

Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL)



Refugee Law Project, School of Law, Makerere University; Kampala - Uganda. Telephone: + 256 (0) 414 343 556 (Office)
Mobiles: +256 782 176 069 / +256 793 926 282 + 256 774 068 663 Email: ahbcoalition.coordinator@gmail.com

The Anti-Homosexuality Bill Violates the Human Rights of Ugandans

Tuesday January 21st 2014

On December 20, 2013, Parliament passed the Anti-Homosexuality Bill into law, and submitted it to the President for assent.

The Civil Society Coalition on Human Rights and Constitutional Law unequivocally condemns the actions of Parliament in this regard, and in particular the fact that the basic rules of procedure of the institution—including the necessity for a quorum and prior inclusion of the Bill on the Order Paper—were not followed. These actions represent a significant decline in adherence by Parliament to the rule of law and an ungainly submission to populist pressure. It also reflects a striking neglect of the basic principles of the 1995 Constitution of Uganda and represents a callous disregard for humanity, respect for diversity and the efforts Uganda has taken over the years to build a tolerant, inclusive and just society.

Around the world, including the African continent, there is a growing realization that legislation such as the AHB represents the worst notions of colonial sexuality. Science and evidence has shown that they serve not only to entrench discrimination and inequality, and to perpetuate stigma against lesbian, gay, bisexual and transgender (LGBT) individuals but also to undermine human rights and aggravate the abuse of human rights of all citizens.

Uganda has long been a trail-blazer in the fight against the scourge of HIV/AIDS. The AHB will greatly hinder these efforts. The 2012 Crane survey collaborative study with Makerere University / School of Public Health, Ministry of Health, and the Center for Disease Control (CDC) showed that HIV prevalence among men who have sex with men (MSM) in Kampala is 13%, more than three times the average prevalence among heterosexual men in Kampala (4.1%) and about twice as high as the national average of 7.3%. Intolerance, discrimination, fear and lack of prioritization mean prevention and treatment services for these communities are almost nonexistent. If the President assents to the Anti-Homosexuality Bill and it becomes operationalized, efforts to reach these populations may become illegal and implementers of public health strategies could be liable to criminal charges—alongside the people intended to benefit from these programs. This endangers the Ugandan population as a whole.

Neighboring countries have sought out vulnerable populations with services and support and are reporting declining rates of new HIV infections. Uganda has also followed suit by piloting a Global Fund New Funding Model that ensures meaningful engagement and interventions aimed at reaching out to LGBTI persons as part as of the People Living With the Diseases / Key Affected Populations (PLWD/KAP). By contrast, Uganda's HIV incidence is rising. It is well known that public health policies can be effective in jurisdictions which protect rather than penalize minorities.

The Bill, if assented to, will have further disastrous effects to Education Facilities where debate, dialogue and instruction in human development will be limited for fear of being construed as a homosexual. Businesses will be affected through turnover in the event of one being "suspected" of homosexuality.

The failure of many companies and businesses to exercise substantive equality in their organisational human resource standards and policies will make Uganda unattractive for private investment, as already evidenced by Richard Branson's decision not to invest in Uganda.

The AHB increases the criminalization of the behavior of a group of people for no justifiable reasons other than their unpopularity, forcing them into a life of indignity and falsehood, imbued with fear and coercion. Intrusion, blackmail, extortion and ransom will be the order of the day and will affect not only homosexuals but the wider community and citizenry.

As Ugandans, Lesbian Gay Bisexual and Transgender persons in principle enjoy exactly the same rights and freedoms as their fellow citizens. Consequently, their sexuality should not be the basis on which they are criminalized.

It is ironic that this action is taking place so soon after the death of anti-apartheid icon Nobel Peace Prize Laureate Nelson Mandela who supported the inclusion of a provision in the South African Constitution outlawing discrimination on the ground of sexual orientation. Mandela made it clear that you cannot be truly free if you are taking away somebody else's freedom.

If assented to by the President, the Anti-Homosexuality Bill will impose unnecessary and counter-productive attempts to control the citizenry and civil society of this country. It is also not practical to implement its draconian provisions. Far from promoting morality, the Anti-Homosexuality Bill strengthens the enemies of democracy, rights and constitutionalism as well as the reach of right-wing religious fundamentalists.

We therefore condemn the Bill in no uncertain terms, and call on everyone to walk the talk of democracy, rights, constitutionalism and freedom of every Ugandan. We call on President Yoweri Museveni to withhold his assent to the Bill. We call upon the Rules and Procedures Committee of Parliament chaired by the Speaker of Parliament to revisit the procedure in a bid to redress the anomalies and bad precedent set, and for the Minority Report to be presented and re-debated. We call upon fellow citizens to resist the growing religious fundamentalism which is eroding the Ugandan Constitution and Bill of Rights.

The Coalition stands firm in its commitment to uphold the rights of all, and encourages all those who believe that constitutionalism provides one of the strongest guarantees of individual freedoms and social health to join us in rejecting the bill.

For more information, contact

Email: ahbcoalition.coordinator@gmail.com
Telephone contact: **Co-coordinators +256774 068 663/
+256782 176 069**

For more information, contact ahbcoalition.coordinator@gmail.com



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"no personal opinion, no religious belief, no matter how deeply held or widely shared can ever justify depriving another human being of his or her basic rights..."