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General situation of LGBTI people

In Zimbabwe, the society's attitudes towards lesbian, gay, bisexual, transgender and intersex (LGBTI) persons are characterised by ignorance and homophobia. Homosexuality is often believed not to be a part of African culture and against the teachings of churches; a number of religious leaders have spoken out against LGBT persons' rights in Zimbabwe over the years. Since both religion and culture are fundamental to the values and attitudes of Zimbabwean society, LGBTI persons find themselves excluded socially, culturally, religiously, economically and politically. For lesbian, bisexual, transgender and intersex (LBTI) women the situation is exacerbated further by the social structures within Zimbabwean society, where family and marriage are central and often the site of discrimination, inequality and unequal power. Members of the LGBT community have been denied employment on the basis of their sexual orientation, both women and men have been denied custody, guardianship or access to their children on the basis of their sexual orientation and transgender persons have experienced public exposure and discrimination in the press.

Harassment is common in public places such as nightclubs, bars and churches alike. However, the attitude of the authorities and the police towards homosexuality makes the perpetrators get away with it. So members of the LGBTI community are often reluctant to make complaints against the police or to pursue cases of harassment.

Although negative articles have been published in the public media, more balanced articles continue to be publicised in the private media as well as on Internet platforms, such as blogs and online news sites. These articles highlight the plight of LGBTI persons and the challenges they face.

Legal and human rights instruments

Constitutional provisions and legal framework

Same sex sexual acts between men are restricted under Criminal Law, Codification and Reform Act and

liable to fine or one year in prison: "*Any male person, who with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or not exceeding level fourteen or imprisonment for a period not exceeding one year or both.*" It is unclear what exactly would be regarded criminal in court, as 'indecent act' and 'reasonable person' is rather undefined." For now there is no reference to women in the law, while lesbian women and transgender persons also are affected by the criminalisation in form of discrimination with reference to the law.

Following this, discrimination on the grounds of on sexual orientation and gender identity is not prohibited, but on the contrary encouraged and sponsored by the state through hate speeches and vilification in state media. The government has a long history of speaking against the inclusion of LGBTI rights. The President, a number of political leaders, ministers, army generals, police chiefs and members of parliament, including the first lady, have spoken out against the rights of LGBTI persons.

Hate speech was increasing during the Constitution making process in 2012. The government had proposed amendments in the draft to the constitution, explicitly prohibiting 'homosexuality' and same sex marriages, which would be a step back regarding LGBT rights. President Mugabe urged voters in his birthday speech 'to reject gay rights in a new constitution'. During the Constitution making process, the LGBT community were subjected to discriminatory and derogatory attacks, undermining the 'people-centred' process supported and urged by international donors and other countries. Eventually the Constitution in Zimbabwe turned out silent on sexual relations but criminalises gay/lesbian marriage. Section 4.78 of the draft constitution reads: 'Persons of the same sex are prohibited from marrying each other'. Activist are however rather satisfied with the

provisions on freedom of speech, freedom of expression and freedom of thought as guaranteed in the new Constitution of Zimbabwe, Articles 18, 19 and 20 respectively.

Despite these constitutional provisions, the discrimination against the LGBT community continues on the basis of the Criminal law, Codification and Reform Act. Furthermore, laws, such as the Access to Information Act, Censorship Act, Protection of Privacy Act, and the Public Order and Security Act, have been used to harass LGBTI persons or preventing organisations to hold member meetings. The laws are still seen to be overriding the constitution.

Regional or International Human Rights instruments

Zimbabwe has ratified several UN Human Rights Conventions, including CCPR, CEDAW, ECOSOC that are of relevance for LGBTI rights. Organisations can report violations in the UPR processes, UN Special Rapporteurs for violations of specific human rights or to ECOSOC or CEDAW. So far Zimbabwe has not accepted any UPR recommendations on sexual orientation and identity.

Zimbabwe is also member of the African union and citizens and NGOs of Zimbabwe may file complaints to the African Commission on Human and Peoples' Rights. This Commission has adopted a resolution (in May 2014) that can be used in dialogue and advocacy. The resolution

- **Condemns** the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity;
- **Specifically condemns** the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity;
- **Calls on** State Parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection

activities, including the rights of sexual minorities; and

- **Strongly urges** States to end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.

