

# KENYA SEX WORKERS ALLIANCE

## A Report on Study of Violence against Sex Workers in Nairobi, Kenya

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## **ACKNOWLEDGMENTS**

This report is the result of a study by Kenya Sex Workers Alliance to explore the status and level violence against sex workers in Nairobi during the period between 2014/2015. The intention of the study is to advance the rights of sex workers in Kenya through providing information for better prevention and improved responses to incidents of violence experienced by sex workers. This study has taken several months of hard work by dedicated individuals. We would like in particular to highlight the contributions of the individuals and organisations listed below and to extend our gratitude.

Our gratitude goes to Amnesty International, Nairobi office for partially funding this study. We would also like to appreciate Health Options for Young Men in HIV/AIDS and STIs for mobilizing the male sex workers who participated in this study. Thank you to the research team led by Neela Goshan (Human Rights Watch) who volunteered to lead this research during her sabbatical. The other research team members included Caroline Wambui, Benter Joseph, Phelister Abdalla all from Kenya Sex Workers Alliance and Grace Kamau, an independent consultant whose support is also gratefully acknowledged.

Research and data collection and analysis, including the training of sex worker interviewers, was conducted by Neela Gosha.

Finally, we owe the deepest gratitude to the sex workers who participated in this study and who showed strength in openly sharing their experiences — those who took the time to work as peer interviewers. You led this study and the report is in turn dedicated to you.

## **EXECUTIVE SUMMARY**

Sex workers experience excessive physical, sexual, emotional and economic violence at work, police cells, at their homes, in public and neighbourhoods. As they experience such tremendous violence, they are denied of their fundamental human rights including the right to equal protection under the law; to protection from torture and from cruel, inhuman and degrading treatment. This research as well as previous research demonstrates an increasingly familiar trend in which violence against sex workers predispose them to HIV infection and limits treatment effectiveness. Effective safeguarding of the human rights of male, female, and transgender sex workers including the prevention of violence requires an understanding of the interacting factors that impact on their safety.

Previous studies exploring violence among sex workers has shown that sex workers experience violence from all sections of the community. This study adopted a research methodology that enabled the research team to examine the common trends in violence among sex workers. The research team issued consent forms to study participants, which they signed to signal their agreement to participate in the study. Participants were recruited using purposive and snowball sampling. Peer researchers used semi-structured, qualitative interviews to obtain data from sex workers. Research participants were matched to peer interviewers by gender. The interviews were conducted in the natural settings in English language and lasted between thirty to forty five minutes.

The study revealed that sex worker participants experience violence in all aspects of their lives including while at work, in police cells and in their neighbourhoods and in their homes. All sex workers participants reported to have experienced one or more forms of violence in the hands of different perpetrators. Most sex workers reported experiencing violence in the context of their work. In addition, many reported having experienced multiple forms of violence, including rape, arbitrary arrest and detention, shaming in public. Violence experienced in sex work settings are perpetrated by members of law enforcement, clients, and third parties. Sex workers reported experiencing particular types of violence in work settings including sexual exploitation, extortion and harassment by members of law enforcement, and physical assault among others. Participants reported that members of law enforcement regularly extorted sex from

them, and coerced into unpaid sex for freedom from arrest. Eight participants reported being raped but none sought justice for the crimes.

Participants also reported experiencing violence from clients particularly by those posing as clients. Client violence included economic, emotional, physical and sexual violence, with participants often experiencing multiple forms of abuse at once. Violence by third parties was also reported by sex workers in the context of their work in brothels, bars, pubs, guest houses. Third parties committed all forms of violence but mostly economic violence. Participants reported experiencing specific forms of violence outside their work setting because of their work, such as violence and harassment by neighbours and the general public as well as discrimination and abuse in health settings.

## RECOMMENDATIONS

This study finds that violence against sex workers in Nairobi over the last two years is pervasive and severe, with clear patterns of violence among participants. The recommendations are addressed to the Kenyan government, parliament, judiciary, and attorney general, inspector general of police, County governments and civil society organisations. The subsequent recommendations address reform of laws, law enforcement practices and policies and programmes to prevent and respond to violence against female, male and transgender sex workers in the country.

There is need to review and change the existing laws to provide the legal framework that can adequately address issues of protection and respect for human rights of Kenyans, especially marginalised groups such as sex workers.

Develop frameworks to ensure all persons including the marginalised groups such as sex workers have access to legal aid

Develop programs or support sex worker led organizations to implement programs that provide adequate information about human rights and violence prevention to sex workers

Ensure proper reading and interpretation and implementation of the legal documents such as the Constitution and Sexual Offenses Act to ensure that victims of sexual violence including sex workers have equal protection without stigma and discrimination

Reform the training of law enforcement officers to ensure they are equipped with knowledge and skills on protection and promotion of human rights and more particularly when dealing with marginalised groups such as sex workers

Develop systems that allow sex workers to hold police officers to account for their actions with regards to involvement and/or no involvement in the protection and promotion of sex workers rights

Establish systems to initiate partnership with sex worker led organisations to better handle and address violence committed against sex workers

Revoke the existing by – laws that undermine the human rights of Kenyans including laws against loitering

Support sex worker led projects for their empowerment and to enable them to both prevent and protect themselves from violence and other human rights abuses.

Work with other stakeholders and the police on the protection of sex workers from violence from the public, or officers in these sectors.

