



THE UGANDA REPORT OF HUMAN RIGHTS VIOLATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, 2021

With contributions from

Health and Rights Initiative
HOPE Mbale

Human Rights and Economic Empowerment Development (HUREED)

Freedom and Roam Uganda

Mbarara Rise Foundation

Tranz Network Uganda





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ABOUT HUMAN RIGHTS AWARENESS AND PROMOTION FORUM

Human Rights Awareness and Promotion Forum (HRAPF) is a voluntary, independent, non-partisan non-governmental organisation that works towards the protection and promotion of the human rights of marginalised communities in Uganda. HRAPF does this through the legal aid service provision, legislative advocacy, human rights awareness, research and community capacity enhancement. HRAPF operates a specialised legal aid clinic for marginalised persons and Most at Risk Populations.

ABOUT THE CONTRIBUTING ORGANISATIONS

Freedom and Roam Uganda (FARUG)

Freedom And Roam Uganda is one of the oldest organisations in Uganda that work on issues of sexual orientation and gender identity/expression through lobbying, dialogue, visibility and voice. It was established specifically to provide support services and conduct advocacy on the issues that affect lesbian, bisexual and queer women and transgender persons, and has over the years continued to provide services geared towards improving access to physical, mental and sexual and reproductive health and wellbeing of LBQ/T persons in Uganda. FARUG currently hosts a specialised legal aid desk for LBQ women that is operated in partnership with HRAPF.

Health Rights Initiative (HRI)

Health and Rights Initiative (HRI) is an organisation working with LGBTI persons, sex workers and PWUIDs in the Northern and West Nile regions of Uganda. The vision of the organisation is a society that provides equal opportunities and justice for all, and they work to advocate for justice and equal opportunities for marginalised persons through social and economic empowerment, advocacy and research on issues affecting KPs in the rural areas. HRI is committed to improving the livelihoods of KPs in the region and is also currently the host of HRAPF's regional legal aid centre in the Northern Region.

HOPE Mbale

HOPE Mbale is a non-profit organisation that promotes and advocates for human rights observance, quality health service provision and equal opportunities for all persons, particularly KPs, and is based in the Eastern Region of Uganda. The organisation offers health and legal support services to the LGBTQ community and sex workers in the area, and is currently the host of HRAPF's regional legal aid centre in the Eastern Region.

Mbarara Rise Foundation

Mbarara Rise Foundation (MRF) was founded in 2016 by a group of social activists and educators to advocate for high quality health services and the fundamental human rights of the LGBTQ community in western Uganda. The organisation is based in Mbarara and is the host of HRAPF's legal aid centre in the Western Region. The work of MRF focuses on improving access to health services, social justice and economic empowerment for KPs in the Western Region of Uganda.

Tranz Network Uganda

Tranz Network Uganda (TNU) is an indigenous not for profit umbrella organisation that brings together transgender and gender non-conforming persons (TGNC) and organisations in Uganda. TNU was established in July 2014 with the aim of supporting, coordinating and fostering collaboration among transgender and gender non-conforming persons' organisations, and focuses on advocacy for an improved legal and policy regime for the full realisation of the rights and dignity of TGNCs. Presently, TNU hosts a specialised legal aid desk for transgender and gender non-conforming persons that is operated in partnership with HRAPF.

PREFACE

The Uganda Report of Human Rights Violations Based on Sexual Orientation and Gender Identity, 2021 is the ninth edition of the report. This report tracks cases in which the human rights of LGBT persons were violated on the basis of their real or presumed sexual orientation and gender identity/expression (SOGIE) throughout the year 2021. Essentially, the report explores the human rights situation for LGBT persons in Uganda during the year 2021 with a strict emphasis on the rights of LGBT persons.

Following a particularly difficult year in 2020 where the LGBT community in Uganda was tested like never before in the wake of the COVID-19 pandemic, the attendant lockdowns and the economic pressures arising therefrom continued into 2021. The worrisome trends of outing and eviction of LGBT persons, raids on LGBT shelters and events and mass arrests of LGBT persons on the pretext of enforcing COVID-19 guidelines continued during the year.

2021 was also election year, traditionally a charged period for the LGBT community due to the over politicisation of LGBT issues in Uganda. The election period was charged with innuendo and insinuations about the support LGBT groups supposedly were lending to opposition politicians, and in addition to this, LGBT groups in Uganda continued to attract sensationalised media attention, particularly with the raid on the shelter of Happy Family Youth Uganda. These events continued to occur against the backdrop of the continued vagaries of the COVID-19 pandemic.

This report is a compilation of the verified incidents of violation of the rights of LGBT persons in the year 2021 that were based entirely, primarily or at least in part on their real or presumed sexual orientation and/ or gender identity. The report covers cases handled through the HRAPF legal aid network: the main legal aid clinic, the three regional legal aid centres, the two legal aid desks and the network of community paralegals, and contains only cases that have been independently verified through reference to case files, documentary evidence and interviews with the victims, lawyers and/ or paralegals that handled the cases.

The report tracks trends in both protection for and violation of the rights of LGBT persons in Uganda on the basis of SOGIE and is intended to support advocacy for a continuously improving legal environment for the protection of the rights of LGBT persons. It is vital that the human rights situation for LGBT persons in Uganda is continuously tracked and monitored as a measure of the success of the various efforts, including policy advocacy, strategic litigation and service delivery to inspire social change in favour of LGBT persons.

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Contents

ABOUT HUMAN RIGHTS AWARENESS AND PROMOTION FORUM	iv
ABOUT THE CONTRIBUTING ORGANISATIONS	v
PREFACE	vii
PROJECT TEAM	viii
GLOSSARY	xi
LIST OF ACRONYMS	xii
EXECUTIVE SUMMARY	xiii
1. INTRODUCTION	1
1.1. Methodology	2
1.2. Limitations	3
2. THE SOCIAL, LEGAL, AND POLITICAL DEVELOPMENTS THAT IMPACTED ON THE RIGHTS OF LGBT PERSONS DURING 2021	4
2.1. Developments in the legal and policy environment	4
2.2. Developments on the executive front	4
2.3. Developments on the executive front	5
2.4. Conclusion	6
3. PROTECTION OF PERSONS AT RISK DUE TO THEIR REAL OR PRESUMED SEXUAL ORIENTATION OR GENDER IDENTITY IN 2021	8
4. VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY DURING 2021	9
4.1. Introduction	9
4.2. Number of violations	9
4.3. Nature of violations perpetrated by state actors	9
4.3.1. Violation of the right to dignity and freedom from torture, cruel, inhuman and degrading treatment or punishment	10
4.3.2. Violation of the right to liberty	12
4.3.3. Violation of the right to equality and freedom from discrimination	16
4.3.4. Violations of the right to privacy	17
4.3.5. Violation of the right to freedom of conscience, expression, movement, religion, assembly, and association	18
4.3.6. Violation of the right to health	19
4.4. Cases of violation of human rights based on sexual orientation and/or gender identity or expression by non state actors in 2021	19
4.4.1. Violations of human dignity and cruel and inhuman treatment based on sexual orientation and gender identity	20

4.4.3. Violation of the right to family	23
4.4.4. The right to work and earn a living	23
4.5. Conclusion	23
5. PERPETRATORS OF HUMAN RIGHTS VIOLATIONS ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY DURING THE YEAR 2021	24
5.1. Introduction	24
5.2. Human rights violations by state actors	24
5.2.1 Violations by the Uganda Police Force	24
5.2.2 Local Government Authorities	24
5.2.3 Local Defence Unit of the Uganda Peoples Defence Forces	25
5.3 Human rights violations perpetrated by nonstate actors	25
5.3.1 Violations of human dignity by the general community	25
5.3.2 Violations by family members	25
5.3.3 Violations by landlords/ property owners	25
5.3.4 Violations by intimate partners	25
5.3.5 Violations by religious leaders	26
5.3.6 Violations by employers	26
5.4. Conclusion	26
6. GENERAL TRENDS OF REPORTED VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY DURING 2021	27
6.1. Analysis of trends 2021	27
6.2 Trends in number of rights violations	27
6.2.1 Trends in nature of violations	28
6.2.2 Trends in perpetrators of human rights violations	29
6.3. Conclusion	31
7. CONCLUSIONS AND RECOMMENDATIONS	32
7.1. General conclusion	32
7.2. Recommendations	32
ABOUT HRAPF	36

GLOSSARY

Bisexual:	A person romantically and/or sexually attracted to both men and women, though not necessarily at the same time
Case:	A separate set of facts involving the violation of a law or a right and which is included in one file. A single case can involve multiple persons and multiple violations arising from the same set of facts.
Gay:	A man romantically and/or sexually attracted to men
Gender identity:	A person's conception of self as male or female or both or neither
Homosexual:	A person attracted to persons of the same sex
Intersex:	A condition in which a person is born with a reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male
Key Populations:	Groups of people considered to be at a higher risk of contracting HIV and who often have less access to essential health services due to various socio-legal factors related to their identities/behaviour patterns
Lesbian:	A woman romantically and/or sexually attracted to women
Outing:	The act of disclosing a lesbian, gay, bisexual or transgender person's sexual orientation or gender identity without that person's consent
Perpetrator:	The person or institution responsible for causing a human rights violation or violations of human dignity
Sex:	The physical distinction between male and female (genitalia)
Sex worker:	An adult person who consensually offers sexual gratification in exchange for money or other material gains as a way of gainful employment
Sexual minorities:	A group of persons whose sexual orientation, gender identity, and/or practice differs from the majority of the surrounding community
Sexual orientation:	A person's emotional, physical and sexual attraction and the expression of that attraction with other individuals
Transgender:	Someone whose deeply held sense of gender is different from their biological sex assigned at birth
Trans-man:	A transgender person who was assigned the female sex at birth but identifies as male
Trans-woman:	A transgender person who was assigned the male sex at birth but identifies as female
Violation:	An act or set of acts that contravene a law that guarantees a right

LIST OF ACRONYMS

AG:	Attorney General
DPP:	Directorate of Public Prosecutions
EOC:	Equal Opportunities Commission
HIV:	Human Immuno-deficiency Virus
HRAPF:	Human Rights Awareness and Promotion Forum
LGBT:	Lesbian, Gay, Bisexual and Transgender
MSM:	Men who have Sex with Men
RDC:	Resident District Commissioner
SOGIE:	Sexual Orientation and Gender Identity/ Expression
UHRC:	Uganda Human Rights Commission
UPF:	Uganda Police Force
HFYUL:	Happy Family Youth Uganda Limited

EXECUTIVE SUMMARY

The 9th issue of the Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity, 2021, explores the happenings of the year 2021 in as far as they affected the rights of LGBT persons in Uganda. The report essentially considers information on human rights violations against LGBT persons gleaned from an exhaustive review of 470 case files handled by HRAPF across the entire legal aid network during the year. The report highlights specifically the violations of human rights that were based exclusively, principally or in large part on the sexual orientation or gender identity or expression of the victims, although the report also looks at and acknowledges the human rights violations that were not directly attributable to the SOGIE of the victims.

The report studies human rights violations based on sexual orientation and gender identity with a focus to the rights violated, as well as on the perpetrator of the violations reported. The rights that were most violated in the year 2021 included the right to dignity and freedom from torture, inhuman and degrading treatment, the right to equality and freedom from discrimination, the right to privacy and freedom of association and assembly. The perpetrators included the Uganda Police Force and Local Council Authorities on the state side and family, general community and property owners on the side of non-state actors.

The data for this report was collected through review and independent verification of cases involving LGBT people handled by HRAPF through the legal aid clinic, the regional legal aid centres and specialised legal aid desks and the network of community paralegals. While there were several cases in which violations were identified during the review of case files, the report contains only those cases that could be independently verified, and particularly focuses only on those cases in which the violations are at wholly or in part attributable to the SOGIE of the victim. A total of 470 cases were reviewed and examined for inclusion in this report. Out of these, 70 cases were found to contain verifiable proof of human rights violations, based on SOGIE.

Key Findings

1. There were 43 incidents of protection of the rights of persons who were at risk due to their sexual orientation and/or gender identity arising from two cases. 42 of these were by a magistrate in one case who dismissed a case against 42 LGBT persons for want of prosecution without any delays, and one incident was by local council officials who protected an LGBT person from violence by another person.
2. A total of 253 verified violations were committed against LGBT persons during 2021, based in whole or partly on the victim's SOGIE. 176 of these were human rights violations were committed by state actors and 77 were violations of human dignity committed by non-state actors.
3. The Uganda Police Force was the leading violator of the rights of LGBT people, accounting for 168 of the 176 violations by state actors.
4. The most violated right was the right to dignity and freedom from cruel, inhumane and degrading treatment. A total of 93 violations of this right were recorded, with state actors accounting for 63 of these violations while non-state actors were responsible for 30.

