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LGBT+ rights and issues in sub-Saharan Africa

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Summary

Sub-Saharan Africa, encompassing 46 of the 54 countries on the African continent, has some of [the world's most restrictive legislation against LGBT+ people](#), according to the International Lesbian, Gay, Bisexual, Trans, and Intersex organisation (ILGA).

In its 2020 report on the state of LGBT+ rights worldwide, the ILGA said same-sex sexual acts continued to be [illegal in 25 of the 46 countries](#) (54%). At one extreme, in Nigeria's 12 northern states, [the death penalty is the legally prescribed punishment \(12.7 MB, PDF\)](#) for consensual same sex sexual acts. In many African countries LGBT+ people may be stigmatised and excluded from society. Many are forced to hide their identities in fear of their safety.

There have been some significant developments in the region, however. In 2006, South Africa became the [fifth country in the world to legalise same-sex marriage](#) (it's the only African country where this is legalised). In 2015, 2019 and 2021, [Mozambique](#), [Angola](#) and [Botswana](#) each decriminalised same-sex sexual relations.

This briefing describes the status of LGBT+ rights in 22 sub-Saharan African countries, including both legal and societal forms of discrimination. These include employment, access to healthcare, involvement in civic life. These are often hard to measure and our analysis depends on the availability of data. Where relevant, each country profile sets out UK Government actions to promote LGBT+ rights. Further reading is also included for some countries depending on availability of material.

We have used the acronym LGBT+ in this briefing paper (except where we are quoting someone else's words). This refers to lesbian, gay, bisexual and transgender people. The '+' symbol is used to include people whose identities do not fit typical binary notions of male and female, or who decide to identify themselves using other categories to describe their gender identity or their sexuality. In the countries we focus on, the legislation is largely around same sex sexual activity rather than gender identity.

This paper should be read as correct at the time of publication.

Legislative restrictions

Across sub-Saharan Africa, legal discrimination is, in part, a [legacy of colonial-era laws](#). In 2018, then Prime Minister Theresa May apologised for the UK's role in [criminalising same-sex relations in its former colonies](#).

Many governments have not taken steps to reform these laws. While enforcement and legal penalties vary, the fact they remain on the statute-books suggests the threat of legal enforcement remains and anti-LGBT+ discrimination may be tolerated.

Some countries have also gone further in tightening restrictions. In 2021 the [the Uganda Sexual Offences Bill was passed](#), which includes a clause criminalising same-sex relationships.

Societal attitudes and discrimination

Where there are limited legal protections, discrimination can also affect the ability of LGBT+ people [to access health and other services](#). This can lead to greater inequalities, such as [increased HIV prevalence](#), [access to jobs](#), and [experience of hate crimes](#).

Polling by Afro Barometer in 2016 and 2018 suggested that only around 20% of Africans would like, or not care, if [they had an LGBTQ person as a neighbour](#).

UK Government actions and statements

From 2019 to 2022, the UK Government is funding the [Strong in diversity, bold on inclusion](#) project. This explores LGBT+ inclusion in sub-Saharan Africa. Focusing on five cities it will “[engage with religious, community and business leaders, politicians, the media, and other social influencers](#), to advance equality and achieve significant shifts in discriminatory attitudes.”

UK aid projects also seek to support [greater representation for LGBT+ people](#) in politics and government, and assist in the [drafting of new legislation](#) to address discrimination and violence.

The Government is also due to [host a global LGBT conference](#) in June 2022, “Safe to be me.” It intends to urge countries to promote and protect LGBT+ rights.

Further reading

BBC, [LGBT+ rights in Africa](#) (rolling commentary and news)

1

Angola

In January 2019, the Parliament of Angola approved a new Penal Code in which consensual same-sex sexual acts were not only decriminalised, but that new anti-discrimination provisions were also introduced. Several sources, including reputable organisations such as Amnesty International¹ and Human Rights Watch² reported on this major achievement, which marked the end of a lengthy legal reform process.

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) reports³ that Angola had started the revision of its criminal law in 2004 through a presidential order that created the Commission for the Reform of Justice and Law (Presidential Order No. 124/12, 27 November 2004).

This commission mandated, among other things, the drafting of a new Penal Code. In January 2019, Angola approved a new Penal Code that does not criminalise same-sex sexual acts.⁴ In 2020, new changes in the text of the Code were discussed by the Parliament⁵ and the official version of the new Penal Code ([Law No. 38/20](#)) was published on 11 November 2020. According to its Article 9 provision, the Code entered into force ninety days after the date of its publication.

1.1

Legal protections

Angola has several protections for LGBT+ people. Legal protections against discrimination based on sexual orientation are found in the following provisions:

- Article 212 of the Penal Code ([Law No. 38](#)) (2020) criminalises acts of discrimination based on sexual orientation with regard to the provision of goods and services, obstructing economic activities, and access to public or private facilities.
- In turn, Article 380 punishes incitement to discrimination on the grounds, among other, of sexual orientation.

¹ Amnesty International, "[Raising the LGBTQI flag in Angola](#)", 29 June 2019

² Human Rights Watch, "[Angola Decriminalizes Same-Sex Conduct](#)", 23 January 2019

³ ILGA "[State-sponsored homophobia: Global legislation overview update](#)", December 2020

⁴ '[Deputados aprovam novo Código Penal angolano](#)', ANGOP - Agência Angola Press, 23 January 2019

⁵ Assembleia Nacional de Angola, "[Emendas ao Código Penal Reúnem Consenso](#)", 20 October 2020

- Further, Article 71 establishes that discrimination based on sexual orientation is an aggravating circumstance for the definition of the penalty.

Article 212 of the Penal Code (Law No. 38) (2020) also provides legal protections from discrimination based on sexual orientation in employment.

Angola's legislation also addresses violence motivated by a victim's sexual orientation, often referred to as "hate crime legislation":

- Article 71(1)(c) of the Penal Code ([Law No. 38/20](#)) (effective 2021) includes "discrimination based on sexual orientation" among the aggravating circumstances for all crimes established in the Code.
- Furthermore, sexual orientation is also explicitly included as an aggravating circumstance in crimes of threat (Article 170-3) and those "against the respect for the dead" (Article 223). Moreover, the Code establishes harsher penalties for the crimes of injury (Article 213-4) and defamation (Article 214-2) when committed because of the victim's sexual orientation.
- Finally, Article 382(g) includes persecution because of sexual orientation among the list of crimes against humanity, which are punished with imprisonment from three to twenty years

There is a further provision against incitement to hatred, violence or discrimination based on sexual orientation:

- Article 380 of the new Penal Code ([Law No. 38/20](#)) (effective 2021) criminalises incitement to hatred with the purpose to discriminate when it is committed against a person or a group because of their sexual orientation.

1.2 Rights and experiences

OutRight Action International, in its [overview of Angola](#), notes the barriers still faced by LGBT+ people in their quest for equality. While acceptance and tolerance of LGBT+ people has increased, there is a predominantly catholic and protestant minority which views LGBT+ identities as a sinful choice.

In March 2021, the Daily Telegraph said:

For the defenders of LGBT+ rights, this is the next challenge: being visible and accepted by their peers, their families and public opinion at large.⁶

In its most recent series of country reports on human rights, the US State Department considered the rights and experiences of the LGBT+ community in Angola:⁷

Violence, criminalisation and other abuses

Local NGOs reported that LGBT+ people faced violence, discrimination, and harassment. Discrimination against such people was rarely reported, and when reported, LGBT+ people said sometimes police refused to register their complaint.

The Government, through its health agencies, had instituted a series of initiatives to decrease discrimination against LGBT+ people.

HIV and AIDS social stigma

While discrimination against people with HIV/AIDS is illegal, there are insufficient enforcement powers to prevent it and reports from local and international health NGOs suggested discrimination against persons living with HIV was common. The Government's National Institute to Fight HIV/AIDS provides sensitivity and anti-discrimination training for its employees when they are testing or counselling HIV patients.⁸

⁶ [“Now they must respect us: a beacon of hope for Africa as Angola bans gay discrimination”](#), Daily Telegraph [online], 5 March 2021

⁷ Bureau of Democracy, Human Rights, and Labor (US Department of State), [“2020 Country Reports on Human Rights Practices: Angola”](#), 30 March 2021

⁸ Bureau of Democracy, Human Rights, and Labor (US Department of State), [“2020 Country Reports on Human Rights Practices: Angola”](#), 30 March 2021

2 Botswana

Botswana has seen successful advocacy by LGBT+ groups for protective laws against discrimination and for the decriminalisation of same-sex relationships.

2.1 Legal protections

Court judgements decriminalising same-sex relationships

In recent years, much discriminatory legislation has been removed through the decisions of Botswana courts.

Since 2019, same sex-sexual acts have been legal in Botswana [following a unanimous ruling](#) by its High Court.

The case was brought by a student, Letsweletse Motshidiemang, [supported by the LGBT+ organisation LEGABIBO](#). UN AIDS supported the decision, stating that criminalisation stops people from accessing and using [HIV prevention and treatment services](#). An estimated 20.7 percent of the country's population aged 15-49 [have HIV](#).

The court rejected the laws that imposed up to seven years imprisonment for same-sex relationships, stating they were unconstitutional and discriminatory. The laws had [been in place since 1965](#).

However, the Government [appealed the ruling](#) of the Court. The Attorney General did not give details on the reason for the appeal, other than stating the court had “erred” in arriving at its conclusion. Court proceedings were suspended for a period due to the Covid-19 pandemic. In November, the Botswana Court of Appeal upheld the earlier decision by a lower court that decriminalises same-sex sexual relations.⁹

It was reported that prior to the court judgement, the law was rarely enforced. In 2011, the US State Department said police [“did not target” same-sex activity. \(152KB PDF\)](#) President Festus Mogae, [in office from 1998 to 2008](#), said he instructed police not to arrest or harass gay men. In 2020, the US

⁹ Pan Africa ILGA, [“Statement on the decriminalisation of same sex judgement in Botswana”](#), 30 November 2021, (accessed 2 December 2021)

State Department similarly reported that [security forces did not enforce the law](#). (854KB PDF)

Court judgements on transgender rights

In 2017, the country's High Court ruled that transgender people can request that the gender they identify by is [legally recognised](#).

The Government was initially planning to appeal the decision, but later said it would [not proceed](#) with the appeal.