Put resources in awareness creation and advocacy efforts geared towards improving the sex work environment

Ensure inclusion and involvement of sex workers in discussing strategies to address their challenges



## **CHAPTER ONE**

### **Background and Methodology**

#### **1.1. Overview of the research**

This study documents a wide range of violent acts experienced by female, male and transgender sex workers in Kenya. The experiences of sex workers documented in this report describe the ways in which state agents and institutions such as county and national government law enforcement agents and the judiciary address, or fail to address, the violence concerns of sex workers. The study also describes experiences in which the police fail to act or are offenders. In addition, the study explores various laws and by – laws that prohibit sex work and activities related to sex work and essentially limiting opportunities for sex workers to seek redress whenever they experience. The study was commissioned to explore the alarming and widespread incidents of violence against sex workers. The study documents cases of arrests and cases of violence in the last two years (2014/2015) with the intent to show the magnitude of the problem, and use this up-to-date information to argue for decriminalization and to an end in harassment of sex workers.

By exposing the arbitrary arrests, extortion and mistreatment of sex workers, the study sought to contribute, in the short to medium term, to a decrease in these abuses. Sex worker led organizations around the country already have experience meeting with the police and the city council to raise concerns about sex workers' rights, and this report provide additional information which call for further sensitization of police officers and county government askaris. In the end, the results of this study provide more information to support the argument in favour of decriminalization of sex work. The study provided opportunities for research team to sensitize sex workers to the fact that the kind of violence experienced by them violates their human rights.

This study focuses on female, male and transgender sex workers because the mandate of Kenya Sex Workers Alliance, the organisation that commissioned the research, is to champion and advocate for the health and human rights of feamale, male and transgender sex workers in the country. Women, men and transgender individuals who

engage in providing sexual services to male and female clientele on a full time basis, in exchange for money and other material benefits, were selected for participation in this study. Researchers selected participants who engage in sex work independently and out of their own choice.

KESWA hopes that the findings of the study will inform the public conversation on the human rights violations and violence against sex workers; equip KESWA and network members with additional data and information applicable in the work of promoting and protecting the rights of sex workers; and enhance the capacity of KESWA to engage with policy makers, stakeholders, the public and law enforcement to safeguard sex workers against various forms of violence or rights violations.

## **1.2. Putting Sex Work into Context**

Socially, the term sex work includes all practices of providing sexual services in exchange for money and other material compensation. This is the meaning the term sex work refers to throughout the report. In addition, in this report sex workers include female, male, and transgender persons who are engaged in sex work.

Currently, sex work is being practiced in almost all towns in Kenya including small shopping centres within rural areas. Sex work is driven by various factors which differ from place to place and region to region. Noteworthy to mention is that sex work occurs both in voluntary and forced settings. For so many years, there has been a sweeping public perception that sex work is socially unacceptable and has been linked to sexual exploitation. However, the progress made around sex work movement in the country is slowly changing this perception through campaigns and programmes that seek to demand and extol the right of sex workers to self determination including engagement in sex work and sexual interaction choices.

In the legal context, sex work interpreted as prostitution is prohibited by various Kenyan laws and by laws. These laws do not directly criminalize sex work, but they create an environment where sex workers cannot conduct themselves freely, thus giving the notion of criminalization of sex work. It is these legally created notions and environment that generate several opportunities for stigma, discrimination, abuse, and violence

perpetration against sex workers. This coupled with the fact that sex work practices are socially seen as “immoral activities” fuels the notion by many that sex workers deserve punishment for engaging in sex work. This has been occasioned by the fact that the state, its agents, and the public are reluctant to acknowledge sex work as form of work that brings financial income to many households in the country. Therefore, sex workers lack protection and are powerless whenever they experience violence.

Stigmatization, discrimination and criminalization of sex work create a situation where people see violence meted out on sex workers as acceptable. This together with the unsupportive legal environment instill fear among sex workers thus hindering them from reporting crimes including violence and other abuses to shield themselves from possible prosecution, harassment by law enforcement agents, stigma, and public shame. These situations make many sex workers to suffer in silence even when their lives are on the line. The recent murder of more than ten sex workers in Nakuru County awoke law enforcement to the fact that sex workers because of the nature of their work are at higher risk of experiencing violent crimes. However, even those latest deaths of sex workers in Nakuru are yet to be addressed by law enforcement.

The discussion taking place around the social concerns of sex work agrees on one thing; the need to eliminate violence against all women including those engaged in sex work. It is important to outlaw and address all forms of violence meted out against sex workers in various parts of the country. The stigma and discrimination associated with sex work also means that most sex workers do not seek and access services available to victims of violence offered by non – community led organizations and government agencies. Sex workers just the general Kenyan public have the rights to: nondiscrimination; security of person and privacy; recognition and equality before the law; due process of law and the highest attainable standard of health; employment, and just and favorable conditions of employment; peaceful assembly and association; freedom from arbitrary arrest and detention, and from cruel and inhumane treatment; and protection from violence. International institutions such as the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment require Kenya to take effective

measures to prevent acts of torture and all forms of violence against all women under its jurisdiction. This convention protects even sex workers.

