HUMAN RIGHTS VIOLATIONS AGAINST LGBT PEOPLE IN MALAWI: AN EXPLORATORY RESEARCH

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"Homophobia is an irrational fear that is used to deny human rights and which society has an obligation to overcome. The resilience of homophobia and the taboo of the subject cannot be a reason for passivity or the acceptance of bigotry. Contesting the meaning of sexual orientation – and understanding homosexuals as fellow human beings entitled to full right – cannot be avoided any longer"

Makau Mutua, 2011.

Declaration of authorship:

The author, Carlos Sánchez Velázquez with ID 48975607-M, submitted this dissertation as part of his MA in "International Cooperation and Human Development" at the European Institute of Business Studies (INESEM), CIF A-18882233. Carlos owns the rights of authorship, reproduction and distribution of the entirety of this dissertation, both in English and in Spanish. Carlos assumes the originality of this work. External sources have been duly cited in the bibliography.

Signed in Cádiz, on August 7, 2018.

The author: 

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0. ACKNOWLEDGMENTS

I would like to say thank you to every single person who made this paper possible. Firstly the participants. Thank you for being so brave. I appreciate your sincerity and the determination with which you all shared your stories with me, despite not knowing me. Massive thank you also to Centre for the Development of People (CEDEP) for identifying the participants, facilitating data collection and supporting with translations from Chichewa to English. Finally, thanks to you – mum – for never cutting my wings and being happy with me, as I do the things that make me happy.

As I write these words, I am aware that the abuses and violations against the LGBT community continue in Malawi. No one seems to account for these attacks and no one seems to care about them. Being labelled as an *amatanyula* (homosexual) brings shame to Malawian families – and anyone known to be part of the LGBT community would hardly be respected. Consequently, the victims of human right abuses do not report most cases. The fear of retaliation or further backlash feeds an atmosphere where all the suffering and anguish go unheard.

Despite the difficulties and the sadness of the issues dealt with by this study, I would like the message of this paper to be one of hope for the LGBT. I aspire that this work becomes a chant to freedom for anyone who has ever felt oppressed or stigmatised for being "different".

Always remember that you are perfect and loved, just as you are.

Carlos Velázquez, July 2018.

1. INTRODUCTION

A total of 72 countries around the world have criminal laws against sexual activity by lesbians, gays, bisexual, transgender (LGBT) people. In these countries, if two or more consenting adults decide to initiate a sexual encounter or a long-term relationship, they can be abused, blackmailed, arrested, jailed and, in the worst-case scenario, killed (Carroll et al., 2017). The high levels of stigma and discrimination faced by the LGBT in these countries are associated with higher rates of mental health issues, unprotected anal intercourse and increased risk of HIV and other sexually transmitted infections (STIs). Moreover, hostile environments also impede building community, connectedness, and self-worth (Zahn et al., 2016).

Thirty-eight of 54 African countries currently criminalise same-sex behaviour. In these countries, human right violations against the LGBT are perpetrated with the support of legal systems and the reinforcement of cultural traditions, moral beliefs and religion. In some of these countries, the laws are a "gift" from the colonial era. In others, criminal offences or penalties have been introduced only recently – these are the cases of Uganda and Nigeria (ICJ, 2010). Sodomy laws, as they have come to be known, label the LGBT as criminals and put them in the same category as murderers, paedophiles and rapists and forget that the victims of these laws may be individuals who are sane, fit for work, without criminal records and mentally stable (Goodman, 2001).

Malawi's penal code criminalises homosexuality. Sections 153 (a), 154, 156 and 137 (a) prohibit "unnatural practices" and "public indecency" and condemns consensual same-sex relationships with up to 14 years of prison (Ukwimi, 2010). This repressive legal framework, paired with an extremely homophobic culture, crushes the lives of LGBT people living in this country, which is ironically known to many as the 'Warm Heart of Africa'.

Between June 2015 and June 2017, I coordinated several gender and HIV-prevention projects in Malawi, which directly and indirectly targeted the LGBT community. During the implementation of these projects and more broadly whilst living there, I encountered numerous cases where the most basic human rights of the LGBT had been breached. The violations included (but were not limited to) denied access to health care, physical and psychological abuse, discrimination in schools and rejection from religious institutions.

This precarious situation influenced me greatly, so I decided to undertake an explorative research study to understand the extent of the challenges and difficulties faced by the LGBT community in Malawi. With the help and coordination of the Malawian NGO Centre for the Development of People (CEDEP), I gathered testimonies from 213 men and women who had been victims of human right violations for reasons of real or perceived gender identity and sexual orientation. This paper is the result of such research: it provides a platform where the voice of the LGBT community in Malawi can be heard and presents their stories to the reader, with the hope of raising awareness, increasing knowledge and advocating for change.

2. A NOTE ON TERMINOLOGY

Gender-related literature uses a range of acronyms to define or name the community of people whose gender identity or sexual orientation differ from the heterosexual and cisgender majority. The most widely known and used acronyms is “LGBT”. The LGBT acronym is the short for Lesbian, Gay, Bisexual and Transgender people.

As gender studies evolve, new aspects of gender identity, sexuality and sexual orientation are discussed and studied. Consequently, the umbrella term LGBT has become limited in its range as it does not include sex variants such as intersex people, or those who do not identify or express themselves as either male or female – gender queer. More inclusive versions of the acronym are LGBTQ, LGBTQI+ or the latest LGBTQQIAP (Mitchell, 2017).

This study has chosen the term LGBT throughout. Why? The answer lies in the way the participants described themselves during the research. During the discussions, they mostly referred to themselves as lesbians, gays, some bisexuals and some transgender. No one identified as intersex and no other terms such as queer, pansexual or asexual were mentioned. There are two reasons that could explain this: maybe participants genuinely felt the way they described themselves or, perhaps, the participants were not aware of the terminology and hence were not able to use it. In any case, after looking at the results of the research, the term LGBT felt the most appropriate one. This study and its author acknowledges the existence of all other variations within the gender family and advocates for inclusion and equal rights of all people, notwithstanding the place the may find themselves at along the spectrum.

3. HUMAN RIGHTS AND SEXUAL MINORITIES

If we were able to strip men off all labels – race, sex, gender, nationality, religion, financial status or any others categories that we might think of – we would be able to appreciate one universal truth: we are all the same. What defines us is the simple but profound fact that we are all human. If we can accept this truth, it becomes simpler to understand the fundamental assumption underpinning the definition of human rights. The core pillar of human rights is that each person deserves to be treated with dignity – simply because they exist.

The Universal Declaration of Human Rights (UDHR) affirms that “all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (UDHR, 1948). In regards to Africa, the African Charter on Human and Peoples’ Rights (ACHPR) adds that “all peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another”, (ACHPR,1981).

Human rights are applicable to all human beings without exception. This is what human rights literature refers as the principle of universality (Ramcharan, 1998). The principle of universality is, in theory, a straightforward concept: we are all equal and we all have the

same rights at birth. In practice, human rights are violated all over the world every day. When this happens, it is usually the most vulnerable and unprotected who are abused (Amnesty International, 2013). Human right violations occur when actions by the state (or individual) actor abuse, ignore, or deny basic human rights – including civil, political, cultural, social, and economic rights. Violations of human rights can also arise when any state or non-state actor breaches any part of the UDHR treaty or other international human rights or humanitarian law (Koskenniemi & Leino, 2002).

One of the arguments used in favour of LGBT discrimination is that the UDHR does not specify sexual orientation or gender identity as one of the enumerated categories benefiting from full entitlement of human rights. This argument can easily be refuted for two main reasons: firstly, the UDHR explicitly states that "all human beings are born free and equal in dignity and rights". This means that the totality of humanity is included, without exception. Secondly, the Declaration uses a series of labels (race, colour, sex, language, religion, etc…) as examples of some of the categories that must not be used to abuse or discriminate any other human being. Even though the labels listed by the UDHR do not include sexual orientation, these categories are intended to be illustrative and not exhaustive. The use of the phrase "or other status" means that the list is open-ended (ICJ, 2010).

Moreover, documents such as the UDHR or national Constitutions are texts that must be interpret in light of present-day conditions. The lists of discriminations were intentionally left open to include future grounds for discrimination, such as sexual orientation and gender identity, which were not considered when the documents were first written. Nowadays, it is hard to argue that "other status" should not include sexual minorities such as the LGBT community, considering that this minority group experience consistent abuse throughout the whole world (Amnesty International, 2013).

In support of this argument, the UN Human Rights Council – an inter-governmental body within the United Nations responsible for the promotion and protection of all human rights around the globe – approved several resolutions making clear that human rights apply fully to the LGBT community. The first resolution – approved in July 2011 – was a big step for the visibility of LGBT community. The UN recognised that human right violations against the LGBT are a burning problem and highlighted that "human rights instruments and sovereign states have the obligation to defend and protect the rights of all citizens in an equal manner" (HRC/RES/17/19, 2011). Moreover, the 2011 UN resolution requested a worldwide study documenting "discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity" (Ibid).

The findings of this milestone study, which was released in November 2011, underlined that "in all regions, people experience violence and discrimination because of their sexual orientation or gender identity. Violations include – but are not limited to – killings, rape and physical attacks, torture, arbitrary detention, the denial of rights to assembly, expression and information, and discrimination in employment, health and education" (HRC/19/41, 2011). The study stated that "the application of international human rights law is guided by the principles of universality and non-discrimination enshrined in article 1 of the UDHR" and therefore made clear that "all people, including lesbian, gay, bisexual and transgender persons, are entitled to enjoy the protections provided for by international human rights

law", (Ibid). Following the study, the UN appointed an independent expert on protection against violence and discrimination based on sexual orientation and gender identity, whose responsibility – amongst others – is to "work in cooperation with States to foster the implementation of measures that contribute to the protection of all persons against violence and discrimination based on sexual orientation and gender identity" (Ibid).

Beside the UN resolutions, the Yogyakarta Principles (YP) summarise the application of international law to human rights violations based on sexual orientation and gender identity - underlining that "sexual orientation and gender identity are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse. A total of 29 principles address a broad range of human rights standards and their application to issues of sexual orientation and gender identity and affirm the primary obligation of States to implement human rights" (YP, 2006). In 2017 a set of nine additional principles and 111 additional State obligations were added. These two documents have become an authoritative, expert exposition of international human rights law as it currently applies to the grounds of sexual orientation and gender identity (YP + 10, 2017).

3.1. HUMAN RIGHTS TREATIES – THE CONTRADICTORY CASE OF MALAWI

Why bothering with international treaties and principles? The answer is simple: because they matter, as States sign and ratify them. This means that "any state which has ratified or signed an international human rights treaty must ensure that its own domestic legal system –its laws and the implementation and enforcement of those laws – honours its obligation to promote, protect, and fulfil the rights established in that treaty without discrimination" (IPC, 2010).

The case of Malawi in regards to its relation with human right treaties can be summarised in one word: contradiction. On the one hand, the country has ratified the UDHR, the ACHPR and it is a signatory to the International Covenant on Civil and Political Rights (ICCPR) – which discrimination provisions include sexual orientation (IPC, 2010). Malawi is also a signatory to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) – principles are aimed at all women, including lesbians. What is more, Malawi has been a secular, democratic, multi-party government country since 1994 and its current constitution, put into place in 1995, is a progressive and advanced text that consecrate human rights as the basis for coexistence and development.

For instance, the Chapter III of the Constitution enshrines the principle of non-discrimination in its Equality Clause, stating that "discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth or other status" (Constitution of Malawi, 1995). It further asserts as a fundamental principle that the "inherent dignity and worth of each human being requires that the State and all persons shall recognize and protect fundamental human rights and afford the fullest protection to the rights and views of all individuals, groups and minorities" (Ibid).

According to Brown (2017), the rights enshrined in the Constitution are consistent with international human rights instruments to which Malawi is a party. However, international human rights standards have so far had little practical impact as Malawi has rarely moved beyond ratification to domestic implementation. The clearest example can be found in Malawi's penal code and the laws regulating same sex relationships. The penal code criminalises homosexuality in sections 153 (a), 154, 156 and 137 (a) prohibiting "unnatural practices" and "public indecency" and condemns consensual same-sex relationships with up to 14 years of prison (Ukwimi, 2010).

