



**Uganda's Compliance with the International Convention on Civil and Political Rights:
LGBTIQ+ Rights**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims fleeing persecution based on their sexual orientation or gender identity in Uganda have requested legal assistance from The Advocates in applying for asylum in the United States.

EXECUTIVE SUMMARY

1. This report addresses Uganda’s compliance with its human rights obligations with regard to the rights of lesbian, gay, bisexual, transgender, intersex, queer, and other sexual and gender minorities (LGBTIQ+) individuals.
2. Actual or perceived LGBTIQ+ individuals in Uganda live in a hostile, and sometimes deadly, environment, facing constant threats of physical and emotional violence, persecution, and discrimination from Ugandan officials, police, and private individuals.
3. The Government of Uganda systematically fails to prevent human rights violations against individuals based on their real or perceived sexual orientation, gender identity, gender expression, and/or sex characteristics (SOGIESC). The criminalization of consensual same-sex sexual relations between adults leaves them at serious risk of harm. Further, Uganda is one of the few countries that criminalizes consensual same-sex sexual relations between both women and men. LGBTIQ+ persons in Uganda report experiencing discrimination, violence, lack of protection by law enforcement and government officials, and limited access to public services.
4. This report provides an overview of human rights developments related to sexual orientation, gender identity, gender expression, and sex characteristics since the Committee prepared Uganda’s List of Issues in 2022. We previously submitted a Suggested List of Issues¹ on May 2, 2022, that addressed SOGIESC issues prior to 2022.
5. Information for this report includes direct information from The Advocates’ Ugandan LGBTIQ+ asylum clients and from individual LGBTIQ+ persons in Uganda. All first-hand information is used with permission. This report also includes information provided by NGOs in Uganda that work on LGBTIQ+ issues.

Uganda fails to uphold its obligations under the International Covenant on Civil and Political Rights (ICCPR)

I. Anti-discrimination legislation (List of Issues paragraph 5)

6. In its 2022 List of Issues (LOI), the Human Rights Committee (“Committee”) requested that Uganda indicate what legislative and other measures have been taken to combat “direct, indirect, and multiple discrimination in all spheres, including in the private sphere,” based on sexual orientation and gender identity, and what remedies have been provided in judicial and administrative proceedings for victims of discrimination.² The Committee also asked the Ugandan government to include information about steps taken to develop comprehensive anti-discrimination legislation.³

¹ The Advocates for Human Rights, *Uganda’s Compliance with the International Covenant on Civil and Political Rights: Suggested List of Issues Relating to LGBTI Rights*, (Minneapolis: The Advocates for Human rights, May 2022).

² Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 5.

³ *Ibid.*

7. In its reply to the List of Issues, the Government of Uganda noted that it has “comprehensive anti-discrimination legislation that facilitates meaningful realization of the rights of freedom from discrimination.”⁴
8. Although Uganda has taken some positive steps towards implementing and adopting a general anti-discrimination law, that initiative does not include specific actions to protect against discrimination on the basis of sexual orientation, gender identity or expression, or sex characteristics. Uganda’s reply to the LOI mentions that the Government enacted the Equal Opportunities Commission to give effect to the State’s constitutional mandate to eliminate discrimination and inequality amongst any individual or group of persons on several grounds including any other reason created by history, tradition, or custom for the purpose of redressing imbalances.⁵ The response focuses on women’s rights and gender equity initiatives undertaken by the Ugandan government. These actions, however, do not address discrimination on the basis of SOGIESC.
9. The Ugandan government has not taken concrete steps to create inclusive laws that specifically protect individuals from violence and discrimination based on their SOGIESC status. The State Party report describes legislation of general application that does not specifically protect LGBTIQ+ individuals from violence, discrimination, or harassment.⁶
10. Rather than protecting LGBTIQ+ individuals, the Ugandan government has pursued legislation that would suggest that it does not intend to fulfill its obligations under Articles 2 and 26 of the ICCPR to provide protection from discrimination for all people, regardless of their sexual orientation, gender identity, gender expression, or sex characteristics. On March 21, 2023, the Parliament of Uganda passed the Anti-Homosexuality Bill of 2023 (the “2023 Bill”). On April 20, 2023, President Yoweri Kaguta Museveni met the ruling party caucus in Parliament and the caucus issued a resolution to have the president send the 2023 Bill back to Parliament for reconsideration so as to remove provisions that appeared to punish individuals who later came out to renounce homosexuality.⁷ The 2023 Bill, with the president’s proposed revisions, was again passed by Parliament and is currently awaiting the president’s signature.
11. If enacted, the 2023 Bill would do the following: (1) criminalize consensual same-sex relations as “homosexuality” under penalty of life imprisonment, which is defined as imprisonment without the possibility of release;⁸ allow courts to issue death sentences for “aggravated homosexuality,” which includes repeat convictions for “homosexuality,” “homosexuality” with an individual over the age of seventy-five, and many other offenses;⁹ criminalize “promotion of homosexuality” – which is defined widely to include activities that seek to “normalize” homosexuality – with punishment of 20 years’ imprisonment;¹⁰ impose reporting obligations on anyone who knows or reasonably suspects someone to be engaged in or about

⁴ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 26.

