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ARRESTS, EVICTIONS AND VIOLENCE: REPORT OF VIOLATIONS AGAINST LGBTQ PERSONS FOR THE FRIST MONTH FOLLOWING THE PASSING OF UGANDA'S ANTI-HOMOSEXUALITY BILL, 2023

Kampala, 21st April 2023

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1. Introduction

Thursday, 20th April 2023 marked the 30th day after Uganda's Parliament passed the Anti-Homosexuality Bill, 2023 on Tuesday 21st March 2023. As a legal aid service provider, HRAPF documents cases that are reported to it by LGBTQ persons, critically reviewing these cases for evidence of violations based on sexual orientation and gender identity, and accordingly reports on these trends. The current report covers the period from 21st March, 2023 when the Bill was passed by Parliament to 20th April, 2023, which marks one month since the Bill was enacted. The report discusses the number, nature and trends of violations during this period, and compares

them with the same period in 2022. The report shows a drastic increase in the number of violations during this period, as well as a big difference in the nature of the cases being recorded.

2. Background

On 20th April 2023, President Museveni met the ruling party caucus in Parliament and the caucus issued a resolution to have the President send the Bill back to Parliament to be reconsidered. The main reason given for this was that the Bill also seeks to punish those who come out to renounce homosexuality.¹

The Bill in its current format seeks to, among others, criminalise consensual same-sex relations as 'homosexuality' and provide for the penalty of life imprisonment – which is defined as imprisonment without possibility of release – for the offence of 'homosexuality'. It also provides for the death penalty for what is called 'aggravated homosexuality', which is 'homosexuality' with a child or a repeat conviction for 'homosexuality' or 'homosexuality' by a relative, among others. It also seeks to punish 'promotion of homosexuality', which is defined widely to include activities that seek to 'normalise' homosexuality, and this is sought to be punishable by 20 years' imprisonment and, for organisations, a fine of up to one billion Uganda shillings (about USD 267,500) as well as revocation of license. It also seeks to impose reporting obligations on anyone who knows or reasonably suspects someone to be engaged in or about to commit 'homosexuality', and waives professional requirements for confidentiality for professionals who report homosexuals. Only 'advocates' are excluded from this obligation, and so it applies to all other professionals, including medical doctors and religious leaders, as well as parents and any person. Failure to report attracts six months' imprisonment.

The President seems to only be interested in protecting those who come out as gay and seek rehabilitation. The vague language around 'normalisation of homosexuality' under the provision on promotion of homosexuality is not mentioned at all, but the President seems not to mind the idea that funding and activities of civil society organizations regarded as promoting homosexuality will be criminalised.²

If Parliament acts only on these recommendations, it would leave many of the dangerous and unconstitutional provisions of the Bill still standing. Since it is clear that there is another opportunity to engage Parliament, HRAPF has issued this report in order to highlight the drastic impact that the Bill has already had on the rights of LGBTQ persons in the first 30 days of its passing – even if it is technically not yet law.

3. Methodology

This report is essentially compiled from cases handled by HRAPF's network of lawyers and community paralegals spread across the country. It only covers cases that were reported to and handled by HRAPF through its legal aid network. This includes cases handled by lawyers at the Kampala offices, and those handled by community paralegals across the country as well as

¹ State House Presidential Press Unit 'H.E Museveni to return the Anti-Homosexuality Bill to Parliament for changes before its signed into law' Thursday 20th April 2023.

² Above.

those handled through the different regional centres and legal aid desks that HRAPF operates in partnership with partner organisations.

Both quantitative and qualitative data was collected, with quantitative data focusing on the number of cases handled and violations documented. Qualitative data focused on the facts of each individual case in order to determine the circumstances under which the different violations occurred and, by understanding these circumstances, provide certainty on whether or not these violations were based entirely or primarily on the victims' SOGIE. Case files were reviewed and documentary evidence on the files noted and, where documentary evidence was not enough, interviews were held with victims, eye witnesses and HRAPF staff or community paralegals who responded to the cases.

This report has a number of limitations. The first one is that it is not a comprehensive consideration of all cases that happened during this period. The only cases that are reported are those handled by HRAPF under its legal aid network, and not any other. There are other cases that may not have been reported at all, or that may have been reported to other entities. Another limitation is that it is issued before the end of the month, which implies that not all community paralegals have reported the cases that they have handled, which presents the risk of underreporting.

