

Malawi's LGBTQI controversy

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Same-sex sexual activity is prohibited in Malawi under the Penal Code, which criminalises acts of 'carnal knowledge against the order of nature' as well as 'gross indecency'; proclaiming a maximum penalty of 14 years imprisonment.

Following her independence in 1964, Malawi, formerly Nyasaland, inherited former colonial master Britain's English criminal law which was imposed upon the then Protectorate in 1930. For the past six decades, Malawi has thus retained the law criminalising same-sex sexual activity.

Whereas the occurrence of sodomy was first noted in colonial Malawi, homosexuality became a strict taboo during first Republican President Kamuzu Banda's 30-year dictatorship. This, however, does not mean that homosexuals were non-existent as they have always existed in Malawi.

Indeed, lots of stories went round back then of homosexual activities taking place in boarding schools, prisons and such other environments. However, people could not openly discuss these issues for fear of Banda's high discipline. As a matter of fact, homosexuality was particularly common among migrant Malawian workers in South Africa and Rhodesia. Although it was not encouraged, those who practised it were not persecuted either.

Recent reports also confirm that street-connected children are exposed to homosexuality; meaning the practice is greatly prevalent in Malawi although it is not openly done. Remarkably, present day Malawians remain resolute in their opposition to homosexuality.

Apparently, most Malawians do not even want to see or associate with someone who supports or sympathises with LGBT people. In 2007, for instance, the local faithful violently rejected pro-gay rights Anglican Bishop Nick Henderson as head of the Lake Malawi diocese.

In December 2009 the first openly-gay couple: Steven Monjeza and Tiwonge Chimbalanga were arrested, prosecuted and sentenced to 14 years imprisonment with hard labour. It had to take then UN Secretary General Ban Ki-Moon's intervention for late President Bingu wa Mutharika to pardon them several months later.

In 2020, the Centre for the Development of People (Cedep) recorded 15 instances of sexual orientation and gender identity induced stigma, harassment, and violence. Among others, LGBT members faced intolerance in hiring while LGBT asylum seekers were denied registration on the basis that same-sex sexual activity is criminalised.

Interestingly, religion and culture run so deep in Malawi despite the country opting to be guided by a secular rather than a religious constitution. It is thus unsurprising that a majority of people who opposed homosexuality during

a constitutional review process cited religion and culture, insisting the practice is against Malawi's cultural values and norms as well as the 'creation of man and woman according to God's design.'

The perception that sex is for procreation only is a dominant belief that runs deep in almost all ethnic groups. This is reinforced by religious scriptures which define sex as a preserve of married couples in a family unit.

But should these beliefs be an excuse to perpetuate discrimination of people on the basis of sexual orientation and gender identity? Why should that be the case when local terms such as *cha matonde* and *mathanyula* for anal sex confirm that homosexuality is indeed traditional and indigenous? Indeed, contrary to popular assertions that they originate from the west, same-sex practices are and have always been part of Malawian culture.

While recognising the important role that various civil rights groups are playing to ensure society's acceptance and tolerance; time has certainly come for various stakeholders in the health sector to earnestly promote the LGBT community's rights. As others have earlier suggested, a good starting point for any meaningful community dialogue is to highlight the link between homophobia and HIV and the consequences of excluding homosexuals from HIV programming.

Despite evidence of increased risks of HIV infection among men who have sex with men (MSM), the response is sadly stigma, denial and blame. As a result, many homosexuals operate underground, which poses serious challenges in terms of reaching them with HIV and AIDS interventions.

There is staggering evidence that some MSM have sexual relationships with women, to hide their homosexuality, thereby contributing significantly to the wider epidemic. The National HIV/AIDS Strategy recognises MSM as a high-risk group and recommends action to stem the epidemic within it. Yet in practice, MSM are ignored, a situation that leaves them particularly vulnerable to HIV infection.

Nowhere in Malawi is the problem more pronounced than in the country's prisons. A 1999 study on HIV and AIDS in Malawi's prisons by Penal Reform International revealed rampant unprotected homosexual acts among inmates. The report highlighted cases of prisoners with sexually transmitted infections and 'peri-anal abscesses', which they could only have contracted through anal sexual intercourse. While some prisoners are said to be 'that way inclined' and were homosexuals even outside the prison; there is another group who 'because of the lack of women become confused', but they are not really homosexuals.

In April 2011, two inmates, Stanley Kanthunkako and

Stephano Kalimbakatha were arrested after prison authorities intercepted 'a chain of love letters'. According to local media reports, the authorities found Stanley with sperms on his anus. Yet, despite this overwhelming evidence of sex in prisons, programmes to distribute condoms in prisons have hit a snag with those advocating for inclusion being castigated.

Another sad scenario is of Alexander Matandani who was disowned by his family after openly declaring his status for being gay. To the family this is a taboo and would bring bad luck from this generation going forward. They further stressed that they have never been such a person before in their family. This greatly affected his mental health to a point that he thought of committing suicide. He narrates the negative attitude he received in the society had diverse effects thus he couldn't get a job, he couldn't access high quality health care and was being bullied every time he was in the society. "I have always wanted to live and experience be family love unfortunately I can't be accepted with my

condition. I have been a wanderer for almost half of my life trying to find a community that can accept me for who I am but it's been relatively hard because much as I know you find true love from people of your blood", he laments.

The government ought to change its position on the matter that condoms would encourage homosexuality, which is illegal in Malawi. It should be stressed that the intention is not to encourage homosexuality, which is a reality and does not need encouragement, but to prevent the spread of HIV and other STIs among people who practice homosexuality.

Most importantly, the government and the Malawian public in general should understand and accept that when two adults of the same sex agree to love each other, they do not harm anyone. So, there is no point to maintain laws criminalising homosexuality.