⁵ *Id.*, ¶ 23.

⁶ Human Rights Committee, *Second periodic report submitted by Uganda under article 40 of the Covenant, due in 2008*, (Nov. 2020), U.N. Doc. CCPR/C/UGA/2, ¶¶ 27, 34.

⁷ Stephanie Busari, Chris Liakos, and Catherine Nicholls, *Uganda’s President Museveni to return anti-LGBTQ+ bill to parliament*, CNN, Apr. 20, 2023, <https://www.cnn.com/2023/04/20/africa/museveni-uganda-lgbtw-intl/index.html>

⁸ The Anti-Homosexuality Bill, 2023, Bill No. 3 (Mar. 3, 2023), Part II, Article 2. Available online at <https://www.jurist.org/news/wp-content/uploads/sites/4/2023/03/Anti-Homosexuality-Bill-2023.pdf>.

⁹ *Id.*, Part II, Article 3.

¹⁰ *Id.*, Part II, Article 11.

to commit “homosexuality,” and waives confidentiality requirements for professionals who report “homosexuality.”¹¹ Only “advocates” are excluded from the reporting obligation, but it applies to all other professionals, including medical doctors and religious leaders, and failure to report can result in imprisonment. Parents would also be required to report their children.

12. As explained in further detail below, the 2023 Bill has incentivized discrimination against members of the LGBTIQ+ community in Uganda, intensifying the need for anti-discrimination legislation protecting LGBTIQ+ individuals.

II. Criminalization of sexual relations between consenting adults of the same sex (List of Issues paragraph 6)

13. In the 2022 LOI, the Committee asked Uganda to report “on the number of arrests, prosecutions, convictions, and sanctions imposed for same-sex sexual relations in the past five years” and whether Uganda “intends to repeal the criminalization of consensual same-sex relationships between adults.”¹²
14. The State Party did not address the Committee’s request for information in its reply to the LOI.¹³
15. Uganda Penal Code Section 145 contains a colonial law criminalizing sexual relations between consenting adults of the same sex, as “carnal knowledge ... against the order of nature.”¹⁴
16. Since the 2022 LOI, the Ugandan Government has taken further steps to criminalize consensual adult same-sex sexual relations. The text of the 2023 Bill criminalizing same-sex relations states that its purpose is to create a “comprehensive provision” for anti-homosexuality, by penalizing “the procurement, promoting, disseminating [of] literature” and to “enhance offences relating to homosexuality.”¹⁵
17. While the 2023 Bill is not yet law, several of its proposed provisions are vague and would lead to violations of LGBTIQ+ Ugandans’ human rights. For example, the Bill allows for substantial police and government discretion in the interpretation and enforcement of incarcerable offenses such as the “promotion of homosexuality.”¹⁶ Even renting to LGBTIQ+ individuals could expose landlords to criminal penalties.¹⁷

¹¹ *Id.*, Part II, Article 14.

¹² Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 6.

¹³ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2.

¹⁴ The Penal Code Act of 1950, § 145 (1950).

¹⁵ Human Rights Awareness and Promotion Forum (HRAPF), “The Anti-Homosexuality Bill, 2023,” Kampala: HRAPF, 2023 (Unpublished memorandum compiled by HRAPF of the text of the Anti-Homosexuality Bill passed by Parliament for the second time), Article 2.

¹⁶ The Anti-Homosexuality Bill, 2023, Bill No. 3 (Mar. 3, 2023), Part III, Article 11. Available online at <https://www.jurist.org/news/wp-content/uploads/sites/4/2023/03/Anti-Homosexuality-Bill-2023.pdf>; interview with Ugandan human rights defender, Uganda, May 18, 2023.

¹⁷ The Anti-Homosexuality Bill, 2023, Bill No. 3 (Mar. 3, 2023), Part III, Article 9, 11(2)(d). Available online at <https://www.jurist.org/news/wp-content/uploads/sites/4/2023/03/Anti-Homosexuality-Bill-2023.pdf>.

18. Interviewees allege the Bill’s reporting requirement would also subject members of the LGBTIQ+ community to pervasive discrimination and harassment.¹⁸
19. Since Parliament passed the 2023 Bill, the country appears to have become even more dangerous and violent for LGBTIQ+ people. A report from the Human Rights Awareness and Promotion Forum (HRAPF) concluded that the 2023 Bill “even in the absence of presidential assent” has become “a tool of further oppression and abuse against LGBTQ [sic] people.”¹⁹ The report found that violence and crimes against LGBTIQ+ people has increased exponentially since the same period in 2022, and that there is a belief among the general population that the government wants individuals (non-State actors) to violently fight against homosexuality.²⁰ Clients of The Advocates and individual LGBTIQ+ Ugandans interviewed for this report confirmed this growing hostility.

