



2020
**REPORT ON THE
PROTECTION AND
VIOLATION OF
THE HUMAN RIGHTS
OF SEX WORKERS
IN UGANDA**

JUNE 2021

With contributions from



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With contributions from

Alliance for Women Advocating for Change (AWAC)



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About Human Rights Awareness and Promotion Forum

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

About the Contributing Organisations

The Alliance of Women Advocating for Change

The Alliance of Women Advocating for Change is a sex-worker led organisation working towards improving the health and livelihoods of female sex workers in Uganda and greater respect for their rights and dignity. It was founded in 2016 and has contributed to the building of a strong and vibrant sex workers' movement in Uganda, with a special focus on upcountry based CBOs for sex workers across the country as well as sex workers with disabilities.

Health Rights Initiative (HRI)

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

HOPE Mbale

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

HUREED Initiative (Human Rights and Economic Empowerment Development)

Human Rights and Economic Empowerment Development (HUREED) is a Ugandan nonprofit, non-governmental organisation established in 2017. HUREED seeks to promote the highest standard of health and economic well-being for all LGBTI persons and sex workers through providing support, information, tackling violence, stigma and discrimination and advocating for equitable access to health, legal justice and social inclusion for LGBTI persons and sex workers in Uganda.

HUREED's overarching goal is to represent and advocate for the rights, needs and best interests of all LGBT persons and sex workers in Uganda as well as empowering the communities to recognize and work towards resolving LGBTI Persons' issues and challenges in Uganda. Throughout 2020, HUREED Initiative hosted HRAPF's legal aid centre dedicated to provision of legal aid services to LGBT persons, sex workers and PWUIDs in the rural central region.

Mbarara Rise Foundation

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

Preface

The Report on the Protection and Violation of Human Rights of Sex workers in Uganda is an annual publication of Human Rights Awareness and Promotion Forum (HRAPF) that examines the protection and violation of the rights of sex workers by state actors and non state actors every year. It has been published since 2017.

This is the 5th edition of the Report on the Protection and Violation of Human Rights of Sex workers in Uganda, and it presents cases of protection and violations of human rights of sex workers that were recorded and verified by HRAPF and AWAC in 2020.

Since its inception in 2016, this report series has tracked a trend of improved protection of the rights of sex workers and a reduction in incidents of violations of the rights of sex workers in Uganda that has remained fairly steady over the past 5 years. Although there was a general improvement in the treatment of sex workers by the Police over the past few years, 2020 differed greatly from this trend.

Sex workers as a vulnerable group in society are frequently at the receiving end of acts of violence and other violations of their human dignity. The criminalisation of sex work and the enforcement of the various criminal laws that affect sex workers all contribute to the vulnerability of sex workers to violence and human rights abuses, and compound their marginalisation in society. Unfortunately, these violations in most cases go without redress. Even though the trends as discussed in this report and the previous reports show that the Police are progressively refraining from committing human rights violations against sex workers, they are complicit in the violations suffered by sex workers committed by non-state actors whenever they fail to treat violations suffered by sex workers with the required level of seriousness.

The year 2020 was unique and presented a new challenge in the form of the COVID-19 pandemic. The Government passed a series of regulations to curb the pandemic. These regulations imposed restrictions on movement and work including: institution of a 7pm to 5.00am curfew, the banning of public transport (later reduced to restrictions on public transport) as well as a total shut down of most public sectors including schools, entertainment venues, places of worship, etc. These posed an existential threat to sex workers as the majority of them had to choose between obeying the rules instituted for the prevention of the spread of the virus and basic survival.

These Regulations, often enforced through mass arrests for the offences of “disobeying lawful orders” under section 117 and “doing a negligent act likely to

spread infection of disease” under section 171 of the Penal Code Act Cap.120, provided added cover to acts of human rights violations against sex workers by law enforcement authorities in Uganda. Sex workers were also specifically seen as one of the main vectors for COVID-19 due to their supposed liaisons with truck drivers, who were seen as the main pathway through which the virus entered the country, and so were targeted during enforcement of these Regulations.

The report also contains a section on the protection of the human rights of sex workers by different actors. This is intended to acknowledge the important role that different stakeholders, particularly within the state machinery, play in this regard, and to encourage other stakeholders in similar positions to similarly protect the rights of sex workers with whom they come into contact in future. These instances of protection are very much welcomed and commended, and the report therefore deliberately recognises the persons and institutions, especially the state actors, who fulfil their duty to respect and protect the rights of all, including sex workers.

Unfortunately, the majority of the incidents recorded are of human rights violations suffered by sex workers. These are categorised and a clear distinction is drawn between violations committed by state actors and those committed by non-state actors. The report highlights some of the cases verified, thereby giving an insight into the determination of a human rights violation and the eventual impact of the human rights violations on the individual lives of the sex workers affected. It also further scrutinises the general human rights situation for sex workers in the year 2020, and advances recommendations to various duty bearers on what can be done to protect, respect, fulfil and promote the rights of sex workers in Uganda.

The report is centred on documented human rights abuses and violations against sex workers based on their status as sex workers. Nevertheless, the report does not include all cases of such violations against sex workers in the year 2020, as it only includes cases documented by HRAPF and partner organisations within HRAPF’s legal aid network, that is, organisations hosting HRAPF legal aid centres, the Alliance of Women Advocating for Change and community paralegals trained by HRAPF and reporting cases to HRAPF. This leaves several cases unreported as the network so far does not cover the whole country. At the same time, 2020, with its unique challenges, saw a reduction in reporting of cases of violations as law firms, legal aid service providers and courts of law were either closed entirely or operating largely at reduced capacity. Additionally, the report does not include all cases reported to HRAPF and AWAC and through the regional centre at HRI, HOPE Mbale, HUREED Initiative and MRF as well as to the paralegals, containing only those cases in which violations that could be independently verified occurred.

All the cases mentioned in this report have been independently verified through reference to physical case files, interviews with the lawyers and paralegals that handled the cases and, in some cases, interviews with the victims of the violations.

This report is a tool for evidence-based advocacy for an improved human rights situation for sex workers in Uganda, providing evidence of the human violations suffered as well as the protections enjoyed by sex workers in the year under review.

We hope that this report contributes to the record of human rights violations based on involvement in sex work, and in particular, that this issue highlights the added layers of vulnerability to violence and human rights violations suffered by sex workers as a result of the restrictions imposed to curb the spread of the COVID-19 pandemic.

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Glossary

Case	A separate set of facts involving violations of law or a right included in one file. A single case may involve multiple persons and violations.
Lodge	A brothel; a place where sex workers habitually reside and conduct business
Sex worker	An adult person who consensually engages in sexual acts or otherwise provides sexual gratification in exchange for money or other material gain.
Site	An area where sex work is done on a large scale or where sex workers otherwise operate or reside in large numbers, sometimes referred to as a 'hotspot'
Outing	The act of disclosing someone's involvement in sex work without that person's consent
Violation	An act that contravenes a law that guarantees a right

Acronyms

ART	Anti-Retroviral Therapy
AWAC	Alliance of Women Advocating for Change
HRAPF	Human Rights Awareness and Promotion Forum
HRI	Health and Rights Initiative
LDU	Local Defence Unit
MRF	Mbarara Rise Foundation
PCA	The Penal Code Act, Cap 120
PEP	Post-Exposure Prophylaxis
PrEP	Pre-Exposure Prophylaxis
RDC	Resident District Commissioner
SOB	The Sexual Offences Bill, 2019
UPDF	Uganda People's Defence Force
UPF	Uganda Police Force

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Executive Summary

Introduction

The 2020 Report on the Protection and Violation of Human Rights of Sex workers in Uganda examines the protection and violation of the rights of sex workers by state actors and non-state actors in the year 2020.

The report is based on cases documented by Human Rights Awareness and Promotion Forum (HRAPF), both through the central legal aid clinic and the regional legal aid centres, the Alliance for Women Advocating for Change (AWAC) and the wide network of HRAPF trained community paralegals. HRAPF currently operates a countrywide network of legal aid service provision, with regional centres in each of the four major regions of the country, specialised legal aid desks hosted by different organisations and the network of HRAPF trained community paralegals.

The Eastern Region Legal Aid Centre is hosted by HOPE Mbale and the Northern Region legal Aid Centre is hosted by Health and Rights Initiative while Western legal aid centre is hosted by Mbarara Rise Foundation. During part of 2020, HRAPF also operated a regional legal aid centre serving marginalised persons in rural central Uganda at HUREED Initiative in Lugazi. The two specialised legal aid desks – one catering to LBQ women and the other serving Transgender persons - are currently hosted by Freedom and Roam Uganda (FARUG) and Tranz Network Uganda (TNU) respectively. All these centres also routinely register cases that affect sex workers.

The report categorises human rights violations based on the nature of the perpetrators, and then the specific rights violated. Outstanding and glaring incidents of violations are specifically pointed out to enable the reader appreciate the context against which violations of the human rights of sex workers occurred in the year 2020, the changes that the COVID-19 pandemic brought to this dynamic and the circumstances under which violations of the rights of sex workers occurred during the year.

The report also exposes the traditional, institutional and systemic factors that influence violations of the rights of sex workers in Uganda, and makes recommendations necessary for creating a more human rights affirming environment for sex workers in Uganda.

Key findings

1. There was a total of 167 verified incidents of human rights violations against sex workers in the year 2020, of which 98 were perpetrated by state actors and 69 by non-state actors.
2. Out of the 98 violations perpetrated by state actors, the Uganda Police Force accounts for 84, which is 85.7% of all violations by state actors and 50.3% of all violations recorded, thus emerging as the institution responsible for the biggest number of violations of the rights of sex workers in 2020.
3. The 98 verified violations of the human rights of sex workers by state actors arose from 34 verified cases, indicative of multiple violations arising from many of these cases. In one case, 18 human rights violations were recorded arising from a police raid on a sex workers' hotspot.
4. The 69 violations of the human rights of sex workers by non-state actors arose out of 49 verified cases, some of which involved multiple victims, particularly in cases of violence against sex workers at their hotspots.
5. The number of human rights violations recorded in 2020 was higher than those recorded in 2019, which were 139. However, the violations by state actors (98) were fewer than those recorded in 2019, which were 120, while the violations by non-state actors increased by 363.2% from 19 in 2019 to 69 in 2020.
6. The Police once again emerged as the single biggest violator of the human rights of sex workers, being responsible for 84 out of the 167 human rights violations recorded. Members of the general public were responsible for 22 violations.
7. The most violated human right of sex workers in the year 2020 was the right to personal liberty, with a total of 72 violations. Acts of physical violence were also rampant in relation to violations of human dignity, accounting for 39 of the 62 recorded violations of human dignity by non-state actors, while state actors were responsible for 15 violations of the right to dignity and freedom from cruel and inhumane treatment.
8. Sex workers continue to face unwarranted interference with their right to family, being deprived of the right to raise their children and sometimes entirely denied access to the children due to the moral prejudice around sex work. There were 12 violations of this right recorded in 2020, all by intimate partners or former intimate partners of sex workers with whom they had children.

Recommendations

To the president of Uganda

1. Move cabinet to propose legislation that decriminalises sex work by repealing sections 137 to 139 of the Penal Code Act in order to create a legal environment that offers better protection for the rights of sex workers.
2. Move Cabinet to propose the repeal of all other provisions that justify the arbitrary arrest of sex workers, in particular provisions creating petty offences such as the offences of being a common nuisance, being idle and disorderly and being a rogue and vagabond under sections 160, 167 and 168 of the Penal Code Act respectively.
3. Revise the directives on curbing the spread of COVID-19 with a view to lifting or modifying restrictions such as the curfew, which disproportionately limits the livelihood of sex workers and other marginalised persons in Uganda.
4. Veto new legislation that promotes discrimination and violence against persons that engage in sex work.
5. Withdraw all military personnel from civilian enforcement of laws and limit the interaction between the UPDF and its LDU task force with civilians in relation to law enforcement.
6. Mandate compulsory human rights training for all members of the armed forces in order to curb the rising incidents of human rights violations perpetrated by members of the armed forces/ law enforcement agencies against civilians, including sex workers.

