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Uganda: Treatment of persons based on their sexual orientation, gender identity and expression, and sex characteristics (SOGIESC), and treatment of their family members, by society and authorities, including legislation and state protection (2022–July 2024)

Research Directorate, Immigration and Refugee Board of Canada

1. Legislation

According to Uganda's Constitution, "[m]arriage between persons of the same sex is prohibited" (Uganda 1995, Art. 31(2a)). *Bertelsmann Stiftung's Transformation Index (BTI) 2022*, which "assesses the transformation toward democracy and a market economy as well as the quality of governance in 137 countries," indicates that sexual minorities experience "discrimination" and "homosexual acts remain criminalized by a statute maintained from colonial times" (Bertelsmann Stiftung 2022, 2, 14).

1.1 *The Anti-Homosexuality Act, 2023*

The purpose of this Act is to "prohibit any form of sexual relations between persons of the same sex; to prohibit the promotion or recognition of sexual relations between persons of the same sex; and for related matters" (Uganda 2023). The Act [1] provides the following:

1. Interpretation

...

"advanced age" means seventy five years of age and above;

"child" means a person below the age of eighteen years;

...

2. The offence of homosexuality

(1) A person commits the offence of homosexuality if the person performs a sexual act or allows a person of the same sex to perform a sexual act on him or her.

(2) A person who commits the offence of homosexuality is liable, on conviction, to imprisonment for life.

(3) A person who attempts to perform a sexual act in the circumstances referred to in subsection (1) commits an offence and is liable, on conviction, to imprisonment for a period not exceeding ten years.

(4) For purposes of subsection (3), a person shall be deemed to attempt to commit an offence when the person intending to commit an offence begins to put his or her intention into execution by means adapted to its fulfilment, and manifests his or her intention by some overt act, but does not fulfil his or her intention to such an extent as to commit the offence.

...

3. Aggravated homosexuality

(1) A person who commits the offence of homosexuality in any of the circumstances specified in subsection (2), commits the offence of aggravated homosexuality and is liable, on conviction, to suffer death.

(2) The circumstances referred to in subsection (1) are where—

(a) the person against whom the offence is committed is a child;

(b) the offender is a parent, guardian or relative of the person against whom the offence is committed;

...

(d) the offender is a serial offender;

(e) the offender is a person in authority over the person against whom the offence is committed;

(f) the person against whom the offence is committed is a person with disability or suffers a disability as a result of the sexual act;

(g) the person against whom the offence is committed is a person with mental illness or suffers a mental illness as a result of the sexual act;

(h) the person against whom the offence is committed is of advanced age;

(i) the sexual act is committed against a person by means of threats, force, fear of bodily harm, duress or undue influence, intimidation of any kind, or through misrepresentation as to the nature of the act; or

(j) the person against whom the offence is committed was, at the time the offence was committed, unconscious or in an altered state of consciousness due to the influence of medicine, drugs, alcohol or any other substance that impaired his or her judgment.

(3) A person who attempts to perform a sexual act in the circumstances referred to in subsection (1) commits an offence and is liable, on conviction, to imprisonment for a period not exceeding fourteen years.

...

4. Punishment for child offender

A child who is convicted of an offence under section 2 or 3 of this Act shall, instead of the punishment prescribed under the relevant section, be liable, on conviction, to imprisonment for a period not exceeding three years.

...

6. Consent to sexual act is no defence

The consent of a person to commit a sexual act shall not constitute a defence to a charge under this Act.

...

10. Prohibition of marriage between persons of same sex

(1) A person who—

(a) purports to contract a marriage with a person of the same sex;

(b) presides over, conducts, witnesses or directs a ceremony purported to be a marriage between persons of the same sex; or

(c) knowingly attends or participates in the preparation of a purported marriage between persons of the same sex, commits an offence and is liable, on conviction, to imprisonment for a period not exceeding ten years.

(2) In this section, "marriage" means the union, whether formal or informal, between persons of the same sex.

11. Promotion of homosexuality

(1) A person who promotes homosexuality commits an offence and is liable, on conviction, to imprisonment for a period not exceeding twenty years.

