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Dear Members of the United Nations General Assembly,

I write to you on behalf of Reuniting of African Descendants (ROAD), a Black trans-led grassroots initiative which invests in equity, collective growth, and healing for TLGBQIA+/SGL people of African Descendants residing in the Global South. Our work is rooted in ending the genocide against Trans and Queer people of African Descendants. We are pleased to offer our input for the report that will be presented to the 78th session of the General Assembly in October 2023 by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI), Mr. Victor Madrigal-Borloz.

We provide programs that empower and enable Trans and LGB/SGL/Queer individuals of African Descendants to develop their skills, strengths, and self-sufficiency. We advocate for marginalized and excluded Trans & Queer individuals across the African diaspora through cultural exchange and leadership development. ROAD prioritizes creating safe housing, reducing healthcare barriers, and fostering connections to promote sustainable growth and opportunities. We focus on healing, empowerment, advocacy, education, and global solidarity to create a safe and sustainable environment for Trans and Queer communities. We mobilize emerging leaders who reside in the Global North to collaborate and transform queer and trans communities of African Descendants in the Global South, with an urgent response to the countries and regions in Africa and the Caribbean.

Our organization is committed to promoting the rights of individuals of African descent and addressing issues of racism, discrimination, and inequality. We recognize that colonialism has had a lasting impact on the society, including sexual orientation and gender identity. Colonial powers have perpetuated discrimination and violence by implementing laws, policies, and practices heavily affecting TLGBQ+ individuals.

We appreciate Mr. Madrigal-Borloz's efforts to examine past and present colonial regulation of sexual orientation and gender identity while exploring legal grounds to address colonialism effects on human rights for all individuals, including LGBT persons and communities. We are pleased to see the examination of laws, policies, and practices aimed at extending colonial social control to the realms of family, affect, gender, and sexuality as well as the cultural and social norms that influence concepts of gender and sexuality everywhere.

In conclusion, we hope that our inputs on this report, forwarded by our expertise, will promote and protect the human rights of LGBT individuals, ensuring fair and just treatment, protection, and respect. Thank you for your attention to this crucial matter.

Working Together,

*Nala Toussaint*

President, Reuniting of African Descendants (ROAD) & AWID Member



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## **Reuniting of African Descendants (ROAD) Report Inputs on “Colonialism and sexual orientation and gender identity”**

*United Nations Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity*

- 1. Did the imposition and/or enforcement of colonial laws or policies on sex, gender and sexuality change pre-colonial treatment of sexual orientation and gender identity? What historical or anecdotal evidence is there available about the treatment of gender and sexual diversity before past or present experiences of colonization.**

Before British colonial rule in East Africa, specifically Uganda for this purpose, there were no laws concerning same sex relationships or gender presentation. Sexual diversity was prevalent before the 1886 colonization of Uganda. Buganda’s (pre-colonial Uganda) last king, Kabaka Mwanga II, was known to have intimate relationships with both his male and female servants. It has been noted by scholars that tension and denial of queer lifestyles in Buganda did not become prevalent until Christian missionaries entered their communities in the mid 1870s. When colonized in 1886, Uganda adopted the laws of Britain including their harsh and religious-based anti-sodomy laws and “laws against nature” which was broad-ranging and allowed for interpretation of what was queer and how people could be punished if accused.

- 2. What laws, policies, and practices regulated or influenced the shaping of or the socio-normative perception of sexual orientation and gender identity in colonial times? How were they introduced, promoted, administered or enforced? Examples could include prohibition of certain sexual acts, but also regulation of sexual or gender identities and expressions (such as bans on cross-dressing).**

“The legal system the British implemented in its African colonies was adapted from penal codes first established in India and Queensland, which included the anti-sodomy Section 377...According to Human Rights Watch, of the 17 African countries colonised by the British that had anti-LGBTQ laws, only 3 have since struck them down,” (Bhandari, 2023). This excerpt from a Reuters article encompasses how easily these laws were put in place, maintained and then carried over to modern day Uganda. Black people historically have been punished more harshly for the same crimes that their white counterparts also committed. Colonization was no exception and Ugandans were brutalized and ousted from their communities when accused of queerness from same sex relationships to crossdressing and all inbetween.



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- 3. What colonial laws regulating sexual orientation and gender identity are still in place today? How are they enforced? How are they being interpreted by national jurisprudence and customary law? What legal, moral, or socio-cultural explanations have been provided, if any, for their continued existence?**

Uganda currently has multiple laws/policies in place criminalizing LGBTQ+ people, but one law in particular is still in place from when it was adopted during British colonial rule during the late 19th century. Human Rights Watch explains that, "Sections 145 on "unnatural offenses" and 148 on "indecent practices" have been retained in the Penal Code since independence," (2015). Not only were these colonial laws upheld, they were strengthened to a sentence of life imprisonment in 1990. Along with their strengthening, over the past 30 years many similar laws have been proposed including the infamous 2014 and 2023 Anti-Homosexuality Acts which would criminalize LGBTQ+ people for existing in Uganda.

Some socio-cultural context for the time period would include the HIV/AIDS pandemic that disproportionately affected and killed LGBTQ+ people beginning in the 1980s. Global, Christian public figures used the pandemic to, in part, push the condemnation of LGBTQ+ people to fit the rising evangelical view of the bible. Christianity has been the dominant religion in Uganda since soon after its colonization. The influence of US and other Western Christian organizations cannot be understated when considering the monetary, physical, and social support given to Ugandan churches and organizations who support/uphold similar values to the Church.

