

REPORT ON THE PROTECTION AND VIOLATION OF THE HUMAN RIGHTS OF SEX WORKERS IN UGANDA, 2019

With contributions from

Alliance of Women Advocating for Change (AWAC)

Empowered At Dusk Women's Association (EADWA)

Golden Centre for Women's Rights Uganda (GCWR)

Lady Mermaid's Bureau (LMB)

Organisation for Gender Empowerment Rights Advocacy (OGERA)

Women Positive Empowerment Initiative (WOPEIN) and

Women Organisation Network for Human Rights Advocacy (WONETHA)



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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 community capacity enhancement. HRAPF operates a specialised legal aid clinic for sex workers in Uganda.

ABOUT THE CONTRIBUTING ORGANISATIONS

Alliance of Women Advocating for Change (AWAC)

AWAC was founded by sex worker leaders and activists in 2016, with a view to create a strong and vibrant sex workers' movement in Uganda, placing special focus on upcountry community-based sex worker organisations. The organisation also seeks to promote access to comprehensive HIV/TB and Sexual Reproductive Health Services for sex workers, and promoting sex workers' rights.

Empowered at Dusk Women's Association (EADWA)

EADWA was established in 2008 as a community-based organisation by female sex workers who survived sexual and physical violence. EADWA is committed to serve the general population of female sex workers that are striving to access health services by advocating for an enabling environment, favourable laws and policies, increased access to friendly health services, increased demand for HIV/AIDS services and Sexual Reproductive Health services and related rights.

Golden Centre for Women's Rights – Uganda (GCWR)

GCWR-Uganda is a registered feminist group founded by and for women sex workers in 2018. GCWR strives to challenge and change the cultural, social, political and economic oppressions imposed on women sex workers because of their gender, nationality, class and nature of work. GCWR seeks to engage, empower and enhance capacity of GCWR members to participate in health, political, economic and social activities and to ensure access to cost effective, affordable, accessible and friendly health services for women nationals and migrant sex workers in rural and peri-urban areas.

Lady Mermaids Bureau (LMB)

LMB was founded in 2004. It is a female sex worker-led organisation, which focuses on enhancing access to HIV treatment, prevention, counseling and testing services, as well as sexual and reproductive health services for sex workers. The organisation also works towards the elimination of discrimination, stigma and violence against sex workers.

Organisation for Gender Empowerment and Rights Advocacy (OGERA)

OGERA is a female sex worker-led organisation that was founded in 2013 with a view to creating awareness on health and human rights of lesbian, bisexual and transgender women, as well as refugee sex workers. The organisation seeks to improve the welfare of refugee sex workers through skills development and enhancement of access to health services for sex workers.

Women's Organisation Network for Human Rights Advocacy (WONETHA)

WONETHA is a sex worker-led organisation that was founded in 2008. The organisation's focus is on promoting the rights of sex workers, developing their capacity, and economically empowering them. The organisation has made robust advocacy efforts, especially at the grassroots level, to put an end to various forms of violence against sex workers in the local communities, and is also at the forefront of challenging the constitutionality of the Anti-Pornography Act, which is one of the laws, that fuel violence against sex workers in Uganda.

Women's Positive Empowerment Initiative (WOPEIN)

WOPEIN is a sex worker-led organisation created in 2015, with the aim of promoting the rights of sex workers through advocacy and enhancement of access to health services and legal and human rights knowledge.

PREFACE

This report presents the violations of human rights of sex workers that were recorded during the year 2019 along with instances where the rights of sex workers were protected and upheld by state actors. It is the fourth edition of the Report on the Protection and Violation of the Human Rights of Sex Workers in Uganda.

Since the release of the first report on instances of protection and violation of the rights of sex workers during 2016, a continuing improvement in the way in which sex workers are treated by state actors, and the Uganda Police Force in particular, can be discerned. Instances of mass violations of the rights of sex workers by the Police are becoming infrequent and appear to be a trend of the past.

This report differs from the violations reports published in previous years in that the acts of violence and violations committed against sex workers by non-state actors are no longer classified as human rights violations. Instead, only acts committed by state actors are classified as human rights violations. This change is considered to more accurately reflect the state's responsibility in respect of the human rights of citizens under international human rights law. This change in classification, however, does affect comparisons with figures of previous years and the analysis of trends since, in previous reports, acts of violence and violations of dignity committed by non-state actors were considered to be included under 'human rights violations'.

Sex workers face acts of violence and violations of their human dignity on an extremely frequent basis. Sex workers, as a vulnerable group in society, are often on the receiving end of the most violent crimes. The criminalisation of sex work and the subsequent conditions under which it is carried out in Uganda render sex workers all the more vulnerable. Most alarmingly, cases where violent crime is committed against sex workers often go unaddressed. Even though the Police by and large refrain from directly committing violations against sex workers, they are nevertheless complicit in the violation of their rights whenever they fail to treat crimes committed against sex workers with the appropriate level of seriousness. This report records a number of cases where the Police did come to the aid of sex workers who had suffered violence and other violations of their human dignity, however, in the majority of cases where sex workers suffered crime and other violations of their human dignity, particularly sexual violence, the Police exhibited the attitude that sex workers effectively consent to victimisation.

This report is intended to serve as an evidence-base of the continuing violations suffered by sex workers in Uganda and the need for increased protection and vigilance on the part of the state. The report is intended to support advocacy efforts toward greater Police protection of sex workers as well as positive changes in the legal and policy environment as it relates to sex work in Uganda.

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

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GLOSSARY

Case:	A separate set of facts involving violation of a law or a right and which is included in one file. A single case can involve multiple persons and multiple violations.
Sex worker:	An adult person who consensually gives sexual services in exchange for money or other material gain
Site:	An area where sex work is done on a large scale. Also called a 'hotspot'.
Violation:	An act that contravenes a law that guarantees a right.

ACRONYMS

ARVs	Anti-Retroviral drugs
AWAC	Alliance of Women Advocating for Change
DPP	Directorate of Public Prosecutions
EADWA	Empowered At Dusk Women's Association
GCWA	Golden Centre for Women's Rights – Uganda
HRAPF	Human Rights Awareness and Promotion Forum
LMB	Lady Mermaid's Bureau
OGERA	Organisation for Gender Empowerment and Rights Advocacy
PEP	Post Exposure Prophylaxis
UGX	Uganda Shillings
WONETHA	Women's Organisation Network for Human Rights Advocacy
WOPEIN	Women Positive Empowerment Initiative

EXECUTIVE SUMMARY

Introduction

This report gives a record of verified human rights violations as well as violations of human dignity committed against sex workers on the basis of their engagement in sex work for the year 2019. The report also records incidents of protection and vindication of the rights of sex workers by various state actors.

The report is intended to indicate the extent to which the rights of sex workers are both violated and protected within Uganda, and to identify changing trends from one year to the next.

The report details the number and nature of violations committed against sex workers and also considers the identity and authority of the perpetrators of these violations. The report makes recommendations to various stakeholders on how the rights of sex workers can be better protected in Uganda.

Key findings

1. The human rights of sex workers were protected and vindicated by the State in eight cases recorded over the course of the year. These cases are recognised and celebrated as steps in the right direction, even though a large number of violations against sex workers had gone unaddressed.
2. There were a total of 139 violations committed against sex workers during 2019. Out of these, 120 were human rights violations committed by state actors and 19 were violations of human dignity committed by non-state actors.
3. The 120 human rights violations arose out of 18 verified cases, which indicates that multiple violations arose from many of these cases. There have also been a number of Police swoops during which numerous sex workers were arrested at the same time and suffered rights violations in the process.
4. The number of human rights violations recorded in 2019 is higher than the 94 violations recorded in 2018.
5. The Police emerged as the biggest single violator of the human rights of sex workers as they were responsible for 119 out of the 120 human rights violations.

6. The right of sex workers which was violated the most during 2019 is the right to liberty. There were 109 violations of this right.
7. The 19 violations of human dignity of sex workers by non-state actors, 16 of which were cases of violence, one infringement of privacy and two cases of deprivation of property.
8. In the majority of the cases in which sex workers suffered violence, the Police did not respond appropriately and did not ensure that the victims were afforded an effective remedy.

Recommendations

To the President of the Republic of Uganda

1. Move Cabinet to propose repeal of provisions that allow for arbitrary arrest of sex workers, including vagrancy offences under Section 160 (Common Nuisance), Section 167 (Idle and Disorderly) and Section 168 (Rogue and Vagabond) of the Penal Code Act.
2. Acknowledge the earlier directives prohibiting arrest for being idle and disorderly and propose an extension of this directive to cover other offences.
3. Veto legislation which promotes and sanctions discrimination and violence against women because of their involvement in sex work.

To Parliament

1. Repeal laws which fuel violence against sex workers, in particular Section 138 and 139 of the Penal Code Act which are obsolete within the criminal justice system.
2. Parliamentary committees working on issues affecting sex workers should continue to engage sex worker organisations in order to understand the challenges that sex workers face.
3. Repeal Sections 167 and 168 of the Penal Code Act which criminalises being idle and disorderly and being a rogue and vagabond.