A similar case, later the same year, allowed a [transgender woman to change her gender marker on her ID card to female](#).

Employment and other protections

Botswana is one of nine African states that [offer some protections against discrimination in the workplace](#) on the basis of an employee's sexual orientation.

In 2010, the Employment Act amended previous legislation to add sexual orientation and health status (including HIV/AIDS status) as [prohibited grounds for discrimination](#) and for the termination of contracts on this basis.

The International Lesbian, Gay, Bisexual, Trans and Intersex Association state the country offers [no other protections for LGBT+ groups](#), including against hate crime or incitement.

However, the court decision in 2020 widened the protections in the country's constitution to include sexual orientation. [Section 3 of the constitution](#) states every person in Botswana is entitled to fundamental rights and freedoms, whatever their race, place of origin, politics, colour, creed or sex. The court argued "sex" should be "generously and purposively interpreted" [to include "sexual orientation."](#)

2.2

Reports of discrimination

Despite legal and legislative steps to tackle discrimination and end criminalisation, there have been some reports of discrimination.

For example, in 2018 a transgender woman was [abused by a mob in Gaborone](#), the capital city.

However, in 2020 there [were no reports of authorities investigating abuses against LGBT+ persons](#). This may be due to fear and stigma.

Political support for reform

In 2020, a Botswanan NGO is [working with the country's medical providers](#) to improve transgender and intersex people's access to healthcare, citing concerns of human rights violations against trans women and the impact of the pandemic on human rights.

A 2016 Afro Barometer poll found that 43 percent of Botswanans were “not opposed to having homosexual neighbours.” This was [higher than the average of 21 percent](#) across the 33 African countries surveyed.

Several leading political figures have supported the rights of LGBT+ people.

In 2019, the ruling Botswana Democratic Party welcomed the court judgement to [decriminalise consensual same sex relations](#).

In December 2018, the President of Botswana, Mokgweetsi Masisi, [said LGBT+ persons](#) “deserve to have their rights protected.” Masisi was [previously a member of the Botswana Democratic Party](#).

The previous President, Ian Khama, in 2016 said he had [ordered the arrest and deportation of a US Pastor](#) who had said gay and lesbian people “should be killed.”

Former President, Festus Mogae, in 2012 also [called for the decriminalisation of homosexuality](#). He has argued that prejudice [was hindering efforts to combat HIV](#) in the country.

Political opposition to reform

Not all political leaders have supported reform. In 2011, the Deputy Speaker of the National Assembly, Pono Moatlhodi, [said gay men were “demonic and evil.”](#)

The Government has not always had a consistent position. In 2016, it [led a group of African countries](#) at the UN to oppose the mandate for an independent expert on violence and discrimination based on sexual orientation and gender identity.

In 2018, it only “noted” recommendations to [decriminalise homosexual conduct from the UN Human Rights Council](#).

2.3

NGOs and civil society

The Botswanan Court system has supported LGBT+ rights in other cases prior to 2019.

In 2016, the Court of Appeal ruled that the Government's refusal to register LEGABIBO, an LGBT+ organisation, [was unconstitutional](#), upholding a decision made by the High Court in 2014. The High Court said the refusal to register the

organisation violated rights to freedom of expression, assembly and association.

[LEGABIBO](#) is one of the most prominent LGBT+ organisations in the country, having been established in 1998.

Other human rights organisations include [Ditshwanelo](#), the Botswanan Centre for Human Rights, and [Bonela](#), the Botswanan network on ethnics, law and HIV/AIDS.

In 2020, the US State Department reported that meetings of LGBT+ advocacy groups [occurred without disruption or interference](#).

2.4 UK Parliament and Government

Several UK Parliamentarians have welcomed the court decision in 2019. These include Lord Lexden and the Minister, Baroness Sugg, in a [House of Lords Question on LGBT+ rights](#) in 2020, and Nick Herbert MP in a [Commons debate on Global LGBT+ rights in 2019](#).

The previous court decision to register LEGABIBO was [welcomed by Lord Smith in 2015](#).

The support for LGBT+ rights by the country's former President, Festus Mogae, was [welcomed by Stephen Doughty MP in 2018](#).

Support for discussion of LGBT+ Rights at an Inter-Parliamentary Union conference in Russia in 2017 by the Botswanan Chair was also [noted by Nigel Evans MP](#).

Criticism of Botswana's position at the UN, 2016

In 2016, the Botswanan Government's position at the UN was [criticised by Lord Collins](#). At the UN, several African countries had asked the UN to dismiss an independent expert who was appointed in 2016 to [investigate how and where LGBT+ persons were mistreated](#). The country's Ambassador [said that sexual orientation and gender identity](#) "are not and should not be linked to existing international human rights instruments."

The responding Minister, Baroness Goldie, said it was a "regrettable" statement but [considered the UN vote in order](#).

Parliamentary Questions have also been submitted on the UK Government's support for LGBT+ rights in the country. In 2018, the Government said it "regularly raise[s]" LGBT+ rights in Botswana and did so [at the Commonwealth Heads of Government](#) meeting in 2018. In 2014, the Government said combatting violence and discrimination against LGBT+ people [was an important part of its human rights work](#).

2.5

Further reading

Human Rights Watch, [Botswana: High court strikes down sodomy laws](#), 2019

M. Tabengwa and N. Nicol, [The development of sexual rights and the LGBT movement in Botswana](#), 2013

3 Burundi

3.1 Legal context

There was no law against same-sex sexual activity in Burundi until the adoption of the Penal Code of 2009. The penalty for same-sex sexual activity is a fine or a prison sentence of 3 months to 2 years.

Article 29 of the 2005 Constitution explicitly bans same-sex marriage. The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) observes in its [State-Sponsored Homophobia 2020: Global Legislation Overview Update](#) that several people had been arrested in 2017 and forced to pay bribes.¹⁰

The first conviction of a man under the law occurred in 2014. A Vietnamese citizen spent three days in jail before paying a fine.¹¹

The US State Department's [2020 country reports on human rights practices: Burundi](#) (2MB PDF) identifies a number of significant human rights issues including the existence or use of laws criminalising consensual same-sex sexual conduct between adults:

It notes that although the law penalises consensual same-sex sexual relations with up to two years in prison there were no reports of prosecutions for same-sex sexual acts during 2019-20¹²

3.2 Social discrimination

There are no laws to prohibit discrimination against LGBT+ people in relation to housing, employment, or access to services such as health care. As a result, societal discrimination against LGBT+ is common. BBC News published a long article featuring several young lesbians talking about their experiences of being gay in Burundi: [The secret language of lesbian love](#).

¹⁰ ILGA "[State-sponsored homophobia: Global legislation overview update](#)", December 2020

¹¹ "[Burundi: First conviction for homosexuality in Burundi](#)", Africa News, 9 October 2014

¹² US State Department, "[2020 country reports on human rights practices: Burundi](#)", 30 March 2021

4 Cameroon

4.1 Legal context

Consensual same-sex activity is not legal in Cameroon. Cameroon's first Penal Code, enacted in 1965, did not criminalise consensual same-sex sexual acts. However, this changed in 1972, and under section 347-1 of the Penal Code (2016) anyone who "has sexual relations with a person of the same sex" may face a penalty of six months to five years in prison and/or a fine. The ILGA observes in its [State-Sponsored Homophobia 2020: Global Legislation Overview Update](#) that between 2016 and 2018 there were nearly 1,800 reports of arrests, extortion and violence against individuals based on their sexual orientations by authorities in Cameroon.¹³

4.2 Social discrimination

The US State Department's [2020 country reports on human rights practices: Cameroon](#) identifies a number of significant human rights issues including crimes involving violence or threats of violence targeting LGBT+ people:

It notes that LGBT+ rights organisations reported harassment and arbitrary arrests of people "on the basis of their real or perceived sexual orientation or gender identity, including individuals found with condoms and lubricants."

A group of local NGOs reported that in May 2020 police arrested and later released 53 LGBT+ people celebrating the International Day against Homophobia, Transphobia, and Biphobia at a time when Covid-19-related restrictions prohibited large gatherings.

LGBT+ organisations may not officially register as such and registered instead as general human rights or health-focused organisations.

HIV and AIDS social stigma

People with HIV often suffered social discrimination and were isolated from their families and society, in part due to a lack of education on the disease.

Fear of exposure affected people's willingness to access HIV/AIDS services, and a number of HIV-positive men who had sex with men reported also

¹³ ILGA "[State-sponsored homophobia: Global legislation overview update](#)", December 2020

partnering with women, in part to conceal their sexual orientation. Anecdotal reports indicated some discrimination occurred with respect to HIV status, especially in the private sector.¹⁴

4.3 Experiences of LGBT+ people

[Human Rights Watch 2021 World Report](#) discusses the experiences of LGBT+ people:

Police and gendarmes continued to [carry out arrests and harassment of people](#) they believe to be lesbian, gay, bisexual or transgender (LGBT). In April 2018, police [arrested four activists](#) and a security guard at the office of AJO, an organization that works on HIV education with men who have sex with men (MSM), and other vulnerable groups. They spent a week in jail on spurious homosexuality charges before a lawyer secured their release. Cameroonian human rights organizations documented the arrest of at least 25 other men and at least two women on homosexuality charges in the first half of 2018. They also reported numerous cases of physical violence by private citizens targeting LGBT people.¹⁵

Human Rights Watch also released a press release in April 2021 condemning a wave of [arrests and abuses against LGBT people](#). According to HRW, security forces have arbitrarily arrested, beaten or threatened at least 24 people for consensual same-sex conduct, with an HRW spokesperson saying “[These recent arrests and abuses raise serious concerns about a new upsurge in anti-LGBT persecution in Cameroon.](#)” The press release provides more detail of arrests and reports.

In May 2021 the BBC reported that two transgender women were [sentenced to five years in jail](#) for contravening homosexuality laws, including a Youtuber celebrity called Shakiro. Her and her friend were also fined. Ben Hunte, a reporter for the BBC, commented:

I've been reporting on LGBT lives across the world for the past few years, and the experiences of LGBT people in Cameroon are consistently some of the most horrific stories I hear. In February alone, there were three brutal murders of LGBT Cameroonians, and at least 27 arrests.¹⁶

¹⁴ US State Department, “[2020 country reports on human rights practices: Cameroon](#)”, 30 March 2021

¹⁵ Human Rights Watch, “[Human Rights Watch Country Profiles: Sexual orientation and gender identity](#)”, Human Rights Watch 2021 World Report, April 2021.

