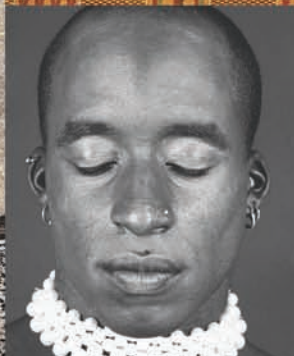


Off the Map

**HOW HIV/AIDS PROGRAMMING
IS FAILING
SAME-SEX PRACTICING PEOPLE
IN AFRICA**



**A PUBLICATION OF THE
International Gay and Lesbian Human Rights Commission
(IGLHRC)**

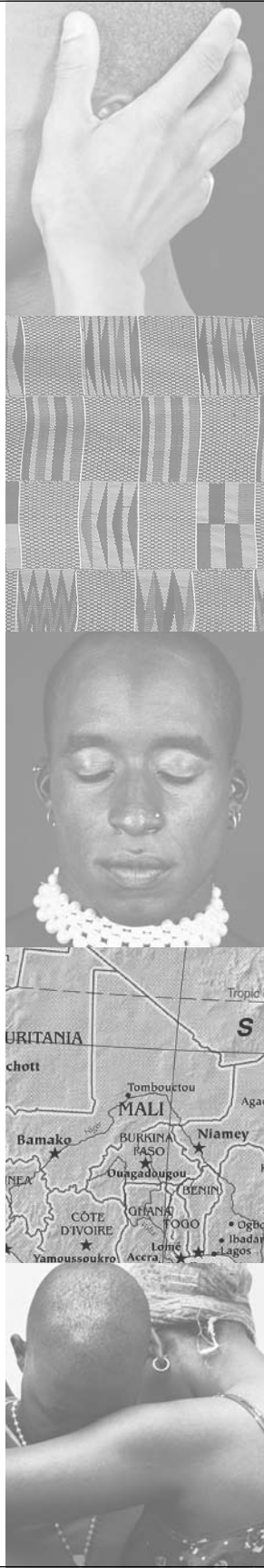
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IN AFRICA**

**WRITTEN AND RESEARCHED BY
Cary Alan Johnson**

**WITH A PREFACE BY
Edwin Cameron**

**A PUBLICATION OF THE
International Gay and Lesbian Human Rights Commission (IGLHRC)**



INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION

The mission of the International Gay and Lesbian Human Rights Commission (IGLHRC) is to secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status. A U.S.-based non-profit, non-governmental organization (NGO), IGLHRC effects this mission through advocacy, documentation, coalition building, public education, and technical assistance.

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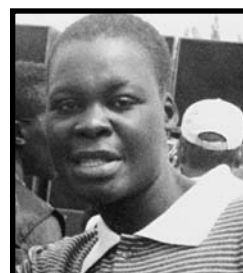
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Dedication

Alim Mongoche was a clothing designer and tailor. He was one of 11 men who were arrested under Article 347 of the Cameroonian penal code, which punishes consensual same-sex conduct. Alim spent more than one year in Kondengui Prison in Yaoundé, Cameroon, where conditions are harsh and HIV-related medical treatment non-existent. Alim died from AIDS-related complications on June 29, 2006, at age 30, ten days after his release from prison. Alim's last days were spent in the loving arms of his friends and supporters.



Poliyana Mangwiro was one of Zimbabwe's most prominent activists in the struggle for LGBT rights and was an early member of Gays and Lesbians of Zimbabwe (GALZ). She was at the GALZ stand at the 1996 Zimbabwe International Book Fair when it was the target of government attack. As a result of her LGBT activism, Poliyana was forced to flee from her home in the small town of Marondera. When diagnosed HIV positive in 2000, Poliyana spoke out against the double discriminations of homosexual preference and HIV status. She died in 2000 of AIDS, cared for to the end by her long-time partner.



This report is dedicated to Alim, Poliyana, and all the other African same-sex practicing men and women who have lost their lives to HIV/AIDS due to silence, inaction, and ignorance.

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Preface

A*cross Africa, for too many aching years, there has been an immense silence* about African men and women who yearn for, desire, love and embrace same-sex partners. The silence denied truth, for throughout history same-sex practice has been as prevalent here as anywhere else in the world. The silence wrought injustice, for it was born from repression and fear, and from disrespect for the humanity of those who yearned, desired, loved and embraced. Worst, the silence has exacted a terrible toll in lives. As our continent has faced a deathly epidemic of sex-borne disease, the silence has cost lives, for the muteness about same-sex practice has extended, devastatingly, to a muteness about prevention, care and treatment.

Across Africa, that silence is now being broken. Brave men and women in Cameroon, Senegal, Namibia, Kenya, Uganda and elsewhere are growing clamant in their demand for truth and justice and dignity. And this urgent, eloquent, expressive report by the International Gay and Lesbian Human Rights Commission (IGLHRC) shows us all—in government and outside government, in Africa and beyond—how much better we can all be doing—how much better we must all be doing—to end the silence, and to save lives.

For it is an appalling rebuke to the design and execution of HIV prevention programs throughout Africa, that, despite the prevalence of homosexuality, same-sex transmission of HIV has remained stubbornly outside their focus. Same-

sex practising people have remained an ignored and desperately underserved community across North, Saharan, West, Central, East and Southern Africa.

IGLHRC has advocated lesbian, gay, bisexual and transgender equality for over 15 years. On tight budgets, with limited resources, its over-stretched personnel have fought for dignity and rights. In this report, *Off the Map*, IGLHRC turns its illuminating spotlight onto sexuality-related HIV discrimination in Africa. This report is the first of its kind. This sobering fact underscores its importance.

Exploring the complex, intriguing and important connections between sexual orientation and HIV is a long-overdue necessity for our continent. Bereft of the privileges of employment, education, adequate shelter and medical care, many young gay and lesbian Africans are defenceless against HIV/AIDS. Repressive government policies, sodomy laws that legitimise and encourage social discrimination, and unequal access to medical treatment, in effect sentence many of them to death.

International donors too often greet this unacceptable situation with equivalent muteness; even some human rights defenders still exclude sexual rights from human rights.

The silence about sexuality-related HIV/AIDS status must end. To deal effectively with the AIDS epidemic we must be informed, alert and truthful in our analyses and responses. This compelling report provides us with the means to make ourselves all these things.

IGLHRC links the impact of human rights violations against lesbian, gay, bisexual and transgender (LGBT) Africans to increased situations of vulnerability in which we find ourselves. Stigma surrounding HIV status remains. Homophobia is intense and pervasive. These attitudes only exacerbate the special vulnerability of the gay community—and they fuel the epidemic.

The IGLHRC report intends to spark a dialogue and, hopefully, to signal the end of the pervasive silence about African homosexuality and HIV/AIDS. Once we talk about these issues, we can normalise them. And the sooner AIDS and homosexuality can be talked about in African homes, workplaces, schools, community forums and halls of government, the more lives we can save and the more suffering we can alleviate.

This report exposes and analyses the unacceptable climate of silence that confronts men who have sex with men and women who have sex with women in the epidemic. By focusing on the effects of discrimination, the report demonstrates that access to prevention, care and treatment must be equal for all. The ravages of AIDS fall hardest on those most marginalized in our societies: women, the poor, LGBTs. We must insist that access to HIV prevention, treatment, and care do not follow discrimination's path.

In my own country, South Africa, a momentous debate is taking place about the meaning of the clause in our Constitution that expressly guarantees freedom from unfair discrimination on the ground of sexual orientation. The focus is whether the laws of marriage should be extended equally to all LGBT South Africans. That debate has its incipient echoes across the rest of the continent, where new voices, strong voices, unsilenceable voices, are claiming dignity and justice for all LGBT Africans. Their call has particular urgency, particular intensity, amidst the avoidable death and suffering that AIDS has brought. This bold, truth-telling report gives us the hope and direction and the practical means to engage in that struggle.

—Edwin Cameron

Supreme Court of Appeal of South Africa

Introduction and Background

INVISIBLE LIVES

W*ith slightly more than ten percent of the world's population, Africa* is home to 60 percent of those living with HIV (Human Immuno-deficiency Virus)—more than 25 million people. AIDS (Acquired Immune Deficiency Syndrome) has claimed more than 15 million African lives. While national seroprevalence rates vary significantly—from less than one percent of the adult population in some African countries to nearly 25 percent in others—the epidemic has changed the social, economic, and political landscapes of the entire continent.

Throughout Africa, HIV is having a decidedly grave effect on same-sex practicing people. Lesbian, Gay, Bisexual and Transgender (LGBT) communities are being decimated with a speed and breadth reminiscent of the impact of the epidemic on gay men in New York, San Francisco, and other North American and European cities in the 1980s. According to Carlos Idibouo, director of Arc-en-Ciel, an AIDS Service Organization serving gay men in Côte d'Ivoire, "So many of our friends were dying of this disease...we were attending funerals every week."

But nearly a quarter of a century into the epidemic, there remains a wall of silence that surrounds AIDS and same-sex practices in Africa. While far too little research has been conducted on the role of same-sex HIV transmission in Africa, studies in Senegal, Ghana, and Kenya indicate HIV seroprevalence

rates significantly higher among men who have sex with men than in the general population. Though African lesbians have lower HIV seroprevalence rates than heterosexual women, same-sex practicing South African women self-report HIV seroprevalence between nine and fifteen percent, substantially higher than one might expect. The vulnerability of same-sex practicing men and women is not due to any biological predisposition, but is the result of an interlocking set of human rights violations and social inequalities that heighten HIV risk. Anti-gay discrimination is fueling the African HIV/AIDS epidemic.

Despite increasing evidence of the need for HIV-related interventions for same-sex practicing people, there are scarcely more than a handful of formal HIV prevention, testing, treatment, or care programs targeting men who have sex with men in Africa and even fewer for same-sex practicing women. According to Peter Piot, Director of the Joint United Nations Programme on HIV/AIDS (UNAIDS), "Intervention is still very low...for many critical populations in many countries."¹ Same-sex practicing Africans are one of these populations. Without immediate attention to this human rights and public health crisis, efforts to effectively combat the AIDS epidemic in Africa may be seriously challenged. According to Dr. Dela Attipoe of the Ghana National AIDS/HIV/STI Control Programme, lack of attention to same-sex practicing men in Ghana could "reverse any gain made in the fight against HIV/AIDS."²

Globally, fewer than one in 20 men who have sex with men have access to the HIV prevention and care services they need.³ UNAIDS estimates Africa will need US\$353 million for HIV prevention activities for men who have sex with men for 2006-2008.⁴ Based on the research conducted for this report, however, the total amount of funding currently committed will be less than US\$2 million. Unless there is a dramatic increase in resources, less than one percent of the needs of African same-sex practicing men will be met. Virtually no funding is available for HIV prevention programs for same-sex practicing women.

HIV prevention interventions for men who have sex with men are being implemented in countries throughout Latin America, Asia, and Eastern and Central Europe, with resources from national budgets and external donors including the U.S. Specialists argue that additional resources are still needed. But

1 Associated Press, "UNAIDS Head: World Losing HIV Fight," May 30, 2006, <http://365gay.com/Newscon06/05/053006worldaids.htm>.

2 Dela Attipoe, "Fighting HIV in Ghana Requires Addressing Homosexuality," Ghana AIDS Commission, March 2004.

3 Joint United Nations Programme on HIV/AIDS (UNAIDS), "2006 Report on the Global AIDS Epidemic," UNAIDS, 2006, 110.

4 Ibid., 225.

with seroprevalence rates for men who have sex with men in Africa substantially higher than in those regions,⁵ a number of critical questions must be asked. Why are there far fewer interventions for men who have sex with men in Africa? Why is so little funding, from both domestic and international sources, being channeled into HIV/AIDS interventions for same-sex practicing men and women in Africa? Why are the sexual health needs of African women who have sex with women completely ignored by HIV policy-makers, funders, implementing agencies, and community-based organizations?

There are a number of troubling explanations for this lack of response on the part of key HIV/AIDS stakeholders:

- Homophobic stigma and denial have pushed the issue of same-sex HIV transmission in Africa firmly into the closet. The needs of African same-sex practicing people are off the map that government and civil society have drawn to guide national and regional HIV strategies. Political and cultural resistance to acknowledging African homosexualities and the resulting *invisibilization* of same-sex practicing people are contributing to widespread human rights abuses and increasing vulnerability to HIV/AIDS.
- Restrictive international reproductive health policies of the largest foreign donor of HIV/AIDS funding, the U.S., are compromising the sexual rights of all. Many of these policies further stigmatize homosexuality and promote conservative dogma over proven best practices in HIV prevention. Despite having funded a few key studies and pilot projects that focus on the HIV-related needs of men who have sex with men in Africa, the U.S. is moving far too slowly in providing resources to assist in the response to HIV/AIDS among same-sex practicing people.
- International and domestic non-governmental organizations (NGOs) have a mixed record with regard to responding to the needs of same-sex practicing people. Some have evidenced blatant homophobia in their HIV/AIDS programming, while others are hampered by their preemptive capitulation to the conservative social agendas of African governments and the restrictive funding policies of the United States.
- Most LGBT organizations in Africa have not yet developed sufficient skills and resources, or lack the political space in which to effectively advocate for access to HIV-related services and other health-related human rights at the domestic, regional, and international levels. Mainstream human rights organizations still do not recognize LGBT rights as part of their focus.

5 Ibid., "Annex 2: HIV/AIDS estimates and data, 2005."

Structure of the Report

Off the Map explores the ways in which governments, donors, and NGOs are denying a basic set of human rights protections to same-sex practicing Africans, and the potential impact of this denial on efforts to combat the AIDS epidemic. The report begins with an investigation of the simultaneous erasure and stigmatization of same-sex desire in Africa (Chapter 1). It then examines the relatively small, but important, body of knowledge regarding same-sex behavior and HIV transmission in Africa that can be used to guide national and regional HIV/AIDS policies and programming (Chapter 2). The report then explores the ways in which same-sex practicing men and women are at increased risk as a result of human rights violations that prevent access to effective HIV prevention, voluntary counseling and testing (VCT), treatment, and care (Chapter 3).

The role of African governments in addressing the impact of HIV on their same-sex practicing citizens is then considered (Chapter 4), as well as the policies and practices of the United States and other foreign donors (Chapter 5) and the impact of foreign and domestic NGOs (Chapter 6). The report then describes the response of African LGBT organizations to the epidemic (Chapter 7). Finally, the report offers a set of detailed recommendations for African governments, foreign donors, and international and domestic AIDS service organizations designed to improve the national, regional, and international response to HIV/AIDS (Chapter 8).

Methodology

Research for this report was conducted over the course of one year and makes use of face-to-face interviews with leaders of African LGBT organizations, other same-sex practicing people, international aid officials, HIV/AIDS project managers, and health care providers. Phone calls and emails were exchanged with LGBT activists and HIV practitioners in other regions of the world. The research was conducted both in the United States and during visits to nine African countries and is informed by a review of secondary sources including articles and policy documents.

All 53 member states of the African Union, as well as Morocco, are signatories to the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights. Most African states have also ratified the Optional Protocol to the ICCPR, the Convention on the Elimination of Discrimination Against Women (CEDAW), and the Convention Against Torture (CAT). These treaties and the principles contained therein form the backbone of the claims for basic human rights, freedom, and dignity made in this report.

The report attempts to compare the actions and policies of different African countries while at times making a number of necessary generalizations about same-sex practicing people, HIV/AIDS, and government response across the continent. With more than four dozen countries under discussion, each with its unique history, jurisprudence, and cultural and linguistic particularities, the result is undoubtedly flawed. Nevertheless, there are important regional trends that make discussing these issues in a general way a worthwhile endeavor.

HIV/AIDS affects men and women with some biological and social differences. While the impact of the disease on men who have sex with men may be statistically more significant, the needs of same-sex practicing women for HIV-related research and services are even more neglected. Recognizing the important political and social links that unite same-sex practicing men and women, this report attempts to explore the impact of HIV on the community as a whole.

Transgender and gender non-conforming individuals face specific discrimination that the research for this report was unable to address, but IGLHRC remains concerned about their heightened levels of HIV vulnerability. Employment, education, and housing discrimination for example, limit opportunities for transgender people and lead a disproportionate percentage of biological males who do not conform to conventional gender expression becoming involved in sex work. Non-conforming females find themselves at particular risk of violence and sexual abuse at the hands of men who justify their actions as providing punishment and “cures” for non-conforming behavior. According to Liesl Theron, director of GenderDynamix, Africa’s first transgender rights organization, “The experience of many African transgenders is a prescription for HIV risk.” Inasmuch as the lived realities of transgenders intersect with those of same-sex practicing people, the findings and recommendations of this report may be useful.

The report uses a sexual rights framework to address issues of HIV-related human rights abuses, and recognizes that the ways in which the sexual agency of same-sex practicing people is denied and controlled by governments run parallel to the disenfranchisement of others. All too often, governments ignore the voices of people in sex work, married women, people living with HIV, and anyone else whose claim to sexuality and sexual rights challenges the dominant discourse.

People in sex work and men who have sex with men, for example, have much in common. Both groups experience both legal and social discrimination as a result of their sexual behavior and identity, as well as disproportionately high HIV seroprevalence rates. Both groups, however, face broad neglect with

regard to the provision of HIV services.⁶ A sexual rights framework provides space to acknowledge the ways in which identity can unite and politicize us, as we move toward a common objective in the response to HIV—scientifically-based, sexually affirming, judgment-free policies and services that address the needs of all of Africa's citizens.

Language, Terminology, and Identity

Most African traditions have “normative ways to explain and to cope with exceptions to heterosexual, fertile marriage ideals”⁷ and ways of naming those who lived these exceptions. Some groups describe non-heteronormativity with terms that indicate a state of androgyny or *two-spiritedness* such as “obaa banyin” (Twi). Some of the terms used to describe same-sex practices have developed pejorative connotations, such as “mashoga” (Swahili) and “gordjigen” (Wolof). Today, more gender-neutral and culturally affirming terms to describe same-sex practicing people are being coined by same-sex practicing people themselves, including “kuchu,” used in East Africa and “saso,” used in Ghana.

There is often dissonance between how people view their own behavior and how it is viewed and named by others. The report uses the term “same-sex practicing” as an adjective to describe a varied set of individuals that includes those who may regard their behavior as homosexual or bisexual, and those who do not. Many African men and women who engage in same-sex practice are in heterosexual marriages or relationships. Men and women who engage in relations with those of the same-sex but are seen to be gender variant may not consider their behavior to be homosexual, since traditional gender roles have been maintained.⁸ In fact, the designation of which partner in a same-sex relationship is “gay” or “lesbian” remains, to a large extent, gendered, with the “normative” partner (the “insertive,” presumably “masculine”

6 HIV prevention interventions that target gay men and sex workers are often primarily intended to protect the health of “straight” men and sex work clients. Sex workers and gay men come to be viewed as “bridges” of disease, worthy of attention mainly for their role in “spreading” HIV, rather than as a result of their innate humanity.

7 Marc Epprecht, “Slim Disease and the Science of Silence,” unpublished paper presented to African Gender Institute, University of Cape Town (April 6, 2006), 5. See also Epprecht, *Hungochani: The History of a Dissident Sexuality in Southern Africa* (Quebec: McGill-Queens University Press, 2004); and Stephen O. Murray and Will Roscoe, eds., *Boy-Wives and Female Husbands* (New York: St. Martin's Press, 1998).

8 This phenomenon is not unique to Africa. According to the New York City Health Department, nearly ten percent of self-described heterosexual men had had sex with at least one man and no woman in the past year. <http://www.reutershealth.com/archive/2006/09/18/cline/links/20060918clin003.html>.

partner in a male-male relationship or the “passive” or “feminine” partner in a female-female relationship) maintaining “hetero/straight” status.

The use of the term *same-sex practicing* in this report also includes people who engage in same-sex relations at *particular points in their lives*, such as some prisoners, members of the military, homeless male youth, students at single sex boarding schools, boys and girls participating in certain initiation rituals, and others who find themselves in extended homosocial situations. The report refrains from abbreviating the terms “same-sex practicing” and “men who have sex with men” in an effort to avoid contributing to the creation of yet another externally infused label. (The term “MSM,” introduced in Africa by foreign-funded HIV/AIDS prevention programs, has now been adopted as a label by young urban West African men, demonstrating both the impact of HIV programs on culture and identity and the syncretistic nature of African culture.

Use of the term “same-sex practicing” is not meant to deny the strong social and political identification many Africans have with international LGBT cultures and movements. The terms “gay,” “lesbian,” and “LGBT,” which mainly originated in North America and Europe in the mid-to-late twentieth century, are embraced by some Africans and are employed in the report when those terms are used as self-identification by the individuals who are referenced. “If however,” as Rudy Gaudio points out, “‘gay’ is understood to refer to men who are conscious of themselves as men who have sex with men, and who consider themselves to be socially (if not temperamentally) distinct from men who do not have this kind of sex,”⁹ then many of the men to whom this report refers could be defined as “gay” and many of the women as “lesbian.”

Key Recommendations

IGLHRC calls upon the governments of Africa nations to:

- Repeal all laws that criminalize same-sex consensual conduct, in keeping with international human rights law. These laws contribute to HIV vulnerability for same-sex practicing people by driving them underground and supporting their marginalization. In countries that have no anti-homosexuality laws, end arrests, harassment, and persecution of people on the basis of sexual orientation.
- Prosecute physical and verbal attacks, expulsion from schools and housing, and other forms of harassment, persecution, and abuse of same-sex practicing

9 Rudolph P. Gaudio, “Male Lesbians and Other Queer Notions in Hausa,” in *Boy-Wives and Female Husbands*, ed. Murray and Roscoe, 117.

people. Extend the equality provisions of national constitutions to include sexual orientation. End impunity of law enforcement officials and private individuals for homophobic discrimination and violence.

- Build relationships with local LGBT and sexual rights organizations and provide funds for the scaling-up of successful HIV prevention, VCT, treatment, and care programs for same-sex practicing people through direct government grants and contracts. Work collaboratively with organizations that have experience implementing such programs.
- Make condoms, dental dams, and latex-compatible lubricants available in jails and prisons; offer comprehensive HIV prevention education to people who are incarcerated.

IGLHRC calls upon the United States Government to:

- Launch Requests for Applications (RFAs) in Africa specifically for HIV prevention, care, and treatment programs for men who have sex with men and women who have sex with women. Ensure that successful applicants have experience implementing similar programs, preferably in Africa, and that they partner with local LGBT organizations.
- Fund a comprehensive study of HIV transmission between women and the HIV vulnerabilities of same-sex practicing women in Africa.
- Stop the exportation of homophobia by removing restrictions on international reproductive health funding that increases stigma against sexual minorities. Rescind the Mexico City Policy (Global Gag Rule) and the requirement of the Prostitution Pledge. Modify the implementation of the ABC policy to eliminate the supremacy of abstinence-only until marriage programs. Promote comprehensive HIV risk reduction education.
- Include lubricants and dental dams as part of supplies that can be funded under PEPFAR and other U.S. funding programs; ensure that condoms are readily available for distribution by governments and NGOs without complicated warnings of their supposed ineffectiveness.
- Create a small grant fund with which African LGBT organizations can implement HIV pilot projects; provide organizational and programmatic capacity-building in the form of training and technical assistance to increase the success of these initiatives. Use these projects to gather information on the effectiveness of various techniques and strategies for decreasing HIV transmission among same-sex practicing people.

IGLHRC calls upon foreign governments, foundations and corporate donors, including the U.S., to:

- Increase funding to African government agencies, international, and local organizations ready to implement programs for same-sex practicing people in Africa. Encourage grantees implementing broad-based HIV public education campaigns to investigate the needs of same-sex practicing people and adjust their approaches to be more inclusive.
- Refrain from funding any project or organization that openly discriminates against LGBT people or preaches hate against anyone due to their membership in the social categories protected by the ICCPR.
- Fund a comprehensive study of HIV transmission between women and the HIV vulnerabilities of same-sex practicing women in Africa.

IGLHRC calls upon private voluntary organizations working against HIV/AIDS in Africa to:

- Undertake appropriate consultations with LGBT organizations and leadership in Africa and as quickly as possible in order to jointly launch HIV prevention, treatment and care programs that specifically target same-sex practicing people.
- Ensure that same-sex practicing people are not excluded from the messages contained in generalized HIV/AIDS public education programs. Promote images of individuals and their relationships that are representative of the broad spectrum of human sexuality.
- Work with country-level staff to develop policies that promote equality and respect for same-sex practicing people who access programs and services.
- Staff programs that target same-sex practicing individuals with self-identified same-sex practicing people. Make training opportunities available to help these individuals to fulfill their roles. Offer them adequate and appropriate support to withstand the homophobia they are likely to face from within and outside of the organization.

IGLHRC calls upon domestic AIDS service organizations working against HIV/AIDS in their countries to:

- Develop policies that promote equality and respect for same-sex practicing people who access programs and services.
- Ensure—through invitations, advertising, community fora, promotional materials, and other means—that same-sex practicing people are welcome participants in organizational programs and events. Reach out!

- Assist LGBT organizations in designing and managing AIDS prevention, care, and treatment programs to serve their own communities. Partner with LGBT organizations to access funding and implement HIV programming for same-sex practicing people and LGBT communities.
- Increase the availability of condoms, including female condoms. Ensure that latex-compatible lubricants and dental dams are part of standard “safer-sex kits” available to all recipients.

Chapter 1

DENIAL AND HOMOPHOBIA

“We don’t have homosexuals here”

Inattention to same-sex transmission of HIV in Africa is rooted in the denial of homosexual desire itself. Fewer topics generate more emotional debate in Africa than the issue of sexual orientation and LGBT rights. Statutes that criminalize homosexual conduct remain securely in place in more than half of the countries of Africa, bans on same-sex marriage have been introduced in five nations, and renewed claims of the unAfricanness of homosexual desire are finding new adherents. “This whole entire thing must be laid at the door of desire and its politics,” according to the University of Western Cape’s Kopano Ratele. “There are few things that messes up most heads more.”¹⁰

In a 1999 acceptance speech for an award honoring his government’s efforts to fight HIV, Ugandan President Yoweri Museveni said that male-male HIV transmission wasn’t a problem in his country because “we don’t have homosexuals in Uganda.”¹¹ The absence and/or foreign origins of homosexuality have become a frequent refrain for many African leaders, but according to Thuli Madi, director of the African LGBT organization Behind the Mask, this argument is “...a convenient cover-up for an irrational understanding of homosexu-

10 Kopano Ratele, “Perversion,” *Chimurenga* 4 (2003): 17.

11 GayToday, “Uganda’s President: We Have No Homosexuals,” 1999, <http://gaytoday.badpuppy.com/garchive/world/031902wo.htm>.

ality that fundamentally disrespects and attempts to silence gay and lesbian members of the African community.” The denial of same-sex behavior and identities by African political and cultural leadership makes life a struggle for authenticity and belonging for many same-sex attracted African people when advocacy for sexual rights is framed as an attack on African tradition and values.

A plethora of texts, research, and common sense however tell a different story about the diversity of African sexuality, locating same-sex desire, identity, and relationships in pre-colonial Africa in every region of the continent.¹² Public health specialist James Robertson posits that,

Human sexuality, at least on a basic physical level involves a small number of body parts... Human beings have these parts regardless of racial classification or geography. In the end, the physical options for sexual union are remarkably limited. Is it reasonable to imagine that the 680 million or so inhabitants of sub-Saharan Africa experiment within this already narrow range of sexual options? What is more likely: that same-sex sexuality exists in sub-Saharan Africa as elsewhere or that it doesn't?¹³

Murray and Roscoe illustrate the ways in which colonial-era writers “denied the presence of homosexuality even when they observed it.”¹⁴ This historical myopia is the result of biased research conducted by visiting European colonial scholars, supplemented by the diarizing of missionaries and territorial administrators. Europe transposed its own ambivalence about homosexuality onto an enslaved Africa that it viewed as simultaneously savage and pure. African clerics, bureaucrats, and traditional leaders, eager to gain European acceptance and Christian absolution, joined in the effort to erase the evidence of same-sex practices from their romanticized memories of “traditional” African society. Hence, it is state-inspired homophobia that is an enduring legacy of European colonialism, not same-sex behavior.

The 1980s and '90s saw increased attention to same-sex behavior and identity in Africa as women's rights movements and HIV/AIDS prevention efforts increased public discussions about sexuality and gender. Homosexuality became

12 Ruth Morgan and Saskia Wieringa, *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same-sex Practices in Africa* (Johannesburg: Jacana Media Ltd., 2005).

13 James Robertson, “The Black Swans of Africa: AIDS and Sex Between Men in Sub-Saharan Africa,” (Boston: Harvard School of Public Health, 2003): 3.

14 Murray and Roscoe, *Boy Wives and Female Husbands*, xvi.

a hot topic in the media, and self-identified gay men and lesbians became more visible, particularly in Africa's towns and cities. LGBT Africans began testing the waters of tolerance, staking out physical space in bars, nightclubs, parks, and other public and semi-public arenas, forming networks and support organizations, and making links to both regional and international LGBT movements. Half a century of intensive urbanization had created a generation of young people-city-born, imbued with a heightened sense of entitlement to personal rights and desires, and ready to publicly claim unpopular social identities.

