



**Submission in re: Input for GA79 re port of SR SUMEX**

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**Date of Submission: 06/06/2024**

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### **Call for input: Killing of LGBTIQ+ persons**

#### **State-Sanctioned Discrimination and the Anti-Gender Movement**

Several countries have laws and policies that directly breach international human rights obligations concerning LGBTIQ+ persons' right to life. For instance, the criminalisation of same-sex relationships in numerous jurisdictions not only marginalises LGBTIQ+ individuals but also exposes them to heightened risks of violence and extrajudicial killings. These laws contravene international human rights standards, including the right to life, liberty, and security.

In recent years, we have witnessed the rise of a global anti-rights and gender movement, characterised by its staunch opposition to equality, democracy, and the rights of key populations.

The movement operates through a network of well-funded conservative, faith-based, and authoritarian forces, which use false claims alongside the highly emotive language of family values, protection of children and the defence of parents' rights to undermine the autonomy and dignity of women, young people, LGBTQ+ communities and other marginalised groups. Its tactics range from legislative manoeuvres to grassroots mobilisation, all of which aim to restrict access to vital SRHR services and perpetuate discrimination against LGBTQ+ people.

The impact of this movement is being witnessed all levels of society. At the community level, it operates through conservative civil society groups, often backed by religious entities, using social media platforms and mobilising mobs to advance its agenda. Nationally, its reach can extend through all branches of government, with ministries of health promoting initiatives like 'Stop CSE [comprehensive sexuality education]' campaigns, parliamentarians pushing for discriminatory legislation, and judicial systems issuing

prejudiced judgments. The movement is also present in international spaces, leveraging its influence in sessions at the United Nations<sup>1</sup> and forums like the Commission on the Status of Women (CSW) to advance its agenda, and increasingly in civil society spaces like the recent the recent UN Civil Society Conference in Nairobi which Family Watch Int, Citizen Go and Heritage Foundation were all present at.<sup>2</sup> This multifaceted approach allows the anti-gender movement to systematically attack the rights and autonomy of KPs, by restricting access to essential services and perpetuating discrimination at all levels of society. The impacts of their advocacy can be felt in policy change and the introduction of homophobic legislation, for example the introduction of the Anti-Homosexuality Act in Uganda which was influenced by Family Watch international and their engagement with the Ugandan government.<sup>3</sup>

The repercussions on LGBTQ+ communities have been profound and widespread. Globally, LGBTQ+ individuals face heightened levels of harassment, discrimination, and violence, making it harder to access crucial HIV and SRHR services. In nations like Uganda, where anti-gay legislation has been enforced, LGBTQ+ individuals live in perpetual fear, often unable to seek medical assistance or support services without jeopardising their safety and livelihoods. Similarly, LGBTQ+ people in countries such as Kenya, Ghana, Tanzania, and Burundi, are experiencing a surge in human rights violations, including violent assaults, forced evictions, and legal prosecutions. Even in less conservative countries like Botswana and South Africa, the appearance of anti-gender activism is threatening hard-won legal protections and rights.

Since the introduction of the Anti-Homosexuality Act (AHA) in Uganda in 2023, there has been a visible increase in the level of violence and discrimination targeted at the LGBTQ+ community. This is demonstrated in various reports such as the Human Rights Awareness and Promotion Forum's (HRAPF) ongoing violations reports<sup>4</sup> and the first, and second reports published by the Strategic Response Team (SRT) which document in detail the sheer volume and scale of human rights violations perpetrated against LGBTQ+ individuals since the introduction of the Act.<sup>5</sup> There have been numerous high-profile instances of violence,

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<sup>1</sup> <https://www.awid.org/anti-rights-tactics-strategies-and-impacts#:~:text=Chapter%205,regressive%20norms%2C%20and%20undermining%20accountability.>

<sup>2</sup> <https://twitter.com/annmtave/status/1788570499863163161>, (Tweet from Ann Kioko, Campaigns Director for Africa and the United Nations at CitizenGo)

<sup>3</sup> <https://www.theguardian.com/global-development/2023/jul/07/intel-executive-actively-responsible-for-driving-anti-lgbtq-agenda-in-africa-say-campaigners>