¹⁶ “[Cameroon jails transgender women for 'attempted homosexuality'](#)”, BBC News [online], 12 May 2021 (accessed 6 December 2021)

5 Cape Verde

5.1 Legal context

Same-sex sexual activity is not criminalised in Cape Verde (also known as Cabo Verde).

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) reports¹⁷:

The [Penal Code](#) (2003) does not criminalise consensual same-sex sexual acts between adults. However, before it came into force in 2004, Article 71 of the 1886 penal code provided for “security measures” for people who habitually practice “vices against the nature”.

5.2 Laws against social discrimination

Cape Verde is ranked as [the most LGBTBI+ tolerant country on the continent](#), by Afrobarometer.¹⁸ In its most recent series of country reports on human rights, the US State Department considered the rights and experiences of the LGBT+ community in Cape Verde:

Cape Verde has antidiscrimination laws exist, and state employers may not discriminate based on sexual orientation, family situation, habits and dress, health status, or membership or non-membership in any organization. There are laws discrimination in the provision of goods and services, engaging in legal economic activities, and employment. The penalties were up to two years in prison if convicted. The Government generally enforced these laws.

The US State Department reports that there is nevertheless persistent social discrimination against LGBT+ people which generally took the form of public mockery and appearance-based discrimination.¹⁹

Lonely Planet’s advice for [LGBT+ travellers](#) to Cape Verde, notes that although the LGBT+ community operates largely underground, the islands are fairly

¹⁷ ILGA, “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

¹⁸ [How a small Cape Verde island became an LGBTBI oasis in Africa](#), Euronews [online], 7 October 2021 (accessed 6 December 2021)

¹⁹ Bureau of Democracy, Human Rights, and Labor (US Department of State) “[2020 Country Reports on Human Rights Practices: Cabo Verde](#)”, 30 March 2021

tolerant. Since 2013, the port city of Mindelo has even hosted an annual Gay Pride parade.

6 Eswatini (Swaziland)

6.1 Legal context

Same-sex sexual activity is criminalised despite no law explicitly outlining this, according to the ILGA. The ILGA explains that Section 252(1) of the Constitution (2005) states that Roman-Dutch common law, as interpreted in 1907, applies to any regulations or laws in place prior to independence in 1968 and not subsequently overturned. As, such, “sodomy” remains a crime.

The ILGA further explains that Eswatini operates a hybrid system of common law and customary law, and therefore consensual same-sex sexual activity has “been widely understood to be illegal since 1907”.²⁰ However, there is no clear sentence specified for this offence.

6.2 Social discrimination and experiences

The ILGA notes that In 2019 [Eswatini Sexual and Gender Minorities](#), an LGBTI group, was denied registration because it wished to promote same-sex relations.²¹ The US State Department [2020 country reports on human rights practices: Eswatini](#) references this refusal to deny registration to the organisation:

In 2019 the registrar of companies refused to register a lesbian, gay, bisexual, transgender, intersex (LGBTI) NGO on the grounds the constitution and domestic laws do not protect against discrimination on the basis of sex or sexual orientation and prohibit same-sex relations. The organisation challenged the government’s stance as being unconstitutional in a lawsuit that remained pending.²²

The [FCDO’s travel advice](#) states:

Same-sex relationships and acts are illegal in Eswatini. There is prevalent discrimination against LGBT people within society and many LGBT people are not open about their sexual orientation or gender identity. It is therefore advisable to refrain from overt displays of

²⁰ ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

²¹ Ibid

²² US State Department “[2020 country reports on human rights practices: Eswatini](#)”, March 2021

affection in public, such as holding hands or kissing. See our [information and advice page](#) for the LGBT community before you travel.

The first ever [Pride march was held in 2018](#). A gay rights activist, talking to Reuters in 2019, described how stigma and prejudice are “rampant” in Eswatini, where there is no legal protection from discrimination for LGBT+ people. He described how pledges from officials not to enforce the law on sodomy, its existence creates fear “‘[It is like a gun that is pointing at us and \(the government is saying\) ‘Our policy is not to shoot at you but we are going to keep the gun there’.](#)”

The Fair Planet website carried [stories from young LGBT+ persons](#) in Eswatini in a report published in December 2020, based on a project titled [Voices of Eswatini](#), an initiative by AllOut. The project provides stories from 16 individuals about life as LGBT+ in Eswatini and how the law affects them.

The [Eswatini Sexual and Gender Minorities](#) organisation provides resources, support and lobbies for equality. In 2019 it published a report recounting [LGBTIQ experiences in Eswatini](#), which includes testimonies of people who have been attacked, banished by family, domestic violence and faced discrimination in healthcare settings.

6.3

UK Parliament

There has been little specific mention of LGBT+ rights and Eswatini (Swaziland) in the UK Parliament. However, there has been mention of efforts to reduce HIV in the country, notably by Jim Shannon during a debate on the HIV Commission in December 2020:

First, I congratulate the hon. Gentleman on securing the debate. I just want to add my support for the HIV Commission project. I spoke to him beforehand. It is important that we put on record the hard work that has been done by so many people, including by those in my constituency. The Elim Church’s missions have helped to address HIV in Swaziland. Over the years I have known them and what they have done, they have been instrumental—it is a wonderful thing—in assisting the Swazi Government to reduce the number of adults who have HIV from 50% to 27%. A programme of education and medical support has helped. Does he agree that what they have done in Swaziland could enable us, through the House of Commons, to deliver that to the rest of the world as well?²³

In 2018 Christine Jardine asked about LGBT rights in Eswatini, Botswana and Namibia. The then Minister for Africa, Harriet Baldwin, replied:

Our High Commissions regularly raise LGBT rights with Eswatini, Namibia and Botswana as part of our human rights agenda. The Prime Minister

²³ [HC Deb 1 December 2020 c271](#)

championed LGBT rights at the Commonwealth Heads of Government meeting (CHOGM) in April 2018, which was attended by Botswana, Namibia and Eswatini.²⁴

²⁴ PQ 170424 [[on Southern Africa: LGBT People](#)], 10 September 2018

7

Gambia

7.1

Legal context

Same-sex sexual activity is illegal in Gambia, according to the Criminal Code (1934) and the Criminal Code (Amendment) Act 2005 and the Criminal Code (Amendment) Act 2014. The penalty can be up to 14 years in prison. There is also a category of “aggravated homosexuality” such as the spread of HIV and being a “serial offender” as grounds for life imprisonment. The ILGA observes in its [State-Sponsored Homophobia 2020: Global Legislation Overview Update](#) that up to 16 Gambians were arrested for “alleged homosexuality” in 2019, although most were released.²⁵

New Government changes its approach

Human Rights Watch observed in its 2018 World Report that the then new government of President Adama Barrow does not intend to prosecute same-sex couples in sharp contrast to the former President Yahya Jammeh.

President Barrow reportedly stated that the situation of LGBT+ persons was a ‘non-issue’ and that the Government would not prosecute them.

However, the Government has not repealed laws that criminalise same-sex conduct, including an October 2014 law that imposes sentences of up to life in prison for “aggravated homosexuality” offenses.²⁶

The Home Office’s country policy and information notes, used by UK Visas and Immigration officials to make decisions in asylum and human rights applications, updated its guidance on sexual orientation and gender identity in Gambia in August 2019. This makes clear the legal status, but also reflects the shift under President Barrow:

In October 2014, the then president Yahya Jammeh signed into law an amendment to the Criminal Code which introduced a new offence of ‘aggravated homosexuality’ punishable by life imprisonment. The amendment defines ‘aggravated homosexuality’ to include serial offenders or persons with a previous conviction for homosexuality, persons who administer drugs or substances in order to have ‘unlawful carnal connection’ with a person of the same sex, persons having same-

²⁵ ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

²⁶ [Human Rights Watch World Report 2018, Gambia chapter](#)

sex relations with someone under the age of 18 or with a person who has a disability, or a person with HIV having same sex sexual relations.²⁷

The Home Office notes that an April 2013 amendment to section 167 of the Criminal Code also criminalises men who dress as women and male sex workers and may impose fines and up to five years in prison.

It says the continued criminalisation of same-sex relations means that the arrest, detention and prosecution of LGBTI persons remains a possibility although there have been no reports of prosecutions or arrests of LGBT+ persons.

7.2 Social discrimination

The US State Department's [2020 country reports on human rights practices: Gambia](#) similarly observes the law criminalising consensual same-sex sexual conduct between adults is rarely enforced:

Citing more pressing priorities, the president dismissed homosexuality as a non-issue in the country. In 2018 the country's delegation to the UN Human Rights Council stated the government did not plan to reverse or change the law. Although the law was rarely enforced, on July 1, local media reported that a Senegalese national was arrested in Kotu for engaging in same-sex relations with another adult. He was initially reported to police for stealing a cell phone of a Gambian man with whom he had sexual relations.

However there are no laws against discrimination against LGBT+ people in relation to access to essential goods and services such as housing, employment, and access to government services such as health care. There was strong societal discrimination against LGBT+ people.²⁸

In June 2020 a Government spokesperson [rejected rumours](#) that Gambia intended to decriminalise homosexuality or review its laws.

Much of the commentary and media reporting relating to Gambia and LGBT+ issues relates to President Yammeh period in charge and the 2014 law rather than under the current government.

²⁷ Home Office, "[Country information and guidance: sexual orientation and gender identity. Gambia, August 2019](#)", August 2019

²⁸ US State Department, "[2020 country reports on human rights practices: Gambia](#)", 30 March 2021

8 Ghana

In Ghana, the situation for LGBT+ people has got worse in recent years with new legislation and with a shift in societal attitudes.

