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# **Sexual Orientation, (Anti-)Discrimination and Human Rights in a “Christian Nation”: The Politicisation of Homosexuality in Zambia<sup>i</sup>**

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## Abstract

Zambia has recently witnessed heated public and political debates over issues of homosexuality and gay or LGBTI (lesbian, gay, bisexual, transgender and intersex) rights. This article explores these debates with particular reference to the new draft constitution and the role of the Human Rights Commission (HRC). Homosexuality and LGBTI rights became heavily politicised during the constitutional review process. Discussions emerged not only about the penal code that prohibits same-sex practices, but also about the anti-discrimination clause in the constitution. The HRC explicitly warned against an inclusive formulation of this clause to prevent it from being applied to sexual orientation. Offering a critical historical and religio-political reconstruction of the politicisation of homosexuality in the constitutional review process and examining the ambivalent contribution of the HRC, this article analyses these dynamics in relation to the political imagination of Zambia as a Christian nation. It argues that the ambivalent contribution of the HRC must be understood as a complex negotiation of the moral and religious sensibilities in society, and of popular political and religious rhetoric. However, it also demonstrates how the logic of the Christian nation, and its subsequent moral geography, has begun to be subverted by a marginal yet important counter-narrative.

## Key-words

Homosexuality; Christianity; Pentecostalism; Human Rights Commission; constitution; anti-discrimination

## **Introduction**

The popular Zambian reggae musician and human rights activist, Maiko Zulu<sup>ii</sup>, has reportedly stated that ‘Gayism is a nuisance. I will exercise my right to discriminate gays’ (Tumfweko, 27 February 2012). He made this statement during a live discussion in a programme broadcasted by Muvi TV, a private Zambian television station. This discussion took place on 27 February 2012, in the immediate aftermath of a visit of UN Secretary General Ban Ki-moon to Zambia that had given rise to an enormous public debate on the issues of homosexuality and human rights. I will introduce that debate below, but first I would just like to highlight the irony of a self-declared and internationally recognised human rights activist claiming the right to discriminate against a certain group of people. As this article demonstrates, this is not an individual case and does not just reveal the (mis)understanding of human rights in relation to issues of homosexuality of one Zambian citizen who happens to be a public figure. The right to discriminate is frequently appealed to – not only in Zambia and other African countries, but also for example in the United

States (Koppelman and Wolff 2009) – in order to legitimise discrimination against sexual minorities.<sup>iii</sup> Of particular interest in the Zambian case, however, is that the stance of Zulu is legitimised, not only by prominent political and religious leaders but by the Human Rights Commission itself.

The present study focuses on the Zambian Human Rights Commission, in particular its complex and ambivalent stance towards matters of human rights, sexuality and discrimination as expressed in public debates as well as in the national process of constitutional review. It critically examines how the Commission, previously associated with a more pro-LGBTI rights stance and therefore put under public and political pressure, in its 2012 response to the draft constitution's anti-discrimination clause, officially proposed to explicitly exclude sexual orientation as a possible ground of discrimination that people should be protected against. Thus the Commission created the legal space for views such as that expressed by Maiko Zulu, and for Zulu and other Zambians to act upon such views – that is, a socio-political space in which discrimination against people on the basis of their sexuality is acceptable. At the same time, the Commission stated that LGBTI people are entitled to the human rights protections afforded in the draft constitution.

As a contribution to broader studies on the politicisation of homosexuality in Africa, this article intersects the politics of homosexuality with the politics of human rights. As several studies have demonstrated, various African contexts in recent years have witnessed intense socio-political mobilisations against homosexuality and so-called 'gay rights' or 'LGBTI rights', and at least partly these dynamics are a response to global discourses and politics of human rights in relation to sexual minorities (Boyd 2013; Cheney 2012; Engelke 1999; Hoad 2007; Sadgrove et al. 2012). As Sadgrove et al. (2012, 108) put it:

Moves by the UN on sexual rights, including protecting individuals against discrimination on the grounds of sexual orientation, have been met with strong resistance from certain governments (many of them African) which seek to 'erect protective barriers of cultural and national sovereignty', frequently by appealing to 'traditional values' to evade rights obligations.

African governments' resistance of the global pressure to recognise 'gay rights' is partly informed by a broader criticism of the human rights project. The concern that this project is 'premised on the transformation by Western cultures of non-Western cultures into a Eurocentric prototype' (Mutua 2002, 12) has gained renewed significance in view of the 'sexual other', whose appearance is believed to be a product of modern Western identity politics that are alien to Africa. Even though there is a growing body of scholarship on the politics of homosexuality and human rights in Africa, particularly on Uganda (Bompani and Terreni Brown 2015; Boyd 2013; Cheney 2012; Sadgrove et al. 2012), much more detailed empirical studies of such politics in various countries are needed to provide insight in the context-specific production of homophobia and local mobilisations against homosexuality and gay or LGBTI rights (Awondo, Geschiere and Reid 2012).

As this article demonstrates, in Zambia and wider in Africa, politics of homosexuality and human rights are clearly shaped by religion. Acknowledging the complex, and often problematic, relationship between religion and homosexuality (Hurteau 2013), on the one hand, and religion and human rights (Banchoff and Wuthnow 2011), on the other hand, the article maps the oppositional relationship of religion, in this case Christianity, vis-à-vis both homosexuality and human rights as they relate to LGBTI people, but also highlights a marginal

yet significant counter-narrative that has begun to emerge from within the Zambian context. Hence it shows how the ambivalent contribution of the Zambian HRC must be understood as a complex negotiation of the moral and religious sensibilities in society as reflected in popular political and religious rhetoric. The HRC's contribution further exemplifies the negotiation of international discourses of human rights in a context where Pentecostal Christianity plays a prominent public and political role and is pivotal to nation building. Building on a critical analysis of the debates about homosexuality surrounding the constitutional review process in Zambia, the article discusses critical questions regarding Pentecostalism as a public religion in Zambia (and wider in Africa) in relation to issues of human rights, citizenship and sexual diversity.

The article is based on an analysis of reports in the Zambian media (both print and online), as well as relevant publications, and is further informed by my fieldwork in Zambia in January–March 2012 – when I suddenly found myself in the public debate following Ban Ki-moon's controversial statements – and June–July 2013, when I was able to interview some informants involved in the events and dynamics under discussion. Six formal interviews were conducted – three with human rights activists and three with representatives of the main religious bodies: the Council of Churches in Zambia, the Evangelical Fellowship of Zambia and the Zambia Episcopal Conference. One interviewee was also a member of the Technical Committee on Drafting the Zambian Constitution, while several others had participated in the process of consultation about the draft constitution. Unfortunately, representatives of the Zambian Human Rights Commission were not available for interviews on the subject during my fieldwork period. Because of the sensitivity of the subject, and in order not to break confidentiality, interviewees will be referred to anonymously. On the basis of the various sources, this article offers a critical, historical and religio-political reconstruction of, and commentary on, the politicisation of homosexuality in Zambia, methodologically foregrounding the need to take religion seriously as a factor in African politics in general (Ellis and ter Haar 2007) and in the politics of homosexuality in particular (van Klinken and Chitando, forthcoming).

### **Introductory Notes on Zambia**

Before exploring the recent politics of homosexuality in Zambia, it is helpful to first outline the broader context of Zambia in which these politics have emerged. In a recent review article commemorating the 50th anniversary of Zambia's independence, Harri Englund (2013, 671) highlights the importance of Zambia in the field of African studies because of the country's history of political-economic transformations:

Zambia's capacity to be a trendsetter in policy and politics, even if with detrimental consequences for the welfare of the majority, was affirmed by its particularly vigorous campaign to comply with its structural adjustment programme and its equally notable role in spearheading the transition to multi-partyism in Africa.

