



PARLIAMENT OF UGANDA



**REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND
PARLIAMENTARY AFFAIRS ON THE ANTI - HOMOSEXUALITY
BILL, 2023 AS RETURNED BY H.E, THE PRESIDENT**

OFFICE OF THE CLERK TO PARLIAMENT

PARLIAMENT BUILDING

KAMPALA-UGANDA

APRIL 2023

Bureau

APRIL 2023

1.0. BACKGROUND

On Thursday, 9th March, 2023, a Bill entitled "The Anti-Homosexuality Bill, 2023" was, in accordance with Rule 128 of the Rules of Procedure of Parliament, read for the first time and referred to the Committee on Legal and Parliamentary Affairs for scrutiny.

On Tuesday 21st March 2023, the Committee on Legal and Parliamentary Affairs reported to the House. The House passed the Bill into law.

H.E, the President, in accordance with Article 91 of the Constitution, withheld his assent to the Bill and returned it to Parliament for reconsideration. The President, in a letter addressed to the Rt. Hon. Speaker dated 25th April, 2023, requested reconsideration of the Bill on three grounds, namely-

(a) Distinguishing between being a homosexual and actually engaging in acts of homosexuality;

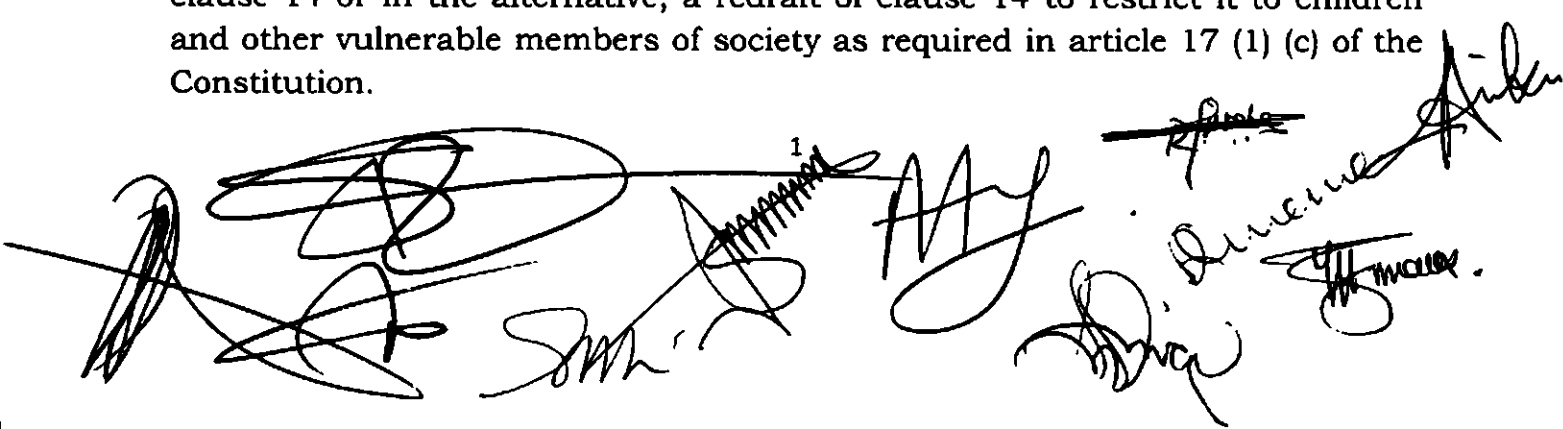
The President argues that the law should be clear so that what is being criminalized is not the state of one having a deviant proclivity but rather the actions of one acting on the deviance or promoting the same. The President recommended that a new sub clause be inserted in clauses 2 and 3 to the effect that "For the avoidance of doubt, a person who is believed or alleged or suspected of being a homosexual, who has not committed a sexual act with another person of the same sex, does not commit the offence of homosexuality under this section."

(b) Clause 9 (Premises)

H.E the President proposes that clause 9 (1) should be deleted on grounds that it is unnecessary since what is provided for in clause 9 (2) is more comprehensive and passes the constitutional test.

(c) Clause 14 (Duty to report acts of homosexuality)

H.E the President objected to clause 14 of the Bill reasoning that clause 14 presents constitutional challenges. The President reasoned that clause 14 and 15 create unnecessary contradictions and duties which pose implementation challenges and conflicts in society. The President recommended deletion of clause 14 or in the alternative, a redraft of clause 14 to restrict it to children and other vulnerable members of society as required in article 17 (1) (c) of the Constitution.



2.0. ROLE OF A COMMITTEE UPON RETURN OF A BILL BY THE PRESIDENT

Article 91 of the Constitution imposes an obligation on Parliament to ensure that a bill passed by Parliament is, as soon as possible, presented to the President for assent.

