



Kampala | 04 May 2021

## STATEMENT ON PASSING OF SEXUAL OFFENCES BILL, 2019

The Uganda Parliament passed the Sexual Offences Bill 2019, yesterday 03 May 2021. The initial object of this Bill is to enact specific laws on sexual offences for the effectual prevention of sexual violence; to enhance punishment of sexual offenders; to provide for the protection of victims during sexual offences trials; to provide for the extraterritorial application of the law; to repeal some provisions of the Penal Code Act. On paper, the Bill resembles the ideal law to counter the ever-increasing cases of sexual violence that many Ugandans of all gender identities face as documented by the Uganda Police.

Sexual Minorities Uganda (SMUG) as the network organization for lesbian, gay, bisexual, transgender and queer organizations in Uganda is particularly concerned about Clause 11(i) which further criminalizes same-sex sexual acts even as the Uganda Penal Code Act already does, hence criminalizing the private lives of adult and consenting same-sex loving persons. The clause criminalizes and bans the *penetration of another person's anus with that other person's sexual organ or with any object*; and (ii) *sexual acts between persons of the same gender*.

SMUG is concerned that this clause in the Bill will enhance the already homophobic environment in Ugandan and consequently lead the way for further violation of the rights of sexual and gender minorities, including violations such as "corrective rape" and other acts of violence. **Clause 11** also goes against the very essence of the Bill to protect Ugandans from sexual violence. The Bill also goes against the right and protection of minorities as stipulated in the Constitution of the Republic of Uganda under Article 21 on Right to Equality and Non-discrimination as enjoyed by ALL Ugandans.

As Sexual Minorities Uganda we contend that if the Bill intends to consolidate sexual offences into a single piece of legislation, provide for a single piece of legislation on the subject matter for purposes of clarity and accessibility to help the legislation respond to the evolving and current trends in sexual offences and, curb sexual violence and adopt international best practices in the prevention of sexual violence, the classification of same-sex relations in the same Bill increases the already existing violence that LGBTQIA+ Ugandans face. Therefore, the law fails at that level to protect a section of Ugandans who are sexual and gender minorities by criminalizing them rather than punishing those who might be their sexual offenders. The Parliament's attempt at streamlining all laws on sexual offences by adopting new language to cater and name the sexual offences is applaudable if only the Bill does not criminalize same-sex relations.

**Call to action**

- Sexual Minorities Uganda calls on the President of the Republic of Uganda to consider NOT assenting to the Bill because of the problematic clause 11 that now classifies sexual and gender minorities as sexual offenders. Rather, we call on the President to reminisce on the effects the now repealed Anti-Homosexuality Act had on the human rights discourse for sexual and gender minorities.
- We also call on the Uganda Law Reform Commission to play a more technical role in advising Parliament on harmful laws that jeopardize other state-driven efforts such as the HIV prevention and control efforts by the Ministry of Health by driving sexual and gender minorities underground because they are illegal.
- We call upon the Uganda Equal Opportunities Commission to seriously pursue the Constitutionality of sections of the Sexual Offences Bill that impinge on the equality of ALL Ugandans as stipulated by the Equal Opportunities Commission Act.

### Background of the Sexual Offences Bill 2019

- The Sexual Offences Bill, 2019 was read for the first time on 24th November 2019 and referred to the Committee of Legal and Parliamentary Affairs for scrutiny as required Rules of Procedure of Parliament. It is a private member's Bill sponsored by Uganda Women Parliamentary Association (UWOPA) and introduced by its Chairperson, Hon. Monica Amoding
- The Sexual Offences Bill, 2019 is a resubmission of a Bill that was first introduced on 14th April 2016 and referred to the Committee of Legal and Parliamentary Affairs for scrutiny. The Sexual Offences Bill, 2015 was withdrawn from the House on 24th February 2019 to incorporate the amendments that the mover proposed during the House's consideration of the Bill.
- The Bill is prompted by the need to cure the defects in the existing legislation, especially the Penal Code Act, Cap. 120, which, while it makes provision for several sexual offences, the provisions are outdated. The ingredients constituting the offences are narrow, given that they do not reflect the evolving trends in social attitudes, values, and sexual practices.

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