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UGANDA

Penal Code of 1950, VI Laws of Uganda, Cap. 120 (rev. ed. 2000).[493]

Section 145. Unnatural offences ***[AGAINST THE ORDER OF NATURE]***

"Any person who—
(a) has carnal knowledge of any person against the order of nature;
(b) has carnal knowledge of an animal; or
(c) permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life."

Section 146. Attempt to commit unnatural offences ***[ATTEMPTED UNNATURAL OFFENCE]***

"Any person who attempts to commit any of the offences specified in section145 commits a felony and is liable to imprisonment for seven years."

Section 148. Indecent practices: ***[GROSS INDECENCY]***

"Any person who, whether in public or in private, commits any act of gross indecency with another person or procures another person to commit any act of gross indecency with him or her or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or in private, commits an offence and is liable to imprisonment for seven years."

On 20 December 2013, the Parliament adopted the Anti-Homosexuality Act, which sought to punish same-sex sexual relations with imprisonment for life, and prohibited same-sex marriage and homosexual propaganda.[494] However, on 18 August 2014, the Act was annulled by the Constitutional Court, which ruled that parliament lacked a required quorum when the law was approved.[495]

On 29 October 2014, members of Uganda's ruling party circulated a draft of a new bill entitled, "The Prohibition of Promotion of Unnatural Sexual Practices Bill",[496] which was intended to replace the annulled Act by criminalising same-sex acts and diminishing human rights related to SOGI even further. The Human Rights Awareness and Promotion Forum sought a ruling from the East African Court of Justice in February 2015, to clarify that laws such as the Ugandan Anti-homosexuality Act, are unacceptable and violate human rights.[497] In July 2015, the Uganda Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation published a detailed report on violations based on SOGI in 2014 with targeted recommendations.[498]

The Human Dignity Trust records that in September 2015, the Prime Minister on being asked about the passage of that Bill stated: "That law [anti-homosexuality legislation] was not necessary, because we already have a law which was left by the British which deals with this issue". Convictions were on-going in 2015.[499] In late-February 2016, it was reported that the re-elected President, Yoweri Museveni, has signed a law that imposes harsh restrictions on

493 Text of the law is available at: www.wipo.int/wipolex/en/details.jsp?id=5241

494 Text of the law is available at: www.refworld.org/pdfid/530c4bc64.pdf

495 The copy of the judgment is available at: www.hrapf.org/sites/default/files/publications/ruling_on_the_anti-homosexuality_act.pdf

496 The copy of the bill is available at: http://sexualminoritiesuganda.com/wp-content/uploads/2014/11/The-Prohibition-of-Promotion-of-Unnatural-Sexual-Practices-Bill-of-2014.pdf

497 See, http://eacj.org/wp-content/uploads/2016/02/Appl.-No.3-of-2015-Ruling-of-the-Court.pdf

498 See: https://www.outrightinternational.org/sites/default/files/15_02_22_lgbt_violations_report_2015_final.pdf

499 Human Dignity Trust, "Criminalisation of homosexuality: Uganda", 25 October 2015, at: www.humandignitytrust.org/uploaded/Map/Country_Reports/Uganda.pdf

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'outcasts', which includes LGBTI groups and persons.[500]

Uganda has been directly addressed by various UN mandate-holders, amongst which the following are of relevance to the current legislation: criminal laws, human rights defenders, HIV/AIDS in relation to SOGI in 2010,[501] criminal laws, hate crime in 2010,[502] hate crimes, death, human rights defenders in 2011,[503] death and criminal laws in 2012,[504] and human rights defenders in 2013.[505] In July 2015, the Concluding Observations of the Committee on Economic, Social and Cultural Rights, identified that the lack of anti-discrimination law that is aligned to Article 2 of the Covenant is not in place combatting societal discrimination generally, and specifically in "access to housing, employment, social security, health care and education". Also, "[t]he Committee urges the State party to withdraw the draft law on the "prohibition of promotion of unnatural sexual practices" and to urgently take steps to amend the Penal Code to decriminalize consensual same-sex sexual conduct", as well as to prevent discrimination against LGBTs [sic] and "bring perpetrators to justice".[506]

In October 2011, at its 1st UPR review, Uganda received 19 recommendations, only three of which it accepted (all to do with prosecution of individuals who perpetrate violence against LGBT people). The rest of the recommendations concerned existing and proposed new legislations.[507] Uganda's 2nd UPR is in November 2016.

In light of the Anti-Homosexuality Act, it may be surprising to note that the universal principle of non-discrimination was evident in the ruling given in the High Court of Uganda in *Mukasa and Oyo*,[508] where although acts of "carnal knowledge against the order of nature" were penalised,[509] the sexual orientation of the plaintiffs was not at issue, but what was being adjudicated on was the police ill-treatment (search and seizure of property and physical abuse) of them based on that sexual orientation. Likewise, two years later in *Kasha Jacqueline, David Kato, and Onziema*

500 *Erasing 76 Crimes*, 'New Uganda law opens door to anti-LGBTI repression', February 25, 2016, at: http://76crimes.com/2016/02/25/new-uganda-law-opens-door-to-anti-lgbti-repression/; also see Adrian JJuuko, 'Museveni's assent to NGO Act will cost us all', 26 February 2016, www.observer.ug/viewpoint/42802-museveni-s-assent-to-ngo-act-will-cost-us-all

501 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions. Addendum: Communications to and from Governments, A/HRC/14/24/Add.1, 18 June 2010; available at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/145/06/PDF/G1014506.pdf?OpenElement

502 Uganda, CEDAW/C/UGA/CO/7, 5 November 2010; available at: http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-UGA-CO-7.pdf

503 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Addendum: Summary of cases transmitted to Governments and replies received, A/HRC/17/27/Add.1, 27 May 2011; available at: available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27.Add.1_EFSonly.pdf

504 Report of the Special Rapporteur on the situation of human rights defenders. Addendum: Observations on communications transmitted to Governments and replies received, A/HRC/19/55/Add.2, 23 February 2012; available at: available at: www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A.HRC.19.55.Add.2_EFSonly.pdf

505 Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/22/47, 16 January 2013; available at: www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.47_en.pdf

506 Committee on Economic, Social and Cultural Rights, Concluding observations on the initial report of Uganda, E/C.12/UGA/CO/1, 8 July 2015, at paras. 15 and 16: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/150/73/PDF/G1515073.pdf?OpenElement

507 Report of the Working Group on the Universal Periodic Review: Uganda, A/HRC/19/16, 22 December 2011, at: www.upr-info.org/sites/default/files/document/uganda/session_12_-_october_2011/ahrc1916ugandae.pdf

508 *Mukasa and Oyo v. Attorney General*, High Court of Uganda at Kampala (22 December 2008), available at: http://www1.chr.up.ac.za/index.php/browse-by-subject/490-uganda-mukasa-and-another-v-attorney-general-2008-ahrlr-ughc-2008-.html

509 The actual act of same-sex sexual relations indicated by the word 'carnal' as set out in Section 145 of the Penal Code of Uganda is criminalised with a maximum term of life imprisonment. The analysis of the legislation presented here relies on *Sexual orientation and gender identity in international human rights law: The ICJ UN compilation*, 2013 Fifth updated edition ((International Commission of Jurists, Geneva, 2013) at: http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2013/06/SOGI-UN-Compil_electronic-version.pdf: and *Sexual Orientation, Gender Identity and Justice: A Comparative Law Casebook* (International Commission 1of Jurists, Geneva, 2011) at: www.icj.org/sexual-orientation-gender-identity-and-justice-a-comparative-law-casebook/

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Patience v. Rolling Stone,[510] the question was about whether, in the heightened atmosphere around the proposed Anti-Homosexuality Bill (AHB) in Uganda,[511] the constitutional rights of the plaintiffs had been breached, and not about "homosexuality *per se*".[512] Despite widespread institutionalised and public discrimination in the country, the guarantees of universal human rights were asserted in this case regardless of SOGI.

GLOBAL ATTITUDES SURVEY ON LGBTI PEOPLE 2016

	STRONGLY AGREE	SOMEWHAT AGREE	NEITHER	SOMEWHAT DISAGREE	STRONGLY DISAGREE
Being gay, lesbian, bisexual, trans, or intersex should be a crime?	**47%**	**10%**	**15%**	**5%**	**26%**
Same-sex desire is a Western phenomenon	**42%**	**12%**	**19%**	**5%**	**23%**
	NO CONCERNS	SOMEWHAT UNCOMFORTABLE		VERY UNCOMFORTABLE	
How would you feel if your neighbour is gay or lesbian?	**40%**	**15%**		**45%**	

ZAMBIA

NRHI[513] [514]

The Penal Code Act (as amended by Act No. 15 of 2005).[515]

Section 155. Unnatural offences ***[AGAINST THE ORDER OF NATURE]***

"Any person who-
(*a*) has carnal knowledge of any person against the order of nature; or
(*b*) has carnal knowledge of an animal; or
(*c*) 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:

510 *Kasha Jacqueline, David Kato Kisule and Onziema Patience v. Rolling Stone Ltd and Giles Muhame*, High Court of Uganda at Kampala (30 December 2010); available at: http://iglhrc.org/sites/default/files/2010%20Kasha%20Jacqueline%20v%20Rolling%20Stone.pdf

511 The Anti Homosexuality Bill, Bill No.18, Uganda, 25 September 2009.

512 The respondents were the publishers of a newspaper called "Rolling Stone". On 2 October 2010, an article with the title "100 Pictures of Uganda's top homos leak" was published in the newspaper. The article accused the gay community of trying to recruit "very young kids" and "brainwash them towards bisexual orientation". It called on the government to take a bold step against this threat by hanging dozens of homosexuals. The article published the names and pictures of several members of the Ugandan LGBT community and provided information about them and, in some cases, their home addresses. David Kato, one of those named taking the action and advocacy officer for Sexual Minorities Uganda (SMUG), was found murdered in his home on 27 January 2011: results of the official investigation into his death remain 'inconclusive'.

513 See "Human Rights Commission and gay rights", para 3, July 2012 www.hrc.org.zm/index.php/latest-news/61-human-rights-commission-on-gay-rights

514 Amongst others, see a *76 Crimes* report of a 15 year prison sentence handed down to a trans woman in October 2015, at: http://76crimes.com/2015/11/02/zambian-trans-woman-convicted-faces-15-years-to-life/

515 Text of the law is available at: www.unodc.org/res/cld/document/zmb/1931/the_penal_code_act_html/Zambia_Penal_Code_Act_1930_as_amended_2005.pdf. The Penal Code (Amendment) Act (No. 15, of 28 September 2005) which increased the maximum sentences in sections 155 and 156, and introduced a prohibition of sex between women in section 158 is included in this copy of the Code.

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