

# REPORTING SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS OF SEXUAL MINORITIES

A Media Training Manual  
for Journalists in the  
SADC Region



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# ABBREVIATIONS AND ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
CSO	Civil Society Organisations
FOE	Freedom of Expression
FTM	Female to Male Transsexual
GBV	Gender Based Violence
HIV	Human Immunodeficiency Virus
LGBTI	Lesbian, Gay, Bisexual, Transgender, Intersex
MARP	Most At Risk Population
MTF	Male to Female Transsexual
MSM	Men who have Sex with Men
MSW	Male Sex Workers
SOGI	Sexual Orientation and Gender Identity
SRHR	Sexual and Reproductive and Health Rights
STI	Sexually Transmitted Infection
TG	Transgender
VCT	Voluntary Counselling and Testing
WSW	Women who have Sex with Women

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# Copyright Acknowledgement

This manual uses the Binaries and Boxes to discuss and deepen understanding of human sexuality. The Binaries and Boxes used in this manual are a product of the Servicing the Lesbian, Gay, Bisexual and Transgender community (OUT), which provides direct health services to the lesbian, gay, bisexual and transgender (LGBT) community including HIV testing, counselling, treatment and general lifestyle advice and support.

OUT is dedicated to the building of healthy and empowered LGBT communities in South Africa and internationally, while reducing hetosexism and homophobia in society.

OUT designed the Binaries and Boxes for Understanding Human Sexuality - Train the Trainer Manual to assist trainers to train all interested parties in understanding human sexuality through a human rights lens. It uses a model for LGBTI Sensitization Training, called “Binaries & Boxes” which forms part of this training manual. PSAf borrowed the approach to train the media to understand issues of sexuality in order for them to play a leading role in mediating sexual and reproductive health rights.

# FOREWORD

The high prevalence of hate speech in the mass media against sexual minorities in Southern Africa is a hindrance to the fight against homophobia and the promotion of equal rights.

The media has used great power to influence public opinion towards any issue affecting any group of people, including sexual minorities and other disadvantaged groups. Unfortunately in Southern Africa, the media has been abusing this power to perpetuate destructive and retrogressive stereotypes around minority groups.

Over the years, there has been active and sustained debate on homosexuality and sexual diversity internationally. While the debate has been well-intentioned to address issues of sexual diversity, in most cases it has consisted of hate language that promotes homophobia and marginalisation of sexual minorities in the region.

The use of hate language creates fear thereby pushing minority groups to the margins of their societies, rendering them unable to contribute to the well of their communities and countries.

In the case of public health interest, this creates a challenge for the outreach programmes, as it makes sexual reproductive health services on issues like HIV, STIs, and other psychosocial needs like counselling inaccessible to the marginalised people who need it. This also creates a fertile ground for blackmail and extortion of people suspected to be homosexual.

As Martin Luther King Jr. said: 'Our lives begin to end the moment we become silent about things that matter'. It is time that the media begin to learn, understand and talk about these issues to ensure equal rights for sexual minorities to enable them to live a life without fear of being ostracized, attacked, or even killed on account of their sexuality.

In fact, if we all believe that every human being deserves dignity on the basis of being human, regardless of anything else that defines them, our speech should ensure that it upholds human dignity above all else, before moving on to encompass other things that we may agree or disagree with, which nevertheless, are mere value judgements.

The media needs to take centre stage in advancing human rights for everyone. We all need to speak out against the injustices perpetrated against minority groups at all levels and strata of society. A famous quote from a protestant pastor in Germany during the Second World War is instructive, and justifies this thinking. It reads:

*"...First they came for the communists, and I did not speak out—because I was not a communist.... Then they came for the trade unionists, and I did not speak out—because I was not a trade unionist; Then they came for the Jews, and I did not speak out—because I was not a Jew; Then they came for me—and there was no one left to speak out for me." – Martin Niemöller, 1945.*

When human rights defenders and the media who are the watchdogs of society relax in their role of monitoring and speaking out against human rights abuses, human rights violations increase, first for

minority groups but eventually for everyone. It is time to rise up and speak against human rights violations regardless of who is the victim or the perpetrator. When time comes for us to be violated, the people we spoke out for will speak for us and protect our rights. This is the most important watchdog role that the media plays in society – to speak out for everyone whose rights are violated, regardless of their status.

Panos Institute Southern Africa (PSAf) acknowledges that effective capacity building is key in order for the media to effectively carry out this most important role. One of the reasons why the capacity of journalists to tackle sexual minority issues has been compromised is because their trainers are equally unprepared to tackle these challenging issues and, quite often, there is limited access to information on the subject matter.

PSAf views media training colleges and institutes as good entry points for addressing homophobia in the media. This was the central dictum for PSAf's motivation, through conducting journalists' trainings on the subject and developing relevant materials that would support current and future training programmes for journalists. The development of this manual was conceived from that perspective to ensure availability of some material to support trainers in formal and informal training of journalists on sexual minority issues and addressing hate speech especially the type that advances homophobia.

It is the hope of PSAf that this manual will add value and contribute positively to media training – both at the formal and informal levels – in ensuring reduction of hate speech against sexual minorities and promoting human rights of sexual minorities in Southern Africa. Needless to say, it is also a good “read” for any one wanting to broaden their understanding of the issues it addresses.

It is my sincere hope that this Media Training Manual will help our journalism training institutes, colleges and universities to bridge this longstanding lacuna and provide a conducive atmosphere for effective media coverage of issues affecting sexual minority groups in the SADC region. I also hope the manual will be a useful inservice training tool for practicing journalists.



*Llian Kiefer*

Executive Director  
Panos Institute Southern Africa

# ABOUT THIS MANUAL

This Media Training Manual is a product of Panos Institute Southern Africa (PSAf). Its primary focus is on the mediation of Sexual Reproductive Health Rights (SRHR) for Sexual Minorities in the Southern African Development Community (SADC) region. The manual also aims to contribute to the mitigation and, ultimately, elimination of hate speech, discrimination and violence against sexual minorities, especially that which is advanced through the media.

The manual discusses sexuality issues to deepen understanding of problems faced by such people in accessing sexual and reproductive health services and the importance of journalism in galvanizing social action that leads to the enactment of public policies and national laws that create more tolerant, friendly, and accommodative societies. In dealing with such challenges, this Training Manual argues the need for journalists to be proactive in exposing the violations of rights of the Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTIs) communities.

The Training Manual, therefore, is a tool for strengthening the capacity of the media through strategic interventions at the level of the conceptual and craft skills of journalists and editors in reporting SRHR issues. The manual will provide support in the training of journalists and other social communicators in reporting and effectively communicating SRHR issues in relation to sexual minority groups and bring out the positive investigative reporting on and about the most marginalized and vulnerable groups.

The manual covers a range of issues, including human rights whose aim is to sensitise the journalists to employ a rights-based approach to reporting SRHR of the marginalised groups. The manual will also ensure that media coverage of Sexual Reproductive Health and Rights issues in the public and private media is improved in terms of its capacity for critical analysis and pro-activeness in the abrogation of the rights of LGBTI persons.

For easier application and understanding, the manual is presented in three thematic chapters: Chapter One deals with hate speech on SRHR in the media, Chapter Two deals with understanding human sexuality, while Chapter Three focuses on human rights, national laws and LGBTIs. The three thematic areas are preceded by a section on the training approach used in the manual, which stresses the participatory training approach to make it easier for the learners to assimilate the information through active participation and interaction with their trainers. Prior to that, the introduction puts the document into context and highlights the critical role of the media in reporting sexual reproductive and health rights of sexual minorities to create a platform for mitigating the negative societal practices that disadvantage them as a social group.

# DEFINITIONS OF SOME KEY TERMS

**AIDS:** Acquired Immunodeficiency Syndrome is a disease in which there is a severe loss of the body's immunity, greatly lowering the resistance to infection and malignancy. The cause is a virus called the Human Immunodeficiency Virus (HIV) transmitted in blood, sexual fluids and breast milk. HIV destroys the body's ability to fight off infection and disease.

**Anal Taboo:** A general avoidance of any reference to the anus because of socially constructed myths that associate the anus with shame, guilt and even dirt.

**Androgyny:** Not having clear masculine or feminine physical characteristics or appearance.

**Asexual:** Lack of sexual attraction or orientation towards either man or woman and lack of interest in, and desire for, sex.

**Bisexual:** Refers to a sexual orientation whereby people have an attraction to people of the same and opposite sex at various levels (emotionally, physically, intellectually, spiritually and sexually), though not necessarily at the same time and there is not necessarily an equal amount of attraction.

**Bottom:** A slang term referring to the receptive partner during anal sex, the opposite of a 'Top'.

**Cisgender:** Refers to people whose gender identity matches their sex at birth. The Latin prefix cis stands for "on the same side", while the prefix "trans" stands for "on the opposite side". This has a more positive connotation than "normal" or "non-transgender".

**Closed Relationship:** Refers to an enduring relationship where partners have mutually agreed to be sexually exclusive. This could be applicable in both monogamous and polyamorous relationships.

**Coming Out:** A term describing the complex process where an individual realises that they are not heterosexual and they resolve conflicts related to heteronormativity (where heterosexuality is being internalised and viewed as the norm). Coming out is a process of how one wants to be identified. When an individual chooses not to come out (which is their right too), the colloquial term used is "to be in the closet".

**Discrimination:** The unjust or prejudicial treatment of different categories of people on grounds of race, age, sex, sexual orientation, gender and gender identity and presentation.

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

**Gay:** A male same-sex attraction, identity and orientation. Attraction between two males occurs on various levels: emotionally, physically, intellectually, spiritually and, most prominently, sexually.

**Gender:** Socially-constructed characteristics assigned to or learned by women and men, which may vary according to the times and the society or group one belongs to. It is a broader concept than the

mere biological differences between men and women, and includes masculine and feminine traits. Unequal power is afforded to males.

**Gender-based Violence (GBV):** GBV encompasses various forms of violence directed at women, because they are women, and men, because they are men, depending on the expectations of each in a given community. The violence is directed towards them because of their challenging notions of sexuality and gender identity and expression.

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

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

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

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

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

**Heteronormative:** A social construct that views all human beings as either male or female with the associated behaviour and gender roles assigned, both in sex and gender, where sexual and romantic thoughts and relations are viewed as normal only between people of opposite sexes. All other behaviour is viewed as “abnormal”.

**Heteronormative Model:** The typical heteronormative family consisting of a father (male-bodied person), mother (female-bodied person) and offspring.

**Heterosexual / Straight:** Attraction between two people of the opposite sex on various levels: emotionally, physically, intellectually, spiritually and, most prominently, sexually.

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

**Homo-prejudice:** Prejudice against people of diverse sexual identities, all non-heterosexual.

**Homosexual:** Attraction between two people of the same sex on various levels: emotionally, physically, intellectually, spiritually and, most prominently, sexually.

**Human Rights:** The basic and that all people are entitled to regardless of nationality, sex, age, nationality or ethnic origin, race, religion, language, or other status. The other status refers to, for example, a person's HIV status. Freedoms around sexual orientation and gender identity are also basic human rights.

**HIV:** The Human Immunodeficiency Virus is a retrovirus that causes AIDS by infecting helper T cells of the immune system. The most common serotype, HIV-1, is distributed worldwide, while HIV-2 is primarily confined to West Africa. It is one of many sexually transmitted infections.

**Internalised Homophobia:** When a homosexual individual internalises (makes their own) the shame and hatred projected onto gays and lesbians by a homophobic society.

**Intersex:** To be born with ambiguous genitalia, or sex organs that are not clearly distinguished as female or male.

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

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

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

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

**Polyamory:** The practice of having multiple open, honest love relationships. Also called ethical non-monogamy.

**Prejudice:** It is an irrational, preconceived opinion, not based on reality or actual experience. It often results in dislike, hostility and unjust behaviour.

**Responsible sex:** A sex-positive way of looking at prevention. It emphasis the prevention of STI's, including HIV, through consistent condom use, with condom-compatible/water-based lubrication and the reduction in the numbers of sexual partners. This term should be preferred rather than "safe sex".

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

**Sexuality:** How people experience and express themselves as sexual beings, within the concepts of biological sex, gender identity and presentation, attractions and practices. Culture and religion have a huge impact on how individuals see themselves as sexual beings, especially within relations of power.

**Sexual Fluidity:** Sexuality varies across time and situation. Fluidity offers a more inclusive definition than the more limiting conventional labels we have become accustomed to using to define sexual identity. Sexual fluidity, quite simply, means situation-dependent flexibility in an individual's sexual responsiveness. This flexibility makes it possible for some individuals to experience desires for either men or women under certain circumstances, regardless of their overall sexual orientation. In other words, though individuals appear to be born with distinct sexual orientations, these orientations do not provide the last word on their sexual attractions and experiences.

**Sexual Identity:** The overall sexual self-identity, which includes how the person identifies as male, female, masculine, feminine, or some combination of these, and the person's sexual orientation.

**Sexual Minority:** A group whose sexual identity, orientation, and gender identity, expression or practices, differ from the majority of the surrounding society.

**Sexual Orientation:** Attraction between any two people on various levels: emotionally, physically, intellectually, spiritually, and, most prominently, sexually. This can be to the person of the same sex or different sex.

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

**STI:** Sexually transmitted infections, either bacterial or viral.

**Stigma:** This is when a certain individual, with certain characteristics, e.g. an HIV positive individual or transwoman, is rejected by their community or society because of that characteristic which might be considered as "abnormal". These individuals' lives might be at risk, and they may possibly be threatened and abused.

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

**Transphobia:** The irrational fear of, and/or hostility towards, people who are transgender or who otherwise transgress traditional gender norms. The most direct victims of transphobia are people who are transsexual. Because our culture is often very transphobic, transgender people can often have internalised transphobia and experience feelings of insignificance and self-prejudice.

