

[Letter from Human Rights Watch to Ugandan President Yoweri Kaguta Museveni Regarding Homophobia and HIV]

August 23, 2007

President Yoweri Kaguta Museveni
President of the Republic of Uganda
State House Nakasero P.O. Box 24594
Kampala, Uganda
Via facsimile: +256-41-346-102

Dear President Museveni,

On behalf of Human Rights Watch, I write to express our serious concern over recent threatening statements from members of your government against the rights of lesbian, gay, bisexual, and transgender (LGBT) people in Uganda. Such threats are part of a long-standing pattern of harassment and state condemnation of people based on their sexual orientation and gender identity. In a climate where one group is singled out as not entitled to basic human rights, the rights of all Ugandans can be threatened. In a climate where silence about sexuality is enforced by state action, the health of all Ugandans is at risk amid the HIV/AIDS pandemic.

On August 21, Radio One announced that Deputy Attorney General Fred Ruhindi had called for the criminal law to be used against lesbians and gays in Uganda. "I call upon the relevant agencies to take appropriate action because homosexuality is an offense under the laws of Uganda," he reportedly said. Days earlier, Ethics and Integrity Minister James Nsaba Buturo had publicly called homosexuality "unnatural"—and, while deprecating charges that police harassed LGBT people, warned "We know them, we have details of who they are."

There is a long history of such threats by government officials and government media in Uganda—and of rights abuses following them. In September, 1999, after (inaccurate) published reports of a wedding ceremony between two men in Uganda, you stated that "I have told the CID [Criminal Investigations Department] to look for homosexuals, lock them up and charge them." Reportedly, police arrested and tortured several people in the wake of this mandate.

On July 6, 2005, a writer in the government-owned New Vision newspaper urged authorities to crack down on homosexuality, saying, "The police should visit the holes mentioned in the press, spy on the perverts, arrest and prosecute them. Relevant government departments must outlaw or restrict websites, magazines, newspapers and television channels promoting immorality – including homosexuality, lesbianism, pornography, etc." Later that month, local government officers raided the home of the chairperson of Sexual Minorities Uganda (SMUG). They seized documents and other materials, and arrested another lesbian activist and held her overnight.

Similarly, your government has also censored open discussion of gay and lesbian rights, sexualities, and experiences. In October 2004, for instance, the Broadcasting Council fined a radio station 1.8 million shillings (more than \$1000 USD) for hosting a lesbian and two gay men on a talk show, where they protested against discrimination and called for repeal of the sodomy laws. As if to press the point, later in the month, James Nsaba Buturo, the country's Information Minister at the time, ordered police to investigate and "take appropriate action against" a gay association allegedly organized at Makerere University, warning that "activities of foreign funded local groups as well as individuals are threatening to undermine our values."

These repressive actions are given legal grounding by a sodomy law inherited from British colonial rule. Section 140 of the Penal Code criminalizes "carnal knowledge against the order of nature" with a maximum penalty of life imprisonment. Section 141 punishes "attempts" at carnal knowledge with a maximum of seven years' imprisonment. Section 143 punishes acts of "gross

indecenty” with up to five years in prison. In both Britain and Uganda, these terms have long been understood to describe consensual homosexual conduct between men.

However, the policies of your government reinforce the repressive impact of that law with a determination to silence any discussion of sexual orientation—a determination that is devastating in the context of the HIV pandemic. In March 2005, a Human Rights Watch report on “abstinence-until-marriage” HIV programs in Uganda found these programs denied young people accurate information on HIV transmission and on sexual health. It is critical to stress that these programs also intrinsically discriminate on the basis of sexual orientation. With a legal ban in place against gay or lesbian relationships, the programs promote only permanent abstinence and are uniformly silent about safer sexual practices. Promoting abstinence until heterosexual marriage evidences a continuous will on the part of your government to drive lesbian, gay, bisexual and transgender people underground, or deny that they exist. In March 2002, while accepting an award for your country's HIV/AIDS prevention programs, you stated, “We don't have homosexuals in Uganda.”

The latest threats came a week after homosexuals again publicly declared their existence—that is, after SMUG launched a campaign called “Let us Live in Peace”. In a press conference in Kampala on August 16th, the group condemned discrimination and violence against LGBT people, as well as life-threatening silence about their sexualities in HIV/AIDS prevention programs. As a result of the ensuing threats, many members of the group are now in hiding.

Uganda is obliged to respect the provisions on equality and freedom from discrimination enshrined in its constitution (article 21(1)-(2)) and to comply with its international obligations as set forth in the International Covenant on Civil and Political Rights (ICCPR), which prohibits discrimination in its articles 2 and 26).

The UN Human Rights Committee, charged with monitoring states' compliance with the ICCPR, has urged states not only to repeal laws criminalizing homosexual conduct but also to include the prohibition of discrimination based on sexual orientation in their constitutions or other fundamental laws. Furthermore, in 1994 the Committee held in *Toonen v Australia* that sexual orientation should be understood as a status protected against discrimination by the treaty's equality provisions.

When government officials call for arrests or encourage harassment based on sexual orientation or gender identity they violate these mandates. We urge you to ensure that your government's officials and media refrain from such statements. We urge you as well to endorse and work for the repeal of sections 140, 141, and 143 of the Penal Code. We also urge you to ensure the full integration of issues of sexual orientation and gender identity into nationwide HIV prevention and care programs.

Sincerely,

Scott Long
Director
Lesbian, Gay, Bisexual, and Transgender Rights Program
Human Rights Watch

CC
Ethics and Integrity Minister James Nsaba Buturo
Attorney General Kiddu Makubuya
Uganda Human Rights Commission
United Nations Office of the High Commissioner for Human Rights (OHCHR Uganda)