



Home Office

## **Country Information and Guidance**

Uganda: Sexual Orientation and Gender Identity

August 2014

# Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of – as well as country of origin information (COI) about – Uganda. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Within this instruction, links to specific guidance are those on the Home Office’s internal system. Public versions of these documents are available at <https://www.gov.uk/immigration-operational-guidance/asylum-policy>.

## Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office’s research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please email: [cois@homeoffice.gsi.gov.uk](mailto:cois@homeoffice.gsi.gov.uk).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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# Section 1: Guidance

Date updated: 08 August 2014

## 1.1 Basis of Claim

- 1.1.1 Fear of persecution/mistreatment by the state and/or non-state actors because of the person's actual or perceived sexual orientation or gender identity, i.e. that the person is (or is perceived to be) a lesbian, a gay man, bisexual, or transgender (hereafter referred to as 'LGBT persons').

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## 1.2 Summary of Issues

- ▶ Is the person's account a credible one?
- ▶ Do LGBT persons in Uganda constitute a particular social group a particular social group (PSG)?
- ▶ Do LGBT persons face a real risk of mistreatment because of their sexual orientation/gender identity?
- ▶ Are those at risk able to seek effective protection?
- ▶ Are those at risk able to internally relocate within Uganda?

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## 1.3 Consideration of Issues

### Is the person's account a credible one?

- 1.3.1 Decision makers must consider whether the person's account of their actual or perceived sexual orientation/gender identity and of their experiences as such is reasonably detailed, internally consistent and credible as well as being externally credible (i.e. consistent with generally known facts and the country information).

See also the Asylum Instruction(s) on:

- ▶ [Considering Protection \(Asylum\) Claims and Assessing Credibility](#)
- ▶ [Gender Identity Issues in Asylum Claims](#)
- ▶ [Sexual Orientation in Asylum Claims](#)

### Do LGBT persons in Uganda form a particular social group (PSG)?

- 1.3.2 LGBT persons in Uganda form a particular social group (PSG) under the Refugee Convention as they share a common characteristic that cannot be changed and have a distinct identity in Uganda which is perceived as being different by the surrounding society.
- 1.3.3 Although LGBT persons in Uganda form a PSG, this does not mean that establishing such membership will be sufficient on its own to be recognised as a refugee. The question to be addressed in each case will be whether the particular person will face a real risk of persecution on account of their membership of such a group.

See also the Asylum Instruction(s) on:

- ▶ [Considering Protection \(Asylum\) Claims and Assessing Credibility](#)
- ▶ [Gender Identity Issues in Asylum Claims](#)
- ▶ [Sexual Orientation in Asylum Claims](#)

Do LGBT persons face a real risk of mistreatment because of their sexual orientation / gender identity?

- 1.3.4 Same-sex sexual acts have been illegal in Uganda under long standing colonial-era laws, though the law does not explicitly address gender identity. On 24 February 2014 President Museveni signed into law the Anti-Homosexuality Act 2014 (the AHA), which came into force on 10 March. The AHA broadened the range of proscribed activities to include, amongst other things, the 'promotion of homosexuality' and provided immunity from prosecution for 'victims of homosexuality' (see [Annex B](#)).
- 1.3.5 However, on 1 August 2014, Uganda's Constitutional Court annulled the AHA on a legal technicality, ruling that the speaker of parliament acted illegally when she allowed a vote on the measure without the requisite quorum of MPs (see [Anti-Homosexuality Act: Annulment](#)). In response to this, the Attorney General on 8 August appealed to High Court seeking to reinstate the AHA.
- 1.3.6 Regardless of the annulment, decision makers should note that the pre-AHA laws remain in place and could be used to target LGBT persons. Although previously not generally enforced, there were reports that LGBT persons were arrested by the police for lesser offences, such as indecent assault, attempts to commit unnatural offences and being idle and disorderly. Following the passage of the AHA into law there were reports of arrests of LGBT persons, usually followed by a release without charge, by the authorities. There were also some reports of violence, 'intrusive' medical investigations and beatings of LGBT persons arrested by the police but such reports appear isolated. Sources did not indicate that LGBT persons were routinely or systematically being targeted by the police. It is not yet clear if the annulment of the AHA will lead to changes in state treatment of or societal attitudes towards LGBT persons and groups that provide support to them.
- 1.3.7 Decision makers must also note that the criminalisation of same-sex sexual acts per se does not constitute an act of persecution. However, a term of imprisonment for engaging in same-sex sexual acts should be regarded as being a punishment which is disproportionate or discriminatory, and an act of persecution (see [CJEC cases of C-199/12 to C-201/12](#), paragraph 79).
- 1.3.8 In terms of societal treatment, Uganda is a religiously and culturally conservative country where homophobic attitudes – which may include those who do not conform to sex and gender norms (i.e. transgender persons – are widely held. The enactment of the AHA received popular support.
- 1.3.9 Societal violence against LGBT persons has occurred – including reports of mob justice – but sources do not indicate this occurs frequently. However, societal violence is likely to be underreported.
- 1.3.10 LGBT persons have been subject to societal harassment, discrimination, intimidation, and threats to their well-being, loss of accommodation and jobs, and have been denied access to health services. 'Homosexuality' (or those who do not conform to gender norms) is not openly discussed but public attention on LGBT issues arising out of particular events, such as the enactment and annulment of the AHA, have often led to increases in societal harassment and violence against LGBT persons, including media

reports which 'out' people as being gay. Sources reported an increase in this following the enactment of the AHA.

- 1.3.11 A number of NGOs continue to provide support to LGBT persons. However, the state has on occasions interfered in the activities of such groups on the grounds they are 'recruiting' young children into 'homosexuality'. The AHA led to some organisations withdrawing support for LGBT persons or being placed under surveillance by the police. It is not yet clear if the annulment of the AHA will lead to the resumption of activities by these organisations without interference by the state.
- 1.3.12 Although the existing anti-gay laws do not amount to acts of persecution per se, where they are applied and/or in considering treatment more broadly, including evidence of existing societal mistreatment, the accumulation of measures that affect LGBT persons in Uganda are sufficiently serious by their nature and repetition to constitute a severe violation of a basic human right and therefore would amount to persecution.
- 1.3.13 The Supreme Court decision in HJ (Iran) v Secretary of State for the Home Department (Rev 1) [2010] UKSC 31 (07 July 2010) and the CJEC cases of C-199/12 to C-201/1 held that a person is entitled to live freely and openly as a gay or bisexual person (which would also apply to those who have a changing gender identity) and this involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. It does not require them to show that their sexual orientation (or gender identity) plays a prominent part in their life. All that matters is that the person has a well-founded fear that they will be persecuted because they are lesbian, gay, bisexual, or transgender.
- 1.3.14 If an LGBT person is not open about their sexuality or gender identity, and lives discreetly because they fear that if they were open about the sexuality or gender identity they would face mistreatment, and that fear is well-founded, they will have a well-founded fear of persecution. However, if the reason for choosing to live discreetly is because of social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. This is because such social pressures to conceal their sexual orientation/gender identity are not sufficiently severe to constitute 'persecution'.
- 1.3.15 However, decision makers must establish whether the 'choice' to live discreetly is informed and not because the person fears living openly as a LGBT person.

#### Are those at risk able to seek effective protection?

- 1.3.16 Same sex sexual acts are criminalised in Uganda, while some elements within the police have harassed and used violence against LGBT persons. The state cannot be considered willing or able to provide effective protection to LGBT persons.

#### Are those at risk able to internally relocate within Uganda?

- 1.3.17 Where the threat is from the state, internal relocation is not a relevant or reasonable option.
- 1.3.18 While there is some information indicating that in certain parts of Kampala homophobia is less pronounced, it is not known to what extent persons living in these areas are able to avoid societal harassment, discrimination, arrest and violence. Homophobic attitudes are widely held across society, both in urban and rural areas. It is therefore unlikely that an LGBT person would be able to relocate within Uganda to escape persecution.
- 1.3.19 The point in HJ (Iran) about the choice to live openly or discreetly applies equally to considering whether it is reasonable to internally relocate.

See also the Asylum Instruction(s) on:

- ▶ Internal Relocation

## 1.4 Policy Summary

- 1.4.1 In the country guidance case [JM \(homosexuality: risk\) Uganda CG \[2008\] UKIAT 00065](#), the Asylum and Immigration Tribunal did not find that there is in general persecution of 'homosexuality' in Uganda. Based on the current country situation, the case law should no longer be followed.
- 1.4.2 LGBT persons in Uganda are a PSG.
- 1.4.3 Such persons are likely to face harassment, discrimination and mistreatment from a range of actors which would, in most cases, amount to persecution.
- 1.4.4 Effective protection is not available to LGBT persons.
- 1.4.5 There is no internal relocation option.
- 1.4.6 LGBT persons who live discreetly for fear of persecution cannot be said to have a real choice and they are likely to have a well-founded fear of persecution. However, LGBT persons who choose to conceal their sexuality or gender identity because of social or family pressures may not have a well-founded fear of persecution.
- 1.4.7 Each case must be considered on its individual merits, however someone who is (or is perceived as being) a LGBT person is likely to have a well-founded fear of persecution in Uganda.
- 1.4.8 Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

See also the Asylum Instruction(s) on:

- ▶ [Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#)
- ▶ [Humanitarian Protection](#)
- ▶ [Discretionary Leave](#)

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# Section 2: Information

Date updated: 08 August 2014

## 2.1 Pre-2014 Legal Rights

2.1.1 The Civil Society Coalition on Human Rights and Constitutional Law, in a submission on LGBTI issues to the UN Human Rights Council's Universal Periodic Review on Uganda, dated 11 March 2011 (before the Anti Homosexuality Bill was passed), stated:

'... The retention of laws and the threatened enactment of new ones that further criminalize sexual relationships between same-sex consenting adults has a devastating impact on same-sex practicing people in Uganda. They live in constant fear of arbitrary arrest and detention, discrimination in education, employment, housing, and access to services (especially health services), excommunication from places of worship and extortion—all buttressed by the existence of laws that criminalize same sex and lack of specific legal protections for LGBT under Ugandan law as they are not even recognized as minorities under the Equal Opportunity Commission Act.'<sup>1</sup>

2.1.2 The International Lesbian Gay Bisexual Trans and Intersex Association (ILGA) reported that both male / male and female / female same sex sexual relationships were illegal in Uganda.<sup>2</sup> No laws have been found that specifically legislate on gender identity.

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### Ugandan Constitution 2006

2.1.3 Article 21 of the Constitution of Uganda (2006) provides for equality and non-discrimination, although makes no reference to sexual orientation. Article 31(2a) states that: 'Marriage between persons of the same sex is prohibited.'<sup>3</sup>

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### Penal Code 1950

2.1.4 Under the Penal Code Act 1950, same-sex acts are illegal under the following articles:

'Section 145. Unnatural offences.

'Any person who –

(a) has carnal knowledge of any person against the order of nature;

(b) has carnal knowledge of an animal; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life.

'Section 146. Attempt to commit unnatural offences.

'Any person who attempts to commit any of the offences specified in section 145 commits a felony and is liable to imprisonment for seven years.

'Section 148. Indecent practices.