The response has been harsh. President Mugabe of Zimbabwe's 1995 speech arguing that gays and lesbians were unnatural, subhuman and "behave worse than dogs and pigs" is probably the best-known example of hate speech by any African head of state. It provided a level of dehumanization that could only have been intended to incite stigma and violence against communities of same-sex practicing people who had begun to organize in Zimbabwe.¹⁵ Mugabe's tirades against LGBT citizens encouraged other heads of state and high-ranking officials—from Daniel Arap Moi, to Olesegun Obasanjo, to Jacob Zuma—to use their public platforms to disassociate same-sex desire from African culture, to publicly condemn homosexuality, and to incite hatred and anti-gay violence. In 1999, Uganda president Yoweri Museveni announced in a speech that he had told the Criminal Investigations Department "to look for homosexuals, lock them up and charge them."¹⁶ In March 2001, then president of Namibia, Sam Nujoma advised university students that, "The Republic of Namibia does not allow homosexuality or lesbianism here. Police are ordered to arrest you, and deport you and imprison you too."¹⁷ Official attacks on emerging LGBT movements often seem designed to shift public focus away from pervasive social problems and economic distress. Mugabe's worst public utterances coincided with the disastrously implemented government land reform program and the impact of runaway inflation rates in Zimbabwe.

Damaging as these diatribes have been, name-calling can often be dissected and discarded by an ever more discerning citizenry. Zimbabwe's citizens have not, by and large, joined in the government-inspired national homophobic discourse and Gays and Lesbians of Zimbabwe (GALZ) remains an important and respected member of Zimbabwe's civil society movement. Perhaps more

15 Chris Dunton and Mai Palmberg, *Human Rights and Homosexuality in Southern Africa* (Uppsala: Nordic African Institute, 1996).

16 GayToday, "Uganda's President: We Have No Homosexuals," 1999, <http://gaytoday.badpuppy.com/garchive/world/031902wo.htm>.

17 BBC News, "Gays 'Fearful' in Namibia," March 20, 2001.

dangerous are those remarks aimed at associating homosexuality in Africa with anti-nationalist sentiments. In a simplistic mooring of homosexuality with colonialism, Mugabe has called on Zimbabweans to do "something about Tony Blair" and to "let the Americans keep their sodomy."¹⁸ President Obasanjo of Nigeria declared in 2004 that homosexuality "is clearly un-Biblical, un-natural, and definitely un-African."¹⁹ Comments like these coming from the highest levels of political leadership seemed designed to inspire a conspicuously xenophobic and nationalistic brand of homophobia.

The inclusion of sexual orientation as a category for human rights protection in the 1994 South African Constitution and the government of Zimbabwe's attack on GALZ at the 1995 Harare International Book Fair were watershed events in the development of the African LGBT movement. The commitment of the new South African government to LGBT rights beyond the heady promises of the anti-apartheid struggle were reassuring and dramatic. However, the harsh attitudes of political leaders north of the Limpopo River made it clear that full equality for LGBT people in Africa remained a distant dream.

Conditions for same-sex practicing people in Africa vary from country to country, and are further influenced by other categories of social inequality including class, race, gender, age and rural/urban divides. Overall, the experience of most same-sex practicing people is one of pervasive prejudice and discrimination in multiple areas of their lives. They face a range of human rights abuses that include extortion; loss of employment, housing, and educational opportunities; reduced access to health care; verbal and physical attacks; arbitrary arrest and detention; and in the most extreme cases, both judicial and extra-judicial execution. Those who remain closeted are forced to lead lives characterized by secrecy and alienation from self and community.

How Many Gay People Are There in Africa?

Sexual relations between people of the same-sex occur in every culture, country, and region of the world. A review by the Department of Trade and Industry (DTI) in the U.K., based on a series of studies conducted over a 15-year period, found that just over six percent of the U.K. population identified as lesbian or gay.²⁰ Studies on sexual behavior conducted in the early 1990s

18 Dunton and Palmberg, 13.

19 Leo Ingwe, "Nigeria Clamps Down on Gays," *GHQ*, Spring 2006: 20.

20 Ben Townley, "Six Percent of U.K. Population is Gay," posted on *Gay.com* U.K., Monday, December 12, 2005.

found that 3.8 percent of men in the U.K. and 3.9 percent of men in the U.S. reported having engaged in same-sex behavior at some point in their lives, while 1.8 percent of British women and 2.8 percent of American women had engaged in same-sex behavior.²¹ The famous, albeit controversial, Kinsey reports on human sexuality found that 10% of American males surveyed were exclusively homosexual for least three years during their adult lives²² and two to six percent of females, aged 20-35, were more or less exclusively homosexual in experience/response.²³ More than one-third of the men Kinsey and his team interviewed had had at least one homosexual experience.²⁴

Statistics on the prevalence of same-sex practices in Europe and the U.S. may be helpful in providing a global understanding of the diversity of sexual identities. However, there has been insufficient research on which to base estimates of the frequency of same-sex behavior in non-Western cultures. In Africa, virtually no research has been conducted on the frequency of same-sex conduct or the number of people who claim same-sex identities. Opportunities for collecting data on homosexual behavior and attitudes toward homosexuality are consistently neglected. Behavioral Surveillance Surveys (BSS) conducted regularly throughout Africa to collect data for public health and economic development programs, for example, represent one such missed opportunity for gathering data on sexual orientation. Such research certainly presents a number of challenges. Widespread homophobic stigma may prevent respondents from acknowledging same-sex behavior. But the skills that contemporary researchers have developed with which to gather sensitive data can be brought to this topic as well.

While it may be difficult, given lack of research and homophobic stigma, to estimate the prevalence of homosexual preference in Africa today, there is no reason to believe that sexual object choice manifests with extreme differences in Africa. Human beings are more alike than they are different, and gays and lesbians are becoming increasingly visible throughout the continent in ways that suggest that they form a significant minority. One need only gain

21 Robert T. Michael, Jane Wadsworth, Joel A. Feinleib, Anne M. Johnson, Edward O. Laumann, and Kaye Wellings, "Private Sexual Behavior, Public Opinion, and Public Health Policy Related Sexually Transmitted Diseases: A U.S.-British Comparison," in *Sex, Love, and Health in America*, eds. Edward O. Laumann and Robert T. Michael (Chicago: University of Chicago Press, 2001): 439-453, 445.

22 A.C. Kinsey, W.B. Pomeroy, C.E. Martin, *Sexual Behavior in the Human Male*, (Philadelphia, PA: W.B. Saunders, 1948), 651.

23 A.C. Kinsey, W.B. Pomeroy, C.E. Martin, P.H. Gebhard, *Sexual Behavior in the Human Female*, (Philadelphia, PA: W.B. Saunders, 1953), 488.

24 Kinsey, *Sexual Behaviour in the Human Male*, 656.

entry into a gay or lesbian party in Accra, Lagos, or Johannesburg, to experience a world of young men and women embracing their sexual identities and becoming increasingly aware of the strength of their numbers. In Nigeria, for example, if even a conservative estimate of two percent of the population were predominately attracted to members of the same-sex, then there are at least three million same-sex oriented citizens in Africa's most populous country alone—a significant minority population with specific needs, priorities, and aspirations.

Discrimination and Inequality Under the Law

The right to be free from unfair discrimination is protected by the Universal Declaration of Human Rights (UDHR),²⁵ the International Covenant on Civil and Political Rights (ICCPR),²⁶ and the African Charter on Human and Peoples' Rights (ACHPR).²⁷ The ICCPR offers states guidance by listing the specific categories under which an individual deserves particular protection from discrimination: "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."²⁸ "Sex" is also identified as a category for protection in Article 2 of the African Charter. In 1994, the UN Human Rights Committee (UNHRC), which monitors compliance and adjudicates complaints brought under the ICCPR and its Optional Protocol, interpreted the right to be free from discrimination based on sex to include prohibition of discrimination based on *sexual orientation*.²⁹ While there has yet to be a similar official interpretation of the use of the term sex in the African Charter, Articles 60 and 61 of the Charter allow for the use of other international conventions and their interpretations by any complainant before

25 Articles 1, 2, and 7, Universal Declaration of Human Rights (UDHR), General Assembly Resolution 217A (III), U.N. Doc A/810 at 71 (1948).

26 Articles 2 and 26, International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

27 Article 2, African Charter on Human and Peoples' Rights (ACHPR). The ACHPR was adopted by the Organization of African Unity (OAU) in Nairobi, Kenya, in June 1981 and entered into force in October 1986. For further information on African country ratifications of AU Human rights treaties, see Appendix.

28 Article 2.1, ICCPR.

29 See Human Rights Committee, *Toonen v Australia* (Views on Communication, No. 488/1992, adopted March 31, 1994); see also Article 5(a), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), G.A. res. 34/180, U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/180, entered into force 3 September 1981; and CEDAW, *General Recommendation 19*, UN GAOR, 1992, Doc. No. A/47/38.

the African Commission.³⁰ Sexual orientation cannot be used as a justification for depriving anyone of the full range of human rights guaranteed in the various treaties.

Inequality is the root cause of many of the other human rights violations faced by same-sex practicing people. Only South Africa, and to a much lesser extent Namibia, have included protections based on sexual orientation in their legal systems. Opposition to extending the right to marry to gay and lesbians in South Africa is evidence of the divisions still operating in that country despite its progressive constitution. Anti-gay discrimination is banned under the Namibian labor code, but nowhere else in the country's jurisprudence. In other African states, discrimination against same-sex practicing people is codified, condoned, and practiced by the very organ that citizens look toward for protection—the state.

Criminalizing Same-Sex Behavior

IGLHRC and Human Rights Watch's 2003 report, *More Than a Name* provides a detailed description of the laws that are used to justify the deprivation of liberty of same-sex practicing people in a number of African countries.³¹ Approximately half of Africa's nations maintain laws that specifically criminalize same-sex conduct. Although these countries have committed to uphold the principles of the UDHR, ICCPR, and the African Charter, they have failed to bring their criminal codes into compliance with international principles, regarding criminal penalties for same-sex conduct.

Most of these laws have their origins in European colonial criminal codes. The legacy of colonial anti-homosexuality laws is most apparent in the former

30 Article 60, African Charter on Human and Peoples' Rights, "The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on Human and Peoples' Rights, the Charter of the United Nations, the Charter of the Organisation of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of Human and Peoples' Rights, as well as from the provisions of various instruments adopted within the Specialised Agencies of the United Nations of which the Parties to the present Charter are members."

Article 61, "The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognised by Member States of the Organisation of African Unity, African practices consistent with international norms on Human and Peoples' Rights, customs generally accepted as law, general principles of law recognised by African States, as well as legal precedents and doctrine."

31 Human Rights Watch, *More than a Name: State-Sponsored Homophobia and its Consequences in Southern Africa* (Human Rights Watch, 2003).

British colonies, but a number of former Portuguese and French territories have also adopted criminal statutes against homosexual conduct. Ironically, it is the criminalization of homosexuality that can be attributed to European involvement in Africa more accurately than homosexuality itself.

Anti-homosexuality laws vary in their specificity and criminal severity. Some criminal statutes against consensual same-sex conduct are gendered. Zanzibar, for example, imposes 25-year prison sentences for sex between men and seven years for sex between women, while others such as Botswana, Kenya, Uganda, and Zimbabwe, criminalize only sex between men.³² While some states such as Cameroon and Somalia specifically refer to “sexual acts” or “sexual relations” between people of the same sex, most of the former British colonies including Gambia, Ghana, Kenya, and Uganda, for example, criminalize “carnal knowledge against the order of nature.” In July 2006, the government of Zimbabwe expanded the definition of “sodomy” to include *any* physical contact between two individuals of the same sex “that would be regarded by a reasonable person to be an indecent act.”³³ The intentional vagueness of these laws seems designed to provide the state with broad leeway in policing unpopular sexual or social behavior.

In countries that have no specific criminal penalties for same-sex conduct, authorities have detained suspects under a variety of laws. Two lesbian women were convicted of “public indecency” charges in Mali in 1999. Gay men are often the victims of police “round-ups” and charged with vagrancy in Mombasa and other cities in Kenya. In Egypt, hundreds of men suspected of homosexual conduct have been detained on “debauchery” charges since 2001, including three dozen who were arrested in May of that year during a raid on the Queen Boat, a nightclub on a cruise vessel moored in the Nile.³⁴

Penalties for same-sex conduct vary widely as well, from a maximum of six months in Morocco, to three years in Eritrea, to five years in Cameroon, Senegal, and Ghana, to life imprisonment in Uganda. Convictions for consensual same-sex acts are punishable by death in three African states—Mauritania, Sudan, and parts of northern Nigeria.³⁵ Over the last few years,

32 For more comprehensive information on laws that criminalize same-sex conduct worldwide, see <http://sodomylaws.org> and IGLHRC, “Where Having Sex is a Crime: Criminalization and Decriminalization of Homosexual Acts,” <http://www.iglhrc.org/site/iglhrc/content.php?type=1&id=77>.

33 Criminal Law (Codification and Reform) Act [Chapter 9:23] Act 23/2004.

34 Human Rights Watch, “In a Time of Torture: The Assault on Justice in Egypt’s Crackdown on Homosexual Conduct,” (2004): 22.

35 In September 2006, in a statement to the Human Rights Council (HRC), Nigerian Ambassador/ Permanent Representative to the HRC, Mr. Joseph U. Ayalogu, stated that, “the notion that executions

five men have stood trial on “sodomy” charges in Nigeria; two were convicted and sentenced to death.³⁶

While long-term detentions on anti-homosexuality charges are unusual in Africa,³⁷ short-term arrests and extortion are common consequences of such laws. Extortion of LGBT people usually consists of a threat to expose another person’s homosexual behavior or identity to police, family, employers, etc., if a payment of one kind or another is not paid. Police are often complicit in extortion schemes, or unsympathetic if the crime is brought to their attention, sometimes choosing to prosecute the victim rather than the extortionist. In August 2006, E.K., a 23-year-old Senegalese man, was arrested and charged with crimes against the order of nature when he reported to the police that he was being blackmailed by a man with whom he’d had a casual sexual encounter.³⁸ While expatriate gay men make attractive targets for extortion given their particular fear of becoming entangled with local police and courts, African gays and lesbians are by far the more common victims of blackmail, with their jobs, homes, families, and freedom hanging in the balance.

Extortion is exacerbated by poverty and perceived inequalities between the extortionist and his or her victim. The stereotypic characterization of gay and lesbian Africans as rich and powerful has made extortion based on sexuality common. The myth of the ‘rich gay man or lesbian’ is based on several misperceptions. Many believe that Africans who engage in same-sex practices do not have families to support and therefore have unlimited disposable income. There is a belief that gay men and lesbians have sex for money with rich and powerful people, including expatriates, linking them to the power elite and inner circles of national politics. In some cultural contexts there is an association of homosexuality with the kind of witchcraft and ritual that is meant to generate wealth. The reality is that as a result of discrimination in the areas of education, employment, and housing, the experience of most LGBT Africans is one of economic impoverishment and disenfranchisement.

for offences such as homosexuality and lesbianism is excessive is judgmental rather than objective. What may be seen by some as disproportional penalty in such serious offences and odious conduct may be seen by others as appropriate and just punishment.”

36 The two convictions are currently under appeal and no executions have been carried out.

37 Three Cameroonian men, Demanou Alexandre, Patrick Yousseu, and Nicholas Njocky, are detained in Kondegui Prison in Yaoundé under article 347 of the Penal Code, which makes relations between individuals of the same sex a crime. Alexandre has been detained without charge or trial since 2002. The other two were convicted in a hasty trial and sentenced to one year of imprisonment.

38 IGLHRC interview with E.K., Dakar, Senegal, November 8, 2006

The anonymity of the Internet has increased both the facility with which gays and lesbians can make contacts and the risks involved therein. Gay men interviewed in Ghana, Côte d'Ivoire, Kenya, Nigeria, and Senegal report being lured to meetings by Internet contacts who then physically attacked and robbed them and threatened to report them to the police, employers, or family were they to report the crime.³⁹ The Internet has also been used in sting operations by police to entrap and extort gay men.

Regardless of their form or focus, statutes used to criminalize consensual same-sex conduct uphold a system of discrimination in which an individual's sexual behavior is deemed so criminally immoral that he or she is deemed unworthy of human rights protections. Even in countries where such laws are infrequently enforced, they criminally marginalize LGBT people so that the perpetrators of violence, discrimination, and abuse are free to operate with impunity.

Legislating Identity

The use of anti-homosexuality laws in Africa has gone beyond the criminalization of same-sex conduct, to serving as a platform for the punishment of homosexual identity. The vast majority of arrests of men and women on charges related to homosexuality are not based on the witnessing or reporting of a same-sex act, but on the presumed identity of the individual. On May 21, 2005, *gendarmes* in Cameroon arrested 11 men between the ages of 17 and 35 while socializing in a neighborhood bar alleged to be popular among gay men. In its public statements about the case, the government consistently referred to "the crime of homosexuality" despite the fact that no such crime exists.⁴⁰

In November of the same year, the prosecution threatened to force the men to undergo an anal examination, to prove that they had engaged in homosexual conduct. In their zeal to convict the men, the Cameroonian government was willing to disregard international law.⁴¹ A judge dismissed the case since the crime of "homosexuality" does not exist in the Cameroonian penal code. The prosecutor immediately ordered the men re-arrested and "properly" re-charged under Article 347 of the penal code, which criminalizes "sexual

39 IGLHRC interview with C.I., Côte d'Ivoire, May 2006; IGLHRC interview with M.C., Ghana, April 2006.

40 Letter from H.E. Minister of Justice, Amadou Ali to IGLHRC, January 23, 2006.

41 Forcible anal examination, which in their intrusiveness and invasiveness have been deemed cruel and inhuman treatment by international medical and human rights experts, have been used by the governments of Senegal and Zimbabwe to convict defendants.

relations with a person of the same sex.”⁴² After more than a year of pre-trial detention, seven of the men were convicted despite any evidence having been presented to prove their engagement in same-sex conduct.

Finding inspiration in the same-sex marriage hysteria currently consuming the United States, African governments are using the marriage issue to stoke anti-gay sentiments at home. In 2005, the governments of Burundi,⁴³ Uganda, and the Democratic Republic of Congo⁴⁴ revised their constitutions to criminalize same-sex marriage.⁴⁵ President Mugabe of Zimbabwe declared that his government would jail any clergy who officiated a marriage ceremony for a same-sex couple.⁴⁶

The legalization of same-sex marriage by the South African Parliament in November 2006 may well contribute to an anti-gay backlash across the continent as conservative governments attempt to circle the wagons against LGBT rights. Religious leaders in Uganda protested the South African decision and presented a petition to the South African High Commission in Kampala referring to homosexuality as “evil and against humanity” and threatening a “cultural and economic embargo.” Zimbabwe’s parliament discussed a resolution condemning the decision by their South African counterparts.

The heated reaction against same-sex marriage in Africa seems to be a red herring. Homosexual conduct was already illegal in all of the countries that have implemented same-sex marriage bans, making such laws judicially redundant, and there has been little, if any, advocacy for same-sex marriage in those countries. According to Keith Goddard, of Gays and Lesbians of Zimbabwe, “Same-sex marriage may be the furthest thing from the minds of most lesbian and gay Africans outside of South Africa who still suffer the basic humiliations of oppressive laws, social stigma and propaganda spewed out by our national and religious leaders.”⁴⁷

A bill introduced into the Nigerian Parliament in January 2006, the “Same-Sex

42 Section 347 (bis) Ordinance No 72-16 of the 28th September 1972 Code: “Whoever has sexual relations with a person of the same sex shall be punished with imprisonment for from six months to five years and a fine of from 20.000 to 200.000FCFA.”

43 Article 26, Burundi Constitution, “Le mariage entre deux personnes de meme sexe est interdit.”

44 Article 40, DRC Constitution, 2005, entered into force Feb. 18, 2006, “*Tout individu a le droit de se marier avec la personne de son choix, de sexe oppose, et de fonder une famille.*”

45 A newly proposed constitution for Kenya (Bomas Constitution), which was defeated in a 2006 referendum had included the following language on marriage, Article 42(2): “Every adult (a) has the right to marry a person of the opposite sex, based upon the free consent of the parties; and 42(3) A person shall not marry another person of the same sex.

46 365Gay.com Newscenter Staff, “Mugabe Threatens To Arrest Pro-Gay Clergy,” February 26, 2006, <http://365gay.com/Newscon06/02/022606mugabe.htm>.

47 Interview with Keith Goddard, June 14, 2006.

Marriage (Prohibition) Act,” goes well beyond banning same-sex marriage, and undermines guarantees of freedom of expression and association in the Nigerian Constitution. Provisions of the bill would lead to the imprisonment of individuals solely for their actual or imputed sexual orientation. Section 7(3) of the bill mounts a particular attack on LGBT activists, by subjecting to five-year imprisonment “any person who is involved in the registration of gay clubs, societies and organizations, sustenance, procession or meetings, publicity and public show of same-sex amorous relationship directly or indirectly in public and in private.”⁴⁸

According to Bolanie, a Nigerian lawyer who is a lesbian, “This Bill is unnecessary. Politicians are using it for political reasons, to show that they are ‘the good ones’ in society. If the Bill is passed, life would be horrible. I am scared about what will happen. So many employees will be victimized and thrown out of their jobs and gay people will be forced to go even further undercover. Discrimination and violence will increase.”⁴⁹

The Role of Religion

Same-sex oriented men and women and individuals whose gender expression varied from biologically assigned roles were not unusual in pre-colonial African societies, and many of these individuals found important roles in the spiritual life of the community. Many groups looked upon these individuals as “gifted” with male and female spirits and capable of negotiating relations between this world and the realm of the ancestors. Zulu spirit mediumship, Hausa “yan daudu,” and Yoruba possession cults were all spaces in which gender variant men—many of them same-sex practicing—found community acceptance and professional employment. Traditional African belief systems held human dignity and the cohesiveness of the community above all else.

Christianity and Islam were both brought to Africa in the context of colonization and imperialism and have been used to reinforce economic and social inequalities. Christian and Islamic texts have been used to justify the relegation to second-class citizenship of women, indigenous peoples, and Africans as a whole. Still, these religions play a central role in the daily lives of most Africans. Nine out of ten young Ghanaians, for example, reported that religion is “very important” to them, and reported attendance at communal religious services on a weekly basis.⁵⁰

48 Same Sex Marriage (Prohibition) Act 2006.

49 IGLHRC interview with Bolanie, November 1, 2006.

50 Guttmacher Institute, “Adolescents in Ghana: Facts in Brief,” A paper of the Protecting the Next Generation project, 2006. www.guttmacher.org.

While Catholicism, Islam, and charismatic Christian denominations in Africa are often in conflict with each other, they manage to find common ground in their condemnation of homosexuality. In church services, religious writing, and evangelical radio and television broadcasts, same-sex practicing people are characterized as sinful, debased, and worthy of scorn, hence lacking entitlement to rights, respect, or dignity. In the same way that religion was used to justify the Trans-Atlantic, Indian, and Saharan trade in African people, Biblical and Koranic scripture is now being successfully manipulated to deny basic dignity and human rights to sexual minorities.

The oft-used argument that homosexuality is foreign to Africa, and not an indigenous part of African culture, is particularly ironic coming from the leaders of religions that were imposed on Africa by colonial rule. Nevertheless, representatives of African religious institutions have been among the most outspoken opponents of LGBT rights in their own countries and abroad. African Anglican church leaders, like Archbishop Peter Akinyola of Nigeria, have been the most vociferously opposed to the ordination of gay priests and to the acceptance of gay men and lesbians in the church. A broad coalition of conservative Christian churches and Islamic leaders threatened to march in the streets of Accra to prevent a rumored “gay conference.”

Statements by religious leaders inspire homophobic stigma and violence. A Christmas Day sermon by Monsignor Victor Tonyé Bako, Cameroon’s Catholic archbishop, added fuel to the campaign of arrests and “outing” of suspected gay and lesbian people in the West African nation. The prelate alleged that in some schools “classes are taught to children to make them accept and tolerate homosexuality.” The truth of the matter is that in 2005, at least a dozen secondary school students were expelled from schools in Cameroon on “suspicion” of homosexuality.

Much as there are progressive voices in various faith communities worldwide, there exists a small, but growing movement among African spiritual leaders to promote greater acceptance of gay men and lesbians. Anglican Bishop Desmond Tutu, Njongonkulu Ndungane, the Archbishop of Cape Town and responsible for the Province of Southern Africa, and expelled Bishop Christopher Ssenyonjo of Uganda have all called for understanding and acceptance of gay men and lesbians, and all have faced substantial criticism as a result.

Religious leaders like Reverend Levee Kadenge, a Zimbabwean chaplain, are beginning to recognize the ways in which homophobia can further divide an already fractured society. According to Reverend Kadenge, “[Zimbabwean president Robert] Mugabe has successfully created the impression that gays are enemies of society. I am not saying that homosexuality is acceptable in

Shona culture, but there have been ways of accommodating it. In our culture, when people do something that isn't the norm, we say the spirits are making them do that, and we accept there must be a purpose."⁵¹

In addition to fighting for space within mainstream denominations, African LGBT communities are creating their own religious institutions in which same-sex desire is viewed as part of one's God-given identity. The worldwide fellowship of Metropolitan Community Churches (MCC) has churches in Nigeria and South Africa. Gay and lesbian Muslims in South Africa have formed the Inner Circle, a support group with more than 140 members that meets regularly for prayers and fasting. The Inner Circle recently hosted an international dialogue for LGBT Muslims from around the world. Mac-Davis Iyalla and other LGBT Anglicans in Nigeria have formed a local branch of Changing Attitudes, the international LGBT Anglican fellowship, to confront homophobia in their religion. According to Reverend Jiday McCauley, founder of MCC Nigeria, "Lesbians and gay men of African descent have often been expected to deny our sexuality for the sake of surviving in our spiritual communities."⁵²

The Role of the African Media

There is a broad range of media in Africa, from highly professional newspapers and media agencies to sensationalist tabloids. At their best, African media have contributed to the increased visibility of homosexuality, and have at times shattered myths and stereotypes. Columnists have occasionally argued for social and political acceptance of homosexuality in Africa. More commonly, however, African media outlets have contributed to the categorization of homosexuality as unnatural, unhealthy, and unAfrican. Reporting on homosexuality in most print media has tended to be sensationalist and bawdy, linking same-sex attraction with incest, pedophilia, bestiality, and adultery. Newspaper opinion columns and radio call-in shows have often served as a platform for the most virulently homophobic opinions in society without seeking out or providing space for moderate voices.

African media has sometimes been guilty of disregarding international standards of media ethics. Media in some African countries has led calculated witch

51 Quoted in Joseph Mandigo, "New Blow for Gay Rights in Zimbabwe: Activists struggle on as legal clampdown on same-sex relationships comes into force," Institute for War and Peace Reporting (AR No.74), August 15, 2006. http://www.iwpr.net/?p=acr&s=f&o=323088&apc_state=henpacr.

52 Rowland Jide Macauley, "Africa and Homosexuality," *The Witness*, <http://www.thewitness.org/agw/macauley121604.html>.

hunts against people suspected of engaging in same-sex practices, destroying lives and increasing homophobic stigma. In the last few years, lists of purportedly gay men and lesbians have been published in newspapers in Cameroon, Senegal, and Uganda. Among those named in two separate lists published in Cameroon were well-known athletes, media personalities, and highly-placed government officials. These outings were shrouded in claims of social outrage, but other motives were likely at play. The cost of one of the tabloids, *l'Anecdote*, went from 300 francs to as much as 5,000 francs on the day it printed its list, and the publishers had to make photocopies available for street sales. When the Senegalese tabloid *Fraques* published a list of 20 men they claimed were gay in July of 2002, the price of the paper jumped from 100 to 1,000 francs. The Minister of Parliamentary Affairs, who was among those accused of being gay, sued the tabloids for slander. On March 27, 2006, Biloa Ayissi, publisher of *Nouvelle Afrique*, was sentenced to prison for one year and fined US\$7,319. Political observers have attributed these attacks to efforts to discredit political opponents.

In September 2006, the Ugandan tabloid *Red Pepper* published lists of nearly 50 men and women they claimed to be homosexuals and invited readers to “send in names of these deviants so that we publish and shame them rid our motherland of this deadly vice.”⁵³ The outings sent a number of those named into hiding and generated a rash of arbitrary arrests of gay men around the country.

When various media have attempted to present more balanced reporting on gay and lesbian issues, their governments have sometimes exacted harsh penalties. In November 2004, Uganda’s *Radio Simba* was fined the equivalent of US\$1,000 by the Broadcasting Council of Uganda for “having offended a wide section of the public” in their programming. The Council claimed that a program discussing HIV and LGBT rights in Uganda violated laws prohibiting broadcasting that is contrary to “public morality.” The Council threatened other broadcasters as well, advising them to “be more responsible about the content of their programs.”

In August 2006, an HIV/AIDS specialist who was a featured speaker at an international LGBT conference and who provided support to communities of men who have sex with men in Senegal was widely ridiculed in the Senegalese media, and accused of being a “gordjiden,” a derogatory term in the Wolof language that refers to homosexuals. This tar-and-feathering was a sample of what society had in store for him were he to continue “wasting his

53 “Kampala’s Notorious Lesbians Unearthed,” *Red Pepper*, September 8, 2006.

time treating those who carry HIV because of homosexuality.”⁵⁴ In the various articles and columns that appeared over a two-week period, the community was threatening to impose a gay identity onto the activist, with all of the social, political, and financial disenfranchisement that identity includes. The activist was being threatened not because of his sexual conduct, but because of his political affiliation. Sexual orientation is frequently used as a tool to close down discussions of sexuality. According to Cynthia Rothschild of the Center for Women’s Global Leadership, “The effect is to render sexuality both a persistently forbidden subject, and a sensational and omnipresent threat.”⁵⁵

Consistent, Widespread, and Unaddressed Human Rights Violations Against Same-Sex Practicing People in Africa

Same-sex practicing people in Africa and those whose gender expression falls outside of traditional norms experience a range of well-documented human rights violations including denial of education, employment, housing, and health care; arbitrary deprivation of liberty and unfair trials; verbal and physical attacks that have sometimes resulted in death. People who practice same-sex desire face discrimination from both state and non-state actors, including the very people they rely upon for support and protection—teachers, religious leaders, the media, health care providers, police and the courts, even their own families and communities. Some examples of specific human rights violations faced by same-sex practicing men and women include:

- The arbitrary arrest of dozens of same-sex practicing men and women in countries throughout the continent including Cameroon, Côte d’Ivoire, the The Democratic Republic of Congo, Egypt, Gambia, Ghana, Kenya, Nigeria, Senegal, and Zimbabwe.
- Trespass, assault, and deprivation of liberty during the invasion of the home of LGBT activist Victor Mukasa in Kampala, Uganda on July 29, 2005 by local government officials, during which a visitor was detained, and documents related to LGBT organizing efforts in Uganda were confiscated.
- Verbal and physical attacks that drove Alexandra Rubera, a transgender woman from Burundi, out of her home and into exile in Kenya. Alexandra was then arrested in Kenya and forcibly repatriated back to Burundi.

