



Consolidated Human Rights Violations Against Key Populations in Uganda, 2018

December 2019

With support from







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With contributions from

Alliance of Women Advocating for Change (AWAC);
Empowered At Dusk Women's Association (EDWA);
Golden Centre for Women's Rights Uganda (GCWR);
Icebreakers Uganda (IBU);
Lady Mermaid's Bureau (LMB);
Organisation for Gender Empowerment Rights Advocacy (OGERA);
Rainbow Mirrors Uganda (RMU);
Queer Youth Uganda (QYU);
The National Security Committee;
Uganda Harm Reduction Network (UHRN);
Women Positive Empowerment Initiative (WOPEIN); and
Women Organisation Network for Human Rights Advocacy (WONETHA)

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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 the only specialised legal aid clinic for marginalised and Most at Risk Populations (MARPS) in Uganda.

ABOUT THE CONTRIBUTING ORGANISATIONS

Organisations working with MSM and transgender persons

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 human rights and advocate for change in attitude towards LGBT persons thereby reducing stigma on grounds of sexual orientation.

community LGBT youth solidarity groups nationwide, and building organisational capacity of LGBT youth groups to further human rights awareness and protection of individual LGBT youth against harassment and hate campaigns.

Rainbow Mirrors Uganda



Rainbow Mirrors Uganda is an organisation run by transwomen in Uganda. It focuses on providing emotional support for transpeople as well as empowering them to advocate for their rights and legal recognition. The organisation also runs a health services referral system through which they receive and refer cases of transgender persons in need of health services to pre-identified health service providers for management. They handle and refer cases requiring legal intervention and are currently diversifying to promote economic empowerment and sustainability for transpeople.

Queer Youth Uganda (QYU)



ABSOLUTELY QUEER

Queer Youth Uganda is a youth-led organisation that was started in 2006 with the aim of advocating for the rights of LGBT people in Uganda through sensitisation on human rights and HIV/AIDS prevention, establishing

The National LGBTI Security Committee



The National LGBT Security Committee is a team of volunteers who are prominent human rights 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.

Organisations working with sex workers

Alliance of Women Advocating for Change (AWAC)



AWAC was founded by sex worker leaders and activists in 2016, with a view to create a strong and vibrant sex workers' movement in Uganda, placing special focus on upcountry community-based sex worker organisations. The organisation also seeks to promote access to comprehensive HIV/TB and Sexual Reproductive Health Services for sex workers, and promoting sex workers' rights.

Empowered at Dusk Women's Association (EADWA)



EADWA was established in 2008 as a community-based organisation by female sex workers who survived sexual and physical violence. EADWA is committed to serve the

general population of female sex workers that are striving to access health services by advocating for an enabling environment, favourable laws and policies, increased access to friendly health services, increased demand for HIV/AIDS services and Sexual Reproductive Health services and related rights.

Golden Centre for Women's Rights – Uganda (GCWR)



GCWR-Uganda is a registered feminist group founded by and for women sex workers in 2018. GCWR strives to challenge and change the cultural, social, political and economic oppressions imposed on women sex workers because of their gender, nationality, class and nature of work. GCWR seeks to engage, empower and enhance capacity of GCWR members to participate in health, political, economic and social activities and to ensure access to cost effective, affordable, accessible and friendly health services for women nationals and migrant and sex workers in rural and peri-urban areas.

Lady Mermaids Bureau (LMB)



LMB was founded in 2004. It is a female sex worker-led organisation, which focuses on enhancing access to HIV treatment, prevention, counseling and testing services, as well as sexual and reproductive health services for sex workers. The organisation also works towards the elimination of

discrimination, stigma and violence against sex workers.

Organisation for Gender Empowerment and Rights Advocacy (OGERA)



Organization for Gender Empowerment and Rights Advocacy (OGERA Uganda) is a registered female sex worker-led organization for Lesbians, Bisexuals, Queer and Urban Refugees living and working in Uganda. OGERA is a membership and partnership organization which was established in 2013 by a group of LBQ women and Urban Refugee sex workers who felt that their issues were not fully addressed neither in the LGBTIQ nor Sex worker movement due to different perceptions in relation to intersectionality.

Women’s Organisation Network for Human Rights Advocacy (WONETHA)



WONETHA is a sex worker-led organization that was founded in 2008. The organisation’s focus is on promoting the rights of sex workers, developing their capacity, and economically empowering them. The organisation has made robust advocacy efforts, especially at the grassroots level, to put an end to various forms of violence against sex workers in the local communities, and is also at the forefront of challenging the constitutionality of the Anti-

Pornography Act, which is one of the laws that fuel violence against sex workers in Uganda.

Women’s Positive Empowerment Initiative (WOPEIN)



WOPEIN is a sex worker-led organisation created in 2015, with the aim of promoting the rights of sex workers through advocacy and enhancement of access to health services and legal and human rights knowledge.

Organisations working with People Who Use and Inject Drugs

Uganda Harm Reduction Network (UHRN)



Uganda Harm Reduction Network (UHRN), is National Coordinating entity for people who use drugs in Uganda established in 2008 and registered under No.80010004154686 to respond to the drug use crisis in Uganda. The network works to advocate for practical interventions aimed at supporting and addressing issues of people who use and inject drugs in Uganda. The network also seeks to provide a national platform for human rights, health and policy programs that promote good practices and advocate for a supportive environment for the adoption, inclusion, implementation and expansion of harm reduction programs.

PREFACE

This report is the first of its kind to be published by HRAPF. The report provides a comprehensive account of the human rights violations suffered by selected Key Population groups for a period of one year. The selected Key Population groups covered in this report are gay men and Men who have Sex with Men (MSM), transgender persons, sex workers and People Who Use and Inject Drugs (PWUIDs). The common thread

running through the three groups is criminalisation. All of them are criminalised, the first group under the criminalisation of ‘carnal knowledge against the order of nature’ under the Penal Code, the second group under the prohibition of prostitution in the Penal Code and the third group as a result of the criminalisation of possession of narcotic drugs under the Narcotic Drugs and Psychotropic Substances Control Act.



“

... Key Population groups covered in this report are gay men and Men who have Sex with Men (MSM), transgender persons, sex workers and People Who Use and Inject Drugs (PWUIDs).

”

HRAPF has been publishing the annual Uganda Report of Violations based on Sexual Orientation and Gender Identity since 2014. These annual reports present the violations of human rights of LGBT persons that were recorded and verified in a particular year. HRAPF has also been publishing the annual Report on the Protection and Violation of the Human Rights of Sex Workers in Uganda since 2016. This report is similar to these publications in that it records and considers violations committed against specific groups on an annual basis, however it is unique in that it considers violations committed against various Key Population groups in a single report.

This report focuses on MSM and transgender persons, sex workers and PWUIDs in light of the fact that these groups are Key Populations in terms of their vulnerability to HIV infection coupled with the structural challenges they face in obtaining HIV services. Human rights violations committed against MSM and transgender persons, sex workers and PWUIDs are considered and investigated as factors which cause them to be classified as Key Populations.

The report sets out the various violations suffered by MSM and transgender persons, sex workers and PWUIDs for the period of January to December 2018, as recorded by HRAPF's legal aid clinic and by partner organisations.

HRAPF offers legal aid to LGBT persons, sex workers and People Who Use and Inject Drugs across Uganda and reaches beyond Kampala, where the Secretariat is based, through its six regional centres and through HRAPF trained and supported Community Paralegals who are based in various districts in the country. All the cases handled by HRAPF and the contributing partner organisations were considered in compiling this report.

The report draws heavily on *The Uganda Report of violations committed on the basis of sexual orientation and gender identity 2018* as well as the *2018 Report on the Protection and Violation of the Rights of Sex Workers in Uganda* which were published by HRAPF during the course of 2019. These reports provide a blueprint for this report.

The report considers the trends in human rights violations committed against MSM and transgender persons, sex workers and PWUIDs. Over the past six years, there has been a marked change in approach and attitude of the Uganda Police Force toward MSM and transgender persons in the country. Police officers increasingly refrain from taking the law into their own hands when confronted with MSM and transgender persons. There has been a similar improvement in the treatment of sex workers by the Police over the past three years. Police officers

increasingly refrain from arresting sex workers arbitrarily and from exposing them to the media after arrest.

This report notes that there have been a change in trends in that there are far fewer violations committed against MSM and transgender persons by the Police and a greater number committed by the general community, their families and members of the MSM and transgender community. In a similar vein, there are fewer violations recorded against sex workers by the Police than by private, non-state actors.

This report will present HRAPF's first analysis and publication of violations committed against PWUIDs during a particular year. This means that trends cannot yet be established considering the treatment of PWUIDs from one year to the next.

All the cases in this report have been independently verified through reference to case files and interviews with the victims of the violations and the lawyers and paralegals that handled the cases.

As has now become usual, the report starts with a presentation of the incidences of protection of the rights of KPs, and then moves over to the violations. It is imperative that instances where rights of KPs have been protected should be highlighted since this shows progress towards protection. In the same light, violations have to

be exposed so that the powers that be become aware of what is happening and do what is needed to change the trends.

This report serves as an evidence-base of the number, extent and severity of violations which KPs face due to their social status, societal prejudice and stigma as well as on the basis of their real or perceived sexual orientation and/or gender identity. The report highlights the need for continued and strengthened intervention from the state, civil society and development partners to put an end to these violations. This report is also intended to support advocacy efforts towards positive changes in the legal and policy environment as it relates to KPs.

Finally, the report is intended to serve as a tool in sensitising both state and non-state actors on the discrimination and violence which the selected KPs considered in this report face on a daily basis.

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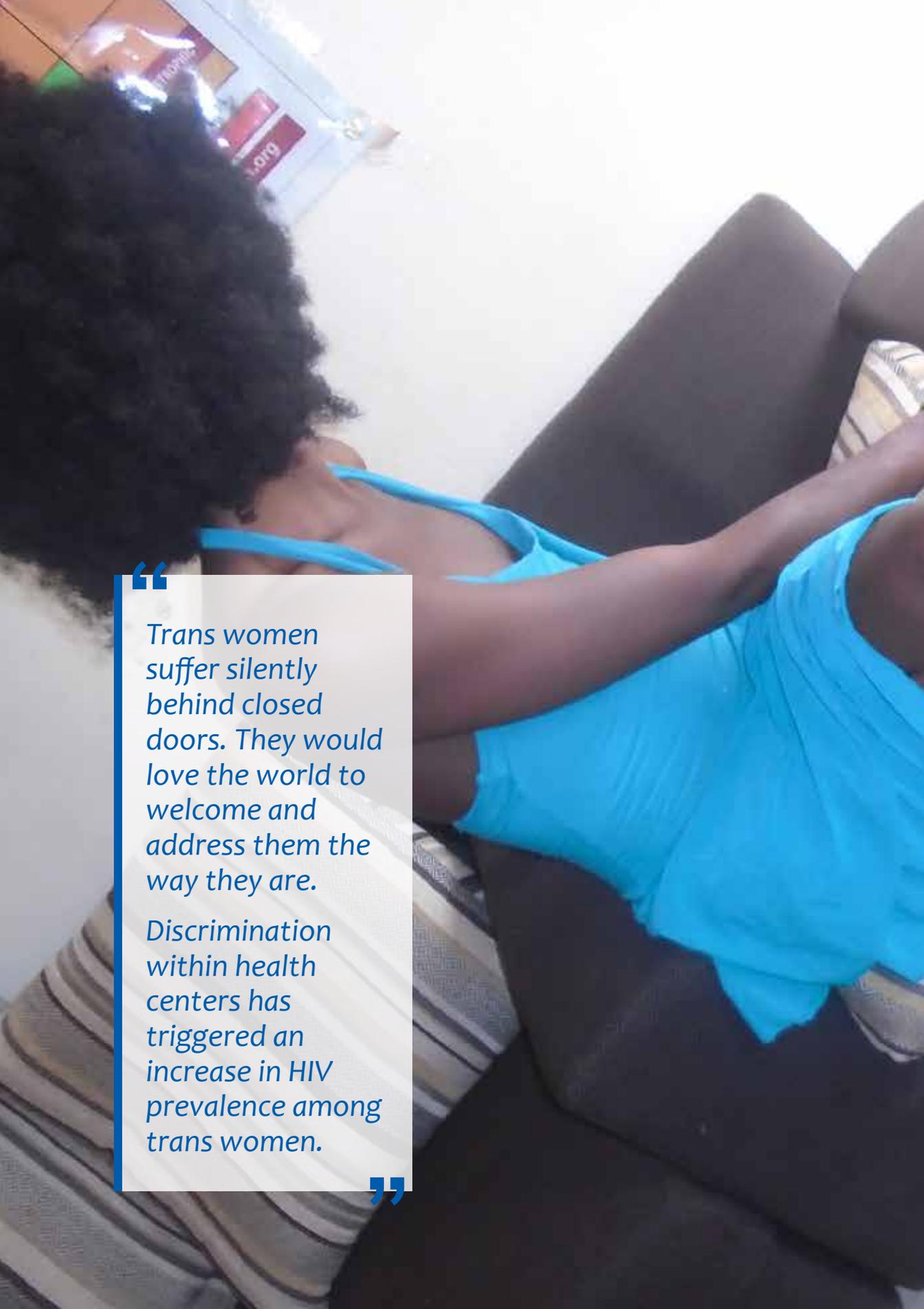
GLOSSARY

Bisexual:	A person romantically and/or sexually attracted to both men and women, though not necessarily at the same time
Case:	A separate set of facts involving violation of a law or a right and which is included in one file. A single case can involve multiple persons and multiple violations
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
Harm reduction:	Measures to reduce the negative consequences of drug use
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
Lodge:	A house or dwelling where sex workers engage in sexual activity with their clients
Outing:	The act of disclosing a lesbian, gay, bisexual or transgender person's 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)

- Sex worker:** An adult person who consensually offers sexual services in exchange for money or other material gain as a way of gainful employment
- Sexual minorities:** A group of persons whose sexual orientation, gender identity, and / or practice differs from the majority
- Sexual orientation:** A person's emotional, physical and sexual attraction and the expression of that attraction with other individuals
- Site:** An area where sex work is done on a large scale
- 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 identifies as male
- Trans-woman:** A transgender person who was assigned the male sex at birth but identifies as female
- Violation:** An act that contravenes a law which guarantees a right. There may be multiple violations in a single case

LIST OF ACRONYMS

AG:	Attorney General
AWAC:	Alliance of Women Advocating for Change
ARVs:	Anti-retroviral Drugs
DPP:	Directorate of Public Prosecutions
EADWA:	Empowered At Dusk Women’s Association
EOC:	Equal Opportunities Commission
GCWR:	Golden Centre for Women’s Rights – Uganda
HIV:	Human Immuno-deficiency Virus
HRAPF:	Human Rights Awareness and Promotion Forum
IBU:	Ice Breakers Uganda
LGBT:	Lesbian, Gay, Bisexual and Transgender
LMB:	Lady Mermaid’s Bureau
MSM:	Men who have sex with men
MARPI:	Most At Risk Populations Initiative
NDPAA:	National Drug Policy and Authority Act, Cap. 206
NDPSCA:	Narcotic Drugs and Psychotropic Substances Control Act, 2016
OGERA:	Organisation for Gender Empowerment and Rights Advocacy
PEP:	Post Exposure Prophylaxis
PWUID:	Person Who Uses and Injects Drugs
PWUIDs:	People Who Use and Inject Drugs
QYU:	Queer Youth Uganda
RMU:	Rainbow Mirrors Uganda
SOGI:	Sexual Orientation and Gender Identity
UAC:	Uganda AIDS Commission
UHRC:	Uganda Human Rights Commission
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNODC:	United Nations Office on Drugs and Crime
UPF:	Uganda Police Force
VCT:	Voluntary Counselling and Testing
WHO:	World Health Organization
WONETHA:	Women’s Organisation Network for Human Rights Advocacy
WOPEIN:	Women Positive Empowerment Initiative



Trans women suffer silently behind closed doors. They would love the world to welcome and address them the way they are.