Therefore and to point out the obvious, there is a contradiction between Malawi's national laws, its own constitution and its international legal obligations. Laws criminalizing sexual orientation and gender identity violate the right to non-discrimination, a fundamental principle of all international human rights treaties and Malawi's own Constitution. It can be argued that the Constitution being supreme over all laws can override individual laws, and some human rights activist were clinging to this argument to try to repel the laws criminalising consensual same-sex relationships (Muula, 2007). It is not until this contraction is addressed that Malawi will be in a position to stop human right violations against its LGBT citizens.

4. CONTEXT IN MALAWI: PUBLIC OPINION, LAW SHORTFALLS AND THE HIV FACTOR

Treaties, constitutions and laws are man-made instruments with the potential to protect and guarantee human rights and dignity. However, these instruments are not created in isolation nor put into practice in a theoretical vacuum. They are the fruit of the society in which they are designed in and evolve as civil society demands new rights. Social discrimination couples with legal discrimination in Malawi, contributing to a multi-layered exclusionary experience for LGBTI citizens. Therefore, it is only possible to understand the precarious situation of the LGBT in Malawi if we consider both the legal and the social context in which this minority lives.

Why does Malawi criminalise same sex relationships nowadays? The answer lies in the colonial history of the country. There is no evidence of Malawian culture commending homosexuality before its interaction with colonial powers. The local language – Chichewa – has historically acknowledged the existence of homosexuals, with records of the word "amatanyula" before contact with Europe took place. "Amatanyula" describe those men who have anal sexual intercourse and according to CEDEP (2014) homosexual practices were "tolerated in the cultural life of Malawi". Nowadays things have changed. Thoughts and attitudes towards the LGBT have shifted dramatically and Malawians have become steadfast in their resistance to homosexuality (Mwakasungula, 2013).

When Britain colonised Nyasaland (native name for Malawi) in 1891 the *mzungu* (white men) imported Victorian morality and laws, which at the time criminalized and stigmatised homosexuality back in England. Along with a set of anti-homosexuality laws, Christians also arrived and planted churches across the country, spreading an intolerant stem of Christian morality, which shaped the Malawian religious system and permeated the traditional culture (Muula, 2007).

With the pass of the years, these colonial ideas and laws settled in breeding a culture of deep and irrational hate for homosexuals known as homophobia. To make things worse, after Malawi gained its independence from Britain in 1964, the dictator Hastings Kamuzu Banda ruled the country for thirty years. Banda enforced a strict national Christian morality, which has been sustained to the present day (Browne, 2017). His conservatism pervaded all areas of life including personal matters such as dressing code, freedom of speech, sexuality, family structure... Sex talk became a taboo and sexual education non-existent.

In 1994, Malawi became a democratic and secular country but, by then, the idea that same-sex practices are deviant and alien to the social and cultural fabric of Malawi was deeply ingrained in the minds of most Malawians. This has not changed since. A recent national survey by the Afrobarometer shows that 94% of Malawians disagreed that people practicing same-sex relationships should have the right to do so (HIVOS, 2014). It is also common to hear people saying that gays and lesbians are not born in Malawi, but made or converted by the influence of the Western culture (Muula 2007). Thus, homophobia has become an integral part of Malawian culture, which, encouraged by religious conservativism and intertwined with politics of hatred, has created the perfect scenario to portray homosexuality as "unAfrican" and to discriminate the LGBT with almost complete impunity (Zahn et al., 2016).

4.1. CURRENT STATE OF AFFAIRS: EXPOSURE, LOBBYING AND PUNISHMENT

After presidential and parliamentary general elections in May 2004, civil society organisations (CSO) such as Human Rights Resource Center (MHRRC) demanded a Constitutional review ten years after the Constitution's creation, to assess whether some changes needed to be included. For the first time in history, CSOs looked at the issue of LGBT equality from a human rights perspective. They claimed a review of the colonial era penal code with views to legalise homosexuality on the basis that the "sodomy laws" are anti-constitutional. CSOs went as far as to try to incorporate the rights of homosexuals, including marriage equality, in the Constitution. This was based on the fact that the Malawian Constitution states that family is a "fundamental and vital social unit". However, it fails to define what a family is, which is left to individual interpretation (Muula 2007).

Malawian society was not ready to accept such claims and this event became the beginning of a new era for the visibility of the LGBT. The issue of homosexuality slowly broke into the nation's public debate. The national media outlets served as a tool for the public opinion to attack the LGBT but also, although less common, to lobby in favour of human rights. Since then, the public debate on homosexuality has been complex and unpredictable and most anti-homosexual arguments have been made on the basis of religion, cultural norms and morality (Muula 2007).

The public discourse around sexual minorities is shaped as contrary to Malawi's culture and morality. For example, the Times newspaper (widely read in the country) claimed that "homosexuality is a psychological problem affecting people in Western countries, which should not be normalized in African countries like Malawi in the name of human rights", (Kanyinji, 2005). Another contributor of The Nation (most widely read newspaper), reporting on a meeting he had with a self-declared lesbian wrote: "We have better things to worry

about than to waste time and resources discussing homosexuality, a way of life that does not even exist among pigs and other species of animals", (Kumwenda, 2005). In the Malawian context, pigs are deemed unclean animals and are despised. Comparison to pigs portrays how low homosexuals may be perceived in the Malawian society (Muula, 2007).

As we have seen, public opinion was already charging against the LGBT community and some CSOs flirting with the idea of LGBT rights. An unprecedented event in 2009 took the confrontation to a whole new level – stimulating public discussions on homosexuality in mainstream media and eventually calling for the intervention of Ban Ki Moon, the former Secretary-General of the United Nations.

4.1.1 THE CASE OF STEVEN MONJEZA AND TIWONGE CHIMBALANGA

The story commenced with a wedding – a gay wedding. In December 2009, Steven Monjeza and Tiwonge Chimbalanga made a public commitment to marriage in a traditional and symbolic "chinkhoswe" (engagement). Two days later, they were both arrested, incarcerated and denied bail. Apart from physical and psychological violence, Monjeza and Chimbalange were forced to undertake several medical tests to establish if they were having anal sexual intercourse as well as a mental examination to prove if they were mentally stable (IPS, 2010).

In May 2010, magistrate Nyakwawa Usiwa imposed the maximum penalty of 14 years in prison with hard labour for having committed "unnatural offenses" and "indecent practices between males". Usiwa said: "I will give you a scaring sentence so that the public be protected from people like you, so that we are not tempted to emulate this horrendous example". He continued: "We are sitting here to represent the Malawi society which I do not believe is ready at this point in time to see its sons getting married to other sons or conducting engagement ceremonies. I don't believe Malawi is ready to see her daughters marrying each other. This case counts as the worst of its kind and carries a sense of shock against the morals of Malawi" (Mapondera & Smith, 2010).

The trial and sentences were condemned by some local human right organisations including CEDEP, which stated that "it is not criminal to express your sexual orientation. This is a gross human rights abuse against a group of people". In addition, Amnesty International and the International Gay and Lesbian Human Rights Commission reacted with condemnation highlighting that "forcible examinations would be in violation of the absolute prohibition of torture and other cruel, inhuman and degrading treatment – and such evidence would not be admissible in a fair trial". Donor entities and governments such as the United States, the United Kingdom, Germany, the African Development Bank, Norway, the European Union, and the World Bank also warned Malawi against the prosecution of homosexuals (IPS, 2010).

In late May 2010, former UN chief, Ban Ki-moon, visited Malawi and asked for the release of the gay couple. Bingu wa Mutharika, then president of the country, gave in and pardoned the couple. The president ordered their immediate release but said that "in all aspects of reasoning, in all aspects of human understanding, these two gay boys were wrong - totally wrong" (BBC, 2010).

The same year there was an amendment to the Penal Code to include the criminalisation of same-sex relationships amongst women. In January 2011, the amendment was enacted into a law as Section 137a stating that: “Any female person who, whether in public or private, commits any act of gross indecency with another female person, or procures another female person to commit any act of gross indecency with her, or attempts to procure the commission of any such act by any female person with herself or with another female person, whether in public or private, shall be guilty of an offence and shall be liable to imprisonment for five years” (Brown, 2017). The passing of this amendment not only constitutes discrimination based on sexual orientation, but also signifies a retrogressive step in the realisation of Malawi’s obligations to eliminate all forms of discrimination against women (CEDAW, 1979).

For good and bad, the repercussions of Monjeza and Chimbalange’s case were greater than anyone could have expected. For the first time in Malawian history, the whole nation had been exposed to the debate about LGBT rights and the consequences of the “sodomy laws”. What is more, the contradictions between the penal code and the Constitution had been raised publicly and, now more than ever there was a momentum built by a few local NGOs who sought the opportunity to lobby the Government about LBGT rights. According to Peter Tatchell, from the human rights group Outrage: “Tiwonge and Steven never set out to be political, but they have done more for gay and transgender rights in Malawi than anyone else”. George Thindwa, executive director of the Association for Secular Humanism (ASH), claimed that “the couple have opened a can of worms and Malawi will never be the same on the gay issue” (Mapondera & Smith, 2010).

4.1.2. THE MORATORIUM: HALF STEP FORWARD, ONE STEP BACK

The situation on the ground had not improved much by 2012. For example, a journalist with Blantyre Newspapers Limited, was arrested and held for a number of days for reporting on an alleged engagement ceremony of two women (Browne, 2017). But despite of the oppressing situation, Tiwonge and Steven’s case provided activists the international exposure they needed. Local NGOs did not stop fighting and assiduously lobbying the Malawian government to repeal legal provisions that criminalise homosexuality. Their efforts paid back – at least partially.

After the death of Bingu wa Mutharika, Malawi was ruled by its first ever female president: Joyce Banda. In 2012, shortly after her accession, the Malawian government took the decision to suspend the enforcement of laws that criminalise consensual same-sex conduct (Brown, 2017). On November 2012, the then-Malawian Minister of Justice Ralph Kasambara announced a moratorium on all sodomy laws and issued orders to the police not to arrest anyone who committed homosexual acts. Most importantly, Kasambara stated that there would be a parliamentary debate on repealing the legislation. In 2013, Malawi’s High Court agreed to review the constitutionality of Section 137A of the Penal Code, arguing that the provisions stand in conflict with the Malawian Constitution (CEDEP, 2014).

The moratorium, though a first step towards decriminalisation, split Malawian society even further on the matter of homosexuality. The hostility of those opposing the LGBT came to the fore with renewed strength. On top of that, the police officers had either not been

briefed accordingly about the new rules or were simply ignoring the fact that they were not allowed to arrest anymore. In 2015, two gay men were arrested, forced to undergo ~~a~~ medical tests and eventually charged with sodomy. This marked the first arrest of individuals accused of consensual same-sex conduct in Malawi since Tiwonge and Steven's case (Brown, 2017). Later in the year, the couple was released on bail after the intervention of the local NGOs and their charges were dropped. The Ministry of Justice, Samuel Tembenu, reiterated that "the Malawian government will no longer arrest or prosecute gay citizens while the High Court is reviewing the constitutionality of existing anti-gay laws" (OutRight Action, 2016).

This step taken by the government did not stop homophobia. In 2016, People's Party spokesperson, Ken Msonda, publicly demanded on his Facebook that "homosexuals had no rights in Malawi and deserve to be killed. Arresting them won't address this problem because sooner or later they are being released on bail. The best way to deal with this problem is to KILL them" (Bisani, 2016). Malawi Law Society (MLS) issued a statement in which it called on authorities to investigate the remarks made by Msonda claiming that they bordered on hate speech. The MLS also sent a formal request to the Malawi Human Rights Commission and the Police asking them to investigate the matter and take appropriate action (EILE, 2017). Unfortunately, Ken Msonda never paid for his hate speech and the Director of Public Prosecutions dropped the case.