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

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

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

**Top:** A colloquial term referring to the penetrating partner during anal sex.

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

# INTRODUCTION

## Mediating Sexual and Reproductive Health and Rights in Southern Africa

*Mamoletsane Khati*

Panos Institute Southern Africa (PSAf), a regional Communication for Development organisation, through funding from Sweden and Norad through the Embassy of Sweden in Lusaka, Zambia, is implementing a project on Mediating Sexual and Reproductive Health and Rights for marginalized groups. Under this project, PSAf aims to enhance informed dialogue on the Sexual and Reproductive Health and Rights of LGBTI people through the use of various media and communication tools. Through this initiative, PSAf envisages the creation of a favourable and more enabling environment for LGBTI communities in the region not only in relation to the enjoyment and exercise of their rights, but also in accessing health services in the fight against HIV.

Most at Risk groups experience barriers to access health services due to their sexual orientation, gender identity or expression. Many avoid, delay or receive inappropriate and inferior care because of the hate speeches and discrimination from the general population. In the context of HIV/AIDS, respect for all people's SRHR is fundamental and special attention to the most vulnerable and most marginalised is imperative. These groups often face sexual and gender based violence as well as SRHR violations that have consequences on the spread of HIV and provision of adequate care and treatment.

The issue of SRHR for the sexual minorities is usually under-addressed and there is not enough material or information to support the training of journalists which leads to more misunderstanding, misrepresentations and misinterpretations. This is due to a number of factors ranging from cultural, moral and legal issues associated with the sexual minorities. This vacuum for better awareness and understanding of the emerging SRHR issues leads to the lacuna or knowledge gaps it generates against the victims, resulting in more stigma and discrimination related to the sexual minorities.

The media is central in setting the agenda and influencing the nature and direction of public opinion about LGBTI people. The media also acts as a tool for shaping public policy and national laws by creating a platform for public debate on sexual and reproductive health issues of the gays, lesbians, transgender, and intersex people. The media does not only inform and educate the public about the rights and needs of sexual minorities, but also provides analytical and critical reporting that forms a basis for a more tolerant society and a more conducive legal environment. In short, the media ought to serve as an engine for social change by confronting hate speech and social intolerance, while simultaneously preserving the good cultural norms and values of Ubuntu which are an inextricable part of a human rights discourse which underpins the LGBTI debate.

The media plays a very important role in the conscientisation of the public about sexual minority rights and their access to sexual and reproductive health services. Through the media, communities can be mobilized and influenced either positively or negatively to promote enjoyment of human rights by all.

The project also works to strengthen the capacity of media personnel (editors, journalists and key correspondents) to use a rights-based approach to reporting on SRHR issues as a means of challenging the key drivers of hate speeches used by public on marginalized groups. This is achieved through the

development of a training module for journalists. The module covers information that will equip the media with skills on how to respond to SRHR issues in their media houses and how to search and investigate for more information on the marginalised groups. The curriculum will therefore cover the legal, SRHR and media components that would help to sensitise the journalists to ensure rights based approach to SRHR of the marginalized groups.

### Approaches

PSAf uses a variety of interventions to build the capacity of the media to mediate SRHR in Southern Africa. These include Media Training, Sensitisation of Experts, Interactive Radio programmes and media Fellowships.

**Media Training:** PSAf conducts Media Training Workshops for journalists including reporters, producers and editors on specific issues for the marginalised groups ranging from the constitutional rights, universal declared rights and rights to health. PSAf targets editors to sensitise them to specially ensure overall support and management cooperation with the trained journalists to lead to intended coverage output by media houses. To be included in the training workshops are the Disc Jockies (DJ) for radio to ensure positive statements during music shows.

**Sensitisation of Experts:** In order to ensure that the development of journalists' skills on human rights reporting are enhanced, PSAf also targets media trainers in formal media training institutes in order to improve their attitudes toward SRHR issues, which would in turn lead to the inclusion of a topic on Sexual and Reproductive Health and Rights in the modules related to reporting Human Rights in formal journalistic trainings.

**Interactive Radio Programmes (IRPs):** The project also uses the Interactive Radio Programmes (IRP) methodology for community media on SRHR issues with panels of resource people that lead talks on key SRHR issues for marginalised groups. This methodology works with panels of resource people that lead talks on key marginalised groups' issues. Live phone lines are then opened to allow for community members to interact with the panellists and ask questions and share opinions. In partnership with LGTB oriented organisations in each country, members of the LGBT communities form part of the panel to bring a human face to the issues. The intended public provocation allows for a deliberate purpose to enhance information sharing and communicate on negatives experienced for non-adherence to sexual and reproductive health and rights. PSAf uses this methodology to bring to the fore issues to do with stigma and discrimination, and intolerance.

**Media Fellowships:** PSAf also provides a special grant facility to help journalists produce well-researched, in-depth articles and programmes on SRHR. These fellowships are tied to the meticulous media training that the journalists receive under the project, and they would be mentored by experts who have also been sensitised on the issues. This methodology has proven to be successful as the challenge of resources for journalists is addressed, and the journalists are motivated by the small grants they get and develop interest in the process.

A cursory look at the situation reveals that there are a lot of misconceptions and lack of understanding of the most at risk population. This invariably leads to the failure to link how their lack of access to SRHR services has an impact on the general population especially in relation to HIV prevalence and transmission. Consequently, health service providers fail to understand human sexuality and thus fail to appropriately integrate HIV services with other SRHR services. In order to reach the marginalised

and vulnerable groups, it is fundamental that the media is used to reach out to the public to ensure that the issues for these groups are well understood. This would not only cultivate a culture of tolerance and peaceful co-existence, but also ensure policy dialogue, strategic policy interventions and the building of a platform upon which SRHR issues can be advanced for broader acceptance.

The project therefore endeavours to provide an accurate and strategic advocacy information on sexual diversity and legislation that criminalize same sex to media personnel and community members and to show how this affects access to Sexual and Reproductive Health services for the LGBTI and therefore hinders access to services and programmes on HIV prevention and prevention of other infections.

It is, therefore, fundamental that the media is used to reach out to the public and communities to ensure that the SRHR issues of the minority groups are well understood and tolerated. For media practitioners to effectively play their role, they firstly need to go through introspective sessions so that they explore their own sexualities as well as their attitudes towards those that are differently oriented in the sexual sense.

The journalists need to make both professional and personal commitments to bring the issues around SRHR to the forefront of political and social discussion and debate in the region. This can be done through both in-service and in-training of the journalists on SRHR for minority groups to heighten their understanding and awareness. It is further hoped that champions on human rights especially coverage may be moulded.

Broadly speaking, these are the themes and issues that this training manual attempts to address and which, we hope, will help the journalists to cover these issues more objectively, and with a fair amount of balance that is demanded as part of best practice for the media.

# THE TRAINING APPROACH THAT THIS MANUAL USES

Education either functions as an instrument which is used to facilitate integration of the younger generation into the logic of the present system and bring about conformity or it becomes the practice of freedom, the means by which men and women deal critically and creatively with reality and discover how to participate in the transformation of their world.

Paulo Freire, *Pedagogy of the Oppressed*

## The Participatory Approach

Participation is a critical element of any learning process. The training model and approach recommended by this manual, therefore, is participatory. Participation must ideally empower journalists to question and unmask the structural, social, political and legal inequalities that affect sexual minorities. Participatory learning means that there is no teacher or student, but everyone is a learner in the collective pursuit of transforming the world to be a better place for everyone, including the so-called LGBTIs. Under this approach, the facilitator is not a teacher, but merely moderates the discussions, thus giving a sense of focus, direction, and meaning to the training process.

Talking and training about sexuality is often a daunting task, even if you are a very experienced trainer. Often participants project their insecurities about the subject to the trainers. Be aware that this is not a personal attack on you, but part of the process of learning and gaining a better understanding about sexual minorities. It is preferred that you would have reflected and understood the beliefs about your own sexuality and that of others, especially sexual minorities, before you attempt to facilitate a workshop of this nature.

Facilitators should have a solid understanding of:

- The need to address sexual minority rights and the empowerment of LGBTI individuals to assist in addressing HIV prevention and human rights violations in their communities.
- Their own attitudes and perceptions relating to the rights of sexual minorities and their SRHR and how their own past experiences, families and environments have influenced these perceptions and ideas and how this could influence their ability to effectively facilitate the training.
- Their personal limitations in terms of knowledge and experience, and willingness to ask for help when it is needed.

## Facilitator knowledge

A high level of knowledge on human sexuality, human rights and SRHR provides the best background for facilitators of this training. Make sure you are comfortable and familiar with:

- Stereotyping, the meaning and reasoning behind it, as well as the impact it has on the provision of sensitive, affirmative and inclusive services to sexual minorities.
- The different concepts of human sexuality, including sex as a biological concept, gender as a social construct, sexual orientation and sexual practices and the links between them.
- The differences between sexual identity and sexual practices and the impact of misunderstanding these on the general populations' attitude towards sexual minorities and the consequent service delivery.
- The health challenges and wellbeing experienced by LGBTI, MSM and WSW individuals The human and sexual and reproductive health and rights (SRHR) of sexual minorities.
- How homophobia, homo-prejudice, heterosexism, patriarchy and heteronormativity impact society at large in a negative way.

## Facilitator skills

An effective facilitator will create an enabling and encouraging environment for participants to share ideas, opinions and experiences to achieve the common goal of understanding human sexuality and the challenges experienced by sexual minorities. All participants will then get the most out of the training. To achieve this, the facilitator should be able to:

- Get the group acquainted to each other and encourage everyone to participate.
- Encourage participants to ask those questions they always wanted to ask, but were too afraid, or the opportunity to do so did not arise.
- Create an environment that is accepting, tolerant and acknowledges diversity.
- Understand how each particular group will interact
- Manage situations where conflict arises
- Encourage the group to work together
- Lead the group through processes to reach a level of understanding and consensus in discussions
- Take feedback and provide a summary of each session to summarise.
- Anticipate the kind of questions or discussions that might arise during the training and prepare responses in advance. Special attention must also be given to the practical aspects of the training – ensuring that learning objectives are met and that sessions are completed within the given time.

# CHAPTER ONE

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## Hate Speech and media reporting on Sexual and Reproductive Health Rights

*Last Moyo*

### WHAT YOU WILL NEED!

- n Newspaper cuttings of stories that serve as examples of hate speech on sexual and gender minorities from your own country.
- n Newspaper cuttings of stories that serve as good examples of reporting sexual and gender minority issues from your own country.
- n Visual images that represent very prominent stereotypes of gays and lesbians in your country.

## 1.0 Introduction

This chapter focuses on hate speech emanating from all forms of public communication such as newspapers, magazines, radio, television, and the Internet-based social media. With the advent of mobile technology, the Internet is growing at a very fast rate and may soon be the second biggest medium in Africa after radio. This is important because the breadth of geographic coverage of all the new digital technologies has implications on the mobility and spread of hate speech in time and space and its social impact. It is interesting to note that while RTLM Radio broadcasts were the main source of inflammatory coverage in the Rwandan genocide in 1994, in Kenya the Internet and mobile media played a big role in the 2008 Presidential elections and the violence that attended it. This change in the media landscape, therefore, shows that all communicators such as journalists, advertisers and marketers must be extremely careful about what they put online or report in their newspapers or radio stations. The analysis and discussion of hate speech in this chapter is, therefore, not only targeted at journalists, but all social communicators who use different media to target different publics or audiences.

In Africa, hate speech is more widespread within the realm of politics, especially during elections. However, the main objective of this chapter is to discuss hate speech within the context of Sexual and Reproductive Health and Rights of LGBTIs in the (news) media. The Chapter begins by defining hate speech and explaining its manifestations and causes in the media and society. It moves on to discussing the training interventions that can be used particularly in in-service training so as to mitigate the problem of hate speech. This, however, does not mean that the training tool kit is not relevant to entry-level students in journalism and other related disciplines. Table 1 below has the list of the main learning outcomes that should help you to grasp the issue of hate speech in sexual and reproductive rights in the media. It is important that by the end of the chapter you must be able to answer each of the questions as they constitute the study progress milestones on the subject.

Table 1.0: Key Learning Outcomes

1. What is Hate Speech?
2. How can it be identified in the media and in society?
3. What are the causes of Hate Speech in the Media? Why does it take place?
4. How can the training of journalist be used to mitigate the problem of Hate Speech in the media?
5. What is the role of human rights in this training?

### 1.1 Defining Hate Speech

There is no universal or all encompassing definition of hate speech. Different authors have defined hate speech in various ways especially what it means in relation to free expression. What is the dividing line, for instance, between hate speech and free expression? How far can free speech go before it is seen as bigoted, chauvinistic, and insulting statement of hatred? We shall return to this issue and discuss it in depth a little later in the chapter. Suffice to state that one thing that is imperative to note is that many

authors agree that “ hate speech denigrates people on the basis of their race, ethnic origin, religion, gender, age, physical condition, disability, sexual orientation” (Sedler, 1992:7).

Two critical definitions are used in Table 1.1 below to explain what Hate Speech is. These definitions outline and emphasize certain important attributes or characteristics of hate speech.

Table 1.1: What is Hate Speech?

#### Definition A

Hate speech refers to any *communication* that *vilifies a person or a group based on prejudices* against that person or group. This can be in form of *words, gestures, conduct, writing or display*. Hate speech can incite *violence or discriminatory action* against or by an *individual or group* (Keifer, L. 1 June 2013, *Daily Mail, Zambia*).

#### Definition B

Hate Speech refers to *all forms of expression* which spread, incite, promote, or justify *racial hatred, xenophobia* or other form of hatred *based on intolerance*. It covers comments that are directed against a person or a particular group of persons (Weber, A, 2009: 5)

Using both definitions, especially the first one, one can list the following as very important factors or attributes of hate speech:

- Hate Speech is fundamentally a form of communication or representation that can take a multimodal nature such as words, gestures, conduct, writing or display. It is important that you underline that contrary to what the name suggest, hate speech goes beyond spoken words to include many other forms of symbolic representation.
- Hate Speech is a statement of hatred that disparages, condescends, denigrates, and injures its victims. Hate speech “is rarely an invitation to dialogue, it is more like a slap in the face”.<sup>1</sup> A good example of hate speech may include the following:

Table 1.2: Example of hate speech

#### The Robert Mugabe Example, Zimbabwe

“...there is no question ever of allowing these people to behave worse than dogs and pigs. If dogs and pigs do not do it, why must human beings? ...What we are being persuaded to accept is sub-animal behavior and we will never allow it here. If you see people parading themselves as Lesbians and Gays, arrest them and hand them over to the police!” (Mugabe, 1995).