To Parliament

1. Repeal laws that are used to justify violence against sex workers as well as deny them equal protection of the law, particularly sections 138, 139, 160, 167 and 168 of the Penal Code Act.
2. The Parliamentary Committees on Human Rights, Gender, Labour and Social Development, HIV and related matters should continue to engage sex worker-led organisations and sex workers to better understand the needs and challenges faced by sex workers, particularly those arising from the legal framework, in order to better plan for the full realisation of the equal rights and dignity of sex workers in all new legislation.

3. Undertake, through the Parliamentary Committee on Human Rights, a comprehensive human rights impact assessment of all proposed laws before the house in order to ensure that parliament does not pass any laws that propagate discrimination and marginalisation of specific sections of society, including sex workers.

To the Uganda Police Force

1. Strengthen existing mechanisms to address human rights violations committed by personnel of the Uganda Police Force. In particular, strengthen and improve the responsiveness of the Professional Standards Unit in handling reported cases of violations committed by Police Officers.
2. Provide equal protection to sex workers under the law by ensuring that violations committed against sex workers are recorded and thoroughly investigated to their logical conclusion, and the perpetrators brought to book.
3. Improve collaboration with Civil Society Organisations through the Human Rights and Legal Services Directorate on the continuous training of Police Officers on the human rights of sex workers.
4. Institute a human rights-based approach in law enforcement for all police officers across the country, and train all police officers on the same.

To the Uganda Peoples' Defence Forces

1. Mandate all UPDF personnel involved in civilian policing to go through a training course on human rights and the human rights approach to law enforcement prior to their deployment among civilians.
2. Ensure that all members of the LDU are given a comprehensive training on human rights, particularly on the duty of the state to respect, fulfil, protect, and promote the rights of all persons, including sex workers. Additionally, LDU personnel deployed to conduct civilian policing must be oriented on the provisions of the Police Act governing arrests, use of force and rights of detainees.

To the Uganda Law Reform Commission

1. Expedite proposals for the amendment of the penal/ criminal laws of Uganda with specific proposals for the repeal of sections 137, 138 and 139 of the PCA, which criminalise sex work.

2. Propose recommendations for the repeal of sections of the PCA that allow for the arbitrary arrest of sex workers, specifically section 160 on being a common nuisance, section 167 on being idle and disorderly and section 168 on being a rogue and vagabond.

To the Uganda Human Rights Commission

1. Investigate complaints of human rights violations suffered by sex workers and provide effective remedies such as compensation to the victims.
2. Document incidents of human rights violations against sex workers and include these statistics in the annual reports on the state of human rights in Uganda presented to Parliament with proposals for legal reform.
3. Strengthen partnerships with and support Civil Society Organisations that work with sex workers to monitor, document and ensure effective remedies for incidents of human rights violations suffered by sex workers.

To the Equal Opportunities Commission

1. Investigate institutionalised and systematic discrimination against sex workers on the basis of their choice of work in the various state organs, particularly in the Courts of Judicature, Local Councils and Police.
2. Train staff of the commission on human rights issues relating to sex workers so as to build their capacity in handling matters of stigmatisation and discrimination against sex workers.
3. Partner with and support Civil Society Organisations working with sex workers so as to improve the human rights situation of sex workers in Uganda.
4. Include issues that affect sex workers in the annual reports on the state of Equal Opportunities in Uganda presented to Parliament.
5. Document incidents of discrimination and marginalisation of sex workers to build a body of evidence of these violations and make the necessary recommendations to the relevant stakeholders on how to address this discrimination, marginalisation and stigmatisation.

To sex workers' organisations

1. Improve documentation of cases of human rights violations against sex workers based on their engagement in sex work and use the documented evidence to inform advocacy for an improved human rights situation for sex workers.
2. Ensure the observance of the state's mandate to promote and protect the human rights of all persons, in particular sex workers, by holding the state accountable for all reported human rights violations. This can be achieved by monitoring the state's response to human rights violations and violations of human dignity suffered by sex workers as well as documenting other cases of human rights violations for which the state is directly responsible.
3. Engage more government agencies such as the Uganda Human Rights Commission, the Equal Opportunities Commission and the Uganda Police Force's Directorates of Human Rights and Legal Services, Crime Intelligence and Investigations and Operations to train personnel of these institutions on issues that affect sex workers, their duty towards sex workers and their role in ensuring the equal protection of sex workers.
4. Develop and maintain partnerships with other organisations to monitor and document human rights violations against sex workers.

1. Introduction

1.1. Introduction

The Report on the Protection and Violation of Human Rights of Sex workers in Uganda is an annual publication first published in 2017 documenting human rights violations and violations of dignity suffered by sex workers in 2016.

The 2020 report provides a record of verified human rights violations and violations of human dignity committed against sex workers on account of their engagement in sex work for the year in review as recorded by HRAPF and its network of community paralegals and regional legal aid centres and desks, and AWAC. It also records the occasions on which the rights of sex workers were protected and vindicated by various state actors.

The Report is intended to highlight the nexus between the criminalisation of sex work, the enforcement of laws that criminalise sex work and the violations of the human rights and dignity of sex workers. It critically examines state actions that fulfil the obligation to protect and respect the rights of sex workers in the preceding year, building a body of knowledge that forms the basis for a trends analysis on the human rights situation for sex workers in Uganda over the last several years.

The report includes recommendations to different stakeholders with the mandate to ensure the observance, promotion and protection of human rights on actions they can take to better fulfil their respective mandates in favour of sex workers.

1.2. Methodology

This report provides a quantitative analysis of the reported violations of the human rights of sex workers in 2020 as reported both through the HRAPF legal aid network and AWAC. The cases forming part of this report were collected through the following process:

a) Review of case files

All HRAPF case files and those reported to AWAC concerning sex workers were reviewed, and cases whose facts disclosed human rights violations on the face of it were selected. These were further reviewed to select only those cases in which the violations were based partially, primarily or wholly on the victims' engagement in sex work. All cases recorded were also crosschecked to eliminate any duplication across the different centers

to which the cases were reported. A total of 237 cases reported by sex workers seeking legal aid in 2020 were reviewed. However, violations of human rights were verified in only 83 cases, although many of these cases had multiple incidents of human rights violations recorded.

b) Review of documentary evidence

The next step was to independently verify the documents on the file. In every case in which it could be demonstrated on the face of it that a human rights violation had been committed based in part, primarily or wholly on the victims' work as sex workers.

This documentary evidence included photographic evidence, paralegal case reports, police bond forms, police medical examination forms for victims of violence and witness statements attesting to the facts of the alleged violations. A case is considered verified if there is valid documentation on the file which serves as evidence of the alleged violation to corroborate the victim's statement. All original copies of the documents were sought and reviewed.

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

Where violations could not be verified based on the documentation on file, or where facts or outcomes of the incident were unclear in any way, victims of the violations, Community Paralegals or officers who handled the case or who had knowledge about the case was contacted and interviewed. These interviews served to provide additional information, clarify facts and flow of events and verify and corroborate the information on file.

1.3. Challenges

The greatest challenge faced in the compilation of this report has been the absence of a uniform reporting method by the contributing organisations. Both HRAPF and AWAC offer unique services to sex workers, with AWAC focusing on healthcare and economic empowerment while HRAPF focuses on legal support. They therefore focus on different aspects for documentation purposes.

Another challenge was limited reporting of cases due to the COVID-19 pandemic. Several organisations suspended their activities and could not reach out to the community of sex workers as and when required to do so. Consequently, several violations were not reported, which limited access to redress for the victims. This also meant that most cases could not be sufficiently documented for verification purposes.

Furthermore, whereas the report includes cases from all regions in which HRAPF and AWAC operate, the country as a whole is not exhaustively covered as to give an accurate picture of the national human rights situation for sex workers. The central region is for instance adequately covered and well represented within this report, although sex workers in other regions may not be adequately reached by both organisations, and may thus not be adequately represented by this report. There is urgent need to build the capacity of organisations based beyond the central region to document evidence of human rights violations across the country in order to develop a fuller picture of the human rights situation for sex workers across the country.

Whereas the capacity of community paralegals working on cases of sex workers in documenting evidence of human rights violations is improving at a steady rate, there is need to bolster their capabilities through continuous training. This is so because many of the cases excluded from the report were from community paralegals, and had not been satisfactorily documented for purposes of independent verification, thus excluding a large number of the violations suffered by sex workers from this report, since the majority of such cases are in fact reported through the network of community paralegals.

2. Changes To The Legal And Political Environment Affecting Sex Workers In Uganda

In 2020, several events unfolded following the first notification of COVID-19 as a public health crisis in Uganda.¹ By this time, COVID-19 had already disrupted normal life in much of the rest of the world and, following the notification from the Minister of Health, the government issued several regulations to different sectors in order to manage the spread of COVID-19 in Uganda. The measures in the regulations included: closure of the country's borders, institution of a 7pm to 5.00am curfew, the banning of (and later several restrictions on) public transport as well as a total shut down of most public sectors: schools, entertainment venues and places of worship, among others.²

While these restrictions greatly affected everyone throughout the country, sex workers were particularly pressed by these guidelines as the curfew time covered their usual hours of work, and the closure of bars and other venues for entertainment effectively restricted their places of work. As such, sex workers were faced with the impossible choice to disregard the imposed restrictions and therefore risk arrest (with considerable violence in the process thereof from the law enforcement authorities),³ or to obey the regulations and face starvation instead.⁴ For most sex workers, the only viable option to ensure survival during the pandemic was to flout the Regulations and risk arrest. This is because, with the strict lockdown of 2020, most sectors of the economy were completely shut down, and the state efforts to provide food relief were both disjointed and full of discrimination, with sex workers being deliberately passed over by the food distributors simply because they were sex workers.⁵

1 The Public Health (Notification of COVID - 19) Order, SI No. 45 of 2020.

2 Regulations made during the period include The Public Health (Prevention of COVID - 19) (Requirements and Conditions of Entry into Uganda) Order, 2020, SI No. 46 of 2020; The Public Health (Control of COVID-19) Regulations 2020 SI No. 52 of 2020; and The Public Health (Prohibition of Entry into Uganda) Order, 2020, SI No. 53 of 2020; The Public Health (Control of COVID - 19) (No. 2) Rules, 2020 SI No. 55 of 2020; *The Public Health (Prohibition of Entry into Uganda) (Amendment) Order*, 2020 SI No. 56 of 2020; The Public Health (Control of COVID - 19) (Amendment) Rules, 2020 SI No. 57 of 2020; The Public Health (Control of COVID - 19) (No. 2) (Amendment) Rules, 2020, SI No. 58 of 2020.

3 Human Rights Awareness and Promotion Forum 'The impact of COVID-19 related restrictions on access to justice for key populations in Uganda: A case study of LGBT people and sex workers in Kampala and Wakiso districts', 2020, 27.

4 'Coronavirus: How sex workers are surviving in Uganda and Nigeria' BBC News 14 June 2020 <https://www.bbc.com/news/av/world-africa-53013047>. (accessed 13 May 2021).

5 Alliance for Women Advocating for Change 'Rapid assessment on the impact of covid-19 among FSWS, AGYW and women living with HIV & AIDS in Uganda' 2020 <https://www.google.com/url/SSEMAKULASbb0a7a2ea4d90543400023042d1aa7fca2177e6a.pdf> (Accessed 13 May 2021).

Furthermore, the COVID-19 response remains unresponsive to the needs of sex workers, instead focusing on arresting and harassing them.⁶ The approach adopted by Uganda in curbing the COVID-19 pandemic was generally militaristic,⁷ and this was a recipe for gross human rights violations against sex workers and other poor and vulnerable persons who felt that they had no option but to violate curfew rules, travel bans and other restrictions for the sake of their survival.⁸ In addition, sex workers were discriminated against and harshly targeted in the enforcement of COVID-19 restrictions because of the widely held belief that sex workers were the major vectors for COVID-19. This resulted from the well-publicised phenomenon in the early days of the pandemic in which nearly all new cases were reported to be found among long-distance truck drivers coming into the country along the different trucking routes and border posts,⁹ as well as the president's and the Minister of Health's consistent advice to sex workers to stay away from truck drivers in order to avoid spreading COVID-19 to the public.¹⁰

Sex workers were therefore viewed with deep suspicion by both the law enforcers and the general public as the "identified source" of contagion for the general population, and targeted as such. As a matter of fact, the state sponsored a campaign aimed at advising sex workers to stay away from truck drivers.¹¹ This increased the stigmatisation and discrimination that sex workers already suffer as they became the target of misplaced anger for the COVID-19 virus in Uganda. Whereas this may be viewed as recognition of sex work by the Government, this direct address to sex workers resulted in more harm than good as it did not lead to any improvement in service provision but instead increased incidents of violence against sex workers.

