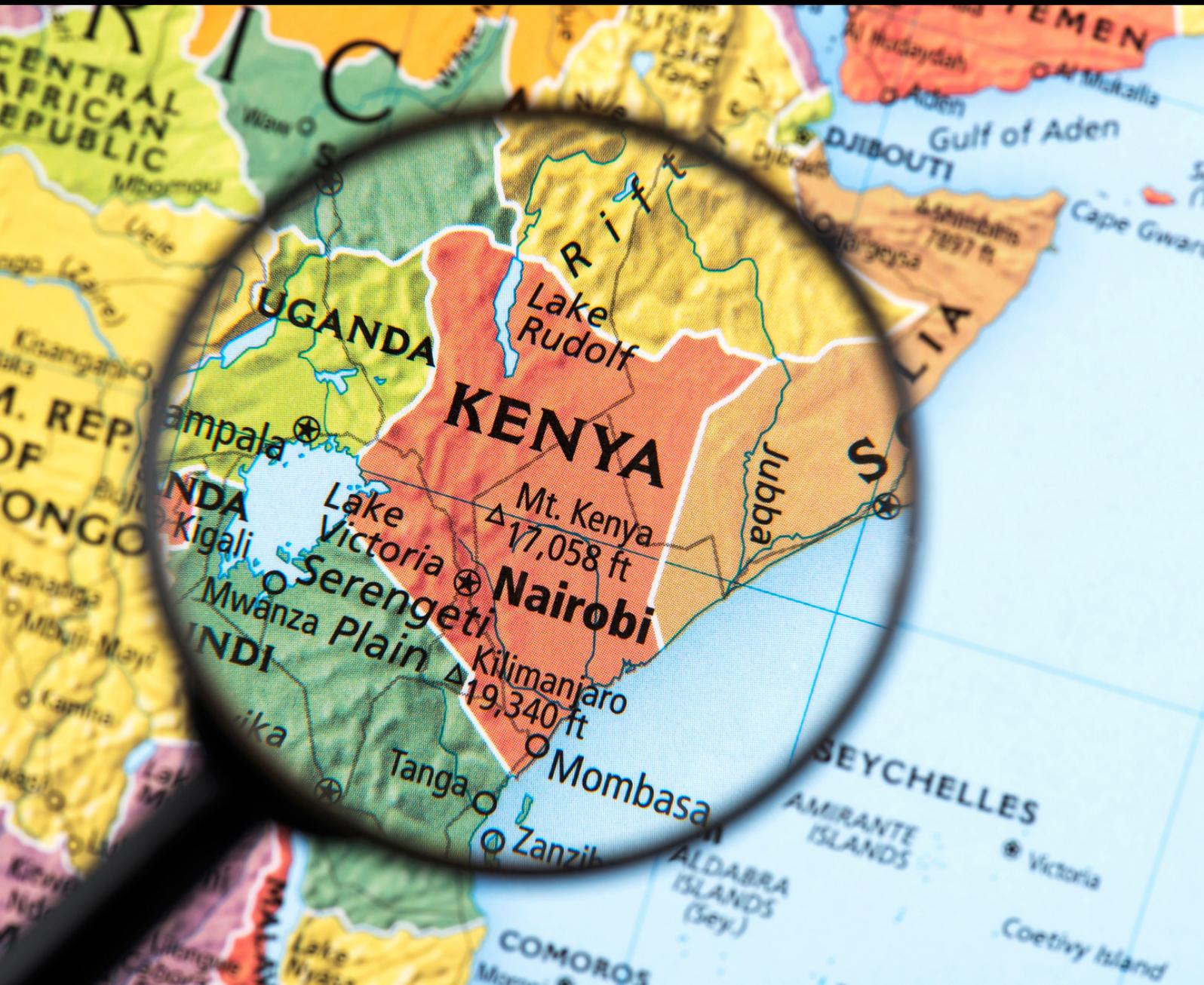


Rafiki and Beyond: Political Restrictions on SOGI Freedoms in Kenya and Uganda



ReportOUT



**ReportOUT Response to UN OHCHR Call For Papers
January 2024**



Registered with
**FUNDRAISING
REGULATOR**

ReportOUT is a global LGBTQ+ human rights organisation
For more information, please visit our website: www.reportout.org
Registered Charity Number (England and Wales): 1185887

