



## FACT SHEET FOR FAITH COMMUNITIES

### ANTI-LGBTQ LAWS IN AFRICAN COUNTRIES

- As of January 2015, across the globe, there were 99 people known to be in prison because of their sexual activity and 148 awaiting trial. Of these people, 65 (66%) of those in prison and 93 (63%) of those awaiting trial are in African countries.<sup>1</sup>
- Moreover, as the primary news outlet monitoring LGBTQ issues in Africa, *Erasing 76 Crimes*, reports, “Listing 247 people is probably an extreme understatement of the number of people who are behind bars or awaiting trial on homosexuality-related charges, but finding out about specific cases is difficult, especially in countries without a free press.”<sup>2</sup>
- 36 countries in Africa have laws criminalizing consensual same-sex sexual activity.<sup>3</sup> Of these 36 countries, 7 countries have laws that decriminalize same-sex activity between women but continue criminalizing relationships between men.<sup>4</sup>
- Same-sex sexual activity is punishable by death in Mauritania, Sudan, the 12 northern states of Nigeria, and the southern parts of Somalia.<sup>5</sup>
- Same-sex sexual activity is punishable by life imprisonment in Sudan, the 12 northern states of Nigeria, Sierra Leone, Tanzania, Uganda, and Zambia.<sup>6</sup>
- In addition to the six countries listed above, same-sex sexual activity is punishable by up to 14 years imprisonment in 26 additional African countries.<sup>7</sup>
- Flogging, fines, internment with forced labor, and other undefined security measures are also among the legal punishments for same-sex sexual activity in these 36 countries.<sup>8</sup>
- In Nigeria, the “promotion” of homosexuality is also criminalized, putting human rights activists, healthcare workers, educators, and in some cases LGBTQ allies at risk of criminal prosecution.<sup>9</sup>
- In many of these countries, laws regarding LGBTQ people are internally contradictory. Botswana, Mauritius, and Seychelles, for example, offer some form of legal protection on the basis of sexuality and, at the same time, criminalize some or all forms of same-sex sexual activity.<sup>10</sup>
- Same-sex sexual activity is legal in 19 African countries. Yet, Cape Verde, Mozambique, and South Africa are the only African countries that have legalized same-sex sexual activity and also have some form of anti-discrimination law. South Africa is the only African country where same-sex couples can adopt, and it is the only country in Africa with legalized same-sex marriage.<sup>11</sup>

### REALITIES OF LGBTQ PEOPLE IN AFRICA

- Globally, less than one in 20 men who have sex with men (MSM) has access to HIV prevention and care.<sup>12</sup> Likewise, most African MSM have no safe access to relevant HIV/AIDS information and services.<sup>13</sup>

- In spite of the high risk of HIV infection and evidence of extensive sexual networks, national HIV programs in Africa have been slow to address MSM in prevention and treatment efforts.<sup>14</sup>
- This lack of individual services or community-wide efforts in African countries is largely connected to the stigmatization, discrimination, and criminalization of same-sex sexual behavior.<sup>15</sup>
- In an April 2014 survey on global views of morality, the majority of Africans reported that they believe homosexually to be “morally unacceptable.” The highest occurrence of this belief was in Ghana where 98% held this opinion. Yet, even in South Africa, the African country with the lowest percentage of this perception, 63% still believed homosexuality to be “morally unacceptable.”<sup>16</sup>
- Many LGBTQ people in Africa face violence, hate crimes, and so-called “corrective rape” (the use of rape to attempt to change an LGBTQ person’s sexual orientation) because of their sexual or gender identity. Although comprehensive statistics do not exist, there have been numerous documented cases of violence, hate crimes, and “corrective rape” throughout Africa.<sup>17</sup>
- Despite discriminatory laws, negative public perceptions, and poor public health services, many LGBTQ people in Africa continue to advocate for their rights, dignity, and security. Additionally, in many regions, they play a major role in “providing healthcare services, organizing community meetings, and setting up support networks.”<sup>18</sup>

