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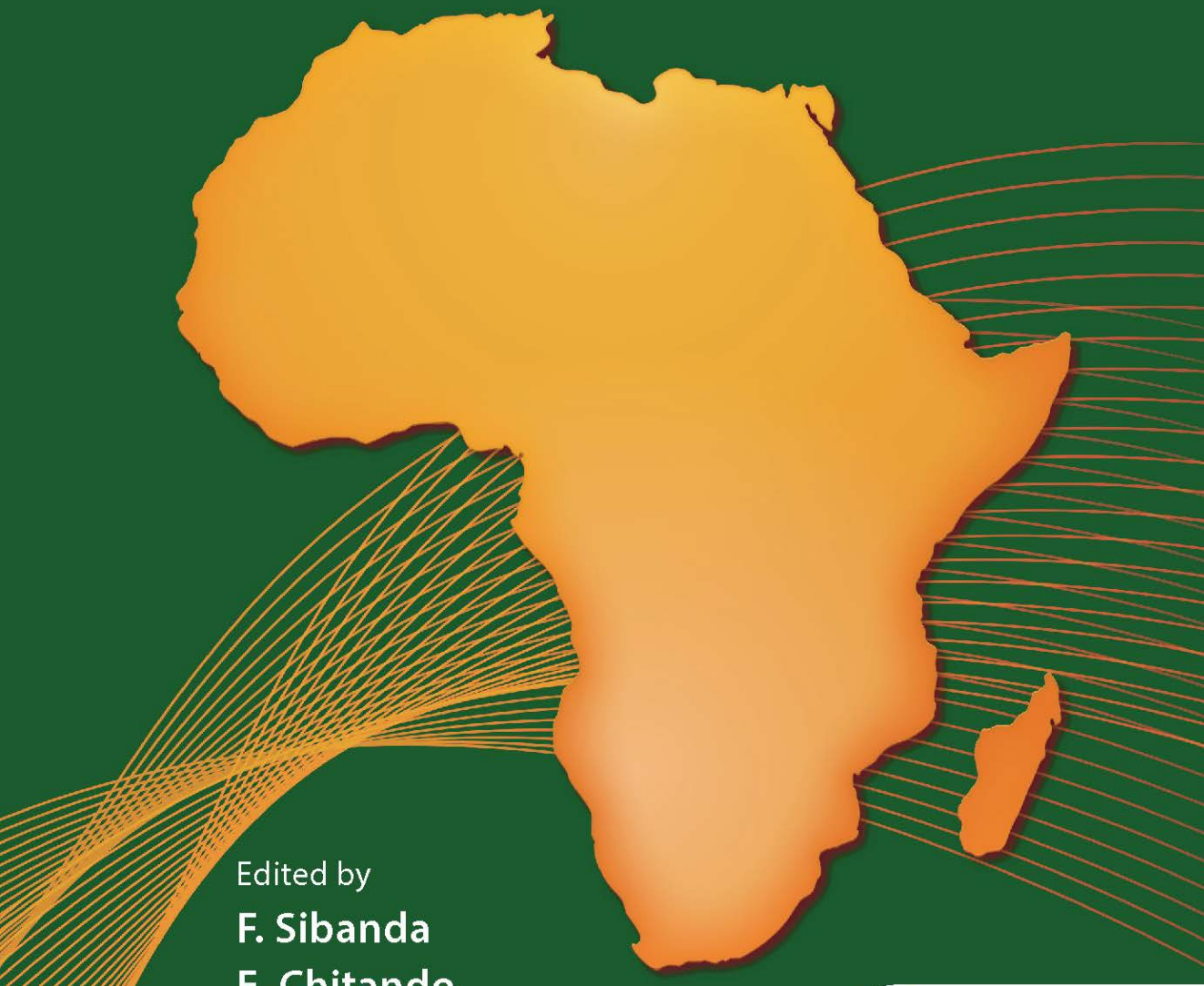

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17 Intersections of faith and law: Exploring religious responses to hate crime within the Ugandan legal framework

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INTRODUCTION

The research underlying this chapter addresses a critical and increasingly relevant area of study, as hate crimes motivated by religious beliefs continue to affect societies worldwide. This topic is attracting growing attention because of the complex interplay between religious freedom and hate crime legislation, highlighting the need for laws that both protect religious expression and prevent incitement to violence against marginalised groups.[2] This research is crucial for understanding the deficiencies in Uganda's legal framework and identifying necessary legislative reforms for leaders to use to foster a more harmonious society.

This chapter aims to investigate the reasons behind the challenges faced by religious actors in Uganda in preventing hate crimes. It critically examines existing laws, to assess their effectiveness in managing religiously motivated hate crimes. The analysis extends to the impact of legal gaps on the behaviour of religious communities and proposes specific amendments to enable religious and political leaders in these communities to play a constructive role in preventing hate crimes. The significance of this research lies in its ability to provide valuable insights into how Uganda's legal system interacts with religious communities in the context of hate crimes. The paper reveals important dynamics between legal provisions and religious responses, offering recommendations for amendments that can help religious actors actively combat hate crimes rather than inadvertently contributing to them. By highlighting the legal constraints faced by religious groups, the research emphasises the need for reforms that accommodate the complexities of religious expression while upholding the principles of equality and non-discrimination.

Key terminologies used in this paper include "hate crime," which refers to criminal acts motivated by bias against a person's race, religion, ethnicity or sexual orientation, and "religious responses," which denote actions taken by religious actors, often guided by doctrine, in reaction to societal issues, including crime.[3] The paper also defines "legislative amendment" as the process of altering existing laws to address identified shortcomings, particularly those affecting marginalised communities within the context of this paper. An "amendment'' is a legal change

1 Practicing Advocate and Member, East African Law Society's Rule of Law Committee.

2 Uganda Human Rights Commission Act (1997), Cap 26, s 7(1)(e).

3 U.K. Parliament, House of Commons Library. 2020. "Research Briefing: Hate Crime", 14 January.

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made by another law that can modify, repeal or add new provisions to existing legislation.[4] "Amending legislation" primarily modifies or changes existing legislation, which can range from altering a few words to replacing sections or repealing entire laws, and often includes "Amendment" or "Amending" in the title, although principal legislation can also amend other laws and may contain application, saving or transitional provisions, which prevent it from being classified solely as amending for automatic repeal purposes.[5]

The structure of the chapter is organised into five sections. The first section below sets the stage by outlining the research background, objectives and significance. The second section on the theoretical framework discusses relevant legal and religious theories for conceptualising hate crime. The third section analyses the scope and limitations of the current legislative framework and judicial approaches to hate crimes. The fourth section examines religious responses to hate crimes and challenges to and limitations of that response. Finally, chapter reviews existing calls for legislative reform and proposes specific amendments to Uganda's laws in order to create a balanced legal environment that respects religious diversity while effectively preventing hate crimes.