8.1 Legal context

Same sex sexual acts are illegal in Ghana. The maximum penalty is three years imprisonment. This is set out in the Penal Code (1960) as amended in 2003, which prohibits “unnatural carnal knowledge” of another person of sixteen years or over (section 104(1)(a)).²⁹

In July 2021, the Government proposed new legislation which would increase jail terms up to 10 years for LGBT+ people who practice “Unnatural carnal knowledge”, and force some to undergo conversion therapy.³⁰ It would also criminalise the promotion and funding of LGBT+ activities as well as public displays of same-sex affection and cross-dressing.³¹ The bill would be the first major change in the law since Ghana became independent to further criminalise sexual minorities and their supporters. It is reported that the bill has popular support, especially among socially conservative Christians.³²

8.2 Social discrimination and violence

The [International Lesbian, Gay, Bisexual, Trans And Intersex Association](#), publishes an annual [State-Sponsored Homophobia report](#). In its latest report it states several arrests of adults for consensual same-sex sexual acts have been documented in recent years. The ILGA says detentions often times involve psychological abuse, damaging media exposure and medical examinations. A recent example was in September 2020, when local media indicated that 11 lesbian women were arrested in the city of Aflao, in the Volta

²⁹ ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

³⁰ [Ghana: anti-gay bill proposing 10-year prison sentences sparks outrage](#), The Guardian [online], 23 July 2021 (accessed 7 December 2021)

³¹ [Supporters and opponents face off over Ghana's anti-LGBT law](#), Reuters [online], 12 November 2021 (accessed 7 December 2021)

³² [Ghana: Proposed bill threatens homosexuals with long prison terms](#), France 24 [online], 23 October 2021 (accessed 7 December 2021)

region, after a video of two of them reportedly engaging in sexual acts became known.

More recently, Idris Elba and Naomi Campbell were among several celebrities who signed an [open letter supporting Ghana's LGBTQ+ community](#), following the closure of a [community centre](#) in the capital Accra after pressure from religious groups and anti-gay organisations.

In 2018, Human Rights Watch (HRW) reported on the [experience of LGBT people in Ghana](#). Many of those interviewed said the current law contributes to a climate in which violence and discrimination against LGBT people is common. The report notes the provision is rarely, if ever, used to prosecute people. The Report found that LGBT people have been attacked by mobs or members of their own families. HRW also notes homophobic statements by local and national leaders “foment discrimination and in some cases, incite violence.”³³

8.3 Human rights issues

The US State Department's [2020 country reports on human rights practices: Ghana](#) discusses a range of significant human rights issues. It says that LGBT+ people face widespread discrimination in education and employment.

They also face police harassment and extortion attempts. There were reports police were reluctant to investigate claims of assault or violence against LGBT+ people. While there were no reported cases of police or government violence against LGBT+ people, stigma, intimidation, and the negative attitude of police toward them meant a reluctance to report incidents.

According to the US State Department, some activists reported that police attitudes were slowly changing, with community members feeling more comfortable with certain police officers to whom they could turn for assistance.

Media coverage regarding homosexuality and related topics was almost always negative.

LGBT+ activists reported that in June 2020, one LGBT+ person was severely beaten in Kasoa in the Central Region. Although police arrested the perpetrator, they requested money from the victim to pursue prosecution, and the victim eventually dropped the case.

In October 2020, a gay man reported to police his landlord's collaboration with a blackmailer. The police sided with the landlord, forced the victim to

³³ Human Rights Watch, “[No choice but to deny who I am: violence and discrimination against LGBT people in Ghana](#)”, 8 January 2018

unlock his mobile phone, “outed” the victim to his family, and forced the victim’s family to pay money to the landlord.³⁴

8.4 UK Parliament

In April 2021 Stephen Doughty asked the Foreign Secretary when he last raised LGBT+ rights with his counterparts in Ghana (and 3 other named countries). James Duddridge, the Minister for Africa, in response reaffirmed the UK’s active role in support of LGBT rights. He spoke broadly of making regular representations through the High Commission and international organisations, adding “we directly challenge governments that criminalise homosexuality at the highest political levels.”³⁵

Most recently in a Westminster Hall debate on 16 March 2021 on Commonwealth Day 2021. Bell Ribeiro-Addy discussed her Ghanaian heritage but expressed how appalled she was at the closure of Ghana’s LGBTQ centre in the capital, Accra, after only a month. She described a “worrying trend of homophobia and discrimination against LGBTQ+ people by Government, religious institutions and the media across some Commonwealth countries” adding that while being LGBTQ+ is not illegal in Ghana, “outdated colonial law validates unjust treatment.”³⁶ In the same debate, Stephen Doughty also discussed “unacceptable attacks on LGBTQ+ organisations in Ghana” and called on the Minister to explain what action the Government has taken.³⁷

8.5 Further reading

[“Being gay in Ghana: LGBT community “under attack”](#), BBC News, 11 March 2021

[“Idris Elba and Naomi Campbell sign letter backing gay rights in Ghana”](#), the Guardian, 1 March 2021

[“Anti-gay uproar after Ghana opens its first LGBT+ community centre”](#), Reuters, 24 February 2021

[The experiences of LGBT people in Ghana](#), Human Rights Watch, 2018

³⁴ US State Department, “[2020 country reports on human rights practices: Ghana](#)”, 30 March 2021

³⁵ PQ 185378 [[on Africa: LGBT people](#)], 26 April 2021

³⁶ [HC Deb 16 March 2021 c56WH](#)

³⁷ [HC Deb 16 March 2021 c70WH](#)

9 Guinea

9.1 Legal context

Same-sex sexual acts are not legal in Guinea. Article 274 of the Penal Code (2016) means any “indecent or unnatural acts committed with an individual of the same sex” is punishable by a prison sentence of six months to three years and or a fine.

Article 275 criminalises public outrages of modesty with up to two years’ imprisonment or a fine.³⁸

9.2 Discrimination

The US State Department’s [2020 country reports on human rights practices: Guinea](#) identifies a number of significant human rights issues. Despite the law against same sex sexual acts, there were no known prosecutions in 2020. It reports on the Office for the Protection of Women, Children, and Morals (OPROGEM), a part of the Ministry of Security, which includes a unit for investigating morals offenses, including same-sex sexual conduct.

There are no anti-discrimination laws for LGBT+ people.

The US State Department says that “deep religious and cultural taboos existed against consensual same-sex sexual conduct.” As a result there were no publicly active NGOs or civil society organisations promoting LGBT+ rights.

HIV and AIDS social stigma

There were laws to protect people with HIV from stigmatisation, however the Government relied on donor efforts to combat discrimination against people with HIV or AIDS. Government efforts were limited to paying salaries for health-service providers. Most victims of stigmatisation were women whose families abandoned them after their husbands died of AIDS.³⁹

³⁸ ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

³⁹ US Statement Department, “[2020 Country report on human rights practices: Guinea](#)”, 30 March 2021

10 Kenya

10.1 Legal context

Same sex sexual acts are illegal in Kenya. The maximum penalty is 14 years imprisonment. This is set out in the Penal Code (1930) as amended by the Criminal Law (Amendment) act (2003) which prescribes a prison sentence of up to 14 years for consensual “carnal knowledge of any person against the order of nature” (section 163). Section 165 also prescribes a five-year sentence for men found guilty of “gross indecency”.⁴⁰

10.2 Violence, societal attitudes and reports of discrimination

The [International Lesbian, Gay, Bisexual, Trans And Intersex Association](#), publishes an annual [State-Sponsored Homophobia report](#). In its latest report it says there have been arrests of men suspected of being gay.

The report also discusses censorship. According to the Kenya Film Classification Board’s classification guidelines, films which “promote or glamorise a homosexual lifestyle” are either age-restricted (18+) or banned. In April 2018, the Board banned the film “Rafiki” on the basis that it was “intended to promote lesbianism in Kenya”. However, the ban was temporarily lifted for seven days by a High Court judge after the film was nominated at the Academy Awards. Neela Ghoshal, the associate director of LGBT rights programme at Human Rights Watch, [discussed the film](#) and its potential for Kenyan LGBT+ rights in an article reprinted on HRW’s website.

There has been a shift in public acceptance of homosexuality in Kenya. According to a Pew Research Centre study on homosexuality, published in June 2020, noted that while only 1 in 100 said homosexuality should be accepted in 2002, 14 per cent say this now.⁴¹

The US State Department’s [2020 country reports on human rights practices: Kenya](#) discusses a range of significant human rights issues and events that occurred during 2020.

⁴⁰ ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

⁴¹ Pew Research Center, “[The Global Divide on Homosexuality Persists](#)”, 25 June 2020

It notes that in 2016 LGBTI activists filed two petitions challenging the constitutionality of the penal codes. In May 2019 the High Court issued a ruling upholding the laws criminalising homosexuality, citing insufficient evidence they violate LGBT+ rights and that repealing the law would contradict the 2010 constitution that stipulates marriage is between a man and woman. The LGBT+ community filed an appeal against this ruling. Leading up to the hearing of this case, and in its wake, the LGBT+ community experienced increased ostracism and harassment.

LGBT+ organisations report that police used public-order laws (for example, disturbing the peace) more frequently than same-sex legislation to arrest LGBT+ people.

LGBT+ advocacy organisations are permitted to operate in Kenya.

Violence and discrimination against LGBT+ people is widespread. In October 2020 an LGBT+ rights organisation reported an increase in conversion therapy and practices. It said this increase coincided with a period when people made jobless as a result of Covid-19 returned to their family homes.

The US State Department further reports that a Government-appointed task force found only 10 percent of the intersex population completed tertiary education, only 5 percent recognised themselves as intersex due to lack of awareness, and the majority lacked birth certificates.

Kenya grants refugee status to people who are persecuted for their sexual orientation, however there are reports that some LGBT+ refugees faces stigma and discrimination and were compelled to hide their sexual orientation or gender identity to protect themselves.

In July 2020, UNHCR released a statement calling for dialogue between refugee communities in Kakuma refugee camp following conflicting reports of violence, including reports by a small group of LGBT+ refugees that they were the victims of harassment and violence. Police and local authorities increased security measures in response.⁴²

10.3

UK Parliament

There has been relatively little discussion of LGBT issues in Kenya specifically. Angela Crawley asked two written questions in 2019, to which Harriet Baldwin, the then Minister for Africa, replied:

[...] In Kenya, the High Commission in Nairobi has supported Kenyans from LGBTI groups to attend international forums on LGBTI rights.

We are aware of reports of abuse of LGBTI refugees in Kakuma Refugee camp and have been in close touch with UNHCR, who manage the camp,

⁴² US State Department, "[2020 country reports on human rights practices: Kenya](#)", 30 March 2021

about how best to help those individuals. In January, UNHCR reported that all LGBTI refugees had been moved from Kakuma to a safe house. UNHCR continues to work closely with a local civil society organisation to help the refugees settle into their new community.⁴³

10.4

Further reading

[“Gay rights in Kenya: ‘Why our fight isn’t over’”](#), BBC News, 25 May 2019

[“Lesbian Film 'Rafiki' May Change Kenya Forever”](#), Human Rights Watch/The Advocate, 15 October 2018

⁴³ PQ 226702 [[on Kenya: LGBT people](#)], 8 March 2019

11 Madagascar

11.1 Legal context

Same-sex sexual activity is legal for adults aged over 21 in Madagascar.