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<sup>1</sup> Cortese, (2006, 7).

- In the media, hate speech can be gleaned in content from the hard news, soapies, dramas and commentaries and/or editorials. For example, when Mugabe said gays and lesbians were worse than dogs and pigs, the public media reported the issue with a tone of celebration and without critical analysis. In many ways, they reproduced and promoted the hate speech instead of holding Mugabe, as the President of the country, to account for his diatribe.
- Hate speech does not always have to be explicit or overt like in the above example. It can also be in the form of innuendo where the insult to the dignity of an individual or a group is made subtle.
- Hate speech can insight discrimination and violence. In the media, the good example often used for hate speech is the RTLM one. RTLM was a radio station in Rwanda that was used to incite hatred of the Tutsi by the Hutus. They were called “cockroaches” and many other despicable things and this resulted in some form of genocide or mass killing of the Tutsi tribe.

There is one important point that needs to be added to the definitions of hate speech. It is implicit in the two definitions, but we need to make it a lot clearer. One of the major characteristics of hate speech is that it is often linked to power and domination. It is often the media, politicians, the state, the church and the traditionalists who are prone to use hate speech to further their interests. In most cases, hate speech is targeted at minorities and used by these powerful people to discriminate individuals or groups of people in order to deny them opportunities that all people must enjoy. For example, in the church, homosexuality can be castigated in a way that endorses heteronormativity as the natural and commonsensical way of life. In essence, hate speech is a form of demonization that seeks to degrade, despise, and marginalize the target groups. Hate speech “serves little social purpose” because “it silences and marginalizes the victim” and “deprives the community of its voice and contribution”.<sup>2</sup>

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<sup>2</sup> Cortese (2006:17)

Table 1.3: Group Activity

In groups of 3 or 4 discuss the following questions in relation to hate speech and sexual and reproductive rights:

You are the editor of a popular newspaper in Zambia. A public official has uttered very disturbing statements that amount to hate speech and that gays and lesbians must be rounded up and put in jails. Immediately after, the police arrest two men who are taken to court on the charge of “offence of sodomy or having sex against the order of nature contrary to the laws of Zambia.”

A very religious reporter in the newsroom is eager to cover the story, but does not understand what hate speech is and why man-having sex with man must not be criticized or even arrested. How would you go about the following to help the journalist?

- a) Explaining what hate speech is and how it vilifies people on the basis of their sexuality, race, ethnicity, religion, and gender.
- b) What news value/s would you associate with the story as a way of framing and angling the story by the journalist? Explain why you would eliminate others:
  - i. *Novelty and the bizarre*
  - ii. *Drama*
  - iii. *Conflict*
  - iv. *Significance*
  - v. *Timeliness*
  - vi. *Negativity*
  - vii. *Elite persons*

How would you help the journalist to overcome their religious beliefs that homosexuality is evil and ungodly?

Having established the definition of hate speech, the following section deals with the questions of how hate speech can be identified and what form it takes in media and society.

## 1.2 Identifying hate speech in media and society

The manifestation of hate speech in the media and society is always varied, but may often be expressed through the following forms of inflammatory language: name calling, epithets, insults, slurs, diatribes, and stereotyping, etc. For example, in the Southern African Development Community (SADC) region, gays and lesbians have been labeled as faggots, moffies, dogs, pigs or even festering fingers. These insults constitute hate speech and their effect is the dehumanization of individuals and groups. When groups are dehumanized they are denied their human dignity and integrity and as a result violence such as torture, murder and other forms of hate crimes can easily be used to punish them without any public outcry against those abusing their power. In most cases, the lynching of sexual and gender minorities can be done with a lot of public approval and approbation.

Apart from dehumanization by association with bestiality, the other most powerful tool used by the media is that of stereotypes. Some stereotypes and the subtle ways with which they are tailored by the media are discussed below.

Table 1.4: Stereotypes in the media

## STEREOTYPES

In the media, stereotypes tend to be simple, striking, easily grasped, and repetitive, thus creating vivid mental pictures about affected individuals or groups (See Dyer, 2002; Perkins, 1979; Abercrombie, 1997).

- Stereotypes work by association and inflection (distortion) e.g. Sex workers are dogs, have loose morals, and are HIV/AIDs carriers. As you can see, “Stereotypes are always deficient; they distort groups identities, and obscure the actual subjectivities” (Pickering, 1995: 692).
- Stereotypes always “stand in the way of more tolerant, even-handed and differentiated responses to people” (Ibroscheva, 2002: 45). For example, gays are always portrayed as obsessed with fashion, appearances, sexual proclivity, and feminine speech mannerisms. However, gays and lesbians are normal human beings like everyone else. They have a sense of privacy, dignity, jobs, and social responsibilities.

1. What are the dominant media stereotypes identified in the story? To what extent do they distort the public image and identity of gay people?
2. What do you think is the social impact of the stereotypification of the gays and lesbians?
3. Discuss the dominant stereotypes of gays and lesbians in your country in terms of the following:
  - a) Societal behavior expectations
  - b) Societal role expectations at home
  - c) Dress and body make up and appearance
4. Do you think there is a connection between sexual orientation and gender identity?

## Group Activity: Gay Stereotypes

Read the story below on Table 1.5 on gay stereotypes and discuss the following questions:

Table 1.5: Gay stereotypes

Gay Stereotypes: Are they true? [Extract from *ABC 2020*]

By JOHN STOSSEL and GENA BINKLEY  
Sept. 15, 2006

Gay activists often criticize media coverage of gay pride parades, saying, correctly, that the media focus on the extreme, the more flamboyantly feminine men and very masculine women. But that's not us, they say. Most of us are just like everyone else. Are gays just like straights? Or is Hollywood's frequent portrayal of gay men as feminine more accurate? We talked to Carson Kressley and Ted Allen, two of the stars of the hit television show "Queer Eye" about the stereotypes. What, we asked, are the stereotypes about gay men? "It's that you're obsessed with fashion, and that you tan a lot and that you color your hair," they said. But, says Allen, the stereotypes are not always true. "Not all gay men are superstylish. Not all straight men are bad dressers," he said. There is research that suggests gay men do prefer certain professions, like fashion, interior design and hair coloring, and that lesbians are more likely to prefer sports and the military. Researchers say it's because lesbians, on average, are attracted to more masculine occupations, and gay men tend to prefer more feminine occupations. But it is true that hostility toward gay people drove many away from some other professions. "Whether you work, you know, as an artist or a singer or a dancer, those are all really creative places where gay people are embraced," Kressley said.

Increasingly gay people are visible in every profession. Rosie O'Donnell and Ellen DeGeneres are high-profile lesbians working in comedy and daytime television. Barney Frank is an openly gay congressman from Massachusetts. And the writers of the show "Will and Grace" made their main gay character, Will Truman, a high-powered attorney. But the stereotypes do persist. The show's most famous character, Jack McFarland, is flamboyantly feminine. Northwestern University psychology professor Michael Bailey has spent years studying human sexuality. He says sexual orientation is something people are born with, and this orientation makes some gay men more feminine. "There's no obvious reason why sexual orientation should be associated with how masculine or feminine one is, but it is in our species. And it probably has to do with the causes of sexual orientation and early effects of hormones on the brain," Bailey said. Bailey did a survey of professional dancers and found half the men were gay. But why? "Because dancing is a feminine occupation," he said. One problem with stereotyping is that there are so many exceptions. The owners of the Prada Grusel hair salon in New York City are straight but people think they're gay. "I feel like I've been very much stereotyped by clients, by industry people, all the time," said William Grusel, one of the owners.

### 1.3 Understanding Hate speech as Violence

As journalists and social communicators, there is need to develop an analytical model that can help us to understand the root causes of hate speech in the media and society. Hate speech is not just about inflammatory language use, but can be understood as a social problem that is embedded in how society is organized especially in relation to how we respond to sexual and gender subjectivities and differences.

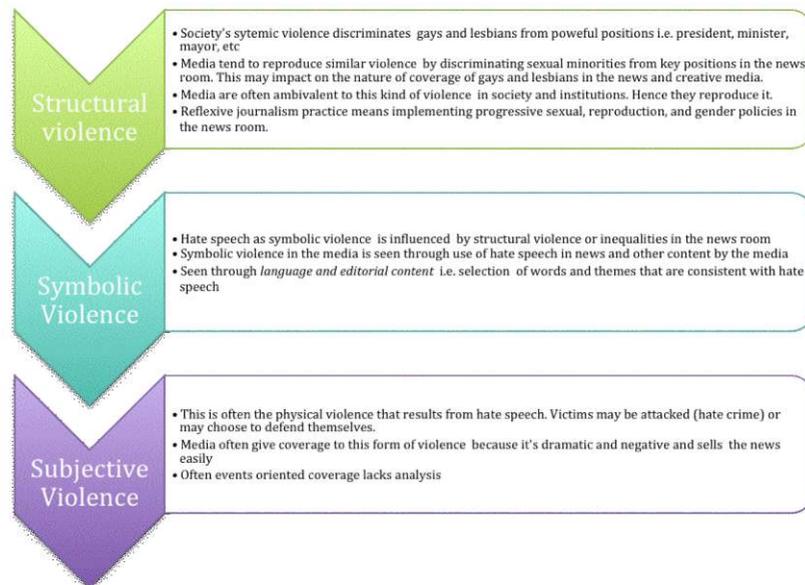
Hate speech is a form of social violence in and by itself. Cortese (2006:3) below contends that:

Hate speech harms both individuals and societies at large. The harm to individuals include damage to psychies such as depression, internalized anger, and diminished self concept. It includes, too, physical harm...as well as diminished pecuniary and social prospects as the victim withdraws from the settings where he or she has experienced discrimination and becomes defensive and wary.

Clearly then, hate speech is violence that causes more than just psychic injuries to victims. It also, as we have seen above, may lead to depression, anger, inferiority complex, social withdrawal, denial of social opportunities by the system, etc. However, it is also important that we see the violence in hate speech as traceable to violence of a social system. We can call this systemic or structural violence. Hate speech is first and foremost a result of a social system (culture, religion, politics, and economy) and social institutions (media, churches, political parties, the state, NGOs, CSOs, and associations) that are intolerant and do not embrace sexual and gender diversity. From this perspective Hate Speech can also be seen as fundamentally a structure whose symptoms are symbolic and subjective forms of violence.

As Figure 1.0 shows the (news) media are consciously and unconsciously agents of this structural violence that can be characterized at 3 levels:

Figure 1.0: Hate Speech as Violence



### 1.3.1 Systemic/ Structural Violence

This is about the discrimination and deliberate exclusion of individuals and certain groups from *key positions* in the media and in society at large because of their gender and sexuality. Key positions are central in *decision making* in the media and society. In the media, for example, it is people in such positions who set the *news and cultural agenda* through the selection and exclusion of what news and cultural content must be shown to the public. In society, for example, it is important people in high positions who influence the public policy agenda, i.e, health policy, HIV/AIDs policy, Media policy and who gets what from such policies. Structural violence in society and the media is often subtle, hidden and appears natural and commonsensical. Journalists often have a blind spot for it and it is hardly covered in the news. For example, people are less likely to question why a man has been voted a national president although they would question how a woman was. Similarly, people are likely to question a gay president than a straight one.

### 1.3.2 Symbolic Violence

Symbolic violence is seen through the use of inflammatory language and editorial content on gays, lesbians and transgender people. Symbolic violence has a symbiotic relation with structural violence. They promote, reinforce and perpetuate each other. Hate speech as symbolic violence can also result in the following:

- *Discrimination of sexual and gender minorities*: In social institutions and society in general. For example, Men who have Sex With Men (MSM) may be discriminated upon when they visit hospitals for treatment of anal Sexually Transmitted Infections (STIs) because the nurses and doctors may have a negative attitude.
- *Discrimination of sexual and gender minorities*: In public policy interventions on sexual and reproductive health service provision. For example, the development and availability of user friendly clinics and hospitals for sexual minorities depends on the creation of public policies that ensure that access to health services is a universal right. When public policy has a blind spot for sexual minorities, this culminates in a form of discrimination that is systemic and structural in nature.

### 1.3.3 Subjective forms of violence

This is real *physical violence* like *murder and torture* of gays, lesbians, transgender people, etc. Unlike structural violence, it has a *clear agent, is obvious*, and journalists like to report this form of violence because it is seen as: *dramatic, conflict, bizarre*, etc and easily sells their newspapers off the newsstand.

Normally reports on subjective violence on sexual minorities tend to be event-oriented, (not analytical), and not issue oriented. Good proactive reporting would require a paradigm shift from events oriented reporting that focus on incidents of violence to issue oriented reporting that uses such incidents to critically engage with hate speech as essentially a structural form of violence.

Table 1.6: Group Activity

In groups of 3 or 4, discuss the following questions in relation to hate speech and sexual and reproductive rights:

1. How many gays, lesbians, and transgender people do you have in your newsroom or marketing and communications company?
2. How many of these people occupy key positions in your company and community?
3. To what extent do you think social intolerance and discrimination is the cause of social withdrawal of gays and lesbians from key positions in media and society?

## 1.4 Training journalists and other social communicators

How can the training of journalists and other social communicators be used to mitigate the problem of Hate speech in the media and in society?

### 1.4.1 Attitude training and the need for professional behavior change

Mainstream journalism training tends to concentrate on craft skills (the 5Ws and an H) and the technical productions skills. This is hardly adequate to deal with the complex questions of the coverage of sexual and reproductive health and rights issues for gays, lesbians and the transgender people. Attitude training refers to a form of reflexive practice where journalists and social communicators continually reflect on how best they are doing their job not just in terms of technical proficiency, but more profoundly in the kind of journalism that is transformative seeking to change society for the better. It is a kind of journalism that is aware of its cultural and ideological baggage and constantly seeks to extricate itself from stereotypical and prejudiced representations of sexual, racial and gender minorities in the media.

