

Examining the Law Guiding Prostitution in Uganda from the Lens of Kabalagala Parish-Makindye Division

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ABSTRACT

This study examines the law guiding prostitution in Uganda. The study revealed that the increasing incidents of prostitution are clear evidence that the enforcement of laws against prostitution in Uganda is ineffective as it is like containing smoke while leaving the fire burning underneath. Based on these findings, the study calls for the authorities to engage social sciences experts to find out the real causes of prostitution and their probable solutions because 'customers' include married people. Without this, prostitution will be here to stay despite its being against the law and morals. More so, a combination of programmes that expand income-generating opportunities needs to be developed both in the short and long term. Furthermore, prostitutes should be called upon through their advocating organization placed in vocational training courses, and given parallel forms of support for involvement in entrepreneurial activities. Similarly, continuous training needs analysis should be undertaken for prostitutes to determine appropriate skills to be imparted for productive work. Finally, behavioral change programmes should be continued to discourage and eliminate risky behaviors in the communities, in the form of live drama performances, audio and visual materials, and recreation activities targeting both community members and prostitutes.

Keywords: Anti-prostitution laws, Poverty, Prostitution, Sexual exploitation, Unemployment, Victimhood

INTRODUCTION

The position of prostitution and the law varies widely worldwide, reflecting differing opinions on victimhood and exploitation, inequality, gender roles, gender equality, ethics, and morality, freedom of choice, historical social norms, and social costs and benefits[1]. The enforcement of the anti-prostitution laws also varies a lot from country to country, and from region to region. In many places, there is a very big discrepancy between the laws that exist on the books and what occurs in practice. In areas where prostitution or associated activities are illegal, prostitutes are commonly charged with crimes ranging from minor infractions such as loitering to more serious crimes like tax evasion. Their clients can also be charged with solicitation of prostitution[2]. In the words of Anderson[3], prostitution is addressed as one of the most contestable areas in the discussion of labor issues the world over. In nearly all countries of the world, prostitution does exist in one form or the other. Oseyin and Blasyak[4] have indicated that in some countries like the United States, up to \$40 million per day is spent on prostitution. In Birmingham, a British city, up to 800 women are engaged in prostitution and one million people work in prostitution-related businesses like massage parlors, saunas, escort agencies, and on the streets. But paradoxically in a country like the United States, cities spend up to 7.5 m dollars yearly on prostitution control. In Uganda, prostitution is gaining ground on Kampala's streets, nightclubs, and around the city. That aside, it is not only destroying homes, it is blighting the future of young people and becoming a major facilitator of serious infections such as HIV/AIDS. It is crucial to state that, despite the existing laws to stop prostitution in Uganda, the rate at which prostitution is still widely and increasingly practiced in Uganda raises global concern[5]. Uganda has witnessed a widespread crackdown on the morals of the young generation particularly the youths shuttering their urge to live and earn a decent living, but to trade their bodies for survival. The support directed to prostitution against the law continues to come from different comers of the world and has resulted in the conduct being one of the most dangerous crimes in the country, leaving the practitioners vulnerable[6]. In Kabalagala, just like any other area in Uganda, prostitution is at its peak. Contemporary Uganda has seen a rise in the cost of living, but the city continues to be a place where various possibilities for work exist. These possibilities still

exist within a work ethic that includes the subsuming of the confluence between work and sex. It is against this background that this study examines the law guiding prostitution in Uganda.

The Law Governing Prostitution in Uganda

Trafficking in Persons Bill (2005) Interpretation

According to the Trafficking in Persons Bill [7], It shall be unlawful for any person, natural or juridical, to maintain or hire a person to engage in prostitution or pornography or to adopt or facilitate the adoption of a person for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage. The purpose of this bill is to protect people placed under the care of others, from manipulation and being forced into such acts as named above.

