

CONSOLIDATED HUMAN RIGHTS VIOLATIONS AGAINST KEY POPULATIONS IN UGANDA, 2019



May 2020

With support from

 **The Global Fund**

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With support from



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ABOUT HRAPF

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 persons and Most At Risk Populations (MARPS) in Uganda.

ABOUT THE CONTRIBUTING ORGANISATIONS

Organisations working with MSM and transgender persons

Blessed Rwenzori Uganda (BRU)

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

Health and Rights Initiative (HRI)

Health and Rights Initiative (HRI) is an organisation legally registered as a company limited by guarantee (2014) in the Northern and West Nile regions of Uganda. The vision of the organisation is a society with equal opportunities and justice for all and a mission to advocate for justice and equal opportunities for the marginalised groups through social and economic empowerment, advocacy and research in the rural areas. The core values of the organisation include integrity, commitment, teamwork and innovation. HRI serves the key populations, i.e. female sex workers (FSW), men who have sex with men (MSM), lesbians, bisexuals, trans-gender persons, intersex persons and People who Inject Drugs in Northern Uganda in the following areas: Lango sub-region: Lira, Dokolo, Apac, Kole, Oyam, Alebtong, Otuke, Amolatar and Kwania; Acholi sub-region: Gulu, Pader, Kitgum, Nwoya, Amuru, Omoro and Lamwo; West Nile: Nebbi, Pakwach, Paidha, Zombo, Arua, Koboko, Adjumani and Yumbe.

Holistic Organization to Promote Equality - (HOPE Mbale)

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

Human Rights and Economic Empowerment Development(HUREED)

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

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

Ice breakers Uganda (IBU)

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

The National LGBTI Security Committee

The National LGBTI Security Committee provides support and solutions to LGBTI persons who come face to face with breaches or threats to their personal security.

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)

OGERA is a female sex worker-led organisation that was founded in 2013 with a view to creating awareness on health and human rights of lesbian, bisexual and transgender women, as well as refugee sex workers. The organisation seeks to improve the welfare of refugee sex workers through skills development and enhancement of access to health services for sex workers.

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

WONETHA is a sex worker-led organisation 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)

UHRN is a youth led drug user initiative established in 2008 to respond to the drug use crisis in Uganda. The network works to advocate for practical interventions aimed at supporting and addressing issues of men and women who use and inject drugs. The network also seems to provide a national platform for health and policy programs that promote good practices and advocate for a supportive environment for the adoption, implementation and expansion of harm reduction programs for People Who Use and Injects Drugs (PWUIDs) in Uganda. Currently UHRN's geographical focus includes the following regions: Central Region; Eastern Region; Western Region; Northern Region.

PREFACE

This report is the second to be published by HRAPF consolidating the human rights violations suffered by selected Key Population (KP) groups for a period of one year. The first report recorded violations committed against selected KPs in 2018. This report provides information on verified human rights violations committed against Men who have Sex with Men (MSM), transgender persons, sex workers and People Who Use and Inject Drugs (PWUIDs) during 2019.

Most of the selected KP groups experience criminalisation of their identity or behaviour associated with their group. MSM are criminalised under the criminalisation of ‘carnal knowledge against the order of nature’ under the Penal Code; sex workers are criminalised under the prohibition of prostitution in the Penal Code and PWUIDs are directly affected by the criminalisation of individual possession of narcotic drugs under the Narcotic Drugs and Psychotropic Substances Control Act, 2016. Transgender persons are not directly criminalised under any provisions of law, however, they are denied legal recognition of their lived gender which can cause considerable difficulties in everyday life since their physical appearance would not necessarily reflect the same gender as their identification documents.¹ Transgender persons are also often taken to be ‘homosexuals’ and therefore run the risk of being arrested under section 145 of the Penal Code Act on the basis of their appearance.² Provisions criminalising ‘personation’ in the Penal Code are also misapplied to arrest and charge transgender persons.

HRAPF has been publishing the annual Uganda Report of Violations based on Sexual Orientation and Gender Identity since 2014, which the violations of human rights of Lesbian, Gay, Bisexual and Transgender (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. From 2018 onwards, HRAPF has also been publishing an annual report on the Protection and Violation of the Human Rights of People Who Use and Inject Drugs. This report, recording and considering violations committed against various KPs in a single report, bears many similarities to HRAPF’s three other annual violations reports.

¹Human Rights Awareness and Promotion Forum A guide to the normative legal framework on the human rights of LGBTI persons in Uganda (2019) 23.

²Human Rights Awareness and Promotion Forum The impact of the legal and policy framework on access to justice for transgender persons in Uganda (2019) 15.

³See n 1 above.

MSM, transgender persons, sex workers and PWUIDs are the selected focus groups of this report due to the fact that they are extremely vulnerable to HIV infection and also face structural barriers in accessing HIV prevention and treatment services. MSM, transgender persons, sex workers and PWUIDs are considered to be KPs due to the fact that they face frequent and systemic human rights violations which exacerbate their vulnerability to HIV and AIDS.

The report sets out the various violations suffered by MSM, transgender persons, sex workers and PWUIDs for the period of January to December 2019, 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 2019, the 2019 Report on the protection and violation of the rights of sex workers in Uganda and the Report on violations against Persons Who Use and Inject Drugs in Uganda, 2019 which were published by HRAPF during 2020. These reports do provide a blueprint for this report.

The report considers the trends in human rights violations committed against MSM, transgender persons, sex workers and PWUIDs. Over the past year, there has been a stark upsurge in violations committed against MSM and transgender persons in particular and these groups suffered by far the most recorded violations during 2019. The figures of violations committed against MSM and transgender persons contrast with those of violations against sex workers, which have remained at a similar level to previous years as well as those of violations against PWUIDs, which are lower than in previous years.

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.

The report has the same lay-out as has become usual for HRAPF's violations reports: it starts with incidences of protection of the rights of KPs, then considers the number, nature and perpetrators of violations as well as trends in violations as compared to previous years. The report also has a section which discusses violations of human dignity committed against the selected KP groups by non-state actors. Instances where rights of KPs have been protected are highlighted since this shows progress towards full recognition of these groups. It is equally important to report on violations in order to ensure that the lived realities of these groups are known to

government and society at large.

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 for 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.

The report has been published as a result of concerted efforts by HRAPF and its partners working on the rights of Key Populations. These documented different violations that have been recorded in this report. The partner organisations are: Alliance of Women Advocating for Change (AWAC); Blessed Rwenzori Uganda (BRU); Empowered At Dusk Women's Association (EADWA); Golden Centre for Women's Rights Uganda (GCWR); Health and Rights Initiative (HRI); Human Rights and Economic Empowerment Development (HUREED); HOPE Mbale; Icebreakers Uganda (IBU); Lady Mermaid's Bureau (LMB); Organisation for Gender Empowerment Rights Advocacy (OGERA); The National Security Committee; Uganda Harm Reduction Network (UHRN); Women Positive Empowerment Initiative (WOPEIN); and Women Organisation Network for Human Rights Advocacy (WONETHA)

We hope that persons seeking information in the area of KP rights will find this report useful.

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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, 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 or violations of human dignity

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 of the surrounding

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
BRU:	Blessed Rwenzori Uganda
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
HOPE Mbale:	Holistic Organisations Promoting Equality Mbale
HRAPF:	Human Rights Awareness and Promotion Forum
HRI:	Health and Rights Initiative
HUREED:	Human Rights and Economic Empowerment Development
IBU:	Ice Breakers Uganda
LGBT:	Lesbian, Gay, Bisexual and Transgender
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
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

EXECUTIVE SUMMARY

1. Introduction

The Uganda Report of Human Rights Violations against Key Populations analyses cases of violations committed against MSM, transgender persons, sex workers and PWUIDs from a human rights-based approach. The report considers the human rights violations committed against these groups during the course of 2019. The report classifies the categories of human rights violations suffered by KPs and distinguishes between human rights violations committed by state actors and violations of human dignity committed by non-state actors. The report also provides detail and context to a number of the violations in order to enable the reader to gain an understanding of the lived realities of KP groups and the dynamics of the violations that they face on a regular basis. This 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 selected groups.

The basis of the report is cases of human rights abuses and violations suffered by KPs that have been documented by HRAPF as well as by 13 partner organisations working with the various groups. The report, however, does not include all the documented violations committed against these KP groups but only those violations which could be verified independently.

Key Findings

1. During the year 2019, there were 8 recorded cases in which state actors protected the rights of sex workers, and one case for MSM. There were no recorded instances of the state protecting the rights of transgender persons or PWUIDs.
2. A total of 450 violations were committed against the various KP groups that form part of this report during 2019.
3. Of the 450 violations, 388 were human rights violations committed against the various KP groups by state actors. These violations arose out of 77 cases. Out of these violations, 141 were against MSM arising out of 17 cases, 62 were against transgender persons arising out of 6 cases; 120 were against sex workers arising out of 18 cases and 65 were against PWUIDs arising out of 36 cases.

5. Among the human rights violations, 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 287 times, amounting to 74% of all human rights violations.

6. The Uganda Police Force is the single biggest violator of human rights of KPs for the year 2019 as it was responsible for 382 out of 388 or 98.5% of all violations.

7. A total of 62 violations of human dignity committed by non-state actors were also recorded. The majority of these violations were acts or threats of violence.

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 individual drug users or against women because of their involvement in sex work.
2. Make clear statements that acts of violence and discrimination against KP groups, including MSM, transgender persons, sex workers and PWUIDs, will not go unpunished.
3. Revise the 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 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 allow 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 and undesirable, including KPs.

To the Uganda Police Force

1. 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.
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 violations committed against KPs as a barrier in the fight against HIV and AIDS in policies and public communication.
2. Take a stand against discriminatory laws, such as Section 145 of the Penal Code Act which criminalises consensual same-sex sexual conduct; Sections 138 and 139 of the Penal Code Act which criminalise 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 KP.

To the Uganda Law Reform Commission

1. Develop a proposal for constitutionally compliant alternatives to laws creating petty offences that will protect the rights of all while ensuring order in society.
2. Develop a proposal for the amendment of the Penal Code Act to repeal the sections that criminalise consensual sexual relations between persons of the same sex.
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 Narcotic Drugs and Psychotropic Substances Control Act, 2016 to remove provisions which impose harsh sentences on PWUIDs for individual drug use and possession.

To the Uganda Human Rights Commission

1. Hear and dispose of cases involving violations of rights of KPs that are pending before the Commission's Complaints and Investigations Directorate.

2. Develop proposals to amend laws that are discriminatory and which do not align with the Constitution of the Republic of Uganda.

