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## Situation of LGBT persons in Uganda

*Joint report from the Danish Immigration Service's and the Danish Refugee Council's fact finding mission to Kampala, Uganda from 16 to 25 June 2013*

*Copenhagen, January 2014*

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## **Overview of Danish fact finding reports published in 2012 and 2013**

Iranian Kurds; On Conditions for Iranian Kurdish Parties in Iran and KRI, Activities in the Kurdish Area of Iran, Conditions in Border Area and Situation of Returnees from KRI to Iran, Joint report from the Danish Immigration Service's and Danish Refugee Council's fact finding mission to Erbil and Sulaimania, KRI, 30 May to 9 June 2013

2013: 4

Security and protection in Mogadishu and South-Central Somalia, Joint report from the Danish Immigration Service's and the Norwegian Landinfo's fact finding mission to Nairobi, Kenya and Mogadishu, Somalia, 16 April to 7 May 2013

2013: 3

Iran - On Conversion to Christianity, Issues concerning Kurds and Post-2009 Election Protestors as well as Legal Issues and Exit Procedures, Joint report from the Danish Immigration Service, the Norwegian LANDINFO and Danish Refugee Council's fact-finding mission to Tehran, Iran, Ankara, Turkey and London, United Kingdom, 9 November to 20 November 2012 and 8 January to 9 January 2013

2013: 2

Update on security and human rights issues in South- and Central Somalia, including Mogadishu, Joint report from the Danish Immigration Service's and the Norwegian Landinfo's fact finding mission to Nairobi, Kenya and Mogadishu, Somalia, 17 to 28 October 2012

2013: 1

Chechens in the Russian Federation – residence registration, racially motivated violence and fabricated criminal cases, Joint report from the Danish Immigration Service's and Danish Refugee Council's fact finding mission to Moscow and St Petersburg, the Russian Federation from 23 May to 5 June 2012

2012: 4

Afghanistan, Country of Origin Information for Use in the Asylum Determination Process, Rapport from Danish Immigration Service's fact finding mission to Kabul, Afghanistan, 25 February to 4 March 2012

2012: 3

Security and human rights issues in South-Central Somalia, including Mogadishu, Report from Danish Immigration Service's fact finding mission to Nairobi, Kenya and Mogadishu, Somalia, 30 January to 19 February 2012

2012: 2

## Contents

Introduction and disclaimer .....	4
Purpose of the mission .....	4
Methodology .....	4
1. Authorities' attitude towards LGBT persons .....	6
1.1 Laws prohibiting homosexual acts incl. pending laws .....	6
1.2 Arrests and prosecution of LGBT persons including court verdicts.....	10
1.2.1 Arrests .....	10
1.2.1.1 Prevalence of arrests .....	12
1.2.1.2 Reasons for arrests .....	17
1.2.1.3 Treatment during detention .....	22
1.2.1.4 Charges.....	24
1.2.1.5 Prosecution.....	27
1.2.1.6 Transgender persons .....	29
1.2.3 LGBT NGOs .....	33
1.3 Access to health, education, job market.....	35
1.3.1 Transgender persons' access to health, jobs and housing.....	38
1.4 Evictions by Local Councils .....	39
1.5 Avenues to seek redress .....	40
1.5.1 Professional Standards Unit (PSU).....	41
1.5.2 Uganda Human Rights Commission (UHRC) .....	45
1.5.3 High Court of Uganda.....	46
1.5.4 Equal Opportunities Commission (EOC) .....	47
2 The Anti-Homosexuality Bill.....	49
3. Societal attitudes towards LGBT persons .....	53
3.1 Discrimination of LGBT persons.....	54
3.1.1 Refugee LGBT individuals .....	60
3.2 Mob justice/hate crimes .....	61
3.3 Attitudes in urban and rural areas respectively .....	66
3.3.1 Rural areas.....	67

3.4 Consequences for families of an outed LGBT person .....	69
3.5 Protection by authorities .....	69
3.6 Civil society groups supporting LGBT persons.....	71
3.6.1 Sexual Minorities Uganda (SMUG) .....	72
3.6.2 Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL) .....	75
3.6.3 Icebreakers .....	76
3.6.4 Spectrum Uganda .....	77
3.6.5 East and Horn of Africa Human Rights Defenders Project (EHAHRDP).....	78
3.6.6 Transgender Equality Uganda (TEU) .....	79
3.6.7 Other NGOs .....	80
3.7 Media’s role .....	81
4. Documentation of violence, human rights abuses and criminal offenses .....	83
5. The 2012 Beach Pride Parade .....	85
6. Verification .....	91
6.1 Newspaper articles .....	91
6.2 Search warrants and police appeals .....	91
6.3 Documents issued by Local Councils .....	92
6.4 Verification assistance from NGOs .....	93
Organizations and individuals consulted .....	94
Abbreviations .....	95
Literature .....	96
Annex A: <i>Map of Uganda</i> .....	97
Annex B: <i>Terms of Reference</i> .....	98
Annex C: <i>Cases of Ugandans and Refugees Living in Uganda Violated and Discriminated on Account that they are Lesbians, Gays, Bisexuals, Transgenders and Intersex Persons</i> .....	99

### **Introduction and disclaimer**

The fact finding report at hand has been produced jointly by the Country of Origin Information (COI) unit, Danish Immigration Service (DIS) and the Danish Refugee Council (DRC) for use in the asylum determination process. The information included in the report was gathered during a joint fact finding mission to Kampala, Uganda, between 16 and 25 June 2013.

The delegation to Kampala comprised Cecilie Kofoed, Legal Advisor, DRC, Eike Niebuhr, Country Advisor, and Jan Olsen, Senior Country Advisor, Country of Origin Information, DIS.

### **Purpose of the mission**

The purpose of the fact finding mission was to gather COI on matters related to the situation of lesbian, gay, bisexual and transgender (LGBT) persons in Uganda.

The DIS has recently witnessed an increase in the number of asylum applicants from Uganda who as a motive for asylum have referred to their sexual orientation/gender identity, primarily homosexuals. The same trend has been identified in other European countries.

As the available country of origin information to a large extent seems to focus on the pending Anti-Homosexuality Bill (AHB), the need for a more detailed and updated description of the situation of LGBT persons on the ground in Uganda arose, and DRC and DIS decided to undertake a joint fact finding mission.

### **Methodology**

The delegation consulted representatives of a number of Ugandan non-governmental organizations (NGOs), the Ugandan Human Rights Commission (UHRC), the Professional Standards Unit (PSU) of the Uganda Police Force (UPF), the United Nations Office of the High Commissioner on Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), and three Western diplomatic sources. A complete list of interlocutors is included at the end of the report at hand.

The delegation relied to some extent on contacts provided by the Executive Director of Sexual Minorities Uganda (SMUG), whom the representatives of the COI unit met twice in 2012. In addition, Amnesty International, LGBT Denmark (The Danish National Organisation for Gay Men, Lesbians, Bisexuals and Transgendered persons) and UNHCR in Kampala – via UNHCR in Stockholm – were consulted prior to the mission.

The interlocutors interviewed were jointly identified the delegation based on the expertise, remit and role of each interlocutor relevant to the Terms of Reference (ToR) of the mission. The ToR can be found in annex B.

During the delegation's stay in Kampala, Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, kindly assisted in organizing several meetings with key interlocutors. Finally, the Danish embassy in Kampala provided contact information to additional interlocutors.

All interlocutors were informed that they would have their statements forwarded for comments, corrections and approval. All interlocutors agreed to receive their statements for comments, corrections and approval. 13 interlocutors approved their statements which have been included in the report at hand. Despite several reminders and attempts to contact them, three interlocutors did not respond to the request for comments, corrections and final approval of their statements. The interlocutors who did not respond were: An African women's rights organization based in Uganda, Spectrum Uganda and PSU. The statements of these interlocutors have been included in the report unchanged from the version that was sent for approval.

Two NGOs requested to be referred to anonymously as "an anonymous human rights organization in Uganda" and "an African women's rights organization based in Uganda" respectively.

In very few cases it was found necessary to adjust certain phrases in the approved notes for clarification purposes. Such phrases have been modified slightly in order to avoid otherwise unclear statements. This is marked with a closed bracket [...]. In addition, a few minor supplementary or explanatory clarifications are also marked with a closed bracket.

It should be noted that sometimes the sources use different terms and abbreviations when referring to e.g. sexual minorities. Throughout the report the delegation has used the terminology used by the interlocutors in the approved notes.

During all the meetings interlocutors were thoroughly informed of the purpose of the mission and all sources were explicitly informed that the delegation's report would be published on the website of DIS, [www.newtodenmark.dk](http://www.newtodenmark.dk), and on the website of DRC, [www.flygtning.dk](http://www.flygtning.dk). All interlocutors were informed that the report from the mission would be available to all stakeholders in the refugee status determination process as well as to the general public. None of the interlocutors had any objections to that.

All interlocutors including the two anonymous sources in the report are present and working in Uganda. With the exception of the meeting with Frank Mugisha of SMUG in Copenhagen on 31 October 2012 concerning the events during the 2012 Pride in Uganda, all meetings with the interlocutors took place in Kampala.

The report at hand has been written jointly by the three participants in the mission.

It should be noted that this report includes written material provided by some of the interlocutors as well as a few news reports regarding the most recent developments in Uganda. Care has been taken to clearly reference all information from written material.

After finalizing the report, Uganda's parliament passed the Anti-Homosexuality Bill on 20 December 2013, which had been pending for several years. According to news reports, President Museveni has not yet signed the bill into law.

### 1. Authorities' attitude towards LGBT persons

OHCHR in Uganda<sup>1</sup> has identified certain practices or trends of human rights violations against LGBT people in Uganda, with responsibility from [perpetrated by] state agents, institutions and authorities. First, these include eviction letters from local authorities, i.e. Local Councils (LC) at village and parish levels, in both rural and urban areas. These evictions reflect the border line between social discrimination at the community level and the human rights violations perpetrated by state agents.

Second, arbitrary arrests and detentions by the police constitute further human rights violations. LGBT persons are arrested because some police officers incorrectly believe that the AHB is actually enacted. Other LGBT persons are arrested by the police with the intention to extort money from them. In such cases, the person would be released unconditionally once the bribe has been paid. It was added that, according to lesbian, gay, bisexual, transgender and intersex (LGBTI) organizations, there had been an increased trend of arrests during March, April and May 2013.

Third, there were cases of LGBT persons being denied access to medical attention in public health facilities.

Fourth, several LGBT-organizations have reported break-ins into their respective offices.

Fifth, authorities have interrupted and closed meetings by LGBT activists in both February and May 2012.

Finally, OHCHR in Uganda pointed out that LGBT civil society organizations cannot be registered as such, but instead have to resort to register themselves as private organizations, as for example trade companies. According to OHCHR in Uganda, this constitutes an infringement of the right to association.

#### 1.1 Laws prohibiting homosexual acts incl. pending laws

Referring to the legislative framework, OHCHR in Uganda stated that art. 21 (1) of the Constitution of Uganda 1995 provides for equality and non-discrimination, but that art. 31 (3) establishes that

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<sup>1</sup> OHCHR in Uganda is mandated to promote and protect the effective enjoyment by all of all human rights in Uganda. The office shall contribute to national efforts aimed at promoting respect for and observance of human rights law through provision of advice, capacity building and assistance to the competent authorities in relation to strategies, programmes and measures to promote and protect human rights in the country. Through monitoring activities, the Office observes the state's adherence to human rights in Uganda and indicates possible gaps in the implementation of human rights at different levels, including the national legislation, public policies, indicators and statistics, trends and concrete complaints and cases of human rights violations. Once the gaps are identified, the Office proposes recommendations to overcome these gaps, and these recommendations provide inputs to work in capacity building activities with state institutions, the Uganda Human Rights Commission and civil society organizations. Furthermore, OHCHR in Uganda is mandated to formulate recommendations to overcome these challenges, whereby OHCHR's focus lies on human rights violations perpetrated by state institutions and state agents, but OHCHR also look at business and human rights and climate change and human rights where actions that can constitute a violation or abuse is also committed by a non-State actor. However, before addressing any issue in public, OHCHR has to discuss the issue with the relevant state institution first. It was added that monitoring of human rights abuses from non-state agents is not within the core mandate of OHCHR.

“marriage shall be entered into with the free consent of the man and woman intending to marry”. Furthermore, homosexuality [homosexual acts] is criminalized in Section 145 (a) of the Penal Code Act, Cap 120. It was added that the Penal Code Act stems from colonial times and has never been revised since.

According to a not yet published study conducted by the Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL) and Human Rights Awareness and Promotion Forum (HRAPF)<sup>2</sup> :

“Section 145(a) of the Penal Code Act is regarded as the main provision criminalising same-sex relations in Uganda. It provides that ‘Any person who has carnal knowledge of any persons against the order of nature commits a crime and is liable to imprisonment for life.’ [...] Ugandan law does not define the meaning of this offence and it has not yet been interpreted by Ugandan Courts. [...] However, it should be noted that the offence can be interpreted to include more than anal sex between men. The list of what conduct would constitute “carnal knowledge against the order of nature’ is open and it may include all conduct that the judges would deem to be “against the order of nature” [...] Despite the potential wide reach of Section 145(a), it is important to note that Section 145 of Uganda’s Penal Code does not criminalise homosexuality as a sexual orientation. Neither does it criminalise homosexuals as a group of people. It only prohibits certain acts. However, the fact that in the popular imagination these sexual acts are mostly associated with homosexuals has made them the only group vulnerable to prosecution under the law.

The question of whether this provision penalises same-sex relations amongst women remains open to discussion. The definition of carnal knowledge as involving penetration by a ‘penis’ largely would leave lesbians out. Under the old English buggery laws, same-sex conduct among women was not criminalised and one of the arguments used was that women were not capable of penetration. [...] Elnathan John<sup>3</sup> however makes an argument basing on Section 214 of the Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria, which is similar to Uganda’s Section 145(a) that the provision is wide enough to include lesbianism, for despite the use of the term carnal knowledge which would imply penetration by a penis, the judgement

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<sup>2</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013. The draft report was handed to the delegation during the meeting with CSCHRCL in Kampala together with a permission to include information contained in the draft report in the delegations report from the fact finding mission. All information from the draft report is clearly referenced throughout the report at hand.

<sup>3</sup> [Footnote in the CSCHRCL/HRAPF draft report] Elnathan John, Legal Opinion: Is lesbianism a criminal offence under Nigerian Law?, [http://academia.edu/757724/LEGAL\\_OPINION\\_IS\\_LESBIANISM\\_A\\_CRIME\\_UNDER\\_NIGERIAN\\_SECULAR\\_CRIMINAL\\_LAW](http://academia.edu/757724/LEGAL_OPINION_IS_LESBIANISM_A_CRIME_UNDER_NIGERIAN_SECULAR_CRIMINAL_LAW), accessed 9<sup>th</sup> March 2013.



in Magaji<sup>4</sup> shows that anything that is not penile-vaginal intercourse would be criminalised. Since this has not been interpreted either in Uganda or Nigeria the question is still open to debate.

Also important to note is that consent, age of the participants, and whether the acts take place in private are immaterial to the offence. [...]’<sup>5</sup>

The CSCHRCL & HRAPF study further states:

“Section 145(c) of the Penal Code Act<sup>6</sup>] establishes the offence of a man or woman permitting a male person to have carnal knowledge of him or her against the order of nature. The offence was intended to punish passive participants. A duty was imposed upon everyone to resist persons who wanted to have carnal knowledge of them against the order of nature. This way both parties would be punishable; the one who penetrates and the one who permits to be penetrated.

This provision even arguable covers a woman who permits a male person penetrate her anally. [...]

Section 146 of the Penal Code provides that: *‘Any person who attempts to commit any of the offences specified in Section 145 commits a felony and is liable to seven years imprisonment.’* [...]

Section 148 of the Penal Code Act provides that: *‘Any person who, whether in public or in private, commits any act of gross indecency with another person or procures another person to commit act of gross indecency with him or her or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or in private, commits an offence and is liable to imprisonment for seven years.’*

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<sup>4</sup> [Footnote in the CSCHRCL/HRAPF draft report] Arvind Narrain; Challenging the Anti Sodomy law in India; The story of a struggle, <http://ebookbrowse.com/ur-challenging-the-anti-sodomy-law-in-india-arvind-narrain-pdf-d96414662> (accessed 9<sup>th</sup> March 2013).

<sup>5</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 25-27.

<sup>6</sup> Section 145 of the Penal Code Act states: “145. Unnatural offences.  
Any person who—  
(a) has carnal knowledge of any person against the order of nature;  
(b) has carnal knowledge of an animal; or  
(c) permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life.” *CHAPTER 120, THE PENAL CODE ACT [1950], Arrangement of Sections*, found at Office of the Prime Minister, Republic of Uganda, <http://opm.go.ug/assets/media/resources/290/PENAL%20CODE%20ACT.pdf>

Ugandan law does not define what constitutes acts of ‘Gross indecency’. [...] These acts are punishable whether committed in public or in private. It is an easier offence to prove because it does not require proof of penetration.”<sup>7</sup>

Furthermore, the CSCHRCL & HRAPF study states:

“Other offences usually invoked against LGBT person are:

**Being idle and disorderly;** The whole of Section 167 is about the offence of being ‘idle and disorderly’.<sup>8</sup> However, Section 167(e) stands out for it concerns an ‘indecent act’. It provides that; any person who without lawful excuse publicly does any indecent act. Section 167(f) concerns ‘immoral purposes’. *It provides that any person who in any public place solicits or loiters for immoral purposes; “Section 167 says that such person shall be deemed an idle and disorderly person, and is liable to conviction to imprisonment for three months or to a fine not exceeding three thousand shillings or to both such fine and imprisonment, but in the case of an offence contrary to paragraph (a), (e) or (f) that person is liable to imprisonment for seven years.*

This section of the Penal code is very vague. It has a very wide range, and that is perhaps why the police prefer it.

**Rogues and vagabonds:** Under Section 168(1)(a), every person convicted of an offence under Section 167, after having been previously convicted as an idle and disorderly person, shall be deemed to be roque and vagabond. Having earned that title, the person affected has committed

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<sup>7</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 28-29.

<sup>8</sup> Section 167 of the Penal Code Act states: “Idle and disorderly persons.

Any person who—

(a) being a prostitute, behaves in a disorderly or indecent manner in any public place;  
(b) wanders or places himself or herself in any public place to beg or gather alms, or causes or procures or encourages any child to do so;  
(c) plays at any game of chance for money or money’s worth in any public place;  
(d) publicly conducts himself or herself in a manner likely to cause a breach of the peace;  
(e) without lawful excuse, publicly does any indecent act;  
(f) in any public place solicits or loiters for immoral purposes;  
(g) wanders about and endeavours by the exposure of wounds or deformation to obtain or gather alms, shall be deemed an idle and disorderly person, and is liable on conviction to imprisonment for three months or to a fine not exceeding three thousand shillings or to both such fine and imprisonment, but in the case of an offence contrary to paragraph (a), (e) or (f) that person is liable to imprisonment for seven years.” *CHAPTER 120, THE PENAL CODE ACT [1950], Arrangement of Sections*, found at Office of the Prime Minister, Republic of Uganda,  
<http://opm.go.ug/assets/media/resources/290/PENAL%20CODE%20ACT.pdf>

a misdemeanour. The person is liable for the first offence to imprisonment for six months; for every subsequent offence the penalty jumps to imprisonment for one year.”<sup>9</sup>

The CSCHRCL & HRAPF study concludes:

“The above are the key offences that are often used to charge persons suspected of engaging in same-sex conduct. Since it is difficult to prove carnal knowledge against the order of nature, charges of attempts to commit carnal knowledge, gross indecency, idle and disorderly and rogue and vagabond are more frequent.”<sup>10</sup>

## 1.2 Arrests and prosecution of LGBT persons including court verdicts

### 1.2.1 Arrests

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that the police usually do not proactively pursue LGBT persons on their own initiative. It is family, partners, employers, neighbours, etc., who inform the police or the local Church about suspected LGBT persons. For example in Jinja a local radio station aired programmes that incited hatred against homosexuals and encouraged the local people to be vigilant and report homosexuals to local authorities, meaning the police and LCs.

According to a Western embassy (B), the Inspector General of Police (IGP) has publicly stated that the UPF is not going to arrest homosexuals as long as they are consenting adults and that the police should not monitor what goes on in people’s bedrooms. The IGP has also provided the LGBTI members with a hotline contact in case they are arrested arbitrarily. This same position has been repeated by the public prosecutions office [Department of Public Prosecutions] (DPP). The Minister of Justice, Kahinda Otafiire, who [according to a Western embassy (B)] is a respected general in the army, has publicly stated that the Bahati Bill [i.e. the AHB] violates human rights.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that the UPF officers are not arresting LGBT persons because they are instructed to do so. The IGP has publicly stated that the police should not arrest homosexuals, who are consenting adults. But individual police officers and even a unit of the police could act on their own beliefs and decide to arrest suspected LGBT persons in order to extort money from them.

With respect to police arrests, Executive Director of Spectrum Uganda, Samuel Ganafa K. stated that individual police officers do make arrests, but arrests can also be a consequence of the family turning on their own son or daughter.

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<sup>9</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 29.

<sup>10</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 29.

Representatives of East and Horn of Africa Human Rights Defenders Project (EHAHRDP) stated that the police officers responsible for arrests of ordinary LGBTI persons, who are not activists, usually act on their own. Such arrests are conducted by an individual police officer or a small group of police officers. It was added that arrests of suspected homosexuals tend to increase whenever there is media spotlight on LGBT issues, for instance when the Bahati Bill [i.e. the AHB] was discussed.

A Western embassy (C) confirmed that they had not seen evidence that police act proactively against LGBT persons by arresting them or were under instruction to do so.

An anonymous human rights organization in Uganda explained that if a LGBT person who has been arrested on the grounds of homosexuality and later released should decide to move to another location, he or she would not face any problems with the police in the new setting. The police do not have an electronic registry of arrests of LGBT persons and a person could start afresh in a new district, where neither community nor police would know about the person's sexual orientation.

A Western embassy (B) stated that it could not be completely ruled out that a group of police officers acting on their own initiative would raid a bar etc. to find homosexuals, but usually it would be private individuals, who reported homosexuals to the police. It was further stated that there is a strong fear in society of recruitment to LGBT and defilement of children.

A Western embassy (B) explained that the police in Uganda are not well trained and arrests of LGBT persons could be attributed to lack of knowledge of the legislation addressing homosexual acts. Particularly, many police officers are not sufficiently trained to distinguish between existing law and the pending AHB. In some cases police officers are upholding a law [i.e. the AHB] that has not even been passed by parliament.

Representatives of Icebreakers stated that the main concern for LGBT persons is not the police or the Ugandan authorities. The fundamental concern is that LGBT persons are denied the very backbone of society, i.e. family ties, education, work, housing and societal acceptance. In that perspective a single arrest by the police with the purpose of blackmailing becomes irrelevant.

An anonymous human rights organization in Uganda stated that the main security issue and concern for the LGBT community stem from Ugandan society. The police are not the main security concern, as they in reality would not proactively seek out and hunt down LGBT persons. Rather, security issues of concern to LGBT persons would relate to being disowned by the family, poverty, false accusations resulting from private rivalries, fear of being outed by neighbors or colleagues, and discrimination regarding education, health and job opportunities.

Freedom and Roam Uganda (FARUG) stated that there have been cases in which former lovers would collaborate with the police to repeatedly extort money from their former partners by threatening to out them as homosexuals.

FARUG stated that most Ugandans believe that the Bahati Bill [i.e. the AHB] already has been enacted. Even the police would think that, and they believe that they must act according to the Bill.

FARUG explained that after the IGP in 2012 had entered into dialogue with the CSCHRCL, the police leadership has stated that it is ready to engage in the protection of human rights. A human rights desk has been established within the police and the desk has a LGBT component. However, ordinary police officers remain ignorant about LGBT issues. It was added that since 2012 the number of arrests of LGBT persons have increased.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that the police arrest LGBT persons out of lack of knowledge on legal and human rights provisions. The majority of the police force does not know that according to the current legislation (Penal Code Act) it is the homosexual act that is criminalized, and not being homosexual as a sexual orientation or homosexuals as a group of people.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that many ordinary police officers are not well educated and they often violate the Police Code of Conduct and the Criminal Procedure Code either out of ignorance or because they are poorly paid and want to supplement their salaries with bribes. On the other hand, high-ranking police officers, such as the Director of Metropolitan Police or the IGP are often reasonably helpful.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that because of the AHB people in Uganda have become very vigilant. People feel that it is their duty as Ugandans to report homosexuals to the police, and the police do respond to such reports by arresting LGBT individuals.

When asked if other security agencies apart from the ordinary police would arrest LGBT persons, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that occasionally members of the Local Defense Force would conduct arrests of people suspected of being LGBT. On one recent occasion, the Joint Anti-Terrorism Task Force (JATT) detained Pepe and other LGBT-activists. This happened during a seminar arranged by some high-level governmental people and Pepe and other activist gained access to the seminar holding posters with the words “0 shilling for HIV LGBT”. The happening took three minutes and some of the activists were arrested by JATT, who treated the activists like terrorists. It was emphasized that the JATT would only arrest LGBT people under such special circumstances. In general it would be the ordinary police who would arrest LGBT people. It would be rare exceptions for other security agencies to be involved in that kind of activities.

Co-coordinator of the CSCHRCL, Geoffrey Ogwaro, stated that he had no knowledge about the state security agencies placing LGBT persons in safe houses or exposing LGBT persons to outright torture.

### *1.2.1.1 Prevalence of arrests*

Concerning the prevalence of police arrests of suspected LGBT persons, representatives of Icebreakers stated that it is impossible to provide exact figures or informed estimates. Most cases of

arrests are dealt with at the police station by the person who has been arrested. He or she would simply pay the required amount of money, i.e. a bribe to the police, maybe with the assistance of friends, in order to get out of the police station as fast as possible. No one would keep records of these cases. Icebreakers would only have information about arrests when the organization has somehow been involved in securing the release of a person. However, Icebreakers do not keep records or have statistics of such cases. It was estimated that Icebreakers hear of somewhere between ten to twenty cases of arrests of LGBT persons per month. Besides cases where Icebreakers has been involved directly, that estimate would include cases where other LGBT organizations have been involved, as well as cases that become known through the media.

Representatives of EHAHRDP stated that they have no hard data on cases of arrests of non-activist LGBT persons. That kind of information should be found with LGBT NGOs, who would be better informed, as they are in direct contact with ordinary members of the LGBT community.

A Western embassy (B) stated that it has been provided with a list of documented arrests that members of the LGBT community have received. These arrests concern both “ordinary” LGBT persons as well as LGBT activists/hrds [human rights defenders]. The list can be found in annex C. As far as known to A Western embassy (B) this is the only documentation available concerning arrests of LGBT persons.<sup>11</sup>

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that organizations like SMUG, Refugee Law Project (RLP) and HRAPF have compiled cases of Ugandans and refugees living in Uganda being violated and discriminated on account that they are LGBT from September 2009 till July 2013. It was added that this is not a complete compilation of all arrests during that period of time. The compilation<sup>12</sup> is illustrative of the various types of cases of arrests but it does not illustrate the prevalence of such arrests, as many of these were unreported. Furthermore, many lawyers assisting LGBT persons could not share information on their cases due to client confidentiality. The compilation is found in Annex C to the report at hand.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that the CSCHRCL is aiming at documenting the cases concerning LGBT-arrests etc. CSCHRCL is hosting a project involving documentation, but up till this day such documentation has been fairly poor. It was emphasized that it is essential to compile figures and statistics for advocacy purposes.

