



Shadow Report

September 2010

Uganda

**Violation of the Human Rights of Lesbian, Bisexual,
Transgender (LBT), and Kuchu People in Uganda**

**Committee on the Elimination of All Forms of Discrimination
Against Women (CEDAW)**

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Freedom and Roam Uganda (FARUG) is a lesbian organization which was established in 2003 by a group of fully-fledged lesbians who were constantly harassed, insulted and discriminated against by a misinformed society and who were touched by the plight of their sisters and brothers of the same sexual orientation. FARUG's mission is to empower, lobby and press for the recognition of same sex relationships, especially lesbians in Uganda and thereby attain full equal rights and freedom in all aspects of life. www.faruganda.org

The International Gay and Lesbian Human Rights Commission (IGLHRC) is a 20-year-old non-profit, non governmental organization based in New York, with offices in Buenos Aires and Cape Town. IGLHRC's mission is to advance human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity, and gender expression. www.iglhrc.org

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I. Executive Summary

This report describes the experiences of people who face discrimination because of their sex, gender, sexual orientation, gender identity, and gender expression. We are the lesbian, bisexual, transgender (LBT), *kuchu*,¹ gender non-conforming, and women who have sex with women (WSW) community of Uganda. We are part of a larger lesbian, gay, bisexual, transgender and intersex (LGBTI) community within Uganda.

Uganda's laws prohibit homosexual conduct. The penal code is harsh in this regard, and punishes homosexual acts with life imprisonment on conviction. Lesbians and bisexual women face the same persecution from both State and non-State actors as do gay men and men who have sex with men (MSM). Proposed laws such as the Anti Homosexuality Bill of 2009 would increase this persecution immeasurably if passed, including the death penalty among its punishments and targeting human rights defenders in particular.

Homophobia fuels abuse against all people who defy sex and gender norms, regardless of a person's actual sexual orientation or gender identity. Whether someone identifies as transgender, is intersex, or dresses in a manner perceived to be too masculine or improper for a woman, they are accused of being homosexual – gay or lesbian – and persecuted because of this perceived identity. Over the years, LBT/*kuchu* and WSW people in Uganda have been harassed, cajoled, insulted, discriminated against and have been referred to as beasts. We have been called inhuman, insane, sick, immoral and not upright-thinking members of society.

We have been dismissed from our families, homes, schools, jobs, churches, and hospitals. Many of us whose sexual orientation or gender identity is what is considered to be non-conforming have been taunted and attacked physically on the streets, in our homes, in churches, and in all social places. We do not get the medical care we require because of discrimination and ignorance of our health needs.

Given the criminal status of homosexuality in Uganda, and the overwhelming homophobia of society, LGBTI organizing has been extremely challenging. It has been difficult for LGBTI people to “come out” and to openly and actively participate in the LGBTI movement because of continued public threats and hostile messages from both the State and segments of the public. For those of us who have taken a bold stand to publicly identify as LGBTI, we have been arrested, attacked, hounded and tortured.

The LGBTI movement has struggled to build a collective voice, hampered by a lack of strong support systems and the continued crises brought about by hate crimes and deep-seated social hostility. This is because we live in fear of arrest or rape and therefore keep a low profile in an attempt to survive, limiting our organizing or activism commitments. The lives of Ugandan LBT/*kuchu* people in particular have for so long been suppressed by individuals, families, the media, the Church and by politicians because of our gender, our sexual orientation, gender identity, and our gender expression. This has made many LBT/*kuchu* people homeless, jobless, and hopeless. Most of us who are at the front line of the movement have been significantly

¹ A self-identifying term used by the lesbian, gay, bisexual, and transgender community in Uganda.

economically and socially disempowered.

We are doubly marginalized by the legal and social condemnation of LBT/kuchu people in Uganda and the legal and social marginalization of women, a combination that leads to the constant violation of our human rights. On a daily basis, we face violations to our rights to life, to security, to be free from violence, to privacy, to health, to education, to employment, to housing, to freedom of movement to freedom of expression and association, to political representation, and to advocate for our own human rights.

As such, we recommend that the Government of Uganda:

1. Repeal Articles 145, 146, and 148 of the Ugandan Penal Code, decriminalizing consensual sexual activity between persons of the same sex;
2. Repeal laws that implicitly discriminate on the basis of sexual orientation or gender identity, such as Sections 15(6)(d) (i) and (ii) of the Equal Opportunities Commission Act, which prevents the Commission from investigating rights violations that may be considered immoral;
3. Oppose the Anti-Homosexuality Bill of 2009 (Bill 18) in all of its forms and any similar legislation that explicitly or implicitly targets people on the basis of their sexual orientation or gender identity;
4. Protect the human rights of all people, regardless of their sexual orientation or gender identity, in anti-discrimination and equal opportunity legislation and bodies – including explicit protections against dismissal from employment and eviction from housing on the basis of actual or perceived sexual orientation or gender identity, and explicit protections against sexual violence;
5. Investigate and appropriately address non-state violence against LBT/kuchu people; Publicly condemn all acts of violence, discrimination and intolerance against individuals on the grounds of their sexual orientation or gender identity;
6. End police abuse of LBT/kuchu people and LBT/kuchu human rights defenders, and institute mechanisms to hold offenders accountable;
7. Protect the human rights of all people regardless of their sexual orientation or gender identity in anti-discrimination and equal opportunity legislation and bodies, including explicit protections against sexual violence, dismissal from employment, eviction from housing, and expulsion from school;
8. Support the efforts of civil society to gather information about and provide services to improve the health of LBT people, including with regard to sexual health; and
9. Support the efforts of civil society to gather information about the health of LBT/kuchu people, including sexual health, and to work to improve the health and well-being of LBT/kuchu communities.

With documented incidents of abuse and testimony from lesbian, bisexual, and transgender people in Uganda who have suffered a variety of human rights violations, this report illuminates a number of ways that LBT/kuchu Ugandans, and indeed all Ugandans who do not fit strict gender roles, are daily placed at risk. While these recommendations highlight the most urgent interventions, a number of additional suggestions that merit adoption are included by theme throughout this report.

II. Substantive Violations of the Convention

1. Discrimination

Articles 1, 2 and 3 of CEDAW

Article 21 of the Constitution of Uganda

The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), as well as other treaty bodies, including the Human Rights Committee and the Committee Against Torture, and Special Procedures, including the Working Group on Arbitrary Detention and the Special Rapporteur on Health, has recommended that legislation penalizing homosexuality or lesbianism (consensual same sex sexual conduct) be abolished to ensure the human rights of all people without discrimination based on sexual orientation.² Additionally, the Ugandan Constitution explicitly ensures equality and freedom from discrimination under the law in “all spheres of political, economic, social and cultural life, and in every other respect.” Uganda’s laws criminalize same-sex consensual sexual conduct and explicitly exclude sexual minorities from mechanisms that would protect them from discrimination inherently discriminate against lesbian, bisexual and transgender people because of their sex, gender, sexual orientation and/or gender identity. More worryingly, a draconian proposed bill that has been tabled in the Ugandan Parliament would further criminalize the mere support of such people and mandate the death penalty for consensual homosexual conduct in some circumstances, further entrenching discrimination and marginalization into Ugandan law.

Presently, Section 145 of the Ugandan Penal Code criminalizes ‘carnal knowledge against the order of nature’ with a maximum sentence of life imprisonment. Section 146 punishes ‘attempts’ at carnal knowledge with a maximum of seven years’ imprisonment. Section 148 punishes acts of ‘gross indecency’ with up to seven years in prison. While the penal code does not specifically identify same-sex practices between women as prohibited, the law is applied indiscriminately such that lesbian and bisexual women face the same hostility from both State and non-State actors as do gay and bisexual men and men who have sex with men (MSM).

On July 5, 2005, by a vote of 111 to 17 with 3 abstentions, the Ugandan Parliament approved a proposed constitutional amendment stating that ‘marriage is lawful only if entered into between a man and a woman,’ and that ‘it is unlawful for same-sex couples to marry.’ A parliamentary spokesman said at the time that specific criminal penalties would be enacted later when the Ugandan penal code is revised. We believe that this led to the new proposed bill that aims to make the penal code tougher.

The Ugandan Parliament is now considering a homophobic law that would reaffirm penalties for

² CEDAW, Concluding Observations: Kyrgyzstan, UN Doc. A/54/38, August 20, 1999; *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994); Committee Against Torture, Concluding Observations: Egypt, UN Doc. CAT/C/CR/29/4, December 23, 2002; UN Economic and Social Council, Civil and Political Rights, Including the Question of Torture and Detention, Report of the Working Group on Arbitrary Detention, UN Doc. E/CN.4/2003/8, 16 December 2002; UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc. A/65/255, 6 August 2010.

homosexuality and criminalize the "promotion of homosexuality." The Anti-Homosexuality Bill of 2009³ targets all LGBT Ugandans, their defenders and anyone else who fails to report them to the authorities whether they are inside or outside Uganda. The new bill would specifically penalize homosexuality, using life imprisonment to punish anything from sexual stimulation to simply "touch[ing] another person with the intention of committing the act of homosexuality." It also punishes "aggravated homosexuality" including activity by "serial offenders" or those who are HIV positive with the death penalty.

The Bill criminalizes the "promotion of homosexuality" in the form of funding and sponsoring LGBT organizations and broadcasting, publishing, or marketing materials on homosexuality and punishes these acts with a steep fine, 5-7 years of imprisonment, or both. Any person in authority who fails to report known violations of the law within 24 hours will also be subject to a significant fine and up to 3 years in prison even when this means turning in their colleagues, family, or friends. The Bill even claims jurisdiction over Ugandans who violate its provisions while outside of the country.

The Bill effectively bans any kind of community or political organizing around non-heteronormative sexuality. It will lend itself to misapplication and abuse, and implicitly encourages persecution of LGBT people by private actors. HIV prevention activities in Uganda, which rely on an ability to talk frankly about sexuality and provide condoms and other safer-sex materials, will be seriously compromised. Women, sex workers, people living with AIDS, and other marginalized groups may also find their activities tracked and criminalized through this bill.

Amnesty International has stated that The Anti-Homosexuality Bill of 2009 would, if enacted into law, "prima facie violate international human rights law and lead to further human rights violations."⁴ The Bill not only violates multiple protections guaranteed by the Constitution of Uganda, which ensures independence for non-governmental organizations working for human rights, but contravenes the African Charter on Human and People's Rights, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other international human rights treaties to which Uganda is a party. The Bill also purports to ignore or withdraw from treaties that are inconsistent with the Anti-Homosexuality Bill of 2009,⁵ and indicates that the government of Uganda would disregard their obligations to these instruments in the event that the Bill is passed.

Although there are some reports that some of the most egregious provisions, such as the death penalty, would be stripped from the Bill, any individual part of this Bill would have an overwhelming negative effect on the human rights of LGBT people in Uganda. This Bill undermines Uganda's commitment to the international human rights regime and threatens the basic human rights of all its citizens.

