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Uganda's nondiscrimination assurances won't protect queer peo

COMMENTARY

Uganda's nondiscrimination assur won't protect queer people from prosecution

Country's president in May signed Anti-Homosexuality Act

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LGBTQ and intersex activists protest in front of the Ugandan Embassy in D.C. on April 25, 2023. (Washington Blade photos)



By NEELA GHOSHAL | Uganda's Anti-Homosexuality Act (AHA), enacted on May 30 by President Yoweri Museveni, enshrines discrimination in Ugandan law. The AHA includes a death sentence for some consensual same-sex acts, prohibits organizations from "normalizing" sexual diversity through inclusive programming and requires everyone in Uganda, including health workers, to report people who might be lesbian, gay, bisexual, transgender or queer (LGBTQ) to the police.

Can Ugandan LGBTQ people still access medical care and other basic services?

The Ministry of Health would like donors to think so. In a [June 5 circular](#), posted briefly online and shared with donors in PDF form, and then removed from the internet, the health minister stated its policy is to provide health services "to all people in Uganda in their diversity without any form of discrimination," "not to discriminate or stigmatize any individual who seeks health care services, for any reason — gender, religion, tribe, economic status, social status or sexual orientation" and to uphold "confidentiality, privacy [and] patient safety as stipulated in the Patient's Charter."

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required by law.” Because the law, the Anti-Homosexuality Act, 2023, states that anyone who has information that a person has committed or intends to commit an offense “shall report the matter to the police for appropriate action,” health providers are still required by law to report to the police. There is no client-provider privilege enshrined in the AHA for health providers. LGBTQ patients. There is no client-provider privilege enshrined in the AHA for health providers.

The circular from the Ministry of Health is part of a pattern of two-faced communication from the government of Uganda regarding what the law actually states and how it will be implemented. On June 7, during his [State of the Nation](#) address, President Yoweri Museveni reiterated the claims in the health circular: “Therefore, those who say that the homosexual will be arrested if they go for medical care, etc., are wrong. The law now says that a homosexual will not be criminalized for merely being so if he/she keeps the being to himself/herself. What does this really mean in practice? If no one in the world ever finds out you are LGBTQ, including your health provider, you might be able to safely access health care, as long as your health care does not address any specific needs related to your sexual orientation or gender identity.

Meanwhile, during its University Periodic Review ([UPR](#)) process at the U.N. Human Rights Council in June, when questioned about the Anti-Homosexuality Act and the human rights violations it prescribes, the Deputy Permanent Representative of Uganda to the U.N. in Geneva, Arthur Kafeero, claimed that the act was a response to “a widespread campaign to promote homosexuality amongst children in schools was discovered” and that “its message and content too difficult and graphic to explain.” He added that the government had expanded the coverage of the [current] law to protect children.”

These statements make clear that the government of Uganda is not an honest broker in its engagement with the international community around the Anti-Homosexuality Act. The parliament members' intentions were clear and are reflected in the letter of the law. The Anti-Homosexuality Act is discriminatory on face value; worse, it seeks to erase the existence of queer Ugandans.

We've been through this before. In July 2014, five months after the enactment of the Anti-Homosexuality Act, Uganda's Ministry of Foreign Affairs issued a similar statement

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...of individuals, groups, companies or organizations would be affected by it and that the government was committed to the provision of services to all in Uganda, discrimination.

I was part of a Human Rights Watch and Amnesty International team that investigated violence and discrimination in the wake of the Anti-Homosexuality Act. We found that LGBTIQ people were facing arbitrary arrests, police abuse and extortion, loss of employment, evictions, homelessness, forced displacement, violence and denial of health services. The organization Sexual Minorities Uganda, which has now been forcibly shuttered by the government, wrote, at that time, “the full force of the State, particularly the legislative and executive branches of government, is being used to hunt down, expose, demean and silence Uganda’s LGBTI people.”

Similarly, the Ugandan non-governmental organization Human Rights Awareness and Promotion Forum, in the month following the law’s enactment on May 30, has already documented, through its direct engagement with LGBTQ individuals seeking legal assistance, 23 cases involving violence or threats of violence affecting 23 individuals; 19 cases involving evictions from rented property affecting 20 individuals; and four cases of arrests on sexuality-related charges, affecting seven persons. HRAPF’s report is a litany of suffering inflicted on queer Ugandans as a result of the AHA: Police are actively responding to complaints from members of the public and arresting LGBTQ people, and they are being beaten, threatened with lynching and rendered homeless by their landlords, families and local council members. Health care, housing and employment are all in the balance, as illustrated by these three cases:

- June 10: Following the arrest of two gay men in his area, the client, who is a [key population] coordinator at a government health facility, was threatened with violence by their colleagues at work and people in the community, who said he was responsible for the actions of the two who had been arrested because he was always the one supporting them by giving them treatment.
- June 12: The client was outed as a lesbian when a friend of her partner wrote letters threatening to beat her and pinned them at her door as well as delivering a copy to her

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know. This happened after she was warned to leave the village in May 2023 for her sa was formally evicted by her landlord, but she had not yet left because she did not hav resources to afford the move. She suffered several cuts and bruises from the assault.

The true impact of the Anti-Homosexuality Act is clear. Development partners are on "misinterpreting" the Anti-Homosexuality Act if they take seriously the government's assurances that the law will not be a vehicle for discrimination. Accessing health care a room, and holding a job: these basic activities essential to life and livelihoods all ca risk of being outed and facing imprisonment and death. There is no protection again: Could anything be more discriminatory?

Neela Ghoshal (any pronouns) is Outright International's Senior Director of Law, Pol Research, based in Washington, D.C. Neela oversees Outright's United Nations, Globa Rights, LBQ Connect, Queer Legal Futures, and Research programs, develops organiz priorities concerning legal and policy change, and ensures Outright's work aligns wit international human rights law. She is the author of Outright's report on LGBT Conflict and Crisis and frequently speaks and writes about issues including rep... legislation, gender liberation, and peace, security and accountability for LGBTIQ peo Before joining Outright in 2021, Neela served as Associate LGBT Rights Director at H Rights Watch, leading global initiatives on LGBTIQ rights and conducting research at advocacy on rights violations related to sexual orientation and gender identity aroun world. She was also a researcher in the Africa Division at Human Rights Watch, basec Burundi and Kenya, where she covered political repression, police abuse, justice secto and transitional justice. Neela previously worked with the Network in Solidarity with People of Guatemala, the Bronx Defenders, and the New York City public schools. Ne gardening, debating local and global politics and raising two feminist kids. Neela hold bachelor's degree in social justice studies from the University of Michigan and a masi degree in international relations from Yale University.

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