FRAMING RELIGIOUS RESPONSES TO HATE CRIME IN UGANDA LAW

Background and Context

Uganda's historical and socio-political environment provides a complex backdrop for examining religious responses to hate crimes, particularly those targeting individuals based on their religious beliefs. As a nation marked by predominantly Christian and Muslim religious diversity, along with indigenous religions and interfaith groups, Uganda has experienced a history of both coexistence and conflict between religious communities. This co-existence has increasingly been disrupted by polarisation and inter-religious tensions, often resulting in acts of hate and violence.

A significant case that underscores these tensions is *Martin Sempa and 2 Others v Hon Fox Odoi-Oywelowo and 21 Others,* where judicial decisions on religious conflicts sparked public outrage.[6] The case involved constitutional petitions challenging the Anti-Homosexuality Act (2023), in Uganda. Pastor Martin Sempa and others sought to join as respondents to defend the Act, citing traditional African values, family values and Christian faith perspectives. The petitions highlighted tensions between constitutional rights and societal values, particularly regarding LGBTQI+ issues. The court's decision to allow these parties to join underscored the complex interplay between legal principles, religious beliefs and cultural norms in Uganda's legal

4 Australian Government, Federal Register of Legislation. n.d. "Understanding Legislation: Glossary".

5 Australian Government, "Understanding Legislation".

6 *Martin Sempa and 2 Others v Hon. Fox Odoi-Oywelowo and 21 Others*; 2023 UGCC 109.

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system. This case exemplified how judicial decisions on sensitive social issues can spark public debate and potentially influence perceptions of justice in the country. The case highlighted the role of religious actors in either mitigating or inciting hate crimes and underscored the judiciary's challenge in balancing constitutional rights with societal values. The court's ruling demonstrated how legal outcomes can either bridge or deepen societal divides, influencing public perceptions of justice in Uganda's legal system.

The motivation for this analysis arises from the deficiencies in Uganda's legal framework in addressing hate crimes, particularly its engagement with religious communities. Uganda's constitutional and legal provisions guarantee equality and freedom from discrimination, asserting that all individuals are equal before the law without distinction based on religion or creed. However, the enforcement of these provisions has been inconsistent, often reflecting broader societal conflicts between religious and secular values. This context highlights the need for legislative reforms that clearly define hate crimes and enhance the capacity of religious communities to act constructively against them. By critically analysing existing legal gaps, this research aims to propose amendments that align Uganda's laws with national and international human rights standards, ensuring that religious actors can effectively prevent hate crimes without inciting them.

Research objectives and theoretical framework

The present research examines the impact of Uganda's legal framework on religious responses to hate crimes, focusing on how existing laws support or hinder these responses. It critically assesses the laws criminalising hate crimes and addressing concerns of diverse communities. The study aims to identify legal gaps contributing to the perception of religious groups as perpetrators or enablers of hate crimes, and explores challenges in prosecuting such offenses, particularly regarding the status of targeted groups as "non-state actors". By analysing the interplay between legal, religious and socio-political structures, the research seeks to propose legislative amendments that clarity hate crime definitions, strengthen protections for marginalised groups and empower religious actors to prevent rather than inadvertently incite hate crimes.

Specifically, the present research critically examines the concept of "hate crime" at the intersection of religion and law, evaluating existing theoretical approaches and proposing an alternative perspective tailored to Uganda's context. It challenges traditional theories, such as the just deserts theory and retributive preventative theory, which primarily focus on punishment as a response to wrongdoing. These theories often overlook the societal and emotional impacts of hate crimes, emphasising retribution or deterrence without addressing the broader harm inflicted on communities.[7]

7 Blum L. 2001. "Recognition and Multiculturalism in Education," *Journal of Philosophy of Education* 35(4):539–559.

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The just deserts theory, rooted in moral philosophy, emphasises the notion that offenders deserve punishment proportionate to their crimes. However, this approach tends to focus narrowly on the punitive aspect, failing to consider the wider social implications of hate crimes, such as the erosion of community trust and the stigmatisation of marginalised groups. Similarly, the retributive preventative theory aims to deter future offences but often neglects the significant emotional and psychological damage hate crimes inflict on victims and their communities.

This paper proposes an alternative approach centred on "recognition quotas", which advocate for acknowledging the specific harm caused by hate crimes to both individuals and communities. Recognition quotas emphasise the need for societal recognition of diverse identities and values affected by such crimes, moving beyond the limitations of punitive measures. This framework integrates sociological, psychological and emotional dimensions into legal responses, with the aim of fostering more holistic and inclusive approaches to combating hate crimes.[8]

CONCEPTUALISING HATE CRIME: LEGAL AND RELIGIOUS PERSPECTIVES

Legal theories of hate crime

The conceptualisation of hate crime is multifaceted and has evolved significantly over time. Early theoretical frameworks, such as the one proposed in 1948 by Ashley Montagu, a cultural anthropologist, laid the foundational understanding of hate crime as a phenomenon deeply intertwined with identity and power dynamics, impacting both individual victims and their broader communities.[9] This is further supported by educational frameworks of recognition and multiculturalism, which emphasise the importance of recognising diverse identities and integrating multicultural principles into societal norms to mitigate prejudice.[10] Hate crime is recognised as a hybrid legal concept, encompassing elements of criminal law, human rights and social harm, and carrying significant regulatory implications in criminal law.

In the context of Ugandan law, attention to hate crimes involves analysing how legal frameworks address crimes motivated by biases against specific groups, including religious communities. The Penal Code Act, for example, criminalises acts that incite violence or promote hatred on religious grounds.[11] However, the absence of specific provisions categorising hate crimes as distinct offenses underscores the need for legal reforms. The Macpherson Report, a landmark investigation in the U.K., defined

8 Adams CM. 2022. "Moral Education and Good Citizenship: The Teaching of LGBTIQphobia in Ugandan Schools," proceedings of the XVI Congress of the Asociación Española de Ciencia Política y de la Administración (AECPA), 8 September.

9 Montagu A. 1997. *Man's Most Dangerous Myth: The Fallacy of Race.* Lanham, MD: AltaMira Press.

10 Blum, "Recognition and Multiculturalism in Education".

11 Penal Code Act, Cap 128, ss 47, 79.

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a racist incident as any incident perceived to be racist by the victim or any other person, underscoring the subjective nature of hate crime perception.[12] However, using such a broad definition could reduce hate crimes to occurrences rather than severe offences that undermine society norms and deserve judicial consequence.