Discrimination within health centers has triggered an increase in HIV prevalence among trans women.



EXECUTIVE SUMMARY

1. Introduction

The Uganda Report of Human Rights Violations against Key Populations analyses cases of violations committed against MSM and transgender persons, sex workers and PWUIDs through a human rights lens. The report discusses the human rights violations committed against these KP groups during the course of 2018. It classifies the various categories of human rights violations suffered by KPs and distinguishes between violations committed by state actors and those committed by non-state actors. It also details a number of the violations in order to enable the reader to understand the context and nature of rights violations that would otherwise appear as mere figures.

The report is intended to be used as a tool for advocacy on the rights of KPs in Uganda by providing a record of violations of the rights of these groups.

The report is based on documentation of human rights abuses and violations of KPs primarily done by HRAPF but also includes cases handled by other contributing partner organisations. The report, however, does not include all the reported violations committed against these KP

groups but only those violations which could be independently verified.

Key Findings

1. There were six instances of protection of sex workers' rights, including protecting them against third party violation in three instances and investigating cases of violation of their rights in another three cases. In one case, a Local Council chairperson protected a group of MSM from arbitrary arrest. There were no recorded instances of the state protecting the rights of PWUIDs.
2. A total of 242 violations arising out of 111 cases were committed against the various KPs. Out of these violations, 91 were against PWUIDs arising out of 15 cases, 83 were against sex workers arising out of 41 cases and 68 were suffered by gay men and other MSM as well as transgender persons arising out of 55 cases.
3. Gay men and other MSM as well as transgender persons had the most cases with violations, namely 55, which is the highest of all the groups. This implies a higher rate of attacks than any other groups, and thus greater vulnerability. However, sex

workers and PWUIDs have fewer cases but more violations per case.

4. The right which was most violated, overall for all KPs as well as for each of the individual KP groups, is the right to liberty. This right was violated a total of 120 times, amounting to 49.6% of all violations. This right was most violated for MSM and transgender persons at 36.8%; for sex workers at 73.5% and for PWUIDs at 37.4%.
5. Most of the violations against KPs, namely 191 out of 242, were committed by state actors and 51 were committed by non-state actors. This means that state actors were responsible for 78.9% of violations against KPs while non-state actors were responsible for only 21.1%.
6. The Uganda Police Force was the single biggest violator of human rights of KPs for the year 2018 as it was responsible for 188 out of 242 or 77.7% of all violations. The second biggest violators were members of the general public (9.1% of violations).

Key Recommendations

To the President of the Republic of Uganda

1. Publicly reject proposed legislation which discriminates on the basis of sexual orientation

and gender identity or which promotes discrimination and violence against women because of their involvement in sex work.

2. Ensure that issues of non-discrimination and the protection of vulnerable minorities are discussed as priorities within Cabinet and the Executive.
3. Demand conclusive investigations of cases involving violations of the rights of KPs.
4. Revise directive on stopping arrests under the 'idle and disorderly' provision to include the offence of 'being a rogue and vagabond' and other petty offences.

To Parliament

1. Repeal laws which create the offence of 'having carnal knowledge against the order of nature', which is interpreted to criminalise MSM and transgender persons and are used to justify denying them equal protection of the law.
2. Repeal laws that are obsolete and which fuel violence against sex workers, in particular Section 138 and 139 of the Penal Code Act.
3. Amend the Narcotic Drugs and Psychotropic Substances Control Act, 2019 to decriminalise individual drug use or to provide for more lenient sentences where a person is an individual

drug user as opposed to a trafficker.

4. 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, including KPs.
5. Ensure that the government fulfils its international and regional human rights obligations to all without discrimination.

To the Uganda Police Force

1. Continue partnering with CSOs to train Police officers on the human rights of MSM and transgender persons, sex workers and PWUIDs as well as the limits of the laws which they are mandated to enforce. The role of the UPF as a protector of the rights of KPs as vulnerable groups should be strengthened.
2. 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.
3. Thoroughly and conclusively investigate cases of violence against KPs by members of the public.

To the Ministry of Health

1. Emphasise that violations against KPs are a barrier in the fight against HIV and AIDS in policies and public communications.
2. Take a stand against discriminatory laws and call for the decriminalisation of consensual same-sex sexual conduct and sex work in order to enable the fight against HIV and AIDS among KPs.
3. Take a stand against laws which impose harsh sentences on PWUIDs for individual drug use and possession, which inhibit rehabilitation and treatment of PWUIDs as well as access to HIV prevention and treatment services.
4. Adopt Guidelines under the Narcotic Drugs and Psychotropic Substances Act that promote harm reduction and which can guide future legislation, programmes, the establishment of rehabilitation centres and treatment of PWUIDs in Uganda, in recognition of the fact that this group is a Key Population.

To the Uganda Law Reform Commission

1. Make recommendations for constitutionally compliant alternatives to laws creating petty offences that will protect the rights of all while ensuring order in society.

2. Make recommendations for the amendment of the Penal Code Act to repeal the sections that criminalise consensual sexual relations between persons of the same sex.
3. Make recommendations to Parliament to repeal provisions in the Penal Code Act that criminalise sex work and related activities which are not being used by law enforcers yet promote prejudice and discrimination against sex workers. These include sections 136, 137, 138 and 139 of the Penal Code Act.
4. Make recommendations for amendment of the Narcotic Drugs and Psychotropic Substances Act to remove provisions that impose harsh sentences on PWUIDs for individual drug use and possession.

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 human rights of KPs that are pending before the Commission's Complaints and Investigations Directorate.
3. Develop proposals to amend laws that are discriminatory and

which do not align with the Constitution of the Republic of Uganda.

4. Include KPs' issues in the annual reports to Parliament.
5. Continue to work with CSO and government ministries to train judicial officers and Police officers on the NDPSCA and laws affecting KPs.

To the Equal Opportunities Commission

1. Investigate systemic discrimination of individuals based on their sexual orientation and gender identity as well as social and economic status within society.
2. Continue to train the staff of the EOC in order to build their capacity in handling matters of discrimination and marginalisation which involve KPs.
3. Compile reports on discrimination and marginalisation of KPs and make the necessary recommendations to the relevant stakeholders on how to combat such discrimination and marginalisation.
4. Include KP issues in the annual reports to Parliament.

To the Uganda AIDS Commission

1. Emphasise violations committed against KPs as an obstacle to the implementation of HIV

prevention and control policies and programmes.

2. Take a stand against discriminatory laws, such as section 145 of the Penal Code Act which criminalises consensual same-sex sexual conduct, and sections 138 and 139 of the Penal Code Act in order to enable the fight against HIV and AIDS among KPs.
3. Take a stand against laws which impose harsh sentences on PWUIDs for individual drug use and possession, which inhibit rehabilitation and treatment of PWUIDs as well as access to HIV prevention and treatment services.

To civil society organisations

1. Raise awareness about the limits of the law criminalising same-sex sexual relations and undertake public education campaigns to bring across strongly the message that homosexual or transgender identities in themselves are not criminalised.
2. Raise awareness about the limits of the law in terms of criminalising drug use and possession and undertake public education campaigns to bring across strongly the message that PWUIDs in themselves are not criminalised.
3. Continue to engage in programmes that aim at creating public awareness on sex workers' rights and ending violence against sex workers.
4. Advocate for the adoption of a law that would categorise crimes committed against MSM and transgender persons on the basis of their sexual orientation or gender identity as hate crimes.
5. Hold awareness sessions with members of the general community to demystify MSM and transgender persons, sex workers and PWUIDs and help the community understand that they are part of their community.
6. Develop the capacity of staff to document violations committed against KPs. This could include adopting uniform guidelines for recording information on cases and violations.
7. Strengthen reporting systems, methods of evidence collection and data storage in order to facilitate the verification of violations against KPs.
8. Support the Uganda Human Rights Commission to monitor and document reports of violence, abuse, and discrimination committed against KPs.
9. Establish further partnerships with organisations for the monitoring and documentation of rights of KPs.

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1. INTRODUCTION

The Uganda Report of Human Rights Violations against Key Populations, 2018 is the first report of its kind to be published by HRAPF. The report analyses violations involving MSM and transgender persons, sex workers and PWUIDs as Key Populations (KPs) from a human rights perspective.

HRAPF has been publishing the Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity on an annual basis since 2014 in order to provide a documented account of the situation of LGBT persons in Uganda within a particular year. This report differs from that annual publication in that it does not focus on all of the subgroups typically covered under the LGBT ‘umbrella’, but is limited to Men who have Sex with Men and transgender persons. The reason for focusing on these two subgroups alone is based on the fact that they are considered to be KPs within the HIV response.¹ The report furthermore includes violations committed against two other KP groups, namely sex workers and PWUIDs, for the same period.

Worldwide, more than half of new HIV infections occur among members of KP groups and their sexual partners.² KPs in terms of HIV are those groups which are particularly vulnerable to HIV, while at the same time often lacking access to adequate HIV services.³ The KPs currently considered to be the main focus of the international HIV response are gay men and other MSM; sex workers; transgender people; People Who Use and Inject Drugs and prisoners and other incarcerated people.⁴ This report responds to the need for a comprehensive documentation of the human rights violations suffered by four of these KP groups, which further inhibits their access to HIV services and feeds into the cycle of vulnerability to HIV infection.

The report classifies the various categories of human rights violations suffered by MSM and transgender persons and distinguishes between violations committed by state actors and those committed by non-state actors. The report also highlights some of the cases and gives some insight into the impact of human

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¹ UNAIDS ‘Key Populations’ available at <https://www.unaids.org/en/topic/key-populations> (Accessed on 13th December 2019).

² As above.

³ n 1 above.

⁴ n 1 above.

rights violations on the individual lives of the KPs concerned.

This report is intended to be used as a tool for advocacy on the rights of KPs in Uganda through providing evidence of systemic and contextual factors influencing the violations of the rights of these groups.

The report is based on documentation of human rights abuses and violations based on gender identity and sexual orientation, violations against sex workers and against PWUIDs by HRAPF through its central legal aid clinic, as well as by contributing partner organisations. All the documented cases of violations committed against these KP groups are not included in the report, however, since not every reported case and violation could be independently verified.

The report makes recommendations to various duty-bearers on what can be done to protect, respect and fulfil the rights of KPs in Uganda.

1.1 Methodology

The 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 its partners during the course of the year 2018. Qualitative data was collected by considering the cases of MSM and

transgender persons, sex workers and PWUIDs reported to HRAPF and partners during the period under review in respect of the nature of the violations and factors surrounding the violations such as 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 human rights violation noted was subjected to an independent verification exercise and only those cases involving human rights violations that could be verified independently form part of 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 MSM and transgender persons during 2018. All the case files were physically reviewed in order to ensure that only cases in which human rights violations had been committed against MSM and transgender persons, sex workers and PWUIDs 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, documentary or other evidence on file were also reviewed. This documentary evidence usually takes the form of 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 which serves as evidence of the violation on file. In case a document's authenticity was doubted, persons said to have authored such document would be asked to confirm the document.

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, the cases were instead verified by re-interviewing the clients or victims of human rights violations or the Community Paralegals or case officers who handled the cases. These additional interviews helped to clarify facts and bring additional information on file with which to verify the alleged violation.

1.2 Limitations

A number of limitations were faced in compiling this report.

Firstly, while the report does seek to cover the human rights situation of KPs in Uganda, it is limited to the work of lawyers and paralegals attached to HRAPF in areas beyond Kampala. National coverage has steadily improved over the past few years as HRAPF has opened up regional legal aid centres in various areas of Uganda and has continued to train paralegals operating in various parts of the country. The report, however, does not cover all cases that have happened all over Uganda, and therefore does not give a complete picture of the state of human rights of KPs in Uganda.

Secondly, uniform and comprehensive documentation remains a challenge for the majority of organisations working on MSM, transgender, sex worker and drug user issues in Uganda. In the compilation of this report, a number of instances were noted where neither the case nor the human rights violation that had resulted from the case 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 KPs in Uganda on the documentation of human rights violations. Consistent, uniform and thorough documentation is a necessity.