Attitude training must be able to develop a critical consciousness on the part of the journalist and reflexive practice on reporting sexual minorities would require you as a communicator to be able to answer the following questions:

- a) *How does my race, class, gender, and sexuality influence my reportage of HIV/AIDs, gender and sexuality issues?*

All social communicators are *situated interpreters* of reality in terms of race, class, gender and sexuality. As normal human beings sometimes we are blind and unconscious agents of certain race, class, gender and sexuality-based prejudices about other people.

For example, as a heterosexual reporter, are you able to empathize and identify with the social conditions and experiences of gays and lesbians? Are you able to free yourself from social prejudices and stereotypical representations to tell your story from their point of view?

b) *How does my society and culture influence my worldview on gender, sexuality issues and HIV/AIDS?*

Culture bears such a stronghold on our consciousness as social communicators. How many times, for example, have you heard people (including journalists) say things like “ Homosexuality is not my culture”? Theoretically speaking, there is nothing wrong with having a cultural position from which we engage with other people. Culture is a resource, but can also be a burden in the sense that it can be a blinding agent to the conditions and experiences of others. The challenge one faces as a journalist is to see the world from other people’s perspectives and experiences. This is why the best news story in journalism is that which more than just seeking to tell the truth, tries to do so in a way that reflects the diversity and pluralism of views and opinions on the subject. This means when writing a story on sexual and gender minorities, it is not adequate to just quote the minister, the priest, or the president. A good story must also quote opinions of the gays and lesbians, their CSOs, National Aids Council, and all other sympathetic and understanding groups in the community.

c) *How do journalism ethics and journalism training influence my reportage of sexual minorities?*

Gays, lesbians and transgender people are not a problem, but society’s attitudes and lack of understanding of difference and subjectivity is a problem. Good journalism must, therefore, not just focus on such individuals and group’s sexual practices and identities, but rather on society’s weaknesses, intolerance, and lack of understanding of such groups. This is the story that journalists miss or don’t what to tell- it is a story of social discrimination, injustice, violence and intolerance on people who enjoy sex differently.

d) *How does my right to Freedom Of Expression (FOE) as a journalist balance with my responsibility to my society in reporting sexual difference fairly, objectively and transformatively?*

What does reporting sexual difference and HIV/Aids mean? It means that journalists must view the discourse on these issues as reflective of power relations in society. Homosexuality suffers intolerance because heterosexuality always wants to impose itself as the guiding norm for sexual intercourse and gender identities. Sex is a cultural act, it exists in a long continuum and people do all sorts of things to get sexual gratification. Reproductive sex is different though; it is natural in the sense of requiring intercourse between a man and a woman. People, however, tend to confuse sex and reproductive sex, and often times gays and lesbians are judged based on reproductive sex. What I have said here is pretty basic, but journalists that report on sexual rights and gender issues have a responsibility to study and understand the complex world of the liquidity or fluidity of sexual and gender identities. It’s a world that is in constant change as people migrate from being straight to being gay (or vice versa) and from being male to being female (transgender).

The greater responsibility is that of balancing Freedom of Expression (FoE) with the contending rights of sexual minorities such as the right to dignity, privacy, choice, and identity. Hate speech is a violation of FoE. Freedom of expression does not mean freedom to incite hatred and violence.

## 1.5 The Role of Human Rights values

The job of a journalist in reporting sexual and gender minorities can be seen as fundamentally an obligation to the defense of the human rights of these groups. The right to life, dignity, privacy, choice, identity and non-discrimination are very important for gays, lesbians, and transgender people. As

such, in helping journalists and other social communicators, it is important that trainers raise journalists' awareness of *national constitutions and international human rights instruments that emphasize the previously stated rights*

Journalists need to be trained on media, human rights, and cultural literacies. For example, what do they understand to be their role in culture and human rights? Although journalism can be in service of both culture and human rights, it is important to note that sometimes culture and human rights can be in conflict. For instance, culturalists tend to argue that homosexuality is against "our culture" and sometimes such parochial arguments have led to the discrimination of gays and lesbians in media and health policies. Cultural relativism is a bad argument when it comes to sexual and reproduction rights because it places culture on top of human rights, and this is wrong as it divides society and causes conflict. It also implies the life and happiness of those who may be different from us is always subject to culture or society's approval. This amounts to violence and reduces heteronormativity to some form of dictatorship in how people pursue their romantic relationships, sex and organize their family life.

Table 1.7: Group Activity

Discuss the following questions in relation to hate speech and sexual and reproductive rights:

1. How can race, class, gender and culture inhibit your ability to report sexual and reproductive rights fairly?
2. What is the danger of a cultural relativism argument in the field of sexual and reproductive rights?
3. What do you understand by the concepts of journalists as "situated interpreters" and that of reflexive journalism practice?

## 1.6 Conclusion

This chapter focused on hate speech and its manifestations in the news media. It emphasized the fact that hate speech must first and foremost be understood as structural instead of just a symbolic and subjective form of violence. Hate speech as structural violence requires a lot of analytical and critical investment from journalists because it is always not immediately obvious to the public eye. The next Chapter explores human sexuality. It is critical that journalists understand the variegated nature of human sexuality so that they can be able to defend the rights of these groups.

## References

Cortese, C. (2006) *Opposing Hate Speech*, New York: Praeger

Kiefer, L "Hate Speech will not help" in *Zambia Daily Mail* 1 June 2013.

Moyo, L (2002) *Media and Human Rights*, Harare: AusAid

Weber, A. (2009) *Manual on Hate Speech*, Strasbourg, Council of Europe.

# CHAPTER TWO

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## Understanding Human Sexuality

*Delene van Dyk*

### WHAT YOU WILL NEED!

- n Open area identified in the training room (with ample space for participants to move freely)
- n Flipchart paper and flipchart stand
- n Flipchart pens, various dark colors

## 2.0 Introduction

This chapter examines human sexuality and draws attention to the myths and misconceptions around SRHR issues and sexual orientation, gender identity or expression. Social misconceptions negatively impact on the quality of service provision for the minority groups, which in turn impedes on such minority groups' well being and health. Most at risk groups experience health issues and barriers related to their sexual orientation and gender identity. Many avoid or delay or receive inappropriate and oftentimes inferior care because of discrimination from the general population. In the context of HIV/AIDs epidemic, respect for all people's SRHR is fundamental and special attention to the most vulnerable and most marginalised is imperative especially in health policies.

### 2.1 Understanding Human Sexuality

Human sexuality is more than just “what’s in the pants” and what we do with it between the sheets. Our bodies and identities have been largely shaped by society, so before we enter the wonderful world of sexuality, let’s take a few steps back and begin to understand stereotypes and stigma associated to bodies and identities and its impact on each individual. Stereotyping is a learning process<sup>3</sup>. It is a way we are taught to structure and understand the world and to think in terms of “us” and “them”. Stereotypes are not individual ideas, but are social in nature. We learn them while growing up and influence how we might react to a grouping or think about a particular person. We watch them on TV, read about them in magazines, and are told them. We are socialized into believing them. This is often an unconscious process, they are ideas that inform how we think or react to people.

Men have stereotypes about women and vice versa; black people about coloured people and vice versa; white people about black people and vice versa; Christians about Muslims and vice versa. We categorise people and reduce the other group to a handful of characteristics because it helps us to define them and ourselves. These characteristics can be positive or negative, or both.

When a member of the stereotyped group looks at these characteristics, he or she will probably only identify with a few of them. The positives are usually adopted, the negative ones dismissed. Groups that are less visible in society – the minorities – often face more negative than positive stereotypes.

Table 2.0: Examples of common stereotypes of people

- Real men (big boys) don't cry,
- A black man is always a suspect,
- A woman is a mother,
- A person living with HIV is promiscuous,
- Men are abusers,

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<sup>3</sup> Van Dyk & Matlou, (2009)

The above constitute stereotypical lens about people in society. They represent socially constructed ways of perceiving individuals or groups. Lesbians, gays, bisexual, transgender and intersex (LGBTI) people are also affected by stereotyping. Some examples of common stereotypes about lesbian, gay, bisexual, transgender and intersex people are listed below on Table 2.1 on the following page.

The fact that there are more negative than positive stereotypes for LGBTI people has to do with ignorance and the heterosexual unfamiliarity, with them as “the other”. LGBTI people form a minority, and are, therefore, less visible and more vulnerable to being stereotyped. For an LGBTI individual, this can make it difficult to replace negative stereotypes with positive ones.

As a result, a lesbian woman does not only have to deal with stereotypes that apply to her sex, gender, race and religious beliefs, but she must also carry the extra burden of being stereotyped for her sexual orientation. The same applies to gay men. Transgender people are even more stereotyped than lesbian and gay people, especially because their gender identity is often confused with the minority sexual orientations of being gay and lesbian. While in fact diversity in every group is high, most people think that stereotypes are facts about every member of a certain group. This belief leads to prejudice and stigma, which can result in marginalization, discrimination and, often times, violence and death.

Table 2.1: Stereotypes on Lesbians, Gays, Bisexual, Transgender and Intersex (LGBTI) people

- Gay, lesbian and transgender people are mentally ill and unhappy;
- Lesbians really want to be men and gay men really want to be women;
- You can spot gay men and a lesbian by the way they act and dress;
- Lesbian women are not feminine;
- Bisexual people don't know what they want and are promiscuous;
- All gay men in the townships are hair dressers; and
- Intersex people are cursed.
- Lesbian, gay, bisexual, transgender and intersex people are all the same.

So, why do some lesbian women look and act so masculine (butch) and some gay men so feminine (femme)? The following examples demonstrate the power of socialisation which helps to explain this question. A young boy, for example, grows up in a house where the father figure shunts around the women in the house and is never challenged about it. The young boy, internalizing his father's bad behavior towards women, continues with this behavior as an adult, although he does not feel comfortable being a bully. A young girl grows up in a family where all the women cook and clean all the time. Although she is a student, straight and wants to be an engineer one day, she leaves her dreams behind to cook and clean for all the men in the family.

Now, most gay and lesbian individuals grow up in a society where there are no or little gay and lesbian role models, and, if they are role models, they usually fit the stereotype. So if society claims that “a lesbian wants to be a man”, it would be difficult for a young girl falling in love with another girl, to understand that it is just a stereotype. She would most probably follow the stereotype as a guideline, thinking that's how she would be accepted, at least within the LGBTI circles. Furthermore, if society

stereotypes a man, claiming that he should drink beer, smoke cigarettes and wear leather boots, this is the kind of stereotype she might internalize and make her own.

A similar example may apply to a young gay man growing up in a small community. If he sees and knows about an older gay man, being a hairdresser and acting feminine, as well as being openly flirty, and knowing that the older gay guy is accepted by the society, he would most probably follow in his footsteps (or stereotyped high heels).

Table 2.2: Activity (Self reflection 1)

1. What kind of stereotyped environment did I grow up in?
2. What were (or still are) the expectations from my elders / parents / siblings:
  - a) As the eldest daughter / son?
  - b) As the only daughter / son?
3. How do I challenge myself with regard to my stereotyped beliefs about others?
4. What difficulties am I experiencing because I'm not following the expectations of my elders / parents / siblings / teachers / colleagues?
5. What kind of stereotypes do I expose my child / children to?
5. How did I, as a journalist, consciously or unconsciously use stereotypes in the past to report about LGBT people, without exploring the 'real' person or situation?

### 2.1.1 Sex, gender, sexual orientation and sexual behavior

Sex, gender, sexual orientation and sexual behavior are not the same. Let's take a journey to try to understand the complexity of human sexuality. Below, we use what can be referred to as "The Binaries & Boxes (or not!)<sup>4</sup> approach" to try and explain the differences between all the above. Binaries are characterized by or consist of two parts or components. The Box here is used to refer to an awkward or perplexing situation; a predicament.

Table 2.3 Differences between sex, gender, sexual orientation and sexual play

SEX	GENDER
SEXUAL ORIENTATION	SEXUAL PLAY (BEHAVIOR)

<sup>4</sup> Van Dyk & Matlou, (2009)

### 2.1.2 Sex

The term sex refers to a biological concept, that is, the kind of body we are born with or, simply put - what's in your pants?. There are different kinds of bodies:

- Breasts + vulva (with a clitoris, labia minora, labia majora, vagina) + breasts + uterus + ovaries + hormones (estrogen, progesterone & a little bit of testosterone) + XX chromosomes = biologically female body.
- Penis + testes + prostate + testosterone + XY chromosomes = biologically male body.

We have to ask ourselves if these two kinds of bodies above are the only kinds of bodies that exist?

No, there are people born with genitalia and reproductive organs that are not clear, also called intersex. Intersex is a set of medical diagnoses that feature congenital anomaly of the reproductive and sexual system. Intersex people are born with chromosomes, external genitalia, and/or internal reproductive systems that are not considered “standard” for either male (penis, testes, and XY chromosomes) or female (ovaries, vagina, uterus, and XX chromosomes).

Intersex is a fairly common occurrence. It is estimated that 1 in 2000 babies are born intersex. That number does not include the large number of people who are diagnosed as intersex later in life. Intersex people's bodies have historically been, and continue to be, viewed as “social emergencies” by doctors. When discovered at birth in most Western countries, unnecessary cosmetic surgery is performed on the majority of intersex babies to force them to conform to either male or female aesthetic binary standards. These surgeries often require multiple follow-up repair surgeries and are ridden with complications.

Obviously, an infant cannot consent to having surgery, and adult intersex people are often haunted by a lifetime of these unnecessary procedures that rob them of their sexual sensations and have long term affects on their ability to feel present and safe in their bodies.

When an intersex child is born, the family should be referred to an academic hospital's endocrine department, for a holistic approach to, and support of, the child's future, not necessarily including surgery. The aim should be no surgery unless it is a medical emergency.

### 2.1.3 Hermaphrodite vs Intersex

So what about using the word hermaphrodite? The term hermaphrodite came from the Greek Mythology (The son of Hermes and Aphrodite, who became united in one body with the nymph Salmacis), thus was used in the past to describe intersex people. Today, intersex people feel uncomfortable with this outdated derogatory term. This term only refers to animals and plants with ambiguous reproductive structures, NOT HUMANS! (See, [www.intersex.co.zm](http://www.intersex.co.zm) for more)

Table 2.4: Activity (Self Reflection 2)

1. Where did I learn about my body parts, specifically my genitalia and what it looks like or should look like?
2. Do my genitalia look exactly the same as another man / woman's?
3. What would I do if my child is born intersex?
4. What would I suggest to a friend / family member on what to do if their child is born intersex?

