
15. LGBT rights in Africa

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1. INTRODUCTION

Across the African continent, homosexuality has since the late 1990s become an issue of political contestation and conflict. When Zimbabwe's president Robert Mugabe castigated the gay community in 1993, it marked the first incidence of contemporary politicized homophobia on the continent. This incident has been followed by numerous similar attacks, in Botswana, Burundi, Egypt, Ghana, Kameroun, Kenya, Malawi, Nigeria, Tanzania, Senegal, Uganda and Zambia, among others. Politicization refers to the process by which a social phenomenon becomes the basis of mobilization by societal and political actors, who turn it into an issue of major political significance as a subject of heated public argument, mobilization and conflict. A growing literature describing political attacks on the rights of lesbian, gay, bisexual and transgender (LGBT) persons across the African continent links politicized homophobia to political or economic crises. A common argument is that homosexuals are targeted as a group by incumbent politicians to divert attention away from pressing issues of corruption, economic decline or development challenges. The assumed mechanism is that as a regime's faith is at play in elections, or due to public opposition or internal power struggles, homophobia is employed by political actors to divert attention. However, while the topic is much commented on in media analyses and case studies, the politicization of homosexuality is currently insufficiently theorized. While growing, the empirical scholarship is often based on single case studies lacking a comparative perspective. As a result, the fact that politicization often takes complex and dual forms, where one group or sector is tolerated while others are negatively targeted, is poorly understood. Furthermore, we have insufficient understanding of the various actors involved, and the incentives they face in politicizing LGBT rights. The politicization literature has mostly focused on Anglophone countries, emphasizing the consequences of colonial law that criminalized homosexuality across British colonial Africa. But similar patterns of politicization also occur in North and West Africa, albeit for different reasons. Finally, how domestic actors engage with international actors and international debates in processes of politicizing LGBT issues also varies considerably across the continent. This chapter analyses the forms and content of politicized homophobia in Africa and explains the rising politicization of nonheteronormative sexuality and gender identity that has marked much of the continent in the past decade, and the role of law in this process. Providing examples from across the continent, the chapter argues that politicization varies in time and space, reflecting a complex combination of external and internal factors and the sociopolitical context in a given country or region. The chapter is organized as follows. It begins by outlining the state of the law on rights related to same sex intimacy and its colonial roots. The chapter goes on to discuss how the prevailing politicization of LGBT peoples in Africa is accounted for in the literature. The politicization trends drawn from the academic literature are then illustrated with country case descriptions, before a final section concludes the chapter.

2. THE STATE OF THE LAW: FROM COLONIAL LEGACY TO CONTEMPORARY MEASURES

Same sex sexual relations are illegal in a majority of African states, and often punishable with lengthy prison sentences, in some cases by death. The sodomy laws that prohibit same sex intimacy were largely imposed by the colonial powers in the nineteenth century.¹ In most countries, sodomy provisions were dormant for decades after independence, in the sense that prosecutions for same sex intimacy were rare and LGBT issues seldom featured in political debates. A total of 33 African countries have kept these laws to this day, and Africa's share of countries that criminalize same sex intimacy is the highest in the world.²

In the literature on LGBT rights and homosexuality in Africa, a central argument holds that the criminalization of homosexual acts on the continent is mainly a colonial import, especially from Britain.³ The colonial powers introduced penal codes in their territorial possessions, which in many cases punished 'sodomy' or 'unnatural offences' with long prison sentences. Britain was by far the most committed to spreading criminalization of homosexual acts. From 1860 onwards, Britain used the colonial Indian Penal Code's Section 377, which forbids 'carnal intercourse against the order of nature', as the basis for similar provisions across its territories. Punishments enshrined in the laws vary from fines and relatively short prison sentences to the death penalty.⁴ Han and Mahoney investigated the influence of British colonialism on the spread of laws criminalizing homosexuality and found that British excolonies were far more likely to have such laws than countries that were colonized by the Spanish or the French.⁵ Because of transaction costs and legal path dependency, the legal regimes which either did or did not criminalize homosexual acts are likely to continue.⁶ Since France decriminalized homosexual relations in 1791, right after the French Revolution, French excolonies are considered to be less likely to criminalize homosexual relations today, as this system was 'locked in'.⁷ Against this background, while most previous British colonies have retained the antisodomy clauses introduced in colonial criminal codes, and most Muslim states have harsh

¹ Epprecht M., *Hungochani: The History of a Dissident Sexuality in Southern Africa* (McGill Queen's Press, 2013), Gupta A., *This Alien Legacy: The Origins of 'Sodomy' Laws in British Colonialism* (Human Rights Watch 2008), Tamale S., 'Confronting the Politics of Nonconforming Sexualities in Africa' (2013) *African Studies Review* 56(2) 31.

² For more detailed reviews of LGBT laws in Africa see ILGA (2017); Kangaude, G., *Legal Grounds III: Reproductive and Sexual Rights in Sub-Saharan African Courts* (Pretoria University Press 2017), Namwase S. and Jjuuko A., *Protecting the Human Rights of Sexual Minorities in Contemporary Africa* (Pretoria University Press 2017).

³ Han E, O'Mahoney J., 'British Colonialism and the Criminalization of Homosexuality' (2014) *Cambridge Review of International Affairs* 27(2) 268, Ireland P., 'A Macro-Level Analysis of the Scope, Causes and Consequences of Homophobia in Africa' (2013) *African Studies Review* 56(2) 47.

⁴ Carrol A., Ramón Mendos L., *ILGA State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalization, Protection and Recognition* (12th edition 2017). www.ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobi.pdf.

⁵ Han E, O'Mahoney J., 'British Colonialism and the Criminalization of Homosexuality' (2014) *Cambridge Review of International Affairs* 27(2) 268.

⁶ Asal V., Sommer U., *Legal Path Dependence and the Long Arm of the Religious State* (SUNY Press 2016).

⁷ Kane M., 'Decriminalizing Homosexuality: Gaining Rights through Sodomy Law Reform.' In Tremblay M. and Paternotte D. (eds) *The Ashgate Research Companion to Lesbian and Gay Activism* (Ashgate 2015) 281.

laws against homosexual sex (in Sudan, Mauritania, northern Nigeria and southern Somalia it is punishable by death), few previous French colonies have criminalized same sex intimacy. There are, however, important exceptions. Cameroon (with a mixed but predominantly French colonial past) currently prosecutes consensual same sex conduct more aggressively than almost any country in the world.⁸ There are also laws against homosexual sex in Senegal, Chad, Comoros, Guinea, Mauritania and in the predominantly Muslim former French colonies in North Africa (Algeria, Morocco, Tunisia). Arguably, the picture is far more nuanced and the empirical realities do not justify a singular focus on the former British colonies, as, of the 33 countries on the continent that currently criminalize homosexual acts, only 17 are British excolonies.

