



# PROTECTION AND VIOLATION OF THE RIGHTS OF FEMALE SEX WORKERS IN UGANDA IN 2016



December 2017

# PROTECTION AND VIOLATION OF THE RIGHTS OF FEMALE SEX WORKERS IN UGANDA IN 2016

December 2017

Human Rights Awareness and Promotion Forum (HRAPF) and  
Women's Organisation Network for Human Rights Advocacy (WONETHA)

## **In collaboration with:**

Alliance for Women Advocating for Change (AWAC);  
Crested Crane Lighters (CCL);  
Female Youth Development Initiative (FEYODI);  
Lady Mermaids Bureau (LMB);  
Organisation for Gender Empowerment and Rights Advocacy (OGERA);  
and Women's Positive Empowerment Initiative (WOPEIN).

## **Supported By:**

AIDS FONDS under the Project to Inspire, Transform and Connect the HIV  
Response

A Publication of Human Rights Awareness and Promotion Forum

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

Plot 390, Professor Apolo Nsibambi Road,

20 meters off Balintuma Road,

Namirembe, Kampala

E-mail: [info@hrapf.org](mailto:info@hrapf.org)

Website: [www.hrapf.com](http://www.hrapf.com)

Tel: +256-414-530683

# PROJECT TEAM

---

## Researcher

Susan Baluka

## Reviewers

Daisy Nakato

Linette du Toit

Joaninne Nanyange

## Editor

Adrian Jjuuko

## Table of Contents

---

PROJECT TEAM	iii
ABOUT HUMAN RIGHTS AWARENESS AND PROMOTION FORUM (HRAPF)	vi
ABOUT WOMEN'S ORGANISATION NETWORK FOR HUMAN RIGHTS ADVOCACY (WONETHA)	vii
ABOUT OTHER CONTRIBUTING ORGANISATIONS	viii
GLOSSARY	ix
LIST OF ACRONYMS	x
PREFACE	xi
<b>EXECUTIVE SUMMARY</b>	<b>1</b>
Introduction	1
Key Findings	1
Key Recommendations	2
<b>SECTION I</b>	<b>6</b>
1.1 Introduction	6
1.2 Methodology	6
1.3 Challenges	7
1.4 Structure of the report	8
<b>SECTION II: INCIDENCES OF PROTECTION AND VIOLATION OF THE HUMAN RIGHTS OF SEX WORKERS IN UGANDA IN 2016</b>	<b>9</b>
2.1. General Overview	9
2.2. Incidences of Protection and Violations by State Actors	9
2.2.1 The Uganda Police Force	10
2.2.2 Violations by Local Council Authorities	22
2.2.3 Violations by Government Health Workers	23
2.3 Violations by Non-State Actors	24
2.3.1 Violations by Clients	25
2.3.2 Violations by intimate partners	26

2.3.3 Violations by members of the communities within which sex workers work and live	26
2.4 Conclusion	27
<b>SECTION III: ANALYSIS OF TRENDS IN HUMAN RIGHTS VIOLATIONS AGAINST SEX WORKERS IN 2016</b>	28
<b>SECTION IV: CONCLUSION AND RECOMMENDATIONS</b>	32
4.1 General Conclusion	32
4.2 Recommendations	32
REFERENCES	37

## ABOUT HUMAN RIGHTS AWARENESS AND PROMOTION FORUM (HRAPF)

---

Human Rights Awareness and Promotion Forum (HRAPF) is an independent non-partisan non-governmental organisation that works towards the protection of the rights of marginalised communities in Uganda. HRAPF focuses on the direct provision of legal aid services and also conducts research and legislative advocacy with a view to influence policy reform in favour of marginalised persons. HRAPF operates the only specialised legal aid clinic for LGBTI persons and sex workers in Uganda and also engages in strategic litigation on the rights of marginalised groups. It engages the Police, the judiciary, the Uganda Human Rights Commission and the Equal Opportunities Commission on the protection of the rights of sex workers, and undertakes research to improve the protection of their rights.

## ABOUT 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 empowering them economically. 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 local communities. It 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.

## ABOUT OTHER CONTRIBUTING ORGANISATIONS

---

### **Alliance of Women Advocating for Change (AWAC)**

Alliance of Women Advocating for Change was founded by sex worker leaders and activists in 2016, with a view to creating a strong and vibrant sex workers' movement in Uganda and 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.

### **Crested Crane Lighters (CCL)**

Crested Crane Lighters was founded in 2009 with the aim of creating a society where sex workers are not discriminated against and are treated with respect and dignity, and have access to basic social services. The organisation seeks to realise this vision through economic empowerment, capacity building and rights advocacy for sex workers.

### **Female Youth Development Initiative (FEYODI)**

Female Youth Development Initiative is a sex worker led organisation that was formed in 2015, with the aim of improving the livelihood of young female sex workers between the ages of 18-25 years, through capacity building, economic empowerment and engagement of relevant stake holders in the communities where sex workers operate on issues pertaining to human rights.

### **Lady Mermaids Bureau (LMB)**

Lady Mermaids Bureau was founded in 2004. It is a female sex worker-led organisation that 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)**

Organisation for Gender Empowerment and Rights Advocacy 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.

### **Women's Positive Empowerment Initiative (WOPEIN)**

Women's Positive Empowerment Initiative 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.

## GLOSSARY

---

**Bisexual:** A person who is sexually attracted to both men and women.

**Case:** An incident or series of incidents occurring to one or more persons and constituting part of the same set of facts. A case may contain many different human rights violations.

**Gender:** The typical characteristics and roles society associated with either being male or female.

**Human Rights Violation:** An act that contravenes a law or instrument that guarantees a human right. Many violations may be constituted in one case, and the same violation may be committed against a large number of persons. For sex workers, where many of them are arrested at once in a swoop, this report regards each individual arrest as a violation of the right to liberty.

**Lesbian:** A woman who is sexually attracted to women.

**Lodge:** A commercial house or dwelling where sex workers in Uganda typically engage in sexual activity with their clients.

**Sex:** The physical and biological distinction between male and female.

**Sex Worker:** An adult person who consensually gives sexual services in exchange for money or other material gain. This term is used here exclusively to refer to female sex workers.

**Site:** An area where sex work is done on a large scale.

**Transgender:** A person whose personal sense of gender is different from their biological sex assigned at birth.

**Transgender woman:** A person who was assigned the male sex at birth but identifies as female.

## LIST OF ACRONYMS

<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>ARVs</b>	Anti Retroviral drugs
<b>AWAC</b>	Alliance of Women Advocating for Change
<b>CCL</b>	Crested Crane Lighters
<b>DPP</b>	Directorate of Public Prosecutions
<b>FEYODI</b>	Female Youth Development Initiative
<b>HCT</b>	HIV Counselling and Testing
<b>HIV</b>	Human Immunodeficiency Virus
<b>HRAPF</b>	Human Rights Awareness and Promotion Forum
<b>KCCA</b>	Kampala Capital City Authority
<b>LC</b>	Local Council
<b>LMB</b>	Lady Mermaids Bureau
<b>MARPs</b>	Most At Risk Populations
<b>OC</b>	Officer in Charge
<b>OGERA</b>	Organisation for Gender Empowerment and Rights Advocacy
<b>PEP</b>	Post Exposure Prophylaxis
<b>PITCH</b>	Project to Inspire, Transform and Connect the HIV response
<b>WONETHA</b>	Women's Organisation Network for Human Rights Advocacy
<b>WOPEIN</b>	Women Positive Empowerment Initiative

## PREFACE

---

This is the inaugural report on the protection and violation of the rights of female sex workers in Uganda. It is published by Human Rights Awareness and Promotion Forum (HRAPF) in partnership with WONETHA, and with input from their partners that work on issues concerning sex workers. It is produced as part of the Project to Inspire, Transform and Connect the HIV response (PITCH), which is the product of a strategic partnership between Aids Fonds, the International HIV/AIDS Alliance and the Dutch Ministry of Foreign Affairs.

It is hoped that publishing and sharing the violations documented in this report will contribute to an understanding of what persons who engage in transactional sex go through as a result of laws that criminalise sex work and thus condone violence and other violations against sex workers.

The report also pays specific attention to the implications of human rights violations against sex workers on the HIV response in Uganda. Globally, HIV prevalence is 12 times higher among sex workers than in the general population,<sup>1</sup> and in Uganda, the HIV prevalence rate among sex workers is estimated at 31%,<sup>2</sup> which is way above the increasing national prevalence of 6.3%.<sup>3</sup> That notwithstanding, sex workers face barriers in accessing sexual and reproductive healthcare services as they risk ill-treatment or even arrest when they expose themselves to healthcare workers.<sup>4</sup> The criminalisation of sex work furthermore diminishes sex workers' power to negotiate safe sex with their clients.<sup>5</sup> This state of affairs worsens the HIV situation among sex workers as a Most At Risk Population (MARP) as well as the general population.

Criminalisation of sex work is normally justified on the basis of morality, with the argument being that sex work is immoral and it should be discouraged by strong criminal laws. A recent report by HRAPF has however shown that the laws directly criminalising sex work are never enforced, since the evidence required to prove them is almost impossible to obtain.<sup>6</sup> They thus remain redundant on the law books. Laws used in their stead are the provisions on being 'idle and disorderly' or being 'rogue and vagabond,' which are largely vague and can

---

<sup>1</sup> Joint United Nations Programme on HIV/AIDS (UNAIDS) *The Gap Report* (2014) 21. [http://www.unaids.org/sites/default/files/media\\_asset/UNAIDS\\_Gap\\_report\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/UNAIDS_Gap_report_en.pdf) (accessed 19 August 2016).

<sup>2</sup> 'HIV Transmission still high among key groups-study' *The New Vision* 17 November 2017.

<sup>3</sup> UNAIDS 'Country fact sheets, 2016: Uganda' <http://www.unaids.org/en/regionscountries/countries/uganda> (accessed 16 December 2017).

<sup>4</sup> Human Rights Awareness and Promotion Forum (HRAPF) *Legal regulation of sex work in Uganda: Exploring the current trends and their impact on the human rights of sex workers* (2016) 55.

<sup>5</sup> See generally, above.

