

The **Silent** Demographic

A look at the legal framework and perceptions of young sexual minorities

Botswana, 2016



A special thanks to

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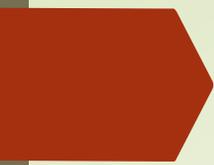
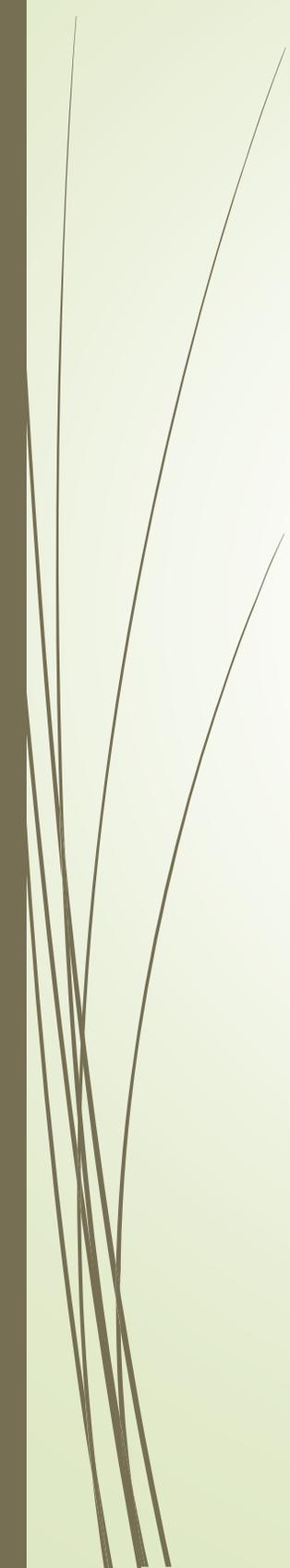


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Introduction

The year 2016 marks 50 years of Botswana's independence. Economic growth, multiple party elections and beneficiation of mineral resources have been key successes against the challenges of poverty, poor infrastructure and HIV/AIDS. Young people comprise more than 60% of Botswana's population. Unemployment, income inequality and new HIV incidences are the current challenges faced by young people. For sexual minorities, further burdens are experienced because of stigma and discrimination. Sexual minorities include homosexual men, men who have sex with men, homosexual women, women who have sex with women, bisexual, transgender, intersex, non-conforming and queer persons. There is a need to better understand these experiences to appropriately address competing and/or intersecting challenges. This report captures the perceptions of Botswana's legal framework on sexual minorities and lays the groundwork for future advocacy and empowerment initiatives.

Background and rationale

Same-sex intercourse is criminalised in 33 African countries,¹ including Botswana. This is widely interpreted to criminalise the wider sexual minority community. Although 16 African countries do not explicitly criminalise same-sex intercourse, this does not mean there are no forms of injustice or discrimination in those nations. Governments allow or prohibit forms of discrimination to perpetuate injustices against sexual minorities.² Legal reforms expand the scope of criminalisation to same sex relations, forms of expression and intent. This places sexual minorities at risk. More prominently, criminalisation impedes the right to health.³ This includes access to health care, services, treatment and an enabling environment for physical and mental well being. It can be expanded to justice, protection and other safeguards for fulfilling one's livelihood. Political narratives continue to challenge sexual minorities' human rights on the basis of African culture, Western influence and populist ideals. This minimises space for sexual minorities to access and affirm their basic human rights. Although occasional instances of violence and hate crimes against sexual minorities in Botswana have been documented; stigma and discrimination remains widespread.

1. Erasing 76 Crimes '77 countries where homosexuality is illegal' <https://76crimes.com/76-countries-where-homosexuality-is-illegal/> (accessed 05 August 2016)

2. R Tracinski 'Indiana Shows the Left Has No Concept of Freedom' (2015) The Federalist <http://thefederalist.com/2015/04/02/indiana-shows-the-left-has-no-concept-of-freedom/> (accessed 18 October 2016).

3. Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc A/HRC/14/20 para 6.

