

BIGMUN 2018  
General Assembly 3 - Social, Humanitarian and Cultural (SOCHUM)

# Research Report

---

Topic 1: The question of LGBT rights in Sub-Saharan Africa



Abigael Gatwiri Kiambi and Eva Fernandez Østerlund

## Introduction

The first topic that will be discussed in the Third Committee of the General Assembly is the question of LGBT rights in Sub-Saharan Africa.

The question of LGBT rights in Sub-Saharan Africa has been a controversial and sensitive debate. According to, the International Gay and Lesbian Association, in 2015, 34 out of the 54 African countries have declared homosexuality illegal<sup>1</sup>. While, some countries such as but not limited to Benin and the Central African Republic have not outlawed homosexuality however have imposed certain laws regarding homosexuality. Over the years, a majority of African countries have increased sanctions against the LGBT community. Many African leaders believe that “*it was brought into the continent from other parts of the world*” despite the fact that “*research demonstrates that homosexuality has long been a part of various African cultures*”<sup>2</sup>.

In some African countries, homosexuality is considered to be a criminal offense and individuals accused of homosexuality can be punished by death. Other punishments include but are not limited to torture, being sentenced to life imprisonment for homosexuality or any homosexual acts and some African countries have imposed laws making it illegal for friends or family to be supportive, as they would be considered to be heterosexual allies and therefore risk to be imprisoned for up to 10 or more years.

Despite the fact that a majority of African countries are against the LGBT community there are countries such as but not limited to Cape Verde and South Africa have more liberal views as homosexuality is legal. However, violence and/or discrimination against the LGBT community in such countries still occurs to this day despite laws against discrimination and/or violence against the LGBT community.

## Key Terms

**LGBT** is “*an initialism that stands for lesbian, gay, bisexual and transgender*”.

**Lesbian** is a term used to refer to “*a homosexual woman or to homosexuality in women*”.

**Gay** is a term used to refer to a homosexual man.

**Bisexual** is a term used to refer to persons who are “*sexually attracted to both men and women*”.

---

<sup>1</sup> International Gay and Lesbian Association (2016), Visited: 4/1/2018. Available at: [http://ilga.org/downloads/02\\_ILGA\\_State\\_Sponsored\\_Homophobia\\_2016\\_ENG\\_WEB\\_150516.pdf](http://ilga.org/downloads/02_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf)

<sup>2</sup> Amnesty International (2013), Visited: 3/1/2018. Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

**Transgender** is a term used to refer to persons who are “*of, relating to, or being a person whose gender identity differs from the sex the person had or was identified as having at birth*”.

**Homosexuality** is “sexual attraction or the tendency to direct sexual desire toward another of the same sex : the quality or state of being homosexual”.

## Main Body

Discussing the question of LGBT rights in Sub-Saharan Africa is very controversial as the general sentiment in Africa is that homosexuality is a ‘western’ thing that contradicts African culture and traditions. Some African leaders and religious leaders have said that homosexuality is “*un-African*” which has caused added to the hatred of LGBT community making it hard for the LGBT community to feel safe. Furthermore, it has caused many LGBT Africans to be scared of ‘coming out’ and advocating for their rights and it has caused more discrimination and/or violence against the LGBT community. Some African nations have gone as far as to deny LGBT people basic human rights such as but not limited to access to healthcare<sup>3</sup>.

Despite many politicians and religious leaders claiming that homosexuality is “un-African” history says otherwise<sup>4</sup>. According to, organizations like Amnesty International, “homosexuality and transgender identities have always existed in African societies, just as they have everywhere else in the world”. In the past, before the times of colonization, many African nations and people accepted homosexual relationships. Research says that 40 ethnic groups in Africa such as but not limited to Southern Africa, Benin, Nigeria, Kenya and Southern Sudan allowed woman to woman marriages. Additionally, a cave painting was found in Zimbabwe that depicted male to male sex (2,000 years old)<sup>5</sup>. Prior to colonization, gender identity and sexual orientation had been tolerated until colonial powers came and instilled their beliefs and religions on the African people. According to, Amnesty International, African people were “encouraged by the colonizing powers, and by imported religions, to view dislike and fear of those expressing non-normative sexual orientation or gender expression as a sign of progress and civilization”<sup>6</sup>.

Although it may seem that most of Sub-Saharan Africa is against homosexuality, positive progress is still being made. For instance, a few African countries have implemented more laws and/or protection for human rights for everyone despite what there sexual orientation or gender identity. Countries such as but not limited to South Africa, Cape Verde, Sao Tome and Principe, Mauritius

---

<sup>3</sup> Amnesty International (2013), Visited: 3/1/2018. Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

<sup>4</sup> Amnesty International (2013), Visited: 3/1/2018. Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

<sup>5</sup> Amnesty International (2013), Visited: 3/1/2018. Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

<sup>6</sup>Amnesty International (2013), Visited: 3/1/2018. Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

and Seychelles have taken actions to ensure the safety and protection of their citizens despite sexual orientation and sexual identity<sup>7</sup>. Another positive development in Sub-Saharan Africa is that Kenya's new constitution (27 August 2010) has had positive impacts for the LGBT community in Kenya. In 2011, Dr Willy Mutunga, Chief Justice of Kenya said *"The other frontier of marginalization is the gay rights movement. Gay rights are human rights. Here I'm simply confining my statement to the context of human rights and social justice paradigm, and avoiding the controversy that exists in our constitutions and various legislation. As far as I know, human rights principles that we work on, do not allow us to implement human rights selectively. We need clarity on this issue within the human rights movement in East Africa, if we are to face the challenges that are spearheaded by powerful political and religious forces in our midst. I find the arguments made by some of our human rights activists, the so-called 'moral arguments' simply rationalizations for using human rights principles opportunistically and selectively"*<sup>8</sup>.