<sup>6</sup> As above at 41-4.

easily cover any conduct.<sup>7</sup> Criminalisation, rather than ending sex work simply drives it underground, and justifies violence and other violations against sex workers. This, in turn, causes sex workers to have low bargaining power for safe sex, to give in to demands for unsafe sex from the police, and to face wanton violence and rape by assailant police officers or clients.<sup>8</sup> Criminalisation also leads to sex work being done in unsafe places which again puts the sex workers at risk. It is also viewed as a justification for the failure on the part of the police to investigate or act on reports of violations against sex workers.

This report is intended to be published annually. We hope it will generate the necessary debate and that its recommendations will lead to a rethinking of the approach that Uganda has taken towards addressing HIV among key populations and sex workers in particular. It does not purport to cover all cases of violations of human rights suffered by sex workers in Uganda in 2016, as it only looks at the violations documented and verified by the contributing organisations. Many cases of violations do not make it to the organisations or the media. Moreover, most of the cases are from the Kampala-Wakiso area leaving out the rest of the country. However, what the report does is to show that violations of the rights of sex workers do exist, and even if it were one violation it would be one too many.

Finally, this report is not only about human rights violations and violence. It also tells and celebrates the positive stories of protection of sex workers by duty-bearers and encourages continued engagement between sex workers and these institutions especially the Uganda Police Force. We hope you find the report informative and enriching.

**Adrian Jjuuko**  
**Executive Director, HRAPF**

---

<sup>7</sup> See generally Human Rights Awareness and Promotion Forum (HRAPF) *The implications of the enforcement of 'idle and disorderly' laws on the rights of marginalised groups in Uganda* (2016) <http://hrapf.org/mdocs-posts/hrapf-report-on-the-implementation-of-idle-and-disorderly-laws-in-uganda/> (accessed 15 December 2017).

<sup>8</sup> HRAPF (n4 above).

# EXECUTIVE SUMMARY

---

## Introduction

The Report on the Protection and Violation of the Rights of Sex Workers in Uganda in 2016 shows verified incidents of the protection of the rights of sex workers by various state agencies, and of violations perpetrated against sex workers by virtue of their engagement in transactional sex, by various perpetrators including non-state actors. The purpose of this report is to show the extent to which the rights of sex workers in Uganda are respected on the one hand and violated on the other, and to create an evidence base upon which advocacy for the respect and promotion of the human rights of sex workers can be done, to among others enable a meaningful fight against HIV/AIDS in one of the most at risk populations in Uganda. This is because beyond violation of the human rights of sex workers, random arrests and failure to address violations suffered by sex workers worsens an already bad HIV situation as sex workers are further pushed underground away from the services and information they need.

The report shows the human rights violations perpetrated by both state and non-state actors. It contains facts of incidents of human rights violations against sex workers and makes recommendations to different stakeholders on how the human rights situation for sex workers in Uganda can be improved.

## Key Findings

1. There are only five verified incidents in which the human rights of sex workers were protected by state agencies. This is a very small number compared to the number of violations documented. However, it is a step in the right direction.
2. There were 597 violations of the rights of sex workers in 2016 that arose out of the 82 cases verified for this report, which shows that multiple violations involved in a single case of arrest or violence against sex workers.
3. Of the 597 violations that were documented, verified and included in the report, 576 were perpetrated by state actors (96.5%), while 21 violations (3.5%) were perpetrated by non-state actors (4%). This makes the state by far the biggest violator of sex workers' rights.
4. The Uganda Police Force was the most prominent perpetrator of human rights violations against sex workers, being responsible for 566 out of 597 incidents of human rights violations (94.8%).
5. The most violated right was the right to liberty, with 471 out of the 597 incidents of human rights violations that were documented during the year. This constitutes 79% of the human rights violations that were committed

against sex workers. Most of the violations suffered by sex workers are through mass arrests conducted by police. Of these, the majority are cases of arbitrary arrests (373 out of the 471 incidents of violations - 79%).

6. Most human rights violations against sex workers were not addressed by the different responsible authorities as in most cases the law enforcement authorities that have the mandate to give redress for such violations were prejudiced against sex workers, while in other circumstances, the sex workers chose not to seek redress from the law enforcement officials as they did not expect to get it.

## Key Recommendations

### To the Ministry of Health

- Train public health workers on provision of sex worker-friendly health services.
- Ensure implementation of the existing health policies that do not discriminate against sex workers and pass more inclusive health policies.
- Increase the support offered to MARPI clinics in the country to increase their capacity to provide health services to all sex workers across the country.

### To the Uganda AIDS Commission

- Inform state agencies, Parliament, the general community and other stakeholders of the danger in harassing and violating the rights of sex workers as this hampers the fight against HIV/AIDS.
- Encourage the integration of a legal and human rights based approach to fighting HIV/AIDS among sex workers.

### To the Uganda Police Force

- Train police officers on the rights of sex workers under Ugandan law, and their duty to protect these rights.
- Avail sex workers with equal protection of the law by ensuring that the violations that are perpetrated against them are properly investigated and handled.
- The Inspector General of Police should work with different stakeholders to eradicate the culture of corruption within the Uganda Police Force.

### To the Directorate of Public Prosecutions

- Develop prosecutorial guidelines for the offences of prostitution, being idle and disorderly, and being rogue and vagabond in order to guide state attorneys on the ingredients of the offences and what evidence they should look for before sanctioning files with charges related to them.
- Review the police files for enough evidence especially to support charges of being rogue and vagabond and idle and disorderly as these provisions are usually abused to charge sex workers even where there is no sufficient evidence.

### To the Uganda Human Rights Commission

- 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.
- Make recommendations for legal reform on laws that promote stigma and violence against sex workers.
- Encourage various state organs, especially the police and local government councils, to employ a human rights-based approach in handling cases involving sex workers.

### To Members of Parliament

- Enact laws that are not discriminatory to persons that engage in sex work, or fuel violence against them.
- Repeal laws that are obsolete and which fuel violence against sex workers, in particular sections 138 and 139 of the Penal Code Act.
- Repeal sections 167 and 168 of the Penal code on idle and disorderly laws.
- Do not adopt the provisions further criminalising sex work in the Sexual Offences Bill.

### To the Equal Opportunities Commission

- Investigate the systematic discrimination and marginalisation against persons on the basis of their involvement in sex work.
- 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.
- Receive and investigate complaints of marginalisation and discrimination of

sex workers and provide adequate redress.

### To the Judiciary

- The Constitutional Court should hasten the hearing of the case of *Center for Domestic Violence and Others v Attorney General*, challenging the Anti-Pornography Act, 2014 which is one of the laws that fuel violence against sex workers.
- Expeditiously handle and conclude cases where individuals, especially persons that are suspected of engaging in sex work, are charged with vagrancy and other minor offences.
- Promptly hear and determine applications for unconditional release of individuals that are kept in police custody longer than the period provided for under the Constitution.

### The Uganda Law Reform Commission

- Make recommendations to Parliament to repeal provisions of the Penal Code Act that criminalise sex work and related activities that are obsolete and inoperative, yet promote prejudice and discrimination against sex workers. These include Sections 136, 137, 138 and 139 of the Penal Code Act.
- Make recommendations for the repeal of laws that promote violence against 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 International Community

- Hold the government of Uganda accountable to its regional and international human rights obligations to all individuals, including sex workers.
- Support initiatives geared towards creating public awareness on sex workers' rights and combating discrimination and violence against persons because of their engagement in sex work.

### To National Human Rights Organisations working with the Sex Workers' Community

- Build capacity of staff members to document human rights violations against persons 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.
- Engage more in programmes that aim at creating public awareness on sex

workers' rights and ending violence against sex workers.

- Streamline systems of reporting incidents of human rights violations, evidence collection and data storage to enable easy verification of violations against persons based on their involvement in sex work.

### To the Media

- Provide accurate and un-biased reporting that is respectful to all individuals regardless of their supposed involvement in sex work.
- Respect the privacy and dignity of all persons in reporting regardless of the person's alleged involvement in sex work.
- Conduct research on, monitor and report on instances of human rights violations against sex workers.

### To the President of the Republic of Uganda

- Veto legislation that promotes discrimination and violence against persons because of their involvement in sex work.
- Hold police to their duty to effectively investigate issues of human rights violations against all persons including sex workers.
- Prioritise issues of discrimination and gender-based violence within Cabinet and the Executive at large.
- Ensure that the provisions on being 'idle and disorderly' and being 'rogue and vagabond' are removed from the law books as per the promises made during the 2016 presidential campaigns.

# SECTION I

## 1.1 Introduction

This report is a compilation of verified incidents of human rights violations against persons based on their engagement in sex work in Uganda, that were documented in the year 2016. The report is the first of its kind to be published in Uganda. It is informed by the increasing violence against sex workers in Uganda, as well as the rising levels of HIV prevalence among sex workers and among the general population in Uganda. The report is based on the premise that the criminalisation of sex work is not effective in eradicating the trade and that, especially in the absence of viable alternatives and effective economic empowerment for many people, Sex work ought to be decriminalised instead. The report furthermore shows that the criminalisation of sex work leaves sex workers extremely vulnerable to human rights violations and also increases their risk of acquiring HIV/AIDS by limiting their access to preventive care, treatment and information.

The report has been contributed to by organisations that work on sex workers' rights in Uganda. The organisations worked together in a loose coalition to contribute and verify the violations that have been published in this report. The report contains violations both by state actors and by non-state actors and makes recommendations to various stakeholders on how best to prevent and redress these violations and how to promote respect and observance of sex workers' rights.

## 1.2 Methodology

This is an analytical report that looks at the number of violations perpetrated against sex workers as documented by the organisations contributing to this report. All the organisations that contributed to the report handle cases involving sex workers in different capacities. HRAPF focuses on the provision of legal aid services, while the other organisations i.e. WONETHA, AWAC, CCL, FEYODI, LMB, OGERA and WOPEIN primarily provide capacity building for sex workers as well as counseling and healthcare services. Data collection was done in accordance with the mandates of the contributing organisations, and cases handled by more than one organisation were cross-checked to avoid duplication.