(2) A person promotes homosexuality where the person—

(a) encourages or persuades another person to perform a sexual act or to do any other act that constitutes an offence under this Act;

(b) knowingly advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcasting or distribution by any means, including the use of a computer, information system or the internet, of any material promoting or encouraging homosexuality or the commission of an offence under this Act;

(c) provides financial support, whether in kind or cash, to facilitate activities that encourage homosexuality or the observance or normalisation of conduct prohibited under this Act;

...

(e) operates an organisation which promotes or encourages homosexuality or the observance or normalisation of conduct prohibited under this Act.

(3) Where an offence prescribed under this section is committed by a legal entity, the court may—

(a) impose a fine not exceeding fifty thousand currency points [C\$369,000] for breach of any of the provisions of this section;

(b) suspend the licence of the entity for a period of ten years;

or

(c) cancel the licence granted to the entity.

...

16. Rehabilitation of homosexual

(1) The court may, upon convicting a person of the offence of homosexuality, order the provision of social services for purposes of rehabilitating the convicted person.

(2) The services referred to in subsection (1) may be provided by the prisons service or by a probation, social and welfare officer of the area where the convicted person is serving his or her sentence. (Uganda 2023, bold in original)

According to a press release on the Parliament of Uganda's website, the *Anti-Homosexuality Act* seeks to "protect the traditional family by prohibiting any form of sexual relations between persons of the same sex and promotion of such acts" and aims to "address the gaps" in national legislation including the *Penal Code Act* (Uganda 2023-03-22). According to the US Department of State's *Country Reports on Human Rights Practices for 2023*, provisions of the *Anti-Homosexuality Act* "discriminate" against LGBTQI+ community members by, for instance, prohibiting landlord or property managers from "knowingly renting to persons who might commit violations" of the Act and requiring all persons, including medical workers, to report LGBTQI+ persons who "might commit violations" under the Act (US 2024-04-22, 44).

Sources note that on 3 April 2024, the Constitutional Court of Uganda "reaffirmed the legitimacy" of the *Anti-Homosexuality Act* (HRAPF 2024-04-12, 3), or "'uph[eld] most provisions of the Anti-Homosexuality Act, including the death penalty in certain circumstances'" (Human Rights Watch 2024-04-04). The Human Rights Awareness and Promotion Forum (HRAPF), a Ugandan NGO that advocates for the rights of marginalized persons through "enhanced access to justice, research and advocacy, legal and human rights awareness, capacity enhancement, and strategic partnerships" (HRAPF n.d.), adds that the Court "upheld the offences of homosexuality, aggravated homosexuality,

child grooming, same sex marriage and promotion of homosexuality" (2024-04-12, 3). Human Rights Watch states that the court "did strike down sections that restricted healthcare access for LGBT people, criminalized renting premises to LGBT people, and created an obligation to report alleged acts of homosexuality" (2024-04-04).

2. Treatment of Individuals Based on Their SOGIESC

According to a report by the Strategic Response Team (SRT) [2] which documented "human rights violations committed" by state and non-state actors between January and August 2023, perpetrators of such acts against LGBTIQ+ individuals include "the Uganda police force, defence authorities, local council authorities and non-state actors, including families of LGBTIQ+ persons, landlords, doctors and public health officials, and the general public" (2023-08, 8). Freedom House states that LGBT+ individuals face "overt hostility" from authorities and from society (2024-02, Sec. F4).

2.1 Treatment by Society of Individuals Based on Their SOGIESC

The *BTI 2022* report notes that individuals whose "sexual orientation is not in line with the 'moral values' of the majority of the population face social ostracism, and occasionally threats and violence" (Bertelsmann Stiftung 2022, 28). *US Country Reports 2023* indicates that according to LGBTQI+ activists, LGBTQI+ individuals experience "intense social pressure to change their sexual orientation" (2024-04-22, 45).

According to Human Rights Watch, "even before" the *Anti-Homosexuality Act* was introduced, LGBT Ugandans "frequently" experienced "discrimination, harassment, and physical attacks" (2024-04-04). Sources note that the "pervasive discrimination" LGBTIQ+ individuals face became "more severe" after the *Anti-Homosexuality Act*

took effect in May 2023 (Freedom House 2024-02, Sec. B4) or that LGBTIQ+ individuals faced "intensified violence and discrimination" since the bill was first tabled (SRT 2023-08, 7). An article by the media platform Global Press Journal [3] cites a transgender man as stating that in his community, "no one was bothered by his sexuality" until the Act took effect (2023-08-01). The same source, quoting a representative of the HRAPF, notes that "[h]omophobi[c]" discourse "in Parliament, in the streets, and from religious leaders" contributes to negative stereotypes about "queer" people in Ugandan society (Global Press Journal 2023-08-01).

