



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

July 2015

Produced by:  
The Consortium on Monitoring Violations Based on Sex  
Determination, Gender Identity and Sexual Orientation

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# Glossary

|                         |                                                                                                                                                                                                                                                      |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Bisexual:</b>        | A person romantically and/or sexually attracted to men and women.                                                                                                                                                                                    |
| <b>Cisgender:</b>       | A person whose deeply held sense of gender is the same as their biological sex assigned at birth.                                                                                                                                                    |
| <b>Gay:</b>             | A man romantically and/or sexually attracted to men.                                                                                                                                                                                                 |
| <b>Gender Identity:</b> | A person's conception of oneself as male or female or both or neither.                                                                                                                                                                               |
| <b>Homosexual:</b>      | A person attracted to the same sex.                                                                                                                                                                                                                  |
| <b>Intersex:</b>        | 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, or a person who may be born with genitals that seem to be in between male and female.               |
| <b>Lesbian:</b>         | A woman romantically and/or sexually attracted to women.                                                                                                                                                                                             |
| <b>LGBT Community:</b>  | Self-identified LGBT individuals who participate in social and professional activities with other self-identified LGBT individuals and LGBT allies. These individuals do not have to be but are often members of one or multiple LGBT organisations. |
| <b>Outing:</b>          | The act of disclosing a lesbian, gay, bisexual, transgender, and/or intersex person's true sexual orientation or gender identity without that person's consent.                                                                                      |
| <b>Sex:</b>             | The genitals: the physical distinction between male and female.                                                                                                                                                                                      |

|                            |                                                                                                                             |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| <b>Sex Determination:</b>  | The way by which the sex of an individual is determined. It may be based on the person's gametes or sex chromosomes.        |
| <b>Sexual Minorities:</b>  | A group whose sexual identity, orientation and/or practice differs from the majority of the surrounding society.            |
| <b>Sexual Orientation:</b> | A person's romantic and sexual attractions to individuals of a different gender or the same gender or more than one gender. |
| <b>Transgender:</b>        | Someone whose deeply held sense of gender is different from their biological sex assigned at birth.                         |
| <b>Transman:</b>           | A transgender person who was assigned female at birth but has a male gender identity.                                       |
| <b>Transwoman:</b>         | A transgender person who was assigned male at birth but has a female gender identity.                                       |

# List of Acronyms

|          |                                                                 |
|----------|-----------------------------------------------------------------|
| AHA:     | Anti-Homosexuality Act, 2014                                    |
| CSCHRCL: | Civil Society Coalition on Human Rights and Constitutional Law  |
| CEHURD:  | Center for Health, Human Rights and Development                 |
| DPC:     | District Police Commander                                       |
| HIV:     | Human Immunodeficiency Virus                                    |
| HRAPF:   | Human Rights Awareness and Promotion Forum                      |
| ICCPR:   | International Covenant on Civil and Political Rights            |
| ICESCR:  | International Covenant on Economic Social and Cultural Rights   |
| IGP:     | Inspector General of Police                                     |
| LC:      | Local Council                                                   |
| LGBT:    | Lesbian, Gay, Bisexual and Transgender                          |
| LGBTI:   | Lesbian, Gay, Bisexual, Transgender and Intersex                |
| OHCHR:   | Office of the United Nations High Commissioner for Human Rights |
| RHF:     | Rainbow Health Foundation                                       |
| RLP:     | Refugee Law Project                                             |
| SIPD:    | Support Initiative for People with Congenital Disorders         |
| UDHR:    | Universal Declaration of Human Rights                           |
| UHRC:    | Uganda Human Rights Commission                                  |
| ULRC:    | Uganda Law Reform Commission                                    |

# The Uganda Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation

The Consortium on monitoring violations based on Sex Determination, Gender Identity and Sexual Orientation (the Consortium) is a body of organisations engaged in the documentation of violations of the rights of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons in Uganda. Its members are: Human Rights Awareness and Promotion Forum (HRAPF); Rainbow Health Foundation (RHF); and Support Initiative for People with Congenital Disorders (SIPD). Benetech provides technical support to the Consortium and the Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL) plays an observer role to the Consortium. The Consortium is chaired by HRAPF, which also hosts the Coordinator of the Consortium.

The Consortium members collect and harmonise data on violations and produce joint periodic violations reports. These reports are intended to support evidence-based advocacy strategies for the rights of LGBT persons.

The Consortium aims at establishing an evidentiary record and to create a high quality and sustainable monitoring system of violations based on sex determination, gender identity, and sexual orientation to support advocacy to create positive social and political change. The Consortium supports members to document violations through building the capacity of members.

The Consortium is currently in its second year of existence, having been established in 2014. During its formative stage, the then members of the Consortium came together under the auspices of the CSCHRCL to produce a report entitled 'Uganda Report of violations based on sex determination, gender identity and Sexual Orientation.' The report was published in October 2014 and launched in November 2014. It covered the period 1988 to 2013. The Consortium is now publishing its first report as a fully formed consortium, which covers the period of 2014.

# Executive Summary

The Uganda report of violations based on gender identity and sexual orientation for the year 2015 is based on data collected in 2014. This report is motivated by the conviction that no violation of rights or dignity based upon an individual's actual or perceived sex, gender identity, and sexual orientation should go undocumented or unacknowledged. It is intended to assist in advocacy efforts, revealing documented instances of human rights violations suffered by the Lesbian, Gay, Bisexual and Transgender (LGBT) community to policy makers, law enforcement members and the local and international community at large. In addition to providing reported violations, this report includes an analysis on the implications of these violations. It also includes recommendations for improving human rights conditions in Uganda to conform to domestic and international standards regarding the rights of LGBT persons.

## Key Findings

1. The report verified and documented 89 cases with violations of LGBT rights in 2014.
2. Of these, 47 documented cases with violations recorded by the consortium for this report were perpetrated by state actors and 42 cases by non state actors.
3. In most cases, the Uganda Police Force participated in the violation of the rights of LGBT persons and also condoned their abuses by third parties.
4. However, there were some instances where the police protected the rights of the LGBT persons in Uganda in the year 2014.
5. The passing of the Anti-homosexuality Act 2014 fueled violations and abuses of rights of LGBT persons in Uganda in 2014.
6. Transgender persons were detained in cells of persons of the opposite gender identity which led to abuse of their dignity.
7. LGBT persons were forced to do medical exams and in some instances their results were revealed to the media.
8. There was increased mob justice against members of the LGBT community by public individuals.
9. LGBT people were discriminated and rejected by their own families and relatives.

10. Homophobia propelled by the media caused violation and abuse of the rights of LGBT persons in Uganda.

violence based on sexual orientation and gender identity or expression.

## Key Recommendations

### To the Uganda Police Force

- » Investigate all credible allegations of physical or verbal abuse against individuals on the basis of gender identity or expression and sexual orientation.
- » Train Officers on human rights and violence based on sexual orientation and gender identity or expression in order to reduce unnecessary arrests, detentions and other violations of the rights of LGBT persons.
- » The Inspector General of Police should strengthen mechanisms to fight bribery and extortion by the police.
- » The Directorate of Human Rights and Legal Services should make robust use of its mandate to guide Police disciplinary processes to further the investigation and prosecution of police officers guilty of corruption as well as acts of violence and discrimination against civilians, specifically including members of sexual minority groups.
- » The Directorate should Train officers on human rights and

- » Establish separate areas for the detention of transgender people to avoid the violence that occurs to them as a result of being detained with people of a different gender.

### To Members of Parliament

- » Enact laws that are non-discriminatory based on universal principles of human rights for everyone.
- » Amend Uganda's Constitution to include a specific prohibition of discrimination based on sexual orientation, gender identity, and sex determination.
- » Condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity or expression.
- » Call upon the Uganda Human Rights Commission to monitor violations affecting LGBT Ugandans.
- » Use the Parliamentary Committee on Human Rights to engage with LGBT persons and organisations regarding laws that may have an adverse impact on LGBT persons.

**To the Uganda Human Rights Commission (UHRC)**

- » Investigate and document reports of violence and abuse against individuals based on sexual orientation, sex determination, and gender identity or expression.
- » Work with civil society organisations to monitor, document, expose, and address incitement to violence, homophobia, and abuse of LGBTI persons.
- » Advise parliament on laws and bills that may increase stigma and discrimination against LGBT persons.

**To the Uganda Law Reform Commission (ULRC)**

- » Issue formal recommendations to Parliament that the Penal Code sections that explicitly discriminate on the basis of sexual orientation or gender identity be repealed.
- » Provide guidance on Penal Code sections to ensure that they are not used by the police and private parties to harass people based on their sex determination, sexual orientation, and/or gender identity.

**To the President of the Republic of Uganda**

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

**To the Ministry Of Health**

- » The Department of Community Health should institute training for healthcare service providers on sexual orientation and gender identity.
- » The Clinical Services Department should issue proper guidelines for providing medical care to all people without discrimination even on the basis of sexual orientation or gender identity.

**To the International Community**

- » Call on the government of Uganda to improve and expand rights for LGBT individuals.
- » Use quiet diplomacy to sensitise Ugandan leaders on LGBT issues to influence the adoption of non discriminatory legislation

against LGBT persons.

- » Support initiatives aimed at creating public awareness on sexuality, sexual and health rights, and violence and discrimination and those aimed at influencing policy that ensures service provision to LGBT persons in Uganda.

parties.

- » Hold awareness sessions with staff members to sensitize them on issues affecting LGBT Ugandans.
- » Create partnerships with other organisations to monitor and document abuses of LGBT rights.

