



Global Network of Sex Work Projects Promoting Health and Human Rights

For the Attention of: UN Working Group on Discrimination Against Women and Girls

Subject: Submission - Women's and girls' sexual and reproductive health and rights in situations of crisis

Date: 27th August 2020

Introduction

NSWP welcomes the opportunity to make a submission to the Working Group on discrimination against women and girls as they prepare the report on sexual and reproductive health and rights (SRHR) in situations of crisis to be presented at the 47th session of the Human Rights Council. We are committed to supporting efforts to ensure full compliance with states' obligations to respect, protect and fulfil the human rights of all girls and women, including cis and transgender sex workers, in the context of SRHR.

Global responses to the COVID-19 pandemic are converging with pervasive, existing sexual and reproductive health and justice inequities to disproportionately impact the health, wellbeing, and economic security of women and girls. Sex workers are particularly vulnerable in times of such crisis. The COVID-19 pandemic, as with other health crises, has further exposed the existing inequalities in access to sexual and reproductive health services for sex workers who are already criminalised, marginalised and living in financially precarious situations, often outside social protection mechanisms. With aspects of sex work criminalised in almost every country, sex workers are also more vulnerable to punitive measures linked to the enforcement of COVID-19 regulations. Increased policing can expose sex workers to more harassment and violence, and in several countries has already led to closing of workplaces, home raids, compulsory COVID-19 testing and the arrest and threatened deportation of migrant sex workers.¹ Discrimination and violence against sex workers tends to increase during every type of crisis, including the ongoing COVID-19 pandemic, and has a negative impact on access to vital sexual and reproductive health services.

Sex Work and Sexual and Reproductive Health and Rights

Access to comprehensive sexual and reproductive health services, including access to STI and HIV prevention, testing, treatment and care, contraception and family planning services, hormone therapy, and prenatal, delivery and post-delivery care, are essential elements of a rights-based health response. However, sex workers globally attest to widespread inadequacies in sexual and reproductive health coverage and treatment, resulting in violations of their human rights.

Sex workers, especially sex workers living with HIV, face additional barriers to accessing health services due to discrimination, stigma and criminalisation. Many of the barriers which obstruct sex workers' access

¹ UNAIDS, 2020, "[Press Statement: Sex workers must not be left behind in the response to COVID-19](#)".

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to HIV services are connected to stigma and repressive legal measures. Those who do access services may avoid revealing their occupation or other relevant information, due to fears of receiving unfavourable treatment and/or of being outed to the authorities or other parties. A common fear among sex workers, often based on past experience, is of discrimination, open hostility or patronising attitudes from staff. This may be reflective of individual staff beliefs or of institutional policy, with sex workers variously constructed as morally impure, as victims with no agency, and/or as ‘vectors of disease’.²

Violence perpetrated by health service providers can take many forms, including refusal of services, stigmatising and shaming behaviours, and requiring sex workers to undergo testing or procedures unconnected to their medical condition. This hostile environment for sex workers seeking services, including health care, can dissuade sex workers from accessing basic health services, including HIV testing and treatment, and can lead to poorer health outcomes. As a result, many sex workers do not disclose their occupation to medical providers, and some may avoid contact with the health care system altogether.³

“The stigma and discrimination [sex workers] face often leads them to move further away from HIV / AIDS prevention and care services, thus increasing prevalence. In our context, sex workers are constantly subjects of ‘corrective’ rapes, denials of care in health facilities, insults after sexual intercourse by their clients who do not want to pay, backed by the law enforcement forces.”⁴

