



# 2018 REPORT ON THE PROTECTION AND VIOLATION OF THE HUMAN RIGHTS OF SEX WORKERS IN UGANDA

August 2019

With contributions from



With the support of:



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## With contributions from

Alliance of Women Advocating for Change (AWAC)

Empowered At Dusk Women's Association (EDWA)

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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Organisation for Gender Empowerment, Rights Advocacy,  
Women Positive Empowerment Initiative and  
Women Organisation Network for Human Rights Advocacy

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**August 2019**



The Partnership to Inspire, Transform and Connect the HIV response (PITCH) enables people most affected by HIV to gain full and equal access to HIV and sexual and reproductive health services.

The partnership works to uphold the sexual and reproductive health and rights of lesbian, gay, bisexual, and transgender people, sex workers, people who use drugs and adolescent girls and young women. It does this by strengthening the capacity of community-based organizations to engage in effective advocacy, generate robust evidence and develop meaningful policy solutions.

PITCH focuses on the HIV response in Indonesia, Kenya, Mozambique, Myanmar, Nigeria, Uganda, Ukraine, Vietnam and Zimbabwe. Partners in these countries also share evidence from communities to influence regional and global policies that affect vulnerable populations.

PITCH is a strategic partnership between Aidsfonds, the International HIV/AIDS Alliance and the Dutch Ministry of Foreign Affairs.

## ABOUT HUMAN RIGHTS AWARENESS AND PROMOTION FORUM

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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 marginalised persons, including sex workers.

## ABOUT THE CONTRIBUTING ORGANISATIONS

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### 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 and 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 and 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 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 the 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.

## ACKNOWLEDGEMENTS

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HRAPF acknowledges the contribution of every one of our partner organisations that work for the promotion and protection of the rights of sex workers and have contributed cases to this report. HRAPF also acknowledges the important role of Community Paralegals in responding to cases reported by sex workers as they arise and for documenting these cases across the country.

HRAPF is grateful to our donors, Frontline AIDS, Global Fund and WONETHA, that have made this report a reality.



## PREFACE

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This is the third edition of the Report on the Protection and Violation of the Human Rights of Sex Workers in Uganda. This report presents the violations of human rights of sex workers that were recorded during the year 2018. As with the previous two reports, instances of protection of rights of sex workers by state actors within the year are also recorded.

Over the past three years, there has been a marked improvement in the treatment of sex workers by the police. Police officers increasingly refrain from arresting sex workers arbitrarily and from exposing them to the media after arrest. This report continues the trend of recording instances of protection of the rights of sex workers.

Nevertheless, this report shows that there are more violations committed against sex workers by the police than by private, non-state actors. It shows that there is further need for mechanisms to be put in place to protect sex workers in their work and everyday lives as they are extremely vulnerable to human rights violations.

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.

This report serves as an evidence-base of the number, extent and severity of violations which sex workers continue to face in an environment of patriarchy where sex work is criminalised. The report highlights the need for intervention from the state, civil society and development partners to put an end to these violations.

The report is intended to support advocacy efforts toward positive changes in the legal and policy environment as it relates to sex workers in Uganda. It is also intended to serve as a tool in sensitising both state and non-state actors on the discrimination and degradation which sex workers continue to face.

**Dr. Adrian Jjuuko**

Executive Director, HRAPF

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## GLOSSARY

<b>Case:</b>	A particular situation that calls for investigation or action
<b>Lodge:</b>	A house or dwelling where sex workers engage in sexual activity with their clients
<b>Sex:</b>	The physical and biological distinction between male and female
<b>Sex worker:</b>	An adult person who consensually gives sexual services in exchange for money or other material gain
<b>Site:</b>	An area where sex work is done on a large scale
<b>Transgender:</b>	A person whose deeply held sense of gender is different from their biological sex assigned at birth
<b>Transgender woman:</b>	A person who was assigned the male sex at birth but identifies as female
<b>Violation:</b>	An act that contravenes a law that guarantees a right. There may be multiple violations in a single case.

## 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
WONETHA	Women’s Organisation Network for Human Rights Advocacy
WOPEIN	Women Positive Empowerment Initiative

# EXECUTIVE SUMMARY

## Introduction

This report shows the verified cases of the violations perpetrated against sex workers on the basis of their engagement in sex work, as well as cases of the protection of the rights of sex workers by various state agencies. The purpose of this report is to show the extent to which the rights of sex workers are both respected and violated, and to identify trends in the violation of their rights from one year to the next. The report details the human rights violations perpetrated by both state and non-state actors and makes recommendations to various stakeholders on how the rights of sex workers can be better protected in Uganda.

## Key findings

1. There were six documented cases in which the human rights of sex workers were protected by the State. While these cases are few in comparison with the number of violations, they are nevertheless celebrated as steps in the right direction.
2. There were 94 violations of the rights of sex workers arising out of 41 verified cases, indicating multiple violations arising from a single case. This number of violations is considerably lower compared to the 286 violations verified in 2017.
3. Out of the 94 verified violations, 68 (72%) were committed by state actors while 26 (28%) were committed by non-state actors.
4. The Police emerged as the biggest single violator of human rights of sex workers (67 violations), followed by the clients of sex workers (16 violations).
5. The right of sex workers which was violated the most during 2018 is the right to liberty (61 cases).

## Recommendations

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

1. Veto legislation that promotes discrimination and violence against women because of their involvement in sex work.
2. Move the minister of Gender, Labour and Social Development to initiate legislation aimed at repealing provisions that criminalise sex work, particularly sections 138 and 139 of the Penal Code Act.
3. Demand for complete investigations of cases involving violations of the rights of sex workers.

### ***To Ministry of Health***

1. Highlight violations committed against sex workers as a Key Population as a barrier in the fight against HIV and AIDS in policies and public communication.
2. Take a stand against laws which criminalise sex work and place sex workers at a greater risk of suffering the violation of their rights, which in turn makes them more vulnerable to HIV infection.

### ***To Parliament***

1. Repeal laws that are obsolete and which fuel violence against sex workers, in particular Section 138 and 139 of the Penal Code Act.
2. Parliamentary committees working on issues affecting sex workers should reach out to sex worker organisations in order to understand the challenges that sex workers face.

