



Uganda Report of Violations Based on Sexual Orientation and Gender Identity 2017

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With
contribution
from:



UGANDA REPORT OF VIOLATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, DECEMBER 2017

With contributions from: Icebreakers Uganda (IBU); Queer Youth Uganda (QYU); Rainbow Mirrors Uganda; Spectrum Initiatives Uganda; and Tranz Network Uganda

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ABOUT HUMAN RIGHTS AWARENESS AND PROMOTION FORUM (HRAPF)

Human Rights Awareness and Promotion Forum (HRAPF) is an independent non-partisan NGO that works towards the protection of rights of marginalised communities in Uganda through the direct provision of legal aid services and legislative advocacy with a view to influencing policy reform in favour of marginalised persons. HRAPF operates the only specialised legal aid clinic for LGBT persons in Uganda and also engages in strategic litigation for LGBT rights. It engages the police, the judiciary, the Uganda Human Rights Commission and the Equal Opportunities Commission on the protection of the rights of LGBT persons, and undertakes research on LGBT rights.

ABOUT THE CONTRIBUTING ORGANISATIONS

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 of 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.

Queer Youth Uganda (QYU)

QYU is a youth-led organisation that was started in 2006 with the aim of advocating for the rights of LGBT persons in Uganda through sensitization on human rights and HIV/AIDS prevention, establishing community LGBT youth solidarity groups nationwide, and building organisational capacity of LGBT youth groups to further human rights awareness and protection of individual LGBT youth against harassment and hate campaigns. The organisation also provides emergency legal, medical, and living assistance as well as education, employment and counseling for LGBT youth across the country.

Rainbow Mirrors Uganda

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

Spectrum Initiatives Uganda

Spectrum provides services, documentation and advocacy on HIV/AIDS among the Men who have Sex with Men (MSM) population in Uganda. In addition to direct client service, the organization advocates and lobbies for inclusion of MSM in national health programs, and fights discrimination in the public sector with a focus on human rights awareness and economic empowerment.

Tranz Network Uganda

Tranz Network Uganda is a platform that brings together persons and organisations that work with transgender and gender non-conforming individuals to advocate for socio-legal protection and empowerment of gender non-conforming individuals through awareness and sensitisation campaigns

about trans issues. It also creates avenues for transgender persons in Uganda to access social services in an environment free of condemnation and judgment. The organisation aims to create a safe open space for all transgender and gender non-conforming individuals in the country.

PREFACE

The Uganda Report of Violations Based on Sexual Orientation and Gender Identity is an annual publication that examines cases of human rights violations against LGBT persons in Uganda. The report analyses trends in human rights violations and interrogates the socio-legal factors that have influenced human rights violations as well as human rights protection for LGBT persons in the preceding year.

The first report was published in 2014, and it reported violations of the rights of LGBT persons recorded in the year 2013. Since then, the report has been produced annually under the Consortium on Documentation of Violations Based on Gender Identity and Sexual Orientation (the Consortium). The 2017 report however will not be published under the Consortium as the consortium has since not been active, for various reasons. Nevertheless, HRAPF, working together with new partners is continuing the legacy of the consortium by producing this fourth report. The partners that HRAPF has worked with on this report are: Icebreakers Uganda (IBU); Queer Youth Uganda (QYU); Rainbow Mirrors Uganda (RBM); Spectrum Initiatives; and Tranz Network Uganda (TNU).

This edition of the report examines the violations of human rights of LGBT persons that were recorded in the year 2016. It examines the trends in violations of human rights of LGBT persons in relation to the shrinking civil society space. The report also discusses the key developments and analyses the legal and policy environment in the year 2016, with a focus on understanding how events and developments in the legal framework that regulates civic space in Uganda affected the rights of LGBT persons.

The majority of the violations in this report were recorded by HRAPF and the others by the contributing organisations. All the cases 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.

This report is intended to provide an insight into the situation of LGBT persons in Uganda as well as their lived realities in relation to their communities and the law. Despite assertions made in previous years that LGBT persons do not exist in Uganda, it is becoming increasingly clear particularly through policies and programs of government ministries and departments that the government of Uganda has started to recognise and accept the presence of LGBT persons in Uganda. It is the intention of HRAPF and partner organisations working with LGBT persons that, through these reports, the state and general public will also start to accept that the rights of LGBT persons are routinely violated in Uganda by both state and non-state actors, and thus take steps to redress these violations and prevent their recurrence.

The report provides evidence of the violations of the rights of LGBT persons in Uganda and the gaps that still have to be addressed in order to enable the realisation of the full and equal dignity of LGBT persons in Uganda. It is hoped that the report will provide evidence for advocacy efforts geared towards legal and policy reform in favour of Uganda's sexual and gender minorities.

Adrian Jjuuko

Executive Director, HRAPF

GLOSSARY

Bisexual: A person romantically and/or sexually attracted to men and women.

Gay: A man romantically and/or sexually attracted to men.

Gender Identity: A person's conception of self as male or female or both or neither.

Homosexual: A person attracted to persons of the same sex.

Intersex: A condition in which a person is born with a reproductive or sexual anatomy that does not fit the typical definitions of female or male.

Lesbian: A woman romantically and/or sexually attracted to women.

Outing: The act of disclosing a lesbian, gay, bisexual, transgender, and/or intersex person's true sexual orientation or gender identity without that person's consent.

Perpetrator: The person or institution responsible for causing the violation.

Sex: The physical distinction between male and female (genitals).

Sex Determination: The way by which the sex of an individual is determined, which may be based on the person's gametes or sex chromosomes.

Sexual Minorities: A group whose sexual identity, orientation and/or practice differs from the majority of the surrounding society.

Sexual Orientation: A person's emotional, physical and sexual attraction and the expression of that attraction with other individuals.

Transgender: Someone whose deeply held sense of gender is different from their biological sex assigned at birth.

Trans-man: A transgender person who was assigned the female sex at birth but has a male gender identity.

Trans-woman: A transgender person who was assigned the male sex at birth but has a female gender identity.

LIST OF ACRONYMS

AG:	Attorney General
DPC:	District Police Commander
DPP:	Directorate of Public Prosecutions
EOC:	Equal Opportunities Commission
FARUG:	Freedom and Roam Uganda
HRAPF:	Human Rights Awareness and Promotion Forum
IBU:	Ice Breakers Uganda
LGBT:	Lesbian, Gay, Bisexual, Transgender, Intersex
MARPI:	Most At Risk Populations Initiative
RMU:	Rainbow Mirrors Uganda
SMUG:	Sexual Minorities Uganda
SOGI:	Sexual Orientation and Gender Identity
UHRC:	Uganda Human Rights Commission
UN:	United Nations
UPF:	Uganda Police Force

TABLE OF CONTENTS

PROJECT TEAM	3
ABOUT THE CONTRIBUTING ORGANISATIONS	5
PREFACE	7
GLOSSARY	8
LIST OF ACRONYMS	9
EXECUTIVE SUMMARY	12
Introduction	12
Key Findings	12
Key Recommendations	13
1. INTRODUCTION	16
1.1 Methodology	16
1.2 Challenges	17
2. THE SHRINKING CIVIL SOCIETY SPACE IN UGANDA AND VIOLATIONS OF LGBT PERSONS' RIGHTS: EVENTS THAT INFLUENCED THE HUMAN RIGHTS OF LGBT PEOPLE IN UGANDA IN THE YEAR 2016	18
2.1 Changes in the law that influenced violations of the human rights of LGBT persons in 2016	19
2.1.1 The NGO Act, 2016	19
2.1.2 The Sexual Offences Bill	20
2.1.3 Developments in courts of law	20
2.2 Key violations of LGBT civic space that stood out in 2016	22
2.2.1 The Pride Raid	22
2.2.2 Failure to satisfactorily investigate the break-in and murder at Human Rights Awareness and Promotion Forum (HRAPF)	24

3. PROTECTION AND VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY AS RECORDED IN THE YEAR 2016	25
3.1 Protection of LGBT Rights	25
3.1.1 The Uganda Police Force	25
3.1.2 The Ministry of Health	26
3.2 Violations against LGBT persons on the basis of sexual orientation and/or gender identity	26
3.2.1 Violations perpetrated by state actors	27
A. The Uganda Police Force	27
B. Local Government Authorities	36
C. Other state actors	37
3.2.2 Violations perpetrated by non-state actors	38
A. Violations by family members	38
B. Violations in Institutions of learning	40
C. Violations by Property owners	41
D. Violations by the general community	43
Conclusion	47
4. ANALYSIS OF THE 2016 TRENDS OF VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY	48
5. CONCLUSION AND RECOMMENDATIONS	51
5.1 General Conclusion	51
5.2 Recommendations	51
REFERENCES	57

EXECUTIVE SUMMARY

Introduction

The Uganda Report of Violations Based on Sexual Orientation and Gender Identity 2017 examines violations of human rights suffered by LGBTI persons in the year 2016. The report discusses the various violations LGBT persons suffered from state actors and members of the general public by reason of their actual or presumed sexual orientation and gender identity. It is intended for use as a tool for advocacy on the rights of LGBT persons in Uganda through providing evidence of systemic and contextual factors influencing the violations of the rights of LGBT persons. This report shares factual examples of some of the violations faced by LGBT persons in the year and makes recommendations to various stakeholders for the improvement of the situation of human rights protection for LGBT persons.

Key Findings

1. There were **183** recorded and verified violations of rights based on real or perceived sexual orientation and gender identity arising out of **57** cases in 2016.
2. **94 of these violations** were perpetrated by state actors, accounting for **51.4%** of violations recorded in that year. Non state actors accounted for **48.6%** of violations recorded in 2016, perpetrating **89 violations**.
3. State actors perpetrated more human rights violations. However, most of these violations (**53**) occurred as a result of the same incident at the Pride Raid, so there were more individual incidents of human rights violations perpetrated by non-state actors.
4. As a single entity, the Uganda Police Force occasioned a total of **64 violations** against LGBT persons, accounting for about **35%** of all violations suffered that year. This makes the Uganda Police Force the single greatest perpetrator of human rights violations against LGBT persons for the year 2016.
5. The most violated right for LGBT persons in 2016 was the right to dignity and freedom from inhuman and degrading treatment. **65 violations** of this right were verified in 2016, with **40** perpetrated by non-state actors and **25** by state actors, specifically the Uganda Police Force. These violations ranged from severe beatings and humiliating unnecessary body searches to public shaming and anal examinations.
6. LGBT persons continue to suffer violations of the right to liberty when they are arbitrarily arrested for such acts as showing affection in public to someone of the same sex, dressing in a way that does not conform with one's presumed gender, being gay, sodomy and attempted sodomy, walking at night, etc, which are not crimes under Ugandan laws. A total of

31 such arrests were recorded in 2016.

7. Although Uganda criminalises same sex relations under the carnal knowledge against the order of nature provisions of the Penal Code, these provisions are simply used to justify arrest of LGBT persons, but are not used for prosecution. Instead the laws on being 'rogue and vagabond' are employed, as they are wide and vague, and can therefore be used to cover a wide range of behavior without need for specific proof.
8. The Minister of Ethics and Integrity firmly entered the fray in the year 2016 when he ordered the stopping of the Pride Raid, in which so many atrocities were suffered by approximately **250-300 LGBT persons** simply meeting in a social event.
9. The right to freedom of expression, association and assembly has come under new threat through the enactment of the NGO Act 2016, which imposes 'special obligations' on NGOs not to do anything prejudicial to the security, laws of Uganda and to the interests and dignity of Ugandans.

officers will be deterred from further acts of human rights violations.

- (ii) The Directorate of Human Rights and Legal Services should ensure that police officers are appropriately trained on issues concerning human rights particularly of sexual minorities to reduce the violations perpetrated against LGBT persons in police custody.
- (iii) The Directorate of Criminal Investigations should embark on intensive training of police officers about the laws that they enforce to enable them recognise crimes and thus reduce the number of arrests for crimes that simply do not exist, or the suspicion of which is not supported by any evidence.

2. To the Directorate of Public Prosecutions

State Attorneys should refrain from sanctioning baseless charges against LGBT persons in order to curb violations of the right to a fair trial and the right to liberty.

Key Recommendations

1. To the Uganda Police Force

- (i) The Police Professional Standards Unit should deal decisively with cases reported against police officers who violate the rights of LGBT persons by penalising them in such a way that they and fellow

3. To the Uganda Law Reform Commission

Propose an amendment to the Penal Code Act to decriminalise consensual same-sex sexual activity in order to ensure better protection for the rights of LGBT persons.

4. To The Parliament

- (i) Decriminalise consensual same sex relations.
- (ii) Refrain from passing laws that promote discrimination and marginalisation of some elements of society to ensure equal opportunities and protection of the law for LGBT persons in Uganda.
- (iii) Condemn state actions that occasion gross violations of human rights of LGBT persons as and when they happen.
- (iv) Remove the criminalisation of consensual same sex conduct from the Sexual Offences Bill, and only criminalise non-consensual acts.

5. To the Uganda Human Rights Commission

- (i) Hear and dispose of the complaint that was filed about the Pride raid, offering appropriate compensation to the victims of the abuses and accordingly penalising the perpetrators of these violations.
- (ii) Soundly condemn the violations suffered by LGBT persons at the time when they happen so that it is clear to the general public that such violations are not condoned and to discourage further violations.

