

THE ANTI - HOMOSEXUALITY BILL, 2009

MEMORANDUM

1. The Principle

The object of this Bill is to establish a comprehensive legislation to protect the traditional family by prohibiting (i) any form of sexual relations between people of the same sex; and (ii) the promotion or recognition of such sexual relations in public institutions as healthy, normal or an acceptable lifestyle, including in the public schools, through or with the support of any government entity in Uganda or any non- governmental organization inside or outside the country. Research indicates that the homosexuality has a variety of negative consequences including higher incidences of violence, sexually transmitted diseases, and use of drugs. The higher incidence of separation and break-up in homosexual relationships also creates a highly unstable environment for children raised by homosexuals through adoption or otherwise, and can have profound psychological consequences on those children. In addition, the promotion of homosexual behavior undermines our traditional family values.

Given Uganda's historical, legal, cultural and religious values which maintain that the family, based on marriage between a man and a woman is the basic unit of society. This Bill aims at strengthening the nation's capacity to deal with emerging internal and external threats to the traditional heterosexual family. These threats include: redefining human rights to elevate homosexual and transgender behavior as legally protected categories of people.

This legislation is aimed at halting the advance of the "sexual rights" agenda, which seeks to establish additional legally protected classes based on sexual preferences and behaviors, as well as claims that people have rights based on these preferences and behaviors. Sexual rights activists have created new euphemisms to promote this agenda such as "sexual orientation," "gender identity," "sexual minorities" and "sexual rights."

This legislation further recognizes the fact that same sex attraction is not an innate and immutable characteristic and that people who experience this mental disorder can and have changed to a heterosexual orientation. It also recognizes that because homosexuals are not born that way, but develop this disorder based on experiences and environmental conditions, it is preventable, especially among young people who are most vulnerable to recruitment into the homosexual lifestyle.

The Republic of Uganda needs comprehensive and enhanced legislation to protect our cultural, legal, religious, and traditional family values against the attempts of sexual rights activists seeking to impose their values of sexual promiscuity on Uganda.

There is also need to protect our children and youths who are made vulnerable to sexual abuse and deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increasing attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise.

2. Defects in the existing law.

This legislation is designed to fill the gaps in the provisions of the constitution of Uganda and the penal code Act by establishing that, in Uganda, marriage is only between a man and a woman and that no other sexual unions or relationships will be recognized by the government.

The Penal Code Act (Cap 20) does not directly address this issue of homosexuality. It instead talks about unnatural offenses under section 145. This section does not specifically talk about homosexuality as an offense. It does not even have any reference to homosexuality. Not surprisingly the Act does not have a definition for homosexuality in the definition section.

The Penal Code Act does not explicitly address the issue of same sex unions and gender identity disorders which are damaging the social fabric of our nation at an alarming rate. There are no provisions in the Penal Code Act panelizing the procurement, promotion, disseminating literature and other forms of report for the offenses of homosexuality hence the need for legislation to provide for charging, investigating, prosecuting, convicting and sentencing of offenders on the above law. There is need for equal treatment of man and woman before the law in regard to homosexual offenses.

This legislation comes to complement and supplement the provisions of the Constitution of Uganda and the Penal Code Act by not only criminalizing same sex marriages but same -sex sexual acts and other related acts.

3.1. The objectives of the Bill

The objectives of the Bill are:

- (a) To protect marriage as that only between a man and a woman in Uganda;
- (b) To prohibit homosexual behavior and related practices in Uganda as they constitute a threat to the traditional family;
- (c) To safeguard the health of Ugandan citizens from the negative effects of homosexuality and related practices;
- (d) To establish progressive legislation protective of the traditional family that can serve as a model for other countries;
- (e) To prohibit ratification of any international treaties, conventions, protocols and declarations which are contrary or inconsistent with the provisions of this Act;

(f) To ensure that no international instruments to which Uganda is already a party can be interpreted or applied in Uganda in a way that was never intended at the time the document was created;

(e) To withdraw from any international agreements to which Uganda already is a party, or file reservations to them, which are re-interpreted to include protection for homosexual behavior, or that promote same-sex marriage, or that call for the promotion or teaching about homosexuality as being healthy, normal, or an acceptable lifestyle choice, or that seek to establish sexual behavior, sexual orientation, or gender identity, or sexual minorities as legally protected categories of people; and

(f) To prohibit Uganda from becoming a party to any new international instruments that expressly include protection for homosexual behavior; promote same-sex marriage; call for the promotion or teaching about homosexuality or homosexual relations as being healthy, normal, or an acceptable lifestyle choice; and/or seek to establish sexual behavior, sexual orientation, gender identity or sexual minorities as legally protected categories of people

3.2. Part 1 of the Bill incorporating clauses 1 and 2 provides for Preliminary matters relating to commencement and Interpretation of the words and phrases used in the Bill

3.3. Part II of the Bill incorporating clause 3 to clause 6 prohibits homosexuality and related practices by introducing the offences of engaging in homosexuality, and the penalties of imprisonment upon conviction. This part also creates offences and penalties for acts that promote homosexuality, failure to report the offence and impose a duty on the Community to report Suspected Cases of homosexuality.

3.4. Part III of the Bill incorporating of clause 7 to clauses 9 provides for the jurisdiction of Ugandan Courts in Case of Homosexuality, including extra territorial Jurisdiction.

3.5. Part IV of the Bill incorporating clauses 10 and 11 provides for miscellaneous provisions on International Treaties, Protocols, Declarations and Conventions and the Minister to make regulations to give effect to the Act.

4. Schedule 1 of the Bill gives the value of the currency.

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Kabale**