5. There was an increase in the incidence of anal examinations as a violation of the bodily integrity and dignity of LGBT persons, with 17 persons subjected to anal examinations during the year.

Key Recommendations

To the President of the Republic of Uganda

1. Refrain from making inflammatory remarks about LGBT people/ LGBT rights, which have been found to inflame homophobic bias and violence, and hold accountable all public officers who propagate such propaganda.
2. Veto legislation that could have a negative impact on the rights of any section of Ugandans, including LGBT people, in order to provide a conducive legal regime for the protection of the rights of LGBT people.
3. Move the office of the Attorney General and Parliament to make proposals for the reform of penal laws to remove references to the regulation of all forms of consensual sexual activity between adults as this violates the privacy and dignity of Ugandans.
4. Publicly condemn acts of violence and discrimination against vulnerable minorities, including LGBT persons, by both state and non-state actors, and call on the responsible authorities to ensure that all such incidents are fully investigated and the perpetrators penalised.

To Parliament

1. Consider seriously and expeditiously the proposals for the reform of Uganda's criminal laws, particularly the Penal Code Act, with specific emphasis on sections of the law that criminalise consensual same-sex sexual relations and sections of the law that create vague and broadly worded petty offences that have been used to arbitrarily arrest and punish persons who are generally considered "socially undesirable", including LGBT persons.
2. Ensure that the government fulfills its international and regional human rights obligations to all without any discrimination through enacting laws that affirm the inherent dignity and humanity of all persons in line with these obligations.

To the Uganda Police Force

1. Step up efforts to educate all police officers on the laws that affect LGBT people in order to define clearly the limits of the current law as it is, which will address the prevalent perception among police officers that it is illegal to identify as LGBT in Uganda.
2. Continue to engage police officers in human rights trainings in order to address the challenges of marginalisation and human rights abuses against LGBT people in law enforcement and to actualise the human rights based approach to policing in Uganda.
3. Strengthen and effectively manage complaints procedures and mechanisms available to the communities in Uganda for dealing with wanton abuses of power by individual police officers in order to ensure that victims of such arbitrary violations get redress and to discourage such conduct among the police force.

4. Investigate and address all cases of violence and other acts of criminality and human rights violations against LGBT people that are reported to the police in order to effectively fulfil the mandate to 'protect and serve' as far as the LGBT community is concerned.

To the Uganda Law Reform Commission

1. Develop proposals based on internationally recognised human rights standards for constitutionally compliant alternatives to laws creating petty offences that protect the rights of all persons.
2. Fasttrack efforts to develop a proposal for the amendment of the Penal Code Act to repeal the sections that criminalise consensual same-sex relations in line with international human rights standards.
3. Develop proposals for laws that appropriately define and penalise hate speech against unpopular minorities

To the Uganda Human Rights Commission

1. Continue to develop and publish comprehensive annual reports on the state of human rights in Uganda that fairly reflect the human rights situation in the country, and make efforts to include specific data on SOGIE-based violations as well.
2. Demand action and accountability from the state for all human rights violations reported, including those that are tacitly condoned or otherwise unaddressed by State Authorities.
3. Hear and dispose of cases involving violations of the human rights of LGBT persons that are pending before the Commission's Complaints and Investigations Directorate.
4. Develop proposals to amend laws that are discriminatory and which do not align with the Constitution of the Republic of Uganda and its international obligations.

To the Equal Opportunities Commission

1. Document and investigate systemic and institutionalised discrimination based on sexual orientation and gender identity, and make recommendations for the elimination of such systemic and institutionalised discrimination.
2. Continue to train EOC staff to build their capacity in the documentation and handling of matters of discrimination and marginalisation based on sexual orientation and gender identity.
3. Include cases of discrimination based on sexual orientation and gender identity in the Annual State of Equal Opportunities Reports to Parliament.

To the Civil Society Organisations

1. Continue to engage all organs of state that are implicated in the abuse of the rights of LGBT people, including the UPF and local councils, to discuss their obligations in protecting the rights of all persons.
2. Engage the Parliament, the Uganda Human Rights Commission, the Equal Opportunities Commission, the Uganda Law Reform Commission and all other bodies mandated to

consider the human rights implication of laws or to make laws to discuss the negative impact of laws that affect the rights of LGBT persons in order to advocate for positive change.

3. Continue to challenge human rights violations suffered by LGBT persons by making use of the Human Rights (Enforcement) Act 2019 to hold individual perpetrators of violations, particularly those who use state power to do so, liable for their actions.
4. Advocate for the adoption of laws that protect LGBT people from hate crimes ranging from hate speech to physical violence against LGBT people on basis of their sexual orientation or gender identity.
5. Sustain Civil Society Organisation's partnerships developed for the monitoring and documentation of LGBT rights violations to support further advocacy and continue developing capacities for monitoring and documentation of human rights violations based on sexual orientation and gender identity.
6. Intensify advocacy efforts towards the decriminalisation of petty offences as an avenue of addressing legal barriers to human rights protection for LGBT persons in Uganda.
7. Intensify advocacy efforts towards legal recognition of transgender identities and legal protection of the rights of transgender and gender non-conforming persons in order to address the trends of transphobic violence especially by state actors.
8. Continue holding sensitisation campaigns among the general public on matters of human rights and sexual and gender diversity in order to increase awareness and address homophobic bias and violence that stems from misinformation and negative stereotypes about LGBT people.

1. INTRODUCTION

2021 was a combination of two separate but also related momentous events that have been known to significantly affect the human rights situation for LGBT persons in Uganda: COVID-19 (and all its accompanying restrictions and well documented difficulties for LGBT persons) and the 2021 Presidential and Parliamentary elections. During this year, LGBT persons grappled with the usual to high levels of homophobia, transphobia, lesbophobia, biphobia, tacitly encouraged by the unfavourable legal and policy framework, as well as dealing with the extra vulnerabilities brought about by the election period and the COVID-19 pandemic. As such, the year 2021 presented unique difficulties for the LGBT community, thrusting more LGBT people into the limelight both through the politicking and electioneering activities of politicians as well as actions of police and local authorities in invading LGBT organisations and events and sensationalising arrests involving LGBT persons.

In this 9th issue of the Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity, the efforts made by different state actors to improve on the human rights situation for LGBT persons and provide protection against violations/redress for violations as well as the violations of human rights and human dignity against LGBT persons on the basis of SOGIE are examined to gain a general overview of the human rights situation for LGBT persons in Uganda during the year. This report is published on annual basis and takes into account data on human rights issues collected from cases concerning LGBT persons that were recorded by the different contributing organisations, which cases are independent verified, and this issue of the report focuses on cases recorded in 2021.

The report makes an analysis of the human rights situation for LGBT persons in Uganda as it has evolved over the years, comparing the quantitative figures for the four previous years as well as the qualitative experiences of LGBT persons who experienced human rights violations in those years to the current year, thus enabling a clear tracking of the changes in the situation of LGBT persons in Uganda. The report considers quantitative changes in the number of human rights violations reported as well as trends in terms of rights most commonly violated, common violators of these rights, legal and policy changes and other developments that determine/ influence the human rights situation for LGBT persons.

In this report, the violations are classified based on the type of rights violated as well as the perpetrators of these rights violations, that is, state as opposed to non-state actors. Incidents of human rights violations that stood out during the year are highlighted throughout the report to give a clearer more concise understanding of the situation for LGBT persons that suffered specific violations throughout the year 2021. The report presents verified human rights abuses and violations based on sexual orientation and gender identity or expression documented by HRAPF through its central legal aid clinic and regional legal aid centres, specialised legal aid desks, trained community paralegals as well as contributing partner organisations. It provides evidence of the human rights violations suffered as well as the protections enjoyed by the LGBT community in the year under review.

1.1. Methodology

The data for the violations report was compiled using both quantitative and qualitative methods of research. Quantitative data was collected through review of physical files to establish the number of verified violations reported to HRAPF on the basis of SOGIE during the course of 2021.

Qualitative data was collected by reviewing files of the cases of LGBT persons reported to HRAPF and contributing partner organisations during 2021 in order to establish the nature of the violations, the identity of the perpetrators, the motivation behind the commission of the violations and the steps taken by both state and non-state actors to address reported violations.

All the cases which on the face of the facts raised the likelihood of human rights violations having been committed were then subjected to independent verification with the aim of finding as much corroborative evidence as possible to prove each violation that is included in the report. The violations reported that could not be independently verified were not included in this report, and neither were violations where it was not proveable that they were based on the victim's SOGIE wholly or in part.

The data was collected through the following methods:

a) Review of case files

Data was collected by reviewing case files kept by HRAPF and the contributing organisations during the year 2021. This provided both qualitative and quantitative data on the number and nature of violations committed against LGBT persons during 2021. All the cases files were physically reviewed in reference to an established human rights violations reporting tool, and only those violations that could be conclusively related, either wholly or in part, to one's SOGIE were included in the final report.

b) Review of documentary evidence

In every case in which it was established on the face of the facts on file that the client might have suffered a human rights violation, efforts were made to corroborate these facts with regard to documentary evidence on the file. Special regard was paid to police forms, including bond forms, medical examination forms, post mortem report forms, search certificates and warrants, etc.; court documents, such as bail forms, records of proceedings, judgments/ rulings, community service orders etc.; and other documentation such as agreements/ contracts, photographs, medical records, etc. These were necessary to ensure independent verification of all data collected.

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

In cases where violations could not be verified through review of the documents on file, efforts will be made to find corroborating evidence by directly interviewing persons that were involved in the cases, including the clients/ victims themselves, the witnesses, officers, lawyers and community paralegals that were involved in the handling of the cases.

1.2. Limitations

While the aim of this report is to provide a comprehensive overview of the human rights situation for LGBT persons in Uganda in the year 2021, it is worth noting that there were some limitations faced in developing this report:

- The network of LGBT organisations across the country with the capacity to monitor and document human rights violations is still insufficient, with the organisations still concentrated in the central region. However, HRAPF has established a legal aid network of partner organisations across the major cities of the country, with field offices in three other cities besides Kampala, in order to widen the network. The cases documented by community paralegals across the country (a network of nearly 200 persons) were also taken into account to provide a fuller picture. As such, while there is still a concern that the report hardly covers the experiences of LGBT persons across the country, efforts have been made over the years to ensure reporting and redress mechanisms through HRAPF's legal aid network reach all regions of the country, thus managing this limitation in part.
- Documentation standards are still lacking due to challenges in properly verifying violations brought about by insufficient documentation from paralegals and partners. However, in 2021, HRAPF conducted trainings for partners and community paralegals on documentation of human rights violations, and as such, there has been a general improvement in documentation standards, although there is still a long way to go to ensure proper documentation of all reported cases for purposes of easy independent verification.

2. THE SOCIAL, LEGAL, AND POLITICAL DEVELOPMENTS THAT IMPACTED ON THE RIGHTS OF LGBT PERSONS DURING 2021

2.1 Introduction

Uganda, much like the rest of the world, continued to struggle with the COVID-19 pandemic, which continued to adversely affect the social and economic realities of the majority of Uganda's marginalised and vulnerable populations, including LGBT persons. The restrictions imposed by the state to curb the spread of COVID-19, as well as the somewhat selective enforcement of the same, with very little effort on the part of the government to alleviate the impact of these restrictions, continued to weigh heavily on a large part of the population, particularly affecting minorities like LGBT persons.

2021 was also election year, with the government organising elections for the offices of the President, members of parliament and various offices at local government level, all of which were preceded by heated, often violent, campaigns from the last months of 2020 to at least February 2021, and which were then survived by a continuing discourse on the political concerns in the country, including LGBT rights. On the international level, a feeling of renewed hope for the future of LGBT rights was ushered in with the January swearing in of a new President in the USA that is more supportive of LGBT rights, re-invigorating advocacy and funding efforts for both advocacy and service provision for LGBT people across the world, including in Uganda.

As this report will highlight, there were several incidents through the year 2021 that marked particularly egregious violations of the rights of LGBT persons generally, not the least of which is the raid on the shelter operated by Happy Family Youth Uganda Limited (HFYUL),¹ which will be discussed in more details later.

