

Universal Periodic Review of Uganda

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Joint submission by:

Transgender Equality Uganda T.E.U and Sexual Rights Initiative



www.transgenderequalityuganda.org / www.transgender-uganda.blogspot.com.ar



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This report is submitted by **Transgender Equality Uganda (TEU)**¹ and **the Sexual Rights Initiative (SRI)**² to highlight human rights violations committed against Transgender Women in Uganda. The report includes recommendations to the State on how to further protect and promote rights of LGBTI, in particular Transgender Women in Uganda.

Key Words:

Transgender women - LGBTI People - Discrimination on sexual orientation, gender identity and expression — Civil rights - Right to health, education and work.

Executive Summary

1. Human rights violations and discrimination on the basis of sexual orientation and gender identity is still prevalent and implies a big challenge for Uganda. The LGBTI community in Uganda faces stigma, discrimination and violence on the basis of sexual orientation and gender identity. LGBTI people, in particular transgender women, face harassment, illegal arrests by the police force, mistreatment and exclusion from the public health care system, and defamatory treatment from the public, the media and other institutions of Government. The LGBTI community is also discriminated against on the circles of justice especially by some courts of law and other judicial institutions that violate the rights of this population to accessing justice.

International Obligations and Discrimination

2. Uganda is party to several International Human Rights Conventions that are of relevance to LGBT issues/rights³. Despite of this, the country systematically has failed to guarantee and protect human rights of LGBTI people. As a consequence, LGBT people suffer discrimination and violence practically in all areas of their lives, supported by a long rooted culture of homophobia.
3. Uganda constitution as amended in 1995 provides for the protection of human rights of all Ugandans and prohibits any form of discrimination against race, colour, region, nationality, sex but does not offer any protection on the basis of one's sexual orientation and gender identity and expression.
4. In the 1st cycle of the UPR Uganda received several recommendations concerning the human rights of LGBTI people. On one hand, the State accepted those related to investigate and prosecute intimidation, violence and discrimination against LGBT people, including activists. The government of Uganda has indeed tried -with small effort and success- to address discrimination in health facilities as well as warn the media on publishing pictures of LGBT people and activists without enough proof. On the other hand the State rejected to revise the laws that criminalize same-sex relationships between consenting adults and repeal any legislation that explicitly or implicitly discriminate on any grounds,

¹ **Transgender Equality Uganda** is a human rights organization started and led by transgender women in Uganda. It strives to create space for transwomen, to speak out; and mainstream transpeople rights in Uganda's gender emancipation and feminist movement.

² **The Sexual Rights Initiative** is an international coalition including Akahata – a Latin American team working on sexualities and genders, Action Canada for Population and Development, Creating Resources for Empowerment and Action – India, the Polish Federation for Women and Family Planning, and others.

³ The International Covenant on Civil and Political Rights, The Universal Declaration of Human Rights, The International Covenant on Economic, Social and Cultural Rights, The Convention on the Elimination of All Forms of Discrimination Against Women, and The UN Convention on the Rights of the Child.

including sexual orientation and gender identity as well as remove criminal penalties for offences on the basis of sexual orientation.

5. Despite the declaration of the Anti- Homosexuality Act as null and void by the Supreme Court of Uganda in 2013, The Penal Code Act of Uganda still criminalizes same sex relationships and homosexual behaviors even between consenting adults. The society of Uganda is largely homophobic, transphobic and hostile to the LGBTI community. The LGBTI community, in particular transgender women, faces harassment, illegal arrests and defamatory treatment from the society, the media and other institutions of government like the police and the health care system.

