



COVID-19 Exacerbates Deep-Rooted Homophobia in Uganda and Throughout Africa

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Abstract: Human rights activists have to resist governments using COVID-19 to discriminate further against the already persecuted LGBTIQ+ community in a continent where traditionalists view sexual minorities as un-African and hate speech from extremist religious and political leaders fuels homophobic violence.

The human rights of lesbian, gay, bisexual, trans, intersex, queer and all other sexual and gender minorities (LGBTIQ+) are constantly under attack in Africa. Impunity for crimes against LGBTIQ+ persons is prevalent in almost every country in the continent. Rape, torture, forced anal examinations, targeted arbitrary arrests, illegal detentions, sexual harassment and discrimination are among the violations that characterise their daily life. In worst case scenarios, some have lost their lives.

As in other parts of the world, the emergence of COVID-19 has made life even harder for the LGBTIQ+ community. Now that the new variant, Omicron, was first detected in South Africa, the situation can only get worse for the sexual minorities on the Africa continent, especially with possible reinstatement of restrictions such as lockdowns. In fact, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, says the pandemic 'has a disproportionate impact on LGBTIQ+ persons and that, with few exceptions, the response to the pandemic reproduces and exacerbates the patterns of social exclusion and violence.'

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Religious leaders blaming sexual minorities for the virus has fuelled public intolerance toward the community whose conduct is considered un-African. Focusing particularly on Uganda as a case study, this post examines how state homophobia has increased under the guise of enforcing procedures and directives to curb the spread of the virus. It calls on the African Commission on Human and Peoples' Rights and human rights defenders to stand firm against government maltreatment of LGBTIQ+ persons.

Ugandan perspective

In Uganda, when the country registered its first case of the virus on 21 March 2020, President Yoweri Museveni had already issued several COVID-19 directives, adjusting them as the year advanced.

Measures included a nationwide lockdown which banned movement and imposed curfews for all except for essential workers. In a country claimed to be the worst place in the world to be gay, these spelt doom for some members of an already vulnerable community.

Both the Constitution (Article 110) and the Public Health Act of 1935 empower government to put in place any measures aimed at securing public safety and protecting life. However, the same Constitution (Chapter 4) states that these measures cannot derogate from certain human rights such as freedom from torture and cruel, inhuman and degrading treatment.

Hardly a month into the first lockdown, Ugandan police, army and local political leaders raided an LGBTIQ+ shelter in Nsangi, Kampala, arresting everyone they found there. The shelter is home to homeless sexual minorities rejected by their parents, evicted from rented houses and discriminated against by society.

Police claimed that more than 20 LGBTIQ+ persons arrested in the Nsangi raid were violating COVID-19 directives that limited public gatherings to only 10 people. Officers added that those arrested were guilty of 'a negligent act likely to spread infection or disease' and 'disobedience of lawful order'. However, the victims' lawyers, the Human Rights Awareness and Promotion Forum (HRAPF), refuted police claims, stating that 'the root of the arrests is homophobia'.

Mob justice is illegal in Uganda but this was ignored in relation to the shelter raid. Various video clips and photos showing local political leaders and police beating and torturing the victims went viral on the internet and mainstream media. These acts were accompanied by words of incitement from the political leaders and security officers to the public against the sexual minorities. The victims were remanded in prison, where they were denied access to lawyers, tortured and forced to submit to anal examination. To date, even though all charges were dropped, no one responsible for carrying out this raid has been brought to book.

Additionally, in May 2021, police arrested 44 LGBTIQ+ persons in a shelter in Nansana, Wakiso District, over what authorities said was a 'negligent act likely to spread infection or disease'. Frank Mugisha, executive director of Sexual Minorities Uganda, an umbrella organisation for LGBTIQ+ persons, said police subjected 17 of those detained to anal examinations.

The Ugandan authorities say the raids were in response to pandemic-related restrictions. However, this claim is undermined by the fact that they had targeted sexual minorities in similar raids before the COVID-19 lockdown. On 21 October 2019, 16 LGBTIQ+ activists of Let's Walk Uganda, who had called police to rescue them from a community

homophobic attack, were instead arrested and subjected to anal examinations by a police doctor. Also on 10 November 2019, 120 LGBTIQ+ persons were arrested at Ram Bar, a popular LGBTIQ+ friendly hangout in Kampala, Uganda. The victims were told that they were being detained under Uganda's Anti-Tobacco Law (2015) for illegal use of shisha (water pipes), even though patrons were arrested indiscriminately, whether or not they were using shisha pipes.