54 Seneweb, “Travailleur Social: « Je ne suis pas homosexuel et je n’en serai jamais un »,” August 4, 2006, <http://www.seneweb.com/news/article/4407.php>

55 Cynthia Rothschild, *Written Out: How Sexuality is Used to Attack Women’s Organizing*, eds. Scott Long and Susana T. Fried (2000, 2005): 41.

- The killing of 19-year-old Zoliswa Nkonyana, on February 4, 2005 in Capetown, South Africa by a gang of neighborhood youths who deemed her behavior to be “too masculine.”
- The fatal beating of two gay men-Djibril and Akim-in Abdijan, Côte d’Ivoire on May 14 and May 17, 2006, respectively, by youth who targeted them because of their “feminine behavior.” The police told gay community leaders to “forget about reporting the cases” because the location of the beatings led police to believe that the perpetrators were most likely children of military personnel and therefore beyond the reach of the law.⁵⁶
- Threats and instances of forcible anal examinations against male suspects in Cameroon, Senegal, and Zimbabwe to “prove” their homosexuality.

Violence is common in the lives of many LGBT Africans. Verbal and physical abuse were perceived as a problem in the everyday lives of nearly half the respondents in a study conducted among men who have sex with men in Senegal.⁵⁷ More than one-third of gay men interviewed in Nairobi reported experiencing violence, with aggression and humiliation in public areas to be the most frequent form.⁵⁸ Perhaps the most distressing aspects of violence against same-sex practicing people is that police are often complicit. According to an official at the United States Embassy in Liberia,

People usually rumored to be homosexuals are regarded as outcasts and are publicly booed and verbally attacked with insults by members of the public. Even police and other law enforcement officials usually encourage citizens to abuse suspected homosexuals and they don’t usually intervene when suspected homosexuals are abused or discriminated against or verbally assaulted.⁵⁹

Local human rights organizations, often the last line of defense for marginalized groups, have been hesitant at best, to address human rights organizations against LGBT people. Many fear losing local constituents and raising the ire of already hostile governments. Others are simply overwhelmed by the volume of other human rights issues and see sexuality claims as a distraction

56 IGLHRC interview with C.I., September 22, 2006.

57 Cheikh Ibrahima Niang et al, *Meeting the Sexual Health Needs of Men Who Have Sex With Men in Senegal* (2002), 12.

58 W. Onyango-Ouma et al, *Understanding the HIV/STI Risks and Prevention Needs of Men Who Have Sex With Men in Nairobi, Kenya* (2005), 21.

59 Memo from Vaughn S. Jenkins, Political Assistant, U.S. Embassy Monrovia to Alfreda E. Meyers, Political Economic Counselor, July 25, 2006.

from “more urgent concerns” such as poverty alleviation, women’s rights, and HIV/AIDS. Some view homosexuality from much the same perspective as government and religious institutions—sinful, unAfrican, and criminal—and absolve themselves from responsibility for protecting the rights of same-sex practicing citizens. According to a Kenyan minority rights activist, many Africans think of homosexuals as “people with no values.”⁶⁰

Positive Developments

There have been a number of positive developments in the region that offer optimism for a shift in attitudes toward homosexuality in Africa. More academic, cultural, and political leaders are taking a stand against homophobia, regardless of how unpopular such positions may be. Respected scholars like Ali Mazrui, Kopano Ratele, and Sylvia Tamale are making forceful arguments for an inclusive vision of human rights in Africa. The African Regional Sexuality Resource Center (ARSRC), based in Nigeria, is providing important training for researchers and activists that moves discussions of same-sex desire into broader discussions of African sexuality and human rights. Films like Mohammed Camara’s *Dakan*, Philip Brooks’ *Woubi Cheri*, and John Greyson’s *Proteus* are framing same-sex desire in contexts of intimacy while exploring the relationship between homosexuality and African cultural values.

Mainstream African human rights organizations are starting to take more principled stands on issues of anti-gay discrimination and have begun building bridges with LGBT movements. The International Centre for Reproductive and Sexual Rights (INCRESE), the Legal Defense and Assistance Project (LEDAP), the Civil Liberties Organization (CLO) and several other leading Nigerian human rights organizations have been at the forefront of efforts to educate the public about the repressive nature of the Same-Sex Marriage (Prohibition) Act currently pending in the Nigerian Parliament and its potential threat to all Nigerian citizens, not just LGBTs. Recently, the Human Rights League (LDH) of Mozambique sponsored the first seminar on gay rights in that country and promised to help LGBT groups to obtain official recognition. Two Botswanan human rights organizations, the Botswana Network of Ethics, Law and HIV/AIDS and Ditswanelo, have provided support and guidance to the emerging LGBT movement in that country. Other mainstream human rights organizations are working on LGBT rights behind the scenes, quietly educating their members and providing support to LGBT prisoners.

Attitudes toward homosexuality are changing. Homophobic statements by

60 IGLHRC interview with K.S., May 2, 2006.



Rama Valyden, the Mauritian Attorney-General and Minister for Human Rights and Justice, with Gay Pride Marcher

African leaders have moved LGBT rights into the public discourse, increased lesbian and gay visibility, and strengthened the resolve of LGBT activists. In research among gay men in Kampala, respondents “rejected out of hand” the option of changing their sexuality if they were given the opportunity.⁶¹ More than half of Form 2 students and nearly three quarters of those in Form 5 in Botswana said they would still be friends with someone whom they discovered to be homosexual.⁶²

At the government level, progress on LGBT rights has been slow, but not without promise. On May 8, 1996, South Africa became the first country in the world to enshrine lesbian and gay rights in its constitution.⁶³ Human rights

61 Paul Semugoma, “Same-Sex Sexual Behavior, HIV, and Health Care in Uganda,” unpublished study, (2005): 32.

62 Kate Elder, “Adolescent Sexual and Reproductive Health Attitudes, Perceptions, and Knowledge: A Comparative Study of Government and Private Secondary School Students in Gaborone, Botswana,” unpublished study: 29.

63 Constitution of the Republic of South Africa (1996), Chapter 2 “Bill of Rights,” Clause 9(3) reads: “The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation age, disability, religion, conscience, belief, culture, language, and birth.”

activists in the country, working collaboratively under the auspices of the Joint Working Group (JWG), are fighting the legal and political battles to make the promises of the constitution a reality for South Africa's citizens. These include guaranteeing equal rights for same-sex practicing citizens with regard to marriage, adoption, inheritance and health care. On May 20, 2006, hundreds of gays and lesbians in Mauritius took to the streets for the nation's first gay pride parade. Minister of Justice Rama Valyden said that his country had "turned to a new page in the history of Mauritius and that is the page of freedom" while promising to introduce a bill into Parliament that would make anti-gay discrimination a crime.⁶⁴ Members of the African Commission on Human and Peoples' Rights have questioned, in their 39th and 40th Sessions in Banjul, Gambia, whether the anti-homosexuality laws of some of its member states weren't incompatible with the equality provisions of the African Charter.⁶⁵

As William Gumede, Associate Editor of *Africa Confidential*, said in a *Washington Post* editorial, "If only some African political, cultural and religious leaders would pursue the fight against poverty, disease and underdevelopment with the same vigor, single mindedness and energy as they go about crusading against gays and lesbians, the continent would be a much better place."⁶⁶ With the mammoth challenges facing Africa, there would seem to be little energy to waste fighting homosexuality. Instead, the contributions and creativity of gay and lesbian people are sorely needed for the work ahead.

64 Nita Bhalla, "Mauritius sees first gay rights march," *Reuters*, Saturday, May 20, 2006.

65 Discussion on the Cameroon Country Report, ACHPR, 39th Ordinary Session, Banjul, Gambia, May 2006.

66 William Gumede, "Africa, Fight Hunger Not Homosexuals," *Washington Post*, October 28, 2006.

Chapter 2

What We Know About Same-Sex Practicing People and HIV in Africa

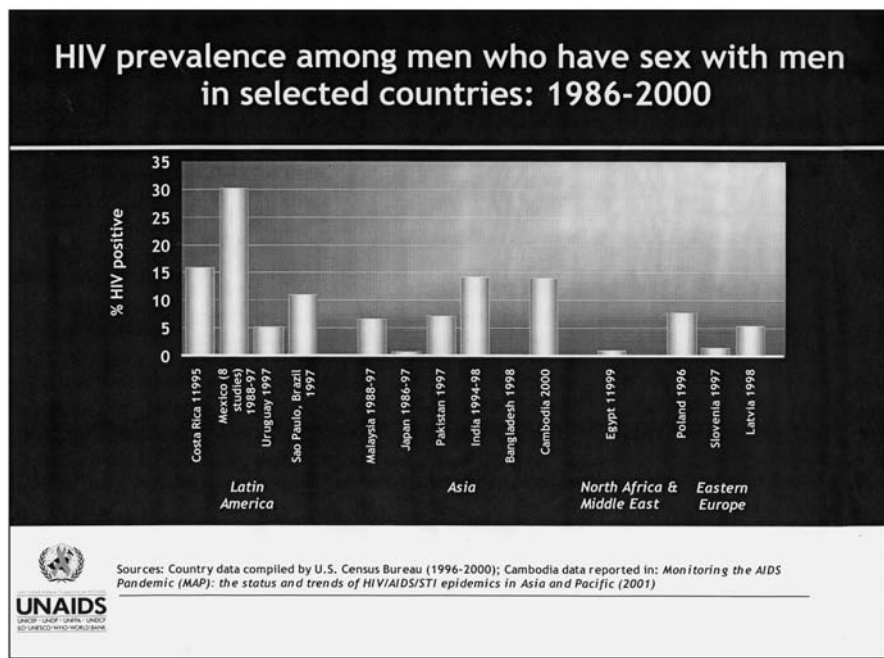
Lack of Research

By the mid-1980s, *AIDS in Africa* was being referred to as a “heterosexual epidemic,” in contrast to the association of the disease in other parts of the world with gay men (and later with other marginalized groups, such as Haitians, intravenous drug users, and hemophiliacs). Early African male AIDS patients claimed that they had never engaged in sex with other men, and the world was eager to believe them. The facile acceptance of these claims was a product of the racist belief in the hypersexuality—which could only be understood as hetero-normativity—of African men.

The construction of a universally heterosexual African HIV/AIDS epidemic has led to a “sloppy and ideological science,” according to historian Marc Epprecht.⁶⁷ Scientists and policy-makers have been slow to acknowledge the possibility that same-sex male transmission is playing an important role in HIV transmission in Africa and have put little effort into understanding the links between hetero- and homosexual HIV transmission.

In March 2005, Cáceres et al. reviewed 561 studies on HIV and men who have sex with men in non-Western settings. Of these, 224 and 235 focused on Latin America and Asia, respectively, with only eight addressing same-sex

⁶⁷ Epprecht, 5.



Where is Africa?
UNAIDS Chart on HIV seroprevalence by region

transmission in Africa.⁶⁸ The paucity of research on HIV and same-sex practices in Africa is the result of a multiplicity of factors that include:

- hesitancy of those who engage in same-sex practices to expose themselves to potentially judgmental researchers;
- resistance by African research review panels to approve research on homosexuality;
- a general unwillingness among otherwise rigorous scientists to address same-sex transmission due to their discomfort with homosexuality;
- homophobic stigma faced by HIV researchers themselves when addressing issues of homosexuality;
- denial of the frequency of same-sex behavior in Africa.
- misconception that same-sex practicing women face no significant HIV-related health threats;

⁶⁸ Carlos F. Cáceres, Kelika Konda, and Mario Pecheny, "Review of the Epidemiology of Male Same-Sex Behavior in Low and Middle-Income Countries: Review of HIV Prevalence and the Epidemiology of Preventive and Bridging Behavior among MSM in Low and Middle-Income Countries (March 2005): 6.

Opportunities for collecting data on homosexual behavior and attitudes toward homosexuality are consistently neglected. While Behavioral Surveillance Surveys (BSS) are conducted throughout Africa by governments and their partners—mainly non-governmental organizations, UN agencies, and academic institutions—in order to collect data for public health and economic development programs, these studies have avoided the inclusion of questions related to same-sex conduct. The 2001 study “Sexual Behaviour of Young People in Botswana,” conducted by UNICEF, UNAIDS, Population Services International, the government of Botswana, and the African Youth Alliance of Botswana, provides a large and useful database for public health inquiries, but asked not a single question on the issue of homosexuality.⁶⁹ The BSS conducted by the National AIDS Control Program of Tanzania and UNAIDS, designed to “track trends in HIV/AIDS-related knowledge, attitudes, and behaviors in subpopulations at particular risk of HIV infection”⁷⁰ failed to ask about behavior, identity, or attitudes related to same-sex desire. These examples represent lost opportunities to broaden our knowledge of sexual behavior and attitudes among young people in Africa.

The Guttmacher Institute asked more than 20,000 young people from four African countries questions related to sexuality, family life, and health, but failed to ask a single question that might have provided data about same-sex behavior.⁷¹ While Guttmacher researchers asked important questions about (heterosexual) anal sex, they and their local partners felt that their respondents were too young to be questioned about sexual orientation. If questions related to same-sex identity and behavior are never asked, there will never be any relevant data collected, and claims that homosexuality doesn’t exist in Africa will continue unchallenged.

Scholars who undertake research on non-heteronormative sexuality may face derision and “gay-baiting,” defined as the practice of using ideas, or prejudices, about someone’s sexuality to intimidate or silence them.⁷² Researchers at the Universities of Nairobi in Kenya and Cheikh Anta Diop in Senegal experienced significant stigma while conducting research on men who have sex with

69 Social Impact Assessment and Policy Analysis Corporation, “2001 BTW: The Sexual Behavior of Young People in Botswana,” a UNICEF evaluation report, (2001). http://www.unicef.org/evaldata-base/index_15342.html.

70 Felician S.K.Tungaraza, “Youth Behavioral Surveillance Survey in Tanzania,” Power Point Presentation

71 Guttmacher Institute, “Protecting the Next Generation: Understanding HIV Risk Among Youth,” (October 2006). <http://www.guttmacher.org/pubs/PNG-data.html>.

72 Rothschild, *Written Out*.

men. One of the leading researchers on the topic, Dr. Amadou Moreau of the Population Council in Senegal reported that, “because homosexuality is so stigmatized, as a researcher I am stigmatized as well, by family, friends, and community.”

Some of the Key Studies

Behavioral Research

The Horizons Program was the first international NGO to recognize that the HIV-related vulnerabilities of men who have sex with men in Africa deserved serious attention. Horizons is a USAID-funded program, implemented by a consortium of organizations including the Population Council, International Center for Research on Women, International HIV/AIDS Alliance, Program for Appropriate Technology in Health, Tulane University, Family Health International, and Johns Hopkins University. Horizons has produced two ground-breaking studies of men who have sex with men in Africa, based on research conducted in Dakar, Senegal (2002) and in Nairobi, Kenya (2005). These studies have provided important information about stigma, violence, identity, secrecy, and sexual practices among men who have sex with men, particularly younger men in urban settings.

Horizons collaborated with a number of local partners, including government agencies, academic institutions, and organizations of men who have sex with men, creating a broad base of interest and support for this work at the country level. The Senegal research was conducted in collaboration with Cheikh Anta Diop University and the Senegalese National AIDS Control Program. The Kenya research was undertaken in partnership with the University of Nairobi Institute of African Studies.

In March 2004, a study was conducted by the Ghana National AIDS Control Programme using questionnaires completed by 156 men who have sex with men in the greater Accra area as an assessment tool with which to guide future programming.⁷³ In Uganda, Semugoma conducted ethnographic research to identify the health needs of same-sex practicing men and women in Uganda.⁷⁴ In 2003, the University of California at San Francisco’s (UCSF) Center for AIDS Prevention Studies (CAPS), in collaboration with Makerere University in Kampala, conducted research with more than 300 men who have sex with men in Uganda but the results have yet to be made public. A partici-

73 Dela Attipoe, “Fighting HIV in Ghana Requires Addressing Homosexuality unpublished article, 2004.

74 Semugoma: 10.

patory community assessment was conducted in Algeria, Morocco, and Tunisia between September 2005 and June 2006 in which 193 men who have sex with men engaged in an analysis of their HIV-related needs and situations and proposed a number of solutions.⁷⁵ This research was conducted by three African AIDS service organizations including the Association de Lutte Contre le SIDA (Morocco) in collaboration with the International HIV/AIDS Alliance. OUT LGBT Well-being in Gauteng Province, South Africa, has answered critical questions about the attitudes and sexual health of same-sex practicing men and women in South Africa in their reports, "Research Findings on the Sexual Practices of Young Gay Men in South Africa," (2005), and "Gay & Lesbian People's Experience of the Health Care Sector in Gauteng." The UCSF Center for AIDS Studies⁷⁶ and OUT LGBT Well-Being⁷⁷ in South Africa have both conducted important research on the uptake of Voluntary Counseling and Testing (VCT) by LGBT people.

Understanding how LGBT people perceive their access to health care is an important aspect of designing effective sexual health interventions. The health-seeking behavior of African LGBT people is described in OUT LGBT Well-being's "Gay & Lesbian People's Experience of the Health Care Sector in Gauteng" and by Ehlers et al. in "The Well-being of Gays, Lesbians and Bisexuals in Botswana."⁷⁸ In the latter, data from 47 questionnaires completed by gay, lesbian, and bisexuals in Botswana was analyzed in order to examine issues related to treatment at health care facilities, alcohol and drug use, and perceived HIV risk.

Researchers have begun to examine the sexual aspects of various homosocial situations and settings, such as among mineworkers, prisoners, soldiers, boys living on the streets, and in the context of certain initiation rituals. Additional research is needed in order to understand this previously hidden male-male sexual behavior, and the levels of HIV-related risk. Many of the men involved may unwittingly become what Semugoma refers to as "amplifying

75 International HIV/AIDS Alliance, "Meeting the Sexual Health Needs of Men Who Have Sex with Men in North Africa and Lebanon (MSM/MALE project)," 2005.

76 Tim Lane, J. McIntyre, and S. Morin, "HIV Testing and Stigma among Black South African MSM," Center for AIDS Prevention Studies (CAPS) poster presentation at the 2006 International AIDS Conference Toronto, Canada.

77 Helen Wells, Louise Polders, OUT LGBT Well-being, HIV & Sexually Transmitted Infections among Gay & Lesbian People in Gauteng: Prevalence and Testing Practices. <http://www.out.org.za/Products.html>

78 V.J. Ehlers, A. Zuyderduin, and M.J. Oosthuizen, "The Well-being of Gays, Lesbians and Bisexuals in Botswana," *Journal of Advanced Nursing* 35, no. 6 (September 2001): 848-56.

populations” with regard to the spread of HIV in the larger community.

Sadly, the marginalization that many same-sex practicing people experience in their daily lives is reflected in research related to the impact of HIV on their lives (and again in the implementation of HIV/AIDS programs based on that research; see chapter 6). While African men who have sex with men were involved in the research that has been conducted in Ghana, Nigeria, Kenya, and Senegal, they mainly functioned as research assistants, brought in to provide “access to MSM communities.” They played little role in conceptualizing the research, developing the research instruments, or, ultimately, in analyzing the results.

This has led to bias and misinterpretation of data. To cite but one example, the authors of this report were told by the non-LGBT director of a West African research team that most of the “MSM” whom he had interviewed during a pre-project assessment had engaged in their first homosexual experience with a foreigner. When the authors examined the data together with the researcher, it became clear that less than one-third of the respondents reported an initial homosexual encounter with an expatriate. The researcher’s bias had caused him to read his own perception, that homosexuality was externally imposed, onto the data, despite evidence to the contrary.⁷⁹

There are few openly gay or lesbian African social scientists or bio-medical specialists involved in AIDS research, and most African LGBT organizations lack the capacity to conduct robust scientific research without technical assistance. LGBT communities express great appreciation for the efforts of non-LGBT researchers without whom even this small amount of data would not exist. Nevertheless, researchers must find creative, meaningful ways of involving same-sex practicing men and women in the design, analysis, dissemination, and implementation of scientific research.

Seroprevalence Research

Abdoulaye Wade, Chief of the STI/AIDS Level Two Division at the Senegalese Ministry of Health, conducted the first seroprevalence study of same-sex practicing men in Africa in 2005. The research protocol consisted of the implementation of a questionnaire, physical examination, and detection of HIV through serum samples of men who have sex with men in five Senegalese cities. Of 442 respondents, Wade found HIV infection serology in the blood

⁷⁹ Gay men who have been the subjects of HIV research also complain that insufficient effort is made to make the results of the research available to the community.

samples of 96 (21.5 percent).⁸⁰ By comparison, the overall seroprevalence rate for adult males in Senegal is 0.2 percent. The seroprevalence rate for female sex workers is 27.1 percent.⁸¹

Similarly, unofficial results from seroprevalence studies of men who have sex with men conducted by the HIV AIDS Vaccine Initiative in Kenya suggest a seroprevalence rate of 40 percent or higher, while the general seroprevalence for Kenya is 6.1 percent among adults 15 to 49.⁸² A behavioral and seroprevalence survey among men who have sex with men in Ghana has revealed similar early results.⁸³ Tim Lane of the Center for AIDS Research Studies interprets this data to suggest that seroprevalence among men who have sex with men could also be much higher than that of the general population in the higher seroprevalence countries of southern Africa for which no same-sex specific HIV surveillance has been conducted. According to Lane, "We should not be surprised if we see 40 or 50 percent of MSM infected in countries like South Africa and Zimbabwe."⁸⁴

All of the available HIV seroprevalence data for women who have sex with women in Africa is self-reported, and therefore is likely to be under-represented. In a survey of 123 women who identified as lesbian in Tshwane (formerly Pretoria), South Africa, nine percent of black and five percent of white women reported that they were HIV positive. In a 2002 study conducted by the Human Science Research Council in South Africa, 13 percent of lesbian women (15–49) self-reported a positive HIV test result.⁸⁵ While this rate is lower than seroprevalence rates for heterosexual South African women, it still represents a substantial number of people for whom there currently exist no targeted HIV prevention, treatment, or care services.

One caution for interpreting the research that has been conducted on both same-sex practicing men and women in Africa has been the use of "snowball" (non-random) sampling. Snowballing relies on respondents to recruit peers for

80 Abdoulaye Sidibe Wade, Coumba Toure Kane, Pape Amadou Niang Diallo, Abdou Khoudia Diop, Khady Gueye, Souleymane Mboup, Ibrahima Ndoeye, and Emmanuel Lagarde, "HIV Infection and Sexually Transmitted Infections among Men Who Have Sex with Men in Senegal," in *AIDS* 2005 19, no. 18 (2005): 2133-2140.

81 UNAIDS, "2006 Report on the Global AIDS Epidemic."

82 IGLHRC interview with staff of International HIV Vaccine Initiative, Mombasa, Kenya. June 15, 2006.

83 IGLHRC interview with Anonymous, November 11, 2006.

84 IGLHRC interview with Tim Lane, PhD, University of California San Francisco Center for AIDS Prevention Studies, May 25, 2006.

85 Quoted from OUT LGBT Well-Being, "HIV & Sexually Transmitted Infections (STIs) among Gay & Lesbian People in Gauteng: Prevalence and Testing Practices" (2005): 2.

participation in the research, who recruit peers, and so on. This technique may lead to an overly homogenized sample and a potential skewing of the data in ways that random sampling can avoid. Instances of unprotected sex, violence, and sex work, for example, is likely to be higher among a cohort of men who have sex with men who are young, urban, and economically marginalized than in the larger population of men who have sex with men.

What the Current Research Indicates about HIV and Same-Sex Practices in Africa

Though limited in scope, depth, and duration, the research has revealed some consistent findings that provide critical information for understanding homosexuality in Africa and for launching effective HIV interventions. Some of the more salient results are as follows:

Most African men who have sex with men have also engaged in sexual relations with women. Among men who have sex with men interviewed in Dakar and Nairobi, 88 percent and 69 percent, respectively, had had sexual relations with a woman at least once in their lives.⁸⁶ Of those respondents in Nairobi who had ever had sex with a woman, 20 percent had engaged in heterosexual vaginal sex in the last month.

Men who have sex with men harbor some significant misperceptions about same-sex that may increase HIV vulnerability. These include the false beliefs that HIV and STI can't be transmitted through anal sex or through sex between men; that only the receptive partner in anal intercourse is at risk of contracting STIs; and that washing the genitals and anus with disinfectants after unprotected sex is an effective way of preventing STI and HIV transmission.⁸⁷

Economic exchange plays a role in sex among the men surveyed. Two-thirds of the men interviewed in Senegal and 52 percent of those in Kenya had "received money" in exchange for sex with other men during the last 12 months. Twenty-nine percent of the respondents in Kenya also reported paying for sex. No comparisons were made, however, with economic exchange among heterosexuals.

Condom use is inconsistent among men who have sex with men. Fewer than 60 percent of same-sex practicing men surveyed in Kenya reported using condoms "always" during anal sex. In Senegal, only 23 percent of the sample

86 Horizons Program, Kenya, 18; Horizons Program, Senegal, 11.

87 International HIV/AIDS Alliance, "Meeting the Sexual Health Needs of Men Who have Sex with Men in North Africa and Lebanon (MSM/MALE project)": 1.

reported condom use during insertive anal sex and 14 percent during receptive anal sex. Even fewer men who have sex with men consistently use condoms in their heterosexual encounters.

Contrary to the belief that same-sex behavior is taught to Africans by Europeans, most respondents engaged in their first homosexual experience with another African male, mainly fellow students, neighbors, or extended family members.⁸⁸ Fewer than three percent of respondents in Kenya and less than one-third in Mali had had their first homosexual experience with a foreigner or tourist. The first homosexual experience occurred on average at 15 years old in Senegal, and 17 in Kenya.

In research conducted by OUT in South Africa, sexual abuse of both lesbians and gay men was common. The perpetrators of this violence include policemen, neighbors, schoolmates and family members.

HIV Vulnerabilities of Women who have Sex with Women

The myth that sexual activity between women poses no risk for HIV transmission exists among health care professionals as well as among many women who have sex with women themselves. HIV has been isolated in vaginal secretions, cervical biopsies, menstrual blood, and breast milk.⁸⁹ Sexual practices such as digital-vaginal or digital-anal contact, as well as sex with shared penetrative toys, may well serve as a means for transmission of HIV-infected cervicovaginal secretions.⁹⁰

The details surrounding the first case of female-to-female transmission were released only in February 2003 by the journal *Clinical Infectious Diseases*.⁹¹ In this case, a 20-year-old woman with no additional risk factors other than her sexual relationship with a female partner, tested positive for HIV in which the infecting strain matched that of her partner. The route of transmission was determined to most likely have come from the use of sex toys.⁹²

88 Semugoma, 29.

89 Clare Hughes and Amy Evans, "Health Needs of Women Who Have Sex with Women," *BMJ* 327, (October 25, 2003): 939.

90 Jeanne M. Marrazzo, "Barriers to Infectious Disease Care among Lesbians," *Emerging Infectious Diseases* 10, no. 11 (November 2004).

91 Other cases of female-to-female transmission have been reported in the past—as early as 1984—but attributions of these cases were based on the absence of a history of alternative risks for HIV infection, and may not have been well accepted as evidence by the medical community. For history of other case studies, see Kate Morrow, "Say It! Women Get AIDS!: HIV Among Lesbians," in *Selfhelp Magazine*, (May 28, 1998). www.selfhelpmagazine.com/articles/glb/womenhiv.html.

92 Helena A. Kwakwa and M.W. Ghobrial, "Female-to-Female Transmission of Human Immunodeficiency Virus," *Clinical Infectious Diseases* 36, e40-e41 (2003).

The lengthy delay in the verification of the first case of female-to-female transmission and the lack of subsequent research on this transmission vector highlights the need for additional research on the HIV risks tied to sex between women and increased sensitivity in the conduct of such research. Same-sex practicing women participating in HIV research may not self-identify as “lesbian” or “bi-sexual,” and many studies fail to even ask female participants about their involvement in same-sex practices. In most studies, if a woman has engaged in other behaviors considered to be “higher” risk behaviors, the fact that she also engages in same-sex behavior will be subsumed and ignored, therefore contributing to the invisibility of same-sex female transmission. The U.S. Centers for Disease Control and Prevention (CDC) reported that of the 246,461 cases of women found to be HIV seropositive up through December 2004, information on whether the woman had sex with women was missing in more than 60 percent of the case reports.⁹³

In addition to the bio-sexual risk of HIV transmission between women, various social factors also increase exposure to HIV and challenge women’s efforts to protect themselves from infection. Many women who have sex with women are pressured or forced into arranged marriages to fulfill perceived responsibility to family and/or to “cure” homosexual behavior. While same-sex oriented men are also forced into heterosexual marriages, women have far less ability to negotiate sex, particularly to refuse unprotected sex. Same-sex practicing and gender-non-conforming women are also subjected to “corrective” rape and other forms of sexual abuse, which in their violence and brutality pose a disproportionate risk for HIV transmission. Some same-sex attracted women choose relationships with men at various points in their lives as a result of economic necessity, sexual and/or romantic desire. Other risk factors for same-sex practicing women include the effects of alcohol and drug abuse, including intravenous drug use, which is a very real concern for many women who lead lives characterized by marginalization and discrimination.