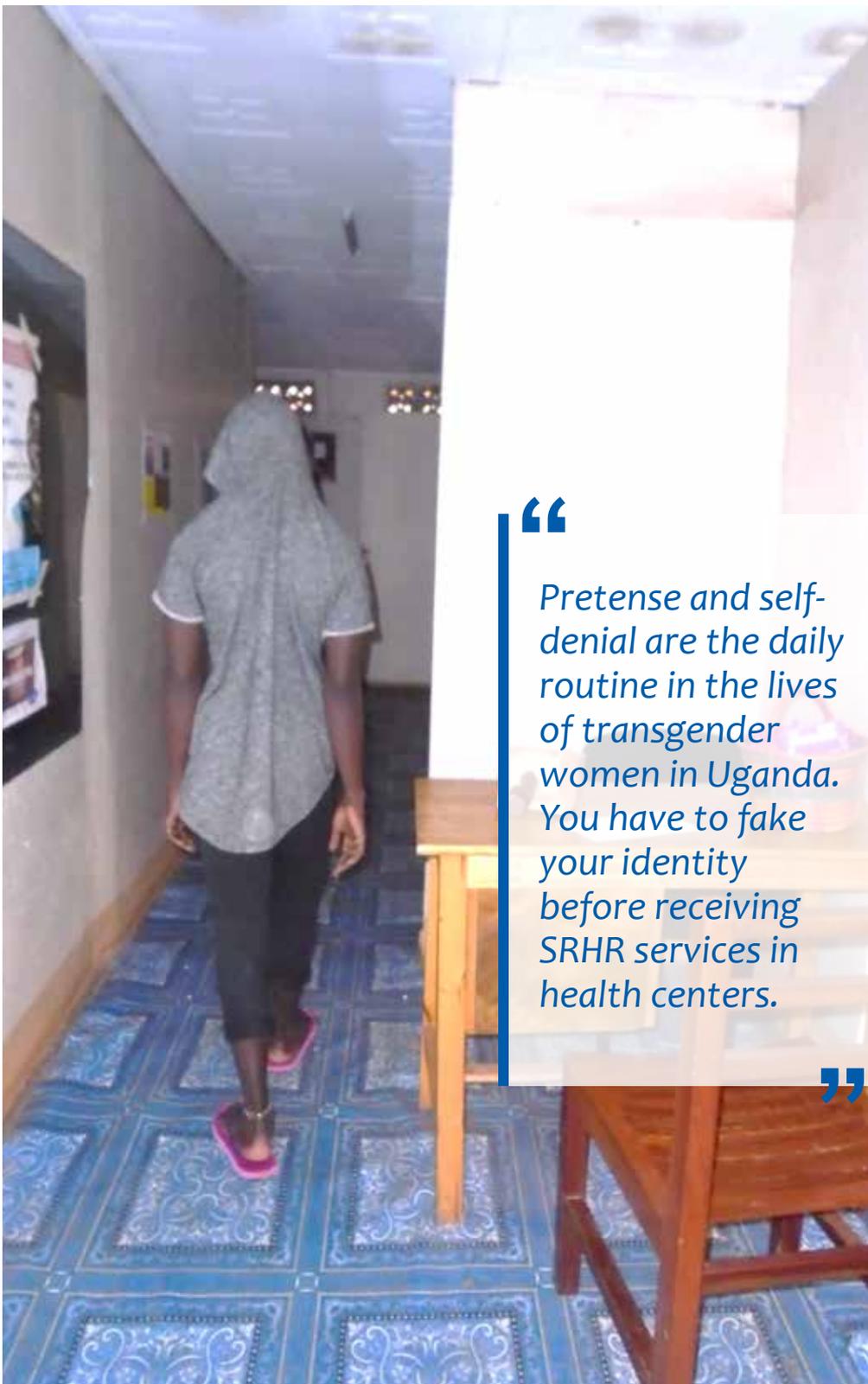
A third limitation that was noted in the compilation of this report is the fact that those handling cases involving human rights violations

of KPs do not necessarily have the capacity to frame their cases in the language of rights. In many instances, violations would occur on the basis of the sexual orientation and/or gender identity of the client involved, or their social identity as a sex workers or PWUID, yet would not be recognised as such. Another difficulty which occurs is the fact that sometimes routine procedures and practices carried out by the Police and other law enforcers could wrongfully be viewed and recorded as human rights violations. There remains a need for training and orientation of persons responsible for responding to complaints lodged by KPs on the content, framing and recognition of human rights violations. Overall, the KP movement in Uganda will greatly benefit from continued training on human rights monitoring, documentation and reporting.

“

...comprehensive documentation remains a challenge for the majority of organisations working on MSM, transgender, sex worker and drug user issues in Uganda.

”



“

Pretense and self-denial are the daily routine in the lives of transgender women in Uganda. You have to fake your identity before receiving SRHR services in health centers.

”

2. PROTECTION OF THE RIGHTS OF KEY POPULATIONS IN 2018

HRAPF has documented instances of improvement of the levels of recognition and protection of human rights of LGBT persons, including MSM and transgender persons, over the past six years as well as improvement in the levels of protection available to sex workers over the past three years. Cases have been recorded every year in which the Police and state authorities stepped in to protect the rights of these groups.

a) MSM and transgender persons

During 2018, only one such case was registered for MSM or transgender persons. In that case, the rights of a group of LGBT persons were protected by a local community leader. An MSM organisation held an event to sensitise MSM about HIV and AIDS. A group of men from the neighbourhood alerted the Police that ‘a strange meeting was being held’. The Police stormed the meeting and attempted to arrest the organisation’s leader. The organisation’s leader called HRAPF who responded. By the time HRAPF got to the meeting, the Police had already been convinced not to make any arrests by the Local Council chairperson. The Local Council chairperson explained to

the Police that he had been informed in advance of the event and that the group should not be disturbed. This action by a Local Council chairperson to stand up for the rights of MSM is a positive step which could encourage the broader community to be tolerant and even supportive of their neighbours. Furthermore, the number of violations committed by the Police have decreased in recent years and have remained lower in 2018 than it had been in 2017 and 2016. Another encouraging finding is that no violations were committed by Local Council leaders against MSM and transgender persons.

b) Sex workers

For the case of sex workers, three instances were recorded in 2018 during which the Police took steps to protect the rights of sex workers where these rights were threatened or violated by non-state actors. In the first case, the boyfriend of a sex worker stole some of her assets including UGX 400,000 cash. The sex worker saw her boyfriend on the street later on and made an alarm after which a mob gathered that beat up the boyfriend. The Police intervened and arrested the boyfriend who was detained at the Police station until an agreement

was reached that the boyfriend would repay the money to the sex worker in order to secure his release.⁵

In another case, a sex worker's boyfriend demanded from her the money which she had put aside to buy food for the family. She refused to give him the money and left the house. Later on, her neighbours called her and informed her that her boyfriend was destroying her property. She sought assistance at the nearest Police station but her complaint was disregarded once the officers found out that she was a sex worker. She went to another Police station where the Police officers did assist her by going to her home and arresting her boyfriend for the damage he had done to her property.⁶

In the third case, a sex worker was assaulted by a man she did not know after escorting a client out of her room. The assailant pushed her back into the room and tried to strangle her as he demanded money. Two men responded to her alarm and managed to lock her attacker in the room as the sex worker escaped. The Police arrested the assailant after she laid a complaint.⁷

Apart from these cases, three other cases were also recorded and verified in which the Police

⁵ HRAPF/SWVR-19/066.

⁶ HRAPF/SWVR-19/048.

⁷ HRAPF/SWVR-19/008.

⁸ HRAPF/SWVR-19/022.

⁹ HRAPF/SWVR-19/018 and HRAPF/SWVR-19/029.

responded to sex workers' requests for assistance and opened cases where they have been victims of crimes. In one of these cases, the Police opened a case against a man who followed a sex worker to her house and was arrested by her neighbours and other community members after he tried to rape her.⁸ In two other cases, the Police carried out medical examinations and opened cases against alleged perpetrators of assault against sex workers.⁹

While these six cases where the Police protected the rights of sex workers are a step in the right direction, they do not negate the many cases where the Police are the very perpetrators of violations.

c) PWUIDs

No case was recorded during 2018 in which the Police stepped in to protect the rights of PWUIDs.



This action... to stand up for the rights of MSM is a positive step which could encourage the broader community to be tolerant and even supportive of their neighbours.





“

Discrimination and violence forces trans women like ‘Angel’ into hiding and prevents them from accessing vital SRHR and HIV services and support.

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3. VIOLATIONS OF HUMAN RIGHTS OF KEY POPULATIONS DURING 2018

3.1 Number of violations committed against KPs during 2018

During the year 2018, a total of 242 violations were committed against the various KPs which form part of this report. Out of these violations, 91 were suffered by PWUIDs, 83 by sex workers and 68 by MSM and transgender persons.

TABLE 1: Number of violations suffered by respective KP groups during 2018

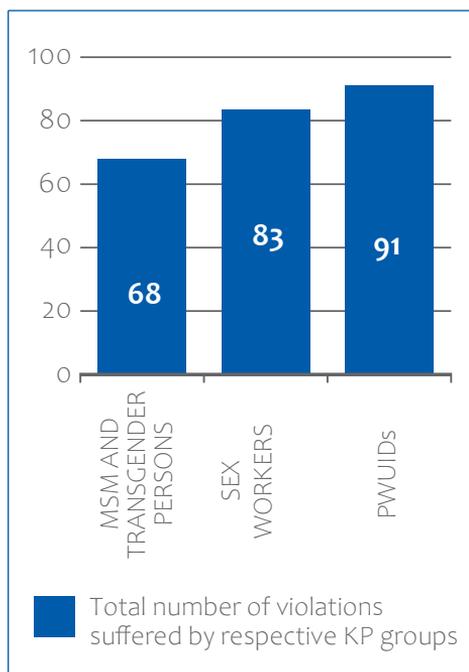
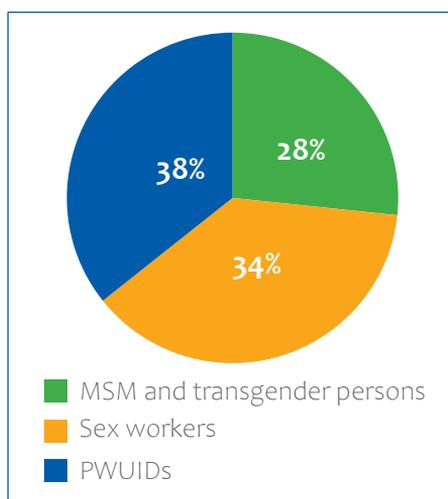


CHART 1: Percentages of violations suffered by respective KP groups during 2018



A total of 111 cases were reported to HRAPF and contributing organisations, with a total of 242 violations committed against KPs for the year. In particular, 15 cases of PWUIDs with 91 violations; 41 cases of sex workers with 83 violations and 55 cases of MSM and transgender persons with 68 violations.

3.2 Nature of violations committed against KPs during 2018

A total of 242 human rights violations were committed against KPs during 2018. The rights which were violated were: the right to liberty, the right to equality, the right to freedom from torture, inhuman and degrading treatment or punishment, the right to a fair trial, the right to privacy, the right to property and the right to freedom of expression, association and assembly. Instances of violation of each of these rights are discussed in more detail.

3.2.1 Violation of the right to equality and freedom from discrimination

During 2018, there were 44 verified violations of the right to equality and freedom from discrimination of KPs. PWUIDs suffered the majority of these violations (26), while there were 13 such violations of MSM and transgender persons and 5 such violations against sex workers.

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 and prohibits discrimination on grounds such as sex and social status. This right is far from being realised for KPs in Uganda who face discrimination, unfair treatment and exclusion. The continued criminalisation of same-sex sexual conduct feeds into the

homophobic climate in the country and prevents MSM and transgender persons from living free, secure and normal lives, on an equal footing with other persons. The criminalisation of sex work as well as individual drug use and possession also create barriers for the exercise of the right to equality for sex workers and PWUIDs.

a) MSM and transgender persons

A total of 13 violations of the right to equality and freedom from discrimination were committed against MSM and transgender persons. In one case, a man who self-identifies as gay went to a Police station in order to report the theft of his phone. The Police initially arrested the man on the basis that he appeared to be gay. It was only after they realised that he had come to report another case that he was released.¹⁰

There were six recorded cases where family members of MSM and transgender persons evicted them from the family home on the basis of their sexual orientation and/or gender identity, and no redress was provided to them by the state. These cases amount to a violation of the right to equality and freedom from discrimination.

In one of these cases, a young gay man told his family about his sexual orientation.¹¹ The family responded

¹⁰ HRAPF/VR-19/007.

¹¹ HRAPF/VR-19/005.

by disowning him and sending him away from the family home. The young man started to attend overnight prayer services at a local church simply to have shelter during the night.

In another case, the mother of a young gay man sent him away from home so he would not 'teach' her other children to be gay.¹² In two cases, parents evicted their sons, who were still minors, when they found out that they were gay.¹³ In one of the cases the mother of the young gay man also refused to continue to pay for his tuition.¹⁴

In one case, a gay man's sister found out about his sexual orientation and told the entire family about it, which led to a family meeting at which he was asked to drop the family name.¹⁵ The family of another 22-year old gay student went as far as to report him to the Police which led to his arrest.¹⁶ The criminalisation of same-sex relations has led to a situation where the Police would prefer to arrest a person on the basis of their alleged sexual orientation and gender identity, even in the absence of any proof of transgression of any law, rather than to protect MSM and transgender persons from discrimination at family level.

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¹² HRAPF/VR-19/036.

¹³ HRAPF/VR-19/067; HRAPF/VR-19/075.

¹⁴ As above.

¹⁵ HRAPF/VR-19/042.

¹⁶ HRAPF/VR-19/057.

There were four cases recorded during 2018 in which MSM and transgender persons were evicted from their homes by their landlords on the basis of their sexual orientation and gender identity. There were two cases in which two gay individuals were evicted by their landlord and landlady respectively on the basis of their sexual orientation.¹⁷ In two other cases, organisations run by and for MSM and transgender persons were evicted from their premises on the basis of their sexual orientation or gender identity which also constitutes the violation of the right to equality and freedom from discrimination.

During 2018, one case was recorded where a university asked a gay student to move to a different university after the administrators of the university came to know about his sexual orientation.¹⁸ Apart from suffering discrimination on the basis of his sexual orientation, the student also lost a part of his scholarship in the process of moving to a different university.

b) Sex workers

A total of 5 violations of the right to equality and freedom from discrimination were committed against sex workers. In the case where a sex worker's boyfriend destroyed her property because

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¹⁷ HRAPF/VR-19/030; HRAPF/VR-19/034.

¹⁸ HRAPF/VR-19/063.

he was angry with her for refusing to give him the money she was keeping to buy food for the family, the sex worker reported the matter to the nearest Police station, but she was not taken seriously at that Police station after the Police learnt that she was a sex worker.¹⁹

Three other cases were recorded in which the Police arrested sex workers following unfounded complaints expressed by members of the community. In one such a case, a sex worker was arrested after her husband reported her to the Police after he assaulted her in a drunken rage.²⁰ In another case, the friend of the father of a sex worker's child reported her to the Police and had her detained on the unfounded accusation that she may kill the child as she is a sex worker.²¹

c) PWUIDs

There were 26 violations of the right to equality and freedom from discrimination of PWUIDs by the Police during 2018. This right was violated in cases where PWUIDs were arrested only on the basis of their appearance or on the basis of their reputation as drug users, rather than on the basis of a sincere belief that they have or are about to commit a crime. The three 2018 cases, in which a total of 26 violations of the right to equality

and freedom from discrimination were committed, are also classified as cases of arbitrary arrest.

In one case, 19 PWUIDs were arrested near a supermarket in town while they were having breakfast.²² The arrest took place in the morning and the arrestees were released without charge. In another case, a PWUID was arrested during a raid in Kisenyi along with other persons.²³ The PWUID was released without charge after the intervention of a Community Paralegal. The fact that PWUIDs are arrested and then released without charge indicate that there is no real basis for the arrest, but that the PWUIDs who are arrested are simply known to be drug users or appear to be dressed as 'typical' drug users.

In another case, six PWUIDs who were employed at a supermarket in Mbale were arrested in the evening as they were leaving their workplace.²⁴ The 6 PWUIDs were all charged with possession of opium even though they had no drugs on them. This arrest was thus most likely based on the PWUIDs' reputation within the town as being drug users and not because the Police had reason to believe that they had or were about to commit a crime. These cases amount to discrimination on the basis of social and economic standing.