3. Include KPs' issues in the annual reports to Parliament.

4. Continue to work with CSOs and government ministries to train magistrates and Police officers on the NDPSCA and other 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 implications of criminalisation of same sex relations, non-recognition of gender changes, criminalisation of sex work, and drug use on HIV/AIDS.
2. 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.
3. Develop the capacity of staff to document violations committed against KPs. This could include adopting uniform guidelines for recording information on cases and violations.
4. Institute cases under the recently enacted Human Rights Enforcement Act, 2019 in order to hold state actors who have committed human rights violations against KPs accountable.
5. Strengthen reporting systems, methods of evidence collection and data storage in order to facilitate the verification of violations against KPs.
6. Support the Uganda Human Rights Commission to monitor and document reports of violence, abuse, and discrimination committed against KPs.
7. Establish further partnerships with organisations for the monitoring and documentation of rights of KPs.

1. Introduction

The Consolidated Report on Human Rights Violations against Key Populations, 2019 is the second report of its kind to be published by HRAPF. The report analyses violations committed against MSM, transgender persons, sex workers and PWUIDs as KPs from a human rights perspective.

HRAPF has published 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 the ones considered to be KPs within the HIV response.⁴ The report also considers violations committed against two other KP groups, namely sex workers and PWUIDs, for the same period and compares the number and nature of violations committed against the various groups.

‘Key Populations’ in terms of HIV are those particular groups which are the most vulnerable to HIV, while at the same time often lacking access to adequate HIV services.⁵ The KPs currently considered to be the main focus of the global HIV response are gay men and other MSM; sex workers; transgender people; People.⁶ Who Inject Drugs and prisoners and other incarcerated people. Globally, more than half of new HIV infections occur among members of these KPs and their sexual partners.⁷

This report documents the human rights violations suffered by four of these KP groups in Uganda. Vulnerability to human rights violations inhibit the access of these groups to HIV services and continue to render them vulnerable to HIV infection.

The report classifies the various categories of human rights violations suffered by MSM and transgender persons; sex workers and PWUIDs and distinguishes between violations committed by state actors and those committed by non-state actors. The report also highlights some of the cases and aims to provide insight into the impact of human 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 widespread violations committed against them. The report is based on documentation of human rights abuses and violations based on gender identity and sexual orientation, violation against sex workers and

⁴UNAIDS ‘Key Populations’ available at <https://www.unaids.org/en/topic/key-populations> (Accessed on 13th December 2019).

⁵n 4 above.

⁶n 4 above.

⁷As above

against PWUIDs by HRAPF through its legal aid clinic, as well as contributing partner organisations. All the documented cases of violations committed against these KP groups are not included in the report, however, since every reported case and violation could not be independently verified. This report makes recommendations to

1.1 Methodology

This report was compiled by making use of both quantitative and qualitative methods. Quantitative data was collected by determining the number of verified violations reported to HRAPF and its partners during the course of the year 2019. Qualitative data was collected by considering the cases of MSM, 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, transgender persons, sex workers and PWUIDs during 2019. All the case files were physically reviewed in order to ensure that only cases in which human rights violations had been committed against MSM, 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 includes 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 was valid documentation which serves as evidence of the violation on file.

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 provided additional information on the basis of which the alleged violation could be verified.

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

1.2 Limitations

A number of limitations were encountered in compiling this report.

In the first place, while the report does seek to cover the human rights situation of KPs in Uganda as a whole, it is limited to the work of lawyers and paralegals attached to HRAPF in areas beyond Kampala. National coverage has gradually 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 the country.

In the second place, 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, which effectively leads to underreporting of the number and extent of violations committed against KPs. There remains a need for ongoing in-depth training of paralegals and leaders of organisations working with KPs in Uganda on the documentation of human rights violations. Consistent, uniform and comprehensive documentation is a necessity for human rights violations to consideration by governing authorities be recorded and taken into and law enforcers.

A third limitation that was encountered in the compilation of this report is the fact that those handling cases involving human rights violations of KPs do not necessarily frame their cases in the language of rights. In many instances, violations which occurred on the basis of the sexual orientation and/or gender identity of the victim, or due to their social identity as a sex workers or PWUID, would not be recognised as such. On the other hand, routine procedures and practices carried out by the Police and other law enforcers are sometimes viewed and recorded as human rights violations in error. There remains a need for ongoing 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 in-depth and ongoing training on human rights monitoring, documentation and reporting.

2. PROTECTION OF THE RIGHTS OF KEY POPULATIONS IN 2019

2.1 Introduction

The domestic and international legal framework in Uganda places a duty on the state to protect the human rights of all individuals and groups in the country. Regional as well as international human rights instruments to which Uganda is party requires of the state to respect, protect and uphold human rights and freedoms.⁸ This duty is also reiterated in Article 20 of the 1995 Constitution of the Republic of Uganda.

The obligation to respect requires the state and its agencies not to interfere with the enjoyment of fundamental rights and freedoms.⁹ The obligation to protect requires of the state to protect rights-holders from against other subjects through enacting legislation and by providing effective remedies where their rights have been violated.¹⁰ The African Commission on Human and Peoples' Rights has held that the obligation to protect 'requires of the state to take measures to protect beneficiaries of the protected rights against political, economic and social interferences.'¹¹ The obligation to fulfil relates to the duty to promote and requires of the state to actively gear its systems and processes toward the realisation of rights.¹² The obligation to promote requires of the state to take steps to ensure that individuals are able to exercise their rights and freedoms by, for example, promoting tolerance and raising awareness.¹³ Finally, the obligation to protect entails that state would create an 'atmosphere' in which all rights-holders are able to freely exercise their rights through legislative measures and other regulations.¹⁴

The government of Uganda and all its organs and agencies have an obligation to respect, protect, promote and fulfil the rights of all individuals in the country, including KPs. The Constitution gives the Uganda Police Force the mandate to protect life and property; to preserve law and order and to prevent and detect crime.¹⁵ The conduct of the KPs included in this report are criminalised under various provisions of Uganda's law: MSM are criminalised in terms of Section 145 of the Penal Code Act which prohibits same-sex sexual conduct between men; sex work is criminalised under Sections 138 and 139 of the Penal Code Act and individual drug use and possession is criminalised under Sections 4 and 5 of the Narcotic Drugs and

⁸See Preamble of the African Charter on Human and Peoples' Rights; Art6(d) of the Treaty for the Establishment of the East African Community; ⁹Preamble of the International Covenant on Civil and Political Rights.

⁹Social and Economic Rights Action Centre (SERAC) v Nigeria (2001) AHLR 60 (ACHPR 2001) par. 45.

¹⁰As above at par. 46.

¹¹As above.

¹²As above at par. 47.

¹³As above.

¹⁴As above.

¹⁵Art 212 of the Constitution.

protect the rights of KPs as bearers of all fundamental rights and freedoms, while also preventing and detecting crime. The state's duty to protect rights-holders by providing effective remedies for rights violations also depends on the Police as the first point of contact. Regrettably, in the process and sometimes under the guise – of preventing crime, the Police is the main violator of human rights of KPs. HRAPF has documented instances of improvement of the levels of recognition and protection of human rights of LGBT persons, including MSM and transgender persons, since 2014 as well as improvement in the levels of protection available to sex workers since 2016 and protection of PWUIDs since 2018. Cases have been recorded every year in which the Police stepped in to protect the rights of these groups.

2.2 PROTECTION OF THE RIGHTS KPs 2019

2.2.1 MSM

During 2019, only one case was registered in which the Police stepped up to protect the rights of MSM. In October 2019, a group of 16 MSM, including activists, were trapped in the offices of a Kyengera-based LGBT organisation by a mob of angry community members.¹⁶ The office space is also used as a shelter for LGBT persons who need temporary housing. The community members were hurling homophobic insults at the men trapped inside the offices and threatened to break in. The Police came to the aid of the men by escorting HRAPF lawyers to the premises and dispersing the mob. Directly thereafter, however, the Police themselves proceeded to insult the men trapped in the house and arrested all 16 of them. The Police searched the premises and confiscated condoms, lubricants and anti-retroviral medicines. The men were charged with the offence of 'having carnal knowledge against the order of nature' and were subjected to anal examinations. While it is a positive step that the Police acted decisively to protect the group of MSM from the mob, their rights were nevertheless violated by the Police who refused to provide them with equal protection of the law.

2.2.2 Transgender persons

There were no recorded cases where the state protected the rights of transgender persons in 2019.

2.2.3 Sex workers

There were eight cases recorded in 2019 in which the rights of sex workers were protected by the Police and the Police proved instrumental in ensuring effective remedies for sex workers who had suffered the violations of their rights. In the first case, a sex worker was violently assaulted by an unknown assailant. The perpetrator was arrested, charged with attempted murder and remanded to Luzira Prison.

¹⁶HRAPF/VR/2-19/041.

In the first case, a sex worker was violently assaulted by an unknown assailant.¹⁷ The perpetrator was arrested, charged with attempted murder and remanded to Luzira Prison.¹⁸

In the second case, a sex worker who operates a bar was assaulted by the owner of the neighbouring bar.¹⁹ She had received a client in her bar who did not pay her. He then left and went to the neighboring bar. When the victim went to collect her money, she was beaten by the owner of the neighbouring bar and left naked. The sexworker reported the matter to her nearest Police station. The Police responded by opening a case against the perpetrator and sending the victim for medical examination.²⁰

In the third case, a sex worker was assaulted by her client and she reported the case to the Police.²¹ The Police arrested the perpetrator and detained him for two days, after which a mediation was held and he agreed to compensate the victim with UGX 200,000 to cater for her medical treatment.²²

In the fourth case, a sex worker was beaten by a man.²³ With the help of a paralegal, she was taken to hospital and the case was reported to the Police. The Police arrested the perpetrator and he agreed to pay UGX 150,000 towards the victim's medical treatment.²⁴

In the fifth case, a sex worker was assaulted by a man known to target sex workers in the Kabalagala area. The man also stole the sex worker's money after assaulting her.²⁵ The Police opened a case against the perpetrator and also sent the sex worker for a medical examination in order to record evidence of the attack.

In the sixth case, a sex worker negotiated to have sex with a client, but when they got to his home there were two other men as well and she refused to enter the house. The three men forced the sex workers into the house and attacked her with a knife. She managed to escape but was left with injuries to her head, hands and thighs. The accused was brought to the Police after she reported the incident to them. The Police mediated the matter and the sex worker received UGX 210,000 in compensation to cover the costs of her medical treatment.

In the seventh case, a sex worker was compensated by a woman in the community who had beaten her after the Police advised her to call for mediation of the matter.²⁶

¹⁷HRAPF/SWVR2-19/009.

