



UNDERSTANDING SEXUAL MINORITIES AND TAKING ACTION  
FOR SEXUAL RIGHTS IN AFRICA

# Break Another Silence

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# Introduction

This booklet is about marginalised sexualities and human rights. It's written for people working in civil society and government organisations, with a focus on Africa, particularly the Horn, East, and Central Africa.

The idea for this booklet came from an HIV and AIDS forum, held in the Horn, East & Central Africa region, for Civil Society Organisation (CSO) staff working on HIV. The forum focussed on learning about linkages between gender, HIV & AIDS, and sexual rights. Two East African activists from a sexual minorities network spoke about how badly sexual minorities are treated, the violence and discrimination they experience, and the difficulties they face in accessing HIV and AIDS prevention, treatment & care services. Their testimonials stirred the participants' interest. Some felt that they needed to know more. Many were surprised; they were working on HIV, and yet had not given much thought to sexual minorities. Some, perhaps, felt negative towards the two activists, a common reaction in African cultural settings. Others wondered how they and their organisations might support sexual minorities to claim their rights.

This booklet is to encourage staff in civil society and government organisations to: understand sexual rights as human rights; to become aware of the ongoing abuses of sexual minorities' human rights including lack of access to essential services; and to take action to protect rights for all, including minority groups.

Chapter 1 focuses on basic information and key debates. Chapter 2 looks at reactions to sexual minorities and their sexual rights. The linkage between sexual minorities, human rights and HIV programming is explored in Chapter 3, while Chapter 4 deals with why most NGOs have been silent on the issue. The concluding chapter suggests ways to break that silence.

# 1. Basics Information about Sex, Gender & Sexuality

We all know about 'sex' and 'gender', don't we? Read on... in reality, things are a bit different from the simple story we often tell ourselves.

Sex	
The simple view	The reality
All babies are born as one sex: either male or female.	<ul style="list-style-type: none"> <li>• Most babies are born male or female.</li> <li>• A minority are born <i>intersex</i> – it is not clear which sex they are. Parents raise them as male or female, or doctors do genetic &amp; other tests to determine the biological sex and then do surgical operations to 'make' them male or female. Sometimes the person does not feel they fit the sex label they have been given.</li> </ul>

Gender Identity	
The simple view	The reality
Males feel themselves to be male, females feel themselves to be female.	<ul style="list-style-type: none"> <li>• Most males feel they are male, and most females feel they are female.</li> <li>• Some males feel themselves to be female, and some females feel themselves to be male (<i>transgender</i>).</li> <li>• Some people mostly feel themselves to be male but sometimes female, or mostly female but sometimes male.</li> <li>• Some feel neither male nor female.</li> </ul>

Sexual Orientation	
The simple view	The reality
Males are only sexually attracted to females, and females are only attracted to males.	<ul style="list-style-type: none"> <li>• The majority of males are only or mainly sexually attracted to females, and the majority of females are only or mainly attracted to males (<i>heterosexuals</i>, also said to be <i>straight</i>).</li> <li>• Some males are only or mainly attracted to males, some females are only or mainly attracted to females (<i>homosexuals</i>, also known as <i>gays</i> and <i>lesbians</i> respectively).</li> <li>• Some males and females are attracted to both males and females (<i>bisexuals</i>).</li> <li>• Transgendered males and females may be heterosexual, homosexual or bisexual.</li> </ul>

Sexual Practices	
The simple view	The reality
Males only have sex with females, and females only have sex with males.	<ul style="list-style-type: none"> <li>• Most sex is between males and females.</li> <li>• There is also sex between all possible combinations of males, females, intersexuals and transsexuals.</li> <li>• Some male heterosexuals also have sex with men, and some female heterosexuals also have sex with females.</li> <li>• Some male homosexuals also have sex with females, and some female homosexuals also have sex with males.</li> </ul>

In this booklet we also use the terms **women-who-have-sex-with-women (WSW)** for short) and **men-who-have-sex-with-men (MSM)**. They refer to people who occasionally or regularly have sex with members of the same sex. WSW and MSM include:

- People who see themselves as homosexual or bisexual;
- People who see themselves as heterosexual but have same-sex sex. For example,
  - people who are married and so see themselves in their expected gender role, but who also have a same-sex relationship;
  - people who have same-sex sex at certain points in their lives, such as some prisoners, soldiers, homeless youths, migrant workers, and students at single sex boarding schools;
  - people (mainly males) who see themselves as heterosexual but use rape to dominate or punish others of their own sex.

The umbrella terms of WSW and MSM are useful, but also problematic, because they cover a diverse group of people. Even more specific terms such as 'lesbian' or 'gay' refer to a wide range of women and men with different levels of education and wealth, and a variety of lifestyles.

