

SHADOW REPORT TO THE FIFTH PERIODIC REPORT OF RWANDA TO THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

REPORT SUBMITTED BY THE COALITION OF COMMUNITY BASED ORGANIZATIONS AND CIVIL SOCIETY ORGANIZATIONS WORKING ON THE RIGHTS OF WOMEN INVOLVED IN SEX WORK AND LGBTI PERSONS IN RWANDA



About the Coalition of Community Based Organizations and Civil Society Organizations working on the rights of women involved in sex work and LGBTI persons in Rwanda

The Coalition of Community Based Organizations and Civil Society Organizations working on the rights of women involved in sex work and LGBTI persons in Rwanda (hereinafter the Coalition) is made up of the following Organizations:

- Health Development Initiative (HDI)
- Rwanda NGO Forum on HIV /AIDS and Health Promotion (RNGOF on HIV /AIDS & HP)
- Association de Soutien aux PVVIH+ (ANSP+)
- Centre for Rule of Law Rwanda (CERULAR)
- Amahoro Human Respect Organisation (AHR)
- Human Rights First Rwanda Association (HRFRA)
- My Rights Alliance (MRA)
- Safe Friendly Society (SFS)
- Horizon Community Association (HOCA)
- Building hope for Future (BHF)
- Bright Future Organization (BFO)
- Hope and Care (HAC)
- Joint Action for Bright Future (JABFA)
- Pride Ark Organization (PAO)
- Health and Rights Initiative (HRI)
- ABAHUJUMUGAMBI of Nyarugenge
- One for All Organization
- INDATWA of Huye and Ruhango
- ABISHYZE HAMWE of Gasabo
- IGITEGO of Muhanga

1. INTRODUCTION

The Coalition of Community Based Organizations and Civil Society Organizations working on the rights of women involved in sex work and LGBTI persons in Rwanda (hereinafter the Coalition), takes this opportunity to submit this shadow report to the 5th Periodic Report of the Republic of Rwanda to the Committee on Economic, Social and Cultural Rights.

1.1 OBJECTIVE OF THE REPORT

The principal objective of this report is to provide key findings on the implementation status of the International Covenant on Economic, Social and Cultural Rights (ICESCR) with reference to the Concluding Observations and recommendations made by the Committee on Economic, Social and Cultural Rights (the Committee) to the Government of Rwanda with number E/C.12/RWA/CO/2-46 in 2013, as well as other developments in the context of human rights with a focus on LGBTI and Female Sex Workers.

The report provides potential grounds for legal reforms, policy changes and other measures aimed at improving the rights situation of LGBTI Persons and Female Sex Workers in Rwanda. Female Sex workers, as used throughout this report, refer to prostitutes in some national documents of Rwanda.

2. METHODOLOGY

The drafting of this report was based on data collected from studies, national reports, national documents (including laws, policies, strategic plans, and interviews with some key informants including public and private institutions), Community based organizations led by Female Sex Workers and LGBTI persons and focus group discussions with LGBTI Gender non-conforming persons and Female Sex Workers.

3. KEY FINDINGS

The Coalition notes progress made by the Government of Rwanda in implementing recommendations contained in the Concluding Observations of 2013. The report notes with appreciation legal reforms that were undertaken, as well as the adoption of various policies, strategic plans and initiatives, which have contributed to the improvement of economic, social and cultural rights of the general population in Rwanda since 2013.

Concerning the implementation of the recommendations made by the Committee in 2013, the Coalition positively notes various efforts put in place by the Government of Rwanda including the adoption of laws, policies and programmes. The Coalition particularly welcomes the adoption of the following laws:

- Law N° 21/2016 of 20/05/2016 relating to human reproductive health
- Law N° 49/2012 of 22/01/2013 establishing medical professional liability insurance

- Law N° 71/2018 of 31/08/2018 relating to the protection of the child
- Law N° 36/2018 of 29/06/2018 determining the organization of education

From a policy perspective, Rwanda adopted various policies and plans concerning education and health. The Coalition particularly welcomes the adoption of the following policies:

- The National Strategic Plan on HIV and AIDS (2018–2024)
- The National Reproductive Maternal, Newborn, Child and Adolescent Health (RMNCAH) Policy (2018)

4. NORMATIVE RIGHTS

In this section, the Coalition acknowledges the progress made in relation to normative rights and highlights concerns that require specific attention and thus suggests recommendations that would address the concerns raised.