In light of this postcolonial history of a general compliance with Western liberal political and economic norms, the question becomes apparent as to why both societal and political actors and bodies in Zambia have recently become so vocal against two key principles of Western liberalism, namely human rights and individual freedom, in relation to issues of homosexuality. A similar question has been asked with regard to Uganda's Anti-Homosexuality Bill, with Jörg Wiegratz (2014) suggesting that there might actually be a link between anti-homosexuality

dynamics and foreign-induced neoliberalisation in Uganda and other African countries: a 'cultural' issue, homosexuality, is being used to express the longer-existing discontent with the West's reform pressure. This dynamic might also be the background of the firm opposition of Zambian politicians and opinion leaders to what they perceive as Western pressure to recognise LGBTI rights (see below). However, there might be another, more indirect, link between neoliberal policies and current anti-homosexual dynamics, which can be identified in the role of religion, particularly Pentecostal Christianity.

Zambia is a predominantly Christian country. According to the 2010 census, 95 per cent of the population is either Catholic or Protestant (2010 Census of Population and Housing 2012). The reliability of this number is difficult to verify, but other sources give a general estimation of 80–90 per cent. Traditionally the main denominations were the Catholic Church and mainline Protestant churches such as the United Church of Zambia. However, since the 1970s, Pentecostal-Charismatic forms of Christianity have become very popular in the country, as in other parts of Africa (Cheyeka 2008; Meyer 2004). Englund (2013, 684) suggests that the growth of Pentecostalism needs to be understood against the background of Zambia's sharp economic decline from the 1970s, as the majority of its adherents are 'impoverished rural and peri-urban populations and struggling middle classes' affected by neoliberal policies. Gordon agrees that Pentecostalism 'gave voice to the frustrations of many Zambians', while at the same time pointing out that Pentecostalism legitimised people's quest for prosperity and 'aimed to create a community defined by successful individuals' (Gordon 2014, 659; 2012, 187).

In addition to its socio-economic significance, Pentecostal Christianity also became a major political factor. Paul Gifford has highlighted the enormous social involvement that Christian churches have traditionally had in Zambia, especially in areas such as schools and clinics, as well as their significant political role, not least in Zambia's change of regime – from first President Kenneth Kaunda's system of one-party democracy to the introduction of multi-party democracy and the 1991 election of Frederick Chiluba as president (Gifford 1998). The public role of Christianity was further elevated when Chiluba, a 'born-again' Christian himself, declared Zambia a Christian nation only a few months after his election. His declaration presented a radical break with the philosophy of Zambian Humanism promoted by his predecessor, Kaunda, and it reflected a typical Pentecostal vocabulary:

On behalf of the people of Zambia, I repent of our wicked ways of idolatry, witchcraft, immorality, injustice and corruption. I pray for the healing, restoration, revival, blessing and prosperity of Zambia. On behalf of the nation, I have now entered a covenant with the living God. ... I submit the Government and the entire nation of Zambia to the Lordship of Jesus Christ. I further declare that Zambia is a Christian nation that will seek to be governed by the righteous principles of the Word of God. Righteousness and justice must prevail in all levels of authority, and then we shall see the righteousness of God exalting Zambia. (quoted in Gifford 1998, 197–198)

Some years later, the declaration was enshrined in a preamble to the 1996 Constitution which since then reads: 'We, the People of Zambia [...] declare the Republic a Christian nation while upholding the right of every person to enjoy that person's freedom of conscience or religion'. Enthusiastically welcomed by Evangelical and Pentecostal churches, organised in the Evangelical Fellowship of Zambia, Chiluba's declaration received a more cautious, if not negative, response from the Catholic Church and the mainline Protestant churches (the latter

organised in the Christian Council of Zambia, now the Council of Churches in Zambia), who emphasised their belief in a plural society (Hinfelaar 2011). The declaration reveals a sense of ‘Pentecostal nationalism’ (Yong 2010, 9) in which the ideology of being born-again is not just applied to individuals but to the nation as a whole (Gordon 2012, 191). This has profound and direct political effects, such as on the politics of homosexuality in the country, as will become clear below (see also van Klinken 2014).

Zambia is not unique in Africa with Pentecostalism presenting itself as a political religion (see, for example, the case of Nigeria; Marshall 2009), and recently profiling itself vis-a-vis issues of homosexuality (cf. Obadare 2015 on Nigeria and Bompani & Terreni Brown 2015 on Uganda). However, Zambia is possibly the most successful example in Africa of how the Pentecostal project of born-again conversion indeed takes shape at a national scale and is constitutionally enshrined, claiming to bring about collective renewal (see Burgess 2015). I do not mean to suggest that Zambia, or Zambian Christianity, is completely Pentecostalist – churches from other denominations remain vital (cf. Cheyeka, Hinfelaar and Udelhoven 2014) –, yet to a considerable extent Pentecostalism has shaped public culture and political debate. Not being uncontested, there have been ongoing debates – especially in the process of constitutional review – about the status and meaning of Zambia being a Christian nation, and whether or not it should be maintained. However, the idea has become popular at a grassroots level, to such an extent that the late President Michael Sata, a Catholic who during the 2011 election campaign was questioned on his support for the declaration, immediately after his election publicly stated that he would govern the country according to the biblical Ten Commandments. Also, in April 2013, the majority of delegates attending a national constitution making convention, where a new draft constitution was discussed, voted in favour of upholding the declaration as part of the preamble (Udoh 2013).

In its relatively short history – in 2014 the country celebrated its 50th independence anniversary – Zambia has gone through various processes of constitutional review. This constitutional history is well-documented (Ndulo and Kent 1996) and can be summarised as follows. The 1964 independence constitution was abrogated in 1973 when the Second Republic came into being, based on a system of one-party democracy with the United National Independence Party (UNIP) of Kenneth Kaunda as the only party allowed to operate in the country. The 1973 Constitution was amended in 1991 in order to re-introduce multi-party democracy in the Third Republic; the following elections, only two months after the enactment of the new constitution, resulted in an overwhelming victory of the Movement for Multi-Party Democracy (MMD) of Frederick Chiluba. Once installed, the MMD government soon initiated a new constitutional review process, not least in order to prevent Kaunda running again for presidency, leading to the current 1996 Constitution.

Since 1996, there have been several attempts towards constitutional review.<sup>iv</sup> The latest one started in 2011 after the first transfer of power under the multi-party dispensation in two decades, bringing an end to MMD rule and leading to the current Patriotic Front (PF) government under Michael Sata (and, following Sata’s death in October 2014, under the new president, Edgar Lungu, who was the PF candidate in the January 2015 presidential by-election). Sata had promised that, when voted into power, he would bring the ongoing constitutional review process to an end by delivering a new constitution within 90 days of taking office. Indeed, on 16 November 2011 he appointed a Technical Committee on Drafting the Zambian Constitution (TCDZC) that, after several deadlines had passed, released a first draft constitution on 30 April 2012 and then initiated a consultative process in which community representatives

and civil society organisations were invited to give their feedback. For a while, the TCDZC website had an announcement that since 31 October 2013 the final draft constitution was ready ‘for immediate release’, but the final draft has never been released to the public. Instead, the government insisted that the draft was sent to the government alone and since then it has been quiet, leading to the concern that Sata and his PF government, for one reason or another, no longer support the need for a new constitution (Carlucci 2014). Clearly, history repeats itself as is clear from this comment on Zambia’s constitution review history:

Zambia has undergone four constitutional reform processes since its independence but has not successfully adopted a constitution that guarantees the more comprehensive tenets of liberal democracy. Recent reform processes have followed a similar path. A Constitutional Review Commission (CRC) created under uncertain legal conditions has produced a draft document whose method of adoption and content is unprotected from executive modification. Incoming administrations have not upheld promises to meaningfully address past errors and structural issues, unwilling to abdicate the inherited executive authority. (Robinson and Seo 2013, 5)

The Zambian case reflects what John and Jean Comaroff (2006, 25) have called ‘an enchanted faith in constitutions’ typical of postcolonial societies that are characterised by an ‘almost salvific belief in their capacity [that is, of constitutions] to conjure up equitable, just, ethically founded, pacific polities’ (ibid, 22). At the same time, the case illustrates the difficulty to bring the process towards such a constitution to a good end. The status of the draft constitution, as such, is not relevant to the discussion in this article. The interest here is in how homosexuality was made a theme in the process towards, and the debates surrounding, a new constitution, focusing on the final stage of the constitutional review process, that is the period from 2011 in which homosexuality became heavily politicised.

