

# **Ethics and Crisis in Africa: A Critique of the Rights-Based Approach to Homosexuality in Zimbabwe.**

**Vengesai Chimininge<sup>1</sup> and Clemence Makamure<sup>2</sup>**

## **Abstract**

*Issues relating to homosexuality are one of the primary topics of moral debates in Africa. This is necessitated by the different perceptions that Africans have towards homosexuality. Some African societies condemn it while others embrace it with open hands. In Zimbabwe, gays and lesbians have been seen as chaos being unleashed by the profane Western society which is endeavouring to unseat governments and replace them with fiefdoms in the name of human rights. So, the challenges presented by homosexuality in different cultures of the world assume various degrees but in Africa, the phenomenon has raised issues that have proved to be a thorn in the flesh. The view of this paper is that there is moral danger if we base our moral values on the rights-based approach to homosexuality in Zimbabwe. To achieve this, the authors of this article used the qualitative approach which included interviews, published documents and internet sources to glean data. The paper argues that homosexuality is un-African and unnatural sexual perversions that are not only alien, but perceived as outlawed in traditional Zimbabwean societies. The paper discovered that the issue of homosexuality in Zimbabwe and beyond is dividing people through what Oliver Phillips (2010) refers to as 'Blackmail.' The paper argues that the best way forward in dealing with issues of homosexuality in Zimbabwe is to use hunhu or ubuntu as the spring board of morality not human rights.*

**Key words:** Rights-based approach, ethics, Africa, ubuntu, homosexuality, Zimbabwe, gays and lesbians

## **Introduction**

Africa today is limping between two views on homosexuality. On one hand, we have those who view homosexuality as a moral act while, on the other hand, we have those who perceive it as grossly immoral and un-African. This paper is a discussion of the ills of using the right-based approach to homosexuality in Zimbabwe. The paper is just a snapshot of the view that in Zimbabwe, using the rights-based approach to homosexuality is inappropriate. The paper begins by giving a historical background of homosexuality in general and then move on to look at the thrust of the right-based approach stating its views on homosexuality. The paper ends by giving a critique of the rights-based approach to homosexuality and recommendations.

## **Objectives**

This article sets out to:

- Explain the dilemma faced by African nations in accepting and rejecting homosexuality practices,
- Assess the strengths and weaknesses of scholarly arguments for the acceptance of homosexuality in Africa in general and Zimbabwe in particular,
- Critique the rights-based approach to the issue of homosexuality in Zimbabwe, and
- Recommend the use of African philosophy of *ubuntu* as a way of responding to the issue of homosexuality in Zimbabwe.

## **Statement of the problem**

The argument of this article is based on the hypothesis that African countries are in a state of ethical limbo when it comes to decisions on issues to do with developmental projects. On one hand, African countries are guided by international conventions promulgated by the United Nations while, on the other hand, these countries are informed by their cultural norms and

values when it comes to decision making on issues affecting them. This is why the authors of this paper argue that on issues of sexuality in general and homosexuality in particular, Africans should be guided by the ethical principle of *ubuntu* rather than the rights-based approach which is Eurocentric. We are strongly convinced that legalisation of homosexual acts is not rooted in Shona tradition but rather a new phenomenon emanating from Western political influences which use the rights-based approach to development in Africa.

### **Literature review**

This paper reviewed literature related to the issue of homosexuality in selected African countries. Although there is vast literature on the controversial topic of homosexuality, not all that has been written will be reviewed. Only pieces of literature that we considered important to this paper are reviewed below. Thus, literature for and against homosexuality are reviewed.

Very recently, Adriaan van Klinken and Ezra Chitando (2016) pointed out that issues of same-sex relationships and gay and lesbian rights are the subject of public and political controversy in many African societies today. Frequently, these controversies receive widespread attention both locally and globally, such as with the Anti-Homosexuality Bill in Uganda. In the international media, these cases tend to be presented as revealing a deeply-rooted homophobia in Africa fuelled by religious and cultural traditions. However, so far little energy is expended in understanding these controversies in all their complexity and the critical role African ethical principle of *ubuntu* plays in this debate, and this is the thrust of the paper.

Writing from Cameroon, Awondo (2010) analysed the emergence of 'homosexual' organisations in Cameroon. In his article, he explored the link between a critical political analysis of the concept of homosexuality and the emergence of the two homosexual movements in Cameroon, the Association for the Defence of Homosexual Rights and *Alternatives-Cameroun* which are connected to the international systems. For Awondo, the two movements

focus on different areas of activity, one concerned with sexual rights and the other with sexual health.

Be that as it may, the authors of this paper analysed the role and supporters of the Gays and Lesbians Association of Zimbabwe (GALZ) and discovered that GALZ is an organisation that is receiving support from the international systems in the name of human rights. This paper discovered that the GALZ, as an organisation, is not taking cognisance of the African philosophy of *ubuntu*. The article sets out to give a critical analysis of the rights-based approach to the issue of homosexuality in Zimbabwe.

Building upon debates about the politics of nationalism and sexuality in post-colonial Africa, Adriaan Van Klinken (2014) highlighted the role of religion in shaping nationalist ideologies that seek to regulate homosexuality. He specifically focuses on Pentecostal Christianity in Zambia, where homosexuality is considered to be a threat to the purity of the nation and is associated with the devil. This article also offers an analysis of the role of *ubuntu* in shaping the African's moral behaviour. It nuances arguments that explain African controversies regarding homosexuality in terms of exported American culture wars, proposing an alternative reading of these controversies as emerging from conflicting visions of modernity in Africa.

Phillips (2010) illustrates how the advance of sexual rights is inhibited by a tension between our idealisation of innocence in making rights claims and our aspiration to agency in developing sexual equality. In doing so, Philips emphasises that homosexuality is a human right issue which should not be violated. Authors of this paper disagree with this thesis and argue that Philips is not considering the cultural differences between the Western and African communities. African life is very communitarian rather than individualistic.

