

Flygtningenævnets baggrundsmateriale

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Uganda

Types of criminalisation

- Criminalises sex between men
- Criminalises sex between women

Commonwealth member state

Enforcement

2019

On 10 November, police raided LGBT-friendly 'RAM Bar' in Kampala, arresting 127 people. Local media reported that they were dragged out of the venue and thrown into police police vehicles. One of those detained by the police was able to call her brother, who works for the police and indicated that the raid had been to target LGBT people, despite police claims that it related to their use of shisha. Local LGBT rights organisations similarly suggested that this raid was targeting the

LGBT community. Of those arrested, 67 have reportedly been charged with nuisance offences.

On 21 October, 16 LGBT activists were arrested on suspicion of engaging in same-sex sexual activity in what fellow activists called an escalating campaign against sexual minorities. The 16 men, believed to be aged between 22 and 35, were taken into custody late on Monday at the office of a sexual health charity (Let's Walk Uganda) where they all worked and lived. On 24 October, police spokesperson Patrick Onyango indicated that officers had found lubricants, condoms and antiretroviral drugs at the charity, and had conducted medical examinations on all 16. "Based on the medical examination report, it was established that the suspects were involved in sexual acts punishable under the penal code," he said.

"Normally we will hear of maybe one arrest of someone from the community under these anti-gay laws in one month, but it is really unusual to see 16 people charged like this," said Frank Mugisha, Executive Director of Sexual Minorities Uganda. He added "The 16 activists have been held by police for over 48 hours, forced to undergo anal examinations. We are expecting them to be produced before court today."

All 16 activists were initially taken into "protective custody" after a crowd yelling homophobic slurs surrounded their office, rights groups said. Police said the group was detained after they were alerted to "illegal activities" by the community. They were reportedly released on bail until 5th November.

2017

The US Department of State Human Rights Report on Uganda stated that the authorities enforced the law during the year. The report further noted that the Human Rights Awareness and Promotion Forum (HRAPF) reported 14 cases of police arresting persons on suspicion of being LGBT.

Few cases have been fully prosecuted. However, arrests are ongoing and prosecutions commenced and increased with the passage in Parliament of the Anti-Homosexuality Act (AHA), which was signed into law in February 2014, albeit declared 'null and void' by the Ugandan Constitutional Court in August 2014 (see more below).

2015

In September, an ex-football manager was convicted by a Chief Magistrate's court for forceful same-sex sexual act but at the same time

was acquitted for sex with another male because that involved consensual same-sex sexual activity. However, according to the HRAPF the accused was not acquitted on the second count because the sex was consensual but because the Magistrate concluded that evidence from his consensual sex partner could not be trusted. He even suggested that the partner could also have been prosecuted for willingly violating a law against same-sex relations.

In January, police reportedly arrested nine men under Uganda's anti-gay laws. Reports indicate the men were subject to forced anal examinations while in police custody.

2014

In October, a Ugandan court dismissed charges against a man and a trans woman arrested in January 2014. The defendants' lawyer said the case was dismissed because the prosecution failed to produce any witnesses.

A report by Sexual Minorities Uganda in May noted 17 arrests since the passage of the AHA. This compares with just one such case reported to them in 2013 and none in 2012.

After the AHA came into effect, the government ordered the suspension of the Refugee Law Project (RLP), a legal aid organisation based at Kampala's Makerere University School of Law that provided services to refugees across Uganda, including victims of gender-based and sexual violence. Despite the nullification of the AHA by the Constitutional Court, the responsible minister has refused to lift the RLP's suspension.

In February, NTV Uganda reported that two men suspected of engaging in homosexual acts were arrested in Oyam in the Northern Region of Uganda.

Police raided the premises of Steven Dhont, a Belgian national, and his Kenyan friend at midnight while they were watching television in January. Both were charged and compelled to undergo anal examinations. The following day, they were paraded in public before the media.