According to Alicia Heath-Toby of the Lesbian AIDS Project at Gay Men’s Health Crisis (GMHC) in New York, “The information, technology, and research capabilities for studies on female-to-female transmission exist today, but obstacles such as government homophobia still stand in the way.” No African women’s organizations are addressing the issue of female-female transmission of HIV and, with the exception of efforts by a few LGBT groups, no prevention programming for lesbians is underway. As a result, women who

93 Centers for Disease Control, “HIV/AIDS Among Women Who Have Sex with Women,” (June 2006).

have sex with women may be the most “at risk” group of all, not due to biological susceptibility, but to sheer neglect.

The Impact on HIV/AIDS Programming of Minimal Research on Same-Sex Practicing People

HIV prevention programs for men who have sex with men are underway in most Asian countries, many with U.S. government funding. Efforts to prevent HIV transmission among men who have sex with men are underway in Bangladesh, Cambodia, Viet Nam, Thailand, Hong Kong, India, Indonesia, and China, through the combined efforts of local LGBT groups and international NGOs, such as the Naz Foundation, Family Health International (FHI), and the International HIV/AIDS Alliance. In September 2006, Naz hosted a conference for organizations throughout the region engaged in work with same-sex practicing men. According to Kevin Frost, Vice President for Clinical Research and Prevention Programs at the American Foundation for AIDS Research (AmFar), “Having good epidemiology about the impact of HIV on MSM in Asia was essential to overcoming resistance and to obtaining increased funding for programs to address same-sex transmission.” AmFar manages a clearinghouse for HIV prevention work on men who have sex with men for organizations working in the Greater Mekong Region of Southeast Asia. Similarly, programs for men who have sex with men in Latin America have been functioning with both national and international assistance since the early 1990s.

The failure to undertake research on HIV and same-sex practicing people in Africa—particularly the lack of seroprevalence data—has undercut efforts to advocate for targeted programming. AIDS policy, planning, and resource allocation is driven by statistics. While a human rights framework upholds the right of every individual to equal access to health care and health-related information, governments are often forced into action only when it can be proven that a statistically significant number of people in a social group are affected and in need of targeted attention. Given the continued criminalization of consensual same-sex acts, and the absence of compassion within various African national discourses for gay men and lesbians, clear seroprevalence data are needed to effectively advocate for an increase in HIV-related services.

Working with What We’ve Got

There are still important gaps in our knowledge of HIV and same-sex practices in Africa. We need more seroprevalence data on both men and women, as well as answers to many unanswered questions. Are female condoms and microbicides important tools in HIV prevention among same-sex practicing

men? What role is sexual violence playing in HIV transmission among same-sex practicing men and women? Are there cultural differences in the sexual behavior of same-sex practicing men and women throughout the African continent that impact on HIV vulnerability? Are same-sex practicing men and women playing a significant role in HIV-orphan care that could be scaled-up for the benefit of affected communities?

The few HIV interventions for same-sex practicing people currently underway in countries like Ghana, Senegal, and Kenya would provide a rich and useful set of information if they were properly reviewed and evaluated. Best practices can also be drawn from HIV interventions targeting gay and lesbian men and women of African descent in other parts of the world. Work with South Asian and Latin American same-sex practicing communities may also provide relevant strategies. While additional research on Africa is essential, this research gap cannot be used to justify a failure on the part of African governments and international donors to provide services to respond to the HIV-related needs of same-sex practicing people.

Chapter 3

How Human Rights Violations Increase the HIV Vulnerabilities of Same-Sex Practicing People

V*iolations of human rights are exposing same-sex practicing people to* increased risk for HIV and circumscribing their abilities to protect themselves, their families, and their partners. While unprotected penile-anal sex may be the most efficient form of sexual transmission of HIV, the denial of a set of basic human rights as a result of sexual orientation may well be the most significant social risk factor for same-sex practicing Africans.

Human rights and public health expert Sofia Gruskin describes HIV vulnerability as “the lack of power of individuals and communities to minimize or modulate their risk.”⁹⁴ Social vulnerability to HIV is not an innate condition, but the result of legal, political, and economic inequalities that lead to an inability of people to protect themselves from exposure to HIV, or to control its impact on their lives. Conditions that lead to increased HIV vulnerability are most often the result of the marginalization of individuals or groups, inaction on the part of government and other key stakeholders, and denial of access to information, education, and materials.

94 Sofia Gruskin, “Human Rights and HIV/AIDS,” HIV InSite Knowledge Base Chapter, April 2002, <http://hivinsite.ucsf.edu/InSite?page=kb-08-01-07>

Freedom from Unfair Discrimination

The UN Human Rights Committee has declared discrimination based on sexuality to be contrary to the ICCPR. Though non-binding, the joint UNAIDS and UNHCHR HIV/AIDS and International Human Rights Guidelines call on states to “enact or strengthen anti-discrimination...laws that protect vulnerable groups” including men who have sex with men.⁹⁵ Despite these decisions and guidelines, discrimination based on real or perceived sexual and/or gender identity continues unchecked in most of Africa with unequal treatment existing in schools, at work, within the family, and in the justice system.

With the exception of South Africa,⁹⁶ no African country guarantees its citizens protection from sexuality-based discrimination and same-sex practicing people have no clear legal recourse when their rights are threatened. The UN Human Rights Committee has recognized that homophobic stigma and discrimination hamper HIV prevention “by driving underground many of the people at risk of infection.”⁹⁷ Studies have proven the link between healthy self-esteem and HIV-related behavior change.⁹⁸ Failure to address anti-gay discrimination contributes not only to the HIV vulnerability of same-sex practicing people, but to their heterosexual partners as well.

Freedom from Arbitrary Arrest and Detention

For Utiwa Kanane of Botswana, the banging on his door came on December 2, 1994. Alim Mongoche, Marc Lambert, and at least a dozen other men and women were sitting in an outdoor bar in Yaoundé, Cameroon, enjoying a cool drink on the evening of May 21, 2005. Local officials showed up on Victor Julie and Stella A.’s doorstep in Kampala, Uganda on July 29, 2005. Alexandra Rubera, a 23-year-old transgender woman who had fled both sexuality-based and ethnic violence in her native Burundi, was shopping at a mall in Nairobi on November 15, 2005 when the moment came. Fear of arbitrary arrest and deprivation of liberty are a very real part of the lives of many same-sex practicing Africans.

The right to be free from arbitrary arrest and detention is protected by Article 9 of the UDHR, Article 9(1) of the ICCPR, and Article 6 of the African

95 OCHR, UNAIDS, “HIV/AIDS and Human Rights International Guidelines,” Guideline 5, New York and Geneva, 1998.

96 The Namibian labor code also bans discrimination based on sexual orientation.

97 Communication No. 488/1992: Australia. 04/04/94. CCPR/C/50/D/488/1992. (*Toonen v. Australia*, Date of communication: December 25 1991).

98 Preston et al., “Sexual Risk Behavior: The Influence of Stigma on the Sexual Risk Behavior of Rural Men who have Sex with Men” in *AIDS Education and Prevention*, ed. Deborah Bray Preston (Guilford Press, 2004).

Charter. Same-sex practicing people are arrested under a variety of laws (see Chapter 1) and sometimes no law at all. In *Toonen v. Australia* (1994),⁹⁹ the UN Human Rights Committee declared laws that criminalize consensual same-sex sexual behavior to be inherently discriminatory and a violation of the right to privacy guaranteed by the ICCPR.¹⁰⁰ This principle has been confirmed by the UN Working Group on Arbitrary Detention, which has directly called on both Egypt and Cameroon to repeal laws that criminalize consensual homosexual conduct.¹⁰¹ Of the nearly three dozen African states that had legal prohibitions against consensual same-sex conduct when the *Toonen* decision was handed down, only South Africa and Cape Verde have has modified their penal codes. In fact, several states including Rwanda, Nigeria, Uganda, and Zimbabwe, have attempted to enact laws or broaden existing penalties for same-sex conduct.

IGLHRC has documented arrests based on sexual orientation in Botswana, Cameroon, Côte d'Ivoire, Democratic Republic of Congo, Egypt, Ghana, Kenya, Nigeria, Mali, Zimbabwe and Senegal. Same-sex practicing people can face arrest as a result of rumors and denouncements from neighbors, school-mates, and even family members. Detention is often, though not always, linked to attempts to extort the detainees, their partners, friends, or families. Many people face extended periods of pre-trial detention due to painfully slow legal systems and their inability to secure the services of lawyers. According to Emma, a young Nigerian man,

When I lived with my boyfriend, our neighbors never accepted us. They looked at us like there was something wrong with us. On 15 January 2005, a group of police came to our house very early in the morning. The police asked us if we were gay, and my boyfriend admitted that we were. They then arrested us. We resisted and they became violent with us. They handcuffed us and took us to the police station. They kept us locked up in a cell. I had one friend only who would come to see us. He tried to find a lawyer to represent us,

99 *Nicholas Toonen v. Australia*, U.N. GAOR, Hum. Rts. Comm, 15th Sess., Case no. 488/1992, U.N. Doc. CCPR/c/50/D/488/1992.

100 In concluding observations to state human rights reports, the Human Rights Committee expressed concern with the continued criminalization of homosexuality in Sudan (1997), Zimbabwe (1998), Lesotho (1999), Egypt (2002), and Kenya (2005).

101 Opinions adopted by the Working Group on Arbitrary Detention, No. 7/2002 (Egypt), E/CN.4/2003/8/Add.1, January 24, 2003; 22/2006 (Cameroon) "Civil and political rights including the questions of torture and detention."

but no lawyer would represent us because they did not want to be associated with gay men. We were never tried. We were just held in detention until our release two months later.¹⁰²

Arrests of gay men and lesbians have sometimes come at the instigation of highly-placed government officials. In 1999, Uganda president Yoweri Museveni announced in a speech that he had, "told the CID [Criminal Investigations Department] to look for homosexuals, lock them up and charge them."¹⁰³ In some instances, lesbians and gay men have been remanded to psychiatric institutions.¹⁰⁴

UNAIDS has termed harassment of HIV/AIDS educators and researchers to be "an attack on human rights defenders, because these people are in their own way protecting the rights of men having sex with men."¹⁰⁵ In July 2006, a Nigerian gay man was arrested while working as a field researcher. Chuma was

arrested and detained by the police in Lagos when I was carrying out research for the study on HIV/AIDS among men that have sex with men in Nigeria. Policemen came to my apartment and took me away to an unknown place for two days. I was beaten beyond recognition. I was dehumanized and paraded naked to the press. My money, ID card and shoes were taken. Eventually I was released without being charged or tried. I am still receiving treatment for the head injury I received. My only offense was that I am gay.¹⁰⁶

Arrests on charges related to same-sex conduct can be emotionally, physically, and financially damaging and increase vulnerability to HIV in a number of ways. First, the fear of arrest drives already marginalized groups further underground, making them more difficult to reach for HIV interventions. HIV workers may risk arrest simply for associating with same-sex practicing people while conducting their outreach activities. Fear of arrest prevents people from attending meetings or socializing in locations where their sexual identities become suspect. These are precisely the locations, however, where HIV

102 IGLHRC interview with Emma, November 19, 2006.

103 As quoted in <http://gaytoday.badpuppy.com/garchive/world/031902wo.htm>.

104 Loga Varahswamy, "Trauma for Young Lesbians," *Agenda News, Mauritius*, August 18, 2006.

105 Susan Timberlake, UNAIDS, speech given at the ILGA Conference Geneva, Switzerland, March 29, 2006.

106 IGLHRC interview with Chuma, October 19, 2006.

prevention training, counseling, and materials (informational brochures, condoms, dental dams, lubricant, etc.) are available.

People in sex work, including those engaging in same-sex practices, may face arbitrary arrest simply for being in possession of condoms. In 2005, the Ghana AIDS Commission complained to the national police force about the practice of arresting sex workers based on their possession of supplies of condoms, and the Moroccan AIDS Service Organization (ACLS) has made note of this impediment to its efforts to provide condoms to male sex workers.¹⁰⁷ E.S., a 23-year-old Senegalese man, was arrested on July 25, 2006 and charged with “carnal knowledge against the order of nature” by police in Dakar, after he was found in possession of a dozen condoms and a bottle of lubricant.¹⁰⁸ Discouraging people in sex work from protecting themselves by penalizing the possession of safer-sex materials is perhaps the most shortsighted human rights violations of all.

Rights of Individuals Deprived of Their Liberty

Article 10 of the ICCPR guarantees that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” The right to be free from cruel, inhuman, and degrading treatment is guaranteed under Article 5 of the UDHR, Article 5 of the African Charter, Article 7 of the ICCPR, as well as by the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Torture Convention). The denial of access to HIV/AIDS counseling, testing, and treatment is a violation of the right to health. States are under the obligation to refrain “from denying or limiting equal access for all persons, including prisoners or detainees... to preventative, curative, and palliative health services.”¹⁰⁹

Penal institutions in Africa are notoriously harsh environments in which mistreatment and abuse provide serious challenges to maintaining human dignity. Overcrowding, hunger, violence, and lack of health services are endemic. Kenya’s prison system, is designed to hold some 16,000 inmates, but houses more than 50,000 in cramped, unhealthy conditions.¹¹⁰ Maputo Central Prison, in Mozambique houses 2,059 inmates in space for 800.¹¹¹ African prisoners die from easily curable diseases like malaria and gastroenteritis.¹¹²

107 “Child Prostitution and the Spread of AIDS,” *Lancet*, Vol. 356, (2000).

108 IGLHRC interview with E.S., October 29, 2006.

109 Ibid.

110 IRIN News, June 13, 2006

111 Human Rights Watch, <http://www.hrw.org/advocacy/prisons/africa.htm>

112 Ibid.

Detention, particularly for offenses related to homosexuality, places same-sex practicing people in jails and prisons where they have little access to condoms, HIV counseling, or medical treatment and are more vulnerable to sexual violence.¹¹³ Stephanie, a 23-year-old male-to-female transsexual and an important leader in Nigeria's LGBT community, spent ten weeks in a men's jail, falsely charged with attempted sexual assault, after being picked up on the street by police. Her lawyer was not even present during her hearing. While in detention, she was beaten and humiliated. Guards took away her clothes and left her in a cell naked where she was violated by other inmates. To make matters worse, Stephanie, who is HIV positive, was denied access to the medications that keep her HIV viral load under control.¹¹⁴

Same-sex practicing men, particularly those whose gender expression may be seen as nonconforming, often face sexual abuse in African prisons. Others are forced to trade sex for money or favors in order to survive the harsh conditions of prison life. During the 13 months that 11 Cameroonian men spent in prison on anti-homosexuality charges (May 2005–June 2006), they were regularly subjected to sexual harassment and abuse from other inmates. E.K., a 31-year-old gay man in Kenya reported that prisoners known to be gay are “put in cells with the most hardened criminals—rapists, murderers, armed robbers—as a form of punishment.”¹¹⁵

Governments refuse to make condoms available to prisoners or to allow their distribution by NGOs despite a growing awareness that it is impossible to prevent sex between prisoners.¹¹⁶ According to a prison welfare officer in the Kitale District of Kenya, “While we acknowledge that there is rampant homosexuality among the prisoners, we cannot provide them with condoms, as that would be tantamount to giving them a license to carry on with what is an illegal act in Kenya.”

The sheer weight of the HIV epidemic is forcing governments to acknowledge that prisoners are contracting HIV from each other and then exposing members of their communities upon release. Recognizing that prisons are critical points for both HIV transmission and for effective HIV interventions,

113 Only in South Africa has the government been required, through a court decision, to provide anti-retroviral treatment for prisoners who need it.

114 IGLHRC correspondence with Christine Roloff, *Medecins sans Frontieres*, December 13, 2006.

115 IGLHRC interview with E.K., June 16, 2006.

116 The denial of condoms to prisoners is not only a problem in Africa. Condoms are currently available in prisons only in Canada, most of the European Union, parts of Latin America, and a few cities of the United States.

African governments have slowly begun launching HIV education programs in prisons.¹¹⁷ However, these programs continue to stigmatize same-sex behavior and do not involve the distribution of condoms.

For people who are HIV positive, prison conditions hasten the rate at which the disease progresses. In June 2006, Alim Mongoche, a 30-year-old tailor and one of the 11 Cameroon detainees, died of AIDS-related complications ten days after his release. The last year of Alim's life was spent in Kondeguui Prison in Yaoundé, where conditions were harsh and medical treatment nonexistent, particularly for someone with a compromised immune system. Overcrowding, lack of food and exercise, and minimal light and fresh air contributed to his rapid decline.

Rights to Integrity, Dignity, and Security of the Person

Same-sex practicing people, particularly those whose behavior or appearance do not conform to traditional gender roles, are often the targets of homophobic assaults. The IGLHRC and Human Rights Watch report *More than a Name* documents dozens of physical attacks against LGBT in Southern Africa. The U.S. Department of State Human Rights Report recounts violence against people presumed to be gay or lesbian in more than a dozen African countries.¹¹⁸ Assaults against same-sex practicing people often go uninvestigated and unpunished, with either the victims afraid to come forward or the police siding with the perpetrators. The U.S. Embassy in Liberia reports that "people rumoured to be homosexuals are regarded as outcasts and are publicly booed and verbally attacked...even police and other law enforcement officers usually encourage citizens to abuse suspected homosexuals and they don't usually intervene."¹¹⁹

Young people are at particular risk for violence. Out LGBT Well-being and the Durban Lesbian and Gay Health and Community Centre in South Africa estimate that one-third of LGBT students are physically attacked in their schools because of their sexuality.¹²⁰ An eighteen-year-old Ugandan secondary school pupil was caned in front of her school after the school administration discovered love letters between her and other girls.¹²¹

117 UN Integrated Regional Information Networks. "HIV/Aids Counseling Centres Set Up in Prison, First Accredited Prison Anti-Aids Site Unveiled," February 21, 2006.

118 <http://www.state.gov/g/drl/rls/hrrpt/>

119 Cable from Jenkins S. Vaughn, U.S. Embassy in Liberia, to Alfreda E. Meyers, July 25, 2006.

120 Harrison Thembo, "Teacher Beats Student to Death," WBS-TV, October 9, 2006.

121 Quoted in Human Rights Watch, *The Less They Know the Better* (2005), 58.

Women's rights to bodily integrity and security are specifically protected in Article 4 of the Women's Protocol to the African Charter that affirms women's rights to life, integrity, and security. Article 3 obligates states to prohibit the exploitation or degradation of women and to protect them from all forms of violence, particularly sexual and verbal abuse. Most states have failed to live up to these promises, however, with rape and other forms of sexual abuse reaching epidemic proportions in a number of African countries.

The Forum for the Empowerment of Women (FEW), a Black lesbian organization based in Johannesburg, South Africa, has found that women who have sex with women are systematically targeted for abuse such as abduction and murder.¹²² Rape in particular is used against same-sex practicing women as a form of punishment and humiliation. Since 2004, FEW has collected reports of more than 50 cases of hate crimes against lesbians.

Hlengiwe, a 25-year-old lesbian from Soweto who was raped three times over a period of two years told IGLHRC that "the guys who raped me were my friends." Hlengiwe became infected with HIV as a result of one of the sexual assaults. OUT/Durban Lesbian and Gay Health and Community Centre found that 19 percent of South African lesbian and bisexual female teenagers had faced rape or sexual abuse.¹²³

African men who are homosexual or gender nonconforming are also at risk of rape and sexual abuse. In South Africa, 20% of gay and bisexual teenage males have been raped or sexually abused.¹²⁴ Wade *et al.* found that 30 percent of the men who have sex with men who were interviewed in the Senegal study had been forced into sex at least once in their lives.¹²⁵ Almost half of the same-sex practicing men in the Horizons Project study in Nairobi had been raped at least once.¹²⁶

The Horizons Project found that victims of physical and/or verbal abuse were "significantly more likely to engage in unprotected sex."¹²⁷ People who are regularly subjected to violence are likely to suffer from low self-esteem and

122 Forum for the Empowerment of Women, *The Rose Has Thorns: Stories of Hate Crimes Against Lesbians in South African Townships* (2005).

123 Helen Wells, Louise Polders, OUT LGBT Well-being, *Hate Crimes Against Gay and Lesbian People in Gauteng: Prevalence, Consequences and Contributing Factors*, <http://www.out.org.za/Products.html>

124 Wells *et al.*, *Hate Crimes Against Gay and Lesbian People in Gauteng: Prevalence, Consequences and Contributing Factors*.

125 Wade *et al.*, "HIV Infection and Sexually Transmitted Infections among Men Who Have Sex with Men in Senegal": 2136.

126 Horizons, "Meeting the Sexual Health Needs," 12.

127 Horizons, "Understanding the HIV/ATI Risks and Prevention Needs of Men who Have Sex with Men in Nairobi, Kenya," 3.

depression. A study conducted by Brown University Medical School revealed that teens with symptoms of depression are more than four times likely to engage in risky sexual behavior (i.e. not use condoms, engage in sex with multiple partners, etc.).

Freedom of Expression

The right to freedom of expression is protected under Article 19 of the UDHR¹²⁸ and 19.2 of the ICCPR.¹²⁹ Article 9 of the African Charter promises every individual “the right to receive information and the right to express and disseminate his opinions within the law.” However, African governments are adhering to a code of silence around homosexuality, which manifests itself in restrictions on the content of HIV messages. The overwhelmingly heterosexual imagery of HIV/AIDS in public health campaigns has led to ignorance and misinformation about same-sex HIV transmission. This infringement on freedom of expression also impedes the work of HIV outreach workers and advocates who are unable to freely promote the public health needs of same-sex practicing people.

As mentioned in Chapter 1, a Ugandan broadcaster, *Radio Simba*, was fined US\$1,000 by the government for airing a program that discussed anti-gay discrimination and the need for HIV/AIDS services for lesbians and gay men in Uganda. The government claimed that *Radio Simba* had violated federal law prohibiting broadcasting that is contrary to “public morality.” Uganda’s suppression of public discussion of homosexual HIV transmission violates the rights to freedom of expression, freedom of the press, and freedom to receive information. The Ugandan government used claims of “protecting public morality” for the distinctly immoral purpose of depriving same-sex practicing people of information that could save their lives.

Even in a relatively liberal environment like South Africa where discrimination on the basis of sexual orientation is banned by the constitution, AIDS service organizations have shied away from including images of same-sex practicing people in their mass media campaigns. Billboards developed by the South African AIDS prevention organization LoveLife have a reputation for being shocking and edgy, but have yet to include images of individuals identifiable as gay men, lesbians, transgenders, or same-sex couples in its mass

128 UDHR, Article 19, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

129 Ibid. Article 19.2.

media campaigns. In a telephone call to the LoveLife office in Johannesburg to inquire whether the organization had plans for specific outreach materials targeting gay and lesbian youth, an official explained that LoveLife “is a program for young people” as if this served as an explanation as to why same-sex images were absent.

The government of Zimbabwe has consistently challenged the participation of Gays and Lesbians of Zimbabwe (GALZ) in the annual Harare International Book Fair. GALZ distributes condoms and other HIV prevention materials for gays, lesbians, bisexuals and transgender people. A new law currently under consideration in Nigeria would criminalize meetings of same-sex practicing people and the production of same-sex HIV outreach materials, thereby undermining Nigeria’s effort to combat the spread of HIV/AIDS.

Freedom of Association and Assembly

Governments are obligated to protect the rights to freedom of association and assembly under Articles 20 of the UDHR, Article 21, 22(1) of the ICCPR, and Articles 10 and 11 of the African Charter. The Charter declares that “Every individual shall have the right to assemble freely with others” and “to free association provided that he abides by the law.” The proviso that the individual must “abide by the law” in order to enjoy the right to free assembly and association should not exclude same-sex practicing people from the enjoyment of these rights even in countries that have laws that criminalize homosexual behavior. Such laws have been deemed inherently discriminatory and a violation of the right to privacy by the UN Human Rights Committee. They cannot be used to arbitrarily deny access to a basic human right.

There are numerous examples of the violation of the rights of association and assembly that increase the exposure of same-sex practicing people in Africa to HIV, and limit their access to HIV-related services. These include refusal to provide official recognition and registration of LGBT organizations and attacks on gatherings of same-sex practicing people, including harassment of LGBT bars and disruption of LGBT participation in public events.

Denial of registration to LGBT groups impedes their ability to design and implement HIV programs, seek and receive funding, and to advocate for their rights to information about HIV, to have equal access to services, and to receive non-discriminatory health care. Both the Sierra Leone Lesbian and Gay Association (SLLAGA) and *Association Anti-Homophobie Africaine* (AHA) in Uganda have been denied official registration by their governments. AHA’s leader, Luzao Basambombo, a Congolese citizen, was first jailed and then expelled from Uganda for his sexual rights activism. LGBT groups in other

African countries operate unofficially or under the auspices of host organizations in order to protect their members. In research for this report, a number of African LGBT groups reported that they have not attempted to register their organizations out of fear of being targeted for intensified harassment. Denial of official recognition means that there is no “safe space” for the conduct of HIV prevention, testing, care, or treatment outreach.

Spaces where same-sex practicing African men and women can meet without fear of attack or persecution are few. On September 1, 2006, the government of Ghana issued a statement banning a lesbian and gay conference that it claimed had been scheduled and instructed authorities to locate and arrest the conference’s local organizers.

Both the dates and the location of the reported conference were sketchy, and no one in Ghana’s close-knit LGBT activist community was involved in the planning, leaving many observers wondering whether the event wasn’t a red herring, introduced to galvanize resentment against Ghana’s increasingly visible gay and lesbian community.

The Minister of Information, Kwamena Bartels, declared, “Government shall not permit the proposed conference anywhere in Ghana. Unnatural carnal knowledge is illegal under our criminal code. Homosexuality, lesbianism and bestiality are therefore offences under the laws of Ghana.”¹³⁰ For weeks, newspapers and radio call-in shows in the West African country were obsessed with the topic of homosexuality. A number of LGBT leaders received death threats, and many were in fear for their lives.

Focus on the “foreign” aspects of the conference, which, according to the government, “would have brought gays and lesbians from all over the world to Ghana,”¹³¹ seemed designed to capitalize on nationalist sentiments and to reinforce claims that same-sex desire is “unAfrican.”

Such a conference may have provided an important opportunity to debate and develop approaches to human rights and to HIV prevention, treatment, and care for lesbians and gay men. Provisions for freedom of expression, association, and assembly in the Ghanaian constitution and in the international human rights treaties to which Ghana is party, protect the rights of citizens to engage in non-violent debate and advocacy, even if the issues they choose to address may be unpopular or controversial.

Bars, nightclubs, cafés, and dancehalls also constitute important venues for social nexus among same-sex practicing people and are being used as sites for

130 Quoted in “Ghanaian Gay Conference Banned” BBC, September 1, 2006.

131 “Proposed Gay Conference Still Sketchy,” *Home Page Ghana*, September 1, 2006.

HIV education, counseling, and condom distribution programs. Social spaces frequented by same-sex practicing people in Africa, however, are often targets of police harassment. Harassment of patrons at such establishments because of their presumed sexual identity has been reported in Cameroon, Nigeria, Zimbabwe, South Africa, Egypt, and Senegal. In 2004, SOA, a bar popular with the LGBT community in Surulere, Lagos, was raided by the police. According to one patron, "twenty-three people, including myself, were kept in detention for two days without a charge being laid. We were all mistreated and ridiculed by the policemen at the station."¹³² In May 2005, a bar frequented by gay men in Yaoundé, Cameroon, was raided by *gendarmes* and 11 men were arrested. These men were detained for more than a year before nine of them were convicted under Article 347 of Cameroon's penal code that criminalizes sex between men, even though none of the men had been proven to have engaged in homosexual sex. In August 2006, the Ugandan tabloid *Red Pepper* published the name and address of a popular night spot where gay men and lesbians gather, exposing the venue and its visitors to harassment by both state and non-state actors. In May 2001, at least 55 men were arrested in Cairo, Egypt, when undercover officers from a vice squad raided a bar after watching and filming dancing by male patrons.¹³³

When the offices and gatherings of LGBT people become targets of homophobic attacks, freedom of association is challenged. In May 2006, neighborhood men verbally and physically harassed the head of a West African LGBT group while he was on his way to the organization's office. In September 2004, lesbian activist Fannyann Eddy was killed in the offices of the Sierra Leone Lesbian and Gay Association (SLLAGA) where she worked. Emmanuel Sankoh, a former employee, was arrested and charged with the murder in November 2004, but then escaped from custody on July 11, 2005 under questionable circumstances. Sibongile M. and her partner were targeted by a group of men who sexually attacked them as they were returning home from Lesbian and Gay Pride activities in Johannesburg in September 2005. Such attacks seem designed to challenge the right of lesbians and gay men to congregate. Community and movement building, including the provision of HIV services, suffer.

Ultimately it is the very absence of public LGBT organizations in more than half of Africa's countries that testifies to the pervasive denial of the right to freely assemble and associate. Fear of arrest, job and housing insecurity, and

132 IGLHRC interview with Chuma, November 19, 2006.

133 Human Rights Watch, *In a Time of Torture* (2004).

physical harassment by national and local government, religious groups, and community gatekeepers, keep same-sex practicing people from forming organizations or holding meetings.

Where safe spaces do exist for same-sex practicing people, organizations have been able to offer HIV prevention information, counseling, voluntary HIV testing services, and the distribution of safer sex supplies including condoms, dental dams, and latex-compatible lubricants. Organizations in Côte d'Ivoire, Namibia, Ghana, South Africa, and Zimbabwe have established centers where lifesaving information and support is offered. Groups in other countries, such as Uganda, Botswana, and Kenya, have been offering more ad hoc HIV counseling to community members—often in bars, nightclubs and cafés.