The same article imposes an obligation on the President to, within thirty days after a bill is presented to him or her—

- (a) assent to the bill;
- (b) return the bill to Parliament with a request that the bill or a particular provision of it be reconsidered by Parliament; or
- (c) notify the Speaker in writing that he or she refuses to assent to the bill.

Clause (4) of article 91 requires that where a bill has been returned to Parliament under clause (3)(b) of article 91, as is the case with this Bill, Parliament is obligated to reconsider it and if passed again, it is presented for a second time to the President for assent.

Rule 143 of the Rules of Procedure of Parliament guide Parliament and a Committee to which a Bill is referred to by Parliament upon its return by H.E. the President and it requires the Speaker to read to the House, the request from the President and thereafter refer the Bill to the relevant Committee which shall consider the recommendations of the President and report to the House within two weeks.

It is evident from the above rule that a Committee to which a Bill is returned is obligated to only examine the matters referred to in the President's letter and not to re-open the entire Bill for debate or consideration.

In the same vein, the House, when considering the matters referred to in the President's request is guided, under Rule 143 (4) of the Rules of Procedure of Parliament, to restrict itself to consideration of matters referred to in the message of the President or to any suggestion relevant to the subject matter of the amendment recommended by the President.

Rule 143 (6) of the Rules of Procedure of Parliament provides that an amendment relevant to the subject matter of an amendment recommended by the President may be moved but no further amendment shall be moved to the

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Bill unless it is consequential upon, incidental or alternative to, an amendment recommended by the President.

From the foregoing, it is evident that-

- (a) the Committee's role is limited to only examining the recommendations of the President or any suggestion relevant to the subject matter of the amendment recommended by the President and reporting to the House within two weeks of the referral of the Bill to it;
- (b) the Committee can only propose and the House can only allow amendments to the Bill which are relevant to the subject matter of an amendment recommended by the President, consequential upon, incidental or alternative to, an amendment recommended by the President.

In that regard therefore, the Committee and House are only restricted to considering the clauses specifically referred to by H.E the President.

3.0. CONSIDERATION OF MATTERS RETURNED BY THE PRESIDENT

The Committee has examined the provisions returned for reconsideration by H.E, the President and hereby reports-

3.1. Distinguishing between being a homosexual and actually engaging in acts of homosexuality

The first reservation by H.E the President relates to the lack of clear provisions in the Bill prohibiting the criminalization of individuals who have not committed any of the prohibited acts under the Bill. The President argues that the law should be clear so that what is being criminalized is not the state of one having a deviant tendency but rather the actions of one acting on the deviance or promoting the same.

The Committee has examined the proposal by H.E the President and it is of considered opinion that the views expressed by H.E are genuine and were also expressed by the Committee in its report to the House. The Committee, in its report to the House, at page 34, paragraph 7.2 noted that Bill contained a number of provisions which had the effect of criminalising a person merely based on the appearance of the accused person rather than on the commission of any of the acts or omissions prohibited under the Bill.

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The Committee was informed that the majority of arrests of persons suspected of being LGBTIQ+ were premised on the appearance of the suspects, with persons being deprived of their liberty only on the ground that they 'look gay'. The Committee also took cognisance of the decision of court in the case of **Victor Mukasa & Another vs. Attorney General (High Court Miscellaneous Cause No 24 of 2006)** wherein Court held that the arrest of the plaintiff based on her physical appearance and without having committed an offence as unlawful since the plaintiff had not committed any of prohibited acts under the Panel Act.

The Committee further took cognisance of the decision in the case of **Kasha Jacqueline Vs Rolling Stone Limited & another, Misc. Cause 163 of 2010** where court held that "the scope of S. 145 of the Penal Code Act is narrower than gaysim generally. Court reasoned that one has to commit an act under S. 145 to be regarded as a criminal". This decision means that being or appearing as a LGBTIQ+ person is not in itself an offence until a person commits any of the prohibited acts under the law. This means that a person cannot be criminalized but the conduct of the person, if contrary to the law, should be criminalized and punished.

As guided by Court in the earlier mentioned decisions, the Committee recommended for the deletion of all provisions in the Bill which had the effect of criminalizing a person's appearance. For instance, the Committee recommended for the deletion of clause 2 (1) (d) of the Bill which had proposed to declare, as acts of homosexuality, a person who holds out as a lesbian, gay, transgender, a queer or any other sexual or gender identity that is contrary to the binary categories of male and female.