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<sup>11</sup> CSCHRCL, *Cases of Ugandans and Refugees Living in Uganda Violated and Discriminated on Account that they are Lesbians, Gays, Bisexuals, Transgenders and Intersex Persons; Compiled by Civil Society Coalition on Human Rights and Constitutional La, C/O The Refugee Law Project, School of Law, Makerere University, Kampala Uganda*, undated. [The compilation covers the period from September 2009 to July 2013]

<sup>12</sup> Ibid.



## Situation of LGBT persons in Uganda

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In order to capture trends concerning the estimated number of persons arrested within a specified timeframe, the not yet published study of CSCHRCL & HRAPF focused on the five year period between 2007 and 2011:

“This period was selected because activism for LGBTI rights was increasing, while at the same time, opposition to LGBTI rights was rising. There were calls to use criminal law more during this period. Also during this period LGBTI organising reached its zenith and therefore documentation of cases became more possible. [...]

To obtain information on the estimated number of persons arrested during this period, newspaper records, and NGO records were studied. To avoid any conflation between non-consensual same-sex conduct (normally sex with boys under 18) which is not condoned and which is strongly opposed by CSCHRCL and HRAPF, the study limited itself to cases of consensual adult same-sex relations.

From the print media, four dailies (New Vision, Daily Monitor, The Red Pepper and Bukedde and their weekly editions, were examined. A summary of arrests covered by the print media during the study period is shown below:

*Table 1: Summary of arrests under the laws criminalising same sex conduct as reported by the different news papers for the period 2007-2011*

Newspaper	2007	2008	2009	2010	2011
THE NEW VISION	1	0	2	0	0
THE DAILY MONITOR	0	0	2	1	0
THE RED PEPPER	0	3	1	4	0
BUKEDDE	1	0	0	1	0
TOTAL	2	3	5	6	0

From the table above, the four daily newspapers covered a total of 16 arrests for consensual same-sex relations in the period 2007-2011. More arrests were reported in 2009 and 2010 than in 2007 and 2008. There were zero arrests reported in 2011.

From the media stories, the following trends may be noted:

i) Imprecise reporting conflates pedophilia and consensual sex between adults. The media rarely makes a distinction between the two.

ii) Coarse, graphic language used when reporting about arrests is negative and breeds homophobia. Crude terms as ‘bum drillers’ and ‘bum shafters’ are often used by the media, especially the “Red Pepper”, when reports concern LGBTI persons.

iii) Newspapers rarely consider the damage they do to the suspects. They tend to publish details and pictures of the suspects which puts the suspects more at risk of being ostracised or even beaten up.

iv) The newspapers rarely consider the suspect’s right to be presumed innocent until they are proven guilty. They report as if the person has already been found guilty of the offence.

Records obtained from NGOs more or less agree with the press records. [...] The NGOs engaged in this study were classified into LGBTI organisations, and mainstream organisations.<sup>13</sup> [...]

Sexual Minorities Uganda (SMUG), the umbrella network for LGBTI organisations in Uganda, has engaged in following up and documenting cases concerning LGBTI persons since 2007. According to SMUG Executive Director Frank Mugisha, most of these cases are received from member organisations or from the press. When information on arrests is received by SMUG officers, the cases are followed up until the release of the persons implicated is secured. However, documentation of such cases is rarely done because of security concerns for the suspect and stigma.<sup>14</sup> The study revealed 23 documented cases of arrests of persons accused of same-sex conduct in Uganda during the period. The arrests took place in far flung areas as: Kapchorwa, Bushenyi, Mbale, Luwero, Entebbe, Masaka and Kampala, among others. According to Mugisha, these are not the only cases, because many go undocumented.

*“Due to security reasons, some cases would go undocumented. Others preferred anonymity and that is how the cases would end. The activists’ interest was to bail out the arrested person and [ensure their] security...”<sup>15</sup>*

The study revealed that most mainstream organisations do not have specific programs/projects for LGBTI persons and thus rarely take interest in arrests of persons who are suspected of being involved in same-sex acts. Of the 17 mainstream organisations visited, only two had projects that specifically address the rights of LGBT persons. Human Rights Awareness and Promotion Forum (HRAPF) operates the only specialised legal aid clinic for LGBTI persons in Uganda.

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<sup>13</sup> [Footnote in the CSCHRCL/HRAPF draft report] Loosely used to refer to all organisations that are not LGBTI organisations including women’s organisations, refugee right organisations and other special interest groups organisations.

<sup>14</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with SMUG Executive Director Frank Mugisha 18th May 2012

<sup>15</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with Frank Mugisha supra



The clinic opened in 2010. It actively reaches out to indigent LGBTI persons in need of legal services. HRAPF handled 7 cases involving arrests of persons for consensual same-sex relations during the period 2010 and 2011. [...]

Two law firms, Rwakafuzi & Co. Advocates and Onyango & Company Advocates, handle the bulk of LGBTI cases that are referred to private lawyers. These cases are usually referred to these private firms by organisations like SMUG and the Coalition. From 2007-2011 the two law firms handled 10 cases involving arrests.

The researchers examined Police Annual Crime reports for 2008, 2009, 2010 and 2011. These annual police reports give an account of complaints received across the country. It was noted that the annual crimes reports give general statistics on the arrests, charges of cases of ‘unnatural offences’.<sup>16</sup> The Annual Crime Report for 2008 does not contain any record of cases under unnatural offences apart from bestiality, which was reported in 115 cases.<sup>17</sup> [...] [The report for 2009 recorded] 72 cases of unnatural offences.<sup>18</sup> [The report for 2010 recorded] 86 cases of unnatural offences.<sup>19</sup> [...] [The report for 2011 recorded] 55 cases of unnatural offences.<sup>20</sup>

The police reports examined indicate a trend of increased arrests for unnatural offences for 2009 and 2010, and a slight decline for 2011. This record agrees with the trend indicated in the media coverage for the same years. However, because of the conflation between consensual same-sex relations and bestiality in the law, it is difficult to tell which cases are for bestiality and which ones are about consensual same-sex relations. [...]

The police records do not provide a conclusive picture of how many arrests for consensual sex between adults of the same sex were made. However, they clearly bring out the fact that fewer than 100 persons are arrested every year for unnatural offences including bestiality. From these reports, together with the media and NGO reports for the period in question, there is a high likelihood that these cases referred to under unnatural offences are mostly bestiality rather than consensual same-sex relation cases. [...]

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<sup>16</sup> [Footnote in the CSCHRCL/HRAPF draft report] Under Section 145, this term covers carnal knowledge of another person against the nature (consensual and non consensual) and carnal knowledge of an animal (bestiality).

<sup>17</sup> [Footnote in the CSCHRCL/HRAPF draft report] Uganda Police; Crime Report 2008 pp33, accessible at <http://www.upf.go.ug/Reports/Annual%20Report%202008.pdf> (Accessed on 14<sup>th</sup> February 2012)

<sup>18</sup> [Footnote in the CSCHRCL/HRAPF draft report] Uganda Police; Crime Report 2010 pp19, accessible at <http://www.upf.go.ug/Reports/Annual%20Report%202010.pdf> (Accessed on 14<sup>th</sup> February 2012)

<sup>19</sup> [Footnote in the CSCHRCL/HRAPF draft report] Uganda Police; Crime Report 2010 pp19, accessible at <http://www.upf.go.ug/Reports/Annual%20Report%202010.pdf> (Accessed on 14<sup>th</sup> February 2012)

<sup>20</sup> [Footnote in the CSCHRCL/HRAPF draft report] Ugandan police Force; Annual crime and Traffic/Road safety report 2011, pp 14 <http://upf.go.ug/Reports/Annual%20Report%202011.pdf> (Accessed on 14<sup>th</sup> February 2012)

In terms of arrests recorded for each year, the trends are perhaps reflective of what was going on in the country. In 2007 and 2008, gay rights organising was just taking root in Uganda and this was the time that anti-gay sentiments also began to rise. The resultant clash laid a fertile ground for the arrest of persons. For the period 2009 and 2010, opposition to gay rights organising reached a crescendo: Anti-gay marches occurred in Kampala and other areas, the Family Life Network workshop facilitated by US evangelicals led by Scott Lively took place, and the Anti-Homosexuality Bill, 2010 was tabled in Parliament. 2010 was the year that the Rolling Stone tabloid published names and residences of gay persons and called for the public to ‘hang them’.<sup>21</sup>

For 2011, the absence of a single reported case could perhaps be attributed to the aftermath of the murder of leading gay activist David Kato early in the year. The police issued a statement to the effect that there was no persecution of gay people in Uganda and expressed commitment to do all in their power to investigate the case as well as to protect the citizens of Uganda. Perhaps another factor lay in the fact that leading gay activists won international human rights awards for their work in 2011.<sup>22</sup> All this recognition and publicity might have helped to ensure that the police did not arrest anyone for same-sex conduct during the time, or, if they did, to ensure that this did not come out in the media.<sup>23</sup>

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, arrests of LGBT persons happen more frequently when the issue is in the frontline in the media. At the moment it is quiet and the number of arrests of LGBT persons is low. It could stay that way for some months. But whenever attention is brought to the matter, the number of arrests would increase. It was added that the court case against the newspaper Rolling Stone has not really changed the way the printed media covers LGBT issues.

#### 1.2.1.2 Reasons for arrests

In the not yet published study conducted by the CSCHRCL & HRAPF it is stated that:

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<sup>21</sup> [Footnote in the CSCHRCL/HRAPF draft report] This was challenged in court in the case of Kasha Jacqueline & 2others v. Rollingsone Limited & Anor, where the High Court of Uganda found that the actions of the tabloid violated the rights to privacy and dignity of the applicants regardless of their sexual orientation.

<sup>22</sup> [Footnote in the CSCHRCL/HRAPF draft report] Kasha Jacqueline Nabagesera won the Martin Ennals Award for Human Rights in 2011, Frank Mugisha won the Rafto Prize for Human Rights as well as the RF Kennedy Award for Human Rights in 2011.

<sup>23</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 30-34.

“Beyond the numbers of arrests the issues of ‘why people are arrested and under which circumstances’ was examined. Interviews were conducted with NGOs and individuals who had been victims of the law. The following trends emerged:

*i) Arrests are instigated by police traps:* It was reported that the police lay traps for suspected LGBTI persons. In one case in Entebbe, a policeman sent sexually explicit phone messages to a suspected LGBTI person. When the person responded to the messages, he was arrested by the police and charged with gross indecency.<sup>24,25</sup>

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL further explained that sometimes the police initiate the arrest themselves. Some have a deliberate programme. Geoffrey Ogwaro knows of a case where an LGBT activist was dating a man. The police arrested the man for associating with the LGBT activist. He was detained for 10 days. However, this is not the common structure for police arrests. It was this particular police officer, who hated LGBT persons. The police officer had been ordered to stop arresting gay people and sex workers by the IGP, but he was very stubborn and kept on harassing LGBT persons. The police officer was eventually demoted for his actions.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL gave another example of a case where the police arrested a homosexual man, because he had corresponded via text messaging with a police officer, who had pretended to be gay. Since this man was never caught in the act of homosexuality, no charges could be raised [pressed] against him. It was added that in most cases police do not record arrests of LGBT persons. In other cases the police would dispose of the files, making them [the cases] difficult to document.

The CSCHRCL & HRAPF study further states that:

*“ii) Blackmail and extortion:* In their statement to the African Commission on Human and People’s Rights in Banjul Gambia in 2006, the International Gay and Lesbian Human Rights Commission and Sexual Minorities Uganda reported that:

*‘Extortion is the single most common abuse facing gay men and lesbians in Uganda. IGLHRC and SMUG have documented dozens of cases of gay men and lesbians who have been forced to pay money to extortionists. Extortion usually takes the form of a threat by someone to inform police, family, school or employers about someone’s sexuality. The police themselves often act as the blackmailer, and when they are not, they are still often complicit in the crime’.*<sup>26</sup>

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<sup>24</sup> [No text in footnote in the CSCHRCL/HRAPF draft report.]

<sup>25</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 35.

<sup>26</sup> [No text in footnote in the CSCHRCL/HRAPF draft report.]

Unfortunately extortion and blackmail still goes on today. LGBTI organisations raised concerns about the use of arrests by the police to blackmail and extort money from suspected LGBTI persons. In these cases the police usually release the persons arrested without charge after the person has parted with some money. According to a leading gay rights activist in Uganda:

*“...some of the alleged victims manipulate the system. They know that you are a gay man; they sleep with you and tell the police about it. They know that you will pay the money because you fear to be exposed. I know at least 2 people who have experienced bribery and extortion.”*<sup>27</sup>

Another activist asserts that there is extortion by the Ugandan police and that is the reason why they arrest LGBTI persons.”<sup>28</sup>

The following testimony by a gay Ugandan explaining a typical story of extortion in Uganda is featured on Moving Walls, an Annual Documentary Photography exhibition organised by the Open Society Foundations:<sup>29</sup>

*“[...] This guy asked me whether I was married. I said no, I love men, I don't love women. He was interested, we exchanged numbers. We met the next day and he took me on his boda (motorcycle). Then he said he had run out of fuel, so I got off. There were policemen waiting. One slapped me. The one from my tribe said I was shaming them. He said he would call the media and put my picture in the newspaper. I got very scared. They took me to the police station. I had to write that I wanted to sodomize the guy. I refused. They were humiliating me, pushing me with their guns. They told me the guy wanted 1.5 million shillings. I had 15,000 in my wallet. They took it. I said I could raise only 300,000. It was money to pay my brother's school fees. I hired a taxi and went to my place with two policemen. The driver and one policeman stood outside. I went inside with the other policeman and gave him the money. I was released at 3:00 am.”*

IGLHRC [International Gay and Lesbian Human Rights Commission] and SMUG conclude that ‘whether the victim pays the extortionist or not, blackmail leaves the victim demoralised and vulnerable. If the victim pays, the result may be financial bankruptcy, particularly if the perpetrator continues with the demands for money. If the victim does not pay, the result can be loss of employment, housing, children, ostracism from family and the community, imprisonment or even death.’<sup>30</sup>

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<sup>27</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with ML 21st July 2012.

<sup>28</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with KT 18th May 2012.

<sup>29</sup> [Footnote in the CSCHRCL/HRAPF draft report] Open Society Foundations, Moving Walls, Being Gay in Uganda, <http://www.opensocietyfoundations.org/moving-walls/18/being-gay-uganda> Accessed 12<sup>th</sup> December 2012.

<sup>30</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 35-36.

## Situation of LGBT persons in Uganda

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According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, most of those who are arrested by the police would be released on bond. If they refuse to pay bond the case would follow the legal procedure and move on to the courts after 48 hours where the person would have to pay bail in order to be released. However, most people would pay the bond while being detained by police, because nobody really wants to stay in a police station for longer than absolute necessary. It was emphasized that in reality the police conduct arrests of suspected LGBT persons in order to subject them to blackmailing and extortion of money rather than seeking to bring them to a court of law. Most LGBT persons who have not ‘come out’ would have an immense fear of being outed. This is very well known by Ugandan police officers, who would take a picture for the file of the person and threaten to pass the picture on to the media, along with information about the reason for the arrest. It was added that the police would actually grant the person a phone call in order for him or her to contact family or friends, who would be able to pay the bribe. In most other cases the police would not bother to let anybody call friends or a lawyer, but in cases of arrests of suspected LGBT persons the police would have an interest in doing so.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, it is quite normal that the police [after arrest] would take a photo of the person for the file. The threat of exposing the person as being LGBT would in most cases make the person pay a bribe to the police officer. It was added that it is quite normal that transgender women are paraded on television by the police. If the press is notified about arrests of LGBT persons they would surely arrive, as such stories are considered ‘juicy’ by most newspapers, who would present the story as a case of sodomy.

According to representatives of Icebreakers, a number of LGBT persons have been arrested by the police. Some LGBT persons are also detained for longer than the 48 hours permitted by law. The purpose of such arrests is blackmailing. The police would use the threat of “outing” the suspected LGBT person by handing the name and photo of the person to some tabloid newspaper. Most LGBT persons would do whatever they can to avoid being outed and they would try hard to find the means of paying the police the bribe. The bribe could amount to 500.000 to 1 million shilling and most times even more than that. It was added that some LGBT people would chose to move from their residential area to another district or even abroad to avoid being outed and run the risk of being arrested anew and exposed to police blackmailing. Others would leave for economic reasons.

FARUG confirmed that LGBT persons who are arrested would have to pay the police 400.000 - 500.000 shilling, or whatever they think the persons can afford, in bribes in order to be released from detention. The person would be released and the case would be closed as soon as the bribe has been paid.

FARUG explained that the amount of money in order to bribe oneself out of detention depended on the visible self-confidence of a person. Some people do not know their rights, do not want the

assistance of LGBT organizations, and consequently would pay any amount of bribe to avoid spending time in police detention.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, transgender persons who are arrested by the police would either have to pay between 500.000 to one million shilling or pay with sexual favors. This could be seen as an attempt to humiliate transgender persons or a show of power from the police officer's side. It was added that it could also be the case that such police officers are in fact men who have sex with men (MSM).

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that LGBT persons are at risk of being blackmailed by people who suspect them to be LGBT or even their partner who would threaten to out them. Often these black-mailings are based on jealousy or material issues, like for example money. The person being suspected or blackmailed could end up being arrested by the police. They also risk being re-arrested by the police, because the police want to extort money from them. This risk of being suspected of being LGBT or blackmailed could also happen to straight people or MSM. This could involve constant harassing and being detained.

According to FARUG, extortion or blackmailing of LGBT persons is not only practiced by the police, but also by neighbors, who for example would claim that someone was a rapist or make use of the threat of outing the LGBT person. This kind of extortion is practiced in collaboration between neighbors and the police.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that there are a lot of people taking advantage of the situation. LGBT persons were generally wrongly perceived by police officers to have a lot of money due to foreign funding, which has made them targets for extortion and blackmailing. There is always this talk that LGBT have money for 'recruitment'. So people blackmail homosexuals in the hopes of accessing this 'free money'. It was added that Clare Byarugaba has been blackmailed herself. Someone wrote an email saying that they would hand over her contact information to the police, if she did not pay them money.

Concerning reasons for arrests of LGBT persons the not yet published study conducted by the CSCHRCL & HRAPF continues:

*“iii) Settling scores:* The police are usually alerted by persons who want to injure the character and the reputation of others, or to exact revenge. Such persons provide anonymous tips to the police. Without additional investigation, the police arrest the suspected person. Because of the anonymity of the tipoffs, there is usually no complainant. Without a complainant, most of the arrested persons are released without charges. The study revealed that most of the anonymous tip offs provided to the police come from a person who often has a grudge or misunderstanding with the suspected LGBTI person. One respondent cited a case in Bwaise (a Kampala suburb) where a member of the LGBTI community was arrested and charged with committing



unnatural offences. The police had been tipped off by an ex-partner of the person arrested. The partners had broken up due to money related grudges.<sup>31</sup>

*iv) Arrests for the “safety” of the suspects:* Due to rampant homophobia and the risk of mob justice in Uganda,<sup>32</sup> a mob may attack two people and injure or even kill them based on an alarm raised by a single individual. [...] In such cases, the police take the suspect away before examining the facts and then make a decision on whether to press charges or not. In a case at Makerere University in 2010, the students at Mitchell Hall, Makerere University beat up two male students, who were accused by one of the students of having been cuddling and kissing. The two students were rescued by the police which later charged them with “carnal knowledge against the order of nature”.<sup>33</sup> Criminalisation of homosexuality thus becomes an easy pretext for mob justice and this is one of the key fears that LGBTI persons live with.<sup>34</sup> [...]

These trends suggest that arrests of persons under this charge is not about to stop. Arrest is a show of force, and usually the arrested person will do anything to gain their freedom. For a homosexual or transgender persons who is in the closet, pressing of such charges against them means that they are likely to be forcefully outed to their detriment, and thus risk ostracism, stigma and loss of employment or education. The police and the blackmailers know this very well and will use the criminal law to extract money out of the suspects.”<sup>35</sup>

Geoffrey Ogwaro of the CSCHRCL stated that from his time at SMUG, his experience was that if the community discovered that someone was gay or caught them in the act, they would report to the local police or the LC and the homosexual person in question would then usually be arrested. In one case Brian (BM) and Fred (FW) were arrested in Mbale on allegations of being homosexuals. They were charged and remanded in Mbale prison.

### 1.2.1.3 Treatment during detention

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that usually other inmates would be responsible for violence against LGBT persons in police detention. However, the police could inform

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<sup>31</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with a transgender activist, 18<sup>th</sup> May 2012

<sup>32</sup> [Footnote in the CSCHRCL/HRAPF draft report] According to the Police Crime Report 2011, a total of 383 cases of Mob Action were reported and investigated in 2011, compared to 357 cases in 2010, hence an increase by 7 percent. This is attributed to thefts, robbery, suspected witchcraft and dissatisfaction with delayed/omission of justice. Uganda Police, Annual Crime and Traffic/Road Safety Report, 2011 pp. 9

<sup>33</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with a lawyer working with HRAPF who secured police bond for the two, 15th March 2012.

<sup>34</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with Frank Mugisha supra [SMUG Executive Director Frank Mugisha 18th May 2012]

<sup>35</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 36-37.

other detainees about a person's sexual orientation and in that way expose the person to violence from other detainees. In some few cases it has been reported that individual police officers have raped suspected LGBT persons and it happens that police officers beat detainees with batons.

As to the ill treatment that LGBT persons experience when detained, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that some police officers would use mostly psychological torture, while others would encourage inmates to physically abuse the LGBT person. Physical abuse is often perpetrated by inmates, but also by police officers, for example at the time of arrests, where the LGBT person might be subjected to beatings or inappropriate groping. It was further emphasized that the police are generally abusive to many people, however it will intensify, if they find out that a person is gay.

Representatives of Icebreakers stated that suspected LGBT persons risk being beaten while they are kept at the police station.

Geoffrey Ogwaro of the CSCHRCL stated that from his time at SMUG, his experience was that if the community discovered that someone was gay or caught them in the act, they would report to the local police or LC and the homosexual in question would then usually be arrested. In one case Brian (BM) and Fred (FW) were arrested in Mbale on allegations of being homosexuals. They were charged and remanded in Mbale prison. There they were mistreated by the warders. They were kept separately from other prisoners because the warders feared that they would affect other prisoners and they were occasionally beaten by the warders. After two months on remand, BM and FW were released on bail. Soon thereafter on 13 September 2009, BM died of injuries received from warders while on remand in Mabale. The primary case was never proven against them and the charges were dismissed because of lack of evidence. [In the approved notes CSCHRCL added] "We can only imagine what he may have gone through in jail that led to his death after release. Was he raped and forcefully infected with [Human Immunodeficiency Virus] HIV, because he was. Was he punished by the wardens that are supposed to protect him? Did his innocence and the pain of unfair arrest weigh on him too much? Was the pain of his wounds sustained in prison too much to bear that he gave in to death? We shall never know what happened to this innocent man, whose only crime was that he was gay in Uganda."

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL were not aware of other cases where ill-treatment in police detention or during remand in prison had led to the death of the detainee/person on remand.

Co-coordinator of the CSCHRCL, Geoffrey Ogwaro, stated that he had no knowledge about the state security agencies placing LGBT persons in safe houses or exposing LGBT persons to outright torture.

Regarding police treatment while in custody/detention, a African women's rights organization based in Uganda stated that it had heard about some cases of LGBT people being humiliated by police



officers by forcing them to conduct sexual activities with for example police officers or fellow detainees.

A Western embassy (B) had no information about the treatment during time spend in detention or the length of the detention. It is known however, that police handles LGBT persons without respect, and arrests might be rough. It was added that activists in Uganda – be it activists involved with human rights activism, anti-corruption and the like – may be equally or even more exposed to rough arrests, false accusations, corrupt police officers’ extortion and fraud than LGBT activists. It was added that UPF’s popularity is boosted whenever some of its members ignore the official order of the IGP and arrest LGBT persons and this is shown in the media. However, the arrested LGBT persons are always released shortly afterwards. It was added that the most pressing threat to LGBT persons would stem from landlords, family and neighbors, suppliers and ordinary people, especially on Facebook, and not from the police.

### 1.2.1.4 Charges

In the not yet published study conducted by the CSCHRCL and HRAPF it is stated:

“According to the Officer in Charge of the Crime Data Management Department at the CID<sup>36</sup> headquarters, the police charge all crime suspects in accordance with the Penal Code and other laws relating to the respective offences. He noted that crime suspects are charged as long as there are facts available to support the preferred charge. He emphasized that police do not accord special treatment to cases of ‘*carnal knowledge against the order of nature*’ when conducting police business. Unfortunately, the truth on the ground is that many of the arrests made and subsequent charges preferred cannot be sustained in court of law due to lack of evidence; hence the result is widespread dismissal of the cases.<sup>37</sup> [...]

Indeed, many persons arrested under circumstances suggestive of homosexual activity, have been charged under Section 145(a). Makindye Magistrates Court in Kampala district alone handled 5 cases of people charged with carnal knowledge against the order of nature from 2007 to 2011. [...]<sup>38</sup>

The CSCHRCL and HRAPF study further reveals that:

“At Makindye Chief Magistrates Court, there were five registered cases, but all of them had been dismissed under Section 119(1) of the Magistrates Courts Act.<sup>39</sup> The state simply did not

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<sup>36</sup> Criminal Investigation Department (CID).

<sup>37</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with ML n51 above [Interview with ML 21st July 2012]

<sup>38</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 38.

<sup>39</sup> [Footnote 79 on page 41 in the CSCHRCL/HRAPF draft report states:] Under Section 119(1) of the Magistrate Courts Act, where the prosecution does not appear and yet they had notice of the time and place of the hearing, the court shall dismiss the charges unless for some reason the court thinks it proper to adjourn the case.

appear and the Magistrates dismissed them. At Buganda Road court three cases were registered under Section 145 during the period 2007 -2011. All were dismissed. For Nakawa Chief Magistrates Court, there was no case on record for the period, and the same was true for Nabweru Chief Magistrates Court. Mengo Chief Magistrates Court handles only civil cases.[...]

It was noted that the courts in Uganda are grappling with a problem of poor documentation as well as record keeping: ‘disappearance of case files’ is a common phenomenon, and some known cases are not traceable through the justice system.[...]”<sup>40</sup>

Finally, the CSCHRCL and HRAPF study states:

“Since it is often difficult to find evidence with which to sustain a charge of carnal knowledge against the order of nature, the police sometimes resort to charging people with related offences, which are said to be easier to prove, such as indecent assault, attempts to commit unnatural offences and being idle and disorderly.<sup>41</sup> It is important to note that most persons arrested get charged. When a person is charged, it in essence means that the police are confident that they have the evidence against this person that would lead to a successful trial and possibly a conviction. For persons who do not want to undergo the rigours of a trial and the embarrassment that comes with it (even if they are not proven guilty), paying a bribe is the easiest way out. SMUG asserts that on a number of occasions persons arrested have been threatened with such charges for purposes of blackmailing them into buying their freedom.<sup>42</sup>

What is also further interesting is that the State Attorneys (who are lawyers) actually go ahead and sanction these charges even when the file does not reveal sufficient evidence to sustain the charge. The feeling is that the State Attorney and judicial officials are thereby collaborating with the police to extort money out of the victims. According to East African Bribery Index 2012,<sup>43</sup> Uganda is the most corrupt country in the East African region with 40.7%.<sup>44</sup> The police are the most corrupt institution in the country (61.4 of the respondents) followed by the judiciary (49.6%). In all countries, most of the bribes were demanded rather than offered and

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<sup>40</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 43.

<sup>41</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with Officer in charge of Crime Data management Supra [Interview with Officer in charge of Crime Data Management Department of the Uganda Police on 16<sup>th</sup> July 2012]

<sup>42</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with Frank Mugisha above [[SMUG Executive Director Frank Mugisha 18th May 2012]]

<sup>43</sup> [Footnote in the CSCHRCL/HRAPF draft report] Transparency International Kenya, East African Bribery Index 2012, Nairobi 2012, pp2.