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) reports⁴⁴:

Prior to and following its independence from France in 1960, the [Madagascar] [Criminal Code](#) (2005) has not prohibited consensual same-sex sexual acts between adults. However, article 331 sets the age of consent at 14 for different-sex sexual acts and 21 for same-sex sexual acts.

The penalties can be a prison sentence of two to five years and fines for acts that are “indecent or against nature with an individual of the same sex younger than 21,” which is understood to include sexual relations.

11.2 Societal attitudes and reports of discrimination

In its most recent series of country reports on human rights, the US State Department considers the experiences of the LGBT+ community in Madagascar. It notes that the law was enforced although there were no official statistics.

There were no specific anti-discrimination provisions for LGBT+ people. Equally there were no reports of discrimination in housing, employment or in access to public services. However prominent LGBT+ people has been known to have faced stigmatisation and discrimination with their own families.

The US State Department also reports that:

On March 10, the Court of Antananarivo committed a member of the LGBTI community, age 33, to pretrial detention. The mother of her age 19 girlfriend sued her for corruption of a minor. The Court granted the

⁴⁴ ILGA, “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

defendant a temporary release in early April after the intervention of organizations and activists.⁴⁵

⁴⁵ Bureau of Democracy, Human Rights, and Labor (US Department of State), "[2020 Country Reports on Human Rights Practices: Madagascar](#)", 30 March 2021

12

Malawi

12.1

Legal context

It is reported that the laws in Malawi for LGBT+ issues are conservative and traditionalist in nature. In some instances, these laws can be interpreted to target not just LGBT+ people, but anyone who looks, acts or dresses differently from the norm in Malawi. Even when these laws were not enforced by authorities, they create an atmosphere of fear and prejudice.

[Human Rights Watch submission](#) to the UN Human Rights Committee review of Malawi, noted that:

Chapter XV of Malawi's Penal Code, on "Offences Against Morality," contains several provisions that criminalize adult consensual same-sex conduct. Section 153 provides that any person found guilty of committing an "unnatural offence /offence against the order of nature" is liable to 14 years in prison, with or without corporal punishment.

Section 154 punishes attempted unnatural offences with seven years' imprisonment, and section 156 punishes "gross indecency" between males with five years in prison, with or without corporal punishment.

A new anti-homosexuality law in January 2011, amended the Penal Code to extend the crime of "gross indecency" to women. Section 137A provides that any female person who, whether in public or private, commits "any act of gross indecency with another female" shall be guilty of an offence and liable to a prison term of five years.

Human Rights Watch also notes that a constitutional review of section 153(a) of the Penal Code was started in September 2013 before the High Court in Lilongwe. This has been delayed on procedural grounds over seven years later, but "remains a potential a path to decriminalizing consensual same-sex conduct in the country."

12.2

Societal attitudes and reports of discrimination

Successive governments' position on LGBT+ issues have been influenced by prevailing conservative Christian values and beliefs in Malawian society. 90

percent of Malawians are Christians and homosexuality is largely viewed as ungodly.

Malawi was one of a few countries in Africa to prevent American pastor Steven Anderson (who gained infamy for advocating for the extermination of gay people) from establishing a church.

Although Malawi is a signatory to a number of international agreements to promote human rights, such as the African Charter of Human and People's rights, successive governments have been reluctant to review the penal code and other anti-gay legislation.

Possible changes afoot

However in December 2020, the newly elected Government announced to a UN conference that it may not only decriminalise gay sex – but it is also considering whether to [allow gay couples to get married](#). This follows the high-profile arrest and conviction of two homosexual men for “unnatural acts” in 2010. They were subsequently pardoned and released in following international condemnation, including from the then UN Secretary General Ban Ki Moon.

13 Mauritius

13.1 Legal context

Any person found guilty of “sodomy or bestiality” is liable to up to five years’ in prison, according to the Criminal Code (1838) section 250(1). There is no ban on same-sex relations between women. There have been moves to decriminalise homosexuality in Mauritius, notably in 2007, when the crime of sodomy would have been deleted by the Sexual Offences Bill. However, the Bill never passed. In June 2020 the Supreme Court authorised four activists to challenge the constitutionality of the penal code.⁴⁶

13.2 Social discrimination

An [LGBT+ Pride March](#) was held in October 2020 with the theme of “do you hear me?”, with organising protesting section 20 of the penal code. The director of an LGBT organisation, Collectif Arc-en-Cieland, says homophobia and transphobia remains common in Mauritius. However, she acknowledged progress had been made with measures to prohibit discrimination based on sexual orientation including the Equal Opportunities Act and the Worker’s Rights Act.⁴⁷ Same sex [adoption is legal](#).

The US State Department’s [2020 country reports on human rights practices: Mauritius](#) provides an overview of discriminatory practices in Mauritius.

It reports that LGBT+ people who are subject to verbal abuse or violence did not normally report that crime due to ostracism or, in some cases, fear of reprisal from family members.

There were reports that health officials prevented LGBT+ people to donate blood although the rules that LGBT+ people may do so as long as they have not had unprotected sex in the 12 months prior to the donation.

In 2020, unlike in previous years, there were no incidents or counterprotests during the Gay Pride march.⁴⁸

⁴⁶ ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

⁴⁷ “[Mauritius defiantly celebrates Pride with a kaleidoscopic march and calls for an end to its colonial-era gay sex ban](#)”, Pink News [online], 12 October 2020

⁴⁸ US State Department, “[2020 country reports on human rights practices](#)”, 30 March 2021

[Young Queer Alliance](#) is an LGBT+ organisation in Mauritius that provides support and services on this topic. There are other prominent LGBT+ campaigners such as Nandini Tanya Lallmon, a lawyer in Mauritius and member of the [YouthPower2: Learning and Evaluation \(YP2LE\) Youth Advisory Group](#). [Travel companies](#) such as [travelgay](#) suggest it is relatively safe for LGBT people with LGBT inclusive hotels.

14 Nigeria (non-Sharia area)

14.1 Legal context

Sexual acts between people of the same sex are illegal in Nigeria. The ‘Same Sex Marriage Prohibition Bill’ allows lengthy prison sentences for those entering into a same sex marriage, those witnessing, aiding or abetting a same sex marriage, the operation and support of gay clubs, societies and organisations and the public display of same sex relationships.⁴⁹ In the 12 northern states of Nigeria (which practice Sharia law), same-sex sexual acts may incur the death penalty.

On 7 January 2014, Nigeria’s former president, Goodluck Jonathan, signed the Same-Sex Marriage (Prohibition) Bill (SSMPA) into law.

Human Right Watch reported in 2014 that:

The law imposes a 14-year prison sentence on anyone who “[enters] into a same-sex marriage contract or civil union,” and a 10-year sentence on individuals or groups, including religious leaders, who “witness, abet, and aid the solemnization of a same-sex marriage or union.” It imposes a 10-year prison sentence on those who “directly or indirectly make [a] public show of [a] same-sex amorous relationship” and anyone who “registers, operates, or participates in gay clubs, societies, and organizations,” including supporters of those groups.⁵⁰

After the Bill was passed former Foreign Secretary William Hague said he was disappointed that President Jonathan had given his assent to the Bill and voiced his concerns about further action against an already marginalised section of society.⁵¹

14.2 Social discrimination and violence

In August 2018, 57 men were arrested in the Egbeda district of Lagos. Police claimed that those arrested were about to be initiated into a gay

⁴⁹ Gov.uk, “[Local laws and customs](#)”, Foreign travel advice: Nigeria,

⁵⁰ Human Rights Watch, “[Nigeria: Anti-LGBT Law Threatens Basic Rights](#)”, 14 January 2014

⁵¹ Foreign and Commonwealth Office, “[Foreign Secretary expresses disappointment with anti-LGBT legislation in Nigeria](#)”, 15 January 2014

club/organisation, while those arrested indicated that it was a birthday party.

On 27 November, 47 of the 57 arrested pleaded not guilty to charges under Section 5(2) of the Same Sex Marriage (Prohibition) Act 2013. The case was adjourned until 11 December and the defendants were granted bail provided they pay 500,000 naira (approx. £1,050).

On 11 December, 47 of the arrested men stood trial for making “public show of same sex amorous relationship” under Section 5(2) of the Same Sex Marriage (Prohibition) Act 2013.⁵²

In October 2020 Presiding judge, Justice Rilwan Aikawa, struck out the case and said he had done so due to the “lack of diligent prosecution”.⁵³

ILGA reported that according to a recent study, since the enactment of the Same-Sex Marriage (Prohibition) Act, violence against LGBT+ Nigerians has risen by 214%, with the police being among the main perpetrators.⁵⁴

The US State Department’s [2020 country reports on human rights practices: Nigeria](#) discusses a range of significant human rights issues, including substantial interference with the rights of peaceful assembly and freedom of association for LGBT+ people.

It notes that during 2020, LGBT+ people reported increased harassment, threats, discrimination, and incidents of violence against them based on their real or perceived sexual orientation or gender identity.

The NGO, The Initiative for Equal Rights (TIERs) documented 482 human rights abuses based on real or perceived sexual orientation, gender expression, and sex characteristics between December 2019 and November 2020. Of these cases, more than 20 percent involved state actors.

The US State Department further reports that on October 27, the Federal High Court in Lagos struck out the charges against 47 men charged in 2018 with public displays of same-sex amorous affection at a hotel party. The judge said there was a “lack of diligent prosecution” after the prosecuting counsel repeatedly failed to present witnesses or evidence for the court proceedings.

Several NGOs provided LGBT+ groups with legal advice and training in advocacy, media responsibility, and HIV/AIDS awareness; they also provided safe havens for LGBT+ people. This work took place contrary to the law.⁵⁵

⁵² [First men go on trial under Nigeria's anti-homosexuality laws](#), Guardian [online], 11 December 2019

⁵³ [Nigerian judge throws out case against 47 men facing homosexuality charge](#), Reuters [online], 27 October 2020

⁵⁴ Sulaimon Abiodun Olawale Giwa et al, “[Police violence targeting LGBTIQ+ people in Nigeria: Advancing solutions for a 21st century challenge](#)” *Greenwich Social Work Review* 1, No 1 (2020), 36-49.

