

DEFIANT



“We are raised to believe that if a woman behaves differently from what is expected then she is deviant.”

—
Focus group discussion with lesbian, bisexual and queer women in Bujumbura, Burundi

DEFIANT

LANDSCAPE SURVEY ON VIOLENCE AGAINST LBQ WOMEN, TRANS PEOPLE
& FEMALE SEX WORKERS IN BURUNDI, KENYA, TANZANIA & UGANDA

GLOSSARY OF TERMS AND ACRONYMS

Askari:	Used in Kenya to refer to county law enforcement officials who have the power to enforce county by-laws, distinct from the Kenya police.
Assigned Sex:	The sexual classification of bodies at birth, usually as female or male, based on such factors as external sex organs, internal sexual and reproductive organs, hormones, and chromosomes.
Bisexual:	The sexual orientation of a person who is sexually and romantically attracted to women and men.
Boda boda:	A motorcycle taxi, used frequently throughout East Africa.
Cisgender:	Denoting or relating to a person whose sense of personal identity and gender corresponds with their birth sex.
Gender:	Social and cultural codes (as opposed to biological sex) used to distinguish between what a society considers "masculine," "feminine," or "other" conduct.
Gender Binary:	A socially and often legally imposed division of people, characteristics and behaviors into two categories, female and male.
Gender Nonconforming (GNC):	Behaving or appearing in ways that do not fully conform to social expectations based on one's assigned sex.
Homophobia:	Fear of, contempt of, or discrimination against homosexuals or homosexuality.
Imbonerakure:	The youth wing of Burundi's ruling party, CNDD-FDD, which functions as a militia.
Intimate Partner Violence (IPV):	Violence or aggression that occurs in a close relationship. The term "intimate partner" includes current and former spouses and romantic or sexual partners.
ITGNC:	Intersex, trans and gender nonconforming.
Kuchu:	Term for queer or LGBT, created by Ugandan activists and now used throughout the region, primarily by gay men.
Lesbian:	The sexual orientation of a woman whose primary sexual and romantic attraction is toward other women.
LBQ:	Lesbian, bisexual and queer.
LGBT:	Lesbian, gay, bisexual and transgender.
LGBTI:	Lesbian, gay, bisexual, transgender and intersex.
LGBTQ:	Lesbian, gay, bisexual, transgender and queer.
Queer:	An inclusive umbrella term covering multiple identities, sometimes used interchangeably with "LGBTQ." Also used to describe divergence from heterosexual and cisgender norms without specifying new identity categories.
Shoga:	Kiswahili term for gay man or man who has sex with men, sometimes used specifically to refer to a "bottom," or receptive partner.
Sungu Sungu:	Vigilante neighborhood militia in Tanzania, not formally part of the Tanzania Police Force.
Transgender:	Denoting or relating to people whose assigned gender (which they were declared to have upon birth) does not match their gender identity (the gender that they are most comfortable with expressing or would express given a choice). A transgender person usually adopts, or would prefer to adopt, a gender expression in consonance with their gender identity, but may or may not desire to permanently alter their bodily characteristics in order to conform to their preferred gender.
Whorephobia:	Fear of, contempt of, or discrimination against people engaged in sex work.
Womxn:	An inclusive term for female-identified persons that also emphasizes a break from defining oneself in relation to men.

METHODOLOGY

This research focused on violence as experienced by three communities — lesbian, bisexual and queer (LBQ) women, transgender and gender nonconforming people, and cisgender female sex workers — in Burundi, Kenya, Tanzania and Uganda. These four countries were chosen due to the depth of community organizing among the three target communities, as well as UHAI-EASHRI's existing networks with formal and informal groups representing them. We plan to conduct similar studies in other Eastern African countries in the future.

This report is based largely on primary sources, including focus group discussions and one-on-one interviews. We also relied on some secondary sources, including news articles, organisational reports, and statutes of law.

In addition to conducting interviews and focus group discussions, we distributed surveys in hard copy through key informants which sought to capture quantitative data on demographics (age, identity, orientation and financial disposition), experiences of violence, and knowledge of redress mechanisms for violence available in their countries. While we received back a significant number of surveys, responses to the substantive questions of the survey were often missing or incomplete.¹ Some respondents reported a lack of understanding of the language used for the survey. For these reasons, we have not included substantive responses from the survey in this report, but we were able to generally confirm that where violence was described, it accorded with the types of responses provided in focus groups and one-on-one interviews.

Interviews and focus group discussions were conducted in several locations in each country, as listed below.

