

UGANDA'S MISSED OPPORTUNITIES FOLLOWING THE REJECTION OF THE SEXUAL OFFENCES BILL

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ABSTRACT

The consolidated sexual offences bill in Uganda has been tabled about 4 times in a span of 20 years. The most recent, the 2019 Sexual offences Bill which introduced aspects like a sexual offenders' registry, was approved by Parliament on 3rd May this year but the president declined to assent to it on 17th August. The author asserts that this statute is a much needed one owing to the increasing numbers of sexual offenders and the complexity and emotional nature of sexual offences. This paper seeks to look into the missed opportunities in not having the sexual offences bill passed as law. The author discusses possible amendments to the 2019 Sexual Offences bill which if not adjusted might culminate in unintended consequences and violations.

1.0 INTRODUCTION

On 3rd May 2021, the 10th parliament approved the Sexual Offences Bill, 2019.¹ The object of this Bill is/was to enact a specific law on sexual offences for the prevention of sexual violence; to enhance punishment of sexual offenders; to provide for the protection of victims during sexual offences trials; to provide for extra territorial application of the law; to repeal some provisions of the Penal Code Act, Cap 120 and for other related matters.²

The year 2019 registered 1528 rape cases, 13,613 cases of defilement and 497 other sex related offences. Of the 13,613 defilement cases, 3,124 were aggravated defilement. Only 5,732 of these cases made it to court and only 1,021 of these secured convictions with the majority of the 13,592 pending in court.³ Needless to say, these figures are grossly alarming considering the devastating consequences of sexual offences.

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¹ Concerns about Sexual Offences Bill in Uganda- LawyersforLawyers available at <https://lawyersforlawyers.org/en/concerns-about-sexual-offences-bill-in-uganda/> [Accessed 24 July 2021]

² Sexual Offences Bill 2019

³ The 2019 Annual police report (latest police report)

It is in this spirit that the 10th parliament thought it wise to consolidate laws against sexual offences.⁴ The Bill repeals outdated provisions of the penal code and consolidates laws to even cover the new and more sophisticated forms that sexual violence and exploitation has taken such as sex tourism among others.⁵

This paper asserts that some provisions of this bill are however vexatious and might do more harm than good. Cases in point are the provisions on the sex-offenders' registry which are largely lacking. Under section 32 of the bill, registration of a sexual offender shall go on for their natural life unless conviction is appealed against. In practice, much as this seemingly provides a certain level of public safety and protection from recidivism, it could potentially be precarious. It suggests a similar time frame for sexual offenders to appear in the registry despite the gravity of the offence, as will be discussed extensively later in this article.

The bill does not provide for marital-rape yet this would have been a timely intervention to settle the long standing debate on the same. It also fails to look into the deep-rooted causes of sexual offences such as gender inequality and inadequate sex education. This is likely to cause a gap in the law and its implementation.

This paper analyzes some provisions of the bill while suggesting subtractions, additions and other general possible amendments to boost and ensure practicability of the bill. It then discusses the missed opportunities in failing to pass the bill. Recommendations are fronted before the conclusion.

2.0 BACKGROUND OF THE SEXUAL OFFENCES BILL

The first attempt to create a Sexual Offences Act for Uganda traces back to 2000. The government spearheaded the deliberation of the Sexual Offences

Sexual Offences Bill 2019 available at <https://parliamentwatch.ug/wp-content/uploads/2021/09/Sexual-Offences-Bill-2019-1.pdf> [accessed 30 July 2021]

⁵ Explanatory memorandum of the sexual offences bill, 2019

(Miscellaneous Amendments) Bill. This was after a field research by the Uganda Law Reform Commission that was concluded in 1997.⁶

Eleven years later, the Sexual Offences Bill was gazetted and later tabled before parliament in 2012 as the Sexual Offences Bill 2012.⁷ It was a private members' bill spearheaded by Uganda Women's Parliamentary Association (UWOPA). However, five years down the road, the process had not yielded any results. This prompted the tabling of the bill again by Hon Amoding (Member of Parliament representing Kumi district) on behalf of UWOPA.

