violence based on sexual orientation and gender identity within international law.²⁸

Despite opposition to LGBTI rights in Africa and South Africa's somewhat ambivalent attitude, the human rights of gay people in Africa are gradually becoming institutionalised, at least on paper. Combined with instruments that challenge practices abusive of women's bodies and sexuality, UN human rights instruments, such as the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of All Forms of Discrimination*, as well as the ACHPR and its protocol on women's rights, aim to protect women's rights, including those of lesbians, and by extension male homosexuals.²⁹ These are reinforced by documents such as the *Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (Yogyakarta being the place in Indonesia where the principles were generated in 2006).

Responding to a UNHRC report and debate on sexual orientation issues at the end of 2011, Charles Radcliffe of the Office of the High Commissioner for Human Rights, said:

One of the things we found is if the law essentially reflects homophobic sentiment, then it legitimises homophobia in society at large. If the state treats people as second class or second rate, or, worse, as criminals, then it's inviting people to do the same thing.³⁰

Radcliffe stressed that all UN member states have an obligation under human rights law to decriminalise homosexuality.

More and more human rights organisations are becoming vocal about supporting the position that human rights are indivisible. There has been some mainstreaming of LGBTI rights through their acceptance – in statements and speeches – by some trade unions and CSOs. At the same time and in the same vein, queer organisations are taking up human rights and civil society issues as they claim to be part of the mainstream of progressive society. Here, a human rights perspective and a developmental perspective can intersect: as socio-economic rights increasingly come to the fore developmentally, so development issues can offer queer people alliances with fellow citizens organising around a broader human rights agenda.

²⁸ Statement by International Relations and Cooperation Deputy Minister Marius Fransman at the High Level Segment of the 19th Session of the United Nations Human Rights Council, Geneva, Switzerland, Department of International Relations & Cooperation: 29 February 2012.

²⁹ Cynthia Rothschild, Scott Long & Susanna T Fried, *Written Out: How Sexuality is Used to Attack Women's Organizing*, IGLHRC & the Center for Women's Global Leadership: 2005.

³⁰ UN issues historic global report on gays and lesbians, www.mambaonline.com: 16 December 2011.

V. Religion

“The only thing that unites all the local religions is the hate of homosexuals”.

*Do not be deceived. Neither the sexually immoral [...] nor adulterers [...] nor homosexual offenders nor thieves [...] will inherit the kingdom of God.*³¹

This biblical verse is one of several, forming the basis of Christian positions against homosexuality. Homosexual relations are seen as unnatural and sinful because they are not procreative, or do not take place within the ambit of the family. So, if one takes a fundamentalist view of the Bible rather than a contextual one, it is difficult to overcome these homophobic positions.

When the US Episcopal Church appointed its first openly homosexual bishop, the bishops of Africa responded with marked hostility – there was even a threat of schism in the church. The only exception to this antagonistic line was the then South African Archbishop of Cape Town, Njongonkulu Ndungane.

One Ugandan queer said in an interview: “The only thing that unites all the local religions is the hate of homosexuals”.

Chris Hedges, an expert on the American Christian right, writes:

*These attacks mask a sinister agenda that has nothing to do with sexuality. It has to do with power. The radical Christian right – the most dangerous mass movement in American history – has built a binary worldview of command and submission wherein male leaders, who cannot be questioned and claim to speak for God, are in control and all others must follow. Any lifestyle outside the traditional model of male and female is a threat to this hierarchical male power structure. Women who do not depend on men for their identity and their sexuality, who live outside a male power relationship, challenge this pervasive cult of masculinity, as do men who find tenderness and love with other men as equals. The lifestyle of gays and lesbians is intolerable to the Christian right because its existence is a threat to the movement’s chain of command, one they insist was ordained by God.*³²

In the US, the official government position is in favour of LGBTI human rights, a position it asserts in its dealings with conservative African states. The

³¹ I Corinthians 6:9-10.

³² Chris Hedges, *When They Came for the Homosexuals...*, www.truthdig.com: 11 March 2007.



Photograph: Martina Bacigalupo & Human Rights Watch ©

right-wing Christian churches have responded to this not only with howls of rage but with a determined effort to counter the US government's insistence on LGBTI human rights. This is the same right wing that supported apartheid and white supremacist regimes, now successfully reinvented as mainstream US evangelicalism, to go by Hedges' analysis above.

Such attitudes fit well with a patriarchal African-traditionalist view. The American right-wing churches have an extensive network in Africa – welfare projects, Bible schools and educational materials. In the words of Massachusetts-based Reverend Kapya Kaoma, they are “peddling homophobia in Africa”³³ – and with considerable success.

*Sexual minorities in Africa have become collateral damage to our domestic conflicts and culture wars as US conservative evangelicals and those opposing gay pastors and bishops within mainline Protestant denominations woo Africans in their American fight.*³⁴

Most of the population in Southern and Central Africa, as well as in some East and West African nations, consider themselves Christian – roughly 40%. In Africa as a whole, about 45% identify themselves as Muslim.³⁵ The Qur'an, like the Bible, condemns homosexuality as an ‘abomination’ of nature that can only be forgiven after repentance and rejection of such acts. Pope Benedict XVI, speaking for the Catholic Church, including its estimated 135 million adherents in Africa³⁶, has stated that ‘protecting’ humanity from homosexuality is just as important as saving the world from climate change and that all relationships other than traditional heterosexual ones are a “destruction of God's work.”³⁷

In 2009, the Uganda-based Family Life Network held a seminar in Uganda entitled “Exposing the Homosexuals' Agenda.”³⁸ The thesis was that LGBTIs and activists were engaged in a well thought out plan to take over the world. It

³³ Groundbreaking PRA Investigation Exposes Influence of U.S. Religious Conservatives in Promoting Homophobia in Africa, press release, Political Research Associates/PublicEye.org: undated.

³⁴ Ibid.

³⁵ World Book Encyclopedia, World Book, Inc: 2002.

³⁶ www.wikipedia.org.

³⁷ Pope Benedict criticizes homosexual behaviour, New York Times: 22 December 2008.

³⁸ Uganda: The U.S. Religious Right Exports Homophobia to Africa, press release, IGLHRC: 4 March 2009.



Photograph: Jim Kline & Cross Catholic ©

had echoes of the *Protocols of the Elders of Zion*, the famous anti-Semitic tract that purported to outline a Jewish plot to do the same in 19th century Europe. The Family Life Network teamed up with a Holocaust revisionist and outspoken members of the Christian right. High-profile religious leaders, parliamentarians,

police officers, teachers and concerned parents attended. Indeed, parliamentary action to wage war on gay people was on the conference agenda. Although there were already laws that made homosexuality illegal in Uganda, it was argued that a new law was needed to counteract the 'international gay agenda'.

These messages found resonance not only in Uganda, but also in other countries, such as Nigeria and Zimbabwe; less so in Kenya, which has a stronger democratic history and civil society. Roughly 30 million of the Anglican Communion's estimated 80 million members live in Nigeria, Uganda and Kenya.³⁹ Members in Nigeria and Uganda, in particular, are conservative. In Zimbabwe, at a mass in October 2011, Anglican Bishop Nolbert Kunonga's supporters carried placards saying 'Homosexuals must die'.⁴⁰ Kunonga's position on homosexuality has split the church in that country, although a majority of Anglicans there support a more liberal view.

The American evangelicals working in Africa may appear to be advanced when it comes to issues such as poverty, illiteracy and HIV and AIDS – presenting themselves as real development partners – but their so-called 'progressive' strategies constantly reinforce conservative institutional power and ideologies in Africa, including homophobia. With this message come considerable amounts of money, some directly towards the salaries of homophobic prelates. The mainline churches are now tending to repeat the anti-gay rhetoric of the extreme right, cowed by the idea fostered by conservatives that rejecting homosexuality is to reject Western colonisation. For conservative Anglican and Pentecostal fundamentalists, LGBTI rights are increasingly being used as a test case for their power to influence the state.

On the other side, progressive American forces also play a role in Africa, both through churches and non-governmental organisations (NGOs). Currently, however, it seems as if they are out-organised.

A 2012 report by US-based Political Research Associates said conservative US Christian groups were

³⁹ www.anglicancommunion.org.

⁴⁰ Jason Moyo, *Zim's church horror: 'Homosexuals must die'*, Mail & Guardian: 14 October 2011.

According to a 2012 report, US Christian groups are “setting up fronts in Africa to fight for anti-gay and anti-abortion legislation”.

*setting up fronts in Africa to fight for anti-gay and anti-abortion legislation.*⁴¹

The report accused a network of right-wing Christians of

*fanning the flames of the culture wars over homosexuality and abortion by backing prominent African campaigners and political leaders.*⁴²

According to Kene Esom, Director of Policy and Law at African Men for Sexual Health and Rights (AMSHer)

*intolerance and homophobia is a good pretext for political leaders to rally support within the citizenry especially when they are not delivering on services [...]*⁴³

In November 2009, the First African Dialogue on Christian Faith and Sexuality was hosted in South Africa by the Inclusive and Affirming Ministries (IAM), in partnership with The Rainbow Project in Namibia. It was attended by 77 participants from many African countries, including Botswana, the Democratic Republic of Congo (DRC), Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, South Africa, Uganda, Zambia and Zimbabwe. Here people – both LGBTIs and clergy from a variety of churches – spoke in reasoned ways about the challenges facing them, offering gentle and human solutions. In the end, however, they may not be a match for fervent rhetoric backed by considerable funds.

In South Africa, for example, and most strongly in the Eastern Cape, the Godly Governance Network calls

*upon the Church of Jesus Christ to Cross Rivers, and take Cities for the Kingdom of God.*⁴⁴

The Network defines its enemy as “a satanic web of deception and global conspiracy.”⁴⁵ It declaims that

*[t]he Apostolic warriors must take their battle position to cancel, nullify, abrogate, and destroy all written and unwritten laws, codes, ordinances and systems rooted in the satanic wisdom and values which are beginning to shape the principles of politics and governance in South Africa.*⁴⁶

Its proclaimed aim is to take over governance of South Africa – and it has a long-term strategy to do so. This kind of militant religiosity colours much of Christianity in Africa, testing the boundaries of secular governance. While the influence of right-wing US churches is clearly significant, the agency of home-grown fundamentalists should not be ignored.

⁴¹ US churches seek anti-gay laws in Africa, News24: 24 July 2012.

⁴² Ibid.

⁴³ Are US evangelicals exporting anti-gay views?, Al Jazeera: 27 July 2012.

⁴⁴ Concept Document for Kingdom Governance Programme of Action, Godly Governance Network Eastern Cape: 2008.

⁴⁵ Ibid.

⁴⁶ Ibid.

VI. Violence against LGBTIs

As a fairly visible group that has recently made public claims for its rights, LGBTIs are vulnerable to violence.

Persecution of queer people may occur through legislation prohibiting and punishing homosexual acts (as we have seen above) or by *ad hoc* intimidation, mobbing, assault or murder. Violence against queers is categorised as ‘hate crime’ in human rights discourse, though this has not necessarily been accepted by state authorities and those policing society. Violence targeted at people because of their perceived sexuality can be psychological and physical, and may be driven by cultural, religious or political antagonisms. As a fairly visible group that has recently made public claims for its rights, LGBTIs are vulnerable to violence.

As of May 2011, 76 countries had laws that criminalised consensual sexual acts between adults of the same sex. They were largely in the Middle East, South Asia and Africa, but also in the Caribbean and Oceania. Homosexuality still carried the death penalty in seven countries: Iran, Mauritania, (parts of) Nigeria, Saudi Arabia, (parts of) Somalia, Sudan and Yemen. In Africa, the following countries criminalise homosexuality but do not punish it by death: Algeria, Angola, Botswana, Burundi, Cameroon, Comoros, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Libya, Malawi (see below though), Mauritius, Morocco, Namibia, Nigeria (death penalty in some areas), Somalia (death penalty in some areas), South Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

Since 1994, the UNHRC has ruled that such laws violate the right to privacy guaranteed in the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*. Yet, no action has been taken against member countries contravening such conventions, although there are sometimes international outcries when severe punishments are imposed – which may have some effect. In November 2012, with President Joyce Banda at the helm, Malawi suspended anti-gay laws pending constitutional review; this move was hailed as “a historic step in the fight against discrimination in the country”.⁴⁷

The Malawi case, however, is one small light at the end of the tunnel. A 2011 study by the IGLHRC reported that antiquated laws against same-sex sexual activity, on top of deeply ingrained social stigma, result in the all too

⁴⁷ Amnesty International, *Suspension of anti-homosexuality laws in Malawi a historic step forward*, www.amnesty.org: 5 November 2012.



'One Billion Rising' protest against rape at the University of the Witwatersrand in Johannesburg, South Africa, February 2013

Photograph: Gay and Lesbian Memory in Action ©

frequent targeting of LGBTIs in Africa for blackmail and extortion.⁴⁸ Based on research from 2007 to 2011, the study features articles by leading African activists and academics on the prevalence, severity and impact of human rights violations against LGBTIs in Cameroon, Ghana, Malawi, Nigeria and Zimbabwe.

Furthermore, in 2009 and 2010

*there was organised mob violence against gay men and AIDS workers in Kenya, and a protracted 'crackdown' on homosexuals in Senegal. When gay men fled to the Gambia in 2009, the president told them to leave or face decapitation. In Zimbabwe – where the state has been viciously homophobic for more than a decade – two gay activists were arrested and detained for criticising the anti-gay policies of Robert Mugabe, and in several countries in Africa, anti-gay legislation [was] in the offing.*⁴⁹

Male homosexuality is illegal in Zimbabwe, and some individuals have been prosecuted and convicted for their sexual orientation, including the country's first president, Canaan Banana. On the other hand, there are also very active and visible gay and lesbian organisations in Zimbabwe that have succeeded in creating public debate on the issue.

In Namibia, there have been contradictory rulings and statements; in a legal suit where a foreign lesbian woman fought for her right to stay in Namibia based on her relationship with another woman, the Namibian High Court ruled that lesbian partners have the same rights as heterosexual couples. At the same time, however, the Minister of Home Affairs was urging graduating police officers to "eliminate" gays and lesbians "from the face of Namibia".⁵⁰

In Uganda, where homosexuality is illegal, several gay and lesbian organisations have emerged and the topic is starting to be discussed.

These contradictions may be welcomed as the thin edge of the wedge, but in reality they inflame negative feelings. However, they also encourage what appears to be a wave of self-assertion on the part of a heroic LGBTI community determined to move from 'quietly doing what we have always done' to asserting a gay identity.

At the social level, informal sanctions are often imposed by communities and individuals on people they see as falling outside the heterosexual norm. This stretches from psychological teasing to family and church exclusion, from blackmail and extortion based on the threat of exposure to the increasing scourge of homosexual murders and so-called 'corrective rape'. This happens even in places where there is no official sanction against homosexuality, such as in South Africa. In Brazil, homophobic murders are

⁴⁸ Ryan Thoreson & Sam Cook (eds), *Nowhere to Turn: Blackmail and Extortion of LGBT People in Sub-Saharan Africa*, IGLHRC: 2011.

⁴⁹ Gevisser, *op.cit.*

⁵⁰ Namibian president announces purges against gays, *op.cit.*

Corrective rape is a barbaric practice that is supposed to 'straighten out' lesbians. It is the epitome of hate crime.

referred to as a 'homocaust' (a blend of homosexual and holocaust). In many parts of the world, such acts of violence are legally classified as hate crimes, entailing harsher sentences if someone is convicted. In South Africa, despite its progressive Constitution, there is no such classification, and hate crime statistics are lost in general crime statistics.

A neglected area of violence against LGBTIs relates to transsexuality, which remains classified as a mental disorder (the classification of homosexuality as a mental disorder was only removed by the World Health Organisation in 1990).

Murder of transgendered people is increasing throughout the world (no specific figures on Africa are available). In the first six months of 2010, there were 93 reported killings of transgendered people worldwide, showing that they are a particularly vulnerable group within the LGBTI community.⁵¹

Violent hate crimes, such as corrective rape, are typically directed at lesbians, gay men and transgender people – as if raping and slaying a fellow human being somehow makes 'right' what the victims' private sexual preferences or choice of identities makes 'wrong'. The majority of homophobic criminal assaults are perpetrated by male aggressors on male victims, but the increasing scourge of corrective rape and murder in which lesbians are the targets seems to be moving north from South Africa into the rest of Africa.

Theorists have argued that hate crimes against queers are a way for males, especially young males, to assert themselves as 'non-queer' as part of a bonding mechanism with the peer group. It is unlikely, however, that their victims are concerned with their motivations.

Corrective rape has the most severe impact on marginalised young black women who bravely claim or live out their sexual identity as lesbians and transgender men and women. Their very being is seen in some way as a threat to young black men, in particular in townships and more marginalised areas. Corrective rape is a barbaric practice that is supposed to 'straighten out' lesbians. It is the epitome of hate crime, but in South Africa – where it is becoming almost commonplace – it does not have its own category in crime statistics, and police are in any case notoriously tardy in dealing with rape and gang rape (of any kind).

According to Luleki Sizwe, a charity which helps women who have been raped in the Western Cape, more than 10 lesbians a week are raped or gang-raped in Cape Town alone.⁵² No one knows how many of the more than 50 000 cases of rape reported in South Africa each year are committed against gay women, because the victim's sexual orientation is not recorded. In a 2011 panel discussion, Deputy Minister of Justice & Constitutional Development Andries Nel was self-congratulatory in his assertion that progress was being made by the government in fighting this scourge, but his speech lacked

⁵¹ *Alarming increase: every 2nd day the killing of a trans person is reported!*, press release, TGEU (Transgender Europe): 14 September 2010.

⁵² *South Africa's lesbians fear 'corrective rape'*, BBC News: 30 June 2011.



Protest against 'corrective rape' in East London, South Africa, May 2011. The protest was organised by the Eastern Cape LGBTI Organisation as part of a nation-wide protest

Photograph: Zamanguni Mzimela ©

urgency. A lesbian activist cried out: "Our people are dying now!"⁵³

In April 2011, Noxolo Fyona Nogwaza, a 24-year-old lesbian living in KwaThema in Gauteng, South Africa, was stoned to death. A month later, a government task team was formed to address hate crimes perpetrated on LGBTI South Africans. The team is slowly getting itself together, with no more sense of urgency than that displayed in the Deputy Minister's speech referred to above.