Various national and international organizations and the Ministry of Health implement several HIV prevention strategies among them the need to address violence against sex workers and protect their human rights as an integral part of HIV prevention, treatment and care. Indeed, the strategic direction 5 of the Kenya AIDS Strategic Framework<sup>1</sup> developed under the guidance of the National AIDS Control Council, for instance, prioritizes the improvement of legal and policy environment for the protection of rights of PLHIV and key populations, in recognition of the fact that human rights violations perpetuate vulnerability to HIV and need to be specifically targeted and effectively addressed.

### **1.3. Violence and Sex Work**

Violence is a concern for all sex workers. A disproportionately high level of violence witnessed in the sex work industry has been linked to stigmatization and criminalization of sex work. For the sake of clarity we define violence, and specifically gender-based violence, alongside the United Nations as: “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”. In practical terms, this definition highlights that violence can include everything from verbal abuse, to sexual assault, emotional trauma, robbery, confinement, and murder.

The perpetrators of violence are most often members of the police force, county askaris (who enforce local bylaws), clients, members of the general public engaged in ‘mob justice’, criminal gangs, pimps, and bar managers. The violence rained on sex workers includes physical assault, emotional assault, rape, sexual assault, and murder. Given the stigma attached to sex work, most sex workers will not report incidences of violence to the police. In consultations, many sex workers reported that they had been victimized while reporting instances of violence to the police. While reporting a case of sexual

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<sup>1</sup> KENYA AIDS STRATEGIC FRAMEWORK, 2014/2015 - 2018/2019

assault, one sex worker interviewed said that police officials crudely remarked, “How can you rape a sex worker?” and then failed to follow proper procedures to report the case.

#### **1.4. Forms of violence faced by sex workers**

Sex workers experience various forms of violence that impact on them differently and cause varying degree of pain.

The notable forms of violence include;

##### **1.4.1. Physical violence**

This form of violence includes being subjected to physical force which can potentially cause death, injury or harm. It includes, but is not limited to: having an object thrown at one, being slapped, pushed, shoved, hit with the fist or with something else that could hurt, being kicked, dragged, beaten up, choked, deliberately burnt, threatened with a weapon or having a weapon used against one (e.g. gun, knife or other weapon). These acts are operationally defined and validated in WHO survey methods on violence against women. Other acts that could be included in a definition of physical violence are: biting, shaking, poking, hair-pulling and physically restraining a person<sup>2</sup>.

##### **1.4.2. Sexual violence**

This form of violence against sex workers include rape, gang rape (i.e. by more than one person), sexual harassment, being physically forced or psychologically intimidated to engage in sex or subjected to sex acts against one's will (e.g. undesired touching, oral, anal or vaginal penetration with penis or with an object) or that one finds degrading or humiliating<sup>3</sup>.

##### **1.4.3. Emotional or psychological violence**

This form of violence includes, but is not limited to, being insulted (e.g. called derogatory names) or made to feel bad about oneself; being humiliated or belittled in front of other people; being threatened with loss of custody of one's children; being confined or isolated from family or friends; being threatened with harm to oneself or someone one

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<sup>2</sup> WHO. 2015. Implementing Comprehensive HIV/STI Programmes with Sex Workers: PRACTICAL APPROACHES FROM COLLABORATIVE INTERVENTIONS. WHO, GENEVA

<sup>3</sup> WHO. 2015. Implementing Comprehensive HIV/STI Programmes with Sex Workers: PRACTICAL APPROACHES FROM COLLABORATIVE INTERVENTIONS. WHO, GENEVA

cares about; repeated shouting, inducing fear through intimidating words or gestures; controlling behaviour; and the destruction of possessions<sup>4</sup>.

### **1.5. Study Methodology**

Sex workers are the most qualified to give firsthand information about their personal experiences of violence. This makes sex workers particularly those who have experienced any form of violence the most qualified to provide accurate information about the realities of their day to day lives in such a way that their experiences can guide the development of strategies to safeguard their rights. In this study, KESWA sets out to obtain testimonies from male and female sex workers regarding their experiences of violence or rights violation in the course of their work.

In order to generate this information, questionnaires were designed to be completed by sex workers with the help of their peers acting as research assistants. The questions addressed in the questionnaire include sex workers experience with County government askaris, police officers, their clients, third parties, and the general public that sought to generate information about violence. In addition, the researchers obtained information that describe their experiences in addressing violence in sex work from representatives of sex worker led organisations and other organisations serving sex workers

Data was collected in the period between March and June 2015 targeting sex workers within Nairobi County. The research involved interviewing 100 sex workers. All the sex workers signed consent to confirm that they have agreed to participate in the study. The questionnaires used in the study were coded NBI 001 – NBI 100 to identify individual sex worker as a way of ensuring confidentiality. The research team was made up of three KESWA staff members, an advocacy officer from Bar Hostess Empowerment and Support Program, and a volunteer from Human Rights Watch. Ten male sex workers affiliated to Health Options for Young Men on HIV/AIDS and STIs were also integrated in

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<sup>4</sup> WHO. 2015. Implementing Comprehensive HIV/STI Programmes with Sex Workers: PRACTICAL APPROACHES FROM COLLABORATIVE INTERVENTIONS. WHO, GENEVA

the study by providing their experiences. Participants were reached randomly, in bars, brothels, and other hot spots, which are considered their natural settings. Harder to reach sex workers, such as male and Trans - gender sex workers were reached through community led organisations that serve them. A questionnaire was devised containing questions about violence and arrests. The questionnaire requires about 30-45 minutes administering.