¹⁸As above.

¹⁹HRAPF/SWVR2-19/008.

²⁰As above.

²¹HRAPF/SWVR2-19/030.

²²As above.

²³HRAPF/SWVR2-19/026.

²⁴HRAPF/SWVR2-19/035.

²⁵HRAPF/SWVR2-19/039.

²⁶HRAPF/SWVR2-19/034.

In the eighth case, a sex worker was attacked by the owner of the lodge from where she operated as she was leaving the lodge to meet with her boyfriend.²⁷ The injuries inflicted on her were so severe that she lost her pregnancy. The matter was reported to the nearest Police station and other mediation, the perpetrator paid the sex worker UGX 200,000 in compensation.²⁸

2.2.4 PWUIDs

There were no recorded cases where the state protected the rights of PWUIDs in 2019. In the case of sex workers as well as MSM and transgender persons, the Police would offer protection of rights in instances where mainly non-state actors threaten or violate these rights. There were no recorded violations of rights of PWUIDs by non-state actors for 2019, which may explain why there were also no cases in which or violate these rights. There were no recorded violations of rights of PWUIDs by non-state actors for 2019, which may explain why there were also no cases in which the Police or any other state actor stepped in to protect and vindicate the rights of members of this group.

2.3 Conclusion

These nine cases in which Police officers fulfilled their obligations toward KPs, protected their rights and ensured remedies for the violations which they had suffered are commendable. These instances affirmed the status of KPs as equal citizens and rights-holders.

However, in many of these cases the actions taken did not ensure full access to justice as the compensation was little or even replaced criminal liability or prosecution. Furthermore, these few cases in which the Police protected the rights of KPs are outweighed by the cases of inaction on the part of the Police or the cases in which the Police are the perpetrators of the violations.

3. VIOLATIONS OF THE HUMAN RIGHTS OF KEY POPULATIONS DURING 2019

3.1. Introduction

During the course of 2019, human rights violations were committed against KPs on the basis of their real or presumed sexual orientation and gender identity and / or expression or due to their real or presumed involvement in sex work and drug use. This report categorises violations against KPs on the basis of the rights violated and the perpetrators of these violations.

²⁵HRAPF/SWVR2-19/041.

²⁶As above.

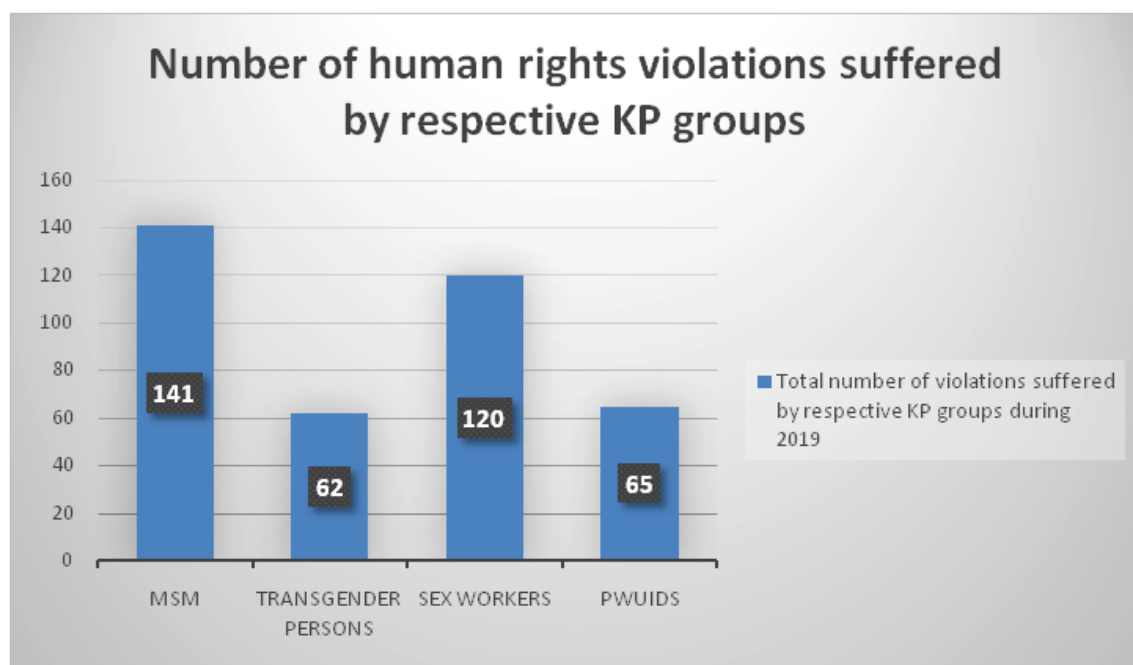
²⁷Preamble of the African Charter on Human and Peoples' Rights; Article 6(d) of the Treaty for the Establishment of the East African Community; Preamble of the International Covenant on Civil and Political Rights.

The Constitution of the Republic of Uganda of 1995 (as amended) in its chapter 4 sets out the rights and freedoms to be enjoyed by individuals and groups in Uganda. Article 20(2) of the Constitution provides that the rights and freedoms set out in that chapter are to be respected, upheld and promoted by all organs and agencies of government and by all persons. The Constitution 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.²⁹

3.2 Number of violations committed against KPs during 2019

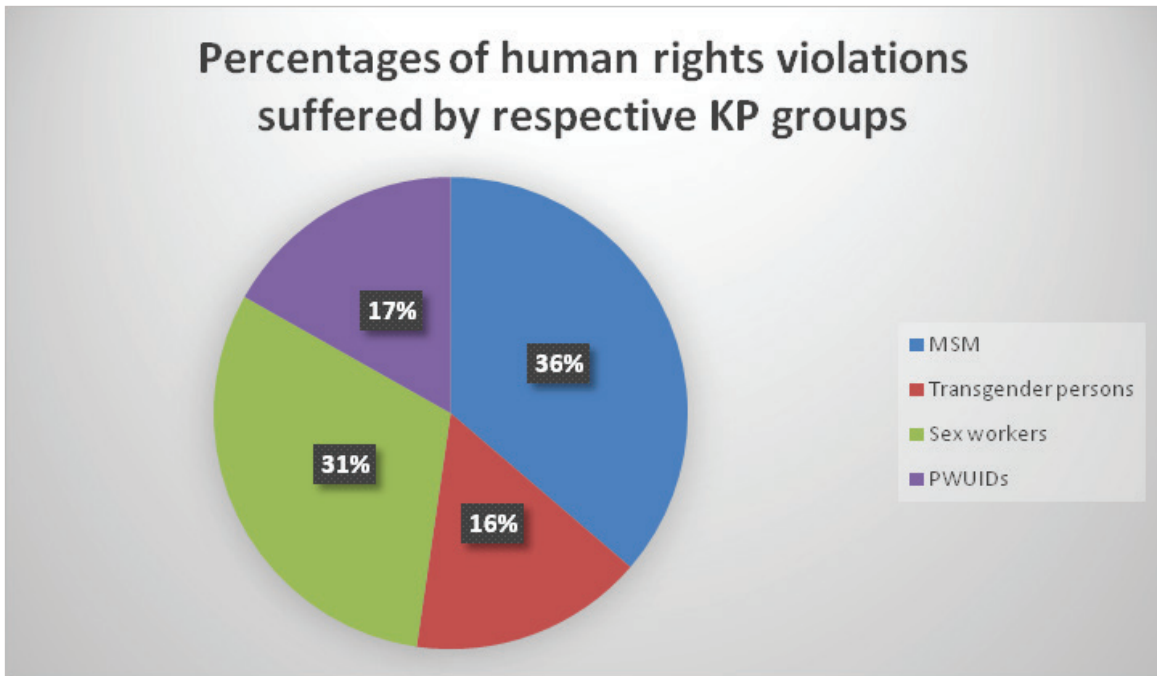
During the year 2019, a total of 450 violations were committed against the various KPs which form part of this report. Out of these violations, 388 were human rights violations committed by state actors while 62 were violations of human dignity committed by non-state actors. Out of the 388 human rights violations, 141 violations were suffered by MSM; 62 by transgender persons; 120 by sex workers and 65 by PWUIDs.

TABLE 1: Number of human rights violations suffered by respective KP groups during 2019



²⁹Preamble 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.

CHART 1: Percentages of human rights violations suffered by respective KP groups during 2019



A total of 77 cases were reported to HRAPF and contributing partner organisations, which reveal a total of 388 human rights violations committed against KPs for the year 2019. In particular, 17 cases of MSM were recorded and verified, revealing 141 violations; 6 cases of transgender persons were recorded revealing 62 violations; 18 cases of sex workers were recorded revealing 120 violations and 36 cases of PWUIDs were recorded, revealing 65 verified violations. Other cases beyond the 77 included in the report were also recorded, however these could not be verified; did not constitute a human rights violation or revealed human rights violations which were unrelated to the victim’s status or identity as a member of one of the KP groups included in this report.

3.3 Nature of violations committed against KPs during 2019

A total of 388 human rights violations were committed against KPs during 2019. The nature of rights which were violated were: the right to liberty; the right to life; the right to equality; the right to dignity (freedom from torture and cruel, 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 in this section.

3.3.1 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 2019, with a total of 287 violations. A total of 103 violations of the right to liberty were committed against MSM; 26 violations against transgender persons; 109 violations against sex workers and 49 violations against PWUIDs.

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

a) MSM

The right to liberty of MSM was violated 103 times in 9 cases during 2019. It is by far the most violated right of this group for 2019. The period under review has seen instances of mass arrests which accounts for the high numbers of violations.

i) Freedom from arbitrary arrest

There were 101 arbitrary arrests of MSM during 2019 arising out of 9 cases. These incidents took place when MSM were arrested in the absence of reasonable suspicion that they had committed or were about to commit a crime or were charged with crimes which do not exist in law.

³⁰See also Art 9(1) of the ICCPR.

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

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

³³Art 14(3)(g) of the ICCPR.

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

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

In one case, 69 MSM were arrested, along with 25 transgender persons and 23 women who have sex with women, from a bar which is known to be a popular place of socialisation for LGBT persons.³⁶ During the arrest, a Policeman in plain clothing revealed a bag of marijuana and claimed that the persons who were being arrested were in possession of the drugs. The arrestees were taken to Central Police Station and initially charged with possession of narcotics under the Narcotic Drugs and Psychotropic Substances Control Act (NDPSCA). This charge was later changed to the charge of ‘being a common nuisance’ under the Penal Code Act. This charge is suspicious and unfounded considering that the arrest was not made in response to a noise complaint or any other complaints from the community surrounding the bar. The fact that the charge was changed indicates an intention on the part of the arresting officers to have the persons arrested and ‘punished’ for their presumed sexuality or gender identity and expression. There was no real suspicion that the arrestees had all committed a crime or were about to commit a crime. Some of the arrestees were released on bond while others paid bribes and were released. A total of 52 MSM were remanded to Luzira prison.

