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An Assessment Study Report On:

The Impact of the Same Sex Constitutional Court Cases on LGBTIQ+ Community in Malawi

The Art and Global Health Center Africa
Kalimbuka Ring Road
P. O. Box 607
Zomba
Malawi
Phone: +265999263850
Email: info@aghcafrica.org
Website: www.artgloafrica.org

Investigators:

Rodger Kumalire Phiri (ArtGlo)

Chisomo Liwimbi (ArtGlo)

Florence Simbota (ArtGlo)

Dr. Jones Mawerenga (UNIMA, TRS Department)

Monica Muneera Chapweteka (NRA)

Art and Global Health Centre Africa

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Abstract

The Art and Global Health Centre Africa conducted the research to better understand the impacts of the Nyasa Rainbow Alliance (NRA) registration and constitutional court cases associated with the lives of LGBTIQ+ people in Malawi and provide points of reflection on the strategies and measures that can be taken to minimize the adverse effects. The impact assessment was conducted in six districts of southern and central Malawi namely, Blantyre, Mulanje, Mwanza, Lilongwe, Salima and Mangochi which were selected as information-rich study sites during a consultation meeting with other stakeholders.

The study used a mixed method approach to identify negative and positive impacts of the court cases on the LGBTIQ+ community. Sixty-six (66) LGBTIQ+ people participated in the survey and focus group discussions in Mulanje, Mwanza, Salima and Mangochi. Twenty-five (25) leaders of the LGBTIQ+-led civil society organisations (CSOs) participated in the focus group discussions and key informant interviews conducted in Blantyre and Lilongwe. The sample included, 12% lesbian, 26% bisexual, 33% Gay, 8% Intersex, 6% Queer, 12% Transgender and 3% heterosexual people.

The qualitative data was recorded, transcribed and coded into themes while quantitative data was analysed using excel. Research findings revealed more negative impacts of the ongoing court cases. Experienced negative consequences include fear, anxiety, theft, verbal insults, rejection and isolation, loss of friendship, denial of economic opportunities, physical violence and lack of freedom to religious association. In the time of religious group demonstrations, civil society organisations offices were looted, hampering their operations.

Additionally, due to threats and attacks, most of the CSOs suspended or slowed down operations impacting targeted service delivery to the LGBTIQ+ community. On the other hand, the ongoing court cases and demonstrations have made some few positive influences, for example, it has increased collaborations among LGBTIQ+-led organisations. The media has also increased the visibility of LGBTIQ+ people to the donor community. Most importantly, Malawians have been made aware of the presence and growing population of LGBTIQ+ people.

This research calls for concerted efforts to mitigate the negative impacts of the ongoing court cases and prepare the LGBTIQ+ community for the court outcome. Further the research recommends that to a greater extent, increased visibility of the LGBTIQ+ community in Malawi should be taken as an opportunity to educate the general public to move beyond stereotypes and acknowledge that LGBTIQ+ people occupy the same range of positions in life and society. The revealed gaps in programming areas should assist organisations to design new interventions around mental health issues and human rights advocacy.

CHAPTER 1

1.1 INTRODUCTION

According to a report by the Amnesty International (2024), Malawi is one of the 12 African countries where legal systems have increasingly weaponized during 2023 to systematically target and discriminate against lesbian, gays, bisexual, transgender, intersex and queer (LGBTIQ+) individuals. Specifically, laws were egregiously employed to persecute and marginalize members of the LGBTIQ+ community, highlighting a distressing trend of legal mechanisms being used as instruments of oppression.

The Amnesty International report (2024) asserts that LGBTIQ+ people across Africa have to daily negotiate with a disturbing regression of progress, facing relentless protests against their sexual orientation, gender identities and expression, and sexual characteristics (SOGIESC) and confronting formidable obstacles to their legal and social rights. In particular, LGBTIQ+ people in Malawi continue to face a hostile environment, with discriminatory legislation and ongoing human rights violations creating an atmosphere of fear and oppression. The LGBTIQ+ situation in Malawi is heightened by the country's refusal to repeal harmful homophobic legislation; thereby, leaving LGBTIQ+ persons vulnerable to harassment and discrimination on a daily basis.

The LGBTIQ+ situation in Malawi has been exacerbated by two constitutional court cases in which the Nyasa Rainbow Alliance (NRA) moved the courts to determine the rights of LGBTIQ+ people in the country. First, the NRA commenced proceedings in the High Court of Malawi concerning a review of the Malawi Government's decision to deny the registration of the organization on account that its objectives are against public policy. The case was subsequently certified by the Chief Justice as a constitutional case in 2017 and is inviting the Court to determine the legality of the decision as it violates section 32 of the constitution which provides for the right to freedom of association. Second, the NRA commenced another court case challenging the legality of section 153 and 156 of the Malawi Penal Code which criminalize consensual same sex conducts between two consenting adults in private. According to the Malawi Penal Code, such conduct is deemed unnatural and attracts a maximum penalty of 14 years imprisonment with Hard Labour (IHL).

The background of the case is that Jana Gonani, a transgender woman, who was based in Mangochi, was on the 23rd day of December, 2021 convicted of unnatural offence contrary to section 153(c) of the Penal Code. The particulars of the charge which led to the conviction was that Gonani on or about the 14th day of October, 2021, within Mangochi Township, in the District of Mangochi wilfully permitted a male person to have sexual intercourse of her against the order of nature. In order to obtain evidence for the case, the police in Mangochi among other things: (a) Forced Gonani to undress herself to submit to genital verification which was meant to confirm whether she was male or female; (b) Forced Gonani to submit to medical examination to ascertain her mental faculties whether or not she was of unsound mind on account of her sexual orientation; (c) Forced Gonani to be placed in a male cell despite identifying herself as female; and (d) Unjustifiably exonerated men who slept with Gonani from the offence despite admitting that they had carnal knowledge of her against the order of nature.

The afore-mentioned cases occasioned a public backlash against the LGBTIQ+ community in Malawi to the extent that the religious fraternity took to the streets appealing to the country's president, Dr. Lazarus McCarthy Chakwera, not to bow down to the pressure to legalize same sex liaisons in the country. The case is being wrongly interpreted by the general public as a step towards legitimating same-sex relationships using the courts and this has contributed to the creation of a hostile homophobic environment against LGBTIQ+ people in Malawi. Therefore, this study entitled: "Assessing the Impact of LGBTIQ+ Court Cases on the LGBTIQ+ Community in Malawi" has been commissioned.

1.2 RESEARCH PROBLEM STATEMENT/JUSTIFICATION

The criminalisation of same-sex conduct (Section 137A, Section 153, Section 154, and Section 156) in the Malawi Penal Code negatively affects the daily lives of LGBTIQ+ people in the country. For instance, LGBTIQ+ people are subjected to multiple discriminations including arbitrary arrests, physical violence, verbal abuse, stigma, extortion, lack of access to health care services; particularly, SRHR, high risk of exposure to contract Sexually Transmitted Infections (STIs) and HIV/AIDS, etc.

The LGBTIQ+ situation in Malawi is very retrogressive as far as their well-being and rights are concerned. Moreover, attempts by the NRA to register its organization in order to freely and legally champion LGBTIQ+ rights in Malawi have been thwarted by the government. Notwithstanding, the NRA's constitutional review court case challenging the constitutionality of Sections 153 and 156 of the Penal Code has brought a fierce backlash against the LGBTIQ+ community in Malawi. Therefore, this research study intends to assess the impact of the Nyasa Rainbow Alliance's Registration and Constitutional Court Cases on the LGBTIQ+ Community in Malawi.

1.3 MAIN OBJECTIVE

The main objective for this study is to assess the impact of LGBTIQ+ court cases on LGBTIQ+ community in Malawi.

1.3.1 SPECIFIC OBJECTIVES

In line with the main objective of the study, there are four specific objectives to be achieved. These are:

1. To assess the impact of the ongoing LGBTIQ+ court cases on the daily lives of LGBTIQ+ people.
2. To describe the heightening levels of homophobia in Malawi due to the religious backlash, media misrepresentation of LGBTIQ+ people, and government officials' pronouncements against LGBTIQ+ rights.
3. To identify effective strategies and actions which can be employed by the LGBTIQ+ people to overcome homophobia.
4. To foster inclusion of LGBTIQ+ people in Malawi amidst societal and legal challenges.

CHAPTER 2

LITERATURE REVIEW

2.0 INTRODUCTION

This chapter presents a literature review pertinent to the broad topic of “Assessing the Impact of LGBTIQ+ Court Cases on the LGBTIQ+ Community in Malawi” by focussing on two areas: (i) Criminalisation of same-sex conduct in Malawi, (ii) homophobia in Malawi.

2.1 THE CRIMINALIZATION OF SAME-SEX CONDUCT IN MALAWI

Mawerenga (2018) argues that the Malawi Penal Code has the following provisions in connection with homosexuality: Section 137A, Section 153, Section 154, and Section 156. Section 137A is on indecent practices between females. Any female person who, whether in public or private, commits any act of gross indecency with another female person, or procures another female person to commit any act of gross indecency with her, or attempts to procure the commission of any such act by any female person with herself or with another female person, whether in public or private, shall be guilty of an offence and shall be liable to imprisonment for five years.

Section 153 of the Penal Code of Malawi is on unnatural offences. It stipulates that any person who (a) Has carnal knowledge of any person against the order of nature; or (c) Permits a male person to have carnal knowledge of him or her against the order of nature, shall be guilty of a felony and shall be liable to imprisonment for fourteen years, with or without corporal punishment (Msosa, 2018).

Section 154 is on “attempt to commit unnatural offences.” Any person who attempts to commit any of the offences specified in the last preceding section shall be guilty of a felony and shall be liable to imprisonment for seven years, with or without corporal punishment (Msosa, 2018).

Section 156 is on “indecent practices between males.” Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony and shall be liable to imprisonment for five years, with or without corporal punishment (under Section 28 of the Penal Code) (Mawerenga, 2018).

2.1.1 THE ANTI-GAY LAWS MORATORIUM

According to the Nyasa Times (2012), the former president of Malawi, Joyce Banda, pledged in her first State of the Nation Address (SONA) on 18 May 2012 to repeal the anti-homosexuality laws. However, she backtracked from her pledge to repeal anti-homosexuality laws in September 2012 after fierce criticism from the religious fraternity.

Mapondera and Smith (2012) reports that Ralph Kasambara, Malawi’s former Justice Minister and Attorney General suspended the laws criminalizing homosexuality on a radio debate

organized by CHRR and CEDEP on 5th November 2012. He said that there is a moratorium on all such laws, meaning that police will not arrest or prosecute anyone based on these laws. These laws will not be enforced until the time parliament decides.