A Statement from ReportOUT's Chair & Lead Trustee, Human Rights Research

It is a privilege to submit ReportOUT's response to the UN's call for contributions to your report on discriminations against SOGI minority communities in the basic human rights of freedom of expression, association and assembly. We were extremely proud to be cited in the UN's previous report on the impact of colonialism on contemporary attitudes towards sexual and gender minorities and are delighted for the opportunity to support their latest call for papers.

Founded in 2019, ReportOUT is a human rights research organisation in the United Kingdom that documents the lived experiences of SOGI people and communities in different nations across the globe. We use our research to inform the public, educate others and to influence governments and organisations about SOGIESC human rights infringements.

By the end of June 2024, ReportOUT will have published six 'deep dive' projects into the lived experiences of SOGI communities in Uganda, Zimbabwe, Belize, Morocco, Ethiopia and Mongolia. We are proud to be an entirely volunteer-led charity, with volunteers and trustees originating from over thirty nation-states, six of whom contributed to this report.

Our report, focused on Kenya and Uganda, demonstrates how both legislation and broader political institutions perpetuate both restriction and denial of basic rights relating to freedom of expression, association and assembly to SOGI communities and their ongoing commitment to protect fundamental human rights owed to all citizens, regardless of sexual orientation or gender identity, rights which are continually denied in far too many nation states.. We trust that our research, compiled by two of our dedicated team of global volunteers will be a valuable contribution to the UN's final report. We would like to thank our superb research Arnold and Daniel for their diligence and commitment to completing this report.

Drew Dalton.
Chair of Trustees.

Phil Thomas
Lead Trustee, Human Rights Research



Drew Dalton
Chair of
Trustees

Drew (He/Him) is the founder and currently the Chair of ReportOUT. He has spent the last 20 years working within the NGO sector on both a national and international level in a range of varied roles. Alongside this, he is a qualified teacher, and is currently working as an academic and social researcher. Drew has a degree in BSc (Hons) Sociology and Social Research, MSc Social Research, MA Gender Research and a PhD in Sociology. Drew has featured on various media outlets, including the BBC, Channel 4 News and the New Arab.



Phil Thomas
Lead Trustee,
Human Rights
Research

Phil (He/Him) became a Trustee of ReportOUT in November 2022. He is passionate about geopolitics and SOGI histories around the globe and has undertaken research for ReportOUT on a diverse range of countries including Mongolia, Afghanistan and Ukraine. Phil holds a Masters in International Relations from University of Cambridge (UK), MBA from Duke University (USA) and a BA in Modern Languages from University of Durham (UK)



About ReportOUT



Who are ReportOUT?

Since 2019, ReportOUT have been at the forefront of protecting the human rights of sexual and gender minorities in the United Kingdom and globally. As a registered charity in England and Wales (registered charity number 1185887) we are **fearless, determined and relentless** in our belief that human rights are fundamental to advancing the lives of sexual and gender minorities, and their communities.

We recognise that we need to succeed in our aims and objectives by also using principles from international development alongside human rights frameworks, and we believe that both of these approaches should **always include sexual and gender minorities as part of them**. We align all of our work with Agenda 2030, in that no one should be left behind.

ReportOUT's official aim and objectives are:

To promote human rights (as set out in the Universal Declaration of Human Rights and subsequent United Nations conventions and declarations) throughout the world for sexual and gender minorities by all or any of the following means:

- Eliminating infringements of human rights;
- Research into human rights issues;
- Raising awareness of human rights issues;
- Educating the public about human rights;
- Monitoring abuses of human rights;
- International advocacy of human rights;
- Providing technical advice to government and others on human rights matters.