- 4. How, if at all, has the protection against violence and discrimination based on sexual orientation and gender identity been transformed and positively or negatively impacted by processes of decolonization?**

N/A, decolonization happened before Britain advocated for the protection against violence and discrimination based on sexual orientation and gender identity. Ugandan leadership historically, since colonization, has not and currently does not support the safety and wellness of its LGBTQ+ citizens.

- 5. If no longer in place, when were colonial laws regulating sexual orientation and gender identity repealed? In what pretext were they abolished and what was the rational/explanation for their abolishment?**

N/A, the laws are still in place and additional laws regulating sexual orientation and gender identity are being added.

- 6. How has the legal and social regulation of gender, sexual orientation and gender identity been relevant for imposing and maintaining colonial power?**



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The regulation of gender/sexual orientation and gender identity is a colonial practice based in maintaining and uplifting white, patriarchal and heteronormative modes of power. By diminishing or criminalizing the normalcy and community of queerness while assuring the only way to gain power and safety is through being cisgender and straight has informed and imbued powerful neocolonialism throughout former colonized nations like Uganda. Quality of healthcare, connection to community, social mobility, access to education, food, and water is all directly related to the legal and social regulation of queerness.

The ability to thrive in both colonial and post-colonial Uganda was and is heavily dependent on the ability for citizens to assimilate to white, patriarchal and heteronormative customs. Maintaining colonial and neocolonial power through fear mongering has and will remain the status quo in societies that value gaining power through means of fascism like suppressing government criticism, dangerous nationalism based in homophobia and distributing necessary resources based on power and status.

**7. What is the ongoing impact of gender- and sex-regulating colonial laws on the enjoyment of human rights by LGBT persons? How did the imposition of colonial laws on sex and gender shape social and moral ideas about sexual orientation and gender diversity?**

Colonial laws imposed by Britain were influenced and maintained by Christianity in all of their colonies across the world. The introduction of these anti-LGBTQ law's harsh punishments and the establishing of churches along the widespread reach of its missionaries. The implementation of these things drastically changed the culture and landscape of Uganda from Traditional African Religions and diverse community practices to the church and state sponsored violence against people who do not fit the moral code of the bible, including but not limited to LGBTQ persons. Today, LGBTQ citizens in Uganda enjoy no basic human rights as it is dangerous to simply exist due to the upholding of colonial laws and the sociocultural norms that were instilled as a result throughout the last century and a half.

**8. Was there a relationship between colonial laws and policies that created unequal treatment and power relations affecting LGBT persons, paving the way to intersecting forms of discrimination, exclusion, racism, xenophobia and related intolerance, patriarchy, and other forms of discrimination and oppression? How did these laws and policies impact persons with multiple and intersecting identities such as LGBT persons with disabilities, older LGBT persons, LGBT children, LGBT persons of African descent, among others.**

A prime example of the relationship between colonial laws and power relations affecting LGBTQ people would be the intersection of disability. The anti-sodomy laws of colonial Britain directly trickled down into the impact of the HIV/AIDS epidemic on LGBTQ Ugandans and the treatment they have and do receive. The weaponizing of HIV/AIDS as a "gay disease" stigmatized the



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receiving of research funding and patient care which allowed the disease to overwhelmingly kill LGBTQ people. While especially prevalent in the late 20th century, Uganda's newly established anti-LGBTQ bills exacerbated the intersecting forms of discrimination like not being able to receive competent healthcare, lack of access to resources like housing and food, and social ostracization. Ugandan LGBTQ youth, people with disabilities, elders, and other minoritized groups will suffer extensively due to the intersecting hate spurred on by colonial laws and norms/morals.

**9. Have any laws, policies, or psycho-social support or legal remedies been put in place to recognize and provide reparations and redress for the legacy of colonialism in relation to the enjoyment of human rights? Do these take into account violence and discrimination based on sexual orientation and gender identity?**

No laws, policies, or psycho-social support or legal remedies have been put in place to recognize and provide reparations and redress for the legacy of colonialism in relation to the enjoyment of human rights. A current issue would actually include the lack of support for LGBTQ+ Ugandans from Britain. Britain has no considerations for reparations and holds no sanctions of any kind against Uganda for its human rights abuses against LGBTQ+ people.

**10. How, if at all, should reparatory justice for the lasting consequences of colonialism include measures to address discrimination and violence based on gender, gender identity and sexual orientation?**

Reparatory justice for the lasting consequences of colonialism concerning LGBTQ Ugandans in an attempt to address discrimination and violence should include, but not be limited to **liberation**. Liberation can and should be defined in many ways such as a financial investment, meaning property, equity and access to resources. It also means rest, in particular, survivors of violence and discrimination should be given free healthcare including comprehensive wellness concerning mental, physical and emotional wellbeing. Liberation also comes in the form of safety in having a home which can be defined as a physical residence but also as the bodily autonomy of all peoples. These reparations are due to isolation and separation of Black, African, and Indigenous folks created by the colonial rule of Britain and magnified by the heinous laws enforced and maintained after.



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