Burundi: Bujumbura, Gitega, Ngozi

Kenya: Eldoret, Nairobi, Kisumu and Mombasa

Uganda: Gulu, Kampala, Lira, Mbale, and Mbarara

Tanzania: Dar es Salaam and Zanzibar

Focus groups included between four and 25 participants. Those with more than 15 participants were generally the result of merging two groups, such as LBQ and trans, and were then split into smaller constituency groups of six to ten. Participants in both focus groups and one-on-one interviews were recruited by key informants and focus group discussion facilitators drawn from UHAI-EASHRI's partner organizations. Participants were paid a travel stipend ranging from USD 5 to USD 7 depending on the country and the distance travelled. All participants provided informed written consent.

In Kenya and Uganda, focus groups and individual interviews were conducted in English. In Tanzania, they were conducted in Kiswahili. In Burundi, focus groups and individual interviews were conducted in French, with the assistance of amateur interpreters drawn from the target communities.

Participants joined focus groups according to their self-perceived identity. We did not ask all participants to choose one descriptor to identify themselves. Some respondents are described in the report as "LBQ women," rather than with a specific identifier such as lesbian, bisexual, or queer, whereas some respondents are described using a term with which they self-identified.

¹ We received 104 surveys back from Burundi, 155 from Kenya, and 78 from Tanzania. Due to a data collection problem, we only received 36 surveys back from Uganda.

The sex workers interviewed for the sections of this report focused on violence against sex workers were all cisgender women, although some transgender women interviewed for the trans sections of this report were also sex workers. Other studies suggest that transgender women sex workers, and in some cases cisgender male sex workers, face forms of violence similar to those experienced by cisgender female sex workers.

We did not specifically recruit intersex participants for this research. Although UHAI-EASHRI does support intersex organizing, we believe the issues faced by intersex people in East Africa are often substantively different than those faced by lesbian, bisexual, queer and transgender people and female sex workers, and that they merit focused research at a future date.

Limitations

The researchers found that most LBQ and trans identifying respondents seemed understandably reluctant to reveal their personal experiences of sexual violence. This was particularly evident in focus group discussions but may have been a limitation in one on one interviews as well.

Because of the politics of language and naming and the cultural nuances related to understandings of gender and sexuality, some respondents expressed multiple identities or were uncertain of what label may coincide with their identities. This seemed particularly so for some feminine-presenting respondents, assigned male at birth, who described themselves as women but also as gay men, and some masculine-presenting respondents, assigned female at birth, whose descriptions were as men but also lesbians.

Other limitations were geographical. For example, in Tanzania, due to the security situation and crackdown on LGBT organisations, we were only able to get information from two cities. In the other three countries, the selected towns and cities provided urban, peri-urban and rural perspectives of violence.

Finally, when conducting research among populations that are contained with regard to publicly expressing their identities, it is difficult to identify representative samples. In our case, all of the LBQ women, sex workers, and trans people we interviewed were reached by key informants or by civil society organisations. In other words, we only met people from these groups who had pre-existing connections to civil society groups and to key informants. Those living in isolation, who may be likely to experience the most severe forms of violence, were not reached.

INTRODUCTION

“Sexuality and gender go hand in hand; both are creatures of culture and society, and both play a central, crucial role in maintaining power relations in our societies. They give each other shape and any enquiry into the former tends to invoke the latter.”²

– Sylvia Tamale, *African Sexualities: A Reader*

This study examines lived experiences of gender-based violence as faced by lesbian, bisexual, and queer (LBQ) women, transgender people, and female sex workers in Burundi, Kenya, Uganda and Tanzania. The study examines how state efforts to exercise control over women’s bodies, combined with patriarchal social systems, result in a wide array of types of violence. As Ugandan feminist lawyer Sylvia Tamale goes on to say in her introduction to the anthology *African Sexualities*, such systems of control have origins in British colonialism, at which time “A new script, steeped in the Victorian moralistic, antisexual and body-shame edicts, was inscribed on the bodies of African women and with it an elaborate system of control. The instrumentalization of sexuality through the nib of statutory, customary and religious law is closely related to women’s oppression and gender constructions.”³ Post-independence governments discovered that sexuality could be instrumentalized to suit their needs, too. Over 50 years since colonial power was vanquished on much of the African continent, patriarchal power over women’s bodies and sexualities persists.

