



Malawi

UPR Pre Session statement to the UN Universal Periodic Review

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GIFT TRAPENCE

Challenges facing the lesbian, gay, bisexual, transgender and intersex (LGBTI) community in Malawi are shaped by laws, policies and practices that are informed by social, religious and cultural norms. Consensual same-sex sexual relations between adults are not only criminalised but also highly stigmatised in Malawi, resulting in LGBTI persons being forced to remain 'invisible' or 'underground'. Other challenges that LGBTI face include denial to housing, blackmail and beating by police or other security forces. Limited data relating to the LGBTI community makes it difficult to develop programming to meet their needs, to assess whether any progress has been made on SDGs and what the continuing gaps/issues are. The undercounting and underreporting of HIV among men who have sex with men (MSM) has been attributed to homophobia.

Despite these challenges, some progress on the services provided to key populations (KP), including gay men and other men who have sex with men have been aided by interventions from civil society and development partners. Community based drop-in health centers offer a parallel distribution channel to the public sector supply chain system, hence minimizing barriers for KP to access services, especially for those who are highly stigmatized, and face discrimination and violence at public health facilities. Networks of peer educators are utilized to reach out to MSM connecting them to these distribution channels. However, the majority of MSM still do not access sexual and reproductive health services (SRHS) through this arrangement, as they remain outside this network/system and are left behind.

Government and non-State actors collaborated in developing a Human Rights Action Plan that clearly set up timelines for milestones, like the review of the laws on consensual same-sex relations between adults as well as support for LGBTI people in health care services in 2016. This plan has not been approved to date. Back and forth actions by the State cast doubt on the willingness of political leadership to create an environment that is truly inclusive of the most marginalized, including LGBTI people.

The recommendations are as follows:

- Increase access and availability to quality health services, including quality treatment, care and support for LGBTI people. This includes delivery of services in a stigma free environment.
- Ensure that what is defined as "Essential Health Package" meets the needs of the LGBTI community; this includes increasing access to lubricants, oral condoms, and other services targeted at MSM and LGBTI communities.
- Build capacity for health service providers in both public and private facilities to be equipped with skills and knowledge to provide sexual and reproductive health services that are sensitive to the needs of the LGBTI community. Partner with LGBTI-led organizations to deliver sensitization trainings and information to providers on a regular basis.
- Dedicate resources to create awareness messaging regarding sexual and reproductive health issues tailored to LGBTI people.
- To the best extent possible, and in a way that respects confidentiality and safety, collect data disaggregated by sexual orientation, gender identity and expression, to ensure that SDG planning and annual reporting for Malawi can measure progress for LGBTI people.

- Develop a separate National HIV and AIDS Programme for LGBTI people, particularly with more details for how to reach and serve trans people.
- As Malawi finalises developing the HIV/AIDS National Strategic Plan 2020-2025, incorporate a strong monitoring mechanism and indicators targeting MSM and the transgender community.
- Regularly and routinely consult LGBTI-led community-based organizations to help tailor approaches and policies serving LGBTI people.
- Develop comprehensive legislation that prohibits all forms of discrimination, including on the basis of sexual orientation and gender identity and expression.
- Implement a vocational skills and entrepreneurship training intervention targeting LGBTI individuals to live productive, self-sufficient and rewarding lives.
- Collect data on the experiences of LGBTI people with discrimination and harassment in the workplace and in daily life.
- Disseminate messages and awareness in places of work, schools, colleges and business places on human rights and anti-discrimination for key populations.
- Conduct regular and routine training of law enforcement agents on LGBTI and human rights issues as well as orienting them on the protection of the LGBTI people;
- Sensitize the LGBTI community on their rights and channels for reporting acts of violence and discrimination based on sexual orientation.
- Provide training to journalists and media outlets on reporting LGBTI cases.
- Government should update and approve the National human rights action plan.
- Ensure that victims of violence based on sexual orientation and gender identity have access to effective and adequate remedy domestically.
- Fight impunity for violence based on sexual orientation and gender identity perpetrated by State and non-State actors.
- Issue clear directives to all police officers instructing them to respect the moratorium pending repeal of the relevant provisions of the Penal Code and end arbitrary arrests and detention of LGBT individuals.
- Repeal sections 153, 154, 156 and 137A of the Penal Code that criminalize adult consensual same sex conduct.
- Establish Human Rights Desks at Police Stations to provide a safe environment for LGBT persons to report police abuses and for complaints to be processed and investigated without delay.