

## Cross Party Group on Malawi

Wednesday 10<sup>th</sup> May 2017  
Scottish Parliament, Committee Room 4

### MINUTES

Co-Conveners: Liam McArthur MSP and Alexander Stewart MSP

### LGBTIQ Rights

#### Attendees

1. Joan McAlpine – MSP
2. Liam McArthur – MSP
3. Stuart McMillan – MSP
4. Alexander Stewart – MSP
5. Annie Wells – MSP
6. Jean Bareham – SMP Member
7. Kathryn Chipperfield – SMP
8. Daniel Cosgrove – Unicef
9. Scott Cuthbertson – Equality Network
10. Moira Dunworth – Mamie Martin Fund
11. Jackie Farr – SMP
12. Jane Forster – SMP Member
13. Bob Garrow – SMP Member
14. Eileen Henderson – The Global Concerns Trust
15. David Hope-Jones – SMP
16. Brian Kerr – Soko Fund
17. Elyse Kirkham – Toilet Twinning
18. Helen Mein – SMP Member
19. Alan Msosa – University of Essex
20. Colin Reilly – SMP Board
21. Paul Shaw – GeoVision
22. David Stevenson – University of Edinburgh
23. Georgia Strachan – Turing Trust
24. Fraser Sutherland – Humanist Society of Scotland
25. Matthew Waites – University of Glasgow
26. Ben Wilson – SMP Board
27. Kathy Wright - The Union

#### Apologies

Barbara Bompani – Centre of African Studies	Tavish Scott – MSP
Fiona Kirkwood – The Global Concerns Trust	Elaine Smith – MSP
Ross Macnab	Peter West – Hon. Consul. for Malawi
David McQuoid-Mason – Global Concerns Trust	Amy Westendarp – EMMS International
Ruth Milliken – Dunelm Energy	

#### 1. Welcome and introductions

The CPG on Malawi Co-Convenor Alexander Stewart MSP welcomed everyone to the meeting and a number of apologies were noted (see above). Minutes were approved from the previous CPG meeting in March.

#### 2. LGBTIQ rights in Malawi- why Malawi continues to defend anti-gay laws

*Alan Msosa, Commonwealth Scholar at University of Essex Human Rights Centre*

Alan Msosa introduced himself to the group and talked through his involvement to date in the Scotland-Malawi relationship. In 2005, Alan was working in the Malawi Ombudsman's Office, as well as doing a post-graduate course in the UK. During his time in the UK he visited the Scottish Public

Services Ombudsman and recognised that the Malawi and Scottish offices had much in common. Alan facilitated cooperation between the two ombudsman offices under the Malawi-Scotland Cooperation Agreement, which was signed that year. The cooperation between the two ombudsmen exists to date.

Alan is currently completing a PhD at the University of Essex, on the societal and institutional factors that influence the persecution of LGBTIQ people in Malawi. In 2009 a gay couple were arrested in Malawi. The couple were subjected to inhumane psychiatric tests and sentenced to 14 years in prison. It was after this case that the Parliament started discussing homosexuality and the issue came into the public sphere. In 2011, the Parliament passed an amendment to make indecent practice between females illegal as well, ostensibly for reasons of gender equality. There is evidence the existing laws have broad popular support in Malawi. One study claimed to find that 94% of Malawians are uncomfortable having a homosexual neighbour. This data is from an Afrobarometer report from 2014, which you can [view here](#). Alan questioned this study, commenting that the precise wording of the question may have caused some cultural/linguistic confusion. The national HIV policy does however recognise the need to review the laws that criminalise same sex relations.

Alan has been researching why some Malawians seem to be against LGBTIQ rights. There is an idea that LGBT is “not African” and “un-Malawian”. As part of Alan’s research, he interviewed 44 LGBTIQ Malawians to document the impact of persecution in their daily lives.

In 2008 there was another headline over a same-sex wedding at the launch of a gay rights movement. The narrative was different; it did not trigger the same reaction as in 2009 where the headline incited outrage. The idea that Malawians cannot co-exist with LGBT people is a recent phenomenon, since 2009. The local language has influenced how homosexuality is described. In Malawi there is not a direct translation for homosexuality and human rights. Human rights can mean rebellion. The word homosexuality speaks to sex between men and can be confused with sex with a minor or non-consensual sex. We should not take for granted that meanings and terminology are understood universally.

Alan is encouraging other Malawians to become interested in LGBTIQ rights; he cannot find research from other Malawians. There is one major LGBT movement in Malawi trying to build capacity. Alan asked how local organisations can engage internationally. How can development assistance integrate LGBT rights?

### **3. Scotland’s role in supporting equality and working in partnership with Malawi**

*Scott Cuthbertson, Development Manager at Equality Network*

Equality Network (EN) has been developing a relationship with an LGBTI organisation in Lilongwe called Centre for the Development of People (CEDEP). They are developing a partnership project to develop relationships between countries on LGBT rights and share experiences and learning. Outreach to rural communities is not good in Scotland compared to Malawi; there is plenty to learn from both countries. It is challenging to develop a partnership in this area due to our colonial history and the fact that it was Britain who initially created many of the laws that still exist in Malawi.