To the Uganda Police Force

1. The Directorate of Human Rights and Legal Services, working with civil society organisations, should ensure that Police officers and arresting officers in particular undergo continuous training on human rights, with specific focus on the rights of women engaged in sex work.

2. Provide sex workers with equal protection of the law by ensuring that the violations that are perpetrated against them are thoroughly investigated and concluded.
3. Strengthen mechanisms which exist to redress human rights violations committed by members of the UPF. In particular, improve the responsiveness of the Police Professional Standards Unit in handling matters of alleged violations committed by Police Officers.

To the Uganda Law Reform Commission

1. Develop a proposal to Parliament to repeal provisions in the Penal Code Act that criminalise sex work and related activities which are not being used by law enforcers, yet promote prejudice and discrimination against sex workers. These include Sections 136, 137, 138 and 139 of the Penal Code Act.
2. Make formal recommendations for the repeal of laws that allow for the arbitrary arrest of sex workers, including vagrancy offences under Section 160 (Common Nuisance), Section 167 (Idle and Disorderly) and Section 168 (Rogue and Vagabond) of the Penal Code Act.

To the Uganda Human Rights Commission

1. Investigate and document complaints of human rights violations against sex workers and include them in annual reports to Parliament with the necessary recommendations for legal and policy reform.
2. Strengthen partnerships with organisations working with the sex worker community to monitor and document incidents of human rights violations against sex workers.

To the Equal Opportunities Commission

1. Investigate systemic discrimination against women on the basis of their involvement in sex work in the various state organs and agencies.
2. Train the Commission staff members on human rights issues relating to women that engage in sex work, so as to build their capacity to handle matters of stigmatisation and discrimination against sex workers.
3. Create and strengthen partnerships with organisations working towards the promotion of sex workers' rights.
4. Compile reports on discrimination and marginalisation of sex workers and make the necessary recommendations to the relevant

stakeholders on how to combat such discrimination and marginalisation.

5. Include sex worker issues in the annual reports to Parliament.

To sex worker organisations

1. Document human rights violations against women based on their engagement in sex work, and use the results obtained from such documentation to advocate for the adoption of key strategies in the promotion of rights of sex workers.
2. Document the state's response to human rights violations committed against sex workers and the frequency with which effective remedies are provided for such violations.
3. Continue to work with the Police in order to train Police Officers on the rights of sex workers and their duty to ensure that this group enjoys equal protection of the law.
4. Train media houses on rights-affirming approaches to reporting on sex work and sex workers in Uganda and ensure that the media understands the importance of keeping information about sex workers' identities and places of work confidential.
5. Create partnerships with other organisations to monitor and document human rights violations against sex workers.

To the media

1. Engage in trainings and awareness raising which will enable a better understanding of the lived realities, vulnerabilities and rights of sex workers.
2. Refrain from publishing any footage, photographs and information which will compromise the identity of sex workers or the location of their places of work.
3. Monitor and report on instances of human rights violations committed against sex workers.

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1. INTRODUCTION

1.1 Introduction

This report presents a record of the verified human rights violations committed against female sex workers in Uganda during 2019. The purpose of this publication is to provide a record of the human rights violations committed against individuals who engage in sex work. The report is intended to provide evidence of the fact that criminalisation of sex work does not prevent sex work from taking place, but rather leaves those engaged in sex work more vulnerable to suffer human rights violations. The criminalisation of sex work also inhibits sex workers from accessing HIV prevention and treatment services while at the same time rendering them more vulnerable to HIV infection.

This report is an annual publication which was first released in 2017. The first report documented violations committed against sex workers during 2016. The second report, documenting the violations of 2017, was released in 2018. The report documenting the violations against sex workers for 2018 was released in 2019.

This report documents violations committed against sex workers during the year 2019 that were recorded by HRAPF and seven other organisations that work with sex workers countrywide. The report records cases where the rights of sex workers were protected and vindicated by duty-bearers of the state, particularly the Uganda Police Force, as well as human rights violations and violations of human dignity committed against sex workers by both state and non-state actors.

The report makes recommendations to various stakeholders on how best to prevent and redress violations committed against sex workers and how to promote respect and observance of the rights of this group by state actors and society at large.

1.2 Methodology

This report analyses the number and nature of violations committed against sex workers as documented by the organisations contributing to this report. The organisations that contributed to the report provide a variety of specialised services to sex workers. HRAPF focuses on the provision of legal aid services, while other organisations primarily provide capacity building for sex workers as well as counselling and healthcare services. Data collection was done taking into consideration the mandates of the contributing

organisations. Cases handled by more than one organisation were crosschecked to avoid duplication.

A total of 146 cases were collected, however, human rights violations could only be verified in 37 of these cases. A single case could involve multiple human rights violations and a total of 139 verified violations against sex workers were included from the 37 cases included in this report.

The reliability of the data published in the report was ensured by following a set of verification guidelines. The verification process was based on primary evidence, namely documentary evidence and witness statements or corroboration. This evidence includes Police bond forms to show when a person was released from custody; medical examination forms which show that the victim was assaulted; Police statements which show that the Police took statements from the victims; as well as statements of victims and witnesses of the human rights violations. It is important to note that only the statements of those who directly suffered or witnessed the violations were considered in verifying the human rights violations. In some cases, the facts and violations were verified by interviewing the lawyers and paralegals who handled the cases.

1.3 Challenges

Time and again, the greatest challenge in the compilation of this report has been the absence of a standard form of documentation of violations for the various organisations which contribute information. The various organisations handling cases of sex workers have vastly different mandates and focus areas and each have a documentation mechanism suited to the particular needs of the organisation. Some organisations provide economic empowerment support to sex workers, others provide counselling and healthcare services while others offer legal aid. Every organisation captures information that is most relevant to the services which they provide and it is not the primary concern of most to comprehensively document violations committed against sex workers. In order to progressively expand the number of cases that are verifiable and thereby paint an increasingly accurate picture of the number and nature of violations committed against sex workers, there is need for uniform methods of data collection to be adopted among contributing organisations. Organisations working with the sex worker community should ideally document cases in a comprehensive way that extends beyond collecting information that is directly relevant to the services which they provide. Such data collection should also include documenting evidence of

the violations, such as Police bond forms, medical examination form and Police case reference numbers. HRAPF has published guidelines for documenting human rights violations against sex workers, which it encourages the different partners to follow.

The report is also limited in its geographical coverage. While the report does aim to include cases from all regions in Uganda and reflect a number of cases from areas beyond Kampala, the country as a whole is not exhaustively served by organisations providing services and support to sex workers. Most of the organisations that work with sex workers are situated in the Kampala Metropolitan Area and their reach only extend to Wakiso and Mukono districts, beyond Kampala. Few organisations handle cases of sex workers in upcountry areas and those which do have limited capacity to document cases of human rights violations against sex workers. This means that only a small number of violations which took place in upcountry areas could be verified and included in the report. This limitation skews the picture of the situation of sex workers in Uganda. There remains a need to support organisations working with sex workers in upcountry areas to build their capacity to document human rights violations.

There is a general lack of capacity among organisations working with the sex worker community to document in a comprehensive way cases involving human rights violations against sex workers. While the level of capacity of paralegals working on cases involving sex workers is progressively increasing through continuous training, some cases and violations are excluded from the report since they had not been sufficiently documented. It should therefore be noted that this report does not give a complete account of human rights violations that were suffered by sex workers throughout Uganda in the year 2019.

1.4 Structure of the report

The first section of the report sets out its purpose, the methodology used and the various challenges encountered in collecting, verifying and analysing the data. The second section discusses the cases in which the human rights of sex workers were protected and vindicated during 2019. The third section is focused on setting out the number and nature of human rights violations perpetrated against sex workers in 2019. The fourth section of the report considers cases of violations of human dignity which was suffered by sex workers during 2019. The fifth section discusses perpetrators of violations against sex workers and separately discusses the number and nature of

violations committed by various categories of perpetrators. The sixth section of the report is dedicated to analysing trends in violations identified from the various reported and verified cases in light of the records of previous years. The seventh and final section of the report draws conclusions and makes recommendations to various role-players empowered to improve the human rights situation of sex workers in Uganda.

2. INCIDENTS OF PROTECTION OF THE HUMAN RIGHTS OF SEX WORKERS IN UGANDA IN 2019

The domestic and international legal framework in Uganda places a duty on the state to protect the human rights of all individuals and groups in the country. Regional as well as international human rights instruments to which Uganda is party require of the state to respect, protect and uphold human rights and freedoms.¹ This duty is also reiterated in Article 20 of the 1995 Constitution of the Republic of Uganda.