<sup>44</sup> [Footnote in the CSCHRCL/HRAPF draft report] Above pp 1.

## Situation of LGBT persons in Uganda

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Uganda had the largest proportion of bribe demands or expectations (40.7).<sup>45</sup> Given these high rates of corruption it would be surprising if such a ‘juicy’ area of the law failed to fall prey to it.”<sup>46</sup>

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that if a person is held in detention for more than 48 hours the case would be presented to a court of law. The case would be handed over to the DPP and the person charged would be held on remand in a prison and not in a police station. However, in most cases the lack of evidence would finally result in the case being dismissed by the DPP.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, the police would sometimes move a detainee from one police station to another. This way they would be able to deny holding a person, if SMUG or somebody else is searching for him or her. It was emphasized that the main reason for detaining an LGBT person would be to extort money. It was added that false charges e.g. possession of firearms, connections with a rebel group or illegal political activities could lead to a person being taken to a safe-house. However, that is not very common. It was estimated that in fifty percent of all cases of arrests of LGBT persons, people are released within 48 hours. Another fifty percent of all cases would be dismissed by the DPP or the court.

According to FARUG, most cases in which lawyers intervened were closed without court proceedings. Whenever lawyers challenged policemen, they would close a case.

Asked to comment on the implementation of the current legislation prohibiting homosexual acts, the African women’s rights organization based in Uganda stated that LGBT persons would be arrested for one-three days, but that no charges could be pressed under the current legislation, as long as one was not “caught in the act” of homosexuality. LGBT persons are instead arrested on the grounds of other accusations than homosexuality, as for example disturbing public order. It was further stated that the police would sometimes use false accusations to keep the LGBT persons detained.

FARUG stated that the police do not actually charge LGBT persons for homosexuality or homosexual acts. Instead they use other charges, as for example being idle and disorderly, inciting violence, public nuisance or impersonation – the latter in cases involving transgender people.

According to a Western embassy (B) prominent LGBT persons who gather in public seminars are likely to be arrested and released after a short while. They would oftentimes be charged with illegal assembly but quickly released with no official charges or the charges are dropped. Ordinary homosexuals, who are pointed out as such, by for example their families, do experience being

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<sup>45</sup> [Footnote in the CSCHRCL/HRAPF draft report] Above.

<sup>46</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 40.

arrested or social harassment. As far as the embassy is aware, most of the times they are not being prosecuted or convicted of any crime.

Representatives of Icebreakers explained that the police in some cases would refrain from trying to charge suspected LGBT persons for homosexual acts because it is realized that it would be too difficult to lift the burden of proof. Instead the police would come up with false charges such as “criminal trespass”. In cases involving transgender persons, the police will use charges on sex work in order to justify the arrest.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that once a person has been arrested the police could write down some charges for the file. The DPP would then ask the police to either drop the case or conduct further investigation. It would be at this point that the police in some cases would present false charges. It was added that most cases, including cases where false charges have been invented by the police, are dismissed by the DPP, who are aware of the quality of the police work and the real reason behind such arrests i.e. extortion of bribes.

According to an anonymous human rights organization in Uganda, most of the LGBT refugees [i.e. non-Ugandan citizens] who have been arrested in Uganda are released on bond, as the law does not allow for charges as long as one has not been caught in the act of homosexuality. Generally, if the police do not have evidence to charge a person after 48 hours, they would release that person on bond. In other cases LGBT persons who have been charged are released on bail.<sup>47</sup>

#### 1.2.1.5 Prosecution

Concerning the enforcement of the criminal laws the not yet published study of CSCHRCL & HRAPF summarize:

“Whereas many are arrested under these provisions [the criminal laws on same-sex relations], fewer are charged, fewer still are arraigned in court, and almost no one has ever undergone a full trial leading to an acquittal or a conviction. This evidence strongly suggests that the laws are being used to settle personal scores, to embarrass persons, to extort and as a show of power.”<sup>48</sup>

OHCHR is aware of two-three cases since the 1990s in which individuals were charged for committing acts of homosexuality according to the current legislation. The current legislation against homosexual acts has thus been used very rarely and was not designed to be systematically applied, in

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<sup>47</sup> Foundation for Human Rights Initiative (FHRI) Uganda, *A Citizens Handbook on the Law Governing Bail in Uganda*, June 2011, <http://ppja.org/countries/uganda/Bail%20Handbook.pdf>, bail: “In simple terms, bail is the release of an accused person from detention pending trial or until Court takes a decision on his/her case”, p. 18, bond: “Police bond is the temporary release of an accused person from police custody as investigations go on. Police bond is free of charge.”, p. X.

<sup>48</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 30.

order to punish not precisely acts of homosexuality, but homosexuality as such. The pending Anti-Homosexuality Bill, on the other hand, would allow for a systematic prosecution of homosexuals and human rights defenders when working with them to defend their rights.

The UHRC represented by Secretary to the Commission, Mwesigye stressed that so far no one has been convicted for homosexual offences under the Penal Code Act.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, it is the Ugandan police that expose LGBT persons to harassment and discrimination and LCs are responsible for evictions from the community. When the police would arrest somebody the charge would be “sodomy”. However, as there is almost never sufficient evidence the cases are dismissed. There is not a single case concerning sodomy that has been convicted in a court of law.

A Western embassy (C) stated that they were not aware of any cases of prosecution for being homosexual under the current legislation. There may be cases where individuals have been arrested but then released after a few days without any charges or further prosecution.

A Western embassy (B) stated that although some LGBT persons have been charged under the present penal code, an old British law introduced in Uganda in the 1900s, no one has been convicted nor sentenced for homosexuality. According to the Ugandan penal code, it is sex against the order of nature/unnatural sex, i.e. sodomy, that is criminalized, not homosexuality, i.e. the state of homosexual orientation as such. However, by local popular attitudes homosexual orientation is not distinguished. This is why heterosexual individuals are not threatened at all.

In the not yet published study of CSCHRCL & HRAPF it is stated:

“When a charge is sanctioned by the Directorate of Public Prosecutions, the case is filed in a court of competent jurisdiction. For offences under Section 145(a), the competent court of first instance is the Chief Magistrates courts since the maximum penalty is life imprisonment.<sup>49</sup> [...]”

For all cases concerning consensual same-sex relations that the researchers were able to access, the charges had been dismissed for want of prosecution. The five cases at Makindye Chief Magistrates Court were all dismissed under Section 119 of the Magistrates Courts Act (MCA) as the State is said to have lost interest in them. This may be attributed to the absence of witnesses, and the demonstrated reluctance on the part of the state prosecutors to proceed with such cases where there is no complainant. [...]

From the study it appears that there is no case so far brought under Section 145(a) of the Penal Code Act that has ever undergone a full trial.”<sup>50</sup>

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<sup>49</sup> [Footnote in the CSCHRCL/HRAPF draft report] Under section 161(1)(a) of the Magistrates Courts Act Cap 16 a Chief Magistrate has powers to try any offence other than offences for which the maximum penalty is death.

Furthermore, it is stated in the not yet published study conducted by the CSCHRCL and HRAPF that:

“In interviews with the police and the DPP’s office, it was evident that cases involving same-sex relations are not easy to deal with. Many factors make them the ultimate prosecutor’s nightmare. It is therefore surprising that such cases are actually charged and prosecuted. The challenges in prosecuting such cases are:

**i) The absence of a complainant**

For the offences of carnal knowledge against the order of nature, attempts and gross indecency where the potential offenders are consenting adults, there is usually no complainant. It is usually the police or a third party who go out of their way to report such cases. However, after the alleged offender is arrested, there is no one to prove the charge against them. Ugandan law imposes the burden of proof on the prosecution. In the absence of a complainant, corroborative evidence is also rendered useless, and this is why most of the cases are never prosecuted conclusively. [...]

Another reason why there are usually no complainants is because of the existence of the offence of ‘permitting a male person to have carnal knowledge of him/her against the order of nature’. The punishment is the same as the ‘having carnal knowledge against the order of nature.’ This discourages opportunists from reporting such cases.

**ii) The need for corroborating evidence [...]**

Even where there is a complainant, common law requires the existence of corroborative evidence for sexual offences. Where there is a complainant, then there is usually no corroborative evidence since the complainants are either fraudsters or are trying to settle scores and thus would not normally have any other evidence to back their stories. Corroborative evidence is evidence that confirms in material particulars the story of the complainant. Medical evidence is usually sought as corroboration and the complainants as well as the suspects are usually subjected to anal examination to prove penetration. This is a further disincentive for opportunists.”<sup>51</sup>

**1.2.1.6 Transgender persons**

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that police harassment of LGBT people is common and especially harassment of transgender women and men is common. Because

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<sup>50</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 38-41.

<sup>51</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 44.



the police officers are confused about the gender of transgender people, the police would strip them naked in order for them to see for themselves. This is of course a very humiliating situation for the person who is in police custody.

In the not yet published study conducted by the CSCHRCL and HRAPF it is stated:

“Merely being thought to be cross-dressing or acting like a person of the opposite sex can suffice for an arrest. Transgender persons are therefore highly vulnerable to arrests under these provisions even when they are not homosexuals. One prominent case concerns Brenda Kizza, a transgender woman. Brenda was repeatedly arrested and charged in court due to her appearance. She even complained that she was tortured and lost her teeth.<sup>52</sup> In these cases, transgender people are much more at risk of human rights violations. BX, a transgender woman, states that she has been arrested over 30 times in her lifetime because of her physical appearance.<sup>53</sup> A lawyer working with the Refugee Law Project (RLP), agreed that many cases of arrest and assaults involve transgender persons. An officer working with Support Initiatives for Persons with Congenital Disorders (SIPD) also states that due to ignorance, some members of the population also regard intersex persons as homosexuals and therefore put the intersex persons at additional risk of being arrested.<sup>54,55</sup>

According to FARUG, transgender persons were at an increased risk of being intimidated by police after being arrested. The police would undress any person before being put into jail in order to determine whether a person should be placed in the female or male section of the police detention facility. However, the police would target transgender persons and men who dressed as women and especially transgender sex workers who are considered easy to extort money from. In these cases it is common that the police would undress them and allow for pictures to be broadcasted on television.

Beyonce Karungi, Executive Director of Transgender Equality Uganda (TEU), stated that the police would show pictures in the media of transgender persons, who have been arrested.

UNHCR stated that in light of the hostile legal and policy environment in relation to LGBT issues, all LGBT persons in Uganda are equally vulnerable. No sub-group, for example transgender people, could be said to be more vulnerable than other sub-groups.

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<sup>52</sup> [Footnote in the CSCHRCL/HRAPF draft report] See for example, Alfred Wasike, Kampala Homosexuals speak out, *The New Vision*, August 16th 2007. Brenda was described as ‘Another transgender, Brenda Kizza, with a male face and female body shocked the media when she said the Police has tortured her so much that at some point they kicked her teeth out. She opened her mouth to show her fake teeth’.

<sup>53</sup> [Footnote in the CSCHRCL/HRAPF draft report] Interview with BX, 18th May 2012

<sup>54</sup> [Footnote in the CSCHRCL/HRAPF draft report] Phone interview with TQ, 1<sup>st</sup> August 2012

<sup>55</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 37.

UHRC clarified that not all members of the LGBT community [are] at risk of being undressed by the police. This applies to transgender persons who may be identified.

In the not yet published study conducted by the CSCHRCL and HRAPF it is stated:

“The police have no facilities for the detention of transgender/intersex persons and will always make a decision to lock them up with men or women. This decision is usually based on the genitalia and the police usually ask to confirm the sex of the person through touching or seeing the genitalia, an action that is largely offensive and violates the basic rights to privacy and dignity of the person. Having little or no exposure to transgender/intersex persons, the police will be at a loss on what to do and end up violating their rights.”<sup>56</sup>

A Western embassy (A) stated that the filming of a police attack on a group of transgender people has led to an increased focus and discussion about police behavior and conduct in cases concerning LGBT.

Beyonce Karungi, Executive Director of TEU, stated that transgender people in general risk being arrested by the police. Usually such arrests would take place in the street during police round ups of commercial sex workers. The police would soon identify the transgender sex-workers and beat them up in the street. Afterwards they would be detained at the police station, where police or other detainees would expose them to beatings. It is not uncommon that the police would force transgender women to undress at the police station and cut off their hair, or humiliate them by urinating on them.

Beyonce Karungi, Executive Director of TEU, explained that some of the challenges she has met being a transgender woman engaged in “survival sex” or commercial sex work are police arrests during round ups of commercial sex workers, humiliation during detention at police stations e.g. insults and forced undressing as well as police brutality e.g. beatings, mob justice, police raiding the office of the organization and being evicted by various landlords, who believed that she and the organisation were promoting homosexuality. The most recent landlord asked her to pay double rent or give up the office and leave. It was added that currently she is looking for a place to set up an office again.

Beyonce Karungi, Executive Director of TEU, explained that she has been arrested and detained many times (up to 50 times) and held for several days - usually three to four days. She was eventually released when her friends would arrive and bribe the police to release her.

Beyonce Karungi, Executive Director of TEU, explained that she no longer faces the risk of being arrested by the police, because she now knows her rights. She would tell the police that they are conducting an illegal arrest, and that if the police persist she would have to make a phone call. This makes the police refrain from further action. It was emphasized that it is extremely important to

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<sup>56</sup> CSCHRCL & HRAPF-Uganda, *Protecting 'Morals' by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 37.



## Situation of LGBT persons in Uganda

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educate transgender people about their rights and empower them to minimize the risk of being arrested and exposed to humiliation and beatings by police officers.

An anonymous human rights organization in Uganda supported the view that LGBT persons, who know their rights and are strong enough to stand up to a police officer would not be arrested, if they confronted the police with the fact that an arrest would not be based on the law. It was added that LGBT persons who are engaged in commercial sex work would be the ones most at risk of being arrested by the police.

Beyonce Karungi, Executive Director of TEU, clarified that during her detention the police would cut off her hair. They would take her clothes off and mock her. The police would also touch her and beat her up. Beyonce Karungi further explained that she knows a transgender woman, who had her teeth knocked out by the police.

Beyonce Karungi, Executive Director of TEU, explained that the police would often extort money from transgender persons and this is the main reason why the police arrest transgender women. When the police arrest a transgender individual, the only way to get out of the police station is to pay a bribe to the police. The bribe would usually be around 100.000-150.000 Uganda Shillings. The police would make several arrests of the same transgender individual in order to extort money. If the bribe is not paid, the person would stay at the police station. The maximum period of a detention, which Beyonce Karungi has heard of, is three to four days. In the police station the transgender women are placed in cells with male inmates/detainees and they risk being beaten and raped by the other detainees.

Beyonce Karungi, Executive Director of TEU, explained that in the past (10-13 years ago) transgender women could be detained for months following police round ups of sex workers. Some were charged with two offences; sex-work and engaging in homosexuality, and some were sentenced to imprisonment for three to four months. Five members (Patience, Brenda, Serena, Bonnie and Sunny) were imprisoned for one year during that time, for the same charges. Beyonce Karungi's friend Brenda was tried in court many times for doing sex-work. It was clarified that sex-work is still illegal, but the police do not prosecute people as much for this offence anymore. Today commercial sex workers are assisted by NGOs focusing on sex workers' rights and either released on bond or they pay bribes to the police to get out of the police station.

Representatives of EHAHRDP stated that transgender persons are usually targeted by the communities and the police who are not very well-informed about transgender people and they often confuse transgender with sexual orientation. Many police officers would think that all transgender persons are homosexuals. Police have in certain instances undressed transgender persons to establish their sex. It was added that most arrests take place when the LGBT issue is in the limelight of the media.

FARUG explained that transgender sex workers often are accused of stealing money from the public, meaning customers, by pretending to be women. Also, transgender sex workers risk being arrested

because of non-transgender sex workers complaining about them to the police. Non-transgender sex workers fear losing customers to transgender sex workers, which then leads to competition and resentment against the transgender sex workers.

According to the not yet published study conducted by the CSCHRCL and HRAPF:

“Another trend affecting transgender persons is that they are usually arrested and then released without charges. BX states that she has been arrested over 30 times by the police, but has not been charged ever once. This points to systematic targeting of transgender persons simply because of the way they appear.”<sup>57</sup>

### 1.2.3 LGBT NGOS

A Western embassy (A) stated that workshops concerning LGBT rights have been shut down by the Ugandan authorities at least twice during 2012. Several activists were currently suing the Ethics minister for breaching their right to assembly but the case is still pending due to shortage of staff at the responsible court.

A Western embassy (B) stated that the Minister of Ethics and Integrity several times has ordered the police to disrupt meetings and seminars where LGBT organizations are involved and arrested participants. The IGP is against this and he has handed his personal mobile phone number to LGBT activists for them to use in connection to such arrests.

A Western embassy (A) did not know if the Minister of Ethics was acting alone or with help from others when he ordered the police to close these kinds of workshops.

A Western embassy (A) added that several similar workshops have been conducted in 2013 as well, but none of these were closed down. For example, on 27 May 2013, a workshop in connection with the international LGBTI day was held undisrupted without any security related incidents or disturbances.

A Western embassy (A) explained that the closure of one workshop on LGBTI issues in 2012 could be coincidental, as a number of MPs were attending another workshop at the same time and at the same hotel. The fact that a lot of LGBT activists were present at the venue could have led to some MPs calling the police, who then shut the workshop down.

According to the African women’s rights organization based in Uganda, in February 2012, a leadership seminar for LGBT organizations was held at a hotel in Kampala, simultaneously to a conference being held by the African women’s rights organization based in Uganda at the same hotel. When the police raided the LGBT workshop, the conference held simultaneously by the African women’s rights organization based in Uganda was also targeted and subsequently closed down, even

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<sup>57</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 40.

though this conference had no connection whatsoever with the LGBT workshop. The African women's rights organization based in Uganda assumes that their conference was closed down due to the organizations prior involvement with LGBT issues and reputation for organizing leadership trainings for the LGBT community.

Representatives of EHAHRDP stated that arrests of LGBT activists have taken place during seminars, workshops and other large gatherings. When the police raided and illegally searched Victor Mukasa's house in 2005, Victor Mukasa took the case to court. In 2008 the High Court declared that the police had violated Mukasa's right to privacy.

According to a Western embassy (B), many LGBT organizations move offices when some landlords realize that the organizations are supporting sexual minorities. Often the organizations are asked to either move or pay double rent.

According to the representatives of Icebreakers, it is common for established LGBT persons to receive hate messages and even death threats via social media, as for example Facebook. One of such hate-groups on Facebook is called "Kampala exposed". Often the LGBT community has no knowledge on who is behind such initiatives, but two reporters from tabloids such as the Red Pepper have been known to campaign against LGBT persons via social media.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that not only the printed media are interested in the matter. Furthermore, suspected LGBT persons are exposed on social media, e.g. on Facebook, Twitter, various blogs. The moment a LGBT person is exposed on for instance Facebook, SMUG would try to take the page or group and picture off Facebook and has done so with some success. It has never taken more than one week for SMUG to remove such pages or groups and pictures. It was added that the evangelical pastor Martin Ssempe, who is a strong advocate of the Bahati Bill, is a mentor to youths in his church and that these youths are very active on Facebook.

According to FARUG, there have been several anti-LGBT campaigns on different social media platforms over the last few years. These campaigns consist of threats directed at individual members of the LGBT community. So far these threats have not been put into practice. It was not known who was behind these campaigns.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that Geoffrey Ogwaro has experienced that strangers would come to the office and ask for someone called 'Geoff'. They would not say who they were and they were dressed in plain clothes. They came back several times asking the other CSCHRCL staff where to find him. After the last visit by the strangers, Geoffrey Ogwaro contacted the EHAHRDP and informed them about the situation. EHAHRDP hid him for three days. Meanwhile, the strangers came to his partner's house and asked for 'Geoff'. It happens that people are followed in a similar manner. For instance, a lawyer from Hebrew Immigrant Aid Society (HIAS) had his house attacked. No one knows who is behind these incidents or what they want. It was suggested that these cases illustrate the kind of intimidation that LGBT

organizations and mainstream organizations that cooperate with them are exposed to. It was added that in general the government is worried about civil society organizations and sometimes government agencies act as if they were paranoid.

A Western embassy (B) stated that ordinary LGBT persons are less well-protected than LGBT activists. However, another real issue is poverty. LGBT persons who are not involved in activism risk being kicked out of their rented rooms or flats and lose their jobs, if their sexual orientation is somehow exposed. To address the core issue more, NGOs should establish income-generating programs, as self-employment is crucial to many ordinary LGBT persons who have been outed. It was added that LGBT activists receive a lot of assistance from various foreign donors, but it is more difficult for these donors to assist ordinary LGBT persons in Uganda. It was added that embassy (B) receives at least two LGBT persons a month, who come to the embassy for assistance because they have been exposed or have 'come out'. The embassy would refer these people to some of the small LGBT organizations.

### **1.3 Access to health, education, job market**

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL state that there are various organizations that specialize in health issues and LGBT. The CSCHRCL is trying to establish a referral system for LGBT persons seeking medical attention. LGBT individuals are sometimes refused health care, and often do not have access to specialized treatment. Several NGOs have contacts to friendly doctors that they can refer LGBT persons to in order for them to receive specialised treatment. Medical personnel sometimes, after enquiring about for example a person's civil status, register in the patient's file that the patient is homosexual and thus the patient will be refused treatment at several clinics. There are several reasons why medical staff refuses to treat LGBT individuals. It could be due to religious views - often medical personnel relate their profession with religion and see homosexuality as sinful behaviour, and also because awareness about LGBT issues is not part of the medical training. On the contrary, at many medical schools it is taught that homosexuality is a mental disorder.

A Western embassy (A) stated that it had knowledge of LGBT persons being pressured out of education and jobs because of the sexual orientation or gender.

A Western embassy (A) emphasized that with regards to access to health services there definitely is discrimination against LGBT.

The UHRC represented by Secretary to the Commission, Mr. Mwesigye indicated that the commission has received some few complaints from the LGBT community. The UHRC has held a closed meeting with representatives of the LGBT community and health practitioners to discuss concerns of the LGBTI community with regard to accessing health services. The health practitioners agreed to assist the LGBT community and as a result of this agreement the LGBT-representatives were given a telephone number to a medical doctor that they could call in case someone was denied treatment.

## Situation of LGBT persons in Uganda

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A Western embassy (A) explained that it was known that especially health workers could refuse to treat a LGBT person on the grounds of that person's sexuality. However, the representative was unsure about how a health worker would find out about a person's sexuality or sexual orientation without that person expressing it.

According to a Western embassy (B), although access to public health care for LGBT persons is difficult, LGBT persons who 'know their way around' have some means of receiving medical treatment. There is an arrangement with a nurse and medical doctor from the main hospital in Kampala, Mulago Hospital, that come to the office of an LGBT organization regularly to offer medical treatment to LGBT persons. Many of the HIV/Aids [Acquired Immune Deficiency Syndrome] programs in Uganda are sponsored by donors, and they are likely to have a policy of non-discrimination. The embassy does not know to what extent LGBTI persons would have actual access to these services. But this is clandestine and not accessible by all LGBTIs.

An anonymous human rights organization in Uganda stated that LGBT persons do face discrimination from health personnel. The discrimination of LGBT persons went so far, as male non-LGBT rape victims from Congo were denied medical help because health personnel would suspect them to be LGBT, and sometimes even call the police. Sometimes the police would arrest the suspected LGBT persons or caution them after explanation. Hence, prejudices about the LGBT community carry over to male survivors of rape.

An anonymous human rights organization in Uganda stated that it has a focus on awareness-raising for medical personnel to educate these professionals about LGBT issues, as well as the issue of male survivors of rape. It was added that most people are not educated or informed about LGBT and even medical doctors and other educated health workers are not always able to distinguish between victims of rape and consensual relationships between same sex persons.

An anonymous human rights organization in Uganda explained that there are ways for LGBT persons to access health care. The organization has names of LGBT friendly doctors and it is able to refer LGBT persons in need of medical treatment to these doctors, but it has to be done very discreetly. It was emphasized that especially specialized treatment would be difficult to access for LGBT persons, who would have to expose themselves to doctors that they did not know to be supportive of the LGBT community, and who might even out LGBT people that consult them. It is a risk that the doctors can out the LGBTI persons to the local community or local authorities. It depends on the moral values the doctor holds.

Executive Director of Spectrum Uganda, Samuel Ganafa K. explained that generally there are not very many facilities where LGBT persons can receive treatment. However, Spectrum Uganda would refer LGBT persons, who suffer from sexually transmitted diseases (STDs), including HIV/Aids, to Most At Risk Populations Initiative (MARPI) clinic at the Mulago Hospital in Kampala or other doctors who are known to be LGBT friendly. The MARPI clinic would be able to conduct HIV tests, but would refer HIV positive LGBT persons to other facilities for anti-retroviral treatment. This treatment could include supplements as well as medical treatment. Consultations, HIV tests and

medications are free of charge at the MARPI clinic. However, an issue is that not all LGBT persons are aware of this service.

Executive Director of Spectrum Uganda, Samuel Ganafa K. further explained that the health facility at the hospital in Mbuya in Kampala called “Reach Out” has called on LGBT persons to contact them to be tested for HIV/Aids and other STDs as well as receiving treatment. It was added that Spectrum Uganda has a list of contact persons, whom LGBT persons can consult without fear of being outed as LGBT. No LGBT persons would be denied medical treatment at the hospital in Mbuya.

According to Executive Director of Spectrum Uganda, Samuel Ganafa K. the Makerere University has a research centre, Walter Reed Project, which offers consultations, test and treatment free of charge to LGBT persons. Basically, there are four places where LGBT persons could receive medical treatment in Kampala. Samuel Ganafa K. did not have information about access to health care [in rural areas] outside of Kampala. That is not to say that one would not necessarily be able to access treatment outside of Kampala.

As to the issue of discrimination, Samuel Ganafa K. Executive Director of Spectrum Uganda, explained that most clinics are found in Kampala. It was estimated that there are around seven to ten LGBT friendly doctors in the private sector in the Kampala area. LGBT persons would have to pay the normal cost for this treatment. It was added that Spectrum Uganda is in contact with LGBT friendly doctors in Mbarara and Jinja and the organization is working on identifying additional LGBT doctors in other areas outside of Kampala. Finally, Samuel Ganafa K. pointed to the fact that of course some doctors and health workers would be LGBT themselves.

Executive Director of Spectrum Uganda, Samuel Ganafa K. stated that other larger cities also have NGOs that assist LGBT persons with access to health care services. Spectrum Uganda is also planning to reach out to rural areas.

According to Executive Director of Spectrum Uganda, Samuel Ganafa K. the challenge facing the LGBT-community with regard to access to health care is that LGBT persons suffer from unique conditions, which set them apart from the general population. They might have STDs like genital warts or other STDs. As a result, LGBT persons refrain from seeking medical attention out of fear of being outed as LGBT. With regards to HIV/Aids you will be asked to fill out a form that specifies your marital status and the doctor would ask questions about your spouse. To satisfy societal norms Samuel Ganafa K. has in the past filled out forms stating that he is married. It was added that there have been instances in the past where the police have been called when a LGBT person has sought medical attention. However, more and more doctors are opening up to offer medical treatment to LGBT persons and at the same time respecting the right of privacy.

Executive Director of Spectrum Uganda, Samuel Ganafa K. stated that the organization fights to change policies and raise awareness about LGBT issues pertaining to health care. Approximately 25 doctors have been trained and feedback has been positive. In addition to that, Spectrum Uganda has outsourced resources and engaged 28 health workers in a project to train and raise awareness about



LGBT issues. It was added that Spectrum Uganda expects to see further positive developments within the coming year.

