



SPEAKING OUT

Personal testimonies
of rights violations
experienced by
sex workers in Kenya

Human
Rights
Count



FOR KEY POPULATIONS LIVING WITH HIV

About us

The **National Empowerment Network for Persons Living with HIV and AIDS in Kenya (NEPHAK)** unites people living with HIV and those affected by TB and AIDS through community based organisations such as post-test clubs, support groups, men's associations, carers' associations, women's groups, youth groups and non-governmental organisations and people living with HIV networks.

www.nephak.or.ke
info@nephak.or.ke

The **Kenya Sex Workers Alliance (KESWA)** is an advocacy organisation that seeks to end human rights abuses against female, male and transgender sex workers.

www.keswakenya.org

The **Bar Hostess Empowerment and Support Programme (BHESP)** is an organisation for and by all women working in bars and sex workers in Kenya engaging them in HIV and AIDS prevention, care and support, gender and human rights awareness and advocacy.

www.bhesp.org

The **Global Network of People Living with HIV (GNP+)** is the global network for and by people living with HIV. GNP+ advocates to improve the quality of life of people living with HIV and works to ensure equal and equitable access to health and social services, by focusing on social justice, rights and the meaningful involvements of people living with HIV in programme and policy development.

www.gnpplus.net



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Design by Jane Shepherd

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Acronyms

AIDS	Acquired immune deficiency syndrome
ANC	Antenatal clinic
ARVs	Antiretrovirals
BHESP	Bar Hostess Empowerment and Support Programme
GNP+	Global Network of People Living with HIV
HAPCA	HIV & Aids Prevention and Control Act
HIV	Human immunodeficiency virus
KASF	Kenya Aids Strategic Framework 2014/15-2018/19
KESWA	Kenya Sex Workers Alliance
KPLHIV	Key populations living with HIV
NASCOP	National Aids & STI Control Programme
NEPHAK	National Empowerment Network for Persons Living with HIV & AIDS In Kenya
NGO	Non governmental organisation
PEP	Post exposure prophylaxis
PITC	Provider initiated testing and counselling
SRHR	Sexual and reproductive health and rights
STI	Sexually transmitted Infection
TB	Tuberculosis



Executive summary

Kenyan sex workers continue to suffer human rights violations despite a robust constitutional framework that includes a comprehensive Bill of Rights guaranteeing rights for all. Sex workers also bear a disproportionately large burden of HIV that could be significantly reduced by a rights-based approach to their health needs. It is known that HIV biomedical and behavioural interventions are not sufficient to protect the health of sex workers and that their human rights need to be respected and promoted.

This report is a result of community-led research conducted by the National Empowerment Network for Persons Living with HIV and AIDS in Kenya (NEPHAK) in collaboration with the Kenya Sex Workers Alliance (KESWA) and Bar Hostess Empowerment and Support Programme (BHESP). It is part of Human Rights Count for Key Populations Living with HIV (KPLHIV), a project coordinated by the Global Network of People Living with HIV (GNP+). The project aims to support community-led research and advocacy against the human rights violations experienced by KPLHIV. Human Rights Count KPLHIV follows the success of Human Rights Count!, an evidence gathering tool developed and supported by GNP+ in eleven countries (including Kenya), which enabled networks of people living with HIV to document cases of HIV-related human rights violations. The tool was adapted for Human Rights Count KPLHIV to enable representatives of key populations and/or people living with HIV to conduct qualitative research on human rights violations against KPLHIV, based on their nationally agreed advocacy priorities.

In Kenya, networks of key populations and people living with HIV decided to focus on human rights violations among female sex workers living with HIV. This report is based on literature review and interviews conducted in May 2014 among 30 sex workers living with HIV in six counties - Nairobi, Mombasa, Kiambu, Machakos, Kisumu and Busia.

The study focuses on the human rights violations that female sex workers living with HIV face while accessing healthcare services, particularly HIV-related services and sexual and reproductive health. The study also highlights violations by law enforcement officers that impact on sex workers' vulnerability to and ability to manage HIV. The violations were perceived to be based on their HIV status and/or on their involvement in sex work.

Violating the right to healthcare

The research found sex workers living with HIV experienced numerous human rights violations when accessing health services, particularly those services relating to HIV and sexual and reproductive health and rights (SRHR). These included:

1. Violations around HIV diagnosis
2. Breach of privacy and confidentiality largely resulting from unlawful disclosure of HIV status by healthcare workers
3. Discrimination in healthcare settings and poor quality healthcare provision
4. Lack of accessible and acceptable health services
5. Denial of health services including sexual and reproductive rights (SRH) services

Most research participants raised concern around the manner in which HIV testing was conducted, the method of sharing the positive diagnosis and the attitude of the healthcare workers who conducted the HIV test. Procedural inconsistencies before, during and after the HIV tests were reported to have contributed to various violations. Participants raised serious concerns over the violation of their right to privacy and confidentiality and elaborated on how this exposed them to stigma, discrimination and

violence. Prejudices and negative attitudes by healthcare workers affected the quality of care provided to sex workers living with HIV. Ultimately, the SRH services provided to the general public did not specifically address all the needs of sex workers living with HIV including transgender sex workers.

Denial of equality before the law

Besides violations in health services, the research findings demonstrate how sex workers' vulnerability to and burden of HIV is further heightened by human rights violations suffered at the hands of persons in authority, specifically law enforcement officers including City Council *askaris* (local title for soldiers enforcing city by-laws), police and prison officers. These violations included:

1. Exploitation and harassment including arbitrary arrests
2. Limited access to justice in cases of rape
3. Lack of equal protection before the law and police inaction against violations
4. Inhumane and degrading treatment while in police custody including breach of privacy
5. Denial of and limited access to treatment while in police custody and prison

Sex workers living with HIV face a heightened risk of violence by the community and clients with little or no protection from law enforcement officers. In fact, respondents shared that they were routinely arrested and detained, verbally insulted and abused by the officers themselves including incidences of false accusations and inflated charges. Whilst all the survivors of rape reported having accessed post rape medical care, none of them reported the incidents to the police for fear of police retribution or being prosecuted for engaging in sex work. According to the study, reports by sex workers are neither taken seriously nor investigated thoroughly, creating an environment that disregards violence towards them. Frequent arrests and detention of sex workers resulted in an interruption of HIV treatment for those living with HIV.

The above experiences shared by participants in this community-led research, are representative of those of many sex workers in Kenya who suffer at the hands of law enforcement officers. A report documenting human rights violations against sex workers in Kenya (FIDA Kenya, 2008) found that in most instances, sex workers were unable to seek protection against human rights violations. The legal framework in Kenya outlaws various acts associated with 'prostitution' but does not specifically define prostitution nor directly criminalise it. These provisions however provide numerous opportunities for discrimination, abuse and denial of services to sex workers.

This report provides further evidence that criminalising any aspect of sex work promotes negative societal attitudes, fuelling human rights violations against sex workers living with HIV. This creates a culture of impunity for perpetrators of these violations and encourages an environment that undermines HIV prevention and intervention efforts. The report further shows that sex workers living with HIV have limited access to HIV treatment care and support which exacerbates the burden of HIV on sex workers. They have limited opportunities to address violations against them particularly by those they seek services from.

Recommendations

The Kenya 2010 Constitution and especially the chapter on the Bill of Rights forms a progressive legal framework. However, the Constitution has not been fully realised and its provisions not always respected. All laws that protect human rights must be upheld and applied to everyone, including sex workers and people living with HIV. These recommendations focus on two areas where sex workers living with HIV face the most discrimination - in healthcare settings and when they come into contact with law enforcement agencies.

Promoting the right to healthcare

- The National AIDS and STI Control Programme (NASCO) must ensure that all HIV services adhere to human rights principles including non-discrimination, confidentiality, adequate counselling and informed consent as provided for under the HIV and AIDS Prevention and Control Act of 2006. This applies to all service users, including sex workers. To ensure this happens:
 - healthcare workers must be provided with ongoing high quality human rights information and training to ensure provision of services that are respectful of the rights of sex workers living with HIV
 - sex workers must be informed about and meaningfully engaged in programmes or research intended for their benefit
 - treatment centres should not retain personal identifiers of clients, as is currently the case where biometric registration is used in some sex worker clinics in Kenya.
- NASCO should incorporate effective mechanisms to monitor health service delivery and establish effective complaint procedures to ensure procedural and ethical compliance of human rights standards, particularly for key populations such as sex workers living with HIV.
- The Directorate of Health Services, working closely with AIDS Control Units within the Police and Prison Services, must put in place policies and procedures to ensure sex workers have uninterrupted access to their HIV treatment even when arrested or detained.
- HIV programmes should also address the sexual and reproductive health and rights of sex workers living with HIV, including:
 - ensuring access to comprehensive information and a full range of contraceptive options to facilitate informed decisions
 - providing friendly non-discriminatory maternal health services that reflect the specific needs of sex workers living with HIV and encourage their uptake of HIV testing and prevention of mother-to-child HIV transmission services
 - ending the practice of forced and coerced sterilisation
 - providing tailored services to suit transgender sex workers.

