

RIGHT TO PRIVACY (Thematic area)

OVERVIEW

The right to privacy ensures that individuals can make personal decisions about their body, home, family, relationships, and intimacy without intrusion from the state or other members of society. The way persons give expression to their sexuality has been recognized by various courts as the core of private intimacy and an intrusion by the state in such matters is a breach of the human right to privacy. We will review the successful and unsuccessful developments of the right to privacy in relation to SOGIE with case studies from the European System, the United States, the UN system and across Africa.

OBJECTIVES

1. To build familiarity with international, regional and comparative African jurisprudence on the right to privacy in relation to SOGIE.
2. To establish an understanding of the principles guiding legal interpretation of the right to privacy.
3. To develop an understanding of the right to privacy's intersection with other fundamental rights, such as the rights to dignity, non-discrimination and equality.

LEARNING OUTCOMES

Upon completion of this module participants should:

1. Identify the various ways in which LGBT persons are commonly violated in terms of their right to privacy, individually and collectively.
2. Demonstrate a knowledge of how the right to privacy has been interpreted in SOGIE contexts.
3. Be able to identify possible legal restrictions to the right to privacy and the legal principles and precedents to challenge such restrictions.

OUTLINE

An Introduction to the Right to Privacy

- i. What is the right to privacy
- ii. Background and historical development
- iii. International and regional legal framework, norms, & standards protecting privacy
- iv. The content of the right
 - a. privacy from whom?

- b. privacy for whom?
- v. Scope of the right to privacy
 - a. legitimate expectation to privacy
 - b. continuum of privacy interests
- vi. Possible restrictions on the right to privacy
 - a. legitimate aim
 - b. provided by law
 - c. proportionality & necessity
 - d. distinction between public and private persons
- vii. Privacy & Bodily Autonomy
 - a. contraception
 - b. abortion
 - c. forced sterilisation
 - d. forced anal exams
- viii. Comparative jurisprudence
 - a. Kenya - anal exams
 - b. Inter-American Court of Human Rights - parental rights, sexuality
 - c. Uganda - publication of identifying information
 - d. Botswana - gender marker change
 - e. Uganda - privacy of home & person; search & seizure
 - f. European Court of Human Rights - medical records