⁵⁵ US State Department [2020 country reports on human right practices: Nigeria](#), 2020

14.3

UK Parliament

In April 2021, Stephen Doughty asked the FCDO when he last raised LGBT+ rights in Nigeria and three other African states with his counterpart.

James Duddridge, the Minister for Africa, in response reaffirmed the UK's active role in support of LGBT rights. He spoke broadly of making regular representations through the High Commission and international organisations, adding "we directly challenge governments that criminalise homosexuality at the highest political levels."⁵⁶

In 2018, Baroness Barker asked what proportion of people deported to Nigeria and Ghana had raised their LGBT status as a reason for wishing to remain in the UK. The Home Office response from Baroness Williams of Trafford said that information was not routinely recorded.⁵⁷

In 2017, David Lammy asked the FCDO what representations the Secretary of State had made to his counterpart on the protection of LGBT rights. The then Minister, Rory Stewart said the UK Government has made clear its opposition to Nigeria's Same Sex Marriage Prohibition Bill which infringes Nigeria's constitution and its international treaty obligations.⁵⁸

⁵⁶ PQ 185378 [[on Africa: LGBT people](#)], 26 April 2021

⁵⁷ HL 5273 [[Deportation: West Africa](#)], 6 February 2018

⁵⁸ PQ 111574 [[Nigeria: Human Rights](#)], 14 November 2017

15 Senegal

15.1 Legal context

Homosexual activity is illegal and not tolerated in Senegal's conservative society. Same-sex sexual activity between adults, referred to in law as an "unnatural act," is punishable under [Article 319](#)⁵⁹ of Senegal's penal code with up to five years in prison. Between 2011 and 2016 Human Rights Watch and its Senegalese partner organizations identified 38 cases in which police arrested people based on their perceived sexual orientation⁶⁰.

During the 2019 presidential elections, LGBT+ rights activists voiced concerns about politicians using political homophobia to gain the political support of some religious communities.⁶¹

In 2020 during a visit by Canadian prime minister Justin Trudeau, Senegal's President Macky Sall defended the country's criminalisation of homosexuality.⁶²

15.2 Social discrimination

The US State Department's [2020 country reports on human rights practices: Senegal](#) reports that LGBT+ people face widespread discrimination, social intolerance, and acts of violence. They are subject to frequent threats, mob attacks, robberies, expulsions, blackmail, and rape. It notes that the authorities sometimes condoned or tolerated these abuses.

LGBTI activists also complained of discrimination in access to social services. The government and cultural attitudes remained heavily biased against LGBTI individuals.

In October 2019 cemetery authorities in Touba refused to authorize the burial of a man in the Bakhia cemetery based on a report of the deceased's LGBT+ status.

In November 2019 a prominent anti-LGBT organisation published a list of LGBT+ associations and their leadership which had received NGO status. The

⁵⁹Equal Rights Trust, "[Senegal: Criminal Code \(Code Penal\)](#)", (accessed 26 May 2021)

⁶⁰ Human Rights Watch, "[World Report 2020: Senegal](#)", 2020

⁶¹ [Fear in Senegal as presidential election stirs up homophobia](#), Reuters [online], 20 February 2019

⁶² [Senegal president defends criminalisation of homosexuality](#), Africa News, 13 February 2020

publication created widespread public backlash against those organisations, and led the authorities to close them.⁶³

15.3

Further reading

[Homosexuality in Francophone West Africa: The International Context of Local Controversies](#)

Oxford Research Encyclopaedia

22 January 2021

[Senegal says no plans to decriminalise homosexuality](#)

BBC Monitoring

13 February 2020

[Senegal's leader defends LGBT record during Canada PM visit](#)

Agence France Presse

12 February 2020

[Oxfam under attack in Senegal for defending LGBTI people](#)

La Croix International

16 July 2019

⁶³US State Department, "[2020 country reports on human rights practices: Senegal](#)", 30 March 2021

16

South Africa

16.1

Constitutional and legislative protections for LGBT+ people

In 1996, South Africa became the first jurisdiction in the world to [constitutionally prohibit](#) discrimination based on sexual orientation.⁶⁴

Further legislative protections were introduced in 1998, when protections against [discrimination in employment](#) were extended to sexual minorities.⁶⁵

In 2006, South Africa became the [fifth country in the world](#) to [legalise same-sex marriage](#).⁶⁶ Same-sex couples can also [adopt and raise children](#), under 2005 legislation.⁶⁷

Legislation also allows for individuals to [change their legal gender](#).⁶⁸

The South African Parliament is currently considering a [Hate Crimes and Hate Speech Bill](#), which intends to criminalise hate crimes and hate speech, including that targeted against LGBT+ people.⁶⁹

16.2

Societal attitudes and reports of discrimination

While South Africa has legislative protections in place to protect LGBT+ persons from discrimination, there are reports of discrimination.

⁶⁴ Section 9 of the [Constitution of South Africa](#), 1996, Constitutional Court of South Africa, [Gay and lesbian rights](#), (both accessed 7 December 2021)

⁶⁵ Section 9 of the [Employment Equity Act 55 1998](#), (accessed 7 December 2021)

⁶⁶ Pew Research Center, [Same-sex marriage around the world; Civil Union Act of 2006](#), (both accessed 7 December 2021)

⁶⁷ Section 231 of the [Children's Act 2005](#), (accessed 7 December 2021)

⁶⁸ [Alteration of Sex Description and Sex Status Act 49 2003](#)

⁶⁹ Parliament of South Africa, [Prevention of Hate Crimes and Hate Speech Bill \(B-9-2018\)](#), (accessed 7 December 2021)

There continue to be reports that LGBT+ people are targeted and killed in the country. From February to May 2021, at least eight people known to LGBT+ groups [were murdered](#).⁷⁰

LGBT+ people also [report discrimination when accessing services](#)—a 2016 survey by the NGO, Out, found that 56% of those aged under 24 had experienced discrimination in schools based on their LGBT+ status. This compared to 10% who reported discrimination when accessing healthcare.⁷¹

Prevalence of HIV in South Africa is estimated to be 20% of the population, but is [likely to be higher for several groups](#), including men who have sex with men and transgender women.⁷²

In 2021, the South African Commission for Gender Equality Issues has launched a review on progress relating to LGBT+ equality since 1996. While welcoming legislative progress, it [raised some areas of concern](#), including transgender inclusion, forced divorces, and intersex genital mutilation.⁷³

According to Afro Barometer's 2016/2018 polls of attitudes towards LGBT+ persons in 34 African countries, South Africa was one of four where a majority of respondents expressed that they would be content, or like to have, a [homosexual person as a neighbour](#), at 70%.⁷⁴

16.3

Further reading

Legal Resources Centre and others, [LGBTI+ asylum seekers in South Africa: A review of refugee status denials involving sexual orientation and gender identity](#), April 2021 (opens pdf)

Williams Institute, [The economic cost of LGBT stigma and discrimination in South Africa](#), December 2019

The Atlantic, [The unfulfilled promise of LGBTQ rights in South Africa](#), July 2019

⁷⁰ Reuters, [Fear breeds bravery as LGBT+ S. Africans resist "war on queerness."](#) 13 May 2021, (accessed 7 December 2021)

⁷¹ Out, [Hate crimes against LGBT+ people in South Africa](#), 2016, pp6, 8, (accessed 7 December 2021)

⁷² Avert, [HIV and AIDS in South Africa](#), (accessed 7 December 2021)

⁷³ Commission for Gender Equality, [Call for contributions on LGBTI+ equality in South Africa](#), 23 September 2021, (accessed 7 December 2021)

⁷⁴ Afro Barometer, [Africans tolerant on ethnic, religious, national, but not sexual differences](#), 2020, p12, (accessed 7 December 2021)

17

South Sudan

17.1

Legal context

South Sudan became independent in 2011 breaking away from Sudan. However, its laws prohibiting homosexuality date to the Sudan Penal Code (2008), article 248, which prohibits “carnal intercourse against the order of nature”. The sentence may be up to ten years in prison and/or a fine.⁷⁵ The law also criminalises “any male person who dresses or is attired in the fashion of a woman” in public, with a punishment of up to three months’ imprisonment if convicted.⁷⁶

17.2

Discrimination and violence

The US State Department [2020 country reports on human rights practices: South Sudan](#) identifies many significant human rights issues including crimes involving violence targeting LGBT+ people.

LGBT+ people report routine harassment by the security forces and sometimes being arrested, detained, tortured, or beaten. Because of actively hostile government rhetoric and actions, many LGBT+ people have left South Sudan.⁷⁷

In 2016 the UN Human Rights Council established the [Commission on Human Rights in South Sudan](#), and has since extended the Commission’s mandate on an annual basis. In a report in February 2021, the Commission found that ten years after independence “[staggering levels of violence continue and threaten to spiral out of control across several regions in the country.](#)” The [report](#) does not discuss LGBT+ rights explicitly, but does say “[sexual and gender-based violence, and in particular conflict-related sexual violence, has persistently been a hallmark of the conflict in South Sudan.](#)” Both [Amnesty](#) and [Human Rights Watch](#) discuss human rights abuses, but not specifically LGBT+ issues.

⁷⁵ ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

⁷⁶ US State Department, “[2020 country reports on human rights practices: South Sudan](#)”, March 2021

⁷⁷ US State Department, “[2020 country reports on human rights practices: South Sudan](#)”, March 2021

18

Sudan

18.1

Legal context

The International LGBT+ Organisation (ILGA) reports that there is [no recognition for LGBT+ persons in Sudan, and no protections](#).

There are several sections of the Penal Code that discriminate against LGBT+ persons and subject them to penalties, including imprisonment:

- [Penal Code 1991, Article 148](#), prohibits “sodomy” with a penalty of up to five years imprisonment for the first offence; imprisonment for up to 7 years for the second; and life imprisonment for the third.
- [Penal Code 1991, Article 151](#), criminalises “indecent acts,” defined as sexual acts not amounting to “sodomy,” with a penalty of up to a year imprisonment.
- [Penal Code 1991, Article 152](#), criminalises the making, portrayal, possession, or dissemination of any material “contrary to public morals.”

The National Telecommunications Corporation [also blocks websites](#) that are considered “offensive to public morality.”