**To National Human Rights Organisations and LGBTI organisations**

- » Build capacity of staff in documentation of violations based on gender identity and sexual orientation.
- » Support public education and awareness-creation on LGBT issues;
- » Support the Uganda Human Rights Commission’s mandate to monitor and document reports of violence, abuse, and discrimination based on sexual orientation and gender identity or expression.
- » Strengthen reporting systems, evidence collection and data storage to facilitate easy verification of violations against people based on their sexual orientation and gender identity or expression.
- » Create information sharing systems so that reports of violations can be used simultaneously by multiple

**To the Media**

- » Treat all people with respect and dignity, regardless of gender identity, or sexual orientation.
- » Learn about, monitor, and report on abuses of human rights and dignity that LGBT Ugandans face.
- » Protect the privacy of LGBT individuals who may be threatened, assaulted, or even killed as a result of being “outed” by the media.

# Introduction

This is the 2015 Uganda Report of Violations Based on Gender Identity, and Sexual Orientation. It covers violations documented by the Consortium members and other partners working on LGBT issues during the year 2014, and it is country specific to Uganda. All data used in the report was collected in 2014.

The report is the second report released by members of the Consortium. The first report was released by the then Consortium members under the auspices of the Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL) in October 2014.

Unlike the previous report, which included cases of violations based on sex determination, the current report limits itself to cases of violations based on gender identity and sexual orientation. Another report on sex determination is due to be released soon after this one. This is intended to adequately cater for the unique circumstances and concerns that intersex persons face and to avoid the confusion that usually arises out of conflation of issues of sex determination with gender identity and sexual orientation issues.

This report is motivated by the conviction that no violation of rights or dignity based upon an individual's actual or perceived sex, gender identity, and sexual orientation should go

undocumented or unacknowledged. It is intended to assist in advocacy efforts, revealing documented instances of human rights violations suffered by the Lesbian, Gay, Bisexual and Transgender (LGBT) community to policy makers, law enforcement members and the local and international community at large. In addition to providing reported violations, this report includes an analysis on the implications of these violations. It also includes recommendations for improving human rights conditions in Uganda to conform to domestic and international standards regarding the rights of LGBT persons.

It is important to note that this report imposed stringent requirements for case inclusion. This was so for all contributing organisations and partners. For Consortium members, the parameters for case documentation were developed as part of the Consortium protocols, and so cases documented were all well verified. For other contributing partners, the case had to be subjected to the verification protocols. As a result many documented cases of violations were excluded from the report especially where the research team felt that there was insufficient supporting evidence. However, the number and nature of the cases that survived the rigorous verification process conclusively prove that human rights violations against sexual minority groups are, indeed,

taking place in Uganda, and took place in 2014.

Considering the range and breadth of human rights violations committed against LGBT persons in 2014, as proven and presented by this report, the members of this Consortium hope that this report will serve to educate the general public and different stake holders of the violations that the LGBT community in Uganda suffers.

The report clearly shows a correlation between the Anti-Homosexuality Act, 2014 (AHA) which had its entire lifespan in 2014, and which came with a lot of discussions on homosexuality and lots of messages from the state that seemed to suggest that the state supported the Act. The most controversial provisions of the AHA were those that created a new offence called homosexuality which targeted consensual same sex relations; that that sought to criminalise what was regarded as 'aggravated homosexuality' which included 'repeat offenders; that that gave immunity to those who committed any offence while 'protecting themselves from homosexuality; and those criminalising advocacy and funding of activities related to homosexuality which were covered under the provisions on 'aiding and abetting' and 'promotion of homosexuality'.

The AHA was passed by Parliament on 20th December 2013. The President signed it into law on 24th February 2014 and it came into force on 10th March 2014. Following its passage, a

diverse group of individuals and non-governmental organisations<sup>1</sup> (NGOs) came out to challenge the law's constitutionality on 10 grounds.<sup>2</sup> On 1st August 2014 the Constitutional Court annulled the Anti Homosexuality Act (AHA) on grounds that the Act had been passed without following the requirements of the Constitution and the Parliamentary Rules of Procedure on quorum.<sup>3</sup> During this brief period a number of things happened: when the Act was passed by Parliament, parliament was appreciated for taking this step. The President signed the Act into law in front of local and international media, and it was quite clear that he stood for it and whatever was in it. A thanksgiving ceremony was organised for him, which was attended by many people. When the law was nullified, there was an attempt at protesting against the decision by the anti-gay groups. All these events kept the debate on homosexuality in the public and indeed the whole environment showed general hostility against LGBTI persons.

There were signals in 2014 that the government might appeal against the

1 The individuals were: Prof. J Oloka-Onyango of the School of Law Makerere University; Hon. Fox Odoi-Oywelowo, Member of Parliament; Andrew Mujuni Mwenda, Independent Journalist and Proprietor of The Independent News Magazine; Prof. Morris Ogenga Latigo, former Leader of Opposition in Parliament; Dr. Paul Nsubuga Semugoma, medical doctor; and Jacqueline Kasha Nabagesera, Julian Pepe Onziema and Frank Mugisha, who are all human rights activists. The two organisations are: Human Rights Awareness & Promotion Forum (HRAPF) and Centre for Health, Human Rights & Development (CEHURD).

2 Human Rights Awareness and Promotion Forum 'Anti-Homosexuality Act petition 2014' Accessed 30th March 2015. Available at <http://www.hrapf.org/publications/laws/anti-homosexuality-act-2014-petition-uganda>

3 See Human Rights Awareness and Promotion Forum 'Judgment in the Anti-Homosexuality Act case' available at <http://www.hrapf.org/publications/laws/ruling-case-against-anti-homosexuality-act>

judgment or introduce another law with similar provisions to the Anti-Homosexuality Act.<sup>4</sup> Indeed, a draft bill entitled the Prohibition of Promotion of Unnatural Sexual Practices Bill was leaked to the public as a document that had been drafted by the ad-hoc committee of cabinet that had been set up by the President to study the way forward on the bill.<sup>5</sup> The leaked draft bill retained the criminalisation of ‘promotion of same sex practices’, which would effectively criminalise the activities of groups that advocate for the rights of LGBT people and render it illegal for such organisations to receive funds or advertise their work and activities in any form. However, same-sex conduct remains a crime under Uganda’s colonial-era law that criminalises ‘carnal knowledge against the order of nature’.<sup>6</sup>

It is worth noting from the very outset that since the Parliament of Uganda introduced the Anti-Homosexuality Bill in October 2009, acts of human rights violations increased against the LGBT community. There was a marked increase in the number of violations of LGBT persons during the period when the Act was in force and when it was nullified.<sup>7</sup>

4 The Daily Monitor: New anti-gay bill in advanced stages. Available at <http://www.monitor.co.ug/News/National/New-anti-gay-Bill-in-advanced-stages/-/688334/2528396/-/14e5eauz/-/index.html>. Accessed on 26th March 2015.

5 The Guardian: Uganda drafts new anti-gay laws. Available at <http://www.theguardian.com/world/2014/nov/08/uganda-drafts-anti-gay-laws-prison-promotion-homosexuality>. Accessed March, 26 2015. The Committee never owned up to the leaked draft Bill and up to the time of publication, no one has come out to claim it.

6 Same sex conduct is criminalized under Section 145 of the Penal Code Act of Uganda cap.120.

7 See for example ‘Human Rights Awareness and Promotion Forum’ Annual Report, 2014, <http://www.hrapf.org/publications/annual-reports/hrapf-annual-report-2014-0>, 16-19

This is attributed to the feeling that if the government had passed a law further criminalising same sex conduct, then the police could arrest such people more, and also the general public can take the law in their hands. The passage of the law was widely publicised and marked as the end to homosexuality in Uganda.

However, the AHA cannot be solely responsible for causing all the violations in 2014, because even before that, violations used to occur albeit not at the same scale.

Nevertheless, some incidents were clearly connected to the AHA. For example on 3rd April 2014, nearly two months after the AHA was signed, it was documented that police raided and closed down a US Department of Defence funded health clinic and medical research facility, the Makerere University Walter Reed Project. The police officials accused the project of conducting “unethical research” and “recruiting homosexuals.”<sup>8</sup> In another incident, the Refugee Law Project (RLP) an organisation that works with refugees on gender based violence and the host of the Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL) was served with two letters in March and April 2014 where government suspended their direct services to refugees in refugee camps and later at its Kampala offices on allegations that the organisation was promoting homosexuality in the

8 ‘Makerere project recruited gays-Police’ The Daily Monitor, Accessed on 30th March 2015. Available at <http://www.monitor.co.ug/News/National/Makerere-project-recruited-gays-police/-/688334/2272794/-/4mxkciz/-/index.html>

refugee camps.<sup>9</sup> Reports of LGBT persons from Uganda seeking asylum or refuge in other countries increased in 2014<sup>10</sup> as well, which is also relevant to the assertion that the passing of the AHA had an influence on the number and nature of violations based on gender identity and sexual orientation in Uganda in 2014.

While the focus of this report is not to emphasise that violations of rights of LGBT persons in 2014 were a result of the AHA,<sup>11</sup> it is worth highlighting that the AHA directly contributed to the occurrence of violations against LGBT persons in 2014 due to the wide sweeping provisions that encouraged people and authorities to abuse the rights of LGBT persons. However, with or without the AHA, violations of rights of persons based on gender identity and sexual orientation would likely still have occurred in 2014. The existence of prior human rights violations committed against LGBT persons is evidenced by findings presented in earlier reports, including the report produced by the Consortium under the auspices of the Civil Society Coalition on Human Rights and Constitutional Law last year.<sup>12</sup>

The Consortium does not purport this report to be a full record of all the violations that took place in 2014. Indeed it is highly likely that many were not included since information on them may not have reached the Consortium members and partner organisations. Also many cases from partner organisations were left out as they could not be fully verified.