Chiumia (2012) avers that the moratorium on anti-gay laws in Malawi was tested when the Police arrested two men: Cuthbert Kulemela and Kelvin Gonani for having gay sex in Lilongwe on 7 December 2015. The former, Justice Minister, Samuel Tembenu, announced a moratorium on anti-gay laws in December 2015 after an international outcry for the unconditional release of the two gay men. He said that Malawi has suspended the laws against same-sex relationships pending a decision on whether or not to repeal the legislation. He further observed that the process of repealing the laws will be done in consultation with the people of Malawi as prescribed by the Constitution. Since then, the moratorium on anti-gay laws in Malawi is still in force.

2.2 HOMOFOBIA IN MALAWI

Mawerenga (2018) argues that homophobia encompasses a range of negative attitudes and feelings toward homosexuality or people who are identified or perceived as being lesbians, gays, bisexuals, and transsexuals. Homophobia can be expressed as antipathy, contempt, prejudice, aversion, or hatred. It may be based on irrational fear and is sometimes related to religious beliefs and could manifest through critical and hostile behavior such as discrimination and violence on the basis of sexual orientations that are non-heterosexual.

The five major factors fueling homophobia in Malawi are:

- a) Particular readings or interpretations of sacred in the Bible and the Quran as not condoning homosexuality. First, the Bible is projected as condemning homosexuality (Genesis 19:1-11, 24-25; Leviticus 18: 22; 20:13; Judges 19:22-20:1-48; Romans 1:24-27; 1 Corinthians 6:9 and 1 Timothy 1:10). Second, the Qur'anic references for homosexuality are connected to the fate of "the people of Lut" and their destruction by Allah is associated explicitly with their homosexual practices (Quran 7:80–84, 11:77–83, 21:74, 22:43, 26:165–175, 27:56–59, and 29:27–33). Death and destruction are said to be the punishment for homosexuality (Qur'an 29:28).
- b) The argument of "gender complementarity" in creation whereby God created male and female: Adam and Eve (Gen 1:27; 2:18-25). Therefore, any digression from heterosexual normativity is considered to be unnatural or a violation of the created order.
- c) Mobilization of a certain cultural understanding of human sexuality which presupposes heterosexual normativity. Healey (2004) describes an African creation myth from the Kaonde people of Zambia. It states that in the beginning God created two people: Mulonga and Mwinambuzhi, who were to become the first man and the first woman for marriage and procreation purposes. Mbiti (2015) maintains that African creation myths unanimously agree that human life started with the heterosexual union of a husband and

a wife. Therefore, its continuance is also based on the natural or created order of heterosexual normativity.

- d) Homophobia is also re-enforced by the African cultural contempt of homosexuality which argues that it does not lead to procreation. African societies highly value procreation far more than other aspects of marriage such as love, companionship and sexual pleasure. Moreover, infertility is considered to be a negation of life, the destruction of the individual, community, and society at large.
- e) Homophobia is also re-enforced by the criminalization of homosexuality in the penal code of the constitution of the Republic of Malawi (Section 137A, Section 153, Section 154, and Section 156). Criminalization of homosexuality resonates well with the religious prohibitions of homosexuality; consequently, providing a constitutional support for religious bigotry.

The theological, cultural and ideological reasons marshaled against same-sex conduct influences homophobia against LGBTIQ+ people in Malawi, and that the following sections of the literature review evaluates homophobic incidences in Malawi.

2.2.1 STEVEN MONJEZA AND TIWONGE CHIMBALANGA VICTIMIZED THROUGH HOMOPHOBIA

Mulenga (2012) argues that the news of Steven Monjeza and Tiwonge Chimbalanga's gay engagement induced a pandemonium that was marked by appeals to the cultural, traditional and religious values of the country not to be undermined. In general, there was condemnation of Monjeza and Chimbalanga in the press, religious circles, among traditional leaders and by government officials.

Mapondera and Smith (2012) say that Steven Monjeza and Tiwonge Chimbalanga were subjected to homophobia during their trial. They were denied bail, supposedly for their own safety, and were forced to endure dire conditions in jail. Angry residents and relatives from Chirimba Township said they will not allow them to return home if they are set free.

Mapondera and Smith (2012) observe that Monjeza was pressurized by his relatives to leave Tiwonge and seek a heterosexual relationship instead. His uncle, Khuliwa Dennis Monjeza, had expressed determination to prevent the two men reuniting. Others warned Chimbalanga not to set foot in the village, threatening that they would deal with him. Consequently, Monjeza no longer wanted to be associated with the homosexuality saga. He said:

I have had enough ... I was forced into the whole drama and I regret the whole episode. I want to live a normal life ... not a life where I would be watched by everyone, booed and teased.

This study argues that the gay couple separated because of the hostile homophobic environment in Malawi.

2.2.2 CALLS FOR THE EXECUTION OF GAYS IN MALAWI

Apostle Samuel Chilenje of the Jesus Pentecostal Church called for the execution of gays in Malawi. This implies that only heterosexual Malawians have the right to life while all homosexual Malawians should be executed. Therefore, this is the highest form of inequality expressed by a religious minister in Malawi calling for the annihilation of the LGBTIQ+ community.

Chilunga (2014) writes that Sheikh Dr. Salmin Omar Idrussi, the former Secretary General of the Muslim Association of Malawi (MAM), called for the execution of gays in February 2014. Idrussi argued for the continued criminalization of homosexuality and for the stiffening of the sentence from a 14 - year jail term to a maximum death sentence. He further intimated that although Malawi is regarded as a secular state, it is blessed with God-fearing citizens who cannot afford to deviate from God's commandments for the sake of pleasing others who practice homosexual acts.

Phimbi (2017) relates that Sheikh Dinala Chabulika, the spokesperson of the MAM reiterated the call for the execution of gays in September 2017. Chabulika argued that homosexuality is not only against the Islamic teachings and religion but also an abomination. Therefore, those practicing it must be executed. He emphasized that the Muslim community in Malawi will never change their stand on the death penalty for homosexuals because it will facilitate the process of completely rooting out this vice. He also quashed the call by the Malawi Human Rights Commission (MHRC) to conduct public hearings in order to solicit the views of Malawians on homosexuality, arguing that it was unnecessary. For him, the Holy Quran had already given guidance on the issue; therefore, there was no need to solicit people's views on the topic of homosexuality because it would not change anything.

These representative statements from Christianity and Islam demonstrate the highest levels of religious homophobia and inequality in Malawi which called for the annihilation of the LGBTIQ+ community. Other events in Malawi also highlight the homophobia and inequality that the LGBTIQ+ community has to negotiate daily.

2.2.3 KEN MSONDA'S "KILL THE GAYS" REMARKS

Mawerenga (2018) argues that Ken Msonda, a Malawian politician, posted inflammatory remarks against the LGBTIQ+ community on his Facebook page. The post was entitled: "Kill the Gays." He made seven homophobic comments. First, he described gays and lesbians as sons and daughters of the devil who were worse than dogs.

Here, Msonda might have been evoking the former president of Zimbabwe, Robert Mugabe, who used this phrase to attack homosexuals. Second, he faulted the Malawi Police for arresting gays and later giving them bail. He suggested that the best solution was just to kill them. Third, he criticized the media houses for parading 'the dogs' on TV and newspapers hiding behind human rights. For Msonda, the devil has no rights. Fourth, he challenged to meet the human rights campaigners in court over what he called a satanic, doggish, and demonic act of homosexuality. Fifth, he accused sexual minority activists of profiteering from homosexuality by using innocent young girls and boys. Sixth, he called upon the Inspector General of Police to

immediately arrest homosexuals hiding behind human rights because they are inciting citizens to break the law. According to him, the police should enforce the law which states that homosexuality is a criminal offense in Malawi punishable by 14 years' imprisonment. Finally, he refused to withdraw his post arguing that whatever he said was not a slip of his tongue. He maintained that gay practices remained sinful and God could condemn the nation if they were to be legalized and all those advocating for gay rights should go to hell.

2.2.4 NATIONAL INTERDENOMINATIONAL PRAYERS FOR THE RAINS

Gwede (2016) reports that the clergy argued that God was not giving sufficient rains to Malawi because of propagating same-sex liaisons. This was said during an interdenominational prayer meeting for the rains at Bingu International Conference Center (BICC) in Lilongwe where they were praying for the rains. In this way, the clergy contributed to religious inequality by singling out same-sex practice as a cause of drought. Thus, the people's anger was provoked against the LGBTI community for hindering the rainfall in an agrarian society.

2.2.5 HOMOPHOBIA IN THE CASE OF A MALE (GAY) PROSTITUTE

Khamula (2016) reports that on 24 April 2016, police in Lilongwe rescued Limbani Kukhase, a gay prostitute, from an angry mob that was beating him after discovering that he was a male gay prostitute. Kukhase went to a drinking joint at Kagwa in Area 49 whilst putting on a female make-up and dressing. A drunken man who did not realize that Kukhase is male procured him for sex only to discover that he is male whilst they were about to have sex. The man shouted for help and community members inflicted mob justice on Kukhase. The police arrested Kukhase and later released him without charging him and argued that they had picked him up for his own safety because some community members were baying for his blood. This incident demonstrates the extent of homophobia in Malawian communities.

2.2.6 HOMOIPHOBIA AGAINST CUTHBERT KULEMERA AND KELVIN GONANI

Gwede (2015) observes that homophobia was further exemplified in the comments of Malawians when reacting to US envoy's plea to Malawi government to drop the gay sex charges of Cuthbert Kulemela and Kelvin Gonani. For instance, the following three comments on Nyasa Times are homophobic to the two suspects and those who were calling for their unconditional release:

Al organizations supporting gayism, humbly stop existing in Malawi and go to USA, otherwise mob justice will take its course. We will burn your offices. America you should stop mingling in our affairs with immediate effect, just as we have never mingled in yours. We run our nation with our laws and not yours (Gwede, 2015).

This afore-mentioned comment serves at least four purposes: first, it shows that Malawi does not have any room for accommodating homosexuality. Second, it suggests that people will take the law into their own hands if the law enforcement agency fails to arrest the gays. Third, it asserts Malawi's sovereignty and denounces Western imperialism which is imposing sexual minority

rights in Africa. Fourth, it demonstrates that Malawi as a democratic country followed the rule of law; therefore, the arrest was not unlawful but consistent with the constitution.

Nyasa Times publishes the names of high-profile gays in Malawi. Mob justice will take its course if the police release them. Tizingowotcha tikagwira (we will burn them once caught) and wipe them out of this country (Gwede, 2015).

This comment directly incites violence against LGBTIQ+ people in Malawi by using the media. A similar case was reported when David Kato, a prominent gay rights activist, was murdered in his house after a Ugandan tabloid named “Rolling Stone” had published an article with the names, addresses, and photographs of 100 people it claimed were gay or lesbian, accompanied by the headline, “Hang them.”

Why did police arrest these gays in the first place? You should have let the mob that surrounded their house to stone them to death. We don't have a place, not even a prison cell for these idiots in Malawi (Gwede, 2015).