In this regard, the Coalition has particularly identified issues related to housing, health and education as main issues affecting the rights of Female Sex Workers and LGBTI Persons in Rwanda.

4.1 RIGHT TO HOUSING (ARTICLE 11)

4.1.1 LEGAL

The Coalition takes positive note of article 26 of the Constitution of 2003 as revised in 2015, which clearly stipulates that every Rwandan has the right to move freely and to reside anywhere in Rwanda.

The Coalition positively notes the decriminalization of prostitution as previously recommended by the Committee on the Elimination of Discrimination against Women (CEDAW/C/RWA/CO/7-9). The Coalition firmly believes that the decriminalization of prostitution (sex work) is the right direction in the context of HIV.

Finally, the Coalition welcomes the existence of a draft housing policy whose mission is to ensure that everyone—independent of income, base of subsistence, and location—is able to access adequate housing in sustainably planned and developed areas reserved for habitation in Rwanda.

4.1.2 AREAS OF CONCERN

The Coalition received information from the members of the LGBTI community who reported that they are often evicted from their rental houses by landlords on the basis of their gender identity and expression.

In 2019, under the project “Empower, Include, Respect: Making human rights work for LGBTI and Sex Worker communities in Rwanda”, Health Development Initiative (HDI) recorded 93 cases of allegations of human rights violations committed against FSW and 36 cases against LGBTI persons. The project recorded allegations of eviction amounting to 5.5% against LGBTI persons and 19% against FSWs of the reported cases. During a focus group discussion, Female sex workers reported to the Coalition that they are often expelled from their neighborhoods as the decision of local leaders at the community on the mere allegation that their behaviour.

4.1.3. RECOMMENDATIONS

The Coalition calls upon the Committee to recommend to the Government of Rwanda to:

- Expedite the adoption of the Housing Policy and ensure that it is inclusive
- Sensitize local leaders on the right of everyone to housing including female sex workers and members of the LGBTI Community

4.2 RIGHT TO HEALTH (ARTICLE 12)

4.2.1 LEGAL

The Coalition notes with appreciation the adoption of the existing legal framework, which guarantees the right to health to everyone. In this regard, the Coalition points out that article 41 of the Constitution guarantees the right to health to anyone. The Coalition welcomes the enactment of the Law relating to Human Reproductive Health N° 21/2016 of 20/05/2016 as article 5 provides that no person shall be denied the right to reproductive health based on any form of discrimination and more importantly article 8 of the same law guarantees the right of every person to access education and medical services related to human reproductive health.

The Coalition further acknowledges the relevance of article 4 (1) of the Law No 49/2012 of 22/01/2013 establishing medical professional liability which prohibits any form of discrimination in terms of access to consultation and healthcare services as well as other paramedical procedures.

Lastly, the Coalition notes that article 15 (2) of the Law No 48/2015 governing the organization, functioning and management of health insurance reads “It is prohibited to deny a person or a group of persons access to health insurance services for any reason based on discrimination of any kind”.

4.1.2 AREAS OF CONCERN

According to the 2015 Behaviour and Biological Surveillance Survey (BSS), HIV prevalence is higher among Female Sex Workers (45.8%) with a high prevalence among Female Sex Workers operating in Kigali (55.5 %). HIV prevalence among Female Sex Worker is significantly higher compared to the national HIV prevalence which stands at 3%.

The National Strategic Plan on HIV and AIDS 2018-2020, suggests to reduce Sexual Gender-Based Violence and HIV-related stigma and discrimination, but fails to suggest numeric targets to be achieved. The Coalition is concerned with the exclusion of LGBTI persons in the National Strategic Plan on HIV and AIDS.

The Coalition is concerned with the exclusion of members of the transgender community from national documents. In this regard, National Guidelines for Prevention and Management of HIV and Sexually Transmitted Infections (STIs) as these Guidelines for Prevention and Management of HIV ad STIs recognise only Key Population in the context of HIV stating that key populations are defined as female sex workers and their clients, men who have sex with men, vulnerable youth (young women 15-24 years) and sero-discordant couples as key populations in the context of HIV prevention and response.

