
THE UGANDAN NON-GOVERNMENTAL
ORGANISATIONS BILL 2015

1. INTRODUCTION

- 1.1 The Ugandan Non-Governmental Organisations Bill 2015 (the "**Bill**") was passed by the Ugandan Parliament on 26 November 2015 and will be enacted if and when President Museveni assents to it.
- 1.2 This note considers the extent to which the Bill is likely to impact on the work of non-governmental organisations ("**NGOs**") campaigning for LGBT rights and/or providing HIV and AIDS prevention and treatment services to lesbian, gay, bisexual and trans (LGBT) people. The Bill is accessible on our [website](#) [pdf].

2. EXECUTIVE SUMMARY

- 2.1 The Bill is likely to severely restrict the activities of NGOs, and in particular those who campaign for LGBT rights and provide HIV services to the LGBT community. The Bill is likely to:
- prevent the registration of NGOs which support LGBT rights or provide HIV and AIDS services to LGBT people;
 - permit the intrusive monitoring of such NGOs;
 - limit their ability to carry on with their work in support of LGBT rights or providing HIV and AIDS services to those who need them;
 - allow their permits to be revoked;
 - allow any person to apply for NGOs which support LGBT rights or provide HIV and AIDS services to LGBT people to be dissolved; and
 - in general, threatens to shrink the space within civil society for LGBT people to advocate for their rights, access health care and participate as productive members of society.
- 2.2 One of the most concerning of the Bill's provisions is clause 40(f), which prohibits NGOs from engaging in "*any act, which is prejudicial to the interests of Uganda and the dignity of the people of Uganda.*" The breadth of this provision is worrying.
- 2.3 The sanctions provisions of the Bill are severe. An organisation that contravenes any provision of the Bill, carries out any activity without a valid permit, or operates contrary to the conditions or directions specified in its permit, is liable to a fine. In addition, NGOs can be disciplined with a warning, have their permit suspended, be blacklisted or dissolved, and be subject to any other disciplinary action that is deemed fit. This can be done for any reason that the Bureau considers "*necessary, in the public interest*".
- 2.4 The Bill does not contain adequate provisions for NGOs to challenge such penalties.

3. THE BUREAU

3.1 The Bill will give wide-ranging powers to the National Bureau for Non-Governmental Organisations (the "**Bureau**"), which will also have regional offices in each region of Uganda. The functions of the Bureau include:

- (a) advising the Ugandan Internal Affairs Minister (the "**Minister**");
- (b) licensing and monitoring NGOs;
- (c) guiding and monitoring NGOs; and
- (d) any other function "*as may be directed in writing by the Minister*".

In practice, the Minister has a significant amount of power over the Bureau, including the power to give the Bureau written instructions, with which the Bureau is "*bound to comply*".

3.2 The Bill confers significant discretion on the Bureau when carrying out its functions.

4. THE IMPACT ON NGOS CAMPAIGNING FOR LGBT RIGHTS OR PROVIDING HIV SERVICES.

Refusal to register an NGO

4.1 The Bill will allow the Bureau to refuse to register an organisation whose objectives contravene Ugandan laws. Without a valid permit, an NGO cannot operate in Uganda. There is therefore a clear risk that the Bill could prevent LGBT activists or HIV workers from establishing NGOs, as the Bureau could refuse to register them or to issue permits due to their LGBT-focused work. Additionally, those providing HIV prevention and treatment services may feel compelled to abandon outreach to LGBT people so as to not fall foul of the Bill.

4.2 Where the Bureau does register an organisation, it will be able to issue a permit imposing conditions or directions generally as it may think fit. Failure to comply with this condition can be treated as a criminal offence.

4.3 Additionally, the Bill will enable the Ugandan courts to dissolve an NGO on the grounds of national security or the "*gross violations of the laws of Uganda*". Any person, organisation or the Bureau may apply to the courts for an order of dissolution of an NGO. The Ugandan government could use the Bill to shut down groups promoting LGBT rights or providing HIV and AIDS services to LGBT people, and place severe restrictions on the campaigning and advocacy they are allowed to undertake in order to promote and protect human rights, including in relation to LGBT rights.

Monitoring NGOs

4.4 As drafted, the Bill will allow an "*officer of the Secretariat*" authorised by the Bureau "*at any reasonable time*" to inspect the premises of NGOs and request any information necessary to give effect to the Bill's provisions. Reasonable time has been defined as between 8.00am and 5.00pm. The Bureau must give three days' notice before any inspection. The Bill creates offences for obstructing an officer of the Secretariat and failing to comply with reasonable orders or directions of the officer. NGO workers who are found guilty of these offences will be liable to a fine or imprisonment for up to one year.

4.5 Using this power, an officer could enter the premises of an NGO, interrogate staff and demand to see documents. If the officer finds material advocating for LGBT rights or evidencing LGBT-specific sexual health services, the organisation could be accused of

engaging in acts "*prejudicial to the interests of Uganda and the dignity of the people of Uganda*" contrary to the Bill.

Disciplinary action

- 4.6 The Bill will give the Bureau a wide discretion to take substantial punitive actions against NGOs who have no adequate means of challenging this action.
- 4.7 The Bill creates a number of criminal offences, including:
- (a) failing to produce a certificate, permit or other relevant document or information when requested to do so by the Bureau;
 - (b) contravening the conditions in its permit; or
 - (c) engaging any activity that is prohibited by the Bill, including "*any act, which is prejudicial to the interests of Uganda and the dignity of the people of Uganda*".
- 4.8 These offences are punishable by a fine and/or imprisonment for a period up to three years.
- 4.9 As drafted, the Bill creates a hierarchical appeal mechanism, starting in the Sub-County Non-Governmental Organisation Monitoring Committee through to the Bureau. Appeals from the Bureau shall be handled by an Adjudication Committee. However, the Minister shall appoint a representative of the Bureau to the Adjudication Committee. Given that a representative of the Bureau shall play a part in the appeal against the Bureau's decision, it seems highly unlikely that NGOs will have a fair trial by an impartial tribunal. An NGO which is dissatisfied with the decision of the Adjudication Committee may appeal to the High Court.
- 4.10 Furthermore, the Bureau could decide to take disciplinary action under clause 7 against an NGO campaigning for LGBT rights or providing HIV services to LGBT people on the basis that the NGO is acting in a way "*prejudicial to the interests of Uganda and the dignity of the people of Uganda.*" The Bureau could blacklist the NGO, suspend its permit or publicise any contraventions that the NGO has committed. The NGO's only right to a defence would be to appear before the Bureau and show cause why the disciplinary action should not be taken.

Human Dignity Trust

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