

# **REPORT OF THE COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON THE ANTI HOMOSEXUALITY BILL, 2009**

## **1.0 Introduction**

The Anti – homosexuality Bill, 2009 was read for the first time on 14<sup>th</sup> October 2009 and it was referred to the Committee of Legal and Parliamentary Affairs in accordance with Rules 112 and 113 of the Rules of Procedure of Parliament. In analysing the Bill, the committee was guided by Rule 113 of the Rules of Procedure of Parliament.

## **2.0 Methodology**

In the process of analysing the Bill, the Committee discussed the Bill and received memoranda from the following stakeholders:

1. Ministry of Justice and Constitutional Affairs
2. Uganda Law Reform Commission
3. Uganda Human Rights Commission
5. Uganda Prison Service
6. Civil Society Coalition on Human Rights and Constitutional Law
7. National Association of Social Workers of Uganda

## **3.0 Objective of the Bill**

The object of the Bill is to establish a comprehensive consolidated legislation to protect the traditional family by prohibiting (i) any form of sexual relations between persons of the same sex; and (ii) the promotion or recognition of such sexual relations in public institutions and other places through or with the support of any Government entity in Uganda or any non governmental organization inside or outside the country.

The Bill aims at strengthening the nation's capacity to deal with emerging internal and external threats to the traditional heterosexual family.

The Bill further aims at providing a comprehensive and enhanced legislation to protect the cherished culture of the people of Uganda, legal, religious and traditional family values of the people of Uganda against the attempts of sexual rights activists seeking to impose their values of sexual promiscuity on the people of Uganda.

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

#### **4.0 Observations and Recommendations.**

The Committee observed that:

- (i) the Bill provides for a death penalty to a person who commits aggravated homosexuality. The death sentence if executed does not make the offender feel the punishment for his actions.
- (ii) The bill provides for attempt to commit homosexuality and aggravated homosexuality. However, it will be difficult to prove that a person attempted to commit the offences.
- (iii) Any person who gets knowledge about a homosexual activity taking place has to report within twenty four hours. This will cause problems especially to professionals whose ethics include confidentiality in order to be able to carry out their functions like Doctors, Lawyers and Counselors.

- (iv) The Bill intends to extend its jurisdiction over Ugandans who violate its provisions while outside the country. This will be difficult to implement because of the State's limited capacity.
  
- (v) The bill provides for nullification of inconsistent treaties, protocols, declarations and conventions. This is against the provisions of article 287 of the Constitution which obliges Uganda to fully subscribe to all its international treaties obligations ratified prior to the passing of the 1995 Constitution.

## **5.0 Recommendations**

The Committee recommends that the Bill be passed into law subject to the proposed amendments.

**AMENDMENTS PROPOSED BY THE COMMITTEE ON LEGAL AND  
PARLIAMENTARY AFFAIRS TO THE ANTI-HOMOSEXUALITY BILL,  
2009**

1. **Clause 3 (2)** is amended by substituting for the words “...suffer death” with words “...the penalty provided for aggravated defilement under Section 129 of the Penal Code Act”.

**Justification**

To harmonise the provision with the penalty under the Penal Code Act

2. **Clause 4** of is deleted.

**Justification**

Attempts to commit homosexuality may become too hard and difficult to prove which may cause absurdities.

3. **Clause 7** is deleted.

**Justification**

It is provided for under Clause 13

4. **Clause 8** is deleted.

**Justification**

It is provided for under Clause 13

5. **Clause 9** is amended by

- a) Deleting the words “...either in Uganda or elsewhere; or” appearing at the end of the sub-clauses (1) (a) and (b).
- b) Adding at the end of the provision the words “...commits an offence and is liable on conviction be liable to imprisonment of seven years.

**Justification**

To complete the provision by creating an offence and imposing a prohibitive penalty

6. **Clause 12** is amended by inserting a new sub-clause (2) as follows-

“(2) A person or institution commits an offence if that person or institution conducts a marriage ceremony between persons of the same sex and shall on conviction be liable to imprisonment to a maximum of three years for individuals or cancellation of licence for an institution”.

**Justification**

To prohibit celebration of same sex marriages

7. **Clause 14** is deleted.

**Justification**

The offence will create absurdities and the provision will be too hard to implement.

8. **Clause 16** is deleted.

**Justification**

The practical enforcement of the provision will be difficult.

9. **Clause 17** is deleted.

**Justification**

The practical enforcement and implementation of the provision will be difficult.

10. **Clause 18** is amended by –

a) Inserting a new head note as follows –

“International treaties, protocols, declarations and conventions”

b) Substituting the provisions of sub-clause (1) as follows –

“(1) Notwithstanding the provisions of any other law, any international legal instrument subsequent to the coming into force of this Act whose provisions contradict the spirit and provisions enshrined in this Act may be ratified by Parliament”.

**Justification**

To enable Parliament have a final say on such instruments before they can bind the country.