4. Number of cases handled between 21st March and 20th April 2023

Between 21st March 2023, when the Bill was enacted by Parliament, and 20th April 2023, HRAPF received and handled 59 cases involving LGBTQ or suspected LGBTQ persons. Of these, 40 cases (67.8%) involved violence and violations targeting the victims purely on the basis of their presumed sexuality, and affected a total of 85 persons. 11 cases were cases of arrests of people based on their sexual orientation and gender identity, 14 were crimes against persons on basis of their sexuality, and 15 were cases of evictions from rented property.

a) Arrests based on presumed sexual orientation and gender identity

There have been 11 arrests of LGBTQ people on grounds of their presumed sexuality and/or gender identity. These arrests involved a total of 20 persons. Of the 11 cases, 7 cases did not proceed to court while in 4 cases, the cases proceeded to court.

In one of these cases, a group of six people were arrested and charged with having carnal knowledge against the order of nature because the area local chairperson saw a video from a gay porn site in which one of the actors looked like one of the victims. Even if this was later found to be untrue, the entire group was still charged only because the place where they were arrested from was searched and the police found lubricants, condoms, PrEP medication and other HIV prevention commodities, as it was the office of an LGBTQ support organisation. The entire group was held for 12 days before they appeared in court. A similar thing happened to a man in Lyantonde who was arrested and held for three days because a journalist living in his neighbourhood found a gay porn video in which one of the actors looked like the victim.

In another case, a gay man was arrested and charged with 'attempting to have carnal knowledge against the order of nature' after an individual he found on Grindr, a popular dating/ sex app, turned on him at their meeting point, demanding money, and when he refused to be extorted, this person had him arrested and later produced in court for allegedly

attempting to sodomise him. He was detained for 7 days before he was taken to court. Two other persons were arrested under similar circumstances but their cases did not proceed court.

In another case, a man was arrested, initially charged with possession of narcotics and a search conducted at his house. No narcotics were found, but once the police found lubricants, they then informed him that they had heard from his neighbours that he was a homosexual and they just wanted proof, which they had found. He was detained for 4 days. In another incident, a gay man was arrested and detained for 4 days upon suspicion that he was a homosexual and assaulted some students at a college where he was studying, although this was later found to be false. In another case, three women were arrested at a landing site in Buikwe district and held for 6 days, and they were specifically informed that under the new law, it was also illegal for women to have sex. They were never produced in court, however, and were later released without charge.

In the most recent case, an athlete who was suspected to be a transgender woman was arrested by a mob, forcefully undressed and then forced to march through the streets naked while the crowd heckled her, threw objects at her, took her photos/ videos and even fondled her. She was held at the police station for two days before she was produced in court, where she was denied bail on grounds that she had no sureties, because all her friends in the area were afraid they would be targeted for appearing to stand with her.

In all these cases, the victims have had their liberty arbitrarily restricted purely on the basis of their presumed sexuality, and in some of the cases, it has become increasingly clear that the police personnel are at least in part motivated by what they perceive to be their duty under the new Bill, even before it becomes law. The Bill is also emboldening other violations from the general population, with violations of privacy for purposes of finding proof of homosexuality appearing to become more common. In addition, in nearly all these cases, the police has made a deliberate effort to publicise these arrests, naming the victims and often even displaying their faces, which makes it difficult for them to return to their homes (or even find rental accommodation elsewhere) after their release from prison. In some cases, the police does this by simply announcing the arrest to the neighbours, involving the landlord and local area leadership and thus making it impossible for one to return to the village safely after their release.

b) Evictions from property

Evictions from rented premises were the most common form of violence during this period, with 15 incidents recorded, affecting 49 persons. The evictions seem to be fueled by the fear of prosecution in case the AHB becomes law, and the general environment of fear and politicization caused by the Bill.

i) Evictions by landlords

Landlords were directly responsible for the majority of the evictions – nine out of 15, involving 9 individuals and one organisation. In six of these cases, the reason given by the landlord for the eviction is that they are afraid of being arrested when the Bill becomes law, so they essentially see themselves as taking protective action.

In one case, an LGBTQ organisation that had resided at the same address for almost five years was evicted by the landlady, who sent a screenshot of clauses 9 and 11(2)(d) of the Bill to the organisation's executive director and asserted that they did not wish to be arrested, nor to risk the villagers burning down their property.

