



**SITUATIONAL ANALYSIS REPORT ON THE VIOLATION AND DISCRIMINATION
OF TRANS, INTERSEX, AND GENDER DIVERSE PEOPLE'S HUMAN RIGHTS IN
BURUNDI IN JUNE 2018-2019**

Background History

Burundi is one of the African countries that has criminalized homosexuality, which affects the entire LGBTIQ+ community. Our members in Burundi have mentioned how they face discrimination from both the government and their communities. Burundi's parliament passed **The Homosexuality Act of 2009** for the first time, criminalizing the LGBTIQ+ community. Originally, the act was defeated in the Senate by a vote of 36-7. The legislation was then returned to the national assembly, which was able to overrule the senate and reinstate the amendments. Following that, President Pierre Nkurunziza signed **Article 567 of the 2009 Burundi penal code**, which punishes same-sex relationships with three months to two years in prison and a fine.

The criminalization of LGBTIQ+ people in Burundi violates the Burundian Constitution, which guarantees the right to privacy and the right to be free from discrimination under **Article 28**. **Article 17** outlines the rights guaranteed by international conventions to which Burundi was a party, but Burundi has signed out of the conventions since last year. **Article 19 of the penal code** is in violation of the ICCPR and the African Charter on Human and Peoples' Rights, both of which should be binding under Article 19 of the constitution.

Human Rights Watch's director of LGBTIQ+ rights programs criticized the new law, claiming that the government has relied on custom and cultural norms to justify these repressive measures. Not only are acts of indecency criminalized, but the legislation may also result in people being imprisoned for their actual or alleged sexual orientation, including private sexual relations



between consenting adults. In April 2009, Human Rights Watch and others petitioned the Burundi government to repeal **Article 67**.

The 1948 Universal Declaration of Human Rights is a universalist document. It was created on the basis that the rights articulated are fundamental to all humans and are derived from a specific language. The first article asserts that all humans are born free and equal in dignity and rights; these are rights that all humans share, but of course, in 1948, most of Africa was still under European colonial rule.

The current situation of trans, intersex, and gender diverse people in Burundi

Because of their perceived sexual orientation and gender identity, trans, intersex, and gender diverse people face discrimination and continue to be marginalized by the community. Families may disown trans, intersex, and gender diverse children who refuse to deny their identity, and some organizational leaders claim that many LGBTIQ+ people enter opposite-sex marriages due to social pressure.

According to the information gathered by EATHAN through interviews with its members, some have been fired from their jobs, beaten by family and neighbors, and evicted from their homes because of their gender identity. EATHAN also discovered that the community is afraid of being beaten or mistreated by police or their fellow citizens simply because of their purported sexual orientation or gender identity. Another concern is that the legislation's implementation will undermine efforts to combat the spread of HIV/AIDS among the LGBTIQ+ community.

Finally, trans, intersex, and gender diverse people are denied the right to access services provided by the justice system. During their incarceration, they are frequently denied any kind of justice, including counsel or representation. They are not benefiting from their non-government organization providing legal services that range in intervention.

At the very least, the situation is better than in many other African countries, where the maximum sentence is two years in prison. Burundian law is far less severe than that of Tanzania and Uganda, where the maximum penalty is life imprisonment, or Somalia and four other countries, where the maximum penalty is death. The media in Burundi is less interested in outing trans, intersex, gender diverse, or larger queer populations. In 2018-2019, the situation began to



deteriorate because of criminalization and an increase in transphobia and homophobia in neighboring countries.

Burundi is a small country in central Sub-Saharan Africa with an estimated 75% Christian population and 20% practicing indigenous religions. It is one of the poorest countries in the world, primarily rural and agricultural, and its official languages are French and Kirundi.

Strategy from the trans, intersex, and gender diverse communities in Burundi

Support is needed in the movement as well as collaboration with mainstream human rights organizations to promote dignity and influence positive changes in Burundi's laws, policies, attitudes, and beliefs that discriminate against trans, intersex, and gender diverse people.

A revolution is needed in the country to help develop and straighten out the trans and intersex movements through program interventions that target policymakers, legislators, the government, the media, religious groups, and citizens with the goal of achieving human rights without fear of violence, imprisonment, harassment, rape, or torture.