In all the raids mentioned above, charges have either been dropped or the victims released on bail. This is because Uganda does not have a substantive law that criminalises same-sex relations.

On 1 August 2014, the Constitutional Court annulled the Anti-Homosexuality Act, commonly known as 'Kill the Gays Bill' and considered by members of parliament (MPs) who supported it as a Christmas gift to Ugandans at the time of its passing. The Court deemed the Act invalid because parliament passed it without the required quorum of two-thirds of all MPs. The ruling redirected the authorities to already existing provisions in the Penal Code Act (sections 145-148), which prohibit same-sex sexual acts as felonies potentially punishable by a seven-year jail term. LGBTIQ+ activists have vociferously resisted government efforts to reintroduce the Anti-Homosexuality Act. Nonetheless, on 4 May 2021, parliament passed the Sexual Offences Bill which criminalises all sexual offences, including same-sex conduct. President Museveni has since refused to assent to the legislation, saying many provisions are redundant and are already provided for in other legislation such as the Penal Code Act. However, to avoid backlash from LGBTIQ+ activists, the authorities now find it safer to use COVID-19 directives as a cover for their actions.

Rest of Africa

Uganda is far from the only African country where the authorities' actions in enforcing COVID-19 measures have negatively impacted LGBTIQ+ persons, in many cases intensified by religious prejudice.

A South African Christian pastor and a Ghanaian Muslim cleric are among those reported to have blamed the outbreak of coronavirus on LGBTIQ+ persons. Moreover, on 21 May 2021, police in Ghana raided a hotel in the south-eastern district of Ho, where they arrested 21 people over what officers referred to as an 'unlawful' gathering. In Cameroon, at least 24 people, including a 17-year-old boy, have either been arbitrarily arrested, beaten or threatened since the start of this year. Some of the victims reported that they were forced to submit to anal examinations. The Cameroonian government has admitted that sexual minorities are being brutally attacked but no perpetrator has been charged. 'Homosexuality, it must be reiterated, remains a sexual orientation that is suppressed by our laws because it is contrary to our realities, our convictions and our culture as well as to the requirements of procreation,' Rene Sadi, communications minister and government spokesperson, said.

Queer persons in Nigeria have also complained of how their human rights have been infringed as a result of COVID-19 measures. LGBTIQ+ refugees who fled Uganda, Tanzania, Democratic Republic of Congo, Burundi and Rwanda to find refuge in Kakuma Camp in Nairobi, Kenya hardly spend a month without a reported homophobic attack from other refugees and host communities. The United Nations High Commissioner for Refugees (UNHCR) has promised to boost security for sexual minorities.

Status of LGBTIQ+ persons at African Union level

Yet the same rights and freedoms provided for by regional and global instruments such as the African Charter on Human and Peoples' Rights, and the International Covenant on Civil and Political Rights, which most African countries have signed and ratified, apply to LGBTIQ+ persons too. Article 2 of the African Charter states:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Furthermore, Resolution 275 of the African Commission on Human and Peoples' Rights, adopted in 2014, recognises member states' obligations to protect individuals against violence and other human rights violations on the basis of their real or imputed sexual orientation or gender identity.

Way forward

While the African Commission still has challenges enforcing its decisions, it has taken a great step forward by adopting Resolution 275 to guide member states on the human rights of the LGBTIQ+ community. However, the Commission must continue speaking up against member states' violations, especially regarding the enforcement of emergency measures to combat COVID-19 and other pandemics.

African governments must be reminded that the law requires them to respect, protect and fulfil their obligations without discrimination as far as human rights of their citizens are concerned. Leadership at all levels must respect that and repeal any draconian laws and policies that do not conform to international human rights law.

Much as awareness of the scale of violations against sexual minorities has grown in recent years due to heightened advocacy by civil society and non-governmental organisations in Africa, more is needed to push back against homophobia and ensure full protection of LGBTIQ+ persons. Human rights defenders throughout the continent must step up public sensitisation campaigns, train more stakeholders and advocate more vociferously for legal reforms.

As recommended by the UN Independent Expert to all member states, Uganda must acknowledge and embrace everyone regardless of their status, adopt definitive measures to deconstruct stigma and accept evidence-based approaches when designing state responses.