This bill was tabled before the committee on Legal and Parliamentary Affairs for review, which presented a report four years later in 2019.⁸ Too many amendments were proposed during Parliamentary debates which had Hon. Jacob Oulanyah, the then Deputy speaker advising that the bill be withdrawn and a new one published.⁹

It is to that effect that the Sexual Offences Bill, 2019 was approved by Parliament on 3rd May 2021. The Bill was sent to the president for assent, which assent was denied on 17th August 2021.¹⁰

3.0 ANALYSIS OF THE KEY PROVISIONS OF THE SEXUAL OFFENCES BILL

The Bill is divided into six parts; the preliminary, sexual offences, sexual offences against children, court powers and jurisdiction, sexual offenders' register and miscellaneous provisions. It provides an elaborate means of dealing and curbing the vice of sexual offences except for some provisions that are either lacking, vague, uncalled for or are likely to lead to unintended adverse consequences.

⁶ Criminal Law in Uganda: Sexual assaults and Offences Against morality by Lillian Tibatemwa Ekirikubinza, 101

⁷ Legal Analysis of the Sexual Offences Bill 2015 and its Implications on LGBTI Persons, sex workers and persons living with HIV/AIDS: Human Rights Awareness And Promotion Forum(HRAPF) with support from Open Society Initiative for Eastern Africa(OSIEA), 10th May 2016

⁸ Ibid

⁹ Sexual Offences Bill to be re-tabled | Parliament of Uganda available at <https://www.parliament.go.ug/news/3159/sexual-offences-bill-be-re-tabled> [accessed 30 July 2021]

¹⁰ Ibid

These provisions and their predicted unfortunate outcomes (where necessary) include but are not limited to the ones discussed in the following chapter.

3.1 Clause 2 on rape

“We must call the ravaging act of rape, the bloody, heart-stopping, breath-snatching, bone-crushing act of violence, which it is. The threat makes some female and male victims unable to open their front doors, unable to venture into streets in which they grew up, unable to trust other human beings and even themselves. Let us call it a violent irredeemable sexual act” ~ Maya Angelou¹¹

The penal Code gives a myopic and out of reality view of rape.¹² It does not account for the realities in which rape is committed. The consolidated Sexual Offences Bill 2019 on the other hand gives a wider definition and meaning of rape.¹³ The Penal Code¹⁴ uses words like “carnal knowledge” in reference to a sexual act that is not clear to a lay man. It also limits rape to penetration of a victim’s sexual organ by the perpetrator’s. It does not foresee circumstances where a perpetrator uses an object or hands to rape the victim.

On a positive note, the Bill comprehensively defines a sexual act as;

- (a) “Penetration of a person’s sexual organ, mouth or anus by a person’s or animal’s sexual organ or object;
- (b) Contact or stimulation of a person’s or animal’s sexual organ or object; or
- (c) Insertion of a person’s or animal’s body part or any object into the sexual organ, anus or mouth of another person;”

This does not include the penetration of a person’s sexual organ, mouth or anus, contact, or stimulation of person’s sexual organ, or insertion of a person’s sexual organ, anus or mouth of another person for sound health practices or proper medical procedure.¹⁵

¹¹ Maya Angelou, Letter to my daughter, Random house 2008

¹² Penal Code Act, Cap 120, section 129

¹³ Sexual Offences Bill, Clause 2

¹⁴ Penal Code, Section 129

¹⁵ Clause 1, Sexual Offences Bill 2019

Clauses 2(1)(2)(3) of the Bill prescribes imprisonment for life and 8years imprisonment for attempted rape in sub-clause (4).¹⁶ Clause 3 provides for aggravated rape and the offender is liable to suffer death. The Bill also extensively provides for Sexual offences against children in part IV.¹⁷

3.2 Clause 11 on unnatural sex offences

Clause 11 provides for the offence of “unnatural offences”. This provision has received backlash from human rights activists because it criminalizes same sex relations. Activists have asserted that this provision is intended to incite violence against the LGBTQ community in Uganda.

For example, according to Human Rights Watch (HRW), same sex relations are already criminalized under the carnal knowledge against the order of nature with up to life imprisonment. Recriminalizing it further entrenches discrimination against LGBTQ persons.¹⁸

3.3 Clause 20 on Child tourism

Clause 20 introduces the offence of child tourism with a punishment of imprisonment not exceeding ten years or a fine of two thousand currency points or both.¹⁹ This clause clearly defines child tourism and lays down its ingredients.²⁰

Under the Penal Code Amendment Act 2007, the felony of defilement is defined as unlawful sexual intercourse with a person below 18years of age (was amended to include boys) with up to life imprisonment and the death penalty in some cases²¹.

