



LGBT ASYLUM

Pressemeddelelse: Danmark udsender homoseksuelle til Uganda

København, 21. juli 2016

Danske myndigheder begynder nu at sende homoseksuelle asylansøgere fra Uganda tilbage til deres hjemland.

Netop nu er tre ugandiske kvinder, som har søgt asyl i Danmark på grund af deres homoseksualitet, fængslet i Ellebæk, en lukket institution for asylansøgere. Her tilbageholdes de, indtil de efter planen skal sendes tilbage til Uganda senest 2. august.

Det er første gang i de fire år, LGBT Asylum har eksisteret, at vi har kendskab til, at Danmark vil deportere LGBT-personer (homoseksuelle, biseksuelle og transpersoner) til Uganda. Her er homoseksualitet kriminaliseret. LGBT-personer forfølges i vidt omfang af befolkningen generelt og risikerer i værste fald fængsel på livstid.

Med de planlagte deportationer krænker danske myndigheder de tre lesbiske kvinders mest basale rettigheder, idet det ikke er sikkert for homoseksuelle at leve i Uganda. LGBT Asylum henviser til talrige rapporter fra statslige institutioner og anerkendte menneskerettighedsorganisationer, der dokumenterer, at LGBT-personer i Uganda er forfulgt af såvel politi som samfundet generelt. Ikke mindst understreger rapporterne, at det ikke er muligt for LGBT-personer at søge myndighedernes beskyttelse i Uganda.

”Det er en basal menneskeret at leve frit og åbent i overensstemmelse med sin seksuelle orientering. Det er ikke muligt i Uganda. Ved at sende homoseksuelle tilbage til Uganda krænker de danske myndigheder disse menneskers rettigheder,” siger Hanne Gyberg, talsperson for LGBT Asylum. ”I de pågældende sager har myndighederne ikke forholdt sig til, om de tre afviste kvinder er lesbiske. Det er et centralt asylmotiv, og derfor *skal* de forholde sig til spørgsmålet,” fastslår hun.

LGBT Asylum beder derfor de danske myndigheder sætte de aktuelle udsendelser af de lesbiske fra Uganda i bero, til de har undersøgt asylmotivet – nemlig at kvinderne er forfulgt på grund af deres seksualitet.

”Hvis man holder de individuelle asylsager op mod billedet af, hvordan situationen er generelt for homoseksuelle i Uganda, bør det føre til, at danske myndigheder ser på disse sager igen,” siger talsperson Mads Ted Drud-Jensen.

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LGBT Asylum er en gruppe bestående af LGBT-personer – både asylansøgere, danske statsborgere og mennesker med ophold i Danmark – der arbejder for rettigheder for lesbiske, bøsser, biseksuelle og transkønnede i det danske asylsystem.

BAGGRUND:

Selv om Ugandas meget omtalte antihomolov blev erklæret ugyldig af landets forfatningsdomstol 1. august 2014 og på nuværende tidspunkt ikke er genindført, har homoseksualitet været kriminaliseret i Ugandas straffelov siden 1950'erne. I værste fald kan homoseksuelle blive idømt fængsel på livstid.

Loven og politiet er imidlertid ikke det eneste, LGBT-personer (homoseksuelle, biseksuelle og transkønnede) har at frygte i Uganda. En lang række rapporter bekræfter, at LGBT-personer forfølges, chikaneres, afpresses og udsættes for vold fra naboer, bekendte, familiemedlemmer m.fl.

Herunder følger et mindre udpluk af rapporter fra bl.a. det britiske indenrigsministerium, der dels gennemgår flere love og deres alvorlige konsekvenser for LGBT-personer, dels dokumenterer andre former for overgreb på LGBT-personer i Uganda og endelig fastslår, at det ikke er muligt for LGBT-personer at søge myndighedernes beskyttelse i Uganda:

1. There are many sources documenting the situation for homosexuals in Uganda. Legally, same-sex sexual acts have been illegal in Uganda according to laws stemming from the colonial era – Sections 145, 146 and 148 of the Penal Code Act – which are still in force. The UK Home Office state the following concerning the legal situation in a report from 2014:

"1.3.4. Same-sex sexual acts have been illegal in Uganda under long standing colonial-era laws, though the law does not explicitly address gender identity. On 24 February 2014 President Museveni signed into law the Anti-Homosexuality Act 2014 (the AHA), which came into force on 10 March. The AHA broadened the range of proscribed activities to include, amongst other things, the 'promotion of homosexuality' and provided immunity from prosecution for 'victims of homosexuality' (see Annex B).

1.3.5 However, on 1 August 2014, Uganda's Constitutional Court annulled the AHA on a legal technicality, ruling that the speaker of parliament acted illegally when she allowed a vote on the measure without the requisite quorum of MPs (see Anti-Homosexuality Act: Annulment). In response to this, the Attorney General on 8 August appealed to High Court seeking to reinstate the AHA.