2.2 Developments in the legal and policy environment

a) The passing of the Sexual Offences Bill, 2019: On 3 May 2021, Ugandan Parliamentarians enacted the Sexual Offences Bill, 2019. Clauses 16 and 17 of the 2015 Bill reproduced section 145 of the Penal Code Act and proposed to widen its provisions by expressly defining carnal knowledge against the order of nature to include anal sex and expressly criminalising all sexual activity between persons of the same gender, thus effectively extending criminalisation to women as well. The discussions on the Bill brought the debate on LGBT rights back into the public domain. Fortunately, on 3 August 2021, President Museveni rejected the Bill and returned it to Parliament on the basis that it covers offences already provided for in the Penal Code.

¹ HRAPF/VR/054/2021.

b) The dismissal of the criminal case against the Happy Family 42

On 31st May 2021, the police raided a shelter operated by Happy Family Youth Uganda Limited in Wakiso on the pretext that the people at the shelter were holding a wedding for a gay couple. 44 of the people who were attending a social gathering at the shelter were rounded up by police authorities, subjected to beatings, groping and other undignified acts, not the least of which was being forced to look into a camera and admit to being gay or being the bride or groom at the 'wedding', before being taken to Nansana Police Station, where 16 of them were subjected to anal examinations before the charges against them were changed to doing a negligent act likely to spread infection of disease. 42 persons in the group were detained for two days before being produced in court, where they were granted bail.²

However, when the matter came up for hearing in November 2021, the case was dismissed for want of prosecution and all the 42 accused persons (who had been charged) released unconditionally. The case was dismissed on the very first date it came up for hearing after the release on bail, indicative of a possible understanding by the magistrate of the homophobic undertones to the case rather than a genuine desire to enforce COVID-19 prevention guidelines.

c) Court decisions on the legalisation of consensual same-sex relations in Africa Countries

In 2021, November Botswana's Court of Appeal upheld a ruling of the High Court decriminalising consensual same sex sexual relations in a landmark ruling that saw an end to the colonial era law that have plagued LGBT people in Botswana for decades.³ This decision, came a few months after a decision of the Constitutional Court of Kenya upholding similar laws⁴. The Court declared such laws obsolete and noted that they had outlived their usefulness, emphasised the urgent need for reform of laws concerning the subject but also debunked to a certain extent the widely held belief that homosexuality is unAfrican. This decision of the court was a significant triumph for the LGBT community in Botswana as well as the rest of Africa, as such changes eventually influence change elsewhere.

2.3 Developments on the executive front

a) The 2021 general elections

In 2021, the country held general elections to fill the offices of the President, members of parliament and local government councils. Earlier, the President and Minister of Security had linked LGBT people to 'terrorists' and 'subversive' groups,⁵ and this narrative did not

² Above.

³ Letsweletse Motshidiemang v The Attorney-General MAHGB-000591 -1 6.

⁴ EG & 7 others v Attorney General; DKM & 9 others (Interested Parties); Katiba Institute & another (Amicus Curiae), Petitions No. 150 and 234 of 2016.

⁵ 'Government investigating People Power links with "hybrid" terror group called Red Movement' Nile Post, 4 October 2019 <http://nilepost.co.ug/2019/10/04/government-investigating-people-power-links-with-hybrid-terror-group-called-red-movement/>, accessed July 20 2022.

cease during election period, where the LGBT rights issue was used in a smear campaign against some candidates. LGBT people were thus forced into the limelight as a result of the politicisation of LGBT issues in the country. Given the fact that the country was still grappling with COVID-19 at the time and the community of LGBT people were still suffering human rights violations that were magnified by the pandemic, the election period introduced a further cause of fear and concern among the LGBT community as the political discourse served to further galvanise homophobic hate and violence.

b) The continued shrinking of the civic space for advocacy and promotion of the human rights of LGBT persons

The operating environment for Civil Society Organisations in Uganda has remained uncertain, with the state taking deliberate steps since the enactment of the Non-Governmental Organisations Act, 2016 with its onerous licensing requirements for NGOs, targeting leaders of NGOs for baseless arrests,⁶ suspending without prior notice the activities of several NGOs,⁷ random raids on the premises of LGBT organisations by police and local authorities, etc.⁸ The year 2021 saw the state taking bolder moves to curtail the activities of NGOs, particularly those working on issues of governance and election monitoring, including the rather surprising suspension of the European donor fund, the Democratic Governance Facility (DGF) on 2 January 2021, ahead of the 14 January elections,⁹ forcing a degree of self-censorship among several NGOs. One of these organisations, Chapter Four, successfully challenged the indefinite suspension by the NGO Board in court.¹⁰

The legal framework on prevention of money laundering and terrorist financing has continued to provide a useful avenue through which the state controls the activities of CSOs, with more recent efforts being focused towards controlling NGO financing through a circular from the Ministry of Internal Affairs requiring that all financing to NGOs from development partners be first approved by government.

2.4 Conclusion

All the above developments worked together to ensure an increasingly restrictive environment in which NGOs and HRDs must continuously be cautious of their activities and statements to avoid being targeted by the state for the conveniently vague transgression of engaging in activities that are prejudicial to 'national security and the

⁶ 'Uganda's top human rights lawyer Nicholas Opiyo was jailed ahead of elections.' RFI 23 December 2020. <https://www.rfi.fr/en/africa/20201223-uganda-s-top-human-rights-lawyer-nicholas-opiyo-jailed-ahead-of-elections-bobi-wine-yoweri-museveni>. (accessed 20 July 2022)

⁷ Human Rights Watch, 'Uganda: Harassment of Civil Society Groups', 27 August 2021, <https://www.hrw.org/news/2021/08/27/uganda-harassment-civil-society-groups>, (accessed 20 July 2022).

⁸ N 1 above; HRAPF/VR/070/2021; HRAPF/VR/004/2021.

⁹ Freedom House, 'Uganda: Suspension of Democratic Governance Facility Highlights Growing Concerns', <https://freedomhouse.org/article/uganda-suspension-democratic-governance-facility-highlights-growing-concerns>, accessed 20 July 2022.

¹⁰ Human Rights Watch, 'Court Ends Suspension of NGO in Uganda', 24 May 2022, <https://www.hrw.org/news/2022/05/24/court-ends-suspension-ngo-uganda>, accessed 20 July 2022.

dignity and interests of the people of Uganda'.¹¹ LGBT persons themselves continued to suffer from state harassment due to the selective enforcement of COVID-19 restrictions, while at the same time facing the challenges of being scapegoats during the elections period. All these factors combined together to influence developments during the year 2021.

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¹¹ Article 44 on the Special Obligations of NGOs.

3. PROTECTION OF PERSONS AT RISK DUE TO THEIR REAL OR PRESUMED SEXUAL ORIENTATION OR GENDER IDENTITY IN 2021

While the human rights situation for LGBT persons in Uganda remains unquestionably dire, with hundreds of incidents of wanton violations of the basic dignity and equality of LGBT persons on the basis of their SOGIE being documented on an annual basis, it is also important to note that there are occasional outstanding moments of protection of the rights of LGBT persons by state authorities as well as engagements and programs meant to improve the overall situation for improved human rights protection for LGBT persons. For nearly two decades now, LGBT organisations in Uganda and allies, including Human Rights Awareness and Promotion Forum, have engaged in advocacy campaigns aimed at improved social acceptance for LGBT persons in Uganda, with significant success in some areas.

In this regard, HRAFP continued to engage the Uganda Police Force in trainings on marginalisation and the rights of LGBT persons when they come into contact/ conflict with the law, engaging 163 police officers through 9 trainings, sanctioned by the Human Rights and Legal Affairs Directorate of the Uganda Police Force, much like has been the case in previous years.¹² Similarly, 145 local council leaders were reached with information on human rights challenges of LGBT persons through trainings and dialogues.¹³

During the year 2021, the courts of law supported and upheld the rights of 42 LGBT persons not to be subjected to a lengthy trial over baseless charges in the case of the raid on the Happy Family shelter. In that case, the 42 persons who had been charged with 'doing a negligent act likely to spread infection of disease' after being arrested at a social function had their right to liberty upheld by the magistrate when he released them on bail at first application and dismissed the case for want of prosecution when the state failed to produce witnesses when the case came up for trial. Usually, such people are denied bail at first application, and the cases are only dismissed after numerous adjournments despite it being clear that the charges can never be proved since the arrest was motivated by their assumed or real sexual orientation/gender identity and the charges are simply a way of punishing them without the need to secure a conviction.¹⁴

There was one further recorded incident in which LC leaders took action to protect the rights of a gay man. In this case, the client complained to the LC leadership after noticing that his neighbour constantly verbally harassed him and spread rumours about him throughout the village that he was a homosexual who was out to recruit children from the village. When he reported this, the neighbour was summoned to the LC council meeting, where she was cautioned to stop spreading information that could hurt the client. She was further advised to move if she found it difficult to live near the client.¹⁵

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¹² HRAFP Annual Report 2021.

¹³ Above.

¹⁴ N 1 above.

¹⁵ HRAFP//VR/020/2021.

4. VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY DURING 2021

4.1. Introduction

Despite the latent homophobia and transphobia that colours the daily lives of LGBT persons in Uganda and exposes them to a myriad of human rights violations, the Constitutional framework on the protection of human rights for all remains clear and succinct, that human rights are inherent and not granted by the state.¹⁶ The Constitution further emphasises the duty of all persons and all organs of government to uphold the rights guaranteed in the Constitution.¹⁷ This section of the report discusses the various incidents in which the human rights of LGBT persons as guaranteed in Chapter Four of the Constitution were violated, focusing specifically on the nature of the rights violated. The section discusses both the numbers of the violations verified as well as provides contextual examples and highlights of outstanding incidents of violation of each right reported. It covers violations by both state and non state actors.

4.2. Number of violations

A total of 253 human rights violations were committed against LGBT persons based on their sexual orientation and gender identity in 2021, of which 176 were human rights violations committed by state actors while 77 were violations perpetrated by non-state actors where the state failed in its obligation to protect LGBT persons from abuses of their rights by non state actors. This number is lower than the total number of violations committed against LGBT persons in 2020, which was 289 (196 by state actors and 93 by non-state actors),¹⁸ and higher than the number recorded in 2019, which was 236.¹⁹

4.3. Nature of violations perpetrated by state actors

This section discusses the specific rights of LGBT people that were violated during the year 2021. The violations were mostly of the rights to equality and freedom from discrimination, liberty, dignity and freedom from cruel, inhuman and degrading treatment, health, privacy, family, expression, association and assembly. The major rights of LGBT people that were violated in the year 2021 occurred against the backdrop of COVID-19 lockdowns and the election campaigns, as will be covered in the preceding section.

¹⁶ Article 20(1) of the 1995 Constitution of the Republic of Uganda.

¹⁷ Above, Article 20(2).

¹⁸ Human Rights Awareness and Promotion Forum 'The Uganda Report of Human Rights Violations Based on Sexual Orientation and Gender Identity' 2020.

¹⁹ Human Rights Awareness and Promotion Forum 'The Uganda Report of Human Rights Violations Based on Sexual Orientation and Gender Identity' 2019.

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

This right is guaranteed under articles 24 and 44 of the Constitution of the Republic of Uganda, Article 5 of the African Charter on Human and Peoples' Rights, Article 7 of the International Covenant on Civil and Political Rights and the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment. It is also emphasised in Articles 1 and 5 of the Universal Declaration of Human Rights, and is a non-derogable right under both domestic and international law.²⁰ Despite the legal prohibitions against torture and cruel, inhumane and degrading treatment, it is a fairly common occurrence for LGBT people in Uganda to be subjected to such treatment, both by state functionaries and other persons, and even more common for such violations to go unaddressed.

In the year 2021, there were 93 recorded instances of the violation of the right to dignity and freedom from cruel, inhuman and degrading treatment or punishment. Of these, 63 were violations by state actors. There were 17 incidents of anal examinations conducted on suspected gay men and transgender women by police surgeons. In one particular case, there were 44 verified violations committed by police officers against a group of LGBT people.²¹ This section discusses specific reported incidents in 2021.

Article 1 of the CAT²² defines torture to mean any act by which severe pain or suffering, whether physical or mental, is inflicted upon a person for such purposes as obtaining information or a confession from that person or a third party, punishment for an act done by that person or a third party, intimidation or coercion of that person or a third party or for any reason based on discrimination of any kind, particularly when this is done by or at the instigation of or with the consent or acquiescence of a public official. This definition is similar to the definition of torture under section 2 of the Prevention and Prohibition of Torture Act of 2012.