Research on sexual minorities in Botswana has largely been clinical as a result of new HIV incidence increases. Civil society has also played a role in documenting instances stigma and discrimination however a gap remains in systematic analysis and obligations of the state. Case law presents an opportunity to explore the legal framework and role in which the courts can support human rights issues. This however does not address the prevalent discrimination in society, religion or culture. Knowledge gaps remain in understanding the experiences of sexual minorities as well as how the human rights situation can be improved. This report initiates a process for reflection among human rights defenders, policy makers and society at large in respect of the human rights of sexual minorities. It aims to capture the perceptions of sexual minorities to encourage dialogue, challenge social conditioning and enable civic action for eliminating discrimination.

Methodology

This report adopts a qualitative approach. This report is a case study; acknowledging reflections and experiences founded by the belief in the need for sexual minorities' human rights should be recognised in law.³ It comprises a collection, review and analysis of primary and secondary sources of information. This includes observations, informal interviews, an online survey, legal instruments, policy documents, civil society reports, media reports and case law. The report aims to support civil society and policy making efforts.⁴ It captures emerging trends of phenomena sexual minorities experience beyond the research norms of HIV/AIDS and discrimination.⁵ Purposive sampling is used in recruiting research participants, to ensure in-depth information is collected.⁶ A minimum of 10 young persons within the sexual minority population are targeted. Prior to securing their permission, participants are informed of their rights to withdraw from the research exercise, their participation being confidential and their contribution being a part of Success Capital's human rights work. Coding, observations and constant comparison are the essential tools for analysis, given the nature, uncertainty and unclear outcomes of this exploratory research.⁷ The discussion of findings is supported by analysis in the form of pattern-matching to establish prevalent themes.

3. M Ortlipp 'Keeping and Using Reflective Journals in the Qualitative Research Process' (2008) *The Qualitative Report* 13(4) 698.

4. P Baxter & S Jack 'Qualitative case study methodology: study design and implementation for novice researchers' (2008) *The Qualitative Report* 544

5. B Morgan & RH Sklar 'Sampling and research paradigms' in JG Maree (ed) *Complete your thesis or dissertation successfully: practical guidelines* (2012) 75

6. Morgan (n 5 above) 23

7. Baxter (n 4 above) 548

Literature Review

This report focuses on young sexual minorities. More specifically, young men under the age of 30 years old, who's sexual orientation does not meet the norm. Although issues of gender identity and femininity arise in discussions with research participants, the criminalisation and availability of data on sexual orientation of men is more evident. This does not devalue the need to build knowledge on issues of gender identity. In reviewing Botswana's case law, public discourse and knowledgeability; homosexuality bears the most controversy and attention. This subsection reviews the legal framework with consideration of history, influences and comparative case law.

Historical influence and international instruments

The English common law punishment of homosexuality dates as far back as 1290.⁸ Between the 1300s and 1600s it evolved from sodomy to buggery with death by hanging and being burned alive as sentences when one was found guilty.⁹ This challenges the social narrative of homosexuality being a new trend. However it does affirm political perceptions of homosexuality being a Western influence.¹⁰ History has played a significant role in the fight for human rights of SOGI persons. Marker argues that conflicts that exist today are a result of colonial influence.¹¹ Although Marker looks at war and ethnic clashes, homosexuality has created conflict within cultural, political and religious platforms in Africa.¹² This positions homosexuality in the context of the same history of colonial rule. Marker believes current conflicts result from colonial policies on geographic boundaries, unequal treatment of ethnic groups and distribution of wealth.¹³ Marker further highlights that different groups were denied various human rights and MSM are no exception. MSM have been denied human rights under colonial rule and post-independence regimes. Homosexuality is prevalent in colonial history through poetry and literature on expeditions to foreign nations.¹⁴

There is little evidence of homosexuality under the colonial influence of the French.¹⁵ Aldrich attributes this to a lack of interest in French academia to acknowledge or recognise sexual history. Whereas the British Empire introdu-

8. Liberate 'LGBT History' <http://liberate.gg/lgbtq-history/> (accessed 01 September 2016).

9. Liberate (n 190 above).

10. R Howard 'Review' (1998) *African Studies Review* 41(1) 190-191.

11. S Marker 'Effects of Colonisation' (2003) *Beyond Intractability* <http://www.beyondintractability.org/essay/post-colonial> (accessed 10 October 2016).

