



UNIVERSITEIT VAN PRETORIA  
UNIVERSITY OF PRETORIA  
YUNIBESITHI YA PRETORIA

Centre for Human Rights  
Faculty of Law

## JOINT PRESS STATEMENT

# LGBTI HUMAN RIGHTS DEFENDERS AND LAWYERS EXPRESS GRAVE CONCERN OVER CONTINUING HARASSMENT OF LGBTI RIGHTS DEFENDERS, ACTIVISTS, EDUCATORS AND SUPPORTERS

23 October 2017

---

We, LGBTI human rights defenders and human rights lawyers, having gathered at the Centre for Human Rights, University of Pretoria, South Africa, from 16 to 19 October 2017 for a training on Strategic Advocacy and Litigation for LGBTI Human Rights Defenders in Africa, strongly condemn the harassment, arbitrary arrest and prolonged detention of ordinary citizens perceived to be gay in Egypt and Burundi; human rights activists working with health rights organisations in Tanzania; as well as human rights lawyers planning to litigate a case on LGBTI health rights in Tanzania.

In December 2016, a meeting organised in Dar-es-Salaam by Open Society Initiatives for Eastern Africa (OSIEA) on reproductive rights, was raided, with eight people being detained and later released without charges. Offices belonging to organisations working on LGBTI issues were also unlawfully raided and documents from these offices confiscated in Dar-es-Salaam in the same year.

On Friday 15 September 2017, Zanzibari police, acting on the orders of the District Commissioner, arrested a group of twenty parents, local partners and staff of an implementing NGO, for organising and attending a workshop on peer-to-peer parent HIV and AIDS prevention. The workshop was aimed at addressing stigma and discrimination in the family with regards to HIV and AIDS. According to a local NGO leader, the group was accused of “training people on homosexuality”, which is not a crime in any known law in operation in Tanzania.

Centre for Human Rights  
Faculty of Law,  
University of Pretoria,  
Pretoria, 0002, South Africa

Tel +27 (0)12 420 3810  
Fax +27 (0)12 362 1525  
Email [chr@up.ac.za](mailto:chr@up.ac.za)  
Web [www.chr.up.ac.za](http://www.chr.up.ac.za)



Since 23 September 2017, Egyptian authorities have arrested scores of individuals perceived to be gay after they attended a music concert where Lebanese band Mashrou' Leila performed and where concert attendees raised the rainbow flag. Those arrested were accused of 'promoting homosexual deviancy' and 'inciting immorality'.

On 4 October 2017 seven individuals were arbitrarily arrested from a private home compound in Kamenge, Burundi, on the orders of the Commissioner of Police Guillaume Magorwa on suspicion that they were gay. The seven were relaxing at home.

On Tuesday 17 October 2017 Tanzanian Police raided a legal consultation meeting hosted by Initiative for Strategic Litigation in Africa (ISLA), an organisation based in Johannesburg South Africa, and Community Health Services and Advocacy (CHESA), a Tanzanian legally registered organisation, and arbitrarily arrested and detained, released and re-arrested thirteen individuals, including the Executive Director of ISLA Ms Sibongile Ndashe, a South African citizen.

In all cases, persons arrested were released without charge, charged with offences not backed by any concrete law, or indefinitely detained without access to bail or police bond.

While sections 150-154 and section 158 of the Zanzibarian Penal Code prohibit same-sex conduct, and make it punishable with up to 14 years in jail, homosexuality, as such (and being a homosexual) is not a crime in Zanzibar. The Constitutions of both Tanzania and Zanzibar, in article 18 (in both cases), provide that everyone has the right to seek, receive, and impart information. Article 20 of both Constitutions further provides every person with the right to peacefully assemble, associate, and cooperate with other persons.

