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The Uganda LBQ Loose Network*

The Uganda LBQ Loose Network is a collective of 123 individuals and 15 organizations with an aim of increasing the voice and visibility of lesbian, bisexual, and queer women in advocacy, feminist leadership and women rights in Uganda.

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Key Words: LBQ women, SRHR, LGBTIQ, harassment in the workplace, sexual violence, technology



assisted

violence, SGBV.

INTRODUCTION

1. This report is submitted by the Uganda LBQ Loose Network, CREA and the Sexual Rights Initiative (SRI). The Uganda LBQ Loose Network brings together women in Uganda who self-identify as lesbian, bisexual and queer. The network works towards growing the queer feminist movement in Uganda for collective lobbying, movement building, advocacy and social support for LBQ women.
2. The LGBTIQ community in Uganda has continued to experience various forms of human rights violations stemming from discriminatory laws that criminalise same-sex sexual relations, cultural and religious inclinations of the majority of Ugandans predisposing them towards homophobic bias, and the ever-increasing efforts to further criminalise LGBTIQ identities. Since Uganda's last UPR, the LGBTIQ community has been focused on working towards equality, respect for the rights and access to essential social support services for LGBTIQ persons.
3. However, the community of lesbian, bisexual and queer women has remained largely underrepresented and underserved even in these spaces and their medical, social, economic and legal support needs remain unmet. This report therefore focuses on the specific issues affecting LBQ women in Uganda, the commitments Uganda has made in relation to fulfilling the human rights of LBQ women, the steps taken since the last review to meet these needs and the remaining gaps that the LBQ community in Uganda wishes to bring to the attention of both the Government of Uganda and other stakeholders in the 40th session of the UPR.
4. During the last UPR cycle, Uganda did not accept any of the recommendations on sexual orientation and gender identity. Regardless of this, Uganda is still bound to respect, fulfil and protect all human rights enshrined in international instruments, including towards LGBT persons. This submission covers the incidences of protection of the rights of LBQ women in Uganda since the last UPR review, as well as the incidences of

violations as documented by the contributing organisations.

EXECUTIVE SUMMARY

5. Uganda remains one of 69 countries in the world that criminalise consensual same-sex relations, with section 145 of the Penal Code Act criminalising having carnal knowledge of another person against the order of nature. In addition, the Sexual Offences Bill, currently awaiting presidential assent, seeks to further broaden criminalisation for same-sex relations. This criminalisation fuels discrimination against LGBTIQ persons and is used to justify human rights violations and exclusions against them under the guise of upholding the law. LBQ women and LGBTIQ persons generally have also borne the brunt of the economic and legal fallout from the restrictions imposed to contain the spread of the COVID-19 pandemic. The state deliberately did not plan for or allot relief for these groups, thus exposing them to dehumanising conditions during this period.
6. Uganda has determinedly continued to institutionalise the discrimination and marginalisation of sexual minorities, with efforts being made even at the legislative level to exclude LGBTIQ persons from access to justice mechanisms and social service provision. Although the government of Uganda has made efforts to ensure that health services are available to LGBTIQ persons through specific friendly facilities, and has taken steps at policy level to ensure access to HIV prevention, testing, treatment and care services for Key Populations¹. LBQ women have been systematically excluded even in these efforts and their needs are not fulfilled. As such, LBQ women continue to face significant challenges accessing health services, including SRHR and mental healthcare services.
7. In addition, LBQ women face discrimination in accessing education and securing adequate housing, both of which increase exposure to SGBV, including sexual harassment, with very little chance of effective redress in such cases. Technology assisted violence also remains a major challenge for LBQ women in Uganda, which is often unaddressed due to the weak regulatory regime.
8. All these violations go against Uganda's obligations under national, regional and international human rights law, to protect all persons against discrimination based on sex, gender, sexual orientation and gender identity.

¹ In the context of Uganda, Key Populations is a term that has largely been used in HIV and AIDS programming to denote a list of groups that are at increased risk and vulnerability to HIV. These groups include gay men, men who have sex with men, transgender people, and female sex workers. The term has gained traction outside HIV circles and is often used as an umbrella term in CSO spaces to denote the same groups.

