Only Rights Can Stop the Wrongs

The Smart Person’s Guide to HIV and Sex Work
The Global Network of Sex Work Projects raises the voices of female, male and transgender sex workers on issues that affect us. What these voices say about HIV is:

**SEX WORK IS WORK:**
Only Rights Can Stop the Wrongs

Unfavourable laws, stigma, violence, and discrimination cause sex workers' vulnerability to ill health, social exclusion and human rights violations. Sex workers face these to varying degrees in all cultures from Switzerland to Swaziland, Canada to Cambodia. In this pamphlet, we define an understanding of HIV and sex work and outline our global agenda for change. We hope you will join and support us.
The role of sex workers in HIV epidemics is hotly debated. Some claim that sex work is ‘driving’ the epidemic, while others argue that sex workers are wrongly portrayed as the ‘vectors’ of HIV. In fact, the situation differs vastly between countries and regions.

While HIV prevalence is high amongst sex workers in some areas, in others it is relatively low. For instance, in most parts of Western Europe and North America, HIV transmission through paid sex with women is not considered a major issue. However, in parts of Asia, large numbers of sex workers are living with HIV, and this influences the overall pattern of the AIDS epidemic.¹

Social context affects sex workers differentially. When treatment and services for HIV are accessible, new infections have shown to be lower even in areas where many of the sex workers are HIV positive. This is the reason the sex workers’ rights movement regards HIV and STI information, prevention and services as a fundamental right for all sex workers, regardless of prevalence statistics.

HIV programmes must be grounded in human rights, not the rhetoric of morality and repentance. They must address the diverse realities of human sexuality. Successful HIV interventions are those that reduce the impact of adverse laws, policies, stigma, violence, and discrimination.

Governments are ideally placed to set precedents by reforming law and policy and providing adequate resources. However, currently, resources allocated to prevention, treatment and care are disproportional to rates of HIV prevalence among vulnerable populations. Only 22.5 percent of female sex workers in Africa and 35 percent of those in Latin America have access to prevention programmes.²

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¹ Avert http://www.avert.org/prostitution-aids.htm
Regional Voices

Europe and Central Asia

Social exclusion, violence, poor working conditions, and lack of labour rights exacerbate sex workers’ vulnerability to HIV. In most European countries, there is a policy shift from HIV prevention to regulation and criminalisation of sex work.

Rather than improving sex workers’ working and living conditions, legal measures are being devised and implemented that undermine the dignity and self-determination of sex workers. The conflation of sex work and trafficking justifies the imposition of restrictive regulations, making it impossible for migrant sex workers to assert their right to health and other human rights.

Escalating state repression of sex work has made sex workers more vulnerable to HIV in several ways. It has forced them into working in clandestine spaces, reducing their access to health care and prevention measures. Societal homophobia, laws against homosexuality, and the absence of legal protection from discrimination are serious barriers for transgender and male sex workers to access HIV health services and information. These problems are usually heightened for migrant sex workers, particularly if they are undocumented.

In some countries of this region, HIV testing is mandatory and breaches of confidentiality are common. Laws that criminalise sexually active HIV positive people pose a particular threat to sex workers. In Macedonia, sex workers found to be Hepatitis C positive were charged with public health offences.

HIV service provision for sex workers must be comprehensive and responsive to the diversity of health and social care needs. Services must be accessible to female, transgender and male indoor and street-based sex workers, including those who are positive. Accessible harm reduction services are needed for drug users.

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North America and the Caribbean

1: USA and Canada

Sex work in the US and Canada takes place in a wide array of settings. Sex workers perform a variety of services, and communicate with clients through clubs and newspapers, on the street, in phonebooks and via the Internet.

They are people of all gender identities, working in clubs, brothels, residences, hotels, and other public spaces. While sex work in general is stigmatised, and most aspects of it criminalised, street-based workers, transgender, migrant, indigenous and ethnic minority sex workers and young sex workers are more susceptible to police abuse and harassment, and institutional discrimination in hospitals, shelters, treatment centres, and family services.