In closing down lodges, brothels, and bars,¹² thousands of sex workers were essentially rendered homeless as the lodges and bars doubled as their places of residence. The closure of bars and brothels therefore legalised arrests and human rights violations for sex workers even when they did not engage in sex work at all but merely remained inside their residences, i.e., the brothels, in the guise of enforcing the guidelines about closure of bars by law enforcement.¹³ The enactment of these regulations did not take into account the peculiar vulnerabilities and realities of

6 Above.

7 Nkuubi J, 'When guns govern public health: Examining the implications of the militarised COVID-19 pandemic response for democratisation and human rights in Uganda' (2020) 20 *African Human Rights Law Journal* 607-639. (accessed 13th May 2021).

8 HRAPF, n 3 above.

9 See for instance various updates from the Ministry of Health in April 2021, accessed at <https://www.health.go.ug/covid/2020/05/18/update-on-the-covid-19-outbreak-in-uganda-7/> and <https://www.health.go.ug/covid/2020/05/05/update-on-the-covid-19-outbreak-in-uganda-6/>, (accessed 11th October 2021) See also Noah Okumu, 'Truck drivers raise fears over COVID-19 and testing in Uganda's Pakwach District', accessed at <https://blogs.lse.ac.uk/africaatlse/2020/06/28/truck-drivers-fears-covid19-testing-infection-uganda-pakwach/> (accessed 11th October 2021).

10 Noah Okumu, above.

11 n 3 and n 5 above.

12 The Public Health (Control of COVID - 19) (No.2) Rules, 2020. Rule 5 (c).

13 n 3 above, p 23-24.

sex workers in Uganda, and therefore exposed them to even more violations and arbitrary arrests.

While the COVID-19 pandemic had seized the attention of the vast majority of Ugandans, the Parliament of Uganda had the first reading of the Sexual Offences Bill 2019 (the “Bill”) and sent the Bill to the Sectoral Committee on Legal and Parliamentary Affairs for consideration. The Bill in the form sent to the Committee sought to repeal sections 138 and 139 of the Penal Code Act, thereby decriminalising sex work.¹⁴ This would have been a momentous development in the fight for equality and legal protection for sex workers. It had not been passed by the end of the year.

The major obstacle to enjoyment of the rights of sex workers in 2020, therefore, was the COVID-19 pandemic and the various restrictions passed to curb the spread of the disease. These increased the vulnerabilities of sex workers and broadened the legal framework used to violate and oppress sex workers. There were no positive developments in the legal and political environment relating to sex workers as they were in fact, quite blatantly ignored in all the legal and policy developments around curbing the spread of COVID-19.

14 The Sexual Offences Bill, 2019, No. 35 of 2015, Bills Supplement No. 19, Bills Supplement to the Uganda Gazette, No. 73, Volume CVIII, 11 December 2015. The Bill was later passed on 3rd May 2021 in a severely altered form that sought to widen criminalisation of sex work, although the President declined to assent to the Bill.

3. Incidents Of Protection Of The Human Rights Of Sex Workers In Uganda In 2020

The state is under a duty to protect the human rights of all persons without discrimination. The legal framework applicable in Uganda both domestically and internationally mandates the state to protect, respect, and uphold the human rights of all persons in the country, both for the individual and groups,¹⁵ and sex workers are no exception. Additionally, states are mandated by international law to adopt legislative and other measures to give effect to the different human rights of their citizens.¹⁶

The Constitution under Article 20(2) provides that the rights and freedoms guaranteed under Chapter 4 of the Constitution shall be respected, upheld and promoted by all organs and agencies of government and by all persons.¹⁷ In addition, the rights of all persons are to be observed and protected without distinction.¹⁸ Under the obligations to respect human rights, the state is under a duty to refrain from interfering with the enjoyment of human rights, while the duty to promote human rights requires the state to protect individuals or groups from human rights abuses/ arbitrary interference with the enjoyment of their rights and freedoms by other persons.¹⁹ The duty of states to protect human rights encompasses the duty to move the state machinery towards the realisation of human rights of all persons through enacting legislation towards their fuller realisation (and, conversely, refraining from enacting legislation that unjustifiably limits these rights) as well as providing effective remedies where the rights have been violated.²⁰

As provided under Article 20 of the 1995 Constitution, the government of Uganda, state agencies and law enforcement bodies are under a duty to protect, promote and fulfil the rights of all persons, including sex workers. To do this, the state has to adopt administrative policies and legislative measures that eliminate socio-political, cultural and economic barriers that affect sex workers and subject them to violence and discrimination. The Uganda Police Force is mandated to ensure the protection

15 See Preamble of African Charter on Human and Peoples Rights; Preamble of the International Covenant on Civil and Political Rights.

16 Article 1 African Charter on Human and Peoples Rights.

17 The Constitution of Uganda, 1995 Article 20(2).

18 Above Article 21.

19 United Nations Human Rights Office of the Commissioner 'International Human Rights Law' <https://www.ohchr.org/en/professionalinterest/pages/internationallaw.aspx> see also Social and Economic Rights Action Centre (SERAC) V Nigeria (2001) AHRLR 60 (ACHPR 2001).

20 Social and Economic Rights Action Centre (SERAC) V Nigeria (2001) AHRLR 60 (ACHPR 2001). https://www.google.com/url/achpr30_155_96_eng.pdf.

of life and property of all persons, to preserve law and order and to detect and prevent crime.²¹ In the execution of this duty, the Police as an organ of the state is under a duty to observe and protect the rights of all persons, including sex workers, as rights holders.

In execution of this mandate, the Uganda Police Force did, in some instances, work to protect the rights of sex workers in 2020. There were eight documented cases in which the rights of sex workers were protected and vindicated by the police authorities. In all these cases, the Police were instrumental in ensuring effective remedies for violations suffered by sex workers, particularly in mediating and ensuring compensation for the sex workers who had been victims of violence.

In one case, a sex worker was attacked by a neighbour who destroyed the door to her house with a panga and threatened to cut her as well over a disagreement they had after she had refused to have sex with him. She was rescued by her neighbours and the Police, who mediated the matter and ensured that she was compensated by her attacker.²² In a similar incident, a sex worker was assaulted by a neighbour who destroyed some property in her business premises. She was also rescued by her neighbours and the matter was reported at the nearby police post. The assailant was consequently arrested, formally charged and produced before courts of law for the crime committed.²³

In another case, a sex worker had a misunderstanding with her client over payment terms, and he assaulted her and damaged her phone in the process. The case was reported at a nearby police station and the sex worker's assailant was arrested for assault. The matter was mediated with the assistance of the police authorities at the station and the victim was compensated for the damage suffered.²⁴ In a similar incident, a sex worker was assaulted and raped by a client with whom they had agreed on terms for engaging in sexual intercourse. The client insisted on having sex without protection, which she refused as it was contrary to their initial agreement. She reported the matter to the police authorities in her area and the assailant was arrested for rape and detained. When she expressed an interest in pursuing mediation and being given monetary compensation to enable her seek treatment for the physical injuries she had suffered and to enrol on PrEP, the police authorities assisted in this process. Subsequently, she was duly compensated.²⁵

In the fifth case, a sex worker went to the hospital to get anti-retroviral therapy refills as well as sell merchandise at the premises of the regional referral hospital. She was assaulted by the security guard at the hospital, and she suffered serious physical

21 The Constitution of Uganda, 1995 Article 212.

22 HRAPF/VR/07/05/20.

23 HRAPF/VR/03/06/20.

24 HRAPF/VR/04/06/20.

25 HRAPF/VR/05/06/20.

damage. The matter was reported to hospital administration, who instead had the sex worker arrested for criminal trespass. The Police intervened and participated in the mediation of the matter, and eventually the hospital director agreed to compensate the victim and pay for her medical treatment for all injuries suffered at the hands of their employee.²⁶

In another case, a client of a female sex worker threw a pot full of boiling beans at her, which caused her to suffer burns over her face, neck, breasts and stomach. This arose out of a misunderstanding where the sex worker insisted on payment for services rendered, which demand the client found to be 'embarrassing him in public'. He then retaliated against the sex worker when she would not cease her demands. The matter was reported to the Police authorities in the area who arrested the assailant, charged him with assault causing grievous bodily harm and had him presented before the courts of law. He was later remanded to prison to await trial for the offence.²⁷

In the seventh case, a sex worker was attacked by a lodge owner, who tried to stab her with a broken bottle while trying to evict her from the lodge for failure to pay the daily lodge fees.²⁸ The matter was negotiated with the aid of the Police and the sex worker was compensated for the injuries she sustained in the scuffle. She was also assisted to negotiate payment and vacation terms to enable her relocate out of the lodge to another safe area in reasonable time.

In the eighth case, a sex worker lent money to a friend of hers who refused to pay her back. When she went to demand for her money, she made a scene at the friend's place of residence, and the friend responded by attacking her and beating her up which resulted in several physical injuries. She was rushed to the nearby police division headquarters from where she was referred to the police surgeon for medical treatment and her assailant arrested.²⁹

In all these cases, the Police played the role of intermediary, helping the parties negotiate, and ensuring that the sex workers who had suffered harm were compensated or the assailants at least prosecuted. However, in some instances, such as in the case of rape and the case of grievous bodily harm, compensation should have been an additional punishment and not the main remedy. This is because further punishment through the criminal justice system would act as a better deterrent to other potential assailants. Be that as it may, there is some protection for sex workers offered by the police authorities.

26 HRAPF/VR/01/07/20.

27 HRAPF/VR/05/07/20 and a telephone conversation with Winnie Nabukera, Legal Associate in charge of sex workers HRAPF, 16th March 2201.

28 HRAPF/VR/08/07/20.

29 HRAPF/VRSW/21/20.

4. Violations Of The Human Rights Of Sex Workers By State Actor In 2020

4.1. Introduction

This section details and discusses the number and the nature of human rights violations committed against sex workers in 2020. The discussion is based not only on national human rights standards but also international human rights standards.

4.2. Number of violations

In 2020, there were 98 verified human rights violations committed against sex workers by state actors. Of these, 72 were violations of the right to liberty, 15 were violations of the right to freedom from inhumane treatment, 9 were violations of the right to freedom from discrimination and there was 1 violation each of the rights to movement and to property. In comparison with previous years, this number is lower than that recorded in 2019 at 120³⁰ but higher than the 94 recorded in 2018.³¹

4.3. Nature and classification of violations

As with previous years, the violations of human rights suffered by sex workers at the hands of state actors were many and varied, with the most predominant violations being of the right to liberty and the right to dignity and freedom from cruel, inhumane and degrading treatment or punishment. This section discusses the nature of human rights violations suffered by sex workers in 2020 in detail.

4.3.1. *Violations of the right to liberty*

Article 23 of the Constitution entitles every individual to personal liberty. This right may be reasonably limited, for instance, where it is necessary to effect the arrest of a person on the reasonable suspicion that they have committed a criminal offence or are about to commit a criminal offence. However, the Constitution provides safeguards to ensure that the right is not unconstitutionally or unjustifiably limited.

30 Human Rights Awareness and Promotion Forum, 'Report on the protection and violations of the human rights of sex workers in Uganda' (2019).

31 Human Rights Awareness and Promotion Forum, 'Report on the protection and violations of the human rights of sex workers in Uganda' (2018).