This comment faulted the law enforcement agency for arresting the suspects and wished for mob justice to have been executed. This means that people are willing to go to the extent of not observing the rule of law as a means of curbing the vice of homosexuality. Furthermore, it exemplifies total rejection of homosexuality in Malawi.

2.3 FAITH GROUPS ENGAGES WITH THE CONSTITUTIONAL REVIEW OF SAME-SEX LAWS IN MALAWI

Sande (2023) reports that two claimants: Jan Willem Akstar from The Netherlands and Jana Gonani from Mangochi, petitioned the High Court sitting as the Constitutional Court in Blantyre, to review and declare some provisions in the Penal Code that criminalise same-sex unions unconstitutional. On one hand, Gonani was arrested and convicted for contravening Sections 153, 156, and 156 of the Penal Code. On the other hand, Kim Akster was arrested and charged for having carnal knowledge against the order of nature of seven male persons contrary to Section 153 (A) of the Penal Code.

The case was presided by Joseph Chigona, a lead judge of a three-member panel comprising of Vikochi Chima and Chimbizgani Kacheche. The State was supported by faith groups comprising of the Evangelical Association of Malawi (EAM), Muslim Association of Malawi (MAM), and Episcopal Conference of Malawi (ECM), who joined the case as friends of the court, and objected to the claimants' demands (Sande, 2023).

Namangale (2023) reports that Bright Theu, the legal counsel representing the Evangelical Association Malawi argued that if the court would agree with the two claimants and declare as unconstitutional some sections in the Penal Code that criminalise homosexuality, it would create a pandemonium of demands for four unethical sexual practices. Firstly, necrophilia whereby a person sexually violates a dead corpse. Secondly, bestiality which involves having sex with animals. Thirdly, pedophilia where a person sleeps with children. Fourthly, masochism and sadomachism, where one develops a tendency to derive sexual gratification from one's own pain or humiliation.

Namangale (2023) states that Innocentia Ottober, the legal counsel representing the Episcopal Conference of Malawi (ECM), quashed the claimants' argument which purports that the State should not interfere with what happens in bedrooms of two consenting adults of same-sex. She further argued that if indeed the State stays away from whatever happens in the bedroom, it would be tantamount to the State abdicating its law enforcement mandate on incest, rape and drug dealings as long as such criminal activities are happening in private.

Namangale (2023) writes that Frank Mbeta, the legal counsel representing the Muslim Association of Malawi (MAM), argued that the court could not be asked to create a right that is not in the Constitution. He further added that Kim Akstar was disqualified to pursue the case and lacked sufficient interest as he told the court that he was not gay.

Kayuni (2023) reports that the religious fraternity comprising of the Malawi Council of Churches (MCC), the Muslim Association of Malawi (MAM), the Evangelical Association of Malawi (EAM), the Quadria Muslim Association of Malawi (QMAM), and the Episcopal Conference of Malawi (ECM) held peaceful protest marches in the country's major cities and some districts against same sex marriages in 2023.

Sande (2023) writes that Arch Bishop Thomas Msusa of the ECM and Sheikh Dinala Chabulika, spokesperson of the MAM petitioned the Malawi parliament to enact laws that will protect human sexuality, marriage, and family as instituted by God. He insisted that the position of the faith groups was very clear: "NO to same-sex marriages in Malawi."

Sande (2023) writes that Eric Sambisa, the Executive Director of the Nyasa Rainbow Alliance (NRA), an organisation that advocates for minority rights fears that the demonstrations by the religious fraternity will fuel violence against gays and lesbians in the country and further exclude them from the church and society. Sambisa said that:

It is worrisome that the religious leaders are in the forefront doing things that would violate the rights of the LGBTIQ+ community. We are fearing that today's demonstrations will promote violence against the community which is already disadvantaged (p.1).

Sande (2023) reports that the Nyasa Rainbow Alliance (NRA's) office was vandalised by thugs in a wave of homophobic violence targeting organisations that advocate for LGBTIQ+ rights in Malawi. Eric Sambisa of NRA said that:

Our offices were recently vandalised and we have every reason to believe that this is an attempt by some overzealous people to frustrate our operations as we strive to defend and protect the rights of LGBTIQ+ persons in Malawi who are currently facing multiple harassment and discrimination in Malawi because of their sexual orientation (p.1).

CONCLUSION

The literature review has exposed the LGBTIQ+ situation in Malawi which is infested with high levels of intolerance and homophobia: consequently, affecting the well-being and rights of LGBTIQ+ people in the country.

CHAPTER 3

RESEARCH METHODOLOGY

3.0 INTRODUCTION

This chapter of the proposal presents a detailed research methodology that was used for this research study.

3.1 DESCRIPTION OF METHODOLOGY

The study employed a mixed method approach i.e. qualitative and quantitative (survey) research methodologies.

3.2 STUDY DESIGN

The study design constituted desk research (literature review) and field work.

3.3 STUDY SITES/LOCATIONS

Primary data for the study was collected in Malawi in the following six districts: Mwanza, Salima, Mulanje, Blantyre, Lilongwe and Mangochi. The choice of these districts was influenced by the fact that anti-LGBTIQ+ religious demonstrations took place in the afore-mentioned districts.

Secondary data for the study was collected at the University of Malawi library. Moreover, the internet also provided useful data that was compiled and analysed.

3.4 STUDY PARTICIPANTS

Participants for this study included LGBTIQ+ individuals and LGBTIQ+ leaders of various CSOs which promotes LGBTIQ+ rights in Malawi.

3.5 STUDY PERIOD

The study was conducted for three months (1st March 2024 – 11th May 2024).

3.6 SAMPLING METHODS

The study employed Purposive and Snowballing sampling methods. First, purposive or judgmental sampling refers to a group of non-probability sampling techniques that endeavors to select units based on the characteristics needed in one's sample (Rai and Thapa, 2015). In other words, units are selected based on a researcher's judgment when identifying and selecting the individuals, cases, or events that can provide the best information to achieve the study's objectives (Taherdoost, 2016). In this case, purposive sampling was employed by intentionally

selecting participants based on their knowledge and experience during and after the religious demonstrations.

Second, Snowball sampling was used for the study. Van Haute (2021) argues that Snowball sampling is a non-probability sampling method where new units are recruited by other units to form part of the sample. Sadler et.al. (2010) says that snowball sampling can be a useful way to conduct research about people with specific traits who might otherwise be difficult to identify. In this case, LGBTIQ+ participants lead the researchers to their fellow LGBTIQ+ comrades who have had an adverse experience during and after the resumption of the court cases.

3.7 SAMPLE SIZE

Silverman (2016) argues that a sample size refers to the number of participants or observations included in a study. Florey (1993) articulates that the size of a sample influences two statistical properties: 1) the precision of estimates and 2) the power of the study to draw conclusions.

The assessment study reached ninety-one (91) people. Sixty-six (66) participants were LGBTIQ+ individuals, and 25 participants were LGBTIQ+ CSO leaders. Specifically, the sample was categorized into the LGBTIQ+ spectrum in the following way: 11 lesbians, 30 Gays, 24 bisexuals, 11 Transgender, 7 Intersex, and 8 Queer people.

3.8 DATA COLLECTION INSTRUMENTS

The study employed three data collection instruments; namely, Key Informant Interviews (KII), Focus Group Discussion (FGDs) and survey. First, the Key Informant Interviews (KII) are a form of in-depth interviews which will be conducted with LGBTIQ+ participants who are aware of the manifestation of the LGBTIQ+ phenomenon in Malawi. Second, the Focus Group Discussion (FGD), groups of 6-10 LGBTIQ+ people aimed at documenting their their views, opinions, facts, arguments, perceptions, perspectives, experiences, attitudes and understandings of the LGBTIQ+ situation in relation to NRA's registration and LGBTIQ+ court cases in Malawi. Third, the study employed a survey aimed at collecting, analysing and interpreting data concerning the LGBTIQ+ community in Malawi.

3.9 DATA MANAGEMENT METHODS

It includes the following: (1) preparing and organizing the data by printing out the transcripts, gathering the field notes, documents, and any other field related material to ensure that they are secure; (2) Reviewing and exploring the data; (3) creating initial codes; (4) reviewing those codes and revising or combining them into themes; and (5) presenting themes in a cohesive manner.

The data collection instruments can be found in the Appendix.

3.10 DATA ANALYSIS METHOD

Data for the study was analyzed in two ways. First, the quantitative data was analyzed using the SPSS data analysis software.

Second, the qualitative data was analyzed by a thematic analysis, through separating the data into workable units, while identifying salient themes, topics, recurring ideas or language, and patterns of beliefs regarding the experiences during and after the commencement of the court cases. Data was summarized by examining all the entries that had similar information and then

developing write ups that captured the essence of the information, with special focus on patterned regularities, relationships among the categories and patterns of the data.

3.12 ETHICS

Ethical Clearance was obtained at University of Malawi Research Ethics Committee. Since the study will involve the participation of human subjects, it was imperative that it follows the research ethical considerations strategies stipulated by the University of Malawi Research Ethics Committee (UNIMAREC) in order to obviate the risks associated with the study.

3.12.1 PROTECTION FROM HARM

Smith et.al (2008) argues that a professional research should be done systematically by making sure that neither physical nor emotional harm is induced on the participants. Therefore, the study endeavored to ensure that all its participants are protected from any harm, and that the data that was collected was kept under well secured systems.

3.12.2 INFORMED CONSENT

Crow et.al (2006) defines informed consent as a process in which a participant agrees to participate in a research project after being informed of its procedures, risks and benefits. The study ensured that all research participants were told the nature of the study and were given the choice of either participating or not participating. In other words, participation in this study was strictly voluntary. Furthermore, they were told that if they agreed to participate, they have a right to withdraw from the study at any time.

The informed consent form can be found in the appendix.

3.12.3 RIGHT TO PRIVACY

Marmor (2015) that privacy entails individual freedom or autonomy to determine the time, extent, and general circumstances under which private information can be shared with or withheld from others. Petrova et.al (2016) argues that the right to privacy is connected principle of confidentiality in ethical research states that the identity of the participants must remain anonymous and the information they supply must be respected. This means that researchers must take steps to ensure their research data remains confidential.

Therefore, the study ensured that its report is presented in such a way that its readers could not know of how a particular participant responded or behaved. All information that was collected was treated with strict confidentiality.

CHAPTER 4

DISCUSSION OF RESEARCH FINDINGS

4.0 INTRODUCTION

This section of the report presents the discussion of the study's research findings.

4.1 MAJOR FINDINGS OF THE STUDY

The study has established the following ten major findings:

1. The impact of the media on LGBTIQ+ persons and Civil Society Organizations (CSOs).
2. The impact of the religious groups on LGBTIQ+ persons and Civil Society Organizations (CSOs).
3. The impact of the court case in general on LGBTIQ+ persons and Civil Society Organizations (CSOs).