<sup>1</sup> Joint submission by the Civil Society Coalition on Human Rights and Constitutional Law on LGBTI issues for a United Nations Human Rights Council Universal Periodic Review on Uganda, 11 March 2011 <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/JS1-JointSubmission1-eng.pdf>, date accessed 2 December 2013

<sup>2</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association report, [www.ilga.org](http://www.ilga.org), [State-sponsored Homophobia - A world survey of laws: Criminalisation, protection and recognition of same-sex love](#), May 2014, p48, accessed on 8 August 2014

<sup>3</sup> Constitution of Uganda, at 2006, accessed via the World Intellectual Property Organisation, [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=170004](http://www.wipo.int/wipolex/en/text.jsp?file_id=170004), date accessed: 10 March 2014



'Any person who, whether in public or in private, commits any act of gross indecency with another person or procures another person to commit any act of gross indecency with him or her or attempts to procure the commission of any such act by any person with himself or herself or with another person.'<sup>4</sup>

For the full text of the Penal Code see the International Lesbian, Gay, Bisexual, Trans and Intersex Association report, 'State-sponsored Homophobia - A world survey of laws: Criminalisation, protection and recognition of same-sex love', published in May 2013 [http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2013.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2013.pdf)

- 2.1.5 The US State Department 'Country Report on Human Rights Practices for 2013' on Uganda, published on 27 February 2014, (USSD Human Rights 2014) stated that consensual 'same-sex conduct' was illegal in Uganda, according to colonial era laws, which criminalised 'carnal knowledge of any person against the laws of nature and provides a penalty up to life imprisonment'.<sup>5</sup>

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## 2.2 Anti-Homosexuality Act 2014

### Enactment

- 2.2.1 The Anti Homosexuality Bill (AHB) was signed into law on 24 February 2014 (BBC, 'Ugandan President Yoweri Museveni signs anti-gay bill', 24 February 2014).<sup>6</sup> See [Annex C](#) for further details.
- 2.2.2 The bill was first introduced as a private members bill in 2009 by the MP David Bahati (a member of the ruling party). In an interview, Mr Bahati said he resurrected the bill to stop the "promotion" of homosexuality and the inducement of children, and to provide a "safety net" for Uganda so that future governments would have to consult parliament before adopting any international protocols that accepted homosexuality.<sup>7</sup> The bill was passed by the Ugandan parliament (legislature) on 20 December 2013 (USSD Report 2013).<sup>8</sup>
- 2.2.3 The original bill dated 25 September 2009, included the related offence of 'failure to disclose the offence [of homosexuality]', which read: '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.'<sup>9</sup> However this was removed from the Act signed into law.<sup>10</sup>

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<sup>2</sup> Uganda Penal Code Act 1950, <http://www.wipo.int/wipolex/en/details.jsp?id=5241>, date accessed: 10 March 2014

<sup>5</sup> United States State Department 'Country Report on Human Rights Practices for 2013' on Uganda, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220173.htm>, section 6, date accessed: 10 March 2014

<sup>6</sup> BBC, 'Ugandan President Yoweri Museveni signs anti-gay bill', 24 February 2014, <http://www.bbc.co.uk/news/world-africa-26320102>, date accessed: 26 February 2014

<sup>7</sup> The Guardian, <http://www.theguardian.com/uk>, 'Uganda anti-gay bill resurrected in parliament', 8 February 2012 <http://www.theguardian.com/world/2012/feb/08/uganda-gay-death-sentence-bill>, date accessed 12 November 2013

<sup>8</sup> United States State Department 'Country Report on Human Rights Practices for 2013' on Uganda, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220173.htm>, date accessed: 10 March 2014

<sup>9</sup> Anti-Homosexuality Bill, article 14, cited in the Uganda Gazette No 47, Volume CII dated 25 September 2009 (accessed via the National Press Foundation, <http://nationalpress.typepad.com/files/bill-no-18-anti-homosexuality-bill-2009.pdf>)

<sup>10</sup> Anti-Homosexuality Act, 2014, Annex C

- 2.2.4 The original bill also included reference to ‘extra-territorial jurisdiction’, which meant the law would apply to offences committed outside Uganda.<sup>11</sup> However this was also removed from the final draft signed by President Museveni in February 2014.<sup>12</sup>
- 2.2.5 According to a BBC report, dated 24 February 2014, the final bill that had been passed into law and which had been seen by the BBC, ‘... had been significantly watered down, [and was] ... significantly different to what was initially reported [previously] ... Earlier drafts of the bill made it a crime not to report gay people - in effect making it impossible to live as openly gay - but this clause has been removed.’<sup>13</sup> Other media sources, for example the Washington Post<sup>14</sup>, or Guardian<sup>15</sup>, reported that this clause had been passed in law. The BBC noted that ‘homosexual acts’ are already illegal in Uganda, but clarified that ‘[l]esbians are covered by the bill for the first time.’<sup>16</sup>
- 2.2.6 According to the BBC, the main aspects of the Act were as follows:
- Life imprisonment for gay sex, including oral sex
  - Life imprisonment for "aggravated homosexuality", including sex with a minor or while HIV-positive
  - Life imprisonment for living in a same-sex marriage
  - Seven years for "attempting to commit homosexuality"
  - Between five and seven years in jail or a \$40,700 (£24,500) fine or both for the promotion of homosexuality
  - Businesses or non-governmental organisations found guilty of the promotion of homosexuality would have their certificates of registration cancelled and directors could face seven years in jail.<sup>17</sup>
- 2.2.7 For more commentary on the signing of the law, see:
- <http://www.independent.co.uk/news/world/africa/uganda-antigay-bill-signed-by-president-museveni-despite-international-outcry-9149808.html>; and
- [http://www.washingtonpost.com/world/ugandan-anti-gay-bill-includes-life-imprisonment-for-certain-acts/2013/12/20/ce2c6b88-6995-11e3-ae56-22de072140a2\\_story.html](http://www.washingtonpost.com/world/ugandan-anti-gay-bill-includes-life-imprisonment-for-certain-acts/2013/12/20/ce2c6b88-6995-11e3-ae56-22de072140a2_story.html)
- 2.2.8 Under the Anti-Homosexuality Act 2014 (AHA 2014) criminalises the ‘offence of homosexuality’ and ‘aggravated homosexuality’, as well as the ‘attempt to commit homosexuality’. The offence of homosexuality is explained as follows, under article 2:
- ‘(1) A person commits the offence of homosexuality if—

<sup>11</sup> Anti-Homosexuality Bill, article 16, cited in the Uganda Gazette No 47, Volume CII dated 25 September 2009 (accessed via the National Press Foundation, <http://nationalpress.typepad.com/files/bill-no-18-anti-homosexuality-bill-2009.pdf>)

<sup>12</sup> Anti-Homosexuality Act, 2014, Annex C

<sup>13</sup> BBC, ‘Ugandan President Yoweri Museveni signs anti-gay bill’, 24 February 2014, <http://www.bbc.co.uk/news/world-africa-26320102>, date accessed: 26 February 2014

<sup>14</sup> The Washington Post, ‘Ugandan leader signs harsh anti-gay bill, ignores warning from Obama’, undated (circa 24 February 2014), reported that the ‘... law also makes it a crime to fail to report anyone who breaks the law, essentially ensuring that gays will need to live secret lives.’ [http://www.washingtonpost.com/world/africa/ugandan-leader-signs-harsh-anti-gay-bill-despite-warning-from-obama-administration/2014/02/24/88486066-9d63-11e3-878c-65222df220eb\\_story.html](http://www.washingtonpost.com/world/africa/ugandan-leader-signs-harsh-anti-gay-bill-despite-warning-from-obama-administration/2014/02/24/88486066-9d63-11e3-878c-65222df220eb_story.html), date accessed: 26 February 2014

<sup>15</sup> The Guardian, ‘Uganda politicians celebrate passing of anti-gay laws’, 24 February 2014, reported that the new law, ‘... [O]utlaws the promotion of homosexuality and requires citizens to denounce to the police anyone suspected of being gay.’ <http://www.theguardian.com/world/2014/feb/24/uganda-president-signs-anti-gay-laws>, date accessed: 26 February 2014

<sup>16</sup> BBC, ‘Ugandan President Yoweri Museveni signs anti-gay bill’, 24 February 2014, <http://www.bbc.co.uk/news/world-africa-26320102>, date accessed: 26 February 2014

<sup>17</sup> BBC, ‘Ugandan President Yoweri Museveni signs anti-gay bill’, 24 February 2014, <http://www.bbc.co.uk/news/world-africa-26320102>, date accessed: 26 February 2014

‘(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.’<sup>18</sup>

2.2.9 Other related offences include aiding and abetting homosexuality; conspiracy to engage in homosexuality; procuring homosexuality by threats; detention with the intent to commit homosexuality; brothels (which includes those who kept a house, room, set of rooms or place of any kind for the purposes of homosexuality); same-sex marriage and the promotion of homosexuality.<sup>19</sup>

## Annulment

2.2.10 On 1 August 2014, The Guardian reported that the Uganda Constitutional Court annulled the AHA on a legal technicality. The five judge panel ruled ‘... that the speaker of parliament acted illegally when she allowed a vote on the measure despite at least three objections that not enough MPs were in attendance. "The speaker was obliged to ensure that there was quorum," the court said in its ruling. "We come to the conclusion that she acted illegally.”’<sup>20</sup>

2.2.11 The same source observed that,

‘The challenge to the law was brought by 10 petitioners, including academics, journalists, both ruling party and opposition MPs, human rights activists and rights groups. They claimed that it violated the constitutional right to privacy and dignity, as well as the right to be free from discrimination and cruel, inhuman and degrading treatment... Kosiya Kasibayo, a state attorney, said that a decision had not been made on whether to appeal against the ruling in the supreme court.’<sup>21</sup>

2.2.12 The Daily Monitor reported that on 1 August 2014, that, ‘Ndorwa West MP, David Bahati ... said that the Attorney General will petition the Supreme Court over the Constitutional Court ruling on the Act’.<sup>22</sup>

2.2.13 The law may remain popular amongst MPs and the Ugandan population more generally; Sexualities Minorities of Uganda tweeted that on 5 August 2014 that there had been over 100 signatures to a petition to bring back the anti-gay law.<sup>23</sup> AFP also reported that ‘Speaker of parliament Rebecca Kadaga said she expected the bill would be re-introduced when it returns from its summer break, probably later this month [August 2014].’ She is quoted as saying “There is enthusiasm among the members of parliament. Over 200 members have signed the petition to re-table it.”<sup>24</sup>

<sup>18</sup> Anti-Homosexuality Act 2014, Annex C

<sup>19</sup> *ibid*

<sup>20</sup> The Guardian, [www.guardian.com/uk](http://www.guardian.com/uk), [Uganda anti-gay law declared 'null and void' by constitutional court](http://www.guardian.com/uk), 1 August 2014, accessed on 7 August 2014

<sup>21</sup> *Ibid*

<sup>22</sup> The Daily Monitor, <http://www.monitor.co.ug>, [Government to petition court over anti-gay law ruling](http://www.monitor.co.ug), 1 August 2014, , date accessed: 7 August 2014

<sup>23</sup> Sexual Minorities Uganda via Twitter, <https://twitter.com/SMUG2004>, ‘[Over 100 signatures on petition to bring back AntiGayLaw](https://twitter.com/SMUG2004)’, 5 August 2014, 6:43pm, accessed on 8 August 2014

<sup>24</sup> AFP via yahoonews.co.uk, ‘Uganda anti-gay law to be re-introduced in parliament: speaker’, <https://uk.news.yahoo.com/uganda-anti-gay-law-introduced-parliament-speaker-133415059.html>, 12 August 2014, accessed 13 August 2014

2.2.14 While in an opinion piece by Human Rights Watch senior researchers, Neela Ghoshal and Maria Burnett, dated 7 August 2014 observed:

‘Ultimately, the Ugandan government could appeal the ruling against the Anti-Homosexuality Act to the country’s Supreme Court. And certainly, the law could return as a new bill in parliament at any time. Given the controversy surrounding the law, the widespread international condemnation, and the cuts and diversions of aid money that resulted from its passage, it is unlikely to come back too quickly, but some parliamentarians are pushing for its rapid return. Clearly, anything is possible in the current climate, and activists will need to remain prepared and vigilant to fight the fight on the substantive grounds.’<sup>25</sup>

2.2.15 The Constitutional Court’s ruling is available on the website of the Human Dignity Trust: [http://www.humandignitytrust.org/uploaded/Library/Case\\_Law/Onyango v AG 201408 01-Judgment on quorum.pdf](http://www.humandignitytrust.org/uploaded/Library/Case_Law/Onyango_v_AG_201408_01-Judgment_on_quorum.pdf)

2.2.16 On 8 August 2014, the Attorney General of Uganda, Peter Nyombi, appealed to the country’s High Court seeking to have the Anti-Homosexuality Act reinstated.<sup>26</sup>

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## 2.3 Other Laws Affecting LGBT Persons

2.3.1 A Human Rights First article, undated (circa 2010), accessed on 9 January 2014, highlighted other legislation which had either recently been passed into law, or was before the Ugandan parliament, which could be discriminatory against LGBT individuals. The source listed:

‘Anti-Pornography Bill of 2010: The proposed legislation would revise the current penal code that criminalizes pornography in a way that allows for wide interpretation. This is worrisome because Ugandan officials often interpret the definition of “pornography” liberally where homosexuality is concerned [also see para 1.2.15 for the latest information on this bill].