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

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

³⁶HRAPF/VR/2-19/029 (*Ram bar case*).

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

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

The Police exhibit a willingness to arrest MSM persons on extremely flimsy grounds, which violate their right to liberty since there is no real reason to believe that a crime has been committed or is about to be committed and no real intention to bring the arrested person before a court of law. In one case, a gay man was arrested and charged under section 145 of the Penal Code Act. While he was still in custody, two of his friends visited him and were also arrested because the Officer in Charge of the station was of the view that they ‘looked like homos’.³⁹

A group of 7 men who identify as gay were on their way to their respective workplaces in one car in the Nansana area. They were all arrested and were not told what the charges against them were.⁴⁰

In one extreme case, an MSM was arrested after being outed in the Red Pepper newspaper.⁴¹ He was accused of engaging in homosexual relations by a 16-year old boy whom he says he had never met before. After being released on bond, he was repeatedly approached by Police officers who asked him for money in order to make his file disappear.⁴² The case was eventually dismissed due to a lack of evidence and the man filed a case at the Inspectorate General of Government against the Police officers who attempted to extort him.⁴³

The Police are also willing to arrest MSM in cases where they had been the victims of crime and the perpetrators use their sexual orientation in order to prevent them from accessing justice. In two respective cases, gay men were the victims of theft. Upon reporting the crimes committed to the Police, those who had been accused turned the accusation around and caused the men to be arrested on allegations of sodomy.⁴⁴ It is worrying that the Police allow MSM’s sexual orientation to be used against them and to be complicit in preventing them from bringing those who wrong them to book. Arrests are also considered arbitrary when they are carried out on the basis of criminal offences which do not exist in law. Two MSM were arrested in Kawempe area for the crime of ‘possession of opium’ – an offence which had been repealed by the NDPSCA.⁴⁵ An MSM was also arrested in Munyonyo and charged with ‘smoking opium’ even though this offence no longer exists and has been repealed and replaced by provisions of the NDPSCA.⁴⁶

³⁹HRAPF/VR/2-19/006.

⁴⁰HRAPF/VR/2-19/077.

⁴¹HRAPF/VR/2-19/129.

⁴²As above.

⁴³Interview with HRAPF Legal Associate who handled the matter, 19th March 2020.

⁴⁴HRAPF/VR/2-19/126; HRAPF/VR/2-19/135.

⁴⁵HRAPF/VR/2-19/037. Sec 48(a) of the National Drug Policy and Authority Act Cap 206 created the offence of smoking opium and was repealed by Sec 93 of the NDPSCA.

⁴⁶HRAPF/VR/2-19/069. Sec 48(a) of the National Drug Policy and Authority Act Cap 206 created the offence of frequenting a place used for smoking opium and was repealed by Sec 93 of the NDPSCA.

ii) Freedom from prolonged detention

The right to liberty is violated if a person is detained beyond the time period of 48 hours without being produced before a court.⁴⁷ During 2019, there were two instances where MSM were arrested for various reasons and were kept in Police custody beyond 48 hours without being brought before a court. In one case, an MSM spent a full 11 days in Police custody and was not brought before a court.⁴⁸ In another case, an MSM was held in Police custody for 4 days after arrest.⁴⁹

b) Transgender persons

The right to liberty of transgender persons was violated 26 times during 2019, which violations arose out of two cases. In the Ram bar case, discussed above, 25 transgender persons were arrested arbitrarily after which 8 of them were remanded to Luzira prison.⁵⁰ The Police also exhibit a willingness to arrest transgender persons on questionable grounds and without having a reasonable suspicion that the arrestee has or is about to commit a crime. During the period under review, one transgender woman was arrested for talking to a detainee without the permission of the Police officers.⁵¹

c) Sex workers

Sex workers suffered a total of 109 violations of the right to liberty during 2019. All 109 violations of the right to liberty of sex workers were perpetrated by the Uganda Police Force, either by arresting sex workers on arbitrary arrest or by detaining sex workers beyond 48 hours without bringing them before a court.

i) Freedom from arbitrary arrest

There were four cases of arbitrary arrest involving 99 sex workers documented and verified for the year 2019. This ratio indicates that arbitrary arrests of sex workers were carried out en masse. In two of these cases, sex workers were arrested on the basis of the fact that they appeared to police officers to be sex workers, rather than because police had reason to believe that they had committed a particular crime which could be proved with evidence in court.

In the case in which a man was badly beaten in a bar by another man, sex workers who were found in the vicinity of the bar were arrested and charged with ‘causing grievous bodily harm’.⁵² The Police clearly did not know who may or may not have been directly involved in the crime, but nevertheless arrested the six sex workers in connection with the crime. It cannot be said that the Police had a

⁴⁷Art 23(3).

⁴⁸HRAPF/VR/2-19/013.

⁴⁹HRAPF/VR/2-19/031.

⁵⁰See Ram bar case, n 36 above.

⁵¹HRAPF/VR/2-19/032.

⁵²HRAPF/SWVR2-19/046

reasonable suspicion that each of these six sex workers were involved in the crime. They were most likely incriminated on the basis of the arresting officers' prejudice against them and therefore the arrest was arbitrary.

In September 2019, the Police raided several lodges in Nateete, Mabiito area in Kampala and arrested a total of 87 sex workers.⁵³ The sex workers were charged with 'possession of narcotics' under the NDPSCA, even though they did not have narcotic substances in their possession. The raid was clearly intended to target sex workers, yet not one of them was charged under the Penal Code provisions which criminalise sex work as 'prostitution'. Instead, the 87 sex workers found in different places and under different circumstances in the same area were all charged with a generic offence. The Police could not have had a reasonable suspicion that all 87 sex workers had committed or were about to commit a narcotic-related offence under the NDPSCA. Some of the sex workers were released on Police bond after the intervention of HRAPF lawyers; others were remanded to prison pending their bail applications. They were later released after paying fines of UGX 150,000. This raid took place two days after the release of an NBS documentary on young women who engage in sex work entitled 'Girls in risky business'.⁵⁴ Some of the scenes in the documentary were shot at one of the lodges in Mabiito which was later targeted in the Police raid. This large-scale raid is indicative of a worrying trend of law enforcers deliberately seeking out sex workers to 'punish' them en masse, while at the same time concealing the true reason for the arrest and taking sex workers into custody on alternative charges.

An arrest is also arbitrary if it is based on grounds that are not recognised in law. In two cases, a total of six sex workers were arrested for crimes which are no longer recognised on the law books of Uganda. In the first case, three sex workers were arrested and charged for 'frequenting a place used for smoking opium'⁵⁵ and in the second case three sex workers were arrested and charged with 'smoking opium'.⁵⁶ These two offences which existed under Sections 47 and 48 of the National Drug Policy and Authority Act Cap 206 have been repealed by Sections 4 and 5 of the NDPSCA.

ii) Freedom from prolonged detention

Three cases involving 10 sex workers who were arrested and detained beyond 48 hours were documented and verified in 2019. In the first case, a sex worker was arrested on accusation that she had assaulted another woman in the community.⁵⁷ She was held in Police custody for 14 days before she was presented in court.

⁵³HRAPF/SWVR2-19/033.

⁵⁴The documentary is available at <https://www.youtube.com/watch?v=9XfrPIB1QFA> (Accessed 1st June 2020).

⁵⁵HRAPF/SWVR2-19/016.

⁵⁶HRAPF/SWVR2-19/028.

⁵⁷HRAPF/SWVR2-19/003.

⁶⁵HRAPF/DUVR/2019-2/055.

⁶⁶These offences were previously created under Sec 47 and Sec 48 of the National Drug Authority and Policy Act Cap 206.

In the second case, six sex workers were arrested on narcotic-related charges and held in Police custody for five days after which they were transferred to another Police station.⁵⁸

The third case is the arbitrary arrest of six sex workers charged for their alleged involvement in the assault of a man in a bar in Nateete.⁵⁹ They were held in Police custody for five days before being brought before a court. In all three of these cases, the right to liberty of the sex workers involved was violated due to their prolonged detention.

d) PWUIDs

During 2019, there were 49 violations of the right to liberty of PWUIDs arising out of 25 cases, all of which were perpetrated by the Uganda Police Force.

i) Freedom from arbitrary arrest

There were a total of 21 violations of the right to liberty of PWUIDs due to arbitrary arrests arising out of eight cases.

An arrest is arbitrary if it is based on grounds that are not recognised in law. In one 2019 case, four PWUIDs were arrested after complaints were laid by their neighbours with the Police. The four were charged with ‘smoking opium’ – a crime which no longer exists under the law.⁶⁰ Two other PWUIDs were arrested behind a bank in Entebbe Town and charged with ‘frequenting a place used for smoking opium’.⁶¹ Another PWUID arrested at Bulenga trading centre was also charged for ‘frequenting a place used for smoking opium’.⁶² Six PWUIDs were arrested in Katwe during a Police operation and charged with ‘smoking opium’.⁶³ Another PWUID was arrested in a slum nicknamed ‘Germany ghetto’ and was also charged with ‘smoking opium’. In another case, a PWUID was arrested in a public area near a fish factory.⁶⁴ At the time of the arrest, the Police claimed that he was arrested for ‘being idle and disorderly’, however at the Police station he was charged with ‘smoking opium’. Two PWUIDs were arrested in Kabalagala and charged with ‘possession of opium’.⁶⁵ All of these arrests amounted to a violation of the right to liberty since the crimes of ‘smoking opium’, ‘possession of opium’ and ‘frequenting a place used for smoking opium’ no longer exist in law and have all been repealed by Section 4 and Section 5 of the NDPSCA.⁶⁶

⁵⁸HRAPF/SWVR2-19/028.

⁵⁹See n 52 above.

⁶⁰HRAPF/DUVR/2019-2/016.

⁶¹HRAPF/DUVR/2019-2/028.

⁶²HRAPF/DUVR/2019-2/041.

⁶³HRAPF/DUVR/2019-2/042.

⁶⁴HRAPF/DUVR/2019-2/066.

⁶⁵HRAPF/DUVR/2019-2/055.