2.1 Explaining Variation in the Laws on Same Sex Relations

While a number of countries have moved to criminalize same sex relations, some have moved in a liberal direction. South African law is among the most protective of LGBT rights in the world. The 1994 and 1996 postapartheid constitutions ban discrimination based on gender and sexuality and were followed by court decisions decriminalizing sodomy and recognizing same sex marriage and adoption rights, and diverse protective rules against discrimination.⁹ Mozambique (in 2015) and Lesotho (in 2012) have decriminalized same sex relations and provided some protections against discrimination. And, notably, the African Commission on Human and People's Rights has taken an active role in combating discrimination based on sexual orientation and gender identity, starting in 2014 with resolution 275, and subsequently including LGBT concerns in a range of other soft law documents.¹⁰

The prominence of gay activists in the South African liberation movement is important to understand not only the development of South African law – several authors have pointed to the influence of the ANC in exile as a catalyst for the emergence of LGBT groups such as Gays and Lesbians of Zimbabwe (GALZ, formed in 1990) – but also the early antigay rhetoric by political leaders in Zambia, Zimbabwe and Namibia from the mid-1990s.¹¹

In most other African countries, public attention to 'homosexuality' – which is the general term used to refer to nonheteronormative sexuality and gender identity – began around 2008,

⁸ HRW (Human Rights Watch) 'Cameroon: Rights Abuses in "Homosexuality" Prosecutions' (2013) www.hrw.org/news/2013/03/21/cameroon-rights-abuses-homosexuality-prosecutions; HRW, 'Discrimination against LGBT people in Malawi' (2013) www.hrw.org/report/2018/10/26/let-posterity-judge-violence-and-discrimination-against-lgbt-people-malawi.

⁹ De Vos P., 'The Inevitability of Same-Sex Marriage in South Africa's Post-Apartheid State' (2007) *South African Journal on Human Rights* 23(3) 432.

¹⁰ Jjuuko A., 'The Protection and Promotion of LGBTI Rights in the African Regional Human Rights System: Opportunities and Challenges' in Namwase S and Jjuuko A. (eds) *Protecting the Human Rights of Sexual Minorities in Contemporary Africa* (Pretoria University Press 2017), Kahn-Fogel N.A., 'African Law and the Rights of Sexual Minorities: Western Universalism and African Resistance' in Ndulo M. and Emeziem C. (eds) *Handbook on African Law* (Forthcoming); Meer T., Lunau M., Oberth G., Daskilewicz K. and Muller A., *Lesbian, Gay, Bisexual, Transgender and Intersex Human Rights in Southern Africa: A Contemporary Literature Review 2012–2016* (HIVOS 2017).

¹¹ Van Klinken A., Chitanda E., 'Introduction: Public Religion, Homophobia and the Politics of Homosexuality' in Van Klinken A. and Chitanda E. (eds) *Public Religion and the Politics of Homosexuality in Africa* (Routledge 2016); Lorway R., *Namibia's Rainbow Project: Gay Rights in an African Nation* (Indiana University Press 2014).

with regular eruptions in the media and electoral campaigns. Debates have often centred on rights and law. A common trend witnessed is the revival and increasing enforcement of sodomy laws, including the – often highly publicized – arrests of alleged gays and lesbians. Most public attention has been on proposals to impose more draconian penalties for homosexual offences – including the death penalty, with the infamous ‘Kill the Gays Bill’ tabled in the Ugandan parliament in 2009 receiving the most attention. When it was eventually passed in late 2013 and signed into law in early 2014, it was in a modified form, with life imprisonment as the maximum penalty for ‘aggravated homosexuality’ and repeat offences. It was found unconstitutional on procedural grounds a few months later and has not resurfaced.¹² Similar debates have sparked also in other countries, and the Gambia passed a very similar law in 2014. The same year Nigeria passed a law extending the prohibition of homosexual relations. While the maximum penalty was 14 years – which is common in countries that maintained the British colonial laws on sodomy – the scope of the offence was substantially broadened beyond the traditional colonial law formulation of ‘carnal knowledge against the order of nature’ to include all forms of public display of amorous relations between persons of the same sex, thus including lesbian relations that were not previously criminalized. Such broadening of the definition of homosexual relations and narrowing of the scope for the exercise of sexual rights, and infringement of the rights of privacy, is typical of the new antigay laws proposed and in some cases enacted in the region. The law reforms also commonly infringe on rights of expression and organization, prohibiting ‘propaganda’ (including all forms of information for LGBT people) and the ‘aiding and abetting’ of such, which in practice also criminalizes financial support.¹³ Many countries have also introduced constitutional provisions to prevent the introduction of same sex marriage, including Angola, Burundi, Rwanda, Uganda and Tanzania.¹⁴

Arrests of alleged gays and lesbians have become increasingly common across the African continent. In the 2014–17 period, arrests were reported in Cameroon, Egypt, Gambia, Guinea, Kenya, Libya, Malawi, Mauritania, Morocco, Nigeria, Senegal, Somalia, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.¹⁵ Partly in response to arrests and abuses committed against LGBT people, legalized contestation of LGBT issues is taking place in courtrooms across the continent, and we also see emerging strategic litigation to change the state of the law. The latter is aimed mainly at expanding LGBT rights, and in particular in the Ugandan context, foreign and international courts have also emerged as arenas in these political–moral battles.

¹² Jjuuko A., 2017. ‘The Protection and Promotion of LGBTI Rights in the African Regional Human Rights System: Opportunities and Challenges’ in Namwase S. and Jjuuko A. (eds) *Protecting the Human Rights of Sexual Minorities in Contemporary Africa* (Pretoria University Press 2017), Oloka-Onyango J., *When Courts Do Politics* (Cambridge Scholars Publishing 2017).

¹³ Makofane K., Beck J., Lubensky M. and Ayala G., ‘Homophobic Legislation and Its Impact on Human Security’ (2014) *African Security Review* 23(2) 186, Meer T., Lunau M., Oberth G., Daskilewicz K. and Muller A., *Lesbian, Gay, Bisexual, Transgender and Intersex Human Rights in Southern Africa: A Contemporary Literature Review 2012–2016* (HIVOS 2017).