In several spheres encountered during this study, “gender-based violence” appears to be used interchangeably with “violence against women.” In much of the world, including in East Africa, violence against women was long negated. Only in the past few decades have women began to claim space to speak out about violence – domestic violence, sexual violence, and even broader cultural phenomena such as female genital mutilation (FGM). In our view, while it is important to centre women’s experiences in discussions of gender-

based violence, patriarchy as a system of social control also can involve subjecting other bodies to violence, including the bodies of men and gender nonconforming people. For the purpose of this report, the definition of gender-based violence includes violence perpetrated against people with non-conforming gender identities, including both transgender men and transgender women, as well as cisgender women. In examining violence that targets women and trans people with the aim of controlling their sexuality or gender expression, the study focuses primarily at what might be considered “gender nonconformity-based violence.”

A classic dictionary definition of violence is “behavior involving physical force intended to hurt, damage, or kill someone or something.”⁴ The UN Declaration on the Elimination of Violence Against Women (1993) describes “violence against women” more broadly, as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”⁵ The declaration sets forth an understanding of gender-based violence that encompasses, but is not limited to, physical, sexual and psychological violence, occurring in the family, the general community, or at the hands of the state.

² Sylvia Tamale, Ed. *African Sexualities: A reader*. Pambazuka Press, 2011.

³ Ibid.

⁴ Lexico, powered by Oxford Dictionary, “Violence,” <https://en.oxforddictionaries.com/definition/violence>.

⁵ United Nations General Assembly, “Declaration on the Elimination of All Forms of Violence Against Women,” adopted 23 February 1994, <https://www.un.org/documents/ga/res/48/a48r104.htm>.

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In conducting this research, we sought respondents' own definitions and examples of violence as they experienced it in recognition of the importance of nuancing this discourse based on the lived contextual realities. Their responses were wide-ranging and did not always include acts that might constitute violence under strict legal definitions. Because the purpose of this report is to convey the realities of LBGQ women, trans people, and female sex workers in East Africa, we adopt their uses of the term "violence." Our use of this term, in a broad sense, is not necessarily an endorsement of prosecution of all such acts as violence under the law. Where relevant, we also lean on definitions provided by international institutions. Thus, classifications of violence in this study include:

- **Physical violence**, which refers to any acts of physical aggression such as beating, shoving and obstruction;
- **Sexual violence**, defined by the World Health Organization as *"any sexual act, attempt to obtain a sexual act, or other act directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. It includes rape, defined as the physically forced or otherwise coerced penetration of the vulva or anus with a penis, or other body part or object;"*⁶
- **Economic violence**, defined by the Pan American Health Organization (PAHO), a branch of the WHO, as *"actions or omissions on the part of the abuser that affect the economic life—and sometimes the survival—of [victims]"*;⁷
- **Psychological/ emotional violence**, defined as things that are done or said to isolate, humiliate, or threaten a person and/or affect their ability to be mentally well⁸;
- **Online violence**, a form of psychological or emotional violence carried out online.
- **Structural violence**, including denial of access to health care, education or justice. Some interviewees also referred specifically to "economic violence."
- **Intimate partner violence**, which can encompass physical, sexual, economic and psychological violence. We rely here on a World Health Organization definition: *"behavior by an intimate partner or ex-partner that causes physical, sexual or psychological harm, including physical aggression, sexual coercion, psychological abuse and controlling behaviors"*⁹;

There have been efforts at local, national, regional and international levels to respond to violence against women, with positive steps in legislating on issues related to gender equality, including in the political, economic and social spheres, and increasingly on issues of violence against women. At a continental level, the African Commission on Human and Peoples' Rights (ACHPR) during its 60th session in 2017 adopted guidelines on combating sexual violence and its consequences in Africa.¹⁰ The guidelines recognize that sexual orientation, gender identity, and profession, among other factors, can increase people's vulnerability to sexual violence, and they call on states to respond to such violence in a non-discriminatory way.¹¹

6 World Health Organization, "Violence against Women," November 29, 2017, <https://www.who.int/en/news-room/fact-sheets/detail/violence-against-women>.

7

8 Some source distinguish between "psychological violence" and "emotional violence"; see, for instance, the Violence Prevention Initiative of the government of Newfoundland (Canada), available at <https://www.gov.nl.ca/VPI/types/#3>. Respondents in our study tended to use both terms interchangeably, so we have grouped them together here.

9 World Health Organization, "Violence against Women," November 29, 2017, <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>

10 African Commission on Human and Peoples' Rights, "Guidelines on Combating Sexual Violence and its Consequences in Africa," 2017, <https://www.achpr.org/legalinstruments/detail?id=4>. The African Commission guidelines note that sexual violence "mainly affects women and girls, but men and boys are also victims."