In his article, "*Worse than dogs and pigs: Attitudes towards homosexual practice in Zimbabwe.*" Shoko (2010) pointed out that "Politicians call them the "festering finger,"

endangering the body of the nation; churchmen say God wants them dead; the courts send them to jail.” This view is based on the idea that Zimbabwe has declared that it will not tolerate homosexuality. Gays and lesbians feel persecuted and their rights are undermined. This paper attempts to explain the moral basis of rejecting homosexuality in Zimbabwe.

Bongmba (2016) selectively reviewed some of the negative discourses from political and religious leaders, and then discusses the possibilities which *ubuntu* philosophy offers for addressing the divisions over homosexuality. He argues that the notion of *ubuntu* offers a way of re-thinking the negative discourses on homosexuality in Africa and in the African church. However, writers of this paper argue that although *ubuntu* philosophy promotes and accepts communication within the community in Africa, it does not tolerate decisions based on individual inclination especially if they contradict the shared values of the larger community.

### **Methodological approaches**

Findings of this paper were presented at the Philosophical Society Conference in September 2012 at the University of Zimbabwe. The article interrogated and analysed data gleaned from different sources including unstructured interviews, internet, newspapers and journal articles on the debate on homosexuality in Africa. Most of these materials were published in the period 2011 to 2013, when homosexuality became a major issue in the Zimbabwean public, political and theological debates, but reference is also made to sources which contributed to the controversial topic. Together, the materials inform popular, religious and political discourses on homosexuality in Zimbabwe. From April to June 2012, authors of this paper also conducted interviews with leading figures involved in human rights activism, churches and village heads in Zimbabwe. The phenomenological method was used as the chief method in the collection of data in this paper.

The term phenomenology was derived from the Greek word '*phainomai*' meaning 'that which manifests itself'. Phenomenology, according to Smith (2007:188), is "the study of consciousness as experienced from the first-person point of view". Cerbone (2008:31) defines it as the science of describing individual experience that is one's way of "being-in-the-world". Marable (2011) notes that the key aim of phenomenology is to describe individual experiences without any theoretical assumptions or preconceptions. Creswell (2007) thinks the notion at the centre of phenomenologists is to describe the essence of the individual's experience and not analyse or explain.

Husserl (1859-1938), cited by Marable (2011), argued that for someone to truly see a phenomenon the person must bracket out all pre-suppositions, which he called phenomenological reduction. According to Marable (2011:41), Husserl believed one could not examine a phenomenon "with respect to what it refers to beyond itself, but with respect to what it is in itself and to what it is given as". Andrea Marable pointed that phenomenology proceeds "by seeing, clarifying and determining meaning, and by distinguishing meaning ... (and)... it does not theorise or carry out mathematical operations, that is to say, it carries through no explanations in the sense of deductive theory" (Marable, 2011:41).

Phenomenology is mainly aimed at describing phenomena. Clegg (2011) notes that phenomena comprise anything that appears or presents itself as feelings, thoughts and objects. Reduction is a process that involves suspending or bracketing the phenomena so that the "things themselves" can be returned as they are. An essence is the core meaning of an individual's experience that makes it what it is and lastly, intentionality refers to consciousness and individuals are always aware of the existence of something (Merleau-Ponty 1962, in Thomas, 2005). The total meaning of the objects (e.g. idea) is always more than what is given in the perception of a single perspective (Chamberlin 1974, in Marable, 2011).

## **Research findings and results**

What follows is the presentation of data mainly collected through desk research and interviews. In this section, the paper presents data on ethics and crisis in Africa; historical background of homosexuality; rights-based approach to homosexuality; homosexuality as a human rights issue; *ubuntu* and homosexuality in Zimbabwe and critique of the rights-based approach to homosexuality.

### **Ethics and crisis in Africa**

Africa, as a continent, has been rocked by an ethical crisis ever since the clash of cultures during colonialism. The social, political, economic and religious fabrics in Africa are in a state of flux. In 2011 Africa witnessed the Arab spring crises, particularly in Egypt, Tunisia and Libya. There are also crises of governance, particularly in Ivory Coast, Madagascar, Zimbabwe and Kenya. Africa has also witnessed crisis of culture, where various traditional cultural values have been eroded by Western forms of culture which, in most cases, were expressed in the name of religion. Western culture has also brought in the issue of homosexuality packaged as a human right. So, although Africa has experienced different forms of crises, the focus of this paper is based on the ethical dilemmas faced by Africans regarding homosexuality.

Magesa (1997:23) rightly said that the source of crises in Africa is identity. Africa has failed to spell out who she is in the religious, moral, social, political and economic spheres. This was further precipitated by the contention that Africa has been seen by the West as a potential receptor and consumer of Western experiments and ideologies. For Magesa (1997) Western countries are the producer of everything that Africa should do and implement. The pressure that has been exerted by the international donors requiring stricter adherence by African countries to good governance and human rights has intensified incidences of unethical practices, lack of accountability and loss of identity in Africa, hence an ethical crisis.

For example, President Museveni's move against homosexuality has received outcries from Western countries, with the United States government threatening to cut aid to the Ugandan government as a way of making the country reverse what has been already signed into law [*The Financial Gazette (Zimbabwe)*, 2014, April 3]. This means that failure by African countries to support Uganda would see that country being starved of balance of payments' support by international institutions. The US has already influenced the World Bank to withhold the release of US\$90 million development fund to Uganda as a reaction over the anti-gay law. Such moves by the US government to pressurise African countries to embrace homosexuality in exchange for aid, should be strongly condemned [*The Financial Gazette (Zimbabwe)*, 2014, April 3].

From the above, we can see that because of donor pressure, Africa is supposed to receive whatever the West has imposed upon her. Chief among other ideologies that Africa has to consume from the West is the rights-based approach to development. Vital to note is the view that the rights-based approach which is being imposed on Africa by the West puts emphasis on the individual rather than the communitarian values. It is in light of this that this paper intends to critique the rights-based approach to homosexuality in Zimbabwe.