18.2

Enforcement

There are few reports on the treatment of LGBT+ persons in Sudan and how these laws are enforced. In 2014, the [Equal Rights Trust said that](#) “making contact with the underground LGB[T+] community in the country is a serious logistical challenge.”

In July 2020, the ILGA reports that two men were [sentenced to forty lashes and a fine](#) for same-sex sexual activity. This was prior to the reforms introduced the same month (see below).

The laws have been used against political opponents. Article 152 of the 1991 Penal Code also includes as a criminal act “wear[ing] an obscene outfit.” In 2011, female journalist Lubna Hussein was [convicted for wearing trousers](#).

Abolition of death penalty and corporal punishment

In July 2020, Sudan [repealed the death penalty and corporate punishment](#) as possible penalties for same-sex conduct. However, those found guilty of “sodomy” may still be [imprisoned for up to seven years, and for life if found guilty three times](#).

The changes [amend Articles 148 and 151 of the 1991 Penal Code](#). Previously, the death penalty was available upon a third conviction of “sodomy,” while the first two convictions were punishable by up to five years’ imprisonment and flogging of up to 100 lashes.

However, as a report by the Australian Monash University notes, the [new amendment will increase the prison sentence](#) for a second conviction from five to seven years.

No person is believed to [have been executed for “sodomy” in Sudan](#).

The Justice Minister, Nasredeem Abdulbari, said the Government in the reforms intended to [“drop all the laws violating human rights in Sudan.”](#)

The reform followed the Government’s response in 2016 to the UN Human Rights Committee, [whose recommendations had included the abolition of the death penalty](#).

Reports of discrimination

In 2020, the [US State Department reported](#) that LGBT+ people were not protected under anti-discrimination laws and that there were no reports of action being taken to investigate or punish people complicit in LGBT+ discrimination or abuse.

In 2019, the Arab Barometer poll found that [seventeen percent of Sudanese found homosexuality acceptable](#).

Bedayaa, an LGBT+ organisation covering Egypt and the Sudan, said in March 2020 one man had been killed in a [potentially homophobic attack](#).

A [short documentary film](#) published in 2017 by the Mesahat Foundation describes experiences of discrimination and pressure felt by LGBT+ persons in Khartoum. They also published a [collection of interviews with LGBT+ persons](#) in Sudan in 2016.

In 2012, Rainbow Sudan, a LGBT+ group in the country, said homosexuality and transsexuality were “very rarely” [talked about in the media](#) and “always in a negative way.”

18.3

NGOs and civil society

The ILGA states that criminalisation of same-sex sexual activity and a difficult registration process for organisations [makes it “highly unlikely” that a LGBT+ organisation would be registered](#) in Sudan. The US State Department reported in 2020 that some LGBT+ organisations alleged being [pressured to halt their activities](#) due to threat of harm.

In 2015, Global Information Society Watch stated that societal hostility, blocking of websites and web censorship [“make it difficult for activists to stay online.”](#) In 2021, one news site describes LGBT+ organisations and activists [being forced underground](#) in the country.

Some groups are active, including [Bedayaa](#), which covers Egypt and the Sudan. It [welcomed the reforms in 2020](#) and said it would continue to work towards decriminalisation.

Previous groups such as [Freedom Sudan](#) and [Rainbow Sudan](#) appear to be inactive, not posting material since 2013 and 2015, respectively. In 2012, Rainbow Sudan’s editor had said [being gay was a](#) “big taboo and regarded one of the biggest sins possible” amongst religious communities.

19 Tanzania

19.1 Legal context

Consensual same-sex sexual conduct is a criminal offence in Tanzania. Tanzania's penal code prohibits "carnal knowledge of any person against the order of nature" (section 154) with a penalty of up to 30 years or life imprisonment. "Gross indecency" receives five years imprisonment.⁷⁸ In Zanzibar the penalty is imprisonment of up to 14 years. In Zanzibar the law also provides for imprisonment up to five years or a fine for "acts of lesbianism."⁷⁹

In 2018 a Government official began a public crackdown on LGBT+ individuals in Dar es Salaam, requesting the public [to identify anyone suspected of being gay](#). The Government later [disavowed the official's comments](#) after international pressure.

19.2 Discrimination and arrests

The US State Department's [2020 country reports on human rights practices: Tanzania](#) discusses a range of significant human rights issues affecting LGBT+ people.

The law does not prohibit discrimination based on sexual orientation and gender identity. Police often harassed LGBT+ people based on their dress or manners. Moreover LGBT+ people would not report harassment or discrimination to the police for fear of arrest.

During 2020 the Government opposed improved safeguards for the rights of LGBT+ people and senior Government officials are reported to have made several anti-LGBT+ statements. There were also reports of arrests and detentions to harass LGBT+ activists. In March, seven men were arrested for same-sex sexual conduct and were purportedly subjected to forced anal exams.

In 2017 authorities filed a case against two women in Mwanza who exchanged rings in an engagement ceremony that was recorded and posted on social

⁷⁸ ILGA "[State-sponsored homophobia: Global legislation overview update](#)", December 2020

⁷⁹ US State Department, "[2020 country reports on human rights practices: Tanzania](#)", 30 March 2021

media. The case was withdrawn without being heard in 2018 and then reopened as a new case in June 2019. It was ongoing as of December 2020.

In June 2020 it is reported that the Zanzibar registrar summoned Hamid Muhammad Ali, director of the AIDS Initiative Youth Empowerment and Development to a meeting in which he was informed that his organisation's registration was being suspended for "promoting homosexuality." The meeting was broadcast on television. It is reported that:

Four days later, police visited and searched his home and directed him to undergo an anal examination at a local hospital the following day. He said he went to the hospital and was asked to provide his fingerprints and a copy of his national ID card but was not forced to undergo the examination.

On August 10, the minister for regional administration, local government, and special departments cancelled the group's NGO licence for going against the "religious and social values" of Zanzibar.⁸⁰

19.3

UK Parliament

Members have questioned Ministers about LGBT+ rights in Tanzania. Harriet Baldwin, then Minister for Africa, responded to Chris Evans' written questions about LGBT+ rights in the country in February 2019 by expressing her concern about threats against the LGBTI community in Tanzania, adding she has raised it with Tanzania's Ministers:

I continue to be concerned by any reports of targeting or threats against the LGBTI community in Tanzania. As I said in my tweet on 2 November, language that invites violence against any community in society should be rejected. [...] I welcomed the statement by the Tanzanian Ministry of Foreign Affairs on 4 November restating the protection of rights enshrined in their Constitution and distancing themselves from comments made by their officials. We continue to urge the Tanzanian authorities to respect the rights of sexual minorities and protect all Tanzanian citizens from discrimination. I personally raised discrimination and human rights abuses towards LGBTI people in Tanzania when I met Foreign Minister Mahiga in Brussels on 21 January. I wrote to him in similar terms in November last year and the Rt Hon Penny Mordaunt MP, Secretary of State for International Development, has also raised the issue with President Magufuli.⁸¹

⁸⁰ US State Department, "[2020 country reports on human rights practices: Tanzania](#)", 30 March 2021

⁸¹ PQ 221764 [[on Tanzania: LGBT people](#)], 22 February 2019

19.4

Further reading

[“Tanzania’s anti-LGBT crackdown and right to health”](#), Human Rights Watch, 3 February 2020

[“Hundreds in Hundreds in hiding as Tanzania launches anti-gay crackdown”](#), Guardian, 5 November 2018

20

Uganda

20.1

Legal context

Same sex sexual acts are illegal in Uganda. The maximum penalty is life imprisonment. This is set out in the Penal Code (1930/50) as amended in 2000, which prescribes life imprisonment for anyone who “has carnal knowledge of any person against the order of nature” (section 145).⁸² According to [Pink News](#), the 2000 amendment meant sex acts between women were also criminalised, with a seven year prison sentence for “gross indecency”.

In 2009 a member of Uganda’s parliament introduced the Anti-Homosexuality Bill which, when originally proposed, called for the death penalty for all Ugandans found guilty of “aggravated homosexuality”. It became known as the “Kill the Gays” Bill. It was subsequently revised to provide for life imprisonment rather than capital punishment. The Bill was signed into law by the President in February 2014 but it was then annulled by the Constitutional Court in August 2014 on procedural grounds.⁸³

In early May 2021 [the Parliament passed the Sexual Offenses Bill](#), which includes a clause to criminalise same-sex relationships. It prescribes a five-year jail term for anyone guilty of same-sex acts. The Bill is predominantly focused on addressing sexual violence. In a statement issued on 6 May 2021, [Human Rights Watch](#) welcomed these elements but criticised the law for further criminalising LGBT people, and [called on President Museveni to reject the Bill](#). HRW also states that because the bill provides for extraterritorial jurisdiction “Ugandans who engage in consensual same-gender sexual conduct or anal sex outside Uganda could be prosecuted, irrespective of whether such conduct is legal where it takes place”. The Bill is awaiting President Museveni’s signature.⁸⁴ Museveni was [re-elected for a sixth term](#) in January 2021.

20.2

Social discrimination

The US State Department’s [2020 country reports on human rights practices: Uganda](#) discusses a range of significant human rights issues in Uganda:

⁸² ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

⁸³ “[Uganda’s anti-gay legislation, explained](#)”, Vox [online], 4 August 2014

⁸⁴ “[Uncertain future for LGBT+ rights in Uganda as controversial bill is passed](#)”, DW [online], 5 May 2021

Although the law does not restrict freedoms of expression or peaceful assembly for supporting LGBT+ rights, the Government severely restricted such rights.

LGBT+ people faced discrimination, legal restrictions, harassment, violence, and intimidation. It is reported that the authorities incited, perpetrated, and tolerated violence against LGBT+ people. On July 19, local government authorities in Kyenjojo Town disrupted a meeting of LGBT+ people organised by the faith-based network accusing it of breaching Covid-19 rules.

Local civil society organisations reported that some LGBT+ people had to pay bribes to public health-care providers before they received treatment.

According to civil society organizations, the military and police together with local government officials—raided the Children of the Sun Foundation shelter in Kyengera Town on March 29 and arrested 20 LGBT+ people accusing them of violating COVID-19 public health guidelines by gathering in a closed space.