The HRAPF indicates that from June 2023 to March 2024, the first ten months following the Act, the HRAPF legal aid network handled 903 cases involving LGBTIQ individuals, of which 520 (57.6 percent) targeted LGBTIQ people based on their sexual orientation (2024-04-12, 19). The same source further notes that there were 249 cases of eviction, affecting 312 LGBTIQ individuals, 206 cases of "violence" against 255 LGBTIQ individuals, 88 LGBTIQ individuals who were arrested, and 6 LGBTIQ individuals who faced "other forms of discrimination" (HRAPF 2024-04-12, 19).

According to the SRT report, between January and August 2023, non-state actors were responsible for 124 "abuses" of LGBTIQ+ persons' "right to equality and freedom from discrimination" (2023-08, 9).

The SRT report notes that between January and August 2023, "real and perceived LGBTIQ+" persons were "exposed, tortured, beaten, arrested, outed and suffered physical, sexual and psychological violence, including evictions and banishments, blackmail, loss of employment and health service disruptions" (2023-08, 8).

US Country Reports 2023 states that "local media and LGBTQI+ activists" report that intersex children are at "high risk of infanticide" (2024-04-22, 40). The same source notes, citing reports by activists, that "some" families "compelled" LGBTQI+ children to "undergo talk therapy

sessions with religious leaders" to "change" their sexual orientation, pressured LGBTQI+ children to "'denounce' their sexual orientation and gender identity in religious gatherings," or made their LGBTQI+ children enter "into forced marriages in an attempt to change their sexual orientation" (US 2024-04-22, 45).

HRAPF reports that in March 2024, 52 of the organization's 111 cases (46.8 percent) involved people receiving "negative treatment" based on their SOGIESC (2024-04-12, 3). HRAPF states that of these 52 cases, 23 involved "evictions from rented properties," 20 involved "violence and threats of violence," and 9 involved "arrests for sexuality-related reasons" (2024-04-12, 3).

The SRT report indicates that between January and August 2023, the "most violated right was the right to housing and shelter," with 180 reported cases of "evictions, displacement and banishment" (2023-08, 9). The same source further states that house owners and local council heads continue to be the "most frequent perpetrators of the violation and abuse of the right to housing" of LGBTIQ+ persons (SRT 2023-08, 9). HRAPF notes that for the 23 cases of evictions from rental properties it handled in March 2024, the "primary" perpetrators of the evictions were "property owners/landlords," followed by "family members" and "local council authorities working with property owners" (2024-04-12, 3). Global Press Journal, citing the coordinator of a local NGO that provides housing for LGBTQ people, notes that "applications for assistance have doubled as a result of evictions and they are unable to admit all" applicants (2023-08-01). *US Country Reports 2023* indicates that according to LGBTQI+ activists, families "disowned" LGBTQI+ individuals and "expelled" them from their households, leaving "many homeless" and leading "others to conceal their sexual orientation" (2024-04-22, 44). Reuters, quoting the story of one Ugandan lesbian, states that her parents "ordered her to leave their house when they learned about her sexual orientation in 2019" (2023-12-21). The woman further told Reuters

that she was let go from her job at a supermarket days after the law was enacted in May 2023, and that her manager told her he could not employ "someone like [her]" out of fear that it would harm the company's reputation (2023-12-21).

SRT reports 102 documented cases in which LGBTIQ+ individuals developed mental health conditions which were "directly linked" with their experiences with "violations, abuse and the general climate of fear propagated" by the *Anti-Homosexuality Act* between January and August 2023 (2023-08, 8–9). The same source further notes that "[m]ost" of these individuals experienced "anxiety and panic attacks, suicidal ideation, and depression" (SRT 2023-08, 9). SRT states that during the same period, among LGBTIQ+ people, there have been "rising numbers of mental health challenges, school dropouts and people choosing to flee Uganda to seek asylum elsewhere" (2023-08, 12).