The cases submitted were subjected to a strict verification process to ensure that the violations published in this report are backed up by evidence and are verifiable. Verification guidelines were adopted based on which the reliability of the data published in this report was ensured. In accordance with these guidelines, some reported violations that were not supported by proper

documentation and adequate witness corroboration did not make it to the report. The verification process was based on primary evidence, namely documentary evidence and witness statements/corroboration. This evidence included police bond forms; newspaper clippings; medical examination forms; police statements; letters from Local Council (LC) officials; as well as statements of victims and witnesses of the incidents of 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.

As a result of this process, a total of 222 cases were collected but human rights violations could only be verified in 82 of these cases. 140 cases could not be included in the report. A single case could involve multiple human rights violations, especially where more than one sex worker was involved. At the end of the process, it was found that the 82 verified cases involved a total of 597 violations.

### 1.3 Challenges

The greatest challenge that was faced during data collection and verification was the different documentation methods of the different contributing organisations. The contributing organisations each have different mandates which thus inform the kind of data the organisations collect from their clients and the manner in which it is collected. As an example, an organisation working on health matters might not be interested in documenting the manner in which a person is arrested, the charges preferred against them among others, and even when they do, they might not back up such documentation with the necessary evidence. This affects the viability of such data and some incidents of violations end up not being included yet they happened. Going forward, there is need for organisations working with sex workers to have a standardised format of documentation of violations to ease the verification process. The adoption of the documentation guidelines by these organisations is hoped to address this issue. Also the establishment of the loose coalition under the PITCH project may help to ensure that this happens.

The data published in the report is also limited in terms of geographical scope. All the contributing organisations are based in Kampala and most the cases they handle are received from the central region parts of Kampala and Wakiso. Although some of the organisations work throughout the country, their concentration in Kampala biases the geographical nature of the cases they receive. This being a national report, this gap makes it hard for the report to provide an accurate picture of the nature and extent of violations suffered by sex workers, particularly in up-country and far to reach areas. It is also an indicator that many of the violations suffered by sex workers in such areas are not documented and can therefore not form part of the data in the report for use in advocacy.

There is also a general lack of capacity in the contributing organisations to properly document cases of violations. As a result, many incidents of violations that actually happened are not included in the report because of lack of proper documentation and supporting evidence. Like the above challenges, this skews the representation made by the report on the nature and extent of violations suffered by sex workers in Uganda. The capacity of the different organisations in documenting human rights violations needs to be improved.

## 1.4 Structure of the report

The report is divided into four different sections. 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 is devoted to discussing the incidents of human rights violations perpetrated against sex workers in 2016. Violations committed by state actors and non-state actors respectively are discussed in two separate sub-sections. The third section of the report is dedicated to analysing trends discernible from the various reported and verified cases. The fourth and final section provides a conclusion and makes recommendations to various role-players with mandates to improve the human rights situation of sex workers in Uganda.

# SECTION II

## INCIDENCES OF PROTECTION AND VIOLATION OF THE HUMAN RIGHTS OF SEX WORKERS IN UGANDA IN 2016

### 2.1 General Overview

There were only five instances of the police protecting the right of sex workers. On the other hand, a total of 597 violations were identified from the 82 verified cases for inclusion in this report. Of the 597 violations, 576 were perpetrated by state actors accounting for 96% of the total violations; while 21 of the violations were perpetrated by non-state actors accounting for 4% of the total violations. The Uganda Police Force emerged as the top most perpetrator of human rights violations against sex workers as they were responsible for 566 out of the 576 violations committed by the state accounting for 98% of the total violations perpetrated by the state. Details of the incidents of the violations are discussed below.

### 2.2 Incidences of Protection and Violations by State Actors

Uganda's Constitution enjoins the government of Uganda and all its organs and agencies to respect, uphold and protect individual and group rights and freedoms.<sup>9</sup> The obligation by the Ugandan government to protect fundamental rights and freedoms is also embedded in the various international and regional human rights treaties that Uganda is party to, which reiterate the rights guarantees that are embedded in Uganda's Constitution. The obligation to respect requires the state and its agencies not to interfere with the enjoyment of fundamental rights and freedoms; the obligation to fulfill 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 to provide substantial remedies in the event that they are abused.<sup>10</sup>

Uganda's Constitution also guarantees equality and non-discrimination for all persons in all spheres of political, economic, social and cultural life as well as equal protection of the law.<sup>11</sup> This implies that the Ugandan government and all its organs and agencies have as much of an obligation to respect, uphold and protect the rights of sex workers like they do in respect of all other citizens. In

<sup>9</sup> The Constitution of the Republic of Uganda 1995 Article 20.

<sup>10</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>11</sup> The Constitution (n9 above) Article 21(1).

order to effectively satisfy this obligation, Uganda as a state has to proactively put in place measures that transform social and cultural attitudes and remove structures that fuel violence and discrimination against sex workers. Such measures could be inclusive of: reforming discriminatory and unfavorable laws, building the capacity of state institutions to combat violence and discrimination against sex workers, as well as taking on public education and awareness-raising programmes on the rights of sex workers.<sup>12</sup>

Unfortunately, as evidenced from the incidents that have been documented in this report, Uganda as a state has not only largely failed in its duty to protect the rights of sex workers as a group that is highly susceptible to various kinds of human rights abuses, it has also been an active transgressor of these rights. The violations, both of commission and omission that were perpetrated by the state through its agencies are discussed below.

## 2.2.1 The Uganda Police Force

The Uganda Police Force is mandated to protect life and property, preserve law and order and to prevent and detect crime.<sup>13</sup> In light of this, sex workers are highly likely to interface with the police due to the fact that sex work is criminalised in Uganda.<sup>14</sup> Sex workers, by virtue of their socio-economic status and the nature of their work, are susceptible to getting caught up with laws relating to vagrancy and other petty offences.<sup>15</sup> This, however, does not exclude sex workers from the realm of individuals whose lives and property the police is obliged to protect. While there were instances where the police protected sex workers as highlighted in the next sub-sections, in the majority of cases, they were the direct violators of these rights.

### A. Protection of Rights of Sex Workers by the Uganda Police Force

Even though the police were the top most violator of sex workers' rights for the year 2016, there were five documented and verified instances where the police took positive steps towards protecting the rights of sex workers when they were threatened or when their rights were infringed upon by other actors. These incidents are discussed below.

- (i) On the 29<sup>th</sup> of March 2016, members of the sex worker community in

.....  
<sup>12</sup> Amnesty International *Policy on State Obligations to Respect, Protect and Fulfill the Human Rights of Sex Workers May 2016* accessed at <https://www.amnesty.org/en/documents/pol30/4062/2016/en/> (Accessed on 18<sup>th</sup> November 2017).

<sup>13</sup> The Constitution (n9 above) Article 212.

<sup>14</sup> The Penal Code Act Cap 120 Sections 138 & 139.

<sup>15</sup> HRAPF (n4 above) 42.

Iganga met with senior police officers from Iganga Police Station at a dialogue organised by HRAPF. The sex workers relayed to the police officers the challenges that they experienced with the police in Iganga, which included arbitrary arrests, rape, extortion, falsification of police statements and detention beyond 48 hours. The sex workers also pointed out a few of the errant officers.

The police officers acknowledged that the atrocities that were committed against the sex workers were a violation of their human rights which they were entitled to despite their involvement in sex work. The police officers also pledged to bring to book the errant officers that the sex workers had pointed out and encouraged them to report any additional incidents of human rights violations that were committed by the police. After the meeting, no incidents of arbitrary arrest, rape and extortion against sex workers were reported from Iganga which indicates that the meeting was a success. According to one of the sex workers in Iganga, disciplinary action was also taken against the errant officers that were pointed out by the sex workers during the meeting. The officers were reportedly reprimanded by their superiors and were given stern warnings against violating the rights of sex workers, which would otherwise lead to their dismissal. This reprimand was successful in deterring the police officers from harassing the sex workers any further.

- (ii) On 21st April 2016, sex workers in Nyendo, Masaka met with senior police officers from Nyendo Police Station at a dialogue organised by HRAPF. During the meeting, sex workers highlighted the various kinds of violations that they experience at the hands of police officers in Nyendo, which were mainly arbitrary arrests and extortion. The police officers pledged to better the relationship between them and the sex workers in Nyendo through singling out and punishing the individual officers that committed the various acts of violence against the sex workers. They, however, pointed out that while sex workers had rights that were to be respected despite their engagement in sex work, they had to respect the rights of other members of the community in Nyendo, especially their clients, by not conniving with thieves to steal money from them.

The police officers further pointed out that the sex workers needed to exercise discipline in the course of doing sex work to avoid any run-ins with the law on other grave offences such as theft, robbery and murder as had been the case in the past. The sex workers pointed out that it was only a few of them that committed crimes against their clients, and they pledged to set up disciplinary structures for themselves as sex workers in Nyendo. The meeting was a positive step towards promoting rights of sex workers in Nyendo, since there were fewer reports of sex workers suffering arbitrary arrests and extortion thereafter. In the few instances following the meeting where sex workers were arrested arbitrarily, the

Officer in Charge (OC) of the Nyendo police station almost immediately ordered for their release.

- (iii) In June 2016, the police in Iganga arrested a man that had assaulted a sex worker and stolen Uganda shillings 50,000 and a mobile phone from her, after he had procured her services. The man was not prosecuted since the matter was resolved at the police stations. The sex worker was paid compensation to the amount of Uganda shillings 100,000 and her phone was returned to her.<sup>16</sup>
- (iv) On 6th December 2016, the Officer in Charge (OC) of Owino Police Post denied a community paralegal access to 5 sex workers that had been arrested from Kisenyi. The paralegal lodged a complaint with the Divisional Police Commander of Old Kampala Police Station, who gave a directive to the OC to allow the paralegal to access and interview the sex workers.<sup>17</sup>
- (v) On 7th December 2016, a Police Officer from Nyendo Police Station raided one of the lodges in Nyendo Town where sex workers operate from and demanded that they give him money, lest he arrests them on charges of theft. One of the sex workers notified HRAPF, which informed the OC of Nyendo Police Station. The errant police officer was arrested and never bothered the sex workers again.<sup>18</sup>

On many occasions during the course of the year, HRAPF, WONETHA and the other organisations have been able to hold dialogues and awareness sessions involving the police. WONETHA held 12 sessions involving police officers and HRAPF held two. These instances of positive collaboration between the police and sex workers, and the police standing up for the rights of sex workers is an encouraging counter-narrative to the too common occurrence of violence and conflict between these two groups. There is much room for the improvement of this relationship and for conversations such as the ones that took place in Nyendo and Iganga to be facilitated at a much higher level.