Executive Director of Spectrum Uganda, Samuel Ganafa K. explained that it had previously been an issue that doctors would refuse to treat LGBT persons for ordinary diseases. This is still an issue, although some progress has been made. Even some highly educated people, like doctors, are ignorant and prejudiced against LGBT persons. They believe homosexuality is a choice and such doctors would maybe yell at LGBT persons and threaten to out them, which in turn could make the patient discontinue the treatment.

Executive Director of Spectrum Uganda, Samuel Ganafa K. confirmed that even transgender persons would ultimately receive medical treatment, if they know of a LGBT friendly doctor or if they are ready to contact a NGO, who could then refer them to a LGBT friendly doctor.

Executive Director of Spectrum Uganda, Samuel Ganafa K. stated that there is discrimination within the LGBT community, as people discriminate against the sick e.g. HIV/Aids. Thus, people are still dying quietly, because they do not seek the assistance they need, or even stop their already established treatment out of fear of the stigma of being sick. They fear to meet colleagues or friends in the waiting room and consequently be outed as HIV-infected. It was added that Samuel Ganafa K. knew of at least four or five LGBT persons who died between April and June 2013, because they did not want to receive medical treatment to avoid the stigma related to HIV/Aids.

Executive Director of Spectrum Uganda, Samuel Ganafa K. definitely did not believe that doctors at the MARPI clinic at the Mulago Hospital, the hospital in Nsambya or at the Walter Reed project at the Makerere University would out a person. Hence, LGBT persons do not avoid seeking medical attention out of fear of being outed [at the above mentioned clinics and hospitals], but rather they fear the stigma of being sick. At the Spectrum Uganda meetings on Sundays the medical staff bring equipment, so participants can be tested in connection with the meetings. It was added that nobody has to show up in person at the office of Spectrum Uganda or other NGOs in order to be referred to LGBT friendly doctors, to receive counselling etc. Today, the internet offers the possibility of anonymous communication.

### **1.3.1 Transgender persons' access to health, jobs and housing**

Beyonce Karungi, Executive Director of TEU, explained that most transgender women are forced to engage in sex-work, as they cannot get an ordinary job. It is very difficult to receive health care, since transgender persons are often refused treatment by doctors and medical staff in ordinary clinics. Beyonce Karungi added that she once was refused Malaria treatment by health workers because of her being transgender.

Beyonce Karungi, Executive Director of TEU, stated that many transgender women, who have resorted to survival sex, die due to lack of medical care. They also fall victims of gang rapes and it is difficult for them to access medical treatment. However, Beyonce Karungi knows a medical doctor, who is ready to treat and to provide counselling to transgender people, for example after they have

been victims of gang rapes, and TEU is able to direct transgender women to this doctor. It was added that the doctor has to hide from the public the fact that he is treating transgender people.

FARUG considered that transgender women are a vulnerable group within the LGBT community concerning access to job. However, many transgender women manage to be self-employed and have a reputation of being skilled hairdressers and stylists, thus often finding employment in beauty salons. These beauty salons could not afford to fire them, as they often are excellent workers and popular with the female customers. It was concluded that it is easier for transgender women to fit in, and that it often would be harder for transgender men to blend in with local society. It was added that it is more difficult for transgender men to find a job or even self-employment.

Beyonce Karungi, Executive Director of TEU, stated that transgender women have very few options of creating a livelihood – except for commercial sex-work. It was added that self-employment and income generating projects could help ease the pressure on transgender women, but such initiatives have not yet been implemented. Beyonce Karungi knows a person who owns some land and is willing to make this land available for farming to transgender women, but TEU lacks the resources to establish a farming project.

Beyonce Karungi, Executive Director of TEU, explained that some of the challenges she has met being a transgender woman engaged in “survival sex” or commercial sex work are police arrests during round ups of commercial sex workers, humiliation during detention at police stations e.g. insults and forced undressing as well as police brutality, e.g. beatings, mob justice, police raiding the office of the organization and being evicted by various landlords, who believed that she and the organization were promoting homosexuality. The most recent landlord asked her to pay double rent or give up the office and leave. It was added that currently she is looking for a place to set up an office again.

#### **1.4 Evictions by Local Councils**

An anonymous human rights organization in Uganda explained that in order to move from one community in Uganda to another, a person would need a recommendation letter from their local leader [LC]. The human rights organization was aware of cases where a local leader had refused to issue such letters to LGBT persons.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, confirmed that LCs do write letters stating that a person is not wanted in the local area, because he or she is homosexual. This is a common practice, although it may not be legal. If for instance a landlord wants to see a person out of a rented house, flat or a room the landlord could ask the LC chairman to evict the person. The LC is mandated to expel a person from a community, if that person is considered to be a risk for the community. The terms of reference for the LC are codified in the Security Act. So far the legality of such LC evictions has not been tested in a court or elsewhere. Evictions from rented housing could also be initiated by concerned neighbors, who could try to round up support for the eviction from the local community



and ultimately present this to the LC. It was added that when a person wishes to move residence from one LC area to another he or she is supposed to bring a letter of recommendation from the previous LC to the LC in the new location explaining who the person is. However, in reality this is rarely done.

### **1.5 Avenues to seek redress**

FARUG explained that many LGBT persons do not want to be associated with any LGBT organization and instead prefer to handle any problems they might face themselves. These individuals consequently are the easiest victims of extortion, as their fear of being outed as an LGBT person would stop them from contacting LGBT activists or attempt to access legal aid in order to report a complaint of the police or deal with their community.

Representatives of EHAHRDP stated that members of the LGBT community, who believe that their rights as citizens in Uganda have been violated, can file a complaint with the UHRC. If the police is the perpetrator the complaint could be filed with the PSU. Such complaints would most likely be filed by LGBT activists, who have the courage to see the case through the procedure. LGBT NGOs have access to human rights lawyers or they have the legal capacity within the organization to provide the necessary legal support. That has been proven when LGBT related cases were tried at the High Court of Uganda. EHAHRDP recommended that LGBT organizations formulate a joint strategic plan of structured litigation including filing complaints with the UHRC and PSU.

According to FARUG, LGBT activists have an ongoing dialogue with the IGP. Whereas in the past it was unthinkable to complain about the police anywhere, now activists even have the number of the IGP in order to call for his assistance if a LGBT person has been arrested or detained.

According to FARUG, in cases of harassment by the police, it is possible to file a complaint against a certain police station or a certain police officer. It was emphasized that the widespread homophobia in institutions of complaint makes it difficult for ordinary LGBT persons to complain about police harassment or abuse. Therefore, one would complain through someone else, who is well connected with LGBT activists and organizations.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that there is legal aid available within the CSCHRCL and a member organization HRAPF conducts legal training to “paralegals” on how to respond, if they are arrested or if friends are arrested. HRAPF as a legal aid provider records most of the cases. Furthermore, LGBT persons receive a phone number in order to reach HRAPF’s legal officer should they get arrested and be in need of legal help.

According to FARUG, many LGBT persons often do not want any assistance from LGBT organizations because they are not ready to go through the complaint procedure after for instance an arrest or other kinds of harassment, because they do not wish to be outed as an LGBT person. Similarly, there have been cases in which LGBT persons wanted the assistance of LGBT organizations after being attacked or arrested, but afterwards expressed their wish for these cases not to be documented in order not to be outed as a LGBT person.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that the LGBT-community has some level of support from the IGP in Uganda who has acknowledged the problems facing the LGBT community. However, the IGP does not know all cases.

Beyonce Karungi, Executive Director of TEU, stated that the organization has access to lawyers and it could receive legal assistance from lawyers used by other LGBT organizations. It is possible to seek help from a lawyer to complain about police abuse. In one case TEU together with a representative of CSCHRCL filed a complaint at a police station. The police officer who received the complaint asked “is this a man or a woman?”. Besides, complaints of police abuse would take very long. It was added that the specific complaint mentioned is still pending and that the police has not followed up on any of the cases where she has complained through a lawyer. It was concluded that in reality it is not possible for a transgender person to go to the police and complain without the support of a NGO or a lawyer.

Beyonce Karungi, Executive Director of TEU, referred to one case of police officers being suspended from duty after beating up a transgender woman in August 2012. This case had been reported to higher police authorities with assistance from the CSCHRCL. Beyonce Karungi added that a transgender woman without such assistance never would have dared to complain to the police.

### **1.5.1 Professional Standards Unit (PSU)**

Mr. Kyomukama, Head of PSU, explained that the unit was established in 2007 to effectively deal with errand officers in the UPF. At the time it was acknowledged that the UPF itself did not have a proper mechanism to address the concerns of the public.

Further, Mr. Kyomukama, Head of PSU, explained that the offices of the PSU are physically placed outside of the UPF in privately rented premises far from any police station. It is thus possible to report complaints about police misconduct without fear of reprisals from the UPF. It was added that the PSU records complaints from any person, who feels aggrieved by the actions of any police officer. The PSU has 10 regional offices – in Kabale, Mbarara, Masaka, Kampala Metropolitan, Jinja, Mbale, Hoima, Arua and in Gulu. Additional five regional offices are in the process of being opened in Soroto, Lira, Moroto and Tororo to improve access to redress for people living in the Northeastern part of the country. It was emphasized that all these PSU offices are situated separately from UPF police stations, thus allowing for ordinary citizens to have easy access to the services of the PSU. It was added that besides reporting a complaint at the offices of the PSU it is possible to file a complaint in writing or to use one of the toll free hot lines. In some cases NGOs would refer cases to the PSU.

Mr. Kyomukama, Head of PSU, stated that since the establishment of the PSU human rights abuses by police officers have declined. It was added that the mandate of the PSU is to investigate complaints of misconduct by UPF officers. Misconduct by other security agents than the UPF are investigated and handled by these institution’s mechanisms. However, should the PSU receive a

complaint concerning possible misconduct by security agencies other than the UPF, the case would be referred to the relevant authority including the UHRC.

Mr. Kyomukama, Head of PSU, explained that different people complain of different things, ranging from complaints of being subjected to torture or ill-treatment to minor cases of misconduct. However, the procedure followed by the PSU remains the same. Once a complaint has been received from a citizen the PSU would open a file and initiate an investigation into the substance of the complaint. Every fact in the complaint would be verified by the PSU through interviewing witnesses and by crosschecking information. If the investigation shows that the complaint is genuine and that a police officer has been guilty of misconduct, the PSU would report to the IGP and recommend disciplinary action to be taken against the police officer. A disciplinary court (Departmental Court) set up within the UPF would take the recommendation by the PSU into consideration and decide on whether disciplinary steps should be taken and if convinced that the police officer has acted in violation of the UPF Code of Conduct, the Disciplinary Court would decide which kind of disciplinary action should be taken against the police officer. Disciplinary action could be dismissal from the police force, discharge, demotion, reprimand, cut in salary, fine (to pay damage) and communal labor (e.g. cleaning police quarters).

If, however, the investigation reveals that a criminal offence is likely to have been committed by the police officer, the PSU would refer the case to the DPP, who together with the PSU would prosecute the police officer before a criminal court. In case the evidence is not found sufficient to proceed in a criminal court, the police would set up a disciplinary court (Departmental Court). The legal basis for that court would be the UPF Code of Conduct.

Mr. Kyomukama, Head of PSU, explained that the purpose of the disciplinary system is to keep the individual police officers in line and avoid a situation where police officers feel that they can act with impunity. It was added that currently UPF employ 45.000 police officers. All have their names on the uniforms; even the IGP has a name tag. It was added that even though working in the UPF at times could be quite stressful – Mr. Kyomukama has worked in the UPF for 31 years – police officers must be held accountable for their actions according to the rules laid out in the Code of Conduct. It was emphasized that even though dealing with the UPF at times could be demanding and admittedly the PSU has met some resistance from the UPF, this would not affect the work of the PSU. Sticking to the rules and taking disciplinary action against errand police officers using a stringent approach would in the long run benefit all police officers in the UPF as well as the general public.

According to Mr. Kyomukama, Head of PSU, the number of complaints filed with the PSU has gone up year by year since 2007. This should be attributed to the opening of regional offices ensuring easy access to the PSU as well as increased awareness of the PSU among the general public. The latter has been achieved through TV and radio advertisements as well as cooperation with local leaders and civil society organizations. The increasing number of complaints does not reflect an increase of cases of misconduct by the UPF officers. It was added that even though the PSU could need additional staff and training of staff, the PSU is nevertheless handling the increased caseload efficiently.

Mr. Kyomukama, Head of the Professional Standards Unit (PSU), Kampala, outlined the three human rights related types of complaints received by the PSU:

- 1) Deaths in custody
- 2) Unlawful arrests and overt detention (exceeding 48 hours)
- 3) Assault and torture

Mr. Kyomukama, Head of the Professional Standards Unit (PSU), Kampala, supplied the following data [note: the data does not specifically refer to complaints made by LGBT persons]: In 2011 the PSU received three complaints concerning deaths in custody; 127 complaints concerning unlawful arrests and overt detention; 52 cases of assault and torture. Other complaints received in 2011 were mismanagement of files (789 complaints); Misconduct (648 complaints); Corruption (47 complaints); Harassment (28 complaints); Abuse of office (25 complaints); Theft of all kind (49 complaints); Fabrication/destruction of evidence (three complaints); Robbery (eight complaints); Murder (nine complaints); Defilement (six complaints).

In 2011 in total the PSU investigated 2.313 complaints. By the end of 2011 1.361 complaints were completed and 952 cases were pending.

By the end of 2011 the PSU had recommended disciplinary action in 839 cases. In 32 cases the officer in question was convicted and given a disciplinary punishment; 51 cases were dismissed by the Disciplinary Court and in 43 cases the police officer was acquitted. In addition, in 93 cases the police officer was just pleaded/charged, and in 235 cases the IGP reported back to the PSU for additional comments. Finally, 101 cases were still pending with the Disciplinary Court by the end of 2011.

By the end of 2011 the PSU had referred 292 cases to the Criminal Court. In seven cases the officer in question was convicted; eleven cases were dismissed; One officer was acquitted; 21 cases were withdrawn by the prosecutor; In nine cases the officer had absconded; 29 cases awaited the officer in question to appear and have charges read; 31 cases were pending hearing; 89 cases were under investigation at the Criminal Investigation Department (CID) within the UPF and 85 cases were pending with the DPP.

Mr. Kyomukama, Head of PSU, emphasized that the PSU would open a file in all complaints that are received regardless of the complainant's background. LGBT persons are not denied the possibility to record a complaint with the PSU. Mr. Kyomukama did not have information about specific complaints filed by LGBT persons, but it was added that such complaints could very well be in the statistics as the complainants sexual orientation is not relevant to the PSU and thus not registered any place.

## Situation of LGBT persons in Uganda

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Mr. Kyomukama, Head of PSU, stated that a person's sexual orientation, if known by the PSU, would not affect the individual investigation. It was emphasized that all Ugandans should enjoy the rights of the law regardless of their sexual orientation.

According to a Western embassy (B) police officers acting with impunity have reduced in general and more and more police officers are held accountable, if they abuse their power. However, the embassy could not say if this included violations of LGBT persons by police officers. Impunity still represents a significant problem. It was estimated that between one-third and one-fourth of all complaints reported to the PSU would go to the criminal courts, and approximately one-third would go to the Disciplinary Court within the police. It was concluded that citizens are increasingly using the complaint mechanisms and the system is increasingly working. It was emphasized that the rulings of the High Court have established that LGBT persons enjoy the same fundamental rights as any other citizen in Uganda. Still, ordinary, non-activist LGBT persons, who have complained about the treatment of the police, would risk being further exposed to harassment. LGBT activists would be better protected through their established legal networks.

Representatives of Icebreakers stated that LGBT persons who have not 'come out' fear being outed if they are arrested and subjected to blackmail by the police. It was added that this group of the LGBT community would never file any complaints of police misconduct or police abuse, because their greatest fear is that of being outed. Icebreakers has never filed a complaint with the PSU, but the organization is considering doing so, if they should identify a person who is strong enough and willing to report a complaint with the assistance of Icebreakers.

As to the possibility of complaining to the PSU, co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that the CSCHRCL has not used this avenue.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL further explained that sometimes the police initiate the arrest themselves. Some have a deliberate programme. Geoffrey Ogwaro knows of a case where an LGBT activist was dating a man. The police arrested the man for associating with the LGBT activist. He was detained for 10 days. However, this is not the common structure for police arrests. It was this particular police officer, who hated LGBT persons. The police officer had been ordered to stop arresting gay people and sex workers by the IGP, but he was very stubborn and kept on harassing LGBT persons. The police officer was eventually demoted for his actions.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG stated that SMUG has considered filing complaints with the PSU in individual cases of arrests of LGBT persons. But so far SMUG has not done so. Filing such complaints would take up resources and SMUG would need to identify individuals who are ready to 'come out' as LGBT and this would most likely be a by-product of filing such a complaint.

### 1.5.2 Uganda Human Rights Commission (UHRC)

The UHRC further clarified that it is within the mandate of the commission to receive and investigate any human right violation. The Commission believes that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

The Commission [UHRC] noted that some LGBT people in general face insults, hostility and discrimination from their communities and families. Thus, the gay community often keep a low profile. The UHRC often handles all its complaints in utmost confidence and uses diplomatic means to go about the complaints that it receives relating to the gay community. It is in the interest of the UHRC to get access to information, complaints or matters reported or raised with civil society organizations, since it has the mandate to monitor the human rights situation in Uganda. It was added that although the commission has good relations with the LGBT community, it is vital that the victim or civil society organizations notify the UHRC about cases of brutality and unlawful arrest, in order to investigate and ultimately ensure that citizens' rights are respected.

A list of the complaints filed by LGBT individuals:<sup>58</sup>

- Indecent assault by the police, where the officers were allegedly checking for the victim's gender;
- Denial to access or visit partner by parents;
- Discrimination and harassment by family members and members of the public, including derogatory name calling;
- Dismissal from school on grounds of sexual orientation;
- Undressing victims to check for exact gender;
- Denial of visa to travel with Partner;
- Denial of access to health services;"

According to a Western embassy (A), some LGBT persons have filed complaints with the UHRC, but have since waited two years without any result.

A Western embassy (B) stated that the UHRC's human rights tribunals are functioning but it has a huge backlog of cases. Another problem is that compensation that is supposed to be paid to aggrieved persons is in fact often not paid.

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<sup>58</sup> In the meeting notes that were sent to the UHRC for approval the delegation asked the UHRC to provide a list of complaints filed with the Commission by LGBT persons. UHRC replied: "As agreed, we shall not share the names of the parties or their case numbers without the complainants' consent. However, we shall indicate the alleged violations or actions occasioned against the victims".



Regarding the possibility of complaining about the police, Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that the CSCHRCL has not attempted to file a complaint in a specific case with the UHRC, but instead preferred other avenues, such as taking complaints to the courts. Furthermore, many LGBT persons see the UHRC as part of the government. However, both CSCHRCL and SMUG have engaged a lot with the UHRC. Many people are not aware that they can complain to the UHRC.

### 1.5.3 High Court of Uganda

OHCHR in Uganda presented three judicial cases that in recent years have outlined the constitutional rights for LGBT persons in Uganda.

First, the case of Victor Mukasa and Yvonne Oyo vs. Attorney General, 2008: The police had invaded and searched the claimant's house in order to gather criminative evidence and in the course of this arrested the claimant's partner, who then was taken to a police station where she was undressed and touched by police officers. By resolution, the Ugandan High Court on 22 December 2008 declared these actions to be violations to the right of privacy, property and the fundamental rights of women, and thus settled the precedent of constitutional rights for LGBT persons in Uganda. The resolution did not introduce LGBT rights as such, but established that LGBT persons had the same constitutional rights as any other Ugandan.

Second, the case of Kasha Jacqueline, Pepe Nziema & David Kato vs. Giles Mohamed and The Rolling Stone Publications Ltd., 2010-2011: After The Rolling Stone in September 2009 had published pictures and names of LGBT persons under the headline "Hang them", the High Court issued an injunction against The Rolling Stone and a temporary order that constitutional rights to dignity, privacy and liberty applied to LGBT persons.<sup>59</sup>

OHCHR in Uganda further presented a third, still pending, judicial case. The case of Kasha Jacqueline, Pepe Nziema & Godfrei Oyaro vs. Attorney General and Minister of Ethics and Integrity, 2012-2013, which arose from the closing of LGBT activist meetings by police and the Minister of Ethics and Integrity in 2012 and seeks for accountability for state and individual responsibilities. Until now, the case has been adjourned four times.

A Western embassy (B) considered that the High Court is in reality upholding human rights in Uganda. Illustrative of this is the case against the tabloid newspaper The Rolling Stone in January 2011. In 2012 the Minister of Ethics and Integrity has ordered the closure of LGBT workshops held in Kampala, which has been challenged by LGBT activists, who have filed a suit at the High Court in Kampala against the Minister. The case is still pending; it is not clear whether this is purposely being

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<sup>59</sup> The full text of the High Court ruling can be found on the website of CSCHRCL, *The High Court Of Uganda, Miscellaneous Cause No.163 of 2010, Kasha Jacqueline, David Kato Kisulle and Onziema Patience v. Rolling Stone Ltd and Giles Muhame*, [http://www.ugandans4rights.org/attachments/article/403/court\\_ruling.pdf](http://www.ugandans4rights.org/attachments/article/403/court_ruling.pdf)



delayed, or whether this delay is caused by the huge case backlog.<sup>60</sup> It was added that LGBT organizations have access to legal aid lawyers in Uganda and even some in the United Kingdom, from whom they receive legal assistance when deciding to file complaints with the High Court. The embassy added that the court proceedings are often very lengthy and postponed for various reasons. It was further added that the courts in practice are only really accessible to LGBT activists and not “ordinary” LGBT individuals.

When asked to comment on ways to complain about authorities, an anonymous human rights organization in Uganda stated that the Minister of Ethics and Integrity was sued by the CSCHRCL in 2012 for closing a LGBT workshop. This case is still pending in court and most likely it will drag on indefinitely. Theoretically, there are ways to take cases to court, but practically, this is not effective, as no judge in a lower court, who would deal with less profiled cases, is brave enough to speak out for the rights of LGBT persons. However, it is correct that the High Court of Uganda in some important cases has taken a clear stand on constitutional rights of LGBT (e.g the case against The Rolling Stone and the case of Victor Mukasa and Yvonne Oyo).

#### **1.5.4 Equal Opportunities Commission (EOC)**

Regarding the opportunity to use the Equal Opportunities Commission (EOC) as an avenue of complaint, a Western embassy (A) explained that the EOC due to limitations of its mandate is not allowed to be involved in “issues against morality”, and that it therefore until now had not been able to receive complaints concerning LGBT issues. A human rights organization has as a response filed a court case against the EOC’s mandate, but the ruling in this case is still pending. Consequently, the EOC is not functioning as an avenue of complaint for LGBT persons, who claim to have experienced discrimination. It was added that the EOC is a fairly new institution, as it was set up in 2010.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL further stated that the Equal Opportunities Commission is now operating. The CSCHRCL in partnership with HRAPF held a workshop with the Equal Opportunities Commission a few months back. The Equal Opportunities Commission stated that they were going to handle cases concerning LGBT matters. Still, the court verdict regarding the morality clause in the Equal Opportunities Commission’s mandate that has hitherto prevented the commission from taking on LGBT complaints has been pending for two years. A LGBT person had issued the original complaint to the Court about the morality clause, and the

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<sup>60</sup> Changing Attitude reported on 26 March 2012 that: “Jacqueline Kasha Nabagesera, Frank Mugisha, Julian Pepe Onziema and Geoffrey Ogwaro want the Uganda High Court to pronounce that Lokodo’s closure of the gay rights workshop on February 14, 2012 violated their freedom of assembly guaranteed under the Ugandan constitution. [...] the activists want a court to declare that the minister’s order for the closing of the workshop constituted an infringement of the applicant’s and other participants’ right to participate in peaceful activities”, Changing Attitude, Ugandan gay activists sue cabinet minister over workshop closure, 26. March 2012, in CSCHRCL, *Uganda’s Anti-Homosexuality Bill: The Great Divide*, Kampala, Uganda, May 2013, <http://www.ugandans4rights.org/index.php/publications/417-ugandas-anti-homosexuality-bill-the-great-divide-third-edition-may-2013.html>

## Situation of LGBT persons in Uganda

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CSCHRCL since then has complained about the delay of the procedure. Due to the pending court verdict, there is a large backlog of LGBT complaints at the Equal Opportunities Commission.

## 2 The Anti-Homosexuality Bill

On 20 December 2013, BBC News reported that Uganda's parliament had passed the Anti-Homosexuality Bill. According to BBC, the Ugandan prime minister opposed the vote, claiming not enough members of parliament were present. President Museveni has not yet signed the Bill into law. To become law, the Bill requires the president's signature within 30 days.<sup>61</sup> [Ed. note 6 January 2014]

The UHRC represented by Secretary to the Commission, Mr. Mwesigye, stated that with regards to the AHB the Commission took the following approach: The UHRC called for a meeting to discuss the human rights implications of the Bill, and invited different stakeholders who included Members of Parliament (MPs), representatives of the gay community, representatives from Government Ministries, Departments and Agencies, representatives of Foreign missions and Embassies, as well as the authors of the Bill. The Commission is mandated by Constitution to inform the parliament on laws, and to advise Parliament on the human rights implications of the bills before it. As such, the Commission has since given its position and advice on the human rights implication related to the AHB. The Commission noted that the Bill is not necessary and that it adds no value because homosexuality [acts of homosexuality] is already a crime in Uganda under the Penal Code Act. Thus, a person would be penalized, if he or she is caught in the act of homosexuality. UHRC is therefore of the opinion that the existing law is sufficient and there is no need for additional laws in that regard. Homosexuality is considered a vice in Uganda. However, homosexuals are human beings and are entitled to be protected and shouldn't be discriminated against. That is the position of the UHRC, and this is also the position of the Ugandan government. It was added that the UHRC is mandated to promote and protect human rights as provided for under the Constitution.

The UHRC represented by Secretary to the Commission, Mr. Mwesigye, stated that the UHRC is monitoring the human rights situation in Uganda. As noted above, having been given assurance, the UHRC noted that bringing up this issue for further discussion/debate in public would only create further divide and hostility. There is concern that if the Bill makes it to the floor of parliament it is likely that it would be passed. As such, the UHRC will continue lobbying and advising Parliament and other relevant authorities on the fact that the Bill is not necessary since it goes against international human rights principles. In addition the financial implications of the Bill will have to be approved before the Bill can be passed into law. It was added that another controversial bill – the Marriage and Divorce Bill – has been pending for many years and this Bill is no exception.

The UHRC further reported that they have been given the assurance that the Bill [AHB] will not be passed.

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<sup>61</sup> BBC, *Ugandan MPs pass life in jail anti-homosexuality law*, 20 December 2013, <http://www.bbc.co.uk/news/world-africa-25463942> [accessed 6 January 2014].

CNN, *Ugandan parliament passes anti-gay bill that includes life in prison*, 23 December 2013, <http://edition.cnn.com/2013/12/21/world/africa/uganda-anti-gay-bill/> [accessed 6 January 2014]

OHCHR in Uganda explained that the AHB had been discussed at draft level since 2007, and that after its introduction to Parliament in 14 October 2009, it was referred to the Committee of Legal and Parliamentary Affairs. The AHB remained in a standby situation until its reintroduction by resolution to Parliament on 31 October 2011, and its de facto reintroduction in February 2012.

OHCHR in Uganda stated that the Commission of Legal and Parliamentary Affairs in a (non-public) report from November 2012 declared that the existing laws in Uganda already prohibit homosexuality [acts of homosexuality] and that the new law would not add any significant value to Ugandan legislation. OHCHR in Uganda added that the vast majority in parliament is in favor of the Bill.

