

“Shamba”: Understanding and responding to the drivers and dynamics of same-sex sexual activity, sexual violence, and HIV risk in the Malawi prison system

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Malawi is classified as a least developed country (Organisation for Economic Co-operation and Development, 2022). Prisons in the country are operating over 200% capacity across the system of 30 facilities. There is continual concern around threat to health and life of people living in these prisons due to scarce resources, severe overcrowding, inadequate environmental health conditions, weak infrastructure, disease outbreaks and food poverty. Airborne, environmental and sexual transmission of disease in these prisons create substantial public health challenges.

There has been slow progress in addressing legislative barriers and policy gaps experienced by key populations at risk of HIV/AIDS in the Malawi justice pathway, which include sex workers, gay men and other men who have sex with men (MSM), transgender people and people who use drugs. Same-sex sexual activity and sexual violence remains taboo, and consensual same-sex relations and transgender expression are both prohibited and punishable by a custodial sentence of between 8 and 14 years. Despite this, there is anecdotal evidence of same-sex sexual activities occurring in prisons, including those that are consensual, transactional and non-consensual.

Harsh living conditions in Malawian prisons and continual food insecurity exacerbate the vulnerability of young prisoners, people with disability and MSM. They are at greater risk of exposure to exploitation and violence (including coerced sexual activity and rape perpetrated by both fellow prisoners and prison officials) in exchange for basic needs including protection, food, soap and sleeping space. Male victims of sexual violence face further adversity by the enormous legal and practical complications of the Malawi Penal Code and Prison Act in which any disclosure of rape, and claims that infer sodomy, result in the arrest and prosecution of the victim (Van Hout et al., 2022).

There is, therefore, an urgent need to document, understand and help mitigate the prison system and environmental factors that create the conditions which fuel poverty driven transactional sexual activity and all forms of sexual violence. In order to address this, we conducted a qualitative multi-stakeholder study which aimed to garner unique Malawian insights into the dynamics and complexities of prison conditions, HIV risk and transmission, same-sex sexual orientation, and sexual activity/violence in prisons.

Method

Our qualitative study was conducted by a transnational team of experts in the field of human rights advocacy and strategic litigation, HIV/AIDS, prison health, forensic psychology and qualitative research methods. A phenomenological methodology guided our research design and ethical approval was granted by the University Research and Ethics Committee at Liverpool John Moore's University and the University of Malawi Research Ethics Committee.

Our sample consisted of two groups:

Group One: Professionals working in detention spaces (n = 5 male; n = 3 female), including 1 judicial professional (female), 3 penal professionals (1 prison warder, 2 senior

prison officials, all male), 1 prison health professional (female), 2 representatives from NGOs (1 male, 1 female) and 1 United Nations agency representative (male).

Group Two: included 30 former prisoners (n = 27 males; n = 3 females). Ages ranged between 22 and 52 with an average age of 34 years, a sentence range of 8 months to 7 years and an average time of release of 4 months.

Interview guides consisting of 20 questions were designed to facilitate a semi-structured one-to-one interview. Most interviews lasted between 45 and 60 mins and were undertaken using the local language, but some professional stakeholders (NGO and UN representative) were undertaken in English. The interview guide for former prisoners included questions that explored their

prison conditions. However, these conditions result in opportunities for repeated sexual exploitation. Severely congested cell spaces act as a fertile environment for sexual activity and violence. Participants described sleeping in unsafe positions including “shamba...where they are packed so close to each other without space for stretching their legs or turning throughout the night”. When younger prisoners arrive to prison, they are easily exploited after sleeping sitting up “throughout the night with their knees to their chest”; longer term prisoners offer more comfortable sleeping spaces in exchange for sex. The dynamic of power and control within prison means younger or more vulnerable prisoners are readily exploited by older, stronger prisoners serving lengthy sentences.

Photograph: by Luca Sola published in Guardian



experiences of detention, prison conditions, awareness of occurrence of same-sex sexual activities between fellow prisoners, and related health consequences while incarcerated. Interviews with professional stakeholders explored perspectives with regard to prison system awareness of sexual activity between prisoners, and operational level responses in terms of surveillance, control, HIV/AIDS awareness-raising and healthcare within the Malawi prison system.

Results

Reflexive thematic analysis yielded 6 themes: Covert same-sex sexual activity behind the walls of the Malawi Prison System; Survival-based sexual transactions; Consensual and forced same-sex sexual activity; Sexual urges and crossing the homosexual Rubicon; Health consequences; and, Inadequate and insufficient vocational development and rehabilitation.

Our research found most prisoners who engage in same-sex sexual activity do so in an attempt to navigate harsh

[article accessed here](https://www.theguardian.com/global-development-professionals-network/gallery/2016/jul/29/malawis-harshes-prisons-humanitarian-msf)

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The impact of coercion and sexual abuse results in both psychological trauma and the transmission of acute and chronic illness. We observed the direct consequences of engagement in consensual and non-consensual sexual activity, including rape. Many of our participants illustrated visible signs and symptoms of sexual and physical ill health, including HIV/AIDS. One reported how prisoners’ “bodies react...their stomachs swell due to infections” another noted how they develop “some ugly rash. Or you can even find a person vomiting blood only”. They observed the death of fellow prisoners “it is very risky, and some people die”. Participants spoke of the stigma and stain on people who engage in same-sex sexual activity with one prison health professional noting that the “prison doesn’t want to look like they are encouraging homosexuality” by distributing condoms. Thus, prisoners who consent to same-sex sexual activity or are sexually assaulted within

prison, fear retribution and prosecution and so do not seek medical care following sexual assault.

Conclusion

The inability of Malawian prison governance to adequately address sexual violence is deeply rooted in the poor prison conditions and failure of the justice system to respond to sexual violence and discrimination against boys and men, but also women and sexual minority persons in Malawian society. Regrettably, this group remain hidden from societal and health discourses despite being significantly vulnerable to high risk sexual activity, HIV, and exposure to sexual violence. Onward transmission of HIV in the community is a real and yet ignored public health threat. Indeed, regardless of robust international, regional and local laws to support the protection of people from sexual violence and exploitation in prison, same-sex sexual activity and sexual violence is part of daily life in the prison. Thus, we urge the Malawian government to take action to reduce harms associated with all forms of same-sex relations between prisoners and prevent sexual violence in prisons by decriminalising consensual same-sex conduct; and for Parliament to repeal all anti-homosexuality provisions in the Penal Code. This, in addition to improving basic standards of detention and access to health care and support to prisoners, will reduce survival poverty-driven transactional sex, uphold the humane treatment of prisoners and protect Malawian prisoners from the harms of sex that is coerced, transactional and abusive.

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Van Hout, M. C., Kaima, R., Mhango, V., & Mariniello, T. (2022). Moving beyond the politicization of same-sexuality and leveraging right to health to counter interpersonal sexual violence in Malawi's prisons. *Forensic Science International Mind and Law*, 3. <https://doi.org/10.1016/j.fsimpl.2022.100103>