2.1.1 Treatment by Society of Family Members of Individuals with Diverse SOGIESC

In correspondence with the Research Directorate, the Executive Director of the African Human Rights Coalition (AHRC), an organization that advocates for and provides "humanitarian" services to LGBTQI+ Africans who are "forcibly displaced, refugees and asylum seekers," including in the US (AHRC n.d.), provided the following information, based on "direct case reporting" and AHRC's "intake process":

[F]amily members of LGBTQI+ individuals are often treated in similar fashion to the LGBTQI+ person themselves.

Family members are also demonized, ostracized, [and] persecuted ...

Families are more likely to suffer such measures in instances where the family fails to take their own direct and reporting action against the LGBTQI+ person... .

Hence there is societal pressure for the family to "take the law into their own hands" by punishing with violence, banishing, "curing" the LGBTQI+ family member. For lesbians the latter includes so-called "corrective rape" where family members have been deployed to use this method to teach the lesbian to become a "proper woman," and to perform according to what society expects of her. (AHRC 2024-06-08)

In correspondence with the Research Directorate, a representative of Sexual Minorities Uganda (SMUG), a non-profit NGO advocating for the fundamental human rights of LGBTI individuals in Uganda (SMUG n.d.), noted that the treatment of family members of individuals with diverse SOGIESC depends on whether the family members "support or discriminate against" the individual with diverse SOGIESC; if the family member does support the individual, the community may "hate and mistreat" the family for supporting them (SMUG 2024-06-10).

2.2 Treatment by Authorities of Individuals Based on Their SOGIESC

According to Human Rights Watch, the police have "carried out mass arrests at LGBT pride events, at LGBT-friendly bars, and at homeless shelters on spurious grounds," and have "forced some of those detained to undergo anal examinations" (2024-04-04). SRT notes that between January and August 2023, the police conducted 18 "forced anal examinations" of arrested LGBTIQ+ persons (2023-08, 9). SRT reports that during the same period, 159 cases of "violation and abuse of the right to equality and freedom from discrimination" were reported, with 25 of those "abuses" conducted by state actors (2023-08, 8–9). The BBC, quoting an anonymous activist, states that "[i]n some areas even law enforcers are using the current environment to extort money from people who they accuse of being gay" (2023-03-22).

Media sources report that in August 2023, a 20-year-old man was charged with "aggravated homosexuality" (Reuters 2023-08-28; VOA 2023-08-30; AFP 2023-08-29) after, according to his lawyer, being "reportedly seen engaging in a sexual act in a public space with a [man] who has a disability" in the city of Soroti (VOA 2023-08-30). Voice of America (VOA), a US-based international broadcaster that is funded by the US Congress (VOA n.d.), indicates that another man in the district of Jinja was also charged under Uganda's new anti-homosexuality law for "performing a sexual act with a boy aged 12" (2023-08-30). The SRT report similarly states that as of August 2023, there were four people facing charges of "aggravated homosexuality," one person in Soroti, one in Jinja, and two "young men" in Kampala (2023-08, 37).

SRT indicates that from January to August 2023, "politicians, including the Minister of Health, and religious leaders spewed discriminatory rhetoric and fuelled the potential for more violence and discrimination, furthering the physical and economic vulnerabilities" of LGBTI community members (2023-08, 8). According to *US Country Reports 2023*, "some" government officials "openly encourag[e]" attempts to "change the sexual orientation" of LGBTQI+ people (2024-04-22, 45–46).

Human Rights Watch states that even before the 2023 Act, the authorities had restricted LGBT organizations, and "accused some of 'promoting homosexuality' and luring children into homosexuality through 'forced recruitment'" (2024-04-04). The SRT report indicates that since the bill was first tabled, "[l]ocal authorities and security agencies," including the police, have "raid[ed]" LGBTQI+ housing shelters and organisations (2023-08, 7). The Global Press Journal article, citing the coordinator of an LGBT shelters organization, notes that although there were "already raids on LGBTQ shelters," the 2023 law has "worsened the situation" (2023-08-01).