Our guiding principles:

- **Principle 1:** No one should be left behind in delivering the articles set out in the Universal Declaration of Human Rights.
- **Principle 2:** Every person has a part to play in achieving the goals and targets set out in the United Nations Sustainable Development Goals.
- **Principle 3:** Positive change should be led by communities within a nation state and ReportOUT will support them to do this.

Contributing Researchers



Arnold Ochieng Oginga (Kenya) Arnold is an Advocate of the High Court of Kenya; a Constitutional Law, Human Rights, Electoral justice, and Tech Law expert, and litigates and consults in these fields. He is the CEO and Founder of Ochieng Oginga & Company Advocates and Co-founder of IDEAT Tech Policy Africa which deals with complex and varied areas of Constitutional law, Human Rights in the digital age among others. He is a Certified Sexual and Gender Minority Rights Practitioner; Certified Disability Rights Practitioner; & Certified Social, Cultural, and Economic Rights Practitioner, certified by the University of Pretoria, Centre for Human Rights, South Africa. Arnold is also currently an LLM candidate at the University of East London, United Kingdom. Alongside his Human Rights research with ReportOUT, he is also a volunteer advocate and legal researcher at TrustLaw foundation.



Daniel Santos (Portugal) Daniel holds a bachelor's degree in International Relations and is currently a Master's student in Peace, Security, and Development Studies at the University of Coimbra. Being a junior researcher from Portugal, their areas of interest are critical studies, especially queer and feminist studies, on peace and violence, security, democracy, and human rights. As a ReportOUT Human Rights Researcher, they aim to promote, produce, and disseminate knowledge about LGBTQ+ communities and rights, as well as their increasing experiences of vulnerability and forms of resistance.

ReportOUT's Response to UN Call For Input

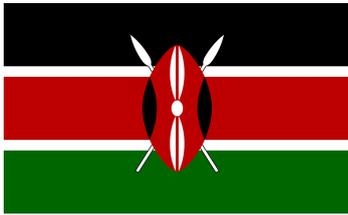


A Note on Methodology and Approach

We have chosen to focus our response on two countries, Kenya and Zimbabwe: two countries with which we have extensive lived and research experience.

In both states, we cite specific examples of legislation and practical examples, which serve to demonstrate how political and legal institutions deny SOGI individuals and communities a number of the core freedoms of expression, association and assembly.

ReportOUT will use SOGI (Sexual Orientation, Gender Identity) within our terminology in this response to refer to sexual and gender minorities.



Suggested Citation: ReportOUT (2024) *Rafiki and Beyond: Political Restrictions on SOGI Freedoms in Kenya and Uganda*, Gateshead: ReportOUT

Rafiki and Beyond

Introduction

As the UN OHCHR notes, in 2023, at least 54 States have explicit laws that continue to restrict the right to freedom of expression and at least 58 States have laws restricting the rights to freedom of association and peaceful assembly for SOGI individuals and organisations. This paper analyses the existing laws, policies and practices in Uganda and Kenya, as examples of such restrictions on the human rights to freedom of expression, association, and peaceful assembly for SOGI individuals which stand in contrast with both nations' responsibilities under the UN founding treaty and stated commitment to basic human rights for all citizens.

Kenya

Freedom of Expression – Rafiki

Article 33 of the Constitution of Kenya, 2010 guarantees every person the right to freedom of expression including the freedom to seek, receive, or impart information or ideas; freedom of artistic creativity, and academic freedom and freedom of scientific research. The Article however imposes restrictions on this right by stating that the right does not extend to: propaganda for war; incitement to violence; hate speech; or advocacy of hatred that constitutes ethnic incitement, vilification of others, or incitement to cause harm. The list includes 'sexual orientation' as appreciated by the Supreme Court of Kenya in the case of **Non-Governmental Organization Coordination Board vs Erick Gitari and Other**, Supreme Court Petition No. 016 of 2019.