These safeguards require that the person lawfully arrested and detained must be kept in a place authorised by law,³² be informed of the reason for their arrest and detention in a language they understand and be granted access to a lawyer of their choice.³³ It is also a constitutional requirement that the detainee's next of kin be informed about the arrest and allowed reasonable access to the detained person,³⁴ and that the detained person be produced before a court of law with 48 hours.³⁵

Where any of the above safeguards are not strictly complied with, then the right to personal liberty is violated. The violation can further be categorised into arbitrary arrests, where one is arrested without any reasonable cause, and prolonged detention, where one is detained for longer than the constitutionally mandated 48 hours before being produced before a court of law. The arrest and detention can also be considered arbitrary where any of the other safeguards of the right to liberty in the case of an arrest in connection with a criminal offence, such as access to legal counsel of one's choice, are disregarded. The right to liberty for sex workers in 2020 was violated solely by the Uganda Police Force through either arbitrary arrests or detaining them for longer than 48 hours without producing them before a court of law.

In 2020, there were 72 violations of the right to liberty of sex workers. Of these, 55 violations were of the right to freedom from arbitrary arrest while 17 were violations of the right to freedom from prolonged detention. This section discusses the reported incidents of these violations.

i) Freedom from arbitrary arrest

Article 9 of the Universal Declaration of Human Rights (UDHR) and Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR) emphasise that no one shall be arbitrarily deprived of their right to liberty. The arrest of a person becomes arbitrary when no legal basis can be invoked to justify the arrest,³⁶ and where the legally established procedures are not followed in carrying out the arrest.³⁷

There were 55 violations of the right to liberty arising from 10 cases of documented and verified acts of arbitrary arrest. These arrests were classified as arbitrary because they were not carried out in furtherance of a legal aim, that is, on reasonable suspicion that a crime had been committed, or for purposes of preventing the commission of a crime. Furthermore, in some cases, other safeguards such as being informed of the reason for

32 n 17 above, article 23 (2).

33 n 17 above, article 23 (3).

34 n 17 above, article 23(5).

35 n 17 above, article 23(4).

36 Office of the High Commission for Human Rights, 'Fact Sheet No. 26, The Working Group on Arbitrary Detention' https://www.google.com/url/https://www.ohchr.org_FactSheet26en.pdf&usq.

37 n 13 Article 23.

one's arrest or allowing the detained person reasonable access to a phone to be able to inform their next of kin or lawyer of the arrest were denied. Some of the incidents that stood out were:

In one case, 12 sex workers were arrested from their residential premises and detained for 18 days before being produced in court on charges of doing a negligent act likely to spread infection of disease and obstructing police officers on duty.³⁸ The sex workers were inside their rooms at the time of arrest, and there was therefore no legal basis for the arrest. A similar incident happened with a group of 18 sex workers who were rounded up from their residential premises and charged with doing a negligent act likely to spread infection of disease.³⁹

In November, a similar incident occurred in which six sex workers were arrested by military authorities in the night from their compound, taken to a police station and charged with disobeying lawful orders.⁴⁰ The presidential orders as cited required that all people stay within their compounds and homes during the curfew time. As such, arresting sex workers from their compounds could not be legally justified, nor was it within the parameters of the alleged offence. In this case, the arrest was based purely on the fact that the military officers knew that this was a shared dwelling for sex workers, and the basis of the arrest was therefore the occupation of the victims.

In another case, a sex worker was arrested from her home and charged with doing a negligent act likely to spread infection of disease. The sex worker was produced before the Magistrates Court in Kigo and remanded for over two weeks before being released on bail.⁴¹ The entire basis of the arrest was the knowledge, on the part of the arresting officers, that the place where she was found is a site for sex work.

In the fifth case, a sex worker was arrested on allegations that she was 'a prostitute' and recruiting people into prostitution.⁴² She was targeted merely because she was a suspected sex worker, and the arrest was also arbitrary because there is no such offence as 'recruiting people into prostitution' recognised in the laws of Uganda, and as such any arrest on the basis of such an alleged offence is arbitrary and unlawful.⁴³ This arrest was borne out of the institutionalised stigma and discrimination against sex workers and sex work generally.

38 HRAPF/VR/19/12/20.

39 HRAPF/VR/7/12/20.

40 HRAPF/VR/TNU/019/20.

41 HRAPF/VR/4/11/20.

42 HRAPF/VR/8/11/20.

43 n 13 Article 28 (7&12).

In another case, a sex worker who was attending a court hearing over the custody of her two months old baby was arrested at court premises for allegedly abandoning the same baby.⁴⁴ There were no grounds upon which the police based to arrest the sex worker as there was no evidence of failure to provide for the child. The custody dispute itself had been borne out of the fact that the father of the child had forcibly taken the baby away from the mother merely because he knew she was a sex worker.

In September 2020, the Police raided a brothel and arrested 5 sex workers for disobeying presidential directives by staying in the brothel. They were however later formally charged with theft on grounds that there were several thefts in the area and the sex workers were probably the thieves.⁴⁵ In another similar case, 8 sex workers were arrested from their residence at 2:00 pm in the afternoon for allegedly breaching the presidential directives. The incident occurred immediately after a thief ran in the direction of the sex workers' residence, and the police officers that were chasing him immediately rounded up all the sex workers residing in the compound, accusing them of harboring a thief.⁴⁶

In a similar case, a sex worker standing in the doorway to her room was assaulted and arrested by a police officer on patrol.⁴⁷ The reason for the arrest was not clearly explained and neither was there any reasonable suspicion that the sex worker had committed a crime or was about to commit a crime. She was arrested merely because she was standing at the door of a room in a brothel, where she was residing at the time. Finally, towards the end of the strict lockdown in July, two sex workers were arrested as they were standing along the road, and they were charged with doing a negligent act likely to spread infection of disease.⁴⁸

In the majority of these arrests, the victims were asked if they have licenses to engage in sex work, or if the president had permitted them to live in brothels during the COVID-19 period, although not a single one was ever actually charged with prostitution. All these arrests were therefore arbitrary in as far as they sought not to enforce the law but to target and harass sex workers.

ii) Prolonged detention

According to Article 23(4) of the 1995 Constitution of Uganda, a person arrested on reasonable suspicion that they have committed or are about

44 HRAPF/VR/09/09/20.

45 HRAPF/VR/04/09/20.

46 HRAPF/VR/17/07/20.

47 HRAPF/VR/07/06/20.

48 HRAPF/VR/34/07/20.

to commit a crime shall be produced before the court within 48 hours if not released earlier. The use of the term 'shall' means that this provision is mandatory and must be complied with. As such, even where the initial arrest maybe a justifiable limitation of the right to liberty, detaining the person so arrested beyond 48 hours without production before a court violates the right to liberty of the person arrested.

There were 3 documented and verified cases of prolonged detention involving 17 sex workers in which the persons arrested were detained beyond the constitutionally mandated 48 hours in 2020.

In one case, 12 sex workers were arrested from their residence on allegations of doing a negligent act likely to spread infection of disease and obstructing police officers on duty. The sex workers were detained for 18 days before they were produced in court.⁴⁹

In the second case, two sex workers were arrested in connection to a private party they had organised in Kireka, a suburb of Kampala. The police raided the party and arrested the two sex workers and a group of other persons at the party, most of whom were later released at police. The two were however detained from the 25th of November 2020 till the 3rd of December 2020, being presented before court 8 days after their arrest.⁵⁰

In the third case, three sex workers were arrested from their residences from where they were chewing mairunji/ mira/ khat. The sex workers were charged with disobeying lawful orders and detained for 6 days before being released on police bond.⁵¹

In all three incidents, the right to personal liberty was violated as the sex workers were detained beyond the constitutional 48 hours.

4.3.2. *The right to equality and freedom from discrimination*

The right to equality and freedom from discrimination is guaranteed under Article 21 of the Constitution of Uganda, 1995. The right extends to equal protection under the law without any regard to the social-economic standing of the person. It is the state's obligation to ensure that there is equal enjoyment of rights without discrimination, and to put an end to discriminatory laws, policies, practices and actions, both in the public and the private sector, which impairs the equal enjoyment of rights.⁵²

49 HRAPF/VR/19/12/20.

50 HRAPF/VR/9/12/20.

51 HRAPF/VR/14/06/20.

52 Committee on Civil and Political Rights (CCPR), 'General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women)' CCPR/C/21/Rev.1/Add.10. <https://www.google.com/url/www.refworld.org%2Fpdfid%2F45139c9b4.pdf>.

In 2020, there were 9 verified violations of the right to equality and freedom from discrimination committed against sex workers in Uganda. In all these incidents, sex workers were specifically targeted for negative and detrimental treatment based purely on their choice of profession, and thereby denied equal protection of the law. Some of the cases are as follows:

In one of the recorded cases, a sex worker was beaten by Local Defence Unit personnel after refusing to have sex with them, and also threatened with death if any report about the incident was made to the Police. She reported the matter to the police authorities in her area anyway, who refused to register the case.⁵³ The police also refused on two separate occasions to record cases of violations suffered and reported by sex workers.⁵⁴ In these cases, the victims reported being sexually violated by Local Council Leaders and LDU officials who raped or attempted to rape them. On both occasions, the Police ignored and refused to record the cases against the Local Council leaders and only agreed to do so after the intervention of lawyers from HRAPF. In these circumstances, the Police denied sex workers equal protection of the law as Ugandans.

In another case, a sex worker was robbed of her household property, and when she reported the matter to the Police, the assigned investigating officer started making unwanted sexual advances towards her. She declined these advances and in turn, the Investigating Officer decided to release the suspect arrested and abandon the case. The matter was reported to the Officer in Charge of Criminal Investigations at the station, who advised her to just let it go as this was a normal occurrence.⁵⁵ In all these cases, the Police denied sex workers equal protection of the law in violation of their right to equality and freedom from discrimination. The act of requiring a sex worker to offer sex in return for protection of the law for instance is not only discriminatory but dehumanising.

In two cases, the Police and Prison authorities refused to inform sex workers of the progress of their cases when they specifically requested for this information, to which they are entitled. In one of these cases, a sex worker had her boyfriend arrested for abusing their daughter. He was released by the Prison authorities on the claim that the sex worker had withdrawn the case, which was not true, and when she sought clarity on what had happened in the form of release orders from the court, she was turned away.⁵⁶ In the second case, a sex worker's child was kidnaped and murdered. The police arrested a suspect, who was later released without any explanation to the complainant, and all attempts by her to obtain an explanation for the quick release of the only suspect fell on deaf ears.⁵⁷ In both cases, the sex workers did not enjoy equal protection of the law as guaranteed under Article 21 (1) of the Constitution.

53 HRAPF/VR/08/01/20.

54 HRAPF/VR/03/09/20; HRAPF/VR/11/10/20 and HRAPF/VR/12/10/20.

55 HRAPF/VR/03/07/20.

56 HRAPF/VR/08/12/20.

57 HRAPF/VR/11/08/20.

In another recorded case, a sex worker peer leader was summoned by the Resident District Commissioner (RDC), Police and the District COVID-19 task force to explain how she came by food meant for COVID-19 relief to distribute to fellow sex workers.⁵⁸ She was threatened with criminal sanctions following a media story that reported the fact that the sex workers had received COVID-19 relief food, which the district authorities apparently considered ‘embarrassing.’ It is worth noting that this was hardly surprising as, in the context of COVID-19 relief aid, many sex workers were denied food relief merely because they were sex workers,⁵⁹ and some had to resort to tactics such as blackmailing district authorities just to access relief food supplies.⁶⁰

In two cases, sex workers were evicted and arrested on grounds of being ‘bad mannered’ and for ‘recruiting other people into sex work’ respectively.⁶¹ In the first instance, the Local Council Chairperson evicted a sex worker peer leader and community paralegal from her home and village on the grounds that she was bad mannered and was giving support to other sex workers by offering legal advice and medical referral and counselling services to fellow sex workers. In the second case, the Police arrested a sex worker on grounds of recruiting other people into sex work, which is not a crime recognised under law. Both of these actions were borne out of prejudice towards sex workers and were therefore discriminatory.