III. Failure to protect LGBTIQ+ individuals from acts of violence, harassment, abuse, and discrimination based on sexual orientation or gender identity (List of Issues paragraph 6)

20. In the 2022 LOI, the Committee asked Uganda to “respond to reports of discrimination, stigmatization, harassment and violence, including while in police custody, on the basis of sexual orientation or gender identity, and provide information on the measures taken to prevent and combat such acts, and the impact of such measures.”²¹
21. The Government’s response addresses actions while in police custody, claiming that “there is no targeted or deliberate action by institution to discriminate, stigmatize and harass or met out violence against people in custody based on their sexual orientation or gender identity.”²² The response further provides that “Uganda does not arrest or prosecute any persons on the basis of their sexual orientation.”²³
22. The Government’s response also notes the Uganda Police Force’s (UPF) Police Human Rights Policy that “ensure[s] a human rights-based approach in policing.”²⁴ The UPF also established a “Professional Standards Unit” to monitor officers for human rights transgressions, and established special trainings to sensitize officers to pay attention “to various gender issues when handling suspects.”²⁵ Although these programs are important additions to human rights policy, the State lists no specific programs to educate police officers about discrimination against LGBTIQ+ individuals, nor to combat police violence against LGBTIQ+ Ugandans.

¹⁸ Interview with Ugandan human rights defender, Uganda, May 18, 2023; interview with client of The Advocates, United States, May 9, 2023.

¹⁹ Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda’s Anti-Homosexuality Bill, 2023*, (Kampala, 2023), 8. Available online at <https://hrapf.org/?mdocs-file=11275>.

²⁰ Ibid.

²¹ Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 6.

²² Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 28.

²³ *Id.*, ¶ 27.

²⁴ *Id.*, ¶ 29.

²⁵ Ibid.

Further, there are no studies on the impact of existing sensitization programs on stigma and discrimination.

23. In light of the 2023 Bill, the actions cited by Uganda in their response to the Committee’s LOI may no longer reflect a positive development. One of the LGBTIQ+ individuals interviewed for this report noted that, prior to the 2023 Bill, there had been progress in Uganda regarding training police officers on how to treat members of the LGBTIQ+ community.²⁶ Once the Bill passed Parliament, however, that progress was wiped away.²⁷
24. An interviewee in Uganda, who works as a paralegal, noted that before the 2023 Bill, they were frequently contacted by police to assist and claim detained clients who were members of the LGBTIQ+ community.²⁸ But after passage of the 2023 Bill, the interviewee can no longer visit clients who have been detained by police, as the police have become more aggressive in questioning the paralegal’s assistance of detained LGBTIQ+ individuals, with the implication being that the paralegal themselves is a member of the LGBTIQ+ community or is promoting homosexuality by assisting their clients.²⁹
25. LGBTIQ+ individuals in Uganda experience widespread violations of their right to life, liberty, and security of person, in violation of ICCPR Articles 6 and 9. Further, the Ugandan government fails to protect LGBTIQ+ individuals from human rights violations by members of their communities.
26. Further evidence of the severity of the situation, it was difficult to find individuals willing to be interviewed for this report, likely due to their credible fear that they would be tracked down by police, beaten, and imprisoned. LGBTIQ+ individuals in Uganda fear for their lives, and are unwilling to share their experiences, less they risk exposing their identities.
27. Since Parliament passed the 2023 Bill, LGBTIQ+ individuals have been arrested due to their presumed or actual sexuality, gender identity, gender expression, and/or sex characteristics.³⁰ In one instance, police arrested a man after a local journalist in his neighborhood found gay pornography in which one of the actors looked like the man.³¹ In another instance, police arrested a group of six people after a local official saw a video from a gay pornography website in which one of the actors looked like one of the six.³² Police arrested all six because they were found at an LGBTIQ+ support organization, which had lubricants, condoms, and HIV prevention materials on hand. Police categorized this as evidence of criminal “homosexuality.”³³
28. Human Rights Awareness and Promotion Forum (HRAPF), a Ugandan non-governmental organization (NGO) that works on the human rights of marginalized Ugandans, reported that in the first month following Parliament’s passage of the 2023 Bill, a mob arrested, stripped, and forced an athlete they suspected to be a transgender woman to march naked through the

²⁶ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

²⁷ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

²⁸ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

²⁹ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

³⁰ Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda’s Anti-Homosexuality Bill, 2023*, (Kampala, 2023), 3. Available online at <https://hrapf.org/?mdocs-file=11275>.