### ***To the Uganda Police Force***

1. Provide sex workers with equal protection of the law by ensuring that the violations that are perpetrated against them are properly investigated and concluded.
2. 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.

3. The Directorate of Human Rights and Legal Services 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.

### ***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. Demand for accountability from the state for all human rights violations reported, especially those that go unaddressed.
2. 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.
3. 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 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 the Uganda AIDS Commission***

1. Emphasise violations committed against sex workers as a Key Populations as an obstacle to the implementation of HIV prevention and control policies and programmes.
2. Take a stand against laws which criminalise sex work and place sex workers at a greater risk of suffering the violation of their rights, which in turn makes them more vulnerable to HIV infection.

### ***To mainstream civil society organisations***

1. Include sex workers in their programming and support sex workers organisations.

### ***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. Continue to engage in programmes that aim at creating public awareness on sex workers' rights and ending violence against sex workers.
3. Create partnerships with other organisations to monitor and documents human rights violations against sex workers.



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# 1. INTRODUCTION

## 1.1 Introduction

This report presents a record of verified human rights violations committed against individuals on the basis of their engagement in sex work in Uganda during the year 2018. This report is the third in a series of annual publications. The first report, documenting violations committed against sex workers during 2016, was released in 2017. The second report was for the year 2017 and this was published in 2018. The publication of this report is informed by the continued violence against sex workers in Uganda, as well as the rising levels of HIV prevalence among Key Populations, including sex workers. The report aims to provide evidence of the fact that criminalisation of sex work does not prevent sex work from taking place, but rather renders those engaged in sex work more vulnerable to suffer human rights violations. The criminalisation of sex work also increases sex workers' risk of HIV infection since it discourages the uptake of HIV prevention and treatment services where these are available and imposes a barrier preventing sex worker-specific HIV programming. Overall, the report serves to show that the criminalisation of sex work does not serve society.

Worldwide, more than half of new HIV infections occur among members of Key Populations and their sexual partners.<sup>1</sup> Key Populations in terms of HIV are those groups which are particularly vulnerable to HIV, while at the same time often lacking access to adequate HIV services.<sup>2</sup> The KPs currently considered to be the main focus of the international HIV response are gay men and other MSM; sex workers; transgender people; People Who Inject Drugs and prisoners and other incarcerated people.<sup>3</sup> In Uganda, the estimated HIV prevalence among female sex workers is 31.3%.<sup>4</sup> This report responds to the need for a comprehensive documentation of the human rights violations suffered by sex workers, which further inhibits their access to HIV services and feeds into the cycle of vulnerability to HIV infection.

The report documents violations committed against sex workers that were recorded by HRAPF and other organisations working with sex workers during the year 2018. The organisations have worked together in a loose coalition to contribute and verify violations reflected in this report. The report documents

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<sup>1</sup> UNAIDS 'Key Populations' available at <https://www.unaids.org/en/topic/key-populations> (Accessed on 13th December 2019).

<sup>2</sup> As above above.

<sup>3</sup> n 1 above.

<sup>4</sup> Makerere School of Public Health *Crane Survey Report Bio-behavioural survey among groups at increased risk of HIV in Kampala, Uganda* (2017) 35.

violations and abuses committed 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 their rights by both the state and the public 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.

All the organisations that contributed to the report provide 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 in accordance with the mandates and methodologies of the contributing organisations, and cases handled by more than one organisation were crosschecked to avoid duplication.

A total of 113 cases were collected, however, human rights violations could only be verified in 41 of these cases. A single case could involve multiple human rights violations and a total of 94 verified violations against sex workers were identified from the 41 cases included in this report.

The reliability of the data published in the report was ensured by following a set of verification guidelines. The guidelines require that the data is 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 that prove that the victim was assaulted; police statements that 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.

## 1.3 Challenges

The greatest challenge in the compilation of this report remains the absence of a standard form of documentation for the various organisations which contribute information. The various organisations handling cases of sex workers have vastly different mandates and each have a documentation mechanism suited to the particular needs of the organisation. Every organisation captures information that is most relevant to the services which they provide. Most of the organisations would not prioritise documenting relevant information concerning human rights violations suffered by their clients, even if it were a human rights violation as such which

caused the particular client to seek services. For the purposes of compiling this report, it is important for organisations working with the sex worker community to document cases in a comprehensive way which extends beyond collecting information that is directly relevant to the services which they provide. HRAPF, alongside the various partner organisations, has published guidelines for documenting human rights violations against sex workers, which it encourages the different partners to follow.

The report is furthermore limited in its geographical coverage. Most of the organisations that work with sex workers are situated in the Kampala Metropolitan Area and their reach only extend to Wakiso District and Mukono, 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 leads to a picture of the situation of sex workers in Uganda which mainly focuses on Kampala. 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 consistently improving over the years, some cases and violations are excluded from the report since they had not been documented properly. 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 2018, but it gives a picture of the nature and extent of human rights violations that were suffered by sex workers during the course of the year.

## **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 of protection of the human rights of sex workers in Uganda. The third section is devoted to discussing human rights violations perpetrated against sex workers in 2018. Violations committed by state actors and non-state actors respectively are discussed in two separate sub-sections. The fourth section of the report is dedicated to analysing trends in violations identified from the various reported and verified cases. The fifth 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. CASES OF PROTECTION OF THE HUMAN RIGHTS OF SEX WORKERS IN UGANDA

The legal framework in Uganda places a duty on the state to protect the rights of all individuals and groups in the country. Article 20 of the Constitution obliges the government and all its organs and agencies to respect, protect and uphold human rights and freedoms.<sup>5</sup> This duty is furthermore reiterated in the various international and regional human rights treaties to which Uganda is party.<sup>6</sup> The obligation to respect requires the state and its agencies not to interfere with the enjoyment of fundamental rights and freedoms; the obligation to uphold requires the state to actively put in place frameworks that enable individuals to fully realise their rights and freedoms; while the obligation to protect requires the state to protect individual rights from being abused by third parties and providing substantial remedies in the event that they are abused.<sup>7</sup>

The Government of Uganda and all its organs and agencies have as much of an obligation to respect, uphold and protect the rights of sex workers as they do for all other citizens. In order to fulfil this obligation, Uganda as a state has to adopt legal and administrative measures that eliminate social and cultural attitudes that fuel violence and discrimination against sex workers. 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.<sup>8</sup>

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.<sup>9</sup> Sex work is

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<sup>5</sup> Constitution of the Republic of Uganda, 1995.