⁶⁶These offences were previously created under Sec 47 and Sec 48 of the National Drug Authority and Policy Act Cap 206.

ii) Freedom from prolonged detention

There were 28 violations of the right to liberty of PWUIDs due to prolonged detention arising out of 17 cases. This high number indicates a trend of punishing and even attempting to ‘rehabilitate’ PWUIDs by detaining them in Police cells for a prolonged period, which is unlawful and a clear violation of the right to liberty.

One PWUID was arrested from his house and charged with theft, he was only released from Police custody after 6 days.⁶⁷ Four PWUIDs who were accused of theft by one of their friends were also arrested and held in Police custody for four days before being released.⁶⁸ A PWUID was arrested by a member of the Local Defence Unit (LDU) after being found with a stick of marijuana in his pocket and was detained for four days. Five PWUIDs were arrested for ‘smoking opium’ following complaints by their neighbours and were detained for six days.⁶⁹ In another case, a PWUID was arrested by and held in Police detention for eight days.⁷⁰ The PWUID suspected of selling drugs was arrested and detained for 12 days.⁷¹ In another case, two PWUIDs were arrested by LDUs and local leaders and were beaten and badly wounded in the process. They were kept in Police custody for four days.⁷²

There were 10 similar cases to these in which PWUIDs were arrested and detained in Police custody for longer than 24 hours.⁷³

3.3.2 Violation of the right to equality and freedom from discrimination

During 2019, there were 18 verified violations of the right to equality and freedom from discrimination of KPs arising out of two cases. MSM is the only group against which this violation was recorded for 2019.

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. This right is far from the reality for KPs in Uganda who face discrimination, unfair treatment and exclusion at every turn. The continued criminalisation of same-sex sexual conduct feeds into the homophobic climate in the country and prevents MSM and transgender persons from

⁶⁷HRAPF/DUVR/2019-2/002.

⁶⁸HRAPF/DUVR/2019-2/003.

⁶⁹See n 60 above.

⁷⁰HRAPF/DUVR/2019-2/032.

⁷¹HRAPF/DUVR/2019-2/080.

⁷²HRAPF/DUVR/2019-2/061.

⁷³HRAPF/DUVR/2019-2/004 arrestees were detained at Kabalagala Police Station for 4 days; HRAPF/DUVR/2019-2/014 arrestee was detained at Kabalagala Police Station for 4 days; HRAPF/DUVR/2019-2/026 arrestee was detained at Entebbe Central Police Station for 7 days; HRAPF/DUVR/2019-2/034 arrestee was detained for a total of 4 days first at Naalya Police Post and later at Kiira Division; HRAPF/DUVR/2019-2/046 arrestee was detained at Kabalagala Police Station for 3 days; HRAPF/DUVR/2019-2/053 arrestee was detained at Kabalagala Police Station for 8 days; HRAPF/DUVR/2019-2/075 arrestees were detained at Kabalagala Police Station for 4 days; HRAPF/DUVR/2019-2/079 arrestee was held at Abaita Babiri Police Post for 4 days; HRAPF/DUVR/2019-2/087 arrestee was detained at Abaita Babiri Police Post for 9 days; HRAPF/DUVR/2019-2/092 arrestee was detained at Kabalagala Police Station for 4 days.

living free, secure and normal lives, on an equal footing with other persons in the country. 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 PWIDs.

a) MSM

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

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

During the period under review, MSM suffered 18 violations of the right to freedom from discrimination at the hands of the Uganda Police Force. The fact that 16 MSM were arrested after they had sought protection from the Police is an alarming violation of the right to equal protection of the law. MSM are effectively barred from accessing the services of the Police on the basis of their sexual orientation. The case where two MSM were arrested while visiting a detainee on the basis that they ‘looked like homos’ also amounted to the violation of the right to equality and freedom from discrimination.⁷⁴ The two men suffered arrest purely on the basis of what the Officer in Charge perceived to be their sexual orientation.

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

There were 41 violations of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment and punishment of KPs during 2019 arising out of 21 cases. Out of these 41 violations, 18 violations were committed against MSM; 11 violations were committed against sex workers and 12 violations against PWIDs.

Article 24 of the Constitution provides that no person shall be subjected to any form of torture, cruel, inhuman and degrading treatment or punishment. This right is inalienable, and can under no circumstances be infringed upon or restricted.⁷⁵

The Prevention and Prohibition of Torture Act defines torture, similar to the United Nations Convention Against Torture (UNCAT), as any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person or at the instigation or with the consent or acquiescence of any person, whether a public

⁷⁴See n 39 above.

⁷⁵Art 44(a) of the Constitution.

official or private individual, for such purposes as: obtaining information from the person or any other person; punishing the person for an act he or she or any other person has committed or is suspected of having committed or planning to commit; or intimidating or coercing the person or any other person to do or refrain from doing any act.

a) MSM

There were 18 violations of the right to dignity and freedom from cruel, inhuman and degrading treatment and punishment of MSM during 2019 arising out of two cases. In the case where 16 MSM were trapped inside organisational premises in Kyengera, the Police were called to intervene. Neighbours and community members surrounded the building and were insulting and threatening the group. After dispersing the mob, the Police proceeded to violate this rights of the 16 MSM involved by arresting them and denying them food while in custody. When their lawyers brought them food, they were denied access to their clients.⁷⁶ The arrestees were only allowed to eat the food brought by their lawyers on the third day spent in custody.⁷⁷ The arrestees were all taken to Nsambya Police Hospital two days after their arrest and were subjected to anal examinations which further violated their right to dignity and freedom from cruel, inhuman and degrading treatment.⁷⁸ These arrestees were furthermore transported on an open truck, even at night time and while it was raining.⁷⁹

The right to dignity and freedom from torture and cruel, inhuman and degrading treatment and punishment was also violated by Police when two MSM arrested from their lodgings in Kasese were beaten after arrest.⁸⁰

b) Sex workers

During 2019, there were 11 recorded violations of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment of sex workers.

Article 24 of the Constitution provides that no person shall be subjected to any form of torture, cruel, inhuman and degrading treatment or punishment. This right is inalienable, and can under no circumstances be infringed upon or restricted.⁸¹

In one of the recorded cases, a member of a Local Defense Unit in Nateete, working with a client of a sex worker, verbally abused and beat the sex worker.⁸² The LDU

⁷⁶Interview with Justine Balya, Legal Officer, HRAPF, 19th April 2020.

⁷⁷As above.

⁷⁸HRAPF/VR/2-19/121.

⁷⁹As above.

⁸⁰HRAPF/VR/2-19/005 and n 39 above.

⁸¹Art 44(a) of the Constitution.

⁸²HRAPF/SVVVR2-19/032.

official was known to connive with clients of sex workers in order to gain access to them and abuse them.⁸³

In ten other cases, sex workers suffered violence at the hands of non-state actors and the Police failed to respond appropriately and provide effective remedies to the victims of this violence, which amounted to violations of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment on the part of the Police.⁸⁴ These ten cases are discussed in detail in the section on violence committed by non-state actors against sex workers below.

c) PWUIDs

There were 12 violations of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment against PWUIDs during 2019 arising out of 8 cases. In one case, three PWUIDs were arrested at Magala market after being trailed by Police officers for some time. The PWUIDs were badly beaten during the arrest and were released on bond in order to allow them to recover.⁸⁵

A PWUID was arrested by six LDUs in Kabalagala, who severely beat him during the course of the arrest. The PWUID bled profusely from his head and back but was nevertheless kept in Police detention without receiving medical attention.⁸⁶

In another case, a PWUID was arrested while he was asleep in his house in Mpala. The arresting officers alleged that the client had drugs and slapped him in the process of arresting him.⁸⁷ Another PWUID was arrested at Bulenga trading centre in Kampala district and was beaten by Police officers until he collapsed.⁸⁸ There was also a case in which a PWUID was made to remove his clothes and shoes in the process of arrest and was beaten as he was made to walk to the Police station.⁸⁹

Two PWUIDs were arrested by LDUs in Bunamwaya in Wakiso district and were beaten in the process.⁹⁰ Two other PWUIDs were beaten and badly wounded by LDUs and local leaders. They were detained for four days without receiving medical treatment.⁹¹ In another case a PWUID was arrested in Kabalagala and beaten by the arresting LDU before he spent four days in Police custody.⁹²

⁸³Interview with Justine Balya, n 76 above.

⁸⁴HRAPF/SWVR2-19/017; HRAPF/SWVR2-19/018; HRAPF/SWVR2-19/025; HRAPF/SWVR2-19/021; HRAPF/SWVR2-19/010; HRAPF/SWVR2-19/014; HRAPF/SWVR2-19/015; HRAPF/SWVR2-19/020; HRAPF/SWVR2-19/024 and HRAPF/SWVR2-19/036. HRAPF/DUVR/2019-2/029.

⁸⁵HRAPF/DUVR/2019-2/029.

⁸⁶HRAPF/DUVR/2019-2/033.

⁸⁷HRAPF/DUVR/2019-2/069.

⁸⁸See n 62 above.

⁸⁹HRAPF/DUVR/2019-2/081.

⁹⁰HRAPF/DUVR/2019-2/083.

⁹¹See n 72 above.

⁹²HRAPF/DUVR/2019-2/092.

3.3.4 Violation of the right to life

During 2019, two members of KP groups were murdered, violating their right to life. Article 22(1) of the Constitution provides that no person shall be deprived of their right to life apart from within the execution of a death sentence.

a) MSM

An MSM was brutally murdered in his home in Jinja.⁹³ The victim worked as a Community Paralegal supporting LGBT persons in his district and was also a peer educator trained by The AIDS Support Organisation (TASO). He suffered trauma to his head inflicted by a hoe which the attackers found in his home. The motive of the murder has not been confirmed and the Police have not concluded investigations, even though HRAPF provided them with needed logistical support and documentation. No arrests were made up to nine months after the incident, which indicate a failure on the part of the state to appropriately investigate and conclude the case, which renders the state responsible for this violation.

b) Transgender persons

A horrific case was verified in which a young transgender woman was murdered by a group of boda-boda motorcyclists.⁹⁴ The deceased had taken a boda-boda motorcycle to deliver clothes to a friend in the Naluvule Gombe area. Upon returning to her home, she was waylaid by the driver of the motorcycle and a group of other motorcyclists who had been gathered by him. This group attacked the deceased with stones and other blunt objects that caused injuries resulting in her death. Although the Police had responded by making one arrest, the main suspect was not arrested despite the fact that evidence implicating him was made available to the Police. To date, the case has not been resolved which indicates a failure on the part of the state to address the case and renders them responsible for the human rights violation.