The pervasive atmosphere of ‘zero-tolerance’ and drug policing further contributes to sex workers’ vulnerability to police violence. Arrests for sex work can lead to a vicious cycle of exclusion from housing, education loans and mainstream jobs, and hence re-offending. Furthermore, because sex work is criminalised, law enforcers generally overlook that sex workers can be victims of crime. Street-based sex workers in particular experience high levels of assault and rape, and many are murdered each year. In Montreal, currently there are three men on trial for the serial rape of sex workers in the city.

Throughout the region, laws are in place to prevent sex work and associated activities. Certain forms of sex work, such as exotic dancing, may not be legally prohibited but are usually regulated by the state. Sex workers operating in public spaces are most often booked under civil laws prohibiting loitering, communicating, public nuisance, trespassing or ‘failure to obey’ a police officer’s directive to move along. In some states there are minimum sentences requiring judges to jail people for prostitution-related offences. A more severe penalty is often issued if the defendant is HIV positive. In Canada, sex workers are subject to zoning restrictions limiting access to residences, services, and city centres. They are often jailed for breaching these conditions.

Transgender women, especially those of colour, are frequently profiled, targeted, harassed, cited and falsely arrested by the police. Many male sex workers face police harassment because of homophobic attitudes.

In some parts of the United States, people convicted for sex work-related offences are registered as sex offenders. This classification remains on record for ten years. They are required to carry a card identifying them as a ‘sex offender’ and listing the penalties they have received.

2: The Caribbean

Outside of sub-Saharan Africa, the Caribbean has the highest HIV prevalence in the world – amongst the islands, Haiti and the Dominican Republic carry most of the burden. However, HIV prevalence and vulnerability among sex workers varies significantly between countries.

Sex work in the Caribbean is multifaceted. There is brothel, club and street-based sex work; exotic dancing, escort services and specific tourist-oriented services. Most sex workers are female although some men also provide sexual services to local and foreign men and women. Men selling sex to female tourists are common.

Sex work is socially regarded as degrading and those who provide services are stigmatised. The legal system too varies throughout the region. Some countries have no laws that specifically criminalise sex work and others have laws prohibiting activities surrounding sex work, such as streetwalking and brothel keeping. Homosexuality is criminalised throughout the region and homophobia is rife, rendering male sex workers extremely invisible and vulnerable.

5 Adapted from information from Miriam Edwards
There are several kinds of commercial sex throughout Africa and likewise the HIV epidemic varies.

In some countries, a majority of sex workers are HIV positive. Recent studies have shown high HIV prevalence amongst sex workers in the West African nations of Togo (53.9 percent) and Burkina Faso (20.8 percent). Levels of HIV infection have been as high as 73 percent in Ethiopia and 68 percent in Zambia. Usually statistics concerning sex work and HIV in Africa are taken from urban samples and high prevalence is over represented. Nonetheless, throughout the region, as elsewhere, the significant factors that impact on sex work and HIV are poverty, low levels of education, high prevalence of HIV/AIDS, migration patterns and political instability.

Although commercial sex is visible almost everywhere in Africa, sex workers are perceived as high risk and therefore stigmatised. In some African countries sex work is illegal. Police violence, illegal detention, and arrest of sex workers are common across the region, even in countries with no laws on sex work. Police corruption is endemic and sex workers often pay bribes in sex or ‘fines’.

Widespread gender-based and homophobia-related violence significantly reduce the ability of sex workers to negotiate condom use, increasing exposure to violent and unprotected sex. Forced HIV testing is not only common, but legally enforced and linked to registration of sex workers. Even when sex workers are aware of HIV testing and services, social stigma often prevents access to these. Finally, availability of condoms, lubricant, and medication supplies, including ARVs and contraceptives, is inconsistent throughout the continent.

Better access to condoms and HIV treatment has benefited clients and sex workers in Africa

7 Adapted information from AIDS MAP and Sweat South Africa
Latin America

A longitudinal study released in 2006, which analysed sex workers in nine South American countries, concluded that “consistently low HIV rates were detected among female sex workers in South America, particularly in the Andean region”.