- (iii) Document violations of rights of LGBT persons and report on the status of human rights of LGBT persons in the Annual Report to Parliament to ensure the legal recognition of and protection of the rights of LGBT persons.

6. To the Equal Opportunities Commission

- (i) Formally declare LGBT persons among marginalised and vulnerable persons in Uganda and prioritise their access to the Commission in accordance with the EOC Act and the judgment of the Constitutional Court in the case of *Adrian Jjuuko v Attorney General* (Constitutional Petition No.1 of 2009). This judgment declared section 15(6)(d) of the Equal Opportunities Commission Act, which limited access by marginalised persons to the Commission, unconstitutional.
- (ii) Report on the state of equal opportunities for LGBT persons specifically as a marginalised group in the annual report produced by the Commission.

7. To Civil Society Organisations

- (i) Continue to provide support and legal assistance to LGBT persons who have been victims of human rights abuses.

- (ii) Enhance the capacity of staff to identify, respond to and document violations of human rights faced by LGBT persons.
- (iii) Prioritise accurate reporting on the state of human rights of LGBT persons in Uganda and support advocacy on their rights.
- (iv) Continue to support efforts to raise awareness on issues faced by LGBT persons among duty-bearers and the general public in order to foster deeper understanding and acceptance of the humanity and rights of LGBT persons.

8. To the Media

- (i) Report objectively on issues of LGBT persons in Uganda, focusing on educating the general public and progressively reporting on the various issues coming up instead of naming and shaming members of the LGBT community.
- (ii) Treat all people with respect and dignity, regardless of gender identity or sexual orientation.

9. To the Ministry of Health

- (i) Investigate and respond to complaints of professional misconduct against health workers through professional councils to

ensure that health workers show appropriate respect for the rights of their patients.

- (ii) Continue to provide tailored solutions to the health challenges faced by LGBT persons as a key population in order to curb the spread of epidemics such as Hepatitis and HIV in accordance with the National Health Priority Action Plan.
- (iii) Train health workers on provision of health services to all, including LGBT persons, without discrimination.

10. To the President of the Republic of Uganda

- (i) Reprimand the Minister of Ethics and Integrity for acts done that violate the rights of LGBT persons in order to prevent the Minister from using his position to harass and intimidate LGBT persons.
- (ii) Veto legislation that is discriminatory on the basis of sexual orientation and gender identity.
- (iii) Ensure that his promises made during the 2016 campaigns to stop arrests of people on the basis of the laws on idle and disorderly and rogue and vagabond are actualised.

1. INTRODUCTION

The Uganda Report of Violations Based on Sexual Orientation and Gender Identity is an annual publication that seeks to highlight the violations that are suffered by persons on the basis of their real or perceived gender identity and sexual orientation. This is the fourth report of its kind, and reviews violations recorded in 2016.

The year 2016 saw a number of changes in the legal environment that affected organisations working on issues concerning sexual minorities as well as reinforcing the inherent stigma and homophobia with which sexual minorities are viewed in Uganda.¹ This has curbed the capacity of most LGBT organisations to effectively advocate for the rights of LGBT persons and also influenced the perpetration of violations against these persons by both state and non-state actors.

As always, some of the most egregious violations recorded in the year 2016 were in relation to the dignity and liberty of LGBT persons, and they were based on the presumed sexual orientation or gender identity of these persons. Despite efforts by civil society organisations working on issues of LGBT rights advocacy to engage duty bearers on the promotion and protection of these rights, the trend has continued to be that all laws are enforced against a homophobic and transphobic background, allowing for the victimisation, extortion and outright

violation of LGBT persons. There has also been a rise in incidents of blackmail and extortion attendant upon the fact that LGBT persons are increasingly coming out to declare and demand respect for their sexuality and their rights. Subsequently unscrupulous elements in society are using information about LGBT persons' private lives to blackmail them for monetary gain.

This report examines the year 2016 through the lens of a human rights advocacy organisation with a particular focus on the rights of LGBT persons to try and build an understanding of the specific events as well as the legal and social landscape that influenced violations of rights of LGBT persons. The report contains only those reported incidents of human rights violations that have been independently verified and confirmed to have taken place.

1.1 Methodology

In the compilation of this report, information was collected from cases handled at HRAPF's legal aid clinic and from different organisations that work on LGBT issues and respond to and document cases of violations against LGBT persons.

The data collection exercise focused on collecting quantitative data on the number of human rights violations suffered by LGBT persons during the year that could be verified as well as understanding the nature and basis of these violations in a qualitative evaluation of the data collected on

¹ The Non-Governmental Organisations Act of 2016 was passed by Parliament in November 2015 and assented to by the President on the 30th of January 2016.

each individual case.

Overall, **77 cases** were recorded as involving violations of the rights of LGBT persons in the year 2016. This report for purposes of veracity contains only **57 cases**, which are the only cases that could be verified independently. It is worth noting that a single case could have involved more than two or more violations, therefore the number of violations exceeds the number of recorded cases. A case in point is the Pride Raid² which, though recorded as a single case, occasioned **53** distinct and verifiable violations of human rights against 18 persons. This is also indeed an understatement of the actual number of violations as the raid involved the detention of more than **250 participants** at the venue of the event, and taking photos of some of them, which are all violations³. However only the 16 people taken to Kabalagala Police Station and two trans-women assaulted at the scene are recorded in this report as having suffered the **53 violations** because they are the only ones that could be verified independently.

During the verification exercise, the facts of each case were examined as well as all supporting documents such as police bond forms, photographs and

medical reports. These were scrutinised in relation to the reported facts and violations in each case and, whenever possible, the victims of these violations were re-interviewed to ascertain all facts of the case. In some cases where it was deemed necessary, interviews were conducted with the officers in the various organisations who had handled these cases and neighbours of the victims of the violations, as well as checking police and court records where the alleged violations were actually reported or occasioned during the process of law enforcement.

1.2 Challenges

The failure of organisations working on issues of LGBT persons to properly document their work has continued to affect the quality of data available for the compilation of this report. Whereas a great number of cases of human rights violations were recorded in the year 2016, only **57 cases** were sufficiently documented to allow for verification and publication. These are the cases that form part of this year's violations report. However, this does not rule out the fact that a number of violations of rights of LGBT persons routinely go unreported, or are reported but not well documented and therefore not verifiable, so this report is in no way a complete and accurate depiction of all violations suffered by LGBT persons by reason of their gender identity, gender expression or sexual orientation in the year 2016.

The preparation of this report was also slightly hampered by the limited cooperation received from the various organisations that receive and handle cases of LGBT persons in Uganda who were reluctant to share the information recorded by their various offices. A

2 Case Number 0-34/2016, HRAPF Records.

3 'Uganda gay pride event raided Police raid, activists reportedly beaten' <http://www.abc.net.au/news/2016-08-05/police-raid-uganda-gay-pride-event/7694370>, <https://www.theguardian.com/world/2016/aug/05/uganda-police-raid-lgbt-gay-pride>, <http://www.reuters.com/article/us-uganda-rights/ugandan-police-storm-gay-pride-event-arrest-at-least-15-activist-idUSKCNI0G0WB> and <https://www.advocate.com/world/2016/8/05/ugandan-activists-stand-prouder-after-police-raid-lgbt-pride> (accessed on the 4th of September 2017), and Statement by Shawn Mugisha in Case No. 0-34/2016 (HRAPF records).

number of organisations were very cooperative but an equally big number declined to share such data for various reasons.

It should further be noted that the data recorded in this report is mostly from cases reported in Kampala and a few districts that neighbor Kampala. There is still a difficulty in accessing and verifying violations data in upcountry districts, where there are less organisations

that can record and respond to these violations, and where LGBT persons live in even more secrecy, preferring to let violations go unanswered in order to preserve the peace.

2. THE SHRINKING CIVIL SOCIETY SPACE IN UGANDA AND VIOLATIONS OF LGBT PERSONS' RIGHTS: EVENTS THAT INFLUENCED VIOLATIONS OF THE HUMAN RIGHTS OF LGBT PERSONS IN UGANDA IN THE YEAR 2016

During the year 2016, there were a number of changes in the socio-legal environment that adversely affected the status of human rights of LGBT persons in Uganda. The NGO Act 2016 with its repressive provisions became law, and the police as well as the Minister of Ethics and Integrity became more aggressive in their response to activities organised by LGBT persons. There was little response to violations against LGBT persons, including the failure to substantively investigate the break-in at Human Rights Awareness and Promotion Forum (HRAPF)'s offices which involved the murder of the guard on duty. The shrinking civil society space greatly affected the operation of some LGBT-run organisations and organisations working on LGBT issues. One event that stood out in 2016 was the raid of the Pride Beauty Pageant towards the end of the week-long Pride celebrations in 2016. The impact of this event has spilled over into 2017. This section examines the events and changes in the law that affected civil society space and the civic rights to freedom of expression, association and assembly and which, in effect, contributed to the violations of the human rights of LGBT persons.

2.1 Changes in the law that influenced violations of the human rights of LGBT persons in 2016

2.1.1 The NGO Act, 2016

In December of 2015, the NGO Bill was passed by Parliament. The Bill was assented to by the president on the 30th of January 2016, and is now the NGO Act, 2016. The process of debating and passing this law included a protracted effort by civil society organisations to lobby Parliament for the reform of some provisions of the Bill that were considered draconian and an unnecessary limitation on the right to freedom of expression, association and assembly. Despite all these efforts, however, the Bill was passed while still retaining the onerous and extensive licensing and registration requirements;⁴ and the placing of special obligations

⁴ The Non-Governmental Organisations Act, 2016 (NGO Act) Section 29(1), section 29(3), and section 30(1).

on NGOs.⁵

By far the most troubling provisions of the Act remain the special obligations that require NGOs to refrain from doing anything that might be prejudicial to the law, interests, the security of Uganda and the dignity of the people of Uganda.⁶ These obligations leave wide room for discretion in enforcement to cover issues that are considered socially unacceptable. This is especially true in the case of LGBT persons and organisations advocating for their rights.

Given the rampant homophobia and transphobia in Uganda right now, every legal provision is interpreted by both state and non-state actors to implicitly bar homosexuality and to justify abuse of rights of LGBT persons as was shown by the Pride raid and Hon. Lokodo's statement thereafter,⁷ as well as the government's response (or absence thereof) to the incident.

The new NGO Act was instrumental in limiting civil society space for groups working on rights of LGBT persons. The fact that the Penal Code criminalises carnal knowledge against the order of nature, which has traditionally been understood to mean any and all forms of sexual and gender diversity in Uganda, has led to an absurdity where organisations working on such rights have been raided on the pretext that they promote homosexuality. On the 25th of August 2016, an LGBT organisation was forced to close and relocate its offices after the area chairperson, residents and police raided the offices and found literature on the rights of LGBT persons,

5 The NGO Act (n4 above) Section 44(d) and (f).

6 The NGO Act (n4 above) Section 44.

7 The Pride Raid (n3 above).

which they termed 'gay propaganda.'⁸

2.1.2 The Sexual Offences Bill

In December 2015, around the time that the NGO Bill was passed, the Sexual Offences Bill was tabled in Parliament. This Bill, if passed into law as it is would re-criminalise consensual relations between persons of the same sex. Clauses 16 and 17 of this Bill re-enact sections 145 and 146 of the Penal Code Act, with the penalty remaining the same: imprisonment for life for 'having carnal knowledge against the order of nature', and seven years imprisonment for attempting to commit this offence. The tabling of this Bill emphasised the desire by Parliament to criminalise LGBT persons,⁹ especially given the fact that the controversial Anti-Homosexuality Act was annulled by the Constitutional Court.

2.1.3 Developments in courts of law

The Constitutional Court of Uganda, on the 10th of November 2016 handed down judgment in the case of *Adrian Jjuuko v Attorney General*.¹⁰ The Court declared section 15(6)(d) of the Equal Opportunities Commission Act, 2007 unconstitutional in as far as it closed the Equal Opportunities Commission (EOC) off to groups who are considered

8 Case No. 0-25/2016, HRAPF Records.

9 For a further discussion of the issues raised by this Bill, see Human Rights Awareness and Promotion Forum(HRAPF) *Legal Analysis of the Sexual Offences Bill*, 2016.

10 *Adrian Jjuuko v AG* Constitutional Petition No. 1 of 2009 (Court file no. COA-00-CV-CPC-0001-2009).

immoral and socially unacceptable by majority of Ugandans, which provision advertently encompassed LGBT persons. The judgment was a positive step for the protection of the rights of LGBT persons in as far as they are now able to seek recourse at the EOC when they have been treated in a discriminatory manner.