*“For me, being bisexual means to love a person for themselves, regardless of their gender.”*

Paula, South African<sup>1</sup>

## Human rights and sexual rights

### Human rights

Article 1 of the Universal Declaration of Human Rights states “All human beings are born free and equal in dignity and rights.” Article 2 begins “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind...”. Human rights belong to us all, regardless of our sexual orientation and gender identity.

### Sexual rights

Sexual rights are generally understood<sup>2</sup> to include the right of everyone - without force, discrimination or violence - to:

- Enjoy the highest standard of sexual health, including access to sexual and reproductive health services;
- Seek, receive and give information about sexuality;
- Have their body respected;
- Choose their sexual partner;
- Decide to be sexually active or not;
- Have consensual sexual relations (where both people agree);
- Get married;
- Decide whether or not, and when, to have children;
- Pursue a satisfying, safe and pleasurable sexual life.

It's important to be clear that sexual rights concern **consensual sex between adults**. In other words, none of the people involved are below the legal age for having sex, and all of them agree to what they are doing. Forced sex (rape) and sex with children both violate the sexual rights of the victim, whether the perpetrator is of the same or opposite sex as the victim.

The best starting place for learning about rights with regard to sexual minorities is the Yogyakarta Principles<sup>4</sup>. They were developed in response to widespread discrimination and abuse of rights due to sexual orientation and gender identity. The 29 principles apply international human rights laws to the issue of marginalised sexualities, and set out legal standards, which states should follow.

*“Both the Constitution and the Penal Code criminalises sexual minorities and sexual acts by them. The same Constitution guarantees freedom of association, and privacy. So if two gay men want to associate in private, what law are they breaking?”*

CEDEP staff member,  
Malawi<sup>3</sup>

*“I was around 19 or 20, in boarding school, when I first had a relationship with a girl... I tried to change, and that didn't work. When I was 27 or 28, my family kicked me out of the house ... I had a job as a teaching assistant at a Catholic school, but the nuns started to suspect me... and eventually fired me...I can't change my life. They'll have to put me in prison like the others.”*

Burundian woman<sup>5</sup>

## Do people choose their sexual orientation?

Do we choose whether we are sexually attracted to people of the opposite sex, the same sex, or both sexes? Or is it something we are born with? There is a good argument that these questions are irrelevant; it doesn't matter whether people choose their sexual orientation or not, what matters is society's response to them. As we have seen in the previous section, sexual rights include the right to pursue a satisfying sexual life – whatever that means to each individual - so long as those involved are consenting adults.

However, the question of whether sexual orientation is chosen does come up a lot. And for some people the answer does affect their feelings. People who are against homosexuality often believe that homosexuals do choose to be different, so it is therefore OK for society to demand that they should conform to the social norm of being heterosexual. Furthermore, as they see it as a matter of choice, society can use punishments to penalise those who refuse to change, and to discourage those who might want to try same-sex behaviours.

So, what's the answer? Is sexual orientation chosen or not? It's not 100% clear, but we know the following:

- There's a lot of evidence that genetic developments and hormonal exposure in the womb affect whether we are likely to be attracted to the opposite or same sex<sup>6</sup>;
- Most people from sexual minorities feel they are different from a very young age;
- Concerted efforts to eliminate sexual minorities do not succeed; despite persecution and in some cases mass murder, sexual minorities persist;
- Many individuals try to suppress their marginalised sexualities, by behaving as society wants them to; some succeed in changing their behaviour, but few feel that they have managed to change their actual orientation;
- If it were a matter of free choice, surely there would be no sexual minorities; to choose to be different is to choose rejection, violence and discrimination;
- Same-sex, non-reproductive behaviour has been scientifically documented in over 450 animal species worldwide. (Interestingly, negative responses to same-sex behaviours have only been documented in humans)<sup>7</sup>.

*“When I was 18 a girl fell in love with me. We had an experience, we kissed, but it didn't go farther. I realized that maybe I was gay. I took three months to pray... I prayed that I would change, but it didn't succeed.”*

Male Burundian student<sup>8</sup>

*“It's normal, something they are born with, like being left-handed.”*

Zambian university student  
talking about homosexual  
students

## Some common beliefs

A lot of things are said about people from sexual minorities. They both reflect and create the cultural environment of a society. Here are some of the common negative accusations and a response for each. For simplicity they refer to homosexuals, but could be about bisexuals or transgendered people.

### “Homosexuals are promiscuous”

As with heterosexuals, the number of partners varies from zero to many. Some same-sex practicing people may have an extra partner – their husband or wife – because it is culturally important for them to marry, or because marriage helps them to hide their true orientation<sup>9</sup>.

### “Homosexuals are deviant.”

Same-sex sex has always existed among humans, and also exists among many other animals. So it is both usual and expected. Same-sex sex is not dominant, but that does not make it deviant.