¹⁶ Ibid, clause 2

¹⁷ Ibid, Clauses 13-22

¹⁸ Uganda: Reject Sexual Offenses Bill available at <https://www.hrw.org/news/2021/05/06/uganda-reject-sexual-offenses-bill> [accessed 9 August 2021]

¹⁹ Sex Offences Bill Clause 20

²⁰ Ibid

²¹ ECPAT International Global Monitoring Report on the status of action against commercial sexual exploitation of children 2007. The death penalty may be imposed in aggravated circumstances: if the offender is a parent, guardian or has authority over the victim (Penal Code Act cap 120, section 129)

The Act however does not prohibit the use of children in sexual activities for remuneration or any other consideration which is critical.²² The Sexual Offences Bill seeks to bridge this gap through Clause 20 which criminalises any kind of arrangements for sexual acts with children.²³

This provision would represent a major improvement, bringing Uganda's legislation more in tandem with international standards that have established that children exploited through prostitution should be recognized as victims in international and regional treaties (that Uganda has already ratified).²⁴

3.4 Part V—Sex Offenders' register

Clause 28 establishes a sex Offenders' register that is to be managed and maintained in electronic or other form by National Identification and Registration Authority (NIRA). Provisions on this register go on up to clause 33.²⁵

Sex Offender registration is a system of monitoring and tracking sex Offenders' following their release into the community.²⁶ Sex offender registries originated from the United States in 1994.²⁷ The UK adopted one

²² ECPAT International Global Monitoring Report on the status of action against commercial sexual exploitation of children 2007. Available at www.ecpat.com [accessed 9 August 2021]

²³ Section 20 of the Sexual Offences Bill 2019

²⁴ Convention on the Rights of the Child – August 1990 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) – 30 November 2001, UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children – 2000 (supplementing the UN Convent I on against Transnational Organized Crime), African Charter on the Rights and Welfare of the Child - 1990 17 August 1994 among others(the dates against these treaties represent when they were ratified in Uganda)

²⁵ Clause 28 of the Sexual Offences Bill 2019

²⁶ See

Sex Offender Registration And Notification Act (SORNA) (justice.gov) available at <https://www.justice.gov/criminal-ceos/sex-offender-registration-and-notification-act-sorna> [accessed 6 August 2021]

²⁷ see

Global Overview of Sex Offender Registration and Notification Systems available at <https://www.icmec.org/wp-content/uploads/2015/10/US-Global-Overview-of-Sex-Offender-Systems.pdf> [accessed 6 August 2021]

in 1997 as well²⁸ and several countries all over the world have established the same since then. Sex offender registries are run differently depending on the laws of a country.

In the US, all states have registries that are accessible by the public as opposed to the United Kingdom where only a few authorized officials can access it²⁹. In the US, the law requires all sex offenders in all the 50 states to register while most countries only register sex offenders of grave sex offences³⁰ for example South Africa only registers sex offences against children and mentally disabled persons.³¹

The law creating a sex offender registry is retroactive in some countries like Nigeria where sex offenders from three years before establishment of the registry get registered³² while in other countries like the UK, it is not retroactive except in very limited circumstances.³³ It varies with the history, law, socio economic standing of a country among others.

The Uganda sex offences register would be a great win towards strengthening the system to curb sex offences and protect potential victims. Even when sex offender registries have been criticized for being ineffective, creating fear and insecurity in society and violating human rights, the author believes it is good law. It is definitely better than having none. It is however imperative to note that the provisions on the sex offender registry in the sex offences bill are ambiguous and have some leaks. Chances of achieving the desired goal are minimal with these provisions.

²⁸ What is the sex offenders register and when will someone be put on it? - InBrief.co.uk available at <https://www.inbrief.co.uk/offences/the-sex-offenders-register/> [accessed 6 August 2021]

²⁹ N Mollema "The viability and constitutionality of the South African National Register for Sex Offenders: A comparative study": LLB LLM LLD (University of South Africa). Senior Lecturer of Department of Criminal and Procedural Law, University of South Africa.

