

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	385
Land:	Uganda
Kilde:	Human Rights Awareness and Promotion Forum (HRAPF)
Titel:	The Uganda Report of Human Rights Violations on the Basis of Sexual Orientation and Gender Identity, 2019
Udgivet:	marts 2020
Optaget på baggrundsmaterialet:	21. maj 2021

THE UGANDA REPORT OF HUMAN RIGHTS VIOLATIONS ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY, 2019

With contributions from

Blessed Rwenzori Uganda; Health and Rights Initiative; HOPE Mbale; Human Rights and Economic Empowerment Development (HUREED); Icebreakers Uganda (IBU) and The National Security Committee

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With support from



 **aidsfonds**

FRONTLINE AIDS 



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March 2020



Ministry of Foreign Affairs

The Partnership to Inspire, Transform and Connect the HIV response (PITCH) enables people most affected by HIV to gain full and equal access to HIV and sexual and reproductive health services.

The partnership works to uphold the sexual and reproductive health and rights of lesbian, gay, bisexual, and transgender people, sex workers, people who use drugs and adolescent girls and young women. It does this by strengthening the capacity of community-based organisations to engage in effective advocacy, generate robust evidence and develop meaningful policy solutions.

PITCH focuses on the HIV response in Indonesia, Kenya, Mozambique, Myanmar, Nigeria, Uganda, Ukraine, Vietnam and Zimbabwe. Partners in these countries also share evidence from communities to influence regional and global policies that affect vulnerable populations.

PITCH is a strategic partnership between Aidsfonds, Frontline AIDS and the Dutch Ministry of Foreign Affairs.

ABOUT HUMAN RIGHTS AWARENESS AND PROMOTION FORUM

Human Rights Awareness and Promotion Forum (HRAPF) is an independent, non-partisan non-governmental organisation that works towards the protection of rights of marginalised communities in Uganda through the direct provision of legal aid services, legislative advocacy, human rights awareness, research and community capacity enhancement. HRAPF operates a specialised legal aid clinic for LGBT persons in Uganda.

ABOUT THE CONTRIBUTING ORGANISATIONS

Blessed Rwenzori Uganda



Blessed Rwenzori Uganda (BRU) is a registered non profit making organization, established with a sole aim of promoting human rights for sexual minorities in the rural areas of Western Uganda based in the Rwenzori region in Kasese District. BRU target groups are the sexual minorities namely: Lesbians, Gay, Bisexual, Transgender and Queer persons who are constantly rejected by the society in all aspects of life. BRU runs the following programs: Legal Aid Service; Safety and Security; Human Rights Advocacy and Economic Empowerment.

Health and Rights Initiative



Health & Rights Initiative

Health and Rights Initiative (HRI) is an organisation legally registered as a company limited by guarantee (2014) in the Northern and West Nile regions of Uganda. The vision of the organisation is a society with equal opportunities and justice for all and a mission to advocate for justice and equal opportunities for the marginalised groups through social and economic empowerment, advocacy and research in the rural areas. The core values of the organisation include integrity, commitment, teamwork and innovation. HRI serves the key populations, i.e. female sex workers (FSW), men who have sex with men (MSM),

lesbians, bisexuals, trans-gender persons, intersex persons and People who Inject Drugs in Northern Uganda in the following areas: Lango sub-region: Lira, Dokolo, Apac, Kole, Oyam, Alebtong, Otuke, Amolatar and Kwanja; Acholi sub-region: Gulu, Pader, Kitgum, Nwoya, Amuru, Omoro and Lamwo; West Nile: Nebbi, Pakwach, Paidha, Zombo, Arua, Koboko, Adjumani and Yumbe.

HOPE Mbale



HOPE Mbale is a non-profit organisation that promotes and advocates for human rights observance, quality health service provision and equal opportunities for all. The organisation offers services to the LGBTQ community and sex workers. It currently operates in the 7 districts of Mbale, Manafwa, Sironko, Bulambuli, Tororo, Busia and Serere in Eastern Uganda.

Human Rights and Economic Empowerment Development



Human Rights and Economic Empowerment Development (HUREED) is a Uganda based nonprofit, non-governmental, organisation established in 2017. HUREED seeks to promote the highest standard of rights to health and economic well-being for all LGBTI persons through providing support, information, tackling violence, stigma and discrimination and advocating for equitable access to health, legal justice and social inclusion for LGBTI persons in Uganda. Our overarching goal is to represent and advocate for the rights, needs and best interests of all transgender and sex workers issues in Uganda as well as

empowering their community to recognize and work towards resolving LGBTI Persons' issues and challenges in Uganda.

Ice breakers Uganda (IBU)



Ice Breakers Uganda is an LGBT care and support organisation that was formed in 2004. It caters for LGBT Ugandans above 18 years of age. Its vision is a Uganda of total justice devoid of discrimination based on sexual orientation and free from HIV/AIDS and its disastrous effects. Its mission is to support and raise awareness within the LGBT community about their human rights and advocate for change in attitude towards LGBT persons thereby reducing stigma on grounds of sexual orientation.

The National LGBTI Security Committee



The National LGBTI Security Committee is a team of volunteers who are prominent human right defenders / activists and its major role is to offer rapid response through monitoring, assessing and documenting all cases of violations based on sexual orientation and gender identity and to provide safety and protection to the LGBTI community in Uganda.

PREFACE

This report presents the violations committed against LGBT persons in Uganda in 2019. It is the seventh edition of the Uganda Report of Violations based on Sexual Orientation and Gender Identity. In the same way as the previous six editions, this report interrogates the social, political and legal factors which are responsible for the trends of human rights violations, as well as protection, of LGBT persons within a particular year. The report analyses and considers the key developments which occurred in 2019 and which influenced the trends in rights violations which were inflicted upon LGBT person during the year.

Over the past seven years, the Uganda Police Force has had shifting attitudes toward LGBT persons in the country. From 2013 up to 2018, it was recorded that Police officers increasingly refrained from taking the law into their own hands when confronted with LGBT persons. An encouraging record of instances where the Police has acted to protect the rights of LGBT persons has also been kept in these reports. During 2019, however, it appears that the encouraging upward trend of the treatment of LGBT persons by the Police took a turn for the worst. Various cases of mass arrests were recorded. The public also appear to be increasingly hostile and even violent toward LGBT persons. These emerging trends are discussed in detail in the report.

The report sets out the various violations suffered by LGBT persons for the period of January to December 2019, as recorded by HRAPF's legal aid clinic, the regional centres and partner organisations. HRAPF offers legal aid to LGBT persons across Uganda and reaches beyond Kampala, where the Secretariat is based, through its six regional centres and by training and supporting Community Paralegals who are based in various districts in the country. The regional centres are hosted by Blessed Rwenzori Uganda (BRU) in Kasese; Health and Rights Initiative (HRI) in Lira; HOPE Mbale in Mbale and Human Rights and Economic Empowerment Development (HUREED) in Lugazi.

This report differs from the violations reports published in previous years in that the acts of violence and violations committed against LGBT persons by non-state actors are no longer classified as human rights violations. Instead, only acts committed by state actors are classified as human rights violations. This change is considered to more accurately reflect the state's responsibility in respect of the human rights of citizens under international human rights law. This change in classification, however, does affect comparisons with figures of previous years and the analysis of trends since, in previous reports, acts of violence and violations of dignity committed by non-state actors were considered to be included under 'human rights violations'.

All the cases handled by HRAPF and the contributing partner organisations were considered in compiling this report. All the cases in this report have been independently

verified through reference to case files and interviews with the victims of the violations or the lawyers or paralegals who handled the cases.

This report serves as an evidence-base of the number, extent and severity of violations which LGBT persons continue to face due to their real or perceived sexual orientation and/or gender identity and the need for intervention from the state, civil society and development partners to put an end to these violations. It is intended to support advocacy efforts toward positive changes in the legal and policy environment in respect of LGBT persons. It is also intended to serve as a tool in sensitising both state and non-state actors on the discrimination and degradation which LGBT persons continue to face in their everyday lives.

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GLOSSARY

Bisexual:	A person romantically and/or sexually attracted to both men and women, though not necessarily at the same time
Gay:	A man romantically and/or sexually attracted to men
Gender identity:	A person's conception of self as male or female or both or neither
Homosexual:	A person attracted to persons of the same sex
Intersex:	A condition in which a person is born with a reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male
Key Population:	Group experiencing increased impact from HIV as well as decreased services due to stigma and discrimination; violence and harassment; restrictive laws and policies and the criminalisation of behavior.
Lesbian:	A woman romantically and / or sexually attracted to women
Outing:	The act of disclosing a lesbian, gay, bisexual, transgender, and / or intersex person's true sexual orientation or gender identity without that person's consent
Perpetrator:	The person or institution responsible for causing a human rights violation
Sex:	The physical distinction between male and female (genitals)
Sexual minorities:	A group whose sexual orientation, gender identity, and / or practice differs from the majority of the surrounding community
Sexual orientation:	A person's emotional, physical and sexual attraction and the expression of that attraction with other individuals
Transgender:	Someone whose deeply held sense of gender is different from their biological sex assigned at birth
Trans-man:	A transgender person who was assigned the female sex at birth but has a male gender identity
Trans-woman:	A transgender person who was assigned the male sex at birth but has a female gender identity

LIST OF ACRONYMS

AG:	Attorney General
BRU:	Blessed Rwenzori Uganda
DPP:	Directorate of Public Prosecutions
EOC:	Equal Opportunities Commission
HOPE Mbale:	Holistic Organisation to Promote Equality Mbale
HRAPF:	Human Rights Awareness and Promotion Forum
HRI:	Health and Rights Initiative
HUREED:	Human Rights and Economic Empowerment Development
IBU:	Ice Breakers Uganda
LGBT:	Lesbian, Gay, Bisexual and Transgender
MSM:	Gay and bisexual men as well as other men who have sex with men
SOGI:	Sexual Orientation and Gender Identity
UAC:	Uganda AIDS Commission
UHRC:	Uganda Human Rights Commission
UPF:	Uganda Police Force

EXECUTIVE SUMMARY

1. Introduction

The Uganda Report of Human Rights Violations on the basis of Sexual Orientation and Gender Identity, 2019, analyses cases of incidents involving violations against LGBT persons using a human rights lens. The report discusses the human rights violations committed against LGBT persons, entirely or partially, on the basis of their real or presumed sexual orientation and gender identity in 2019. The report classifies the various categories of human rights violations suffered by LGBT persons. The report also details some of the specific incidents of violations in order to enable the reader to understand the context and brutality of rights violations that would otherwise appear as mere figures. The report also considers violations of human dignity committed against LGBT persons by non-state actors.

