

**RECOMMENDATIONS TO
THE EUROPEAN UNION ON
IMPROVING THE HUMAN
RIGHTS SITUATION FOR
LGBTI PEOPLE AND
HUMAN RIGHTS
DEFENDERS WORKING ON
LGBTI ISSUES IN UGANDA**

**AMNESTY
INTERNATIONAL**



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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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INTERNATIONAL**



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INTRODUCTION

This briefing is prepared for the attention of the European Union (EU) and its member states. It begins by giving an overview of the human rights situation for lesbians, gays, bisexuals, transgender and intersex (LGBTI) people and groups working on LGBTI issues in Uganda. It then makes a series of recommendations to the European Union and its member states that would, if implemented, help improve the human rights situation for LGBTI people and LGBTI rights activists working in Uganda.

Human rights organizations including Amnesty International have documented the steady increase in discrimination, arbitrary arrests, incommunicado detention, torture and other ill-treatment on the basis of sexual orientation and gender identity in Uganda, and against human rights defenders (HRDs) exposing violations against LGBTI people. Most of the abuses documented have been against homosexual men, and are perpetrated by members of the community and state security agents including the police. The human rights violations perpetrated by state security agents have been committed on the pretext of enforcing existing provisions of the Ugandan penal code, which prohibits consensual sex between individuals of the same sex. This legislation is contrary to international norms.

Section 21 of the Ugandan Constitution prohibits discrimination on the basis of “sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing.” However, substantive equality is not guaranteed to LGBTI people. Nor does Ugandan law protect them from discrimination and abuse. Rather, Ugandan laws criminalise homosexuality. Those who attack LGBTI individuals do so with impunity.

1. THE PROPOSED ANTI-HOMOSEXUALITY BILL

The Anti-Homosexuality Bill published on 25 September 2009, would, if enacted into law, violate international human rights law and lead to further human rights violations. The bill, which has already been tabled before the Ugandan Parliament, is currently pending consideration by a committee of the Parliament before being submitted for debate in parliament.

Following condemnation by local LGBTI activists, local and international human rights groups and expressions of concern from other states, including from EU member states, the bill appears to have been shelved. However, it has not been officially withdrawn and could be submitted to parliament for debate at any point. In November, the Member of Parliament sponsoring the bill as well as the Minister for Ethics and Integrity on different occasions said that the bill will shortly be debated in parliament.

If passed, the bill would further entrench and institutionalise discrimination against those who are, or who are perceived to be, LGBTI. It would reinforce the existing prohibition against consensual sex between individuals of the same sex—legislation that is itself contrary to international norms. The bill would go further than current discriminatory laws, by criminalizing the 'promotion' of homosexuality, compelling HIV testing in certain circumstances, imposing life sentences for entering into a same-sex marriage, introducing the death penalty for 'aggravated' homosexuality, and punishing those who fail to report knowledge of any violations of these sweeping provisions within 24 hours. The confidentiality clause in the bill would compromise the right to fair trial. The bill would have lasting deleterious effects on the lives of individual Ugandans who are thought to run afoul of its far-reaching provisions, and it would significantly hamper the work of human rights defenders and public health professionals.

2. THE UGANDAN MEDIA – FUELLING HOMOPHOBIA

Amnesty International has expressed concern at frequent reports by sections of the Ugandan media particularly tabloid newspapers such as *The Red Pepper* and recently, *The Rolling Stone* publicizing the names, pictures and other details of people they consider as LGBTI. Often these reports would directly lead to the targeting (with violence) and intimidation of LGBTI people in Uganda. Amnesty International has previously documented cases and received reports where people named by *The Red Pepper* as homosexuals subsequently suffered harassment from and were ostracized by work colleagues, neighbours and their families. In all cases of such publication the government has failed to take any action regarding the offending nature of the media articles and the safety and security of affected individuals.

Examples of publications fuelling homophobia include:

(I) THE ROLLING STONE

The Rolling Stone is a weekly tabloid which had its first publication on 2 October. Its inaugural headline was “100 Pictures of Uganda’s Top Homos Leak” and included the words “Hang Them”. Bullet points under the headline read, “We Shall Recruit 100,000 Innocent Kids by 2012 – Homos” and “Parents Now Face Heart-Breaks [sic] as Homos Raid Schools.” The paper contained the names and in some cases the pictures and description of where certain activists and human rights defenders working on LGBTI rights live.