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¹⁹ n 6 above

²⁰ HRAPF/SWVR-19/006.

²¹ HRAPF/SWVR-19/039.

.....
²² HRAPF/DUVR-18/033.

²³ HRAPF/DUVR-18/072.

²⁴ HRAPF/DUVR-18/092.

3.2.2 Violation of the right to liberty

The right to liberty was the most commonly violated right for all the KP groups that are part of this report for the year 2018, with a total of 120 violations and 61 violations committed against sex workers; 34 against PWUIDs and 25 against MSM and transgender persons. All but two of these violations were committed by the Uganda Police Force.

Article 23 of the Constitution of the Republic of Uganda guarantees the right to liberty and protects against arbitrary arrest and prolonged detention. Article 23(1) sets out the nine circumstances under which a person's liberty may be limited through a lawful arrest or detention.²⁵ All arrests must be justified under one of these nine grounds, otherwise they will be considered arbitrary.²⁶ Article 23(1) (c) of the Constitution provides that a person can be deprived of their liberty upon reasonable suspicion that the person has committed or is about to commit a criminal offence. Other safeguards offered to persons arrested or detained for the purposes of bringing them before a court of law or in pursuit of a court order include freedom from prolonged detention without a trial;²⁷ the right

²⁵ See also Art 9(1) of the ICCPR.

²⁶ See Art 23(1)(a) to 23(1)(g) of the Constitution.

²⁷ Art 23(4)(b) of the Constitution; Art 9(3) of the ICCPR.

to be supported by a lawyer of your choice;²⁸ the right not to incriminate oneself;²⁹ the right to be presumed innocent;³⁰ and the right not to be tried for an offence which is not defined by law.³¹

MSM and transgender persons, sex workers and PWUIDs are often subjected to arbitrary arrest and prolonged periods in Police detention before being taken to court to face trial or being released.

i) **Freedom from arbitrary arrest and detention**

a) *MSM and transgender persons*

Thirteen incidents involving arbitrary arrests of suspected MSM and transgender persons were recorded in 2018. These incidents took place when MSM and transgender persons were arrested and not charged; were arrested based on offences which do not exist in law or in the absence of reasonable suspicion that the person has committed a crime.

In one such a case a gay man who was arrested was later released without any charge upon the intervention of a paralegal.³² In another case, a gay man was

.....
²⁸ Art 23(3) of the Constitution and Art 14(3)(d) of the ICCPR.

²⁹ Art 14(3)(g) of the ICCPR.

³⁰ Art 28(3)(a) of the Constitution; Art 14(2) of the ICCPR.

³¹ Art 28(12) of the Constitution sets out the principle of legality.

³² HRAPF/VR-19/006.

arrested from a bar for ‘supporting People Power’. He was later charged with being idle and disorderly which charge was later changed to the offence of smoking opium.³³

In another case, two transgender women were arrested on their way home and taunted by the Police for ‘being gay’ in attempts to convince them to ‘reform’.³⁴ The arrest was based on the way the two transwomen were dressed and they were later released without any charge. These cases of unclear or shifting reasons for arrest of MSM and transgender persons create the impression that the Police may simply want to ‘teach a lesson’ to members of these groups without having real grounds for bringing them before a court of law.

In another case, a transwoman was arrested and charged with ‘impersonation’ the Police viewed her as a man dressed as a woman.³⁵ Such an arrest is arbitrary since it is not against the law for men to dress in clothing that would typically be associated with women. The Police misapplied the offence of ‘personation’ which criminalises the act of falsely representing oneself to be another person with the intent to defraud.³⁶ In another case, two transgender

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³³ HRAPF/VR-19/046.

³⁴ HRAPF/VR-19/037.

³⁵ HRAPF/VR-19/019.

³⁶ Sec 381 of the Penal Code Act.

women and their male friend were beaten by a group of men in a bar and then dragged to the police.³⁷ Instead of arresting the assailants for their violent behavior against the group, the Police arrested the two transgender women and charged them with impersonation.

In another case, a group of gay men followed up on an assault case of one of their friends at a Police station and were arrested without a justifiable reason in order to deter them from following up on the case.³⁸

The Police tend to be quick to be suspicious of MSM and transgender persons and would arrest them without reasonable basis. This was the case when a gay man had an altercation with a boda boda motorcyclist who demanded double the agreed fee from him and reported him to the Police on the far-fetched allegation that the gay man tried to undress him during the journey.³⁹ The Police arrested the gay man and were thereby complicit in allowing the criminal justice system to be used to settle personal scores and civil matters in an arbitrary way, on the basis of a discriminatory attitude against someone who was perceived as an MSM. In a similar vein, there was also a case where a gay man was tricked by a debtor to go to a Police station where he

.....
³⁷ HRAPF/VT-19/074.

³⁸ HRAPF/VR-19/039.

³⁹ HRAPF/VR-19/049.

was arrested and charged with unnatural offences.⁴⁰

There were two brutal cases recorded in which MSM were kidnapped by members of the public which violated their right to liberty.⁴¹ These cases are discussed in detail in the section on violation of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment below.

b) Sex workers

There were 7 cases of arbitrary arrest involving 58 sex workers documented and verified for the year 2018. In these cases, sex workers were arrested on the basis of their presence in a particular place and the fact that they appeared to Police officers to be sex workers, rather than because the Police had reason to believe that they had committed a particular crime which could be proved with evidence in court. Many of these arrests took place in swoops on the street and in bars. In one of the cases, 27 sex workers were arrested during a police swoop on bars and lodges in the Makindye area. The sex workers were taken to the Police station and the whole group was charged for ‘smoking’ in a public place, under section 12 of the Tobacco Control Act, 2015 even though they were not smoking

cigarettes or using any other substance at the time of arrest.⁴²

In another case, four sex workers were arrested from the spot from where they usually meet their clients. The arresting officer told them that they were being arrested as suspected thieves who ‘prowl’ the area at night. They were detained for one night and released without charge.⁴³ It appears that, once again, the Police intended to punish women whom they suspected to be sex workers by making up accusations against them and then releasing them without a charge after keeping them in police custody for some time. There was no proof that the women had committed theft.

A case was also recorded where 13 sex workers were arrested from their rooms and were charged with the offence of being a rogue and vagabond. The offence of being a rogue and vagabond criminalises the actions of ‘wandering in ... any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal purpose’; procuring charitable contributions under fraudulent pretenses or being ‘a suspected person or reputed thief who has no visible means of subsistence [and] cannot give a good account of himself or

.....
⁴⁰ HRAPF/VR-19/056.

⁴¹ HRAPF/VR-19/023; HRAPF/VR-19/026.

.....
⁴² HRAPF/SWVR-19/074.

⁴³ HRAPF/SWVR-19/057.

herself'.⁴⁴ It does not follow logically that the Police could storm into the private lodgings of sex workers in order to arrest them under this criminal provision. It appears that the motive of the arrest was to punish the arrestees for their suspected engagement in sex work, however they were not charged under the Penal Code provisions which criminalise sex work. The rogue and vagabond charges were merely used to justify the arrest and it is therefore arbitrary.⁴⁵

c) PWUIDs

During 2018, there were 26 violations of the right to liberty of PWUIDs where arrests were carried out in the absence of a reasonable suspicion that the PWUID had or was about to commit a crime.

In one case, 19 PWUIDs were arrested near a supermarket in town while they were having breakfast.⁴⁶ The arrest took place in the morning and the arrestees were released without charge. In another case, a PWUID was arrested during a raid in Kisenyi along with other persons.⁴⁷ The PWUID was released without charge after the intervention of a Community Paralegal. The fact that PWUIDs are arrested and then released without charge indicate

.....
⁴⁴ Sec 168 of the Penal Code Act.

⁴⁵ HRAPF/SWVR-19/074.

⁴⁶ See n 22 above.

⁴⁷ See n 23 above.

that there is no real basis for the arrest, but that the PWUIDs who are arrested are simply known to be drug users and therefore vulnerable to arrest even in circumstances when they are unlikely to be using or possessing illegal substances.

In another case, 6 PWUIDs who were employed at a supermarket in Mbale were arrested in the evening as they were leaving their workplace.⁴⁸ The 6 PWUIDs were all charged with possession of opium although none of them was found with opium. The purpose behind such arbitrary arrests is to keep known PWUIDs 'off the streets', at least temporarily.⁴⁹

ii) **Freedom from prolonged detention**

During 2018, there were nine instances where MSM and transgender persons were arrested for various reasons and kept in police custody beyond 48 hours. The right to liberty is violated if a person is detained beyond the time period of 48 hours allowed in the Constitution.⁵⁰ After 48 hours of detention, an arrested person should either be produced before a court or released.

.....
⁴⁸ See n 24 above.

⁴⁹ Human Rights Awareness and Promotion Forum *The treatment of People Who Use and Inject Drugs within the criminal justice system in Uganda* (2019) 50.

⁵⁰ Art 23(3).

a) Sex workers

Three cases involving individual sex workers who were arrested and detained beyond 48 hours without being brought before the court were documented and verified in 2018. In one case, a sex worker was reported to the Police by another sex worker with whom she had been quarrelling. The sex worker was arrested and detained for three days before being taken to court and remanded to prison.⁵¹ In another case, a sex worker was arrested after an altercation with a potential client and was detained in police cells for four days before being released on bond.⁵² In the third case, a sex worker was kept in police custody for one week after being arrested by a disgruntled Police officer whose sexual advances she had rejected.⁵³

b) PWUIDs

In five verified cases, involving 8 PWUIDs who were arrested for various reasons, the arrestees were detained beyond 48 hours without being brought before a court. In three of the cases, the arrestees were detained for four days.⁵⁴ In another case, the PWUID was detained for three days after

arrest⁵⁵ and in yet another case, the four arrestees were detained for six days.⁵⁶

The violation of the rights of KPs to liberty continues to be a big issue as they continue being arrested and detained on the basis of a suspect's presumed sexual orientation and/or gender identity, or on the basis of their status as a sex worker or a PWUID.

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

MSM and transgender persons, sex workers and PWUIDs regularly face the violation of their right to dignity and freedom from torture and cruel treatment. During the course of 2018, this right was violated MSM and transgender persons 12 times, 19 times for sex workers and 9 times in respect of PWUIDs. There was a total of 40 violations of this right.

Article 24 of the Constitution protects the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment.⁵⁷ This right cannot be derogated from under any

.....
⁵¹ HRAPF/SWVR-19/004.

⁵² HRAPF/SWVR-19/044.

⁵³ HRAPF/SWVR-19/001.

⁵⁴ HRAPF/DUVR-18/037; HRAPF/DUVR-18/039 and HRAPF/DUVR-18/093.

⁵⁵ HRAPF/DUVR-18/100.

⁵⁶ HRAPF/DUVR-18/052.

⁵⁷ Art 24.

circumstances.⁵⁸ Uganda has adopted a law to detail the protection of the right to freedom from torture and to prohibit 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’.⁵⁹ The right is also protected under the Convention Against Torture (CAT), to which Uganda is a party.⁶⁰

a) MSM and transgender persons

Members of the general community in which MSM and transgender persons live were responsible for 10 violations of the right to dignity and freedom from torture and from cruel, inhuman and degrading treatment and punishment during 2018. The state did little to protect such persons or investigate the cases.

In some cases, the community lash out in violence against MSM and transgender persons on the basis of their sexual orientation and gender identity. In one such a case, a gay man was beaten over the head with an iron rod and kidnapped while he was on his way

from work along Masaka Road.⁶¹ He lost consciousness and when he woke up he was blindfolded and tied up in a place he could not recognise. The people who had kidnapped him asked him how he could be attracted to men and slapped, kicked and spat on him. He fell into unconsciousness again and when he woke up, he was still tied up and was covered in clay. He was found by a worker of the nearby brick-laying swamp the next morning and taken to the Police station before being taken to hospital. The kidnapping and assault was not conclusively investigated by the Police.

In another case, a gay man was pulled into a van by four men as he left a pub where he had been performing.⁶² The men tied him up and beat him. Eventually, he was taken to a Police station where the men tried to open a case against him, claiming that he had broken the window of their truck. The man registered a case of assault with the Police and received medical treatment for his wounds.

A case was reported where a gay man was beaten by one of his neighbours, who is a priest, for using a pathway that belonged to the neighbour’s employer in order to reach enclosed land belonging

.....
⁵⁸ Art 44(a) of the Constitution.

⁵⁹ The Prevention and Prohibition of Torture Act No. 3 of 2012.

⁶⁰ UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, United Nations Treaty Series Vol. 1465, p.85.

⁶¹ See n 41 above.

⁶² As above.

to the man's grandfather.⁶³ It was agreed in the presence of the Local Council leader that the pathway through the church grounds may be used by members of the public, since it was the only way to reach the enclosed land. When the priest saw the man walking on the path, he got out of his car and told him that he was not allowed to use the path and that he was a thief. The man tried to explain that he was passing through the property and that he was not a thief, but the priest pushed him and he fell down. The priest then hit him with a baton that he borrowed from his guard until the client was unconscious. The Police and other people had gathered at the scene and when they asked the priest to transport the man to the hospital he refused. The actions of the priest seem disproportionately violent under the circumstances and are believed to be motivated by homophobia.

In another violent case, two Rwandan refugees who identify as gay were in their rented residence watching a movie when five men entered the home.⁶⁴ The men were beaten and cut with knives. They were placed in the middle of the room and the men poured paraffin over them. The assailants asked the men for matches as they continued to scream for help and refused to point them to their matchboxes. After failing to find a way to set them on fire, the

assailants continued to beat them and left with their tablet and laptop. The men saw their neighbours escort the assailants away. One of the most troubling factors of this case is the fact that it seemed that the neighbours of the two gay men who were attacked were the instigators of the attack. As they screamed for help, no-one who lived around them came to their rescue. An investigation revealed that the men were attacked by refugees. A mediation was held with members of the Comorian community in Kampala, though not with the men who were responsible for the attack, and some compensation was paid to the two men for their stolen goods. The violation of their right to property was thus addressed, but the violent attack remained unaddressed.

Another violent case concerned two transgender women who went to a bar together. One of them was questioned by some men at the bar as to whether she was male or female. When she insisted that she was female, the men forcibly undressed her. When they found out that she was biologically male, they beat her. They then asked the other transgender woman whether she was male or female and to avoid being undressed, she told them she was biologically male. They also beat the man that she had come to the bar to meet even though she insisted that he did not

.....
⁶³ HRAPF/VR-19/053.

⁶⁴ HRAPF/VR-19/071.

know that she was a transwoman. The group then dragged the two transwomen and their male friend to a Police station where they were arrested and charged with impersonation.