³⁰ http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812015000700010 [accessed 6 August 2021]

³¹ Justice/Criminal/NRSO available at <https://www.justice.gov.za/vg/nrso.html> [accessed 6 August 2021]

³² Aljazeera : Nigeria launches first national sex offenders register available at <https://www.aljazeera.com/amp/news/2019/11/26/nigeria-launches-first-national-sex-offenders-register> [accessed 6 August 2021]

³³ How long is someone on the Sex Offenders Register - IBB Claims available at <https://www.ibbclaims.co.uk/site/services/child-abuse-and-trafficking/child-abuse-compensation-claims/how-long-on-sex-offenders/> [accessed 6 July 2021]

The Bill provides that a person convicted of an offence under this Act shall have his or her particulars captured in the register.³⁴ This means that this register will capture even assaulters and children below the age of 12 that commit sex offences according to sections 5 and 16 respectively.³⁵ This is quite problematic because the purpose of sex offender register is to protect would be victims from sexual predators, reduce recidivism and have a deterrent effect. It is not meant to be a punishment.³⁶

Therefore, the offenders registered should be criminals that present a big risk to society. If assaulters are registered, then the registry might not be taken as seriously as the law framers intend/intended it to be. It is also unfair to keep children in the registry for child to child sex (criminalized under clause 16).

Additionally, registration of all sex offenders as opposed to registration of those that present a big risk to society requires more resources to be run if it is to always be up to date. Uganda, being a third world country and considering our socio-economic status, it is obvious that there will be challenges running and maintaining this registry.

Clause 32 provides that, "The registration of a person in the register shall, unless the conviction is successfully appealed against, be for the natural life of the offender."³⁷ This provision is likely to have absurd implications. Having an offender of aggravated rape under clause 3 and an assaulter under clause 5 stay in the register for the same period of time (for life) raises questions as to what the intention of this law is. Even if the aim was punishment and not protection, keeping offenders of different offences with varying gravities in the register for a similar period does not seem reasonable.

A comparative study with other countries' registries evidences this. In the United Kingdom, only sex offenders that have been punished by life

³⁴ Clause 29(2)

³⁵ Clauses 5 & 15 of the sex offences bill

³⁶ [What Is The Purpose of Sex Offense Registries? - The Appeal](https://theappeal.org/what-is-the-purpose-of-sex-offense-registries/) available at <https://theappeal.org/what-is-the-purpose-of-sex-offense-registries/> [accessed 6 July 2021]

³⁷ Clause 32, Sexual Offences Bill 2019

sentence or imprisonment for 30 months or more get registered for life. The rest are removed after a certain period of time depending on the gravity of the sex offences they committed.³⁸

The US has Megan's law that categorizes crimes under "tiers" and it prescribes how long the offenders will spend in the register³⁹.

Additionally, keeping a child offender in the register for life sabotages their future more than it protects society as the register intends. Generally, keeping offenders in the register for life is punishing people through their entire lives for an offence whose sentence they have served. This defeats the purpose of criminal law to reform culprits into responsible members of society and neither is it deterrent.

Therefore, in as much as the register provides great prospects in the fight against sexual offences, the provisions providing for the same need to be amended so that it is pragmatic and effective in addressing the purpose for its introduction.

3.5 Clause 40 on Extra-Territorial Application

Clause 40 provides for sex offences committed by a Ugandan national or permanent resident of Uganda outside Uganda and for sex offences partly committed in Uganda and partly outside Uganda.⁴⁰ This is unprecedented and is one of the provisions introduced by this bill. However, the scope of the provision is still limited as it does not provide for sex offences committed by Ugandan nationals and residents against non-nationals especially children.

3.6 No provision for marital and corrective rape

³⁸ How long is someone on the Sex Offenders Register - IBB Claims, available at <https://www.ibbclaims.co.uk/site/services/child-abuse-and-trafficking/child-abuse-compensation-claims/how-long-on-sex-offenders/> [accessed 6 August 2021]

³⁹ TermsDefinitions - Megan's Law Public Website (state.pa.us) available at <https://www.pameganslaw.state.pa.us/InformationalPages/TermsDefinitions> [accessed 9 August 2021]

⁴⁰ Sexual Offences Bill, Clause 40

Despite efforts by judges to recognise marital rape as a crime through judicial activism, it is not expressly provided for in Ugandan statutes.⁴¹ This emanates from the common law principle that a husband could not rape his wife as the contract of marriage gave irrevocable consent.⁴² The exemption of marital rape is attributed to the remarks of British judge Sir Matthew Hale in 1736, viewing women as the contractual property of their husbands, which became part of the common law that Britain exported across the world.⁴³ This principle was long overturned in England in 1992 *R v R*⁴⁴ where Lord Keith held that “rape is rape regardless of the relationship between the rapist and the victim.”

