



SITUATIONAL ANALYSIS REPORT ON THE VIOLATION AND DISCRIMINATION OF HUMAN RIGHTS OF TRANS, INTERSEX, AND GENDER DIVERSE PEOPLE IN RWANDA IN 2018-2019 (JUNE 2019)

Background History

According to the **Criminal Act Law of Rwanda**, same-sex conduct is criminalized. A project to reform the criminal code proposed penalizing homosexuality and same-sex conduct in 2009, but the proposal was ultimately rejected by the government in the following year.

Rwanda is a signatory to the United Nations declaration on sexual orientation and gender identity, but the law on homosexuality and same-sex conduct is currently silent. Neither the **2003 Constitution of Rwanda** nor the **1977 Penal Code mentions** any crime involving homosexuality or same-sex conduct.

Rape, child sexual abuse, sexual torture, adultery, prostitution, and exhibitionism are among the sexual offences outlined in **the 1977 penal code**. Whereas homosexual acts involving either sex are punishable if one participant is under the age of 18 and the other is over the age of 18, there is no provision in the Penal Code for the criminalization of sexual acts between consenting adults.

Article 26 of the Constitution of Rwanda limits the right to marry heterosexual couples, stating that only civil monogamous marriage between a man and a woman is recognized. However, this restriction on marriage does not imply a restriction on sexual behaviour between consenting same-sex partners. Not only does the law not prohibit same-sex acts, but the constitution also includes several articles that guarantee the right to privacy, opinion, and belief, all of which support the right to freedom and privacy in one's a personal life and sexual practices.



According to **Article 22 of Rwanda's 2003 Constitution**, a person's private life, family, home, or correspondence shall not be subjected to arbitrary interference, and his or her honour and good reputation shall be respected. Furthermore, **Article 33** guarantees that the state will protect freedom of thought, opinion, conscience, regions, worship, and public expression under conditions determined by law.

Article 43 of the penal code states that in exercising rights and enjoying freedoms, everyone must abide by the limitations imposed by the law to ensure the recognition and respect of others and the rights and freedoms, good morals, public order, and social welfare that characterize a democratic society.

Some Rwandan lawmakers have interpreted Constitution article 43 to suggest that it is within their constitutional power to restrict or criminalize homosexuality to uphold society's good morals. Furthermore, article 11 of the constitution states that all Rwandans are born free and equal in rights and responsibilities.

An overview of the situational analysis report on the current situation for trans, intersex, or gender diverse people in Rwanda

Keeping in mind the preceding discussion of the fundamental rights and freedoms guaranteed to individuals by the constitution, The country's increasing level of harassment and intimidation surrounding the issue of homosexuality, as well as recent incidents in which individuals' rights were violated because of their sexual orientation, are clearly in violation of the rights and freedoms guaranteed to individuals by the constitution.

No article in Rwanda's Constitution protects, directly prohibits, or criminalizes homosexuality or the LGBTIQ+ community. As a result, it can be challenging for trans, intersex, and gender diverse people at times because they cannot defend themselves if a violation is committed against them, and no law in Rwanda criminalizes or protects LGBTIQ+ people.

Threats of legal changes affecting trans, intersex, and gender diverse people in Rwanda

In 2018, there was an increase in press rhetoric about criminalizing homosexuality in the country. Rwanda's government was revising the penal code, which had been in place since 1977, with the primary goal of abolishing the death penalty. Many other outdated penal code provisions were to be revised as part of the process. Several members of parliament and other individuals stated their



intention to introduce legislation criminalizing homosexuality, though it was unclear whether such reforms would receive widespread support from other lawmakers or the public.

Deputy Francis Kaboneka, for example, was quoted as saying, "We don't have a specific law on LGBTIQ+, but we have family law." He thought that there were not yet many cases of homosexuality in the country, and he added "We need to have a law against this vice". Similarly, Deputes Henriette Sebera argued in the New Times newspaper that MPs should table a motion on it and draft a law prohibiting homosexuality in Rwanda. She stated that homosexuality is automatically illegal in their country and that their culture only allows a man to have a relationship with a woman, so anyone caught doing otherwise should be punished.

As homosexuality and LGBTIQ+ rights gain media attention, there is a legitimate concern that calls to criminalize homosexuality will gain traction and support. This is an important time for targeted advocacy with lawmakers who support upholding the rights to sexual privacy and freedom to prevent discriminatory or regressive legislation from being passed.

One of the stories and news from VOA media on trans, intersex, and gender diverse people in Rwanda

The Rwandese government recognizes the LGBTIQ+ community's rights to live openly and safely but does not allow for same-sex marriage. However, activists say that the majority of Rwandese still lack education regarding the group.