<sup>6</sup> 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.

<sup>7</sup> *Social and Economic Rights Action Centre (SERAC) v Nigeria* (2001) AHLR 60 (ACHPR 2001) accessed at <http://www.chr.up.ac.za/index.php/browse-by-subject/410-nigeria-social-and-economic-rights-action-centre-serac-and-another-v-ni> (Accessed on 18th November 2017).

<sup>8</sup> 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 18<sup>th</sup> November 2017).

<sup>9</sup> Art 212 of the Constitution.

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 idle and disorderly due to their socio-economic status and the nature of their work.<sup>10</sup> This means that the police have to protect the rights of sex workers as bearers of all fundamental rights and freedoms, while also preventing and detecting the crime. Regrettably, in the process – and sometimes under the guise – of preventing crime, the police is the main violator of human rights of sex workers. There were, however, six instances recorded in 2018 where the police took steps to protect the rights of sex workers where these rights were threatened or infringed upon by private individuals.

In the first case, the boyfriend of a sex worker stole some of her assets including UGX 400,000 cash. She saw her boyfriend on the street later on and made an alarm after which a mob gathered that beat up the boyfriend. The Police intervened and arrested the boyfriend who was detained at the police station until the client went back and an agreement was reached that the boyfriend would repay the money to the sex worker in order to secure his release.<sup>11</sup>

In another case, a sex worker's boyfriend demanded money from her which she refused to give to him because she wanted to use it to buy food for their family. After she left the house, her neighbours called her and informed her that her boyfriend was destroying her property. She sought help at the nearest police station but her complaint was not taken seriously after the police learnt that she is a sex worker. She went to another police station where she did receive help. Police officers went to her home and arrested her boyfriend for the damage he had done to her property.<sup>12</sup>

In the third case, a sex worker was assaulted by a man she did not know after she escorted a client out of her room. The assailant pushed her back into the room and tried to strangle her while demanding money. Two men responded to her alarm and eventually managed to lock the assailant in the room as the sex worker escaped. She reported the matter to the police after which policemen arrested the assailant from her room.<sup>13</sup>

Apart from these three cases, three other cases were also recorded and verified in which the Police responded to sex workers' requests for assistance and opened cases where they have been victims of crimes. In one of these cases, the police opened a case against a man who followed a sex worker to her house and was

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<sup>10</sup>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.

<sup>11</sup> HRAPF/SWVR-19/066.

<sup>12</sup> HRAPF/SWVR-19/048.

<sup>13</sup> HRAPF/SWVR-19/008.

arrested by her neighbours and other community members after he tried to rape her.<sup>14</sup> In two other cases, police carried out medical examinations and opened cases against alleged perpetrators of assault against sex workers.<sup>15</sup>

These six instances which were recorded where police officers came to the aid of sex workers in need are commendable. Regrettably, the few cases in which the police protect the rights of sex workers are outweighed by the many cases where the police are the perpetrators of the violations.

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<sup>14</sup> HRAPF/SWVR-19/022.

<sup>15</sup> HRAPF/SWVR-19/018 and HRAPF/SWVR-19/029.



## 3. VIOLATIONS OF THE HUMAN RIGHTS OF SEX WORKERS IN 2018

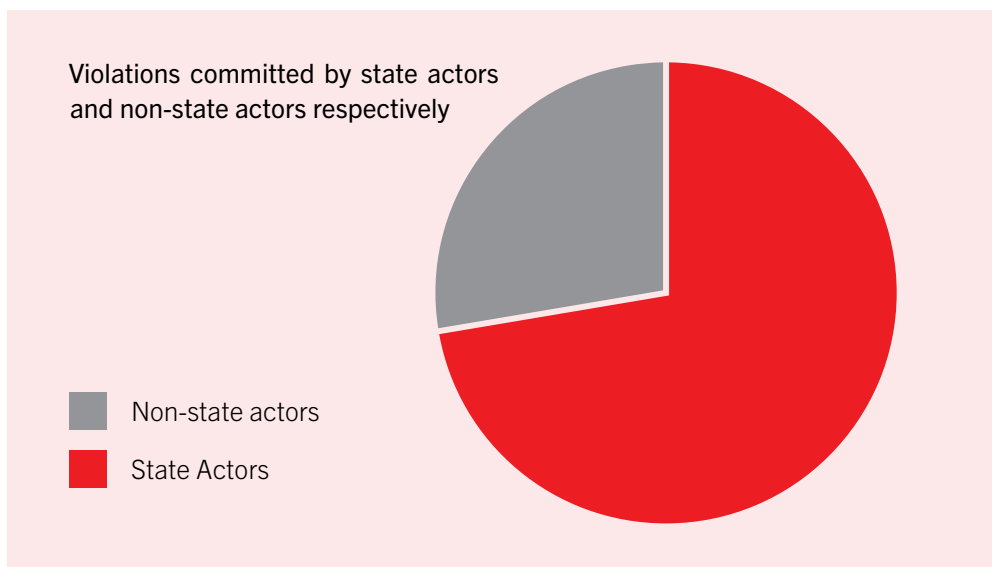
### 3.1 Introduction

This section of the report provides a record of verified human rights violations committed against sex workers in 2018.

Chapter 4 of the Constitution of the Republic of Uganda of 1995 (as amended) sets out the rights and freedoms which are inherent to all individuals and groups in Uganda. Article 20(2) provides that the rights and freedoms set out in Chapter 4 are to be respected, upheld and promoted by all organs and agencies of government and by *all* persons. This means that there is a constitutional duty on all persons as well as all organs of government not to violate the rights of others. Both state actors and non-state actors are capable of violating human rights and both have a duty not to interfere with the lawful exercise of rights by others.

