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## General situation of LGBTI people

Lesbian, gay, bisexual, transgender, and intersex (LGBTI) people in Rwanda are marginalised and stigmatised. To avoid physical and verbal abuse and harassment, they must often keep their sexuality and gender identity secret. While neither homosexuality nor same-sex acts are illegal, sexual orientation is considered a taboo topic, and there are no significant public discussions of the issue. LGBTI people report being blackmailed, harassed, physically assaulted, and even jailed as the prevailing religious and cultural beliefs tend to look down upon diverse sexual and gender identities as signs of immorality or a foreign sickness imported into the country.

There are reports that arbitrary arrests of LGBTI people and activists have been increasing with the Police arresting people because of their perceived sexual orientation or gender identity, despite the fact that homosexuality is not criminalised in Rwanda. Police can justify these arrests under laws that protect public order and morals in the Penal Code and many of those arrested have been detained without access to lawyers or the Courts. The personal details and photos of individuals have also been shown in the media with some radio presenters calling for listeners to hunt down LGBTI activists. The media in general has been used to incite violence and discrimination against LGBTI people and several activists have decided to leave the country (even for Uganda where laws are worse). Trans and intersex persons are more often harassed due to their higher visibility.

The threats have resulted in the few LGBTI organisations that do exist carrying out their activities in fear of abuse and harassment. In 2009, several organisations published a shadow report to the UN Human Rights Committee evaluating Rwanda's compliance with the International Covenant on Civil and Political Rights (ICCPR), particularly regarding the protection of LGBTI people. The report stated that Rwanda generally is not accepting of LGBTI people and that social stigmatisation and hostility is encouraged by

religious leaders, which is particularly distressing as religion plays a significant role in Rwandan society and leaders may have an important influence on family and social life.

## Legal and human rights instruments

### Constitutional provisions and legal framework

The Constitution of Rwanda, adopted in 2003, has several provisions that may impact the legal rights of LGBT citizens. For example:

- Article 11: All Rwandans are born and remain free and equal in rights and duties. Discrimination of whatever kind based on, inter alia, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by law.
- Article 15: Every person has the right to physical and mental integrity. No person shall be subjected to torture, physical abuse or cruel, inhuman or degrading treatment.
- Article 16: All human beings are equal before the law. They shall enjoy, without any discrimination, equal protection of the law.
- Article 22: The private life, family, home or correspondence of a person shall not be subjected to arbitrary interference; his or her honour and good reputation shall be respected.
- Article 43: In the exercise of rights and enjoyment of freedoms, every person shall only be subjected to the limitations set by the law in order to ensure the recognition and respect of others' rights and freedoms, good morals, public order and social welfare which characterise a democratic society.

Rwanda's law currently has no provision regarding homosexuality – neither the Constitution nor the Penal Code mentions any crime of homosexuality. However, Article 26 of the Constitution limits the right of marriage to straight couples. In spite of this, some lawmakers have interpreted Article 43 to suggest that it is within their power to restrict or criminalise homosexuality under their constitutional power to uphold the 'good morals' of society"

In November 2009, a draft revision on the Penal Code Act of Rwanda was tabled in the Parliament. Article 217 of the draft Act proposed the criminalisation of consensual same-sex acts and relationships, as well as criminalising the work of LGBTI human rights defenders. The civil society submitted a joint position paper on the draft Act in solidarity with the LGBTI movement. Article 217 was later shelved after the Minister of Justice, refuted international reports that the Government intended to criminalise same-sex acts, saying that sexual orientation is a private matter, not state business.

There is no anti-discrimination or hate crime legislation that protects LGBTI people from harassment and abuse on the basis of their sexual orientation and/or gender identity. There is also no legislation on gender recognition or other rights for transgender or intersex persons who may wish to change their legal documents.

### **Regional or international human rights instruments**

Rwanda is a member of the UN and has ratified many of the main international human rights instruments. As such, it is bound to fulfil, protect, and respect the rights enshrined in these instruments. All Rwandans may turn to the UN Human Rights Committee through procedure 1503, to the Special Rapporteurs for violations of specific human rights, to ECOSOC for women's rights violations, and use the UNESCO procedure for human rights violations in UNESCO's fields of mandate. Rwanda is also a member of the African Union and its citizens and NGOs may file complaints to the African Commission on Human and Peoples' Rights. All of these instruments could be used to hold Rwanda accountable to better ensure LGBTI rights.