That same year CEDEP presented a research study titled "HIV/Aids and socio-behavioural characteristics amongst men who have sex with men (MSM)", which aimed at informing HIV prevention intervention for MSM across the country (CEDEP, 2016). The survey estimated that there could be around 4000 MSM in the city of Mzuzu (largest city in the Northern District of Malawi). Upon dissemination of the research, a statement released by the Young Pastors Coalition of Malawi threatened to take government to court if they did not "arrest the 4,000 homosexuals living in Mzuzu". The pastors demanded CEDEP to "present the names of the 4000 homosexuals to the police so that they can be arrested and face prosecution". They also warned officials "like the Director of Public Prosecutions and the Inspector General of Police to take action and treat any homosexual as a criminal, the same way thieves are treated as criminals" (Ligomeka, 2016).

In summary, it can be argued that the homophobic rhetoric has increased in Malawi in the last years, as LGBT issues gained visibility and the nation was unable to ignore the topic any longer. Despite the relentless efforts of human right activists and local NGOs to improve the life and the dignity of the LGBT community, Malawi has not yet taken the step to normalise and decriminalise same-sex relationships. The police officers, who most times are not even aware of the suspension of the "sodomy laws", often ignore the moratorium in place, continuing with the unjust arrest of LGBT people.

4.2. HIV AMONGST THE LGBT AND THE GOVERNMENT'S "RESPONSE"

HIV has hit Malawi strongly. The HIV prevalence rate amongst adults aged 15-49 is 9.2% (UNAIDS, 2016). In 2014, CEDEP in collaboration with John Hopkins University (Canada), conducted a study titled "HIV and Sociobehavioural characteristics among MSM in Malawi in 7 districts" which findings elevated the HIV prevalence rate to 19.8% amongst men who have sex with other men (Chikoko et alt., 2014). UNAIDS also highlights that amongst the key populations most affected by HIV are sex workers, with a prevalence of 24.9% and gay men and other men who have sex with men, with an HIV prevalence of 17.3% (UNAIDS, 2016). CEDEP's research argued that almost 85% of MSM who were tested and found HIV positive by the study, had not been diagnosed prior to the research, and less than 50% reported ever being tested for HIV" (Chikoko et alt., 2014).

Confronted with these staggering and alarming figures, the Malawian Government has been forced to accept that unless they include the LGBT in their HIV prevention strategies they will never be able to win the battle against HIV. For the first time in the history of the country, the National HIV and AIDS Strategy (2015–2020) included MSM amongst the key target population to benefit from HIV prevention and care policies. The strategy admits that as of now there is "limited reliable data on MSM, FSW (female who have sex with another woman)" and that there is "low coverage of comprehensive interventions for key population because the legal framework for programming for MSM" is not conducive as the "current laws still prohibit MSM and FSW" relationships (NAC, 2015).

On the one hand, the Malawian government itself seems to be willing to implement interventions that protect the health rights of the LGBT. On the other hand, that same government is handcuffed and unable to implement its own policies because of the laws criminalising same sex relationships. Hence, the government continues to violate the human rights of this minority as we are confronted, once again, with the contradictory case of Malawi.

5. METHODOLOGY

Talking about homosexuality in Malawi is a taboo. The LGBT is a hard-to-reach population, with most LGBT members keeping their sexual orientation a secret or marrying someone from the opposite sex to comply with the cultural expectations and to keep up appearances. The first challenge this research faced was to find a reasonable number of LGBT persons who were willing to share their stories. In order to overcome this challenge, I sought support from the Centre for the Development of People (CEDEP).

For the last 10 years, CEDEP has been at the front of the fight for LGBT rights in Malawi, lobbying the government for the decriminalisation of same sex relationships and implementing ground-breaking HIV prevention projects amongst the MSM, lesbians, transgender and intersex community. Through its work, CEDEP has built a network that enables LGBT members to come together, learn and share experiences in a safe space. This research would have been impossible without their support.

5.1 RESEARCH QUESTION

The objective of this research is to explore the challenges and human right violations the LGBT community faces in Malawi. Therefore, the research question that the study seeks to answer is:

- What are the main challenges and human right violations the LGBT and MSM community face in Malawi?

5.2. SAMPLING METHODOLOGY

The methodology used for population sampling was the "snowball method". Snowball sampling is a non-probability sampling technique that is used by researchers to identify potential subjects for studies where subjects are hard to locate (Explorable, 2009). Snowball sampling uses a small pool of initial informants to nominate, through their social networks, other participants who meet the eligibility criteria and could potentially contribute to a specific study. The term "snowball sampling" reflects an analogy to a snowball increasing in size as it rolls downhill (Morgan, 2008). Policy makers and academics have long been aware that certain 'hidden' populations, such as the LBGT, sex workers or drug users are hard to locate because they live in stigmatised conditions. (Atkinson and Flint, 2001).

For the purpose of this research study, the subjects needed to meet two criteria: firstly, they had to be born and raised in Malawi. Secondly, they had to identify themselves as LGBT or MSM. The snowballing process started by identifying five LGBT persons in 10 different districts of Malawi. In order to identify the first 50 individuals CEDEP used its database of peer educators. Peer educators are LGBT people based in different communities that support the outreach work of CEDEP by educating other LGBT friends about issues of HIV awareness, access to health or legal services. Peer educators were contacted, informed about the nature of the research and asked if voluntarily wanted to support the study. Those who accepted, were given the task to identify at least two other LGBT persons within their networks who would be willing to share their experiences. Initially, the research aimed at engaging at least 100 LGBT persons. The snowballing process proved highly effective and the willingness of the LGBT to participate in the study exceeded the initial expectations. A total of 212 participants took part.

During registration, participants were asked about their "sex" as well as their "gender identity". If they presented the biological features of a man (male sex), the study did not assume that the person was "male". The team asked the participant's gender identity and whether they identified as a man, a woman or none. When counting how many females and males took part in the research, the study only considered the participants' gender identity. This is, the way they felt about themselves being male, female or none.

The table below shows the distribution of subjects per district, disaggregated by participant's gender identity.

District	# Male	# Female	# Neither	# Total
Karonga	7	1	0	8
Mzuzu	15	0	1	16
Nkhata Bay	17	1	0	18
Dwangwa	18	0	0	18
Salima	11	3	0	14
Mangochi	17	6	0	23
Mulanje	27	1	0	28
Blantyre	25	4	0	29
Chikwawa	26	0	1	27
Lilongwe	19	12	0	31
# Total	**182**	**28**	**2**	**212**

5.3. DATA COLLECTION

Data collection was done through focus group discussions. Focus group discussion (FGD) is a qualitative research method that brings together a limited number of people with similar characteristics in order to learn about their opinions through a guided discussion on a designated topic. FGD is led by a trained facilitator who stimulates discussion amongst the participants with open questions, comments or remarks. The data produced by this qualitative method are the transcripts of the group discussions and the moderator's reflections and annotations (Freitas et alt. 1998). Since the issue of study is a relatively new field of research in Malawi, FGD was the most suitable methodology because of its ability to gather in depth information about unexplored areas.

The ideal size of an FGD is between 6 and 10 participants (Krueger, 2002). The research study tried to follow this recommendation. In the districts where the attendance was higher than 10 people, the group was split and more than one FGD held. For example, in Chikwawa where 27 people took part in the research, 3 FGDs were carried out with 9 participants each. A total of 23 FGDs were held across the target districts.

The table below provides information about the number of FGDs carried out in each district according to the number of participants.

District	# Male	# Female	# Neither	# Total	# FGD held
Karonga	7	1	0	8	1
Mzuzu	15	0	1	16	2
Nkhata Bay	17	1	0	18	2
Dwangwa	18	0	0	18	2
Salima	11	3	0	14	2
Mangochi	17	6	0	23	2
Mulanje	27	1	0	28	3
Blantyre	25	4	0	29	3
Chikwawa	26	0	1	27	3
Lilongwe	19	12	0	31	3
# Total	**182**	**28**	**2**	**212**	**23**

A set of questions was given to the facilitators to guide the discussion. These questions were the same for each FGD and they enquired information about the research question the study sought to explore (section 4.1). However, the FGD questions did also allow for some flexibility so that each session could be adjusted according to the needs of the group. Depending on the district, some issues were more relevant than others, so the question guide did not limit the path the conversation took. The FGD question guide can be found in the annex section of this study.

In regards to the logistics, two highly skilled facilitator lead the 23 FGDs. They were native from Malawi and worked for CEDEP at the time of the research, which meant that they were used to dealing with minority issues and able to create the safe space needed for the participants to feel comfortable and share their stories freely. The FGD sessions were recorded using a voice recorder; the answers were later written down and translated into English by the research team.

5.4. LIMITATIONS

Despite the support of CEDEP, the research found it difficult to identify LGBT persons in some districts. This was mainly because of the great stigma attached to being LGBT and the hostile environment that still criminalises same-sex relations. Particularly difficult was to mobilise the LGBT community in Karonga and Salima, where the presence of CEDEP is limited. To solve the issue, the team networked with the Centre for Human Rights and Rehabilitation (CHRR) - another Malawian NGO – who supported identification of participants in these hard-to-reach districts.

Another limitation in the study is the insufficient number of female voices. As Browne (2017) notes: “the voices of lesbians and bisexual women in Malawi are systematically silenced, and this reality underscores that women do not have a space to express and live their sexual orientation”. In other words, it is difficult for women to express their voices in Malawi due to the dominant male culture. For lesbian or female transgender, this can even be harder and they may never get a chance to talk about their sexuality with anyone. Some other difficulties to finding female participants include that women were too busy doing house chores, taking care of the children or farming and found it impossible to get free time to attend the FGD. In some cases, women were not allowed to attend because their husbands did not give permission.

Consequently, male voices were prominent in mostly all the meetings. Mangochi and Lilongwe were two of the districts with a higher number of female participants. In these cases, the facilitating team ensured the female voices and their experiences were appropriately heard. As Browne (2017) highlights: the “lack of information about lesbians, bisexual women, and women-who-have-sex-with-women (WSW) in Malawi is a particular concern”. Female-only focus group discussions might be advisable in the future.

5.5. ETHICAL CONSIDERATIONS – SAFETY AND DATA DISTRIBUTION

One of the paramount obligations this research study had towards the participants was to ensure their safety and confidentiality. In order to guarantee both, the research team carefully chose the venues for the FGDs. All the venues were relatively far from town centres so that participants could enter and exit the venue discretely. They were asked to arrive and leave by themselves. The arrival and departure times were spaced out, to minimise the likelihood of people seeing them together or establishing connections amongst the participants.

Beside the location, the research team was joint by two police officers. CEDEP considered that despite the precautions taken in regards to the venues, having the protection of the police was necessary. Involving the police was not an easy decision to make. There were factors pointing at the fact that the involvement of the police could work against the research outcomes. Police officers are often seen as one of the actors committing abuses against the LGBT. Their presence had the potential to scare the participants who could have refused to take part in the research based on fear of being arrested by the officials.

A compromise was reached on this matter. The two police officers who accompanied the team during the research were trained by CEDEP on LGBT issues and particularly on the legal aspects of the penal code affecting the LGBT. They were made aware of the fact that a moratorium was in place and therefore no more arrests were allowed on the basis of real or perceived gender identity and sexual orientation. The two police officers completed the training and pledged complete discretion. During data collection, they introduced themselves to the participants and reassured them that they were there just to protect them and not to take any actions against them. After introductions, the police officers always left the room and allowed the participants to express freely and confidentially.

It is worth noting that the research study benefited from having the support of the police officers. There were a couple of incidents that could have escalated into unsafe situations had there not been any police to deal with them. In Mangochi, some neighbours must have heard something about the meeting and an angry mob gathered outside the gate where the meeting was taking place. Firstly, there were insults and afterwards a few stones hit one of the windows. The police officers went outside, controlled the crowd and reported the incident to the local police. In Mulanje, the local police itself came to the venue enquiring the reason and the purpose of the gathering. The LGBT participants were extremely scared to be identified and later arrested. The research team police officers dealt with the situation in a friendly and effective manner and the local police never found out the real objective of the meeting and allowed the FGD to happen.