Despite this legislation, practices by various actors continue to threaten the exercise of freedom of expression for SOGI persons. In 2019, the Kenya Films Board declined to issue a license for the film 'Rafiki' which portrayed a relationship between a lesbian couple. The decision was justified on the grounds that the intended film had been classified as restricted under the **Kenya Films and Stage Plays Act**. A letter dated 26th April 2019 informed the organization that Rafiki was not to be distributed:

"This is to convey the decision of the Kenya Film Classification Board that the film Rafiki submitted to the Board for examination and classification on 10th April 2018 has been RESTRICTED. The film should not be distributed, broadcast or exhibited anywhere within the Republic of Kenya. Anyone found in possession of the said film will also be in breach of the law.

The Board notes with great concern that the said film objectionable classifiable elements such as homosexual practices that run counter to the laws and culture of Kenyan people. It is our considered view that the moral of the story in this film is to legitimize lesbianism in Kenya contrary to the law and the Board's content classification guidelines.

Rafiki and Beyond

In light of the above, the film Rafiki should not be exhibited or distributed in any form or platform anywhere in the Republic of Kenya. Any exhibition of the said film for public consumption in Kenya will be in violation of the section 16 of the Films and Stage Plays Act, Cap 222 of the Laws of Kenya and will attract severe penalties.

Please note that the mandate of the Board is premised on the need to promote Kenya's culture, national aspirations and values and to protect children from exposure to harmful content. Films made in Kenya for public consumption must therefore reflect and respect the dominant values of the Kenyan society."

The board outlined that the film contained classifiable elements such as homosexuality which run of foul Kenyan laws – despite stated constitutional protections - as well as the 'culture of the Kenyan people'. The letter also warned against the exhibition or distribution of Rafiki anywhere in Kenya, on the basis that that the Board was exercising its mandate to 'promote the culture of the Kenyan people', perpetuating a longstanding denial that SOGI individuals have existed for centuries within the borders of modern Kenya.

The decision was upheld in an appeal - **Wanuri Kahiu & another vs CEO - Kenya Film Classification Board Ezekiel Mutua & Others, Petition No. 313 of 2018** – which dismissed the filmmaker's Freedom of Expression, ruling that the film was 'adverse against national soul, ideas, and aspirations for the Kenyan society'. The ruling interpreted that the Films and Stage Plays Act of Kenya was intended to protect children, women, and youth, among others, while upholding public order and content offensive to decency within the Kenyan society in general. A copy of the relevant paragraph of the ruling is contained within an Appendix.

Freedom of Association and Freedom of Peaceful Assembly

Article 36 of the Constitution of Kenya guarantees the right to freedom of association while Article 37 guarantees the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities. Kenyan state agencies have historically denied such provisions to SOGI citizens and groups. However, unlike the above example, the legal system has recently served to uphold the statutes contained within the constitution against government attempts to exclude SOGI communities from these protections.

For many years, the **Non-Governmental Organizations Coordination Board** declined to register associations perceived to be advocating and championing SOGI issues. Recently, courts started intervening. In the case of **Republic vs Non-Governmental Organizations Co-ordination Board & another ex-parte Transgender Education and Advocacy & 3 others**, Judicial Review Miscellaneous Application No. 308A of 2013, the applicants challenged the Non-Governmental Organization Board's decision to decline to register an association called Transgender Education and Advisory Organization. The court allowed the complaint and issued mandatory orders compelling the Kenyan government to register the said organization. Moreover, the court found that the state had acted unreasonably and illegally in declining to register the said organization on the basis of the gender or sex – a decision noted as discriminatory and