As far as the current legal status of homosexuality is concerned, the Zambian Penal Code in Section 155 has the classic ‘unnatural offence’ clause, reading that:

Any person who has carnal knowledge against the order of nature; or [...] permits a male person to have carnal knowledge of him or her against the order of nature commits a felony and liable, upon conviction, to imprisonment for a term not less than fifteen years and may be liable to imprisonment for life.

This law was inherited from the British colonial period but until recently was hardly ever enforced. In the 1970s, President Kaunda and his party, the United National Independence Party, as part of their philosophy of Zambian humanism, launched a campaign restricting ‘immoral and un-Zambian media and behavior’ (Gordon 2012, 165). Interestingly, in his 1975 Watershed Speech Kaunda explicitly referred to the publication of nude pictures in the media as an unacceptable act of moral sabotage; homosexuality was not mentioned in the speech and neither was it in the Zambian Humanist Moral Code that was published by UNIP soon after. Apparently homosexuality was not an issue of public concern at that time.

The rhetoric that Kaunda used to oppose ‘immoral’ behaviours – ‘This is Zambia with its own way of life and not Europe’ (quoted in Gordon 2012, 165) – is very much reminiscent of contemporary discourses in which homosexuality is presented as un-Zambian or un-African, however with one significant difference. Where Kaunda based his argument on Zambian

‘cultural values’ without any substantial reference to religion, in contemporary discourses there is actually a conflation of ‘our Zambian traditions’ with ‘our Christian values’, as will be illustrated below. In other words, the argumentation is still based on a nationalist notion of Zambian identity and African cultural authenticity (cf. Ndjio 2013), but Christianity has now been incorporated into this nativist argument. As a result of the increased politicisation of homosexuality in Africa generally, and in Zambia in particular, in 2005 the Zambian Parliament amended Section 158 of the Penal Code, dealing with ‘any acts of gross indecency’ between male–male or female–female persons, with a sanction of imprisonment for a term of 7–14 years. Yet so far no serious efforts have been made by Parliament to table new anti-homosexual legislation, like in Uganda and Nigeria.

### **The Recent Politicisation of Homosexuality in Zambia**

In 1998, a Zambian student named Francis Yabe Chisambisha publicly came out as gay in an interview in the newspaper *The Post*. Shortly after he established LEGATRA, ‘the first, short-lived gay rights association in Zambia’ that was closed down a year later following an ‘unprecedented homophobic uproar in the press’, with Chisambisha seeking political asylum in South Africa (Epprecht 2006). This was the first time that homosexuality became a major public issue in Zambia and it sparked a ‘mammoth scandal’, with church leaders, NGO officials, students, professors, government ministers and politicians all voicing their horror of homosexuality (Long, Brown and Cooper 2003, 34–46). After an initial silence, President Chiluba contributed to the debate by stating: ‘Homosexuality is the deepest level of depravity. It is unbiblical and abnormal. How do you expect my government to accept something that is abnormal?’ (quoted in Long, Brown and Cooper 2003, 40). Since then, issues of homosexuality and gay rights have frequently been the subject of public and political controversy, especially in recent years. Particularly noteworthy here are the campaign for the 2011 parliamentary and presidential elections, the February 2012 visit of United Nations Secretary General Ban Ki-moon, and the start of what Amnesty International (2014) describes as ‘a string of violent attacks and state prosecutions of people believed to be gay or lesbian in Zambia’ since April 2013. For the purpose of this article, the controversy following Ban Ki-moon’s visit is particularly relevant, because the Human Rights Commission became part of that public debate and also because it illustrates how issues of homosexuality and human rights are part of the global politics that give rise to local anti-mobilisations (Kollman and Waites 2009).

During the 2011 election campaign, the main opposition candidate – PF leader Michael Sata – was associated by his opponents and in the media with a pro-homosexuality stance. According to Sata himself, the then MMD government had initiated ‘a smear campaign’ against him, using the state-owned newspapers *Times of Zambia* and *Zambia Daily Mail*, as well as the Zambia National Broadcasting Corporation (ZNBC), as their ‘propaganda tools’ to insinuate that he would decriminalise homosexuality when voted into power (quoted in UKZambians, 17 March 2011). It is important to note that in this campaign Sata’s alleged lack of support for the Christian nation declaration and his alleged support of LGBTI rights were often conflated, forcing Sata to publicly confirm his stance on both issues by stating that ‘Zambia being a Christian nation homosexuality is unheard of’ (quoted in *Zambian Watchdog*, 4 April 2011). This obviously illustrates how the above-mentioned ideology of Pentecostal nationalism has come to permeate Zambia’s political sphere and directly shapes the politics of homosexuality in the country. The ‘smear campaign’ was not successful and in September 2011 Sata was elected as Zambia’s new president. Apparently he had either successfully convinced the public that he



was against homosexuality, or the electorate had other priorities when casting their vote. However, the debate revived in February 2012, when Sata hosted UN Secretary General Ban Ki-moon during his historic three-day state visit to Zambia.

The first ever state visit of a UN Secretary General did not remain unnoticed among Zambians, because it sparked a heated controversy about Ban's alleged 'mission to promote homosexuality' in the country (HeloZambia 2012) which reportedly left many Zambians with 'a sour taste' (Malakata 2012). As part of his visit, on 24 February, Ban gave an address to the Zambian parliament. In this speech he referred to the days of the struggles against Apartheid in South Africa and colonisation in Zimbabwe, when Zambia offered a home to Southern African liberation movements, and he mentioned that Zambia has a legacy of democracy and freedom in the region and knows how important it is to stand up for human rights and human liberty. Then he referred to the current constitutional review process as an opportunity for Zambia 'to lead once more by enshrining the highest standards of human rights and protections for all people – regardless of race, religion, gender, sexual orientation or disability' (Ban 2012). This statement, briefly but explicitly mentioning sexual orientation as one concern forming part of a broader human rights agenda, is characteristic of the diplomatic way in which Ban addresses issues of homosexuality and LGBTI rights in the international arena.

In his career as Secretary General, Ban has put these issues on the top of his agenda, declaring that the 'struggle for LGBTI rights [is] one of the great, neglected human rights challenges of our time' (Ban 2013). His speech in the Zambian parliament was very diplomatic and strategic indeed, because he related the current human rights struggle of sexual minorities to the historical struggle for liberation in Zambia and wider in Southern Africa. As Hoad (2007, 80) points out, in Southern Africa the human rights tradition is entrenched in the liberation struggle of the region (and Zambia indeed played a key role in this struggle because it provided support to the liberation movements in Zimbabwe and South Africa during the 1970s and 1980s). Referring to that history, Awondo, Geschiere and Reid (2012, 161) ask: 'How, then, can one now possibly defend the notion that alternative sexualities should be expelled from human rights discourse?', and Ban's speech reflects a similar line of reasoning.