### ***Definition of homosexuality***

The term homosexuality was first coined by a Swiss doctor K.M. Benkert in 1869. Etymologically, the Greek word *homo* was added to Latin *sexualis* to formulate the term *homosexualis* meaning an attraction or sexual preference for the same sex (Bosswel, 1980:41). This definition is quite adequate in reference to relationship or sexual act or relations involving two parties of one sex (Bosswel, 1980:41). Female homosexuality is described as lesbianism, taking its name from the Island of Lesbos, where the Greek poet Sappho once lived in a female community where lesbianism could have been initially reported.



### ***Historical background of homosexuality***

Throughout history, various moralists have condemned homosexuality and many societies have outlawed it. Philosophers have insisted for centuries that homosexuality is immoral (Shaw and Vincent, 2001:24). The bible proclaimed that it is an abomination (Lev 18v22).

Discussions about sexuality in general and same-sex attraction in particular, have occasioned philosophical discussion ranging from Plato's *Symposium* the contemporary queer theory. Arising out of this history, at least in the West, is the idea of natural law and some interpretations of that law as forbidding homosexual sex (Bosswel, 1980:41). References to natural law still play an important role in contemporary debates about homosexuality in religion, politics, and even courtrooms. Finally, perhaps the most significant and recent social change involving homosexuality is the emergence of the gay liberation movement in the West. In philosophical circles, this movement is in part represented through a rather diverse group of thinkers who are grouped under the label of the queer theory. A central issue raised by the queer theory is whether homosexuality is socially constructed or biologically determined (Robert, 1997:76).

There has been much debate among scientists about the causes of homosexuality but because of the complexity of human sexual drivers, no conclusion has yet been reached. It is generally agreed that homosexuality is not a matter of choice.

The political and traditional cultural understanding of homosexuality as a form of mental disorder has been used to demonstrate that homosexuals, like other sick people in society, do not need rights to be sick but deserve compassion and treatment, hence the idea that society must not eliminate the patient but rather the disease. Others have attributed the causes of homosexuality to demonic attacks linking it to the biblical story of Sodom and Gomorrah. So,

homosexuality could be caused by some of the issues raised above or others not discussed in this paper.

In the course of the twentieth century, society began to discuss homosexuality, especially after the modern gay rights movement began in 1969. Once viewed by authorities as a pathology or mental illness, homosexuality is now more often investigated as part of a larger impetus to understand the biology, psychology, politics, genetics, history and cultural variations of sexual practice and identity. The legal and social status of homosexual people varies greatly around the world and remains hotly contested in political and religious debate in many places.

Africans knew, practised and in some cases even honoured sexual relations between members of the same sex (Garlake, 1995). Epprecht (2004) noted that it can be deduced from Khoisan rock paintings in Zimbabwe that homosexuality existed in pre-colonial Africa. The Bushmen were the original inhabitants of Zimbabwe and they are similar to those found anywhere else in the continent today. A rich legacy of paintings on the wall of caves they sometimes occupied attests to their way of life and spiritual beliefs (Garlake, 1995). Homosexual experiments among adolescents were common too in pre-colonial Africa. Out in the bush herding cattle, homosexual play among young men was actually expected at the age of puberty. However, adult men who were seen engaging in same sex acts were seen as having been bewitched or were witches themselves. Goddard (2004) posited that traditional institutions in Zimbabwe, where a spirit medium may sometimes be possessed by a spirit of the opposite sex, has given room for thinking that this was one way in which homosexuals were able to fit in society and gain acceptance. So, homosexuality has been part of African societies from the pre-colonial times (Epprecht, 2004).

The argument by Epprecht that homosexuality was in Africa before the coming of the Europeans does not mean that Africans accepted it. Sex in Africa in general, and in Zimbabwe

in particular, has been and is considered to be secretive. It cannot be discussed in public. Any form of sex outside the parameters of procreation was unacceptable in Africa, hence homosexuality is un-African.

In modern times, some nations like Zimbabwe, Tanzania, Malawi, Mauritius, Gambia, Uganda, Afghanistan, Namibia, Iran, Iraq and Jamaica have enacted laws discriminating against homosexuals on the basis of culture. However, countries like the Netherlands accepted homosexuality in the year 2000, Belgium in 2003, Canada in 2005, Spain in 2005, South Africa in 2006, Norway in 2009, Sweden in 2009 and Argentina in 2010. These nations have given legal recognition to homosexual relations as human rights.

In other parts of the globe, predominantly in the Western world, the hard stance against homosexuality seems to have thawed considerably with governments continually granting more concessions to the homosexual communities within their countries and recognising their rights to free, uninhibited and unregulated association, without the fear of stigmatisation or persecution. In Africa, however, the hard, hostile and unchanging stance is easily seen in the fact that in about thirty-six countries on the continent, including Uganda, Nigeria and Zimbabwe in particular, homosexuality still remains illegal, punishable by fine, imprisonment or death. The claim is that homosexuality is alien to the African way of life and as such it is 'un-African'.

### **The rights-based approach to homosexuality explained**

The rights-based approach is an approach to development promoted by many International Development Agencies and non-governmental organisations (NGOs) that aim to achieve a positive transformation of power relations among the various development actors. According to Gneiting (2009:1), there are two stakeholder groups in rights-based development. These are the rights holders (or the group which does not experience full rights), and the duty bearers (or

the institutions who are obligated to fulfil the rights of the rights holders). The rights-based approach aims at strengthening the capacity of duty bearers and empowers the rights holders (Gneiting, 2009).

The underlying purpose of the human rights framework is to protect the dignity of all human beings, no matter what their status or condition in life. Different societies apply these principles in different ways at different times. Thus, the proponents of rights-based approach define rights as entitlements that belong to all human beings regardless of sex, race, ethnicity, or socio-economic class (Nussbaum, 1998:273). Following this approach, all humans are rights holders, and it is someone's duty to provide these rights. However, the question that can be raised is: Who is responsible to give these rights? Or who are the duty bearers? In the rights-based approach it is the person's government that assumes the duty bearer position. However, most of the time the said government does not have the resources to fulfil this role. This is where the NGOs come and try to help these governments fulfil their roles and duties to their people by giving them resources.