Rafiki and Beyond

Similarly, in 2023, the Supreme Court of Kenya in the case of **Non-Governmental Organization Coordination Board vs Erick Gitari (supra)**, found that the NGO Coordination Board had acted contrary to the Constitution and violated the right to freedom of association as a result of its actions on failing to register the association of **'National Gay and Lesbian Human Rights Commission, National Coalition of Gays and Lesbians in Kenya'** and **'National Gay and Human Rights Association'**. Whilst this has fuelled further attempts to restrict rights on freedom of expression of SOGI citizens – see next chapter – it represents the first time the Kenyan legal system has proactively upheld the constitutional protections specifically for SOGI communities.

Attempts at Further Restrictions

In 2023, the **Family Protection Bill, 2023**, was introduced sponsored by both religious leaders and MPs. Despite its seemingly harmless name, this bill contains clauses that specifically target SOGI individuals' basic rights of expression and association.

Section 11 of the Bill creates the offence of gross indecency and imposes a penalty of conviction to imprisonment of not less than ten years. The provision defines 'gross indecency' to include:

- Public show of lewd or amorous relations between or among persons of the same sex
- Being nude in public or engaging in acts of indecent exposure;
- Cross-dressing to portray that the person is of a sex different from the sex assigned at birth;
- Assembly, demonstration or parade while identifying or holding out as persons engaged in activities prohibited or with the intent to engage in act or activity prohibited (which would effectively ban Pride marches); and
- Knowingly accessing or using bathrooms designated for strict use by persons of the opposite sex.

Section 12 of the Bill creates the offence of promotion of prohibited activities whereby it states that a person who promotes activity prohibited is liable, on conviction, to a fine of not less than one million shillings and/or to a minimum ten years' imprisonment. Such activities include engaging or participating in an activity that is intended to indoctrinate a change of perception or public opinion towards an act prohibited, which could logically extend to the activities of any organization advocating for increasing SOGI rights.

Under Section 13 of the Bill, a person who funds, sponsors or donates toward an activity prohibited, commits an offence and is liable to be imprisoned for no less than ten years and/or to a fine not less than ten million shillings. Again, this could be interpreted legally to persecute SOGI-supporting NGOs, charities and activist organisation's in fundraising abilities.

Rafiki and Beyond

Section 38 of the bill imposes limitations on the freedom of association, including the right to form, join, or participate in activities of an association, group, society, association, club, or organization whose purpose whether partly, overtly, or covertly, is to promote, facilitate, support or sustain an act prohibited by earlier provisions, with those found guilty liable to be imprisoned for a term of not less than three years. Additionally, the bill expressly prohibits the registration of any group, society, association, club, or organization bearing the name 'homosexual', 'lesbian', 'bisexual', 'transgender', 'queer', 'questioning', whether in full or abbreviated, a demonstrable attack upon freedom of association and assembly guaranteed constitutionally for all citizens. The bill overall has a chilling effect in that even publishing any educational material (e.g., HIV/AIDs prevention guidance) pertaining to SOGI could constitute prohibited conduct and appears designed to suppress any expression of an SOGI identity or support for related causes within Kenya.

Uganda

In 2023, Uganda passed into law the **Anti-Homosexuality Act (AHA) 2023** which imposes strict restrictions on fundamental rights and freedoms for SOGI citizens. This Act prohibits sexual relations between persons of the same sex and the promotion or recognition of such relations. The Act is currently in operation although it remains under challenge before the Uganda Court and the East African Court of Justice. The adoption of AHA has witnessed a surge in homophobia and media censorship of SOGI issues (Lishivha, 2023; HRAPF, 2023) although this is far from a recent phenomenon.

The adoption of the AHA, a more brutal version of a previously nullified Act, (Garrido, 2016; Gloppen and Rakner, 2020) can be framed in the Ugandan context of increasing hateful rhetoric against sexual diversity in the country, perpetrated by political actors, religious authorities, and the media (Thapa, 2015; ReportOUT, 2020; Ridley, 2020), and the larger repression of the Ugandan civil society (ILGA World Database, 2024; HRAPF, 2017, 2021).