The speech did not directly receive attention in the Zambian media, but controversy arose the following day after a private meeting of Ban with Zambia's first president, Kaunda. According to the news website Lusaka Times:

United Nations Secretary General Ban Ki-Moon says people with different cultural backgrounds need dignity and respect. Mr. Ban notes homosexuals, lesbians and gays are people whose rights need to be dignified and respected by mankind. ZANIS reports that the UN Chief said this in Lusaka today when he paid a courtesy call on First Republican President and Dr. Kenneth Kaunda at his Office in Kabulonga. Mr. Ban observed and regretted that people's rights were trampled upon instead of being respected. (Lusaka Times 25 February 2012)

Other Zambian news websites published similar reports about Ban's visit to Kaunda, but in far less neutral tones. The most sensational headline, at the website Helo Zambia, was 'Ban Ki Moon reveals real reason he is in Zambia', the article reading as follows:

We all suspected that the visit by United Nations Secretary General Ban Ki-Moon to Zambia had something hidden. This is the first UN SG to visit Zambia in the history of

both Zambia and the UN. Why is Ban Ki-moon in Zambia not in Senegal where a civil war is about to break out or in Syria where soldiers are killing civilian (sic) in hundreds every day? What is so special about Zambia? Well, on Saturday, he revealed his really (sic) mission and like we all suspected, he is here to promote homosexuality. He actually said it very plainly when he met former president Kenneth Kaunda. He told Kaunda and foreign affairs minister Given Lubinda that homosexuals, lesbians and gays are people whose rights need to be dignified and respected by mankind. (Helo Zambia 25 February 2012)

Ban Ki-moon's statements on homosexuality and gay rights were also the opening item of the TV news of the Zambian National Broadcasting Corporation (ZNBC) that Saturday evening, and it was the subject of public and political debate in the country for several weeks. Religious leaders, such as Evangelical Fellowship of Zambia (EFZ) Director Rev. Mwanza, fuelled the debates by stating that homosexuality can never be accepted in Zambia because it is against the country's 'traditional customs and religious beliefs' (quoted in *Zambian Watchdog* 26 February 2012). It was even suggested that Ban's call was 'a sign that the end of the world is near' (ibid), and that the UN Secretary General was part of a satanic conspiracy to impose gay rights on Zambia and to conquer the Christian nation. This illustrates the 'eschatological enchantment' of the homosexuality debate in Zambia (van Klinken 2013), with eschatological imagery being used to interpret and respond to the globalised liberal discourses and politics of which homosexuality has become a symbol.

As part of the dynamics, opposition parties challenged the PF government to take a stance, with the United Party for National Development's (UPND) leader, Hakainde Hichilema, decrying President Sata's 'deafening silence' in a press statement, whilst also pointing out that 'UPND believes that as an African and Christian nation, Zambia has no place for gay rights' (quoted in *Zambian Watchdog* 28 February 2012). Sata kept quiet, but almost a week after Ban's statement Chief Government Spokesperson Fackson Shamenda – at a media briefing – declared that 'the laws of the land are very clear that homosexuality is not allowed in Zambia', and that the government did not have any plans to amend the penal code (*Lusaka Times* 1 March 2012). This was not enough, however, to put the minds of all critics at ease. In an interview, a representative of EFZ expressed his concern that it was hard to tell what the position of the PF government, and the President, really was:

It will only be clear after this constitutional process has come to an end, than we will know that the government has been consistent in sustaining the wishes of the people in terms of this particular aspect. But I do not see that they will sustain a position that is anti-homosexuality. They are more likely to bend towards donor influence or pressure because they need money to fulfil campaign promises. It will need a lot of courage to withstand donor pressure. Some of the donors will definitely use aid as a link towards homosexuality, just as they did with Malawi in 2010–2011. They will use the same pressure elsewhere. What we think has been a problem as well is the lack of high level government position on this matter – we need the President to say something, just like in Zimbabwe Mugabe has categorically stated his position. When the Head of State says something it is not just the government position but it is THE government position.

Against this background of public concern about the governments', and particularly President Sata's, position – and of the ongoing rumours about Sata's ill health – it becomes understandable why shortly after the Ban Ki-moon controversy, several government ministers (in particular the then Minister of Justice Wynter Kabimba and Home Affairs Minister Edgar Lungu – whom the media suggested were the main competitors in the leadership struggle within the PF caused by Sata's condition) became rather vocal on issues of homosexuality and gay rights. Their profiling in this area became particularly apparent in the period from March 2013. On 21 March 2013, the European Union's delegation in Zambia published an advertisement in Zambia Daily Mail, announcing a call for grant applications under the European Instrument for Democracy and Human Rights. The advert explicitly mentioned discrimination on the basis of sexual orientation and gender identity as a key issue of the scheme. In his public reaction, Lungu undiplomatically stated that the EU should 'take the fight for gay rights to Europe' because 'this is unZambian; it is not part of our culture' (quoted in *Zambian Watchdog*, 25 March 2013).

Soon afterwards, the media reported that on 30 March four gay couples would have attempted to get their marriage registered in Lusaka. However, local Zambian LGBTI human rights organisation Friends of Rainka stated that the people involved 'are unknown to anyone else in the [LGBTI] community and are believed to be part of a fictitious ploy employed by enemies of the community in a quest to distract the nation from discussing ongoing social, economic and political challenges' (Friends of Rainka 2013). The alleged attempt to register gay marriages, followed by Lungu's call upon the police to arrest the couples, initiated what Friends of Rainka (*ibid*) calls 'a gay hunt', or in the words of Amnesty International (2014), 'a systematic persecution' of individuals based on their perceived sexual orientation. The couples were never arrested, but instead, on 7 April, AIDS and human rights activist Paul Kasonkomona was arrested by the police after he had appeared in a live discussion on Muvi TV; he was charged with 'inciting the public to take part in indecent activities' after calling for the decriminalisation of same-sex relations (BBC 8 April 2013). A few weeks later, on 6 May, two men in the northern town of Kapiri Moshi were arrested by the police and were charged 'with the offence of sodomy or having sex against the order of nature'. In the meantime, Kabimba had also legitimised the 'gay hunt' by publicly stating that there is 'No room for gays in Zambia' because 'As Zambians, we declared that we are a Christian nation and there is no way we can allow this un-Zambian culture' (quoted in Namaiko 2013).

The references of both Lungu and Kabimba to homosexuality as 'un-Zambian' is typical of the politics of homosexuality in Africa, in which sexuality is made a key tool through which African cultural authenticity is expressed and becomes a site where the purity of the postcolonial African nation is at stake (Ndjio 2013). However, the statements by political and religious leaders quoted above illustrate that in Zambia this politics takes a particular form as it is inspired by a Christian nationalism in which (specific understandings of) African culture, Christian values and national identity together form a monolithic block against homosexuality and gay rights (cf. van Klinken 2014). In other words, Christianity – a religion that historically was imported in Zambia by Western missionaries – is incorporated into a nativist argument based on an invented 'African' culture that is at the heart of 'Zambian' national identity. Another critical observation is that the recent waves of political homophobic rhetoric and the subsequent persecution of gay and lesbian people both by local communities, the police and the state, was stimulated by foreign actors, first Ban Ki-moon and later the European Union. This is not to blame these actors, but to draw attention to the complex relationship between political homophobia in Africa and international pro-LGBTI rights politics (Bosia and Weis 2013) and to the serious risk that

‘interventions from outside Africa ... can very easily turn out to be counterproductive’ (Awondo, Geschiere and Reid 2012, 161).