12. Marker (n 193 above); N Subhi & D Geelan 'When Christianity and Homosexuality Collide: Understanding the Potential Intrapersonal Conflict' (2012) *Journal of Homosexuality* 1383.

13. Marker (n 193 above).

14. R Aldrich 'Homosexuality in the French Colonies' (2002) *Journal of Homosexuality* 216-217.

15. Aldrich (n 196 above) 202.

-ced homosexuality as a unnatural behaviour. Universality and equality are embedded in international human rights law. The Universal Declaration of Human Rights (UDHR) articulates this in article 1: all people are born free, equal in dignity and rights. About 63% of UN member states have laws that do not prohibit same-sex intercourse.¹⁶ For developed states, progressive laws protect SOGI persons from discrimination and even allow same-sex marriage. However despite the lack of criminalisation in some less developed member states; state action and judiciaries have effectively outlawed same-sex intercourse.

The Vienna Declaration and Programme of Action similarly stresses states to uphold the rights and fundamental freedoms of all humans regardless of differences.¹⁷ This affirms the rights of MSM persons in international law. Article 2 of the International Covenant on Civil and Political Rights (ICCPR) requires member states to respect an individual's rights. Sexual orientation was specifically included when this was challenged in the *Toonen v Australia* case; where the United Nations Human Rights (UNHR) Committee ruled 'sex' under articles 2 and 26 to include sexual orientation.¹⁸ This protects sexual minorities from discrimination. Similar inclusions have since been made by UN Committees a) against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹⁹ b) on Economic, Social and Cultural Rights,²⁰ c) the Elimination of Discrimination against Women,²¹ and d) on the Rights of the Child.²²

The right to health is embedded in the UDHR as part of the right to an adequate standard of living. Article 12 of the International Covenant on Economic, Social and Cultural Rights (CESCR) also provides for the right to health with specific mention of conditions that ensure health provisions, prevention and treatment of diseases.²³ This directly impacts the HIV/AIDS discourse of MSM. Similar instruments exist, varying from general to specific target groups or beneficiaries. These include; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, articles 11, 12 and 14 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), article 24 of Convention on the Rights of the Child, articles 28, 43 and 45 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and article 25 of Convention on the Rights of Persons with Disabilities. This reflects the importan-

16. ILGA (n 187 above) 34.

17. 'Vienna Declaration and Programme of Action' A/CONF.157/23, para 5.3.

18. Communication No. 488/1992, *Toonen v Australia*, UN Human Rights Committee (31 March 1994), UN Doc CCPR/C/50/D/488/1992 para 8.7.

19. General comment No. 2, UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (24 January 2008), UN Doc CAT/C/GC/2, para 21.

20. General comment No. 20, UN Committee on Economic, Social and Cultural Rights (2 July 2009), UN Doc E/C.12/GC/20 para 32.

21. General recommendation No. 28, UN Committee on the Elimination of Discrimination against Women (19 October 2010), UN Doc CEDAW/C/GC/28 para 18.

22. General comment No. 13, UN Committee on the Rights of the Child (18 April 2011), UN Doc CRC/C/GC/13 paras 60 & 72.

23. Article 12 of CESCR.

-ce of cohesive fundamental human rights instruments. For example, for CESCRR and CEDAW; the right to health is contingent on ensuring the elimination of discrimination. This creates a direct link with the need for non-discrimination on grounds of sexual orientation.

Sexual orientation in the African region

There is no specific inclusion of sexual orientation under the African Charter on Human and Peoples' Rights (African Charter). However, article 2 includes 'such as' and 'other status' in prohibited grounds for discrimination. This implies that the list of grounds not exhaustive.²⁴ When considering articles 60 and 61; the scope of grounds could be expanded given the nature of similar instruments. The African Commission on Human and Peoples' Rights (African Commission) reiterated this in *Spilg and Mack & Ditshwanelo v Botswana* by invoking article 60 of the African Charter to rely on the UNHRC's decisions.²⁵ Article 27 of the African Charter could challenge article 60 as it requires consideration for legally vague issues such as collective interests and morality to limit other rights. This is reflected in the AU Executive Council request to the African Commission to withdraw observer status for the Coalition of African Lesbians (CAL) on the basis of African values.²⁶ Article 27 of the African Charter is also used in *Eric Gitari v Non-Governmental Organizations Co-Ordination Board & Others (Gitari)*, where the state sought to defend its decision not to register a LGBT NGO because of Kenyan cultural values.²⁷ An alternative argument on the intangible issues such as morality is found in the US Supreme Court's decision in *Bowers v Hardwick (Bowers)*;²⁸ where moral teaching in ruling against same-sex intercourse was only overruled 17 years later.²⁹