## **B. Violations by the Uganda Police Force**

Despite the handful of instances where police offered protection to sex workers and collaborated with them, cases reviewed for the year 2016 indicate that the police regularly used the law to subject sex workers to various forms of physical and sexual violence and extortion, under the guise of preventing crime. In the year 2016, the police were the greatest perpetrator of human rights violations against sex workers.

.....  
<sup>16</sup> Case 001.

<sup>17</sup> Case 002.

<sup>18</sup> Case 003.

Of the 597 violations against sex workers published in this report, 566 violations were perpetrated by the Uganda Police Force accounting for 94.8% of the total violations. Most of these violations were committed in the course of arresting sex workers, with multiple violations being committed in a singular arrest. The following were the various incidents of violation of sex workers' human rights by the Uganda Police in the year 2016.

### a) Violation of the right to liberty

Every individual has the right to liberty.<sup>19</sup> This right may, however, be limited in circumstances where there is reasonable suspicion that the individuals involved have committed or are about to commit a criminal offence under the laws of Uganda.<sup>20</sup> When a person is deprived of their liberty, there are numerous rights that they hold both at the time of arrest and during detention. These include: the right to be kept in a place authorised by law,<sup>21</sup> the right to be informed immediately in a language that they understand of the reason for their arrest and of their right to a lawyer,<sup>22</sup> the right not to be detained beyond 48 hours,<sup>23</sup> the right to inform their next of kin of their detention,<sup>24</sup> the right to be allowed access to their next of kin or lawyer,<sup>25</sup> and the right to access medical treatment.<sup>26</sup> In the year 2016, the Uganda Police Force violated many of these components of the right to liberty of sex workers in various incidents that are discussed below:

#### i) Arbitrary arrests

There were 373 incidents of arbitrary arrests documented in 2016, resulting into 373 violations of the freedom from arbitrary arrests. The right to liberty is not absolute, but the Constitution lays down specific circumstances under which it may be restricted. This implies that any deprivation of the right to liberty that is not based on these circumstances is arbitrary. Deprivation of the right to liberty shall also be arbitrary where it is done in circumstances where there is apparent injustice and lack of predictability.<sup>27</sup> Various documented incidents show that sex workers and persons suspected to be sex workers are arrested on unjustifiable grounds mostly for extortion. In many of the documented cases, the arrested sex workers were released without charge or their cases were

<sup>19</sup> The Constitution (n9 above) Article 23(1).

<sup>20</sup> The Constitution (n9 above) Article 23(1)(c).

<sup>21</sup> The Constitution (n9 above) Article 23(2).

<sup>22</sup> The Constitution (n9 above) Article 23(3).

<sup>23</sup> The Constitution (n9 above) Article 23(4)(b).

<sup>24</sup> The constitution (n9 above) Article 23(5)(a).

<sup>25</sup> The Constitution (n9 above) Article 23(5)(b).

<sup>26</sup> The Constitution (n9 above) Article 23(5)(c).

<sup>27</sup> *van Alphen v. the Netherlands* (Communication No. 305/1988), CCPR/C/39/D/305/1988, UN Human Rights Committee (HRC), 23 July 1990.

never followed up by the police because there was never justification for their arrests in the first place.

In 8 cases of arrests, the police arrested multiple sex workers with no legal justification as required in the constitution, but only for the purpose of extorting them. Although it can be argued that some of these arrests were made on suspicion of commission of crimes as evidenced by the preferred charges in certain cases, this in itself is not enough. The fact that in all these cases there were no charges preferred or that preferred charges were dropped without investigations or prosecution but rather upon payment of bribes is indicative of the fact that the arrests were not made with the intention of bringing the persons before courts of law for suspected commission of crimes as required by Article 23(1)(c) of the Constitution, but rather for purposes of extortion. These incidents occurred on 18<sup>th</sup> January at Makindye police post involving 16 sex workers;<sup>28</sup> on 20<sup>th</sup> March at Buwama Police Post involving 7 sex workers;<sup>29</sup> on 4<sup>th</sup> April at Nyendo Police Station involving over 19 sex workers;<sup>30</sup> on 18<sup>th</sup> May at Kasenyi Police Post involving 8 sex workers;<sup>31</sup> on 21<sup>st</sup> June at Mbarara Police Station involving 7 sex workers;<sup>32</sup> on 13<sup>th</sup> August at Mukono Police Station involving 13 sex workers;<sup>33</sup> on 21<sup>st</sup> November at Katwe Division Police Station involving 19 sex workers;<sup>34</sup> and on 18<sup>th</sup> December at Owino Police Post involving 2 sex workers.<sup>35</sup> These incidents cumulatively resulted into 91 violations of the right to liberty. In all these cases, the amounts extorted in bribes could be as low as Uganda Shillings 10,000 or as high as Uganda Shillings 2,000,000.

The Mukono case stands out in this regard:

*On 13<sup>th</sup> August 2016, a group of 13 sex workers were arrested by officers from Mukono Police Station on suspicion of simple robbery. The arrest was not based on a particular complaint against any particular individual. The police asked for Uganda Shillings 2,000,000 in order to have the sex workers released. On 16<sup>th</sup> August 2016, the sex workers were released without charge after the manager of the lodge from which they had been arrested paid the money that the police had asked for.<sup>36</sup>*

.....  
<sup>28</sup> Case 004.

<sup>29</sup> Case 005.

<sup>30</sup> Case 006.

<sup>31</sup> Case 007.

<sup>32</sup> Case 008.

<sup>33</sup> Case 009.

<sup>34</sup> Case 010.

<sup>35</sup> Case 011.

<sup>36</sup> Case 009 (n33 above).

It should however be noted that while police arrest sex workers without justification for the purpose of extortion, sometimes when sex workers fail to raise the demanded money they are charged with the broad and vague offence of being rogue and vagabond, which could cover the illegal arrests with a cloak of legitimacy. This offence is broad and vague enough to criminalise a wide range of conduct and can therefore be easily used to justify illegal arrests.

*In a case of 21st June 2016, in the early hours of the morning, the police in Mbarara arrested 11 sex workers from different bars in Mbarara town. They did not inform the sex workers of the reason for their arrest. The sex workers were taken to Mbarara Police Station and asked to pay Uganda shillings 50,000 in exchange for their release. The majority of the group paid the money and they were released without charge. Four of the sex workers were not able to raise the amount of money that was demanded by the police officers and they were taken to Mbarara Chief Magistrates Court where they were charged with being rogue and vagabond. They pleaded guilty to the charges and were released on caution.<sup>37</sup>*

*In another case of 18th May at around 9:30 a.m., a group of eight sex workers were arrested in Kasenyi while they were in their rooms in the lodges where they operate from. The police forced their way into their rooms, apprehended them, and put them on the police patrol car. In the course of the arrest, some of the sex workers gave the police officers money and they were released. The other sex workers were detained at Kasenyi Police Post until 6:00 p.m, when they were transferred to Entebbe Police Station. The sex workers had charges of being rogue and vagabond preferred against them by the police, although they were not sanctioned by the State Attorney. The sex workers were later released on 23rd May 2016.<sup>38</sup>*

Such incidents are not only an abuse of the rights of the sex workers involved, they are an abuse of the criminal justice system.

In another 21 cases, the police arrested sex workers, detained them but released them without charging them with any offence resulting into 190 violations involving arbitrary arrests. Arresting and detaining a person without any charge is a blatant violation of the right to liberty as it is a clear indication that such arrests are made without justification as required by the exceptions to the enjoyment of the right to liberty in the Constitution. In such cases, the sex workers would either be released upon payment of a bribe, or upon intervention of lawyers. The detention periods in arrests without charges would be as short as one night or as long as seven days.

<sup>37</sup> Case 008 (n32 above).

<sup>38</sup> Case 007 (n31 above).

*In a case of 15th March 2016, at around 6:45 p.m. two sex workers were arrested from a lodge in Luwero. The arrest arose as a result of one of the sex workers in the lodge demanding that the client pays her the money that they had agreed upon before engaging in any sexual activity with her. This led to an altercation between them, which caused the lodge manager and two other sex workers to go to the room where the sex worker and her client were. The lodge manager, together with the other two sex workers, threw out the client, who then went and got police officers to arrest the sex worker whose services he had procured, alleging that she had stolen his money. When the police officers got to the room of the sex worker that the client had been with and found that she was not there, they instead arrested the other two sex workers that had helped to throw out the client from the lodge, saying that they were the ones to give evidence against their colleague. They were taken to Luwero Police Station where they were detained for seven days and later released without charge.<sup>39</sup>*

Some of such cases went un-documented especially when there was no intervention by lawyers because in many cases, they are not even registered in police records books. It is therefore very probable that many sex workers are arrested and detained with no intention of being charged and are released without such incidents being recorded, mostly after paying bribes. This affects the accuracy of the data on the occurrence of such incidents.

*On 16th February 2016 for example, at around 10:00 pm, the police in Ggaba arrested 11 sex workers while they were standing along the street. They were not informed of the reason for their arrest at the time of arrest. They were informed later while at the police post that they were arrested for being rogue and vagabond, although no charges were actually preferred against them, and their arrest was not recorded in the station diary or any other records book. They were released the following day at 9:00 a.m.<sup>40</sup>*

## **ii) Detention beyond 48 hours**

The Constitution stipulates 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, but in any case not later than 48 hours from the time of his or her arrest.<sup>41</sup> In 2016, 62 sex workers were detained at police stations beyond the constitutionally allowed 48 hours. Such prolonged detention is usually a tactic employed by the police to compel the sex workers to pay them money in

<sup>39</sup> Case 012.

<sup>40</sup> Case 013.

<sup>41</sup> The Constitution (n9 above) Article 23(4)(b).

exchange for their freedom. The detention periods in some cases went as far as 16 days in police custody.