The obligation to respect requires the state and its agencies not to interfere with the enjoyment of fundamental rights and freedoms.² The obligation to protect requires of the state to protect rights-holders from violations by other persons through enacting legislation and by providing effective remedies where their rights have been violated.³ The African Commission on Human and Peoples' Rights has held that the obligation to protect 'requires of the state to take measures to protect beneficiaries of the protected rights against political, economic and social interferences.'⁴ The obligation to protect requires the state to create an 'atmosphere' in which all rights-holders are able to freely exercise their rights through legislative measures and other regulations.⁵ The obligation to promote requires the state to take steps to ensure that individual are able to exercise their rights and freedoms by, for example, promoting tolerance and raising awareness.⁶ Finally, the obligation to fulfil relates to the duty to promote and requires of the state to actively gear its systems and processes toward the realisation of rights.⁷

The government of Uganda and all its organs and agencies have an obligation to respect, protect, promote and fulfil the rights of all individuals in the country, including sex workers. In order to fulfil this obligation, Uganda as a state has to adopt legislative and administrative measures that eliminate social and cultural attitudes that fuel violence and discrimination against sex workers.

¹ See 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.

² *Social and Economic Rights Action Centre (SERAC) v Nigeria* (2001) AHLR 60 (ACHPR 2001) par. 45.

³ As above at par. 46.

⁴ As above.

⁵ As above.

⁶ As above.

⁷ As above at par. 47.

Such measures could include the decriminalisation of sex work; the adoption of policies which address the inequality which sex workers face in every sphere of life; trainings which address discrimination and transform attitudes of state agents and law enforcers toward sex workers, as well as education and sensitisation of the public on the rights of sex workers.⁸

The Constitution gives the Uganda Police Force the mandate to protect life and property; to preserve law and order and to prevent and detect crime.⁹ Sex work is currently criminalised under Section 138 and 139 of the Penal Code Act. Sex workers are furthermore susceptible to arrest on the basis of petty offences such as being rogue and vagabond due to their socio-economic status, the nature of their work and the widespread social stigma and prejudice against them.¹⁰ This means that the Police have to protect the rights of sex workers as bearers of all fundamental human rights and freedoms, while also preventing and detecting the crime. The state's duty to protect rights-holders by providing effective remedies for rights violations also depends on the Police as the first point of contact.

There were eight cases in which the rights of sex workers were protected by the Police and the Police proved instrumental in ensuring effective remedies for sex workers who had suffered violations of their human dignity or rights.

In the first case, a sex worker was violently assaulted by an unknown assailant.¹¹ The perpetrator was arrested, charged with attempted murder and remanded to Luzira Prison.¹²

In the second case, a sex worker who operates a bar was assaulted by the owner of the neighbouring bar.¹³ She had received a client in her bar who did not pay her. He then left and went to the neighboring bar. When the victim went to collect her money, she was beaten by the owner of the bar and left naked. The sex worker reported the matter to the nearest Police station.

⁸ Amnesty International, *Policy on State Obligations to Respect, Protect and Fulfill the Human Rights of Sex Workers* accessed at <https://www.amnesty.org/en/documents/pol30/4062/2016/en/> (Accessed on 18th November 2017).

⁹ Art 212 of the Constitution.

¹⁰ 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) 42.

¹¹ HRAPF/SWVR2-19/009.

¹² As above.

¹³ HRAPF/SWVR2-19/008.

The Police responded by opening a case against the perpetrator and sending the victim for medical examination.¹⁴

In the third case, a sex worker was assaulted by her client and she reported the case to the Police.¹⁵ The Police arrested the perpetrator and detained him for two days, after which a mediation was held and he agreed to compensate the victim with UGX 200,000 to cater for her medical treatment.¹⁶

In the fourth case, a sex worker was beaten by a man at her hotspot.¹⁷ With the help of a paralegal, she was taken to hospital and the case was reported to the Police. The Police arrested the perpetrator and he agreed to pay UGX 150,000 toward the victim's medical treatment.

In the fifth case, a sex worker was assaulted by a man known to target sex workers in the Kabalagala area.¹⁸ The man also stole the sex worker's money after assaulting her. The Police opened a case against the perpetrator and also sent the sex worker for a medical examination in order to record evidence of the attack.

In the sixth case, a sex worker negotiated to have sex with a client, but when they got to his home there were two other men as well and she refused to enter the house.¹⁹ The three men forced her into the house and attacked her with a knife. She managed to escape but was left with injuries to her head, hands and thighs. The accused was brought to the Police after she reported the incident to them. The Police mediated the matter and the sex worker received UGX 210,000 in compensation to cover the costs of her medical treatment.

In the seventh case, a sex worker was compensated by a woman in the community who had beaten her. This was after the Police advised her to mediate the matter.²⁰

In the eighth case, a sex worker was attacked by the owner of the lodge from where she operated as she was leaving the lodge to meet with her boyfriend.²¹ The injuries inflicted on her were so severe that she lost her pregnancy. The

¹⁴ As above.

¹⁵ HRAPF/SWVR2-19/030.

¹⁶ As above.

¹⁷ HRAPF/SWVR2-19/026.

¹⁸ HRAPF/SWVR2-19/036.

¹⁹ HRAPF/SWVR2-19/039.

²⁰ HRAPF/SWVR2-19/034.

²¹ HRAPF/SWVR2-19/041.

matter was reported to the nearest Police station and upon mediation, the perpetrator paid the sex workers UGX 200,000 in compensation.²²

These eight cases in which Police officers fulfilled their obligations toward sex workers and ensured remedies for the violations which they had suffered are commendable. The fact that the rights and human dignity of sex workers were protected affirmed their status as equal citizens and rights-holders. However, it is important to note that in cases where mediation was used to settle cases of violence against sex workers, the compensation given was meagre and ideally such criminal cases should not be solved through mediation but through prosecution. As such, this is only a start, and more needs to be done. Also, these few cases in which the Police protected sex workers are outweighed by the cases of inaction on the part of the Police or the cases in which the Police are the perpetrators of the violations.

²² As above.

3. VIOLATIONS OF THE HUMAN RIGHTS OF SEX WORKERS IN 2019

3.1 Introduction

In this section of the report, the number and nature of human rights violations committed against sex workers are discussed.

3.2 Number of violations

During 2019, there were 120 verified violations committed against sex workers. This number is higher than the 94 violations recorded in 2018, but lower still than the 186 violations recorded in 2017.²³

3.3 Nature of violations

The rights of sex workers mainly violated during the year were the right to liberty and the right to dignity and freedom from cruel, inhuman and degrading treatment or punishment. Details of the violations of these rights are discussed in turn in this section.

3.3.1 Violation of the right to liberty

The most violated right during 2019 is the right to liberty: a total of 109 violations of this right were recorded.

Article 23(1) of the Constitution provides that every individual has the right to liberty.²⁴ This right may be limited in a number of circumstances, which include reasonable suspicion that an individual has committed or is about to commit a criminal offence under the laws of Uganda.²⁵ Article 23 also provides safeguards in order to protect a person whose right to liberty is limited by arrest or any form of detention. These safeguards require that a person who is lawfully arrested or detained must be kept in a place authorised by law;²⁶ must be informed immediately in a language that is understood of the reason for their arrest and of their right to a lawyer;²⁷ and may not to be detained beyond 48 hours without being brought before a court of law.²⁸ The next of kin of a

²³ HRAPF 2018 Report on the protection and violation of human rights of sex workers in Uganda (2019) 7; HRAPF 2017 Report on the protection and violation of the human rights of sex workers in Uganda (2018) 12.

²⁴ Art 23(1) of the Constitution.

²⁵ Art 23(1)(c) of the Constitution.

²⁶ Art 23(2) of the Constitution.

²⁷ Art 23(3) of the Constitution.

²⁸ Art 23(4)(b) of the Constitution.

detained person should also be informed of their detention;¹⁷ and they have a right to be allowed access to their next of kin or lawyer;²⁹ as well as medical treatment.³⁰

All 109 violations of the right to liberty of sex workers were perpetrated by the Uganda Police Force, either by arresting sex workers arbitrarily or by detaining sex workers beyond 48 hours without bringing them before a court.

a) Freedom from arbitrary arrest

An arrest can be considered arbitrary if it is not based on legally established grounds and carried out in accordance with legally established procedures. The deprivation of liberty is arbitrary in the absence of reasonable suspicion that the person has committed a crime; where a person is arrested and not charged or where the procedures for carrying out an arrest as laid down by the law are not followed.³¹

There were four cases of arbitrary arrest involving 99 sex workers documented and verified for the year 2019. In both these cases, sex workers were arrested on the basis of the fact that they appeared to Police officers to be sex workers, rather than because Police had reason to believe that they had committed a particular crime which could be proved with evidence in court.

In one case, a man was badly beaten in a bar by another man. The next day, Police Officers arrested six sex workers whom they found in the vicinity of the bar and charged them with 'causing grievous bodily harm'.³² The Police clearly did not know who may or may not have been directly involved in the crime, but nevertheless arrested the six sex workers in connection with the crime. It cannot be said that the Police had a reasonable suspicion that each of these six sex workers were involved in the crime. They were most likely incriminated on the basis of the arresting officers' prejudice against them and therefore the arrest was arbitrary.