³¹ Ibid.

³² Ibid.

³³ Ibid.

streets. Passersby heckled, photographed, and sexually assaulted her. Police ultimately held her at a police station for two days before she appeared in court. The court denied her bail for lack of sureties because none of her friends would appear on her behalf for fear of becoming targets themselves.³⁴

29. HRAPF reports that neighbors beat at least one man because they thought he was gay.³⁵
30. Mobs have also engaged in violent assaults of individuals for operating organizations that support the LGBTIQ+ community.³⁶ In one case, village leadership threatened to lynch the leader of an organization supporting LGBTIQ+ people, forcing him to flee his home. This occurred after security forces had arrested and held him incommunicado for nearly a month because he was a “promoter of homosexuality.”³⁷
31. LGBTIQ+ Ugandans reported that they distrust law enforcement officials, in part because of law enforcement has targeted them with arrests and prosecution.³⁸ The LGBTIQ+ individuals interviewed expressed their inability to report criminal cases to the police and government agencies because it would affect them negatively. In some instances, respondents who were victims of crimes and human rights violations did not seek assistance because the violation arose because of their sexual orientation and they feared reporting the violation because of possible further victimization by state officials.³⁹ In other instances, victims did report assaults and threats to police, but nothing was done, as the police had no interest in identifying or prosecuting the assailants.⁴⁰ This situation has only exacerbated since passage of the 2023 Bill.⁴¹
32. Interviewees expressed fear that if the 2023 Bill is signed into law, it will aggravate an already grave situation. They expect that there will be increased violence from police and vigilante groups toward LGBTIQ+ individuals and the human rights defenders (HRDs) who work on LGBTIQ+ issues. Further, they do not expect there to be recourse should such violations occur.⁴²
33. LGBTIQ+ individuals in Uganda face daily discrimination because of their SOGIESC status. Although constitutional provisions ensure equality for every person under the law, neither

³⁴ *Id.*, 4.

³⁵ *Id.*, 6.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

³⁹ Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda’s Anti-Homosexuality Bill, 2023*, (Kampala, 2023), 7. Available online at <https://hrapf.org/?mdocs-file=11275>.

⁴⁰ *Ibid.*

⁴¹ Interview with Ugandan human rights defender, Uganda, May 18, 2023; Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda’s Anti-Homosexuality Bill, 2023*, 7. Available online at <https://hrapf.org/?mdocs-file=11275>.

⁴² Interview with Ugandan human rights defender, Uganda, May 18, 2023; Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda’s Anti-Homosexuality Bill, 2023*, 7. Available online at <https://hrapf.org/?mdocs-file=11275>.

sexual orientation, gender identity, gender expression, nor sex characteristics are explicitly protected identities.⁴³

34. LGBTIQ+ individuals face discrimination in all spheres, including housing and healthcare, in violation of Article 26 of the ICCPR.
35. Despite the fact that the 2023 Bill is not law, healthcare professionals have begun to discriminate against LGBTIQ+ patients or potential patients, so as to comply with the Bill's language. Healthcare professionals deny real or suspected LGBTIQ+ patients access to lubricants and condoms.⁴⁴ Because the 2023 Bill criminalizes the "promotion of homosexuality," healthcare professionals that provide lubricants, condoms, hormone therapy, or HIV preventative medication to LGBTI individuals could face prison time for "promoting homosexuality" should the Bill become law.⁴⁵
36. Interviewees and Ugandan NGOs have reported that since Parliament passed the 2023 Bill, landlords have begun discriminating against LGBTIQ+ individuals in the area of housing. Landlords have begun evicting LGBTIQ+ tenants because they fear being arrested should the Bill become law or that mobs would vandalize their property if neighbors believe they are allowing LGBTIQ+ individuals to remain on the premises.⁴⁶
37. For example, a landlord evicted a community paralegal from their housing because the landlord believed that too many LGBTIQ+ clients were visiting the paralegal's house.⁴⁷
38. An LGBTQ⁴⁸ human rights organization was evicted from their office space after the area's leadership wrote to its landlord demanding he evict the organization. When the landlord failed to do so, the area's leadership wrote directly to the LGBTQ organization, demanding they leave the village within three days or "face the consequences." It is unknown if the landlord began the eviction or if the organization left because it feared retaliation from area leadership.⁴⁹

IV. Death Penalty (List of Issues para. 10)

39. In the 2022 LOI, the Committee asked Uganda to "provide information on [the] steps taken to revise the current legislation to ensure that the death penalty is authorized only in the most exceptional cases and subject to the strictest limits, namely that it is applied only for the most serious crimes, understood to be crimes involving intentional killing."⁵⁰

⁴³ Art. 21, Const. Uganda; Art. 32, Const. Uganda.