The Constitutional Court also gave judgment in the case of *Human Rights Network & Others v Attorney General*¹¹ where the petitioners challenged various sections of the now repealed NGO Registration Act and the 2009 NGO Regulations made under it. The petitioners challenged the requirements for compulsory registration of NGOs; the requirement for NGOs to present their work plans and budgets as a condition preceding registration; the power given to the then NGO Board to renew or refuse applications for registration and permits; the requirement for NGOs to get many approvals before operating in certain areas; and the requirement to renew operating permits periodically among others. The Petitioners argued that the provisions restricted rather than enabled NGOs and thus violated several rights in the Constitution including the right to freedom of association. In dismissing the petition, the Constitutional court decided that although there was a constitutional freedom to associate, this could be limited. Court held that the provisions of the NGO Act and the Regulations were justified, as NGOs cannot be allowed to operate without limitations and regulation, especially in light of the fact that some NGOs manipulate the public and the public has to be protected. The decision in this case emboldens the problematic provisions in the NGO Act and justifies the restrictive instead of enabling legal regime for NGOs in

Uganda. This kind of framework affects the establishment and operation of NGOs, mostly those that work on unpopular issues like advocating for the rights of LGBT persons.

At the regional level, the East African Court of Justice also finally delivered its decision in *Human Rights Awareness and Promotion Forum v Attorney General*.¹²

This was the case challenging several provisions of the Anti-Homosexuality Act for contravening the rule of law and good governance principles of the Treaty for the Establishment of the East African Community. The Court did not embrace the opportunity to make a firm pronouncement against the passing of discriminatory laws as it instead chose to declare the matter moot as the Anti-Homosexuality Act had been nullified by the Constitutional Court of Uganda. The Court further held that the public interest exception to hearing a moot case was not applicable in this matter because there was no evidence whatsoever ‘...to establish the degree of public importance attached to the practice of homosexuality in Uganda...’. The Court’s statement in this regard was misplaced as the case was not about the practice of homosexuality per se but about the passing of a law that discriminates against a group of people in society and exposes them to ridicule, marginalisation and abuse. However, the Court did not preclude future actions of such a nature, and therefore did not close the way for issues on rights of LGBT persons to once again be brought before the Court.

Notwithstanding the break-throughs achieved in courts during the course of the year, the law as is remains discriminatory and unfriendly to LGBT persons, supporting and giving

11 *HURINET & Others v AG* Constitution Petition 05 f 2009.

12 *Human Rights Awareness and Promotion Forum (HRAPF) v The Attorney General of Uganda* Reference No. 6 of 2014.

legitimacy to the homophobia and transphobia that drives the most human rights violations based on sexual orientation and gender identity. Organisations working on rights of LGBT persons in Uganda have engaged in efforts to counter the effects of these law and practices. In June 2016, a case was filed¹³ challenging the refusal by the Uganda Registration Services Bureau to incorporate Sexual minorities Uganda as a company limited by guarantee, on the basis that Section 145 of the Penal Code criminalises same sex sexual conduct. Such a decision, not being the first of its kind, is a fetter to the civic organising of organisations working on issues of LGBT persons. The case is still pending in court.

The worst drawback remains sections 145 and 146 of the Penal Code Act which encompass unnatural offences, and the continued practice by the Uganda Police Force, other state agencies, the general public and the Minister for Ethics and Integrity Hon. Simon Lokodo in (mis) interpreting the Penal Code Act to mean that *being* gay, transgender or working to promote the rights of LGBT persons is criminalised in Uganda.

2.2 Key violations of LGBT civic space that stood out in 2016

2.2.1 The Pride Raid

This event occasioned the greatest number of human rights violations recorded in a single incident for the year 2016 and was a cause of further

¹³ *Frank Mugisha & Others v Uganda Registration Services Bureau* Miscellaneous Cause No. 96 of 2016.

violations of the human rights of LGBT people.

On Thursday the 4th of August 2016, members of the LGBT community and supporters as well as other persons were gathered at Venom Bar in Kabalagala for the Pride Pageant, which was part of the celebrations of the Pride week that year. The event was carried on smoothly without any interruption until, at some point between 10.30pm and 11.30pm, when a number of police officers wielding arms stormed the venue and started arresting, threatening and beating up the people they found on the scene.¹⁴ One police officer, on being specifically asked why they had raided the event, informed the organisers that they had been sent to stop a gay wedding, because gay weddings are illegal in Uganda.

Sixteen people were arrested at the venue, who were all either leaders of LGBT organisations, prominent activists or the organisers of the event. Some of the community members managed to escape the venue, but a good number of them were detained within the premises of the building itself (Tirupati Mall) and barred from exiting. During this process, the press were allowed by the police to take photos of the arrested people while the different police officers rendered assistance to the press by plucking hair pieces off the heads of trans-women to enable the press take better pictures of the 'real' people and also undressed transmen and transwomen, or forced them to undress themselves.

The extreme fear occasioned by such a display of force caused one person to jump out of the 4th floor of the building to escape being arrested, harassed, or exposed. He was badly injured and

¹⁴ The Pride raid (n3 above) and Case No. 0-34 (n2 above).

was rushed to Mulago National Referral Hospital where he received surgery on his injured spine. One person accidentally locked themselves in a room on the same floor as the club in a bid to hide from the police officers and the press. The property manager refused to let him out of the room all night, even after a HRAPF paralegal intervened to try and secure his release. The manager only agreed to release him into police custody at about 4.00pm on the 5th of August, having spent nearly 20 hours in the room, with no food, water or toilet facilities. The police offered to let him go if he would pay UGX 5,000,000 (Five Million Uganda Shillings) to the property manager, and he was later released after paying part of the money.¹⁵

As a result of this event, crisis meetings were held with members of the community, the police and the Minister of Ethics and Integrity, but these did not yield much as the government position that they would not allow activities that 'exhibit' homosexuality in Uganda remained. As a matter of fact, police also raided the pride parade that was subsequently held at a beach on 6th August and ferried the participants away from the venue, although no one was arrested. As a result, many community members continue to live with an underlying fear and trauma from the events of that night, and the violations that were occasioned in this one event have continued to haunt the LGBTI community more than a year later.

This event sparked international outrage and was described by Health Gap, an AIDS Advocacy Group, as an 'outrageous and unlawful government raid on a spirited celebration' which displayed 'the extreme impunity under

which Ugandan police are operating'¹⁶ on issues of LGBT persons. Various civil society organisations and diplomats within and outside Uganda came out to strongly condemn this action by the police, which was described as 'unacceptable and deeply troubling',¹⁷ 'brutal' and 'outrageous'¹⁸. Unfortunately, none of the police officers involved in the incident were in any way castigated for their actions, and the government unofficially expressed support for these actions when, at a meeting held the next day at Kabalagala Police Station between leaders of the LGBT community and their lawyers, and the OC Kabalagala Police Station and Minister of Ethics and Integrity, Hon. Simon Lokodo informed the committee members that all Pride activities, prior and subsequent, had been banned and would be stopped by Police 'using all resources available'.¹⁹

The fact that nothing was done about these violations by any government authorities underlined the position of the rights of LGBT persons as a non-

¹⁵ Case No. 0-28/2016. HRAPF Records.

¹⁶ The Guardian 'Uganda Police raid LGBT fashion show' 5 August 2016 accessible at <https://www.theguardian.com/world/2016/aug/05/uganda-police-raid-lgbt-gay-pride> (Accessed on 4th September 2017).

¹⁷ Deborah Malac (US Ambassador to Uganda) 'My statement on a Ugandan Police Raid on a LGBTI Pride week event last night in Kampala' released on the 7th of August 2017 https://twitter.com/USAmbUganda/status/761522479244439552?ref_src=twsrc%5Etfw.

¹⁸ Joint Civil Society statement released on the 5th of August 2016 by SMUG, HRAPF, Health Gap, Chapter Four, Uganda Pride Committee and Defend Defenders, accessed at <http://msmgf.org/wp-content/uploads/2016/08/Health-Gap-Uganda.pdf> on the 4th of September 2017.

¹⁹ Statement of Ms. Elizabeth Kemigisha, the lawyer who followed up the matter, made on 12th of August 2016 in 0-34/2016, HRAPF Records.

priority for the government, and further violations of human rights in that year were viewed as justified to weed out 'criminal homosexual tendencies'. This is one of the events that greatly influenced violations of the rights of LGBT persons in the year 2016 and will continue to influence the trend for years to come, as was seen in August 2017 during the planned Pride week, which would have been the sixth in Uganda had it taken place. This event was cancelled on the 16th of August 2017 when the Minister of Ethics and Integrity issued a statement banning the pride events on the ground that 'no gay gathering and promotion' can be allowed or 'tolerated' in Uganda.²⁰

2.2.2 Failure to satisfactorily investigate the break-in and murder at Human Rights Awareness and Promotion Forum (HRAPF)

On the morning of Sunday, 22 May 2016, there was a break-in at the main offices of Human Rights Awareness and Promotion Forum (HRAPF), the only organisation that provides specialised legal aid services to LGBT persons in Uganda, and a key ally of the LGBT community. The guard on duty, Emmanuel Arituha, was murdered and documents, a television screen and a DVD Player were taken. The police were informed and when they arrived they took blood samples, fingerprints, and the crowbar which was used to break open the wooden doors and was eerily left on the Executive Director's

20 The Guardian 'No gay promotion can be allowed: Uganda cancels pride events' 21 August 2017 <https://www.theguardian.com/global-development/2017/aug/21/no-gay-promotion-can-be-allowed-uganda-cancels-pride-events-lgbt> (Accessed on 4th September 2017).

chair. They also took photographs of the screenshot from the CCTV footage showing the intruders. The police, however, did not take the complete footage that showed how the murder and break-in were executed, and which showed the faces of all four assailants. Soon after the break-in, the police spokesperson made a statement that was picked up by the media accusing HRAPF management and staff of orchestrating the break-in.²¹ This statement was formally responded to and rebutted by the HRAPF Executive Director in an op-ed in the Observer newspaper. He called upon the Police to investigate the matter and do their job rather than speculate yet they had been availed all the needed information.²² Despite the fact that HRAPF assigned a seasoned human rights lawyer, Ladislaus Rwakafuuzi, to follow up on the investigation and also availed a private investigator to work with the police, the police showed great reluctance in investigating the case and finally wrote a brief report claiming that this was a usual robbery and murder. None of the assailants were identified, and this case was also buried like the many that came before it concerning break-ins at human rights organisations. The failure to investigate such a high profile case, which had all the needed evidence to identify the perpetrators, showed a deliberate failure on the part of the police to protect HRAPF and also speaks to the general negative attitude of the state towards human rights organisations.

It was expected that the police would

21 See for example 'Ugandan police say LGBT organisation 'masterminded' break-in and murder at its own HQ' Pink News UK <http://www.pinknews.co.uk/2016/06/17/ugandan-police-say-lgbt-organisation-masterminded-break-in-and-murder-at-its-own-hq/> (accessed 14 December 2017).

22 Adrian Jjuuko 'Enanga's statement on HRAPF break-in baseless' *The Observer* 15 June 2016.

reach a satisfactory conclusion in this case and that their investigation would lead to the arrest and prosecution of the perpetrators. Even with the support of

the organisation itself, the police have, perhaps deliberately, failed to see that justice prevails.

3. PROTECTION AND VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN THE YEAR 2016

3.1 Protection of rights of LGBT persons

While rights of LGBT persons continue to be grossly violated by the state in Uganda, there were a number of recorded incidences in the year 2016 when the police and the Ministry of Health protected the rights of LGBT persons.

3.1.1 The Uganda Police Force

The police, particularly the Directorate of Human Rights and Legal Services, continued to actively protect rights of LGBT persons during 2016. The Directorate head, Assistant Inspector General of Police, Erasmus Twaruhukwa, and Assistant Commissioner of Police, James Kushemererwa, were particularly helpful as they worked with HRAPF and the Uganda Human Rights Commission to mobilise and facilitate police trainings on rights of LGBT persons.. They also responded actively to cases of violations against LGBT persons that were reported to them. Other police officers were also helpful and receptive in allowing HRAPF to address police officers at police parades on rights of LGBT persons, particularly at Nabweru and Katwe police stations. As a result of this engagement, there has been a noticeable improvement in the way the police handle cases involving LGBT persons who interface with them. This

practice has extended into 2017 with one officer, Assistant Superintendent of Police, Philemon Ameru being recognised by HRAPF for his role in the protection of the rights of LGBT persons in detention. This was during HRAPF's 2017 Annual General Meeting on 12th August 2017.

In addition to the above pro-active engagement with police, **five other instances** were recorded where the police took steps to protect the rights of LGBT persons. These were the following:

In two instances, the police and Local Council authorities responded quickly to reports of break-ins at organisations working on LGBT issues, and in both cases the police helped to guard the premises immediately after the incidents.²³

The police also intervened in cases of kidnap for ransom that happened a lot during the year in areas of Bwaise, a slum in Kampala.²⁴ For instance, on the 22nd of July 2016, two gay men were kidnapped and held for ransom. The police managed to trace their phones, arrest the perpetrators and rescue the victims, as well as investigate the case at Kawempe Police Station.

In another similar incident that occurred on 17th July 2016, a gay man was lured to Bwaise by a call to the hotline of the organisation he

²³ One incident was the break-in and murder at the HRAPF offices and the other was concerning an attempted break-in at Queer Youth Uganda offices.

²⁴ Case No. 0-23/2016, HRAPF Records.

worked for, but when he got there he was grabbed and detained in an unidentified place for hours while the kidnappers called all his friends to demand a ransom.²⁵ The police at Nakulabye thoroughly investigated the case and helped recover the victim.