‘Interception of Communications Law: Passed in 2010, this law grants certain government bodies the prerogative to monitor the activities of private individuals and organizations by putting telephone, email, and postal correspondence under surveillance. ‘There is a fear that it could be used to monitor the activities of LGBTI individuals and activists.

‘HIV and AIDS Control Bill of 2009: This proposed law includes mandatory testing for HIV and forced disclosure of a person’s HIV status. This bill contravenes international human rights standards by requiring patient confidentiality, and defies best practices on the prevention and treatment of HIV. This bill would restrict LGBTI persons’ access to healthcare and may single them out for mandatory testing.’

2.3.2 However the Ugandan Health Minister, Dr Ruhakana Rugunda, in an interview reported by the BBC in an article dated 26 February 2014, indicated that homosexuals would not be discriminated against when accessing healthcare. The source continued: “All people whether they are sexual orientation as gays or otherwise are at complete liberty to get full treatment and to give full disclosure to their doctors and nurses,” he told the BBC. ... He adds: "And by the way, health workers will live up to their ethics of keeping confidentiality of their patients." As of mid-March 2014, the HIV and AIDS Control Bill

<sup>25</sup> Human Rights Watch, [www.hrw.org](http://www.hrw.org), [Is It Now Legal to Be Gay in Uganda?](http://www.hrw.org/news/2014/08/07/uganda-gay-law), 7 August 2014, accessed on 8 August 2014

<sup>26</sup> Pink News, <http://www.pinknews.co.uk>, ‘Ugandan Attorney General appeals to High Court for anti-gay law reinstatement’, <http://www.pinknews.co.uk/2014/08/08/ugandan-attorney-general-appeals-to-high-court-for-anti-gay-law-reinstatement/>, 08 August 2014, accessed 13 August 2014.



was still being discussed by MPs (New Vision, 'MPs reject compensation for HIV infection while on duty', 19 March 2014). Amnesty International in a briefing dated 24 February 2014 further updated that 'Uganda has become more repressive recently. In the last 6 months it has brought into law the Public Order Management Act, then the Anti-Pornography bill and now the Anti-Homosexuality Bill.'

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## 2.4 Attitudes of State Officials

2.4.1 State officials commonly expressed crude, derogatory and often offensive views in public towards gay relationships in Uganda. For example, in response to international reaction to the Anti-Homosexuality Bill signed into law on 24 February 2014, President Museveni, in an exclusive interview with CNN, referred to sexual behavior as being a matter of choice, saying that gay people are "disgusting." Museveni told CNN's Zain Verjee that, in his view, being homosexual is "unnatural" and not a human right:

"They're disgusting. What sort of people are they?" he said. "I never knew what they were doing. I've been told recently that what they do is terrible. Disgusting. But I was ready to ignore that if there was proof that that's how he is born, abnormal. But now the proof is not there." ... Museveni had commissioned a group of Ugandan government scientists to study whether homosexuality is "learned," concluding that it is a matter of choice.'

"I was regarding it as an inborn problem," he said. "Genetic distortion -- that was my argument. But now our scientists have knocked this one out." ... Dean Hamer, scientist emeritus at the National Institutes of Health, wrote an open letter to the Ugandan scientists in the New York Times last week urging them to reconsider and revise their report. Among his responses to their conclusions: "There is no scientific evidence that homosexual orientation is a learned behavior any more than is heterosexual orientation."<sup>27</sup>

2.4.2 Commenting on the negative international reaction to the Bill, Museveni said: "Respect African societies and their values ... If you don't agree, just keep quiet. Let us manage our society, then we will see. If we are wrong, we shall find out by ourselves, just the way we don't interfere with yours." ... He also said Westerners brought homosexuality to his country, corrupting society by teaching Ugandans about homosexuality. The West has also helped make children at schools homosexual by funding groups that spread homosexuality, he said.'<sup>28</sup>

2.4.3 In separate report from Agence France Presse/Reuters, dated 24 February 2014, Museveni was quoted as saying he could not understand how one could "fail to be attracted to all these beautiful women and be attracted to a man" instead and described in lurid detail his particular revulsion to oral sex: "That is a really serious matter. There is something really wrong with you, ... Homosexuals are actually mercenaries. They are heterosexual people but because of money they say they are homosexuals. These are prostitutes because of money," [On the subject of gay oral sex, Museveni said:] "You push the mouth there, you can come back with worms and they enter your stomach because that is a wrong address."<sup>29</sup>

<sup>27</sup> CNN, 'Uganda president: Homosexuals are 'disgusting'', 25 February 2014, <http://edition.cnn.com/2014/02/24/world/africa/uganda-homosexuality-interview/>, date accessed: 26 February 2014

<sup>28</sup> CNN, 'Uganda president: Homosexuals are 'disgusting'', 25 February 2014, <http://edition.cnn.com/2014/02/24/world/africa/uganda-homosexuality-interview/>, date accessed: 26 February 2014

<sup>29</sup> Agence France Presse/Reuters, 'Ugandan president signs law to jail gays for life', 25 February 2014, <http://www.smh.com.au/world/ugandan-president-signs-law-to-jail-gays-for-life-20140225-hvdn7.html#ixzz2veWVy975A> (published in The Sydney Morning Herald), date accessed: 11 March 2014

## 2.5 Arrests, Detentions and Convictions

- 2.5.1 The USSD Human Rights 2014, covering events in 2013, stated that while the authorities did not convict any persons under the law [i.e. laws existing prior to enactment of the AHA], the government did arrest persons for related offences and several LGB persons had been charged for engaging in 'acts against the order of nature' and for acts of indecency, with cases pending at the end of 2013'.<sup>30</sup>
- 2.5.2 Human Rights First, in an undated briefing (circa 2011), provided several documented cases of violence and harassment against the LGB community, which included reports which may be attributable to the Ugandan security forces. For further information refer direct to the source: <http://www.humanrightsfirst.org/wp-content/uploads/Discrimination-against-LGBTI-Ugandans-FINAL.pdf>
- 2.5.3 The Danish FFM report 2014 (which was published before the new Act was signed into law), made reference to interlocutors who indicated arrest of LGB persons may be linked to adverse political or media attention towards the LGB community. As noted:  
'Representatives of East and Horn of Africa Human Rights Defenders Project (EHAHRDP) stated that the police officers responsible for arrests of ordinary LGBTI persons, who are not activists, usually act on their own. Such arrests are conducted by an individual police officer or a small group of police officers. It was added that arrests of suspected homosexuals tend to increase whenever there is media spotlight on LGBT issues, for instance when the Bahati Bill [i.e. the AHB] was discussed.'<sup>31</sup>
- 2.5.4 Later the source, referring to an interview with the UN's Office for the High Commissioner of Human Rights, noted:  
'According to OHCHR Uganda, the peaks in the discrimination, harassment, arrests and violence against LGBT persons can be linked to specific periods of time when LGBT issues have been raised by national public media. For instance the introduction of the AHB in October 2009, the publication of the Rolling Stone article "Hang them" in September 2010, the murder of David Kato on 26 January 2011, the resolution to re-table the AHB in October 2011, the re-introduction of the AHB in Parliament, the widely applauded statement of the Speaker of Parliament in her visit to Canada in 2012, the closure of work-shops by the Minister of Ethics and Integrity in February 2012, the article against homosexuality and the public attention on the Marriage and Divorce Bill, etc. on 24 February 2013.'<sup>32</sup>
- 2.5.5 The Danish FFM Report 2014 provided a section on charges brought against LGB persons by the Ugandan authorities. According to information obtained from Freedom and Roam Uganda, the police do not actually charge LGBT persons for homosexuality or homosexual acts. Instead they use other charges, as for example being idle and

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<sup>30</sup> United States State Department 'Country Report on Human Rights Practices for 2013' on Uganda, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220173.htm>, date accessed: 10 March 2014

<sup>31</sup> Danish Immigration Service and Danish Refugee Council fact finding report, 'Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service's and the Danish Refugee Council's fact finding mission to Kampala, Uganda from 16 to 25 June 2013', January 2014, p.11 <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsUgandaFinal.pdf>, accessed: 10 March 2014

<sup>32</sup> Danish Immigration Service and Danish Refugee Council fact finding report, 'Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service's and the Danish Refugee Council's fact finding mission to Kampala, Uganda from 16 to 25 June 2013', January 2014, p.58, <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsUgandaFinal.pdf>, accessed: 10 March 2014

disorderly, inciting violence, public nuisance or impersonation – the latter in the case of transgender people.<sup>33</sup>

2.5.6 The joint Danish FFM Report 2014 provides extensive information on arrest and prosecution of LGB persons. The following is an excerpt from this section of the report:

‘Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that the police usually do not proactively pursue LGBT persons on their own initiative. It is family, partners, employers, neighbours, etc., who inform the police or the local Church about suspected LGBT persons. For example in Jinja a local radio station aired programmes that incited hatred against homosexuals and encouraged the local people to be vigilant and report homosexuals to local authorities, meaning the police and LCs [Local Councils].

‘According to a Western embassy (B), the Inspector General of Police (IGP) has publicly stated that the UPF [Ugandan Police Force] is not going to arrest homosexuals as long as they are consenting adults and that the police should not monitor what goes on in people’s bedrooms. The IGP [Inspector General of Police] has also provided the LGBTI members with a hotline contact in case they are arrested arbitrarily. This same position has been repeated by the public prosecutions office [Department of Public Prosecutions] (DPP). The Minister of Justice, Kahinda Otafiire, who [according to a Western embassy (B)] is a respected general in the army, has publicly stated that the Bahati Bill [i.e. the AHB] violates human rights.<sup>34</sup>

‘Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that the UPF officers are not arresting LGBT persons because they are instructed to do so. The IGP has publicly stated that the police should not arrest homosexuals, who are consenting adults. But individual police officers and even a unit of the police could act on their own beliefs and decide to arrest suspected LGBT persons in order to extort money from them.

‘With respect to police arrests, Executive Director of Spectrum Uganda, Samuel Ganafa K. stated that individual police officers do make arrests, but arrests can also be a consequence of the family turning on their own son or daughter.