### “It’s foreigners who seduce Africans and make them homosexual.”

Same-sex behaviour existed in Africa long before Westerners arrived (see Chapter 2). In a recent study in Nairobi, 97% of MSM had had their first same-sex sexual experience with another Kenyan, mostly fellow students, neighbours or extended family members<sup>10</sup>. In another study in Mombasa (which is known as a holiday destination for Western gays), 80% of male sex workers’ male clients were fellow Kenyans<sup>11</sup>.

### “Homosexuals sexually abuse children.”

Sexual crimes against children are committed by paedophiles, that is, adults who are sexually attracted to children. Their attraction can be to children of the same or opposite sex. So paedophiles can be heterosexual, homosexual or bisexual. They form a small percentage of adults in each of these groups. Most societies need to do much more to protect their children from sexual abuse by adults, including early marriage, sexual coercion, sexual assault, and rape.

### “Homosexuals can be ‘cured’ through heterosexual sex.”

Many homosexuals have had sex with the opposite sex, but keep their orientation towards the same-sex. For example, in a study in Nairobi nearly 70% of MSM had had sex with a woman, but were still sexually attracted to men<sup>12</sup>. The ‘cure’ sometimes forced on lesbians of so-called ‘corrective rape’ is illegal and illogical; why would the violence and violation of being raped by men make a woman prefer sex with men? It is not a ‘cure’ but a punishment and an attempt to control lesbians’ sexuality.

### “It is ‘un-African’ to be homosexual.”

There always have, and always will be, sexual minorities in Africa. If a society does not want to celebrate diversity, it could at least tolerate and accommodate it. Societies which refuse to allow homosexuality instead commit themselves to values of hatred and intolerance, and to practices of persecution, violence and even murder. The issue is not what is or is not ‘African’ but what sort of society we want.

### “God hates homosexuals.”

Within every religion, which says that same-sex behaviours are wrong, there are members of that religion who use the same texts and beliefs to reach a different conclusion. There is no final theological answer to this issue.

### “Homosexuals are a dangerous threat to the traditional family.”

In cultures where same-sex sex is illegal, homosexuals must hide their behaviour and pretend to be heterosexual, sometimes marrying. The adult population appears to be 100% heterosexual, but it is not. In societies where homosexuals are accepted, around 94% of adults are heterosexuals and 6% are from sexual minorities. ‘Traditional’ families dominate, and there is no campaign by sexual minorities to destroy them. In Africa the actual threats to families include poverty, migrant labour, gender-based violence, disease including HIV, ethnic violence, and hatred of homosexuals, which leads to parents disowning their children.

*“You say gay is sin, unnatural, whatever, so be it! Fact is: denying gay today is as miserable as telling a woman in labour to wait, try that! Being tolerant is a win-win affair. When gays hide they camouflage as heteros. No wonder that some marriages of today are so peculiar!”*

*‘flexy832003’, on an online newspaper comments board, www.nation.co.ke, 2 December 2009*

## 2. Reactions to Sexual Minorities

### In the past<sup>13</sup>

It is clear from written observations of ethnographers, traders and missionaries that people with alternative sexualities have existed in Africa for at least 400 years. There are records of same-sex practices for around fifty African societies, along with the local words and understandings of different types of people and their behaviours. Historically, therefore, same-sex practices are traditional and indigenous. It is significant that the observers, who came from societies which at the time saw sexual minorities as morally corrupt, often noted tolerance towards sexual minorities. To give just three examples:

- In 1625 Portuguese priests reported from South Western Africa that transgendered Chibado males dressed and acted as women, were married to men, and were esteemed in their society.
- In 1904 an ethnographer documented that among the Bantu-speaking tribes north of the Congo River anal sex was considered *bian nku'ma* or "a medicine for wealth". They believed that, particularly for the dominant male, sex between men could lead to 'the power of riches'.
- In 1938, a Belgian missionary recorded the existence of lesbian relationships among the Nkundo wives of Congolese polygamists, an accepted way of getting sexual pleasure when one husband was shared among wives.

There are also many records of transgendered and intersex people occupying special places in African societies, including the *mwaami* prophets of the Ila in Zambia, the *quimbanda* of Angola and the *eshengi* of Namibia, who acted as shamans, and the *ikihindu* and *ikimaze* priests of Burundi. Somali tribes used to recognise two categories of men-*waranleh* (warriors) and *waddado* (men of God). The latter were considered physically weak but mystically powerful. This is not to say that intersex and transgendered people were always respected and never mistreated, but these and other examples show that some societies valued them.