OHCHR in Uganda drew the attention to an article brought in *The Daily Monitor* on 24 June 2013. It is stated in the article that: “[...] The legislation that seeks to criminalize homosexuality is expected to be debated in the third session of the House. The committee on Legal and Parliamentary Affairs will table its report on the Anti-Gay Bill for the third reading before it is passed or rejected by the House. The *Daily Monitor* is reliably informed that the Committee completed its work and what is remaining is to get space on the order paper. The donors have threatened more aid cuts if Parliament passes the Bill but MPs have vowed to pass the Bill. [...]”<sup>62</sup>

A Western embassy (B) stated that the pending AHB – the so-called Bahati Bill, named after the sponsoring private MP David Bahati – is at least offering a clarification of the term “carnal knowledge”. Mr. Bahati is the deputy whip of the ruling National Resistance Movement in parliament. The position of the government to the Bill is that it is a private member’s bill, not officially supported by it [the government]. However, it is unlikely that the AHB would have been presented unless it enjoyed some support in the government. The Minister of Ethics and Integrity has strongly supported the AHB on cultural and moral grounds. The Bill has been cleared by the Ministry of Finance, a procedural requirement for private members’ bills to be tabled in parliament. The clearance by the Minister of Finance is also an authoritative government commitment that resources (money, police, courts, etc) will be made available for its implementation if the Bill is passed into law.

According to a Western embassy (B) many Ugandans, almost 98% according to a local survey, find homosexuality objectionable on social-cultural grounds. However, this does not necessarily mean that all Ugandans support the wholesale passage of the Bill, criminalization of homosexuality or discrimination against LGBTI.

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<sup>62</sup> *The Monitor, House reconvenes tomorrow to tackle congested agenda*, 24 June 2013, <http://www.monitor.co.ug/News/National/House-reconvenes-tomorrow-to-tackle-congested-agenda/-/688334/1892532/-/78xb6y/-/index.html>

According to a Western embassy (B), the UHRC has submitted its position in Parliament and publically made it clear that there is no need for the Bill and that the Bill is in contradiction with Ugandan international human rights obligations. The UHRC is actively lobbying within the political establishment. It was added that the UHRC recently won the prize as the best human rights body in Africa. Finally, President Museveni has repeatedly told diplomats that the Bahati Bill will not be passed in parliament and that he would see to it that the Bill disappears. It was added that as long as the Bill is pending, President Museveni will maintain this position to the Bill. Other influential persons have kept quiet and the Speaker of Parliament, Rebecca Kadaga, who is widely speculated having ambitions to succeed President Museveni, has been a strong supporter of the Bahati Bill. This has actually increased her popularity rating among some local constituents. Another strong advocate of the Bahati Bill is the ex-communicated Catholic priest Simon Lokodo who is the Minister of Ethics and Integrity.

According to a Western embassy (B) it is unlikely that the Bahati Bill will be enacted and assented to by the President and should it happen that the Bill is passed in Parliament, it would be difficult to prosecute under the law.

An African women's rights organization based in Uganda stated that it is certain that the Bill will pass once it reaches Parliament, and that until now only the donors' pressure has stopped the Bill from being presented before Parliament.

Representatives of EHAHRDP stated that the organization would become illegal, if the Bahati Bill passed in parliament and the organization would be forced to inform the authorities about who is LGBT. However, it was emphasized that the future of the Bill is uncertain, and it is clear that it primarily serves domestic political purposes, i.e. as long as the Bill is pending it diverts attention from more pressing domestic issues like corruption.

An African women's rights organization based in Uganda stated that the Bahati Bill targeted both organizations and individuals associated with LGBT persons. Furthermore, the organization would not be able to carry out any of their work if the Bill was passed, because the organization already was associated with LGBT issues. Already the organization has experienced discrimination with projects where the organization was not allowed to be implementing partner for the Ministry of Gender, solely due to the organization's earlier involvement with LGBT issues, as for example the organization's conduction of leadership seminars for LGBT organizations.

In the not yet published study conducted by the CSCHRCL & HRAPF it is stated that:

“The Bill attracted a lot of debate and attention among the Ugandan populace and the international community. At the height of this, the “Rollingstone” tabloid published pictures and addresses of suspected gay people and called for their hanging. Consequently, many of those named faced various threats, and some were forced to leave the country. In response to this, the Coalition [CSCHRCL] sponsored a court application for three of those named in the tabloid. David Kato, Jacqueline Kasha and Pepe Julian Onziema successfully applied for a

court injunction against the Rollingstone tabloid in 2010.<sup>63</sup> About two weeks after the ruling in January 2011, one of the applicants David Kato was found murdered in his home in Kyetume, Mukono district.<sup>64</sup> Media coverage of the burial ceremony of David Kato outed many members of the LGBTI community, and put them at further risk.”<sup>65</sup>

With regard to US based evangelical churches, a Western embassy (A) stated that some moderate churches from the US had launched an advertisement in Ugandan newspapers directly opposing the statement made by the Speaker of Parliament shortly before Christmas 2012, who had called for the Bahati Bill to be passed in parliament as a “Christmas gift for the Ugandan people”. Instead, these moderate churches would promote the “gift of tolerance” by not passing the Bahati Bill. It was added that some evangelical US based churches were thought to be the driving force behind the Bahati Bill and openly fuelling anti-homosexual sentiments within Ugandan society.

Beyonce Karungi, Executive Director of TEU, explained that the AHB has caused a lot of problems for the transgender community, as they [transgender persons] are mistaken for being homosexuals.

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<sup>63</sup> [Footnote in the CSCHRCL/HRAPF draft report] *The case of Kasha Jacqueline, Pepe Onziema & David Kato v. Giles Muhame and The Rolling Stone Publications Ltd, Miscellaneous Application No. 163 of 2010*

<sup>64</sup> [Footnote in the CSCHRCL/HRAPF draft report] *BBC; Uganda gay rights activist David Kato killed*, <http://bbc.co.uk/news/world-africa-12295718> (accessed 4th April 2012) 14

<sup>65</sup> CSCHRCL & HRAPF-Uganda, *Protecting 'Morals' by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 19.

### 3. Societal attitudes towards LGBT persons

OHCHR in Uganda explained that in Uganda, homosexuality is not openly discussed and objective information is not easily available, and it is thus not accepted by broad society to make one's sexual orientation public. In general, all issues related to sexuality have traditionally belonged to the private sphere of the person and have not been openly discussed in public. Historically, there has also existed a strong condemnation of LGBT persons by Anglican priests during the colonial times, leading some authors to conclude that the current homophobia in Ugandan society in fact reflects religious values introduced during the colonial period, and not necessarily pre-colonial values of the African societies.

Executive Director of Spectrum Uganda, Samuel Ganafa K. explained that homosexuality has always existed in Uganda but until recently homosexuality has been hidden and considered a taboo. In that respect the Bahati Bill and the ensuing discussions has actually helped by bringing the issue out in the public.

Mr. Mwesigye [UHRC] clarified that the LGBT-community faces discrimination and hostility, from both their families and from society, mainly because issues pertaining to sex are very private [within] Uganda's culture and society. He further gave an example that it is unusual to see married couples kiss in public, not even at weddings. As such, the real issue is not homosexuality, but rather the values, cultures and beliefs held in Uganda. It was noted that one of the problems with the AHB is that it brings matters of sexuality into public domain, where it does not belong, and that it has polarised opinions into opponents and supporters. It was added that the government's position is that what takes place in private is a private affair.

According to an anonymous human rights organization in Uganda, homosexuality is a very sensitive topic in Uganda. Generally, society shuns homosexual people. As a result, the Speaker of Parliament recently gained a lot of support for her pro Bahati Bill activism. It was added that President Museveni has not been clear in his statements concerning the LGBT issue. In fact he has been very contradictory in his public statements.

According to representatives of Icebreakers cultural norms and religious beliefs are the root cause of homophobia in Uganda today. The introduction of the Bahati Bill has caused concern in the LGBT community and as a LGBT organization Icebreakers is particularly worried about the obligation in the Bill to report knowledge of individual LGBT persons to the authorities. This clause would seriously hamper the work of LGBT organizations in Uganda. It was further added that many LGBT persons live their entire life in hiding – in constant fear of being reported.

According to an anonymous human rights organization in Uganda, the biggest challenge for LGBT persons is that they cannot have consensual relationships in public. Further, cultural and religious beliefs seem to be the cause for this discrimination.

A Western embassy (A) stated that Ugandan society in general favor conservative moral values, but at the same time Ugandan society used to be a rather tolerant society and to some extent it still is.



Religion plays a central role in most people's life and yet approximately 70% of the adult population is unmarried. This duality can be observed when the traditional tolerance faces a situation where established moral values are threatened. Most people would not even want to hear about or discuss the issue of homosexuality. When homosexuality and homosexuals are front page issues in the media, this could trigger vehement reactions from many people in Uganda and sudden increase in cases of violence against LGBT persons including mob justice. It was added that religious groups further nurture these reactions by labelling homosexuality as "sinful behavior". The same religious groups are constantly arguing that homosexuality is a non-African phenomenon that has been exported into Africa by the "West" and that LGBT people represent a danger to children and youngsters, who are allegedly being recruited into homosexuality by LGBT persons.

A Western embassy (B) stated that the general perception of LGBT persons is very much influenced by the anti-gay groups based in the USA who are 'born again' Christians. At the same time pro-gay activism from Western countries has upset many people in Uganda, as the "westernized" form of homosexuality is strongly opposed by the public. Both the anti-gay as well as pro-gay activists are sponsored by Western donors.

A Western embassy (C) explained that the increased public debate on the LGBT issue in Uganda may have led to polarized and extremist views. This was especially noteworthy as, generally, public display of any kind of romantic affection or sexuality are unusual in Uganda. For example, President Museveni has stated that sex is very much a private matter and that even a husband and wife would never kiss each other in public. So some people argue that the LGBT activists have made it worse for ordinary LGBT persons by bringing the issue into the public domain. The counter argument is that the work of LGBT activists has forced some human rights organizations or groups to consider their position on the AHB, and make clear that they are against the AHB.

OHCHR in Uganda explained that there often was no distinction by the public between voluntary acts of homosexuality between adults and sexual offences against children or forcible acts such as rape and defilement. Homosexuality is also seen as unnatural, e.g. not within the nature of a human being but induced by an "amoral" person, which was one of the reasons why anti-homosexuality forces in Uganda had such a great focus on curtailing the "promotion of homosexuality", and especially the "recruitment of children" by LGBT persons. The general perception is that in order to be homosexual a person has to be introduced into homosexuality.

As earlier mentioned, OHCHR in Uganda explained that homosexuality is a topic that can be discussed publicly in Uganda society. This taboo is broken when LGBT and other human rights organizations seek to promote public discussion around the issue, resulting in negative and rejecting societal reactions.

### **3.1 Discrimination of LGBT persons**

According to representatives of EHAHRDP, the most pressing concerns for ordinary members of the LGBT community, who are not living openly as LGBTs include the risk of being disowned by the family, expelled from the village or local society denied access to formal education, being evicted

from their housing by landlords and being fired. As a consequence and to be able to continue to hide their sexual orientation, many ordinary members of the LGBT community move from place to place. Landlords could evict them, if they are suspected of being homosexuals and they would have to move elsewhere. This nomadic lifestyle would also reflect negatively on a person's attachment to the labor market.

According to FARUG, "in-closet nomads" is a common phenomenon within the LGBT community. Rural areas in Uganda are conservative, and LGBT people from these areas would often choose to go to Kampala in order to keep their sexuality secret. In Kampala they would keep moving from place to place. Similarly, LGBT persons often fear being exposed as LGBT by colleagues, which lead them to frequently move on from job to job, thus ending up living a nomadic style life. In order to stop this employment insecurity, self-employment is very important for the LGBT community. Many LGBT persons have very few options [to be] self-employed apart from engaging in commercial sex work.

Representatives of EHAHRDP stated that LGBT persons who have been outed would most likely be disowned by their family and forced to leave the area. Families would do so because they are either homophobic themselves or because of societal pressure and fear of loss of status, being isolated as well as feeling ashamed etc.

Representatives of EHAHRDP stated that ordinary members of the LGBT community, who have been outed, in many cases live on the margins of society and a feeling of hopelessness is profound. They have in many cases been completely disowned by their families and they often do not have the skills to cater for themselves.

FARUG stated that most security concerns of LGBT persons conveyed to the organization were cases of individuals who had been evicted by their landlords or disowned by their family members.

According to Executive Director of Spectrum Uganda, Samuel Ganafa K. discrimination against LGBT persons is widespread especially in the private sector. Discrimination can also be found in the public sector, but it is not as frequent as in the private sector. Samuel Ganafa K. referred to a man he knows, who was a baker. When the community realised that he was gay, they would no longer buy his cakes.

A Western embassy (B) stated that a LGBT person, who has been outed or who is suspected of being homosexual or transgender would most likely lose his or her job. Furthermore, as soon as it is established that a person is homosexual or transgender, he or she is likely to be evicted by his or her landlord or disowned by the family.

Based on stories of outed LGBTs, and also the LGBTIs embassy B has received seeking help and why they are seeking help, it is often the case that LGBT persons who have been outed would most likely be disowned by their family and forced to leave the area. Families would do so because they are either homophobic themselves or because of societal pressure and fear of lost of status, being isolated as well as feeling ashamed etc. (or a combination of these reasons).

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that once a LGBT person has been outed in the printed media, he or she would risk harassment and discrimination by the general public; the person would be recognized by the local community and would call him or her by degrading names, he or she would be recognized in the market where traders would for instance tell him/her not to touch the food.

According to the Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL, LGBT individuals face harassment at the workplace. The CSCHRCL had knowledge about direct harassment by employers and/or colleagues, as well as indirect harassment, where LGBT persons had left their job out of fear of being outed as an LGBT person. It was added that loss of job and housing is a common effect of being outed, often as a consequence of a police arrest.

Representatives of Icebreakers explained that LGBT persons are very vulnerable. Many are rejected by their family and church when it is realized that they are LGBT. They are often kicked out of school or they lose their job as a consequence of their sexual orientation being known in the local community. All in all, most LGBT persons find it hard to get by. It was emphasized that social exclusion forces LGBT persons to move to and live in unsafe areas, in the slum, which makes them even more exposed to abuse.

According to Executive Director of Spectrum Uganda, Samuel Ganafa K. urban areas are relatively safe, except for slum areas. It was emphasized that LGBT persons in general do not fear the Ugandan authorities. In general, LGBT persons fear the reactions by their family members if they are outed. In turn, the family's concern would be the reactions from the local community, their church and the social status of the family if it becomes known that someone in the family is LGBT. In that situation the family would feel obliged to protect their name in the eyes of society and the family would deny the LGBT family member help if the person is sick, maybe stop paying school fees and in general distance themselves from that person.

In the not yet published CSCHRCL & HRAPF study it is stated:

“One's family and friends are usually the closest people with whom to confide. They offer consolation and friendly shoulders to cry on. However, where one has been arrested for offences related with homosexuality, family and friends often disown the person and distance themselves from the person arrested. Some parents even disown and disinherit their children. The mere fact that someone has been arrested is enough to lead people to conclude that the person is guilty.”<sup>66</sup>

Executive Director of Spectrum Uganda, Samuel Ganafa K. further explained that it is difficult to say how common it is for the family of a LGBT person to persecute their son or daughter. The family

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<sup>66</sup> CSCHRCL & HRAPF-Uganda, *Protecting 'Morals' by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 54.

may not kill their son or daughter, but they can distance themselves from the person in order to preserve the family's integrity in the eyes of the local community. It was added that killings of a LGBT family member would be quite extreme and Samuel Ganafa K. had not heard of such cases. If it had ever occurred it must be very rare. The most common thing is for the family to refuse to pay school fees and threaten to do various other things.

Co-coordinator of the CSCHRCL, Geoffrey Ogwaro, stated that he knows LGBT persons, who have been exposed to torture by relatives or who have been the victims of corrective rapes within the family. Others have been given the condition of either getting married or being disowned in public by the family and being denied payment for education.

According to FARUG, many members of the established LGBT community are very independent and keep a distance to their families. In many cases LGBT persons have been evicted of their family homes, and as a result could not continue their education. Consequently, many LGBT persons move away from their families and find that they connect better with their LGBT friends. It was emphasized that most LGBT persons do not want their families to know about their sexual orientation.

FARUG added that even small children would verbally harass LGBT individuals in their neighborhoods.

OHCHR in Uganda explained that historically, LGBT persons in Uganda have suffered a certain level of social marginalization, isolation and discrimination, but there are no cases of extreme violence against LGBT persons in Uganda.

OHCHR explained that cases are known where at the family and community level, LGBT persons often are rejected or expelled by their families and communities mostly for not approving the sexual orientation, but also when the matter went public. OHCHR could not say that this happens regularly. A case was known to the Office where a teacher was expelled from his community by local authorities because of the fear to transmit homosexuality to the children. Consequently, many LGBT persons move from rural to urban areas, often enabling them to connect with a broader LGBT network.

According to OHCHR in Uganda, in practice, the situation for LGBT persons in Uganda has worsened recently. In Uganda particularly, this setback has been connected to the introduction of the AHB to Parliament on 14 October 2009.

When asked about the magnitude of the social discrimination and harassment of LGBT persons, OHCHR in Uganda stated that it is very difficult for OHCHR Uganda and even for the LGBTI organizations to calculate the magnitude of the social discrimination, due to different factors. Many of the events that reflect that discrimination could be un-reported because they could be presented in the private life sphere of the LGBTI person; because sometimes, the perpetrators are family members or neighbors of the victim; or they could happen in rural areas where LGBTI organizations in

Kampala cannot reach. For this reasons, relevant information and documentation provided by LGBT organizations so far has not been very clear. Many violent incidents, especially on family level, as well as cases of discrimination within the sectors of health, work and education were not reported to neither authorities nor LGBT organizations. The majority of victims often would not report such cases.

According to OHCHR Uganda, the peaks in the discrimination, harassment, arrests and violence against LGBT persons can be linked to specific periods of time when LGBT issues have been raised by national public media. For instance the introduction of the AHB in October 2009, the publication of the Rolling Stone article “Hang them” in September 2010, the murder of David Kato on 26 January 2011, the resolution to re-table the AHB in October 2011, the re-introduction of the AHB in Parliament, the widely applauded statement of the Speaker of Parliament in her visit to Canada in 2012, the closure of work-shops by the Minister of Ethics and Integrity in February 2012, the article against homosexuality and the public attention on the Marriage and Divorce Bill, etc. on 24 February 2013.<sup>67</sup>

OHCHR in Uganda stated that the easier access to media articles and reports on homosexuality in urban areas at times triggers aggressive or violent reactions against LGBT persons. These could include evictions by landlords, threats or burning of houses, as well as “corrective rapes” or denial of a contract/post.

According to FARUG, most cases of harassment of LGBT persons occur in periods of incitement, for example a period of heightened media coverage and attention to the LGBT issue.

A Western Embassy (B) did not consider that the discrimination against LGBT persons is organized or orchestrated by the Ugandan authorities. In reality, LGBT activists are protected by the laws of Uganda and activists are not threatened by the present laws. On the contrary, the social homophobia is much more entrenched even within families against their own member.

In the not yet published CSCHRCL & HRAPF study it is stated:

“Due to the public manner in which arrests are carried out, and due also to the continued exploitation of suspects by the sensationalist media, aversion and stigma often follow the suspects. This is so, despite the fact that the allegations of a crime are never proven. It is difficult for such persons to quietly return to their homes and villages. Having been publicly accused, they risk ridicule, humiliation and harassment by members of the public. Such humiliation can even lead to suicide. They live in constant fear of attacks from members of the public. The Makerere University student who was arrested at Mitchell Hall had to relocate from

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<sup>67</sup> Additional information on these media reporting can be found in CSCHRCL, *Uganda’s Anti-Homosexuality Bill; The Great Divide*, Kampala, Uganda, May 2013, <http://www.ugandans4rights.org/index.php/publications/417-ugandas-anti-homosexuality-bill-the-great-divide-third-edition-may-2013.html>

the area in which he was staying as he was constantly hassled by those who knew of the incident.<sup>68</sup>

Furthermore, the not yet published CSCHRCL & HRAPF study states:

“One of the common effects of arrests for offences related to homosexuality is that despite the fact that charges are not proven, the persons arrested lose their jobs and housing. Employers and landlords normally turn the arrested persons out of their jobs or housing citing their arrests. In other cases, no reason is given and the employers/landlords lay the person off work or end the tenancy in terms that clearly indicate the reason without stating it explicitly.”<sup>69</sup>

A Western embassy (C) stated that the LGBT community in Uganda is wider than the LGBT activists. Many LGBT persons would keep a low profile and live a quiet life. Sexual relations are traditionally considered a very private matter in Uganda and many Ugandans would not care about LGBT persons, as long as these kept their sexuality private.

According to representatives of EHAHRDP, it is mostly LGBT activists who are openly gay or transgender. The great majority of the LGBT community keeps a low profile and avoids being outed.

According to an anonymous human rights organization in Uganda, what determines the level of persecution, is how openly gay someone is. As long as people are discreet about their sexual orientation, they would most likely not have to fear being persecuted, whereas the risk of being persecuted was heightened for openly LGBT persons.

According to a Western embassy (A), a certain level of societal acceptance of individual LGBT persons exists, if these are discreet about their sexuality and do not “push it on others”, as well as when they are known to be helpful individuals within their communities.

An anonymous human rights organization in Uganda, explained that the risk of harassment and violent reprisals by the local society facing LGBT persons depend on how overtly they are in relation to their sexuality. Landlords could based on mere suspicion evict a LGBT person from his or her rented housing and the risk of being disowned by the family is real. However, many families have a brother, a sister, a nephew or cousin who is homosexual and that does not necessarily present a problem if that person is discreet about his or her sexual orientation. It was added that many especially young people - two men or two women - share a flat if they for instance study in Kampala. It is thus possible for same sex couples to live together in privacy.

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<sup>68</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 54.

<sup>69</sup> CSCHRCL & HRAPF-Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 54.



Representatives of EHAHRDP explained that in most cases LGBT persons who are openly gay would also function as LGBT rights activists. The vast majority of LGBT persons are not living openly as LGBT because of the level of discrimination in the general public.

According to the African women's rights organization based in Uganda, societal discrimination of LGBT persons is evident in all aspects of everyday life, as for example being denied service at stores etc. It was further added that one would also be discriminated against, if you associated with LGBT persons.

Beyonce Karungi, Executive Director of TEU, further explained that even though [when] pictures [of arrested transgender persons] are shown in the media [by the police], the arrested transgender person does risk further persecution, because private individuals may recognize them and may evict them from housing or abuse them on the streets. Mob justice is also a problem when a transgender person has been named in the media.

Beyonce Karungi, executive director of TEU, stated that, apart from being refused medical attention in ordinary clinics, transgender people experience various forms of discrimination; Transgender individuals are refused or insulted when trying to use public transportation and they are refused service in shops.

### 3.1.1 Refugee LGBT individuals

UNHCR's activities in Uganda are limited to individuals who come within its mandate, notably refugees and asylum-seekers. In relation to LGBTI individuals in Uganda, UNHCR's work is therefore limited to LGBT individuals who come within its mandate. According to UNHCR, there have been cases of LGBT individuals whose asylum claims were rejected by the Government's Refugee Eligibility Committee, but who have been allowed to stay in Uganda under UNHCR's mandate while UNHCR sought to provide a durable solution for these individuals, including resettlement where feasible. UNHCR is not aware that any of these individuals have been harassed by the Ugandan public or by the Ugandan authorities because of their sexual orientation.

UNHCR is aware of a small number of cases of mob violence against refugee LGBT individuals, inflicted by other refugees. In particular, UNHCR recounted the case of a transgender refugee who was threatened by members of her community; in that particular case the Ugandan police had stepped in to protect her and had taken her to a safe place provided by UNHCR. UNHCR could not comment in detail on any cases concerning mob violence against Ugandan LGBT persons, as such cases fall outside UNHCR's mandate.

UNHCR had no knowledge of any LGBT refugees or asylum seekers being arrested by the police in Uganda on account of their sexual orientation or gender identity. The UNHCR was also not aware of any case against LGBT refugees or asylum-seekers on charges of homosexuality having been taken to court.

According to an anonymous human rights organization in Uganda, transgender people are most at risk of violence from members of the local community. Reference was made to a Congolese



transgender male, who was raped five times to prove to him, that he in fact was not a transgender person. The first four rape instances took place in North and South Kivu, DRC by different state actors. The fifth rape happened in Nakivale refugee settlement [in Uganda]. The instance was reported to Refugee Law Project and UNHCR. The culprits were not held accountable since the individual was forced to flee for his life. It was added that the only source of income for transgender people was commercial sex work.

According to UNHCR, in the six UNHCR-administered settlement areas where refugees live side by side with the rural Ugandan population, LGBT individuals are relatively safe from physical attacks by members of the community, since both the police and UNHCR's implementing partners work to guarantee a high level of security in these areas. For example, the police in these refugee settlement areas receive sensitization training with regard to LGBT issues, as part of regular non-discrimination and gender diversity trainings. In contrast, in urban areas it would generally be harder for LGBT refugees to get quick emergency responses from the police if they came under attack because of their sexual orientation, as police officers in urban areas are not likely to have received the same level of sensitization training relating to LGBT issues as their counterparts in the UNHCR settlement areas.

OHCHR in Uganda stated that foreign LGBT refugees from for example the Democratic Republic of Congo or Rwanda suffer from double discrimination as refugees and hardly receive protection, making them especially vulnerable.

### **3.2 Mob justice/hate crimes**

Representatives of Icebreakers stated that LGBT activist do not have any reason to fear the police. Activists fear violence from the public. Mob violence or mob justice would include beatings but there has been no cases of mob violence leading to killings as far as the representatives of Icebreakers were informed. The police would intervene and stop situations of violence against LGBT persons before they turn lethal, if the police are present or called to the scene.

The UHRC represented by Secretary to the Commission, Mr. Mwesigye, explained that there has been a lot of fuss about homosexuality. However, the fact remains that homosexuality has existed in Ugandan for centuries and therefore has not been just imported in Uganda. The UHRC asserted that the level of persecution against the gay community has been minimal and cannot be specifically attributed to reported killings.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, cases of mob justice or violence are reported but it cannot be said to happen often. When mob violence takes place this would include insults against the suspected LGBT persons as well as beatings. The police do react to mob violence and rescue the victim from the mob. However, it could be that the police would postpone their intervention in order for the victim to receive a proper beating from the mob. It was added that the police would investigate all cases of mob justice. Mob justice would usually take place when a thief is apprehended in a market or if the mob catches a suspected murderer.

## Situation of LGBT persons in Uganda

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Concerning the consequences of being outed in either the printed press or in the social media, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that online harassment and harassment from neighbors is common. Neighbors and family members could also subject a person, who has been outed in the media, to violence, although there were no reports of severe violence and no reports of mob violence.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that SMUG has heard of other cases of mob justice that have led to killings of the victim. One such case took place about one year ago. However, it is not possible to say how often mob violence led to killings of LGBT people. It was added that SMUG had information about a young man in Mbale, [who in] 2010 died moments after being released from police custody after being attacked by a mob in a bar. This form of public humiliation later led to his death. According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, many LGBT people are afraid of being outed by approaching SMUG for assistance. The fear of being outed is felt very deeply by almost all in the LGBT community in Uganda.

OHCHR in Uganda stated that generally, more information is available on mob violence towards journalists, thieves or the like, than is available on mob violence or hate crimes towards LGBT persons. OHCHR added that in most cases, mob violence in Uganda was characterized by beatings, and did only rarely lead to killings. Two or three cases of mob violence directed at LGBT persons have been heard of by OHCHR in Uganda over the last two-three years by civil society organizations dealing with LGBT issues.