11 Ibid., p. 17.

In spite of the progress made on paper, in practice, advancements in ending gender-based violence are slow to be realized and often deprioritized by states. When it comes to women and gender nonconforming people whose sexual and/or gender identities or profession do not ascribe to societal norms, in spite of positive language from the African Commission, a state commitment to addressing acts of violence against them is often absent altogether.

All four countries criminalise same-sex sexual relations as well as sex work. Tanzania and Uganda have some of the harshest provisions against consensual homosexual sex in the world, with sentences of up to life in prison.

In Kenya, Tanzania, and Uganda, the penal codes makes reference to acts 'against the order of nature.' These colonial-era provisions are often interpreted as applying to anal sex or sex between males, but their vague language means that they can be levied as threats against females as well.¹² The penal code of Zanzibar was modified in 2004 to explicitly criminalise sex between two females. Burundi's more recent law, adopted in 2009, is gender-neutral, prohibiting "sexual relations between persons of the same sex." Transgender people are legally and socially invisibilized in all four country contexts (despite some legal progress in Kenya), so the laws, and the officials who enforce them, tend to understand transgender women as men and transgender men as women. While none of the four countries explicitly criminalizes being transgender, trans people are frequent targets under "homosexuality" laws.

All four countries criminalize some forms of sex work. While in some cases laws are limited to actions such as publicly "soliciting" for sex or "living off the earnings of prostitution," in practice police regularly arrest suspected sex workers simply on the basis of their sex worker status, regardless of whether they have been caught engaging in any illegal act.

¹² For instance, the head of Kenya's film classification board, Ezekiel Mutua, has claimed "lesbianism" is illegal in Kenya. Suleiman Abdi, "Ezekiel Mutua warns gay, lesbian lobby groups," hivisasa, 2018 [no exact date provided], <https://hivisasa.com/posts/ezekiel-mutua-warns-gay-lesbian-lobby-groups>.

	BURUNDI	KENYA	TANZANIA	UGANDA
Criminalises same sex sexuality?	Yes. Penal Code Art 567 punishes “sexual relations between persons of the same sex” with up to two years in prison.	Yes. Penal code 162-165* penalises “carnal knowledge against the order of nature” and “gross indecency between males” with sentences of 14 and five years respectively.	Yes. Section 154-155 of the Tanzania mainland penal code punishes “carnal knowledge against the order of nature” with up to life in prison, and S157 punishes ‘indecent practices between males’. S150-151 of the Zanzibar penal code punishes “carnal knowledge against the order of nature” with up to 14 years in prison. S153 of the Zanzibar penal code penalises “acts of lesbianism” with up to five years in prison. S154 punishes “gross indecency between persons” with up to five years in prison. S158 of the Zanzibar penal code prohibits “same sex unions” with up to seven years in prison.	Yes. S145 penalises “carnal knowledge against the order of nature” with a sentence of up to life in prison. S148 penalizes “gross indecency” with a sentence of up to seven years in prison.
Criminalises sex work?	Yes. Penal code Art. 538, Art 539 and 548 - 553	Yes. Penal Code S154 and s17 of the Sexual Offences Act and county by-laws.	Yes in Art 176 (a) of the Tanzanian penal code and 181(a) of the Zanzibar penal code.	Yes. S139 of penal code.
Recognition of non conforming gender identities?	No legal recognition. In the absence of any legal pathway to gender recognition, there is a risk that art 351, 364 and 365, penalising anyone with documents that do not reflect their ‘identity,’ may be used against trans people.	No clear pathway to legal recognition outlined by law. Positive judicial decisions have recognised the rights of trans people to obtain identification documents recognizing their name.	No legal recognition. In the absence of any legal pathway to gender recognition, there is a risk that Section 301 of Tanzania’s penal code on ‘false pretense’ and Sections 304 of Zanzibar penal code (false pretense), together with sections 312 (obtaining registration by false pretense) and 313 (false declaration for passports) may be used against trans people.	No legal recognition. In the absence of any legal pathway to gender recognition, there is a risk that S 304 on ‘false pretenses’ as read with S312 (obtaining registration by false pretenses) and S313 (false declaration for passports) may be used against trans people.

This report seeks to interrogate violence as it affects lesbian, bisexual and queer women (LBQ), trans identifying individuals, and female sex workers. As an organizing tool in this report, we categorized information into three themes: “pussy,” “patriarchy” and “power.” The selection of these themes is posited on the established link between sex, sexuality, perceived gender roles and violence.

