

REPORT ON THE CURRENT SITUATION OF ITGNC PEOPLE IN UGANDA ON THE VIOLATION AND DISCRIMINATION OF THEIR HUMANRIGHTS 2018-2019.

Background History;

This is the 2018 to 2019 Ugandan report on violation, stigma, and discrimination, which is faced by LGBTIQ people in Uganda. Since 2015, Uganda LGBTIQ people report of violence based on gender identity and sexual orientation, which includes cases of violations based on sex determination.

A bill pending before the Ugandan parliaments from 2015 to 2017 brought to punish anyone who engages in homosexuality, with life imprisonments and prescribe the death penalty for pernicious legislative proposal aimed at gays and lesbians anywhere in the world and feared the death penalty provision could signal a looming gay genocide in Uganda. The bill was popular among voters in Uganda and had near unanimous support in parliament, Ugandan legislation have viewed to introduce the bill or a similar version of it in the ninth parliament.

International human rights law lays down obligation, which states are bound to respect. By becoming parties to international treaties, state assume obligations and duties under international laws to respects, to protect and to fulfill human rights. The obligations of state to respects human rights means that the republic of Uganda must refrain from interfering with or curtailing the enjoyments of human rights. The obligation to protect requires Uganda to protect individuals and groups against human rights and abuses and the obligation to fulfill, require the state to take positive action to facilitate enjoyment of basic human rights. The obligations directly violated by the state are those to respect and fulfill, since state of LGBTIQ persons realize their rights.

The Ugandan police force has the constitutional duty to protect life and property, to keep law and order and to prevent and to detect crime. Indeed in doing its work, the police need to interact with the LGBTIQ persons, and since homosexuality relationship are criminalized, the police at least has some formal legal justification to arrest suspects with a view of prosecuting them .however, this does not take away the rights of the suspected. Yet in most instances, the rights of suspected LGBTIQ persons are violated in the process of law enforcement. The police indeed emergency as the main violators of LGBTIQ rights during the year 2014, despite the few incidents of protection that stand out.

More than half of the violations recorded in Uganda police is the first who commit suicide of LGBTIQ people, these are 47 cases case of violations out of the 89 recorded. All these violations usually start with a police arrest and then they escalate. Although the violations



are clustered in rights violated, usually there are multiple violations within one individual cases. A cases to illustrate this is,

Some of the violation cases by the government;

On 27th January 2018 where police arrested a man on suspicion that he was gay. After the arrest, the police forcibly subjected the suspected to anal exam, which was conducted at myfair clinic under reference number GEF 02/2018 the exam was carried out as a way of obtaining evidence as to whether he had engaged in acts of homosexuality. This was inhuman, degrading, and done without consent.

The suspect was further subjected to a compulsory HIV test, which was contravention of international and national prohibitions on consensual medical experimentation.

The suspects was detained for more than 48 hours thus violating his constitutional rights to liberty. The suspect was arrested and produced in court 21 days after a court warrant was secured.

The suspect was also paraded before the media in detention and this violated the constitutional presumption of innocence and his rights to privacy. The suspected appeared in the red pepper on 29 October under the headline HORRRIABLE city sodomite infects 17 people with HIV. This violated his rights to privacy as his HIV result was publicized.

The violation of the Human rights of ITGNC people perpetrated by the police were as follows in the year of 2017 to 2019, still are the challenges to ITGNC people in Uganda;

- *Violation of right to liberty.*
- *Arbitrary arrests*
- *Arrest without immediately giving suspects reasons for the arrest and without information them about their rights to a lawyer*
- *Being detained beyond 48 hours*

Article 23(5) of the constitution of republic of Uganda says that a person who is arrested or detained, shall have their lawyer given reasonable access to that person. In one documented case, the police denied a transgender victim access to legal counsel,

Use of excessive force during arrest;

There were two documented cases where police used excessive force during arrest. They dragged and they beat up the suspects during the course of arrest, a case that stood out was;

The police arrest a transwoman and she reported being beaten and harassed by the police officers, she was insulted and wounded during the arrest, which left scars on her body.