³ Bill No. 18, Anti Homosexuality Bill [*Appendix*]

⁴ Amnesty International, Uganda: Anti-Homosexuality Bill is Inherently Discriminatory and Threatens Broader Human Rights, 7 January 2010, available at <http://www.amnesty.org/en/library/info/AFR59/003/2010/en>.

⁵ Bill No. 18, Anti Homosexuality Bill, Article 18.

While the Anti-Homosexuality Bill has garnered a great deal of international attention, other pieces of legislation also threaten to write discrimination against LBT/kuchu people into the laws of Uganda. The Equal Opportunities Commission is currently being established and is scheduled to start operations in the near future. The Commission is provided for under the Constitution of the Republic of Uganda, and was established under the Equal Opportunities Act of 2007. The Commission is tasked to ensure that affirmative action is taken in favour of marginalized groups and to enforce the prohibition of laws, cultures, customs, and traditions which are against the dignity, welfare, or interest of women or any other marginalized group, or which serve to undermine their status in society. Section 15(6)(d) of the Equal Opportunities Commission Act, however, effectively writes discrimination against LBT/kuchu people into the mandate of this body by stating that the Commission will not investigate “any matter involving behaviour which is considered to be i) immoral and socially harmful, or ii) unacceptable by the majority of the cultural and social communities in Uganda.” There is no standard for evaluating what is considered immoral, harmful, or unacceptable under the legislation, leaving a wide number of marginalized groups – LBT/kuchu women, sex workers, unmarried women, and others – vulnerable to discrimination and unequal treatment. As such, this Commission will never address the severe discrimination faced by LGBT people as long as homosexuality is considered immoral or unacceptable by a majority of Ugandans.⁶

Suggested Questions

- What measures have been undertaken to repeal laws that discriminate against people on the basis of their sexual orientation or gender identity on their face or in their application?
- What measures have been undertaken to eliminate laws and practices that perpetuate stereotypes of strict gender roles or that are used to negatively stereotype lesbian, bisexual, or transgender people?

Suggested Recommendations

- Repeal Articles 145, 146, and 148 of the Ugandan Penal Code, decriminalizing consensual sexual activity between persons of the same sex.
- Repeal laws that implicitly discriminate on the basis of sexual orientation or gender identity, such as Sections 15(6)(d) (i) and (ii) of the Equal Opportunities Commission Act, which prevents the Commission from investigating rights violations that may be considered immoral. Explicitly include people marginalized because of their sexual orientation or gender identity in the list of groups protected under the Equal Opportunities Commission Act.

6 Jjuuko Adrian v. Attorney General Constitutional Petition No. 1 of 2009.; Human Rights Awareness and Promotion Forum (HRAPF), “The Equal Opportunities Commission; Know it, Embrace it, and Fight Against Section 15(6)(d) of the Equal Opportunities Act That Limits Your Access to it, Fact Brochure,” 2010. <http://www.hrapf.org>

- Oppose the *Anti-Homosexuality Bill of 2009 (Bill 18)* and similar legislation that explicitly or implicitly violates human rights of all people and that would target kuchu, lesbian, bisexual and transgender people.

2. The Rights to Life, Liberty, Security and Freedom from Violence

Articles 1, 2, 3, 8, 10 and General Recommendations No. 12, 19 and 24 of CEDAW Articles 22, 23, and 24 of the Constitution of Uganda

Because of the extreme homophobia of the State and of the general public and the vulnerability of women in Uganda to community and family violence, LBT/kuchu people in Uganda are never safe. LBT/kuchu people are killed with impunity and the community suffers from high rates of suicide attempts. We are attacked, beaten and raped in the streets and in our homes. We are arbitrarily arrested and abused by police when we are in custody. LBT/kuchu people are verbally and physically attacked and raped in the public sphere and in private, by police, by teachers, by neighbours, by family members, and by strangers. Such violence is rarely addressed by authorities and LBT/kuchu people rarely report crimes against us for fear of further persecution by the authorities. These represent ever-present threats to our lives and security

In 2003, one report indicated a young woman in Masaka named Hadija committed suicide after being rejected by her family on the basis of her lesbianism.⁷ Several other reports documented the case of an 18-year-old senior student, Paula Rwomusahana, at St. Joseph's Secondary School in Nsambya, who was beaten at a school assembly for allegedly writing love letters to fellow students. The Red Pepper newspaper reported she had complained of fever on Friday, December 4. She contacted the school's health authorities the next day, but never showed up for treatment. The school has issued no further comment on the incident. She was found dead on December 8th in her dormitory. She may have committed suicide, though at least one report of the incident suggests that she may have died because of injuries from the beating. No one from the government condemned this incident though the organization Gays and Lesbians of Uganda called, in a press release dated December 13, 2003, for the government to intervene in investigating and prosecuting her death.⁸ In 2006, another lesbian student [town?] was beaten to death by her school principal and again the government was silent. Both of these incidents were broadcast on radio and newspapers all over the country, however, no one held the parties accountable.⁹

⁷ Lule, Uganda: Schoolgirl commits suicide, Behind the Mask, December 2003. Available on file at the International Gay and Lesbian Human Rights Commission. Lule, Uganda: Schoolgirl Dies After Beating, Behind the Mask, December 19, 2003. Available on file at the International Gay and Lesbian Human Rights Commission.

⁸ Wendy Glauser, Straight and Narrow: Homophobia ensnares Uganda's leading gay-rights advocate, The Walrus, Sept. 2006. Available at: http://www.mask.org.za/SECTIONS/AfricaPerCountry/ABC/uganda/uganda_index.html; Lule, Uganda: Schoolgirl commits suicide, Behind the Mask, December 2003. Available on file at the International Gay and Lesbian Human Rights Commission. Lule, Uganda: Schoolgirl Dies After Beating, Behind the Mask, December 19, 2003. Available on file at the International Gay and Lesbian Human Rights Commission. Lesbian Student Punished for Sexuality Rumours Kills Herself, Gay.com UK, December 19, 2003. Available at: <http://www.glapn.org/sodomylaws/world/uganda/ugnews19.htm>.

⁹ Interview with member of FARUG, September 2, 2010.

One member of FARUG reported that she had attempted suicide in the past because of the hostility she constantly faced as a lesbian:

*“I created this wall around me, and I pretended like everything was okay. But it was not. I was hurting inside, I was confused. Even one time, I tried to commit suicide, because I felt like, no, I don’t fit anywhere in this world. Because everything is just against this.”*¹⁰

Members of FARUG report constant attacks, harassment, and threats whenever they go out in public:

*“On the 1st of August 2008, I was chased out of a taxi because someone had identified me after watching me on TV and news papers. I was later hit on the head as a result of hate crime.”*¹¹

*“There is a bar where we used to hang out, simply a lot of guys, these thugs (...) a lot of them plan for us who come to drink from them... there was a fight and even my phone was stolen. Another time, my necklace was stolen. They wait for us, you know, there's that famous word, they wait for the 'kuchus' [dykes] who come around, and rob what you have.”*¹²

*“[A]s I go to my home there is a place where they brew local drinks, (...) So as I was passing, there were four people, guys and one lady, this guy comes shouting, ‘Come and see this one. Hey, ladies, you keep your girls, your young girls away from this one. (...) Keep your girls away from that one, she's going to recruit them, she's going to recruit them into homosexuality.’ People gathered to see what was happening. For the first time I got scared. I got so scared. See that place, I grew up there some time. There are elders around who know me. I was so frightened. (...) [I] kept moving, the drunkards kept saying all that. (...) I decided to leave late or very early [from my house after that].”*¹³

*“I fear to walk on the streets.”*¹⁴

Members of FARUG also report incidents and threats of curative rape, where attackers rape a person to 'teach her how to be a proper woman' and to 'cure' her perceived homosexuality

*“I was leaving home... as I was coming there were two other guys standing there. They had never seen me around there. This guy washing the car, he said, I heard that girl fucks women, sleeps with women, likes to sleep with women, but one day I will teach her a lesson, how to be a woman.”*¹⁵

“In 2006, I got raped. Apparently the neighbours used to complain. (...) At first,

¹⁰ Interview # 10, Interview with member of FARUG on September 1, 2010, on file with FARUG.

¹¹ Interview with Executive Director of FARUG, September 2, 2010

¹² Interview #4 with member of FARUG on August 30, 2010, on file with FARUG.

¹³ Interview #3 with member of FARUG on August 29, 2010, on file with FARUG.

¹⁴ Interview #1 with member of FARUG on August 29, 2010, on file with FARUG.

¹⁵ Interview #4 with member of FARUG on August 30, 2010, on file with FARUG.

saying 'why do you dress like a man?' 'We should teach you a lesson.' These were things I used to brush off. (...) I was going for a drink. I called the boda [motorbike driver]. One was leaving opposite us, I said just take me to [the bar] (...). We were moving and someone threw a stick in the spikes of the bike and so we fell. Three guys came after me, of course the boda man ran to get help but when he got back it was too late. One had a knife, one a machete, and another had a gun. So I was just worried about me dying, I wasn't worried about rape. Because it was going to happen. That was the only thing I kept thinking about, 'Oh my God, whatever they do, just take anything, just don't touch me.' And they were like, 'Why do you think you're so special? You think you have money, you think you have all this.' They took all my jewelry, my cap, my shoes, money, phone, and then they said 'you remind us, aren't you that lesbian who lives up there with your funny girlfriend?' (...) They told me to close my eyes. So one does his thing and I'm like you're done, can I please go? The man says, 'No, it's my turn now.'"¹⁶

"I had left home because my stepdad, because he actually attempted to rape me, and I didn't want to expose myself to that, so I left home."¹⁷

On top of general societal pressure on women and men to keep silent about sexual harassment, abuse, and rape, LBT/kuchu people often do not feel comfortable reporting this incident to the police for fear of being ignored at best, or arrested and further abused themselves at worst.

"We had an incident with my mom, because she's still struggling with the fact that I'm a lesbian. (...) She went to the police station in the area and made a complaint and saying we are doing drugs. [She said,] 'My daughter was a responsible person but now she's not. She's sleeping with women and doing all sorts of things.'

So she directed the police to our place and we were taken to the police station. I constantly asked the police what we have done, what have we done, and they didn't tell us anything. They were like, 'You wait, you'll find out when you go to the Criminal Investigation Department from a normal police station, taken to CID.' I was getting angry because I was sick that day. (...) I kept complaining. We were not told why we were there. We were being ferried from one police station to another, with police guards.

They raided the house, took my photos, they actually still have them. We weren't told why we were there from 8am, no lunch, being asked questions, (...). I told them, don't ask me questions, you haven't told us why we're here for. (...) [T]hey were dealing with other people we sat there all day, no food, I hadn't taken my medication. (...) Because the [police officer] was asking me if I had a boyfriend and I said, 'Does that matter? What does whether I have a boyfriend have to do with your work? You came to find drugs, but did you find any?' The OC then (...) [asked] 'Why you are here? We were told you were doing drugs and you were participating in illegal habits?' So I said, 'What do you mean illegal habits?' 'Are

¹⁶ Interview #4 with member of FARUG on August 30, 2010, on file with FARUG.