¹⁴ Constitute (searchable website of all the world’s constitutions) www.constituteproject.org

¹⁵ Carrol A., Ramón Mendos L., *ILGA State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalization, Protection and Recognition* (12th Edition 2017). www.ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobi.pdf; Meer T., Lunau M., Oberth G., Daskilewicz K. and Muller A., *Lesbian, Gay, Bisexual, Transgender and Intersex Human Rights in Southern Africa: A Contemporary Literature Review 2012–2016* (HIVOS 2017).

3. POLITICIZATION OF HOMOSEXUALITY

The historical trajectory of public opinion on LGBT issues in Africa is poorly documented. Media and attitudinal data confirm that the observed politicization of homosexuality takes place against the backdrop of widespread antiequeer sentiment, providing fertile grounds for populist mobilization. Across Africa, countries witness harsher rhetoric and more social engagement over same sex relations, at the intersection of debates about religion, public morality and policy.¹⁶

Perhaps more significant than the legal changes themselves, or even the increasing enforcement of the law, is the heightened politicization of issues concerning LGBT people and homosexuality in particular. Sexuality is inherently political, in the sense that all societies regulate and discipline it, yet is only occasionally politicized.¹⁷ Politicization refers to the process by which a social phenomenon becomes the basis of mobilization by societal and political actors, who turn it into an issue of major political significance, as a subject of heated public argument, mobilization and conflict.¹⁸ Politicization of homosexuality is also referred to as (state-sponsored) homophobia, sexual panics and antiequeer animus.¹⁹ The desired outcome of politicization of homosexuality from the perspective of the agents is to increase penalties of homosexual activity and activate dormant laws. The literature on politicization is in its infancy, signified by the fact that the term is widely employed but rarely defined.²⁰ The key aspect of politicization is the political mobilization around the issue of homosexuality. A central premise underlying much of the literature is that homosexuality becomes politicized because central social and political actors see this as furthering their interests. Authors taking a political economy approach portray the politicization of homophobia as a constructed issue by the political elites who deem it in their interest to create ‘moral panics’ to divert attention from other contentious political issues.²¹

Grossman points to how political competition may have been conducive to the saliency of LGBT in African public campaigns.²² The literature depicts politicization through a classic path where a challenged incumbent resorts to homophobia to divert attention. Focusing on the

¹⁶ Awondo P., Geschiere P. and Reid G., ‘Homophobic Africa? Toward a More Nuanced View’ (2013) *African Review Studies* 55(3) 145, Tettey J., ‘Homosexuality, Moral Panic, and Politicised Homophobia in Ghana: Interrogating Discourses of Moral Entrepreneurship in Ghanaian Media’ (2016) *Communication, Culture, and Critique* 9(1) 86.

¹⁷ Posel D., ‘Sex, Desire and the Fate of the Nation: Reflections on the Politicisation of Sexuality in Post-Apartheid South Africa’ (2005) *Africa* 75(2) 125, 127.

¹⁸ Scruton R., *The Palgrave Macmillan Dictionary of Political Thought* (Palgrave Macmillan 2007) 453.

¹⁹ Van Klinken A. and Chitando E., *Public Religion and the Politics of Homosexuality in Africa* (Routledge 2016), Thoreson R., ‘Troubling the Waters of a “Wave of Homophobia”: Political Economies of Anti-Queer Animus in Sub-Saharan Africa’ (2014) *Sexualities* 17(1) 23.

²⁰ Awondo P., Geschiere P. and Reid G., ‘Homophobic Africa? Toward a More Nuanced View’ (2013) *African Review Studies* 55(3) 145, Tettey J., ‘Homosexuality, Moral Panic, and Politicised Homophobia in Ghana: Interrogating Discourses of Moral Entrepreneurship in Ghanaian Media’ (2016) *Communication, Culture, and Critique* 9(1) 86.

²¹ Grossman G., ‘Renewalist Christianity and the Political Saliency of LGBTs: Theory and Evidence from Sub-Saharan Africa’ (2015) *The Journal of Politics* 77(2) 337.

²² Grossman G., ‘Renewalist Christianity and the Political Saliency of LGBTs: Theory and Evidence from Sub-Saharan Africa’ (2015) *The Journal of Politics* 77(2) 337.

opportunity structure of political actors, Gloppen et al. nuance the political economy approach and argue that it cannot be assumed that political and other actors fuelling homophobia in African contexts always do so based on rational calculations of what is politically beneficial.²³ It is likely that they, or some actors within a coalition, at least in part denounce homosexuality based on their normative convictions, in accordance with a logic of appropriateness. As in other parts of the world, African political leaders frequently rely on coalitions with religious fundamentalists for whom antihomosexuality is a central moral issue. A similar mix of normative and strategic considerations seems to drive the postcolonial nationalist response, which is strongly antigay in its emphasis on traditional African sexuality and moral values. In a similar vein, Vibe's study of enhanced politicization of homosexuality in Senegal underlines that it is necessary to broaden the scope of actors, as well as their incentives.²⁴ Arguing that the origins of homophobia may lie in the incomplete democratization process, Vibe shows that invoking homophobic sentiment has become an instrument of political and financial gain for the political opposition, as well as for the media. The start of the attacks on LGBT persons in Senegal emerged as an argument against the opposition movement M23. It became a major political issue in the 2012 elections and again in the 2016 constitutional debate.

3.1 The Factors Driving the Politicization of Homosexuality in Africa

A particular feature of the politicization of LGBT debates in Africa is that they are framed as a threat not only to public morality, but to African values, national integrity and sovereignty. Scholars have emphasized how homosexuals are used as scapegoats and to enhance powers of incumbent governments to channel criticism away from more serious matters.²⁵ Awondo et al. see religion serving as a refuge for a growing population increasingly disappointed with the promises of development.²⁶ Linking to concepts of 'cultural anger',²⁷ they see a marshaling of intense emotion across diffuse domains and arenas of action to unite disparate individuals and groups in political pursuit of a common enemy or sexual scapegoat. Ngwena, in a somewhat related approach, sees the contemporary Africaness-rhetoric and its emphasis on (homo)sexuality as rooted in colonial discourses as well as internal power dynamics, pointing to the need for alternative 'making of an African race and African culture(s) and sexuality(ies) in ways that are not just historically conscious but also have a heuristic capacity to contest nativism from the outside as well as from within'.²⁸ Van Klinken and Chitando question the causal link between disappointment with development and homophobia, pointing to significant economic growth on the African continent in this period of a crossnational rise in homophobic

²³ Gloppen S., Msosa A., Viljoen F., *Queer Lawfare in Africa* (Pretoria University Press, forthcoming).

²⁴ Vibe V., 'Politicising Homosexuality in Senegal' (2017) African Studies Association Annual Meeting in Chicago on 16–18 November 2017.