This is one of the challenges faced by the ITGNC people in Uganda. The government of Uganda do not care about what happens instead of trying to stop these violations, they



provide support to police and community who are against homosexuality in general; there is no right or justice that protect the LGBTIQ people in Uganda.

Forced anal examination;

In three cases, the suspects were subjected to anal exams, this is done to apparently find evidence of anal sex, despite such tests having been founded to be evidentiary worthless and a violation of the rights to dignity and privacy of the person according to the constitution of republic of Uganda.

Detention of transgender persons;

When detaining transgender persons, the police used the perceived gender of the persons to decide which cells to detain them, in all cases transgender men were put in detention cell for women and transgender women put in detention cell of men. In several documented cases, transwomen were detained in male detention cell with men who abused them verbally and through sexual gestures.

Violation of presumption of innocence. Parading of suspects before the media;

Person arrested were also in many cases subjected to violation of the presumption of innocence, which is one of the key components of the right to a fair trial. The presumption of innocence is protected by **article 28(12) of the constitution of Republic of Uganda**, the police violated these rights though parading suspects before the media and labeling them as homosexuals, and impersonators.

This not only violates the rights to presumption of innocence but also puts ITGNC people in Uganda at risk of being subjected to mob justice, and indeed for many of them, this breeds many challenges of fitting back into the community, and leads to violations by members of the public.

So this is the one of the challenges which face ITGNC people in Uganda, even today this continue to happen when police arrest LGBTIQ persons they publish instead of waiting for the court order so this is against constitution of Uganda and also against the International Human rights contracts.

Forced HIV tests;

Mandatory HIV testing is discredited and constitutes to be a violation of the rights to freedom from inhuman and degrading treatments and the rights to privacy and yet in four documented cases, victims of arbitrary arrest reported that they were forced to undergo HIV test without their consent. In one of the cases results of the HIV test were revealed to the media and published in an article declaring that the victims had infected others with HIV.

Response from the International Community;

One statement from Freedom and Roam Uganda;



Freedom and Roam Uganda (FARUG) wishes to stress the following points in relation to the list of issues and questions with regard to the periodic reports of the Republic of Uganda (CEDAW/C/UGA/Q/7).

When we read the report by the state, we realized that the state did not include Lesbian, Bisexual and Transgender (LBT) or Kuchu women, and neither were we consulted to give our views when preparing the report.

The Government enacted the Equal Opportunities Commission Act-2007 and the National Equal Opportunities Policy. However, the Commission is tasked to ensure that affirmative action is taken in favour of marginalized groups and to enforce the prohibition of laws, cultures, customs, and traditions which are against the dignity, welfare, or interest of women or any other marginalized group, or which serve to undermine their status in society. Section 15(6)(d) of the Equal Opportunities Commission Act, however, effectively writes discrimination against LBT/kuchu women into the mandate of this body by stating that the Commission will not investigate “any matter involving behaviour which is considered to be i) immoral and socially harmful, or ii) unacceptable by the majority of the cultural and social communities in Uganda.” There is no standard for evaluating what is considered immoral, harmful, or unacceptable under the legislation, leaving a wide number of marginalized groups – LBT/kuchu women – vulnerable to discrimination and unequal treatment. As such, this Commission will never address the severe discrimination faced by LGBT people as long as homosexuality is considered immoral or unacceptable by a majority of Ugandans.