During 2018, a total of 94 violations committed against sex workers were verified. Of these, 68 were perpetrated by state actors and 26 by non-state actors. The Uganda Police Force emerged as the greatest perpetrator of human rights violations against sex workers as they were responsible for 67 of the 68 violations committed by the state. The violations committed by state actors and non-state actors are discussed separately.

**Chart 1: Violations committed on the basis of the victim's sexual orientation and gender identity by state actors and non-state actors**

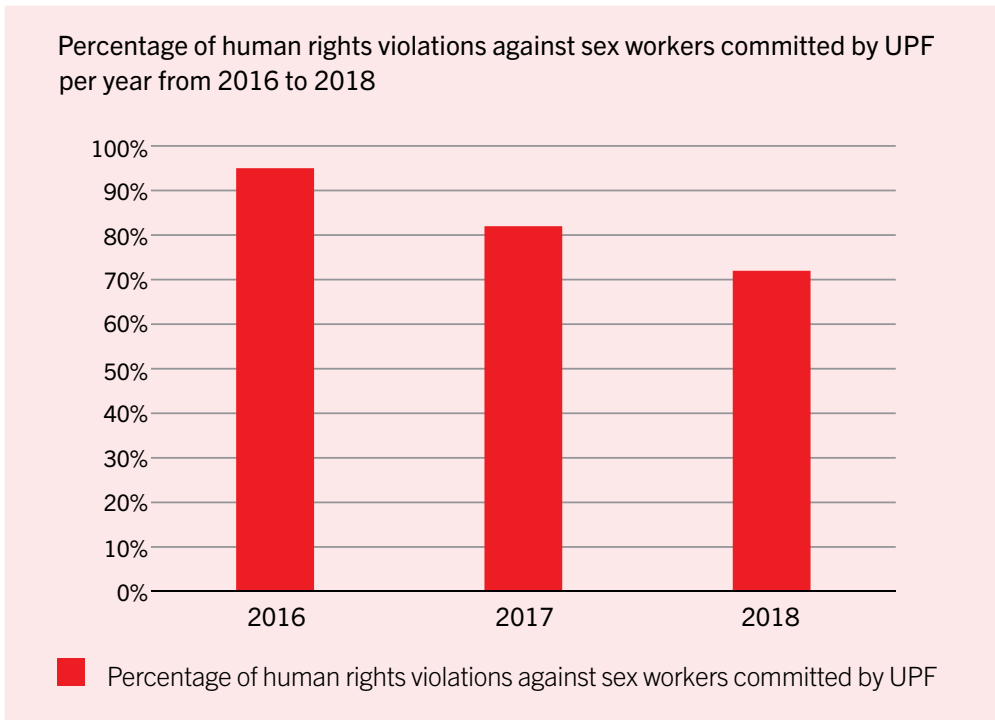


## 3.2 Violations by state actors

### 3.2.1 Violations by the Uganda Police Force

In the year 2018, the violations committed by the Police were far fewer as compared to previous years. Of the total 94 human rights violations against sex workers that are included in this report, 68 (72%) were perpetrated by the Uganda Police Force. This figure is far lower than the 153 out of 186 (82%) violations committed by the police during 2017 and the 566 out of 597 (95%) committed during 2016. The lowered figure may be attributed to the continuous efforts to train police on the human rights of sex workers.

**Graph 1:** Comparison of percentage of human rights violations against sex workers for which the UPF is responsible



The police, however, remains the greatest single perpetrator of human rights violations against sex workers. These violations were mostly committed 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. The rights most commonly violated by the police were: the right to liberty, the right to equality and the right to freedom from torture and cruel, inhuman or degrading treatment or punishment.

### **a) Violation of the right to liberty**

The right of sex workers which was violated the most during 2018 is the right to liberty. There were 10 cases in which the Uganda Police Force violated this right of sex workers. Under Article 23(1) of the Constitution every individual has the right to liberty.<sup>16</sup> 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.<sup>17</sup> There are specific rights guarantees and protections that are part of the normative content of the right to liberty and which ought to be respected when a person's liberty is limited by arrest or any form of detention. These guarantees and safeguards include: the right to be kept in a place authorised by law;<sup>18</sup> the right to be informed immediately in a language that is understood of the reason for their arrest and of their right to a lawyer;<sup>19</sup> the right not to be detained beyond 48 hours without being brought before a court;<sup>20</sup> the right to inform their next of kin of their detention;<sup>17</sup> the right to be allowed access to their next of kin or lawyer;<sup>21</sup> and the right to access medical treatment.<sup>22</sup>

#### ***i) Freedom from arbitrary arrest***

There were 12 cases of arbitrary arrest involving 63 sex workers documented and verified for the year 2018. Any deprivation of the right to liberty that is not based on the legally established grounds and done in accordance with legally established procedures is arbitrary. While the right to liberty may be limited where there is reasonable suspicion that an individual has committed or is about to commit a crime, 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 arrest is based on offences which do not exist in law. Arrests are also arbitrary where it is done in circumstances where there is apparent injustice and lack of predictability on the part of the arresting officers.<sup>23</sup>

When sex workers are arrested, often the limitation of their right to liberty is based on the prejudices that law enforcement officers and the society at large have

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<sup>16</sup> Art 23(1) of the Constitution.

<sup>17</sup> Art 23(1)(c) of the Constitution.

<sup>18</sup> Art 23(2) of the Constitution.

<sup>19</sup> Art 23(3) of the Constitution.

<sup>20</sup> Art 23(4)(b) of the Constitution.

<sup>21</sup> Art 23(5)(b) of the Constitution.

<sup>22</sup> Art 23(5)(c) of the Constitution.

<sup>23</sup> *Van Alphen v Netherlands* Human Rights Council, Comm.No.305/19988.

against them. The existence of the offence of prostitution under Sections 138 and 139 of the Penal Code Act, while a legal ground for arresting sex workers, is not one that is relied on by police. The definition of the offence of prostitution is the ‘habitual holding out of oneself as available for sexual intercourse or other sexual gratification for monetary or other material gain in public or elsewhere,’ which requires the police to actually have proof of the sex workers offering sex in exchange for monetary or material gain. Due to the difficulty in proving this offence, the police resort to arresting sex workers without having any reasonable suspicion of them having committed any specific offence, but on rather unclear grounds that they do not disclose to them at the time of arrest. The sex workers would later on be charged under the broad and vague provisions of the Penal Code creating petty offences or under trumped-up charges such as theft or possession of drugs.

