**PEOPLE’S VOICE STATEMENT ON THE SEXUAL OFFENCES BILL AS PASSED BY THE PARLIAMENT OF UGANDA**

On the third Day of May 2021, Parliament of Uganda well within its constitutional mandate passed the **Sexual Offences Bill of 2019** having debated on the same so vehemently in the moments prior to the passing. Whereas the official Act passed by Parliament has not been released, the **communities of People Living With, at high risk of and those affected by HIV in all their diversities**, united under the **Community Led Monitoring [People’s Voice] initiative against HIV/TB** seek to use this platform, basing on the Sexual Offences Bill of 2019 and official Parliamentary reports and proceedings to add our voice to many others pertaining the industrious provisions of this bill that are fundamental to shaping some of the inhumane behaviors towards women and girls but also give a critique of how this bill will be detrimental to efforts made in ending HIV and TB as a public Health Threat.

We have had the benefit of addressing our minds to the said bill as discussed by Parliament as well as followed the parliamentary proceedings on the matter and have carefully scrutinized the same and found a number of provisions that will in effect be very productive in converting detrimental behavior towards women and girls, but also in gender lenses, very many gender sensitive issues were ironed out most especially the prescription for prohibition and conviction of child marriages, prevention of sexual exploitation of Ugandan citizens and those resident outside the country. This comes at a time when we have witnessed young Ugandans either as individuals or expatriates in their quest for jobs abroad being sexually exploited in the Middle East (for example).

In converse to the above, there are certain provisions of the bill alluding to HIV prevention, stigmatization and discrimination against members of our communities (people living with and at high risk of HIV) which if not addressed, we are likely to witness continued damage to efforts already made to improve HIV/TB prevention, treatment, care and support service delivery in Uganda.

Hitherto, **Uganda still continues to register 73,000[[1]](#footnote-1) cases of new HIV infections, we keep losing PLHIV from treatment, keep registering 23,000[[2]](#footnote-2) HIV Related deaths;** some due to stigma and discrimination fueled by existing unfavorable laws and policies, gendered vulnerabilities (such as sexual violence towards sexual minorities, corrective rape against Transgender women and rape/sexual exploitation against sex workers while in detention) still persistently exists resulting from problematic provisions of laws like the sexual offenses bill and has in many times exposed the victims to HIV infection and transmission.

And if the HIV response is still facing such challenges, assenting to such a bill could worsen the situation. To this end, we seek to highlight some of the problematic provisions of this law and the likely damages that could be caused in efforts to improve TB/HIV treatment and prevention service delivery.

**EFFECTS OF THE BILL**

**Clause 3 of the Bill**, envisages a death penalty in cases where a person commits the offence of rape in aggravating circumstances as listed there under, one of them under **Clause 3(1)(a**) is the sexual offender being infected with HIV or suffering from AIDS. Creation of punishments based on HIV status gravely entrenches stigma and discrimination that People living with HIV [PLHIV] are already facing. Numerous reports and policies in the fight against HIV have highlighted stigma and discrimination as one of the worst deterrents of success in the fight against HIV&AIDS. This provision literally creates a connotation of death around people living with HIV to the extent that a person deserves to die if they commit crime while living with HIV. This, measured against all standards, is wrong and renders all the effort different stakeholders have undertaken to fight stigma and discrimination useless and inconsequential given that the stigma is now being orchestrated by law enacted by the Parliament of Uganda.

**HIV&AIDS being an aggravating factor of the offence of rape additionally** warrants mandatory testing of the accused persons to ascertain their health status which in our view contravenes numerous human rights provisions [[3]](#footnote-3)as well as the constitution in light of criminal procedure.

Firstly, the presumption of innocence as provided for under **Article 28(3) (a)** of the **Constitution of Uganda 1995** envisages that a person shall be innocent until proven guilty. As such person ought to be treated as innocent and therefore subjecting them to mandatory testing most likely against their will, so as to make a case for the state shall be in total contravention of this provision.

Secondly, we have on several occasions **witnessed law enforcement (Uganda Police Force) officers parading suspected criminals before the media** something that completely erodes the said presumption[[4]](#footnote-4) which is most likely going to happen to suspects who are living with HIV. The harm that such a law and subsequent enforcement will cause to the movement against HIV is beyond measure later on the damage on the persons themselves whose HIV status will have been disclosed to the public against their will.

**Criminalizing HIV status** is also most likely going to affect the efforts to encourage Ugandans to test for and know their HIV status given the aggravating status attached to it which many persons may find unsafe to put on record.