3.3.5 Violation of the right to property

During 2019, there was one violation of the right to property arising out of one case which involved a PWUID. Article 26 of the Constitution protects the right to own property 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.

a) PWUIDs

In the one case in which the right to property was violated, a PWUID was arrested in October 2018 on a case of theft. He was charged and remanded to prison.

⁹³HRAPF/VR/2-19/014.

⁹⁴HRAPF/VR/2-19/018.

The case was dismissed in March 2019 and the PWUID returned to the Police station where he had been charged initially in order to recover his phone which was taken from him. The phone was not returned to him and he was told to return the following day. He kept returning to the Police station but his phone was not returned to him.⁹⁵

3.3.6 Violation of the right to a fair trial

There were 3 violations of the right to a fair trial of KPs, particularly PWUIDs, during 2019.

The right to a fair trial is guaranteed under Article 28 of the Constitution. This right is undermined when evidence is planted on suspects by the Police during and after their arrest. This right is not limited to matters during trial but also applies to pre-trial matters as held in *Oyet Ojera v Uganda Telecom Limited*.⁹⁶ Article 28(3) of the Constitution reveals that that an accused person is innocent until proven guilty. It follows that where a Police officer deliberately plants evidence on an accused to ensure his guilt, it amounts to tampering with the system which defeats the intention of fairness in proceedings against an accused as was envisaged by the Constitution and the Evidence Act Cap.6.

In one case, a PWUID was arrested by six LDU members and taken to Kabalagala Police Station.⁹⁷ He did not have any drugs on him at the time of arrest, however 10 sticks of marijuana were displayed as being found on him at the Police station. In another case, two PWUIDs were arrested and Police planted sacks filled with drugs on them and said that they were found with them.⁹⁸

3.3.7 Violation of the right to privacy

During the course of 2019, one case was recorded in which the right to privacy of a member of a KP group, particularly a transgender person, was violated. In terms of Article 27 of the Constitution, all persons are protected against the unlawful interference with their person, home and correspondence.

a) Transgender persons

In the one recorded case, a Local Council leader violated a transgender woman's right to privacy as well as her right to property. The LC leader, along with the defence secretary of the area, broke into the transgender woman's home in order to investigate claims that she was having a relationship with a boy who also stayed in her house.⁹⁹

⁹⁵HRAPF/DUVR/2019-2/019.

⁹⁶*Oyet Ojera v Uganda Telecom Limited (Civil Suit No. 161 of 2010)*.

⁹⁷See n 86 above.

⁹⁸HRAPF/DUVR/2019-2/058.

⁹⁹HRAPF/VR/2-19/156.

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

There were 35 violations of this right arising out of two cases during 2019 and concerning MSM and transgender persons in particular. 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.

a) MSM

The right to freedom of conscience, expression, movement, religion, assembly and association of MSM was violated when an event planned to celebrate IDAHOBIT was disrupted and shut down by the Minister of Ethics and Integrity.¹⁰⁰ The IDAHOBIT event was to take place at the offices of Chapter Four. Ten Police officers from Jinja Police Station arrived at the offices an hour before it was scheduled to start and expressed that they were acting on behalf of the Minister of Ethics and Integrity in closing down the celebrations. This action amounts to a violation of the right to freedom of expression, association and assembly since the organisers were forcibly prevented from lawfully exercising their right to assemble by the Minister.

b) Transgender persons

The right to freedom of conscience, expression, movement, religion, assembly and association was violated when 33 staff members of a transgender organisation were arrested at Sangalo Beach Hotel in Busia during a three-day training on Sustainable Development Goals. However, on the second day of the training they were all arrested and taken to Majanji Police station. The group was charged under unlawful assembly as they had not notified the local Police of their presence.¹⁰¹

This right of transgender persons was also violated when the event planned to celebrate IDAHOBIT was disrupted and shut down by the Minister of Ethics and Integrity, as discussed above.¹⁰²

¹⁰⁰“Uganda police disrupt and shut down event organised to celebrate IDAHOT” Kuchu Times 17th May 2019. Available at <https://www.kuchutimes.com/2019/05/uganda-police-dirupt-and-shut-down-event-organised-to-celebrate-the-international-day-against-homophobia-and-transphobia-idahot/> (Accessed on 26th February 2020).

¹⁰¹HRAPF/VR/2-19/113.

¹⁰²See n 100 above.

3.4 Conclusion

During 2019, KPs suffered the violation of various rights, particularly the right to liberty, the right to equality and freedom from discrimination; the right to freedom from cruel, inhuman and degrading treatment or punishment; the right to life; the right to a fair trial; the right to privacy; the right to property and the right to freedom of conscience, expression, movement, religion, assembly and association.

4. CASES OF VIOLENCE AND OTHER VIOLATIONS OF HUMAN DIGNITY SUFFERED BY KPs DURING 2019

4.1 Introduction

This section sets out violations of human dignity which were perpetrated by non-state actors against KPs during 2019. According to Article 20(2) of the Constitution, the human rights and freedoms protected in chapter 4 of the Constitution are to be respected, upheld and promoted by all persons along with all organs and agencies of the government. This means that non-state actors are to refrain from inflicting violence and other human rights violations on others. Both regional and international law places a duty on the state to protect the human rights of all persons in the country.¹⁰³ The state has a duty under international law to ensure an effective remedy for a person whose rights or freedoms have been violated.¹⁰⁴

This section sets out the violations of human dignity suffered by KPs during the course of 2019. Some of these matters were effectively handled and resolved through state mechanisms and some were settled through mediation. Many, however, remained unreported and unresolved due to fear on the part of the victim to pursue the matter and risk further loss or violation. By and large, these violations went without redress by the state, thus the state also failed in its obligation to provide an effective remedy for acts of violence and violations of dignity.

4.2 Violations of human dignity committed against KPs

During 2019, a total of 62 violations of human dignity arising out of 41 cases were committed against KPs by non-state actors. Out of this total, 41 violations of human dignity were suffered by MSM; two by transgender persons and 19 by sex workers. PWUIDs did not suffer any violations of human dignity by non-state actors during the year.

¹⁰³See n 8 above.

¹⁰⁴Art 2(3)(a) of the International Covenant on Civil and Political Rights.

The violations of human dignity are classified as acts or threats of violence; evictions; denial of employment; denial of education; denial of contact with children; infringement on property and infringement of privacy.

4.2.1 Acts or threats of violence

During 2019, 38 acts or threats of violence against KPs arising out of 23 cases were recorded. There were 21 acts of violence against MSM, arising out of 5 cases; 1 case of violence against a transgender person and 19 acts of violence against sex workers arising out of 19 cases.

a) MSM

The human dignity of 16 MSM were violated by their neighbours and community members when these formed a mob and surrounded the offices of an LGBT organisation based in Kyengera.¹⁰⁵ The community members were insulting the MSM as they trapped them in the house which serves as an office building and a shelter.

They also threatened to break into the house and it cannot be known what the fate of the people found in the house would have been if the Police did not arrive at the scene and dispersed the mob. An incident was recorded where a group of teachers of a secondary school confronted a 15 year-old male student who was rumoured to be gay. The teachers comprising of 9 males called the pupil to a room and started to interrogate him about the homosexuality allegations and rumours that were making rounds in the school. They then ordered him to lie down and beat him one after the other. Thereafter he was locked up in the room where he spent the night.¹⁰⁶

In another case, an MSM was assaulted by a mob led by his brother in the Ndeeba area.¹⁰⁷ Another case was recorded where an MSM was attacked and beaten by three unknown men in Kampala.¹⁰⁸ In yet another case, an MSM was severely beaten by a group of men at a bar who had found out that he was gay.¹⁰⁹ The assailants also stole his phone and wallet.

During 2019, an MSM was brutally murdered in his home in Jinja.¹¹⁰ The victim worked as a Community Paralegal supporting LGBT persons in his district and was also a peer educator trained by The AIDS Support Organisation (TASO). He suffered trauma to his head inflicted by a hoe which the attackers found in his home.

¹⁰⁵See n 16 above.

¹⁰⁶HRAPF/VR/2-19/017.

¹⁰⁷HRAPF/VR/2-19/047.

¹⁰⁸HRAPF/VR/2-19/073.

¹⁰⁹HRAPF/VR/2-19/142.

¹¹⁰Seen 93 above.

b) Transgender persons

A young transgender woman was murdered by a group of boda-boda motorcyclists.¹¹¹ The deceased had taken a boda-boda motorcycle to deliver clothes to a friend in the Naluvule Gombe area. Upon returning to her home, she was waylaid by the driver of the motorcycle and a group of other motorcyclists who had been gathered by him. This group attacked the deceased with stones and other blunt objects that caused injuries resulting in her death.

c) Sex workers

There were 16 cases in which sex workers suffered violence of threats of violence at the hands of non-state actors. In a few of these cases, the Police responded proactively and saw to it that the perpetrators were arrested and prosecuted. In one such case, a sex worker was violently assaulted. The perpetrator was arrested, charged with attempted murder and remanded to Luzira Prison.¹¹² In another case, a sex worker was assaulted by her client and the case was reported to the Police.¹¹³ The perpetrator was arrested and detained for two days, after which a mediation was held and he agreed to compensate the victim with UGX 200,000 to cater for her treatment.¹¹⁴ In another case, a sex worker was beaten by a man.¹¹⁵ With the help of a paralegal, she was taken to hospital and the case was reported to the Police. The perpetrator was arrested and agreed to pay UGX 150,000 toward the victim's medical treatment.

In another case, a sex worker was assaulted by a client and two other men at the client's house and the sex worker was eventually compensated to cover the cost of her medical treatment after the Police intervened in the matter.¹¹⁶ In another case discussed in the previous section, a sex worker was compensated by a woman in the community who had beaten her after the Police advised her to call for mediation of the matter.¹¹⁷ There was also a case in which a sex worker was beaten by the owner of the lodge from where she operated and she lost her pregnancy as a result.¹¹⁸ The matter was reported to the Police and upon mediation, the perpetrator paid the sex worker UGX 200,000 in compensation.¹¹⁹

In the majority of cases in which sex workers suffered violence, however, they were not availed with an effective remedy. This failure to provide the victims of acts of violence with effective remedies was mainly caused by Police officers who did not treat the reported matters of the sex workers with the required level of seriousness.

¹¹¹See n 94 above.

¹¹²See n 17 above.

¹¹³See n 19 above.

¹¹⁴See n 21 above.

¹¹⁵See n 23 above.

¹¹⁶See n 25 above.

¹¹⁷See n 26 above.

¹¹⁸See n 27 above.

¹¹⁹As above.

In one case, a sex worker was assaulted by an acquaintance while she was preparing food at the bar where she worked on Easter Sunday.¹²⁰ The attack left the sex worker with a broken leg after she was pushed and fell. The case was reported and an arrest was made, however the suspect was released on the same day after paying off the Police officers and investigations into the incident ended there.