The Constitution of the Republic of Uganda (1995) Cap 4

It is the duty of the government to control prostitution, prostitution being a term employed to try and locate sex within the realm of work. Yet regarding the Constitution of the Republic of Uganda, the government must provide for the right of persons to work under satisfactory, safe, and healthy conditions [8]. However, with prostitution, no health conditions are maintained, young girls mainly school dropouts have engaged in prostitution and have contracted STDs whereas others have acquired HIV/AIDS. Under Article 33 [8] women shall be accorded full and equal dignity of the person with men. Here, the law provides for equal dignity but when prostitutes are being tracked down for penalizing, no measures are put in place to penalize the buyers (male counterparts). This implies that the law in this way does not give equal treatment to the parties engaged in the sex trade. The Constitution accords every Ugandan a right to a clean and healthy environment [8]. But contrary to this due to poverty people end up living in shacks, slums, and brothels it's due to this condition that children have turned out into prostitutes because they tend to sleep with adults in the same room, who due to lack of space, carry out their marital obligations in their presence and thus they end up copying the same habits because they have been exposed to sexual experiences.

The Penal Code Act 1995 Cap 120

In view of Article 40 (2) [9], every person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade, or business. This implies that whatever profession is being carried out should be lawful but prostitution is illegal in Uganda. According to the Penal Act [9], any person who practices or engages in prostitution commits an offense and is liable to imprisonment for seven years. Despite this provision, prostitution has been left to prevail and even those responsible for enforcing the law unlawfully use the prostitutes for bribes as a way of pardoning them from penalty, this has however increased the level of prostitution because law enforcers have failed to fulfill their duties.

According to Chapter XIV of the Penal Code Act [9],

1. Every person who knowingly lives wholly or in part on the earnings of prostitution and every person who in any place solicits for immoral purposes commits an offense and is liable to imprisonment for seven years.
2. Where a 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 or she is aiding, abetting or compelling his or her prostitution with any other person, or generally, that person shall, unless he or she shall satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

The purpose of this law is to ensure that all those who have taken prostitution or aided prostitution have to be charged. Section 137 of the Penal Code Act [9] also provides for brothels, upon which any person who keeps a house, room, set of rooms, or place of any kind for purposes of prostitution commits an offense and is liable to imprisonment for seven years. The purpose of this law is to stop owners of houses, and rooms among others from hiring their houses for prostitution purposes or else they be charged and imprisoned for seven years. Despite these provisions, men who patronize prostitutes are left to walk away freely by the police and instead, it is the women who are detained at the police cells, and yet the law criminalizes those found in the company of a prostitute.

The Universal Declaration of Human Rights (1948)

In Article 25 of the Universal Declaration of Human Rights 1948 [10], everyone has a right to security in the event of unemployment, sickness, disability, widowhood, old age, and other lack of livelihood in circumstances beyond his control. The purpose of this law is to secure the provision of necessities to the citizens who are unemployed and disabled but because Uganda is a poor country, whose nationals have not been insured for such eventualities, people have to find their means of survival in case they fall under any of the mentioned categories. This situation pushes some people to prostitution because there are no means of survival.

The Children Act 1997

Children who are denied their right to education, in most cases, end up being wasted others join the streets,

others prostitution becomes their means of survival. Yet, in the Children Act, a child in Uganda has a right to be educated and be guided [11]. This implies that children should be in school to be educated and guided as required by their parents and guardians. But contrary to this, the guardians give them away to work as housemaids, where they end up being abused sexually, and due to this early abuse, the children become reckless and end up in prostitution. But if adequate care and education were provided, then it would be less likely that children would join prostitution, and for this matter children need not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons, except by the law.

METHODOLOGY

The study employed the use of interviews with prostitute advocates, prostitutes, and some policemen from Kabalagala Police Post. The Interview method used was face-to-face conversations and discussions. The researcher also relied on secondary sources of data by use of already existing literature in the form of textbooks, periodic reports, publications, magazines, and other related documents to obtain the necessary data. The researcher visited libraries like the Law Development Center library, Ministry of Gender, Ethics and Integrity, Uganda Christian University Library, and Kampala International University Library.