Freedom of Expression

Despite being safeguarded by Article 29 of the Ugandan Constitution, 1995, the freedom of expression of SOGI persons has been further restricted through the AHA. **Section 10 punishes with imprisonment of 20 years the "promotion of homosexuality", which is defined as the advertising, persuasion, providing of financial or housing support, and/or operating organizations that "promote or encourage homosexuality"** (ILGA World Database, 2024). The Act makes it an offence for any person, who knowingly advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcasting or distribution by any means to promote or encourage homosexuality.

Rafiki and Beyond

Similar to the Kenyan bill, the Act also prohibits providing financial support to facilitate activities that encourage homosexuality or the observance or normalisation of conduct prohibited; and goes further in prohibiting leasing/subleasing or allowing uses of a property for the purpose of undertaking activities that encourage homosexuality or any other offence proscribed under the AHA; or, operates an organisation which promotes or encourages homosexuality or the observance or normalisation of conduct prohibited. Again, these serve not only as contrary to the Ugandan governments' basic human rights commitments but also as a targeted attack on SOGI individuals' right to freedom of assembly and the rights of civil society to organize into advocacy groups.

Furthermore, restrictions on the freedom of expression on SOGI grounds extend to the media under Section 9 of the longstanding **1995 Press and Journalist Act** which authorizes, the Ugandan Media Council to censor films, plays, and other media content based on such grounds (ILGA World, 2020). In a foreshadowing of the 'Rafiki' case in Kenya, in 2017, the film "The Dinner Club" was banned for "glorifying homosexuality" and being "against Ugandan values" (BBC News, 2017). In the same year, the 'Queer Kampala International Film Festival' was closed down by security forces that considered the films presented as "pornographic", despite solely portraying SOGI people's lived experiences (Human Rights Watch, 2017). The Ugandan government also holds the right to regulate radio content under the **2019 Standards for General Broadcast Programming in Uganda**, which determines in Section 6(5) that "information, themes or subplots on lifestyles such as homosexuality, lesbianism, bisexuality, transsexualism, transvestism" shall not be "promoted, justified or glamorized" (ILGA World, 2020). Additionally, Section 8(6) imposes restrictions on sex educational programs, forbidding them from "promoting unnatural sex acts" (ILGA World Database, 2024), all of which serve to restrict information on SOGI identities and serve as a state-sponsored restriction on freedom of expression.

Freedom of Association & Freedom of Peaceful Assembly

The Anti-Homosexuality Act of Uganda, limits conduct perceived as promoting or normalizing homosexuality and any such registered entity which is found to have breached the provisions of the Act is to be held liable and the punishment may include payment of a fine; suspension of its licence, or cancellation of registration.

The crackdown on the Ugandan civil society and NGOs has been going on for years. The **2016 Non-Governmental Act** created the NGO Bureau, responsible for the inspection, monitoring, registration, and suspension of NGOs in Uganda. The Bureau, being backed up by the Ugandan government, has been behind several registration denials and suspensions of SOGI-related NGO activities (HRAFP, 2017, 2021). In 2022, the Bureau alleged the "promotion of homosexuality" to close and suspend **Sexual Minorities Uganda** (Kaffero, 2023), whilst other SOGI-related NGOs, such as **The Robust Initiative for Promoting Human Rights, Tranz Network Uganda and Ubuntu Law & Justice Centre** were denied registration. (ILGA World Database, 2024).