#### 2.1.4 Gender

Are “SEX” and “GENDER” the same? Well, they are not although many people sometimes use them interchangeably. They are different words and therefore have different meanings, but are often incorrectly used, as seen in most media reports. Whilst “sex” is about genitalia (and other body parts as described above), “gender” is about the societal expectation based on “what’s in the pants”. In other words, gender is socially constructed. We are NOT born with a gender!

Gender is learned behavior, culturally and socially determined, sometimes subtle, often not challenged. Society prescribes that certain tasks and behaviors are considered appropriate for a person’s biological sex. We call this role and behavior expectations.

To understand constructions of gender better, the terms femininity and masculinity are used. Describing these terms, it is important to note that it is not just about physical characteristics, but includes behavioral and attitudinal characteristics or traits of an individual.

*Words commonly used to describe femininity*

- dependent
- emotional
- passive
- sensitive
- quiet
- graceful
- innocent
- weak
- flirtatious
- nurturing
- self-critical
- soft
- sexually submissive
- accepting

## *Words commonly used to describe masculinity*

- independent
- non-emotional
- aggressive
- tough-skinned
- competitive
- clumsy
- experienced
- strong
- active
- self-confident
- hard
- sexually aggressive
- rebellious

### 2.1.5 Gender identity

Gender identity refers to how someone feels about themselves in the world as a woman or a man, i.e. a person's sense of themselves as male or female. While most people's gender matches their biological sex (also called cisgender), this is not always the case, and for instance, someone may be born biologically male, yet have a female gender identity (also called transgender).

In many societies, including most in Africa, men are considered superior to women and their roles dominant. In these so-called patriarchal, heteronormative, heterosexist societies, males, 'masculine' characteristics (such as rationality and competitiveness) and roles assigned to men are considered superior and valued above females, those characteristics considered 'feminine' (such as emotionality and nurturing) and roles assigned to women. Gender roles are, however, not fixed as society and culture are forever changing.

Clearly, society's categories for what is masculine and feminine are unrealistic. They may not capture how we truly feel, how we behave, or how we define ourselves. All men have some so-called feminine traits, and all women have some so-called masculine traits; and we may show different traits at different times. Our cultures teach women and men to be the opposite of each other in many ways. The truth is that we are more alike than different<sup>5</sup>.

### 2.1.6 Transgender

Transgender is an umbrella term for those individuals identifying as transsexuals and transvestites or whom are gender non-conforming. Most biological males (sex) identify as men (gender) and females identify as women. However, there are people whose gender identity differs from the general pattern and therefore their gender presentation differs from what society wrongfully expects.

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<sup>5</sup> <http://www.plannedparenthood.org/health-topics/sexual-orientation-gender/gender-gender-identity-26530.htm>

### 2.1.7.1 Transsexual

A transsexual is a person whose gender does not match their sex. For example, a person who is biologically male but feels like a female. Transsexuals often explain being “trapped in the wrong body” or “born in the wrong body”.

MTF (male to female) or transwoman, describes a person born in a male body, but identifying as a woman and or FTM (female to male) or transman, describes a person born in a female body, but identifying as male (with or without gender reassignment surgery).

It is important to use the correct pronouns when referring to a transwoman (she / her) and a transman (he / him).

### 2.1.7.2 Transvestite

The term transvestite (cross dresser) refers mostly to men, usually heterosexuals, who enjoy wearing female clothes and adopt traditionally female character traits for personal satisfaction (including acting / on stage performance). This satisfaction may take the form of sexual arousal and/or gratification, but may just as easily be of a non-sexual nature. Transvestites generally self-identify as men and have no interest in being women.

A transgender person may have any sexual orientation. Our gender identity has nothing to do with whom we love and feel attracted to (sexual orientation), but rather how we as individual identify as a man, or as a woman (or being androgynous). Remember that having a penis does not necessarily make you a man, and having breasts does not make you a mother.

Table 2.5: Activity (Self Reflection 3)

1. Where did I learn about what is expected of me as a man / woman?
2. What happened to me when I challenged the expectations above?
3. What happened to me when I did not challenged the expectations above?
4. If I look at the list of masculine and feminine traits, what traits would explain me best?
5. If I woke up tomorrow, and I had the genitalia of the opposite sex, how would it make me feel?
6. Why is it so difficult for me (or not) to understand and accept a person that's born transsexual?

## 2.2 Sexual Orientation

A person's sexual orientation refers to whom they love and feel attracted to at various levels – emotionally, psychologically, physically, intellectually, spiritually and sexually. Note that it is not just about sexual attraction, but whom we build relationships with, which includes sexual attraction. Now, if you would open up most dictionaries today, what would be the definition of the words sexual orientation? Mostly it is “sexual attraction” or “sexual preference”. Why is this problematic? The focus is on the “sexual”

only. Also, if it's said to be a preference, then the societal expectation would be to change it to the apparent hetero norm. Thus a person's sexual orientation is complex and includes feelings, attraction (at all levels), and self concept or how a person expresses themselves in relation to others, i.e. the lasting (more than 2 weeks) emotional, romantic, intellectual, sexual or intimate feelings they have for individuals of a specific sex or gender.

Currently 3 sexual orientations that we are aware of: These are homosexual, heterosexual (straight), and bisexual. Although much research has examined the possible genetic, hormonal, developmental, social, and cultural influences on sexual orientation, no findings have emerged that permit scientists to conclude that sexual orientation – heterosexuality, homosexuality, or bisexuality – is determined by any particular factor or factors. It is not clear whether sexual orientation is caused by nature or nurture.

### 2.2.1 Homosexual

There are mainly two identities here– lesbian and gay. A gay man is someone who has romantic, sexual, intellectual and intimate feelings for, or a love relationship with, another man (or men) and identifies as gay. It is important to note that not all men who practice homosexuality necessarily identify themselves as gay. There are men who have sex with men because of circumstances they may find themselves in such as confinement in jail. Similarly, gay men may also practice heterosexuality, not as an expression of their sexual orientation, but due to social pressure.

A lesbian woman is a woman who has romantic, sexual, intellectual and intimate feelings for, or a love relationship with, another woman (or women) and identifies as lesbian.

### 2.2.2 Heterosexual

A person who is romantically or sexually attracted to the opposite sex. It is a sexual preference where a man or woman has a deep need to bond emotionally, sexually, and socially with the opposite sex for fulfillment and pleasure.

### 2.2.3 Bisexual

An individual who has the ability to have romantic, intimate or sexual feelings for, or a love relationship with, someone of the same sex and/or with someone of the opposite sex. Note that being bisexual doesn't mean that they will have these feelings necessarily at the same time or with an equal amount of attraction to both sexes or that these individuals have multiple concurrent partners (or seen as promiscuous). Being bisexual is not synonymous with being promiscuous. Any person can have multiple concurrent relationships regardless of their sexual orientation or gender identity.

## 2.3. Heteronormativity

Heteronormativity is a social construct that views all human beings as either male or female with the associated behavior and gender roles assigned, both in sex and gender, and that sexual and romantic thoughts and relations are normal only between people of opposite sexes and all other behavior is viewed as “abnormal” or “unAfrican” and “uncultural”. Heterosexism, homophobia and homo-prejudice influences greatly how individuals and couples are viewed.

### 2.3.1 Heterosexism

This refers to the belief that heterosexuality is the only form of relationship that exists and all other sexual orientations do not exist, or are unnatural, prejudiced and even hated.

### 2.3.2 Homophobia

It is the irrational fear of homosexual feelings, thoughts, behaviours, or people and an undervaluing of homosexual identities resulting in prejudice, discrimination and bias against homosexual individuals. Homo-prejudice is the prejudice against people of diverse sexual identities. Internalised homophobia is the link between heteronormativity, patriarchy (even matriarchy), heterosexism and the lesbian and gay person internalizing the fear, hatred, shame and guilt projected onto them by a homophobic society.

### 2.3.3 The Heteronormative Model

This describes the typical heteronormative family consisting of a father (male bodied person), mother (female bodied person) and offspring. Most people believe that this is the only model of “happy family hood”, but in reality, most successful families do not fit the picture. It is important to remember that all people, no matter their sexual orientation, look at life through a heteronormative lens, hence the terms “butch” and “femme” (behavior) or “top” and “bottom” (sexual positions, coming from the “missionary position”). If it wasn't for the lack of other models of relationships and or family, these terms would never have existed.

Table 2.6 Activity (Self Reflection 4)

1. When I fell in love for the first time, how did it feel like?
2. Did somebody tell me whom to love and feel attracted to, or did it come natural to me?
3. What were the (stereotyped) stories that I've heard about lesbian, gay and bisexual people in the past?
4. Would I be scared if I developed feelings for someone of the same sex? Have I thought about it? Why?
5. How different is a same-sex relationship from mine (if I'm heterosexual identified)?

## 2.4 Sexual Play

Sexual play relates to how people explore themselves sexually and includes sexual behavior as well as the meaning that people attach to it. Having sex with another person is never without meaning and it is sometimes difficult to understand other people's reasons for why and how they have sex.

All people, no matter their sexual orientation, use various body parts to experience sexual pleasure, on their own or with others. Sexual play includes actual sexual practices as well as desires and fantasies.

Why is it important to know how people view sex? Because, in the past, sex was only seen as penetration of the penis into the vagina, and the risk linked to that practice was limited to pregnancy. Nowadays we know that there is also a risk of contracting an STI (including HIV). However, many people still think that where there is no vagina in the sex act, for instance, in anal sex, there is no chance of contracting an infection, because they link risk, consciously or unconsciously, with pregnancy. Therefore, anal sex is perceived by many as not being sex, and therefore not risky. As a matter of fact, we know that unprotected anal sex with ejaculation is the sexual practice most risky for contracting HIV. The inside of the anus is a very sensitive place, like the inside of the mouth. Because it can easily be hurt or damaged, it is highly vulnerable to a sexually transmitted infection.

Men who have sex with men (MSM), and women who have sex with women (WSW), are fairly new concepts in HIV prevention language. Some people may have sex with others of the same sex for a variety of reasons other than as an expression of their sexual orientation or identity, or without seeing themselves as lesbian or gay (whether due to cultural, religious or personal reasons). Others may temporarily do so due to circumstances, such as being confined to a facility, for example, a prison. People have sex for different reasons. Men have sex with men for different reasons, but they could still identify as heterosexual. MSM can have any sexual orientation. Also, a person’s sexual fantasies are not necessarily in line with their identity.

### 2.4.1 The Fluidity of sexual expression

We should never make assumptions about the sex lives of people we know or work with. Sexual fantasies and behavior are not necessarily in line with an individual’s sexual identity and could create increased levels of shame and guilt.

Table 2.7: Various Sexual Identities

<p><i>SEX</i></p> <p>Male</p> <p>Female</p> <p>Intersex</p>	<p><i>GENDER</i></p> <p>Masculine</p> <p>Feminine</p> <p>Transgender</p> <p>Transsexual      Transvestite</p>
<p><i>SEXUAL ORIENTATION</i></p> <p>Heterosexual</p> <p>Homosexual</p> <p>Gay    Lesbian</p> <p>Bisexual</p>	<p><i>SEXUAL PLAY</i></p> <p>Oral sex with a man</p> <p>Anal sex with men</p> <p>Vaginal sex with women</p> <p>Anal penetration by a man</p>

Table 2.7 is a graphic representation of the fluidity, flexibility, and dynamism that exists between sex, gender, sexual orientation, and sexual pleasure. For example, the examples given below represent the numerous possibilities that exist:

- A biological male – married (to a woman) with children, with a masculine gender presentation – identifies as heterosexual and is a practicing MSM (has anal sex, giving or receiving, by visiting men-only sex clubs, once a month).
- A biological male – married (to a woman), with a slightly feminine gender presentation – identifies as bisexual and has mostly vaginal sex, has never had sex with a man (and chooses not to), has sexual fantasies of the same sex, and is currently NOT a practicing MSM.
- A biological female – married (to a man) with a feminine gender presentation – identifies as heterosexual and has sex with women (through threesomes with her husband present).
- A biological male – in a long term relationship with a man, with a masculine gender presentation – identifies as gay and has anal sex with his partner.
- A biological male – divorced, with a masculine gender presentation – identifies as heterosexual and receives oral sex from a man (he is in prison).
- A biological female – with a masculine gender presentation – identifies as a lesbian and has sexual fantasies of having oral sex with a man.
- A biological male – with a feminine gender presentation – prefers to be a MTF, she identifies as bisexual and receives anal sex.

## 2.4.2 The Anal taboo

How people perceive anal sex differs. According to the Durex Sexual Health and Wellbeing Study, some heterosexual men reported that they prefer to be penetrated anally by their female partners. This is also called pegging. Because of the anatomical position of the prostate gland, just a finger length inside the anus, is a gland that can be stimulated by anal penetration. The prostate is a very pleasurable spot when stimulated in the correct manner. This kind of sexual pleasure can be experienced by any male individual regardless of their sexual orientation. The study also suggests that not all homosexual men enjoy anal penetration.

However, because of the guilt and the shame associated with some sexual practices, especially anal sex (called sodomy by society), some people indulge in hidden and risky sexual behaviour. For example, a heterosexual man might engage in risky anal sex (no condom and no water based lubricant) with another man or men for various reasons, often putting himself and his sexual partner/s at risk.

## 2.5 Sexual Health and Sexual Rights

According to the World Health Organization (WHO) the definition of sexuality is defined as:

A central aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviors, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical and religious and spiritual factors.

The WHO also defines sexual health as “a state of physical, emotional, mental and social well-being related to sexuality; it is not merely the absence of disease, dysfunction or infirmity”. It further contends that “Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence”

Clearly then, for sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled. Sexual rights embrace human rights that are already recognized in national laws, international human rights documents and other consensus documents. These include the right of all persons, free of coercion, discrimination and violence, to:

- Seek, receive and impart information in relation to sexuality;
- Sexuality education;
- Respect for bodily integrity;
- Choice of partner;
- Decide to be sexually active or not;
- Consensual sexual relations (not be forced to have sex through the use of violence or non-physical force);
- Consensual marriage;
- The highest attainable standard of health in relation to sexuality, including access to sexual and reproductive health care services;
- Be protected from the risk of disease such as HIV and other STIs;
- Decide whether, or when to have children;
- Pursue a satisfying, safe and pleasurable sexual life.