This provision had the effect of criminalising persons who identify as lesbian, gay, transgender, a queer or any other sexual or gender identity that is contrary to the binary categories of male and female without such persons having committed an offence under the laws of Uganda. The Committee further clearly defined a "homosexual" to mean a person who engages in an act of homosexuality. This definition clearly criminalises the acts committed by a homosexual and not the physical appearance or character of a person.

The President now suggests that these provisions do not go far enough to bring clarity to the intended purpose of this Bill and recommends specific provision be made to the effect that **"For the avoidance of doubt, a person who is believed or alleged or suspected of being a homosexual, who has not**

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committed a sexual act with another person of the same sex, does not commit the offence of homosexuality under this section."

The Committee has considered the proposal by H.E the President and recommends that clause 2 and 3 be amended to create further clarity on the purpose and intention of the Bill, which is to criminalise sexual acts committed by persons of the same sex rather than punishing a person based on their perceived sexuality or physical appearance.

Recommendation

The Committee recommended that clauses 2 and 3 of the Bill be amended to create clarity on the purpose and intention of the Bill.

3.2. Clause 9 (Premises)

The second objection by H.E the President relates to clause 9 (1) of the Bill and proposes that clause 9 (1) should be deleted on grounds that it is unnecessary since what is provided for in clause 9 (2) is more comprehensive and passes the constitutional test.

Clause 9 of the Bill relating to premises is intended to prohibit persons being a keeper of a house, room, set of rooms, place of any kind or being the owner, occupier or manager of premises from knowingly allowing the premises from being used by any person for purposes of homosexuality. Clause 9 is reproduced below-

"9. Premises

(1) A person who keeps a house, room, set of rooms or place of any kind for purposes of facilitating the commission of the offence of homosexuality commits an offence and is liable, on conviction, to imprisonment for a period not exceeding seven years.

(2) The owner, occupier or manager of premises who knowingly allows the premises to be used by any person for purposes of homosexuality or to commit an offence under this Act, commits an offence and is liable, on conviction, to imprisonment for a period not exceeding ten years."

Thomas

Andri

Shirley

Dunne

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The President is of the considered opinion that sub clause (1) of clause 9 is redundant since the matters it seeks to prohibit are already prohibited under sub clause 2 of the same clause.

The Committee has examined the provisions of clause 9 and is of the considered opinion that the provisions of clause 9 (1) and (2) all serve a purpose and should be retained. While clause 9 (2) is intended to covers all conceived persons who might either have a registrable interest in a property (owner), a person who is employed, licenced or contracted by the owner to manage any property (manager) or an occupier, who is a person in occupation or control of premises, clause 9 (1) deals with any other person, not having interest in the premises but is in charge or in control of premises and such persons may include employees or any other person who directly or indirectly operates the premises.

The Committee is therefore of the considered opinion that instead of deleting clause 9 (1) as proposed by H.E the President, clause 9(1) and (2) should be merged so that the persons envisaged in sub clauses (1) and (2) are provided under one provision.

Recommendation

The Committee recommends that for clarity, Clause 9 (1) and (2) should be merged into one comprehensive clause`.

3.3. Clause 14 (Duty to report acts of homosexuality)

H.E the President objected to clause 14 of the Bill reasoning that clause 14 presents constitutional challenges. The President reasoned that clause 14 and 15 create unnecessary contradictions and duties which pose implementation challenges and conflicts in society. The President recommended for deletion of clause 14 or in the alternative, to redraft of clause 14 to restrict it to children and other vulnerable members of society as required in article 17 (1) (c) of the Constitution.

The Committee has examined clause 14 of the Bill and is of the considered opinion that clause 14 is relevant since it imposes a duty on a person who knows or has a reasonable suspicion that a person, has committed or intends to commit the offence of homosexuality or any other offence under the Act, to report the matter to police for appropriate action. The provision also grants immunity to a person who is otherwise prevented by privilege from making a report on his or her suspicion of the occurrence of the offence of homosexuality

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from any action arising from the disclosure of the information without the consent or waiver of privilege first being obtained or had.

The same provision creates an offence against a person who knowingly or having reason to believe that a person has committed or intends to commit but does not report the matter to police. It further directs that a person who makes a report shall be treated as a whistle-blower in accordance with the Whistle-blowers Protection Act, 2010 and shall be protected from victimisation. The section however grants advocates exemptions for reporting to police on any suspicion of the occurrence of the offence of homosexuality.

Clause 14 was introduced by the Committee on the recommendation of various stakeholders, specifically Uganda Medical Association who informed the Committee that they receive a number of children who are victims of homosexuality and are prevented by doctor-client privilege from making reports to police. The Committee was also persuaded by international best practices where in some countries, there is imposed a duty on a person to make reports where such a person knows or reasonably suspects that there is a sexual offence being committed against another person. This best practice pertains in some Commonwealth countries such as the UK, Australia, New Zealand, Kenya and South Africa.