Although legislation regarding sex work varies among the Latin American countries, one reality is widespread: discrimination against sex workers and stigmatisation of the industry. This leads to limited access to health care, HIV/AIDS prevention and treatment, and to gross violations of male, female and transgender sex workers’ human rights.

In Peru for example, sex work is not a crime but neither is it recognised as an occupation. Consequently, sex workers are pushed underground and exposed to exploitative working conditions.

In Brazil, most aspects of sex work are criminalised. However, the law is interpreted differently by local municipalities and police forces. Some recognise sex work as labour and sex workers who make social security contributions are entitled to pension benefits. Sex workers have the right to free public health care in Brazil, though many do not avail of this, fearing discrimination.

In Mexico, Peru and Ecuador female sex workers are required to undergo, and pay for, mandatory HIV and STI testing. Staff members at health centres are generally hostile towards them. Sex work is frequently conflated with trafficking and child sexual exploitation.

In Latin American countries sex work is generally viewed through a lens of morality. Sex workers are expected to repent and as a result, there is insufficient support for sex workers’ self-organisation. They are rarely consulted in HIV programming and on decisions concerning their working conditions.

Sex workers march for rights in Ecuador

8 Adapted information from Davida (Brazil), Miluska (Peru), APROASE (Mexico)
Asia and the Pacific

Commercial sex contributed significantly to the early expansion of HIV epidemics throughout Asia and the Pacific, especially in countries where most men visit sex workers and health systems are weak.

Sex workers in some countries continue to experience high levels of unwanted pregnancies and STIs because comprehensive HIV and SRH programmes, condoms and HIV treatment are still not universally accessible and dangerous working conditions prevail in sex industries.

Transgender and male sex workers, drug users, migrant sex workers and those living in rural settings find it particularly challenging to work safely and access services. HIV prevention programmes are poorly integrated with other health programmes, particularly sexual and reproductive health.

Several factors undermine the response to HIV in Asia and the Pacific. Criminalisation of sex work, the conflation of sex work and trafficking and endemic violence against sex workers are critical barriers. Sex work is increasingly being relocated to ‘entertainment’ areas, where condoms are banned. Street and bar sex workers avoid carrying condoms, fearing arrest. Interventions and legislation that purport to prevent trafficking violate sex workers’ rights by promoting ‘crackdowns’. These lead to detention and forced rehabilitation. This in turn leads to clandestine, thus risky, workplaces.

People smuggling, trafficking of women and boys, slavery and bonded labour are serious issues throughout the region. However, antitrafficking laws, which only capture ‘sex trafficking’, are counterproductive – neither do they recognise that trafficking happens in sites other than sex work. These do not reduce exploitation, but actively increase risk.

Regional call for action to achieve universal access to HIV prevention, treatment, care and support in Asia and the Pacific

The Economic and Social Commission for Asia and the Pacific noted with particular concern the continuing high prevalence of HIV among key affected populations, including sex workers, injecting drug users and men who have sex with men, as well as the extent of the legal and policy barriers that impede progress in developing and implementing effective ways of responding to HIV and related risks among them. It called upon all members and associate members to support members and associate members in their efforts to enact, strengthen and enforce, as appropriate, legislation, regulations and other measures to eliminate all forms of discrimination against people living with HIV and AIDS and other key affected populations, and to develop, implement and monitor strategies to combat stigma and exclusion connected with the epidemic.

Resolution 66/10 of The Economic and Social Commission for Asia and the Pacific

10 Adapted information from the Asia Pacific Network of Sex Workers
1 Decriminalisation

Almost everywhere, sex workers are detained, arrested, fined, recorded in registers, subjected to civil orders, and driven out of their homes or places of work. In both developed and developing countries, the powers bestowed upon law enforcement agencies give rise to confiscation of property, extortion, detention, rape and beatings. This prevents sex workers from carrying condoms, limits their access to safe workplaces, and fosters an environment of violence.

