



Uganda – Researched and compiled by the Refugee Documentation Centre of Ireland on 10 December 2012

What is the legal status of homosexuals in Uganda? Any recent legislation enacted on this topic?

The legal status of homosexuals in Uganda is determined by the Penal Code Act of 1950.

Paragraph 145. “Unnatural offences” of this act states:

“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.”
(Ministry of Public Service of Uganda (15 June 1950) *The Penal Code Act (Chapter 120)*)

Paragraph 146. “Attempt to commit unnatural offences” states:

“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.” (ibid)

Paragraph 148. “Indecent practices” states:

“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, whether in public or in private, commits an offence and is liable to imprisonment for seven years.” (ibid)

A proposed Anti Homosexuality Bill, in paragraph 1.1. “The principle”, states:

“The object of this Bill is to establish a comprehensive consolidated legislation to protect the traditional family by prohibiting (i) any form of sexual relations between persons of the same sex; and (ii) the promotion or recognition of such sexual relations in public institutions and other places through or with the support of any Government entity in Uganda or any non governmental organization inside or outside the country. This Bill aims at strengthening the nation’s capacity to deal with emerging internal and external threats to the traditional heterosexual family. This legislation further recognizes the fact that same sex attraction is not an innate and immutable characteristic. The Bill further aims at providing a comprehensive and enhanced legislation to protect the cherished culture of the people of Uganda. legal, religious, and traditional family values of the people of Uganda against the attempts of sexual rights

activists seeking to impose their values of sexual promiscuity on the people of Uganda. There is also need to protect the children and youths of Uganda who are made vulnerable to sexual abuse and deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increasing attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise.” (Parliament of Uganda (2009) *The Anti Homosexuality Bill*)

An IRIN News timeline document, in a paragraph headed “October 2009”, states:

“David Bahati, MP for the ruling party, National Resistance Movement (NRM), tables the Anti-Homosexuality Bill, which includes the death penalty for ‘aggravated homosexuality’ - the sexual assault of a member of the same sex who is aged 18 or younger, or is disabled. Activists decry the bill as a violation of human rights that would make men who have sex with men (MSM) even less willing to access health services.” (IRIN News (11 July 2012) *Uganda: A timeline of events affecting LGBTI*)

See also paragraph headed “May 2011” which states:

“David Bahati says he will introduce an altered version of the Anti-Homosexuality Bill under which the crime of ‘attempted homosexuality’ and a clause requiring people to report homosexual activities to the police within 24 hours or face jail are deleted. The death penalty clause has also been removed.” (ibid)

An IRIN News report states:

“Uganda's parliament will, before Christmas, pass a highly controversial bill which seeks more stringent punishments for people engaging in homosexual acts and those perceived to be ‘promoting’ homosexuality, says the speaker of the house. Rebecca Kadaga told hundreds of petitioners in Kampala on 9 November that she would ensure the Anti-Homosexuality Bill, which has been before parliament since 2009, would be passed before the end of 2012.” (IRIN News (13 November 2012) *Uganda: Anti-gay bill could be passed before Christmas*)

A Voice of America News report states:

“Uganda’s speaker of parliament has promised a controversial anti-homosexuality bill will pass by the end of the year. A new coalition led by the former state minister for ethics says the country is prepared to deal with any international fallout. The Coalition for Advancement of Moral Values does not officially launch until next week. But last Friday, the group of religious and civil society leaders organized a meeting with more than one-third of Uganda’s members of parliament. There they pushed for the reintroduction of a bill that would broaden rationalization of homosexuality. Before the meeting ended, Rebecca Kadaga, the speaker of parliament, promised the bill would pass before the end of the year. James Nsaba Buturo, the former ethics minister and a coalition leader, says the measure’s widespread popularity will speed its approval. ‘I can tell you it has 99 percent chance. It will pass. No question about it,’ Buturo said. ‘If there was any leader in this country who sympathizes with homosexuality, he will not say it in public. Because he knows that

Ugandans, by and large, do not support that way of life.’ The bill was originally introduced in 2009. The initial version included the death penalty for some actions, like engaging in sexual activity with people under 18. Buturo says the death penalty language has now been stripped from the legislation and replaced with shorter prison sentences.” (Voice of America News (14 November 2012) *Uganda Moves Forward on Anti-Gay Bill*)

An Amnesty International alert states:

“The Ugandan Penal Code already prohibits consensual sex between individuals of the same sex. However, the Anti Homosexuality Bill goes much further. Earlier drafts of the Bill provided for the death penalty for the offence of ‘aggravated homosexuality’. It is not clear whether the death penalty remains in the Bill, but Amnesty International understands that some provisions may have been amended. In its current draft, life sentences may be imposed for consensual sexual conduct between people of the same sex.” (Amnesty International (26 November 2012) *Anti-Homosexuality Bill Could Pass Imminently*)

An article from The Guardian states:

“The latest news is that the death penalty clause has been removed although the threat of death remains. The second objective states the bill will ‘prohibit and penalize homosexual behaviour and related practices in Uganda as they constitute a threat to the traditional family’. The phrase ‘related practices’ could mean anything and leaves the door open to subjective interpretations. This is later spelled out in more detail to the extent that ‘touching – with the intent to commit a homosexual act’ is a crime. Any form of advocacy and failure to report an offense will be subject to a fine and up to three years in prison. This will include medical staff, counselors, priests and pastors, employers and family members. One of the worst aspects of the bill is in clause five, which effectively allows ‘victims’ to kill anyone they claim has committed a homosexual offense against them.” (The Guardian (26 November 2012) *Uganda will pass anti-homosexuality bill this year, says Speaker*)

An Inter Press Service article refers to the concerns of a Ugandan gay rights activist as follows:

“His concerns come at a time when the parliament of this East African nation has revived the infamous Anti-Homosexuality Bill, also known as the ‘Kill the Gays’ bill. Member of Parliament David Bahati introduced the bill in 2009. At the time it proposed the death sentence for people who engaged in intercourse with same-sex, under-aged or disabled persons. A convicted HIV-positive criminal who engaged in same-sex intercourse would also be given the death penalty.” (Inter Press Service (6 December 2012) *Uganda’s “Kill the Gays” Bill Spreads Fear*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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