## AFRICAN CALLS FOR SEXUAL JUSTICE

- In 2011, a small group of African activists released the “African LGBTI Manifesto.” Within the manifesto, they offer a bold and expansive vision of justice in African life: “As Africans, we stand for the celebration of our complexities and we are committed to ways of being which allow for self-determination at all levels of our sexual, social, political and economic lives...We are specifically committed to the transformation of the politics of sexuality in our contexts. As long as LGBTI people are oppressed, the whole of Africa is oppressed.”<sup>19</sup> [Read more here.](#)
- In 2014, a group of scholars and theologians from across Africa released “The KwaZulu Natal Declaration” – calling African individuals, governments, and churches to action and reflection on human sexuality, religion, and equality. They expressed deep concern for “the well-being of our beloved continent and with the demonization and criminalization of sexual minorities on the continent,” and they acknowledged the “deaths and threats of death, the violence, discrimination, that sexual minorities...face on the continent.”<sup>20</sup> [Read more here.](#)
- In April 2013, the Chairperson of the African Commission on Human and Peoples’ Rights stated that the Commission “equally denounces violence committed against individuals based on their sexual orientation as part of its mandate to protect individuals from all forms of violence”<sup>21</sup>

- In May 2014, the Commission issued Resolution 275: *On Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity* which “strongly urges States to end all acts of violence and abuse, whether committed by State or non-state actors, including...targeting persons on the basis of their imputed or real sexual orientation or gender identities.”<sup>22</sup>
- On September 26, the UN passed a “[Resolution on Human Rights, Sexual Orientation and Gender Identity](#)” with a 25-14 vote. The resolution also called for a report on combatting human rights violations on the basis of gender identity and sexual orientation while “expressing grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.” The resolution is one of the first instances when the United Nations has affirmed LGBTQ rights as human rights.<sup>23</sup>
- African LGBTQ activists led the charge against the infamous Uganda Anti-Homosexuality Act, which led to a Ugandan court overturning the bill.<sup>24</sup> In July 2014, LGBTQ activists in Kenya successfully challenged a governmental ban preventing Transgender Education and Advocacy from registering as a non-governmental organization.<sup>25</sup> In November of 2014, the Botswana LGBTQ rights organization LEGABIBO won a similar case that gained them the right to be legally registered as an independent organization in their country.<sup>26</sup> In January 2015, Mozambique affirmed that its revised penal code no longer criminalizes same-sex sexual activity in part because of that the advocacy of Lambda, that country’s LGBTI organization.<sup>27</sup>

### RELIGIOUS EXPORT OF LGBTQ PREJUDICE

- Some conservative U.S.-based religious organizations, such as the American Center for Law & Justice, Human Life International, and Family Watch International (among others), have “work[ed] both separately and in tandem to renew and expand colonial-era proscriptions on sexual rights” in African countries.<sup>28</sup>
- These organizations and others have engaged in public campaigns “to impose a decidedly American conservative theological understanding of family values onto Africa.” This has included spreading scientific misinformation about LGBTQ persons, using fear-based religious rhetoric to frighten Africans into support of their positions, influencing public debate about laws and protections of LGBTQ people, and framing homosexuality as a neo-colonial Western import.<sup>29</sup>
- By hiring locals as office staff, several of these institutions “hide an American-based agenda behind African faces.” At the same time, opportunistic African politicians have seized on these American rhetorical imports, “us[ing] the myth of a foreign homosexual conspiracy to discredit opposition parties and distract from their own political inadequacies.”<sup>30</sup>
- Some conservative U.S. religious organizations have also made aggressive attempts to establish an anti-LGBTQ legal infrastructure: advocating for constitutional reforms,

expanding anti-LGBTQ laws, and intervening in constitution-making processes, all the while using influential evangelical African religious leaders to gain access to top political leadership.<sup>31</sup>

- Religion has been a primary medium for cultivating anti-LGBTQ stigma among African people of faith. As researcher Kapya Kaoma points out in *Globalizing the Culture Wars* report, “through their extensive communications networks in Africa, social welfare projects, Bible schools, and educational materials, U.S. religious conservatives warn of the dangers of homosexuals.”<sup>32</sup>
- While U.S. mainline churches once enjoyed warm relations with African churches, U.S. religious conservatives have used inclusive mainline stances “on LGBT issues to encourage African churches to reject their aid.” Kaoma writes, “It is one of renewal movements’ key tactics to use a variety of wedge issues, such as the accusations that the mainline churches support homosexuality or terrorism, to separate African churches from their international partnerships and to realign them with conservative replacements.”<sup>33</sup>

## ENDNOTES

<sup>1</sup> Colin Stewart, “99 Who Are in Prison for Being Gay, 148 More Awaiting Trial.” *Erasing 76 Crimes*, 31 August 2014, accessed 19 January 2015, <http://76crimes.com/12-in-prison-for-being-gay-13-more-awaiting-trial/>.

