

SHADOW REPORT TO THE CEDAW COMMITTEE ON THE SITUATION OF FEMALE SEX WORKERS IN MEXICO 2018

INTRODUCTION

Asociación en Pro Apoyo a Servidores (APROASE A.C.), together with **Tamaulipas VIHda Trans, A.C.**, members of the Global Network of Sex Work Project (NSWP) and la Plataforma Latinoamericana de Personas que ejercen el Trabajo Sexual (PLAPERTS) developed this Shadow Report to highlight the situation of female sex workers in Mexico and the diverse forms of discrimination they face before the CEDAW Committee.

APROASE, A.C. is an organization with 30 years of experience advocating for the human rights of female sex workers, constituted, operated and directed by and for sex workers in Mexico, with national and international reach through human rights projects.

Tamaulipas VIHda Trans, operating mainly in the north of the country, is an organization that has more than 20 years of experience advocating for the rights of transgender sex workers, with experience in regional projects in Mexico.

METHODOLOGY

The objective of this report is to inform the CEDAW committee about the different forms of violence, stigma and discrimination that we, cisgender and transgender female sex workers (TS) in Mexico experience.

The CEDAW articles selected to reflect the violence cisgender and transgender female sex workers in Mexico face are the following:

Article 1: Discrimination

Article 3: Fulfillment of basic rights and fundamental freedoms

Article 6: Trafficking and exploitation of prostitution

Article 12: Health and family planning services (Right to Health)

Article 15: Equality before the law

A questionnaire, based on the aforementioned articles, was developed and used to conduct focus groups¹ with female sex workers.

ELABORATION

Article 1: Discrimination

In Mexico the ***Federal Law to Prevent and Eliminate Discrimination*** states that:

Respect for the rights to equality and non-discrimination must be one of the objectives of every democratic State. Human rights and the dignity of people are two inherent elements for Mexican social cohesion.

Based on the provisions of the first constitutional article and article 1, second paragraph, section III, discrimination is considered among others:

*Incite hatred, violence, rejection, mockery, insult, persecution or exclusion.*²

Cisgender and transgender women sex workers do not have the right to freedom from discrimination, since we are stigmatized and abused by society and institutions. Although there are laws against discrimination against women and LGBTI people, there is no law in Mexico that prohibits or sanctions discrimination against cisgender and transgender women sex workers.

Cisgender and transgender women sex workers face strong discrimination in the following areas:

Social:

When abused by people who pass through our workplace, the violence ranges from verbal; (teasing, insults, pointing) to physical.

"They throw eggs, bottles, urine, steal our belongings and even hit us"

**Kassandra, Transwoman Sex worker, Mexico City*

Even though most focus group participants have suffered violence by society, they also agree that this violence is generated by the lack of protection from the police and the fear of reporting any violent act.

Institutional:

When requesting support from the authorities most of the time we are ignored.

"Sometimes the patrols ask us for money to take care of us, but they never help us"

**Nancy, Cisgender Sex Worker*

¹ The information in this report is was collected through focus groups with 30 female sex workers in Tamulipas, Veracruz and Mexico City. Focus groups with cisgender female sex workers were conducted by Lola Dejavú Delgado Vargás (MOTRASEX) and Cynthia Navarrete Gil de (APROASE, A.C.). Focus groups with transgender female sex workers were led by Ana Karen López Quintana (Tamaulipas VIHda Trans A.C.).

² http://www.conapred.org.mx/leyes/LFPED_web_ACCSS.pdf

"When we make a report to the authorities, they do not follow up on it or they point us out as inciters of violence, when, on the contrary, the client or society has abused us"

**Erika, Transwoman Sex worker*

Because of the extortion of organized groups and police in Mexico, it is not possible to practice sex work freely; most of the time you have to pay a fee for the "Floor Right" to work on the street.

Health:

The discrimination that female sex workers face from service providers in Mexico^{3,4} is not well surveilled or addressed by the state. In addition, sex workers face significant lack of access to prevention supplies and the health services that exist only focus their attention on sexual health and treat them for sexually transmitted infections (STIs) even when they do not have them just because they are female sex workers. HIV and other STIs tests' costs are covered by sex workers. With the test results they will obtain a health card which serves as the work permit in most states of Mexico. This condition applies to both cisgender women and trans TS women.

Some transwomen sex worker participants were denied access to healthcare services from healthcare centers after suffering an injury due to discrimination against transgender sex workers.

There is no law that prohibits discrimination from health centers against cisgender and trans women sex workers.

"We are already used to living with or surviving discrimination"

**Perla Cisgender Woman Sex Worker, Mexico City*

Parenthood:

Discrimination in Mexico is an issue that varies between cisgender and transwomen sex workers since it is a homophobic society.

