



THE RESPECT AND OBSERVANCE OF THE HUMAN RIGHTS OF SEXUAL MINORITIES IN UGANDA

CHALLENGES	IMPACT
<p>1. Violation of basic human rights for sexual minorities particularly;</p> <p>i) Right to liberty, security and freedom from arbitrary arrest and detention.</p> <p>ii) The Right to freedom from torture or cruel, inhuman, and degrading treatment</p> <p>iii) Violation of the right to health</p>	<p>HRAPF and partners recorded a total of 830 violations of the right for the period under review 2016-2021.¹The most common feature of the violation of this right are mass arrests, which have become rather ubiquitous of late. Due to the difficulty of proving the offence of ‘having carnal knowledge against the order of nature’ and prostitution, the Police often resort to charging LGBTQ persons and sex workers with petty offences such as ‘being idle and disorderly’,²‘being a rogue and vagabond’,³ ‘being a common nuisance’⁴ and, in recent times, ‘disobeying lawful orders’⁵ and ‘doing a negligent act likely to spread infection of disease’⁶</p> <p>HRAPF and partners recorded a total of 219 violations of the right for the period under review</p>

¹ Human Rights Awareness and Promotion Forum ‘Reports on the protection and violation of the human rights of sex workers in Uganda’ 2016, 2017, 2018, 2019. See also Human Rights Awareness and Promotion Forum ‘Uganda Report of Violations Based on Sexual Orientation and Gender Identity’ 2016, 2017, 2018, 2019, <https://www.hrapf.org/index.php/resources/violation-reports>

² Section 167 of the Penal Code Act, Cap 120, Laws of Uganda

³ Section 168 of the PCA

⁴ Section 160 of the PCA. See for instance Buganda Road Court Criminal cases KLA-00-CR-CO-1263/2019 (Uganda vs Asuman Sserubiri and Others), KLA-00-CR-CO-1262/2019 (Uganda vs Ntale Farida and Others), KLA-00-CR-CO-1266/2019 (Uganda vs Male Marvin and others), KLA-00-CR-CO-1264/2019 (Uganda vs Ssematimba Titus and Others) and KLA-00-CR-CO-1265/2019 (Uganda vs Katongole Ibrahim and Others), in which 67 out of 125 people arrested at a gay bar in Kampala in a targeted swoop were arraigned before courts on charges of being a common nuisance.

⁵ Section 117 of the Penal Code Act

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	<p>2016- 2021. This manifests in several forms including anal examinations (in one incident of arrest of 42 youth in Kampala, 17 reported anal examinations being carried out)⁷, sexual and physical violence, denial of basic services based on SOGIE and choice of work among others.</p> <p>There are no specialised healthcare services tailored towards the specific needs of LGBTQ persons.⁸ This is as well reflected in the budget allocations that do not include sexual reproductive rights for LGBTQ persons.⁹ Sex workers encounter discrimination, stigmatisation, and hostility in accessing the health care system in Uganda¹⁰</p>
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⁷ Uganda v Ssembajwe Jonathan & 41 others, Nansana Magistrates Court, 518-21.

⁸ Human Rights Awareness and Promotion Forum 'Sexual and Reproductive Health (SRH) Needs for LGBTI persons and Quality of available services to LGBTI persons' 2021 <https://www.hrapf.org/index.php/resources/research-reports>

⁹ Human Rights Awareness and Promotion Forum (HRAPF) 'Trends analysis of programming and budget allocation to SRHR commodities and services for LGBT persons in Uganda trends analysis of programming and budget allocation to SRHR commodities and services for 2016/2017 - 2021/2021' (2020) <https://www.hrapf.org/index.php/resources/legal-policy-analyses>

¹⁰ Human Rights Awareness and Promotion Forum '2019 report on the protection and violation of the human rights of sex workers in Uganda' 2020 <https://www.hrapf.org/index.php/resources/violation-reports/169-sex-workers-violations-report-2019/file>



RECOMMENDATIONS

1. Strengthen the Judicial system to better offer redress to victims of violations and intensify efforts to clear case backlog through scheduling, hearing and determining cases filed for the protection of the human rights of marginalised persons.
2. Enact regulations to govern the humane and dignified treatment of all suspects, particularly LGBTIQ persons and sex workers, upon arrest and while in detention based on internationally acceptable standards of respect for basic human rights.
3. Strengthen the health policy framework to better serve the unique health needs of LGBTIQ persons and sex workers, and strengthen human rights training for health workers on the issues that concern marginalised persons within the healthcare system.
4. Increase funding for the health sector in line with the Abuja Declaration, with specific provision of funds to meet the unique SRHR needs of LGBTIQ persons and sex workers, and strengthen universal health coverage for HIV services for LGBTQ persons and sex workers.
5. Repeal all discriminatory laws inconsistent with Ugandan's international obligations and enact laws to ratify and operationalise international human rights instruments that Uganda is a state party to. In particular, repeal sections 138, 139 and 145 of the Penal Code Act and sections 44 (d) (f) of the NGO Act and review the Sexual Offences Bill prior to presidential assent to remove the further criminalisation of consensual same-sex sexual relations.
6. Decriminalise and declassify petty offences, such as 'being idle and disorderly', 'being a rogue and vagabond', 'being a common nuisance and, in recent times, 'disobeying lawful orders' and 'doing a negligent act likely to spread infection of disease.