“Pussy”, as a theme in this report, connotes state efforts to control women’s sexuality. Criminalization of both same-sex conduct between women and sex work is, in essence, a form of government control of women’s genitals and how they use them. While we recognize that the term “pussy” may make some readers uneasy, women around the world have claimed the word “pussy” as a term of empowerment, precisely as part of a campaign to destigmatize female sexuality. Part of the claim they are staking is that women and women alone own their pussies. But where states criminalize same-sex relations or sex work, the state is asserting ownership of pussy.

In the four countries included in this study, the authorities tend to conflate biological sex and gender. The theme “pussy” thus addresses, more broadly, how the state interacts with individuals based on their being born with or without a vagina. This includes interaction by the state through legislation and state-sanctioned action through its agents.

“Patriarchy” connotes a systemic culture in which power is associated to masculinity, and masculinity is largely identified by the extent to which individuals having phallic biological sex exercise power. Consequently, institutions and social structures have been and continue to be created to privilege men at the expense of women. As a result of patriarchy, specific gender roles are assigned to individuals biologically identified as men and women. Patriarchy breeds repression of any deviations that challenge the status quo, can take the form of homophobia, transphobia or whorephobia, and is exercised as dominance over others. This is often manifested through violence.

Patriarchy and heteronormativity have insinuated their way into queer communities in East Africa.

Traditionally feminine-presenting LBQ women are often referred to as “femmes” while typically masculine-presenting LBQ women or trans men are referred to as “tomboys,” “butch” and “stud.” These labels come attached to certain behavioral expectations according to which masculine presenting women are expected to play the role of provider and their feminine presenting counterparts expected to be homemakers—despite the fact that some masculine-presenting women and trans men miss out on job opportunities due to their non-normative gender expression.

The theme “patriarchy” therefore examines violent and oppressive social structures that subordinate women and gender nonconforming people, including through attacks on their sexual freedom. It also encapsulates trans peoples’ experiences of violence on the basis of not conforming to expectations based on their assigned sex. The study seeks to speak to the lived reality of violence against LBQ women, trans people and female sex workers in a context in which state protection is insufficient or lacking.

The title of this report, “Defiant” (written over an x’d out “Deviant”) speaks to the third theme, “Power” which in the context of this report refers to “power to.” We examine community-led organising aimed at mitigating violence against LBQ women, trans individuals and female sex workers.

Levels of organising vary by country and community. Kenya and Uganda have many peer-led organisations, as well as a range of relationships with mainstream civil society organisations, in comparison to Tanzania and Burundi. That said, communities in all four countries are contending with legislation that contributes to shrinking civil society space by seeking to control the ability of NGOs to raise funds, to register and obtain legal status, and to exist without the constant threat of arbitrary deregistration. For the security of peer led organisations and in recognition of their agency to determine to what extent their information is publicly available, we opted to exclude the list of identified organisations.

The external funding environment acts as a constraint on the power of peer-led representing LBQ women, trans people, and female sex workers. Contrary to the myth that Western donors pour unlimited resources into a “gay agenda,” only a tiny percentage of international aid disbursed by Western governments and foundations actually goes toward lesbian, gay, bisexual, transgender and intersex (LGBTI) issues.¹³ A much smaller fraction of that amount reaches women- and trans-led organizations.¹⁴ The HIV epidemic in Africa led to an influx of donor funds to fight HIV among at-risk populations, including men who have sex with men (MSM), and some MSM-led organizations have benefited from such funding to advance a broader agenda in support of equality and human rights, but female-led and trans-led groups have all too often been left behind. Sex worker rights groups, too, struggle to obtain donor funds.

Independence from donor funding is not always a liability. Grassroots community organizing with no donor strings attached can be liberating and empowering, as some respondents in this study attest to. Nevertheless, given the limited economic opportunities available to LBQ women, trans people and sex workers in East Africa, self-funding is not always a realistic option. Infusion of financial support into peer-led organizing remains important in contributing to these groups’ assertion of power.

Structural challenges

- Legislation that does not recognise LBQ, trans and sex workers and therefore inhibits access to justice;
- Existing legislation that criminalises same-sex sexuality and sex work;
- Peripheral legislation such as county bylaws that are easily manipulated against LBQ, trans and sex workers;
- Ineffective platforms for addressing gender-based violence which also exclude the intersectionality of gender, sexuality and bodily autonomy;
- Incompetent health care providers with little or no knowledge about how to address trans specific issues, particularly in public hospitals;
- Prioritisation of purported (repressive) culture over rule of law;
- Inadequate safe spaces to address or discuss experiences of violence for non-normative sexualities, genders or professions.