Crimes, including hate crimes, are deliberate acts that harm societal order and are subject to legal sanctions under criminal law principles.[13] Hate crimes, as an offence, threatens social cohesiveness and challenge the legal system's duty to protect all citizens. Religious organisations shape social views and promote tolerance, therefore combating hate crime in Uganda demands a balanced approach. Uganda should strengthen its legal framework, address hate crimes, and protect all individuals regardless of religion or social background by amending its laws.

Intersection of law and religion

The intersection of law and religion in Uganda presents a complex landscape where legal frameworks are deeply intertwined with religious influences. This dynamic significantly impacts how hate crimes are addressed, particularly those with religious motivations. Religious institutions pebawield substantial social and moral authority, shaping public attitudes and influencing legal interpretations of hate crimes. However, this influence often blurs the boundaries between the protection of religious freedom and the protection of legal accountability, creating tensions within Uganda's legal system.

Ugandan law struggles to combine religious freedom with hate crime prevention. The Anti-Homosexuality Act (2023) exemplifies this intersection, as it not only criminalised same-sex relations but also restricted freedoms of expression, assembly and association, exacerbating hate crimes against LGBTQI+ individuals.[14] International human rights frameworks, such as the African Charter on Human and Peoples Rights, emphasise the importance of protecting individuals from discrimination and ensuring redress through comprehensive legal measures.[15] The African Charter mandates states to promote respect for rights through education, underscoring the duty of religious leaders to align their teachings with human rights principles. However, Ugandan religious ideologies sometimes contradict these ideas, dividing society and making hate crime prevention harder. These churches, often positioned against LGBTQI+ rights, utilise religious sensitivity and

12 U.K. Parliament, "Hate Speech".

13 *R v Rogers*; [2007] UKHL 8, [2007] 2 AC 62.

14 Anti-Homosexuality Act (2023). The bill was passed by the Ugandan Parliament on 21 March 2023, signed President Yoweri Museveni into law on 26 May 2023 and came into effect on 30 May 2023. An earlier Anti-Homosexuality Act (2014), as noted below, was annulled. But the 2023 act is currently in force and has been upheld by Uganda's Constitutional Court as of 3 April 2024, with some minor modifications.

15 African Charter on Human and Peoples' Rights, June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct 21, 1986, art 25.

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traditional values to justify their stance, further entangling legal responses with religious rhetoric.[16]

The interaction of law and religion in Uganda demands a sophisticated approach that acknowledges religious actors' influence while upholding legal principles. Clarifying religious views from legal duties through legislative modifications creates a more balanced and equitable legal environment. Uganda should better manage the complicated relationship between law and religion by aligning legal frameworks with constitutional values and international human rights standards, protecting all citizens from hate crimes.

Religious perspectives on hate crime

The influence of religion on the dynamics of hate crimes in Uganda is complex and multifaceted. Religious communities are not merely passive victims of hate crimes; they actively shape societal norms and legal responses to such crimes. The Anti-Homosexuality Act (2023) serves as a stark example of how religious ideologies can be codified into law, reinforcing discrimination against marginalised groups. Section 13 of the Act criminalises the promotion of homosexuality, reflecting how religious beliefs can shape legal norms and amplify hate crimes against sexual minorities.[17]

Recent legislation, such as the Anti-Homosexuality Act (2023), further compounds these challenges by imposing severe penalties on individuals seen as promoting same-sex relationships, creating a hostile environment for religious leaders who may fear legal repercussions for engaging with LGBTQI+ individuals.[18] This law complicates religious leaders' roles and limits proactive hate crime prevention against marginalised communities. The African Commission on Human and Peoples Rights emphasises that nations must protect people from discriminatory acts that harm dignity, including religious-based hate crimes, underlining the necessity for a legislative framework that promotes tolerance across varied communities.

Catholic teachings illustrate how religious doctrines can perpetuate hate by embedding emotional revulsion rather than rational arguments against homosexual acts. According to Michael Lawler, a theologian, and Todd Salzman, an ethicist, this emotional revulsion is socially learned and religiously reinforced, often

16 Palecek M and Tazlar T. 2021. "The Limiting of the Impact of Proxy Culture Wars by Religious Sensitivity: The Fight of Neo-Pentecostal Churches against LGBTQ Rights Organizations over Uganda's Future", *Religions* 12(9): 707ff.

17 Anti-Homosexuality Act (2014), Cap117, s 13. The 2014 act was passed by the Ugandan parliament in 2013 and signed into law in February 2014. However, it was annulled by the Constitutional Court of Uganda in August 2014 on procedural grounds, specifically that it was passed without the proper quorum in parliament. The 2014 act was therefore short-lived and not in effect for long.

18 Anti-Homosexuality Act (2023), s 11.

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legitimising discrimination and inciting hate crimes against LGBTQ+ individuals.[19] The complexity of this relationship extends beyond a simplistic secular approach, calling for a "multiculturalised secularism" where religious diversity is not just tolerated but actively accommodated within the public sphere. This approach recognises that religious observances are closely tied to individual dignity and identity, necessitating a governance model that respects religious diversity while maintaining public order.[20]

Religious communities in Uganda have played a role in both fostering mutual understanding and exacerbating societal tensions, particularly when religious doctrines are invoked in legal contexts. Judicial decisions, such as in the *Martin Sempa* case, illustrate how religious leaders have influenced legal proceedings by defending laws aligned with their religious and cultural beliefs.[21] The analysis of this chapter reveals that legal reforms are essential to explicitly address the complex interplay of religious influence, societal norms and the dynamics of hate crimes, ensuring that Uganda's laws promote tolerance and protect all citizens from discrimination.

LEGAL AND JUDICIAL FRAMEWORK ON HATE CRIMES IN UGANDA

The Constitution of Uganda, 1995, the Penal Code Act and judicial interpretations of these and other laws underpin Uganda's hate crime and religious response laws. The supreme legislation of Uganda is the Constitution of Uganda, 1995, which protects human rights and guides the state's hate crime prevention efforts. Despite these fundamental safeguards, the legal framework for hate crimes, especially religious ones, is lacking.