4.1.1 THE IMPACT OF THE MEDIA ON LGBTIQ+ PERSONS AND CSOs

A common view amongst the participants of the focus group discussions in Blantyre and Lilongwe was that the media largely influenced the public opinions regarding the court proceedings. Participants expressed that the media gave uninformed information which negatively influenced the public opinion. When the respondents of the survey were asked to rate the media performance, 74% of the respondents rated them poorly. In the discussions, they disclosed that the social media particularly Facebook posts have negatively influenced the public opinion leading to more hateful words and comments towards LGBTIQ+ community. As one participant in Mangochi put it,

“The media broadcasted and printed out names of LGBTIQ+ people in Mangochi. This has subjected us to be targeted, insulted and made us more vulnerable to attacks in the communities”.
LGBTIQ+, Mangochi FGD.

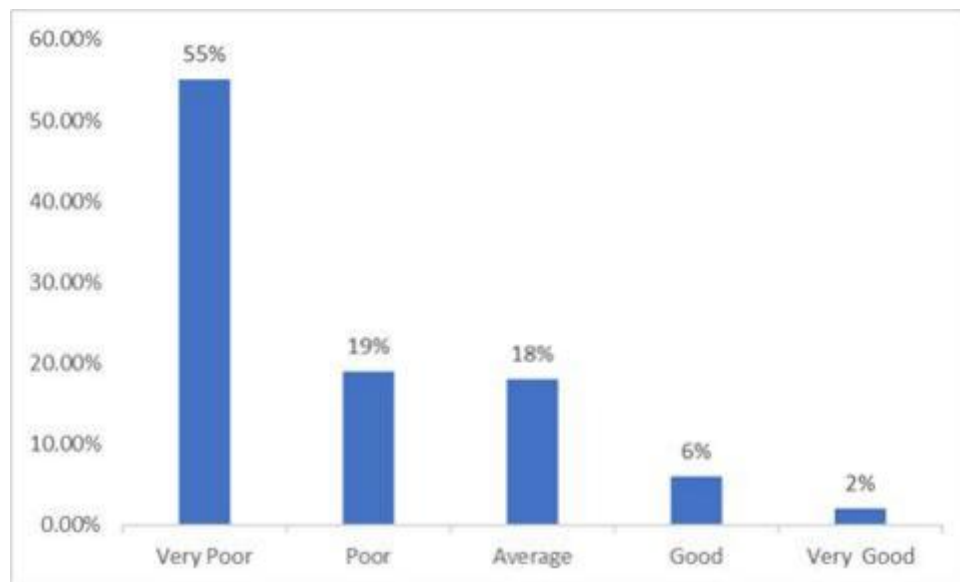
Out of fear some LGBTIQ+ members have logged out of their Facebook accounts. In addition to that, the media personnel were zooming out faces of LGBTIQ+ members that were attending court case hearings. Their identities were revealed without their consent violating the right to privacy. Also, the media exposed a lot of individuals and made them vulnerable to discrimination. As a result, the study revealed that more LGBTIQ+ members were chased from their homes, some lost their jobs, and some had their businesses severely affected and the situation is still the same up to now.

Jafali, a bisexual man in Mulanje was disappointed by the way media platforms reported the court cases and explained how it affected his life. He asserted that most of the media houses misinterpreted and sometimes distorted the information about the court cases. Jafali explained

that the media outlets such as the Facebook and radio reported that the court cases were about legalising same sex marriages in the country. This ignited public anger against the LGBTIQ+ community. He shared that the information that the court cases were about legalising same sex marriages was not true. According to him, it was uncalled for the radios to call people and debate over the air against LGBTIQ+ rights while they know that this is minority rights and there is nothing debatable about people's human rights. Until now Jafali said that he does not move freely in his community as he used to before the court case and religious demonstrations because people call him Satan.

Interestingly, 26% of the respondents mentioned that media platforms such as the Nyasa times and Zodiak online have hitherto been helpful. They reported that the media outlets were an essential tool as their stories reached out to the international community and through their online pages, the donor community followed what was happening in Malawi.

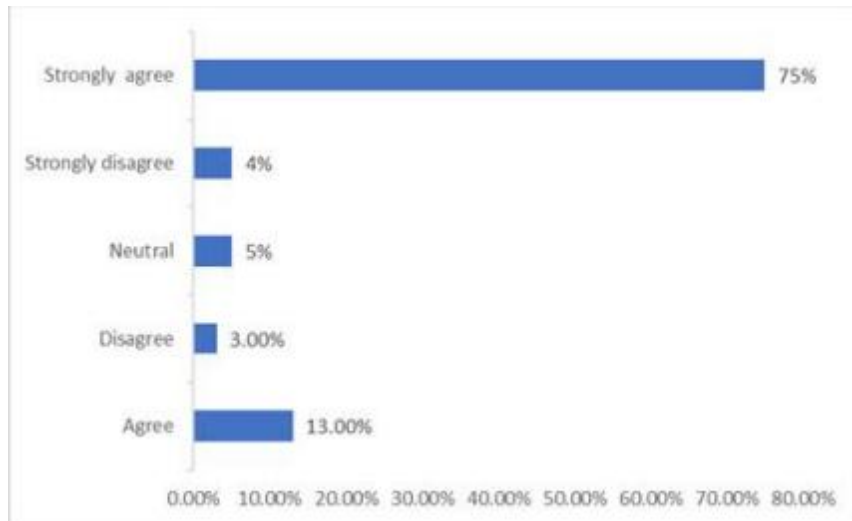
Figure 2 shows the participants general ratings on the performance of the media in the ongoing court cases



4.1.2 THE IMPACT OF THE RELIGIOUS GROUPS ON LGBTIQ+ PERSONS AND CSOs

The research found that religious groups demonstrations put the LGBTIQ+ members and CSOs on a spotlight and increased their vulnerabilities. The demonstrations inspired threats and hate speech against the LGBTIQ+ community leading to a rise of potential attacks in public spaces. According to the survey, 75% of the participants strongly agreed that the recent religious groups demonstrations have heightened the risks and vulnerability of LGBTIQ+ people in Malawi.

Figure 3 shows participants' level of agreement on whether recent religious groups demonstrations have heightened the risks and vulnerability of LGBTIQ+ people in Malawi.



Currently in churches, LGBTIQ+ people are experiencing rejection and isolation (refer to case study 3). Some members are being taken through conversion therapy. In Salima, an LGBTIQ+ member was removed from a secretary position and was also banned from leading a children’s club at the church. The study also revealed that sermons are directly targeted to LGBTIQ+ community as such most of the participants have stopped attending church services (refer to case studies 3). As shared by the participant,

“I stopped going to church because I got tired of being the topic of the sermons. It is the hardest decision I have ever made in my life”, LGBTIQ+, Mangochi FGD.

In Lilongwe, LGBTIQ+ led civil society organizations through Global Interfaith Network, have been engaging religious leaders to facilitate understanding of human rights issues as they relate to LGBTIQ+ plight. In addition, the religious leaders were sharing the word of God with LGBTIQ+ people. One CSO leader stated that, the religious leaders began to desert them and would give a lot of excuses as to why they would not honour invitations to their engagements again. “Some clearly stated that, they do not want to lose their reputations by engaging with us,” a participant shared. Clearly showing that LGBTIQ+ programming has been severely affected more than before the court cases.

The participants mentioned that this was a big blow to them because for once, they felt that they mattered and they would feel a sense of belonging. “For once, we had the privilege of hearing unadulterated word of God that spoke of love and not the common condemnation,” one member shared. They disclosed that they do not have a fallback plan and they are back to the drawing board but highlighted the importance of having an allyship with faith leaders and that they will make plans to brainstorm new advocacy strategies that will bring back the religious leaders on board.

The research revealed that some of the pastors who were also allies of the LGBTIQ+ community in Lilongwe were excommunicated from their churches after it became known that they were meeting with LGBTIQ+ members.

4.1.3 IMPACT OF THE COURT CASE ON CIVIL SOCIETY

Study findings revealed that the court case had multiple impacts on the civil society in Malawi. These are: freedom of association, security concerns, CSOs operations or programming, and collaborations and relationships.

4.1.3.1 FREEDOM OF ASSOCIATION

Participants from the focus group discussions revealed that the decision by the registrar general to deny registration of NRA in Malawi has violated the right to freedom of association and it has deterred prospective applicants from applying for the registration of their organisations. It is also in violation of LGBTIQ+ rights as they could have benefited from the interventions of the registered organisations. As one participant from Salima shared, “all these human rights violations could have been minimized had it been that the LGBTIQ+ organizations are registered and do not operate in secret.”

4.1.3.2 SECURITY CONCERNS

Civil society organisations reported that during the religious group’s demonstrations, there was increased security concerns. Some organizations in Blantyre were looted and their office equipment was vandalized. The general public assumed that the CSOs who were advocating for the LGBTIQ+ community had received funding from donors to promote homosexuality in Malawi and some wanted to deal with the CSOs members. Other organisations kept on changing venues for their activities for fear of attacks. In Blantyre, unknown people sent a drone over CEDEP office premises and later posted the pictures on one of the popular Facebook pages called Mikozi. As a precaution measure, CEDEP moved their information to a secured location. Aske Malawi office in Chileka was moved to Machinjiri for security reasons. Nyasa Rainbow Alliance also relocated from Kameza to Nyambadwe.

The research uncovered that at the time of the religious protest, there was a high demand for safe houses from the LGBTIQ+ community. For example, IVY foundation in Lilongwe received more than 20 requests for safe houses but they were not able to assist everyone due to inadequate funding. Even though the situation is calm now, the CSOs disclosed that there is still fear among the members and are still taking precautionary measures.

“We have had to be cautious in terms of visibility for fear of threats and attacks, several people are also refraining from our activities,” Lilongwe CSOs

“We have had to adjust the planning of our programs to ensure that safety is prioritized, “Blantyre CSOs.

4.1.3.3 CSOs OPERATING/PROGRAMMING

On the civil society organisation operations or programming, the study discovered that the impacts of the NRA registration and constitutional court cases are in two folds. Firstly, the registration and constitutional court cases have negatively affected the operations of the civil

society organisations. These disruptions in project implementation affected timelines for project implementation and also service delivery to the LGBTIQ+ people. Secondly, the court cases have brought opportunities for some of the civil society organisations in terms of programming and donor funding. The ongoing constitutional cases revealed gaps in human right advocacy work that needed timely intervention. As such, there has been a keen interest by donors to fund human rights centred initiatives that aim to legally empower LGBTIQ+ persons. Currently, CEDEP has secured funding regarding the same and have sub-granted it to other LGBTIQ+ led organisations to implement the human rights project at scale.