In the 12 cases involving the arbitrary arrest of 63 sex workers in 2018, sex workers were arrested on the basis of their presence in a particular place and 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.

Many of these arrests took place in swoops on the streets, roadsides and bars. In one of the cases of arbitrary arrest, 28 sex workers were arrested during a police swoop on bars and lodges in the Makindye area. The sex worker was taken to the police station and the whole group were charged for ‘smoking’, even though they were not smoking cigarettes or using any other substance at the time of arrest.<sup>24</sup> It appears that the police intended to ‘punish’ the sex workers by misusing the criminal justice system on the basis of their suspicion that they engaged in sex work and arrested them using the criminal provisions of the Tobacco Control Act, 2015 as a guise.<sup>25</sup>

In another case, four sex workers were arrested from the spot from where they usually meet their clients. The arresting officer told them that they were being arrested as suspected thieves that ‘prowl’ the area at night. They were detained for one night and released without charge.<sup>26</sup> It appears that, once again, the police intended to punish women whom they suspected to be sex workers by making up accusations against them and then releasing them without a charge after keeping them in police custody for some time. There was no proof that the women had committed theft.

A case was also recorded where 13 sex workers were arrested from their rooms and were charged with the offence of being a rogue and vagabond. The offence

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<sup>24</sup> Section 12 of the Tobacco Control Act prohibits smoking in a public place, workplace or public transport..

<sup>25</sup> HRAPF/SWVR-19/074.

<sup>26</sup> HRAPF/SWVR-19/057.

of being a rogue and vagabond criminalises the actions of ‘wandering in ...any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal purpose’; procuring charitable contributions under fraudulent pretenses or being ‘a suspected persons or reputed thief who has no visible means of subsistence [who] cannot give a good account of himself or herself’.<sup>27</sup> It does not follow logically that police could storm into the private lodgings of sex workers in order to arrest them under this criminal provision. It appears that the motive of the arrest was to punish the arrestees for their suspected engagement in sex work, however they were not charged under the Penal Code provisions which criminalise sex work. The rogue and vagabond charges were merely used to justify the arrest and it is therefore arbitrary.<sup>28</sup>

### ***ii) Detention beyond 48 hours without appearing in court***

During 2018, three cases were documented involving individual sex workers who were arrested and detained beyond 48 hours without being brought before the court. The Constitution states that a person arrested upon reasonable suspicion of having committed or being about to commit a criminal offence under the laws of 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.<sup>29</sup>

In the first of the three documented cases, a sex worker was reported to the police by another sex worker with whom she had been quarreling. The sex worker was arrested and detained for three days before being taken to court and remanded to prison.<sup>30</sup>

In another case, a sex worker had an altercation with a potential client while she was standing on the street waiting for clients. The sex worker pushed him away and the man’s shirt was slightly damaged. The man reported a case of assault, after which the sex worker was arrested and detained in police cells for four days before being released on bond.<sup>31</sup>

The third recorded case of prolonged detention took place in the Northern Region of Uganda. A sex worker was arrested by a police officer who was disgruntled because she had rejected his sexual advances. The police officer locked the sex worker in a room at the lodge where she was working for one night after which she was detained in police custody for a week before her release could be secured.<sup>32</sup>

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<sup>27</sup> Sec 168 of the Penal Code Act.

<sup>28</sup> HRAPF/SWVR-19/056.

<sup>29</sup> Art 23(4)(b) of the Constitution.

<sup>30</sup> HRAPF/SWVR-19/004.

<sup>31</sup> HRAPF/SWVR-19/044.

<sup>32</sup> HRAPF/SWVR-19/001.

In all three of these instances, the right to liberty of the sex workers involved were violated due to their prolonged detention. In the last instance the right to liberty was also violated on the basis of the fact that the sex worker was detained by the police officer in a private lodging overnight and not in a place authorised by law as stipulated by the Constitution.<sup>33</sup>

### **b) Violation of the right to equality and freedom from discrimination**

Four cases were documented in which the right to equality and freedom from discrimination of sex workers were violated by the Police. Article 21 of the Constitution protects the right of every person to equality before and under the law as well as equal protection of the law. This right is often denied to sex workers on the basis of their socio-economic status and the nature of their work. As a result, sex workers are often denied access to basic services which ought to be available to all, including the protection of the police.

One case was recorded and verified in which a sex worker's boyfriend went about destroying her property in a fit of anger. The sex worker rushed to the nearest police station to report the matter, but she was not taken seriously after the police learnt that she was a sex worker.<sup>34</sup> The refusal of the police to offer protection and to prevent and detect crime on her behalf, on the basis of her socio-economic status, constitute a violation of her right to equality.

Three other cases were recorded in which the police arrested sex workers following unfounded complaints and concerns by members of the community. In one such a case, a sex worker was arrested after her husband reported her to the police after he assaulted her in a drunken rage.<sup>35</sup> In another case, the friend of the father of a sex worker's child reported her to the police and had her detained on the unfounded accusation that she may kill the child.<sup>36</sup> The fact that the police are willing to arrest and detain sex workers on flimsy grounds and baseless accusations indicate a bias toward them which results in unequal treatment before and under the law.

### **c) Violation of the right to dignity and freedom from torture and cruel, inhuman and degrading treatment or punishment**

During 2018, there were two violations of the right to freedom from degrading treatment of sex workers committed by the Police. 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

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<sup>33</sup> Art 23(2) of the Constitution.

<sup>34</sup> HRAPF/SWVR-19/048.

<sup>35</sup> HRAPF/SWVR-19/006.