Recommendations

The Uganda government should

6. Publically announce the shelving of the recently annulled Act on homosexuality and take all necessary steps to decriminalize homosexual behavior and relationships
7. Enact an anti-discrimination law that explicitly reflect non discrimination based on sexual orientation and gender identity and promote equal rights for all individuals to offer effective protection to all LGBTI people and activists,
8. Amend the 1995 constitution particularly Article 21 (2) to include sexual orientation and gender identity as grounds upon which LGBTI persons should not be discriminated upon and annul section 15 (d) of the Equal Opportunities Act that promotes discrimination upon LGBTI persons.
9. Amend Section 145 of the Penal Code Act to remove criminal penalties for offences on the basis of sexual orientation.
10. Fulfill its obligations under international human rights law to revise its national legislations and laws that decriminalize same-sex relationships between consenting adults and repeal any laws or reforms that explicitly or implicitly discriminate on any grounds, including sexual orientation and gender identity.

Illegal arrests and arbitrary detentions

11. In Uganda, transgender women are the face of the LGBTI community and they face the biggest burden of human rights violations, stigma and discrimination based on sexual orientation and gender identity. Transgender women are marginalized and are at heightened risk of experiencing violence and hate crimes. In the last years, many cases have been reported where transgender women in Uganda have been illegally arrested by the police using provisions of the law that criminalize same sex relationships and they have been charged with cases related to defying the order of nature (Carnal knowledge against the order of nature), public nescence, unnatural offences and indecent assault as per CAP 145 & 147 of the Penal Code⁴.

⁴ <http://transgender-uganda.blogspot.com.ar/>; www.amnesty.org/en/latest/news/2014/05/uganda-anti-homosexuality-act-prompts-arrests-attacks-evictions-flight/

12. In addition to these arrests, the police stations have no facilities for the detention of transgender/intersex persons and hence culprits are locked up with men or women. This decision is usually based on the genitalia and the police usually ask to confirm the sex of the person through touching or seeing the genitalia, an action that is largely offensive and violates the basic rights to privacy and dignity of the person.

Recommendations

The Uganda government should

13. Amend its legal system to guarantee every person, and particularly LGBT people, access to justice, by strengthening judicial capacity and infrastructure.
14. Build capacity and implement as soon as possible the national Action plan on Human Rights to provide training and sensitization on human rights issues, including LGBT rights, to judiciary, law enforcement officers and police in order to eradicate homophobia, discrimination and violence in these institutions.
15. Broaden the fact-finding mission attributions to the Uganda Human Rights Commission so as to enable them do their mandate effectively.
16. Investigate and prosecute law enforcers that harass and illegally arrest LGBTI people and those that intimidate LGBTI activists.
17. Take the necessary steps to investigate and penalize the action of the media that use defamatory statements and engage in embarrassment of people identifying as LGBTI as this violates their right to privacy.
18. Implement urgent measures, as the training of law enforcement officers and police agents, to stop forced practices against arrested transgender people that imply a violation to their right to privacy and identity.
19. Guarantee that all people in Uganda could access to all instances of justice without any kind of discrimination, in particular that based on sexual orientation and gender identity.

Criminalization laws

20. In 2015 The Uganda Parliament passed the Person's Registrations Act, a policy provision that denies the right to change of sex for persons above 18 years⁵ (transitioning). In 2014 the Parliament also passed the Anti- Pornography Act⁶, that enable Uganda's policy and legal framework to criminalize sex work. Majority of Transgender women in Uganda engage in sex work and hence the provisions of legal and policy framework violates their sexual rights.

⁵ Person's Registration Act, Section 14.<http://parliamentwatch.ug/wp-content/uploads/2015/02/The-Registration-of-Persons-Bill-2014.pdf>

⁶ <http://chapterfouruganda.com/sites/default/files/downloads/The%20Anti%20Pornography%20Act%202014.pdf>

21. Recently, The Uganda Parliament also passed the NGO bill⁷ which has been ascended to by the president and it is now an Act of Parliament. In a discriminatory and homophobic framework, enacting of the NGO bill violates the freedom of association and affects the right to organizing especially for LGBTI NGOs, as the Act will require all NGOs to re- register, and it also give the NGO board power to monitor all operations, funding sources and objectives of NGOs.