¹³ Global Philanthropy Project, “Infographic: 2013-2014 Global Resources Report,” <https://globalphilanthropyproject.org/2016/06/23/grrinfographic/>.

¹⁴ Mama Cash and The Foundation Center, “Untapped Potential: European Foundation Funding for Women & Girls,” 2011, https://www.mamacash.org/media/publications/untapped_potential_-_european_foundation_funding_for_women_and_girls.pdf; Astraea Lesbian Foundation for Justice, “Global Surveys of Intersex and Trans Groups Reveal Critical Funding Gap,” October 31, 2017, <https://www.astraeafoundation.org/stories/global-surveys-trans-intersex-groups-reveal-critical-funding-gap/>.

Several emerging issues arose in the course of the study that merit further research namely:

1. **Online violence.** The use of the internet, greatly expanded in East Africa in recent years by widespread access to internet-enabled phones, and the influence of social media has facilitated the creation of digital spaces that, much like the physical bodies of LBQ women, trans people and sex workers, become a site for violence. This violence manifests in explicit forms such as bullying, trolling and stalking. Another threat to online space and safety includes government surveillance, arbitrary raids that target digital information storage, and legislation aimed at limiting organising and communication, such as the social media tax recently imposed by the Ugandan government. These violations remain largely undocumented and unaddressed.

2. **Patriarchy within, not just without.** The lens through which gender is perceived in relation to power even within LBQ, trans and sex worker communities sometimes appeared to be quite patriarchal. This was made evident particularly through the ways in which some trans men and some LBQ women in relationships with a butch/femme dynamic expressed understandings of gender and power. Some trans male respondents seemed to understand manhood as reflected through an assertion of power and dominance based on perceived gender roles, while associating femininity with submission.

“Since I’m the one that initiates the relationships, I think it is fair for me to dictate what I want and for my woman to follow. When she wants something and convinces me, then it is fine.”

3. **Community marketing.** Many respondents seemingly normalised intimate partner violence within their relationships and did not appear to consider it as a category in their definitions of violence, which mostly looked outward, and not introspectively within their personal relationships. This phenomenon was aptly described by a respondent who wrote a paper on intimate partner violence within Uganda’s LBQT community, as “community marketing”.

“None of the people I spoke to reported violence within their intimate relationships because for a lot of them there was the recognition that if they report it, they would be giving others power to abuse both them and the other party involved. Therefore people tend to excuse violence within the community. As a result of their collective exclusion peoples’ first instinct is protecting the community at large and not just the individual which affects the way individuals react to it and or experience violence within queer relationships.”

– Godiva, activist, Uganda

4. **Cultural justifications for gender inequality.** Whereas all four countries have somewhat protective constitutions whose wording should ideally suffice to include non-normative gender identities, sexualities and professions, these coexist with legislation that upholds patriarchy, including legislation on land, family and inheritance. Laws that build inequality into social relations are often justified on the basis of cultural relativism. Other research has examined how cultural relativism is used to refute LGBT rights claims more generally, but such research has rarely looked at how LBQ women and trans people face intersecting forms of sexism and homo/transphobia that are justified on the grounds of culture. Sex workers, too, face cultural and sometimes legal condemnation of sex workers but not their clients, who are typically cisgender men.

5. **The impact of shrinking civil society space on women and others who do not conform to sexuality or gender norms.** All four countries have legislation that controls civil society space, regulating the means through which organisations can obtain legal identity or how they can fundraise or utilise funds. In all four countries, governments have sought to expand such restrictions in recent years, largely in reaction to civil society’s assertion of its independence and its role as a check on authoritarian tendencies. Such laws have a specific detrimental impact on LBQ, trans, and sex worker organizing, given that increased state scrutiny of activities and finances provides increased opportunities for states to shut down the work of organisations taking up “unpopular” issues.

PATHWAYS TO PROGRESS

This report has outlined the numerous forms of violence that impede LBQ women, trans people and sex workers' full enjoyment of their rights. They endure institutionalized discrimination, systemic violence from both state agents and members of the public, social stigma, and impunity. Nevertheless, throughout East Africa, such groups are organizing, standing up and demanding that their voices be heard as rights-holders who deserve the same level of protection from violence as anyone else in the region. They are reclaiming pussy, dismantling patriarchy, and asserting power.