Among the various forms of discrimination experienced discussed in the transwomen sex worker focus groups have been, e.g. that their families think they are carriers of some disease, leading to isolation, and limiting their use of common items such as kitchen utensils or bathrooms, causing them to leave their homes.

"We have suffered discrimination in the family. When going to eat, they do not want you to eat from the same dish or drink from the same glass. Instead, they separate your glass and spoon ... all for being a Trans Woman and for being a Sex Worker. They think that because we exercise "prostitution", we have some disease "

**Transgender woman sex worker, Tampico, Tamaulipas*

³ Infante, César, et al. "HIV/AIDS-related stigma and discrimination: the case of health care providers in Mexico." *Salud pública de México* 48.2 (2006): 146.

⁴ Amuchástegui, Ana. "Neoliberal governance in the hiv and aids epidemic among Mexican women in Mexico: the effects of the paradigm of vulnerability." *Estudios sociológicos* 35.104 (2017): 343-371.

"I suffered the strongest discrimination in my life was when my brother thought that by fighting other men it would force me to overcome my transgender tendencies."

**Kassandra, transgender woman sex worker, Mexico City*

Among the groups of cisgender women sex workers, the families of 3 of the participants know of their work since they depend on them economically. The families of the remaining participants do not know what they do for work.

There is a lack of knowledge about human rights among cisgender women sex workers, so it is essential that the Government implement better public policies to improve access to human rights information among this population.

The majority of cisgender women sex workers claim to know that there is a law against discrimination. However, they do not know what it is. There is no specific law for cisgender women sex workers.

Article 3: Fulfillment of basic rights and fundamental freedoms

In Mexico there is no equality or law that guarantees cisgender women and trans women sex workers their fundamental rights and freedoms. There is no government body that provides targeted support to sex workers; the support is meant for cisgender women and not for cisgender women sex workers, despite their occupational status. Transwomen sex workers stated that it is important to include them in this type of support because they are women and the government does not have to exclude them.

Both cisgender and transgender focus group participants are aware of civil society organizations that provide them with support such as the delivery of supplies such as condoms, and sometimes lubricants. Also, they are provided with important information to protect their health. These organizations also provide capacity building on human rights and that they carry out political advocacy so that their human rights are guaranteed and respected.

Transwomen sex workers believe that programming must also encompass inclusive social economic development policies.

In Mexico the government does not have specific and/or updated statistical data on sex workers that can serve as a reference to promote legal initiatives to benefit this population or develop economic development policies for sex workers in Mexico.

"There are no instances in our area"

**Transwoman sex worker, Tampico, Tamaulipas.*

They also mentioned knowing mechanisms of support such as the Council to Eliminate Discrimination in Mexico City (COPRED), and the National Commission of Human Rights (CNDH), but they did not know the process to file a complaint.

They stated that due to all the bad experiences that they have suffered, sex workers are not interested in accessing government bodies that address human rights issues; what is needed is

to rebuild trust of these governmental bodies to allow sex workers to exercise the right of complaint.

Cisgender women sex workers know organizations that support them, especially in HIV responses and access to condoms, but most do not know where to turn after having suffered human rights violations and/or any kind of abuse.

Article 6: Trafficking and exploitation of prostitution

The General Law to Prevent, Punish and Eradicate Crimes in the Field of Trafficking in Persons and for the Protection and Assistance to Victims of These Crimes⁵ was approved by the Senate in 2012. This law has been criticized by the Global Alliance Against Trafficking of Women (GAATW) for its lack of conformity with the Palermo Protocol, categorical deprivation of adult alleged victims of trafficking of autonomy, and its conflation of trafficking with sex work⁶.

GAATW, in collaboration with the Street Brigade of Support for Women "Elisa Martínez", A.C., recently published a research documenting the impact of this law on sex workers. Impacts included:

- 1.) The use of the law against trafficking as a premise to initiate raids and prosecutions of consensual sex work;
- 2.) Sexual violence against migrant women in sex work venues by the police; and
- 3.) Indiscriminate prosecution of people who work in bars and other venues where sex work is done, including vulnerable migrant women and victims of labor exploitation.

Article II.10.3 of the specific violation of the free association and choice of third parties in their work environment that offer their services, such as hotels, bars, massage places, which are closed and their employees deprived of their freedom, including taxi drivers, because when receiving a salary or charging a service, the law considers exploitation of prostitution and / or sexual exploitation.

Transgender women sex workers who participated in the focus groups recognize that there is a trafficking law but it is not clear and it is not effectively applied. Since this law penalizes even the hotels for renting rooms, the taxi drivers who transport and the organizations that provide sexual health prevention supplies for transgender women sex workers because their activities are considered under this Law, human trafficking.

