

another way by which Sec.15 (6) (d) can be made to exit the law books.

You can use all the means available to fight this provision; you may write articles in various publications, participate in radio programmes, tell your colleagues or classmates about it, no contribution is too small.

#### • ABOUT HRAPF

Human Rights Awareness and Promotion Forum is a Ugandan not for profit, non governmental organisation that focuses on human rights awareness and advocacy.

In the period 2010-2012, The Organisation is particularly concerned with the promotion of economic, social and cultural rights and the rights of minorities where more often than not the victims are the 'vulnerable groups of our societies.

Because of this the organization had to take the lead is stalling yet another attack on vulnerable groups.

The Organisation has seven programmatic areas and these are;

#### 1. The rights Awareness project.

This program is aimed at taking human rights to the grassroots. The common man is directly taught about the concept and importance of human rights.

#### 2. Rights monitoring and research project

This is aimed at investigating human rights abuses, documentation of the findings and providing quick solutions to problems.

#### 3. The Social Economic and Cultural Rights Project

This project is aimed at the recognition of economic, social and cultural rights as being of equal importance to the civil and political rights. It focuses on the right to education, right to food, and the right to health and the right to shelter.

#### 4. The right to a clean and health environment

This project targets proper the elimination of smoking in public places. It also focuses on waste management, and changing behavior in that particular aspect.

#### 5. The Law reform (women and Minority rights Project)

This particular project aims at reforming the law in order for it to reflect human rights values. It uses legislative analysis, petitions, awareness campaigns, advocacy and strategic litigation.

Under this project, HRAPF also runs a legal aid project for women, minorities and the population in general

#### 6. The Democracy and Good Governance Program

HRAPF is also engaged in the campaign for good governance and democracy. It mainly does awareness and also monitoring of the democracy process in Uganda.

#### 7. Refugee project

HRAPF's location in an area that has many refugees inspired this program which mainly deals with refugees and their legal rights. In this respect, HRAPF works closely with the Refugee Law project of the Faculty of law, Makerere University.

#### The Project

The Project to promote awareness around Section 15(6)(d) of the Equal opportunities Commission Act, 2007 is under the Law Reform program of HRAPF.

HRAPF has taken efforts aimed at spreading awareness about this provision on top of seeking to have the provision declared unconstitutional by the Constitutional Court.

The project seeks to promote awareness around the equal opportunities Commission and especially to see the offending provision struck out of the law books.

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## Human Rights Awareness and Promotion Forum (HRAPF)

**THE EQUAL OPPORTUNITIES COMMISSION; KNOW IT, EMBRACE IT AND FIGHT AGAINST SECTION 15(6)(D) OF THE EQUAL OPPORTUNITIES COMMISSION ACT THAT LIMITS YOUR ACCESS TO IT**

#### Fact

**Section 15(6)(d) denies minorities access to the Equal Opportunities Commission**

#### • WHAT IS THE EQUAL OPPORTUNITIES COMMISSION?

The Equal Opportunities Commission is a commission provided for under the Constitution of the Republic of Uganda and established under the Equal opportunities Commission Act, 2007 to ensure that affirmative action is taken in favour of **marginalized groups** and to enforce the prohibition of **laws, cultures, customs and traditions which are against the dignity, welfare or interest of women or any other marginalized group** or which undermine their status.

The Commission is currently being physically set up and is to start operations in the near future.

#### • WHAT IS THE MANDATE OF THE COMMISSION?

The Equal Opportunities Commission is charged with the noble mandate to ensure the protection of 'vulnerable groups' from continued marginalization and discrimination. This is on the background that these groups that include women, children, elderly persons,

the disabled, sexual minorities, sexual workers have, merely on account of their identity and history, been victims of unspeakable mistreatment from the 'superior groups' of our society. Clearly, therefore the commission is meant to be the safe haven to which the 'endangered groups' run for refuge. These minority groups are meant to report all violations and issues of discrimination to the commission for investigation and action.