²⁵ Grossman G., 'Renewalist Christianity and the Political Saliency of LGBTs: Theory and Evidence from Sub-Saharan Africa' (2015) *The Journal of Politics* 77(2) 337.

²⁶ Awondo P., Geschiere P. and Reid G., 'Homophobic Africa? Toward More Nuanced View' (2013) *African Review Studies* 55(3) 145.

²⁷ Herdt G., *Moral Panics, Sexual Panics: Fear and the Fight over Sexual Rights* (New York University Press, 2009) 5.

²⁸ Ngwena C., *What is Africaness? Contesting Nativism in Race, Culture, and Sexualities* (Pretoria University Press 2018).

sentiment.²⁹ In addition, they argue, the most vocal antigay religious actors are urban-based, attracting educated professionals who are generally not the main ‘losers’ of economic development.³⁰ They instead emphasize the role of the rapidly growing Evangelical Pentecostal churches, suggesting that they mobilize against homosexuality to strengthen collective identity and promote a ‘political project of Christian nation building’.

The role of religious actors is also borne out in Afrobarometer data. Much attention has been devoted to religious actors, in particular international religious actors as framers and agenda setters of the politicized homophobic debates.³¹ However, as argued by van Klinken,³² in many contexts, domestic religious actors set the stage and international actors play a more marginal role. Focusing on domestic religious actors, van Klinken’s work argues that there is a distinction between evangelism, protestants and Catholicism, with the evangelical churches displaying more distinct homophobia than the others. However, even when religious actors are considered the main drivers and agenda setters, politicization is often understood as a means to an end. Grossman analyses a longitudinal dataset of media coverage of LGBT issues in Africa.³³ He also emphasizes Pentecostal theology to explain the spatial and temporal variation in trajectories of politicization and political salience of LGBT issues. Focusing on two sets of internal actors, he links the ‘demand side’, that is, heightened demand for societal mobilization from key population groups, to the increased share of Renewalist Christians in the population. The mobilization of religious actors for more state regulation is matched on the ‘supply side’ by political elites who see potential for political gain in contexts of increased political competition.

3.2 External Causes of Politicization

African politicians and religious leaders often portray homosexuality as un-African, pushed from abroad from international gay activists and western donors. Scholars and activists, on the other hand, commonly point out that precolonial sources show African societies that are tolerant of same sex relations, and that homophobia was imported to Africa through colonial laws proscribing same sex relations. They also point to the current import of, most notably American, Christian fundamentalist groups. One argument is that the ‘culture war’ for traditional Christian values migrates to Africa, where religious conservatism is stronger and governments more susceptible to influence.³⁴ Others theorize the politicization as a response to or backlash against pressure for gay rights protection from western governments and inter-

²⁹ Van Klinken A. and Chitando E., *Public Religion and the Politics of Homosexuality in Africa* (Routledge 2016).

³⁰ *Ibid.*, pp.3–4.

³¹ Anderson J., ‘Conservative Christianity, the Global South and the Battle over Sexual Orientation’ (2011) *Third World Quarterly* 32(9) 1589, Kaoma K., ‘The Vatican Anti-Gender Theory and Sexual Politics: An African Response’ (2012) *Religion and Gender*, 6(2) 282–92; Kaoma K., *Colonizing African Values: How the US Christian Right is Transforming Sexual Politics in Africa* (Political Research Associates, 2012).

³² Van Klinken A., ‘Homosexuality, Politics and Pentecostal Nationalism in Zambia’ (2014) *Studies in World Christianity* 20(3) 259.

³³ Grossman G., *Renewalist Christianity, Political Competition and the Political Saliency of LGBTs in Sub-Saharan Africa* (Pennsylvania Press 2013).

³⁴ Kaoma K., ‘The Vatican Anti-Gender Theory and Sexual Politics: An African Response’ (2012) *Religion and Gender*, 6(2) 282–92.

national gay rights organizations. Epprecht understands the politicization of homosexuality as a backlash against the increased visibility of LGBT persons especially following the HIV/AIDS pandemic, and considers the AIDS crisis the catalyst of the gay movement globally.³⁵

Within the discourses of nationalism, modernity and 'cultural authenticity', gay rights (and universal human rights) are frequently described as a 'dangerous western import' that must be fought against.³⁶ Sadgrove et al., in analysing the homosexuality debate in Uganda, found that a key characteristic of the discourse was the portrayal of the west as decadent and depraved, in contrast to the Ugandan morally pure national self.³⁷ Resisting donor pressure to drop the Bill was framed as taking a stance in favour of 'traditional' Ugandan values and against the threat that homosexuality poses to the family as the fundamental societal unit. As a result, there is debate about whether international LGBT rights organizations' well-intentioned work to mobilize local LGBT activism, including through support for litigation, has been counterproductive. Middle East specialist Joseph Massad argues that an international network of mostly western organizations seeks to introduce a western conception of sexuality, and the homo/hetero dyad, in places where this has not been part of the discourse. This has politicized the issue, in some cases leading to 'crackdowns' on and 'persecution' of 'the poor and non-urban men who practice same-sex contact and who do not identify as homosexual or gay'.³⁸ Using a similar logic, Hoad warns that creating homosexuals in places where these terms have not been articulated can promote the idea of a western imperial project.³⁹ Epprecht points to several African LGBT activists urging the west not to provoke further backlash by, for instance, leveraging donor aid.⁴⁰ Overt pressure from western actors might provide anti-LGBT movements with ammunition for arguments of cultural imperialism.

Despite the pitfalls as the west seeks to improve the situation for the LGBT population, Epprecht argues that passivity is not an option given the dire health issues in the LGBT population.⁴¹ He advocates indirect support for LGBT rights through a focus on health rights and nondiscrimination, underscoring the importance of the homosexual movements in Southern Africa in the 1990s both in the democratic struggles and in the fight against HIV/AIDS. Kojoué, exploring links between the LGBT rights movement and the fight against HIV/AIDS in Cameroon, argues that the state's recognition of the LGBT population within the HIV/AIDS framework constitutes a 'therapeutic citizenship', despite the existence of sodomy laws.⁴² This represents an opportunity for the LGBT movement to further its cause. Others have expressed

³⁵ Epprecht M., 'Sexual Minorities, Human Rights and Public Health Future of Homosexuality Legislation in Africa' (2012) *NW UJ Int'l Hum. Rts.* 11.

³⁶ Hoad N., *African Intimacies: Race, Homosexuality, and Globalization* (University of Minnesota Press, 2007) 69.