The complexity of the African Human Rights system is evidenced by conflicting mandates when compared to sub-regional mechanisms such as the Economic Community of West African States Court,³⁰ especially on issues of competence and jurisdiction.³¹ Recommendations to the African Court on Human and Peoples' Rights include adoption of the interpretive nature of other regional instruments such as those of Europe, of which standards can be adapted to new situations and modern developments.³² However a challenge is in the recognition of collective rights under article 27 of the African-

24. Article 2 of the African Charter on Human and Peoples' Rights.

25. Communication 277/2003, *Spilg and Mack & Ditshwanelo v Botswana* 10th Extraordinary session para 166.

26. Decision Doc.EX.CL/921 (XXVII), Decisions at the 27th Ordinary Session of the AU Executive Council, AU Doc EX.CL/Dec.873-897(XXVII) para 7.

27. *Eric Gitari v Non-Governmental Organizations Co-Ordination Board & Others (Gitari)* 2015 eKLR, Petition No. 440 of 2013 para 35-36.

28. *Bowers v Hardwick* 478 US 186 (1986).

29. Cviklová (n 95 above) 49-50.

30. TF Yerima 'Comparative Evaluation of the Challenges of African Regional Human Rights Courts' (2011) *Journal of Politics and Law* 4(2) 124.

31. Yerima (n 237 above) 125.

32. Udombana (n 234 above) 62.

-an Charter. This also challenges common law provisions for individual rights as opposed to collective rights, as is the case in Botswana.³³ The Yogyakarta Principles on the Application of International Human Rights Law (Yogyakarta Principles) in relation to Sexual Orientation and Gender Identity are not part of the international law but enable the interpretation of human rights treaties.³⁴ These were used by Botswana's Court of Appeal in a judgement on sexual orientation.³⁵ In the light of this, there is therefore a need to build internationally binding standards on issues affecting MSM and the wider SOGI community.

Criminalisation is central to this report given the state-sponsored stigma and social injustice sexual minorities face.³⁶ The Yogyakarta Principles were the first ever legal instrument for SOGI persons.³⁷ They were formed using the UN's Guidelines No. 9 for creating international law.³⁸ This underscores the human rights of SOGI persons as a relatively new concept.³⁹

Sexual orientation in Botswana

Botswana outlaws same sex activity through the Penal Code. Section 33 general punishment and offences, Section 164 unnatural offences, section 165 attempts to commit unnatural offences and section 167 indecent practices amongst persons. Despite this, being homosexual, gay or lesbian is not criminal.⁴⁰ In addition, sexual orientation is protected under the section 23 of the Employment Act of 2010. This reflects a misalignment of laws and a discord between recognising sexual minorities' rights versus political discourse. Botswana ratified the ICCPR, CEDAW, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the African Charter. All with the exception of the African Charter have provided for sexual minorities to be protected from discrimination respective through committee decisions.

Chapter 2 of Botswana's Constitution is inspired by the UDHR and the European Convention of Human Rights.⁴¹ This reflects a dynamic and progressive foundation in law making. However Botswana's position has consistently be unfavourable to sexual minorities. More especially when protection is provided selectively. Equality is central to addressing non-discrim-

33. *The Attorney General of Botswana v T Rammoge & Others (AG v Rammoge)* 2016 CACGB-128-14 para 58-59.

34. Cviklová (n 95 above) 48.

35. *AG v Rammoge* (n 240 above) para 56.

36. C Lennox & M Waites 'Sexual orientation Gender Identity and human rights' in C Lennox & M Waites (eds) *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth* (2013) 5.