In May 2014, the African Commission on Human and Peoples' Rights adopted a resolution condemning violence based on sexual orientation and gender identity. The resolution calls on "State parties to ensure that human rights defenders are able to work in an environment free from stigma, reprisals or criminal prosecution as a result of their human rights protection activities." It further urges States to recognise acts of violence and abuse by individuals and groups by enforcing appropriate laws prohibiting and punishing all forms of violence including those targeting people on the basis of their sexual identities. They must also ensure the proper investigation and diligent prosecution of perpetrators and have the necessary judicial procedures to respond to the needs of victims. This resolution is a milestone, but it has yet to be followed up at the national level.

While the Government is still influenced by conservative religious groups, experiences from the genocide and the process to abolish the death penalty have led to more favourable action towards vulnerable groups. In 2010, Rwanda made a significant positive statement in the UN General Assembly, as it voted to re-introduce 'sexual orientation' as a category in the resolution on 'extrajudicial, summary or arbitrary executions' after it had been removed a year earlier. Rwanda's representative said in his speech that even though sexual orientation is a concept that has "sparked animated debate, the authors of the resolution have clearly wished to draw attention to high-risk groups that were vulnerable to killing and other crimes." He stated that it was necessary to deal with the urgency of those matters, whether the lifestyles of LGBTI people were approved of or not, and clarified that this position was not because of 'lobbying or threats', but because of experiences from the genocide.

The Government made another step in the right direction in 2011, when it was one of only five African countries to sign the UN Joint Statement, *Ending Acts of Violence and Related Human Rights Violations Based On Sexual Orientation and Gender Identity*.

## Sexual and Reproductive Health and Rights, HIV/AIDS and Gender-based Violence

Social stigma and widespread discrimination against LGBTI people greatly reduces their access to sexual and reproductive health and rights (SRHR). Although individuals are not officially denied access, there is still a lack of services specifically geared to LGBTI people and their sexual health needs, including HIV/AIDS counselling and treatment, and more general safer sex information and resources.

Rwandan HIV policy has been poor in terms of implementation of HIV prevention among men who have sex with men (MSM), largely due to lack of data and a practice of denying the existence of sex between men in Rwanda. However, the State has shown interest in highlighting the specific needs of MSM, and supported the study, *Exploring HIV risk among MSM in Kigali*, in 2008. The study confirms that MSM are at an elevated risk of HIV infection, compared to the general population, and that condom use among MSMs in Kigali is low. The findings also showed that MSM have widespread sexual networks, and it is common that MSM also have sex with female partners. It recommended that specific HIV and sexually transmitted infection (STI) prevention services and support are carried out within a 'sensitive human rights framework', accompanied by awareness-raising campaigns and targeted distribution of safer sex services. It also highlights that health services need to be refocused towards MSM-inclusive practice. As a result of the 2008 study, Rwanda, unlike most countries in the region, included MSM indicators in the 2010 UNGASS report.

MSM were introduced as a Most at Risk Population (MARP) in the Rwanda National Strategic Plan (NSP) on HIV and AIDS 2009-2012. The NSP recommendations correspond to the study from 2008, and emphasise the need to carry out further research among MSM.

The Rwandan Law on Prevention and Punishment of Gender-based Violence (2008) defines gender-based violence as "...an act that results in a bodily, psychological, sexual and economic harm to somebody just

because they are female or male. Such act results in the deprivation of freedom and negative consequences. This violence may be exercised within or outside households." Although this definition recognises physical, psychological, sexual and economic harm and includes LGBT, but not intersex people, there is still widespread fear, stigma, and reluctance to report gender-based violence to hostile medical staff and the Police.

## Civil society organisations and institutions active in LGBTI work

Since 2003, the *Horizon Community Association of Rwanda (HOCA)* has been doing some public advocacy on behalf of LGBTI rights, although its members have often been harassed. HOCA works to stop discrimination and violence against LGBTI people, promoting social services for these communities and is the most well-known LGBTI organisation in Rwanda. It has been actively working together with Human Rights Watch, International Gay and Lesbian Human Rights Commission (IGLHRC), Lawyers Without Borders, Coalition of African Lesbians (CAL), International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), Front line Defenders, East and Horn of Africa Independent, and International Association of Independent Journalists. HOCA also works with other actors in the region, such as Coalition of NGO Forum, Coalition of Human Rights Defenders, as well as European Union diplomats in Rwanda.

Although the situation for HOCA became very difficult in recent years due to threats, lack of funding, and one of the founders of HOCA was granted political asylum in Sweden in 2012 on the basis of persecution for LGBTI and political activism, it appears that HOCA is again actively working for LGBTI rights in Rwanda.