In conducting this research, UHAI has observed that organizations representing LBQ women, trans people, and sex workers thrive when they build strong networks, both within their own identity-based communities and with other allied groups and movements. Members of all three groups benefit from knowing their rights and having access to information on how to access services. When activist organisations working with these groups develop links to state institutions that may demonstrate some degree of inclusivity, such as national human rights institutions, state agencies tasked with promoting gender equality, and even supportive individuals within agencies such as the police, they can help ensure access to justice and an end to impunity. For example, in Kenya, some organizations are exploring how to make regular use of constitutionally created bodies such as the Kenya National Human Rights Commission, the National Gender and Equality Commission, and the Independent Policing Oversight Authority (IPOA) in order to report experiences of violence, ensure that rights are protected and promoted, and bring visibility to issues of violence against LBQ women, trans people and sex workers. Others, throughout the region, are working to scale up sensitization of health care professionals and law enforcement officers on issues of sexual and gender minorities and sex workers.

Activist groups can also benefit from reminding mainstream civil society organisations and movements of the intersectionality of identities. If women's organisations and youth movements, for example, are not inclusive of LBQ women, trans people and sex workers, they are leaving a portion of their constituencies behind.

A number of groups have begun to take advantage of the mouthpiece offered by regional and international treaty bodies and human rights processes, such as the Committee on the Elimination of All Forms of Discrimination against Women and the Universal Periodic Review process at the Human Rights Council. The door is open for LBQ women, trans people and sex workers to engage with such bodies and process by submitting shadow reports to highlight human rights violations and hold the state to account with regard to its obligation to protect and promote the rights of all.

Given that UHAI is an activist fund, we take pride in movements' determination of movement agendas. As such the following recommendations will be addressed to other stakeholders including donors, mainstream or allied civil society organisations, and governments.

Recommendations

To Funders

- Provide increased resources to LBQ, trans, and sex worker organisations, with particular attention to historically underfunded organisations including those representing transgender people and those based in Francophone countries, including Burundi
- Specifically, consider scaling up funding for the following:
 - documentation of experiences of violence as based on one's sexual orientation, gender identity or choice of work, including through collecting accurate, relevant data of incidences of violence;
 - sensitisation of staff in Burundian institutions such as health and law enforcement;
 - engaging cultural leaders, particularly in peri-urban and rural areas, regarding the balance between human rights practice and tradition or perceived culture;
 - income generating activities for transgender persons, as this may improve their access to other socio-economic opportunities and reduce instances of violence on them;

To Mainstream and Allied Civil Society

- Ensure that shadow reports to relevant regional and international treaty bodies and process, including the Committee on the Elimination of All Forms of Discrimination against Women, highlight violations against LBQ women, trans people and sex workers, based on input from these groups, and hold the state to account with regard to its obligation to protect and promote the rights of all;
- Collaborate with LBQ, trans and sex worker organizations to produce of reliable data on violence, including the link between violence and HIV prevalence;
- Where it is not safe for LGQ, trans and sex worker movements to publicly advocate with their own governments, advocate on their behalves, including in support of repeal or reform of discriminatory laws.