The rationale for introducing clause 14 was to ensure that persons in Uganda, including care givers, report homosexual acts that are within their knowledge. It was also intended to be an avenue through which adequate information is collected on the occurrence of homosexual acts in society in order for decision makers to take appropriate measures to respond to such occurrences as well as ensuring that victims of this offence are adequately identified and protected.

The Committee however notes that clause 14 (3) which creates criminal sanctions against a person who does not report an offence that he has knowledge about creates an onerous duty beyond what is imposed at law under article 17 (1) (c) of the Constitution.

The Committee is aware that Article 17 (1) (c) of the Constitution imposes a duty on every citizen of Ugandan to protect children and vulnerable persons against any form of abuse, harassment or ill-treatment. Since the duty imposed under the Constitution is restricted to children and vulnerable persons, the criminal sanctions should only attach against persons who do not report crimes committed against children and other vulnerable persons.

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The Committee is also aware that under the Children Act, section 4 (4) imposes a duty on a person who witnesses an abuse against the rights of a child to, as soon as possible, report the matter to the police or any authority responsible for child welfare. In the same vein, section 42A (2) also requires a person who on reasonable grounds believes that a child has been abused or is in imminent danger which may result in physical injury, sexual abuse, deliberate neglect, or is in need of care and protection to report to a designated child protection organization or authority. These provisions impose additional duties on every person to protect children from abuse by reporting such abuse to the authorities.