These cases reveal the dangerous effects of homophobia and transphobia within society and the confidence with which members of the public commit violence against MSM and transgender persons. For as long as same-sex sexual conduct remains criminalised, MSM and transgender persons will not be viewed as citizens who are deserving of the protection and vindication of their rights on an equal footing with all other persons.

A transgender woman and her partner were attacked and beaten by a mob of three men shortly after her sister found out about her gender identity.⁶⁵ The attackers said that they would rather see them dead than to embarrass the trans-woman's family.

In respect of the violation of this right of MSM and transgender persons by state actors, a gay man was arrested for allegedly trespassing on the palace grounds of the Kabaka of Buganda.⁶⁶ During the course of the arrest, the man was beaten and handled roughly by the Police. He was later released

with no charge after intervention of a community paralegal.

b) Sex workers

During 2018, there were two cases of violation of the right to freedom from torture and cruel, inhuman and degrading treatment of sex workers by the police. In the first case, a sex worker was arrested at her usual spot near a railway line and was beaten by the Police in the process of the arrest.⁶⁷ In another case, the Police entered the home of a sex worker and her husband and proceeded to beat her.⁶⁸ The sex worker and her husband were both arrested and charged with possession of narcotics.

In another case, the area defence secretary in a neighbourhood in Kampala led a mob of vigilantes who attacked two sex workers and assaulted them.⁶⁹ No reason was given for the attack, though it is believed to be connected to the sex workers' work. The attack amounted to a violation of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment.

In 11 other cases, clients or potential clients of sex workers treated them in a cruel, inhuman and degrading way. In one verified case, a client beat a sex worker

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⁶⁵ HRAPF/VR-19/027.

⁶⁶ HRAPF/VR-19/017.

.....
⁶⁷ See n 43 above.

⁶⁸ HRAPF/SWVR-19/069.

⁶⁹ See n 9 above.

after she demanded that he pay for her services as well as for the beer he had ordered at the bar where they met.⁷⁰ In another case, a man approached a sex worker and asked her for sex after she stepped out of her home to relieve herself at 2:00am in the morning. When she ignored him, he began to beat her and also stole her phone. She was assisted by other sex workers after shouting for help.⁷¹ In another case, a sex worker met a client near Mbuya military barracks. The client offered her UGX 10,000 only, which she refused. The client responded by severely beating her.⁷²

In another case, a sex worker was assaulted after she escorted a client out of her room. The assailant pushed her back into the room and tried to strangle her while demanding money. Two men responded to her alarm and eventually managed to lock him inside the room as the victim escaped and reported the matter to the Police.⁷³ The Police arrested the assailant and opened a case against him. However, the matter was not conclusively investigated. In another case, a sex worker was assaulted by a client at the lodge in Bwaise where she was working.⁷⁴ Three other matters were recorded and verified in which sex

workers were assaulted by clients or potential clients in the process of negotiating terms of engagement or payment.⁷⁵

Two instances were recorded in which employers violated the right of sex workers to freedom from torture and cruel, inhuman and degrading treatment. In one case, a sex worker owed money to the manager of the place where she worked. When she called the manager to pay his money, he instead started to abuse her and decided to take her phone in exchange for the money owed. When the victim asked to get her phone back, the manager beat her.⁷⁶ In another case, a sex worker went to work as a house help in a home in Bwaise. After two days with the new employer, he brought two of his friends to his home who raped the sex worker as he stood by.⁷⁷ In only four of the 13 recorded violations of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment and punishment were there any response from the Police. In the remaining nine cases, there were no recourse whatsoever for the sex workers whose rights had been violated. Even in the four cases where the Police did respond to the crimes, the investigations did not move beyond opening a

.....
⁷⁰ See n 2 above.

⁷¹ See n 17 above.

⁷² HRAPF/SWVR-19/015.

⁷³ See n 7 above.

⁷⁴ See n 9 above.

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⁷⁵ HRAPF/SWVR-19/059; HRAPF/SWVR-19/071 and HRAPF/SWVR-19/073.

⁷⁶ HRAPF/SWVR-19/050.

⁷⁷ HRAPF/SWVR-19/003.

case file and carrying out a medical examination on the victim. The victims of these violations were not provided with an effective remedy.

c) PWUIDs

The Uganda Police Force was responsible for violating the right to dignity and freedom from degrading treatment in two cases involving 9 PWUIDs during 2018. In one case, 8 PWUIDs who are also sex workers were arrested and beaten by the Police during the course of the arrest.⁷⁸ Another PWUID was also beaten by a crime preventer as he intervened in an arrest of another PWUID.⁷⁹ These cases amount to degrading treatment. These incidences of arrest coupled with violence amount to cruel, inhuman and degrading treatment and a violation of Article 23 of the Constitution.

3.2.4 Violation of the right to property

During 2018, there were four violations of the right to property of MSM and transgender persons and 11 violations of this right of sex workers, totalling 15 violations. No cases of the violation of the right to property were recorded in respect of PWUIDs.

Article 26 of the Constitution protects the right to own property

⁷⁸ HRAPF/DUVR-18/065.

⁷⁹ HRAPF/DUVR-18/008.

and provides conditions for the lawful deprivation of property. The Article makes it clear that deprivation of property can only be justified if the acquisition is necessary for the public benefit or public health or if there is a law which makes compulsory the taking of possession of property.

In two recorded cases, the Police retained possession of property that was taken as part of investigations of MSM and transgender persons. In the first case the case was closed, yet the Police did not return the personal belongings of the gay man who had been charged with unnatural offences.⁸⁰ In the other case, a wig, dress and make-up were taken from a transgender woman upon arrest and were not returned to her after her release.⁸¹

3.2.5 Violation of the right to a fair trial

There were 22 violations of the right to a fair trial of KPs, particularly PWUIDs, during 2018.

The right to a fair trial is guaranteed under Article 28 of the Constitution. Article 28(7) of the Constitution in particular provides that '[n]o person shall be charged with or convicted of a criminal offence which is founded on an act or omission that did not at the time it took place constitute a criminal offence'.

⁸⁰ HRAPF/VR-19/050.

⁸¹ HRAPF/VR-19/065.

During 2018 nine PWUIDs were charged with the offence of ‘frequenting a place used for smoking opium’ while 13 PWUIDs were charged for ‘possession of opium’. Considering that these offences no longer existed in 2018, the right to a fair trial of the arrestees had been violated. Section 47 and 48 of the National Drug Policy and Authority Act Cap 206 (NDPAA), which created the offences of smoking opium and frequenting a place for smoking opium have been repealed and replaced by the NDSPCA from 2016 onwards.

3.2.6 Violation of the right to privacy

During the course of 2018, 9 cases were identified in which both state and non-state actors interfered with the right to privacy of MSM and transgender persons.

In terms of Article 27 of the Constitution, all persons are protected against the unlawful interference with their person, home and correspondence. The right to privacy of LGBT persons is under threat in particular since society tends to be very curious about their lifestyle and personal affairs.

In one recorded case, a gay man was arrested in Mbarara and charged with unnatural offences.⁸² During the course of the investigation, nude photographs

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⁸² HRAPF/VR-19/069.

were taken of the suspect which were shared with and published by a local newspaper. In this case, the Police violated the right to privacy of the MSM in question by outing him in public and sharing photographs with the media. While the Police is not the biggest violator of this right, they nevertheless have the important duty of ensuring that the right is not violated when MSM and transgender persons are in their custody.

The right to privacy of MSM and transgender persons is often violated by members of the general public who desired to ‘out’ them or who are curious about details of their personal lives. Three cases were recorded in which members of the general public violated the right to privacy of MSM and transgender persons.

An associate pastor who identified as gay was outed by members of the congregation to the whole church, which violated his right to privacy.⁸³

In the case of the two Rwandan refugees who were assaulted by a mob in their home, their right to privacy was also violated by the group of men who entered their home without their permission.⁸⁴

In 2018, there were two verified cases of violations of rights of MSM and transgender persons by the

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⁸³ HRAPF/VR-19/060.

⁸⁴ See n 64 above.

media. In both cases, the right to privacy was violated by media publications. A newspaper in Mbarara violated the right to privacy of a gay man by publishing nude pictures of him that were taken by the Police during the course of their investigation into a charge of unnatural offences.⁸⁵ In the case where a gay man was kidnapped and assaulted by a mob, the media story outed the victim.⁸⁶ The outing added to the turmoil of the man who was already severely traumatised by the violent attack.

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

There were five violations of this right concerning MSM and transgender persons in 2018.

The right to freedom of conscience, expression, movement, religion, assembly and association of all persons is protected under Article 29 of the Constitution. The Article furthermore protects the freedom of the press, the right to freedom of movement and the right to associate freely with others. These rights are often violated in the case of MSM and transgender persons who are inhibited from freely expressing themselves, freely associating in formal and informal

ways and from holding meetings and social events without undue interference.

In the one recorded case in 2018, the Police interrupted a meeting organised to sensitise MSM on HIV/AIDS at an organisation based within a neighbourhood.⁸⁷ The Police were finally convinced not to arrest the leaders of the organisation, but the commotion led to curiosity among community members and the premises were raided and searched by two private individuals on the same evening. The landlord found out about the incident and gave the organisation and the person who lived on the premises two weeks to relocate. The landlord's reason for this action was that he did not want to be targeted for 'harbouring homosexuals'.

There was another case in which an LGBT organisation in Mbale was evicted from their premises on the basis of the category of clients which they served.⁸⁸ Both these instances also constituted a violation of the right to freedom of association since the organisations were hampered in their activities due to the homophobia of property owners.

The Minister of Ethics and Integrity perpetrated one violation of the right to freedom of expression,

.....
⁸⁵ See n 82 above.

⁸⁶ See n 41 above.

⁸⁷ HRAPF/VR-19/008.

⁸⁸ HRAPF/VR-19/066.

association and assembly of MSM and transgender persons by cancelling a planned celebration on International Day Against Homophobia, Transphobia, Interphobia and Biphobia shortly before it was scheduled to start.⁸⁹ Sexual Minorities Uganda (SMUG) had organised an event to commemorate the International Day Against Homophobia, Biphobia and Transphobia. SMUG had notified the area Police station for the event to take place.⁹⁰ The Minister claimed that the event had to be cancelled because it was a gathering aimed at promoting homosexuality. The Minister's officers ordered the crowd that had begun to gather for the event to disperse. This action amounts to a violation of the right to freedom of expression, association and assembly since the group had attempted to lawfully exercise their right to assemble, but was forcibly prevented from doing so by the actions of the Minister.

3.3 Conclusion

During 2018, KPs suffered a series of violations of their rights, particularly the right to liberty, the right to equality and the right to dignity and to be free from torture and cruel, inhuman and degrading treatment and punishment.

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There was another case in which an LGBT organisation in Mbale was evicted from their premises on the basis of the category of clients which they served.

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⁸⁹ 'Uganda: Protests greet shutdown of LGBTI event' *Rights Africa* 18th May 2018. Available at <https://rightsafrika.com/2018/05/18/uganda-protests-greet-shutdown-of-lgbti-rights-event/> (accessed on 11th June 2019).

⁹⁰ 'Minister Lokodo halts Ugandas 2018 IDAHOBIT event' *Kuchu Times* 17th May 2018 <https://www.kuchutimes.com/2018/05/ministerlokodo-halts-ugandas-2018-idahobitevent/> (accessed on 2nd October 2019).

4. PERPETRATORS OF VIOLATIONS COMMITTED AGAINST KEY POPULATIONS DURING 2018

During the course of 2018, human rights violations were committed against MSM and transgender persons on the basis of their real or presumed sexual orientation and gender identity and /or expression by both state and non-state actors. Human rights violations were also committed against sex workers by both state actors and non-state actors. Violations committed by state actors only were recorded in the case of PWUIDs.

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 is 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.⁹¹

The state and private individuals are both capable of violating human rights and both have a duty not to prevent the lawful exercise of rights by others.

In particular, states have a duty under international law to ensure an effective remedy for a person whose rights or freedoms have been violated.⁹²

.....
⁹¹ Preamble of the African Charter on Human and Peoples' Rights; Article 6(d) of the Treaty for the Establishment of the East African Community; Preamble of the International Covenant on Civil and Political Rights.

⁹² Art 2(3)(a) of the International Covenant on Civil and Political Rights (1966).

4.1 Violations by state actors

The state actors that were responsible for rights violations of KPs during 2018 were the Uganda Police Force and the Minister of Ethics and Integrity. A total of 30 violations of human rights arising from the actions of state actors were visited upon MSM and transgender persons during 2018, which constitute 46.8% of all violations suffered in that year.

For the same period, a total of 83 violations committed against sex workers were verified. Of these, 70 were perpetrated by state actors and 13 by non-state actors. During 2018, one state actor, namely the Uganda Police Force, was responsible for all verified violations against PWUIDs. A total of 91 violations, arising out of 15 verified cases, were committed against PWUIDs.

4.1.1 The Uganda Police Force

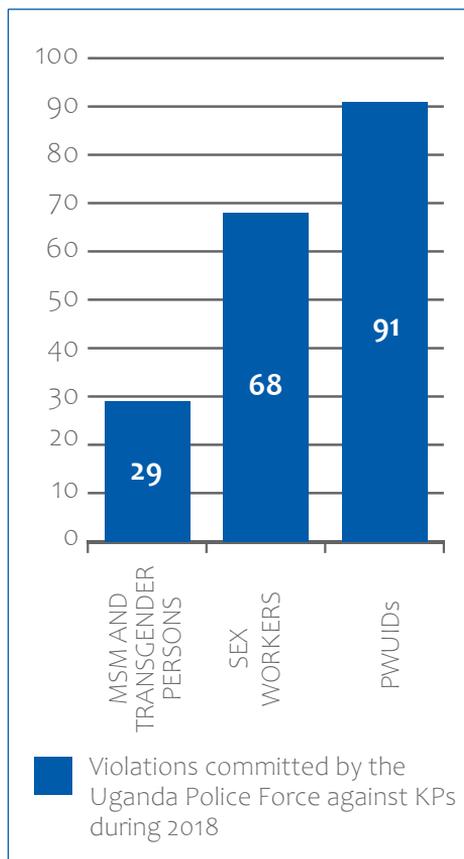
During 2018, the Uganda Police Force was responsible for committing 188 verified violations against KPs.



... one state actor, namely the Uganda Police Force, was responsible for all verified violations against PWUIDs.



TABLE 2: Violations committed by the UPF against various KPs during 2018



In 2018, there were only 29 violations against MSM and transgender persons committed by the police, which amounts to 45% of all violations committed during the year, and 97% of all state violations. Of the 29 violations one was a violation of the right to equality and freedom from discrimination, 23 were violations of the right to liberty, one was the violation of the right to dignity and freedom from torture, cruel, inhumane and degrading treatment or punishment, one was

a violation of the right to privacy, two were violations of the right to property and one was a violation of the right to freedom of expression, movement, association and assembly.