Cruel, inhuman or degrading treatment or punishment on the other hand is not clearly defined either by the convention or the Act, although they both recognise it to be maltreatment much like the case in torture but not reaching the standard set for torture.²³ The International Committee of the Red Cross has defined cruel or inhuman treatment to consist of acts which cause serious pain or suffering, whether physical or mental, or which constitute a serious outrage upon individual dignity, even without a specific purpose as is required for torture, while humiliating or degrading treatment consists of acts which cause real and serious humiliation or a serious outrage upon human dignity, and whose intensity is such that any reasonable person would feel outraged.²⁴ It is common in Uganda for police and local authorities to take actions to humiliate and embarrass suspected LGBT persons, including forced marches through the village while

²⁰ Article 44 (a) 1995 Constitution of Uganda; Article 4(2) of the International Covenant on Civil and Political Rights. See also General Comment 20 of the Human Rights Committee on Article 7 (adopted at the forty fourth session), HRI/GEN/1/Rev.1 at 30 (1994).

²¹ N 1 above.

²² UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

²³ Section 7(1), Prevention and Prohibition of Torture Act, 2012.

²⁴ International Committee of the Red Cross, 'Torture and other forms of ill-treatment: The definitions used by the ICRC', January 2016. <https://www.icrc.org/en/document/torture-and-other-forms-ill-treatment-definitions-used-icrc>, accessed 31 July 2022.

broadcasting their sexuality and calling on the neighbours to come and see, forcefully recording and circulating embarrassing videos about LGBT people as well as undressing transgender and intersex persons for curiosity's sake, often in presence of several people, allegedly to ascertain their gender. The coup de grace however remains the insistence of the Uganda Police Force in conducting painful, humiliating and unnecessary anal examinations on suspected LGBT persons, allegedly to prove that they have had anal sex, despite evidence that these exams are evidentially irrelevant.²⁵

In 2021, 63 incidents of the violation of the freedom from torture, cruel, inhuman and degrading treatment by state actors were recorded as noted above. The most outstanding incidence of this happened when police authorities raided a crisis shelter operated by HFYUL in Wakiso district, interrupted a social function on the grounds that it was a gay wedding, arrested 44 people and beat up, fondled and forced some of them to undress, then forced them to submit to a recording, which was done on phone by a police officer and later circulated on social media, in which he repeatedly insulted and referred to them using derogatory words, forced them, with threats of violence, to say that they are homosexuals and to admit that they were at a gay wedding, while also forcing some of the transgender women who had cross-dressed to admit to being the 'bride', 'mother of the bride', etc.²⁶ In addition to all this harassment and humiliation, once the group was taken to the police station, 16 of them were subjected to anal examinations that nearly all of them reported they experienced as a form of sexual violence, and these examinations were done in an office at the police station by a nurse in the presence of at least two police officers.²⁷ All this was done despite the official charge being 'doing a negligent act likely to spread infection of disease', contrary to section 171 of the Penal Code Act.

In another case, a gay man was arrested from his home and at the point of arrest, the arresting officers told him that the matter was about cyber harassment. When he reached the police station, however, he was told that he was arrested for homosexuality, and he was immediately taken for an anal examination.²⁸ There was also one recorded case of a gay man who was arrested on allegations of homosexuality, kept in custody for 13 days at two different police stations and beaten and harassed by police officers in a bid to force him to admit to being gay.²⁹

The phenomenon of publicly undressing transgender people was also noted in 2021 in a case where a man attacked a transgender woman in a public market, insisting that she was a male and attempting to assault her. He was stopped by onlookers, who however took her to the police station and then stayed while the police officers undressed her, allegedly to ascertain her gender, before charging her with personation.³⁰ A similar incident

²⁵ Human Rights Watch, 'Global medical body condemns forced anal examinations: Doctors worldwide should halt abusive 'homosexuality' tests', <https://www.hrw.org/news/2017/10/17/global-medical-body-condemns-forced-anal-exams>, accessed 31 July 2022. See also Independent Forensic Experts Group, Statement on anal examinations in cases of alleged homosexuality, in Torture, Volume 26 number 2 of 2016, page 85 to 91. <https://irct.org/uploads/media/306a591c5f8207f6107f5c11e8c5c4fc.pdf>, (accessed 31 July 2022).

²⁶ Above.

²⁷ Above; sworn statements of the victims on file with HRAPF.

²⁸ HRAPF/VR/037/2021.

²⁹ HRAPF/VR/053/2021.

³⁰ HRAPF/VR/043/2021.

occurred where a transgender woman was taken to the police station for ‘dressing like a woman’, forced to undress before police officers and some visitors to the station and then charged with being a common nuisance.³¹

4.3.2. Violation of the right to liberty

The right to liberty is guaranteed under Article 23 of the Constitution of Uganda, which lays down specific circumstances under which one’s liberty may be curtailed,³² but also provides certain basic guarantees, including barring arbitrary arrests, where there is no reasonable suspicion that a person has committed an offence or for an action or circumstance that does not constitute an offence under the laws of Uganda³³ and prolonged detention (where a person is detained longer than 48 hours without being produced before a court of law)³⁴ as well as being informed in a language one understands of the reasons for the arrest;³⁵ access to one’s lawyers, doctors and next of kin and access to medical attention where necessary.³⁶

Ordinarily, the right to liberty is routinely abused for all persons in Uganda, with arrests on the basis of vague and ill-defined petty offences being rampant,³⁷ as is the practice of holding people in detention for more than 48 hours. For LGBT persons, the violation of this right is far more common, with arbitrary arrests for non-existent offences based on the apparent/ presumed sexuality or gender identity of the victims being the most common.

In 2021, 74 violations of this right were confirmed to have stemmed from the real or presumed SOGIE of the victims. The 74 violations of the right to liberty on the basis of SOGIE arose from 23 cases, and of the 74, 66 were violations of freedom from arbitrary arrests while 8 were violations of freedom from prolonged detention. All of these violations were perpetrated by state actors.

a) Freedom from arbitrary arrest

Under Uganda’s Constitution, There are six specific circumstances in which a person’s liberty may be legally restricted, alongside other circumstances ‘as many be prescribed by law’.³⁸ Where an arrest is made in line with any one of these six circumstances, that arrest is lawful and therefore not arbitrary. However, it is necessary to consider that for the majority of LGBT persons in Uganda, arrests are based, not on a suspicion that they have committed an offence, but on the suspicion that they self-identify as LGBT, which is

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³¹ HRAPF/VR/047/2021.

³² 1995 Constitution of Uganda, Article 23(1) (a) – (h).

³³ Above, Article 23(1) (c); Article 28(12).

³⁴ Above, Article 23(4)(b).

³⁵ Above, Article 23(3).

³⁶ Above, Article 23(4)(b) and (c).

³⁷ Human Rights Awareness and Promotion Forum, The implication of the enforcement of the ‘idle and disorderly’ laws on the human rights of marginalised groups in Uganda, Kampala, 2016. <https://hrapf.org/index.php/resources/research-reports/32-160929idleanddisorderlyresearchfinalreport/file>.

³⁸ Constitution of Uganda, n 32 above.

not a legal basis for an arrest and is therefore arbitrary.³⁹ Other circumstances in which an arrest may be considered arbitrary or unlawful include arrests for purposes of extorting bribes,⁴⁰ which is a fairly common occurrence for marginalised communities in Uganda.⁴¹

There were 66 incidents of arbitrary arrests of LGBT persons during 2021, where LGBT persons were arrested in the absence of reasonable suspicion that they had committed a crime, or were about to commit a crime; where LGBT persons were charged with non-existent crimes and detained for days on the basis of such crimes; where arrests were motivated purely by the desire to extort bribes from suspected LGBT persons and circumstances where people were arrested on allegations of committing sexual offences and then charged with entirely different offences following the highly publicised arrests.

In May 2021, a group of 44 persons, who were attending a party at an LGBT crisis shelter in Nansana Municipality in Wakiso district, were arrested when police officers raided the venue, paraded before cameras and forced to admit that they were at a gay wedding, with the transgender women specifically being forced to admit to things like being the bride, the mother of the bride, etc. These interactions were all recorded by a police officer and the recordings shared. However, when the group was taken to the police station, they were all charged with 'doing a negligent act likely to spread infection of disease', despite the fact that this was not mentioned at all at the point of arrest, and the basis for the arrest was the suspected sexuality of the victims.⁴²

In another case, a gay man was arrested from his home and taken to Ttuba Police post by two police officers, who informed him that the arrest was because they suspected that he was selling opium. On reaching the police station, however, he was informed that he had been arrested for homosexuality, was subjected to prolonged interrogation and then later released without any charges being preferred at all.⁴³ In a similar incident, a gay man was arrested on allegations of cyber harassment and taken to Lugoba Police Post, where he was told that he was arrested for homosexuality. He was subjected to an anal examination, after which he was unconditionally released.⁴⁴

There was also a well documented trend of suspected LGBT persons being arrested on that basis alone, and then charged with offences that do not exist at all, as have been witnessed in previous years.⁴⁵ In 2021, there were 21 documented incidents in which LGBT persons were arrested purely on suspicion that they were LGBT, which is not a criminal offence. In 5 of these cases, the victims were released without any charges at all, while in 8 cases, they were charged with offences that do not exist. In one such case, a gay man was arrested for alleged cyber harassment, but when he was taken to police,

³⁹ HRC General Comment No. 35 on Article 9 (Liberty and Security of the Person), CCPR/C/GC/35, December 2014, page 3, para 11.

⁴⁰ Above, page 5, para 17.

⁴¹ See generally n 37 above.

⁴² N1 above.

⁴³ HRAPF/VR/038/2021.

⁴⁴ HRAPF/VR/037/2021.

⁴⁵ See for instance Human Rights Awareness and Promotion Forum, Uganda Report of Human Rights Violations based on Sexual Orientation and Gender Identity, 2020, June 2021. <https://hrapf.org/index.php/resources/violation-reports/222-2020-uganda-report-of-human-rights-violations-based-on-sexual-orientation-and-gender-identity/file>, accessed 26 July 2022.

he was charged with 'homosexuality' and subjected to an anal examination.⁴⁶ In another similar case, a gay man was arrested and detained for two days at a police station in Kampala for 'gayism',⁴⁷ while two gay men and one transgender woman were detained overnight at a police post in Kampala for 'hanging out with homosexuals', although they were not formally charged.⁴⁸ A similar incident happened where a gay man was arrested by members of the Local Defence Unit (LDU) in Lugazi and taken to the police station, where he was charged with 'attempted homosexuality'.⁴⁹

In five such cases, clients were arrested on basis of their apparent sexuality, and then charged with unrelated offences. In one of these cases, 44 persons were arrested from a shelter operated by HFYUL on the allegation that they were conducting a gay wedding (in itself not a crime under the laws of Uganda), and 16 of them were subjected to anal examinations in order to prove their engagement in 'homosexual practices', and yet in the end they were charged with 'doing a negligent act likely to spread infection of disease'.⁵⁰ In another such case, a transgender woman was assaulted in the market by a man who claimed she was biologically male and who rallied a crowd to undress her and ascertain her gender. When police officers came to the scene, however, they reacted by arresting her, subjecting her to a humiliating body search to ascertain her gender before being detained for 'personation'.⁵¹ In another case, two gay men were arrested in Nansana on the allegation they were homosexuals and that they had broken into a neighbour's house at night and stolen some things. They were detained for 7 days before they were taken to court, and during that time, they were persistently harassed and asked to admit to being gay, and outed by police officers to various people who came to station. Interestingly, the case of burglary was later dismissed for want of prosecution.⁵²

In addition, there have been cases where the police have arrested LGBT persons in cases where they were the victims of crime merely because the perpetrators of said crime informed the police about the sexual orientation of the victims. In one case, a gay man in Jinja city was assaulted by a mob, who beat him severely and caused him several injuries. He was rescued by a passerby who took him to the police station and while there, he tried to report the matter of assault, only for the police to completely ignore the matter after the two people who had led the mob showed up at the station, accused him of being a homosexual who was trying to ask for a sexual relationship from one of them. He was charged with cyber harassment and detained for 5 days before being produced before court, although the case was later dismissed for want of prosecution.⁵³

There was also one case in which a gay man was entrapped by a police officer, who worked with another young man to lure the gay man into meeting this person at home only for the police officer to show up as the two were still chatting and demand for Uganda Shillings One Million or he would be taken to the station and charged.⁵⁴

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⁴⁶ HRAPF/VR/015/2021.