1. CT, a transman, is a program officer at Rights for All, an association that advocates for the LGBTIQ+ community. "Recently, when those two lesbians came out as married, it was a big debate, and people didn't understand," Carter said. "They wondered, 'Who are they? Who is who in the relationship?'" We started to get harassed again, so we stopped going out in the streets of Kigali; we were scared. The media never made it easy, but the outcome was amazing: the society that didn't understand whom lesbians were got to know that they exist!
2. DV, a 30-year-old Rwandan LGBTIQ+ man, says, "There was that debate in the media about the right for gay people to exist in Rwanda, and I was attacked the same day. I don't think the attack was because of my sexual orientation; it was about stealing my money. But I left for Uganda immediately."



3. "We were partially recognized by the Rwandan government, which made me, and my community feel safer," said Mx, a Rwandan LGBTIQ+ activist and a transman. "But what is more painful is the social rejection. And we still don't have enough unity, even within the LGBTIQ+ community here. Gay men consider themselves a separate group from trans people. We have enough ethnic divisions here, and any divisions based on sexual orientation make life harder."

This is the information that the trans, intersex, and gender diverse individuals of Rwanda have to say about the current situation and what they enjoy about being LGBTIQ+ in Rwanda. We see that it is not a worse situation in Rwanda than we see it in other countries in East Africa like Uganda and Tanzania, and probably there is not any law that specifically criminalizes or protects LGBTIQ+ rights in Rwanda.

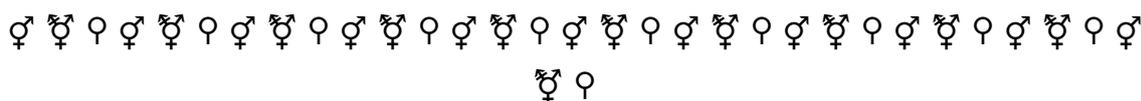
Healthcare barriers for trans, intersex, and gender diverse people in Rwanda

All people in need of medical care should be able to see their doctor without fear of being mistreated, harassed, or outright denied service. Rwanda's affordable care act addressed these issues by prohibiting discrimination by healthcare providers and insurance companies.

Despite existing protection, trans, intersex, and gender diverse people face alarming rates of healthcare discrimination, ranging from provider harassment and humiliation to being turned away by hospitals, pharmacists, and doctors. The opinion exemplifies the types of discrimination that many of them face when seeking medical care.

Some of the barriers that trans, intersex, and gender diverse people experience while trying to access healthcare in both public and private settings include:

- Lack of health insurance—Accessing healthcare insurance for trans people in Rwanda and around Africa is challenging as there are no healthcare guidelines and most insurance companies consider gender-affirming care cosmetic, thus not covering it. Upon interviewing some of our members on why they lacked health insurance, they disclosed that it was expensive, while others mentioned that they did not see the need for insurance that did not cover their health needs.
- Fear of facing discrimination in health facilities: A lot of trans, intersex, and gender diverse people in Rwanda do not have access to trans-friendly doctors who



understand their needs best. This means they go to healthcare providers who have little to no knowledge about trans people. This makes it harder for them to express themselves or feel comfortable while seeking healthcare.

- Negative experiences with healthcare providers - Fear of having a negative experience with a healthcare provider can lead some people to delay or avoid medical care, especially routine care such as early detection tests. Today many experience violence and bullying when they go to access health care, so they refuse to go back when they need health checkups or health treatments if needed at that time.

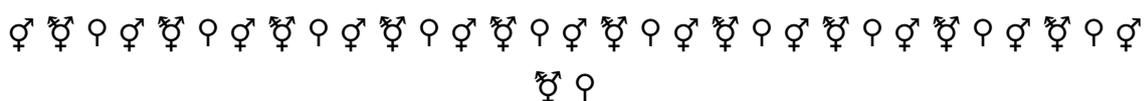
Trans, intersex, and gender diverse Rwandese perspectives on health providers

- Some disclosed that they were denied treatment by a doctor or other healthcare provider because of their actual or perceived gender identity.
- Some disclosed that a doctor or other health care provider refused to treat them because of their actual or perceived gender identity.
- Some disclosed that a doctor or other healthcare provider used harsh or abusive language when they were being treated.
- Others disclosed they experienced wanted physical contacts, such as fondling, sexual assaults, or rape, from a doctor or other health care provider.

The social context of trans, intersex, and gender diverse people in Rwanda

LGBTIQ+ people in Rwanda face societal discrimination. According to sources, on September 12, 2016, the United Nations first reported societal discrimination and human rights abuses in Rwanda. According to the source, gender minorities face stigma in Rwanda. According to a nonpartisan human rights organization, Rwanda's social environment is rife with transphobia and homophobia.

In Rwanda, the LGBTIQ+ community is regarded as abnormal, like a mental illness. No one wants such relatives; no one wants a neighbour who is perceived to be LGBTIQ+; and no one wants any contacts or any type of professional, personal, or other relationship with someone who is LGBTIQ+.