37. SAM Rusnak 'Reconciling Three Countries' Current Laws with Human Rights in the Face of International Law' (2014) *Annual Survey of International & Comparative Law* 20(1) 4.

38. Rusnak (n 244 above).

39. S Corrêa et al *Sexuality, health and human rights* (2008) 151.

40. *Mmusi* (n 38 above) para 33

41. *Mmusi* (n 236 above) para 63.

-ination. Judge Dingake ruled that non-discrimination essentially recognises;

'that human wrongs are the source of human rights and that inequalities in a particular society, rather than in an imagined society, are the appropriate foundation of a better understanding of equality provisions in national Constitutions.'⁴²

Interpretation serves as a key aspect for ensuring non-discrimination. As international human rights committees have expanded the grounds of non-discrimination to include sexual orientation; a similar approach has been adopted by the High Court in respect of constitutional rights of individuals.⁴³ Substantive equality would essentially be realised through decriminalisation. The High Court held that substantive equality goes further than requiring similar treatment as a result of non-discrimination; but it requires similar outcomes even where differential treatment might be needed.⁴⁴ In elaborating:

'Simply put, formal equality requires that all persons are equal bearers of rights. Formal equality does not take actual social and economic disparities between groups and individuals into account. Substantive equality requires an examination of the actual social and economic conditions of individuals in order to determine whether the right to equality has been violated.'⁴⁵

Where same sex activity is outlawed; the perpetrator would have to justify legitimacy and reasonability in the means of discrimination and the objective thereof.⁴⁶ A key tenet of criminal law is the responsibility of proving and defending constitutional rights. The burden of proving guilt lies with the prosecution in instances where there is strong suspicion of guilt.⁴⁷ Given that most instances are perceptions or suspicions of homosexuality; it would be difficult to prove from a set of facts that are inconsistent with either the prosecution or the accused.⁴⁸ The only reason for not decriminalising same sex activity in Botswana was the lack of evidence on citizens' perceptions on homosexuality.⁴⁹ Botswana's highest court has since established that there has been an improvement in the perceptions of sexual minorities and that there is no evidence of sexual minorities being unnatural beings.⁵⁰

42. *Mmusi* (n 236 above) para 61.

43. *T Rammoge & Others v The Attorney General of Botswana (Rammoge)* 2014 MAHGB-000175-13 para 29.

44. *Mmusi* (n 236 above) para 65.

45. *Mmusi* (n 236 above) para 66.

46. *Bishop of Roman Catholic Diocese of Port Louis & Ors v Tengur & Ors (Bishop)* 2004 UKPC 9 para 19.

47. *S v N Shaanyenenge (Shaanyenenge)* 2006 NAHC 28 para 40.

48. *Shaanyenenge* (n 267 above).

49. *Kanane* (n 144 above) in *AG v Rammoge* (n 240 above) para 48.

50. *AG v Rammoge* (n 240 above) para 56.

Given that the law is a grey area in recognising sexual minorities;⁵¹ decriminalisation of same-sex intercourse would not be out of the scope of the Courts but normally would be carried out by parliament.⁵² This places the recognition of the human rights of sexual minorities on political leadership. It opposes the way the rights of SOGI persons came to be recognised in neighbouring South Africa. South Africa's emancipation from apartheid rule oversaw the rebuilding of Constitutionalism. This included the consideration of sexual orientation as a protected ground against discrimination. Despite this, many laws still discriminated against SOGI persons. This led to *NCGLE v Minister of Justice* where Roman-Dutch and English common law dating as far back as the 17th century are cited as early influences in the Cape.⁵³ The court action resulted in the Constitutional Court decriminalizing homosexuality contrasting Botswana's approach.⁵⁴

Botswana's case law on the decriminalisation of same sex activity is subject to the majority. This presents a challenge of competing rights, values and interests. South Africa's high regarded Constitution and case law provides an example in balancing competing rights and interests. The case of *S v Makwanyane and Another* provides an understanding of this approach: 1) establishing the nature of the right, 2) the importance in society, 3) the purpose for the limitation, 4) the extent of the limitation and 5) the possibility of less damaging alternatives to meeting the purpose for the limitation were all weighed. This reflects the democratic and aspirational principles the Court holds on constitutional rights that are intricate to the fabric of society. In applying this to *Rammoge*:

1) the Court of Appeal could have established the right to privacy, relying on UK's *Dudgeon*⁵⁵ and US' *Lawrence et al. v Texas*;⁵⁶ where sodomy laws were deemed unconstitutional based on the right to privacy.