According to FARUG, it is not possible to identify many cases of mob violence against LGBT persons. Generally speaking, a more subjective fear of violent attacks is common within the LGBT community, as the anti-homosexuality campaign in the last years has expanded and has succeeded in building up a hostile environment towards LGBT. The constant incitement of hate towards the LGBT community has created fear in the community of being attacked in hate crimes or fall victims of mob violence. There is a widespread feeling of fear that common assaults, such as verbal attacks, could develop into something a lot more violent and for example trigger severe cases of mob violence.

FARUG explained that in a way the mob has more authority than the police. In cases of mob violence or mob justice, it is almost impossible to report the mob or sometimes even a whole village to the authorities. However, the police would put an end to severe cases of hate crimes and mob violence if they are present at the scene. It was added that a large mob could even keep the police from stepping in to protect victims from violence.

According to FARUG, the reason for the lack of reported cases of mob violence against LGBT persons is that many members of the LGBT community take security precautions on a daily basis. Many would for example not use public transportation, but instead arrange for transport with known boda boda [i.e. motorcycle] drivers.

In the not yet published CSCHRCL & HRAPF study it is stated that:

“Uganda is a country prone to mob action. [...] Many suspected criminals are dealt with through mob action by people who have lost faith in the police and the rest of the criminal justice system. By criminalising same-sex conduct, LGBTI persons are made potential targets. The laws pose a danger to the safety and security of LGBTI persons. The danger is especially great for transgender persons who sometimes are accused of pretending to be male or female in order to engage in theft and crime.<sup>70</sup>

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL stated that there are reports of cases of hate crimes and violence [against LGBT persons], but it cannot be said to happen often. When hate crimes and mob violence take place this would include insults against the suspected LGBT persons, as well as beatings. The police do react to mob violence. However, it could be that the police would delay their intervention in order for the victim to receive a proper beating from the mob. It was added that the police would investigate cases of severe hate crimes and mob violence. Mob justice would usually take place when a thief is apprehended in a market or if the mob catches a suspected murderer.

The same source estimated that on average mob violence, including beatings of LGBT people, would take place once a month in Uganda. Whenever focus is on LGBT issues this number could increase to three times a month in Uganda. Cases of severe hate crimes and mob violence leading to outright killing have been heard of, but it is impossible to state how often hate crimes and mob violence lead to killings of LGBT persons. It was added that many LGBT persons are maybe attacked while in a bar or by their neighbors, it may not always be in a public space like town squares.

OHCHR in Uganda was aware of one case of mob violence against an LGBT person in Western Uganda, in 2012. According to the very vague information that had been available to OHCHR in Uganda, this particular person had been beaten up by members of the community. Additionally, in March 2011, there was another case of a person whose house was burnt by community members in Bwaise, Kampala. The investigation by Police did never get to any conclusion.

A Western embassy (C) emphasized that in Uganda it is not uncommon for human rights activists and journalists to face restrictions or violence. Many of these activists and journalists have no relation to the LGBT issue.

According to the assessment of OHCHR in Uganda, mob violence and hate crimes against LGBT persons would not classify as “trend”, since there only had been very few reported incidents.

OHCHR in Uganda explained that due to the social climate of homophobia, the LGBT community in general has a strong feeling of insecurity. However, the prevalence of cases of violence against

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<sup>70</sup> CSCHRCL & HRAPF-Uganda, *Protecting 'Morals' by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 53.

## Situation of LGBT persons in Uganda

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LGBT persons does not indicate that this feeling of fear is justified on objective facts. It was emphasized that individual LGBT persons because of their social engagement could have reasons to fear being subjected to discrimination or to human rights abuses or violations.

OHCHR in Uganda stated that if high profiled LGBT activists received death threats, this would be known publicly.

According to OHCHR in Uganda, the present homophobic social climate is more worrying than the frequency of individual cases of violence or other harassment against LGBT persons. OHCHR added that it was not informed of more than ten of such cases in each of the following categories: Disowned by family; evictions from local area including eviction letters from LCs, threats by private persons; corrective rapes. It was added that OHCHR was aware of one case where a house belonging to a LGBT persons was burned down. That took place approximately in March 2011.

OHCHR in Uganda stated that the Ugandan Minister of Justice repeatedly stated that he would not prioritize any persecution of LGBT persons and quoted his public declaration that “he cannot know what was happening in people’s bedrooms”.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that every time the Bahati Bill comes up in the media cases of mob violence against suspected LGBT people are reported. For instance in December 2012 when the Speaker of Parliament, Rebecca Kadaga, returned from Canada, where she had a very strong exchange of opinion with the Canadian Minister of Foreign Affairs on the LGBT issue, the number of cases of mob violence increased. The incident in Canada was extensively covered by the Ugandan media and the Speaker was widely celebrated.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, estimated that on average mob violence, including beatings of LGBT people, would take place once a month in Uganda. Whenever focus is on LGBT issues though, this number could increase to three times a month in Uganda.

An anonymous human rights organization in Uganda stated that mob violence against LGBT persons is rare and would be an extreme form of harassment. Violence is rather committed by peers, families and friends of LGBT people. Furthermore, verbal abuse, taunting and heckling in public would be more common than physical violence. It was added that even though the general sentiment in the society of LGBT persons is harsher now than two years ago, it has not reached the point where mob violence would include LGBT persons. Mob violence or mob justice would usually involve suspected thieves and murderers.

An anonymous human rights organization in Uganda had no knowledge of any killings of a member of the LGBT community since the murder of David Kato in January 2011. It was added that mob violence leading to killings of LGBT persons definitely would be reported by the Ugandan media.

David Kato was a prominent Ugandan LGBT rights activist and founding member of SMUG. Together with Kasha Jacqueline and Pepe Onziema and in collaboration with the CSCHRCL and HRAPF, David Kato filed a complaint in the High Court against the Rolling Stone newspaper, which in October 2010 had published photographs of people it claimed were gay - including David Kato whose picture appeared next to a headline reading "Hang them". On 30 December 2010 the High Court found that the Rolling Stone had "[...] threatened the rights of the applicants to respect for human dignity and protection from inhumane treatment and the right to privacy of the person and home". The court awarded 1.5 million Ugandan shilling as compensation to each of the applicants.<sup>71</sup>

On 26 January 2011 David Kato was beaten with a hammer in his home outside of Kampala and he died on his way to the hospital. On 2 February 2011 Reuters reported the police's arrest of the prime suspect Nsubuga Enoch. According to the police spokesman, Nsubuga Enoch had confessed to the murder. The spokesman stated that "It wasn't a robbery and it wasn't because Kato was an activist. It was a personal disagreement but I can't say more than that." Nsubuga Enoch was described as a "well-known thief", who had been staying with Kato after the activist bailed him out of prison on January 24. On 3 February 2011 Daily Monitor reported that according to a police source the suspect [i.e. Nsubuga Enoch] had told the police that he killed David Kato, because David Kato failed to give the suspect a car, a house and money as rewards for having sex with him.<sup>72</sup>

On 10 November 2011 BBC reported that Nsubuga Enoch was sentenced to 30 years in prison for the murder of David Kato. Nsubuga Enoch admitted in court that he had bludgeoned David Kato to death with a hammer, but alleged he had been provoked by sexual advances from him.<sup>73</sup>

Executive Director of Spectrum Uganda, Samuel Ganafa K. stated that the Bahati Bill has created a constant fear in the LGBT community. However, neither Samuel Ganafa K. nor Spectrum Uganda's activists have experienced any security threats. Samuel Ganafa K. has appeared in and has been outed in the tabloid Red Pepper several times and Spectrum Uganda has been labelled as "recruiters" of children into homosexuality. Despite of this, the police or other authorities have never taken action against Samuel Ganafa K. or Spectrum Uganda.

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<sup>71</sup> CSCHRCL, *Court rules that all Ugandans have a right to privacy and dignity: Tremendous boost to constitutional rights and protection of minorities*, 3 January 2011, [http://www.ugandans4rights.org/attachments/article/403/11\\_01\\_03\\_Court\\_rules\\_that\\_all\\_Ugandans\\_have\\_a\\_right\\_to\\_privacy\\_and\\_dignity.pdf](http://www.ugandans4rights.org/attachments/article/403/11_01_03_Court_rules_that_all_Ugandans_have_a_right_to_privacy_and_dignity.pdf)

*The Republic of Uganda, In the High Court Of Uganda, At Kampala Miscellaneous Cause No. 163 of 2010*, 30 December 2010, found at CSCHRCL, [http://www.ugandans4rights.org/attachments/article/403/court\\_ruling.pdf](http://www.ugandans4rights.org/attachments/article/403/court_ruling.pdf)

BBC, *Obituary: Uganda gay activist David Kato*, 27 January 2011, <http://www.bbc.co.uk/news/world-africa-12299786>

<sup>72</sup> Reuters, *Man confesses to Uganda gay activist murder – police*, 2 February 2011, <http://www.reuters.com/article/2011/02/02/uk-uganda-murder-idUKTRE7116MT20110202>

Daily Monitor, *Gay activist suspected killer arrested*, 3 February 2011, <http://www.monitor.co.ug/News/National/-/688334/1100686/-/c5a2fcz/-/>

<sup>73</sup> BBC, *Uganda man jailed for killing gay activist David Kato*, 10 November 2011, <http://www.bbc.co.uk/news/world-africa-15685648>

Executive Director of Spectrum Uganda, Samuel Ganafa K. explained that his only fear is mob justice. Vigilante people might take advantage of LGBT persons' "outings" by committing robberies or attacks on such persons, which could be blamed on the government or the authorities and thus allow for the actual perpetrator to remain undetected.

When asked if some family members would actively seek for an outed LGBT relative who has relocated to another place in Uganda, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that some families have come out to protect the person in question and others would continue to interface with them while other families would totally close them out.

Representatives of EHAHRDP stated that the organization was not aware of cases where some family members actively would seek for an outed LGBT person/relative who has relocated to another place in Uganda.

A Western embassy (B) stated that it has no knowledge of cases where some family members actively seek for an outed LGBT person/relative who has relocated to another place in Uganda. It was added that this could well be the case.

According to a Western embassy (B) boda boda drivers are often the most hostile to LGBT persons and boda boda drivers are often the ones who are behind cases of mob justice. Another hostile group would be children who would yell at people whom they have been told are gays or lesbians. It was added that only few participants in mob violence are prosecuted and convicted. It should be noted that the police often are reluctant to intervene in cases of mob justice.

Beyonce Karungi, Executive Director of TEU, stated that transgender people have been killed in hate crimes. The transgender women are more exposed to hate crimes, discrimination, police violence etc. than other LGBT groups, because transgender women are more visible.

Beyonce Karungi, Executive Director of TEU, added that private individuals also resort to violence against transgender persons. The violence is mostly unprovoked.

According to an anonymous human rights organization in Uganda, rape of LGBT commercial sex workers is very common. It was estimated that rapes of LGBT sex workers take place on a weekly basis.

### **3.3 Attitudes in urban and rural areas respectively**

According to UNHCR, there is in general very limited space for LGBT individuals in Uganda to express their sexual orientation or gender identity. This affects LGBT refugees and asylum-seekers as well as Ugandans. As a result, most LGBTI individuals have to hide their sexual orientation or gender identity. Most LGBT people in rural areas in particular are likely to be very discreet about their sexual orientation, and would thus never be exposed as LGBT. In the urban areas, on the other hand, there may be more opportunities for LGBT people to be open about their sexual orientation, as



inhabitants of urban areas are generally more educated and have more experience of living alongside a diversity of people.

A Western embassy (A) stated that several bars in Kampala are known to be LGBT bars. The LGBT community has had at least one or two bars, but one has been closed down a year ago.

An anonymous human rights organization in Uganda explained that some areas of Kampala are known to have several bars for LGBT persons only. Some of these areas are: Wandegaya, Ntinda, Kabalagala, Kansanga. Furthermore, it is common knowledge that the Speke Hotel is a place where survival sex workers LGBT persons meet.

Referring to LGBT bars in Kampala, a Western embassy (C) had heard reports of bouncers preventing others attacking LGBT individuals whilst in the bar. They [a Western embassy (C)] did not know of the situation for outside of Kampala.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, some areas are considered to be “pink”, meaning that homophobia is less pronounced. SMUG identified the following areas in Kampala as “pink”; Ntinda, Bukoto, Naguru, Mbuya, Bugolobi, Muyenga, Namuwongo, Kansanga, Bunga and Buziga. Furthermore, SMUG added that LGBT persons were also living in two other areas of Kampala, however, these were not considered to be safe. These areas were Makerere and Bwaise.

### **3.3.1 Rural areas**

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that SMUG receives information about LGBT people even from small communities in rural areas. In general, LGBT people in rural areas are more at risk of mob justice. If a rumor is started it could easily turn into a violent situation. In one case from Gulu, rumor had it that a woman was lesbian and her house was burned down and she died as a consequence. No culprits were apprehended and held responsible to date, these and more case of this kind happen but it’s very difficult to know about them as they happen and go undocumented. However, most people in the rural areas are aware of the existence of homosexuals and in general homosexuals are not treated as outcasts, but are being tolerated. Previously, the perception in rural areas was that LGBT people were just different. It was added that societal tolerance has gradually been replaced by homophobia. The information from larger cities also reaches rural communities and the distorted message from the evangelical church – i.e. that LGBT people recruit and molest children, that homosexuals are paid by western European countries and that homosexuality is “un-African” – reaches rural areas via the media and it affects the traditionally tolerant societal attitude towards LGBT people in these areas.

A Western embassy (A) did not have specific information about serious cases of mob violence and/or killings of suspected homosexuals in rural areas .

## Situation of LGBT persons in Uganda

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Co-coordinator of the CSCHRCL, Geoffrey Ogwaro explained that in rural areas LGBT persons have been banished from villages at public village meetings. The village decides in a few hours that you will lose your family, your house etc. Sometimes the police participate in these meetings. It was added that villagers believe that having a LGBT person in the village would bring a curse to the village, or that LGBT persons will recruit young people into homosexuality. This traditional belief or “unwritten law” is applicable all over rural Uganda and enforced by the village elders.

FARUG explained that most LGBT people in the rural areas were not open about their sexuality and were still “in the closet”. Some few LGBT organizations have been established in Western Uganda over the last few years in order to reach out to LGBT people in this area of the country.

According to FARUG, “in-closet nomads” is a common phenomenon within the LGBT community. Rural areas in Uganda are conservative, and LGBT people from these areas would often choose to go to Kampala in order to keep their sexuality secret. In Kampala they would keep moving from place to place. Similarly, LGBT persons often fear being exposed as LGBT by colleagues, which lead them to frequently move on from job to job, thus ending up living a nomadic style life. In order to stop this employment insecurity, self-employment is very important for the LGBT community. Many LGBT persons have very few options [to be] self-employed apart from engaging in commercial sex work.

FARUG stated that words of violence e.g. incitement to violence and hate speech against ordinary LGBT persons and violent attacks in rural areas would most likely be reported to the LGBT organizations via the established network between the organizations.

According to a Western embassy (A), it would be easier for a LGBT person to “blend in” in urban areas than in rural areas. On the other hand, LGBT persons would be more likely to be accepted by the local community in rural areas, especially if the person would refrain from entering into relationships with local men.

According to a Western embassy (B) it is possible to live as a LGBT person in rural areas, if this is done discreetly. In some cases LGBT persons cohabiting could be accepted by the local community. However, it is likely that persons, who openly express their sexual orientation, would be excluded and forced to leave. The person’s age, education, engagement and standing in the local community would definitely play a role. David Kato was well-respected in his rural local community despite the fact that he was an LGBT activist, whose sexual orientation was known by everyone.

According to a Western embassy (C) LGBT people in rural areas are more likely to be at greater risk of being rejected or attacked by family members and members of the local society, than LGBT people residing in urban areas, given the more conservative nature of rural communities. The general views are that it is your own choice to be LGBT, that you are in some way mentally ill or have been paid by Western donors to be LGBT, or are a child abuser. It was added that the active and vocal religious leaders’ anti-homosexuality campaign has increased polarized and extremist views. The impact of religion is very important.

When asked to mention examples of killings of LGBT people in rural areas a Western embassy (C) stated that they were not aware of any reported cases of such killings committed by family members or members of the local society.

Beyonce Karungi, Executive Director of TEU, explained that there are also transgender people in rural areas. Many survive by engaging in commercial sex work. Transgender individuals in rural areas are at great risk of being murdered, because their community believes that they are shaming them. However, Beyonce Karungi was not able to further qualify this. It was added that they [transgender individuals] have no access to health care in rural areas.

### **3.4 Consequences for families of an outed LGBT person**

Concerning the reactions of family members towards outed LGBT persons, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, confirmed that LGBT persons who have been outed would most likely be disowned by their family and forced to leave the area. Families would do so because they are either homophobic themselves or because of societal pressure and fear of loss of status, being isolated as well as feeling ashamed etc. (or a combination of these). However, Pepe Julian Onziema and Richard Lusimbo did not have information about more severe reprisals from local society against family members to outed LBGT persons, e.g. violent attacks or even killings.

In the not yet published CSCHRCL & HRAPF study it is stated:

“The notoriety following someone arrested for carnal knowledge against the order of nature goes beyond the individual to her or his family. Ugandan families are mostly extended families; a perceived disgrace to one member of the family usually results in the whole family being ostracised, branded and shunned.”<sup>74</sup>

Representatives of EHAHRDP stated that there have been reported attacks against families of activists with verbal assaults and threats to chase them from the areas where they have a family home.

A Western embassy (B) stated that it has received information about more severe reprisals from local society against family members to outed LBGT persons, e.g. violent attacks. This information was received not from the family members but from the LGBT persons themselves. The embassy had not heard of killings of family members to outed LGBT persons. It is often ridicule, social alienation and stigma from the community.

### **3.5 Protection by authorities**

A Western embassy (A) explained that the police sometimes protect the safety of LGBT activist, as was the case during the Beach Pride Parade event in 2012. Here the police force was present, like at any other large event or larger private parties in order to protect the participants and ensure a peaceful

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<sup>74</sup> CSCHRCL & HRAPF-Uganda, *Protecting 'Morals' by Dehumanising Suspected LGBTI Persons: A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, not published, draft dated March 2013, page 54.

parade. However, other police officers were called to the scene and a number of participants were arrested and detained for some hours before being released. Though, in other cases the police would turn a blind eye on assaults or harassment directed at the LGBT community, as was the case during the unrest that erupted when David Kato was buried, or even arrest LGBT persons when there was a court order. It was added that it is difficult to understand why the police in some cases take steps to protect LGBT persons and in other cases turn a blind eye to violence against LGBT persons.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, LGBT activists sometimes arrange large parties where hundreds of LGBT people participate. Such parties would have its own trained LGBT bouncers or security personnel. It was added that some bar owners in Kampala would open their bars for LGBT parties, in part because some bar owners are reasonable people and in part because they can make some money on LGBT guests. In some cases police officers or private security companies would come on their own to ensure that the guests can enter and leave the place in safety. The police would not raid and close down private parties or parties taking place at bars. It was added that one popular exclusively LGBT bar was closed exactly one year after opening by the land lady [who] wanted to develop the place. But later it was discovered that the sole purpose was because the bar was for LGBT, which was unacceptable to the owner.

Representatives of Icebreakers did not agree that the police are willing to be present and prevent violent attacks on the participants of large LGBT gatherings or parties. It was added that the representatives of Icebreakers would not be able to notify the police and make such arrangements.

A Western embassy (C) had heard reports of cases where the police have taken LGBT persons into custody in order to protect them from mob violence or violence from local society. A Western embassy (C) had no knowledge about the frequency of mob violence directed against LGBT persons or other violent assaults. It was added that LGBT NGOs have begun to document violence against LGBT persons and the NGOs would be in a better position to provide that information. The embassy further added that the media wouldn't necessarily report on instances of mob justice.

A Western embassy (C) stated that the Uganda police over the past few years have spoken out that minorities have to be protected from persecution and had heard reports that the police would actually protect LGBT individuals.

According to UNHCR, many LGBT individuals in Uganda are fearful that if they became the victim of mob violence or police harassment, there would be no legal protection.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL knew of two cases where the police claimed to have saved transgender individuals from mob attack. But when brought to the police station these transgender individuals were undressed and exposed to the media. The police round up sex workers and identify the transgender individuals among them. When arrested, the transgender persons risk being blackmailed by the police and exposed to sexual violence by both other inmates as well as police officers. The police know that there is no way to prosecute the case.

The police sometimes detain LGBT persons for longer than 48 hours, the prescribed maximum time according to the law, in order to secure the bribe. Paying the bribe would get these individuals released.

Beyonce Karungi, Executive Director of TEU, explained that a lot transgender individuals experience mob justice. The police don't investigate these cases. Beyonce Karungi has never heard of a case, where someone has been arrested, prosecuted and convicted of violence committed against a transgender person. With regards to the access to complain about police brutality and arrests, Beyonce Karungi, stated that she has means of helping other transgender. The police are not willing to help the transgender. Transgender women do not see police as an option to seek assistance with harassment, mob violence and other hate crimes, as the police will not engage in such cases on their own initiative, but only if pressured by human rights activists. Beyonce Karungi added that she had never heard of any policemen stopping mob violence against transgender women.

According to an anonymous human rights organization in Uganda, many refugee LGBT sex workers who faced problems with their customers would do not go to the police because they fear that they would face problems due to their sexuality. It was added that LGBT persons would face the risk of being evicted by their landlords because of their sexuality or they would risk being evicted from the local community by local leaders. In such cases the police or other authorities would not pay any attention.

### **3.6 Civil society groups supporting LGBT persons**

A Western embassy (A) stated that it is possible to categorize Ugandan LGBT activists into the following three groups:

1. The urban elite; activists who are highly profiled in the public, well connected to international actors and travelling to raise awareness for their cause not only on the national level, but also abroad.
2. Activists who have a more local focus, are not so well-travelled and mostly based in Kampala. An example would be members of the CSCHRCL of which approximately 50% are LGBT NGOs.
3. Grassroots-level activists and NGOs, often non-Kampala based, not travelling.

According to a Western embassy (A), tensions exist between the group of urban elite activists and the groups of local and/or grassroots activists and NGOs. The latter have expressed their disagreement with the urban elite's work abroad, as it is found that the elite's lobbying and efforts to for instance secure financial funding is painting an exaggerated bleak picture of the situation in Uganda. One example raising these concerns could be some LGBT bloggers e.g. 'sebaspace'.<sup>75</sup> The grassroots activists have also expressed concern about the elite's focus on the Bahati Bill, and they fear that this would have a negative effect on the credibility of the LGBT community in the long run.

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<sup>75</sup> "Sebaspace", *Gay activism in Uganda has lost its way!*, 16 June 2013, <http://sebaspace.wordpress.com/2013/06/16/gay-activism-in-uganda-has-lost-its-way/>

A Western embassy (B) estimated that in total there are approximately 30-50 LGBT NGOs in Uganda, many of which are very weak. The umbrella LGBT organization SMUG is one of the stronger organizations, but even that organization has capacity issues. One of the problems the organizations are facing is that they cannot register as NGOs. CSCHRCL has a broader and stronger basis for its activities. Other LGBT organizations such as FARUG have accountability issues to deal with.

A Western embassy (A) stated that some of the smaller civil society groups assisting the LGBT community for example are “KLUG”, a small local organization that provides support at the Universities in Kampala, “Icebreakers”, the Interfaith Rainbow Coalition, as well as specific transgender organizations. The embassy regularly receives emails from smaller organizations seeking funding in order to support and assist LGBT persons.

### **3.6.1 Sexual Minorities Uganda (SMUG)**

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that SMUG was established in 2004. At that time SMUG consisted of 11 organizations occupied with different issues. The main concern was to fight HIV/Aids and have LGBT persons included in the government’s HIV/Aids policy. SMUG was established to coordinate this work. One of the founders of SMUG was Mrs. Tamala who did not represent any LGBT organization. The chairperson was Victor Mukasa.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that once activists began to speak out on HIV/Aids, this created a lot of attention and led to hostility against LGBT persons. Consequently, many of the founding key persons had to leave the country and went to South Africa. The police raided the office of SMUG and SMUG experienced a major setback. This all took place around 2005. In 2006 it was decided to reconvene and try to reorganize SMUG. SMUG began to identify its key areas of work, i.e. capacity development and advocacy, and began looking at litigation in cases concerning constitutional rights, as well as conducting research and documentation in order to strengthen the advocacy work. It was added that three Organizations were involved in this reorganization, Freedom and Roam Uganda [FARUG], Integrity Uganda and Spectrum Uganda. SMUG opened a new office in 2007 and Icebreakers Uganda joined the umbrella. It was then decided to launch a big campaign named “coming out”. The campaign was launched in a public place and it lasted for approximately one and a half hour. At first only a couple of people showed up, but when others realized that the campaign actually had begun, more people turned up. The campaign was basically aimed at opening a dialogue with Ugandan media. However, the campaign created a lot of focus on the LGBT issue and LGBT people and led to an anti-homosexual mobilization. The Rainbow Coalition against Homosexuals was formed and religious groups began mobilizing support for an anti-LGBT agenda. In turn, this prompted LGBT people to go to Kenya, Europe and South Africa. SMUG was again facing a very difficult situation as Freedom and Roam pulled out, Integrity Uganda was undergoing re-organization, Spectrum Uganda was suspended and Icebreakers Uganda was thus the only organization left.



Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, further explained that SMUG had to rethink its position within the LGBT community and civil society. In 2009 SMUG received funding to conduct an analysis and evaluation on SMUG's position vis-à-vis the LGBT community and civil society organizations including the essential question of whether SMUG should continue to exist. The evaluation concluded that SMUG was very much wanted and needed. As a consequence representatives of SMUG visited the more than 20 organizations that were addressing LGBT issues to further establish the exact expectation of SMUG's role and function. On 12 January 2012, a general assembly took place. Participants were a large number of civil society organizations, including; LGBT organizations, women NGOs, NGOs addressing children's rights and health issues as well as a broader spectrum of human rights organizations. As a result a Board comprising five persons was elected. Six LGBT led organizations were registered as full members of SMUG and another 11 organizations were registered as associate members of SMUG (no voting rights). A precondition for being registered as associate member was that the organization should have a LGBT component. Thus, there were a total of 17 member organizations.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, provided an overview of the full members/associate members of SMUG:

Full members are:

- Rainbow Health: Based in Mbarara.
- Trans Support Initiative Uganda: Based in Kampala
- Freedom and Roam Uganda [FARUG]: Based in Kampala
- Spectrum Initiatives Uganda: Based in Kampala and focusing on MSM and HIV/Aids
- Youth on Rock Foundation: Based in Kampala and focusing on LGBT/sex workers in slum areas
- Icebreakers Uganda: Based in Kampala and hosting LGBT clinic in Kampala. Mainly organizing the youth.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that while member organizations are primarily active in Kampala they also stretch to other parts of the country through cell formation. The associate members of SMUG are found all over the country. Most of the LGBT organizations among the associate member organizations have been founded quite recently and currently they are finding their footing. Some of these LGBT organizations aspire to become full members of SMUG.

The following organizations are associate members of SMUG:

- Campus Liberty Uganda: Based in Kampala. A LGBT organization that is focusing on LGBT persons studying at the university.