What happened to change attitudes in Africa, to reach today's highly negative views towards sexual minorities? Most analysts point to the laws and values forced on indigenous people by colonialists, and the powerful influence of Christian and Islamic religious beliefs. For example, around the beginning of the 20<sup>th</sup> century British colonialists imposed their *Section 377* 'sodomy' law in Tanzania, Uganda, Kenya, Somalia, the Sudan, and twelve other African colonies. This law punished those engaging in the vague crime of '*carneal knowledge against the order of nature*'. Court records from Southern Rhodesia at that time include cases of male migrant workers accused of having sex with men; the most common defence was that anal sex was a longstanding custom among the indigenous people<sup>14</sup>. A customary practice, which the law-makers and missionaries successfully criminalised and stigmatised.

Only six decades later, however, the British were rethinking their attitude to homosexuality. As the days of the British empire drew to a close, an official report of law experts in 1957 concluded:

*The law's function is to preserve public order and decency, to protect the citizen from what is offensive or injurious, and to provide sufficient safeguards against exploitation and corruption of others ... It is not, in our view, the function of the law to intervene in the private life of citizens, or to seek to enforce any particular pattern of behaviour.*

This change of view did not affect Britain's colonies, however, and they became independent nations with their 'sodomy' laws in tact. Since then many of their governments have revised and strengthened the law. In contrast, some African nations have never criminalised same-sex activities: they are Benin, Burkina Faso, Central African Republic, Chad, Congo-Brazzaville, Côte d'Ivoire, Democratic Republic of Congo, Gabon, Madagascar, Mali, Niger and Rwanda. The lesser influence of the French on their colonies is explained by the fact that the French decriminalised sex between men in 1791.

*It is striking how judges, public figures, and political leaders have, in recent decades, defended those laws as citadels of nationhood and cultural authenticity. Homosexuality, they now claim, comes from the colonizing West. They forget the West brought in the first laws enabling governments to forbid and repress it.*

This Alien Legacy: The Origins of 'Sodomy' Laws in British Colonialism

### The situation now

We do not know what proportion of Africans belong to sexual minorities. No effort has been made to find out<sup>15</sup>. The best data we have is from places where there is better legal protection for people with marginalised sexualities and less stigma towards them. For example, surveys in the UK show that around 6% of the population identifies as lesbian or gay<sup>16</sup>, while in the USA 5 to 7% of men are MSM<sup>17</sup>.

Whatever the size of the sexual minorities in African countries, we do know that their rights are attacked by many actors:

- **Governments**, particularly authoritarian ones, attempt to control consensual same-sex sex between adults through laws (see table on page 13); many use sexual minorities as a scapegoat, uniting people against a common enemy while detracting their attention from other issues<sup>18</sup>;

- **Religious authorities** mostly condemn same-sex behaviours, and have great influence through their followers and through politicians who are believers, even where the state is supposed to be separate from religion;
- **The media** features and amplifies the anti-homosexual views of state and faith groups, particularly where the media is state-controlled, and where the state punishes attempts to give a more balanced view;
- **The police** indulge in arbitrary arrests and detentions, sometimes demanding money from their captives and using violence and rape to punish them<sup>19</sup>; they sometimes work with organised gangs, who entrap individuals (usually married men) and then blackmail them<sup>20</sup>;
- **The general population** is poorly informed, and because individuals have to hide their sexualities, most of the population cannot put a human face to the issue; the general public's views often echo those of the religious authorities;
- **CSOs** are often silent on the issue. There is more about this in Chapter 4.

The outcome is that millions of Africans suffer discrimination in access to education, work, and health care including HIV services; are rejected by their families and communities; are forced to 'live a lie' by hiding their sexual orientation; live in fear of arrest; are subjected to blackmail, abuse and violence including sexual violence; are unable to get the protection of police when they are victims of crime; and currently have no way of achieving their sexual and human rights.

Furthermore, their families also suffer abuse, or reject their relation, and the community as a whole is damaged by its culture of intolerance and hatred. The impacts increase when authorities attempt to increase their control. For example, in Burundi recent progress for sexual minorities has been crushed by the state making same-sex sex illegal for the first time in the country's history.

## State laws with regard to consensual same-sex practices between adults in the Horn, East and Central Africa<sup>21</sup>