³⁷ Sadgrove J., 'Morality Plays and Money Matters: Politics of Homosexuality in Uganda' (2012) *Journal of Modern African Studies* 50(1) 103.

³⁸ Massad J., 'Re-Orienting Desire: The Gay International and the Arab World' (2002) *Public Culture* 14(2) 361.

³⁹ Hoad N., *African Intimacies: Race, Homosexuality, and Globalization* (University of Minnesota Press, 2007).

⁴⁰ Epprecht M., 'Sexual Minorities, Human Rights and Public Health Future of Homosexuality Legislation in Africa' (2012) *NW UJ Int'l Hum. Rts.* 11.

⁴¹ Epprecht M., 'Sexual Minorities, Human Rights and Public Health Future of Homosexuality Legislation in Africa' (2012) *NW UJ Int'l Hum. Rts.* 11.

⁴² Kojoué L., 'LGBT Rights in a Republic of Therapy. HIV/AIDS Policies and the Redefinition of Citizenship in Cameroon' (2017) *Critical African Studies* 9(1) 91.

doubt about the ‘health route’. First, the focus placed in HIV/AIDS policies on men who have sex with men, while providing resources for LGBT movement building and visibility, has privileged gay men and invisibilized others. It has also meant that focus has been on the sexual aspect, which in itself has fuelled politicization in contexts where public discussion of any form of extramarital sex runs counter to public morality.

The emerging scholarly literature on the politicization of LGBT rights in Africa shows that politicization is driven and shaped by complex combinations of external and internal factors and actors. It is often driven by political actors’ aim to divert attention from a looming economic or governance crisis, but also rests on very strong antigay social and religious norms. Politicization, while hurting and exposing gays, lesbians and trans people to violence and ostracism, simultaneously gives strength to the LGBT movements. Linked to this, a new strand of literature on the politicization of homosexuality has emerged that focuses on the proactive use of legal strategies by the LGBT groups. Below, we illustrate the politicization of LGBT rights in Africa, and the response mechanisms by LGBT groups through specific country trajectories.

4. TRAJECTORIES OF POLITICIZATION

4.1 Zimbabwe

Zimbabwe’s President Robert Mugabe was the first African leader to use homophobia as a central political tool. His attack on GALZ in his speech at the opening of the 1995 Zimbabwe International Book Fair (themed ‘Human Rights and Freedom of Expression’) became the start of international attention to politicized homophobia in Africa, much due to the mobilization of GALZ and their international partners.⁴³ Shortly after, Mugabe delivered his infamous Hero’s Day speech: ‘Homosexuality degrades human dignity. It’s unnatural and there is no question of allowing these people to behave worse than dogs and pigs . . . if you see people parading themselves as lesbians and gays arrest them and hand them over to the police.’⁴⁴ Hereafter, the political focus on homosexuality further intensified with the high-profile arrest of Zimbabwe’s former President Canaan Banana on sodomy charges the following year, and later his trial and conviction in 1999.⁴⁵ Mandipa shows how both the legal environment, the political environment, the media and the social environment have increasingly turned against the LGBT community.⁴⁶ The opposition, which previously expressed support for LGBT concerns, has grown hostile, and the 2013 Constitution was a setback, with explicit prohibition of same sex marriage and dismissal of sexual orientation as a prohibited ground of discrimination.

⁴³ For excerpts of the speech see: www.qrd.org/QRD/world/africa/zimbabwe/excerpt.of.mugabe.speech-08.03.95. On the GALZ response see <https://galz.org/book-fair-saga/>.

⁴⁴ Maseko S., ‘Sex on Trial: The Moralisation and Criminalisation of Sexuality in Zimbabwe’ (2012) *Buwa Sex and Health* <http://catalogue.safaidis.net/sites/default/files/publications/Moralisation%20and%20Criminalisation%20of%20Sexuality.pdf>.

⁴⁵ www.theguardian.com/world/2002/jan/23/zimbabwe.features.

⁴⁶ Nyarango, Ivy, Osogo Ambani, John, Muchuma Wekesa, Seth, Scheepers, Ella, Lakhani, Ishtar, Deyi, Busisiwe, Mandipa, Esau et al, *Protecting the Human Rights of Sexual Minorities in Contemporary Africa* (PULP, 2017).

The trajectory of politicization of homosexuality in Zimbabwe illustrates some important patterns that we also see in many other countries in the region. First, it shows how antigay sentiments are interwoven with the politics of democratic backsliding.⁴⁷ Antigay sentiments are typically mobilized to divert attention from a looming economic or governance crisis (which Zimbabwe experienced in the late 1990s) or to secure support in elections. Allegations and formal charges of homosexuality are also used against political opponents (or allies who have fallen out of favour). The second typical pattern illustrated by the Zimbabwe trajectory is that politicization, while hurting and exposing gays, lesbians and trans people to violence and ostracism, simultaneously gives strength to LGBT movements. For GALZ the attention brought by Mugabe's attacks – in a situation where they were banned from advertising – boosted both their domestic membership as well as their international financial and political support.⁴⁸ Third, the Zimbabwe case illustrates the dual face of the courts. In convicting Canaan Banana for sodomy, the court arguably lent itself to political use, without necessarily being biased: while the charges and evidence in the case were credible, and the conviction in this sense valid, the prosecution is widely believed to have been politically motivated and strategically used to get rid of potential competition. At the same time, GALZ secured important court victories. When the government tried to ban it from the 1996 Book Fair, GALZ brought the Ministry of Home Affairs to court and won the right to participate that year and at all future events.⁴⁹

4.2 Malawi

Malawi's sodomy legislation is typical of former British colonies, criminalizing 'carnal knowledge against the order of nature', which in practice means sexual conduct between consenting adults of the same sex. The Penal Code prohibits 'unnatural practices' as well as 'public indecency' and the maximum sentence is 14 years' imprisonment for men who have sex with men (MSM) and five years' imprisonment for women engaging in lesbian intimacy. However, Section 20 of the Malawian Constitution demands 'equal and effective protection against discrimination on grounds of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth or other status', and international treaty obligations commit the country to secure protection against discrimination of every person regardless of any status.⁵⁰ Such legal tensions are typical for African (and other) countries that criminalize same sex relations, and courts in the region, most notably in Uganda and Kenya, have relied on these tensions in progressive judgments.