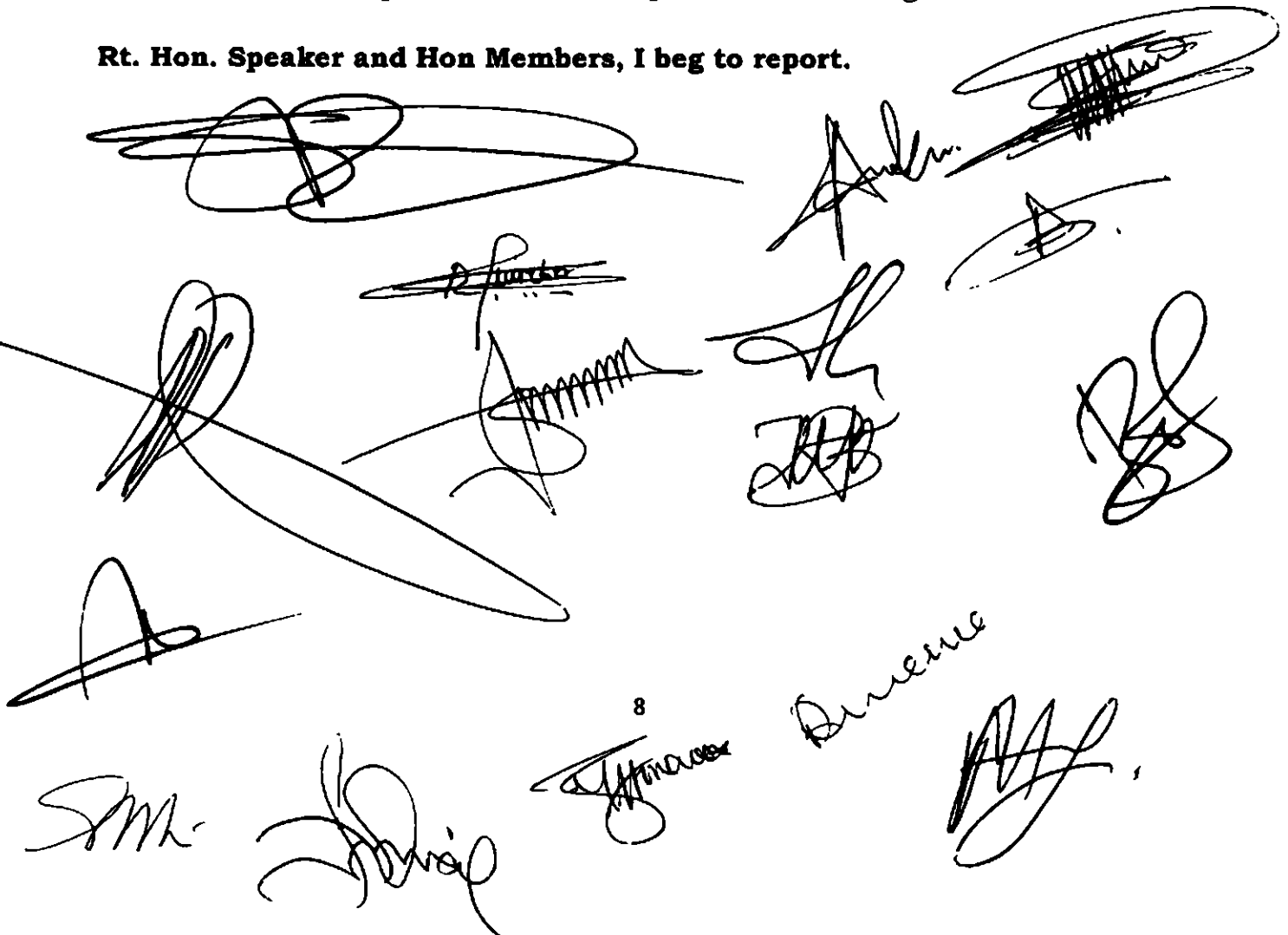
Recommendation

The Committee recommends that Clause 14 of the Bill stand part of the Bill albeit with amendment to clause 9 (3) to create criminal sanctions against a person who does not report acts of homosexuality that are committed against children and other vulnerable persons.

4.0 CONCLUSION

The Committee recommends that Parliament considers and adopts this report and that the Anti- Homosexuality Bill, 2023 as returned by H.E, the President be reconsidered and passed into law subject to the following amendments.

Rt. Hon. Speaker and Hon Members, I beg to report.



AMENDMENTS TO THE ANTI-HOMOSEXUALITY BILL, 2023 AS RETURNED BY H.E, THE PRESIDENT

CLAUSE 2: THE OFFENCE OF HOMOSEXUALITY

Clause 2 of the Bill is amended by inserting immediately after sub clause (4), the following-

“(5) For the avoidance of doubt, a person who is alleged or suspected of being a homosexual, who has not committed a sexual act with another person of the same sex, does not commit the offence of homosexuality under this section.”

Justification

To clarify the fact that the Bill intends to criminalize only acts of homosexuality.

CLAUSE 3: AGGRAVATED HOMOSEXUALITY

Clause 3 of the Bill is amended by inserting immediately after sub clause (4), the following-

“(5) For the avoidance of doubt, a person who is alleged or suspected of being a homosexual, who has not committed a sexual act with another person of the same sex, does not commit the offence of homosexuality under this section.”

Justification

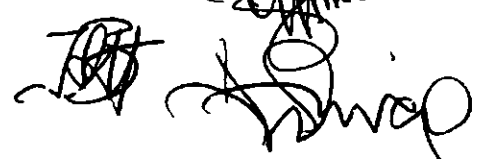
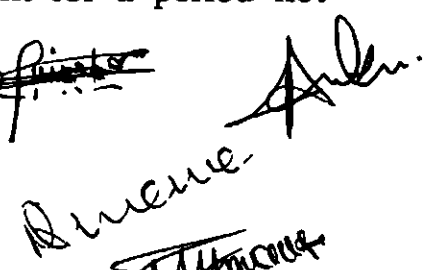
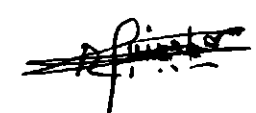
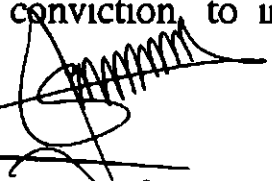
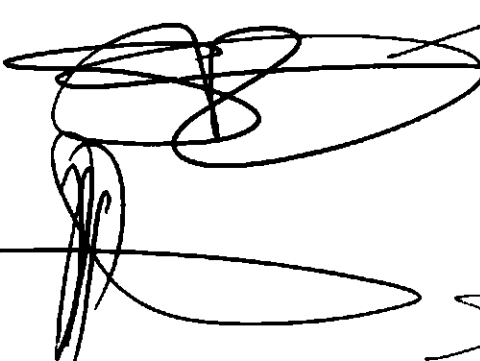
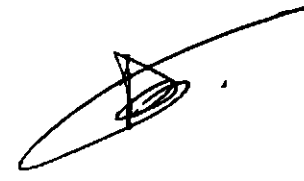
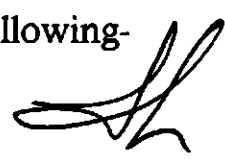
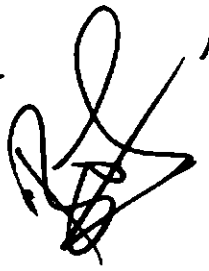
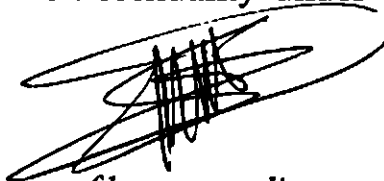
To clarify the fact that the Bill intends to criminalize only acts of homosexuality.