RESULTS AND DISCUSSIONS

Even with all the different ways the researcher viewed the location of Kabalagala, they did take quite a bit of time to record some of the issues of prostitution in Kabalagala. One of the opening statements made in this study showed how for long Kabalagala has been a place where sex work was seen as an acceptable mode of occupation. Every variety of sexual relationships is found in Kabalagala, from relatively durable concubinage to blatant prostitution for cash payment. Kabalagala is always full of good-time girls who hang around beer bars namely Sherry's, Capital Pub, Hakuna Matata, and Punchline waiting to buy drinks[12]. The quotation is accompanied by some detailed accounts of the ways in which different women and men were involved in sex work in Kabalagala. Most of these issues have not changed but there are certainly a few changes that have happened. One elderly woman in Kabalagala who accepted a short interview about the changes that she saw in the area mentioned that;

Today the high-class men do not come here for sex. In our days all the African men who were big shots in government would have a girl in Kabalagala. We had the Baziba who were very beautiful and very "clean" women and the men. But when the bazungu (whites) went to independence then the high-class men stayed up so they could drink from those bars where the bazungu used to go.

Regarding age as a demographic factor, it was submitted that age was a defining factor in prostitution. In the short survey of the 21 respondents in Kabalagala, it was submitted that most of them were below 30 years of age (80%), and about 38% were below 20 years of age. This is an important factor because one recognizes that many young women are involved in the sex trade. The 10 respondents who offered life histories also had an average age of about 18 years. It was submitted that the issue of age was important in the construction of the self-identity of the sex workers. One of the respondents Namwebe, had the following to say;

As young girls, if you have dropped out of school or your family does not have money to pay for your school fees, sometimes you find that you have no choice but to quickly find something that you can do while you are young. I did start off as a house girl but all the boys in the family I was working for - even their father wanted to sleep with me and they were only paying me 10, 000/= per month. I met a young woman who was staying near our shop and I noticed that she was always very smart and yet she was always at home throughout the morning. So, one day I asked her if she could help me to find a better job but she just laughed and said I should just wash her clothes. I did this for some time and I found she had very nice trousers and shoes and I asked her again and one night she told me we should go together. That first night I earned 25, 000/= shillings and I was fascinated by the idea that I could double my salary in a night. I realized I had to use this body before I grow old!

According to Nattabi et al[5], age for women was seen as part of the critical points for a person who intends to be a sex worker. Indeed, the women said that in some instances one has to look younger than what one is - because "men like young women ... we do not even mention that one has ever had a baby otherwise the man may think that wigwams da (you are already spent).

It was submitted by Katumba[13], that the narrative of age in this scheme of the prostitute's identity seems to be organized with contradictions and divergent choices in that it depends on one's choice. For those looking for an experienced woman, age becomes a lucrative identity and yet for those who are out to explore the young and innocent, age loses its value. In this way, it was submitted that it is important to recognize the role of age on the level of self and representative identity. Age offers a discursive space for the articulation and reproduction of different identities for the prostitute in which dominant definitions of feminine presented are made explicit and

sometimes contested. In the researcher's opinion, western education was also one of the invasions of colonialism it was supposed to be the civilization delivering modernity. The subjectivity of works by universalizing values embedded in the English and represents the colonized as the inferior and uncivilized whereby the educated person can talk authoritatively and therefore access different kinds of spaces and can mobilize different identities. As a laborer, the higher one is educated the better wages one can get and the better off one is. For the prostitute, the knowledge of the English language was not only a marker of success but a reaffirmation of the identity of a sophisticated sex worker and also a gateway to success in the trade. Most of the women interviewed in this study said they had limited education. The meaning was that they had gone to school for a few years and did not speak very good English. The majority of the women in Kabalagala reported that they had attended only primary school. They made up 57% of the respondents in Kabalagala. There were a few women who had never attended any school. Education was an important factor because many of them cited the "end of being at school" as a very decisive factor in their becoming sex workers. Below are some quotations from different women on education and how it shaped their lives;

Yes, I used to go to Bwala Primary School and stopped in P.6 said Jennifer. Things became very expensive and my parents could not afford school fees. I stayed at home for four years and I got a boyfriend who made me pregnant and then he refused to take responsibility for the baby ... I suffered and struggled until I gave birth. My child is now seven years old and she goes to school. I used to go to school up to primary five but I found school boring and I was aging (she was getting to 13 years) so I dropped out.