Cisgender women sex workers also do not know the content of this law. The only thing they know is that anyone can accuse them of trafficking for protecting the street (as a work place) or accepting a partner in their place of work. They also know of some fellow sex workers who have been deprived of their liberty through this trafficking law— at least 15 of them, including

⁵ General Congress of the United Mexican States, New Law DOF 14-06-2012, "General Law to Prevent, Punish and Eradicate Crimes in the Field of Trafficking in Persons and for the Protection and Assistance to Victims of These Crimes," II.10, 13-15 http://www.senado.gob.mx/comisiones/trata_personas/docs/LGPSEDMTP.pdf

⁶ Global Alliance Against Traffic in Women, 2018, "Mexico Report 2018: Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions," 274-275. <http://www.gaatw.org/resources/publications/941-sex-workers-organising-for-change>

3 leaders, as is the case of Alejandra Gil, director of APROASE A.C. who after facing trial, without adequate defense, was sentenced to 15 years in prison.

They agree that police raids carried out on the streets, especially in cities in the inland of the country, are based on the application of the trafficking law.

"For the authorities all the whores have something to do with trafficking"

****Nancy, Female Cisgender Sex Worker, CDMX***

"The owner of the bar where I found a job said we had to give money supposedly to bribe Migration, Police and health authorities. I should have left there and then, but if you don't really know how things are here, and how to defend your rights, you have to endure terrible conditions. In a surprise police raid in 2014, only two waitresses were there, so they decided to brand the other one as the victim and I was left to be the perpetrator. The field prosecutor ordered the other woman to collect the cash, and ordered me to count it and they took photographs. They looted everything—the jukebox, the beer, the money. We were taken to another bar with some other waitresses. They ordered us to get undressed, and only men frisked us. The field prosecutor promised me that I would be released the next day and I can go back to my children, but that I had to sign some papers first, 'as just a formality', with no defence attorney present, nor consular official. The alleged victim was committed to a shelter, and she was threatened not to testify in my trial, or they would take her children away from her for 'being prostituted' ...I am still being refused some jobs because of the criminal record."

****Female Migrant, Lenchita, Tapachula⁷***

"In Guadalajara there has been a constant persecution against sex workers, their clients, and the places that allow them to work...I would love to be able to provide condoms to our guests, but the risk is too high as they have closed down and pressed charges of human trafficking against at least three places, based on the presence of condoms."

****Carlos, owner of a hotel used by sex workers in Guadalajara, Jalisco⁸***

Most of the cisgender women and transgender women do not attend political activities or participate in political advocacy for fear of reprisals that links them with the Trafficking Law.

Article 12: Health and Family Planning Services (Right to Healthcare)

Cisgender women sex workers pointed out that they face discrimination from the health services providers because they were sex workers. The focus groups confirm previous studies that document the dehumanization of the sex workers by health service providers as vectors

⁷ Ibid, 283.

⁸ Ibid, 282.

of HIV⁹ or as perpetual victims¹⁰. There are no statistics in the health services since the staff of these services are not sensitized, nor trained in the subject of discrimination, much less sensitized to discrimination relating to sex work.

Although there are transgender women sex workers who have participated in the creation of the care protocol for the protection of the LGBTI community. This protocol discriminates against transgender women sex workers because they are not included and it is unable to provide and cover their needs.

Transgender women sex workers do have antiretroviral treatments, although in some other types of treatments do not have access or are very limited, as it is in the case of Hepatitis B and C.

Focus group participants determined that the worst trafficker is within the same entities of health, since they force them to pay a weekly or monthly fee in order to receive a health card permit and/or to be tested for HIV as a requirement to engage in sex work.

They have suffered violence from the health authorities when they are forced to undergo HIV tests. They have to pay for these tests as a requirement to do sex work.

"I had an accident in Mexico City and they didn't let me go in the ambulance because I was a transgender sex worker and I had to go by myself to the hospital where the staff didn't want to provide me with services because of my identity"

****Kassandra, transgender woman sex worker, Mexico City***

For this reason, sex workers often rely on community-led organizations, which do not have funding or enough funds to meet healthcare needs.

"Tamaulipas Diversity VIHda Trans, is the only organization that exists in our city and the only one that gives us support"

****Transgender woman sex worker, Tampico, Tamaulipas.***

The female sex workers mentioned that in the inland states of the country the health authorities force them to be tested for HIV to grant them a health card, which is required to exercise sex work:

"Although everyone thinks that only cisgender women are compulsorily tested for HIV, we Trans are also forced in some States to perform it as a work condition."

****Trangender woman sex worker, Mexico City***

The lack of accurate information on the transmission and detection of HIV and other STIs makes believe cisgender women that the compulsory HIV test and the health card are necessary to be a sex worker.