To Governments

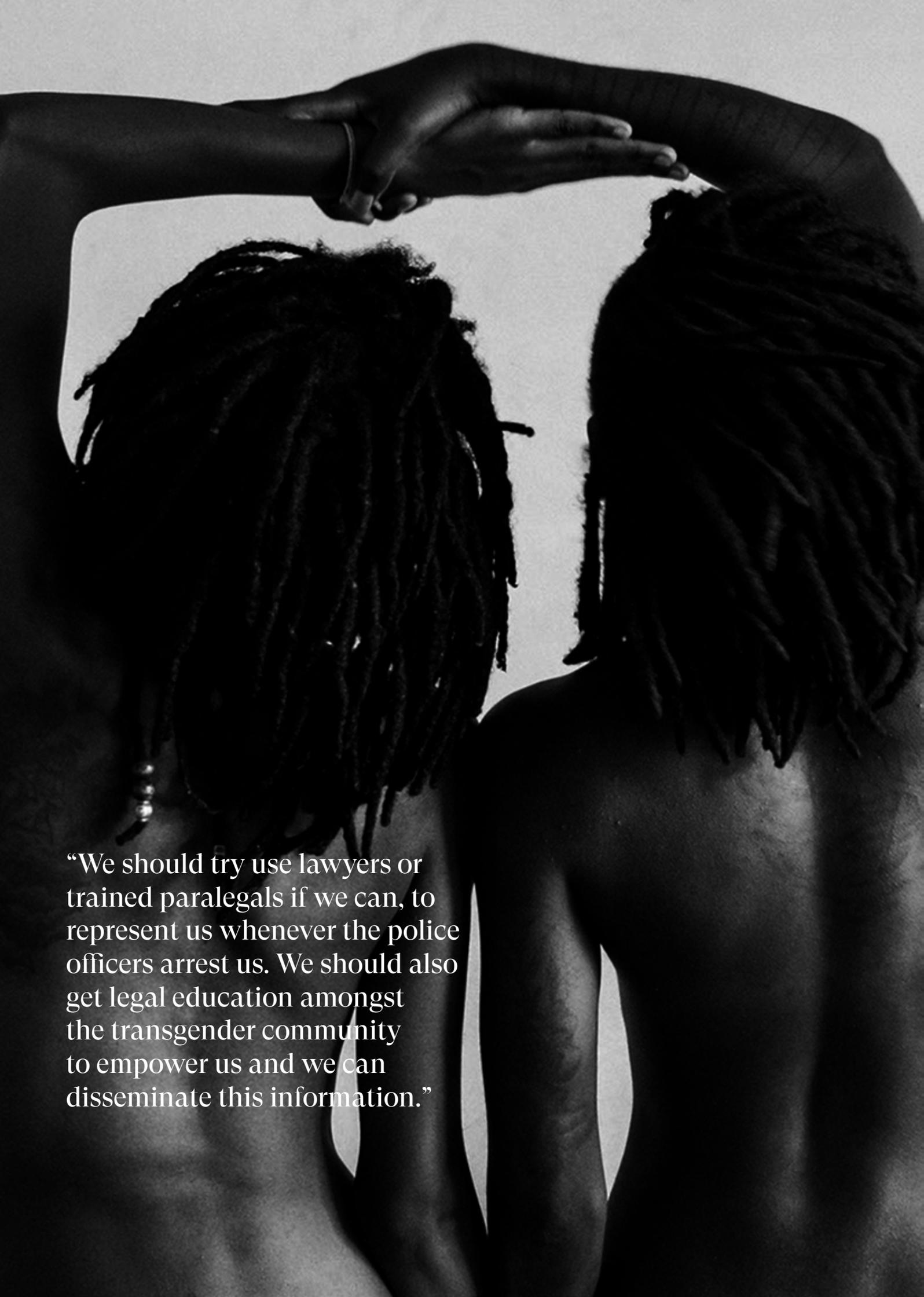
- Initiate law reform to repeal discriminatory laws, including laws that criminalise same-sex conduct and sex work;
- Ensure that civil society organisations representing LBQ women, trans people and sex workers can operate freely, without fear of government reprisals;
- Review and where necessary reform laws and policies on gender-based violence in order to ensure clarity that gender-based violence is interpreted as applicable to violence against LBQ women, trans people and sex workers, and where laws and policies refer specifically to violence against women, ensure this is interpreted as applicable to all women, including trans women;
- Create inclusive safe spaces for LBQ women, trans people and sex workers to seek health care in order to uphold the right to health;
- Establish anonymous complaints mechanisms that allows individuals to submit complaints regarding discrimination or abusive treatment from any state agent on the basis of sexual orientation, gender identity, gender expression, or sex worker status;
- Produce reliable data on violence against LBQ women, trans people and sex workers, including link between violence and HIV prevalence;

National Human Rights Institutions should

- Publicly and privately reach out to groups representing LBQ women, trans people and sex workers and encourage them to file complaints;
- Appoint staff liaisons to engage specifically with these marginalised communities, particularly where they may not be received in a welcoming manner by all staff;
- Sensitize staff with regard to the rights of LBQ women, trans people and sex workers, including through trainings conducted in collaboration with members of these communities;

Police should

- End arbitrary arrests based on sexual orientation, gender identity, gender expression and arbitrary arrests of sex workers;
- Stop harassing and extorting LBQ women, trans people, and sex workers;
- Ensure adequate training for gender desk officers, including adequate training on sexual orientation, gender identity and sex workers' rights;
- Minimize transfers to ensure that qualified personnel are available at gender desks at all times.



“We should try use lawyers or trained paralegals if we can, to represent us whenever the police officers arrest us. We should also get legal education amongst the transgender community to empower us and we can disseminate this information.”

DEVIANT

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