2013

In October, 65-year-old British national Bernard Randall was arrested and charged with "trafficking obscene publications". The arrest and charges arose out of an attempted blackmail plot, after Randall's laptop was stolen and material published in a newspaper. On 22 January 2014,

the charges were dropped and the Court ordered his immediate deportation. Randall's 30-year-old Ugandan partner, Albert Cheptoyek, was also arrested and charged with gross indecency.

Statements by Public Figures

2020

In February, outgoing Archbishop Stanley Ntagali, in his final sermon said: "We cannot follow the teaching of the liberals of the West, which have told us the Bible is the book of the past and that men can marry men, and women can marry women. We are saying no to that liberal teaching ...we have said no to same sex marriage and we shall continue to say that until Jesus comes back."

New Anglican Archbishop, Dr. Stephen Kazimba Mugalu, re-affirmed the Church of Uganda's anti-LGBT stance: "The trend in the Western world and some Anglican churches in those contexts are being pressured into doing this (same-sex tolerance), including our mother Church of England. But for us in Uganda, as for me and my house, we will serve the Lord."

2019

On 10 October, Minister for Ethics & Integrity Simon Lokodo prompted concerns of a revived 'Kill the Gays' Bill, with the following statement:

"Homosexuality if not natural to Ugandans, but there has been a massive recruitment by gay people in schools, and especially among the youth, where they are promoting the falsehood that people are born like that. Our current penal law is limited. It only criminalises the act. We want it made clear that anyone who is even involved in promotion and recruitment has to be criminalised. Those that do grave acts will be given the death sentence."

Senior Press Secretary to President Museveni, Don Wanyama, subsequently stated: "We have the penal code that already handles issues of unnatural sexual behaviour so there is no law coming up."

On 5 October, Uganda's Minister for Security, General Elly Tumwine, labelled the opposition movement ('People Power, Our Power') "a terrorist organisation", noting its association "with LGBT... and things that want to break the established order of things"

2017

Minister of Ethics and Integrity Simon Lokodo said, after he made an order to cancel a week of gay pride celebrations: “It’s true I ordered the police to stop and shut down all the gay pride events. No gay gathering and promotion can be allowed in Uganda. We can’t tolerate it at all. We know they are trying to recruit and promote homosexuality secretly. But it’s worse to attempt to stand and exhibit it in public arena. This is totally unacceptable. Never in Uganda.”

In June, Rebecca Kadaga, Speaker of the Parliament of Uganda, called for the country’s anti-homosexuality laws to be reinstated. She said: “There is no bill on homosexuality. What we need is a new bill.”

2015

When asked about the AHA in September, President Yoweri Museveni told reporters in Tokyo: “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.”

In July, Amama Mbazazi became the first Ugandan presidential candidate to say he is opposed to discrimination on the basis of sexuality. He said: “I have stated very clearly that there shouldn’t be any discrimination and it is not the biggest threat right now in the country.”

2014

While speaking to a US trade delegation in Kampala in December, US Ambassador to Uganda Scott H Delisi said the Anti-Homosexuality Bill was acting as a deterrent for US investors who might otherwise do business in the country. He emphasised the bill’s potential to “seriously undermine Uganda’s economy, trade prospects and international reputation.”

In a widely-reported article in October, President Museveni wrote that a trade boycott by companies in the west would have a negative impact on foreign trade, thereby limiting the country’s “growth and transformation”. “To carelessly and needlessly open unnecessary wars with useful customers is irresponsible to say the least,” he wrote. As an alternative, Museveni suggested imposing punishments for “those who lure minors into homosexuality and those who promote homosexuality”, while removing those provisions punishing adults engaging in consensual conduct.

Following the Court decision to nullify the AHA, Anglican Archbishop said in August “the ‘court of public opinion’ has clearly indicated its support for the Act, and we urge Parliament to consider voting again on the Bill with the proper quorum in place.”

In a statement in August, UN Secretary-General Ban-Ki Moon welcomed the decision by the Constitutional Court of Uganda to annul the AHA as “a victory for the rule of law.”