¹⁷ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG

you lesbians?' So when I heard that word I just shut up, they didn't take any more statement from me.

This had happened before I was raped. When I was raped it was in the same area, and when an incident happens in a certain area, you have to report it to that immediate police station. I got discouraged. If they would treat a small incident, look for drugs (...) take me to town, and I told you I am sick and I showed you my medical card. So yeah, I got discouraged. I said, police aren't going to help me.”¹⁸

LBT/kuchu people who are arrested are often verbally, physically, and sexually abused by the police officers. One transgender activist reports one particular incident when he and two other activists were arrested for protesting at a meeting in Kampala, when he was tortured by the police with verbal and sexual abuse and held for three days without being allowed to use the toilet:

“What hurt most was what happened when we were taken to the police station. That whole thing, 'Are you male, are you female?' So [there] were two females and I was one male. The two were taken to respective cells and for me they were like, 'We do not have a place for such people maybe we should put 'it' in the middle of two cells.' They kept me there for a few minutes, and they took me for interrogations. They wanted to strip me naked to check my gender. They didn't do it yet but there was a lot of verbal abuse, saying things like, 'You should be stoned, you are brining shame to this nation, your mother should be ashamed of herself.’ (...) We spent three days there. I wasn't allowed to go and pee. Eventually they put me in the female cell. I wasn't allowed to go and pee. Just before this, because of the debate of whether I was male or female, two officers came. Actually, there were three but one was male and he stayed outside and watched, and the two female officers came in and stripped me and touched my private parts. And of course I had infections when I came out, I had a UTI. I had swelling in my urinal canal. And after that the arrests just went on and on.”¹⁹

Such treatment is not exceptional, and occurs frequently, to the same people repeatedly:

“I hardly go to town because I get picked up. (...) [I]n most cases with the arrests that I've had there's that element of stripping which up to now, what I think about it, actually brings tears to my eyes.”²⁰

The arrests of LBT/kuchu people are not always recorded because the police use the arrests to extort money instead of pressing charges. This makes it difficult to track the full extent of the police abuse against LBT/kuchu people.

“If you're arrested, there's no report that you're arrested. They put you in, to intimidate you and maybe extort money out of you. They know they've done

¹⁸ Interview #4 with member of FARUG on August 30, 2010, on file with FARUG.

¹⁹ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG.

²⁰ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG.

something wrong by taking money from you, so there's no report."²¹

Members of FARUG expect and are told by the community that such violence and killings will increase if the Anti-Homosexuality Bill passes, and even if it does not:

*"The moment the Anti Homosexuality Bill passes, there will be total violence. We won't have any freedom at all."*²²

*"They are very ready to torture us, the community. Because everyone we talk to about this bill they say yes, we are tired of these homosexual; you should kill them. Kill them. We are very insecure. We're going to hide, I don't know how. For them the bill about homosexuality is about killing them or imprisoning them and everyone is like, yes."*²³

*"Many people have vowed to 'deal with us' if the Government doesn't put a tougher law. That makes us even more vulnerable, always insulted on the streets in the neighborhood and even in churches."*²⁴

*"Really, that's murder. I call that bill murder. It should just be thrown out of the Parliament. I hear they pulled out some of the phrases and all that, but I believe they should kill it completely. It is genocide."*²⁵

Suggested Questions

- How will the government ensure that lesbian, bisexual, and transgender people have access to the police and the judicial system to report and address attacks on their lives and rights without fear of further victimization?
- In light of the repeated violence against lesbian, bisexual, and transgender people in Uganda, how will the government protect this vulnerable population from State and non-State perpetrators?

Suggested Recommendations

- Investigate all acts of physical and sexual violence against LBT people, including by state and non-state actors, kuchu, lesbian, bisexual and transgender people and hold perpetrators, including state and non-state actors, accountable.
- End police abuse of kuchu, lesbian, bisexual and transgender people and ensure that police provide protection to all people in Uganda, regardless of their sexual orientation or gender identity.

²¹ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG.

²² Interview #2 with member of FARUG on August 30, 2010, on file with FARUG.

²³ Interview #9 with member of FARUG on August 31, 2010, on file with FARUG.

²⁴ Interview #7 with member of FARUG on August 31, 2010, on file with FARUG.

²⁵ Interview #8 with member of KULHAS on August 31, 2010, on file with FARUG.

- Introduce sensitivity and human rights training for all levels of police personnel on sexual orientation and gender identity.
- Track hate crimes against LBT people nationally and issue data publicly in annual reports.
- Launch national campaigns to condemn all acts of physical and sexual violence against individuals on the basis of their sexual orientation or gender identity.
- Ensure non-discriminatory emergency relief services are available to LBT people fleeing victims of physical and sexual violence, such as shelters and non-discriminatory medical care in a hospital.

3. Sex Role Stereotyping and Prejudice

Articles 2(d)(f)(g) and 5(a) of CEDAW

In conjunction with the discriminatory legal regime that criminalizes the lives of all LGBT people in Uganda, societal disapproval, hostility, and outright violence is encouraged by the extremely negative picture of LBT/kuchu people painted by the Ugandan media. These portrayals include accusing gay and lesbian people of being child molesters or of ‘spoiling’ students, including when those accused are students themselves. Likewise, LGBT people are accused of being mentally or physically sick or diseased because they do not follow gender or sexuality norms. The use of discriminatory language and derogatory stereotypes intensifies discrimination based on sexual orientation or gender identity by reinforcing the idea proscribed of gender-specific roles and behaviours and encourages criminalizing and abusing those communities. The prevalence of these severely negative, damaging stereotypes of lesbian, bisexual, and transgender, people throughout media and society in Uganda and the absence of any government measures to modify the social and cultural patterns of conduct that supports these discriminatory prejudices – or to protect LBT/kuchu people in the face of such threats - violates Uganda’s obligations under Article 5(a) of the CEDAW Convention.

This negative portrayal of LGBT people has furthermore increased since the introduction of the Anti-Homosexuality Bill, encouraging a totally hostile climate for LBT/kuchu people in Ugandan society. The genesis of the Anti-Homosexuality Bill was an organized campaign by a number of conservative organizations and opinion leaders, which took place in March 2009 hosted by the Family Life Network (FLN).²⁶ As a result, since its introduction, extreme homophobia has taken center stage in the Ugandan national discourse, particularly in the media. Following the anti-gay conference hosted by FLN in March 2009, public discourse against homosexuality has been high, with anti-gay marches occurring not only in Kampala, but in towns in the rural areas as well.²⁷ Likewise, members of the government have supported, reiterated and

26 Sexual Minorities Uganda and the International Gay and Lesbian Human Rights Commission, Uganda: The U.S. Religious Right Exports Homophobia to Africa, March 4, 2009. Available at, <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/partners/868.html>.

27 See, Sheila Naturinda, “Clergy: Jail Gays, Don't Hang Them,” Monitor Online, October 29, 2009.

reinforced these negative stereotypes since the anti-gay conference. For example, Minister of Ethics James Nsaba Buturo has said to Africa's Sunday Monitor that:

*"It's true gays are rough people but men of God should not fear their intimidation. Ugandans should strengthen their mobilisation against the gay movement because the government is also committed to support them (...) We hear that some students in our schools have been lured into homosexuality. I appeal to the investigative arms of the government to quickly compile reports of such students and their schools so that tough action is taken against them."*²⁸

He also defended the Anti Homosexuality Bill's draconian stance on homosexuality by stating:

*"There is a Bill in Parliament known as the Anti-Homosexuality Bill. This subject is causing a great deal of interest around the world. The people of Uganda believe that practicing anal sex at the expense of heterosexual sex is not a normal practice. Ugandans know or believe that homosexuality involves practices that are dangerous and high risk to the human body which is designed for heterosexual functions. Ugandans also believe that anal sexual intercourse, foreign objects used in sexual intercourse and promiscuity do not deserve to be defended at all."*²⁹

While local television stations and print media houses have "outed" dozens of people reported to be homosexual,³⁰ the same media houses have been reluctant to communicate voices from the LBT/kuchu community. Following Minister Buturo's public statements on the Anti-Homosexuality Bill, the LGBTI movement issued a press statement in protest of this move by the government. All major print houses declined to publish the statement, citing fear of State injunctions on their businesses.

Even more dangerously, given the hostility against LGBT people, newspapers have been facilitating the violent attacks on known LGBT people. For example, in 2006 the *Red Pepper* tabloid started listing the names of suspected homosexuals, their pictures, describing their appearances, the cars they drive, where they work and live and also whom they are suspected of dating in a media-led crack-down:

*"To rid our motherland of the deadly vice [of lesbianism], we are committed to exposing all the lesbos in the city (...) Send more names [with] the name and occupation of the lesbin [sic] in your neighborhood and we shall shame her."*³¹

²⁸ Africa: God Will Protect Us Against Gays, GayNZ.com, July 15, 2008. Available at, http://www.gaynz.com/articles/publish/3/article_6218.php.

²⁹ Uganda Media Center, "STATEMENT MADE BY THE MINISTER FOR ETHICS AND INTEGRITY TO MEMBERS OF THE PRESS AT THE MEDIA CENTRE ON THURSDAY 3RD DECEMBER 2009," December 3, 2009. Available at, <http://www.mediacentre.go.ug/details.php?catId=3&item=709>; Jim Burroway, Uganda Responds To International Furor Over "Kill Gays" Bill, December 3, 2009. Available at, <http://www.boxturtlebulletin.com/2009/12/03/17181>

³⁰ See e.g., Red Pepper, "We name guys and babes who enjoy bum sex in Kampala," September 2, 2007.

³¹ See e.g., KAMPALA'S NOTORIOUS LESBIANS UNEARTHED, *Red Pepper*, September 8, 2006 and "Jinja cops hunt for gays," *Red Pepper*, September 7, 2006. Reprinted at Direland, September 16, 2006. Available at, http://direland.typepad.com/direland/2006/09/ugandas_antigay.html.

Even more recently on October 2, 2010, the tabloid *Rolling Stone* printed a story with the title, "100 Pictures of Uganda's Top Homos Leak." The cover of the paper calls to, "Hang Them" and includes photos of a number of Ugandan LGBT activists and human rights defenders.³²

This has created an environment where LBT/kuchu people are beaten in public social places, chased out of restaurants and bars, and many lost their jobs and others lost their families.