Also, throughout 2012, murders of gay men in South Africa were reported in the news. In June, for example, 23-year-old Thapelo Makutle was killed and severely mutilated in an apparent gay hate crime in a small town in the Northern Cape. Yet, in August, the ANC and the NGO Gay Flag of South Africa came together to condemn recent homophobic violence against the LGBTI community in South Africa, as well as the anti-gay rhetoric by traditional leaders seeking to revoke constitutional LGBTI rights.⁵⁴

⁵³ Panel discussion on collective rape organised by the Helen Suzman Foundation, 29 September 2011.

⁵⁴ *Gay Flag of South Africa and ANC Hold Historic Public Meeting to Condemn Homophobia in SA*, O-blog-dee-o-blog-da: 30 August 2012.

VII. Sexual-orientation refugees



Artwork from GALA's Art for Activism workshops in 2011 and 2012

Photograph: Gay and Lesbian Memory in Action ©

One of the results of persecution of African queers is a growing diaspora of sexual-orientation refugees.

On 7 July 2010, the United Kingdom (UK) Supreme Court made a decision that secured the rights of LGBTIs in need of protection from persecution, bringing to an end years of discrimination by the immigration services in that country.

On 6 April 2011, the European Parliament voted in favour of a report containing a number of measures to strengthen applications by individuals claiming asylum in the European Union (EU) because of persecution on the basis of sexual orientation and/or gender identity. LGBTIs are now covered by the concept 'asylum seekers with special needs', a specific recognition

that LGBTIs in many parts of the world are subjected to danger and threats to their lives. The EU has produced a toolkit to promote and protect the enjoyment of all human rights by LGBTIs, providing indicators of violations for its representatives involved in evaluating cases.

Reasons for why LGBTI Africans seek asylum in other countries include:

- laws that criminalise homosexuality and resultant prosecution
- police harassment and arrests
- evictions and ostracisation by friends and family
- public ridicule, threats and acts of violence; and
- tremendous psychological pressure, for example being accused of 'recruiting' children.

It is important to note that the amendments noted above are the result of the distance travelled by Western countries on gay rights over the past 50 years.

LGBTI Africans seek asylum in other countries for a number of reasons: laws that criminalise homosexuality, police harassment, evictions and ostracisation by friends and family, public ridicule, threats and acts of violence.

The Brenda Namigadde case

Brenda Namigadde, a young Ugandan lesbian, was scheduled to be deported from the UK in January 2011, back to the life-threatening persecution in Uganda that she had left years before. With memories of a house burnt to the ground and the threat of new Ugandan anti-homosexuality legislation looming, the situation for her was frightening. David Bahati, the Ugandan MP who drafted the infamous ‘Kill the gays’ bill⁵⁵, said that Namigadde

*is welcome in Uganda if she will abandon or repent her behaviour. Here in Uganda, homosexuality is not a human right. It is behaviour that is learned and it can be unlearned. [...] If she is caught in illegal practices [or if] she comes to promote homosexuality, she will be punished.*⁵⁶

The UK had promised to stop deporting asylum seekers like Namigadde, but something went wrong and Namigadde was placed on a flight back to Uganda – the very week that Ugandan gay activist, David Kato, was murdered there. Then, at the eleventh hour, an injunction stopping her deportation order was granted and Namigadde was taken off the flight shortly before take-off.

Namigadde’s situation had sparked an international outcry. Over 60 000 letters were sent to British Home Secretary Theresa May; people marched in London and shared her story. Where a week before, her plight had been almost unknown, it now became a *cause célèbre*.

In the UK, the new approach for asylum appeal tribunals is based on the following:

- Is the appellant gay or someone who would be treated as gay by potential persecutors in his/her own country?
- Is there evidence that someone who lived an openly gay life would be at risk of persecution in that country? Discrimination is not enough – persecution means more serious harm.
- How would the appellant actually live if returned? If a fear of persecution plays a role in the decision to hide, the appellant is a refugee.⁵⁷

But despite some encouraging signs, countries like Hungary and the Netherlands are still using the argument that refugees should return home, if by hiding ‘overt homosexual behaviour’ and living ‘unobtrusively’ they could avoid persecution.⁵⁸ There seems to be fear among European countries that relaxing the law would lead to a deluge of gay asylum seekers, although facts do not bear this out.

⁵⁵ Also known as the ‘Bahati bill’, refer the following two chapters.

⁵⁶ *Fears for safety of Ugandan lesbian due to be deported*, The Guardian: 26 January 2011.

⁵⁷ *Asylum and Humanitarian Protection for Lesbian, Gay and Bisexual (LGB) People*, Stonewall: undated.

⁵⁸ *Europe sends gays seeking asylum back home and back to the closet*, Los Angeles Times: 28 July 2012.

In nearly every African country, extortion and blackmail of LGBTIs – often with the participation of security forces – have been documented.

Getting Out, a DVD made by the Ugandan Civil Society Coalition on Human Rights and Constitutional Law in 2011, describes the stories of four African sexual orientation and sexual identity refugees/asylum seekers – one exiled from Uganda, one applying for asylum in South Africa and two in the UK. Their stories are of desperation, sometimes failure, and on the rare occasion when there is success, it comes only after many years. In all cases, the protagonists would clearly rather stay home, but ‘home’ is fraught with danger and nowhere is there acceptance and support.

There are many reasons why African sexual minorities flee the countries of their birth. Many are similar to those of other non-queer refugees – poverty, war, corrupt governments. For sexual minorities, however, there are the added reasons mentioned above – scapegoating, legal and moral rejection, imprisonment, violence and so on.

Later in this report, homophobia in some countries – the more visible extremes of what seems to be a continent-wide disease in this regard – will be discussed in more detail. Generally, even in South Africa where the Constitution and legislation cannot be faulted, public opinion lags way behind and there is open homophobia from the parliamentary level all the way down to those committing hate crimes. It is not yet known what the Arab spring will mean for homophobia in those countries where old regimes have been overthrown. Certainly, if sharia law overcomes the tenets of democracy, the outlook is not good.

In any event, whatever hope may be found in the progress being made in some countries, as summed up by Pambazuka News, the following remains the case:

- In Cameroon, Kenya, Nigeria and Uganda, school administrators, teachers and other students have chased gay and lesbian youth away from schools at both secondary and tertiary levels
- In Botswana and Sierra Leone, LGBTIs have been denied the right to register their non-profit, non-governmental associations. In other countries, LGBTI human rights defenders – fearing exposure – do not even attempt to obtain official registration, preventing them from seeking funding and mounting self-help programmes
- In Uganda, government has imposed fines and bans on journalists, media and theatre groups that have attempted to present a positive or neutral perspective on homosexuality
- Sudan, Nigeria and Mauritania maintain the death penalty for consensual homosexual acts.⁵⁹

⁵⁹ Nigeria may well be one of the countries that the US seeks to ‘punish’ for outlawing homosexuality. Former Secretary of State Hillary Clinton endorsed gay rights by using it as a basis for US policy on aid and political asylum. For more on linking aid to the protection of LGBTI rights, refer Chapter X: Supporting LGBTI Africans.



Photograph: Martina Bacigalupo & Human Rights Watch ©

- More than a dozen lesbians were murdered in South Africa between 2005 and 2010, with few arrests and little government action; and
- In nearly every African country, extortion and blackmail of LGBTIs – often with the participation of security forces – have been documented. The internet is frequently used to entrap gay and bisexual men or blackmail them. Dozens of men have been robbed and beaten in the process.⁶⁰

⁶⁰ *Sexual orientation under the African Charter on Human and Peoples' Rights*, Pambazuka News 506: 22 November 2010.

VIII. Snapshots of Africa from a queer point of view



LeGaBiBo event in Moshupa, Botswana, on World AIDS Day 2011

Photograph: LeGaBiBo ©

In October 2010, President Rupiah Banda of Zambia said he did not understand why any person should tolerate homosexuality.

In the same month, the DRC, which had previously not had any specific homophobic laws, introduced the *Sexual Practices Against Nature Bill*, which aimed to criminalise homosexuality and any activities that directly or indirectly aim to promote the rights of LGBTIs.

In Egypt, laws on public morality are severe – homosexuality is seldom openly acknowledged, though it is not technically illegal.⁶¹

Senegal specifically outlaws same-sex sexual acts and has prosecuted men accused of homosexuality in the past. In a 2007 survey, 97% of the population of Senegal said that homosexuality should be rejected by society⁶² and the U.S. Department of State's 2010 Human Rights Report found that in Senegal

*in the recent past, gays, lesbians, bisexual, and transgender (LGBT) persons have often faced criminal prosecution and widespread discrimination, social intolerance and acts of violence.*⁶³

An article from July 2011 noted that a comprehensive crackdown on gay people had been ordered by a minister in Ghana, including asking landlords and tenants to inform on people they thought might be gay (although private consensual same-sex conduct is in fact legal in Ghana).⁶⁴

⁶¹ Theodora Birch, *Being Gay in Egypt: 'Some of my best friends do not know me'*, Out Impact: 1 February 2011.

⁶² 47-Nation Pew Global Attitudes Survey, Pew Global Attitudes Project: 2007.

⁶³ 2010 Human Rights Report: Senegal, U.S. Department of State – Bureau of Democracy, Human Rights and Labor: 8 April 2011.

⁶⁴ *Ghanaians Objecting to Government's Order to Arrest Gays are Silent for Fear of Being Labeled Homosexual*, www.towleroad.com: 2 August 2011.



Thuto Rammoge, who works for LeGaBiBo in Botswana, at the BathoBaLorato LGBT film festival in February 2013

Photograph: LeGaBiBo ©

If African governments are using homophobia as a way of uniting citizens around conservative and anti-progressive values, human rights activists are using it to unite people to counter these views.

A blog in September 2011 headlined *Gay prejudice rife in Swaziland* said that

*faith houses have been known to discriminate against [LGBTIs], advocating for the alienation of [LGBTIs] in the family and society, while maintaining that these [LGBTIs] are possessed by demons [...] Gay people are not recognised at community meetings and their points are often not minuted.*⁶⁵

It seems that same-sex conduct is not illegal in Mozambique (sodomy and homosexuality are not specifically identified as 'crimes against nature', which are listed in the penal code), and the country has enacted an anti-discrimination employment policy that includes sexual orientation. The Mozambican Constitution, however, does not protect sexual minorities and there is significant social stigma attached to being queer.

In Botswana, where homosexual relationships are criminalised, authorities refused to register the association Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo). There have, however, been calls from well-known politicians to make the laws more gay-friendly.

In São Tomé and Príncipe, the second-smallest country in Africa, a process of full decriminalisation is taking place, with relevant legal clauses being removed from the statute books.

And in Malawi, as mentioned above, laws criminalising same-sex sexual activity have been suspended pending constitutional review.

Moreover, there is an LGBTI movement across the continent – and if governments are using homophobia as a way of uniting citizens around conservative and anti-progressive values, human rights activists are using it to unite people to counter these views. A number of emerging organisations have developed, with the help of allies from the West, from their own compatriots, and sometimes with encouragement from their governments.

In the snapshots that follow, we outline the varying strands of progress or regress in the acceptance of gay human rights in Africa.

⁶⁵ *Gay prejudice rife in Swaziland*, www.swazimedia.blogspot.com: 22 September 2011.

Botswana

2011: LeGaBiBo held its first annual general meeting, despite not being legally registered; it was joined by a number of human rights organisations.⁶⁶

Burundi

2009: President Pierre Nkurunziza signed into law a bill criminalising homosexuality for the first time in Burundi's history.⁶⁷

Cameroon

2008: A court sentenced three men accused of homosexuality to six months' hard labour. Homosexual acts are punishable by up to five years in prison; gay men are routinely imprisoned. The imprisonment of the Cameroonian men politicised the LGBTI movement there, leading to the formation of Alternative Cameroun, now active in campaigning for LGBTI rights in the country.⁶⁸

2011: Four men were arrested for "looking feminine" and for "indecent behaviour involving a minor".⁶⁹

Egypt

2008: A court in Cairo convicted five HIV-positive men of "habitual practice of debauchery".⁷⁰

Ethiopia

2011: The 16th International Conference on AIDS and STIs (sexually transmitted infections) was held in Addis Ababa in December 2011. There was much homophobic tension, but this was the first time LGBTI issues were raised at the conference, and this in a country where 97% of the population condemn homosexuality.⁷¹ In

Ethiopia, homosexuality is legally described as 'an indecent act' and is punishable by various prison sentences. Discussion in the social media suggests that moderate Ethiopians believe the matter needs to be discussed openly.

Gambia

2008: Gambian President Yahya Jammeh gave gay people 24 hours to leave the country. He promised stricter laws on homosexuality than in Iran and threatened to behead any gay people found in the country.⁷²

2012: 19 people including Gambians, Senegalese and Nigerians, were arrested and charged with indecent practices after being 'suspected of homosexuality'. President Jammeh told foreign diplomats his land would not be "bribed" to accept homosexuality:

*If you are to give us aid for men and men or women and women to marry, leave it. As far as I am the president of the Gambia, you will never see that happen here.*⁷³

Ghana

2011: President John Atta Mills said government would not discriminate against homosexuality. Later in the year, however, he said:

*I, as president, will never initiate or support any attempt to legalise homosexuality in Ghana.*⁷⁴

Ghana has made it clear it will not yield to any pressure related to aid and that it remains "resolute on its stance not to legalise homosexuality in Ghana".⁷⁵

⁶⁶ Botswana LGBT organisation to hold first AGM and elections, ILGA: 28 June 2011.

⁶⁷ Burundi: Repeal Law Criminalizing Homosexual Conduct, Human Rights Watch: 24 April 2009.

⁶⁸ Cameroon men get six months jail for being gay, PinkNews: 16 January 2008; The LGBTI Movement and Social Media in Africa, Heinrich Böll Foundation: 22 April 2010.

⁶⁹ Cameroon men arrested for 'looking feminine', PinkNews: 19 August 2011.

⁷⁰ Egypt Imprisons Gay Men For "Debauchery", CBS News: 11 February 2009.

⁷¹ 47-Nation Pew Global Attitudes Survey, op.cit.

⁷² Gambia's President declares war on gay community, PinkNews: 19 May 2008.

⁷³ 'Aid will not make homosexuality okay', 10 in Ten, The Times: 23 April 2012.

⁷⁴ Ghana refuses to grant gays' rights despite aid threat, BBC News: 2 November 2011; Ghana still frowns at homosexuality – President Mills, Ghana News Agency: 1 February 2012.

⁷⁵ Ghana reaffirms iron-clad policy on homosexuality despite American fresh moves to promote gay rights abroad, Ghana Broadcasting Corporation: 8 December 2012.

Kenya

2012: The Kenya National Commission on Human Rights (KNCHR) proposed sexual and reproductive health rights be protected and that homosexuality and prostitution be decriminalised.⁷⁶

Liberia

2012: Former first lady of Liberia, Jewel Taylor, introduced a bill for homosexuality to be made a first-degree felony “amid a raging debate over gay rights in the country”.⁷⁷ The bill has had some support from President Ellen Johnson Sirleaf. Sirleaf, however, says that she will veto the bill if it is passed.⁷⁸ An open letter to Sirleaf’s fellow Nobel Prize winner, Leymah Gbowee, captured the situation in Liberia:

*LGBT Liberians live in fear, disempowered and daily imperiled. The war for them has not ended. Their lives are defined by danger and violence, persecution, hate speech and threats, discrimination and harassment. They are stigmatized, publicly rejected and almost completely abandoned by government. Their vulnerability affects all areas of their lives from every quarter – church, school, employers, landlords, media, street mobs, rapists, predators, political actors, opinion leaders, family.*⁷⁹

Sirleaf’s response was:

*We’ve got certain traditional values in our society that we would like to preserve. We’re going to keep to our traditional values.*⁸⁰

Malawi

2010: A gay couple were jailed in Malawi after getting engaged; they were later pardoned.⁸¹

2012: When Malawi’s new president, Joyce Banda, took over, she told Parliament she wanted to overturn the ban on homosexuality “as a matter of urgency”.⁸² The authorities are hoping the suspension of anti-gay legislation will encourage public debate and help Parliament make a decision on the matter. But then the government of Malawi reversed its position after pressure from a number of churches within the country – and then reversed it once again. The position at the end of 2012 seemed to be that the reversal of the laws is to be debated in Parliament. Nevertheless, Banda’s move is seen as brave and principled, going – as it does – against populist feeling in the country.

Namibia

1990s-2012:

Although the early years after liberation in 1990 were positive for gay people, in 1996, publicity campaigns against homosexuals began. At the time, unemployment in Namibia was 60% and opposition parties were on the attack. Former President Sam Nujoma gave his first anti-gay speech, and suddenly many officials were bashing gays, calling homosexuality a “behavioural disorder which is alien to African culture”.⁸³ In 1997, The Rainbow Project was formed in response and what followed was a national conversation on the subject. In bigger cities, such as Windhoek and Swakopmund, it is okay to be gay. Despite official animosity, gay groups are continuing to form in Namibia.

⁷⁶ Kenyan Clergy Oppose Call By National Human Rights Commission To Legalise Homosexuality, GlobalGayz: 7 May 2012.

⁷⁷ Former Liberian first lady pushes anti-gay Bill, Mail & Guardian, 15 February 2012.

⁷⁸ Towards a progressive culture, Mail & Guardian: 16 March 2012; Liberia’s Sirleaf throws hat into anti-gay controversy, Mail & Guardian: 23 March 2012.

⁷⁹ An Open Letter to Leymah Gbowee: A Piece of the Peace for LGBT Liberians, The Daily Observer: 7 February 2012.

⁸⁰ Liberian president Ellen Johnson Sirleaf defends law criminalising homosexuality, The Telegraph: 19 March 2012.

⁸¹ Malawi pardons jailed gay couple, BBC News: 29 May 2010.

⁸² Malawi suspends laws against homosexual relationships, BBC News: 5 November 2012.

⁸³ Africa’s gays persecuted as cause of ills, Chicago Tribune: 9 June 2004.

Nigeria

2007: Eighteen men – all allegedly cross-dressers – were arrested in a predominantly Muslim state in the north of the country and charged with sodomy. The charges were later changed to vagrancy or idleness. The men were eventually freed on bail.⁸⁴

2011: Same-sex marriage is further criminalised.⁸⁵

2012: Parliament was considering new anti-gay laws which would lead to long periods of imprisonment for anyone even looking sideways at someone of the same sex.⁸⁶

Rwanda

2010/2011:

Dr Aflodis Kagaba, head of the Health Development Initiative-Rwanda (an NGO) said attitudes towards queers in that country were improving. He heads a coalition of more than 40 groups conducting campaigns and advocacy work for sexual minorities in Rwanda, and believes this improvement in attitude is due to the recent memory of genocide. Not everyone agrees. One lesbian said that

*discrimination and harassment are the most common issues we face on almost a daily basis.*⁸⁷

Naome Ruzindana, Director of the Horizon Community Association – a gay rights organisation in Rwanda – agrees.⁸⁸ There is no law criminalising homosexuality in Rwanda. As one anonymous Rwandan gay wrote:

Many people think that gay Rwandans were influenced by western cultures. This is a big lie and an insult [...] Gay people in Rwanda face

*a bunch of problems, such as discrimination, humiliation, familial rejection, health risks like AIDS and other STDs [sexually transmitted diseases].*⁸⁹

Senegal

From 2000:

Although seen as a relatively liberal Muslim country (and recently praised for a smooth democratic election), Senegal began to arrest people for queer-related activities, such as publishing a wedding picture of two men.