### **Homosexuality as a human rights issue**

Homosexuality is currently illegal in 76 countries and punishable by death in Mauritania, Sudan, Saudi Arabia, Yemen and Iran. In the 1980s, UN reports on the HIV and AIDS pandemic made some reference to homosexuality. In the 1986 Human Freedom Index did include a specific question in judging the human rights record of each nation with regards to the existence of criminal laws against homosexuality (Bongmba, 2016).

In 1948 the UN adopted the Universal Declaration of Human rights (UDHR). Article 1 of the Universal Declaration of Human rights (UDHR) affirms that all human beings are born free and equal in dignity and rights that everyone is entitled to without discrimination or prejudice. These rights are interrelated, interdependent, indivisible and above all are universal and God

given. Therefore the principle of universality of human rights is the cornerstone of international human rights law (Awondo, 2010).

In 2003, a number of European countries put forward the Brazilian resolution at the UN Human Rights Commission stating the intention that lesbian and gay rights be considered as fundamental rights of all human beings. In 2003, Brazil introduced a draft resolution entitled 'Human Rights and Sexual Orientation' which addressed the topic of equal rights for gays and lesbians. This draft resolution came after reports about the killing and torture of lesbians and gays.

In 2008, the 34 member countries of the Organisation of American States unanimously approved a declaration affirming that human rights protections extends to sexual orientation and gender identity. Rama Yade the French minister of human rights and foreign affairs asked: "How can we tolerate the fact that people are stoned, hanged, decapitated and tortured only because of their sexual orientation?" (BBC News, 1998)

In June 2011, the UN voted on the resolution by 23-19 votes to approve a historic resolution firmly condemning discrimination on the grounds of sexual orientation. Presented by South Africa, the resolution affirms that member nations' commitments to human rights include combating discrimination on the grounds of sexual orientation (van Klinken and Chitando, 2016).

In Africa, Malawi and Uganda became the early victims in 2010 when budgetary support to the two countries were cut after Malawi arrested and sentenced a gay couple to sixteen years in prison. This caused a diplomatic row and social and economic meltdown in Malawi (Sylvia Tamale, 2014). The government in Malawi released the gay couple in exchange for aid. This implies that Africa has no choice. She is obliged to receive what the donor community has to say. Malawi was placed in a dilemma, choosing between losing aid, or upholding her stance

against homosexuality. South Africa has legalised homosexuality yet attitude towards it by most black people is rather cold. Most people still frown upon homosexuality which has led to openly gay or lesbian people being raped and murdered in South Africa as a punishment for being gay (Sylvia Tamale, 2014).

Zambia appears to be on the fence on the issue of homosexuality. Upon campaign to be President, Michael Sata bashed gays and lesbians. But during the African summit in January 2012 in Addis Ababa, he came out in support of homosexuality. He was highly commented by Ban Ki Moon, the UN secretary General who said, “the government of Zambia has formed a principled position in promoting and respecting the human rights of everybody regardless of age, religion or sexual orientation in line with the fundamental principles of the UN universal declaration of human rights to which Zambia is a party” (*Kitwe Times* 28 February 2012).

Generally, out of the 54 states in Africa, 39 have laws against homosexuality as at January 2012. At least four more countries including Nigeria, Liberia, Uganda and Malawi had anti-homosexual bills on the table.

### **Homosexuality in Zimbabwe**

The first well recognised lesbian groups in post-colonial Zimbabwe were the Monday Night and the Women Cultural Club (WCC) but these collapsed and the Gays and Lesbian of Zimbabwe (GALZ) was formed in 1988. Membership of blacks sharply increased and gay media started emerging at the formation of GALZ. Since then, gays have been campaigning for their rights.

The most significant event in the history of homosexuality in Zimbabwe was the book fair of 1995. GALZ applied for a stand at the Zimbabwe International Book Fair mainly because the theme was on human rights. It was at this event that the guest of honour, the President of

Zimbabwe, Robert Gabriel Mugabe, publicly scorned homosexuality in his speech calling them worse than dogs and pigs (Shoko, 2010). After the 1995 Book Fair, homosexuality was placed on the national agenda and attacks from the State intensified (Clark, 2005).

Traditionally, there have been no serious reports of homosexuals among the Karanga people (Makamure, 2015). For Makamure, sexual relations were regarded by the Shona as sacred and unacceptable before marriage. This then culminates in the idea that homosexuality was not tolerated. The fact that homosexuality was not tolerated implies that it was regarded as an immoral act. The homosexuals were severely punished in traditional societies and this shows that people were supposed to strongly and cautiously control their libido and choice of partners until marriage. In a group interview in Chaputsa village in Chivi South, it was postulated that only youngsters indulged in homosexuality as they were attending to animals but no serious indulgence was reported in any community. The notorious youngsters would indulge in homosexuality as they were swimming but if they were caught by elders they would be severely punished. This shows that homosexuality was regarded in Zimbabwean societies as an act of gross immorality punishable by death or some other form of punishment.

The traditional Shona people believed that when humanity was created there was a special purpose. In their views in a group discussion, the reason we have both male and female species is for us to procreate. This being the case, any sexual relation not meant for procreation is abominable. The ancestors are happy if the families are multiplying hence their expectations from their descendants was procreation. In the Shona moral values, what is morally good is what is willed by the ancestors or vice-versa.

One interviewee in Zaka regarded homosexuality as a sign of a warped mind. For him, the way people were created is such that those of the same sex will not attract each other. He likened the situation to like-poles of a magnet which repel. This shows that unlike poles would almost

always attract each other. If like-poles one day attract each other it would mean that something has gone wrong. From this analogy of a magnet, it can be deduced that the act of homosexuality was unexpected hence immoral action in the Shona perception.

The village head of Sivara village suggested that homosexuality is a total disrespect of one another's body. For him, each human part of the body has its specific purpose and function. If one would need sexual relations, why not find a suitable candidate of the opposite sex?