Because of security concerns, most of the civil society project activities slowed down or suspended their activities. For instance, Aske Malawi in Blantyre failed to conduct their 2023 annual pride parade because of fear of being attacked. Some CSOs targeted health services were interrupted and access to sexual and reproductive health services was negatively impacted. At the time of the protests, most of the Drop-in Centers (DIC's) were closed and the CSOs were unable to provide HIV testing services as well as ART drugs to their members (refer to case study 6). In addition to this, some organisations such as NRA met human resource challenges where three of their staff members resigned stating that LGBTIQ+ advocacy is becoming risky and they do not want to be a part of it anymore.

In Salima, Optimum organisation started offering SRHR services to the LGBTIQ+ community remotely. Additionally, a few organisations including Aske Malawi, CEDEP and YOCADE in Blantyre were also offering moral support and psychosocial counselling to the community members during the demonstrations. The CSOs shared their contact details with LGBTIQ+ community members who were able to call and notify them if they were in danger or sought protective materials.

The CSOs reported that the court cases have brought to light certain issues of mental health which are now incorporated in their programming. Despite the fact that some organisations lost funding opportunities due to non-disclosure of their location, closure of office premises and inconspicuous work during the protests, the study found that there is increased interest from the donor community to fund many organisations in areas of human rights and advocacy.

4.1.3.4 COLLABORATIONS AND RELATIONSHIPS

As highlighted by the participants in the focus group discussions, the relationship with non LGBTIQ+ stakeholders have been both positively or negatively impacted. Some of the allies of LGBTIQ+ people have pulled out of long-term relationships because of the fear of backlash from the general public (refer to case study 5). Even the working relationship among LGBTIQ+ activists was put to test. The case has highlighted the cracks in their collaboration at national level. The CSOs did not fully support the NRA as the main litigators of the case. The Diversity Forum secretary said that, "Truth be told, we just left everything in the hands of the NRA and did not fully support them as we should have since we are all LGBTIQ+ rights activists." The same sentiments were echoed by the NRA officials stating that they never got the much-needed

support from their fellow activists. Only four organisations, CHERA, CEDEP, MHRC and ArtGlo were mentioned to have offered significant support.

On the contrary, the study found that there was enhanced collaboration among smaller organisations in semi-urban areas of Blantyre. The CSOs helped each other to monitor and assess the needs of the LGBTIQ+ community members during the demonstrations. These organisations included YONECO, Machinjiri Youth Network, Female Sex Workers Association and NAC who assisted each other in delivering services to the LGBTIQ+ community. The discussions revealed the solidarity that was also there during the court proceedings among a few LGBTIQ+ organisations. For instance, CEDEP hired a lawyer for the constitution case while CHREAA sponsored the LGBTIQ+ members who came for the case hearing and ArtGlo engaged religious leaders involved in their projects to lessen the tensions and shed light of the court case with their peers, that thwarted demonstrations in some districts like Mchinji.

4.1.4 IMPACTS OF THE COURT CASES ON LGBTIQ+ PEOPLE

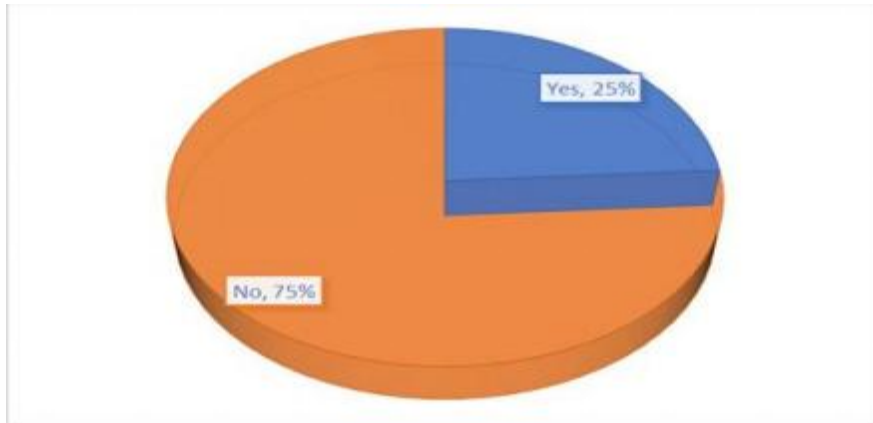
Study findings revealed that the constitutional court cases had the following impact on LGBTIQ+ people: knowledge of the court cases, physical harm, hate crime, social harm, economic harm, psychological harm, and access to healthcare services.

4.1.4.1 KNOWLEDGE OF THE COURT CASES

When the respondents of the survey were asked if they were familiar with the two court cases, 64% of the participants and 79% were familiar with the Nyasa Rainbow Alliance and the ongoing constitutional court cases respectively. While leaders of the LGBTIQ+ led organisations were able to explain the whole court cases in detail, LGBTIQ+ community members failed to describe the two cases in depth. The research has established low knowledge of both the NRA registration and constitutional court cases among the LGBTIQ+ community members.

The impacts of the NRA registration and constitutional court case such as physical harm, verbal insults, isolation/rejection, strained family relationships, loss of friendship, homelessness, discrimination, excommunication from church, anxiety and denial of economic opportunities were reported by the LGBTIQ+ community in all the districts. The study revealed that in the time of religious groups demonstrations, only 25% of the LGBTIQ+ people were able to receive moral support and counselling from LGBTIQ+ led organisations and LGBTIQ+ centric organisations such as ArtGlo, CEDEP, ASKE Malawi, Ivy Foundation and Optimum.

Figure 4 shows participants responses on whether they received support from CSOs during the demonstrations



4.1.4.2 PHYSICAL HARM

The research found heightened levels of security concerns among LGBTIQ+ people. Previously, the members were able to hang around in the drinking joints, and other places without any problem but after the demonstrations the situation changed. For example, in Lilongwe, LGBTIQ+ community members in queer families were beaten at a drinking joint just for the fact that they are members of the LGBTIQ+ community (refer to case study 9).

A lesbian and a gay person in Mangochi and Mwanza respectively reported being involved in a fight after being verbally attacked at a drinking joint. There have been issues of mob justice more especially in rural areas of Blantyre for example, a lesbian person was beaten by a group of boys in the streets of Machinjiri. This was in addition to the boy's hurling insults at her and other LGBTIQ+ friends saying that LGBTIQ+ people should stop what they do because it is bringing misfortunes in the country. They reported the matter to the police to seek redress but it was never pursued.

4.1.4.3 HATE CRIME

The research noted a rise in hateful speeches in community and religious domains. Participants mentioned that the streets and communities are home for real hate. Out of hate, in Mangochi demonstrators moved from the streets to LGBTIQ+ people house to attack them (refer to case study 13). Commenting on the hate crime, one participant said, "Since most of us are well known, the demonstrators identified my house and threw home made petrol bombs. I fainted and woke up a few hours later in a local forest",

Also due to hate, a Mangochi participant reported that he was framed in a sodomy case. He was released by police only after a medical examination on the alleged victim proved something different; otherwise, he could have been in jail (refer to case study 13).

The study also found increase of insults and mockery from community members that has the potential to encourage torture of LGBTIQ+ people for example, in Salima one participant shared

that, at the time of the demonstrations, he went out to buy fried potato locally known as chiwaya from the market. Out of nowhere, the sellers began to say that, “these gays need to be stabbed in the stomach.” He mentioned that this statement brought fear to him.

The police have not been exempted from the hate towards the LGBTIQ+ members. One of the participants in Mangochi reported that he was once arrested by the police one night at his home on suspicions that he was a homosexual as he was frequently checking Jana Gonani while she was in police Custody in Mangochi. He was released only after he paid a sum of 75 thousand kwacha.

Religious leaders are equally using hateful speeches in the pulpits. The participants from both CSOs and LGBTIQ+ focus group discussions revealed that religious leaders consider them as satanists and that there is no place for them in heaven (refer to case study 3). The faith leaders are using statements in churches and mosques blaming the LGBTIQ+ people for the difficult times that Malawi is facing such as climate change.

4.1.3.4 SOCIAL HARM

The study revealed that LGBTIQ+ people are facing rejection from their family members and friends (refer to case studies 8, 11, 12). During and after the religious group’s demonstrations, most of the LGBTIQ+ identities were revealed and the majority have lost their friendships. They have been subjected to torture from their families for example, a gay person from Mulanje explained that he was tortured by his nephews. Some participants reported that they are now homeless, they have moved out of their parents’ home either voluntarily or against their will. Other members of the LGBTIQ+ community withdraw themselves from the entire community and cut off communications from all their friends in fear of being convicted (refer to case study 12)

One participant shared that he finds it difficult to take part in community work after he was systematically chased by his fellow grave diggers. “The grave diggers made insulting and threatening comments directed to me. They reached a point of saying that “manda ndi omwewa tiyeni timukwilire ameneyu (Let’s just bury him in this grave we have dug).” (refer to case study 2)

4.1.3.5 ECONOMIC HARM

The study has discovered that LGBTIQ+ people are being denied economic opportunities because of their identity. Participants of the focus group discussions in Mulanje, Mwanza, Salima and Mangochi reported either loss or denied job opportunity because they belong to the LGBTIQ+ community. In Mangochi, a bisexual person lost his job as a cook after the boss realised his identity. In Mulanje, a gay person was denied a job opportunity as a tourist guide after the employer became aware of his identity. In Salima, Mwanza and Mangochi the participants reported reduced patronization of businesses owned by LGBTIQ+ people (refer to case study 7 and 11)

“People stopped buying from my shop asserting that they were afraid to be taught how to be a gay. If that was not enough, other people engaged in propaganda influencing my prospective customers not only to stop buying from me but also never to come close to me. As a result, my daily sales critically declined leading to the closure of my shop”, LGBTIQ+ person, Salima FGD

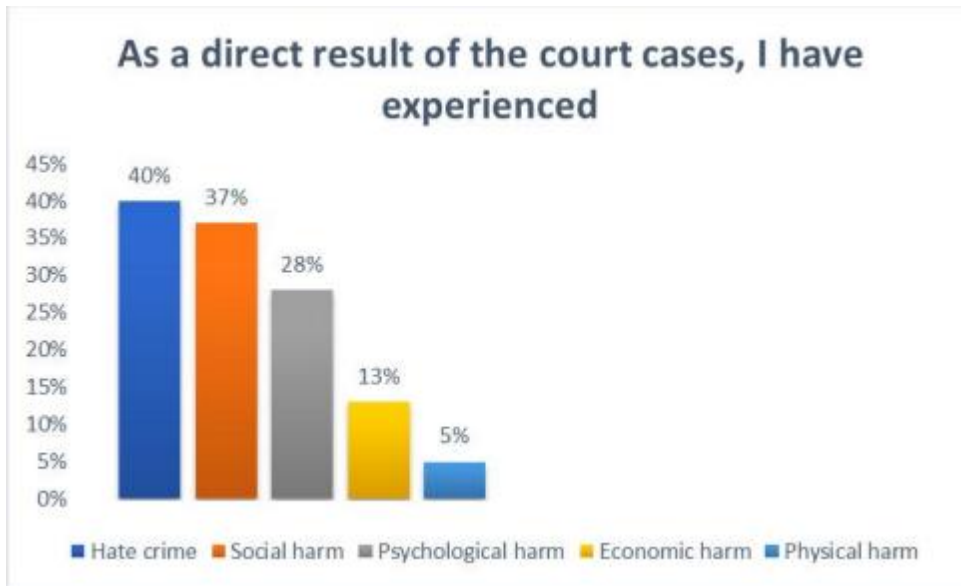
4.1.4.6 PSYCHOLOGICAL HARM

An important issue that also emerged from the research was an issue of mental health. Because of the increase of threats, verbal insults, the community members are living in fear of their lives, most of them experience stress and depression. The LGBTIQ+ community members explained that anxiety regarding personal safety is taking a toll on their psychological well-being. To those who went through the most horrible experiences during the protest period are now experiencing Post Traumatic stress Disorder (PTSD). As shared by a participant

“I live in fear now more than ever. When I remember the pain of the teargas, the screaming and all the theft that happened at my own home on the day of demonstrations. I really don’t want to pass through them again”. LGBTIQ+ Mangochi FGD.