In addition, material and information about legal and policy frameworks affecting sex workers were obtained through desk review of various Kenyan laws, County government by-laws and official policies concerning sex work. The desk review of other international human rights documents also generated critical information regarding violence in sex work. Researchers also collected reports regarding violence experienced by sex workers from print and electronic media.

#### **1.4. Study Limitations**

The perspectives of state officials, particularly law enforcement agents and members of the criminal justice system, are essential to understanding how law and policy affects sex workers who have experienced violence. This study did not get any information from such officials who are at the centre of addressing violence against sex workers. The researchers should have developed strategies to obtain information from these officials to provide a clear picture on how sex led organizations and public officials can work together to protect and safeguard sex workers human rights including the elimination of all forms of violence.

## **CHAPTER TWO**

### **2.1. The legal environment and sex work in Kenya**

The Kenyan Penal Code and the Sexual Offences Act indirectly criminalise sex work. These codes criminalise the actions of third parties associated with sex work, rather than focusing on sex workers themselves. County government by-laws in various counties do directly criminalise sex work through articles outlawing “loitering for the purpose of prostitution,” “importuning” for the purpose of prostitution and “indecent exposure.”

### **2.2. Discriminatory laws**

The legal climate in Kenya exacerbates the stigma and discrimination faced by sex workers. In this new constitutional dispensation, the specific discriminatory laws that impact on sex work and sex workers practices are found at both the national and the county level.

### **2.3. National laws**

At the national level, the Penal Code describes the specific circumstances under which one is guilty of an offence of prostitution in articles 153, 154, 155 and 156. Specifically, the Penal Code states under article:

**153.** (1) Every male person who -

(a) Knowingly lives wholly or in part on the earnings of prostitution; or  
(b) In any public place persistently solicits or importunes for immoral purposes, is guilty of a felony.

(2) Where a male person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person, or generally, he shall unless he satisfies the court to the contrary be deemed to be knowingly living on the earnings of prostitution.



**154.** Every woman who knowingly lives wholly or in part on the earnings of prostitution, or who is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, is guilty of a felony.

**155.** If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house or any part of a house is used by a woman or girl for the purposes of prostitution, and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, or is exercising control, direction or influence over the movements of the prostitute, the magistrate may issue a warrant authorizing any police officer to enter and search the house and to arrest such person.

**156.** Any person who -

(a) Keeps or manages or assists in the management of a brothel;

or

(b) Being the tenant, lessee or occupier, or person in charge, of any premises, knowingly permits the premises or any part thereof to be used as a brothel;

or

(c) being the leaser or landlord of any premises, or the agent of the leaser or landlord, lets the same or any part thereof with the knowledge that the premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of the premises as a brothel, is guilty of a felony.

In addition to the Penal Code, the Sexual Offences Act 2006 formally criminalises prostitution in Article 17. These particular crimes are a restatement of the offences found in the Penal Code. Specifically, the Sexual Offences Acts states:

**17.** Any person who –

(a) Intentionally causes or incites another person to become a prostitute; and

(b) Intentionally controls any of the activities of another person relating to that persons prostitution; and does so for or in expectation of gain for him or herself or a third person,

is guilty of an offence and is liable upon conviction to imprisonment for a term of not less than five years or to a fine of five hundred thousand shillings or to both.

The Sexual Offences Act 2006 also criminalises prostitution of persons with mental disabilities in Article 19 and criminalises prostitution of children in Article 15.

#### *2.4. County government laws*

With the introduction of county governments under the new constitution, the city and municipality systems that previously structured local governments have been replaced with County governments. Even though, county governments are yet to completely operationalise new systems, they continue to rely on existing systems and structures. This reality continues to create obstacles for sex workers - as it is the by-laws of cities and municipalities that are most often cited when sex workers are arrested. Some examples of these laws are as below.

Nairobi General Nuisance By-laws (2007), section 19(m):

Any person who in any street – loiters or importunes for purposes of prostitution is guilty of an offence.

Mombasa Municipal Council By-laws (2003), sections 258 (m) and (n):

Any person who shall in any street or public place –

(m) Loiter or importune for the purpose of prostitution

(n) Procure or attempt to procure a female or male for the purpose of prostitution or homosexuality ... shall be guilty of an offence.

Kisumu Municipal Council By-laws, part VIII:

A person shall not –

(m) Molest, solicit or importune any person for the purposes of prostitution or loiter on any street or public place for such purposes; or

(n) Wilfully and indecently expose his person in view of any street or public place.

In summary, most of the county governments by – laws are punitive when it comes to addressing sex workers arrested as a result of “loitering with the purposes of prostitution.” In most cases, such by-laws are ambiguous that the arresting officers can interpret them and apply their discretion while arresting and booking sex workers in the

occurrence book. Furthermore, the uniqueness of by laws in various county governments means that sex workers are subjected to different discriminatory legal regulations depending on which county they conduct their business.