The public debate on homosexuality following Ban Ki-moon’s visit coincided with the final stage of the process in which the TCDZC was drafting the new constitution. The committee was directly affected by the controversy, such as when UPND leader Hichilema insinuated that TCDZC was intentionally delaying the release of the draft constitution – the deadline of 29 February had passed – in order to ‘include gay rights in the draft’ (quoted in *Zambian Watchdog* 1 March 2012). A member of the committee, in an interview, told me that in the nation-wide consultation process following the release of the draft constitution on 30 April 2012, many of the participants in local and regional consultative meetings raised the issue of homosexuality and gay rights and wanted to be ensured that same-sex practices would remain illegal in the country. According to this member, particular concern was expressed about the clause in the draft constitution that stipulates affirmative action from the state towards minority and marginalised groups (Art. 60), because there was suspicion that it could refer to, or be used by, homosexuals. Quoting from a confidential report about the consultative meetings in Zambia’s ten provinces, this TCDZC member told me that one proposed amendment, supported by three provinces, was that the article should clearly state ‘who these minorities and marginalised groups are, and that undesirable groups such as homosexuals, terrorists, Satanists, witches and any other practices inimical to Christian and cultural values are not allowed’. The list of ‘undesirable groups’ in this quote is typical because it shows how homosexuality is perceived as a major national threat, alongside other threats to the physical and spiritual security of the nation. Other provinces, according to this member, came up with amendments reflecting similar concerns.<sup>v</sup>

The official reports of the consultation meetings about the draft constitution have still not been released. However, the report of the so-called Sector Groups Convention – with representatives of all sectors of society, such as legislature, judiciary, academia, civil society organisations, etcetera – has been published, and it shows that one argument for maintaining the Christian nation declaration in the preamble was that the ‘article will help to avoid secularism which promotes all kinds of vices including elective abortion and homosexuality, which degrade the moral fibre of the nation’ (TCDZC 2013, 5). Again, this quote illustrates the interconnectedness of Christianity, nationalism, morality and the politics of homosexuality in Zambia. Clearly, homosexuality had become a major concern in the moral geography of Zambia as a Christian nation, and this had a profound impact on the constitutional review and consultation process.

### **The Human Rights Commission’s Contribution**

In the consultation process following the release of the first draft constitution, discussion about homosexuality emerged not only in relation to the penal code that prohibits same-sex practices (a prohibition that in popular debates is often, but mistakenly, said to be part of the constitution), but also in relation to the constitution’s anti-discrimination clause.<sup>vi</sup> Ironically, it was the Zambian Human Rights Commission (HRC) that made this clause the focus of its response. In the first draft of the new constitution, the anti-discrimination clause reads as follows:

A person has the right not to be discriminated against, directly or indirectly, on any grounds including birth, race, sex, origin, colour, age, disability, religion, conscience, belief, culture, language, pregnancy, health, marital, ethnic, tribal, social or economic status. (“First Draft Constitution of the Republic of Zambia” 2012, Art. 27.1)<sup>vii</sup>

In its submission in response to the first draft constitution, the HRC – that on the basis of earlier statements in the media had been associated with a relatively pro-LGBTI rights stance – provided detailed comments on this formulation. They called it ‘a very progressive provision’, but they also warned that it ‘is very open ended and may lead to the handing of certain rights to or inclusion of certain groups that the people of Zambia may not be ready or willing to accept’ (HRC 2012, 5). The HRC explicitly stated that this concern particularly related to ‘members of the Lesbian, Gay, Bisexual, Transgender and Inter-Sex (LGBTI) community’ (ibid). Instead of an inclusive formulation, the HRC proposed an exhaustive formulation of the anti-discrimination clause and also suggested that the terms “conscience” and “belief” should be removed because ‘there is a danger that such groups could have these rights recognised on these bases’ (ibid, 6). Thus, the HRC recommended that Art. 27.1 in the new constitution should read as follows:

A person has the right not to be discriminated against, directly or indirectly, on the grounds of birth, race, sex, origin, colour, age, disability, religion, political beliefs, culture, language, pregnancy, health, marital, ethnic, tribal or economic status. (ibid)

Apparently the HRC was determined to exclude the possibility that in the future LGBTI Zambian citizens could successfully appeal to the constitution to protest against any form of discrimination they experience because of their sexual orientation. To avoid doubt, the HRC emphasised that LGBTI people, like any other Zambian citizen, are entitled to the human rights protections afforded in the draft constitution and that they ‘cannot be discriminated against on the basis of the traditional grounds as set out under Article 23 in the current constitution’. Clearly, the HRC does not represent a blatant example of what Kristen Cheney calls ‘human rights exceptionalism’ regarding LGBTI people in Africa, which is most typically illustrated by Ugandan Ethics and Integrity Minister James Nsaba Buturo’s statement that ‘homosexuals can forget about human rights’ (quoted in Cheney 2012, 89).

The explicit recognition of the basic human rights of all Zambians, including LGBTI people, by the HRC can be interpreted positively as an indication that the country’s legacy of democracy, freedom and human rights – alluded to by Ban Ki-moon – might still influence contemporary human rights politics in the country. This is not only apparent from the HRC statement, but also from the TCDZC’s initial inclusive formulation of the anti-discrimination clause, as well as possibly from the general silence at the highest political level where President Sata seems to deliberately avoid the anti-homosexual and anti-LGBTI rights rhetoric used, for example, by his colleague in neighbouring country Zimbabwe.<sup>viii</sup> At the same time, and more negatively, the HRC can be argued to present a nuanced form of human rights exceptionalism, by explicitly advocating the exclusion of sexual orientation as a possible ground of discrimination to be protected against by the new constitution.

In its rationale to exclude the possibility of a successful appeal to the anti-discrimination clause on the basis of sexual orientation, the HRC states that ‘human rights are universal but their enjoyment is not absolute’, explaining that enjoyment ‘is subject to the cultural, moral, religious, legal, economic and social context of the community/country in which they apply. Limitation of the enjoyment of individual human rights is permissible for the protection of the greater good of society’ (ibid, 5). Explicitly admitting that its proposal implies a limitation of human rights, the HRC fails to elucidate what the ‘greater good of society’ is that is to be protected. It only refers to ‘the interests of the Zambian people’ who ‘may not be ready or

willing to accept' the recognition of LGBTI people as a 'legitimate group' that can appeal against discrimination on the basis of their sexuality (ibid).

The reference to a 'legitimate group' is critical since the African Charter on Human and Peoples' Rights, as its name indicates, uniquely has a concept of peoples' rights – a concept that 'can be interpreted as a guarantee of rights to groups or collectivities of peoples whose interests are contradictory to the sovereign state in which they exist' (Johnson 2013, 277). However, the HRC's rationale perfectly illustrates the problem highlighted by Olajide Akanji and Marc Epprecht when they point out that in African societies (apart from South Africa), lesbians, gays, bisexuals and transgendered people do not constitute, legally speaking, 'a distinct social class' and therefore are not assigned group rights but are only legally entitled to individual rights (Akanji and Epprecht 2013, 21). Hence they observe:

The fact that homosexuals are not recognized as a collective or group, and so are entitled only to individual rights, leaves them vulnerable to the denial of their rights by the state in the name of a group need such as "national culture" or "development". (Akanji and Epprecht 2013, 23)

The undefined reference to the 'greater good of society', used to deny LGBTI people rights on the basis of their orientation, suggests that the HRC uncritically follows – or at least does not challenge – the popular rhetoric in which homosexuality and LGBTI human rights are considered a threat to the moral fabric of the nation. The HRC further refers to the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on 25 June 1993, to state that the 'various historical, cultural and religious backgrounds of states must be borne in mind as the State fulfils its duty to protect and promote human rights for all' (HRC 2012, 5). This can be read as an implicit version of the popular nativist argument that homosexuality is incompatible with Zambia's cultural and religious character as an African and Christian nation. Kenyan human rights scholar Makau Mutua has argued that:

bills of rights exist in any constitution to protect certain core rights from the herd and the mob mentality of majorities against minorities, or those who are unpopular. The core of the human rights project is not about buttressing prejudices, but creating a firewall so that power, wealth, superior numbers and state control do not entrench those prejudices. (Mutua 2011, 458–459)

From this understanding of the human rights project, one could argue that the HRC needs to come up with an unambiguous call for the equal protection of LGBTI people and their human rights, withstanding popular forces in society and staying true to its own vision to be an 'independent guardian' of the full human rights of all Zambians. Instead, the HRC's position seems rather ambivalent, on the one hand explicitly recognising the basic human rights of all Zambians, including LGBTI people, while at the same time warning against an inclusive formulation of the draft constitution's anti-discrimination clause.