9 'Uganda's Anti- gay witch-hunt has begun' [www.vice.com](http://www.vice.com), Available at <http://www.vice.com/read/ugandas-anti-gay-witch-hunt-has-officially-begun-627>, accessed 30th March 2015.

10 'Hundreds of LGBTI refugees have fled Uganda' [Advocate.com](http://www.advocate.com), Available at: <http://www.advocate.com/world/2014/06/27/activists-hundreds-lgbt-refugees-have-fled-uganda>. Accessed on 30th March 2015.

11 The full extent to which the AHA influenced violations in 2014 is hard to measure.

12 The report: "Uganda's Report on Violations based on Sex Determination, Gender Identity and Sexual Orientation" launched by the CSCHRCL in November 2014 reported violations of LGBTI rights from 1995 to 2013. Therefore, even without the AHA, violations of LGBTI rights would still have occurred in 2014.

# Methodology

This report employed qualitative methodology to collect and verify data.

## Data collection

Data collection for this report was collaboratively undertaken by the Consortium members. However, other organisations outside the Consortium, particularly, the National LGBT Security Committee contributed data on the cases they had documented. Cases of violations documented by the three member organisations of the Consortium were collected at one central point managed by the Coordinator of the Consortium based at HRAPF. Consortium members had earlier been trained in methods and techniques of data collection, fact-finding and verification of cases to ensure that data collected was of high quality and met the standards set by the Consortium for inclusion in the report. Collection of data was undertaken from January to December 2014 and verification, cleaning and coding of data was done from December 2014 to April 2015.

Collection and documenting of data was done using a standardised system of documentation. Field officers who were in most cases Legal Assistants or Paralegals situated at different organisations which form the Consortium collected data on violations from the field. Physical files of cases were created containing

details of cases and later organised and entered in the electronic human rights documentation system, Martus.<sup>13</sup> These were reviewed by heads of departments of the organisations and later sent to the Consortium Coordinator at HRAPF who also reviewed and organised them for verification.

During the period, the Consortium members documented a total of 83 cases of violations of rights based on gender identity and sexual orientation for this report. 71 of these cases were documented by HRAPF and 6 were documented by RHF. Six other cases were a result of one on one meetings conducted with victims of these violations during fact finding. The National LGBT Security Committee also availed data for 115 cases of violations that were documented during 2014.

In total, the Consortium had 198 cases to consider including in the report. Time and concrete steps were taken to verify each and every case to the greatest measure possible to ensure that only substantiated cases of violations in 2014 made it to the report.

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<sup>13</sup> Martus, an open-source software platform, is used by human rights workers, lawyers, journalists and others worldwide to standardise, securely share, and/or secure information from theft, loss, destruction, and/or unauthorised access is developed by Benetech, a non-profit technology company that develops and supports Martus ([www.martus.org](http://www.martus.org)).

## Verification of cases

To ensure quality and accuracy of cases included in the report, the Consortium developed strict guidelines for verification. All the 198 cases collected were taken through a rigorous verification process following the guidelines developed. Two methods of verification were used to validate and qualify cases for this report.

The first method involved reviewing the documented cases using the information available. Each case was reviewed at a time. Documented cases were expected to be backed up with documentary evidence and statements of parties involved in the case. Documents supporting claims of eviction, police arrests, bonds, court bail, medical examinations, school expulsions etc. were expected to be available on case files. All statements were reviewed. Once the documentary was found to be sufficient, the case was deemed to qualify and the second method would not apply.

Those cases that were found to be wanting were subjected to the second method. The second method involved witness corroboration. The verification guidelines for the Consortium regarded one as a witness if they had first hand knowledge of what happened in a particular event. In each case, at least two individuals who were in position to know details of the case were required to corroborate the accuracy of the facts compiled in order for the cases to be considered to have met the standard of the verification procedure.

At this stage many cases still could not make it to the list because some of the people who witnessed the occurrence of the violations had either relocated to unknown destinations or had obtained asylum and left the country. One-on-one meetings were also held with the victims and perpetrators to ascertain information about the violations. These were later compared with statements recorded from eyewitnesses to see if the facts tallied. Focus group discussions were also held where there were many witnesses. However, these were minimised because people did not feel secure and confident to discuss some of the violations in a group setting. In cases where all individuals gave different accounts, specific questions, which helped them to remember specific events, were asked to ensure that they had not just forgotten the facts. Of the 198 cases of reported violations collected for the report, only 89 cases passed the verification process for inclusion in this report. Many unverified cases of human rights violations were eventually not included in the analysis in this report—not due to any disbelief that the abuses took place, but because the cases could not meet the verification standards set by the Consortium.

## Methodological challenges

The stringent system of verifying cases for this report created challenges for the Consortium's verification team. Many cases of violations were left out, leading to misrepresentation of some groups in the LGBT community. The verification system created a high

standard of proof of violations hence ruling out violations that could perhaps have made it to the report. While the system ensures high data quality for the report, it might have missed some important violations that occurred in 2014 because of lack of enough evidence to back the allegations.

The signing and subsequent operationalising of the AHA caused tension among members of the LGBT community and also increased homophobia and persecution of LGBT persons. This increased cases of people seeking asylum in neighbouring countries and other countries. It also caused the closure of organisations that worked on LGBT issues by their founders. This meant that many violations that occurred could not be verified because information and evidence to use for verification was lost. In the period following the passing of the AHA, organisations operated by LGBT people and providing services including documenting violations panicked and lost data that had been documented. Others burnt some of their materials, documents and equipment and closed, fearing that they would be arrested. Due to this lack of necessary evidence and corroboration from witnesses or victims, many cases did not make it to this report.

The high concentration of grassroots LGBT organisations in Kampala led to geographical bias in the report. Also, organisations in Kampala have over time improved their capacity to document and report cases of violations

unlike their upcountry counterparts. As such, many of the reports that met the verification criteria were recorded in Kampala. These factors made it easier for violations documented in Kampala to make it to the report. Not surprisingly, this report includes more cases from Kampala than from anywhere else in the country. Violations occurring in rural areas are underrepresented in this report. In most rural districts, community organising for LGBT rights is not as vibrant as it is in Kampala, and many cases of abuse go unreported. On the other hand, the fact that most rural areas in Uganda do not have many “out” LGBT persons suggest that violations may be less likely to occur outside of Kampala.

Thus, the data in this report does not accurately represent the true geographic variance of violations occurring across Uganda but rather reflects the current status of the reach of documentation and verification efforts that these organisations could conduct. As with the number of violations occurring over time, the geographic scope of the sample of data gathered for this report does not allow the authors to make statistical inferences about geographic trends.

Of the 111 victims of human rights abuses who were interviewed for this report, 69 self-identified as gay men; 21 self identified as trans people (transmen and transwomen); 9 self-identified as lesbians; 6 as Bisexuals yet 6 declined to identify their sex, gender identity or sexual

orientation status.<sup>14</sup> While there were no indications of specific targeting of gay men as compared to others within the LGBT group, research showed that they are the most likely to be reached by researchers to report cases to organisations that document them, while other populations were more difficult to reach or did not come forward to report violations as frequently.

Among the cases reviewed by the research team, a non-conforming outward appearance proved to be a common factor in violations, particularly public ones. This includes many transgender persons, who appear to be more at risk of being brutalised because of presumptions based upon their appearance.

Out of the 198 case reports collected by members of the Consortium, only 89 case reports were verifiable. This is because in most reports information was scattered, supporting evidence was lacking and in many cases the Consortium team failed to establish some facts even from witnesses they talked to regarding the case reports. Therefore, the Consortium team found it difficult to establish facts on those cases, which showed that there is still need for documentation capacity building to obtain well researched and verified documentation of cases in the LGBT community.

While there are indications that the type of violations experienced, who perpetrates them, and where they occur (e.g. public, private, etc.) vary according to different LGBT identities, the small, non-representative sample size of violations per group included in this report is not designed to provide statistical conclusions about trends by identity. However, what the data does establish beyond doubt is that all members of this group of Ugandans experience violations and/or discrimination based on their gender identity, and sexual orientation.

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<sup>14</sup> The research team documented the identity of individuals based on how the individuals would define themselves. Nevertheless, these identities are fluid and it is impossible to accurately map people onto a chart. In a society with high levels of homophobia, bisexuals may also be more likely to remain closeted and less likely to report violations to the police, service providers, or LGBTI organisations.

# Human Rights Violations Based on Gender Identity and Sexual Orientation in Uganda in 2014

## General overview

89 violations qualified for documentation in this report. Of these 89, 47 were perpetrated by state actors and the others by non state actors. The details of the violations are discussed under the category of perpetrators.

## Violation of human rights by state actors

International human rights law lays down obligations, which states are bound to respect. By becoming parties to international treaties, states assume obligations and duties under international law to respect, to protect and to fulfill human rights. The obligation of states to respect human rights means that the Republic of Uganda must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires Uganda to protect individuals and groups against human rights abuses and the obligation to fulfill requires the state to take positive actions to facilitate enjoyment of basic

human rights. The obligations that were directly violated by the state are those to respect and fulfill, since state agencies directly violated the rights of LGBT persons and failed to put in place measures to ensure that LGBTI persons realise their rights. The direct violations by the state are discussed below as per state agency responsible for the perpetration:

## The Uganda Police Force

The Uganda Police Force has the constitutional duty to protect life and property, to keep law and order and to prevent and detect crime.<sup>15</sup> Indeed, in doing its work, the Police need interact with LGBT persons, and since same sex relations are criminalised, the Police at least has some formal legal justification to arrest suspects with a view of prosecuting them. However, this does not take away the rights of the suspects or potential persons to be arrested. Yet, in most instances, the rights of suspected LGBT persons are violated in the process of law enforcement. The police indeed emerged as the main violators of LGBT

<sup>15</sup> Constitution of the Republic of Uganda, Article 212.

rights during the year 2014, despite the few incidents of protection that stand out.