*"You know, a lot of people didn't know that we really existed. They didn't know how to tell that this is a lesbian or a tomboy or not or a trans person. But during that period of debating about the bill, these people, Pastor [Martin] Ssempe was explaining, 'I know how they dress' because one of the kuchus was with Ssempe, so he told them the girls dressed like this, live on TV and radio. Girls dressed like this, they have dreadlocks, they wear caps, (...) When you see a guy who walks like this, who does this, he is lesbian or gay. So, it is obvious that when someone looks at you, they can easily tell (...). There are people who dress like us and they are not lesbian, those ones are included."*³³

*"[T]here's this culture in Africa that if you're a girl, you're supposed to behave in a certain way. So it's like a kind of grooming, but for me, I did not fit in any of those. I just wanted to be me. So it's like I was doing whatever I wanted to do, what I felt like. So in most cases I was beaten by my uncles, by my aunties, saying I'm a problem child, I don't listen, calling me names, "girl-boy," such things. Even people can ask, this girl behaves like a boy, are you a boy or a girl, things like that. And so that was hard when I was growing up."*³⁴

In this regard, the media has played a major role in promoting State-orchestrated hostility by promoting stereotypes of LBT/kuchu people as child molesters, un-African, evil, sick, insane, and perverted among the public through the airwaves and print publications. These negative stereotypes are reinforced by the refusal to give space to any voice speaking positively or rationally about the LBT/kuchu community.

Suggested Questions

- What measures have been undertaken to eliminate laws and practices that perpetuate stereotypes of strict gender roles on their face, or that are used in their application to negatively stereotype lesbian, bisexual, or transgender people?

Suggested Recommendations

- Ensure that when media allege people to be kuchu, lesbian, bisexual or transgender, and/or urge violence against them, these individuals are provided with the option of police protection.

³² Rolling Stone, 100 Pictures of Uganda's Top Homos Leak, October 2, 2010.

³³ Interview #3 with member of FARUG on August 30, 2010, on file with FARUG.

³⁴ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG.

- Prevent the Media Council of Uganda from penalising media entities such as radio programs that host LBT people or otherwise provide positive coverage of LBT issues.
- Take steps, such as national education campaigns to eliminate the prejudices, attitudes, and customary and other practices in the media that reinforce negative stereotypes about and discrimination against lesbian, bisexual and transgender people.

4. Political and Public Life

Article 7 of CEDAW, General Recommendation No. 23 Article 5(ii) and 29 of Constitution of Uganda

Article 7(c) of the CEDAW Convention ensures the right of all women to, “[t]o participate in non-governmental organizations and associations concerned with the public and political life of the country.” Additionally, Article 5(ii) of the Ugandan Constitution states that the State should guarantee and “respect the independence of nongovernmental organizations which protect and promote human rights.” Article 29 of the Ugandan Constitution also ensures the rights to protection of freedom of conscience, expression, assembly and association. Ugandans seeking to promote the human rights of LBT/kuchu people, people seeking to provide services to LBT/kuchu people, to gather socially as LBT/kuchu people or to express themselves publicly or privately about LBT/kuchu people in a positive manner face significant persecution by the State and by the general public. This limits individuals' and groups' rights to freedom of expression, opinion, association and to promote human rights.

In Uganda, anyone speaking out positively about the human rights of LBT/kuchu people – or anyone who doesn't conform to 'traditional' gender norms – risks inciting government and public backlash against the whole LBT/kuchu community, including violence. Even presenting factual information about the situation of LBT/kuchu/WSW in Uganda to this United Nations treaty body carries this risk to our lives.

The government of Uganda is the key force attacking the work of LGBT human rights defenders and NGOs, and it also encourages the general public's attacks on these groups when it promotes and enforces laws that explicitly condemn and discriminate against us. FARUG is one of at least seven organizations working on the human rights of LGBT people in Uganda, and it is the only one working exclusively on the rights of lesbians, bisexual women, and trans people. In our work, we have been threatened directly by police. For example, FARUG was threatened by the police at its offices on December 19, 2009, when a police van parked in front of the office's gate and encircled the office. For two weeks afterward, police continued to stake out the office, watching the movement of members, not all of whom were out. FARUG is also forced to relocate its operations constantly. In 2007, FARUG was evicted from its offices when the landlord found out it was a lesbian organization. In 2008, FARUG was again forced to move from another location when the neighbours threatened members, saying if FARUG did not move they would throw them out.

Individual human rights defenders face barriers at every step of their work protecting and

promoting the human rights of LGBT people. The Executive Director of FARUG noted one incident typical of the kinds of opposition she faces when she attempts to travel to human rights conferences and trainings outside of Uganda:

“March, this year, when I was renewing my passport, they called me at immigrations and asked me what kind of work I did. I told them am a human rights defender and that was my profession. They said it cannot be my profession and so they cannot put it in my passport. I insisted and told them that’s my profession and gave them my papers. So, they perused through my old passport and asked me why I travel so much and why I have LGBT issues in one of my visas. I told them that am a human rights defender and I defend all human beings without discriminating. They started to harass me, saying, ‘take off your cap,’ ‘why are you dressed like a man?’ ‘are you the people [Pastor] Ssempe is always talking about?’ They told me to go back out and wait while they went through my whole passport. After 45 minutes they called me again and told me that I was not Ugandan and that am just impersonating. I got angry and kept quiet while they said all sorts of things. They asked me if I was deaf and I nodded my head in affirmative. They got so angry and just threw my passport at me and told me to leave immediately and take away my demons from them.”³⁵

LBT/kuchu human rights defenders are ejected from public spaces and arrested when they attempt to exercise their rights in Uganda. In 2007 during the Commonwealth Heads of Government Meeting (CHOGM) in Kampala, between 10-15 LGBT human rights defenders, including eight members of FARUG were forcibly and violently thrown out of the People's Space, a space set aside for anyone seeking to sharing their views about issues relating to the Commonwealth.³⁶

Then, in 2008, two members of FARUG and one member of SMUG were arrested at the International HIV and AIDS Implementers Meeting in Kampala when protesting the omission of LGBT from implementation of the national HIV and AIDS programs and charged with criminal trespass.³⁷

LBT/kuchu human rights defenders also face individual attacks on their privacy at home, and their personal security. In July 2005, local officials illegally raided the home of LGBT activist Victor Mukasa, looking for "incriminating material." They seized documents and other materials related to LGBT organizing in Uganda. Mukasa was absent but officials arbitrarily arrested and

³⁵ Interview with Kasha Jacqueline, Executive Director of FARUG, September 2, 2010.

³⁶ The Observatory for the Protection of Human Rights Defenders, UGANDA: Ugandan and Kenyan LGBT rights' defenders prevented from taking the floor at the CHOGM in Kampala, November 28, 2007. Available at, http://www.defendingwomen-defendingrights.org/pdf2007/Uganda_281107.pdf.

³⁷ Sexual Minorities Uganda, “Uganda: LGBT/HIV Human Rights Defenders Court Hearing Adjourned to July 9,” July 8, 2008. Available at <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/partners/239.html>. On 2nd June 2009, two days to the International HIV/AIDS Implementers’ meeting held at the Royale Imperial Hotel, Kampala, the Director General of Uganda AIDS Commission (UAC), Dr. David Apuuli was widely quoted by international media saying, “Gays are one of the drivers of HIV in Uganda, but because of meagre resources we cannot direct our programmes at them at this time.” FARUG decided to have a peaceful protest at the meeting to distribute copies of a document outlining programs that could serve our key population and the estimated cost of these programs to show the government that it did not need extraordinary funds to include LGBT people in the National HIV/AIDS policy.

detained Ooyo Yvonne, taking her to a police station and subjecting her to humiliating and degrading treatment, including forcing her to undress ‘to prove that she was a woman.’ The Ugandan government failed to investigate or take any action to remedy the wrongs that had occurred until Mukasa and Ooyo filed and won a private suit against the Attorney General in a decision that cited the Universal Declaration of Human Rights, the Convention of the Elimination of All Forms of Discrimination Against Women and other key human rights treaties that had been violated by the police’s actions.³⁸

This precarious situation will worsen if the Anti-Homosexuality Bill is passed into law, and the devastating effects it would have on the individual lives of LBT/kuchu people in Uganda. The government has in the past year threatened to close our offices and it seems to be only a matter of time before they do. Right now, what is protecting FARUG from official closure is the government’s lack of legal ability to close us down. However, if the Anti-Homosexuality Bill passes, this minimal protection will disappear.

If the government closes FARUG, the vulnerability of the whole LBT/kuchu community will increase. FARUG is one of the only safe spaces for LBT/kuchu people to meet with each other and talk about the problems and issues that affect us. These spaces have provided our community with self-esteem, community, and information on health. Additionally, many of FARUG’s members are either expelled or driven from school and have difficulty finding and keeping employment because of discrimination based on sexual orientation and gender identity. Some people have been able to get employment only from the LGBT organizations, and therefore their only source of income would be eliminated if we and our counterparts are closed down.

Suggested Questions

- What steps have been taken to ensure that people who work for or support organizations that defend the human rights of lesbian, bisexual and transgender people are free from discrimination, including violence, because of this work?

Suggested Recommendations

- Ensure that people who work for or support organizations that defend the human rights of lesbian, bisexual and transgender people are free from discrimination, including violence, because of this work.
- End police harassment of human rights defenders working on sexual orientation because of their sexual orientation or gender identity.
- Protect the rights of freedom of expression and association of kuchu, lesbian, bisexual, and transgender people who form organizations.

38 *Yvonne Oyoo and Mukasa v. the Attorney General*, Misc. Application No. 247 of 2006.

5. The Right to Education

Article 10 of CEDAW

Article 30 of the Constitution of Uganda

Article 10 of CEDAW requires States to “take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education,” including, “[t]he elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education,” “[t]he same opportunities for access to programmes of continuing education,” and, “[t]he reduction of female student drop-out rates.” Likewise, Article 30 of Uganda’s constitution states clearly that, “[a]ll persons have a right to education.” The government of Uganda is failing to eliminate discrimination against LBT/kuchu people in the field of education and allowing the outright denial of education to youth and adults because they are or are perceived to be lesbian, bisexual, or transgender.

Harassment, mistreatment, violence, and other human rights violations threaten the physical and emotional well-being of students, influence how well students perform in school, make it difficult for students to achieve their career goals, and students from education systems outright. When LBT students fear violence, harassment, punishment, expulsion, or even criminal prosecution by attending school, their right to education can never be realized.

In Uganda, girls and women who are even rumoured to be lesbian, or visibly violate gender stereotypes and norms are routinely expelled from schools at all levels.

“[T]he local media outed some people from some schools. Their names were out, and I was worried with their names being out they wouldn’t be able to go to any other schools. For me It was a great concern and it scared me to be myself in school and I thought the same thing would happen to me and I was really interested in education. I still am.”³⁹

“I was even expelled in a certain school, in college, because girls were fighting for me.”⁴⁰

“Most trans people are forced out of school or they drop out of school because they don’t act as expected – they wear clothes that are not gender-appropriate, are outcast from social groups, are punished (...) you either have to fight or drop out or be forced out of school.”⁴¹

“In school I was expelled because the father [of a girl who had written me a note] thought I was teaching the girls how to be lesbians, teaching people how to become lesbians. (...) When I was expelled they didn’t give me a specific reason, they just gave me a note and said you have to give it to your mother. When I reached home, actually I reached home three days later, because I was thinking oh my god what I am going to do.

³⁹ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG.

⁴⁰ Interview #9 with member of FARUG on August 31, 2010, on file with FARUG.