## 2.6 Barriers that LGBTI people encounter in seeking health services

### 2.6.1 Stigma

Stigma associated with homosexuality, anal sex, gender non-conformity, HIV infection and conspiracy beliefs (e.g., that HIV is man-made) impedes access to services<sup>6</sup>. Black MSM who hold HIV conspiracy beliefs are less likely to access HIV testing service and more likely to have unprotected anal sex than are black MSM who do not hold such beliefs<sup>7</sup>. Stigma associated with health care providers’ stereotyped beliefs of whom and what an LGBTI, MSM or WSW person is, should look and act like, negatively impacts on health-seeking behaviour.

### 2.6.2 Barriers to access to prevention materials

Most HIV prevention information available is based on heteronormative sexual practices (penile-vaginal penetration). Because of the lack of appropriate information, many LGBTI, MSM or WSW individuals may have an erroneous risk perception. For example, according to Zulu and Zulu W (2006), 73% of Zambian MSM believed that anal sex was safer than vaginal sex<sup>8</sup>. Some black African MSM seem to be more likely to use oil-based rather than water-based lubrication with latex condoms. The former

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<sup>6</sup> Millet et al, (2012)

<sup>7</sup> Bogart et al, (2011)

<sup>8</sup> Zulu et al, (2006)

increases the risk of receptive anal sex as water-based lubrication should always be used with latex condoms<sup>9</sup>. Others might have a negative attitude towards barrier methods, or experience condom fatigue.

### 2.6.3 Internalised homo-negativity

Often LGBTI, MSM or WSW individuals internalize the shame and hatred from a homophobic society projected onto them. The internalized shame and guilt could act as a deterrent to practicing responsible sex<sup>10</sup> and accessing health care, wrongly instilling a negative self-belief that the individual is not worthy of optimal care and deserves to be ill.

### 2.6.4 Attitude of health care providers

In countries where no criminal sanctions against LGBTI, MSM or WSW people exist, e.g. South Africa, the homophobic, sexist and transphobic practices of health care providers may still deter LGBTI, MSM or WSW people from taking up services. Homophobia and transphobia increase risk and reduces access to health services. Often LGBTI, MSM or WSW will not disclose their sexual orientation or practices to the health care provider, in fear of discrimination or blackmail<sup>11</sup>. In most African countries, transgender individuals experience extreme difficulties in accessing health care. The concept of being transgender is often completely misunderstood, especially when it is viewed as the same as homosexuality. Health care professionals are often insensitive to their needs. Gender reassignment therapy, if available, is often expensive and government funding or insurance coverage is rarely available. In some cases, health care professionals also generally lack the capacity to handle the health needs of the LGBTIs due to lack of proper training.

### 2.6.5 Barriers faced by Transgender and Intersex people

One of the *Planned Parenthood* publication has reported on some of the barriers transgender and intersex people encounter when seeking health care.<sup>12</sup> While written for a US setting, there are many similarities across contexts:

- Forms: Some Health centres have separate male and female health history and intake forms, which can cause confusion for both staff and transgender and intersex clients. Staff may not know (and should not assume) the gender of a client, and may be uncomfortable asking their gender to figure out what form they need. Clients may have health concerns that are not included on the form they are given.
- Bathroom: In any setting where bathrooms are separated by sex such as in hospitals, clinics, and schools, transgender people may feel uncomfortable and/or unwelcome.
- Medical/anatomical language: For a transgender and intersex individual, it may be difficult to acknowledge or come to terms with biological body parts that are in conflict with their gender. Some transgender and intersex clients may be uncomfortable using 'anatomically correct' terms to describe

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<sup>9</sup> Baral *et al.*, (2011)

<sup>10</sup> Anova Health Institute, (2010)

<sup>11</sup> Thoreson & Cook, (2008).

<sup>12</sup> Providing Transgender-Inclusive Healthcare Services. Planned Parenthood of the Southern Finger Lakes. 2006

their body parts, and may be uncomfortable hearing medical providers talk about their body parts. For instance, someone who identifies as a man may not want to acknowledge or talk about having a vagina.

- Pronouns: It may be unclear to staff which pronouns (he/she, him/her) to use when speaking to or about a transgender and intersex client.
- Having to educate their providers: Transgender and intersex clients may feel pressured to educate their health care providers about an array of transgender and intersex issues and health concerns. The pressure to explain oneself, or the frustration of encountering medical professionals who don't know about transgender issues may keep transgender people from visiting the doctor when they need care. It can be very tiring to constantly have to explain one's identity, especially if it is not directly related to the medical issue at hand. It is not fair to expect that clients educate staff, nor is it fair to expect any one transgender client to speak for all transgender people.
- Drug interactions: Some transgender clients may be on hormones. Many providers (and transgender clients themselves) don't know how hormones will interact with other drugs or medical procedures.

## 2.7 Conclusion

This Chapter has demonstrated the complexity and fluidity of sexuality. It has also shown the “othering” of other forms of sexual orientation by the majority who tend to use the dominant lens of heteronormativity. Discrimination of the LGBTIs has also been shown to be a major problem which impacts negatively on their access to health services.

## References

- Anova Health Institute. 2010. *From top to bottom: a sex-positive approach for men who have sex with men – a manual for health care providers.*
- Bogart L.M, Landrine. H., Galvan F.H., Wagner G.J., & Klein D.J. *Perceived Discrimination and Physical Health Outcomes among HIV Positive Black and Latino Men*  
<http://www.sbm.org/UserFiles/file/Symposium07Perceived.pdf> accessed 3 June 2013
- Itaborahy L.P. 2012. International Lesbian, Gay, Trans and Intersex Association. (ILGA) State Sponsored Homophobia: *A world survey of laws prohibiting same sex activity between consenting adults.*  
[http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2012.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2012.pdf) accessed 3 June 2013
- Kirven, S., Eguren. E., & Caraj M. 2010. *Protection Manual For LGBTI Defenders.* Protection International.
- Maposhere C. PSAf MSM Study Report (unpublished), PANOS Institute Southern Africa, 2013
- Mayer K.H., Bekker L., Stall R., Grulich A.E., Colfax G. & Lama J.R. 2012. *Comprehensive clinical care for men who have sex with men: an integrated approach.* The Lancet. Available online [http://dx.doi.org/10.1016/S0140-6736\(12\)60835-6](http://dx.doi.org/10.1016/S0140-6736(12)60835-6).
- Millet G.A., Jeffries W.L. 4th , Peterson J.L., Malebranche D.J., Lane T., Flores S. A., Fenton K.A., Wilson P.A., Steiner R. & Heilig C.M. 2012. *Common roots: a contextual review of HIV epidemics in black men who have sex with men across the African diaspora.* The Lancet. Available online [http://dx.doi.org/10.1016/S0140-6736\(12\)60722-3](http://dx.doi.org/10.1016/S0140-6736(12)60722-3).
- OUT LGBT Wellbeing. 2009. Info sheets. OUT Pretoria.
- OUT LGBT Wellbeing, 2007. *Understanding the challenges facing gay and lesbian South Africans: Some guidelines for service providers.* OUT Pretoria.
- Planned Parenthood of the Southern Finger Lakes. *Providing Transgender-Inclusive Healthcare Services* 2006
- Scheibe, A., Brown, B., Duby, Z. & Bekker, L. 2011. Key Populations, Key Responses. A Gap-Analysis for Key populations and HIV in South Africa, and Recommendations for the NSP for HIV / AIDS. STI's and TB (2012-2016). Desmond Tutu HIV Foundation, Cape Town.
- Thoreson R, & Cook S, *Nowhere to Turn: Blackmail and Extortion of LGBT People in Sub-Saharan Africa* IGLHRC, 2008 <http://www.iglhrc.org/sites/default/files/484-1.pdf> accessed 3 June 2013.
- United Nations General Assembly. 2011. *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity.* Report of the United Nations High Commissioner for Human Rights
- Van Dyk D. & Matlou J. 2011. *Understanding Human Sexuality – A train the trainer manual.* OUT Wellbeing. Pretoria, South Africa.
- Zulu K, & Zulu W. 2006. "Understanding HIV risk behavior among MSM in Zambia." XVI International AIDS Conference: Abstract no. WEPE0719.

# CHAPTER THREE

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## Human Rights, National Laws and LGBTIs

*Malala Mwendela*

### WHAT YOU WILL NEED!

You can download any of the following copies of International Human Rights Instruments from the Internet and study them in comparison with provisions for sexual minorities in your country:

- n The Universal Declaration of Human Rights (UDHR)
- n International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- n International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- n Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- n Convention on the Rights of the Child (1989)

## 3.0 Introduction

The objective of this Chapter is to examine the human rights and legal issues related to SRHR and media reporting. Building on Chapter 1, it also implicitly addresses the issues of hate speech and also proposes journalistic reporting that is informed by a public health and rights perspective. The Chapter also endeavours to address questions relating to the capacity of the news media personnel such editors, journalists, and correspondents in using the rights-based approach in reporting on SRHR issues. It also seeks to develop a calibre of journalists that have a critical awareness of human rights and the national laws that undermine individual and group rights of sexual and gender minorities.

### 3.1 Understanding Human Rights

Human Rights are basic entitlements that we have by virtue of being human. They are not privileges and cannot be taken away. Human Rights are consistent with the term “Ubuntu” that is commonly used and understood in Southern African countries. The term refers to the value of humanism embedded on the communitarianism of most traditional cultures in Africa.

The basis of human rights is that all human beings are equal. For example, Article 1 of the Universal Declaration of Human Rights (UDHR) states that “All human beings are born free and equal in dignity and rights”...Article 2, “Everyone is entitled to the rights and freedoms set forth in this Declaration, without distinction of any kind.” The qualification to the enjoyment of human rights is merely the fact that one is a human being.

### 3.2 Principles of Human Rights

#### 3.2.1 Universality and inalienability

Human rights are universal and inalienable. All people everywhere in the world are entitled to them. As long as one is alive they are entitled to all human rights regardless of age, status, income, gender, sexual orientation, etc.

#### 3.2.2 Indivisibility

Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. They all have equal status and cannot be ranked.

#### 3.2.3 Inter dependence and inter relatedness

The realization of one right depends, wholly or in part, upon the realization of other rights. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information.

#### 3.2.4 Equality and Non Discrimination

All individuals are equal as human beings and by virtue of the inherent dignity of each person. All human beings are entitled to human rights without discrimination of any kind such as race, colour, sex, ethnicity,

age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status.

### 3.2.5 Participation and inclusion

Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, political, economic, social, cultural development in which human rights and fundamental freedoms can be realized.

### 3.2.6 Accountability and rule of law

States and other duty bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

### Examples of Rights

- Non-discrimination and equality before the law
- Right to health
- Right to privacy
- Right to education and information
- Right to work
- Right to marry and found a family
- Freedom from inhuman, degrading treatment or punishment
- Freedom of expression
- Right to life, etc.

Table 3.0: Group Activities

1. In groups of two or three, discuss the meaning of each of the rights listed above.
2. Discuss whether there are groups of people to whom these rights do not apply.
3. Discuss how in your countries the right to equal health services by sexual minorities have either been justified or condemned in the news media.

## 3.3 Limitations on Human Rights

Human rights are not absolute. Some people argue that your rights end where those of another begin. In other words, you can only enjoy your rights to the extent that they do not infringe on another person's rights. However, there are some rights that are absolute such as the right to be free from torture or slavery. There are a few instances where human rights may be limited in order to achieve important goals. For instance, an outbreak of Bird Flu may require infection control measures that limit mobility rights for a certain period of time.

### 3.4 The Rights Based Approach (RBA) in Reporting of SRHR

This section seeks to provide the philosophical underpinnings of human rights as a basis for progressive reporting that is consistent with the dignity of all human beings. The rights based approach is defined by Hausermann (1999) as a move from merely reporting human rights wrongs to the active promotion of human rights. It is more than just human rights violations monitoring, and involves proactive reporting that is informed by advocacy journalism. She further indicates that the RBA consists of the following:

#### 3.4.1 A tool for analysis

It can be used to analyze the underlying inequalities and discrimination that hinders total respect for gays and lesbians. With regard to SRHR, an analysis of the root causes of discrimination in the access to health by sexual and gender minorities are important.

#### 3.4.2 A foundation

The RBA can also be a foundation for a people-centered approach to the development of a coherent framework of just and binding laws on SRHR. In practice, this means linking international human rights norms to national constitutions. This includes incorporation of human rights in national laws, policies and all development processes to ensure enjoyment of rights by all people.

#### 3.4.3 A process and outcome

This means emphasizing processes that are holistic, participatory, inclusive, and multi-sectoral in order to promote the empowerment of sexual minorities. A shift from negative reporting that focuses on culture, tradition and religion to one that emphasizes rights of gays, lesbians, and transgender people is important.

### 3.5 Summary of the Rights Based Approach

- It is an approach that seeks to put the protection and realization of human rights at the centre of programming and development, through the use of established human rights standards and principles.
- Hence, the goal of RBA is to enable rights holders direct their own development by means of enhancing their capacity to claim their rights, and the capacities of duty bearers to fulfill their obligations.
- Provides a framework that emphasises analysis, involvement, and empowerment of affected communities, accountability and transparency of State and non-state actors.
- Emphasizes and is characterised by acceptance, respect and tolerance.
- Human rights not only provides a normative framework of analysis but also brings into play a morally powerful and legally binding foundation with procedural, institutional and other accountability mechanisms.