2008: Suspected homosexuals were attacked by mobs, and 10 people (nine men and one woman) were arrested after photographs at a private gay wedding reception were published in a magazine. Following their provisional release, religious organisations issued a press release calling for the stoning of gay people; this resulted in mob and vigilante attacks.⁹⁰

2009: Nine men were convicted of homosexual acts and sentenced to eight years in prison. The arrests came just after Senegal hosted an international AIDS conference that included LGBTI participants. Senegal outlaws homosexual acts but there is a tradition of “effeminate men”.⁹¹

South Africa

2006: Same-sex unions were approved as a result of an order of the Constitutional Court; after public hearings in Parliament, where many expressed distaste at the idea of gay marriage, the *Civil Union Act* was passed by the ANC majority.⁹²

⁸⁴ ‘Cross-dressers’ in Nigeria court, BBC News: 15 February 2008.

⁸⁵ Gay rights: Africa, the new frontier, BBC News: 7 December 2011.

⁸⁶ Nigeria Poised to Pass ‘Jail the Gays’ Bill, The Huffington Post: 16 November 2012.

⁸⁷ Positive Change of Attitude Towards Homosexuality in Rwanda, The Global Forum on MSM & HIV: 12 August 2011.

⁸⁸ *Ibid.*

⁸⁹ *Being Rwandan and gay*, The New Times Rwanda: 5 September 2009.

⁹⁰ *Gay men arrested for homosexuality in Senegal*, Seattle Gay News: 15 February 2008; *Sexual orientation under the African Charter on Human and Peoples’ Rights*, Pambazuka News 506: 22 November 2010.

⁹¹ *9 men jailed in Senegal for homosexual acts*, The Seattle Times: 8 January 2009; ‘Gay man’ disinterred in Senegal, BBC News: 4 May 2009.

⁹² Melanie Judge, Anthony Manion & Shaun de Waal (eds), *To Have and to Hold: The Making of Same-Sex Marriage in South Africa*, Jacana: 2008.

Togo

2011: The MSM community organised and held its annual Mr and Miss MSM Togo event in the capital, Lomé.⁹³

Uganda

2003: Lesbian organisation Freedom and Roam Uganda (FARUG) founded.

2004: Sexual Minorities Uganda (SMUG) founded.

2006: A Ugandan tabloid newspaper outed a number of homosexuals on its front page.⁹⁴

2009: Member of Parliament (MP), David Bahati, presented the *Anti-Homosexuality Bill* (known as the 'Bahati bill') to Parliament which – if enacted – would introduce the death penalty for those who had previous convictions, or were HIV-positive, and engaged in same-sex sexual acts. Temporarily shelved, it is still very much on the agenda and has been reintroduced (see below).

2010: Another newspaper outed 100 homosexuals on its front page, next to a yellow banner declaring "Hang them".⁹⁵

2011: Queer activist, David Kato, was bludgeoned to death.

Launch of the 'Hate No More' campaign by anti-homophobic civil society groups.

Ugandan human rights queer activist Frank Mugisha received the Robert F. Kennedy Center Award for Justice & Human Rights. Mugisha is Executive Director of SMUG.

2012: Former South African President Thabo Mbeki attacked Uganda's Bahati bill, saying that what two consenting adults do in private "is really not

the matter of law".⁹⁶

The Bahati bill is retabled in Parliament. The Ugandan Law Society predicts that, if passed, it would institutionalise discrimination against those who are or are thought to be gay, lesbian, bisexual or transgender. A gay rights activist meeting at a hotel to discuss the bill was closed down by the Ethics and Integrity Minister of Uganda.⁹⁷

In June, 38 NGOs were accused of promoting homosexuality and recruiting children, and banned. A Ugandan member of the Pan-African Parliament proposed a resolution that all countries in Africa enact life imprisonment for homosexuals. The proposal was rejected, with a South African member of the Parliament calling it "bizarre" and saying that

*[i]t will never pass in this parliament, especially from members like us who feel that the rights of all should be respected.*⁹⁸

Zimbabwe

2010: The offices of Gays and Lesbians of Zimbabwe (GALZ) were raided and two staff members detained.⁹⁹

2011: President Mugabe reiterated gays were "lower than pigs and dogs", and confirmed an earlier statement that the new Zimbabwean Constitution would in no way advocate gay rights.¹⁰⁰

⁹³ Togo: Msm community hold transvestite beauty pageant, ILGA: 7 September 2011.

⁹⁴ Ugandan 'gay' name list condemned, BBC News: 8 September 2006.

⁹⁵ Uganda's Rolling Stone paper told to stop outing gays, BBC News: 1 November 2010.

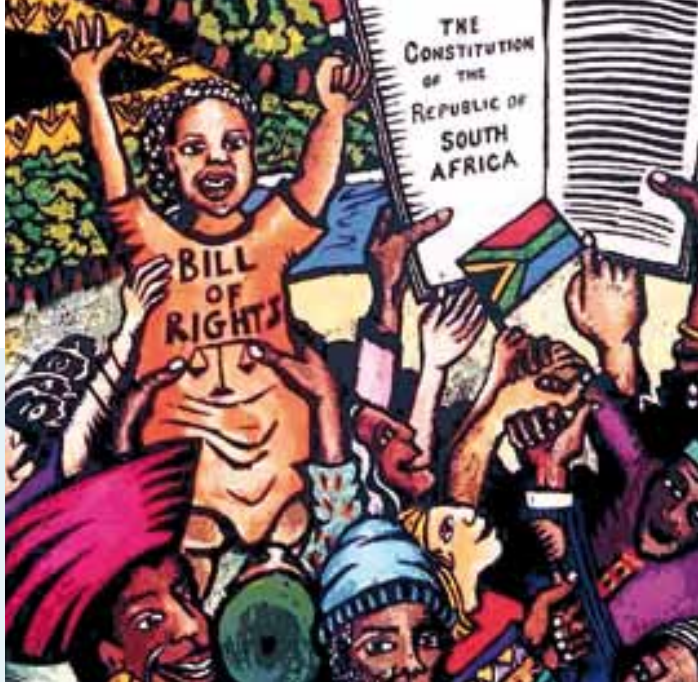
⁹⁶ Mbeki slams Uganda's anti-gay bill, News24: 23 January 2012.

⁹⁷ Ugandan minister shuts down gay rights conference, The Guardian: 15 February 2012.

⁹⁸ Ugandan Lawmaker Demands Every Country in Africa Enact Life Imprisonment for Homosexuals, Towleroad: 10 October 2012.

⁹⁹ Arrested GALZ employees allege torture by Zimbabwe police, War Resisters' International: 27 May 2010.

¹⁰⁰ Zimbabwe's President Mugabe: Gays Still Worse Than Pigs and Dogs, Queerty: undated; Mugabe calls David Cameron 'satanic' for backing gay rights, The Telegraph: 24 November 2011.



Africa

2010: Egypt introduced an agenda item to the Executive Council of the AU which sought to restrict discussion of human rights issues, limit diversity and undermine the principles of universality and non-discrimination. The basic concept was that sexuality rights were not human rights.

The Queer African Manifesto/Declaration was unveiled in Kenya – a statement by the LGBTI community putting across its position.¹⁰¹

International

2010: The IGLHRC was granted consultative status at the UN – it is only the 10th organisation working primarily for LGBTI human rights to gain such status.

2011: The UNHRC adopted a landmark resolution, introduced by South Africa, on violence and discrimination against LGBTIs. It is said to be the first time that a resolution specifically affirming the rights of LGBTIs has been adopted at the UN.

2012: South Africa hosted the first UNHRC debate on the rights of sexual minorities and, according to Mark Gevisser, made

*a dramatic decision not just to place itself in the global 'human rights' camp on this issue, from which most of its neighbours have excused themselves, but to lead it.*¹⁰²

At the debate, the High Commissioner, Navi Pillay – also a South African – presented her report, calling for an end to laws still criminalising homosexuality in many countries, and to the violence perpetrated against sexual minorities. Two significant blocs refused to participate in the debate: the Organisation for Islamic Co-operation – representing all Muslim states at the UN – and the Arab bloc. Although it did not support the generally positive response to different sexual orientations, the Africa group did not stage a walk-out. Still, as Gevisser noted,

*Africa remains a rough neighbourhood for sexual minorities.*¹⁰³

¹⁰¹ Queer African Manifesto/Declaration – April 18, 2010, accessed via www.fahamu.org.

¹⁰² Mark Gevisser, *Towards a progressive culture*, Mail & Guardian: 16 March 2012.

¹⁰³ *Ibid.*



Photograph: Martina Bacigalupo & Human Rights Watch ©

By the end of 2012, there were 11 brave countries in Africa where homosexuality was legal or decriminalised.

The above instances do not suggest, overall, any clear trends – certainly not much in the way of developing human rights commitments. Rather they show how insecure it is to be queer in Africa in the early 21st century.

By the end of 2012, there were 11 brave countries in Africa where homosexuality was legal or decriminalised. But the following countries still found homosexuality punishable by death: Iran, parts of Malaysia, Mauritania, parts of Nigeria, Saudi Arabia, Somalia, Sudan, the United Arab Emirates and Yemen. Forms of capital, corporal and less harsh punishment include hanging, decapitation, stoning, imprisonment and flogging.

Still, as one activist said to us:

Sometimes it feels like one step forward and two back. But at least now we talk about it and there are organisations that take a stand on it.

The intimidation and arrest of LGBTIs has in some cases become the driving force behind a campaign for sexual rights and decriminalisation. And, although a number of the activists we interviewed were somewhat dismissive of South Africa's role in this, it does seem that, as Mark Gevisser writes,

*Once a fence-sitter, South Africa is now perfectly poised to lead by example on the continent.*¹⁰⁴

The more detailed examples in the next chapter show how attitudes to queers are often governed by expediency and misinformation, supported by a populace that might follow strong leadership but who – in the absence of it – reverts to fear and myth. The countries covered were chosen as examples of places in Africa where the struggle against homophobia is being waged with all the nuances outlined in the first part of this publication, but where activists – with the support of foreign and local donors, as well as some governments – are taking the human rights battle to homophobic governments.

¹⁰⁴ *Ibid.*

IX. Beyond the snapshots

In Kenya, being gay and identifying as gay is not illegal. What is illegal is engaging in same-sex sexual activity, which is punishable by up to 14 years in prison.

Kenya

A 2005 study by Urgent Action Fund-Africa affirmed that

*sexuality and sexual matters remain taboo subjects within most of the region. The gradual but slow realisation that same-sex relationships are based upon fundamental human rights and freedom is slowly though reluctantly 'seeping' across the region. The cultural and religious biases continue to discriminate and inhibit the full realisation of the LGBTI communities. The 'closeted' lifestyle of LGBTIs transcends the region and is a direct violation of an individual's right to association and freedom of choice. Notwithstanding the silence surrounding human rights of LGBTI groups, their very existence has facilitated public discourse on the indivisibility of human rights and poses the challenge to human rights activists selectively working around some human rights issues.*¹⁰⁵

In Kenya, homosexual behaviour is punishable by up to 14 years in prison. Mona Kareithi of the Kenya Human Rights Commission (KHRC, an NGO), however, has emphasised that being gay and identifying as gay is not illegal in Kenya. What is illegal is engaging in same-sex sexual activity.

Larry Misedah is a young Kenyan gay rights activist who was banished from his family and harassed at his university. He struggled with the country's hostile legal and political environment and encountered unbearable intimidation and threats of violence. He had to flee the country for several months and was eventually given political asylum in the US.¹⁰⁶

The term MSM is used more often than LGBTI in Kenya, and *shoga* is the more derogatory term used by homophobes. Many LGBTIs find a degree of peace in 'safe areas' such as gay bars, but major repression often takes place in the family. 'Coming out' or 'outing' results in exclusion from the family, or even 'honour' murders.

¹⁰⁵ Jane Kiragu & Zawadi Nyong'o (eds), *LGBTI Organising in East Africa: The True Test for Human Rights Defenders*, Urgent Action Fund-Africa: 2005.

¹⁰⁶ Larry Misedah, *Kenyan Gay Rights Activist, Tells His Story*, IGLHRC: 17 November 2011.



Staff at GALCK, which comprises six Kenyan LGBTI organisations

Photograph: Evan Abramson & AJWS ©

Despite this, there have been gains in East African countries, and particularly in Kenya. A number of strong LGBTI activists have helped publicise gay issues, and they have received support from some feminist and human rights organisations. Similarly, a number of LGBTI groups have managed to get registered, mostly as HIV and AIDS organisations servicing LGBTI communities. Several groups have done useful research to provide data and credible information on the state of the epidemic in Kenya. The government's prioritisation of the need to reach the most-at-risk population groups, including MSM, has encouraged lobbying for the inclusion of MSM in national HIV and AIDS policies, and increased public awareness of the issues through meetings, radio and print media.

In addition, several leaders of LGBTI groups have also had opportunities to build knowledge and skills through regional and international LGBTI fora, conferences and workshops; and a number of gay websites have helped create safe spaces for hundreds of LGBTIs to interact with one another.

Some LGBTI activists have been engaged in Kenya's constitutional reform process and, although the country's current Constitution does not mention sexual minorities specifically, its *Bill of Rights* is clear on protection being an inherent right of all citizens. Under the Kenyan Constitution, the principles of equality and non-discrimination are espoused for state organisations, state officers, public officers and all persons applying, interpreting and implementing public policy decisions.¹⁰⁷

The inclusion of sexual orientation and gender identity as a thematic group under the Kenya Universal Periodic Review process, undertaken by the KNCHR, indicates that a key government agency is willing to engage with and highlight human rights violations targeting LGBTIs. Nevertheless, Kenyan law still criminalises same-sex relationships.

Debates and discussion in the media and on the internet have opened up the issues and made them more public. Donors such as the Ford Foundation and Hivos (Humanist Institute for Cooperation with Developing Countries) have brought LGBTI groups together. Organisations such as Urgent Action Fund-Africa have offered political solidarity as well as financial support to

¹⁰⁷ *Lived realities, Imagined Futures: A Lesbian, Gay, Bisexual, Transgender and Intersex Baseline Survey*, Republic of Kenya: April 2011.



Anthony Adero works for American Jewish World Service (AJWS) grantee and GALCK member ISHTAR (a community-based organisation promoting health and education for MSM in Kenya)

Photograph: Evan Abramson & AJWS ©

LGBTI activists in Kenya and other East African countries. Overall, however, hostility and outrage meet any efforts to 'normalise' homosexual activity in Kenya. Many Kenyan CSOs remain reluctant to support LGBTI groups. Yet, it must be said that whereas not so long ago Kenya was learning from South Africa in terms of building an LGBTI movement, it could be argued that this process is now being reversed.

In 2006, when GALCK was formed, there were eight LGBTI organisations in Kenya. Now there are at least 17.

Kenyan LGBTI groups have slowly managed to access funding, although not enough. When GALCK partnered with the KHRC in 2010 to make the International Day Against Homophobia a public event, the results were impressive. There was positive media coverage, building of more alliances with key allies in academia and other sectors, and constructive dialogue. On the back of a study in May 2011¹⁰⁸, the KHRC called for a repeal of laws criminalising homosexuality.

Despite this, homophobia and transphobia flourish, heightened by cultural and religious beliefs. Verbal and physical attacks occur throughout the country; many instances are not reported for fear of secondary victimisation. The media is erratic – sometimes supportive of LGBTI issues, often not. Politically, the position was clear at first, with then President Daniel arap Moi stating in 1999:

*It is not right that a man should go with another man or a woman with another woman. It is against African tradition and Biblical teachings. I will not shy away from warning Kenyans against the scourge.*¹⁰⁹

Earlier, Moi had condemned the 1995 Beijing Woman's Conference for the "immoral culture of homosexuality and lesbianism it raised".¹¹⁰

There is less outright condemnation now. At the 2007 World Social Forum in Nairobi, for example, the Kenyan LGBTI community held a demonstration for their rights and were joined by hundreds of international participants. Despite the fact that media coverage made people visible and identifiable, and that religious communities demanded they be arrested, no action was taken and no condemnatory statements were made by the government. Generally, ministers have made positive statements and have even apologised

¹⁰⁸ *The Outlawed Among Us*, KHRC: 2011.

¹⁰⁹ *Kenya joins attack on African gays*, Independent Online: 30 September 1999.

¹¹⁰ Cynthia Rothschild, Scott Long & Susanna T Fried, *op.cit.*

We spoke to a Kenyan man who said that there were “hate” activities in Kenya, but they tended to take “gentler” forms – closing down of workshops, rather than rapes and murders.

when they have made negative statements. And, in 2013, David Kuria (co-founder of GALCK) will be the first openly gay candidate ever to run for political office in Kenya.

We spoke to a Kenyan man who said that there were “hate” activities in Kenya, but they tended to take “gentler” forms – closing down of workshops, rather than rapes and murders. He believes that people are now more tolerant than they used to be. He worked for a newspaper in Kenya that decided to do more positive reporting on LGBTI issues. And, there are even television programmes with gay characters.

*Ten years ago, President Moi was still making decidedly homophobic statements. Today LGBTI persons have voice, and even while individuals still remain in mortal danger of life and limb on account of their sexuality, many have the courage to claim their rights in the spaces that matter: within political, legal, economic and social fields where the whole society plays.*¹¹¹

Despite the validity of this optimistic statement, as late as in December 2010, Kenyan Prime Minister Raila Odinga said that anyone engaging in homosexual activities should be arrested

*We want a country that is clean. A clean way of doing things that has clean mannerisms. We do not want things to do with sodomy.*¹¹²

Malawi

Malawi’s foreign policy is pro-West. The country has good diplomatic relations with most other countries and participates in several international organisations. It is one of the world’s least developed countries; the economy relies heavily on agriculture and Malawi has a largely rural population. The country depends on outside aid to meet development needs, although aid has decreased since 2000.