⁴¹ Interview #1 with member of FARUG on August 29, 2010, on file with FARUG.

(...) So I go home and give her the letter, and she said, is this what I send you to school for? So she threw me out.”⁴²

“I was expelled from school, because I was a lesbian, spoiling the school...”... [O]nce they know you’re a lesbian, or you’re gay, or whatever, you’re thrown out of schools. We’ve had even cases where some students are being killed, or beaten so badly that they end up with physical disabilities.”⁴³

Likewise, those who are not expelled, are treated to extensive discrimination and abuse, and are forced to wear uniforms or clothes that do not match their gender or gender identity, leading many to drop out of school.

“[E]ven those who are in school may drop out because they will not be employed after, so what is the point. Their study documents will say one name and sex, when they will present another to employers.”⁴⁴

“[A]t school, at first I was assigned a girls hostel, but I couldn't stay there. [I] had to shower and change after everyone had left, and they started asking questions, accused me of being homosexual. I had to leave after 2 weeks. (...) I was the vice guild president at school, but after I was outed they terminated me.”⁴⁵

“With school, I started dodging school because I am forced to dress up, I had to put on skirts but I was uncomfortable so it didn't go on well.”⁴⁶

LBT/kuchu people are also at a greater disadvantage in the educational sphere when their families have thrown them out and will not help with tuition, and therefore they have to pay their own tuition while facing joblessness or lower wages due to discrimination based on actual or perceived sexual orientation or gender identity.

“[B]efore, I did a certificate in general nursing, now I’m doing a diploma in general nursing. I’m paying my own tuition, but the work that I have pays me very little money to sustain me, like, with the fees, and upkeep, and then, yeah. Feeding, and everything.”⁴⁷

The systematic denial of the right to education of LBT/kuchu people in Uganda affects virtually all other areas of life, from employment opportunities as adults to health. The hostile environment for LBT/kuchu students in schools further teaches other students to perpetuate these cycles of discrimination and abuse in the broader society as they leave school.

Suggested Questions

⁴² Interview #4 with member of FARUG on August 30, 2010, on file with FARUG.

⁴³ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG.

⁴⁴ Interview #1 with member of FARUG on August 29, 2010, on file with FARUG.

⁴⁵ Interview #1 with member of FARUG on August 29, 2010, on file with FARUG.

⁴⁶ Interview #9 with member of FARUG on August 31, 2010, on file with FARUG.

⁴⁷ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG

- What steps will the government take to prevent and address expulsion of students from schools and abuse of students in schools because of their actual or suspected sexual orientation or gender identity?

Suggested Recommendations

- Ensure schools are governed by the principles of non-discrimination, including explicit prohibitions on discrimination based on sexual orientation or gender identity.
- Prevent students from being expelled from school at all levels of education because of their actual or suspected sexual orientation, gender identity, or gender expression.
- Create mechanisms of investigation and redress at the individual school and school district levels for students who are expelled from or punished at school on the basis of their sexual orientation or gender identity.
- Provide sexual education in schools and ensure that it contains accurate, relevant and positive information about diverse forms of sexuality and sexual health.
- Provide training for faculty and administrators at all levels to ensure the respectful treatment of kuchu, lesbian, bisexual and transgender students.

6. The Right to Work

Articles 1, 11, General Recommendation 19 of CEDAW

Article 40

CEDAW states that all States Parties “shall take all appropriate measures to eliminate discrimination against women in the field of employment” including, “[t]he right to work as an inalienable right of all human beings” and “[t]he right to the same employment opportunities, including the application of the same criteria for selection in matters of employment.” Likewise, General Recommendation 19 of CEDAW makes clear that, “Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention” and that “[t]hese rights and freedoms include: ... The right to just and favourable conditions of work.”

Additionally, the Constitution of Uganda states that Parliament shall enact laws “to ensure equal payment for equal work without discrimination” and that “Every person in Uganda has the right to practise his or her profession and to carry on any lawful occupation, trade or business.” These rights to work and to be free from discrimination in the area of employment is being systematically denied to LBT/kuchu people and all women who violate gender and sexuality norms in Uganda. LBT/kuchu people report extreme discrimination in applying for and keeping steady employment. When hired, LBT/kuchu people are forced to keep their sexual orientation and gender identity hidden or else face verbal, physical, and sexual harassment, as well as

termination from their positions.

One member of FARUG explains how she was suspended from her jobs as basketball referee and coach because of rumours about her and female student and accusations that she will “spoil” students.

“I am a basketball player [and] at the same time a coach and a referee of basketball. In April 2010 we went to St. Mary's college Kisubi for a schools tournament but this time not as a player but as a referee to ref games. (...) I have a close friend of mine in that school, in fact she calls me big sis. (...) Every day after the game like during supper time, I would meet [my friend] and we would chat. And after, I escorted her to where she sleeps and [I] would be there for some time with her and her friends because they used to share rooms.(...) These two teachers said they were suspicious about us. (...) The third day of the tournament after supper, the female, the two teachers came to the room where [my friend slept] and they found me there. I was sitting on my friend's bed and she was standing up and I was helping her to do some holiday work which she was given at school. (...) So, she was taken home. I called her parents and I told them about the whole story and they asked me what the problem was and I told them that the Madam refused to tell me. That evening the games were not yet over but I was called and paid off for the days I had worked and I was told to go back to Kampala. When I asked them the problem, I was told that I was trying to spoil the kids. (...) [W]e were advised by the police not to record the case for the good of the girl who was still in school. (...) On coming back to Kampala I was told to stop refing games at the same time the headmaster of the school where I coach was told about the whole [matter] and he was told that I am a bad character, I will spoil the kids. He asked them what evidence they had and they told him that they are still investigating. So, I lost my job as a referee and a coach at the same time, until further notice.”⁴⁸

Another FARUG member experienced years of sexual harassment in her employment though she did not feel free to report it because she feared that she would be fired if she did. When she ultimately came out as a lesbian, she was fired:

“I got the job when I was 20, and (...) there were particular employees who always disturbed the new employees, especially the female employees. Now me, I was a rascal, in my jumper and jeans so they tried to sexually harass me. I complained, I told them I don't think this is right, I will report it to the boss. They said, if you report it to the boss, you will have no job. You know how you're younger, you have all these dreams, so I kept quiet about it [for years] (...) I was always quiet, because, you know those times when you are silently harassed and you know you can't speak out and that really puts you down. (...) So [the boss] asked me, it's taken me four years to ask this question, are you a lesbian? (...) I told him, I hope you don't use this against me some day, yes I am and he said, awesome, so how do you guys do it? (...) the other guys, (...) started telling him you know she's a lesbian we cannot have such people working with us. He was under a lot of pressure, he

⁴⁸ Interview #2 with member of FARUG on August 29, 2010, on file with FARUG.

had to write a letter to sack me.”⁴⁹

Another FARUG member was fired on suspicion of being or associating with lesbians:

*“[T]he work that I have pays me very little money to sustain me, like, with the fees, and upkeep, and then, yeah. Feeding, and everything. So I had another job where I used to work, where I used to work there mostly at night. And then, one time, when my friend came, one of my friends came who’s like a tomboy, real butch, so she came and the boss saw her. And then I think they had known, they knew this girl, that she was a lesbian and so on. So after a few weeks, I received a communication that they’re restructuring at the clinic where I was working, and guess who was thrown out? It was me. But I suspected – she did not tell me the reason why I was thrown out, but I suspected, because she called me after that friend of mine had left and started asking me questions – how do you know that girl, are you friends, blah, blah, blah, things like that. So I think that’s how I lost my job. (...) It was this year, around May.”*⁵⁰

Sexual and other harassment in the workplace is a common experience of LBT/kuchu people in Uganda, combining the sexist harassment of women with additional animus against LBT/kuchu people for transgressing gender identity and sexuality norms.

*“I had an internship for school over the holiday. They had a problem with my dress code. I tried to challenge them saying the way I dress has nothing to do with the work I do. My in charge would not give me the signature [I needed for school]. I said fine, and I left. Then they called me back and he still wouldn’t give it to me. They sent me to a site [and I did my work] and when I came back he wouldn’t give it to me. It reminds me of how women are treated in the workplace, discriminated against, raped. He refused to give the signature, but wanted things for it.”*⁵¹

*“I got employment. But you know how men are, touchy. (...) I mean, what would you touch me for if I’m not comfortable? (...) I was on temporary, I was sitting in for someone on maternity leave. They told me, ‘You know, you’re good at it. If you want to get permanent seat (...) I think you gotta give this guy some.’ (...) So I didn’t understand what that was all about. Somehow I didn’t get the permanent seat because when my friends told me just give the guy some. They said, ‘It’s just sex.’ I told them it may be just sex for him, but for me it’s a big deal. But why would I screw someone to keep a job?”*⁵²

“I remember after my education in 2002 I was entitled to find a job but the one I got first was good for me because it was my profession but unfortunately some of my workmates didn’t like me due to the fact that they were suspecting something, so they talked to my boss about it and he didn’t care because all he wanted was my effort/work done. They blamed me leaving the job by blackmailing me so I decided

⁴⁹ Interview #4 with member of FARUG on August 30, 2010, on file with FARUG.

⁵⁰ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG.

⁵¹ Interview #1 with member of FARUG on August 29, 2010, on file with FARUG.

⁵² Interview #4 with member of FARUG on August 30, 2010, on file with FARUG.

to leave by myself, (that was 2004).”⁵³

LBT/kuchu people are required to wear clothes that fit feminine gender roles, regardless of whether they are comfortable in such clothes or indeed identify as women, adding additional layers of stress and harassment in the workplace:

“And I was doing odd jobs, and getting those odd jobs was difficult because one I was really judged by the way I dress, and no one was judging by my skill. By then I had no degree, no significant qualification for jobs, but I am a very hard working person and I learn very fast and I believed in that I believed I could do anything. And people who picked interest in my hard work employed me but the employment was not for long. The longest I've held an employment is at SMUG (Sexual Minorities Uganda). I've had to keep changing because people are pointing fingers. People are physically abusing you and all that discomfort leads you out of search.”⁵⁴

“In my case I've really tried to apply for jobs, and when they look at me, I don't really have high qualifications to do some work, I can do something, I am capable of doing some work around somewhere. But every time I get there, I'm looking for a job then someone tells me, 'but then you have to change your dress code, you have to.' You find it very hard to find, because of work you have to put on things against your dress code, because then they maybe realize you are LGBTI, because the first thing they ask you is, 'Why are you putting on like that? Are you a girl? Are you a man?' And these things traumatize you in the first place when someone starts asking you about your orientation and your gender and all that, so sometimes you lose the interest to go to people and ask for jobs.”⁵⁵

“[T]he major problem we have among the LGBTI community is education and unemployment. So that's why, you see, when we had a problem with one of the ex-gays, Georgina, who brought out all this mess and started saying we're recruiting, because he was paid the money, he had nowhere to go, he had no job, he had nowhere to stay. So it's like people are forced to do whatever they can to survive. And this is a major problem we have. And for most of the LGBTI people here, it's very difficult to go somewhere and get a job. You basically want to be like, pretend. Like, for me, I really hate dresses, but I have to wear a dress to go to my work. So inside, I'm hurting – I'm not doing my job with that pride. I'm just doing it because I want to survive.”⁵⁶

For LBT/kuchu people in Uganda the workplace is a hostile environment—and one that it is impossible to stay in for long periods of time voluntarily or otherwise, leaving large numbers of LGBT people unemployed, without means of support when we have been rejected and thrown out by our families.