Runesu, a village head, reiterated that homosexuality is a foreign phenomenon which was caused by the influence of Western culture. For him, the Shona had never heard of this practice before the arrival of the Westerners.

One of the elders in the focus group discussion said, "Homosexuality was not there among our societies when we grew up. The phenomenon is alien, abominable and un-African".

Village head Mauka said "Here in our society, we had no precedent of people who had these homosexual relationships". For him, homosexuality is a borrowed tradition.

To these respondents homosexuality was not part of the traditional Shona societies. In their social upbringing morality was emphasised. The interviewees also said young people grew under the tutelage of the elders who were ensuring that these youngsters are taken care of, hence, under such guidance, homosexuality had no place in traditional societies as it regarded as anti-social.

The other group of interviewees admitted that homosexuality was present in Shona societies but it was not tolerated. For them, homosexuals were regarded as unstable, bewitched or were witches themselves. As a result of these labels, homosexuals were severely punished either through drowning or were banished from society.



Homosexuality has thus been regarded by the Shona as un-African because it is inconsistent with African values of procreation and the belief in the continuity of family and clan. Rather, the Shona argued that same-sex relationships compromised population growth of the community. Benedict Anderson (1990:20) argues that “nationalisms are built on homo-social bonding and since nationalisms require specific heterosexual gender relations, man to protect and provide and women to mother and care, homosexuality is not representable for the idea of a nation”. This was the same notion among the traditional Shona people who had great emphasis on communalism and any act that threatened the growth of the population was unacceptable.

The argument therefore is that, if homosexuality is something that has been so prevalent in history in the world, what are the moral implications associated with it? How then should people view it? Should it be accepted as moral or immoral?

Modern attitudes toward homosexuality have religious, legal, rights and medical underpinnings.

Before the High Middle Ages, homosexual acts appear to have been tolerated or ignored by the Christian church throughout Africa and the rest of the world. Beginning in the latter twelfth century, however, hostility toward homosexuality began to take root, and eventually spread throughout African religious and secular institutions. Condemnation of homosexual acts as "unnatural," which received official expression in the writings of Thomas Aquinas and others, became widespread and has continued to the present day (Boswell, 1980:56). However, the hostility has helped those who tolerate homosexuality to invoke human rights as a way to seek allegiance among communities in the modern world.

## **Critique of the rights-based approach to homosexuality**

There are several definitions of rights-based approaches (Piron and Watkins, 2004). The one adopted in this paper is derived from DFID's 2000 Human Rights Target Strategy Paper (TSP), 'Realising Human Rights for Poor People', and complemented by more recent developments, in particular the 2003 UN Inter-Agency Common Agreement. In the TSP, DFID states: 'The human rights approach to development means empowering people to take their own decisions rather than being the passive objects of choices made on their behalf. The objective of DFID's Human Rights Strategy is to enable all people to be active citizens with rights, expectations and responsibilities and to 'claim their rights to the opportunities and services made available through pro-poor development'. The policy has been operationalised through three principles: 'participation', 'inclusion' and 'fulfilling obligation'.

One of the main characteristics of the RBA, and what distinguishes it from most other development approaches, is that it is normative: it is derived from a framework assigning rights and obligations to individuals, groups and states. These global standards are grounded in "the idea that states are obliged to provide appropriate regulation of labour and financial markets and an acceptable basic standard of health care and education, all of which will improve the ability of households to manage risk within livelihood strategies that are focused on improving standards of living" (Conway and Norton, 2002: 535). International human rights standards are covered under the DFID 'obligation' principle; they are also the starting point for the UN's recently agreed common understanding. The importance of these standards in relation to social protection is that they explicitly recognise a 'right to social security' as well as the 'right to an adequate standard of living' (e.g. clothing, shelter, food, health).

It should be noted that Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, protect and fulfil human rights. At

individual level, while everyone is entitled to their human rights, they should also respect the rights of others. As a result, the rights-based approach to homosexuality with its emphasis on the individual rights at the expense of the communitarian ethics has faced acute criticism in Zimbabwe. The Zimbabwean government, through its leader President Robert Gabriel Mugabe, has severely condemned the view of the rights-based approach that homosexuality has to be given allegiance. His comments after seeing the GALZ stall at the Bok Fair were:

Homosexuality degrades human dignity; it's unnatural, and there is no question ever of allowing these people to behave less than dogs and pigs. If dogs and pigs do not do it, why must human beings. We have our own culture and we must rededicate ourselves to our traditional values that make us human beings. What we are being persuaded to accept is sub-animal behaviour and we will never allow it here. If you see people parading themselves as lesbians and gays hand them over to the police (Shoko, 2010).

Mugabe's comment implies that homosexuality has no room in Zimbabwe. It is highly condemned as an immoral act. In Zimbabwe, people fear to discuss homosexuality because talking anything positive about it might stand as justification that you are gay or lesbian

Those who reject homosexuality as a moral act challenge the rights based approach. The moral base of homosexuality has been dismissed by most Zimbabweans, and in their view, they hold that the act is un-African. Church leaders like Ezekiel Guti of the Zimbabwe Assemblies of God Africa (ZAOGA) Forward in Faith and Bishop Nolbert Kunonga of the Anglican Diocese of Zimbabwe preach negatively about homosexuality (Phillips, 2010).

One of the major arguments that have been raised against the acceptance of homosexuality in Zimbabwe is that this practice is foreign to Zimbabweans. For most Africans, and Zimbabweans in particular, have religiously and steadfastly supported the stance of President Mugabe in rejecting any notion of Africans as having had homosexual tendencies which

originated from within Africa and possibly without any Western influences. African perspectives of sexual matters are not for public consumption, hence GALZ is behaving in an un-African way by seeking to transport homosexuality into the public domain (Shoko, 2010).

