



Public Statement

05 June 2023

The UNAIDS Reference Group on HIV and Human Rights Strongly Condemns the Passage of Uganda's Anti-Homosexuality Act 2023

Uganda's Anti-Homosexuality Act 2023 directly promotes hatred and violence against LGBTQ persons – it violates human rights and will seriously undermine Uganda's response to HIV and AIDS.

On May 29, 2023, the President Yoweri Museveni signed the Anti-Homosexuality Bill into law – becoming one of the most draconian and restrictive anti-LGBTQ laws globally. We, public health and legal experts of the UNAIDS Reference Group on HIV and Human Rights, believe that this law directly promotes hatred and violence against LGBTQ persons. It further enhances the criminalization of LGBTQ persons in Uganda, imposing life sentences for acts of homosexuality and the death penalty for “aggravated homosexuality” which includes situations in which the person against whom the offence is committed acquires HIV. Among other problematic provisions, the law also bars LGBTQ “propaganda”, restricting the activities of, and funding for, organizations seen to “promote” or “normalize” homosexuality. Together, these provisions will have a devastating impact on the human rights and public health of both the LGBTQ community and the broader Ugandan population.

Undermining Uganda's progress in addressing HIV and AIDS

The provisions of the Anti-Homosexuality Act are deeply problematic from a public health perspective, as they will gravely undermine the HIV response. Forty years of responding to the AIDS epidemic has produced strong and compelling evidence that the existence and enforcement of punitive and discriminatory laws targeting gay men and other men who have sex with men are associated with [substantially higher prevalence of HIV](#) and [reduced access to testing and viral suppression](#). Globally, gay men and other men who have sex with men face an [up-to-28 times higher risk of acquiring HIV than other adult men](#); transgender women have a 14 times higher risk than other adult women. Criminalization of HIV and key populations creates further stigma and discrimination in relation to HIV, again creating significant barriers to HIV services. The [World Health Organization](#) has stated that access to HIV services can only be improved if structural barriers, such as criminalization of key populations, are removed.

In [Uganda](#), key populations, including gay men and other men who have sex with men, are disproportionately affected by HIV. National estimates for gay men and other men who have sex with men indicate the prevalence is 13%, as compared to 5.2% in the general population. While prevalence for transgender persons in Uganda is unknown, HIV status awareness for this population is far below that of the general population at 65% compared to 89% across the whole population.

This new law will deny key populations essential HIV and other health services, resulting in significant setbacks in HIV programming, not only for LGBTQ persons but for all Ugandans. Most notably, it will:

- **Drive LGBTQ persons underground and away from prevention and treatment services.** Surveys in sub-Saharan Africa have found that between [10% and 40% of gay men and other men who have sex with men](#) delay or avoid health care due to fear of stigma, discrimination and violence. The

UNAIDS Reference Group on HIV and Human Rights

criminalisation of same-sex sexual behavior is known to exacerbate this trend. As a result, there will likely be greater numbers of HIV infections among men who have sex with men and their sexual partners, late diagnosis of HIV due to testing avoidance, more treatment disruptions, eventually culminating in an increase in preventable deaths.

- **Jeopardize a broad range of HIV services, including but not limited to, prevention and treatment for men who have sex with men.** The law's restrictions on the dissemination of information seen to "promote" homosexuality and funding activities "promoting" or "normalizing" homosexuality is likely to negatively impact the distribution of life-saving public health information and provision of health services. These poorly defined provisions are likely to force HIV and other health programs to refrain from providing the full range of HIV services or to close altogether for fear of becoming targets for prosecution under the law. This, again, will result in increases in new infections, late HIV diagnoses, and AIDS-related mortality.
- **Put HIV prevention outreach workers at risk of arrest and detention.** For decades, outreach workers have been the backbone of the HIV response in Uganda and around the world. These outreach workers are instrumental in identifying people at risk of HIV and helping them access and utilize health services. These outreach workers may leave programs because of fears of legal jeopardy as a result of the law, thus undermining the effectiveness of the HIV response.
- **Increase stigma for men who have sex with men, making them less likely to engage in prevention, testing and treatment.** HIV-related stigma and discrimination is a longstanding and significant barrier to an effective response to HIV in Uganda. However, in recent years, Uganda had made progress toward removing this barrier. The latest [Uganda People Living with HIV Stigma Index Survey](#) from 2019 showed that levels of HIV-related stigma have dropped compared to 2013. Uganda was also one of the first countries to join the [Global Partnership to Eliminate HIV-related Stigma and Discrimination](#), spearheading work to address these barriers in health care settings, as well as developing community-led scorecards to monitor rights-violations against women and girls. The law is likely to jeopardize these hard won gains.
- **Increase HIV-related stigma more broadly.** The law makes transmission of a "terminal illness" an aggravating factor for a sexual offence. While the law doesn't specify any particular illnesses, "terminal illness" is defined as a "disease without scientific cure". While HIV is treatable and individuals living with HIV have a life-expectancy similar to the rest of the population, this section is likely to be interpreted to include HIV. Harsher criminal sanctions against people living with HIV are discriminatory, contrary to a sound public health response and have no scientific grounding. The inclusion of HIV as an aggravating offence in a law targeting gay men and other men who have sex with men puts these men at risk of stigma and discrimination related not just to their sexual orientation but also their HIV status. This may reduce willingness of individuals to test and learn their status, to disclose their HIV status to intimate partners, and enter and stay in treatment programs.
- **Negative economic impact.** Studies show that the exclusion and discrimination against LGBTQ people can lead to reduced productivity, increased health care costs and lower economic growth overall. [A World Bank-supported study](#) estimates that discrimination against LGBTQ people could cost a country up to 1.4 % of its GDP and the global economy up to US \$880 billion per year in lost economic output.
- **Present barriers to international support.** International organizations working with Uganda on HIV and related health and development issues have a responsibility for the safety and welfare of their staff and contractors working in the country, including local and international staff. The law presents complex ethical and legal challenges related to staff with responsibilities for promoting inclusive evidence and rights-based and public health approaches regardless of their sexual orientation and gender identity.