⁵³ Interview #11 with member of FARUG on August 30, 2010, on file with FARUG.

⁵⁴ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG

⁵⁵ Interview #8 with member of KULHAS on August 31, 2010, on file with FARUG

⁵⁶ Interview #10 with member of FARUG on August 31, 2010, on file with FARUG

Suggested Questions

- What measures have been undertaken to repeal laws that discriminate against people on the basis of their sexual orientation or gender identity on their face or in their application?

Suggested Recommendations

- Enact national law to prohibit discrimination on the basis of sexual orientation or gender identity in employment, including as relates to hiring, promotions, harassment in the workplace, and firing.
- Investigate cases of people dismissed from or denied employment on the basis of their sexual orientation or gender identity, and provide them with a system of redress to recuperate damages.
- Support the critical work of non-government organizations that employ lesbians, bisexual women and transgender people, a population that is often underemployed, and permit them to work without harassment or disruption.

7. The Right to Health

Articles 11(f), 12, and General Recommendations No. 19 and 24 of CEDAW National Objectives and Directive Principles of State Policy XIV and XX of the Constitution of Uganda

Health and the barriers to access adequate health care is one of the most outstanding challenges facing LBT/kuchu Ugandans. General Recommendation 24 states that the Convention “requires States to eliminate discrimination against women in their access to health-care services throughout the life cycle.”⁵⁷ It also explains that, “special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups.”⁵⁸ Furthermore, Sections XIV and XX of the social and economic section of the National Objectives and Directive Principles of State Policy of the Ugandan Constitution state that the State shall take all practical measures to ensure the provision of basic medical services to the population.⁵⁹ The State is failing to address the numerous and total violations of LBT/kuchu Ugandans' right to the highest attainable standard of mental and physical health, or even to create access to the most basic elements of health—including the right to life and right to be free from medical treatment without consent.

Medical professionals have very little awareness about the health needs of lesbians, bisexual women, women who have sex with women, and transgender people. As a result, the LBT/kuchu people receive very little relevant information about our health. There are no State resources for

⁵⁷ General Recommendation no. 24, para. 2.

⁵⁸ General Recommendation no. 24, para. 6.

⁵⁹ Constitution of the Republic of Uganda, 1995.

LBT/kuchu people to address this problem, a problem compounded by the criminalization of our sexuality – and one which would dramatically worsen with the passing of the Anti-Homosexuality Bill. This ultimately serves to force the health concerns of LBT/kuchu people further into the closet. Furthermore, there is no statistical information about the health situation of LBT/kuchu, including rates of HIV infection, preventing this health crisis from being adequately addressed by health or public health authorities or civil society.

HIV & AIDS and STI prevention and treatment intervention strategies are exclusive to the conventional sexual expressions and relations, such as heterosexual sex (the sexual activity between a man and a woman). While it is considered normal to educate men on how to practice safer sex when they engage with multiple sexual partners, the message to women, including sex workers, is only to abstain from sex with multiple partners. Conventional health interventions exclude relations among sexual minorities such as sexual activity between people of the same sex and gender-variant people. This narrow focus of the national HIV & AIDS prevention strategies has been the greatest contributor to the gendering of the pandemic in Uganda. It has resulted in a catastrophic impact on women and minorities who express their sexuality in what are considered non-normative ways when they do not receive adequate information or services despite being particularly at risk for HIV & AIDS transmission.

Many LBT/kuchu people avoid seeking healthcare altogether because of the ignorance of medical professionals of the health concerns of LBT/kuchu people at best, or for fear of mistreatment when their sexual orientation or gender identity is exposed at worst.

For example, one trans man experienced forced medical treatment without his consent and subsequently sent to counseling to 'fix' his gender identity:

“I had a problem with my breast, it hurt to wear a shirt. I went to a doctor and told him about this, but said he could not check as I don't show my body to anyone. And he said why not, and I said I just don't. He gave me a painkiller and said to come back the next day. I came back and he gave me an injection, what I thought was a painkiller, but it put me to sleep. While I was asleep they examined me. They said it was because they had to check me. I was so angry. Really, really pissed off because it was without my consent. He told me I had GID [Gender Identity Disorder] and that I needed to see a psychiatrist. (...) I went to a counselor and he told me you have to accept yourself as a girl, because you are trying to hide your lesbianism. (...) After that I didn't really go, didn't really tell him anything, because he didn't know.”⁶⁰

Another trans person explains the effects of the ignorance of the medical community about transgender people and their health concerns:

“If you went to a medical person who respects his medical ethics, he really has no idea how to deal with trans, he's definitely going to be blown away and unable to help you, but those instances are really small, and you don't really find them.”⁶¹

⁶⁰ Interview #1 with member of FARUG on August 29, 2010, on file with FARUG.

⁶¹ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG.

One lesbian who is HIV positive also explains what happens to individuals who do disclose, and how it encourages LGBT people to keep information from their doctors:

“The health service providers are really arrogant and they ignore everything that concerns LGBTI people. The first clinic I ever went to-I'm living with HIV and AIDS for 18 years now-but the first clinic I ever went to, I had to disclose myself that I was positive and I was lesbian. I remember the picture I got from the doctor was bad. It made me think they were going to maybe attack me somewhere and then I had to leave that place, this place I am right now, I cannot risk speaking about my orientation because they might stop providing me with the services.. it irritates me, because, yes I get the services, but undercover. You think, 'what if I disclose? What are they going to do for me?' They're going to throw you out. For me, I think sometimes they can give you medication that is poisonous.”⁶²

Being unable to disclose their identity means LBT/kuchu people get inadequate treatment and information from medical professionals:

“These people in the hospitals, they do not understand me. I have to even lie to them. I'm not free, I'm not comfortable with them. They do not understand me, they do not treat me like someone who is normal. You get the health care, say, I [want to be tested for an] STD and they say 'How did you get it?' And you say, 'I've never slept with a man before,' and they say, 'Why you now testing for HIV?' They don't understand so we are not free.”⁶³

“[If you're trans] you cannot go to a clinic, a hospital, a lab to check on hormones, which you need to do to take the correct amount of hormones, because they will ask, 'why are you having this test?' (...) You cannot get mastectomies or vasectomies if you want one you have to go outside of Uganda, and to get a visa you need a referral from a doctor explaining what it's for, which you can't get.”⁶⁴

“There is an issue, LGBTI people here face all kinds of, all kinds of health problems. Even if you had malaria, it's not easy for most of the LGBTI here, especially the women. They are butch, they are cross-dressers, you know, they are dressed like this. So it's very difficult for someone to just walk into a clinic or a hospital, most especially a hospital, and seek health services without raising questions. People will start asking are you a girl or a boy? And I think with this Anti-Homosexuality Bill, things are even more tricky – because before, people used not to mind, they'd think, oh, maybe this one is a [basket] baller, or something like that. But now, when the Anti-Homosexuality Bill came out, there was a detailed description of who a lesbian is. Oh, they dress like this, they walk like this, they do this. So now that people have been exposed, it becomes even more difficult for

⁶² Interview #8 with member of KULHAS on August 31, 2010, on file with FARUG.

⁶³ Interview #9 with member of FARUG on August 31, 2010, on file with FARUG.

⁶⁴ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG.

them to go and seek medical care.”⁶⁵

This reluctance to expose themselves to such mistreatment and discrimination, coupled with the financial cost of healthcare, means that some LBT/kuchu people will avoid seeking treatment for even the most serious conditions:

*“In 2008, my then girlfriend stabbed me in the back with a knife, piercing through my right lung! I did spend a month getting treatment at a local hospital (...) [A]t that point I was at critical condition and needed intense care because my right lung had collapsed and had a tube inserted in my chest. (...) I am still here and surviving on one lung. It's hard, but I've got no other choice. I even fear going back for check ups in case they find other complications.”*⁶⁶

Even basic medication is difficult for women known or suspected of homosexuality to obtain because even being in public presents security concerns, verbal abuse, and discrimination:

*“[I]t was really hard just to go buy medicine for headache. People look at you , judge you. People reach a point of telling you, I'm not selling to a homosexual. You're a lesbian, I won't sell anything to you, I don't want your money.”*⁶⁷

As a result of the overwhelming barriers of ignorance and outright hostility of counselors, psychiatrists, doctors, hospitals, and clinics, STIs, HIV infections and other medical conditions are kept secret and untreated or mistreated, keeping LBT/kuchu Ugandans from achieving their right to the highest attainable standard of mental and physical health.

Suggested Questions

- What measures will be taken to ensure that health care is provided without discrimination on the basis of sex, gender, sexual orientation and/or gender identity, particularly as relates to services for sexual and reproductive health?

Suggested Recommendations

- Implement policies to ensure that healthcare is provided without discrimination on the basis of sex, gender, sexual orientation and/or gender identity, particularly as relates to services for sexual and reproductive health.
- Train healthcare professionals at all levels to ensure the informed and respectful treatment of lesbian, bisexual and transgender people seeking medical care.
- Amend the national HIV/AIDS strategic plan to explicitly address the ways that women who have sex with women (WSW) can be vulnerable to the virus.

⁶⁵ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG.

⁶⁶ Interview #7 with member of FARUG on August 31, 2010, on file with FARUG.

⁶⁷ Interview #8 with member of KULHAS on August 31, 2010, on file with FARUG.

- End all forms of harassment of organizations and health professionals that distribute information and provide services to meet the specific health needs of kuchu, lesbian, bisexual and transgender people.
- Engage constructively with organizations that work to meet the health needs of kuchu, lesbian, bisexual and transgender people.
- Research the specific health needs of kuchu, lesbian, bisexual and transgender people, including with respect to HIV/AIDS, and incorporate the findings into national health plans and policy.

8. The Right to Housing and Freedom of Movement

Article 13, 14 (h) and 15 of CEDAW

CEDAW Article 15 requires States Parties “shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.” However, LBT/kuchu people in Uganda face constant insecurity both in securing and maintaining a domicile and moving around when not at home because of their sexual orientation, gender identity, leaving no safe spaces at all.

LBT/kuchu people are forced to live in expensive housing that can provide even minimal security necessary to prevent attacks and abuse when at home, and are evicted from this housing regularly when they are found out to be or are even rumoured to be LBT/kuchu, adding additional expenses including lost property and moving costs.