Finally, in terms of data collection, all participants were informed about the aim of the research prior the FGD took place. Participants who agreed to participate signed a consent form, which was handed out to them and read aloud in their local language. After analysing the raw data, the team came to the conclusion that using personal names and linking them to the districts they lived in could pose danger for the participants. This paper does not aim at involuntarily outing any LGBT member, as this could put their lives at risk. Therefore, the

decision was taken of not using any real names in this research study. Additionally, instead of separating the data by FGD or district, the study has grouped the data under thematic areas. Each thematic area corresponds to one or more human right violations experienced by the LGBT community in Malawi. For each thematic area, two or more fictional narrators have been created. Whilst the names of the narrators are fictional, the stories they share are not. The stories gathered by this research study are written literally, as the participants shared them with us.

6. FINDINGS

This section presents a collation of the findings of the 23 FGDs. The Yogyakarta Principles (YP, 2006) have been used to divide the findings into thematic areas. Each area covers different human right violations under the same topic. All sections support their claims with testimonies and examples given by the participants.

6.1. THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH AND PROTECTION FROM MEDICAL ABUSES

"Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right" (Yogyakarta principles 17 and 18, 2006)".

Godwin Phiri, 19, experienced exclusion from health care because of his sexual orientation. He *"started feeling a big pain in the anal area after having sex with my regular partner. We don't use condoms or lubricants, because we don't have money to buy. The pain was so bad that I decided to go to the hospital. I met the nurse and I explained that my back area was sore. She asked me to undress and looked at it and said I had an STI. She became very rude to me and told me that I deserved what I got for practicing 'gayism'. She said that I was a wicked man. The nurse refused to treat me and she gave me no medication or advice. I am still in great pain but I cannot go back there. It was so humiliating".*

The incident experienced by Godwin is not an isolated case, and the issue was raised recurrently during the FGD discussions. Chifundo Kamanga, 21, explained that *"we are scared to go to health clinics. The doctors and nurses make fun of us. If I come and tell them that I had anal sex, they don't keep it private. Sometimes they call their colleagues and bring them to the room and said 'look here's a gay. Look at him!' and they call you names and insult you. I rarely go to the hospital if I get an STI, because I don't want to be humiliated or exposed"*.

According Chikoko et alt. (2014), "non-inclusive, discriminatory health service provision has been identified as a substantial barrier to health care access, contributing to HIV infection and transmission" amongst the LGBT. Gift Chiwaya, 18, has never tested for HIV: *"I could be positive, I don't know my HIV status. If I get ulcers or STIs, I don't go to the clinic, I just wait until the symptoms are gone".* HIV testing campaigns in Malawi are normally addressed to heterosexual couples and they encourage people to go to the hospital to test with their partners. This becomes a problem for LGBT. Gift said that *"if I go for HIV or STI testing on my*

own the doctor might demand to see my partner for a check-up also. If my boyfriend comes, my privacy will be compromised and the nurses would be asking me all sort of questions. Clinics are too scary, it's better not to go".

On top of the discrimination experienced in health centres and the fear to access health care, two more topics came up during the discussions. One was the lack of information about sexual and reproductive health (SRH) issues amongst the LGBT. Mayamiko Khoma, an 18 year-old female transsexual complained *that "there isn't any organisation providing training on sexual health issues affecting the LGBT in particular, and schools don't cover this topics because they are taboo and the little information we get only talks about straight couples. It's like if transsexual people didn't exist"*. Mayamiko admitted that most of her LGBT friends *"have no information about how to go about doing gay sex and most of them rushed into premature and mostly unsafe sexual encounters"*. Despite the limited information, Mayamiko seems aware about the fact that unprotected sex poses a health risk for her. *"It is very easy for me to get sores and ulcers in the sex organs if I don't use condoms. This is increased by the promiscuity amongst the community. Most of us see more than one special friend at the time"*, she expressed. The FGD revealed that sexual debut occurs early and as low as at the age of 12. Most of the participants reported having their first sexual encounter without using a condom. This is exposing young adolescents to HIV before they have adequate access to information or are matured enough to make informed decisions about their sexual practices.

The issue of condoms takes us to the second problem that arose consistently during the 23 FGDs. This is the inability to access free condoms and lubricants regularly. Samuel Petini, 23, never had a chance to go to school and, as the majority of the youth in Malawi, he has no stable income or job. Samuel depends on his extended family to provide him with a roof and food. He complained that *"three condoms cost almost MWK 2000 (€2.3) and 1 sachet of lubricant MWK 900 (€1.05). This is too expensive for us to buy, we can't afford them. Most days, that's the amount of money I have to buy my food, I cannot spend it on lubricant. As of now, we are having unprotected sex and we use saliva as lubricant. This is not good. Many of my friends are having STIs, pains and ulcers. We need the government and other NGOs to supply both condoms and lubricants for free or we will never defeat HIV"*.

There was one more important aspect the LGBT raised as a concern and a reason why some LGBT members are engaging in risky sexual behaviours: the lack of safe spaces to engage with other LGBT people freely and hygienically. Steve Banda, 24, came out to the group as an HIV positive person. He blamed his status mainly to his own actions because *"I didn't take all the precautions I should have taken".* But he also said that the fact that he did not have a private place to have sex might have influenced him to engage in fast, sporadic and careless encounters. *"I don't have my own space and I fear to go to a guest house to book a room with another man because they will suspect. I have ended up having sex in dark dirty places; the bush or unfinished buildings. When I have sporadic sex in this type of places I am never too prepared nor take condoms. Normally, I do things quickly for the fear of being caught or arrested. Because of this environment of fear, I have taken many risky behaviours and have paid a high price",* concluded Steve.

6.2. THE RIGHT TO ADEQUATE HOUSING AND RIGHT TO WORK

Everyone has the right to decent and productive work, to just and favourable conditions of work and to protection against unemployment and the right to adequate housing, including protection from eviction, without discrimination on the basis of sexual orientation or gender identity (Yogyakarta principle 12 and 15, 2006)".

Vicky Kamanga, 21, has been forced to move into her friend's house. She had nowhere to go after her parents kicked her out of their house. A neighbour discovered Vicky whilst having sex with her girlfriend and since then, her life has been *"a nightmare".* Vicky explained that *"even though I was having sex in my own house and in my private space, my neighbour invaded the room carelessly just to catch us. My parents were not at home at the time of the incident but as soon as they returned this neighbour told them about me and my girlfriend. Being outed as a lesbian amongst my family is the worst thing that could have ever happen to me. My parents say that I am no~~t~~ longer their daughter since I brought shame to the house. This breaks my heart because I love my parents so much. In the beginning they allowed me stay at home but they didn't feed me or talked to me. After a week the situation got worse. They have stopped paying for my school fees and told me that I must leave the house".*

Uzzah Bakalani, 24, has been homeless for three months now. *"I was chased away by my family when they discovered that I am gay. They told me that they don't like people of this kind of behaviour and told me to go away. They called a family meeting and sat me down and bullied me. They told me that I am satanic and I don't deserve to live here. My uncle was responsible for paying my school fees but he insulted me and has stopped funding my education. I had to leave my home, they disowned me and didn't have any other choice. Many of us find ourselves homeless because of being gay. I wish there was a rescue house for people like me. I don't want to be in the streets, it's scary and dangerous at night".*

Finding work is a hard task for any young person in Malawi. For the LGBT it can become almost an impossible task due to deeper layers of discrimination attached to their sexual orientation or gender identity. Lack of employment opportunities are linked to fragile livelihood, weaker education and increased poverty. For Rodrick Nkhoma, 28, one of the main issues is that *"since our family don't pay for our education, we have many gay people who don't even know how to write or read. There is no one to teach us new skills, so that we can get jobs or start a business. We can't prosper. People even fear to teach us new skills because they don't want to be in contact with us. The community don't allow us to join business groups or community organisations".*

Fides Juma, 23 is a famer and his livelihood depends on selling his maize. Since he was identified as gay by the people in his village, he has struggled to keep the production of maize at his farm. Farmers in Malawi rely heavily in government subsidies to buy seeds and fertilisers. Since last year, the community excludes Fides from government subsidies. *"Once they labelled me as gay, the village chief and neighbours decided that I am not allowed to access government funds or famers subsides. I should be entitled because I am as good of a farmer as anyone else. I have responsibilities at home and people depend on my income to survive. I know that what they are doing is illegal, but they will never listen if a gay*

complaints about corruption. At the moment, I have financial issues and a very fragile livelihood".

Even when someone makes it to the interview stage, it does not mean that the challenges are over. Sean Chaweza, 23, explained that she *"went for an interview I had been shortlisted for. I identify as a lesbian and so the way I dress is different to what they expect from a woman. As I was sitting waiting for the interview, they told me to go home. They did not explain the reason why they were kicking me out before the interview, but it was clear that I was not welcome in that place. If you are identified as gay nobody can give you a job".*

6.3. THE RIGHTS TO EQUALITY AND NON-DISCRIMINATION

Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of all human rights and fundamental freedoms (Yogyakarta principle 2)".

"We are not equal. I tell you, everyone sitting in this room has experienced discrimination. The stigma attached to gays is too big and it follows you everywhere". This is how Mustafa Chizumo, 24, explained what it means to be gay in Malawi. *"We live in fear of being noticed or identified as gays because when you are seen as gay your world and friendships will be finished. The community is wicked. People who supported you before now will hurt you with all their strength. You become third class citizens or even worse - we are pigs to them".*

"I am banned to enter certain social places, like bars", added Noel Juwawo, 21. *"As they see me entering, they shout at me and kick me out. Sometimes, when I am dancing and they are drunk, they come to me and push me or insult me. They shout at me things like 'this bar is only for straight people. Out of here homo!' I fear for my safety, so most time I decide to stay home alone and not go out. I hope one day we can share the same bars all together and I wish there was a place where all gays could be together and enjoy".*

Victor Khoma, 19, faced discrimination at school. *"I was in a boarding school and had some encounters with a guy who was older than me. One day his friends started talking about me being gay and my friend turned against me to protect himself. He began to insult me in front of friends and even in front of teachers. Teachers don't do anything to stop this. One of my teachers also was against me. One day in class, the teacher pointed at me and said out loud 'this one is gay, so he will die of HIV'. After that, my friends became scared of me, they thought I was going to give them HIV. I could not cope with all the discrimination. I could not even focus on my studies and I ended up quitting school".*

The workplace is also a common ground for discrimination. Eston Chirwa, 23, said that *"gay people fear to start a business because if people know that you are gay, no-one will come to buy. We have little economic empowerment, as nobody wants to employ a gay person".* But even those who are employed endure difficulties at their work place. Kannocks Bwanali, 27, works in a supermarket and admits that colleagues avoid him. *"Many times I sit alone at work. Not many talk to me. They fear me as they think I will teach them how to become gay. They are acting out of ignorance. They don't know that no one can teach you to become gay.*

We are born gay. Nobody taught us to be this way. Being gay is not a learned behaviour, it is to do with the feelings and the heart. The heart can't be taught how to love or who to love".

One of the most deeply felted consequences of discrimination for the LGBT in Malawi is the exclusion from their communities. Community life is central to the life of Malawians. Friends are considered brothers and the family structure extends far beyond blood ties. Belonging to community groups and actively taking part in social affairs is a sign of prestige and admiration. Being excluded from community life is a though punishment which reduces your chances of establishing networks, relationships and enjoying the benefits of having a rich social life.