Recommendations

The Uganda government should

22. Amend the Penal Code Act, to remove contentious clauses that violate the rights of LGBTI people, like the close which describes same sex behavior and relations as order against nature.
23. Remove the contentious clauses from the NGO Act that violate the right and freedom of organizing by LGBTI groups, and reduce the powers of the NGO board from violating the privacy and independency of NGOs.
24. Annul the provisions in the Penal Code Act that criminalize sex work as prostitution and amend the Anti- Pornography Act in order to enable transgender women to engage in sex work without restrictions that affect their sexual rights and freedoms.

Violations on health rights of transgender people

25. Transgender woman in particular face discrimination and stigma in seeking health care services and information as most health agents are not trained about transgender issues and their unique needs. This is also coupled with lack of confidentiality and inadequate access to trans specific health care needs like hormones for transitioning. Transgender women in Uganda are also at high risk of infection from HIV other STIs due to their involvement in risky sexual and social behaviors like sex work and drug abuse, that in most cases start at teenage age. It must be highlighted that many transgender women engage in sex work and drug abuse as a result of discrimination, stigma, unemployment and depression majorly caused by the homophobic and transphobic environment they live in.

Recommendations

The Uganda government should

26. Take special measure to promote access to high quality, non-discriminative and confidential health care services for LGBTI people.
27. Design and implement a national plan to provide training and sensitization, to health service providers and practitioners in understanding issues of gender identity and sexual orientation, under a human rights framework including LGBTI rights and the unique health needs of transgender people in order to include good practices and eradicate homophobia and discrimination.

⁷ http://chapterfouruganda.com/sites/default/files/downloads/NGO-Bill_2015.pdf

28. Introduce an LGBTI department/desk in the Ministry of Health to lead on integrating health needs of LGBTI people in the national health programs.
29. Integrate a human rights based approach in national health programs to meet the health and wellbeing needs of LGBTI people and implement a special health plan for transgender women, considering them as a vulnerable group that needs special health interventions.

Violence and discrimination against transgender women in social contexts

30. LGBTI populations in Uganda and more so the transgender people are at high risk of discrimination, stigma and violation when accessing various social services.
31. Additionally, many transgender people have been victims of transphobic and homophobic bullying in educational institutions and have also been dismissed from school because of their sexual orientation and gender identity. In the last two years about 20 transgender women have reported cases of school dismissal for identifying as transgender women, denying them their right to education and hence likely to shatter down their future aspirations and dreams.
32. Transgender women are also discriminated against in seeking for employment and many have been fired from work on learning their gender identity. The existing policies and laws that provides for special treatment of special/vulnerable population groups like, women, people living with disabilities, children and indigenous communities do not recognize or take into account vulnerability by sexual orientation or gender identity. This leaves transgender women not being recognized as a special interest group regardless of the stigma discrimination and human rights violations they face.
33. Transgender women also suffer Violence and discrimination from family members and relatives. Many transgender women have been chased away from home and neglected by their families on learning of their sexual orientation and gender identity. In the past two years about 40 transgender women reported to having been chased out and neglected by their families, categorizing them as homosexuals who are bringing curse to the family. They have been left with no parental security; this is also another reason as to why many end dropping out of school as they have no one to pay their tuition.

Recommendations

The Uganda government should

34. Integrate a human rights based approach in national public policies and programs and take special measures –including legislation- to guarantee economic, social and cultural rights in a full scope to LGBT people, promoting their access to education, health and work in equity conditions.
35. Implement mechanisms to improve and accelerate the enjoyment of human rights to LGBTI people, including plans for temporary housing facilities, promoting their access to education and employment and taking the necessary steps to eliminate all the obstacles that limit their access to those rights.
36. Make efforts to implement education campaigns to encourage families, public agents and the community in general to reflect on the general prejudices about LGBT issues, in order to promote the integration of LGBT community in society and to reduce the increasing number of displaced of LGBTI persons.

37. Provide training to teachers and school management committees on how to handle and not discriminate against students identifying as transgender, in order to reduce school dismissal based on gender identity and sexual orientation.