Right to Health

The right to health is recognized in various international human rights treaties,¹³⁴ but one of the most comprehensive descriptions can be found in Article 12 of the ICESCR, which guarantees “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”¹³⁵ Commentary to this article also specifies the necessary steps for states to take in order to ensure the full realization of the right to health, including the “prevention, treatment and control of epidemic, endemic, occupation and other diseases,” and “creating conditions which would assure to all medical service and medical attention in the event of sickness.”¹³⁶

The right to health is interdependent with other rights, in that its fulfillment depends on the realization of rights to access information or to equality under the law. In its general comments on the substantive issues arising in the implementation of Article 12, the Committee on Economic, Social and Cultural Rights affirmed that, “Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.”¹³⁷

Yet, the right to health is denied to many same-sex practicing Africans on a regular basis—both directly and through a series of related rights deprivations

134 The right to health is protected under Article 25(1) of the UDHR, Article 12 of CEDAW, Article 139 of the African Charter, Article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and Article 24 in the Convention on the Rights of the Child of 1989.

135 ICESCR, U.N. Doc. A/6316 (1966) Article 12(1).

136 ICESCR, U.N. Doc. A/6316 (1966) Article 12(2).

137 Committee on Economic, Social and Cultural Rights, General Comment 14: *The Right to the Highest Attainable Standard of Health*, August 11, 2000, para. 1.

and violations. The actions and inactions of governments, health care providers, and foreign donors contribute to HIV vulnerability when same-sex practicing people face discrimination and unequal treatment in obtaining health care, safer-sex supplies, information, or treatment; are excluded from HIV research, programming, and services; and are disallowed to participate in the design or implementation of public health programs and services that affect their lives.

Non-Discrimination and Equality in Health Services

Governments are obligated to provide and ensure equal access to services necessary for the physical and mental health of all people, without discrimination based on HIV status and/or sexual orientation. State parties must respect the principles of equality and non-discrimination when implementing health care policy. The Committee on Economic, Social and Cultural Rights (CESCR) has prohibited by virtue of Article 2.2 and Article 3, “any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), *sexual orientation* and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health” (emphasis added).¹³⁸

As citizens and residents, same-sex practicing people are entitled to share in public resources. States must provide accessible, nondiscriminatory health services for all sections of the population, especially for vulnerable or marginalized groups.¹³⁹ Article 13.3 of the African Charter guarantees that “every individual shall have the right of access to public property and services in strict equality of all persons before the law.” Despite these commitments, governments in Africa continue to deny same-sex practicing people programming for their specific health care needs, particularly HIV/AIDS prevention, treatment, and care.

With some notable exceptions, few government-managed or -funded HIV programs conduct specific outreach to sexual minorities or train their staffs to work effectively with same-sex practicing individuals.

138 Committee on Economic, Social and Cultural Rights (2000), General Comment 14: *The Right to the Highest Attainable Standard of Health*, August 11, 2000, para. 18.

139 Committee on Economic, Social and Cultural Rights, General Comment 14: *The Right to the Highest Attainable Standard of Health*, August 11, 2000, para. 12.

Article 13 of the African Charter guarantees every citizen the right to access information relating to decision-making processes that affect their lives and well-being. Openly gay men or lesbians are not included in public health planning responsible for developing HIV prevention, care, or treatment strategies and their exclusion has marginalized their needs and denied nations the experience and commitment of representatives of a highly affected population.

In addition to a lack of specific HIV programming and services, same-sex practicing men and women often face discrimination when seeking services at public and private health clinics. At the July 2006 President's Emergency Plan for AIDS Relief (PEPFAR) conference in Boksburg, South Africa, U.S. Ambassador to Ghana Pamela Bridgewater noted that African same-sex practicing men are "stigmatized by health workers."¹⁴⁰ Compassion for gay and lesbian people is often lacking, and most health workers do not have training to respond to the specific physical and psychological needs of same-sex practicing clients. Romeo Tshuma of GALZ remembers accompanying a gay friend to a health care center to seek treatment for HIV and an STI. According to Romeo, his friend

went to a local clinic in Mbare (high density area of Harare). The nurses were not helpful. No, it was worse than that. They embarrassed him, after that he wouldn't go to a hospital because of the embarrassment. They called the other nurses round, they said, 'Come and see, how can a man have an STD in his ass, are you a homosexual?' He died in part, I think, because he had no place to go.

In a study conducted by OUT Well-being in South Africa, 8.4 percent of black lesbians and 7.6 percent of black gay men had been refused medical treatment as a result of their sexual orientation.¹⁴¹ A study on the health of LGBT in Botswana reported that less than 15 percent of respondents "shared intimate information about their sexual orientations with their doctors," and nearly half did not trust their health care provider.¹⁴² The Horizon Project's 2002 study of men who have sex with men in Senegal reported similar results. Hostile and discriminatory attitudes from health care providers make many same-sex practicing people reluctant to share personal and medical informa-

140 <http://www.Kaisernetwork.org>, June 20, 2006.

141 Helen Wells, Louise Polders, OUT LGBT Well-being, *Gay and Lesbian People's Experience of the Health Care Sector in Gauteng*, (2004):3, <http://www.out.org.za/Products.html>.

142 Ehler, V.J. et al, "The Well-being of Gays, Lesbians and Bisexuals in Botswana," May 2001.

tion, jeopardizing their overall health and their access to sexual health care services in particular.

Gay men and lesbians in Ghana reported that health clinics require those diagnosed with STIs to bring their partners to the clinic before they can receive treatment, something most same-sex practicing individuals are unwilling to do for fear of homophobic reprisals. K.S., a 23-year-old gay man in Mombasa, Kenya reported that he was chased out of a public health clinic when he asked to be examined for an anal STI. When they face mistreatment while attempting to obtain health care, people become less likely to seek treatment for STIs, which when untreated increase risk for HIV transmission. LGBT activists in Ghana reported that the disrespect same-sex practicing men face at health centers leads them

to self-medicate for STIs, using home remedies that may be inappropriate or ineffective. Others consume left-over drugs from friends who have had similar illnesses. In the end, most get even sicker and they pass their STIs on to others.¹⁴³

Alcohol and substance abuse is also a growing concern in many LGBT communities throughout the world. Alcohol and substance abuse may be linked to the stress of homophobia and the isolation experienced by many same-sex practicing people. Sixty-four percent of gay and lesbian respondents in Botswana consumed more than two alcoholic drinks per day.¹⁴⁴ Abuse of alcohol and other drugs has been shown to increase incidence of unprotected anal sex and to contribute to HIV vulnerability in Africa.¹⁴⁵

The CESCRC determined that the prevention, treatment, and control of epidemic, endemic, occupational, and other diseases, requires states to establish prevention and education programs for behavior-related health concerns such as HIV/AIDS. They should therefore be held responsible for providing psychosocial services that address the link between the abuse of drugs and alcohol and incidents of unprotected sex.

Promotion of Medical Research and Health Education

The CESCRC has interpreted Article 12 of the ICESCRC to include the obligation

143 IGLHRC interview with M.D., December 14, 2005.

144 Ehlers et al., "The Well-being of Gays, Lesbians and Bisexuals in Botswana," 852.

145 Tim Lane, "High-Risk Sex among Black MSM in South Africa: Results from the Gauteng MSM Survey," unpublished.

to promote medical research and health education.¹⁴⁶ While governments and international donors are financing research on HIV/AIDS prevention, transmission, and treatment in Africa, same-sex practices continue to be largely excluded from these studies. To date, the results of only one HIV seroprevalence study of men who have sex with men in Africa have been officially released.

As described in Chapter 2, questions regarding same-sex sexual behavior have been omitted by both neglect and design from national behavioral and health surveys in Africa. Of particular concern is the lack of research being conducted by governments, pharmaceutical companies, and international research institutions on alternative medical interventions that show promise for preventing HIV transmission. Some of these strategies, such as anal or vaginal microbicides, pre- and post-exposure prophylaxis, and treatment of HSV-2 among HIV-negative people, may offer valuable approaches for heterosexuals as well.

Right to Health-Related Information

According to the CESC, Article 12 of the ICESCR requires states to take all necessary steps to ensure the “establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS, and any others adversely affecting sexual and reproductive health.”¹⁴⁷ The CESC similarly stated that “information accessibility” is an essential element of the human right to health, noting that “education and access to information concerning the main health problems in the community, including methods of preventing and controlling them” are of “comparable priority” to the core obligations of the ICESCR.¹⁴⁸ Recognizing the importance of information accessibility, the Committee also interpreted the right to health to include the “right to seek, receive and impart information concerning health issues.”¹⁴⁹ States must refrain from “censoring, withholding or intentionally misrepresenting health-related information, including sexual education information.”¹⁵⁰

146 Committee on Economic, Social and Cultural Rights, General Comment 14: The Right to the Highest Attainable Standard of Health, August 11, 2000, para. 36.

147 Ibid., para. 16; see also *ibid.*, para. 36 (States must promote “health education, as well as information campaigns, in particular with respect to HIV/AIDS”).

148 Committee on Economic, Social and Cultural Rights (CESC), *The Right to the Highest Attainable Standard of Health*, para. 44(d).

149 Ibid., para. 12(c).

150 Ibid.

The right to health obligates governments to promote information campaigns and provide accurate and complete information and education without distinction. Despite these commitments, national governments and foreign donors, along with international NGOs and national AIDS service organizations, are doing little to ensure that same-sex practicing people have access to information on HIV prevention, treatment, and care. As discussed previously, imagery and content of HIV prevention messages disseminated through various media such as radio, television, and billboards, have been exclusively heterosexual. The harassment by police of HIV outreach workers distributing safer-sex supplies and prevention information is also a violation of the right to information as it relates to health.

Right to Access Means of Maintaining Sexual Health

Article 12 of the ICESCR has been interpreted to obligate governments to respect the right to health by refraining from “limiting access to contraceptives and other means of maintaining sexual and reproductive health.”¹⁵¹ Article 16.2 of the African Charter also commits state parties to take the necessary measures to protect the health of their people. However, the last few years have seen a reduction in access to safer sex supplies and information. There have been condom shortages in a number of countries, particularly those hardest hit by HIV/AIDS, and when condoms are available, making inexpensive latex-compatible lubricant available has yet to become a priority in most government or privately run AIDS prevention programs. Policies that limit access to condoms, dental dams, and inexpensive latex-compatible lubricants to individuals, regardless of their sexual preferences, violate both the African Charter and the ICESCR in that they thwart the ability of individuals to protect their health.

African leaders have downplayed the important role condoms have played in the reduction and stabilization of HIV seroprevalence rates in Africa. With support from the United States, some national HIV prevention programs have chosen to focus on condom failure rates. Ironically, condoms are a highly effective HIV prevention strategy. Statements by highly influential individuals associating condom use with immorality limit the effectiveness of condoms, not any flaw in their design.

African First Ladies have exerted significant influence of HIV/AIDS policy and spending. Lucy Kibaki, the chair of the Organization of 40 African First

151 Committee on Economic, Social and Cultural Rights, *General Comment 14: The Right to the Highest Attainable Standard of Health*, August 11, 2000, para. 34.

Ladies, shocked Kenyan AIDS activists by telling schoolgirls, “This gadget called the condom...is causing the spread of AIDS in this country.”¹⁵² While many observers feel that condom promotion has been an essential element of Uganda’s success at containing HIV, First Lady Janet Museveni is not convinced. Mrs. Museveni is one of the most vocal supporters of abstinence-only until marriage as the best and only strategy for Africa’s youth and has called for a national “virgin census.”¹⁵³

Right to an Adequate Standard of Living

The UDHR affirms that “Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing, medical care, and necessary social services”¹⁵⁴ and the ICESCR promises all individuals the right to an adequate standard of living.¹⁵⁵ But as a result of employment and education discrimination and rejection by families, many same-sex practicing people experience heightened levels of poverty.

Poverty increases vulnerability to HIV in numerous ways. Persons in poverty have less access to education and therefore have higher rates of illiteracy and a consequent lack of information on HIV prevention and general health care. Poverty also means less access to clean and safe water, adequate sanitation, and health care, creating grave problems for individuals who have compromised immune systems. This makes people living with HIV/AIDS extremely susceptible to opportunistic infections and to have those infections take a more pernicious course. Poor persons also have less access to HIV prevention supplies such as condoms, lubricant, and dental dams, as well as to treatment for STIs and HIV/AIDS treatment programs, increasing the risk of HIV transmission.

Right to Housing

While the right to adequate housing, which is guaranteed under Article 11 of the ICSECR, remains unfulfilled for many Africans, same-sex practicing people face specific discrimination in this area. Violations of the right to housing ultimately increase HIV vulnerability for same-sex practicing individuals. Many same-sex practicing Africans find themselves living in overcrowded

152 Peter Smith, “Kenyan First Lady: Condom is “causing the spread of AIDS in the country,” LifeSite News. 2005.

153 BBC News, “Call for Ugandan Virgin Census,” December 2, 2004.

154 UDHR, Art. 25.

155 ICESCR, Article 11.

shared housing with family or friends who are unaware or disapproving of their sexual orientation.

Gay men, lesbians, and transgenders report being chased from their homes by homophobic neighbors or government officials based on presumptions about their sexual identity. In July 2005, local council members raided the Kampala home of Ugandan LGBT activist Victor Julie, claiming to be acting on behalf of neighbors who were “disgusted with Mukasa’s lifestyle.”¹⁵⁶ Two Kenyan gay men in the port city of Mombasa reported having to move five times in the previous two years after successive groups of neighbors became threatening and physically violent.

With few private spaces in which to engage in relationships and their own homes subject to homophobic scrutiny and invasion, same-sex practicing people are often left with little choice but to seek alternate venues for sexual intimacy. According to one gay man in Western Uganda,

We can only have sex at night when all the people are asleep. Sometimes we lock ourselves in the toilets, move to dark corners in the night and at times in our beds with curtains covering around.¹⁵⁷

In this way, boundaries between public and private spheres become compromised for same-sex practicing people in ways that risk their safety and health. If sex cannot happen in the privacy of the home, it often happens in public, putting those involved at risk for arrest, harassment, and violence. In such an atmosphere it becomes nearly impossible to consistently access and make use of condoms, lubricant, dental dams and other safe sex supplies. While the practice of safe sex is still possible in public spaces, sex is more likely to be hurried, furtive, and risky. In IGLHRC’s 2007 report, *Voices from Nigeria*, Aishat, a gay man from Lagos, Nigeria complains,

I have to sneak around to have sex with other gay men. It is like hide and seek. We need to be quick and there is no time to make adequate provision about when and how to have sex.

156 IGLHRC interview with V. Mukasa, April 15, 2006.

157 As quoted in by Jailes Bahati, “Sex, a Dangerous Mission for Ugandan Homosexuals,” Behind the Mask, August 31, 2006

Chapter 4

The Impact of African Government Policies on the Sexual Health of Same-Sex Practicing People

H*uman rights are the building blocks of a just and functional society.* They are the concepts through which we describe and lay claim to the importance of our needs and desires, while balancing them with the claims of others. Human rights are universal and can only be abrogated under specific circumstances that are carefully defined by the various international and regional human rights treaties to which African governments have agreed. A state has three duties with regard to human rights: it must *respect* rights, meaning a government cannot violate human rights directly in laws, policies, programs, or practices; it must *protect* rights, by preventing violations by other states and by non-state actors and provide affordable and accessible redress; and it must *fulfill* the promise of rights through affirmative policies and practices, including funding measures.

While the need for HIV/AIDS-related services for all social groups outpaces resources being made available in Africa, most governments are failing to make even a modicum of those resources available to respond to the needs of same-sex practicing people. States systematically deny the existence of same-sex practices, create HIV interventions that allow no space for those with non-heteronormative identities, and fail to fund HIV services targeting same-sex practicing people directly. With HIV seroprevalence in the most highly impacted African countries at

nearly one-quarter of the adult population, denial of access to HIV/AIDS services is causing avoidable HIV-related transmission, illnesses, and deaths.

Exclusion of Same-Sex Practicing People from HIV Planning and Programming

Article 13 of the African Charter states that *"Every individual shall have the right of access to public property and services in strict equality of all persons before the law."* Commentary on Guideline 8 of the International Guidelines on HIV/AIDS and Human Rights declares, "States should support the implementation of specially designed prevention and care programmes for those who have less access to mainstream programmes due to social or legal marginalization, including men who have sex with men." In country after country, however, there have been minimal efforts to include same-sex practicing people in HIV planning or to mount HIV prevention programs that address the needs of African men who have sex with men. While the HIV education needs and means of reaching of same-sex practicing people intersect with those of the general population, there are also particularities that call for unique approaches.

People living with HIV/AIDS (PLWHA) have fought for and, to some extent, won a place at national HIV planning tables. While many PLWHA in Africa still feel that their participation is token, today most National AIDS Control Committees and other official HIV/AIDS-related bodies include formal representation of PLWHA organizations. States have failed, however, to seek the participation of gay and lesbian representatives or of HIV specialists with a particular interest or experience in same-sex transmission of HIV or the provision of services for same-sex practicing people.

By 1990, all African countries had articulated National AIDS Control Plans (NACPs).¹⁵⁸ These plans map out government responses to HIV, clarify targets and objectives, and identify social groups with particular vulnerabilities, to ensure that responding to their needs become an official priority. While same-sex practicing men have been proven to have particular HIV-related biological and social risk factors throughout the world, the vast majority of African NACPs fail to even mention men who have sex with men.¹⁵⁹

158 Sofia Gruskin, M. Maluwa, "Human Rights and HIV/AIDS in Sub-Saharan Africa," AIDS in Africa, 2nd Edition, eds. M Essex, S Mboup, P Kanki, R Marlink, S Tlou (Kluwer Academic/Plenum Publisher, 2002), 5.

159 A public health professional familiar with the development of the Ghanaian government's 2006 AIDS strategy noted that six to eight paragraphs on HIV prevention for men who have sex with

The governments of Kenya, Nigeria, and Senegal however have included men who have sex with men as a target group in their national response to HIV/AIDS. The Kenya National Strategic Plan for HIV/AIDS 2006–2010 draws special attention to the HIV vulnerability of men who have sex with men, stating that this “group has a very high risk of becoming infected, and also passing infection to the general population.”¹⁶⁰ While this approach encourages a view of men who have sex with men as “carriers of disease” rather than as victims themselves, the Kenyan plan goes on to commit resources to “developing specific strategies to address the...needs of men who have sex with men.”¹⁶¹ The Nigerian National Strategic Framework for AIDS for the years 2005–2009 promises to provide the resources to effect behavior change in 95 percent of people engaging in same-sex practices (PESSP).¹⁶² While a laudable goal, this effort runs counter to efforts by the Nigerian government to criminalize public discussions about homosexuality through the introduction of the Same-Sex Prohibition Act (see Chapter 1). The Senegalese Plan Against AIDS for 2007–2011 also identifies men who have sex with men as a key target group and the Senegalese Ministry of Health is implementing some important programs to reach that group. Occasional arrests of gay men on anti-homosexuality charges, however, threaten this progressive public health strategy.

Some states have attempted to curtail policy discussions about same-sex HIV transmission. In May 2005, the Ugandan Minister of Information, James Buturo, issued a warning to the UNAIDS office in Kampala after UNAIDS hosted a meeting of LGBT Ugandans to talk about HIV prevention among same-sex practicing people. Buturo warned that AIDS education programs for men who have sex with men in Uganda would be considered a crime and that UNAIDS risked expulsion from the country if it offered AIDS education to gays. Less than two weeks later, the UNAIDS Country Representative was removed from his post and quietly left the country.

The governments of Burkina Faso and Gambia ignored a 2004 World Bank report that indicated a clear need for HIV prevention services for men who have sex with men in these countries.¹⁶³ The report argued that “MSM

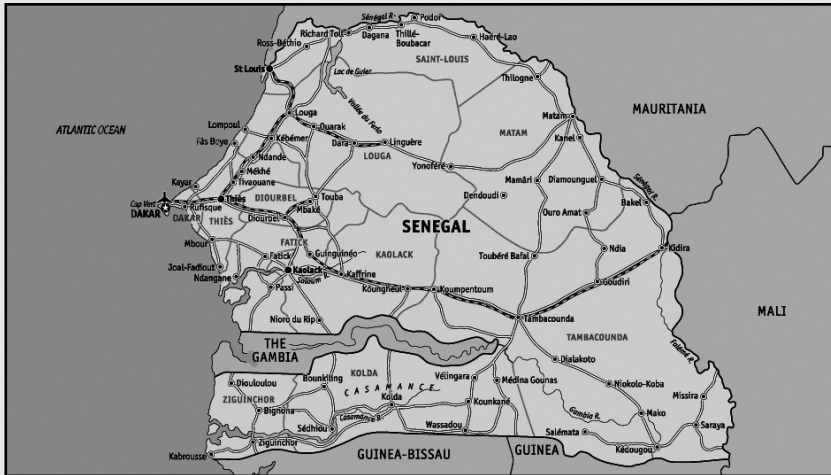
men that were included in the original draft developed by a panel of both Ghanaian and international experts were expunged from the final document that was promulgated by the government, with no explanation of the deletion.

160 Kenya National HIV/AIDS Strategic Plan, June 2005.

161 Ibid.

162 Nigerian National Strategic Framework, National Action Committee on AIDS, 26.

163 Cheikh Ibrahima Niang, Amadou Moureau, Codou Bop, Cyrille Compaoré, and Moustapha Diagne, *Targeting Vulnerable Groups in National HIV/AIDS* (2004).



Senegal: Promoting the Sexual Health of Men Who Have Sex With Men

Senegal and Morocco are the only African governments that have provided funding for HIV/AIDS programs directed toward same-sex practicing people. Two Senegalese LGBT organizations—Andilegy and Adama—are partners in prevention programs run by ENDA-Santé and the HIV/AIDS Alliance (ANCS) that receive funding from the National AIDS Council (CNLS). Senegal's Ministry of Health, Hygiene, and Prevention provides technical support to the consortium of national and international HIV/AIDS service organizations. The Senegalese government was also the first to conduct a seroprevalence study of men who have sex with men in Africa (see Chapter 2).

Senegal is an important country in the West Africa region. With more than three decades of stable, pluralistic democracy, a vibrant private media, and an active civil society, Senegal has earned a reputation as a forward-thinking country in which human rights and the rule of law are generally respected. As a result, gays and lesbians from the neighboring countries of Mauritania, Gambia, and Guinea migrate to Dakar seeking a more accepting environment.

Nonetheless, Senegal is a deeply religious country in which social stigma and official discrimination against same-sex practicing people remains high. Occasional arrests, prosecutions, and cases of extortion of gay men are reminders that while Senegal may have recognized the importance of having AIDS prevention programs targeting same-sex practicing men, there is little willingness to grant gay men and lesbians access to a broader range of human rights.

In 2006, the CNLS included men who have sex with men as a target group in their request for proposals for HIV programs, raising the possibility that a greater number of local organizations, including LGBT groups themselves, will apply for and receive direct government support.

are ostracized by stigmatization, precarious economic conditions, low awareness levels of STIs, indifference toward prevention messages, and a very low condom use,”¹⁶⁴ and urged the governments to take action. The Burkinabé government turned down a grant that was offered by a large pharmaceutical company to fund the proposed prevention program.¹⁶⁵

Denial of Access to HIV Information, Education, and Communication to Same-Sex Practicing People

It’s 9:00 p.m., halftime during the World Cup Soccer match between Angola and Portugal. Millions of Kenyans—from Mombasa to Marsabit—sit glued to television sets in their homes, in open air bars and courtyards, and at refugee camp community centers. An HIV public service announcement comes on the screen, underscored by the youthful beat of Kenyan hip-hop. The ad portrays a day in the life of a young Kenyan man as he is tempted with sex at every turn. A “sugar mommy” tries to lure him into illicit behavior. His friends pressure him to visit a sex worker. Even his girlfriend tries to entice him with pre-marital sex. A reassuring and authoritative voice-over announcer offers the young man advice, “Real men abstain from sex until they are married... to make sex special.”

For the hundreds of thousands of young Kenyans who likely saw the ad, the messages were clear. *Pre- and extra-marital sex are dangerous, sex within marriage is safe. “Bad women” (older women, sex workers, sexually empowered girlfriends) are dangerous, while “good women” (virgin wives) must be protected. Condoms are a measure of last resort when one is unmarried and unnecessary in the context of marriage. Heterosexual sex and relationships are normal, anything else is not worth discussing.*

African governments are buying firmly into the “ABC prevention strategy” typified by this kind of public education material and promoted by the United States through its international funding policies (see Chapter 5). Uganda’s official “National Abstinence and Being Faithful Policy,” for example, mandates that abstinence and faithfulness “be widely promoted as the most effective means of preventing STI/HIV transmission.”¹⁶⁶

For gays and lesbians, public education campaigns that promote abstinence-only until marriage increase feelings of isolation, stigma, and confusion about HIV/AIDS rather than providing useful information or encouraging effective behavior change. “Many African gays don’t take television, radio, and magazine HIV prevention messages seriously,” according to Cameroonian sociologist

164 Ibid, 2.

165 IGHLHRC interview with Anonymous, May 3, 2005.

166 S. Kyomuhendo, et al., *Uganda’s National Abstinence and Being Faithful Policy*, (2004): 14.

Charles Gueboguo. "They see heterosexual couples in the ads and they don't think men can transmit the virus to other men." In focus groups held in Mombasa, Kenya and Accra, Ghana, gay men agreed that this belief is widespread.¹⁶⁷ According to one gay activist, "all the billboards around town show heterosexual couples...so gays think it is safer to sleep with each other than with a girl."¹⁶⁸ IGLHRC reviewed AIDS prevention brochures, posters, and other materials developed by government agencies in nine African countries. There was not a single image that could be identified as that of a gay man, lesbian, homosexual couple or transgender person among them.

African Regional Commitments to the Fight Against HIV/AIDS

At the May 2006 Special Summit of the African Union (AU) on HIV/AIDS, held in Abuja, African states elaborated a remarkably clear common position on responding to HIV. The statement advised AU member states to "put people at the centre of the HIV and AIDS response, especially vulnerable people," which it defined as men who have sex with men, women, young people, orphans, migrants, prisoners, sex workers, the disabled, people affected by conflicts, and injection drug users (IDUs).¹⁶⁹ This moment of clarity however was short-lived. By the time government delegations had arrived in New York less than a month later for the June UN Special Session on HIV/AIDS (UNGASS), African delegations had abandoned their commitment to citing the most vulnerable groups and to establishing measurable targets for the implementation of AIDS programs. This missed opportunity was a disappointment for many involved in the battle against HIV/AIDS, including UN Secretary General Kofi Annan who remarked,

You cannot deal with a problem without confronting the issue of the most vulnerable who need assistance most. It's counter-productive. It's like putting your head in the sand and saying I don't want to know.¹⁷⁰

At the UN, African governments have opposed extending the protection of international human rights standards to individuals based on their sexual

167 IGLHRC Focused Discussion Groups, Accra, Ghana, September 20, 2006, Mombasa, Kenya, June 9, 2006.

168 www.mask.org.za, Behind the Mask website, Johannesburg, South Africa.

169 African Union, "Africa's Common Position to the UN General Assembly Special Session on AIDS," June 2006.

170 Speech by Kofi Annan, former UN Secretary General, June 2006.

orientation or gender identity and have failed to support measures to advance LGBT rights at both the Economic and Social Council (ECOSOC) and the Human Rights Council (HRC, formerly Human Rights Commission). All African members of the ECOSOC procedural committee, and the Council itself, have either opposed or abstained on the issue of granting observer status to LGBT and sexual rights NGOs, and most African governments have voted against resolutions that condemn extrajudicial or arbitrary executions of LGBT people.¹⁷¹ Some African states have been blunt about their motivations, with the Tanzanian government justifying their vote against approving observer status to LGBT NGOs by defining homosexuality as “immoral” and “criminal.” Nigeria responded to calls for the abolition of the death penalty for homosexuals by describing death by stoning for same-sex conduct as “appropriate and just.” Thirteen of the 14 African members of the HRC voted against the Draft Resolution introduced by Brazil in 2003 that called upon member states to “pay due attention to violations of human rights on the grounds of sexual orientation” and to protect rights of all people “regardless of their sexual orientation.” South Africa abstained on the Brazil resolution, as it has on every sexual orientation-related vote, except when it has voted against ECOSOC accreditation for LGBT NGOs.

Looking to the Future of African Government Approaches to HIV Services for LGBT People

In 2005, the Botswana National AIDS Coordinating Council denied funding to a youth AIDS outreach project that was to be implemented by Lesbians, Gays, Bisexuals of Botswana (LeGaBiBo) since “homosexuality is illegal in the country.” With adult seroprevalence of 24.1 percent, Botswana has the distinction of having the highest HIV rate in the world. By refusing to make this grant or provide other critically needed assistance to same-sex practicing people in Botswana, homophobia continues to trump the government’s commitment to funding effective, science-based HIV prevention initiatives.

Despite the pervasive homophobia that influences African government HIV policies, there is some evidence that the gravity of the AIDS epidemic may force African governments to address the epidemic in communities experiencing high seroprevalence. Strategically-placed officials in national human rights commissions, NACPs, and ministries of health of several African coun-

¹⁷¹ Burkina Faso, Ethiopia, and Swaziland have actually voted in favor of the sexual orientation reference in the extrajudicial executions resolution in some years, while voting against or abstaining in others.

tries are quietly suggesting that laws and policies that discriminate against LGBT people need to be examined, particularly in light of their negative impact on HIV prevention programs. The Government of Kenya, in its “Country Position Paper on Acceleration towards Universal Access to HIV and AIDS Prevention, Treatment and Care Services,” notes that the country lacks protections for certain groups that are highly vulnerable to HIV and AIDS-related discrimination and that “there are still laws in Kenya that present obstacles to effective HIV prevention and care for most at-risk populations.” The late Dr. Dela Attipoe of the Ghana National AIDS Control Program suggested that the government health sector should “remove all obstacles to resource mobilization for the successful and smooth implementation of health interventions for MSM.”¹⁷² Slowly, the sheer weight of the epidemic is contributing to a rethinking of attitudes about sex, rights, and national health.