## CHAPTER THREE

### 3.1. STUDY FINDINGS

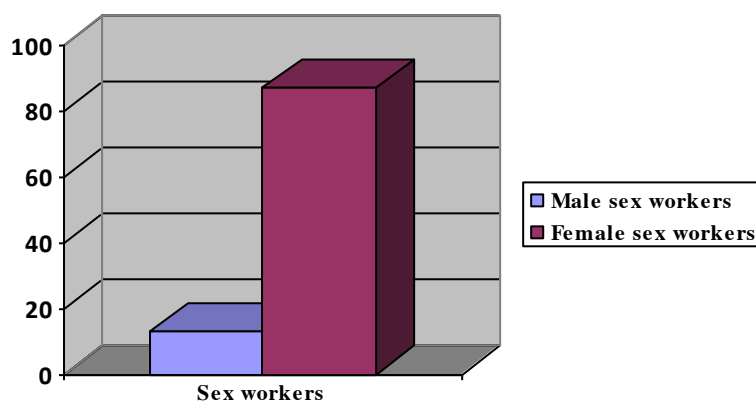
The study findings are organised into three sections. The first section provides demographic information about the sex workers who participated in this study. The second section presents data from individual interviews with sex workers. The data is presented in defined themes developed from the study questions. The third section summarises the study findings from the representatives of sex worker led organizations and other organizations serving sex workers.

### 3.2. Profile of the respondents

#### 3.2.1. Number of Study Participants

100 sex workers were interviewed for this study. Out of these 87 were female sex workers while the rest 13 were male sex workers

**Figure 1: Number of study participants**



#### 3.2.2. Age of study participants

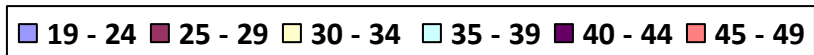
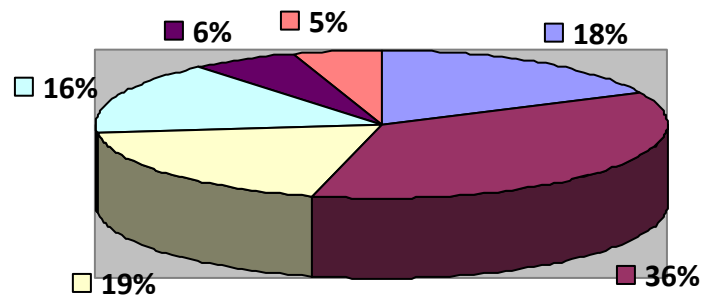
All the participants in this study were adults aged between 22 and 47 years. The age distribution in this study was as follows; 19-24; 25-29; 30-34; 35-39; 40-44; 45 – 49. The number of participant as per each age group was as follows.

**Table 1: Table showing age distribution of participants**

Age of Participant	19-24	25-29	30-34	35-39	40-44	45 - 49
Number	18	36	19	16	6	5

**Figure 2: Age distribution of participants**

**Percentage of sex worker participating in the study as per the age group distribution**



### 3.3. FINDINGS FROM SEX WORKERS

#### 3.3.1. Sex workers experiences with KANJOO (County government askaris)

Interviews conducted with individual sex workers provided adequate information regarding the negative experiences of sex workers during their interaction with County government askaris (Kanjoo). The study shows that sex workers experience abuse and disruptions of their activities at the hands of the askaris. Sex workers agreed that many askaris arrest and keep them in custody based on their dressing and that they are loitering on the streets at night. The fact that askaris know the sex work hot spots make it easier for them as they arrest many sex workers when they do a sweep of those streets and hotspots. There are specific streets that are known for sex work and askaris normally arrest anyone dressed in a particular manner found on those streets at a given time of the night.

78 sex workers participating in the study have ever been arrested by “Kanjoo” who are officially County government askaris. However, only 41 sex workers were arrested in the last two years 2014/2015, the period through which this study explored the trend of violence. 18 of them have been arrested once, while the rest have been twice or more. The participants reported that not all askaris take them to the cells. Some of them bribe askaris not to take them to the cells, which make it possible to be taken to court. The bribe paid by most sex workers is between 300 and 1000 shillings.

NBI O29 reported that;

*“... .. I was once arrested by city county askaris who beat me mercilessly and asked me to give them bribe as the car was going round in town I had to give them 500 shillings”*

Another participant, NBI 041 reported that,

*“... .. I was arrested by city askaris who dragged and slapped me to accompany them to their van, my clothes were torn; they wanted me to*

*bribe them with 500 shillings and I had to pay them that amount to gain my freedom.”*

NBI 056 reported that;

*“.....we were locked until the next morning when they took us to court. I was charged with loitering and ordered to pay 1000 shillings or one month jail term. Since i did not have the money I was remanded at Langata Womens’ Prison to serve the jail term”*

Twelve sex workers reported that they have ever been taken to the County government cells where they were mistreated by being assaulted by askaris. A few cases were reported where askaris sexually molested sex workers in their patrol vans or in the cells. Sex workers losing their items such as phones, handbags and cash is reported to be a commonplace whenever they are arrested by askaris.

NBI 012 reported that

*“.....arrested by city askaris a lot of times and I have also been beaten up for not recognizing them as they come to arrest me and I refuse coz they don’t have uniform. In the van they ask for money and I don’t have so am taken to Central Police Station where I am asked to wash the cell for my freedom.....”*

There are reports of askaris demanding sex or forcefully having sex with sex workers in exchange for release or to not be arrested. In some instances, sex workers reported that askaris do not use condoms with them.