Following the publication of the 2 October edition, Uganda’s local civil society coalition working on LGBTI rights, the Civil Society Coalition on Human Rights and Constitutional Law in Uganda (the LGBTI rights coalition), published a statement which spoke out strongly against the content of the paper.

The second issue of the tabloid published on 31 October contained a further 17 photos of alleged LGBTI people, with personal details of those identified, including where they lived.

The LGBTI rights coalition filed a complaint at the high court against *The Rolling Stone* following their first issue, and in advance of the second edition, but an interim order was only issued the day after the 31 October issue was published. The High Court issued a temporary injunction order restraining the editors of the newspaper from any further publication of information about anyone alleged to be gay, lesbian, bisexual, transgender or intersex. In a statement issued at the time the LGBTI rights coalition (see Annex 1) welcomed the temporary injunction as a positive step towards protecting people from potential discrimination or violence. However, the coalition expressed outrage at the silence of the government since the newspaper’s initial publication.

On 3 January 2011 the high court issued its final decision on the case. The court ruled that the case was “not about homosexuality per se, but ...it [was] about fundamental rights and freedoms, in particular about whether ‘the publication infringed the rights of the applicants or threatened to do so’”. The court found that LGBTI persons are as entitled to the right to privacy as any other citizen. According to the court, “the exposure of the identities of the persons and homes of the applicants for the purposes of fighting gayism and the activities of gays...threaten the rights of the applicants to privacy of the person and their homes”. According to the court “the call to hang gays in dozens tends to tremendously threaten their right to human dignity”. The court issued a permanent injunction preventing *The Rolling Stone* from “any further publications of the identities of the persons and homes of the applicants and homosexuals generally”. The court also went further and extended this permanent injunction to all media in Uganda.

Amnesty International and the LGBTI coalition welcomed the decision of the court. In a statement published following the January court decision (see Annex 2), the LGBTI rights coalition noted that “the court injunction provides broad protection to other Ugandans who are, or who are perceived to be homosexual and the ruling provides an important precedent should any other media attempt to publish similar information”.

The Ugandan authorities made no comment after the publication of either issue of *The Rolling Stone*.

(II) THE ONION

Another of Uganda’s tabloids, *The Onion*, published accounts accusing gays and lesbians of terrorist attacks and of mounting a systematic effort to “convert” young heterosexuals to homosexuality. On 13 November 2010, *The Onion* claimed that lesbians were operating a club at Makerere University to turn heterosexual women into homosexuals, a process referred to by the tabloid papers as “recruitment”.

The Sunday Onion’s edition on 31st October published the identities of nearly twenty LGBTI Ugandans. In some cases, their occupations and the towns in which they lived were listed as well.

(III) THE RED PEPPER

In December 2009, *The Red Pepper* published a full-page spread claiming to expose “city tycoons who bankroll Ugandan homos.” The article revealed the names, residences, places of employment, and other clues of where people can be found who allegedly finance Uganda’s LGBTI community.

In an interview published in May 2009, the news editor of *The Red Pepper* vowed that the tabloid would continue its campaign against alleged homosexuals by publishing their names, photographs and addresses.

In April 2009, *The Red Pepper* published what it referred to as a “killer dossier” exposing names, identifying features, places of employment, residences, and other personal information of alleged Ugandan homosexual men.

On 8 August 2006, the tabloid paper *The Red Pepper* published a list of first names, workplaces and other identifying information of 45 alleged homosexual men. The paper

claimed it was publishing the list “to show the nation ... how fast the terrible vice known as sodomy is eating up our society.” The following month it published a similar list of 13 women who it claimed were lesbians.

In 2002, *The Red Pepper* ran headlines and photographs about an alleged wedding between two women. Police promptly arrested the women in question. Though they were initially freed, soon thereafter, they were detained again and held for several days, allegedly for their own safety, after a mob physically threatened them.