Legal and policy framework

9. The Constitution of the Republic of Uganda, Article 21 protects all persons from discrimination on the basis of “sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability”. Uganda is also party to several international instruments, including the ICCPR, the ICESCR and the CEDAW, all of which protect persons from discrimination on the basis of sex, gender, nationality, race, etc., and “other status”. Sex has been interpreted by the Human Rights Committee to include sexual orientation, while “other status” has also been held by the Committee on Economic, Social and Cultural Rights to include sexual orientation.²
10. However, Uganda continues to criminalise same-sex sexual relations under the Penal Code Act, section 145 that creates the offence of “having carnal knowledge against the order of nature”. Whereas this does not particularly refer to LGBT persons,³ it is interpreted to criminalise consensual same-sex relations, thus allowing the law to be used as a tool to arrest and harass suspected LGBTI persons. Due to the inherent difficulty⁴ in proving this offence - especially as it relates to female persons - the police and the office of the Director of Public Prosecutions have not prosecuted or convicted any LBQ women of this offence, focusing all prosecutions on men and transgender persons. However, the police continue to arrest, harass and detain suspected queer women under the guise of enforcing this law. In several countries, criminalisation of consensual same-sex conduct in and of itself has been found to amount to an unlawful interference with the dignity and privacy of individuals and is found to be discriminatory.⁵
11. LGBTIQ people are often arrested and detained for long periods of time, exposed to violence, abusive language and humiliation merely on the basis of their perceived sexual orientation/ gender identity. They are charged with offences entirely unconnected to the reason for the arrest. For example, on 10th November 2019, the authorities raided a popular gay bar in Kampala, arrested 125 persons and charged more than half of them

² UN Committee on Economic, Social and Cultural Rights General (CESCR), ‘Comment 20 Non-discrimination in economic, social and cultural rights’ (2 July 2009), available at: <https://www.refworld.org/docid/4a60961f2.html> (accessed 29 April 2021).

³ Adrian Jjuuko, ‘The incremental approach: Uganda’s struggle for the decriminalisation of homosexuality’ (2013) <https://sas-space.sas.ac.uk/4815/1/14Jjuuko.pdf> (accessed 29 April 2021)

⁴ Intrusive anal tests on suspected gay men have been reportedly used as proof around “having carnal knowledge against the order of nature”. These tests have been heavily contested as violations to bodily integrity and an infringement to freedom from torture. See for instance Human Rights Watch ‘Uganda: Stop Police Harassment of LGBT People’ <https://www.hrw.org/news/2019/11/17/uganda-stop-police-harassment-lgbt-people>. Accessed 14th July 2021

⁵ See for instance, *Lawrence v Texas* 539 US 558 (2013); *National Coalition for Gay and Lesbian Equality v Minister of Justice*, 1999 1 SA 6 (CC); *Letsweletse Motshidiemang vs Attorney General and Lesbians, Gays and Bisexuals of Botswana (LEGABIBO) (Amicus curiae)*, MAHGB-000591 16.

with being a public nuisance contrary to section 160 of the Penal Code Act.⁶ In a similar incident, 23 persons were arrested from an LGBTIQ crisis shelter on March 29th 2020 on suspicions that they were gay and 20 of them were remanded to prison for over 50 days on charges of “doing a negligent act likely to spread infection of disease”. A similar, more recent incident occurred on 31st May 2021 when 44 LGBTI persons were arrested at a party on allegations that they were conducting a gay wedding, and 17 of them were subjected to anal examinations to prove that they were gay. The charges imposed however, were “doing a negligent act likely to spread infection of disease”. Between March 2020 and June 2021, the only 2 LBQ crisis shelters in the country reported four encounters with police authorities seeking to search their premises for allegedly promoting “lesbianism”.