- **WHAT IS THIS 'MISFITTING' SECTION SEC. 15(6) (D) OF THE ACT?**

Well as the objective of the Commission to ensure equal opportunities to all Ugandans generally, and particularly to the marginalised groups is clear, the same law in its Sec. 15(6) (d) defeats the achieving of this objective.

The provision is reproduced here below;

Section 15(6); **the commission shall not investigate-  
d) any matter involving behaviour which is considered to be-**

- i) immoral and socially harmful, or
- ii) unacceptable by the majority of the cultural and social communities in Uganda.

The section denies such 'vulnerable groups' audience before the commission where the matter involves behaviour which is considered to be immoral and socially harmful, or unacceptable by the majority of the cultural and social communities in Uganda.

- **HOW DOES THE SECTION DEFEAT THE GENERAL PURPOSE OF THE ACT?**

The effect of this section is that matters involving behaviour which is 'acceptable by the majority of the cultural and social communities in Uganda' however invasive and violative of human rights they may be, shall not be investigated by the Commission. For example domestic violence involving wife battery and child beating, euphemistically called 'disciplining', is behaviour that is acceptable by the majority of the cultural and social communities in Uganda. If the commission is legally curtailed from investigating such matters, then of what use is it at all? In fact nearly every area of discrimination that the commission was made

to address is acceptable to the majority of the cultural and social communities in Uganda'. So the commission, by virtue of this single provision, is effectively rendered redundant and the government policy of promoting equal opportunities for all Ugandans is defeated.

- **WHO ARE THE LIKELY VICTIMS OF THE EXISTENCE OF SEC. 15(6) (D) OF THE ACT?**

Truth to tell, no one shall be spared by this section. The section in fact encourages on the further marginalization and discrimination against every existent marginalized group because all such mistreatment as long as it is considered 'acceptable by the majority of the cultural and social communities in Uganda shall go unchecked. It helps to remember that the mistreatment by society against women, children, the disabled, the sexual workers, the sexual minorities and other groups has existed since time immemorial and is widely accepted as the norm by most Ugandan societies.

- **WHY IS IT IMPORTANT TO EXPUNGE THIS SECTION?**

This section threatens the enjoyment of fundamental rights guaranteed by the constitution and International human rights instruments, they include;

1. The right to equality before the law.
2. The right to freedom from discrimination.
3. The rights of minorities to be included in the policy and decision making of the state.
4. The right to a fair hearing before an impartial tribunal.

It is so ironical that it is the very law intended to address discrimination against vulnerable groups in turn entrenches discrimination against them. For this reason this section should be removed, sooner rather than later.

- **CAN THE SECTION BE REMOVED FROM THE LAW BOOKS?**

Yes! All hope is not lost as the constitution of Uganda provides a mechanism through which certain laws can be tested to find if they are in line with the constitution and if not, the laws are declared null and void. The constitution of the Republic of Uganda, 1995 provides for the equality of all Ugandans before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. Also all Ugandans have a right to freedom from discrimination on grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

This mechanism is through the constitutional court of Uganda which is mandated with powers to interpret the constitution.

- **THE EFFORTS, SO FAR MADE, TO HAVE THIS SECTION REMOVED FROM THE LAW.**

The Human Rights Awareness and Promotion Forum (HRAPF) has through its Executive Director in the case of JUUUKO ADRIAN V. ATTORNEY GENERAL CONSTITUTIONAL PETITION NO. 1 OF 2009 petitioned the constitutional court of Uganda to declare that sec. 15(6)(d) of the Equal Opportunities Act,2007 is inconsistent with articles 20(1), 20(2), 21(1) and (2), 28(1) ,36(1) of the constitution of the Republic of Uganda. As matters stand the case is yet to be heard and a decision from their Lordships is eagerly awaited.

- **YOUR ROLE AS A UGANDAN**

Sensitisation to the general public is crucial for the success of this campaign. Knowledge is power. As an individual, armed with this knowledge, you can now actively participate in rallying support against this section that is intent to unwind the progress made by our country in the areas of non-discrimination and equality of persons and entitlement to equal opportunities for all Ugandans.

You can also place pressure on your Members of Parliament to have the law amended since this is