CLAUSE 9: PREMISES

For clause 9, there is substituted the following-

“9. Premises

A person who knowingly allows any premises to be used by any person for purposes of homosexuality or to commit an offence under this Act, commits an offence and is liable, on conviction, to imprisonment for a period not exceeding seven years.”



Justification

To merge clause 9 (1) and (2) into one provision for clarity

CLAUSE 14: DUTY TO REPORT ACTS OF HOMOSEXUALITY

Clause 14 is amended by substituting for sub clause (3), the following-

“(3) A person who, knowing or having reason to believe that a person has committed or intends to commit an offence against a child or vulnerable person, and does not report the matter to police, commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or imprisonment for a period not exceeding six months.”

Justification

- *In recognition of a duty imposed under Article 17 (1) (c) of the Constitution, to impose criminal liability against a person who knows or has reason to believe that a person has committed or intends to commit an offence against a child or vulnerable person and does not report the same to police.*

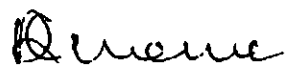


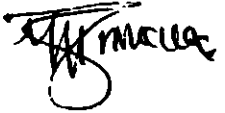
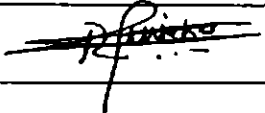
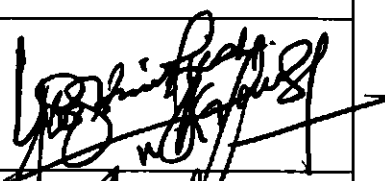
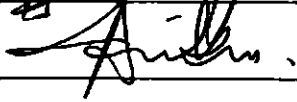
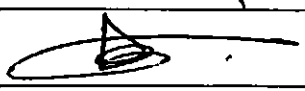
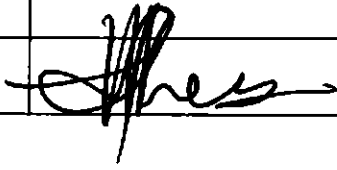
CLAUSE 17: REPEAL

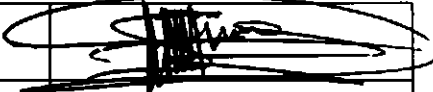
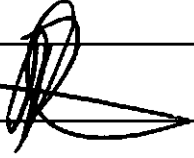
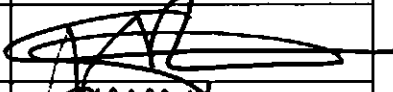
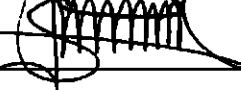
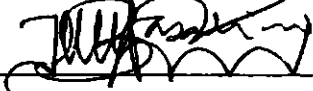

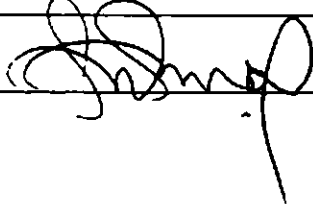
Delete clause 17.

Justification

- *A consequential amendment arising from the proposed amendments in clause 2 and 3*

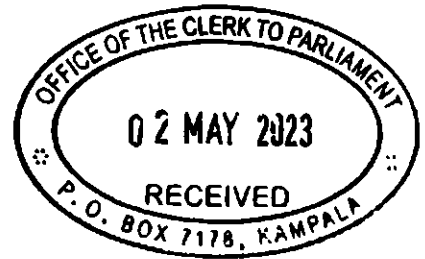
SIGNATURE SHEET FOR THE REPORT OF THE COMMITTEE OF LEGAL AND PARLIAMENTARY AFFAIRS ON ANTI-HOMOSEXUALITY BILL, 2023 AS RETURNED BY H.E, THE PRESIDENT

NO.	NAMES	CONSTITUENCY	SIGNATURE
1	Hon. Rwakoojo Robina Gureme	Gomba West County	
2	Hon. Mutembuli Yusuf	Bunyole East	
3	Hon. Okiror Bosco	Usuk County	
4	Hon. Nkwasiibwe Zinkuratire Henry	Ruhaama County	
5	Hon. Odoi Benard	Youth Eastern	
6	Hon. Odoi Oywelowo Fox	West Budma North East	
7	Hon. Oseku Richard Oriebo	Kibale County	
8	Hon. Baka Stephen Mugabi	Bukooli County North	
9	Hon. Cherukut Emma Rose	DWR Kween	
10	Hon. Kajwengye Twinomugisha Wilson	Nyabushozi County	
11	Hon. Okia Joanne Aniku	DWR Madi Okollo	
12	Hon. Obigah Rose	DWR Terego	
13	Hon. Achayo Lodou	Ngora County	
14	Hon. Kasaija Stephen	Burahya County	
15	Hon. Teira John	Bugabula North	

