

Tom Lantos Human Rights Commission Hearing
LGBT Community Under Attack: Uganda's Anti-Homosexuality Bill
Thursday, January 21, 2010
2:00 – 3:30 PM

Christine Lubinski
Vice President, Global Affairs
Infectious Diseases Society of America

Thank you for providing the Center for Global Health Policy with an opportunity to testify about this critical issue. The Global Center is a project of the HIV Medicine Association and the Infectious Diseases Society of America and is charged with bringing the expertise and perspective of physicians, scientists and clinicians to federal policy discussions about global HIV and TB. Our goal is to help facilitate adequate funding and the adoption of sound, evidence-based policies to respond to the two leading infectious disease killers worldwide.

Uganda is a country of approximately 30 million people; with an estimated HIV prevalence rate of 5.4 percent—roughly five times the HIV prevalence in the U.S. The most recent UNAIDS data estimates 940,000 people living with HIV in Uganda. More than a million Ugandans have died of AIDS and 1.2 million children have been orphaned by the disease. Prevalence of HIV infection among women in Uganda is even higher: 7.5%.

Our front-line clinicians and physician-scientist members are concerned and outraged by the proposed anti-homosexuality legislation in Uganda. They view it as both a profound violation of human rights and as a major threat to efforts to combat the HIV epidemic. Many of our members have significant experience working in sub Saharan Africa including Uganda their opposition is based on human rights, HIV prevention and direct knowledge of what programs need to be successful on the ground. Given the level of concern from our members and their interest in joining the chorus of opposition, we worked with them to develop a letter to President Museveni. In one week, we garnered nearly 1500 signatories on the letter, which we are disseminating widely to leaders in Uganda, as well as policymakers on Capitol Hill and within the Executive Branch. I ask that the letter be included in the Record of this hearing.

Seen through the lens of HIV/AIDS, the proposed legislation is not simply an outright assault on sexual minorities, but it also places at risk a comprehensive program of HIV prevention, care and treatment. Until now, Uganda has been held up as a model for real progress against AIDS by demonstrating serious, high-level political leadership and a willingness to engage in straight talk about HIV risk reduction and to mount a concerted condom distribution campaign. This proposed bill not only criminalizes homosexuality but by extension demonizes persons with HIV by labeling same-gender sexual activity by HIV-infected people “aggravated homosexuality,” punishable by death. Furthermore, the bill’s sponsor dangerously and incorrectly asserts that by criminalizing homosexual behavior, the country’s AIDS epidemic will be ameliorated. Stigma already poses a formidable barrier to HIV services for persons

January 21, 2010

2

living with or at risk of HIV in Uganda and elsewhere in southern Africa. This law, if enacted, would render every person with HIV a potential criminal, subject to scrutiny about their sexual behavior and threatened with life in prison or even death.

Moreover, this proposed law would essentially criminalize not only the activities of all organizations working in the LGBT communities, but also potentially all organizations delivering HIV prevention, care and treatment services, by calling for imprisonment of anyone who fails to report individuals who engage in homosexual acts. From the perspective of the HIV clinicians, researchers and educators who are represented by IDSA and HIVMA, this law would cripple the provider-patient relationship, making it virtually impossible for physicians and other caregivers to provide quality comprehensive medical care and risk-reduction counseling. It would also raise new barriers to enrollment in HIV clinical trials and the conduct of epidemiological research.

It is especially troubling that this proposal has emerged at a time when there is finally a concerted effort underway to evaluate the impact of the HIV/AIDS epidemic on MSM in developing countries, and to ensure that targeted, human rights based programming is available to address the needs of this and other vulnerable populations. While we don't have good data on the incidence of HIV infection among MSM in Uganda, studies conducted in neighboring countries would suggest that the level of HIV risk for this population is higher than the general population. UNAIDS has now embraced a clear agenda of ensuring that the needs of at-risk populations, including MSM are met, and Ambassador Eric Goosby, who leads the U.S. global AIDS program, has made his interest in prioritizing services to this population clear. The enactment of this law would make efforts to assess the size and the needs of this population in Uganda essentially illegal, while casting an additional shadow of bigotry, discrimination and stigma on all persons in the LGBT community and all persons with HIV/AIDS regardless of their particular risk factors.

Substantial unmet needs remain for HIV treatment among both adults and children in Uganda, as poor management of some funding and flat funding from PEPFAR have taken their toll. Passage of this law will make the continuing AIDS crisis in Uganda even worse. If draconian penalties drive homosexual activity even further underground, bisexual men may avoid HIV and STI screening and might be more likely to transmit to partners, particularly wives who would perceive themselves to be at low risk if they were monogamous. A study recently published online in the *Journal of AIDS* by Kumta et al showed that MSM married to women in Mumbai were more likely to be HIV-infected than men who exclusively had male partners.ⁱ Knowledge of HIV serostatus is one of the foundations of HIV prevention, but this law will make Ugandans even more reticent to be tested for HIV infection, to ask candid questions about their HIV risks, or to access HIV care if they do discover they are infected.

The United States, with its significant financial investment in Uganda, must use its leverage to ensure that this proposed legislation is withdrawn. No modifications of this legislation can make it palatable to those committed to social justice and public health. And we must do more to ensure that the needs of vulnerable populations, including MSM, are met in all PEPFAR-funded countries and that must begin with a rejection of laws and policies that violate the fundamental human rights of individuals. A study by Carlos Caceres, MD, PhD, commissioned by UNAIDS, found that in those countries where same-sex

relationships are criminalized, “adequate provision for HIV prevention, treatment and care among sexual minority populations remains unthinkable. In other cases, while there is no criminalization, protection against hate crimes or other forms of discrimination does not exist, and the risk of occurrence of such crimes hampers the implementation of HIV prevention and treatment and care for such groups.”ⁱⁱ

Uganda already has regressive laws on the books regarding homosexuality, as do the majority of PEPFAR focus countries. As the U.S. moves forward to negotiate partnership framework agreements with developing countries under the global AIDS program, our government must be clear about the fundamental human rights of all persons at risk of or living with HIV and about evidence that clearly demonstrates that public health goals are undermined by stigma and discrimination. As Stephen Lewis so eloquently stated in a recent speech: “Let it be understood: It’s not homosexuality that spreads AIDS; it’s the culture that brutalizes gay men and forces them underground that spreads AIDS.”

The U.S. global AIDS program must also be proactive by ensuring that funding is available to provide outreach services to MSM and other vulnerable groups to engage them in prevention and treatment services that can literally save their lives. Performance indicators used to evaluate the success of HIV programs in countries must include measures for MSM, sex workers, and injection drug users if we are serious about making prevention programs relevant and evidence-based. Indeed, human rights protections and targeted prevention programs are critical ingredients to any successful effort to ultimately end this deadly epidemic both here in the U.S. and in the developing world.

ⁱ “Bisexuality, Sexual Risk Taking, and HIV Prevalence Among Men Who Have Sex With Men Accessing Voluntary Counseling and Testing Services in Mumbai, India, *JAIDS*, 20 November 2009.

ⁱⁱ Carlos F. Caceres, MD, PhD, et al, Review of Legal Frameworks and the Situation of Human Rights Related to Sexual Diversity in Low and Middle Income Countries: A Study Commissioned by UNAIDS.