Table 3.1: Compare the Rights Based Approach to other Programmes

Other Programmes	Rights Based Programmes
<ul style="list-style-type: none"> <li>• Treat people as beneficiaries/ recipients and our assistance as a gift;</li> <li>• Be output oriented focusing on assistance provided in sectors of need;</li> <li>• Limit community participation in program cycle;</li> <li>• Avoid discussion of human rights;</li> <li>• Strengthen local capacities for project sustainability;</li> <li>• Focus on easier to reach;</li> <li>• Address symptoms and local- level attitudinal or behavioral causes;</li> <li>• Avoid confrontation when people are abused or neglected.</li> </ul>	<ul style="list-style-type: none"> <li>• Treat people as rights-bearers and our assistance as their entitlement;</li> <li>• Be impact-oriented measuring change in overall ability to live with dignity;</li> <li>• Engage clients as full partners in program assessment and M and E</li> <li>• Promote rights awareness and dialogue;</li> <li>• Strengthen local capacities for engagement in public affairs;</li> <li>• Support the most marginalized;</li> <li>• Address root causes linked to injustices and discrimination at all levels;</li> <li>• Hold responsible actors not living up to their obligations accountable.</li> </ul>

The RBA can clearly be adapted to the media and how they should report SRHR relating to sexual minorities. The following Group Activity requires that you discuss with your friends how the RBA can be used in the reporting of gays and lesbian issues.

Table 3.2: Group Activity

1. Discuss how the RBA approach can be used in news reporting of the SRHR of gays, lesbians, and transgender people?
2. Look for newspaper cuttings for stories that represent the RBA approach on the SRHR of gays, lesbians, and transgender people?
3. Using role-playing as an approach to journalism, use the RBA to report the SRHR of gays, lesbians, and transgender people for your television channel in your country:
  - a) Lesbian raped and murdered in Khayelitsha in South Africa because of her sexual orientation
  - b) Gay man discriminated in accessing sexual health education and medication in a Lusaka hospital
  - c) Transgender person arrested for complaining at a Zimbabwe airport against discriminative immigration forms

Table 3.3: Examples of Rights & How they are violated for LGBTI Persons

LGBTI Rights	How the rights are violated
The right to equality in rights and before the law	In many countries, the LGBTI community is denied the right to equality before the law through special criminal provisions or practices on the basis of sexual orientation. The failure of many states to legally recognise the individual as the “right holder” with rights over control of their own lives and bodies could be interpreted as violating this right.
The right to non-discrimination	Denied by omitting sexual orientation or sex/gender identity in anti-discrimination laws, constitutional provisions or their enforcement.
The right to freedom from violence and harassment	Denied by omitting sexual orientation and sex/gender identity and gender expression in anti-discrimination laws, constitutional provisions or their enforcement.
Right to free development of one’s personality	Violated by the failure to recognise human diversity in all its forms and to develop legal protections for that diversity.
The right to life	Violated in states where the death penalty is applicable for sodomy. Denied by states which do nothing to curb a fear of difference that results in violence and death.
The right to be free from torture or cruel, inhuman or degrading treatment	Infringed upon by police practices in investigations or in the case of LGBTI persons in detention. Forced stripping of transgender people in detention is unfortunately all too common a form of torture.
The right to protection from arbitrary arrest and illegal detention	Occurs in a number of countries with individuals suspected of having a homo/bisexual identity. Detentions of dubious legal character are commonly carried out against transgender persons. Even where the law criminalises same-sex activity it can only be enforced if “caught in the act”. Arresting someone on the presumption of their sexuality is, to all intent and purposes, illegal.
The right to a fair trial	Often affected by the prejudices of judges and other law enforcement officials.
The right to privacy	Denied by the existence of ‘sodomy laws’ applicable to LGBTI persons even if the relation is in private between consenting adults.
The right to freedom of expression and freedom of association	Either denied explicitly by law, or LGBTI community may not enjoy them because of the homo/ transphobic climate in which they live.
The right to freedom of practice of Religion	Usually restricted in the case of LGBTI persons, especially in the case of the clergy advocating against them.

LGBTI Rights	How the rights are violated
The right to work	The most affected among the economic rights of LGBTI community, many LGBTI persons are fired because of their sexual orientation and sex/gender identity or discriminated in employment policies and practices.
The right to physical and mental health	Found to be in conflict with discriminatory policies and practices, some physicians' homo/transphobia, the lack of adequate training for health care personnel regarding sexual orientation, transgender or intersex issues can negatively impact on this right.
The right to form a family	This is denied by governments by not recognising same-sex families and by denying the rights otherwise granted by the state to heterosexual families who have not sought legal recognition, but still enjoy several rights.
The right of protection against separation from parents	Children can also be denied this right based on a parent's sexual orientation and/or sex/gender identity or gender expression.
The right to education	LGBTI students may not enjoy this right because of prejudices and violence created by peers or teachers in schools. The high rate of school drop-out amongst LGBTI youth is a direct consequence of bullying and discrimination.
The right to defend these rights	Violated by state's failure to protect LGBTI defenders, repeal laws that are used to discriminate against LGBTI organisations and which prevent organisational activities from being carried out.

Source: *Protection Manual For LGBTI Defenders published by Protection International, 2010*<sup>13</sup>

### 3.6 Human rights and their legal status

Human rights are accorded to all human beings. However, in order for the rights to be enforced, they must be enshrined in international, regional or national laws.<sup>14</sup>

#### 3.6.1 International Law

Human rights have been established in international Covenants and Treaties. Countries that have signed these covenants have an obligation to respect, protect, and fulfill these rights. Only covenants and treaties are binding by law while declarations are not (e.g. UNGASS Declaration of Commitment). The Universal Declaration of Human Rights (UDHR) of 1948 was the first comprehensive human rights instrument to be proclaimed by a universal international organization. The UDHR is part of what is known as "International Customary Law" because of its wide use and universal acceptance. Its binding force is not legal but moral.

<sup>13</sup> Protection Manual For LGBTI Defenders published by Protection International, 2010

<sup>14</sup> See Appendix 1

In 1966 the UN General Assembly adopted two treaties to strengthen the UDHR by converting the principles it contains into legal obligations for states that ratify them. These are, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Since then a number of conventions have been signed. The most relevant for this discussion include the following:

- International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- Convention on the Rights of the Child (1989)
- Convention on the Rights of Persons with Disabilities (2006)

Once a country has signed a convention, in order for it to be legally binding, the country must go through a process of ratification or accession.

Table 3.4: Information Box on Signature, Ratification & Accession

### Signature

Signature constitutes a preliminary endorsement of the Convention or Protocol. Signing the instrument does not create a binding legal obligation but does demonstrate the State's intent to examine the treaty domestically and consider ratifying it. While signing does not commit a State to ratification, it does oblige the State to refrain from acts that would defeat or undermine the treaty's objective and purpose.

### Ratification or Accession

Ratification or accession signifies an agreement to be legally bound by the terms of the Convention. Though accession has the same legal effect as ratification, the procedures differ. In the case of ratification, the State first signs and then ratifies the treaty. The procedure for accession has only one step—it is not preceded by an act of signature.

The formal procedures for ratification or accession vary according to the national legislative requirements of the State. Prior to ratification or accession, a country normally reviews the treaty to determine whether national laws are consistent with its provisions and to consider the most appropriate means of promoting compliance with the treaty.

Most commonly, countries that are promoting the Convention sign shortly after it has been adopted. They then ratify the treaty when all of their domestically required legal procedures have been fulfilled. Other States may begin with the domestic approval process and accede to the treaty once their domestic procedures have been completed, without signing the treaty first.

Both ratification and accession involve two steps. First, the appropriate national organ of the country—Parliament, Senate, the Crown, Head of State or Government, or a combination of these—follows domestic constitutional procedures and makes a formal decision to be a party to the treaty. Second, the instrument of ratification or accession, a formal sealed letter referring to the decision and signed by the State's responsible authority, is prepared and deposited with the United Nations Secretary-General in New York.

Source: UNICEF

At a regional level, key documents to include is the African Charter on African & People's Rights, the African Charter on the Rights & Welfare of the Child and the SADC Protocol on Health. It is important to emphasise that once a country ratifies a convention, it becomes legally binding and the State has an obligation to enforce the convention. In a country like Zambia, components of the conventions have to be domesticated into local legislation through Parliament. In Namibia, once the country ratifies a convention, it becomes part of national law.

Table 3.5: Ratification status of International & Regional Treaties as of 2007

	Angola	Malawi	Mozambique	Zambia
International Covenant on Civil & Political Rights	√	√	√	√
International Covenant on Economic, Social & Cultural Rights	√	√		√
Convention on the Elimination of All Forms of Discrimination Against Women	√	√	√	√
Convention on the Rights of the Child	√	√	√	√
African Charter on Human and People's Rights	√	√	√	√
African Charter on the Rights & Welfare of the Child	√	√	√	
Treaty of the Southern African Development Community		√		√
SADC Protocol on Health		√		

*Source: Human Rights Protected? Nine Southern African Country Reports on HIV, AIDS and the Law, Pretoria University Law Press, 2007 & Status of Ratification as at 13th February 2013 (For international instruments)*

With regard to human rights and international law, states have three main obligations. These are to respect, promote and fulfill human rights:

**To Respect:** Refers to the duty of the state not to violate rights by its actions. This is by refraining from interfering directly or indirectly with the enjoyment of human rights.

**To Promote:** refers to the duty of the state to prevent human rights violations by others by preventing third parties from interfering with or violating human rights. This means taking the necessary measures to prevent individuals or groups from violating the rights of others.

**To Fulfill:** Refers to the duty of the state to act in order to ensure that rights can be enjoyed by adopting appropriate legislative, administrative, budgetary, judicial, promotional and other measures to facilitate the full realization of human rights. This means taking the necessary measures to ensure that each person has the opportunity to satisfy their entitlements as guaranteed in human rights instruments.

### 3.7 Five Core Legal Obligations of States with regard to LGBTIs

The United Nations Human Rights Office of the High Commissioner (UNHRHC) has articulated five core obligations with regard to LGBTIs. These are linked to existing international human rights conventions or treaties. They are mainly to achieve the following:

- Protect individuals from homophobic and transphobic violence
- Prevent torture and cruel, inhumane and degrading treatment
- Decriminalise homosexuality
- Prohibit discrimination
- Respect freedom of expression, association and peaceful assembly

The International Conference on Population & Development (ICPD) and Programme of Action (1994) was the first and most comprehensive international document to articulate the issues of reproductive health, rights and sexual health. The Beijing Platform of Action (1995) was the first to articulate “sexual rights”. The International Coalition of Women with AIDS has adapted the following definitions of sexual rights, reproductive health and reproductive health from the definitions of the IPCD and Beijing Platform of Action.

- Sexual Rights: The rights of all people to decide freely and responsibly on all aspects of their sexuality, including promoting and protecting their sexual health, be free from discrimination, coercion or violence in their sexual lives and in all sexual decisions, expect and demand equality, full consent, mutual respect and shared responsibility in sexual relationships
- Reproductive Health: The complete physical, mental and social well-being in all matters related to the reproductive system including a satisfying and safe sex life, capacity to have children and freedom to decide if, when and how often to do so
- Reproductive rights: The rights of couples and individuals to decide freely and responsibly the number and spacing of their children, to have the information, education and means to do so, attain the highest standards of sexual and reproductive health and, make decisions about reproduction free of discrimination, coercion and violence<sup>15</sup>.

Sexual rights, which are less often understood compared to reproductive rights, were further elaborated at the 14th World Congress of Sexology (Hong Kong, 1999). The Congress adopted what they called Universal Declaration of Sexual Rights, which include: The right to sexual freedom, sexual , sexual , and safety of the sexual body, the right to sexual , right to sexual pleasure, etc. This Declaration gave influence to , especially on the idea of each person's , right to issues of , including sexual and . It is important to note that although this declaration is not at the level of the UN conventions, it is instructive in understanding what sexual rights are or might include.

In 2011, the Human Rights Council in Geneva adopted resolution 17/19 on human rights, sexual orientation and gender identity. It is important to note, however, that protection on the basis of sexual orientation or gender identity does not require the creation of new rights. It requires enforcement of the universally applicable guarantee of non-discrimination in the enjoyment of all rights (Source: “Born Free & Equal” UNHRHC).

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### 3.7.1 Why is this important for the media to know?

The news media must understand the mechanisms by which human rights become enforceable at country level. That way, the media can challenge the state to domesticate international law where this hadn't been done and to uphold the rights as contained in the conventions. In the case of SRHR, the media must understand where and how the rights are articulated and to what extent they are reflected in national legislation. They must also be able to link the human rights violations against LGBTI communities and other marginalized groups to the limited observance of international human rights principles and national laws.

### 3.7.2 Legal & Policy Environment

Below is a discussion of the National HIV policies, and the Reproductive Health policies. It is important for journalists to audit how enabling or restrictive the legal and policy environments are in Southern Africa.

- **Angola**  
Articles 70 & 71 of the Penal Code impose criminal sanctions on those who practice acts "against the order of nature". However there is no specific reference to same sex relations and there have been no related prosecutions. The draft Penal Code in Angola does not contain such reference and follows the Portuguese trend of providing wide-scale protection under criminal law against discrimination based on sexual orientation.
- **Malawi**  
Malawi has been a constitutional democracy since 1994. The Constitution is the supreme law of the land. Malawi criminalises consensual sexual relationships between men. Sections 153 and 156 of the Penal Code prohibit unnatural offences and indecent practices between males.

The National AIDS Policy in Malawi speaks to engaging in educating and sensitizing all stakeholders including religious groups and traditional leaders with a view to decriminalising same sex sexual practices in the long run. It also urges the government that HIV and STI prevention, treatment and care services are provided without discrimination including to people in same sex relations.

Malawi generated a lot of attention regionally and internationally during the case of Tiwonge Chimbalanga & Steven Monjeza, two gay men who held a marriage ceremony and were subsequently arrested. They were eventually pardoned after a lot of pressure on the Malawian government. President Joyce Banda has suspended the laws on homosexuality to facilitate a process of debate on the matter.

- **Mozambique**  
Mozambique's legal system is such that once conventions are ratified, they automatically enter into force and in most cases there is no need to go through the process of domestication. Mozambique's legal system is a civil law system with the Constitution being the supreme law of the land.

Article 71 of the Penal Code makes sodomy or consensual same sex relations a crime. It prohibits the habitual practice of acts against the order of nature. Like Angola, the Mozambican Penal Code

contains reference to vices against nature but these references have not led to prosecution of same-sex sexual conduct, although their existence creates that risk.