Promoting access to justice

- Development partners and donors should invest more in empowerment initiatives that support sex workers to know their rights and how to access justice if their rights are violated.
- Institutions mandated to promote human rights such as the Kenya National Commission on Human Rights (KNHCR), National Gender and Equality Commission (NGEC),

Independent Police Oversight Authority (IPOA) and the Commission on Administrative Justice (Office of the Ombudsman) should work together to:

- better coordinate, monitor and report on violence or discrimination faced by sex workers living with HIV
 - undertake prompt, independent, and effective investigations into all allegations of violence
 - build a stronger working relationship with sex worker led organisations to develop human rights training for the police and the judiciary.
- Sex worker led organisations and other civil society organisations working on HIV should advocate for greater accountability of public institutions, including to ensure that law enforcement agencies and officers (i.e. City Council *askaris*, police and prison officers) who break the law are brought to justice.
 - In order to scale up access to legal services for sex workers:
 - partnerships between organisations providing legal aid and those working with sex workers should be strengthened
 - The Law Society of Kenya's committee on Public Interest and Legal Aid should explore incentives to promote HIV legal services provided by private sector lawyers on a pro bono basis
 - HIV legal services should be integrated into the government's National Legal Aid and Awareness Programme (NALEAP)
 - HIV Equity Tribunal must be strengthened and sensitised on the unique aspects of sex workers and their clients.

Reforming laws and policies and ensuring participation

- Laws, policies and practices that negatively impact on sex workers' health and human rights, through criminalisation or other means, must be reformed. These include national laws and/or subsidiary legislation based on the Kenyan Penal Code, the Sexual Offences Act and county laws regularising morality and related conduct.
- It is essential that laws to protect human rights are not undermined by practices and policies. For example, the HIV/AIDS Prevention and Control Act enshrines the right to confidentiality and consent during testing and this should not be undermined by practices supported by NASCOP such as provider initiated testing and counselling (PITC).
- Sex workers must be meaningfully involved in any policy or legislative reform processes (including at county level) and the specific rights and needs of transgender sex workers must be recognised throughout those processes.
- Decision makers, including community and religious leaders should be sensitised to identify, challenge and change stigmatising attitudes and behaviour and promote inclusiveness and equality, irrespective of HIV status, sexual orientation and gender identity. This will encourage them not to use statements or caucuses that directly discriminate against sex work or sex workers. More innovative approaches must be adopted in order to reach communities to promote tolerance and mitigate abuses against sex workers.



Chapter 1: Background

Human Rights Count KPLHIV, a project coordinated by GNP+, focuses on gathering evidence of human rights violations experienced by KPLHIV in order to stop violations. It follows the success of Human Rights Count!, an evidence gathering tool that enabled networks of people living with HIV in eleven countries (including Kenya) to document cases of HIV-related human rights violations against people living with HIV. Human Rights Count KPLHIV adapts and extends the use of this tool to focus on KPLHIV, and gain more specific details about their experiences through a qualitative approach. Using the tool, communities of KPLHIV carry out their own research, based on their own nationally agreed advocacy priorities.

Members of people living with HIV and key population networks decided the focus of the project in Kenya should be on human rights violations among female sex workers living with HIV. The project is led by the National Empowerment Network for Persons Living with HIV & AIDS in Kenya (NEPHAK) in collaboration with the Kenya Sex Workers Alliance (KESWA) and Bar Hostess Empowerment & Support Programme (BHESP). These partners chose to prioritise research and advocacy on violations relating to the right to health and access to justice. This report is based on literature review and interviews conducted in May 2014 among 30 sex workers in six counties - Nairobi, Mombasa, Kiambu, Machakos, Kisumu and Busia.

Key populations are groups that are vulnerable to or affected by HIV. Their involvement is vital to an effective response. Key populations vary according to the local context, but are usually marginalised or stigmatised because of their HIV status or social identities. The Kenya AIDS Strategic Framework defines key populations as groups who, due to specific higher-risk behaviour, are at increased risk of HIV, irrespective of the epidemic type or local context. In Kenya they include men who have sex with men, people who inject drugs and sex workers.

According to the Guidance note on HIV and sex work (UNAIDS, 2012), the epidemiological data on new HIV infection rates among sex workers and their clients reflects the failure to adequately respond to their human rights and public health needs. In Kenya, just as in many other countries, higher rates of HIV infection are experienced among sex workers than most other population groups. The Kenya AIDS Indicator Survey Report of 2012 (NASCO, 2014) found that women aged 15-64 years had a higher HIV prevalence rate of 6.9% than men at 4.4%. Women aged 15-64 years who reported to have ever exchanged money, gifts or favours for sex had an HIV prevalence rate of 10.7%.

Lack of respect for human rights fuels the spread and exacerbates the impact of HIV, while at the same time HIV undermines progress in the realisation of human rights for persons living with HIV and those at higher risk. The spread of HIV and its impact are worsened in situations where human rights are not respected, protected and promoted. The growing body of evidence has shown that decriminalisation and elimination of sexual violence of sex work would have a big impact on the course of HIV epidemics by averting new HIV infections. Despite this growing evidence, the general awareness of the structural determinants that put sex workers at a higher risk of HIV have not been fully identified and addressed in law and practice. The legal framework in Kenya contains offences associated with sex work and provisions criminalising deliberate transmission of HIV that provide numerous opportunities for discrimination, abuse and denial of services to sex workers living with HIV. Such provisions promote stigma and threaten efforts targeting sex workers living with HIV in Kenya who are often subject to violations of informed consent and confidentiality when testing for HIV and compromise the quality of essential services as evidenced in this research. Additionally, where sex workers are sexually violated and

physically assaulted, they experience difficulty and are at times denied access to justice. This makes the lives of sex workers more unstable, less safe and far riskier in terms of both HIV and human rights violations.

EXAMPLES OF HOW THE BILL OF RIGHTS CAN BE USED IN ADVOCACY TO ADVANCE THE RIGHTS OF FEMALE SEX WORKERS LIVING WITH HIV IN KENYA

Nature of right in the constitution	Experiences of violations documented in the study	Relevance in advocacy
Right to equality and non-discrimination	<i>“They said that I was careless and irresponsible that’s why I got infected. They had refused to attend to me and I was in so much pain. The doctor refused to take me to theatre saying that he can never touch a person with HIV he also said that he is very sure that the child I am carrying is also positive.”</i>	Creates an obligation to ensure that all persons are treated equally and prohibits discrimination on the basis of gender, health status, marital status and dress, among other grounds. This provision can be used to demand equality and challenge discrimination against sex workers based on their HIV status.
Freedom from cruel, inhumane and degrading treatment	<i>“After a friend who was housing me discovered I was taking ARVs she told me to be sleeping on the bathroom floor to avoid infecting her. I would wake up at 4am in the morning to disinfect the place before she could use the bathroom. As days went by I was feeding from a potty because her plates were not to be used by me.”</i>	Prohibits demeaning and ill-treatment of people. This provision could be useful in challenging the manner in which female sex workers living with HIV are treated as a result of either their HIV status or affiliation with sex work.
Right to privacy	<i>“I was paraded to be shown to the other inmates that I was a sex worker with HIV. He went along to say, ‘hawa ndio wanasambaza magonjwa.’ [These are the people infecting others with HIV].”</i>	Relevant in ensuring that information about a person’s HIV status is kept confidential and is not released by anyone without permission. Provision is helpful in addressing mandatory HIV testing and forced disclosure of HIV.

Nature of right in the constitution	Experienced of violations documented in the study	Relevance in advocacy
Freedom of movement	<p><i>“I was arrested in 2011 after a job and 2013 while coming out of the club. During these normal police raids, they ambush us while going home after closing the pub around 11pm at night. I just find a land cruiser with police in a dark alley and they arrested me claiming ‘narandaraanda’ [I was loitering].”</i></p>	<p>Allows all persons to move freely without unnecessary restrictions.</p> <p>This provision has been useful in efforts to challenge unlawful arrests for the offense of loitering which is often misused to harass sex workers.</p>
Right to the highest attainable standard of healthcare	<p><i>“The nurse in charge started asking me some petty questions instead of helping me. She asked when were you raped and at what time? Then I told her that I was raped at 11.00pm as I was from my usual job and the incident happened for almost 5 hours. Then she asked me which kind of job at that time of the night? I told her that I am a sex worker and I was coming from that job. The nurse started shouting at me calling me names like ‘malaya’ [prostitute] and declined to help claiming I was lying I was raped. When I asked about PEP, she told me it was not for people like me and ordered me to leave.”</i></p>	<p>Just like all other persons, sex workers have a right to access health services of high quality and suited to their specific needs.</p> <p>This provision can be used to advocate for the government to ensure high standards of care for all. Promotion of an environment that encourages uptake of services including ensuring sex workers are not predisposed to higher risk of HIV and those living with HIV receive the necessary services to manage the condition and reduce risk to others.</p>
Rights of persons detained, held in custody or imprisoned	<p><i>“I was once arrested by night police raid. I was put in a police cell and those days the law was not as it is today you could be locked in cells for more than a week without being taken to court. I stayed in the cell for three days negotiating for my bail since none of my family members knew of my arrest.”</i></p>	<p>Sex workers detained, in custody of imprisoned are entitled to all the national interventions and health services laid out in Kenya for HIV prevention, testing, treatment and care.</p> <p>This provision can be used to advocate for interventions for protection from HIV exposure as a result of rape of sex workers and access to HIV treatment for those living with HIV and detained, in custody or imprisoned.</p>

The Bill of Rights in the Constitution of Kenya (2010) provides numerous opportunities for sex workers and persons living with HIV to demand respect and protection of their human rights.