In terms of human rights, since 2010, international observers have noted:

- excessive force used by police
- security forces acting with impunity
- occasional mob violence; and
- prison conditions that are harsh and even life-threatening.

There are also limits to free speech and the press, arbitrary arrests and detentions, and corruption is an issue. Homosexuality for males is illegal in Malawi, but not for females.¹¹³

¹¹¹ Lawrence Mute, *From The Telling Sound of Silence to the Tolling Boom of Activism*, Kenya Human Rights Institute: October 2010.

¹¹² *Call to arrest shocks gay activists*, Mail & Guardian: 6 December 2010.

¹¹³ *2010 Human Rights Report: Malawi*, U.S. Department of State – Bureau of Democracy, Human Rights and Labor: 8 April 2011.



Tiwonge Chimbalanga (left) and Steven Monjeza, Malawi

Photograph: Claire Ngozo & IPS ©

The Monjeza/Chimbalanga case

The criminalisation of homosexuality led to a *cause célèbre* when Steven Monjeza and Tiwonge Chimbalanga were arrested after their traditional engagement in December of 2009. They were charged and found guilty of “unnatural offences

[and] indecent practices between males”¹¹⁴ in May 2010. They both received a prison sentence of 14 years. The Monjeza/Chimbalanga case violated a number of rights in the Malawian Constitution as well as international human rights commitments, and created a climate of fear. There were numerous instances of intimidation, threats and physical attacks on human rights defenders. Monjeza and Chimbalanga were finally pardoned and released, but the then Malawian President Bingu wa Mutharika said:

*These boys committed a crime against our culture, our religion and our laws.*¹¹⁵

According to Mark Gevisser, however,

*He [Mutharika] claimed he was exercising the pardon “on humanitarian grounds”. If he were more truthful, he would have said it was on diplomatic, or expedient grounds; his country is almost entirely dependent on foreign aid, and the pressure on him was intense.*¹¹⁶

Meanwhile, the couple broke up and both were ‘returned’ to their home communities. Their families were expected to take up the role of punishing them where the state left off. Chimbalanga sought and was eventually granted asylum in South Africa.

President Jacob Zuma of South Africa condemned the arrest of the two Malawians, saying:

*There is a need to persuade; we need to make people understand, we need to move with them. We have never adopted a confrontational stance on matters.*¹¹⁷

The Southern African Development Community Lawyers Association, while commending the pardoning of the two Malawians, expressed its

*concern about Malawi’s apparent desire to continue to implement laws that are discriminatory and violate individuals’ rights to freedom of expression and conscience and status and are, therefore, unconstitutional.*¹¹⁸

¹¹⁴ Malawi gay couple found guilty of unnatural acts and gross indecency, PinkNews: 18 May 2010.

¹¹⁵ Malawi President Pardons Gay Couple, New York Times: 29 May 2010.

¹¹⁶ Mark Gevisser, Homosexuality and the battle for Africa’s soul, Mail & Guardian: 4 June 2010.

¹¹⁷ South Africa’s Zuma condemns arrest of gays in Malawi, Reuters: 27 May 2010.

¹¹⁸ SADC Lawyers Association statement on Tiwonge Chimbalanga and Steven Monjeza, Pambazuka News 484: 3 June 2010.



Gender DynamiX and Iranti-Org (a Southern African queer media organisation) have been supporting Tiwonge Chimbalanga after she gained refugee status in South Africa

Photograph: Jabu C Pereira ©

Malawi's President Joyce Banda seems determined to correct the legacy of former President Bingu wa Mutharika and appears committed to human rights, democracy and good governance.

Then, in February 2011, President Mutharika passed an insertion into the country's penal code which included women in the prohibition of same-sex relationships, with a prison sentence of up to five years if found guilty. This was seen by activists as an attempt

by Mutharika to strengthen his position against a future opponent for the position of president – Joyce Banda, known to be a 'non-apologetic feminist'. Later in the year, treason warrants were issued for human rights activists, including gay activists.

In November 2012, however, Malawi surprised everyone by declaring that anti-gay legislation was suspended pending a constitutional review. This was the result of the accession to power of Joyce Banda as Malawi's new president, after Mutharika's sudden death. Mutharika had earlier tried to remove Banda – then his deputy – from office, but she had continued to serve despite his animosity and his attempts to position his brother as his successor. After Mutharika died, his cabinet tried to block Banda from becoming president as constitutionally mandated, but Banda faced them down. She seems determined to correct the legacy of Mutharika, whose rule became increasingly autocratic and erratic, and appears to be committed to human rights, democracy and good governance.

Nigeria

The 1964 International Conference on Population and Development in Cairo, and successive conferences, provided a basis for advocacy on diverse matters of sexuality in Nigeria. But, over time, the situation deteriorated; sexual minorities and gender-related issues dropped off the agenda as Nigeria grappled with dictatorships and the battle to restore democracy. There has also been a backlash against initiatives to increase freedoms and protections related to sexual orientation due to a severe sharia legal system being introduced in the majority-Muslim north of Nigeria from 2000. This system makes provision for stringent punishment for 'sexual offences'.

Silence on issues of sexuality cuts across all cultures in Nigeria, however, leaving the matter largely undealt with. Homosexuality is taboo, be it in terms of practice or discussion.

Studies show that although the concept for homosexuality exists in many Nigerian languages – proving that it is not an imported behaviour, as many claim – younger people are generally not familiar with this vocabulary. This is a result of censorship.¹¹⁹

Both Christianity and Islam (the dominant religions in Nigeria by far) are intolerant of homosexuality, but before the adoption of sharia law by 12 of

¹¹⁹ Report of the Survey on Sexual Diversity and Human Rights in Nigeria, INCREASE: September 2009.



Protest rally against homophobic legislation in Nigeria at the Nigerian Embassy in London, UK, November 2011

Photograph: Nigerian LGBTIs in Diaspora Against Anti Same Sex Laws ©

Although Nigeria's Constitution from 1999 guarantees the equality of all persons and promises to promote and protect personal dignity and bodily integrity, these constitutional promises do not extend to LGBTIs.

the country's 19 northern states, transvestites and those perceived to be gay generally lived unmolested within communities and could express their sexualities. The introduction of sharia law has increased intolerance in terms of what is considered 'immoral acts'.

Legally, the Nigerian penal and criminal codes were inherited from Britain and make homosexuality (sodomy) a criminal offence. Although the country's Constitution from 1999 guarantees the equality of all persons and promises to promote and protect personal dignity and bodily integrity, these constitutional promises do not extend to LGBTIs. Same-sex sexual activity is punishable by death by stoning in states under sharia law, and by up to 14 years' imprisonment in other parts of Nigeria. Further, on 1 December 2011, Nigeria passed a new law making same-sex marriage a crime punishable by 10 years in prison.

At the same time, HIV and AIDS as well as moves by mainline churches to ordain openly gay bishops have meant that a discourse about sex has opened up, though much of it maintains negative attitudes towards sexual diversity. The result has been that sexual minorities have begun organising, with some support from human rights organisations.

Studies have shown that most of the negative misconceptions Nigerians have about LGBTIs come from television and radio, which suggests that perceptions can be altered in the same way if there is the political will to do so. Nigeria has one of the highest rejection indices of homosexuality in the world – 97%.¹²⁰ Public hostility to homosexual relations is widespread. Very few gay people are out and violence against LGBTIs is frequent. It is difficult to be openly gay, but there are some groups, such as the Metropolitan Community Churches, that try to assist LGBTIs. Sometimes hundreds of people attend a meeting, but it can be dangerous to attend. Another organisation, the Coalition for the Defense of Sexual Rights, also advocates against homophobic laws.

When the bill against same-sex marriage was tabled, a number of Nigerian organisations and individuals joined in a critical analysis of it and in supporting queer activists who were advocating against it. Speaking to us, one activist said, "At least it is no longer hidden".

In 2011, the same year as the bill was passed, Nigeria held the Chair of the UNHRC – a clear indication of the confusion around human rights in Africa and perhaps the world.

¹²⁰ 47-Nation Pew Global Attitudes Survey, *op.cit.*



Frank Mugisha, Executive Director of SMUG, Uganda

Photograph: Håvard Holme & the Rafto Foundation ©

Uganda

When I was 14, I came out to my brother. Later, when others close to me asked if I was gay, I didn't deny it [...] Many Africans believe that homosexuality is an import from the West, and ironically they invoke religious beliefs and colonial-era laws that are foreign to our continent to persecute us [...] The way I see it, homophobia – not homosexuality – is the toxic import. Thanks to the absurd ideas peddled by American fundamentalists, we are constantly forced to respond to the myth – debunked long ago by scientists – that homosexuality leads to paedophilia. For years, the Christian right in America has exported its doctrine to Africa, and, along with it, homophobia. In Uganda, American evangelical Christians even held workshops and met with key officials to preach their message of hate shortly before the bill to impose the death penalty for homosexual conduct was introduced in Uganda's Parliament in 2009.¹²¹

Thus wrote Frank Mugisha, recipient of the 2011 Robert F. Kennedy Center Award for Justice & Human Rights, and Executive Director of SMUG.

President Yoweri Museveni has been in power in Uganda since 1986, with the next elections anticipated in 2016. Christians make up 84% of the country's population. Respect for human rights seemed to have improved significantly in Uganda between the mid-1980s and mid-2000s, although there were still areas of concern.

Homosexuality has always been illegal in Uganda, and gays and lesbians face discrimination and harassment at the hands of the media, police, teachers and other groups. Gays live underground and hide their organisations in offices free from identification. They socialise in gay bars whose names can never be revealed, bars known only by people who have been invited there. Urban homosexuals often refer to themselves as *kuchus*.

Then – from the mid-2000s – the issue of homosexuality gave Uganda an explosion of negative publicity.

A newspaper outed a number of allegedly gay men in 2007, making them vulnerable to harassment. In 2010, a newspaper outed 100 more homosexuals in a front-page story, alongside a yellow banner urging "Hang them".¹²² Those outed included a 78-year old Church of Uganda bishop who worked with

¹²¹ Frank Mugisha, *Gay and Vilified in Uganda*, New York Times: 22 December 2011.

¹²² *Uganda's Rolling Stone paper told to stop outing gays*, BBC News: 1 November 2010. The Rolling Stone was one of the publications known for outing gay people. On 14 November 2010, it ran a story with the headline *Homo generals plotted Kampala terror attacks*. The generals were described as "bloodthirsty generals in the evil homosexuality world" (*Uganda's Muckraking Newspapers Uncover University 'Lesbian Club' And Terrorist Gays Behind World Cup Attack*, Queerty: 14 November 2010).



The current version of Uganda's *Anti-Homosexuality Bill* calls for a seven-year term of imprisonment for gay activity. Also, doctors can go to prison for not reporting that someone who is HIV-positive is homosexual. A landlord is also supposed to know if tenants are involved in homosexual activity, and report it.

gays and lesbians. He was subsequently expelled from the church and lost his pension. He continues his work and says his conviction is "that I have to bring good news to people who are marginalised".¹²³

The Ugandan Parliament is considering an *Anti-Homosexuality Bill* that, if enacted, would broaden the criminalisation of homosexuality by introducing the death penalty for people who have previous convictions, or are HIV-positive, and engage in same-sex sexual acts. The bill was introduced by MP David Bahati in October 2009 and is believed to have had widespread support in the Ugandan Parliament.¹²⁴ It has become known as the Bahati bill. The bill also included provisions for Ugandans who engage in same-sex sexual acts outside of Uganda – asserting they may be extradited back to Uganda for punishment – as well as penalties for individuals, companies, media organisations or NGOs that support LGBTI rights. The bill was watered down to some extent after its first tabling, but the 2012 version is still vicious.

In the face of international condemnation – US President Barack Obama said the proposed law was "odious"¹²⁵, Sweden threatened to cut aid to Uganda if the law was introduced, and former South African President Thabo Mbeki used South Africa's past experience of the *Immorality Act* to trash the bill – gay activists declared the process was a diversion, staged to distract from the public unrest that was besetting Uganda.

The debate on the bill was delayed, but the bill itself was not shelved, and public hearings were conducted on it as late as in May 2011. A modified version was then reintroduced in February 2012, amid nervousness from President Museveni about how it might affect foreign relations. The bill now calls for a seven-year term of imprisonment as punishment for gay activity. Furthermore, doctors can be sent to prison for not reporting that someone who is HIV-positive is homosexual. A landlord is also supposed to know whether his tenant is involved in homosexual activity, and report it.

Activists believe that simply introducing the bill has wrought much damage. According to them, it has promoted hate speech in churches, schools and the media. It has led to defamation, blackmail, evictions, intimidation, arbitrary arrests and unlawful detention, as well as physical, emotional and mental assaults on LGBTI activists, their families and allies. The newspaper articles that outed allegedly gay people led to further violence. One victim, now in hiding, described how

*[w]hen my neighbours saw my picture in the paper, they were furious. They threw stones at me while I was in my house. I was so terrified somehow I managed to flee my home to safety.*¹²⁶

¹²³ Bishop Among Those "Outed" by Ugandan Tabloid, Religion Dispatches: 21 November 2010.

¹²⁴ Jeff Sharlet, *Straight Man's Burden*, Harper's Magazine: September 2010.

¹²⁵ Obama condemns Uganda anti-gay bill as 'odious', BBC News: 4 February 2010.

¹²⁶ One Year Since the Introduction of the Anti-Homosexuality Bill in Uganda, ILGA: 14 October 2010.



David Kato speaking at the 2010 Front Line Defenders Dublin Platform

Photograph: Front Line Defenders ©

David Kato

One gay activist who will no longer be protesting against the Bahati bill is David Kato. After spending time in South Africa – and influenced by the end of the apartheid-era ban on sodomy and the growth of LGBTI rights in the country – Kato went back to Uganda in 1998 and decided to come out in public through a press conference. He was arrested and held in police custody for a week. He subsequently became highly involved with the underground LGBTI rights movement in Uganda, eventually becoming one of the founding

members of SMUG in 2004.¹²⁷

In 2009, under conditions of confidentiality, Kato spoke at a UN-funded conference on human rights on the issues of LGBTI rights and the anti-LGBTI atmosphere in Uganda. Members of the Ugandan Human Rights Commission “openly joked and snickered”¹²⁸ during the speech. A rumour circulated that Bahati had ordered the Inspector General of Police to arrest Kato. Hence, Kato and other members of SMUG had to leave the conference immediately after Kato’s speech. Bahati then loosed a “tirade against homosexuality”¹²⁹ to massive applause and supported by an evangelical cleric who banged his fist on the table in agreement.

By 2010, Kato had left his job as a school teacher to focus on his work at SMUG in light of the events surrounding the Bahati bill. He spent a year on a fellowship in the US. As described above, Kato was outed by the Rolling Stone newspaper, which called for the execution of homosexuals, and published the outed individuals’ addresses. Kato and two colleagues sued the paper to force it to stop publishing names and addresses of people believed to be gay or lesbian. They won the petition, but the Rolling Stone’s managing editor said that

*the war against gays will and must continue. We have to protect our children from this dirty homosexual affront.*¹³⁰

On 3 January 2011, Justice Musoke Kibuuka ruled that the paper’s publication of lists and the accompanying incitement to violence contravened Kato’s and others’ “fundamental rights and freedoms”¹³¹, their right to human dignity and their constitutional right to privacy. The ruling was welcomed by gay and lesbian activists. As Executive Director of FARUG, Kasha Jacqueline, put it, the ruling was a reminder

¹²⁷ The previous year (2003) saw the formation of FARUG, a lesbian organisation. Other organisations supporting gay rights in Uganda are: Icebreakers Uganda, Queer Youth, Spectrum, the Ugandan Civil Society Coalition on Human Rights and Constitutional Law, and Youth Reproductive Health Link. These organisations are regularly subjected to harassment, robbery and vandalism.

¹²⁸ *WikiLeaks cables: Ugandan gay rights activist ‘mocked’ at rights seminar*, The Guardian: 17 February 2011.

¹²⁹ *Ibid.*

¹³⁰ *Judge orders Ugandan paper to stop publishing ‘gay lists’*, CNN International: 2 November 2010.

¹³¹ *Court Affirms Rights of Ugandan Gays*, Human Rights First: 4 January 2011.

*that Uganda is no place for hatred and impunity. Irresponsible journalism has no place in this country.*¹³²

On 26 January, however, while talking to a SMUG member on the telephone, Kato was assaulted in his home in Bukusa, Mukono Town, by at least one male assailant, who hit him twice on the head with a hammer before fleeing on foot. Kato died en route to hospital. He had spoken of increased threats and harassment since the court victory, and gay activists had no doubt that his murder was motivated by his sexual orientation and activism.

But for David Kato's family and friends, the horror did not end there. At Kato's funeral, the Christian preacher preached against the gays and lesbians present, making comparisons to Sodom and Gomorrah, before the activists ran to the pulpit and grabbed the microphone from him. Villagers refused to bury Kato at his burial place and the task was taken over by his largely gay friends and co-workers.¹³³

There was wide international condemnation of the murder, but the Rolling Stone's editor said:

*I have no regrets about the story. We were just exposing people who were doing wrong.*¹³⁴

The Social Justice Coalition in South Africa declared:

*The silence of many in powerful positions on the plights of LGBTI people on the continent amounts to an endorsement of homophobia, hate crimes and the killing of our dear brother, David Kato.*¹³⁵

On 15 September 2011, SMUG's Executive Director, Frank Mugisha, who has been working for LGBTI rights and HIV and AIDS awareness since 2004, was chosen to receive the 2011 Robert F. Kennedy Center Award for Justice & Human Rights for his work as a courageous leader of the LGBTI movement in Uganda. In response to receiving the reward, Mugisha said:

*For me, it is about standing out and speaking in an environment where you are not sure if you will survive the next day; it is this fear that makes me strong, to work and fight on to see a better life for LGBTI persons in Uganda.*¹³⁶

The former Ugandan Minister of State for Ethics and Integrity, Nsaba Buturo, is on record as having declared that "[h]omosexuals can forget about human

¹³² *My life as a gay Ugandan*, Pambazuka News 517: 17 February 2011.

¹³³ *David Kato*, CNN iReport: 5 February 2011.

¹³⁴ *Ugandan 'hang them' paper has no regrets after David Kato death*, The Guardian: 27 January 2011.

¹³⁵ *South African social justice organisations mourn Ugandan comrade*, Pambazuka News 514: 27 January 2011.

¹³⁶ *Ugandan LGBTI rights activist Frank Mugisha to receive 2011 Robert F. Kennedy Human Rights Award*, Robert F. Kennedy Center for Justice & Human Rights: 15 September 2011.