"A nosotras nos han enseñado que se debe de tener ese carnet para estar sanas y cuidar nuestra salud, si no ¿cómo sabemos que la de junto esta sana?" - "We have been taught that

⁹ Op. cit 3.

¹⁰ Op. cit 4.

we must have that card to be healthy and take care of our health, if don't, how do we know that we are healthy?"

**Sandra, cisgender woman sex worker, Mexico City*

In Mexico City and Querétaro, the health card as a work condition has been eradicated since 2000.

Article 15: Equality before the law

Our focus groups, as well as previous studies^{11,12,13} have documented the systematic violence against sex workers perpetrated by federal and state police. This, together with stigma and discrimination within the law systems, makes alternative law mechanisms necessary for sex workers.

There are no alternative and / or informal justice mechanisms available and accessible for sex workers. In Mexico there are measures to combat violence against women, but they do not include transgender women sex workers, who suffer more kinds of violence, femicides and transfemicides for their identity and for being sex workers.

"In most states, Transgender women do not have recognition of our gender identity, which is why in the official lists we continue appearing as men."

**Transgender woman sex worker, Mexico City*

In Mexico, although female sex workers who are under trail are treated as equals, most have ex officio lawyers who do not handle cases professionally and legal processes are slow and not very transparent.

Transgender women sex workers expressed that there are no data or alternative justice mechanisms available for sexual crimes because in some states they do not consider them as transgender women but men.

The government has not taken measures to fight violence against female sex workers.

"They continue to kill us without arresting the guilty ones"

**Andrea, Cisgender woman sex worker, Mexico City*

¹¹ Katsulis, Yasmina, et al. "Female sex workers and the social context of workplace violence in Tijuana, Mexico." *Medical Anthropology Quarterly* 24.3 (2010): 344-362.

¹² Rodríguez, Eva Ma, et al. "Violencia en el entorno laboral del trabajo sexual y consumo de sustancias en mujeres mexicanas." *Salud mental* 37.4 (2014): 355-360.

¹³ RedTraSex, 2017, "{Trabajo Sexual y Violencia Institucional: Cuando Cuando la clandestinidad va de la mano del abuso de autoridad y la vulneración de derechos." http://redtralsex.org/IMG/pdf/violencia_institucional_y_trabajo_sexual.pdf

CONCLUSIONS AND RECOMMENDATIONS

In Mexico, there are few efforts for the protection of the human rights of cisgender and transgender women sex workers, mainly due to *the lack of recognition of sex work as work by law and society*, which promotes and perpetuates a high level of violence against this work.

Discrimination from society, police and healthcare providers; and the lack of governmental bodies and civil society organizations that support, empower, inform and accompany sex workers are key factors that perpetuate the vulnerability of sex workers. It is necessary to address this and promote the social participation of sex workers and sensitize society on the topic of sex work. Also, it is important to make a clear and specific difference between consensual sex work in adults and human trafficking in order to take proactive steps and improve in the prevention of violence and the protection of the human rights of female sex workers.

RECOMMENDATIONS

This report asks the Committee to call on the Mexican Government to:

1. Develop efficient public policies to prevent, combat, eliminate, and sanction discrimination and all the forms of violence that female sex workers face.
2. Promote the recognition, respect and protection of female sex workers' rights by society, health services, and state institutions, most importantly within security forces.
3. Establish oversight mechanisms within police and other state security forces dedicated to violence and discrimination against female sex workers.
4. Establish and strengthen monitoring and surveillance mechanisms over cases of discrimination and/or violence against female sex workers.
5. Recognize sex Work free of stigma and discrimination.
6. Promote the development of sex work laws and policies relating that recognize and do not penalize sex work, and which guarantee the best work conditions possible through a health and human rights framework.
7. Address the lack of awareness of human rights among female sex workers, which contributes to the violation of their human rights, including through the strengthening of community-based organizations and new female sex worker leaders.
8. Establish oversight mechanisms to supervise government officials who interact with migrant women during their transit to our country. Although there are government bodies and civil society organizations that help sex workers in transit to our country, including sex workers, we recommend that there should be oversight of these government bodies, because in the majority of cases they are the ones who violate their rights.

ATTRIBUTIONS

Cynthia Navarrete Gil (APROASE, A.C.): General Project Coordination, Liaison and Development - cisgender women sex workers.

Ana Karen López Quintana, (Tamaulipas VIHda Trans A.C.): Liason and Development - transgender women sex workers

Lola Dejavú Delgadillo Vargas (MOTRASEX): Liaison and Development - cisgender women sex workers

Dionicio Ibarra Brito, (Independent Consultant), Technical Development and Elaboration