12. Whereas some states are taking active steps to decriminalise consensual same-sex sexual relations,⁷ Uganda has over the years worked towards further criminalising same-sex sexual relations, starting with the enactment of the Anti-Homosexuality Act, 2014,⁸ which expanded criminalisation of same-sex sexual relations to include individual identities. This law was annulled less than 6 months later by the Constitutional Court of Uganda on 1st August 2014.⁹ On May 3 2021, the Parliament of Uganda passed the Sexual Offences Bill, which criminalises as “carnal knowledge against the order of nature” all sexual contact between persons of the same gender, the use of sex toys and some aspects of oral sex,¹⁰ now explicitly including LBQ women in the prohibition of same-sex sexual contact, in a clear bid to reproduce sections of the AHA-2014. This bill is still awaiting presidential assent.
13. This has continued to heavily impact LBQ women, exposing them to targeted attacks and arrests; buttressing and legitimizing the discrimination and harassment of LGBTIQ persons; and fueling human rights violations based on real or presumed sexual orientation and gender identity. In most cases, the police authorities and the office of the DPP utilise vaguely defined petty offences to justify arrests that are purely homophobic. This continued criminalisation, both reinforced by and reinforcing the rhetoric that homosexuality is not “African” and is therefore against African culture, violence against

⁶ See Buganda Road Court Criminal cases KLA-00-CR-CO-1263/2019 (Uganda vs Asuman Sserubiri and Others), KLA-00-CR-CO-1262/2019 (Uganda vs Ntale Farida and Others), KLA-00-CR-CO-1266/2019 (Uganda vs Male Marvin and others), KLA-00-CR-CO-1264/2019 (Uganda vs Ssematimba Titus and Others) and KLA-00-CR-CO-1265/2019 (Uganda vs Katongole Ibrahim and Others). See also, Human Rights Watch, Uganda: Stop police harassment of LGBT people, November 17 2019, available at <https://www.hrw.org/news/2019/11/17/uganda-stop-police-harassment-lgbt-people>, accessed 18th June 2021.

⁷ Above (*Letsweletse* case)

⁸ This bill was debated amidst heavy controversy over a period of five years, till parliament passed it on 20th December 2013. It was assented to by the president on 24th February, 2014.

⁹ *Prof. J Oloka-Onyango & 9 Others v Attorney General (Anti-Homosexuality Act (the AHA case))* Constitutional Petition No. 008 of 2014 (Constitutional Court of Uganda).

¹⁰ Although an authoritative text for this Bill has not yet been availed by the Office of the Clerk to Parliament, the presumptive section 13 defines “unnatural offences”, as per the Report of the Sectoral Committee on Legal and Parliamentary Affairs on the Sexual Offences Bill, 2019, which the parliament based on in passing this Bill.

LGBTIQ persons in Uganda is widespread and very rarely addressed by the state and often perpetrated by agents of the state. Decriminalisation of consensual same-sex relations would go a long way towards creating meaningful social change that would support the full realisation of the rights of LBQ women in Uganda.

Discrimination based on real or presumed sexual orientation and/ or gender identity

14. On the face of it, laws in Uganda protect all persons from discrimination based on a variety of personal characteristics/ identifiers.¹¹ However, the law is determinedly discriminatory, with deliberate efforts made by the legislature to exclude LGBTIQ persons. For instance, during the parliamentary debate prior to enacting the Equal Opportunities Commission Act, an amendment of the Bill was proposed to include section 15(6)(d). It specifically barred the Equal Opportunities Commission, a body that was being established to redress imbalances created by culture and tradition, from investigating any matters considered immoral or unacceptable by the majority of the social and cultural groupings in Uganda. A provision that was suggested specifically to prevent "homosexuals and the like" from using the EOC as an avenue for accessing justice.¹²
15. Uganda is obligated under international law to protect all persons from discrimination based on any grounds, including sexual orientation and gender identity.¹³ Uganda adopted one recommendation in its first UPR review (2011) to address violence against persons based on SOGIE and investigate cases of attacks against LGBTI rights activists,¹⁴ and courts in Uganda have on occasion upheld LGBTI rights and provided for the protection and respect of the rights of all persons without discrimination.¹⁵ In the 2016 UPR review, Uganda also accepted a recommendation to delete all discriminatory provisions against women that may exist in its national laws, although this has yet to be realized for LBQ women,¹⁶ who continue to suffer discrimination both from state and non-state actors.