⁴⁴ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

⁴⁵ The Anti-Homosexuality Bill, 2023, Bill No. 3 (Mar. 3, 2023), Part III, Article 11. Available online at <https://www.jurist.org/news/wp-content/uploads/sites/4/2023/03/Anti-Homosexuality-Bill-2023.pdf>.

⁴⁶ Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda's Anti-Homosexuality Bill, 2023*, (Kampala, 2023), 4-5. Available online at <https://hrapf.org/?mdocs-file=11275>.

⁴⁷ *Id.*, 5.

⁴⁸ Though we use LGBTIQ+ throughout this report, the organization identifies itself as LGBTQ.

⁴⁹ Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda's Anti-Homosexuality Bill, 2023*, (Kampala, 2023), 5-6. Available online at <https://hrapf.org/?mdocs-file=11275>.

⁵⁰ Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 10.

40. The Government of Uganda noted that the 2019 Amendment to the Penalties in Criminal Matters “restricts the death penalty to the most serious crimes and in the most exceptional cases and under the strictest limits.”⁵¹
41. Unfortunately, despite these assurances, Uganda has failed to restrict the death penalty to the most serious crimes and is in the process of potentially expanding the use of the death penalty to a crime that does not meet the most-serious-crimes threshold. Should the 2023 Bill become law, courts could issue death sentences for individuals convicted of “aggravated homosexuality,” which includes “serial offenders” and whether the individual’s sexual partner contracts “a terminal illness as a result of the sexual act,” among other elements.⁵²

V. Excessive use of force (List of Issues paras. 11-12)

42. In the 2022 LOI, the Committee asked Uganda to provide information on police officers and security forces’ continued use of excessive force and firearms.⁵³ The Committee further asked for a report on the “number of complaints filed, investigations and prosecutions undertaken, and convictions handed down for excessive use of force...by law enforcement officers and security forces” for the last five years.⁵⁴
43. Uganda noted that the “use of reasonable force” is allowed, in part by its Police Human Rights Policy (see paragraph 22 above).⁵⁵ The Government notes that the UPF’s Human Rights and Legal Directorate will pursue civil or criminal charges against “every police officer accused of using excessive force towards civilians...if the available evidence establishes such facts.”⁵⁶ The Policy requires that all new recruits are trained on human rights in Police training schools and that police are also given refresher courses and trainings on human rights. The Government reports that approximately 22,000 officers have received these trainings.⁵⁷ The Government provided no specific information on the content of these trainings or, specifically, whether violations against LGBTIQ+ individuals are covered.
44. It is unclear whether special trainings have improved police sensitivity on issues regarding sexual orientation, gender identity or expression, or sex characteristics. There are continued reports of police subjecting LGBTIQ+ people in detention to invasive, unwanted, and degrading anal examinations and public undressing to “prove” homosexuality.⁵⁸

⁵¹ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 44.

⁵² The Anti-Homosexuality Bill, 2023, Bill No. 3 (Mar. 3, 2023), Part II, Article 3. Available online at <https://www.jurist.org/news/wp-content/uploads/sites/4/2023/03/Anti-Homosexuality-Bill-2023.pdf>.

⁵³ Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 11.

⁵⁴ *Id.*, ¶ 12.

⁵⁵ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 52.

⁵⁶ *Ibid.*

⁵⁷ *Id.*, ¶ 56.

⁵⁸ Caroline Kimeu and Achola Rosario, *LGBTQ+ groups face crackdowns in Uganda as environment turns hostile*, The Guardian, March 14, 2023, <https://www.theguardian.com/global-development/2023/mar/14/lgbtq-crackdowns-uganda-environment-hostile>

VI. Liberty and security of the person (List of Issues para. 14)

45. In its 2022 LOI, the Committee asked Uganda to “respond to persistent reports of arbitrary detention – including incommunicado detention – by police and security forces, targeting...sex workers and members of the LGBTIQ+ [sic] community..., among others.”⁵⁹
46. The Government of Uganda replied, however, that “there is no arbitrary detention of persons irrespective of their profession or political affiliation.”⁶⁰ There is no clarification as to whether that response is inclusive of sex workers and members of the LGBTIQ+ community.
47. Since the Parliament passed the 2023 Bill, there have been increased reports of arrests based on real or presumed sexual orientation, gender identity, gender expression, and/or sex characteristics. Within one month of its passage, police arrested 20 LGBTIQ+ individuals because of their presumed sexual orientation, gender identity, gender expression, and/or sex characteristics.
48. As described in paragraph 26 above, police arrested six members of an LGBTIQ+ support organization based solely on an unsupported and false report that one of the members resembled an actor from a gay pornography website. Prosecutors charged the members with “having carnal knowledge against the order of nature” after the police searched their office and found lubricants, condoms, pre-exposure prophylaxis (PrEP) and other forms of HIV protection. The members were held for 12 days before they appeared in court.⁶¹
49. Police arrested another man initially on suspicion of narcotics possession. The police conducted a search of his house and did not find any narcotics but found lubricants so they continued to detain him for four days on the grounds of homosexuality. HRAPF reports that there are other cases of police arbitrarily arresting and detaining victims solely on basis of their real or presumed sexual orientation, gender identity, gender expression, and/or sex characteristics. Although the 2023 Bill has not been approved by the president, its passage in Parliament appears to have motivated a rapid increase in arbitrary arrests and detentions targeting members of the LGBTIQ+ community.⁶²