Activists said the mayor of Kyengera, Abdul Kiyimba, beat two of the suspects “as he questioned them about their homosexuality.” Lawyers for the group reported prison authorities initially denied them access to legal representation on the grounds of Covid-19 restrictions on movement. Eventually all 20 LGBT+ people were release after the Director of Public Prosecution dropped all charges on May 15. Two of those detained said they had been subject to anal examination.⁸⁵

Human Rights Watch has also raised the [case of the 20 individuals](#) arrested on 29 March 2020 at the Children of the Sun Foundation. HRW describes them as homeless youths. HRW reported in July 2020 that a court has [awarded damages](#) to the 20 individuals for being arbitrarily detained and held without access to their lawyers.

20.3

UK Parliament

The UK Government in 2014 “welcomed the decision of the Ugandan Constitutional Court in August to annul the Anti-Homosexuality Act and we oppose attempts to reintroduce it”.⁸⁶ Members raised concerns about the law with the Government at the time.

In 2019 several Members raised concerns about a then proposed Bill that would impose the death penalty. Andrew Stephenson responded for the Government by noting first that a Ugandan Government spokesperson confirmed on 11 October that it does not intend to introduce new anti-homosexuality laws, before going on to confirm opposition to all forms of discrimination.⁸⁷ Earlier in the year Harriet Baldwin, then Minister for Africa,

⁸⁵ [2020 country reports on human rights practices: Uganda](#), US State Department, 30 March 2021

⁸⁶ PQ 21365 [[on Uganda](#)], 17 November 2014

⁸⁷ PQ 851 [[on Uganda: homosexuality](#)], 21 October 2019

responded to another question by stating “The UK welcomed the decision of the Ugandan Constitutional Court to annul the Anti-Homosexuality Act on 1 August 2014”. She added:

Our High Commission in Kampala will continue to raise our concerns with the Ugandan Government about any legislation which could lead to persecution and discrimination against LGBTI people.

In Kenya, the High Commission in Nairobi has supported Kenyans from LGBTI groups to attend international forums on LGBTI rights.⁸⁸

More recently, in April 2021, Stephen Doughty asked the Foreign Secretary when he last raised LGBT+ rights with his counterparts in Uganda (and 3 other named countries). James Duddridge, the Minister for Africa, in response reaffirmed the UK’s active role in support of LGBT rights. He spoke broadly of making regular representations through the High Commission and international organisations, adding “we directly challenge governments that criminalise homosexuality at the highest political levels.”⁸⁹

20.4

Further reading

[“Uncertain future for LGBT+ rights in Uganda as controversial bill is passed”](#), DW, 5 May 2021

[“Uganda: Drop Charges Against 19 Homeless Youth”](#), Human Rights Watch, 11 May 2020

[Human Dignity Trust: Uganda](#)

⁸⁸ PQ 226701 [[on Uganda: LGBT people](#)], 8 March 2019

⁸⁹ PQ 185378 [[on Africa: LGBT people](#)], 26 April 2021

21 Zambia

21.1 Legal context

Sexual relations between two men or two women is a criminal offence in Zambia.

Section 155 of the Penal Code criminalises sex between men with a maximum penalty of life imprisonment.

Section 156 criminalises any attempt to commit “unnatural offences” prohibited under Section 155 with a maximum penalty of fourteen years imprisonment.⁹⁰

Section 158 criminalises acts of “gross indecency” both between men and between women with a maximum penalty of fourteen years imprisonment.

21.2 Social discrimination

Human Rights Watch says “efforts in Zambia to [vilify LGBT people](#) have publicly portrayed homosexuality as immoral and un-African.”

Zambian society is conservative and largely Christian. In June 2019, in response to an attempt to bring a gay South African artist to Zambia, the Minister of National Guidance and Religious Affairs Godfridah Sumaili urged Zambian artists, musicians and event promoters to desist from condoning or participating in activities that undermine the countries [national values and principles](#).

Rev. Sumaili stated:

the Government will not allow a situation where event managers invite people with questionable characters as this undermines the morals of the land. [...]

We must guard against such foreign influences as they pose a risk of disturbing our social fiber as a Christian nation.

⁹⁰ Human Dignity Trust, [Zambia](#), [online] 2021

21.3

Recent events

In November 2019, the Lusaka High Court [sentenced](#) two men to 15 years' imprisonment for engaging in same-sex sexual activity. They were convicted by Kapiri Mposhi Magistrates' Court but appealed to the High Court. However, the High Court judge, Charles Zulu, refused to review the verdict and sentenced the two men. Judge Zulu is [reported](#) to have said: "The trial court cannot be faulted and there is no basis to review or substitute the conviction and I further find that there were no irregularities by the trial court."

Their sentencing was met with [strong criticism](#) from the US ambassador to Zambia, Daniel Foote. This triggered a diplomatic row which ended in the recalling of the US Ambassador.

Zambia's President Edgar Lungu has [pardoned](#) two men who were jailed last year for having sex with each other.

Nevertheless he has also said that he will [not agree to equal rights](#) for gay people – even at the cost of international aid.

In a similarly high-profile case in 2014, a human rights activist was arrested on charges of promoting homosexuality after arguing for gay rights on a television show in 2013. Paul Kasonkomona was subsequently acquitted in a ruling hailed as a boost for gay rights in Africa.

Some say the Government—as in many other African countries—uses the LGBT+ issue as a way of deflecting attention from more pressing problems. However this practice is beginning to falter:

“when public officials once again highlight the [so-called 'LGBTQ problem'](#) ordinary Zambians will likely respond: 'Okay, but what about corruption, poor service delivery and sky-high taxes?'.”

LGBT+ activists and civil organisations have been more successful in lobbying for gay and transgender rights by focusing on HIV and AIDS. An official government document outlining responses to HIV and AIDS in the country includes the necessity to focus on gay and transgender people. According to the government document, no one in Zambia should be left behind when it comes to fighting HIV and AIDS, including those from the LGBTQ community.

The UNDP Zambia Legal Environment Assessment for HIV, TB, Sexual and Reproductive Health and Rights 2019 report has recommended the need to amend the Penal Code and decriminalise sex between consenting adults of the same sex.⁹¹

⁹¹ UNDP, [Zambia Legal Environment Assessment for HIV, TB and Sexual and Reproductive Health & Rights](#), 2019 (accessed 2nd December 2021)

22

Zimbabwe

22.1

Legal context

Same sex sexual acts involving men are illegal in Zimbabwe - there are no such laws concerning women - with the maximum penalty being one year in prison or a fine. This is set out in Article 73 (1) of the Criminal Law (Codification and Reform) Act (Act No.23) (2004) which criminalises anal intercourse between males as well as “any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act”⁹². However, the US Bureau of Democracy, Human Rights, and Labor in its [2020 Country Reports on Human Rights Practices: Zimbabwe](#), says that the laws are not enforced.

22.2

Social discrimination

Ex-President Mugabe was a very vocal opponent of homosexuals and LGBT+ rights, characterising it as “un-African” and calling homosexuals “worse than pigs and dogs” and even going as far as saying he would “chop their heads off”, at an election rally in 2013.⁹³

In a 2018 report, the UK Home Office describes an “atmosphere of severe socio-political hostility directed at sexual and gender minorities”⁹⁴ and the [ILGA 2019 State Sponsored Homophobia report](#) notes that even a member of Zimbabwe’s Human Rights Commission congratulated President Mugabe for fighting against the imposition of “foreign” and “un-cultural” practices on Zimbabwe.⁹⁵

Activists hoped that when Mugabe was toppled in 2017 and replaced by Emmerson Mnangagwa, the situation for LGBT+ people in the country might change. In an interview with CNN in 2018, he said that “those people who want it are the people who should canvass for it, but it’s not my duty to

⁹² ILGA “[State-sponsored homophobia: Global legislation overview update](#)”, December 2020

⁹³ “[Zimbabwe’s president Robert Mugabe threatens to cut gay people’s heads off](#)”, Gay Star News [online], 26 July 2013

⁹⁴ UK Home Office, “[Country Policy and Information Note. Zimbabwe: Sexual orientation and gender identity](#)” (2018)

⁹⁵ “[Zimbabwe human rights commissioner praises Mugabe’s homophobia](#)”, Mamba Online, 24 April 2017

campaign for this.”⁹⁶ and when asked about same-sex marriage, he said, “In our constitution it is banned – and it is my duty to obey my constitution.”⁹⁷

Joyline Maenzanise an LGBT+ writer based in Zimbabwe, told Pink News of her fears that nothing would really change, saying:

As a queer person, my deepest fear is that we may only be replacing one homophobe with another, even if they may not be as dramatic. I highly doubt that the new leader will express sentiments that are any different from what President Mugabe has staunchly believed about the LGBT+ folks.⁹⁸

The [US State Department’s 2020 country reports on human rights practices: Zimbabwe](#) discusses a range of human rights issues facing LGBT+ people:

Members of Gays and Lesbians of Zimbabwe (GALZ), experienced harassment and discrimination against members seeking employment and health services. Transsmart, another active LGBT+ group, reported their members believed they were unsafe and unwelcome in churches due to deeply held religious and social stigmas in society.

There is no legal option to change gender pronouns on state identity cards, creating identification and travel difficulties for transgender persons. The mismatch between gender presentation and identification pronouns could lead the police to think that person was committing identity theft, sometimes leading to criminal arrest.

GALZ reported its membership had more than doubled since 2015. The group noted a decline in the arrest and detention of LGBTI community members but reported half of gay men had been physically assaulted and 64 percent had been disowned by their families. Of lesbians, 27 percent reported harassment, assault, or disownment.

LGBT+ advocacy organisations reported blackmail and being “outed” as two of the most common forms of repression. It was common for blackmailers to threaten to reveal one’s sexual identity to police, the church, employers, or family if the victim refused to pay them.

GALZ reported that many LGBT+ people did not seek medical care for sexually transmitted diseases or other health problems due to fear that health-care providers would shun them or report them to authorities.

Some parents treated their children’s identity as an intellectual disability and forced transgender youth into mental health institutions.⁹⁹

⁹⁶ “[Zimbabwe’s new President: ‘It’s not my duty’ to press for change on LGBT issues](#)”, Pink News [online], 25 January 2018

⁹⁷ Ibid

⁹⁸ “[As a queer Zimbabwean, the ousting of Robert Mugabe does not bring me much hope](#)”, Pink News [online], 21 November 2017

⁹⁹ US State Department, [2020 country reports on human rights practices: Zimbabwe](#), 30 March 2021

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