Furthermore, the study found that some members of the LGBTIQ+ community were psychologically affected due to conversion therapy organised by their family members. Pastors were invited to cast out evil spirits as family members believed that being an LGBTIQ+ person is a sign of being possessed with the evil spirits. One of the CSO representatives in Lilongwe testified that soon after the religious protest, three LGBTIQ+ members were exposed to forced conversion therapy whereby their family members invited pastors to pray and cast out the evil spirits. This affected them psychologically. Another CSO representative added that the same incident happened in Mzuzu whereby a transman was forced to conversion therapy by his family members. People were holding vigils at his home everyday. The pastors reached an extent of showing him nude sexy pictures of boys in an attempt to arouse him so that he should become sexually attracted to boys. He was critically traumatised and later he committed suicide.

Figure 5 shows percentage of the participants who have faced different forms of harm as direct result of the court cases



4.1.4.7 ACCESS TO HEALTHCARE SERVICES

The research has revealed that since the commencement of the constitutional case, there have been challenges in accessing health services. Participants in Mwanza shared that once health care workers suspect that the patient is a member of the LGBTIQ+ community, they ask a lot of questions. This has made them shun away from accessing health services or lie about their problems whenever they visit a health facility.

Other community members had challenges in accessing ART medication due to closure of DIC's. Some had to request them secretly from the activists who also made the deliveries in secret. There was no formal pattern for the deliveries and this led to defaulting (refer to case 6) Currently, there are some who have managed to catch up on their medication whilst others haven't gotten back on track up to now.

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.0 INTRODUCTION

This section of the report presents the conclusion and recommendations for the study entitled: “Assessing the Impact of LGBTIQ+ Court Cases on LGBTIQ+ Community in Malawi.”

As illustrated in the research findings, the impact of the registration and constitutional court case on LGBTIQ+ community is shown in a multiplicity of ways. The negative impacts on the LGBTIQ+ community outweigh the positive influences. Though some of the effects were heavily experienced at the time of the religious group’s demonstrations and court proceedings, the situation continues to be unfavourable to the LGBTIQ+ community. The religious group demonstrations and poor narration of the case by the media outlets in Malawi have as well increased the risks and vulnerabilities.

Lack of a clear knowledge of the court cases by members of the LGBTIQ+ community strongly imply that the members do not have the ability to defend themselves. With respect to the first research question, it was found that there was an increase of security concerns and hate speeches. These findings are according to the NRA report and a short study that was conducted by ArtGlo in Mchinji, Dedza and Phalombe, that showed that there were threats targeting LGBTIQ+ community. The research findings also revealed that members of the LGBTIQ+ community are living in fear. The verbal insults led to numerous negative health issues and disorders such as poor physical health, suicidal thoughts, Post Traumatic Stress Disorders (PTSDs) and depression. LGBTIQ+ people with poor mental health are at an increased risk of self-harm due to the effects of isolations, rejection and discrimination. In addition, their inability to access targeted health services such as the lubricants and ARTs is placing them at increased risk of STIs including HIV which sabotages the fight against HIV in the country. This is in line with a report by Art and Global Health Center on the progress of SALC Inclusive societies where LGBTIQ+ people in Dedza, Mchinji, Phalombe and Chikhwawa expressed their fear to seek public services citing the demonstrations that happened in the districts as a cause to their distress.

It is interesting that the research findings also present an opportunity for civil society organisations, activists working towards safeguarding the lives of LGBTIQ+ community in Malawi to collaborate and mitigate the adverse effects of the court cases and advocate for the human rights.

5.1 EXPECTATION CONCERNING THE OUTCOME OF THE CONSTITUTIONAL COURT CASES

When participants were asked of their expectations on the outcome of these cases. Majority of the participants said that they are not expecting anything positive from the court. Worth

mentioning is the fact that the participants from all the focus group discussions were happy that the court case has increased visibility of the LGBTIQ+ community which might be an opportunity for more advocacy work. The participants believed that the judge will deliver their judgement on theft and rape cases but not on the review of section 153 of the penal code. The participants attributed that there could be a decision to freeze the constitution court case due to external pressure from the faith leaders and general public. Secondly, the case could freeze because the Malawi government may not want to uphold section 153 of the penal code for fear of losing international donor funding. As one participant shared,

“I am not expecting anything positive from the court because we had a weaker case but also there have been so many external factors that might influence the direction of the case in courts”, Diversity forum leader, Lilongwe FGD.

5.3 RECOMMENDATIONS

The study’s recommendations comprise of CSO’s and LGBTIQ+ individuals’ proposed strategies and actions that could be implemented to mitigate these adverse effects and foster inclusion in the face of societal and legal challenges. These include:

5.3.1 FORMATION OF AN LGBTIQ+ COALITION

Aside from the diversity forum, the CSOs suggested forming a coalition composed of LGBTIQ+ organisations and allies. The coalition will be speaking with one voice.

5.3.2 CONDUCTING LEGAL EMPOWERMENT WORKSHOPS

Some of the CSOs proposed capacity building activities for LGBTIQ+ people to ensure they understand the law and the ongoing court cases so that they should not be found on the wrong side of law.

5.3.3 DEVELOPING CONTINGENCY PLANS FOR THE COURT CASES OUTCOME

The diversity forum indicated plans to meet and decide on possible measures to put in place for the safety of their members. Other organisations proposed that CSOs should have contingency plans with institutions such as the United States or South African embassies in preparation for the outcome of the court cases.

5.3.4 MOVEMENT BUILDING AND ALLYSHIP

The participants suggested the need to work towards improving relationships with allies to gain their support during tension. They proposed involving other human rights organisations that do not focus on LGBTIQ+ people as they both have a common ground which is promotion of the fundamental rights. Some CSOs indicated plans to collaborate with government branches such as National Initiative for Civic Education (NICE), Malawi Human Rights Commission, and Malawi Law Society to educate the general public on LGBTIQ+ issues.

5.3.5 CONDUCTING TRAINING FOR THE MEDIA

The participants proposed media training as one way of equipping the media with knowledge on how to report LGBTIQ+ issues in an unbiased way and whenever there is poor narration of the case, the CSOs mentioned that the coalition of LGBTIQ+ CSOs should be conducting a press briefing to clarify issues. This was echoed by leader of the diversity forum who also felt that the LGBTIQ+ community could have refuted some of the media articles that were misleading the general public.

5.3.6 ECONOMIC EMPOWERMENT

On the physical harm, the participants mentioned that most of the LGBTIQ+ members are commercial sex workers and this kind of work exposes them to risks. The discussions highlighted the need for LGBTIQ+ community members to be economically empowered as this will lessen security risks.

5.3.7 PERSONAL SECURITY

The LGBTIQ+ community advised each other to take care of their lives and avoid being on the wrong side by abiding to the laws. In addition, they mentioned that the LGBTIQ+ community members should be conscious of their actions bearing in mind the current hostile environment.

5.4 LIMITATIONS OF THE RESEARCH

Due to the flooding situation in the northern region, travelling by road to collect data was difficult as such the research was only conducted in the southern and central regions. Another limitation was the inadequate representation of the lesbian people in the study.

5.5 CONCLUSION

This study adds to the body of knowledge around the impacts of the NRA registration and constitutional court case on LGBTIQ+ people in Malawi. It is recommended that civil society organisations should start by educating the LGBTIQ+ community to understand both of the cases in court then they should work together to develop a contingency plan that outlines specific actions to take in the event of a court outcome and how they are going to support each other. Further the research recommends that organisations should work on new programming areas such as mental health and human rights advocacy. The study also recommends that LGBTIQ+ organizations should find better ways of synergising their efforts and work as a block to lessen the adversity LGBTIQ+ people are facing due to the recent development.

Appendices

Table 1. Names of organisations involved in the research

District	Name of the organisations
Blantyre	Aske Malawi, Yocade, Lifeline, Apkan, Joint Action, CkPor, Cedep, Chera, JAHAD,

	FORUD, NRA
Lilongwe	Ivy foundation, Angaza, Diversity Forum, Optimum Foundation, Gender collective, SJF, Chera
Salima	Optimum Foundation

Table 2. LGBTIQ+ people representation per district

	Mangochi	Mulanje	Mwanza	Salima
Bisexual	25%		36%	40%
Gay	8%	65%	46%	20%
Intersex	8%		4%	
Lesbian	34%	24%	5%	13%
Queer		6%	4%	
Transgender	25%	5%	5%	27%

GBTIQ+ IMPACT ASSESSMENT STORIES

1. HYPOCRICY AMONG RELIGIOUS LEADERS

The demonstrations against same sex relations led by religious leaders that took place in Mwanza district were interpreted as hypocritical by one of the LGBTIQ+ community members. “I laughed when I saw that one of the religious leaders in the forefront of the demonstrations carrying an insulting placard was someone I was with the previous night.”- explained Martin (not their real name) during the interviews.

To them, the whole court cases ignited fear and that they were and are still laying low. Though they were laying low, most of their acquaintances remained steady, one of which is a religious leader. “This particular pastor is my sexual partner,” they said. A day before the demonstrations, they had met as usual. On the day of the demonstrations, Martin was perplexed to see their partner at the forefront with an insulting placard condemning gay people. “I laughed my lungs out and questioned the authenticity of my partner,” they said.

They further expressed their worry regarding their security. “What if they can oust me to the angry demonstrators and to the police as well?”-lamented Martin. Luckily enough, they didn’t.

They encouraged those that are condemning the LGBTIQ+ community to live out their truth and stop being hypocritical.