In the UN, Zimbabwe has actively voted against the amendment to reinsert sexual orientation into the convention of 'extrajudicial summary or arbitrary executions' in 2008 and the declaration in the UN General Assembly of December 2008 which confirmed that international human rights protections include sexual orientation and gender identity and

In February 2012 shadow reports were submitted to the Committee for the 51th session of Committee on the Elimination Discrimination against Women (CEDAW). The LGBTI organisation GALZ's submitted a broader shadow report, describing how governmental attitudes create extreme forms of poverty and denial of access to government services such as health and safety for LGBTI persons.

Sexual and Reproductive Health and Rights, HIV/AIDS and Gender Based Violence

Violence against LGBTI persons is often targeting persons of non-conforming gender identity or sexuality. Lesbians with masculine expression and transgender persons are at risk of being raped and others that have non-conforming gender expressions risk violence due to their gender expression. LGBTI persons are at risk to come under scrutiny by health care workers who are both ignorant about and biased against sexuality or gender identity. Conservative forces also use the threat of homosexuality as an excuse to reverse many of the gains made by the women's movement in Zimbabwe. This has resulted in a backlash, not only on sexual minorities and sex workers, but also on abortion and sexual reproductive health rights in general.

The criminalisation affects the LGBTI community's access to healthcare services, information and resources. The problems of disclosing sexual orientation results in a major barrier to getting accurate, appropriate and relevant treatment for HIV/AIDS. Also, there is a lack of research targeting women who have sex with women (WSW) and LGBTI women when it comes to HIV/AIDS. Research available indicates that Men Who have Sex with Men, MSM, are the sources for 7% of new infections and are targeted as a key population to be prioritised. More profound studies, done in Botswana and Malawi, estimate that HIV prevalence among MSM is between 20 and 33 per cent and it can be estimated that the numbers are similar in Zimbabwe.

Thanks to advocacy efforts, the existence of MSM was acknowledged in the Zimbabwe National AIDS Strategic Plan (ZNASP) 2006-2010, by making reference to MSM, although no national programmes were recommended. In the second Plan, ZNASP II 2011-2015, MSM is targeted as one of priority populations for condom distribution. The reference was important firstly because admitting that MSM exist in Zimbabwe was a significant change in the pattern of Government thinking. Secondly, it recognised that the criminalising of sex between men prejudices efforts to reduce HIV in Zimbabwe. It also suggested that there was a need to conduct research into MSM and develop public health interventions based on the findings.

Civil society organisations and institutions active in LGBTI field

Gays and Lesbians of Zimbabwe (GALZ) is the largest LGBT organisation in Zimbabwe. It was formed in 1990. In recent years the organisation has been networking broadly with other human rights organisations, such as the Women's Movement AIDS initiatives, SafAids, Sexual Rights Centre, Say What and other regional associates. The objective is to integrate LGBT rights with the other basic human rights issues and by increasing awareness in as many forums as possible. In the process of redrafting the Constitution, GALZ has tried to get attention to the current discrimination of those identified to be homosexual and their need for protective legislation, with-

out success, but rather resulting in repression against the organisation.

Another organisation in Zimbabwe that openly works with the LGBT community is the Sexual Rights Centre. The Sexual Rights Centre uses a rights-based approach that seeks to strengthen the capacity and leadership within the LGBT movement. It is lobbying under the broader framework of sexual rights and has created numerous opportunities for cooperation with civil society and particularly the media.

In the recent years, organisations like GALZ and Sexual Rights Centre have been exposed to raids and their staff have been arrested and violated.

There are a number of HIV/AIDS organisations addressing HIV amongst the MSM community. For example the Zimbabwe National Network of PLHIV (ZNNP+), groupings of religious leaders affected by HIV who have supported positive LGBT persons with income generating projects (ZINERELA and Anerella), and Zimbabwe AIDS Network, which focuses mainly on influencing policy change in the Health sector.