On 26 January 2011, David Kato, advocacy officer with Sexual Minorities Uganda (SMUG), was murdered at his home. David had been subject to threats throughout his work campaigning for LGBTI rights in Uganda. He started receiving death threats again since the publication of the article in *The Rolling Stone* containing his name, picture and address. David was among three activists bringing the case to court. Amnesty International has called upon the Ugandan government to ensure a credible and impartial investigation into the murder and to bring to justice in a fair trial, which complies with international standards, any persons suspected of involvement in the murder.

3. CONCLUDING OBSERVATIONS OF THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Following the initial publication of *The Rolling Stone* newspaper, AI wrote to the UN Committee on the Elimination of Discrimination against Women (CEDAW), which was considering Uganda’s report on the implementation of CEDAW. On 22 October 2010, in its concluding observations, CEDAW called on the Ugandan government to “decriminalize homosexual behaviour and to provide effective protection from violence and discrimination against women based on their sexual orientation and gender identity”.¹ The Committee urged the Ugandan government to oppose the Anti-Homosexuality Bill and to intensify its efforts to combat discrimination against women on account of their sexual orientation and gender identity.

The Ugandan authorities have not reacted to or given effect to the recommendations by the UN Committee on the Elimination of Discrimination against Women.

4. THE EUROPEAN UNION AND LGBTI RIGHTS

The European Union has taken commendable measures in support of LGBTI rights, though more can be done.

In a statement on International Day Against Homophobia, 17 May 2010, EU High Representative for Foreign Policy and Vice-President of the Commission Catherine Ashton reaffirmed the EU's commitment to the prevention and eradication of all forms of discrimination based on sexual orientation and other grounds.²

The Council Working Group on Human Rights (COHOM) developed an EU Toolkit on LGBT rights.³ The toolkit was adopted with a view to providing staff in the EU Headquarters, EU Member States' capitals, EU Delegations, Representations and Embassies with an operational set of tools to be used in contacts with third countries, as well as with international and civil society organisations, in order to promote and protect the human rights enjoyed by LGBT people within its external action. The toolkit seeks to enable the EU to proactively react to cases of human rights violations of LGBT people and to structural causes behind these violations.

The toolkit complements the EU Guidelines on Human Rights Defenders⁴ (HRDs), which are also a powerful instrument at the disposal of the EU and its member states in supporting the work of HRDs working on LGBT issues.

More specifically for the Ugandan context, on 16 December 2010 the European Parliament passed a resolution⁵ regarding the Anti-Homosexuality Bill and 'discrimination against the LGBT population'. The Resolution "reiterates the fact that sexual orientation is a matter falling within the sphere of the individual right to privacy as guaranteed by international human rights law, according to which equality and non-discrimination should be protected, whilst freedom of expression should be guaranteed". Basing its calls on international law the resolution urges the Ugandan government not to approve the Anti-Homosexuality Bill but to review Ugandan laws so as to decriminalise homosexuality and decriminalise marginalised groups, including LGBT activists. It underlines that an anti-homosexuality law would be extremely detrimental in the fight against HIV/AIDS. The European Parliament through the resolution also expresses its concern that many Ugandans have been attacked as a direct result of the article in the *Rolling Stone* newspaper, with many still fearing attacks, and calls for their protection by the authorities.

CONCLUSION AND RECOMMENDATIONS

Homophobia has increased significantly in Uganda in the last decade. The media has fuelled this homophobia and the government has done little or nothing to prevent it. In fact, the government's silence has made it complicit in creating an environment where targeting and discriminating against LGBTI people and activists working on their behalf, is acceptable. The proposed Anti-Homosexuality Bill, if implemented, will only serve to further threaten human rights in Uganda.

While the government of Uganda has the responsibility to ensure that everyone in the country enjoys the human rights to which they are entitled, there is much that can be done by other states and inter-governmental organisations to ensure that the Ugandan government lives up to its obligations. The European Union and its member states are among those who can have a positive impact on the human rights situation for LGBTI people and activists in Uganda. The following recommendations have been formulated as a guide for the EU and its member states to build on the work that they are already doing in this respect.