2) This would be in line with Botswana's approach to persuasion and context given that both countries became more socially progressive of sexual minorities over time.⁵⁷

3) The purpose of 'unnatural acts' in the penal code is deemed void as

51. *Rammoge* (n 255 above) para 24.

52. *Kanane* in *AG v Rammoge* (n 240 above) para 49.

53. GG da Costa Santos 'Decriminalising homosexuality in Africa: lessons from the South African experience' (2013) in *Human Rights, Sexual Orientation and Gender Identity in The Commonwealth: Struggles for Decriminalisation and Change* 326.

54. da Costa Santos (n 275 above) 328.

55. *Dudgeon* (n 259 above) para 41.

56. *Lawrence v Texas* 539 US 558 (2003).

57. *AG v Rammoge* (n 240 above) para 56.

there is no evidence sexual minorities being unnatural. In addition, it is not criminal to advocate for decriminalisation.

4) The limitation violates the right to privacy for consenting adults and impacts the right to health.

5) Less damaging alternatives could be the prohibition of non-consensual sex, underage sex and other offences already prohibited by law.

The Court of Appeal's approach to leave decriminalisation to parliament reflects its stance on ensuring the separation of powers in governance, even where minority groups seek justice. However, South Africa's Constitutional Court provided a means for persuasion in decriminalisation; ruling that criminalising same sex activity unjustifiably limits to the right to equality, dignity and privacy.⁵⁸ This essentially places the burden of proof in violating the right to privacy, the right to protection of the law and the right to equality before the law. There is a clear need for the human rights of sexual minorities to be viewed as the human rights for all people. Substantive equality requires of the courts to assist in ensuring the protection and promotion of these rights where political discourse cannot objectively do so.

Decisions in foreign jurisdictions guide and persuade High Court decisions with consideration for context and circumstance.⁵⁹ This allows for international law, regional judiciary organs and domestic law to progressively strengthen and improve human rights. This Justice Dingake highlighted human rights as a basis of universal non-discrimination:

'The theoretical premise further recognises that human wrongs are the source of human rights and that inequalities in a particular society, rather than in an imagined society, are the appropriate foundation of a better understanding of equality provisions in national Constitutions.'⁶⁰

This simplifies the challenges of inequality sexual minorities face. Society ultimately plays a role in the law and ultimately on human rights. This reflects the importance of advocacy and evidence efforts such as this report.

58. *National Coalition for Gay and Lesbian Equality & Another v Minister of Justice & Others* 1998 ZACC 15 para 28.59. *Kanane* (n 144 above) in *AG v Rammoge* (n 240 above) para 48.

59. *Mmusi* (n 38 above) para 61

60. *Mmusi* (n 38 above) para 61

Perceptions of young sexual minorities

A sample of twelve young sexual minorities was used. Only one participant does not identify as a man who has sex with men, gay, bisexual or transgender. Half of these participants did not know of any specific sexual minority criminalisation laws. There was recognition of the criminalisation of same sex activity, which is in line with the other 50% that recognise the criminalisation of sexual minorities. This reflects a more intricate knowledge of law in comparison to other participants who merely agreed to criminalisation existing. 25% of participants did not have any knowledge of criminalisation of same sex activity or sexual minorities; highlighting a gap between the law and lived experiences for some.

Only one participant believed communities in Botswana are progressively becoming more tolerant with sexual minorities. However religion is the most prevalent basis for intolerance. Along with culture, these two are the main drivers of stigma and discrimination. Participants cite a lack of knowledge on sexual minority issues, one participant specifically notes Botswana as having 'a stereotype mindset and it's very wrong, also a lot of homosexuals live double lives to fit in'. Another participant explained as follows:

'Homosexuality is a taboo subject in Botswana. It is commonly seen as a "Western" "disease" and "un-African". Lot of Botswana need to be educated about Homosexuality'.