¹¹ Article 21(2) of the Constitution of the Republic of Uganda

¹² S Tamale 'Giving with one hand, Taking away with the other: The Uganda Equal Opportunities Commission Act, 2007' in Human Rights Awareness and Promotion Forum (HRAPF) *Still Nowhere to Run: Exposing the deception of minority rights under the Equal Opportunities Commission of Uganda* (2010) 19-22. See also Parliament of Uganda 'Hansard, December 12 2016'.

¹³ Communication 488/1992, *Toonen v. Australia*, Human Rights Committee U.N. Doc CCPR/C/50/D/488/1992 (1994). <http://hrlibrary.umn.edu/undocs/html/vws488.htm> (accessed on 25th January 2021); United Nations High Commissioner for Human Rights 'Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity'. https://www.ohchr.org/documents%2Fissues%2Fdiscrimination%2Fa.hrc.19.41_english.pdf (accessed 29 April 2021).

¹⁴ Office of the United Nations High Commissioner for Human Rights http://www.uprinfo.org/database/index.php?limit=0&f_SUR=182&f_SMR=All&order=&orderDir=ASC&orderP=true&f_issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly.

¹⁵ See for instance Human Rights Awareness and Promotion Forum (HRAPF) vs. Attorney General and Another (High Court MA No. 188 of 2020).

¹⁶ Recommendation No. 115.52, by Guatemala; A/HRC/34/10- Para 115

The impact of the COVID-19 pandemic on human rights of LBQ women

16. From March 2020 to date, Uganda has been battling with COVID-19 and has instituted a series of measures, codified into law under the Public Health (Control of COVID-19) Regulations (2020), to curb the spread of the pandemic. LGBT persons engaged in the informal entertainment industry (music, bars and fashion) lost their source of livelihood when workplaces were closed in enforcement of the COVID-19 restrictions, and they had to make the hard choice to either break the rules or starve. Many were arrested for violating these regulations. During the period from 17th March to 21st July 2020, the period of the first strict COVID-19 lockdown, Human Rights Awareness and Promotion Forum, a legal aid clinic for LGBTIQ persons, recorded 20 arrests based largely on the SOGI of the victims, yet the charges imposed referenced COVID-19 Regulations.¹⁷
17. LGBTIQ persons were particularly affected by the large-scale loss of employment and income, which was compounded by the fact that food relief efforts by the state at this time were disjointed and often fraught with discrimination on the whim of the local area leaders charged with distributing food. The vagaries of the COVID-19 pandemic have exacerbated an already difficult situation for minority women in Uganda, exposing them to increased violence and ever deteriorating conditions of living.

The right to health

18. One of the greatest challenges for LBQ women is the lack of access to essential health services, despite the fact that both Uganda's Constitution and international law impose an obligation upon the state to ensure access to health services without discrimination for everyone in Uganda.¹⁸ The health system in Uganda has continued to suffer from logistical challenges including underfunding, poor infrastructure, lack of access to essential medicines in most public facilities, and lack of a comprehensive regime to ensure access to health insurance for all persons in Uganda. Since the last review, resource allocation to the health sector as a percentage of the national health budget has tremendously declined. In the National Budget for 2021/2022, the Uganda government plans to further cut the Health Budget despite the state's commitment in the Abuja Declaration to allocate at least 15% of the national budget to health. This has caused even more manifestation of harm during this period as the country battles with COVID-19. All these issues continue to plague health service delivery despite Uganda's acceptance of 3 recommendations on increasing the health sector budget, one of which specifically

¹⁷ Interview with Justine Balya, a lawyer in HRAPF's legal aid clinic, 30th June 2021.