RECOMMENDATIONS

Amnesty International recommends that the European Union and its member states

- Call on the government of Uganda and the Ugandan parliament to reject the Anti-Homosexuality Bill in its entirety, review existing laws that criminalize homosexuality and reaffirm their commitment to upholding the universality of human rights.
- Call on the government of Uganda to condemn discrimination, threats and violence against LGBTI people in Uganda and to immediately reassure all Ugandans that they intend to protect people against threats and violence regardless of their real or perceived sexual orientation or gender identity.
- Call upon the Ugandan government to ensure a credible and impartial investigation into the murder of David Kato and to bring to justice in a fair trial, which complies with international standards, any persons suspected of involvement in the murder.
- Outline how the EU intends to take action as requested by the Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People adopted in June 2010, in particular at the level of the EU representations in Uganda.

- Raise the issue of LGBTI-rights with the Ugandan authorities in its contacts between the EU and Uganda, including in the framework of dialogues under Article 8 of the Cotonou agreement.
- Ensure that the EU Guidelines on Human Rights Defenders are being implemented in Uganda, in particular by taking action on individuals at particular risk; by attending trial hearings in cases brought against HRDs working on LGBTI issues, and by making public statements of a more general nature on HRDs working on LGBTI issues.

AMNESTY INTERNATIONAL HAS IDENTIFIED THE FOLLOWING PARTS OF THE *TOOLKIT TO PROMOTE AND PROTECT THE ENJOYMENT OF ALL HUMAN RIGHTS BY LESBIAN, GAY, BISEXUAL AND TRANSGENDER (LGBT) PEOPLE AS BEING PARTICULARLY RELEVANT TO THE SITUATION IN UGANDA*

III. Priority Areas of Action

1. Decriminalisation

The EU should actively condemn the criminalisation of consenting same-sex relations and in particular, the use of the death penalty, torture or ill-treatment in this respect. The EU should work to achieve the abolition of such practices against all people, including LGBT people.

The actions of the EU in this area should be guided by the following:

- Prioritising its work in those countries where consenting same-sex relations are criminalised or where there are moves to change existing legislation (in either direction), raising the issue and encouraging States to make human rights sensitive legislative changes.

2. Equality and Non-Discrimination

The actions of the EU in this area should be guided by the following:

- Encouraging States to promote equality and non-discrimination in the enjoyment of all human rights by LGBT people, including by introducing national legislative measures and laws that promote equality and non-discrimination in the work place and education and seek to abolish laws discriminating against LGBT people.
- Identifying situations where political and financial support towards governmental and nongovernmental initiatives in the promotion of non-discrimination would provide added value to this work.

3. Support and Protection for Human Rights Defenders

In order to be consistent with the progress made with regard to the implementation of the EU Guidelines on human rights defenders, the actions of the EU in this area should be guided by the following:

- Encouraging third countries to adopt a culture of general respect towards and recognition of the work carried out by human rights defenders, including those of human rights of LGBT people.
- Prioritising its work in countries where there is a poor record of respect towards human rights defenders in general and specifically defenders of human rights of LGBT people, in particular where legislative changes and the imposition of criminal sanctions have had a negative impact on the work carried out by human rights defenders in relation to the human rights of LGBT people.
- Reacting to apparent violations of the rights of human rights defenders in third countries, highlighting the EU position in relation to this issue and carrying out its work in the framework of the EU Guidelines on human rights defenders.

V. Operational Tools

Demarches and public statements

- Propose and carry out démarches and public statements on LGBT issues with a particular focus on high risk cases and situations.
- Positive developments made in the promotion and protection of the full enjoyment of human rights by LGBT people in third countries should also be reacted to.

Individual Cases

- Propose specific action, e.g. démarches, when made aware of well-documented individual cases of alleged or proven violations of the human rights enjoyed by LGBT people (actions on individual cases should be determined on a case-by-case basis and may form part of a general démarche or statement).

Court hearings and prison visits

- Attend court hearings and show visible support during legal procedures related to cases of violations of human rights enjoyed by LGBT people, paying special attention to the high-risk cases.
- Contact a state prosecutor or police authorities to ask for permission to visit LGBT people in detention.

Supporting efforts by civil society

- Provide messages of political support when deemed useful.
- Facilitate information on the available funding (e.g. through the EIDHR or relevant instruments of the EU Member States).
- Provide information on the situation of laws and practices regarding LGBT people in the EU.