The above affirms African political discourse on the perceived influence of Western nations.

Almost half of participants have never experienced some form of stigma and discrimination. For those that have, expression or femininity seem to be the main source of this. As one participant reflected; femininity makes it easy for people to assume his sexuality. Another noted his fashion sense as a trigger for assumptions on his sexuality. One of the participants reflects on being openly gay: 'I am openly gay, from school people always saw I was different and those who tried making fun of it were actually making themselves look stupid as I was comfortable in my own skin and didn't care' This results in hate

speech. In one instance, with violence and specific references to other forms of diversity; 'my friend was once beaten at a local club. and he got thrown out of the club. They called him names like Terasi (hermaphrodite)'.

More than half of research participants believed that their sexual orientation has never limited job opportunities, school or other livelihood opportunities. Only one participant mentioned understanding their rights to ensure they are not discriminated against when looking for opportunities. Other participants ensure to hide his sexuality when exploring opportunities. In part, one participant notes the progressive social circles in which he always finds himself. However not all experiences are favourable. There have been incidences of dismissals and revoking of opportunities due to perceived sexual orientation. One participant provides some analysis in respect of the learning environment:

'My school life yes it has, i was known as the freak of nature during my schooling time, i had to grow thick skin to always make sure i was the most clean and smartest student in school to gain respect in a very masculine dominant environment.'

There is a clear paradox of experiences. Some in which favourable or indifferent environments and people play a role in allowing sexual minorities to secure opportunities. The others form an unfortunate picture of stigma, discrimination and a lack of knowledge on sexual minority rights by perpetrators and victims of discrimination. The understanding of human rights within Botswana's laws is critical to the survival of sexual minority persons. There is a clear success in pursuing opportunities and being comfortable with one's sexual orientation when having some knowledge in the law.

Although stigma and discrimination are prevalent, there is some hope in finding ways in which sexual minorities believe there could be a favourable change in the political and social landscape. Sharing knowledge through various means such as media, arts and education platforms. One of the critical success factors would be engaging both youth and elders in reshaping the common sexual minority narrative. One participant presented their experience and hope best:

'Giving those who are treated badly a voice to speak out against the intolerance they receive. Education is the only way i have been able to get my friends and family to accept me since there are alot of false saying on the topic of homosexuality being demonic or unnatural, most people fear it and shame it i that sense, that should be addressed and proven wrong.'

Only one participant mentioned civil society as a channel of education and capacity building sexual minorities. This reflects a discord between young sexual minorities' lived experiences and the role or impact in which civil society has in effecting change. Another participant highlights that current interventions are insufficient. Hate speech continues to dominate lived experiences with impunity. This highlights the need to better understand how sexual minorities' human rights can be respected, promoted and protected under Botswana's current laws.

Conclusion

Young sexual minorities experience or know of stigma and discrimination associated with non-normative sexuality or gender identity. This remains a challenge as social perceptions, hate speech and discrimination are fuelled by religion and culture. Although some communities within Botswana are considered accepting or progressive of sexual minority issues, it remains a countrywide challenge in law and for lived experiences. This report captured the legal framework and perceptions of young sexual minorities in hope for initiating dialogue. Research participants stressed the need for educating society on sexual minority experiences, challenges and aspirations. This reflects the need for empathy, understanding and an accomodative environment.

Recommendations

More work needs to be done in understanding the lived experiences of young girls, women and other segments of the diverse sexual minority demographic. Model laws should be developed to create a framework for engaging policy makers, media and young sexual minorities to build intellectual capital and encourage dialogue. There should be stronger protection against discrimination, inclusive of actual measures for ensuring equality. Knowledge sharing is a key factor in effecting change, more especially through empowering young sexual minorities directly. It is not enough to train public officers, religious leaders, cultural leaders and policy makers when the very beneficiaries have no comprehensive knowledge of their rights. Their lived experiences prove that current interventions aimed at changing these bearers of power are insufficient. This power should be shifted from enablers and perpetrators of stigma and discrimination to those who are most vulnerable. Eliminating stigma and discrimination will not occur overnight, but enough young sexual minorities and allies should be empowered to address injustices within their communities, place of work and religion.