4.3.3. Violation of the right to dignity and freedom from inhuman treatment

Article 24 of the Constitution provides that no one shall be subjected to any form of torture or cruel, inhumane or degrading treatment.⁶² This is a right that cannot be derogated from no matter the circumstances prevailing.⁶³ Sex workers in Uganda are often subjected to various forms of inhumane treatment, particularly when they come into contact with the law or law enforcement officers. Inhumane treatment is ill-treatment, which although it does not amount to torture, causes physical or mental pain and suffering to an individual, is perpetrated by or with the permission or acquiescence of a state official and is perpetrated for the purpose of obtaining information or a confession from the victim, punishing the victim for any act or omission or to intimidate or coerce the victim into doing or refraining from doing anything.⁶⁴

58 HRAPF/VR/02/05/20.

59 ‘Sex workers abandoned as Covid-19 crackdowns undo Africa’s HIV efforts’ The Daily Monitor 7 June 2020. <https://www.monitor.co.ug/uganda/magazines/people-power/sex-workers-abandoned-as-covid-19-crackdowns-undo-africa-s-hiv-efforts-1893584> (accessed 14th December 2020).

60 The Independent, “Gulu Leaders bow to food demands by commercial sex workers” May 13th 2020; <https://www.independent.co.ug/gulu-leaders-bow-to-food-demands-by-commercial-sex-workers/> (accessed 14th December 2020).

61 HRAPF/VR/08/11/20 and HRAPF/VR/10/06/20.

62 Article 24 1995 Constitution of Uganda.

63 n 17, article 44(a).

64 Section 7, Prevention and Prohibition of Torture Act, 2012.

In 2020, there were 15 recorded violations of the right freedom from inhuman treatment of sex workers arising from 10 cases. The instances that stood out are discussed in detail in this section.

In one of the recorded cases, a sex worker was brutally assaulted and sexually violated after she refused to have sex with a local council leader⁶⁵ while the same thing happened to another sex worker when she rejected the advances of an LDU officer.⁶⁶ In another case, an LDU official beat up a sex worker when she refused to have sex with him and threatened to shoot and kill her if she reported the incident. When she did try to report the matter to the police authorities in her area, they declined to register the case or take any action until they were forced by lawyers to do so.⁶⁷

It is a constitutional requirement that persons arrested should be treated humanely and with dignity. As such, beating suspects during arrest amounts to cruel and inhumane treatment. However, it is not uncommon for sex workers to be physically and verbally insulted and humiliated by police officers in the process of arrest. There were four such recorded incidents in 2020.⁶⁸

In one case, three sex workers were arrested from their residence for disobeying lawful orders by refusing to leave the brothels where they reside, and one of them was brutally assaulted during the arrest. They were later released without charge.⁶⁹ In another case, a sex worker was arrested when she was found standing in the doorway to her room after curfew time. When she saw the arresting officer coming towards her, she tried to close the door but he hit her hand and fingers, causing wounds and abrasions.⁷⁰ This arrest was not only arbitrary as there was no offence committed but the acts of the Police officer in hitting her amounted to torture.

In another case, a sex worker was walking home when she was assaulted by a senior police officer from the area and in the scuffle, she lost her phone.⁷¹ In a similar case, a sex worker was on her way back home when she saw a patrol of LDU officials and tried to take a different route to avoid them. They however followed her and started firing shots at her to ensure she stops. The end result was a shot in the foot.⁷² This was cruel and inhumane treatment, and there was no justification for the degree of force used by the LDU officials in this case as the sex worker was unarmed and walking alone.

65 HRAPF/VR/11/10/20.

66 HRAPF/VR/12/10/20.

67 HRAPF/VR/08/01/20.

68 HRAPF/VR/15/06/20, HRAPF/VR/04/11/20 and HRAPF/VR/02/11/20.

69 Above (SW/15/06/20)

70 HRAPF/VR/07/06/20.

71 HRAPF/VR/06/06/20.

72 HRAPF/VR/28/07/20.

In another case, a sex worker had misunderstandings with her live-in boyfriend. When they called a police officer to help mediate the dispute, the officer teamed up with the boyfriend to assault her instead.⁷³ The Police officer did not only fail to offer protection to the sex worker but also joined in the assault, thus subjecting her to discrimination and cruel and inhumane treatment. In cases of domestic violence, the Police are under a duty to offer protection to the victim,⁷⁴ which this officer failed to perform. Unfortunately, in two of the above cited cases, the sex workers opted not to report and pursue charges against the LDU and Police officers involved for fear of further harm.

In yet another case, five sex workers were attacked by the Police while in their hotspots along Rubaga road. They were beaten by the Police and detained at a nearby police post. They were later transferred to the next police station for further investigations where they were forced to pay UGX 100,000 (One Hundred Thousand Ugandan shillings) each in order to be released from detention.⁷⁵ They all sustained injuries from the beating.

4.3.4. *Violation of the right to property*

In the arrest of sex workers, the Police often take possession of the sex workers' money and other personal items which are not returned upon release in violation of their right to property. In one such case, during a raid on the residence of sex workers, two police officers known to them by face took a total of Ugx 2,150,000 (Uganda Shillings Two Million One Hundred Fifty Thousand) from their residence and refused to return the money even after they made several demands and reported the issue to the officer in charge of that police station.⁷⁶

4.3.5. *Violation of the right to freedom of movement*

The Constitution protects one's right to move freely throughout Uganda and to reside and settle in any part of Uganda.⁷⁷ In fact, the Supreme Court has found the practice of evicting/ banishing someone from a village of residence to be unlawful and unconstitutional, and to constitute an infringement on that person's rights.⁷⁸ However, it is becoming increasingly common practice for local area leaders to attempt to evict persons they consider undesirable from their localities, including sex workers.

73 HRAPF/VR/01/11/20.

74 The Domestic Violence Act, 2010 Section 7.

75 HRAPF/VRSW/05/2020.

76 HRAPF/VR/18/07/20.

77 Article 29(2)(a).

78 Attorney General v Salvatori Abuki, Constitutional Appeal 1998/1 [1999] UGSC 7.

In one case from 2020, the local area leadership attempted to force a sex worker peer leader and community paralegal to leave the village because, in their opinion, she had 'bad manners' and was encouraging other girls to be 'bad mannered.' She was ultimately forced to relocate to a different village after the local area leaders made it impossible for her to remain peacefully in her residence and prevailed upon the landlord to evict her.⁷⁹ This was a violation of her right to freedom of movement as a Ugandan.

4.4. State perpetrators of violations against sex workers

The human rights violations presented in this section were all perpetrated by persons in the employ of the state. It is important to note that, for female sex workers, the protection of law enforcers, local area leaders and other duty bearers within the state is not always guaranteed, and that they are more likely than not to face violations of their rights instead at the hands of these actors. In the year 2020, the recorded violations of the human rights of sex workers by state actors/institutions were perpetrated by officers of the Uganda Police Force, the Uganda People's Defence Forces and the Local Defence Unit, the Uganda Prisons Services and local government authorities. In 2020, there were 98 verified incidents of human rights violations committed against sex workers by actors and institutions within the state. This section discusses incidents of violations by various actors in the system.

4.4.1. The Uganda Police Force

The Police committed 84 human rights violations against sex workers during 2020. The majority of the violations arose from the violation of the right to liberty with, with the police committing 66 out of 72 recorded violations of this right. The Police also committed 11 violations of the right to freedom from degrading treatment by assaulting and beating sex workers during arrests,⁸⁰ and violated the right to equality and freedom from discrimination by refusing to record cases reported by sex workers and aiding in the discrimination of sex workers in six incidents.⁸¹ The Police further violated the right to property by forcefully taking money from sex workers during a police operation and refusing to rit afterwards.⁸²

4.4.2. Violations by the Uganda Peoples Defence Forces (UPDF) and the Local Defence Unit (LDU)

The UPDF together with the Local Defence Unit (LDUs) committed 9 violations against sex workers. 6 of these were violations of the right to liberty through arbitrary arrests of 6 sex workers from their residences.⁸³ In 3 incidents, members

79 HRAPF/VR/08/11/20.

80 See n 66 and 67 above.

81 See n 51 to 53.

82 n 77 above.

83 See n 37 above.

of the LDU violated the right to freedom from inhuman treatment by beating and assaulting, sexually in one case, sex workers they came into contact with.⁸⁴

4.4.3. *Violations by Local Government Authorities*

Local government officials violated the rights of sex workers in 4 incidents in 2020. In the first incident, local council leaders forced the eviction of a sex worker peer leader for allegedly being bad mannered,⁸⁵ thus violating her right to freedom from discrimination and freedom of movement,⁸⁶ and in a similar case, a sex worker peer leader was summoned by local government authorities and threatened with criminal sanctions after she had managed to secure food relief aid from the district COVID-19 taskforce and publicly distributed to fellow sex workers.⁸⁷ In another case, a local council official sexually assaulted a sex worker after she refused to offer her services to him.⁸⁸

4.4.4. *Violations by the Uganda Prisons Service*

In 2020, 1 case was documented in which the Uganda Prisons Service violated the rights of sex workers. This case involved a violation of the right to equality and freedom from discrimination where a sex worker was denied information about the whereabouts of a suspect in her case that had been remanded to a prison (and later released without apparent basis by prison authorities).⁸⁹

4.5. Conclusion

The COVID-19 pandemic occasioned a multitude of human rights violations against sex workers. The right to liberty was the most violated, with the COVID-19 regulations adding another layer of oppressive laws used against sex workers and encouraging arbitrary arrests of sex workers that resulted in harassment and extortion. In this matter therefore, law enforcement authorities have continued to target sex workers for harassment, further perpetuating and institutionalising the marginalisation of sex workers in Uganda. In addition, the denial of equal protection of the law to sex workers continues to challenge access to justice for sex workers across the country and to affect their ability to seek justice in the first place.

84 See n 64 and 69 above.

85 n 61 above.

86 See n 80 above.

87 See n 58 above.

88 See n 65 above.

89 See n 56 above.

5. Cases Of Violations Of Human Rights Against Sex Workers By Non State Actors During 2020

5.1. Introduction

This section sets out the violations of human rights perpetrated by non-state actors against sex workers based on their work during 2020. Although the primary responsibility to respect, fulfil and protect human rights lies on the state, non-state actors can also violate human rights as the obligation to respect, uphold and promote human rights under Article 20 of the Constitution is imposed in equal measure on “all persons”. Where the state does not prevent the occurrence of these violations, does not fully investigate reported incidents or fails to provide effective remedies to victims of violations by non-state actors, the state is then complicit in those violations for failure to fulfil its obligation to protect human rights. National, regional and international laws place a duty on the state to protect the human rights of all persons in the country.⁹⁰ As such, the state must ensure that there are effective laws to prevent non-state actors from infringing on the rights of others, and that there are avenues through which persons whose rights have been violated, whether by state or non-state actors, can obtain effective remedies.⁹¹

This section covers human rights violations against sex workers by non-state actors during 2020. A total of 69 violations were recorded, arising out of 49 cases. In many of these violations, the state is also culpable since it failed in its obligation to protect sex workers against violations, including failing to provide effective remedies. The majority of the cases however remained unreported and thereby unresolved due to the sex workers’ reluctance of reporting the matters due to the lack of effective remedies on the part of law enforcement as well as fear of further victimisation.

5.2. Nature of human rights violations against sex workers

There were 69 violations of the human rights of sex workers in 2020 that were committed by non-state actors. All the violations in this section were committed by family members, clients and friends of sex workers and other members of the general community. This section covers the violations committed by non-state actors in detail.

90 The preamble of the African Charter on Human and Peoples’ Rights; article 6 (d) of the Treaty for the Establishment of the East African Community; Preamble of the International Covenant on Civil and Political Rights (1996).

91 Article 2(3)(a) ICCPR.

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

In 2020, 14 acts of discrimination against sex workers perpetrated by non-state actors were recorded,⁹² and these include evictions and denial access to or custody of one's children purely based on choice of work.

In one case, a transgender sex worker was forced to leave the family home and seek a safer place to live after an uncle assaulted the sex worker for 'behaving like a girl'.⁹³ In another case, a transgender sex worker was outed and evicted when a neighbour barged into her room, found her having sex with a man and raised an alarm, causing the neighbours to demand that the landlord immediately evict her.⁹⁴ This was not only discriminatory but a breach of the sex workers' privacy by the neighbour.