According to the same source, trans people face disproportionate difficulties, and activists have reported increased violations as well as calls to incite such violence. Gender minorities are violently attacked in Rwanda, with no clear path to seek justice through explicitly stated legal protections.

Trans, intersex, and gender diverse people in Rwanda facing public harassment.

- A trans man said "discrimination and harassment are the most common issues they face almost on a day-to-day basis. Everyone has experienced discrimination and harassment. I am having difficulties with the local authorities because I live with my partner and people have reported us to the authorities".
- BR, a transman, said, "We have been publicly harassed at nightclubs and bars, and many men have approached us and asked us how we have sex and how we can satisfy our partners." "We are hurled at and beaten with clubs."
- Many individuals find themselves harassed, threatened with prison, or abused because of their gender identity. Discrimination and even physical violence are a daily reality for those who express themselves freely in their gender identity, and as a result, many trans, intersex, and gender diverse people live in secret, unable to tell their families or friends about their true selves. It is very difficult because sometimes we need somebody willing to hear and support us, but we can't be comfortable because people are not willing to accept us.
- One trans person in Rwanda expressed her worry about the pending penal code, saying, "We need some lobbying and advocacy to stop its acceptance. We are traumatized because we do not know where and how to exercise our rights. There are things that we are afraid to do because of the pending law. There is a need for more sensitization, lobbying, and advocacy to improve the livelihood and well-being of the trans, intersex, and gender diverse community".
- Another trans person said, "In Rwanda, the process should start with us. We must be visible as a movement before we can advocate for others. We need to learn from the success stories of our fellow countrymen who are convincing and advising the government to recognize the LGBTIQ+ population in their country."

HIV treatment barriers for trans, intersex, and gender diverse people in Rwanda



Transphobia remains a major impediment to ending the global AIDS epidemic. The LGBTIQ+ community in Rwanda has long been associated with negative attitudes toward them, and they face unique challenges and barriers in accessing health care, including violence, human rights violations, stigma, and discrimination.

The criminalization of same-sex relationships nurtures transphobia and homophobia, both of which are common forms of discrimination. Both factors make it difficult for the LGBTIQ+ community to obtain critical HIV testing, treatment, prevention, and care services. Many hospitals are not friendly to the LGBTIQ+ community. Many hospitals do not welcome the LGBTIQ+ community. As a result, some individuals are living with HIV unknowingly or are being diagnosed too late, making it difficult to manage the symptoms because they are afraid to seek help.

Emotional support for Rwandan trans, intersex, and gender diverse people

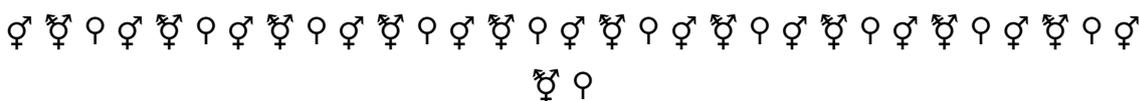
It is difficult and stressful for anyone to learn to be themselves and deal with other people's perceptions of them. This proves to be harder for trans, intersex, and gender diverse people, who are among the most vulnerable members of society. This predisposes them to additional mental health issues. They are more likely to suffer from mental health issues such as depression, anxiety, substance abuse, and even suicide because of discrimination or pressure from their family or community.

Overcoming stigma in the community

Trans, intersex, and gender diverse individuals who are dealing with mental health conditions like depression deal with even more stigma and discrimination that is related to their gender identity. Having to deal with the additional stigma worsens mental health conditions.

Tips for overcoming stigma as a trans, intersex, and gender diverse person in Rwanda

- **Surround yourself with people who will be there for you.** An excellent way to meet people who understand what you're going through is to find other trans, intersex, and gender diverse people.
- **Seeking medical professional assistance is the first step in the right direction.** Make an appointment with a therapist if you are experiencing sadness, anxiety, or stress that is interfering with your ability to get things done and live a fulfilling life.



- **Society creates and perpetuates stigma towards gender minorities.** Remember that other reactions to your gender identity are not your fault and say nothing about the person you are.
- **Join a human rights organization.** Participating in a mental health or human rights advocacy group in your country may help you fight stigma even further.
- **Showing up for your friends:** If a friend is struggling with their gender identity or mental health, you can be there for them.

Conclusion

In comparison to other East African countries such as Uganda and Tanzania, Rwanda appears slightly safer for intersex, trans, and gender diverse people. It may be a good thing that the laws do not specifically protect or discriminate against gender minorities. This however disadvantages them as law enforcers use this as a platform for abuse and discrimination against them by falsely accusing them and then demanding bribes. It is the government's responsibility to ensure the safety of all citizens, including addressing the violence and insecurity that gender minorities face in Rwanda more effectively. It should also enact broad anti-discrimination legislation that explicitly protects people of all sexual orientations and gender identities.

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Prepared by: Smith Mmuru – EATHAN Intern