<sup>36</sup> HRAPF/SWVR-19/039.

no circumstances be infringed upon or restricted.<sup>37</sup>

The Prevention and Prohibition of Torture Act, 2012, defines torture 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 or coercing the person or any other person to do or refrain from doing any act. Article 1 of the United Nations Convention Against Torture (UNCAT) has a similar definition of torture. Cruel and inhuman treatment on the other hand is, according to Article 16 of the UNCAT, is any ill-treatment that does not fit within the definition of torture as per Article 1 of the Convention. It is ill-treatment that consists of acts causing physical or mental pain that may not be 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.<sup>38</sup> Degrading treatment distinctively constitutes acts that cause a person humiliation and loss of self-respect.<sup>39</sup>

In one case documented in 2018, a sex worker was arrested along with three others while standing at her usual spot near a railway line. One of the sex workers were beaten by the police in the process of the arrest.<sup>40</sup> In another case, the Police entered the home of a sex worker and her husband and proceeded to beat her.<sup>41</sup> The sex worker and her husband were both arrested and charged with possession of narcotics. These cases of arrest coupled with violence amount to degrading treatment and a violation of Article 23 of the Constitution.

### 3.2.2 Violation by local council officials

One case of a human rights violation committed against a sex worker by an area defense secretary was recorded. The area defense secretary in a neighbourhood in Kampala led a mob of vigilantes who attacked two sex workers and assaulted them.<sup>42</sup> No reason was given for the attack, though it is believed to be connected to the sex workers' work. The attack amounted to a violation of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment.

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<sup>37</sup> Art 44(a) of the Constitution.

<sup>38</sup> *Wainwright v United Kingdom* Application No.12350/04 (2007)44 E.H.R.R 40.

<sup>39</sup> As above.

<sup>40</sup> HRAPF/SWVR-19/057.

<sup>41</sup> HRAPF/SWVR-19/069.

<sup>42</sup> HRAPF/SWVR-19/029.

### 3.3 Violations by non-state actors / private individuals

The Constitution provides that the rights and freedoms of individuals and groups enshrined in its chapter four are to be respected by all organs and agencies of government and by *all persons*.<sup>43</sup> This means that private individuals have a constitutional duty to respect individual rights and can be violators of human rights. While international law does not create human rights obligations for private actors, they do have such duties within the domestic sphere.<sup>44</sup> It is the duty of the state to ensure that there are laws protecting individuals and groups from violations by private actors.<sup>45</sup> Private individuals can be held liable before the courts of law for their transgression of the rights of others.<sup>46</sup>

In 2018, private or non-state actors were responsible for 27 human rights violations against sex workers, which is slightly lower than the 33 violations recorded in 2017. The most common human rights violations by non-state actors were in relation to the right to freedom from inhuman and degrading treatment. Violations were committed by clients or potential clients of sex workers, their intimate partners, employers and family members.

#### 3.3.1. Violations by clients

Sex workers are vulnerable to physical violence due to the nature of their work which exposes them to strangers in confined spaces. The fact that sex work is criminalised in Uganda renders sex workers even more vulnerable, since it is not possible to engage in sex work openly and under conditions which are conducive to the physical protection and increased bargaining power of sex workers. Sex workers are furthermore vulnerable to suffer violence because they can easily be targeted by criminals who know the fact that sex work is illegal places them in a position of compromise.

#### a) Violation of the right to freedom from cruel, inhuman and degrading treatment

There were 11 cases recorded and verified in which clients or potential clients of sex workers violated this right and treated them in a cruel, inhuman and degrading

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<sup>43</sup> Art 20 (2) of the 1995 Constitution of the Republic of Uganda.

<sup>44</sup> Office of the High Commissioner for Human Rights, *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers* Available at <https://www.ohchr.org/documents/publications/training9chapter1en.pdf> (Accessed on 22nd September 2018).

<sup>45</sup> As above.

<sup>46</sup> See for example the case of *Kasha Jacqueline Nabagesera, David Kato Kisule and Onziema Patience v Rollingstone Limited and Giles Muhame* Miscellaneous Cause No. 163 of 2010.



way. In one case, a sex worker was beaten after she demanded that the client pay for her services and the beer he had ordered at the bar where they met.<sup>47</sup> In another case, a sex worker went outside her home to relieve herself at 2:00am in the morning. A man approached her and asked for sex. When she ignored him, he began to beat her and also stole her phone. She was assisted by other sex workers after shouting for help.<sup>48</sup> In another case, a bar owner introduced the sex worker to a client near Mbuya military barracks. When they reached the front of the barracks the client said he would offer her 10,000shs only which the victim refused. Consequently, she was badly beaten.<sup>49</sup>

In another case, a sex worker was assaulted by a man who attacked her as she escorted a client out of her room. He pushed her back in to the room and tried to strangle her as he asked for money. Two men responded to her alarm but could not keep him off. They eventually managed to lock him inside the room as the victim escaped and ran off to report the matter to the police.<sup>50</sup> Another case was verified in which a sex worker was assaulted by a client at the lodge where she was working in Bwaise.<sup>51</sup> Three other matters were recorded and verified in which sex workers were assaulted by clients or potential clients in the process of negotiating terms of engagement or payment.<sup>52</sup>

## **b) Violation of the right to property**

Five cases were recorded in which the clients or potential clients of sex workers stole their property, mostly their mobile phones which they would have with them while working. In two of the cases, the theft of property by clients went along with physical assault.<sup>53</sup>

### **3.3.2 Violations by employers**

Sex workers are also in a vulnerable position when it comes to relating with their employers. Two instances were recorded in which employers violated the right of sex workers to freedom from torture and cruel, inhuman and degrading treatment.

In one case, a sex worker owed money to the manager of the place where she worked. When she called the manager to pay his money, he instead started to abuse her and decided to take her phone worth 200,000shs in exchange for the

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<sup>47</sup> HRAPF/SWVR-19/036.

<sup>48</sup> HRAPF/SWVR-19/030.

<sup>49</sup> HRAPF/SWVR-19/015.

<sup>50</sup> HRAPF/SWVR-19/008.

<sup>51</sup> HRAPF/SWVR-19/018.

<sup>52</sup> HRAPF/SWVR-19/059; HRAPF/SWVR-19/071 and HRAPF/SWVR-19/073.