In September 2019, the Police raided several places of work for sex workers in Nateete, Mabiito area in Kampala and arrested a total of 87 sex workers,³³ giving rise to 87 violations. The sex workers were charged with 'possession of narcotics' under the Narcotic Drugs and Psychotropic Substances Control Act,

²⁹ Art 23(5)(b) of the Constitution.

³⁰ Art 23(5)(c) of the Constitution.

³¹ Art 23 of the Constitution.

³² HRAPF/SWVR2-19/046.

³³ HRAPF/SWVR2-19/033.

2016 (NDPSCA), even though they did not have narcotic substances in their possession. The raid was clearly intended to target sex workers, yet not one of them was charged under the Penal Code provisions which criminalise sex work as 'prostitution'. Instead, the 87 sex workers found in different places and under different circumstances in the same area were all charged with a generic offence of which they were not guilty. The Police could not reasonably have had a suspicion that all 87 sex workers had committed or were about to commit a narcotic-related offence under the NDPSCA. Some of the sex workers were released on Police bond after the intervention of HRAPF lawyers; others were remanded to prison pending their bail applications. They were later released after paying fines of UGX 150,000. This raid took place two days after the release of an NBS documentary on young women who engage in sex work entitled 'Girls in risky business'.³⁴ Some of the scenes in the documentary were shot at one of the places of work in Mabiito which was later targeted in the Police raid. This large-scale raid is indicative of a worrying trend of law enforcers deliberately seeking out sex workers to 'punish' them en masse, while at the same time concealing the true reason for the arrest and taking sex workers into custody on alternative charges.

An arrest is also arbitrary if it is based on grounds that are not recognised in law. In two cases, a total of six sex workers were arrested for crimes which are no longer recognised on the law books of Uganda. In the first case, three sex workers were arrested and charged for 'frequenting a place used for smoking opium'³⁵ and in the second case three sex workers were arrested and charged with 'smoking opium'.³⁶ These two offences which existed under Section 47 and Section 48 of the National Drug Policy and Authority Act Cap 206 have been repealed by Section 4 and Section 5 of the NDPSCA.

b) Detention beyond 48 hours without appearing in court

Three cases involving 10 sex workers who were arrested and detained beyond 48 hours were documented and verified in 2019. According to Article 23 of the Constitution, a person arrested upon reasonable suspicion of having committed or being about to commit a criminal offence under the laws of

³⁴ The documentary is available at <https://www.youtube.com/watch?v=9XfrPIB1QFA> (Accessed 1st June 2020).

³⁵ HRAPF/SWVR2-19/016.

³⁶ HRAPF/SWVR2-19/028.

Uganda shall, if not released earlier, be presented in court as soon as possible, and no later than 48 hours from the time of his or her arrest.³⁷

In the first case, a sex worker was arrested on accusation that she had assaulted another woman in the community.³⁸ She was held in Police custody for 14 days before she was presented in court.

In the second case, six sex workers were arrested on narcotic-related charges and held in Police custody for five days after which they were transferred to another Police station.³⁹

The third case is the arbitrary arrest of six sex workers charged for their alleged involvement in the assault of a man in a bar in Nateete.⁴⁰ They were held in Police custody for five days before being brought before a court.

In all three of these cases, the right to liberty of the sex workers involved was violated due to their prolonged detention.

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

During 2019, there were 11 recorded violations of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment of sex workers.

Article 24 of the Constitution provides that no person shall be subjected to any form of torture, cruel, inhuman and degrading treatment or punishment. This right is inalienable, and can under no circumstances be infringed upon or restricted.⁴¹

The Prevention and Prohibition of Torture Act (PPTA) 2012 defines torture, similar to the United Nations Convention Against Torture (UNCAT), as any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person or at the instigation or with the consent or acquiescence of any person, whether a public official or private individual, for such purposes as: obtaining information from the person or any other person; punishing the person for an act he or she or any other person has committed or is suspected of having committed or planning to commit; or intimidating

³⁷ Art 23(4)(b) of the Constitution.

³⁸ HRAPF/SWVR2-19/003.

³⁹ See n 36 above.

⁴⁰ See n 32 above.

⁴¹ Art 44(a) of the Constitution.

or coercing the person or any other person to do or refrain from doing any act. Cruel and inhuman treatment on the other hand is defined by the PPTA as any ill-treatment that does not fit within the definition of torture and consists of acts causing physical or mental pain perpetrated by or with the permission or acquiescence of a state official; or which are not as severe or done for the same reasons as those amounting to torture.⁴²

In one of the recorded cases, a member of a Local Defence Unit in Nateete, working with a client of a sex worker, verbally abused and beat the sex worker.⁴³ The LDU official was known to connive with clients of sex workers in order to gain access to them and abuse them.⁴⁴ The matter was mediated after HRAPF's lawyers came on board, after which the perpetrator apologised to the victim and undertook to refrain from assaulting any other sex workers in his area.⁴⁵

In ten other cases, sex workers suffered violence at the hands of non-state actors and the Police failed to respond appropriately and provide effective remedies to the victims of this violence, which amounted to violations of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment on the part of the Police.⁴⁶ These ten cases are discussed in detail in the section on violence committed by non-state actors against sex workers below.

3.4 Conclusion

During 2019, a high number of violations arose from a small number of cases: a total of 120 violations were recorded and verified arising out of 18 cases. Only two human rights of sex workers were repeatedly violated, namely the right to liberty and the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment.

⁴² Sec 7 of the PPTA.

⁴³ HRAPF/SWVR2-19/032.

⁴⁴ Telephone interview with Justine Balya, Legal Officer and Head of Access to Justice Unit, Most At Risk Population Groups, HRAPF, 29th April 2020.

⁴⁵ As above.

⁴⁶ HRAPF/SWVR2-19/017; HRAPF/SWVR2-19/018; HRAPF/SWVR2-19/025; HRAPF/SWVR2-19/021; HRAPF/SWVR2-19/010; HRAPF/SWVR2-19/014; HRAPF/SWVR2-19/015; HRAPF/SWVR2-19/020; HRAPF/SWVR2-19/024 and HRAPF/SWVR2-19/036.

4. CASES OF VIOLENCE AND OTHER VIOLATIONS OF HUMAN DIGNITY COMMITTED AGAINST SEX WORKERS DURING 2019

4.1 Introduction

This section sets out violations of human dignity which were perpetrated by non-state actors against sex workers during 2019. A total of 19 such violations were recorded.

According to Article 20(2) of the Constitution, the human rights and freedoms protected in chapter 4 of the Constitution are to be respected, upheld and promoted by all persons along with all organs and agencies of government. This means that non-state actors are to refrain from inflicting violence and other human rights violations on others.

Both regional and international law places a duty on the state to protect the human rights of all persons in the country.⁴⁷ The state has a duty under international law to ensure an effective remedy for a person whose rights or freedoms have been violated.⁴⁸

This section sets out the violations of human dignity suffered by sex workers. In some of these cases which also constituted crimes, Police responded by coming to the aid of sex workers and making sure that they are afforded an appropriate remedy. Many cases, however, remained unreported and unresolved due to fear on the part of the victim to report the matter or refusal or reluctance on the part of law enforcers to provide an effective remedy.

4.2 Violations of human dignity of sex workers

During 2019, there were 19 violations of human dignity of sex workers. This section sets out the specific violations of dignity suffered by sex workers during 2019. These violations are classified as acts of violence; infringements of privacy and deprivation of property.

⁴⁷ Preamble of the African Charter on Human and Peoples' Rights' Art 6(d) of the Treaty for the Establishment of the East African Community; Preamble of the International Covenant on Civil and Political Rights (1966).

⁴⁸ Art 2(3)(a) of the International Covenant on Civil and Political Rights.

4.2.1 Violence

There were 16 cases in which sex workers suffered violence or threats of violence at the hands of non-state actors. In a few of these cases, the Police responded proactively and saw to it that the perpetrators were arrested and prosecuted. In one such case, a sex worker was violently assaulted. The perpetrator was arrested, charged with attempted murder and remanded to Luzira Prison.⁴⁹ In another case, a sex worker was assaulted by her client and the case was reported to the Police.⁵⁰ The perpetrator was arrested and detained for two days, after which a mediation was held and he agreed to compensate the victim with UGX 200,000 to cater for her treatment.⁵¹ In another case, a sex worker was beaten by a man at her hotspot.⁵² With the help of a paralegal, she was taken to hospital and the case was reported to the Police. The perpetrator was arrested and agreed to pay UGX 150,000 toward the victim's medical treatment.