Participants in the first ever Pride celebrations in Uganda, August 2012

Photograph: David Robinson ©

rights"¹³⁷, and Simon Lokodo, the current Minister of State for Ethics and Integrity, shut down a capacity-building workshop of gay activists in February 2012.¹³⁸

Proponents of the Bahati bill, which seems to have gathered renewed support in its modified form, believe homosexuality is a threat to African culture. Presumably they do not believe that murder holds the same threat. The gay rights organisations, on the other hand, use the slogan 'Hate No More'.

Reservations about the bill have been expressed by the Ugandan Law Society, amongst others. It believes that the bill, if enacted in its current form, would violate international human rights law and lead to

further human rights violations, such as the rights to freedom of expression, of conscience, of religion, of peaceful assembly, of association, liberty and security of the person's privacy, all guaranteed under the Constitution of Uganda as well as in international and regional treaties to which Uganda is party.

President Museveni himself is said not to like the bill. And the opposition has stated that, had it won the elections, it would have decriminalised homosexuality.

The Kampala Women's Lawyers Association has also come out strongly against the bill. One commentator noted:

*It is easy to thumb one's nose at the gay rights activists and call for them to be jailed and the keys cast into Lake Victoria, but the same people who will arrest the gays will one day return to arrest the teachers and doctors asking for better conditions. We should not let our moral convictions interfere with our legal obligations to respect the rights of all.*¹³⁹

In a show of southern solidarity, the Women Living Under Muslim Laws Solidarity Network and the Violence Is Not Our Culture Campaign condemned the homophobic wave sweeping Uganda and called for the withdrawal of the bill.

So, despite populist views, the position in Uganda – the current poster child for homophobia – is not homogenous, and the Ugandan government has come under fire from religious and opposition leaders for wasting time on a bill which is in fact a red herring, in the face of more pressing problems, such as general poverty and the health of children. Nevertheless, promotion of the Bahati bill and general harassment of LGBTIs continue. As of the end of 2012, Parliament had adjourned without voting on the bill.

¹³⁷ *Ugandan Who Spoke Up for Gays Is Beaten to Death*, New York Times: 27 January 2011.

¹³⁸ *Uganda: Government Minister Shuts Down Human Rights Workshop*, East and Horn of Africa Human Rights Defenders Project: 15 February 2012.

¹³⁹ *Those who go after gays and sex workers will one day go after teachers and doctors*, Daily Monitor: 16 February 2012.

Despite the fact that male homosexuality is illegal in Zimbabwe, and despite President Robert Mugabe's vehement denunciations of homosexuality and the sometimes violent rhetoric of his supporters, neither violence nor systematic intimidation of gays and lesbians has ensued.

Zimbabwe

Zimbabwe was initially colonised by the British, a fact that galls President Robert Mugabe of the Zimbabwe African National Union-Patriotic Front (ZANU-PF), who has been in power since independence in 1980. A confirmed homophobe, President Mugabe sees, or appears to see, homosexuality as an integral part of the country's colonial past, and views both with contempt.

In 2008, after a closely contested election, a power-sharing agreement¹⁴⁰ was reached between Mugabe and Morgan Tsvangirai of the opposition party Movement for Democratic Change (MDC), in which Mugabe remained president and Tsvangirai became prime minister.

There are widespread reports of systematic and escalating violations of human rights in Zimbabwe under Mugabe and ZANU-PF. According to Amnesty International and Human Rights Watch, the Zimbabwean government violates the rights to shelter, food, freedom of movement and residence, freedom of assembly, and protection under the law. There have been alleged assaults on the media, the political opposition, civil society activists and human rights defenders. The economy has been in a downward spiral, with hyperinflation reaching unprecedented highs, but since the power-sharing agreement between ZANU-PF and the MDC, brokered by former South African President Thabo Mbeki, there has been some improvement.

Mugabe points to foreign governments and alleged 'sabotage' as the cause of the virtual collapse of the Zimbabwean economy and the country's astronomical unemployment rate. His critics blame his controversial land programme, in which land has been seized from white commercial farmers. While mild sanctions by the West are in force against Zimbabwe, they affect few people (largely businesses controlled by government officials) and not ordinary citizens. HIV infection is high and life expectancy is low. About 85% of Zimbabweans are Christian and 62% of the population attends religious services regularly; only about 1% of the population is Muslim.¹⁴¹

Tolerance of homosexuality and the outrage expressed at President Mugabe's statements about gay people have been cited by him as yet other intolerable cases of Western interference. Yet, despite the fact that male homosexuality is illegal in Zimbabwe, and despite Mugabe's vehement denunciations of homosexuality and the sometimes violent rhetoric of his supporters, neither violence nor systematic intimidation of gays and lesbians has ensued. The government-controlled newspaper, *The Herald*, has reported in a reasonably fair way on gay activities in the West and seems to have favoured decriminalisation. Since 1996, however, there appears to have been a revival of homophobia, inflamed by politicians and church officials.

Keith Goddard, founder of GALZ, was quoted in 1998 as saying:

¹⁴⁰ Only fully implemented from early 2009.

¹⁴¹ www.wikipedia.org.



GALZ Director Chesterfield Samba addressing a gathering of GALZ members commemorating International Day against Homophobia and Transphobia, 19 May 2012

Photograph: GALZ ©

*We live in an extremely homophobic society and the harassment is definitely increasing.*¹⁴²

GALZ traced the persecution to the very top – to Mugabe – and saw the increase in homophobia as growing from the 1994 Zimbabwe International Book Fair in Harare, where a display of gay and lesbian literature provoked Mugabe into making a speech describing homosexuals as

*worse than dogs and pigs [and] a scourge planted by the white man on a pure continent.*¹⁴³

Politicians started calling LGBTIs “festering fingers”¹⁴⁴, endangering the body of the nation.

The country’s gay and lesbian community sees itself as the target of a state-sanctioned hate campaign. Attacks by the church, politicians and the media have led to the revival of colonial-era laws forbidding sodomy and ‘unnatural offences’. These offences can carry jail sentences of up to eight years. Lesbianism is not illegal but could be classified as an unnatural offence. GALZ thinks that “the main effect of the sodomy laws is to help blackmailers”.¹⁴⁵

Some say Mugabe targets homosexuals for political campaigns designed to unify the nation and help define Zimbabwean identity. Others believe he is acting for purely personal reasons, and that he has – for whatever reason – a sincere and visceral hate of homosexuals. Yet others see it as a symptom of a country that pays lip service to liberalisation, modernisation and human rights,

but finds it difficult to cope with what these mean in practice.¹⁴⁶

In Zimbabwe, all political power is concentrated in the hands of the president and a small ruling elite (often military); there is very little political space for opposition. GALZ does its best, and does not let attacks on gays and lesbians, or those accused of being so, go unchallenged. Although keen to make the point that African countries must lead their own human rights battles, GALZ has called upon various embassies to highlight human rights abuses experienced by LGBTI human rights defenders in Zimbabwe, for example in discussions with development partners and political parties; and to encourage human rights organisations to support GALZ by speaking out in

¹⁴² *Homosexual and hated in Zimbabwe*, BBC News: 12 August 1998.

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*



ArtX ©

Many Zimbabweans – even if they are far from supporters of Mugabe – believe that gays and lesbians should not be tolerated.

support of the universality and indivisibility of human rights.

In 2010, when 20 high-school girls in Bulawayo were detained on the grounds of their sexual orientation and accused of teaching other school girls homosexuality, GALZ issued a strong statement encouraging schools to understand and uphold their duty to protect the children in their care.¹⁴⁷

Many Zimbabweans – even if they are far from supporters of Mugabe – believe that gays and lesbians should not be tolerated.

*I may be opposed to the corrupt politics of the geriatric Mugabe but I think he speaks for Zimbabwe's moral conscience when he condemns gays and lesbians as worse than dogs and pigs. The law should protect them whilst moderating their behaviour without persecution. Human rights should apply to all people irrespective of their beliefs. Even hardened criminals and murderers have rights.*¹⁴⁸

This was one of the views expressed in a 2009 gay debate on New Zimbabwe.com on whether it was time Zimbabweans embraced gays and lesbians. But not all comments were negative:

*I believe that if we are to work towards a culture of respecting human rights it cannot be done on a piecemeal basis. Respect for human rights essentially means allowing individuals to exercise their freedoms and liberties without interference as long as they in turn do not violate anyone's rights in the process. Gays and lesbians who engage in consensual relationships do not harm anyone.*¹⁴⁹

In 2011, after having joined Mugabe in opposing homosexuality and having said in 2010 that “gay rights are not up for discussion in Zimbabwe”¹⁵⁰, Prime Minister Morgan Tsvangirai did an apparent U-turn and declared that gay rights were human rights that conservative Zimbabweans should respect, and that homosexuality is

*a very controversial subject in my part of the world. My attitude is that I hope the constitution will come out with freedom of sexual orientation, for as long as it does not interfere with anybody.*¹⁵¹

A fierce Mugabe supporter responded:

*[Tsvangirai] should be stoned to death because [homosexuality] is ungodly and we would not tolerate being led by someone who has the audacity to say such things.*¹⁵²

Despite some chinks in the homophobic armour, the world was astonished when, at an October 2011 meeting of the UNHRC, Zimbabwe's Minister of Justice & Legal Affairs, Patrick Chinamasa, made a statement in which he

¹⁴⁷ Zim High School Girls Arrested Over Lesbianism, ZimEye.org: 3 August 2010.

¹⁴⁸ Zimbabwe: How long before gays accepted?, New Zimbabwe.com: last updated 11 December 2009.

¹⁴⁹ Ibid.

¹⁵⁰ Zimbabwe's PM Morgan Tsvangirai in gay rights U-turn, BBC News: 24 October 2011.

¹⁵¹ Ibid.

¹⁵² Tsvangirai in a fix over gay rights, Mail & Guardian: 4 November 2011.



Police raid the offices of GALZ on 20 July 2012

Photograph: Tsvangirai Mukwazhi ©

said that his country was “better placed to teach [the West] human rights”.¹⁵³ He accused the current crop of political leadership in the West, the former colonising powers, of continuing *to follow the imperialist footsteps of their forefathers which were to arrest, detain, mutilate our people and plunder and pillage our resources.*¹⁵⁴

There may be some truth in Chinamasa accusing Western powers of a degree of hypocrisy, but to hold Zimbabwe up as a paragon of human rights defence might have been pushing it too far.

Meanwhile, in addition to GALZ, other human rights organisations have emerged in Zimbabwe.

One of these is Restoration of Human Rights (ROHR) Zimbabwe. ROHR's vice-chairperson and its spokesperson were arrested in January 2012 after ZANU-PF's Youth Militia had attacked them.

Crisis in Zimbabwe Coalition, a civil society coalition calling for free and fair elections in Zimbabwe, has been joined by gay and lesbian groups in working for an environment conducive to free and fair elections where violence and intimidation play no part.

Undeterred, however, Mugabe announced in July 2010:

*We say no to gay rights. We will not listen to those advocating for their rights in the new constitution.*¹⁵⁵

Zimbabwe is drafting a new Constitution to pave the way for new elections. In November 2011, Mugabe reiterated that gays and lesbians would be

*punished severely for their behaviour which is inconsistent with African and Christian values.*¹⁵⁶

¹⁵³ Minister Chinamasa response to UN Human Rights Council, SW Radio Africa: 12 October 2011.

¹⁵⁴ *Ibid.*

¹⁵⁵ No gay voice in new Zimbabwe constitution: Mugabe, AFP: 18 July 2010.

¹⁵⁶ Gays will be severely punished, says President, The Herald: 24 November 2011.

X. Supporting LGBTI Africans



Previous chapters suggest that Western countries, especially those pushing a human rights agenda, have some obligation to support the nascent queer movement in Africa. How they go about this, however, is a matter of some concern to African LGBTI activists and organisations, and to the foundations that support them.

In October 2011, for instance, when the British government threatened to cut aid to African countries that violate the rights of LGBTIs, the majority of queer groups in Africa responded with horror. The move was seen as aid conditionality, and a statement signed by key activists on the continent said:

While the intention may well be to protect the rights of LGBTI people on the continent, the decision to cut aid disregards the role of the LGBTI and broader social movement on the continent and creates the real risk of a serious backlash against LGBTI people.

A vibrant social justice movement within African civil society is working to ensure the visibility of – and enjoyment of rights by – LGBTIs. This movement is made up of people from all walks of life, both identifying and non-identifying as part of the LGBTI community. It has been working through a number of strategies to entrench LGBTI issues into broader civil society issues, to shift the same-sexuality discourse from the morality debate to the human rights debate, and to build relationships with governments for greater protection of LGBTIs. These objectives cannot be met when donor countries threaten to withhold aid.

[...] Donor sanctions are by their very nature coercive and reinforce the disproportionate power dynamics between donor countries and recipients. [...] They disregard the agency of African civil society movements and political leadership. They also tend [...] to exacerbate the environment of intolerance in which political leadership scapegoat LGBTI people for

Western countries, especially those pushing a human rights agenda, have some obligation to support the nascent queer movement in Africa. How they go about this, however, is a matter of some concern to African LGBTI activists and organisations, and to the foundations that support them.

*donor sanctions in an attempt to retain and reinforce national states sovereignty.*¹⁵⁷

The activists also pointed to the divide that sanctions can create between the LGBTI movement and the broader civil society movement, and how sanctions

*supports the commonly held notion that homosexuality is 'unAfrican' and a western-sponsored 'idea' [...]*¹⁵⁸

Activists call for more nuanced responses, key among them consultation with African LGBTIs. They would prefer that the British government

- expand its aid to community-based and -led LGBTI programmes aimed at fostering dialogue and tolerance
- support the inclusion of LGBTI issues in national and regional human rights mechanisms; and
- entrench LGBTI issues into broader social justice issues by financing community-led and nationally owned projects.

While some social justice groups felt that this was a bit harsh, and that some aid conditionality was in fact legitimate, this was the general activist position. A Kenyan activist we spoke to said that what activists wanted was for countries

to work with, not for, us. Don't speak for us. Speaking for us puts us in danger. They must ask what we want, not tell us what we should want. The road to hell is paved with good intentions.

When the Barack Obama administration announced wide-ranging efforts to use US foreign aid to promote rights for gays and lesbians abroad, this met with a more favourable response from the LGBTI community, if not from all African governments. Ugandan MP and initiator of the country's infamous *Anti-Homosexuality Bill*, David Bahati, for example, responded: "Uganda won't accept any aid with homosexuality attached as a condition".¹⁵⁹

President Obama ordered US agencies to protect vulnerable gay and lesbian refugees and asylum seekers. The statements by him and former Secretary of State Hillary Clinton were couched in terms of partnership and collaboration with country-based movements.¹⁶⁰ The Americans seemed willing to follow the lead of a number of donor organisations already active in the field and driven by an understanding of the importance of self-agency and the importance of capacity- and movement-building. Soon after the announcement, we witnessed first-hand how representatives from the Secretary of State's Office engaged with established donors in the region to

¹⁵⁷ *Statement on British 'aid cut' threats to African countries that violate LGBTI rights*, Pambazuka News 554: 27 October 2011.

¹⁵⁸ *Ibid.*

¹⁵⁹ *MP Bahati attacks US over new resolve on gays*, Daily Monitor: 8 December 2011.

¹⁶⁰ *Presidential Memorandum – International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons*, The White House: 6 December 2011.



'Rainbow warrior' at the first ever Pride celebrations in Uganda, August 2012

Photograph: David Robinson ©

get to know the field and meet with LGBTI organisations.

In 2011, Funders for LGBTQ Issues published the third edition of *A Global Gaze*, which provides useful facts and figures about LGBTI grantmaking.¹⁶¹ The report shows that giving to LGBTI communities in the Global South and East had increased by 35% between 2007 and 2010, but changing circumstances (such as the drop in value of

the US\$) need to be taken into account. The report makes the point that

*these numbers, while they represent an increase in the number of grants, dollars and grantmakers, are dangerously insufficient [in a current global economic and political context in which there is] a competing stream of support for LGBTI-related issues: US-based evangelical Christian entities who have thrown both political and economic weight behind initiatives like Uganda's anti-homosexuality bill [...]*¹⁶²

The report goes on to say that

*neither the LGBTI movement in the Global South and East nor the communities that they support can endure without more financial backing.*¹⁶³

Some of the key findings of the report are that:

- altogether, 713 grants totalling US\$35 465 361 were made by 64 funders worldwide (up from 40 in 2007)
- private foundations¹⁶⁴ were the most important contributors in terms of the total amount of funding for LGBTI initiatives in 2010 (40.6%), but public foundations¹⁶⁵ provided more than half (57.6%) of all grants made
- human rights initiatives received the most funding (52%), with HIV and AIDS initiatives in second place
- nearly one third of the dollars granted went to advocacy initiatives
- most grants were one-year grants (72%)
- the average grant amount was US\$50 190, and the median grant amount was US\$15 000
- most grants in 2010 (72%) went to project support
- 19% of funding went to general operating support

¹⁶¹ *A Global Gaze: Lesbian, Gay, Bisexual, Transgender and Intersex Grantmaking in the Global South and East 2010*, Funders for LGBTQ Issues: 2011.

¹⁶² *Ibid.*

¹⁶³ *Ibid.*

¹⁶⁴ Defined as "a foundation established primarily by individuals or families, often through the establishment of a permanent endowment", *Ibid.*

¹⁶⁵ Defined as "a foundation receiving support primarily through fundraising from individuals and private foundations", *Ibid.*

Almost a third of all LGBTI funding goes to Africa. A lot of it is from European bilateral agencies and is linked to HIV and AIDS work.

- the top 10 funders were responsible for 71% of all funding; they were:
 - Swedish International Development Agency (SIDA)
 - Hivos
 - Ford Foundation
 - Anonymous (a donor group that prefers to remain anonymous, gives grants and has a thorough understanding of the LGBTI situation)
 - Open Society Foundations
 - Arcus Foundation
 - Norwegian Ministry of Foreign Affairs
 - Sigrid Rausing Trust
 - Astraea Lesbian Foundation for Justice; and
 - The Atlantic Philanthropies.
- In terms of numbers of grants, the top 10 donors were:
 - Astraea Lesbian Foundation for Justice
 - Hivos
 - Open Society Foundations
 - American Jewish World Service (AJWS)
 - The Foundation for AIDS Research (amfAR)
 - Global Fund for Women
 - Heinrich Böll Foundation
 - Fund for Global Human Rights
 - Mama Cash; and
 - Arcus Foundation.
- 32.1% of all LGBTI funding goes to Africa, followed by Latin America at 19%
- of the 11 largest grants (US\$500 000 or more), five went to organisations in Africa – one in Kenya, two in Uganda and two in South Africa
- a lot of the funding for Africa is from European bilateral agencies and is linked to HIV and AIDS work; and
- South Africa gets the lion's share of funding to Africa, followed by Kenya and Uganda.