## Relevant Countries and Relevant Organisations

**Amnesty International** is "a global movement of more than 7 million people in over 150 countries and territories who campaign to end abuses of human rights". Amnesty International has and continues to play an important role in the advancement of LGBT rights all over the world and especially Sub-Saharan Africa. Amnesty International has come out with reports titled "Making love a crime". One of the reports focuses on Sub-Saharan Africa. The reports takes into account the history of the continent regarding homosexuality and states both positive and negative facts about progress made in Sub-Saharan Africa<sup>9</sup>.

In South Africa, people who identify with the LGBT community have the same rights as non-LGBT people. Same sex sexual activity for males has been legal since 1998 while same sex sexual activity for females has always been legal. Same sex marriage in South Africa has been legal since 2006 and couples can also adopt a baby. Despite the fact that the South African law protects LGBT people, the LGBT community in South Africa constantly face risks of violence.

In Nigeria, the LGBT community face many challenges. First and foremost, Nigeria doesn't recognize the rights of LGBT people. It is currently illegal to be a member of the LGBT community and if found a person could face severe consequences. In the north, punishments for being apart of the LGBT community include but are not limited to death and imprisonment. In the south, punishments for being apart of the LGBT community include but is not limited to up to 14 years or more of imprisonment.

---

<sup>7</sup> Amnesty International (2013), Visited: 3/1/2018. Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

<sup>8</sup> Amnesty International (2013), Visited: 3/1/2018. Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

<sup>9</sup> Amnesty International (1961), Visited: 3/1/2018. Available at: [www.amnesty.org/en/](http://www.amnesty.org/en/)

Other Countries that are relevant to this debate include but are not limited to nations like Kenya, Cape Verde, southern Sudan, Somalia, Mauritius, Sao Tome and Principe, United States of America and United Kingdom.

## Relevant UN Resolutions

A/HRC/RES/32/2

Resolution adopted by the Human Rights Council on 30 June 2016 during the Thirty-second session, on *Protection against violence and discrimination based on sexual orientation and gender identity*.

Available at: [https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

## Previous Attempts to Solve the Issue:

There have been several attempts to solve the issue however none of them have been successful. However, to some extent the attempts to solve this issue has caused some change in some African countries and is slowly causing change in the continent. An attempt made in the past and continues to be made, is the influence of western countries like but is not limited to the United States of America. During Obama's presidency, he pushed African nations to protect the LGBT community and legalize homosexuality<sup>10</sup>.

## Possible Solutions:

This issue is a significant issue and an important issue to United Nations as it violates and/or discriminates the human rights of many LGBT people in Sub-Saharan Africa. Possible solutions to this issue is to rather than try to debate or talk it out like many have tried to do before, maybe the implementation of educational programs into schools would create a more understanding and open minded community. Also implementing educational programs that educate Africans about the history of homosexuality in African culture.

---

<sup>10</sup> NPR (8/30/2016), Visited: 9/1/2018. Available at: <https://www.npr.org/sections/goatsandsoda/2016/08/30/491818892/when-the-u-s-backs-gay-and-lesbian-rights-in-africa-is-there-a-backlash>

## Bibliography

Amnesty International (1961), Visited: 3/1/2018. Available at: [www.amnesty.org/en/](http://www.amnesty.org/en/)

Amnesty International (2013), Visited: 3/1/2018. Available at:  
[https://www.amnestyusa.org/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf)

International Gay and Lesbian Association (2016), Visited: 4/1/2018. Available at:  
[http://ilga.org/downloads/02\\_ILGA\\_State\\_Sponsored\\_Homophobia\\_2016\\_ENG\\_WEB\\_150516.pdf](http://ilga.org/downloads/02_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf)

Merriam-Webster (2018), Visited: 3/1/2018. Available at: [www.merriam-webster.com/dictionary/lesbian](http://www.merriam-webster.com/dictionary/lesbian)

Merriam-Webster (2018), Visited: 3/1/2018. Available at: [www.merriam-webster.com/dictionary/bisexual](http://www.merriam-webster.com/dictionary/bisexual)

Merriam-Webster (2018), Visited: 3/1/2018. Available at: [www.merriam-webster.com/dictionary/transgender](http://www.merriam-webster.com/dictionary/transgender)

Merriam-Webster (2018), Visited: 3/1/2018. Available at: [www.merriam-webster.com/dictionary/homosexuality](http://www.merriam-webster.com/dictionary/homosexuality)

NPR (8/30/2016), Visited: 9/1/2018. Available at:  
<https://www.npr.org/sections/goatsandsoda/2016/08/30/491818892/when-the-u-s-backs-gay-and-lesbian-rights-in-africa-is-there-a-backlash>

### General Sites (useful for finding sources):

Wikipedia (2017), Visited: 3/1/2018. Available at:  
[https://en.wikipedia.org/wiki/LGBT\\_rights\\_in\\_Africa](https://en.wikipedia.org/wiki/LGBT_rights_in_Africa)

Wikipedia (2017), Visited: 4/1/2018. Available at: <https://en.wikipedia.org/wiki/LGBT>

Wikipedia (2017), Visited: 6/1/2018. Available at:  
[https://en.wikipedia.org/wiki/LGBT\\_rights\\_in\\_South\\_Africa](https://en.wikipedia.org/wiki/LGBT_rights_in_South_Africa)

Wikipedia (2017), Visited: 6/1/2018. Available at:  
[https://en.wikipedia.org/wiki/LGBT\\_rights\\_in\\_Nigeria](https://en.wikipedia.org/wiki/LGBT_rights_in_Nigeria)