In another case, a client was denied access to her 8 year old daughter because the father of the child found out that she was a sex worker, thus violating her rights to family (to raise her own child) as well as freedom from discrimination.⁹⁵ This is a common occurrence for sex workers as they are often viewed even by their own immediate family as unfit to raise their own children, and are forcefully denied custody of, and sometimes even access to, their children as soon as their engagement in sex work is discovered, which decision is discriminatory as it is based purely on their choice of profession. In addition to the case cited above, this happened in 11 other cases during the year.⁹⁶

5.2.2. Violations of the right to freedom from inhuman treatment

There were 39 violations of this right in 2020 arising from 33 verified cases, and they were all actions of violence, including physical assaults, sexual assaults and threats of violence, all of which amount cruel and inhuman treatment.⁹⁷ Often, sex workers experience violence from clients who seek to purchase their services because they either do not want to pay for the services rendered, fail to agree on the amount payable for the services, want to have unprotected sex with them against their will or simply threaten to cause harm to them in order to rob them of money and other properties. The cases that stood out in this regard are discussed below.

In one recorded case, a sex worker was approached by two men who wished to purchase her services, but they failed to agree on the payment terms. She therefore refused to offer her services, and the two then descended on her and beat her up.⁹⁸

92 See n 99 above Article 21.

93 HRAPF/VR/03/01/20.

94 HRAPF/VR/02/12/20.

95 HRAPF/VR/01/08/20.

96 HRAPF/VR/01/01/20; HRAPF/VR/13/07/20; HRAPF/VR/07/08/20; HRAPF/VR/30/07/20; HRAPF/VR/32/07/20; HRAPF/VR/28/08/20; HRAPF/VR/02/09/20; HRAPF/VR/02/02/20; HRAPF/VR/08/02/20; HRAPF/VR/17/08/20; HRAPF/VR/17/08/20.

97 n 13 above Article 24.

98 HRAPF/VR/11/09/20.

In another case, three sex workers were constantly threatened by a man they knew from their neighbourhood who would go to their lodge on different occasions with a knife, yelling obscenities at them and threatening to cut them up.⁹⁹ In another case, a sex worker was assaulted by a client after she demanded payment for services rendered.¹⁰⁰ In one extreme case, a sex worker lost her life probably at the hands of the client.¹⁰¹ In this case, two sex workers got clients with whom they returned to their respective rooms. However, when one of the sex workers moved to check on her colleague about an hour later, she found her dead and the client nowhere to be seen.¹⁰²

Sex workers also routinely experience violence from clients who demand to have unprotected sex, and the refusal by the sex workers to give in this risky behaviour is often met by violence from the clients. In one case, a sex worker got a client and went to the client's home, where the client demanded to have unprotected sex. Upon refusal, she was brutally beaten and raped by the client.¹⁰³ In another case, a sex worker was continuously insulted, harassed and threatened with harm by a client with whom she had stopped having unprotected sex.¹⁰⁴ This is representative of the difficulty sex workers have in negotiating safe sex with their clients.

In addition, sex workers often face violence from people within the general community where they reside. In one such case, a sex worker was threatened and later attacked by a man who cut through the sex worker's door with a panga and threatened to cut her too.¹⁰⁵ In another case, a sex worker selling merchandise from the hospital where she collects ART refills for her and the other sex workers for whom she is a peer leader was beaten by a hospital security guard, sustaining injuries including temporary loss of hearing in one ear.¹⁰⁶ In another case, a sex worker was assaulted with a broken bottle by the lodge owner where she used to work in a bid to evict her.¹⁰⁷ The lodge owner was apparently frustrated by the failure of the sex worker to pay the nightly lodge fees for several days.

Sex workers are also particularly vulnerable to various forms of violence in their domestic relationships, particularly once the parties involved become aware of the victim's involvement in sex work. In 2020, there were 3 recorded cases of domestic violence suffered by sex workers. In one case, a sex worker was assaulted and injured by the partner after she returned home late from visiting a friend.¹⁰⁸ In another case, a sex worker was assaulted by her live-in boyfriend after he found out

99 HRAPF/VR/07/09/20.

100 See n 24 above.

101 HRAPF/VR/38/07/20.

102 Phone interview with Winnie Nabukera Legal Associate in charge of sex workers HRAPF.

103 See n 25 above.

104 HRAPF/VR/16/06/20.

105 n 19 above.

106 HRAPF/VR/01/07/20.

107 HRAPF/VR/08/07/20.

108 HRAPF/VR/05/05/20.

that she is a sex worker.¹⁰⁹ In one case, the power of law enforcement spilled over into the private life of a sex worker when a police officer aided boyfriend in beating her up when he had been called on to help mediate a dispute between the two of them.¹¹⁰ The matter was reported to police and, at the time of publication of this report, it was still pending with the police. The delayed justice is symbolic of the unwillingness of the state through the Police to urgently act on matters that involve a sex worker.

Sex workers are rarely protected under the law and the enforcement of these laws often targets and strips sex workers of their dignity and freedoms.¹¹¹ This lack of protection emboldens members of society who attack sex workers with impunity, mostly as such attacks are rarely acted upon by the police authorities even when reported.

There were 9 recorded cases of people attacking sex workers without any action from the Police to afford the sex workers redress in 2020.¹¹² In one such case, a man broke into the house of a sex worker, assaulted, raped and robbed her and then attempted to strangle her afterwards.¹¹³ Even though he was known to her by face and she reported the incident to the police immediately afterwards, no efforts were made to arrest him. In another case, a sex worker was assaulted and raped by a man known to her as he was a previous client.¹¹⁴ The matter was reported to the Police, who told the sex worker that they could not arrest someone they did not know, and advised her to report to Police the next time she saw the man,¹¹⁵ essentially shifting the burden of investigating the matter, looking for the suspect and arresting him onto the complainant.

In another case, a sex worker was forced to sleep on the veranda of a building near her workplace after she realised that it was late and she would not be able to make it home before the curfew. She was beaten and almost strangled by a man she did not know,¹¹⁶ and although the matter was reported to the police, there was no tangible intervention to provide redress to her on the part of the police. In yet another case, a sex worker was attacked at a lodge where she worked by two men she could identify by face.¹¹⁷ She however chose not to report the matter at all, an understandable reaction on her part as the fear of further harm befalling sex

109 HRAPF/VR/13/09/20 and HRAPF/VR/05/10/20.

110 HRAPF/VR/01/11/20.

111 Human Rights Awareness and Promotion Forum: 'Legal Regulation of Sex Work in Uganda: Exploring the Current Trends and Their Impact on the Human Rights of Sex Workers' 2016. <https://www.hrpf.org/index.php/resources/research-reports>.

112 HRAPF/VR/08/08/20; HRAPF/VR/19/08/20; HRAPF/VR/05/12/20; HRAPF/VR/10/09/20; HRAPF/VR/08/01/20; HRAPF/VR/07/05/20; HRAPF/VR/01/07/20; HRAPF/VR/13/09/20; HRAPF/VR/12/03/20.

113 HRAPF/VR/08/08/20.

114 HRAPF/VR/19/08/20.

115 See n 85 above.

116 HRAPF/05/12/20.

117 HRAPF/VR/10/09/20.

workers who report such matters to the police, the consistently biggest violator of sex workers' rights, is widely prevalent among the community of sex workers.¹¹⁸

In one other case, a sex worker was attacked by a mob on suspicion of having committed an offence.¹¹⁹ She was attacked by a mob because they suspected that she had kidnapped and possibly killed a 10 year old child, even when there was no basis for this belief, and the police responded by arresting her, allegedly for her own protection, although none of the people who attacked her were ever brought to book.

5.2.3. *Violation of the right to family*

Article 31(4) of the Constitution gives the right to both parents to raise their children. Ordinarily, this is not a matter of contention for parents merely based on the work that they do. However, for sex workers, coming out or being outed as a sex worker often means that they lose the right to raise their children as they are generally not considered fit and proper persons to raise their children, with this right being denied them on moralistic grounds, in violation of their constitutional right to family. In 2020, there were 12 such violations committed against sex workers, mostly committed by the partners with whom they had the children.¹²⁰

In one case, a sex worker was denied access to her two children by the partner on the basis that she was a sex worker.¹²¹ This denial was not backed by any legal order taking away parental rights of the sex worker but based on moralistic grounds that the sex worker would 'mislead' or 'spoil' the children. In another case, a sex worker had voluntarily let the child go to the father, but when she tried to visit the child, the father told her that the child had died in a bid to deny her access to the child.¹²² In yet another case, a sex worker was denied access to her eight-year-old daughter by the father on grounds that she is a sex worker. She attempted to negotiate with him for joint custody of the child but the partner was adamant, prompting her to file custody proceedings.¹²³ In another rather more extreme case, a sex worker's 2 months old baby was taken forcibly from her arms by the father when she went to him to seek monetary support for the baby's medication and, when she tried to report the matter by filing a civil suit for custody, he had her arrested for child abandonment.¹²⁴

5.2.4. *Violations of the right to privacy*

There was one recorded case of the infringement of the privacy of a sex worker. In this case, a sex worker was harassed by the adult children of her intimate partner

118 See n 27 above.

119 HRAPF/VR/14/02/20.

120 See n 97, 98 above.

121 HRAPF/VR/01/01/20.

122 HRAPF/VR/13/07/20.

123 HRAPF/VR/01/08/20.

124 HRAPF/VR/16/08/20.

who, upon discovering that she was a sex worker, threatened her, used Facebook and other social media channels to harass and defame her and then later posted her nude photos online, all in a bid to end the relationship between their father and a known sex worker. This was not only discriminatory and a breach of her privacy but was also criminal, although the victim chose not to make a criminal complaint for fear of further embarrassment.¹²⁵

5.2.5. Violations of the right to property

The Constitution of the Republic of Uganda protects, in Article 26, the right of every person to own property, and to not be arbitrarily deprived of the same. The legal regime on compulsory acquisition of property focuses entirely on land,¹²⁶ but even then specifically provides for criteria under which a person's property can be compulsorily acquired, which must be in accordance with a governing law and after fair and adequate compensation has been provided.

In 2020, however, there were three cases in which sex workers were deprived of their property without just cause. In the first case, a sex worker left her place of work and travelled to Kampala for a family emergency, where she stayed for about two weeks. When she returned to her workplace, she found that her landlord, who knew where she had gone, had had one of her friends open the house for him and taken several of her properties from the house in lieu of rent without any notice to her.¹²⁷ In another case, a sex worker opened a bar and left her boyfriend in charge of it. When she returned, she found that he had taken over the business and threatened to kill her if she tried to demand for the business.¹²⁸

In the final case, a client purchased land and built a house thereon, and entrusted her mother with it while she went away for work. When she returned, she found that her mother had a boyfriend with whom they were living in her house and not only did they refuse to hand over ownership of the house, they went so far as to even deny her access to the property.¹²⁹

In all these cases, the victims reported the matters to the police but were not assisted until the cases were taken over by lawyers to demand for enforcement of the rights of the victims in each case.

5.3. Non-state perpetrators of violations against sex workers in 2020

In 2020, there was a total of 69 violations of human dignity arising out of 49 cases

125 HRAPF/VR/06/12/20.

126 The Land Acquisition Act, Cap 226, Laws of Uganda.

127 HRAPF/VR/14/01/20.

128 HRAPF/VR/10/03/20.

129 HRAPF/VR/13/03/20.

committed against sex workers by non-state actors. Out of these, 18 violations were committed by clients of sex workers, 22 were committed by members of the general public, 5 by family members of the sex workers, 4 by fellow sex workers, 2 by property owners (a lodge owner and a sex worker's landlord) and 18 by intimate partners of sex workers.

5.3.1. *Violations by clients of sex workers*

There were 18 human rights violations committed by clients of sex workers arising from 11 separate cases in 2020. In all these cases, the clients committed acts of violence against the sex workers by assaulting them, threatening them with violence and, in one extreme case, killing the sex worker. Unfortunately, in all these cases, there were no effective remedies by the state, making the state complicit in these violations.