In another case, a sex worker was assaulted by a client and two other men at the client's house and the sex worker was eventually compensated to cover the cost of her medical treatment after the Police intervened in the matter.⁵³ In another case discussed in the previous section, a sex worker was compensated by a woman in the community who had beaten her after the Police advised her to call for mediation of the matter.⁵⁴ There was also a case in which a sex worker was attacked by the owner of the lodge from where she operated and she lost her pregnancy as a result.⁵⁵ The matter was reported to the Police and upon mediation, the perpetrator paid the sex worker UGX 200,000 in compensation.⁵⁶

In the majority of cases in which sex workers suffered violence, however, they were not availed with an effective remedy. This failure to provide the victims of acts of violence with effective remedies was mainly caused by Police officers who did not treat the reported matters of the sex workers with the required level of seriousness.

In one case, a sex worker was assaulted by an acquaintance while she was preparing food at the bar where she worked on Easter Sunday.⁵⁷ The attack left the sex worker with a broken leg after she was pushed and fell. The case

⁴⁹ See n 11 above.

⁵⁰ See n 15 above.

⁵¹ As above.

⁵² See n 17 above.

⁵³ See n 19 above.

⁵⁴ See n 38 above.

⁵⁵ HRAPF/SWVR2-19/041.

⁵⁶ As above.

⁵⁷ HRAPF/SWVR2-19/017.

was reported and an arrest was made, however the suspect was released on the same day after paying off the Police officers and investigations into the incident ended there.

In another case, a sex worker was beaten by three men in her community.⁵⁸ They also undressed her and stole her money. In three other cases, clients of sex workers responded violently when the sex workers refused to have unprotected sex with them. In all three cases, the clients physically assaulted the sex workers.⁵⁹ Another sex worker was assaulted by a client after he refused to pay for her services.⁶⁰ In yet another case, a sex worker was seated outside by herself when a man approached her and tried to sit on her body.⁶¹ She pushed him away and he started to beat her until other sex workers came to her aid. In all six of these cases the sex workers involved suffered violence, yet the Police did not make any arrests and soon ceased to investigate the matters.

In another case, a Police officer had paid for the services of a sex worker.⁶² After having sex as agreed, the Police officer insisted to have sex another time without using a condom. The sex worker refused and the Police officer responded by firing his gun in the room multiple times and then raped the sex worker without using a condom. The case was reported to the Police, however they responded that they will treat the case as a disciplinary matter. They did not arrest the perpetrator for committing this violent crime. After trying to follow up on the case with the help of her lawyers, the victim chose not to pursue the case any further as she had been threatened.⁶³

In yet another case, a sex worker was raped by a man who took her to his home claiming it was a lodge. She reported the case to Masaka Central Police station but they did not take the matter seriously.⁶⁴ In yet another case, a sex worker was assaulted by a man who had a reputation for attacking sex workers in Kabalagala. She reported the matter to the Police and obtained the Police Form 3 for medical examination yet the matter did not proceed any further.⁶⁵

⁵⁸ HRAPF/SWVR2-19/018.

⁵⁹ HRAPF/SWVR2-19/025; HRAPF/SWVR2-19/021; HRAPF/SWVR2-19/010.

⁶⁰ HRAPF/SWVR2-19/015.

⁶¹ HRAPF/SWVR2-19/014.

⁶² HRAPF/SWVR2-19/020.

⁶³ Telephone interview with Justine Balya, Legal Officer and Head of Access to Justice Unit, Most At Risk Population Groups, HRAPF, 29th April 2020.

⁶⁴ HRAPF/SWVR2-19/024.

⁶⁵ See n 18 above.

4.2.2 Infringements of privacy

Sex workers suffered an infringement of their privacy by the NBS television channel that broadcast footage of a building in Kampala from where sex workers operate on a documentary about young women who engage in sex work in Uganda.⁶⁶ The broadcast drew public attention to the building and made the sex workers operating from there particularly vulnerable to arrest and abuse. Many were arrested from that building as well as other lodges in the area during a Police raid only two days after the documentary was aired on television.⁶⁷

4.2.3 Deprivation of property

Two cases were recorded in which sex workers were deprived of their property through theft. In one case, a client of a sex worker beat the sex worker and stole the money that she had on her.⁶⁸ No arrests were made, even after the Local Council leader of the area addressed a letter to the Officer in Charge of the area Police station, directing them to arrest the suspect.

In the other case, a sex worker was attacked by a man who was known to assault and harass sex workers in the area.⁶⁹ The man also stole the money that the sex worker had on her. The matter was reported to the Police and the sex worker was given a Police Form 3 for medical, examination, however no arrests were made.

4.3 Conclusion

During 2019, there were 19 violations of human dignity of sex workers which can be classified as acts of violence, infringements of privacy and deprivation of property.

⁶⁶ See n 34 above.

⁶⁷ See n 33 above.

⁶⁸ See n 58 above.

⁶⁹ See n 18 above.

5. PERPETRATORS OF VIOLATIONS COMMITTED AGAINST SEX WORKERS IN 2019

5.1 Introduction

During 2019, state actors committed 120 human rights violations against sex workers. A further 19 violations of dignity were committed against sex workers by non-state actors. The majority of violations were committed by the Uganda Police Force.

5.2 Violations committed against sex workers by state actors during 2019

A total of 120 human rights violations were committed against sex workers by state actors during 2019. Out of these violations, 119 were committed by the Uganda Police Force. Only one violation was committed by a member of a Local Defense Unit.

5.2.1 Violations by the Uganda Police Force

The Police was responsible for committing 119 violations against sex workers during 2019. Most of these were violations of the right to liberty. The Police committed 99 violations of the right to liberty by arresting sex workers arbitrarily. In two cases, a total of 93 sex workers were arrested in the absence of reasonable suspicion that they had committed a crime.⁷⁰ In two other cases, six sex workers were arrested on grounds that are no longer recognised on the law books of Uganda, which rendered the arrests arbitrary.⁷¹ The Police also committed ten violations of the right to liberty of sex workers by arresting them and then detaining them beyond 48 hours without bringing them before a court of law. The ten violations arose out of three separate cases.⁷²

The Police committed a further 10 violations of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment by failing to respond appropriately and provide effective remedies to sex workers who were victims of violence.⁷³

⁷⁰ See n 32 and n 33 above.

⁷¹ See n 35 and n 36 above.

⁷² See above n 32; n 38 and n 39.

⁷³ See n 46 above.

5.2.2 Violations by Local Defence Unit

There was one case in which the right to dignity and freedom from torture and cruel, inhuman and degrading treatment and punishment of a sex worker was violated by a member of a Local Defense Unit in Nateete.⁷⁴

5.3 Violations of human dignity committed against sex workers by non-state actors in 2019

During 2019, a total of 19 violations of human dignity arising out of 18 cases were committed against sex workers by non-state actors. Out of these 19 violations, 10 violations were committed by clients of sex workers; seven violations by members of the general public, one violation by the media and one violation by a lodge owner.

Where violations committed against sex workers by non-state actors go unaddressed, the state has failed in its obligation to provide effective remedies where the rights of rights-holders have been violated.⁷⁵

Non-state actors committed 19 violations of dignity against sex workers during 2019.

5.3.1 Violations of human dignity by clients of sex workers

There were 10 violations of dignity of sex workers by the clients of sex workers arising from 9 separate cases during 2019.⁷⁶ In all 9 of these cases, the clients of sex workers violently assaulted them. In two of the cases, the physical assault also included rape.⁷⁷ In one of these cases, the sex worker's property was also infringed as the client stole money from her after the assault.⁷⁸ Regrettably, the Police provided effective remedies for the victims of these severe violations in only four of the cases.⁷⁹ The other six violations went unaddressed.

5.3.2 Violations of human dignity by members of the general public

Members of the general public inflicted a total of six violations of dignity on sex workers during 2019. The violations arose from five cases, all of which involved acts of violence.⁸⁰ In one of these cases, the sex worker's property was

⁷⁴ See n 43 above.

⁷⁵ See SERAC case (n 2 above) par. 46

⁷⁶ HRAPF/SWVR2-19/031; see also n 15, n 17, n18, n 19, n 55, n 56, n 58 and n 60 above.

⁷⁷ See n 62 and n 64 above.

⁷⁸ See n 18 above.

⁷⁹ See n 11, n 15, n 17 and n 19 above.

⁸⁰ HRAPF/SWVR2-19/001; HRAPF/SWVR2-19/027; see also n 20, n 53 and n 57 above.

also infringed as the assailant stole her money after attacking her.⁸¹ Only one of these six violations were addressed in that the victim was advised by the Police to call for mediation of the matter, after which she received compensation from the woman who attacked her.⁸²

5.3.3 Violations of human dignity by lodge owners

During 2019, one dignity violation was committed against a sex worker by the owner of a lodge from where sex workers operate. The sex worker was physically assaulted by the lodge owner and injured so severely that she lost her pregnancy.⁸³

5.3.4 Violations of human dignity by the media

The media infringed on the privacy of sex workers by publishing a documentary which gave detailed information about a building in Kampala from where sex workers operate, causing a Police raid on the building and surrounding area and the arbitrary arrest of 87 sex workers.⁸⁴

5.4 Conclusion

During 2019, 120 human rights violations were committed against sex workers by state actors, arising out of 18 cases. Non-state actors committed 19 violations of dignity against sex workers, arising out of 19 cases. Effective remedies were provided for only six of the violations committed by non-state actors. The state failed in its duty to provide effective remedies for 10 acts of violence committed by non-state actors. In all the cases where the state did not provide effective remedies to the victims of violations perpetrated by non-state actors, the state failed in its duty to protect the rights of the victims and is responsible for the violations.⁸⁵

⁸¹ See n 58 above.