Constitutional provisions

The Constitution of Uganda, 1995, establishes critical legal principles concerning hate crimes, particularly through its commitment to non-discrimination and the protection of fundamental rights. Article 21 prohibits discrimination on grounds including religion, creed, and social standing, laying the constitutional groundwork against hate-motivated offenses.[22] Article 29 guarantees freedom of thought, conscience and religion, balancing these freedoms with the state's duty to uphold public order and prevent harm.[23] However, this balance poses challenges, especially

19 Lawler MG and Salzman TA. 2022. "Catholic Arguments against Homosexual Acts and Relationships: Emotional Revulsion or Rational Argument?", *Sexes* 3(4):567-574.

20 Modood T and Sealy T. 2021. "Freedom of Religion and the Accommodation of Religious Diversity: Multiculturalising Secularism", *Religions* 12(10):868.

21 *Martin Sempa and 2 Others v Hon. Fox Odoi-Oywelowo and 21 Others.*

22 Constitution of the Republic of Uganda, 1995, art 21.

23 Constitution of the Republic of Uganda, 1995, art 29(1)(c).

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when religious freedoms clash with other protected rights, such as equality and non-discrimination.[24]

A significant legal tension exists between protecting freedom of speech and curbing hate crimes, as demonstrated in the case of *Charles Onyango Obbo and Anor v Attorney General,* in which involved journalist and author Obbo and another party challenged the constitutionality of certain sections of the Penal Code in Uganda, which they argued infringed on freedom of expression.[25] In that case, the Supreme Court of Uganda ruled that Section 50 of the Penal Code, which criminalised the publication of false news, was inconsistent with Article 29(1)(a) of the Ugandan Constitution, which guarantees freedom of expression, including freedom of the press. The court underscored that laws restricting speech must be justifiable in a free and democratic society, highlighting the need for nuanced legislation that addresses hate crimes while respecting constitutional rights.

This constitutional framework also emphasises the necessity of public participation in legislative processes, as underscored in the case of *Hon Fox Odoi-Oywelowo & Others v Attorney General & Others*.[26] The case involved Ugandan advocate and legislator Fox Odoi, a fomer senior legal counsel to President Yoweri Museveni, and 21 other petitioners who challenged the Ugandan government's actions in promulgating the Anti-Homosexuality Act (2023), arguing that these actions violated constitutional provisions related to the separation of powers and the right to fair administrative action. The court stressed that amendments affecting fundamental rights require broad public consultation to ensure that laws reflect societal values and do not perpetuate discrimination. This oversight in public engagement not only contravenes constitutional mandates but also undermines the legitimacy of laws intended to protect against hate crimes, necessitating procedural reforms in Uganda's legislative processes.[27]

Despite constitutional protections, these concepts are inconsistently applied. Despite the lack of statutory hate crime definitions, courts have sometimes imposed higher punishments in hate crime related case situations where prejudiced motivation is obvious. This highlights the need for explicit legal reforms that would better define and penalise hate-motivated violence, particularly those involving religious motivations.[28] The Constitution of Uganda, 1995, offers a foundational legal framework for hate crimes, but substantial legislative revisions are needed. These reforms should clarify hate crimes, strengthen anti-discrimination laws and balance legal responses with religious freedoms to achieve social safety and equality.

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24 Constitution of the Republic of Uganda, 1995, arts 21 and 29; Human Rights (Enforcement) Act (2019), Cap12, s 4.

25 *Charles Onyango Obbo and Anor v Attorney General*; 2004 UGSC 1.

26 *Hon. Fox Odoi & 21 Others v Attorney General & 3 Others*; 2024 UGCC 10.

27 *Hon. Fox Odoi & 21 Others v Attorney General & 3 Others.*

28 Penal Code Act, Cap 128, ss 41, 83, 84; *Martin Sempa and 2 Others v Hon. Fox Odoi-Oywelowo and 21 Others*.

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Relevant legislation

Uganda's legal framework for the treatment of hate crimes is primarily governed by the Penal Code Act and the Anti-Homosexuality Act (2023). The Penal Code Act criminalises incitement to violence and the promotion of hostility based on religion, ethnicity, and other grounds, although it does not explicitly define hate crimes as a separate category of offence. Specifically, Section 79 criminalises incitement to violence, stipulating penalties for actions that provoke hatred or hostility among groups based on race, origin, or creed, with potential imprisonment of up to fourteen years.[29] Additionally, Section 47 addresses sectarianism, targeting actions likely to incite hostility or degrade individuals based on religion, tribe or ethnicity, further emphasising the law's focus on maintaining public order rather than directly tackling hate-motivated crimes.[30]

Uganda's legal frameworks, including the Penal Code Act, often reflect religious values, demonstrating the embedded nature of religious ideology within the country's laws. This contrasts with more secular approaches, such as those in the United Kingdom, where the separation of church and state is more clearly defined.[31] In Uganda, the lack of such separation allows religious institutions to significantly influence legal and policy outcomes, impacting the implementation and perception of hate crime laws.[32]

The Anti-Homosexuality Act (2023), further complicates the legal landscape by criminalising acts related to same-sex relationships, such as the "promotion of homosexuality" and "aggravated homosexuality," with severe penalties, including life imprisonment or even death under certain conditions.[33] This Act has amplified challenges within religious communities, where some actors have been accused of inciting hate crimes against LGBTQI+ individuals, while others struggle to respond to hate crimes without violating the law.[34]

Uganda's laws don't explicitly define hate crime; thus judges have authority to apply higher sentences when bias or prejudice is obvious in offences. However, this legal method is inconsistent and does not protect against hate crimes. Comparative examples, such as the U.K.'s Equality Act, explicitly prohibit discrimination, harassment and victimisation based on protected characteristics, including religion or belief, offering a potential model for Uganda to develop clearer legislative definitions and protections against hate crime.[35] To create a more effective legal

29 Penal Code Act, s 79.

30 Penale Code Act, s 47.

31 Equality Act (2010) (United Kingdom), s 26.

32 *Kajubi v Uganda;* 2018 UGSC 74.

33 Anti-Homosexuality Act (2023), ss 11 and 3.

34 Jjuuko A and Mutesi F. 2018. "The Multifaceted Struggle against the Anti-Homosexuality Act in Uganda", in Jjuuko A et al (eds). *Envisioning Global LGBT Human Rights: (Neo)Colonialism, Neoliberalism, Resistance and Hope*. London: University of London Press, 269–306.