*1.3.6 Regardless of the annulment, decision makers should note that the pre-AHA laws remain in place and could be used to target LGBT persons. Although previously not generally enforced, there were reports that LGBT persons were arrested by the police for lesser offences, such as indecent assault, attempts to commit unnatural offences and being idle and disorderly. Following the passage of the AHA into law there were reports of arrests of LGBT persons, usually followed by a release without charge, by the authorities. There were also some reports of violence, 'intrusive' medical investigations and beatings of LGBT persons arrested by the police but such reports appear isolated."*¹

2. On 27 November 2015, the Parliament of the Republic of Uganda passed into law, The Non-Governmental Organisations Bill, 2015. Under Clause 40 (d) and (f) of the Bill, NGOs are prohibited from engaging in any activities that are prejudicial to the security interests and laws of Uganda, as well as the dignity of the people of Uganda. The bill is thought to be used to target, among others, organisations advocating the rights of LGBT persons. As Human Rights Awareness and Promotion Forum states:

"These obligations expose organisations working on criminalized conduct to arbitrary prosecution due to their work being regarded as causing insecurity as they are regarded as 'foreign agents'. For the issue of interest of Ugandans, it can be argued that work on protecting persons who may be engaging in criminalised conduct may not be in the interest of Ugandans; and finally as regards dignity of Uganda, work on issues like homosexuality and sex work may be seen as being in violation of the dignity of Ugandans. Since these terms are undefined, these organised are likely to fall foul of them. [...] This provision makes it hard for organisations dealing with issues that are

1UK Home Office, *Country Information and Guidance, Uganda: Sexual Orientation and Gender Identity*, 2014, p. 5.

considered by the majority of the general public to be detrimental to national security and cultural identity of Uganda to operate smoothly as it subjects them to warnings and even criminal prosecutions."²

3. The enactment of the AHA received popular support, and there are several accounts of widespread violations of the rights of LGBT persons in Uganda in terms of abuse, discrimination and violence, including in the form of mob justice. However, societal violence is likely to be underreported.³ In a report documenting rights violations based on sexual orientation and gender identity in 2014, the Uganda Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation record the following main findings:

"The report verified and documented 89 cases with violations of LGBT rights in 2014.

Of these, 47 documented cases with violations recorded by the consortium for this report were perpetrated by state actors and 42 cases by non state actors.

In most cases, the Uganda Police Force participated in the violation of the rights of LGBT persons and also condoned their abuses by third parties.

However, there were some instances where the police protected the rights of the LGBT persons in Uganda in the year 2014.

The passing of the Anti-Homosexuality Act 2014 fueled violations and abuses of rights of LGBT persons in Uganda in 2014.

Transgender persons were detained in cells of persons of the opposite gender identity which led to abuse of their dignity.

LGBT persons were forced to do medical exams and in some instances their results were revealed to the media.

There was increased mob justice against members of the LGBT community by public individuals.

LGBT people were discriminated and rejected by their own families and relatives.

Homophobia propelled by the media caused violation and abuse of the rights of LGBT persons in Uganda."⁴

4. The above type of violations of the rights of LGBT persons have also been documented in the most recent reports from e.g. the UK Home Office, US Department of State, Human Rights Watch, ORAM and Amnesty International.⁵ As the UK Home Office writes:

"1.3.10 LGBT persons have been subject to societal harassment, discrimination, intimidation, and threats to their well-being, loss of accommodation and jobs, and have been denied access to health services. 'Homosexuality' (or those who do not conform to gender norms) is not openly discussed but public attention on LGBT issues arising out of particular events, such as the enactment and annulment of the AHA, have often led to increases in societal harassment and violence against LGBT persons, including media reports which 'out' people as being gay. Sources reported an increase in this following the enactment of the AHA."

²Human Rights Awareness and Promotion Forum, *COMMENTARY ON THE RECENTLY PASSED NGO BILL 2015 AND ITS IMPLICATIONS ON ORGANISATIONS WORKING ON THE RIGHTS OF MARGINALISED PERSONS*, 30 November 2015, pp. 9-10.

³UK Home Office, *Country Information and Guidance, Uganda: Sexual Orientation and Gender Identity*, 2014, p. 5.

⁴The Uganda Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, *Uganda Report of Violations Based on Gender Identity and Sexual Orientation*, July 2015, pp. 9-10.

⁵UK Home Office, *Country Information and Guidance, Uganda: Sexual Orientation and Gender Identity*, 2014

United States Department of State, *Country Reports on Human Rights Practices for 2013, 2014*

Human Rights Watch, *Uganda: Anti-Homosexuality Act's Heavy Toll. Discriminatory Law Prompts Arrests, Attacks, Evictions, Flight*, 15 May 2014

ORAM – Organisation for Refugee, Asylum and Migration, *Country of Origin Report: Sexual and Gender Minorities Uganda*, 2014

5. And the US Department of State notes in its travel guidance regarding Uganda, last updated 14 July, 2015:

*“Social acceptance of homosexuality remains very low, and lesbian, gay, bisexual and transgender (LGBT) individuals – or suspected LGBT individuals – could face harassment, imprisonment, blackmail, and violence. Individuals or organizations viewed as supporting LGBT rights also face harassment.”*⁶

6. As a consequence of the criminalization of homosexuality, occurrences of police abuse and the widespread anti-LGBT sentiment, it is not considered possible for LGBT persons to get protection from the authorities. The UK Home Office writes:

*“Same sex sexual acts are criminalised in Uganda, while some elements within the police have harassed and used violence against LGBT persons. The state cannot be considered willing or able to provide effective protection to LGBT persons.”*⁷

7. ORAM – Organisation for Refuge, Asylum and Migration report similar findings:

*“SGN [Sexually and Gender Nonconforming, ed.] individuals are often unable to receive police protection from abuse by non-state actors. Many SGN individuals do not feel comfortable reporting incidents of sexual harassment, rape, or abuse to the police for fear of being ignored, or arrested and further abused. [...] SGN Ugandans also face abuse and mistreatment from police forces. SGN Ugandans report being arbitrarily arrested and detained, sometimes as a means of extorting money.”*⁸

⁶<http://travel.state.gov/content/passports/en/country/uganda.html> (accessed 21 February 2016).

⁷UK Home Office, *Country Information and Guidance, Uganda: Sexual Orientation and Gender Identity*, 2014, p. 6.

⁸ORAM – Organisation for Refuge, Asylum and Migration, *Country of Origin Report: Sexual and Gender Minorities Uganda*, 2014, p. 38.