⁸² See n 38 above.

⁸³ See n 21 above.

⁸⁴ See n 33 and 34 above.

⁸⁵ See *SERAC* case (n 2 above) par. 46.

6. ANALYSIS OF TRENDS IN HUMAN RIGHTS VIOLATIONS AGAINST SEX WORKERS IN 2019

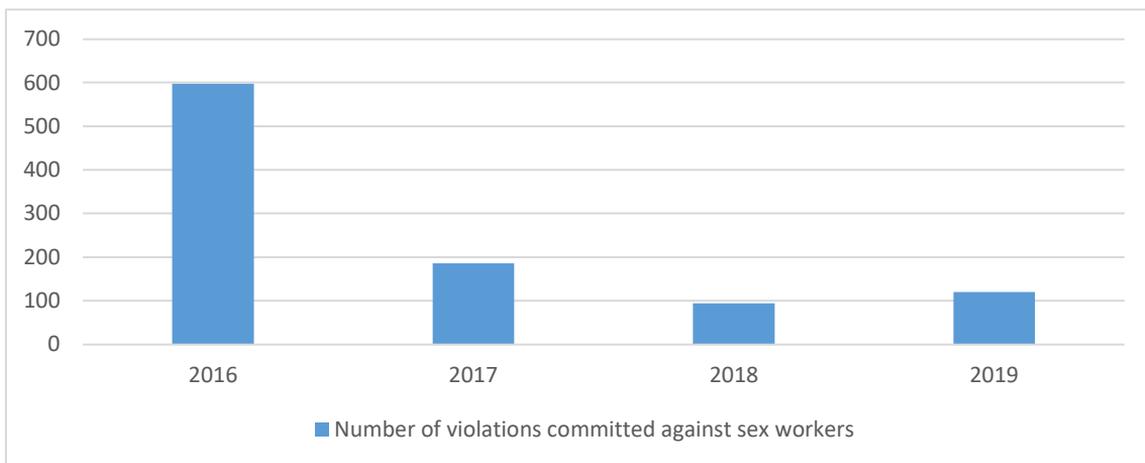
6.1 Introduction

During the year 2019, 23 cases were reported to HRAPF and other contributing organisations revealing 120 verified human rights violations and 19 dignity violations against sex workers. While 123 other cases were also reported, these could not be included in this report either because no violation could be identified or the alleged violations could not be verified due to insufficient information available on file. Two constitutionally guaranteed human rights were violated, namely: the right to liberty and the right to dignity and freedom from torture and cruel, inhumane and degrading treatment or punishment. The dignity of sex workers was also violated. This section analyses and summarises the violations committed against sex workers during 2019 in comparison to preceding years.

6.2 Trends in number of human rights violations committed against sex workers

During 2019, 120 violations were committed against sex workers. This number is higher than the 94 violations verified for 2018, but still far lower than the 186 violations verified in 2017 and the 597 violations verified in 2016.⁸⁶

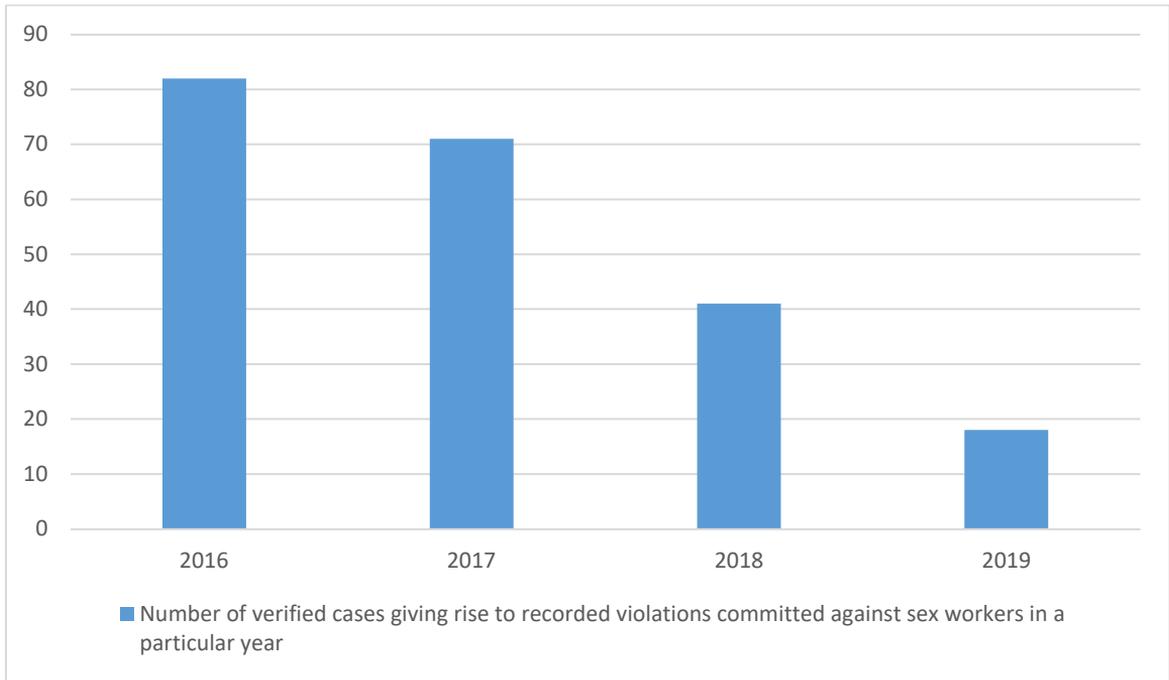
Chart 1: Number of human rights violations committed against sex workers per year, 2016 – 2019



⁸⁶ See HRAPF (n 10 above) and HRAPF *Protection and violation of the rights of female sex workers in Uganda 2016* (2017) 13.

The numbers of cases giving rise to violations, however, are on a continuous downward trend. In 2019, only 18 cases gave rise to human rights violation against sex workers; in 2018, the recorded violations against sex workers arose out of 41 cases; in 2017 the verified violation arose out of 71 cases and in 2016 the violations arose out of 82 verified cases.⁸⁷ The numbers of cases presenting violations against sex workers are seemingly on a downward trend.

Chart 2: Number of verified cases giving rise to recorded human rights violations committed against sex workers in a particular year, 2016 - 2019



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

During 2019, the violation of two rights of sex workers were recorded, namely the right to liberty and the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment.

⁸⁷ See HRAPF 2019 (n 23 above) 2; HRAPF 2018 (n 23 above) 12; HRAPF 2017 (n 86 above) 9.

Table 1: Categories of human rights of sex workers violated in 2019

Category of right violated	Number of violations
Right to liberty	109
Right to dignity and freedom from torture	11

There is a clear trend in violations of the right to liberty beyond any other right of sex workers. In 2019, the violation of the right to liberty constituted 109 out of 120 or 90.8% of violations. In 2018, the violation of this right constituted 65% of all violations committed, which is 61 out of 94 violations.⁸⁸ In 2017, the right to liberty was also the most violated right with 98 out of 186 violations (53%)⁸⁹ The same trend was seen in 2016, where the violation of the right to liberty accounted for 471 out of 597 or 78.9% of violations against sex workers.⁹⁰

Chart 3: Percentage which the violation of the right to liberty has contributed to the overall violation of human rights of sex workers for a particular year



The continuous trend of high numbers of violations of the right to liberty can be attributed to the fact that sex work remains criminalised in Uganda. Section

⁸⁸ See HRAPF 2019 (n 23 above) 9.
⁸⁹ See HRAPF 2018 (n 23 above) 12.
⁹⁰ See HRAPF 2017 (n 86 above) 28.

138 and 139 of the Penal Code Act criminalise sex work as the offence of 'prostitution'. These violations are, however, very difficult to prove and therefore Police officers tend to charge persons whom they suspect of engaging in sex work under other provisions of the Penal Code Act or under the laws criminalising drug use and possession instead, which amount to arbitrary arrest.

Sex workers also remain vulnerable to the violation of their right to freedom from torture and cruel, inhuman and degrading treatment or punishment.

Apart from human rights violations, sex workers also suffer the violation of their dignity at the hands of non-state actors. Acts of violence are mostly perpetrated by clients or potential clients who victimise sex workers since they know that sex workers are in a vulnerable position in society and the state mechanisms are more likely to work against them than in their favour.