5.3.2. *Violations by members of the general public*

Members of the general public committed a total of 22 violations of human dignity against sex workers in 2020. These violations were acts of violence against sex workers, including rape and other assaults against sex workers,¹³⁰ and discrimination against sex workers. In the majority of these cases, the sex workers were targeted by their assailants primarily because of their engagement in sex work.

5.3.3. *Violations by family members of sex workers*

There were 4 violations of human dignity committed against sex workers by family members in 2020. These included acts of violence,¹³¹ deprivation of property¹³² and 1 act of discrimination against sex workers.¹³³

5.3.4. *Violations by intimate partners of sex workers*

The intimate partners of sex workers were responsible for 18 violations of the rights of sex workers in the year 2020. These included 12 violations of the right to family by denying sex workers custody of/ access to their children,¹³⁴ perpetrated by ex-intimate partners of sex workers, as well as 1 violation of the right to property¹³⁵ and 5 acts of violence/ violations of the right to dignity and freedom from cruel and inhumane treatment.¹³⁶

130 See n 100, 101, 103 and 106 above.

131 HRAPF/VR/06/12/20; HRAPF/VR/03/01/20.

132 HRAPF/VR/13/03/20.

133 HRAPF/VR/03/01/20.

134 See n 98 above.

135 HRAPF/VR/10/03/20.

136 HRAPF/VR/10/03/20; HRAPF/VR/05/12/20; HRAPF/VR/05/10/20; HRAPF/VR/13/09/20; HRAPF/VR/05/05/20.

5.3.5. *Violations by other sex workers*

Sex workers are also often perpetrators of violations of human rights against other sex workers. This usually happens through violent confrontations amongst sex workers, deprivation of property as well as breaches of privacy of fellow sex workers. In 2020 there were 5 such violations perpetrated by sex workers against their colleagues. These violations all arose from acts of violence and were violations of the right to freedom from cruel treatment.¹³⁷

5.3.6. *Violations by property owners*

There were 2 violations committed against sex workers by property owners in 2020. In one case, the sex worker was assaulted by a lodge owner with a deadly object in a bid to evict the sex worker injuring the sex worker in the process,¹³⁸ while in the other, a sex worker's property was unlawfully alienated without notice by the landlord over a rental dispute.¹³⁹

5.4. Conclusion

During 2020 there was a sharp increase in the violations of violations suffered by sex workers at the hands of non-state actors. This sharp increase is partially due to the COVID-19 pandemic and the attendant Regulations to curb its spread, particularly the 'stay at home' directives. These Regulations put sex workers into continuous contact with a society that had a lot of time on its hands to focus on sex workers' work.

137 See n 86 above, HRAPF/VR/22/10/20.

138 See n 111 above.

139 HRAPF/VR/14/01/20.

6. Analysis of Trends In Human Rights Violations Against Sex Workers 2020

6.1. Introduction

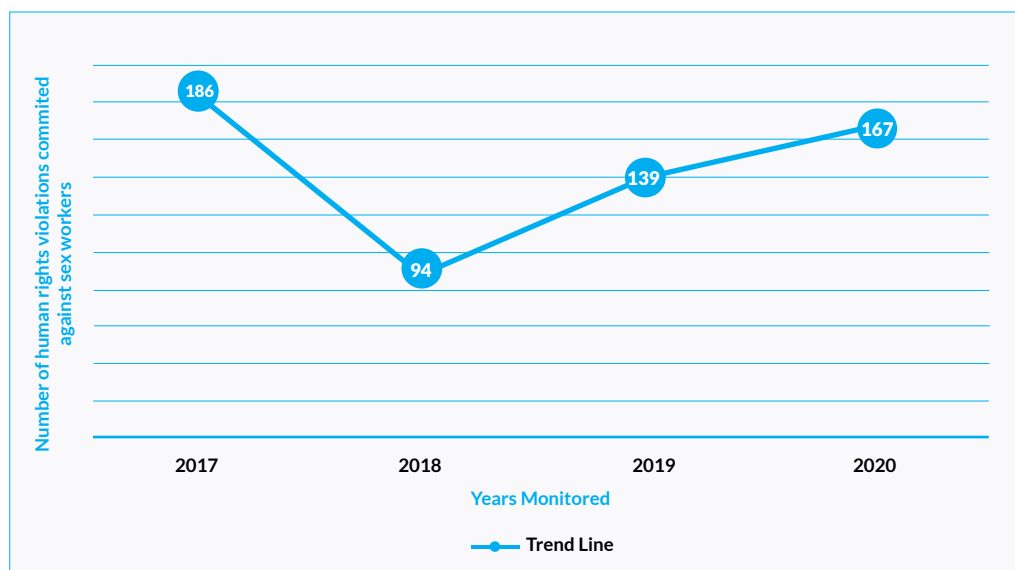
There were 237 cases reported to HRAPF and AWAC out of which 167 verified violations of human rights against sex workers were identified, 98 perpetrated by state actors and 69 by non-state actors. Only cases in which violations could be verified with sufficient information on the files were included in the report, but this is by no means the total number of violations recorded as some were simply excluded because they could not be verified independently. This section analyses the trends of violations of human rights and human dignity committed against sex workers in 2020 in comparison with preceding years, that is, 2019, 2018 and 2017.

6.2. Trends in the number of human rights violations committed against sex workers over the years

There were 167 human rights violations committed against sex workers in 2020. This number is higher than the 139 human rights violations reported in 2019 and 2018 (94), although it is lower than that recorded in 2017 (186).¹⁴⁰ This trajectory indicates a continuous increase in incidents of human rights violations against sex workers between 2018 and 2020, with a significant spike in 2020, largely attributable to COVID-19 and the regulatory regime ushered in by the pandemic.

140 See HRAPF (n 27 and 28) above.

Chart 1: Trend of human rights violations committed against sex workers per year 2017-2020



The number of cases reported and giving rise to violations have reduced from those in the previous years. In 2020 there were 82 verified cases giving rise to human rights violations against sex workers compared to the 37 cases involving 139 human rights violations in 2019. In 2018, there were 41 cases in which 94 human rights violations against sex workers were documented, while in 2017, there were 71 cases involving 186 human rights violations.¹⁴¹

The increase in the number of cases from which human rights violations arise is in part attributable to the COVID-19 pandemic and the restrictions imposed to curb its spread.¹⁴² These Regulations added to the legal regime used to oppress and violate sex workers,¹⁴³ contributing greatly to the arbitrary arrests and violence suffered by sex workers in that year.

6.3. Trends in nature of human rights violations committed against sex workers

The human rights that were violated for sex workers in 2020 were the right to liberty (72 violations), the right to dignity and freedom from cruel treatment (54), the right to freedom from discrimination (23), the right to family (12), the right to property (4), right to privacy (1) and freedom of movement (1). In contrast, the recorded violations of the rights of sex workers in 2019 were of the right to liberty

141 See HRAPF (n 27 and 28) above.

142 See n 1 above.

143 See n 2 and 3 above.

(109), the right to freedom from cruel, inhuman and degrading treatment (11), freedom from violence (16), right to privacy (1) and deprivation of property (2).

In 2018, the right to liberty was once again the most violated right, with 61 incidents recorded, followed by the right to dignity and freedom from torture (18 incidents) and the right to equality and freedom from discrimination (4). This trend has held steady since 2017, in which there were 98 verified violations of the right to liberty, 52 violations of the right to dignity and freedom from cruel and degrading treatment, 2 violations of the right to freedom from discrimination and 1 violation of the right to privacy.

Table 1: Categories of human rights of sex workers violated in 2020

Category of the right violated	Number of violations
Right to liberty	72
Right to dignity and freedom from torture, cruel and inhumane treatment	54
Right to equality and freedom from discrimination	23
Right to family	12
Right to property	4
Right to privacy	1
Freedom of movement	1
TOTAL	167

In the year 2020, the COVID-19 pandemic and the restrictions imposed to curb its spread disproportionately affected sex workers, with the enforcement of regulations targeting them specifically at their brothels, bars and hotspots.¹⁴⁴ The biases that police officers ordinarily have against sex workers were magnified by the additional stigma of the state connecting the spread of COVID-19 to sex work, and thus negatively influenced arbitrary arrests and violence against sex workers by the police, the UPDF and its LDU force.

In addition, due to the criminalisation of sex work as well as the religious, moral and cultural sentiments surrounding the subject of sex work, sex workers are generally viewed as a class of social misfits that are not socially and culturally acceptable to the majority of social groupings in Uganda. As such, they tend to experience discrimination from both state actors and non-state actors, manifesting in the denial of basic socio-legal protection services and exclusion from the wider social life aspects such as parenting, renting homes in certain neighbourhoods, etc.

144 See n 2, n 3, and n 4 above.

Non state actors therefore were also perpetrators of acts of violence against sex workers, particularly the clients of sex workers and the general community in which they live. In 2020, clients of sex workers were responsible for 18 out of 39 verified incidents of violence against sex workers, while the general community was responsible for 8. The general community was also responsible for 13 out of 14 recorded incidents of discrimination on grounds of engagement in sex work. In 2020, the trend of partners of sex workers denying them access to their children purely on grounds of engagement in sex work was also clearly monitored, with 12 such incidents recorded and verified.

This analysis tallies with previous years, in which the biggest violators of the human dignity of sex workers were still clients of sex workers. In 2019, 10 incidents were attributed to clients and 16 incidents were recorded in 2018.¹⁴⁵

The legal framework does not support the promotion and protection of the human rights of sex workers in Uganda even though it's the state's obligation. The state is obligated to move its machinery towards the realisation of the rights of all persons¹⁴⁶ and until this done, sex workers remain vulnerable to the violation of their rights, which continues to expose them to the vagaries of both the HIV epidemic and the recent COVID-19 pandemic.

6.4. Trends of perpetrators of human rights violations committed against sex workers

In 2020, there were 98 violations of the rights of sex workers by state actors. Of these, 84 human rights violations were committed by officers of the Uganda Police Force, accounting for 85.7% of the violations perpetrated by the state and 50.3% of all violations suffered by sex workers in 2020. This follows the trend in which the Police has consistently been the biggest violator of the human rights of sex workers. In 2019, the Police committed 119 violations of the rights of sex workers, accounting for 99.1% of the violations perpetrated by the state and 85.6% of all violations suffered by sex workers in that year.

In 2018, state actors committed 68 out of 94 verified violations of human rights against sex workers, of which the Uganda Police Force committed 67, accounting for 71.2% of all violations suffered by sex workers in the year. In 2017, the UPF was responsible for 153 out of the 186 violations of human rights of sex workers, accounting for 82% of the violations. This has remained constant throughout the years, without any significant variations to indicate a significantly positive trend, although there has definitely been an upward spike in the percentage of violations occasioned by the UPF in 2020, attributable to the increased interactions and

¹⁴⁵ Above.

¹⁴⁶ See SERAC (n 16 above).

tensions between sex workers and law enforcers brought about by COVID-19 related restrictions.

Table 3: Perpetrators of human rights violations committed against sex workers within the state during 2020

Perpetrator	Number of violations committed
The Uganda Police Force	84
The Uganda Peoples Defence Forces	9
Local Government	4
Uganda Prisons Service	1
Total	98

Besides state actors, non-state actors were responsible for 67 violations of the rights and human dignity of sex workers during 2020. The perpetrators of these acts include clients of the sex workers, members of the general public, lodge owners, fellow sex workers and family members of the sex workers.

Table 5: Perpetrators of violations of human dignity against sex workers.

Perpetrators of human dignity violations	Number of violations
Clients of sex workers	18
Members of the general public	22
Intimate partners of sex workers	18
Family members	4
Fellow sex workers	5
Property owners (brothel managers and landlords)	2
Total	69

There was an increase on the violations of human dignity committed by the general public compared to the 7 violations committed in 2019. This is attributable to the stay at home directives issued to curb the spread of the COVID-19 pandemic that brought sex workers into continuous contact with a moralistic society prone to violating the dignity of sex workers. In addition there was an increase in the number of violations of rights of human dignity committed by clients of sex workers compared to the 10 committed in 2019, easily attributable to the fact that, in the

wake of the COVID-19 pandemic, sex workers had even less protection as the police and military authorities were so heavily involved in hunting and persecuting them and therefore less available to offer protection, and yet the travel bans and restrictions also made it more difficult for the sex workers themselves to seek protection and support both from law enforcement and legal aid service providers. There were only 8 cases in which the State through its organs offered protection or a remedy to the sex workers that suffered violence.