## Situation of LGBT persons in Uganda

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- Fem Alliance Uganda: LBT organization based in Kampala.
- Forum for Minority Rights: Based in Kampala. Focus is on students at the university and other places.
- MARPs in Uganda: All-round NGO - LGBT, ethnic minority communities, indigenous people, people living with HIV/Aids, sex workers etc.
- St Paul's Reconciliation and Equality Centre (SPREC): Founded by Bishop Ssenyonjo. SPREC runs a HIV/Aids counseling center and provides medical services and support to marginalized and stigmatized people.
- Sexual Health and Reproductive Rights for Youth: Based in Kampala.
- Gala Uganda: One of the founders of SMUG. Based in Kampala, Jinja and Luwero. Focusing on gays and lesbians over the age of 35 (“closet cases”).
- Angels Refugees Support Association: Found throughout Uganda in refugee camps and refugee communities. Formed by LGBT refugees.
- Rainbow and Diversity Organization Uganda: Based in Kampala. Uses art to bring forward its message e.g. painting, dance and theater. Works with income generating projects with youths.
- Frank and Candy: Based in Kampala: Focus is on HIV/Aids.
- Uganda Health and Science and Press Association: Based in Kampala but reaches out across the country.

It was added that SMUG cooperates with many organizations apart from the above mentioned e.g. Hope Uganda in Mbale, Perfect Initiative in Jinja and the Gender Equality and Health Organization (GEHO), who focus on economic empowerment of LGBT in Kampala.

SMUG stated that private individuals cannot become members of SMUG – it is an organization consisting solely of member-organizations. Furthermore, SMUG does not issue membership cards to individuals.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that SMUG is led by the Executive Director, Frank Mugisha, Pepe Julian Onziema is Programs Director, and Douglas Mawadri is Legal officer.

By the end of 2013, SMUG would have 10 persons employed. In addition to that, occasionally SMUG offers space for interns. SMUG has four main areas of work, i.e. Advocacy, Research and Documentation, Capacity Building and Emergency Response.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, the NGO HRAPF is a very strong partner of SMUG. HRAPF is also engaged in documenting human rights abuses of LGBT persons. Commenting on the apparent lack of detailed documentation regarding detention or arrests of LGBT persons by the police or violent attacks by non-state agents, i.e. ordinary Ugandans, cases of illegal house evictions or discrimination of LGBT persons in the job market as well as the media's

outing of LGBT persons in newspapers, it was stated that SMUG has been documenting cases of violence and discrimination of LGBT persons since May 2012 through the research project in partnership with Envisioning Global LGBT Human Rights hosted at York University in Toronto, Canada. HRAPF has been working with documentation of cases, since SMUG did not have the capacity for comprehensive documentation. HRAPF has carried out a lot of research on how many people have been arrested, according to the current legislation on homosexuality. Furthermore, HRAPF is carrying out research on the public/societal perception of LGBT person in Uganda. The findings of HRAPF are supposed to be published in a report by the end of 2013. Further since May 2012 SMUG has also cooperated with Envisioning Global LGBT Human Rights on a research project that has had LGBT persons being interviewed since May 2012 on violence and discrimination due to their sexuality. The results of this project will be published as a documentary by end of 2013. The material will also be published as a book by 2015.

### **3.6.2 Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL)**

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that the Coalition was established in 2009, in response to the tabling of the AHB. Initially the Coalition consisted of eight member NGOs. Now it has 51 members, which are both so-called mainstream human rights organizations as well as LGBTI and sex work organizations.

The mandate of the Coalition is mainly to work on advocacy and lobbying with MPs, awareness raising and media campaigns, lobbying government and litigation. The Coalition also seeks to mainstream LGBTI activism into the human rights/HIV/etc. organizing, meaning for example including LGBTI programming in HIV activities and the like. There are four employees in the secretariat. The Refugee Law Project serves as the legal host organization, since the CSCHRCL itself is not a registered organization, as well as a member of the CSCHRCL. The director of the Refugee Law Project also currently acts as chair of the Coalition's steering committee. The CSCHRCL's first host organization was Akina Mama Wa Afrika, until the Refugee Law Project took over hosting responsibilities two and a half years ago.

Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that at the moment, no official LGBT shelters exist in Uganda. The organization St. Paul's Reconciliation Centre (SPREC) used to have a project that provided housing for LGBT persons, who had been evicted from their homes. However, this project did not work out. The organization Icebreakers houses people occasionally in quarters adjunct to their offices and sometimes even make use of the office space itself. GEHO in Jinja has also offered a few beds at one point. The CSCHRCL referred to cases, where LGBT persons approached the CSCHRCL when they had nowhere to go. Consequently, the CSCHRCL has housed people in a budget hotel or in a rented apartment for some weeks or months. The CSCHRCL has considered establishing shelters, but the prospect of accommodating a lot of LGBT persons at one place has led to fears within the CSCHRCL that such a shelter could be too easy a target for anti-LGBT violence. Therefore, the CSCHRCL until now has refrained from establishing a shelter for temporary accommodation.

Concerning the different programs, co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL explained that the RLP is a member organization of the Coalition. The RLP has a deportation program for Ugandans, who have been deported from Europe after having applied for asylum claiming that they are LGBT. The RLP will provide information to foreign lawyers, if various LGBTI organizations can confirm that these Ugandans are LGBTs. Another program is the Relocation Project, which is solely for refugees in Uganda. Two LGBT persons have actually been granted asylum in Uganda. Ugandans will not have access to this project. It was added that a lot of Ugandans approach the CSCHRCL, SMUG, FARUG and Spectrum Uganda among others and ask for assistance to seek asylum abroad, but the CSCHRCL will not offer any assistance to people who are seeking asylum while they are still living in Uganda. The Coalition can only offer assistance in providing background information and verification (where applicable) for the asylum seeker when he/she is already in a foreign country. In order for the CSCHRCL to assist in an LGBT person's asylum claim abroad, the applicant's foreign lawyer would have to contact the Coalition in order to verify information given by the applicant in his or her asylum case. However, not every LGBT person will 'come out' in the country of origin and some LGBT individuals are very private.

### 3.6.3 Icebreakers

Representatives of Icebreakers stated that the organization was founded in 2004. Icebreakers offer a safe space for LGBT persons who need shelter for a limited period of time. In addition to its shelter - that in reality is more like a home - Icebreakers offer psychosocial support and counseling. Icebreakers run a small medical clinic where a person can consult a doctor and receive medical treatment for free.

Representatives of Icebreakers explained that most LGBT persons who have been outed and have left their residential setting would make use of their network to find a place to stay e.g. a friend or a friend's friend. At least somebody would know about Icebreakers and refer the person to the organization. Icebreakers would be able to offer housing for a limited period of time i.e. some days. During that time Icebreakers would contact partners and look for a place to rent and the organization could, if needed, pay the rent for an initial phase of three months. Sometimes it is not possible for Icebreakers to find a place and ultimately the person would have to stay with friends or acquaintances. Parallel with the efforts to find a place to rent, Icebreakers would offer the person psychosocial counseling and the organization's trained counselors would assist the person, who in most cases would be in a poor state. It was emphasized that thanks to funds, Icebreakers has never had to reject a person who has had a serious need of assistance. In such serious cases Icebreakers would reach out to other NGOs e.g. CSCHRCL or SMUG. It was added that it was very difficult to house someone under the age of 18, due to fear of the respective parents would turn up, or due to fear of Icebreakers being suspected of "recruiting" minors into homosexuality. It was further added that people who do not reach out for help might end up doing commercial sex work as a last resort to generate some income.

Representatives of Icebreakers stated that the organization's clinic receives between fifteen to twenty patients each week for counseling and treatment. In addition, between eighteen and twenty new faces

turn up daily to use the “walk-in info”, i.e. library or access the Internet. It was added that between five to ten persons are housed in Icebreakers shelter each month. The shelter is found in the same compound as the office of Icebreakers. If the shelter is full, Icebreakers would find space with partners or friends. The shelter can accommodate ten persons at any time.

Representatives of Icebreakers stated that it is almost certain that LGBT persons who are outed would also lose their job. That is why Icebreakers is trying to educate members of the LGBT community to become job creators instead of job seekers. Successes have been noted especially within the creative field e.g. in theater, handy craft, dancing and music.

Representatives of Icebreakers stated that the organization had organized a dance performance called ‘Lighting the Shadows’ in collaboration with SMUG and Spectrum Uganda. However, the police closed down the show on November 7 2012.

Representatives of Icebreakers stated that some of the people who approach the organization are minors. In these cases Icebreakers are very careful when providing counseling. This careful approach is also used by the organization when using social media, where it is not always possible to tell how old a person is. It would be a very unfortunate situation if the activities of Icebreakers could be claimed to somehow involve recruitment of children into homosexuality, which has been one of the repeated accusations against homosexuals by the anti-homosexual campaign in Uganda.

Representatives of Icebreakers stated that its clinic offers professional health services to visitors. Doctors from the Mulago Hospital are present at the clinic and they offer tests and medication free of charge. It was added that, if the facilities at the clinic were not adequate, Icebreakers would refer people to the MARPI clinic at the Mulago Hospital.

Representatives of Icebreakers stated that the organization is involved in sensitization programs and trainings of health workers to increase the number of LGBT friendly doctors and nurses. So far, Icebreakers has conducted two workshops for health workers. These projects were coordinated with Spectrum Uganda.

Representatives of Icebreakers stated that it can use a van belonging to the MARPI clinic in the organizations outreach work for people who cannot come to Kampala for treatment. It was added that Icebreakers has partner NGOs in Mbarara (Rainbow Health), Mbala (Hope) and Jinja (Perfect Initiative). These small NGOs were established as small groups by Icebreakers and they have since developed into proper organizations. It is also through these smaller NGOs that Icebreakers distributed condoms and lubricants from Kampala to rural areas.

#### **3.6.4 Spectrum Uganda**

Executive Director of Spectrum Uganda, Samuel Ganafa K. explained that the main focuses of Spectrum Uganda are: the prevention of HIV/Aids, distributing information on health issues, interacting with the LGBT-community via various forums, as well as distributing condoms and lubricants. Spectrum Uganda also organizes meetings on Sundays in its offices 10 km outside of

Kampala, in a town called Gayaza. The purpose of the meetings is to discuss issues pertaining to health care, social issues and to reach out to the sick. The meetings are open to anyone and they take place in a safe environment. Spectrum Uganda helps people who are HIV positive or suffer from other STDs by helping them to access medical attention. In some cases Spectrum Uganda is able to hand out food supplements. Spectrum Uganda also has research programs.

### **3.6.5 East and Horn of Africa Human Rights Defenders Project (EHAHRDP)**

Representatives of EHAHRDP explained that the organization was established in 2005. EHAHRDP is the secretariat of a regional network of human rights defenders and organizations in eleven countries in East Africa and the Horn of Africa region – “EHAHRD-Net”. The organization focuses on three core programs:

- Advocacy and awareness raising of human rights defenders
- Capacity building of human rights defenders
- Protection of human rights defenders

Representatives of EHAHRDP explained that the organization cooperates with different entities including local and international NGOs, UN agencies as well as the governments in the region in the organization’s effort to advocate for protection of human rights defenders. The capacity building program engages in activities aimed at building the capacities of human rights defenders to enable them effectively to carry out their mandate. However, the core program under the secretariat is protection of human rights defenders. This program is aimed at addressing the needs of human rights defenders at risk as a result of their human rights work. Examples of the support extended includes; legal assistance to human rights defenders, providing medical care if needed, security measures as well as relocation locally, regionally or in extreme cases relocation to a European country in order to protect human rights defenders. It was emphasized that relocation to Europe would be the absolute last resort and that EHAHRDP explores other options before relocation.

Representatives of EHAHRDP stated that the organization works with HRDs [human rights defenders] with specific focus on vulnerable groups mainly journalists, women, human rights defenders working in conflicts, HRDs working in the extractive industry and LGBTI rights activists. It was added that EHAHRDP has worked intensively for LGBTI rights activists in Uganda since its inception in 2005 with SMUG having been a founding member of EHAHRD - Net.

According to representatives of EHAHRDP, following the funeral in January 2011 of David Kato that ended in confusion and turmoil, many people were openly hostile towards homosexuals. As a result many LGBT rights activists did not feel secure in Uganda and EHAHRDP relocated a number of them to Switzerland, Netherlands, Norway and Sweden for a limited period of time, i.e. usually 90 days, which would be the normal time of a visitor’s visa. No activists had to be relocated permanently. During the 90 days the activists would be taken care of by local human rights organizations and the activists and the local human rights organizations would use the time to exchange information, ideas and develop strategies. It was added that none of the activists, who



EHAHRDP had relocated temporarily to Europe, have applied for asylum while abroad. In total approximately 25 LGBT activists have been relocated either regionally or to Europe by EHAHRDP. Depending on the gravity of the case, EHAHRDP would always try to resolve the problem by relocation locally, e.g. internally in Kampala or to Kampala, if the person is residing some place outside of Kampala.

Regarding possible assistance from civil society organizations and international observers, a Western embassy (A) stated that other organizations in some cases had arranged for relocation of LGBT persons due to security concerns. Though, this practice of aiding relocation has also sparked some critique from other observers. The main concern is that, if it becomes too easy to receive funding for relocation programs, the LGBT community could become less concerned about establishing preventive security measures on the ground. The embassy was not sure whether relocation is also provided to ordinary LGBT persons or only to LGBT activists. It was added that many small LGBT organizations offer other kinds of support than relocation to LGBT persons.

EHAHRDP is planning to undertake its own study on the situation on LGBT activists to be published in 2014.

Representatives of EHAHRDP stated that the LGBT organizations are passionate about their advocacy work and the assistance provided to individual LGBT persons.

### **3.6.6 Transgender Equality Uganda (TEU)**

Beyonce Karungi is the Executive Director and founder of TEU. Beyonce Karungi founded the organization after she came to Kampala, as she found it very difficult to find a job as a transgender woman and therefore had to resort to sex-work. From the money she earned, she managed to finance her education. After receiving education and meeting transgender activists during a seminar in Cape Town, she realized the importance of fighting for transgender equality and realized that transgender issues were neglected by existing sexual minorities organizations. This inspired her to founding the organization in 2011.

Beyonce Karungi, Executive Director of TEU, stated that the organization has about 30 individual members, mainly in and around Kampala and Entebbe. The organization has no means of providing refuge or shelter for transgender persons. It was added that no other organization than the TEU works [exclusively] for transgender women's rights in Uganda.

Beyonce Karungi, Executive Director of TEU, stated that transgender persons often were not included in initiatives of sexual minorities umbrella organizations, like for example workshops on empowerment and leadership skills.

Beyonce Karungi, Executive Director of TEU, explained that the organization wants to train transgender people on how to dress and how to move, so they can learn to hide that they are transgender in order to provide more safety.

Beyonce Karungi, Executive Director of TEU, stated that she is not aware of any refuge or shelter for transgender individuals.

### 3.6.7 Other NGOs

An anonymous human rights organization in Uganda stated that it began working in Uganda in 2002 and that its focus was on two issues. Firstly, protection, including activities concerning resettlement (in cooperation with the RLP) and capacity building (LGBT organizations, refugees and anti-human trafficking NGOs, and other areas). Secondly, psychosocial assistance, including trauma counseling, gender based violence counselling and gender based violence awareness-raising (for example via school visits). The organization's headquarter is situated in New York, United States of America. The organization's regional headquarter is situated in Kenya. In Kenya, the organization acts as implementing partner for UNHCR, while in Uganda the organization is an operational partner for UNHCR.

An anonymous human rights organization in Uganda explained that it focuses on refugees, including refugee LGBT persons, and therefore not necessarily on Ugandan LGBT persons. However, the situation of the LGBT refugee community does reflect on the situation of Ugandan LGBT persons.

An African women's rights organization based in Uganda has organized leadership trainings for LGBT sex workers in 2008, and was the first organization to facilitate the CSCHRCL in 2009, as a response to the Bahati Bill in 2009. Since then, the management of the CSCHRCL has shifted to the Refugee Law Project.

An African women's rights organization based in Uganda has plans to organize leadership trainings for LGBT organizations in East Africa, for example Mombasa, and not locally in Uganda due to the local hostile climate for organizations working with LGBT issues.

Asked about the assistance by civil society, the African women's rights organization based in Uganda stated that some LGBT activists, like for example Kasha [Jacqueline Kasha Nabagesera] and Pepe [Pepe Julian Onziema], were only able to stand their ground after the death of David Kato because of the leadership skills they had acquired through training offered by civil society organizations. Adding to that, the organization noted that the LGBT movement needed further strategic organization in order to gain more momentum. It was the opinion of the organization that the work of the elite LGBT organizations was not trickling down to grassroots level, especially in the rural areas, because of a lack of strategic organizing and managing skills. A number of organizations had been breaking up because of this and former members were starting their own organizations, instead of continuing their work with the organizations they initially started out with.

In the opinion of the African women's rights organization based in Uganda, a united front was necessary for the organizations representing and dealing with LGBT issues, as otherwise "the government would crush them". Accordingly, the organization was concerned that certain issues, as for example funding, were leading to an increased competition between the different LGBT organizations.

### 3.7 Media's role

According to OHCHR in Uganda, since the introduction of the AHB in 2009, the public debate on homosexuality has increased and caused in some occasions public expressions of homophobia at different levels in society. OHCHR in Uganda referred to some articles of some media as a cause for harassment against LGBT persons, with homophobic articles and publications in the media inciting the public opinion to act against LGBT persons. There have also been positive effects of the media articles, as in Daily Monitor this year where the objective was to share objective information about homosexuality normally not known by the public. The public debate is a way to constructively discuss about the issue, but also creates platforms to express negative attitudes against homosexuality. In general, since homosexuality is a taboo matter, lots of myths and not confirmed rumors are circulating.

OHCHR stated that tabloids that are known for their homophobic articles are Rolling Stone, Red Pepper, and Bukede. Bukede is in local language and has very strong opinions on homosexuality. Bukede is very popular with working-class Ugandans. The Rolling Stone is a university tabloid and is only published irregularly in a small edition. The Red Pepper is a local tabloid circulated countrywide.

According to a Western embassy (A), the newspaper Red Pepper is known for anti-LGBT reporting. Red Pepper is popular in the urban area of Kampala. Other newspapers, as for example The Monitor, an opposition newspaper, or The Independent, a non-tabloid newspaper, and The Observer have published more broadminded and nuanced articles about LGBT-issues. The CSCHRCL works with these more neutral and moderate journalists to promote more moderate views on LGBT-issues in the public.

According to a Western embassy (C), two newspapers, New Vision and The Daily Monitor, try to stay neutral on the LGBT issues. At the other end of the newspaper spectrum, tabloids such as Red Pepper would expose and report on LGBT people's very private matters. Tabloids will even make up stories. It was added that over the past year The Daily Monitor and New Vision wrote some articles with a LGBT friendly angle.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, it is quite normal that the police [after arrest] would take a photo of the person for the file. The threat of exposing the person as being LGBT would in most cases make the person pay a bribe to the police officer. It was added that it is quite normal that transgender women are paraded in television by the police. If the press is notified about arrests of LGBT persons they would surely arrive, as such stories are considered "juicy" by most newspapers, who would present the story as a case of sodomy.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, arrests of LGBT persons happen more frequently when the issue is in the frontline in the media. At the moment it is quiet and

the number of arrests of LGBT persons is low. It could stay that way for some months. But whenever attention is brought to the matter, the number of arrests would increase. It was added that the court case against the newspaper Rolling Stone has not really changed the way the printed media covers LGBT issues.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that not only the printed media are interested in the matter. Furthermore, suspected LGBT persons are exposed on social media, e.g. on Facebook, Twitter, various blogs. The moment a LGBT person is exposed on for instance Facebook, SMUG would try to take the page or group and picture off Facebook and has done so with some success. It has never taken more than one week for SMUG to remove such pages or groups and pictures. It was added that the evangelical pastor Martin Ssempe, who is a strong advocate of the Bahati Bill, is a mentor to youths in his church and that these youths are very active on Facebook.

Executive Director of Spectrum Uganda, Samuel Ganafa K. stated that the discrimination facing the LGBT community could be attributed to ignorance and the influence of various religious leaders, e.g. Pentecostals who are propagating in radio and other media.

Concerning the consequences of being outed in either the printed press or in the social media, Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that online harassment and harassment from neighbors is common. Neighbors and family members could also subject a person, who has been outed in the media, to violence, although there were no reports of severe violence and no reports of mob violence.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, explained that once a LGBT person has been outed in the printed media, he or she would risk harassment and discrimination by the general public; the person would be recognized by the local community and would call him or her by degrading names, he or she would be recognized in the market where traders would for instance tell him/her not to touch the food.

#### **4. Documentation of violence, human rights abuses and criminal offenses**

According to OHCHR in Uganda, LGBT organizations and other human rights organizations in Uganda have in the last one or two years made an effort to document human rights violations and criminal offences against LGBT persons. It has been difficult to document cases of societal discrimination and harassment. OHCHR in Uganda has suggested LGBT organizations to better document cases on societal discrimination of LGBT persons; OHCHR has facilitated workshops with LGBTI organizations on human rights monitoring, and reporting, and has offered civil society organizations dealing with LGBT issues to provide them a database designed to document human rights violations and abuses. Some international donors also have offered these organizations their support with regard to documentations tools.

OHCHR in Uganda explained that there are several factors that explain why there is a relative lack of documentation for criminal offences, human rights violations, and cases of discrimination against LGBT persons. One of them is the lack of capacity; in this sense, there has been a better documentation of cases by LGBTI organizations since 2011 or 2012. Another internal factor is the limited deployment/coverage of LGBT organizations. Rural areas, even smaller cities are mainly uncovered by them. Lacking documentation and access to case information by the LGBTI organizations is giving the impression that there are not so many cases to report. But the dark figure/unreported cases is not possible to be calculated. According to OHCHR in Uganda, there are many “silent cases” of LGBT persons being evicted and excluded from their families, as these persons often would neither contact civil society organizations, nor try to seek asylum in foreign countries.

OHCHR in Uganda stated that there was not a strong presence of LGBT organizations in the rural areas of Uganda, which made it harder to identify and document incidents of harassment and discrimination against LGBT people in these areas.

According to Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, the NGO HRAPF is a very strong partner of SMUG. HRAPF is also engaged in documenting human rights abuses of LGBT persons. Commenting on the apparent lack of detailed documentation regarding detention or arrests of LGBT persons by the police or violent attacks by non-state agents, i.e. ordinary Ugandans, cases of illegal house evictions or discrimination of LGBT persons in the job market as well as the media’s outing of LGBT persons in newspapers, it was stated that SMUG has been documenting cases of violence and discrimination of LGBT persons since May 2012 through the research project in partnership with Envisioning Global LGBT Human Rights hosted at York University in Toronto, Canada: HRAPF has been working with documentation of cases, since SMUG did not have the capacity for comprehensive documentation. HRAPF has carried out a lot of research on how many people have been arrested, according to the current legislation on homosexuality. Furthermore, HRAPF is carrying out research on the public/societal perception of LGBT person in Uganda. The

## Situation of LGBT persons in Uganda

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findings of HRAPF are supposed to be published in a report by the end of 2013. Further since May 2012 SMUG has also cooperated with Envisioning Global LGBT Human Rights on a research project that has had LGBT persons being interviewed since May 2012 on violence and discrimination due to their sexuality. The results of this project will be published as a documentary by end of 2013. The material will also be published as a book by 2015.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that a database is under construction, which would provide for statistics to improve SMUGs analysis of the magnitude of the violence and discrimination facing the LGBT community in Uganda. Also, this database will provide SMUG with secure storage of material and cases, thus allowing SMUG to keep this material safe from raids etc. At the same time it was acknowledged that documentation is very much in demand for the purpose of SMUGs advocacy work. The database is expected to be running in 2013/2014. It was added that SMUG receives many requests from immigration services in Europe concerning verification of facts in individual asylum claims from Ugandan citizens who claim to belong to the LGBT community. In some cases SMUG would have some knowledge about the person in question while in other cases SMUG would find no information at all suggesting the person is not known in the community.



## 5. The 2012 Beach Pride Parade

Executive Director Frank Mugisha of SMUG explained during a meeting with the DIS in Copenhagen on 31 October 2012 in detail about the events during the Beach Pride Parade that took place on Saturday 4 August in the Botanical Gardens by Lake Victoria in Entebbe.<sup>76</sup>

Furthermore, Frank Mugisha offered some details about the week-long Pride Festival which began on 2 August 2012 and ended on 7 August 2012.

Frank Mugisha explained that he was not a member of the committee that organized Uganda's first ever Pride Festival. However, he was a special guest and he showed up at all visible events that took place during the festival. In addition Frank Mugisha was heading the fundraising in connection with the Pride.

The Pride Festival began on 2 August 2012 with an [official] opening event that took place in the evening in a public place that was considered safe by the organizers. Tickets covering the entire Pride Festival including the Beach Pride Parade were offered for sale. Approximately 150 people attended the opening, bought tickets and were registered. Frank Mugisha emphasized that no strangers or persons unknown in the LGTB community were present. Those present were the organizers of the Pride Festival including Kasha Jacqueline Nabagesera, director of Freedom and Roam Uganda (FARUG), and the only LGBT cleric supporter, Bishop Christopher Senyonjo. In addition, allies from various human rights organizations and friends participated in the opening event that included also a film presentation.

On 3 August a film festival took place in a bar named Tilapia. The film presented has been refused in Uganda by the authorities. The owner of the bar was arrested but has not yet been charged. If convicted he could face imprisonment. This event was attended by approximately 20 people.

The climax of the Pride Festival was the Beach Pride Parade which was held on 4 August in the Botanical Gardens in Entebbe. Transport from Kampala to Entebbe had been arranged by the committee organizing the Pride Festival. The participants went from Kampala around 9.30 in the morning and they arrived in the Botanical Gardens at 10.30 in the morning. Frank Mugisha arrived at the Botanical Gardens around 14.00. People were busy arranging food and drinks. From 15.00 the car carrying the music equipment such as large speakers was being decorated, but it turned out that the car was in a poor state as its engine would not start.

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<sup>76</sup> Shortly after the meeting in Denmark, the meeting notes were sent to Frank Mugisha for correction and approval. However, the DIS never received the approved meeting notes. During the meeting with the representatives of SMUG in Kampala in June 2013 it was agreed that the representatives of SMUG would confer with Frank Mugisha and return to the DIS the corrected and approved notes from the meeting with Frank Mugisha in Denmark in October 2012. The delegation received the approved notes from the meeting with Frank Mugisha together with the notes from the meeting in Kampala in June 2013 with Pepe Julian Onziema and Richard Lusimbo of SMUG.

## Situation of LGBT persons in Uganda

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The actual parade or walk from the first location in the Botanical Gardens to the destination at the shores of Lake Victoria began around 16.00 (maybe 15.45). The walk lasted approximately one hour. The music car finally worked and the participants arrived at the beach around 17.00. The participants got ready for the big event, a stage was erected, music was playing and 10 to 20 minutes after arrival to the beach speeches were held. Cleo was the master of ceremony. The main speaker was Maurice Tomlinson, a legal advisor with Aids-Free World from Jamaica. Frank Mugisha was invited to speak by one of the members of the committee, Cleo. In general people were enjoying themselves with the food and drinks and some took a swim in the lake. At this point passers-by attracted by the music and noise stopped and watched. Kasha was about to thank the Pride Festival committee when Frank Mugisha noticed some police officers. The rumour quickly spread that somebody amongst the passers-by suspected that a gay wedding was taking place and had called the police. It was added that gay weddings are in contradiction with the Ugandan Constitution and such weddings are considered very serious by the authorities.

Frank Mugisha explained that if the police showed up the participants would pretend to celebrate a birthday and the participants started singing “happy birthday dear Kasha”. However, the police entered the festival area and demanded that the event was stopped at once and that the participants should leave the area immediately. Frank Mugisha did not expect the police to cause any problems. Usually big parties are permitted or at least they are not closed by the police. In fact local police is often informed by the organizers prior to big parties and the police show up in the vicinity in order to protect the people having a party from any offenses or physical attacks.