‘Representatives of East and Horn of Africa Human Rights Defenders Project (EHAHRDP) stated that the police officers responsible for arrests of ordinary LGBTI persons, who are not activists, usually act on their own. Such arrests are conducted by an individual police officer or a small group of police officers. It was added that arrests of suspected homosexuals tend to increase whenever there is media spotlight on LGBT issues, for instance when the Bahati Bill [i.e. the AHB] was discussed.

‘A Western embassy (C) confirmed that they had not seen evidence that police act proactively against LGBT persons by arresting them or were under instruction to do so.

‘An anonymous human rights organization in Uganda explained that if a LGBT person who has been arrested on the grounds of homosexuality and later released should decide to move to another location, he or she would not face any problems with the police in the new setting. The police do not have an electronic registry of arrests of LGBT persons and a person could start afresh in a new district, where neither community nor police would know about the person’s sexual orientation.

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<sup>33</sup> Danish Immigration Service and Danish Refugee Council fact finding report, ‘Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service’s and the Danish Refugee Council’s fact finding mission to Kampala, Uganda from 16 to 25 June 2013’, January 2014, p. 26, <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsUgandaFinal.pdf>, accessed: 10 March 2014

<sup>34</sup> For further information on the Anti-Homosexuality Bill, see paragraph 1.2.5.



'A Western embassy (B) stated that it could not be completely ruled out that a group of police officers acting on their own initiative would raid a bar etc. to find homosexuals, but usually it would be private individuals, who reported homosexuals to the police. It was further stated that there is a strong fear in society of recruitment to LGBT and defilement of children.

'A Western embassy (B) explained that the police in Uganda are not well trained and arrests of LGBT persons could be attributed to lack of knowledge of the legislation addressing homosexual acts. Particularly, many police officers are not sufficiently trained to distinguish between existing law and the pending AHB. In some cases police officers are upholding a law [i.e. the AHB] that has not even been passed by parliament.

'Representatives of Icebreakers stated that the main concern for LGBT persons is not the police or the Ugandan authorities. The fundamental concern is that LGBT persons are denied the very backbone of society, i.e. family ties, education, work, housing and societal acceptance. In that perspective a single arrest by the police with the purpose of blackmailing becomes irrelevant.

'An anonymous human rights organization in Uganda stated that the main security issue and concern for the LGBT community stem from Ugandan society. The police are not the main security concern, as they in reality would not proactively seek out and hunt down LGBT persons. Rather, security issues of concern to LGBT persons would relate to being disowned by the family, poverty, false accusations resulting from private rivalries, fear of being outed by neighbors or colleagues, and discrimination regarding education, health and job opportunities.

'Freedom and Roam Uganda (FARUG) stated that there have been cases in which former lovers would collaborate with the police to repeatedly extort money from their former partners by threatening to out them as homosexuals. ... FARUG stated that most Ugandans believe that the Bahati Bill [i.e. the AHB] already has been enacted. Even the police would think that, and they believe that they must act according to the Bill.'<sup>35</sup>

2.5.7 The Anti-homosexuality Act was signed into law on 24 February 2014 (AHA). Some sources identified a rise in arrests of LGBT persons following the passage of the act. In a report dated 15 May 2014, based on research conducted by Human Rights Watch (HRW) and Amnesty International '... in Kampala and other Ugandan towns in April 2014, interviewing 38 individuals directly affected by the passage of the Anti-Homosexuality Act, four lawyers and paralegals, and four organizations that provide health services to LGBTI people. Human Rights Watch also interviewed eight LGBTI Ugandans in Nairobi, Kenya, who had fled Uganda between January and March 2014'<sup>36</sup> stated that:

'... people have faced a notable increase in arbitrary arrests, police abuse and extortion...

'Since the bill passed in December 2013, Human Rights Watch and Amnesty International are aware of at least 17 people who have been arrested based on allegations of consensual same-sex conduct with other adults or, in some cases, simply on the suspicion of appearing to be LGBTI.

'In contrast, between 2007 and 2011, the Human Rights Awareness and Promotion Forum, a Ugandan group that tracks such cases and provides legal defense, reported that they were aware of 23 arrests on the basis of same-sex conduct, none of which

<sup>35</sup> Danish Immigration Service and Danish Refugee Council fact finding report, 'Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service's and the Danish Refugee Council's fact finding mission to Kampala, Uganda from 16 to 25 June 2013', January 2014, <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsUgandaFinal.pdf>, accessed: 10 March 2014

<sup>36</sup> Human Rights Watch, [www.hrw.org](http://www.hrw.org), [Uganda: Anti-Homosexuality Act's Heavy Toll](http://www.hrw.org), 15 May 2014, accessed on 8 August 2014

resulted in prosecutions. The increase in arrests affects not only those detained, but the broader LGBTI population, since many live in fear of arrest and avoid any dealings with the authorities. LGBTI people who are victims of violence or discrimination say they fear reporting such cases to the police, concerned that they themselves could be arrested...

'The victims and lawyers interviewed said that most of those arrested since the bill passed have been released without charge. In seven cases that Human Rights Watch and Amnesty International documented, interviewees reported that police demanded bribes of between 30,000 (about US\$12) and 1.5 million Ugandan shillings (about [US]\$634). Other victims were released with the assistance of lawyers.'<sup>37</sup>

2.5.8 Sexual Minorities in Uganda (SMUG) in a report documenting incidents of harassment and discrimination against LGBT persons covering the period 20 December 2013 to 1 May 2014, stated that there were 17 arrests of LGBT persons (it is not clear if the HRW report of 15 May is referring to SMUG's data on arrests, or separate research) though it is unclear how long they were detained or if the individuals were charged. The source added, '[t]his can be compared with just one case in 2013 and none in 2012. In one instance two young Ugandans were charged with sodomy.' The report added that the individuals arrested were subject to 'intrusive and degrading medical tests'. The same report also recorded 19 incidents of 'State persecution: where police use their power to intimidate LGBTI individuals.'<sup>38</sup>

2.5.9 The International Gay and Lesbian Human Rights Commission (IGLHRC) stated on 11 July 2014 that:

'... that the Government of Uganda [should] drop criminal charges and cease investigations into individuals reportedly arrested for "promoting" homosexuality under the Anti-Homosexuality Act (AHA) of 2014. IGLHRC's demand followed a statement issued by the Ugandan government on Monday claiming the AHA has been "misinterpreted" as legislation intended to punish and discriminate against the lesbian, gay, bisexual, and transgender (LGBT) Ugandans.

'On Wednesday the online version of the Daily Monitor newspaper reported that 5 individuals were arrested in the northern district of Pader under the AHA. Following the report the Human Rights Awareness and Promotion Forum (HRAPF) and Sexual Minorities Uganda (SMUG) sent a legal team to Pader to investigate the report. On Friday the team released a report on their findings in which they confirmed that 5 people, including a minor, were arrested in Pader on allegations of homosexuality.

'According to HRAPF the 5 were not charged with any offence but statements were taken from them. They were allegedly also subjected to anal examinations, which, it was reported, proved to be 'inconclusive'.

"The file was forwarded to the resident state attorney of Pader who did not advise on the charge but instead sent the file back to the police commenting that there was no evidence of any offence related to homosexuality. The police released all the persons who had been arrested on Police Bond. The file, however, remains open and 'investigations' are ongoing," HRAPF reported.'<sup>39</sup>

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## Treatment in Detention

<sup>37</sup> Human Rights Watch, [www.hrw.org](http://www.hrw.org), [Uganda: Anti-Homosexuality Act's Heavy Toll](#), 15 May 2014, accessed on 8 August 2014

<sup>38</sup> Sexual Minorities in Uganda, [www.sexualminoritiesuganda.com](http://www.sexualminoritiesuganda.com), [From Torment to Tyranny. Enhanced Persecution in Uganda Following the Passage of the Anti-Homosexuality Act 2014, 20 December 2013 – 1 May 2014](#), undated, p6, accessed on 8 August 2014

<sup>39</sup> International Gay and Lesbian Human Rights Commission (IGLHRC), [www.iglhrc.org](http://www.iglhrc.org), [IGLHRC to the Government \[sic\] of Uganda: Stop Harassment, Intimidation and Violation of Basic Human Rights of Individuals Arrested under the Anti-Homosexuality Act](#), 11 July 2014, accessed on 8 August 2014

2.5.10 Limited information is available on the treatment of LGBT persons in places of detention. However the Danish FFM Report 2014 provides information on treatment of LGBT persons who were detained. The following extract is taken from this report, decision makers are recommended to refer to the report in full:

‘Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that usually other inmates would be responsible for violence against LGBT persons in police detention. However, the police could inform other detainees about a person’s sexual orientation and in that way expose the person to violence from other detainees. In some few cases it has been reported that individual police officers have raped suspected LGBT persons and it happens that police officers beat detainees with batons.

‘As to the ill treatment that LGBT persons experience when detained, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that some police officers would use mostly psychological torture, while others would encourage inmates to physically abuse the LGBT person. Physical abuse is often perpetrated by inmates, but also by police officers, for example at the time of arrests, where the LGBT person might be subjected to beatings or inappropriate groping. It was further emphasized that the police are generally abusive to many people, however it will intensify, if they find out that a person is gay.

‘Representatives of Icebreakers stated that suspected LGBT persons risk being beaten while they are kept at the police station.

‘Geoffrey Ogwaro of the CSCHRCL stated that from his time at SMUG, his experience was that if the community discovered that someone was gay or caught them in the act, they would report to the local police or LC and the homosexual in question would then usually be arrested. In one case Brian (BM) and Fred (FW) were arrested in Mbale on allegations of being homosexuals. They were charged and remanded in Mbale prison. There they were mistreated by the warders. They were kept separately from other prisoners because the warders feared that they would affect other prisoners and they were occasionally beaten by the warders. After two months on remand, BM and FW were released on bail. Soon thereafter on 13 September 2009, BM died of injuries received from warders while on remand in Mabale. The primary case was never proven against them and the charges were dismissed because of lack of evidence. [In the approved notes CSCHRCL added] “We can only imagine what he may have gone through in jail that led to his death after release. Was he raped and forcefully infected with [Human Immunodeficiency Virus] HIV, because he was. Was he punished by the wardens that are supposed to protect him? Did his innocence and the pain of unfair arrest weigh on him too much? Was the pain of his wounds sustained in prison too much to bear that he gave in to death? We shall never know what happened to this innocent man, whose only crime was that he was gay in Uganda.”<sup>40</sup>

## 2.6 Healthcare

2.6.1 The USSD Human Rights report 2014 noted that LGB persons were denied access to health services.<sup>41</sup> The Danish FFM Report 2014 provided a section on access to

<sup>40</sup> Danish Immigration Service and Danish Refugee Council fact finding report, ‘Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service’s and the Danish Refugee Council’s fact finding mission to Kampala, Uganda from 16 to 25 June 2013’, January 2014, p. 22-23, <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsInUgandaFinal.pdf>, accessed: 10 March 2014

<sup>41</sup> United States State Department ‘Country Report on Human Rights Practices for 2013’ on Uganda, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220173.htm>, date accessed: 10 March 2014

healthcare by the LGB community. Decision makers are recommended to refer to the report for further information: <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsInUgandaFinal.pdf> <sup>42</sup>

2.6.2 Under the new Anti-Homosexuality Act 2014 the promotion of homosexuality was illegal and subject to a maximum term of seven years imprisonment and/or a fine of up to five thousand Shillings.<sup>43</sup> A BBC report, dated 26 February 2014, indicated that aid charities had warned the new bill would have a "disastrous" effect on the country's response to HIV.<sup>44</sup>

2.6.3 However the Ugandan Health Minister, Dr Ruhakana Rugunda, in an interview reported by the BBC in an article dated 26 February 2014, indicated that homosexuals would not be discriminated against when accessing healthcare. As noted: "All people whether they are sexual orientation as gays or otherwise are at complete liberty to get full treatment and to give full disclosure to their doctors and nurses," he told the BBC. ... He adds: "And by the way, health workers will live up to their ethics of keeping confidentiality of their patients."<sup>45</sup>

2.6.4 Human Rights Watch observed that following the passing of the Anti-Homosexuality Act, 'Health providers have cut back on essential services for LGBTI people, who also fear harassment or arrest if they seek health care.' The source continued:

'The law has also resulted in reduced access to health services and HIV prevention information for LGBTI people. On April 4, police raided the Makerere University Walter Reed Project, a US-funded HIV research and treatment center that provides health information and services to LGBTI people. The police claimed the center was "recruiting" people into homosexuality. Two community-based organizations that provided HIV testing, condoms, and lubricant to men who have sex with men (MSM) closed their doors after the bill became law. They have reinitiated some services, but no longer receive drop-in clients. TASO, Uganda's largest HIV/AIDS organization, has suspended its "Moonlight Clinics," through which it conducted outreach to MSM and other vulnerable groups, offering them HIV testing and education.