African governments have been unwilling to address the HIV vulnerability of men who have sex with men to acknowledge the very existence of LGBT people in their countries as if doing so would encourage homosexuality. HIV interventions that focused on same-sex practicing people—basing their strategies on culturally-specific values and behaviors—have the most likelihood of fostering sustained behavior change. Effective HIV programming for LGBT would encourage honest and frank discussions about sexuality, decrease high-risk behavior, and promote healthier sexuality for all people, regardless of their sexuality.

172 Dela Attipoe, March 2004.

Chapter 5

The Role of Foreign Governments and Inter-Governmental Agencies

R*esponsibility for the health-related rights of a country's citizens rests* primarily with its national government. Article 16 of the African Charter obligates states to ensure “the necessary measures to protect the health of their people.”¹⁷³ International law, however, encourages cooperation in promoting human rights, including the right to health, and proposes that states “take joint and separate action” to promote “solutions of international...health...problems...”¹⁷⁴ The ICESCR requires states “to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of ... available resources, with a view to achieving progressively the full realization of the rights recognized in the present treaty.”¹⁷⁵

Foreign governments, international financial institutions, and United Nations agencies contribute significant resources to HIV/AIDS programs in Africa. As of November 2005 the World Bank, through its Multi-Country AIDS Program (MAP), has made more than US\$1.1 billion in grants and soft loans to 31 African countries to increase national and regional efforts to

173 African Charter, Article 16.

174 UN Charter, Article 55.

175 ICESCR, Article 2

respond to HIV/AIDS. The Global Fund for HIV/AIDS, Malaria and Tuberculosis (Global Fund) has committed nearly US\$4 billion to combat AIDS in African countries since 2001. The United States, the largest international donor, committed US\$15 billion to AIDS activities over a five-year period, most of it to be spent in Africa. Smaller but still important international donors, including the European Union, the U.K., Holland, and Sweden, have also made HIV/AIDS a priority in their overseas assistance programs.

External funding constitutes the majority of HIV budgets in many African nations, an acknowledgement that the HIV crisis requires international cooperation and that the resources of most African countries are inadequate to address the epidemic. In Kenya, assistance from external sources constitutes more than 75 percent of the national HIV/AIDS budget.¹⁷⁶ Burkina Faso received 78 percent of its 2003 HIV-related budget from international donors.¹⁷⁷ Uganda's ratio of national to U.S. funds for HIV/AIDS programs was 1:8.¹⁷⁸ The stark ratios of external support to national spending gives foreign donors substantial influence in the elaboration of African domestic and regional HIV/AIDS policies. The United States, given its major bilateral HIV/AIDS funding programs as well as its role as the largest contributor to the Global Fund, plays a particularly pivotal role in deciding how AIDS money will be spent.

U.S. Government HIV/AIDS Policies and Programs in Africa

The majority of U.S. bilateral assistance for AIDS programs in Africa is channeled through the President's Emergency Plan for AIDS Relief (PEPFAR). Created in the context of the U.S. Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, PEPFAR is a foreign assistance program designed to centralize U.S. government funding for programs that address HIV/AIDS prevention, treatment, and care in 15 high seroprevalence countries, 13 of which are in Africa.¹⁷⁹ Based in the U.S. State Department, and managed by the Office of the Global AIDS Coordinator (OGAC), PEPFAR allocates funds through the U.S. Agency for International Development (USAID), the Centers for Disease

176 Republic of Kenya, *Country Position Paper on Acceleration towards Universal Access to HIV and AIDS Prevention, Treatment and Care Services by 2010*.

177 UNAIDS, "Financing the Response to AIDS," 2006 Report on the Global AIDS Epidemic, 234.

178 UNAIDS, "2006 Report on the Global AIDS Epidemic"; Jennifer Kates "U.S. Government Funding for Global HIV/AIDS Through FY 2005."

179 The 15 PEPFAR countries are Botswana, Côte d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Zambia and Vietnam.

Control and Prevention (CDC), and several other U.S. government agencies, as well as serving as the channel for the U.S. contribution to the Global Fund.

In many ways, PEPFAR has become a financial platform on which to export conservative sexual values. The implementation of PEPFAR coincides with a period of unprecedented interest and influence on U.S. foreign aid, particularly international reproductive health funding, by the conservative American Christian right. Current U.S. grantmaking is characterized by a movement away from comprehensive sex education and reproductive health services toward programs that promote homophobia and ignorance. These programs stigmatize sexual behavior among young, unmarried people, minimize the effectiveness of condoms, require grantees to officially oppose sex work, restrict the ability of health practitioners to perform or provide information regarding abortion, and prioritize the funding of conservative, faith-based, often inexperienced implementing agencies.

Abstinence-Until-Marriage Programs

The “ABC” approach is the centerpiece of the PEPFAR HIV prevention strategy. According to OGAC, the ABC approach promotes “abstinence for youth and other unmarried persons; mutual faithfulness and partner reduction for sexually active adults; and correct and consistent condom use by those whose behavior places them at risk.”¹⁸⁰ The acronym “ABC,” which stands for Abstain, Be Faithful, and correct consistent Condom use, gained popularity in the late 1990s, when it was used as a simple way of remembering and communicating the range of HIV prevention strategies related to sexual behavior. Originally the acronym did not imply a hierarchy of choices, but referred to a range of personal choices related to HIV risk reduction.

Within the context of the PEPFAR program, however, there has been a ranking of the ABCs to communicate a moral superiority of the choice of abstinence and fidelity over condom use. The U.S. Leadership Act stipulates that at least one third of HIV prevention funding must be spent on abstinence/faithfulness (AB) programs. The U.S. General Accounting Office (GAO) has determined that this spending requirement has resulted in the reduction of comprehensive ABC prevention programs.¹⁸¹ Some U.S. lawmakers, including

180 “Guidance to United States Government In-Country Staff and Implementing Partners Applying the ABC Approach to Preventing Sexually-Transmitted HIV Infections Within the President’s Emergency Plan for AIDS Relief,” Office of the Global AIDS Coordinator, January 2005: 2.

181 “Spending Requirement Presents Challenges for Allocating Prevention Funding under the President’s Emergency Plan for AIDS Relief,” General Accounting Office, GAO-06-395: 0.

Representative Henry Hyde, former Chair of the House International Relations Committee, have even proposed withdrawing funds from any group that refuses to promote abstinence.

Evaluating the effectiveness of abstinence-until-marriage programs, particularly those implemented outside of the U.S., presents some substantial challenges. Organizations that implement these programs guard their curricula closely, making it nearly impossible for reproductive health and human rights specialists to obtain and critique them. Some research has demonstrated however that abstinence-only until marriage programs fail to achieve their chief objective of delaying sexual initiation until marriage while missing the opportunity to prepare young people to mitigate HIV risk when they become sexually active. In a study of U.S. abstinence programs like Virginity Pledge and Operation Keepsake, most failed to directly correlate their programming with reduction in sexual activity and/or HIV transmission.¹⁸² A review by Advocates for Youth showed that young people who are presented with abstinence messages only become less willing to use condoms and contraception when they become sexually active.¹⁸³

Though abstinence-only programs attempt to establish marriage as the threshold for debut of sexual activity, the lived experiences of many young Africans is quite different. In Kenya for example, 56 percent of unmarried young men and 30 percent of unmarried young women have had sex by the age of 24.¹⁸⁴ People engage in non-marital sexual relations before, during, and after marriages for many reasons. Societal expectations, financial need, peer pressure, and sexual desire all play key roles. Failure to understand and acknowledge the sexual and relationship choices that people make is an unrealistic approach to HIV prevention that sets up unrealistic expectations and penalizes those who act outside a strict set of prescribed behaviors.

Under PEPFAR guidelines, implementers of abstinence-only until marriage programming are not required to offer information on alternative approaches to HIV prevention such as correct and consistent use of condoms. Meanwhile PEPFAR requires grantees implementing programs that make condoms available to teach that abstinence is the only "foolproof" strategy for preventing HIV

182 Douglas Kirby, "Do Abstinence-Only Programs Delay the Initiation of Sex Among Young People and Reduce Teen Pregnancy," *American Sexuality Magazine*, v. 1, i. 6.

183 Advocates for Youth, *Five Years of Abstinence-Only Marriage Education: Assessing the Impact* (September 2004).

184 Office of the Global AIDS Coordinator, *Sexual Transmission of HIV and the ABC Approach to Prevention* (December 2005).

transmission and to highlight condom failure rates. Through their skewing of information and condemnation of pre-marital sex, abstinence-only until marriage programs discourage frank dialogue and fail to offer skills with which to negotiate safer sex, use condoms correctly, or reduce risk. Non-heteronormative relationships are completely ignored. Given rates of sexual experimentation among adolescents and young adults, this failure may be deadly. According to reproductive health advocate Cynthia Rothschild, "The desire to 'make abstinence work' trumps the right to life. U.S. policies are, in effect, eliminating one of the only tools available that can save people's lives: information."¹⁸⁵

The abstinence-only until marriage model is based on a paradigm of heteronormative monogamy. It reinforces a hierarchy of sexuality in which intercourse between an HIV-negative man and his HIV-negative wife in a monogamous relationship for the purpose of procreation is the only "safe sex." Everything else—heterosexual sex using contraceptives, heterosexual sero-discrepant sex, pre- and extra-marital sex, heterosexual anal and oral sex, and sex between people of the same sex—becomes defined as "dirty," "risky," and "deadly."

Separation of married couples due to migrant labor patterns, the practice of polygamy in many African cultures, and any number of other circumstances complicate the model of "one man and one woman in a long-term sexually exclusive relationship." Abstinence programs contribute to a false sense of security for married people by falsely implying that all sex within the context of marriage is "safe." Many people are exposed to HIV within the context of marriages in which both of the partners have committed to monogamy—either through the infidelity of one or both of the partners, or as a result of infection prior to marriage. Ultimately, abstinence programs respond no more effectively to the needs of heterosexual married couples than to those of anyone else.

By definition, abstinence-only until marriage programs exclude lesbians and gay men who are denied the right to marry in every African country with the exception of South Africa. For LGBT, the information presented in abstinence curricula may feel irrelevant, dismissive, or worse. The curriculum of Arizona-based United Families International, which runs abstinence programs in nine African countries, teaches young people that homosexuality is "a developmental disorder that can often be prevented or successfully treated."¹⁸⁶ A sexual education pamphlet produced for schools by the Kenyan Ministry of Health

¹⁸⁵ Cynthia Rothschild, *Written Out*, 42.

¹⁸⁶ United Families International, *Guide to Family Issues*, (2004) 7.

Reproductive Health Project, with the support of the German Development Agency GTZ, describes homosexuality as “criminal” and “confusing.”¹⁸⁷ Some abstinence programs associate same-sex relations with sexually transmitted diseases and falsely claim that half of U.S. gay teenagers are HIV-positive.¹⁸⁸ The conservative Christian churches and organizations that implement many of these programs have at times explicitly suggested that AIDS is “God’s punishment for being gay.”¹⁸⁹

Condom Promotion Programs

Correct and consistent use of condoms has proven to be an effective AIDS prevention strategy and has played an important role in reduction of HIV rates throughout Africa. In a study of 123 sero-discordant couples that reported consistent condom use, not a single HIV-negative partner became infected.¹⁹⁰ Abstinence and fidelity, on the other hand, require both partners to be completely honest about their sexual behavior and knowledgeable about their HIV status at all times. Nevertheless, under PEPFAR policy, the U.S. government only supports making condoms available for “those whose behavior places them at risk,”¹⁹¹ including men who have sex with men, people who engage in sex work, and intravenous drug users (IDUs).

According to Paul De Lay, Senior HIV/AIDS Advisor to USAID, “We weren’t doing enough on the abstinence and needed to catch up.”¹⁹² Condom promotion as an HIV prevention strategy is increasingly being de-emphasized, even denigrated, in U.S.-funded HIV activities. Even more disturbing, condom supplies have been reduced to dangerously low levels in at least 29

187 REPRO/GTZ, *Questions Adolescents ask most frequently about sexual relationships and their answers*, Vol 3, (November 2000).

188 Martha E. Kempner, “Toward a Sexually Healthy America: Abstinence-Only-Until-Marriage Programs that Try to Keep Our Youth ‘Scared Chaste,’” Sexuality Information and Education Council of the United States (2001). See also the Waxman report, which draws similar conclusions: U.S. House of Representatives Committee on Government Reform—Minority Staff Special Investigations Division, *The Content of Federally Funded Abstinence-Only Education Programs*, Prepared for Rep. Henry A. Waxman (December 2004).

189 Kempner: 47.

190 I. De Vincenzi “A longitudinal study of human immunodeficiency virus transmission by heterosexual partners,” *New England Journal of Medicine* (1994): 331; 341-346.

191 Office of the Global AIDS Coordinator, *Guidance to United States Government In-Country Staff and Implementing Partners Applying the ABC Approach to Preventing Sexually Transmitted HIV Infections Within the President’s Emergency Plan for AIDS Relief*, (2005).

192 John Donnelly, “Abstinence Push Gains in Zambia: U.S. Study Results Spur Debate at AIDS Conference,” *Boston Globe*, July 12, 2002: A10.

nations, including all PEPFAR target countries.^{193, 194} Getting people to use condoms is challenging enough, without making it even more difficult by making condoms difficult to obtain and focusing on their supposed ineffectiveness.

In addition to these obstacles, the cost and availability of latex-compatible lubricant, which is needed for safe anal and high-volume vaginal sex (such as in the context of sex work), remains a problem. Latex-compatible lubricants are expensive and often unavailable, particularly in rural areas, or are sold only in quantities that puts their cost out of reach of many people. Those who can't afford lubricants are forced instead to use alternatives such as cooking oil, saliva, and petroleum jelly, all of which can lower condom effectiveness. Dental dams, which some heterosexual as well as same-sex practicing couples use to lower the risk of HIV transmission during oral-vaginal and/or oral-anal sex, are rarely distributed in the context of HIV prevention programs in Africa.

Restrictions on U.S. HIV/AIDS funding

U.S. foreign aid is increasingly subject to policies established to control the type of agencies that receive funding, their approach to sexual and reproductive health, and even the activities these agencies undertake with funds from other donors. These policies have been highly unpopular with many NGOs in Africa, who view them as challenging both their right to freedom of expression and their ability to implement effective programs.

The Global Gag Rule and the Prostitution Pledge

On his first day in office, George W. Bush restored the Mexico City Policy, commonly known as the Global Gag Rule. This policy restricts foreign NGOs that receive U.S. family planning funds from using any monies, either from the U.S. government or *from any other source*, to perform abortions, provide information or referrals for termination of pregnancy, or to lobby their governments or advocate for reform of abortion laws. There has been significant confusion as to whether this rule applies to all U.S. overseas funding streams or only to family planning funds. Is the Gag Rule applicable to foreign organizations only or are U.S. NGOs subject as well? What activities may be considered "referring" or "advocating" with regard to abortion? The unnecessary confusion has

193 Elizabeth Maguire and Anu Kumar, "Health, in a World of Trouble; US Family-Planning Restrictions Harming Women and Children," *The News and Observer*, August 9, 2004.

194 Center for Health and Gender Equity Press Release, April 13, 2005.

added to the impression that the Gag Rule is meant to muzzle any organization that attempts to promote a woman's right to choice overseas, a right that the Supreme Court of the United States guaranteed to U.S. citizens in the *Roe v. Wade* decision of 1973.

Organizations like the Center for Health and Gender Equity (CHANGE) and the Sexuality Information and Education Council of the United States (SIECUS) have conducted in-depth analyses of the ways in which the Gag Rule has reduced the ability of women worldwide to make informed decisions about their reproductive health and to access adequate sexual health services. Less information is available about the impact of the Global Gag Rule on same-sex practicing people. However, organizations that provide abortion-related information are often those that offer the most effective sexual and maternal health care. Many of the same venues where women access comprehensive, non-judgmental sexual health services, are the ones where gay men, lesbians, and transgenders seek services as well. The complicated regulations of the Gag Rule, which leave even USAID staff confused, have pressured health care providers to avoid activities that may be associated with abortion, including comprehensive sex education and distribution of condoms.¹⁹⁵

The May 2003 U.S. Leadership against HIV/AIDS, Tuberculosis, and Malaria Act requires that all organizations receiving HIV funds refrain from activities that promote or advocate the legalization or practice of prostitution or sex trafficking *and to adopt written policies that explicitly oppose prostitution* (emphasis added).¹⁹⁶ This requirement has come to be known as the Prostitution Pledge. Organizations that work with people in sex work are horrified by this attempt to compel grantees to take a position against sex work. According to the head of one East African organization that works with women in sex work,

Such a requirement constitutes unnecessary interference in our work and would have been viewed as a betrayal of key partnerships with our sisters in sex work. Revising our organizational policies and signing the pledge would have seriously challenged our work.¹⁹⁷

The Prostitution Pledge forces NGOs to abandon close allies in the struggle against HIV/AIDS or risk losing critical funding. A number of highly effective

195 Center for Reproductive Health, *Breaking the Silence: The Global Gag Rule's Impact on Unsafe Abortion* (September 2003), 19.

196 United States Leadership against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, 22 U.S.C. 7631(e).

197 IGLHRC interview with Anonymous, December 23, 2005.

NGOs working in low resource countries have lost U.S. government funding as a result of their refusal to sign the pledge. In 2005, Sangram, a well-respected NGO providing services for people in sex work in rural India, turned down a USAID grant when it refused to sign the pledge. Also in 2005, the government of Brazil turned down US\$40 million of U.S. government HIV funding because the grant required them to denounce prostitution. Brazilians asserted that the pledge “shows disrespect for sex workers” and that they could not afford to abandon their successful relationship with people in sex work in fighting the AIDS epidemic. Recent policy guidelines from the U.S. government now forbid the use of the term “sex worker” or “person in sex work,” and require U.S. officials and grantees to use the morally-charged term “prostitute.” Policies like these limit effective outreach and reduce the ability of people in sex work to obtain the education, counseling, and safer sex supplies they desperately need to save their lives.

Historically, same-sex practicing people and sex workers have shared social and physical spaces, often in the margins of African societies. Both groups have always filled a need that the state preferred neither to acknowledge nor discuss. Sex workers and LGBT have often provided each other with support, protection, and referrals. Homosexual male sex work is common in most African cities¹⁹⁸ and many LGBT Africans choose to engage in sex work (homosexual or heterosexual) at different points in their lives and for various reasons. Two-thirds of the men who have sex with men interviewed in a study in Senegal had received money in a recent sexual encounter.¹⁹⁹ Fourteen percent of men who have sex with men interviewed in the Nairobi, Kenya study described themselves as “sex workers.”²⁰⁰ Many poor lesbian women also choose sex work to feed themselves and their children, and to maintain appearances of heteronormativity.

Most LGBT groups in Africa see themselves as working within a human rights movement that includes advocacy for the rights of women, people in sex work, people living with HIV/AIDS, and other marginalized groups and many recognize the common ways in which people in sex work and LGBT are politically and socially marginalized. But while there is a great need for HIV

198 See Herman Oosthuizen and Ellenor Preston-Whyte, *Rent Boys: Male Street Prostitution in Durban*, Abstract of Doctoral Thesis, University of Natal. see also, Michael Davidson, “A 1958 Visit to a Dakar Boy Brothel,” in Roscoe and Murray.

199 Tapsoba, Placide, “Moving from Research to Programming for MSM in Africa: The Horizons Experience from Senegal” Power Point presentation, April 26, 2005.

200 Onyango-Ouma, et al, “Understanding the HIV/ATI Risks and Prevention Needs of Men who have Sex with Men in Nairobi, Kenya,” 15.

prevention programs for same-sex practicing people in sex work, the Prostitution Pledge is limiting the funds available to progressive organizations ready to work with this group in a non-judgmental manner.

Two lawsuits were filed against the U.S. government—*DKT International, Inc., v. USAID* and *Alliance for Open Society International, Inc., v. USAID*—challenging its right to force grantees to sign the pledge. On May 9, 2006 a Federal Court judge ruled against USAID in the second suit, finding the Pledge to be an unconstitutional limitation of free speech. It is unclear whether the ruling applies only to U.S. NGOs or to foreign recipients of U.S. funds as well, and since the U.S. government is appealing the ruling, it may be some time before its implications are clear.

Increased Funding for Conservative Religious Organizations

U.S. funding to religious organizations for the implementation of international public health programs, including HIV interventions, has increased dramatically under the Bush administration. Among the nine grantees in the first round of PEPFAR funding in 2004, seven were faith-based organizations. Twenty-three percent of the groups receiving funding in 2005 were religious organizations, including Samaritan's Purse (run by Franklin Graham, son of TV evangelist Billy Graham), World Vision, World Relief, and HOPE Worldwide.²⁰¹

Many of the faith-based organizations (FBOs) implementing "A" and "B" HIV prevention programs in Africa represent denominations that condemn same-sex relationships and work actively against LGBT rights. World Vision (WV), for example, provides assistance to people "regardless of their religious beliefs, gender, race, or ethnic background,"²⁰² but remains silent about sexual orientation. WV fails to include protections for LGBT people in its employment policies and hires its staff "based on their religious beliefs, so that all staff share the same religious commitment."²⁰³

According to a senior staff member, Catholic Relief Services (CRS), which received US\$6.2 million for abstinence and fidelity programs in Africa,²⁰⁴ has a policy against sexuality-based discrimination. "CRS is founded on the belief that each person possesses a basic dignity that comes directly from God, and that because of this belief, we advance the intrinsic value and equality of all human beings...regardless of race, ethnic background, sexual orientation, or

201 <http://abcnews.go.com/Health/wireStory?id=1556940&page=2>

202 World Vision website, http://www.worldvision.org/worldvision/hr.nsf/stable/hr_faith.

203 World Vision website.

204 Ibid.

creed.”²⁰⁵ CRS programs in Africa however, are implemented by clergy, church staff, and lay workers likely to be influenced by hostile Catholic doctrine on homosexuality.

Since the earliest days of European colonialism, African access to education, health care, and food distribution during times of famine—sometimes even access to land—were strictly controlled and often conditioned on participation in colonially-imposed religion. Christian proselytizing and “charity” went hand-in-hand. In a post-colonial world, church-based relief and development agencies have been held to a higher standard by African governments and were required to make their assistance available without regard to the religious affiliation of the beneficiary. Recently though, regulations that had been put into place to ensure a separation between the preaching of religious doctrine and the provision of services have been relaxed to the point of obfuscation. Many organizations working in Africa, including World Vision (WV) and Food for the Hungry, conduct prayer sessions before and after nutrition training, classes for expectant mothers, and other activities geared toward local communities. These organizations aren’t required to inform beneficiaries that participation in their religious programs is not mandatory.²⁰⁶

U.S. Government-Funded Programs for Men who have Sex with Men in Africa

In almost every country of South and Southeast Asia and Latin America, the United States government is funding mainstream NGOs—like the International HIV/AIDS Alliance and Family Health International (FHI)—as well as dozens of community-based organizations through subgranting programs, to implement AIDS prevention programs which target men who have sex with men. In Asia, USAID has hosted strategy meetings for partners implementing programs for men who have sex with men. USAID and the CDC/Global AIDS Program recently funded Therapeutics Research, Education, and AIDS Training in Asia (TREAT), a division of the American Foundation for AIDS Research (AmFAR), to serve as the Secretariat for a network of HIV programs for men who have sex with men in the Greater Mekong Subregion.²⁰⁷

In Africa, however, the United States has yet to bring sufficient resources to address the AIDS epidemic in communities of men who have sex with men,

205 IGLHRC Communication from Dr. Carl C. Stecker, Senior Program Director and Chief of Party, AIDS Relief ART Project, Catholic Relief Services, December 15, 2005.

206 “Changing the Rule, Exporting Fazitgh: Bush brings faith to foreign aid,” *Boston Globe*, http://www.boston.com/news/nation/articles/2006/10/08/bush_brings_faith_to_foreign_aid/

207 AmFAR Website, <http://www.amfar.org/cgi-bin/iowa/asia/about/index.html>

and has made only marginal efforts to identify, provide technical assistance for, or fund specific programs that target same-sex practicing people. The U.S. federal government provided less than US\$2 million in funding for fighting AIDS among men who have sex with men in Africa during fiscal year 2006. Programs that specifically address the HIV needs of same-sex practicing women are even more poorly resourced.

According to Michele Moloney-Kitts, of the U.S. Office of the Global AIDS Coordinator (OGAC), the inattention to men who have sex with men stems from the fact that in much of Africa, the AIDS epidemic is generalized (nationally, more than one percent of the general population is HIV-infected) unlike its manifestation in Latin America and Asia, where the epidemic is concentrated (affecting 5 percent or more of defined subpopulations—people in sex work, intravenous drug users, men who have sex with men—but is not well-established in the general population). According to Moloney-Kitts, the U.S. “puts our money where the need is the greatest.”²⁰⁸

The reality however, is, that in some parts of Africa, such as much of West Africa and the Horn, the epidemic is still “concentrated” and men who have sex with men are particularly vulnerable. Even in countries experiencing a generalized epidemic, seroprevalence rates are higher among specific groups such as long distance truck drivers, commercial sex workers, intravenous drug users, and men who have sex with men. Failure to address HIV in these “social pockets” can be counterproductive to combating AIDS in the general population, especially when there is a risk of “cross-over,” as is the case in most of Africa where same-sex practicing people are also involved in heterosexual relationships and/or marriages. High seroprevalence rates in the general population are not a justification for neglecting the most at-risk groups, particularly when those groups are already experiencing high levels of social stigma.

While there is no policy against funding LGBT organizations or programs for same-sex practicing people, and many LGBT groups outside of Africa receive U.S. government funding, U.S. government field staff responsible for the implementation of PEPFAR in Africa are at times confused by the policies and tend to make overly conservative interpretations in order to remain within the ambiguous guidelines. A respected national LGBT organization in South Africa was invited to submit a proposal to USAID with the contingency that the organization not “foreground gay and lesbian issues.” The organization refused. None of South Africa’s highly professional LGBT organizations are receiving PEPFAR

208 IGLHRC interview with Michele Moloney-Kitts, Washington, D.C., May 15, 2005.

funds to implement HIV prevention programs for what is clearly a highly vulnerable community. Staff at the U.S. National Institutes of Health have warned grant applicants to cleanse their proposals of terms like “transgender,” “prostitutes,” “needle exchange,” “abortion,” “condom effectiveness,” and “men who have sex with men” to increase the likelihood of funding.²⁰⁹

Despite conservative policies, most of the funding for HIV interventions targeting men who have sex with men in Africa has, in fact, come from the U.S. The Horizons Program, a USAID-funded consortium, implemented two of the most critical studies on male same-sex practices in Africa in Senegal²¹⁰ and Kenya.²¹¹ USAID’s North Africa Bureau has funded operational research for men who have sex with men in Algeria, Morocco, and Tunisia. Through a subgranting and technical assistance program implemented by the Academy for Educational Development, the U.S. is providing assistance for an HIV prevention intervention for men who have sex with men in Ghana.²¹²

Liverpool VCT in Nairobi, Kenya, receives PEPFAR funds through the U.S. Centers for Disease Control and Prevention (CDC) to implement HIV prevention and outreach programs for men who have sex with men in Nairobi. The Population Council also received PEPFAR funding through USAID to conduct research on the HIV-related needs of male sex workers who have sex with men in Mombasa. FHI has recently received funds to launch intervention services to improve health service provision and provide peer education for men who have sex with men in Kenya.

European Government Funding

A number of European governments have shown interest in funding both LGBT advocacy and HIV prevention. In 2005, the Swedish International Development Agency (SIDA) commissioned a study on sexual orientation and gender identity issues in development that advised the Swedish government to “give attention to vulnerability to HIV infection among MSM, lesbian and

209 Jocelyn Kaiser, “Studies of Gay Men, Prostitutes Come Under Scrutiny,” *Science* (April 18, 2003).

210 “Meeting the Sexual Health Needs of Men Who Have Sex with Men in Senegal,” Institute of Environmental Sciences, Cheikh Anta Dio University; Senegal National AIDS Control Council (CNLS); Horizons Program, 2002.

211 “Understanding the HIV/STI Risks and Prevention Needs of Men Who Have Sex with Men in Nairobi, Kenya,” Institute of African Studies/University of Nairobi, FRONTIERS Program; Horizons Program, 2005.

212 The Centre for Popular Education and Human Rights in Ghana (CEPHRG) is responsible for the implementation of the project, including peer educator training and deployment and the development of HIV prevention interventions for men who have sex with men in several cities in Ghana.

transgender persons in HIV/AIDS programming.²¹³ The report also suggested that Swedish government funds be denied to “organizations or activities that actively discriminate...due to sexual orientation.”²¹⁴ Thus far, however, few LGBT organizations are receiving Swedish support in Africa.

While the Dutch foreign ministry has promised substantial financial support to HIV prevention activities targeting men who have sex with men in four southern African countries, programming has yet to launch. Overall, European funders have been relatively silent on the issue of same-sex HIV transmission in Africa and have failed to address the funding gap created by African and U.S. government inattention to this issue.