- As appropriate, promote the visibility of local organisations promoting the human rights enjoyed by LGBT people e.g. by hosting debates and seminars on relevant issues and including LGBT aspects and speakers; endorsing cultural events, conferences, or social projects.
- Consult civil society organisations on how to mainstream LGBT.
- Encourage civil society organisations to promote LGBT rights.
- Encourage third countries to invite human rights special procedures from different international organisations to do country and thematic missions, to accept their recommendations and carry out their implementation.

ENDNOTES

¹ Concluding observations of the Committee on the Elimination of Discrimination against Women on Uganda, see: <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-UGA-CO-7.pdf>

² Declaration by the High Representative, Catherine Ashton, on behalf of the European Union on the International Day Against Homophobia, 17 May 2010
http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/cfsp/114473.pdf

³ Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People
<http://www.consilium.europa.eu/uedocs/cmsUpload/st11179.en10.pdf>

⁴ Ensuring Protection – European Union Guidelines on Human Rights Defenders
<http://www.consilium.europa.eu/uedocs/cmsUpload/16332-re01.en08.pdf>

⁵ European Parliament resolution of 16 December 2010 on Uganda: the so-called 'Bahati bill' and discrimination against the LGBT population, 16 December 2010.
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0495+0+DOC+XML+V0//EN&language=EN>

ANNEXES

ANNEX 1

PROTECTING THE RIGHTS OF SEXUAL MINORITIES: CIVIL SOCIETY COALITION WELCOMES HIGH COURT OF UGANDA'S DECISION, CALLS UPON GOVERNMENT TO DO MORE TO PROTECT THE RIGHTS OF SEXUAL MINORITIES

8 November 2010

The Civil Society Coalition on Human Rights and Constitutional Law in Uganda welcomes the interim High Court order of 1st November 2010 issued against the publishers of the Rolling Stone. The order came shortly after the tabloid printed photos and personal information about alleged lesbian, gay, bisexual, transgender and intersexed (LGBTI) people in Uganda. Released on 2nd October 2010, the tabloid's fifth edition carried the headline "100 Pictures of Uganda's Top Homos Leak," with subtitles including the words "Hang Them!" The paper also contained names, pictures and in some cases even addresses and personal details of activists and human rights defenders. It also declared that this was only the first of five in a series of such publications. Coalition Coordinator Adrian Jjuuko, described the court order as *"...a positive step towards protecting all Ugandans from potential gender and sexual based discrimination and violence, abuse which is contrary to the rights guaranteed by the Constitution of the Republic of Uganda and the various regional and international codes and standards to which Uganda is a State Party ."*

Unfortunately, to date the Ugandan authorities have made no comment about the incident, underscoring the lack of official concern about outrages directed against sexual minorities in the country: *"Though we welcome yesterday's ruling, we are extremely disheartened by the deafening silence of our political leaders,"* said Frank Mugisha from Sexual Minorities Uganda (SMUG). Kasha Jacqueline, Director of Freedom and Roam Uganda (FARUG) observed that *"It is outrageous that the Ugandan government has failed to condemn discrimination, threats and violence against lesbians, gays, bisexuals, transgender and intersexed people in the country. We are living in constant fear of violence and attack."* The Civil Society Coalition is pleased to note that the High Court restrained the editors of the newspaper from any further publication of information about any person alleged to be gay, lesbian, bisexual or transgender. The order remains in place until the hearing on the merits, set for 23rd November. Unfortunately, the court proscription was only issued the day after the second in the series was published on 31st October 2010. The latter edition contained a further 17 photos of alleged sexual minorities, with personal details of those identified, including where they lived.

In light of the above developments, the members of the Coalition urgently call on the government to immediately reassure all Ugandans that they intend to all protect people against threats of violence and intimidation, regardless of their real or alleged sexual orientation: *"Turning a blind eye when people are targeted because of their real or alleged sexual orientation makes the authorities complicit in the abuse,"* said Chris Dolan, Director of the Refugee Law Project, a Coalition Member.