<sup>2</sup> Ibid.

<sup>3</sup> Colin Stewart, “78 Countries Where Homosexuality Is Illegal” *Erasing 76 Crimes*, 16 January 2015, accessed 19 January 2015, <http://76crimes.com/76-countries-where-homosexuality-is-illegal/>.

Currently, as of January 2015, the countries that criminalize same-sex sexual relationships are: Algeria, Angola, Botswana, Burundi, Cameroon, Comoros, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Malawi, Mauritania, Mauritius, Morocco, Namibia, Nigeria, Senegal, Seychelles, Sierra Leone, Somalia, South Sudan, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Western Sahara, Zambia, and Zimbabwe. Because Somaliland is not recognized by the African Union or the United Nations, it was not included in the list although same-sex relationships are illegal there as well. Central African Republic is another country where same-sex relationships are not illegal, but the country does have a “law against same-sex intimacy in public places.”

<sup>4</sup> Lucas Paoli Itaborahy and Jingshu Zhu, “State-Sponsored Homophobia: A World Survey of Laws: Criminalisation, Protection and Recognition of Same-Sex Love.” *International Lesbian Gay Bisexual Trans and Intersex Association*, May 2013, accessed 19 January 2015, [http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2013.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2013.pdf). These countries are Ghana, Mauritius, Namibia, Seychelles, Sierra Leone, Swaziland, and Zimbabwe. Kenya’s law also specifically mentions “male persons” committing acts with male persons, but does not mention female persons.

<sup>5</sup> Ibid. In Sudan, death or life imprisonment is given after the 3<sup>rd</sup> conviction of “sodomy.” The Somalian penal code does not prescribe the death penalty, but in Southern parts of Somalia, there have been reports that Islamic Sharia law has been used to punish same-sex sexual acts by death.

<sup>6</sup> Ibid. NB, in Mauritania, males convicted of same-sex sexual activity are punished by public stoning, whereas women are punished with up to two years in prison.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid. “Security measures” is the language these laws use. In many cases, however, this is not defined within the statutes of the law.

<sup>9</sup> Kapyra Kaoma, "Uganda's New Anti-Gay Law a Copy of U.S. Right-Backed Laws in Russia/Nigeria." *Political Research Associates*, 13 November 2014, accessed 19 January 2015, <http://www.politicalresearch.org/2014/11/13/ugandas-new-anti-gay-law-a-copy-of-the-u-s-right-backed-laws-in-russian-nigeria/>.

<sup>10</sup> The underlying data supporting this claim can be found at [http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2013.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2013.pdf) (see above citation). The language of "contradictory laws" is borrowed from a map showing legality of same-sex sexual activity: "Where Is It Illegal to Be Gay?" *BBC*, 10 February 2014, accessed 19 January 2015, <http://www.bbc.com/news/world-25927595>.

<sup>11</sup> Itaborahy and Zhu, "State-Sponsored Homophobia." NB, Mozambique has very recently clarified that their country's penal code no longer criminalizes same-sex sexual activity. For more on this, see "Mozambique: Anti-Gay Law is Gone, Anti-Gay Bias Remains." *Erasing 76 Crimes*, 16 January 2015, accessed 19 January 2015, <http://76crimes.com/2015/01/16/mozambique-anti-gay-law-is-gone-anti-gay-bias-remains/>.

<sup>12</sup> *Ibid.*

<sup>13</sup> Adrian D. Smith, et. al., "Men Who Have Sex With Men and HIV/AIDS in Sub-Saharan Africa." *The Lancet*, 20 July 2009, accessed 19 January 2015, [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(09\)61118-1/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(09)61118-1/abstract).