Country	MSM	WSW	Punishments & notes
Burundi	✗ Illegal	✗ Illegal	Up to 2 years' imprisonment. Same-sex activities were criminalised for the first time in Burundi in April 2009.
DRC	✓ Legal	✓ Legal	Same-sex activities have never been criminalised in DRC.
Eritrea	✗ Illegal	✗ Illegal	Same-sex acts between adults: simple imprisonment (' <i>applicable to offences of a not very serious nature committed by persons who are not a serious danger to society</i> ') for 10 days to 3 years.
Ethiopia	✗ Illegal	✗ Illegal	'Homosexual and other indecent acts': simple imprisonment for 10 days to 3 years, extendable up to 5 years.  Aggravation, if someone takes unfair advantage of another, or makes a living from the act: simple imprisonment for not less than one year, or rigorous imprisonment up to 10 years.  Aggravation, if someone uses violence or trickery and takes unfair advantage, transmits an STI, or where the victim is driven to suicide: rigorous imprisonment for 3 to 15 years.
Kenya	✗ Illegal	✓ Legal	Imprisonment for 5 to 14 years.
North Sudan	✗ Illegal	✗ Illegal	Anal sex: flogging of 100 lashes + 5 years imprisonment for each of first two offences; death or life imprisonment for third offence.  Other same-sex acts: up to 40 lashes + up to 1 year imprisonment or a fine.
Rwanda	✓ Legal	✓ Legal	At the end of 2009 the government had intended to debate a new article, as part of a revised penal code, which would criminalise homosexuality, but at the last minute withdrew it.
Somalia	✗ Illegal	✗ Illegal	Penal code: 3 months to 3 years imprisonment, reduced by one third if the act is same-sex but not intercourse.  The penal code is being followed in Somaliland, but in the south, Islamic courts are using Sharia law to give punishments of flogging and the death penalty.
South Sudan	✗ Illegal	✗ Illegal	Up to 10 years imprisonment.
Tanzania	✗ Illegal	✗ Illegal	'Carnal knowledge': imprisonment of 30 years to life.  Attempt to commit 'carnal knowledge' offence: imprisonment of not less than 20 years.  Committing or abetting 'gross indecency': imprisonment of 1 to 5 years plus a fine.
Uganda	✗ Illegal	✗ Illegal	'Carnal knowledge': life imprisonment.  Attempt to commit 'carnal knowledge' offence: imprisonment of 7 years.  Committing or abetting 'gross indecency': imprisonment of 7 years.

(for other nations, go to [ilga.org/ilga/en/article/1058](http://ilga.org/ilga/en/article/1058))

More positively, people with marginalised sexualities have formed activist groups in many African countries. Through bringing people together, these groups make a great difference to the individual members, creating a community of belonging and a movement for action. For example, in Kenya GALCK uses a lawyer to pursue cases brought against homosexuals. The lawyer pressures the police to act within the law, in terms of the evidence they present, and the time that they can legally hold a suspect. This has led to more people being released without conviction, and, over time, less police harassment and fewer arrests. Furthermore, individuals are now more likely to say no to blackmailers and to face court instead<sup>22</sup>.

As another example, in Nigeria in 2007, activists and their allies had just 48 hours to prepare for a legislative hearing on the state's repressive bill. Their efforts helped to stall the bill in the Assembly, where it died<sup>23</sup>.

South Africa was the first nation in the world to put protection against discrimination for sexual minorities into its constitution. This shows it is possible for an African state to act differently. While constitutional equality is no magic wand, it does create a better environment for activism and change. Indeed, South Africa's LGBTI (lesbian, gay, bisexual, transgender, intersex) activist organisations receive more donor funding than those of any other developing nation<sup>24</sup>.

However, for sexual rights activists there is the constant danger, and often the experience of, a backlash against them. Activism for sexual rights involves individuals risking, and sometimes losing, their safety, liberty, and even their lives.

*"I'm a member of the gay association in Bujumbura. It's very important to me, because you find people who are like you, who understand you, who support you. You don't feel alone anymore."*

Young man, Burundi<sup>25</sup>

*"Let's all stand up for our RIGHTS! It's your right to exercise your sexuality with a consenting adult, LET US STOP BEGGING FOR THIS RIGHT THROUGH POLICE BRIBES!"*

Gay and Lesbian Coalition of Kenya, from their website page about what to do if arrested for engaging in gay sex, [www.galck.org](http://www.galck.org)

### 3. Sexual minorities and HIV programming

How have sexual minorities in Africa experienced the multi-million dollar prevention, treatment and care programmes for HIV? Here's the view of a typical gay man<sup>26</sup>:

*HIV campaigns aren't relevant to me. The HIV posters only show boy-girl couples, so it looks as if I am safer sleeping with guys than with girls. The HIV leaflets don't even mention anal sex. And abstaining from sex until I marry? I'm not allowed to marry the man I love!*

*As for health care, I once went to a clinic because I had an anal STI but the nurses made fun of me. It was humiliating; I swore I'd never go back. Since then I've used condoms mostly, but they can split. It would be better if I could get stronger ones and lubricant to go with them, but there aren't any services for people like me. When I was raped I didn't go to get PEP treatment. I don't know if I have HIV or not. If I have, will the government, which wants to lock me up, and the nurses who laugh at me, give me treatment?*

Across the globe, from the start of the HIV pandemic, the response to HIV has included MSM - except in Africa. Here the response of most governments and donors has been to focus only on heterosexual transmission of HIV and to either:

- Deny the existence of sexual minorities;
- Assume the numbers are too small to be a priority;
- Decide to exclude them because they consider sexual minorities to be undeserving;
- Deny that sexual minorities' needs are different from heterosexuals' needs;
- Or to know there is an issue, but fail to challenge the taboo that sexual minorities exist in Africa.