The police in Entebbe assisted a gay man who had come from Rwanda, fleeing threats of poisoning and other life-threatening treatments from his aunt with whom he resided.²⁶ He got lost somewhere in Entebbe and was picked up by the police on the 30th of November 2016. The DPC handed him over to SMUG and HRAPF officers and asked them to ensure that he is properly and legally resettled.

3.1.2 The Ministry of Health

The Ministry of Health continued to support the Most At Risk Populations Initiative (MARPI), which caters for populations that are most vulnerable to HIV infection including LGBT persons.

3.2 Violations against LGBT persons on the basis of sexual orientation and/or gender identity

Notwithstanding the positive trends, there was a spike in the number of violations of human rights visited on LGBT persons by reason of their sexual orientation and gender identity

during the year. A total number of **57 cases** were verified involving **183 violations** of human rights. Unlike 2015 when non-state actors committed more violations than state actors, in 2016, state actors accounted for more violations. The reason for this again lies in the fact that one case of the pride raid involved **53 verified violations**, of which **51** were by state actors, showing the extent to which state violations can be widespread and have greater impact than those committed by non-state actors. The highest numbers of recorded violations were those of the right to dignity (freedom from cruel, inhuman and degrading treatment). There were **65** of these, **40** of which were committed by non-state actors while **25** were committed by state actors.

Overall, the human rights of LGBT persons are still continually violated by both state and non-state actors. It is also worth noting that violations of the right to equality and freedom from discrimination as well as the right to dignity and freedom from torture, cruel, inhuman and degrading treatment and punishment by the police are steadily reducing. This might be as a result of the continuous engagements that HRAPF and like-minded organisations have had with the Uganda Police Force, culminating in the human rights awareness trainings held in November 2016 in partnership with the Uganda Human Rights Commission. Despite this progress however, much still remains to be done to ensure adequate protection for the rights of LGBT persons within the formal justice system as well as the community.

²⁵ Case No. 0-24/2016, HRAPF Records.

²⁶ Case No. 0-43/2016, HRAPF Records.

3.2.1 Violations perpetrated by state actors

In 2016, **94 verified violations** were perpetrated against LGBT persons by agents and employees of the state as well as other state actors. This is **51.4%** of all cases of violations. These majorly included the Uganda Police Force, which, by reason of being the primary law enforcer, have the most contact with LGBT persons. Other state perpetrators were the Minister of Ethics and Integrity, public health workers and local government authorities. These persons and authorities perpetrated violations against LGBT persons as follows:

A. The Uganda Police Force

As the primary organ charged with the protection of persons and their properties, the Uganda Police Force is in a unique position to stand out as a champion for protection of equal rights, but is conversely also in a unique position to occasion human rights violations with devastating consequences, given the position of authority that the institution commands. The Police were responsible for **64** out of the **183 violations (34.97% of all violations)**. The violations are arranged in accordance with the order in which the rights appear in the Constitution.

(i) *The right to equality and freedom from discrimination*

Article 21 of the Constitution of the Republic of Uganda protects the right to equality and freedom from discrimination and the state has a mandatory duty to ensure respect for

and observance of this right for all persons.²⁷ It is important to note from the outset that the discrimination of LGBT persons is a systemic violation that stems from the laws of Uganda, the enforcement mechanisms as well as the general attitudes and beliefs of the populace. Thus, every violation of the rights of LGBT persons that is reported is in some way rooted in the inherent discrimination that they face as a social grouping, which marginalises and disentitles them from the enjoyment of most basic rights. It remains a fact that, although only the actual act of same-sex sexual intercourse is criminalised in Uganda,²⁸ the interpretation of this law has steadily favoured criminalising LGBT persons.

In 2016 the Uganda Police Force not only failed to promote respect for and observance of this right but actively engaged in acts that violated this right for LGBT persons across the country. Most of the cases of arrest of LGBT persons recorded in 2016 involved a violation of the right to equality and freedom from discrimination as the arrests were entirely based on the persons' sexual orientation, and/or gender identity and this constitutes discrimination upon those grounds. Even though article 21(2) of the Constitution does not list sexual orientation or gender identity as grounds upon which discrimination is prohibited, the framing of article 21(1) of the Constitution is wide enough to include such grounds.

Also, the raid of the LGBT pride beauty pageant and the stopping of the

²⁷ The Constitution of the Republic of Uganda, 1995 Article 20(2); International Covenant on Civil and Political Rights (ICCPR) Article 3.

²⁸ The Penal Code Act Cap 120 of the Laws of Uganda Sections 145 and 146. Also see Human Rights Awareness and Promotion Forum (HRAPF) *A the normative legal framework on the rights of LGBTI persons guide to 2016*.

subsequent pride events constituted violations of the right to equality and freedom from discrimination. This is because only the LGBT events were raided and closed down clearly on the basis of sexual orientation and/or gender identity.

(iii) *The right to liberty*

The right to liberty is entrenched in Article 23 of the Constitution of Uganda and, whereas the right is not absolute, the article provides various safeguards for its protection even in the event that it must be restricted. These safeguards are intended to prevent abuse of state power with regards to this right. Unfortunately, for most LGBT persons in Uganda these safe guards have been far less than effective in ensuring protection of their right to liberty and security of the person. **31 violations** of the right to liberty by the Police were verified for the year 2016. They will be discussed according to the different tenets of the right to liberty enshrined in Article 23 of the Constitution as follows:

Freedom from arbitrary arrests and detention

Article 23(1) provides for the circumstances under which persons may be lawfully detained against their will, and these include circumstances such as the execution of an order of court; detention in fulfillment of a custodial sentence passed by a court of competent jurisdiction; for purposes of education (for a person below the age of 18); for the prevention of the spread of a disease; for the treatment of a person who is mentally unsound and unable to consent to treatment; for purposes of preventing unlawful entry into the country; or for purposes of bringing that person before a court of law upon reasonable suspicion that they have committed an offence. Any arrest on any other ground besides

those provided in the Constitution constitutes an arbitrary arrest and is a violation of the right to liberty. These arrests are however very common for LGBT persons, for whom baseless arrests ending in release without charge or cases being dismissed for want of prosecution are an everyday occurrence. There were 28 such arbitrary arrests in 2016. Some of the worst violations of this nature included the following:

On 8th November 2016, a transwoman was set up by the area chairperson and arrested for personation, an offence that the police officers and chairperson defined as 'being a man that is pretending to be a woman.'²⁹ The offence of personation is well defined in section 381(1) of the Penal Code Act as a deliberate act of pretending to be some other person, whether living or dead, with intent to defraud. This clearly shows that, before a person can be charged with personation, they must have held themselves out to be some other real person. In the case of a trans-woman who simply identifies as themselves in a different gender, this does not apply. It therefore remains that an arrest for conduct that is not criminalised is arbitrary and an illegal limitation of the right to liberty.

In one incident reported to HRAPF, a transwoman was severely beaten by a mob and badly injured on 2nd April 2016 but on 4th April 2016, when the police supposedly came to her rescue, they instead arrested her for 'homosexual tendencies'

²⁹ Case No. 0-40/2016, HRAPF Records.

and 'being a boy dressed as a girl'. This was at Kikajjo Police Post. The client was not officially charged with any offence at the police station and was released without charge, although she reported sustained harassment at the hands of police officers.³⁰

On 20th July 2017, a gay couple was arrested from their home early in the morning. The chairperson of the area and the couple's landlord had called police to check out the couple's apartment because they 'had concerns' about the behavior of one of the young men. Police officers from Katooke police station broke into the apartment in the company of the area chairperson, the couple's landlord and a few area residents and, when they found the couple asleep in bed they arrested them and proceeded to look through their property for exhibits to use as evidence. They found condoms and lubricants, which were taken into evidence for the commission of unnatural offences. Although they were later released, they suffered an arbitrary arrest since the arrest itself was motivated by curiosity about their behavior, and in any case they were not found committing any offence but were simply arrested because the circumstances were such as would lead observers to believe they might be gay.³¹

The verified cases also showed that it is common for police officers to detain people simply because they happen not to have an identity card, or because

³⁰ Case No.0-12/2016, HRAPF Records.

³¹ Case No. 0-22/2016, HRAPF Records.

they are moving at night. Since it is not a crime to not carry an identification card in Uganda, such an arrest is always arbitrary and an abuse of the right to liberty.

On the 7th of December, a gay man was arrested and detained at Nakulabye Police Station for walking late at night, and charged with being rogue and vagabond.³² A similar incident also happened on 22nd November 2016 to three gay men who were detained at Najjanankumbi Police Post.³³ Overall, five such incidents were recorded in 2016.

As has been discussed, Uganda's Penal Code Act only criminalises same sex sexual intercourse, and not sexual orientation or gender identity. Considering that this is a victimless offence, it becomes hard to prove its commission, particularly in cases of consensual relationships. As a result, the police have sought recourse to vague and broad offences that criminalise a wide range of conduct, to justify their illegal arrests of LGBT persons.

In a case handled by HRAPF, a gay man was arrested for walking along a footpath at night. He was informed that, although the town council had no money to put up signs prohibiting use of that path, its use was prohibited and that was the reason for his arrest. He was taken to Katabi police station and charged with being rogue and vagabond. This amounted to a violation of his right to liberty in as far as he was arrested and charged for an offence that did not exist, and instead the police

³² Case No. 0-25/2016, HRAPF Records.

³³ Case No. 0-41/2016, HRAPF Records.

*used the offence of rogue and vagabond to try and legitimize an illegal arrest because it is broad enough to cover conduct like 'walking around'.*³⁴

*On the 13th of March 2016, two suspected gay men were arrested from a popular bar in Kampala for 'having gay sex in public' and later charged with being rogue and vagabond at Jinja Road Police Station.*³⁵ *The circumstances leading to their arrest were that one of them, being slightly tipsy, had laid his head for a while on the other's shoulder and the other patrons of the bar had taken exception to this, calling it an attempt to have gay sex in public, and thus had the police remove the two from the bar.*

*On 22nd November 2016, two men were on their way home from a party when they saw a friend of theirs at the roadside being roughed up by police officers and stopped to find out what was happening. The friend asked them to call HRAPF lawyers and to take his money and phone from his pockets and keep them. When they tried to do this, they too were assaulted by the arresting officers and then arrested and charged with being rogue and vagabond.*³⁶

The greatest number of persons arrested arbitrarily in one incident was the arrest of 16 activists/revelers during the raid on the Pride Beauty Pageant.³⁷

³⁴ Case No. 0-36/2016, HRAPF Records.

³⁵ Case No. 0-10/2016, HRAPF Records.

³⁶ Case No. 0-41/2016, HRAPF Records.

³⁷ Case 0-34 (n2, above).

These were arrested from Venom Night Club in Kabalagala on 4th August 2016. These arrests were for 'attending a gay wedding' according to the arresting officer, the District Police Commander (DPC) Kabalagala Police Station, something he said simply could not be tolerated in his area. When the venue was first raided, the DPC informed the hosts of the function that all persons in attendance were under arrest. The organisers of the event requested to speak to him to be able to understand what was going on. They willingly asked to go out with him and discuss what the problem could be but instead, he placed all of them under arrest and cuffed them. When they tried to inquire about why they were being arrested, they were beaten. They were then taken to Kabalagala police station and detained. The efforts to explain that this was a social event for which no police permission or notification was required and which in any case was not a gay wedding fell on deaf ears. All the arrested persons were not charged, but they were held at Kabalagala Police Station for about three hours before they were released.

Prolonged detention

Article 23(4) of the Constitution is to the effect that a person arrested for purposes of bringing them before a court of law on suspicion of having committed a crime must either be released within 48 hours or produced before a court of law. This is another safeguard that is often flouted for LGBT persons in Uganda, as they are often detained for unreasonably long periods. In 2016, there were 7 such violations. The ones that stand out are:

A suspected gay man was arrested, detained at Kasangati Police Station and denied police bond for 12 days from the 4th to the 16th of February

2017 because, according to the investigating officer, he was charged with 'unnatural offences' and they needed time to 'investigate his tendencies.'³⁸ He was only released after HRAPF filed an application for a release order in court.

In another case, the father of a trans-woman, in an attempt to 'correct' her sexuality, ordered her arrest and detention for five days, from 29th July to 3rd August, during which time she was not allowed access to any visitors or lawyers just because her father was 'concerned' about the literature she reads, the company she keeps and the fact that she had moved out of the family home.³⁹

In addition to illustrating the manner in which LGBT persons' right to liberty is violated through prolonged detention, these cases illustrate how the law has been used and abused by private individuals, with direct connivance with state agents,⁴⁰ to abuse the basic rights of LGBT persons.

The right to be informed immediately upon arrest of the reason for arrest

The Constitution provides in Article 23(3) that a person who has been arrested should be immediately informed in a language he or she understands of the reasons for the arrest. The basic reason why this safeguard exists is the interest of ensuring that every arrested person has the ability to determine

³⁸ Case No. 00-5, HRAPF Records.

³⁹ Case No. 0-27/2016, HRAPF Records.