Another LGBTI organisation is *My Right*, working in coalition with other Human Rights organisations.

There is currently no organised transgender or intersex activism or advocacy in Rwanda.

The US Embassy is rather active on LGBT rights in Kigali. In June 2013, a joint event was organised for government officials and human rights organisations,

including LGBTI activists who were able to meet the cabinet officials. In June 2014, the US Embassy invited artists and human rights activities to celebrate Pride Month in Rwanda by turning the U.S. Embassy's wall into a canvas, which was decorated on. Messages on LGBTI rights were included.

## What Sweden can do – 9 questions for discussion

Within the broader context of support to democracy, human rights and gender equality in Rwanda, Sweden has a great opportunity to include issues related to the rights of LGBTI people and their access to justice. When addressing LGBTI perspectives in a non-supportive government context like Rwanda, it is very important to consult local LGBTI organisations to make sure not to conflict with their work.

Questions to discuss:

- Could Sweden do more to stay updated on the legal and security situation and the needs and priorities of the LGBTI movement?
- Could Sweden do more to offer protection to activists and attend court cases? To contribute to the protection of organisations at risk?
- Could Sweden do more to seek effective strategic alliances and continue to raise LGBTI rights in the dialogue with the government?
- Could Sweden do more to encourage and support cooperation and synergies between LGBTI organisations and mainstream Human Rights organisations, both nationally and regionally?
- Could Sweden do more to include LGBTI organisations in social and professional events/networks and in programmes focussing on civil society capacity development and/or human rights enhancement?
- Could Sweden do more to encourage inclusion of LGBTI rights in support to accountability mechanisms and rule of law programmes (e.g. law reforms, national human rights institutions and law enforcement staff capacity development)?
- In dialogues concerning private sector development, could Sweden raise anti-discrimination, codes of conduct, and employment legislation, with the aim of reducing discrimination against people based on sexual orientation or gender identity?
- Could Sweden do more to raise issues of discrimination in economic empowerment, education and skills training in order to ensure that LGBTI persons are not excluded or denied access to programmes?
- Could Sweden do more to include gay, lesbian, bisexual, trans and intersex people and the MSM group in supported SRHR and GBV initiatives?

For further advice on dialogue regarding LGBTI issues, download [Sida's Human Rights of Lesbian, Gay, Bisexual and Transgender Persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#). Also refer to the [EU tools](#) and guidelines in the reference list.

More specific advice and support measures, as well as contact information, can also be provided through ILGA or RFSL, should the Embassy wish for a dialogue.

## LGBTI organisations in Rwanda

Horizon Community Association (HOCA):  
<https://www.facebook.com/hocarwanda>

My Right

## Other relevant organisations

Coalition of Human Rights Defenders

Coalition of NGO Forum

Coalitions of African Lesbians (CAL): [www.cal.org.za](http://www.cal.org.za)

East and Horn of Africa Independent

Front line Defenders:

<http://www.frontlinedefenders.org/>

International Association of Independent Journalists:

<http://iaij.org/read.htm>

Lawyers Without Borders:

<http://www.lawyerswithoutborders.org>

Human Rights Watch: <http://www.hrw.org>

Hivos <https://www.hivos.org/activity/lgbt-capacity-development-programme-east-africa-kenya-uganda-tanzania-burundi-and-rwanda>

## References

EU news, tools and guidelines: [http://eeas.europa.eu/human\\_rights/lgbt/index\\_en.htm](http://eeas.europa.eu/human_rights/lgbt/index_en.htm)

The EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#)

ILGA, *State-sponsored Homophobia: A world survey of laws prohibiting same-sex activity between consenting adults* (See updated version at [www.ilga.org](http://www.ilga.org))

RFSL, *LGBT in Development, An introduction in how to include LGBT in programming in development*  
[http://www.rfsl.se/public/LGBT\\_in\\_development.pdf](http://www.rfsl.se/public/LGBT_in_development.pdf)

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Binagwaho, Agnes, et al, 2008, Exploring HIV risk among MSM in Kigali, Rwanda:  
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National Commissions for UNESCO of France and Germany *Claiming Human Rights*, 2010,  
<http://www.claiminghumanrights.org/rwanda.html?&L=0>

UNGASS, Rwanda Country Progress Report 2008-2009

Shadow report on [The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Rwanda \(2009\)](#)

"[The Great Lakes of Africa: Rwanda, Uganda, Burundi and their Position Towards LGBTI Rights](#)", Naome Ruzindana. Paper presented at the 17th session of the Human Rights Council 7 June 2011

The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, briefs have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.