In a statement in July the Ugandan government claimed the Anti-Homosexuality Act had been misinterpreted and had only been put in place to stop “open promotion of homosexuality” and to protect children: “The enactment has been misinterpreted as a piece of legislation intended to punish and discriminate against people of a ‘homosexual orientation’, especially by our development partners.” It concluded: “Uganda reaffirms that no activities of individuals, groups, companies or organisations will be affected by the act.”

Uganda’s Minister of State for Justice & Constitutional Affairs and Deputy Attorney General, Frederick Ruhindi, during the 55th Ordinary Session of the African Commission on Human and Peoples Rights in May, was quoted as saying: “The issue of sexual orientation is not a human right provided for in the human rights instruments we subscribe to.”

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Deputy Attorney General Frederick Ruhindi

A Ugandan priest, Anthony Musaala, in May called for the removal of Uganda’s AHA. For Musaala, the Act goes against biblical teaching, is “un-African” and “serves no moral purpose”.

In April, 30,000 Ugandans gathered at a stadium in Kampala to “give thanks to the President... for passing the Anti-Homosexuality Act”.

In February, Simon Lokodo stated about homosexuals: “We are tolerant. That’s what we are saying: we are not slaughtering them ... They can come and be helped to come out of this unfortunate situation ... It’s like a drug addict. Drug addiction is not an innate situation, it is acquired. But they can be transformed and become better ... So we are saying anybody found committing this incredible and abominable act should be checked

and isolated from society ... If you are found practising it, we shall take you to a cell.”

So we are saying anybody found committing this incredible and abominable act should be checked and isolated from society.

Simon Lokodo, State Minister of Ethics and Integrity

In February, the announcement was made that President Museveni would sign his assent of the Anti-Homosexuality Bill. In doing so, he stated: “In my role as a strategist and a responsible leader of our country, there is no debate regarding the promotion of homosexuality. That one I totally agree with everybody that anybody who is promoting homosexuality we must stop him ... this must be stopped by law and harshly. Secondly, I do not accept those who become homosexuals for mercenary reasons. Thirdly, I cannot accept exhibitionalism [sic] of homosexual behaviour that must be stopped and stopped harshly.”

In February, Richard Tushemereirwe, Presidential Advisor on Science stated: “Whether there is a link or no link to this, there is no justification for this, it is a wastage of time for us to debate about this. The only science that I find relevant to the science of homosexuality is not genetic but public health citing India where homosexuality has been reinstated as a crime under their constitution.”

A Scientific Statement on Homosexuality by the Ministry of Health was signed off in February by a committee of scientists commissioned by President Museveni. The report concluded: no definitive gene is responsible for homosexuality; homosexuality is not a disease or an abnormality; there is a small number of people with homosexual tendencies in every society; and homosexuality can be influenced by environmental factors (culture, religion, information, peer pressure); the practice needs regulation, like any other human behaviour, especially to protect the vulnerable; there is need for further study to address sexuality in the African context.

Prime Minister, Amama Mbabazi, in a speech in January at the Foreign Affairs Ministry before heads of foreign missions, commented: “I think in our tradition, and this is what I believe, homosexuality is treated as an abnormality. Given that as a fact, then the next question is, how do we treat abnormalities in our society? Do we kill them? If you identify an abnormality and you say “Let’s kill these abnormals” my conclusion is that you are the one that is abnormal. They need help. How do you treat

your children who are born as a ... I don't know what better word to use ... as mongols? Do you execute them, imprison them for life?"

I think in our tradition, and this is what I believe, homosexuality is treated as an abnormality.

Amana Mbabazi, Prime Minister

Persecution and Discrimination

2019

In the aftermath of the Minister for Ethics & Integrity, Simon Lokodo's statement indicating a revived 'Kill the Gays' Bill, LGBT activists have reported a surge in hate crimes – Executive Director of Sexual Minorities Uganda, Frank Mugisha, observing that “what we are seeing recently – these continuous attacks over such a short space of time – is not normal.”

On 20 October, unidentified assailants attacked a gay Rwandan refugee, inflicting blows to the head. On 13 October, two transgender women were beaten when they were leaving a nightclub. Also in October, gay rights activist, Wasswa John (known as Brian), was brutally beaten and stabbed to death by locals.

