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IN ANY CORRESPONDENCE ON
THIS SUBJECT PLEASE QUOTE NO.



State House,
P. O. Box 25497,
Kampala,
Uganda

25th April, 2023

Rt. Hon. Anita Among
Speaker
Parliament of Uganda
KAMPALA

*Clon
Pse refer to the house
and let it be forwarded
to Comm of Legal
Affairs
26/4/23*



THE ANTI-HOMOSEXUALITY ACT, 2023

26 APR 2023

The above subject matter refers.

I have received the Anti-Homosexuality Act, 2023 for assent. Some of the provisions of the Bill need to be reconsidered and reviewed by Parliament in the following areas:

1. Distinguishing between being a homosexual and actually engaging in acts of homosexuality.

It is important to recognize that the suspicion, allegation or belief of some individuals being homosexuals has been with our society for quite sometime. Indeed, the debate has always been, whether the sexuality of these individuals is deviant conduct or otherwise. What is clear is that our society does not accept homosexual conduct or actions. Therefore, the proposed law should be clear, so that what is sought to be criminalized is not the state of one having a deviant proclivity, but rather the actions of one acting on that deviance or indeed promoting the same, in whatever way. To this end, the Bill should be reviewed and include a provision that clearly states, especially under Section 2 and 3, that for avoidance of doubt, a person who is believed or alleged or suspected of being a homosexual, who has not committed a sexual act with another person of the same sex, does not commit an offence under those Sections. This distinction must be clearly articulated in the law.

2. Clause 9 (Premises)

Clauses 9(1) in my view is unnecessary as what is provided under 9(2) is more comprehensive and passes the constitutional test since it provides for the actual knowledge of the person who is responsible for the premises. Clause 9(1) should, therefore, be deleted from the Bill.

3. Clause 14 (Duty to report acts of homosexuality)

Clause 14 as currently drafted may present constitutional challenges. Read together with Clause 15, it appears to create unnecessary contradictions and duties which will pose a challenge to implement. While Clause 14 imposes a duty of one to report suspected acts of homosexuality, the Bill under Clause 15 makes it an offence for a person to make false sexual allegations. This contradiction could present challenges in the implementation of the Bill and could be a source of conflict in society. I, therefore, suggest that Clause 14 be reviewed with the aim of removing it all together or restricting it to apply to the protection of children and vulnerable persons as provided under Article 17(1)(c) of the Constitution.

4. Rehabilitation of homosexuals

Whereas, I am of the view that the Bill should include a provision that facilitates those who have been previously involved in acts of homosexuality to present themselves to the relevant health or other authorities for purposes of seeking help in cases where their previous involvement in acts of homosexuality was not the aggravated kind and should, therefore, not be punished. I am advised that this being a Private Member's Bill, my proposal could offend Article 93 of the Constitution. This will be subsequently attended to.

In view of the above concerns, I return the Bill to Parliament for reconsideration under Article 91 of the Constitution.


Yoweri K. Museveni
P R E S I D E N T

Copy to: Hon. Attorney General, Ministry of Justice and
Constitutional Affairs