Similar sentiments were recorded in the five other cases. In one case, a lesbian woman was evicted because her landlord heard a rumour that the reason why she is unmarried is because she prefers women; another person was evicted for exhibiting what the landlord called 'homosexual behaviors'; in another, two friends that were living together were evicted because one, who was transitioning, started to grow breasts and look more feminine this year, which transition unfortunately coincided with the passing of the Bill. A community paralegal was also served notice by their landlord to vacate the house on the grounds that they seem to have a lot of homosexuals who come to look for them at the house, and a lesbian woman was evicted from her home after her neighbour told the landlord that she was a homosexual and the landlord and all neighbours would be arrested for harboring her and not reporting to the police.

Therefore, even persons who were not bothered by the sexual orientation of their tenants before are now throwing them out of rented premises.

ii) Evictions by local authorities

Local leaders orchestrated five of the evictions, involving 30 individuals and two organisations. The latest case involves a group of 28 LGBTQ refugees living in a refugee settlement who have been constructively evicted by local authorities. The entire group is currently living in hiding as the police authorities have repeatedly sent them messages, demanding that they present themselves for arrest for their activities promoting homosexuality in the camp. The group has previously been subjected to violent attacks by their neighbours and defence personnel for which they are unable to access justice for fear of being arrested by the police, which is actively hunting for them.

In another case, a transgender woman was evicted by the area local council during a full council meeting, to which the HRAPF lawyer was invited but his advice was ignored. In the meeting, the victim was informed that the leadership had come to learn that she was a homosexual and that if she did not leave their area immediately, they would 'not be responsible is anything happened to her.' She had to leave. In another case, a radio station in called on the leaders to get rid of a homosexual pastor in their area who they said was recruiting their children, and in response the area chairperson, defence secretary and district security officer all stormed his home, demanding that he pay them exorbitant amounts of money for the case to go away or face arrest and imprisonment for being a homosexual. He refused to pay but was still forced to leave his home, which he fully owned, and his family, and temporarily seek refuge in a different village a bit removed from his home, church and family. In yet another case in which state authorities have abused their power, an LGBTQ organisation was evicted after the area leadership wrote to the landlord demanding that he evict the homosexuals and, when he failed to do so, the chairperson wrote directly to the

client organisation, demanding that they leave the village within three days or 'face the consequences'.

iii) Evictions by neighbours/community

In one case the eviction was done by neighbours/ the community. In this case, a gay man hosted his partner for Easter celebrations. Unfortunately, two of the neighbours' children came in to play with him as they often do and found him kissing his partner, upon which they run out screaming for their parents to come and see '*abasiyazi*'. The two were forced to sit in varying stages of undress in the compound for several minutes while the neighbours called the police. They were however able to escape when the person watching them got distracted, but they received a formal notice from their landlord not to return.

These and many other similar incidents continue to haunt the everyday lives of LGBTQ people, with very little support available to enable them make such transitions as and when they are required to do so. It is worth noting that while one could simply hold one's ground and refuse to leave a village, especially where the eviction is mediated by state authorities, the fact is that by the time it gets to that point, one has already been outed and has very little choice but to leave anyway, for their own safety. These violations are a violation of the freedom of movement, freedom from discrimination and in many cases, the dignity and privacy of the victims.

c) Acts of violence and crimes against LGBTQ persons

As noted above, there have been 14 cases involving acts of assault and physical violence against LGBTQ persons, affecting 16 persons. There was actual physical violence in eight cases and threatened violence in six cases.

i) Cases of physical violence

These were eight cases of physical violence. In one of these cases, a leader of an organisation was forced to flee his home after the village leadership and other individuals he did not know threatened to lynch him. He had previously been arrested and held incommunicado for almost a month by security forces, and during that detention he had been told, before the area chairperson, who had also been arrested on allegations of terrorism, that he was a promoter of homosexuality. After the Bill passed, the neighbours and local area leaders then turned against him, threatening to cause him harm if he did not leave.

In another incident, a transgender woman reported being harassed by a journalist, who insisted on having a conversation with her about her life even if she repeatedly refused. Eventually, she agreed to have a casual chat with a different journalist, who she thought was friendly to her, but the following morning, their conversation was played on the local radio station. She has since faced threats from her neighbours and family because during the recorded conversation, she admitted to dressing as a female because she identified as a transgender woman.

In one case, a man was assaulted once by people in the neighbourhood who regarded him as gay.

There have also been three reported incidents of mob violence during the period, one reported by a man who operates a community drop-in-centre who was cornered by a large group of people on his way home and brutally beaten before they were scared off by a passerby and ran away.