At its recent Universal Periodic Review by the Human Rights Council, Mozambique argued that homosexuality is not criminalised in its Criminal Code.

- **Zambia**

Zambia has a dual legal system that recognizes both statutory and customary law. The Constitution is the supreme law of the land.

Sodomy and a consensual same-sex relations are criminalized in Zambia. Section 155 of the Penal Code refers to unnatural acts against the order of nature. Section 158 of the Penal Code further prohibits indecent practices between men.

The National AIDS Strategic Framework 2011-2015, acknowledges sex between men as one of the key drivers of HIV and notes the need to address barriers to access for key populations.

The media in Zambia has reflected a lot of hate speech against LGBTIs including in the case of Paul Kasonkomona, a gay rights activist advocating for gay rights and the gay couple of Kapiri.

### 3.8 Impact of the legal environment on access to health in general & SRHR

It is well documented that punitive laws have a negative health impact for LGBTIs and other marginalized groups. In Zambia, for instance, laws on same sex relations have resulted in a lack of comprehensive HIV services for men who have sex with men. Health personnel are also not trained to provide the appropriate services and counselling required. The absence of tailored services coupled with stigma and discrimination leads to poor health seeking behavior that ultimately leads to poor health outcomes.

### 3.9 Public Health & Rights Based Approach to Reporting on SRHR

Journalism is founded on the philosophical underpinnings that the RBA promulgates, i.e., that in order for a human being to live a life of dignity, there are fundamental rights that must be protected, promoted and fulfilled. Specifically, this involves exercising and promoting the exercise of the freedom of expression as well as giving a voice to the voiceless. This section aims to discuss practical aspects of applying public health and human rights principles to reporting on SRHR. A good journalist must understand the RBA and reflect it in the way they report. Journalists must contextualize issues and strive for objectivity and balance. Because human rights are more than just legal issues, there must be a reflection on the impact of the promotion or the abuse of human rights on real people's lives.

Journalists or the media in general have a role to increase public awareness, educate the public on their rights and help in monitoring human rights. There are various ways of reporting from a RBA. One way is to focus on three levels of intervention, i.e. addressing human rights violations, addressing structural issues that perpetuate violations as well as addressing the capacities of rights holders and duty bearers.

With specific regard to LGBTI's Public Health & Human Rights Issues, reporting could focus on the following:

- Addressing gaps and violations: Reporting on violations related to SRHR and LGBTI. News reports could be done on the limited access to prevention interventions for MSM.
- Addressing legislation, government structures and mechanisms, culture and anything structural that perpetuates violations: Reporting on the effect of punitive laws that make access to health a challenge. This could include influencing law and policy reform through the use of evidence.
- Addressing the capacity of rights holders to claim their rights and duty bearers to play their role: Reporting on positive outcomes of human rights training for communities or parliamentarians on SRHR

From a public health perspective, journalists must show how the health of LGBTI and other marginalized groups is actually linked to the health of the general population.

### 3.10 Conclusion

This Chapter has explored International Human Rights Instruments and demonstrated how they are not discriminatory to sexual minorities. It has argued that the qualification for the enjoyment of all rights is that one must simply be a human being. As such, LGBTIs are no less human and less deserving of any rights enjoyed by the heterosexuals. The Chapter has also explored national laws to demonstrate levels of tolerance of sexual minorities by different countries in Africa.<sup>16</sup>

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<sup>16</sup> See Appendix 2 for Organisations providing support to LGBTIs

# References

Hausermann, J. (1999) *A Human Rights Approach to Development: Some Practical Implications for Water Aid's Work*, London: City University

InsightShare, (1990) *Orientation to a Rights-Based Approach*, Johannesburg

Quansah E.L. (2007) *Human Rights Protected? Nine Southern African Country Reports on HIV, AIDS and the Law*, Pretoria: Pretoria University Law Press,

# Appendices

## Appendix 1: International LGBTI Rights and violations

LGBTI Rights	How the rights are violated
The right to equality in rights and before the law	In many countries the LGBTI community is denied the right to equality before the law through special criminal provisions or practices on the basis of sexual orientation. The failure of many states to legally recognise the individual as the “right holder” with rights over control of their own lives and bodies could be interpreted as violating this right.
The right to non-discrimination	Denied by omitting sexual orientation or sex/gender identity in anti-discrimination laws, constitutional provisions or their enforcement.
The right to freedom from violence and harassment	Denied by omitting sexual orientation and sex/gender identity and gender expression in anti-discrimination laws, constitutional provisions or their enforcement.
Right to free development of one’s personality	Violated by the failure to recognise human diversity in all its forms and to develop legal protections for that diversity.
The right to life	Violated in states where the death penalty is applicable for sodomy. Denied by states which do nothing to curb a fear of difference that results in violence and death.
The right to be free from torture or cruel, inhuman or degrading treatment	Infringed upon by police practices in investigations or in the case of LGBTI persons in detention. Forced stripping of transgender people in detention is unfortunately all too common a form of torture.
The right to protection from arbitrary arrest and illegal detention	Occurs in a number of countries with individuals suspected of having a homo/bisexual identity. Detentions of dubious legal character are commonly carried out against transgender persons. Even where the law criminalises same-sex activity it can only be enforced if “caught in the act”. Arresting someone on the presumption of their sexuality is to all intent and purposes illegal.
The right to a fair trial	Often affected by the prejudices of judges and other law enforcement officials.
The right to privacy	Denied by the existence of ‘sodomy laws’ applicable to LGBTI persons even if the relation is in private between consenting adults.
The right to freedom of expression and freedom of association	Either denied explicitly by law, or LGBTI community may not enjoy them because of the homo/ transphobic climate in which they live.
The right to freedom of practice of religion	Usually restricted in the case of LGBTI persons, especially in the case of the clergy advocating against them.
The right to work	The most affected among the economic rights of LGBTI community, many LGBTI persons are fired because of their sexual orientation and sex/gender identity or discriminated in employment policies and practices.
The right to physical and mental health	Found to be in conflict with discriminatory policies and practices, some physicians’ homo/transphobia, the lack of adequate training for health care personnel regarding sexual orientation, transgender or intersex issues can negatively impact on this right.

LGBTI Rights	How the rights are violated
The right to form a family	This is denied by governments by not recognising same-sex families and by denying the rights otherwise granted by the state to heterosexual families who have not sought legal recognition, but still enjoy several rights.
The right of protection against separation from parents	Children can also be denied this right based on a parent's sexual orientation and/or sex/gender identity or gender expression.
The right to education	LGBTI students may not enjoy this right because of prejudices and violence created by peers or teachers in schools. The high rate of school drop-out amongst LGBTI youth is a direct consequence of bullying and discrimination.
The right to defend these rights	Violated by state's failure to protect LGBTI defenders, repeal laws that are used to discriminate against LGBTI organisations and which prevent organisational activities from being carried out.

Source: *Protection Manual For LGBTI Defenders* published by *Protection International*, 2010<sup>17</sup>

## Appendix 2: LGBTI support and service organisations

Place	Name	Services	Contact
Lusaka, Zambia	SAfAIDS	Advocacy, communication and social mobilisation strategies to influence changes in policy and social practices. Address gender equality and the rights of women, girls and key population groups, to access sexual reproductive health services and rights by confronting complex issues like culture, human rights and stigma. LGBTI IEC materials and sensitization training	Country Office - Zambia: Plot No. 4, Lukasu Road, Rhodes Park, Lusaka, Zambia   Tel: +260 211 257 652   Fax: +260 125 7652  saf aids@saf aids.co.zm
Lusaka, Zambia	Friends of Rainka	The organisation aims to protect, advance and promote the Human Rights of Zambian sexual minorities by engaging law and policy makers in legal reform, build capacity to undertake effective advocacy, establish member services based on identified needs and priorities, and to research, gather, analyze and disseminate information.	ranikazambia@gmail.com
Lusaka, Zambia	Trans Bantu Zambia	TBZ is a renowned Zambian NGO Transgender and Intersex organisation that undertakes evidence based advocacy and other related interventions to promote and protect Transgender and Inter sex persons' rights through legal and policy. Library, psychosocial support and HIV prevention initiatives.	transbantuzambia.weebly.com
Malawi	CEDEP	Addressing the needs, improving the lives, and providing support for some of Malawi's most neglected minority groups through civic education, training, capacity building, networking and research.	<a href="http://www.cedepmalawi.org/">http://www.cedepmalawi.org/</a>
Maputo, Mozambique	Lambda	Promoting the civic, human and legal rights of LGBTI citizens, through public awareness and education, advocacy and social dialogue. LAMBDA's target groups are all LGBTI citizens, civil society organizations, political and governmental institutions, social groups, such as the youth, teachers, medical doctors, and the general public.	Telefax: +258 21 304816 <a href="http://www.lambda.org.mz">www.lambda.org.mz</a> Av. Vladimir Lenine 1323, Bairro Central, Maputo, Mozambique
Maputo, Mozambique	SAfAIDS	Advocacy, communication and social mobilisation strategies to influence changes in policy and social practices. Address gender equality and the rights of women, girls and key population groups, to access sexual reproductive health services and rights by confronting complex issues like culture, human rights and stigma. LGBTI IEC materials and sensitization training	Country Office - Mozambique: Av. Paulo Samuel Kankombe n.2051 R/C , Maputo, Mozambique   Telefax: +259 2130 2623   saf aids@teledata.mz

<i>Place</i>	<i>Name</i>	<i>Services</i>	<i>Contact</i>
Angola			
Pretoria, South Africa	OUT LGBT Wellbeing	LGBTI Psychosocial Support, Health Services, Clinic, Research, Advocacy, Capacity Building, Peer Education & Sensitisation Training	+27 (0)12 430 3272 Helpline 0860 688 688 (OUT OUT) info@out.org.za www.out.org.za 1081 Pretorius Str, Hatfield, Pretoria
Durban, KZN, South Africa	Durban Lesbian & Gay Community & Health Centre	LGBTI Psychosocial Support and Health Services, Advocacy & Sensitisation Training	+27 (0)31 301 1245 info@gaycentre.org.za www.gaycentre.org.za 320 West St, Durban
Pietermaritzburg, KZN, South Africa	Gay & Lesbian Network	LGBTI Psychosocial Support, Health Services, Research, Advocacy & Sensitisation Training	+27 (0)33 342 6165 info@gaylesbiankzn.org anthonyw@telkomsa.net 185 Burger St, Pietermaritzburg
Soweto, Jhb, South Africa	Simon Nkoli Centre for Men's Health	Men's (MSM) Health Services & Peer Education	+27 11 989 9865 info@health4men.co.za www.health4men.co.za First Floor, New Nurses Home, Chris Hani Baragwanath Hospital, Soweto, Johannesburg
Cape Town, South Africa	Ivan Toms Centre for Men's Health	Men's (MSM) Health Services, Peer Education & Sensitization Training	+27 21 447 2844 +27 21 421 6127 info@health4men.co.za www.health4men.co.za Top Gate, Woodstock Hospital, Victoria Walk Road, Woodstock, Cape Town or 1st Floor Anatoli Building, 24 Napier St, De Waterkant, Cape Town
Cape Town, South Africa	Triangle Project	LGBTI Psychosocial Support, Health Services, Clinic, Research, Advocacy & Sensitisation Training	+27 (0)21 448 3812 Helpline: +27 21 712 6699 info@triangle.org.za www.traingle.org.za Unit 29, Waverley Business Park, Dane Street, Mowbray Cape Town

<i>Place</i>	<i>Name</i>	<i>Services</i>	<i>Contact</i>
Cape Town, South Africa	SWEAT	Sex worker Advocacy, Research, Outreach and Development	+27 (0) 21 448 7875 0800 60 60 60 www.sweat.org.za 19 Anson Street, Observatory 7925, Cape Town.
Cape Town, South Africa	Genderdynamix	Transgender Advice Information & Support, Advocacy & Sensitisation Training	www.genderdynamix.org.za
Cape Town, South Africa	Intersex SA	Intersex Advice Information & Support, Advocacy & Sensitisation Training	Tel: +27 (0)82 788 4205 +27 (0)82 788 4205 www.intersex.org.za PO Box 12992, Mowbray 7705 Cape Town, South Africa
Soshanguve, South Africa	Transgender & Intersex Africa	Transgender Advice Information & Support & Advocacy	transgender.intersex@gmail.com +27 (0) 73 432 4499

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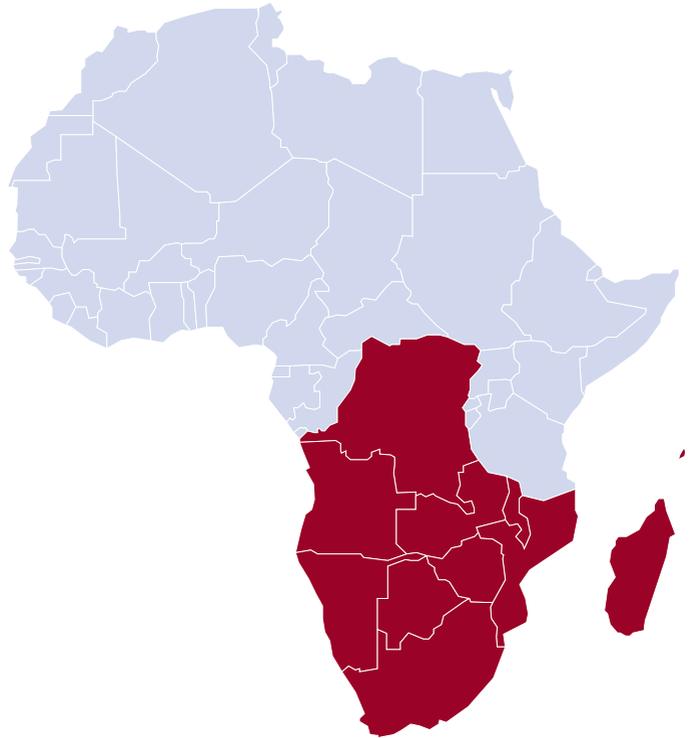
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**Vision:** A Southern African community  
that drives its own development