He further noted that:

Yes, I have ever attended school and I am still in school in one of the schools in Kampala. (she refused to mention the school and the class). But I had to drop out because my parents could not pay, but because I know I cannot be on the streets all my life I go to school and I pay for myself

I stopped in senior one when my father passed away when I was still very young and my mother got married to another man who helped to pay the school fees, he also died when I was in senior one and my mother became sickly so I had to stop school so that my sisters and brothers could continue.

The quotations above point to the different ways in which education was very instrumental in influencing these respondents' decisions to opt for sex work. This was coupled with the reality that their parents were not able to pay and cater for their daily needs during the times when they dropped out of school. Women also talked about the importance of education in sex work. As one of the women put it;

According to one of the respondents, if you are educated there are chances of getting a good man. Those girls who know a lot of English easily get men. That is why some of the girls come from Kansanga to work with us here because they know that if they "add" their English to sex work they can make a lot of money on the streets. That is why there is a lot of competition now.

Fulfilling a client's needs did not just entail having a good body but also being able to communicate in a way that ensures the camouflaging of the identity of the illiterate street girl. The women mentioned that sometimes men are attracted to women because they can speak "good" English. One of the women brought out the perspective that one can deny her identity as a prostitute and therefore be able to negotiate a higher fee if she can portray herself as a good girl who "does not do these things for money" but just has a small problem. Again, one notices the mobility and fluidity of identities in sex work intertwined with the discursive strategy of being an educated person. The women involved have learned to live these multiple identities as everyday strategies of their investment in sex work. Education was therefore related more to the representative identity that the prostitute mobilizes. While age is a marker of self-identity as shown in the previous section, education is a defining factor that gets thrown into the body marketplace through the employment of language and speech. Indeed, in the whole schemata of the use of English one sees how language is a fundamental site for identity construction and therefore is a potent instrument for cultural control but in this case for entering the post-colonial body market. The English language here displaces the native languages. For the sex workers who worked in Kabalagala, some of them worked from their homes but others had makeshift brothels, which they worked in. One of them described how the brothels worked;

According to a respondent, *someone who is an official in the L.C. in this area owns the house. So, he takes care of any law enforcers who may want to disturb us. We pay him some five thousand shillings per day and he gives you a room where you meet your customers. I come here from around 10:00 am and sometimes I go on until the evening. The owner provides a bed, some water and soap. Business is good here and one just has to decide how long you are ready to work each day.*

Another kind of brothel, which the respondents mentioned, is the "lodge". These have proliferated the Kikubamutwe urban space with most of them depending on the "short-time" customers who are ready to pay the rate that will have been charged for a full night's accommodation. These do serve a more upper-class clientele, who may be middle-class males who would want to go to a decent place away from the eyes of the public. It was mentioned in the group discussions that some of these places are located in decent neighborhoods, which do not