This report is intended to be used as a tool for advocacy on the rights of LGBT persons in Uganda through providing evidence of the violations which they continually suffer within society.

The report is based on documentation of human rights abuses and violations based on gender identity and sexual orientation by HRAPF and other contributing partner organisations. The report, however, does not include all documented cases of violations committed against LGBT persons but only those violations which could be independently verified.

Key Findings

1. A total of 282 violations were committed against LGBT persons during 2019. Out of these, 236 were human rights violations arising out of 21 verified cases and committed by state actors. The remaining 46 violations were violations of human dignity committed by non-state actors. This is a radical increase from the 64 violations arising out of 55 cases reported in 2018.
2. A new trend of mass arrests emerged in 2019. There were two such cases with 16 persons arrested at an LGBT shelter, and 127 people arrested at a bar.
3. The Uganda Police Force was the leading violator of the rights of LGBT persons, accounting for 234 of the 236 violations verified in the year.
4. The most violated right was the right to liberty. The state occasioned 163 of these violations, all of which were perpetrated by the Uganda Police Force during and after mass arrests of LGBT persons.
5. The Minister of Ethics and Integrity continued to deliberately violate the right to freedom of expression, association and assembly by stopping events organised by LGBT persons during the year. The Minister was responsible for one human rights violation during 2019.

6. The 46 violations of human dignity committed by non-state actors against LGBT persons could mostly be classified as acts or threats of violence and evictions.
7. There was a marked increase in violent attacks and attempts to execute 'mob justice' on LGBT persons by members of the general community. In two cases, LGBT persons were brutally murdered by members of the public. These severe cases are the first murders to be recorded in this series of violations reports.

Key Recommendations

To the President of the Republic of Uganda

1. Make clear statements that acts of violence and discrimination against vulnerable minorities, including LGBT persons, will not go unpunished.
2. Publicly reject proposed legislation, which discriminates on the basis of sexual orientation and gender identity.

To Parliament

1. Repeal laws which create the offence of 'having carnal knowledge against the order of nature', which is interpreted to criminalise LGBT persons and are used to justify denying them equal protection of the law.
2. Repeal sections of the Penal Code Act which create broad and vague petty offences such as 'being a common nuisance', which are used to arbitrarily arrest and punish persons who are poor and undesirable, including LGBT persons.
3. Ensure that government fulfils its international and regional human rights obligations to all without discrimination.

To the Uganda Police Force

1. Thoroughly and conclusively investigate cases of violence against LGBT persons by members of the public.
2. Continue training Police officers on the human rights of MSM and transgender persons as well as the limits of the laws which they are mandated to enforce.
3. Strengthen mechanisms which exist to redress human rights violations committed by members of the UPF. In particular, improve the responsiveness of the Police Professional Standards Unit in handling matters of alleged violations committed by Police Officers.

To the Uganda Law Reform Commission

1. Develop a proposal for constitutionally compliant alternatives to laws creating petty offences that will protect the rights of all while ensuring order in society.
2. Develop a proposal for the amendment of the Penal Code Act to repeal the sections that criminalise consensual sexual relations between persons of the same sex.

To the Uganda Human Rights Commission

1. Demand accountability from the state for all human rights violations reported, especially those that go unaddressed.
2. Hear and dispose of cases involving violations of rights of LGBT persons some of which have been pending before the Commission's Complaints and Investigations Directorate since 2016.
3. Develop proposals to amend laws that are discriminatory and which do not align with the Constitution of the Republic of Uganda.

To the Equal Opportunities Commission

1. Investigate systemic discrimination of individuals based on their sexual orientation and gender identity and report findings.
2. Include cases of discrimination based on sexual orientation and gender identity in the annual reports to Parliament.
3. Continue to train the staff of the EOC in order to build their capacity in handling matters of discrimination and marginalisation on the basis of sexual orientation and gender identity.

To civil society organisations

1. Make use of the Human Rights (Enforcement) Act, 2019 by supporting LGBT persons who have suffered human rights violations to institute cases to hold individual perpetrators of these violations liable.
2. Ensure that the Police fully and effectively investigates cases of violations committed against LGBT persons.

3. Advocate for the adoption of a law that would categorise crimes committed against LGBT persons on the basis of their sexual orientation or gender identity as hate crimes.
4. Develop the capacity of staff to document violations based on sexual orientation and gender identity. This could include adopting uniform guidelines for recording information on cases and violations.

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ABOUT HRAFP 56

1. INTRODUCTION

The Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity is published on an annual basis under a loose consortium of organisations which provide services to LGBT persons. The purpose of the report is to consider the situation of LGBT persons in Uganda within a particular year. The report considers both instances of protection along with violations of the rights of LGBT persons. The report also sets out to draw a link between the prevailing legal and policy regime in the country and the emerging trends in protection and violation of the rights of LGBT persons.

The report classifies the various categories of human rights violations suffered by LGBT persons and distinguishes between violations committed by state actors and those committed by non-state actors. The report highlights some of the cases and gives insight into the impact of human rights violations on the individual lives of the LGBT persons concerned. The report also makes recommendations to various duty-bearers on what can be done to protect, respect and fulfil the rights of LGBT persons in Uganda.

This report is intended to be used as a tool for advocacy on the rights of LGBT persons in Uganda through providing evidence of the ongoing and widespread human rights violations suffered by this group.

The report is based on documentation of human rights abuses and violations based on gender identity and sexual orientation by HRAPF through its central legal aid clinic, regional legal aid centres, trained Community Paralegals as well as contributing partner organisations. All the documented cases of violations committed against LGBT persons are not included in the report, however, since every reported case and violation could not be independently verified.

1.1 Methodology

This report was compiled by making use of both quantitative and qualitative methods. Quantitative data was collected by determining the number of verified violations reported to HRAPF and contributing partners during the course of 2019. Qualitative data was collected by considering the nature of the violations, the identity of the perpetrators, the motivation behind the commission of the violations, and steps taken by both state and non-state actors to address reported violations. Every case and every human rights violation recorded for 2019 was subjected to an independent verification exercise and only those cases involving human rights violations that could be verified are included in this report.

a) Review of case files

Data was collected by reviewing the case files of all the contributing organisations. The review of case files provided data on the number and nature of violations committed against LGBT persons during 2019. All the case files were reviewed and data was collected using HRAFP's data collection tool in order to ensure that only cases in which human rights violations had been committed against LGBT persons, partially or wholly on the basis of their sexual orientation and /or gender identity, were included in the final data set.

b) Review of documentary evidence

For every case in which it could be established on the face of it that a human rights violation had been committed on the basis of the sexual orientation and/or gender identity of an LGBT person, documentary or other evidence on file were also reviewed. This documentary evidence included photographic evidence, Police Bond forms, Police medical examination forms for victims of violence (Police Form 3) and witness statements attesting to the facts of the alleged violation. A case would usually be considered verified if there is valid documentation on file which serves as evidence of the alleged violation.

c) Interviews with clients, witnesses and officers who handled the cases

Where violations could not be verified on the basis of the documentation on file, or where facts were unclear in one way or another, the clients, victims of the violation or Community Paralegal or officer who handled the case was contacted and interviewed. These interviews served to provide additional information, clarify facts and sequences of events and verify some of the violations on file.

1.2 Limitations

There are a number of limitations which were faced in developing this report.

In the first place, while it is the aim of the report to give a national-level picture of the human rights violations suffered by LGBT persons in Uganda, the information available for compiling the report is limited to the work of lawyers and paralegals attached to HRAFP and our partner organisations in areas beyond Kampala. Over the past few years, national documentation has improved as HRAFP has opened up regional legal aid centres in various areas of Uganda. The report, however, does not include each and every case that has happened in Uganda, and therefore it cannot give a complete picture of the state of human rights of LGBT persons in the country.

Secondly, uniform, consistent and comprehensive documentation remains a challenge for the majority of organisations working on LGBT issues in Uganda. While there are a large and growing number of organisations that provide services and support to LGBT persons, the primary focus of very few of these would involve the thorough documentation of human rights violations committed against LGBT persons. In the compilation of this report, a number of instances were noted where neither the case nor the human rights violation noted could be verified due to insufficient information available on file. There remains a need for in-depth training of paralegals and leaders of organisations working with LGBT persons in Uganda on the importance of documentation of human rights violations. Consistent, uniform and thorough documentation of human rights violations have to be undertaken by increasing numbers of LGBT organisations in order to provide accurate, comprehensive and authoritative information on human rights violations against LGBT persons to governing authorities and law enforcers.

A fourth limitation that was noted in the compilation of this report is the fact that all those handling cases involving human rights violations of LGBT persons do not necessarily frame their reports on the cases in the language of rights. Violations which occur on the basis of the sexual orientation and/or gender identity of the client involved, are not always recognised as such. In some cases, routine procedures and practices carried out by the Police and other law enforcers are wrongly recorded as human rights violations. There remains a need for training and orientation of persons responsible for responding to complaints of LGBT persons on the recognition and most appropriate framing of human rights violations. Strengthening capacity and systems for the monitoring, documenting and reporting on human rights violations among LGBT organisations all across the country will greatly benefit the movement.

2. THE SOCIAL, LEGAL AND POLITICAL DEVELOPMENTS THAT IMPACTED ON THE RIGHTS OF LGBT PERSONS DURING 2019

During 2019, a number of events occurred that impacted on the human rights situation of LGBT persons in Uganda. These events took place in terms of court decisions in Uganda and elsewhere in Africa, as well as actions and decisions by policy makers. Some of these events are considered violations in and of themselves; others served to fuel and justify the prevailing homophobia and transphobia in the country. There were almost no events of note which positively impacted on the rights of LGBT persons.