#### What are some of the outcomes of this?

Despite all the large-scale surveys which have been carried out to learn about populations' knowledge, attitudes and practice, none have tried to find out how many people are MSM or WSW. **We do not know what proportion of the population belongs to sexual minority groups**, and is therefore excluded from HIV programming. This makes it much harder to advocate for funding and to plan for a response. We have some data from three studies of MSM in Kigali, Nairobi and Dakar<sup>27</sup>, but almost none on WSW.



**HIV prevention programmes ignore anal sex**, allowing the misconception to develop that anal sex is safer than vaginal sex. For example, 35% of MSM sex workers studied in Mombasa did not know that HIV can be transmitted through anal sex<sup>28</sup>. Research among street boys in Tanzania revealed that although forced anal sex is common among them, they do not see it as 'real sex', and believe HIV can be transmitted only through 'real sex' with a woman<sup>29</sup>. In fact, HIV can be transmitted much more efficiently during unprotected anal sex compared to unprotected vaginal sex<sup>30</sup>. This needs to be known not only by MSM, but also by the general population. Heterosexuals also have anal sex!<sup>31</sup> We don't have much data on this for Africa, but we do know that it exists, and may be used as: a preference for pleasure; an alternative way to have sex when a woman is menstruating; a means of having sex without tearing the hymen (and therefore proof of virginity); and as a form of contraception.

*"Many women [clients] approach us for anal sex wrongly believing that it lowers their chances of getting infected. Everybody should be educated on the dangers of this kind of sex..."*  
Male Kenyan sex worker,  
www.plusnews.org,  
9 November 2009

3 studies <sup>32</sup> reporting rates of anal sex	
Who and where	% reporting having had anal sex
15-24 year old heterosexuals in Zambia	3.6%
Sexually active 15-24 year olds in South Africa	5.5% of males and 5.3% of females
Female commercial sex workers in Kenya	82%, with a quarter of their clients

**HIV programmes do not provide services for sexual minorities.** In most African countries prevention messages and products (condoms, lubricants) are not tailored to the needs of WSW and MSM. Indeed, just distributing information about safe same-sex sex is a crime in some countries. Furthermore, stigmatisation by service providers and the fear of being reported to the police can prevent WSW and MSM from using existing prevention, treatment and care services. This is all the more shocking given that, as a stigmatised group, they may be in more need of the services. This is partly due to violence from others. For example, in the Dakar study 43% of MSM had been raped at least once outside of their family home. It is also because the compounding effects of violence and rejection can lead to low-self esteem, depression and a greater likelihood of having unprotected sex<sup>33</sup>.

Female commercial sex workers have been the focus of much research and programming, yet **male sex workers have been neglected.**

**Condom use among MSM appears to be low.** Study results include that 35% of MSM in Kigali had never used a condom with either a male or female partner, and 40% of MSM in Nairobi were not regularly using condoms for anal sex, while in Dakar the figure was around 80%. In the Nairobi study almost all of the MSM were using lubricants, but 84% of them were using petroleum jelly, which makes latex condoms more likely to break.

*"While we acknowledge that there is rampant homosexuality among the prisoners, we cannot provide them with condoms, as that would be tantamount to giving them a license to carry on with what is an illegal act in Kenya."*  
Prison Welfare Officer, Kitale, Kenya<sup>34</sup>

The surveys which have been done consistently show that **MSM in Africa have higher rates of HIV infection** than the general population. In Kenya Liverpool Voluntary Counselling and Testing found that HIV prevalence was two times higher among MSM compared to other men. MSM studies have shown HIV rates among MSM of 23% in Mombasa, 25% in Nairobi, 12% in Zanzibar, 10% percent in Kano, 25% in Lagos, 21% in Malawi, and 25% in Ghana<sup>35</sup>. Recent analysis of HIV modes of transmission in Kenya suggests that 15% of new HIV infections may happen through sex between men<sup>36</sup>. That rate could be reduced by providing MSM access to proper HIV services.

**By ignoring WSW and MSM, HIV programmes have ignored important dynamics in the epidemic.** In the Kigali study a quarter of the MSM reported sex with a woman in the previous 12 months, while in Nairobi 14% had had sex with a woman in the past month. In Dakar and Nairobi 88% and 69% of MSM interviewed respectively reported ever having had vaginal sex with a woman; in Dakar 20% said they had had anal sex with a woman. We have less data for WSW, but know from WSW that many also have sex (consensual and forced) with men. Clearly

WSW and MSM do not always only have same-sex sex; they can be part of wider sexual networks. For the greatest impact on public health UNAIDS believes it should invest in services for MSM and male-to-female transgendered people, as they tend to have higher rates of HIV infection than WSW and female-to-male transgendered people<sup>37</sup>.