United Nations Agencies

The Joint United Nations Program on HIV/AIDS (UNAIDS) was created to coordinate UN efforts to address the epidemic. Various UN agencies are part of UNAIDS, most notably the World Health Organization (WHO), United Nations Development Program (UNDP), United Nations Children’s Fund (UNICEF), the United Nations Fund for Population Activities (UNFPA), and the United Nations Program on Women (UNIFEM). Many people look to UNAIDS, as the technical leader in this field, to address controversial issues in more direct ways than other UN agencies are willing. UNAIDS has the ability to “run interference” between often conservative governments, larger donors and NGOs, and smaller community-based organizations.

In November 2005, along with the International HIV/AIDS Alliance, the agency co-hosted a stakeholders’ conference for organizations implementing prevention programs for men who have sex with men, which included representatives from Senegal and Nigeria. In several African countries, including Gambia, the agency has been working with ministries of health to begin gathering critical behavioral and seroprevalence information on men who have sex with men in order to advocate for targeted prevention interventions.

UNAIDS has worked behind the scenes in a number of African countries to move same-sex transmission onto national agendas and has facilitated funding for small-scale HIV prevention efforts targeting men who have sex with men. According to Anindya Chatterjee, senior advisor to UNAIDS, “The agency is trying to help create a space for MSM within national AIDS programs.”²¹⁵ UNAIDS sees itself as working in a politically charged atmosphere with regard

213 Lotta Samelius, *Sexual Orientation and Gender Identity Issues in Development* (November 2005), 51.

214 Ibid, 52.

215 IGLHRC interview with Anindya Chatterjee, November 1, 2006.

to same-sex transmission, in which it must balance “doing the right thing” and “brokering among all the key players.”²¹⁶ Admittedly, this is no easy dance. Dr. Ruben Del Prado, the UNAIDS Representative to Uganda, was removed from his post and asked to leave the country shortly after he hosted a meeting of LGBT activists in Kampala to discuss HIV prevention for same-sex practicing people in October 2004.

The World Bank

Through its Multi-Country HIV/AIDS Program (MAP), the World Bank has committed US\$4 billion to African countries and US\$107 million to four cross-border projects of which more than \$500 million has already been disbursed.²¹⁷ While much of its lending is bilateral, the Bank has supported more than 50,000 subprojects implemented by civil society and/or community-based organizations. The Bank has a relatively good record of working with LGBT associations in Latin America, Eastern Europe, and Asia, but has only recently been actively seeking to work on men who have sex with men and LGBT issues in Africa. Along with the HIVOS Foundation, the Bank financed the preparation of an organizational development manual for African LGBT groups and an important workshop for Anglophone LGBT groups held in Helderfontein, South Africa in 2004. The Bank also commissioned a key study on the HIV-related needs of same-sex practicing men in Senegal, Burkina Faso, and the Gambia that recommended the creation of targeted HIV prevention programs.

While there are no restrictions on financing HIV prevention work targeting men who have sex with men or LGBT capacity-building activities from the AIDS programs funded by the World Bank, there has been only limited uptake of this opportunity by African governments or civil society groups. Kees Kosterman, development specialist at the Bank, attributes this to the fact that there are “relatively few effective LGBT organizations which can make use of the funds, and most AIDS service organizations are still reluctant to get involved in this issue.”²¹⁸ Given its substantial resources, the Bank is in a position to do more to convince governments of the importance of attention to same-sex HIV transmission and prevention.

216 Speech by Susan Timberlake, Senior Law and Human Rights Advisor, UNAID Secretariat, at ILGA World Conference, Geneva, 29 March 2006.

217 World Bank website, <http://web.worldbank.org/>

218 IGLHRC interview with Kees Kosterman, Development Specialist, World Bank, June 17, 2006.

The Global Fund

The Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) is a public/private partnership established to fund and “support aggressive interventions” against three of the world’s major diseases. There have been five rounds of funding since the inception of the Global Fund in 2002, and US\$5.5 billion has been committed for activities in 132 countries.²¹⁹ While the Fund has been criticized for slow distribution of grants and unwieldy proposal and reporting requirements, there has also been praise for its attempts to maintain high standards of accountability and transparency.

The Global Fund has no stated commitment to HIV interventions targeting men who have sex with men and its Technical Review Panel has no members with specific expertise on the issue of same-sex HIV prevention. According to its website, the principles of the Global Fund “reflect national ownership and respect country-led formulation and implementation processes.”²²⁰ The majority of grants made by the Global Fund are requested and then distributed at the country level, by Country Coordinating Committees (CCMs), sometimes with assistance of a primary implementing or “regranting” agency. In most cases CCMs are dominated by government appointees and largely reflect official attitudes, policies, and priorities. In no African country have LGBT organizations or experts in same-sex HIV transmission been asked to participate in CCMs.

While it is difficult to track Global Fund spending at the sub-country recipient level, prevention programs for men who have sex with men are receiving only minimal Global Fund funding in two African countries—Morocco and Senegal.²²¹ Socially marginalized groups such as same-sex practicing men and women, people in sex work, and IDUs, are unlikely to obtain funding through a process controlled by conservative governments. Human rights specialist Susana Fried, who has researched the effectiveness of the Global Fund in providing financing for marginalized groups, argues that, “There is a fundamental problem in relying on a country-driven process to divide up these vast resources when the governments themselves have institutionalized homophobia.”²²²

219 Global Fund website, www.theglobalfund.org

220 The Global Fund, “The Framework Document of the Global Fund to Fight AIDS, Tuberculosis and Malaria,” 1.

221 The Moroccan AIDS Service Organization (ALOCs) has been conducting HIV prevention programs for men who have sex with men and people in sex work in particular, since 1999. ENDA-Sante in Senegal receives Global Fund grants through the ANCS for its outreach work to men who have sex with men in Dakar.

222 IGLHRC interview with Susana Fried, PhD, September 12, 2006.

Conclusion

While external funds for fighting HIV/AIDS in Africa are sorely needed, restrictive policies embedded in U.S. grantmaking programs, as well as the silence of other foreign governments and intergovernmental institutions, condone and perpetuate homophobic discrimination. Conservative U.S. policies have struck a resonant chord with a number of African governments whose own commitments to providing funds for responding to HIV/AIDS among marginalized social groups, such as people in sex work and same-sex practicing men, have been negligible. Some intergovernmental agencies and European donors have made efforts to fill in the gap in AIDS funding and advocacy created by U.S. policy, but in general the need far outpaces the available resources.

Chapter 6

The Role of Non-Governmental Organizations and Corporate Donors

N*on-governmental organizations—including private voluntary organizations (PVOs), domestic AIDS service organizations (ASOs), foundations, and corporate donors—have all played critical roles in HIV/AIDS research, service provision, and public health policy in Africa. The independence of these institutions from governments should allow them to make programmatic decisions based on science and not on politics. The reality, however, has proven to be more complicated with regard to same-sex practicing people and HIV/AIDS.*

International Private Voluntary Organizations

PVOs are tax-exempt, non-profit organizations engaged in international development activities and humanitarian aid. Few PVOs have undertaken prevention, treatment, or care programs that address the needs of same-sex practicing people in any concrete way, or made credible attempts to include sexual minorities in their generalized HIV outreach programs. With but a few notable exceptions however, PVOs have contributed to the silence around HIV and same-sex practices.

While none of the PVOs interviewed for this report indicated that they had been pressured to terminate sexual and reproductive health programs for same-sex practicing people, a number expressed concern that the implementation of

their programs was influenced by homophobic attitudes of African governments and the shift toward conservative HIV funding policies by the U.S. government.

As discussed in the previous chapter, U.S. funding policies are articulated not only in position papers and grantmaking guidelines, but in the patterns of which NGOs receive major awards and cooperative agreements. Conservative faith-based organizations are clearly being favored to implement reproductive health programs internationally. Condom promotion programs are being threatened and forced to focus on failure rates. And NGOs that find common ground with people in sex work are being targeted for attack by bureaucrats and politicians.

Because U.S. funding is being implemented within the context of a web of restrictions, many NGOs are pre-emptively capitulating to conservative policies. In the words of the administrator of one multimillion dollar USAID-funded consortium whose Cooperative Agreement with USAID was up for renewal, "We'd be crazy to keep working with sex workers and MSM with Congress calling for abstinence and faith-based programs."²²³

When NGOs refrain from proposing HIV projects that target same-sex practicing communities or from challenging restrictive, unscientific policies, the work of religious conservatives is done for them. According to one USAID official who manages a large PEPFAR portfolio in a high seroprevalence African country, "No NGOs have submitted proposals for MSM programs. There's nothing for us to reject."

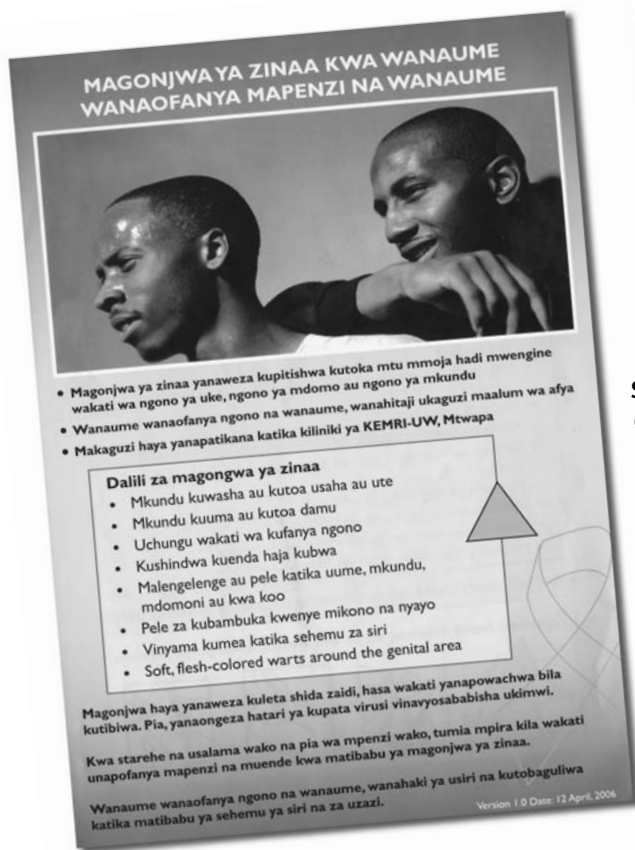
While some NGOs have been part of efforts to address the AIDS epidemic among men who have sex with men in other parts of the world, similar work in Africa is perceived as more challenging and potentially risky. Family Health International (FHI), one of the largest non-profits working in the field of international public health, supports 24 organizations in Asia, which reach 200,000 men who have sex with men annually with prevention information.²²⁴ In Africa, however, FHI has until recently had no same-sex HIV programming. Tony Bennett of FHI's Technical Support Department explains that this "reflects the still high level of stigmatization of this population in many African countries."²²⁵

While most international NGOs continue to ignore the HIV-related needs of same-sex practicing people in Africa, some also promote homophobia of their own. On May 9, 2005, ActionAid International Uganda (AAI Uganda) barred Sexual Minorities of Uganda (SMUG) from participating in *Get on Board*, an HIV/AIDS public education day held at Constitutional Square in

223 IGLHRC Anonymous interview, June 13, 2005.

224 TREATAsia, *MSM and HIV/AIDS Risk in Asia*, (2006), 27.

225 IGLHRC email correspondence with Tony Bennett, FHI, June 13, 2005.



Swahili language HIV
outreach brochure
produced by International
HIV/AIDS Vaccine Initiative

Kampala. While other community-based organizations were allowed to display their materials, SMUG, which was under intense pressure from the Ugandan government at the time, was prevented from distributing any of its HIV/AIDS prevention materials that appealed to gay men and lesbians. This rejection by an international PVO added to SMUG's sense of isolation.

When IGLHRC challenged this discriminatory move, AAI Uganda's country director Amanda Serumaga stated that SMUG was turned away from the event because it is not one of AAI Uganda's partner organizations. According to Serumaga, AAI focuses its "work on the poor, specifically women and girls, as a priority, as it is they who are the worst affected in Uganda."²²⁶ The HIV outreach work of SMUG *also* focuses on poor women, specifically lesbians, who are triply affected by the AIDS epidemic. SMUG also works with gay men, many of

²²⁶ Correspondence from Amanda Serumaga of AAI Uganda to Cary Alan Johnson, IGLHRC, May 25, 2005.

whom also have sex with women. Expelling SMUG was tantamount to expelling attempts to reach a highly marginalized and vulnerable community.

Several well-respected international PVOs have begun developing programs for men who have sex with men in Africa. The Academy for Educational Development (AED) is providing technical assistance to the Centre for Popular Education and Human Rights Ghana (CEPEHRG), for its outreach and prevention work with men who have sex with men in Ghana. AED and CEPEHRG collaborated on a seroprevalence study that will provide critical data for work with same-sex practicing men throughout West Africa. The Population Council, in addition to conducting behavioral studies of men who have sex with men in Senegal and Kenya, has also been key in

HELP!

I THINK I'M PREGNANT. WHAT AM I GOING TO DO?

MY GIRLFRIEND WANTS TO HAVE SEX. HOW DO I KNOW IF I'M READY?

I'M ATTRACTED TO OTHER JAMAAS. WILL THESE FEELINGS GO AWAY?

MY BOYFRIEND AND I HAD SEX. I THINK I HAVE AN INFECTION. HOW CAN I BE SURE? WHERE SHOULD I GO?

Need Advice? Information?
Just someone friendly to talk to?
 call the FREE* and CONFIDENTIAL
one2one Youth Hotline
0800 - 22 - 11 - 1-2-1
 weekdays 10am - 6pm, saturdays 10am - 3pm
 *call free from any landline

supported by the Ford Foundation, Ethel John AIDS Foundation and Interact Worldwide

launching a research and prevention intervention for same-sex practicing men in Mali.

The U.K.-based International HIV/AIDS Alliance is working with North African partner organizations to implement prevention programs for men who have sex with men in Algeria, Morocco, and Tunisia. The Alliance and UNAIDS held a Roundtable Meeting in Geneva on November 14, 2005 to increase “donor and policy maker interest in, and commitment to, HIV prevention and impact mitigation among men who have sex with men in developing countries.”²²⁷ The International AIDS Vaccine Trials Initiative funds and manages a program for men who have sex with men in Kenya that provides HIV counseling and testing as well as Anti-Retroviral therapy for men who are HIV positive. While critically important for the individuals involved, the budgets attached to these efforts add up to slightly more than US\$1 million, and the coverage they provide is woefully insufficient.

The HIV prevention work of these PVOs has been important, but has evidenced a tendency to characterize men who have sex with men as objects for study and intervention, rather than as decision-makers who are ready to take responsibility for HIV in their communities. In countries such as Côte d’Ivoire, Ghana, Mali, and Senegal, funds for work with same-sex practicing men have been awarded to PVOs that exhibit varying degrees of sensitivity to communities of same-sex practicing men. Often, men who have sex with men are not even involved in the design of programs aimed at decreasing same-sex HIV transmission, and they are hardly ever hired to fill staff positions to implement these programs. African gay men have expressed concern with NGOs “that study us, raise money in our name, but then use the money how they see fit.”²²⁸

Domestic AIDS Service Organizations (ASOS)

ASOs working at the regional, national, and community-based levels are at the forefront of HIV service provision in Africa. They have done an impressive job of addressing community needs with minimal resources. Organizations like the Society of Women Against AIDS (SWAA), Liverpool VCT in Kenya, The AIDS Support Organization (TASO) in Uganda, ARCAD-SIDA in Mali, and Zimbabwe AIDS Prevention Support Organization (ZAPSO) have provided prevention services, HIV counseling and testing, home-based care, assistance to orphans and vulnerable children, legal sup-

227 Website of the International HIV/AIDS Alliance, www.hivalliance.org.

228 IGLHRC interview with S.M., Dakar, Senegal, November 21, 2006.

port, emergency food, and medical care for hundreds of thousands of people affected by HIV/AIDS in Africa.

Too often, however, ASOs have incorporated the homophobia of their societies into their work and failed to create space for same-sex practicing individuals to take advantage of HIV services without facing stigma and discrimination. Same-sex practicing and transgender people face a lack of understanding of their needs, and sometimes outright derision when seeking HIV/AIDS services from mainstream CBOs. According to Emmanuel Kamau, a Kenyan LGBT activist,

We hear frequent stories of gay and transgender people who are turned away from HIV services, particularly those managed by religious people who find LGBT lifestyles to be immoral. Men who need treatment for anal STIs are frequently ridiculed when seeking services.²²⁹

The health needs of lesbian women are also often misunderstood by staff of ASOs who have not received proper training. Masondo H. faced disbelief and ridicule from an HIV post-test counselor at a community-based organization when she tested positive for HIV. The counselor first accused her of

disguising my promiscuous ways by identifying as a lesbian. When I explained that I was likely infected as a result of a heterosexual rape, she said that as a lesbian, I must have deserved it. She brought in the whole scripture lecture and told me that if I don't change my ways then I should expect more of the same.²³⁰

Many ASOs are wary of reaching out to same-sex practicing people for fear of alienating their own members and staff. Others are overwhelmed by the volume and difficulty of their work, and view the HIV needs of sexual minorities to be ancillary issues with which they have little familiarity or capacity. Most fail to engage in the internal discussions, trainings, and values-clarification that would be required to make their services LGBT-friendly.

There are signs that African civil society may be becoming more conscious of their responsibility to same-sex practicing people with regard to HIV prevention, treatment, and care and willing to address this challenge. In 2006, a

229 IGLHRC interview with Emmanuel Kamau, December 12, 2005, Nairobi, Kenya.

230 IGLHRC interview with Masondo H, October 9, 2006, Johannesburg, South Africa.

broad coalition of high-profile African AIDS service NGOs called for greater equitability in national AIDS plans, and suggested that specific targets be developed to ensure the inclusion of men who have sex with men.”²³¹

A few African NGOs have launched specific interventions aimed at men who have sex with men. Liverpool Voluntary Counseling and Testing (LVCT), a Kenyan NGO, has been providing badly needed services to men who have sex with men in Nairobi since January 2004. At LVCT, a group of gay men meets twice per month to discuss HIV and sexual health, condom negotiation, and HIV status disclosure. LVCT also provides access to condoms, lubricant, VCT services, treatment of opportunistic infections, and HIV Anti-retroviral treatment, all in an atmosphere that is nonjudgmental and supportive of the sexual and gender identities of its clients.

ARCAD-SIDA, based in Bamako, but with programs in most of Mali’s regions, began its HIV service work in 1984. The ASO provides a broad set of services to HIV-affected clients including VCT, ambulatory care, and nutritional training. It has recently begun working with a small community of men who have sex with men in Bamako to ensure that they have access to the full range of services the organization offers. According to Dr. Dembélé Bintou Keita, ARCAD-SIDA’s dynamic director, “we are committed to integrating the work with MSM into all of our other programs.”²³²

Foundations and Corporate Donors

Worldwide, foundations and private donors contributed more than US\$345 million to HIV/AIDS programming in 2004 alone, playing a strategic and catalytic role in efforts to combat HIV. Private philanthropy enjoys a level of independence that has made it a critical source of funding for marginalized communities. A number of international foundations have provided critical funding for both infrastructural support to LGBT organizations and HIV prevention, treatment, and care interventions for men who have sex with men. Philanthropies including the Astraea Foundation, the Ford Foundation (East Africa), Mama Cash, HIVOS, the Open Society Initiative, the Open Society Institute for Southern Africa, and the Atlantic Philanthropies have made key grants to LGBT organizations in Africa that have allowed them to mount small-scale HIV programs.

Corporate philanthropy has yet to play a major role in the financing of HIV services for same-sex practicing Africans. Selling AIDS drugs is a lucrative

231 African Civil Society position paper on HIV and AIDS in Africa: Moving to Action, 2006.

232 IGLHRC interview with Dr. D. Keita, November 25, 2006.

business in Africa. Organizations like the Treatment Action Campaign (TAC) have fought successful battles with drug manufacturers, forcing them to relax patent restrictions and increase access to AIDS medications. These battles have been bitter, and HIV-related philanthropy is one way that drug companies have attempted to improve their public images while at the same time promoting their products. Bristol-Myers Squibb, manufacturers of Zerit, Sustiva, and a number of other lucrative AIDS medications, has provided more than US\$14 million to African ASOs through its Secure the Future Program. Only two of those—a US\$54,662 grant to Soweto HIV/AIDS Counselors (SOHACA), and a US\$50,000 to a consortium of AIDS service organizations in Mali—are supporting targeted HIV/AIDS programming for men who have sex with men.²³³ These small but successful initiatives show how important corporate philanthropy can be in filling gaps left by public funding.

233 Bristol-Myers Squibb [on-line]; available from <http://www.securethefuture.com/grant/data/commun.html>.

Chapter 7

African LGBT Organizations and Their Role in Addressing the HIV/AIDS Epidemic

As soon as the heavy toll of the AIDS epidemic on same-sex practicing people became apparent, Africans began engaging in HIV prevention, LGBT counseling, condom distribution, and what would later come to be called home-based care within their communities. The film *Woubi Cheri* documents ways in which Ivoirian drag queens and gay men attempted to create a national LGBT network in response to the double impact of homophobia and HIV/AIDS in the late 1980s.²³⁴ Deb Amory took note of informal AIDS education activities being conducted by same-sex practicing men in several different East African locations by the mid 1980s.²³⁵ Without the benefit of either formal organizations or external support, LGBT efforts to fight the spread of the epidemic and mitigate its impact were launched.

The emergence of formal LGBT associations can be traced to the late 1980s and the 1990s in most of Africa and coincided with the growth of the civil society movement, particularly the establishment of women's and human rights organizations.²³⁶ Most of the early LGBT groups were informal,

234 *Woubi Cheri*, France/Ivory Coast, Producer/Directors: Philip Brooks and Laurent Bocahut, (1998).

235 Deb Amory, "'Homosexuality' on the East African Coast" in *Boy-Wives and Female Husbands*, 86.

236 Early "communities" of self-aware same-sex practicing people who sought each others' company for mutual support and benefit are described in essays in Murray and Roscoe's *Boy-Wives and Female Husbands*, Blackwood and Wierenga's *Female Desires*, and Edwin Cameron's *Defiant Desires*.

in the sense that they did not seek official registration, knowing that not only would such recognition be refused, but that the organizers might be arrested in the process.²³⁷ Today, there are LGBT organizations in nearly half of the countries of Africa, based in both national and regional capitals. These organizations have varying degrees of formality and permanence. Some have offices (or share space with NGO partners), websites, bylaws, substantial membership bases, and elected leaders. Others are loose networks represented by one or two charismatic leaders.

The Coalition of African Lesbians (CAL) is working at the regional level to support African lesbians through research, training, and technical assistance. The Internet portal *Behind the Mask* (www.mask.org.za) serves as a source of information on all aspects of same-sex behavior, identity, and organizing in Africa, gathering news and information, and e-publishing articles related to African LGBT social, political, and cultural life.

LGBT organizations such as Gays and Lesbians of Zimbabwe (GALZ), CEPEHRG in Ghana, the Rainbow Project (TRP) in Namibia, Arc-en-Ciel in Côte d'Ivoire, Alternatives-Cameroun in Cameroon, Andilegey, Adama, and Yeewu-Yeete in Senegal, Frank and Candy in Uganda, the Soweto HIV/AIDS Project, the Durban Lesbian/Gay Health and Community Centre, the Triangle Project, Forum for the Empowerment of Women, and OUT Health and Well-being, in South Africa, Ishtar in Kenya, and others are providing HIV prevention services for same-sex practicing men and women with little external funding.

Many, like the Durban Centre, the Triangle Project, GALZ and GALAG, offer HIV prevention services for same-sex practicing women including counseling, distribution of female condoms, dental dams, plastic gloves, and latex-compatible lubricant—all of which same-sex practicing women need, but are unavailable through mainstream HIV/AIDS prevention programs.

In response to the complete absence of images of same-sex practicing people in campaigns developed by government or mainstream ASOs, African LGBT groups have started designing their own outreach materials. These include brochures, pamphlets, and even radio public service announcements. These have mainly been designed to provide information on HIV prevention, i.e. proper use of condoms, safer-sex negotiation, etc., but also attempt to raise self-esteem and make LGBT people feel worthy of protecting themselves and their partners. Hotlines—phones staffed by supportive, peer counselors who

237 Exceptions to this are LGBT organizations in South Africa and Gays and Lesbians of Zimbabwe (GALZ), officially registered in 1989.

The CEPEHRG MSM Project in Ghana

The Centre for Popular Education and Human Rights Ghana (CEPEHRG) is implementing an HIV prevention pilot project for men who have sex with men (MSM) in five neighborhoods in Accra. Funding for this project comes from USAID through the Academy for Educational Development (AED).

The objectives of the project are to increase the number of men who have sex with men who adopt primary prevention behaviors with their partners, such as using condoms and lubricants properly for all penetrative sex; promoting access to VCT (Voluntary Counselling and HIV Testing) services; and promote health-seeking behaviors among men who have sex with men by encouraging them to seek and comply with treatment protocols for sexually transmitted infections (STI). The project also maintains a monitoring and evaluation system to better inform future interventions.

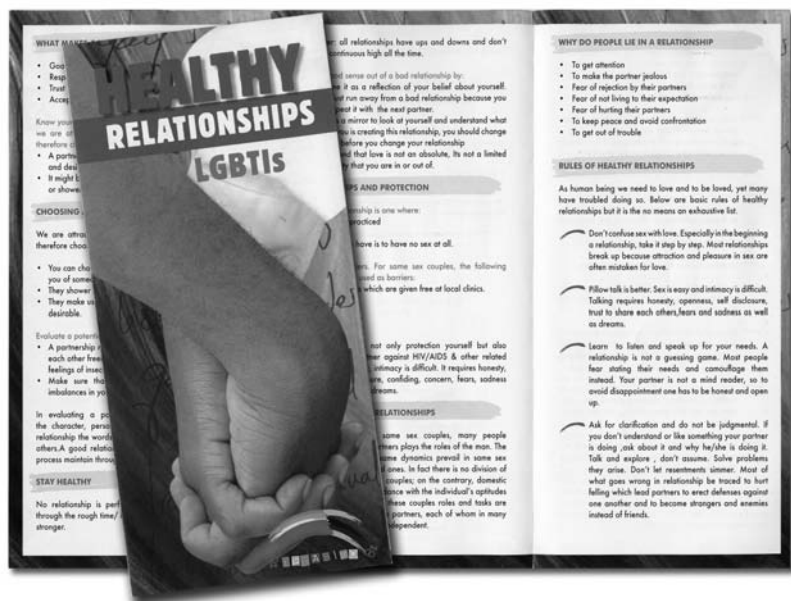
CEPEHRG senior project staff recruited and trained a team consisting of ten peer educators, one supervisor, and one coordinator; they then established a small medical center for the treatment of STIs. CEPEHRG peer educators travel throughout Accra engaging clients in frank discussions that clarify myths about HIV transmission and engage Ghanaian men who have sex with men in carrying the message about HIV to their friends, neighbors, schoolmates, coworkers, and families. In addition, peer educators sell or distribute more than 1,500 condoms and dozens of tubes of latex-compatible lubricant every month. Hundreds of men have been reached for both informal and intensive HIV prevention counseling.

Challenges and Constraints

- ◆ Due to the social stigma around homosexuality in Ghana, MSM are afraid to “come out” by accessing information on STIs, HIV, AIDS, etc.
- ◆ There is some resistance to condom use, and not all MSM are ready to adopt safe sex practices. Peer educators are working to change community norms regarding the use of condoms and other behaviors. MSM have begun requesting information from peer educators on how to properly use condoms and lubricants.
- ◆ Even with CEPEHRG-issued identification cards, some MSM fear that peer educators are from government or the police and doubt the veracity of the information being shared.
- ◆ Due to the limited spaces in which peer educators can meet clients, it is often difficult to hold group discussions.
- ◆ Socioeconomic conditions do not allow clients to purchase condoms and latex-compatible lubricants. Free distribution of these commodities is still necessary to ensure consistent use.
- ◆ Larger sized bottles of lubricants are not easy to carry offsite. Small packets are either unavailable or expensive.

answer questions, provide information, and offer referrals—are proving to be a particularly popular strategy for HIV prevention for same-sex practicing men and women, and are currently used in Kenya, Cameroon, and Morocco. Hotlines have the advantage of providing anonymous, low cost, high volume counseling to LGBT individuals in both rural and urban areas.

LGBT organizations, often in partnership with mainstream AIDS service organizations and occasionally with government, are working to ensure that same-sex practicing men and women have access to anti-retroviral treatment.



HIV outreach materials produced by African LGBT organizations



During 2006, GALZ provided emergency supplies of ARVs for 70 of its members when the government ran out of funds and was unable to import the compounds for local production. The Senegalese Ministry of Health works with local LGBT partner groups Adama and Andiligey to provide ARV treatment to men who have sex with men in Dakar. Ishtar, a gay men's organization in Kenya, has been a key partner of Liverpool VCT in the provision of HIV treatment to men who have sex with men in Nairobi.

In many ways, the impact of HIV/AIDS on same-sex practicing communities has served as a catalyst for the development of the sexual rights movement in Africa.²³⁸ The sheer weight of the epidemic demanded that LGBT community leaders rapidly and creatively respond to the overwhelming needs of a community in crisis. Civil society groups that had previously seen no benefit in working with the LGBT community have been more accepting of sexual diversity as a result of shared commitments to responding to HIV/AIDS. HIV has also provided *cover* for the LGBT groups, in their dealings with government. As HIV activists, openly gay men and women have been able to sit at planning tables with high level government officials as a result of their recognized status as people particularly vulnerable to HIV/AIDS. HIV prevention and care work has proven to be a more acceptable *raison d'être* in the minds of government officials and other conservative stakeholders, than claims for sexual liberation.