2.1 Developments in the legal and policy environment

a) Continued delay in setting down for hearing the Lokodo Appeal (*Kasha Jacqueline Nabagesera & 3 Others v Attorney General and Rev. Fr. Simon Lokodo Civil Appeal No. 195 of 2014*)

In 2012, the Minister of Ethics and Integrity, Hon. Rev. Fr. Simon Lokodo closed down a leadership and capacity-building workshop organised for LGBTI persons. A case was instituted in the High Court challenging this action on the basis that it violated a number of fundamental rights, including the right to freedom of assembly, speech and expression. The High Court, however, held that the enjoyment of the applicants' rights could be limited by the criminal law in terms of Article 43 of the Constitution.¹ The Court held that the workshop constituted incitement and conspiracy to commit the crime of 'having carnal knowledge against the order of nature' and therefore the limitation of the participants' rights was justified. An appeal against this decision was instituted in 2014.² The Court of Appeal has taken more than five years to set the matter down for hearing. During 2019, efforts were made to engage the Court's Registrar to have the matter set down for hearing, but these are yet to bear fruit. In the meantime, the Minister of Ethics and integrity continues to wantonly stop LGBT events.

b) Court decisions on the legalisation of consensual same-sex sexual conduct in other African countries

The political climate and decision-making in Uganda is inevitably influenced by the developments in other African countries, especially our close East African neighbours. In Kenya, the Constitutional and Human Rights Division of the High Court upheld the Penal

¹ *Jacqueline Kashsa Nabagesera, Frank Mugisha, Julian Pepe Onziema and Geoffrey Ogwaro v Attorney General and Hon. Rev. Fr. Simon Lokodo*, High Court Miscellaneous Cause No. 33 of 2012.

² *Kasha Jacqueline Nabagesera & 3 Others v Attorney General v Rev. Fr. Simon Lokodo Civil Appeal No. 195 of 2014*.

Code provisions criminalising same-sex sexual conduct in a judgment delivered on 24th May 2019.³ This judgment expressed that Kenyan society was still far from accepting same-sex sexual relationships, despite the progressive provisions of their 2010 Constitution. While bringing discouragement and push-back against LGBT activism in Kenya, the judgment also serves as a justification and validation of the oppression of LGBT persons in Uganda.

Further afield, the Botswana High Court issued a unanimous judgment on 11th June 2019 which declared section 164(a), 164(c) and 165 of Botswana's Penal Code unconstitutional – thereby legalising same-sex sexual conduct.⁴ Botswana's own government responded with hostility to the decision and announced that it will appeal the High Court's decision to scrap the discriminatory provisions of the Penal Code.⁵ It remains to be seen whether this decision will stand in the long run. Either way, developments in Southern Africa have less of an impact on Uganda than decisions in the closer neighbouring countries.

c) Loud whispers that suggest the reintroduction of the Anti-Homosexuality Bill in Parliament

In October 2019, the Minister of Ethics and Integrity, Rev. Fr. Simon Lokodo announced plans to reintroduce the Anti-Homosexuality Bill in Parliament, stating that this move was supported by a strong number of Members of Parliament.⁶ According to the Minister, the Bill would have proposed the death penalty for those who engage in gay sex and would also criminalise any kind of promotion of homosexuality.⁷ James Nsaba Buturo, Lokodo's predecessor as Minister of Ethics and Integrity, came out strongly in support of the Bill.⁸ Later, after active protest by rights groups, the Minister in charge of the presidency, Esther Mbaya, announced that the government does not, in fact, have plans to reintroduce any anti-homosexuality Bill in Parliament.⁹ The President's senior press secretary, Don

³ *EG and 7 Others v Attorney General; DKM and 9 Others (Interested Parties); Katiba Institute and Another (Amicus Curiae)* Petitions No. 150 and 234 of 2016 Consolidated.

⁴ 'Botswana's High Court rejects laws criminalising homosexuality' *Al Jazeera* 11th June 2019. Available at <https://www.aljazeera.com/news/2019/06/botswana-high-court-rejects-laws-criminalising-homosexuality-190611100525546.html> (Accessed on 22nd March 2019).

⁵ 'Botswana seeks to overturn ruling that legalized gay sex' *Reuters* 6th July 2020. Available at <https://www.reuters.com/article/us-botswana-lgbt/botswana-seeks-to-overturn-ruling-that-legalized-gay-sex-idUSKCN1U1071> (Accessed on 22nd March 2020).

⁶ 'Uganda plans bill imposing death penalty for gay sex' *Reuters* 10th October 2019. Available at <https://www.reuters.com/article/us-uganda-lgbt-rights/uganda-plans-bill-imposing-death-penalty-for-gay-sex-idUSKBN1WP1GN> (Accessed on 24th March 2020).

⁷ As above.

⁸ 'Ugandan MPs press for death penalty for homosexual acts' *The Guardian* 15th October 2019. Available at <https://www.theguardian.com/world/2019/oct/15/ugandan-mps-press-for-death-penalty-for-homosexual-acts> (Accessed on 26th March 2020).

⁹ 'Uganda not "reintroducing anti-homosexuality bill" – Minister confirms' *Africanews* 5th November 2019. Available at <https://www.africanews.com/2019/11/05/uganda-not-reintroducing-anti-homosexuality-bill-minister-confirms/> (Accessed 24th March 2020).

Wanyama, also expressed that the Penal Code adequately regulates homosexuality and that there is no need for an additional Bill.¹⁰ Even though the rumours of the re-introduction of the Bill were quashed with official communication, talk of a Bill introduced and supported in Parliament which further criminalises homosexuality has the immediate effect of increasing instances of violent attacks, discrimination and arbitrary and mass arrest of LGBT persons, and these indeed followed shortly thereafter.

d) Adoption of the Human Rights Enforcement Act, 2019

The Human Rights Enforcement Act, 2019 was enacted in order to give effect to Article 50(4) of the Constitution of the Republic of Uganda by providing for a procedure to enforce rights under chapter four of the Constitution.¹¹ The Act was gazetted on 15th November 2019.¹²

The Act beckons the beginning of a new era for the enforcement of human rights in Uganda. It has various progressive protective features such as the broad provision on standing. Section 3(2) of the Act extends standing to a person acting on behalf of another who cannot act in their own name; a person acting in the interest of a group or class of people; a person acting in the public interest and an association acting on behalf of its members. The Court may also request or allow a person with expertise in a particular matter that is before the court to appear as a friend of the court.¹³ Importantly, the Act provides that a case will not be dismissed merely on the basis of a party's failure to comply with a procedure or other technicality.¹⁴

The Court may find that a right or freedom 'has been violated, unlawfully denied or should be enforced' and can accordingly make an appropriate order, including an order for compensation.¹⁵ The Act sets out three additional types of orders that can be made upon the finding of a rights violation namely restitution, rehabilitation of the victim and satisfaction, which may include guarantees of non-repetition; cessation of a continuing violation; full and public disclosure of the truth and a public apology.¹⁶ The Act also provides that any order made is to be complied with within six months unless there is an

¹⁰ n 8 above.

¹¹ Short title to the Act.

¹² 'Gov't gazettes Human Rights Enforcement Act' *The Independent* 5th December 2019. Available at <https://www.independent.co.ug/govt-gazettes-human-rights-enforcement-act/> (Accessed 28th January 2020).

¹³ Sec 6(3).

¹⁴ Sec 6(5).

¹⁵ Sec 9(1).

¹⁶ Sec 9(2).

appeal.¹⁷ One of the most progressive provisions of the Act allows for a public official to be held personally liable for a violation along with holding the state vicariously liable.¹⁸ The public official or officials, held to be liable for the human rights violation, can be ordered to pay a portion of the compensation or restitution where this is awarded.¹⁹

This Act is believed to have the potential to drastically change the state of impunity with which human rights violations committed against LGBT persons are met. Prior to the enactment of this Act, human rights violations committed against LGBT persons have mostly gone unpunished. Such violations rarely would be effectively addressed through the available mechanisms and victims are usually not vindicated or compensated for the abuse and loss that they have suffered.²⁰ This state of affairs has also sent the message to violators that they are free to trample on the rights of vulnerable persons and will not be brought to book before the courts or other justice mechanisms. The Human Rights Enforcement Act, 2019 is hoped to be a turning point for this state of affairs and that the progressive procedures prescribed by the Act could be used to ensure justice for the victims of human rights violations.

2.2 Developments on the executive front

a) Homophobic actions by the Minister of Ethics and Integrity

In May of 2019, the Minister of Ethics and Integrity, Hon. Simon Lokodo once again shut down a celebration of the International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) organised by Chapter Four and Sexual Minorities Uganda.²¹ Ten Police officers from Jinja Police Station reportedly arrived at the offices of Chapter Four, one hour before the event was scheduled to start.²² The Police officers did not have official documentation stating the reason for disrupting the planned meeting, but informed the organisers that they were acting on behalf of Hon. Lokodo and insisted that guests attending the meeting be turned away.²³

¹⁷ Sec 9(4).

¹⁸ Sec 10(1).

¹⁹ Sec 10(2).

²⁰ Human Rights Awareness and Promotion Forum *Consolidated Human Rights Violations Against Key Populations, 2018* (2020) 44.

²¹ 'Uganda police disrupt and shut down event organised to celebrate IDAHOT' *Kuchu Times* 17th May 2019. Available at <https://www.kuchutimes.com/2019/05/uganda-police-disrupt-and-shut-down-event-organised-to-celebrate-the-international-day-against-homophobia-and-transphobia-idahot/> (Accessed on 26th February 2020).

²² As above.

²³ As above.

The closing down of this event marks the seventh time that the Minister of Ethics and Integrity stops an LGBT event since 2012. The first of these closures is the subject of the *Lokodo* case.²⁴ Last year, the Minister blocked the Ministry of Health's first Annual Conference on Key and Priority Populations, on the basis that it would promote 'homosexuality and other dirty things'.²⁵ Various attempts to celebrate IDAHOBIT and Pride have also been disrupted and cancelled over the years.²⁶ These disruptions and interferences with the lawful exercise of the right to assembly have been met with impunity.