A number of other organisations have become involved with LGBT rights during the recent years:

- Gays and Lesbians of Zimbabwe (GALZ): <http://www.galz.co.zw/>
- Katswe Sis-tahood: <http://www.katswesistahood.org/>
- SafAids: <http://www.saf aids.net/category/saf aids-resource-centres-network/country-focus/zimbabwe>
- Sexual Rights Centre (SRC): <http://www.sexualrightscentre.com/>
- Zimbabwe Lawyers for Human Rights (ZLHR) provides free legal support to LGBT persons;
- National Association of Non-Governmental Organisations (NANGO) has been monitoring cases of rights violations aimed at organisations including GALZ;

- Crisis in Zimbabwe Coalition, Students Solidarity Trust and Young women leadership initiative all participate in documenting violations of rights;
- Pakasipiti and VOVL (main focus on LBT only)
- Katzwe Sisterhood is a youth feminist organisation in Harare including LGBT women in their organisation.

What Sweden can do? – 6 questions for discussion

Within the broader context of support to democracy and human rights in Zimbabwe, Sweden has a great opportunity to include issues related to the rights of LGBTI persons and their access to justice. When addressing LGBTI in a non-supportive government context as Zimbabwe, it is very important to consult LGBTI organisations in the country to make sure not to overrule their agenda. Questions to consider:

- Could Sweden do more to stay updated on the legal and security situation and the judgements and priorities of the LGBTI movement? Could Sweden do more in terms offering protection to activists and attend court cases?
- Could Sweden do more to offer protection and to support capacity development LGBTI organisations? To include LGBTI organisations in professional and cultural networks?
- Could Sweden do more to encourage cooperation and synergies between LGBTI organisations

mainstream Human Rights organisations nationally and regionally?

- Could Sweden do more to encourage other donors and Swedish NGO's to increase the work on LGBTI rights? E.g. could Swedish faith based organisations be supported to engage with LGBTI rights in Zimbabwe?
- Could Sweden do more to include gay, lesbian, bisexual, trans and intersex persons in the supported SRHR initiatives? In gender equality and gender based violence initiatives? In HIV/AIDS efforts?
- In the dialogue concerning private sector development and entrepreneurship, could Sweden do more to bring up anti-discrimination, codes of conduct and labour legislation, with the aim of reducing discrimination against people based on sexual orientation or gender identity?

More specific advice and support measures, as well as contact information to mentioned groups, can also be provided through ILGA or RFSL, should the Embassy wish for a dialogue. For further advice on dialogue regarding LGBT issues, download the [Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#).

Also refer to the [EU tools](#) and guidelines.

General references

An introduction in how to include LGBT in programming in development, by RFSL:

http://www.rfsl.se/public/LGBT_in_development.pdf

Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue' and the Ministry of Foreign Affairs [Dialogue brief](#).

EU news, tools and guidelines: http://eeas.europa.eu/human_rights/lgbt/index_en.htm

The EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#). These Guidelines:

- are for use by EU staff around the world and by EU countries' national embassies in connection with human rights country strategies and reports, demarches and public statements, individual cases, court hearings and prison visits, political dialogues, international mechanisms and efforts by civil society
- provide a checklist for assessing LGBTI human rights issues
- explicitly cover the rights of transgender and intersex persons

References specifically related to Zimbabwe

GALZ, 2012, *Report on Discrimination against Women in Zimbabwe based on Sexual Orientation and Gender Identity*, CEDAW Shadow Report: <http://sodraafrikaidag.se/wp-content/uploads/2012/02/CEDAW-Shadow-report-GALZ.pdf>

ILGA, 2014, *State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults*, (see updated version at www.ilga.org)

ILGA Africa: <http://africa.ilga.org>

Zimbabwe National Strategy on HIV and AIDS (2011-2015):

<http://www.nac.org.zw/sites/default/files/Zimbabwe-National-HIV-AIDS-Strategic-2011-2015-Plan.pdf>

UNHCR Ref World Ethiopia: *Declines to accept UN member states' recommendations on free expression*, 8 July 2014, <http://www.refworld.org/docid/53d0e86f4.html>

The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, guidance notes have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.