The National Strategic Plan on HIV and AIDS does not include LGBTI Persons among its suggested activities despite mentioning that tailored HIV combination prevention services will be made accessible to key populations, including sex workers **and** men who have sex with men.

The Coalition is concerned with the inconsistent approach suggested by the National Guidelines for Prevention and Management of HIV and STIs in terms of HIV testing, as the guidelines recommend non-judgmental Sexually Transmitted Infection risk assessment and client-centered prevention counseling to reduce the likelihood of acquiring or transmitting HIV or other STIs, but these guidelines are silent for Female Sex Workers.

Though the Fourth Health Sector Strategic Plan 2018-2024 sets out the national strategic direction for the health sector in order to improve the health standards of Rwandans, the Coalition remains concerned with the fact that the Fourth Health Sector Strategic Plan does not make any specific mention of LGBTI persons or their health needs.

The Coalition is further concerned with the Reproductive, Maternal, Newborn, Child, Adolescent Health policy as it neither describes “client-friendly mechanisms”, nor defines persons it deems “hard-to-reach”. This is despite the fact this policy acknowledges the need to use innovative client-friendly mechanisms to reach young people, hard to reach groups, and persons living with disabilities to increase community knowledge and promote health-seeking behaviour. Interviews with key informants and focus group discussions revealed that transgender persons faced a shortage of specialized hormonal treatment including medication, as such medication is not available in pharmacies and those with financial means had to buy hormonal medication from abroad.

It was also revealed by Female sex workers during a focus group discussion that they are compelled by health professionals to be accompanied by their spouses when attending pre-natal consultations at health centers.

They are left with 2 options: either to hire a male stranger who will pretend to be their husband or obtain a document from the local leaders, which indicates their marital status as single.

Lastly, Female Sex Workers reported during the focus group discussion that they often face stigma from health personnel when seeking services at health facilities as they are called pejorative names.

4.1.3 RECOMMENDATIONS

The Coalition calls upon the Committee to recommend to the Government of Rwanda to:

- Review the Reproductive, Maternal, New-born, Child, Adolescent Health policy to ensure that LGBT persons are included in the “hard-to-reach” group, and more importantly, devise clear strategies to reach LGBTI persons;
- Review the National Strategic Plan on HIV to ensure that needs of LGBTI Persons are included with concrete and measurable actions;
- **Prevention and Management of HIV and STIs** to ensure that needs of Transgender Persons are included with concrete and measurable actions;
- Organize continuous training of personnel at health facilities on human rights with the view of eradicating stigma in health facilities;
- Include hormonal treatment medication in the list of essential medicines;
- Avail hormone therapy;
- Issue a directive prohibiting health officials from compelling female sex workers to be accompanied by their clients or other persons as a requirement to have access to pre-natal consultation services;
- Train health officials on the rights of LGBTI

4.3 RIGHT TO EDUCATION (ARTICLE 13)

4.3.1 LEGAL

From a legal perspective, the Coalition positively notes that article 20 of the Constitution of 2003 as revised in 2015 makes primary education free and compulsory. The Coalition commends the Government of Rwanda for issuing the Ministerial Order No 001/2016, which fines individuals who employ children and prevent them from attending school or encourage children to drop out of school. The Coalition further welcomes the adoption of Gender and Family Promotion the minimum standards and norms for early childhood development services in Rwanda by the Ministry.

The Coalition positively notes the efforts put in place by the Government of Rwanda related to education, such as the establishment of the 12-year basic education system, and the introduction of school feeding programs in public schools that aims at reducing school dropout.

4.3.2 AREAS OF CONCERN

The Coalition is concerned with article 16 of the Ministerial Instructions No 001 of 10/05/2017 establishing guidelines for setting up general or TVET nursery, primary or secondary school's internal rules and regulations which cites prostitution among the grounds for expulsion from school. The Coalition believes that a child involved in prostitution should be treated as a victim of sexual exploitation and thus should receive support in order to continue his or her studies, instead of being expelled from school.