²⁴ See n 1 above.

²⁵ 'Uganda: Minister Lokodo blocks HIV/AIDS conference' *The Monitor* 2nd May 2018. Available at <https://allafrica.com/stories/201805030118.html> (accessed 11th June 2019).

²⁶ See a discussion on the actions of the Minister in Human Rights Awareness and Promotion Forum *The Uganda Report on Human Rights Violations based on sexual orientation and gender identity, 2018: Increasing protections and reducing state violations* (2018) 4-7.

3. PROTECTION OF PERSONS AT RISK DUE TO THEIR REAL OR PRESUMED SEXUAL ORIENTATION OR GENDER IDENTITY IN 2019

HRAPF and partners have documented instances of improvement of the levels of recognition and protection of human rights of LGBT persons over the past seven years. Cases have been recorded every year in which the Police stepped in to protect the rights of these groups. During 2019, only one such incident was registered. In October 2019, a group of 16 MSM, including activists, were trapped in the offices of a Kyengera-based LGBT organisation by a mob of angry community members.²⁷ The office space is also used as a shelter for LGBT persons who need temporary housing. The community members were hurling homophobic insults at the men trapped inside the offices and threatened to break in. The Police came to the aid of the men by escorting HRAPF lawyers to the premises and dispersing the mob. Directly thereafter, however, the Police themselves proceeded to insult the men trapped in the house and arrested all 16 of them. The Police searched the premises and confiscated condoms, lubricants and anti-retroviral medicines. The men were charged with the offence of 'having carnal knowledge against the order of nature' and were subjected to anal examinations.

This incident sends a very clear message that LGBT persons risk arrest if they call upon the Police to come to their aid when they have been the victim of a crime. LGBT persons are not afforded equal protection of the law since they are viewed as criminals by the Police on the basis of their identity. An incident such as this one is a step backward for the relationship between the Police and the LGBT community at large and indicates an urgent need for continued sensitisation and awareness raising of LGBT rights among the Police.

²⁷ HRAPF/VR/2-19/041.

4. VIOLATIONS OF HUMAN RIGHTS ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY DURING 2019

4.1 Introduction

During the course of 2019, human rights abuses were committed against LGBT persons on the basis of their real or presumed sexual orientation and gender identity and /or expression. This report categorises violations against LGBT persons on the basis of the rights violated and the perpetrators of these violations.

The Constitution of the Republic of Uganda of 1995 (as amended) in its chapter 4 sets out the rights and freedoms to be enjoyed by individuals and groups in Uganda. Article 20(2) of the Constitution provides that the rights and freedoms set out in that chapter are to be respected, upheld and promoted by all organs and agencies of government and by all persons. The Constitution therefore places a duty on all persons as well as all organs of government not to violate the rights of others. The Constitution also places a positive duty on the state to promote the human rights of all persons in the country. This obligation on the state to promote human rights of all persons is also created by the regional and international human rights instruments to which Uganda is a party.²⁸

4.2 Number of violations

A total of 236 human rights violations were committed against LGBT persons on the basis of their sexual orientation and gender identity during 2019. This number is much higher than the total number of violations committed against LGBT persons in 2018 and 2017, in which years only 69 and 74 violations on the basis of sexual orientation and /or gender identity were respectively recorded and verified.²⁹

4.3 Nature of violations

Various rights of LGBT persons were violated on the basis of their sexual orientation and /or gender identity during 2019. The nature of rights which were violated were: the right to liberty, the right to equality, the right to freedom from torture and cruel, inhuman and degrading treatment and punishment, the right to privacy and the right to freedom of

²⁸ Preamble of the African Charter on Human and Peoples' Rights; Art 6(d) of the Treaty for the Establishment of the East African Community; Preamble of the International Covenant on Civil and Political Rights.

²⁹ HRAFP *The Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity 2018** (2019) 26; HRAFP *The Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity 2018: Increasing protections and reducing state violations* (2018) 23.

expression, association and assembly. Instances of violation of each of these rights are discussed in more detail in this section.

4.3.1 Violation of the right to liberty

The right to liberty of LGBT persons was violated 163 times in 12 cases. It is by far the most violated right of LGBT persons for 2019. The period under review has seen instances of mass arrests which accounts for the high numbers of violations: in a single arrest, the right to liberty of multiple people can be violated.

The right to liberty is guaranteed in Article 23 of the Constitution of the Republic of Uganda. Article 23(1) sets out the specific, limited circumstances under which a person's liberty may be limited through lawful arrest or detention.³⁰ Safeguards are also put in place for persons arrested or detained for the purposes of bringing them before a court of law or in pursuit of a court order. These safeguards include: freedom from prolonged detention without a trial;³¹ the right to be supported by a lawyer of your choice;³² the right not to incriminate oneself;³³ the right to be presumed innocent;³⁴ and the right not to be tried for an offence which is not defined by law.³⁵

a) Freedom from arbitrary arrest

The Constitution of the Republic of Uganda, under Article 23(1) sets out nine particular circumstances under which a person may be lawfully deprived of their liberty. Arrests must be justifiable under one of these nine grounds, otherwise they will be considered arbitrary.³⁶ There were 161 incidents of arbitrary arrest of LGBT persons during 2019. These incidents took place when LGBT persons were arrested in the absence of reasonable suspicion that these persons had committed or were about to commit a crime; were charged with crimes which do not exist in law; were arrested and not charged or if the charges against them were changed without explanation after the arrest.

In one case, 127 persons were arrested from a bar which is known to be a popular place of socialisation for LGBT persons. During the arrest, a Police man in plain clothing revealed a bag of marijuana and claimed that the persons who were being arrested were in possession of the drugs. The arrestees were taken to Central Police Station and initially charged with possession of narcotics under the Narcotic Drugs and Psychotropic Substances Control Act (NDPSCA). This charge was later changed to the charge of 'being

³⁰ See also Art 9(1) of the ICCPR.

³¹ Art 23(4)(b) of the Constitution; Art 9(3) of the ICCPR.

³² Art 23(3) of the Constitution and Art 14(3)(d) of the ICCPR.

³³ Art 14(3)(g) of the ICCPR.

³⁴ Art 28(3)(a) of the Constitution; Art 14(2) of the ICCPR.

³⁵ Art 28(12) of the Constitution sets out the principle of legality.

³⁶ See Art 23(1)(a) to 23(1)(g) of the Constitution.

a common nuisance' under the Penal Code Act. This charge is suspicious and unfounded considering that the arrest was not made in response to a noise complaint or any other complaints from the community surrounding the bar. The fact that the charge was changed indicates an intention on the part of the arresting officers to have the persons arrested and 'punished' for their presumed sexuality and gender identity and expression. There was no real suspicion that the arrestees had all committed a crime or were about to commit a crime. Some of the arrestees were released on bond while others paid bribes. A total of 58 LGBT persons were remanded to Luzira prison.

In another incident, MSM who had travelled to Kasese to attend a Pride event hosted there were arrested from their lodgings.³⁷ The owners of two homes where the travelers were hosted were arrested along with their guests. After the arrest, the arrestees were beaten and forced to confess to practicing homosexuality. After the intervention of Community Paralegals and HRAFP lawyers, they were released without charge.

A concerning incident took place at the offices of an LGBT organisation which runs economic empowerment programmes for LGBT persons and provides shelter at the office to those in need. Community members surrounded the office, shouted insults at the inhabitants and threatened to break into the premises. There were 16 MSM and transgender persons on the premises at the time of the incident. The Police came to the aid of the group trapped inside the office, however, after dispersing the mob of community members, proceeded to arrest all 16 of the MSM found in the building while also hurling homophobic insults at them.³⁸ This arrest can be considered arbitrary since the Police were called to protect the LGBT persons from a violent attack, yet ended up arresting them on the basis of their presumed sexual orientation and gender identity. The case also did not proceed to Court, which could indicate that the LGBT persons were arrested with the purpose of 'punishing' them, even though the Police officers ought to have been aware that charges of 'having carnal knowledge against the order of nature' could not have been proven in Court.

The Police exhibit a willingness to arrest LGBT persons on extremely flimsy grounds, which violate their right to liberty since there is no real reason to believe that a crime has been committed or is about to be committed and no real intention to bring the arrested person before a court of law. In one case, a gay man was arrested and charged under section 145 of the Penal Code Act. While he was still in custody, two of his friends visited him and were also arrested because the Officer in Charge of the station was of the view that

³⁷ HRAFP/VR-19/004 and HRAFP/VR-19/005.

³⁸ HRAFP/VR-19/041 and HRAFP/VR-19/042.

they 'looked like homos'.³⁹ Another transgender person was also arrested for talking to a Police detainee without the permission of the Police officers.⁴⁰ A group of 7 men who identify as gay were on their way to their respective workplaces in one car in the Nansana area. They were all arrested and were not told what the charges against them were.⁴¹ In one extreme case, a gay man was arrested after being outed in the Red Pepper newspaper.⁴² He was accused of engaging in homosexual relations by a 16-year old boy whom he says he had never met before. After being released on bond, he was repeatedly approached by Police officers who asked him for money in order to make his file disappear.⁴³ The case was eventually dismissed due to a lack of evidence and the man filed a case at the Inspectorate General of Government against the Police officers who attempted to extort him.⁴⁴

The Police are also willing to arrest LGBT persons in cases where they had been the victims of crime and the perpetrators use their sexual orientation in order to prevent them from accessing justice. In two respective cases, gay men were the victims of theft. Upon reporting the crimes committed to the Police, those who had been accused turned the accusation around and caused the men to be arrested on allegations of sodomy.⁴⁵ It is worrying that Police allow LGBT persons' sexual orientation to be used against them and to be complicit in preventing them from bringing those who wrong them to book.

Arrests are also considered arbitrary when they are carried out on the basis of criminal offences which do not exist in law. Two MSM were arrested in Kawempe area for the crime of 'possession of opium' – an offence which had been repealed by the NDPSCA.⁴⁶ An MSM was also arrested in Munyonyo and charged with 'smoking opium' even though this offence no longer exists and has been repealed and replaced by provisions of the NDPSCA.⁴⁷

³⁹ HRAFP/VR/2-19/006.