Homosexual persons who try to force the community to notice them and their practices are behaving in an un-African manner. Such a manifestation of homosexuality is therefore not African. Almost in a similar fashion, the late Border Gezi, who was Member of Parliament and Minister of Gender, Youth and Employment, is quoted saying the following in the Parliament of Zimbabwe:

*We have asked these men whether they have been able to get pregnant. They have not been able to answer such questions. Even the women who are engaging in lesbian activities, we have asked them what they have got from such practices and no one has been able to answer (Shoko, 2010).*

At the centre of Gezi's understanding is the contention that sexual intercourse must result in pregnancy, hence the men who take the woman's role must be able to fall pregnant if homosexuality is to be acceptable. And this being the African perspective, homosexuality therefore does not qualify to be labelled African.

According to Epprecht (2004), "sex, by customary definition, was rather an act that served to propagate the lineage". Similarly, Jeater writes, "the reproduction of life - having babies - is equated with the long-term survival of settled communities." African sexuality is one that appreciates that sex is not an end but a means to an end, that is, sex is only acceptable when it is benefiting the community. The communal benefits accruing from sex include the numerical growth of the community through procreation, the successful negotiation of alliances, both economic and political, through marriage contracts, in which sexual privileges are given in return for some economic or political undertakings. Within this context, it is not difficult to

understand why homosexuality is labelled un-African. That some individuals can now demand society to allow them to do as they please with their sexuality, irrespective of whether such use would benefit or disadvantage the larger community, is therefore seen and understood as un-African.

Homosexuality, under the lobby of GALZ, transgresses the accepted norms regulating the essence and treatment of sexual issues among Zimbabwean communities. These transgressions are important for the appreciation of the labelling of homosexuality as un-African. One major such transgression relates to publicity; sexual issues are best governed and regulated by the rule of 'don't ask, don't tell' (Sylvia Tamale, 2014). GALZ does not follow this unwritten law. Second, there is only a single sexuality among the indigenous groups, a sexuality which has been effectively deployed for political, economic and social benefits. Central to this sexuality is the procreation of offspring, homosexuality does not possess this potential and for that, has been labelled un-African. To that extent, Mugabe draws upon these conceptions when he says: "Let the Americans keep their sodomy, bestiality, stupid and foolish ways to themselves, out of Zimbabwe. Let them be gay in the US, Europe and elsewhere" (Shoko, 2010).

The central argument against the call by GALZ for granting of sexual rights to homosexual persons is clearly articulated in the statement released by the ZANU (PF) Women's League when they say "human rights should not be allowed to dehumanize us" (*The Herald*, 2010, May 5).

The human rights concept justifying homosexuality has been challenged in Zimbabwe on the grounds that it is detrimental to the wellbeing of society as a whole. This paper argues that the UDHR was promulgated in 1948 soon after the Second World War in a context that historically limited UDHR to the West where human rights threatened traditional values and political survival and where their Western background was emphasized. African governments that are

considered to be human rights violators see in human rights talk a subtle way through which Western powers seek to usurp and undermine their governments.

The concept of universal human rights has thus been greatly challenged in the homosexual debates in Zimbabwe. It is in this context that one can understand the reason President Mugabe in his address to 200 chiefs to garner support for seizures of land from white farmers said:

Unlike pigs and dogs, which knew their females and could naturally become intimate with them, gays and lesbians could not differentiate between males and females, we as chiefs in Zimbabwe, should fight against such Western practices and respect our culture.

In Africa, the notion of the community persists, especially at the level of the village. There is no substitute for the mutual support system of the lineage and of the shared interests and interdependence of the cultural group. President Mugabe said male homosexuality took away women's traditional rights of being mothers. He vowed not to allow gay rights to be included in a new constitution.

For him, mothers were given the talent to bear children. That talent doesn't belong to men, "When God created Adam ... if Adam had desired a person like him it would not have made him any happier," Mugabe said. "When a man says he wants to get married to another man, we in Zimbabwe don't accept it. We can't talk of women's rights at all if we go in that direction. It will lead to extinction," (Shoko, 2010).

With the understanding of continued domination of African communities by the West, the demand for human rights is therefore an insult to the aspirations and wellbeing of Zimbabwe as a whole. To that extent, it is important to note that there should be attempts to move homosexuality away from the realm of rights to the realm of morals because, as a human right, it is used to undermine the moral fibre of society in Africa.

Chibanda (1996) postulated that gays and lesbians are atoms of chaos being unleashed on Planet Earth by the profane society which is endeavouring to unseat governments and replace them with fiefdoms (through conglomerates and multinational companies) in the name of human rights.

The first impression created by Chibanda is that homosexuality is not only alien to Zimbabwe but the whole of Africa. Homosexuals lobby for human rights therefore has been portrayed and understood as a Western agenda.

With the human rights argument having failed to receive acceptance in Zimbabwe, at least at the level of political and traditional leaders and even the general public, it is important to note that an argument closely related to it is that homosexuality is illegal and criminal in Zimbabwe. According to Hoad (2010), Mugabe remarked, ‘they can demonstrate, but if they come here (to Zimbabwe) we will throw them in jail’. The difference between ‘here’ and ‘there’ suggests that tolerance of homosexuality is becoming, among other things, a strategy for marking national and civilisation specificity. Zimbabwe has anti-sodomy laws on its statute books. In Zimbabwe, homosexuality is illegal and criminal under the inherited ‘sodomy’ laws from the colonial past. Under Zimbabwean law, The Criminal Law (Codification and Reform) Act (Chapter 9: 23) Act 23/2004 – Zimbabwe, Section 73 “Sodomy” Sub-section (1) reads: “Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, shall be guilty of sodomy”.

In Zimbabwean criminal law code, sodomy is a male on male crime because, according to Section 65 “Rape” Sub-section(1), “If a male person knowingly has sexual intercourse or anal intercourse with a female person and, at the time of the intercourse (a) the female person has not consented to it; and (b) he knows that she has not consented to it or realises that there is a real risk or possibility that she may not have consented to it; he shall be guilty of rape.” It

appears that it is on the basis of this law that the traditional Chiefs of Masvingo Province in Zimbabwe ordered the arrest of all gays and lesbians and the subject of homosexuality not to be discussed in the public media because it was against traditional culture and illegal (Clark, 2005).