35 Equality Act (U.K.); Crime and Disorder Act (U.K.).

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response, it is essential for Uganda to consider legislative amendments that incorporate specific statutory protections against hate-motivated violence, aligning with international standards and addressing the complex socio-religious dynamics that influence the country's legal responses to hate crime.[36]

Limitations of the current legal and judicial framework

Uganda's legal framework currently lacks specific legislation targeting hate crimes, although provisions within the Penal Code Act, the Anti-Terrorism Act, and the Public Order Management Act may be used to prosecute bias-motivated offences. These laws focus primarily on maintaining public order and preventing incitement to violence, rather than specifically addressing hate crimes. This absence of explicit statutory recognition of hate motivation as an aggravating factor diminishes their effectiveness in confronting the societal harm posed by hate-motivated offenses.[37]

For instance, Section 79 of the Penal Code Act criminalises incitement to violence on grounds of race, origin, political opinions, colour, creed, sex or office, imposing penalties to deter such behaviour.[38] Additionally, Section 47 addresses the promotion of sectarianism, which includes any act likely to incite hostility among groups based on religion, tribe or ethnicity. The Anti-Terrorism Act similarly contains provisions aimed at countering sectarian violence deemed a threat to national security.[39] Despite these measures, the legislation does not directly categorise hate crimes, particularly those motivated by religion, ethnicity or sexual orientation, highlighting the need for specific reforms.

Ugandan courts have sometimes considered bias motivation an aggravating factor in sentencing, indicating that hate-motivated crimes require harsher sentences. However, Uganda's absence of defined hate crime and hate speech laws has led to inconsistent enforcement. In *Kajubi v Uganda*, Kajubi appealed a significant criminal conviction, citing procedural and substantive flaws. This case shows how cultural and religious biases influenced court reasoning, making it harder to apply law rules consistently. [40]

A comparative approach can be seen in Ireland's Hate Crime Bill, which explicitly defines hate crime and includes aggravating factors for sentencing. This model could inform necessary reforms in Uganda's legal framework, enhancing the judiciary's capacity to impose consistent and equitable outcomes in cases involving hate-motivated violence.[41] Hate crimes should be defined by statute, including religious, racial and gender biases. Such revisions would harmonise

36 Public Order Management Act (2013), Cap 326, s 5.

37 Penal Code Act, Cap 128, s 47; Anti-Terrorism Act (2002), Cap 120, s 8; Public Order Management Act (2013), Cap 326, s 5.

38 Penal Code Act Cap, 128, s 79.

39 Anti-Terrorism Act (2002), Cap 120, s 9.

40 *Kajubi v Uganda*.

41 Criminal Justice (Hate Crime) Bill 2020, Bill No. 52 of 2020 (Ireland).

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Uganda's legislative framework with international human rights norms, making hate crimes prosecution and vulnerable group protection explicit. While Uganda has certain laws against hate-motivated violence, the lack of comprehensive hate crime laws leaves loopholes. Uganda's legal system needs focused reforms that expressly acknowledge hate crimes and establish clear standards for prosecution and sentencing to better address these issues and ensure a more effective and just response.

RELIGIOUS RESPONSES TO HATE CRIMES

The religious responses to hate crimes in Uganda are complex and often shaped by the interplay between religious doctrines, societal norms and the legal framework. Religious leaders influence societal opinions and behaviours, yet their influence can mitigate or contribute to hate crime. Religious institutions can promote peace and tolerance, but contradictory religious teachings, cultural pressures and inadequate legal assistance have hampered their hate crime responses.

Religion can play a crucial role in preventing hate crimes by providing moral guidance and promoting community cohesion. However, in Uganda, the intertwining of religious institutions with state functions, such as the education system, often perpetuates discriminatory practices. For example, the promotion of moral education aligned with specific religious values has contributed to the propagation of LGBTQI+ phobia in schools, highlighting how religious teachings can shape both societal norms and the legal landscape surrounding hate crimes.[42]

Historically, the relationship between religion and hate crime in Uganda has been fraught with challenges. During the colonial era, religious identity was manipulated to serve political ends, with Christianity often receiving legal protection at the expense of other religious groups.[43] This legacy of preferential treatment has contributed to the current environment, where religious leaders are sometimes seen as inciting hate rather than preventing it.

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42 Penal Code Act, Cap 128, s 134(a) and 135. Section 134(a) states that any person who "has carnal knowledge of any person against the order of nature'' commits a felony under Section 135 and is liable, on conviction, to imprisonment for a term of seven years. But the term order of nature is not defined, leaving a big gap for interpretation. In particular, the "order of nature" is a vague and subjective term that has been defined by legal, religious and cultural perspectives, rather than objective scientific reasoning. Many religious traditions, particularly Christianity and Islam, have played a role in shaping the definition of "natural" sexual behaviour, often limiting it to heterosexual, reproductive intercourse. African cultural perspectives view heterosexual relationships as the "natural" order and see non-heteronormative behaviour as foreign or immoral. Courts and lawmakers interpret the "order of nature" based on existing legal frameworks, often influenced by religious and societal norms rather than modern human rights principles. Though still not defined in the Anti-Homosexuality Act (2023), the Act further reinforces a legal definition aligned with conservative religious and cultural views.

43 Sinclair D and Sinatti G. 2022. "Re-thinking Protection for LGBTI Refugees in Kampala, Uganda: A Relational, Trust-Based Approach", *Refugee Survey Quarterly* 41(1):26-51.

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The Ugandan legal framework, indirectly influences religious responses to hate crime by regulating public assemblies, including those organised by religious groups.[44] This law requires religious leaders to prevent violence at their events, balancing public order and religious expression. However, the absence of explicit legal provisions supporting religious leaders in their efforts to combat hate crime has often left them navigating a complex and restrictive environment.[45]

Religious actors have at times exacerbated hate crime dynamics, particularly in cases involving marginalised groups such as LGBTQI+ individuals. Support for laws like the Anti-Homosexuality Act (2023) has created a climate of hostility and fear, where religious doctrines are used to justify discrimination and incitement against minority groups.[46] This involvement of religious actors illustrates the complexities of aligning religious teachings with broader human rights standards.

In 2023, Uganda faced challenges to religious harmony, as evidenced by reports of attacks on mosques in central regions, raising concerns about religious intolerance.[47] These incidents occurred against a backdrop of ongoing issues, including discrimination against Muslims in education policies and admission processes at some elite Christian schools, as reported by the Uganda Muslim Supreme Council.[48] In response to these tensions, the Interreligious Council of Uganda has taken proactive steps, convening interfaith sessions to promote tolerance, dialogue and peaceful coexistence among various religious groups.[49] The religious landscape in Uganda has been further complicated by the controversial Anti-Homosexuality Act (2023), with some religious leaders breaking ranks to speak out against the legislation and advocate for more inclusive approaches, highlighting the complex interplay between religion, politics and social issues in the country.[50]

Overall, the effectiveness of religious responses to hate crime in Uganda is hindered by the lack of a supportive legal framework, internal doctrinal conflicts and the

44 Public Order Management Act (2013), Cap 326, s 5.

45 Uganda Human Rights Commission Act (1997), Cap 26s 7(1)(e).

46 Anti-Homosexuality Act (2023).

47 United States Department of State, Office of International Religious Freedom. 2023. "Uganda", *2023 International Religious Freedom Report*. Washington, DC: U.S. State Department.

48 United States Department of State, Office of International Religious Freedom. 2022. "Uganda", *2022 International Religious Freedom Report*. Washington, DC: U.S. State Department.

49 U.S. State Department "Uganda", *2023 IRFR*.

50 Sanderson E. 2023. "The Unholy Relationship Between Uganda's Anti-LGBTQ+ Law and US Evangelicalism", *Global Affairs*, 8 June. See also Archbishop of Canterbury. 2023. "Archbishop of Canterbury's Statement on the Church of Uganda," 9 June. Justin Welby, the Archbishop of Canterbury, wrote to the Primate and Archbishop of Uganda, Stephen Kaziimba, on 9 June 2023, expressing "grief and dismay at the Church of Uganda's support for the Anti-Homosexuality Act." Welby emphasized that despite disagreements within the Anglican Communion over matters of sexuality, Anglicans had a long-established position against the criminalization of homosexuality.

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broader socio-political context.[51] Addressing these challenges requires a holistic approach that integrates legal reforms, interfaith dialogue and public sensitisation to align religious practices with the principles of equality and non-discrimination.[52] Only by bridging the gap between religious teachings and legal obligations can religious leaders play a constructive role in preventing hate crime and fostering a more inclusive society.

Current religious practices regarding hate crimes

This section examines the responses of religious entities in Uganda, both at national and sub-national levels, particularly in Kampala, to hate crimes motivated by prejudice against religious identity or belief, especially those targeting Christian victims and involving issues such as sexual orientation. A notable example is the Catholic Church's stance against homosexuality, which illustrates how religious teachings contribute to stigmatisation of LGBTQI+ individuals. According to Lawler and Salzman, this position is less about rational theological arguments and more about an ingrained emotional revulsion perpetuated within religious settings. This emotional revulsion shapes the Church's response to LGBTQI+ issues, often manifesting as moral disapproval that influences broader societal attitudes and responses.[53]

The visibility of hate impulses affects religious reactions, broadening religious and legal analysis. This comparison emphasises the need for Ugandan religious communities to recognise the broader sociopolitical triggers of hate crimes, enhancing their preventive strategies by addressing the external influences that shape public attitudes and behaviours toward different groups.[54] Religious impact is seen in moral education programs in religious schools and state-operated schools that promote heteronormativity and stigmatise minority identities. These teachings contribute to an environment that not only fails to protect vulnerable groups but often incites hate against them, as seen in the systemic teaching of LGBTQI+ phobia in Ugandan schools.[55] Religious actors should reconsider their role in sustaining inequality and examine ways to adapt their teachings to support inclusive and non-discriminatory principles. Religious responses to hate crimes are further complicated by the complex interplay between legal and doctrinal imperatives. For instance, the Anti-Homosexuality Act (2023) supported by some religious leaders,

51 Constitution of the Republic of Uganda, 1995, art 21.

52 African Commission on Human and Peoples' Rights. 2017. General Comment No. 4 on the Right to Freedom of Religion, 2017.

53 Lawler and Salzman, "Catholic Arguments against Homosexual Acts and Relationships".

54 Jacobs L and Van Spanje J. 2021. "A time-series analysis of contextual-level effects on hate crime in the Netherlands", *Social Forces* 100(1):169-193.

55 Adams, "Moral Education and Good Citizenship".

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has fostered a climate of hostility towards LGBTQI+ individuals, illustrating how legal measures can exacerbate societal divisions rather than alleviate them.[56]

The analysis shows that religious communities both mitigate and exacerbate hate crimes. Some religious leaders promote communal cohesion and morality, whereas others promote discriminatory practices that hurt society. Religious institutions must match their spiritual mandates with legal norms to combat hate crimes and promote inclusivity in Uganda.

Challenges and limitations of the religious leaders' response

Religious reactions to hate crimes in Uganda must be examined in light of both internal limits and external legal frameworks. Religious leaders and followers often dispute on the definition and meaning of hate crimes. Determining a cohesive response to hate crimes is difficult, especially when laws like the Anti-Homosexuality Act (2023) criminalise same-sex relations and homosexuality-promoting activities, inciting violence against marginalised groups. This Act contradicts religious teachings on compassion and forgiveness, resulting in inconsistent interpretations of what constitutes an appropriate religious response and the methods of implementation.[57]

The Anti-Homosexuality Acts of 2014 and 2023 reflect a complex interplay between religious doctrines, cultural beliefs and human rights standards. Section 13 of the 2014 Act and Section 11 of the 2023 Act align with conservative religious teachings that condemn homosexuality. For instance, the text of the Bible Leviticus 20:13 states, "If a man has sexual relations with a male as one does with a woman, both of them have done what is detestable. They are to be put to death." Similarly, the Quran condemns homosexual acts in the story of Lut (Lot): "Indeed, you approach men with desire, instead of women. Rather, you are a transgressing people".[58] Ugandan indigenous perspectives emphasise procreation and family lineage, implicitly supporting heterosexual unions and viewing homosexuality as unnatural. However, these laws contradict religious teachings on compassion and forgiveness, leading to inconsistent interpretations of appropriate religious responses. The Penal Code Act's sections on incitement to violence (79) and sectarianism (38) further complicate this landscape, often placing religious actors in a challenging position between upholding beliefs and complying with statutory obligations.

The legal landscape further complicates the efforts of religious leaders. Precedents, such as the *Charles Onyango Obbo's case*, highlight the tension between criminalising harmful speech and protecting freedom of expression within a democratic society. The judiciary's struggle to balance these concerns directly impacts religious leaders'

56 Jjuuko and Mutesi, "The Multifaceted Struggle against the Anti-Homosexuality Act in Uganda".

57 Anti-Homosexuality Act (2023); Lawler and Salzman, "Catholic Arguments against Homosexual Acts and Relationships".

58 Quran 7:80-81.

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ability to navigate their responsibilities without overstepping legal boundaries.[59] Additionally, religious leaders often grapple with aligning their spiritual obligations with statutory duties imposed by state laws, such as those found in the Anti-Homosexuality Act (2023), which complicates advocacy against hate without the perception of endorsing discrimination.[60] Furthermore, the legal framework in Uganda is marred by procedural inconsistencies that undermine the enforcement of laws designed to prevent hate crimes.[61]

Socio-legal variables, such as colonial-era regulations that form moral and legal norms that contrast with modern human rights ideals, further limit religious responses. These outdated laws perpetuate religious views that often contradict inclusive anti-discriminatory standards, complicating the efforts of religious institutions to combat hate crimes in a unified and consistent manner.[62] Religious leaders fighting hate crimes have a major difficulty when religious ethics and laws conflict. Uganda needs clearer laws that correspond with religious and legal norms to address hate crimes more cohesively.

