



THE RISE OF ANTI-GENDER MOVEMENTS IN AFRICA AND THE EROSION OF LGBTQI+ RIGHTS: A CASE STUDY OF BOTSWANA

Submitted in partial fulfilment of the requirements of the Master of Laws (Human Rights and Democratisation in Africa)

By

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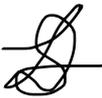
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DEDICATION

“There’s nothing wrong with you. There’s a lot wrong with the world you live in”
– Chris Colfer

This dissertation is dedicated to every person who strives to live their truth in a world that seldom welcomes differences. May we never give up on the pursuit of true equality and the hope of a world where every person experiences love fully, equally, without shame and without compromise.

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LIST OF ABBREVIATIONS AND ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights African Charter on Human and Peoples' Rights
African Charter	African Charter on Human and Peoples' Rights
AU	African Union
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGBTQI+	lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+), This list not being exhaustive of gender diverse identities.
SOGI	sexual orientation and gender identity
US	United States
UDHR	Universal Declaration of Human Rights
UN	United Nations

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CHAPTER ONE

INTRODUCTION

1.1 Background

The last decade has seen a significant increase in anti-gender actions in Africa. The passing of the 2023 Anti-Homosexuality Bill in Uganda marked a trigger in this regressive use of legal mechanisms as tools of oppression against rights pertaining to sexual orientation, gender identity and expression and sex characteristics (SOGIESC)¹. Uganda's legislation ushered in other instances of similar legislation in many countries. In the same year, Kenya contemplated the 'Family Protection Bill'², an instrument that included death as a possible sentence for persons engaging in same-sex conduct.³ The effects of Uganda's bill were not limited to law-making but also trickled down into homophobic statements, arrests, assaults and even murders across the continent.

Still in East Africa, Burundi saw the arrest and detention of over twenty people who were accused of homosexuality after attending a workshop organised by a group working on HIV/AIDS issues. This followed homophobic slurs made by the President of Burundi at various national forums.⁴ In one such platform, he stated that it would be best if members of the LGBTQI+ community were taken to a stadium and stoned, opining that this was the treatment they deserved.⁵

In Southern Africa, Malawi witnessed national riots and religious uprisings in opposition of two cases before the country's courts. One uprising dealt with the refusal of the registration of LGBTQI-led organisations and another challenged the country's laws criminalising same-sex sexual conduct.⁶ At one such rally, a religious leader sought to explain that 'legalising' homosexuality was akin to legalising bestiality, witchcraft, prostitution and corruption, asserting that the church was committed to fighting social ills of this nature.⁷ In Zambia, the President publicly declared that as Africans and

¹ Amnesty International 'Africa: Barrage of discriminatory laws stoking hate against LGBTI persons' <https://www.amnesty.org/en/latest/news/2024/01/africa-barrage-of-discriminatory-laws-stoking-hate-against-lgbti-persons/> (accessed 20 April 2024).

² 'Kenya's anti-gay bill proposes 50-year jail term' 13 August 2023 <https://www.africanews.com/2023/09/20/kenyas-anti-gay-bill-proposes-50-year-jail-term//> (accessed 22 October 2024).

³ C Cohen & O A Maunganidze 'Anti-gay laws: Africa's human rights regression' (2023) *Institute for Security Studies* <https://issafrica.org/iss-today/anti-gay-laws-africas-human-rights-regression> (accessed 20 April 2024).

⁴ Reuters <https://www.reuters.com/world/africa/burundis-president-says-gay-people-should-be-stoned-2023-12-30/> (accessed 20 April 2024).

⁵ Human Rights Watch 'Burundi President Stokes Fear Among LGBT People' 19 January 2024 <https://www.hrw.org/news/2024/01/19/burundi-president-stokes-fear-among-lgbt-people> (accessed 1 October 2024).

⁶ Amnesty International (n 1 above).

⁷ L Masauli 'Religious groups march in Malawi before court case on LGBTQ+ rights' 14 July 2023 <https://www.theguardian.com/global-development/2023/jul/14/religious-groups-march-in-malawi-before-court-case-on-lgbtq-rights> (accessed 16 October 2024).

Christians, the nation would not support ‘unnatural’ and negative sexual conduct.⁸ This was soon followed by heightened homophobic sentiments in the country, including a nationwide campaign for the Chief Justice to either resign or be removed from office. This was the public’s response to a statement in which he had called for the respect of the human rights of sexual minorities and expressly condemned discrimination based on sexuality.⁹

These practical oppositions to sexual minority rights have played out similarly in West Africa. In Senegal, football star Idrissa Gana Gueye was celebrated by the nation’s President and other citizens after he absented himself from a Paris Saint-Germain fixture in France, where players wore rainbow-coloured jerseys in support of the World Day Against Homophobia.¹⁰ Later that day, an American attending a music festival in the nation’s capital of Dakar, was attacked by a mob, robbed, stripped down to his undergarments and paraded through the streets to the chants of homophobic slurs and jeers.¹¹ This was purportedly due to the way he was dressed, which the mob deemed to set him apart as being homosexual. Just weeks after this occurrence, the heightened anti-LGBTQI attitudes in the country saw the desecration of a gravesite of a homosexual man, whose body was dug up and burnt the day after he was buried. This followed the initial rejection for him to be buried in the nation’s holy city and further refusal of his community for him to be buried near his home due to the shunning of his sexuality.¹²

Most recently, Ghana’s parliament passed the Human Sexual Rights and Family Values Bill (HSRFVB)- a legislative tool even more draconian than Uganda’s offering. It imposes restrictions and criminal sanctions not only on members of the LGBTQI+ group but also on anyone expressing support, sympathy or alliance to same.¹³ The HSRFVB places an obligation on Ghanaians to report conduct of an ‘LGBTQI nature’ to the police and restricts access to gender affirming treatment for transgender persons. The HSRFVB also allows for the codification of harmful emotional and physical methods purported to

⁸ ‘President Hakainde Hichilema Dashes Hope for Gay Rights for Gay Rights in Zambia’ *Lusaka Times* 24 August 2024 <https://www.lusakatimes.com/2024/08/24/president-hakainde-hichilema-dashes-hope-for-gay-rights-in-zambia/> (accessed 1 October 2024).

⁹ ‘Centre for Human Rights Stands in Solidarity with Zambian Chief Justice Mumba Malila and Human Rights Lawyers on Rights of Sexual Minorities in Zambia’ 4 October 2023 <https://www.chr.up.ac.za/news-archive/2023/3595-centre-for-human-rights-stands-in-solidarity-with-zambian-chief-justice-mumba-malila-and-human-rights-lawyers-on-rights-of-sexual-minorities-in-zambia> (accessed 14 July 2024).

¹⁰ ‘Rise of homophobia in Senegal forcing LGBTQ people into the shadows’ 13 August 2023 <https://www.africanews.com/2022/07/29/rise-of-homophobia-in-senegal-forcing-lgbtq-people-into-the-shadows/> (accessed 13 October 2024).

¹¹ ‘Senegal probing feared homophobic attack by mob’ <https://www.france24.com/en/live-news/20220518-senegal-probing-feared-homophobic-attack-by-mob> (accessed 13 October 2024).

¹² ‘Senegal Investigates Desecration of LGBTQ Gravesite’ <https://www.vooafrica.com/a/senegal-investigates-desecration-of-lgbtq-gravesite-/7337068.html> (accessed 24 April 2024).

¹³ Amnesty International (n 1).

change sexual orientation and termed ‘conversion therapy’.¹⁴ Although the Ghanaian HVSRB is still awaiting presidential assent to come into force and effect as law, its parliamentary pass has escalated an already restrictive environment for the LGBTQI+ community.¹⁵

The impact of Uganda’s Anti-Homosexuality Bill and the domino effect it has had on the consideration of SOGIESC rights on the continent is glaring when considering that the abovementioned occurrences in their various countries, all took place in the same year. This paper’s point of departure is that such waves of anti-rights and anti-gender manifestations can no longer be reduced to coincidence. There exists a series of mobilised opposition movements and their reality and capacity is crucial to the understanding and advancement of human rights.¹⁶

In countries like Botswana however, the position has been different. The country decriminalised anti-sodomy laws through the 2019 case of *Letsweletse Motshidiemang v The Attorney General*.¹⁷ In delivering its judgment, the court held that it was “not the business of the law to regulate private consensual sexual encounters between adults.”¹⁸ This position was celebrated in the SOGIESC arena as a necessary and progressive stance in the region.¹⁹ In 2021, the country’s apex court upheld this high court ruling and reaffirmed the offering that criminalising same-sex relationships was unconstitutional and violated the dignity, liberty, privacy and equality rights of LGBTQI+ individuals.²⁰ This decision marked yet another positive step for SOGIESC rights in the country and marked the end of the road for the government’s opposition to same, given that the Court of Appeal is Botswana’s highest court.

The aforementioned *Motshidiemang*²¹ case was decided after the case of *Attorney General v Rammoge*²², commonly known as the ‘LEGABIBO’ case in Botswana. In the latter proceedings, the Court of Appeal upheld a high court decision to allow the registration of LEGABIBO (Lesbian, Gays and Bisexuals of Botswana). This is a civil society organisation that had previously been denied registration due to the

¹⁴ H Martin-Sackey ‘Minority Rights Matter: A Critical Discourse Analysis into Which Major Factors Led to the Proposed anti-LGBTQ+ Bill in Ghana’ PhD thesis, University, Arctic University of Norway, 2023 4.

¹⁵ Human Rights Watch ‘Ghana: President Should Veto Anti-LGBT Bill’ 5 March 2024 <https://www.hrw.org/news/2024/03/05/ghana-president-should-veto-anti-lgbt-bill> (accessed 22 October 2024).

¹⁶ A Khan and others ‘Where next for feminist foreign policy on countering anti-gender backlash?’ (2023) ODI Policy Brief.

¹⁷ MAHGB-000591/16.

¹⁸ n 15, para 223.

¹⁹ ‘Botswana decriminalises homosexuality in landmark ruling’ 11 June 2019 <https://www.bbc.com/news/world-africa-48594162> (accessed 22 October 2024).

²⁰ C Izukbara and others ‘Regional legal and policy instruments for addressing LGBT exclusion in Africa’ (2020) 28 *Sexual and Reproductive Health Matters* 7.

²¹ (n 17).

²² [2017] 1 BLR 494 (CA)

government's position that country's constitution does not recognise lesbian, gay and bisexual persons and that the organisation's objectives would encourage same-sex sexual acts and therefore bode for unlawful behaviour.²³ The court found the refusal to register the organisation to not only be unlawful but also a violation of the right to freely associate.²⁴ The case is celebrated as forming the bedrock for Botswana's eventual decriminalisation decision and was heralded as the first time that an apex court on the continent authoritatively interpreted the effects of laws that criminalise consensual same-sex sexual acts.²⁵

Drawing from these two cases and their envisaged changes to law and practice, Botswana has on the face of it, taken progressive action to protect LGBTQI+ rights. This dissertation posits that Botswana is, however, a victim of the anti-gender movements (AGMs), at play in the continent at large and that this is visible through the nation's continued failure to amend the Penal Code as ordered by its highest court. In this regard, the effect of the anti-gender movements in Botswana draws a contestation between two arms of government. On one end, the judiciary has declared a law unconstitutional and on the other, the legislature has hardened its hand to put the ink to paper and repeal same. In Botswana, this is largely a result of the organising of traditional and religious leaders and their resistance efforts, which follow the distinct pattern of other anti-gender and anti-rights sects.²⁶

1.2 Problem Statement

Understanding the reasons for the raging decline of LGBTQI+ rights in Africa is pivotal to countering this undoing of human rights. The recognition and understanding of anti-gender movements is critical in this regard. Presently, the declining state of sexual minority rights is often viewed through examples of countries such as Uganda, where homophobic laws exist and are enforced. This lends itself to a watered-down view of the erosion of rights as merely reflecting that specific environment and creates a problem by masking the existence of interlinked, organised and concerted efforts. It in turn limits how anti-gender movements can be counteracted and their corrosive effects thwarted.

This research illustrates the extent of anti-gender movements through the lens of Botswana, a country with a seemingly progressive stance on SOGIESC rights. Botswana is still failing to ensure the legislative implementation of its decriminalisation decision due to concerted resistance efforts. In this way, this dissertation reaffirms the existence of anti-gender movements and highlights the extent of their reach. This dissertation, in using this novel contestation, recommends ways in which states and civil society can

²³ 'A Victory for the Right to Freedom of Association: The LEGABIBO Case'

<https://www.southernafiralitigationcentre.org/wp-content/uploads/2017/08/SALC-Legabibo-Booklet-1.pdf> (accessed 24 April 2024) 4.

²⁴ Attorney General of Botswana v Rammoge and 19 Others (2016) CACGB-128/14.

²⁵ (n 18) 2.

²⁶ H McEwan & L Narayanaswamy 'The international anti-gender movement: Understanding the rise of anti-gender discourses in the context of development, human rights and social protection' (2023) UNRISD Working Paper.

respond to these anti-gender movements to quell the harmful stereotypes that they advance.

The erosion of LGBTQI+ rights in Africa is also fuelled by the notion of sexual fluidity as being contrary to African values or alternatively, a Western import.²⁷ This dissertation recognises this view and its growing reach, what with the African Commission on Human and Peoples Rights stating that sexual and gender minority rights are contrary to African values.²⁸ As a result, arguments for an autochthonous approach to sexual minority rights on the continent are asserted herein. This dissertation then uses a decolonial approach and queer theory considerations to offer an apposite analysis for the African context.

1.3 Research Objectives

This objectives of this study are to analyse the impact of anti-gender movements on the continent, generate awareness of their existence and manifestations and expose the underlying power dynamics that use these movements to further their ideals. Its final objective is to recommend measures to counteract the effects of these anti-gender movements;

1.4 Significance of Study

In the wake of a palpable unravelling of LGBTQI+ rights in Africa, this study is significant in its analysis of the causes of this regression. It comes at a time when more countries are considering creating or tightening repressive legislative measures and policies against sexual minorities and makes valuable recommendations to pre-empt, recognise and effectively contend with these attacks on human rights. The study further contributes to literature on the continent with regard to LGBTQI+ rights, reducing the existing gap in this regard.

1.5 Research Questions

Main question:

3.1 How can anti-gender movements and their impact be counteracted in Africa to advance the protection of SOGIESC rights?

Sub-questions:

3.1.1 What are the anti-gender movements and who are its actors?

3.1.2 Where do these movements originate?

3.1.3 How do these movements manifest?

²⁷ S Tamale *African Sexualities* (2011) 11.

²⁸ 'LGBTQ+ rights: African Union goes back on its own word' <https://theconversation.com/lgbtq-rights-african-union-watchdog-goes-back-on-its-own-word-197555> 20 March 2023 (accessed 18 May 2024).

3.1.4 What are the underlying factors contributing to the emergence and growth of anti-gender movements?

3.1.5 What lessons does the case study of Botswana offer in analysing the progression of anti-gender movements on the continent?

1.6 Methodology

This dissertation uses a qualitative approach. The sources engaged were gathered through desktop research. These materials are primary and secondary sources of data relevant to the issues at the core of this dissertation. The primary sources include international, regional and domestic legal instruments related to its subject matter. Academic publications, media articles, opinion pieces, civil society and international organisation reports as well as other relevant sources form its secondary sources.

1.7 Literature Review

There is a growing body of literature contextualising the often disputed place of SOGIESC rights and issues in the African continent. Although such offerings often solely address contestations of the very existence of recognition of LGBTQI+ persons and rights, it has developed to include some texts which are specific to anti-gender movements. This research explores both the abundant literature on the recognition of sexual minorities and the scanty work specifically addressing anti-gender movements on the continent.

Historical context

Scholars such as Tamale²⁹, Endong³⁰ and Epprecht³¹ offer the historical and legal aspects of sexual orientation and gender identity and also consider cultural perceptions around same. Endong particularly analyses the perceptions of white influence in the consideration of LGBTQI+ identities on the continent as unnatural and the need for the recognition and owning of the African context.

From a sociological viewpoint, Mwikya³² considers cultural norms and values and highlights their distinct relevance in the African context. This paper views this alongside the notion of Africanness in itself and with regard to ‘transgressive sexualities’ as espoused by Ngwena.³³ Sexual diversity contestations in the African continent are further

²⁹ (n 11).

³⁰ FP Endong ‘LGBT Rights Movement in Africa and the Myth of the Whiteman’s Superiority’ (2016) *Journal of Globalisation Studies* 139.

³¹ M Epprecht ‘“What an abomination, a rottenness of culture: Reflections upon the Gay Rights Movement in Southern Africa”’ (2001) *Canadian Journal of Development Studies* 22, 1089-1107.

³² K Mwikya ‘Unnatural and Un-Africa: Contesting queer-phobia by Africa’s political leadership’ (2014) *Feminist Africa* 19.

³³ C Ngwena *What is Africanness? Contesting nativism in race, culture and sexualities* (2018) 197.

analysed in the work of Tabengwa and Waites³⁴ who debunk the notion of them being colonial imports through the discussion of historical and contemporary regulations.

This dissertation aligns with these studies' stance on the Africanness of sexual diversity as well as the centrality of these to the human rights and dignity of Africans.

Essence of anti-gender movements

In offering a holistic analysis of the emergence and origins of these resistance groupings, the work of Paternotte and Kuhar³⁵ and its discussion of anti-gender movements in the Global West is key. It offers the value of understanding the deep-rooted politics of power at play in the origins of these movements. Africa is analysed specifically through the work of Kretz³⁶ who gives a chronological discussion of the progression of responses to SOGIESC rights and the current ideological opposition that is manifest in anti-gender movements. He also makes a case study of three African countries through which the current state of SOGIESC rights can be analysed.

Impact of anti-gender movements

McEwen and Narayanaswamy³⁷ give a global view of anti-gender discourses and their effect on human rights and development. This is the starting point of an analysis of work considering the interplay between legislative and social contestations and human rights realisations.³⁸ The global resistance is also analysed through the lens of its Western origin and its impact viewed through the goals of its perpetrators in the work of Corredor.³⁹

Counteraction and protection of SOGIESC rights

In making observations on strategies which can be employed to counteract the anti-gender movements in the continent, this paper draws from the work of Denkovski and others⁴⁰ which focuses on an understanding of power dynamics as a basis for effective strategies in this regard. Khan and others⁴¹ also give an optimistic reflection on the role of various actors such as civil society organisation as contributors to counteracting anti-gender movements.

This research aims to add to existing literature on the protection of SOGIESC rights by offering a unique lens of a country which on the face of it, is not experiencing the impact

³⁴ M Tabengwa & M Waites 'African and the Contestation of Sexual and Gender Diversity' in MJ Bosia and others (eds) *The Oxford Handbook of Global LGBT and Sexual Diversity Politics* (2020) 201.

³⁵ D Paternotte & R Kuhar 'Disentangling and Locating the "Global Right": Anti-Gender Campaigns in Europe' (2018) *Politics and Governance* 6 (3).

³⁶ AJ Kretz 'From "Kill the Gays" to "Kill the Gay Rights Movement": The Future of Homosexuality Legislation in Africa (2013) *Northwestern University Journal of International Human Rights* 207.

³⁷ (n 12).

³⁸ S Weaver & S Nabaneh 'Gender and Rights: Global Contestations' (2023) *University of Dayton*.

³⁹ ES Corredor 'Unpacking Gender Ideology and the Global Rights Antigender Countermovement' (2019) *Signs, Gender and the Rise of the Global Right* 616.

⁴⁰ D Denkovski and others 'Power and Rights: Understanding and countering the transnational anti-gender movement' (2021) *Centre for Feminist Foreign Policy*, 1.

⁴¹ (n 8).

of anti-gender movements but upon purposed analysis, highlights a different standing. This is in contrast to the existing literature's focus on either the continent in general or reference to countries generally deemed repressive such as Uganda and Ghana. This paper will offer a distinctive viewpoint that will highlight the even greater effect of anti-gender movements as evidenced by their reach in Botswana.

1.8 Theoretical Framework

This research makes use of the decolonial, queer and critical legal theories. Through a blend of these theoretical bases, it analyses the context of Africa and its historical legacies, religious influences, political climate and value systems. This framework considers these aspects as contributors to the fertile ground on which anti-gender movements have found footing and continued to gain momentum on the continent.

1.8.1 *Decolonial theory*

This theory stems from a school of thought that seeks a disconnect from Eurocentric knowledge hierarchies and specifically rejects the colonisation of knowledge.⁴² It criticises the perceived superiority of Western ideals and advocates for healing from colonial effects.⁴³ In this research, this theory is used to examine the continued effects of colonialism on the continent and how this continues to have an adverse effect on the consideration of LGBTQI+ rights by forming the basis of 'othering' sexual minorities on the continent. This theory guides this research's discussion of the legacy of colonialism and its contribution to the myth that it introduced sexual fluidities to the continent and that they were previously non-existent.

1.8.2 *Queer theory*

This theory seeks to deconstruct what is considered 'normal' or acceptable. It challenges the consideration of heterosexuality as the only allowable standard for sexual formations and considers institutions that reinforce heteronormativity, such as marriage.⁴⁴ In this research, this theory offers a platform for considerations of who gets to define what is acceptable and how the corresponding power structures herein shape society.

1.8.3 *Critical Legal Theory*

This theory is premised on the position that the law is connected with social issues and that it is necessary to think differently about the law.⁴⁵ It offers that the law favours those who make it and that power dynamics of the historically privileged create a recurring disadvantaging of their underprivileged counterparts.⁴⁶ Despite its multidimensional

⁴² S Pillay 'The Problem of Colonialism: Assimilation, Difference and Decolonial Theory in Africa' (2021) 4 *Critical Times* 389.

⁴³ AR Mukavetz 'Decolonial Theory and Methodology' (2018) *Composition Studies* 124.

⁴⁴ P Dilley 'Queer theory: Under construction' (1999) *International Journal of Qualitative Studies in Education*, 457.

⁴⁵ A Hunt 'The Critique of Law: What Is 'Critical' about Critical Legal Theory?' (1987) *Journal of Law and Society*, 6.

⁴⁶ SL Cummings 'Critical Legal Consciousness in Action' (2007) *Harvard Law Review*, 64.

considerations, this theory can be summarised in the following offerings by Duncan Kennedy “[t]he legal system ... screws poor people [while] keeping their loyalty”.⁴⁷ In this research, this paper relies on this theory for its discussion of the power relations and political influence that is exerted on and by anti-gender movements. It guides the establishment of a link between those in power and their chosen compass for morality and what is acceptable in society.

1.9 Structure

The paper is divided into five distinct chapters. Chapter One hosts the paper’s background, problem statement, a thematically arranged literature review and the methodology used herein. It also unpacks the theoretical framework through which this paper makes its offerings and highlights some of its limitations. Chapter Two addresses the essence of anti-gender movements and their actors, manifestations and ideals. Chapter Three addresses the international, regional and domestic legal frameworks through which anti-gender movements flourish. Chapter Four discusses the case of Botswana and its specific linkages to broader anti-gender movements. Chapter Five comprises of the paper’s conclusion and recommendations.

1.10 Limitations of study

This study is limited by the scarce literature dealing specifically with anti-gender movements on the continent. The case study of Botswana also heightens this limitation through the almost non-existent literature on this topic in relation to the country. The time constraints and word limit of this mini-dissertation also curtail the extent to which the paper can delve into the intricacies of the workings and manifestations of these resistance groupings on the continent. The political climate in Botswana with it being an election year has also limited the paper’s ability to conduct empirical research due to potential contributor’s fears of their offerings on this topic being construed as indicating a stance on the government of the day.

⁴⁷ LB Schwartz 'With gun and camera through darkest CLS land' (1984) *Stanford Law Report*, 413.

CHAPTER TWO

TRACING THE RISE OF ANTI-GENDER MOVEMENTS

2.1 Introduction

This chapter sets the scene by taking a historical analysis of the developments of anti-gender movements in Europe, the Americas and eventually in Africa. It considers the political and economic underpinnings of the movements' backers and their power dynamics and inherent promotion of self-serving ideals. It finally offers that African states are through anti-gender movements, akin to putty in the hands of powers seeking to mould environments best suited for their own progression, at the expense of human rights on the continent.

2.2 Definition

There is no one accepted definition of anti-gender movements as their characterisation is often linked to the context. Even so, there are certain recurring notions that can be seen to define them and that this paper submits as an all-encompassing definition.

The European Parliamentary Forum for Sexual and Reproductive Rights (EPF) has explained 'anti-gender' to mean something broader than anti-choice.⁴⁸ It is also described as a way in which conservative movements mobilise gender ideology as a political instrument and epistemological counter, which aims

“first, to refute claims concerning the hierarchical construction of the raced, gendered, and heterosexual order; second, to essentialize and delegitimize feminist and queer theories of gender; third, to frustrate global and local gender mainstreaming efforts; fourth, to thwart gender and LGBT+ equality policies; and finally to reaffirm heteropatriarchal conceptions of sex, gender, and sexuality”.⁴⁹

The general notion herein is that these movements are opposed to the same things, which the United Nations has identified as “the rights of LGBTQ+ people, reproductive rights, sexuality and gender-sensitive education in schools, and the very notion of gender.”⁵⁰

2.3 Historical Origins

⁴⁸ G Hughson 'Who's financing the anti-gender movement in Europe?' 27 May 2021 <https://www.aidsmap.com/news/may-2021/whos-financing-anti-gender-movement-europe#:~:text=Datta%20explained%20that%20'anti%2Dgender,rights%20and%20against%20equality%20over all.> (accessed 12 August 2024).

⁴⁹ Corredor (n 34) 16.

⁵⁰ United Nations Working Group on discrimination against women and girls 'Gender equality and gender backlash' (2022)

2.3.1 Religion and the West

Although the exact origin of anti-gender movements remains contested, there is a general recognition of their rooting in the idea of a “presumptively Christian... procreative, white, cisgendered, able-bodied bourgeois, heterosexual nuclear family”.⁵¹ In its various terms, the idea of a married, monogamous and reproductive male and female was defined as a mark of civilisation.⁵² These notions have their foundation in crafted discourses originally based on fundamental texts such as the Bible and later, Constitutions.⁵³ As such, this research offers religious proponents as the springboard for anti-gender movements by way of their stimulation of value-formations.

A discussion of historical developments arising in religious sects is therefore pivotal to understanding how and why Christian elements are predominantly used as a rationale for anti-gender movements and how the Roman Catholic church and its leadership are key contributors. Often regarded as a proponent of the church’s leadership makeup, the Holy See is more than just an extension of the Pope, his leadership of the church and a microstate known as Vatican City.⁵⁴ The Holy See is the government of the Roman Catholic Church and although it is not a state, it has been given equal footing as one.⁵⁵ This status has been attained by way of custom⁵⁶ is reinforced by the fact that the Holy See enjoys a unique position as a non-state, religious power that has a voice at United Nations proceedings for example. In essence, it “exists and operates within the international community as the juridical personification of the Church”.⁵⁷

2.3.2 Development in the International Community

In 1992 at the Rio de Janeiro Conference on Environment and Development, the Holy See made what this research deems to be the first of its key contributions to present-day anti-gender movements.⁵⁸ At this environmental forum, efforts were being made to ensure gender mainstreaming through the highlighting of women as bearing the highest costs of environmental problems.⁵⁹ Gender, sexuality and abortion for example, were logically not a part of the forum’s agenda. The Holy See delegates therein however, sparked questions on issues of family health and reproductive health. In fact, they are considered to have reawakened the North-South controversy centred on population control policies. This in turn fed the contestation between poverty and the right to development on one side and

⁵¹ C Weber *Queer international relations: Sovereignty, sexuality and the will to knowledge* (2016) 51.

⁵² McEwan & Narayanaswamy (n 21), 5.

⁵³ (n 38).

⁵⁴ TA Byrnes ‘Sovereignty, Supranationalism, and Soft Power: The Holy See in International Relations’ (2017) *The Review of Faith and International Affairs*, 6.

⁵⁵ HE Cardinale *The Holy See and the International Order* (1976) 83.

⁵⁶ Murray ‘Missing the point: A conversation with Sonia Corrêa about the emergence and complexities of anti-gender politics at the intersections of human rights and health’ (2022) *Global Public Health*, 3244.

⁵⁷ Catholics for Choice ‘The Catholic Church at the United Nations: Church or State?’ *Catholics for Choice*, 2.

⁵⁸ T Lai & C Tortajada ‘The Holy See and the Global Environmental Movements’ (2021) *Frontiers in Communication*, 8.

⁵⁹ as above.

fertility control on the other.⁶⁰ In 1994 at the International Conference on Population and Development held in Cairo, Egypt, a Programme of Action was adopted that was focused on meeting individual men and women's needs.⁶¹ Herein, the concept of sexual and reproductive health and reproductive rights was introduced.

The numerous clashes that occurred herein were but a precursor to the eruption of competing views at the 1995 Fourth World Conference on Women, held in Beijing.⁶² At the preparatory stage for this conference, various documents were prepared and therein, the word 'gender' was typed in brackets as it did not have a consensual definition.⁶³ When the terminology of sexual rights and orientation was incorporated into the text under the negotiation, the Holy See mobilised the support of Sudan, Maltha and Honduras and requested that gender be put in square brackets and that the Secretariat provide a precise definition for the term.⁶⁴ The Holy See argued that gender was grounded solely in biological sexual identity as either male or female and specifically requested the exclusion of what it stated as "dubious interpretations based on world views which assert that sexual identity can be adapted indefinitely to suit new and different purposes".⁶⁵

This view gained religious and public momentum given the influence of the Holy See and the transnational Catholic Church presence. This paper submits that it was also fuelled by the contesting work of Anne Fausto-Sterling. In her 1993 paper, she created disruptive suggestions with her suggestion of an alternate model of gender containing five senses—"herms" (named after true hermaphrodites, people born with both a testis and an ovary), 'rnerms' (male pseudohermaphrodites, who are born with testes and some aspect of female genitalia) and 'ferms' (female pseudohermaphrodites, who have ovaries combined with some aspect of male genitalia).⁶⁶ Her challenging of heteronormative constructs specifically opposed arguments from medical communities and other groups in society such as the church, debunking them as being faulted by their limitations. In this way, Fausto-Sterling's work incited a greater push for the grounding of gender in a heteronormative framing, as evidenced by the Holy See's efforts at the 1995 Beijing Conference.

In 1999 and 2000 the Cairo and Beijing Plus Five Reviews were held. Herein, gender was at the fore of the discussions and its meaning was interrogated and attacked in so far as suggestions of it expanding beyond heteronormativity were suggested.⁶⁷ Even the most diverse delegations, namely Islamic and non-Islamic, joined efforts to request the

⁶⁰ Murray (n 48, 3244).

⁶¹ International Institute for Sustainable Development 'International Conference on Population and Development – ICPD' <https://enb.iisd.org/negotiations/international-conference-population-and-development-icpd> (accessed 10 October 2024).

⁶² Murray (n 48) 3245.

⁶³ B Roberts 'The Beijing Fourth World Conference on Women' (1996) *Canadian Journal of Sociology*, 240.

⁶⁴ Murray (n 48) 3245.

⁶⁵ Murray (n 48) 247.

⁶⁶ A Fausto-Sterling 'The Five Sexes, Revisited' (2000) *The Sciences*, 19.

⁶⁷ Murray (n 48) 3245.

elimination of gender with the argument that it did not promote women's rights as other states suggested but that it was being used as a "justification of homosexuality, paedophilia and other 'sexual perversions'".⁶⁸ This joint effort of delegations, led by the Holy See and its allies, birthed a new alliance in the UN arena, termed the 'Unholy Alliance' by feminists scholars. Not only was it well organised, but it also enjoyed the financial support of US religious rights groups, who sought to maintain the order of civilisation in its construct as only providing for heteronormativity.

This paper highlights this alliance as the first tangible example of an organisation of actors, major financial muscle and heteronormative ideals as the only correct approach being utilised to quash sexual minority existences and realities. It is no surprise that this model now forms the skeleton structure of anti-gender movements today. Although this alliance was defeated at the Plus Five Reviews, it undeniably shaped the theological warfare against gender today. This research also notes that the alliance herein founded the transnational nature of anti-gender movements. It brought to the fore the international characteristic of gender ideology.

In 2007, the United Nations Human Rights Council recognised the 2006 Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity.⁶⁹ These saw human rights law applied to sexual orientation and gender identity. They sought to clearly identify states' obligations to ensure the human rights of persons irrespective of their diverse sexual orientations and gender identities.⁷⁰

2.3.3 Development in Europe and Latin America

Following these conferences, anti-gender movements in their elementary forms began to take shape in the Western world. Between 2012 and 2013, a series of uprisings occurred. In France, a national rally against a same-sex marriage bill drew international attention.⁷¹ Demonstrators herein were backed by the Catholic Church and supported by right-wing opposition members. In Croatia, same-sex marriage was outlawed in 2013 following the efforts of the Catholic church and conservative actors, which saw a constitutional referendum in favour of the ban.⁷² Taking root in Latin America, the same year saw a violent opposition of a resolution on sexual orientation and gender identity. The resolution was being considered at the General Assembly of the Organization of

⁶⁸ as above.

⁶⁹ International Service for Human Rights 'The Yogyakarta Principles on Sexual Orientation and Gender Identity: Establishing the Universality of Human Rights' 2 November 2016 <https://ishr.ch/latest-updates/yogyakarta-principles-sexual-orientation-and-gender-identity-establishing-universality-human/> (accessed 22 October 2024).

⁷⁰ M O'Flaherty & J Fisher 'Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles' (2008) *Human Rights Law Review*, 207.

⁷¹ 'Mass Paris rally against gay marriage in France' 13 January 2013 <https://www.bbc.com/news/world-europe-21004322> (accessed 4 September 2024).

⁷² 'Croats vote to ban same-sex marriage' 2 December 2013 <https://www.france24.com/en/20131201-croatia-referendum-same-sex-marriage-ban-constitution> (accessed 4 September 2024).

American States in Guatemala. It was a response to the calls for protections of sexual minorities in the country through a report submitted for consideration by the UN Human Rights Committee by a group of non-governmental organisations and the George Washington University Law School International Human Rights Clinic in the face of generalised violence and human rights infringements on the basis of sexuality.⁷³ Brazil and Paraguay soon saw attacks on gender education. In Paraguay, the Catholic church attacked the use of the term ‘gender’ in a national education plan⁷⁴, arguing that it was an attempt to pervert the education system. Shortly after this and in a likely response to the raging debates in Paraguay, Ecuador’s ex-president Rafael Correa delivered a sermon attacking gender theory in a weekly television programme.⁷⁵ Murray notes the significance of this anti-gender rhetoric being propelled by a prominent left-wing figure⁷⁶, forming a foundation for this paper’s later analysis of the impact of political contributors to anti-gender movements.

By 2017, Latin America was living in the realities of the ‘orange bus’, a movement created by Catholic far-right movements HazteOir and CitizenGo to mobilise anti-gender campaigns in the region.⁷⁷ This bus went through Mexico, Colombia, Chile, Brazil and Costa Rica, gaining traction and building momentum for anti-gender and anti-rights discourses and opposition.⁷⁸ So prevalent were the effects of this movement across the region that ‘gender ideology’ played a key role in country elections. In Costa Rica, Brazil and later Uruguay, political candidates relied heavily on anti-gender statements and promises of policy and legislative changes to ensure the preservation of ‘family structures’.⁷⁹

This paper highlights the Latin American case due to its use of what this dissertation coins as ‘bunching’- the amalgamation of unrelated theories and ideologies in order to perpetuate one. This practice draws on negative perceptions of different issues in order to garner blanket support for the negative offerings of all the issues therein. In the Americas, the anti-gender movement was politicised and in this way, raised to high-level national platforms and given mass coverage. This dissertation echoes the offerings of Murray in that this was pivotal to the success of these movements in the region.⁸⁰ In this regard, gender ideology was further bunched with Marxism or Communism. Drawing from the apparent negative perceptions of communism, anti-gender movements in Latin America were able to instil fear and propagate the notion that gender ideology is a ploy

⁷³ ‘Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Guatemala: A Shadow Report’ (2012), 8.

⁷⁴ S Correa and others ‘Transnational anti-gender movements in Europe and Latin America create unlikely alliances’ (2018) *International Politics and Society Journal*.

⁷⁵ MA Viteri ‘Anti-gender Policies in Latin America: The Case of Ecuador’ (2021) *Las Ofensivas Antigénero En América Latina*, 42.

⁷⁶ Murray (n 48) 3246.

⁷⁷ as above.

⁷⁸ as above.

⁷⁹ Viteri (n 62) 45.

⁸⁰ Murray (n 48) 3246.

for state capture by communist and socialist ideals.⁸¹ This is a key aspect of anti-gender movements which this paper later analyses.

2.3.4 Peculiar Case of the USA

Despite being an exporter of anti-gender discourses, the USA did not overtly manifest anti-gender movements until the past decade.⁸² In fact, many scholars note the 2022 case of *Dobbs v Jackson Women's Health Organization*,⁸³ famed for its overturning the *Roe v Wade*⁸⁴ decision in the USA as its first major anti-gender movement realisation. The case saw the overturning of nation's supreme court precedent that upheld the constitutional right of women to seek abortion on the basis of the right to privacy. This was bemoaned as an undoing of rights in the country but also signalled a peak of anti-gender discourses in the country. This paper submits that previously, the USA did not have a specific pattern of anti-gender movements or attacks.⁸⁵ In fact, there were several previously unsuccessful attempts to overturn the landmark *Roe* case. The 2022 attempt was however met with the political enabling of then President Donald Trump's administration with its Republican and pro-life ideals. This paper posits that this then made the change of legislation possible.⁸⁶

Analysing these notions by other scholars, this research offers a differing view in that the USA's previous position was not in fact due to the absence of anti-gender movement in the country but largely due to the difference in legislative, policy governance and governance structures across varying states in the country and the resulting fragmented views. This dissertation also offers that the USA specifically stayed under the radar of anti-gender movements through its main promotion of 'family values'⁸⁷ as opposed to the more abrasive diction such as 'societal perversions' that were being expressly promoted more commonly in Europe.

Despite the former President Trump having boasted about the *Dobbs*⁸⁸ decision at the hands of the Supreme Court justices that he handpicked, the Republican Party as a whole has shied away on commenting on the decision, largely due to its divisive nature.⁸⁹ This research offers this as bearing testament to the divided position of the country with regard to the popular anti-gender ideologies propelled by religious and conservative actors therein. The latter have historically and still do contribute significantly to funding

⁸¹ Murray (n 48) 246.

⁸² as above.

⁸³ 597 U.S. 215 (2022)

⁸⁴ 410 U.S. 113 (1973).

⁸⁵ Murray (n 48) 3246.

⁸⁶ DB Chanove 'A Tough Roe to Hoe: How the Reversal of Roe v. Wade Threatens to Destabilize the LGBTQ+ Legal Landscape Today' (2022) *University of California Irvine Law Review*, 1041.

⁸⁷ L Montegary 'Anti-Gender, Anti-University: "Gender Ideology" and the Future of US Higher Education' (2022) *Feminist Formations*, 4.

⁸⁸ (n 83).

⁸⁹ N Weixel 'Trump says he has 'no regrets' about Supreme Court overturning Roe v. Wade' 20 August 2024 <https://thehill.com/policy/healthcare/4837459-trump-abortion-roe-v-wade-dobbs-comstock-act/> (accessed 1 October 2024).

anti-gender movements in other regions, which firmly plants them in the path of relevant anti-gender movement actors.⁹⁰ This dissertation holds that as a result, the USA's impact ought not to be ignored based solely on its more recently visible anti-gender movements within its own territory.

2.3.5 Development in Africa

The development of anti-gender movements on the continent can be traced to its colonial era.⁹¹ Presently, almost all anti-sodomy laws and repressive legislation around the LGBTQI+ community are the relics of received constitutions.⁹² For example, Malawi and Botswana can trace their legislation criminalising its same- sex sexual conduct to their British-installed Penal Codes.⁹³ This is the case in numerous other countries.⁹⁴ This research offers that it was in the 1990s when international law arenas began to define and create legislative and policy measures on the protection of same, that the continent began to define its opposition of same.⁹⁵ This is not to suggest that sexual minority issues were non-existent in the continent prior to this time but to emphasise that prior to this period, anti-gender sentiments on the continent did not have the overt support and wilful backing that they garnered during this time.

In 1996, Zimbabwe's President Robert Mugabe made the following statement at the opening of the Zimbabwe International Book Fair:

Supporting persons who believe that the denial of their alleged rights to have sex in public is a violation of their human rights formed as association in defence and protection of it and proceeded to write booklets and other forms of literature on the subject of their rights. Is any sane government which is a protector of society's moral values expected to countenance their accessions?

I find it extremely outrageous and repugnant to my human conscience that such immoral and repulsive organisations, like those of homosexuals, who offend both against the law of nature and the morals of religious beliefs espoused by our society, should have any advocates in our midst and elsewhere in the world.

If we accept homosexuality as a right, as is being argued by the association of sodomists and sexual perverts, what moral fibre shall our society ever have to deny organised drug addicts, or even those given to bestiality, the rights they might claim and allege they possess under the rubrics of individual freedom and human rights, including the freedom of the Press to write, publish and publicise their literature on them?⁹⁶

⁹⁰ McEwan & Narayanaswamy (n 21), 9.

⁹¹ (n 30) 140.

⁹² Human Rights Watch 'This Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism" 17 December 2008 <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism> (accessed 23 October 2024).

⁹³ Kretz (n30) 210.

⁹⁴ (n 90).

⁹⁵ Epprecht (n25) 1090.

⁹⁶ C Dunton & M Palmberg 'Human Rights and Homosexuality in Southern Africa' (1996) *Current African Issues*, 14.

The theme for the fair that year was ‘human rights and justice’. At the eleventh hour, the Gays and Lesbians of Zimbabwe organisation was excluded from the fair.⁹⁷ This action sparked debates regarding human rights and justice for sexual minorities and received international attention.⁹⁸

Mugabe’s statement can therefore be seen as a response to the raging debates on sexual minorities, It linked the inherited constructs of morality from imperial and racial legacies to the censoring of the public and human rights actors against advocating for the rights of LGBTQI+ persons.⁹⁹ This approach has since morphed into the arguments advanced by most African countries that seek to delegitimise and stifle sexual minority rights.

2.3.5.1 Colonialism: Double-Edged Sword

From Mugabe’s statement, a link can be drawn to the definitions of colonialism entrenched on the continent through colonialism and as previously discussed, largely premised on religious beliefs and definitions of civilisation. This is an interesting position given Mugabe’s popularly scathing and firm anti-imperial and Pan-African arguments, wherein he blamed the challenges faced on the country by neocolonial attempts by Western powers.¹⁰⁰ In this instance, the offerings of colonialism in defining morality were ignored in the face of their support of the anti-LGBTQI+ position that the government of Zimbabwe sought to entrench.

In Uganda, a similar occurrence is identifiable. Prior to the promulgation of the nation’s Anti-Homosexuality Bill, President Yoweri Museveni set up a panel of scientists to address the question of homosexuality.¹⁰¹ He further called upon US scientists to assist Uganda’s panel in its findings on whether persons can be born homosexual.¹⁰² This followed his initial refusal to sign the Bill into law, opining that it would be unfair to punish people who were born ‘abnormal’. This paper offers that this scientific enquiry is akin that which is etched in the continent’s historical fabric wherein scientific experiments and rationalisations were offered as reflectors of black Africans as sub-human, inferior and less intelligent, amongst others.¹⁰³

Shortly after the report’s findings drafted by medical practitioners and psychologists, gave evidence to the effect that homosexuality was not in fact abnormal, President Museveni proceeded to sign the bill anyway.¹⁰⁴ It would later emerge that the President’s

⁹⁷ as above.

⁹⁸ as above.

⁹⁹ Mwikya (n26) 19.

¹⁰⁰ I Phimister & B Raftopolous ‘Mugabe, Mbeki & the Politics of Anti-Imperialism’ (2004) *Review of African Political Economy*, 385.

¹⁰¹ Mwikya (n 26) 19.

¹⁰² ‘Uganda: Museveni ‘seeks US advice on homosexuality’ 22 February 2014 <https://www.bbc.com/news/world-africa-26297356> (accessed 1 October 2024).

¹⁰³ S Rose and others ‘Science, Racism and Ideology’ (1973) *The Socialist Register*, 235.

¹⁰⁴ Mwikya (n 26) 19.

ministerial task team had falsified and manipulated the report by the panel in order to twist its offerings to say homosexuality ought to be criminalised.¹⁰⁵

Following the worldwide criticism of the Anti-Homosexuality Bill in Uganda and threats to cut foreign aid, Museveni has since taken to making statements criticising the West and labelling various Western nations and organisations as seeking to push colonial agendas.¹⁰⁶ He specifically offers that the West is seeking to use homosexuality to divide and rule, drawing on the region's growing opposition to impositions by former imperial powers.¹⁰⁷

This dissertation offers that this is an example of the way in which anti-gender movements in African have developed to using the ideal of colonialism to either signify the source of the purported 'problem' or to dram justification from through imported notions of morality and family values. This dissertation echoes the offerings of Jenny Andrine Madsen Evang, a scholar who offers that the postcolonial framing of gender ideology as Western colonialism is hypocritical "as anti-gender thinkers are themselves invested in the cisheterosexist myth that is perhaps the most colonial of all".¹⁰⁸

2.3.5.2 Copycat culture

In addressing the rise of anti-gender movements in Africa, the common copying of legislation and policies on the continent cannot be ignored. In his reflections on Uganda's Bill, Kretz offers that it has the potential to be a catalyst for what he terms "bootstrapping down". This is where the action taken by a group of nations similarly located, encourages their adoption of similar practices.¹⁰⁹ This research's introduction highlights this occurrence in the example of Kenya, which considered similar legislation to Uganda's in the same year the latter enacted its Bill. This paper argues that this behaviour largely reflects the way in which legislations are reformed on the continent, particularly in regional blocs. States seldom seek to be seen as outliers and as such often follow what their counterparts are doing. This is a damning reality in the face of legislative measures such as Uganda's and Ghana's, which could signal further regressive measures towards LGBTQI+ rights in East and West Africa respectively.

2.3.5.3 Current State of Affairs

Adam J. Kretz makes a valuable offering to the understanding of the development of anti-gender movements in Africa. He highlights the cases of Uganda, Malawi and Zimbabwe

¹⁰⁵ S De Waal 'Uganda MPs falsified gay report' 22 February 2014 <https://mg.co.za/article/2014-02-22-uganda-mps-falsified-gay-report/> (accessed 1 October 2024).

¹⁰⁶ H Kyeyune 'Uganda's president slams West following country's removal from trade pact'

¹⁰⁷ Z Verjee 'Anti-west and anti-gay: How Yoweri Museveni played to his audience' 24 February 2014 <https://edition.cnn.com/2014/02/24/world/africa/verjee-uganda-museveni-anti-gay/index.html> (accessed 3 October 2024).

¹⁰⁸ JAM Evang 'Is "Gender Ideology" Western Colonialism?: Anti-gender Rhetoric and the Misappropriation of Postcolonial Language (2022) *Transgender Studies Quarterly*, 365.

¹⁰⁹ Kretz (n30) 21.

as a lens through which homosexuality legislation on the continent can be considered. This paper draws from this study as relevant to reflecting the present state of affairs in terms of legislative reforms and anti-gender movements on the continent.

Kretz looks at Uganda's increase of penalties for those perceived to be or actually engaging in same-sex sexual conduct as one the one end of the analysis. He notes near-identical laws in Cameroon and Nigeria.¹¹⁰ This paper posits that this is the first category of African states presently- those seeking to stiffen legislative and policy measures against the LGBTQI+ community. This research offers Ghana with its recent Family Values Bill, as the newest member of this category.

The second country analysed by Kretz is Malawi. During the incumbency of former President Joyce Banda, the state signalled its desire to suspend and ultimately repeal its criminalisation of same-sex activity. Following public pressure however, the state retracted on this aim, offering that Malawians were not ready for this.¹¹¹ Malawi's Minister of Justice Ralph Kasambara had previously echoed Banda's initial sentiments on repealing anti-homosexual laws and had announced the suspension of arrests and prosecutions of persons for homosexuality.¹¹² President Banda, responding to further pressures from the Malawi Council of Churches and other religious actors, denied Kasamba's statements to the international press. These religious actors not only described homosexuality as un-African and foreign but also bunched it with anti-Western views, offering that decriminalisation was a tactic to lure foreign investment into the country.¹¹³ The impact of the effect of the pressure exacted by these religious sects is evident through Banda's backtracking.

The fact that in initially making the call for decriminalisation to lawmakers and citizens of Malawi, Banda was sincere in her aims and was not in fact seeking to appeal to foreign powers, as was later suggested by her detractors. In fact, President Banda had repeated this aim towards decriminalisation in various public speeches. This paper argues that even though she later denied the banning of arrests announced by the Minister of Justice, that he was under her administration and was at the time, acting under a common goal of her administration. This paper offers that political pressure thwarted the success of this move in Malawi and reaffirms this paper's offerings of the impact of anti-gender movements as propagated by religious and political actors in this instance.

It is offered herein that Namibia can be placed in this same category as Malawi- a country that sought to make significant advancements in the protection of LGBTQI+ but was stifled by external pressures. In May 2023, Namibia's highest court passed a landmark

¹¹⁰ Kretz (n 30) 24.

¹¹¹ Kretz (n 30) 25,

¹¹² 'Malawi suspends laws against homosexual relationships' 5 November 2012 <https://www.bbc.com/news/world-africa-20209802> (accessed 10 October 2024).

¹¹³ Kretz (n 30) 25,

judgment that recognised same-sex entered into in countries where they are legal.¹¹⁴ Despite the celebration of this decision in human rights camps as a step towards greater recognition and protections for sexual minorities, it sparked a wave of protests from religious leaders, politicians and anti-LGBTI+ actors.¹¹⁵ Four months later, the country's Parliament approved the Marriage Amendment Bill. This legislative document not only bans same-sex marriage but also declared that same-sex marriages conducted outside the country would not be recognised- a flagrant disregard of the Supreme Court's ruling. It remains to be seen whether this Bill will be assented to as law but its impact thus far asserts the impact of anti-gender movements.

Kretz then considers Zimbabwe and its massive erosion of LGBTQI+ rights from actions that were intended to strengthen same. In 2006, the country enacted a Sexual Deviancy Law, which was added to its Criminal Code. It criminalises any act involving contact between two males that would be deemed indecent by a 'reasonable' person, including holding hands, hugging or kissing.¹¹⁶ This codification of laws was Zimbabwe's first explicit criminalisation of same-sex sexual activity in legislation. It was the result however, of the opposition's attempt to follow the example of South Africa and include sexual orientation as a protected status in the country's Constitution. In this regard, the political clout of the ruling party not only quashed the opposition's proposed amendment but went a step further to entrench the opposite position, in the law.

Tanzania can be linked to the category within which Kretz places Zimbabwe, as weaponizing laws against LGBTQI+ persons. Although for many years, Tanzania saw the dormancy of its laws criminalising homosexuality with no prosecutions having taken place, 2023 saw the conviction of Muharami Hassan Nayonga. He was sentenced to 30 years in prison for purportedly engaging in anal sex.¹¹⁷ This sudden crackdown has been linked to the events in neighbouring countries of Uganda and Kenya, solidifying this paper's offering of the impact of copycat tendencies in legislative and policy measures in Africa. In the same year, reports regarding the forced anal testing of persons believed to be gay in Tanzania, was confirmed.¹¹⁸ This paper offers that the extreme worsening of realities for LGBTQI+ persons in the country bears testament to the influence of anti-gender influences in the region.

¹¹⁴ Human Rights Watch 'Namibian Court Recognises Foreign Same-Sex Marriages' 26 May 2023 <https://www.hrw.org/news/2023/05/26/namibian-court-recognizes-foreign-same-sex-marriages> (accessed 10 October 2024).

¹¹⁵ R Igual 'Namibia: Parliament votes to ban same-sex marriage' 29 September 2023 <https://www.mambaonline.com/2023/09/29/namibia-parliament-votes-to-ban-same-sex-marriage/> (accessed 10 October 2024).

¹¹⁶ L Chabata 'RG Mugabe and Zimbabwe's lesbian, gay, bisexual, transgender and queer conundrum: Contextualising Romans 1:26-27' *Theological Studies* 80.

¹¹⁷ D Itai 'Anti-LGBTQ crackdown worsens in Tanzania' 11 July 2023 <https://www.washingtonblade.com/2023/07/11/anti-lgbtq-crackdown-worsens-in-tanzania/> (accessed 15 October 2024).

¹¹⁸ Amnesty International 'We are Facing Extinction – Escalating Anti-LGBT Sentiment, The Weaponisation of Law and their Human Rights Implications in Select African Countries' (2024), 43.

Through Kretz's study, this research offers that in almost all contexts, LGBTQI+ rights are under attack on the continent and that it is the actors that will be discussed hereafter that are fuelling the flourishing of these anti-gender movements.

2.4 Actors

2.4.1 Religious groups

The identification of anti-gender actors almost always begins with religious groups. This can be deemed inevitable due to religious contributors such as the Catholic church "cradl[ing] gender ideology".¹¹⁹ Following this dissertation's previous discussion of religious groups' historical contributions to anti-gender movements, it submits herein that religious actors extend beyond the Catholic and traditional religious sect.

Evolving religious groups known as 'evangelicals' are key players in anti-gender movements.¹²⁰ In describing them, one theologian offers that they manifest 'quadrilateral biblicism', which he explains as "a high view of the Bible, secondly the centrality of Jesus' crucifixion on the the cross, thirdly the belief that we are spiritually dead in our trespasses until we're made alive in Christ...and finally activism, and that activism can be through evangelism, or service or different things".¹²¹ Through this doctrine, the group has been able to exert political influence, suggesting only one way to moral and religious redemption and suggesting the inadequacy of anything that does not conform to its standards. In its suggestion of no other options besides its doctrine, this group has successfully fuelled the 'othering' of sexual minority groups and in turn, anti-gender movements.

The Russian Orthodox church also stands out as a key religious player in anti-gender movements. Its influence is felt beyond just Russia but in most Western Balkan countries.¹²² It enjoys the support of Russian oligarchs, key players who also have controlling voices on world economic platforms. This has garnered alliances with their religious positions due to the economic, political and social power they hold.¹²³ This paper posits that this power is in turn flexed in economic linkages on the African continent that sees states forced to accept aid for example, alongside the beliefs of its sources.

¹¹⁹ Murray (n 48) 3247.

¹²⁰ C Okereke 'How U.S. Evangelicals Helped Homophobia Flourish in Africa' 19 March 2023 <https://foreignpolicy.com/2023/03/19/africa-uganda-evangelicals-homophobia-antigay-bill/> (accessed 20 October 2024).

¹²¹ A Belling 'What's the Deal with American Evangelicals?' 31 May 2024 <https://undeceptions.com/articles/whats-the-deal-with-american-evangelicals/> (accessed 17 October 2024).

¹²² T Spirlet 'How US Evangelicals and the Russian Orthodox Church have helped fuel anti-LGBTQ+ agenda in Europe' <https://www.euronews.com/my-europe/2023/07/24/how-us-evangelicals-and-the-russian-orthodox-church-have-helped-fuel-anti-lgbtq-agenda-in-> 24 Jul 2023 (accessed 16 October 2024).

¹²³ As above.

This paper also seeks to highlight other often overlooked players under this group- being Islamic groups and traditional African religious leaders. On a continent where Islam is one of the major religious groups, it is often not discussed in anti-gender movement literature. Drawing from the recognition of various Islamist organisations in the South as being deemed anti-gender mobilisation¹²⁴, this research offers that Islam is also a key actor in anti-gender movements. When considering Islam in gender discourse, emphasis is often placed on its stifling of women's rights. The strict religious teachings of Islam and the penalties of being cursed and liable to torture¹²⁵ for engaging in lewd acts, make LGBTQI+ rights a non-starter in this sect. This research submits that Islam's anti-gender contributions are therefore more covert but they exist, what with some offering that the non-descript reference to vile acts is a clear reference to homosexuality and that the fixed punishment for such acts is as severe as stoning, burning and beheading.¹²⁶

There have been contradictory views that the Quran actually makes no express mention of homosexuality or punishments for same and that it rather leaves judgment in the hand of God.¹²⁷ The reassertion of Islamic positions in the face of such offerings however, leaves no doubt as to the position of LGBTQI+ persons under this religious belief. The Australian National Imams Council specifically offered that not only was the position of Islam on homosexuality clear but that it is "consistent with Judaic and Biblical perspectives as stipulated in the holy scriptures".¹²⁸

Traditional African religions are also often overlooked when considering religious actors in anti-gender movements. Although some offer a lens through which sexual fluidities and diverse gender expressions have always existed on the African continent¹²⁹, other traditional African religious actors state that homosexuality is foreign, attention-seeking and shrouded by evil spirits.¹³⁰ It is the latter that then constitute as anti-gender actors.

2.4.2 Political players

The second key actors in anti-gender movements are political players. These include governments, political parties and politicians. In the case of the USA, political actors such as President Donald Trump were able to use their political clout and office to make or break the landscape for anti-gender actions in the country. In the case of the USA, political players were sources of misinformation and disinformation, further agitating the public and supporting the extremist positions of what sexual minority rights entail.

¹²⁴ R El-Mahdi 'Does Political Islam Impede Gender-Based Mobilization? The Case of Egypt' (2010), *Totalitarian Movements and Political Regions*, 379.

¹²⁵ 'Homosexuality' <https://quran.com/en/4:16/tafsirs/en-tafsir-maarif-ul-quran> (accessed 19 October 2024).

¹²⁶ (n 97).

¹²⁷ T Luck 'Islamist views of LGBT: what Quran says, and what it doesn't' 16 June 2016

¹²⁸ 'Islam's Clear Position on Homosexuality' 10 March 2018 <https://www.anic.org.au/wp-content/uploads/2018/03/Islams-Clear-Position-on-Homosexuality.pdf> (accessed 17 October 2024).

¹²⁹ M Ferragamo & K Robinson 'Africa's Struggle Toward Inclusive LGBTQ+ Laws' 13 June 2023 <https://www.cfr.org/article/africas-struggle-toward-inclusive-lgbtq-laws> (accessed 17 October 2024).

¹³⁰ S Mthembu 'Homosexuality is not Contemporary in South Africa: The Perceptions of Traditional and Religious Leaders towards Homosexuality' (2023) *African Journal of Gender, Society and Development*.

Specifically, Donald Trump stated that schools were conducting gender-affirming operations and doing so without parental consent.¹³¹ Similarly, other political actors rely on the positions already held or a garnering of support using the promises of addressing controversial topics such as sexual minority rights when voted into positions of power.

The case of Hungary's Fidesz' party and Poland's law and Justice party further highlight the reach of these actors. The two bodies were able to institute anti-gender initiatives and access funding from the European Union to support same.¹³² In this way, the masking of anti-gender sentiments as political issues is evident, highlighting the power these groups wield even at the level of international bodies and donors.

In the African context, this group also includes traditional leaders. On the one hand, some members of this group specifically capitalise on anti-gender movements as opportunities to gain political mileage. On the other hand, some of these actors are part of concerted efforts to enter decision-making spaces¹³³ and ensure the thwarting of rights from these positions of power. South Africa offers an example of this through the actions of members of its Congress of Traditional Leaders recently pushing against the sexual orientation provision in the Equality Clause of the country's Bill of Rights.¹³⁴ Not only did this reinforce the power structures that are held by these actors but it also supported opposition and shunning of sexual minority groups.

2.4.3 Family associations

These are organisations that share the common thread of a specific ideal of 'family' and include anti-abortion groups, family groups and faith-based professional bodies such as Catholic organisations of lawyers for examples.¹³⁵ They are often highlighted as having existed previously and lost popularity and have since aligned themselves to anti-gender movements to gain traction on their intended ideals. It is as such that they are not easily identifiable as they seldom act singlehandedly.

They often frame their existence on ideas of emotional and moral appeals, often collaborating with religious actors to ensure a wider reach. An example of this is the World Congress of Families (WCF), a popular international family association linked to anti-gender initiatives across the globe.¹³⁶ Its role is seldom noted due to its linkages to various churches and political groups for example.

¹³¹ A Lotz 'Trump closing out campaign cycle with anti-trans attacks' 22 October 2024 <https://www.axios.com/2024/10/22/trump-trans-attacks-campaign-ads> (accessed 22 October 2024).

¹³² Paternotte & Kuhar (n 35).

¹³³ A Graff & E Korolczuk *Anti-Gender Politics in the Populist Moment*, 53.

¹³⁴ Kretz (n 30, 27).

¹³⁵ D Paternotte & R Kuhar 'The anti-gender movement in comparative perspective' in R Kuhar & D Paternotte (eds) *Anti-Gender Campaigns in Europe: Mobilising against Equality* (2017) 260.

¹³⁶ D Paternotte 'The international organisation of the conservative right: Transnational mobilisations against same-sex unions' (2015) *International Journal of Sociology and Social Policy* 35.

2.4.4 Allies

Another group of actors herein is that of allies. This is a diverse group often comprised of academics, lawyers, teachers or even media actors.¹³⁷ They are often less easily identifiable due to their work in the background. It is noted that these actors often deny their involvement in anti-gender movements yet serve as independent ‘experts’, backing the movements’ ideals. In this way, their expertise in various fields is seen to lend a legitimacy of sorts to anti-gender movements.

In the legal space, some lawyers have contributed to anti-gender movements through strategic counsel and litigation on legal protections of sexual minorities.¹³⁸ In the academic space, scholars in the disciplines of sociology, psychology and philosophy amongst others, have contributed through writings quashing the idea of sexual minority rights¹³⁹. In addition to these, think tanks and foundations largely aimed at research have played a key role by producing and dissemination anti-gender research.¹⁴⁰ These have enjoyed mass support due to their founding on the often-unchallenged platform of academia.

2.5 Manifestation

The way in which anti-gender movements manifest can best be understood through Correa’s analysis of their operation. She describes them as

hydras, a creature with many movable heads that go in very different directions, apparently operating independently from each other and quite often feeding in contradictory ideological sources. Sometimes one head is bigger, the other is screaming more than the other, and other heads are silent or even sleeping. Whether they are competing for attention or temporarily dormant, they are part of the same animal that, as whole, moves in the same direction and is highly adaptable to context and circumstance. These features make it very difficult for observers and analysts to grasp what the animal is¹⁴¹

It is from this apt analysis that this dissertation reveals the difficulties in identifying the operation of anti-gender movements. Because they have no single arena or mode of operation, their manifestation is often traced through their actors and their effects. This research submits that it is this gap in ways to pre-empt their manifestation that has led to their successes. It is therefore crucial that the ways in which these movements have shown themselves thus far be studied. For this research’s purposes, there is greater value in analysing their actors as opposed to their effects.

2.5.1 Funding

¹³⁷ Paternotte & Kuhar (n 105, 260).

¹³⁸ WT Gould ‘Human rights and the politics of transnational advocacy’ (2017) *Journal of Human Rights* 16.

¹³⁹ K Kimport ‘Queering the politics of sociology’ (2013) *Sociological Perspectives* 56.

¹⁴⁰ As above.

¹⁴¹ Murray (n 48) 3247.

At a general level for instance, Uganda's Anti-Homosexuality Bill can be seen as an instrument that perpetuated an anti-gender movement by increasing violence and hate speech and ensuring regressive legislation in the country. A deeper analysis of its promulgation however, gives more useful insights. In Uganda, David Bahati was a political backbencher in parliament when the Bill was introduced. His support and outright campaigning for its passing however, saw him rapidly rise through the ranks of his political party. He also then received financial assistance and international coverage from the relationships he formed with large evangelical networks preaching anti-homosexuality and supporting similar legislation across the globe.¹⁴²

From this example, a key manifestation of anti-gender movements is financial enabling. These movements usually host well-structured and organised mass campaigns which are made possible by the availability of resources. In Uganda, Bahati was able to mobilise public support for the Bill in all regions of the country through this availability of funding. In many cases, it is the well-resourced way in which anti-gender movements operate that serves as their tell-tale sign.

It is further proffered that the identification of these anti-gender movements can also be carried out through an answer to the question "what does s/he stand to gain?". This research argues that key actors in anti-gender movements, particularly individuals, often have an identifiable goal in their operations. In Uganda, Bahati's political aspirations can be traced to his concerted support of the Bill, particularly in that it coincided with the President's stated ideals. Similarly, Rebecca Kadaga, the lead sponsor of Uganda's Bill in Parliament not only used the Bill to appeal to cultural conservative voters but was also tipped as a frontrunner to succeed President Museveni following her efforts.¹⁴³ Through this analysis, what these individuals stood to gain could be seen as a likely contributor them joining and/or mobilising anti-gender movements.

2.5.2 Cross-cutting applicability

It must be noted at this point that the very notion of 'gender ideology' lends itself to abuse through its use as an adaptable signifier. In practice, this term is used to address a range of issues such as abortion rights, sexual education, sex work and sexual orientation and gender identity amongst others. Further to this and as earlier discussed, it is often bunched with an unrelated issue to utilise the perceptions of the other issue to propel anti-gender ideals.¹⁴⁴ Such was the previously discussed case of Latin America with the use of communism ideologies alongside anti-gender movements.

This paper therefore posits that anti-gender movements are not always manifest in obvious manners. In the African context, this concept of bunching is identifiable through

¹⁴² Kretz (n 30) 27.

¹⁴³ Kretz (n 30) 27.

¹⁴⁴ S Correa 'Gender Ideology: tracking its origins and meanings in current gender politics'

the use of anti-colonial ideologies. Herein, LGBTQI+ rights are labelled as Western imports.¹⁴⁵ They are posed as external and the result of inherited colonial ideologies and therefore not true to the continent's beliefs.¹⁴⁶ The opposition of the recognition, protection, promotion and fulfillment of sexual minority rights is then blended with the growing move towards decolonisation in order to ensure the success of the former. As such, this research submits that anti-gender movements also manifest themselves in seemingly unrelated issues.

2.5.3 Religious-based opposition

This paper posits that opposition based on religion is more often than not, a signifier of anti-gender movements at play. Religious actors have for time immemorial been considered the custodian of morals and values and stewards of compassion.¹⁴⁷ Even so, on no other issues have they been as actively opposed as anti-gender rhetoric. The paradoxical link between religion and prejudiced behaviour has most recently come to the fore as the divisive nature of religious beliefs is gaining social consideration.¹⁴⁸ This is one of the main ways that these movements manifest.

In addition to opposition underpinned by religious beliefs, there are numerous other concerted opposition efforts that are manifestations of anti-gender movements through their core beliefs, tactics and goals. With regard to core beliefs, the fear of neoliberal or Western influence is a common one.¹⁴⁹ It can also be linked to other manifestations such as political and legislative opposition, cultural and traditional opposition and social and community-based opposition. These manifestations often work in tandem with different actors uniting for this purpose.

2.5.4 Online and media campaigning

Another key manifestation of AGMs is their online presence. In the age of technological advancements, these movements have identified the ease with which their ideologies can be easily disseminated in order to have the international impact that they seek. As such, they often take the form of disinformation and misinformation with regard to sexual orientation and gender identity and enjoy the real time spread of their contributions across the globe.¹⁵⁰

2.5.5 Anti-gender discourse as part of the movement

¹⁴⁵ Endong (n 24) 143.

¹⁴⁶ Tabengwa & M Waites (n 28) 204,

¹⁴⁷ T Gkinopolous and others 'Religiosity and Social Distance from LGBTQI+ People: The Mediating Role of Gender and LGBTQI+ Conspiracy Beliefs' (2024) *Sexuality Research and Social Policy*, 913.

¹⁴⁸ NPQ Ngcobo 'Difficulties faced by homosexual students at the University of Zululand: a phenomenological explication' PhD thesis, University of Zululand, 2007 10.

¹⁴⁹ Tabengwa & M Waites (n 28, 204).

¹⁵⁰ Rutgers 'Dealing with the anti-rights movement – opposition in international spaces' (2023) *Colophon*, 5.

Whilst analysing the manifestation of anti-gender movements, this paper cannot ignore the realities of states such as Hungary where scholars argue the non-existence of anti-gender movements, describing instead anti-gender discourses as the reality.¹⁵¹ This paper argues that this presentation of oppositions to sexual minority rights as framed by an attack on gender rhetoric ought not be disregarded as mere dissident voices but rather noted as the breeding ground for AGMs. In the study of Turkey, Peto and Kovats suggest that the lack of visible AGMs in the country can be attributed to the current government's eradication of "all NGOs that could be advocates for gender equality".¹⁵² They describe how the government opposes liberal agendas and has since eliminated any gender equality mechanisms. This paper offers this as a glaring example of AGMs' operation.

This paper argues for a contending position in that AGMs need not be physical in their manifestations to exist. The very stifling of a liberal environment as perpetuated by the government of Turkey constitutes as an AGM. Peto and Kovats further argue that the small percentage of Roman Catholic membership in Hungary does not necessitate AGMs.¹⁵³ This position is disputed herein as a flawed recognition of only this religious sect as a proponent of AGMs. Not only are religious actors not limited to Roman Catholics, they are not even enclosed to the parameters of religious bodies. As is discussed in this research, AGM actors arise from various sectors- political, social, community organisations and even academic bodies. As such, seeking to link the purported non-existence of AGMs to the Roman Catholic church is a flawed and dangerous approach.

The scholars further offer that there appears to be "no political culture within which mobilisation and street politics would be accepted and considered valuable".¹⁵⁴ This is noted as an overly ambitious view that seeks to pre-empt the status quo as reflecting a future where no social change is possible and present-realities will always remain as they are.

2.6 Impact

Anti-gender movements have had the effect of eroding LGBTQI+ rights. They have fostered a celebration of violence in the name of protecting religious or traditional notions of family, preventing moral decay and upholding societal values and dignity. This violence is discussed in various examples in this paper's introduction.

AGMs have also led to the impeachments of progressive leaders.¹⁵⁵ This threatens political stability and has damning effects on governance. Similarly, these movements install oppressive leaders who then enjoy continued leadership due to their wielding of anti-gender rhetoric, often to the detriment of other key issues. In this way, AGMs

¹⁵¹ A Peto & E Kovats 'Anti-Gender Movements in Hungary. A Discourse without a movement?' in R Kuhar & D Paternotte (eds) *Anti-Gender Campaigns in Europe* (2017), 117.

¹⁵² Peto & Kovats (n 123, 124).

¹⁵³ as above..

¹⁵⁴ as above..

¹⁵⁵ NMF de Souza and others 'The damages done by the anti-gender movement' (2024) *International Feminist Journal of Politics*, 2.

capitalise on their ability to appeal to public sensation so much so that all other issues are then ignored in the face of these ideologically-charged contestations.

The impact of AGMs has also been visible through the harmful use of social and political dynamics for social stratification, domination and status subordination.¹⁵⁶ This is a threat to society's progress and development, particularly on the African continent where identity is still in many instances, being defined. The 'othering' of sexual minorities through this, breeds prejudice and hate which then manifests in the harrowing violations of human rights discussed throughout this research.

2.7 Distinguishing aspects from backlash

Having defined and described these movements, it is essential to distinguish them from backlash. Although the term backlash is sometimes used interchangeably when referring to AGMs, the two are different. Backlash in this context can be defined as "strong negative reactions against gender justice and those seeking it".¹⁵⁷ It is therefore a reactionary response, often against perceived threat.

The key differences between AGMs and backlash lie in their organisation, ideology and scope. In terms of organisation. AGMs are usually more structured and coordinated. This is linked to the fact that they are not reactionary and are often planned, concerted efforts as opposed to the reactionary and spontaneous nature of backlash.¹⁵⁸ AGMs are also, based on clear anti-gender ideology and aim to undo progress whereas backlash tends to focus on maintaining power and is not necessarily linked to an ideological base.¹⁵⁹ Another distinguishing factor is that AGMs often target multiple groups and countries whereas backlash is often limited in scope to the specific threat to power that it is a response to.

It is noteworthy that backlash can develop into anti-gender movement.¹⁶⁰ It must not however be confused with being the same thing, largely due to the often short-lived nature of backlash in comparison to the effects of AGMs. The two, though overlapping at times, are different and an understanding of this is imperative, particularly in seeking to counter AGMs.

2.8 Conclusion

¹⁵⁶ Ngwena (n 27,15).

¹⁵⁷ Institute of Development Studies 'Understanding gender backlash through Southern perspectives' 7 March 2024 <https://www.ids.ac.uk/news/understanding-gender-backlash-through-southern-perspectives/> (accessed 17 October 2024).

¹⁵⁸ G Zarembeg and others 'Feminism(s) and anti-gender backlash: lessons from Latin America (2021) *International Feminist Journal of Politics*, 527.

¹⁵⁹ Institute of Development Studies (n 123)

¹⁶⁰ H Atay 'Anti-gender organising in Turkey: from backlash to movement' The Loop (web blog), <https://theloop.ecpr.eu/anti-gender-organising-in-turkey-from-backlash-to-movement/> (accessed 10 October 2024).

The manifestations and impacts of AGMs are clear, particularly in the African context. A study of their origins and actors highlights the way in which they are developing and the extent of their reach in various societal and decision-making spheres. It can no longer be deemed a coincidence what with this growing body of work and analysis on the patterns of AGMs. It is clear that there is a need to remain alert and conscious of the fact that AGMs do not have a single mode of operation, requiring a multifaceted approach not only to understand them but equally to counteract them.

CHAPTER THREE

INTERNATIONAL, REGIONAL AND DOMESTIC LEGAL FRAMEWORK

3.1 Introduction

The legal frameworks that exist at international, regional and domestic levels are analysed herein. The aim is to highlight ways in which these structures prevent or alternatively contribute to anti-gender movements. The chapter analyses the contributions that the current legislative environment contributes to the protection of LGBTQI+ rights and ways in which its failures contribute to anti-gender movements and the erosion of human rights. It concludes with a consideration of the way in which a lack of enforceability of numerous legislative instruments particularly at the international and regional level, poses a threat to the protection of rights on the continent. It also highlights the fact in so far as the domestic legal framework in Botswana has not been amended to reflect the decriminalisation of homosexuality, it is still a law in effect.

3.2 International Legal Framework

On an international level, various instruments provide for aspects of human rights protections that are relevant in this analysis of LGBTQI+ rights. The first is the Universal Declaration of Human Rights (UDHR) which states that “all human beings are born free and equal in dignity and rights”.¹⁶¹ It is noteworthy that although the UDHR is not legally binding, it hosts principles not only enshrined in other legal instruments but that have also attained the state of customary international law. Articles 2, 3 and 26(1) of the International Covenant on Civil and Political Rights (ICCPR) further protect against discrimination and provide for equal rights for civil and political rights stipulated therein. It specifically speaks to non-discrimination on the grounds of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.¹⁶² Article 5 of the ICCPR also provides for the non-derogability of its offerings. This is of importance given that it has been ratified by most countries, including for purposes of this study, Botswana. Article 20(2) of the ICCPR then gives protection against the advocacy of hatred that incites discrimination, violence or hatred. This is also key to the consideration of sexual minority rights and anti-gender movements, which have the effect of violating this specific article.

Article 17(1) of the ICCPR then provides protections from unlawful or arbitrary interference with one’s privacy. This is crucial in the discourse of sexual minority rights as it is this very privacy that is often infringed upon in the operations of anti-gender movements. Article 19 of the ICCPR then provides for freedom of association. This is also paramount in this paper’s discussion as anti-gender movements often attack this freedom by creating legal, administrative or social barriers for sexual minorities to associate or even register organisations aligned to their sexual identities.

¹⁶¹ 1948

¹⁶² as above.

Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides for the recognition of its offerings without discrimination in the same diction as the ICCPR. Through the UN Committee on Economic, Social and Cultural Rights and Article 13 of General Comment No. 15¹⁶³, sexual orientation was then recognised as a ground for non-discrimination. It is offered that although this was with regard to the right to water, it can be viewed as an extension of the ICESCR's general recognition of non-discrimination on the basis of sexual orientation.

The landmark case of *Toonen v Australia*¹⁶⁴ was the first wherein UN treaty bodies were petitioned to consider sexual orientation. In the case, Toonen argued that the criminalisation of same sex sexual conduct was a violation of his right to privacy as entrenched in Article 17 of the ICCPR.¹⁶⁵ A year later in the case of *Modinos v Cyprus*,¹⁶⁶ the European Court of Human Rights recognised laws criminalising homosexuality in Cyprus to be violations of the European Convention on Human Rights (ECHR). Article 8 of the ECHR provides for the right to privacy and was relied upon by the applicant in making his case.

Although no international treaty specifically provides protection for discrimination on the basis of sexual orientation and gender identity, numerous instruments reinforce the protection of the rights herein. The first of these is the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. They affirm states' obligations to include sexual orientation and gender identity in the broader application of human rights standards. It further calls for UN treaty bodies, other UN organs and non-governmental organisations at all levels to implement these principles into the frameworks of their mandates.

The Rabat Plan of Action¹⁶⁷ also provides for non-discrimination and condemns the advocacy of hatred that fuels this. It coincides with the UN Strategy and Plan of Action¹⁶⁸ which addresses hate speech, condemning it and making it the responsibility of all. These two instruments are pertinent in this discussion given the promotion of hate speech and concerted efforts that AGMs host in their manner of advocacy for ideologies propelling hate.

There is therefore a clear recognition and protection of sexual minority rights that can be invoked through the international legal framework. Its potential success is however

¹⁶³ (2002) The Right to Water (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights).

¹⁶⁴ Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

¹⁶⁵ Australian Human Rights Commission 'Human Rights Explained: Case Studies' <https://humanrights.gov.au/our-work/education/human-rights-explained-case-studies> (accessed 20 October 2024).

¹⁶⁶ (Application No. 15070/89)

¹⁶⁷ OHCHR (2012) <https://www.ohchr.org/en/documents/outcome-documents/rabat-plan-action> (accessed 20 October 2024).

¹⁶⁸ UN (2019) <https://www.un.org/en/hate-speech/un-strategy-and-plan-of-action-on-hate-speech> (accessed 20 October 2024).

thwarted by the notion of state sovereignty, which ensures that the instruments under the international legal framework cannot be imposed but must be the result of states acceding to and ratifying the relevant instrument in this regard. This research notes that it is this that limits their reach in many nations including Botswana, which has not ratified many international instruments.

3.3 Regional Legal Framework

At a regional level, the African Charter on Human and Peoples' Rights (African Charter)¹⁶⁹ is the pan-African manifestation of human rights protections on the continent. It provides for equality for all and the rights to non-discrimination and to self-determination.¹⁷⁰ Its articles 17 and 28 further provide for the rights to family and dignity.

The Protocol to the African Charter protects the right to non-discrimination in Article 2, the right to health in Article 14 and the right to dignity in Article 23.¹⁷¹ Also on the continent, the African Commission on Human and Peoples' Rights (African Commission) has adopted Resolution 275 on the 'Protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity.'¹⁷² In 2023, the Commission adopted Resolution 552 on the Promotion and protection of the rights of intersex persons in Africa.¹⁷³ These instruments were celebrated for the perceived value they would bring on the continent in the face of rising anti-gender movements and continued unfair discrimination, violence and arrests of sexual minorities across Africa.

In 2022, the African Commission regressed on its seeming recognition, protection and promotion of sexual minority rights when it rejected observer status applications by three non-governmental organisations namely, Alternative Côte d'Ivoire, Human Rights First Rwanda and Synergía (Initiatives for Human Rights).¹⁷⁴ In an opposite direction to the offerings of Resolution 275, the Commission argued that 'sexual orientation' is not an expressly-recognised right or freedom under the African Charter and that as such, was in their opinion contrary to the virtues of African values as housed in the African Charter. This continues a pitiable state of affairs where sexual minority rights not only continue to come under attack but are left in limbo by the regressive measures taken by bodies that ought to be enforcing them. The African Commission's decision further reaffirms

¹⁶⁹ African Union (1986) <https://au.int/en/treaties/african-charter-human-and-peoples-rights> (accessed 10 September 2024).

¹⁷⁰ F Viljoen 'Review of the African Commission on Human and Peoples' Rights' in C Heyns *Human Rights Law in Africa* (1997) 47.

¹⁷¹ African Union (2004) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-establishment-african-court-human-and> (accessed 22 October 2024).

¹⁷² <https://achpr.au.int/en/adopted-resolutions/275-resolution-protection-against-violence-and-other-human-rights-violations> (accessed 20 October 2024).

¹⁷³ (2023) <https://achpr.au.int/en/adopted-resolutions/resolution-promotion-and-protection-rights-intersex-persons> (accessed 20 October 2024).

¹⁷⁴ Human Rights Watch 'Statement on African Commission's Rejection of Observer Status Applications by Three Human Rights Organizations

homophobic and transphobic prejudices and leaves sexual minorities as well as human rights defenders working on these rights, vulnerable to discrimination.¹⁷⁵

In an even smaller regional bloc, Article 6 of the 2011 Treaty of the Southern African Development Community Treaty¹⁷⁶ provides for non-discrimination. This is however the main offering made at this regional level that can be expressly linked to non-discrimination for sexual minorities.

It is noteworthy that Botswana is a dualist state which has only acceded to a handful of legal instruments. Similarly to the same under international law framework, Botswana is also limited in its international human rights commitments.

3.4 Domestic Legal Framework

The Constitution of Botswana¹⁷⁷ provides for non-discrimination in its Article 15. It is noteworthy that although it includes the ground of sex, it does not speak to sexual orientation. It further provides protections against inhuman treatment in Article 7, freedom of expression in Article 12 and freedom of assembly and association in Article 13. It is noteworthy that it was by invoking Article 7 and 13 of the nation's Constitution that the registration a lesbian, gay and bisexual organisation was possible. The courts found that the refusal of registration of the organisation of the basis of its imputed deviance to public order was in fact an infringement of these rights.

The Penal Code of Botswana also criminalises same-sex sexual conduct and classifies it as an unnatural offence. It imposes a seven-year imprisonment for this 'crime'. Despite the recent decriminalisation judgment by the country's highest court, this criminalisation remains. In so far as the legislative and executive arms of government have not amended the law, it is still in force. Although many consider the existence of a tacit moratorium on crimes according to this law given that no one has been prosecuted for same in recent years, this does not negate its negative offerings for sexual minority protections.

This research specifically notes that the backlash experienced in the country following the *Motshidiemang* judgment further warrants the timeous amendment to the legislation. This is not only to comply with the judgment of the highest court but also to thwart the already active hostile environment that is only further perpetuated by the state of limbo in which the sexual minority rights in the country presently hang.

3.5 Mischaracterisations

¹⁷⁵ Centre for Human Rights 'African Commission's Rejection of Observer Status Applications by Three Human Rights Organizations Threatens its Ability to Discharge its Mandate to Promote and Protect Human Rights for All' [https://www.chr.up.ac.za/images/researchunits/sogie/documents/English - JOINT STATEMENT ON DECISION OF ACHPR AT THE 73RD SESSION OF ACHPR.pdf](https://www.chr.up.ac.za/images/researchunits/sogie/documents/English_-_JOINT_STATEMENT_ON_DECISION_OF_ACHPR_AT_THE_73RD_SESSION_OF_ACHPR.pdf) 2022 (accessed 4 September 2024).

¹⁷⁶ Also known as SADC treaty.

¹⁷⁷ (CAP 01:01)

In analysing legal frameworks, this research draws from the offerings of a mischaracterisation of anti-sodomy laws. Although the study was based on Zambia, it hosts relevance to Botswana which similarly inherited its Penal Code from the era of British colonialism under which it was a British Protectorate. The study offers that anti-sodomy laws as inherited from their Biblical, Justinian and eventual British legislation, were intended to be a deterrent and punishment for anal sex between heterosexual and homosexual persons.¹⁷⁸ It then offers that present-day applications of anti-sodomy laws are a mischaracterisation of anti-sodomy laws that is then contrary to the culture of tolerance for sexual diversity, amongst other elements.

This research submits that it is this mischaracterisation that sees a widespread lack of understanding or appreciation of the origins and intended purposes of such legislations on the continent and that it further perpetuates the flourishing of anti-gender movements and the erosion of LGBTQI+ rights. There is therefore a need to reassess the relevance of received laws on present realities.

3.6 Challenges

The challenges that exist in the success of the abovementioned legal frameworks lies in their ability to be applied or enforced. It is offered herein that as useful as international and regional frameworks can be, this rests on states' accessions to their offerings. In this regard, numerous African countries fall short due to their failure to ratify most of these relevant instruments. In furtherance to this, dualist legal systems then host the need to ensure the domestication of such instruments after there are ratified. The often-slow process between ratification and domestication also stands as a barrier to the application of these instruments at domestic levels.

On a domestic level, legal and constitutional reform is often trapped in a political maze where the political party of the day and its willingness to effect legislative reform determines what happens. This limits the ability of domestic legislations to easily evolve and remain relevant not only with international and regional instruments but also with the evolving conceptualisations of existence in society.

3.7 Conclusion

The main gap that exists in legal framework around LGBTQI+ rights lies in their largely optional nature. This is evidenced by many nations' mere decisions not to ratify instruments that are contrary to repressive anti-gender ideologies. At a regional level, the regressive reality of the African Commission's This is augmented by the difficulties that exist in enacting domestic legal protections not only because of the contestations to LGBTQI+ rights but also due to the administrative processes that are involved in creating and changing legislation, particularly in the African continent.

¹⁷⁸ L Banda 'Heterosexual nationalism and the mischaracterisation of anti-sodomy laws in Zambia' PhD thesis, University of Pretoria, 2023, v.

CHAPTER FOUR

THE CASE OF BOTSWANA

4.1 Introduction

Botswana can easily be construed as a misnomer in the discussion of anti-gender movements given its decriminalisation decisions. This paper links the paper's previous definitions and analysis of anti-gender movements to the country's context. It highlights

4.2 SOGIESC Rights in Botswana

Botswana has, through its landmark rulings allowing for the registration of LEGABIBO and decriminalising same-sex conduct as held in Sections 164(a) and (c) of its Penal Code¹⁷⁹, have been instrumental in the protection, promotion and overall respect of sexual orientation and gender identity rights in the country. Despite the backlash that arose from these judgments, they have fostered a more inclusive arena with regards to LGBTQI+ persons.

Section 164 of the criminalising legislation reads

Unnatural offences

Any person who-

1. (a) has carnal knowledge of any person against the order of nature;
2. (c) permits any other person to have carnal knowledge of him or her against the order of nature,

is guilty of an offence and is liable to imprisonment for a term not exceeding seven years.

When comparing Botswana to its regional counterparts, this paper submits that in an opposite manner, Botswana has benefitted from the aforementioned phenomena of copycat culture. Where nations like Kenya and Tanzania have copied adverse anti-gender sentiments from Uganda, Botswana can be said to have mimicked a pro-LGBTQI+ position akin to that of South Africa. The latter was the first country in the world to explicitly prohibit discrimination on the grounds of sexual orientation.¹⁸⁰ to positively establish sexual rights in its 1996 Constitution. This then paved the way for the country's broader protections of LGBTQI+ rights which saw the decriminalisation of sexual behaviour and the right to enter into legal marriages. It is submitted that due to the largely interlinked political, economic and social aspects of South Africa and Botswana, the latter often copies the actions of the former. On a practical level, most events in South Africa have a direct effect on Botswana and it is for this reason that it is often opined that

¹⁷⁹ (CAP 08:01)

¹⁸⁰ 'The Struggle for LGBTIA+ Rights' <https://ourconstitution.wethepeoplesa.org/timelines/sexual-orientation/> (accessed 10 September 2024).

when South Africa sneezes, Botswana is likely to catch cold.¹⁸¹ This dissertation argues that as such, South Africa's position on LGBTQI+ rights positively influenced Botswana's greater public reception of and legal reforms for same.

This assertion is further buttressed by the fact that Botswana's common law system incorporates Roman-Dutch law, originally received in 1891 by South Africa as the law of the Cape Colony.¹⁸² As a result, Botswana's jurisprudence has been and continues to be shaped by that of South Africa. It is submitted that in this manner, South Africa's position has been a beneficial one to be emulated by Botswana, particularly in its express protection of LGBTQI+ rights.

Even so, the government's failure however to pass a bill that would practically repeal the offending provisions of the Penal Code as against LGBTQI+ persons however, remains a major concern. This paper offers that it leaves the door open to regression in the advancements made and has reopened a national debate as to LGBTQI+ rights. It is for this reason that this research has delved into the specific underlying factors that have led to this state and has identified it to be anti-gender movements at play.

4.3 Political Influence

The influence of politics on AGMs cannot be denied. This research's analysis of Malawi places into perspective the effect of political pressure on aims towards greater human rights protections. In Botswana, the government has reflected the impact of political pressure through its delayed action to repeal the Penal Code's offerings on homosexuality.

This research offers however that the country suffers from a major disconnect in the way of political will. On the one hand, the nation's President often reaffirms the recognition of and need for protections for LGBTQI+ persons. At a meeting on gender-based violence in 2019, President Mokgweetsi Masisi stated that

“many people of same sex relationships in this country who have been violated and have also suffered in silence... just like other citizens, they deserve to have their rights protected”.¹⁸³

On the face of it, this expression highlights the government's position and commitment to ensuring the protection of sexual minorities in the country. Following the high court decision in the *Motshidiemang*¹⁸⁴ case that same year, the state filed an appeal to the Court of Appeal, seeking to overturn the judgment. The same was done in the *LEGABIBO*

¹⁸¹ 'South Africa sneezes....Botswana likely to catch a cold' 11 April 2017 <https://guardiansun.co.bw/News/south-africa-sneezes-botswana-likely-to-catch-a-cold> (accessed 17 October 2024).

¹⁸² L Booij 'Botswana's Legal System and Legal Research' (2006) *GlobaLex*.

¹⁸³ 'Botswana to rule on scrapping anti-gay laws' <https://www.france24.com/en/20190610-botswana-rule-scrapping-anti-gay-laws> (accessed 15 July 2024).

¹⁸⁴ (n 15).

case¹⁸⁵ and the state therein sought to oppose the decision requiring it to register the organisation. Most notably, in the papers filed by the state to the Court of Appeal, the government argued that the organisation was against public order and values.

This divergent position of the nation's president by way of repeated statements supporting the realisation of LGBTQI+ rights in the country and the state's legal opposition of same, highlights an incongruent political climate in Botswana. This research offers that it is key to have political will truly align itself with the protection of sexual minority rights in order for them to stand a chance at realisation. Without this true political backing, statements claiming commitment to protecting LGBTQI+ rights are futile teasers.

Further to this, other states' have shown the value of having a political figure championing a rights movement. In Botswana, former President Mogae in 2011, expressly stated his support of several policies that offered protection for the rights of gays and lesbians. This included legalising same-sex sexual relations.¹⁸⁶ Although his efforts were not realised then, this research submits that the current environment in the country and the strength of the judgments allowing for same, provide the requisite support for the political promoting of sexual minority rights.

This dissertation further draws from the example of South Africa where the late Nelson Mandela and Archbishop Desmond Tutu came out boldly in favour of gay rights prior to the 2006 vote in parliament.¹⁸⁷ This research further offers that doing so has the potential to prompt success in political aspirations, since it reflects the embodiment of equality and respect for all persons. Barack Obama in the USA, David Cameron in the UK, Michele Bachelet in Chile and John Key in New Zealand are but some international examples of leaders coming out in favour of LGBTQI+ rights before political victories.¹⁸⁸

Though a direct link cannot arbitrarily be made, this research argues that the promotion of often contested human rights protections has the potential to reflect to voters a candidate's boldness and ability to stand for core human rights principles, even in the face of opposition. Given that 2024 is an election year in Botswana, this research opines that this was a missed opportunity for political players.

4.4 Religious Influence

It was in August 2023 and at the insistence of religious groups that had mobilised protests in two major cities in the country, that the government deferred the debate of Penal Code Amendment No. 29 of 2022 to "allow for a rigorous examination of the constitutional

¹⁸⁵ 'A Victory for the Right to Freedom of Association: LEGABIBO Case'

<https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/SALC-Legabibo-Booklet-1.pdf>

(accessed 13 July 2024).

¹⁸⁶ Kretz (n 30, 29).

¹⁸⁷ as above.

¹⁸⁸ Kretz (n 30, 28).

issues raised”.¹⁸⁹ The religious actors herein had submitted a petition to Parliament just days before the Bill was to be debated in Parliament.¹⁹⁰ This petition reflected the Evangelical Fellowship Botswana’s position that marriage, procreation and morality were threatened by the Bill.

Pastor Siele of EFB at the submission of the petition stated that the Bill would “open flood gates of immorality, abomination in the nation such as same-sex marriage, change school curriculum to teach our children such practices”.¹⁹¹

Given Botswana’s glowing history in terms of its respect for the rule of law, it was shocking that the government succumbed to this opposition. Receiving the petition, parliamentary member Wynter Mmolotsi thanked the protesters, stating that he was glad they had woken up to fight for their beliefs. He further added that as a Christian, what he had been taught could not be untaught, signifying his solidarity with the religious protesters gathered.¹⁹² This research offers that this religious uprising and its finding common ground with political players, has a damning potential effect on the future of LGBTQI+ rights in Botswana. It signifies the welcoming of the perceived right and superior moral beliefs of religious groups in the face of human rights considerations.

Most concerning is these actors’ push for a constitutional referendum, which would see the issue of decriminalisation opened to public discourse and voting, which could potentially nullify the Court of Appeal’s decision.¹⁹³ This would largely be due to the influential role of religious, political and cultural influences in the country. This research offers that the power that religious actors wield in Botswana is visible in this instance and has the potential to unravel the rights of sexual minorities.

4.5 Cultural Influence

Botswana with its dual legal system that incorporates customary law, is still a nation guided by cultural belief systems. In this regard, traditional leaders (known as *dikgosi* or chiefs) who hold the role custodians and enforcers of tribal and cultural structures, are of key significance in AGMs. It is noted that they have a massive sway over the hearts and minds of the communities they govern.¹⁹⁴ Despite the recent efforts by a small civil

¹⁸⁹ ‘Gov’t succumbs to Church pressure against LGBTQI+ rights’ 1 August 2023

<https://www.mmegi.bw/news/govt-succumbs-to-church-pressure-against-lgbtqi-rights/news> (accessed 15 July 2024).

¹⁹⁰ ‘No to Bill No.29, save marriages – EFB’ 24 July 2023 <https://www.mmegi.bw/news/no-to-bill-no29-save-marriages-efb/news> (accessed 13 July 2024).

¹⁹¹ (n 141).

¹⁹² as above.

¹⁹³ ‘Govt’s deferral on decriminalising same-sex sparks fresh human rights concerns’ 27 June 2024

<https://www.sundaystandard.info/govts-deferral-on-decriminalising-same-sex-sparks-fresh-human-rights-concerns/> (accessed 15 July 2024).

¹⁹⁴ ‘Engaging traditional leaders in the struggle for human rights in Botswana’ 31 October 2022

<http://kaleidoscopetrust.com/engaging-traditional-leaders-in-the-struggle-for-human-rights-in-botswana/> (accessed 15 July 2024).

society organisation to engage traditional leaders in the fight for LGBTQI+ rights in the country,¹⁹⁵ this research offers that this is still largely ineffective and that traditional leaders still serve as a key driving force for anti-homosexual ideology in the country.

This lies in the growing ties between traditional leaders and political systems. This is reinforced by the salaried status of the country's executive panel of traditional leaders, termed the House of Chiefs (*Ntlo Ya Dikgosi*). This research argues that in so far as the highest level of traditional leaders in the country receive remunerations for their roles from the government, they cannot easily be separated from the ideals of the government. This is further reinforced by this chapter's earlier analysis of the political situation in Botswana.

4.6 Role of Civil Society

Like many African states, Botswana's civil society can be deemed weak and limited in its impact. This is largely due to resourcing and the subsequent inability to mobilise efforts.¹⁹⁶ Civil society historically holds watchdog roles in any given state, offering an independence that allows for state actors to be held accountable by citizens. It is also within the bounds of civil society that advocacy and promotion of human rights can be promoted.

The impact of anti-gender movements in Botswana has however stifled this critical role of civil society. This has largely manifested in the limited access to funding and other resources for civil society organisations dealing with sexual minority rights. This in turn exacerbates the flow of AGMs with no independent societal actors to serve as a sieve of national priorities and an influence of ideology.

4.7 Conclusion

Despite Botswana's progresses in protecting and promoting LGBTQI+ rights, the government's present deferrals of the homosexuality bill are problematic and threaten to undo the progress the country has made. Their clear link to anti-gender movements are even more glaring when considering the religious, political and cultural influences herein. The case of Botswana further offers a view of another way in which anti-gender movements flourish which is their stifling of civil society. The lack of access to funding that forms the cry of numerous civil society organisation promoting sexual minority rights in the country bears testament to the reality of the power of these movements. This chapter has highlighted the link between this seemingly progressive countries with the realities of the reach of AGMs. It is critical that action to counter these movements is taken in the country lest it take two steps back on the one taken towards decriminalising homosexuality.

¹⁹⁵ (n 145).

¹⁹⁶ M Carbone 'Weak civil society in a hard state: Lessons from Africa' (2006) *Journals of Civil Society*, 167.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

4.1 Conclusion

This dissertation analysed the rise of anti-gender movements on the continent and their power to unravel human rights in the LGBTQI+ arena. It placed the various anti-gender actors on one table and dissected each of them accordingly. Although it was based on Africa and its case study of Botswana, this dissertation drew from the lessons offered by other regions of the world and ensured an adaptability of lessons drawn for Africa's context.

4.1.1 Introduction

This dissertation set the scene of its intended research through an outlining of its structural and theoretical plans. It provided for a literature review that formed the bedrock of its submissions. It also gave a clear identification of the limitations that its approaches offered to the analysis of anti-gender movements in Africa. It also gave practical examples of organised and concerted attacks on the conceptualisation and protection of sexual minority rights. These examples that showed a continent-wide spread of repressive rhetoric and action, serving to lay an engaging foundation for the dissertation.

4.1.2 Tracing the Rise of Anti-Gender Movements

A chronological discussion of anti-gender movements has allowed for a study of their religious origins, development to political and social arenas and present day permeation to almost every sect. Through this tracing of the ideological underpinnings of anti-gender movements and their morphing into alliances and action, it is clear who the key actors are, how they manifest their efforts and the notable patterns in their modes of operation set out. The damning effects of anti-gender movements have since substantiated this dissertation's core submission that they erode human. This dissertation's insight into the difference between anti-gender movements and backlash highlighted the observed misunderstanding of the two concepts even in literary offerings on sexual minority rights.

4.1.3 Legal Frameworks

A reflection on legal framework at the international level highlights one of the major challenges of international human rights law, being its applicability and enforceability. This gives a guide as to why the continent finds itself in a regressive state of LGBTQI+ rights in the face of various international legal instruments. The fragmented views on the region have painted a clear picture of the continent's major challenge in responding to anti-gender movements. This lack of one approach, what with regional bodies on one hand turning a blind eye to or regressing on sexual minority rights protections brings to

the fore the need for concerted efforts. No longer can sexual minorities have to be sought out in definitions of ‘other’ statuses. On the other hand, Southern Africa not only sets itself apart as a beacon of hope on the continent by not only hosting a country with one of the most progressive LGBTQI+ environments in the world but it reflects through its examples of Botswana, Namibia and Malawi a slow but identifiable move towards greater protections for sexual minorities that has potential to become bigger and better.

4.1.4 The Case of Botswana

The overlooked realities of Botswana’s sexual minority rights protection reflect a permeating of anti-gender movements on the continent. A view of the religious influence in the country having the power to halt legislative reform in its tracks also unearths general questioning of the control that religious belief systems can exert on state decision-making. Botswana’s volatile position amid the uncertainty of its next move regarding sexual minority rights begs a consideration of a multifaceted approach to addressing anti-gender movements given their often covert offerings. The country’s weak civil society can be seen as one country’s plight in a continental problem. This case study in its unlikely consideration is a clarion call for the recognition and counteraction of anti-gender movements. When a country heralded as making progressive strides on sexual minority rights is through careful analysis, shown to have anti-gender movements at play, one can only fear their impact in other parts of the continent if left unchecked.

4.2 Recommendations

This research proffers that Botswana still has the potential to make a lasting positive advancement of its LGBTQI+ rights. Its location in the heart of Southern Africa positions it well for influence to its neighbours and following in the steps of the progressive example of South Africa.

This cannot be a single effort. It is as such that this paper makes its recommendations without targeting them to any specific group. These recommendations are of value for the state and civil society in as much as they offer substance for academics and members of the public. This paper makes the following recommendations not only for Botswana but across the continent:

- 1. Create public awareness and education on diverse sexual orientation and gender orientation.**

This is key to breaking the clutches of prejudice and bias that often fuel anti-gender movements and rhetoric.

- 2. Amend school curriculums to highlight diverse sexual orientation and gender identities.**

By ensuring the early recognition of sexual diversities through the education system, the ‘othering’ of sexual minorities can be eliminated and the

understanding of the importance of respecting every person's right to dignity and humanity realised.

3. Invest in LGBTQI+ solidarity and community engagement.

Concerted efforts to ensure dialogues on LGBTQI+ solidarity at a community level will not only diminish prejudices but serve to play a significant role in changing the hearts of minds of communities.

4. Support dialogues between the LGBTQI+ community and government, civil society and religious leaders.

Ensuring a direct engagement between the key actors that have the potential to counteract anti-gender movements can foster greater efforts and strategies towards quelling them.

5. Garner political support.

Ensuring a political buy-in on the counteraction of anti-gender movements and the entrenchment of sexual minority rights protects is key to legislative reform.

6. Publicly disconnect anti-gender movements to other unrelated issues.

Promoting of a separation of anti-gender ideologies with anti-imperialist moves for example, augurs for the ability to consider the protections of sexual minority rights without the tainting of other issues or movements.

7. Support civil society financially

The capacitating of civil society actors is key to the promotion of human rights in states. It is therefore imperative that these bodies have the resources to enable their efforts to hold states accountable to its citizens. Further, it is no longer enough to have support in the way of solidarity, there is a need for tangible resources that can be used to advance the role of civil society.

8. Ensure equal access to services such as healthcare.

The continued limitation of access to services for LGBTQI+ persons is a dagger in the realisation of human rights for all. It further entrenches anti-gender narratives and should therefore be eliminated, in order to truly foster equality and dignity for all.

9. Build networks and alliances.

This paper has shown the interconnected way in which AGMs operate. Equally, there is a need for partnerships and alliances in quelling their effects and ensuring the protection of sexual minorities.

10. Study anti-gender movements.

Studies such as this are crucial in allowing for a better understanding of AGMs and the causes for human rights erosions. It is therefore imperative that academic spaces foster greater study into the way AGMs operate in order to allow for preemptive measures and effective counteractive action.

11. Offer psychosocial support for LGBTQI+ community and allies.

The LGBTQI+ space in Africa remains hostile in many ways, despite the advances made herein. Ensuring the requisite psychosocial support is therefore essential to fostering the dignity and well-being of sexual minorities and those advocating in this arena.

12. Promote inclusive policies for LGBTQI+ persons.

Beyond government actions, there is a need for other societal spaces such as corporate organisations, to actively take steps to ensure inclusive policies for LGBTQI+ persons. Examples of this include non-discriminatory policies in workplaces that recognises the need to offer express protection against unfair discrimination on the basis of sexual orientation.

13. Capitalise on political climates.

2024 marked an election year for over thirty African countries. These political environments where changes in government are made possible offer a ground for greater advocacy and campaigning for the protection of LGBTQI+ persons and must be optimised.

14. Utilise online and media platforms to promote sexual minority rights.

AGMs often use media platforms to garner international support. Similarly, actors seeking to counteract these repressive efforts ought to join these spaces and make their voices known to wider audiences.

15. Invoke legal measures against violators of rights, freedom and dignity.

In many African countries, violations of LGBTQI+ persons are not reported or prosecuted due to various factors such as fear and unfavourable environments. Measures to encourage the investigation and prosecution of such infringements are key and need not only be limited to domestic remedies but can be escalated to regional and international forums.

16. Ensure the independence of the judiciary.

Given the role of the judiciary in ensuring the enforcement of laws, it is important that there is a separation of powers at all government levels. The judiciary can only effectively interpret and enforce legal challenges brought before it when it enjoys independence from the other arms of government.

“To realize a world of equality and dignity for all, we will have to change laws and policies; we will also have to change hearts and minds.” — Rick Parnell

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