

MOTION SEEKING LEAVE OF PARLIAMENT TO INTRODUCE A PRIVATE MEMBERS BILL ENTITLED "ANTI-HOMOSEXUALITY BILL,"

(Moved under Article 79 and 94 of the Constitution of the Republic of Uganda, 1995 and Rule 121 and 122 of the Rules of Procedure of Parliament of Uganda)

WHEREAS Article 79 of the Constitution of the Republic of Uganda empowers Parliament to make laws on any matter for the peace, order, development and good governance of Uganda;

AND WHEREAS the Constitution under Article 94(4) (b) and Rule 121 of the Rules of Procedure of Parliament provide that a Member of Parliament has the right to move a Private Members Bill;

AWARE THAT Parliament passed the Anti- Homosexuality Act, 2014 on 20th December 2013 aimed at protecting the traditional family by prohibiting any form of sexual relations between persons of the same sex and, to protect children and youth who are susceptible to sexual abuse;

FURTHER AWARE THAT on 1st August, 2014, the Constitutional Court nullified the Anti-Homosexuality Act, 2014 on procedural grounds, holding that the passing of the Act was unconstitutional because the necessary quorum of lawmakers was not present in Parliament to vote on the bill;

CONSIDERING THAT homosexuality contravenes the order of nature, our cultural and religious norms and poses a threat to the stability and survival of the family;

NOTING THAT the existing law as provided for in the Penal Code Act, does not adequately address this creeping evil;

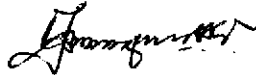
CONCERNED THAT homosexuality and its promotion continues to permeate our society and has been infiltrated with propaganda that it is okay to practice it moreover, hundreds of children are being lured

and initiated into this practice and, massive recruitment continues to take place;

NOW THEREFORE be it resolved that;

This House grants me leave to introduce a Private Members Bill, for an Act entitled, "The Anti Homosexuality Bill, 2022" a draft of which is hereto attached and do order the publication of the said bill in preparation for the first reading.

MOVED BY :

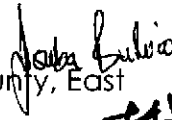


Hon. Rev. Fr. Charles Onen

MP, Laroo-Pece Division, Gulu City

SECONDED BY:

Hon. Nsaba Buturo
MP, Bufumbira County, East



Hon. Sarah Opendi
Member of Parliament, Tororo District



Hon. Cecilia Ogwal
Member of Parliament, Dokolo District

Hon. Lumu Richard Kizito
MP, Mityana County South

Hon. Lucy Akello
Member of Parliament, Amuru

Hon. Asuman Basalirwa
MP, Bugiri Municipality



Hon. Aogon Sllas
MP, Kumi Municipality



THE ANTI-HOMOSEXUALITY BILL, 2022.

ARRANGEMENT OF CLAUSES.

Clause

PART I—PRELIMINARY.

1. Interpretation.

PART II—PROHIBITION OF HOMOSEXUALITY.

2. The offence of homosexuality.
3. Aggravated homosexuality.
4. Attempt to commit homosexuality.
5. Protection, assistance and payment of compensation to victims of homosexuality.
6. Confidentiality.

PART III—RELATED OFFENCES AND PENALTIES.

7. Aiding and abetting homosexuality.
8. Conspiracy to engage in homosexuality.
9. Procuring homosexuality by threats, etc.
10. Detention with intent to commit homosexuality.
11. Brothels.
12. Same sex marriage.
13. Promotion of homosexuality.

PART IV—MISCELLANEOUS PROVISIONS.

14. Extradition.
15. Regulations.

Schedule

Currency point.

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An Act to prohibit any form of sexual relations between persons of the same sex; prohibit the promotion or recognition of such relations and to provide for other related matters.

DATE OF ASSENT:

Date of Commencement:

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Interpretation.