Of the total 83 human rights violations against sex workers that are included in this report, 70 (84.3%) were perpetrated by the Uganda Police Force. The rights most violated by the Police are the right to liberty (61 cases), followed by the right to equality (5 cases) and the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment (2 cases).

During 2018, the Police were responsible for committing 91 violations against PWUIDs. Of the 91 violations, 34 were violations of the right to liberty, 26 were a violation of the right to equality and freedom from discrimination, 22 were violations of the right to a fair trial and 9 were the violation of the right to dignity and freedom from torture, cruel, inhumane and degrading treatment or punishment.

4.1.2 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 MSM and transgender persons by cancelling a planned celebration on International Day Against Homophobia, Transphobia

Interphobia and Biphobia shortly before it was scheduled to start.⁹³ This violation follows a long line of events hosted by LGBT persons in Uganda which have been cancelled or disrupted by the Minister's Office in recent years.

The Minister seems committed to prevent LGBT persons, including MSM and transgender persons, from exercising their right to organise and associate with others as much as possible. The Minister had ordered a raid of the 2016 Pride celebrations and canceled the 2017 Pride while threatening owners and managers of the venues where the events were to take place.⁹⁴ The Minister also ordered a raid on the Queer Kampala International Film Festival and advised the persons that they found there to leave the premises. The Minister's violations of the

.....
⁹³ 'Uganda: Protests greet shutdown of LGBTI event' *Rights Africa* 18th May 2018. Available at <https://rightsafrika.com/2018/05/18/uganda-protests-greet-shutdown-of-lgbti-rights-event/> (accessed on 11th June 2019).

⁹⁴ 'Activists condemn Minister Lokodo over gay party raid' *The Observer* 17th August 2016 <https://observer.ug/news-headlines/45959-activists-condemn-minister-lokodo-over-gay-party-raid> (Accessed 2nd October 2019); 'No gay promotion can be allowed: Uganda cancels Pride events' *The Guardian* 21st August 2017 <https://www.theguardian.com/global-development/2017/aug/21/no-gay-promotion-can-be-allowed-uganda-cancels-pride-events-lgbt> (Accessed 2nd October 2019).

rights of MSM and transgender persons have been characterised by impunity.

4.1.3 Local Council officials

One case of a human rights violation committed against a sex worker by an area defense secretary was recorded. This is the case of the area defense secretary in a neighbourhood in Kampala who led a mob of vigilantes who attacked two sex workers and assaulted them.⁹⁵

4.2 Violations by non-state actors

Article 20(2) of the Constitution makes it clear that the rights enshrined in chapter 4 of the Constitution is to respected, upheld and promoted by *all persons* along with all organs and agencies of government. Human rights violations committed by non-state actors can therefore be addressed and remedied by the courts, the Uganda Human Rights Commission and the Equal Opportunities Commission where the right to equality and freedom from discrimination is at stake. The duty on the state to respect, protect and fulfil the human rights of those within its borders extends to addressing and preventing violations committed by third

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⁹⁵ See n 9 above.

parties.⁹⁶ The High Court has provided remedies for where the violation of their rights has been threatened by private actors. In the case of *Kasha Jacqueline and 2 Others v Rolling Stone Ltd. and Another*⁹⁷ the High Court held that the publishing of pictures of the three applicants along with others, who are members of the LGBT community, in an article calling for the ‘hanging’ of Uganda’s ‘homos’ constituted a threat of violation of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment. The Court ordered the newspaper and its Managing Director to pay compensation to the applicants and also issued an injunction against the further publication of their identities.⁹⁸

a) MSM and transgender persons

In 2018, non-state actors were responsible for the majority of human rights violations committed against MSM and transgender persons on the basis of their sexual orientation and gender identity. Non-state actors committed 38 such violations, which amounts to 56% of all violations verified for the year for these two groups. Among non-state actors, the greatest number of violations were committed by members of the

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⁹⁶ *Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* (2001) AHRLR 60 (ACHPR) 2001 at par. 46.

⁹⁷ Miscellaneous Cause No. 163 of 2010.

⁹⁸ As above.

general public (22 violations). Seven violations were committed by family members of the victims; six were committed by property owners / landlords and landladies, two were committed by the media and one by a private tertiary institution.

Some of these matters were settled through mediation. In many cases, the victims were reluctant to follow through with police investigations since they fear for their own security in relating to the Police considering that they are a criminalised minority.

b) Sex workers

Concerning sex workers, private or non-state actors were responsible for 13 cases of human rights violations committed against them. The most common human rights abuses by non-state actors were in relation to the right to freedom from inhuman and degrading treatment. Violations were committed by clients or potential clients of sex workers (11 violations).

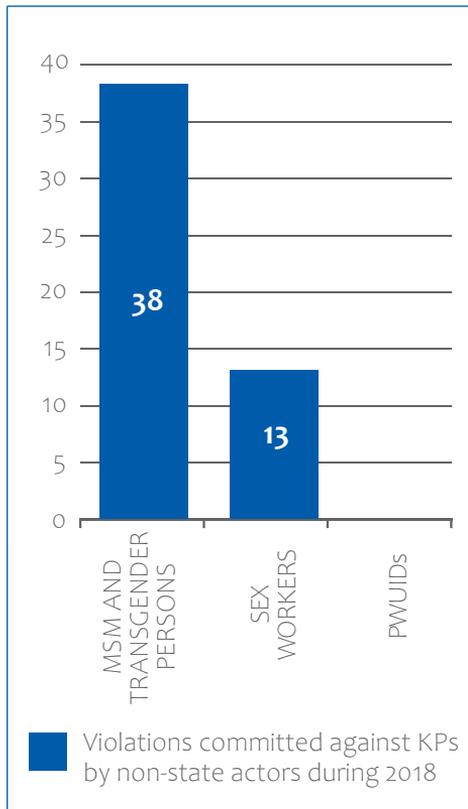
The state did not ensure an effective remedy for the sex workers who suffered these violations. At most, police files were opened, though no case was conclusively investigated and handled, providing a remedy for the victim.

c) PWUIDs

PWUIDs also face severe stigma and discrimination within society.⁹⁹ It can therefore be expected that non-state actors, as well as state actors, would be responsible for violating the rights of PWUIDs. During 2018, however, no case of a violation committed against a PWUID by a private individual or other non-state actor was recorded. This may be due to the fact that HRAPF's legal aid clinic has only been handling cases of PWUIDs from 2017 onwards. It may take time for PWUIDs within the community to trust HRAPF and Community Paralegals to intervene when they face violations at the family and community level. All cases handled during 2018 involved intervention at police level after PWUIDs had been arrested.

.....
⁹⁹ HRAPF (n 49 above) 12.

TABLE 3: Violations committed against KPs by non-state actors during 2018



Violations committed by the various non-state actors identified are discussed in turn.

4.2.1 Violations by the general community

MSM and transgender persons in Uganda find themselves in a society which is notoriously homophobic. In a survey conducted by the Pew Research Centre in 2013, it was found that 96% of Ugandans do not believe that society should accept

homosexuality.¹⁰⁰ A 2016 Afrobarometer study also found that 95% of Ugandans would not tolerate having a homosexual neighbour.¹⁰¹ On the basis of these statistics, it can be expected that MSM would fall victim to human rights violations at the hands of their neighbours and the community at large. Transgender persons are often perceived as homosexuals by the general community and tend to fall victim to homophobic as well as transphobic violence.¹⁰² During 2018, there were ten cases of violations of the right to dignity and freedom from torture and cruel treatment, two violations of the right to liberty, six violations of the right to privacy, one violations of the right to freedom of expression, association and assembly, two violations of the right to property and one violation of the right to equality and freedom from discrimination meted out by members of the general public.

¹⁰⁰ 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).

¹⁰¹ Afrobarometer ‘Good neighbours? Africans express high levels of tolerance for many, but not for all’ Afrobarometer Dispatch No. 74 (2016) 12.

¹⁰² Human Rights Awareness and Promotion Forum *The impact of the legal and policy regime on access to justice to transgender persons in Uganda* (2019) 26-28.

Members of the general community in which MSM and transgender persons live were responsible for 10 violations of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment and punishment. In these cases, the community lash out in violence against MSM and transgender persons on the basis of their sexual orientation and gender identity. These cases reveal the dangerous effects of homophobia and transphobia within society and the confidence with which members of the public commit violence against MSM and transgender persons. For as long as same-sex sexual conduct remains criminalised, MSM and transgender persons will not be viewed as citizens who are deserving of the protection and vindication of their rights on an equal footing with all other persons.

The right to privacy of MSM and transgender persons is also often violated by members of the general public who desired to 'out' them or who are curious about details of their personal lives. Three cases were recorded in which members of the general public violated the right to privacy of MSM and transgender persons.

4.2.2 Violations by property owners

Property owners, and in particular landlords and landladies, were responsible for committing 6 human rights violations on the basis of the victim's sexual orientation and/or gender identity during 2018. In four of these cases the right to equality and freedom from discrimination was violated and in two cases the right to freedom of association was also violated.

4.2.3 Violations by family members

MSM and transgender persons often face ostracism and rejection from their families when they come to know about their sexual orientation and gender identity. There were 7 verified violations committed against MSM and transgender persons by their family members on the basis of their sexual orientation and gender identity during 2018. There were six recorded cases where family members of MSM and transgender persons evicted them from the family home on the basis of their sexual orientation and/or gender identity. These cases amount to a violation of the right to equality and freedom from discrimination.

4.2.4 Violations by media

In 2018, there were two verified cases of violations of rights of MSM and transgender persons by the media. In both cases, the right to privacy was violated by media publications.

4.2.5 Violations by private institutions

During 2018, one case was recorded where a university discriminated against a gay student on the basis of his sexual orientation.¹⁰³

4.2.6 Violations by clients of sex workers

The nature of sex work makes sex workers vulnerable to suffer physical violence from strangers in private spaces. The criminalisation of sex work in Uganda renders sex workers even more vulnerable, since sex work cannot take place out in the open and under conditions which can ensure physical protection and bargaining power for sex workers. Sex workers are also vulnerable to suffer violent crimes since their social status and engagement in illegal activities are deemed to make recourse for crimes committed against them less likely.

In 11 cases, clients or potential clients of sex workers treated them in a cruel, inhuman and degrading way.

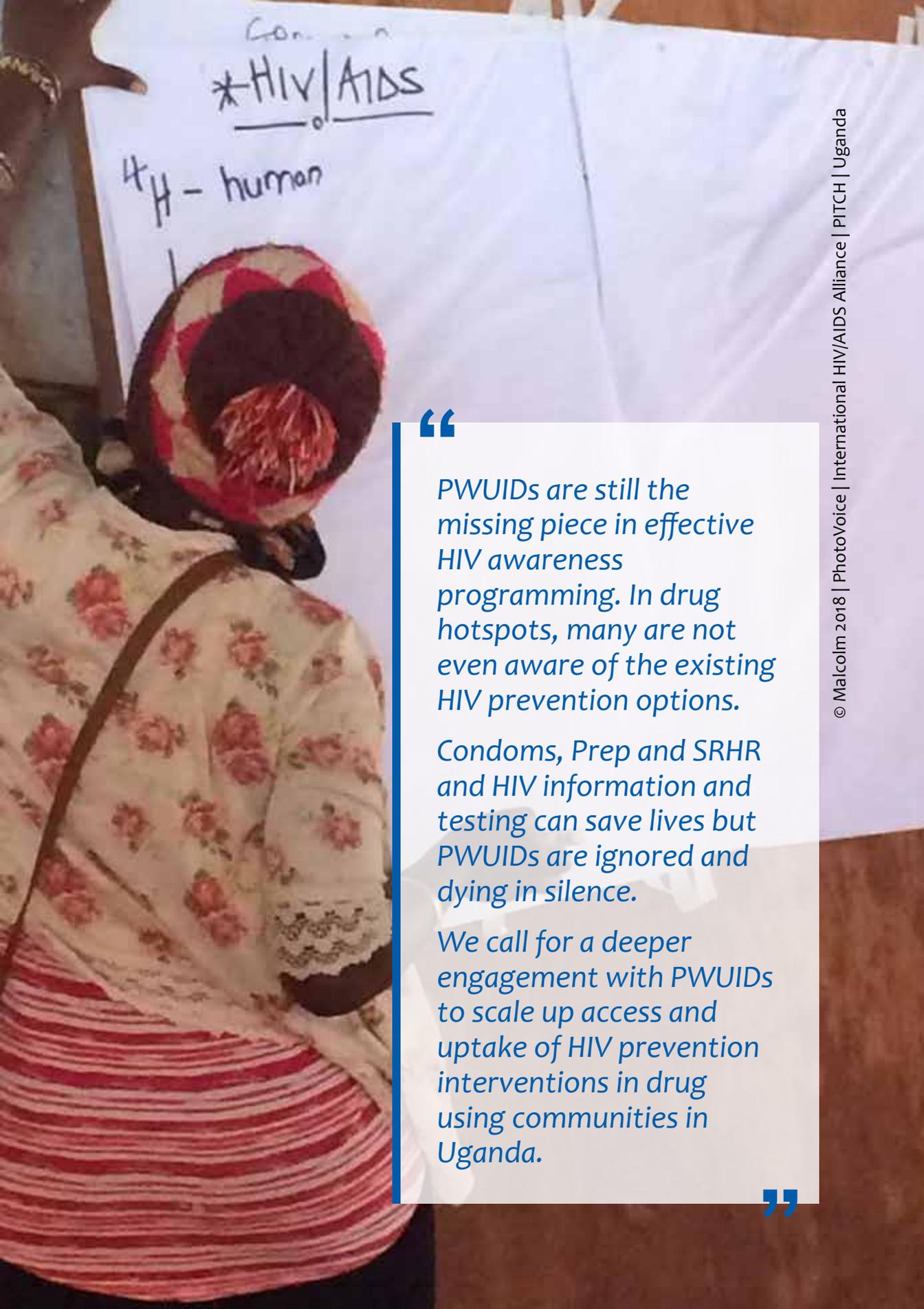
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¹⁰³ See n 18 above.

4.2.7 Violations by employers

Sex workers are also in a vulnerable position when it comes to relating with their employers. Two instances were recorded in which employers violated the right of sex workers to freedom from torture and cruel, inhuman and degrading treatment.

4.3 Conclusion

During 2018, there were a series of violations of the rights of KPs perpetrated by both state and non-state actors. The majority of these violations were committed by state actors. There was little recourse to victims in cases where the perpetrators were non-state actors, indicating a failure on the part of the state to ensure an effective remedy for KPs who suffer the violation of their rights.



Con...
*HIV/AIDS

H - human

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PWUIDs are still the missing piece in effective HIV awareness programming. In drug hotspots, many are not even aware of the existing HIV prevention options.