<sup>53</sup> HRAPF/SWVR-19/018 and HRAPF/SWVR-19/030.

money owed. When the victim asked to get her phone back, the manager beat her up.<sup>54</sup> In another case, a sex worker went to work as a house help in someone's home in Bwaise. After two days with the new employer, he brought two of his friends to his home who raped the sex worker as the employer stood by.<sup>55</sup>

### **3.3.3 Violations by intimate partners**

Seven cases were recorded and verified in which the intimate partners of sex workers violated their rights mainly the right to freedom from torture and cruel, inhuman and degrading treatment as well as the right to property.

#### **a) Violation of the right to freedom from torture and cruel, inhuman and degrading treatment**

There were two recorded cases where sex workers suffered physical violence at the hands of their intimate partners. In one case, a sex worker was beaten by her ex-boyfriend when she went to his home to have items he had stolen from her returned.<sup>56</sup> In another case which was eventually mediated at court level, a sex worker had an argument with her drunken husband who pushed her to the ground and accused her of stabbing him.<sup>57</sup>

#### **b) Violation of the right to property**

In four recorded cases, sex workers were deprived of their property by their intimate partners. A case was verified in which the ex-boyfriend of a sex worker went into her house and stole her sound system, a pair of bed sheets, a blanket, her passport, yellow fever card and some money. When she approached him to return her belongings he beat her.<sup>58</sup> In another case, the boyfriend of a sex worker asked her for UGX5,000. She refused to give it to him because she had to buy food for the family. The boyfriend became angry and proceeded to destroy the sex worker's property after she left the house. Her neighbors called and informed her that her boyfriend was destroying her belongings and she sought help from the police.<sup>59</sup> There were two other cases where the boyfriends or husbands of sex workers stole their property.<sup>60</sup>

### **3.3.4 Violations by family members**

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<sup>54</sup> HRAPF/SWVR-19/050.

<sup>55</sup> HRAPF/SWVR-19/003.

<sup>56</sup> HRAPF/SWVR-19/012.

<sup>57</sup> HRAPF/SWVR-19/006.

<sup>58</sup> HRAPF/SWVR-19/012.

<sup>59</sup> HRAPF/SWVR-19/048.

<sup>60</sup> HRAPF/SWVR-19/066 and HRAPF/SWVR-19/043.

During 2018, two cases were recorded and verified in which the family members of sex workers violated their rights to property. In the first case, the father of a sex worker had left a piece of land to her and her three sisters. Their uncle had been using the land and has tried to take over permanently.<sup>61</sup> In another case, a sex worker's father, who is a former employee of the Uganda Police Force, died and bequeathed all his land to his children. Her uncle was made executor to the estate. He destroyed all the structures on the land and said he would build a good house for them. He did not build this house and also collected the terminal benefits from the Uganda Police Force and used it to pay for his own children's education.<sup>62</sup> While these violations may not directly relate to the victims' engagement in sex work, they are nevertheless indirectly related since the victims engage in work which is criminalised thus rendering them more vulnerable and less able to access justice.

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<sup>61</sup> HRAPF/SWVR-19/042.

<sup>62</sup> HRAPF/SWVR-19/014.

## 4. ANALYSIS OF TRENDS IN HUMAN RIGHTS VIOLATIONS AGAINST SEX WORKERS IN 2018

During the year 2018, 41 cases were reported to HRAPF and the contributing organisations revealing 94 verified cases of human rights violations against sex workers. While 72 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. The human rights violations were committed by both state actors and non-state actors. A variety of constitutionally guaranteed human rights were violated, in particular: the right to liberty, the right to dignity and freedom from torture and cruel, inhumane and degrading treatment or punishment, the right to equality and the right to property. This section analyses and summarises the violations committed against sex workers during 2018 in comparison to preceding years.

### a) Nature of perpetrators

During 2018, a total of 94 human rights violations committed against sex workers were recorded and verified. Non-state actors were responsible for 26 or 28% of these violations, while state actors committed 68 or 72% of violations. This ratio follows a similar trend to that of 2017, during which year state actors were responsible for 82% of all verified violations (153 out of 186 violations). In 2016, state actors were responsible for 576 out of 597 (96%) of violations committed against sex workers. There is a definite downward trend in the number of violations committed by the state and the police in particular. This steady downward trend is encouraging and points toward greater levels of awareness of human rights of women engaged in sex work among the police.

**Table 1:** Perpetrators of human rights violations committed against sex workers

Perpetrator	Number of violations occasioned
The Uganda Police Force	67
Clients	16
Intimate partners	6
Employers	2
Family members	2
Local Council Officials	1

The Uganda Police Force perpetrated the highest number of violations against sex workers, followed by their clients. The number of violations committed by the Uganda Police Force are however, on a seeming continuing downward trend and the 67 verified violations are far fewer than the 153 violations verified in 2017.

Clients and intimate partners of sex workers are worrying violators of their rights considering that they often commit violent crimes against sex workers with impunity. Even in the cases where the police investigated the matters and made arrests, only one case had been concluded by mid-2019 in which the sex worker was paid compensation by the client who had assaulted her.<sup>63</sup>

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.<sup>64</sup> 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’.<sup>65</sup> During 2018, 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.

**b) Categories of rights violated**

The trend of the right to liberty being the most violated right of sex workers has been followed in 2018. In 2018, the violation of this rights constituted 65% of all violations committed, which is 61 out of 94 violations. In 2017, the right to liberty was also the most violated right with 98 out of 186 violations (53%) being the right of liberty.

**Table 2:** *Categories of rights most commonly violated in 2018*

<b>Category of right violated</b>	<b>Number of violations</b>
Right to liberty	61
Right to dignity and freedom from torture	18
Right to property	11
Right to equality and freedom from discrimination	4

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<sup>63</sup> HRAPF/SWVR-19/071.

<sup>64</sup> Art 52(1)(a) of the Constitution.

<sup>65</sup> Sec 14(2) of the Equal Opportunities Commission Act, 2007.