The HIV & AIDS Prevention and Control Act, 2006 (HAPCA) gives effect to these fundamental rights and freedoms stipulated in the Constitution by safeguarding the rights of people living with HIV to privacy of their status, security of the person through voluntary and informed consent to HIV testing, right to information through pre and post-test counselling and promoting human dignity through outlawing of discrimination.

There is need to acknowledge that HIV biomedical and behavioural interventions are not sufficient to protect the health of female sex workers where there are structural impediments that fuel human rights violations against them. To this end, key government policies on HIV are now taking cue from the Constitutional Bill of Rights to address the high HIV prevalence among sex workers by proposing a human rights-based approach. In recognition of the role of human rights violations in perpetuating vulnerability to HIV, the Kenya AIDS Strategic Framework (KASF) 2014/15-2018/19 (NACC, 2015) in Strategic direction 3 highlights interventions for the protection of rights of people living with HIV and key populations identifying sex workers as a priority population to facilitate access to services.

This report is in line with recommendations of KASF and several human rights reports on the need for evidence around specific human rights issues that will inform policy and action to promote rights and well-being of sex workers in Kenya. This research is a collection of experiences of sex workers living with HIV in Kenya who have had their human rights violated. By documenting these specific experiences, we hope to create a better understanding of the nature of human rights violations and inform advocacy for changes in law, policy and practice to advance the rights of sex workers living with HIV in Kenya.



Chapter 2: Research methodology

The Human Rights Count! project was originally developed by GNP+ to provide guidance to all people living with HIV to document human rights abuses and violations. Following a consultation period in 2014, which drew on expertise from the GNP+ Key Populations Living With HIV Advisory Group, the first generic survey tool was adapted and used to find out more about the specific experiences of key populations living with HIV. However, at its centre remains the ‘learning by doing’ method as a key principle - in other words, the process of conducting research is in itself, a valuable and empowering journey.

As well as a focus on KPLHIV, it was decided that the new tool, Human Rights Count KPLHIV could be used by communities to carry out their own research, based on their own priorities. It was agreed that the project should have advocacy goals built into it throughout. The goals are two-fold: first the immediate aim - to stop human rights violations; and second to address systemic change. In addition, the interview materials would need to be adapted to account for literacy and privacy issues which may be particularly pertinent for key populations.

With these principles at the heart of Human Rights Count KPLHIV, GNP+ worked in partnership with Sigma Research at the London School of Hygiene & Tropical Medicine to develop a tool that could be used to identify and record human rights violations experienced by KPLHIV. Drawing on feedback from the previous Human Rights Count!, the researchers decided that the tool should aim to gather qualitative data from relatively small numbers of people (approximately 40 in each country). The interview questionnaire was designed to enable individual countries to determine their own advocacy priorities in advance, and to focus on just one or two of these in the course of each interview. The methodology also took into account the multiple vulnerabilities that key populations face. In Kenya, the partner organisations chose to focus specifically on female sex workers whilst acknowledging that many of these women have also spent time in prison or used drugs and therefore face additional challenges.

GNP+ and Sigma Research also developed a series of guidance tools to support data collectors and key stakeholders. Alongside support documents, an intense programme of 5-day training was provided for all data collectors and others involved in the research. This included education about the concept of human rights, key populations and common violations of human rights they can experience, national legal contexts and qualitative research techniques.

In Kenya, the objectives of Human Rights Count KPLHIV were to:

1. Identify and document specific manifestation of human rights violations experienced by female sex workers living with HIV in relation to the right to healthcare particularly related to HIV and SRH services.
2. Identify and document specific manifestation of human rights violations of the right to equality before the law experienced by female sex workers living with HIV as a result of the actions and inactions of law enforcement agents.
3. Through the research findings, draw conclusions, identify opportunities and make recommendations to stop human rights violations and to address systemic change for enhanced protection of sex workers living with HIV in Kenya.

This study explored violations of the right to healthcare as unlawful, unethical and un-procedural actions or inactions by healthcare workers. This includes a wide range of violations such as:

- lack of informed consent and/or coercion for HIV related procedures/testing/treatment (including psychiatric treatment or drug rehabilitation)
- unnecessary withholding of assessment diagnosis treatment
- lack of access to or choice over hormone therapy (particularly for transgender people)
- lack of access to or choice over drug replacement therapy/methadone
- avoiding accessing healthcare facilities due to concerns about security, discrimination, privacy, confidentiality breaches by healthcare staff
- payment of unjustified additional charges for health services.

Violations of the right to equality before the law were documented as unlawful actions or inactions by law enforcement officers including:

- arbitrary detention/arrest, lack of access to legal representation
- police harassment/brutality/inhumane treatment
- seizure of identity documents
- unfair/unlawful procedures (including the planting or fabrication of evidence)
- lack of detailed investigation into a complaint made
- unlawful seizure of property/children by the state
- extortion
- lack of protection before the law and discrimination against people with HIV and/or sex workers.

Although denial of and poor access to treatment is a component of the right to health, in this research the same was captured under the right to equality before the law when it related to violations by law enforcement officers working in police cells and prisons.

Through the use of pre-designed interviewer-administered questionnaires, structured interviews were conducted with respondents to generate data on the respondents' lived experiences of violation of their rights as sex workers and persons living with HIV. The small qualitative research consisted of interviewer-administered questionnaires to 30 study participants who were female sex workers over the age of 18 years and living with HIV. The study also involved desk review of existing literature on human rights violations against sex workers, the human rights framework that protects the rights of sex workers living with HIV, laws and policies impacting on sex workers access to services and related media reports documenting violations against sex workers in Kenya. Opportunities to take forward recommendations were informed by ongoing national, county and community initiatives.

This study took place in six counties in Kenya proposed by KESWA and BHESP, based on the location of hotspots where participants could easily be recruited for this study. These counties are characterised by high HIV prevalence and high incidences of new infection.

A mixed sampling method was used to recruit participants. Convenience sampling was used where coordinators of sex worker networks approached members they already knew with detailed information about the research to see if they would be interested in taking part in the study. Snowballing was incorporated by these people to refer other possible interested participants. By using the maximum variation method, a predetermined criterion was used to select a small number of cases per county, aimed at maximising diversity within the target group across factors such as age, interaction with health and legal system, etc.

In order to make the environment more conducive for open and frank experience sharing, the data collectors were selected from interested sex workers serving as peer educators within KESWA and BHESP programmes. The individual interviews were conducted in the offices of organisations working with the sex workers in each of the counties which provided a safe environment for the sex workers. Oral consent was obtained prior to each interview and measures observed to protect the identity of the participants including removing identifiable data from the transcripts and limiting access by third parties. Digital and analogue recording equipment were not used, as an additional mechanism to ensure the privacy and confidentiality of all participants. While the transport expenses of the participants were reimbursed, there was no payment for participation in the study.

Once transcribed, responses were clustered according to the thematic areas and analysed. In addition to the qualitative investigations, quantitative data was generated on the prevalence (frequency) of violations of rights of sex workers living with HIV using Statistical Package for the Social Science (SPSS). The presentation of the findings was further revised by other responses and feedbacks by each individual participant in light of any new superordinate themes that emerged.



Chapter 3: Social demographics and circumstances of sex work

Study Participants were drawn from Nairobi, Mombasa, Kiambu, Machakos, Kisumu and Busia counties. Recent HIV statistics in the Kenya HIV Estimates Report (Ministry of Health, 2014) indicate that all of the selected counties, except Busia, have either high or medium incidences of new HIV infection. Kisumu had a high incidence of 10,349 new infections annually in 2013 among persons aged 15 years and above. Nairobi, Mombasa, Kiambu and Machakos each had new HIV infections of over 1,000 people in the year 2013. Busia, being a transit town frequented by long distance truck drivers who engage the services of sex workers, has a high HIV burden and unique characteristics that could increase HIV incidence in the future if structural interventions are not undertaken. The overall sample for this study was 30; with 5 participants enrolled from each of the six study sites. Most of the participants stated that over the past year their income had been insufficient to meet their basic needs. Hence most of them identified their sex work as a good source of income.

	No	Yes	It can change
In the past year, have you always had enough income to provide for self and dependents	14	7	9

Age All the study participants were adults over the age of 18. The youngest study participant was aged 20, while the oldest was 50. The majority of the participants (14 participants) were aged between 26 and 30 years of age. While there was distribution across all age groups in other counties, none of the participants from Mombasa was over the age of 30 years.

Gender The study targeted female sex workers; hence majority i.e. 28 participants were all women. 2 of the participants however identified as transgender; born men but identify as female.

HIV status All the participants were living with HIV. Most of the study participants were diagnosed during their prime reproductive age. 24 participants have lived with HIV for less than 10 years. The earliest diagnosis was made when one of the participants was 16 years old. One participant had lived with HIV for 30 years.

Circumstances of sex work All the participants were either current or former sex workers with the majority of them working as bar hostesses as well. 23 of the 30 participants considered sex work as a big part of their lives; enabling them to supplement their income, put food on their tables, pay school fees, rent, buy clothes and generally cater for their upkeep as well as that of their children.

14 sex workers said they worked alone while 16 worked with others. Of the 16 who worked with others, 12 worked in groups with other sex workers who they identified also as peer groups engaging in peer education at various designated hot spots. Four worked closely with waiters and bouncers in clubs/bars and also security guards and watchmen who referred interested clients.