Condoms, Prep and SRHR and HIV information and testing can save lives but PWUIDs are ignored and dying in silence.

We call for a deeper engagement with PWUIDs to scale up access and uptake of HIV prevention interventions in drug using communities in Uganda.

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5. GENERAL ANALYSIS OF VIOLATIONS OF HUMAN RIGHTS OF KEY POPULATIONS DURING 2018

5.1 Analysis of trends

This section analyses the cases of protection, the number and nature of violations as well as the perpetrators of violations committed against KPs during 2018 as discussed in the previous section in order to identify trends and consider underlying reasons for the findings.

5.1.1 Cases of protection

In previous years from 2014 onward, HRAPF registered cases of protection of human rights of MSM and transgender persons. In 2017 one such case was recorded and in 2016 there were 6 cases of protection.¹⁰⁴ In 2018, however, no cases of Police protection to MSM and transgender persons were registered. This may indicate a deteriorating relationship between

the Police and the MSM and transgender community. One case was recorded in which a Local Council leader prevented the Police from arresting a group of MSM who were holding an awareness session at an MSM organisation based in a member's home.¹⁰⁵

In respect of cases of protection of sex workers, during 2016 there were five cases of protection.¹⁰⁶ In 2017, there were four cases of protection and in 2018 there were a total of six cases of protection of sex workers verified.¹⁰⁷ It is encouraging that every year there are cases where the Police step in to protect the rights of sex workers, however the number of violations committed by the Police on an annual basis far outweigh the cases of protection.

¹⁰⁴ HRAPF *The Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity 2018: Increasing protections and reducing state violations* (2018) 8; HRAPF *The Uganda Report of Violations based on Sexual Orientation and Gender Identity 2017* (2017) 26.

¹⁰⁵ See n 87 above.

¹⁰⁶ HRAPF *Protection and violation of the rights of female sex workers in Uganda in 2016* (2017) 9.

¹⁰⁷ HRAPF *2017 Report on protection and violation of the human rights of sex workers in Uganda* (2018) 10.

No case was recorded during 2018 in which the Police stepped in to protect the rights of PWUIDs which indicates a need for sensitisation and awareness raising among law enforcers about the vulnerabilities and rights of PWUIDs.

5.1.2 Number of violations

During the year 2018, a total of 242 violations were committed against the various KPs, which form part of this report. These arose out of 111 cases. Out of these violations, 83 were against sex workers arising out of 41 cases, 91 were against

PWUIDs arising out of 15 cases, and 68 were suffered by gay men and other MSM as well as transgender persons arising out of 55 cases. Gay men and other MSM as well as transgender persons had the most cases 55, among the three groups. This implies a higher rate of attacks than any other groups, and thus greater vulnerability within the Ugandan society than PWUIDs and sex workers. Efforts need to be made to address violations against all KP groups and especially MSM and transgender persons who are most vulnerable.

5.1.3 Nature of violations

TABLE 4: Categories of rights of KPs violated during 2018

	MSM and transgender persons	Sex workers	PWUIDs	TOTAL
The right to liberty	25	61	34	120
The right to equality	13	5	26	44
The right to dignity and freedom from torture	12	17	9	38
The right to a fair trial	0	0	22	22
The right to privacy	9	0	0	9
The right to property	4	0	0	4
The right to freedom of expression, association and assembly	5	0	0	5
TOTAL	68	83	91	242

The right which was most violated, overall for all KPs as well as for each of the individual KP groups, is the right to liberty. This right was violated a total of 120 times, amounting to 47% of all violations. This high number of violations of the right to liberty can be attributed to the fact that same-sex sexual conduct, sex work and individual drug use and possession remain criminalised in Uganda. The existence of broad and vague petty offences, such as the offence of being a rogue and vagabond, facilitates the arbitrary arrest of criminalised groups such as these even in the absence of evidence that they have committed the prohibited conduct of engaging in same-sex sexual relations, sex work or drug use.¹⁰⁸

In respect of MSM and transgender persons in particular, the frequency of violation of the right to liberty has increased since 2017.¹⁰⁹ In many cases, MSM and transgender persons were arrested for committing non-existent offences such as ‘impersonation’ and ‘sodomy’ as well as the cases of arrest in circumstances which could not have constituted reasonable suspicion that the person has or is about to commit a

crime. The number of cases of prolonged detention also remained high. PWUIDs also suffered arbitrary arrest and the violation of their right to equality and freedom from discrimination in cases where they were arrested in the absence of a reasonable suspicion that they have or are about to commit a crime.

The right to dignity and freedom from torture and cruel, inhuman and degrading treatment and punishment was also regularly violated in respect of all three KP groups. There was an increase in attacks by members of the general public who attempted to subject MSM and transgender persons to ‘mob justice’. This homophobic violence is of great concern, particularly in instances where the Police respond by arresting the victims rather than protecting the MSM and transgender persons from the violation of their rights. Sex workers are also very vulnerable to the violation of their right to freedom from torture and cruel, inhuman and degrading treatment and punishment at the hands of their clients or employers. Sex workers are often reluctant to report crimes such as physical assault committed against them to

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¹⁰⁸ Human Rights Awareness and Promotion Forum (HRAPF) *The implications of the enforcement of ‘idle and disorderly’ laws in Uganda* (2016) available at <http://hrapf.org/mdocs-posts/hrapf-report-on-the-implementation-of-idle-and-disorderly-laws-in-uganda/> (accessed 15th July 2019).

¹⁰⁹ The number of violations of the right to liberty of MSM and transgender persons has increased from 15 in 2017 to 25 in 2018. See Human Rights Awareness and Promotion Forum (n 104 above).

the Police since they fear to be arrested on the basis of their engagement in sex work. In some cases concerning PWUIDs, arrests were coupled with physical violence which amounts to the violation of the right to be free from degrading treatment.

The right to a fair trial was violated in that PWUIDs were charged with repealed offences which existed under the NDPAA prior to the adoption of the NDPSCA. Violation of this right was not recorded in respect of sex workers, MSM or transgender persons.

5.1.4 Perpetrators of violations

Human rights violations were committed against KPs during 2018 by both state actors and non-state actors.

TABLE 5: Nature of perpetrators that committed violations against KPs during 2018

	Number of violations committed by state actors	Number of violations committed by non-state actors	Total number of violations
MSM and transgender persons	30	38	68
Sex workers	70	13	83
PWUIDs	91	0	91
TOTAL	191	51	242

In total, 191 out of the 242 violations against KPs were committed by state actors and 51 were committed by non-state actors. This means that state actors were responsible for 78% of violations against KPs while non-state actors were responsible for only 21.1%.

a) Against MSM and transgender persons

During 2018, a total of 68 human rights violations on the basis of sexual orientation and gender identity against MSM and transgender persons were recorded and verified. Non-state actors were responsible for 38 of these violations, constituting 55.9% of the violations while state actors occasioned 30 or 44.1% of these violations. This ratio follows a similar trend to that of 2017,

during which year non-state actors were responsible for 60.8% of all verified violations against LGBT persons. From the time of the annulment of the Anti-Homosexuality Act, 2014 in August 2014, there has been a steady increase in violations committed by

non-state actors who seemingly believe themselves to be justified in taking the law into their own hands in order to punish MSM and transgender persons for living a lifestyle which they do not agree with. In 2015, 54.4% of verified violations were committed by non-state actors with a slightly lower 48.6% in 2016. The upward trend in violations by non-state actors evidenced in 2018 shows that homophobia is deeply ingrained in the Ugandan society and continues to be fueled by the criminalisation of same-sex sexual conduct and the discriminatory and hateful utterances and decisions by the country's leaders. The state, while not directly responsible for the greatest number of human rights violations based on sexual orientation and gender identity, do have the responsibility to protect LGBT persons from violence and discrimination.¹¹⁰

b) Against sex workers

During 2018, a total of 83 human rights violations committed against sex workers were recorded and verified. Non-state actors were responsible for 13 or 15.7% of these violations, while state actors committed 70 or 84.3% of violations. A similar ratio was observed in 2017, during which

year state actors were responsible for 82% of all verified violations (153 out of 186 violations). In 2016, state actors were responsible for 576 out of 597 or 96% of violations committed against sex workers. There is a definite downward trend in the number of violations committed against sex workers by the state and by the Police in particular and signals greater levels of awareness of human rights of sex workers among law enforcers.

c) Against PWUIDs

Also during 2018, a total of 91 human rights violations were committed against PWUIDs. State actors, and in particular the Uganda Police Force, was responsible for all of these violations. This figure of human rights violations perpetrated by the Police indicates stigma and prejudice toward PWUIDs on the part of law enforcement authorities. It also indicates a misuse of state power and the laws which criminalise drug use and possession.

5.1.5 Violations committed by the Uganda Police Force

During 2018, the Uganda Police Force was responsible for committing 188 verified violations against KPs.

¹¹⁰ African Commission on Human and Peoples' Rights *Resolution 275: Resolution 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 on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014.

a) MSM and transgender persons

There has been a remarkable improvement in the way the Police relates to MSM and transgender persons over the years. In 2018, there were only 29 violations committed by the police, which amounts to 45% of all violations committed during the year, and 97% of all state violations. A similar low number of violations were recorded in 2017, namely 26 cases which is a stark reduction from the 64 violations recorded in 2016. Of the 29 violations one was a violation of the right to equality and freedom from discrimination, 23 were violations of the right to liberty, one was the violation of the right to dignity and freedom from torture, cruel, inhumane and degrading treatment or punishment, one was a violation of the right to privacy, two were violations of the right to property and one was a violation of the right to freedom of expression, movement, association and assembly.

b) Sex workers

In the year 2018, the violations committed against sex workers by the Police were far fewer compared to previous years. Of the total 83 human rights violations against sex workers that are included in this report, 70 (84.3%) were perpetrated by the Uganda Police Force. This figure is far lower than the 153 out of 186 (82%) violations committed by the Police during 2017 and the 566 out of

597 (95%) committed during 2016. The lowered figure may be attributed to the continuous efforts to train Police on the human rights of sex workers. The rights most violated by the Police is the right to liberty (61 cases), followed by the right to equality (5 cases) and the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment (2 cases).

c) PWUIDs

During 2018, the Police were responsible for committing 91 violations against PWUIDs. Of the 91 violations, 34 were violations of the right to liberty, 26 were a violation of the right to equality and freedom from discrimination, 22 were violations of the right to a fair trial and 9 were the violation of the right to dignity and freedom from torture, cruel, inhumane and degrading treatment or punishment. The Uganda Police Force is tasked with preventing and detecting crime and preserving law and order.¹¹¹ It is therefore a travesty that the agents which are tasked with protecting all civilians, including PWUIDs, are also responsible for committing all of the verified violations against this group. The Police Professional Standards Unit exists so that complaints can be lodge where Police officers commit violations and offences and deviant Police officers can be investigated and punished. This mechanism, however, is rarely used

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¹¹¹ Art 212 of the Constitution.

and is viewed as ineffective in addressing the complaints against the Police by vulnerable minorities.¹¹²

Another mechanism for the enforcement of human rights is the newly enacted Human Rights (Enforcement) Act of 2019. This Act makes it possible to hold violators responsible for the acts which they committed. In cases where a state actor was the perpetrator, the Act allows for such a perpetrator to be sued in their personal capacity.¹¹³ An individual violator can therefore be held to account and ordered to pay compensation to correct the wrongs committed. This Act paves the way for holding individual Police officers to account for violations committed against PWUIDs.

Furthermore, the Uganda Human Rights Commission has the authority to investigate instances of human rights violations, either in response to a complaint or on its own initiative.¹¹⁴ The EOC has a similar authority to inquire into ‘any act, circumstance, conduct, omission, programme, activity or practice which seems to amount to or constitute discrimination, marginalization or to otherwise undermine equal opportunities’.¹¹⁵ During 2018, none of the violations committed by state actors were

investigated by the UHRC or the EOC on their own initiative. Furthermore, the UHRC’s mechanism for investigating complaints has a significant backlog and even where cases of human rights violations are lodged with the Commission, the cases are only investigated years after the incident had taken place.

5.1.6 Perpetrators of violations against particular KP groups

a) MSM and transgender persons

TABLE 6: Perpetrators of human rights violations based on sexual orientation and gender identity

Perpetrator	Number of violations occasioned
The Uganda Police Force	29
The general public	22
Family members	7
Property owners	6
The media	2
The Minister of Ethics and Integrity	1
Private tertiary institutions	1
TOTAL	68

¹¹² Interview with Legal Officer, Human Rights Awareness and Promotion Forum, 15th December 2019.

¹¹³ Sec 10.

¹¹⁴ Art 52(1)(a) of the Constitution.

¹¹⁵ Sec 14(2) of the Equal Opportunities Commission Act, 2007.

The Uganda Police Force perpetrated the highest number of violations against MSM and transgender persons, followed by the general public. The number of violations committed by the Uganda Police Force is however, on a seeming continuing downward trend and were almost as few as the 26 violations verified in 2017. The way in which members of the general public have increasingly perpetrated human rights violations against MSM and transgender persons is very worrying.

A continuing trend from 2016 and 2017 are actions by the Minister of Ethics and Integrity which violate the rights of MSM and transgender persons to freedom of expression, association and assembly. In 2018, the Minister prevented the celebrations on the International Day Against Homophobia, Biphobia and Transphobia from taking place, in the same way as he has been stopping Pride events and the Queer Kampala Festival in previous years.¹¹⁶

Family members of MSM and transgender persons have also been actively opposing them and wracking havoc in their lives and an upward trend of acts of discrimination by family members on the basis of the victim's sexual orientation and gender identity has been recorded.

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¹¹⁶ Human Rights Awareness and Promotion Forum, n 104 above.

The African Commission, in its Resolution '[s]trongly urges States to end all acts of violence and abuse, whether committed by State or non-state actors, including ... punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims'.¹¹⁷ At present, Uganda is not giving heed to this call of the African Commission considering that MSM and transgender persons who report the crimes committed against them risk being arrested themselves. The cases which were reported to the Police were not investigated and resolved, leaving the violations faced by the MSM and transgender persons involved unaddressed.

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¹¹⁷ African Commission, n 110 above.

a) MSM and transgender persons

TABLE 7: Perpetrators of human rights violations committed against sex workers

Perpetrator	Number of violations occasioned
The Uganda Police Force	68
Clients	11
Employers	2
Local Council Officials	2
TOTAL	83

The Uganda Police Force perpetrated the highest number of violations against sex workers, followed by their clients. The number of violations committed by the Uganda Police Force is however, on a seeming continuing downward trend and the 68 verified violations are far fewer than the 153 violations verified in 2017.

Clients and intimate partners of sex workers often commit violent crimes against sex workers with impunity. Even in the few cases where the Police investigated the matters and made arrests, only one case had been concluded by mid-2019 in which the sex worker was paid compensation by the client who had assaulted her.¹¹⁸

¹¹⁸ See n 75 above.