A number of sub-Saharan jurisdictions like South Africa⁴⁵, Namibia⁴⁶, Rwanda⁴⁷, Angola⁴⁸, and Zimbabwe⁴⁹ among others have long criminalized marital rape.⁵⁰ This has enabled these countries to put up a good fight

⁴¹ Human Rights Watch: Domestic Violence and HIV/AIDS (hrw.org) available at <https://www.hrw.org/legacy/campaigns/women/aids/factsheet.htm> [accessed 9 August 2021]

⁴² *R v R* (Rape: marital exemption) [1991] 4 All ER 481: https://learninglink.oup.com/static/5c0e79ef50eddf00160f35ad/casebook_29.htm [accessed 9 August 2021]

⁴³ HDT-LegalSnapshot_05_2021_single-page10.pdf (humandignitytrust.org) available at https://www.humandignitytrust.org/wp-content/uploads/resources/HDT-LegalSnapshot_05_2021_single-page10.pdf [accessed 9 August 2021]

⁴⁴ [1992]1 AC 599

⁴⁵ Kaganas, Felicity, and Christina Murray. “Law Reform and the Family: The New South African Rape-in-Marriage Legislation.” *Journal of Law and Society*, vol. 18, no. 3, [Cardiff University, Wiley], 1991, pp. 287–302, <https://doi.org/10.2307/1410196>. Available at https://www.jstor.org/stable/1410196?seq=1#metadata_info_tab_contents [accessed on 20th October 2021]

⁴⁶ Canada: Immigration and Refugee Board of Canada, *Namibia: Domestic violence, including state protection, services and recourse available to victims*, 3 August 2012, NAM104141.E, available at: <https://www.refworld.org/docid/5034fbc82.html> [accessed 21 October 2021]

⁴⁷ Social Institutions & Gender Index Rwanda. Available at <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/RW.pdf> [accessed on 20th October 2021]

⁴⁸ Social Institutions & Gender Index: Angola, available at <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/AO.pdf> [accessed 20 October 2021]

⁴⁹ Country Policy and Information Note Zimbabwe: Women fearing genderbased harm or violence Version 2.0 February 2017 available at <https://www.refworld.org/pdfid/58a2fd9c4.pdf> [accessed 20 October 2021]

⁵⁰ The New Humanitarian: The Push to Get Every African Country to Criminalize Marital Rape available at <https://deeply.thenewhumanitarian.org/womenandgirls/articles/2016/10/21/push-get-every-african-country-criminalize-marital-rape> [accessed 20 October 2021]

against gender based violence for example Namibia. Marital rape is usually a repeated offence and leads to a pattern of gender based violence. Spread of sexually transmitted infections like HIV/AIDS and Post traumatic stress disorders are some of the significant costs of non-criminalization of marital rape.⁵¹

There has been a long-standing debate on the issue of criminalizing marital rape in both the social and legal set up in Uganda.⁵² The bill would have been a good place to have it settled.

The bill also doesn't provide for corrective rape yet we have seen instances where lesbians are forced to have sex with men in order to make them heterosexual.⁵³ Even when homosexuality is illegal, perpetrators should not be punished with rape under the guise of correction since two wrongs don't make a right. A number of people are victims of corrective rape but they fear to report because of the stigma around lesbianism in Uganda.⁵⁴ To have a sexual Offences Act that does not provide for some sexual offences evidences an unpreparedness to fight sexual violence.

4.1 MISSED OPPORTUNITIES IN FAILING TO HAVE A CONSOLIDATED SEXUAL OFFENCES ACT

On 17th August 2021, President Museveni declined to assent to the Sexual offences Bill, 2019.⁵⁵ This decision does not only set us miles backwards in the fight against sexual offences but also shows indifference towards the crisis of sexual violence.