'Shortly after the Act was signed, the health minister, Dr. Ruhakana Rugunda, publicly pledged that health services would be provided to LGBTI people in a non-discriminatory way. Serious concerns for how this could work in practice remain, given that the Ministry has no control over police actions, said Human Rights Watch and Amnesty International.

'Interviews with LGBTI people indicate the risk of health care workers violating patient confidentiality.'<sup>46</sup>

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## 2.7 Restrictions on Civil Society Groups

2.7.1 Prior to the introduction of the new law, the USSD Human Rights Report 2014 reported that NGO organisations experienced difficulties in their registration in 2013: 'Discriminatory aspects of the law prevented LGBT organizations from registering as

<sup>42</sup> Danish Immigration Service and Danish Refugee Council fact finding report, 'Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service's and the Danish Refugee Council's fact finding mission to Kampala, Uganda from 16 to 25 June 2013', January 2014, <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsInUgandaFinal.pdf>, accessed: 10 March 2014

<sup>43</sup> Anti-Homosexuality Act 2014, annex C.

<sup>44</sup> BBC, 'Uganda says healthcare is for all despite anti-gay law', 26 February 2014, <http://www.bbc.co.uk/news/world-africa-26349166>, date accessed: 10 March 2014

<sup>45</sup> BBC, 'Uganda says healthcare is for all despite anti-gay law', 26 February 2014, <http://www.bbc.co.uk/news/world-africa-26349166>, date accessed: 10 March 2014

<sup>46</sup> Human Rights Watch, [www.hrw.org](http://www.hrw.org), [Uganda: Anti-Homosexuality Act's Heavy Toll](http://www.hrw.org), 15 May 2014, accessed on 8 August 2014



NGOs. On September 1, the NGO Board began requiring all NGOs to reregister in a move to update the national NGO registry. According to the NGO Board secretary, the registration process was extended until the January 2014 board meeting to decide the way forward.’<sup>47</sup>

- 2.7.2 The same source further reported: ‘On January 14 [2013], Human Rights Awareness and Promotion Forum-Uganda reported that, of the 15 LGBT organization that had submitted applications, eight organizations were registered with the URSB [Uganda Registration Services Bureau] and had certificates of incorporation issued while three were pending registration. The URSB rejected the application of Sexual Minorities Uganda’s (SMUG) on grounds that the name was not clear.’<sup>48</sup>
- 2.7.3 The South African media agency, Mail and Guardian, in an article dated 21 June 2012, reported:
- 2.7.4 ‘Simon Lokodo, the country’s ethics and integrity minister, claimed the organisations were receiving support from abroad for Uganda’s homosexuals and “recruiting” young children into homosexuality. ... “I have established that 38 NGOs, if not more, exist not for humanitarian reasons but to destroy the traditions and culture of this country by promoting homosexuality,” he said on Wednesday. “We found that, on the pretext of humanitarian concerns, these organisations are being used to promote negative cultures. They are encouraging homosexuality as if it is the best form of - sexual behaviour.” ... The former Roman Catholic priest said he believed the ban would come into a force next week. “If the NGOs continue to operate, they will be doing so illegally [and] they will have to face a court of law.”’<sup>49</sup>
- 2.7.5 A Guardian report, ‘Ugandan minister shuts down gay rights conference’, dated 15 February 2012, stated that Ugandan cabinet minister, Simon Lokodo, raided a gay rights conference and demanded that one of the organisers be arrested for insulting him. The minister was accompanied by police officers to a hotel where he told activists their workshop was an ‘illegal assembly’ and ordered them out.<sup>50</sup>
- 2.7.6 A Gay Star News report, ‘Gay activists implant “perverted feelings” in kids, says Uganda minister’, dated 15 August 2012, stated:
- ‘Simon Lokodo, Uganda’s Minister for Ethics and Integrity, has justified the arrest of gay activists by claiming they implanted ‘perverted feelings’ in the minds of children. ... ‘In an interview with freelance photographer and journalist Rachel Adams, Lokodo insisted raids on gay rights meetings in February and June were ordered by him because the Non Governmental Organizations were “mixing positive things with things which we call in Uganda, bad.”
- “They were also going around implanting in the minds of small children and persons below 18 attitudes of perverted, disoriented feelings in their sexual expressions. In other words, they were supportive of homosexuality and lesbianism which is not permitted in Uganda.” ... In June, the homophobic politician announced plans to ban 38 pro-gay groups which he claims promote homosexuality.’<sup>51</sup>

<sup>47</sup> United States State Department ‘Country Report on Human Rights Practices for 2013’ on Uganda, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220173.htm>, date accessed: 10 March 2014

<sup>48</sup> United States State Department ‘Country Report on Human Rights Practices for 2013’ on Uganda, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220173.htm>, date accessed: 10 March 2014

<sup>49</sup> Mail and Guardian, <http://mg.co.za/>, ‘Uganda cracks down on ‘homosexual’ NGOs’, 21 June 2012, <http://mg.co.za/article/2012-06-21-cks-down-on-homosexual-ngos>, date accessed 12 November 2013

<sup>50</sup> The Guardian, ‘Ugandan minister shuts down gay rights conference’, 8 February 2012, <http://www.theguardian.com/world/2012/feb/15/ugandan-minister-gay-rights-conference>, date accessed 12 November 2013

<sup>51</sup> Gay Star News, ‘Gay activists implant “perverted feelings” in kids, says Uganda minister’, 15 August 2012, <http://www.gaystarnews.com/article/gay-activists-implant-perverted-feelings-kids-says-uganda-minister150812>, date accessed 13 November 2013

- 2.7.7 International Gay and Lesbian Human Rights Commission reported on 11 July 2014 that:
- ‘Based on its fact-finding trip to Uganda in April, IGLHRC said it found the AHA has already had drastic consequences for the LGBT community and its allies. Activists and LGBTI organizations, along with their allies from other human rights organizations, were unable to speak publicly or to provide services to their constituencies for fear of arrest. Partners reported an increase in intimidation by the police and local village leaders, often leading to physical attacks, arrests, extortions and evictions of LGBT individuals.’<sup>52</sup>
- 2.7.8 An article in Pink News by Professor Paul Johnson, University of York, reported on 1 August 2014 that
- ‘... the High Court of Uganda ruled on 24 June 2014 (in Nabagesera and Others v Attorney General and Another), it is lawful for the state to prevent and close down LGB focused activities (such as workshops on human rights and advocacy). This is because they amount to ‘incitement to commit homosexual acts and conspiracy to effect an unlawful purpose’ under the Penal Code Act.
- ‘Therefore, we need to remember that LGB Ugandans are subject to some of the toughest criminal laws in the world and that the enforcement of these laws will continue.’<sup>53</sup>
- 2.7.9 There is as yet no evidence if the annulment of the AHA 2014 on 1 August 2014 has led to a less hostile operating environment for NGOs which support LGBT persons.

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## 2.8 Societal Attitudes and Treatment

- 2.8.1 The USSD Human Rights Report 2014 stated that one of the three main challenges facing Uganda was violence and discrimination against marginalized groups, including the lesbian, gay, bisexual and transgender (LGBT) community (the others being a lack of respect for the integrity of the person (including unlawful killings, torture, and other abuse of suspects and detainees) and restrictions on civil liberties).<sup>54</sup>
- 2.8.2 The Danish FFM Report 2014 highlighted that the mandate of the Equal Opportunities Commission, meant that it could not become involved in ‘issues against morality’. It was not clear from the sources referred, to what extent the EOC would assist LGB persons in Uganda. A court case was pending to review the EOC’s mandate and whether it would afford protection to LGBT persons. For further information refer direct to the source.<sup>55</sup>
- 2.8.3 CNN reported that ‘Attitudes against homosexuality are prevalent in Uganda. A 2013 report from Pew Research found that 96% of Ugandans believe society should not accept homosexuality.’<sup>56</sup> A report from Agence France Presse/Reuters, dated 25

<sup>52</sup>International Gay and Lesbian Human Rights Commission (IGLHRC), [www.iglhrc.org](http://www.iglhrc.org), [IGLHRC to the Government \[sic\] of Uganda: Stop Harassment, Intimidation and Violation of Basic Human Rights of Individuals Arrested under the Anti-Homosexuality Act](#), 11 July 2014, accessed on 8 August 2014

<sup>53</sup> Pink News, [www.pinknews.co.uk](http://www.pinknews.co.uk), [Comment: Despite today’s court ruling, the situation for gay people in Uganda remains bleak](#), 1 August 2014, accessed on 8 August 2014

<sup>54</sup> States State Department ‘Country Report on Human Rights Practices for 2013’ on Uganda, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220173.htm>, date accessed: 10 March 2014

<sup>55</sup> Danish Immigration Service and Danish Refugee Council fact finding report, ‘Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service’s and the Danish Refugee Council’s fact finding mission to Kampala, Uganda from 16 to 25 June 2013’, January 2014, p.47, <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsinUgandaFinal.pdf>, accessed: 10 March 2014

<sup>56</sup> CNN, ‘Uganda president: Homosexuals are ‘disgusting’’, 25 February 2014, <http://edition.cnn.com/2014/02/24/world/africa/uganda-homosexuality-interview/>, date accessed: 26 February 2014

February 2014, stated: 'Homophobia is widespread in Uganda, where American-style evangelical Christianity is on the rise. ... Gay men and women in Uganda face frequent harassment and threats of violence, and rights activists have reported cases of lesbians being subjected to "corrective" rapes.'<sup>57</sup> An Africa Review article, dated 2 January 2013, (published before the AHB became law) stated: 'As thousands of Ugandans made their resolutions for 2013, mainstream churches and evangelical preachers in Uganda have asked Parliament to urgently pass the Anti-Gay Bill, to avert the recruitment of youngsters into adopting same-sex behaviour.'<sup>58</sup>

- 2.8.4 A blog posted by the Los Angeles Times, dated 20 February 2012, with Jay Abang, 28, a program manager with Freedom and Roam Uganda, a lesbian, gay, bisexual, transgender and intersex human rights organization. According to the source Abang is an openly lesbian activist in Kampala:

'What is it like to be gay in a country where it's essentially illegal?... 'I think it's getting worse by the day. The community is so ignorant and misinformed. People straightaway think it's about sex. They don't think about the person as a human being. It makes it very difficult to change someone's perception. And they think it's a choice. ... Some people say "they can be counseled, they can get out of that.' They say it's not our culture, it's against the Bible. And for the lesbians, they call us haters. They think we just hate men ... 'The general public is quite hostile but you try to behave. For me, behavior is very important. I try to behave myself, [so] that if anyone wants to attack me in any way, they don't have an excuse.