*On 26th January 2016, a sex worker was arrested from Kireka on suspicion of the murder of a fellow sex worker with whom she had had an altercation the night before her death. The sex worker was detained in police custody until 10th February 2017 when she was released on police bond. The charges against her were later dropped. She was kept in detention at Kira Divisional Police Station for 16 days, which was beyond the 48-hour rule stipulated by Article 23(4) of the Constitution.<sup>42</sup>*

It should be noted that the police sometimes justify the holding of suspects for long times when handling ‘serious offences’ especially capital offences like murder. The above scenario, while unconstitutional, can be explained away using the cloak of the seriousness of the crime. However, detention beyond 48 hours has been the case even in instances where sex workers are not charged with any offence. As an example, in the Luwero case above,<sup>43</sup> the sex workers were detained for seven days and released without being charged with any offence.

### **iii) Denial of Access to Legal Counsel**

Article 23(5)(b) of the Constitution guarantees a person arrested on suspicion of committing an offence access to a lawyer. A lawyer is important to enable a person that has been caught up in the criminal justice system to understand their rights, the nature of the charges against them, as well as the legal precautions that they ought to take in the circumstances. Due to high demand for legal services amidst scarcity of professional lawyers, there has been an innovation of training community paralegals, who can provide legal first aid to suspects in police custody.<sup>44</sup> As such, access to paralegals for communities that substantially depend on their services is an integral part of the right to access a lawyer or legal counsel. In 2016, there were 19 verified violations of this right. In many of the cases where police refuse access to legal counsel, the sex workers either end up being detained for long periods or end up paying bribes.

*In the Mukono case<sup>45</sup> above for example, a paralegal from the sex worker community went to Mukono Police Station to give legal advice to the 13 sex workers that had been arrested on charges of robbery. The OC in charge of the Criminal Investigations Department (CID)*

.....  
<sup>42</sup> Case 014.

<sup>43</sup> Case 012 (n39 above).

<sup>44</sup> Uganda Law Society *Legal Aid Project of the Uganda Law Society* (2016) accessed at [https://www.uls.or.ug/site/assets/files/1205/lap\\_annual\\_report-2016.pdf](https://www.uls.or.ug/site/assets/files/1205/lap_annual_report-2016.pdf) (Accessed on 19th November 2016).

<sup>45</sup> Case 009 (n33 above).

*however refused to allow her access the sex workers, saying that the manager of the lodge from which the sex workers had been arrested, who he had also asked for Uganda shillings 2,000,000 in order to release the sex workers, was already following up the case.*

In some cases, the police completely refuses to recognise paralegals and the work they do, which too constitutes a violation of the right to access legal counsel, since in such instances the paralegals are stopped from accessing the arrested sex workers.

*On 6<sup>th</sup> December 2016, the Officer in Charge of Owino Police Post (OC) denied a community paralegal access to 6 sex workers that had been arrested from Kisenyi. The Officer threw away the identification that the paralegal had presented to him in an effort to identify herself.<sup>46</sup>*

These incidents violate the sex workers' right to access legal counsel, a key tenet of the right to liberty as guaranteed under the Constitution.

#### **iv) Refusal to Inform Relatives of Arrest**

Article 23(5)(a) of the Constitution stipulates that when a person is detained, upon their request, their relatives or next of kin are supposed to be informed at the earliest possible opportunity, of their arrest. In 2016, there were 9 violations of this right.

*On 20<sup>th</sup> March 2016, police officers in Buwama arrested seven sex workers and detained them at Buwama Police Station. While in police custody, one of the sex workers requested to communicate to her late husband's family members to inform them about her arrest, but they refused to give her the opportunity to do so.<sup>47</sup>*

*On 17<sup>th</sup> February 2016, police in Abayita Ababiri arrested two sex workers. They detained them at Abayita Ababiri Police Post for two days, during which they did not allow them to contact their relatives to inform them of their arrest.<sup>48</sup>*

#### **v) Denial of Access to Medical Treatment**

According to Article 23(5)(a) of the Constitution, a person that is detained has the right to be allowed, upon their request, access to medical treatment. In various cases, HIV positive sex workers are arrested and denied access to their medicines through confiscation of the medicine, failure of the detention centers to provide the required medicine and refusal of outsiders from bringing the medicines to the detained persons. 8 violations of this right were documented,

<sup>46</sup> Case 002 (n17 above).

<sup>47</sup> Case 005 (n29 above).

<sup>48</sup> Case 015.

in 2016.

*On 27th September 2017 for example, the police at Entebbe Police Station arrested a sex worker on charges of domestic violence after her ex-boyfriend, with whom she had previously cohabited, lodged a complaint alleging that she had broken into his house and stolen his household items. The sex worker was pregnant and on Anti-Retroviral (ARV) treatment. While she was in police custody and despite her request, she was not enabled to access her ARV drugs.<sup>49</sup>*

## **b) Violation of the Right to Freedom from Inhuman and Degrading Treatment**

Article 24 of the Constitution stipulates 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.<sup>50</sup> Uganda's Prevention and Prohibition of Torture Act<sup>51</sup> defines torture to mean any act or omission, by which severe pain and suffering whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of any person whether a public official or other person acting in an official or private capacity for various purposes. According to the Act, a person accused of torture may be convicted for committing acts of cruel, inhuman or degrading treatment or punishment where the acts involved did not amount to torture.<sup>52</sup> It however does not define cruel, inhuman and degrading treatment. Article 16 of the United Nations Convention against Torture (UNCAT) offers guidance as it defines cruel and inhuman treatment as any ill-treatment that does not fit within the definition of torture as per Article 1 of the Convention (and Section 2 of the Ugandan Act). It goes on further to explain that ill-treatment 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 so severe or done for the same reasons as those amounting to torture.<sup>53</sup> Degrading treatment distinctively constitutes acts that cause a person humiliation and loss of self-respect.<sup>54</sup>

Although the treatment sex workers are subjected to does not amount to torture as defined in the Act, it amounts to cruel, inhuman and degrading treatment as it is humiliating and affects the sex workers' self respect. In 2016, 86 violations of this right were documented, 28 of which involved infliction of physical pain and sexual abuse.

.....  
<sup>49</sup> Case 016.

<sup>50</sup> The Constitution (n9 above) Article 44(a).

<sup>51</sup> Act 3 of 2012 section 2

<sup>52</sup> The Prevention and Prohibition of Torture Act (n51 above) Section 7.

<sup>53</sup> *Wainwright v United Kingdom* Application No.12350/04 (2007) 44 E.H.R.R 40.

<sup>54</sup> As above.

Examples of this violation are:

*On 17<sup>th</sup> July 2016 for example, at around 12:00 a.m. on the orders of the District Police Commander (DPC) of Old Kampala Police Station, an operation was conducted in Bukasa, an area in Rubaga Division. During the operation, police officers kicked open doors of rooms used by sex workers in the different lodges in the area. Upon getting into the sex workers' rooms, the police officers kicked and beat them using batons. One of the sex workers was beaten using a handle of a rubber dryer, until it broke.<sup>55</sup>*

58 of the violations of this right involved parading of sex workers before the media both during and after arrest. Sex work is not just criminalised in Uganda; it is also considered abhorrent as a result of the patriarchal norms that define Uganda's socio-cultural beliefs. These norms require sexual modesty from women and sex work is viewed as a transgression and an affront to these beliefs. As a result, most sex workers in Uganda engage in sex work privately, away from the prying and questioning eyes of their families and communities. Knowing that one is a sex worker is sufficient cause for ridicule, humiliation and ostracisation. Parading actual and suspected sex workers before the media on grounds that they are engaged in sex work causes mental suffering to sex workers because of how it affects their social lives. It also causes humiliation, since such stories cast them in the light of immoral persons that should not be part of society. In addition, most of the stories run in the media about sex workers are derogatory and paint them as criminals using their trade to steal from and murder their clients.

*On 4<sup>th</sup> April 2016, after arresting over 20 sex workers, along with other men on suspicion of committing theft and robbery,<sup>56</sup> the police in Nyendo paraded them before the media. They appeared in the Bukedde Newspaper on the 1<sup>st</sup> of November 2017 under the headline, 'Bamalaaya n'ababbi babayodde mu Nyendo,<sup>57</sup> which translates to 'Prostitutes and thieves arrested in Nyendo.'*

Such incidents are humiliating, cruel and degrading in violation of the guarantee enshrined in Article 24 of the constitution.

### c) Violation of the Right to a Fair Hearing

Article 28 of the Constitution stipulates that in the determination of any criminal charge, every individual is entitled to a fair hearing before an independent court or tribunal established by law.<sup>58</sup> Article 28 also sets out the various components

<sup>55</sup> Case 017.

<sup>56</sup> Case 006 (n30 above).

<sup>57</sup> 'Bamalaaya n'ababbi babayodde mu Nyendo' *Bukedde* 1 November 2016 8.

<sup>58</sup> The Constitution (n9 above) Article 28(1).

of the right to a fair hearing, which include the right to be presumed innocent until proven guilty.<sup>59</sup> This right is unfortunately often violated by the Uganda Police when they parade sex workers before the media and the public, who condemn them as criminals without being pronounced as such by a court or tribunal established by law. 67 incidents of such violations by the police were documented in 2016, 58 of which involved parading the arrested sex workers before media.

*On 11<sup>th</sup> January 2017, a sex worker was arrested from Bukoto on suspicion of theft and paraded before the media, specifically, the Bukedde newspaper. They gave the media personnel details relating to the sex worker, wherein they pointed out that she was engaged in transactional sex, and that she used it as a mechanism of robbing her clients. The story was run in the Bukedde newspaper on 14<sup>th</sup> January 2016, under the headline, ‘Malaaya Abadde Akuba Abasajja Kalifoomu N’abanyaga Bamukutte.’ This translates to ‘Prostitute who has Been Robbing Men after Rendering Them Unconscious has been Arrested’.*<sup>60</sup>

This kind of reporting erodes the presumption of innocence as the sex worker is already adjudged a criminal, in violation of article 28 of the Constitution.

In addition to being paraded before the media, arrested sex workers are paraded before the general public in their different areas of residence and operation. This humiliates and degrades the sex workers and ostracizes them from their communities. 9 such violations were documented in 2016.