NBI 008 reported that, *“..... the next day I met the askari and I had sex with him as a way of saying thank you for not arresting me and since that day he became my client.....”*

NBI 037 years reported that;

*“.....I was once again arrested and didn’t have money and had locked my baby in the house I cried to them for mercy but dint not work as*

*they kept abusing me with insulting words because I refused to sleep with them for my freedom as the rest do. Without protection they even tore my clothes as they harassed me.....”*

### **3.3.2. Sex workers experiences with police**

Just like County government askaris, police officers interaction with sex workers is that of causing pain to sex workers. The difference between police officers and County government askaris is that the latter arrest sex workers mostly during the day while the former work the whole night and this is the time when sex work actively takes place. Police officers have a better chance of arresting sex workers from the streets, estates, bars, lodges, and brothels among others because they have information about where sex workers operate and because they are moving everywhere within the county while conducting patrols to keep the county secure. This enhances their ability to police every location of the county and end up arresting so many sex workers wherever they are.

Indeed, individual interviews with sex workers generate a lot of information to indicate that sex workers experience worse treatment in the hands of police officers. The level of abuse and disruptions of sex work activities experienced by sex workers is also worse compared to that of askaris. There is a general agreement among respondents that police also look at their dressing as a reason for arresting them because they believe that people who dress skimpily are sex workers. Most police officers arbitrarily arrest sex workers to demand bribes from them. Respondents also reported that police use the possession of condoms as evidence of sex work, leading to the arrest of the individual and confiscation of their condoms.

NBI 046 reported that;

*“....I met with the police when we were looking for clients. They arrest you and take you all over town, walking or in a car. They look for condoms and lubes in your pockets. It happens very frequently. They carry bhang with them. They want bribes of 500 or 1000 shillings, and if you don't pay, they plant bhang on you to arrest you. They target makuchu (gay). They*



*know our joints. They don't come inside, but they follow you on the pavement when you come out....."*

Ninety two sex workers participating in this study said that they have ever been arrested by police. However, 61 reported to have ever been forced to pay bribe to the police officers to secure their release. 38 sex workers reported that they have been arrested by police, taken to police cells, and presented in court within the legal 24 hours window. When presented in court, police argue that they were loitering and are charged with the same offense and asked to pay a bribe or serve one month jail term. In some instances, sex workers are set free by the court without paying a fine or bribe. This occurs when the police do not present adequate evidence, which they always do not have when they arrest sex workers. It is commonly known to sex workers that sometimes police officers manufacture evidence and present in the court.

NBI 046 reported that *".....they want bribes of 500 or 1000 shillings, and if you don't pay, they plant bhang on you to arrest you....."*

Sixteen of those who have been presented to court have served one month jail term because of lack of the cash to pay fine as ordered by the court.

NBI 048 reported that;

*"... ....I am a female sex worker I was arrested by the police as I was coming out of my hotspot. They took me to their police car and later to the police station where I spent the night. In the morning I was taken to court where I pleaded guilty for the offense of loitering and was fined 2000 shilling or a month imprison. I had no money so I was forced to go to Lang'ata Womens Prison where I stayed for a month before being released"*

NBI 028 reported that;

*"... as a sex worker I have been arrested a lot of times and I have to bribe the police with cash ranging from 500 to 2000 shillings and when I don't*

*have they take me to court the next day. I plead guilty and I am taken to Langata Womens Prison. I have served jail term in this prison twice for lack of money to bail myself out immediately”*

Sex workers reported that according to their experience it is better and prudent to negotiate with and pay the police officer a bribe, than to be arrested and taken to a court of law. At the court, there is a chance the fine is more than the bribe, the time wasted is so much, the shame of being paraded in court as a sex worker, and there is a high likelihood that you can go to jail.

Individual interviews also revealed that sex workers who are arrested risk other forms of abuse while in custody.

NBI 006 reported that;

*“I have also been arrested several times by the police. One incidence happened in August, 2014. I had gone to visit a fellow sex worker who lives in town in one of the hotel rooms. It is in Relax Inn, I had just entered in her room when the police came and started arresting everyone who was around and calling us sex workers. We tried to defend ourselves but all was in vain. We were all thrown into a van which was parked outside and taken to Central Police station. At Central they took away our belongings and we were thrown into the cells. I stayed there from 2.00pm until the next day in the morning and I was taken to court and charged with prostitution. I was supposed to pay Kshs.1000 which I didn’t have and so I was taken to prison for one month. In the cells we were being forced to work in the fields with no food and the police were always harassing us without even caring about our wellbeing. I was released in early September. I had to go to the hospital for treatment because I had some pains all over my body and had to take some medicine to neutralize the food I ate in prison.”*

Police officers on patrol at night may also imply to arrest sex workers, while their main intention is to have sex with them. They take the sex workers to other locations such as

isolated areas of the city or houses not known to sex workers. Once in such locations, the officers demand sex in exchange for sex workers freedom and when they refuse the officers rape them. Respondents shared that some officers from Ngomongo police station arrest sex workers, force them into having sex, take their valuable items, take them to faraway places and abandon them there. Seven respondents interviewed individually reported that police officers have forcefully had sex with them.

NBI 066 shared that;

*“.....the police said that everyone must give Kshs.500. Those who had it paid and they were even accepting Kshs.300 and one by one they left. I was the only one left behind and one of the policeman came to me and said “if you don’t have money then offer us your body” since I had no money I decided to give in. On that night I had sex with two policemen in there van. I had some condoms with me and if that was my only way to freedom, I had to do it.....”*

Sex workers reported that they have been physical assaulted by police officers as they are forced in their vans. Other sex workers are verbally abused and ashamed in police custody.