'What other problems do gay people face in Uganda? ... One of our major problems is eviction. Most of us rent houses. Once the landlord knows you're an LGBT person they evict you from the house. It's become a very big problem for most of us.

'There's also extortion. Someone will say, "I'm going to report you to the police." You meet someone and they go to the police and say, "So-and-so tried to recruit me." ... There's harassment in bars, any open spaces really. Especially for lesbians. The boda-bodas [bicycle taxis], normally when we pass them, they say, "We shall kill all of you, make you proper women."

'With all of the hostility out there, how do gay people meet in Uganda? ... We used to have a place; it was kind of a bar where people would come hang out. Most of the other hangout places we've been beaten or chased out... Freedom and Roam has a Friday afternoon meeting for our members; we share ideas, watch movies, talk about a lot of things. But when our offices were raided last year, we decided it's not safe enough. We don't really have a safe space. We do still have the Friday meetings, but members fear to come because of security issues.'<sup>59</sup>

- 2.8.5 The Danish FFM Report 2014 provides extensive information from interlocutors in Uganda on the subject of societal discrimination and treatment, including social stigma and family exclusion and practical difficulties related to being openly gay, such as access to jobs or housing. The following extract is taken from this report, but users are recommended to refer to this report in full:

'OHCHR in Uganda explained that in Uganda, homosexuality is not openly discussed and objective information is not easily available, and it is thus not accepted by broad society to make one's sexual orientation public. In general, all issues related to sexuality

<sup>57</sup> Agence France Presse/Reuters, 'Ugandan president signs law to jail gays for life', 25 February 2014, <http://www.smh.com.au/world/ugandan-president-signs-law-to-jail-gays-for-life-20140225-hvdn7.html#ixzz2veWY975A> (published in The Sydney Morning Herald), date accessed: 11 March 2014

<sup>58</sup> Africa Review, 'Calls to pass the anti-gay Bill dominate Uganda's New Year messages', 2 January 2013, <http://www.africareview.com/News/Calls-to-pass-the-anti-gay-Bill-dominate-New-Year-messages/-/979180/1655856/-/14wngdg/-/index.html>, date accessed: 11 March 2014

<sup>59</sup> LA Times' 'Lesbian activist in Uganda, where homosexuality is illegal', 20 February 2012, [http://latimesblogs.latimes.com/world\\_now/2012/02/uganda-gay-rights.html](http://latimesblogs.latimes.com/world_now/2012/02/uganda-gay-rights.html), date accessed 15 November 2013



have traditionally belonged to the private sphere of the person and have not been openly discussed in public. Historically, there has also existed a strong condemnation of LGBT persons by Anglican priests during the colonial times, leading some authors to conclude that the current homophobia in Ugandan society in fact reflects religious values introduced during the colonial period, and not necessarily pre-colonial values of the African societies.

'Executive Director of Spectrum Uganda, Samuel Ganafa. explained that homosexuality has always existed in Uganda but until recently homosexuality has been hidden and considered a taboo. In that respect the Bahati Bill and the ensuing discussions has actually helped by bringing the issue out in the public.

'Mr. Mwesigye [UHRC] clarified that the LGBT-community faces discrimination and hostility, from both their families and from society, mainly because issues pertaining to sex are very private [within] Uganda's culture and society. He further gave an example that it is unusual to see married couples kiss in public, not even at weddings. As such, the real issue is not homosexuality, but rather the values, cultures and beliefs held in Uganda. It was noted that one of the problems with the AHB is that it brings matters of sexuality into public domain, where it does not belong, and that it has polarised opinions into opponents and supporters. It was added that the government's position is that what takes place in private is a private affair.

'According to an anonymous human rights organization in Uganda, homosexuality is a very sensitive topic in Uganda. Generally, society shuns homosexual people. As a result, the Speaker of Parliament recently gained a lot of support for her pro Bahati Bill activism. It was added that President Museveni has not been clear in his statements concerning the LGBT issue. In fact he has been very contradictory in his public statements.

'According to representatives of Icebreakers cultural norms and religious beliefs are the root cause of homophobia in Uganda today. The introduction of the Bahati Bill has caused concern in the LGBT community and as a LGBT organization Icebreakers is particularly worried about the obligation in the Bill to report knowledge of individual LGBT persons to the authorities. This clause would seriously hamper the work of LGBT organizations in Uganda. It was further added that many LGBT persons live their entire life in hiding – in constant fear of being reported. ... According to an anonymous human rights organization in Uganda, the biggest challenge for LGBT persons is that they cannot have consensual relationships in public. Further, cultural and religious beliefs seem to be the cause for this discrimination.'<sup>60</sup>

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## Transgender persons

2.8.6 In its shadow report to the UN Committee on the Elimination of Discrimination against Women of September 2010, the IGLHRC observed that:

'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, 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...

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<sup>60</sup> Danish Immigration Service and Danish Refugee Council fact finding report, 'Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service's and the Danish Refugee Council's fact finding mission to Kampala, Uganda from 16 to 25 June 2013', January 2014, p.47, <http://www.nyidanmark.dk/NR/ronlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsInUgandaFinal.pdf>, accessed: 10 March 2014

‘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.’<sup>61</sup>

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### Public Hostility towards the Gay Community, Including Media ‘Outing’

2.8.7 A Guardian article dated 28 January 2011 reported that Anglican pastor Thomas Musoke launched into a ‘homophobic tirade’, at the funeral of gay rights activist, David Kato: “The world has gone crazy,” Musoke said. “People are turning away from the scriptures. They should turn back, they should abandon what they are doing. You cannot start admiring a fellow man.” Police were forced to intervene, escorting the pastor away from the funeral.<sup>62</sup> The article went on to explain that Kato was ‘... one of few openly homosexual men in the country, and was regarded as the “grandfather” of the gay community due to his long struggle for equal rights. His death came just three weeks after he won a court victory against a newspaper that had called for him to be hanged.’<sup>63</sup>

2.8.8 An Independent article, dated 22 October 2010, stated:

‘Gay Ugandans have faced a fortnight of attacks and intimidation, say human rights campaigners, after a local newspaper published a list of the country's "top 100 homosexuals". As well as naming gay Ugandans – complete with photographs and addresses – Rolling Stone newspaper also claimed that a deadly disease was attacking homosexuals in Uganda, and said that gays were recruiting one million children by raiding schools.

‘Activists say a number of Ugandans have been attacked since the Rolling Stone newspaper published the front-page story on 9 October [2010] under a banner that read, "Hang Them". ... “Some people could not even get out of the house, as they've been throwing stones,” said Frank Mugisha, the director of LGBT group Sexual Minorities Uganda. “People have received verbal and physical threats.”

‘After the article hit the streets, the government's Media Council ordered the newspaper to stop publishing – not because of the content, but rather as the newspaper had not registered with the administration...The newspaper's managing editor, Giles Muhame, maintains that the article was in the public interest. “We felt there was a need for society to know that such characters exist amongst them. Some of them recruit young children into homosexuality, which is bad and needs to be exposed,” he said.’<sup>64</sup>

2.8.9 A Guardian report, dated 23 November 2013, reported on the media ‘outing’ of a British national:

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<sup>61</sup> International Gay and Lesbian Human Rights Commission, [www.iglhrc.org](http://www.iglhrc.org), [Shadow report to the UN Committee on the Elimination of Discrimination against Women](#), September 2010, accessed on 8 August 2014

<sup>62</sup> The Guardian, ‘Ugandan gay activist David Kato's funeral marred by angry scenes’, 28 January 2011, <http://www.theguardian.com/world/2011/jan/28/gay-activist-david-kato-funeral>, date accessed: 28 March 2014

<sup>63</sup> The Guardian, ‘Ugandan gay activist David Kato's funeral marred by angry scenes’, 28 January 2011, <http://www.theguardian.com/world/2011/jan/28/gay-activist-david-kato-funeral>, date accessed: 28 March 2014

<sup>64</sup> The Independent, ‘Outcry as Ugandan paper names “top homosexuals”’, 22 October 2010, <http://www.independent.co.uk/news/world/africa/outcry-as-ugandan-paper-names-top-homosexuals-2113348.html>, date accessed 15 November 2013

‘Bernard Randall, the British gay man charged with homosexuality-related offences in a Ugandan court, glances up sceptically when I walk into his lawyer’s chambers. His Ugandan partner, Albert Cheptoyek, sits protectively in front of him, closer to the door, on a rickety wooden bench. Cheptoyek’s white shirt illuminates his dark sweaty skin, while Randall’s oversize dull-coloured clothes match his face, making him almost invisible.

‘And that perhaps may just be the effect he needs to get through the ordeal of having the content of a sex tape of him and his 30-year-old partner splashed over newspapers and across the media here. And not just any media, but the media of a country that has declared homosexuality to be an evil practice, a cancer imported from the west that must be stamped out no matter what the cost... In Uganda the media routinely out gay people in an attempt to "protect" the moral fabric of society. In 2010 a tabloid called the Rolling Stone printed the names and addresses of people perceived to be gay and called on the public to hang them. ... Randall, 65, says that he became a victim of such an outing after his computer was stolen, a video of him and his partner leaked and pictures from it published in a tabloid. He faces the possibility of two years in prison. His partner faces the more serious charge of carrying out acts of gross indecency that carries a seven-year prison sentence.’<sup>65</sup>

For further information about the above news report, see:

<http://globalnews.ca/news/999355/gay-british-man-may-avert-trial-in-uganda-after-visa-extension-denied/> and <http://www.bbc.co.uk/news/uk-england-kent-25491455>

2.8.10 Following the assent of the AHA into law in February 2014, an article published by the Independent, dated 26 February 2014 stated that the Uganda paper, the Red Pepper, had published a list of 200 ‘top homosexuals’. According to the source: ‘Those who appear on the list include prominent Ugandan gay activists such as Pepe Julian Onziema, who condemned the anti-gay bill on Monday [24 February 2014], and has repeatedly warned the law could spark violence against people thought to be homosexual.’<sup>66</sup>

2.8.11 The SMUG report which documented 162 incidents of harassment / discrimination against LGBT persons between 20 December 2013 and 1 May 2014, recorded 29 cases of

‘...”outing” of people by the press, each one included reports of further persecution. For example, two people lost their jobs; ten people were physically threatened (including one man who received death threats and another who fled the country); three people have been blackmailed; and two physically attacked.