have any inscriptions of sex work on them. It was submitted that, for the sex worker, the space where the trade is carried out is not only a visual construct but also a space that enables alternative lifestyles. The sex workers in this study came from different parts of the country. The geographical spread for example for the respondents in Kabalagala showed that about 38% were from the western parts of Uganda and, another 38% from the southern, about 20% from the central districts, and 5% from the Eastern parts of the country. For the respondents from the south, some of them mentioned that they came from as far as Rwanda. It is important to note that it was not only girls from the central region, where Kampala is located who were represented in this trade. Some of them noted that some men even go on to ask them where they come from before they can buy their services. The women noted that these were usually men who looking for women from specific tribes because of the imaginations they held about the sexual prowess of certain ethnic groups. In a group discussion, the women mentioned that the Banyarwanda and the Banyankole were seen as women with better bodies than most of the other girls. Respondents in Kabalagala noted that currently the ethnic mix is mostly Ugandan and as one respondent mentioned, there were many more people from different East African countries in Kabalagala in the sixties and early seventies. They noted that the eighties and beyond were marked with political upheavals and economic hardships and therefore it was mostly women from within the country who migrated to Kabalagala.

The Banyarwanda, Burundi, and the women from Zaire usually opt to stay in places like Kasanga. This is because here the community does not care a lot about the girls and most of the people in the slums around work in bars where these girls go so, they do not want to antagonize them. After all, they are the ones who make business boom. When some of the women from these neighboring countries come to Kampala, they rent a room and stay there for about one or two months and they live in groups of four or five afterward they go back to their countries. These girls speak many languages like French, English, German, and very good Kiswahili so the white men like them a lot.⁵⁸

Some respondents also mentioned that they go to towns upcountry or outside Uganda. However, they were quick to add that they only do this if they know they will make money from other towns. However, one of our respondents felt that most towns in Uganda are not "good for business". She mentioned that in most places there are local women and they usually charge very little money compared to the Kampala-based women. A few of the respondents mentioned that there are women who sometimes travel outside Uganda.

They mentioned that a few women go to Kenya but of recent they felt the market in Kenya had gone down.⁵⁹

Our key respondent for the Sherry Pub had a story to tell us about her trip to Dubai. *I saved money for a ticket and pocket money to go to Dubai for about eight months. A woman who had been to Dubai before convinced me to think of going to Dubai.* She explained that they got visas and she bought her ticket and went. In Dubai, she started in a small hotel where she stayed with the woman. But she did not like life in Dubai at all. She emphasized that they were going out with mostly Pakistan and Indian men who were very low-class workers who only managed to give them a few dinars (Dubai currency) equivalent to about 6000 Uganda shillings. According to her, this wasso disappointing because in Kampala that is money paid by taxi conductors, and here she does not go out with such men! It was so difficult even to make enough money for one to survive in Dubai, she confirmed because men preferred prostitutes from Russia since they were white women. She also attested that the Arabs were also very queer men who would buy you and only have anal sex. Yet she was not used to that and it was very uncomfortable. After two weeks she became desperate and wanted to move on. The other disappointing thing was that the women they found in Dubai sold their passports to some black-market people and they were very hostile and intimidated her to give them her passport. However, when she refused, they wanted to beat me and like that, she had to change her hotel realizing it was getting more dangerous, she booked her flight and came back to Uganda. *I think in Uganda I am better off,* she retorted.

CONCLUSION AND RECOMMENDATIONS

Debates are still hot on the legalization of prostitution but, by the law attempting to legalize prostitution would not stop street prostitution because most prostitutes would not like to register and undergo medical checkups, as the law would require. Even according to the findings of the Coalition Against Trafficking in Women International (CATW)[14], the legalization of prostitution does not protect women either. Studies have shown that prostitution establishments did little to protect the prostitutes regardless of whether they were legal or illegal because the only time they protect anyone is to protect the customers. This is because the mandatory health tests are on the prostitutes alone but not their customers and thus expose the prostitutes to health risks including contracting HIV. On the other hand, legalizing prostitution as argued in studies would ensure that the business is conducted in a safer way whereby the prostitutes would go through medical check-ups and that they would also pay taxes to the government. However, the increasing incidents of prostitution are clear evidence that this approach is ineffective as it is like containing smoke while leaving the fire burning underneath. Prostitution cannot be contained without blocking its ever-widening market. Based on these findings, the study