Support from other major organizations in and outside of Burundi, as well as from around the world, is critical as we continue to raise our voices until President Nkurunziza's government in Burundi stops violating and discriminating against LGBTIQ+ people. We believe that this will help in the protection and development of their human rights.

According to trans, intersex, and gender diverse people in Burundi, the existence of the law increases stigma and makes them less likely to seek police assistance when they are victims of sexual abuse because of their gender identity.

How the community treats trans, intersex, and gender diverse people

Based on the research EATHAN gathered from interviewing its members, some say that being trans is a taboo and a curse, and some have been forced from their homes because of their gender identity. It is also common for LGBTIQ+ people to be threatened or insulted in the streets. For example, if you dress feminine and are perceived to be a boy, or if you act masculine and are perceived to be a girl, there is a possibility of facing violence from people in the street



who believe that being trans, intersex, and gender diverse in their community is a sin and should not exist in the community.

Students can be expelled from school for being queer, and this includes trans, intersex, and gender diverse people. One of the reasons a student may be expelled and denied admission to any institution during the current school year is suspicion of being queer. Most trans, intersex, and gender diverse students express concern about the negative consequences they may face if their gender identity is revealed or suspected to be different.

The feeling of impunity created by transphobic and homophobic legislation in some places encourages verbal attacks. Due to social pressure and stereotypes, trans, intersex, and gender diverse people face far more discrimination and violence in rural areas than in cities.

Supportive and friendly service providers in Burundi for trans, intersex and gender diverse people

According to one of our members, there is a center called Remuruka. Remuruka is a center that offers health care, social reintegration, and psychological support. It also brings together Burundi's trans, intersex, gender diverse, and queer communities.

According to a member of our steering committee, because of the law adopted in 2009, some organizations changed their names out of fear of violation and being attacked. Despite harsh family, social, and political sanctions, trans, intersex, and gender diverse people in Burundi are demanding justice, equality, safe access to health care, and protection from the cruelty of the government and other Burundians. The struggle is real, but as with all movements, we must begin by raising self-awareness in our community.

How access to employment is a big challenge for trans, intersex, and gender diverse people in Burundi

Trans, intersex, and gender diverse people are often excluded from much of the workforce. Discrimination occurs at all levels of the employment process, including recruitment, training opportunities, and access to career advancements and partner benefits. Even where laws have been passed, employment-related issues have not been addressed, especially at the entry level.



Most trans women find that their job opportunities are limited to being beauticians, entertainers, or sex workers.

This results in poverty, further social exclusion, and homelessness. In countries where employers fund health insurance, unemployment excludes trans people from accessing healthcare insurance. Many trans, intersex, and gender diverse people identify gender recognition as a precursor to gainful employment. If a person's gender is legally recognized, it empowers them to apply for jobs they are qualified for, and there will be less confusion in the hiring process.

Ensuring legal gender recognition, providing equal access to employment opportunities, and developing and improving anti-discrimination policies that protect trans workers. Protecting safety and security in the workplace is essential for ensuring that trans individuals are treated equally in the Burundi labor market, as what employment and labor relations law says. Also, governments should be responsible for providing such protections to other people according to the Human Rights Act, but in the absence of such efforts, trans activists have explored other approaches to creating opportunities for other trans, intersex, and gender diverse people in Burundi.

Critical issues that face the trans, intersex, and gender diverse people in Burundi.

- HIV prevention education: Trans, intersex, and gender diverse people in Burundi say they need safe, competent, inclusive, gender-affirming, inclusive, and sex-positive sex information that is specifically tailored to their bodies, relationships, and community concerns.
- Barriers to accessing health care: Trans, intersex, and gender diverse people face additional barriers to healthcare that other HIV-affected people do not, specifically the very real fear of being discriminated against or denied treatment because of their gender identity or expression by health care professionals. Because of these barriers, they are more likely to avoid getting tested and less likely to seek HIV-related medical care.
- Violence: In addition to the high rates of harassment and violence experienced by trans, intersex, and gender diverse people in Burundi, they also have much higher rates of sexual violence than the general population and other groups within the LGBTQI+ community. They are also more likely to be dismissed or victimized by police



and less likely to report an assault or seek post-assault care and medication, such as post-exposure prophylaxis (PEP).