Where selling sex is criminalised, sex workers seek protection from managers, brothels and other sex businesses, which leads to further exploitation. That law is a major barrier to accessing health services is not only reported by sex workers in every region but noted by the UN too.¹¹

Sex workers are severely disadvantaged by the fact that sex work is not recognised as a legitimate occupation. Sex workers are not entitled to state benefits or the protection of labour regulations that apply to other workers.

Laws against buying sex and operating sex venues exacerbate vulnerability. Owners of illegal and quasi-legal bars and brothels can impose unsafe and exploitative working conditions in full knowledge that sex workers have no legal standing. Since sex venues are frequently disguised as entertainment or massage venues, condoms may be banned.

Sex work and sex businesses must be decriminalised to afford sex workers sustainable access to services, condoms, and safe workplaces.

Laws that exist to prevent crimes including child sexual abuse, kidnapping, rape and exploitation of workers must be used appropriately to protect sex workers. Laws that criminalise homosexuality, HIV transmission and drug use must be repealed. Sex work must be recognised as an occupation so that labour laws apply.

¹¹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
http://www.plri.org/resource/report-special-rapporteur-right-everyone-enjoyment-highest-attainable-standard-physical-and
Decriminalisation of Sex Work on the Agenda

Recently as part of the UN response to HIV, law reform around sex work, drug use, homosexuality and transmission of HIV has been put back onto the international policy agenda. The UN recognises that HIV prevention is impeded by “a tide of punitive law”.12

Sex workers were delighted to hear UN Secretary General Ban Ki Moon express his support for decriminalisation in 2009.13 UNFPA has convened a joint working group on sex work policy with the Global Network of Sex Work Projects that is looking at ways to improve the health and human rights of sex workers. UNDP have convened the Global Commission on HIV & the Law to look at criminalisation of HIV transmission, drug use, sex work and homosexuality.

2 Stop the violence

The links between violence and HIV are well documented, and sex workers typically receive less protection and support than other victimised groups.\(^14\)

Sex worker organisations routinely tackle the issue of physical violence. Strategies include collective preventive action, advocating for better laws and improving enforcement, education and providing counselling, treatment for injuries and legal support to survivors of violence.

Raids by police, religious groups, and NGOs are often carried out violently. Yet this violence is justified as ‘rescue’ and legitimated by anti-prostitution laws. Rehabilitation of women after raids involves detaining them in hazardous conditions, risking further exposure to rape, physical violence, forced religious conversions and unpaid labour.\(^15\)


• Ly Pisay, Cheryl Overs, Andrew Hunter and Chutchai Kongmont. Caught Between the Tiger and the Crocodile. www.plri.org/resource/caught-between-tiger-and-crocodile-apnsw

• Gertrude Pswarayi. Basic Rights Denied to Sex Workers in Zimbabwe. www.plri.org/resource/basic-rights-denied-sex-workers-zimbabwe

“Criminalisation of sex work contributes to an environment in which violence against sex workers is tolerated, leaving them less likely to be protected from it. Many sex workers consider violence ‘normal’ or ‘part of the job’ and do not have information about their rights. As a result, they are often reluctant to report incidences of rapes, attempted (or actual) murders, beatings, molestation or sexual assault to the authorities. Even when they do report, their claims are often dismissed.”

There is no single model for reducing HIV among sex workers and clients. Rather, a combination of rights-based services and policies tailored to particular settings has proven successful.

Below is a list of the services sex workers consider to have been successful:

- Information for male, female and transgender sex workers about HIV, human rights, sexual health, condom use, working safely and health services. This information is usually best delivered by peers, although media and health professionals can play an important role.
- Accessible information about HIV, STIs and condoms for clients and others in the sex industry including establishment operators and staff, taxi drivers, police and local authorities.
- Access to a variety of appropriate condoms, lubricants, medication, contraceptives, hormones, nutrition and safe drinking water.
- Access to a full range of sexual and reproductive health services for men, women and transgender people including diagnosis, treatment and care of HIV and STIs, and post-abortion care.
- Programmes to promote rights awareness and reduce abuse and discrimination.
- Support to locate safe places to work, live, and care for children.
- Health and social services for mobile and migrant sex workers.
- Sex worker and MSM-friendly drug and alcohol harm reduction programmes.
- Support to access justice and combat violence.
- Cultural, educational and community activities that help sex workers build solidarity and realise personal and collective goals.
- Psychological support, including sexual assault counselling.
- Voluntary access to HIV testing and follow-up social support, care and treatment for HIV positive sex workers.