¹⁸ Article 8A and Objective XXVI of the National Objectives and Directive Principles of state policy recognise the justiciability of the right to health. Uganda has also ratified the ICESCR, the CEDAW, the ACHPR and the Maputo protocol thereunder.

referenced Uganda's obligations under the Abuja Declaration.¹⁹

19. The Uganda LBQ Loose Network also remains deeply concerned about the exclusion of minority women in SRHR programing and policy making. Despite state efforts to reach out to key and priority populations with HIV prevention, treatment and care services, LBQ women have been excluded from all discussion and service provision due to the flawed presumption that they are not as vulnerable to HIV. As such, LGBT-specific and friendly health services have also remained unavailable to LBQ women, exposing LBQ women to health risks and a steadily deteriorating quality of life. Additionally, the lack of LBQ-specific and targeted SRHR information and services affects the right to health for LBQ women by limiting access to necessary services. This is in direct violation of Uganda's obligations to ensure access to the highest attainable standard of health for all persons under the CEDAW, the ICESCR and under the African Charter on Human and People's Rights, as well as the Maputo Protocol.
20. The laws in Uganda also continue to criminalise abortion, prejudicing women's right to health and right to their life. The criminalisation of abortion in Uganda,²⁰ which is rooted in Article 22(2) of the Constitution, exposes women and health workers to criminal arrests and myriad human rights violations in the justice system.²¹ Although there have been efforts at the policy level to widen the exceptions, these efforts have been at loggerheads with the position of the law and have thus merely created confusion. The current position remains uncertain after the recall of the 2016 Ministry of Health Standards and Guidelines on Prevention of Maternal Mortality and Morbidity due to Unsafe Abortion. Women across Uganda continue to be exposed to unsafe abortion practices as research has shown that the criminalisation has no effect on the incidence of abortions, but does negatively impact maternal mortality and morbidity.²²
21. While the Government of Uganda is to be commended for making efforts to tackle issues of mental health and wellness through the Mental Health Act of 2018, there is no legal provision for access to state-funded and human rights affirming psychosocial care for the majority of the people of Uganda. This is because this law has yet to be operationalised since 2018, pending a decision of the Minister for Health on its commencement. LBQ women in Uganda deal with significant pressures brought on by the widespread marginalisation of LGBTIQ persons, with most of them forced to exist in

¹⁹ Recommendations No. 115.116 (Syrian Arab Republic), 115.117 (Syrian Arab Republic), 115.120 (Korea), 115.113 (Indonesia), 115.114 (Paraguay), 115.119 (Nepal), 115.115 (Ukraine), 115.122 (Kenya- this is the recommendation that specifically referenced the Abuja declaration, and it was adopted by Uganda) and 115.121 (Egypt), A/HRC/34/10- Para 115.

²⁰ Sections 141, 142 and 143 of the Penal Code Act. The only accepted exception is a surgical procedure performed to preserve the physical life of the pregnant woman in section 224.

²¹ See generally, Human Rights Awareness and Promotion Forum, *The Enforcement of Criminal Abortion Laws in Uganda and its Impact on the Human Rights of Women and Health Workers*, 2016

²² Above.

the closet. The lack of access to reliable and quality mental healthcare/ support services is therefore a significant gap in the health delivery system that has negatively impacted the right to health for LBQ women.

Sexual and gender-based violence

22. The Constitution of the Republic of Uganda, Article 33 affirms the rights of women, compelling the state to take measures to redress imbalances that deny women equality and dignity and ensure affirmative action in their favour. Additionally, Uganda is party to several international human rights mechanisms/treaties that address the matter of SGBV, including the CEDAW, which enjoins state parties to take appropriate measures to eliminate discrimination against women in all fields, including the workplace. Uganda has enacted the National Policy on Gender Based Violence, 2010, which seeks to address GBV in all its forms, including sexual harassment, as an integral part of achieving gender equality. In addition, the National Action Plan on Elimination of Gender Based Violence 2016-2021, among other laws, is meant to address and end violence against women and girls.
23. Despite these efforts, SGBV remains a routine part of life for most women in Uganda. For instance, in 2020, the Uganda Police Force recorded a total of 1519 cases of rape, with 1521 victims; 17,664 cases of domestic violence were reported, affecting a total of 18,872 persons of whom the vast majority were women (13,145) and girls (1,186); and 14,143 cases of defilement affecting 14,230 children.²³ It is worth noting that the reported cases are usually far less than the actual number as the majority of such cases often go unreported.
24. Many LBQ women have been subjected to sexual violence within their own homes, physical violence in forms of beatings for “embarrassing the family”²⁴ and even forced marriages in a bid to “rehabilitate” them. There is no redress for this violence as LBQ women live in constant fear of further victimization because of their gender identity or sexual orientation should they choose to come out and challenge such actions.
25. In addition, parenting has always been a major challenge for LBQ women, who are often denied parental rights over their own children once their sexuality is discovered. In far too many cases, LBQ women have been considered not fit and to raise their own children by their own families and their communities, violating the right of the women to raise their children and the right of the children to be raised by their own biological parents as protected under Article 31(5) of the Constitution. The adoption of children for