16	Hon. Silwany Solomon	Bukhooli Central	
17	Hon. Kwizera Paul	Kisoro Municipality	
18	Hon. Werikhe Christopher	Bubulo West	
19	Hon. Malende Shamim	DWR Kampala	
20	Hon. Lubega Medard Ssegona	Busiro East	
21	Hon Ssekitoleko Robert	Bamunanika County	
22	Hon. Ssemujju Ibrahim	Kira Municipality	
23	Hon. Adeke Ann Ebaju	DWR Soroti	
24	Hon. James Mugira	UPDF	
25	Hon. Asuman Basalirwa	Bugiri Municipality	
26	Hon. Alum Santa Sandra Ogwang	DWR Oyam	
27	Hon. Shartsi Musherure Nayebare Kutesa	Mawogola North County	
28	Hon. Abdu Katuntu	Bugweri county	
29	Hon. Acrobert Kiiza Moses	Bughendera County	
30	Hon. Niwagaba Wilfred	Ndorwa County	



PARLIAMENT OF UGANDA



**MINORITY REPORT TO THE REPORT OF THE SECTORAL
COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON
THE ANTI HOMOSEXUALITY BILL, 2023 AS RETURNED BY THE
PRESIDENT**

**OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDING
KAMPALA-UGANDA**

APRIL 2023

1.0. Background

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On Tuesday 21st March, 2023, the Committee on Legal and Parliamentary Affairs reported back to the House on the Bill and the House, with the support of the 385 Members of Parliament considered, debated and passed the Bill into law.

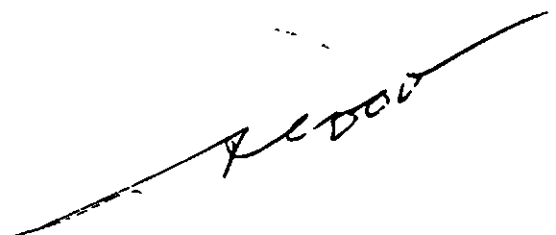
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(a) Distinguishing between being a homosexual and actually engaging in acts of homosexuality;

The President argues that the law should be clear so that what is being criminalized is not the state of one having a deviant proclivity but rather the actions of one acting on the deviance or promoting the same. The President recommended that a new sub clause be inserted in sub clauses 2 and 3 to the effect that “For the avoidance of doubt, a person who is believed or alleged or suspected of being a homosexual, who has not committed a sexual act with another person of the same sex, does not commit the offence of homosexuality under this section.”

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H.E the President proposes that clause 9 (1) should be deleted on grounds that it is unnecessary since what is provided for in clause 9 (2) is more comprehensive and passes the constitutional test.

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(c) Clause 14 (Duty to report acts of homosexuality)

H.E the President objected to clause 14 of the Bill reasoning that clause 14 presents constitutional challenges. The President reasoned that clause 14 and 15 create unnecessary contradictions and duties which pose implementation challenges and conflicts in society. The President recommended for the entire deletion of clause 14 or in the alternative, a redraft of clause 14 to restrict it to children and other vulnerable members of society as required in article 17 (1) (c) of the Constitution.

2.0. POINTS OF DISSENT

2.1. The proposal by the President is insufficient and restrictive

The first point of dissent relates to the President's proposal, which has been adopted by the Committee, to include a provision in clause 2 and 3 to the effect that "For the avoidance of doubt, a person who is believed or alleged or suspected of being a homosexual, who has not committed a sexual act with another person of the same sex, does not commit the offence of homosexuality under this section."

The provision in effect means that an LGBTQI+ person can stay in Uganda. The existence of the LGBTQI persons in Uganda is a known fact from time immemorial. Whereas the proposal by the President in acknowledging the existence of this minority is a step in the right direction, it is insufficient and restrictive to the extent that it proposes to criminalise the enjoyment of human rights and freedoms by LGBTQI+ persons.

The courts in *Kasha Jacqueline Vs Rolling Stone Limited & another, Misc. Cause 163 of 2010* recognised the existence of LGBTQI+ persons in Uganda and these cannot be wished away by legislation. Therefore, the existence of LGBTQI+ persons cannot be an executive grant.