The HRC's contribution must be understood against the background of Zambia's socio-political climate in which homosexuality, as outlined above, has become heavily politicised and in which the HRC itself had become the subject of controversy. In the aftermath of Ban Ki-moon's visit, media reports suggested that the HRC was in support of Ban's call for the recognition of LGBTI human rights, with newspaper Zambia Daily Mail on 27 February carrying

the headline ‘HRC for gay rights’, and news website Lusaka Times on the same day publishing the same article under the heading ‘HRC will speak against the discrimination of people on the basis of sexual orientation’. The article referred to an interview with HRC Chairperson Pixie Yangailo about Ban’s statement, in which she apparently did not distance herself from his call but expressed her support for it:

Ms Yangailo stressed that the Commission will oppose discrimination based on sexual orientation. “The Zambian Constitution guarantees equality and if the right of education or health is being denied based on sexual orientation, the Commission will speak against that because no law in Zambia allows that,” she said in an interview from Livingstone. She said what is prohibited in Zambia is sexual activity between people of the same sex, and in that case the law should take its course. “People need to be sensitized about this topic because it is new and many people are arguing from a point of ignorance. Sexual orientation has different categories, there are people who are transgender, lesbians, bisexuals and this is all alien for Zambians,” she said. She added that even members of the Human Rights Commission members need to be educated about sexual orientation, for them to educate the masses. (Syampeyo 2013)

Obviously some contradictory messages are given here, as Yangailo reportedly considered sexual orientation as a ground for discrimination that LGBTI people should be protected against, while at the same time not questioning the criminalisation of same-sex practices in the country. The sensitisation and education she alludes to might lead to the realisation that sexual activity is part and parcel of sexual orientation, as the latter implies that people are, indeed, sexual beings. However, it is noteworthy that Yangailo apparently sees a role for the HRC in sensitising and educating the nation on issues of sexual diversity. Compared to the explicit homophobic rhetoric of political and religious leaders dominating the media around the same time, Yangailo voiced a much more nuanced stance. Though not challenging the legal status quo regarding homosexuality, her statement was generally perceived as controversial – the Lusaka Times online article generated 120 reader comments in two days, by far the majority of these being negative and some blatantly insulting her.

Under public pressure, HRC spokesperson Samuel Kasankha stated a few days later that Yangailo had been misquoted and that Zambia Daily Mail’s suggestive headline did not reflect the content of the interview. His statement, as reported in a Lusaka Times article, reflects however the same ambiguity that is also present in Yangailo’s comments quoted above:

The Commission has maintained that people must not be denied of their human rights based on their sexual orientation. Commission spokesperson Samuel Kasankha has however charged that homosexuality will not be entertained in Zambia as it is illegal under section 155 and 158 of the penal code. (Lusaka Times 4 March 2012)

Kasankha’s statement was later published on the HRC website and is worth a closer look. It states that same-sex practices ‘are currently illegal’ (emphasis added) – a formulation that suggests that the Commission, for understandable reasons, does not want to mingle in the political debate about the legal status of homosexuality, but simply accepts the current laws as a given. It further points out that the Commission ‘is not in the business of peddling criminality but merely ensures the minimum guarantee to those who may be different from the majority’

(Kasankha 2012). In order to guarantee this minimum, the HRC says to recognise ‘not the so called “gay rights” but the human rights that everybody is universally entitled to’ (ibid). As examples of these ‘so-called gay rights’ the statement refers to equal marriage rights, the right to privacy and the right to freedom of association. Ironically, the Zambian constitution does guarantee the latter two rights for all Zambians, but the HRC apparently believes that these rights cannot be claimed by LGBTI people to express their sexual orientation. This is far from trivial, as historically the right to privacy ‘has been the powerhouse for developing gay and lesbian rights’ in Europe, under the European Convention on Human Rights (Johnson 2013, 263), while recently in Africa LGBTI activists have used the same tactic (at a national level, as the African Charter on Human and Peoples’ Rights does not refer to a right to privacy, see Johnson ibid), with some success, for instance, in Uganda.<sup>ix</sup>

To legitimise its stance, the HRC refers to the overwhelming majority of Zambian society that does not accept gay rights, and states that it ‘has always supported upholding the moral, cultural and religious standards accepted by the people of Zambia’ (ibid). Critically, Yangailo’s reported comment on the need for further sensitisation and education of the Zambian people has disappeared from Kasankha’s statement, indicating that the HRC does not see a role for itself in this area. The latter statement further points out that:

Zambia is a member of the United Nations and currently the UN encourages its member states to respect all human rights irrespective of status, which has been deemed to include sexual orientation. However, there are still many issues on which members have continued to hold different opinions and have refused to ascribe to one position on the basis of cultural, religious and other considerations. Zambians will therefore do well to respect the call by the UN Secretary General, as he represents an institutional ideal, but should nevertheless not feel obligated to shift positions from what they consider to be their moral obligations on the matter. (ibid)

Remarkably, the HRC here acknowledges that there is a development in the UN and international human rights circles towards the inclusion of sexual orientation as part of the human rights discourse. As Mutua points out, among others referring to a rule of the UN Human Rights Committee:

...international law is moving towards the recognition and protection of gay rights, even if some of the case law suggests that the basis for such recognition is privacy. It is fair to argue that the protection of other forms of sexual orientation besides heterosexuality ... is an emerging international norm. (Mutua 2011, 458; see also Waites 2009)

Ban Ki-moon embodies this development in his high-profile diplomacy and advocacy regarding issues of sexual orientation and human rights. The HRC paradoxically calls upon Zambians to respect his call to recognise the rights of sexual minorities, while at the same time allowing them to ignore it by suggesting that ‘cultural, religious and other considerations’ are a legitimate reason to exclude sexual orientation as a status for LGBTI people to claim full human rights. The HRC then goes on by stating that:

The Commission has not recorded a single complaint of discrimination of persons on the basis of their sexual orientation in its more than 15 years of existence in Zambia. It can



therefore safely be argued that no such discrimination exists in the country. If it does, it must be on a very small scale or is unreported. (ibid)

This perception, which was also expressed by some local human rights activists I met during my fieldwork, clearly shows a lack of understanding of the way in which social and political homophobia works, that is, how it creates a climate in which LGBTI people simply cannot be open about their sexuality. It further demonstrates a lack of critical insight into how the criminalisation of same-sex practices actually presents a form of discrimination on the basis of sexuality, and how it hinders an effective HIV prevention policy targeting men who have sex with other men. Also, it ignores the stories of a few courageous gay individuals in Zambia that have been open about their experiences of stigmatisation and discrimination (e.g. Villarosa 2012). At the same time it is important to acknowledge the point made by one activist interviewee who did not deny the possibility of discrimination against LGBTI people but rhetorically asked whether this was really the most critical human rights issue in Zambia: 'I would like to see a similar aggressiveness [from international bodies] to ensure basic social and economic rights – the right to education, the right to health, the right to shelter – in Zambia's Bill of Rights.' This comment reflects the feeling that LGBTI rights are a luxury problem. It further illustrates the problem of LGBTI right campaigns not being perceived in Zambia, and Africa more generally, as being embedded in broader human rights advocacy, which demonstrates the need for an integral approach in which LGBTI issues are not singled out but are presented and advocated for as part of a broader integrated human rights agenda.

