



Global Network of Sex Work Projects

Promoting Health and Human Rights

**How Sex Work Laws are Implemented on the Ground and Their
Impact on Sex Workers**

Burkina Faso Case Study

Introduction

In the Burkina Faso penal code, article 533-20 punishes any person who publicly solicits for the purposes of prostitution. Anyone promoting sex work is also punished in Burkina Faso under the penal code. This means that sex work is formally prohibited in Burkina Faso even though there is no law that punishes the actual selling of sex. Our concern here is to do a case study on how laws relating to sex work are implemented on the ground and what impact they have on sex workers.

In order to carry out our study, we met with sex workers on two occasions. First at a sexual health clinic for female sex workers, then in their homes. At the end of these focus groups, we were able to record several interesting pieces of information.

In total, we met forty (40) sex workers. They were all women and of different nationalities. There were Togolese, Beninese, Ivorian, Ghanaian and Burkinabe women. Their ages ranged from 18 to 38 and they all lived in Ouagadougou, a city in Burkina Faso. Some work on the streets and others in bars and hotels and it is most common for sex workers to take clients to their home or their client's home no matter where they meet them. Some of the sex workers interviewed used drugs. None of them mentioned being HIV positive.

Impact of sex work laws on sex workers

As sex work is criminalised in Burkina Faso, sex workers are more vulnerable to human rights abuses, including rape, violence, extortion, and discrimination. All too often, the law or avenues for seeking redress offer little or no protection. Sex workers have told us that the criminalisation of their work encourages police harassment and that the police do not address their complaints or promote their safety. Instead of working to protect sex workers from violence and crime, law enforcement focuses on prohibiting sex work through surveillance, harassment, and raids.

The police very often use condoms as evidence against sex workers who are often singled out and accused of spreading diseases.

Anne (26 years old, works on the street), explains:

"When we are caught or detained by the police, if they find condoms on us, they beat us up and say that we are promoting sex or spreading diseases like HIV. The police ask us for money, they threaten us or tell us to give them a certain amount. We give it to them, because if we refuse, we are afraid they will beat us up".

The police bribe them with fines ranging from 36,000 francs to 46,000 francs. Sex workers are often victims of extortion by the police, who demand bribes from them, raid their homes and carry out violence and endless inspections. Sex workers reported to us that these raids and inspections are often carried out without clear legal justification. The police may say that they are there to check identity papers or investigate a public order disturbance but sometimes they do not give any valid reason and simply start arresting sex workers. During these inspections some police officers take advantage of the situation by forcing sex workers to have sex with them or forcing them to perform oral sex on them. There is no doubt that the police abuse their powers, resorting to entrapment, extortion, and coercion. Sex workers often run the risk of being evicted from their homes because their landlords can be sued for renting them a property where sexual services are sold. If landlords do not evict them, the police will take criminal action against the landlords. The police encourage landlords to take over the enforcement of the law from the police. Furthermore, people engaged in sex work are not allowed to work in groups or hire out the services of third parties to ensure their safety, as this is likely to be classified as promoting prostitution under the law.

We heard from Nina (24 years old, works indoors) about police abuse of sex workers:

"The police started hitting my client and me. Three of them forced me to have sex, each in turn. They were armed so I had no choice. I have no one to help me and go to court to report them. I was in great pain, but I let it happen. If I go to the judges, they can't help me because sex work is illegal in Burkina Faso".

In case of an assault, sex workers are afraid to go to the police. This is because they are mistreated by the police. "A client paid me, and I was about to get out of his car when he pointed a gun at me. I gave him all the money I had plus my phone, and he let me go," said one sex worker (24 years old, works on the street). She added that she had not reported the assault or robbery to the police because she felt that she would have wasted her time:

"They won't listen to me because I work on the street".

When sex workers have the courage to report violence against them, they are expelled from their homes or even from the territory through threats and intimidation from the police. Another sex worker (23 years old, works on the street) told us about her reluctance to report experiences of violence:

"I went to a man's house, he hit me. I didn't say anything to the police because I don't want it to go on my criminal record".

Sex workers also spoke about the difficulties they face in accessing health services, including stigma and discrimination. They do not have real access to health services because every time they go to the hospital, people make fun of them, or the doctors see them last. This situation leads some sex workers to avoid these services altogether.

Given all the prejudices that sex workers face, it is obvious that this impacts on their work. When they are arrested by the police, they not only lose money by paying fines, but they also lose their time and freedom, which greatly disrupts their work.

We had the chance to approach other stakeholders and were able to interview lawyers. We were unable to interview the police because of the sensitivity of the subject they did not want to say anything about it.

Views of lawyers on the enforcement of sex work laws

The laws that are enforced in Burkina Faso are contained in the penal code, which is the only specific law that directly addresses sex work. These laws are applied in Burkina Faso but not in the strict sense. There are laws on sex work that are interpreted by the police in a way that is different from the law. For example, the penal code does not prohibit prostitution in the strict sense of the word, but soliciting in a public place is prohibited, and the police are unable to make this distinction, which means that the police punish all sex workers whether they are soliciting in a public place or not. Some types of sex work are more controlled by the authorities than others, namely pimping, acts of debauchery/prostitution by soliciting, which are very closely monitored by the police. When sex workers are arrested, they impose sanctions. First a preventive measure which consists of taking them into custody after which they are subjected to questioning and the sanction will depend on the offence (soliciting, possession and consumption of drugs, offence against public morality or public order). They are tried on the basis of ordinary law in a fair manner. The consequences of enforcing the laws on sex workers are criminal sanctions, which can range from a simple fine to deprivation of liberty or both. It is also much more common for the police simply to bribe sex workers so that they avoid any risk of criminal sanctions.

Female sex workers are really mistreated in Burkina Faso. They have practically no rights. They are rejected by society and insulted wherever they go. On top of that the police use their authority to rape them and make them pay fines. The state should take measures to ensure that the laws relating to sex work are focused on promoting safety rather than the criminalisation of sex work. The state should ensure that sex workers have equal access to justice, health care and public services and enjoy the same protection before the law as other sections of the population.

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