²³ Uganda Police Force, Annual Crime Report 2020.

²⁴ See for instance <https://www.rollingstone.com/politics/politics-features/asylum-lgbt-border-africa-uganda-mexico-juarez-trump-898702/> accessed 17th June 2021.

same-sex couples in Uganda and even single LBQ women remains a distant dream.²⁵

26. Another challenge that LBQ women have faced over the years is sexual harassment in the work place. Whereas Uganda has an apparently comprehensive legal framework to protect workers against sexual harassment, there are still significant gaps in the law that are being exploited to make workspaces inhospitable to majority of women in both formal and informal employment. The Employment Act, 2006 section 7 prohibits sexual harassment, and the Uganda Gender Policy of 2007 also provides for protection of women from sexual harassment. However, under Section 7(4) of the Employment Act and the Employment (Sexual Harassment) Regulations, 2012, only entities that employ more than 25 persons are legally bound to institute measures to protect employees against sexual harassment in the workplace, a threshold that easily eliminates the majority of Ugandan workplaces, even in the formal sector. The experiences of sexual harassment continue to abound in most workspaces, from flower farming to banking.²⁶
27. Sexual harassment is rife in the field of professional sports, but remains underreported and undocumented. Several cases have been reported of LBQ women and transgender men in professional sports suffering persistent and aggressive sexual advances from coaches, managers of sports academies and teams, etc. Including LBQ women and transgender men being blackmailed into unwanted sexual relationships by their colleagues or superiors in the sports fraternity, who threaten to expose their sexuality if they decline their advances. In one particular case, an employee of an airline was outed to the airline after the management of her partner's soccer academy hacked her phone and shared compromising messages and photos with her employer.²⁷
28. Queer women often find it impossible to report such harassment as they are constantly scared of/threatened with being outed, exposing them further violence and other negative consequences. Unfortunately, this is fueled by the legal denial of protection from discrimination on the basis of sexual orientation, despite Uganda's accepted recommendations in the previous cycle to continue to accede to the core international human rights instruments²⁸ and to create a process to control the conformity of laws with the international commitments of the country in the field of human rights.²⁹

The right to education

²⁵ Global Press Journal, Would-be Ugandan Parents Denied Adoptions Because of Sexuality, available at <https://globalpressjournal.com/africa/uganda/ugandan-parents-denied-adoptions-sexuality/>, accessed 10th July 2021.

²⁶ See for instance Akina Mama wa Afrika, Tusikize- Listen to Us: Experiences of sexual harassment against women in the world of work in Uganda, available at <https://www.akinamamawaafrika.org/wp-content/uploads/2020/07/Sexual-Harassment-Study.pdf>, accessed 18th June 2021.

²⁷ See Human Rights Awareness and Promotion Forum, Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity, 2018.

²⁸ A/HRC/34/10 - Para. 115, Recommendation 115.3 (Azerbaijan)

²⁹ A/HRC/34/10 - Para. 115 Recommendation 115.23 (France)

29. Article 30 of Uganda's Constitution provides that every person shall have a right to education, and Article 21(2) requires that education should be without discrimination. However, it is not uncommon for schools to expel students merely because they suspect them of being queer,³⁰ severely limiting their right to acquire an education, and consequently, their ability to secure gainful formal employment. In contrast, if the Constitution protected persons against discrimination on the grounds of their sexual orientation, it would be possible to hold schools accountable for unfairly suspending or expelling students merely upon suspicion of their sexuality, and to demand redress for such discrimination, as is the case in some countries.³¹

The right to adequate housing

30. The majority of Ugandans consider LGBTI persons socially unacceptable³² and as a result, several LGBT people have been denied access to accommodations by property owners, even when they could afford it. For instance, in 2019, Human Rights Awareness and Promotion Forum documented 19 verified cases in which LGBTI persons were evicted from their residences merely because they were suspected of being LGBTIQ. This was almost always at the insistence of the local area leaders. Evicting LGBTIQ persons from their places of residence is violation of the right to freedom of movement³³ and an unlawful interference with the livelihood and life of the victim.³⁴ It is impossible to get effective redress for such violations because of the lacuna in the Constitution that gives such discrimination the superficial appearance of being legally acceptable because there is no provision that bars discrimination on the basis of sexual orientation or gender identity.

Technology assisted violence

31. A recent study by Her Internet on digital security for queer women and female sex workers found that 80% of the respondents knew of a woman who had been a victim of

³⁰ See for instance More than 20 Uganda teen girls expelled for 'lesbianism', available at <http://coalition.org.mk/uganda-nad-dvaeset-tinejdjerki-izbrkani-od-uciliste-poradi-lejzbejstvo/?lang=en>, accessed 18th June 2021. See also, Public Counsel, Tortured for Teaching Tolerance, Ugandan Principal Who Stood Up Against Anti-Gay Hate Wins Asylum, available at <http://www.publiccounsel.org/stories?id=0129> and Newz Post, Uganda: Because he is gay, Godfrey was expelled from school, rejected by his family & sacked from his job, available at <https://newz.ug/uganda-because-she-is-lesbian-yudaya-http-newz-ug-p43854previewtruewas-expelled-from-school-rejected-by-her-family-sacked-from-her-job/> (accessed 18th June 2021).

³¹ See for instance The VoiceBW, Expelled "lesbian" takes school to court,

<https://news.thevoicebw.com/2020/09/expelled-lesbian-takes-school-to-court/>, accessed June 18 2021

³² The Pew Research Centre found in 2013, that people in Africa and in Muslim majority countries were the most opposed to homosexuality. Uganda was at 96%, Kenya at 90%, and South Africa at 61%. See Pew Research Centre 'The global divide on homosexuality: Greater acceptance in more secular and affluent countries' (2013) 3

[http://www.pewglobal.org/files/2013/06/Pew-Global-Attitudes-Homosexuality-Report-FINAL JUNE-4-2013.pdf](http://www.pewglobal.org/files/2013/06/Pew-Global-Attitudes-Homosexuality-Report-FINAL%20JUNE-4-2013.pdf).

³³ Article 29(2)(a) of the 1995 Constitution of Uganda.

³⁴ *Salvatori Abuki and Anor v Attorney General* Constitutional Case No. 2 of 1997.

bullying, sexual abuse, trolling, blackmail and other forms of online harassment, while 44.4% had themselves been victims.³⁵ While Uganda has made efforts to curb online violence by enacting the Computer Misuse Act of 2011, providing for penalties for cyber harassment and offensive communication, it has been found that this law has been used mainly for political purposes while real victims of cyberbullying have not received any protection.³⁶ An example of the use of the Computer Misuse Act to silence dissenting voices was shown through the 2019 arrest and detention for over a year of Dr. Stella Nyanzi, a gay rights activist and feminist, on charges of offensive communication because she used her Facebook account to publish posts that were derogatory to both the President and the First Lady of the Republic of Uganda.³⁷ On the other hand, a female artist, a victim of revenge porn, was accused of distributing pornography and faced a serious threat of imprisonment, with no repercussions for the perpetrator.³⁸

32. There is no effective enforcement of laws meant to protect people from online violence, and so most citizens are left to deal with the fallout of cyber harassment as best they can. For LBQ women, this poses a unique challenge as online abuse rarely stays online. It often translates into abuse in their private offline lives, with a very real possibility of physical and sexual violence in the event that the harassment involved outing of the woman in question. This is further enabled by the lack of redress in Uganda's lackluster regime on protection from technology assisted violence.

Conclusion

33. Despite a few attempts made by Uganda over the last five years on human rights protection for LGBTIQ persons, including training of police and judicial officers on issues of marginalisation and LGBTIQ rights and positive pronouncements by the courts on human rights for LGBTIQ persons generally, the continuing exclusion of LBQ women from protection is a major challenge that must be addressed forthwith and with a

³⁵ Her Internet, The trends and impact of technology assisted violence among lesbian, bisexual, queer (LBQ) womxn and female sex workers (FSW) in Uganda; 2021, Kampala, at page 15 – 16.

³⁶ Sections 24 and 25 of the Computer Misuse Act, 2011; See also, Human Rights Awareness and Promotion Forum, Issue 4, The Human Rights Advocate Magazine, The Computer Misuse Act, 2011: Yet Another Legal Fetter to the Basic Rights and Freedoms of Marginalised Persons, 2017. Available at <https://hrapf.org/index.php/resources/human-rights-advocate-magazine/97-fourth-issue-of-the-human-rights-advocate/file>.

³⁷ See The Insider, Nyanzi charged of cyber harassment, subjected to medical examination, available at <https://theinsider.ug/index.php/2017/04/10/nyanzi-charged-of-cyber-harassment-subjected-to-medical-examination/>, April 10 2017, accessed June 18th 2021; Pen International, Uganda must release academic Stella Nyanzi and drop all charges against her, November 12 2018, available at <https://pen-international.org/news/uganda-must-release-academic-stella-nyanzi-and-drop-all-charges-against-her>, accessed 18th June 2021; The Globe and Mail, Stella Nyanzi: The woman who used Facebook to take on Uganda's president, May 30 2017, available at <https://www.theglobeandmail.com/news/world/ugandan-scholar-stella-nyanzi-the-woman-who-tickled-the-leopard/article35159152/>, accessed June 18 2021.

³⁸ BBC, Ugandan 'revenge porn' victim Desire could be arrested, November 11 2014, available at <https://www.bbc.com/news/av/world-africa-30011166>, accessed June 18, 2021.

specific focus on LBQ women's rights.

Recommendations

1. Take steps to provide protection from discrimination on the grounds of sexual orientation and gender identity in the Constitution, in conformity with internationally accepted standards. Repeal provisions of the Penal Code Act and the Sexual Offences Bill that criminalise consensual same-sex relations and LGBTIQ persons.
2. Mandate human rights training for law enforcement centered around and informed by marginalised populations to ensure protection of human rights.
3. Institute a mechanism to ensure compliance with Uganda's human rights obligations at all levels in the legislative process to ensure that laws passed by parliament meet internationally established standards.
4. Enhance legal protection of all persons from sexual harassment, with a particular focus on the informal sector. Mandate employers in the private sector to develop policies against discrimination based on sex, gender and sexuality in the workplace, including investigating and responding effectively to all reported incidents.
5. Meaningfully engage LBQ women in policy making processes on provision of SRHR services to ensure that the unique health needs of LBQ women are addressed.
6. Provide a regulatory framework for access to safe abortion services for women and girls in Uganda, and take immediate steps to reinstate the Standards and Guidelines for Reduction of Maternal Mortality and Morbidity due to Unsafe Abortion.
7. Invest in human rights affirming mental health care for all and immediately operationalise the Mental Health Act.
8. Provide legal protection for victims of SGBV without regard to gender and sexuality, and ensure proper enforcement of laws protecting women and girls against SGBV.
9. Provide same-sex couples with all the rights available to opposite-sex couples, including the rights to adoption, fostering and parental rights over children.
10. Develop and enact guidelines under the Computer Misuse Act of 2011 to provide effective penalties for online offences including revenge porn, and train law enforcement officers on the legal protection regime on technology assisted violence.