### **A Counter-Narrative of the “Christian Nation”**

The HRC stance cannot be understood unless set against the polarised political landscape after the 2011 parliamentary and presidential elections in which homosexuality was highly politicised. Furthermore, the HRC's ambivalent contribution to the debates on issues of sexual orientation and gay or LGBTI rights can only be understood as a complex negotiation of the moral and religious sensibilities in society and of popular political and religious rhetoric. The somewhat contradictory voices coming from the HRC – that is, from Yangailo and Kashanka, who unfortunately were not available for interviews on the subject – suggests that there might be some divergence of opinion on, and some sensitivity to, issues of human rights in relation to sexual minorities within the Commission. However, in a context where Pentecostal forms of Christianity have become a prominent political factor and have come to shape national identity, Christian discourses and politics 'go public' and restrict the space for social and political actors and bodies, such as the Human Rights Commission, to express any divergence from what is considered as socially acceptable. From the above case study it is clear that the nationalisation of (Pentecostal) Christianity in Zambia profoundly confines the space for the HRC to realise its own vision of being an 'independent guardian of human rights for all time'.

Yet where the HRC's space to be an independent guardian of human rights, as they relate to sexual minorities, has been constrained – some Zambian individuals and organisations have spoken out against the current wave of socio-political homophobia in the country, the criminalisation of homosexuality and the persecution of people believed to be in same-sex relationships. For the purpose of this article, the case of Dette Resource Foundation (henceforth, Dette), a local Zambian NGO, is especially relevant. In the aftermath of the above-mentioned controversy about the EU advertisement, the then Home Affairs Minister, Edgar Lungu, had insinuated that some Zambian NGOs were promoting 'gay rights' because they were 'hungry for

money' from Western donors. In response to this, Dette published two subsequent statements, on 27 March and 29 April 2013, explaining its stance in support of LGBTI human rights. The organisation unequivocally reminded the Zambian government that 'as a signatory to the United Nations Declaration for Human Rights ... [it] has a duty to provide protection to all people in Zambia' regardless of their sexual orientation (Tumfweko, 27 March 2013).

Without idealising Dette's statements as examples of LGBTI rights advocacy – they contain some rather awkward formulations, such as the reference to homosexuals as 'people with strange tendencies' who are 'weak' and 'vulnerable' – the statements are significant because they present an argument in defence of human rights for sexual minorities that is explicitly based on a Christian rationale. Even more, the argument explicitly refers to, and in fact employs, the idea of Zambia as a Christian nation in order to make its case. In its second statement, after the organisation had already received an overwhelmingly negative response, Dette pointed out:

We still believe that, homosexuals are human beings whose rights are protected under the laws of Zambia, which houses the bills of rights. Like any other human beings, homosexuals have rights to health services, life, association, expression, liberty among others. Like any other human beings, these rights need to be protected in homosexuals as well. We suggest that, as a nation dedicated to Christ by virtue of Zambia being declared a Christian nation, we need to reconsider our position on Homosexuals. Many of these people are outstanding professionals whose contributions to the nation have been commended. Besides, they are our neighbors, business partners, brothers, siblings, and colleagues in various fields. ... We would do better to allow these people to live freely. ... Jesus, the man whose name Zambia has been declared, never condemned people, sinners or persons with different sexual orientation. (Tumfweko, 29 April 2013)

With its explicitly religious Christian rationale for the defence of human rights in relation to LGBTI people, Dette's statements can be considered as an example of what Gerrie ter Haar calls the 'inculturation of human rights' in Africa (ter Haar 2009, 63–67). This refers to a process of incorporating a moral-spiritual dimension in human rights discourse and including religious ideas that can buttress human rights, in order to overcome the problem of a largely secular, moral-legal approach to human rights that, according to ter Haar, is of limited relevance in many contemporary African contexts. Dette particularly employs two key Christian theological notions in order to contextualise its LGBTI advocacy work in the local Zambian epistemologies in which human rights and issues of sexual diversity are being received. First, by pointing out that 'every [human] creature' has received 'God given rights' (Tumfweko, 29 April 2013), Dette based its understanding of human rights on the biblical notion of human beings being created in the image of God, echoing a long tradition of Christian theological thinking about human rights. Second, Dette evoked the tradition of Christian social thought when referring to Jesus Christ as a person siding with the outcasts of society, suggesting that Zambians should follow his example by showing solidarity with today's outcasts, particularly homosexuals. Hence, the organisation reversed the Christian nation argument, generally used to argue against the acceptance of homosexuality in Zambia, into an argument in support of sexual minorities. The suggestion is that precisely because Zambia is a Christian nation, there should not be any form of discrimination against LGBTI people in the country and their rights are to be protected.

Of course, the immediate political effect of Dette's public stance might be rather limited. There were little signs of public support for the organisation, and its alternative stance is being

overwhelmed by the homophobic rhetoric that dominates Zambia's public sphere. Yet Dette's contribution is significant for three reasons. First, the reference to homosexuals as people who are created by God and therefore have 'God-given rights' like any other human being, is a critical intervention in the demonisation of sexual minorities in popular Pentecostalite Zambian rhetoric (cf. van Klinken 2013). It humanises LGBTI people in a context where they are generally being othered, that is, depicted as inhuman or even satanic. Second, the case shows that even in a context where Christianity dominates public and political culture, debate is still possible because Christianity itself is far from a monolithic religion. By presenting an explicitly Christian argument in favour of the recognition of LGBTI human rights, Dette challenges popular Christian rhetoric and subverts the monolithic idea of Christianity as a religion against homosexuality. Third, by employing, but reversing, the Christian nation argument, Dette presents a counter-narrative of Zambia as a Christian nation. According to postcolonial theorist Homi Bhabha, counter-narratives of the nation interrogate the nation's totalising conceptual boundaries and 'disturb those ideological manoeuvres through which "imagined communities" are given essentialist identities' (Bhabha 2010, 213).

Elaborating on this further, McLeod (2000, 119) points out that 'nationalist discourses require essence, origin, unity and coherence, and need to forget the presence and narratives of certain peoples within its imaginary boundaries in order to function'. In the case of Zambia's Christian nationalism, rather than forgetting about their presence and ignoring their narratives, LGBTI people are silenced and demonised away, which is another way of reinforcing the cultural authenticity and sexual purity of Zambia as an 'African' and a 'Christian' nation. Counter-narratives, then, 'interrupt the nation's smooth self-generation (...), revealing different experiences, histories and representations' (McLeod 2000, 120). In the case of Dette, narratives of LGBTI Zambians are not brought in directly, but their concerns are being represented and advocated for, and their rights are being defended. This is done, not by contesting the narrative of Zambia as a Christian nation as such, but by subscribing to this narrative and then reinterpreting it.

Again, as mentioned above, I do not intend to present Dette as an exemplary case of LGBTI advocacy, yet along the lines of Bhabha's notion of counter-narratives of the nation we might be able to grasp the political-religious significance of Dette's contribution in the Zambian context. A religious-based intervention from a local organisation such as Dette might on the longer term be more effective, in the Zambian context, than a typically secular, legal human rights discourse. After all, the Human Rights Commission has proven to be sensitive to religious arguments. Indeed, informants told me that the HRC had actually contacted Dette, following the controversy, with a request for advice and assistance in dealing with issues of homosexuality and LGBTI rights.