⁵¹ <https://observer.ug/component/content/article/73-lifestyle-entertainment/people-> [accessed 9 August 2021]

⁵² Daily Monitor: Marital rape: Is it a crime or a conjugal right? Friday March 15 2013 available at <https://www.monitor.co.ug/uganda/special-reports/marital-rape-is-it-a-crime-or-a-conjugal-right--1538020?view=htmlamp> [accessed 9 August 2021]

⁵³ Uganda: Violence against women unabated despite laws and policies | Africa Renewal available at <https://www.un.org/africarenewal/news/uganda-violence-against-women-unabated-despite-laws-and-policies> [accessed 9 August 2021]

⁵⁴ Ibid available at <https://www.un.org/africarenewal/news/uganda-violence-against-women-unabated-despite-laws-and-policies> [accessed 9 August 2021]

⁵⁵ "Museveni declines to assent to sexual offences, succession bills" <https://observer.ug/news/headlines/70897-museveni-declines-to-assent-to-sexual-offences-bill-and-succession-bill> [accessed 18 August 2021]

His reason was that the draft had a collection of provisions that were already provided for in other legislation.⁵⁶ He also noted that instead of carrying out piece-meal amendments, the Uganda Law Reform Commission should be given an opportunity to review all the criminal laws and propose a comprehensive amendment of the relevant laws for parliament's consideration.⁵⁷

The president's assertion that the sexual offences bill is a duplication of "Offences against morality" in the Penal code is untrue. The provisions of the Penal code on sexual offences are not only archaic and backward but are also vague and have ceased to fulfil their purpose. They have no place in modern Uganda.

Furthermore, the Penal code doesn't cover for some offences like child prostitution and tourism which have become so rampant and the sexual offences bill seeks to give protection and redress to these vulnerable victims. The president's decision to reject the bill only leaves us with the option to amend the Penal code which is much more problematic.

The Penal code has been amended many times and the implementation of amendments has been weak. It is already overloaded with blurry laws. The president has given assent to other laws that break away from the Penal code such as the anti-corruption act, anti-terrorism act among others. Why has it become so difficult to do the same for the law on sexual offences even when the effects of the deadly offences that are committed evenly in all regions of the country are clearly grave? The urgent need for independent laws on sexual offences ought to be treated with the seriousness it deserves.

A consolidated Sexual Offences Act is a prerequisite for curbing sexual offences in a country with skyrocketing cases of sexual abuse. It will benefit everyone including women, men and children. Many commonwealth

⁵⁶ Ibid

⁵⁷ Ibid

countries including Kenya and Tanzania have sexual offences acts in place which has made the fight a lot easier in these countries.⁵⁸

A Sexual Offences Act helps to reduce case backlog. It is easier for judges to refer to a consolidated act other than having to look for the law in different laws which can lead to confusion and inevitable delay in administration of justice. Namibia, which enacted a special Act for Rape, The Combating of Rape Act 2000⁵⁹ has been applauded for putting up a good fight against gender based violence⁶⁰ as this act has effectively helped in protecting young boys and girls from rape as their cases are regularly heard. Uganda could perhaps pick a leaf.

It is also easier and cheaper to have independent legislation on sexual offences, in case amendments have to be made. Further, the law is clearer and more accessible.

President Museveni's suggestion of the Law Reform commission reviewing all the criminal laws of Uganda is not one that is aimed at solving the problem of high rate of commission of sexual offences. Besides, the 1990 Uganda Law Reform Commission Report (on the request of government) culminated into the sexual offences bill⁶¹ and the same government is requesting that a new study be made. The dynamics around sexual offences and the law in Uganda is slowly becoming a playground game of tag.

It is not contested that there is a countrywide outcry on the rise in sexual offences in many institutions with children and women being the most affected victims.⁶² These offenders ought to be brought to book for deterrence reasons and in the long run to reduce or even erase sexual violence in Uganda.