“ We give our numbers to the security guards at guest houses who call us when they get clients who want sex workers”.

24 participants were street-based sex workers while the rest operated in specific venues including brothels, clubs or client’s rooms. Others specifically connect with clients through the phone contacts. None of the sex workers operated under a manager.

The majority considered sex work as a good source of livelihood. They reported frequent experiences of unfair treatment, abuse, discrimination, physical and sexual violence. Respondents mentioned that, due to various empowerment initiatives, some of them have been able to gradually improve their work environment by determining the number of days they work, identifying risky situations and improving their negotiation skills to get better pay and reduce their risk of infection through negotiated condom use.

Drug use Drug use was cited by the participants as a mechanism for coping with the problems associated with sex work, including discrimination, unfair and abusive treatment. The majority of the participants drink alcohol regularly whereas only 12 participants had used hard drugs including marijuana and cocaine. As shared by the participants, interactions with drug use by sex workers is a determinant to unsafe sexual contact, and a higher risk for HIV infection.

“ There was a time I used to smoke bhang [marijuana] but it started affecting the way I breathe and since I was also on ARVs I was advised to stop. I only drink beer to enable me stay stronger at work. I used to live carelessly and I didn’t care whether I am using a condom or not but later it affected my health and I think that’s when I got infected with HIV. I was once bed ridden with my CD4 count below 250.”



Chapter 4: Research findings

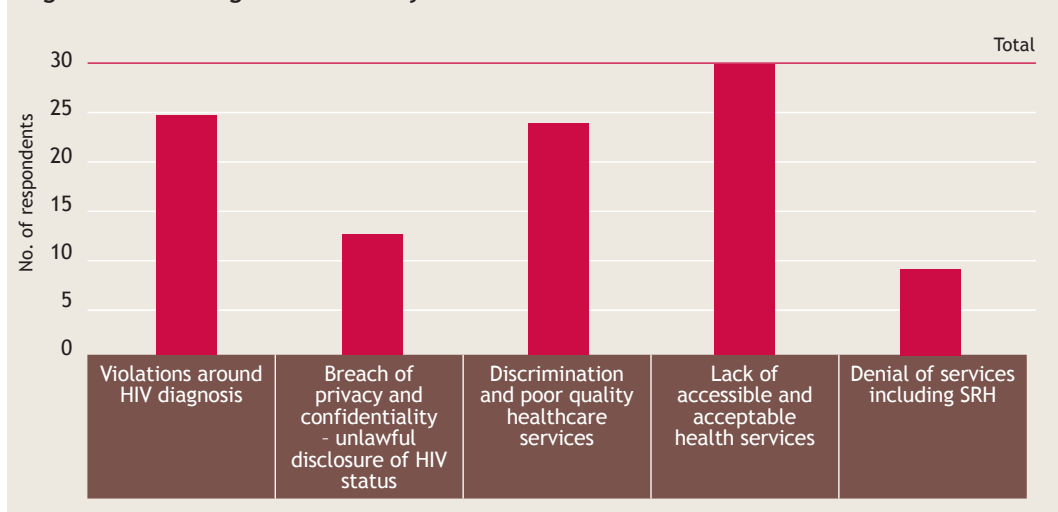
The findings of this research add to the growing body of evidence on how human rights violations are manifested among sex workers particularly female sex workers living with HIV. Specific human rights violations deter efforts at addressing HIV particularly those targeting key populations.

The findings of this study reveal that sex workers face numerous human rights violations while accessing healthcare services particularly HIV-related services and sexual and reproductive health. Further, experiences outside the health facility particularly violations by law enforcement agents impact on their vulnerability and ability to cope with HIV. The findings show that HIV among sex workers makes them additionally susceptible to human rights violation by both healthcare workers and law enforcement agents.

Human rights violations against sex workers living with HIV accessing healthcare services

Whilst healthcare workers are trained and expected to deliver the best care and ensure no harm comes to their clients, this research found instances of lapses in set medical procedures, poor quality of care and unethical behaviour. Personal beliefs and prejudices affect the attitudes of some healthcare workers towards sex workers infected with HIV. Some of the participants had; during the course of HIV care, confided in their healthcare provider about their involvement in sex work. Evidently, most of them found it difficult as this knowledge affected the attitude of the service providers. Numerous human rights violations were documented in healthcare service delivery as a direct result of an actual or assumed association with the patient's HIV status and involvement in sex work.

Figure 1: Human rights violations by healthcare workers



Violations around HIV diagnosis

25 of the 30 participants were not happy with either the manner in which HIV testing was conducted, the method of sharing the positive diagnosis or the attitude of the healthcare provider who conducted the HIV test.

13 participants identified specific violations around HIV diagnosis. Most of the incidences were cited in Busia, Kisumu, Machakos and Thika. The experiences revealed several procedural violations before, during and after the HIV tests. There were inconsistencies

in testing procedures with lack of effective delivery of pre and post-test counselling as outlined in the HIV and AIDS Prevention and Control Act, 2006 (HAPCA) and National Guidelines for HIV Testing and Counselling (2nd Edition, October 2010; National AIDS and STI Control Programme (NAS COP), Ministry of Health, Kenya). Also reported was, delayed linkage to care, poor follow up and lack of support services for sex workers living with HIV.

As evidenced by the findings of this research, the majority of the respondents were diagnosed with HIV while accessing other healthcare services; with 10 participants learning about their HIV status while seeking antenatal care, 8 diagnosed after presenting with symptoms of opportunistic infections (mainly TB co-infection) and 3 whilst accessing post-rape care. Only 4 of the participants recalled voluntarily seeking an HIV test and attributed this to the availability of voluntary and sex worker friendly testing services; conveniently located and easily accessible mobile clinics.

Undoubtedly, the research confirmed commendable progress within the health sector to scale up screening by making HIV testing part of the routine package of care for clients accessing health facilities. However, implementation is not in accordance with procedural, ethics and human rights standards. Contrary to experiences documented in this research, consent remains a critical component of PITC and patients should be notified that HIV testing will be performed as part of the care provided. Patients should also be given the option to decline or defer testing.

7 participants shared lack of voluntary informed consent prior to their first diagnosis of HIV, which is a major human rights violation.

“ *When I lost my sister a while ago it really affected me to an extent that I was not eating and fell into severe depression, that’s when I was taken to hospital by my brother. The hospital that I was taken to has a policy that you have to be tested for HIV before they give you any kind of treatment. So I was tested and when the results came back positive I felt like dying. I felt like the world has shattered around me as I was not prepared for such news particularly at such a time”.*

NBI 005 - 30 year old transgender sex worker.

Right to information was also violated in several cases. There is evidence of a lack of understanding of basic HIV information prior to testing services. Here, a participant from Busia was not informed of the test being conducted, forced to bring her spouse for testing as well and her status was shared with them both.

“ *I learnt about my HIV status when I attended ante-natal clinic. I went to the hospital as a routine for every pregnant mother. Upon reaching the clinic I was attended to by a nurse who told me I have to be tested but did not know what test was being conducted. After the test, I was told to go and call my partner because she had asked me if I was married. Lucky I had come with my partner who was waiting outside. I went and called him and came with him to the same room. He was taken aside and also tested. After the testing of my husband, we were called together and given our results. That is when the nurse told me that I was HIV positive.”*

BSA 006 - 28 year old sex worker whose husband rejected her for a co-wife following HIV testing without proper counselling.

In several cases the respondents were informed that HIV testing was a precondition to receiving certain medical services and their consent was consequently either coerced or obtained as a result of undue influence. Lack of informed consent, coupled with inconsistencies that resulted in lack of effective delivery of pre and post-test counselling

have negative consequences for sex workers and their clients as demonstrated in the case study below.

“ The hospital that I was taken to has a policy that you have to be tested for HIV before they give you any kind of treatment. The way I was treated during my diagnosis made me feel really bad because after I tested HIV positive, I believed I would die. I started misbehaving totally, I even stopped taking medication for some time thinking I will hasten my death only to worsen my health and yet death wasn't coming! I would chase my kids when clients came to the house but due to drug addiction I started bringing home clients even when my children were there. My health worsened and I couldn't walk on my own without physical support”

MKS 003 - 50 year old former sex worker in Machakos, now largely dependent on her children for financial support as her deteriorated health does not allow her to work.

The findings further revealed that where there were human rights violations around testing this had serious medical, psychological and social impacts on sex workers living with HIV. This also affects the right of children to be born healthy and free from HIV infection frustrating national efforts towards an HIV free generation.

“ I went to an ANC [antenatal care] clinic and was informed that I had to take an HIV test. I was really not prepared for the HIV test results which turned positive. I was so devastated that I didn't go to that clinic again or visit ANC until I gave birth to my first born but unfortunately due to lack of proper information my first born was born HIV positive. I regret a lot.”

THK 001 - A participant from Thika who now accesses care in a specialised sex workers clinic in Nairobi.

Breach of privacy and confidentiality largely resulting from unlawful disclosure of HIV status by healthcare workers

13 of the 30 participants shared experiences where their privacy and confidentiality were breached. Analysis of the findings reveals that participants experienced breach of confidentiality particularly when their involvement in sex work became apparent. In many of the cases shared, participants reported invasions of their privacy such as being asked unnecessary questions in relation to their sex work, most of which had no relation to the health service needed.