Case studies

Religious beliefs and statutory law shape Uganda's legal system, resulting in complex judicial decisions that reflect cultural biases. *Kajubi v Uganda*, for instance, required the Supreme Court to combine legal principles with religious and social standards. The court's understanding of the defendant's reasons showed how religious and cultural considerations can alter legal interpretations, emphasising the need for more clear hate crime classifications in Uganda. This case illustrates the judiciary's struggle to clearly define hate-motivated offenses when societal and religious influences play a significant role in shaping legal decisions.[63]

The Ugandan judiciary protected constitutional freedoms against overreaching legislation in *Mwenda and Another v Attorney General*.[64] In this case, Mwenda and another party argued that the Ugandan government infringed individual rights and freedoms constitutional requirements. The court's decision to eliminate provisions of the Penal Code Act that criminalised certain expressions as seditious underscored the commitment of the judiciary to protecting freedom of speech, especially when such laws conflict with constitutional rights. This ruling is particularly relevant to the religious sector, highlighting the need for clear legislative boundaries that safeguard fundamental rights while preventing incitement to hate crimes.

59 *Charles Onyango Obbo and Anor v Attorney General.*

60 Anti-Homosexuality Act (2023), ss 2, 3.

61 *Hon. Fox Odoi & 21 Others v Attorney General & 3 Others.*

62 Arimoro AE. 2021. "Interrogating the criminalisation of same-sex sexual activity: A study of Commonwealth Africa," *Liverpool Law Review* 42:379-399.

63 *Kajubi v Uganda.*

64 *Andrew Mujuni Mwenda & The East African Media Institute (U) Ltd v. Attorney General*, Consolidated Constitutional Petitions Numbers 12 of 2005 and 3 of 2006 (Constitutional Court of Uganda, June 25, 2010).

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Together, these case studies show Uganda's legislative gaps that allow religious influences to determine hate crime responses. They emphasise the need for legislative revisions to define and protect hate crimes so religious leaders can work together to fight them without discrimination. The proposed reforms aim to align Uganda's legal system with international human rights standards, ensuring a balanced approach that respects both religious freedom and the need for public safety.[65]

Comparative analysis

Legal frameworks in the United States and Europe provide multiple avenues for religious groups to respond to hate crimes, including civil non-discrimination claims, criminal charges through state mechanisms, and influential public statements that shape both legal and societal norms. For instance, the Netherlands has implemented a comprehensive data collection approach to hate crimes, significantly enhancing the understanding of hate crime dynamics and the impact of contextual factors such as media coverage and political rhetoric on the occurrence of hate-related offences. This approach allows for a nuanced analysis of how external events, such as terrorist attacks or high-profile anti-immigration rhetoric, can act as catalysts for hate crimes.[66]

Uganda does not have a similar structure to monitor and study hate crime patterns, which hinders legal and community responses to hate speech and related behaviours. By adopting similar data-driven approaches, Uganda could enhance its legal and community responses, allowing for a more evidence-based strategy to mitigate the effects of hate speech and prevent hate crimes.[67] The lack of hate crime legislation in Uganda and the influence of religious ideology on state laws make it difficult for religious groups to fight hate crimes. Existing legal provisions, such as those in the Penal Code Act and the Public Order Management Act, only indirectly address hate crimes, often focusing more on maintaining public order than specifically tackling hate-motivated offenses.[68] This gap underscores the need for explicit legislation that directly addresses hate crimes, particularly those driven by religious beliefs, to provide a clearer legal basis for holding perpetrators accountable and protecting vulnerable communities.[69]

Comparative analysis shows that Uganda could learn from the United States and Europe by clarifying hate crimes, incorporating data collection and encouraging religious communities to fight hate-motivated violence. Such changes would not only enhance the legal response but also empower religious actors to fulfil their

65 Constitution of the Republic of Uganda, 1995, art 29(1)(c).

66 Jacobs and van Spanje", A time-series analysis of contextual-level effects on hate crime in the Netherlands".

67 Sinclair and Sinatti, "Re-thinking Protection for LGBTI Refugees in Kampala, Uganda".

68 Penal Code Act, Cap 128, ss 38,47, 79; Public Order Management Act (2013), Cap 326.

69 Anti-Homosexuality Act (2023), ss 11 and 3.

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potential role in preventing hate crimes, thereby contributing to a more inclusive and peaceful society.[70]

PROPOSED AMENDMENTS AND LEGISLATIVE REFORM ON HATE CRIMES IN UGANDA

Integrating religious perspectives into Uganda's legal responses to hate crimes presents both challenges and opportunities. Although religious institutions have the potential to contribute positively to preventing hate crimes, their influence must be balanced with broader principles of human rights. Legislative reforms that incorporate recognition of diverse identities and address the unique impacts of hate crimes are essential to foster a more inclusive and effective legal framework. This approach will not only enhance legal responses, but also empower religious actors to actively engage in combating hate crimes without inadvertently perpetuating discrimination.

The proposed legislative revisions must integrate international norms with religious freedoms and public order to strengthen and culturally sensitively respond to hate crimes in Uganda. This case, based on *R (Williamson and ors) v Secretary of State for Education and Employment*, involved Williamson and others challenging the UK Secretary of State for Education and Employment, arguing that the ban on corporal punishment in schools violated their religious beliefs.[71] These modifications underline that religious freedoms must match with human dignity and democratic norms, establishing a balanced framework that protects against hate crimes without violating basic rights.

Current legislation fails to protect vulnerable populations like LGBTQI+ individuals, who are regularly excluded without legal recourse. Creating a formal definition of hate crime that includes religious, racial, gender and sexual orientation elements is crucial. This change will ensure a more comprehensive and inclusive legal framework, offering protection for all marginalised groups in Uganda.[72] Proposed legislative amendments must address these dynamics, balancing individual rights protection with respect for Uganda's socio-religious landscape.[73] The Anti-Homosexuality Act (2023) shows how laws can be twisted to legitimise discrimination and violence under cultural or religious principles. Reforms are needed to address hate crimes and reinforce Uganda's national security strategy against domestic and foreign terrorism. Amending current laws to enhance

70 Uganda Human Rights Commission. 2023. "The 26th Annual Report on the State of Human Rights and Freedoms in Uganda". Kampala: UHRC.

