



## UNIVERSAL PERIODIC REVIEW: ZIMBABWE

26<sup>th</sup> Session- October 2016

Summary by the Sexual Rights Centre and GALZ

### Contextual Analysis

During Zimbabwe's first UPR Cycle in 2011, several stakeholder reports noted that the criminalization of consensual sexual intercourse and other physical sexual acts between males of a consenting age regarded as indecent by a reasonable person constituted a violation of gay, lesbian and bisexual individuals' rights. France subsequently issued a recommendation that Zimbabwe decriminalize consensual same-sex relations between males of a consenting age, which Zimbabwe noted.

The human rights situation of LGBTI individuals and sex workers in Zimbabwe has not improved significantly since Zimbabwe's first review. Criminalization, in conjunction with state-sponsored hate speech, has meant that sex workers and LGBTI individuals are highly stigmatized, discriminated against when accessing public services, and at risk of arbitrary detention, police raids, torture, and state-sanctioned violence. In addition, the Constitution of Zimbabwe, which was gazetted as a law on 22 May 2013 explicitly, prohibits same-sex marriages in terms of section 78 (3).

This hostile political climate contributes to the stigmatization and isolation of LGBTI individuals and sex workers within society, as family and community members exert physical, sexual, and verbal abuse towards these individuals.

**Legal Context:** In July 2006, Zimbabwe's legislature expanded the common law definition of "sodomy", which is the performance of anal sexual intercourse between consenting male persons to include any consensual act involving physical contact other than anal sexual intercourse between males that would be regarded by a reasonable person to be an indecent act. The LGBT community in Zimbabwe is not explicitly protected in the Constitution. These challenges are compounded by the homophobic environment created by the country's leadership and by state-sponsored media, both of which frequently degrade sexual minorities and sex workers and have, on several occasions, promoted violence against these groups. While the actual act of engaging in extra marital sexual intercourse or other sexual conduct for money or reward is not a crime, sex work is suppressed through laws that criminalize publicly soliciting for the purposes of "prostitution" and living off or facilitating "prostitution".

**Policy context:** Law enforcement officials, healthcare service providers, and other institutions are reluctant to work with sexual minorities and sex workers as a result of criminalization and prejudice. There is very limited training, sensitization or appreciation of the issues affecting LGBTI persons and sex workers. Further, sex workers and LGBTI persons have little access to recourse when they are subjected to violence, rape, torture, or other forms of mistreatment and abuse at the hands of service providers and law enforcement officials.

**Social context:** Societal stigma and discrimination, perpetuated by the political leadership, has resulted in the violations of many of the rights of the LGBT community and of sex workers. In addition to harassment, invasions of privacy, employment discrimination, and social isolation, sex workers and LGBTI individuals face disproportionately high risks of rape, sexual violence, and physical violence.

However, Zimbabwe's treatment of its LGBTI community directly contradicts its commitment to the preservation of equal rights and principles of equality and non-discrimination. While Zimbabwe's Constitution guarantees equality of its citizens and



freedom from unfair discrimination, in reality it fails to prohibit discrimination based on sexual orientation and gender identity. Homophobia permeates Zimbabwean society unchecked and manifests itself in different forms, ranging from verbal and physical assault, to discrimination of LGBTI people based on their sexual orientation or gender identity. The refusal by duty bearers and policymakers to engage with and rectify Zimbabwe's flagrantly negative approach to basic human rights for LGBTI individuals causes public intolerance to become deeply ingrained in Zimbabwean community and reinforces the general stigmatization of sexual minorities in society.

#### **Recommendations from LGBTI and sex work communities**

1. Repeal the crime of sodomy as fully described under section 73 Criminal Code and Reform Act, 2006, (Chapter 9:23), to ensure that same-sex activity between consenting adults is not subject to criminal sanctions.
2. Condemn human rights violations committed against persons because of their real or imputed sexual orientation, gender identity and expression or real or imputed sex work status, and ensure adequate protection for LGBTI persons and sex workers.
3. Conduct swift, impartial and effective investigations into the unlawful use of profiling, intimidation, violence, extortion, assault, torture, and verbal/emotional abuse against LGBTI individuals and sex workers by state and non-state actors
4. Adopt and adapt the necessary measures to eradicate the tendency and/or diffusion, through the media and by politicians, of stereotypes and hate speech that may promote discrimination and violence against persons, based on their real or imputed sexual orientation, gender identity, or real or imputed sex work status.
5. Create measures to protect the economic, social and cultural rights of the LGBTI community, including access to healthcare, employment, housing and education.
6. Adopt various measures to ensure access to comprehensive sexual and reproductive health and rights services, by giving priority to sex workers and LGBTI persons.
7. Condemn acts of pledging of females and other types of arranged or forced marriages targeted at lesbians, bisexual and gender non-conforming persons through legislative reform.
8. Sensitize law enforcement agents, health care workers and other state actors on the rights of LGBTI persons and sex workers to ensure the provision of friendly and hassle-free services.
9. Repeal Public Order and Security Act (POSA) and Access to Information and Protection of Privacy Act (AIPA) to protect freedom of expression, association, petition, peaceful demonstration and assembly and by discontinuing restrictions on LGBTI and sex work advocacy.

Contact Information: Humphrey Nondo  
Diana Mailosi

SRC  
GALZ-

- [humphrey.srctdirector@gmail.com](mailto:humphrey.srctdirector@gmail.com)  
[womyn2@galz.co](mailto:womyn2@galz.co)