Politicization of homosexuality is also notable in Malawi. The most contentious episode was sparked in late 2009 by the publication in *The Nation* of a photo from a 'gay engagement party'. This public display of what was seen as homosexual affection (although one person had long been living as a trans woman) led to public outcry. The couple were prosecuted, con-

⁴⁷ Bermeo N., 'On Democratic Backsliding' (2016) *Journal of Democracy* 27(1) 5; Keck T., 'Beyond Backlash: Assessing the Impact of Judicial Decisions on LGBT Rights' (2009) *Law and Society Review* 43(1) 151.

⁴⁸ <https://galz.org/book-fair-saga/>.

⁴⁹ <https://galz.org/book-fair-saga/>.

⁵⁰ This includes the United Nations Universal Declaration on Human Rights (UNDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples' Rights (ACHPR).

victed and sentenced to 14 years in jail (and denied bail ‘for their own protection’). This triggered intense international diplomatic engagement, including a visit by UN Secretary General Ban Ki-moon, during which Malawi’s President Bingu Wa Mutharika, who had previously expressed support for the court judgment, then decided to pardon the couple.⁵¹ This trajectory is illustrative of what we see in other countries in the region. As in Uganda, Senegal, Kenya and Tanzania, the publication of pictures displaying gay affection, and particularly alleged ‘engagement’ or ‘wedding’ photos, triggered the first major waves of politicized homophobia. Across the region, such pictures have triggered major crackdowns, sparking debates on transgression of ‘public morality’ and calls for harsher legal measures. The counterresponse from the international media and civil society was particularly effective in Malawi, which is heavily donor-dependent, but is also seen elsewhere, and in particular in Uganda, where the protracted debates on the Anti-Homosexuality Bill kept the attention of the international community for years. It should also be kept in mind that despite the Malawi government’s yielding to international pressure in a high-profile case, the laws criminalizing homosexuality remain in place, with dire consequences for LGBT Malawians.

4.3 Uganda

The trajectory of the politicization of homosexuality in Uganda is comparatively well known. The ‘Kill the Gays Bill’ saga received enormous international attention, from David Bahati’s tabling of the Anti-Homosexuality Act in Parliament in 2009 as a private member’s bill, through its repeated resurfacing on the parliamentary agenda and adoption in December 2013 and its signing into law by President Museveni in February 2014, to its nullification by the Constitutional Court on 1 August the same year.⁵² Similar to the Zimbabwean case, Uganda’s ruling party has put antigay sentiment to political use – both for populist ‘scapegoat’ mobilization, and against political opponents. The Uganda case also parallels – and far supersedes – the Zimbabwean case in the way in which the LGBT movement has drawn strength from the politicization, both in terms of international support and domestic position. Despite harsh rhetoric and harassment, the LGBT movement has been able to engage with the government under the radar.

Uganda shares with Malawi (and Zimbabwe) a heritage of colonial law with regard to the criminalization of sodomy. The intense reaction that the government’s antigay actions provoked among international donors is also similar, although the reaction to the pressure differs. Rather than giving in, Uganda’s president Museveni made antidonor rhetoric part of the antigay agenda. At the same time, he arguably backed down ‘by proxy’, by having the Constitutional Court strike down the Anti-Homosexuality Act, enabling him to effectively play a dual audience: the domestic by signing the Act, and the international through the court’s order. Such two-level games are typical of the politicization of homosexuality in the region.

As in Malawi, exposure of homosexual transgression of public morality sparked public outrage in Uganda. However, the Ugandan media – and particularly the infamous *Rolling Stone* newspaper – was much more of an active participant and driver of the process, with its

⁵¹ www.theguardian.com/world/2010/may/14/malawi-homosexual-couple-face-prison; www.nytimes.com/2010/02/14/world/africa/14malawi.html?pagewanted=1; www.nytimes.com/2010/05/30/world/africa/30malawi.html.

⁵² Oloka-Onyango J., *When Courts Do Politics* (Cambridge Scholars Publishing 2017).

sensationalist publication of the names of prominent alleged homosexuals under the caption ‘Hang them!’⁵³ The Evangelical churches’ role in the polarization of homosexuality is particularly pronounced in Uganda, but fervently antigay Evangelicals are on the rise across the region, and are more directly involved in electoral politics than the traditional churches. There is also evidence that the American Christian right has expanded its efforts to combat homosexuality to the African continent,⁵⁴ and Pastor Scott Lively is considered to have played a key role in drafting Uganda’s ‘Anti-Homosexuality Bill’.⁵⁵

Another aspect of the politicization of homosexuality in Uganda is the proactive use of legal strategies by the LGBT groups. As in Zimbabwe, the Ugandan judiciary has played a dual role, both protecting LGBT individuals and activists and lending itself to political use by the government. But the Ugandan LGBT activists have been more ambitious in their use of the courts, including challenging antigay legislation for being unconstitutional, sometimes with success.⁵⁶

They have also used international legal venues: in 2012 Sexual Minorities Uganda (SMUG) brought a lawsuit against Scott Lively for crimes against humanity to the District Court in Massachusetts,⁵⁷ and the Human Rights Awareness and Promotion Forum (HRAPF) brought the 2014 Anti-Homosexuality Act before the East African Court of Justice. While both cases were dismissed on technical grounds, they brought attention and credibility to the struggle.⁵⁸

4.4 Kenya

As elsewhere on the continent, in Kenya the criminalization and politicization of homosexuality create multiple problems – including in terms of HIV policies, and in particular for MSM. Kenyan law penalizes sex between men with a maximum of 14 years’ imprisonment, and contains clauses penalizing transmission of HIV with up to seven years’ imprisonment (in Uganda, a similar provision has a maximum sentence of life imprisonment). This has adverse impacts on access to health care information and services. Homoprejudice of caregivers is fuelled by the churches and fear of social exposure, and the threat of being reported to law

⁵³ Englander D., ‘Protecting the Human Rights of LGBT People in Uganda in the Wake of Uganda’s Anti-Homosexuality Bill 2009’ (2011) *Emory International Law Review* 25(3) 1263; DeJong C. and Long E., ‘The Death Penalty as Genocide: The Persecution of “Homosexuals” in Uganda’ in Peterson D. and Panfil V. (eds) *Handbook of LGBT Communities, Crime, and Justice* (Springer 2014); Oloka-Onyango J., *When Courts Do Politics* (Cambridge Scholars Publishing 2017).

⁵⁴ Kaoma, Kapya. ‘The US Christian Right and the attack on gays in Africa. *Public Eye* (2009). www.publiceye.org/magazine/v24n4/us-christian-right-attack-on-gays-in-africa.html.

⁵⁵ Oloka-Onyango J., *When Courts Do Politics* (Cambridge Scholars Publishing 2017).