⁴⁰ This is a worrying trend since law enforcement officers should instead be protecting the general public.

whether or not their arrest is lawful and also to enable them to prepare for their own defence as an essential element of the right to a fair trial and the right to liberty.⁴¹ However, this safeguard is always abused when LGBT persons are arrested by the police, and this constitutes a violation of the right to liberty. In a number of these cases, persons are arrested and not told of the reasons why they have been arrested at all. In all cases discussed in this section, particularly those where the clients are charged with being rogue and vagabond, the clients were not told of the reasons for their arrest at least until they were in custody.⁴² In other cases, they were informed of a reason but the charge was changed when they arrived at the police station and they were not informed of this change.⁴³ One particular such incident happened on the 3rd of June 2016 when a gay man was arrested and charged with having carnal knowledge against the order of nature at Lugazi Police Station, after which police broke into his house to search for evidence. They retrieved a photograph of him holding a gun, two army uniforms and several identity cards, all of which pointed to his having been in the army at some point, and the charges were changed to desertion and communicated to the army authorities at Bombo Barracks but the client was not told this until the point of his transfer to Bombo.⁴⁴

⁴¹ *Victor Juliet Mukasa and Yvonne Oyo v Attorney General* Misc Cause No. 24 of 2006.

⁴² Case No. 0-41/2016, Case No 0-36/2016; Case No. 0-27/2016; Case No. 0-35/2016; Case No. 0-28/2016; Case No. 0-14/2016; Case No. 0-39/2016; HRAPF Records.

⁴³ Case No. 0-46/2016; Case No. 0-34/2016, HRAPF Records (Katabi Police Station); Case No. 0-22/2016, HRAPF Records (Katooke Police Station).

⁴⁴ Case No. 0-20/2016, HRAPF Records.

The right to speak to a lawyer of one's choice

This is another safeguard of the right to liberty that was abused during the year 2016. The purpose of this provision, which is laid out in Article 23(5)(b), is to ensure that the person arrested has access to the necessary resources and support to prepare a defence as well as ensure adequate protection of that person's rights during detention. However, in **one case** verified by HRAPF in 2016,⁴⁵ a father of a trans-woman had her arrested in order to help her 'correct' her sexuality and ordered police to deny her access to lawyers and all manner of visitors for five days in order to teach her a lesson, and this amounted to a violation of her right to liberty as entrenched in the Constitution.

(iii) The right to privacy

The right to privacy is one of the most important rights for LGBT persons. The laws that criminalise same sex conduct and the resultant actions of homophobia and transphobia all constitute an intrusion into the most private sphere of human rights. In Uganda's constitution, the right to privacy is enshrined in article 27, which prohibits the unlawful search of a person or their home and property; the unlawful entry onto a person's premises; and the interference with the privacy of a person's home, correspondence, communication or property. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) further prohibits unlawful attacks on a person's honour or reputation as one of the safeguards of the right to privacy.

⁴⁵ Case O-27 (n39 above).

In 2016, the police were recorded as having perpetrated **10 violations of the right to privacy**. The police instigated these violations directly by forcing LGBT persons to submit to having their photos taken against their will, calling media to report on their cases as well undressing LGBT persons and invading their private homes without valid cause.

At the pride raid⁴⁶ a number of trans persons were forced to submit to having their photos taken, even going so far as forcing the trans-women to wear their wigs and other female apparel and then taking their photos on threats of physical violence. In this same incident, a violation of the right to privacy of the person was visited upon a trans-woman who was fondled and forced to undress by a number of police officers under the guise that they were searching her to ascertain her sex. All this was done at the police station counter with all the male prisoners, desk officers and other persons at the stations able to view it. Such actions were attacks on the dignity of the victims and thus violated the right to privacy as guaranteed under the ICCPR.

In another case on 21st July 2016, police officers from Katooke police station invaded the home of a suspected gay man because his landlord and area chairperson had complained that they had concerns about his behavior, the basis for the complaint being that the landlord had noticed a number of visitors to the gay man's home but none of them were

⁴⁶ Case O-34 (n2 above).

female⁴⁷. Even though the police are empowered to enter upon premises and search them without a warrant, this has to be only upon suspicion that an offence has been or is being committed. Entry into someone's house for any other reason amounts to an unlawful search and a violation of the privacy of their home, which right is protected by the constitution.

In another case, a transman reported repeated violations of his bodily privacy every time he had to travel outside the country as officials at airports, on grounds of verifying his identity subjected him to uncomfortable body searches to ascertain his sex⁴⁸. Considering that he always has his identification documents and that he does not present as a criminal to warrant a bodily search, searching his body to ascertain his sex merely for purposes of travel constitutes an unlawful search and a violation of the right to privacy.

Such invasions of privacy are very common against LGBT persons and, although the ostensible reason usually provided is investigation or ascertaining identity, more often than not these home and body searches are purely for purposes of satisfying the curiosity of whoever happens to be doing the search and not about law enforcement. These searches are furthermore not prompted by a reasonable belief that someone has committed a crime but upon suspicion, from the physical appearance of the person, that they

47 Case No. 0-22/2016, HRAPF Records.

48 Case No. 0-49/2016, TNU Records.

might possibly be lesbian, gay, or transgender.

(iv) *The Right to Freedom from Cruel, Inhuman and Degrading Treatment or Punishment*

This right is protected in Article 24 of Uganda's Constitution and various regional and international human rights instruments that Uganda has ratified.⁴⁹ This right is entrenched as a non-derogable right in the constitution of Uganda⁵⁰. It is the duty of the state to ensure protection of and respect for this right for all persons in Uganda as required by the various treaties to which Uganda has assented⁵¹ and to refrain from positively violating it. However, in 2016 **25 violations** of this right were recorded as having been perpetrated by the police.

In the pride raid case,⁵² numerous violations of the right to dignity and freedom from cruel and degrading treatment were registered against the LGBT persons and activists that attended the event. One such case was the case of two trans-women who suffered intense pain amounting to cruel treatment when police officers ripped hair extensions off their heads, and one who was dragged by the hair to be

49 The Universal Declaration of Human Rights (UDHR) Preamble, Article 1; The ICCPR (n27 above) Article 7; The African Charter on Human and Peoples' Rights (ACHPR) Article 5.

50 The Constitution (n27 above) Article 44(a).

51 The ICCPR (n27 above) Article 2.

52 Case 0-24 (n2 above).

taken outside for the arrest. The people that were arrested were also beaten during the arrest and a transgender woman fondled by the police officers and others forced to undress. The police also forcibly took pictures of the arrested persons and those at the event venue. All these actions amounted to cruel, inhuman and degrading treatment in contravention of the provisions of the constitution and other regional and international human rights instruments.

On the 4th of November 2016, a transwoman was forced to undress by the police and the local council chairperson. It was alleged that she was committing the offence of personation, and on arrest the police forced her to undress and then permitted media persons, who had somehow received notification of her arrest, to take photos of her.

In February of 2016,⁵³ a transwoman who was being arrested on allegations of theft, was forced to undress by the police officers because they claimed that they could not correctly identify her gender. When they discovered that she was 'a man dressed as a woman', the officers called the local press and forced her to look into the camera while her photos were taken without her consent.

Article 26 of the Constitution provides for the right of all persons to own property either individually or in common with others, and goes ahead to outlaw the arbitrary deprivation of property except on the grounds specified at law and after fair and adequate compensation has been paid. However, **seven violations** of the right to property were verified in 2016 of police depriving LGBT persons of their property without reason. All of these cases occurred while the victims were in police custody and at the point of arrest.

In one case, the arrested persons had tried to give their money to friends when they were being arrested on the 22nd of November 2016 but the friends were stopped from taking it and also arrested for being rogue and vagabond. The money was never recovered.⁵⁴

On the 13th of March 2016, arrested LGBT persons were divested of their phones at the point of arrest and the phones were not returned at the point of release.⁵⁵

A gay man was arrested on the 11th of December 2016 and detained at Katale Police Post before being transferred to Kawempe Division Police Head Quarters. He was granted bond by the OC at Kawempe Police Station but when he went back to Katale Police Post to retrieve his property, he was re-arrested and the phones and money were never recovered as he was later afraid to go back and ask

(v) *The Right to Property*

⁵³ Case No. 00-9/2016, HRAPF Records at Lugazi Police Station.

⁵⁴ Case No. 0-41/2016, HRAPF Records.

⁵⁵ Case No. 0-10/2016, HRAPF Records.

for them again..⁵⁶

(vi) *The Right to Freedom of Association*

The right to freedom of association is protected under article 29(1)(e) and it protects the work of organisations. A total of **three incidents** of violations of this right were recorded in 2016, with all of them being jointly perpetrated by the police and other state actors.

The raid of the pride beauty pageant and the stopping of pride activities was one of the incidents.⁵⁷ The police tried to excuse their conduct by saying they had thought the event was a gay wedding, and later claimed that they had interrupted the event because the police was not notified of it and that such a large number of people in that case constituted a security risk, this notwithstanding the fact that the event was held at a popular night club. It was obvious from the conduct of the officers that the intention had been to stop the gathering of LGBT persons since the next day the Minister for Ethics and Integrity Hon. Simon Lokodo made a statement to the organizing team⁵⁸ asserting that no such events would be entertained in Uganda. This assertion in effect meant that, according to the honourable minister, LGBT people in Uganda have no right to express themselves, or to associate and assemble

⁵⁶ Case No. 0-46/2016, HRAPF Records

⁵⁷ Case 0-34 (n2 above).

⁵⁸ As above.

together for any reason.

In another incident, Queer Youth Uganda, a youth led organization working on issues of LGBT persons was threatened with closure by the area police although nothing ever came of the threats after dialogue with the police⁵⁹. However, the threat continues to hang heavy as the police could at any time revive that intention and then the organisation would be forced to relocate.

Transgender Equality Uganda, an organisation run by and for transgender persons, had to relocate when the area chairperson and the police invaded their offices on 25th August 2016 because they were suspicious about them⁶⁰. This suspicion, according to the chairperson, was due to the fact that all the people who worked there dressed, carried themselves generally and spoke as though they were homosexuals. On entering into the offices, some publications from HRAPF on the rights of LGBT persons were found, convincing the police that the organisation was indeed an office used for the practice of homosexuality, and the leaders of the organisation were detained for a while to explain this phenomenon. In the end, both the OC of the police station and the chairperson insisted that such practices could not be allowed in their area and gave the organisation an ultimatum to either close its doors or relocate to another

⁵⁹ Case No. 0-53/2016, QYU Records.

⁶⁰ Case No. 0-25/2016, HRAPF Records.

area. The organisation had to move eventually.

B. Local Government Authorities

Local government authorities have also been often implicated in violations of the rights of LGBT persons living in their areas. The LC1 chairpersons in particular are culpable in such cases as, even when they do not actually personally carry out the violations, they at least incite them or condone them. The local communities often accord a lot of respect to local area leaders and councils, and the local area leaders have sometimes used this authority to propagate their own beliefs and violate the rights of those they consider different or socially undesirable. They violated rights of LGBT persons in the following ways:

(i) The Right to Equality and Freedom from Discrimination

As noted earlier, most of the violations suffered by LGBT persons are based on the inherent stigma and discrimination with which they are treated. The marginalisation of LGBT persons in Uganda ensures that they are accorded differential and detrimental treatment even in their day-to-day life, and this extends to their local leaders. Incidents of discrimination of LGBT persons routinely occur in the communities and in 2016 **10** of them were verified including suspected LGBT persons being forcefully evicted by the area chairpersons, as was the case in Case No. 0-52/2016; organisations being forced to relocate on orders of the area leaders because the leaders do not want homosexuals in their areas; and local area leaders causing police

investigations into the private lives of suspected LGBT persons as was the case in Case No. 0-22/2016, where the area chairperson had the police break into the house of a suspected gay man because of said suspicion. All these actions are discriminatory against actual and suspected LGBT persons.

(ii) The Right to Privacy

Violations of the right to equality and freedom from discrimination as perpetrated by local leaders often manifest as violations of the privacy of the affected persons, because the chairpersons, lacking proper legal authority to arrest persons without concrete proof of wrongdoing, often enforce their authority by taking such measures as will satisfy their curiosity or yield the required evidence. These measures necessarily involve an invasion of the privacy of the persons so affected. Such invasion especially involved unlawful searches of suspected LGBT persons' homes to look for evidence of homosexuality. **Eight incidents** constituted a violation of the right to the privacy of the persons affected.

(iii) The Rights to freedom from cruel, inhuman and degrading treatment

Local government authorities violated this right in **six incidents**, mostly in connivance with the police. In most cases, the incidents of violation included humiliation of actual or suspected LGBT persons in front of whole villages or subjecting such persons to dehumanizing actions just to satisfy their curiosity.

As an example, two transwomen were forced to explain to an entire village meeting whether or not they were gay, after

being ordered to do so by the chairperson of their village in Iganga.⁶¹This was very humiliating and degrading and a violation of the right guaranteed in Article 24 of the Constitution.

On 20th of July 2016, the LC chairperson incited the police to break into the house of a gay couple. The two men were found naked and their nudity was exposed to the people present. This was very degrading and cruel.⁶²

(iv) *The Right to Freedom of Association*

Three violations were recorded and verified in 2016 wherein the right of LGBT persons to associate was prejudiced by a local area leader.