⁴⁷ HRAPF/VR/012/2021.

⁴⁸ HRAPF/VR/045/2021.

⁴⁹ HRAPF/VR/051/2021.

⁵⁰ HRAPF/VR/054/2021.

⁵¹ HRAPF/VR/040/2021.

⁵² HRAPF/VR/034/2021.

⁵³ HRAPF/VR/015/2021.

⁵⁴ HRAPF/VR/048/2021.

b) Freedom from prolonged detention

One of the major guarantees of the right to liberty under the Constitution of the Republic of Uganda is the prohibition against prolonged detention:

A person arrested or detained—

(a) for the purpose of bringing him or her before a court in execution of an order of a court; or

(b) upon reasonable suspicion of his or her having committed or being about to commit a criminal offence under the laws of Uganda,

shall, if not earlier released, be brought to court as soon as possible but in any case not later than forty-eight hours from the time of his or her arrest.⁵⁵

There have been some instances where LGBT people, although perhaps arrested on fairly legitimate grounds, are held far too long, making the detention both arbitrary in the sense that it is unreasonable, unpredictable, inappropriate and not following the due process of the law.⁵⁶ In 2021, there were eight documented incidents in which suspected LGBT persons were detained for longer than 48 hours before being taken to court. In one case, a gay man was arrested and detained for 13 days at two different police stations, during which time he was beaten brutally by police officers in a bid to get him to confess to being gay.⁵⁷ In another incident, 2 gay men from Mpigi were arrested and detained from 28 May 2022 to 16 July 2022, on charges of having carnal knowledge against the order of nature. They were never produced in court at all.⁵⁸

In yet another case, a gay man who was a victim of a mob attack was taken to a police station by a passerby who wanted to protect him from a mob that wanted to lynch him, but when he got there, he was instead charged with cyber harassment (since one of the assailants claimed he had been asking him for a sexual relationship through social media) and detained for five days.⁵⁹ In a similar case, two gay men were arrested from their home for allegedly practicing homosexuality, and were later accused by their neighbour of burglary and detained on those grounds from the 7th of March to 14th March 2021, when they were produced before court.⁶⁰ The matter was later dismissed for want of prosecution. In another incident, a transgender man was held at a police station for three days because he got into an argument with a woman in his neighbourhood who questioned his gender and then had him arrested for ‘insulting the modesty of a woman’.⁶¹

⁵⁵ Article 23(4), 1995 Constitution of Uganda.

⁵⁶ N 39 above, para 12.

⁵⁷ HRAPF/VR/053/2021.

⁵⁸ HRAPF/VR/050/2021.

⁵⁹ N 53 above.

⁶⁰ N 52 above.

⁶¹ HRAPF/VR/036/2021.

4.3.3. Violation of the right to equality and freedom from discrimination

The right to equality and freedom from discrimination is guaranteed under Article 21 of the Constitution. This article guarantees the right of every individual to be treated equally under the law, and to be given equal protection under the law. This right is affirmed in Article 1 of the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights. Nevertheless, the continued criminalisation of consensual adult same-sex sexual relations in Uganda has ensured that this right is simply not guaranteed to LGBT persons. Although nearly all the human rights violations suffered by LGBT persons in Uganda are rooted in the inherent discrimination and prejudice against sexual and gender minorities that is perpetrated by law, religion and culture, there are some instances which stand out as clear violations of the right to equality and freedom from discrimination for LGBT people.

In 2021, there were 46 recorded violations of the right to equality, equal protection of the law and freedom from discrimination. Of these, 13 were committed by state actors while 33 were committed by non-state actors.

One example is the case where a person was rescued from a mob that wanted to lynch him, and reported a case of assault which was completely ignored and instead he was charged with cyber harassment just because one of the assailants claimed that he had tried to start a relationship with him on line.⁶² Cases such as this in which LGBT people are denied protection of the law once the police authorities discover their sexuality continue to abound, with another glaring example happening at an LBQ women's shelter where police authorities refused to register a case of threatening violence against the shelter occupants, stating that their issues were 'complicated', and that they needed to first explain themselves to the Local Council Chairperson before the police could help them. The matter was only registered after HRAPF lawyers intervened, and even then, it was never investigated and the shelter was relocated for the safety of the occupants.⁶³ The same happened in the case of a gay man whose property were stolen by a young man who visited him at home and, when he reported the theft to the police station and the young man was arrested, he simply informed police that the victim was a homosexual who attempted to sodomise him. The police authorities promptly dropped the theft charges and summoned the victim to explain his sexuality, which scared him into simply dropping the claim for his stolen property.⁶⁴

Local Council authorities also violated the right to equality and freedom from discrimination in nine cases when they interfered with the rights of LGBT persons or purported to evict suspected LGBT persons from their villages purely on grounds of their SOGIE. In one such case, the chairperson of the area went to a gay man's home and informed him that he had heard the story that he was gay, and required him to leave the village as soon as possible;⁶⁵ in another case, the victim was summoned to a meeting of the entire village council and asked to explain his sexuality before being formally evicted from the village;⁶⁶

⁶² HRAPF/VR/015/2021.

⁶³ HRAPF/VR/004/2021.

⁶⁴ HRAPF/VR/007/2021.

⁶⁵ HRAPF/VR/002/2021.

⁶⁶ HRAPF/VR/005/2021.

in yet another case, the victims (a lesbian woman and her partner) were outed when their village chairperson came to their home loudly demanding to see the 'homosexuals', and then informing them that they had a limited amount of time to move out of his area⁶⁷ and in another nearly similar case, two siblings who both happened to be gay were forced to leave their shared home in Mutundwe once the chairperson rallied the villagers to force them to leave the village.⁶⁸

4.3.4. Violations of the right to privacy

The right to privacy is guaranteed under Article 27 of the Constitution of Uganda, which protects persons from 'interference with the privacy of that person's home, correspondence, communication or other property' as well as unlawful searches of their homes, bodies, correspondence or other property and unlawful entry onto their premises. This right is also guaranteed by international law,⁶⁹ and the Human Rights Committee has expressed the view that this right is required to be guaranteed against all such interferences and attacks, whether they emanate from State authorities or from natural or legal persons, through policy, legislative and other means.⁷⁰ Nevertheless, the raging curiosity about LGBT persons has often meant that the privacy of LGBT people is rarely considered a factor. This sorry state of affairs also arises from the continued disrespect for the humanity and dignity of LGBT persons, with both state and nonstate actors often violating the right to privacy for LGBT persons rather wantonly.

In 2021, there were 22 violations of the right to privacy perpetrated by state actors against LGBT persons. Of these, 17 emanated from offensive and intrusive anal examinations undertaken against 16 LGBT persons who were part of the 44 arrested from the shelter of HFYUL for allegedly attending a gay wedding⁷¹ and an anal examination against one gay man who was arrested on allegations of cyber bullying.⁷² In the other cases, two transgender women were at various times arrested and undressed by police officers or in the presence of police officers at a designated police station to ascertain their gender, thus arbitrarily interfering with the privacy of their bodies.⁷³ The other three incidents happened when police officers invaded private premises of LGBT persons, one being a home⁷⁴ and the other the office/ shelter of an LBQ organisation⁷⁵ questions about the sexuality of the people there.

⁶⁷ HRAPF/VR/021/2021.

⁶⁸ HRAPF/VR/027/2021.

⁶⁹ Article 17 of the International Covenant on Civil and Political Rights.

⁷⁰ Human Rights Committee, General Comment 16, (Twenty-third session, 1988), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 21 (1994).

⁷¹ N 1 above.

⁷² N 46 above.

⁷³ HRAPF/VR/047/2021; HRAPF/VR/043/2021.

⁷⁴ HRAPF/VR/028/2021.

⁷⁵ HRAPF/VR/070/2021.

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

The right is provided for under Article 29 of the Constitution, which guarantees all persons the right to freedom of conscience, movement, religion, association with others, and the expression of their opinions. The Article further protects the right of groups to assemble and associate freely, and the right is buttressed by Article 10(1) of the African Charter on Human and Peoples' Rights and Article 22(1) of the ICCPR. LGBT persons habitually face interferences with their right to associate in organisations.

As such, LGBT persons in Uganda have over the last decade formed collectives and worked together to advocate for better conditions, human rights protections and legal reform, with some of these collectives offering necessary social services, including shelter and food for LGBT people in crisis. While the operating environment is uncertain for NGOs in Uganda generally,⁷⁶ for LGBT people, it has continued to prove nearly impossible to enjoy this right without undue interference by the state, with courts holding on at least two occasions in favour of restrictions on this right merely on the basis of the criminalisation of same-sex sexual relations.⁷⁷

In 2021, the right to freedom of association was violated for three organisations, in all three cases by police officers and local authorities unlawfully invading the premises of these LGBT organisations and disrupting their activities, arresting or attempting to arrest members they found at these organisations and often causing enough disruption that the organisations were forced to relocate their premises.

In the first case, police authorities raided a shelter operated by HFYUL on the allegations that a social function going on at the premises at the time was a gay wedding, and later the organisation was forced to close down the shelter temporarily after the police officers recorded and circulated videos alleging that the shelter was used to recruit people into homosexuality and marry them after.⁷⁸ The second case involved an invasion of the premises of Rella Women's Foundation's shelter by police officers after the shelter residents had reported a case of threatening violence, which the police authorities ignored but then proceeded to invade the shelter to allegedly conduct a search on some of the members whose gender was 'unclear'. The organisation was forced to temporarily close and then relocate that shelter for the safety of the occupants.⁷⁹

⁷⁶ See for instance Human Rights Watch, 'Uganda: Harassment of Civil Society Groups', 27 August 2021, <https://www.hrw.org/news/2021/08/27/uganda-harassment-civil-society-groups>, (accessed 20 July 2022); Freedom House, 'Uganda: Suspension of Democratic Governance Facility Highlights Growing Concerns', <https://freedomhouse.org/article/uganda-suspension-democratic-governance-facility-highlights-growing-concerns>, accessed 20 July 2022. See also 'Uganda's top human rights lawyer Nicholas Opiyo was jailed ahead of elections', RFI 23 December 2020; <https://www.rfi.fr/en/africa/20201223-uganda-s-top-human-rights-lawyer-nicholas-opiyo-jailed-ahead-of-elections-bobi-wine-yoweri-museveni>, (accessed 20 July 2022).

⁷⁷ Frank Mugisha and 2 others v Uganda Registration Services Bureau, High Court Misc Cause No. 96 of 2016 (decided on 27 June 2018). See full judgment of the court at <https://www.hrapf.org/index.php/resources/court-judgements/90-judgement-in-the-smug-case/file>, accessed 2 August 2022. See also Kasha Jacqueline Nabageseera and 3 others v Attorney General and another, High Court Misc. Cause No. 33 of 2021, decided 24 June 2014. Judgement <https://www.ulii.org/ug/judgment/hc-civil-division-uganda/2014/85>, (accessed 2 August 2022).

⁷⁸ HRAPF/VR/O54/2021.

⁷⁹ HRAPF/VR/004/2021.

The final case happened when police officers from Kira Police Station undertook an unauthorised search of the premises of an LBQ organisation, going through their private property and destroying some of it all without a search warrant. When confronted, the officers insisted that they had heard of ‘strange’ goings-on at the premises and were searching for proof.⁸⁰

4.3.6. Violation of the right to health

Under Objective XIV of the Constitution of Uganda, the government has to ensure that all Ugandans enjoy access to, among others, health services. Objective XX enjoins the state to ‘take all practical measures to ensure the provision of basic medical services to the population.’ These, buttressed by Article 8A, make the right to health a constitutionally protected right, as was held by the Constitutional Court in *Centre for Health Human Rights and Development (CEHURD) & 3 others v Attorney General*.⁸¹ This right is also emphasised in Article 16(1) of the ACHPR, which protects the right of every person to the highest attainable standard of physical and mental health, and Article 12(1) of the ICESCR which protects the right in similar terms.

The Committee on Social, Economic and Cultural Rights has defined that right to health to include the freedom from interference with one’s body (including torture) as well as freedom from interference in seeking health services, among other factors.⁸² Beyond the general limitations on the right to health through Uganda’s healthcare system, LGBT people have often suffered violations in seeking to access healthcare.