- Poverty and unemployment: Trans, intersex, and gender diverse people in Burundi who have been discriminated against in employment or who have been unable to further their education due to bullying or harassment in school are more likely to engage in survival sex work, which may increase their risk of contracting HIV and other sexually transmitted infections (STIs).
- Access to police protection and justice: the lack of basic recognition before the law impedes access to resources for crimes, a significant problem for a population exposed to shockingly high rates, which are even worse when trying to report them to authorities.

Violations and discrimination against trans, intersex, and gender diverse people committed by the police in Burundi.

Trans, intersex, and gender diverse people face violence and discrimination daily in almost every aspect of their lives. Police frequently assault, arbitrarily arrest, and detain them, sometimes without due process or a legal basis and other times as punishment for simply exercising basic rights, such as seeking medical help in medical facilities.

Several trans people have stated that the combination of adult consensual same-sex relations criminalization and social stigma has had insidious effects on their individual self-expression, forcing them to adopt self-censoring behaviours because any suspicion of nonconformity may result in violence or arrest. Because of the country's anti-homosexuality laws, several men in Burundi's capital city married women to conform to society's expectations and avoid suspicion and arrest.

Violation and discrimination stories of trans, intersex, and gender diverse people in Burundi

- Vee, a transwoman, said that one day, police officers had gone to look for her in her home. They did not find her and then arrested her father, saying that the case was very serious. On arrival, she went to the police station, was put in a secluded office, and was questioned about her sexual orientation. The police had gotten reports that she was gay, and this is illegal in Burundi. Vee denied the allegations, and the police officers started



beating her up in a way to force her to say that she is gay. The beating lasted for more than an hour. Since she failed to confess after the beatings, she was let go and told to go back the following day so that the father would be released. The father had to sleep in the cell. The following day she went back, her father was released, and she was put in the cell. The police claimed that she had to give them money for her to be released. Since she was unable to, she had to stay in the cell for more than five hours when her family got the amount of money that the police wanted from her. Since then, she has been scared to even dress in a feminine way, and she has had to move away from home.

- BG, a transman, recalls that fateful day when he was raped and got pregnant. He still suffers psychologically, as he is afraid of going to social places and attending parties that he is invited to. He was drugged, and the only thing he remembers is finding himself in the morning undressed and with a sharp pain down his genitals. He went to the police station and reported the matter with several other people who were also raped in the same party. The police did not take the matter seriously; they said that it was their issue and they had engaged by choice, and because things didn't go as planned, they decided to come report. BG went to a hospital and took a P3 form, which he has up to date. BG was also poisoned and is currently looking to move from the place where he currently lives because he fears for his safety. The relationship with the child that he gave birth to is still fragile, as he says the child always reminds him of the pain he went through.
- J, a transwoman, says that the only way to survive in Burundi is to hibernate and disguise her identity as that of a cis person. She applies her makeup well but also tries to keep it as simple as she can. She works for an organization that tries to fight for the rights and improve the lives of the trans, intersex and gender diverse people in Burundi. J says that she hopes to get to a point where she can be herself without having to fear for her security in Burundi.

Conclusion.

The criminalization of the homosexuality act in Burundi continues to make life difficult for the country's trans, intersex, gender diverse, and larger queer communities. Members of the community continue to discriminate against trans people in Burundi. Their situation isn't getting



any better. Getting health care, reporting crimes to the police, and living with people in the community are all becoming increasingly difficult.

Trans, intersex, and gender diverse people are being served by LGBTIQ+ organizations in Burundi, but trans people are still lumped in with the MSM and lesbian groups. This means that data for trans people is grouped in with these groups. A trans organization based in Burundi claims that it requires its own data for better organization and capacity. The good news is that organizations in Burundi are attempting to collaborate. As the community and organizations in Burundi continue to work for the rights of the larger LGBTIQ+ population, there is hope and resilience. Further research and documentation are still required, as the trans and intersex communities require their own unique data. This will allow them to have better organization and better sources of funding. This continues to be one of the most difficult challenges that the trans organizations face in Burundi.

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