Article 65 of the Egyptian Constitution of 2014 guarantees freedom of thought and opinion and states that every person shall have the right to express his or her opinion verbally, in writing, through imagery, or by any other means of expression and publication. The flying of the rainbow flag, a symbol of sexual and gender diversity, is one such means of expression. Article 53 of the Egyptian Constitution also provides that personal freedom is a natural right and shall be protected and may not be infringed upon except for the case of being caught in *flagrante delicto*. Therefore it is not permissible to arrest, search, detain, or restrict the freedom of anyone in any way except by virtue of a reasoned judicial order that was required in the context of an investigation. While article 65 provides for the freedom to express through imagery, the Egyptian LGBTI community broke no law in waving the rainbow flag. The ARBITRARY arrest, detention and/or restrictions of the freedom of anyone in any way despite overwhelming provisions of the Constitutional provisions referred to above is therefore illegal.

Article 23 of the Burundi Constitution of 2005 provides that no one shall be treated in an arbitrary manner by the State or its organs and that the State has the obligation to indemnify any person [made a] victim of arbitrary treatment by its act or of [the] act of its organs.

The African Charter on Human and People's Rights (African Charter) provides in article 9 and article 10 that every person has the right to receive information, express themselves, and to disseminate information; and that every individual shall have the right to free association. Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, adopted by the African Commission on Human and Peoples' Rights (African Commission) in 2014, expressly condemns the arbitrary arrest of persons based on their real or imputed sexual orientation or gender identity. It also calls on state parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution. Burundi, Egypt and Tanzania are all state parties to the African Charter. They are therefore bound by the provisions of the African Charter, and have committed themselves to abide by the African Commission's resolutions.

As LGBTI human rights defenders and human rights lawyers from Botswana, Burundi, Cameroon, Ethiopia, Kenya, Lesotho, Malawi, Namibia, Nigeria, South Africa, Tanzania, Uganda, Zambia and Zimbabwe, we are extremely concerned about the developing pattern of arrests on grounds of homosexuality across the African continent. Arbitrary arrests and unjustifiable restrictions of the freedom of association of LGBTI persons and human rights defenders violate the commitment of these states under the African Union human rights system, which they have accepted.

We therefore call on the governments of the United Republic of Tanzania, the Arab Republic of Egypt, the Republic of Burundi and other African countries to:

- Unconditionally release all human rights NGO staff members who are still in detention for defending the inherent rights of LGBTI persons;
- Immediately stop the continuous harassment of LGBTI persons, organisational staff of human rights NGOs working on LGBTI rights, and partner organisations that support work around LGBTI rights;
- Stop the harassment of NGO and private sector personnel working in the area of HIV prevention and treatment among key populations including men who have sex with men (MSM); and
- Respect national constitutions and regional human rights standards especially the African Charter.

- We also call on the national human rights institutions (NHRIs) of these African countries to weigh in, in a public manner, on the harassment of the LGBTI community and their human rights defenders.

We call on all African states to protect and fulfill human rights without any distinction including on the basis of sexual orientation or gender identity, and for law enforcement agents to exercise due diligence in investigation and punishment of the perpetrators of human rights violations based on sexual orientation or gender identity.

*Joint statement released by African LGBTI human rights defenders and human rights lawyers gathered in Pretoria, South Africa.*

---

For more information, please contact:

**Prof Frans Viljoen**

Director  
Centre for Human Rights  
Faculty of Law, University of Pretoria  
Tel: +27 (0) 12 420 3228  
[frans.viljoen@up.ac.za](mailto:frans.viljoen@up.ac.za)  
[www.chr.up.ac.za](http://www.chr.up.ac.za)

**Geoffrey Ogwaro**

Programme Manager  
Sexual Orientation, Gender Identity and Expression (SOGIE) Unit  
Centre for Human Rights  
Faculty of Law, University of Pretoria  
Tel: +27 (0) 12 420 5409  
Email [geoffrey.ogwaro@up.ac.za](mailto:geoffrey.ogwaro@up.ac.za)  
Web: [www.chr.up.ac.za](http://www.chr.up.ac.za)