Atupele Chiwina, 23, explained that she does not get invited to social events. *"Even if I wanted to join, I can't, because people despise me".* Blessings Banda, 25, feels that since he came out his social life has crumbled *"the community doesn't tell me where the social meetings are held anymore. They used to. I was the youth representative and chairperson at these meetings. Now I am excluded of social life and also denied to participate in community development"*. For Richard Muringa, 24, the problem is that *"there is a lack of education amongst community members. They know nothing about gay people and their ignorance is dangerous because it feeds their hatred against us".*

As a result of community discrimination, the feeling of isolation was brought up constantly by all the participants. Fana Gabaza, 21, admitted that is *"terrifying being on my own most of the time. When I was a teenager, I didn't understand what was happening to me. I couldn't tell anyone that I was different. No-one understands that a woman can love another woman. I feel lonely and excluded. This affects me psychologically. Sometimes I want to explode, especially when my family ask me why I look sad or why I am too quiet. I feel worthless".*

This lack of support takes a big toll in the lives of the LGBT. Dilan Kadziwa, 25, stressed that many day he feels *"down and depressed because I have nowhere to go if I have problems or no-one to talk to. My family are the people that I love the most but I can't share my problems with them. It's sad".* For Roy Phiri, 23, isolation becomes worse when it affects his friendships. He said that *"once you are out as gay it is very hard to become friends with straight guys. They all think that you want to fuck them in their ass. You are left by yourself all the time. Even people I thought as friends, abandoned me and don't talk to me anymore. Loneliness and isolation are two big issues".*

Discrimination also limits LGBT's right of self-expression. As Gift Matawa, 21, put it: *"people are ready to judge and insult us on a daily basis. They are close-minded. For example, a simple thing like having an earring it becomes a big deal for them. They can point at the way you live; the way you dress and behave and condemn you for it".* Lazulu Yami, 22, stressed that *"those who are effeminate are doomed in Malawi. We can't be ourselves even with the way we look or dress. Society force us to cut our hair, remove the highlights and won't even allow you to wear skinny jeans. We can't talk in public about who we are. We can't enjoy our true identity".*

Martha Sonda, 24, underlined a problem affecting transgender people like herself. *"I have no financial income or support, which means I cannot buy basic products to live my life as a woman. I can't afford make up, a simple dress or women's shoes. I can't even dream with an operation to change my sex. I am still trapped in the male body and the male clothes".* Martha also pointed out that *"we can't enjoy our relationships freely. We always need to hide. We can't kiss in the streets or hold hands like any other couple. Culture and laws are crashing our rights".*

6.4. THE RIGHT TO PROTECTION FROM ALL FORMS OF EXPLOITATION, SALE AND TRAFFICKING OF HUMAN BEINGS

"Everyone is entitled to protection from trafficking, sale and all forms of exploitation, including but not limited to sexual exploitation, on the grounds of actual or perceived sexual orientation or gender identity" (Yogyakarta principle 11, 2006).

Of all the violations that LGBT people in sub-Saharan Africa deal with, blackmail and extortion are perhaps the most prevalent – and the least visible. A survey of MSM in Malawi found that blackmail was one of the most prevalent abuses they faced, with 18% reporting incidents of blackmail (CEDEP, 2007). The crime of blackmail involves threats to disclose information that a person believes to be potentially damaging to their reputation or safety (Thoreson and Cook, 2011). Kelvin Iman, 23, said that he is often *"forced to buy drinks when he is at his local bar, just because some of them know my sexuality".* Kelvin specifically points at his doctor, who knows about Kelvin's sexual orientation as he visited the clinic with his male partner to take an HIV test. *"If I don't buy him drinks, he will expose me".*

Surprisingly, blackmailing does not only come from external circles, but from within the LGBT sphere too. *"My ex-partner knows that I hold a respectable position at the local church. He has blackmailed me several times and asked for money. If I don't do as he wants, he will destroy my life and career",* narrated Precious Chumbo, 28. *"Some ex-partners as they know where you stay, will even violate your privacy, they can follow you home to control what you are doing or to make sure you give them whatever they are asking for".*

The crime of extortion involves obtaining money, property or services from another person through, for example, intimidation or threats of physical harm (Thoreson and Cook, 2011). Joel Bonfac, 23, said that he has been *"pushed to have sex against his will multiple times". "I am a cleaner at a hotel and some managers there are married but they like having sex with men. They have money and they have power over me and other colleagues. My boss threatens with firing me if I don't have sex with him. If I don't accept I can lose my job"*. Chimwemwe Msusa, 19, added that *"even if sex is a matter of two people, if you are bottom, or if you are effeminate you are lost. The top won't be discriminated. It's just the one who is penetrated who is seen as the weak, the woman or the homo. These people with power and money use that to tell the story the way they want and can even put us in prison by making false accusations against us*".

Isaac Chisale, 23, is an MSM. He considers himself heterosexual, however due to his circumstances, he engages with sex with other males. He explained that *"poverty pushes me to do sex for money. I have sex with guys who offer me cash. I don't feel good about selling my body but if I don't do it, I'd go to bed with an empty stomach. I also have a daughter and a girlfriend but they don't know about my double life. I cannot afford my daughter to be hungry, I'll do whatever I need to do".* Gibo Ziba, 19, also a male sex worker emphasised the idea that *"once you do gay stuff for money, it's very difficult to escape. These people know that I need the money and they take advantage of that. Sometimes they give me little cash, or force me to have sex without a condom. I have to beg for more money sometimes, but once they've use you they don't care".*

6.5. THE RIGHT TO RECOGNITION BEFORE THE LAW, THE RIGHT TO A FAIR TRIAL AND THE RIGHT TO TREATMENT WITH HUMANITY WHILE IN DETENTION

"Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law without prejudice or discrimination on the basis of sexual orientation or gender identity. Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person", (Yogyakarta principles 3, 8 and 9, 2006).

Despite the moratorium prohibiting the police to carry out new arrests, Emmanuel Chawesa, 23, said that he lives *"in fear of being arrested because the legal environment is scary and strict".* He stressed that the LGBT *"can't live freely, even when we haven't hurt anyone. If people know that you are gay, they can go to the police and tell them. The police comes and arrest you without asking you first".* Emmanuel, as most of the FGD participants, accused police officers of being one of the main perpetrators of human right violations against the LGBT in Malawi. *"The police officers are ignorant and uniformed about the LGBT and the latest legal developments, such as the moratorium. They keep arresting and blackmailing us. They are so corrupt that forcing us to give them money to be released is the norm. They have the power and the law on their side. Once they know we are gays they can ask for whatever they want and we are forced to do it".*

Episodes of blackmailing, bribery and police abuse were underlined as endemic problems in Malawi. Martin Kamuzu, 28, is one of the most popular hairdressers in his neighbourhood. He runs his business with his *"especial friend"* and many clients know that they are gay and live together. *"I am lucky that the ladies who come to do their hair don't mind about my sexuality. They know I'm good at my job and I make them happy. My main problem is the local police officers. They come to my business regularly to intimidate and threaten me. Police officers ask me for money every time they decide to pay a visit to my hair saloon and, let me tell you, they come by very often. I have no choice, either I give them money or they will close my business or worst, will arrest me. Even after we've given them money they will still stick around and mock us".*

Even though the main mandate of the police officers is to ensure citizens' safety, Chifundo Kamanga, 24, said that in his small village he and his gay friends are *"very scared of the police and can never think of going to the police station to seek help"*. Chifundo explained that the police officers *"will never defend us if they know that we are gay. Even in the rare case they defend you, they will expect money in exchange. So for us, police stations are a no-go area".*

Joel Chiputula, 23, added that he and his friends are *"tormented by the police. They don't provide us with the right services. The police officers are against us. At times when we sought their help because someone committed a crime against us, they discriminated us instead. For example, I received homophobic attacks from a youth gang in my village resulting in death threats at knifepoint. When I reported the issue, the police refused to follow up on the case. Instead they ushered me out of the station whilst calling me 'promiscuous' and 'evil pig'. It is very sad that the police don't understand LGBT issues. Anytime we go to the police station to complain, the police end up making us the victims. They have no respect for us at all".* Precious Chumbo, 19, claimed that *"at the police stations, we don't know who to talk to. They don't know what to do or how to listen to us. Instead, they call their fellow police friends to tell them 'look, have you ever seen a gay?' and they laugh at you".*

Limbani Chiwale, 26, was arrested in 2015 when the police accused him of engaging in *"indecent behaviour"* with another man in a car in a remote parking lot at night. *"I was not assisted by the police, but rather lynched by them. They drag me out of the car by force, used abusive language and beat me up. After this, they locked me in and started discriminating me in the cell. They incited people in the same cell to tease and hurt us deliberately. I had to pay an extortionate amount of money to be released".*

Once arrested, if the case proceeds to court, the abuses carry on. Lyton Nandolo, 30, explained that *"when someone from the LGBT commits a simple crime, the court can escalate the crime, just to punish the LGBT community".* He adds that the justice system in Malawi has *"failed the LGBT due to prejudice and because the magistrates don't take the LGBT as normal human beings. We are denied of fair access to justice. A clear example is the case of Steven Monjeza and Tiwonge Chimbalanga. They were not caught in the act as the penal code portrays, but they were still sentenced 14 years of prison, the harshest of the sentences. Sodomy law must be fully scrapped and judges must be trained on issues concerning rights on minorities, if we want to aim for an equal legal system for the LGBT in Malawi".*

A final issue was raised by Asha Banda, 23, who is a female to male transgender. The problem concerns contradictions at the level of official documents such as passports or visa permits. Asha complained that transgender and intersex people are not *"properly helped at the migration offices when trying to get a visa".* This is because *"we cannot change our names in the official documents to the ones we would really like to be called. It creates problems when we need to identify ourselves at airports, banks or even at university. They always question who I am and sometimes they even refused admission. Most importantly, I am forced to live a double life with a double personality, which hurts me psychologically and reminds me who I am not every day".*

6.6. THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

"Everyone has the right to freedom of thought, conscience and religion, regardless of sexual orientation or gender identity (Yogyakarta principle 21, 2006)".

Malawi is a secular country, but religion plays a crucial role in people's life. Majorly Christian, with a fast growing Muslim population, religious tolerance allows the two main beliefs to relate and coexist peacefully. Most Malawians attend church or mosque. Churches and mosques play a central role in supporting and strengthening people's faith and knitting strong community relations. Participants of this research complained that religious leaders and community members consistently violate their right to practise their religion freely.

Jophrey Bonjesi, 24, can't attend his local church. *"They know that I am gay and have told me that they don't want me there. Before I was banned a year ago, I remember they constantly preached against homosexual people. This broke my heart and didn't give me peace of mind. I used to go church to pray and get peace with God. Sundays were the best day of my week. Now I can't enjoy that anymore! I hate when they say that we are satanic and especially when they want to pray for us to save us or cure us. God knows us well and created us this way. We are not ill people, we don't need to be cured".*

Lorence Chuambo, 21, has also been excluded from his church after a group of elders conducted an investigation to find out about Lorence's private life. *"They are very inquisitive at church. The elders are the ones who hold power and the strongest position in the community. When they think that a church member is not behaving appropriately they will investigate your life, your habits or even come to visit you at your place. The moment they hear rumours about you being gay, they will confront you. They will pressure you to confess and they will blackmail you to confess about all your friends or partners to exclude them from church also. Once the elders know you are gay, they will spread the news to everyone in the church, so community stigma and isolation grow fast. They will also pray for you, so that you become normal".*

Not only those who come to pray experience rejection. Those who work for the church, do not find it any easier to maintain their positions. Magalizo Phiri, 28, was the lead member at the church youth group. *"I taught the Bible to the youth. I have an inclusive view of the Bible and believe that God loves everyone, including the gays. I was teaching the story of Sodom and Gomorrah. They always use this story in church to crash gay people. I told my youth group that God was not punishing the gay people in this story, instead God was punishing the act of communal rape. God is not against gay people, but He is against rape. A few days later, I was fired. I was told that I must leave because gays are not accepted in church. Even though I was holding a respectable position at my church, they kicked me out. I tried to find a new church but it was too late, as the rumours had already spread. Teaching the Bible to young people was my happiness, but now my spiritual life is finished".*

Tisope Nandolo, 24, was a popular member of his church choir. Born with biological male sex, she identifies herself as a woman. Tisope narrated the last time she was allowed to lead her church choir and how she was fired. *"Each Easter we have a big celebration where choirs of the same Christian denomination come together and sing in a sort of competition. I was*

leading the choir at church and I was happy singing, dancing and praising Jesus. Suddenly, an elder member of the church stood up and pointed at me. In front of everyone, he said: 'there's nothing holy in this young man. He thinks he can dance as a lady and behave as if he was one. The things he does are evil and he is a satanic man. He is not welcome here and must leave this church'. It was the most humiliating day of my life. Since, I have been unable to attend services and even though I am a Christian and love Jesus, I am forced to stay home".