In the case below, the healthcare provider assumed that a close family member should be informed of the patient's status without consulting the patient.

“ The doctor took my phone, scrolled and found a contact saved 'mama'. He dialled it and called my mother. My mother came and she was informed of my HIV status.”

BSA 001 - 32 year old female sex worker, mother of two children.

Because of self-stigma and the fears around the risk of breach of privacy and confidentiality by healthcare workers, many of the respondents found it difficult to access readily available services near them. Clients travelled longer distances to access services where they felt no one could identify them.

“ I learnt about my HIV status after the death of a regular client whom I had taken as a husband for three months. After settling down with him I overheard people saying that he had lost his first wife but I did not pay much

attention to the rumours. Even after his death, I was scared to test during the door to door HIV testing because the people doing the testing were from my area and I was afraid they would know and disclose my status.”

BSA 002 - Sex worker in Busia county who has lived with HIV for 30 years.

Unlawful disclosure was at times not intentional, but resulted from systematic issues which included lack of private consultation rooms for patients and designated labelled rooms for HIV specific services as shared by a participant in Thika.

“ *The worst scenario I have gone through is when I went to pick my ARVs but unfortunately my neighbour had gone to the same facility for treatment. As you know in the centres, there is a specific room for positive people where we take our ARVs from. After she saw me entering that room, she went and told my neighbourhood negatives things about me having discovered my status and my troubles started.”*

THK 004 - 28 year old who lives positively despite her status being unlawfully disclosed to members of her community.

Just like all other people living with HIV, sex workers living with HIV should have control over if, how and when to tell others about their HIV positive status. Whilst some people are able to disclose immediately, the circumstances of sex workers living with HIV may vary because of real concerns about potential negative consequences.

The need to uphold the right to privacy and confidentiality of people living with HIV is very important. When breached it exposes people living with HIV to stigma and discrimination or even violence - as the quote below shows.

“ *One of the patients who saw me at the hospital was a cousin to my partner. I had not told my partner about my status. She went and told him ‘welcome to the club’ and he was so confused of which club but she said even your other wife joined. He came to my house and asked me and I was honest and I told him I found out recently and he should go for testing too. After that he was very angry calling me names i.e. ‘malaya’ and he wanted to kill me. He beat me mercilessly from head, stomach, legs, back ... it was a bad beating and to make the matter worse I had not told him I had missed my periods for two months so I might be pregnant. I couldn’t defend myself and he even gave me blows to my stomach ... After some weeks I started smelling. My body started producing a bad smell and even my friends left me. My mum and sister took me to the hospital where after a checkup and scan, I was told it was because my uterus suffered due to the hard blow I received and the dead foetus in it. I was in so much pain and the doctors advised that my uterus had to be removed immediately to avoid further damage. The blow I received to my stomach just because he had learnt about my HIV status, which I believe it’s him who infected me, destroyed me completely. Now I can’t give birth because my uterus was removed.”*

THK 003 - 31 year old part time sex worker who works as a bar hostess in Thika.

Results from this research, show that the respondents did not feel comfortable disclosing their positive HIV serostatus as they were mainly concerned about their privacy. For female sex workers living with HIV in particular, confidentiality of medical information, including HIV status, is essential to the protection of their human rights, because they may find themselves abandoned, subject to domestic violence, or ostracised if their sexual partners, families or communities discover that they are HIV positive.

“ One day I had gone for my children’s meeting at school, where I met another parent who happened to be my neighbour and knew about me. She was telling the other parents not to sit with me and should not any man sit near me because I was a sex worker and HIV positive. I felt so bad and out of place because everyone isolated me that the teachers and school staff noticed. Refreshment time came and nobody wanted to serve me, it was like I was going to infect them. The same parent went as far as telling her children not to play with mine, as they will infect them with the virus. Those children insulted my own telling them that I am a filthy harlot dying of HIV.”

NBI 001 - A 38 year old mother from Nairobi who lost her first pregnancy shortly after her HIV diagnosis.

Due to fear of stigmatisation and judgement, those who disclosed their status informed people they had longer steady relationships and trusted particularly immediate blood relatives and peers rather than those they had shorter casual relationships with like clients.

Protection of privacy and confidentiality in health settings will promote public confidence and trust in healthcare services; hence improve medical outcomes. It will encourage more people to get tested as well as receive and adhere to treatment; hence mitigating new infections. The findings revealed that properly trained healthcare workers can establish a relationship of trust with patients; which plays a positive role in encouraging self-acceptance and voluntary disclosure.

“ I rely on healthcare service providers. They really encouraged me not to give up on life. I go there to take my ARVs and what I like most about them is their privacy, they have never disclosed my status to anyone and they treat me as a normal person. In this institution I found people who are living with HIV like me and at least I feel more comfortable than I do at home.”

Discrimination and poor quality healthcare service provision

The experiences documented in this research revealed a generalised assumption by some healthcare workers that sex workers were infected as a result of their work and that their engagement in sex work was indisputably endangering others. 24 participants shared experiences where discrimination against sex workers and poor quality of healthcare services resulted in the failure by healthcare workers to provide beneficial information on interventions to promote safer sex practices, treatment adherence, disclosure and positive living which is routinely provided to other people living with HIV.

In some cases the treatment of patients was extremely degrading as in the testimonial below.

“ Back in 2011, after a stabbing incident with a neighbour, I went to the hospital for medical assistance where the doctor that I found in the outpatient department had previous knowledge of my HIV status as I regularly attended the facility. I was received with abusive words. ‘This is a sex worker who has been out there snatching other women’s husbands. Now she has been stabbed. Just stitch her, if it heals let it heal well and good, if not so be it.’ The nurses followed suit with the abuses. I was shocked to see them tying black polythene bags on their hands before wearing gloves to stitch me all because I was an HIV positive sex worker. During this entire episode the other patients were staring at me and observing how I was being handled. The patients who were disturbed by this incident were called by the nurses into

the treatment room and told the reason why they were tying polythene bags before wearing gloves is because I was HIV positive and therefore they should not wonder why. They stitched me painfully without any medication for the pain.”

BSA 002 - Bar hostess in Busia county who works alone with clients contacting her directly.

Experiences indicated that in some instances sex workers living with HIV had to wait longer to be attended to because the healthcare workers felt they work at night and therefore have no responsibilities during the day. Priority was given to other HIV positive people attending the facility because the doctor claimed they have important issues to attend to.

“ *Whenever a known sex worker is in a queue at the HIV clinic, she will be told to give a chance to those who have work to do during the day to be treated first. In one incident I was asked to wait while those who came after me were being treated because the doctor claimed they have important issues to attend to. I was treated at 3.30pm, having clocked in at 5.00am. At some point the doctor commented that at my age I can stop taking medication. I felt bitter ... so I requested for a transfer letter to another health facility, which he denied me. This hurts me still to date.”*

BSA 002 - 47 year old sex worker in Busia.

Justifiably, the majority of sex workers living with HIV fail to disclose their occupation. From these experiences and testimonies, it's evident that, when sex workers receive demeaning and unprofessional treatment within the healthcare settings, they see service providers as an extension of the larger system that marginalises them as opposed to helping them. Negative attitudes and actions by health service providers towards sex workers living with HIV, promotes self-stigma with far reaching consequences.

“ *After undergoing treatment for two months without any change, I went to the hospital and was then referred for a test. After the nurse drew my blood and while still waiting for the result, she asked me about my occupation. When I told the nurse that I worked as a bar maid, her attitude, mood and tone of addressing me changed. When she gave me my results of which I did not even know to read since she had not counselled me before being tested, in my mind I knew my cure was only to be started on ARV treatment. So I innocently asked her, ‘dawa utanipa saa ngapi?’ [at what point do I get medicine?] The nurse rudely asked me ‘dawa gani? Ulikuwa unaenda kutafuta ugonjwa ndio ukuje kuulizia dawa utapewe saa ngapi? Nyinyi Malaya wa bar hamna aibu.’ [Which medicine? You bar maids are shameless. You went and got yourself infected so you could come here and claim treatment?] I replied back, ‘I still have young children whom I still need to take care of and so I need the treatment’. The nurse replied back ‘kama unajua una watoto wadogo ulikuwa unapanua kuma kwa nini?’ [If you knew you had kids why were you spreading your legs?] I begged her please sister please help me. I felt a lot of humiliation, I cried and stood up and left the hospital.*

Another day I had gone to the clinic and was given fewer drugs. When they got finished before my next date of visit, I went to the clinic and told the nurse in-charge that I had been given fewer drugs and was requesting if she can add me some to take till my next date of visit. The nurse shouted at me with insults, ‘fewer drugs, are you a doctor? You must be lying’. I went out and sat on a bench. While there, I saw a doctor whom I knew, I went and explained to

him what had happened and he gave me the extra drugs I needed and went home.”

BSA 008 - A sex worker in Busia who supplements her income from her job as a bar hostess through sex work.

Addressing discrimination and supporting gender equality in the context of HIV requires that due attention be paid to the human rights violations experienced by transgendered persons who are HIV positive. The transgender participants interviewed discussed how gender identity issues further increased the risk of human rights violations for a sex worker living with HIV.