Madam Chair, its very clear that the Government of Uganda has continued to neglect Article 1 of the constitution of Uganda and Article 1 of CEDAW and thus has gone further to propose harsher laws that would discriminate LBT persons even more by introducing the Anti Homosexuality Bill 2009. This is clearly shown in the Government report by not stating what they have done for LBT/kuchu women since the last CEDAW review. And because of this many members of my community have continued to be discriminated against because of state imposed Laws. Many have been expelled from schools, fired from work, disowned from families, harassed in public spaces and also it has led to many deaths. In the last 5 years we have recorded about 4 deaths of members of the Lesbian Bisexual and Transgender community. Sexual violence is another problem that we face as Lesbians, bisexual and transgender women, many of us have been raped in form of hate crimes, some of us have been raped with the intention of "curing us" of our sexual orientation and/or gender identities, we cannot report these cases to the authorities because of the stigma and discrimination attached to our being which is given voice by the press, institutionalized by the Government’s penal code and given strength by Politicians and religious leaders. We are physically abused and harassed. Just recently, one of my members was attacked by a group of people for dressing like a man. Again, a week ago upon my arrival in Geneva a newspaper published our names in the press and exposed our photos, one of my members exposed in this paper was attacked by men in her neighborhood and stones were thrown at her and her house. But she has nowhere to run because the authorities always claim its illegal to be homosexual and so we deserve it. The newspaper said "HANG THEM" on the front page, which is extreme hate speech and incitement to violence.



A few weeks ago the Chairperson of the Human Rights council noted that individuals in 78 countries still face criminal sanctions on the basis of their sexual orientation or gender identity. “Our first task, I believe is to frame this squarely as a human rights issue and demand that it be tackled as such... Redressing this situation is a test of our existing human rights framework and international human rights institutions.”

We hereby strongly argue the CEDAW committee to recommend the Government of Uganda

- *To respect and protect the rights of every woman regardless of race, color, sex, age, ethnic, religion, sexual orientation and gender identity by specifically including sexual orientation and gender identities among the non discriminatory grounds and/or among marginalized groups.*
- *Oppose the Anti-Homosexuality Bill of 2009 (Bill 18) and similar legislation that explicitly or implicitly violates human rights of all people and that would target kuchu, lesbian, bisexual and transgender people.*
- *Ensure that when media allege people to be kuchu, lesbian, bisexual or transgender, and/or urge violence against them, these individuals are provided with the option of police protection and the perpetrator held accountable.*

Thank you.

Cases and stories of violations and discriminations among ITGNC persons from the community;

Violation by employer denial of work and livelihood;

There are stories of some individual whose rights to work and therefore their livelihood was undermined because of their gender identity, and in all incidents no actions was taken by the states. These incidences are

A police officer identifies as a transwoman, she was denied four months salaries from her work place after being accused of being gay. This was also a direct deprivation of her right to work.

Until now in Uganda, there are employers who do not treat well the LGBTIQ people in their work place because of their sexual orientation or gender identity. ITGNC people lose their rights to employment because of people who do not recognize the LGBTIQ persons in their work place. This is a violation of Human rights according to employments and labor relation ACT of Uganda.

Violation by families, family discrimination and abuse;

Family members on several occasions expel LGBT people from their homes and sharing of family incomes that they are entitled to, mainly because of their gender identity or sexual orientation. They have been forced to report themselves to police by their family members and parents have disowned their own children.

One transgender person was rejected by his family and thrown out of their home and his belongings put on fire. His relatives vowed to kill him rather than have a homosexual in the family.



Violations perpetrated by the media, propelling homophobia;

Uganda media contributes to the high homophobic and transphobia in society through exposing of sexual minorities in Ugandan newspapers, radios, television and online media perpetuating repellent stereotypes, which are always typically sensational, and which at times appears to be utterly devoid of facts. The publication of names and photographs of people suspects to be LGBTIQ perpetrates other forms of violations of their rights. Of importance to note, many ITGNC persons were beaten, harassed or evicted after their photographs published in the media.

Violations by health officials, denial of health services;

Homophobic, sexist and transphobic practices and attitudes on the part of health care providers deter ITGNC persons in Uganda from seeking services out of concerns around breaches of confidentiality, stigma and potentially violent reprisal.

In 2018 one transman faced discrimination at the hand of health workers, he had sought treatment for malaria from a clinic nearby, when he reached there he found a nurse who started working on him. She took him to the doctor's room and started asking him questions of whether he was a man or woman. After a few minutes doctor came asking the same question the doctor accosted him and told him that they do not want people like him in their community and also threatened to involve police in the issue, after that he gave up on the treatments.