The existence of the LGBTQI+ persons imposes a duty on Government and all organs of state to uphold, respect and promote the rights and freedoms of

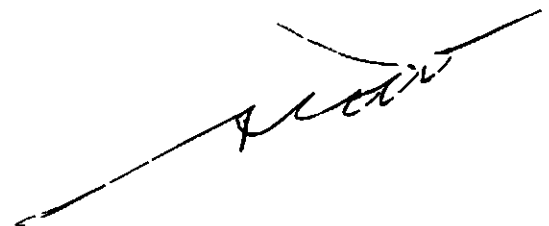
LGBTQI+ persons in Uganda. Court in *Kasha Jacqueline Vs Rolling Stone Limited & another, Misc. Cause 163 of 2010* found that all persons in Uganda, including LGBTQI+ persons enjoy the same rights and freedoms under the Constitution.

The proposal of the President to the extent that it saves the criminalization of consensual same sex relations in clause 2 is self-defeating since on one hand it recognizes their existence and on the other, it punishes their acts. Like the Bill, the proposal by the President will still leave room for the abuse of the rights and freedoms of LGBTQI+ community by legislating the discrimination of such persons, the perpetuation of inhuman and degrading punishments, the invasion of their privacy, the denial of their right to health, housing as well as the right to seek and obtain justice and remedies at law for wrongs committed against such persons. The proposal by the President does not protect, in a comprehensive manner, any of the rights and freedoms enshrined and protected in chapter four of the Constitution.

The proposal also falls short of the Uganda's commitments under several international human rights instruments to which Uganda is a state party, to wit, Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), The Convention on the Elimination of All forms of Discrimination against women (CEDAW), The Convention the Rights of the Child (CRC), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the African Charter on Human and People's Rights.

Recommendation

The minority recommend that the proposal by the President to amend clauses 2 and 3 be rejected and instead clauses 2 and 3 be deleted.

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2.2. Criminalising the appearance of a person

The second point of dissent is that the proposal by the President to amend clauses 2 and 3 does not address the contravention of article 28 (3) (a) which is inherent in clauses 1, 2 and 3 of the Bill.

The minority are aware that the definition of the term “homosexual” as well as clauses 2 and 3 of the Bill penalizes and declares persons homosexuals without first having been convicted of any offence. The term “homosexual” is defined to mean a person who engages in an act of homosexuality. This definition means that a person suspected of having committed sexual acts will be deemed a homosexual without that person being charged and convicted of an offence.

The minority fear that this provision will be abused by law enforcement agencies who may label persons homosexuals, without being tried by courts of law. They will require such persons to defend themselves, thereby reversing the burden of proof from the prosecution to the accused person. It is trite criminal law that the prosecution bears the burden to prove the offence against the accused. This burden of proof does not shift to the accused to prove their innocence as the Bill proposes. The burden of proof always rests on the prosecution. The prosecution must adduce evidence to discharge its burden of proof. **See Ssekitoleko v. Uganda [1967] EA 531).**

The provision also has the effect of declaring an accused person guilty, thereby reversing the presumption of innocence prescribed in the Constitution. This statutorily puts the accused person to his or her defence and exonerates the prosecution from proving the allegations against the accused person beyond reasonable doubt.

The provisions of this Bill will perpetuate abuse of the rights of persons based on their perceived sexual orientation by allowing the arrest and prosecution of persons premised on the appearance of the suspect.

The minority are concerned that the police and other law enforcement agencies arrest people based on their appearance as was found in the case *Victor Mukasa & Another vs. Attorney General (High Court Miscellaneous Cause No 24 of 2006)* wherein the plaintiff was arrested by police based on appearance and without

having committed an offence and taken to police to determine her “sexuality”. The proposal by the President and the majority report do not remedy the flaws of the Bill in as far as infringing article 28 (3) is concerned.

Recommendation

The Bill should be rejected in its entirety since it contravenes article 28 on fair trial and is susceptible to abuse since it will allow the arrest and prosecution of persons based on appearance or perceived sexuality and without having committed an offence.

3.0. Conclusions and recommendations

The minority has examined the proposals by the President and is of the considered opinion that they are insufficient to salvage the Bill.

The unconstitutionality of the Bill cannot be remedied through a partial and ineffective recognition of the existence of LGBTQI+ community while at the same time criminalizing the enjoyment of their constitutional right and freedoms.

We therefore recommend as follows-

- (a) Clauses 2 and 3 be deleted;
- (b) Clause 9 should be deleted since it creates an onerous obligation which is impossible to fulfill;
- (c) Clause 14 should be deleted since it will prevent LGBTQI+ persons from accessing Medicare for fear of being reported.

In light of the above, the minority recommend that the entire Bill be rejected.

ENDORSEMENT OF THE MINORITY REPORT TO THE REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON THE ANTI HOMOSEXUALITY BILL, 2023 AS RETURNED BY THE PRESIDENT

NO.	NAME	CONSTITUENCY	SIGNATURE
01	Fox UDDI-LYNELAND	WBNE	<i>[Handwritten Signature]</i>