UNAIDS Reference Group on HIV and Human Rights

Inconsistency with Uganda's human rights commitments

At the national level, the Anti-Homosexuality Law violates several aspects of Ugandan law and policy. Firstly, the law is antithetical to several rights enshrined in the Constitution of Uganda, including the rights to equality and freedom from discrimination, privacy and access to health care. In its [Uganda 2040 Vision, the country](#) also notes that respect for fundamental human rights, including the rights to equality, dignity, privacy and health for all, is a key principle, along with a strong aspiration for a social transformation based on values such as national unity, respect for each other, good governance, transparency and accountability. On HIV, Uganda has recognized the importance of non-discrimination and equity, passing a national plan firmly anchored in a rights-based approach to HIV: "[Leaving No One Behind: A National Plan for Achieving Equity in Access to HIV, TB and Malaria Services, 2020-2024](#)."

At the regional level, the [African Charter of Human and People's Rights](#) calls for the realization of the right to health, as well as the right to non-discrimination. Furthermore, resolution 275 of the African Commission on Human and Peoples' Rights (ACHPR) calls for the [Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, as the Commission pointed out in an urgent appeal as](#) the Parliament of Uganda was considering the Anti-Homosexuality Act. Moreover, the [East African Community HIV and AIDS Prevention Management Act](#) calls for the protection of the rights of people living with, and affected by, HIV. Specifically, the Act calls for countries in Eastern African region to safeguard the rights of people living with HIV and other vulnerable groups, including those at greater risk for HIV infection, and not discriminate against them.

At the global level, Uganda is a state party to the core international human rights treaties, including the [International Covenant on Civil and Political Rights](#) and the [Covenant on Economic, Social and Cultural Rights](#). Under these treaties, Uganda has undertaken to respect, protect and fulfill the rights of all persons within their borders, regardless of sexual orientation and gender identity. These [obligations](#) include [protecting LGBTQ individuals](#) from violence, torture or other cruel, inhuman and degrading treatment, protecting their right to life, as well as protecting individuals from discrimination. They also include realizing the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. As noted by the [28 United Nations Special Rapporteurs, Independent Experts and Working Group members](#), the new legislation contains egregious violations of these human rights protections and threatens the physical and mental integrity of LGBTQQ persons in Uganda.

Conclusions and recommendations

To date, Uganda's HIV programs have contributed to a [60% reduction in AIDS-related deaths since 2010, a 43% reduction of new HIV infections since 2010, and have helped ensure that 1.2 million out of an estimated 1.5 million people](#) living with HIV are on anti-retroviral medicines to keep them alive and well. The Anti-Homosexuality Act undermines these important gains and risks significantly setbacks in Uganda's efforts to end AIDS as a public health threat by 2030.

In the past, Uganda has aligned itself with global best practices on HIV and human rights, voting in favor of the [2021 United Nations General Assembly Political Declaration on ending AIDS in which it committed to removing punitive and discriminatory laws which create barriers to accessing HIV services](#).

UNAIDS Reference Group on HIV and Human Rights

Considering this history and its international human rights obligations, we make the following recommendations:

- We call on the State of Uganda to overturn or annul the Anti-Homosexuality Act;
- We ask the media to observe relevant ethical and professional standards in their coverage of the law and to avoid any coverage that may inflame anti-LGBTQ sentiments, hatred or violence toward the LGBTQ community;
- We ask international donors to direct funding to LGBTQ-led organizations and support programs that aim to reduce stigma and discrimination against key populations.

Finally, we applaud the brave individuals and organizations that have initiated litigation to challenge this law. We call upon funders and allies of LGBTQ, HIV and human rights organizations to support continued advocacy and litigation to combat the impact of the Anti-Homosexuality Act, thus continuing in the struggle to ensure the right to health for all.

About the UNAIDS Reference Group on HIV and Human Rights

The UNAIDS Reference Group is an independent group of experts mandated, since 2002, to advise the UNAIDS Joint Programme on how best to strengthen the capacity of governments, civil society and the private sector to protect and promote human rights in relation to HIV, and to best operationalize human rights and gender equality in UNAIDS' policies and technical support. Our membership brings together people from the HIV and human rights community, including advocates, jurists, ethicists, people living with HIV, faith-based organizations, people working in the NGO and community sector, people working in the government sector, and academics, from across the world. For more information, please visit our website at: <http://www.hivhumanrights.org/>.

Reference Group Members: Cecilia Garcia Ruiz (Mexico), Mikhail Golichenko (Russia), Carolyn Gomes (Jamaica), Anand Grover (India), Ricki Gunawan (Indonesia), Jules Kim (Australia), Eszter Kismodi (Hungary – co-chair), Allan Maleche (Kenya – co-chair), JP Mokgethi-Heath (Sweden), Shen TingTing (China), Ricky Tshepo Kgositau (Botswana and South Africa).

To contact the Reference Group please email cochairs@hivhumanrights.org.