In 2021, this right was violated on the basis of presumed sexual orientation in the case in which a gay man was beaten brutally by a mob and when he was taken to the police station, he was instead arrested and charged, held in custody for five days and denied access even to pain medication or any other treatment for the injuries he had suffered during the attack merely because the assailants informed police that the victim was a homosexual.⁸³ He was only able to access medical treatment for his injuries after he had been released on court bail, an action that violated his right to be free from torture and cruel treatment, the guarantee of the right to liberty that relates to access to healthcare when required as well as endangering his health and life.

4.4. Cases of violation of human rights based on sexual orientation and/or gender identity or expression by non state actors in 2021

The Constitution imposes a duty on all persons in Uganda to, at the very least, refrain from infringing on the rights of others. Article 20(2) provides that the human rights and freedoms enshrined and protected in Chapter 4 of the Constitution are to be respected,

⁸⁰ HRAPF.VR/070/2021.

⁸¹ *Centre for Health Human Rights and Development (CEHURD) & 3 others v Attorney General*, Constitutional Petition No. 16 of 2011.

⁸² CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12).

⁸³ HRAPF/VR/015/2021.

upheld, and promoted by all persons and all organs and agencies of the Government. This means that Ugandan law requires non-state actors to respect the rights of all persons and refrain from abusing those rights, including the rights of LGBT persons. However, the state has an obligation to protect all persons from violations by non state actors, including providing redress where rights have been violated.

LGBT persons in Uganda are routinely subjected to ridicule, humiliation, violence, threats of violence, myriad forms of discrimination and harassment and other human rights abuses by a homophobic and latently unfriendly populace that still views LGBT people as ‘unapprehended felons’. This fear and prejudice continue to be driven in part by state propaganda especially during campaigns as well as a concerted opposition campaign that posits that LGBT people are targeting young children for ‘recruitment’, causing a moral panic that parts of the population have reacted to with anti-gay talks to children in schools as well as a sweeping moral panic across the different sections of society in Uganda. As such, human rights violations against LGBT people on the basis of their presumed sexuality continued to abound in 2021, affecting the lives, dignity, well-being, livelihoods and the lived realities of LGBT people.

This section focuses on discussing the human rights abuses and violations of human dignity suffered by LGBT persons on the basis of their real or presumed SOGIE at the hands of non-state actors. It contains those violations that were primarily perpetrated by non state actors and where the state did not provide protection against infringement.

In 2021, there was a total of 77 human rights abuses perpetrated by non-state actors, and these were of the rights to freedom from discrimination (33 incidents); the right to human dignity and freedom from cruel, inhuman or degrading treatment (30 incidents); the right to privacy (11 incidents); the right to family (2 incidents) and the right to practice a lawful trade or occupation of one’s choice (1 incident). All these violations were based primarily on the real or presumed SOGIE of the victims.

4.4.1. Violations of human dignity and cruel and inhuman treatment based on sexual orientation and gender identity

Often, LGBT people are subjected to cruel and humiliating treatment by members of the general community in which they reside, who find LGBT identities offensive or otherwise unacceptable. In 2021, there were 30 recorded incidents in which LGBT people were subjected to physical and/ mental pain, humiliation and outrage by the actions of non state actors.

a) Acts or threats of violence

There were 30 acts or threats of violence recorded in 2021 against LGBT persons based on their SOGIE by non state actors.

In these cases, humiliating treatment was visited upon LGBT people by their neighbours, landlords and even family members, purely on the basis of their presumed sexuality. In one case, a lesbian woman was repeatedly sexually assaulted by her father, who claimed he wanted her to stop being a lesbian, until she managed to escape from home to seek mental health support.⁸⁴ In a similar case,⁸⁴ a transgender man was repeatedly harassed by

⁸⁴ HRAPF/VR/063/2021.

his parents who later got a man to marry him against his will, in an attempt to force him to conform and behave like a woman.⁸⁵

There were 10 different cases in which LGBT people were verbally and physically assaulted by non-state actors on the basis of their sexuality, including the case in which a gay man was assaulted and nearly lynched by a mob because of his sexuality, yet when he was taken to the police station, the assault on him was not investigated at all or recorded, but he was instead arrested.⁸⁶ In another case, a transgender woman who is also a sex worker was assaulted, undressed and left naked and unconscious on the street by a client when he discovered that she was a biological male.⁸⁷

In one case, the matter went to the victim's family when a transgender woman's mother was repeatedly threatened with physical violence by some youths in the area, who demanded that she remove her 'homosexual son' from their village.⁸⁸ In another case, a lesbian woman was repeatedly taunted, verbally assaulted and threatened with rape by some youths in her neighbourhood for 'walking like a man' and being a lesbian, until she was forced to leave the area and find accommodation elsewhere.⁸⁹ Another lesbian woman was also forced to flee her home after dealing with repeated threats of physical harm and verbal abuse from her family after they discovered her sexuality.⁹⁰

In another case, a lesbian woman reported being continuously pestered for sex by her boss, who eventually attempted to rape her, assaulting and causing her actual physical injury in the process, before having her fired for 'teaching lesbianism' to the other females at the workplace.⁹¹ In another case, a lesbian woman was threatened by her ex-girlfriend, who was disgruntled after their break up, with exposure if she did not send her money. When the victim refused to do this, the ex-girlfriend sent nude photos and videos of the two of them involved in sexual acts to the victim's work colleagues, a few friends and her teenage son.⁹²

In an attack on the shelters and residents of LGBT people, residents of a shelter for LBQ women in Wakiso district were threatened with mob violence by the locals in their area who delivered a letter to their gate referring to them with derogatory words and threatening to undress a transgender woman and set the house on fire if they did not leave the area immediately.⁹³ In another similar case, the leaders of a mosque in a suburb of Kampala wrote a notice to a transgender woman living in their area and physically delivered it to her home where she lived with her mother, demanding that she leave the village immediately or face physical harm. The letter referred to her in very derogatory terms and specifically threatened her because of her presumed sexuality.⁹⁴

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⁸⁵ HRAPF/VR/058/2021.

⁸⁶ N 53 above.

⁸⁷ HRAPF/VR/064/2021.

⁸⁸ HRAPF/VR/016/2021.

⁸⁹ HRAPF/VR/017/2021.

⁹⁰ HRAPF/VR/061/2021.

⁹¹ HRAPF/VR/062/2021.

⁹² HRAPF/VR/055/2021.

⁹³ HRAPF/VR/004/2021.

⁹⁴ HRAPF/VR/010/2021.

b) Unlawful Evictions

The AfroBarometer study in 2016 found that 95% of Ugandans would not tolerate having a homosexual neighbour,⁹⁵ and this does not seem to be changing in any way.⁹⁶ There were three cases of evictions by the community of suspected LGBT persons. In one case, transgender woman was threatened several times with eviction by her landlord and later actually evicted for behaving like a woman;⁹⁷ transgender woman was evicted from their family home by her father after he heard that she routinely spent time with a man and was therefore probably gay;⁹⁸ and a lesbian woman who was turned away from the family home for allegedly practising homosexuality.⁹⁹

4.4.2. Violation of the right to privacy

There were 11 cases of the violation of the right to privacy by non-state actors in 2021, arising from the actions of family, the general community and even members of the LGBT community. In all these 11 instances, the sexuality of the victim was the major factor/basis of the violation, or the threatened exposure of such sexuality was central to the violation itself.

For instance, a lesbian woman's ex-partner sent nude photos of her and videos of her doing sexual acts to her friends, work colleagues and teenage son as retaliation for ending the relationship and refusing to give money she had asked for.¹⁰⁰ In another case, a gay man was blackmailed repeatedly by his ex-partner, who threatened to tell people about his sexuality if he did not pay out large sums of money;¹⁰¹ the same also happened in another case where the perpetrator threatened to out the victim to his family.¹⁰² In two related cases, the clients, both being young transgender women, were targeted when their photos and names were posted on social media platforms with calls to the public to cause beat them or shun them in order to 'keep Mbarara clean'.¹⁰³

This right was also violated by the family members of LGBT persons in several cases. In one of the cases, a lesbian woman was harassed by her family and eventually forced to leave home after her sister, having heard rumours about her sexuality, went through her phone for proof and then announced it to the whole family,¹⁰⁴ and a similar thing also happened to a lesbian woman who was eventually forced to seek asylum outside Uganda.¹⁰⁵

⁹⁵ See AfroBarometer 'Good neighbours? Africans express high levels of tolerance for many, but not for all' Afrobarometer Dispatch No. 74 (2016) 12.

⁹⁶ Human Rights Awareness and Promotion Forum, Uganda report of human rights violations based on sexual orientation and gender identity, 2020, page 25, October 2021. <https://hrapf.org/index.php/resources/violation-reports/222-2020-uganda-report-of-human-rights-violations-based-on-sexual-orientation-and-gender-identity/file>, accessed 2 August 2022.

⁹⁷ HRAPF/VR/001/2021.

⁹⁸ HRAPF/VR/006/2021.

⁹⁹ HRAPF/VR/009/2021.

¹⁰⁰ HRAPF/VR/055/2021.

¹⁰¹ HRAPF/VR/068/2021.

¹⁰² HRAPF/VR/067/2021.

¹⁰³ HRAPF/VR/079/2021; HRAPF/VR/066/2021.

¹⁰⁴ HRAPF/VR/060/2021.

¹⁰⁵ HRAPF/VR/033/2021.

4.4.3. Violation of the right to family

The Constitution of Uganda in Article 31 protects the rights to family, particularly guaranteeing the right to marry whoever one chooses, and safeguarding the right to freely choose if, when and whom to marry.¹⁰⁶ In 2021, there were two documented incidents of violations of this right when a lesbian woman was forced to flee her family home after her mother and sister found an older man to marry her following an incident in which her sister found emails and WhatsApp messages in her phone that indicated she was lesbian,¹⁰⁷ and when a transgender man was locked in his room for several days by his father as the father attempted to get one of his friends to marry the transgender man against his will in an effort to force him to behave more like a woman.¹⁰⁸

4.4.4. The right to work and earn a living

The Constitution guarantees in Article 40, the right to practice a profession or trade of one's choice,¹⁰⁹ to work in safe, healthy and satisfactory conditions¹¹⁰ and to equal pay for equal work without discrimination,¹¹¹ as well as the right to equal opportunity and treatment in economic and social activities as men.¹¹² There is however a growing trend of sexual harassment against LBQ women, particularly in informal work spaces, denying these women the right and the opportunity to pursue their careers of choice.

In 2021, this happened in one case when a lesbian woman, who had repeatedly turned down her boss' insistent demands for sex, was fired from her job for allegedly teaching lesbianism to the other staff following an altercation in which her boss assaulted her while trying to rape her. She was unable to complain about this or pursue a complaint through the Labour Office as she was worried that her sexuality would be revealed if she pushed the matter.¹¹³

4.5. Conclusion

There were a total of 253 violations of human rights based on sexual orientation and or gender identity or expression by both state and non state actors in the year 2021.

¹⁰⁶ Article 31(1) and (3) of the 1995 Constitution of the Republic of Uganda.

¹⁰⁷ HRAPF/VR/033/2021.

¹⁰⁸ HRAPF/VR/058/2021.

¹⁰⁹ Article 40(2) of the Constitution.

¹¹⁰ Article 40(1)(a) of the 1995 Constitution.

¹¹¹ Article 40(1)(b)

¹¹² Article 33(4).

¹¹³ HRAPF/VR/062/2021.

5. PERPETRATORS OF HUMAN RIGHTS VIOLATIONS ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY DURING THE YEAR 2021

5.1 Introduction

This section examines in details the persons, individuals, offices or sections of society that were specifically responsible for human rights violations enumerated in this report in order to inform appropriate responses.

5.2 Human rights violations by state actors

There were primarily two state institutions responsible for human rights violations faced by LGBT persons on the basis of sexual orientation and gender identity in 2021, and these were the Uganda Police Force and the Local Government Councils. Traditionally, the Uganda Police Force (UPF) have remained the biggest perpetrators of human rights violations against LGBT persons, and their appearance on this list is therefore only as per the usual. There were no verified violations from other state institutions, such as the Uganda Peoples' Defence Forces (UPDF) and Uganda Prisons Services, as was the case in 2020, for instance.¹¹⁴

5.2.1 Violations by the Uganda Police Force

In 2021, the Uganda Police Force was responsible for 167 human rights violations, which is 95.4% of all violations perpetrated by the state in that year.