*In a case of 20<sup>th</sup> March 2016, after a group of sex workers were arrested from two sites in Buwama, police officers paraded them in the street, and used a gramophone to announce their arrest to members of the public, whom they invited to a public viewing of the sex workers.*<sup>61</sup>

*In another instance, when a lodge in Kasenyi caught fire, police barged into the nearby lodges and arrested nine sex workers. Two of the sex workers were found in their rooms with their clients, and the police officers forced them to have sexual intercourse in their presence for their personal amusement.<sup>62</sup> These acts of abuse of their authority amounted to horrific humiliation on the part of sex workers and an infringement of their right to dignity.*

<sup>59</sup> The Constitution (n9 above) Article 23(3)(a).

<sup>60</sup> ‘Malaaya abadde akuba abasajja kalifoomu n’abanyaga bamukutte’ *Bukedde* 14 January 2016 26.

<sup>61</sup> Case 005 (n29 above).

<sup>62</sup> Case 018.

## 2.2.2 Violations by Local Council Authorities

Local Councils are established under the Local Governments Act.<sup>63</sup> As such, Local Council authorities are state agents that are obliged by the Constitution to respect, uphold and promote the rights of individuals, including those of sex workers.<sup>64</sup> This, however, was not the case in particular areas where sex workers operate, wherein there were incidents where they violated the sex workers' right to freedom from inhuman and degrading treatment, as well as their right to freedom of movement.<sup>65</sup>

Local council authorities accounted for eight violations (1.3% of all violations) in three cases and these were as follows:

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

As discussed earlier on in this report, violation of the right to freedom from cruel, inhuman and degrading treatment constitutes acts that cause physical and emotional pain, as well as humiliation, that do not amount to torture as defined under the Prevention and Prohibition of Torture Act. In 2016, two violations of this right by Local Council leaders were documented.

*On 26<sup>th</sup> February 2016, for no justifiable reason, the LCI defense secretary at Kasenyi landing site forced his way into a sex worker's room in one of the lodges and pushed her onto the floor, kicked her, and hit her with a belt. She hit her head hard on the floor and got a deep wound. When she reported the matter to the police, she was instead arrested for not being in the LCI register.*<sup>66</sup>

*In another case in December 2016, a sex worker who had been raped by three young men in Bwaise reported the incident to the Local Council officials, but they simply laughed in her face because according them, she could not be raped due to the fact that she was a sex worker. She then reported the incident to the police and the young men were arrested, although they were later released on unclear grounds.*<sup>67</sup>

### b) Violation of the right to freedom of movement and to settle in any part of Uganda

Article 29(2)(a) of the Constitution stipulates that every Ugandan has the right to move freely throughout Uganda and the right to reside and settle in any part of Uganda. In 2016, one violation of this right by Local Council authorities was

<sup>63</sup> Chapter 243 of the Laws of Uganda.

<sup>64</sup> The Constitution (n9 above) Article 20(2).

<sup>65</sup> The Constitution (n9 above) Article 29(2)(a).

<sup>66</sup> Case 019.

<sup>67</sup> Case 020.

documented. This took place in July 2016 when the Local Council authorities in Kireka sought to have six sex workers in the area banished. The Local Council authorities organised a meeting which was attended by the police officers in the area, lodge and bar owners and managers, as well as a few of the sex workers. In the meeting, the Local Council authorities, as well as the police officer, suggested that the sex workers should be evicted from the area because they were a source of insecurity. They alleged that the sex workers harbour thieves and robbers, and that they practice witchcraft. After negotiations were made on their behalf, and after coming up with resolutions on how best to continue living within the area harmoniously, the sex workers were allowed to stay.<sup>68</sup>

### 2.2.3 Violations by Government Health Workers

While Uganda's Constitution does not expressly protect the right to health in its Bill of rights, it is recognised in Objective XIV of the National Objectives and Directive Principles of State Policy. Following an amendment to the Constitution, these National Objectives form the basis upon which the country is to be governed and can be read into the main body of the Constitution.<sup>69</sup> Also as a party to the International Covenant on Economic, Social and Cultural Rights, Uganda is obliged to put in place measures that ensure access to medical services for all its citizens.<sup>70</sup> In this lies the state's obligation to promote the individual right to health. The government, in partnership with private actors, has taken great steps to improve sex workers' access to health care services, especially HIV/AIDS services and this is commendable. Efforts have been made through various initiatives such as the Local Capacity Initiative Project, which started in 2015, through 2016 and 2017, and one of whose objectives is to strengthen social support and health systems to enhance access to HIV/AIDS services by Most At Risk Populations, including sex workers. The project has greatly engaged public health workers, sex workers and sex worker-led organisations in the districts where it is implemented, and this has enabled the sex workers access to friendly HIV/AIDS services in public health facilities.<sup>71</sup>

Unfortunately, the above progression is still discounted by a handful of incidents where sex workers face discrimination from health workers in government facilities because of their engagement in sex work. There were two such violations documented in 2016, accounting for 0.34% of all violations.

The cases are:

*In September 2016, a female sex worker-led organisation approached a public health centre to provide free HIV Counselling and Testing*

.....  
<sup>68</sup> Case 021.

<sup>69</sup> The Constitution (n9 above) Article 8A.

<sup>70</sup> The International Covenant on Economic, Social and Cultural Rights Article 12(2)(d).

<sup>71</sup> Interview with Executive Director of CCL, 8<sup>th</sup> December 2017.

*(HCT) services to women in Bwaise, and the in-charge of the health centre agreed. On the date that had been set for the HCT session, the leaders of the sex worker organisation also requested the health centre to avail the women with free condoms and lubricants, which they could use in the course of their engagement in sex work. Upon discovering that the women to whom they were going to give HCT services were sex workers, the in-charge of the health centre cancelled the session.<sup>72</sup>*

*Another incident occurred in November 2017, where a sex worker in Soroti was raped by her client, who removed the condom while they were having sexual intercourse, and forced her to have unprotected sex against her will. When she went to the government health facility to ask for Post Exposure Prophylaxis (PEP), the health worker asked her to present her partner, and she disclosed that he was only a truck driver who had purchased sexual services from her, and she did not know of his whereabouts. The health worker told the sex worker to go the police and report a case of rape, disclosing the circumstances under which she had been raped before she could be given PEP. Out of fear of being charged with prostitution, the sex worker did not report the case to police, and as such, she did not get PEP. As a result, she contracted HIV.<sup>73</sup>*

Considering that sex workers are known to engage in risky sexual behavior and that sex work is illegal in Uganda, it is a violation of the right to access health services if a sex worker is forced into a position where they cannot access an important service. Such exclusion continues to drive sex workers underground and as seen in this case, this leads to dire consequences for the sex workers in particular and for the fight against HIV/AIDS in general.

### 2.3 Violations by Non-State Actors

While the duties to protect, fulfill and respect human rights largely lie with the state, non-state actors also have an obligation to respect other people's rights. This is why enjoyment of rights by other people and public interest are legitimate justifications to limit one's enjoyment of their rights.<sup>74</sup> In 2016, non-state actors perpetrated 21 violations of the rights of sex workers in Uganda, accounting for 3.5% of violations. These were mainly sex workers' clients, their intimate partners and members of the communities in which they conduct sex work. The state was largely non-responsive in addressing these violations, therefore also violating these same rights.

.....  
<sup>72</sup> Case 022.

<sup>73</sup> Case 023.

<sup>74</sup> The Constitution (n9 above) Article 43.

### 2.3.1 Violations by Clients

Ten of the violations perpetrated by non-state actors were by sex workers' clients. Nine of them were violations of the right to freedom from cruel, inhuman and degrading treatment and one was a violation of the right to life. The violation of the right to freedom from cruel, inhuman and degrading treatment was characterised by rape, particularly in instances where the sex workers got into disagreement with their clients. Five such incidents were documented. These cases speak of the severe vulnerability of sex workers to sexual violence perpetrated by their clients. The fact that sex work is criminalised and the police have expressed a general attitude of siding with perpetrators adds to this vulnerability.

The outstanding cases are:

*On 2<sup>nd</sup> October 2016, a sex worker got a client from a bar in Iganga Town. During their negotiations, they agreed that the client would pay her Uganda shillings 50,000 to spend the night and the following day with her. They left the bar with the client and he took her to his place in Kaliro, a suburb in Iganga. While at his place, the client called five of his other friends and they took turns raping the sex worker. The case was reported at Iganga Police Station, although the perpetrators were never arrested.<sup>75</sup>*

In addition to rape and other forms of sexual abuse, sex workers' clients subjected them to various forms of other physical violence like beatings, in one case leading to the death of a sex worker. 4 such incidents were documented.

*On the night of 8<sup>th</sup> June 2016, a sex worker in a lodge in Iganga Town got a client who procured her services for Uganda shillings 30,000 for the night. When the client saw that she already had Uganda shillings 20,000 with her, he started beating her so that he could take her money. He was joined by other young men who were bystanders, and together they beat up the sex worker and took her money and mobile phone.<sup>76</sup>*

*On the night of 24<sup>th</sup> November 2017, a sex worker was found murdered in her room. She had been stabbed in the stomach, supposedly by one of her clients, whom some of the sex workers knew as a resident from one of the affluent areas in Ntinda.<sup>77</sup>*

.....  
<sup>75</sup> Case 024.

<sup>76</sup> Case 001 (n16 above).

<sup>77</sup> Case 025.

### 2.3.2 Violations by intimate partners

In 2016, there were seven documented incidents where sex workers suffered human rights violations from their intimate partners due to their involvement in sex work. These were mainly violations of the right to freedom from inhuman and degrading treatment where the sex workers' partners subjected them to physical and emotional abuse and one incident of violation of the right to freedom from discrimination where a sex worker was denied her parental rights due to her involvement in sex work.

*In June 2016, while standing along the street in Mbuya in the course of doing sex work, a sex worker was accosted by her boyfriend who demanded that she leaves the street and quits sex work altogether. She refused to leave and told him she needed the money for the expenses that would arise from giving birth since she was five months pregnant with his child. The boyfriend pulled her away from the street into a dark corner where he forcefully had sexual intercourse with her which caused her to get a miscarriage.<sup>78</sup>*

### 2.3.3 Violations by members of the communities within which sex workers work and live

Sex workers live and work in communities that are rife with disapproval of the kind of work they engage in. It therefore does not come as a surprise that four of the documented violations of the rights of sex workers in 2016 were perpetrated by such persons. The community persons violated the sex workers' right to freedom from inhuman and degrading treatment, wherein the sex workers were subjected to physical violence through beatings and sexual violence.