⁴⁰ HRAFP/VR/2-19/032.

⁴¹ HRAFP/VR/2-19/077.

⁴² HRAFP/VR/2-19/129.

⁴³ As above.

⁴⁴ Interview with HRAFP Legal Associate who handled the matter, 19th March 2020.

⁴⁵ HRAFP/VR/2-19/126; HRAFP/VR/2-19/135.

⁴⁶ HRAFP/VR/2-19/037. Section 48(a) of the National Drug Policy and Authority Act Cap 206 created the offence of smoking opium and was repealed by Section 93 of the NDPSCA.

⁴⁷ HRAFP/VR/2-19/069. Section 48(a) of the National Drug Policy and Authority Act Cap 206 created the offence of frequenting a place used for smoking opium and was repealed by Section 93 of the NDPSCA.

b) Freedom from prolonged detention

The right to liberty is violated if a person is detained beyond the time period of 48 hours without being produced before a court.⁴⁸ During 2019, there were two instances where LGBT persons were arrested for various reasons and were kept in Police custody beyond 48 hours without being brought before a court. In one case, a gay man spent a full 11 days in Police custody and was not brought before a court.⁴⁹ In another case, a gay man was held in Police custody for 4 days after arrest.⁵⁰

4.3.2 Violation of the right to equality and freedom from discrimination

During 2019, there were 18 violations of the right to equality and freedom from discrimination committed against LGBT persons in Uganda arising out of two cases.

Article 21 of the Constitution protects the right of every person to equality before and under the law as well as equal protection of the law. The fact that same-sex sexual conduct remains criminalised in Uganda makes it near impossible for this right to be fulfilled for LGBT persons living in Uganda.

During the period under review, LGBT persons suffered 18 violations of the right to freedom from discrimination at the hands of the Uganda Police Force. The fact that 16 LGBT persons were arrested after they had sought protection from the Police is an alarming violation of the right to equal protection of the law. LGBT persons are effectively barred from accessing the services of the Police on the basis of their sexual orientation and / or gender identity. The case where two gay men were arrested while visiting a detainee on the basis that they 'looked like homos' also amounted to the violation of the right to equality and freedom from discrimination.⁵¹ The two men suffered arrest purely on the basis of what the Officer in Charge perceived to be their sexual orientation.

4.3.3 Violation of the right to life

During 2019, both a gay man and a transgender woman were murdered, violating their right to life. Article 22(1) of the Constitution provides that no person shall be deprived of their right to life apart from within the execution of a death sentence.

A gay man was brutally murdered in his home in Jinja.⁵² The victim worked as a Community Paralegal supporting LGBT persons in his district and was also a peer educator trained by The AIDS Support Organisation (TASO). He suffered trauma to his head inflicted by a hoe

⁴⁸ Art 23(3).

⁴⁹ HRAPF/VR/2-19/013.

⁵⁰ HRAPF/VR/2-19/031.

⁵¹ HRAPF/VR/2-19/006.

which the attackers found in his home. The motive of the murder has not been confirmed and the Police have not concluded investigations, even though HRAPF provided them with needed logistical support and documentation. No arrests were made up to nine months after the incident, which indicate a failure on the part of the state to appropriately investigate and conclude the case, which renders the state responsible for this violation.

Another horrific case was verified in which a young transgender woman was murdered by a group of boda-boda motorcyclists.⁵³ The deceased had taken a boda-boda motorcycle to deliver clothes to a friend in the Naluvule Gombe area. Upon returning to her home, she was waylaid by the driver of the motorcycle and a group of other motorcyclists who had been gathered by him. This group attacked the deceased with stones and other blunt objects that caused injuries resulting in her death. Although the Police had responded by making one arrest, the main suspect was not arrested despite the fact that evidence implicating him was made available to the Police. To date, the case has not been resolved which indicates a failure on the part of the state to address the case and renders them responsible for the human rights violation.

Cases of this level of brutality were not recorded in previous years and therefore this increase of violent crime against LGBT persons is a matter of grave concern. Of even greater concern is the failure on the part of the Police to conclusively investigate and resolve these brutal cases.

4.3.4 Violation of the right to freedom from torture and cruel, inhuman and degrading treatment or punishment

There were 18 violations of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment of LGBT persons during 2019.

The right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment is protected under Article 24 of the Constitution.⁵⁴ This right cannot be derogated from under any circumstances.⁵⁵ Uganda has adopted a law which expands on the protection of this right and prohibits torture which is defined as 'any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of any person, whether a public official or other person acting in an official capacity'.⁵⁶

In the case where 16 LGBT persons were trapped inside organisational premises in Kyengera, the Police were called to intervene. Neighbours and community members surrounded the building and were insulting and threatening the LGBT persons. After

⁵⁴ Art 24.

⁵⁵ Art 44(a) of the Constitution.

⁵⁶ The Prevention and Prohibition of Torture Act No. 3 of 2012.

dispersing the mob, the Police proceeded to violate this right of the 16 LGBT persons involved by arresting them and denying them food while in custody. When their lawyers brought them food, they were denied access to their clients.⁵⁷ The arrestees were only allowed to eat the food brought by their lawyers on the third day spent in custody.⁵⁸ The arrestees were all taken to Nsambya Police Hospital two days after their arrest and were subjected to anal examinations which further violated their right to dignity and freedom from cruel, inhuman and degrading treatment.⁵⁹ These arrestees were furthermore transported on an open truck, even at night time and while it was raining.⁶⁰

The right to freedom from torture and cruel, inhuman and degrading treatment and punishment was also violated by Police when two gay men arrested from their lodgings in Kasese were beaten after arrest.⁶¹

4.3.5 Violation of the right to freedom of conscience, expression, movement, religion, assembly and association

There were 34 violations of the right to freedom of conscience, expression, movement, religion, assembly and association of LGBT persons during 2019.

The right to freedom of conscience, expression, movement, religion, assembly and association is protected under Article 29 of the Constitution. The Article protects the right of groups to assemble and the right to associate freely with others. LGBT persons regularly face interferences with their right to associate in organisations and to assemble by holding meetings and social events.

This right was violated when 33 staff members of a transgender organisation were arrested at Sangalo Beach Hotel in Busia during a three-day training on Sustainable Development Goals. The hotel management had assured the organisation of adequate security during their stay. However, on the second day of the training they were all arrested and taken to Majanji Police station. The group was charged under unlawful assembly as they had not notified the local Police of their presence.⁶² According to Section 4(2)(b) of the Public Order Management Act, the training could be considered as a meeting of members of a registered organisation, convened in accordance with its constitution and held for a lawful purpose of the organisation, therefore not qualifying as a 'public meeting' which would require permission to be held in accordance with the Act.

⁵⁷ Telephone interview with Justine Balya, Legal Officer, Access to Justice Most at Risk Populations Unit, 19th April 2020.

⁵⁸ As above.

⁵⁹ HRAPF/VR/2-19/121.

⁶⁰ As above.

⁶¹ See n 37 above.

⁶² HRAPF/VR/2-19/113.

This right was also violated when an event planned to celebrate IDAHOBIT was disrupted and shut down by the Minister of Ethics and Integrity.⁶³ The IDAHOBIT event was to take place at the offices of Chapter Four. Ten Police officers from Jinja Police Station arrived at the offices an hour before it was scheduled to start and expressed that they were acting on behalf of the Minister of Ethics and Integrity in closing down the celebrations. This action amounts to a violation of the right to freedom of expression, association and assembly since the organisers were forcibly prevented from lawfully exercising their right to assemble by the Minister.

4.3.6 Violation of the right to privacy

During 2019, there was one violation of LGBT persons' right to privacy. Article 27 of the Constitution provides that no person shall be subjected to an unlawful search of their person, home or other property or unlawful entry by others of the premises of that person. The section also provides that no person shall be subjected to interference with the privacy of their home, correspondence, communication or other property.

In the one recorded case, a Local Council leader violated a transgender woman's right to privacy. The LC leader, along with the defence secretary of the area, broke into the transgender woman's home in order to investigate claims that she was having a relationship with a boy who also stayed in her house.⁶⁴

4.4 Conclusion

During 2019, there were 236 violations of the rights LGBT persons perpetrated by state actors. These violations mostly infringed on LGBT persons' right to liberty, their right to equality and their right to be free from torture and cruel, inhuman and degrading treatment and punishment.

⁶³ See n 21 above.

⁶⁴ HRAPF/VR/2-19/156.

5. CASES OF VIOLENCE AND OTHER VIOLATIONS OF HUMAN DIGNITY ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY DURING 2019

5.1 Introduction

This section sets out violations of human dignity which were perpetrated by non-state actors against LGBT persons on the basis of their sexual orientation and gender identity during 2019.

According to Article 20(2) of the Constitution, the human rights and freedoms protected in chapter 4 of the Constitution are to be respected, upheld and promoted by all persons along with all organs and agencies of government. This means that non-state actors are to refrain from inflicting violence and other human rights violations on others.

Both regional and international law places a duty on the state to protect the human rights of all persons in the country.⁶⁵ The state has a duty under international law to ensure an effective remedy for a person whose rights or freedoms have been violated.⁶⁶ This duty is expressed in respect of LGBT persons in particular in Resolution 275 of the African Commission on Human and Peoples' Rights on the protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity. The African Commission expresses deep disturbance at the failure of law enforcement agencies to 'diligently investigate and prosecute perpetrators of violence and other human rights violations targeting persons on the basis of their imputed or real sexual orientation or gender identity'.⁶⁷

The African Commission has furthermore strongly urged states to:⁶⁸

'end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper

⁶⁵ Preamble of the African Charter on Human and Peoples' Rights'; Art 6(d) of the Treaty for the Establishment of the East African Community; Preamble of the International Covenant on Civil and Political Rights (1966).

⁶⁶ Art 2(3)(a) of the International Covenant on Civil and Political Rights.

⁶⁷ African Commission on Human and Peoples' Rights 'Resolution 275 on the protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity' Adopted at the 55th Ordinary Session of the African Commission held in Luanda, Angola 28th April – 12th May 2014.

