

Universal Periodic Review of Rwanda

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Joint submission by:

Horizon Community Association (HOCA)

&

Sexual Rights Initiative



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Executive Summary (1-2 paragraphs, max.)

1. This report is a joint submission by Horizon Community Association (HOCA) and Sexual Rights Initiative (SRI). The report seeks to highlight the existing challenges in relation to national policies and limitations to accessing justice, to address human rights violations experienced by Lesbian, Gay, Bisexual, Transgender and Intersex people based on perceived or real sexual orientation, gender identity and expression, sex workers and people living HIV/AIDS. The report also makes reference to the impact of the socio-economic and political context in Rwanda on the lives of LGBTI people, sex workers and people affected by HIV.
2. The report also evaluates the states response to implementing the recommendations presented from the previous UPR review process and further maps out gaps within the implementation. As part of the report, specific recommendations have been put forward calling on the Rwandan government to address issues of violence targeted towards sex workers and LGBTI people, to introduce non-discriminatory policies and laws, discrimination and exclusion of marginalized groups from accessing and health care, education and other social benefits.

Social, economic and political situation of Rwanda:

3. Rwanda is a party to all major human rights instruments both globally and regionally, including the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and People's Rights (ACHPR), and has taken significant steps towards implementing recommendations of respective committees made during periodic reviews. As a result of the genocide, the national legislation on freedom of expression, political freedom and people's self-affirmation, either limit or modify the scope and the approach of the realization of those fundamental rights. Indeed, the country's legal framework informed and influenced by the historical context makes it unpractical to implement some of the recommendations of the United Nations Human Rights Committee and the African Commission on Human and People's Rights.
4. In less than two decades, Rwanda has recovered from the visible damage of the genocide and today stands among the models for Africa in many aspects of good governance, the fight against corruption, steady economic growth, peace, stability, poverty reduction and ICT. Rwanda has completely revamped its social sector and justice system with decentralized leadership bodies and stands out as a stable, attractive nation where 'things work'. Rwanda is ranked as the fourth least

corrupt country in Africa, behind Botswana, Cape Verde and Mauritius, and the least corrupt in East Africa. The country's vision 2020 seeks a modern, united, integrated and prosperous state ranked among middle income nations by the year 2020. There are still notable gaps when it comes to integrating and implementing non – discriminatory policies/laws for the promotion and protection of the rights of sex workers and LGBTI people.

5. The recent legislative developments in Africa have driven international attention on the legal status of LGBT people which has seen various African Governments revise or introduce new legislation on same-sex sexual conduct, and the response of the international community has sparked extensive coverage of the associated political, social and cultural controversies.
6. State-sponsored homophobia appears negligible in Rwanda, and violent attacks are minimal. Despite negative reports of Rwanda's human rights record in areas such as civil and political rights, when it comes to sexual orientation and gender identity, human rights observers consistently point to no need for concern. In the international arena, Rwanda has emerged as an unlikely champion for LGBT rights and domestically sexual orientation has been designated a 'private matter'.
7. In 2010, Rwanda was the only East African nation not to oppose a Resolution of the United Nation's Economic and Social Council (UN-ECOSOC) to grant consultative status to the NGO; International Gay and Lesbian Human Rights Commission (IGLHRC). Domestically, sexual orientation has been designated a 'private matter' and senior politicians have consistently deflected attempts to be drawn on the issue.

Rwanda's strategic silence: Lack of implementation of policies to protect LGBTIs from violations:

8. Evidence suggests that Rwanda's silence is not an indication of a supportive socio-cultural environment for LGBTI rights. Homophobia and transphobia remain real within Rwandan society, as is the perception that homosexuality is a corrupting 'western' import and not a Rwandan concern.
9. The government consistently maintains a pragmatic approach to public debate around identity. While it is well known that ethnic identity is not discussed publicly in Rwanda – 'we are all Rwandans' – some suggested that this strategy has been extended to any discussion that seeks to polarize identities. Feedback from a UNICEF representative working with the government on social protection, for example, indicated that, in relation to the government's participatory model of eligibility for social protection, the government has proved unwilling to make distinctions between groups on any grounds other than poverty. This has meant that other categories of vulnerability are not being taken into account.
10. Many point out that the government does not need the 'headache' that a domestic debate around LGBTI rights would bring. With a strong religious base in Rwandan society, and significant dependence on faith-based organizations for the delivery of public services, it was felt that taking up an agenda as controversial as LGBT rights would, for some, look deliberately antagonistic.