The report also confirms some of the trends that came up in our interviews with donors.¹⁶⁶ For example:

- there seems to be recognition that support should be given to organisations to follow agendas which they themselves establish
- on the whole, the donors we spoke to took the position that incremental changes make large changes possible and that while it is important to continue to work at regional bodies like the African

¹⁶⁶ We spoke to several of the donors on the top 10 lists in the *Global Gaze* report. For details of other donors, refer the Appendix. It needs to be noted that we did not interview bilateral donors, and that the private and public foundations we spoke to said they did not collaborate or work with governments at all. SIDA and the Norwegian Ministry of Foreign Affairs are exceptions as bilateral donors giving funds directly to LGBTI work. For the rest, funding for LGBTI seems to come indirectly through HIV and AIDS programmes.



Photograph: Helen MacDonald ©

Commission on Human and Peoples' Rights, it is critical that local grassroots organisations push for change

- movement-building is an increasing area of interest; and
- human rights are a key area of importance.

What our interviews also suggest is that in the area of MSM (usually closely aligned to HIV and AIDS work) initiatives around alliance-building and evaluation are becoming increasingly important.

Generally, as can be gauged from the numbers above, the LGBTI sector is not getting huge amounts of money. Also, only two of the top 10

donors to the sector are bilateral donors (SIDA and the Norwegian Ministry of Foreign Affairs). The *Paris Declaration on Aid Effectiveness* from 2005 makes it unlikely that large amounts of bilateral funding will find its way to the LGBTI sector. The declaration virtually instructs bilateral donors to give their money to governments in recipient countries for them to decide where it should go – and in most African countries, LGBTI initiatives are not on government's list of priorities, to put it mildly. The emphasis on HIV and AIDS in many places, however, is a convenient way especially for bilateral donors to channel funds without 'taking sides' in the homosexual debate.

Also, as noted, South Africa, Kenya and Uganda get most of the LGBTI funding, which in all likelihood can be attributed to the fact that these countries have the best organised LGBTI sectors in Africa.

The much anticipated launch of the OTHER Foundation is expected to happen in 2013 and should help fund the sector, specifically in Southern Africa. It will be given an initial boost by The Atlantic Philanthropies and Hivos, but it is unlikely to fill the gap left by Atlantic, which – as a spend-down foundation – stopped funding the LGBTI sector in mid-2012 (refer the section on The Atlantic Philanthropies further below).

The OTHER Foundation

The establishment of a foundation for the LGBTI community in Southern Africa (the OTHER Foundation) is a partnership between Atlantic and Hivos, and an integral part of Atlantic's strategy as it exits the South African LGBTI sector.

The gains in terms of rights and full citizenship for LGBTIs in South Africa provide a platform for promoting reform and providing solidarity in the region. For this reason, the OTHER Foundation will provide support to activists and organisations in Southern Africa, in addition to investment in South Africa.

The gestation of the OTHER Foundation has been a long one.



Photograph: Martina Bacigalupo & Human Rights Watch ©

Comprehensive research and tests against international and regional experience as well as best practice have been carried out.

The OTHER Foundation will draw on a combination of fundraising strategies, including international foundation and donor support; investment by gay-owned corporates and LGBTI-supportive local and multinational companies, as well as those focusing on LGBTI niche markets; and on donations by gay, lesbian and other individuals.

Human rights organisations in Southern Africa are almost entirely reliant on funding from Northern donors and foundations. The OTHER Foundation is an innovative strategy to promote local philanthropy, which – if successful – might serve as a model for other sectors and geographies.

An important principal in setting up the foundation is that it will not only raise funds directly, but also broker relationships between the LGBTI sector and other donors and foundations. As a catalyst for relationships, the OTHER Foundation will thus strive to facilitate a substantial increase in the total pool of resources available to the LGBTI sector as a whole.

Arcus Foundation

Founded in 2000 by US architect and philanthropist Jon Stryker, the Arcus Foundation has been a leading private US-based foundation advancing social justice and conservation. Specifically, Arcus has worked to advance LGBTI equality as well as to conserve the great apes. The foundation works globally and has offices in Kalamazoo (Michigan) and New York.

Over the past decade, Arcus has gone through a process of re-evaluation, which resulted in a shift away from a geographical focus (on specific countries) to a global focus with thematic issues. The foundation launched its new strategy in October 2012. Goals include:

- putting freedom of expression for sexual orientation and gender identity directly on the international human rights agenda



Participants at the 2012 Pride celebrations in Durban, South Africa

Photograph: Jabu C Pereira ©

The Arcus Foundation's new strategy aims to strengthen freedom of expression for LGBTIs, support a global LGBTI movement, strengthen the capacity of people of faith and religious institutions to lead efforts in protecting LGBTI lives, and reducing LGBTI-related persecution and violence.

- supporting the establishment of a global LGBT movement with leadership outside the metropolitan centres of Europe and North America
- strengthening the capacity of people of faith and religious institutions to lead efforts in protecting LGBT lives; and
- reducing LGBT-related persecution and violence.

It is still too early to say how this new strategy will play itself out in terms of the foundation's support to LGBTI initiatives in Africa, but the Arcus representatives we spoke to believe that new and broader-based initiatives have emerged at grassroots level over the last several years in Southern Africa, Nigeria and Ghana. Substantial funds from USAID (U.S. Agency for International Development) have gone into MSM and West Africa, and in-country funding by African agencies, such as the East African Sexual Health and Rights Initiative (UHAIEASHRI), has taken off.

In Southern Africa, there is activity in places such as Malawi, Mozambique, Namibia, and Zambia. HIV has made people talk about sexuality and sex in ways they have never spoken about these issues before, and LGBTIs are starting to feel they are not invisible. The Arcus representatives that we interviewed put this down to the South African Constitution and the way it has been implemented; to globalisation and the opening up of alternative media; and to the building of a human rights movement with an emphasis on democratic governance.

Arcus found it difficult to make small grants due to, for example, difficulty of access and excessive administration, so it opted to work with intermediaries who in turn worked with smaller organisations. Arcus also funded regional African programmes, such as Behind the Mask (BtM, a pan-African website, which sadly no longer exists), the Coalition of African Lesbians (CAL), and Gender DynamiX (the first, and for a while only, transgender organisation on the continent¹⁶⁷) – all based in South Africa. The idea was to build grassroots and regional groups to link to global movements.

The Arcus representatives we spoke to said that they found the activists in Africa much more sophisticated than anticipated, and that the African LGBTI Manifesto or 'Declaration of April 2010'¹⁶⁸ clearly sets out the foundation of an African LGBTI movement and its connections to the broader pan-African struggle for liberation.

In 2010, the Arcus Foundation made 25 grants totalling US\$3 248 900 as part of its International Sexual Orientation and Gender Identity Rights

¹⁶⁷ Support Initiative for People with atypical sex Development (SIPD) in Uganda, and Transgender Intersex Africa (TIA) have since been formed.

¹⁶⁸ *Queer African Manifesto/Declaration – April 18, 2010*, accessed via www.fahamu.org.

Programme. Of this, US\$895 827 went to Africa directly. The beneficiaries were the Akiba Uhaki Human Rights and Social Justice Fund (Kenya), BtM (pan-African), CAL (pan-African), Fahamu (pan-African), Gender DynamiX (pan-African), Christian-based IAM (Southern Africa), and Muslim-based The Inner Circle (TIC, pan-African).

Fahamu – an Arcus Foundation grantee

Fahamu is a pan-African organisation, which supports and promotes social justice. The organisation is based in Kenya, but also has offices in Senegal, South Africa and the UK.

Fahamu has organised its aims into four programmes:

- generate knowledge to underpin and inform social justice activism, and bridge the gap between theory and practice – the Tuliwaza/Knowledge Building and Generation Programme
- create learning for, by and across movements – the Adilisha/Education for Social Justice Programme
- amplify African voices, perspectives and solutions in policy and decision-making at all levels – the Utetezi/Africa-centred Advocacy Programme; and
- create platforms for analysis and debate – the Pambazuka/Analysis and Debate on Freedom and Justice Programme.

As part of its Adilisha Programme, for example, Fahamu runs what it calls ‘Movement Building Boot Camp’ – an e-learning space for African activists doing progressive work around sexuality, gender, justice and rights. The AU Monitor initiative is part of the organisation’s Utetezi Programme, providing support (training and information) to civil society actors to enable them to participate in processes around the AU. And Pambazuka News is a well-known source of African social justice-related news and analysis.

Astraea Lesbian Foundation for Justice

The US-based Astraea Lesbian Foundation for Justice works for social, racial, economic and gender justice in the US and internationally. Astraea began in 1977 when a small group of women came together to create a multi-racial, multi-class feminist foundation in order to address the lack of funding for women – especially lesbians and women of colour.

Today, Astraea is the only foundation in the world solely dedicated to supporting LGBTI organisations. It gets its funds primarily from individual members and other foundations. It has been funding initiatives in Africa since 1996, with a focus on movement-, capacity- and leadership-building, safety and security, health and welfare, cultural change, and African women.



Artwork from GALA's Art for Activism workshops in 2011 and 2012

Photograph: *Gay and Lesbian Memory in Action* ©

Astraea is the only foundation in the world solely dedicated to supporting LGBTI organisations. Its work extends beyond grantmaking to include education, advocacy and collaboration.

The Astraea representatives we interviewed pointed to intolerant cultural attitudes, economic disparities, adverse political and legal environments, limited funding streams, provocative and non-responsive police, aggressive and insensitive media, and religious fundamentalism as some of the most important

obstacles to the African LGBTI movement.

In terms of fundamentalism, the Astraea representatives saw the 'war on terror' as a rallying point for all types of fundamentalism, and specifically as

giving Christian fundamentalism in the US a global reach. The LGBT community gets scapegoated to distract from other problems and, as economic disparities grow, oppositional forces get stronger.

Likewise, the war on terror has also effectively restricted funding going out of the US. Often Astraea grantees are small and unable to provide the kind of documentation that the US government is trying to make compulsory.

It also worries Astraea that African governments make it difficult for LGBTI groups to travel across the continent. This is a huge barrier to linkages, as is violence. African activists often have to fly to Western countries to meet. Yet, despite this, continental conferences are now being held in places such as Kenya, attended by both activists and donors.

Astraea sees itself as a feminist-socialist hub working side by side with grantee and donor partners for transformative and lasting social, racial, economic and gender justice. Astraea feels that, in the face of profound challenges and often at great personal risk, its grantee partners are leading a global movement for human rights, safety and liberation.

In order to promote a strong, consistent and well-informed community of grantees and donors, Astraea's work extends beyond grantmaking to include education, advocacy and collaboration. It supports LGBTI organisations and projects, but it also works to build a community of informed, activist donors. Through its grantmaking, Astraea wants to encourage African LGBTIs to find their own ways of dealing with the extreme forms of western homophobia and hatred that had been brought to the continent.

During 2010, Astraea gave grants (some multi-year) to the value of between US\$400 000 and US\$500 000 to Africa. Beneficiaries included Artists for Recognition and Acceptance (Kenya), BtM (pan-African, based in South Africa), CAL (pan-African, based in South Africa), Collectif Arc-en-Ciel (Mauritius), FARUG (Uganda), GALZ (Zimbabwe), Gay and Lesbian Memory in Action (GALA, South Africa), Gender Dynamix (pan-African, based in South Africa), Horizons Community Association (Rwanda), House of Rainbow (Nigeria), Lesbian and Gay Equality Project (LGEP, South Africa), Minority Women in Action (Kenya), SMUG (Uganda), The Independent Project for Equal Rights and The Initiative for Equal Rights (both Nigeria), TIC (pan-African, based in South Africa), UHAI-EASHRI (Kenya), Unitarian Universalist Association of Uganda, and Youths 2Gether Network (Nigeria).



Collectif Arc-en-Ciel organised its 6th Rainbow Parade in Mauritius in June 2011

Photograph: International Lesbian, Gay, Bisexual, Trans and Intersex Association ©

Collectif Arc-en-Ciel (Rainbow Collective) – an Astraea Lesbian Foundation for Justice grantee

Collectif Arc-en-Ciel is an association fighting homophobia and all types of discrimination based on sexual orientation in the island state of Mauritius.

Although there has been some progress, Mauritius is a very conservative and very religious country, with Hindus and Roman Catholics making up the majority of the population.

Some families arrange the kidnapping of their own child to put an end to homosexual love. This is one of the practices that Collectif-Arc-en-Ciel fights against. Said one such victim of kidnapping:

*My loved ones never accepted my sexual orientation, and by abducting me, they simply wanted to take me away from the woman I love.*¹⁶⁹

Sodomy is prohibited in Mauritius, and society is intolerant of gay and lesbian relationships. Collectif Arc-en-Ciel provides moral and legal support, but the association is not allowed to be a civil party in a court case.

The Constitution of Mauritius protects certain rights but does not mention sexual orientation specifically. Sodomy carries a penalty of prison not exceeding five years. There is an Employment's Rights Act which makes it illegal to fire or refuse employment based on a person's sexual orientation.

Collectif Arc-en-Ciel intervenes when there are homophobic acts, or when LGBTIs need assistance. It is advocating for surveys on how discrimination and homophobia faced by the LGBTI community impact on issues such as suicide, rape, addiction and depression.

The Atlantic Philanthropies

In 2003, seven years after the passing of the South African Constitution, The Atlantic Philanthropies – a US Foundation committed to reconciliation and human rights – decided to fund LGBTI work in South Africa.

An independent feasibility study recommended that in South Africa (the only African country that Atlantic funds), the foundation should focus on marginalised groups – and the LGBTI community fitted into this category.

When Atlantic started its engagement with the LGBTI sector in South Africa, existing LGBTI organisations were operating on shoestring budgets – and even among donors supporting human rights organisations, few were willing to support gay and lesbian causes. Many South African LGBTIs were only beginning to emerge from the shadowlands in which they had lived, as it were, accepting that the gay struggle had had to take a back seat to the main struggle against apartheid.

¹⁶⁹ Mauritius: kidnapped to "cure" their homosexuality, LGBT Asylum News: 24 August 2010.

When Atlantic started its engagement with the LGBTI sector in South Africa, existing LGBTI organisations were operating on shoestring budgets, and many LGBTIs were only beginning to emerge from the shadowlands in which they had lived during apartheid.

In this context, and as Atlantic is a spend-down or limited life foundation¹⁷⁰, it focused on investing large sums of money in contextual systemic elements that needed tackling.

The priorities for Atlantic's support to the South African LGBTI sector became:

- lobbying, advocacy and litigation to secure the rights due to LGBTIs in the Constitution, in particular the clause outlawing discrimination against individuals on the basis of their sexual orientation
- providing key legal and health services as well as safe spaces to meet and organise in the country's major centres
- a demonstrable commitment to building black and lesbian leadership, and expanding outreach to townships and rural areas
- challenging the stigmatisation of homosexuality as un-African
- a commitment to collaboration and the building of an umbrella body working to a common programme of action
- working with mainstream religious faiths to challenge sexual prejudice; and
- raising the profile and meeting the needs of marginal groups within the LGBTI community, in particular transgender and intersex people.

Between 2002 and 2011, Atlantic spent US\$10.5 million in support of 15 LGBTI organisations.

The above programme goals have largely been achieved, and the links that the programme created with other donors extended its reach. A number of the LGBTI organisations that would in all likelihood not have existed without Atlantic now stretch into the continent, including Gender DynamiX, GALA, IAM and TIC.

At the same time, Atlantic has facilitated recognition of the importance of movement-building to enable activists to develop their own, shared agenda. Collaboration with other donors has meant that small community-based LGBTI organisations have spread across South Africa. And the inclusion of Gender DynamiX and Intersex South Africa in the Atlantic portfolio gave life to mobilisation and organisation around forms of gender identity that had previously been overlooked.

Atlantic will soon reach the end of its commitments in South Africa, and although it has LGBTI investments in other parts of the world, those too will come to an end. As noted above, however, Atlantic is collaborating with Hivos to set up the OTHER Foundation, which should see Atlantic's impact carried well into the future.

¹⁷⁰ US entrepreneur, Charles Feeney, who founded The Atlantic Philanthropies, wanted the money spent in his lifetime. Most foundations take a longer view, even into perpetuity, whereas a spend-down foundation sees a systemic problem and believes that large sums of money spent judiciously over a given and relatively short time can make a difference to that systemic problem. It also believes that the urgency of a spend-down foundation prevents calcification, over-caution, allows for quick rethinks and mid-course corrections, forces the donor to think through exit strategies, and grantees to think about the future.



A young traditional healer speaking at Gender DynamiX's Trans Health & Advocacy Conference in Cape Town, South Africa in November 2011

Photograph: Jabu C Pereira ©

Gender DynamiX – an Atlantic Philanthropies grantee

Gender DynamiX is the first African-based organisation focusing solely on the transgender community.

The aim of Gender DynamiX is to create awareness and visualise transgenderism. In doing this, the organisation provides resources, information and support to trans people, their partners, family, employers and the public.

Gender DynamiX works all over South Africa, also in townships and marginalised areas. And through an exchange programme, it works in a number of other African countries too, including Botswana, Kenya, Malawi, Namibia, Uganda and Zambia.

*Transgender people are part of the LGBTI spectrum. We are as marginalised as intersex and gay people by society's notion of how bodies may and may not function. Therefore we march with gays and lesbians and are in solidarity with their struggle, but we will no longer be subsumed by the identities of others.*¹⁷¹

In the LGBTI mixture, transgender and intersex occupy a difficult position because of the immediate association with homosexuality; transgender people are often the immediate focus of hate crimes.

Gender DynamiX works closely with the Support Initiative for People with atypical sex Development (SIPD) in Uganda. The group of SIPD people we spoke to said:

We are very hopeful, very optimistic. We look for optimists – that is more important to us than qualifications. With passion and optimism we can plan, organise and implement.

Ford Foundation

The Ford Foundation has existed for three quarters of a century. It works with visionary leaders and organisations worldwide to change social structures and institutions so that everyone has the opportunity to reach their full potential, contribute to society, have a voice in decisions that affect them, and live and work in dignity.

The foundation works in East, West and Southern Africa and, to the north, considers Cairo part of its ambit. Although currently developing a global strategy on homosexuality, it has already done work in the field. It is fully committed to the human rights movement and regards LGBTI as part of this.