NBI 091 shared that;

*“Police arrested me two times in the last two years. In January 2015 I was in the street at a hot spot in town. The police called me gay and arrested me. Those police know me. They slapped me in the face when they arrested me, saying “You are gay, you shouldn’t be doing this work.” They took me to Central Police Station. I stayed two days, and then they released me, with no bribe. I was there with one friend. While we were in the cells, the police came and insulted us, saying “wewe mashoga.” So the other detainees knew, but didn’t do anything to us.”*

Furthermore, sex workers reported that sometimes while in the police cells they are forced to mop the rough floors while on their fours. They are forced to use water mixed with urine as a form of punishment.

NBI 074 shared that;

*“.....they never beat me – just verbal abuse and mishandling me when pushing me into a truck. I have been detained in police cells at Central Police Station and Kamukunji. The people inside mistreated me because of the way the police introduced me, but mostly just with insults... ..”*

### **3.3.3. Sex workers violence experiences with clients**

There is a common notion that sex workers experience violence from their ‘clients’, intimate partners, and third parties. However, as already shown above, sex workers experience violence from members of law enforcement. Clients of sex workers also mete out violence against the sex workers who serve their sexual needs. Individual interviews with sex workers show that they experience violence from clients that are physical, emotional, and sexual in nature. Sex workers have reported denial of payment for services, harassment, verbal abuse, kidnapping, assault and murder among other violence types.

NBI 084 shared that;

*“One of them almost made me quit my sex work. It was my 3<sup>rd</sup> time meeting him within one month so he was becoming a regular. He came as usual, and bought me food and drinks. We got drunk. We went to a room. I took out my condoms and lubricant and placed them on the bedside stool while he went to the bathroom. I took off my clothes. He came out and asked “What is this stuff for? I pay you well and treat you right; we cannot be using this stuff.” Then he slapped me. It caught me unawares. We had a little fight and I cooled him down”*

NBI 088 also shared that;

*“I was beaten by a client one night of December 2014. It was around 11pm when this client approached me at Club Rio in Coast. He paid for a room and after sex he paid me then demanded for his money again. I tried to confront*

*him then he slapped me by his hands and even tore my panty. The slap was so heavy that I landed on the floor and he left like that”*

NBI 062 shared that;

*“...There was one case when I was drunk. A client had sex with me in a guest house and left without paying me any money. I had passed out. I woke up and found that at least he had used a condom. I wasn’t conscious when he had sex with me. I didn’t go to the hospital or police. You can’t go to the police because you don’t know who he is. I was never beaten or raped by a client. One client refused to use a condom and I just left him”*

#### **3.3.4. Sex workers violence experience with third parties in sex work**

Third parties in sex work such as pimps, managers, establishment owners, bouncers, or other sex workers also mete out violence against sex workers.

NBI 047 shared that;

*“...I was beaten by a bouncer at Tribeka club November 2014. I was drinking with a client. The client put his arm around me. The bouncer came and said “are you gays?” The client answered angrily. The bouncer got angry and started beating us in the bar. He slapped me in the face two times....”*

NBI 033 shared that;

*“... there was one case in Nairobi at Mwaura’s, on May 1, 2015, labor day. I was beaten by a bouncer. I was drinking there with friends and got drunk. The bouncer came because we were making noise. He started beating all of us. I don’t know if it was because of the noise, or because we are gay. The owner of the club knows us, and fired that bouncer. That bouncer hated us. We get lots of clients there, and he thought we make a lot of money...”*

### **3.3.5. Sex workers violence experience with members of the public and intimate partners/boyfriends/husbands**

Sex workers reported that they experience violence from members of the public such as religious groups, boda boda operators, matatu touts, and the general public.

NBI 068 shared that;

*“I just get insults from the general public. When you pass by, they call you “shoga.” They also know I do sex work, and they insult me for that. But I just pass by. If I respond, they might want to fight with me”*

NBI 074 shared that;

*“My landlord – two yeagrs ago when I was living at Hillocks my landlord knew my orientation and my job. When I was late paying my rent, he wanted me to pay him in kind. My friend who lived there and was also a sex worker used to pay him in kind. I refused, so he evicted us and said we had not been paying. I could not go to the police because what we do with the business is illegal – we’d be on the wrong side of the law. You can’t tell the police that you’ve paid in kind”*

NBI 058 shared that;

*“There is harassmt in hot spots like in Rekemarie pub. Last year I had about 17 cases with different people. Matatu touts outside the pub steal your phone and beat you because they know who you are. They snatched my phone and tried to hit me. I ran away but my friend was thoroughly beaten and went to the police. The guy who hit him was caught and went to court but then settled outside court.”*

Furthermore, sex workers in this study reported that they have experienced various forms of violence from their intimate partners such as husbands, boyfriends, girlfriends, and wives.

NBI 022 shares that;

*“My boyfriend withdrew his support because of my work – when he found out my work, he stopped....”*

NBI 069 shares that;

*“My husband learnt that while he is a way at work I go out to do sex work. He confronted me and beat me mercilessly and I ended up injured. Since it was on a Sunday, no government hospital is opened so the following morning I went to the hospital. I was given some medicine and I went back home...”*

### **3.3.6. Inadequate access to justice in cases of serious violence incidents**

Inadequate or not legal protection usually leaves sex workers open to violence. Sex workers confirmed their reluctance 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. About eight cases of rape documented in the course of this study, rape survivors accessed health service and post rape care from sex worker led clinics and other government led health facilities. However, none of the sex workers reported the rape incidents to the police or sought legal support. These situations deny rape survivors and other violent crimes against sex workers to go unresolved. In cases, where the sex workers do not know their clients, the follow up for rape cases become increasingly impossible. Furthermore, the fear to report cases of rape and the nature of clients sex workers deal with leave police officers in a situation where they are not able to undertake any investigations and punish the rapists. In addition, some police officers are the rapists and sex workers fear reporting police officers to their colleagues because they face police retribution.