The outstanding examples are:

*On 9<sup>th</sup> January 2016, at around 9:00 p.m., while walking from her client's house in Kilembe (Kasese), a sex worker was attacked by two men who stabbed her behind her left ear and abandoned her on the road.<sup>79</sup>*

*On the night of 31<sup>st</sup> December 2016, at around 3:00 am, three young men found a sex worker near a night club in Bwaise. They grabbed her and took her into an abandoned building, where they took turns raping her and beating her up. The young men were arrested by police, although they were later released under unclear circumstances.<sup>80</sup>*

.....  
<sup>78</sup> Case 026.

<sup>79</sup> Case 027.

<sup>80</sup> Case 028.

## 2.4 Conclusion

While this report is not exhaustive of all the human rights violations that were suffered by sex workers in Uganda in 2016, it indicates that the existing legal framework facilitates the numerous human rights violations that sex workers suffer at the hands of law enforcement officers, especially while going through the criminal justice system. It also indicates that, while there are relatively fewer incidents of human rights violations that sex workers suffer at the hands of private individuals, the state has done virtually nothing to offer redress for or protection against such violations.

# SECTION III

## ANALYSIS OF TRENDS IN HUMAN RIGHTS VIOLATIONS AGAINST SEX WORKERS IN 2016

In 2016, human rights violations against sex workers were mostly prevalent within the central region of the country, with the highest number being recorded in the capital city Kampala. The central region of the country has the capital city and houses most of the sex work hot spots like fish landing sites. Of the 597 incidents of human rights violations that were documented against the sex workers, 369 of them took place in Kampala, accounting for 62% of the total violations. This is expected as Kampala has the highest population in the country and also acts as the country's business center. It therefore attracts a large number of sex workers, with the resultant violations they face. The districts of Masaka, Mukono, Mpigi and Wakiso also recorded a high number of violations at 66, 49, 39 and 38 respectively. Many of the sex work hot spots like fish landing sites are located in these districts.

In addition to the region housing vibrant business districts and hotspots, the central region is relatively urban compared to other regions of the country. This could imply that there is lesser attachment to traditional socio-cultural norms on women's sexuality and gender roles, which does not inhibit women from engaging in sex work. Additionally, the economic pressures in the urban settings compel many women with limited skill sets that move from the rural areas with the hope of getting gainful employment to engage in sex work as a means of livelihood for themselves and their families. The generally higher economic levels in the more urbanised areas also makes for a wider and better customer base for sex workers. Unfortunately, while there are various incentives for a sex worker to engage in transactional sex in urban settings, the economic pressures that are characteristic of almost all urban settings also negatively impact on law enforcement officials and the sex workers' sexual partners. Economic pressures, which may lead women to engage in sex work have proved to have negative consequences for their relationships with their intimate partners, who in a number of documented cases, try to convince them to leave sex work by force. Law enforcement officials, on the other hand, who also face economic pressure in urban areas in particular and who are not adequately compensated for their work may be tempted to use the existing legal framework in order to extort sex workers for much-needed money.

The most common human rights violation that was reported to have been committed against sex workers in 2016 was the violation of the right to liberty. These were 470 out of the 597 incidents of human rights violations that were documented during the year. This constitutes 79% of the human rights violations that were perpetrated against sex workers. The most common component of

the violation of the right to liberty was the subjection of sex workers to arbitrary arrests. These incidents were 372 out of the 470 incidents of violation of the right to liberty that were documented. This is due to the fact that sex work in Uganda is criminalised, which makes sex workers vulnerable to getting caught up in the criminal justice system, albeit unjustly.

Additionally, while sex work is criminalised under sections 138 and 139 of the Penal Code Act, it is virtually impossible for law enforcement officials to catch sex workers committing the actual act that is criminalised as amounting to ‘prostitution’ under the Penal Code Act.<sup>81</sup> This causes law enforcement officials to resort to the ambiguous vagrancy laws, especially the offence of being a rogue and vagabond,<sup>82</sup> which give them leeway to unjustly and wantonly arrest sex workers. Vagrancy laws are also used by law enforcement officers against sex workers when they arrest them without reasonable cause or reasonable suspicion that they have committed an offence. This is usually in circumstances where mysterious deaths occur in or near the lodges where sex workers operate, and all the sex workers in the area are arrested on allegations that they were responsible for the deaths, only for them to be charged with being rogue and vagabond.<sup>83</sup> This is also the case when the members of the general community raise complaints to the police about sex workers who dress indecently or connive with thieves and robbers to steal from them. Recently, the African Commission Principles on the Decriminalisation of Petty Offences in Africa were adopted by the African Commission on Human and Peoples’ Rights during its 61st Ordinary Session in Banjul, Gambia. The principles call upon states to decriminalize petty offences, which include idle and disorderly and rogue and vagabond provisions.

The existence of vagrancy offences that facilitate the arbitrary arrest of criminalised communities such as sex workers on Uganda’s law books is an indication that, in addition to failing to respect their right to liberty, the state has failed to uphold and promote it. Uganda is a state party to the International Covenant on Civil and Political Rights (ICCPR). Article 9 of the ICCPR stipulates that everyone has the right to liberty and security of person and that no one shall be subjected to arbitrary arrest or detention, save on such grounds and in accordance with such procedures as are provided for by law. The UN Human Rights Council<sup>84</sup> has interpreted ‘arbitrariness’ to mean inappropriateness, injustice and lack of predictability rather than simply unlawfulness.

Incidents of detention of sex workers beyond 48 hours were also rampant.

.....  
<sup>81</sup> According to sec 138 of the Penal Code Act, prostitution is when a person, in public or elsewhere, regularly or habitually holds himself or herself out as available for sexual intercourse of other form of sexual gratification for monetary or other material gain. It is virtually impossible for police officers to catch sex workers actually holding out as such.

<sup>82</sup> The Penal Code (n14 above) Section 168.

<sup>83</sup> The Penal Code (n14 above) Section 160.

<sup>84</sup> *van Alphen v Netherlands* (n27 above).

Police often subject sex workers to prolonged detention in a bid to compel them to pay bribes in exchange for their release. Sex workers often give in to this form of intimidation and part with their hard-earned money in order to attend to other aspects of their lives such as their medical needs as well as the needs of their children. While this appears to be a quicker solution, it only escalates the problem owing to the fact that it encourages arbitrary arrests by law enforcement officers with a view to extorting money from the sex workers. The sex workers that are not able to meet the police officers' demands often end up being charged with vagrancy offences and even sometimes end up spending time on remand without their cases being prosecuted for lack of witnesses. It is only a few that are able to access legal assistance while at the police station that survive being presented in court. For those that are charged in court, the more practical solution had been to make a plea bargain with the state prosecutors wherein the sex workers plead guilty to the charges, which are virtually always of misdemeanours, in exchange for non-custodial sentences such as community service and release on caution. This is an effort to combat the negative effects of prolonged detention, which often entail sex workers not being able to access medical treatment while in custody, be it at police or in prison, as well as the danger of their children getting harmed as a result of being left unattended.

The report further indicates that most of the human rights violations against sex workers were perpetrated by the state, with the most notorious state agency being the Uganda Police Force, which was responsible for 565 of the 575 incidents of human rights violations that were perpetrated by the state, which constitutes 98% of such violations and 94.8% of all violations against sex workers. In addition to interfering with sex workers' enjoyment of their rights, the state also did little to give redress for the other 21 incidents of human rights violations that the sex workers suffered at the hands of clients, intimate partners and members of the general community. The cases in which police officers actually took positive steps towards protecting sex workers' rights in a few hotspots were minimal and were a result of engagement with sex worker leaders and other CSOs working towards the promotion of sex workers' rights.<sup>85</sup> The positive steps also did not have a long term impact, as police officers are often transferred from one police station to another and they have different perceptions of observance of human rights for criminalised communities such as that of sex workers.

The subjection of sex workers to various forms of violence, discrimination and stigma that are illustrated in the various incidents that were documented pushes them further underground and negatively affects their health seeking behaviour, thus creating fertile ground for increase in HIV infections and contraction of AIDS among the members of the sex worker community and the general community. This situation is aggravated by the criminalisation of sex work. It is understandable that sex workers will be reluctant to approach healthcare

.....  
<sup>85</sup> Interview with Documentation Officer from CCL on 22<sup>nd</sup> November 2017.

service providers since they experience such prejudice from both government officials and the community in general, along with facing the possibility of arrest. The cases discussed above also make it clear that there are instances where healthcare workers have expressed overt discrimination against sex workers by refusing to provide them with HIV testing and counselling services. Considering that sex workers are one of the most at risk populations, it is a matter of necessity to ensure that the avenues to ensure access to healthcare are opened up, starting with the decriminalisation of sex work.

# SECTION IV

## CONCLUSION AND RECOMMENDATIONS

### 4.1 Conclusion

The report generally indicates that the criminalisation of sex work under sections 138 and 139 of the Penal Code Act places sex workers in a precarious position with the law, which makes them susceptible to various forms of human rights violations that are occasioned against them while going through the criminal justice system, attempting to access public services and engaging in their work. It is clear from the report that while these provisions are inoperative, they render sex workers a criminalised community that is left at the mercy of law enforcement officials and community members that are strongly prejudiced against them and views them as social misfits and outlaws. These prejudices are enforced by the law, and the weaknesses in the criminal justice system are exploited to commit various forms of violence against sex workers. In as far as using the law to occasion violence against sex workers is concerned, vagrancy offences were the key weapon used by law enforcement officers, hence, it is extremely important that they be scrapped from Uganda's law books. On the whole, the legal framework in Uganda provides a harsh climate to the realisation of human rights of women that engage in sex work, which explains why the majority of incidents of human rights violations that were experienced by the sex workers were within the criminal justice system, with the police emerging as the greatest perpetrator. It is important to continue working towards creating and maintaining meaningful engagements with law enforcement officers and other duty-bearers to better the human rights situation for sex workers in Uganda.