71 *R (Williamson) v Secretary of State for Education and Employment*; 2005 UKHL 15.

72 Sinclair and Sinatti, "Re-thinking Protection for LGBTI Refugees in Kampala, Uganda".

73 Palecek and Tazlar, "The Limiting of the Impact of Proxy Culture Wars by Religious Sensitivity".

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data collection on hate crimes will facilitate a more informed and effective legal response.[74]

Rationale for change

Uganda's current legal framework for addressing hate crimes is primarily influenced by regional and international legal standards, such as the International Covenant on Civil and Political Rights (ICCPR), which obliges states to prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.[75] Despite these obligations, existing Ugandan laws lack comprehensive provisions to adequately address hate crimes, particularly those motivated by religious factors.[76] Foreign conservative views often shape local religious lobbying, complicating efforts to combat hate crimes. The existing legal framework fails to fully address the nuances of these religious influences, making legislative reform critical to align Uganda's laws with international human rights standards.[77]

Ugandan legislation like the Anti-Homosexuality Act (2023) reinforces biases against sexual minorities and the misuse of legal powers to silence dissenting perspectives. Legislative amendments are necessary to address not only the direct criminal acts associated with hate crimes but also the broader socio-political impacts, ensuring that Uganda's legal framework promotes justice, accountability and societal harmony in accordance with its constitutional and international obligations.[78] By incorporating restorative justice principles, the legal reforms aim to create a more inclusive and constructive environment for addressing hate crimes, one that respects both legal accountability and the socio-religious dynamics of Uganda.[79] Overall, Uganda's legal framework needs urgent reform to address the complex convergence of law, religion and hate crime. Legal reforms should enable religious actors to prevent hate crimes and ensure that legal norms are clear, inclusive and consistent with human rights.

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74 Jjuuko and Mutesi, "The Multifaceted Struggle against the Anti-Homosexuality Act in Uganda".

75 International Covenant on Civil and Political Rights, Dec 16, 1966, 999 U.N.T.S. 171, entered into force Mar 23, 1976, Article 20(2).

76 *Charles Onyango Obbo and Anor v Attorney General.*

77 International Covenant on Civil and Political Rights, Dec 16, 1966, 999 U.N.T.S. 171, entered into force Mar 23, 1976, art 18 (establishing the right to freedom of thought, conscience, and religion).

78 Anti-Homosexuality Act, 2014, ss 2 and 3.

79 Republic of Uganda, Justice, Law and Order Sector (JLOS). 2016. Uganda Transitional Justice Policy.

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Key amendments

To effectively address the limitations within Uganda's current legal framework regarding hate-motivated offences, targeted legislative amendments are necessary. These amendments should enhance protections against hate crimes, particularly those driven by religious, ethnic and gender biases. Drawing on comparative legislation, such as the "Hate Crime Bill" from Ireland, which provides a comprehensive approach to categorising and penalising hate crimes, including those aggravated by religious prejudice, similar provisions could significantly strengthen Uganda's legal response to hate crimes.[80] For example, the African Charter on Human and Peoples' Rights emphasises the need for legislative measures that give effect to the rights, duties and freedoms recognised within the Charter. Aligning Uganda's domestic laws with these international standards would better protect individuals from hate crimes and reinforce the country's legal stance against discrimination.[81]

The introduction of a statutory definition of hate crime that explicitly includes religious, ethnic and gender dimensions is crucial. This definition should conform to international standards, such as those set out in the United Nations International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which stresses the importance of safeguarding against discrimination based on race and related characteristics.[82] The definition should also reflect Uganda's societal context, drawing from jurisdictions like Ireland, where hate crime legislation includes specific protections based on race, religion, ethnicity and gender.[83]

Amending the Ugandan Sentencing Guidelines for Courts of Judicature to require affected community leaders, including religious authorities, to consult before imposing higher punishments is advised. Restorative justice ideas in Uganda's judiciary should support a national healing and rehabilitation agenda. This policy would promote mediation for offenders and affected communities, encouraging reconciliation and healing in relation to hate crime. This approach is consistent with the principles outlined in the African Charter, which emphasise the broader societal impacts of hate crimes beyond immediate legal consequences.[84]

Incorporating a definition of hate crime within Uganda's Criminal Procedure Act would significantly reinforce public order.[85] Inspired by other common law nations, this concept should consider hate-motivated offences as public concerns since they might destroy social cohesiveness. For example, the Irish Hate Crime

80 Criminal Justice (Hate Crime) Bill 2020, Bill No. 52 of 2020 (Ireland).

81 African Charter on Human and Peoples' Rights, June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct 21, 1986, art 28.

82 International Convention on the Elimination of All Forms of Racial Discrimination, Dec 21, 1965, 660 U.N.T.S. 195, entered into force Jan 4, 1969, art 1.

83 Criminal Justice (Hate Crime) Bill 2020 (Ireland).

84 African Charter on Human and Peoples' Rights

85 Criminal Procedure Code Act (1950), Cap 122.

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Bill defines hate crime as an offense committed against a person or property where the individual is targeted due to attributes such as race, religion, ethnicity, gender, disability, sexual orientation or gender identity.[86] These proposed changes reinforce Uganda's hate crime law to promote effective, restorative and culturally relevant responses. By matching hate-crime laws with international norms and adopting community-sensitive strategies, Uganda can foster social cohesion and justice.

CONCLUSION

The research underlying this chapter broadens the socio-legal context within which hate crime in Uganda are situated by discussing the impact of culture, religion and the law on hate crime strategies. It exposes that although religious communities can aid in averting hate crime, laws like the Penal Code Act and the Anti-Homosexuality Act (2023) often act to their detriment. These laws not only have undermined the role of religious leaders in advocating for tolerance and diversity, but in some cases have legitimised discrimination of the vulnerable groups. The dilemma in which religious persons find themselves lies in the contradiction between religious beliefs and the laws of the state which further threaten social cohesion. The findings justify drafting legislative changes that are in harmony with the provisions of the Constitution of Uganda, 1995, on equality and non-discrimination. Such amendments should specify hate crime as an independent offence and to guarantee security for all against hate crime irrespective of religion or social identity. People's participation in the legislative process should be sought so as to encourage an inclusive, equitable and value-based laws.

86 Criminal Jusatice (Hate Crime) Bill 2020 (Ireland).

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