In this Act, unless the context otherwise requires—

“authority” means having power and control over other people because of your knowledge and official position; and shall include a person who exercises religious, political, economic or social authority;

“child” means a person below the age of eighteen years;

“court” means a chief magistrates court;

“currency point” has the value assigned to it in the Schedule to this Act;

“disability” means a substantial limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation;

“felony” means an offence which is declared by law to be a felony or if not declared to be a misdemeanour is punishable without proof of previous conviction, with death or with imprisonment for three years or more;

“HIV” means the Human Immunodeficiency Virus;

“homosexual” means a person who engages or attempts to engage in same gender sexual activity;

“homosexuality” means same gender or same sex sexual acts;

“Minister” means the Minister responsible for ethics and integrity;

“misdemeanour” means any offence which is not a felony;

“serial offender” means a person who has previous convictions of the offence of homosexuality or related offences;

“sexual act” includes—

- (a) physical sexual activity that does not necessarily culminate in intercourse and may include the touching of another’s breast, vagina, penis or anus;
- (b) stimulation or penetration of a vagina or mouth or anus or any part of the body of any person, however slight by a sexual organ;
- (c) the unlawful use of any object or organ by a person on another person’s sexual organ or anus or mouth;

“sexual organ” means a vagina, penis or any artificial sexual contraption;

“touching” includes touching—

- (a) with any part of the body;
- (b) with anything else;
- (c) through anything;

and in particular includes touching amounting to penetration of any sexual organ, anus or mouth.

“victim” includes a person who is involved in homosexual activities against his or her will.

PART II—HOMOSEXUALITY AND RELATED PRACTICES.

2. **The offence of homosexuality.**

(1) A person commits the offence of homosexuality if—

- (a) he penetrates the anus or mouth of another person of the same sex with his penis or any other sexual contraption;
- (b) he or she uses any object or sexual contraption to penetrate or stimulate the sexual organ of a person of the same sex;
- (c) he or she touches another person with the intention of committing the act of homosexuality;
- (d) 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.

(2) A person who commits an offence under this section shall be liable, on conviction, to imprisonment for ten years.

3. **Aggravated homosexuality.**

(1) A person commits the offence of aggravated homosexuality where the—

- (a) person against whom the offence is committed is below the age of eighteen years;
- (b) offender is a person living with HIV;
- (c) offender is a parent or guardian of the person against whom the offence is committed;
- (d) offender is a person having authority or control over the person against whom the offence is committed;
- (e) victim of the offence is a person with disability;
- (f) offender is a serial offender; or
- (g) offender applies, administers or causes to be used by any man or woman any drug, matter or thing with intent to stupefy or overpower him or her so as to enable any person to have unlawful carnal connection with any person of the same sex.

(2) A person who commits the offence of aggravated homosexuality shall be liable, on conviction, to imprisonment for ten years.

(3) Where a person is charged with the offence under this section, that person shall undergo a medical examination to ascertain his or her HIV status.

4. Attempt to commit homosexuality.

(1) A person who attempts to commit the offence of homosexuality commits a felony and is liable, on conviction, to imprisonment for two years.

(2) A person who attempts to commit the offence of aggravated homosexuality commits an offence and is liable, on conviction, to a term of imprisonment for ten years.

5. Protection, assistance and payment of compensation to victims of homosexuality.

(1) A victim of homosexuality shall not be penalized for any crime committed as a direct result of his or her involvement in homosexuality.

(2) A victim of homosexuality shall be assisted to enable his or her views and concerns to be presented and considered at the appropriate stages of the criminal proceedings.

(3) Where a person is convicted of homosexuality or aggravated homosexuality under sections 2 and 3 of this Act, the court may, in addition to any punishment provided there under, order such person to pay by way of compensation to the victim such sum as in the opinion of the court is just, having regard to the physical, sexual or psychological harm suffered by the victim, the degree of force used, medical and other expenses incurred by the victim as a result of the offence;

(4) The order referred to in subsection (3) shall be deemed to be a decree under the Civil Procedure Act, and shall be executed in the manner provided there under.

6. Consent of a victim of homosexuality

Consent of the victim to homosexuality shall not be a defence under this Act.

7. Confidentiality.

(1) At any stage of the investigation or trial of an offence under this Act, a law enforcement officer, prosecutor, judicial officer and medical practitioner, and any party to the case, shall recognize the right to privacy of the victim.

(2) For the purpose of subsection (1), in cases involving children and other cases where the court considers it appropriate, proceedings of the court shall be conducted in camera.