**Criminalization of Sex Work** is one of the highlights of the Bill as passed, prohibiting operation of a brothel, engaging in a sexual act with a prostitute among others. To begin with, the use of derogatory term **“prostitute”** warrants gross negative connotations to sex workers which fuels discrimination and stigma that spills over to deter access to medical service delivery. “**Prostitution” as a crime** has for a very long time been extremely redundant and an aid to the police to persecute sex workers with intention of harassing to solicit bribes from them. [[5]](#footnote-5) The effect of such law and conduct of the enforcement is that it drowns sex workers into hiding and fear to seek HIV preventive consumables but also from seeking HIV treatment services, given that anyone who reaches out could potentially be law enforcement seeking to apprehend them later on, blackmail, and extort them of money.

**Aiding and abetting** of crime amounts to crime in itself, such redundant law against prostitution is potentially putting service providers such as organizations’ staff in positions of committing crime which will deter the effort in fighting HIV as people will fear to be in contravention of the law.

The Bill also seeks **to criminalize buyers of sex** as much as it criminalizes the sellers and in a gender perspective, this equal apportioning of liability is a plus, however, this will greatly further negate sex workers’ leverage to demand for safe sex and elevate insecurity which will have the effect of increasing HIV but also keep sex workers away from seeking medical attention due to the insecurities.

**Key Populations (in particular the LGBTQI+** persons) have had their sexual practices criminalized[[6]](#footnote-6) as well, not only does this refresh the homophobic sentiments in the country, which will increase stigma and discrimination against the latter, it has the effect of creating insecurity among persons that belong to the LGBTQI+ community. This means that there will be further struggle to test, engage, enroll and retain the latter to HIV prevention care and treatment services.

Overall, the above provisions not only violate Uganda’s human rights obligations and also risk undermining public health, leaving the targeted people living with HIV, sexual minorities and sex workers afraid to come forward for essential HIV testing, prevention and treatment services subsequently affecting the critical progress made in attaining the global **90,90,90/95,95,95** targets.

We have come a very long way in the fight against HIV&AIDS, we as a country with concerted efforts of all health and HIV&AIDS stakeholders-Ministry of Health AIDS Control Program, Uganda AIDS Commission, Civil Society organisations, and AIDS Development Partners-UNAIDS, US-Embassy-PEPFAR, UN-Women, UNFPA and WHO among others. We are close to reaching epidemic control and realizing our one major goal of a **Uganda free of HIV&AIDS**.

**To this end, it is critical that we move forward with the same efforts in ending AIDS, as such the PEOPLE’S VOICE makes the following calls for actions in overcoming the consequences of the Sexual Offenses Bill 2019:**

1. The President of this country to demand for further scrutiny and amendment of the bill before signing the same into law;
2. The president’s indulgence on the derogatory language used in the bill, with orders of revision of the same;
3. The law makers to amend the bill and exclude provisions that allude to the concerns we have discussed above.

We strongly believe that the above recommendations if considered and acted upon, will in turn eliminate the deterrence that the current Bill as passed by parliament has on the fight against HIV&AIDS in Uganda.

Signed by;

1. **Friends of Canon Gideon Foundation [FOCAGIFO]**
2. **Alliance of Women Advocating for Change [AWAC]**
3. **Positive Men’s Union [POMU]**
4. **Uganda Harm Reduction Network [UHRM]**
5. **National Forum of People Living With HIV/AIDS Networks in Uganda [NAFOPHANU]**
6. **Uganda Network of Young People Living with HIV [UNYPA]**
7. **Uganda Young Positives [UYP]**
8. **MAMA’S CLUB UGANDA**
9. **National Community of Women Living With HIV/AIDS [NACWOLA]**
10. **Positive Women Living with Disability Uganda [POWUDU]**
11. **Ice Breakers Uganda [IBU]**

1. UPHIA-Current Status of HIV Epidemic 2019 [↑](#footnote-ref-1)
2. Ibid [↑](#footnote-ref-2)
3. Article 7 of the International Covenant on Civil and Political Rights, sets the standards of a person’s free consent being key before being subjected to medical checkups. [↑](#footnote-ref-3)
4. Parading Suspects by the police by Department of Journalism and communication [Makerere University] jocom.mak.ac.ug [↑](#footnote-ref-4)
5. Analysis of the sexual offences Act 2021 and its implications on the Human Rights of Criminalized minorities by HRAPF [↑](#footnote-ref-5)
6. clause 11 of the Sexual Minorities [↑](#footnote-ref-6)