‘In 7 cases non-physical threats to reveal a person’s sexuality to the community, to the police, or to the press were reported. The consequences of someone’s name being leaked to and by the press are serious. Not only do they stand a risk of being arrested, they may also face physical attack, threats, blackmail and eviction.’<sup>67</sup>

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## Societal Violence and Intimidation

<sup>65</sup> The Guardian, ‘Uganda: no country for gay men’, 23 November 2013, <http://www.theguardian.com/world/2013/nov/23/uganda-no-country-gay-men?INTCMP=ILCNETTXT3487>, date accessed 29 November 2013

<sup>66</sup> The Independent, ‘Ugandan newspaper Red Pepper publishes ‘top 200’ homosexuals list’, 25 February 2014, <http://www.independent.co.uk/news/world/africa/ugandan-newspaper-publishes-200-top-homosexuals-list-9152442.html>, date accessed: 26 February 2014

<sup>67</sup> Sexual Minorities in Uganda, [www.sexualminoritiesuganda.com](http://www.sexualminoritiesuganda.com), [From Torment to Tyranny. Enhanced Persecution in Uganda Following the Passage of the Anti-Homosexuality Act 2014, 20 December 2013 – 1 May 2014](#), undated, p7, accessed on 8 August 2014

- 2.8.12 A report from Agence France Presse/Reuters, dated 25 February 2014, stated that homophobia was widespread in Uganda, with gay men and women facing frequent harassment and threats of violence. Rights activists reported cases of lesbians being subjected to "corrective" rapes.<sup>68</sup>
- 2.8.13 In January 2011 prominent gay activist, David Kato, was beaten to death. Mr Kato's picture was published in the Rolling Stone article, 'Hang them', which 'outed' several people it said were gay (BBC, 'Uganda gay rights activist David Kato killed', 27 January 2011)<sup>69</sup>.
- 2.8.14 According to Human Rights First, the police had ruled out homophobia as a motive for the attack. (Human Rights First, 'Communities Under Siege: LGBTI Rights Abuses in Uganda, undated')<sup>70</sup>
- 2.8.15 A report from the Daily Monitor also noted that the Ugandan police had issued a statement to the effect that Kato's killing was no way related to his campaign for gay rights<sup>71</sup>. However the NGO Sexual Minorities Uganda (SMUG) group said Mr Kato had been receiving death threats since his name, photograph and address were published by Rolling Stone in 2010. (BBC, 'Uganda gay rights activist David Kato killed', 27 January 2011)<sup>72</sup>.
- 2.8.16 On 2 February 2011, police arrested Sidney Enock Nsubuga for Kato's murder. On 9 November 2011, Nsubuga pled guilty and was sentenced to 30 years' imprisonment (US State Department 'Country Report on Human Rights Practices for 2011' on Uganda, 21 May 2012).<sup>73</sup> An Associated Press report, dated 10 November 2011, noted that Enoch said he was provoked by sexual advances that Kato made toward him. (Associated Press, 10 November 2011)<sup>74</sup>
- 2.8.17 See also obituary on David Kato: <http://www.bbc.co.uk/news/world-africa-12299786>
- 2.8.18 The Human Rights First article, undated (circa 2011), provided documented cases of societal violence perpetrated against LGB persons. The report is available at: <http://www.humanrightsfirst.org/wp-content/uploads/Discrimination-against-LGBTI-Ugandans-FINAL.pdf>
- 2.8.19 The Danish FFM Report 2014 provides information on mob violence and 'hate crimes' in Uganda. The following is an extract from this report. Users are recommended to refer to the source in full:
- 'Representatives of Icebreakers stated that LGBT activist do not have any reason to fear the police. Activists fear violence from the public. Mob violence or mob justice would include beatings but there has been no cases of mob violence leading to killings

<sup>68</sup> Associated Press, 'Ugandan president signs law to jail gays for life', 25 February 2014, <http://www.smh.com.au/world/ugandan-president-signs-law-to-jail-gays-for-life-20140225-hvnd7.html#ixzz2veWV975A> (accessed via The Sydney Morning Herald), date accessed: 11 March 2014

<sup>69</sup> BBC, 'Uganda gay rights activist David Kato killed', 27 January 2011, <http://www.bbc.co.uk/news/world-africa-12295718>, date accessed 15 January 2015

<sup>70</sup> Human Rights First, 'Communities Under Siege: LGBTI Rights Abuses in Uganda', undated, <http://www.humanrightsfirst.org/wp-content/uploads/Discrimination-against-LGBTI-Ugandans-FINAL.pdf>, date accessed 9 January 2014

<sup>71</sup> The Daily Monitor, 'Gay activist murderer sentenced to 30 years', 10 November 2011, <http://www.monitor.co.ug/News/National/-/688334/1270664/-/bgvjh8z/-/>, date accessed 27 March 2014

<sup>72</sup> BBC, 'Uganda gay rights activist David Kato killed', 27 January 2011, <http://www.bbc.co.uk/news/world-africa-12295718>, date accessed 15 January 2015

<sup>73</sup> United States State Department 'Country Report on Human Rights Practices for 2011' on Uganda, 21 May 2012, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186254.htm>, date accessed: 10 March 2014

<sup>74</sup> Associated Press, 'Ugandan court: 30 years for killer of gay activist', 10 November 2011, accessed via Boston.com, [http://www.boston.com/news/world/africa/articles/2011/11/10/ugandan\\_court\\_30\\_years\\_for\\_killer\\_of\\_gay\\_activist/](http://www.boston.com/news/world/africa/articles/2011/11/10/ugandan_court_30_years_for_killer_of_gay_activist/), date accessed: 27 March 2014



as far as the representatives of Icebreakers were informed. The police would intervene and stop situations of violence against LGBT persons before they turn lethal, if the police are present or called to the scene.

'The UHRC represented by Secretary to the Commission, Mr. Mwesigye, explained that there has been a lot of fuss about homosexuality. However, the fact remains that homosexuality has existed in Ugandan for centuries and therefore has not been just imported in Uganda. The UHRC asserted that the level of persecution against the gay community has been minimal and cannot be specifically attributed to reported killings.

'According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, cases of mob justice or violence are reported but it cannot be said to happen often. When mob violence takes place this would include insults against the suspected LGBT persons as well as beatings. The police do react to mob violence and rescue the victim from the mob. However, it could be that the police would postpone their intervention in order for the victim to receive a proper beating from the mob. It was added that the police would investigate all cases of mob justice. Mob justice would usually take place when a thief is apprehended in a market or if the mob catches a suspected murderer.

'Concerning the consequences of being outed in either the printed press or in the social media, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that online harassment and harassment from neighbors is common. Neighbors and family members could also subject a person, who has been outed in the media, to violence, although there were no reports of severe violence and no reports of mob violence.' <sup>75</sup>

- 2.8.20 Human Rights Watch reported on 15 May 2014 that 'Since Museveni signed the Anti-Homosexuality Act on February 24, several LGBTI people have been violently assaulted, with '[a]t least one transgender person has been killed since the bill was signed, in an apparent hate crime.' The same report also observed that since the passage of the AHA, LGBT persons 'had experienced loss of employment, evictions and homelessness, and scores have fled the country.' <sup>76</sup> See the HRW report for examples of incidents. <http://www.hrw.org/news/2014/05/14/uganda-anti-homosexuality-act-s-heavy-toll>
- 2.8.21 The SMUG report of May 2014 documented 162 incidents of harassment / discrimination against LGBT persons between 20 December 2013 and 1 May 2014, including loss of property or employment, intimidation, physical and non-physical threats from a range of actors, mostly societal. 30% of incidents involved an element of violence (with 24 physical attacks; four incidents of torture), while 41% involved an element of intimidation.<sup>77</sup>
- 2.8.22 See the report for further a breakdown of the number, proportion and type of incidents: <http://www.sexualminoritiesuganda.com/Torment%20to%20Tyranny%2009-05-2014%20FINAL.pdf>

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<sup>75</sup> Danish Immigration Service and Danish Refugee Council fact finding report, 'Situation of LGBT persons in Uganda, Joint report from the Danish Immigration Service's and the Danish Refugee Council's fact finding mission to Kampala, Uganda from 16 to 25 June 2013', January 2014, p.61, <http://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsInUgandaFinal.pdf>, accessed: 10 March 2014

<sup>76</sup> Human Rights Watch, [www.hrw.org](http://www.hrw.org), [Uganda: Anti-Homosexuality Act's Heavy Toll](http://www.hrw.org), 15 May 2014, accessed on 8 August 2014

<sup>77</sup> Sexual Minorities in Uganda, [www.sexualminoritiesuganda.com](http://www.sexualminoritiesuganda.com), [From Torment to Tyranny. Enhanced Persecution in Uganda Following the Passage of the Anti-Homosexuality Act 2014, 20 December 2013 – 1 May 2014](http://www.sexualminoritiesuganda.com), undated, p4 - 5, accessed on 8 August 2014

## 2.9 Non-Government Organisations (NGOs) and Civil Society Activism

2.9.1 The Civil Society Coalition on Human Rights and Constitutional Law, in a submission on LGBTI issues for a UN's Human Rights Council (UNHRC) Universal Periodic Review (UPR) on Uganda, dated 11 March 2011, stated:

'... Ugandan Gay, Lesbian, Bisexual, Transgender and Intersexual associations/ organizations comprise of over 500 gay, lesbian, bisexual and trans persons. A further 20 civil society collaborating organizations are involved in defending human rights relating to sexual orientation and gender identity through the Civil Society Coalition on Human Rights & Constitutional Law. The organizations aim at promoting and defending the rights of gay men, lesbian women, bisexuals and Trans and intersex persons, contributing towards the building of a society in Uganda free from all forms of discrimination, including those based on sexual orientation and gender identity, and therefore upholding freedom to diversity of sexual orientation and gender identity with no closed definition...' <sup>78</sup>

2.9.2 In considering the situation for LGB activists the same submission noted:

'...Members of organizations working on LGBTI issues in the country have been forced to flee Uganda fearing for their lives after a local newspaper printed articles exposing their sexuality in a highly inflammatory manner with pictures and their physical addresses/locations calling on the government to hang them. This eventually culminated into the brutal murder of an activist David Kato at his home at a broad day light on the 26th January 2011 an action that was decried/ denounced by the international community but the state turned a deaf ear. The Late David Kato was one of those whose pictures and physical locations was published by the - Rolling Stone News Paper. The lack of education on the totality and complexity of human sexuality has resulted in continued hate speech by Ugandan religious and political leaders and as a result, the entire LGBTI community is considered to be - gay in the Ugandan context. This has paused several dangers where the different populations tried to address their unique needs and formulate relevant interventions – whether health, social, legal, or cultural. It has also created the dangerous and unacceptable image that being gay is the most evil form of - moral decadence.' <sup>79</sup>

2.9.3 The same submission also listed the following LGBTI NGOs: SIPD-Uganda, TITS Uganda, Kulhas Uganda, Frank and Candy, Queer Youth Uganda, Icebreakers Uganda, Sexual Minorities Uganda, Spectrum Uganda Mission, Freedom and Roam Uganda. <sup>80</sup> It is not known if these NGOs remain active.

2.9.4 A Pink News report, 'Uganda: LGBT activists bravely stage pride parade in Kampala', dated 5 August 2013, stated:

'LGBT campaigners staged a Pride parade in Uganda at the weekend – despite the country being known for its widespread and violent homophobic and transphobic persecution. Danish journalist Mikkel Danielsen reports for PinkNews.co.uk.

<sup>78</sup> Joint submission by the Civil Society Coalition on Human Rights and Constitutional Law on LGBTI issues for a United Nations Human Rights Council Universal Periodic Review on Uganda, 11 March 2011 <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/JS1-JointSubmission1-eng.pdf>, date accessed 2 December 2013

<sup>79</sup> Joint submission by the Civil Society Coalition on Human Rights and Constitutional Law on LGBTI issues for a United Nations Human Rights Council Universal Periodic Review on Uganda, 11 March 2011 <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/JS1-JointSubmission1-eng.pdf>, date accessed 2 December 2013

<sup>80</sup> Joint submission by the Civil Society Coalition on Human Rights and Constitutional Law on LGBTI issues for a United Nations Human Rights Council Universal Periodic Review on Uganda, 11 March 2011 <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/JS1-JointSubmission1-eng.pdf>, date accessed 2 December 2013

“Today I can finally be myself. Usually I have to hide my sexuality to protect myself from being abused,” 26-year-old Rachel Newumbe says, while she is attaching a rainbow coloured flag to a white pick-up truck. ... She is a lesbian, but it is only her immediate family and closest friends that know. If the rest of her friends and relatives find out, Rachel is afraid that they will turn their back on her. She did not dare tell anyone that she is participating in the Uganda Beach Pride 2013...The parade is watched closely by six police officers, who shortened this years route to make sure LGBT participants would not come too close to the locals.