Rafiki and Beyond

In January 2023, the Bureau published a report detailing its investigations into organizations that were being accused of “promotion of LGBTIQ activities” and “recruitment of minors for homosexuality”, in which it identified 22 organizations that would be under further scrutiny (ILGA World, 2023; Kaffero, 2023). The Bureau has recommended the imposition of tougher measures by security forces against NGOs that “promote LGBTIQ activities” and the intensification of the criminalization of SOGI activism in the country (ILGA World Database, 2024) plus a targeted restriction on the right to peaceful assembly. Since Section 11 of AHA creates the offence of “promotion of homosexuality” through the provision of financial and housing support for SOGI-related organizations and activities (ILGA World Database, 2024), local civil society organizations have warned of a significant surge in raids, persecution, and harassment of SOGI-related organizations by both security forces and the public that increasingly disrupt their events and operations (HRAPF, 2023; Lishivha, 2023, Nyeko and Kojoué, 2023; ILGA World, 2023).

In addition to NGO persecution, other examples of SOGI groups’ right to peaceful assembly have been targeted by Ugandan security forces for well over a decade. 2012 saw a human rights education workshop shut down due to the accusation of “promoting” and “inciting” homosexuality (Human Rights Watch, 2017). In August 2016, the police raided a Pride Beauty Pageant in a licensed bar (ILGA World, 2023), and in 2017, Pride Week was shut down (Human Rights Watch, 2017). Finally, 2019 saw the arrest of 16 activists who were working on the economic empowerment of SOGI youth. Their workshop was labelled as “promoting homosexuality.” (ILGA World, 2023).

Conclusions

Both Kenya and Uganda cite moral and cultural grounds for restricting SOGI citizens’ basic freedoms of expression, association and free assembly and use deliberately ambiguously-worded legislation as a vehicle for such denials of rights. Both cases represent a deliberate denial of core human rights mandated by both the UN and both states’ own constitutions and represent an unjustified persecution of minority societies. The role of the courts remains critical in the protection of human rights for all persons and hence judicial intervention remains a key avenue for realizing the human right and freedom of expression, association, and assembly, as highlighted by the Kenyan NGO registration case.

The outright persecution of SOGI individuals and NGOs includes the increasing suspensions of operations and denials of registration of SOGI NGOs, and a growing environment of harassment, threats, attacks and raids. The evolution of restriction to outright persecution of SOGI communities has created a de facto environment of criminalization of SOGI people’s basic rights of freedom of expression, association and assembly, with potentially lethal consequences for those who fight for the free exercising of such rights. The stabbing of Steven Kabuye, a young Ugandan SOGI activist who has expressed himself publicly against the AHA and in January 2024 is the latest but will not be the last example of this persecution (The Guardian, 2024).

References

BBC News. (2017) 'Uganda bans Dutch film for 'glorifying homosexuality'' [online]. Available at: <https://www.bbc.com/news/world-africa-39934636> (Accessed 18/01/2024).

Garrido, R. (2016) *Ativismo LGBT num Campo Político Hostil – Uma leitura dos movimentos ativistas no Uganda*. Caderno de Estudos Africanos. Volume: 31. Pgs: 95-114.

Gloppen, S. and Rakner, L. (2020) 'LGBT rights in Africa' in C., Ashford, and A., Maine (Eds.) *Research Handbook on Gender, Sexuality and Law*. Massachusetts: Edward Elgar Publishing: 194-209.

HRAPF. (2017) *Uganda Report of Violations Based on Sexual Orientation and Gender Identity 2017* [online]. Available at: <https://hrapf.org/?mdocs-file=9824> (Accessed 18/01/2024).

HRAPF. (2021) *Uganda Report of Violations Based on Sexual Orientation and Gender Identity 2021* [online]. Available at: <https://hrapf.org/?mdocs-file=9832> (Accessed 18/01/2024).

HRAPF. (2023) *One Month After: Increasing Cases of Violence and Violations Based on Real or Presumed Sexual Orientation and Gender Identity in the First Month of the Enforcement of the Anti-Homosexuality Act, 2023*[online]. Available at: <https://hrapf.org/violation-reports/#> (Available 18/01/2024).