In another case, a sex worker was beaten by three men in her community.¹²¹ They also undressed her and stole her money. In three other cases, clients of sex workers responded violently when the sex workers refused to have unprotected sex with them. In all three cases, the clients physically assaulted the sex workers.¹²² Another sex worker was assaulted by a client after he refused to pay for her services.¹²³ In yet another case, a sex worker was seated outside by herself when a man approached her and tried to sit on her body.¹²⁴ She pushed him away and he started to beat her until other sex workers came to her aid. In all six of these cases the sex workers involved suffered violence, yet the Police did not make any arrests and soon ceased to investigate the matters.

In another case, a Police officer had paid for the services of a sex worker.¹²⁵ After having sex as agreed, the Police officer insisted to have sex another time without using a condom. The sex worker refused and the Police officer responded by firing his gun in the room multiple times and then raped the sex worker without using a condom. The case was reported to the Police, however they responded that they will treat the case as a disciplinary matter. They did not arrest the perpetrator for committing this violent crime. After trying to follow up on the case with the help of her lawyers, the victim chose not to pursue the case any further as she had been threatened.¹²⁶

In yet another case, a sex worker was raped by a man who took her to his home claiming it was a lodge. She reported the case to Masaka Central Police station but they did not take the matter seriously.¹²⁷ In yet another case, a sex worker was assaulted by a man who had a reputation for attacking sex workers in Kabalagala. She reported the matter to the Police and obtained the Police Form 3 for medical examination yet the matter did not proceed any further than that.¹²⁸

¹²⁰HRAPF/SWVR2-19/017.

¹²¹HRAPF/SWVR2-19/018.

¹²²HRAPF/SWVR2-19/025; HRAPF/SWVR2-19/021; HRAPF/SWVR2-19/010.

¹²³HRAPF/SWVR2-19/015.

¹²⁴HRAPF/SWVR2-19/014.

¹²⁵HRAPF/SWVR2-19/020.

¹²⁶Interview with Justine Balya, n 76 above.

¹²⁷HRAPF/SWVR2-19/024.

¹²⁸See n 24 above.

4.2.2 Evictions

A total of 18 evictions arising out of 12 cases were committed against KPs during 2019. There were 17 instances of eviction of MSM arising out of 11 cases and one case in which a transgender person was evicted on the basis of their gender identity.

a) MSM

There were seven recorded cases where family members of MSM evicted them from the family home on the basis of their sexual orientation and/or gender identity.¹²⁹ In one case, the parents of an MSM found out about his sexual orientation after he was arrested in the Ram bar incident and appeared on the news.¹³⁰ They subsequently sent him away from the family home.

Five MSM who were outed during the Ram bar incident were evicted from their shared housing by their landlord on the basis of their sexual orientation and / or gender identity.¹³¹ Two other MSM individuals were also evicted from their homes after their landlords came to know about their sexual orientation.¹³²

Three organisations offering services and support to MSM were evicted or forced to abandon their premises on the basis of discriminatory acts by their neighbours and community members. An organisation based in Nansana faced continuous attacks on its staff members by the community.¹³³ Community members also stole organisational property and continuously taunted the members. Eventually, the organisation was evicted from the premises. The offices of an organisation based in Nateete were closed down on the basis of threatening communications from their neighbours.¹³⁴ An organisation which operates a shelter for MSM persons who had been excommunicated from their families was raided.¹³⁵ Community members continuously threatened the organisation, forcing those who were making use of the shelter as a safe house to seek alternative accommodation.

b) Transgender persons

In one case, a transgender man was sent away from the family home by his parents because he ‘dressed like a man’.¹³⁶

4.2.3 Denial of employment

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

¹²⁹HRAPF/VR/2-19/030; HRAPF/VR/2-19/045; HRAPF/VR/2-19/048; HRAPF/VR/2-19/059; HRAPF/VR/2-19/062; HRAPF/VR/2-19/098; HRAPF/VR/2-19/108.

¹³⁰HRAPF/VR/2-19/108.

¹³¹HRAPF/VR/2-19/145.

¹³²HRAPF/VR/2-19/141; HRAPF/VR/2-19/150.

¹³³HRAPF/VR/2-19/133.

¹³⁴HRAPF/VR/2-19/094.

¹³⁵HRAPF/VR/2-19/149.

¹³⁶HRAPF/VR/2-19/007

¹³⁷HRAPF/VR-19/071.

4.2.4 Denial of education

One case was verified in which an MSM was prevented from writing his examinations at a University after his sexual orientation came to light during the Ram bar outing. Preventing a student from continuing their studies, merely on the basis of their sexual orientation, is a blatant violation of their dignity.¹³⁸

4.2.5 Denial of contact with children

There was one verified case in which the mother of the children of an MSM denied him access to his children on the basis of the fact that he has sexual relations with men.¹³⁹

4.2.6 Infringements of privacy

Sex workers suffered an infringement of their privacy by the NBS television channel in that it broadcasted footage of a building in Kampala from where sex workers operate on a documentary about young women who engage in sex work in Uganda.¹⁴⁰ The broadcast drew public attention to the building and made the sex workers operating from there particularly vulnerable to arrest and abuse. Many were arrested from that building as well as other lodges in the area during a Police raid only two days after the documentary was aired on television.¹⁴¹

4.2.7 Infringements on property

Two cases were recorded in which sex workers were deprived of their property through theft. In one case, a client of the sex worker beat the sex worker and stole the money that she had on her.¹⁴² No arrests were made, even after the Local Council leader of the area addressed a letter to the Officer in Charge of the area Police station, directing them to arrest the suspect.

In the other case, a sex worker was attacked by a man who was known to assault and harass sex workers in the area.¹⁴³ The man also stole the money that the sex worker had on her. The matter was reported to the Police and the sex worker was given a Police Form 3 for medical, examination, however no arrests were made.

4.3 Conclusion

During 2019, there were 62 violations of the human dignity of KPs on the basis of their sexual orientation and gender identity or due to their engagement in sex work. These violations of human dignity can be classified as acts or threats of violence; evictions; denial of employment; denial of education; denial of contact with children; infringement of privacy and infringement on property.

¹³⁸HRAPF/VR/2-19/145.

¹³⁹HRAPF/VR/2-19/011.

¹⁴⁰See n 54 above.

¹⁴¹See n 53 above.

¹⁴²See n 121 above.

¹⁴³See n 24 above.

5. GENERAL ANALYSIS OF VIOLATIONS OF HUMAN RIGHTS AND VIOLATIONS OF HUMAN DIGNITY OF KEY POPULATIONS DURING 2019

5.1 Introduction

This section of the report analyses the cases of protection, the number and nature of violations as well as the perpetrators of violations committed against KPs during 2019 as discussed in the previous section in order to identify trends and consider underlying reasons for the findings.

5.2 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.¹⁴⁴ In 2018, however, no cases of Police protection to MSM and transgender persons were registered although a Local Council leader did prevent Police from arresting a group of MSM who were holding an awareness session.¹⁴⁵ In the one case in 2019 where the Police did provide protection to a group of MSM, the same Police officers proceeded to arrest the group on arbitrary grounds immediately after the arrest.¹⁴⁶ The relationship between the Police and MSM communities appears to be on a downward spiral, despite the gains that have been made in previous years.

In respect of cases of protection of sex workers, during 2016 there were five cases of protection.¹⁴⁷ In 2017, there were four cases of protection and in 2018 there were a total of six cases of protection of sex workers verified.¹⁴⁸ In 2019, eight cases were recorded, in which the Police either offered protection of the rights of sex workers or made sure that they were afforded an effective remedy after their rights had been violated. It seems that the relationship between sex workers and the Police is on an upward trend, overall and the fact that there are a number of cases of protection recorded every year is encouraging.

No case was recorded in either 2018 or 2019 in which the Police stepped in to protect the rights of PWUIDs. This may be due to the fact that in both 2018 and 2019, no violations of human dignity were committed against PWUIDs by non-state actors,

¹⁴⁴HRAPF *The Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity 2018: Increasing protections and reducing state violations* (2018) 8; HRAPF ¹⁴⁵*The Uganda Report of Violations based on Sexual Orientation and Gender Identity 2017* (2017) 26.

¹⁴⁶HRAPF *Consolidated Human Rights Violations Against Key Populations in Uganda, 2018* (2019) 6.

¹⁴⁷HRAPF/VR/2-19/041.

¹⁴⁸HRAPF *Protection and violation of the rights of female sex workers in Uganda in 2016* (2017) 9.

which cases would typically need the intervention of the Police. It may also indicate a need for sensitisation and awareness raising among law enforcers about the vulnerabilities and rights of PWUIDs.

5.3 Number of violations

During the year 2019, a total of 450 violations were committed against the various KPs, which form part of this report. Out of these violations, 388 were human rights violations committed by state actors, while 62 were violations of human dignity committed by non-state actors. These arose out of 77 cases. This number is far higher than the 242 violations verified for all three KP groups in 2018.¹⁴⁹

Out of the human rights violations, 141 were against MSM arising out of 17 cases; 62 were against transgender persons arising out of 6 cases; 120 were against sex workers arising out of 18 cases; 65 were against PWUIDs arising out of 31 cases. MSM had the greatest number of cases of the four groups. This implies a greater vulnerability to violations within the Ugandan society than transgender persons, PWUIDs and sex workers. Efforts need to be made to address violations against all KP groups and especially MSM who are most vulnerable.

5.4 Nature of human rights violations

TABLE 2: Categories of human rights of KPs violated during 2019

	MSM	Transgender persons	Sex workers	PWUIDs	TOTAL
The right to liberty	103	26	109	49	287
The right to equality	18	0	0	0	18
The right freedom from torture	18	0	11	12	41
The right to life	1	1	0	0	2
The right to a fair trial	0	0	0	3	3
The right to privacy	0	1	0	0	1
The right to property	0	0	0	1	1
The right to freedom of expression association and assembly	1	34	0	0	35
	141	62	120	65	388

¹⁴⁹HRAPF 2017 Report on protection and violation of the human rights of sex workers in Uganda (2018) 10.

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 287 times, amounting to 74% 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.¹⁵⁰

In respect of MSM, transgender persons and sex workers in particular, the frequency of violation of the right to liberty has increased since 2017 and 2018.¹⁵¹ There were a number of mass arrests of MSM, transgender persons and sex workers on arbitrary grounds which explains the high number of violations of this right. All four KP groups were arrested in circumstances which could not have constituted reasonable suspicion that the person has or is about to commit a crime, which amounts to arbitrary deprivation of liberty. The number of cases of prolonged detention also remained high, particularly for PWUIDs who are seemingly arbitrarily punished by law enforcers by being held in Police custody for prolonged periods.