In Kenya, Ford has funded GALCK but found that it had to do so with a degree of secrecy as the organisation was under surveillance. Other grantees have included South African organisations such as GALA, LGEP, National

¹⁷¹ Interview with Gender DynamiX's Advocacy Manager, 2011.



Out In Africa Film Festival audience in Mafikeng, South Africa, 2011

Photograph: Fanney Tsimong & Nhlanhla Ndaba ©

The Ford Foundation is fully committed to the human rights movement and regards LGBTI as part of this. It is currently developing a global LGBTI strategy to be able to focus its involvement in this field.

Coalition for Gay and Lesbian Equality, *Out In Africa* South African Gay & Lesbian Film Festival, OUT LGBT Well-being and Pietermaritzburg Gay and Lesbian Network, as well as Zimbabwean GALZ and pan-African initiatives such as AMSHeR, CAL and TIC. Ford also works on hate crimes via People Opposing Women Abuse (mainly South African-based), and it has funded other groups in Zimbabwe and Mozambique.

The Ford representative we spoke to stressed that there was a need for human rights organisations to take up LGBTI issues in Africa. She was aware of the dangers of religious fundamentalism and the fact that laws in many countries criminalised homosexuality, making homosexuals eligible for human rights support in many forms. The representative also noted the threat of a resurgence of and renewed legitimacy for African customary law and traditional leaders. She pointed out that when Uganda tightened its laws, or attempted to, groups that Ford had supported in the past were among those that stood up and protested. She saw the fact that organisations in Malawi and Uganda are standing up against homophobia as a sign of “traction” that would not have been possible five years ago. The representative was acutely aware of the importance of self-agency by African LGBTI groups and noted how debates around HIV and AIDS had distracted attention from LGBTI issues and from human rights issues in general.

As mentioned, Ford is currently developing its global LGBTI strategy to be able to focus its involvement in this field. The Ford representative we spoke to felt that there is a need for more donors to get involved, and for organisations

to scale up at a local level. They need to be sustainable and working to a common agenda – and they are a long way off from that.

It was difficult to work out how much Ford had spent on LGBTI work thus far, because everything seems to be in suspension while its global strategy is being finalised. However, according to the *Global Gaze* report – as seen earlier – Ford has been one of the most generous givers to LGBTI causes.

Hivos

Based in the Netherlands, Hivos believes that development cannot be steered from the outside, although it can be encouraged. If given the opportunity and the means, Hivos believes that people in developing countries can make their own living, fight for their own rights and shape their own future. To Hivos, emancipation and development are inextricably linked to the right to freedom, self-determination and equal access to opportunities and possibilities. For these

Hivos is still the largest non-governmental donor in the field of gay emancipation worldwide. It supports network-, partnership- and capacity-building, health services provision, research, and direct public advocacy for LGBTI rights.

reasons, the rights of LGBTIs or any other minority group are important. As one Hivos interviewee told us:

There is quite a strong pressure group in Hivos made up of gay men and lesbian women pushing for funding of LGBTI organisations.

Hivos provides funding as well as advocacy support, education and training, and knowledge exchange. It has partners throughout Africa, Asia and Latin America, and supports LGBTI partner organisations in their struggle for social acceptance and the freedom to express sexual identity, and against homophobia and anti-gay laws. Hivos supports more than 50 gay and lesbian rights organisations outside of the Netherlands.

Hivos's involvement in the LGBTI field started in 1991, prompted by the increasing visibility of HIV and AIDS. The HIV epidemic was holding back the development process in many countries, and Hivos wanted to develop a strategy to counteract this scenario. It decided to focus on a group of people who were at a double disadvantage as a result of HIV and AIDS: homosexual men – they are excluded and stigmatised on account of their sexual orientation, and in many countries they were perceived as the carriers of the epidemic.

Hivos has always recognised LGBTI rights as human rights, and that they are important in the region. In Hivos's view, the biggest, general challenge to LGBTI rights in Africa is patriarchy. In Southern Africa, it sees the main and more specific challenges as decriminalisation of same-sex acts, strengthening the LGBTI community, mainstreaming LGBTI in HIV and AIDS, gender and human rights work, and ensuring equal access to services. This translates into Hivos support for network-, partnership- and capacity-building, health services provision, research, and direct public advocacy for LGBTI rights.

According to its 2010 Annual Report, Hivos is still the largest non-governmental donor in the field of gay emancipation worldwide. Importantly, and in contrast to many other donors, Hivos is willing to fund core costs. In 2010, it spent a total of €18 623 000 in Africa¹⁷²; of this, human rights and democratisation, gender, women and development, and HIV and AIDS accounted for 50%; and of this, a lot went to LGBTI initiatives. Support was given to initiatives in Kenya, Tanzania and Uganda in East Africa, and to Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe in Southern Africa. Hivos also funds regional organisations with offices in South Africa, for example AMSHeR and CAL.

Currently, Hivos is working on a new LGBTI strategy for Southern African, as its involvement in this region has grown substantially over the last two years. Initially, it worked in four countries in Southern Africa, but this has gradually grown to 10.

In addition, Hivos's local office in South Africa runs the Multi-Agency Grants Initiative, a small grants fund and a collaborative venture between a group of

¹⁷² Hivos Annual Report 2010, Hivos: 2011.



Miss Gay Soweto, South Africa, November 2012

Photograph: Gay and Lesbian Memory in Action ©

donors. It has an LGBTI grassroots programme that originates from Hivos. Funds for this programme come mainly from The Atlantic Philanthropies, but as Atlantic prepares to withdraw, other donors are showing interest. The collaboration between Atlantic and Hivos in this area has had very good results, contributing to the spread of community-based LGBTI organisations throughout South Africa. It is expected that the cooperation between the two donors around the establishment of the OTHER Foundation will yield further positive outcomes for the LGBTI sector, especially in Southern African.

African Men for Sexual Health and Rights (AMSHer) – a Hivos grantee

AMSHer is a regional coalition of MSM/LGBTI-led organisations and other organisations that work to address the vulnerability to HIV of gay and bisexual men, male-to-female transgender women and other MSM. Although it has a specific focus on MSM, HIV and AIDS, AMSHer also advocates for

*the protection of gay men and other men who have sex with men from human rights violations.*¹⁷³

The coalition was founded in 2009, is based in South Africa, but has staff from different countries. It has just opened up membership and expects to have about 25 organisations represented from countries like Burundi, Cameroon, Côte d'Ivoire, Ghana, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, Uganda, Zambia and Zimbabwe.

AMSHer does not operate openly in all countries, on the advice from local organisations. It offers strategic workshops, peer-to-peer learning and direct technical assistance. The coalition is concerned about visibility and about projecting an image of gay people as accepted and normal.

The AMSHer representative we interviewed believes that things are generally getting better in Africa. The coalition is trying to raise money for a regional workshop, which will enable it to develop a regional strategy.

Aside from Hivos, AMSHer is supported by a range of other donors, including the Ford Foundation, Futures Group, Open Society Foundations, Sigrid Rausing Trust, Southern African AIDS Trust, TrustAfrica, UNAIDS and the United Nations Development Programme.

¹⁷³ About AMSHer, www.amsher.net.



Photograph: Martina Bacigalupo & Human Rights Watch ©

Open Society Foundations

The Open Society Foundations (OSF) are a family of more than 30 foundations created by philanthropist and financier George Soros. They are active in more than 70 countries around the world, supporting justice and human rights, freedom of expression and access to public health and education.

The overall aim of the OSF is to build vibrant and tolerant democracies with governments that are accountable to their citizens. There is a particular emphasis on protecting the rights of, and promoting opportunities for, members of minorities facing discrimination. This includes addressing abusive practices against marginalised groups, such as sexual minorities and people living with HIV. In the words of founder Soros:

We need to protect minorities and respect minority opinions. Above all, we need the rule of law.¹⁷⁴

Human rights underpin our greatest aspirations: they are the heart of open societies.¹⁷⁵

The various Open Society Initiatives are autonomous but part of a worldwide network of Open Society Foundations.

The Open Society Initiative for Eastern Africa is based in Nairobi, Kenya, and has an office in Uganda; it supports work in Kenya, Sudan, Tanzania and Uganda, as well as regional organisations whose mandate encompasses East Africa.

The Open Society Initiative for West Africa is based in Dakar, Senegal, and is dedicated to supporting and advocating vibrant, tolerant and stable democracies in West Africa. It has offices in Abuja, Monrovia, Freetown and Conakry. Its work

¹⁷⁴ George Soros, *Soros on Soros: Staying ahead of the curve*, John Wiley and Sons, New York: 1995.

¹⁷⁵ George Soros gives \$100 million to Human Rights Watch, *The Guardian*: 7 September 2010.

The Open Society Foundations aim to build vibrant and tolerant democracies with governments that are accountable to their citizens. The foundations have a particular emphasis on protecting the rights of, and promoting opportunities for, minorities facing discrimination.

includes partnership-building and technical assistance.

In Southern Africa, the OSF have close to 120 staff members and five offices.

The Open Society Foundation for South Africa (OSF-SA) functions out of Cape Town and focuses only on South Africa. It works largely with government, community and local government stakeholders on crime prevention and long-term security in three specific areas.

The Open Society Initiative for Southern Africa (OSISA), however, serves the whole of the Southern African region. OSISA is based in Johannesburg and its mission is to initiate and support programmes working towards open society ideals and to advocate for these ideals in Southern Africa. OSISA's approach involves addressing deeper problems, such as underlying policy, legislation and practice, rather than on shorter-term welfare-type interventions. Advocacy is therefore an important part of its work, as is capacity-building. Established in 1997, OSISA works in Angola, Botswana, the DRC, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Zambia and Zimbabwe.

LGBTI is a specific global OSF network programme. The OSISA representative we spoke to also believes in mainstreaming the issue by encouraging groups and organisations in various sectors to have an LGBTI programme, and providing funding for such programmes.

Since 2007, OSISA has specifically been supporting MSM initiatives through its HIV and AIDS work. OSISA now also has a dedicated LGBT Unit.

To illustrate the importance that the protection of LGBTI rights has in a broader human rights and democracy perspective, our OSISA interviewee used the canary analogy:

We need to keep the canary alive; what are we going to do about the canary?

This approach likens LGBTI rights to the canaries used in mines in earlier times – if the canaries died it meant there was not enough oxygen in the mines. It was a warning signal, in other words, just as attacks on LGBTI rights are a warning signal for human rights and democracy in general.

Aside from its support to organisations in the various Southern African countries, OSISA also funds regional groups such as CAL, Gender DynamiX, IAM and TIC. While OSISA seems to have led the way on LGBTI issues, other Open Society Initiatives in Africa are now joining in. According to the OSISA representative we spoke to,

[e]very organisation I deal with has a problem with capacity, and many are not registered, which is a problem for other donors.

From an overall OSF viewpoint, while OSISA has been funding LGBTI groups fairly broadly, it is now under pressure to fund those that take a more strategic approach, according to our interviewee. Because OSISA does core funding, it is an important source of support to the sector, and it needs to hone in on



Participants in the 2012 Pride Parade in KwaThema, Gauteng, South Africa

Photograph: Jabu C Pereira ©

initiatives and organisations that play key strategic roles. The OSF broadly will be looking specifically at supporting capacity-, movement- and leadership-building, engagement in trans issues (especially gender change), and effective documentation.

Gays and Lesbians of Zimbabwe (GALZ) – an OSISA grantee

GALZ was formed in 1989 to provide gay men and lesbians in Zimbabwe with a network to facilitate communication within the gay community. Initially, GALZ kept a low profile, but as it became aware of the broader needs of the community, it started an outreach programme, which also encompassed engaging with other human rights organisations, such as the women's movement, AIDS initiatives and regional associations.

Since the mid-1990s, the political climate in Zimbabwe has become increasingly adversarial for GALZ. At first led by activist Keith Goddard, who has since died, GALZ has stood up for the rights of queers – although at times, its active members have had to go underground to avoid direct attacks from government and from socially conservative members of the general public. GALZ members have been detained and/or charged, and the GALZ offices have been raided by police.

GALZ has received substantial financial support not only from OSISA but also from Hivos, and from the Ford and Astraea Foundations.

Some of GALZ's activities include:

- a Livelihoods Programme, where individual members are provided with sponsorship to undergo short vocational training courses
- the GALZ Safety Net, intended to provide urgent relief to members in an emergency; and
- participation in national political processes to include sexual orientation and gender identity in the new Zimbabwean Constitution.

GALZ could not survive without its international donors, but it has developed its own way of operating in a toxic climate that leaves it standing as a pillar of LGBTI and human rights in a country where this is not common.

The Sigrid Rausing Trust has addressed a range of issues, from legal work against discrimination and criminalisation, to preventing and countering homophobic violence and raising awareness about LGBTI rights.

Sigrid Rausing Trust

The Sigrid Rausing Trust is based in the UK. It was founded in 1995 (then as the Ruben and Elizabeth Rausing Trust) by Swedish anthropologist, publisher and philanthropist Sigrid Rausing. The trust supports the international human rights movement and runs five programmes:

- civil and political rights
- women's rights
- minority rights
- social justice; and
- the miscellaneous fund.

The trust recognises the importance of core funding, it looks for good and effective leadership and seeks to establish a long-term relationship with grantees.

The trust has given away GB£192 million since 1995. It has funded work on LGBTI rights since 1997. Seven LGBTI organisations (not all in Africa) currently receive substantial grants. In addition, LGBTI rights work has been supported through a small-grants scheme and through sub-granting (organisations receiving larger grants and channelling funding to smaller LGBTI organisations).

The trust's grantees have addressed a range of issues, from legal work against discrimination and criminalisation, to preventing and countering homophobic violence and raising awareness about LGBTI rights.

At the moment, most of the trust's funding for Africa goes to initiatives working in, or at least based in, South Africa and Zimbabwe. However, it could potentially fund LGBTI initiatives anywhere in Africa. The trust is looking at partnering regional grantmakers, such as UHAI-EASHRI (see below). It has a particular interest in law reform and in the sustainability of community-based initiatives. In South Africa, where law reform is not a critical issue, the trust focuses on organisations that fight violence against poor black women in the townships.

Like other donors, the Sigrid Rausing Trust believes that local religious groups, some local politicians, sections of the media and of the general public are hostile to the LGBTI community. These forces, it believes, are getting more organised. As with many of the donors, the trust does not work with governments.

The trust is funding more LGBTI organisations than before, but it is also looking for reliable sub-granters. It tends to look at the success of individual grantees rather than at an overall strategy.



Coalition of African Lesbians (CAL) – a Sigrid Rausing Trust grantee

CAL is a feminist coalition consisting of 30 member organisations from 19 African countries. CAL was founded in 2003, following a seminar in Namibia attended

by representatives from countries such as Ghana, Kenya, Liberia, Mozambique, Namibia, Nigeria, Rwanda, Sierra Leone, South Africa, Tanzania, Uganda, Zambia and Zimbabwe. After intense discussion, the group adopted African radical feminism as the founding philosophy of CAL.

CAL is the first NGO to work for the equality of lesbians at a continental level in Africa. The coalition fights against patriarchy in all its forms, and its goal is to transform Africa into a place where all lesbians enjoy the full range of human rights, are recognised as full citizens, and have a significant and respected presence in all spheres of life.

In response to a climate of extreme violence targeting lesbians (and gay men), CAL has worked with the African Commission on Human and Peoples' Rights to challenge homophobic rhetoric and policy, and to incorporate LGBTI rights into the African human rights platform.

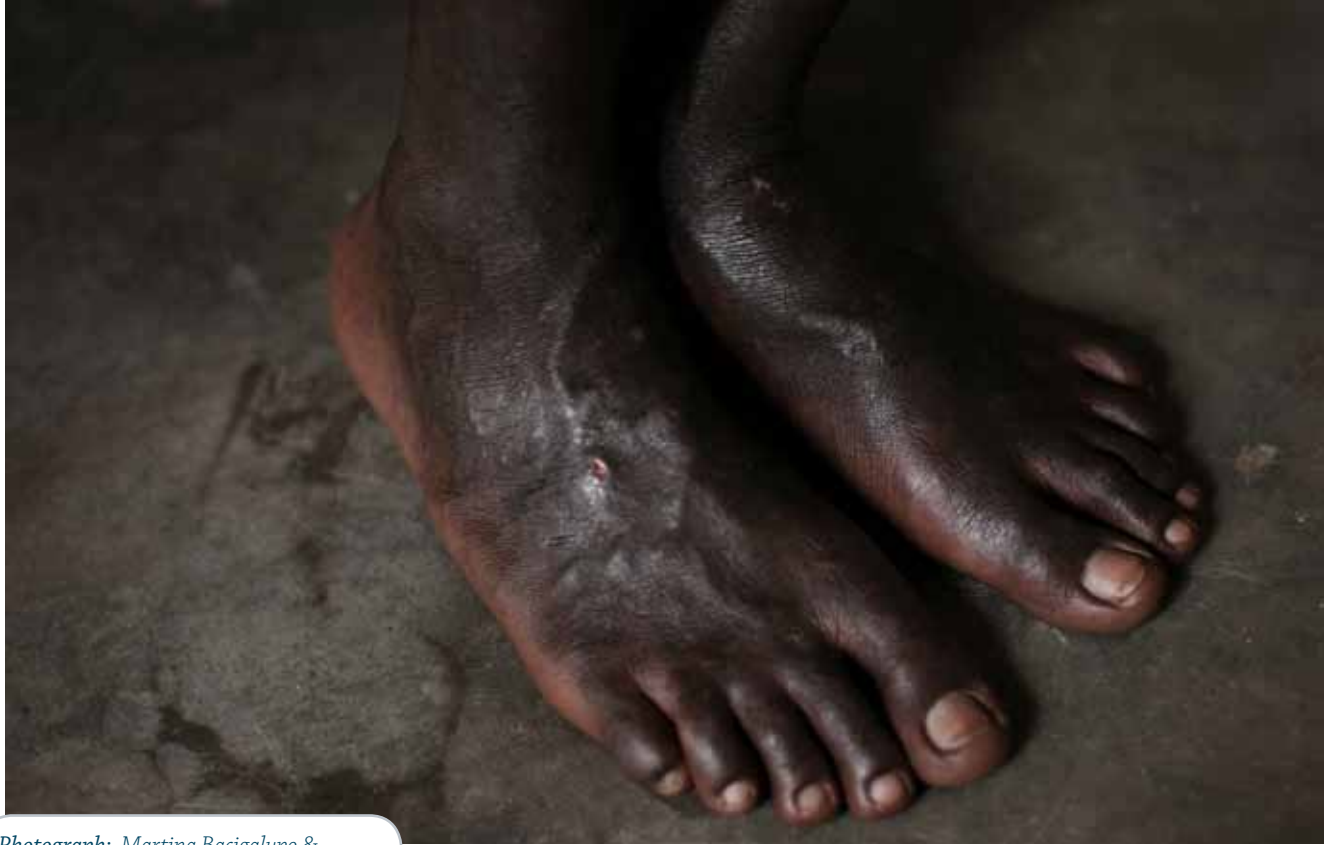
Another key CAL activity is its acclaimed annual Leadership Institutes, which hone the ideas and skills of lesbians, feminists, gender activists and academics across the continent.