Sex workers are often reluctant to report crimes committed against them to the Police since they can easily be arrested on the basis of their engagement in sex work. Time and again, when sex workers do report the violent crimes committed against them to the Police, their cases are simply not taken seriously and the victims are left with no choice but to give up hope of any vindication for the violations they have suffered.

It is clear that the current legal framework does not create an atmosphere or structure for the realisation of the rights of sex workers in Uganda.⁹¹ Unless the state fulfills its duty to protect sex workers as rights-holders by decriminalising sex work, the violation of their rights will continue.⁹²

6.4 Trends in violations of human dignity of sex workers in 2019

During 2019, non-state actors committed 19 violations of dignity against sex workers. These violations include 16 acts of violence, two cases of deprivation of property and one infringement of privacy.

⁹¹ See *SERAC* case (note 2 above) par. 46.

⁹² As above.

Table 2: Violations of human dignity committed against sex workers in 2019

Category of violation of human dignity	Number of cases
Violence	16
Infringement of privacy	1
Deprivation of property	2
TOTAL	19

The number of violations committed by non-state actors are fewer compared to the number committed during 2018. There were a total of 26 violations committed by non-state actors during 2018.⁹³ The nature of violations committed by non-state actors have remained unchanged: these acts are primarily acts of violence including physical and sexual assault.

6.5 Trends in perpetrators of violations committed against sex workers

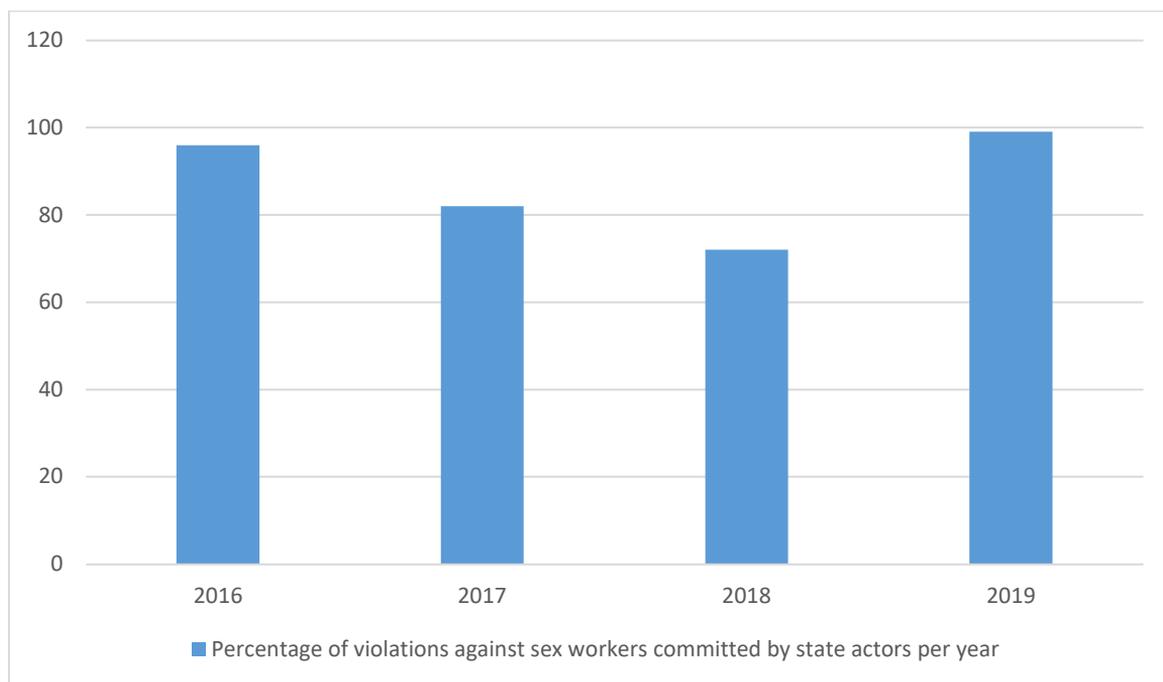
During 2019, a total of 120 human rights violations committed against sex workers were recorded and verified.

All of these violations were committed by state actors. This ratio follows a different trend to that of the previous three years. In 2018, state actors committed 68 out of 94 or 72% of violations against sex workers; in 2017 state actors were responsible for 153 out of 186 or 82% of violations and in 2016 state actors committed 576 out of 597 or 96% of violations.⁹⁴ This differing trend can be attributed to the fact that previous reports considered violations by state actors as well as violations of dignity committed by non-state actors to be classified as human rights violations. A ratio of violations committed by state actors as opposed to non-state actors could thus be determined and compared from year to year. This report does not consider such acts committed by non-state actors to qualify as human rights violations, but do consider the state’s responsibility to prevent and address such acts.

⁹³ Human Rights Awareness and Promotion Forum *Report on the protection and violation of human rights of sex workers in Uganda 2018* (2019) 18.

⁹⁴ See HRAPF 2019 (n 23 above) 18; HRAPF 2018 (n 23 above) 12; HRAPF 2017 (n 86 above) 9.

Chart 4: Percentage of human rights violations against sex workers committed by state actors per year



There has been a seeming downward trend in the number of violations committed by the state and the Police in particular from 2016 to 2018. The number of violations committed by state actors in 2019 is higher than the number committed by the state in 2018, but still lower than the numbers in 2017 and 2016.

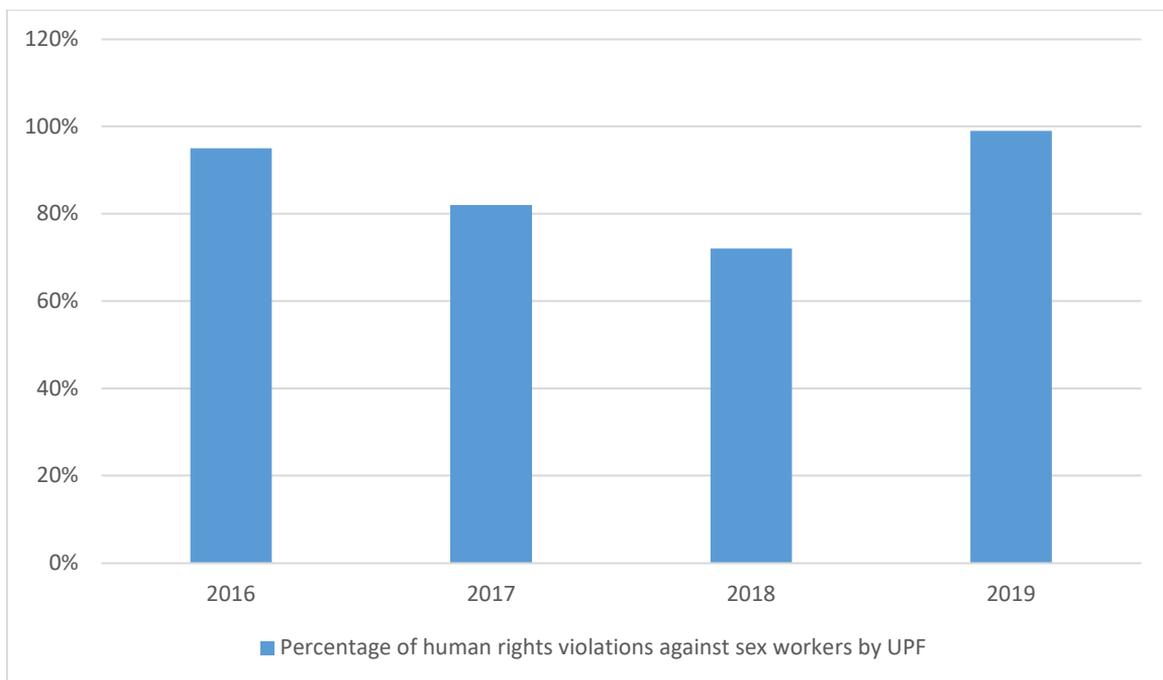
Table 2: Perpetrators of human rights violations committed against sex workers during 2019

Perpetrator	Number of violations occasioned
The Uganda Police Force	109
Local Area Defense Unit	1

The Uganda Police Force perpetrated the highest number of violations against sex workers, followed by members of Local Defense Units. In 2019, violations committed by the Police were more than those committed in previous years. Out of the 120 violations verified for 2019, 119 or 99.2% were committed by the

Police. In the year 2018, the violations committed by the Police were far fewer as compared to previous years as well as in comparison with 2019. Of the total 94 of incidents of human rights violations against sex workers that were verified for 2018, 68 (72%) were perpetrated by the Uganda Police Force.⁹⁵ In 2017, 153 out of 186 (82%) violations were committed by the Police and 566 out of 597 (95%) violations were committed by the Police in 2016.⁹⁶

Chart 5: Comparison of percentage of human rights violations against sex workers for which the UPF is responsible, 2016 -2019



The Police mostly committed violations against sex workers under the cloak of preventing crime or protecting against crime and in the course of arresting sex workers, with multiple violations committed in a single arrest.