⁵⁶ Jjuuko A., ‘The Incremental Approach: Uganda’s Struggle for the Decriminalisation of Homosexuality’. In Lennox C. et al (eds) *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change* (Human Rights Consortium, Institute of Commonwealth Studies 2013), Namwase S., ‘Culture versus Homosexuality: Can a Right “from” Culture Be Claimed in Ugandan Courts?’ in Namwase S. and Jjuuko A., *Protecting the Human Rights of Sexual Minorities in Contemporary Africa* (Pretoria University Press 2017); Oloka-Onyango J., *When Courts Do Politics* (Cambridge Scholars Publishing 2017).

⁵⁷ The case was dismissed on jurisdictional grounds in June 2017, but the ruling denounced the Lively’s campaign as ‘crackpot bigotry’.

⁵⁸ Jjuuko A. and Gloppen S., ‘Taking Uganda’s LGBT Equality Struggle to the Regional Level: The Anti-Homosexuality Act Case at the East African Court of Justice’ in Gloppen S. and Langford M. (eds) *International Sexual and Reproductive Rights Lawfare* (Cambridge University Press, forthcoming).

enforcement creates obstacles for LGBT advocacy and constitutes acute health risks for sexual minority groups.

Perhaps more than anywhere else on the continent, the Kenyan courts play a dual role. LGBT persons are routinely harassed by the police and presented in court on trumped-up charges.⁵⁹ At the same time, litigation has proven an important tool in the struggle for legal recognition and equal treatment for sexual minorities. In the case of Kenya, litigation has had a positive impact in terms of gaining access to health services for some sexual minorities, in particular trans persons. The criminalization of HIV transmission was ruled unconstitutional in 2015.⁶⁰ At the time of writing, litigation to decriminalize homosexuality is in process in Kenya. The Nairobi High Court upheld the law in its ruling of May 2019, but the decision has been appealed.⁶¹ A few weeks after the setback in Kenya, on 11 June 2019, the High Court in Botswana unanimously voted to declare unconstitutional section 164 of Botswana's Penal Code, thus decriminalizing homosexuality. The State has appealed the decision.⁶² On 23 January 2019, Angola's parliament decriminalized homosexuality, removing the crime of 'vices against nature' from the penal code. It also banned discrimination on the basis of sexual orientation.⁶³ The decriminalization of homosexuality in India in September 2018 has provided encouragement to the litigants, as the country had the same colonial-era clause, and the Kenyan court has accepted the Indian ruling as a document in the case. Still, a number of court rulings show the risks of litigation in strongly homophobic societies, as rulings may spark societal backlash.⁶⁴

4.5 Zambia

A former British colony, Zambia prohibits 'carnal knowledge of any person against the order of nature' (amended to also cover lesbians in 2005). As in Uganda, the mobilization against homosexuality has been shaped by the concept of Christianity as national identity,⁶⁵ but in contrast to Uganda, there is little evidence of direct American Evangelical influence in recent debates. The Zambian case well illustrates how LGBT issues and antihomosexuality are politicized as part of electoral politics. In the 2011 electoral campaigns, the incumbent Movement

⁵⁹ Kenya National Commission on Human Rights, 'Realising Sexual and Reproductive Health Rights in Kenya: A Myth or a Reality' (2012) www.knchr.org/Portals/0/Reports/Reproductive_health_report.pdf?ver=2013-02-12-102421-300; Carrol A., Ramón Mendos L., *ILGA State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalization, Protection and Recognition* (12th Edition 2017). ILG. www.ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobi.pdf.

⁶⁰ <http://ohrh.law.ox.ac.uk/kenyan-high-court-declares-law-criminalizing-hiv-transmission-unconstitutional/>.

⁶¹ Human Rights Watch, 'Kenya: Court Upholds Archaic Anti-Homosexuality Laws: Activists Plan to Appeal'. HRW 24 May 2019. www.hrw.org/news/2019/05/24/kenya-court-upholds-archaic-anti-homosexuality-laws-0.

⁶² Yuhas, Alan, 'A Win for Gay Rights in Botswana Is a "Step Against the Current" in Africa', *The Guardian* 11 June 2019. www.theguardian.com/world/2019/jun/11/botswana-high-court-decriminalises-gay-sex.

⁶³ Reid, Graeme, 'Angola Decriminalizes Same-Sex Conduct', *Human Rights Watch Dispatches* 23 January 2019. www.hrw.org/news/2019/01/23/angola-decriminalizes-same-sex-conduct.

⁶⁴ Oloka-Onyango J., *When Courts Do Politics* (Cambridge Scholars Publishing 2017).

⁶⁵ Van Klinken A., 'Homosexuality, Politics and Pentecostal Nationalism in Zambia' (2014) *Studies in World Christianity* 20(3) 259.

for Multiparty Democracy employed the issue for political mobilization, actively painting the main opposition party, the Patriotic Front (PF), as progay and claiming that their presidential candidate, Michael Sata, would legalize homosexuality. Legal prosecution against the LGBT community increased markedly after the 2011 elections, as the new PF government sought to distance itself from the progay label. The issue resurfaced before the 2016 elections, in debates over a referendum on the proposed Bill of Rights. At each critical electoral juncture, religious and cultural reasons were used to justify the continued criminalization and imprisonment of those found guilty of homosexuality or advocating for LGBT rights. That there have been no attempts to register LGBT rights organizations in Zambia since the late 1990s is an indication of the increasingly hostile climate.

4.6 Senegal

Unlike in most French excolonies, the Senegalese Penal Code of 1966 criminalizes all acts against the order of nature between people of the same sex with a penalty of up to five years in prison. The origins of the law remain unclear, but a law put in place by the French in 1945 criminalized sexual relations between people of the same sex under 21 years old, and this was amended in 1966 to criminalize homosexual relations also among consenting adults.⁶⁶ However, until the mid-1990s homosexuality was largely absent in public debate. After Dakar hosted the International Conference on AIDS and Sexually Transmitted Diseases (ICASA) in 2008, politicization increased,⁶⁷ and the issue has repeatedly recurred in the political arena, often linked to elections. During the hotly contested 2012 election campaign, imams and politicians close to the regime alleged that M23 (a civil society organization, led by Macky Sall and mobilizing against President Wade) was backed by gay lobbies.⁶⁸ Sall was elected, but allegations of his perceived gayfriendliness did not disappear.⁶⁹

An interesting feature of the politicization of homosexuality in Senegal is that it has been driven from the political opposition and the fringes of the religious spectrum, rather than the government and the central political elite. The Senegalese case also shows how LGBT movement originated and grew in the context of HIV/AIDS and a concern for health services for the MSM population, but also the dangers of the ‘health framing’ linking LGBT issues to the fight against HIV/AIDS and foregrounding the sexual aspects.⁷⁰

⁶⁶ Vibe, Vegard, ‘Senegal: Mobilizing for Gay Rights in the Shadow of HIV/AIDS’ in Gloppen S., Jjuuko A., Msosa A. and Viljoen F. (eds) *Queer Lawfare in Africa* (forthcoming PULP 2020).