(3) Any editor, publisher, reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer or director of a film in case of the movie industry, or any person utilizing trimedia facilities or information technology who publishes or causes the publicity of the names and personal circumstances or any other information tending to establish the victim's identity without authority of the victim or court, commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty currency points.

PART III—RELATED OFFENCES AND PENALTIES.

8. Aiding and abetting homosexuality.

A person who aids, abets, counsels or procures another to engage in acts of homosexuality commits an offence and is liable, on conviction, to imprisonment for two years.

10. Conspiracy to engage in homosexuality.

A person who conspires with another to induce another person of the same sex by any means of false pretence or other fraudulent means to permit any person of the same sex to have unlawful carnal knowledge of him or her commits an offence and is liable, on conviction, to imprisonment for two years.

9. Procuring homosexuality by threats.

(1) A person who—

- (a) by threat or intimidation procures or attempts to procure any woman or man to have any unlawful carnal knowledge with any person of the same sex;
- (b) by false pretences or false representations procures any woman or man to have any unlawful carnal connection with any person of the same sex;

commits an offence and is liable on conviction to imprisonment for five years.

(2) A person shall not be convicted of an offence under this section upon the evidence of one witness only, unless that witness is corroborated in some material particular by evidence implicating the accused.

10. Detention with intent to commit homosexuality.

A person who detains another person with the intention to commit acts of homosexuality with him or her or with any other person commits an offence and is liable, on conviction, to imprisonment for two years.

11. Brothels.

(1) A person who keeps a house, room, set of rooms or place of any kind for purposes of homosexuality commits an offence and is liable, on conviction, to imprisonment for seven years.

(2) A person being the owner or occupier of premises or having or acting or assisting in the management or control of the premises, induces or knowingly suffers any man or woman to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man or woman of the same sex whether such carnal knowledge is intended to be with any particular man or woman generally, commits a felony and is liable, on conviction, to imprisonment for one year.

12. Same sex marriage.

(1) A person who purports to contract a marriage with another person of the same sex commits the offence of homosexuality and shall be liable, on conviction, to imprisonment for ten years.

(2) A person or institution commits an offence if that person or institution conducts a marriage ceremony between persons of the same sex and shall, on conviction, be liable to imprisonment for a maximum of two years for individuals or cancellation of licence for an institution.

13. Promotion of homosexuality.

(1) A person who—

- (a) participates in production, procuring, marketing, broadcasting, disseminating, publishing of pornographic materials for purposes of promoting homosexuality;
- (b) funds or sponsors homosexuality or other related activities;
- (c) offers premises and other related fixed or movable assets for purposes of homosexuality or promoting homosexuality;
- (d) uses electronic devices which include internet, films, mobile phones for purposes of homosexuality or promoting homosexuality; or

- (e) who acts as an accomplice or attempts to promote or in any way abets homosexuality and related practices;

commits an offence and is liable, on conviction, to a fine of five thousand currency points or imprisonment of a minimum of five years and a maximum of two years or both fine and imprisonment.

(2) Where the offender is a corporate body or a business or an association or a non-governmental organization, on conviction its certificate of registration shall be cancelled and the director, proprietor or promoter shall be liable, on conviction, to imprisonment for two years.

PART IV—MISCELLANEOUS.

14. Special Powers of Court.

- (1) The Court, in determining whether to impose a sentence of imprisonment for any related offences under this Act, shall have regard to the objective of rehabilitating the person and may, order the Minister to facilitate the rehabilitation of that person in the length of the period of the sentence;
- (2) In assessing prospects of rehabilitation, Court will give regard to;
 - (a) evidence of past conduct and behaviour of the offender;
 - (b) character of the offender;
 - (c) criminal record;
- (3) A magistrate court, may if satisfied that a child is likely to engage in acts of homosexuality, upon application by any person, issue a protection order;
- (4) Where the protection order is issued in respect of a child, the magistrate court may issue appropriate order for the child as it deems necessary

15. Extradition.

A person charged with an offence under this Act shall be liable to extradition under the existing extradition laws.

15. Regulations.

The Minister may, by statutory instrument, make regulations generally for better carrying out the provisions of this Act.

SCHEDULE

CURRENCY POINT

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