## **Conclusion**

In the introduction to this article, the question was raised as to why both societal and political actors and bodies in Zambia have recently become so vocal against two key principles of Western liberalism, namely human rights and individual freedom, in relation to issues of homosexuality. In response to this question, I have argued in this article that the constitutional declaration and popular imagination of Zambia as a Christian nation has led to a particular religious-based moral geography and political economy in which an anti-Western and illiberal rejection of LGBTI human rights is not just made possible but is rendered the only possible and moral course of action. The role of Pentecostal forms of Christianity in the politicisation of

homosexuality has also been observed in countries like Uganda (Bompani and Terreni Brown 2015) and Nigeria (Obadare 2015), yet in Zambia this is even more apparent because it is the only country on the continent where Pentecostal Christianity has shaped a popular, constitutionally embedded sense of national identity.

As the case study of the HRC shows, the constitutional and political configuration of Zambia as a Christian nation clearly shapes and defines the debates and politics concerning homosexuality and LGBTI rights. At the same time, Zambia has a relatively strong human rights tradition that is historically entrenched in the country's liberation struggle and in its postcolonial support of liberation movements in Zimbabwe and South Africa. The rather ambivalent stance of the HRC in recent debates on homosexuality and LGBTI rights – stating that LGBTI people should not be discriminated against, whilst at the same time ensuring that sexual orientation is not recognised as a possible ground of discrimination protected against by the constitution – can be understood as an attempt to negotiate the tensions between the commitment to human rights, on the one hand, and the politicised Christian character of the country, on the other.

This background, as well as perhaps Zambia's dependence on foreign aid, might also explain why at the highest political level the country has so far not followed the examples set by countries like Zimbabwe, where President Mugabe frequently uses overt homophobic rhetoric, and Uganda, with its controversial anti-homosexuality bill. As mentioned above, President Sata kept a low profile on issues of homosexuality. After his death in office in October 2014, Edgar Lungu won the January 2015 presidential by-election. Where in 2013 Lungu, then Minister of Home Affairs, had been very vocal on issues of homosexuality, he hardly ever raised it during the election campaign – possibly because his main opponent, UPND leader Hichilema, had been equally vocal on the topic so it was not a profiling issue as it had been in the 2011 election campaign. How things will develop under President Lungu, and during the upcoming general elections in 2016, is hard to predict. Soon after his installation as President, Lungu promised to deliver the new constitution – as under Sata the constitutional review process had, for unclear reasons, come to a standstill – yet he did not point out a clear strategy for how to bring the process to completion. It might be that public debates on homosexuality and LGBTI rights re-emerge as soon as the final draft constitution is released and discussed in parliament.

Whatever is going to happen exactly, it is clear that two ideas are deeply rooted in Zambia's popular narrative of nationhood (Larmer et al. 2014): first, the Christian character of the nation, and second, the idea that this excludes the possibility of recognising sexual minorities as full citizens and protecting their rights. However, as much as the constitutionally enshrined popular imagination of Zambia as a Christian nation has produced a logic in which the rejection of LGBTI human rights is rendered the only possible and moral course of action, we have seen that this logic has begun to be challenged by a marginal but significant counter-discourse. How these dynamics will further unfold cannot be predicted, but I would like to conclude with the suggestion that attention to such counter-discourses in Zambia and other African countries is crucial to prevent monolithic representations of 'African homophobia' inspired by 'religious belief'. A closer examination of local counter-mobilisations in support of the rights of sexual minorities – including the work of local LGBTI or queer movements – will provide critical insight into the possibilities and limitations of LGBTI rights advocacy and queer politics in contemporary Africa, and the possible contribution of religion.

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<sup>i</sup> This article mainly concerns the period 2011–2013 and was written in 2014, before the death of President Michael Sata in October 2014. It has been revised and updated after the presidential by-election in January 2015, through which Edward Lungu – who served as Minister of Home Affairs and later as Minister of Defence under Sata – was voted into power.

<sup>ii</sup> Zulu’s Facebook page states that he is ‘an award winning Zambian reggae musician and human rights activist’ and lists his personal interests as being in ‘equal rights and justice’ (see <https://www.facebook.com/pages/Maiko-Zulu/66191028913?sk=info>, accessed 15 August 2014). His professional website refers to ‘his involvement and active work in promotion of human rights’ that is internationally recognised (see <http://www.maikozulu.org.zm/biography.htm>, accessed 15 August 2014).

<sup>iii</sup> In February 2014, the American state Arizona passed a bill allowing businesses to deny service to gay and lesbian customers on the basis of religious beliefs.

<sup>iv</sup> As Ndulo and Kent observe, the 1996 Constitution falls short on democratic principles because it was shaped to bar former President Kaunda from running for the presidency again. Other flaws they observe are the prohibition of the participation of traditional chiefs in politics, the strong power attached to the presidency without adequate check and balances and the flawed protection of human rights, where they specifically mention the limited constitutional provisions for the freedom of press and – indeed – the freedom from discrimination, particularly against women (Ndulo and Kent 1996, 276–277).

<sup>v</sup> Likewise, in its response to the above-mentioned EU advertisement, the Evangelical Fellowship of Zambia – in a public statement – presented a democratic argument – ‘In a democracy, the interest of the majority must be

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respected’ – to make the case that ‘the interests of the minority groups to pursue unacceptable practice and behavior’ cannot be recognised (EFZ 2013).

<sup>vi</sup> Remarkably, no public discussion emerged this time around the definition of marriage in the constitution. The draft constitution, like the current 1996 constitution, recognises ‘the right to freely choose a spouse of the opposite sex and marry’ (First Draft Constitution of the Republic of Zambia 2012, Art. 54.2). However, in the constitutional review process prior to the 2011 installation of the TCDZC, the then National Constitutional Conference (NCC, the predecessor of the TCDZC) in February 2010 had already adopted a clause in addition to the then draft constitution (that had been produced in 2005 by the Mung’omba Commission installed by President of that time, Levy Mwanawasa), which explicitly stated that ‘Marriage between persons of the same sex is prohibited’. Ironically, it was the NCC’s Human Rights Committee that introduced this clause (see Chanda 2010). It is remarkable that the TCDZC did not follow the NCC and left out this clause in the 2012 first draft constitution, while a country like Nigeria at that time was in the process of passing its Same-Sex Marriage (Prohibition) Bill. Whether the issue was raised in the consultation processes following the release of the draft is unknown as reports of the consultative meetings have not been released. However, I have not come across any discussions of the definition of marriage in relation to the 2012 first draft constitution.

<sup>vii</sup> The formulation ‘discriminated against, directly or indirectly, on any grounds including...’ in the new draft constitution is identical to the anti-discrimination clause in the current (1996) constitution.

<sup>viii</sup> Moreover, in November 2013, President Sata’s wife, first lady Dr Christine Kaseba – a medical doctor herself – caused uproar with a call to break the taboo on men having sex with men in relation to HIV prevention campaigns (see Simpson and Bond 2014, 1077). How the National Aids Council, which until recently was chaired by a Pentecostal bishop, Dr Joshua H.K. Banda, has responded to this is not clear. Yet apart from demonstrating the existence of opinions, even in State House, that diverge from the dominant public opinion, it also illustrates that in addition to a human rights discourse, a public health discourse is another possible strategy to call attention to sexual minority issues (see also Epprecht 2012).

<sup>ix</sup> According to (Epprecht 2013, 1), in 2009 the Ugandan courts ‘affirmed the right to privacy for LGBTI by issuing an injunction to stop a newspaper from publishing the names and addresses of alleged “top homosexuals”’. A Zambian law student in her MA dissertation also argued recently that Zambia’s penal code criminalising consensual and private same-sex sexual intercourse is unconstitutional because it violates the right to privacy (see Couvara 2013).