



Global Network of Sex Work Projects

Promoting Health and Human Rights

**How Sex Work Laws are Implemented on the Ground and Their
Impact on Sex Workers**

Uganda Case Study

Introduction

In Uganda, the sex work community is not a homogeneous group, there are sex workers in all their diversity including female, male and LGBTIQ, and refugee sex workers. Therefore, this case study reached out to eighty-seven (87) sex workers in their diversity including 51 female, 10 male, 18 trans and 2 gender non-conforming sex workers. The sex workers interviewed were mostly straight but 2 identified as bisexual, 1 as queer and 3 as lesbians. The interviewees ranged in age between 21 - 50 years with the majority living in town and working from the street, bar, or a brothel.

Sex work laws in Uganda

Sex work, referred to as 'prostitution', is criminalised and penalised under the Penal Code Act (sections 138 and 139) in Uganda. The laws also criminalise all those living on the earnings of sex work and brothels / avenues that facilitate sex work activity. In addition to this, sex workers are always suspected to be associating with wrong actors / criminals, and so are sometimes held as suspects in the hope that the police can get information from them. Sex workers are often harassed and arrested under penal provisions that create the offences of being idle and disorderly, being a rogue and vagabond and being a common nuisance. Under these offences sex workers are usually charged and punished with community work or sentenced to imprisonment of 3 to 6 months.

In Uganda, there is a political will of protecting and promoting human rights for all citizens through the Ugandan constitution of 1995. It is, therefore, important to note that Uganda has made tremendous efforts by putting in place policies / affirmative action / programmes that support different rights holding groups like women and girls, persons with a disability, youth, and elderly. However, meaningful inclusion and implementation of human rights protection is still low in all sectors, particularly for sex workers. State recognition does not always result in effective implementation of the laws and policies or programmes. Sex workers are excluded from labour rights, as sex work is not recognised as work. Public association freedoms are curtailed, which means that human rights organisations and human rights defenders are harassed.

The government of Uganda took several measures to minimise the spread of COVID-19, and this has been a wake-up call for policy makers and the citizenry at large as the situation has brought to the fore inequalities in the implementation of existing social policies. This has resulted in a need or desire in the country to review the existing social protection policies to align with the vulnerabilities among rights holders by the government of Uganda. Thus, this offers a window of opportunity for the sex worker community at large to engage and lobby policy makers to ensure that sex worker issues are incorporated in the review processes.

Sex worker experiences

Uganda is rated as an emerging democracy with legal, policy and institutional frameworks underpinning governance and human rights protection and promotion. However, in Uganda, the sex worker community in all its diversity continues to be marginalised and discriminated against by society, policymakers, and cultural and religious leaders. This is coupled with the existing restrictive legal and policy frameworks such as the Penal Code Act, which criminalises sex work. Same-sex intercourse is also criminalised in Uganda and the Registration of Person Act 2015 does not make provisions for transgender and intersex adults to change their sex details in the register.

“I don’t possess a national ID because they refused to register me with my desired / preferred names and pronoun” - Angel (not her real name), a 24-year-old, transwoman working from a bar.

The Non-Government Organizations Act 2016 provides for NGO Registration but stops organisations whose objectives are “in contravention of the law” from being registered, which is a significant barrier to sex worker organising in Uganda.

“The enactment of the 2016 NGO law and creation of the National Bureau for NGOs has further curtailed civil society organisations (CSOs) operation in Uganda. Some of the new guidelines such as renewal of NGO permits, declaration of source of funding and other punishable acts deemed prejudicial to Uganda’s security have crippled free sex worker organisations operations” - a lawyer from the Human Rights Promotion Forum.

The HIV and AIDS Prevention and Control Act 2014 criminalises the attempted or intentional transmission of HIV (Articles 41 and 43), which is a serious concern for sex workers given that the HIV prevalence is higher among sex workers compared to the general population. Monica (not her real name), a 33-year-old, female sex worker who works on the street said that:

“Ever since I got to learn that HIV is criminalised in Uganda, sometimes I fear to go for HIV testing services.”

There have also been some significant legal changes, including the introduction of new policies like the Sexual Offences Bill (SOB). This bill consolidates laws relating to sexual offences, but it further criminalises sex workers because the bill criminalises all sexual relations between people of the same gender, anal sex between people of any gender, and sex work itself.

In addition, there has been the introduction of new regulations restricting online activities, such as the ban on Facebook in Uganda, meaning it can now only be accessed using a VPN. This affects individual sex workers who use Facebook for work purposes like other businesses and sex worker organisations who use it to build awareness on human rights among sex workers.

Though some punitive laws have been challenged and therefore nullified by the courts like the Equal Opportunities Commission Act (this had a provision which prevented the commission from investigating any matter involving immoral and socially harmful behaviour), the Anti-Homosexuality Act as well as the Anti-Pornography Act, they still present a number of negative effects to sex workers as they justify the abuse of sex workers by enforcement agencies like the police. A large number of people in society, including the authorities, still have not come to terms with the fact that these laws have been nullified and therefore continue to cause violence to sex workers in all their diversity.

“We continue to witness incidences of physical attacks and office break-in to the sex worker safe spaces” - a female lawyer / human rights defender.

There are a range of other issues that affect sex workers in Uganda, which include stigma and discrimination, poverty enhanced by COVID-19 recovery effects, and the social exclusion of sex workers. Sex work is not recognised as work, and among sex workers there is limited knowledge about social protection. There is rampant police brutality against sex workers, which has increased over the past two years with police acting under the guise of enforcing COVID regulations. Sex workers are a severely stigmatised population and at high risk of experiencing sexual abuse and sexual violence.

It should be noted that the laws on prostitution are rarely enforced as it is difficult for the prosecution to prove such offenses. The penal code allows for the prosecution of all parties involved, namely, those who work as ‘prostitutes’, those who ‘live on the earnings of prostitution’,

those who are involved in the 'management of prostitution' and those who buy sex, and it is difficult to find proof of all of these offences unless someone pleads guilty, and this happens rarely. However, sex workers are always arrested and detained under different penal provisions, like those creating the offences of being idle and disorderly, being a rogue and vagabond and being a common nuisance (behaving in a public place in such a way as to cause an annoyance to a part of the public). In addition, over the past two years, sex workers have mostly been arrested in connection with COVID-19 measures. The charges they have faced most commonly since March 2020 are "disobeying lawful orders" and "doing a negligent act likely to spread infection of disease".

"It is hard to prove that one is a sex worker, so they charge you with other criminal cases in the disguise of sex work" - a police commander (CID) from Kapchorwa.

One of the female sex worker leaders working from the street expressed that:

"Sometimes, police raids are done not specifically to arrest sex workers but to distort money from sex workers, and if you refuse to give money, they arrest you and charge you with any possible petty offence".

Brothel-based and street-based female sex workers have been particularly affected by the changes in the law and the COVID-19 prevention regulations.

Socially, culturally, and religiously, sex work is not accepted and is seen as immoral and whoever engages in the activity is harshly judged and condemned.

Conclusion

According to the case study analysis, brothel-based and street-based sex workers are particularly affected by the laws on sex work and the COVID-19 prevention regulations, as they experience abuse and violence at the hands of the authorities. This creates an urgent need for services that are not readily available, such as, mental health services, assistance with security and safety plans as well as continuous psycho-social support.

The discrimination and marginalisation experienced by sex workers from communities and the authorities are deeply entrenched and lead to all forms of rights violations and negative stereotyping.

The sex worker movement in Uganda has, as its aspiration to see **sex work recognised as work** and for **SEX WORK to be DECRIMINALISED**.

Project supported by:

