

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	252
Land:	Burundi
Kilde:	ILGA
Titel:	State-sponsored Homophobia 2017
Udgivet:	Maj 2017
Optaget på baggrundsmaterialet:	6. juni 2017

In both of its UPR sessions to date (December 2008, January 2013) Botswana refused all recommendations for decriminalisation and non-discrimination based on SOGI (7 recommendations in 2008, and 8 in 2013). In its response to recommendations the delegation for Botswana said (at para. 92) that other than including sexual orientation in the amended Employment Act of 2010, “[r]egarding cultural sensitivities that have a bearing on existing legislation, the delegation confirmed Botswana’s commitment to comply with its treaty obligations” and “determined to undertake educational awareness campaigns...”. Despite a CCPR recommendation (at para. 22) that Botswana should amend Section 164, and the *Kanane* case of 2003 that found the provisions at Sections 164 and 167 discriminatory, the law has remained in place.

It is notable that Botswana’s ambassador to the UN led the second wave of opposition to the establishment of the SOGI Independent Expert to the UN in November 2016, saying “[n]o nation or group of nations should pretend to hold a monopoly over cultural norms and therefore seek to impose those values on others”.

BURUNDI



Law No. 1/05 of 22 April 2009 concerning the revision of the Penal Code.

Article 567

[SEXUAL RELATIONS WITH... SAME SEX]

“Whoever has sexual relations with someone of the same sex shall be punished with imprisonment for three months to two years and a fine of fifty thousand to one hundred thousand francs or one of those penalties.”

Burundi received 11 direct recommendations in its 2nd UPR in 2015 regarding sexual orientation, the majority regarding decriminalisation, to which the delegation is recorded as saying: “With regard to discrimination against homosexuals, the delegation acknowledged that the Criminal Code of 2009 still punished homosexuality. That situation was in line with the country’s customs and values, and the delegation asked for the international community’s understanding while Burundian society prepared for a change in mentality. The head of the delegation did emphasise, however, that he would raise the issue with the Government.” Burundi’s 3rd UPR will be in October 2017.

A Shadow Report to the Human Rights Committee (HRCee) that oversees the ICPPR describes the repressive conditions under which LGBT people live in Burundi. In November 2014, the HRCee unambiguously stated that Burundi, “... should decriminalise homosexuality; amend the ministerial order of the Minister of Basic Education in order to forestall its discriminatory application to young homosexuals; remove any *de jure* or *de facto* obstacle to or any restriction on the establishment of associations by homosexuals; and take all necessary steps to provide effective protection for homosexuals from threats to their physical integrity and from discrimination of any kind”.

In December 2014, the Committee Against Torture (CAT) spoke directly to discrimination based on SOGI, referring to Article 16 of the Convention: “[t]he State party should decriminalize homosexuality and take all necessary measures to effectively protect homosexuals from threats and any form of violence [...]; and ... investigate any cases involving violations of their physical integrity”.

In relation to Burundi’s presence at United Nations human rights mechanisms in the recent past, Burundi was examined by CESCR (the Committee on Economic, Social and Cultural Rights) in October 2015, which “recommends that the State party repeal all provisions that could lead to the discrimination, prosecution or punishment of individuals on the basis of their sexual orientation or gender identity and that it take all appropriate steps to ensure that lesbian, gay, bisexual and transgender individuals may exercise all the rights enshrined in the Covenant”.

The legal and social situation of LGBT people in Burundi is captured in a 2016 report produced by the East African Sexual Health and Rights Initiative.