<sup>4</sup> <https://hrapf.org/violation-reports/>

<sup>5</sup> “*The Strategic Response Team – the SRT Uganda - is a consortium of five entities operating in Uganda that actively documents and coordinates community response and referral mechanisms to providers of safe shelter, legal, safety, and protection services to LGBTIQ+ persons across Uganda.*”

including the stabbing of LGBT activist Stephen Kabuye,<sup>6</sup> and the targeting of Brian Aliganyira for running LGBTQ+ health clinic.<sup>7</sup>

Alarming, this pattern of prejudice is becoming enshrined within laws across the continent, most recently with the passing of the Ghanaian Human Sexual Rights and Family Values Bill,<sup>8</sup> but there are growing concerns in countries like Kenya, Burundi, Nigeria, Senegal and Tanzania. This form of enshrined prejudice has manifested in the harassment and attack of a number of LGBTQ+ individuals across the region. This includes the attack of a student in a Ghanaian university campus,<sup>9</sup> and more recently a wave of anti-LGBT backlash in Tanzania, including the abduction and torture of a MSM individual who had his ears chopped off,<sup>10</sup> and the jail and sentencing of 2 MSM's on the 4<sup>th</sup> of June to 30 years in prison for having sex with each other in contravention to the penal code.<sup>11</sup>

The legal frameworks that criminalise same-sex relationships and institutionalise discrimination against LGBTQ+ individuals have severe legal implications, facilitating a climate that enables extrajudicial killings. These laws, such as Uganda's Anti-Homosexuality Act and similar legislation in other countries, not only legitimise societal prejudice but also embolden state and non-state actors to perpetrate violence against LGBTQ+ persons with impunity. When same-sex relationships are criminalised, it fosters an environment where law enforcement and judicial systems are either complicit in or indifferent to violence against LGBTQ+ individuals, undermining their duty to protect all citizens. This legal endorsement of discrimination effectively removes legal safeguards for LGBTQ+ persons, leading to a lack of accountability for violent acts and, in many cases, direct participation by state actors in such violence. The stigmatisation codified in these laws dehumanises LGBTQ+ individuals, making them targets for extrajudicial killings, hate

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First Report: <https://www.kuchutimes.com/pdfs/lives-at-risk-srt-report/>

Second Report: <https://drive.google.com/file/d/1apa3HskDJUDNzpcvctjSSgoCvSboMVmh/view>

<sup>6</sup> <https://www.theguardian.com/world/2024/jan/03/ugandan-lgbtq-activist-in-critical-condition-after-brutal-knife-attack>

<sup>7</sup> <https://www.theguardian.com/global-development/2024/may/01/lgbtq-health-clinic-uganda-anti-gay-law>

<sup>8</sup> <https://www.chr.up.ac.za/latest-news/3690-press-statement-the-centre-for-human-rights-condemns-the-passing-of-the-human-sexual-rights-and-family-values-bill-by-the-parliament-of-ghana>

<sup>9</sup> <https://www.washingtonblade.com/2024/01/23/ghanaian-lgbtq-groups-condemn-attack-of-gay-man-at-university/>

<sup>10</sup> <https://www.thecitizen.co.tz/tanzania/zanzibar/gruesome-assault-leaves-zanzibar-man-with-no-ears-4645364#:~:text=Unguja's%20Central%20District.-,Abdallah%20was%20reportedly%20tortured%20and%20had%20both%20his%20ears%20severed,assailants%20haven't%20been%20apprehended.>

<sup>11</sup> (<https://www.youtube.com/watch?v=SESZSiC2ANI>) Samson Jonas Tibashima (38) and Mathias James Laurean (28) of Isenye township of Serengeti District were both imprisoned for 30 years for the offense of engaging in unnatural sex. The Serengeti District resident magistrate Ms Adelina Mzalifu on passing the sentence quoted penal code no. 36 of 2023. The sentence against the two was passed on 4th June 2024 after the magistrate indicated that she had been satisfied by the police evidence presented to her. This evidence used both health and environmental reports.

crimes, and other forms of severe violence, thus perpetuating a cycle of abuse that is both systemic and state-sanctioned.