“That's how I'm living. I'm living a forced life. The cost of living is high because you have to shift after every six months for security. We are very security conscious we are very insecure. You move you have laptops are new and everything new is about homosexuality so we are not safe. (...) Every day that passes you just say oh my god it's gone, so what's next.”⁶⁸

“It ranged from being heckled on streets, being evicted from housing, I've had to move about. ... I've lost count how many places I've gone to. Of course the moving includes losing money. You've paid rent for 4 months and in 2 weeks you're sent away.... and you need money to get other housing. I remember the first time I rented a house on my own. I had just finished my O level. And I rented a small place because I had left home. I had left home because my step dad, because he actually attempted to rape me, and I didn't want to expose myself to that, so I left home. And when I was staying in this place, I had a partner then and my landlord realized I had a lot of female company and yet he assumed I was of age to have a boyfriend and he got concerned and the way I dress. So one time I went visiting and when I came back he had put another padlock on my door. So when I

⁶⁸ Interview #9 with member of FARUG on August 31, 2010, on file with FARUG.

tried to seek for audience with him to ask him why he had done that and yet my rent was still on he told me I'm not housing a lesbian and I told him what does that got to do with anything. I pay my rent, I pay my bills, I haven't violated any terms of housing here and he just said go away, or else I'm going to call the authorities so I left, and I had a ,... a lawyer... she said you have a contract and I said yes and of course the odds were mainly weighing on my side so he took everything. He just closed the house and I couldn't go back. And I had to start living with friends and eventually went back home. But home was also affected because I was really vocal so that meant backlash for my family and exposing them to that made me uncomfortable at home.”⁶⁹

“Actually right now, in four months, I've not heard verbal abuse, but the whole of last year I was verbal abused, even followed up so they wanted to know here I stayed, but I shifted [moved] four months back from that place. It was traumatizing, you live in a place where you have this feeling that every day someone is coming to break in my room since most of us don't have homes in enclosures they're not fenced, even if there is a security guard, anything could happen. They can bribe that person to come and do something.”⁷⁰

“We have most of our LGBTI people who are... known, cannot just walk on the street. You have to look for a really secure place. And for you to find a very secure place where you can live where maybe it's fewer people, maybe like in a space like inside here, where you feel you're safe to go out and do whatever and come back in, it's very difficult. And it's very expensive. So you live like in fear, every day, like, what will happen to me?”⁷¹

Beyond a lack of safety and security at home, travelling anywhere, whether it is to work, to school, to buy food, to see a doctor, or to visit friends and family, on foot or using taxis or bodas (bikes) opens LBT/kuchu people up to more verbal and physical attacks, curtailing their freedom of movement.

“So there's been a lot of harassments verbally but I've always tried to keep a deaf ear because not all the time we move as a group, not all the time we're in safe places we have to go to markets, we have to socialize. Then you are living in this life whereby now I left this place where they were harassing me and I'm in this place where they haven't known me, if they know me what will I do. So you live a life of misery, but there's nothing you can do. You persist.”⁷²

“With the community now you have to keep shifting from this place and the other place because of the discrimination and the homophobia. ... Then you know, you become... you can't move freely. I can't even use public means of transport because I fear ... I'm living a forced life, an expensive life, I'm not supposed to go to public places, open places for shopping.”⁷³

⁶⁹ Interview #6 with member of FARUG on August 31, 2010, on file with FARUG.

⁷⁰ Interview #8 with member of KULHAS on August 31, 2010, on file with FARUG.

⁷¹ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG.

⁷² Interview #8 with member of KULHAS on August 31, 2010, on file with FARUG.

⁷³ Interview #9 with member of FARUG on August 31, 2010, on file with FARUG.

“This daily movement here, this is chaotic for me. Most of the times, ... it's common, the boda boda men. Some of us who are kind of, we have the feminine shape, too much of the feminine shape, you can easily be identified that this is a woman but dressed like a man, you know these insults on a daily basis are there. ... Daily, someone will insult you. ... A lot is said, most of what they say I continue moving, I never respond back, but that is on a daily basis. Even those people here [around FARUG's office], there was a time one of the guys was shouting. I went to the shop to buy something to eat. There was this boy, he said, oh that girl is smart. But the others said, you don't know those ones. They are lesbians, they are those lesbians who go to that house.”⁷⁴

“I've been verbally abused lots of times. I'm still verbally abused here [near FARUG's office]. When the bill was tabled, oh my god. This was a home for lesbians. (...) There was a time I was trying to get a boda. (...) There was a line of 8 bodas. I asked the first, the closest take me, and he said he doesn't take homosexuals. Now all of them didn't react. Like they had planned. This is it, we'll never take these people. So I walked to the road to get a stray boda. I don't like taking stray bodas, because a boda stole my laptop. (...) When I got one, it was adjacent to these others, and they told him be careful, they'll eat your ass. These are the things we listen to and it's part of life. My number one fear is physical.”⁷⁵

“I had an experience last year, I think it was in December, just around this area. There was no one at the office, and I was coming to the office, and it was like evening hours. So when I called, they told me, okay, you can wait somewhere, I'm coming. So I just went down here – there's a small bar – and was like, okay, let me sit here, have a drink, and, you know, wait. And then there were these guys, like five, who were sitting at the table drinking and from what I understood, they were army men. So they started really talking nasty about the LGBTI. ... Immediately when I came in, they started laughing. So when I sat, you know, because [of how] I was dressed .. and they started shouting. Oh, in this area, we have lesbians, and we know where they come from, but we are waiting for the Bill. They will see, we will kill them, we will do whatever. And then they started talking really nasty things, like, we pay people, we get lots of money, we are getting money from the Western world, this is a Western world issue, and then they were like, oh, you see these lesbians, they like to be fucked in the ass, and things, like, talking very nasty things. Like, oh, if you maybe met her, she would not allow you to do it the other way, she likes you to do it the other way. It was ... I felt really like I was being attacked, I was emotionally unstable, I wanted to just walk away, but I could not walk away, because it was a little bit dark. I was like, now, if I walk away, what if someone follows me? So I had to just endure sitting there and wait until my friend came.”⁷⁶

When police and other officials do not create an environment where such violations cannot be reported by LBT/kuchu people because of persecution or inaction by the authorities, LBT/kuchu people have neither a secure home nor the ability to move around safely outside of their home.

⁷⁴ Interview #3 with member of FARUG on August 30, 2010, on file with FARUG.

⁷⁵ Interview #4 with member of FARUG on August 31, 2010, on file with FARUG.

⁷⁶ Interview #10 with member of FARUG on September 1, 2010, on file with FARUG.

As a result, all other areas of life of LBT/kuchu people are profoundly affected—financial resources are drained, attending school and work becomes dangerous, and there is nowhere safe to exist.

Suggested Questions

- What measures have been undertaken to repeal laws that discriminate against people on the basis of their sexual orientation or gender identity on their face or in their application?
- How will the government ensure that lesbian, bisexual, and transgender people have access to the police and the judicial system to report and address attacks on their lives and rights without fear of further victimization?

Suggested Recommendations

- Implement policies to ensure that housing is available without discrimination on the basis of sex, gender, sexual orientation and/or gender identity, particularly as relates to ending evictions by landlords because a tenant is suspected of being LBT/kuchu person.
- Launch national campaigns to condemn all acts of physical and sexual violence against individuals on the basis of their sexual orientation or gender identity.
- Investigate all acts of physical and sexual violence against LBT people, including by state and non-state actors, and hold perpetrators accountable to the fullest extent of the law.
- Ensure police provide protection to all people in Uganda, regardless of their sexual orientation or gender identity.

III. Recommendations:

We recommend that the Government of Uganda:

1. Repeal Articles 145, 146, and 148 of the Ugandan Penal Code, decriminalizing consensual sexual activity between persons of the same sex.
2. Repeal laws that implicitly discriminate on the basis of sexual orientation or gender identity, such as Sections 15(6)(d) (i) and (ii) of the Equal Opportunities Commission Act, which prevents the Commission from investigating rights violations that may be considered immoral.
3. Oppose the Anti-Homosexuality Bill of 2009 (Bill 18) in all of its forms and any similar legislation that explicitly or implicitly targets people on the basis of their sexual orientation or gender identity;
4. Protect the human rights of all people, regardless of their sexual orientation or gender identity, in anti-discrimination and equal opportunity legislation and bodies – including

explicit protections against dismissal from employment and eviction from housing on the basis of actual or perceived sexual orientation or gender identity, and explicit protections against sexual violence;

5. Investigate and appropriately address non-state violence against LBT/kuchu people; Publicly condemn all acts of violence, discrimination and intolerance against individuals on the grounds of their sexual orientation or gender identity.
6. End police abuse of LBT/kuchu people and LBT/kuchu human rights defenders, and institute mechanisms to hold offenders accountable;
7. Protect the human rights of all people regardless of their sexual orientation or gender identity in anti-discrimination and equal opportunity legislation and bodies, including explicit protections against sexual violence, dismissal from employment, eviction from housing, and expulsion from school;
8. Support the efforts of civil society to gather information about and provide services to improve the health of LBT people, including with regard to sexual health;
9. Support the efforts of civil society to gather information about the health of LBT/kuchu people, including sexual health, and to work to improve the health and well-being of LBT/kuchu communities;

IV. Appendix

The Anti Homosexuality Bill 2009, (Bill 18)

MEMORANDUM

1.1. The principle

The object of this Bill is to establish a comprehensive consolidated legislation to protect the traditional family by prohibiting (i) any form of sexual relations between persons of the same sex; and (ii) the promotion or recognition of such sexual relations in public institutions and other places through or with the support of any Government entity in Uganda or any non governmental organization inside or outside the country.

This Bill aims at strengthening the nation's capacity to deal with emerging internal and external threats to the traditional heterosexual family.

This legislation further recognizes the fact that same sex attraction is not an innate and immutable characteristic.

The Bill further aims at providing a comprehensive and enhanced legislation to protect the cherished culture of the people of Uganda. legal, religious, and traditional family values of the people of Uganda against the attempts of sexual rights activists seeking to impose their values of sexual promiscuity on the people of Uganda.

There is also need to protect the children and youths of Uganda who are made vulnerable to sexual abuse and deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increasing attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise.

2.1. Defects In existing law.

This proposed legislation is designed to fill the gaps in the provisions of other laws in Uganda e.g. the Penal Code Act Cap. 120.

The Penal Code Act (Cap120) has no comprehensive provision catering for anti homosexuality. It focuses on unnatural offences under section 145 and lacks provisions for penalizing the procurement, promoting, disseminating literature and other pornographic materials concerning the offences of homosexuality hence the need for legislation to provide for charging, investigating, prosecuting, convicting and sentencing of offenders.

This legislation comes to complement and supplement the provisions of the Constitution of Uganda and the Penal Code Act Cap 120 by not only criminalizing same sex marriages but also same-sex sexual acts and other related acts.

3.0. The objectives of the Bill

The objectives of the Bill are to:

- (a) provide for marriage in Uganda as that contracted only between a man and a woman;
- (b) prohibit and penalize homosexual behavior and related practices in Uganda as they constitute a threat to the traditional family;
- (e) prohibit ratification of any international treaties, conventions, protocols, agreements and declarations which are contrary or inconsistent with the provisions of this Act;
- (d) prohibit the licensing of organizations which promote homosexuality.