In August, a doctor (Dr Ben Kiwanuka Mukwaya) reportedly cracked a lesbian woman's skull with an iron bar and inflicted other serious injuries. In October, the Minister of Health, Dr Jane Aceng, reported Dr Mukwaya to the Uganda Medical and Dental Practitioners Council (UMDPC) over allegations that he assaulted a patient at his private health facility. Dr Mukwaya is a member of the UMDPC and sits on the board. The Minister said: “It is the policy of Ministry of Health that all patients should be able to seek medical treatment without fear of discrimination, violence, personal vengeance or retaliation. We appeal to all healthcare providers and stakeholders to accord equal and appropriate treatment to all patients who present at the health facilities irrespective of their race, tribe and gender. We also strongly condemn assault and violence against any individual and appeal to the public to report any such incidents to the relevant authorities. In particular, we request the public to report any medical related abuse to the ministry of health.” Notably, Dr Mukwaya has previously interacted with the Ministry of Health in his capacity as

Health Minister for Buganda Kingdom as part of a partnership on sickle cell anemia.

Also in August, group of motorcycle taxi drivers beat to death a young trans woman, Fahad Ssemugooma Kawere.

2017

In December, police stormed Uganda's only gay and lesbian film festival and forced its organisers to shut it down.

In August, the Ugandan government cancelled a week of gay pride celebrations in the country for the second year. Minister for Ethics & Integrity, Simon Lokodo, accused pride organisers of attempting to stage an illegal gathering aimed at recruitment, exhibition and promotion of homosexuality.

2015

A report released in July by the Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation documented 89 cases of LGBT rights violations in Uganda in 2014. Of these, 47 were carried out by state actors and 42 by non-state actors.

In July, a Channel 4 documentary covered the story of two gay men who were arrested in January 2014 after they were thrown out of their house and beaten by the local residents. They were subjected to forced HIV examinations and one of them had an anal examination performed on him. Both were paraded before the media. Although the charges against them were dismissed in October 2014, they suffered homophobic attacks from fellow inmates and are now struggling to make a living.

A documentary which aired on HBO in May revealed the story of a lesbian woman and her son who was born after she was gang-raped because of her sexuality. The documentary also features a group of men who admitted to raping lesbians.

A report released in February by Chapter Four Uganda detailed 25 instances of medical examinations carried out by doctors in cases related to homosexuality.

2014

The US Department of State Human Rights Report on Uganda noted that: “Local LGBT-related NGOs were denied official status due to the discriminatory law preventing their registration.”

In November, Ugandan LGBT activist Kelly Mukwano was hospitalised after an attack by a homophobic mob in Kampala.

A joint press release from Amnesty International and Human Rights Watch in May stated that “LGBTI people in Uganda have reported a surge in human rights violations since the passage of the Anti-Homosexuality Act.”

A report by Sexual Minorities Uganda in May found 162 reported cases of persecution, with over 30% including an element of violence; 41% involving an element of intimidation; 50% involving a loss of property or an eviction or loss of home; and 25% involving family rejection, asylum or suicide.

A report released by Makerere University’s Refugee Law Project in April found that the AHA not only reinforced homophobia but also heightened xenophobia.

Ugandan officials raided a US military affiliated research institute at Makerere University in April, reportedly on account of the institute’s work with the LGBT community.^[xvii]

In April, activists in Uganda reported at least 17 LGBT people had attempted suicide due to the AHA.^[xviii]

In February, Simon Lokodo, Minister of Ethics, was reported to be working with a list of homosexuals – corporate persons, business people, entertainment figures, foreign residents, alleged LGBTI supporters and ordinary blue-collar workers – and co-opting police secretly to investigate suspects with a view to conduct blanket arrests and naming and shaming them.

In January, a trans-woman was attacked by a mob on her way home from a gay-friendly bar. The mob humiliated her, beat her up and undressed her to check her sex in front of media. Police intervened and detained and charged her with vagrancy.^[xx]

Also in January, a gay man was woken up by a mob of angry residents who surrounded his house and threatened to kill him for being homosexual. Other reports suggest radio broadcasts calling for the ‘burning’ of gays.