11. As one of the newest and arguably more zealous members of the East African Community (EAC), Rwanda is vulnerable to regional pressures. It was pointed out that its socio-economic achievements have been widely recognized and broadly appreciated by other members. But its status as a post conflict, post-genocide country, frequently criticized for its lack of civil and political rights, means that it is not well-positioned to advocate for human rights to its larger neighbors and EAC founding members; Kenya, Tanzania and Uganda. So while Rwanda is willing to champion LGBT rights at an international level, it cannot afford to do the same with its regional partners. Domestically, entrenched social stigma attached to sexuality more generally and homosexuality in particular, make it unlikely that Rwandan politicians would choose to publicize Rwanda's more 'enlightened' position on LGBTI rights, or take credit for being the only nation in the EAC not to criminalize homosexuality.
12. The silence on LGBT rights is not accidental, but strategic. They suggest that the government has been silent not because it holds particular opinions and beliefs about sexual orientation and gender identity, but because it has calculated that it is politically expedient to do so. Privately, assurances have been given that there are no plans to criminalize homosexuality, but also that there are no plans to engage with the agenda either.
13. This regime of silence reinforces the lack of implementation of policies to protect LGBTI people from violations of all kind. For instance, LGBTI people are not benefiting from adequate health services, and young people are still being bullied in schools pushing them to drop out and which leads to isolation.
14. The growing levels of surveillance and limitations on freedom of movement is a problem that most human rights defenders are facing, with many cases of unlawful detentions, denied travel out of Rwanda and confiscation of travel documents.
15. From the perspective of civil society advocacy on LGBT rights, it begs the question: if the government is not the problem for LGBT advocacy in Rwanda, then what is?

Tradition and culture: how big of a barrier is it for LGBTI rights advocacy?

16. Tradition and culture are the pillars of most Rwandan values and principles. In most social settings sexuality remains a taboo topic as dictated by culture that is set to be a Rwandan identity behavior. Traditionally, the society tends to be patriarchal and sexuality is only accepted within the defined norms meaning between a man and a woman.
17. In contrast with culture, homosexuality is considered Un-African and an import from the West. This local mentality has created myths and stereotypes putting LGBTI people in a position to be misunderstood and called different names like pedophiles, immoral, and devils among many others. Culture contributes to the raise of homophobia within the Rwandan society which fosters exclusion, stigmatization and isolation of sex workers and LGBTI people.

18. Religion stands very strict on the matter and seems to be blocking the State's little efforts in promoting LGBTI rights and individuals.

LGBT Sex Workers in Rwanda

19. Back in 2009, Sex workers and LGBTIs were put in the same boat while the state was trying to implement laws that would criminalize both groups. HOCA, which was the only LGBTI organization then, declared at a press conference that there is no reason to confuse sex workers and LGBTIs and that both cases should be handled differently. No law against LGBTIs was put in place but unfortunately sex work is criminalized under the penal code.
20. Sex workers are rarely addressed in national human rights law, yet fundamental rights and protections set forth by international covenants and declarations are not abrogated by status as a sex worker—human rights laws apply to everyone.
21. There are widespread human rights violations against sex workers, perpetrated by both state and non-state actors. These violations increase HIV risk, and undermine effective HIV prevention and intervention. Violations include homicide; physical and sexual violence from law enforcement, clients, and intimate partners; unlawful arrest and detention; discrimination in accessing health services, and forced HIV testing.
22. Substantial gaps exist in a rights-based response to HIV for sex workers. The effect of human rights violations on HIV demands a shift in global policies and practices. We must acknowledge, address, and prevent violence, abusive police practices, and other human rights violations, to ensure rights and achieve public health goals.