Some LGBT organizations have been able to obtain funding for HIV projects. These grants have come from larger NGOs, foundations, foreign donors, and occasionally African governments themselves, and have usually been small, averaging US\$5,000–US\$25,000. Still, these grants have helped LGBT organizations to mount effective prevention and care programs and to improve their overall organizational capacity. LGBT organizations are emerging as increasingly skillful stakeholders in HIV/AIDS prevention, treatment, and care work. With some technical and financial assistance, many are now in a position to successfully scale-up their interventions.

However, donors have only been interested in funding HIV prevention efforts for same-sex practicing men, and not for women. This has led to a skewing of LGBT organizational priorities toward men's health concerns and away from political organizing, advocacy, lesbian health, and a myriad of other important issues. This scenario has the potential of intensifying divisions between same-sex practicing women and men and further stigmatizing same-sex practicing men as *carriers of disease*.

238 Matthew W. Roberts, "Emergence of Gay Identity and Gay Social Movements in Developing Countries: The AIDS Crisis as Catalyst," *Alternatives* 2, (1995): 254.

Despite the heroic response of LGBT organizations in Africa to HIV, most lack the resources to construct the nets of medical, emotional, financial, and political support that have kept so many gay men in the West from sinking into AIDS-related hopelessness and despair caused by the epidemic. Most African LGBT associations face daily challenges to their organizational survival due to lack of infrastructural, financial, and human resources to implement sustained programs. As a result, too many African same-sex practicing men and women suffer in silence from HIV and die alone, impoverished and abandoned by their families, their faith communities, and the state itself.

Chapter 8

Conclusion and Recommendations

T*he HIV/AIDS epidemic demands inspired and revolutionary leadership.* The survival of the African family in all of its diverse manifestations is contingent on the willingness of leaders and key stakeholders to examine attitudes, especially those related to sexuality, through a human rights lens, and to revise HIV-related laws, policies, and resource allocation accordingly.

At the December 2005 International Conference on AIDS and Sexually Transmitted Diseases (ICASA), representatives from more than a dozen African LGBT organizations produced their own Abuja Declaration (see Appendix), detailing the aspirations of many same-sex practicing Africans with regard to HIV. The groups lamented the fact that “in all African countries there are no government-driven programs directed at addressing STIs and HIV/AIDS among same-gender loving people MSM and WSW.” Since then, there has been but slight progress. The governments of Morocco and Senegal have realized the importance of HIV prevention efforts for men who have sex with men, but at funding rates far below what is needed. “As members of the African family,” the activists continued, “we demand equal access to information, materials and treatment for STIs and HIV.”

Same-sex transmission of HIV in Africa has been under-counted, under-researched and under-funded. Relocating same-sex practicing men and women on the HIV/AIDS map is a step toward their full citizenship, a state of

affairs that some in Africa fear. Embracing sexual rights means changing core beliefs about gender and sexuality, but it also means looking honestly and deeply into African histories, bringing forth the truth about sexual diversity, and allowing it to inform attitudes and policy.

There is an increasingly frequent and disturbing strand of discourse that is portraying bisexual African men as “bridges” for the transmission of HIV to heterosexual women and then to heterosexual men. This argument portrays same-sex practicing men as reckless, promiscuous, and unconcerned with the health and well-being of their partners and families. Such a portrayal ignores the homophobic stigma that these men face, and serves only to drive men who have sex with men further into secrecy and denial. If more comprehensive and less judgmental sex education were available for all, there would be less need for secrecy and all people would have access to the skills and tools they need in order to save their lives.

African LGBT organizations must be at the center of any successful strategy to address the HIV epidemic among same-sex practicing people. These groups are already mounting a powerful and creative response to HIV. Many have launched HIV prevention, care, and treatment programs with little, if any, external assistance, in the face of extreme social prejudice and official discrimination. LGBT groups and leaders understand both the biological and social vulnerabilities of their communities, as well as the behaviors, strengths, and untapped potential with which the community can respond to HIV. For example, men who have sex with men in urban African environments make significant use of the Internet for dating and making social connections with other men. The Internet therefore could be an important tool for HIV prevention efforts. Gay men and lesbians are also active in caring for AIDS orphans in both urban and rural areas. Providing formal support for these informal arrangements could be an important contribution to addressing the issue of orphans and vulnerable children.

Bombarded by hatred and violence, LGBT have come together to support each other financially, legally, and spiritually. HIV care programs are already functioning in African LGBT organizations, albeit informally, and could greatly benefit from training and financial input. In Africa, the extended family remains overwhelmingly the most important social safety net for people with AIDS. But while all people living with AIDS face social stigma, same-sex practicing people are more likely to face rejection and estrangement from their families. Going home to seek care or to die with dignity may not be an option. In the face of HIV/AIDS, same-sex practicing people have learned to care for each other. Strengthening existing HIV home- and community-based

care networks by and for LGBT people may be among the most effective and humane programs that AIDS service organizations can undertake.

HIV Treatment Programs

HIV treatment is the next frontier in the battle against the epidemic. Only one in six of the 4.7 million people in need of anti-retroviral drugs in Africa currently has access to treatment,²³⁹ and those facing stigma and prejudice for whatever reasons, including homophobia, are least likely to benefit. Governments, donors, and NGOs are encouraged to evaluate their HIV treatment programs and undertake training of staff, designing of materials, and targeted outreach in a manner that reflects the rights and needs of same-sex practicing people.

Programming for Women Who Have Sex with Women

No group has been more abandoned within HIV programming than same-sex practicing women. Governments and NGOs must recognize that women who have sex with women are at risk for HIV and should not be neglected. This must begin with a more complete understanding of the complexities of the lives of same-sex practicing women and the nature of their HIV-related risk. Women need to be trained about their HIV risks and health care providers need to be sensitized on the specific health and HIV prevention needs of lesbians and other women who have sex with women.

Detailed Recommendations

The following is a list of recommendations for African governments, the United States and other bilateral donors, international private voluntary organizations, and domestic AIDS service organizations. Addressing these recommendations and implementing the suggestions therein will go a long way toward developing a response to the HIV/AIDS epidemic, that is inclusive and forward-thinking.

IGLHRC calls upon the governments of African nations to:

- Repeal all laws that criminalize same-sex consensual conduct in keeping with international human rights law. These laws contribute to the HIV vulnerability of same-sex practicing people by driving them underground and supporting their marginalization. In countries that have no anti-homosexuality laws, end arrests, harassment, and persecution of people on the basis of sexual orientation.

239 UNAIDS, "Report on the Global AIDS Epidemic," 2006: 15.

- Prosecute physical and verbal attacks, expulsion from schools and housing, and other forms of harassment, persecution, and abuse of same-sex practicing people. Extend the equality provisions of national constitutions to include sexual orientation. End impunity of law enforcement officials and private individuals for homophobic discrimination and violence.
- Send a strong message to law enforcement officials that extortion—including the extortion of gay and lesbian people—is a crime.
- Build relationships with local LGBT and sexual rights organizations and provide funds for the scaling-up of successful HIV prevention, VCT, treatment, and care programs for same-sex practicing people through direct government grants and contracts. Work collaboratively with organizations that have experience implementing such programs.
- Appoint specialists in same-sex HIV issues—including gay men, lesbians, bisexuals and transgenders—to Global Fund Country Coordinating Mechanisms, National AIDS Control Councils, and other planning and grantmaking bodies. Provide these individuals with the support they need to fulfill their responsibilities.
- Work with law enforcement officials to ensure protection for HIV educators working with same-sex practicing people and people in sex work.
- Revise school curricula in order to offer age-appropriate, comprehensive sexuality education in schools. Emphasize scientifically accurate information about sexuality and HIV/STI prevention.
- Make condoms, dental dams, and latex-compatible lubricants available in jails and prisons; offer comprehensive HIV prevention education to people who are incarcerated.
- Ensure that government-sponsored HIV prevention messages on radio, television, billboards, print media, etc. reflect diverse sexual identities and attend to the prevention needs of same-sex practicing people, in a manner that is accurate, respectful, and promotes equality throughout the society.
- Train health care personnel on the specific social and medical needs of same-sex practicing individuals. Ensure that they approach all patients with a sensitivity and respect for individual rights.
- Ensure that research on the effectiveness of topical microbicides, pre- and post-exposure HIV prophylaxis, and other HIV prevention alternatives is inclusive of same-sex practicing people.

IGLHRC calls upon the United States Government to:

- Advocate for the repeal of laws that criminalize consensual same-sex conduct.
- Launch Requests for Applications in Africa specifically for HIV prevention,

care, and treatment programs for men who have sex with men and women who have sex with women. Ensure that successful applicants have experience implementing similar programs, preferably in Africa, and that they partner with local LGBT organizations.

- Host a best-practice conference for public health specialists, governments, LGBT organizations, and HIV practitioners currently involved and interested in HIV prevention interventions for men who have sex with men and women who have sex with women in Africa. Include the participation of implementers of similar programs from outside of Africa.
- Fund a comprehensive study of HIV transmission between women and the HIV vulnerabilities of same-sex practicing women in Africa.
- Create a small grant fund with which African LGBT organizations can implement HIV pilot projects; provide organizational and programmatic capacity building in the form of training and technical assistance to increase the success of these initiatives. Use these projects to gather information on the effectiveness of various techniques and strategies for decreasing HIV transmission among same-sex practicing people.
- Remove all homophobic references in U.S. international HIV policy document and refrain from funding any project or organization that discriminates against LGBT people or preaches hate against anyone as a result of their membership in the social categories protected by the ICCPR.
- Stop the exportation of homophobia by removing restrictions on international reproductive health funding that increase stigma against sexual minorities. Rescind the Mexico City Policy (Global Gag Rule) and the requirement of the Prostitution Pledge. Modify the implementation of the ABC policy to eliminate the supremacy of abstinence-only until marriage programs. Promote comprehensive HIV risk reduction education.
- Include lubricants and dental dams as part of supplies that can be funded under PEPFAR and other U.S. funding programs; ensure that condoms are readily available for distribution by governments and NGOs without complicated warnings of their supposed ineffectiveness.
- Increase non-health-related grants that are available to LGBT organizations, i.e. from self-help funds, democracy and governance programs, and human rights initiatives, to complement HIV funding for LGBT organizations.

IGLHRC calls upon other foreign governments, inter-governmental agencies, foundations, and corporate donors working in the HIV/AIDS field in Africa to:

- Advocate for the repeal of laws that criminalize consensual same-sex conduct.

- Increase funding to African government agencies, international, and local organizations ready to implement programs for same-sex practicing people in Africa. Encourage grantees implementing broad-based HIV public education campaigns to investigate the needs of same-sex practicing people and adjust their approaches to be more inclusive.
- Increase non-health-related grants, i.e. infrastructure, advocacy programs, community outreach, to African LGBT organizations to ensure that HIV funding for men who have sex with men does not overwhelm programming.
- Refrain from funding any project or organization that openly discriminates against LGBT people or preaches hate against anyone due to their membership in the social categories protected by the ICCPR.
- Fund research on the HIV/AIDS-related needs of women who have sex with women, and widely disseminate the results.
- Ensure that research on the effectiveness of topical microbicides, pre-and post-exposure HIV prophylaxis, and other HIV prevention alternatives is inclusive of same-sex practicing people.

IGLHRC calls upon Private Voluntary Organizations working against HIV/AIDS in Africa to:

- Undertake appropriate consultations with LGBT organizations and leadership in Africa as quickly as possible in order to jointly launch HIV prevention, treatment, and care programs that specifically target same-sex practicing people.
- Ensure that same-sex practicing people are not excluded from the messages contained in generalized HIV/AIDS public education programs. Promote images of individuals and their relationships that are representative of the broad spectrum of human sexuality.
- Work with country-level staff to develop policies that promote equality and respect for same-sex practicing people who access programs and services.
- Staff programs that target same-sex practicing individuals with self-identified same-sex practicing people. Make training opportunities available to help these individuals to fulfill their roles. Offer them support to withstand the homophobia they are likely to face from within and outside of the organization.
- Encourage key policymakers in African governments and civil society to encourage them to address issues of discrimination against same-sex practicing people and specifically the HIV-related needs of these individuals.
- Work for the repeal of the Global Gag Rule, the Prostitution Pledge, earmarking of HIV/AIDS funds for abstinence-only programming, and reduc-

tion in condom availability, and other policies that are scientifically unsound and violate human rights.

**IGLHRC calls upon Domestic AIDS Service Organizations
working against HIV/AIDS in their countries to:**

- Develop policies that promote equality and respect for same-sex practicing people who access programs and services.
- Launch a process of internal values clarification and unlearning homophobia training that allows all participants to honestly express their opinions while reaffirming the overall goals, principles, responsibilities, and legal responsibilities of the organization.
- Ensure—through invitations, advertising, community fora, promotional materials, and other means—that same-sex practicing people are welcome participants in organizational programs and events. Reach out!
- Assist LGBT organizations in designing and managing AIDS prevention, care, and treatment programs to serve their own communities. Partner with LGBT organizations to access funding and implement HIV programming for same-sex practicing people and LGBT communities.
- Increase the availability of condoms, including female condoms. Ensure that latex-compatible lubricants and dental dams are part of standard “safer-sex kits” available to all recipients.
- Staff programs that reach same-sex practicing individuals with self-identified same-sex practicing people whenever possible. Make training opportunities available to help them to fulfill their roles. Provide them with appropriate support to enable them to withstand the homophobia they are likely to face from within and outside of the organization.

Appendices

Ratification of International Human Rights Treaties by Country

LGBT Abuja Declaration

Ratification of International Human Rights Treaties by Country

Country	International Covenant on Civil and Political Rights	International Covenant on Economic, Social, and Cultural Rights	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Convention on the Elimination of All Forms of Discrimination against Women	Optional Protocol to the International Covenant on Civil and Political Rights
Algeria	✓		✓	✓	✓
Angola	✓	✓		✓	✓
Benin	✓	✓	✓	✓	✓
Botswana	✓		✓	✓	
Burkina Faso	✓	✓	✓	✓	✓
Burundi	✓	✓	✓	✓	
Cameroon	✓	✓	✓	✓	✓
Cape Verde	✓	✓	✓	✓	✓
Central African Republic	✓	✓		✓	✓
Chad	✓	✓	✓	✓	✓
Comoros				✓	
Congo	✓	✓	✓	✓	✓
Côte d'Ivoire	✓	✓	✓	✓	✓
Democratic Republic of the Congo	✓	✓	✓	✓	✓
Djibouti	✓	✓	✓	✓	✓
Egypt	✓	✓	✓	✓	
Equatorial Guinea	✓	✓	✓	✓	✓
Eritrea	✓	✓		✓	
Ethiopia	✓	✓	✓	✓	
Gabon	✓	✓	✓	✓	
Gambia	✓	✓		✓	✓
Ghana	✓	✓	✓	✓	✓
Guinea	✓	✓	✓	✓	✓
Guinea-Bissau		✓		✓	
Kenya	✓	✓	✓	✓	
Lesotho	✓	✓	✓	✓	✓
Liberia	✓	✓	✓	✓	

Ratification of International Human Rights Treaties by Country

Country	International Covenant on Civil and Political Rights	International Covenant on Economic, Social, and Cultural Rights	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Convention on the Elimination of All Forms of Discrimination against Women	Optional Protocol to the International Covenant on Civil and Political Rights
Libyan Arab Jamahiriya	✓	✓	✓	✓	✓
Madagascar	✓	✓	✓	✓	✓
Malawi	✓	✓	✓	✓	✓
Mali	✓	✓	✓	✓	✓
Mauritania	✓	✓	✓	✓	
Mauritius	✓	✓	✓	✓	✓
Morocco	✓	✓	✓	✓	
Mozambique	✓		✓	✓	
Namibia	✓	✓	✓	✓	✓
Niger	✓	✓	✓	✓	✓
Nigeria	✓	✓	✓	✓	
Rwanda	✓	✓		✓	
São Tomé and Príncipe				✓	
Senegal	✓	✓	✓	✓	✓
Seychelles	✓	✓	✓	✓	✓
Sierra Leone	✓	✓	✓	✓	✓
Somalia	✓	✓	✓		✓
South Africa	✓		✓	✓	✓
Sudan	✓	✓			
Swaziland	✓	✓	✓	✓	
Togo	✓	✓	✓	✓	✓
Tunisia	✓	✓	✓	✓	
Uganda	✓	✓	✓	✓	✓
United Republic of Tanzania	✓	✓		✓	
Zambia	✓	✓	✓	✓	✓
Zimbabwe	✓	✓		✓	

The LGBT Abuja Declaration

There Is No HIV/AIDS Work and No Family Without Us

A Declaration by Lesbian, Gay, Bisexual and Transgender People,

**Men Who Have Sex with Men, and Women Who Have Sex with Women in Africa
Directed to African Governments**

December 2005

*Honourable Ministers of Health,
Directors of National AIDS Control Programs,
Members of the Human Family:*

We, the same-gender loving people, men who have sex men (MSM), and women who have sex with women (WSW) in Africa, demand your attention to the continuous discrimination and marginalization that we experience in the fight against STIs and HIV in Africa.

All over the world, we are the highly vulnerable to STIs and HIV/AIDS. We note with grave concern that in all African countries there are no government-driven programs directed at addressing STIs and HIV/AIDS among same-gender loving people, MSM and WSW.

Our transmission and prevention programs are crippled by the negative legal, cultural, social and religious environments. Our work, human relations and expression are all criminalized and stigmatized. Our inclusive efforts are oppressed and stigmatized by the majority of faith-based organizations. These FBOs access funding from national HIV programs but are exclusive in their implementation of these programs.

African countries are experiencing a high HIV seroprevalence and a high burden of STIs. As same gender loving people, MSM, and WSW, we are exposed to higher levels of stigma and discrimination and thus are more vulnerable to infections. We need qualitative and quantitative research into the factors that place us at risk to STIs and HIV. We need education and training for professionals in order to adequately attend to these.

We are frustrated by the huge absence of appropriate STI and HIV transmission and prevention materials specifically geared toward us in our countries. We want to engage in respectful and loving safer sex practices and therefore demand adequate provision of appropriate prevention materials. We want target-specific pamphlets, dental dams, water-based lubricants, appropriate condoms and gloves. We demand access to STI and HIV treatment.

STIs and HIV are an African problem and as members of the African family, we demand equal access to information, materials and treatment for STIs and HIV. Denying us these basic universal rights...is ignoring our rightful place in society, in this human family as fathers, mothers, sons, daughters, brothers, sisters, uncles, aunties, cousins, nephews and nieces and so on. It is denying us our inherent right to dignity. We are an integral part of the African family, and the struggle against STIs and HIV.

Signed by

Behind The Mask (South Africa)

Durban Lesbian & Gay Community & Health Centre (South Africa)

Frank and Candy (Uganda)

Gay Kenya

Gay and Lesbian Association of Ghana

Gays and Lesbians of Zimbabwe

My Gay Pal (Cameroon),

OUT (South Africa)

(SPIN) Support Project In Nigeria.

For more information contact:

Nonhlanhla Mkhize, South Africa, mc@gaycentre.org.za

Joel Nana, West Africa, joel@mygaypal.com

Glossary of Key Terms

Bisexual

An individual who is physically, romantically, emotionally and/or spiritually attracted to men and women.

Coming Out

A lifelong process of self-acceptance. People who forge an identity based at least partially on same-sex attraction and/or lesbian, gay, bisexual or transgender identity, do so first to themselves and then may reveal it to others. Publicly identifying one's sexual orientation may or may not be part of coming out.

Cross-Dressing

To wear clothing traditionally associated with people of the other sex. Cross-dressers are usually comfortable with the sex they were assigned at birth and do not wish to change it.

Gay Man

A man who has physical, romantic, emotional and/or spiritual attraction to other men and who identifies as such. Not all men who have sex with other men identify themselves as "gay."

Gender Expression

External manifestation of one's gender identity, usually expressed through "masculine," "feminine" or gender variant behavior, clothing, haircut, voice or body characteristics. Typically, transgender people seek to make their gender expression match their gender identity, rather than their birth-assigned sex. (similar to gender presentation)

Gender Identity

One's internal, personal sense of being a man or a woman (or a boy or girl). For transgender people, their birth-assigned sex and their own internal sense of gender identity do not match.

Gender Non-Conforming or Gender Variant

An umbrella term for a person or behavior that does not match expected stereotypes for masculinity and femininity.

Heteronormativity

A system of norms, institutions, and structures that naturalize heterosexuality as universally and morally righteous.

Heterosexual

A person whose enduring physical, romantic, emotional and/or spiritual attraction is to people of the opposite sex.

Heterosexism

The attitude that heterosexuality is the only valid sexual orientation. Often takes the form of ignoring, disregarding, or stigmatizing lesbians, gay men, bisexuals and other same-sex practicing individuals.

Homophobia

Fear of lesbians and gay men; hatred or antipathy toward LGBT people.

Intersex

A person whose genitalia varies from both male and female normative standards. Historically, intersexuality has been considered a set of different pathologies, and intersex children have been forced to undergo "corrective" surgeries. During the last decade, intersexuality has become not only a contested medical term, but also a political identity.

Kuchu

A term used by the LGBT community in East Africa to describe same-sex practicing and attracted men and women, as well as transgender individuals.

Lesbian

A woman whose physical, romantic, emotional, and/or spiritual attraction is to other women and who identifies as such. Not all same-sex practicing women identify themselves as lesbians.

LGBT

Acronym for “lesbian, gay, bisexual and transgender.” LGBT and/or GLBT are often used because they are inclusive of the diversity of the community.

Men who have Sex with Men (MSM)

A term used to identify men who have sex with men, but who may or may not self-identify as gay or homosexual. Often used in the context of HIV/AIDS programming.

Outing

The act of publicly declaring (sometimes based on rumor and/or speculation) or revealing another person’s sexual orientation without his or her consent.

Queer

Traditionally a pejorative term, queer has been appropriated by some LGBT people to describe themselves. Some value the term for its sense of defiance and because it can be inclusive of the entire non-heteronormative community. Nevertheless, it is not universally accepted within the LGBT community and is infrequently used in Africa.

Sex

The classification of an individual as male or female. At birth, infants are assigned a sex based on a combination of bodily characteristics including: chromosomes, hormones, internal reproductive organs, and genitals.

Sexual health

A state of physical, emotional, mental and social well-being in relation to sexuality.

Sexual Orientation

Describes an individual's enduring physical, romantic, emotional and/or spiritual attraction to another person, including lesbian, gay, bisexual and heterosexual orientations.

Sexual Rights

Human Rights, some of which are already recognized in national laws, international human rights documents, and other consensus statements that pertain to sexual and reproductive health, the physical integrity of the human body, and sexual desire and pleasure. They include the right of all persons, free of coercion, discrimination, and violence, to the highest attainable standard of sexual health; to seek, receive and impart information related to sexuality; sexuality education; respect for bodily integrity; consensual sexual relations and marriage; decide whether or not, and when, to have children; and pursue a satisfying, safe and pleasurable sexual life.

Transgender

An umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term may include but is not limited to transsexuals, cross-dressers, and other gender-variant people. Transgender people may be heterosexual, lesbian, gay or bisexual.

Women who have Sex with Women (WSW)

A term used to identify women who have sex with women, but who may or may not self-identify as lesbian or homosexual.

(Sources: Amnesty International, GLAAD Media Reference Guide, 2007 edition, GenderPAC, Wikipedia and World Health Organization)

List of Acronyms

AAI	Action AID International
AARI	All Africa Rights Initiative
AB	Abstinence/Faithfulness
ABC	Abstain, Be Faithful, use Condoms
ACHPR	African Charter on Human and People's Rights
AED	Academy for Educational Development
AHA	Association Anti-Homophobie Africaine (Uganda)
AIDS	Acquired Immune Deficiency Syndrome
ALCS	Association de Lutte Contre le SIDA (Moroccan AIDS Service Organization)
AmFAR	American Foundation for AIDS Research
ANCS	Alliance Nationale de Lutte Contre le Sida (HIV/AIDS Alliance-Senegal)
ARCAD-SIDA	Association de Recherche, Communication et Accompagnement à Domicile des Personnes Vivant avec le VIH-SIDA

ARV	Anti-retroviral Treatment
ASOs	AIDS Service Organizations
ATI	AIDS Treatment Initiatives
AVERT	AVERTing HIV and AIDS (United Kingdom)
CAL	Coalition of African Lesbians
CAT	Convention Against Torture
CCM	Country Coordinating Mechanism
CDC	Centers for Disease Control and Prevention
CEDAW	Convention on the Elimination of Discrimination Against Women
CEPEHRG	Centre for Popular Education and Human Rights in Ghana
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CHANGE	Center for Health and Gender Equity
CLO	Civil Liberties Organization
CNLS	Conseil National de Lutte Contre le SIDA et les MST (National AIDS Council of Senegal)
CRS	Catholic Relief Services
DTI	Department of Trade and Industry
ECESCR	Committee on Economic, Social and Cultural Rights
ECOSOC	Economic and Social Council
FBO	Faith-Based Organization
FEW	Forum for the Empowerment of Women (Johannesburg, South Africa)
FHI	Family Health International
GALAG	Gay and Lesbian Association of Ghana
GALZ	Gays and Lesbians of Zimbabwe
GAO	United States General Accounting Office
GGR	Global Gag Rule
GMHC	Gay Men's Health Crisis

GTZ	German Development Agency (Deutsche Gesellschaft für Technische Zusammenarbeit)
HAART	Highly Active Anti-Retroviral Therapy
HIV	Human Immunodeficiency Virus
HRW	Human Rights Watch
IAVI	International AIDS Vaccine Initiative
ICASA	International Conference on AIDS and Sexually Transmitted Diseases
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDU	Injection or Intravenous Drug User (listed both ways)
IEC	Information, Education and Communication
IGLHRC	International Gay and Lesbian Human Rights Commission
INCRESE	International Centre for Reproductive and Sexual Rights (Nigeria)
LDH	Human Rights League (Ligue des Droits de l'Homme)
LEDAP	Legal Defense and Assistance Project (Nigeria)
LEGABIBO	Lesbian, Gay, and Bisexuals of Botswana
LGBTI	Lesbian, Gay, Bisexual, Transgender & Intersex
MAP	Multi-Country AIDS Program
MCC	Metropolitan Community Church
MSM	Men who have Sex with Men
NACP	National AIDS Control Plan
NFI	Naz Foundation International
NGO	Non-governmental Organization
OGAC	Office of the Global AIDS Coordinator
PEPFAR	President's Emergency Plan for AIDS Relief
PLWA	People Living with HIV/AIDS
PSI	Population Services International
PVOs	Private Voluntary Organizations

SHARP	Sexual Health and Rights Project—OSI Institute
SIECUS	Sexuality Information and Education Council of the United States
SLLAGA	Sierra Leone Lesbian and Gay Association
SMUG	Sexual Minorities of Uganda
SOHACA	Soweto HIV/AIDS Counselors
STI	Sexually Transmitted Infection
TAC	Treatment Action Campaign
TASO	The AIDS Support Organization (Uganda)
TVPRA	Trafficking Victims Protection Reauthorization Act
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNHRC	United Nations Human Rights Committee
UNICEF	United Nations Children's Fund
US	United States
USAID	United States Agency for International Development
VCT	Voluntary Counseling and Testing
WSW	Women who have Sex with Women
WHO	World Health Organization
WV	World Vision

About the Author

Cary Alan Johnson is the Senior Specialist for Africa at the International Gay and Lesbian Human Rights Commission. He is an author and activist with more than twenty-five years of experience in the LGBT movement and in African social and economic development, having worked in management positions for Amnesty International USA, Africare (Rwanda and Zimbabwe), UNHRC (Democratic Republic of Congo), and Planned Parenthood (Southern Africa). Cary has designed and implemented HIV prevention and care programs in Namibia, Rwanda, South Africa, and Zimbabwe. He holds a Masters Degree in International Affairs and a certificate in African Studies from Columbia University and has written numerous articles on gender and sexuality in Africa.

Off the Map explores the ways in which HIV/AIDS stakeholders are potentially jeopardizing overall efforts to combat the AIDS epidemic. The report examines the ways in which same-sex desire and behavior have been simultaneously erased and criminalized in Africa and looks at the small, but important body of knowledge regarding same-sex transmission of HIV on the continent. Same-sex practicing men and women are at increased risk of contracting HIV, not solely because of bio-sexual vulnerabilities, but as a result of an interlocking set of human rights violations that prevent access to effective HIV prevention, voluntary counseling and testing, treatment, and care.

Off the Map is a passionate and timely appeal for donors, governments and civil society groups to get real. It not only provides an accessible entry into the academic and activist literature on homosexualities in Africa but also provides clear, concrete recommendations on ways to move forward. A must-read for anyone who cares about protecting the next generation of African youth from the cascading and disastrous effects of homophobia, heterosexism and other expressions of sexuality-based stereotyping and discrimination.

Marc Epprecht, Queen's University
author of **Hungochani: The History of a Dissident Sexuality in Southern Africa**

More than 25 years since the beginning of the HIV/AIDS pandemic, African leaders and communities are still not facing the epidemic head on. Ours is the continent most affected, with the grimmest outlook, whose development goals will be wiped out by this virus. Yet we steadfastly refuse to recognise and care for the most vulnerable populations. This report examines the flimsiness of the arguments with which we clothe ourselves. The conclusions are accurate, the recommendations compelling. It is sober reading.

Paul Semugoma, MD
Kampala, Uganda

A long overdue book calling attention to a serious and neglected issue—with important ramifications for all people working in the HIV and AIDS field.

Sofia Gruskin
Director, Program on International Health and Human Rights
Harvard School of Public Health

This report recognizes the complexity of social, economic, and political issues faced by same-sex practicing people in Africa. It is an incredibly important resource book for all people working in HIV/AIDS intervention programs in Africa.

David Kuria Mbote
Kenya Gay and Lesbian Trust



I G L H R C