⁶⁸ As above.

investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.’

This section sets out the violations of human dignity suffered by LGBT persons on the basis of their sexual orientation and gender identity. Some of these matters were settled through mediation. Many, however, remained unreported and unresolved due to fear on the part of the victim to pursue the matter and risk further loss or violation. By and large, these violations went without redress by the state, thus the state also failed in its obligation to provide an effective remedy for acts of violence and violations of dignity.⁶⁹

5.2 Violations of human dignity on the basis of sexual orientation and gender identity

During 2019, a total of 46 violations of human dignity on the basis of sexual orientation and gender identity were recorded. This section sets out the specific violations of human dignity suffered by LGBT persons on the basis of their sexual orientation and gender identity. The violations of human dignity are classified as acts or threats of violence; evictions; denial of employment; denial of education and denial of contact with children.

5.2.1 Acts or threats of violence

During 2019, 23 acts or threats of violence against LGBT persons on the basis of their sexual orientation and/or gender identity were recorded.

The human dignity of 16 LGBT persons was violated by their neighbours and community members when these formed a mob and surrounded the offices of an LGBT organisation based in Kyengera.⁷⁰ The community members were insulting the LGBT persons as they trapped them in the house which serves as an office building and a shelter. They also threatened to break into the house and it cannot be known what the fate of the people found in the house would have been if the Police did not arrive at the scene and dispersed the mob.

An incident was recorded where a group of teachers of a secondary school confronted a 15 year-old male student who was rumoured to be gay. The teachers comprising of 9 males called the pupil to a room and started to interrogate him about the homosexuality allegations and rumours that were making rounds in the school. They then ordered him to lie down and beat him one after the other. Thereafter he was locked up in the room where he spent the night.⁷¹

⁶⁹ See n 66 above.

⁷⁰ See n 38 above.

⁷¹ HRAPF/VR/2-19/017.

In another case, a gay man was assaulted by a mob led by his brother in the Ndeeba area.⁷² Another case was recorded where a gay man was attacked and beaten by three unknown men in Kampala.⁷³ In yet another case, a gay man was severely beaten by a group of men at a bar who had found out that he was gay.⁷⁴ The assailants also stole his phone and wallet.

One incident was verified where a healthcare provider brutally assaulted a potential patient on the basis of her perceived sexual orientation.⁷⁵ The victim is a lesbian woman who was friends with the daughter of an eye specialist. She went to the hospital premises because she wanted to get a pair of glasses. The doctor responded to the victim's arrival at the premises by using a stick to severely beat her for being a lesbian. Assault charges have been laid against the doctor at Police level and the Ministry of Health directed the Uganda Medical and Dental Practitioners Council to investigate the allegations.⁷⁶ The victim, however, decided not to pursue the case further.

During 2019, both a gay man and a transgender woman were murdered, which were the most extreme cases of violence recorded for the year. The gay man was brutally murdered in his home in Jinja.⁷⁷ The victim worked as a Community Paralegal supporting LGBT persons in his district and was also a peer educator trained by The AIDS Support Organisation (TASO). He suffered trauma to his head inflicted by a hoe which the attackers found in his home. A young transgender woman was murdered by a group of boda-boda motorcyclists.⁷⁸ The deceased had taken a boda-boda motorcycle to deliver clothes to a friend in the Naluvule Gombe area. Upon returning to her home, she was waylaid by the driver of the motorcycle and a group of other motorcyclists who had been gathered by him. This group attacked the deceased with stones and other blunt objects that caused injuries resulting in her death. Cases of this level of brutality were not recorded in previous years and therefore this increase of violent crime against LGBT persons is a matter of grave concern.

⁷² HRAPF/VR/2-19/047.

⁷³ HRAPF/VR/2-19/073.

⁷⁴ HRAPF/VR/2-19/142.

⁷⁵ HRAPF/VR/2-19/044.

⁷⁶ 'Ugandan doctor under investigation over claims he assaulted LGBT patient' *The Guardian* 19th October 2019. Available at <https://www.theguardian.com/global-development/2019/oct/30/ugandan-doctor-under-investigation-over-claims-he-assaulted-lgbt-patient> (Accessed on 26th March 2020).

⁷⁷ HRAPF/VR/2-19/014.

⁷⁸ HRAPF/VR/2-19/018.

5.2.2 Evictions

A total of 19 evictions on the basis of sexual orientation and gender identity were recorded during 2019, which actions violated the human dignity of the LGBT persons involved.

LGBT persons often face ostracism and rejection from their families when they come to know about their sexual orientation and gender identity. There were nine recorded cases where family members of LGBT persons evicted them from the family home on the basis of their sexual orientation and/or gender identity.⁷⁹ In one of these cases, a transgender man was sent away from the family home by his parents because he 'dressed like a man'.⁸⁰ In another case, the parents of a gay man found out about his sexual orientation after he was arrested in the Ram bar incident and appeared on the news.⁸¹ They subsequently sent him away from the family home. A young lesbian woman was also told to leave the family home after her sexual orientation came to light.⁸²

Five LGBT persons who were outed during the Ram bar incident were evicted by their landlords on the basis of their sexual orientation and / or gender identity.⁸³ Two other LGBT individuals were also evicted from their homes after their landlords came to know about their sexual orientation.⁸⁴

Three LGBT organisations were evicted or forced to abandon their premises on the basis of discriminatory acts by their neighbours and community members. An organisation based in Nansana faced continuous attacks on its staff members by the community.⁸⁵ Community members also stole organisational property and continuously taunted the members. Eventually, the organisation was evicted from the premises. The offices of an organisation based in Nateete were closed down on the basis of threatening communications from their neighbours.⁸⁶ An organisation which operates a shelter for LGBT persons who had been excommunicated from their families in Booma was raided.⁸⁷ Community members continuously threatened the organisation, forcing those who were making use of the shelter as a safe house to seek alternative accommodation.

⁷⁹ HRAPF/VR/2-19/007; HRAPF/VR/2-19/030; HRAPF/VR/2-19/045; HRAPF/VR/2-19/048; HRAPF/VR/2-19/059; HRAPF/VR/2-19/062; HRAPF/VR/2-19/098; HRAPF/VR/2-19/108; HRAPF/VR/2-19/125.

⁸⁰ HRAPF/VR/2-19/007.

⁸¹ HRAPF/VR/2-19/108.

⁸² HRAPF/VR/2-19/125.

⁸³ HRAPF/VR/2-19/145.

⁸⁴ HRAPF/VR/2-19/141; HRAPF/VR/2-19/150.

⁸⁵ HRAPF/VR/2-19/133.

⁸⁶ HRAPF/VR/2-19/094.

⁸⁷ HRAPF/VR/2-19/149.

5.2.3 Denial of employment

One case was recorded in which a gay man lost his job after his former partner informed some of his work colleagues that he was gay.⁸⁸ The fact that his employment was ended merely on the basis of his rumoured sexual orientation amounted to a violation of his human dignity.

5.2.4 Denial of education

One case was verified in which a gay man was prevented from writing his examinations at a University after his sexual orientation came to light during the Ram bar outing. Preventing a student from continuing their studies, merely on the basis of their sexual orientation, is a blatant violation of their human dignity.⁸⁹

5.2.5 Denial of contact with children

There were two verified cases in which LGBT persons were denied access to their children on the basis of their sexual orientation. In the one case, the mother of the children of a gay man denied him access to the children on the basis of the fact that he has sexual relations with men.⁹⁰ Similarly, a lesbian woman was also prevented from seeing her children by their father on the basis of her sexual orientation.⁹¹

5.3 Conclusion

During 2019, there were 46 violations of the human dignity of LGBT persons on the basis of their sexual orientation and gender identity which can be classified as acts or threats of violence; evictions; denial of employment; denial of education and denial of contact with children.

⁸⁸ HRAPF/VR-19/071.

⁸⁹ See n 83 above.

⁹⁰ HRAPF/VR/2-19/011.

⁹¹ HRAPF/VR/2-19/160.

6. PERPETRATORS OF VIOLATIONS ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY DURING 2019

6.1 Introduction

During 2019, the human rights of LGBT persons were violated on the basis of their real or presumed sexual orientation and/or gender identity by state actors. Non-state actors also committed violations of the human dignity of LGBT persons on the basis of their sexual orientation and gender identity, which included the commission of severe acts of violence.

6.2 Human rights violations by state actors

During 2019, three state actors were responsible for human rights violations against LGBT persons namely the Uganda Police Force, the Minister of Ethics and Integrity and a Local Council leader. A total of 236 violations arising from the actions of state actors were visited upon LGBT persons during 2019. This is an alarming increase from the 30 violations committed by state actors against LGBT persons in 2018 and the 29 violations recorded in 2017.

6.2.1 The Uganda Police Force

Despite a trend of greater protection and fewer violations committed by the Police over the past few years, the data from 2019 reveal a sudden upward trend of violations committed by the Police against LGBT persons. In 2018, there were only 29 violations committed by the Police, which amounts to 42% of all violations committed during the year. A similar low number of violations were recorded in 2017, namely 26 violations and 64 violations were recorded in 2016. During 2019, the Police were responsible for committing 234 violations against LGBT persons. Of the 234 violations, 163 were violations of the right to liberty, 18 were a violation of the right to equality and freedom from discrimination, 18 were the violation of the right to dignity and freedom from torture, cruel, inhumane and degrading treatment or punishment, two were violations of the right to life and 33 were violations of the right to freedom of expression, movement, association and assembly.

6.2.2 The Office of the Minister of Ethics and Integrity

The Minister of Ethics and Integrity perpetrated one violation of the right to freedom of expression, association and assembly of LGBT persons by disrupting and shutting down an event planned to celebrate IDAHOBIT.⁹² This violation is the seventh in a line of events held by LGBT persons in Uganda which has been cancelled or disrupted by the Minister's

⁹² See n 21 above.

Office since 2012. Over the course of the past seven years, the Minister's violations of the rights of LGBT persons have been met with impunity.