Of the 167 violations perpetrated by the Uganda Police Force, 63 were violations of the right to freedom from torture, cruel, inhuman and degrading treatment or punishment, 74 were violations of the right to liberty, 22 were violations of the right to privacy, 5 were violations of the right to equality, equal protection of the law and freedom from discrimination while three were violations of the right to freedom of association and assembly.

5.2.2 Local Government Authorities

In 2021, the number of violations perpetrated by local council leaders was 8, a dramatic reduction from the number of 77 in 2020.¹¹⁵

In 2021, the violations perpetrated by the local government councils were all violations of the right to equality and freedom from discrimination arising out of the unlawful eviction of LGBT persons from their villages of residence by the local council leaders.

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¹¹⁴ Above.

¹¹⁵ N 18 above, page 28.

5.2.3 Local Defence Unit of the Uganda Peoples Defence Forces

One case was perpetrated by members of the Local Defence Unit of the Uganda Peoples' Defence Forces.

5.3 Human rights violations perpetrated by non-state actors

During 2021, non-state actors were responsible for 77 violations on the basis of sexual orientation and gender identity, accounting for 30.4% of all violations reported in that year.

5.3.1 Violations of human dignity by the general community

38 violations were reported as having been perpetrated by members of the general community in 2020, and of these, 17 were violations of the right to equality and freedom from discrimination while 21 were violations of the right to human dignity and freedom from cruel, inhuman or degrading treatment. The majority of the violations arose from threats of violence, verbal abuse and physical violence against suspected LGBT people.

5.3.2 Violations by family members

In 2021, family members of LGBT people perpetrated 24 incidents of human rights violations against their LGBT kin. 4 of the violations were of the right to privacy, arising mostly out of cases of invasion of the privacy of communications with a view to establishing sexuality; violations of human dignity arising out of verbal and physical assaults in reaction to finding out about one's sexuality (8 incidents) and 11 cases of discrimination (nearly all of them arising out of evictions from family homes/ jointly held properties on the basis of sexuality).

5.3.3 Violations by landlords/ property owners

As controllers of a significant resource that deeply affects the quality of life of everyone (shelter), landlords/ property owners have continued to use this power to discriminate against LGBT persons and otherwise abuse their rights. In 2021, seven violations of the rights of LGBT people by their landlords were registered, with 5 of these stemming from the unfair eviction of LGBT persons while two were a result of landlords verbally assaulting LGBT people.

5.3.4 Violations by intimate partners

In 2021, intimate partners of LGBT persons were responsible for four human rights violations were recorded. One of these was a right to dignity and freedom from cruel treatment while the rest were all violations of the privacy of LGBT persons by exposing their sexuality or extortion by threatening to expose said sexuality.

5.3.5 Violations by religious leaders

There were two incidents of violations by religious leaders in one case in 2021. In that case, the leaders of a mosque went to the home of a known transgender woman and served her and her mother an eviction notice, demanding that she leave the area within two weeks or face the consequences. In the letter, they not only referred to the victim in derogatory terms but also made threats against her person.¹¹⁶

5.3.6 Violations by employers

Violations by employers that were registered in the year were two, that is, the right to dignity and the right to work, and they all occurred in one case. In that case, a lesbian woman who had been declining insistent demands for sex from the employer was assaulted by the employer when he tried to force himself on her. The following day, he had her dismissed from work, accusing her of being a lesbian and teaching the other female staff 'lesbianism'. She unfortunately felt unable to pursue this case through formal complaint channels for fear of being outed.

5.4 Conclusion

Both state and non state actors continued to violate the human rights of LGBT persons in 2021, with state actors being responsible for more violations than non state actors. However, it is important to note that under international human rights law, the state is responsible for all these violations as it has not put in place protections and mechanism to prevent non state actors from violating the rights of LGBT persons, or providing accessible mechanisms for redress in case of third party violations

¹¹⁶ HRAPF/VR/010/2021.

6. GENERAL TRENDS OF REPORTED VIOLATIONS OF HUMAN RIGHTS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY DURING 2021

In comparison with other years, 2021 was a little more difficult as a year for the LGBT community in Uganda, combining the pressures of COVID-19 and the election period. In this aspect, it can only be comparable to 2020, which was the first year of the COVID-19 period and the beginning of the electoral season. 2021, like 2020, was characterised with mass arrests on the basis of COVID-19 regulations, but also maintained the trend that has been ongoing since at least 2016 of mass raids on the events, premises and activities of LGBT persons and organisations.¹¹⁷ This section is a comparative analysis of the past four years including 2021 in relation to the human rights situation for LGBT persons.

6.1 Analysis of trends 2021

This section analyses and summarises the violations committed against LGBT persons during 2021 in comparison to preceding years.

6.2 Trends in number of rights violations

In the year 2021, a total number of 470 cases handled across HRAPF's legal aid network and the partners therein were reviewed for evidence of human rights violations, and such proof was verified in 90 cases, in which a total number of 275 incidents of human rights violations against LGBT persons were found. However, only in 70 of these 90 cases was there proof that these violations were based primarily on the sexual orientation or gender identity or expression (SOGIE) of the persons involved, and these 70 cases revealed a total of 253 incidents of human rights violations, with one case having a total of 60 violations committed against 44 persons.¹¹⁸

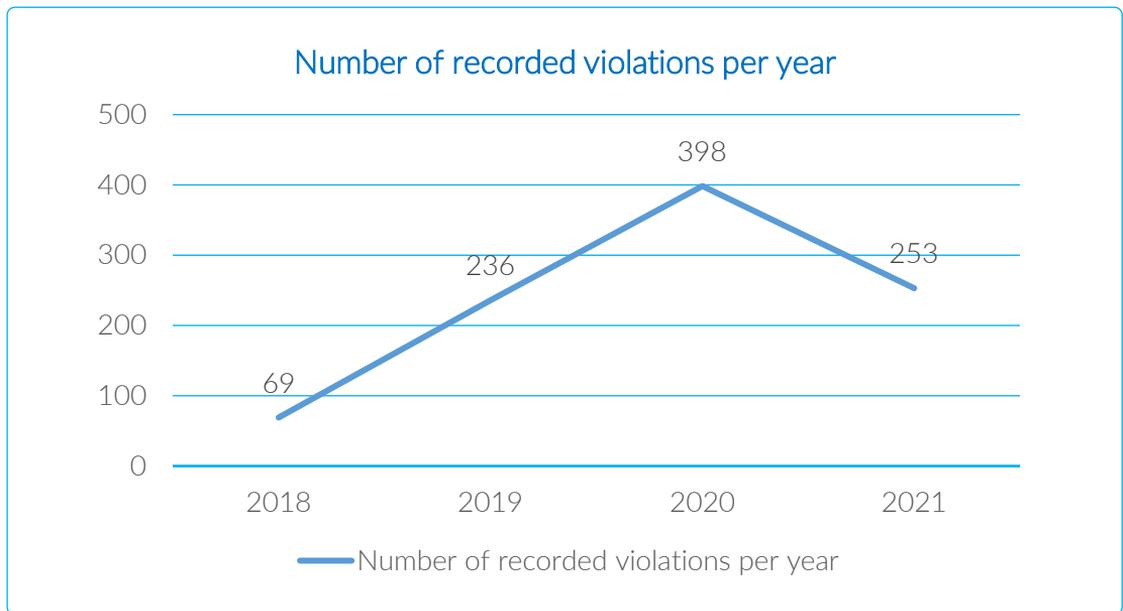
The trajectory of human rights violations of the last five years has remained wavering, although it can be said with certainty that the incidence of violations is rising, rather than falling. In 2018, 69 incidents of human rights violations were recorded overall; in 2019, this number rose to 236; in 2020, it climbed higher to 398 in 2020 and then reduced to 253 in 2021, although as can be seen from the graph below, the trend is certainly

¹¹⁷ See n 1 above. See also Human Rights Awareness and Promotion Forum, 'A legal analysis of the brutal police raid of an LGBTI pageant on 4th August 2016 and subsequent actions and statements by the police and the Minister of Ethics and Integrity', 2016, https://hrapf.org/images/legalanalyses/hrapf_legalanalysisofthepoliceraidonlgbtiprideeventsfinal.pdf, accessed 3 August 2022; n 126 above at page 13; n 125 above at page 18; 'Uganda LGBT Shelter Residents Arrested on COVID-19 Pretext' Human Rights Watch 03 April, 2020 <https://www.hrw.org/news/2020/04/03/uganda-lgbt-shelter-residents-arrested-covid-19-pretext> (accessed 18 March 2021).

¹¹⁸ See n 1 above.

upward, with the sharp spike in 2020 most likely attributable to COVID-19 and the beginning of election season.

Chart 1: Progress curve showing total number of SOGIE-motivated violations per year



6.2.1 Trends in nature of violations

In 2021, the most commonly violated right was the right to dignity and freedom from torture, cruel, inhumane or degrading treatment of punishment, with 93 of those violations recorded in the year. In violation of this right, the police subjected 17 persons to offensive anal examinations, reviving a trend from 2019 of multiple anal examinations. In 2019, anal examinations were conducted on 16 persons;¹¹⁹ in 2020, this number reduced dramatically to 2;¹²⁰ in 2021, this number once again climbed up to 17, indicating that the practise is still alive and well. The reported violations of the right to dignity and freedom from cruel and inhuman treatment generally had reduced from 133 in 2020, although that in itself was a significant reduction from 18 in 2019 and 12 in 2020.

The next most commonly violated right in 2021 was the right to liberty at 74 incidents, which was a reduction from both 2020 and 2019, where 87 and 163 incidents respectively were reported, and an increase from 2018 where 25 incidents were reported.

Violations of the right to equality and freedom from discrimination also remain steadfast, although at 46 reported incident sin 2021, these violations reduced from both 2020 (138) and 2019 (64). This right in all three years was more commonly violated by members of the general community and families of LGBT people than by state actors.

While the trend of violations of the right to freedom of expression, association and assembly continued in 2021, there was a new trend of forcing LGBT persons into marriage as a way of ‘correcting’ their sexuality by family members, as well as documented cases

¹¹⁹ N 19 above at page 35.

¹²⁰ N 18 above at page 37.

of workplace discrimination and victimisation on the basis of sexual orientation/ gender identity or expression. This is hardly a new occurrence however and has merely been better documented.

Table 1: Categories of rights most commonly violated in 2021, 2020, 2019, and 2018

Category of right	Number of Violations per year			
	2021	2020	2019	2018
Right to freedom from torture, inhuman and degrading treatment	93	54	18	12
Right to liberty	74	67	163	25
Right to equality and freedom from discrimination	46	114	18	13
Freedom of expression, association, and assembly	3	37	34	5
Right to privacy	33	12	1	10
Right to property	0	5	0	4
Right to life	0	0	2	0
Right to health	1	0	0	0
Right to family	2	0	0	0
Right to work	1	0	0	0

6.2.2 Trends in perpetrators of human rights violations

State actors were responsible for 176 human rights violations committed against LGBT persons on the basis of SOGIE in 2021, following a downward trend from both 2020 (197) and 2019 (236). In 2018, only 30 out of 69 cases had been attributed to the state - the only time that non-state actors committed more violations than state actors. However, the Uganda Police Force continues to take lead on SOGIE-based violations, a reflection both of the biased attitude and the fact that are the public office that is most likely to come into contact with a criminalised minority. In 2021, the UPF was responsible for 168 violations, 90 in 2020, 234 in 2019 and 29 in 2018. This trend is uncertain, with spikes, but is generally an upward rather than downward trend as can be seen from the table below.