As discussed earlier, Queer Youth Uganda was almost forced to relocate when the area chairperson complained to the police that it was run by people he did not understand, and the police tried to shut it down. The situation only changed after protracted talks with the police leaders in the area to explain that the organisation was not promoting homosexuality.⁶³

Transgender Equality Uganda was also raided in a similar manner by the chairperson and a few area residents led by him on the 25th of August 2016⁶⁴,

61 Case No. 0-56/2016, RMU Records.

62 Case No. 0-22/2016, HRAPF Records.

63 Case No. 0-53/2016, QYU Records.

64 Case No. 0-25/2016, HRAPF Records.

because the chairperson felt unable to ignore such ‘unclear people and practices’ in his area. Together with the police, the Chairperson ordered the organisation to either shut down or relocate because they would not tolerate it. The organisation was forced to temporarily shut down operations while searching for new premises.

Tranz Network Uganda, an organization that works with transgender and gender non-conforming persons was also raided. The area chairperson in collusion with one of the neighbours living next to the organisation’s premises pressured them into moving from the area because they considered the persons working for the organisation a ‘threat to their school-going children’.

C. Other state actors

Apart from the Uganda Police and the Local Government authorities, there are other state actors that violated the rights of LGBT persons and these include the Minister for Ethics and Integrity and the National Identification Registration Authority. There were **three violations** by the authorities, and they were as follows:

(i) *The right to equality and freedom from discrimination*

The most prominent violation of this

right was the Pride Raid on the 4th of August 2016, which was ordered and sanctioned by the Minister of Ethics and Integrity, Hon. Simon Lokodo.⁶⁵ Hon. Lokodo has steadily maintained throughout his reign at the ministry that LGBT persons in Uganda are an aberration that cannot be allowed to exist, let alone associate on such a scale, and the fact that this prohibition only relates to LGBT persons underlines the discrimination with which it is enforced.

Another case was reported by a trans-man, who has been denied a national identity card by the National Identification Registration Authority because they refuse to recognise his gender.⁶⁶ As a result, he has been denied identification and by extension recognition as a Ugandan citizen, merely on the basis of his gender identity, which is discriminatory.

(ii) The Right to freedom of conscience, expression, association and assembly

The raid of the pride beauty pageant on the 4th of August 2016 was ordered and sanctioned by the Minister of Ethics and Integrity in his official capacity. This raid of a social event that was held by the LGBT community in Uganda as well as their friends and well-wishers denied a great number of people the right to assemble and express themselves, merely because the Minister and the DPC of Kabalagala Police Station found the event distasteful or unacceptable.

⁶⁵ Case No. 0-34 (n2 above).

⁶⁶ Case No. 0-50/2016, TNU Records.

3.2.2 Violations perpetrated by non-state actors

In the year 2016, a total of **89 violations** were verified as having been perpetrated against LGBT persons by persons other than those in the employ of the state. This is **48.6%** of all violations. These included the general communities in which LGBT persons live, their land lords/ land ladies, families, friends and employers. They range from such acts as evictions and media outings to mob justice. The violations perpetrated by non-state actors in 2016 can be broadly classified as violations by family members; violations by institutions of learning; violations by property owners; and violations perpetrated by the general community.

A. Violations by family members

The family is a very central unit in the communities in which we live, particularly in Uganda where the society tends more towards the family and community conscience than the individual conscience. As such, the family is an important social support mechanism for most people. However, LGBT persons are not often so fortunate to have this support once their families discover their sexual or gender differences. Some of the commonest violations are of the rights to equality and freedom from discrimination, education and family.

(i) *The Right to Equality and Freedom from Discrimination*

There were **12 verified** incidents where families discovered or became suspicious of the sexual orientation or gender identity of a family member, resulting in differential treatment for the person so outed. The result of such discrimination is that the people so affected were forced to break ties with their families, lose their social support structures and also lose access to essential resources for survival and social services that were previously provided by the family.

In one case reported to HRAPF on the 24th of February 2016, a lesbian woman was constantly threatened and harassed by family, who upon suspicion of her sexual orientation and discovery of her 'strange behaviours', repeatedly tried to force her into marriage with a man chosen by the family in order to make her 'normal', until she felt that she had no choice but to dissociate herself from her family⁶⁷.

In another incident, a bisexual woman reported to HRAPF on the 22nd of February 2016, seeking advice because she was evicted from her matrimonial home and denied access to any of her matrimonial properties, despite the fact that she had made significant financial contributions to all developments on the matrimonial land, when her husband discovered that she was in fact bisexual⁶⁸.

67 Case No. 0-57/2016, Hope Mbale/HRAPF Records.

68 Case No. 00-8/2016, HRAPF Records.

This occasioned violations of her right freedom from discrimination, since she was not given her entitlement as a wife upon separation merely because of her sexual orientation.

Also pointing to this deprivation of livelihood due to discrimination is the case of another gay man who was evicted from home by his father for being 'an evil spirit' that had brought 'poverty and misfortune' with his unnatural tendencies⁶⁹, as well as that of another gay man who was forced to run away from his home after his aunt repeatedly tried to poison him to get rid of his 'evil', and he found himself no longer able to eat any meals at home for fear of being poisoned to death.⁷⁰

(ii) *The Right to Liberty*

Additionally, some families have perpetrated violations of the right to liberty of family members who are or are suspected to be LGBT using the criminal justice system. **One such case** was reported. An example of such violations is the case discussed above of a father who ordered the arrest and detention of his transgender daughter for five days without allowing her access to lawyers or any visitors.⁷¹ Although the violations she suffered were perpetrated by the Uganda Police

69 Case No. 00-2/2016, HRAPF Records, Case No. 0-21/2016, in HRAPF Records.

70 Case No. 0-43/2016, HRAPF Records.

71 Case No. 0-27/2016, HRAPF Records.

Force, they were explicitly requested and condoned by the father of the victim for purposes of curing her of her 'homosexual tendencies.'

(iii) *The Right to Privacy*

Occasionally, families of LGBT persons abuse their privacy and blackmail them for economic gain. There were **five such violations**, and the following incident stands out.

In the case of one trans-woman,⁷² a paternal auntie of hers, upon discovery of her gender identity and gender expression, started to blackmail her, demanding exorbitant sums of money and insisting that 'homosexuals' have access to lots of resources. She threatened to expose her to the entire family if the demands were not complied with, and for a while this made it impossible for the trans-woman to interact with her family as she was always worried, until she felt forced to confess the truth to her immediate family in order to stop the blackmail.

(iv) *The Right to Own Property*

Sexual orientation and gender identity have also been used as an excuse to deprive LGBT persons of their properties by family members. **Two such violations** were recorded.

A trans-woman was denied access to properties left by her late father by her uncle who, in refusing to even meet her school costs, said he had no

need to cater for a child who could not decide whether she was a boy or a girl..

(v) *The Right to Education*

The deprivation of the right to education is also a common violation faced by persons who identify as LGBT when their families discover their sexual orientation and gender identity. **Three such violations** were verified, and those that stand out are:

On January 4th 2016, a father disavowed paternity of his son and stopped paying his school dues upon discovery of his sexual orientation. The father, in an interview with HRAPF lawyers, claimed that the child was an abomination that could not be tolerated in his house.

In another case, the father of a gay man refused to pay his tuition and when contacted to seek audience to discuss the issue, he informed the lawyers that his son had engaged in 'immoral things that are too embarrassing to talk about', and that he would therefore have no connection with the son anymore.⁷³

B. Violations in Institutions of learning

Institutions of learning were also responsible for violations of the rights of LGBT persons. They were responsible for **five violations**. The violations can be classified as follows:

⁷² Case No. 0-55/2016, RMU Records.

⁷³ Case No. 0-15/2016, HRAPF Records.

(i) *The Right to Equality and Freedom from Discrimination*

Schools especially at lower levels of learning tend to exhibit a high degree of discrimination, viewing any form of gender and sexual diversity as a perversion that can be stamped out with strict discipline. Given the fact that these schools often have school rules to justify such intolerance, students whose sexual orientation or gender identity appear suspect are often simply expelled from school as opposed to students who engage in heterosexual sexual activity, who are more likely to be suspended for 'coupling' than expelled. In 2016, **four distinctive cases** of discrimination were recorded in institutions of learning. The ones that stand out are:

On the 17th of October 2016⁷⁴, two students were expelled from a popular high school in Busoga Region upon suspicion of being homosexuals even though there was no proof that they had ever engaged in sexual activity at school; while in a similar case⁷⁵ a suspected lesbian was badly beaten up while at school and expelled for having same sex sexual relations. When her mother came to school, she also beat her severely and then evicted her from the family home, effectively putting an end to both her education and her livelihood/ welfare.

On the 27th of October 2016 by a lecturer at a university in Kampala who, for his PhD thesis, proposed to study the topic of sexual violence

74 Case No. 0-37/2016, HRAPF Records.

75 Case No. 0-30/2016, HRAPF Records.

among young gay men, but was forbidden to do so by his Head of Department, who found the topic distasteful and uncomfortable.⁷⁶

(ii) *The right to freedom from cruel, inhuman and degrading treatment or punishment*

This involved beatings of students. This kind of treatment has been described by court as torture and cruel treatment.⁷⁷ Also in instances where students are found to be or suspected to be LGBT, they are normally paraded and humiliated before their fellow students. There was **one such a case** verified in 2016.

A student was brutally beaten by both her teachers and her mother upon being discovered to be in an intimate relationship with a fellow girl at school.⁷⁸

C. Violations by Property owners

Some of the gravest violations faced by LGBT persons outside the state system are either perpetrated or incited by their land lords/ landladies, who usually base on their own prejudices and fears to violate the rights of LGBT persons. The most common violations occasioned by property owners who have LGBT persons as tenants include invasion of privacy, and instituting arbitrary arrests

76 Case No. 0-38/2016, HRAPF Records.

77 *Simon Kyamanywa v Attorney General*, Constitutional Reference No. 10 of 2000.

78 Case No. 0-30/2016.

and malicious prosecution cases that violate the right to liberty and freedom of movement of their tenants who happen to be real or perceived LGBT persons. Most of these cases end with the tenants being evicted at short or no notice at all. There were **nine such verified violations**.

(i) The Right to Equality and Freedom from Discrimination

All the **five violations** reported in 2016 that were perpetrated by property owners were based on the discrimination and marginalisation of LGBT persons as a group, making discrimination the most pervading violation against LGBT persons. All the other violations that are recorded are based on the biases and prejudices that people have against LGBT persons generally.

(ii) The Right to Privacy

In 2016, **three violations** of this right were recorded in which landlords/ladies, being 'concerned' about the 'strange' behaviours of their tenants, had them arrested, spied on them or had them evicted. The ones that stand out are:

A gay man, was evicted on the 1st of November 2016 because the landlady reported to the chairperson of the area that he engaged in 'strange behaviours', and she said this suspicion came from the fact that, although he was a young man, he never received any female visitors, and yet some of the men who came to visit him behaved like women. She confessed that sometimes, when he came

home with these men, she would throw stones on the roof of his unit to 'discourage the strange behaviors', and had once forced her way into his house together with other neighbours in a bid to catch him doing his strange acts.⁷⁹ This amounted to unlawful entry on the gay man's premises and unlawful search of his home both of which violated his right to privacy.

HRAPF handled another case in which the landlady of a gay man had his house invaded and searched by the area chairperson and the police on the early morning of 20th July 2016 and found him in bed, asleep, with his partner.⁸⁰

Another case concerned an organisation whose landlord called the chairperson and local defence persons on the village local council to raid an organisation run by trans-women because of the 'unclear people and practices. On 25th of August 2016, the chairperson entered upon the premises in the company of the landlord and a few area residents and searched the entire premises, reading through the correspondence and rifling through the clothes and other property of the employees.

(iii) The Right to Liberty

One incident was recorded in which a property owner restricted the liberty of a gay person. This was during the Pride Raid.

⁷⁹ Case No. 0-39/2016 (HRAPF Records).

⁸⁰ Case No. 0-22/2016 (HRAPF Records).

A gay person in trying to escape the police raid entered a shop on the premises and was locked in. He pleaded to be allowed out all through the night and the next day to at least use the bathroom but to no avail. The property manager simply refused to let him out even after he explained what had happened, and he was only released the next day when a paralegal from HRAPF intervened and brought the police to let him out, at which point the property manager insisted that he be detained by police for malicious damage to property. He was released after one million Uganda Shillings was paid to the property manager, even though he had only hidden in the shop and all the damage had happened in other parts of the premises when police raided the event.

D. Violations by the general community

In the year 2016, **52** human rights violations against LGBT persons were recorded, perpetrated by civilians within the general communities in which they live. These violations are varied but were mostly of the right to dignity and freedom from torture, inhuman and degrading treatment and are driven by the homophobia that is rampant in most Ugandan communities.

This trend seems to show that, quite besides the threat of the legal and policy regime that inherently and systemically supports the discrimination and marginalisation of sexual minorities, the general public has continued to pose the biggest threat to the existence and dignity of gender non-conforming

individuals as well as other sexual minorities through intolerance. It is a fact that the law as is might feed into this scenario and encourage atrocities such as those reported here, but the fact remains that the general public in Uganda continue to be close-minded and biased about issues of sexual and gender diversity to the detriment of LGBT persons.