⁵⁸ The Sexual Offences Act No 3 of 2006 of the laws of Kenya and Sexual Offences Special Provisions Act, 1998 of the laws of Tanzania respectively

⁵⁹ Combating of Rape Act (No. 8 of 2000)

⁶⁰ Namibia: Domestic violence, including state protection, services and recourse available to victims available at <https://www.refworld.org/docid/5034fbc82.html> [accessed on 20th October 2021]

⁶¹ Criminal law in Uganda: Sexual assaults and Offences against Morality, Lillian Tibatemwa Ekirikubinza

⁶² Tough penalties for sexual offenders | Parliament of Uganda available at <https://www.parliament.go.ug/news/5101/tough-penalties-sexual-offenders> [accessed 6 August 2021]

Figures of victims are so high and increasing steadily as earlier seen in this study and that is excluding the many unreported cases.⁶³ Curbing sexual offences without having consolidated laws on sexual offences is like mopping a floor with a leaking roof. The prospects of success are indeed very slim. In deliberately not having a sex offences Act, the government is laying ground for the orchestration of sex offences it is fighting to protect her people from.

Refusal to have a sexual offences Act in place is widening the gender equality gap. The Sex Offences Bill has been said to be a gift to the gender equality movement and indeed, it would be a big win if the bill is finally passed as an Act. According to statistics, women are more likely to face sexual violence than men are.⁶⁴ Women are abused in schools⁶⁵, work spaces⁶⁶, in homes⁶⁷. A consolidated law on sexual offences will help to curb this prevalent abuse and create a safer environment for both men and women to thrive.

A sexual Offences Act will assuage the spread of HIV/AIDS. The prevalent spread of HIV is largely attributable to sexual violence as a prime factor.⁶⁸ Even when the Penal code Act provides for an aggravated punishment for people that intentionally spread HIV/AIDS, it does not cover for the same in marital relationships. This has continued to affect the public health sector in grave ways that a sexual offences Act could believably put to an end.

⁶³ The 2019 Annual police report

⁶⁴ Women four times more likely to experience sexual assault at work (theconversation.com) available at <https://theconversation.com/women-four-times-more-likely-to-experience-sexual-assault-at-work-108380> [accessed 14 October 2021]

⁶⁵ UNICEF Statement at the National Symposium on Violence Against Children In Schools available at <https://www.unicef.org/uganda/press-releases/unicef-statement-national-symposium-violence-against-children-schools> [accessed 20 October 2021]

⁶⁶ Effects of Sexual Harassment at the Workplace: A Ugandan Case Study Frank Kiwalabye, Youth Crime Watch Uganda/IgnitusWorldwide Uganda

⁶⁷ Partners' controlling behaviors and intimate partner sexual violence among married women in Uganda, available at <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-015-1564-1#:~:text=In%20Uganda%2C%2055%25%20of%20ever,gender%2Dbased%20violence%20in%20Uganda> [accessed 20 October 2021]

⁶⁸ Gender-Based Violence Increases Risk of HIV/AIDS for Women in Sub-Saharan Africa | PRB available at <https://www.prb.org/resources/gender-based-violence-increases-risk-of-hiv-aids-for-women-in-sub-saharan-africa/> [accessed 14 October 2021]

4.2 WAY FORWARD

The Sexual Offences Bill should be amended to provide for different time periods for offenders of varying offences are to spend in the register. This will not only be fair but also help with tracking previous offenders and to check if they are reforming into responsible citizens.

The Bill should be amended to address the grass-root causes of sexual abuse such as gender inequality and poverty. Providing for marital rape is a good start. Marital rape is a grave abuse of human rights (on both local and international standards) and widens the gender equality gap. Having a sexual offences bill that does not address these underlying causes is treating symptoms and ignoring the real cause.

The government should allocate adequate funds to the fight against gender based violence and sexual crimes. Statistics show that most of the funds used in the fight against sexual violence is from donations which, in my view, is not sustainable. “While activities are listed in the budgets, there are no monetary allocations.

Most of the work on Sexual Violence against women and girls is donor funded and concentrated in project areas.” In 2016 and 2017 the Ministry of Gender, Labour and Social Development budgeted to spend UGX 1.68 billion (\$450,000) on VAW programmes, a great deal of which has been coming from donors such as Irish Aid and the United Nations Population Fund.

The provisions on extra territorial jurisdiction should be amended to include Ugandans that commit sexual offences against non-Ugandans especially children, refugees and other vulnerable groups.

5.0 CONCLUSION

Conclusively, the sexual offences bill on the whole is a great and necessary law except for a few amendable shortfalls. If these are looked into by the parliament, the president should assent to it as it deserves a chance. This will save vulnerable women, men and children who are at the mercy of the escalating numbers of sexual predators.

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