Besides labelling homosexuality as immoral, it has also been linked to some criminal and anti-social practices. Mazara (2016) in an interview said:

Zimbabwe is our country, our heritage and future and subsequently our destiny should be in our hands; we must not make compromises on such issues that involve the ethics and morality of the nation, more so when our children are the targets.

That homosexuality is criminal and liable to prosecution in Zimbabwe can be observed from the court records that are widely used by Marc Epprecht (2004) and in the post-independence era, the high profile trial of Canaan Banana is one such case. According to Guri, in an interview “Canaan Sodindo Banana was charged and found guilty of eleven counts of homosexual crimes.” Another high-profile individual to be implicated in homosexuality is the former Chief Executive Officer (CEO) of the Zimbabwe Broadcasting Cooperation (ZBC), Alum Mpfu, who was caught in a compromising position with another man at a night club in Harare (Matt & Koymasky, 2008). The Zimbabwean media has covered these homosexual escapades and treated them as synonymous with criminal activities.

Homosexuality has also been reduced to an illness and a mental challenge for that matter, suggesting that homosexual persons ought to be looked upon as sick persons. According to Mabhumbo, biological science has revealed that every individual has a bit of both male and female hormones kept in a delicate balance in favour of one's sex. So, when the right-based approach asserts that homosexuals should be given rights, they are advocating for the right to be sick, hence it is the duty of the moral society to tell them that they have no right to be that



sick. Rather, homosexuals have to be informed that sickness is not something for which they feel proud. Families and society must therefore pity the homosexual patient.

Generally, in Zimbabwe homosexuality is viewed as a form of psychological disorder which requires medical correctional procedures and not the granting of sexual rights because no one has a right to be sick.

The Bible has also been used, if not explicitly then implicitly. This invocation of the Bible has to be understood in the context of the religious demographics of Zimbabwe. Zimbabwe is largely a Christian nation in as much as more than two-thirds of the total population confess to be Christian. The biblical reference that has often been used to discard the rights-based approach to homosexuality is 1 Corinthians 6:9 which reads, “Do not be deceived. Neither the sexually immoral nor idolaters nor adulterous nor male prostitutes nor homosexual offenders nor the greedy nor drunkards will inherit the kingdom of God”.

President Robert Mugabe also believes and sees homosexuality as ungodly. He also argues on the basis of creation when he says, “God did not create us this way, we pray that the Catholic Church will correct this” (*The Herald*. 2010. May 5). By alluding to homosexuality as against the created order, Mugabe implicitly refers to homosexuality as a sin against nature. The Bible therefore is used to demonstrate and justify the position taken on the basis of culture and social wellbeing of the community.

It is implicit from the writings emanating from Zimbabwe that the ‘liberal lifestyles’ of Western cultures, which are anchored on the rights-based approach, are the fertile grounds in which homosexuality was nurtured but not in Zimbabwe. This discussion is summed up in following statements raised by Mitlin and Patel (2005), on the weaknesses of RBA that:

The rights-based approach is individualistic in nature because of its emphasis on the individual rights at the expense of the society at large. Every action has to benefit the whole community.

The rights-based approach is too rhetoric- this implies that it is a kind of utopia which is very difficult to put into practice when it comes to sex issues.

The authors of this paper argue that RBA has its own weaknesses. For example, when the League of Nations charter was crafted in 1945 no African country participated in its making hence the charter is Euro-centric. It lacks cultural relativism and does not offer flexibility for nations to implement the charter in accordance with local cultural considerations and sensitivity. This is the reason the charter is continuously clashing with local cultures in Africa. This being the case, homosexuality should not be tolerated in Zimbabwe because, as Africans, our moral grounds emanate from *unhu* or *ubuntu*.

### ***Ubuntu and homosexuality in Zimbabwe***

Having said all this the questions that we need to ask ourselves are: What then is the way forward in Zimbabwe concerning the issue of homosexuality? What mechanisms should be put in place to heal our corrupted community? How should Zimbabwe spell out its moral stand against homosexuality?

The answer to all these questions, according to Mangena (2012), is that African and Zimbabwean ethical values in particular, should be governed by the highly celebrated philosophical concept of *unhu* or *ubuntu*. *Ubuntu* is about human relationships. It spells out how we should live as Africans because of its emphasis on communitarian ethics. In Africa, a person becomes a person because of *unhu* which is our shared humanity. To cleanse our society, we need to go back to *unhu* and unearth values to move forward as a country. So, the goodness or badness of homosexuality should be judged by *unhu* not by rights in Zimbabwe.

This is so because in African context, social institutions such as heterosexual relationships and marriages are highly controlled by the family as well as social and political institutions. It is generally accepted by the majority of Africans that “*umuntu ngumuntu ngabantu*”, meaning

“A person is a person with other people”. This African saying reveals a world view that we owe our selfhood to others, that we are first and foremost social beings, that, if you will, no man or woman is an island, or as the African would have it, “One finger cannot pick up a grain.” According to Tutu (2008), a person with *ubuntu* is open and available to others, affirming of others, does not feel threatened that others are able and good, for he or she has a proper self-assurance that comes from knowing that he or she belongs in a greater whole and is diminished when others are humiliated or diminished, when others are tortured or oppressed.

According to Ramose (1999), *ubuntu* is at the same time, a deeply personal philosophy that calls on us to mirror our humanity for each other. To the observer, *ubuntu* can be seen and felt in the spirit of willing participation, unquestioning cooperation, warmth, openness, and personal dignity demonstrated by the indigenous black population. From the cradle, every black child has these qualities inculcated in him or her so that by the time adulthood is reached, the *ubuntu* philosophy has become a way of being. The principles of *ubuntu* must be applied to the new generation of our children to not just pursue the Western dream but also to use collective gifts for the community. This is why Mbiti (1975: 107) argues that “there are, in all African societies, regulations concerning those that one may not marry. These are most often people of one’s own clan, and relatives of one’s mother or father up to a certain degree of kinship.” It is in this light that a practice such as homosexuality seem to have no place and is unthinkable in Africa in general, and in Zimbabwe in particular. The reason simply being that, amongst traditional Zimbabwean societies, it is a taboo to engage in a sexual relationship involving people of the same sex.