CAL received a three-year grant (2009-2012) of GBE90 000 from the Sigrid Rausing Trust, amongst other things to fight the infamous *Anti-Homosexuality Bill* in Uganda. In addition to funds from the Sigrid Rausing Trust, CAL enjoys financial support from donors such as Hivos and Astraea. The latter awarded CAL its Human Rights and Feminist Activist of the Year Award in 2008.



UHAI-East African Sexual Health and Rights Initiative

Initially, UHAI-EASHRI was a Ford Foundation initiative. It is now an emerging grantmaker dedicated to supporting human rights and social justice organisations in East Africa. UHAI means 'alive' or 'life' in Kiswahili, and is also an acronym for the words *ujinsia* (sexuality), *haki* (rights), *afya* (health) and



Photograph: Martina Bacigalupo & Human Rights Watch ©

UHAI-EASHRI supports civil society activism around sexuality, health and human rights in East Africa, and it has a particular focus on the rights of sexual minorities.

imani (faith). The Akiba Uhaki Human Rights and Social Justice Fund in Kenya hosted the initiative until it was registered as a separate entity in 2011.

UHAI-EASHRI supports civil society activism around sexuality, health and human rights, and it has a particular focus on the rights of sexual minorities. Grantees include organisations based in Burundi, Kenya, Rwanda, Tanzania and Uganda.

Large donors often cannot fund small, unregistered organisations, and UHAI-EASHRI bridges this gap. By way of small, flexible funding, the initiative targets creative projects that challenge dominant paradigms and perceptions about injustice, poverty and human security, as well as various fora for regional reflection on human rights and social justice challenges. UHAI-EASHRI has three types of grants – peer grants, opportunity grants and institutional grants – and it also has an internship programme aimed at LGBTI and sex-worker activists.

The initiative works in partnership with organisations such as Fahamu; altogether, it has about 25 organisational partners. UHAI-EASHRI aims to build a strong, diverse and organised movement for change, and to enhance the knowledge and expertise of donors in terms of supporting sexual rights initiatives in East Africa.

XI. Where to?

The struggle for LGBTI rights in Africa is not a war fought in isolation from the wider political, social and economic struggles on the continent or in the world.

The forces for and against sexual diversity have taken their places in the struggle around LGBTI rights within the human rights framework in Africa. The key players are at a national level. People determined to claim their rights, despite vocal opposition, are becoming increasingly visible in their demands. Against them stand political, religious and economic opportunists, as well as those who are genuinely confused by hundreds of years of brainwashing that has relied heavily on distorted emotion and little on fact – the un-African discourse on homosexuality being an example of this.

Supporting the African LGBTI warriors are those on the continent who are fighting their own battles but recognise commonalities with the LGBTI struggles. Some of these organisations have achieved a degree of success in similarly hostile terrains. Also supporting the African LGBTI struggle is an increasingly large body of universal accord, backed up by international, regional and national documentation that includes sexual orientation and gender identity in the broad acknowledgement of the norms and standards that constitute human rights. Ironically, this accord is visible in declarations that have been signed by many of the African governments who seek to demonise the very concepts of sexual orientation and gender identity.

Situating the LGBTI struggle in the African context

The struggle for LGBTI rights in Africa is not a war fought in isolation from the wider political, social and economic struggles on the continent or in the world.

Africa – despite its possibilities and its increasing visibility on the world stage – is still a continent of wars, impoverishment, desires for but shaky commitments to democratic governance, and systems (from justice to service access) that fail the poor, many of whom also have to contend with the added burden of being 'different'. Sexual violence against women is an oft-used weapon of war, and violence (whether sexual or not) is a focal point for those agitating against the legitimacy of sexual variation, serving as a political distraction and a form of national scapegoating, as well as a vicious personal



outlet for frustrated, frightened and dispossessed people.

Progressive political agendas are engaged in a struggle against conservative traditionalism and religion. Often, progressive 'breakthroughs' on the part of governments are responses to economic threats and do not carry the strength of real conviction. Nevertheless, there are chinks in the armour of the homophobic arguments that give these developments traction.

Some of the established religions, such as the Anglican Church, have shown an acceptance of homosexuality, at least in its mother bodies. This may not yet have penetrated to African Anglican bodies, but it is a glimpse of possibilities. The very fact that many African countries are plagued by a range of 'immoralities' – corruption, violence against women and children, random violence – that affect their citizens more

than homosexuality makes scapegoating much harder. The existence of a range of accords and declarations with an emphasis on human rights and the right to equality for all citizens as a central tenet creates space for uneasiness in relation to blatant discrimination.

The need to include MSM in strategies to combat the depredations of HIV and AIDS is finally having an impact in health, inevitably blurring the line between MSM groups, and other CSOs and government agencies concerned with stopping the epidemic.

And, perhaps most significantly, a sense of self-agency is emerging in the increasing numbers of LGBTI organisations across the continent who cry foul when their rights, their legitimacy and their significance is questioned or come under fire.

The broader struggle for human rights, including socio-economic rights, can unite all poor and marginalised people around issues such as water, homes, health and education. Hence, situating the African LGBTI struggle in its political and socio-economic context creates opportunities for effective alliances. The LGBTI challenge is to make this clear to civil society as a whole. One of the best, indeed probably the best, example of how this can work is in the field of HIV and AIDS. Here, the broader civil society and the LGBTI community have found common ground. Certainly this convergence has enabled donors who might feel uncomfortable providing direct support to LGBTI human rights causes to find indirect avenues of support.

Directing support appropriately

The emphasis on self-agency is an important caveat for supporters outside the continent, but it should not be seen as a blanket hands-off. Immediate responses and guidelines for responses should be led by African activists



Participants in peer focus group discussion on community mobilisation in Zambia, organised by Friends of Rainka Zambia, August 2012

Photograph: Friends of Rainka Zambia ©

The emphasis on self-agency is an important caveat for supporters outside the continent, but it should not be seen as a blanket hands-off.

themselves, and the same is true of advocacy. Frontline advocacy has to be led locally, though there may be a need to share more experiences in terms of what works and how best to provide support.

For activists, one of the challenges is to find the political and strategic space (and the

time) to extend their reach through writing, reflection and analysis – an area where donors play an important role. However, a body of African-generated works on issues of sexuality and sexual rights is emerging. The dominant languages for the spreading and sharing of knowledge in Africa are English and French. Again, donors could play a role in ensuring that the barrier of language is challenged through translation and support for conferences that bring Francophone and Anglophone activists together with the help of interpretation.

Sometimes it seems that the internet is buzzing with LGBTI activist communication, solidarity websites and blogs, augmented by Twitter and the like; certainly, information is more readily available than ever before, but how deep this penetration goes is not clear and sometimes one is uneasily aware that the 'usual suspects' are overwhelmed with information, but that it does not go much further. In other words, outreach, mobilisation and broader participation remain challenges, which donors could help overcome.

The commercial media tend to be like the curate's egg – good in parts. Increasingly, reports from individual countries suggest a genuine beginning of real engagement in some places. Opportunities for positive, proactive interaction exist at least in countries where the insistence on visibility by activist LGBTI and human rights organisations, combined with international concern and interest, is having a 'softening effect' on the media. Although still the exception rather than the rule, this is encouraging. Social media, while a major source of information and communication, carry the risk of lack of anonymity, and legislation has not yet caught up with the proliferation of social media outlets. Increasing pressure by international commercial media associations, new innovative uses of social media and more joint ventures and fora among activist organisations will all help overcome the negatives in this area.

There is also an emerging genre of art forms taking as its core inspiration issues of sexuality and gender identity. These works are winning continental and international acclaim.¹⁷⁶ History tells us that this can be an effective means of challenging status quo thinking, even when the audience is

¹⁷⁶ GALA, for example, produces books, comics, and exhibitions illustrating a number of the problems and situations facing African LGBTIs.



Artwork from GALA's Art for Activism workshops in 2011 and 2012

Photograph: Gay and Lesbian Memory in Action ©

Local LGBTI activists need to determine advocacy and support strategies and communicate them. The donor community needs to listen and respond.

relatively limited. Ways of increasing the depth to which different forms of expression reach would be to eliminate illiteracy as a barrier to knowledge, and to accept photographs, videos, films, storytelling, art, drama and even dance as vehicles for social messaging. Access to education and decent work, homes and services are as much a concern for the LGBTI community as for any other group working in the social justice space. And needs can be visually embedded in art.

Directing advocacy

Advocacy is a world that encompasses a wide field. It begins locally and nationally, with the need to present a case in the immediate context, in terms of crises and/or longer-term legal and constitutional battles. In each case, the LGBTI community needs to look at the allies it has – or could have – locally, nationally and across the continent. Beyond that, it needs to define an agenda for garnering advocacy support in the international arena that accords with its own strategy. And it needs to clearly articulate said strategy and the support it wants to the donor community.

Conversely, the donor community needs to listen and respond. So, for example, while decriminalisation seems to be a basic benchmark in moving the struggle for LGBTI rights forwards, it may require different strategies and stages depending on the legal system, degree of entrenchment and degree of constitutionality in any particular country. In supporting a movement towards decriminalisation, donors and Western communities must take the lead from the country itself in terms of the support they give (for example, towards litigation, documentation, lobbying or mass mobilisation), no matter that the overall goal is the same – decriminalisation.¹⁷⁷

Activism inside the borders of the country directly concerned must, of necessity, take a different form from that taking place from outside, whether it is activism in the African diaspora, northern and global LGBTI networks or South-South solidarity. No matter the originating stage for the activism, however, local LGBTI activists should determine the strategy and communicate it. Communication of this kind will inevitably require some give and take, but local considerations need to take priority.

¹⁷⁷ See for example Frederick Cowell, *Decriminalising sexual orientation: Three African states compared*, Consultancy Africa Intelligence/www.polity.org.za: 23 November 2011.

XII. Conclusion

When we began working on this report, we expected to be overwhelmed by the horrors of bigotry. We found plenty of that, but we also found remarkable resilience, strategic determination, profound understanding of the enemy and sound planning.

Ultimately, what we hope for is a strong African LGBTI movement with strong connections and linkages to human rights allies, be they local, regional or international.

Women's rights activist, Jessica Horn, describes a "mature movement"¹⁷⁸ as one in which there is

- a strong and sustained membership base consciously identifying with the movement
- strong autonomous organisational and governance structures
- extensive and deep layers of leadership, sophisticated analysis, strategies and political acumen
- high measureable impact on state and non-state actors, the community and larger society; and
- strategic alliances and adversaries.

This is not a bad basis on which to plan action and support strategies. FARUG, for instance, has appealed to the wider LGBTI community to help local organisations secure financial resources, gain access to high government offices and help pay for print and audio space supporting the 'Hate No More' campaign.¹⁷⁹

Overall, when we began working on this report, we expected to be overwhelmed by the horrors of bigotry and the ways it can cause damage to the fabric of a society.

We found plenty of that, as has been documented throughout the report, but we also found remarkable resilience, strategic determination, profound understanding of the enemy and sound planning. The reactive trend of homophobia igniting the LGBTI movement is one of the achievements of the African movement, because it changes the framing of issues in local media and moves the debate beyond hostile stereotypes.

What was clear to us as well, however, was that resources are scarce and that even the soundest of strategies can flounder without proper support.

Although homophobia can and is used as a red herring in the complexities of labyrinthine African politics, it is not a red herring. It is a symptom of the

¹⁷⁸ Jessica Horn, *op.cit.* Horn takes this from Srilatha Batiwala, *Building Feminist Movements and Organisations*, Association for Women's Rights in Development: 2008.

¹⁷⁹ *Extension of the Hate No More campaign*, FARUG press release: 28 November 2011, accessed via www.awid.org.



Photograph: Martina Bacigalupo & Human Rights Watch ©

Homophobia is a symptom of the attack on human rights. When the last canary gasps its last breath, and the miners flee, it will be a victory for all that is non-democratic, non-progressive, reactionary, opportunistic, cynical and simply wrong.

attack on human rights and it should not be allowed to win. When the last canary gasps its last breath, and the miners flee, it will be a victory for all that is non-democratic, non-progressive, reactionary, opportunistic, cynical and simply wrong. Standing against this is the solidarity and courage of those who are attacked, supported by their many allies, donors, governments that care, international bodies that care, and the millions, even billions, of ordinary people who know right from wrong and cannot be fooled forever. It is the solidarity of these forces that will give us a truly diverse world, where we all unite to fight for freedom and equality for all and in all spheres of our lives.

Appendix: Potential donors to the LGBTI community in Africa

Space does not permit us to focus on all donors giving money to LGBTI and related causes in Africa. In this appendix we include information on some donors not covered in this report, alongside website addresses for the donors that we have covered.

American Jewish World Service (AJWS) - Women's Empowerment Fund

www.ajws.org

Inspired by Judaism's commitment to justice, AJWS works to realise human rights and end poverty in the developing world. Based in New York, AJWS has a global focus. Its grantmaking programme supports grassroots organisations in Africa, Asia and the Americas, and has a particular focus on marginalised communities that are vulnerable to poverty and human rights violations, and on the empowerment of women. AJWS's Women's Empowerment Fund thus enables women around the world improve the quality of life for themselves, their families and their communities.

The Foundation for AIDS Research (amfAR)

www.amfar.org

Based in the US, amfAR is an international NGO dedicated to the support of AIDS research, HIV prevention, treatment education and the advocacy of sound AIDS-related public policy throughout the world. The foundation has a programme for MSM (the GMT Initiative).

Arcus Foundation

www.arcusfoundation.org

Refer Chapter X.

Astraea Lesbian Foundation for Justice

www.astraeafoundation.org

Refer Chapter X.

The Atlantic Philanthropies

www.atlanticphilanthropies.org

Refer Chapter X.

The Global Fund for Women

www.globalfundforwomen.org

The Global Fund for Women is based in San Francisco, US. It is an international network of men and women committed to a world of equality and social justice. The fund advocates for and defends women's human rights by making grants to support women's groups around the world. It has always focused on groups that are taking risks, making tough choices and daring to transform society, and it views LGBTI rights as integral to the realisation of women's sexual rights and social justice.

Heartland Alliance for Human Needs & Human Rights

www.heartlandalliance.org

The Heartland Alliance for Human Needs & Human Rights is based in Chicago, US. It sees the causes of poverty, injustice and lack of opportunity as interlocked, hence its programmes are similarly comprehensive and integrated. The alliance is change-driven and helps shape policies that ensure that the most vulnerable can realise a brighter future. Health care and justice are amongst its stated focus areas, the latter encompassing legal protection for people in danger, including refugees, migrants, victims of trafficking and other vulnerable populations facing discrimination or violence.

Heinrich Böll Foundation

www.boell.org.za, www.boellnigeria.org, www.boell.or.ke

The Heinrich Böll Foundation is a German foundation (*Stiftung*) affiliated with the German Green Party. Human rights and gender are among its priorities.

Hivos

www.hivos.org

Refer Chapter X.

International Gay and Lesbian Human Rights Commission (IGLHRC) - Africa Programme

www.iglhrc.org

Although not strictly a funding organisation, the IGLHRC is a useful contact. Its Africa Programme is based in Johannesburg and aims to end human rights violations based on sexual orientation, gender identity and gender expression in Africa. The programme offers emergency responses, confers with African regional institutions, conducts research and documents human rights abuses, pursues structural and institutional change, and provides training, capacity-building and political space for strategising.

Mama Cash

www.mamacash.org

Mama Cash is based in the Netherlands. It mobilises resources from individuals and institutions and makes grants to women's and girls' human rights organisations and initiatives. Grants are also given to Africa. Mama Cash actively promotes the rights of lesbians, bisexual women and trans people.

Open Society Foundations

www.opensocietyfoundations.org, www.osisa.org, www.osf.org.za

Refer Chapter X.

Oxfam GB (Great Britain)

www.oxfam.org.uk

There are a plethora of Oxfam organisations, but Oxfam GB has taken up the issue of sexual minorities, particularly in East and Central Africa. This interest stems from work on HIV and AIDS and has led to the publication of a booklet, *Break another Silence: Understanding Sexual Minorities and Taking Action for Sexual Rights in Africa*.¹⁸⁰ If you are looking for funding from Oxfam, this may be good place to start.

Swedish International Development Cooperation Agency (SIDA)

www.sida.se/English/

SIDA is the Swedish government's development agency. It provides technical assistance and funding throughout the world. Africa is one of its geographic focus areas, and it funds through NGOs as well as governments. Democratic development and gender equality are among its stated goals. It has an interest in different aspects of sexual minority rights, including in the context of HIV and AIDS. Sweden recognises sexual rights as an integral part of human rights and as important in themselves. It also sees sexual rights as pivotal in terms of greater inclusion and equality, and in terms of improved health and well-being.

Sigrid Rausing Trust

www.sigrid-rausing-trust.org

Refer Chapter X.

¹⁸⁰ Can be downloaded via this link: <http://policy-practice.oxfam.org.uk/publications/break-another-silence-understanding-sexual-minorities-and-taking-action-for-sex-125679>.

TrustAfrica

www.trustafrica.org

TrustAfrica is headquartered in Dakar, Senegal, and is concerned with the development of cohesive African responses to pressing challenges. The trust seeks to attract additional resources and to amplify African voices within the international donor community. It raises money from sources such as the Ford Foundation but it also wants to cultivate a greater degree of African ownership by raising money from individuals and corporations in Africa and via the African diaspora. Its focus seems to be West Africa but it tends to fund regionally. While sexual minorities are not a specific focus area, the trust prioritises the strengthening of democracy and civil society, as well as gender equality.

UHAI-EASHRI

www.uhai-eashri.org

Refer Chapter X.

Urgent Action Fund-Africa

www.urgentactionfund-africa.or.ke

Urgent Action Fund-Africa is a pan-African human rights and feminist organisation based in Nairobi, Kenya. The fund invests in the transformation of the world in which women live, enabling them to have full and equal enjoyment of their human rights. Documentation suggests an interest in sexual minorities.

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Case Study

RESILIENCE AMIDST ADVERSITY:
Being gay and African in the new century