Another example was explained by Yunussu Chiwina, 24, who used to work as a receptionist at the Church of Central Africa Presbyterian (CCAP) – one of the most popular denominations in Malawi. *"I identify myself as woman despite my body being that of a man, so I dress the way I believe it's appropriate with my gender identity. I was doing my job to high standards but after a few months, one day I found a letter on my desk without previous warning. The letter said that they were firing me for 'unmoral behaviour', nothing else. I enquired and someone from the church told me that they needed to let me go because people were speculating about my sexuality and whether I was a man or a woman. The church leaders said that people like me are unholy and are not welcome in the church".*

Some religious leaders take a step further and not only discriminate, but invite others to attack the LGBT. This is the case of Fana Nkuma, 22, who lives in a predominantly Muslim community. An NGO invited her and a few friends to attend a workshop, in which the LGBT members had a chance to speak to some of the most influential religious leaders in their communities. The aim of the workshop was to educate religious leaders in matters of gender identity, human rights and sexual orientation. Fana explained that *"the workshop went really well. The religious leader acted with respect towards us during the 2 days we shared learning together. I was so surprised about how well they seemed to have taken the information in. A few days after the meeting, my phone started ringing constantly. I didn't know any of the numbers, but they all were men. They were calling and leaving horrible messages saying that lesbians like me deserve to die. They shouted on the phone, insulted me and said that I was a whore. Some offered to fuck me in order to fix my problem. They said that it is only because I have not been fucked well that I am a lesbian".*

The phone calls went on and on for weeks. Fana found out that some of the religious leaders who attended the workshop had taken her phone number from the registration list and distributed it around the community encouraging men to harass her. *"The situation is very bad. The imams are attacking us in the prayers and invite people to hate us. They attend all these NGO meetings and workshops, where they say what the NGO wants to hear, but after the meeting is over, they don't change their behaviour. The situation is getting worse, especially for the lesbian Muslim girls in my community".*

6.7. THE RIGHT TO FREEDOM FROM TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

"Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity (Yogyakarta principle 10, 2006)".

"Once you are outed and people know about your sexuality… you can forget about life as you knew it before. Instantly, you become a second class human". This is how Lester Ndereman, 21, described his life after people finding out that he is gay. *"My whole community treat me as an outcast. When I walk down the street, they call me satanic, and threaten me with destroying my house and hitting me. This continuous threats and the verbal abuse make me feel so useless. I used to be a very active member of my community, but now I barely find strength to wake up from bed in the mornings. I am demotivated and depressed. I don't think that life is worth living this way".*

As Lester underlined, that continued psychological abuse leads LGBT members into a life of depression and fear. Psychological abuse comes in many instances paired with physical violence or sexual abuse. Fraction Nandolo, 21, explained that rape is a common abuse amongst the LGBT. *"Sexual abuse happens in many different places. I know friends who were raped by their own uncles or by their teachers in boarding schools. One of most common cases of rape happens between gay couples. Let's say that I have a boyfriend, and certain day he is in the mood but I don't feel like having sex. Even if I say no, he can rape me. He can force himself and penetrate me against my will. I can't complain or report it. If the police or the doctors find out that I was raped in the ass, they will blame me for engaging in 'gaysm' and they can even arrest me".*

Lesbian women also expressed their concerns about rape and they link the high incidents of rate to a cultural tradition called "corrective rape". Asante Chaweza, 25, explained her case: *"Corrective rape is a common practice amongst our communities. People think that lesbianism is a sickness that can be cured. The way they use for 'curing' lesbians is cruel. Your family will choose a man in your proximity, it can even be your uncle or another relative, and they will offer you to that man to cure you. The man has full rights to rape you and you can't do anything about it. Many men still think that we are lesbians because we haven't found a man who can make us feel good. I was raped by a close relative. He told me, 'come here and open your legs, you are sick and need to know what a real man taste like'. He raped me to fix me – instead I became pregnant and I'm still a lesbian".*

Another form of violence personifies in the form of forced marriages. This affects almost all of the LGBT community. Gibo Zimba, 20, pointed out that *"most LBGT men and women are, by culture, forced to marry and have kids. Your parents expect to become grandparents. If you don't show signs of wanting to marry someone from the opposite sex, they will go as far as arranging a marriage for you. They will bring someone from the village for you, without your consent and force you to marry someone you don't love. If you look around this room, most of the LGBT people you see in this meeting are young people. This is because as we grow up and reach the age of 25, society forces us to marry. Adult gays and lesbians are very difficult to locate, they are all married and having a normal life".*

Torture, corporal punishment and physical attack are the most visible human right violations that the LGBT go through in Malawi. A few participants shared their stories. Idi Kamanga, 18, was beaten up in the street: *"My town is extremely homophobic. Gay people are beaten on a regular basis. Me and two of my friends were beaten up badly at day light, without an apparent reason. As they were beating us, they were insulting us, telling us that gays are evil and deserve to die. This happen during day light, in front of many people, and the community, instead of helping us, joined in – some with sticks, some kicking us with their feet, some insulting us".*

Owen Mtawanga, 21, complained that *"the community is always ready to talk in public about you and to spread malicious comments and rumours. Those who hate us, enjoy disclosing our status, to make us feel threatened and worthless".* But they go beyond threats, as Owen explained. *"Some of us are beaten up and whipped by community members, sprayed in the eyes by pepper spray or even stoned. My own room was broken into and my properties destroyed. The community won't defend us if they see these attacks. Instead, they will join and partake in the assaults".*

Atupele Chirino, 24, is a male to female transsexual woman. She was forcibly undressed by people who wanted to see if she was a man or a woman. *"I was beaten up by community members. Then they took all my clothes off and took pictures of me naked. They shared these pictures of me on WhatsApp to prove that I was a man and not a woman and that I shouldn't behave or dress like a woman. CEDEP helped me to report this case and the police arrested these guys, but the police never tackled the motive of the incident. Still up to today, I am assaulted by people every day. I can't go to the police again. They are ignorant people and they don't know that LGBT community has rights".*

"I am a lesbian and I was discovered with a woman in bed", explains Sarah Ntonga, 22. *"The husband of the woman beat me up. Then he took me to his house and hit my knees with a metal bar. He wanted to break my knees. I was devastated and in extreme pain. The sex I was having with this lady had been consensual, and she liked me a lot. I was too scared to do anything but I contacted CEDEP and they encouraged me to contact the police. I also went to the hospital to report. My eye had been hit and it was blue. Upon seeing the nurse, she discriminated me because of my clothes. She said that I should be wearing a dress and not look like a man. I told her that I would dress the way I liked. She refused to treat me. I came back the next day and the very same nurse was there. She again commented on my clothes and said I was dressed indecently. The police arrested the man but I didn't want to go to court because if I did, the media would be involved and I would have been outed as a lesbian".*

7. RECOMMENDATIONS

The stories shared in this study are not a tale. Sadly, they are true sketches from the lives of the LGBT community in Malawi. Their contributions not only portrait the deplorable abuses committed against their persons, but also offer an insight into some of the most urgent needs of this minority group. With this in mind, the following section of this research study looks into the pleas made by the LGBT and offer some practical recommendations for NGOs, CBOs, human right activists or any other person or organisation engaging in developmental work addressing LGBT issues in Malawi.

7.1. HEALTH

The FGDs showed that there is a strong correlation between disclosure of sexual orientation and the quality of the health service received. Those who disclosed their sexual orientation or were suspected of practicing anal sex, experienced higher level of discrimination from the health providers and found stronger barriers to access health care.

The high levels of discrimination led to fewer people willing to visit health clinics, which as a result translated into more sick people suffering from STIs and HIV in silence. Numerous testimonies highlighted that HIV testing is not a common practice amongst the LGBT. Some participants were aware of their HIV status, whereas most of them explained that they had never taken an HIV test. HIV testing, along with counselling and free access to antiretroviral drugs are the first steps toward a society with zero new infections.

Some recommendations drawn from the study are these:

- **To ensure constant availability of and accessibility to free appropriate condoms and lubricants:** It is important these commodities are accessible at all times. Using condoms once will not protect people in the future. Condoms must be accessible every time people need them, for every sexual encounter. Condoms and lubricants should be appropriate. In the case of condoms, they must be made of reliable material, should not be expired and should feel comfortable to wear (this includes providing a range of condom sizes). Appropriate lubricants, such as water-based lubricants should be provided alongside condoms. The use of lubricants reduces the likelihood of condom breakage and diminishes the possibility of bleeding inside the rectum, which poses a higher risk of HIV transmission.

- **To provide information sessions on SRH to the LGBT:** Condom and lubricant availability is the starting point of achieving healthier sexual life, but the final aim is to increase the correct and consistent use of condoms and lubricants during each sexual encounter. In order to achieve such objective it is key that the LGBT receives the correct and up to date information about their own sexual and reproductive health. These cover not only correct condom usage, but a wide range of topics such as HIV and STI prevention, safe sexual practices, sexual health rights and psychosocial support. Information sessions are key to ensure the LGBT is equipped to make the right informed decisions about their sexual lives and will ensure they understand themselves better in terms of their sexual orientation and gender identity.

- **To train and sensitise health personnel on LGBT issues:** The study pointed at the existing knowledge gap amongst health service providers in regards to the LGBT. It seems that the syllabus taught at universities and other bodies preparing health personnel, does not cover specific areas concerning SRH for the LGBT. Some key points (but not the only ones) that the training should cover are: understanding of human rights, ethical behaviour of the health personnel, respecting privacy of patients, notions of gender identity, familiarisation with the types of sexual practices amongst the LGBT, treatment of STIs amongst men who have sex with men and HIV counselling. Ideally, the aim would be to advocate and include these topics into the educational system for health providers in Malawi. Since this process can take a while, other means of training may be considered. There is a need to train as many health service providers as possible. The more aware they are, the higher the chances of the LGBT finding a less hostile service at the hospitals and accessing the right health care.

- **To establish drop-in health centres with LGBT friendly services:** Establish drop-in centres, which are known to the LGBT community for providing friendly and confidential health care services – including HIV/STI testing and management, and free access to condoms and lubricants. Ideally, the centre would also count with professionals able to provide psychosocial support and counselling.

- **To create appropriate and tailored information, education and communication (IEC) material:** The study shows that traditional IEC material used for civic education as well as specialised training on SRH portrait the heterosexual relationship as the only and "normal" path. HIV campaigns have often focused on the penis-vagina intercourse as means of viral infection, neglecting other and more dangerous possibilities such as anal sex. Specific IEC material should be designed and distributed amongst the main stakeholders and the LGBT in order to increase access to correct and appropriate information in regards to SRH issues, and to health care.

7.2. HOUSING

The recommendation made by this study was drawn from the conversations with the participants around this issue. It does not mean that this approach will work in every situation:

- **To strengthen victims of homelessness' support networks and secure housing accommodation:** The general feeling from the FGD was that, in order to help those who have been disowned and made homeless, there should be an organisation specialised in supporting homeless LGBT people. This organisation would provide a temporary rescue house for those in the streets. Once in the rescue home, the organisation and the homeless person would work together to strengthen and re-establish links with extended family members or friends of the victims with views of finding new and stable accommodation for the victim.

It is worth noting that the structure of most Malawian families is different to the Western families. Whereas Western families tend to be nuclear, African families are usually extended. This means that the understanding of the concept of "family" is not limited to the household were the person was born. It extends beyond blood ties resulting in people having "brothers", "mothers" or "uncles" in multiple households. There are advantages and disadvantages to the extended family system. The main advantage, according to the participants, is that *"there is a certain feeling of responsibility and duty of care for all your family members"* which means that *"with some time, it would be possible to find someone within your extended family who might be able to save you from the streets*". The problem of homelessness, however, is a complex one and there is not an easy solution for it. Limitations and barriers to the "recue house" approach were also raised during the FGDs. The main concern was how to ensure that the rescue house was not identified as the "gay" house in town. If the community found out that some LGBT people were staying there, the house could easily become the target of violent attacks.

7.3. LIVELIHOODS

Poor education, limited access to technical training and lack of starting capital were highlighted as some of the main barriers keeping the LGBT isolated and in poverty. The study recommends:

- **To strengthen access to education:** Educational interventions should work with government Institutions, schools and teachers to decrease discrimination aimed at the LGBT as well as school-related gender based violence (SRGBV). Youth groups and after school class groups should also be targeted with informal education sessions covering SRH topics including gender identity, sexual orientation, discrimination and bullying.

- **To facilitate access to technical skills:** The majority of the participants claimed that they did not finish secondary education. Some could not afford the school fees and some were forced to drop out due to the discrimination coming from teachers and students. Without formal education, the LGBT finds it difficult to prosper or seek employment. The study suggests that future interventions should focus on creating a safe space where the LGBT can come to learn a technical skill, which could be put into practice in the future in order to generate jobs and a reliable source of income. Some of the skills mentioned at the FGDs were: gardening, welding, building, carpentry, mechanic, tailoring, farming and hairdressing.

- **To trial business start-up projects for the LGBT**: This recommendation is closely linked to the interventions capacitating the LGBT with technical skills. The study found the need for development interventions such as low-interest loan systems or micro-credits, which could have the potential to financially support those people who have the skills to start a business. Microcredits and new businesses should be closely monitored and the entrepreneurs should be linked with skilled mentors who would be able follow up, advice and provide specific business skills, which might support the long-term success of the project.

7.4. SOCIAL

Malawi's homophobic culture lives on supported by almost all layers of its society, and a long-term holistic approach to transforming social thinking around the LGBT is urgently needed. The shape of this approach is flexible but might include working hand in hand with organisations that are currently fighting this cause as well as engaging and lobbying the government for the recognition of LGBT rights and for the reform of the penal code. Specifically targeted medium and long-term interventions to support the LGBT in coping with their daily struggles must also take place.

The study concludes that there is a great need for civic education around LGBT issues. Despite greater access to technologies and the internet, there seems to be a huge knowledge gap in regards to SRH, gender issues and the LGBT amongst the general population. The adult literacy rate in Malawi is only 62.14%, which makes it difficult for people (especially in the rural areas) to access and read reliable and accurate information around these matters. According to the findings, some people's judgment and discrimination comes from a place of ignorance and having absolutely no information about what being LGBT means. Therefore, some key recommendations are:

- **To engage key groups in community conversations:** key influential community members should be included in ongoing conversations about human rights, discrimination, gender identity and sexual orientation. By community conversations, research means, informal gatherings where people are provided with some knowledge input covering a particular topic and all the participants are allowed to express their opinion around the issue freely. Conversations should be led by community members working for local CBOs, NGOs or any other respectable body with knowledge about the thematic areas and willing to stand for the rights of the LGBT. Key groups to target include, but are not limited to, traditional leaders, religious leaders, influential women, youth leaders, local government and the local police officers.

  Despite civic education being identified as one of the greatest needs to tackle Malawi's deep-rooted homophobia, the research study is aware of the challenges and the dangers involved in approaching communities to talk about these topics. Community conversations around LGBT would not be easy tasks to handle. People leading community conversations might be putting their safety at risk and face discrimination themselves.

- **To train journalist on LGBT issues, human rights and positive reporting:** NGOs, CBOs and human right activist should engage journalists from the main media outlets including The Nation Newspaper, The Times Group, Ufulu Radio Station and Zodiak Radio Station amongst others. These journalists should be trained on issues of human rights, gender identity, the current legal framework for the LGBT and the negative effects of criminalising same-sex relationships. Journalist should also be equipped with up to date research material, and useful web links which would allow them to access accurate data about the LGBT in Malawi and globally. This can translate into better-informed and well-argued articles supporting this minority

group. The research found that there is a need for positive reporting around the LGBT community in Malawi. Most of the time the LGBT gets media coverage, it is because of the ongoing arrests or because some segments of the population decided to write an article to attack the community. The media is a mirror of the public opinion, but it also has the potential to shape public opinion by offering new ideas, which feed the national debate. An increase in the number of positive pieces published in the media might have the long-term potential of opening people's minds and slowly fighting the generalised homophobic attitude that currently pervades Malawi's society.

- **To establish support network groups for the LGBT:** the research study found that isolation is a common feeling amongst the LGBT. Many spend most of their time by themselves, excluded from community life, their families, schools and friendship circles. The participants stressed that constant isolation made them feel depressed, with low self-esteem, anxious and stressed. The study recommends NGOs and CBOs to establish support networks for the LGBT, which would allow them to meet other peers, initiate new friendships and share common hopes and fears. NGOs and CBOs should aim at providing safe spaces where the LGBT community can come together to socialise, relax, exercise and access the internet.

7.5. LEGAL

The findings pointed at the current legal framework as being the main structural factor allowing and fuelling human right violations against LGBT in Malawi. It is imperative that the Government decriminalises same sex-relationships in order to achieve long-lasting changes and protect the rights of the LGBT. Scrapping the colonial law is not enough though. Law enforcers and the judiciary must be aware of current legal moratorium as well as trained on issues of human rights in regards to the LGBT. This is to ensure that the LGBT, as any other citizen of Malawi, has access to justice and is treated fairly in court, regardless of gender identity or sexual orientation. Therefore, some recommendations are:

- **To lobby for the decriminalisation of same-sex relationships:** NGOs, CBOs and human right activists must continue to engage the Government in a joint effort to scrap the sodomy laws urgently. The obvious contradiction between the Constitution of Malawi and the sections 153 (a), 154, 156 and 137 (a) of the penal code should be used as an argument for the nullification of the outdated laws.

- **To train the judiciary and strengthen the complaints mechanisms:** The topics of the training should at least cover the basis of human rights, work ethics, general understanding of LGBT issues (including gender identity and sexual orientation), the legal moratorium in place and the contradictions between the Constitution and the penal code. Long-term interventions should aim at introducing this content as part of the syllabus covered by the judiciary at law universities. Interventions should also strengthen the avenues through which the LGBT can report abuses inflicted to them by the judiciary, especially when the court overlooks serious cases of blackmailing, extortion or rape.

- **To capacitate police officers:** The police force needs to be trained on LGBT issues and the current legal context. The police across Malawi needs to understand that two adults of the same sex who consensually decide to engage in a relationship are not committing a crime. Most importantly, they need to respect the fact that under the current moratorium, the police has no rights to arrest people merely based on their gender identity, sexual orientation or appearance. In the long term, it's key that the police's mentality shifts from seeing themselves as the punishers to considering themselves as the protectors. Interventions educating the police and placing work ethic and human rights at the heart of their work are key to reach the point where LGBT people are seen solely as humans and not as inferior human beings in need of punishment.

8. CONCLUSIONS

This exploratory research study identified some of the most prominent human right violations perpetrated against the LGBT in Malawi. The study first looked into the nature of Human Rights and the principle of universality, claiming the obvious truth that LGBT community is entitled to the full enjoyment of all human rights. The paper explored the meaning of homophobia in Malawi – it argued its link to British colonialism and looked at how the legal, political and religious context has helped its perpetuation throughout the years and up to the present days. Later, the paper presented the social context in which the study took place. It paid attention to key moments influencing the public opinion in regards to the LGBT as well as the legal environment and the impact of HIV in shaping the Government health policies.

A total of 212 participants took part in 23 focus group discussions held across ten districts. The stories gathered the views, challenges and needs of the participants from a personal point of view. The data gathered was shared as short testimonies in this paper. The study found that human right violations occurred across the 10 districts and affected all participants. Criminalisation of same sex relationships allowed abuse of power from the police, automatically placing any LGBT person in a position of discrimination, fear and oppression. The findings discovered human right violations when the LGBT tried to access health care, housing, jobs, religion or the justice system. Social exclusion and isolation were remarkably high amongst the LGBT community and were linked to the feelings of worthlessness and low self-esteem. After the findings were exposed, the study offered a series of practical recommendations for future programmatic interventions.

It is safe to conclude that the Malawian Government is failing to guarantee and protect the human rights of all its citizens (including the LGBT). Criminalisation of same-sex relationships is the most explicit stand in the Government's will to keep violating the dignity and freedom of the LGBT. The majority of the population fear and isolate the LGBT. Most Malawian possess very limited knowledge about gender identity and sexual orientation, which seems to encourage discriminatory and homophobic behaviours. The media and some religious institutions add to the mix by fuelling hatred and strong prejudice against the LGBT. This oppressive atmosphere is a fertile field where attacks against the LGBT seem to be increasing across the country.

Strong and effective civic education strategies are needed to increase people's knowledge about human rights and what it means to be an LGBT person. The interventions should aim at educating all layers of society with the hope of spreading tolerance and creating a more inclusive environment. Advocacy work must continue at all levels to maintain visibility of the LGBT - including LGBT rights, the hardships and violations they go through as well as their successes and contributions to society. NGOs, CBOs and human right activists ought to continue lobbying the Government for the decriminalisation of same-sex relationships.

The research study admits that there are still some limitations to the work that can be done around the LGBT in Malawi. The legal framework is oppressive which forces organisations to carry out some of the work in the outskirts of towns or clandestinely. Planning and implementing interventions can become dangerous. Even when interventions are implemented, they might count with the support of very few people and bring negative repercussions on team leading the activities, i.e., CEO, project managers, staff members or activists. Funding from donors is still limited when it comes to these type of projects, although this seems to be slowly changing. For instance, availability of funding is growing in the field of HIV prevention amongst key populations such as MSM and WSW, due to the high prevalence of new HIV infections amongst these minority groups.

Further research should focus on pointing out additional human right violations that were not covered by the scope of this paper. It is also worth noting that despite the large number of people interviewed, this study found difficult to identify enough female, transgender and intersex participants. Currently, there is very limited information about lesbians, WSW or female transgender people in Malawi. Additional research studies should explore these specific sections of the LGBT separately.

On a personal note, undertaking this study has been both challenging and rewarding. On the down side, it has showed me some despicable features of humanity. I encountered structures that were meant to defend citizens and were instead used to oppress, torture and punish innocent people. I was faced with belief systems that were supposed to spread love and set people free, but were instead used to instil hatred and judge others in the name of God. I found a political machinery perfectly designed to serve everyone, but which instead decided to ignore the Constitution and the rights of the LGBT community. I experienced an outdated and biased legal set up that instead of seeking justice, wasted its time feeding unfairness and rewarding perpetrators.

But not all is bad news. The bright side of this experience, allowed me to meet strong and driven individuals who manage to be bright and keep a smile on their faces despite the oppressing world they live in. It showed me that there is already a lot of valuable work being done by brave people and organisations who believe that love should never be criminalised. Thank you all of you for your hard work for it has inspired me, given me strength to keep fighting for this cause. Finally, to all LGBT in Malawi, to the ones I met during the study, the ones I might meet in the future and those who I will never have the pleasure to meet, I want to tell you one thing: the journey is not over yet – in fact, the journey has just begun. Change is on its way.

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ANNEXE 1: GLOSSARY

What follows is a glossary explaining some of the common terms used in the field of sexual diversity and gender studies. It also coincides with how this study understands these terms what the research means when using them. The glossary draws its definitions from a variety of handbooks created by Southern Africa HIV and AIDS Information Dissemination Service (SAfAIDS, 2011) and the World Health Organisation:

- **Acquired Immune Deficiency Syndrome (AIDS):** A disease in which there is a severe loss of the body's cellular immunity, greatly lowering resistance to infection and malignancy. The cause is a virus (the human immunodeficiency virus, or HIV), which is transmitted in blood and in sexual fluids.

- **Bisexual:** A sexual orientation and identity. Bisexual people have an attraction to people of the same and opposite sex on various levels (emotionally, physically, intellectually, spiritually, and sexually). Not necessarily at the same time and not necessarily an equal amount of attraction.