TABLE 8: Perpetrators of human rights violations against KPs in 2018

Perpetrator	Number of violations occasioned
The Uganda Police Force	188
The general public	22
Clients of sex workers	11
Family members	7
Property owners	6
Employers	2
The media	2
Local Council officials	2
The Minister of Ethics and Integrity	1
Private tertiary institutions	1
TOTAL	242

The Uganda Police Force is the single biggest violator of human rights of KPs for the year 2018 as it is responsible for 188 out of 242 or 77.7% of all violations. The second biggest violators were members of the general public (8.6% of violations).

5.2 Effect of current trends on HIV prevalence and vulnerability among KPs

The fact that a total of 242 human rights violations have been committed against KPs by both state and non-state actors during 2018 indicates that there is reason for MSM, transgender persons, sex workers and PWUIDs to live with a large measure of caution and care in order to protect themselves. Considering that KPs experience such stigma and discrimination resulting in human rights violations from both the state and the community at large in their daily lives, it can be expected that they would be reluctant to seek healthcare services.

MSM and transgender persons are often hindered from seeking HIV testing and treatment services on the basis of the fact that they may experience discrimination or even be outed in a healthcare setting.¹¹⁹ Violations against the human rights of MSM and transgender persons render them more vulnerable to HIV infection, yet these very same violations within a homophobic, biphobic and transphobic society also pushes them away from needed services in order to protect themselves from HIV infection and to receive treatment which also diminishes their viral load and

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¹¹⁹ Human Rights Awareness and Promotion Forum *Baseline analysis on the policy environment for access to sexual and reproductive health and rights and HIV & AIDS services to LGBT persons in Uganda* (2019) 31-33.

likelihood of transmitting HIV to another.¹²⁰

The high number of violations which sex workers suffer, along with their vulnerability to HIV infection, indicates why the HIV prevalence among this group in Uganda is estimated at a high 31.3%.¹²¹ The interplaying effect of stigma and violations which sex workers suffer makes it difficult for them to access healthcare services, including HIV prevention and treatment services, yet they are among the groups most vulnerable to HIV infection.

In the case of PWUIDs, the fact that they are viewed as a criminalised group and are vulnerable to suffer arrest on the basis of their appearance and identity means that their access to HIV prevention and treatment services could also be inhibited. The criminalisation of drug use, along with the common occurrence of violations committed against PWUIDs by the Police, pushes PWUIDs away from the few harm reducing measures which may be available to them.¹²²

There is need to address the rate and severity of violations committed against KPs in order to make gains in the fight against HIV and AIDS.

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¹²⁰ As above at 44-45.
¹²¹ Makerere School of Public Health *Crane Survey Report Bio-behavioural survey among groups at increased risk of HIV in Kampala, Uganda* (2017) 35.
¹²² G Atwiine 'The impact of restrictive drug laws on HIV prevention and treatment in Uganda' *The Human Rights Advocate Magazine* Issue 6 (2019) 26.



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We want to get off of drugs, but don't even know how to start. If we go to rehabilitation centers, there is no treatment and we suffer badly from 'tickes' (withdrawal symptoms). Often we are put away with people who have mental illnesses. So we are forced to go back to the drug dens, where we continue using.

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6. CONCLUSIONS AND RECOMMENDATIONS

6.1 General conclusion

In 2018, a total of 242 violations were committed against KPs in Uganda.

There were 91 recorded and verified human rights violations committed against PWUIDs, arising out of 15 cases. All of these violations were committed by the Uganda Police Force, which is a state actor, during or after the arrest of real or presumed PWUIDs.

Sex workers suffered a total of 83 verified violations in 2018. Even though section 138 and 139 of the Penal Code which criminalise sex work have not been applied to charge a sex worker in a single recorded case this year, the existence of these provisions support stigma against sex workers and are used to justify the violation of their rights.

MSM and transgender persons suffered 68 verified violations. The level of hostility against MSM and transgender persons seems to have neither increased nor decreased, which also explains the similar numbers of verified violations recorded in 2017 and 2018. The general levels of hostility remains lower than what they were in 2016 when MSM and transgender

persons were subjected to mass violations. Despite the persisting homophobia, biphobia and transphobia in the country, levels of tolerance and acceptance are nevertheless consistent and efforts of sensitisation and awareness raising among both state and non-state actors are seemingly not in vain.

The fact that the criminal law renders KPs vulnerable to human rights violations at the hands of the Police is a matter of great concern in respect of the HIV response in Uganda. If KPs are primarily treated as a criminalised group and ‘punished’ for their crimes even beyond the bounds of the law, their severe vulnerability to HIV infection and transmission cannot be effectively addressed.

6.2 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 MSM and transgender persons, sex workers and PWUIDs, will not go unpunished.
2. Ensure that issues of non-discrimination and the protection of vulnerable minorities are discussed as priorities within Cabinet and the Executive.
3. Publicly reject proposed legislation which discriminates on the basis of sexual orientation and gender identity or which promotes discrimination and violence against women because of their involvement in sex work.
4. Demand conclusive investigations of cases involving violations of the rights of KPs.
5. Revise directive on stopping arrests under the 'idle and disorderly' provision to include the offence of 'being a rogue and vagabond' and other petty offences.

To Parliament

The Parliament of Uganda has the authority to legislate and thereby influence the levels of protection or violation experienced by KPs in Uganda. The Members of Parliament are also influential in international fora. 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 MSM and transgender persons and are used to justify denying them equal protection of the law.
2. Repeal laws that are obsolete and which fuel violence against sex workers, in particular

Sections 138 and 139 of the Penal Code Act.

3. Amend the Narcotic Drugs and Psychotropic Substances Control Act, 2019 to decriminalise individual drug use or to provide for more lenient sentences where a person is an individual drug user as opposed to a trafficker.
4. 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 including KPs.

5. Ensure that the 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 KPs. The Police can either protect the rights of KPs when they face abuse and discrimination from the general public or condone and thereby exacerbate such hateful behavior. The Police also determine whether or not KPs will be arrested and prosecuted on the basis of their real or presumed sexual orientation and/or gender identity, their suspected involvement in sex work or drug use. In this regard, the following recommendations are made to the Police:

1. Working through the Directorate of Legal and Human Rights along with civil society, the Uganda Police Force should continue training Police officers on the human rights of MSM and transgender persons, sex workers and PWUIDs as well as the limits of the laws which they are mandated to enforce. The role of the UPF as a protector of the rights of KPs as vulnerable groups should be strengthened.
2. 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.

3. Thoroughly and conclusively investigate cases of violence against KPs by members of the public.

To the Ministry of Health

The Ministry of Health is tasked to steward and lead the health sector. The Ministry is responsible for policy review and development, supervision of health sector activities, formulation and dialogue with health development partners, strategic planning, advising other Ministries, departments and agencies on health-related matters and ensuring health equity. The Ministry of Health is recommended to do the following:

1. Emphasise that violations committed against KPs are a barrier in the fight against HIV and AIDS in policies and public communication.
2. Take a stand against discriminatory laws and call for the decriminalisation of consensual same-sex sexual conduct and sex work in order to enable the fight against HIV and AIDS among KPs.
3. Take a stand against laws which impose harsh sentences

on PWUIDs for individual drug use and possession, which inhibit rehabilitation and treatment of PWUIDs as well as access to HIV prevention and treatment services.

4. Adopt a harm reduction policy which can guide future legislation, programmes, the establishment of rehabilitation centres and treatment of PWUIDs in Uganda, in recognition of the fact that this group is a Key Population.

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.
3. Develop a proposal to Parliament to repeal provisions in the Penal Code Act that

criminalise sex work and related activities which are not being used by law enforcers yet promote prejudice and discrimination against sex workers. These include sections 136, 137, 138 and 139 of the Penal Code Act.

4. Make recommendations for the amendment of the NDPSCA to remove provisions which impose harsh sentences on PWUIDs for individual drug use and possession.

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 human rights of KPs that are pending before the Commission's Complaints and Investigations Directorate.
3. Develop proposals to amend laws that are discriminatory and which do not align with the Constitution of the Republic of Uganda.

4. Include KPs' issues in the annual reports to Parliament.
5. Continue to work with CSO and government ministries to train judicial officers and Police officers on the NDPSCA and laws affecting KPs.

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 KPs who suffer discrimination on the grounds of sexual orientation and gender identity, their social status or social 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 as well as social and economic status within society.
2. Continue to train the staff of the EOC in order to build their capacity in handling matters of discrimination and marginalisation which involve KPs.
3. Compile reports on discrimination and marginalisation of KPs and

make the necessary recommendations to the relevant stakeholders on how to combat such discrimination and marginalisation.

6. Include KP issues in the annual reports to Parliament.

To the Uganda AIDS Commission

The Uganda AIDS Commission (UAC) is established under to Office of the President and is responsible for ensuring a focused and harmonised national response to HIV/AIDS throughout the country. The UAC oversees, plans and coordinates HIV prevention and control activities throughout Uganda. The UAC is urged to do the following:

1. Emphasise violations committed against KPs as an obstacle to the implementation of HIV prevention and control policies and programmes.
2. Take a stand against discriminatory laws, such as section 145 of the Penal Code Act which criminalises consensual same-sex sexual conduct, and sections 138 and 139 of the Penal Code Act in order to enable the fight against HIV and AIDS among KPs.
3. Take a stand against laws which impose harsh sentences on PWUIDs for individual drug use and possession, which

inhibit rehabilitation and treatment of PWUIDs as well as access to HIV prevention and treatment services.

To civil society organisations

Organisations which exist to promote human rights 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. Raise awareness about the limits of the law in terms of criminalising same-sex sexual relations and undertake public education campaigns to bring across strongly the message that homosexual or transgender identities in themselves are not criminalised.
2. Raise awareness about the limits of the law in terms of criminalising drug use and possession and undertake public education campaigns to bring across strongly the message that PWUIDs in themselves are not criminalised.
3. Continue to engage in programmes that aim at creating public awareness on sex workers' rights and ending violence against sex workers.
4. Advocate for the adoption of a law that would categorise crimes committed against MSM and transgender persons on the basis of their sexual orientation or gender identity as hate crimes.
5. Hold awareness sessions with members of the general community to demystify MSM and transgender persons, sex workers and PWUIDs and help the community understand that they are part of their community.
6. Develop the capacity of staff to document violations committed against KPs. This could include adopting uniform guidelines for recording information on cases and violations.
7. Strengthen reporting systems, methods of evidence collection and data storage in order to facilitate the verification of violations against KPs.
8. Support the Uganda Human Rights Commission to monitor and document reports of violence, abuse, and discrimination committed against KPs.
9. Establish further partnerships with organisations for the monitoring and documentation of rights of KPs.

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.



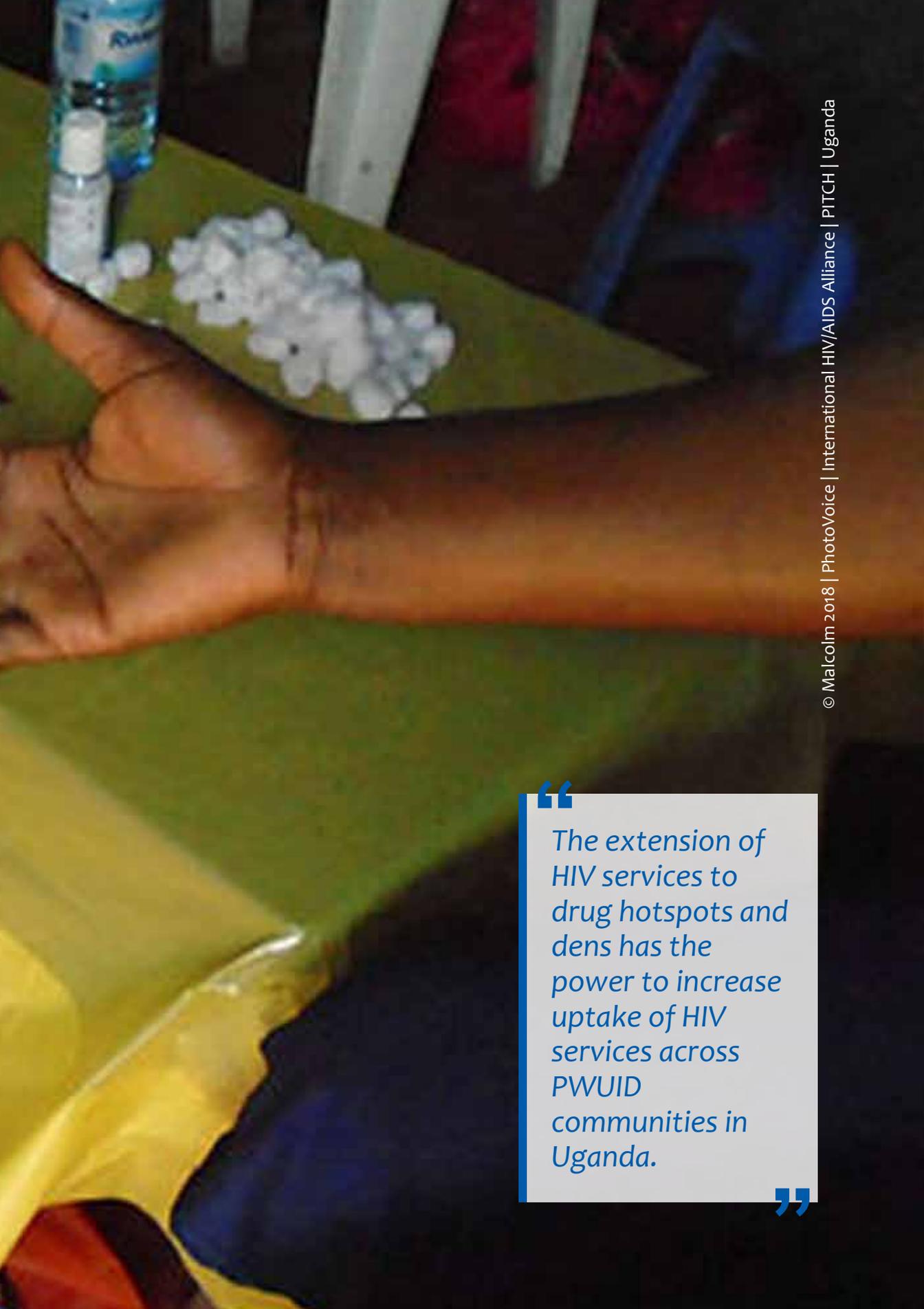


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Something as basic as clean water is hard to find in drug hotspots. Injecting drug users are forced to mix heroin with blood or dirty water before injecting, increasing their exposure to HIV and other diseases.

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The extension of HIV services to drug hotspots and dens has the power to increase uptake of HIV services across PWUID communities in Uganda.

”







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