NBI 052 shares about her rape ordeal;

*“....I went to SWOP clinic where I was treated and given some drugs to take. I did not report to the police because I dint know where to get my client...”*

NBI 044 shares about her experience;

*“...I was also raped by the client without protection and later he dumped me in the road near a busy where I was so scared. I went to SWOP clinic for treatment and post rape care. I could not report to police because I saw the way they turned on a friend who went to report that she was raped. That incident led to me getting pregnant...”*

### **3.3.6. Sex workers message to perpetrators of violence**

When asked what message they would like to give to the general public, or the government/authorities, about sex workers' rights or about violence against sex workers, sex workers responded as follows;

NBI 026 shared that *“...my cry to the government is to support us do our job in a safe space free of stigma...”*

NBI 077 shared that *“... The government should stand by us and give us support.”*

NBI 051 shared that

*“I would like the government to respect the rights of every person, and I would like the askaris to accept us as well. We were born like this, we can't change. I want to be respected and left in peace.”*

NBI 094 shared that *“They should accept us. We are just doing work, trying to raise our children, trying to have money for food. They should leave us alone.”*

NBI 042 shared that;

*“The government and the public need to recognize we are here, we are normal human beings, but we are mistreated. They should respect the rights of the gay community”*

NBI 033 shared that;



*“My biggest dream is that in future, sex workers will work freely without interference by the police or kanjoos.”*

NBI 038 shared that *“My hope for the future is that all se workers will stay healthy and beautiful, and that society will no longer stigmatize and discriminate us.”*

NBI 001 shared that *“As for the government, I would like them to accept sex work as work.”*

NBI 009 shared that *“My message to the government is that it is high time they accept sex work as work and if they don’t want then they should create other jobs for us.”*

NBI 017 shared that *“The clients should pay us our money as per the agreement instead of changing their minds after getting the service.”*

NBI 022 shared that;

*“I’d ask them, if they want to win the fight against HIV and to respect human rights and dignity, then they should decriminalize sex work. The laws they have put in place are affecting people’s education. If your family gets to know you are gay they can deny you an education. People cannot access equal chances in life. If I can’t stay in a house because someone knows I’m a sex worker, it shows what happens when the government doesn’t decriminalize.*

NBI 060 *“The general public should stop discriminating us. We are all human beings and they have to respect our job.”*

## **CHAPTER FOUR**

### **4. RECOMMENDATIONS**

This chapter highlights the necessary steps that should be taken by organisations and Institutions to address the problems associated with law and the public mindset which, when combined, result in violence and human rights violations committed against sex workers in Kenya.

#### **4.1. Recommendations to the Kenyan Government and Parliament**

- a) There is need to review and change the existing laws to provide the legal framework that can adequately address issues of protection and respect for human rights of Kenyans, especially marginalised groups such as sex workers.
- b) Develop frameworks to ensure all persons including the marginalised groups such as sex workers have access to legal aid
- c) Develop programs or support sex worker led organizations to implement programs that provide adequate information about human rights and violence prevention to sex workers

#### **4.2. Recommendations to the Attorney General and the Judiciary**

- a) Ensure proper reading and interpretation and implementation of the legal documents such as the Constitution and Sexual Offenses Act to ensure that victims of sexual violence including sex workers have equal protection without stigma and discrimination

#### **4.3. Recommendations to the Inspector General of Police**

- a) Reform the training of law enforcement officers to ensure they are equipped with knowledge and skills on protection and promotion of human rights and more particularly when dealing with marginalised groups such as sex workers

- b) Develop systems that allow sex workers to hold police officers to account for their actions with regards to involvement and/or no involvement in the protection and promotion of sex workers rights
- c) Establish systems to initiate partnership with sex worker led organisations to better handle and address violence committed against sex workers

#### **4.4. Recommendations to the County governments**

- a) Revoke the existing by – laws that undermine the human rights of Kenyans including laws against loitering

#### **4.5. Recommendations to Civil Society Organisations**

- a) Support sex worker led projects for their empowerment and to enable them to both prevent and protect themselves from violence and other human rights abuses.
- b) Work with other stakeholders and the police on the protection of sex workers from violence from the public, or officers in these sectors.
- c) Put resources in awareness creation and advocacy efforts geared towards improving the sex work environment
- d) Ensure inclusion and involvement of sex workers in discussing strategies to address their challenges
- e) Conduct advocacy for legal and policy reforms to contribute to preventing or reducing violence against sex workers by; aiming to change laws and policies that criminalize sex work and administrative laws that are used to harass and abuse sex workers; aiming to change law-enforcement practices that harass or abuse sex workers and deny them their human rights; building institutional accountability for existing laws and policies upholding the human rights of sex workers; countering stigma and discrimination against sex workers and promoting sex work as work
- f) Call for police accountability through sensitization workshops with the police that raise their awareness of laws related to sex work; and sex workers' rights.