

Dialogue: The Anti-Homosexuality Act, 2023: Protecting the Public or Oppressing Minorities?

On March 22, 2023, a dialogue was held at Makerere University's School of Law (SoL) to discuss the recently passed Anti-Homosexuality Act, 2023, and its potential impact on Ugandan society. The aim of this dialogue was to discuss whether the act is protecting the public or oppressing minorities. The dialogue was organized by Human Rights and Peace Centre (HURIPEC), a department at SoL.

In her opening remarks at the dialogue, Deputy Principal of the SoL, Dr. Zahara Nampewo welcomed participants to the premier and leading law school in Uganda.

She emphasized the importance of the law in society and the need for laws to observe principles of human rights. Dr. Nampewo further highlighted Makerere University's role as a key partner of the Ugandan government in advising on legal processes and noted that the law is the basis of a peaceful society thus any process involving law is of interest to the University.

In his welcome address, Dr. Busingye Kabumba, the Acting Director HURIPEC, provided a brief overview of HURIPEC's vision and mission. He explained that the center aims to establish a human rights-conscious, educated, activist, academic society in Uganda and beyond by organising events that promote respect for human rights, democratic governance, and sustainable peace in East Africa and Africa generally through teaching, research, policy, and advocacy.

After the overview, Dr. Busingye gave a brief background of panellists namely Hon. Asuman Basalirwa who introduced the Anti-homosexuality Bill, 2023 at Parliament and Dr. Adrian Jjuuko, Executive Director – Human Rights Awareness & Promotion Forum (HRAPF) and a human rights activist against the bill now an Act of Parliament.

Hon. Basalirwa, the mover of the Anti-Homosexuality Bill, 2023 gave a brief background of the bill, citing the recruitment of children into homosexuality, financing, and public outcry about LGBTQ as some of the reasons behind the bill. When asked about the criminalisation of homosexuality, he said that it is not a new phenomenon and that colonialists introduced anti-sodomy law in Uganda citing section 145 of the Penal Code.

On the other hand, Dr. Jjuuko, stated that the spirit behind the law is unconstitutional and vague. He cited section 29(1) of the Constitution that provides for freedom of expression and association, noting that the

criminalization of homosexuality would limit the freedom of expression of individuals if passed into law.

Jjuuko also noted that the Act replicates existing laws that provide for the protection of all people against rape, defilement, and other forms of sexual violence. According to him, there is a need to implement these laws to deal with offenders. He also emphasized the need to respect, uphold and promote the rights and freedoms of individuals and groups enshrined in the Constitution.

Brief Facts about Anti-Homosexuality Act,2023

- The Anti-Homosexuality Act,2023 proposes a life sentence in prison for an individual convicted of committing the offence of homosexuality, whereas attempt to perform the act would attract a seven-year prison term.
- The Act also provides for penalties to prohibit acts that expose children to acts of homosexuality by imposing a 10year prison sentence on a person found to recruit a child for the purpose of engaging the child in the act of homosexuality.
- Additionally, the Act if signed into law by President Yoweri Kaguta Museveni Tibuhaburwa will penalize an owner, occupier or manager of premises who knowingly allows their premises to be used for acts of homosexuality with a 10-year prison sentence upon conviction.
- Where a person contracts a marriage with a person of the same sex, presides over a same sex marriage ceremony or knowingly participates in preparation of such a marriage, they will be sentenced to 10 years in prison upon conviction
- The Act also provides for a three-year imprisonment for a child convicted of the act of homosexuality

The dialogue attracted participants attending physically and virtually ranging from law students, lawyers, religious leaders, civil society, international partners and media among others. Some of the issues arising from the discussion included: respect for human rights, religion and the law and challenges posed by the Act on privacy. At the event, it was agreed that another dialogue will be organised at a later date to continue with discussions around Anti-Homosexuality Act,2023.