“ *Being transgender, I have both male and female clients. Last year in December when I was not feeling well, I went to a clinic. I had rough anal sex, so the pain was too much to bear. I could not sit nor stand. I was in terrible pain. To my knowledge I knew that clinic offered comprehensive care services, so also I needed Septrin for that day as mine were finished. Being transgender, people see me differently from the way I talk and dress. While at the queue I could see the awful looks and hear people including the nurses murmuring about me. When it was my turn to be attended to, the doctor upon hearing to my explanation firmly informed me that they don't provide services to gay people especially positive ones, and that I needed to go to the facility that usually served us. I decided to beg him as I was in pain, I could see him being interested in me because he asked me, what I will give him in return, in my view he wanted sex in exchange of me getting the medical services. This has only happened to me once but my fellow trans peers told me that clinic has stigma towards this community and it happens often as the staff at the facility are still the same.*”

MSA 002 - Transgender, sex worker in Mombasa.

Lack of accessible and acceptable health services

All 30 participants felt that HIV and association with sex work exposed them to human rights violations by healthcare workers. 20 of them felt they had to explain how they got infected while being informed of positive HIV results particularly where they were pressured to bring their sexual partners. This ultimately resulted in pressure to disclose their involvement in sex work or relations with multiple partners. Prejudices and misconceptions influenced the attitudes of some healthcare workers. Even in facilities offering specialised HIV services, attitudes of some healthcare workers were indifferent towards sex workers diagnosed with HIV. The research documents cases of inappropriate messages and judgmental language by healthcare workers upon discovery of patient's engagement in sex work following a positive HIV diagnosis. To this extent, most of the respondents felt that health services were not friendly to sex workers.

The attitude of healthcare workers was often judgmental and was even extended to relatives who offered support to the sex workers living with HIV.

“ *The doctor asked my mother what I do for a living. My mother was very frank and told him I was a single mother and I do sex work - anafanya kazi ya barabara. The doctor was surprised and did not react well, 'What?! Unaruhusu mototo wako afanye kazi ya umalaya? Hiyo kazi ni mbaya! Ndio imemletea ugonjwa [Why allow your child to engage in sex work? That is immoral work. It's the cause of her infection]'. The doctor became very harsh person after learning I was a sex worker. He immediately shouted to us 'Endeni huko chini*

pahali wagonjwa wanapatikana [move downstairs where the other sick people are].’ Referring to a specialised HIV facility within the hospital.”

BSA 001 - 32 year old female sex worker, who is the sole bread winner for her mother and two children.

The case below specifically shows how knowledge of her HIV status and occupation resulted in ill-treatment and verbal abuse by a healthcare provider.

“ The nurse asked about my marital status of which I said single. She then asked about my occupation which I said I was a sex worker. She was shocked that I openly admitted that I was a sex worker. She said, ‘msichana utakufa haraka ende kanisani uokoke’ [young girl you will die soon go to church and repent]. When I entered the doctor’s room just before any treatment, he as well asked me about my occupation and I said I was a sex worker. He started insulting me ‘nyinyi ndio munaua watu hapa town halafu sasa una mimba!’ [you are the ones infecting people in this town and now you are pregnant!] I tried to defend myself by explaining to him that this was my only source of livelihood.

After several visits, I was finally started on drugs though I did not understand how to take them. When I enquired of him how I was to take the drugs, he was harsh and shouted to me so I left. I went home and read the instruction myself and started taking the drugs (ARVs). The drugs were very strong and had severe side effects like feeling dizzy, weak, blurred sight. I called my friend who came and saw me. He told me that those were signs of side effect of the ARVs and I should go back to the doctor and complain. I went to the doctor but without giving me a chance to explain to him how I was feeling, he chased me away saying go and swallow them till they are over. He was so harsh to me that I got annoyed and left the drugs on the table. I went back to my friend and shared with him what had happened. He got concerned and offered to refer me to another doctor but unfortunately when he called him, he was not on call. Because of this treatment, I did not go back to the clinic, meaning I stopped taking the ARVs. I only went back to the hospital during delivery at night because I was afraid of going during the day. I delivered at night but in the morning the nurse read my card and discovered I was HIV positive and gave me some drugs to protect my baby. I did not breastfeed my baby because I did not want to infect her since I knew I was not taking any drugs. I did not take my ARVs for a whole year and this weakened my immunity and also the baby’s health was poor since I did not breastfeed her and she eventually died. Luckily I was able to change my hospital and now access care in a specialised facility whose services are friendlier to sex workers.”

BSA 003 - A mother in Busia, diagnosed with HIV during her first antenatal visit.

As a result of these conditions most sex workers living with HIV have opted to seek services in specialised sex workers’ clinics; which offer more friendly services for them than public facilities. However, these clinics in Kenya are often run by NGOs with donor funding and are hence not widely available.

Denial of services including difficulty in accessing SRHR

As noted earlier, HIV-related services were most accessed by sex workers during SRHR and ANC interventions. However, hostility by some healthcare workers towards sex workers living with HIV at times extends to the denial of services including much sought after family planning information and services. The study documented 9 incidences in which sex workers living with HIV opted to access SRHR services at non-governmental health and

private facilities after experiences challenges in public facilities. This report shows how most SRHR programmes in public facilities do not incorporate a rights-based approach. The services offered are not aimed at encouraging clients to exercise their right to health but rather implemented as programmes set to meet national targets. Most clients shared comments by healthcare workers indicating that some of the hospitals have a 'one-size fits all' approach, which is implemented with no consideration of a client's specific needs especially those of sex workers living with HIV. The testimony below is a clear example of this.

“ Once I went to the local hospital for family planning. The service provider who met me wanted me to get an HIV test. I told her that I was only coming for family planning because I had recently undergone an HIV test. She did not ask further questions about the previous test which would have revealed that I already knew my HIV positive status. Instead she insisted that under the new hospital policy, it was mandatory for patients to first get tested before accessing other service. So I agreed to be counselled and tested. As I awaited my HIV results, I was able to access the family planning services that I needed as provided by the facility.”

MKS 002 -20-year-old mother of a boy born HIV negative in Machakos county.

Sex workers should be free to exercise their reproductive rights and access all the health services and support that they need, just like any other person. However, incidences of inequality and discrimination continue to be reported as in the case of the participant below who was denied services due to her status.

“ At the maternity where I had labour pains, they really harassed me because I was HIV positive and a clinic defaulter. They said that I was careless and irresponsible that's why I got infected. They had refused to attend to me and I was in so much pain. There was a doctor who had refused to take me to theatre saying that he can never touch a clinic defaulter and HIV he also said that he is very sure that the child I am carrying is also positive. Later he agreed but nobody agreed to clean my baby. I was forced to do it alone despite the pain I was in because I was from the theatre. I stayed in the hospital for three days but nobody even the nurse agreed to come in to contact with me.”

NBI 003 - 26 year old former sex worker in Nairobi who did not attend antenatal care and only went to hospital for delivery.

As documented through various experiences in this report, sex workers face violence because of the stigma associated with both sex work and HIV. Female sex workers are at high risk of rape (including gang rape), and psychologically intimidation into unwanted sexual encounters either oral, anal, vaginal or at times even penetration with objects. Healthcare workers should be in the best position to identify the health consequences of sexual violence, and should be able to respond effectively to the health needs of survivors. Increased reports by healthcare workers and media in Kenya alleging abuse of Post Exposure Prophylaxis (PEP) by sex workers sometimes influences access to timely HIV related emergency care. An experience shared by one of the participants in this study demonstrates unfair treatment where she was accused of lying about a rape incidence in order to get PEP.

“ The nurse in charge started asking me some petty questions instead of helping me. She asked when were you raped and at what time? Then I told her that I was raped at 11.00pm as I was from my usual job and the incident happened for almost 5 hours. Then she asked me which kind of job at that time of the

night? I told her that I am a sex worker and I was coming from that job. The nurse started shouting at me calling me names like ‘malaya’ [prostitute] and declined to help claiming I was lying I was raped When I asked about PEP, she told me it was not for people like me and ordered me to leave. I later had to go for counselling and support at a private facility.”

KSM 003 - Participant from Kisumu.

Sex workers movements are often unpredictable as they move around various hot spots in search for potential business and clients. Sometimes this means they seasonally travel to different towns where there is business and are unable to access their drugs at their assigned facility as other people living with HIV are. This presents a unique challenge for sex workers living with HIV to access ARVs.

“ I remember one day I didn’t have ARVs and I went to the nearest health centre to pick some. Since I was new at that centre, the sister in charge said I have to be tested again or I come with a transfer letter to start picking drugs in that centre. When I stood there confused she shouted at me saying how many times will I tell you I won’t give you ARVs until you bring a letter.”

