

YEAR TWO MODULE ONE

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 in relation to bodily autonomy. 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 establish an understanding of the principles guiding meaning of the right to privacy and bodily autonomy.
2. 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.
3. To build familiarity with international, regional and comparative African jurisprudence on the right to privacy in relation to SOGIE.

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 applies in SOGIE contexts.
3. Be able to identify possible restrictions to the right to privacy and the legal principles and precedents to challenge such restrictions, particularly around anal exams.

FORMAT & REQUIREMENTS

The module will be delivered through combined methods such as interactive lectures, presentations, and practical exercises. Participants are required to engage with the materials prescribed on the reading list, prior to each session.

EVALUATION & ASSESSMENT

Evaluation and assessment of each module will be carried out through the use of in session and post institute evaluations carried out by the Network Coordinator as well as next-day recaps.

OUTLINE

An Introduction to the Right to Privacy

- i. What is the right to privacy mean and what does it protect.
- ii. SOGIE based violations of privacy – causes and manifestations
- iii. Story-telling & discussion
 - a. Write a story about a time you or someone you know had private facts about their lives revealed without their permission and the consequences of this.
 - b. Write a story about a time you or someone you know had their personal space or possessions invaded.
- iv. How to document violations of private life
- v. Scope of the right to privacy
- vi. Standards related to privacy: distinction between private and public persons
 - a. Case study: *Fontevicchia & D'Amico v Argentina* IACHR
- vii. Privacy and bodily autonomy – a historical development
 - a. Contraception
 - b. Abortion
 - c. Forced sterilization
 - d. Forced anal exams
- viii. Discussion:
 - a. Can and should people consent to anal exams?
 - b. How would you want your movement lawyers to deal with the possibility of the police pursuing an anal exam on the client?
- ix. Case Studies – SOGIE cases:
 - a. Kenya - *COI & Another v Chief Magistrate Ukundla Law Courts* 2018 (anal exams)
 - b. IACHR - *Atala Riffo and Daughters v. Chile* (LGBT parental rights)
 - c. Uganda - *Kasha Jacqueline v Rolling Stone* (publication of identifying information)
 - d. Botswana - *ND v Attorney General of Botswana* (gender identity)

e. Uganda - *Victor Juliet Mukasa & Yvonne Oyo v Attorney General*
(privacy of home; search & seizure)

f. ECHR - *I v Finland* (medical information)

International and regional legal framework, norms, & standards protecting privacy