*On getting a positive HIV test result, the CBO counsellor first accused me of disguising "my promiscuous ways by identifying as a lesbian. When I explained that I was likely infected as a result of a heterosexual rape, she said that as a lesbian, I must have deserved it."*  
South African woman<sup>38</sup>

*"The fact that homosexuality is criminalised hinders us from providing AIDS healthcare, prevention services and items - condoms and lubricants - to the homosexual community. If I openly distributed this leaflet about safe sex for MSM I would be arrested and charged with aiding another person to commit a felony. So we can only distribute it among safe networks."*  
David Kuria, GALCK, www.nation.co.ke, 30 November 2009

## 4. Why are Civil Society Organisations working in Africa silent on sexual minorities and human rights?

In September 2007, lesbian, gay, bisexual, transgender and intersex (LGBTI) activists from across East Africa came together in Nairobi to meet with human rights organisations, HIV service providers and donors. One of the key issues they identified was the reluctance of mainstream organisations to include LGBTI issues in their work<sup>39</sup>.

Why is this? Many international CSOs are based in countries where same-sex behaviours are legal and sexual minorities are relatively accepted. And many have a 'rights-based approach' as their foundation. We might expect far more of them to be actively involved in supporting sexual minorities to claim their rights. Here are some of the reasons for the silence from the majority of CSOs:

- Many staff members are poorly informed. The culture and education systems do not provide a good context for understanding diversity and different sexualities.
- If both African and Western staff members don't know openly gay Africans, they are more likely to accept the idea that homosexuality is not part of African culture.
- Most CSOs have not talked about the issue, and have not challenged their staff to think about it. Their staff are likely to hold many of the misconceptions and prejudices which exist in their society.
- Few CSOs have clearly worked out positions regarding controversial issues (e.g. the decriminalisation of sex work). Topics which are 'too hot to handle' are easily put aside, given that there are so many issues to deal with.
- For faith-based organisations issues concerning sexuality are particularly tricky. Many struggle to promote and provide condoms for heterosexuals; little wonder they are not working for sexual minorities' rights.
- Where same-sex behaviours are illegal CSOs feel that 'their hands are tied', and staff are reluctant to be involved with people who their government labels 'criminals'. They may also fear losing their organisation's registration.
- People fear attracting stigma and the attention of the police by working with stigmatised sexual minorities. They may also want to avoid the stress of knowing and working with activists, given that those activists are subjected to everyday violence and to backlashes when they try to claim their rights. It's easier to work on something else.
- International CSOs may be reluctant to support sexual minorities because homosexuality is often labelled as being 'un-African' and promoted by the West. They may also prefer to work on issues that are popular with majority in the society, so avoiding accusations of colonialism.

- Some organisations are unable to give grants, or can only give small grants, to unregistered organisations, while some governments do not allow LGBTI groups to become registered.
- Some funders exclude, or have not prioritised, funding for advocacy or services concerning sexual minorities.

We should also remember that some faith-based organisations are not silent – they are actively part of the anti-gay movement. They often receive funds and support from anti-gay evangelical church organisations in America.

Of course, some CSOs are working with sexual minorities' groups. For example, the Dutch organisation HIVOS supports more than 50 LGBTI partners in developing countries, and gives more to them than any other donor<sup>40</sup>.

Others are getting more involved. Oxfam's joint HIV and AIDS programme in Southern Africa has for many years worked with at least one LGBTI counterpart. In 2008 it commissioned research into the challenges faced by sexual minorities in Southern Africa, and identified potential strategies for Oxfam and others to adopt<sup>41</sup>. Now Oxfam's Global Centre for Learning on HIV and AIDS is planning to: support the networks of organisations working on MSM and HIV in Africa to raise their voices; strengthen the role of LGBTI organisations in Country Coordination Mechanisms; and work with others to develop a regional proposal to the Global Fund for LGBTI and HIV interventions in Southern Africa.

Recent experience from the Horn, East and Central Africa shows how regional collaboration can help the response to grow. Staff in Burundi felt challenged when their government brought out its bill to criminalise same-sex activities. Regional staff linked with Oxfam globally, who linked to UNAIDS and other agencies to lobby against the bill. The bill was rejected by the Senate, but then approved by the National Assembly. The Burundi programme then supported sub-regional learning, by hosting Oxfam partners from Rwanda and DRC on exchange visits in Burundi. Following that, the Rwanda programme began dialogue with LGBTI communities in Rwanda, and working with one of its partners, Human Rights Watch, on advocacy. The developments in Rwanda include a CSO meeting on MSM, a survey into MSM needs by USAID & CNLS, and the increasing openness of its AIDS Commission. Meanwhile partners & staff are increasingly involved with advocacy around the sexual rights and they link & learn with National AIDS Commissions.