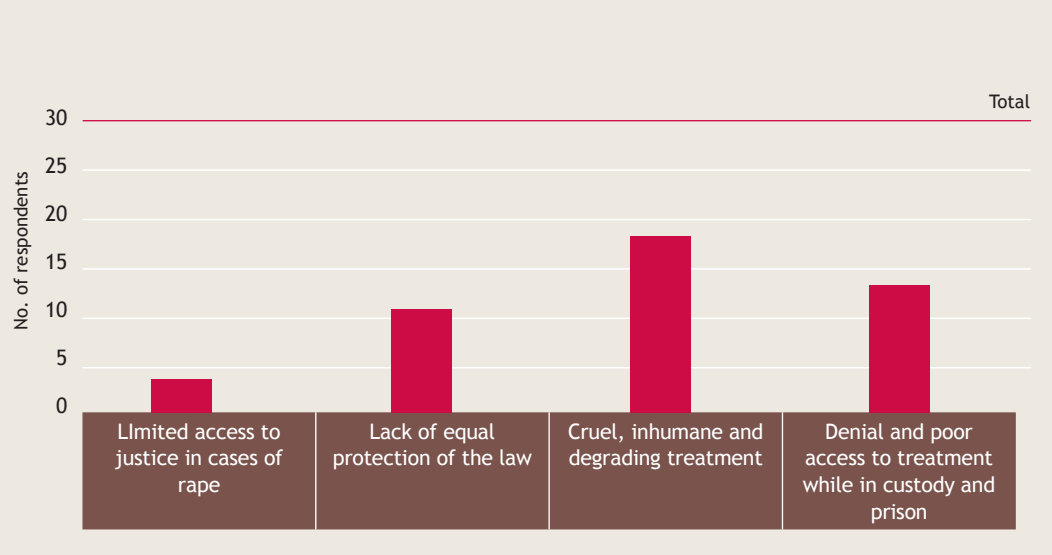
THK 004 - 28 year old sex worker who now accesses her drugs at non-governmental facilities offering specialised services to sex workers with clinics conveniently located in various towns.

One respondent even reported being denied healthcare services at a referral hospital because she did not have Kshs.500 for the examination fee. She was left bleeding from an injury from 2.30pm when she arrived to 6.30am the following day when she finally was able to receive some medical attention.

Experiences of violations against sex workers by law enforcement officers

Because sex work in Kenya is generally perceived as criminal and hence highly stigmatised, sex workers are exposed to high levels of harassment and violence by law enforcement officers. Experiences shared by participants in this research, are representative of those of many sex workers in Kenya who suffer at the hands of law enforcement officers.

Figure 2: Human rights violations by law enforcement officers



Sex workers living with HIV face heightened risk of violence by the community and clients with no expected redress by law enforcement officers. They are profiled and selectively targeted with no consequences for the perpetrators. They do not benefit from equal protection from the law, as enjoyed by the general population, when they report offences committed against them.

Extortion, exploitation and harassment including arbitrary arrests

20 participants shared experiences of abuse of authority including evidence of arbitrary arrests, extortion and exploitation by law enforcement officers. Respondents shared that they were routinely arrested and detained, verbally insulted and abused, money and other possessions taken from them by police and City Council *askaris*.

Sex workers shared how they had to pay bribes and adopt coping mechanisms to avoid harm and negative encounters with police and City Council *askaris*.

“ I have never been to prison nor remand. I have been caught several times but I bribe the police to avoid official arrest or arraignment in court. When you are a sex worker you have to learn how to deal with the police. I befriended them and they are part of my life now.”

NBI 002 - Peer educator with a leading sex workers organisation in Nairobi.

Sex workers often have to deal with trumped up charges and false accusations.

“ In 2006, I was arrested and remanded for a period of 4 weeks. It was a bad experience because I was first falsely accused by a complainant who never showed up for any hearings. I used to be taken to court only to be returned back to cell with no case to answer. I was made to clean the offices at the police station as well as the compound. The police officer who had arrested me wanted me to pay him for my release, but I could not afford to raise the money. He threatened to let me rot in the cell. A lady police officer got concerned about my deteriorating health and helped me by deleting my name in the occurrence book at the police station and gave me one hundred shillings as transport to take me home.”

BSA 006 - A peer educator with an organisation providing services to sex workers.

Limited access to justice in cases of rape

Lack of legal protection generally leaves sex workers open to abuse, violence and rape, creating an environment, which can facilitate HIV transmission. Sex workers are often reluctant to report violent incidents to the police due to the stigma relating to sex work and for fear of police retribution or being prosecuted for engaging in sex work. In all four cases of rape documented during the research, the survivors were able to access post rape care but none of them sought legal support. Sex workers who are survivors of rape ordeals find it difficult to report incidences of rape and sexual violence against them as a result, these offences are largely under-reported. When reported, particularly during post-rape care, there are no proactive efforts to link survivors to justice mechanisms that encourage official filing of reports to police and follow-up.

In some cases, sex workers have to interact with clients they have never met before and this often makes it more difficult to identify their perpetrators. In most cases the police are not able to undertake investigations to identify any suspects.

“ I thought if I tell them I am positive they won't do anything to me but they laughed at me saying it was a lie. I was ordered to undress and dance naked as they all watched. I insisted I am positive but they still didn't believe me. They all started touching me and every one took his turn and gang raped me. One had anal sex with me which was very painful since I had not done it before. Being an injecting drug user and a HIV positive sex worker it was too much to handle, I needed to inject myself immediately. After they were done with me they carried me to the car since I could not walk and drove off to a slum in Thika and threw me out as the car was moving. I was bleeding from my private parts and I was also in so much pain. I didn't even have a phone to call but a Good Samaritan found me. He took me to hospital where I was admitted for two good weeks. The people who did this were never found and I couldn't recall the house or the route we had taken.”

THK 002 - Sex worker who began engaging in child prostitution aged 13 because her family could not afford to educate her.

In other instances, law enforcement officers were themselves identified as the sexual perpetrators.

“ I was once arrested by night police during a Musako [meaning police raid in kikamba]. While in remand one day we were summoned outside the room by two prison officers. One of the officers said he will assist me if only I do what he wants. I had no choice but to agree and he made me swear not to disclose. He came for me that night and took me to his house. He told me 'Now that you are a prostitute I am going to sleep with you unconditionally' ... he ordered me not to ask for money nor ask him to use a condom. I kept quiet because I had no choice. He took me to bed and did the sexual act. When he finished he took some drugs, dressed up and said he was leaving for work but his other colleagues would come to take me out of his compound. Two officers came and I overheard them ask 'Are you done?' He said 'Yes man, siwezi kufa peke yangu.' [I can't die alone]. They laughed as they entered the room, the two came direct to me, raped me in turns. Later told me to dress and go, he took me to the gate and released me. I went all alone crying because I knew all was not well. I didn't go to hospital immediately. Much later during a visit to the clinic I learnt that I was infected with HIV, I told the clinic officer my ordeal and the name of the officer. We follow up only to find out the officer had committed suicide. I did not know the names of the other officers who raped me. I was advised to pursue the matter with authorities but I felt there was no use because I was already infected.”

MKS 005 - 37 year old sex worker in Machakos county whose clients are mostly truck drivers.

Lack of equal protection before the law and police inaction against violations

Sex workers experience inadequate protection from the law since the activities surrounding their work are generally criminalised. This creates an atmosphere of impunity where there are no consequences for those violating the rights of sex workers.

11 participants sought interventions from the police and local authorities like chiefs, but the reports are neither taken seriously nor investigated.

“ After being stabbed by a woman alleging that I had taken her husband, I immediately went to report the incident to the chief. Despite listening to the story he did not provide any assistance other than making rude remarks about me being a prostitute and nuisance within the community. I decided to persist and go the police station where they sent me back to the same chief for a letter about the incident which he declined to write. I went to the police station where they told me they cannot help me because I do not have a letter from the chief because he is the one with powers to authorise them to do investigation and arrest. Back at home, since no action had been taken against the woman in question, she would abuse me all the time and anywhere we met she would mock me ‘Malaya hananga haki yake’ [A prostitute has no rights here]”.

BSA 002 - Bar hostess in Busia county who has only been arrested once.

In a case, mentioned earlier in this report, participant (THK003) was violently attacked by her husband when he discovered her status. Serious physical and psychological damage was inflicted. The woman suffered such severe injuries that her uterus had to be removed. Despite being found guilty of assault the husband was only given a 3 month prison sentence.

Sex workers are often helpless to demand justice following violations and most of the time justice mechanisms do not work in their favour to protect their rights. In this experience shared by a participant from Thika, the police failed to investigate violence against her.

“ I was on my routine job with my friends, I was seated in a bar waiting for a client, when he arrived he came to my table and ordered a drink for us. As we were chatting and negotiating one of the other sex workers came and told my client ‘unajipeleka kwa kaburi ukiona’ [You are digging your own grave]. He was shocked and asked her to elaborate. My colleague knew my status as I always carried my ARVs in case I was delayed elsewhere. She grabbed my bag and poured my medicine on the table and said ‘Look, she is headed to the grave. She has AIDS’. My client was very angry and he grabbed a bottle of beer and hit me on my head with it. I was bleeding and later I fell unconscious until another sex worker who knew me as we share the same support group took me to hospital where I was stitched and she then took me home. After that we decided to report the matter to the police. I went to the nearby police station to write my statement and we were all summoned since the client and my friend were all known to me. Unfortunately they all turned against me saying ‘naabukiza watu ovyo ovyo’ [I have a habit of infecting people carelessly]. They said I target men who are healthy and infect them with the virus. They said I was bitter because I have the disease and I want everyone to die with me. This was all untrue and I said I have never had sex without protection and the client can attest. The police woman started hailing insults at me that I am a ‘prostitute’ and deserve to be stoned to death. I paid her five thousand shillings and left thinking things would be better left that way.

Upon reaching home I found a note under my door written ‘hatutaki virusi, hama with immediate effect. We want to disinfect the house’. Initially I ignored because my friend told me she had received a similar note too demanding that she relocates. Unfortunately after she was found murdered in her house a week later, I could not ignore the threat and had to move as I could not go back to the police again.”