4 Effective migration policy

Migrant and mobile sex workers, especially those who are undocumented, are often excluded from basic education, legal and public health systems, and are vulnerable to violence. They face additional cultural and linguistic barriers that adversely impact upon their ability to access services and support networks.

Engaging multi-lingual cultural mediators in services and sex work organisations has proven successful at reaching migrant sex workers. However, work with migrant sex workers is increasingly hampered by anti-trafficking initiatives. Although some migrants have arrived under forced conditions, voluntary migration is far more common, but still frequently exploitative. Many migrants find themselves in much worse circumstances than they had anticipated. However, it is important to acknowledge that the outcomes of migration for many sex workers are satisfactory.

Migrant sex workers, regardless of their legal status, need access to health care and protection from violence. They should be recognised as economic migrants and not classified as ‘victims of trafficking’.

“Rather than simply criminalising sex workers and closing down brothels, the most effective approach to preventing HIV infections is to respect them, view them as partners, and encourage them to group together. Involving sex workers directly in HIV prevention campaigns can raise their self-esteem and empower them, thereby encouraging them to look after their health and to access services that could help them.”

Project Avert http://www.avert.org/sex-workers.htm

17 TAMPEP, European Network for HIV/STI Prevention and Health Promotion among migrant sex workers. Sex Work, Migration, Health, TAMPEP 8, September 2009
5 Economic and social opportunities for sex workers

Sex workers need economic security and social status in order to be respected members of families and communities. Many are entrenched in poverty by discrimination and structural inequalities. They lack other work options, education, access to banking services and credit and control over family assets. Poverty leads to child labour, lack of secure housing, limited mobility and control by others.

Though poor, most sex workers tend to be excluded from humanitarian relief and development efforts. Such discrimination increases vulnerability to HIV and AIDS.

Economic empowerment of sex workers is critical to making sex workers’ lives better and making sex work safe. In countries with no state welfare, sex workers need financial support when they retire.18 Many organisations adopt the strategy of rehabilitating female sex workers through income generation or micro-finance programmes. However, it is overly simplistic to imagine that such poverty reduction measures will significantly reduce sex work. Apart from an ever-existing demand, very few ‘rehabilitated’ women stop selling sex. This raises the serious issue of ways such programmes actually divert precious resources from programmes that reduce HIV.

“Sex work is work; We are working not victims; We are labour, we have to be under labour law; Don’t rescue us, we can rescue ourselves”

18 Making Sex Work Safe op. cit.
A better human rights framework

There are several human rights instruments that could address the problems faced by sex workers and HIV. For example, the right to health, enshrined in the Universal Declaration of Human Rights (UDHR); the International Covenant on Economic, Social and Cultural Rights (ICESCR) which protects the right to work; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Further, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families could apply to sex workers who travel between countries.

In practice however, sex workers are excluded from many human rights protections. For example, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children deems almost all women in sex work to be trafficked, irrespective of whether they consented or not. Hence, international human rights instruments provide limited protection for sex workers as citizens.

HIV services must be carefully designed to respect the human rights of sex workers. They must be voluntary and involve sex workers. Mandatory medical treatment and procedures, raids, forced rehabilitation and religious conversion, unethical research and programmes implemented by police are examples of HIV interventions that violate sex workers’ rights.

Sex workers first complained internationally about being stigmatised as ‘vectors of disease’ at the Montreal AIDS Conference in 1988. Sex workers, both HIV positive and negative, are in solidarity when we say that sex workers are not the problem but part of the solution.

Laws against sexual exploitation and sex trafficking have led to human rights abuses and violence against sex workers in Cambodia.
Better HIV testing, treatment and care

Sex workers who are HIV positive face the double stigma of living as sex workers and with HIV. It is hardly surprising that sex workers avoid testing, fearing discrimination and loss of income.