The direct and indirect criminalisation of sex workers remains one of the greatest barriers to sex workers’ access to sexual and reproductive health services, as well as a structural determinant of violence, discrimination, and HIV transmission.⁵ Even where sex workers are not explicitly excluded from accessing sexual and reproductive health services, pervasive structural barriers such as criminalisation, stigma and discrimination impede their access to comprehensive, rights-based care. For instance, within the public health paradigm, the framing of sex workers as ‘vectors of disease’ has reinforced stigma while prioritising narrow HIV and STI interventions at the expense of their broader sexual and reproductive health needs. Transgender women sex workers, also face very high levels of stigma and discrimination. They experience particularly high rates of sexual violence, which is linked to increased HIV and STI vulnerability.⁶ However, very few trans-specific sexual and reproductive health services exist worldwide, and transgender women often remain under-represented in national sexual and reproductive health and HIV strategies, despite their heavy HIV burden.⁷ Globally, HIV prevalence among female, male, and transgender sex workers is estimated to be 14, 18, and 34 times higher than HIV prevalence of the general population.⁸ Therefore, it is important to understand the impact of punitive laws and law enforcement practices and stigma and discrimination that affect sex workers, and restrict their access to HIV-related information and services.

Criminalisation of Sex Work and Access to Sexual and Reproductive Health and Rights

In almost every country in the world, sex work is in some way criminalised, compromising sex workers’ health and wellbeing.⁹ Fear of arrest and police abuse drives sex workers underground, forcing them to work in precarious environments in order to avoid police attention, disrupting their support networks,

² NSWHP, 2014, [“The Impact of Non-rights Based HIV Programming For Sex Workers Around the World”](#).

³ NSWHP, 2018, [“Briefing Paper: Sex Workers’ Access to Comprehensive Sexual and Reproductive Health Services”](#).

⁴ NSWHP, 2017, [“Policy Brief: The Impact of Criminalisation on Sex Workers’ Vulnerability to HIV and Violence”](#).

⁵ Kate Shannon, et al., [“Global epidemiology of HIV among female sex workers: influence of structural determinants,”](#) *The Lancet* 385, 9962 (2015): 55–71.

⁶ Deepika Ganju and Niranjana Saggurti, 2016, [“Stigma, violence and HIV vulnerability among transgender persons in sex work in Maharashtra, India,”](#) *Culture*.

⁷ UNAIDS, 2014, [“The Gap Report 2014: Transgender People”](#).

⁸ The Lancet, 2014, [“Facts about sex workers and the myths that help spread HIV”](#).

⁹ NSWHP, 2020, [“Global Mapping of Sex Work Laws”](#).

exposing them to violence, and depriving them of the ability to sufficiently screen clients or negotiate condom use. Repressive legislation can make it impossible for sex workers to work both safely and legally, forcing them to choose between one or the other. The practice among many police forces of confiscating sex workers' condoms to use them as evidence of sex work also negatively impacts sex workers' ability to practise safe sex.¹⁰

Criminalisation of sex work fuels stigma and discrimination from law enforcement as well as service providers. Sex workers in some countries are required to carry a health card, which provides law enforcement officers with additional 'justification' to harass and abuse them. Working in a criminalised environment means sex workers must often weigh the risk of arrest against risk of violence and risks to their health. Sex workers are often refused services, shamed, and subjected to mandatory HIV and STI testing. Additional laws, such as those related to HIV exposure, non-disclosure, and transmission; can further deter sex workers from seeking critical sexual and reproductive health care for fear of legal consequences. Other impacts of criminalisation, such as the confiscation of condoms as evidence of sex work by police, similarly discourage the utilisation of SRH services while increasing sex workers' vulnerability to HIV and STIs and unwanted pregnancies. Since most of the sexual and reproductive health services that are available to sex workers are offered within public health care systems, the requirement of possessing official residency and valid national health insurance further reduces access to sexual and reproductive health services, particularly for migrant sex workers. In criminalised contexts, it is almost impossible for sex workers to provide the necessary proof of income or employment to obtain health insurance.