Human Rights Watch. (2017) 'Uganda: Police Raid Queer Kampala Film Festival' [online]. Available at: <https://www.hrw.org/news/2017/12/15/uganda-police-raid-queer-kampala-film-festival> (Accessed 18/01/2024).

ILGA World Database. (2024) Uganda [online]. Available at: <https://database.ilga.org/uganda-lgbti> (Accessed 18/01/2024).

ILGA World. (2020) *State-Sponsored Homophobia: Global Legislation Overview Update*. Geneva: ILGA.

ILGA World. (2023) *Our identities under arrest: A global overview on the enforcement of laws criminalizing consensual same-sex acts between adults and diverse gender expressions*. Geneva: ILGA.

Kaffero, S. (2023) 'New report paints violence surge post anti-homosexuality law enactment'. *Monitor*. Available at: <https://www.monitor.co.ug/uganda/news/national/new-report-paints-violence-surge-post-anti-homosexuality-law-enactment-4383832> (Accessed 18/01/2024).

Lishivha, W. (2023) 'Uganda's anti-gay bill sparks a surge in homophobia, media censorship and mob attacks'. *Daily Maverick*. Available at: <https://www.dailymaverick.co.za/article/2023-04-20-ugandas-anti-gay-bill-sparks-a-surge-in-homophobia-media-censorship-and-mob-attacks/> (Accessed 18/01/2024).

Nyeko, O. and Kojoué, L. (2023) 'Ugandans Challenge Anti-Homosexuality Act: Court Has Opportunity to Strike Down Abusive Law'. *Human Rights Watch*. Available at: <https://www.hrw.org/news/2023/12/11/ugandans-challenge-anti-homosexuality-act> (Accessed 18/01/2024).

Parliament of the Republic of Uganda. (1995) *Constitution Of The Republic Of Uganda*.

ReportOUT. (2020) *OUT in Uganda: The Lived Experiences of SOGIESC Ugandans*. Gateshead: ReportOUT.

Thapa, S. (2015) *LGBT Uganda Today: Continuing Danger Despite Nullification of Anti-Homosexuality Act* [online]. Available at: https://assets2.hrc.org/files/assets/resources/Global_Spotlight_Uganda_designed_version_September_25_2015.pdf(Accessed 18/01/2024).

The Guardian. (2024) 'Ugandan LGBTQ+ activist in critical condition after brutal knife attack' [online]. Available at: <https://www.theguardian.com/world/2024/jan/03/ugandan-lgbtq-activist-in-critical-condition-after-brutal-knife-attack> (Accessed 18/01/2024).

**Wanuri Kahiu & another vs CEO - Kenya Film Classification Board Ezekiel Mutua & Others,
Petition No. 313 of 2018.**

[131] In view of the numerous jurisdiction making use of Administrative prior classification, I find the measure taken by 2nd Respondent to be reasonable and justifiable in a democratic society based on human dignity, equality and freedom. The measures designed clearly target at meeting the objectives of the Films Act. In view of such measures there is a rational nexus between the refusal of the certificate of Approval to a film and the pressing and substantial societal need to protect the public from content that is prejudicial to the maintenance of public order, would offend decency, or would be undesirable in the public interest, in the current case being the issue of homosexuality and lesbianism. It should be appreciated that the more important an objective is to society; that it is possible in return, to result in strongest measure, so as to achieve the objective sought; needless to say that the measures put in place by the Films Act are proportional to the objective legislated upon by parliament.

Copyright © ReportOUT
"Report. Inform. Defend."
All rights reserved
First published in 2023

ReportOUT
Pride Media Centre
Unit T1, Stonehills
Shields Road, Pelaw
Gateshead. NE10 0HW
United Kingdom

For more information, please visit our website: www.reportout.org
Registered Charity number (England and Wales): 1185887



@SOGIReportOUT



@SOGI_ReportOUT



@OUT_Report



@ReportOUT



Contactus@reportout.org