Human rights organizations have documented instances of discrimination, arbitrary arrest, incommunicado detention, torture, rape and other ill-treatment of sexual minorities in Uganda, as well as against those human rights defenders involved in the struggle to protect them. These human rights violations have been committed in total violation of Uganda's Constitution, Article 21 of which prohibits discrimination on the basis of "*sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing.*"

The Coalition notes that substantive equality is not guaranteed to sexual minorities in Uganda, neither does the law adequately protect them from discrimination and abuse. Instead, Ugandan laws criminalize homosexuality, and the Anti-Homosexuality Bill currently in Parliament is inherently discriminatory and threatens broader human rights.

In its concluding observations on the case of Uganda, the UN Committee on the Elimination of Discrimination against Women (CEDAW) called on the Ugandan government to "*...decriminalize homosexual behaviour and to provide effective protection from violence and discrimination against women based on their sexual orientation and gender identity.*" Meeting on 22nd October 2010, the Committee urged the Ugandan government to oppose the Anti-Homosexuality Bill and to intensify its efforts to combat discrimination against women on account of their sexual orientation and gender identity.

CEDAW's position was warmly welcomed by FIDA-UGANDA's executive director, Maria Nassali, who pointed out that 'human rights are enjoyed by virtue of being human, so we at FIDA are committed to promoting and protecting the rights of any woman without discrimination on any basis whatsoever'.

Solome Nakaweesi-Kimbugwe, a Feminist Activist and Executive Director of Akina Mama wa Afrika (AMWA), a Coalition Member, puts these steps into context, when she points out that "*..the struggles for substantive equality that we as the Coalition in Uganda are pushing for for sexual minorities today are no different from the struggles that were held to end the slave trade, apartheid, racism, sexism, patriarchy and all other forms of normalized discrimination and abuse... any form of oppression is a cycle that we must engage with and break – unless we break the chain we are all potential victims as our rights aren't safe for long*".

As we prepare ourselves for Uganda's Periodic Reporting / Review of the State of Human Rights as bound by the African Charter on Human and People's Rights (ACPHR) taking place in Banjul, The Gambia, this November, the Coalition takes this opportunity to:

- Urge the Government to take urgent steps in order to address the outright expressions of homophobia of which the Rolling Stone article is only a small manifestation.
- Call upon the Statutory and Constitutional Bodies; Ministries, Departments and Agencies to ensure the protection and promotion of Human Rights of Sexual Minorities just as they safeguard the rights of all other Ugandans. Key among these are: The Uganda Human Rights Commission; The Equal Opportunities Commission; The Media Council; Ministry of Gender Labour and Social Development; Ministry of Justice; The Uganda Police.
- Call upon the Government of Uganda through the Uganda Police and the Media Council to ensure enforcement of the High Court order and that; Rolling Stone Publications adhere to the same.
- Reiterate its call to the Government of Uganda to withdraw the Anti-Homosexuality Bill 2009, which is still pending in Parliament, and to review existing laws that criminalize homosexuality.

ANNEX 2

COURT RULES THAT ALL UGANDANS HAVE A RIGHT TO PRIVACY AND DIGNITY: TREMENDOUS BOOST TO CONSTITUTIONAL RIGHTS AND PROTECTION OF SEXUAL AND OTHER MINORITIES

03 January 2010

The Civil Society Coalition on Human Rights and Constitutional Law in Uganda warmly welcomes and applauds today's decision by High Court judge, Justice V.F. Kibuuka Musoke in the case of Kasha Jacqueline, Pepe Onziema & David Kato v. Giles Muhame and The Rolling Stone Publications Ltd.

Through its members Kasha Jacqueline, David Kato and Patience Onziema, the Coalition filed a complaint in the High Court against the Rolling Stone. The Court issued an interim order restraining the editors of the newspaper from any further publication of information about anyone alleged to be gay, lesbian, bisexual or transgender until the case could be finally determined.

After an initial postponement, the merits of the case were heard on **23 November, 2010**. The final ruling was read today, **3rd January 2011**. In considering whether the Rolling Stone's publication of alleged homosexuals' names, addresses and preferred social hang-outs constituted a violation of the applicant's constitutional rights, the Court, ruled that:

1) The motion is not about homosexuality per se, but '...it is about fundamental rights and freedoms,' in particular about whether 'the publication infringed the rights of the applicants or threatened to do so'.