Many positive sex workers experience difficulties accessing medical facilities and complain of harsh treatment by health officials. They speak of being pressured to stop working and, if pregnant, the assumption that their pregnancies are unwanted. There are accounts of ARV treatment being offered only on the condition that the sex worker stops selling sex.

To avoid this inhumane treatment, sex workers tend to self-medicate or hide their occupation when they go to a clinic. This can lead to inadequate diagnosis or treatment. Likewise HIV positive sex workers often hide their status, fearing recriminations.

Access to treatment, nutrition and places to live and work safely will not only have the effect of lowering levels of HIV amongst sex workers and the wider population, but will decelerate the disease progression from HIV to AIDS.

Sex workers who test positive need immediate and tailored support to deal with discrimination, loss of income, drug use and family issues.

Transgender and male sex workers living with HIV need access to specialised services including monitoring of anal STIs and hormones. When a positive sex worker is imprisoned it is crucial that HIV treatment is not discontinued.

Repeal ‘The Pledge’

The United States Government has taken a strong stance against sex work. It refuses to grant overseas aid to any HIV/AIDS projects that do not ‘explicitly oppose’ prostitution.

To provide effective services to sex workers, the people who work with them cannot propagate the message that sex work is morally wrong. But if they do not propagate this message, they are ineligible for US funding. Many agencies that depend on US money have had to abandon programmes with sex workers or change them in ways that render them ineffectual.

This has led to gaps in HIV prevention and lost lives. It has further damaged relations between authorities seeking to reach sex workers and sex worker communities.

For more about ‘The Pledge’ see www.sexworkerspresent.blip.tv and the blog of Melissa Ditmore www.rhrealitycheck.org/blog/melissa-ditmore.
Summary of recommendations

- Removal of all laws that directly or indirectly violate the human rights of sex workers.
- Recognition of sex work as an occupation.
- Legislation that protects sex workers’ privacy and makes discrimination on the grounds of sex work status unlawful.
- Measures to prevent institutional and criminal violence.
- Expanding the agenda of women and HIV to include female sex workers.
- Meaningful involvement of sex workers in sexual health projects and policy development.
- Repeal of the PEPFAR anti-prostitution pledge.
- Access to voluntary, confidential, affordable health care for all sex workers. This includes sexual and reproductive health, TB, malaria and health services that meet the needs of male and transgender sex workers.
- An end to the law enforcement practice of using condoms as evidence and/or destroying condoms and safer sex materials.
- An end to mandatory and forced medical procedures, including HIV testing.
- The legal right to migrate and travel like other citizens and workers, and access to services during migration.
• Repeal of laws that criminalise people living with HIV who sell sex.

• Access to education, development, and humanitarian programmes and economic opportunities.

• Humane medical care, nutrition, and sanitation in prisons.

• Human rights monitoring of detention procedures.

• Proper enforcement of existing laws that could protect sex workers from violence and rights violations.

• Treatment, including PMTCT, for pregnant HIV positive sex workers and care plans for mother and child.

• An end to the discrimination experienced by children of sex workers.

• Better coordination and harmonised efforts within and between different government sectors and community agencies.

• Improved training for police.

• Improved training of health care professionals and rules that obligate NGOs and medical staff to treat sex workers with respect.

• Decriminalisation of drug use, homosexuality, and HIV transmission.

• Improved resources and mechanisms for monitoring the health and human rights of sex workers and the impact of policy and programmes at country, regional and global level.
The Sex Workers Rights Movement: SOLIDARITY IN ACTION

Even before the HIV epidemic, sex workers were organising themselves. Now we have strong national, regional, and global alliances of sex workers and allies.

The Global Network of Sex Work Projects (NSWP) is a coalition of sex work projects from all over the world. Its secretariat is in Scotland and there are staff and board members from all regions. Networks of sex work projects have been formed in Africa and the regional networks in Eastern and Western Europe, North and Latin America and Asia and the Pacific. They produce new materials and hold various events.

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