VII. Administration of justice (List of Issues para. 20)

50. In the 2022 LOI, the Committee expressed concern over reports that “lawyers[] are discouraged from visiting their clients, especially those representing the LGBTIQ+ [sic] community...; often have to pay guards in order to obtain access to their clients; and face intimidation during such visits in the form of threats from police officers.”⁶³ The Committee also asked Uganda to “respond to allegations of frequent arbitrary detention, intimidation and harassment of lawyers, particularly those working on human rights cases, including cases

⁵⁹ Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 14.

⁶⁰ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 63.

⁶¹ Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda’s Anti-Homosexuality Bill, 2023*, (Kampala, 2023), 3-4. Available online at <https://hrapf.org/?mdocs-file=11275>.

⁶² *Ibid.*

⁶³ Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 20.

involving lesbian, gay, bisexual, transgender and intersex persons.”⁶⁴ The Committee further requested that Uganda “respond to allegations of the reportedly regular occurrence of targeted break-ins at lawyers’ place of work in order to steal confidential case-related information, and the alleged failure by police to investigate such break-ins.”⁶⁵

51. The Government’s reply alleged that “[t]here is no arbitrary detention, intimidation and harassment of lawyers including those working on human rights cases. Many of the alleged cases of break-ins were never reported to police. For those that were reported, investigations were conducted but the suspects were never identified and evidence remained insufficient for meaningful prosecution and the cases remain open.”⁶⁶ The Government did not address claims that lawyers had to pay guards or that police threatened lawyers.
52. Since Parliament passed the 2023 Bill, police and members of the public have increased their harassment and stigmatization of lawyers and paralegals who provide services to members of the LGBTIQ+ community, accusing them of “promoting” LGBTIQ+ issues. They fear police will arrest them for assisting LGBTIQ+ individuals and, as a result, legal resources available to LGBTIQ+ individuals have dwindled.⁶⁷

VIII. Right to privacy (List of Issues para. 22)

53. In its 2022 LOI, the Committee asked for further information on the compatibility of a provision in the HIV/AIDS Prevention and Control Act of 2014 (the “HIV/AIDS Act”) that allows for “the disclosure of HIV status by medical professionals following compulsory testing for certain categories of people” with Article 17’s right to privacy⁶⁸ The Committee asked Uganda to “provide information on the safeguards in place to ensure the privacy of personal data collected.”⁶⁹
54. The Government alleged that the HIV/AIDS Act prohibits disclosure and release of HIV test results except in certain circumstances, which include when the medical practitioner or other qualified officer determines that contact “poses a clear and present danger of HIV transmission” to another person, or “any other person who may be authorized by court.”⁷⁰
55. In practice, however, we received reports that many LGBTIQ+ Ugandans fear that they will be arrested when they visit hospitals to receive treatment for HIV and AIDS due to increased stigma from healthcare providers. This causes LGBTIQ+ individuals to avoid seeking essential medical services for fear of harassment and arrest.⁷¹
56. Additionally, the current draft of the 2023 Bill includes a provision that a “person, who knows or has reasonable suspicion that a person has committed or intends to commit the offence of

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 89.

⁶⁷ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

⁶⁸ Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 22.

⁶⁹ Ibid.

⁷⁰ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 93.

⁷¹ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

homosexuality or any other offence under this Act, shall report the matter to police for appropriate action.”⁷² This provision would violate LGBTIQ+ individuals right to privacy.