In another incident, two gay men were attacked by a mob shortly after the Muslim community protested against them and other two suspected LGBTQ people, and the two were nearly lynched but managed to escape. In a similar incident, a transgender woman who is a community paralegal and leader in the movement was returning from visiting some people who had been arrested at a nearby station on charges of 'sodomy' when she was set upon by a group of over 5 men and viciously beaten. In another incident, a transgender woman was beaten brutally by a man who approached her on Grindr and offered to pay her for sex, then led her to a place where he had her beaten up by his friends before leaving her by the side of the road.

ii) Other forms of violence

In six cases, there were other forms of violence. A lesbian woman and her partner were attacked by a group of men who accosted them as they were leaving their business premises, and promised to find them and rape them in order to 'teach them the right way to behave.'

In one case, a gay man and community leader was forced to flee after repeatedly receiving calls and messages from someone who initially requested a meeting and, when he was unable to secure one, informed the victim that he would find him anyway and shoot him, and proceeded to describe in detail how to get to the client's rented home. A similar thing also happened to an activist, who was first contacted by her abuser through her Twitter account and later on her personal number and started to harass and threaten her.

Such incidents violate not only the basic human dignity of the victims but also the privacy of their bodies and their bodily autonomy, and are often unaddressed as the police forces simply have no interest in identifying or prosecuting the assailants in such cases. In all these cases, the assaults and threats have been reported to the authorities but without tangible results.

5. Comparison with the period 21st March 2022 to 20th April 2022

In contrast, this same exact period in 2022 was a period of relative peace for LGBTQ persons in Uganda: 72 cases were handled by HRAPF involving LGBTQ people during this time, and of these, only 26 involved actions that targeted LGBTQ people for differential (negative) treatment purely on the basis of their sexuality. Of these 25 cases, 14 were crimes against LGBTQ people (assaults and three cases of blackmail), 6 were civil disputes and 6 were arrests based primarily on the victims' sexuality.

It is clear that there has been a major change in the trends because, although there has been an overall reduction in the total number of cases involving LGBTQ persons from March 21, 2023 to April 20, 2023 as opposed to March 21, 2022 and April 20, 2022 (59 cases vis-à-vis 72 cases), there is a definite increase in targeted violence based on SOGIE, from 25 cases affecting 27 people in 2022 to 40 cases affecting 85 persons in 2023.

6. Conclusion

In light of the foregoing discussion, it is HRAPF's position that the AHB has already, even in the absence of presidential assent, become a tool of further oppression and abuse against LGBTQ people. This report presents a sneak peak view of the situation of LGBTQ persons across the country. The following conclusions can be drawn from it:

- i) LGBTQ persons are being targeted for arrest by the police based on their real or presumed sexual orientation or gender identity. The majority of these arrests are purely for political rather than genuine law enforcement reasons, which not only deprive victims of their liberty arbitrarily but also in the end deprive them of shelter and livelihood by forcing them to uproot their lives and move away from their ordinary residences/ businesses/ sources of income.
- ii) The Anti-Homosexuality Bill, 2023 is forcing landlords who have been tolerating LGBTQ persons to evict such persons from their premises for fear of repercussions if the Bill becomes law. The problem of LGBTQ homelessness is eventually going to become endemic as no feasible solution can be found in light of the current circumstances, and homelessness tends to carry with it numerous well-documented risks. It also is likely to worsen the refugee problem as people seek to leave the country due to increased violations.
- iii) Violence, violations, abuses and crimes against LGBTI persons have increased exponentially from what it was during the same period in 2022. This is partly driven by the politicisation of LGBTQ issues in the country. There is a belief that this is what the government wants people to do in order to fight homosexuality, a dangerous proposition that can have immense and wide-sweeping impact.

7. Recommendations

HRAPF calls upon the President of the Republic of Uganda to reject the Anti-Homosexuality Bill, 2023 not to sign the Anti-Homosexuality Bill and instead ask the legislature to consider a non-discriminatory law that protects children from sexual abuse.

Now that Parliament has another chance to reconsider the law, it should do so comprehensively and come up with a law that does not promote persecution of people solely based on their sexual orientation and gender identity.

Finally, HRAPF wishes to recognise the incredible resilience and strength so far exhibited by leaders in the LGBTQ community in Uganda, despite drastic odds and crippling uncertainty, and thus calls upon all leaders within the LGBTQ movement, civil society organisations working with and headed by LGBTQ persons, allies and partners to remain steadfast and continue to lobby the state for a positive change in law, as well as maintaining advocacy strategies that counter the disinformation that has fueled the current wave of homophobia.