Legislative News

2019

In October, it was reported that there were plans to revive the ‘Kill the Gays’ Bill – criminalising the ‘promotion’ of homosexuality and providing for the death penalty for certain offences. Uganda’s Minister for Ethics & Integrity, Simon Lokodo, observed that “Homosexuality is not natural to Ugandans, but there has been a massive recruitment by gay people in schools, and especially among the youth, where they are promoting the falsehood that people are born like that. Our current penal law is limited. It only criminalises the act. We want it made clear that anyone who is even involved in promotion and recruitment has to be criminalised. Those that do grave acts will be given the death sentence.”

The Anti-Homosexuality Act 2014 had been struck down as unconstitutional by Uganda’s Constitutional Court soon after its enactment because it was passed without the requisite quorum in Parliament.

However, Ofwono Opondo P’Odel, Executive Director of Uganda Media Centre (the Ugandan Government’s public communications body), tweeted only a few days later that “Government hereby clarifies that it does not intend to introduce any new law with regards to the regulation of #LGBT activities in Uganda because the current provisions in the #PenalCode are sufficient.” This was re-affirmed by Senior Press Secretary to President Museveni, Don Wanyama, who stated “We have the penal code that already handles issues of unnatural sexual behaviour so there is no law coming up.”

These developments came soon after Uganda’s Minister for Security, General Elly Tumwine, labelled the opposition movement (‘People Power, Our Power’) “a terrorist organisation”, noting its association “with LGBT... and things that want to break the established order of things” and gay rights activist, Wasswa John (known as Brian), was brutally beaten and stabbed to death by locals.

2017

In May, Sexual Minorities Uganda lodged its case with the High Court after the Ugandan Registration Service Bureau knocked back the organisation’s attempt to register its name.

During its second UPR cycle in March, Uganda noted the recommendations that it received concerning decriminalisation of consensual same sex activities between adults and to protect and to prevent discrimination against LGBT person.

2015

The Ugandan Constitutional Court was on 8 July due to hear the matter of *Jjuuko Adrian v. Attorney General*, which has been awaiting trial for seven years, but failed to do so. The case concerns a challenge to provisions in Uganda's *Equal Opportunities Commission Act* of 2007 preventing the Equal Opportunities Commission from investigating cases of LGBT rights abuses.

In April, the *Non-Governmental Organisations Bill 2015* was published in the Ugandan Government Gazette. If passed, the Bill would empower the National Board for Non-Governmental Organisations to refuse to register an NGO when "it is in the public interest to do so." Organisations would be prohibited from operating unless registered with the National Board for NGOs. Clause 40(f) of the Bill would also prohibit NGOs from engaging in "any act, which is prejudicial to the interests of Uganda and the dignity of the people of Uganda." These provisions are likely to restrict the activities of NGOs, and in particular those who work in support of LGBT rights. However, the Bill failed to pass in September.

2014

Members of Uganda's ruling party circulated a draft of the *Prohibition of Promotion of Unnatural Sexual Practices Bill*, which is intended to replace the annulled Act by criminalising same-sex acts even further. It is not clear yet when this bill will be introduced in the Parliament.

On 1 August, the Ugandan Constitutional Court struck down the Anti-Homosexuality Act (AHA). The Court found that there was an insufficient quorum (the required number of parliamentarians to pass an Act) and thus found the Act unconstitutional.

The AHA was signed into law in February.

Footnotes

1. Penal Code 1950, Section 145 Unnatural Offences

“Any person who—

1. (a) has carnal knowledge of any person against the order of nature;
2. (b) has carnal knowledge of an animal; or
3. (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.” Full text.

2. Penal Code 1950, Section 146 Attempt to Commit Unnatural Offences

“Any person who attempts to commit any of the offences specified in section 145 commits a felony and is liable to imprisonment for seven years.” Full text.

3. Penal Code 1950, Section 148 Indecent Practices

“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.” Full text.