IX. Freedom of expression (List of Issues para. 25)

57. The Committee asked Uganda in its 2022 LOI to “provide information on measures taken to ensure that...human rights defenders are effectively able to carry out their profession without constraints and provide information on measures taken to ensure that all rights violations perpetrated against...human rights defenders are thoroughly investigated and those responsible are brought to justice and adequately sanctioned.”⁷³
58. The Government of Uganda states that there are continuing efforts to “provide a conducive and enabling environment for Human Rights Defenders (HRDs),” and that a “Human Rights Defenders Protection Bill” from 2020 is “currently being processed,” but no concrete reforms were identified.⁷⁴
59. The Human Rights Defenders’ Protection Bill (HRDPB), which was first introduced on September 28, 2020, has not yet passed the First Reading stage in the Parliament. Though the HRDPB seeks to provide a framework for the protection of the work of HRDs, it fails to protect inalienable and important rights such as the freedom of expression, right to peaceful assembly, and freedom from defamation and stigmatization.⁷⁵
60. The current draft of the HRDPB places an unnecessary restriction on the expression rights of human rights defenders by requiring them to register with the Uganda Human Rights Commission (UHRC) in order to carry out their activities without facing consequences. Registration requires a fee and submission of documents, and it must be renewed every two years and can be revoked and suspended by the UHRC at any time. A human rights defender who carries out human rights activities without a valid certificate can be subject to imprisonment of up to three years.⁷⁶
61. Even before the introduction of the HRDPB, the requirement for human rights organizations to register was already being mandated by the Non-Governmental Organizations Act of 2016, which authorized the National Bureau for Non-Governmental Organizations (NGO Bureau) to “register, regulate, inspect, coordinate and monitor activities” of NGOs in Uganda. A recently leaked Ministry of Internal Affairs report (dated January 2023) revealed that the NGO Bureau placed under investigation 26 NGOs “suspected to be involved in the promotion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) activities in the country.”⁷⁷

⁷² The Anti-Homosexuality Bill, 2023, Bill No. 3 (Mar. 3, 2023), Part IV, Article 14. Available online at <https://www.jurist.org/news/wp-content/uploads/sites/4/2023/03/Anti-Homosexuality-Bill-2023.pdf>.

⁷³ Human Rights Committee, *List of Issues in Relation to the second periodic report of Uganda*, (July 2022), U.N. Doc. CCPR/C/UGA/Q/2, ¶ 25.

⁷⁴ Human Rights Committee, *Replies of Uganda to the list of issues in relation to its second periodic report*, (January 31, 2023), U.N. Doc. CCPR/C/UGA/RQ/2, ¶ 103.

⁷⁵ Parliament Watch, “Human Rights Defenders’ Protection Bill,” accessed May 20, 2023, <https://parliamentwatch.ug/bills/human-rights-defenders-protection-bill-2020/>.

⁷⁶ The Human Rights Defender’s Protection Bill of 2022, Memorandum, Part V.

⁷⁷ Ministry of Internal Affairs, National Bureau for NGOs, *Status report on NGOs suspected to be involved in the promotion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) activities in the country* (January 2023), 2.

62. The report stated that the organizations “alleged to be involved in promoting LGBTIQ activities in the country coin and disguise their objectives under the promotion of human rights; advocating for gender diversity; providing legal aid; access to justice to marginalized groups and sexual minorities; and prevention of HIV/AIDS among others in order to hoodwink the NGO Bureau and obtain registration whereas they conduct different activities on the ground.”⁷⁸ The report went on to recommend that the “NGO Bureau should be availed more resources to intensify the monitoring and inspection of NGOs to be able to identify and weed out those that are involved in activities that are prejudicial to the interests of the people of Uganda” and that “the individuals already identified and linked to organizations involved in promoting LGBTIQ activities should be profiled and mechanisms put in place to prevent them from forming other organizations for a similar purpose.”⁷⁹ According to the report, the NGO Bureau rejected and suspended the registration of four organizations (Sexual Minorities Uganda, The Robust Initiative for Promoting Human Rights, Tranz Network Uganda and Ubuntu Law and Justice Centre) for reasons related to their involvement in LGBTIQ+ issues.⁸⁰
63. The current draft of the 2023 Bill would criminalize the “promotion of homosexuality.” A person will be deemed to “promote” homosexuality if the person “knowingly advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcasting or distribution by any means, including the use of a computer, information system or the internet, or any material promoting or encouraging homosexuality or the commission of an offence under the Act; provides financial support, whether in kind or cash, to facilitate activities that encourage homosexuality or the observance or normalization of conduct that is prohibited under th[e] Act; knowingly leases or subleases, uses or allows another person to use any house, building or establishment for the purpose of undertaking activities that encourage homosexuality or any other offence under th[e] Act; or operates an organisation which promotes or encourages homosexuality or the observance or normalization of conduct that is prohibited under th[e] Act.”⁸¹ The broad and vague language of this provision creates uncertainty and fear human rights defenders who work on LGBTIQ+ human rights or with the LGBTI+ community because the government could potentially classify their work as promoting homosexuality. If an entity is found to have promoted homosexuality, the court may cancel or suspend the license for 10 years.⁸²
64. Though the 2023 Bill has not been approved by the president, the passage of the bill by the Parliament has already led to the revocation of human rights defenders’ licenses for working on LGBTIQ+ issues.⁸³ If the bill becomes law, it will likely lead to the criminalization of a

⁷⁸ Ministry of Internal Affairs, National Bureau for NGOs, *Status report on NGOs suspected to be involved in the promotion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) activities in the country* (January 2023), 9.

⁷⁹ Ministry of Internal Affairs, National Bureau for NGOs, *Status report on NGOs suspected to be involved in the promotion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) activities in the country* (January 2023), 11.