Frank Mugisha estimated that somewhere between 90 and 110 people participated in the Beach Pride Parade. There were no strangers in the group and they were all known to Frank.

Three performers/dancers, Beyondy, Steven and Joel panicked when the first policemen were spotted and they ran to their car and drove off. They were soon intercepted by two police cars and taken to Entebbe Police Station where they were placed in cells. This took place at approximately 18.30 – 18.45. Only Beyondy was badly beaten with batons. Her cell phone and passport were confiscated by the police.

However, riot geared policemen entered the area and began at random picking up the festival participants. 27 persons were taken to the Entebbe police station at once in three vans including Kasha, Sandra and some others who went along out of solidarity with the ones who had been rounded up. Frank Mugisha and his two colleagues from SMUG, Pepe [Pepe Julian Onziema] and Dennis [Dennis Wamala] from Icebreakers Uganda, drove to the police station together with some policemen. The rest of the festival participants were kept for approximately one hour in the two busses that the organizers used for transport from Kampala to Entebbe.

Frank Mugisha considered that the 27 festival participants were technically not arrested. Frank Mugisha was informed that he too was detained and he replied “no, I’m not”.

At the police station the situation was quite chaotic and it was “all drama”. Festival participants were standing on the police desks and they were walking in and out of the police station to smoke cigarettes. The local police was simply “overpowered” by the many and colourful festival participants.

Frank Mugisha saw that a South African journalist was beaten with a baton. At that point Frank Mugisha called an influential person in the police and informed that person about what had happened.

After a while things calmed down and around 20.30 all 27 festival participants were let go. However, the three performers/dancers, Beyondy, Steven and Joel, were not released at the same time as the 27 festival participants, and Frank Mugisha and his two colleagues from SMUG, Pepe [Pepe Julian Onziema] and Dennis [Dennis Wamala] from Icebreakers Uganda, together with the director of the artistic group remained at Entebbe Police Station. The three performers/dancers were finally released sometime between 21.00 and 22.00 on 4 August 2012. No one has been charged of any criminal offence. Frank, Pepe and Dennis left Entebbe Police Station about one hour later.

Frank Mugisha stated that he has followed up on the well-being of all the Beach Pride Parade participants. Only Beyondy was badly beaten. The only remaining issue is the fact that the police has not yet returned Beyondy’s passport which was taken from her together with her cell phone by the police.

Frank Mugisha explained that some of the participants in the Beach Pride Parade went on to other parties in Kampala later on that evening and there was an after-party in a bar in Ntinda in Kampala.

Frank Mugisha explained that the real reason why the police intervened in the Beach Pride Parade is that Minister of Ethics & Integrity Simon Lokodo who is a well-known homophobic had received a tip regarding the Beach Pride Parade. Lokodo had then instructed the Criminal Investigations Directorate of the police (CID) to investigate the matter and intervene if a gay wedding was about to take place. A CID investigative officer, Amos, who is very homophobic, was in charge of that task. In reality no gay wedding took place during the Beach Pride Parade in Entebbe, but on his own initiative Amos reported an emergency. The police who closed the Beach Pride Parade were patrol policemen who arrived as a consequence of Amos’ emergency call. That is why the local police from the Entebbe Police Station was completely overwhelmed when the many festival participants arrived at the police station.

Frank Mugisha emphasized that anybody who claims to have participated in the Beach Pride Parade should be able to describe the sequence of events as outlined above.

Frank Mugisha explained that the Pride Festival officially ended on 7 August 2012.

The Beach Pride Parade on 4 August was the climax of the festival and no other major events were planned for the days following the Beach Pride. The hangover party held the following day after the parade was the last event of the pride week.

Summing up on the sequel of planned events Richard Lusimbo stated that:

1. There was an [unofficial] opening ceremony event with red carpet on the first day [i.e. on Wednesday 1 August 2012].
2. Second day [i.e. on Thursday 2 August 2012] saw the official opening of the film festival – show casing different LGBT movies running to the next day.
3. Third day was the rock and fashion night that was held in a bar in Kampala [i.e. on Friday 3. August 2012]
4. Then the parade on the fourth day [i.e. on Saturday 4 August 2012].
5. Hangover party on the final and fifth day of the pride week [i.e. on Sunday 5 August 2012]

It must also be noted that during the pride week there were private events and parties that ran alongside the main pride events. These [private events and parties] include Trans part and MSM and were organized by individuals.

Despite the disruption of the Beach Pride Parade on 4 August [2012] the organizers considered the Beach Pride (and the festival as such) a big success not least in view of the fact that it was the first Pride ever in Uganda. It was added that a Pride festival is planned to take place in 2013.

Finally, Frank Mugisha emphasized that the photographs that were taken during the Beach Pride Parade only show participants who are very openly LGBT and thus have approved of their photos being published. No one was exposed that did not agree to it. However, Richard Lusimbo added that some individuals abused this understanding.

Representatives of Icebreakers confirmed that the Beach Pride Parade in 2012 in the Botanical Gardens in Entebbe did not see any violence from bystanders. No one was attacked or killed. On the contrary, it was a party as pictures from the event show. It was added that some of the participants in the pride were afraid when the police showed up and some went into hiding. It is true that the police detained quite a lot of the participants at the Entebbe police station, but everyone was released later on the same day.

On 5 August 2013 the gay news service Pink News reported that a Uganda Pride celebration took place for the second time in the Botanical Gardens in Entebbe on Saturday 3 August 2013:

“Rachel is taking part in the celebrations together with 200-300 other transgender and gay people, of which the majority are men. The parade is the main event ending the week long Pride festival in the capital city, Kampala. Many participants say, that the parade finally gives them a chance to be themselves and wear the clothes they want to, without fearing for their security. [...] To avoid confrontations with the rest of the population the parade takes place in a more sparsely populated area about 30 kilometres from Kampala. The parade is watched closely by six police officers, who shortened this years route to make sure LGBT participants would not come too close to the locals.

“Uganda is not yet mature enough for us to walk freely in the streets. But I hope it will be possible during the next five years for us to parade in Kampala,” says Kasha Jacqueline, who brought Pride to Uganda for the first time last year.”<sup>77</sup>

Another news report from Voice of America stated on 4 August 2013:

“On Saturday, August 3, Uganda’s homosexual community stepped out of the shadows in red wigs and glittering stilettos. The country’s second gay pride parade, held on a sandy beach in Entebbe, drew over a hundred people eager to tell the world that they are out, they are proud and they are not afraid to show it.

### **Growing confidence**

Last year’s parade, the first ever in Uganda, was broken up by police, and several people were arrested. But the fact that they were able to pull it off at all has given the community newfound confidence, says activist Kelly Mukwano.

“That success gave us confidence that we can do it,” Mukwano said. “We are getting more confident as time goes by.”

Saturday’s march was sheltered in the leafy recesses of a botanical garden about 20 miles from Kampala. But this year, police were informed in advance and the authorities did not intervene. Some revelers felt it was only a matter of time before they are able to march through the streets of the capital.

“Guys, it’s baby steps,” said one marcher. “Today, we are here, miles away from Kampala. Baby steps. Soon we shall be on Kampala Road.”

### **Grim history**

Uganda has a grim track record when it comes to gay rights. The country grabbed headlines in 2009 with the introduction of a draconian anti-homosexuality bill which proposed the death penalty for acts of so-called “aggravated homosexuality.” The bill has yet to be debated by parliament.

The proposed legislation whipped up homophobia in Uganda and drove some homosexuals out of the country. But, according to Sandra Ntebi, who handles security for the gay and lesbian community, the number of activists has also been growing.

“We have more energy than three or five years back when the bill had just been tabled and everyone was running,” Ntebi said. “We were not feeling that we really deserved to stay in our own country. But most of us have decided to come back on the ground and we fight for our rights from home.”

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<sup>77</sup> Mikkel Danielsen, Pink News, *Uganda: LGBT activists bravely stage pride parade in Kampala*, 5 August 2013, <http://www.pinknews.co.uk/2013/08/05/uganda-lgbt-activists-bravely-stage-pride-parade-in-kampala/>.

There is no question that being homosexual in Uganda is still difficult. Police regularly break up events held by the gay and lesbian community, and homosexuals are often disowned by their families and shunned by friends. Violence and intimidation occur on a regular basis.

### **Improving conditions**

But Mukwano insists that the situation in Uganda has been exaggerated in the international media, and that there are plenty of countries that are worse. "People are dying in Ethiopia," Mukwano said. "People are dying elsewhere in the world. In Jamaica, people are being beaten all the time because they are gay. So I think that was over-exaggerating that Uganda is the worst place to be gay."

One brightly dressed transsexual, who goes by the name Beyondy, says that Saturday's event just made her feel free. "Last year, I was one of the people who were beaten up by the police," Beyondy said. "So today I'm happy that we are free. No one is staring and stopping our marching."<sup>78</sup>

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<sup>78</sup> Hilary Heuler, Voice of America, *2nd Annual Gay Pride Parade Held in Uganda*, 4 August 2013, <http://www.voanews.com/content/second-annual-gay-pride-parade-held-in-uganda/1723313.html>.



## 6. Verification

### 6.1 Newspaper articles

A Western embassy (C), speculated that personal rivalries between individuals could be one reason for negative articles appearing in newspapers. By having the picture and name of a rival to a job or a promotion in a company in a newspaper could be a part of a smear campaign.

A Western embassy (B) stated that it has verified documents presented by Ugandan asylum seekers. Many of those documents have proven to be false including search warrants. However, most newspaper articles concerning LGBT persons e.g. articles where for instance gays are showed on pictures and articles concerning mob justice and the like, are genuine i.e. articles that have actually reached the readers of the newspapers in Uganda. Red Pepper is a tabloid while New Vision, The Monitor and Observer are more serious newspapers. The latter would most likely not publish articles outing LGBT persons or allow for private individuals to pay for having a certain article printed.

A Western embassy (C) was aware of cases of forged newspaper articles. It is easy to forge documents in Uganda and would be possible to pay a Ugandan newspaper to print an article. The embassy explained that tabloids, like the Red Pepper, would be more likely to accept [such payments]. The more reliable newspapers New Vision and The Daily Monitor would generally restrain from tabloid-like reporting and stories and these newspapers would be less inclined to accept [such payments].

### 6.2 Search warrants and police appeals

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that they have never seen any arrest orders or warrants of arrests issued by the police or others concerning suspected LGBT persons. However, once a person has been arrested the police could write down some charges for the file. The DPP would then ask the police to either drop the case or conduct further investigation. It would be at this point that the police in some cases would present false charges. It was added that most cases, including cases where false charges have been invented by the police, are dismissed by the DPP, who are aware of the quality of the police work and the real reason behind such arrests i.e. extortion of bribes.

A Western embassy (A) stated that it had verified a number of documents that appeared to be search warrants concerning persons who were wanted by the police in relation to homosexuality. All had turned out to be forged documents.

A Western embassy (B) stated that it has verified documents presented by Ugandan asylum seekers. Many of those documents have proven to be false including search warrants.

A Western embassy (A) noted that not all search warrants in newspapers were false, but that the motivation behind them could vary a lot.

According to a Western embassy (A), there were two main reasons for having false search warrants published in newspapers either directly by the newspaper or via the police; to strengthen a person's asylum case (if that particular person already was abroad, it would be possible to have a friend launch a search warrant), or in order to get back at someone by wrecking a person's reputation with false accusations of homosexuality in the context of for example job or business rivalry. It was added that especially in rural areas such false accusations could perhaps lead to mob justice, violence from neighbors, colleagues or others in local society. It could not be ruled out that false accusations could lead to killings.

According to a Western embassy (B) police search warrants and warrants of arrest often may be genuine but for reasons of abusing powers. This is because they are issued at the local station level, They need not be authorized by senior officers.

A Western embassy (B) was not aware of cases where the police published "police appeals" or "search warrants" in the printed media concerning LGBT persons (showing the photo and maybe even mentioning the crime e.g. sodomy, carnal knowledge against the order of nature...).

A Western embassy (B) stated that it is possible for a private person to pay for having "police appeals" or "search warrants" printed in for instance Red Pepper or even in the less "tabloid-ish" newspapers. It was added that it not unusual to use money or the system to settle scores. This is applicable even in non-LGBTI cases.

Referring to police search warrants in newspapers like Red Pepper, a Western embassy (A) stated that it did not know whether the police would actually publish search warrants concerning suspected homosexuals in newspapers. The embassy did not know whether or to what extend it would be possible to bribe the police in order to make them publish a search warrant in a newspaper, or alternatively to pay the newspaper in order to place a "search warrant" as a kind of ad, in order to strengthen a person's asylum case abroad.

### **6.3 Documents issued by Local Councils**

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, confirmed that LCs do write letters stating that a person is not wanted in the local area, because he or she is homosexual. This is a common practice, although it may not be legal. If for instance a landlord wants to see a person out of a rented house, flat or a room the landlord could ask the LC chairman to evict the person. The LC is mandated to expel a person from a community, if that person is considered to be a risk for the community. The terms of reference for the LC are codified in the Security Act. So far the legality of such LC evictions has not been tested in a court or elsewhere. Evictions from rented housing could also be initiated by concerned neighbors, who could try to round up support for the eviction from the local community and ultimately present this to the LC.

All the letters of arrest and documents allegedly issued by a village chief (LC1) examined by the Western embassy (A) were forged.

#### **6.4 Verification assistance from NGOs**

OHCHR in Uganda recommended that immigration authorities abroad seek information about individual asylum claims by contacting civil society organization dealing with LGBT issues in Uganda. Also, these civil society organizations should provide legal aid to victims of social discrimination, criminal offences and human rights violations, and document such cases. Further, civil society organizations dealing with LGBT issues in Uganda should provide counseling to legitimate victims about the asylum requirements and procedures in foreign countries.

Pepe Julian Onziema, Programs Director, and Richard Lusimbo, Research and Documentation Manager and Assistant to the Executive Director, SMUG, stated that SMUG receives many requests from immigration services in Europe concerning verification of facts in individual asylum claims from Ugandan citizens who claim to belong to the LGBT community. In some cases SMUG would have some knowledge about the person in question while in other cases SMUG would find no information at all suggesting the person is not known in the community.

According to the Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL, a lot of Ugandans approach the CSCHRCL, SMUG, FARUG and Spectrum Uganda among others and ask for assistance to seek asylum abroad, but the CSCHRCL will not offer any assistance to people who are seeking asylum while they are still living in Uganda. The Coalition can only offer assistance in providing background information and verification (where applicable) for the asylum seeker when he/she is already in a foreign country. In order for the CSCHRCL to assist in an LGBT person's asylum claim abroad, the applicant's foreign lawyer would have to contact the Coalition in order to verify information given by the applicant in his or her asylum case. However, not every LGBT person will 'come out' in the country of origin and some LGBT individuals are very private.

Representatives of Icebreakers explained that most LGBT persons are not familiar with Icebreakers until the moment they need some kind of assistance. Others have heard about the organization from the Internet/Facebook or from newspapers who have at some point mentioned Icebreakers. It was added that Icebreakers would issue letter of support to LGBT persons whom the organization know. If Icebreakers do not know the individual who has asked for a letter of support, Icebreakers would issue a general letter which in broad terms outlines the situation of the LGBT community in Uganda. It was acknowledged that some people would try to obtain letters of support from Icebreakers even though they are not a part of the LGBT community and some would falsely claim to be LGBT and present forged police documents or bribe police men to be issued such official documents.

The UHRC indicated that previously, some people have lied about their sexual orientation for purposes of being granted asylum or refugee status.

## Organizations and individuals consulted

A Western embassy (A)

A Western embassy (B)

A Western embassy (C)

An African women's rights organization based in Uganda

An anonymous human rights organization in Uganda

Byarugaba, Clare, Co-coordinator, Civil Society Coalition on Human Rights and Constitutional Law

Ganafa K., Samuel, Executive Director, Spectrum Uganda,

Karungi, Beyonce, Executive Director, Transgender Equality Uganda

Mr. Kyomukama, Samuel, Head of PSU, Professional Standards Unit, Uganda Police Force

Lusimbo, Richard, Lead Researcher and assistant to the Executive Director, Sexual Minorities Uganda

Mugisha, Frank, Executive Director, Sexual Minorities Uganda (Consulted in Copenhagen on 31 October 2012)

Mr. Mwesigye, Gordon, Secretary to the Commission, Uganda Human Rights Commission

Nduru, Patricia, Director of Monitoring and Inspections, Uganda Human Rights Commission

Ssekindi, Ruth, Director for Complaints, Investigations & Legal Services, Uganda Human Rights Commission

Ogwaro, Geoffrey, Co-coordinator, Civil Society Coalition on Human Rights and Constitutional Law

Onziema, Pepe, Program Director, Sexual Minorities Uganda

Representatives of East and Horn of Africa Human Rights Defenders Project

Representatives of Freedom and Roam Uganda

Representatives of Icebreakers

United Nations Office of the High Commissioner for Human Rights in Uganda

United Nations High Commissioner for Refugees

## Abbreviations

AHB	Anti-Homosexuality Bill
Aids	Acquired Immune Deficiency Syndrome
CID	Central Investigation Department
CSCHRCL	Civil Society Coalition on Human Rights and Constitutional Law
DIS	Danish Immigration Service
DPP	Department of Public Prosecutions
DRC	Danish Refugee Council
EHAHRDFP	East and Horn of Africa Human Rights Defenders Project
EOC	Equal Opportunities Commission
FARUG	Freedom and Roam Uganda
GEHO	Gender Equality and Health Organization
HIAS	Hebrew Immigrant Aid Society
HIV	Human Immunodeficiency Virus
HRAPF	Human Rights Awareness and Promotion Forum
IGCHRC	International Gay and Lesbian Human Rights Commission
IGP	Inspector General of Police
JATT	Joint Anti-Terrorism Task Force
LC	Local Council
LGBT	Lesbian, gay, bisexual and transgender
LGBTI	Lesbian, gay, bisexual, transgender and intersex
MARP	Most at risk populations
MARPI	Most At Risk Populations Initiative
MP	Member of Parliament
MSM	Men who have sex with men
NGO	Non-Governmental Organization
OHCHR	Office of the High Commissioner for Human Rights
PSU	Professional Standards Unit
RLP	Refugee Law Project
SMUG	Sexual Minorities Uganda
STD	Sexually transmitted diseases
TEU	Transgender Equality Uganda
ToR	Terms of reference
UHRC	Uganda Human Rights Commission
UNHCR	United Nations High Commissioner for Refugees
UPF	Uganda Police Force

## Literature

The Civil Society Coalition on Human Rights and Constitutional Law & Human Rights Awareness and Promotion Forum (HRAPF) – Uganda, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons; A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*, Not published, draft dated March 2013.

The Civil Society Coalition on Human Rights and Constitutional Law, *Cases of Ugandans and Refugees Living in Uganda Violated and Discriminated on Account that they are Lesbians, Gays, Bisexuals, Transgenders and Intersex Persons; Compiled by Civil Society Coalition on Human Rights and Constitutional Law, C/O The Refugee Law Project, School of Law, Makerere University, Kampala Uganda*, Undated.

The Civil Society Coalition on Human Rights and Constitutional Law, *Uganda’s Anti-Homosexuality Bill; The Great Divide*, Kampala, Uganda, May 2013,  
<http://www.ugandans4rights.org/index.php/publications/417-ugandas-anti-homosexuality-bill-the-great-divide-third-edition-may-2013.html>





## Annex B: *Terms of Reference*

*Danish  
Immigration  
Service*

*Asylum and Visa Department*

Date: 3 June 2013

### Uganda fact finding mission - draft ToR

#### 1. Authorities' attitude towards LGBT persons

- Laws prohibiting homosexual acts incl. pending laws
- Arrests and prosecution of LGBT persons incl. court verdicts
- Search warrants and "police appeals" issued by the authorities, incl. in newspapers
- Discrimination of LGBT persons (access to health, education, job marked)
- Avenues to seek redress
- Assistance from civil society groups
- Assistance from international observers

#### 2. Societal attitude towards LGBT persons

- Discrimination of LGBT persons
- Attitudes in urban and rural areas respectively
- Protection by authorities
- Civil society groups supporting LGBT persons
- Influence of Western NGOs/missionaries
- Media's role

#### 3. Verification

- Newspaper articles
- Search warrants and police appeals
- Documents issued by local authorities

## Annex C: Cases of Ugandans and Refugees Living in Uganda Violated and Discriminated on Account that they are Lesbians, Gays, Bisexuals, Transgenders and Intersex Persons<sup>79</sup>

CASES OF UGANDANS AND REFUGEES LIVING IN UGANDA VIOLATED AND DISCRIMINATED ON ACCOUNT THAT THEY ARE LESBIANS, GAYS, BISEXUALS, TRANSGENDERS AND INTERSEX PERSONS.  
 COMPILED BY CIVIL SOCIETY COALITION ON HUMAN RIGHTS AND CONSTITUTIONAL LAW, C/O THE REFUGEE LAW PROJECT, SCHOOL OF LAW, MAKERERE UNIVERSITY, KAMPALA UGANDA.

Abbreviated Name of Client	Form of Discriminatory Treatment	Place where it happened and Date (where date is known):	Remedy Sought / Form of Help Given/ Results
1. FW	Arrested and detained by police on allegation of taking part in a homosexual act. Granted bail after 90 days in police custody	Namakweki Village, Mbale	Granted bail after intervention of a coalition member organisation. Case was never disposed of by court in Mbale
2. BP	Arrested and detained by police on allegation of taking part in a homosexual act. BP passed away on the 13 <sup>th</sup> of September 2009 soon after being released on police bond.	Namakweki Village, Mbale District	Granted police bond after intervention by a coalition member organization. Post-mortem could not be carried out to establish the cause of death. Case was never disposed of by court in Mbale
3. KSK	Arrested and detained for the offence of aggravated defilement and carnal knowledge against the order of nature. He was granted police bond and rearrested under the orders of the Deputy Speaker of Parliament and charged in court under Section 145 of the Penal Code Act Cap 120 and spent 6 months in remand with no sentence given.	Entebbe Municipality	DPP eventually dropped the case due to want of prosecution. Witnesses and evidence was not forthcoming. His case was being represented by Rwakafuzi and Co Advocates and later by Onyanggo and Advocates.
4. Se Mo	Arrested for the offence of "carnal knowledge against the order of nature". Bail was secured and kept attending court hearings from home until the case was dismissed in July 2012 for lack of enough evidence by prosecution to sustain the case.	-	Bail sought through lawyer by member organization of the coalition
5. David Kato	A Human Rights Defender working on the rights of sexual minorities was one of the alleged homosexuals published in	Mukono District	Police caught the culprit. He was charged and sentenced to a jail term

<sup>79</sup> CSCHRCL, *Cases of Ugandans and Refugees Living in Uganda Violated and Discriminated on Account that they are Lesbians, Gays, Bisexuals, Transgenders and Intersex Persons*; Compiled by Civil Society Coalition on Human Rights and Constitutional La, C/O The Refugee Law Project, School of Law, Makerere University, Kampala Uganda, Undated. [The compilation covers the period from September 2009 till July 2013]

	name and picture by the Rolling Stone Newspaper soon after which he was found bludgeoned to death in his house.		of 30 years.
<b>6. S and KA</b>	Found seated on the lawn at Makerere University and mobbed by student crowd alleging they were a homosexual couple. They were rescued and rushed to Wandegaya Police Station	Kampala	The pair was released on police bond after being charged under Section 148 (indecent practice) of the Penal Code Act. The case has never been sanctioned for court.
<b>7. JuKi</b>	Was arrested by police and charged with aggravated defilement but the case was dismissed in December 2009	Luweero	The case was dismissed in December 2009
<b>8. Anonymous</b>	A gay man was arrested after being blackmailed by his partner and detained by police for 3 days	Katwe, Kampala	Released after intervention by coalition member organization
<b>9. SeMe</b>	Arrested, detained and then released on bail for carnal knowledge against the order of nature but the	Makindye, Kampala	Case was dismissed on the 20 <sup>th</sup> July 2011 due to failure by the prosecution to sustain any evidence against the accused.
<b>10. ArMu</b>	Arrested and detained by police for attempt to procure an act of indecency contrary to section 148 of the Penal Code Act. He was released on bail.	Entebbe	The case was dropped as the prosecution could not prove the allegations against him
<b>11. Cissy</b>	Bartered by parent (mother) for "being a lesbian and insane". She was taken by her parent to police and detained for a week without being charged. She was later taken to Butabika Mental referral Hospital and injected with drugs for mental incapacity. She tried to seek asylum because she said she was being followed by her parents and relatives.	-	Offered moral support by member organization of the coalition
<b>12. KiMu</b>	Assaulted and bartered by parents on realizing he was transgender based on a quarrel he had with a sister at home. He escaped from home and sought refuge elsewhere.	Kampala	Relocated by member organization and helped to settle down with a job to fend for himself.
<b>13. PeKa</b>	Rejected by parent and guardian brother for being suspected of being gay. Lost his father in the Rwanda genocide. He is from Rwanda. His guardian brother took away his house and land on account that he is gay. He was banished from the family and now stays with friends.	Kampala	Accommodated by friends and one Refugee organization.
<b>14. JaMu</b>	Evicted with housemate (both girls) by landlord because she was seen on TV attending David Kato's funeral. The	Kampala	Relocated by member organization



	housemate was later assaulted by unknown people in the neighborhood.			
<b>15. Braine</b>	Assaulted by unknown person in a bar for "looking and behaving like a girl". Received serious injury to the eye. Later she was rejected by family and had to move out of home.	Kampala	Case reported to Old Kampala Police Station. Report obtained from the police surgeon.	
<b>16. NaKab</b>	His house was torched by an unknown arsonist when he was sleeping and a note left on the compound accusing him and his housemate of being homosexuals and saying they will kill all the homosexuals in the neighborhood. He survived being burnt in the inferno.	Bwaise, Kampala	Case was reported to police. No one has ever been arrested. The victim was helped with money to replenish his belongings by a member organization.	
<b>17. Jose</b>	Is being sought after by police and the RDC of Kawempe and has not been staying in his house for fear of arrest. The reason why he is being sought are not clear but are thought to be connected to accusations that he is a homosexual and a sex worker.	Bwaise, Kampala. 30 <sup>th</sup> November 2012	Coalition trying to get him a lawyer to go inquire why they want to arrest him and under what charges.	
<b>18. Ai Muti</b>	She was accused of being "a lesbian and a hippy" by the area Local Council officials of Mutungo Parish, Nakawa Division, Kampala and was consequently evicted from the area. She was given two days to relocate. Ai Muti is Congolese.	Mutungo Parish, Nakawa Division, Kampala. 11 <sup>th</sup> July 2012	She was assigned a lawyer from a member legal aid organization and given assistance to relocate as she said she was scared of going back to her neighborhood.	
<b>19. Ke Da</b>	Was evicted from house because of rumors that he is gay. He had to relocate even when he was still left with paid months at the house he was renting. The money was never refunded.	Kibuye, Salama Road, Kampala. 7 <sup>th</sup> May 2012.	Was assisted to relocate by member organization.	
<b>20. Sherry</b>	She is a transgender young woman who was arrested for "impersonation". She was not impersonating any one as she said she has always been a girl and has always dressed that way.	Kampala. September 2012	She was released from police custody after intervention by the coalition and member organizations the same day she had been arrested and assisted with a place to stay and some personal effects.	
<b>21. ToTu</b>	Was assaulted by a group of youth while on his way home. Accused of being gay and dating men.	Mbarara, Uganda	Assisted by a member organization to relocate as the youth wanted to lynch him from his home.	
<b>22. ApaWi</b>	Apawi is a transgender man who whose parents stopped paying his part bursary at an Indian university because of his	Kampala	Assisted to return to Uganda by a member organization.	