### **Protection of LGBT rights by the Uganda Police Force**

Before presenting the violations however, it is important to point out the positive role played by the Police to protect LGBT rights during the year 2014. The Uganda Police Force must be credited for protection of the rights of LGBT persons in the few instances where they have done so. Though this is not the dominant trend, nevertheless particular incidents stand out where the Police has protected LGBT persons. Indeed, in five different instances during the year 2014, the Police especially through the Directorate of Legal and Human Rights intervened to stop violation against LGBT persons. These are:

In May 2014, representatives of the LGBT community met with General Edward Kale Kayihura, the Inspector General of Police (IGP), and Erasmus Twaruhukwa, Assistant Inspector General of Police and Director of the Directorate of Human Rights and Legal Services.<sup>16</sup> This in itself was a milestone for which the Police leadership is highly applauded. During the meeting, LGBT leaders shared the different challenges that

the LGBT community faces when interfacing with the Police, including arbitrary arrests, anal examinations, detention beyond 48 hours and being denied access to counsel. The IGP recognised the fact that human rights apply to all including LGBT persons, and that some of those violations are not specific to LGBTI persons but all Uganda due to the various challenges facing the Uganda Police Force. He however made it clear that as long as there are laws criminalising same sex relations, the Police will be bound to arrest suspects since their role is to enforce the laws. The representatives of the LGBT community admitted this but emphasised that arrests should only be done where there is reasonable suspicion which is never the case, and that the Police should not violate the rights of the LGBT persons even when enforcing such laws. The Police leadership agreed with this, and promised to follow up on cases of violations. This was a very positive step, and in fact since then the Police leadership has intervened in four cases involving police violations of LGBTI rights.

On 14th May 2014, the police rescued a bisexual man from a mob, which had locked him in a house and assaulted him. This was after neighbours had noticed the noise that was coming from

<sup>16</sup> The Directorate of Human Rights and Legal Services is responsible for advising Police management and other officers on legal issues, initiating Police related legislation, guiding the Police disciplinary process, and drafting bills and other statutory instruments for the Uganda Police Force for onward submission to the Solicitor General.

the house and realised that someone needed help. When the Police was called in they rescued him from the mob and the matter was investigated.<sup>17</sup>

On 17th March 2014, the Police arrested and investigated a man suspected of assaulting and stealing from a gay man and a transwoman. The two were locked in a house and beaten with sticks and wires by three men while they were being asked why they were homosexuals. They were video recorded and robbed of their properties like phones, money and identification documents. When one of the two victims escaped, they contacted their lawyers at HRAPF who called the Police. The Police responded in full force and rescued the remaining victim and arrested one of the perpetrators. The case was investigated and the arrested perpetrator was later convicted with theft and sentenced to three months imprisonment.<sup>18</sup>

The Police also helped to stop threatening violence of a transwoman who was threatened by customers at her work place. On several occasions one of the customers used to go to the bar where the victim worked and he would always tell her that they did not want homosexuals there, and that he had previously seen her in newspapers when she

was arrested and paraded as a homosexual. On 11th November 2014, the customer slapped her and even promised to mobilise other people to beat her up, and indeed on the evening of the same day, a group of youths started throwing stones at the bar while demanding the management of the bar to hand her over to them. Working with lawyers from HRAPF, the victim reported the matter to the police. Police then summoned the customer to appear before it to answer charges of assault on the client, which helped to stop the violence.<sup>19</sup>

In April 2014, the Police provided security during a mediation to recover property for a gay man who had been arrested. This all started in January 2014 when the landlord evicted the victim working with the Local Council authorities. It also happened that they reported the victim to Old Kampala Police Station that he was a homosexual. When he reported to the Police about the eviction he was instead arrested on charges of having carnal knowledge against the order of nature and remanded to prison for three months. After his release, the police escorted the victim and his lawyers to recover his property from the Chairperson who had retained them.<sup>20</sup>

17 Case Number: 20/05/2014  
18 Case Number: 31/03/2014

19 Case Number: 38/11/2014  
20 Case Number 30/01/2014

However, despite these very positive incidents, in most cases the Uganda Police Force (UPF) participated in the abuse of the human rights of LGBT persons and also condoned such abuses by third parties.

### **Violations by the Uganda Police Force**

More than half of the violations recorded by the Consortium for this report were by the Police. These are 47 cases of violations out of the 89 recorded. All these violations usually start with a police arrest and then they escalate. Although the violations are clustered in rights violated, usually there are multiple violations within one individual case. A case to illustrate this is:

On 27th January 2014 where police arrested a man on suspicion that he was gay.

After the arrest, the Police forcibly subjected the suspect to an anal exam, which was conducted at Mayfair clinic under reference number GEF. 02/2014. The exam was carried out on 30th January 2014 as a way of obtaining evidence as to whether he had engaged in acts of homosexuality. This was inhuman and degrading and done without consent.

The suspect was further subject to a compulsory HIV test, which was in contravention of international and national

prohibitions on non-consensual medical experimentation.

The suspect was detained for more than 48 hours thus violating his constitutional right to liberty. The suspect was arrested and produced in court 21 days after a court warrant was secured.

The suspect was also paraded before the media while in detention and this violated the constitutional presumption of innocence and his right to privacy. The suspect appeared in the red pepper on 29th January 2014 under the headline “HORRIBLE: City sodomite infects 17 boys with HIV.” This violated his right to privacy as his HIV results were published.<sup>21</sup>

The violations of the human rights of LGBT person perpetrated by the Police were as follows:

### **Violations of the right to liberty**

The Police was very key in the violations of the rights to liberty, which is protected under Article 23 of the Constitution. The main violations were:

<sup>21</sup> The police practice of allowing detainees to be photographed by journalists prior to being brought to court violates the right to be presumed innocent and the right to a fair trial, as well as the UN Standard Minimum Rules for the Treatment of Prisoners requirement that prisoners be protected from insult, curiosity and publicity in any form. Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of July 31, 1957 and 2076 (LXII) of May 13, 1977, Rule 45(1).

### **Arbitrary arrests**

The Constitution protects the right to personal liberty. It provides that no person shall be deprived of personal liberty except for certain cases such as the execution of a sentence or court order; preventing the spread of an infectious disease; and for purposes of preventing unlawful entry into the country, among others.<sup>22</sup> International law also provides substantive safeguards against unlawful arrest and detention, including the principle that police or judicial actions that are not carried out in accordance with national law are unlawful.<sup>23</sup>

The right to personal liberty in cases of criminal cases can be limited where there is “reasonable suspicion that the person has committed or is about to commit a criminal offence under the laws of Uganda.”<sup>24</sup> However, most of the arrests of LGBTI persons that were documented occurred without any reasonable suspicion as to the commission of an offence. Most of them are arrested after the Police has been tipped off that someone looks like a homosexual (this is especially so for transgender persons) or that two men are sleeping in the same house and thus they are ‘homosexuals’. Incidentally, being a homosexual is

not an offence for which someone can be arrested, for Section 145 of the Penal Code is limited to ‘having carnal knowledge against the order of nature’,<sup>25</sup> and so the person can only be arrested if they are caught in the act of having same sex sexual intercourse or there is some strong inference that they are doing so. Any other such arrest becomes arbitrary. This is partly shown by the limited use of arrest warrants. Police officers are only allowed to arrest someone without a warrant if they have reasonable suspicion that the person has committed or is about to commit an arrestable offence.<sup>26</sup> In no single documented case of arrest was an arrest warrant used during the year 2014. This indicates that the arrests took place without the police doing investigations first and having sufficient cause to have an arrest warrant issued by the courts.

In the year 2014, in all documented cases of arrests LGBT persons were arrested in circumstances that would qualify to be arbitrary arrests since none of them was arrested while having sex or on reasonable suspicion that they were having sex.

12 arrests out of the 36 documented arrests did not result into preference of charges against the suspects. They were simply arrested, detained and later released without charge. Outstanding examples of cases where people were arrested simply on suspicion are:

<sup>22</sup> Constitution of and of his or her right to a lawyer of his or her choice. the Republic of Uganda, article 23(1).

<sup>23</sup> Article 9(1) of the ICCPR provides that: “No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” Arbitrariness is understood to be interpreted broadly to include not only unlawfulness but also inappropriateness, injustice and lack of predictability. *Van Alphen v. The Netherlands*, Human Rights Council, Comm. No. 305/1988, 23rd July 1990, para. 5.8.

<sup>24</sup> Constitution of the Republic of Uganda, art. 23(1)(c).

<sup>25</sup> As per Musoke Kibuuka J, in *Kasha Jacqueline & Ors v Rollingstone & Anor*, High Court of Uganda, Misc. Cause No 163 of 2010.