Born as a queer, Martin grew up questioning their sexuality until they were in secondary school. “It was in the boy’s hostel when I realised that I was enticed by fellow boys and not girls. When I acted, that was when I confirmed that I was different”.

2. AM I NOT HUMAN ENOUGH?

Robert, a gay man, is someone who is not totally out and even his family members do not know his identity to date. Of course, he highlighted how there are numerous hearsays about his sexual identity. He usually gets questioned by his siblings, colleagues and other community members about his sexual orientation. “I have no interest in confirming or denying all these hearsays for security reasons.”-he said. He further pointed out that he always takes part in community work including grave digging when there is a funeral in the community.

However, things took a different route soon after the demonstrations. Situations moved from being manageable to a dilemma. He said he became more and more conscious of what he does, how and also who he interacts with. He continued to say that, one day, there was a funeral in the community and as usual, he went with other grave diggers to the graveyard to dig a grave. Had he known, he could have stayed home. While at the entrance of the graveyard, his fellow grave diggers yelled at him saying that, “this is not a place for sinners.” However, Robert persisted and entered the graveyard.

Once there, the insults continued. “The grave diggers continued making insulting and threatening comments directed to me. Without fear they all started pointing their fingers at me and reached a point of saying “manda ndi omwewa tiyeni timukwilire ameneyu” (Let’s just bury him in this grave we have dug).” Robert was so scared to the point that he ran away from the graveyard. Up until now, he found it difficult to continue participating in community work.

3. HOSTILITY IN CHURCHES

Francis, is a well experienced electrician from Salima district. His bosses have always questioned his sexuality to which he never responded for fear of rejection. He had managed to hide in plain sight for years. He had established himself professionally and had been appointed for 2 different positions in church. However, He said “now things have changed for me, I have become an ordinary church member and my relationship with my bosses has gone sour.”

When the demonstration led by the religious people happened, the questioning bosses did an inquiry to confirm Francis’s sexuality secretly. They engaged his friends. Be knowest to the friends, they did the confirmation. “I just realised that they were no longer giving me a lead in projects and I had to start outsourcing by myself.” He further said that he was no longer outsourcing like the way he used to, this time it was different. “At first I was able to secure at least 7 contracts out of 10 but now, I am lucky if I get even 2.”

“At church, I was relinquished of my positions and I no longer get the respect I used to get,” they said. Now I am just an ordinary member and it has affected me greatly. “My sexuality has robbed me of my position in the church and profession”.

In Mulanje, one of the LGBTQ+ members have encountered a similar predicament. Jane (not her real name) also kept her sexual orientation hidden.

Things turned sour when the religious leaders protested against the same sex relations through demonstrations. “I saw my own pastor in the street during the protest carrying a placard with very hurtful words against the LGBTQ+ people ” she said during the interviews. “After the day of the protest, rumours went viral in the whole community as well as the church that I am lesbian” -she explained.

Later, she just realised that she was no longer consulted to undertake the church delegation as a treasurer during church services as she used to do. “Despite the fact that I was keeping some money for the church, they just left it all in my hands, stopped consulting me on anything about my position and all the delegations. In a very short time, they just appointed another person without my knowledge”-expressed Jane. From that time, she said she is finding it difficult to go to the same church due to the shame that she was kicked out of her position because of her sexual orientation.

On the same hand, another member of the LGBTQ+ community who happened to be a CSO representative narrates his story on church condemnation against the LGBTQ+ people and how that has influenced him to stop praying at the church. Jerome is a well-known intersex among his friends and a lot of people are aware of his identity in his community.

When asked how the religious protest affected their lives during the interviews, he started by saying “Eeee! Amwene, Mphuno salota” meaning “had I known”.

“You know the demonstrations happened on Friday and I decided to go to church the day after”- He started explaining his story. “When the preaching ceremony commenced, I noticed reg flags in that day’s preaching, it was more of direct attack” he continued. “There is no reason for homosexuals to be in the church, what are they doing? These people are bringing misfortune upon this country and actually they are Satan. To my surprise, these people are here with us” the pastor said. “All the people in the church had their eyes on me while commenting on top of their voice Amen! Amen! They should burn in hell! Jerome was embarrassed and filled with fear. He said he felt insecure at the church for the first time in his life.

Since that day, he has not visited the church. “As of now, I don’t go to church, the church has stopped preaching the message of love, salvation and hope and they are busy with condemning their fellow human beings.”- He added.

4. IN THE FACE OF DEATH

Martin is a proud transwoman in Salima. She had lived out her true identity unapologetically. This has generated various sorts of stigma and discrimination from her community. However, she confesses that what she has experienced recently can't be compared to any. She ducked death. "I was about to be set ablaze if not for other bystanders who stood up for me." -she said in the interviews.

Salima is one of the districts where religious leaders conducted mass demonstrations against same sex relations.

One Saturday night, Martin, who also happens to be a commercial sex worker went to their usual drinking joint with a friend, a female sex worker. While there, 3 men summoned Martin and asked her to tell the female sex worker that they would like their company. She relayed an unfavourable response from the friend. They left in a civil manner knowing to Martin that they were strategizing a comeback.

After one hour, the guys called for Martin again and this time she went to meet them alone at a dark spot. Immediately after her arrival, they started hurling insults and physically assaulting her. "You are the ones that are bringing misfortunes in this country. You should be killed." They quickly put a tire around Martin and were about to set her ablaze when others around the drinking joint came to her rescue after seeing what was happening. "They managed to save me," she said.

The matter was reported to the police but the culprits have not been apprehended till today. "I still live in fear and I feel I am not safe in my own country."-she said.

5. LILONGWE: HALTED EFFORTS

Knowledge is power; in its entirety and that has proven to be the case especially with issues relating to LGBTIQ+ community members. Much of the stigma and discrimination emanates from people's lack of understanding. In view of that, LGBTIQ+ led civil society organisations through Global Interfaith Network, have been engaging religious leaders to facilitate understanding of Human rights issues as they relate to LGBTIQ+ people's plight. Allyship was established and successes began trickling in until the anti-LGBTIQ+ religious demonstrations.

One CSO leader stated that, "the religious leaders began to desert us and would give one excuse after the other as to why they would not honour invitations to such engagements again." Another CSO representative added "some clearly stated that they do not want to lose their licences by engaging with us, the LGBTIQ+ people ". This was a big blow to the LGBTIQ+ community because for once, they felt that they mattered. They would feel a sense of belonging. "For once, we had the privilege of hearing an unadulterated word of God that spoke of love and not the common condemnation," one member shared.

They said “as it is, we have no fallback plan and we are back to the drawing board.” They said they have to start brainstorming new strategies to bring the religious leaders back in the fold because their support means a lot to them.

6. CONSTITUTIONAL AND REGISTRATION OF COURT CASES CREATED MISCONCEPTIONS

The court cases have created public misconceptions against LGBTIQ+ activists as the public believe that the activists are pocketing large sums of money from the western world to promote homosexuality. “We have failed to continue implementing and even starting new interventions in our catchment areas as the community thinks that we are receiving large sums of money from donors to promote homosexuality. They want to deal with us” -Olive (not real name) one of the CSO representatives in Blantyre said, explaining how the protest affected their programming.

As Olive works for LGBTIQ+ led organisation and she is LGBTIQ+ herself, she remained in hiding for safety and security reasons during the demonstrations. As a result, she had no time to go to the office for work. “I was receiving calls from clients requesting lubricants and other materials. I secretly delivered the products but I failed to do so in homophobic places like Chirimba” she explained.

From the onset of the protest, most of the CSOs in Blantyre have failed to deliver their services neither commencing new intervention as people believe that organisations request money from donors so that they should be promoting homosexuality. They threaten to deal with them, as the assumption is that they have money.

7. BUSINESS SHUTTERS DOWN

The direct impacts of the anti-LGBTIQ+ protest organised by the religious groups still overwhelms some of the LGBTIQ+ people. To the current date, making ends meet is a daily struggle as business is no longer the same as it used to be for Lexon; a Bisexual well known business person and also popular for ferrying fish from Salima, a lakeshore town to the capital Lilongwe.

Before the protest, things were ok with him as he had shops in the town and his driving professions really earned him a comfortable life. After the demonstrations, things started turning sour as people got to know his real sexual orientation. “The demonstration increased my visibility as some people openly criticised me for bringing misfortunes to the country. They say I bring bad luck. People started warning my customers not to buy from me saying I will teach them homosexuality. Some recruited their friends never to come close to me. So, from that time, my daily sales declined critically and as a result, I closed my shop.” Said Lexon. “I am failing to make ends meet.”-he added.

8. DISTORTED FAMILY RELATIONSHIPS

Jose (not real name) is a teenage transman in Salima township. The relationship with his family members has been in shambles, so to say because of his sexual orientation. “The relationship with my family members is really not good at all” -he said.

“Before the demonstrations, I was able to talk to my parents once in a while. However, when the demonstrations happened, they stopped talking to me and this became very scary to me.”-he explained. “I pleaded with them for weeks but to no avail. They said that if I was their child, I have to stop pretending and behaving like a man”-he continued.

Jose felt that his situation was out of hand and decided to talk to one of the LGBTIQ+ activists who also faced a very big resistance from his parents. “Now I rarely talk to my parents and even my siblings. They call me Satan and they say they cannot talk to someone who practises satanism”-he lamented.

“Due to the poor relationship that I am experiencing with my parents right now, I even find it difficult to seek some basic needs from them, I am always thinking of going somewhere where I can be free”-He added.

9. THE LGBTIQ+ SUFFERS PHYSICAL ABUSE IN DRINKING JOINTS

“I was beaten and got chased out of a drinking joint”-said one of the CSO representatives in Lilongwe while explaining the aftermath of the anti-LGBTIQ+ demonstrations in the city.

Earlier this year, Harry (not real name) a proud gay man who enjoys his status with his friends in the capital city Lilongwe decided to go for a hangout one Sunday evening. “We went to this other drinking joint where we found a group of guys, the Catholics drinking and they seemed to be coming from church. We ordered alcohol and we started drinking. Had we known. The guys came to our circle accusing us for tarnishing their church image as a church that promotes homosexuality in the country.”-he explained. The angry Catholics told Harry and his friends to move out of the drinking joint. “It’s better you move out of this place now; you are not welcomed here.” he was told.

Harry and his friends decided to leave the place after observing that there was a very big tension and the guys were serious with their words. Had they known. Before stepping out, the guys started beating them. “They then came in my car and pulled me out”- he added.

After this incident, the guys thought of reporting to the police but they failed to do so because they were afraid that this would put their lives in jeopardy. Until now the case has not been reported anywhere.

10. SOUR RELATIONSHIP WITH STAKEHOLDERS

The court cases turned the cordial relationship between the LGBTIQ+ activists and the stakeholders they have been working with sour. Clement (not real name) one of the CSO

representatives in Blantyre described the participation of the health care workers in the anti-LGBTIQ+ national protest as a true symbol of betrayal and deceitfulness. “I cannot believe that the health care workers took part in the demonstrations against LGBTIQ+ people. These people are the ones who provide our medical treatment at the hospital and that they have been involved in more training concerning the LGBTQ+ community. How would they go in the street and protest against us?” Questioned Clement adding that he has lost hope and trust in the health care workers.

He testified that he saw the health care workers in the demonstrations carrying placards with the most hurtful words such as “Don’t normalise the abnormal”. “So, if the health care workers do protest against us, calling us abnormal, are we going to be assisted when we need their services?” he said questioning the motive of the health care workers.

11. HOPELESSNESS

It is undeniable that the legal and justice systems are the main platforms offering shelter and refuge for human rights violation victims. This is barely the truth in Malawi as Amnesty international 2023 report reveals that the country uses legal systems to systematically discriminate against LGBTIQ+ people. The ongoing constitutional and registration cases that has caused recent religious anti-LGBTIQ+ protest and public backlash has furiously caused hopelessness to LGBTIQ+ members in the country as given in one of the hypothetical cases of one of the LGBTIQ+ person in Mwanza district.

Alex (not their real name) is a bisexual in Mwanza district. Alex says they see no future of freedom as their community has become more hostile than ever. They explain a lot of incidents in their life that left no gap for them to live free like any other citizen of the country. “Being a bisexual made my parents stop supporting me. They believed that I chose to be a bisexual for money. I turned to business to support myself. Now I have stopped my business as people stopped buying from me more especially after the demonstration period and whenever I am at the place, people call me a lot of names, hurtful and demeaning words. I cannot go to the police as I know my fellows are being apprehended right there, and I cannot even think of reporting to the court knowing that the situation is the same”-they explained during the interviews.

Thinking of how cornered their life has become, they have no any hope for the future and they are filled with suicidal thoughts “Sometimes, I think of ending my life to exempt myself from all these miseries”- They said.

12. FREEDOM OF ASSOCIATION IN JEOPARDY

Anne (not real name) is a Mangochi based lesbian. She has been having lesbian friends since 2014 from all parts of Malawi including those from the major cities of Blantyre and Lilongwe. Anne’s parents are well aware of her sexual orientation.

Before the demonstrations, she was able to hang out with her lesbian friends from different parts of the country who were able to visit her. Now, she is no longer doing the same since Jana was arrested in her area (Mangochi) “The time I heard about the Jana Gonani court case I was filled with fear. My parents and my siblings, including my friends warned me of being sent to prison once I am discovered by the police if I continue”-she lamented.

Annie added that she even regretted being a lesbian when she learned that religious groups organised national protests against LGBTIQ+ people. “From now I am always living in fear, especially after the religious demonstrations. I am always afraid that what happened to Jana will one day befall on me”-she added.

Annie’s life is no longer the same. She stopped enjoying her company after the court cases and religious protest. She is always lonely as she lost all friends due to the fear that maybe one day she will be arrested for being a lesbian. “I stopped communicating with all my friends as I am now afraid due to what is going on in the country regarding the issues of LGBTIQ+ people ”- she explained.

Annie says she has started having thoughts of fleeing the country going to South Africa where some of her friends live out their identity freely “When I ask my mother who is in South Africa about my LGBTIQ+ friends, she always tells me good stories of how free they are in the foreign land”

13. HUNTED AS PREY BY OWN COMMUNITY

Alfred is one of the well renowned Master of Ceremonies in Mangochi born as a gay. He is famous for coordinating people’s celebrations such as weddings, birthday parties and bridal showers. Through the money he earns in his work, he managed to have a borehole at his own house. As he is altruistic, he later donated the borehole to his community. To his surprise, despite his good deeds and wishes to the community, he has been hunted because of his sexual orientation.

Alfred’s community members were all well aware of the case of Jana Gonani, a Mangochi based transwoman as the case was so hot in the area. associating his behaviour with homosexuality in the parties, the community members started questioning his sexual orientation to which he never admitted.

“I was once framed a sodomy case”- he started when he was asked how was the relationship with his community members in the interviews.

“One day, I got sick and I asked a young boy who came to draw water at the borehole to help me with water and food which was in my house. Soon after the boy left, I was invited to the chief who accused me of raping the same boy and this was surprising to me. In no time, the case was transferred to police. I was sent free only when the police medically proved that the boy was not raped otherwise, I would have been behind bars as I am talking.” - he said. Later, the

parents of the boy revealed that they were manipulated by their friends to frame him as a form of punishment to his behaviour

But still, the community was not happy to see Alfred free again. They kept calculating his moves in order to corner him at any slightest mistake he may land himself into. Fast forward, the religious leaders organised street protests against LGBTIQ+ people in the district. This was now a great chance for the community to deal with Alfred, the clever gay man.

“On the day of demonstrations, I was at the garden. I was surprised to receive more than five calls from my friends warning me never to go to town as people were demonstrating against the LGBTIQ+ people”-he said.

“As I was coming from the garden, I found some people along the road who upon seeing me, they all screamed, wina uyu! Wina uyu! I quickly zigzagged into my house and locked myself.”- he continued.

“Since they knew my house the community members together with other protesters launched a manhunt. They came to my house and threw a petrol bomb, robbed-off my smartphone and shoes”- he added.

Up to date, Alfred says he has no cell phone as he was robbed during the demonstration at his own home in the daylight.

BIBLIOGRAPHY

- Antonio, M. G., Schick-Makaroff, K., Doiron, J. M., Sheilds, L., White, L., & Molzahn, A. (2020). Qualitative data management and analysis within a data repository. *Western Journal of Nursing Research*, 42(8), 640-648.
- Art and Global Health Center Africa (2023). *Umunthu Inclusive Societies Progress Report*.
- Art and Global Health Center Africa (2023). *Were Anti-LGBTI Protests Necessary?*<https://artgloafrica.org/were-anti-LGBTIQ+-protest-necessary/>
- Chilunga, Z. “Kill the Gays! Penalty Proposed by Muslim Association of Malawi.” *Nyasa Times*, (17.2.2014).
- Chiumia, T. “Malawi Drops Charges against Gay Men: Anti-Homosexual Laws Suspended, says Justice Minister,” *Nyasa Times*, (20.12.2015).
- Crow, G., Wiles, R., Heath, S., & Charles, V. (2006). Research ethics and data quality: The implications of informed consent. *International journal of social research methodology*, 9(2), 83-95.
- Florey, C. D. (1993). Sample size for beginners. *British Medical Journal*, 306(6886), 1181-1184.
- Gwede W. “Two Men Nabbed for ‘Gay Sex’ Act Charged in Malawi,” *Nyasa Times*,

(9.12.2016).

Gwede W. "US Envoy Urges Malawi to Drop Charges for Gay Couple," (16.12.2015).

<https://www.amnesty.org/en/latest/news/2024/01/africa-barrage-of-discriminatory-laws-stoking-hate-against-lgbti-persons/>

Kayuni J.P. "Anti- Same-sex Marriages Petition not yet Tabled in Parliament" *Zodiak*

Online, (8 July 2023).

Khamula O. "Malawi Police Save Male prostitute from Mob Justice," *Nyasa Times*, (26.4.2016).

Kiger, M. E., & Varpio, L. (2020). Thematic analysis of qualitative data: AMEE Guide No. 131. *Medicalteacher*, 42(8), 846-854.

Leedy, P. D., & Ormrod, J. E. (2005). *Practicalresearch*(Vol. 108). Saddle River, NJ, USA: Pearson Custom.

Leonard Masauli (2023). Religious groups march in Malawi before court case on LGBTQ+ rights. <https://www.theguardian.com/global-development/2023/jul/14/religious-groups-march-in-malawi-before-court-case-on-lgbtq-rights>

Lin, L. C. (2009). Data management and security in qualitative research. *Dimensions of Critical Care Nursing*, 28(3), 132-137.

Lochmiller, C. R. (2021). Conducting Thematic Analysis with Qualitative Data. *Qualitative Report*, 26(6).

"Malawi President Banda's State of the Nation Address in Full," *Nyasa Times*, (18.5.2012).

Mapondera G. and Smith D. "Malawi's Lawyer's Group Questions Legality of Suspending Anti-Gay Laws," *The Guardian*, (8.11.2012).

Marmor, A. (2015). What is the Right to Privacy? *Philosophy&Public Affairs*, 43(1), 3-26.

Mawerenga, J. H. (2018). *The homosexuality debate in Malawi*(No. 28). Mzuni Press.

Mawerenga, J. H. (2023). Chitando, E., Maseno, L., and Tarusarira, J. (eds.). *Religion and Inequality in Africa. Religious Homophobia and Inequality in Malawi*, 125-137. Bloomsbury.

Mlenga, J. (2016). *Dual religiosity in northern Malawi: Ngonde Christians and African traditional religion*. African Books Collective.

Mlenga, J. (2012). How sociology enriches human rights: The case study of Malawi's first openly gay couple. *Beyond the law: Multi-disciplinary perspectives on human rights*, 95-115.

Msoa, A. (2018). *Human rights and same-sex intimacies in Malawi*(Doctoral dissertation, University of Essex).

Namangale F. "Churches fear 'Sodom' for Malawi" *The Nation*, (30 August, 2023).

Nyasa Rainbow Alliance (2023). *Report on Colonialism and SOIGESC*.

Petrova, E., Dewing, J., & Camilleri, M. (2016). Confidentiality in participatory research: Challenges from one study. *Nursing ethics*, 23(4), 442-454.

Phimbi E. "Rights Defenders Angered by 'Kill the Gays' Penalty Proposed by the Muslim Association of Malawi," *Nyasa Times*, (9.9.2017).

Sadler, G. R., Lee, H. C., Lim, R. S. H., & Fullerton, J. (2010). *Recruitment of hard-to-reach*

population subgroups via adaptations of the snowball sampling strategy. *Nursing&health sciences*, 12(3), 369-374.

Sande, C. "Thousands attend protests in defense of marriage and sexuality in Malawi," *Zodiak Online*, (13 July 2023).

Silverman, D. (2016). Introducing qualitative research. *Qualitative research*, 3(3), 14-25.

Smith, K. G., Woodbridge, N. B., & Pretorius, M. (2008). *Academic writing and theological research: a guide for students*. Johannesburg: South African Theological Seminary Press.

Taherdoost, H. (2016). Sampling methods in research methodology; how to choose a sampling technique for research. *How to choose a sampling technique for research* (April 10, 2016).

Van Haute, E. (2021). *Sampling Techniques. Research Methods in the Social Sciences: An AZ of Key Concepts*; Oxford University Press: Oxford, UK, 247.

Voice of America, 2023. Religious Leaders in Malawi Protest Same-Sex Marriage. <https://www.washingtonblade.com/2023/07/20/malawi-constitutional-court-considers-lgbtq-intersex-rights-cases/>.