Violation by landlords forced evictions from rented premises;

In this case, a forced eviction of one ITGNC person was recorded, the individuals was expelled from their places of residence because of their real or perceived gender identity or sexual orientation. The landlord and neighbors variously demanded that members of ITGNC community leave their premises or altogether vacate from their locality.

Others comment from ITGNC people in Uganda

- My life was in danger when people and the police realized I was a transgender woman, *said Mk who arrived in Kenya last year.* I was attacked and assaulted several times by the residents and arrested by the police. I decided to escape and save my life; Uganda is a dangerous country for ITGNC people like me.
- Uganda is one of the 36 African countries and more than 70 around the world where homosexuality is illegal. It is a notoriously intolerant place for the LGBTIQ people who face arrest, discrimination eviction from their homes and violence from the police and individuals.
- This persecution has spurred an exodus of ITGNC refugees from the country in the recent of years, many refugees have fled to Kenya where homosexuality is also illegal but enforcement of the laws has been more sporadic than Uganda. I need to feel safe like other people in others countries *said Mk*
- ITGNC persons face so many challenges in Uganda, from social exclusion that is denied employment, education discrimination while accessing services that includes



health services to worse. Being arrested disowned by family and disowned by family and friends and verbal and physically violent attacks said Fk. Many Ugandan have left the country to escape police brutality harassment and discrimination.

- Every human being deserve to stay in a place where they are loved accepted and respected Fk said, but it's very unfortunate that for very many LGBTIQ Ugandans this is not the case. I think we need to support them to find a better home. Life is horrible in a slum when you have no job and when you are foreigner said Em a transwoman, Ugandan living in Nairobi has applied for resettlement in a third country, but he won't say where out of fear of alerting them to his sexual preference.
- I'm now making handcraft jewellery to earn a living, I have no friend to ask for help my parent in Uganda disowned me because of my sexual preference have no one to listen to me so I suffer because of what happened in my country Uganda is not a safe place to ITGNC people.

Comments from ITGNC people in Uganda about what they face;

- I found that the place was so terrible, and the situation will remain that same situation, the same I was facing in Uganda that is M 25 years was arrested twice at LGBT events in Uganda where homosexuality and transphobic is illegal.
- One time my family was attacked in the middle of the night. They came to my home they kicked the front door of our house; they entered searched for me and beat me up, said Ar from Uganda, a refugee in Kakuma camp in Kenya.
- I got married because I did not want people to know the truth about me. If they knew, they would have killed me and they can get permission from my family.
- It is not just a cis-man who can give a woman good life. We have strength too we have determination. Said one transman in Uganda who lives with her girlfriend.
- I intend to get married abroad because my country does not allow me to be married as a woman and same sex marriage is criminalized. I also intend to adopt a child and with this, I shall live happily with my family.
- I do not regret anything, if I had to go back in time and do something different I would not do anything different. I would do everything the same said one intersex man who was once a track athlete but later kicked off his team after a photo of him and his girlfriend kissing was posted on Facebook.



Conclusion;

The situation in Uganda has a little bit improved when it comes to the security situation of LGBTIQ people at large and on Transgender people. Still there is fear to access health services at local facilities and ITGNC people specifically get services from recommended providers by the organizations that are there. Transgender people are subjected to discrimination, harassment and even being chased away from their homes. It is still hard to be ITGNC in Uganda.

There is hope and resilience as the community in Uganda still strive to work on issues pertaining their rights and access to health and also on freedom of expression. The media continues to damage the reputation of ITGNC people as transgender women are paraded as people with abnormal behaviour in the society. They still give misleading information and sensationalise these types of news, which are a threat to the security of the ITGNC community in Uganda. Due to the fear we still see people fleeing to the neighbouring countries e.g. Kenya and stay in the refugee camps.

The reasons above are some of the reasons why there is need for more evidence in form of stories and research to be collected so that such data may be used for advocating for the rights of ITGNC people and the LGBTIQ community at large. Evidence gathered and well documented will be the only tool that can be used to advocate for LGBT rights in Uganda, before the policy makers and law enforcers.



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