<sup>26</sup> The Police Act, section 23(1)

On 27th January 2014, Old Kampala Police Station arrested a gay man after being tipped off by his landlord that he was homosexual. The landlord told the police that he had been monitoring him and had sensed that he was gay because of his characters. The landlord got in touch with the chairman of the area and together they threw the suspect's property outside and later took him to the police. He was later taken to court on 21st February and charged with having carnal knowledge against the order of nature.<sup>27</sup>

On 28th January 2014 the police at Ntinda arrested a Kenyan and a Belgian Nationals on suspicion of practicing homosexuality. They were later transferred to Kira Road Police Station and accused of practicing an act of homosexuality and being in possession of pornographic materials.<sup>28</sup>

On 2nd March 2014 the police at Namirembe police post arrested a gay man and detained him after a tip off from someone that he was homosexual. The suspect was arrested and released without a charge when the complainant failed to produce evidence that he was homosexual violating his right to liberty.<sup>29</sup>

***Arrest without immediately giving suspects reasons for the arrest and without informing them about their right to a lawyer***

A person arrested, restricted or detained has to be informed immediately in a language that the person understands of the reasons for the arrest, restriction or detention and their right to a lawyer.<sup>30</sup> In all documented cases, there is no single instance where the person arrested was given reasons until they were at the police station, or immediately informed of their right to a lawyer. The outstanding cases are:

On Thursday 18th December 2014 the police arrested a gay man while he was coming from the gym in Nabweru. During the arrest, he was not given a reason but rather forced into the car. He was driven to Nabweru Police Post where he was charged with being rouge and vagabond. He was later taken to Matugga Court where he was remanded to Buwambo Prison.<sup>31</sup>

On 27th September 2014 a gay man, was arrested at his home in Salaama after neighbours complained to the police that he was homosexual. During the arrest, he was just taken to Kikajjo police post where he was charged with the offence of practicing homosexuality. He was released on 28th September

<sup>27</sup> Case number: 01/01/2014

<sup>28</sup> Case number: 04/01/2014

<sup>29</sup> Case number: 05/03/2014

<sup>30</sup> Constitution of the Republic of Uganda, article 23(3).

<sup>31</sup> Case number: 28/12/2014

2014. During the arrest, his passport, mobile phone and air ticket and a laptop were retained at the police but were later returned to him.<sup>32</sup>

On 25th April 2014 a gay man was arrested after he received a phone call to go to Kabalagala Police Station. On reaching there he was taken to Katwe Police Station where he was told he had sodomised a person who had reported him to the police. However during all the time he was not informed of the reason of his arrest until at Katwe Police Station where he was informed that he was being arrested on sodomy charges.<sup>33</sup>

### ***Being detained beyond 48 hours***

The Constitution provides that arrested or detained persons “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.”<sup>34</sup>

In many of the cases documented for this report, victims of arbitrary arrests were detained for long without being released on police bond or being brought before a magistrate. Of the 36 victims of arbitrary arrest and detention whose testimony informed this report, 18 were held in pre-trial detention in excess of the 48 hours prescribed by the constitution. Lengthy pretrial detention is usually connected

with Extortion and blackmail. The threat of long pre trial detention is used to cow suspects into paying for police bond. Even though police bond is free, in most cases, members of the LGBT community were asked for money to be released on police bond.<sup>35</sup>

Among the documented cases of unlawful pre-trial detention, the ones that stand out are:

A gay man and transwoman were arrested and detained for 21 days without being produced in court.<sup>36</sup> They were denied bond and only produced to court after a production warrant was processed when their lawyers complained to the Uganda Human Rights Commission. They were later charged with carnal knowledge against the order of nature.

In a similar account, a transwoman was arrested and detained for five days. She was later produced in Matugga court and charged with being rogue and vagabond under section 168 of the Penal Code and remanded to Luzira Prison after HRAPF lawyers had written a letter to the Inspector General of Police (IGP) complaining about the arrest and delayed release of their client.<sup>37</sup>

32 Case number: 26/09/2014

33 Case number: 17/04/2014

34 Constitution of the Republic of Uganda, art. 23(2), (4).

35 In many cases documented, police arrests members of the LGBT group to extort money from LGBTI persons. Although evidence is difficult to obtain in order to substantiate these claims, victims interviewed always confessed to have given money to police officers to be released on bond.

36 Case numbers: 01/01/2014 and 02/01/2014

37 Case Number: 03/01/2014

A man was arrested on allegations of carnal knowledge and detained for 13 days before he was produced in court.<sup>38</sup>

Two men were detained on allegations of sodomy on 18th March 2014 and released on police bond on 17th April 2014.<sup>39</sup> A total of 28 days were spent in detention at the police station.

Another man was arrested on 30th April 2014 and detained at Kabalagala Police Station and produced after 12 days on 12th May 2014.<sup>40</sup>

A transman was arrested and detained at Jinja Police Station for two weeks without granting him bond.<sup>41</sup>

### ***Denial of access to legal counsel***

Article 23(5)(b) of the Constitution a person who is arrested or detained shall have their lawyer given reasonable access to that person. In one documented case, the Police denied a transgender victim access to legal counsel. This arose from the following circumstances:

The victim was arrested on the 27th January 2014 and detained at Central Police Station.<sup>42</sup> When a lawyer from HRAPF went to the police station to interview

her on the day of her arrest, he was denied access. An interview was only granted the following day on condition that it was conducted in the DPC's office in the presence of about 12 other visitors who had come to see the DPC.

### **Violations of the right to freedom from inhuman and degrading treatment and the right to privacy**

The Police also subjected LGBT persons to violations of their rights to freedom from inhuman and degrading treatment, which is protected under Article 24 and the right to privacy, which is protected under Article 27 of the Constitution. This was done in the following instances:

### ***Use of excessive force during arrests***

There were two documented cases where police used excessive force during arrest. They dragged and beat up the suspects during the course of arrest. A case that stood out was:

The police arrested a transwoman and she reported being beaten and harassed by the police officers during arrest. She was insulted and wounded during the arrest, which left scars on her body.<sup>43</sup>

38 Case Number: 09/09/2014  
39 Case Number: 11/03/2014  
40 Case Number: 13/04/2014  
41 Case Number: 15/04/2014  
42 Case Number: 03/01/2014

43 Case Number 03/01/2014: The victim's scars were inspected and photographed by Consortium staff. Photographs on file at HRAPF offices.

***Detention of transgender persons with persons of a different gender***

When detaining transgender persons, the Police used the perceived gender of the person to decide in which cells to detain them. In all cases, transgender men were put in detention cells for women and transgender women out in detention cells for men. In 10 documented cases transwomen were detained in male detention cells with men who abused them verbally through sexual gestures. Likewise there were 4 documented cases where transmen were detained in female detention cells in 2014. Below are some cases of this nature:

On 27th of January 2014, a transwoman was arrested and detained at Old Kampala Police Station. Because the police perceived her to be a man, she was detained with male inmates who insulted her verbally while in detention.

On 9th February 2014, a transman was detained at Kiira Road Police Station when he went to check on his friend who had been arrested for theft. The police claimed that after inquiries, they found that the suspect had a connection with the theft that had taken place and also arrested him. The victim was detained in female detention cells. They alleged that he was a woman pretending

to be a man with the aim of defrauding people. This exposed him to abuses and trauma from the abuses.

***Forced anal examinations***

In three cases, the suspects were subjected to anal exams. This is done to apparently find evidence of anal sex, despite such tests having been found to be evidentiary worthless and a violation of the rights to dignity and privacy of the person.

In one of the three cases, a transgender person who had survived mob action was subjected to an anal examination at Mayfair Clinic on 30th January 2014.

***Forced HIV tests***

Mandatory HIV testing is discredited and constitutes a violation of the rights to freedom from inhuman and degrading treatment and the right to privacy and yet in four documented cases, victims of arbitrary arrest reported that they were forced to undergo HIV tests without their consent. In one of the cases, results of the HIV test were revealed to the media, and published in an article declaring that the victim had infected others with HIV.<sup>44</sup>

<sup>44</sup> The victim appeared in the Red Pepper of 29th January 2014 under the headline "HORRIBLE: City sodomite infects 17 boys with HIV." This violated his right to privacy as his HIV results were published.

### **Violation of the presumption of innocence: Parading of suspects before the media**

Persons arrested were also in many cases subjected to violations of the presumption of innocence which is one of the key components of the right to a fair trial. The presumption of innocence is protected by Article 28(12) of the Constitution. The Police violated this right through parading suspects before the media and labeling them as 'homosexuals', and 'impersonators.' 11 cases were documented where the Police paraded LGBT people before the media during and after arrest.

This not only violates the right to presumption of innocence but also puts LGBTI persons at risk of being subjected to mob justice, and indeed for many of them, this breeds many challenges of fitting back into the community, and leads to violations by members of the public.<sup>45</sup>

### **Violations of Freedom of Speech, Assembly, and Association**

Article 29(1) of the Constitution protects among others the right of every person to freedom of speech and expression, freedom of thought, and conscience and belief. . In 2014, the Police violated these rights especially the right when its officials raided an

<sup>45</sup> For a detailed discussion of how this affects LGBTI persons, see Human Rights Awareness and Promotion Forum (HRAPF) and the Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL) 'Protecting 'morals' by dehumanising suspected LGBTI persons? A critique of the enforcement of the Laws criminalisation same-sex conduct in Uganda' 57-66.

organisation accusing it of promotion of homosexuality.