calls for (1) the authorities to engage social sciences experts to find out the real causes of prostitution and their probable solutions because 'customers' include married people. Without this, prostitution will be here to stay despite its being against the law and morals. (2) a combination of programmes that expand income-generating opportunities need to be developed both in the short and long term. (3) prostitutes should be called upon through their advocating organization placed in vocational training courses and given parallel forms of support for involvement in entrepreneurial activities. (4) continuous training needs analysis should be undertaken for prostitutes to determine appropriate skills to be imparted for productive work. (5) behavioral change programs should be continued to discourage and eliminate risky behaviors in the communities, in the form of live drama performances, audio and visual materials, and recreation activities targeting both community members and prostitutes. (6) slum development, congestion, and overcrowding should be discouraged by city planners. The ultimate aim should be to promote housing and settlement patterns that reduce the risk of sexuality, sex abuse, and child commercial sex common in slum dwelling units. (7) further research employing both quantitative and qualitative methodology should be undertaken to arrive at a more accurate estimation of the magnitude of the problem and to study features of the problem that cannot be captured through rapid assessment methodologies. (8) police officials reported and found guilty of victimizing prostitutes to benefit directly or indirectly should be penalized to discourage such actions of office abuse. (9) there is a need to sensitize law Enforcement agencies/ brothel owners about commercial sexual exploitation, particularly of children and risk behaviors involved in commercial sex work. Focusing on the enforcement of the existing legal instruments that provide for protection of the rights of children including protection against worst forms of sexual abuse. (10) There is a need for more efforts to mobilize more drug treatment and condoms because they are in high demand yet they are not enough, this will increase the flow of services and hence enable them to enhance their health situations.

REFERENCES

1. Watson, L.: Prostitution and Sex Equality. In: Flanigan, J. and Watson, L. (eds.) *Debating Sex Work*. p. 0. Oxford University Press (2019)
2. D'Cunha, J.: Prostitution Laws: Ideological Dimensions and Enforcement Practices. *Economic and Political Weekly*. 27, WS34–WS44 (1992)
3. Anderson, S.A.: Prostitution and Sexual Autonomy: Making Sense of the Prohibition of Prostitution. *Ethics*. 112, 748–780 (2002). <https://doi.org/10.1086/339672>
4. Oselin, S. S. and Blasyak, A.: (16) Contending with Violence: Female Prostitutes' Strategic Responses on the Streets, https://www.researchgate.net/publication/263337430_Contending_with_Violence_Female_Prostitutes'_Strategic_Responses_on_the_Streets
5. Nattabi, J. et al.: Crossroads of Choice: A qualitative study of the factors influencing decisions to transition from sex work among women engaged in sex work in Southern Uganda - PMC, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC11177997/>
6. Mbonye, M., Nalukenge, W., Nakamanya, S., Nalusiba, B., King, R., Vandepitte, J., Seeley, J.: Gender inequity in the lives of women involved in sex work in Kampala, Uganda. *J Int AIDS Soc*. 15, 17365 (2012). <https://doi.org/10.7448/IAS.15.3.17365>
7. Prevention of Trafficking in Persons Act, 2009. (2009)
8. Constitutional history of Uganda, <https://constitutionnet.org/country/uganda>
9. PENAL CODE ACT., <https://www.ugandalaws.com/statutes/principle-legislation/penal-code-act>.
10. Nations, U.: Universal Declaration of Human Rights, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
11. Children Act - ULII, <https://ulii.org/akn/ug/act/statute/1996/6/eng%402016-06-02>
12. Shores, D.: Masitula's Story, <https://saafund.org/masitula/>
13. Katumba, K. R. et al.: (16) (PDF) Understanding the contexts in which female sex workers sell sex in Kampala, Uganda: a qualitative study, https://www.researchgate.net/publication/381732281_Understanding_the_contexts_in_which_female_sex_workers_sell_sex_in_Kampala_Uganda_a_qualitative_study
14. Ending Human Trafficking & Sexual Exploitation, <https://catwinternational.org/>

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