<sup>14</sup> "The Overlooked Epidemic: Addressing HIV Prevention and Treatment among Men Who Have Sex with Men in Sub-Saharan Africa." *Population Council*, May 2008, accessed 19 January 2015, [http://www.popcouncil.org/uploads/pdfs/HIV\\_KenyaMSMMeetingReport.pdf](http://www.popcouncil.org/uploads/pdfs/HIV_KenyaMSMMeetingReport.pdf).

<sup>15</sup> *Ibid.* See also Cary Alan Johnson, "Off the Map: How HIV/AIDS Programming is Failing Same-Sex Practicing People in Africa," *International Gay and Lesbian Human Rights Commission*, 2007, accessed 19 January 2015 <http://iglhrc.org/sites/iglhrc.org/files/6-1.pdf>. Additionally, see: "The Overlooked Epidemic" *Population Council*.

<sup>16</sup> "Global Views on Morality: Homosexuality," *Pew Research Center*, 2013, accessed 19 January 2015, <http://www.pewglobal.org/2014/04/15/global-morality/table/homosexuality/>. NB This survey only included 40 countries total and did not poll all countries in any given region, including Africa.

<sup>17</sup> On LGBTQ violence, Amnesty International reports "Hostile attitudes towards LGBTI populations are widespread, but by no means universal throughout Africa, and there are important differences both between and within countries." For more, see "Making Love A Crime: Criminalization of Same-Sex Conduct in Sub-Saharan Africa." *Amnesty International*, April 2013, accessed 19 January 2015, [https://www.amnestyusa.org/sites/default/files/making\\_love\\_a\\_crime\\_-\\_africa\\_lgbti\\_report\\_emb\\_6.24.13\\_0.pdf](https://www.amnestyusa.org/sites/default/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf). On hate crimes, see documented cases in South Africa: "Violent Hate Crime in South Africa," *Human Rights First*, accessed 19 January 2015 [http://www.humanrightsfirst.org/wp-content/uploads/UPR\\_SA\\_hate\\_crimes\\_submission-FINAL-Human-Rights-First.pdf](http://www.humanrightsfirst.org/wp-content/uploads/UPR_SA_hate_crimes_submission-FINAL-Human-Rights-First.pdf). On corrective rape, see: Clare Carter, "The Brutality of Corrective Rape." *New York Times*, 27 July 2013, accessed 19 January 2015 [http://www.nytimes.com/interactive/2013/07/26/opinion/26corrective-rape.html?\\_r=0](http://www.nytimes.com/interactive/2013/07/26/opinion/26corrective-rape.html?_r=0), Patrick Strudwick, "Crisis in South Africa: The Shocking Practice of 'Corrective Rape.'" *The Independent*, 4 January 2014, accessed 19 January 2015, <http://www.independent.co.uk/news/world/africa/crisis-in-south-africa-the-shocking-practice-of-corrective-rape--aimed-at-curing-lesbians-9033224.html>. In many countries, there has been little to no consistent documentation or reporting of LGBTQ violence, hate crimes, or "corrective rape."

<sup>18</sup> James Wan, "Meet the LGBT Activists Fighting Uganda's Anti-Gay Law." *The Guardian*, 31 July 2014, accessed 19 January 2015, [www.theguardian.com/world/2014/jul/31/uganda-anti-gay-laws-lgbt-activists](http://www.theguardian.com/world/2014/jul/31/uganda-anti-gay-laws-lgbt-activists).

<sup>19</sup> "African LGBTI Manifesto/Declaration." *Blacklooks*, May 2011, accessed 19 January 2015 [www.blacklooks.org/2011/05/african-lgbti-manifestodeclaration/](http://www.blacklooks.org/2011/05/african-lgbti-manifestodeclaration/).

<sup>20</sup> "The KwaZulu Natal Declaration." *Global Faith and Justice Project*, 10 September 2015, accessed 19 January 2015, <http://www.lgbtglobalfaith.org/because-you-are-therefore-i-am/>.