On 3rd April 2014, Makerere University Walter Reed Project, an organisation that was engaged in research on HIV was raided by the police and a staff member arrested on allegations of promoting homosexuality in Uganda. The organisation was raided because of their engagement with the LGBT community. This was in violation of the right to freedom of assembly and association. The project provided a platform for the LGBT community to freely express themselves as regards their health problems.<sup>46</sup>

### **Failure to investigate violations based on gender identity and sexual orientation**

Besides being involved in violating rights of LGBT people, the Police also involves itself in other violations which have the effect of denying access to justice to LGBT persons. The Police in some cases simply refuse or fail to investigate cases reported to them involving violations of LGBT rights. Some of these incidents are highlighted below:

In a case that happened on 28th November 2014, the Police failed to investigate claims where unknown people assaulted a member of the LGBT community

<sup>46</sup> Case Number: 58/04/2014

and left him unconscious and bleeding. When he reported, the Police did not go on with the investigations and the victim was left with no redress.<sup>47</sup>

The police failed to investigate a case in which a transwoman was assaulted and humiliated. On 28th May 2014 at around 10.00 am while the victim was going to an Internet café, she met five men and a lady who pinpointed her and started asking why she pierced her ears and why she wears her trousers the way she did. They started beating her up saying that he and his neighbors who usually moved with her were gay. During the scuffle, her belongings were stolen. She worked with lawyers to report the case at Kyengera Police Station, which did not investigate the incident.<sup>48</sup>

## Violations by the Office of the Prime Minister

The Office of the Prime Minister was also directly involved in the violation of the right to freedom of association through the Department for Refugees. On 14th March 2014, the Minister of Relief, Disaster Preparedness and Refugees wrote to all Refugee Settlement Commandants and Refugee Desk Officers advising them to suspend the activities of RLP in the settlements pending investigations on allegations that RLP was promoting

homosexuality in the settlements. On 20th May, RLP received another letter from the Permanent Secretary, signed by the Commissioner for Refugees in the Office Prime Minister, extending the suspension to the Kampala office.<sup>49</sup>

## Violations by Local Council Authorities

Local Councils are created under the Local Governments Act, and so they are part of the state. Authorities at these levels especially the Local Council I (village level) actively participated in the violations of the rights of LGBTI persons. In 2014, many members of the LGBT movement were forced to vacate their villages and houses simply because of their sexual orientation or gender identity. This resulted into the violation of the right to freedom from inhuman and degrading treatment, since banishment from villages has been held by the Supreme Court to constitute such a violation.<sup>50</sup> In most cases their friends offered them shelter after eviction because the persons evicted usually end up losing their jobs in the process. Landlords often connived with Local Council Chairpersons to force LGBT people from houses and expel them from their villages. The instances that stand out are:

In January 2014, a man had his property thrown out of the house because the landlord and chairperson LC I suspected him to be gay. When he went

47 Case Number: 57/11/2014

48 Case Number: 33/05/2014

49 The suspension was lifted in January 2015 after the Refugee Law Project stopped hosting the coalition

50 *Salvatori Abuki and Anor v Attorney General*, Constitutional Case No. 2 of 1997, Per Oder JSC

to report the case at police, he was instead arrested because the Chairperson had already reported that he was a homosexual.<sup>51</sup>

In a similar event in November 2014, a transman was evicted from a house and expelled from a village due to his gender identity. The Landlord connived with the chairperson and gave him an ultimatum of two days to vacate the house and was advised to also change the village because they could not bear living on the same village with him.<sup>52</sup>

On 5th June 2014, in connivance with the Chairperson a landlord evicted a transwoman from her rented room because of her gender identity. This was after the landlord had made accusations on several occasions that she was gay. She was given a two weeks' notice to leave the rented house.<sup>53</sup>

## Violations by non state actors

Private individuals also involved in carrying out violations against LGBT persons in 2014. The state is still complicit in this, since International human rights law imposes a duty on states to protect persons from third party violations of human rights. In many cases informing this report, a significant number of the violations of rights were primarily or exclusively involved non-state actors such as family members, neighbours, and members of the broader community. There were also numerous ways in which members of the LGBT community were treated inhumanely and harassed by private individuals. However, little or no intervention or protection was done by the state in such cases.

The Consortium research team documented and verified 42 cases where non-state actors perpetrated abuses, and in many of these, the state failed to act.

## Violations by landlords: Forced Evictions from rented premises

In 2014, 20 cases of forced evictions of LGBT persons were recorded. The individuals were expelled from their places of residence because of their real or perceived gender identity or sexual orientation. Landlords and neighbours variously demanded that members of the LGBT community leave their premises, or altogether vacate

51 Case Number: 01/01/2014

52 Case Number: 75/11/2014

53 Case Number: 44/06/14

from their locality. Landlords issued immediate eviction orders, regardless of any current tenancy agreements, or balances of paid-up rent. Eviction letters were rarely issued. Many threatened individuals reported violent verbal evictions implemented by rowdy groups of people. In some cases where there was a deadline given to vacate the houses, landlords working with neighbours and mobs threw property out of the house and advised them to obtain houses elsewhere preferably away from the village as well. As a result many members of the LGBT community were left homeless amidst challenges and realities of arrest and abuse by members of society. The 20 cases of forced evictions documented by this report are a drop in the ocean of incidents of eviction that members of the LGBT community face in their day-to-day lives. Below five incidents of forced evictions which stand out are reproduced from the 20 verified cases:

A transwoman, had been arrested and prosecuted in court on charges of having carnal knowledge against the order of nature. Her neighbours claimed that they could not associate with a person that had been arrested and charged with such an offence and threatened violence if she did not relocate from that village.<sup>54</sup>

A transman, had appeared on national television after an arrest in which it was claimed that he is a fraudster. After seeing him on the news, the client's landlord

asked him to leave his house as he could not house people like him. On the next day he was given a letter from the area Chairperson directing him to leave within three days.<sup>55</sup>

In another incident, a woman was evicted because the neighbors complained to the landlord, saying that she hosted people whom they could not clearly understand, and that from the way they dressed and their general appearance, they could have been lesbians and therefore she was also one of them. The landlord contacted her and informed her about these complaints and requested her to leave the house as he could not continue to house such people that neighbors were not comfortable with.<sup>56</sup>

On 12th April 2014, a man was evicted without notice because his landlord had heard rumors about his involvement in homosexuality. In fact in February 2014 the landlord had called and confronted him about the same allegations but the victim had denied the allegations.<sup>57</sup>

A transman was thrown out of his residence in Gayaza in December 2014.<sup>58</sup> This was after a neighbor had reported him to the religious leaders at a nearby mosque, saying he was

<sup>54</sup> Case Number: 36/05/2014

<sup>55</sup> Case Number: 42/03/2014

<sup>56</sup> Case Number: 46/08/2014

<sup>57</sup> Case Number: 47/04/2014

<sup>58</sup> Case Number: 59/12/2014

gay and he was recruiting people into homosexuality. The religious leaders in turn reported the matter to the area chairperson and they demanded that the victim should be sent away from the village, as they could not live with people of such 'manners.' His parents also dismissed him from home on the same allegations. The parents beat him heavily and tried to bring police to arrest him, and put him in jail.<sup>59</sup>

### **Violations by mobs and unknown persons: Mob Justice, Physical Violence and abuse**

Mob violence was another trend of discrimination that LGBT people faced in 2014. They were often attacked by mobs of people, unknown to them in most cases, and beaten, insulted and abused because they suspected them to be homosexuals. They were subjected to inhuman and degrading treatment and sometimes sustained deep injuries as a result of the violence. Verbal abuses were thrown at them, which made their life very uncomfortable in areas where they stayed. In very many incidents, LGBT persons received insults from boda boda men stages close to their homes, taxi drivers or neighbours at places where they rented houses. This made their life miserable and uncomfortable. Although this is a common way of life for LGBT people in Uganda, this report only verified 14 incidents where LGBT

people were attacked and physically abused by mobs. The incidents that stand out are:

On 6th March 2014 a man was called by his friend to join him at his home. On arrival he found two guards waiting, they dragged him to a friend's home where he was detained for 11 hours. He was beaten and accused of wanting to recruit the friend into homosexuality. He was later taken to Kabalagala Police Station where he was again detained until lawyers working with HRAPF rescued him.<sup>60</sup>

In another incident, a gay man was beaten by unknown persons who trailed him from a bar in Makindye around the court on 28th November 2014 on his way home. He was first hit with a bottle-like object, and then pounced on by five men who punched and kicked him. He was left bleeding and was saved by his friends he was with after he called them before he lost consciousness.<sup>61</sup>

In another incident, a transman was attacked by a group of three men at his home in April 2014. Men came and started knocking at his door. His colleague opened and the men asked for him. When he came out of the house, they started questioning him: 'Who are you people, what do you do and who are your supporters?'

<sup>59</sup> This did not happen because parents completely refused.

<sup>60</sup> Case Number: 10/03/2014  
<sup>61</sup> Case Number: 57/11/2014

They started beating him along side abusing him. They even destroyed his property at home including his laptop and then they left. They kept sending him threatening messages until he had to shift from the place.<sup>62</sup>

'Boda Boda'<sup>63</sup> riders were haunting a man at a stage near his home on 9th April 2014. They used to point at him, laughing at him saying that he is homosexual. "Look at him we shall get rid of such people now that there is a law."<sup>64</sup> One of the boda boda rider sremarked. He later had to relocate to a place where he felt comfortable, which was very far from his place of work.<sup>65</sup>

On 27th January 2014, a woman was attacked by her neighbors and boda boda riders around her home. This was after the neighbours had always insulted her that she was homosexual. They beat her up and threatened to rape her if she did not change her 'behaviour.' She later had to relocate to another place where she was less known.

## **Violations by employers: Denial of work and livelihood**

This report documents cases of three individuals whose right to work,

62 Case Number: 72/11/2014

63 Motorcyclist riding people as it is done with taxis.

64 The were referring to the Anti-Homosexuality Act 2014 (annulled).

65 Case Number: 85/04/2014

and therefore their livelihood was undermined because of their gender identity or sexual orientation, and in all incidents no action was taken by the state. These incidences are:

On 30th September 2014, a gay man was dismissed and denied 4 months' salary from his work place after being accused of being gay. This was also a direct deprivation of his right to work.<sup>66</sup>

On 7th September 2014, the business community in Mbarara evicted a gay man from his market stall. This left him with no work to earn a living.