6.2.3 Local Council leaders

In one case, a Local Council leader violated a transgender woman's right to privacy by breaking into her home in order to investigate claims that she was having a relationship with a boy who also stayed in her house.⁹³

6.3 Violations of human dignity perpetrated by non-state actors

During 2019, non-state actors committed 46 violations of human dignity against LGBT persons.

Among non-state actors, the greatest number of violations of dignity were committed by members of the general public (19). Twelve violations were committed by family members of the victims; one was committed by teachers; eight by landowners renting out premises; one by a university; one by a private healthcare provider and one by an employer.

Some of these matters were settled through mediation. Many, however, remained unreported and unresolved due to fear on the part of the victim to pursue the matter and risk further loss or violation. By and large, these violations went without redress by the state, thus the state also failed in its obligation to provide an effective remedy for human rights violations.⁹⁴

6.3.1 Violations of human dignity by the general community

The Ugandan society is decidedly homophobic. A survey conducted by the Pew Research Centre in 2013 found that 96% of Ugandans do not believe that society should accept homosexuality.⁹⁵ A 2016 Afrobarometer study also found that 95% of Ugandans would not tolerate having a homosexual neighbor. Although the exactness of these estimates may be questioned, the statistics indicate a societal set-up where it can almost be expected that violations against LGBT persons will occur and that they will furthermore be condoned by the majority of society.

During 2019, members of the general community committed 22 violations of dignity against LGBT persons. These violations include 16 threats of violence and four acts of

⁹³ See n 64 above.

⁹⁴ See n 66 above.

⁹⁵ Pew Research Centre 'The Global Divide on homosexuality' 4th June 2013. Available at <https://www.pewresearch.org/global/2013/06/04/the-global-divide-on-homosexuality/> (Accessed on 2nd October 2019).

violence; and two cases in which LGBT organisations were forced to leave their premises due to repeated taunts, threats and theft of property by community members.

6.3.2 Violations of human dignity by family members

There were 12 verified violations of dignity committed against LGBT persons by their family members on the basis of their sexual orientation and gender identity during 2019. Nine of these violations took place where family members of LGBT persons evicted them from the family home on the basis of their sexual orientation and/or gender identity. There were two cases in which the LGBT parents were denied contact with their children by the children's other parent.⁹⁶ There was also a case in which a gay man was assaulted by a mob led by his brother.⁹⁷

6.3.3 Violations of human dignity by teachers

An incident was recorded where a group of teachers of a secondary school confronted a 15 year-old male student who was rumoured to be gay. The student was interrogated, beaten and locked in a room overnight.⁹⁸

6.3.4 Violations of human dignity by private healthcare providers

One incident was verified where a healthcare provider brutally assaulted a potential patient on the basis of her perceived sexual orientation.⁹⁹ The victim is a lesbian woman who was friends with the daughter of an eye specialist who had gone to see the doctor at the hospital in order to get a pair of spectacles. A case such as this, where a medical professional openly assaults a patient on the basis of their sexual orientation is unprecedented in Uganda and very alarming.

6.3.5 Violations of human dignity by employer

One case was recorded in which a gay man lost his job after his former partner informed some of his work colleagues that he was gay.¹⁰⁰ The fact that his employment was ended merely on the basis of his rumoured sexual orientation amounted to a violation of his dignity.

⁹⁶ See n 90 and 91 above.

⁹⁷ See n 72 above.

⁹⁸ See n 71 above.

⁹⁹ See n 75 above.

¹⁰⁰ See n 88 above.

6.3.6 Violations of human dignity by landowners

During 2019, eight violations of dignity were committed by landowners who evicted LGBT persons or organisations on the basis of their sexual orientation and / or gender identity or on the basis of the work that they do within the LGBT community. An organisation offering services to LGBT persons in Nansana were evicted from their premises by their landlord after a period of constant harassment by the neighbouring community.¹⁰¹ Five LGBT persons who were outed during the Ram bar incident were also evicted by the landlords.¹⁰² Two other LGBT individuals were also evicted from their homes after their landlords came to know about their sexual orientation.¹⁰³

6.3.7 Violation of human dignity by a private university

One case was verified in which a gay man was prevented from writing his examinations at a University after his sexual orientation came to light during the Ram bar outing. Preventing a student from continuing their studies, merely on the basis of their sexual orientation, is a blatant violation of dignity.¹⁰⁴

6.4 Conclusion

During 2019, there were a series of violations of the rights LGBT persons perpetrated by state actors. These violations mostly infringed on LGBT persons' right to liberty, their right to equality and their right to be free from torture and cruel, inhuman and degrading treatment or punishment. Non-state actors also violated the human dignity of LGBT persons on the basis of their sexual orientation and gender identity, mainly through committing violent acts against them and evicting them from their homes or organisational premises.

¹⁰¹ See n 85 above.

¹⁰² See n 83 above.

¹⁰³ See n 84 above.

¹⁰⁴ See n 83 above.

7. GENERAL ANALYSIS OF REPORTED VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

Over the past seven years, there has been a steady decline of human rights violations committed against LGBT persons. Police officers increasingly refrained from taking the law into their own hands when confronted with LGBT persons up to the end of 2018. However, considering the figures from 2019, there has been a marked increase in the number of violations committed against LGBT persons by state actors. The number of violations of human dignity, and particularly acts of violence, committed against LGBT persons by members of the public has increased and includes murder, which has not been the case in previous years.

7.1 Analysis of trends 2019

During 2019, 179 cases were reported to HRAFP and partner organisations, revealing 236 verified human rights violations against LGBT persons on the basis of their sexual orientation and/or gender identity. All the cases handled by HRAFP's secretariat, its regional offices and affiliated Community Paralegals did not constitute a human rights violation or constituted human rights violations which were not based on the victim's sexual orientation and/or gender identity. A variety of constitutionally guaranteed human rights were violated, in particular: the right to liberty, the right to privacy, the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment and the right to equality and freedom from discrimination. This section analyses and summarises the violations committed against LGBT persons during 2019 in comparison to preceding years.

7.2 Trends in number of rights violations

A total of 236 human rights violations were committed against LGBT persons on the basis of their sexual orientation and gender identity during 2019. This number is much higher than the total number of violations committed against LGBT persons in 2018 and 2017, in which years only 69 and 74 violations on the basis of sexual orientation and /or gender identity were respectively recorded and verified.¹⁰⁵

7.3 Trends in nature of rights violations

While the right to dignity and freedom from cruel, inhuman and degrading treatment and punishment was the most violated right in 2016, and the right to equality in 2017, the

¹⁰⁵ n 29 above.

right to liberty is recorded as the most violated right in 2018. In 2019, the right to liberty was by far the most violated right.

Table 1: Categories of rights most commonly violated in 2019, 2018 and 2017

Category of right	Number of violations per year		
	2019	2018	2017
Right to liberty	163	25	15
Right to privacy	1	10	16
Right to dignity and freedom from torture	18	12	15
Right to equality and freedom from discrimination	18	13	22
Right to life	2	0	0
Right to property	0	4	1
Freedom of expression, association and assembly	34	5	5

The violation of the right to liberty had increased dramatically since 2017. This right was mostly violated in instances where large groups of LGBT persons were arrested at the same time on grounds that were not clear; on the basis of charges which could not be sustained or in the absence of reasonable suspicion that the person has or is about to commit a crime. This increase in the number of violations of the right to liberty may be attributed to rumours and talk that Parliament intends to reintroduce the Anti-Homosexuality Bill.¹⁰⁶ The mere possibility that the hateful legislation may be reintroduced was enough to spark a scourge of violations and acts of violence against LGBT persons by both state and non-state actors.

As was the case in the two preceding years, a considerable number of violations of the right to freedom from torture and cruel, inhuman and degrading treatment or punishment were committed by mainly the Police, during and after the process of arresting LGBT persons.

¹⁰⁶ 'Ugandan MPs press for death penalty for homosexual act' *The Guardian* 15th October 2019 available at <https://www.theguardian.com/world/2019/oct/15/ugandan-mps-press-for-death-penalty-for-homosexual-acts> (Accessed on 14th December 2019).

7.3.1 General overview of trends in the violation of the rights of LGBT persons over the years

Table 2: Comparative overview of human rights violations over five years

Categories of rights	Number of violations per period under review				
	2015	2016	2017	2018	2019
The right to equality and freedom from discrimination	51	46	22	13	18
The right to liberty	21	38	15	25	163
The right to freedom from cruel and inhuman treatment	36	65	15	12	18
The right to property	13	13	1	4	0
The right to privacy	28	38	16	10	1
The right to freedom of expression, association and assembly	4	7	5	5	34
The right to life	0	0	0	0	2
TOTAL	153	207	74	69	236

In comparing the numbers of violations over the past five years, it is clear that there was a downward trend in violations on the basis of sexual orientation and gender identity up to 2018. However, in 2019 there is a clear upward trend of violations committed against LGBT persons.

There is a rise in violent homophobia and transphobia as expressed by state actors in the harsh deprivation of liberty of LGBT persons – both in cases where mass arrests were carried out as well as the case where 16 LGBT persons were arrested after calling for Police protection when they were threatened by a mob.

7.3.2 Trends in violations of human dignity

During 2019, non-state actors committed 46 violations of human dignity against LGBT persons on the basis of their sexual orientation and / or gender identity. These violations included 23 cases of violence or threatened violence; 19 evictions; one case of denial of education; one case of denial of employment and two cases of denial of contact with children.

Table 3: Violations of human dignity committed against LGBT persons in 2019

Category of violation of the right to human dignity	Number of cases
Violence or threatening violence	23
Evictions	19
Denial of employment	1
Denial of education	1
Denial of contact with children	2
TOTAL	46

Violations committed by members of the public against LGBT persons have become more frequent and more violent than it had been in previous years. In 2018 a total of 22 violations were committed by members of the public. This number was much higher in 2019. Two murders of LGBT persons were recorded, along with 21 others acts of violence committed against LGBT persons.