Apart from state actors, non-state actors were also responsible for committing violations of dignity of sex workers during 2019. Non-state actors responsible for violating the dignity of sex workers include the clients of sex workers, members of the general community, lodge owners and the media.

⁹⁵ See HRAPF 2019 (n 23 above) 18.

⁹⁶ See HRAPF 2018 (n 23 above) 12 and HRAPF 2017 (n 86 above) 9.

Table 3: Perpetrators of violations of human dignity of sex workers

Perpetrator of human dignity violation	Number of violations
Clients of sex workers	10
Members of the general public	7
Media houses	1
Lodge owners	1

Clients of sex workers are worrying violators of their dignity considering that they often commit violent crimes against sex workers with impunity. Only five cases where violations were perpetrated by clients of sex workers were taken seriously by the Police, the remaining violations, some of which were violent crimes, remained unaddressed.

The Uganda Human Rights Commission has the authority to investigate instances of human rights violations, either in response to a complaint or on its own initiative.⁹⁷ The Equal Opportunities Commission, in accordance with the Equal Opportunities Commission Act, 2007 has the authority to inquire into 'any act, circumstance, conduct, omission, programme, activity or practice which seems to amount to or constitute discrimination, marginalization or to otherwise undermine equal opportunities'.⁹⁸ During 2019, none of the violations committed by either state or non-state actors against sex workers were investigated by the UHRC or the EOC on their own accord. The outcome of violations committed against sex workers is most often impunity. The state by and large failed to provide effective remedies to sex workers who suffered the violation of their rights.

6.6 Conclusion

An analysis of the trends indicates that the number of human rights violations committed against sex workers have remained similar to the number recorded in previous years. The figures for the year indicate an upsurge in mass arrests of sex workers by the Police.

⁹⁷ Art 52(1)(a) of the Constitution.

⁹⁸ Sec 14(2) of the Equal Opportunities Commission Act, 2007.

7. CONCLUSION AND RECOMMENDATIONS

7.1 General conclusion

This report provides evidence of the fact that sex workers in Uganda continue to face frequent human rights violations at the hands of state actors while also suffering violations of dignity from non-state actors, and that they are usually not afforded an effective remedy to address these violations. The continued criminalisation of sex work under Sections 138 and 139 of the Penal Code Act plays into their vulnerability to human rights violations and violations of dignity. Even though these sections have not been applied to charge a sex worker in a single case recorded in 2019 and 2018, the existence of these provisions encourages stigma against sex workers and serve to justify the violation of their rights.

There is need to continue meaningful engagement with law enforcement agencies and other duty-bearers to improve the human rights situation for sex workers in Uganda and to ensure that human rights violations committed against them do not go unaddressed. There is also need for continued advocacy for reforms to the legal framework in Uganda which would facilitate the protection of the rights of sex workers.

7.2 Recommendations

To the President of the Republic of Uganda

The President of Uganda is empowered and mandated by the Constitution to assent to or reject laws passed by Parliament. The President can determine whether laws which place sex workers at risk is maintained. The President can also initiate processes for the adoption of new laws or the amendment of existing laws. The President is called upon to:

1. Move Cabinet to propose repeal of provisions that allow for arbitrary arrest of sex workers, including vagrancy offences under Section 160 (Common Nuisance), Section 167 (Idle and Disorderly) and Section 168 (Rogue and Vagabond) of the Penal Code Act.
2. Acknowledge the earlier directives prohibiting arrest for being idle and disorderly and propose an extension of this directive to cover other offences.
3. Veto legislation which promotes and sanctions discrimination and violence against women because of their involvement in sex work.

To Parliament

The Parliament of Uganda is the legislative arm of government with the primary duty to enact and amend laws in the country. In order to better protect the rights of sex workers, it is recommended that Parliament does the following:

1. Repeal laws which fuel violence against sex workers, in particular Sections 138 and 139 of the Penal Code Act which are obsolete within the criminal justice system.
2. Parliamentary committees working on issues affecting sex workers should continue to engage sex worker organisations in order to understand the challenges that sex workers face.
3. Repeal Sections 167 and 168 of the Penal Code Act which criminalises being idle and disorderly and being a rogue and vagabond.

To the Uganda Police Force

The Uganda Police Force remains the critical actor in terms of both the protection and violation of the rights of sex workers. While the Police is mandated to enforce laws and detect crime; they also have a duty to protect the rights of sex workers when they are threatened or violated. It is recommended that the Police does the following:

1. The Directorate of Human Rights and Legal Services, working with civil society organisations, should ensure that Police officers and arresting officers in particular undergo continuous training on human rights, with specific focus on the rights of women engaged in sex work.
2. Provide sex workers with equal protection of the law by ensuring that the violations that are perpetrated against them are thoroughly investigated and concluded.
3. Strengthen mechanisms which exist to redress human rights violations committed by members of the UPF. In particular, improve the responsiveness of the Police Professional Standards Unit in handling matters of alleged violations committed by Police Officers.

To the Uganda Law Reform Commission

The Uganda Law Reform Commission is established under Article 243 of the Constitution, which gives it the mandate to make recommendations for legal reform. It is recommended that the Law Reform Commission does the following in order to improve the situation of sex workers in the country:

1. Develop a proposal to Parliament to repeal provisions in the Penal Code Act that criminalise sex work and related activities which are not being used by law enforcers, yet promote prejudice and discrimination against sex workers. These include Sections 136, 137, 138 and 139 of the Penal Code Act.
2. Make formal recommendations for the repeal of laws that allow for the arbitrary arrest of sex workers, including vagrancy offences under Section 160 (Common Nuisance), Section 167 (Idle and Disorderly) and Section 168 (Rogue and Vagabond) of the Penal Code Act.

To the Uganda Human Rights Commission

The Uganda Human Rights Commission has the constitutional mandate to investigate incidents of human rights violations and availing redress for them, and to ensure observance of human rights by other state organs and agencies in the course of performing their duties. In order to ensure that sex workers' rights are respected by both state and non-state actors and also protected by the state, there is need for the Commission to do the following:

1. Investigate and document complaints of human rights violations against sex workers and include them in annual reports to Parliament with the necessary recommendations for legal and policy reform.
2. Strengthen partnerships with organisations working with the sex worker community to monitor and document incidents of human rights violations against sex workers.

To the Equal Opportunities Commission

The Equal Opportunities Commission is an institution mandated to address marginalisation and discrimination in Uganda. The EOC provides a platform for addressing violations suffered by women by virtue of their involvement in sex work. In order to make progress on this, the Commission is recommended to:

1. Investigate systematic discrimination against women on the basis of their involvement in sex work in the various state organs and agencies.
2. Train the Commission staff members on human rights issues relating to women that engage in sex work, so as to build their capacity to handle matters of stigmatisation and discrimination against sex workers.
3. Create and strengthen partnerships with organisations working towards the promotion of sex workers' rights.

4. Compile reports on discrimination and marginalisation of sex workers and make the necessary recommendations to the relevant stakeholders on how to combat such discrimination and marginalisation.
5. Include sex worker issues in the annual reports to Parliament.

To sex worker organisations

The human rights organisations in Uganda that work towards the promotion of sex workers' rights have a duty to keep issues relating to sex workers at the forefront of the state's human rights agenda. It is recommended that civil society does the following:

1. Document human rights violations against women based on their engagement in sex work, and use the results obtained from such documentation to advocate for the adoption of key strategies in the promotion of rights of sex workers.
2. Document the state's response to human rights violations committed against sex workers and the frequency with which effective remedies are provided for such violations.
3. Continue to work with the Police Directorate of Human Rights and Legal Services in order to train Police Officers on the rights of sex workers and their duty to ensure that this group enjoys equal protection of the law.
4. Train media houses on rights-affirming approaches to reporting on sex work and sex workers in Uganda and ensure that the media understands the importance of keeping information about sex workers' identities and places of work confidential.
5. Create partnerships with other organisations to monitor and document human rights violations against sex workers.

To the media

The media plays an essential role of independent watchdog in society. The media has the duty to make events and situations in the country known to the public and it also has the power to control how these events and situation are communicated and perceived. In order to protect and promote the rights of sex workers in the country, the media is advised to do the following:

1. Engage in trainings and awareness raising which will enable a better understanding of the lived realities, vulnerabilities and rights of sex workers.
2. Refrain from publishing any footage, photographs and information which will compromise the identity of sex workers or the location of their places of work.
3. Monitor and report on instances of human rights violations committed 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 for the promotion, realisation, protection and enforcement of human rights through human rights awareness, research, advocacy and legal aid service provision, with a particular focus on minorities and disadvantaged groups. It was established in 2008 with a vision of improving the observance of human rights of marginalised persons in Uganda.

Legal Status

HRAPF is registered as a Non-Governmental Organisation in Uganda.

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 enhanced 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 at 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 service providers in conflict with abortion laws
5. People who use drugs
6. People Living with HIV and TB (PLHIV/TB)
7. Poor women, children and the elderly with land justice issues

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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