



Analysis of the Legal Implications and Impact on Access to Essential Health Services for LGBT+ Persons and Sex Workers By the Newly Passed Sexual Offences Bill 2019

Brief Background on the law

On 14th/April 2016, a private members bill was Tabled [look here](#) by Hon Monica Amoding, a sitting Kumi Municipality MP, before the parliament of Uganda described as consolidating and amending the law to sexual offences from various enactments. After heated discontent with several clauses of the provision, The Bill was withdrawn and re-tabled with amendments. At first reading, a clause that already criminalizes same-sex sexual conduct termed as unnatural offences from the **Penal Code Act cap 120 (sections 145 and 146)** was imported. At the third reading, the Bill was changed to explicitly provide as an offence, 1, ‘the penetration of another person’s anus with that other person’s sexual organ or any other object” and,2 a ban of sex between persons of the same gender, 3, punishing buyers of sex, 4 punishing third parties like brothel owners. At the same time, the committee rejected post-penetration sexual consent. The president is expected to assent the Bill into law within 14 working days.

Legal Analysis

The provisions of the sexual offences bill are redundant. They provide a double punishment for acts like consensual same-sex acts and sex work already criminalized in the existing laws to wit sections 145 and 146, Penal Code Act cap 120.

Criminalizing same-sex acts fall short of internationally established standards like the Universal Declaration of Human Rights (UDHR) 1948. The Sustainable Development Goals (Agenda 2030) specifically Goals, 16 and 3 on Justice and Health services for all respectively, at the regional level, The African Charter on Human and Peoples’ Rights among others and nationally, the Bill of Rights in the Constitution of Uganda as AMENDED 2019

The continued criminalization of sex work and Same-sex acts will exacerbate the situation as Security officers are already reported to be using this as a reason to violate the Human Rights of sex workers, like physical and sexual abuse, arbitrary arrests and detentions and monetary exploitation [see here](#) all which defeats the ends of justice and Human Rights.

This will further fuel harassment and stigma attached to sex work, thereby increasing the existing barriers to accessing justice and essential health care services, including HIV/AIDS and other Sexual and Reproductive Health services.

The provision under **clause 36** of the Bill on establishing a ‘name and shame style” sexual offenders database of suspects or convicts is not in good faith. It provides an arbitrary avenue to persecute further the already marginalized LGBT persons and sex workers already criminalized by the same law.

We also find that the deleted provision of requiring consent before, During and after sexual penetration would be a positive stride. It would help reduce cases of sexual violence, including rape of sex workers and should have been maintained for the positive role had sex work not been criminalized.

Recommendations

We urge the president of Uganda to task parliament to re-review provisions of the Bill that will fuel Human Rights violations, impede, and undermine the registered gains in the fight against HIV/AIDS.

We urge all stakeholders in the health sector, including the Uganda Aids Commission, the Uganda Human Rights Commission, to voice the negative implications of the law against HIV/AIDS, STIs, and justice on the key priority and marginalized communities and civil society organizations in Uganda.

We recommend the Civil Society in Uganda and members of the public to call upon the legislative body to reevaluate and amend provision of the Bill that fall short of a good conscience, endangers lives of sections of Ugandans, retards the country's progress towards the achievement of Agenda 2030, increase disunity and propel unreasonable criminal harassment and persecutions.