The Coalition is concerned with the enforcement of the Ministerial Order N°001/07.01 of 19/04/2018 determining the mission, organization and functioning of transit centers as it allows the arrest and detention of Female Sex Workers and thus has a negative impact on the rights of the children of Female Sex Workers to education. During focus group discussions, it was reported that children of Female Sex Workers are likely to drop out from school upon the administrative detention of their mothers.

Health Development Initiative (HDI), a local Non-Government Organization operating in Rwanda, under the project Empower, Include, Respect: Making human rights work for LGBTI and Sex Worker communities in Rwanda” recorded cases of allegations of violation of the right to education amounting to 13% against LGBTI persons and 3.2% against the children of Female Sex Workers of the reported cases. LGBTI persons who participated in the project revealed that their parents refused to pay their tuition fees once they discovered the sexual orientation of their children.

4.3.3 RECOMMENDATION

The Coalition calls upon the Committee to recommend to the Government of Rwanda to:

- Repeal article 16 of the Ministerial Instructions No 001 of 10/05/2017
- Amend the Ministerial order N° 001/07.01 of 19/04/2018 determining the mission, organization and functioning of transit centers with the view of removing sex work among deviant behaviour.
- Train law enforcement officers/officials on human rights with a focus on gender identity and sexual orientation.

4.4 RIGHT TO WORK (ARTICLE 6)

4.4.1 LEGAL

The Coalition notes positively that article 30 of the Constitution, which guarantees the right to work. The Coalition also notes that article 9 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda prohibits discrimination at the workplace.

4.4.2 AREAS OF CONCERN

The Coalition is concerned with the weak enforcement of anti-discrimination measures at the workplace. It was revealed during a focus group discussion that Lesbians, Gay and Transgender persons face stigma and discrimination at workplaces. The project Empower, Include, Respect: Making human rights work for LGBTI and Sex Worker communities in Rwanda run by Health Development Initiative received an allegation of dismissal on the grounds of sexual orientation.

4.4.3 RECOMMENDATIONS

The Coalition calls upon the Committee to recommend to the Government of Rwanda to:

- Enforce laws dealing with discrimination at the workplace
- Encourage employers to adopt anti-discrimination measures specifically related to sexual orientation at the workplace.

5. GENERAL RECOMMENDATIONS

The Coalition calls upon the Committee to recommend to the Government of Rwanda to:

- Include gender identity and sexual orientation aspects in laws, policies, strategic plans, and programmes with the view of ensuring that the needs of LGBTI are addressed;
- Include the needs of Female Sex workers in laws, policies and programmes;
- Develop a mainstreaming strategy to eradicate stigma and discrimination faced by Female Sex Workers and LGBTI persons;
- Mainstream Female Sex Workers and LGBTI needs in policies, strategic plans and programmes;

6. BIBLIOGRAPHY

Laws and Instructions

1. The Constitution of Rwanda of 2003 as revised in 2015
2. Law N°49/2012 of 22/01/2013 establishing medical professional liability
3. Law relating to Human Reproductive Health N° 21/2016 of 20/05/2016
4. Law N°48/2015 governing the organization, functioning and management of health insurance
5. Law N°71/2018 of 31/08/2018 relating to the protection of the child
6. Law No 36/2018 of 29/06/2018 determining the Organization of Education
7. Ministerial Instructions No 001 of 10/05/2017 establishing guidelines for setting up general or TVET nursery, primary or secondary school's internal rules and regulations
8. Ministerial Order N°001/07.01 of 19/04/2018 determining mission, organization and functioning of transit center
9. Ministerial Order No 001/2016 providing sanctions against parents who do not send their children to school and against other persons who employ children in work preventing them from going to or encouraging them to drop out of school.

Policy and Strategic Plans

1. Ministry of Health National Reproductive Maternal, Newborn, Child and Adolescent Health (RMNCAH) Policy (July 2018)
2. Rwanda Biomedical Centre National Guidelines for Prevention and Management of HIV and Sexually Transmitted Infections (STIs)
3. Ministry of Health Fourth Health Sector Strategic Plan 2018-2024
4. Ministry of Health Rwanda HIV and AIDS Strategic Plan 2018 -2020