(i) The right to equality and freedom from discrimination

In 2016, **12 cases** were recorded and verified wherein LGBT persons were subjected to differential and detrimental treatment because of suspicion attaching to their sexual orientation and gender identity. In most of the cases recorded, the inherent prejudice and homophobia exhibited by the majority of Ugandans influenced their response to real or suspected LGBT persons in their areas at the expense of the rights of the persons affected.

In a case reported to HRAPF on 31st of May 2016 (Case No. 00-7/2016, HRAPF records) a gay man reported that, upon suspicion of his sexual orientation, other young men in the Internally Displaced Peoples' camp with in which he resided started to harras him, following him around the camp and barring other people from communicating with him, saying that he might recruit them into homosexuality.

(ii) Violations of the right to freedom from cruel, inhuman and degrading treatment or punishment

21 violations of this right were recorded in the year 2016. The outstanding ones

are:

The very first incident is one that happened after the pride raid⁸¹ when a trans-woman and two trans-men were detained in the male cell at Kabalagala Police Station. They were fondled, forced to undress and take baths, and then ordered to raise their hands and pray while being slapped and boxed around their heads, necks and chests by the inmates they found in the police cell.

In another incident on 9th April 2016, a gay rights activist was travelling back to his home when he was stopped by a group of young men and severely beaten.⁸² The whole time that they were assaulting him, they kept emphasising that, even if they had been thieves, they would not have taken his money because it was cursed. He was hospitalised for weeks because of the broken bones and contusions suffered that night.

Another LGBT activist was attacked in her home in the morning and severely beaten for being a 'homosexual, running an organisation that spreads homosexuality and recruiting young boys into homosexuality'. She was hospitalised for two weeks thereafter and had to leave her home for fear that they would return and hurt her again.⁸³

A gay man was beaten up on the 31st of March 2016 by one of his area residents with the help of a soldier for being 'focal in spreading homosexuality' in their area, merely because they suspected that he was gay.⁸⁴

These beatings have been so commonplace lately, and the response of the police to such cases generally tends to encourage rather than discourage the commission of these atrocities since they seem to implicitly support the assailants. The situation has also been reported to exist in Internally Displaced Peoples' (IDP) camps.

A gay man was harassed by his campmates and beaten up on several occasions when they started to suspect that he might be gay.⁸⁵ He suffered exclusion from camp life as the young men in the camp kept ordering others to stay away from him, particularly the children, and he eventually had to leave the camp even though he had nowhere else to go.

A gay man was severely beaten up by random strangers on the way from his workplace who claimed to know 'his tendencies.'⁸⁶ They also threatened to visit him at work to see what he does there, and he felt so threatened that he was unable to go to work for a while.

Another form that manifested itself is the practice of 'corrective rape

81 Case 0-34 (n2 above).

82 Case No. 0-13/2016, HRAPF Records.

83 Case No. 0-52/2016, QYU Records.

84 Case No. 0-13/2016 (HRAPF Records). The assault case was reported to Kabale Police Station.

85 Case No. 00-7/2016, HRAPF Records.

86 Case No. 0-28/2016, HRAPF Records.

where men rape lesbian women with the belief that this will turn them into heterosexuals.

A lesbian woman was sexually assaulted multiple times by a man who kept threatening to expose her sexual orientation if she ever reported him to the authorities.⁸⁷

Another extension of this blatant violation of the right to dignity and freedom from torture and cruel treatment manifests in the threats to life and health that LGBT persons are continually exposed to in their day-to-day lives. This not only violates the rights of the specific individual, it also points to the discrimination that LGBT persons are generally exposed to by reason of their sexual orientation or gender expression.

In August of 2016, a gay man reported that he had left Uganda temporarily at least three times since 2014 when he had been outed in the general outing of LGBT persons in a local tabloid, but that every time he tried to return, he did not manage to stay long because someone would recognize him and start the rumours going so he would have to leave the area. He was constantly being threatened with being beaten and being lynched so in the end he sought asylum.⁸⁸

A gay man was followed around constantly by a group of men who occasionally made veiled threats against him for his sexual orientation, and it became so bad that he felt forced to leave his business for some time to avoid them.⁸⁹

⁸⁷ Case No. 00-2/2016 (HRAPF Records).

⁸⁸ Case No. 0-32/2016, HRAPF Records.

⁸⁹

In another incident a gay man suffered extreme emotional and psychological trauma from constant harassment by a local gang in Kabowa who would steal his clothes and shoes on a daily basis, stop him on the way home every evening and threaten to set their dogs on him if he did not give them money and deny him passage to his house. He would only be allowed to pass after paying them, and repeatedly told him it was because 'people like him' were not welcome in their area. Eventually, they increased the harassment and even started threatening to burn his house down, and he was too scared to leave his house on foot. ⁹⁰,

(iii) The right to privacy

The right to privacy for LGBT persons is constantly violated by members of the general public simply because they are an unpopular minority, and this grievance is compounded by the reluctance of the police to address these violations. The most common form of this violation is the targeted extortion and blackmail that LGBT persons are exposed to all the time. **12 violations** of the right to privacy were verified, and the outstanding ones are:

Four cases of LGBT persons being called and threatened with outing if they refused to yield to demands for money were verified.⁹¹ In all these cases, the clients were called by persons unknown to them who claimed to know 'their secret' and demanded exorbitant sums of money in exchange

⁹⁰ Case No. 00-3/2016, HRAPF Records.

⁹¹ Case No. 0-17, Case No. 0-11/2016, Case No. 0-36/2016 and Case No. 0-31/2016 (All in HRAPF Records).

for their silence. In some of these cases, the blackmailers even produced text messages and other evidence of the 'immoral' activities of their victims, and in one case, the blackmailer went so far as to insist that he was actually quite respectful of the person's privacy and was only trying to 'earn a living', having no real intention of exposing him to ridicule. In all except one of these cases, the victims were forced to yield to the demands at least once and the calls stopped only when HRAPF intervened and got police involved to try and track the blackmailers.

(iv) The right to liberty

A number of LGBT people were in 2016 subjected to violation of the right to liberty and security of the person for mere financial gain. A gang rose and flourished in Bwaise in the year 2016 that targeted a great number of LGBT persons, drawing them to Bwaise and other slum areas around Kampala under false pretences and then proceeding to torture as well as extort money from them. **Five cases** of violation of the right to liberty were recorded. Those that stand out are:

In July of 2016, two gay men were lured to Bwaise by a call from someone claiming that he was feeling unwell and wanted some medical supplies from their organisation. The two men decided to yield to this request and travelled to Bwaise, only to be held and forcefully detained once they arrived. The persons who held them insisted that they knew them to be homosexuals, and that homosexuals have a lot of money, so they demanded UGX 300,000 (about USD 90) for their release. They were beaten up and tortured when

they explained that they did not have the money, and they were forced to call a friend to try and borrow the money. The friend contacted HRAPF and together with officers of the Uganda Police Force, the clients were rescued without serious injury.⁹²

The same gang also kidnapped and held a gay man in Bwaise, demanding for money while beating and harassing him for being a homosexual. He, unlike in the previous case, called a friend without telling him about the kidnap and asked for money. The friend was able to raise the money and sent it through mobile money, after which he was released by the kidnappers. He reported the case the next day to HRAPF but police was unable to catch the kidnappers.⁹³

The foregoing discussion points to the increasing intolerance of LGBT persons in Uganda, the extreme prejudice that taints the dealings of most civilians with suspected LGBT persons, the conspiracy of silence by law enforcers that has encouraged and suborned heinous violations of the rights of LGBT people as well as the implicit support of the law in so far as it seems to restrict the right of LGBT people to simply exist, to form associations, to come together as a group even in a social context or even to live in any part of Uganda. This narrowing of spaces for LGBT persons that was caused both by the law as is and as interpreted and enforced by state actors influenced violations, particularly of the right to dignity and freedom from torture and degrading treatment, liberty, equality and freedom from discrimination and freedom of conscience and association

⁹² Case No. 0-23/2016 in HRAPF Records.

⁹³ Case No. 0-24/2016, HRAPF Records.

for LGBT persons in 2016.

(v) *Right to Property*

Article 26 of the Constitution of Uganda provides for the right of every Ugandan to own property either individually or in common with others, and such property includes such things as money as well as moveable and immoveable property.

However, LGBT persons are sometimes deprived of their property by members of the general public simply because they are an unpopular minority, and this grievance is compounded by the reluctance of the police to address these violations. The most common form of this violation is the targeted extortion and blackmail that LGBT persons are exposed to all the time. In 2016, **four cases** of LGBT persons being called and threatened with outing if they refused to yield to demands for money were verified as assessed above.⁹⁴

⁹⁴ Case No. 0-17, Case No. 0-11/2016, Case No. 0-36/2016 and Case No. 0-31/2016 (All in HRAPF Records).

Conclusion

A number of incidents occurred during the year 2016 that clearly demonstrated an increased targeting of human rights defenders and civil society organisations generally, from break-ins into a number of organisations that were never satisfactorily explained or investigated to the developments in the law that affected human rights advocates adversely. This trend has influenced the human rights situation of LGBT people in Uganda. The shrinking of civil society space through the passing of regressive laws that impose vague obligations on NGOs is a big and present threat to LGBT organising in Uganda. As seen from this section, Ugandan laws that criminalise same sex conduct continue to be used as a cover to perpetrate violations against LGBT persons, as they embolden and implicitly legitimize actions of homophobia. There is therefore need to build on the progress that has been registered especially with the police, to increase the layers of protection of the rights of LGBT persons in Uganda.

4. ANALYSIS OF THE 2016 TRENDS OF VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

In 2015, most of the violations that were recorded against LGBT persons on grounds of sexual orientation and gender identity were committed by non-state actors (about **54%**),⁹⁵ and it was clear that, as an entity, the Uganda Police Force was the single greatest violator of LGBT persons' rights, perpetrating **47** verifiable violations compared with **40** by the second biggest perpetrator, which were property owners.⁹⁶ The most noticeable change in the state of human rights for LGBT persons in 2015 was that non-state actors committed more of these violations than state actors, which on the one hand was an improvement because it showed that the state was starting to show more respect for the rights of LGBT persons. The higher rate of violations perpetrated by non-state actors was attributable to the increasing homophobia and the unfortunate fact that these violations are often not penalised by the state, leading to the inference that these violations are acceptable.

This trend did not change noticeably in 2016. Whereas the state perpetrated more violations than non-state actors in 2016, this was not necessarily because the state actors

engaged in more acts of human rights violations than non-state actors. This was because, as already seen elsewhere in this report⁹⁷ and according to the analysis of the pride raid⁹⁸, the police engaged in one incident that occasioned 53 violations of the rights of various LGBT persons in one night. For this reason, the state perpetrated **94** violations against LGBT persons accounting for about **52.51%** of the total number of violations verified in 2016. Nevertheless, the mass violations involved in this one event show the huge impact that state violations have on rights of LGBT persons. They have a chilling effect and can also be massive. Also the fact that violations by non state actors can be addressed and redressed if the state cared shows that the biggest threat still remains state violations despite the numbers. Also by the state engaging in violations of the rights of LGBT persons, it shows non state actors, that they can also violate with impunity as nothing would happen to them. In a way they are furthering the state's agenda. This explains why there are only a few cases where the state has acted to protect rights of LGBT persons.

Violations of the right to liberty and

95 Human Rights Awareness and Promotion Forum (HRAPF) and Consortium on Monitoring Violations Based on Sexual Orientation and Gender Identity; *Uganda Report of Violations Based on Sexual Orientation and Gender Identity* 2015, 51.

96 As above, 52.

97 Case O-34 (n2 above).

98 Human Rights Awareness and Promotion Forum (HRAPF) 'A *Legal Analysis of The Brutal Police Raid of an LGBT Pageant on 4th August 2016 and Subsequent Actions and Statements by the Police and the Minister of Ethics and Integrity*' 2015.

the right to dignity and freedom from cruel and inhuman treatment and punishment were the most common in 2016. A noticeable change in the year 2016 is that there was only one recorded case of a trans-person being subjected to anal exams upon being charged with unnatural offences, unlike previous years in which the practice was rampant. This may in part be attributable to the continuous engagements between the police and rights advocacy organisations as well as the judgment in the case of *Christopher Mubiru Kisingiri v Uganda*⁹⁹ wherein it was categorically stated that these examinations when done after a long period of time were unnecessary because they did not result in any useable evidence of engaging in such sexual activity, especially where it was consensual.

What was common however was the incidence of police officers subjecting LGBT persons to unlawful searches of their bodies in order to determine their sex. This has mostly been suffered by trans-people and is partly attributable to the increasing awareness on issues surrounding trans-people, although given the limited amount of information generally available to the public about transgender issues, this often results in unchecked curiosity which police officers generally use their positions to satisfy by forcing transgender persons to undress and 'prove' their genders.

This increasing awareness about LGBT persons has also exposed them to violations perpetrated by the general public. In 2016, the violations of the right to dignity and freedom from inhuman

and degrading treatment were mostly committed by non-state actors, who committed **40** violations of this right, while the state actors committed only **25** violations of this right in comparison. This is a positive step in so far as it indicates that degradation of LGBT persons by the Uganda Police Force has reduced significantly. It however remains a concern that the police often make no effort to stop other people from violating these rights, thereby implicitly lending their support to these actions.