Policing of the sex industry also leads sex workers to adapt their own behaviour to avoid arrest, often forcing them into situations which have higher risks of violence. Policing further disrupts sex workers' interactions and negotiations with clients. One of the most well documented ways in which policing increases vulnerability to HIV is the use of condoms and lubricant as evidence that a person intends to engage in 'prostitution'. This police procedure is documented across the globe.¹¹ Under this practice, possessing condoms is enough to warrant an arrest for 'prostitution,' leading many to falsely assume possession of condoms is a crime. This practice also interferes with the ability of outreach workers to distribute condoms, both due to sex workers' fear of taking condoms, and because outreach workers are harassed themselves. Decriminalisation could reduce the policing, isolation, and abuse that make sex workers more vulnerable, and reduce vulnerability that results from increased risk-taking behaviour under criminalisation. Decriminalisation would also create an enabling environment for best practice HIV prevention and outreach such as peer education and community-led research and service provision; it would mitigate the stigma, fear of arrest and outright restrictions that prevent sex workers and their communities organising under criminalisation.

Recommendations

- Decriminalise sex work, HIV transmission, and same-sex sexual activity, and de-pathologise transgender identities. Criminalisation and pathologisation not only deter sex workers from seeking vital SRH services due to potential legal repercussions, but also reinforce stigma and discrimination in health care settings.
- Remove barriers to accessing public health care systems for migrant sex workers, as well as individuals who cannot provide formal proof of income or employment. These restrictions prevent sex workers from accessing routine SRH services and make them reliant on limited NGO-led programming and emergency-room services.

¹⁰ NSWP, 2014, "[The impact of non-rights-based HIV programming for sex workers around the world](#)".

¹¹ Open Society Foundations, 2012, "[Criminalizing Condoms](#)".

- Eliminate mandatory and coercive HIV and STI testing and treatment policies. These practices violate sex workers' fundamental right to access SRH services free from violence or coercion. They create distrust towards health systems and reduce access to essential prevention and treatment services.
- Address the stigma and discrimination that female, male and transgender sex workers experience from mainstream SRH services. When sex workers access SRH services for the general population, they often encounter stigma and discrimination, breaches of confidentiality, and inequitable treatment. Comprehensive, long-term sensitisation and training is required to make SRH services accessible to sex workers. In the meantime, a complaints and redress system should be developed with the sex worker community to effectively address abuses.
- Increase funding and support for comprehensive SRH services and programmes designed to meet the needs of sex workers of all genders.
- Advance a holistic approach to comprehensive SRH services for sex workers that extends beyond HIV and STI testing and treatment. Comprehensive SRH services, as defined by the SWIT, should be made accessible to sex workers of all genders, taking into consideration divergent priorities and goals associated with work activities and private life. Programmes focused solely on HIV and STIs reinforce the pathologisation of sex workers while diverting attention away from their holistic health needs.
- Ensure access to safe, legal, and affordable abortion and post-abortion services. Restrictive abortion policies may force women to employ unsafe, informal pregnancy termination methods at great risk to their health.
- Integrate SRH care with HIV and STI services in line with a "one-stop-shop" model. By integrating comprehensive SRH services with existing HIV and STI programmes, a broader spectrum of care can be offered in one location, reducing logistical barriers to service uptake.
- Promote SRH education programming for sex workers and their clients. A lack of SRH knowledge endangers sex workers' health and can prevent them from utilising available SRH services. Low SRH literacy among the general population can also burden sex workers with the task of educating their clients on safe sex practices.
- Prioritise funding for community empowerment models of SRH services. Beneficial community-led interventions can include outreach programmes, drop-in centres, and sensitisation trainings for medical personnel developed and implemented by sex workers. Sex worker organisations can also partner with health care professionals to form networks of friendly doctors for treatment referrals.

Conclusion

Criminalisation of sex work increases sex workers' vulnerability to violence and HIV, severely inhibiting the health and wellbeing of sex workers globally. Policymakers and government institutions must do more to fulfil their commitments to comprehensive sexual and reproductive service access for all. These efforts must target the structural barriers of criminalisation, stigma, and discrimination, which exclude sex workers from public health systems. A sexual and reproductive health and justice framework - one that centres human rights, acknowledges intersecting injustices, recognises power structures, and unites across identities - is essential for monitoring and addressing the inequitable gender, health, and social effects of the ongoing crisis of the COVID-19 pandemic.