The role of civil society in protecting and promoting the LGBT rights

23. Rwandan civil society is widely reported to be weak with limited space for civil society organizations to adopt advocacy positions that are critical of the government of Rwanda. A report by the UN Human Rights Council indicates that many civil society actors and some government officials, perceive the role of NGOs to be one of delivering government policies (UNHCR, 2014), and opportunities for civil society to inform policy making in Rwanda have been described as 'ad hoc' and 'personalized' .
24. The weak role of civil society is contested and some reports suggest that the true nature of constraints are difficult for outsiders to fully understand. However, there is general consensus that despite the weakness, there are a large number of civil society organizations, the majority of which are focused on service delivery. The preferred culture of civil society engagement is one of dialogue and non-confrontation, an approach rooted in the 2003 Constitution aimed at consolidating national

cohesion following the Genocide in 1994. The Constitution explicitly dictates that dialogue and consensus take precedent over a more competitive political pluralism.

The role media

25. In Rwanda the media is underdeveloped for historical and political reasons. Unlike Uganda, the issues are not developed and there is a lack of knowledge and information. Journalists tend to write about LGBT issues more from their own opinions and beliefs than from a position of authority. The message tends to be sensationalist, 'penetrate and infiltrate' which is intended to create alarm rather than understanding, acceptance and tolerance. The impact of this can be very dangerous if it is not addressed.
26. The Rwandan society is not yet open to free and public discussions on LGBTI issues. It is common for people to respond to and believe in sensationalist reporting. Government official always avoid getting in confrontation with LGBTI issues and the most profound responses are always 'we want peace, leave these issues alone'. There has been a lack of engagement between the media and LGBT groups. However, it is through direct engagement with members of LGBTI organizations that journalists can come to understand the issues better.
27. The growing exposure of LGBTI people by media is an invasion of privacy, which makes LGBTI people more vulnerable and exposes them to attacks by community members, family rejection, and dismissal from jobs and loss of shelter.

Recommendations for action:

28. Ensure that sexual and reproductive health services are of high quality, freely available and accessible to all people, without discrimination and delivered in a way that respects human rights, including the rights to confidentiality, privacy, informed consent and bodily integrity.
29. Ensure that the right to health, especially SRHR, is made available to all people regardless of sexual orientation or gender identity, HIV status, profession, age, and disability and that services are provided by sensitized and trained health care workers who provide health care that is free from stigma, coercion, discrimination and violence, based on full and informed consent, and that affirms the right to pleasure and privacy and confidentiality.
30. Enact and/or enforce laws that address the high rates of sexual and gender-based violence, including physical and sexual assault of sex workers by strengthening of institutional responses on access to justice in the form of compensations and incorporation of measures to prevent double victimization, and the strengthening of existing institutional structures to effectively implement the laws and policies.

31. Improve systems for collection, analysis, and use of both community and facility based data to ensure informed targeted and evidence based policies are developed, implemented and then closely monitored and evaluated for necessary adjustments.
32. Adopt and protect the human rights of all individuals, without distinction of any kind, and guarantee equality before the law and non-discrimination for all people by taking on a more proactive and deliberate approach to protect the LGBTI people and sex workers from violence by state and non-state actors
33. Facilitate free movement of people traveling outside of Rwanda to foster inter-linkages and regional integration, without intimidation of citizens, unlawful arrests, detentions, interrogations and confiscation of travel documents. The state should address issues that hinder freedom of movement due to the growing number of such cases in relation to human rights defenders.
34. The state should put in place legal provisions to protect everyone from media exposure/attacks and allow for public debates on LGBTI and sex workers issues as a way of raising awareness and promoting a culture of tolerance.
35. The state should end impunity of the police, immigration officials and other law enforcement officials and ensure that everyone who violates the human rights of sex workers and LGBTI individuals is brought to book by sensitizing the police on respecting, protecting and promoting the rights to safety and security for all, including those of sex workers and LGBTI individuals;
36. The state should ensure access for all, including LGBTI individuals, to free legal aid services, particularly in the context of the rising numbers of arbitrary arrests, extortion and blackmail perpetrated by the police and officials of the criminal justice system against sex workers and LGBTI individuals.
37. The state must make clear statements condemning calls for and incitement to violence against LGBTI individuals made by the media, religious and traditional authorities, political leaders and other members of society.
38. Ensure that the substance and recommendations from UN processes and the Report of the Office of the UN High Commissioner for Human Rights on Sexual Orientation and Gender Identity ('Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity', A/HRC/19/41, November 17, 2011) are systematically addressed, implemented and monitored.