TABLE 3: Categories of human dignity violations of KPs during 2019

	MSM	Transgender persons	Sex workers	PWUIDs
Acts of treats of violence	21	1	16	0
Eviction	17	1	0	0
Denial of employment	1	0	0	0
Denial of education	1	0	0	0
Denial of contact with children	1	0	0	0
Infringement on privacy	0	0	1	0
Infringement on property	0	0	2	0
	41	2	19	0

¹⁵⁰Human 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).

¹⁵¹HRAPF (n 144 above) 37.

persons from the violation of their rights. Sex workers also remained vulnerable to acts of violence at the hands of their clients. Few of these cases of violent physical assault and rape were met with proactive responses from the state and leading to effective remedies for the victims.

5.5 Perpetrators of human rights violations

TABLE 4: Perpetrators of human rights violations against KPs in 2019

Prepetrator	Number of violations occasioned
The Uganda Police Force	382
Members of LDUs	3
Local Council officials	1
The Minister of Ethics and Integrity	2
TOTAL	388

The Uganda Police Force perpetrated the highest number of violations against KPs for the year 2019. A continuing trend from 2016, 2017 and 2018 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.

5.5.1 Violations committed by the Uganda Police Force

During 2019, the Uganda Police Force was responsible for committing 382 verified violations against KPs. This number is far higher than the 188 violations committed in 2018. The Police was the single biggest violator of the rights of KPs in 2019.

a) Against MSM and transgender persons

Up to 2018, there has been a remarkable improvement in the way the Police relates to MSM and transgender persons. 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 considerable reduction from the 64 violations recorded in 2016. Unfortunately, there has been a stark change in affairs in 2019, in which year the Police were responsible for 140 violations committed against MSM and 60 violations against transgender persons for 2019 alone.

b) Against sex workers

In 2019, there were 119 human rights violations committed against sex workers by the Police, which is an increase from the 70 violations committed in 2018. The number of violations committed by the Police in 2019 is still lower than the 153 committed in 2017 and the staggering 566 committed in 2016. The fact that 2019 saw an increased number of cases in which the Police offered protection and remedies to sex workers who had been victims of human rights violations may indicate that the relationship between the Police and sex workers is steadily improving. However, it should also be noted that 10 of the 2019 violations arose from the failure of Police to respond appropriately and provide effective remedies after crimes had been committed against sex workers.

c) Against PWUIDs

During 2019, Police were responsible for committing 63 violations against PWUIDs. This figure is considerably lower than the 91 violations committed by the Police in 2018 and it is hoped that efforts to train and sensitise Police officers on the rights and personhood of PWUIDs is bearing fruit. Unfortunately, the Police remains the single biggest violator of rights of PWUIDs, even though the number of violations have decreased from 2018.

5.5.2 The Office of the Minister of Ethics and Integrity

The Minister of Ethics and Integrity perpetrated two violations of the right to freedom of expression, association and assembly of MSM and transgender persons respectively by disrupting and shutting down an event planned to celebrate IDAHOBIT. This violation is the seventh in a line of events held by MSM and transgender persons along with other LGBT+ subgroups in Uganda which has been cancelled or disrupted by the Minister's Office since 2012. Over the course of the past seven years, the Minister's violations of the rights of MSM and transgender persons have been met with impunity.

5.5.3 Local Council officials

In one case, a Local Council leader violated a transgender woman's right to privacy as well as her right to property. The LC leader, along with the defence secretary of the area, broke into the transgender woman's home in order to investigate claims that she was having a relationship with a boy who also stayed in her house.¹⁵²

¹⁵²See n 99 above

5.5.4 Members of Local Defence Units

Members of LDUs were responsible for committing 3 violations of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment against KPs during 2019. This right was violated two times in respect of PWUIDs when LDUs beat and humiliated PWUIDs in the process of arresting them.¹⁵³ There was one case in which the right to dignity and freedom from torture and cruel, inhuman and degrading treatment and punishment of a sex workers was violated by a member of an LDU in Nateete who verbally abused and beat her.¹⁵⁴

5.6 Perpetrators of violations of human dignity against KPs

TABLE 5: Perpetrators of violations of human dignity against KPs during 2019

Prepetrator	Number of violations of human dignity occasioned
Members of the general public	29
Family members	10
Clients of the sex workers	10
Treachers	1
Private universities	1
Employers	1
Landowners	8
The media	1
Lodge owners	1
TOTAL	62

Members of the general public were responsible for the greatest number of violation of human dignity committed against KPs during the year. These violations were often violent crimes including two murders based on sexual orientation and gender identity. Trends in violations of human dignity by family members and landowners have remained constant. This year is the first in which cases of violations by teachers committed against a student suspected to be gay was recorded. Clients of sex workers as well as members of the general public often commit violent crimes against

¹⁵³See n 72 above.

¹⁵⁴See n 82 above.

workers as well as members of the general public often commit violent crimes against sex workers with impunity. This trend was confirmed in 2019's record of violations. The media also violated the human dignity of sex workers by exposing the whereabouts of their places of work which lead to mass arrests in the area.

5.7 Addressing violations against KPs

The Uganda Police Force is tasked with preventing and detecting crime and preserving law and order.¹⁵⁵ It is therefore ironic that the agents which are tasked with protecting all civilians, including KPs, are also responsible for committing the majority of verified violations against this group. The Police Professional Standards Unit exists so that complaints can be lodged where Police officers commit violations and offences and deviant Police officers can be investigated and punished. This mechanism, however, is rarely used and is viewed as ineffective in addressing the complaints against the Police by vulnerable minorities.¹⁵⁶

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.¹⁵⁷ 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 KPs and would hopefully also lead to a reduction in the number of violations committed against these groups.

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.¹⁵⁸ The Equal Opportunities Commission (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'.¹⁵⁹ During 2019, 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.

¹⁵⁵Art 212 of the Constitution.

¹⁵⁶Interview with Justine Balya, n 76 above.

¹⁵⁷Sec 10.

¹⁵⁸Art 52(1)(a) of the Constitution.

¹⁵⁹Sec 14(2) of the Equal Opportunities Commission Act, 2007.

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

The fact that 388 human rights violations were committed against KPs by state actors during 2019 indicates a severe vulnerability on the part of these groups. The number of violations against these groups have increased by 60.3% since 2018, which indicates that there is need for drastic and increased measures in order to address violations committed both by the state and by private individuals and entities.

Considering that KPs experience such stigma and discrimination resulting in increasing 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 or any other service which would risk exposing them to arrest or further violations. MSM, transgender persons, sex workers and PWUIDs 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 or arrested in a healthcare setting.¹⁶¹⁰ Violations against KPs render them more vulnerable to HIV infection, yet these very same violations also push them away from needed services in order to protect themselves from HIV infection and to receive treatment which manages symptoms and also diminishes their viral load and likelihood of transmitting HIV to another.¹⁶¹¹

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. There is also urgent need to repeal the various laws which diminish MSM and transgender persons, sex workers and PWUIDs to live lives of ‘criminalised minorities’.

6. CONCLUSION AND RECOMMENDATIONS

6.1 Introduction

In 2019, a total of 450 verified violations were committed against KPs in Uganda. Out of these violations, 388 were human rights violations committed by state actors while 62 were violations of human dignity committed by non-state actors.

MSM suffered 141 verified human rights violations. The level of hostility against MSM has increased starkly in comparison to the number of violations recorded in previous years. A total of 62 human rights violations against transgender persons were

¹⁶⁰Human 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 ¹⁶¹LGBT persons in Uganda (2019) 31-33.

¹⁶²As above at 44-45.

recorded. MSM suffered a further 41 violations of human dignity and transgender persons suffered two such violations. There is need for increased engagement of both state and non-state actors in order to raise awareness and address the persistent homophobia, biphobia and transphobia in the country. Sex workers suffered a total of 120 human rights violations during 2019, which is an increase from the 96 violations verified 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 encourage stigma against sex workers and are used to justify the violation of their rights. A further 19 violations of human dignity were also committed against sex workers.

There were 65 recorded and verified human rights violations committed against PWUIDs, which is a much lower number than the 91 cases verified in 2018. All of these violations were committed by state actors, namely Police officers and LDU members, during or after the arrest of real or presumed PWUIDs.

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. Publicly reject proposed legislation which discriminates on the basis of sexual orientation and gender identity or which promotes discrimination and violence against individual drug users or against women because of their involvement in sex work.
2. Make clear statements that acts of violence and discrimination against KP groups, including MSM, transgender persons, sex workers and PWUIDs, will not go unpunished.
3. Revise the 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 KPs in Uganda. The Members of Parliament are also influential in both national and international for and their mere pronouncements of legislation intended to further criminalise a particular KP group

may have dire consequences for that group. Parliament is 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 allow 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 and undesirable, including KPs.

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. 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.
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 violations committed against KPs as a barrier in the fight against HIV and AIDS in policies and public communication.
2. Take a stand against discriminatory laws, such as Section 145 of the Penal Code Act which criminalises consensual same-sex sexual conduct; Sections 138 and 139 of the Penal Code Act which criminalise 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 KP.

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 does the following:

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 Narcotic Drugs and Psychotropic Substances Control Act, 2016 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. Hear and dispose of cases involving violations of rights of KPs that are pending before the Commission's Complaints and Investigations Directorate.
2. Develop proposals to amend laws that are discriminatory and which do not align with the Constitution of the Republic of Uganda.
3. Include KPs' issues in the annual reports to Parliament.
4. Continue to work with CSOs and government ministries to train magistrates and Police officers on the NDPSCA and other 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.
4. 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.

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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 and can also make use of available mechanisms to seek redress for violations committed against KPs. It is recommended that civil society does the following:

1. Raise awareness about the implications of criminalisation of same sex relations, non-recognition of gender changes, criminalisation of sex work, and drug use on HIV/AIDS.
2. 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.
3. Develop the capacity of staff to document violations committed against KPs. This could include adopting uniform guidelines for recording information on cases and violations.
4. Institute cases under the recently enacted Human Rights Enforcement Act, 2019 in order to hold state actors who have committed human rights violations against KPs accountable.
5. Strengthen reporting systems, methods of evidence collection and data storage in order to facilitate the verification of violations against KPs.
6. Support the Uganda Human Rights Commission to monitor and document reports of violence, abuse, and discrimination committed against KPs.
7. 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
8. Refugees

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

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Taking Human Rights to all



May 2020

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