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Uganda: Court Upholds Anti-Homosexuality Act

Entrenches Discrimination, Enhances Risk of Anti-LGBT Violence



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Gay Ugandan refugees who fled from their country to neighboring Kenya, return after shopping for food in Nairobi, Kenya, June 11, 2020. © 2020 Brian Inganga/AP Photo

(Nairobi) – [Uganda’s](#) Constitutional Court on April 3, 2024, upheld the abusive and radical provisions of the 2023 Anti-Homosexuality Act, Human Rights Watch said today. The ruling further entrenches discrimination against lesbian, gay, bisexual, and transgender (LGBT) people, and makes them prone to more violence.

The court did strike down sections that restricted healthcare access for LGBT people, criminalized renting premises to LGBT people, and created an obligation to report alleged acts of homosexuality.

“In upholding most provisions of the Anti-Homosexuality Act, including the death penalty in certain circumstances, Uganda’s Constitutional Court has come down on the side of hate, violence, and discrimination instead of standing up for fundamental rights for all,” said [Larissa Kojoué](#), researcher at Human Rights Watch. “The ruling will have a detrimental impact on all Ugandans, including LGBT people, families, and communities who continue to suffer the stigma that the Anti-Homosexuality Act enshrined into law.”

In defiance of international law, the judges ruled that the act does not violate fundamental rights to equality and nondiscrimination, privacy, freedom of expression, or the right to work for LGBT people.

The judges also ruled that those who had challenged the law had failed to prove the negative financial implications of the law, or that there had been a lack of public participation in the legislative processes, or breaches in parliamentary rules of procedures. They concluded that the law had been “overwhelmingly passed on the basis of those views of the Ugandan people’s parliamentary representatives, who would know the sentiments of the people that they represent on the subject.”

The Ugandan Parliament had passed the Anti-Homosexuality Act in March 2023, criminalizing consensual same-sex conduct with penalties of up to life imprisonment, attempted homosexual acts with penalties of 10 years in prison, and the death penalty for those convicted of “aggravated homosexuality,” which includes repeated same sex acts and intercourse with a person younger than 18, older than 75, or a person with a disability. Parliament passed a similar [anti-LGBT law](#) in 2013, which the Constitutional Court had declared void on the grounds that it was not passed according to correct parliamentary procedure.

Even before the introduction of the 2023 act, LGBT Ugandans had frequently faced discrimination, harassment, and physical attacks. The Ugandan authorities have [banned](#) LGBT organizations, and [accused some](#) of “promoting homosexuality” and luring children into homosexuality through “forced recruitment.” Human Rights Watch found that none of these accusations were based on facts.

After the law came into force in May 2023, [local groups reported](#) that LGBT people in Uganda were experiencing increased attacks and discrimination by both officials and other people. These included beatings, sexual and psychological violence, evictions, blackmail, loss of employment, online harassment, and denial of health care based on their perceived or real sexual orientation or gender identity.

In December 2023, Ugandan activists [began legal proceedings](#) to challenge the constitutionality of the law, one of the world’s harshest curtailing the rights of LGBT people. The petitioners said that the law violates fundamental rights guaranteed in Uganda’s constitution and international human rights law, including the rights to nondiscrimination and privacy, as well as freedom of thought, conscious, and belief. They also said that the law was passed without meaningful and adequate public participation.

The judges upheld provisions in the law that discriminate against LGBT people, including people with disabilities, and provisions for a penalty of up to 20 years in prison for the “promotion of homosexuality.” The provision could apply to anyone advocating for the rights of LGBT people, including representatives of human rights organizations or those providing financial support to such organizations.

The police have [failed to investigate a string of break-ins](#) into the offices of nongovernmental organizations providing services to LGBT people. Instead, they have carried out mass arrests at [LGBT pride events](#), at [LGBT-friendly bars](#), and at [homeless shelters](#) on spurious grounds. The police have forced some of those detained to [undergo anal examinations](#), a form of cruel, degrading, and inhuman treatment that can constitute torture.

“We knew we were not in favorable conditions,” one petitioner told Human Rights Watch. “There is so much to challenge in this decision. What we see is that the judges already have their ideas. The future looks so dark. We have to organize and bring the case to the Supreme Court.”

Parliament should repeal all discriminatory laws and provisions, including the Anti-Homosexuality Act, as well as sections 145 and 148 of the [Penal Code](#), which criminalize consensual same-sex acts, Human Rights Watch said. The authorities should end the harassment of and restrictions on the activities of LGBT rights groups, and ensure immediate investigations into abuses against these groups and LGBT people. The authorities should also ban [forced anal examinations](#) and their use as “evidence” in homosexuality prosecutions, and other demeaning treatment of suspects in police custody on the basis of their perceived or real sexual orientation.

“The Ugandan authorities have legal obligations to urgently halt the cycle of violence that has become so pervasive against LGBT people in Uganda, which leads to people being killed for simply being who they are,” Kojoué said. “The government should take urgent steps to end its crackdown against LGBT people, and expressly condemn violence against all minorities, including LGBT people, and create an environment that prevents discrimination against them.”