⁶⁷ Rosário, Carmeliza and Gianella, Camila, “‘Xhi esse mundo djon, ja n está prestar’ – Progressive Legislation in the Context of Generalized Conservative Public Opinion: The Case of LGBT Rights in Mozambique’ in Gloppen S., Jjuuko A., Msosa A. and Viljoen F. (eds) *Queer Lawfare in Africa* (forthcoming PULP 2020).

⁶⁸ Resnick D., ‘Continuity and Change in Senegalese Party Politics’ (2013) *African Affairs* 112, 449.

⁶⁹ On his 2013 visit to Senegal, President Obama criticized the sodomy clause, leading to massive media coverage. Macky Sall responded that homosexuality would never be decriminalized under his presidency.

⁷⁰ Vibe V., ‘Politicising Homosexuality in Senegal’ (2017) African Studies Association Annual Meeting in Chicago on 16–18 November 2017.

5. TRAJECTORIES OF LIBERALIZATION

5.1 Mozambique

In the same period, other countries have moved in the opposite direction. The South African case is well known (and discussed above); developments in Mozambique are less so. As Lopes explains,⁷¹ the legal status of LGBT persons in Mozambique has been ambiguous. The constitution emphasizes equal protections of rights, with article 36 underscoring the principle of nondiscrimination – ‘men and women shall be equal before the law in all spheres of political, economic, social and cultural life’ – as do numerous international treaty obligations. In contrast, the Penal Code (dating from Portuguese colonial times) was understood to criminalize homosexual acts, although in vague terms, prohibiting ‘unnatural vices’ and ordering ‘security measures’ against those who regularly practice such ‘vices against nature’. These articles, while not enforced, were seen to have a chilling effect, and were removed from the new Penal Code which entered into force in 2015. But legal barriers remain, including rights of organization and marriage. And while social attitudes are less homophobic than in most African countries, the majority express hostility towards LGBT people⁷² (Rosario and Gianella, forthcoming).

5.2 Botswana

In Botswana the picture is also mixed. The Penal Code criminalizes same sex intimacy, and when the constitutionality of that clause was challenged after it had been enforced in the *Kanane* case, the Court of Appeal in 2003 upheld the criminalization.⁷³ On the positive side, the clause is not enforced, and some legislative provisions are progressive – most notably the Employment Act, which prohibits employers from terminating a contract on the basis of an employee’s sexual orientation. The National Strategic Framework for HIV & AIDS 2010–2016 also underscores that the national response will ensure ‘equal access to health and social support services regardless of race, creed, religious or political affiliation, sexual orientation or socioeconomic rights’. And in 2014, in the *LEGANTO* case, the court granted the main LGBT organization the right to be registered. While there are advances in the legal field, this does not protect LGBT individuals from discrimination. The sodomy law, although not enforced, ‘create[s] a condition of social anxiety and disadvantages gay and lesbian communities . . . their sexual orientation with criminality has ripple effects that result in homophobic discrimination and violence that the perpetrators feel justified in doing, social exclusion and heavily impacts on [their] socio-economic existence’.⁷⁴

⁷¹ Lopes E., ‘The Legal Status of Sexual Minorities in Mozambique’ in Namwase S. and Jjuuko A., *Protecting the Human Rights of Sexual Minorities in Contemporary Africa* (Pretoria University Press 2017).

⁷² Ibid.

⁷³ Olebile, L., ‘The Status of LGBTI Rights in Botswana and Its Implications for Social Justice’ in Namwase S. and Jjuuko A., *Protecting the Human Rights of Sexual Minorities in Contemporary Africa* (Pretoria University Press 2017).

⁷⁴ Ibid.

6. CONCLUDING REMARKS

The discussion above on the causes and effects of politicization of homosexuality in Africa has highlighted that both the status of LGBT rights and the phenomenon of ‘African homophobia’, or politicization of homosexuality, varies in time and space and reflects a complex combination of external and internal factors depending on the sociopolitical context. The discussion has highlighted similarities and differences in the trajectories of politicization of homosexuality witnessed across the continent. Developments in Senegal, Uganda, Zimbabwe and Zambia illustrate how politicization and criminalization are used instrumentally against opponents and to secure support in competitive elections. The discussion above has further underlined that politicization may strengthen LGBT communities and their capacity to mobilize. The trajectories illustrated by the country cases indicate that politicization is driven and shaped by complex combinations of external and internal factors. Across the continent, political actors and clergy (national and international) are central actors. In Uganda, the government has been central in the worsening of conditions for the LGBT population, while the Senegalese government has at times both played the role of negotiator and intervened *against* homophobic violence. Litigation may enhance the protection and rights of LGBT people, but may also instigate societal and political backlash. Following pressure from international aid donors, Malawi has begun to liberalize its anti-LGBT laws, while in the cases of Zimbabwe and Uganda pressure from international donors and mobilization by the LGBT community was used instrumentally by the governments in their rhetoric, fuelling politicization and criminalization. As the case trajectories illustrate, both drivers and effects need to be contextualized.

The chapter has illustrated the varied trajectories of the politicization of homosexuality, as well as some main explanations. The politicization literature has mostly focused on Anglophone countries, concentrating on the consequences of colonial law that criminalized homosexuality across British excolonies. But similar patterns of politicization also occur in Senegal and other West African countries, for different reasons. In addition to country case studies tracking the strategies of LGBT organizations and their relationship with political actors, future research should include crossnational analyses analysing attitudinal shifts. Experimental surveys and field experiments may enhance our understanding of how different information frames can shift elite and population level attitudes. More work is also needed to understand the effects and impacts of litigation. Experiences from Uganda, Kenya and Zimbabwe suggest that litigation has provided LGBT populations with national and international visibility. The South African case (for which we have comparatively robust public opinion data over time) is interesting, showing a liberalizing trend over time, and particularly after the legal changes from 1994 onwards. This may indicate that also in the African context, liberalization of the law may significantly affect attitudes. However, there are also examples of political backlash, and judicial gains may provoke political reactions in contexts of homophobia. Lessons from sexual and reproductive rights litigation in Latin America and Eastern Europe remind us that litigation could also be used by political forces aiming for more discriminatory policies.