6.5. Conclusion

As represented by the analysis in this section, the trend of human rights violations and violations of human dignity committed against sex workers by both state and non-state actors has more or less remained constant over the years, with relatively insignificant fluctuations in both directions. However, with the added vulnerability brought on by the COVID-19 pandemic in 2020, the violations of the rights of sex workers increased greatly. It is also quite clear that the state continues to fail in its duty not only to refrain from infringing on the rights of sex workers but also to protect them from violations by other persons/ entities and provide effective redress where violations do occur.

7. Conclusion and Recommendations

7.1. Conclusion

The state has a positive duty to promote and protect the human rights of all persons in Uganda. To achieve this, the state is obligated to move its machinery towards the realisation of the human rights of sex workers. This involves ensuring that effective remedies from state organs such as the Police, the Uganda Human Rights Commission and the Equal Opportunities Commission are readily available and accessible to sex workers who have been victims of violations. In this duty, the state has failed as sex workers continue to suffer human rights violations and violations of human dignity without redress.

The state further has a negative duty to refrain from interfering with the enjoyment of the human rights of all persons. The continued criminalisation of sex work under sections 138 and 139 of the PCA sustains the vulnerability, stigmatisation and discrimination faced by sex workers, thereby interfering in the enjoyment of sex workers' human rights. Additionally, these provisions of the law justify the violations of human dignity and the human rights violations faced by sex workers. In 2020, these provisions were buttressed by the COVID-19 Regulations used to disproportionately target and oppress sex workers. The duty to refrain from interfering directly requires that the state should desist from enacting laws that are used to curtail the enjoyment of the rights of a particular category of persons such as sex workers, and to this extent, the state continues to fail in its obligations to respect, fulfil, promote and protect the human rights of sex workers in Uganda.

The year 2020 exposed an urgent need to reflect and act on the barriers faced by the most at vulnerable populations, particularly the community of sex workers. There is a need to engage with the Uganda Police Force, the UPDF and other duty bearers to ensure meaningful reforms of the law and in law enforcement practices that would ensure an improved human rights situation for sex workers in Uganda. There is also need for more evidence based advocacy to ensure that there are available remedies for sex workers who suffer human rights violations and/ or violations of human dignity.

For this reason, HRAPF and partners make several recommendations to various state and non-state entities in accordance with their singular mandates as discussed below.

7.2. Recommendations

To the President of the Republic of Uganda

The President is, by authority of the Constitution, vested with powers to assent to or reject bills that are passed by Parliament and tabled before the office of the President. The President, through the Cabinet, can also initiate the enactment or the amendment of laws that unfairly affect sex workers. Additionally, as the Commander in Chief of the armed forces (which include all law enforcement agencies), he can suspend the enforcement of a particular law, as was the case with the offence of being idle and disorderly. In this regard therefore, we call upon the President of Uganda to utilise this authority to:

1. Decline to assent to the Sexual Offences Bill and in particular propose changes to the Bill that would maintain the repealing of Sections 137, 138 and 139 of the PCA.
2. Move cabinet to propose legislation that decriminalises sex work by repealing sections 137 to 139 of the Penal Code Act in order to create a legal environment that offers better protection for the rights of sex workers.
3. Move Cabinet to propose the repeal of all other provisions that justify the arbitrary arrest of sex workers, in particular provisions creating petty offences such as the offences of being a common nuisance, being idle and disorderly and being a rogue and vagabond under sections 160, 167 and 168 of the Penal Code Act respectively.
4. Revise the directives on curbing the spread of COVID-19 with a view to lifting or modifying restrictions such as the curfew, which disproportionately limits the livelihood of sex workers and other marginalised persons in Uganda.
5. Veto new legislation that promotes discrimination and violence against persons that engage in sex work.
6. Withdraw all military personnel from civilian enforcement of laws and limit the interaction between the UPDF and its LDU task force with civilians in relation to law enforcement.
7. Mandate compulsory human rights training for all members of the armed forces in order to curb the rising incidents of human rights violations perpetrated by members of the armed forces/ law enforcement agencies against civilians, including sex workers.

To the Parliament of Uganda

The Parliament is the legislative arm of the government with the duty to enact and amend the laws of Uganda. The Parliament has the duty to protect and promote the human rights of sex workers through the enactment and removal of laws used to violate the rights of sex workers. It is recommended that Parliament do the following:

1. Repeal laws that are used to justify violence against sex workers as well as deny them equal protection of the law, particularly sections 138, 139, 160, 167 and 168 of the Penal Code Act.
2. The Parliamentary Committees on Human Rights, Gender, Labour and Social Development, HIV and related matters should continue to engage sex worker-led organisations and sex workers to better understand the needs and challenges faced by sex workers, particularly those arising from the legal framework, in order to better plan for the full realisation of the equal rights and dignity of sex workers in all new legislation.
3. Undertake, through the Parliamentary Committee on Human Rights, a comprehensive human rights impact assessment of all proposed laws before the house in order to ensure that parliament does not pass any laws that propagate discrimination and marginalisation of specific sections of society, including sex workers.

To the Uganda Police Force

The Uganda Police Force is the primary actor in the protection and violation of the human rights of sex workers. In addition to their duty to keep law and order and detect crime, the Police also has the duty to ensure that the human rights of all persons are observed and protected against violation. On this note, it is recommended that the Police:

1. Strengthen existing mechanisms to address human rights violations committed by personnel of the Uganda Police Force. In particular, strengthen and improve the responsiveness of the Professional Standards Unit in handling reported cases of violations committed by Police Officers.
2. Provide equal protection to sex workers under the law by ensuring that violations committed against sex workers are recorded and thoroughly investigated to their logical conclusion, and the perpetrators brought to book.
3. Improve collaboration with Civil Society Organisations through the Human

Rights and Legal Services Directorate on the continuous training of Police Officers on the human rights of sex workers.

4. Institute a human rights-based approach in law enforcement for all police officers across the country, and train all police officers on the same.
5. Provide equal protection of sex workers under the law by ensuring that the violations committed against sex workers are recorded and thoroughly investigated to their logical conclusion.

To the Uganda Peoples' Defence Forces

1. Mandate all UPDF personnel involved in civilian policing to go through a training course on human rights and the human rights approach to law enforcement prior to their deployment among civilians.
2. Ensure that all members of the LDU are given a comprehensive training on human rights, particularly on the duty of the state to respect, fulfil, protect, and promote the rights of all persons, including sex workers. Additionally, LDU personnel deployed to conduct civilian policing must be oriented on the provisions of the Police Act governing arrests, use of force and rights of detainees.

To the Uganda Law Reform Commission

Under Article 248 of the Constitution, the Law Reform Commission is mandated to make a report to Parliament with recommendations on legal reform. It is therefore recommended that the Uganda Law Reform Commission utilise its mandate to:

1. Expedite proposals for the amendment of the penal/ criminal laws of Uganda with specific proposals for the repeal of sections 137, 138 and 139 of the PCA, which criminalise sex work.
2. Propose recommendations for the repeal of sections of the PCA that allow for the arbitrary arrest of sex workers, specifically section 160 on being a common nuisance, section 167 on being idle and disorderly and section 168 on being a rogue and vagabond.

To the Uganda Human Rights Commission

The Uganda Human Rights Commission under Article 51 of the Constitution is mandated to investigate, on its own volition, incidents of human rights violations and

provide redress to persons that have suffered human rights violations. In addition, the Commission is mandated to ensure observance of human rights for other state organs and agencies as they carry out their duties, and carry out sensitisation campaigns to increase awareness on human rights in Uganda. To improve the human rights situation for sex workers, it is recommended that the Commission:

1. Investigate complaints of human rights violations suffered by sex workers and provide effective remedies such as compensation to the victims.
2. Document incidents of human rights violations against sex workers and include these statistics in the annual reports on the state of human rights in Uganda presented to Parliament with proposals for legal reform.
3. Strengthen partnerships with and support Civil Society Organisations that work with sex workers to monitor, document and ensure effective remedies for incidents of human rights violations suffered by sex workers.

To the Equal Opportunities Commission (EOC)

The EOC is established under the Equal Opportunities Commission Act, 2007 with a mandate to address marginalisation and discrimination in Uganda. The EOC is therefore an avenue through which violations suffered by persons on grounds of their involvement in sex work can be addressed and remedies provided. In fulfilment of this mandate, we recommend that the EOC:

1. Investigate institutionalised and systematic discrimination against sex workers on the basis of their choice of work in the various state organs, particularly in the Courts of Judicature, Local Councils and Police.
2. Train staff of the commission on human rights issues relating to sex workers so as to build their capacity in handling matters of stigmatisation and discrimination against sex workers.
3. Partner with and support Civil Society Organisations working with sex workers so as to improve the human rights situation of sex workers in Uganda.
4. Include issues that affect sex workers in the annual reports on the state of Equal Opportunities in Uganda presented to Parliament.
5. Document incidents of discrimination and marginalisation of sex workers to build a body of evidence of these violations and make the necessary recommendations to the relevant stakeholders on how to address this discrimination, marginalisation and stigmatisation.

To sex worker organisations

Sex worker organisations are an avenue through which sex workers can associate and unify. These organisations can either be sex worker-led or allies of sex workers that work towards the promotion and protection of the human rights of sex workers. They have a duty to ensure that issues that affect sex workers are addressed in the proper fora, and that issues of critical concern for sex workers, including human rights protection for sex workers, are included in the state's programming. In light of the above roles and duties, it is recommended that sex worker organisations:

1. Improve documentation of cases of human rights violations against sex workers based on their engagement in sex work and use the documented evidence to inform advocacy for an improved human rights situation for sex workers.
2. Ensure the observance of the state's mandate to promote and protect the human rights of all persons, in particular sex workers, by holding the state accountable for all reported human rights violations. This can be achieved by monitoring the state's response to human rights violations and violations of human dignity suffered by sex workers as well as documenting other cases of human rights violations for which the state is directly responsible.
3. Engage more government agencies such as the Uganda Human Rights Commission, the Equal Opportunities Commission and the Uganda Police Force's Directorates of Human Rights and Legal Services, Crime Intelligence and Investigations and Operations to train personnel of these institutions on issues that affect sex workers, their duty towards sex workers and their role in ensuring the equal protection of sex workers.
4. Develop and maintain partnerships with other organisations to monitor and document human rights violations against sex workers.

About HRAPF

Background

Human Rights Awareness and Promotion Forum is a voluntary, not for profit and non-partisan Non-Governmental Organisation. HRAPF works towards full realisation of the human rights of marginalised persons and most at risk populations through legal aid service provision, human rights awareness, research, legislative advocacy and community capacity enhancement. HRAPF was established in 2008 with a vision of promoting the observance of human rights of marginalised persons in Uganda.

Legal Status

HRAPF is incorporated under the laws of Uganda as a company limited by guarantee and is registered with the Non-Government Organisation Bureau as a Non-Government Organisation. HRAPF also operates a legal aid clinic that is fully licenced by the Uganda Law Council.

Vision



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

Mission



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

HRAPF's Objectives

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

Our target constituencies



1. Lesbian, Gay Bisexual and Transgender (LGBT) persons.
2. Intersex Persons
3. Sex workers
4. Women, girls and health service providers in conflict with criminal abortion laws
5. Persons who use and inject drugs (PWUIDs)
6. People living with HIV and TB (PLHIV/TB)
7. Poor women, children and the elderly with land justice challenges
8. Victims of SGBV in refugee settings

HRAPF Values

- Equality, Justice and Non-discrimination
- Transparency, Integrity and Accountability
- Learning and Reflection
- Quality and Excellence
- Teamwork and Oneness
- Passion and Drive
- Networking and Collaboration

Slogan

Taking Human Rights to all.



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