Some of these matters were settled through mediation. Many, however, remained unreported and unresolved due to fear on the part of the victim to pursue the matter and risk further loss or violation. By and large, these violations went without redress by the state, thus the state also failed in its obligation to provide an effective remedy for acts of violence and violations of human dignity.¹⁰⁷

7.3.3 Trends in perpetrators of human rights violations

State actors were responsible for 236 human rights violations committed during 2019. Previous reports considered acts of violations as well as violations of human dignity committed by non-state actors to be classified as human rights violations. A ratio of violations committed by state actors as opposed to non-state actors could thus be determined and compared from year to year. This report does not consider such acts committed by non-state actors to qualify as human rights violations, but does consider the state's responsibility to prevent and address such acts.

In terms of sheer numbers, human rights violations committed by state actors have drastically increased in 2019. In 2018, state actors committed only 30 verified violations against LGBT persons.

¹⁰⁷ See n 66 above.

Table 4: Perpetrators of human rights violations against LGBT persons

Perpetrator	Number of violations occasioned
The Uganda Police Force	234
The Office of the Minister of Ethics and Integrity	1
Local Council leaders	1
TOTAL	236

The Uganda Police Force perpetrated the highest number of violations against LGBT persons, followed by the Office of the Minister of Ethics and Integrity and Local Council Leaders. Up to 2018, the number of violations committed by the Uganda Police Force were on a seeming downward trend. In the whole of 2018, only 29 violations against LGBT persons were verified and in 2017 there were only 26 violations by the Police. The statistics of 2019 indicate an alarming spike in the number of violations committed by the Police. This high number can be attributed to the fact that mass arrests which occasioned multiple violations of groups of arrestees had been taking place, which has not been the case in previous years. Such an incident last took place in 2016 when a large group of LGBT persons were arrested during Pride celebrations at a club in Kampala.

During 2019, 46 violations of human dignity were committed by non-state actors, which included 22 violations by the general public, 12 by family members; 8 by landowners; one by a private medical practitioner; one by a private university; one by school teachers and one by an employer.

7.3.4 Trends in perpetrators of violations of human dignity

Table 5: Perpetrators of violations of human dignity against LGBT persons in 2019

Perpetrator	Number of violations of human dignity
Members of the general public	22
Family members	12
Landowners	8
Teachers	1
Private universities	1
Private medical practitioners	1
Employers	1
TOTAL	46

The cases of murder of LGBT persons within the community as well as the numerous cases of mobs inflicting violence on LGBT persons are extremely worrying. There is need for drastic intervention at both state and community level to sensitise the country about the rights of LGBT persons and to demystify sexualities and gender identities which deviate from the norm. There is need for the government to send a very clear message to the citizenry that crimes and other human rights violations committed against LGBT persons shall not go unpunished.

7.4 Conclusion

An analysis of the trends indicates that there has been an increase of human rights violations committed against LGBT persons by state actors as well as an increase in the number and severity of violations of human dignity committed by non-state actors, as compared to previous years.

8. CONCLUSIONS AND RECOMMENDATIONS

8.1 General conclusion

In 2019, a stark increase in the number and severity of human rights violations committed against LGBT persons by state actors was evident. There was also an alarming number of acts of violence committed against LGBT persons by non-state actors. There is seemingly an increased level of hostility against LGBT persons and the environment for this group is deteriorating. Mass violations were committed against groups of LGBT persons by both state and non-state actors – a trend which has not been seen since 2016. The year also saw two violent murders of LGBT persons. There seems to be a measure of loss of the gains made thusfar with sensitisation and awareness raising among both state and non-state actors on the rights of sexual minorities. A strong stand has to be taken on the part of the leadership of the country to ensure that the downward spiral of violence and denigration of LGBT persons comes to an end.

8.2 Recommendations

To the President of the Republic of Uganda

The Office of the President is key to the law-making process and the President has the authority to address laws that are not compliant with the Constitution and initiate processes to have such laws amended. The President also has the power to issue Directives that are to be followed by all state and non-state actors within the country. It is recommended that the President does the following:

1. Make clear statements that acts of violence and discrimination against vulnerable minorities, including LGBT persons will not go unpunished.
2. Publicly reject proposed legislation which discriminates on the basis of sexual orientation and gender identity.

To Parliament

The Parliament of Uganda has the authority to legislate and thereby influence the levels of protection or violation experienced by LGBT persons in Uganda. They are recommended to do the following:

1. Repeal laws which create the offence of 'having carnal knowledge against the order of nature', which is interpreted to criminalise LGBT persons and are used to justify denying them equal protection of the law.

2. Repeal sections of the Penal Code Act which create broad and vague petty offences such as 'being a common nuisance', which are used to arbitrarily arrest and punish persons who are poor and undesirable, including LGBT persons.
3. Ensure that government fulfils its international and regional human rights obligations to all without discrimination.

To the Uganda Police Force

The Uganda Police Force is a critical actor in terms of protecting and violating the rights of LGBT persons. The Police can either protect the rights of LGBT persons when they face abuse and discrimination from the general public or condone and thereby exacerbate such homophobic and transphobic behavior. The Police also determine whether or not LGBT persons will be arrested and prosecuted on the basis of their real or presumed sexual orientation and/or gender identity. In this regard, the following recommendations are made to the Police:

1. Thoroughly and conclusively investigate cases of violence against LGBT persons by members of the public.
2. Continue training Police officers on the human rights of MSM and transgender persons as well as the limits of the laws which they are mandated to enforce.
3. Strengthen mechanisms which exist to redress human rights violations committed by members of the UPF. In particular, improve the responsiveness of the Police Professional Standards Unit in handling matters of alleged violations committed by Police Officers.

To the Uganda Law Reform Commission

The Uganda Law Reform Commission is authorised to advise the state on needed reforms to the law in order to bring them in line with the Constitution and principles of good governance, human rights and social justice. It is recommended that the Law Reform Commission:

1. Develop a proposal for constitutionally compliant alternatives to laws creating petty offences that will protect the rights of all while ensuring order in society.
2. Develop a proposal for the amendment of the Penal Code Act to repeal the sections that criminalise consensual sexual relations between persons of the same sex.

To the Uganda Human Rights Commission

The Uganda Human Rights Commission is mandated to ensure the preservation and protection of the basic human rights of all, both in law and in practice. It is recommended that the UHRC does the following:

1. Demand accountability from the state for all human rights violations reported, especially those that go unaddressed.
2. Hear and dispose of cases involving violations of rights of LGBT persons, some of which have been pending before the Commission's Complaints and Investigations Directorate since 2016.
3. Develop proposals to amend laws that are discriminatory and which do not align with the Constitution of the Republic of Uganda.

To the Equal Opportunities Commission

The Equal Opportunities Commission is an institution mandated to address marginalisation and discrimination in Uganda. The EOC provides a platform for addressing violations suffered by marginalised persons, including LGBT persons who suffer discrimination on the grounds of sexual orientation and gender identity. The Commission is recommended to use its mandate to do the following:

1. Investigate systemic discrimination of individuals based on their sexual orientation and gender identity and report findings.
2. Include cases of discrimination based on sexual orientation and gender identity in the annual reports to Parliament.
3. Continue to train the staff of the EOC in order to build their capacity in handling matters of discrimination and marginalisation on the basis of sexual orientation and gender identity.

To the media

The media has an important part to play in either promoting or combating stigma against LGBT persons, depending on how they choose to frame stories which concern members of this group. The media is also in a position to 'out' LGBT persons to the public, which can be extremely dangerous to their life, security and well-being. The media is recommended to do the following:

1. Report cases of violations against LGBT persons as such, rather than maintaining silence amidst such violations.

To civil society organisations

Organisations which exist to promote human rights, including the rights of LGBT persons, are equipped to raise awareness about the discrimination and challenges which KPs face within the Ugandan society. These organisation can advocate for an improved legal and policy environment through various means. It is recommended that civil society does the following:

1. Make use of the Human Rights (Enforcement) Act, 2019 by supporting LGBT persons who have suffered human rights violations to institute cases to hold individual perpetrators of these violations liable.
2. Ensure that the Police fully and effectively investigates cases of violations committed against LGBT persons.
3. Advocate for the adoption of a law that would categorise crimes committed against LGBT persons on the basis of their sexual orientation or gender identity as hate crimes.
4. Develop the capacity of staff to document violations based on sexual orientation and gender identity. This could include adopting uniform guidelines for recording information on cases and violations.

ABOUT HRAPF

Background

Human Rights Awareness and Promotion Forum is a voluntary, not for profit, and non-partisan Non-Governmental Organisation. HRAPF works for the promotion, realisation, protection and enforcement of human rights through human rights awareness, research, advocacy and legal aid service provision, with a particular focus on minorities and disadvantaged groups. It was established in 2008 with a vision of improving the observance of human rights of marginalised persons in Uganda.

Legal Status

HRAPF is incorporated under the laws of Uganda as a company limited by guarantee.

Vision

A society where the human rights of all persons including marginalised persons and Most at Risk Populations are valued, respected and protected.

Mission

To promote respect and protection of human rights of marginalised persons and Most at Risk Populations through enhanced access to justice, research and advocacy, legal and human rights awareness, capacity enhancement and strategic partnerships.

HRAPF's Objectives

1. To create awareness on the national, regional and international human rights regime.
2. To promote access to justice for marginalised persons and Most at Risk Population groups.
3. To undertake research and legal advocacy for the rights of marginalised persons and Most at Risk Population groups.
4. To network and collaborate with key strategic partners, government, communities and individuals at national, regional and international level.

5. To enhance the capacity of marginalised groups, Most at Risk Populations and key stakeholders to participate effectively in the promotion and respect of the rights of marginalised persons.
6. To maintain a strong and vibrant human rights organisation.

Our target constituencies

1. Lesbian, Gay, Bisexual and Transgender (LGBT) persons
2. Intersex Persons
3. Sex Workers
4. Women, girls and service providers in conflict with abortion laws
5. People who use drugs
6. People Living with HIV and TB (PLHIV/TB)
7. Poor women, children and the elderly with land justice issues

HRAPF Values

- Equality, Justice and Non-Discrimination
- Transparency, Integrity and Accountability
- Learning and Reflection
- Quality and Excellence
- Teamwork and Oneness
- Passion and Drive
- Networking and Collaboration

Slogan

Taking Human Rights to all

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