### 4.2 Recommendations

Recommendations are made to the following entities in order to reduce the violations against sex workers:

#### To the Ministry of Health

- Train public health workers on provision of sex worker-friendly health services.
- Ensure implementation of the existing health policies that do not discriminate against sex workers and pass more inclusive health policies.
- Increase the support offered to MARPI clinics in the country to increase their capacity to provide health services to all sex workers across the country.

### To the Uganda AIDS Commission

- Inform state agencies, Parliament, the general community and other stakeholders of the danger in harassing and violating the rights of sex workers as this hampers the fight against HIV/AIDS.
- Encourage the integration of a legal and human rights based approach to fighting HIV/AIDS among sex workers.

### To the Uganda Police Force

- Train police officers on the rights of sex workers under Ugandan law, and their duty to protect these rights.
- Avail sex workers with equal protection of the law by ensuring that the violations that are perpetrated against them are properly investigated and handled.
- The Inspector General of Police should work with different stakeholders to eradicate the culture of corruption within the Uganda Police Force.

### To the Directorate of Public Prosecutions

- Develop prosecutorial guidelines for the offences of prostitution, being idle and disorderly, and being rogue and vagabond in order to guide state attorneys on the ingredients of the offences and what evidence they should look for before sanctioning files with charges related to them.
- Review the police files for enough evidence especially to support charges of being rogue and vagabond and idle and disorderly as these provisions are usually abused to charge sex workers even where there is no sufficient evidence.

### To the Uganda Human Rights Commission

- 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.
- Make recommendations for legal reform on laws that promote stigma and violence against sex workers.
- Encourage various state organs, especially the police and local government councils, to employ a human rights-based approach in handling cases involving sex workers.

## To Members of Parliament

- Enact laws that are not discriminatory to persons that engage in sex work, or fuel violence against them.
- Repeal laws that are obsolete and which fuel violence against sex workers, in particular sections 138 and 139 of the Penal Code Act.
- Repeal sections 167 and 168 of the Penal code on idle and disorderly laws.
- Do not adopt the provisions further criminalising sex work in the Sexual Offences Bill.

## To the Equal Opportunities Commission

- Investigate the systematic discrimination and marginalisation against persons on the basis of their involvement in sex work.
- 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.
- Receive and investigate complaints of marginalisation and discrimination of sex workers and provide adequate redress.

## To the Judiciary

- The Constitutional Court should hasten the hearing of the case of *Center for Domestic Violence and Others v Attorney General*, challenging the Anti-Pornography Act, 2014 which is one of the laws that fuel violence against sex workers.
- Expeditiously handle and conclude cases where individuals, especially persons that are suspected of engaging in sex work, are charged with vagrancy and other minor offences.
- Promptly hear and determine applications for unconditional release of individuals that are kept in police custody longer than the period provided for under the Constitution.

## The Uganda Law Reform Commission

- Make recommendations to Parliament to repeal provisions of the Penal Code Act that criminalise sex work and related activities that are obsolete and inoperative, yet promote prejudice and discrimination against sex workers. These include Sections 136, 137, 138 and 139 of the Penal Code Act.

- Make recommendations for the repeal of laws that promote violence against 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 International Community

- Hold the government of Uganda accountable to its regional and international human rights obligations to all individuals, including sex workers.
- Support initiatives geared towards creating public awareness on sex workers' rights and combating discrimination and violence against persons because of their engagement in sex work.

### To National Human Rights Organisations working with the Sex Workers' Community

- Build capacity of staff members to document human rights violations against persons 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.
- Engage more in programmes that aim at creating public awareness on sex workers' rights and ending violence against sex workers.
- Streamline systems of reporting incidents of human rights violations, evidence collection and data storage to enable easy verification of violations against persons based on their involvement in sex work.

### To the Media

- Provide accurate and un-biased reporting that is respectful to all individuals regardless of their supposed involvement in sex work.
- Respect the privacy and dignity of all persons in reporting regardless of the person's alleged involvement in sex work.
- Conduct research on, monitor and report on instances of human rights violations against sex workers.

### To the President of the Republic of Uganda

- Veto legislation that promotes discrimination and violence against persons because of their involvement in sex work.
- Hold police to their duty to effectively investigate issues of human rights violations against all persons including sex workers.

- Prioritise issues of discrimination and gender-based violence within Cabinet and the Executive at large.
- Ensure that the provisions on being ‘idle and disorderly’ and being ‘rogue and vagabond’ are removed from the law books as per the promises made during the 2016 presidential campaigns.

## REFERENCES

### Laws

The Constitution of the Republic of Uganda, 1995

The Local Government Act Cap 243 of the Laws of Uganda 2000

The Penal Code Act Cap 120 of the Laws of Uganda 2000

The Prevention and Prohibition of Torture Act 3 of 2012

### Reports

Amnesty International (2016) *Policy on State Obligations to Respect, Protect and Fulfill the Human Rights of Sex Workers*

Human Rights Awareness and Promotion Forum (2016) *Legal regulation of sex work in Uganda: Exploring the current trends and their impact on the human rights of sex workers*

Human Rights Awareness and Promotion Forum (2016) *The implications of the enforcement of 'idle and disorderly' laws on the rights of marginalised groups in Uganda*

Joint United Nations Programme on HIV/AIDS (2017) *Country fact sheets, 2016: Uganda*

Joint United Nations Programme on HIV/AIDS (2014) *The Gap Report*

Uganda Law Society (2016) *Legal Aid Project of the Uganda Law Society*

### Cases

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

*van Alphen v Netherlands* Human Rights Council, Comm. No.305/1998

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

### Newspaper articles

'HIV Transmission still high among key groups-study' *The New Vision* 17 November 2017

'Bamalaaya n'ababbi babayodde mu Nyendo' *Bukedde* 1 November 2016 8

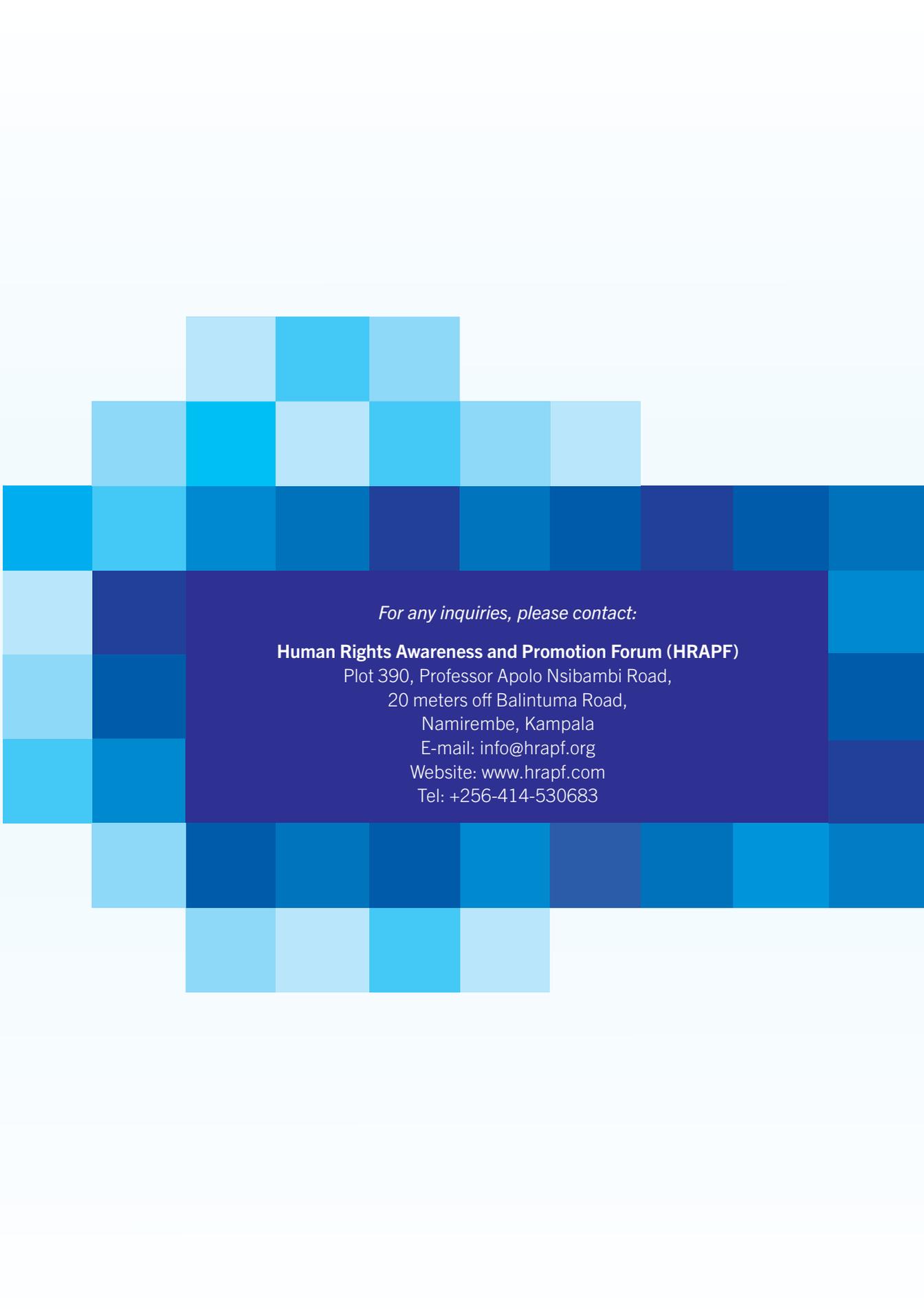
'Malaaya abadde akuba abasajja kalifoomu n'abanyaga bamukutte' *Bukedde*

14 January 2016 26

### **International human rights instruments**

The International Covenant on Civil and Political Rights

The International Covenant on Economic, Social and Cultural Rights



*For any inquiries, please contact:*

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

Plot 390, Professor Apolo Nsibambi Road,  
20 meters off Balintuma Road,

Namirembe, Kampala

E-mail: [info@hrapf.org](mailto:info@hrapf.org)

Website: [www.hrapf.com](http://www.hrapf.com)

Tel: +256-414-530683