Finally, on 12th May 2014 a gay man who was employed by a family member was terminated and not paid his four month's salary after it was revealed that he was gay.<sup>67</sup>

## **Violations by families: Family discrimination and abuse**

Family members on several occasions expel LGBT people from their families' houses and sharing of family incomes that they are entitled to mainly because of their gender identity or sexual orientation. They have been forced to report themselves to police by family members and parents have disowned their own children. This report documented 10 cases where LGBT people were discriminated and

66 Case Number: 77/09/2014

67 Case Number: 89/05/2014

abused by their families. The instances that stand out are:

In March 2014, a transgender person was rejected by his family and thrown out and his belongings put on fire. His relatives vowed to kill him rather than having a homosexual in the family. It all started on 23rd January 2014 when the grand mother suspected her of being homosexual after seeing her with someone she thought was homosexual.<sup>68</sup>

Until March 2014, a man was staying with his parents when it was discovered that he was gay, his parents threw him out of the house. He was assisted by the National LGBT Security Committee to obtain a place to stay.<sup>69</sup>

Family rejected a bisexual person when his wife got to know about his sexual orientation. She told the rest of his relatives and a clan meeting was held and it was agreed that he goes to police and reports himself, or he was no longer a member of that family. He left his home and has since been staying with a friend.<sup>70</sup>

In April 2014, a woman was rejected by her father because of her sexual orientation. He even instructed his lawyers to stop her from collecting money from the

family rentals and warned her never to go near those properties yet she had an art studio there.<sup>71</sup>

In October 2014, in a family meeting it was decided that a man either reported himself to police that he was homosexual or vacated the family. This was after the brother he was living with reported him to their father and a family meeting was held to discuss the matter. The client sought legal advice about the matter but later moved away from home because of the discrimination.<sup>72</sup>

## **Violations by Health Officials: Denial of health services**

Homophobic, sexist and transphobic practices and attitudes on the part of health-care providers deter LGBT persons in Uganda from seeking services out of concerns around breaches of confidentiality, stigma, and potentially violent reprisals. One case of this kind occurred in 2014:

In April 2014, a transman faced discrimination at the hand of health workers. He had sought treatment for malaria from a clinic nearby. When he reached there, he found a nurse who started working on him. She took him to the doctor's room and started asking him questions of whether he was a man or woman. He told her that that

<sup>68</sup> Case Number: 48/01/2014

<sup>69</sup> Case Number: 50/03/2014

<sup>70</sup> Case Number: 51/12/2014

<sup>71</sup> Case Number: 52/04/2014

<sup>72</sup> Case Number: 54/10/2014

did not matter but rather the treatment that he sought. She told him that he should wait for the doctor to handle his matter. The nurse went out and after a short while the doctor came and started asking the same questions, which he thought that the doctor had discussed with the nurse. The doctor accosted him and told him that they do not want people like him in their community and also threatened to involve police in the issue. He gave up on the treatment but in order to keep the doctor silent his girl friend offered some money to him and he left them alone.<sup>73</sup>

## **Violations perpetrated by the media: Propelling homophobia**

Uganda's media contributes to the high homophobia and transphobia in society through exposing of sexual minorities in Uganda's newspapers, radios, televisions and online media perpetuating repellent stereotypes, which are always typically sensational, and which at times appears to be utterly devoid of facts. The publication of names and photographs of people suspected to be LGBT perpetrates other forms of violations of their rights. The Consortium research team verified 22 incidents where LGBT persons were outed in the media. Of importance to note, many LGBT persons were beaten up, harassed or evicted after their photographs were published in the media. The instances that stand out

are:

Four men were evicted at Kasubi after one of their friends they were living with appeared in the Red Pepper tabloid of 17th August 2014 as a homosexual. Residents called for a meeting in which they were tasked to bring their friend. This scared them and they were forced to leave the area and went to stay at a friend's house in Nabweru.<sup>74</sup>

A transman had appeared on national television after an arrest in which it was claimed that he was a fraudster. After watching the news, the victim's landlord asked him to leave his houses, as he could not house people like him. On 2nd March 2014 he was given a letter from the area Chairperson directing him to leave with in three days.<sup>75</sup>

Two local tabloids (Hello and Red Pepper) published names and pictures of a suspected homosexual in Mbarara. At his work place he become the topic of discussion and was summoned to a meeting with his supervisor to discuss the media publications that had caused public humiliation to the company's name. He was consequently demoted to a lower level and warned against involving himself with such evil acts or else he would be terminated for misconduct.<sup>76</sup>

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Case Number: 73/04/2014

74  
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Case Number: 40/08/2014  
Case Number: 42/03/2014  
Case Number: 68/05/2014

# Analysis: Discussion of Findings of Human Rights Violations and Discriminatory Practices Based on Gender Identity and Sexual Orientation in Uganda in 2014

## **The 2014 violations**

The year 2014 remains an important and memorable year in Uganda as far as the struggle for the promotion and protection of LGBT rights is concerned. As already mentioned, it is the year that saw the passing of the infamous Anti-Homosexuality Act and it was the same year in which the Act was annulled. Violations of LGBT rights documented in 2014 will therefore forever have the halo of that Act hanging over them. While one cannot authoritatively assert that these violations were solely a result of the Act, its effect on most of them cannot be negated. The passing of the Act was met with a hike in human rights violations especially arrests, evictions and the 'newer' violation of suspending and closing down organisations working on LGBT issues. The passing and subsequent operationalising of the Act justified the

impudence with which state and non-state actors violated the rights of the LGBT community in Uganda as their actions were backed up by a law.

It is a peculiar fact that even with all the increased violations including arrests, no one was arrested and charged under that law, even when it was still in force. This could have been explained by the fact that the concerned authorities were more interested in a law prohibiting homosexuality being passed, than in the enforcement of the law. It is true that most law enforcement authorities including police did not know the substantive content of the Act and all they knew was that homosexuality was finally banned in Uganda. The absence of a case in which someone was charged under the Act does not point to a lack of evidence of an impact of the AHA on the Ugandan LGBT community.

As already discussed, the effects of the Act were more about legitimising the violations meted out on LGBT people than practically changing the legal realities of this marginalised community.

It should be noted that while initially the increase in violations was because of the newfound legal backing for marginalising LGBT people, there was also a noticeable increase in violations immediately after the Act was annulled by the Constitutional Court. This seemed to stem from the frustration that the general population felt after what seemed to be a defeat at the hands of the LGBT persons and activists. They therefore resorted to more violations as a way of retaliating.

Of all the documented violations, criminal arrests and associated violations rank highest in number. This is attributable to the fact that same sex sexual acts are still criminalised under Uganda's penal laws. Although this provision only expressly criminalises sexual acts, it is used as a premise to arrest and incarcerate LGBT individuals. When arrested, they are charged with non-existent offences like sodomy and homosexuality and are often subjected to long hours of detention. Few of these cases go to court because it seems that the reason these people get arrested is not to prosecute them as required by the criminal justice system but rather to make the arrest serve as a punishment. It should be noted that in most of the homosexuality cases, there is no victim or complainant. And since the law does

not necessarily criminalise identity or orientation, the general public remains at a loss of what to do with an LGBT person. Police therefore arrests them with the basis of Section 145 of the Penal Code Act and detains them for long hours, charges them with non-existent offences, outs them in the media among other violations. The arrests therefore are still the highest in numbers because they provide the best way of dealing with homosexuals.

Other violations like evictions and mob attacks also increased in 2014. Very many LGBT persons were evicted either from their homes by their families or from their rented premises. These cases also included cases of family rejection and banishment from villages. The increase in these types of violations can be largely attributed to the passing of the Anti-Homosexuality Act. The Act as a bill had provisions criminalising concealment of the offence of homosexuality. It would have been an offence for a person not to report a homosexual to the relevant authorities. This provision was removed before the Bill became an Act but that did not seem to sink in with the public. The Act also had provisions on brothels which were defined to include houses used for homosexuality. Owners of premises felt that evicting LGBT persons from their premises was a way of steering clear of crime. These perceptions extended to employment areas where a number of LGBT persons lost their jobs.

2014 also saw the first documented cases involving the suspension or

closure of organisations working on issues of LGBT persons. These were wholly as a result of the Anti-Homosexuality Act and its provisions on 'promotion of homosexuality'. The Refugee Law Project and the Walter Reed Project, both of Makerere University were affected by this provision. The Refugee Law Project was suspended by the government, as already discussed, on allegations that they were promoting homosexuality in refugee camps. The Walter Reed Project was closed down on allegations that they were recruiting youths into homosexuality. These are perhaps the only violations that can be directly attributed to the passing of the Anti-Homosexuality Act.

LGBT persons in Uganda face violations of their human rights on a daily basis and the year 2014 was not any different. It can therefore not be said that the documented violations were as a result of the Act's passing or its nullification. It is however very important to note that the Act, which was very publicized and undoubtedly popular among Ugandans, had a profound effect on the violations of 2014 as it emboldened the general population and justified these violations. But even with its demise, the violations still continue.

## The current situation

Currently, the issue of homosexuality is no longer in the spotlight and this takes away a lot of pressure from LGBT persons. Although a draft of a proposed bill was leaked to the public as the new law that will replace the now defunct Anti-Homosexuality Act, no one has come out to own the bill. It therefore still remains a rumor that is yet to culminate into anything tangible. However despite the legislative and media silence in the country, the lived realities of LGBT persons in Uganda still remains the same. Their rights still get violated on a daily basis. Arrests still continue, evictions are ongoing, and many LGBT persons are getting blackmailed and threatened with impunity. As discussed, the Anti-Homosexuality Act did not cause violations, it merely emboldened and justified them. With its annulment, the violations continue albeit not in the spotlight.

Many LGBT persons have also fled the country in search of asylum in countries abroad. This trek accelerated in 2014 as a result of the passing of the Anti-Homosexuality Act and its subsequent annulment, which increased tensions in the country. The leaking of the proposed Prohibition of the Promotion of Unnatural Sexual Practices Bill 2014 also increased the insecurities among the LGBT community members and greatly influences the large numbers of Ugandan LGBT individuals seeking asylum.