2) The jurisdiction of Article 50 (1) of the Constitution is dual in nature, in that it extends not just to any person 'whose fundamental rights or other rights or freedoms have been infringed in the first place,' but also to 'persons whose fundamental rights or other rights or freedoms are threatened to be infringed.'

3) Inciting people to hang homosexuals is an attack on the right to dignity of those thus threatened: 'the call to hang gays in dozens tends to tremendously threaten their right to human dignity.'

4) Homosexuals are as entitled to the right to privacy as any other citizens. Against the 'objective test', 'the exposure of the identities of the persons and homes of the applicants for the purposes of fighting gayism and the activities of gays...threaten the rights of the applicants to privacy of the person and their homes.'

5) Section 145 of the Penal Code Act cannot be used to punish persons who themselves acknowledge being, or who are perceived by others to be homosexual. Court ruled that 'One has to commit an act prohibited under section 145 in order to be regarded as a criminal.' Clearly this applies only to a person who has been found guilty by a court of law. In terms of the relief sought by the applicants, court issued a permanent injunction preventing The Rolling Stone and their managing editor, Mr. Giles Muhame, from 'any further publications of the identities of the persons and homes of the applicants and homosexuals generally.' The injunction thus provides broad protection to other Ugandans who are, or who are perceived to be homosexual, and the ruling provides an important precedent should any other media attempt to publish similar information. The court further awarded UGX. 1,500,000/= to each of the applicants, as well as ordering that the applicant shall recover their costs from the respondents.

The human rights community welcomes this ruling as a landmark in the struggle for the

protection of human dignity and the right to privacy irrespective of one's sexual orientation. According to Professor J. Oloka-Onyangco, Director of the Human Rights & Peace Centre at the Faculty of Law, Makerere University, "This ruling serves as an important warning to anyone—Minister, Pastor or Boda-Boda rider—who believes that they can abuse, or threaten to abuse, the fundamental rights of fellow citizens with impunity. It also serves as a wake-up call to media houses that are making a mockery of the principles of freedom of speech and responsible reporting."

According to Adrian Jjuuko, Coordinator of the Coalition on Human Rights & Constitutional Law which sponsored the case, "The ruling also builds on the earlier High Court decision in *Victor Mukasa & Another vs. Attorney General* (High Court Miscellaneous Cause No 24 of 2006), and firmly establishes the principle that constitutionally protected rights belong to all Ugandans, whatever their perceived sexuality". "While this injunction is a positive step for gay people in Uganda, the fact remains that the government of Uganda has for long been mute about the discrimination, threats and violence faced by LGBTI people in Uganda," said Kasha Jacqueline, one of the applicants and also Director of Freedom & Roam Uganda.

The *Rolling Stone* is a tabloid which issued its fifth publication on 2 October, 2010. Its front page carried the headline "100 Pictures of Uganda's Top Homos Leak" which included the words "Hang Them!" Bullet points under the headline read, "We Shall Recruit 100,000 Innocent Kids by 2012: Homos" and "Parents Now Face Heart-Breaks [sic] as Homos Raid Schools." The paper contained the names and in some cases the pictures and description of where certain activists and human rights defenders live. A later edition of the newspaper published on 31 October contained a further 17 photos of alleged LGBT people, with personal details of those identified, including where they lived. The Ugandan government made no response following either publication.

The Coalition believes that these developments are not accidental: "The climate of fear created by the simple tabling of the Anti-Homosexuality Bill in 2009 has already adversely affected not just Ugandan nationals, but also LGBTI asylum seekers. It is really time for the Government to explicitly reassure all people in Uganda, wherever they come from, that they intend to protect people against threats and violence regardless of their real or alleged sexual orientation," said Dr Chris Dolan, Director of the Refugee Law Project at Makerere University. "This important ruling goes at least some way in the right direction".

This ruling is a landmark not only for sexual and other minorities living in Uganda, but also an important precedent for other countries facing similar issues of state and media sponsored homophobia. As a Coalition concerned with human rights and constitutional law, we applaud the High Court for taking this principled step. In standing up for the rights of Uganda's most marginalised they have at the same time strengthened the protection by the law of all people in Uganda.