## **Breaches of International Human Rights Obligations in Relation to the Right to Life of LGBTQI+ Persons**

The criminalisation of same-sex relationships, alongside harmful laws, institutions, policies, and practices in various countries, constitutes direct breaches of international human rights obligations concerning the right to life of LGBTQI+ persons. International Human Rights Law (IHRL), notably through instruments like the International Covenant on Civil and Political Rights (ICCPR), mandates states to respect and protect the right to life, liberty, and security of all individuals, without discrimination. The following section discusses how these obligations are violated and the mechanisms that should be in place to prevent potentially unlawful deaths of LGBTQI+ persons, including those resulting from hate crimes.

### **Direct Breaches of International Human Rights Obligations**

Laws that criminalise same-sex relationships, present in numerous jurisdictions, not only marginalise LGBTQI+ individuals but also expose them to increased risks of violence, discrimination, and extrajudicial killings. Such laws directly contravene Article 6 of the ICCPR, which guarantees the inherent right to life. The Human Rights Committee, in General Comment No. 36, emphasises that the deprivation of life resulting from acts of discrimination or violence against persons based on their sexual orientation or gender identity is a violation of this fundamental right.

The rise of anti-rights and gender movements, often backed by conservative and authoritarian forces, has led to the proliferation of hate crimes against LGBTQI+ individuals. This includes physical assaults, killings, and other forms of violence. These acts, coupled with the state's failure to adequately investigate and prosecute such crimes, breach obligations under Articles 6 and 7 of the ICCPR, which protect against torture and cruel, inhuman, or degrading treatment or punishment.

The introduction of laws like Uganda's Anti-Homosexuality Act and Ghana's Human Sexual Rights and Family Values Bill perpetuates a climate of fear and violence against LGBTQI+ persons. These laws institutionalise discrimination and violate international human rights norms by denying LGBTQI+ individuals the equal protection of the law, as stipulated in Article 26 of the ICCPR.

### **Obligations for Investigation and Prevention of Unlawful Deaths**

States must establish and enforce legal frameworks that explicitly prohibit discrimination based on sexual orientation and gender identity. These frameworks should ensure that hate crimes and acts of violence against LGBTQI+ persons are recognised, investigated, and prosecuted as serious criminal offenses. This aligns with the state's duty to protect the right to life and to prevent arbitrary deprivation of life as per General Comment No. 36 of the Human Rights Committee.

Investigations into potentially unlawful deaths of LGBTQI+ persons must be independent, impartial, and thorough. States are obligated to ensure that such investigations lead to the identification and prosecution of those responsible, thereby upholding the principles of accountability and justice. The United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions provide guidelines for conducting such investigations.

States should establish protective measures for LGBTQI+ individuals who are at risk of violence. This includes creating safe reporting mechanisms, providing shelters, and ensuring access to legal and medical assistance without fear of reprisal. These measures are crucial in fulfilling the state's duty to protect the right to life and security of the person under Articles 6 and 9 of the ICCPR.

Law enforcement and judicial personnel should receive training on the rights of LGBTQI+ individuals and the importance of non-discrimination. Such programs should aim to sensitise authorities to the specific vulnerabilities of LGBTQI+ persons and ensure that they respond appropriately to incidents of violence and discrimination. This aligns with the principles set forth in the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity.

States should collaborate with international and regional human rights mechanisms to monitor and address human rights violations against LGBTQI+ persons. Engaging with bodies like the United Nations Human Rights Council and regional human rights courts can help hold states accountable and provide redress for victims of human rights violations.

The criminalisation of same-sex relationships, coupled with the rise of anti-rights movements, severely undermines the right to life and security of LGBTQI+ persons. International human rights obligations require states to eliminate discriminatory laws, conduct thorough investigations into hate crimes, and establish protective measures to ensure the safety and dignity of LGBTQI+ individuals. Failure to do so not only breaches international legal standards but also perpetuates a cycle of violence and discrimination that jeopardises the lives of LGBTQI+ persons worldwide.