Although there are no systematic studies quantifying the levels of LGBT activism, it is readily apparent that 2014 saw increased LGBT activism, particularly with the specter of the AHA hanging over the community. It was also evident that more people are coming out and more are joining activism as a result of putting the issue of homosexuality out for debate. More organisations are being formed and activism is becoming more specialised. Members of the different groups of the LGBT community are starting to form themselves into specific groups to handle their specific issues. More debate on the issue seems to have highlighted the different and unique needs of each group. The transgender community is especially becoming more aware of its unique needs and taking them up.

## The legal framework

After the annulment of the Anti-Homosexuality Act, 2014, Uganda's legal framework falls back to where it was before the AHA. The only legal provisions with specific mention of homosexuality are Article 31(2) (a) of the Constitution that prohibits marriages of the same sex and Section 145 of the Penal Code Act which criminalises carnal knowledge against the order of nature. These provisions criminalise specific acts and on the face of it, they do not criminalise identity or orientation. Neither do they criminalise engaging in activities like advocacy or service provision to LGBT persons. This is however not the case in reality.

Different government and law enforcement agencies have interpreted Section 145 to include any activity done in service of the LGBT community. The first such decision was in the case of *Frank Mugisha & Others v AG & Fr. Simon Lokodo*. The case challenged the actions of the Ethics and Integrity minister when he dispersed a workshop that had been organized by different activists to discuss LGBT issues. The High Court in Uganda held that the actions of the minister were justified as having such a workshop amounted to a criminal offence. The rationale was that discussing LGBT issues amounted to inciting the offence provided for in Section 145 of the Penal Code Act. The decision has been appealed in the Court of Appeal and the appeal has been fixed for conferencing on the 27th of July 2015 when the hearing date will be communicated. With such a precedent in Uganda's legal system, the work of activists and different civil society organisations remains at risk. The decision is substantially the same as the offence of 'promotion of homosexuality.'

Basing on the same rationale of inciting the offence in Section 145 of the Penal Code Act, the Uganda Registration Bureau officially rejected the reservation of name of an LGBT organization whose objectives are to engage in advocacy on LGBT issues and offer other such services on the 16th of February 2015. In the letter written by the registry, it was argued that because homosexuality is criminalized under Section 145, engaging in any activities that in any way support LGBT persons

amounts to a crime. While these are not written laws, they are precedents set by authoritative bodies and they are binding unless they are challenged and overturned.

There are precedents made by the High Court regarding rights of LGBT persons, which have not been overturned, and therefore still stand. These were decisions made in the case of *Kasha Nabagesera & Others v The Rollingstone and Giles Muhame*, and the case of *Victor Mukasa & Anor v AG*. In these cases, the court held that

the rights of LGBT persons cannot be violated merely because the persons identify as LGBT. These are very important precedents as they provide protection to LGBT persons. They are court decisions and are therefore binding.

So far no case had been successfully prosecuted on Section 145 of the Penal Code Act as all the cases that have gone to court have been dismissed for want of prosecution. There remains no precedent on the section.

# General Recommendations

## To the Uganda Police Force

Even though there is a progressive noticeable change in the Police's response to violations committed against LGBT persons, some officers in the police regularly violate human rights of persons based on their gender identity and sexual orientation. The 17th Uganda Human Rights Commission Report also ranked the Uganda Police Force as the leading violator of human rights. Therefore, the Uganda Police Force should:

- » Investigate all credible allegations of physical or verbal abuse against individuals on the basis of gender identity or expression and sexual orientation
- » Train Officers on human rights and violence based on sexual orientation and gender identity or expression in order to reduce unnecessary arrests, detentions and other violations of the rights of LGBT persons
- » The Inspector General of Police should strengthen mechanisms to fight bribery and extortion by the police, including by: strengthening and further supporting the role of the Professional Standards Unit and lobby for increased funding

directed to increasing police salaries and improving police conditions in order to reduce incentives to arrest people for the purpose of extortion.

- » The Directorate of Human Rights and Legal Services should make robust use of its mandate to guide Police disciplinary processes to further the investigation and prosecution of police officers guilty of corruption as well as acts of violence and discrimination against civilians, specifically including members of sexual minority groups.
- » The Directorate should Train officers on human rights and violence based on sexual orientation and gender identity or expression in order to reduce unnecessary arrests, detentions and other violations of the rights of LGBT persons.
- » Establish separate areas for the detention of transgender people to avoid the violence that occurs to them as a result of being detained with people of a different gender.

## To Members of Parliament

Parliament is the pillar of law making in the country. Members of parliament

represent all of the people in Uganda, including LGBT persons. They have the mandate and duty to protect everyone in the community and ensure their wellbeing. Therefore, Parliament should:

- » Enact laws that are non-discriminatory based on universal principles of human rights for everyone. They should encourage inclusion and affirmative action for groups marginalized.
- » Amend Uganda’s Constitution to include a specific prohibition of discrimination based on sexual orientation, gender identity, and sex determination.
- » Condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity or expression.
- » Call upon the Uganda Human Rights Commission to monitor violations affecting LGBT Ugandans. Every year, the Uganda Human Rights Commission presents a report on the situation of human rights in Uganda to Parliament, Parliament through the Speaker should use this opportunity to urge the Commission to investigate and report on violations of rights of LGBT people.

- » Use the Parliamentary Committee on Human Rights to engage with LGBT persons and organisations regarding laws that may have an adverse impact on LGBT persons.

**To the Uganda Human Rights Commission (UHRC)**

The Uganda Human Rights Commission is constitutionally mandated to promote and protect human rights in the country. It thus has powers to investigate and address cases of violations. In addition to its comments on the AHA, the UHRC should:

- » Investigate and document reports of violence and abuse against individuals based on sexual orientation, sex determination, and gender identity or expression, and include such violations in annual reports to Parliament, accompanied by recommendations for policy changes;
- » Work with civil society organisations to monitor, document, expose, and address incitement to violence, homophobia, violence, and abuse on the basis of sexual orientation, sex determination, and gender identity or expression and to popularize the commission among LGBTI persons;

- » Advise parliament on laws and bills that may increase stigma and discrimination against LGBT persons;

### **To the Uganda Law Reform Commission (ULRC)**

The Uganda Law Reform Commission is established by the Constitution under article 248. It has the Constitutional duty to suggest areas of law reform, and it is now in the process of reviewing the Penal Code Act. This is the right time to end legal discrimination of people based on their sexual orientation or gender identity. The ULRC should:

- » Issue formal recommendations to Parliament that the Penal Code sections that explicitly discriminate on the basis of sexual orientation or gender identity be repealed, including Section 145 on carnal knowledge against the order of nature;
- » Provide guidance on Penal Code sections including Section 160 (common nuisance), Section 167 (idle and disorderly), and Section 168 (rogue and vagabond) to ensure that they are not used by the police and private parties to harass people based on their sex determination, sexual orientation, and/or gender identity. Such guidance should be in the form of written guidelines that are circulated to all police posts in Uganda.

### **To the Ministry Of Health**

The Ministry of Health has the mandate to ensure access to health services. As such the Ministry of Health should:

- » The Department of Community Health should institute training for healthcare service providers on sexual orientation and gender identity.
- » The Clinical Services Department should issue proper guidelines for providing medical care to all people without discrimination even on the basis of sexual orientation or gender identity.

### **To the International Community**

- » Call on the government of Uganda to improve and expand rights for LGBT individuals;
- » Use quiet diplomacy to sensitise Ugandan leaders on LGBT issues domestically and abroad and influence the adoption of non discriminatory legislation against LGBT persons;
- » Support initiatives aimed at creating public awareness on sexuality, sexual and health rights, and violence and discrimination and those aimed at influencing policy that ensures service provision to LGBT persons in Uganda.

**To National Human Rights Organisations and LGBTI organisations**

- » Build capacity of staff in documentation of violations based on gender identity and sexual orientation;
- » Support public education and awareness-creation programs on sexuality, sexual and health rights, and violence and discrimination by targeting law enforcement agencies, health services, and educational institutions;
- » Support the Uganda Human Rights Commission’s mandate to monitor and document reports of violence, abuse, and discrimination based on sexual orientation and gender identity or expression;
- » Strengthen reporting systems, evidence collection and data storage to facilitate easy verification of violations against people based on their sexual orientation and gender identity or expression;
- » Create information sharing systems so that reports of violations can be used simultaneously by multiple parties;
- » Hold awareness sessions with staff members to sensitize them on issues affecting LGBT

Ugandans;

- » Create partnerships with other organisations to monitor and document abuses of LGBT rights.

**To the Media**

The media plays an important role of informing society and has power, which must be used responsibly. Members of the media should:

- » Treat all people with respect and dignity, regardless of gender identity, or sexual orientation;
- » Learn about, monitor, and report on abuses of human rights and dignity that LGBT Ugandans face;
- » Protect the privacy of LGBT individuals who may be threatened, assaulted, or even killed as a result of being “outed” by the media.
- » Establish separate areas for the detention of transgender people to avoid the violence that occurs to them as a result of being detained with people of a different gender;
- » Protect all prisoners including LGBT prisoners from violence perpetrated by fellow prisoners or prison warders.

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### **To the President of the Republic of Uganda**

The president has a constitutional mandate to assent to or reject laws passed by Parliament. The office of the president is therefore key to the law-making process and to ensuring that the laws enacted respect and

observe the rights of all people without discrimination. The person of the President commands respect among the citizens and has a high capacity to influence the attitudes and perceptions of the public to tackle homophobia. The President should:

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









**The Consortium on Monitoring Violations Based on Sex Determination,  
Gender Identity and Sexual Orientation**

C/O: Human Rights Awareness and Promotion Forum (HRAPF)

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