Chart 2: Trends in police violations of human rights over the years

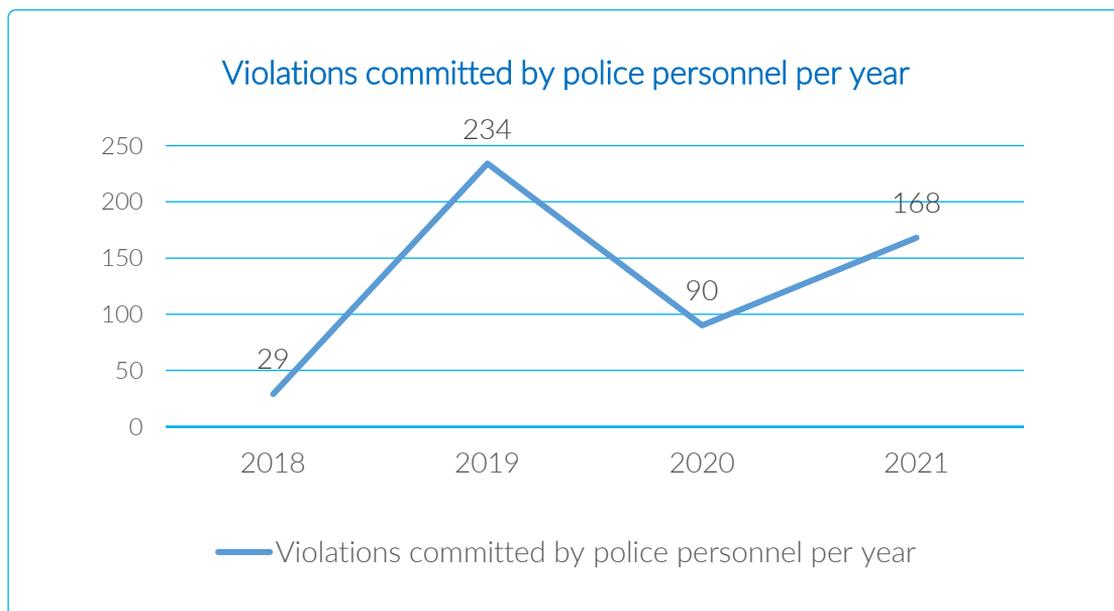


Table 2: Perpetrators of human rights violations against LGBT persons in 2021

Perpetrator	Number of violations occasioned
The Uganda Police Force	168
Members of the general public	38
Family members	24
Local Council Leaders	8
Property owners	7
Fellow LGBT persons	4
Religious leaders	2
Employers	2
Uganda Peoples' Defence Forces (UPDF)	1
TOTAL	253

Violations by non state actors reduced from 151 in 2020 to 77 in 2021, and this may be attributable to the gradual easing of lockdowns and beginning of the return to normalcy that had LGBT people reduce their contact with the general communities, which had been forced by the COVID-19 lockdowns in 2020. It should be remembered that the number of violations by non-state actors had risen from 46 in 2019 (prior to the COVID-19 pandemic) to 151 in 2020. Nevertheless, as compared to 2018, the general trend is an upward one as seen in the chart below.

Chart 3: Trends in violations by non-state actors



6.3 Conclusion

The trend indicates a general reduction from the numbers of violations based on SOGIE from 2021 to 2020, although this is not to be taken as indicative of an actual downward trend in human rights violations based on SOGIE and by extension and upward trend in human rights protection. As noted in the 8th edition of this report, 2020 was an island all of its own: the year stood out because of the vagaries of the COVID-19 pandemic and the unique situation created thereby which created an environment for increased abuse of human rights in the country generally and for LGBT people in particular.

7. CONCLUSIONS AND RECOMMENDATIONS

7.1 General conclusion

Despite a turbulent election period and an initial threat posed by the passing of the Sexual Offences Bill 2021 on 3rd May 2021, the year 2021 was overall a little better in terms of the human rights situation for LGBT people than the preceding year. While there were still outstanding challenges, particularly with the increase in the number of anal examinations and raids on homes, events and shelters of LGBT persons, generally, as the country started to come to terms with the COVID-19 pandemic and more of the populace focused their energies on economic and social recovery, the violations of the rights and dignity of LGBT people reduced. It is important to note however that this is hardly the ideal situation: in terms of general trends, if one excludes the spike represented by 2020, one still notices a steady upward trend in numbers of violations reported from 2018 to 2021, indicating that the respect for and protection of the rights of LGBT persons is still an ongoing battle that must continuously be fought and violations pointed out, documented and challenged at every opportunity.

7.2 Recommendations

Given the continuing challenges of human rights violations based on sexual orientation and gender identity even despite some positive reforms (such as the failure of the Sexual Offences Bill/ Act), it is necessary that different persons, authorities and institutions continue the struggle towards full recognition and social protection of the rights of LGBT persons. In order to buttress efforts towards positive social change therefore, this section makes recommendations to various offices and institutions.

To the President of the Republic of Uganda

In 2021, the President took a big positive step towards the protection of the rights of LGBT persons when the President vetoed the Sexual Offences Act, which would have further criminalised consensual same-sex sexual behaviour and a number of sex practices. However, this office remains key in influencing legal and policy change, which must happen in order to ensure fuller protection of the rights of LGBT persons. It is therefore recommended that the President:

1. Refrain from making inflammatory remarks about LGBT people/ LGBT rights, which have been found to inflame homophobic bias and violence, and hold accountable all public officers who propagate such propaganda.
2. Continue to veto legislation that could have a negative impact on the rights of any section of Ugandans, including LGBT people, in order to provide a conducive legal regime for the protection of the rights of LGBT people.

3. Move the Cabinet to make proposals for the reform of penal laws to remove references to the regulation of all forms of consensual sexual activity between adults as this violates the privacy and dignity of Ugandans.
4. Publicly condemn acts of violence and discrimination against vulnerable minorities, including LGBT persons, by both state and non-state actors, and call on the responsible authorities to ensure that all such incidents are fully investigated and the perpetrators penalised.

To Parliament

In 2021, the Parliament of Uganda attempted to rollback further on LGBT rights by introducing and passing legislation that would have had a huge negative impact on the rights of not only LGBT people but also on women and on sex workers, and that situation was saved only by the President's veto. This therefore indicates that, as far as the Parliament of Uganda goes, there is still a lot of work to be done towards ensuring protection of the rights of LGBT people. It is therefore recommended that Parliament:

1. Engage with civil society organisation to educate members of parliament and employees and officers working with the legislature on the challenges of the marginalisation of LGBT rights, the role of legislation in this state of affairs and the state's obligations towards ensuring equality and non-discrimination through legislation.
2. Consider seriously and expeditiously the proposals for the reform of Uganda's criminal laws, particularly the Penal Code Act, with specific emphasis on sections of the law that criminalise consensual same-sex sexual relations and sections of the law that create vague and broadly worded petty offences that have been used to arbitrarily arrest and punish persons who are generally considered "socially undesirable", including LGBT persons.
3. Ensure that the government fulfills its international and regional human rights obligations to all without any discrimination through enacting laws that affirm the inherent dignity and humanity of all persons in line with these obligations.

To the Uganda Police Force

Despite the unique power of the Uganda Police Force to positively influence law enforcement by using the human rights based approach to policing and providing protection to victims of violations based on SOGIE, the UPF has continued to top the lists of violators of human rights based on SOGIE for years, with arbitrary arrests on suspicion of sexuality continuing to be overwhelmingly high. In order to respond to these unfortunate facts and remedy the situation, it is recommended that the Uganda Police Force:

1. Step up efforts to educate all police officers on the laws that affect LGBT people in order to define clearly the limits of the current law as it is, which will address the prevalent perception among police officers that it is illegal to identify as LGBT in Uganda.
2. Continue to engage police officers in human rights trainings in order to address the challenges of marginalisation of and human rights abuses against LGBT people in law enforcement and to actualise the human rights based approach to policing in Uganda.

3. Strengthen and effectively manage complaints procedures and mechanisms available to the communities in Uganda for dealing with wanton abuses of power by individual police officers in order to ensure that victims of such arbitrary violations get redress and to discourage such conduct among the police force.
4. Investigate and address all cases of violence and other acts of criminality and human rights violations against LGBT people that are reported to the police in order to effectively fulfil the mandate to 'protect and serve' as far as the LGBT community is concerned.

To the Uganda Law Reform Commission

The Uganda Law Reform Commission is mandated to propose needed reforms to the laws in to bring them into conformity with the Constitution and the principles of good governance, human rights, and social justice. It is therefore recommended that the Uganda Law Reform Commission:

1. Develop proposals based on internationally recognised human rights standards for constitutionally compliant alternatives to laws creating petty offences that protect the rights of all persons.
2. Fasttrack efforts to develop a proposal for the amendment of the Penal Code Act to repeal the sections that criminalise consensual same-sex relations in line with international human rights standards.
3. Develop proposals for laws that appropriately define and penalise hate speech against unpopular minorities.

To the Uganda Human Rights Commission

The Uganda Human Rights Commission is mandated to ensure the preservation and protection of the basic human rights of all, both in law and in practice. In order to fulfil this mandate for LGBT persons, it is recommended that UHRC does the following:

1. Continue to develop and publish comprehensive annual reports on the state of human rights in Uganda that fairly reflect the human rights situation in the country, and make efforts to include specific data on SOGIE-based violations as well.
2. Demand action and accountability from the state for all human rights violations reported, especially those that are tacitly condoned or otherwise unaddressed by State Authorities.
3. Hear and dispose of cases involving violations of rights of LGBT persons that are pending before the Commission's Complaints and Investigations Directorate.
4. Develop proposals to amend laws that are discriminatory and which do not align with the Constitution of the Republic of Uganda and its international obligations.

To the Equal Opportunities Commission

The Equal Opportunities Commission is an institution mandated to address marginalisation and discrimination in Uganda. The EOC provides a platform for addressing violations suffered by marginalised persons, including LGBT persons. The Commission can therefore utilise its mandate to better the human rights situation of LGBT persons by doing the

following:

1. Document and investigate systemic and institutionalised discrimination based on sexual orientation and gender identity, and make recommendations for the elimination of such systemic and institutionalised discrimination.
2. Continue to train EOC staff to build their capacity in the documentation and handling of matters of discrimination and marginalisation based on sexual orientation and gender identity.
3. Include cases of discrimination based on sexual orientation and gender identity in the Annual State of Equal Opportunities Reports to Parliament.

To the Civil Society Organisations

Organisations that exist to promote human rights, including the rights of LGBT persons, are equipped to raise awareness about the discrimination and challenges which LGBT persons face within the Uganda Society. It is recommended that Civil Society does the following:

1. Continue to engage all organs of state that are implicated in the abuse of the rights of LGBT people, including the UPF and local councils, to discuss their obligations in protecting the rights of all persons.
2. Engage the Parliament, the Uganda Human Rights Commission, the Equal Opportunities Commission, the Uganda Law Reform Commission and all other bodies mandated to consider the human rights implication of laws or to make laws to discuss the negative impact of laws that affect the rights of LGBT persons in order to advocate for positive change.
3. Continue to challenge human rights violations suffered by LGBT persons by making use of the Human Rights (Enforcement) Act 2019 to hold individual perpetrators of violations, particularly those who use state power to do so, liable for their actions.
4. Advocate for the adoption of laws that protect LGBT people from hate crimes ranging from hate speech to physical violence against LGBT people on basis of their sexual orientation or gender identity.
5. Sustain Civil Society Organisation's partnerships developed for the monitoring and documentation of LGBT rights violations to support further advocacy and continue developing capacities for monitoring and documentation of human rights violations based on sexual orientation and gender identity.
6. Intensify advocacy efforts towards the decriminalisation of petty offences as an avenue of addressing legal barriers to human rights protection for LGBT persons in Uganda.
7. Intensify advocacy efforts towards legal recognition of transgender identities and legal protection of the rights of transgender and gender non-conforming persons in order to address the trends of transphobic violence especially by state actors.
8. Continue holding sensitisation campaigns among the general public on matters of human rights and sexual and gender diversity in order to increase awareness and address homophobic bias and violence that stems from misinformation and negative stereotypes about LGBT people.

ABOUT HRAPF

Background

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

Legal Status

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

Vision

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

Mission

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

HRAPF's Objectives

1. To create awareness on the national, regional, and international human rights regime.
2. To promote access to justice for marginalised persons and Most at Risk Population groups.
3. To undertake research and legal advocacy for the rights of marginalised persons and Most Risk Population groups.
4. To network and collaborate with key strategic partners, government, communities, and individuals at national, regional, and international levels.
5. To enhance the capacity of marginalised groups, Most at Risk Populations and key stakeholders to participate effectively in the promotion and respect of the rights of marginalised persons.
6. To maintain a strong and vibrant human rights organisation.

Our target constituencies

1. Lesbian, Gay Bisexual and Transgender (LGBT) persons.
2. Intersex Persons
3. Sex workers
4. Women, girls and service providers in conflict with abortion laws
5. People who use drugs (PWUIDs)
6. People living with HIV and TB (PLHIV/TB)
7. Poor women, children and the elderly with land justice issues.
8. Survivors of gender based violence in humanitarian settings.

HRAPF Values

- Equality, justice and Non-discrimination
- Transparency, Integrity and Accountability
- Learning and Reflection
- Quality and Excellence
- Teamwork and Oneness
- Passion and drive
- Networking and Collaboration.

Slogan

Taking Human Rights to all.

Human Rights Awareness and Promotion Forum (HRAPF)

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