

Ugandan President Signs Law Criminalizing HIV Transmission

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Ugandan President Yoweri Museveni (right) receives award from religious leaders in March for enacting anti-LGBT legislation. Stringer / Reuters

Ugandan President Yoweri Museveni has signed a bill into law to criminalize HIV transmission and impose other measures public health activists say will make it even harder to get Uganda’s severe epidemic under control.

The copy of the signed legislation obtained by public health advocates is dated July 31, but official documents are frequently back-dated by Ugandan officials and so its possible that Museveni only signed the law in the past few days. Parliament voted in favor of the legislation on May 13.

The provisions that are most troubling to public health advocates are those that could result in the imprisonment of HIV-positive people. The law imposes a fine and a ten-year prison sentence for “intentional transmission of HIV” and five years for “attempted transmission of HIV.” The legislation also allows for compulsory testing in some cases, such as when a woman is pregnant,

and would enable courts to order the release of individuals' HIV status without consent. These are some of the provisions that most worry public health advocates:

PART VIII—OFFENCES AND PENALTIES

41. Attempted transmission of HIV.

A person who attempts to transmit HIV to another person commits a felony and shall on conviction be liable to a fine of not more than twelve currency points or imprisonment of not more than five years or both.

42. Offences relating to breach of confidentiality.

(1) A health practitioner or a person referred to under sections 16 and 17 who—

(a) breaches medical confidentiality; or

(b) unlawfully discloses information regarding the HIV status of any person,

commits an offence, and on conviction shall be liable to a fine of not more than two hundred and forty currency points or to imprisonment for a term of not more than five years or to both.

43. Intentional transmission of HIV.

(1) A person who wilfully and intentionally transmits HIV to another person commits an offence, and on conviction shall be liable to a fine of not more than one hundred and twenty currency points or to imprisonment for a term of not more than ten years or to both.

(2) A person shall not be convicted of an offence under subsection (1) if—

(a) the person was aware of the HIV status of the accused and the risk of infection and he or she voluntarily accepted the risk;

(b) the alleged transmission was through sexual intercourse and protective measures were used during penetration.

Museveni's signature comes just after Uganda's Constitutional Court struck down the Anti-Homosexuality Act, which public health advocates had also warned would impede Uganda's HIV response by driving LGBT people away from health services. This new legislation was denounced in May by the United States — which is the largest funder of Uganda's HIV program — and so could add another complication to the relationship between the two countries. It also could potentially hinder efforts to get a \$90 million health loan from the World Bank that was suspended following passage of the Anti-Homosexuality Act back on track.

A White House spokesperson did not offer comment Tuesday on word that the law had been signed. But the U.S. Global AIDS coordinator, Ambassador Deborah Birx, had called for the legislation to be rejected just after Parliament passed the law in May.

“Over the past 30 years, we have witnessed time and again how stigma, discrimination, and fear – and the misguided policies that stem from them – further fuel the epidemic by deterring those most in need from accessing lifesaving HIV prevention, treatment, and care services,” Birx said. “I join with the many health practitioners, HIV/AIDS and human rights activists, multilateral institutions, and individuals everywhere – in Uganda and around the world – in calling for the people and the Government of Uganda to reject this regressive bill.”

The provisions criminalizing HIV transmission resemble some provisions that are on the books in some U.S. states, but there has been a move in recent years to repeal them. Worldwide we’ve seen that “criminalization of HIV doesn’t work. It drives people away from services and fuels discrimination and fear,” said Asia Russell, an advocate with the U.S. organization Health Gap who is based in the Ugandan capital of Kampala.

Kikonyongo Kivumbi of the Uganda Health and Science Press Association said in a phone interview, “It seems that Uganda is not committed to scaling down this pandemic — Uganda has chosen to moralize.” Uganda is one of the only countries in the world that gets a large amount of HIV funding but continues to have a spreading HIV epidemic, he said, in part because ideological approaches have trumped evidence-based approaches including access to condoms. “Uganda’s performance is incredibly disturbing,” Kivumbi said. “How can you pass such an act which is a danger to public health?”

UPDATE

National Security Council spokesman Ned Price said by email on Wednesday that the Obama administration would not comment because, “We are in the process of reviewing the bill, so any discussion of a response would be premature.”

<http://www.buzzfeed.com/lesterfeder/ugandan-president-signs-law-criminalizing-hiv-transmission#6dz572>