## Conclusion: A Call to Break Another Silence

Can you imagine a future in which marginalised sexualities are accepted in Africa? A future in which people from sexual minorities are able to go to school, to get health care including HIV services, to work, and to play their part in their families and communities, just as heterosexuals do. A future in which politicians and the police try to meet the needs of all their citizens? A future where social division, hatred and violence concerning sexual minorities are replaced by tolerance and acceptance. It is perhaps not hard to imagine, but it will be hard to achieve.

This booklet has outlined how far we are from that future. While the rights of people from sexual minorities are attacked by powerful actors, many CSOs are failing to do anything. Instead they act as silent accomplices to the state's and religious groups' efforts to eradicate and suppress sexual diversity.

You, as an individual, can begin to break this silence! One starting place is to begin **to address the silence in your own institution**, by opening the subject for discussion, and by unpeeling some of the misconceptions and deeply held biases among your colleagues. Of course, it is easier to keep quiet, but it is not right to do so. If you can encourage your colleagues to really think and reflect – rather than just react – then you, with others, can begin to tackle the discrimination and stigma which exists in your organisation.

In addition to changing staff members' beliefs and behaviours, your organisation may need to **make policy changes**. These can make a difference. For example, gay students at the United States International University in Nairobi have dared to form an association because they are protected from dismissal by the institution's policies, which include non-discrimination on the basis of sexual orientation<sup>42</sup>. Your organisation might also adapt its work. For example, a CSO campaigning against gender based violence could **adapt its work** to include violence connected to gender identity and sexual orientation.

CSOs can, of course, seek to **inform and influence others**, such as community members, development partners, faith leaders and service providers. They can also be part of the movement to **repeal laws and resist new laws** that criminalise consensual same-sex conduct between adults, by supporting activist organisations, and by direct advocacy where appropriate. The best approach to take varies with context, so it's important that CSOs offer to support local peoples' initiatives but only get directly involved with their agreement<sup>43</sup>. CSOs must also recognise the danger in which activists operate, and be sensitive to their needs, as well as be ready to support them and to respond to any backlash.

More generally, CSOs can build **human rights movements**, supporting different interest groups – such as sexual minorities, women's groups, disability groups and indigenous peoples' groups - to work together as allies. This horizontal approach differs from the vertical approach where interest groups work in isolation, almost competing with each other. CSOs can also help LGBTI groups to make links with more mainstream organisations, for example, by bringing their partners together for shared training events.

CSOs can also implement and advocate for the inclusion of WSW and MSM in HIV programming. For example, getting information to sexual minorities without attracting further stigma and discrimination, and providing health and counselling services which properly serve sexual minorities, including condoms, lubricants, and HIV treatments. This is the right thing to do for human rights, as well as epidemiologically in terms of responding to HIV, promoting public health and the Millennium Development Goals. In terms of strategy, experience suggests that the public health argument is more effective for influencing governments, particularly where same-sex sex is illegal. **Creating evidence through research** is also key to advocating for new policies and programmes. For example, the results of the MSM studies in Dakar and Nairobi contributed to the inclusion of MSM in the national HIV and AIDS strategic plans for Senegal and Kenya<sup>44</sup>.

We know that cultural attitudes can and do change; for better and for worse. CSOs, leaders, legislators, and governments in Africa can support sexual minorities in the process of claiming their rights, for their own benefit, and for the benefit of society and public health as a whole.

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## Notes

- 26 This is not a quote from an individual, but a narrative based on the results of focus group discussions with gay men in Accra and Nairobi, and from a Zambian gay man talking about how his friend was treated by nurses (all from Johnson CA (2007) *Off the Map: how HIV programming is failing same-sex practicing people in Africa*, IGLHRC, p57 and p68, [www.iglhr.org](http://www.iglhr.org)).
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- 35 National AIDS Control Council of Kenya and Population Council (2009): *The Overlooked Epidemic: Addressing HIV Prevention and Treatment among Men Who Have Sex with Men in Sub-Saharan Africa*, Report of a Consultation Nairobi, Kenya 14–15 May 2008, [www.popcouncil.org](http://www.popcouncil.org)
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Photo cover: Crowd gathered to support the marchers in the Gay Pride Parade on 5th Avenue in Manhattan, New York, USA. Hollandse Hoogte/Brigitte Stelzer / Polaris.  
Photo back cover: Hollandse Hoogte/Sijmen Hendriks

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