US *Country Reports 2023* states that according to LGBTQI+ activists, "some public health officials" refused to provide health care services to LGBTQI+ persons, and "some" public health personnel attempted to "compel" LGBTQI+ individuals to "change their sexual orientation or gender identity or expression before providing health services" (2024-04-22, 35, 45). However, *African Business*, a magazine published by IC Publications, which publishes "magazines, newsletters, country supplements, industry reports and market intelligence on Africa" (*African Business* n.d.), notes that the Ministry of Health reminds all health workers and providers "[n]ot to discriminate or stigmatize any individual" seeking healthcare for "any reason" including "gender, religion[,] tribe, economic or social status[,] or sexual orientation" (2023-08-08). The same source adds that the Act "does not forbid any person from seeking medical services from a health facility or hospital" and that medical services should be provided "in a manner that ensures safety, privacy and confidentiality" for all clients (*African Business* 2023-08-08).

2.2.1 Treatment by Authorities of Family Members of Individuals with Diverse SOGIESC

The AHRC Executive Director provided the following information:

We have heard of cases [in Entebbe, Kampala, Jinja, Gulu, Kasisi, and Kireka (AHRC 2024-07-03)] where local authorities and traditional leaders will harass family, seeking information on the whereabouts of the LGBTQI+ family member who has fled, and these families are often subject to ongoing threats.

...

We have also noted some cases where the LGBTQI+ person was arrested and fled the country. The families had come forward as bail sureties. This led to repercussions against the family. (2024-06-08)

The representative of SMUG noted that the authorities consider family members of individuals with diverse SOGIESC as condoning illegal acts, "corrupting public morals," and being "unethical"; as a result, authorities treat them with "contempt" (2024-06-10). The same source stated that family members are not "generally" targeted by authorities unless they are identified in connection with a SOGIESC individual and come into "contact with the law" (SMUG 2024-06-10).

2.2.2 Treatment of LGBT NGOs by Authorities

US *Country Reports 2023* states that LGBTQI+ organizations experienced "frequent harassment by security officials and NGO Bureau officials" (2024-04-22, 19). The International Center for Not-for-Profit Law (ICNL), an organization focused on improving the legal environment for civil society throughout the world (ICNL n.d.), notes that Uganda's National Bureau for NGOs released a report in January 2023 regarding 26 NGOs "suspected" of promoting "LGBTQ+ activities" in Uganda with 4 cases concluded as the NGOs had not been registered and 22 still being investigated (2024-03-02).

Human Rights Watch states that in March 2024, a Ugandan court "rejected a petition" brought by SMUG to "compel the government to register" the group's name because their name was deemed to be "against 'public interest'" (2024-03-21). The same source notes that SMUG had been shut down in August 2022 for "failing to register with the NGO Bureau" and that it cannot operate legally without having that registration (HRW 2024-03-21).

3. State Protection

Information on state protection for individuals with diverse SOGIESC was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

SRT indicates that a "considerable" number of violations against the LGBTQI+ community are not reported, "primarily because of fear of reprimand and the brazen absence of safe channels to seek redress formally" (2023-08, 22). Reuters details the story of a Ugandan gay man who was "drugged, raped and robbed" by a man he had met for a date in May 2023, and who did not seek "medical help or go to the police" for fear of being criminalized himself (2023-12-21).

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.

Notes

[1] A press release indicates that the Constitutional Court of Uganda has nullified Sections 3(2)(c), 9, 11(2)(d) and 14 on 3 April 2024 for "contravening" with the Ugandan constitution (Uganda 2024-04-03). An updated copy of the *Anti-Homosexuality Act, 2023* could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

[2] The Strategic Response Team (SRT) is a consortium of five organizations in Uganda that coordinates community responses and referral mechanisms to provide "safe shelter, legal, safety, and protection services" for LGBTQI+ individuals (SRT 2023-08, 4). The SRT operates as a committee of the Ugandan organization Convening for Equality (CFE) (2023-08, 4).

[3] Global Press Journal is the media platform of Global Press, a US-based organization which aims to "create a more just and informed world by training and employing local female journalists to produce ethical, accurate news coverage from the world's least-covered places" (Global Press n.d.).

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Oral sources: Happy Family Youth Uganda; Human Rights Awareness and Promotion Forum; Rainbow World Fund; Sexual Minorities Uganda International.

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