The deprivation of LGBT persons of their liberty continues to stand out. Although sexual orientation and gender identity are not strictly speaking criminalised, LGBT persons often come into conflict with the law and are arrested and detained under various legal provisions simply because of their real or presumed sexual orientation and gender identity. This has always been true of law enforcement, whereby LGBT persons are arbitrarily deprived of their liberty and then charged with vague and non-existent offences to justify their arrest. In most of these cases, the persons so arrested are charged with such crimes as sodomy, having gay sex in public, or being rogue and vagabond, or released without charge. This trend shows that arrests of LGBT persons are generally not motivated by evidence or even suspicion of an actual objectionable act or offence, but by suspicion of their 'objectionable' sexual orientation and gender identities.

The Uganda Police Force perpetrated a total of **64** violations against LGBT persons in 2016, which was the same number of violations in 2015, but this time round with the addition of the violations at the Pride Raid which are known although they could not be independently verified for the purposes of this report. The trend is regressive and it is a worrying trend because, given all

⁹⁹ *Uganda v Christopher Mubiru Kisingiri* Criminal Case No 0005/2014 (Buganda Road Chief Magistrates Court); see also Neela Ghoshal *Anal exams that test for homosexuality amount to torture* <http://www.advocate.com/commentary/2016/7/27/anal-exams-test-homosexuality-amount-torture>.

the advocacy efforts and even visible improvement in the handling of LGBT persons especially in police custody, one would assume that awareness on the rights of LGBT persons is on the rise and therefore recognition and respect for the humanity and the rights of LGBT persons is on the rise.

The many more laws that are being passed to restrict civil society space have a disproportionate effect on LGBT organisations. More damaging to LGBT persons particularly are laws that limit the freedom of expression and association, which are being used to restrict their rights to express their diversity even in purely social events as shown by the incident of the pride raid. The passing of the NGO Act has particularly damaged this right for LGBT persons and organisations working on LGBT issues since they now have to contend with the constant threat to their existence. The reactions of the state to violations of the rights of LGBT persons has also continued to encourage further violations of these rights, as perpetrators outside of the state machinery (and within it) are never brought to account for the

violations they perpetrate.

Whereas there are isolated pockets of police protection offered to LGBT persons, the trend is increasingly tilting more towards leniency for violators of the rights of LGBT persons because, even in cases where the police came in to offer protection, it did not always necessarily result in the arrest and prosecution of the perpetrators, a further indictment on the criminal justice system with regards to protection of the basic human rights of LGBT persons in Uganda. This is unfortunate given the fact that it is already rather difficult to bring private individuals to account for human rights violations, and the reluctance by law enforcement to cooperate in this effort is bound to defeat it entirely. This will continue to influence violations of human rights of LGBT persons because, for as long as the state continues to turn a blind eye to these issues, LGBT persons will continue to be treated as criminals and violations of their rights will be regarded as acceptable and excusable, leading to even more violations of their rights.

5. CONCLUSION AND RECOMMENDATIONS

5.1 General Conclusion

The legal and policy regime in Uganda still largely accentuates the inequality between LGBT persons and other people, and this inequality is the biggest driver of the violations faced by LGBT persons. The marginalisation and social exclusion endured by LGBT persons is in itself a violation of their fundamental rights to dignity, equality and freedom of conscience and belief, and this marginalisation has for years been driven by the attitudes, fears and beliefs of the larger part of Ugandan society. However, the systemic marginalisation faced by LGBT persons at the hands of the state has been as a result of a legal regime deliberately geared to a progressive suppression of the right to freedom of association, assembly, conscience, opinion, belief and expression and continued criminalisation of consensual same sex sexual conduct. This has been and will continue to be the cornerstone of the violations faced by LGBT as it legitimises them. Therefore, even though it is true that some elements within the state machinery have tried to protect the rights of LGBT people and have refrained from actively violating said rights, the state has still failed in its primary duty to protect the rights of all persons without discrimination on the grounds of sex and gender by allowing violations committed by both state and non-state actors to go unaddressed.

5.2 Recommendations

To The Uganda Police Force

As the primary contact between law enforcement and LGBT persons in Uganda, the police is in a unique position to influence the status of human rights for LGBT persons in their various precincts, whether or not these people happen to be in conflict with the law. In the execution of its mandate to preserve law and order and protect people and their property, the Uganda Police Force can contribute to the protection of the human rights of LGBT persons in the following ways:

- (i) The Inspector General of Police (IGP) should ensure that police officers have the necessary capacity to respond appropriately to violations of the rights of LGBT people and offer them equal protection of the law in order to ensure that private individuals who commit violations against LGBT persons are deterred
- (ii) The Police Professional Standards Unit should deal decisively with cases reported against police officers who violate the rights of LGBT persons by penalising them in such a way that they and fellow officers will be deterred from further acts of human rights violations
- (iii) The Directorate of Criminal Investigations and Crime

Intelligence should embark on intensive training of police officers about the laws that they enforce to enable them recognise crimes and thus reduce the number of arrests for crimes that simply do not exist, or the suspicion of which is not supported by any evidence

- (iv) The CIID-DPP coordination committee in the Office of the DPP should work with the police leadership to ensure that officers in charge of criminal investigations and police operations are conversant with criminal law and procedure as well as the rights of persons who come into conflict with the law
- (v) The Directorate of Human Rights and Legal Services should ensure that police officers are appropriately trained in issues concerning human rights particularly of sexual minorities to reduce the violations perpetrated against LGBT persons in police custody

To the Office of the Director of Public Prosecutions

Although violations of the right to a fair trial were far less common this year, the Office of the Director of Public Prosecutions is still encouraged to ensure protection of the rights of LGBT persons by doing the following:

- i) Continue to refrain from sanctioning baseless charges against LGBT persons in order to curb on violations of the right to a fair trial and the right to liberty
- ii) Train state prosecutors who work with the police

investigations departments at the various stations to be able to competently advise police officers on cases coming to them against LGBT people

To the Uganda Law Reform Commission

The Uganda Law Reform Commission has the mandate to advise on legal reform and propose bills that are presented to parliament as part of government business. The Commission therefore is in a position to significantly influence legal reform in favour of LGBT persons by opening the discussion on the rights of LGBT persons. As such, it is recommended that the Uganda Law Reform Commission:

Propose an amendment to the Penal Code Act to decriminalise consensual same-sex sexual activity that has always been criminalised under sections 145 and 146 of the Penal Code in order to ensure better protection for the rights of LGBT people at law

To The Parliament

The parliament of Uganda is the legislative arm of government and is charged with law reform and development for the country. The mandate of Parliament is basically to make decisions for the proper governance of the country in accordance with the law. This mandate involves making the laws by which the state must be administered. It is therefore recommended that, using this mandate, parliament:

- i) Desist from passing any more laws that restrict the freedom of conscience, expression and association as well as limiting civil society space in general

- ii) Refrain from passing laws that promote discrimination and marginalisation of some elements of the society to ensure equal opportunities and protection of the law for LGBT persons in Uganda
- iii) Condemn state actions that occasion gross violations of human rights of LGBT persons as and when they happen to discourage recurrence of such incidents
- iv) Remove the criminalisation of consensual same sex conduct from the Sexual Offences Bill, and only criminalise non-consensual acts.
- v) Ensure that government fulfils the obligations under the various international and regional human rights instruments to which Uganda is a party to protect, respect and refrain from abusing the rights of LGBT people as a section of the society by requiring the state to periodically report on the human rights situation

To the Uganda Human Rights Commission

The UHRC is the Constitutional body mandated to ensure enforcement of human rights and handle complaints arising from allegations of human rights abuses. After the pride raid in August 2016, HRAPF filed a complaint before the commission on behalf of Shawn Mugisha and the other activists who suffered violations at the hands of the Uganda Police Force. The UHRC can therefore contribute to the protection of the rights of LGBT people by:

- i) Hearing and disposing of the complaint that was filed about the pride raid, offering appropriate recompense to the victims of the abuses and accordingly penalising the perpetrators of these violations
- ii) Soundly condemning the violations suffered by LGBT persons at the time when they happen so that it is clear to the general public and to state functionaries that the fact that someone identifies as LGBT is no justification for the violation of their rights
- iii) Document violations of rights of LGBT persons and report on the status of human rights of LGBT people periodically to contribute to advocacy efforts towards the legal recognition of and protection for the rights of LGBT people

To The Equal Opportunities Commission

The Equal Opportunities Commission has continued to show positive support for the protection of all marginalised persons in Uganda, including LGBT persons, although this has not been concretised in any formal decisions or declarations. The EOC is therefore encouraged, for the protection of the rights of LGBT persons and ensuring access to equal opportunities for them, to:

- i) Formally declare LGBT persons among marginalized and vulnerable persons in Uganda and prioritise their access to the Commission in accordance with the EOC Act and the judgment of court in the case of *Adrian Jjuuko v Attorney General* (Constitutional Petition No.1 of 2009)
- ii) Report on the state of equal opportunities for LGBT people

- specifically as a marginalised group in the annual report produced by the Commission on the state of Equal Opportunities
- iii) Continue to support the empowerment of LGBT people by engaging with civil society organisations working on LGBT issues for the education of law enforcers and other duty bearers on the rights of LGBT people

To Civil Society Organisations

- i) Continue to provide support and legal assistance to LGBT people who have been victims of human rights abuses in order to enable them recover from the same
- ii) Continue to support realization of the full potential of LGBT persons by empowering them and building their capacities in different fields in order to reduce the marginalisation of sexual minorities in Uganda
- iii) Enhance the capacity of staff to identify, respond and document violations of human rights faced by LGBT persons to enable accurate reporting on the state of human rights of LGBT people in Uganda as well as support advocacy on the rights of LGBT persons
- iv) Continue to support efforts to raise awareness on issues faced by LGBT persons among duty bearers and the general public in order to foster deeper understanding and acceptance of the humanity and rights of LGBT people

- v) Engage in advocacy with health service providers to ensure access to health services for LGBT people in order to promote respect for and observance of their right to health
- vi) Develop capacity of staff to report on violations faced by LGBT persons and invest in accurate and effective reporting systems to ease collection and verification of data on the violations of rights of LGBT people
- vii) Create information sharing systems so that reports of violations can be used simultaneously by different persons/ organisations in advocacy for the rights of LGBT people
- viii) Participate in partnership efforts to monitor and report on violations based on sexual orientation and gender identity in order to strengthen reporting mechanisms and advocacy efforts

The Media

During the year 2016, a number of stories were run in the media with information deliberately slanted to be derogatory to LGBT people, to dehumanise and humiliate them, with little attention paid to the issues faced by these people, or their rights and interests. The media as an institution is a key opinion leader in Uganda and can use this influence to promote respect for the rights of LGBT people. It is therefore recommended that the media:

- i) Report objectively on issues of LGBT persons in Uganda, focusing on educating

- the general public and progressively reporting on the various issues coming up rather than on naming and shaming
- ii) Refrain from violating the privacy by reporting about private aspects of their lives where such aspects are not covered for purposes of passing on pertinent information to the readership, and refrain from sensationalising matters relating to LGBT people
 - iii) Treat all people with respect and dignity, regardless of gender identity, or sexual orientation.
 - iv) Learn about, monitor, and report on abuses of human rights that LGBT Ugandans face in order to contribute to evidence-based advocacy for the legal recognition and respect for the rights of LGBT persons.
- ii) Conduct continuing education for health workers to refresh them on their duties and obligations to patients as well as the emerging issues of LGBT people in order to enhance access to health services for LGBT persons
 - iii) Investigate and respond to complaints of professional misconduct against health workers through their professional councils to ensure that health workers show appropriate respect for the rights of their patients
 - iv) Continue to provide tailored solutions to the health challenges faced by LGBT persons as a key population group in order to curb the spread of epidemics such as Hepatitis and HIV as per the National Health Priority Action Plan

To The Ministry of Health

Violations of the health rights of LGBT people have always been rampant, with health workers in government facilities frustrating LGBTB people who go to them for help and discouraging them from returning by the attitudes of the health workers and the fact that some health workers do not respect their confidentiality. The Ministry of Health can intervene to help this situation in the following ways:

- i) Ensure the enforcement of the June 2014 Ministerial Directive on Access to Health Services without Discrimination, which includes Sexual orientation as a ground for non discrimination in health care service provision.

To The President of the Republic of Uganda

All legislation passing through parliament must be assented to by the President in order to have force of law except under special circumstances as laid out in the Constitution. This mandate gives the president extraordinary power to influence legal and policy development and change, and it is suggested that he use said influence to:

- i) Reprimand the Minister of Ethics and Integrity for acts done that violate the rights of LGBT people and explain the mandate of the Minister in order to avoid a recurrence of incidents of the Minister using his position to harass and intimidate LGBT people.

- ii) Veto legislation that is discriminatory on the basis of sexual orientation or gender identity and call upon the police and all intelligence agencies to investigate violations and abuse of the rights of persons based on their gender identity and sexual orientation.
- iii) Ensure that issues of non-discrimination are prioritised within the Cabinet and the executive generally.

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