

Absolute Sovereignty Exceptions as well as Legal Obligations of States to Protect the Rights of LGBTQI and Gender Diverse Persons (GDP)^{i,ii}

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Katlego Chibamba is a Johannesburg-based human rights defender, born in Kimberley, South Africa. He holds a bachelor of laws degree from the University of South Africa. He is currently a grants officer at the Other Foundation, an African trust that works as a grantmaker and fundraiser, while advancing equality and freedom in southern Africa, with a particular focus on sexual orientation and gender identity. During his student activism years, Katlego, then a student radio producer amongst other responsibilities, founded two LGBTQI+ rights organizations, namely Gays and Lesbians of Rustenburg and Gays and Lesbians of the University of South Africa. He went on to become the founding board Chairperson of Serenity Rehabilitation and Development Home, an organization that provides support services to those suffering from alcohol and drug related challenges. Katlego is a fellow of the Human Sciences Research Council and University of Central Los Angeles leadership in the stigma reduction program, YALI alumnus, and a qualified LILO Master Trainer through Positive Vibes Trust.

Shawn Mugisha is a transgender man from Uganda and a freelance human rights activist with hands-on experience in security planning, research, advocacy, and community mobilisation. He has worked for nearly a decade as a frontline activist, peer educator, community paralegal and facilitator for lesbian, gay, bisexual, transgender, intersex, queer (LGBTIQ) and sex worker communities in Uganda. He trains members of law enforcement, local leaders, and health workers in human rights and inclusion for LGBTIQ persons. In recent years, Shawn has combined his activism with his love of nature and experience as a farmer. He uses permaculture design to organise community farming projects for LGBTIQ survivors of human rights abuses. These projects engage LGBTIQ people and communities in order to create safe spaces and change mindsets, therefore establishing and economic inclusion for LGBTIQ persons. These projects also allow LGBTIQ people to navigate their personal road toward healing and a higher quality of life.

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Section 1: Introduction^{iv}

Within this paper, we analyze three African country contexts—Nigeria, South Africa, and Uganda—in terms of absolute sovereignty exceptions as well as legal obligations of States to protect the rights of LGBTQI and GDP.

In Africa, membership to the African Union (AU) could be regarded as one way in which states have agreed to cede some of their sovereign powers to achieve common objectives. In terms of the AU Constitutive Act, various organs with diverse competencies have been established whose effective execution is dependent on states transferring some of their sovereign powers to those

bodies. These institutions include the Assembly of the Union (Articles 6-9) and the Executive Council (Articles 10-13), among others. The aim of these bodies is to achieve the AU common objectives set out in the Constitutive Act including, among others, the promotion of peace, security, and stability on the Continent and the protection of human rights (Article 3).^v

Legal obligations are requirements with which law's subjects are bound to conform. An obligatory act (binding in law) or omission is something the law renders non-optional. Since people can violate their legal obligations, *non-optional* does not imply that they are physically compelled to perform, nor that the law leaves them without an alternative course of action. On the contrary, people often calculate whether or not to perform their legal duties. Moreover, all legal systems recognize, create, vary, and enforce obligations because obligations are central to the social role of law, and explaining them is necessary to achieve a comprehension of law's authority and, therefore, its nature. There are obligations *in* the law and obligations *to* the law.^{vi} Therefore, absolute sovereignty exceptions exist. For instance, states that are found guilty of gross human rights violations or crimes against humanity are subject to international community consequences, albeit often with fragmented accountability given to the complex protocols as well as terminology. We are cognizant of the international community's failure to stop the 1994 Genocide against the Tutsi in Rwanda due to the lack of agreed definitions/terms like *genocide*. Since then, the international community has largely failed to address human rights issues within Africa as it pertains to the rights of LGBTQI and GDP.

Queer scholarship does not simply target the international human rights regime; it delves into the fundamental premise of international law—the state's pastorship. The metaphoric imagination of state governance as mancraft is in itself patriarchal and paternalistic, assuming other states as rivals, in order to self-inscribe the plausible delusion of sovereignty and internationalism of this kind. In this respect, Cynthia Weber has introduced epistemological and methodological approaches to the field of international relations. In particular, in an age of globalization, international law has expanded its interests in preventing conflicts between states (in promoting as well as standardizing human flourishing and well-being in response to a call for global governance), which has subtly changed the relationship between states as well as between a state and its people.^{vii}

Against this backdrop, enforceable treaties are particularly key as they have provided and will continue to provide bases for legal pronouncements as well as interpretations that further elucidate the meaning and implications of regional agreements. This is amply demonstrated by the different national and regional court rulings as well as activity reports, declarations, and position statements of the different AU Commission committees. The available legal interpretations and statements of these instruments have affirmed sex, gender, and sexual orientation as forbidden grounds for discrimination in the region. Without exception, the said instruments collectively enshrine the rights, privileges, and freedoms of Africa's LGBT persons from murder, violent attack, torture, arbitrary detention, forced marriage, denial of rights to sexual and reproductive health services, assembly and expression, and exclusion from education, healthcare, housing, and labor market participation. They also emphasize and uphold the human rights for LGBT persons and the need to ensure society is inclusive, safe, resilient, and sustainable for LGBT persons as part of the natural diversity that characterizes Africa.^{viii}

Section 2a: Uganda

In the paper “Regional Legal and Policy Instruments for addressing LGBT Exclusion in Africa” by Chimaraoke Izugbara et al., the authors analyze existing regional-level legal and policy instruments for the opportunities they offer to tackle the exclusion of LGBT persons in Africa, to which we expand on.^{ix}

In Uganda’s case, the state has ratified international and regional human rights instruments as well as declarations that explicitly mention legal obligations surrounding universal human rights standards and principles. In contrast, Uganda has at least five national laws that explicitly discriminate against or indirectly promote discrimination against LGBTQI and GDP. For example, the Penal Code (Amendment) Act 2007, Caption 120, has a number of provisions that criminalize same-sex conduct, including Section 145 on carnal knowledge against the order of nature; Section 146 on attempt to commit unnatural offences; and Section 148 on indecent practices. The Registration of Persons Act 2015 can also carry legal implications for transgender persons. However, we do note that the Ugandan Constitution prohibits discrimination on the grounds of sex and HIV or communicable disease status, whereas Article 31 prohibits marriage between same-sex persons.^x Finally, the Ugandan Constitution does not address sexual orientation or gender identity or expression.

As articulated also by Izugbara et al. [*re: Table One – Key AU Legal and Policy Instruments with Potential for addressing LGBT Exclusion in Member States: 1981–2018*], seven relevant and key treaties and policy instruments were developed and ratified by the AU or the Organization of African Unity. These policy documents include enforceable treaties (that is, binding legal agreements that African states have collective obligation to implement and be held accountable to) and policy instruments (influential regional governing tools aimed to achieve social, political, economic, health, and other targets or objectives). The aspiration to promote inclusion and advance the lives, livelihoods, and equality of all citizens, their gender and sexuality notwithstanding, is a common feature of these regional treaties and policy instruments. While LGBT persons are not specifically mentioned in any of these instruments, they (the instruments) nevertheless still emphasize the everyday concerns of LGBT persons and set forth ambitious visions for inclusivity and practical positive action on the marginalization and concerns of LGBT people and communities in Africa.^{xi}

Moreover, since international human rights treaties impose three obligations on states (the duty to respect, the duty to protect and the duty to fulfill), LGBTQI and GDP in Uganda cannot be legally excluded in the context of national legislation. Notably, in a country context where LGBTQI and GDP experience disproportionate stigma and discrimination based on known or presumed sexual orientation, Uganda’s ratification is pertinent and can be held to account.^{xii} Arguably, Uganda’s national sovereignty contention has a caveat that is based on its legally bound practice to humanity, among others. The State’s assumption that LGBTQI and GDP are grossly indecent (in the law) should not stop the State in its practice to humanity.

At this juncture, we note that, in 2020, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) World welcomed the support of Pope Francis of the Roman Catholic Church for LGBTI Families and Civil Unions, recognizing the positive impact Pope

Francis's words could have on many LGBTI Communities across the world. Luz Elena Aranda and Tuisina Ymania Brown (Co-Secretaries General of ILGA World) advocated for more faith leaders to have a similar stand and push for meaningful respect and compassionate acceptance. This is especially relevant since most Ugandan citizens identify as Catholic, and the disproportionate stigma and discrimination toward LGBTQI and GDP in Uganda can be linked to religious communities such as the Roman Catholic Church.^{xiii}

Section 2b: Nigeria

Nigeria has ratified many regional and international treaties that mandate the protection of residents from abduction, violence, torture and other ill treatment, slavery, forced prostitution, and discrimination based on sex. These instruments obligate Nigeria to adopt effective measures for the prevention, investigation, prosecution, and punishment of serious human rights abuses.

Under legal agreements, Nigeria is required to ensure its citizens the right to education and the highest attainable standard of health, as well as to provide redress and reparations to survivors of human rights abuses.^{xiv} In a contradicting manner, in 2014, Nigeria signed into law the Same-Sex Marriage (Prohibition) Act or SSMPA.^{xv} Despite the increased attention to human rights issues, public debate unequivocally favored the SSMPA and its discriminatory effects on persons perceived to be LGBTQI in Nigeria. As though the effects of the SSMPA are not dire enough, more discriminatory laws have been enacted at state levels as seen with Benue State's Same-Sex Marriage Prohibition Law. It is noteworthy that these discriminatory laws are products of colonialism, with a clear example being the Criminal Code Act of 1916 passed down from Victorian-era law.^{xvi} Additionally, despite change at the institutional level (as seen with the Nigerian Human Rights Commission's recognition of human rights violations based on sexual orientation, gender identity and expression), cases of arbitrary arrests and unlawful detentions perpetrated by the Nigerian Police Force and other law enforcement agencies have persisted.^{xvii}

We contend that Nigeria's national sovereignty may be challenged where it can be legally documented that the Nigerian government continues to fail to protect its citizens who identify as LGBTQI and GDP (e.g., increased killing, maiming, torturing, raping, threatening, surveillance within a government-backed premise that innocuous difference will not be tolerated). To this regard, the Initiative for Equal Rights (TIERS) has documented a series of violations by state and non-state actors.^{xviii}

We argue also that such a contention is not far removed, where even a few LGBTQI and GDP in Nigeria are killed, maimed, tortured, and/or raped (e.g., a case in Benin City where there were reports of violations when police arrested and detained people based on their perceived or real sexual orientation; the case of Lesbian Equality Empowerment Initiative v. Corporate Affairs Commission where a lesbian association was denied registration on the grounds that the Association's name was misleading and contrary to public policy; the case of Egbeda 57 where violation was based on perceived or real sexual orientation).^{xix,xx,xxi}

Section 3: South Africa

Legal gender recognition, or LGR, affects a person's consciousness, identification, and protection before the law and ability to navigate through areas of daily life. LGR can involve changing a person's name and gender information on official identification documents and in registries to accurately reflect their gender identity.^{xxii}

A global context is that identity documents are increasingly required for many activities in daily life, including routine tasks like collecting a parcel from the post office or purchasing travel tickets. A transgender person's ability to live in dignity, equality, and security is severely compromised when they do not have an identity document to match their gender identity. Transgender people may undergo severe trauma from consistently having their identity incorrectly listed.

Noting the progressiveness of South Africa's Constitution with specific consideration on LGBTQI and GDP, we do not discuss its national sovereignty exceptions. Some legal implications pertaining to the Alteration of Sex Description and Sex Status Act 49 are addressed.

In 2003, South Africa signed into law Act 49, which enables transgender and intersex people to alter their legal gender in the National Birth Register and in their South African identity documents.^{xxiii} The set requirements of Act 49 allow certain categories of persons to make an application to the Director General of the National Department of Home Affairs for the alteration of their legal sex descriptor, provided they submit medical and psychosocial reports.^{xxiv} From one perspective, the Act is linked with South Africa's progressive work around the rights of LGBTQI and GDP. However, the Act is not in line with the Yogyakarta Principles and international best practice for changing gender markers in identity documents. Universally, some progress (e.g., 2012 Argentina Gender Identity Law, 2015 Malta Act No. XI) has been made to protect the rights of transgender and GDP through the enactment of laws and policies as well as international standards for practices and procedures.

Reform in South Africa, therefore, could entail removing the Act's exclusionary medical requirements and replacing it with a gender self-determination model that supports a person in changing their legal gender marker. A person could self-declare their gender identity in a simple and quick administrative procedure, with the option of leaving the "gender box" unspecified or blank.^{xxv} Moreover, the International Trans Depathologization Movement demands the removal of diagnoses that classify gender transition as a mental disorder, access to state-funded trans healthcare, a move toward an informed consent approach to trans healthcare, LGR without medical requirements, and the depathologization of gender diversity in childhood.^{xxvi}

The proposed reform could result in more transgender and GDP obtaining LGR, which could impact provisions for persons whose gender identity is nonbinary or fluid or those who do not wish to have a specific gender assigned for their own safety. Moreover, the proposed model could assist in creating more constitutional awareness around the diversity of gender identities and gender expressions, potentially laying an additional foundation for more inclusionary policies and practices in South Africa—especially at state facilities, like correctional centers.^{xxvii}

We emphasize the complexities of barriers that some transgender and intersex people face in order to obtain LGR in South Africa. These barriers include having limited access to transition-

related services that are required for people to undergo medical hormonal or surgical treatment. Fear of stigmatization and discrimination have also been noted as a challenge; this has led to some transgender people exposing themselves to significant harm in seeking non-conventional treatments in desperate measures.^{xxviii}

Section 4: Strategy

Five beginning strategies—by which LGBTQI and GDP in Nigeria, South Africa, and Uganda can further organize and hold to account their states—are below. We propose approaches around access and utilization of financial, political, and legal resources for wider coordination within interconnected, intersectional movements nationally, regionally, and continentally.

Noted strategic litigation goes beyond a single individual or organization and is usually long term. In fact, strategic litigation emphasizes legal and social change objectives; increasingly, it serves as vindication of LGBT rights in Africa, where courts must hear legal cases and decide them based on known constitutional principles. Unfortunately, despite the increased number of legal victories, court decisions in Africa go largely unenforced due to sizeable backlash in country.^{xxix,xxx}

To the above regard, we consider the national, regional, and continental politics that are linked to holding to account Nigeria, Uganda, and South Africa. One political sphere cannot be without the other even in the most sovereign of situations. Of course, there are local political contexts. Further, finances, politics, and the law can contribute to wider coordination of LGBTQI and GDP movements in Nigeria, South Africa, and Uganda.

One possible strategy therein to achieve economic strength is through affluence and influence within the African Continental Free Trade Area—though, arguably, externally rather than internally at this time. We mention the external component to navigate attempts of Nigerian and Ugandan governments especially opposed to LGBTQI and GDP. This implies the need for allies.

Another suggestion is a type of mobilizing that is not dependent on hierarchical leadership models. We comprehend the contexts of hierarchical leadership in Africa; we put forward that diversified leadership approaches are now central. Along with such diversity can be a reduction in lengthy and complicated plans of actions towards simple and feasible plans that are agreed upon and implemented. A possible effect can be new and inclusive systems and structures determined by many people rather than a few.

A third strategy includes lobbying allies to intervene where it can be legally proven that states are violating human rights. As LGBT rights movements prosper globally, international lawyers have gradually come to recognize that sexuality is significant in determining a state's progressiveness and legitimacy.^{xxxi}

Therein, a fourth strategy is continuing to obtain credible data to further authenticate the human rights injustices in Nigeria, South Africa, and Uganda against LGBTQI and GDP. This data can support efforts to lobby allies that, in turn, can increase mobilization to hold to account states. Critical here can be navigating and circumventing attempts to limit freedom of expression,

association, and peaceful assembly (e.g., internet shutdown, intimidation, and illegal imprisonment).

A suggested fifth strategy is to coordinate with equally significant movements aiming to achieve human rights (particularly around economic justice) in Nigeria, South Africa, and Uganda. Presently, the economic contexts affecting Nigeria, South Africa, and Uganda are considerable; there are occasions to effectively coordinate around the fact that, in all mentioned countries, more people do not have salaried or well-paying jobs. Therefore, economic justice can lead to job creation, which is a positive outcome for the majority of people in a country.

By no means are the proposed five strategies simple to address. They are recommendations that can suggest further conversations around the rights of LGBTQI and GDP.

ⁱ The Co-Authors acknowledge the existing sensitivity as well as diversity around language relating to self-identity and self-expression, among others. For example, Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI); Lesbian, Gay, Bisexual, and Transgender, and Intersex (LGBTI); Lesbian, Gay, Bisexual, and Transgender (LGBT); Gender Diverse Persons (GDP); Sexual Orientation and Gender Identity and Expression (SOGIE); and Sexual Orientation and Gender Identity (SOGI). We note the language used in the Yogyakarta Principles to identify sexual orientation and sexual identity.

ⁱⁱ We acknowledge the LGBTQI and GDP in Africa, among others, who have paved the way for us to compile our paper. We thank each of you in this regard.

ⁱⁱⁱ One Author identifies as transgender, another Author identifies as homosexual, and the remaining Authors identify as heterosexual. Our solidarity is human rights justice. Throughout this paper, to indicate such solidarity, the pronouns *we*, *our*, and *us*, plus the noun *Authors* are utilized. Four Authors via four countries, namely Nigeria, South Africa, Uganda, and the United States of America; all are LGBTI Human Rights Defenders and two are lawyers.

^{iv} For a full list of references, kindly contact the Co-Authors via LinkedIn.

^v George Mukundi Wachira, "Sovereignty and the 'United States of Africa': Insights from the EU," Institute for Security Studies, 1 June 2007, accessed on 28 February 2021, <https://www.africaportal.org/publications/sovereignty-and-the-united-states-of-africa-insights-from-the-eu>.

^{vi} "Legal Obligation and Authority," Stanford Encyclopedia of Philosophy, 29 December 2003, accessed on 14 November 2020, <https://plato.stanford.edu/entries/legal-obligation>.

^{vii} Po-Han Lee, "Undoing Sovereignty/Identity, Queering the 'International': The Politics of Law." *E-International Relations*, 22 October 2018, accessed on 14 November 2020, <https://www.e-ir.info/2018/10/22/undoing-sovereignty-identity-queering-the-international-the-politics-of-law>.

^{viii} Chimaraoke Izugbara et al, "Regional Legal and Policy Instruments for addressing LGBT Exclusion in Africa," *Sexual and Reproductive Health Matters* 28, 1 (2020): 1–14, accessed 10 November 2020, <https://pubmed.ncbi.nlm.nih.gov/31928329>.

^{ix} Izugbara et al, "LGBT Exclusion in Africa."

^x HIV is Human Immunodeficiency Virus. HIV is a virus that attacks the body's immune system. If HIV is not treated, then it can lead to AIDS or Acquired Immunodeficiency Syndrome. *Please refer to:* "About HIV," Centers for Disease Control and Prevention (CDC), n.d., accessed 15 November 2020, <https://cdc.gov/hiv/basics/whatishiv.html>.

^{xi} Izugbara et al, "LGBT Exclusion in Africa."

^{xii} Victor Madrigal-Borloz's 2020 report on violence and discrimination based on SOGI during the coronavirus pandemic has an abundance of globally pertinent and concerning information within a context of 1,000+ individuals who contributed from 100+ countries. A caveat is that the said report presents minimal information about the varied contexts within the 55 AU Member States; there is arguable mention of Egypt, Ghana, Liberia, Nigeria, South Africa, Uganda, and Zimbabwe. We comprehend some contentions that minimal information is due to limited access to credible data. *We note (immediately below) an unfortunate example of stigma and discrimination in Uganda during the COVID-19 Pandemic.*

In Uganda, just after the government ordered a COVID-19-related lockdown, a shelter for LGBT people was raided by neighbors and security forces, and 23 people at the shelter were arrested. A search was conducted in the shelter to find evidence of homosexuality. Two of those arrested were beaten, and all were subjected to verbal taunts on

account of their perceived sexual orientation. Nineteen of those detained were formally charged with engaging in “a negligent act likely to spread infection of disease” and “disobedience of lawful orders.” *Please refer to:* Victor Madrigal-Borloz, “Report on the impact of COVID-19 on the human rights of LGBT persons,” UN Human Rights Office of the High Commissioner, 28 July 2020, accessed 10 November 2020, <https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/COVID19Report.aspx>.

^{xiii} “National Population and Housing Census 2014: Main Report,” Uganda Bureau of Statistics, 1 March 2016, accessed 2 March 2021, <https://unstats.un.org/unsd/demographic/sources/census/wphc/Uganda/UGA-2016-05-23.pdf>.

^{xiv} In fact, the Nigerian Constitution, under Section 40, notes that every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union, or any other association for the protection of his interests. Section 17 further affirms that every citizen shall have equality of rights, obligations, and opportunities before the law. We note that the masculine pronoun (e.g., *he*, *his*) is utilized. *Please refer to:* “Constitution of the Federal Republic of Nigeria,” Federal Republic of Nigeria, n.d. 1999, accessed on 2 March 2021, <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>.

^{xv} Please see: Wendy Isaack, “‘Tell Me Where I Can Be Safe’: The Impact of Nigeria’s Same Sex Marriage (Prohibition) Act,” Human Rights Watch, 20 October 2016, <https://hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act>.

^{xvi} Please see: “Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990,” https://sherloc.unodc.org/cld/uploads/res/document/nga/1916/criminal_code_act_html/Nigeria_Criminal_Code_Act_1916.pdf.

^{xvii} “2019 report on Human Rights based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria,” The Initiative for Equal Rights, n.d., accessed on 27 February 2021, <https://theinitiativeforequalrights.org/wp-content/uploads/2019/12/2019-Human-Rights-Violations-Reports-Based-on-SOGL.pdf>.

^{xviii} “Human, Not Number: Lived Experiences of Sexual Minorities in Nigeria,” The Initiative for Equal Rights, n.d., accessed on 27 February 2021, <https://theinitiativeforequalrights.org/wp-content/uploads/2018/12/Tiers-Photo-Inset.pdf>.

^{xix} Gabriel Engholase, “Police arrest six homosexuals in Benin,” *Vanguard*, 14 May 2016, accessed on 27 February 2021, <https://www.vanguardngr.com/2016/05/police-arrest-six-homosexuals-benin>.

^{xx} “Lesbian Group Sues CAC Over Non-Registration,” *Independent*, 3 February 2020, accessed on 27 February 2021, <https://www.independent.ng/lesbian-group-sues-cac-over-non-registration>.

^{xxi} Onita Sunday, “Police Storm Hotel, Arrest 57 for Alleged Homosexual Initiation,” *The Guardian*, 28 August 2018, accessed on 27 February 2021, <https://guardian.ng/news/police-storm-hotel-arrest-57-for-alleged-homosexual-initiation>.

^{xxii} Anneke Meerkotter, “Legal Gender Recognition in Lesotho: An analysis of law and policy in the context of international best practice,” Southern Africa Litigation Centre, 10 November 2020, accessed on 15 November 2020, <https://www.southernafricalitigationcentre.org/2020/11/05/report-legal-gender-recognition-in-lesotho>.

^{xxiii} Joshua Schoole et al., “Recognition of Economic, Social and Cultural Rights: A Continued Struggle for Transgender, Gender Diverse and Intersex Persons in South Africa,” report submitted to the Working Group on South Africa Committee on Economic, Social and Cultural Rights, 9–13 October 2017, accessed on 28 February 2021, https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZAF/INT_CESCR_CSS_ZAF_28796_E.pdf.

^{xxiv} 1. A person whose sexual characteristics have been altered by: (a) medical or surgical treatment resulting in gender reassignment; or by (b) evolution through natural development resulting in gender reassignment. 2. A person who is intersex. “Government Gazette,” Republic of South Africa, 16 March 2004, accessed on 28 February 2021, https://www.gov.za/sites/default/files/gcis_document/201409/a49-03.pdf.

^{xxv} “Briefing Paper: Alteration of Sex Description and Sex Status Act, No. 49 of 2003,” Gender DynamiX and Legal Resources Centre, n.d., accessed on 28 February 2021, <https://www.transgendermap.com/wp-content/uploads/sites/7/2019/05/LRC-act49-2015-web.pdf>.

^{xxvi} D. Wilson et al, “Transgender Issues in South Africa, with Particular Reference to the Grote Schuur Hospital Transgender Unit,” *The South African Medical Journal* 104, 6 (2014): 449, <http://www.samj.org.za/index.php/samj/article/view/8392>.

^{xxvii} “Trans Prisoners’ Rights to Gender Identity and Expression in September v Minister of Correctional Services,” Gender DynamiX, n.d., accessed on 28 February 2021, <https://www.genderdynamix.org.za/post/gender-dynamix-press-release-trans-prisoners-rights-to-gender-identity-and-expression-in-september>.

^{xxviii} D. Wilson, D et al. “Transgender Issues in South Africa.”

^{xxix} Adrian Jjuuko, “Strategic Litigation: An Introduction,” PowerPoint Presentation, 7 October 2020, accessed on 8 October 2020.

^{xxx} Some successful/landmark court cases in Uganda and South Africa as it relates to strategic litigation and advocacy for the rights of LGBTQI and Gender Diverse Persons are mentioned here; note, we do not mention Nigeria.

In South Africa, please refer to the National Coalition for Gay and Lesbian Equality and the South African Human Rights Commission v. Minister of Justice, Minister of Safety and Security, and the Attorney-General of the Witwatersrand; Fourie and Another v. Minister of Home Affairs and Others; South African Human Rights Commission v. Qwelane; and National Coalition for Gay and Lesbian Equality and Others v. Minister of Home Affairs and Others.

Pertaining to Uganda, we recommend review of Jacqueline, Kisuule, and Patience v. Rolling Stone; and Makasa and Oyo v. Attorney General.

^{xxx} Lee, “Undoing Sovereignty/Identity.”