2.9.5 “Uganda is not yet mature enough for us to walk freely in the streets. But I hope it will be possible during the next five years for us to parade in Kampala,” says Kasha Jacqueline, who brought Pride to Uganda for the first time last year...Rachel Newumbe is also taking part in the parade for the second time...“If my lesbian friends visit me at home, the rumours will quickly spread in the neighbourhood. When they find out that I am a lesbian, they will immediately kick me out of my apartment, and maybe they will beat me up,” Rachel Newumbe says. ... Roughly every six months she moves to a new area of Kampala to avoid her neighbours becoming aware of her sexuality. She works as a DJ at a nightclub in Kampala, where even her colleagues do not know her sexuality. If the truth is revealed Rachel is certain that she will get fired.’<sup>81</sup>

2.9.6 The AHA made the ‘promotion of homosexuality’ illegal under the Anti-Homosexuality Act, 2014. The SMUG report of 2014 stated that there were 18 LGBT groups operating in Uganda. It further observed:

‘Many LGBTI groups have gone underground in the wake of increasingly aggressive and confrontational conduct of supporters of the AHA. A number of LGBTI support groups and advocacy organisations have been placed under surveillance by the police and risk being attacked. So that they can continue to work, the security concerns of LGBTI groups must be addressed. Without additional support, these groups will not be able to function efficiently, and their invisibility will effectively silence the crucial debate on the human rights of LGBTI people in Uganda... More than 26 organisations that SMUG was working with before the AHA came into force have subsequently withdrawn most of their support to the LGBTI community, with a significant impact on the LGBTI human rights agenda. While there is hope is that these organisations will be willing to work with SMUG again in the future, it is of crucial importance that LGBTI organisations are able to make alliances with mainstream NGOs; it is through them that the LGBTI community in Uganda is able to communicate effectively with government and also educate the general population on LGBTI issues.’<sup>82</sup>

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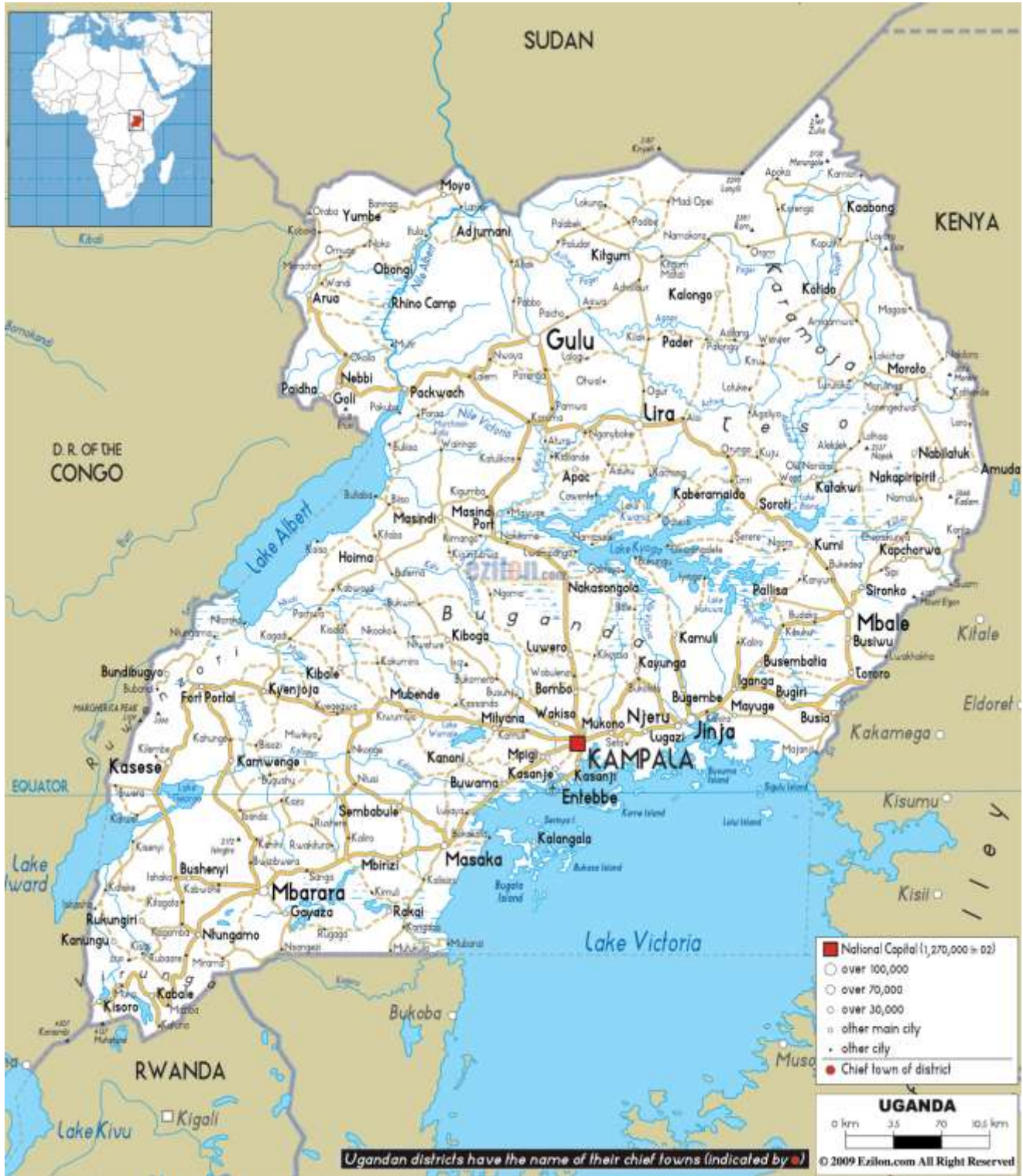
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<sup>81</sup> Pink News, ‘Uganda: LGBT activists bravely stage pride parade in Kampala’, 5 August 2013, <http://www.pinknews.co.uk/2013/08/05/uganda-lgbt-activists-bravely-stage-pride-parade-in-kampala/>, date accessed 10 January 2014

<sup>82</sup> Sexual Minorities in Uganda, [www.sexualminoritiesuganda.com](http://www.sexualminoritiesuganda.com), [From Torment to Tyranny. Enhanced Persecution in Uganda Following the Passage of the Anti-Homosexuality Act 2014, 20 December 2013 – 1 May 2014](#), undated, p105, accessed on 8 August 2014



# Annex A: Map



Weblink: <http://www.ezilon.com/maps/africa/uganda-road-maps.html>

Weblinks to other maps:  
<http://www.ugandamission.net/aboutug/map1.html>:

[http://www.lib.utexas.edu/maps/africa/uganda\\_trans-2005.jpg](http://www.lib.utexas.edu/maps/africa/uganda_trans-2005.jpg)

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# Annex B: Anti-Homosexuality Act, 2014

<http://wp.patheos.com.s3.amazonaws.com/blogs/warrenthrockmorton/files/2014/02/Anti-Homosexuality-Act-2014.pdf>

The Anti-Homosexuality Act, 2014.

Arrangement of Sections.

Part I—Preliminary.

Section

1. 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 abetting 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.

Part IV—Miscellaneous Provisions.

14. Extradition.
15. Regulations.

The Anti-Homosexuality Act, 2014.

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.

Date of Assent:

Date of Commencement:

Be it Enacted by Parliament as follows:

## Part I—Preliminary.

### 1. 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;

“child” means a person below the age of eighteen years; “court” means a chief magistrates court; “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 three years or more;

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

“misdemeanor” means any 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 offence of aggravated homosexuality where the—

- (a) person against whom the offence is committed is below the age of eighteen 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 or overpower him or her so as to 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 imprisonment for life.

(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 for seven years.

(2) A person who attempts to commit the offence of aggravated homosexuality commits an offense 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 officer, prosecutor, judicial officer and medical practitioner, and any party 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.

(3) Any editor, publisher, reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer or director of a film in 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 the victim or court, commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty currency points.

#### Part III—Related Offences and Penalties.

#### 7. Aiding and abetting 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.

(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; or

(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; commits an offence and is liable on conviction to imprisonment for seven years



(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 her or with any other person commits an offence and is liable, on conviction, to imprisonment for seven years.

11. Brothels.

(1) A person who keeps a house, room, set of rooms or place of any kind for 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.

(1) 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.

(2) A person or institution commits an offence if that person or institution conducts a marriage ceremony between persons of the same sex and shall, on conviction, be liable to imprisonment for a maximum of seven years for individuals or cancellation of licence for an institution.

13. Promotion of homosexuality.

(1) A person who—

- (a) participates in production, procuring, marketing, broadcasting, disseminating, publishing of 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; or
- (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 five 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, proprietor or promoter shall be liable, on conviction, to imprisonment for seven years.

Part IV—Miscellaneous

14. Extradition.

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

#### 15. Regulations.

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

#### Schedule

#### Currency Point

One currency point is equivalent to twenty thousand shillings.

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# Annex C: Caselaw

**JM (homosexuality: risk) Uganda CG [2008] UKIAT 00065** held that ‘Although there is legislation in Uganda which criminalises homosexual behaviour there is little, if any, objective evidence that such is in fact enforced. Notwithstanding a prevailing traditional and cultural disapproval of homosexuality, the evidence does not establish that in general there is persecution of homosexuality in Uganda.’ However the current country information is that LGB persons are subjected to government and societal harassment, discrimination, intimidation, and threats to their well being, as well as denial of access to health services, which has been exacerbated by the Anti-Homosexuality Act and the rhetoric surrounding it. **Given these developments, decision makers should no longer rely upon the findings of JM.**

**HJ (Iran) v Secretary of State for the Home Department (Rev 1) [2010] UKSC 31 (07 July 2010)** held that:

If a person chooses to live discreetly because he/she wants to avoid embarrassment or distress to her or his family and friends he/she will not be deemed to have a well founded fear of persecution and will not qualify for asylum. This is because he/she has adopted a lifestyle to cope with social pressures and not because he/she fears persecution due to her or his sexual orientation.

If a person chooses to live discreetly because he/she fears persecution if he/she were to live as openly gay, lesbian or bisexual then he/she will have a well founded fear and should be granted asylum. It is important that gay, lesbian and bisexual people enjoy the right to live openly without fear of persecution. They should not be asked or be expected to live discreetly because of their well founded fear of persecution due to their sexual orientation.

**Court of Justice of the European Communities (including Court of First Instance Decisions), Minister voor Immigratie en Asiel v Hoog Commissariaat van de Verenigde Naties voor de Vluchtelingen [2013] EUECJ C-199/12 (07 November 2013)** held that:

- the existence of criminal laws which specifically target homosexuals supports the finding that those persons must be regarded as forming a particular social group;
- the criminalisation of homosexual acts per se does not constitute an act of persecution. However, a term of imprisonment which sanctions homosexual acts and which is actually applied in the country of origin which adopted such legislation must be regarded as being a punishment which is disproportionate or discriminatory and thus constitutes an act of persecution; and
- When assessing an application for refugee status, the competent authorities cannot reasonably expect, in order to avoid the risk of persecution, the applicant for asylum to conceal his homosexuality in his country of origin or to exercise reserve in the expression of his sexual orientation.

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# Change Record

Version	Date	Change References
1.0	02/04/2014	First version of guidance.
2.0	20/08/2014	Updated to reflect annulment of AHA.

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