Most of CEDEP’s funding comes from HIV work due to a lack of funding for human rights projects. Funding is also a challenge in Scotland, for example EN is too large for the Scottish Government’s Small Grants Programme, but they feel they do not have the capacity to apply for the Malawi Development Programme. There is funding available but typically not for international projects, EN is currently looking at crowd funding options.

EN and CEDEP carried out a small pilot project which included developing a booklet for LGBT Malawians about their rights, what support is/isn't available and how to access it. The pilot also included human rights workshops and a training manual for law enforcement.

EN was part of collaborations to bring LGBT people over for the Commonwealth Games which included a same sex kiss at the opening ceremony that went viral on social media. EN surveys have shown that international solidarity is a priority for its members.

#### **4. Advancement of human rights for LGBTI people in Malawi and strategies for change**

*Dr Matthew Waites, Senior Lecturer in Sociology at the University of Glasgow*

Matthew directed the attendees to a book he co-authored with Corrinne Lennox in 2013, called 'Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change'. The book is open access and can be viewed online. Chapter 13 by Undule Mwakasungula specifically covers the LGBT situation in Malawi. The opening paragraph of Chapter 13 states that 'In the case of Malawi, much of the revulsion to homosexuality can be traced to its colonial past'.

[Click here to view the book >>](#)

[Click here to view chapter 13 >>](#)

The way human rights are interpreted is important; they need to be translated to local understandings. The international responses to the 2009 gay arrest played into the furor in Malawi. There needs to be sensitivity and careful international responses, framed in terms of homosexuality not in terms of gender politics.

The Bill of Rights in Malawi includes section 20, Equality, which states that 'Discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex..... or other status'. The inclusion of 'other status' enables new categories to be added. Section 21, Privacy, also states that 'Every person shall have the right to personal privacy'.

There are several sections of the penal code in Malawi that do criminalize LGBT people:

Section 153- Unnatural offences (14 year prison term)

Section 154- Attempt to commit unnatural offences (7 year prison term)

Section 156- Indecent practice between males (5 year prison term)

Section 137A- Indecent practice between females (5 year prison term)

In Mozambique in 2015, decriminalisation occurred through Parliament and the entire penal code was reformed. In Botswana, legislation created non-discrimination in relation to employment, this happened through health arguments and low key lobbying.

There are two human rights organisations in Malawi that have led initiatives on LGBT rights:

- Centre for the Development of People (CEDEP)
- Centre for Human Rights and Rehabilitation (CHRR)

However, it was reported that the Council for NGOs (CONGOMA) denounced LGBT activism, under pressure from the government. HIV and health discussions can provide key opening for making political progress. The Africa Commission on Human and Peoples' Rights has been addressing gender identity.

## **5. Discussion**

### **Q: What leadership is the African Union showing?**

Alan commented that there is a dilemma between doing what is right and maintaining popularity. The African Commission of Human Rights has condemned violence against LGBT people. It is vital that information is freely available online and accessible to activists. Scott mentioned that too often African leaders support LGBT rights once they have departed office and not when still in power.

### **Q: Is there an opportunity to engage the Malawi government through HIV work?**

Alan stated that the Malawian Government has been forthcoming with HIV issues because there is a lot of global funding. If advocacy happens in the context of HIV/AIDS it has a greater success. It is important to remember that the laws criminalising same sex relationships were British laws and that homosexuality was only decriminalised in Scotland in 1980. Having Malawian voices speaking out is vital. The Sustainable Development Goals are an alternative way to frame human rights issues, such as goal 10 (reduced inequalities) and goal 16 (peace, justice and strong institutions). David Hope-Jones commented that the Scotland Malawi Partnership has their SDG pop-up exhibition in Parliament this week and has had 60+ MSPs visit, including the First Minister, so far. It is important to keep momentum and ensure implementation.

### **Q: Is the figure accurate that 94% of Malawians believe that same sex relationships are wrong?**

Alan commented that a professor in Malawi did this research. It is important to find out specifically what questions were asked and what language was used. Alan re-stated the common linguistic confusion in Chichewa in which the word for "homosexuality" can be confused with sex with a minor. He has flagged this issue in his research. The questions must be framed correctly in order to change attitudes to LGBT. Terminology and cultural/linguistic understanding is key.

A significant proportion of medical care in Malawi comes through religious establishments. Churches do not always help with LGBT human rights issues due to traditional conservatism. Can churches be directed towards human rights? It is vital to raise awareness and get discussions going about LGBT and human rights if change is going to happen.

## **6. Actions**

- The Scotland Malawi Partnership to put a link to Alan Msosa's funding page on their website. <https://www.gofundme.com/almsosa>
- David Hope-Jones to write to The Association of Commonwealth Universities to ask for the LGBT research to be funded.

## **7. Any other business**

The date of the next CPG is Wednesday September 13<sup>th</sup> 2017