⁸⁰ Ministry of Internal Affairs, National Bureau for NGOs, *Status report on NGOs suspected to be involved in the promotion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) activities in the country* (January 2023), 2-7.

⁸¹ The Anti-Homosexuality Bill, 2023, Bill No. 3 (Mar. 3, 2023), Part III, Article 11. Available online at <https://www.jurist.org/news/wp-content/uploads/sites/4/2023/03/Anti-Homosexuality-Bill-2023.pdf>.

⁸² *Ibid.*

⁸³ Interview with Ugandan human rights defender, Uganda, May 18, 2023.

large number of human rights defenders (and their organizations) supporting the LGBTIQ+ community.

X. Suggested recommendations for the Government of Uganda

65. The authors suggest the following recommendations for the Government of Uganda:

- Reject the Anti-Homosexuality Bill of 2023 in its entirety.
- Revise the Anti-Homosexuality Bill of 2023 to eliminate the death penalty as a possible punishment for the crime of “aggravated homosexuality,” and reserve the death penalty for only crimes involving an intentional killing.
- Decriminalize sexual relations between consenting adults of the same sex currently criminalized under Sections 145-147 of the Penal Code.
- Enact specific legislation preventing discrimination against individuals based on sexual orientation, gender identity, gender expression, and sex characteristics in line with Article 21 and 32 of the Constitution.
- Adopt measures to combat public misinformation about and stigmatization towards the LGBTIQ+ community by conducting public education campaigns in collaboration with civil society organizations that work on LGBTIQ+ human rights.
- Include units on gender and sexuality in university and medical school curriculum, specifically on LGBTIQ+ social, legal, political, and medical concerns.
- Mandate training for government officials, educators, healthcare providers, and law enforcement with respect to LGBTIQ+ issues.
- Immediately cease the arbitrary arrest of individuals based on their sexual orientation, gender identity, gender expression, and sex characteristics.
- Conduct immediate, impartial investigations into all claims of human rights violations perpetrated by State and non-State actors against individuals because of their real or perceived sexual orientation, gender identity, gender expression, and sex characteristics.
- End impunity and hold both State and non-State perpetrators accountable for violations against LGBTIQ+ individuals.
- Provide fair and adequate financial compensation to LGBTIQ+ victims of human rights violations by State actors.
- Ensure that all new and existing police officers receive regular trainings on excessive force and preventing human rights violations against people in detention conditions. Include units of the particular vulnerabilities LGBTIQ+ individuals have while in detention.
- Immediately cease the use of forced anal examinations and other humiliating and degrading treatment of people in detention as a method to “prove” homosexuality.
- Ensure full compliance with laws regarding arrest procedures and investigate and prosecute all cases of arbitrary arrests and detention by state actors.

- Enact laws to specifically protect legal professionals – including those that work with the LGBTIQ+ community – from harassment, intimidation, and detention.
- Immediately and impartially investigate and prosecute all cases of intimidation and harassment of lawyers representing the LGBTIQ+ community.
- Revise the HIV and AIDS Prevention and Control Act of 2014 to prohibit any and all disclosure of HIV status by medical professionals.
- Revise the proposed Anti-Homosexuality Bill of 2023 to remove all provisions imposing a duty to report known or suspected acts of “homosexuality.”
- Amend the Human Rights Defenders’ Protection Bill to include protection of fundamental rights such as freedom of expression and remove the requirement for human rights defenders to register with the UHRC. Expedite the passing of the amended Human Rights Defenders’ Protection Bill.
- Reinstate the statuses of NGOs whose registration has been rejected or revoked by reason of involvement in LGBTIQ+ issues and prevent further unfair and targeted regulation of organizations promoting LGBTIQ+ rights.
- Revise the Anti-Homosexuality Bill of 2023 to remove all provisions that criminalizes the “promotion of homosexuality.”
- Develop mechanisms allowing relevant government bodies to promptly and independently investigate allegations of violations of human rights defenders’ human rights.

66. The authors include the following documents as annexed materials:

- Human Rights Awareness and Promotion Forum (HRAPF), *Arrests, Evictions and Violence: Report of Violations Against LGBTQ Persons for the First Month Following the Passing of Uganda’s Anti-Homosexuality Bill, 2023*, (Kampala, 2023).
- Human Rights Awareness and Promotion Forum (HRAPF), *A Legal and Human Rights Analysis of the Amendments to the Anti-Homosexuality Bill, 2023*, (Kampala, 2023).
- Human Rights Awareness and Promotion Forum (HRAPF), “The Anti-Homosexuality Bill, 2023,” Kampala: HRAPF, 2023 (Unpublished memorandum compiled by HRAPF of the text of the Anti-Homosexuality Bill passed by Parliament for the second time).