THK 001 - 36 year old sex worker.

As the sex workers movement slowly gains momentum in Kenya, several sex workers living with HIV have had the courage to participate in public campaigns and human rights demonstrations. Such publicity is not always well received within the communities where they live. Without protection, sex workers who are activists and human rights defenders are exposed to even higher risks of threats and violence from individuals with extreme religious and cultural intolerance to sex work.

“ After my neighbour discovered my HIV status from the clinic, she went and told my neighbourhood negative things about me. I started receiving insulting messages on my phone regarding being an HIV positive sex worker and threats to move out of the plot or they will kill me. I reported the matter to the nearest police but it wasn't followed up. The police claimed there was no evidence despite the messages we showed them. I was afraid that my daughter was being targeted too. The police never took me seriously I think it's because I was HIV positive and because I told them the truth about my work. After I appeared publicly on TV in a procession to mark World Aids Day and later International Day to End Violence Against Sex Workers, I was forcefully ordered to leave and evicted from my home.”

THK 004 - 28 year old activist from Thika, publicly living as an HIV positive sex worker.

Cruel, inhumane and degrading treatment of sex workers living with HIV while in police custody including breach of privacy

18 participants reported having been detained, arrested or imprisoned. Respondents reported generalised public perception that sex workers deserve HIV even among persons in authority. In all the cases, officers' perceptions of sex workers lead to the use of inappropriate language and abusive treatment by officers. Their status was in the majority of cases shared publicly with other officers and inmates in breach of their right to privacy.

“ When I was arrested I had already taken my evening drug. But in the morning at around 7.00am I went and requested the police officer in charge to give me my phone so that I could call my mother to bring me my morning drug that I was supposed to take at 8.00am. They asked me how far was the distance from my house to my mother's house of which I told them. To my surprise, the three police officers, instead of giving me my phone, they called all inmates out. We were with young girls who had also been arrested. One of the police officers drew their attention saying, 'angalienu huyu mana mkubwa yeye ndio anasitahili kuvaa hivi usiku akirandaranda au nu nyiny?' [Look at this old woman, is this how she should be dressed out in public at night] He did not pity me but one of them did. I was paraded to be shown to the inmates that I was a sex worker with HIV. He went along to say, 'hawa ndio wanasambaza magonjwa' [These are the people infecting others with HIV]. The inmates did not feel well, neither were they happy about how I was treated. We were then taken back to the cell but before I went, one officer said I should be given my phone to call my mother. When she came they harassed her about letting me engage in sex work and I was finally given my drugs which I took, but late!”

BSA 001 - 32 year old street based sex worker who is dependent on sex work as her only source of income.

Transgender sex workers are even more exposed to ill-treatment at the hands of police officers and other detainees.

“ I am a transgender and my experience while in police custody was traumatising. My HIV status was known to everyone, those who were HIV positive were asked to stay aside so that they can access drugs. Even with the drugs, sometimes the food is not sufficient and you will have to sleep hungry, ending up taking drugs on an empty tummy. And also there was this time I was in detention at central police station for three day after being arrested at my base while working, I was locked up and was mocked. I was told to show my genitalia to ascertain whether I was a man or woman because I was in lady's clothes, I was demanded by the police officers on duty to cat walk and dance sexy while laughing at me. I felt bad and felt mistreated as everyone in there laughed at me.”

NBI 005 - 30 year old in Nairobi with both male and female clients.

Denial of and poor access to treatment while in police custody and prison

Half of the participants knew their HIV status while in custody, detention and imprisonment. Despite this knowledge, most of them admitted never carrying their drugs with them when they went to work. Arrest of sex workers living with HIV therefore presents an eminent risk of missing out on dosage, interrupting medication or defaulting.

In most cases, arrests of sex workers occur more than once and hence taking of drugs is not consistent.

“ In the 2 years I was working as a sex worker, like 4 times I was taken to a police cell like for periods of up to a week. I was positive and I knew it. I can say the number of time I was in prison I did not access my ARVs, which resulted in the deterioration of my health, which really affected my life.”

NBI 003 - Former sex worker from Nairobi who says the frequent arrests posed a threat to her life.

13 of the 30 participants interviewed either interrupted their medication as they could not access them while in custody or experienced difficulty and outright refusal by officers in some cases to provide appropriate assistance for them to access ARVs. Self-stigma prevented a number of participants from asking for access to medication.

“ Yes I was aware of my HIV status when I was arrested but I didn't dare ask for a chance to send for my medicine as I did not want to disclose my status to them. I stayed for the whole week without medication.”

THK 001 - Sex worker living with HIV from Thika.

Concerns over privacy also prevented disclosure for those who had been held in police cells or prison. A participant narrated how she went for two week without taking her medication because of fear of disclosing her status to the prison officers.

“ Once when I was arrested after work in the wee hours of the morning and held in police cell for hours, it really affected my life because I did not take my morning drug. I had my house keys with me and therefore could not send anyone to bring me my drugs. I felt sorry for myself thinking how I was going to miss my drugs. I was scared of telling the police about my drugs because I feared how they would react if I told them I was HIV positive. I did not want the others to know.”

BSA 003 - 28 year old in Busia whose family does not agree with her choice to be a sex worker.

Some participants narrated how they were denied access to their drugs despite the drugs being readily available within the facility.

“ It was in 2005 and it was the only time. I was arrested in a pub where I was working. We were locked up for loitering. I was detained for 2 days in a police cell. I was denied to take my drugs, despite the fact they were at the counter. I requested the police officer to allow me pick my drugs but he said ‘hiyo ni porojo ya Malaya wanao randaranda wakiua watu; ni dawa gani ambayo unameza!’ [These prostitutes just go around killing people, which medication are they taking!]. They continued insulting and abusing me saying ‘we are used to killing people’. I felt bad because I had not taken my drugs for two days. From the first day I started taking my drugs I was instructed to take my drugs daily without failure. I used to cry in the cell whenever I remembered my drugs. While in the cell they did not allow me to talk to a friend who had visited me and had brought me drugs. She requested them saying she had brought my ARVs but they did not allow her in, instead she was chased away and told ‘ende umeze hizo dawa mweyewe’ [go and take those medicines yourself]. Immediately I was released I felt sick and was admitted for one week in the hospital because of not taking my drugs for two days and also because of the cell environment.”

BSA 002 - Sex worker whose experience has made her try to facilitate access to ARVs to peers when they are arrested and remain in police custody.

In instances where access to medicines was made possible, poor and insufficient diet remained a major challenge to adherence. Research findings revealed that upon release from custody or imprisonment, sex workers who were positive experienced deteriorated health as a result of interrupted access to medication and poor diet.

“ It was a bad experience because I stayed without medication leading to deterioration of my health. My CD4 went down and I also lost weight. When I went back for treatment, the doctors were harsh on me for defaulting and told me in such cases I should speak out and ask for help. They had also tried looking for me but they did not know I was arrested. This situation is not likely to change because the police officers are always harsh and not ready to listen.”

BSA 006 - 28 year old sex worker who was detained for a period of 4 weeks.

For participants with HIV positive children, the prison environment presents additional health challenges for both mother and baby.

“ After I was taken to prison, life gave me a very nasty turn as my sister could not afford the upkeep of my baby and hers. She had no choice but to bring my baby who was still very small to the prison. It was very hard for me. I managed to get access to my medication but nutrition was poor and the hard work was killing me. I suffered for 6 months at the hand of government. I was not a criminal but a desperate soul looking for my daily bread. While in prison, my baby’s health and mine deteriorated each passing day. When I was released, I was put on very hard drugs so that I can recover.”

NBI 004 - 26 year old mother from Nairobi.



Chapter 5: Conclusion

It is evident from the findings in this report that sex workers living with HIV face high levels of human rights violations that impact on their ability to access quality healthcare, seek effective protection in law and access justice.

There exist various supportive laws in Kenya that stipulate legal, ethical and procedural obligations of duty bearers demanding that they respect, protect and fulfil human rights including the Constitution of Kenya, HIV and AIDS Prevention and Control Act, Sexual Offences Act, Prisons Act and numerous relevant policies and guidelines. However these are not always properly and consistently observed and implemented.

Stigma and negative attitudes of healthcare workers around HIV status and sex work contribute significantly to the violations experienced by sex workers living with HIV when accessing health services. Notable among these violations were discrimination, breach of privacy, lack of confidentiality, degrading treatment, lack of comprehensive support in rape cases and denial of equal access to quality healthcare.

Sex workers living with HIV are routinely exposed to high levels of harassment and violence by law enforcement officers with limited protection and access to justice for violations against them. The current analysis suggests that inaction by law enforcement officers further perpetuates negative attitudes and violations by community members against sex workers. Of particular concern, were the reports of denial and poor access to treatment for sex workers living with HIV when they are arrested, detained or imprisoned.

Although the Constitution of Kenya includes a progressive Bill of Rights, these provisions have not been fully realised to advance the rights of sex workers living with HIV. This report highlights that healthcare workers and law enforcement officers have a vital role to play in the fulfilment of human rights for sex workers living with HIV.

Programmes designed for sex workers should integrate a focus on human rights with specific interventions targeting healthcare workers and law enforcement officers. There is a critical need for coordinated advocacy by groups representing sex workers and people living with HIV to stop human rights violations against sex workers living with HIV in Kenya.



