



The situation of LGBTI people in Africa is in a state of crisis: Violence and a wide range of violations are faced daily by LGBTI people in every sphere of life from the household to the community, workplace, educational institutions, social, religious and spiritual spaces.

This report has been prepared as a collective effort on the part of African organisations in North, West, East, Central and Southern Africa and coalitions through three main sources: interviews, the completion of questionnaires by LGBTI human rights defenders and their organisations and documentation collected and collated since December 2011. The report highlights rights violations and proposes actions that governments and the United Nations can and should take to address these violations and to protect and fulfil the human rights of LGBTI people in Africa.

Some African states are starting to recognise these issues as human rights violations. They are starting to demonstrate a political commitment to the recognition and protection of the rights of LGBTI people and the responsibility of the state in this regard.

As we meet in Oslo, human rights defenders, activists and LGBTI people in many countries are under attack, being hunted down, harassed and arrested by police. They continue to face arbitrary arrests and detention, unfair trials, extortions and physical and sexual violence, rape and murders.

The justice system continues to show high levels of homophobia and transphobia, thus denying their right to social justice. High levels of ignorance by the police and the judiciary reinforce institutional measures that deny access to justice.

There is also widespread denial of the right to health,

the right to development and the deepening of poverty and economic inequality in the lives of LGBTI people as a result of the violations and social, political and economic exclusions that they face.

There is a need for governments to acknowledge and recognise issues of sexual orientation and gender identity as a human right. All citizens have the right to be protected all citizens, irrespective of their sexual orientation and gender identity.

Recognition of the crises and urgent measures to address these by states is required. This is long overdue.

We do recognise that many countries in Africa are showing little progress in terms of recognising and protecting the human rights of LGBTI people, some promising interventions have been emerging even in states with hostile laws, policies and practices.

These are some examples:

- Botswana, Zimbabwe, Mozambique and South Africa have progressive employment acts which set standards for non-discrimination on the basis of sexual orientation;
- In Uganda the judiciary has demonstrated impartiality in hearing civil cases;
- In Zimbabwe, sexual orientation is listed as a ground for protection of the right to privacy, although it has not been used¹;
- In Rwanda, after initially considering the introduction of legislation to criminalise sexual orientation, the government after

¹ [GN493A/2003 : Access to Information and Protection of Privacy Act, 2002, amended October 2003].

consultation with society and experts decided to withdraw the legislation.

- In Malawi, arrests of people on the basis of sexual orientation and gender identity and expression has been suspended, until the Malawi Law Commission completes its review.
- The most significant and widespread progress by governments has been the inclusion of men who have sex with men in National HIV plans and consultation processes to strengthen the response and effectiveness of national HIV responses.

WE RECOMMEND THAT STATES:

- Publically denounce statements against violence, torture and other forms of violations against LGBTI people.
- Be part of an immediate global suspension of arrests and other actions against people on the grounds of sexual orientation and gender identity and expression.
- Comply with their commitments to the UN General Assembly Resolution A/RES/53/144 of 8 March 1999 and abide by the Declaration on Human Rights Defenders',² which enables all those who defend human rights, including LGBTI people, women human rights defenders and those who work on sexuality and gender to do their work unhindered. The Declaration promotes the rights to freedom of expression, assembly and association. It urges states to end arrest of and attacks on human rights defenders while doing their work; enables human rights defenders to register their organisations with formal state institutions whose responsibility it is to approve such organising. Governments must take action to be in compliance with these provisions.

² <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

- Develop coherent policies and practices that integrate sexual orientation and gender identity thus ensuring that LGBTI persons have access to informed and sensitive health care, education, safety and security.
- Should create the conditions for ongoing national dialogue and debate on sexuality, reproductive and sexual rights, including sexual orientation and gender identity and expression in partnership with human rights defenders.
- Take measures to address social, political and economic exclusion of LGBTI person.
- Decriminalise same sex relations, gender identity and expression. Stop legislative initiatives aimed at criminalising and morally encoding sexualities between consenting adults.

WE RECOMMEND THAT THE UNITED NATIONS:

- Ensure that the substance and recommendations of the Report of the Office of the High Commissioner on Human Rights on Sexual Orientation and Gender Identity (Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, Ref NO: A/HRC/19/41, 17 November 2011) and are systematically addressed , implemented and monitored;
- Mandate a joint report on the situation of persons with diverse sexual orientation and gender identity worldwide by a group of Special Rapporteurs on; rights to health, right to development, on torture, violence against women and others, to cooperate in this study.
- Be inclusive of all voices in the dialogues and consultations, on traditional and religious values and ensure that it is in line with human rights standards.
- Human Rights Council should mandate the Office of High Commissioner on Human Rights to convene, within existing resources,

in cooperation with other relevant entities of the United Nations system, an expert workshop, to prepare concise Technical Guidance that address the very high levels of violence and violations against persons on the grounds of sexual orientation and gender identity;

- Sustain the application of the indivisibility and universality of human rights through, amongst others, the high level of political commitment to address issues related to sexual orientation and gender identity flowing from the Resolution A/RES/67/168 adopted on 15 March by the General Assembly on Extrajudicial, Summary or Arbitrary Executions.
- Treaty Bodies should integrate sexual orientation and gender identity in their monitoring of the implementation of human rights treaties;
- All Agencies in particular, UNAIDS, UNDP and UN Women must fulfil their mandate by being inclusive of LGBTI persons in all programming and at all levels of public participation. Ensure that meaningful participation is measured in policy and institutional indicators.

- WHO should publish the findings on the negative health impacts of criminalisation of sexuality and sex between consenting adults, completed in 2012 by the Department of Reproductive Health and Research.
- WHO should urgently provide policy guidelines that are rights based on the rights of children born as Intersex by recognising Intersex as a gender affirming identity. Intersex persons, have the right to consent and make decisions on their identity. Any other practice must be regarded as a human rights violation and not permitted in the medical health practitioners guidelines.
- WHO should urgently address in policy and practice the barriers that prevent full access to comprehensive health services for transgender persons.
- WHO should recognise and address psychosocial and physical health challenges faced by lesbian women

People in same sex relations and people who are gender non-conforming, including transgender and transdiverse people, live in fear of and face the daily lived realities of violence, including rape and physical violence, torture, murder, stigma and discrimination perpetrated by both state and non-state actors. This crisis must end.