- **Cisgender:** Cisgender people are those whose gender identity matches their sex at birth e.g. a cisman would be a person who is born male and presents himself as masculine and a ciswoman is a person who is born female and presents herself as feminine. The Latin prefix *cis* stands for 'on the same side,' while the prefix *trans* stands for 'on the opposite side.' This has a more positive connotation than 'normal' or 'non-transgender.'

- **Coming out:** A term describing the complex process where an individual realises they are not heterosexual and the process of resolving related conflicts due to heteronormativity (where heterosexuality is being internalised and viewed as the norm). Coming out is a process of how one wants to be identified.

- **FTM/Trans man:** A transman, or female-to-male, starts his life with a female body, but his gender identity is male. Always use male pronouns in reference.

- **Gay:** A male - same sexual identity and orientation. Attraction between two males on various levels (emotionally, physically, intellectually, spiritually, and sexually).

- **Gender:** Socially constructed characteristics assigned that may vary according to the times and the society or group one belongs to, and which are learned or assigned to women and men. It is a broader concept than the mere biological differences between men and women, and includes masculine and feminine traits. Unequal power is afforded to males.

- **Gender-based violence (GVB):** GBV encompasses various forms of violence directed at women, because they are women, and men, because they are men, depending on the expectations of each in a given community. For LGBTI people, the violence is directed

towards them because of their challenging notions of sexuality and gender identity and presentation.

- **Gender dysphoria:** The medical diagnosis for someone who experiences a disconnection between their assigned and preferred gender. Some transgender people disagree with the categorisation of gender dysphoria as a medical condition because it relies on an understanding of what "normal" gender is.

- **Gender identity:** Refers to a person's persistent and consistent sense of being male, female or androgynous. An internalised representation of gender roles and an awareness from infancy, which is reinforced during adolescence.

- **Genderqueer:** An umbrella term for gender identities other than man and woman that are outside of the gender binary (male and female) and heteronormativity. Genderqueer people may think of themselves as both man and woman (bigender), neither man nor woman (agender), moving between genders (genderfluid), and/or third gendered.

- **Gender role:** Socially constructed or learned behaviours that condition activities, tasks, and responsibilities viewed within a given society as 'masculine' or 'feminine'.

- **Hegemonic masculinity:** This is the 'normative' ideal of masculinity to which men are supposed to aim. It is not necessarily the most prevalent, but rather the most socially endorsed. It is supported by the heteronormative model.

- **Heteronormative:** A cultural bias that assumes heterosexuality as a given instead of as one of many possibilities, eg. that all human beings are either male or female with the associated behaviour and gender roles assigned, both in sex and gender, and that sexual and romantic thoughts and relations are normal only between people of opposite sexes. All other behaviour is viewed as 'abnormal'.

- **Heterosexual / Straight:** Attraction between two people of the opposite sex on various levels (emotionally, physically, intellectually, spiritually, and sexually) where the sex of the attracted person is the key to the attraction.

- **Homophobia:** Irrational fear of homosexual feelings, thoughts, behaviours or people and an undervaluing of homosexual identities resulting in prejudice, discrimination and bias against homosexual individuals.

- **Homosexual:** Attraction between two people of the same sex on various levels (emotionally, physically, intellectually, spiritually, and sexually) where the sex of the attracted person is the key to the attraction.

- **Human rights:** The basic rights and freedoms that all people are entitled to regardless of nationality, sex, age, nationality or ethnic origin, race, religion, language, or other status. Sexual orientation and gender identity are also basic human rights.

- **HIV:** Human Immunodeficiency Virus. It is one of many sexually transmitted infections. Infection results in the progressive deterioration of the immune system, breaking down the body's ability to fend off some infections or diseases. AIDS refers to the most advanced stages of HIV infection.

- **Internalised homophobia:** When homosexual individuals believe and make it their own the shame and hatred projected onto gays and lesbians by a homophobic society.

- **Intersex:** Born with ambiguous genitalia, or sex organs that are not clearly distinguished as female or male.

- **Lesbian:** A female sexual identity and orientation which is an attraction between two females on various levels (emotionally, physically, intellectually, spiritually, and sexually).

- **MTF / Trans woman:** A transwoman, or male-to-female, starts her life with a male body but her gender identity is female. Always use female pronouns in reference.

- **MSM:** Men who have sex with men. A sexual practice irrespective of sexual orientation or gender identity. An MSM can be hetero-, bi-, homosexual or trans. This term is more technical and is not necessarily an identity.

- **Outing:** disclosing someone's sexuality without their consent.

- **Patriarchy:** A system of society or government in which the father or eldest male is head of the family and descent is traced through the male line. The wives/females are viewed as dependant. Roles assigned to men are considered superior and valued above females' roles. Patriarchy forms the basis of discrimination against minorities like LGBTI people.

- **Service providers:** Anyone who could come into contact with sexual minorities accessing services for prevention, treatment and care. This includes nurses, doctors, counsellors providing voluntary counselling and testing (VCT) and HIV counselling and testing (HCT) or supportive services. It also includes the management staff responsible for designing and monitoring the services. It could also include those who provide an indirect service, e.g. secretary, with whom the LGBTI client will have contact.

- **Sex:** A biological construct of a human being. *"What's in the pants?"* Male genitals - penis, testes, testosterone and genetic make-up and females – breasts, vagina, oestrogen, progesterone and genetic make-up.

- **Sexuality**: How people experience and express themselves as sexual beings, within the concepts of biological sex, gender identity and presentation, attractions and practices.

- **Sexual orientation:** Attraction between any two people on various levels (emotionally, physically, intellectually, spiritually, and sexually). Attraction to the other person's sex and or gender presentation is the point of departure.

- **Sexual minority:** A group whose sexuality, orientation or practices differ from the majority of the surrounding society.

- **Sexual practices:** All behaviour that creates sexual pleasure, practiced by one or more than one person, individually, or together.

- **Stigma:** This is when an individual with certain characteristics, e.g. HIV positive or transwoman, is disapproved of by a community or society because of that characteristic.

- **Transgender:** An umbrella term which is often used to describe a wide range of identities and experiences including transsexuals, FTMs, MTFs, transvestites, cross-dressers, drag queens and kings, two-spirits, gender-queers, and many more.

- **Transsexual:** A transgender person in the process of seeking or undergoing some form of medical treatment to bring their body and gender identity into closer alignment. Not all transgender people undergo reassignment surgery.

- **Transitioning:** The process of changing one's gender presentation to align with one's internal sense of one's gender. For transgender people this may sometimes include sexual reassignment surgery, but not always. It could include hormonal therapy.

- **Transvestite:** An individual who dresses in the clothing of the opposite sex for a variety of reasons and who has no desire to change or modify their body.

- **WSW:** Women who have sex with women. A sexual practice irrespective of sexual orientation or gender identity. A WSW can be hetero-, bi- or homosexual. This term is more technical and is not necessarily an identity.

ANNEXE 2: FACILITATOR'S GUIDE TO FOCUS GROUP DISCUSSIONS

A. Note to the facilitator: Here is a guide of the questions that should be part of this focus group discussion. Please, make sure that all the key questions are covered in the session and that everyone has a chance to speak. Prompt questions have been suggested in case the group finds difficult to answer a certain question or, if as facilitator, you feel that you need more information about a particular topic. Remember that your role as facilitator is to remain neutral and support the discussion by guiding the participants. Never take sides and ensure that the discussion stays within the scope of the FGD. Always keep in mind that the main aims of the discussion are:

- To understand the key challenges the LGBT community face in Malawi.
- To understand what they do and where they go to seek help if something happens.
- To seek recommendations from the LGBT about what can be done to mitigate these challenges at both local and national level.

B. Introduction to the focus group discussion

"Welcome to our session. Thank you for taking time to come and talk to us. My name is [name of person] and this is [name of person] who will be assisting me during the session. Both of us are working with Centre for the development of people (CEDEP). We are here with Carlos Velazquez, who has come from Spain to do a research study to find out what is like to be part of the LGBT in Malawi. You were invited to this discussion because you identified yourself as part of the LGBT community. The purpose of us meeting today is to gather information about your life in your community as an LGBT. We are interested in hearing about the things that are going well for you and also the challenges that you are facing. We are conducting similar meetings in some other communities as well. With the information we will collect, Carlos will be able to produce a research paper, which will inform about the human right violations against the LGBT in Malawi. There are a few important things that you all need to know before we start.

As you can see, we have voice recorder and [name of person] taking notes. We would like to record the session so we don't miss any of your valuable answers. Before we can do that, we would like to ask for your consent, this is if you would allow us to record the information shared here today. My colleague [name of person] is passing a consent form to each of you. This form explains how the information provided during this session will be used by Centre for the Development of People and Carlos Velazquez. I want to reassure you that we do not aim to out anyone as part of this exercise. So even though your names were recorded in the register, the research study will never use your real name nor link your name to your home town or district. Now, I am going to read the consent form aloud to all of you and then you will have some time to ask any questions that you may have.

[FACILITATOR READS THE CONSENT FORM OUT LOUD]

If you agree with the consent form and are happy to participate in the session, then we would like you to sign it. If you prefer not to take part in the session, it is completely fine. We would kindly ask you to leave the room at this point in order to ensure the privacy of the other group members. The answers recorded will only be used for the purpose of this research study.

Now let us start the session, which will approximately last 60 minutes. I am going to ask a series of questions which relate to you and your life in your community. There are no right or wrong answers for these questions, but rather differing points of view. I encourage you all to be vocal, proactive and honest with your answers. Please, feel free to share your point of view even if it differs from what others have said. Please, respect everyone's point of view and allow everyone to express his or her views.

C. Question guide

Question type	**Question**	**Focus of the question**
Introduction	Let's start with a short round of introductions: Tell us your name and a little bit about the things you like about yourself…	Introductions
Probe question	I would like you to share with me some memories from first time you realised you were gay, lesbian, etc. **PROMPT**: When did that happen? How did it feel? What did you do? Who did you tell?	To allow people to reflect on their gender identity and sexual orientation
Follow up question 1	What are the challenges that you face in your community for being an LGBT person? **PROMPT:** Explore some areas such as accessing health care, accessing justice or protection from police, building relationships, life at home…	To explore the general context in which the LGBT community life and the general challenges they face
Key question	Personally, have you suffered any violation or discrimination for being an LGBT person? If yes, please kindly share a real example with us… **PROMPT:** Who carry out violations or discriminate against you?	To explore particular human rights violations amongst the LGBT
Follow up question 2	What do you do when you suffer a violation? **PROMPT:** How do you seek advice, support or treatment? If you never seek any support… Why is that? Why didn't you tell anyone about it? What do you do next?	To explore who the main perpetrators are and the way in which the LGBT is able to care of itself or whether they are able to report the violations…

Follow up question 3	What support does the LGBT need to improve their lives? **PROMPT:** How would you like to see your life improved in the near future?	To search for recommendations
Exit question	Is there anything else you would like to say about topics we have covered today?	Closing the FGD
Summary (optional)	Summarise the main points of the discussion and ask the participants. Is this an adequate summary? Did we miss anything?	Closing the FGD

Note to facilitators: Thank all the participants for their time and their helpful and valuable contributions**.**

ANNEXE 3. CONSENT FORM FOR FOCUS GROUP DISCUSSION – PARTICIPANT FORM

I would like to ask you to participate in a Focus Group Discussion. The entire exercise will take no longer than 60 minutes. The information you provide will be used to help Carlos Velazquez learn about your community and your life as an LGBT person.

Your personal data will be treated with utmost confidentiality. We will record your name and telephone number but we will never share them externally. We will use the information you share with us to develop research paper, which scope is to explore some of the main human rights violations against the LGBT in Malawi.

Participation in the focus group discussion is voluntary and you can choose not to participate. **No payment will be provided for your participation in this exercise.** If you choose to participate, there is no obligation to answer the questions, and you are free to refuse any question you do not wish to answer. You have the right to withdraw your agreement to participate in this Focus group Discussion at any time during the exercise.

Please, if you have understood everything and if you agree to participate in the exercise, I ask you to kindly sign the consent form.

I _____understand the entirety of consent from and agree to take part in the focus group discussion.

Signature:

Date: