

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	236
Land:	Rwanda
Kilde:	Immigration and Refugee Board of Canada
Titel:	Rwanda: Situation of persons of diverse sexual orientation and gender identity and expression (SOGIE), including their treatment by society and state authorities; state protection and support service
Udgivet:	23. august 2021
Optaget på baggrundsmaterialet:	14. januar 2022

IRB – Immigration and Refugee Board of Canada

Rwanda: Situation of persons of diverse sexual orientation and gender identity and expression (SOGIE), including their treatment by society and state authorities; state protection and support services (2019–August 2021) [RWA200730.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Legislation

According to sources, [consensual] same-sex sexual relations are not criminalized in Rwanda (ILGA World Dec. 2020, 93; HRW 14 Jan. 2020, 483; Belgium 30 Oct. 2019, 6). Article 17 of the Constitution of Rwanda provides that "[t]he right to marry and found a family is guaranteed by the law. A civil monogamous marriage between a man and a woman is the only recognised marital union" (Rwanda 2003). Article 16 of the Constitution of Rwanda provides the following:

Article 16: Protection from discrimination

All Rwandans are born and remain equal in rights and freedoms.

Discrimination of any kind or its propaganda based on, inter alia, ethnic origin, family or ancestry, clan, skin colour or race, sex, region, economic categories, religion or faith, opinion, fortune, cultural differences, language, economic status, physical or mental disability or any other form of discrimination are prohibited and punishable by law.

(Rwanda 2003, bold and underline in original)

However, sources indicate that there are no laws that prohibit discrimination based on sexual orientation or gender identity (Freedom House 3 Mar. 2021, Sec. F4; US 30 Mar. 2021, 33), including in "housing, employment, nationality laws, or access to government services such as health care" (US 30 Mar. 2021, 33). A June 2020 report submitted by a coalition of Rwandan LGBTI and female-sex-worker-led community-based organizations [1] for the UN's Universal Periodic Review (UPR) of human rights in Rwanda, notes that transgender, lesbian, and intersex persons have been omitted from "various policies and strategies as policies, reports and strategies tend to adhere to the binary vision of gender as Men and Women," including article 16 of the Constitution, which "does not recognize gender identity for [i]ntersex persons," and article 45 of *Law N°32/2016* of August 2016 which provides that "[t]he sex of a person is the one recorded in his or her birth record" (Coalition June 2020, 3). Article 15 of Rwanda's Constitution provides that "[a]ll persons are equal before the law. They are entitled to equal protection of the law" (Rwanda 2003). However, the Coalition notes that while this article provides protection for all, *Law N°59/2008* of October 2008 on the prevention and punishment of gender-based violence (GBV) does not provide "adequate" protection for LGBTI people when addressing GBV because it defines GBV as violence or harm to an individual "because they are female or male" (Coalition June 2020, 7). *Law N°59/2008 of 10/09/2008 on Prevention and Punishment of Gender-Based Violence* provides the following definition of GBV: "any act that results in a bodily, psychological, sexual and economic harm to somebody just because they are female or male. ..." (Rwanda 2008, Art. 2).

According to a 2020 report on laws and policies for transgender persons by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World), in Rwanda "public order, public indecency and vagrancy offences" are used "to target transgender and gender diverse people" (ILGA World Sept. 2020, 15). According to an article by the German international broadcaster Deutsche Welle (DW), people of diverse SOGIE are "in a state of limbo" due to the vagueness of the laws and the ways they are applied to the community (DW 21 July 2020).

2. Treatment of People of Diverse SOGIE by Society

Sources indicate that LGBTI people in Rwanda face "discrimination" (Executive Director of HRFR 5 Aug. 2021; AHR Nov. 2020, 21) or "social stigma" (Freedom House 3 Mar. 2021, Sec. F4). Sources report that in Rwandan society homosexuality is perceived as "taboo" (AHR Nov. 2020, 12; Kuchu Times 10 Aug. 2020). A Reuters article reports that "LGBT+ Rwandans say they are often fired, evicted, labelled as satanic, or ostracised by family and friends if they come out, with violent threats forcing some to flee the country" (Reuters 29 June 2021). FairPlanet, "a non-profit journalistic platform and news organisation" that combines "locally-driven journalism and activism" and promotes human rights (FairPlanet n.d.), states that members of the "queer community" in Rwanda are the most "economically marginalised, vulnerable and poorest in the country, as they struggle to access employment opportunities and health services" (FairPlanet 25 June 2021).

According to a 2020 study [2] on the impact of COVID-19 on LGBT individuals in Rwanda conducted by Amahoro Human Respect (AHR), a youth-led Kigali-based NGO that "strives to improve both accessibility to healthcare and [h]uman rights for all Rwandans through advocacy, education and training," during the COVID-19 period, among 493 respondents, 19.3 percent reported facing homophobia "sometimes," 36.5 percent reported facing homophobia "most of the time," and 31.6 percent reported facing homophobia "always" (AHR Nov. 2020, 5, 17, 21). The same study provides the following statistics on the places where 438 respondents reported experiencing homophobia:

Law enforcement services settings: 4.3 percent

Work environment: 5.7 percent

Health facilities: 5.9 percent

Civil Society Organizations: 6.3 percent

Markets: 6.5 percent

Churches or mosques: 7.1 percent

Family: 18.6 percent

Bars, hotels and night clubs: 21.0 percent

Community: 24.7 percent (AHR Nov. 2020, 21-22).

The AHR report also notes that focus group participants, particularly transgender women, reported that "homophobia was still rampant in institutions," including in religious, civil society, media and business organizations (AHR Nov. 2020, 22). The same source further states that "transgender women sex workers who meet their clients in public places, such as bars/night clubs and hotels reported that other customers often mocked, harassed or beat them" (AHR Nov. 2020, 22).

Focus group discussions with female sex workers and LGBTI persons conducted by the Coalition indicated that LGBTI persons "faced stigma from the local leaders, security officials, community, family and religious leaders" (Coalition June 2020, 6). Sources indicate that a Rwandan gospel singer came out as gay in 2019 and lost his job as a result (FairPlanet 25 June 2021; DW 21 July 2020) [or was "allegedly forced" to resign (*The Standard* [2019])] and he was also evicted from his apartment (DW 21 July 2020). In a November 2020 article by *Vice*, the Executive Director of Hope and Care Organization (HAC), a Kigali-based "community[-]based organization working for the rights of LGBT people and sex workers" (HAC n.d.), stated that in Rwanda people who identify as LGBTI "'keep their sexuality and gender identity secret in an attempt to avoid rejection, discrimination and abuse, which in the long run inevitably denies them their basic human rights'" (*Vice* 20 Nov. 2020). In an interview with the Research Directorate, the HAC Executive Director further stated that their organization has "documented more than 20 cases of people losing jobs because of [their] sexual orientation" and 5 cases of people being given notice to leave their homes because they are LGBTI (Executive Director of HAC 27 July 2021). The same source added that he himself had also "been given notice to leave his house" due to his advocacy work with the LGBTI community (Executive Director of HAC 27 July 2021). In the *Vice* article, the Executive Director of the Health and Development Initiative (HDI) [3] stated that of the LGBTQ population in Rwanda, people who are transgender "face the highest stigma" (*Vice* 20 Nov. 2020).

Rwanda Today, an English-language Rwandan newspaper, reports that members of the LGBT community "faced the brunt of the COVID-19 pandemic in Rwanda" and that during this time incidents of discrimination and attacks against LGBT individuals "intensified" (*Rwanda Today* 16 Dec. 2020). The same source reports that a gay man who was interviewed stated that landlords were using unpaid rent, related to loss of jobs due to COVID-19, as a way to evict LGBT tenants, as they could not previously evict LGBT tenants without reason (*Rwanda Today* 16 Dec. 2020).

According to a community centre coordinator for HDI interviewed by *Vice*, since 2018 there has been a shift "in terms of behaviours and perceptions" and toward a more tolerant media landscape, while he also indicated that "there is still work to be done for [the] full recognition of rights for transgender people" (*Vice* 20 Nov. 2020). A BBC article states that most churches "preach that homosexuality is a sin" (BBC 28 Aug. 2019). However, the DW article reports that there is a church opened in Kigali that welcomes the LGBTI community (DW 21 July 2020). The same source notes that the LGBT community is "gradually gaining acceptance and respect within a largely conservative society" and that "more and more" LGBT Rwandans feel safe coming out (DW 21 July 2020).

3. Treatment of People of diverse SOGIE by Authorities

According to the US Department of State's *Country Reports on Human Rights Practices for 2020*, "[c]abinet-level government officials expressed support for the human rights of all persons regardless of sexual orientation" (US 30 Mar. 2021, 33). Human Rights Watch (HRW) states that when the Rwandan gospel singer came out as gay in 2019, "the then-foreign affairs minister publicly expressed support for him" (HRW 14 Jan. 2020, 483). According to the DW article, Rwanda's President has "avoided questions about homophobia" (DW 21 July 2020).

The AHR report states that government officials have used "inappropriate language" when describing LGBTI individuals and have also "portrayed homosexuality as a deviance, a private matter and a moral genocide" (AHR Nov. 2020, 12).

Sources report that Rwanda is scheduled to have its first Pride event in 2021 (Reuters 29 June 2021; FairPlanet 25 June 2021; Kuchu Times 8 June 2021). According to the FairPlanet article, while the LGBTI community wanted a parade, the government approved a workshop and soccer match (FairPlanet 25 June 2021). The Executive Director of HAC observed that part of the motivation for having a Pride event is to show that the LGBTI community exists in Rwanda because when the government is asked about LGBTI people, "[the government] says [LGBTI people] are not there" (Executive Director of HAC 27 July 2021).

3.1 Treatment by Police

According to sources, while individuals cannot be charged for any crimes based on their sexual orientation or gender identity, other charges can be used to detain people of diverse SOGIE (Freedom House 3 Mar. 2021, Sec. F4; *Vice* 20 Nov. 2020; ILGA World Sept. 2020, 51). Sources report arrests of LGBTI individuals using public morality laws (Freedom House 3 Mar. 2021, Sec. F4; Kuchu Times 10 Aug. 2020). According to correspondence that Belgium's Office of the Commissioner General for Refugees and Stateless Persons (Commissariat général aux réfugiés et aux apatrides, CGRA) received in September 2019 from the HDI Executive Director, "some" police officers perceive LGBT individuals "as deviant" and while homosexuality is not criminalized, HDI has registered cases of "illegal arrests and detentions" of LGBT individuals by police and the District Administration Security Support Organ (DASSO) (Belgium 30 Oct. 2019, 9).

According to ILGA World, transgender and gender diverse people report being harassed by police and "some" transgender individuals also report being "arbitrarily searched, arrested and detained without being given any reason" (ILGA World Sept. 2020, 51). The *Vice* article notes that while transgender individuals cannot be charged based on their sexuality or gender identity, "they are frequently abused by law enforcement and detained for indeterminate amounts of time at facilities that lack transparency" and where they face transphobic abuse; a transgender woman interviewed by *Vice* stated that she was held for six months and beaten every day (*Vice* 20 Nov. 2020). In correspondence with the Research Directorate, the Executive Director of Human Rights First Association Rwanda (HRFR), a human rights organization providing legal assistance in Rwanda (HRFR n.d.), similarly stated that "transgender people are illegally arrested [and] beaten by the police at detention facilities" (Executive Director of HRFR 5 Aug. 2021). ILGA World reports that according to Rwanda Gender Pride, "a human rights organisation in Rwanda working on the rights of transgender and gender non-conforming persons," one of the centres in Kigali where transgender people are "arbitrarily detained" does not have "any form of documented legal detention procedures" and is "not recognised by law per se" (ILGA World Sept. 2020, 51–52).

3.2 Treatment in the Legal System

Information on the treatment of people of diverse SOGIE in the legal system was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the Coalition, although religious leaders have used hate speech against LGBTI people in public, none have ever been prosecuted (Coalition June 2020, 11). A report by the CGRA states that according to the Executive Director of My Right[s] Alliance, an LGBTI rights organization based in Kigali (My Rights Alliance n.d.), lawyers are "'homophobic,'" and "'many'" refuse to take LGBT cases (Belgium 30 Oct. 2019, 8).

3.3 Treatment by Health Authorities

According to sources, access to healthcare for the LGBTI community is hindered by stigma (*Rwanda Today* 27 Dec. 2019; Belgium 30 Oct. 2019, 31). The Coalition reports that LGBTI people face "barriers" in accessing healthcare due to their "perceived behavior and physical appearance" and notes that Rwanda's *Fourth Health Sector Strategic Plan 2018-2024* does not mention LGBTI persons and transgender persons are excluded from the National Guidelines for Prevention and Management of HIV and STIs (Coalition June 2020, 16). The Executive Director of HRFR stated that transgender individuals do not access health services due to the "hate speech" and "negative attitudes" they face from health care providers (5 Aug. 2021). In an article from *Rwanda Today*, the WHO global technical officer for HIV testing services said that there needs to be "more effort" to address the issues that lead to the exclusion of those in same-sex relationships (*Rwanda Today* 27 Dec. 2019). In the same article, the Director General of the Rwanda Biomedical Centre stated that the government is aware that LGBT individuals face "multiple challenges" in accessing health care, but they are working to train medical professionals to better provide services without exclusion or discrimination and to "raise efforts to reach out to" LGBT individuals (*Rwanda Today* 27 Dec. 2019).

Sources indicate that the COVID-19 pandemic has had a disproportionate impact on minority groups, including people of diverse SOGIE (ACHPR 7 Aug. 2020; *Rwanda Today* 3 May 2020). Sources report that people blame COVID-19 on the LGBTI community (Executive Director of HAC 27 July 2021; AHR Nov. 2020, 27) and that LGBTI people are discriminated against in accessing emergency support (Executive Director of HAC 27 July 2021). AHR reports that following the first lockdown in March 2020, they "received a large number of reports from Rwandan LGBT individuals about starvation, homelessness, unemployment, poor access to healthcare and lack of appropriate personal protection equipment (PPE), such as face masks" (AHR Nov. 2020, 13).

4. State Protection

The Executive Director of HRFR stated that despite measures such as articles 15 and 16 of the Constitution, there is still discrimination and inequality (Executive Director of HRFR 5 Aug. 2021). The HAC Executive Director stated that the government has not put any policies in place to support the LGBTI community because when the government is asked about the LGBTI population in Rwanda, the government does not acknowledge this population's existence (Executive Director of HAC 27 July 2021). The *Vice* article states that the government's "lack of explicit legal protections for LGBTQ Rwandans enables the arbitrary detention of transgender people ... in the Gikondo Transit Center" (*Vice* 20 Nov. 2020).

In a study conducted by the Coalition [4], members of the LGBTI community stated that they do not file complaints of GBV with the police because the police have a perception that they are "deviant"; this results in complaints of GBV against the LGBTI population going unreported (Coalition June 2020, 9). The CGRA report indicates that according to correspondence CGRA received in August 2019 from the Executive Director of My Right[s] Alliance, LGBT individuals are not able to seek protection from courts or the police (Belgium 30 Oct. 2019, 5, 8). The Executive Director of HRFR stated that it is hard for LGBTI people to receive assistance from law enforcement due to discrimination and that in some instances, LGBTI individuals have been denied assistance (5 Aug. 2021). The same source stated that the judiciary is independent and operates without discrimination (Executive Director of HRFR 5 Aug. 2021).

5. Support Services

Information on support services for individuals of diverse SOGIE was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the HRFR Executive Director, "[t]he government does not run shelters, hotlines or other services to support sexual and gender minorities" but LGBTI individuals are able to access all resources that are available to the public, including a gender-based violence hotline (Executive Director of HRFR 5 Aug. 2021).

5.1 Examples of Non-Governmental Support Services

Vice reports that there is a 24-hour hotline for wrongfully arrested LGBTI Rwandans operated by Great Lakes Initiative for Human Development and funded by UNAIDS and the Rwanda Biomedical Centre (*Vice* 20 Nov. 2020). According to Bertelsmann Stiftung's *Transformation Index (BTI) 2020*, which covers the period from 1 February 2017 to 31 January 2019 and "assesses the transformation toward democracy and market economy as well as the quality of governance in 137 countries," "[a]ll [NGOs] and human rights organizations must become members of the National Civil Society Platform" (Bertelsmann Stiftung 2020, 2, 10). The *US Country Reports on Human Rights Practices for 2020* indicates that LGBTI persons have reported "challenges to officially registering NGOs" (US 30 Mar. 2021, 33).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

[1] The following community-based and civil society organizations contributed to this report: Health Development Initiative (HDI), Ihorere Munyarwanda Organisation (IMRO), Rwanda NGO Forum on HIV/AIDS and Health Promotion (RNGOF on HIV/AIDS HP), Strive Foundation Rwanda (SFR), Amahoro Human Respect Organisation (AHR), My Rights, Safe Friendly Society (SFS), Horizon Community Association (HOCA), Building Hope Future (BH), Rights for All Rwanda (RIFA), Bright Future Organization (BFO), Hope and Care (HAC), Joint Action for Bright Future (JABFA), Pride Ark Organization (PAO), Health and Rights Organization (HRI), ABAHUMUGAMBI, One for All, INDATWA, ABISHYZE HAMWE, IGITEGO (Coalition June 2020, 2).

[2] The AHR study was conducted in fall 2020 in Kigali City (Gasabo, Nyarugenge, and Kicukiro), Rubavu (located in Western province), and Muhanga District (located in Southern province) with 493 LGBT community members (AHR Nov. 2020, 13–14, 17). All study participants completed a questionnaire and "selected participants" took part in individual interviews and focus groups (AHR Nov. 2020, 14).

[3] The Health Development Initiative-Rwanda (HDI) is a Kigali-based independent non-profit organization using advocacy, education and training to improve healthcare for Rwandans (HDI n.d.).

[4] The data for the study in the Coalition of LGBTI and Female-Sex-Worker-Led Community-Based Organizations report was collected using focus groups with LGBTI gender non-conforming persons and female sex workers (Coalition June 2020, 2).

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Additional Sources Consulted

Oral sources, including: an academic consultant with expertise on human rights in East Africa; East African Sexual Health and Rights Initiative; Health Development Initiative Rwanda; Isange Coalition; Ligue des droits de la personne dans la région des Grands Lacs; Ligue rwandaise pour la promotion et la défense des droits de l'homme; National Commission for Human Rights; professor of gender studies at a university in Rwanda who has supervised research on the treatment of LGBTI people in Kigali; professor at a US university in the justice department; professor at a US university with research expertise on the health of LGBTI women in Rwanda; professor at a US university who collaborates with the Rwanda Ministry of Health.

Internet sites, including: Amnesty International; Australia – Department of Foreign Affairs and Trade; Bright Future Organization Rwanda; Coalition of African Lesbians; East African Sexual Health and Rights Initiative; ecoinet; EU – European Asylum Support Office; Factiva; Fédération internationale pour les droits humains; France – Office français de protection des réfugiés et apatrides; Global Alliance of National Human Rights Institutions; *Global Encyclopedia of Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) History*; GlobalGayz.com; Great Lakes Initiative for Human Rights and Development; IGIHE; Isange Coalition; KT Press; Ligue rwandaise pour la promotion et la défense des droits de l'homme; Minority Rights Group International; National Commission for Human Rights; openDemocracy; Organisation for Economic Co-operation and Development; OutRight Action International; PinkNews; Rwanda Diversity and Equality Network; Rwanda News Agency; Sexual Rights Initiative; Sexuality Policy Watch; Stonewall; Transgender Europe; UK – Visas and Immigration; UN – Office of the High Commissioner for Human Rights, Refworld; Voice of America.



of diverse sexual orientation
and gender identity (2019 -
August 2021)

Country:

Rwanda

Source:

[IRB – Immigration and Refugee
Board of Canada](#)

Original link:

[https://irb-
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information/rir/Pages/index.as
px?doc=458416&pls=1](https://irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=458416&pls=1)

Document type:

Response

Language:

English

Published:

23 August 2021

Document ID:

2061342

Austrian Red Cross
Austrian Centre for Country of Origin and
Asylum Research and Documentation (ACCORD)

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