<sup>21</sup> "Violence: Based on Perceived or Real Sexual Orientation and Gender Identity in Africa," *African Men for Sexual Health and Rights*, 19 October 2013, accessed 19 January 2015, <http://www.amsher.org/violence-based-on-perceived-or-real-sexual-orientation-and-gender-identity-in-africa/>.



- <sup>22</sup> Jason Rahlan and Mary Elizabeth Margolis, "Report: The State of Human Rights for LGBT People in Africa," *Human Rights Campaign Foundation and Human Rights First*, July 2014, accessed 19 August 2015, <http://www.humanrightsfirst.org/sites/default/files/HRF-HRC-Africa-Report.pdf>.
- <sup>23</sup> "Resolution on Human Rights, Sexual Orientation, and Gender Identity." *United Nations*, 26 September 2014, accessed 19 January 2015, <http://www.scribd.com/doc/241092505/Resolution-on-Human-Rights-Sexual-Orientation-and-Gender-Idnentity>.
- <sup>24</sup> Stewart, "Ugandan Court Overturns Anti-Gay Laws." *76 Crimes*, 1 August 2014, accessed 19 August 2015, <http://76crimes.com/2014/08/01/ugandan-court-overturns-anti-gay-law/>.
- <sup>25</sup> "Victory for Transgender Rights in Kenya." 30 July 2014, accessed 19 January 2015, <https://www.hivos.org/news/victory-transgender-rights-kenya>.
- <sup>26</sup> "Victory in Court for Botswana LGBTI Rights Group," *76 Crimes*, 15 November 2014, accessed 19 January 2015, <http://76crimes.com/2014/11/15/victory-in-court-for-botswanan-lgbti-rights-group/>.
- <sup>27</sup> "Mozambique: Anti-gay Law is Gone, Anti-gay Bias Remains." *76 Crimes*, 16 January 2015, accessed 19 January 2015, <http://76crimes.com/2015/01/16/mozambique-anti-gay-law-is-gone-anti-gay-bias-remains/>.
- <sup>28</sup> Kapya Kaoma, "Colonizing African Values: How the U.S. Christian Right Is Transforming Sexual Politics in Africa." *Political Research Associates*, 2012, accessed 19 January 2015, <http://www.politicalresearch.org/wp-content/uploads/downloads/2012/10/Colonizing-African-Values.pdf>.
- <sup>29</sup> Ibid.
- <sup>30</sup> Ibid.
- <sup>31</sup> Ibid.
- <sup>32</sup> Kapya Kaoma, "Globalizing the Culture Wars: U.S. Conservatives, African Churches, & Homophobia." *Political Research Associates*, 2009, accessed 19 January 2015, <http://www.publiceye.org/publications/globalizing-the-culture-wars/pdf/africa-full-report.pdf>
- <sup>33</sup> Ibid. For more, see: Alex Zadel, "Gospel of Intolerance: US Evangelicals Fund Homophobia in Africa." *Political Research Associates*, 23 January 2013, accessed 19 January 2015, <http://www.politicalresearch.org/2013/01/23/gospel-of-intolerance-u-s-evangelicals-fund-homophobia-in-uganda/>; Kapya Kaoma, "Op Ed: How anti-gay Christians evangelize hate abroad," *LA Times*, 23 March 2014, accessed 19 January 2015, <http://www.latimes.com/opinion/op-ed/la-oe-kaoma-uganda-gays-american-ministers-20140323-story.html#axzz2wi3SkdD8> ; Gay Clark Jennings, "Homophobia In Christian Africa: How The Church Affects LGBT Repression" *Huffington Post Religion News Service*, 27 January 2014, accessed 19 January 2015, [http://www.huffingtonpost.com/2014/01/27/homophobia-christian-africa\\_n\\_4675618.html](http://www.huffingtonpost.com/2014/01/27/homophobia-christian-africa_n_4675618.html) ; Jill Wood, Sue Simon, and Max Anmeghichean, "LGBT Health and Rights in East Africa: A Snapshot of Successes and Challenges for the Advocacy Community," *Open Society Institute*, September 2007, accessed 19 January 2015 <http://www.opensocietyfoundations.org/reports/lgbt-health-and-rights-east-africa-snapshot-successes-and-challenges-advocacy-community>.