## **Conclusion**

The paper evaluated the rights-based approach to homosexuality in the light of the ethical crisis faced by African states. The paper discovered that proponents of homosexuality are basing

their arguments on human rights, which the authors of this paper argue against because such approaches that violate African norms and values, especially of the marital institution. Therefore, reflecting on the existential realities of the indigenous Zimbabweans in general, the paper argued that homosexuality is an epitome of unnatural sexual perversions that are not only alien, but perceived as taboo by traditional Zimbabwean societies. Thus, the authors of this paper agree with scholars like Chemhuru (2012) who postulates that despite almost growing consensus on the tolerance of homosexuality among globalising, democratising and libertarian societies of the world, homosexuality remains alien, a travesty, unthinkable and difficult to justify from a Zimbabwean perspective, where norms and values are treated as sacrosanct and are embedded in the philosophies of communitarianism and ‘*unhu.*’

## References

- Awondo, P. 2010. “The politicisation of sexuality and rise of homosexual movements in post-colonial Cameroon” in *Journal of Review of African Political Economy* Volume 37, 2010, Issue 12
- Bongmba, E.K. 2016. “Homosexuality, Ubuntu, and Otherness in the African Church” in *Journal of Religion and Violence* on April 27, 2016
- Boswell, J. (9189), "Revolutions, Universals, and Sexual Categories", *Hidden from History: Reclaiming the Gay & Lesbian Past*, Chauncey et al., eds, New York: Meridian, New American Library, Penguin Books.
- Chemhuru, M. 2012. “Rethinking the Legality of Homosexuality in Zimbabwe: A Philosophical Perspective” in *The International Journal of Politics and Good Governance*, Volume 3, No. 3.3 Quarter Iii 2012

- Chibanda, Z. 1996. *The Sunday Mail Harare*, 04/08/1996
- Clark, B. 2005. *Homosexuality in Zimbabwe*. In: R Rosenbloom (ed), *National Gay Human Rights Commission*. Name of City missing: Publishers missing
- Epprecht, M. 2004. *Hungochani: A History of a Dissident Sexuality in Southern Africa*. London: Mchill-Queen's University Press
- Epprecht, M. 1999. *The Gay Oral History Project, Black empowerment, Human Rights and the Research Process*. London: Mchill-Queen's University Press
- GALZ. 2008. *Unspoken Facts: A History of Homosexuality in Africa*. Harare: GALZ
- Garlake, P. 1995. *The Hunter' Vision*. London: British Museum
- Gneiting,U, et-al. 2009. "Setting Higher Goals: Rights and Development"*Monday Development*27 (12)
- Jagose, A. 1996. *Queer Theory: An Introduction*. New York: New York University Press
- Laure-Hélène Piron. 2004. *Rights-Based Approaches to Social Protection*, Westminster Bridge Road London SE1 7JD
- Magesa, L. 1997. *African Religion*, Marry know: Orbis Press
- Makamure, C. 2015. Attitudes toward Homosexual Practices among the Karanga People: A Religious Perspective, *IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 20, Issue 6, Ver. I (Jun. 2015), PP 50-56*
- Mbiti, J.S. 1975. *Introduction to African Religion*, Oxford: Heinemann Educational Publishers
- Mitlin, D. & Patel, S. 2005. *Re-interpreting the rights-based approach. a grassroots perspective on rights and development*, Global Poverty Research Group, and Institute for Development Policy and Management, University of Manchester, UK

Nussbaum, Martha. 1998. "Capabilities and Human Rights". *Fordham Law Review*, 66 (2).

Phillips, O. 2010. Blackmail in Zimbabwe: troubling narratives of sexuality and human rights” in *The International Journal of Human Rights*, Volume 13, 2009 - Issue 2-3

Ramose, M.B. 1999. *African Philosophy Through ‘Ubuntu’*, Harare: Mond Books.

Robert T. F. (ed). 1997. *The International Encyclopedia of Sexuality vol. 1*

Shoko, T. 2010. “Worse than dogs and pigs?” Attitudes toward Homosexual Practice in Zimbabwe” in *Journal of Homosexuality* Volume 57, 2010 – Issue 5

Van Adriaan, K. 2014. “Homosexuality, Politics and Pentecostal Nationalism in Zambia” in *Studies in World Christianity* 20.3 (2014): 259-281 Edinburgh University Press  
<http://www.euppublishing.com/doi/abs/10.3366/swc.2014.0095>

Van Adriaan, K. & Chitando, E. 2016. ‘Introduction: Christianity and the politics of homosexuality in Africa’, in Ezra Chitando and Adriaan van Klinken (eds.), *Christianity and Controversies over Homosexuality in Contemporary Africa*, London and New York: Routledge, 1-17.

<http://www.financialgazette.com/2014/03/10/homosexuality-battle-african-conservatism/#sthash.EyU9Kd5D.dpuf> Africa should support Uganda’s stance on homosexuality (Retrieved on 10/10/2016)

<http://nehandaradio.com/2014/03/10/homosexuality-battle-african-conservatism/#sthash.EyU9Kd5D.dpuf>

Homosexuality and the battle against African Conservatism (Retrieved on 10/10/2016)

[http://data.unaids.org/Topics/Human-Rights/hrissuepaper\\_rbadeffinitions\\_en.pdf](http://data.unaids.org/Topics/Human-Rights/hrissuepaper_rbadeffinitions_en.pdf) (Retrieved on 10/10/2016)

<http://www.ubuntu.thiyagaraaj.com/Home/about-ubuntu/ubuntu-philosophy-meaning>

(Retrieved on 10/10/2016)

<http://socialprotection-humanrights.org/introduction-to-a-rights-based-approach/> (Retrieved

on 10/10/2016)