The high numbers of the violation of the right to liberty can be attributed to the fact that sex work remains criminalised in Uganda. Even though section 138 and 139 of the Penal Code Act criminalise sex work, these violations are difficult to prove and so sex workers are often arrested on the suspicion that they engage in ‘prostitution’, but they are charged under other provisions of the Penal Code or other criminal laws. The existence of broad and vague petty offences, such as the offence of being a rogue and vagabond, facilitates the arbitrary arrest of criminalised groups such as sex workers.<sup>66</sup>

Sex workers are furthermore extremely vulnerable to the violation of their right to freedom from torture and cruel, inhuman and degrading treatment and punishment. This right is mostly violated by their clients or intimate partners who use the fact that sex work is criminalised to physically assault sex workers. 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. The six cases noted in this report where police were able to put aside the matter of sex work and treat sex workers as equal citizens who are entitled to protection are a drop in the bucket compared to the number of violations that are met with impunity. This report likely fails to capture a full picture of the violations which sex workers suffer since many of the sex workers who are members of contributing partners to this report would share instances of violations of their right with the organisations, but would refuse to have the matter reported to the police out of fear of arrest.<sup>67</sup>

### ***c) Effect of current trends on HIV prevalence and vulnerability among sex workers***

The fact that 94 verified violations had been committed against sex workers by both state and non-state actors during 2018 indicates that sex workers are extremely vulnerable to suffer the violations of their rights. Sex workers’ vulnerability to HIV infection, along with the high level of violations which they suffer, explains why the HIV prevalence among this group is estimated at a high 31.3%.<sup>68</sup> The stigma and concomitant violations which sex workers suffer makes it difficult for them to access healthcare services, including HIV prevention and treatment services, yet these very violations within a discriminatory society renders them vulnerable to HIV infection. There is need to address the rate and severity of violations committed against sex workers as a Key Population in order to make inroads in the fight against HIV and AIDS.

The subjection of sex workers to various violations as documented in this report indicates and urgency on the part of state actors to take definitive steps toward the decriminalisation of sex work and the deliberate protection of sex workers within society.

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<sup>66</sup> Human Rights Awareness and Promotion Forum (HRAPF) *The implications of the enforcement of ‘idle and disorderly’ laws in Uganda* (2016) available at <http://hrapf.org/mdocs-posts/hrapf-report-on-the-implementation-of-idle-and-disorderly-laws-in-uganda/> (accessed 15<sup>th</sup> July 2019).

<sup>67</sup> Interview with representatives of WONETHA, Kampala, 11<sup>th</sup> October 2019.

<sup>68</sup> See Makerere School of Public Health, n 4 above.

## 5. CONCLUSIONS AND RECOMMENDATIONS

### 5.1 General conclusion

This report indicates that the criminalisation of sex work under sections 138 and 139 of the Penal Code Act continues to place sex workers in a precarious position within society. Even though section 138 and 139 have not been applied to charge a sex worker in a single recorded case this year, the existence of these provisions support stigma against sex workers and serve to justify the violation of their rights. Sex workers remain vulnerable to suffer violations of their rights at the hands of state actors as well as non-state actors. There is need for continued advocacy for reforms to the legal framework in Uganda which would facilitate the protection of the rights of sex workers. There is also need to continue meaningful engagements with law enforcement officers and other duty-bearers to improve the human rights situation for sex workers in Uganda.

### 5.2 Recommendations

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

The President of Uganda is mandated by the Constitution to assent to or reject laws passed by Parliament, and can thus influence the maintenance of laws which places sex workers at risk. The President is called upon to:

1. Veto legislation that promotes discrimination and violence against women because of their involvement in sex work.
2. Move the minister of Gender, Labour and Social Development to initiate legislation aimed at repealing provisions that criminalise sex work, particularly sections 138 and 139 of the Penal Code Act.
3. Demand for complete investigations of cases involving violations of the rights of sex workers.

### ***To Parliament***

The Parliament of Uganda is the legislative organ 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 that are obsolete and which fuel violence against sex workers, in particular Section 138 and 139 of the Penal Code Act.
2. Parliamentary committees working on issues affecting sex workers should reach out to sex worker organisations in order to understand the challenges that sex workers face.

### ***To the Uganda Police Force***

The Uganda Police Force remains the critical actor in terms of protecting and violating 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. Provide sex workers with equal protection of the law by ensuring that the violations that are perpetrated against them are properly investigated and concluded.
2. 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.
3. The Directorate of Human Rights and Legal Services 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.



### ***To the Ministry of Health***

The Ministry of Health is tasked to steward and lead the health sector. The Ministry is responsible for policy review and development, supervision of health sector activities, formulation and dialogue with health development partners, strategic planning, advising other Ministries, departments and agencies on health-related matters and ensuring health equity. The Ministry of Health is recommended to do the following:

1. Highlight violations committed against sex workers as a Key Population as a barrier in the fight against HIV and AIDS in policies and public communication.
2. Take a stand against laws which criminalise sex work and place sex workers at a greater risk of suffering the violation of their rights, which in turn makes them more vulnerable to HIV infection.

### ***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 and protected by the state, there is need for the Commission to do the following:

1. Demand for accountability from the state for all human rights violations reported, especially those that go unaddressed.
2. 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.
3. 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 the Uganda AIDS Commission***

The Uganda AIDS Commission (UAC) is established under to Office of the President and is responsible for ensuring a focused and harmonised national response to HIV/AIDS throughout the country. The UAC oversees, plans and coordinates HIV prevention and control activities throughout Uganda. The UAC is urged to do the following:

1. Emphasise violations committed against sex workers as a Key Populations as an obstacle to the implementation of HIV prevention and control policies and programmes.
2. Take a stand against laws which criminalise sex work and place sex workers at a greater risk of suffering the violation of their rights, which in turn makes them more vulnerable to HIV infection.

### ***To mainstream human rights organisations***

Mainstream human rights organisations work on protection of all persons and this should include sex workers. As such, these organisations should:

1. Include sex workers in their programming and support sex workers organisations

### ***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. Continue to engage in programmes that aim at creating public awareness on sex workers' rights and ending violence against sex workers.
3. Create partnerships with other organisations to monitor and documents human rights violations against sex workers.

# ABOUT HRAPF

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## 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.

**Human Rights Awareness and Promotion Forum - Uganda  
(HRAPF)**

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