3.1. Part I of the Bill incorporating clause 1 provides for preliminary mailers relating to interpretation of the words and phrases used in the Bill.

3.2. Part II of the Bill incorporating clause 2 to 6 prohibits homosexuality and related practices by introducing the offences of engaging in homosexuality, and the penalties of imprisonment upon conviction. This part also provides for protection, assistance and support for victims of homosexuality.

3.3. Part III of the Bill incorporating clause 7 to clause 14 creates offences and penalties for acts that promote homosexuality, failure to report the offence and impose a duty on the community to report suspected cases of homosexuality.

3.4. Part IV of the Bill incorporating clause 15 to clause 17 provides for the jurisdiction of Uganda Courts in case of Homosexuality, including extra territorial jurisdiction.

3.5. Part V of the Bill incorporating clauses 18 and 19 provides for miscellaneous provisions on International Treaties, Protocols. Declarations and conventions and the Minister to make regulations to give effect to the Act.

Schedule of the Bill gives the value of the currency point.

HON DAVID BAHATI,
Member of Parliament, Ndoorwa County West Kabale.

THE ANTI HOMOSEXUALITY BILL, 2009.
ARRANGEMENT OF CLAUSES.
PART I — PRELIMINARY

Clause
I. Interpretation.

PART II-PROHIBITION OF HOMOSEXUALITY.

- 2. The offence of homosexuality
- 3. Aggravated homosexuality.

4. Attempt to commit homosexuality.
5. Protection, assistance and payment of compensation to victims of homosexuality
6. Confidentiality.

PART III — RELATED OFFENCES AND PENALTIES.

7. Aiding and abating homosexuality.
8. Conspiracy to engage in homosexuality.
9. Procuring homosexuality. by threats, etc.
10. Detention with intent to commit homosexuality.
11. Brothels.
12. Same sex marriage.
13. Promotion of homosexuality.
14. Failure to disclose the offence.

PART IV — JURISDICTION.

15. Jurisdiction.
16. Extra-territorial Jurisdiction.
17. Extradition.

PART V — MISCELLANEOUS PROVISIONS

18. International treaties.
19. Regulations.

Schedule

Currency point.

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A BILL FOR AN ACT ENTITLED THE ANTI HOMOSEXUALITY ACT, 2009.

An Act to prohibit any form of sexual relations between persons of the same sex; prohibit the promotion or recognition of such relations and to provide for other related matters.

BE IT ENACTED by Parliament as follows:

PART I — PRELIMINARY.

I. Interpretation.

In this Act, unless the context otherwise requires –

“authority” means having power and control over other people because of your knowledge and official position; and shall include a person who exercises religious, political, economic or social authority;

“bisexual” means a person who is sexually attracted to both males and females;

“child” means a person below the age of 18 years:

“currency point” has the value assigned to it in the Schedule to this Act;

“disability” means a substantial limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation;

“felony” means an offence which is declared by law to be a felony or if not declared to be a misdemeanor is punishable without proof of previous conviction, with death or with imprisonment for 3 years or more.;

“gay” means a male person who engages in sexual intimacy with another person of the same sex;

“gender” means male or female;

“HIV” means the Human Immunodeficiency Virus;

“homosexual” means a person who engages or attempts to engage in same gender sexual activity;

“homosexuality” means same gender or same sex sexual acts;

“lesbian” means a female who engages in sexual intimacy with another female;

“Minister” means the Minister responsible for ethics and integrity;

“misdemeanor” means an offence which is not a felony;

“serial offender” means a person who has previous convictions of the offence of homosexuality or related offences;

“sexual act” includes –

(a) physical sexual activity that does not necessarily culminate in intercourse and may include the touching of another’s breast, vagina, penis or anus:

(b) stimulation or penetration of a vagina or mouth or anus or any part of the body of any person, however slight by a sexual organ;

(c) the unlawful use of any object or organ by a person on another person's sexual organ or anus or mouth;

“sexual organ” means a vagina, penis or any artificial sexual contraption;

“touching” includes touching—

(a) with any part of the body;

(b) with anything else;

(c) through anything;

and in particular includes touching amounting to penetration of any sexual organ. anus or mouth.

“victim” includes a person who is involved in homosexual activities against his or her will.

PART II — HOMOSEXUALITY AND RELATED PRACTICES.

2. The offence of homosexuality.

(1) A person commits the offence of homosexuality if-

(a) he penetrates the anus or mouth of another person of the same sex with his penis or any other sexual contraption;

(b) he or she uses any object or sexual contraption to penetrate or stimulate sexual organ of a person of the same sex;

(c) he or she touches another person with the intention of committing the act of homosexuality.

(2) A person who commits an offence under this section shall be liable on conviction to imprisonment for life.

3. Aggravated homosexuality.

(1) A person commits the offense of aggravated homosexuality where the

(a) person against whom the offence is committed is below the age of 18 years;

(b) offender is a person living with HIV;

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

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

(e) victim of the offence is a person with disability;

(f) offender is a serial offender, or

(g) offender applies, administers or causes to be used by any man or woman any drug, matter or thing with intent to stupefy overpower him or her so as to thereby enable any person to have unlawful carnal connection with any person of the same sex,

(2) A person who commits the offence of aggravated homosexuality shall be liable on conviction to suffer death.

(3) Where a person is charged with the offence under this section, that person shall undergo a medical examination to ascertain his or her HIV status.

4. Attempt to commit homosexuality.

(1) A person who attempts to commit the offence of homosexuality commits a felony and is liable on conviction to imprisonment seven years.

(2) A person who attempts to commit the offence of aggravated homosexuality commits an offence and is liable on conviction to imprisonment for life.

5. Protection, assistance and payment of compensation to victims of homosexuality.

(1) A victim of homosexuality shall not be penalized for any crime committed as a direct result of his or her involvement in homosexuality.

(2) A victim of homosexuality shall be assisted to enable his or her views and concerns to be presented and considered at the appropriate stages of the criminal proceedings.

(3) Where a person is convicted of homosexuality or aggravated homosexuality under sections 2 and 3 of this Act, the court may, in addition to any sentence imposed on the offender, order that the victim of the offence be paid compensation by the offender for any physical, sexual or psychological harm caused to the victim by the offence.

(4) The amount of compensation shall be determined by the court and the court shall take into account the extent of harm suffered by the victim of the offence, the degree of force used by the offender and medical and other expenses incurred by the victim as a result of the offence.

6. Confidentiality.

(1) At any stage of the investigation or trial of an offence under this Act, law enforcement officers, prosecutors, judicial officers and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the victim.

(2) For the purpose of subsection (1), in cases involving children and other cases where the court considers it appropriate, proceedings of the court shall be conducted in camera, outside the presence of the media.

(3) Any editor or publisher, reporter or columnist in case of printed materials. announcer or producer in case of television and radio, producer or director of a film to case of the movie industry. or any person utilizing trimedia facilities or information technology who publishes or causes the publicity of the names and personal circumstances or any other information tending to establish the victim's identity without authority of court commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points.

7. Aiding and abating homosexuality

A person who aids, abets, counsels or procures another to engage in acts of homosexuality commits an offence and is liable on conviction to imprisonment for seven years.

8. Conspiracy to engage in homosexuality.

A person who conspires with another to induce another person of the same sex by any means of false pretence or other fraudulent means to permit any person of the same sex to have unlawful carnal knowledge of him or her commits an offence and is liable on conviction to imprisonment for seven years.

9. Procuring homosexuality by threats, etc.

(1) A person who—

(a) by threats or intimidation procures or attempts to procure any woman or man to have any unlawful carnal knowledge with any person of the same sex, either in Uganda or elsewhere;

(b) by false pretences or false representations procures any woman or man to have any unlawful carnal connection with any person of the same sex, either in Uganda or elsewhere; or

(2) A person shall not be convicted of an offence under this section upon the evidence of one witness only, unless that witness is corroborated in some material particular by evidence implicating the accused.

10. Detention with intent to commit homosexuality.

A person who detains another person with the intention to commit acts of homosexuality with him or herself or with any other person commits an offence and is liable on conviction for seven years.

11. Brothels.

(1) A person who keeps a house, room, set of rooms or place of any kind for the purposes of homosexuality commits an offence and is liable on conviction to imprisonment for seven years.

2) A person being the owner or occupier of premises or having or acting or assisting in the management or control of the premises, induces or knowingly suffers any man or woman to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man or woman of the same sex whether such carnal knowledge is intended to be with any particular man or woman generally, commits a felony and is liable on conviction to imprisonment for five years.

12. Same sex marriage.

A person who purports to contract a marriage with another person of the same sex commits the offence of homosexuality and shall be liable on conviction to imprisonment for life.

13. Promotion of homosexuality.

(1) A person who –

(a) participates in production, procuring, marketing, broadcasting, disseminating, publishing pornographic materials for purposes of promoting homosexuality;

(b) funds or sponsors homosexuality or other related activities;

(c) offers premises and other related fixed or movable assets for purposes of homosexuality or promoting homosexuality;

(d) uses electronic devices which include internet, films, mobile phones for purposes of homosexuality or promoting homosexuality and;

(e) who acts as an accomplice or attempts to promote or in any way abets homosexuality and related practices;

commits an offence and is liable on conviction to a fine of not more than one hundred thousand currency points or imprisonment of a minimum of five years and a maximum of seven years or both fine and imprisonment.

(2) Where the offender is a corporate body or a business or an association or a non-governmental organization, on conviction its certificate of registration shall be cancelled and the director or proprietor or promoter shall be liable on conviction to imprisonment for seven years.

14. Failure to disclose the offence.

A person in authority, who being aware of the commission of any offence under this Act, omits to report the offence to the relevant authorities within twenty-four hours of having first had that knowledge, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding three years.

PART IV — JURISDICTION

15. Jurisdiction.

Save for aggravated homosexuality that shall be tried by the High Court, the magistrates court shall have jurisdiction to try the other offences under this Act.

16. Extra- Territorial Jurisdiction.

This Act shall apply to offenses committed outside Uganda where –

(a) a person who, while being a citizen of or permanently residing in Uganda, commits an act

outside Uganda, which act would constitute an offence under this Act had it been committed in Uganda; or

(b) the offence was committed partly outside and or partly in Uganda.

17. Extradition.

A person charged with an offence under this Act shall be liable to extradition under the existing extradition laws.

PART V — MISCELLANEOUS.

18. Nullification of inconsistent international treaties, protocols, declarations and conventions.(1) Any International legal instrument whose provisions are contradictory to the spirit and provisions enshrined in this Act, are null and void to the extent of their inconsistency.

(2) Definitions of “sexual orientation”, “sexual rights”, “sexual minorities”, “gender identity” shall not be used in anyway to legitimize homosexuality, gender identity disorders and related practices in Uganda.

19. Regulations.

The Minister may, by statutory instrument. make regulations generally for better carrying out the provisions of this Act.

SCHEDULE

One currency point is equivalent to twenty thousand shillings.