

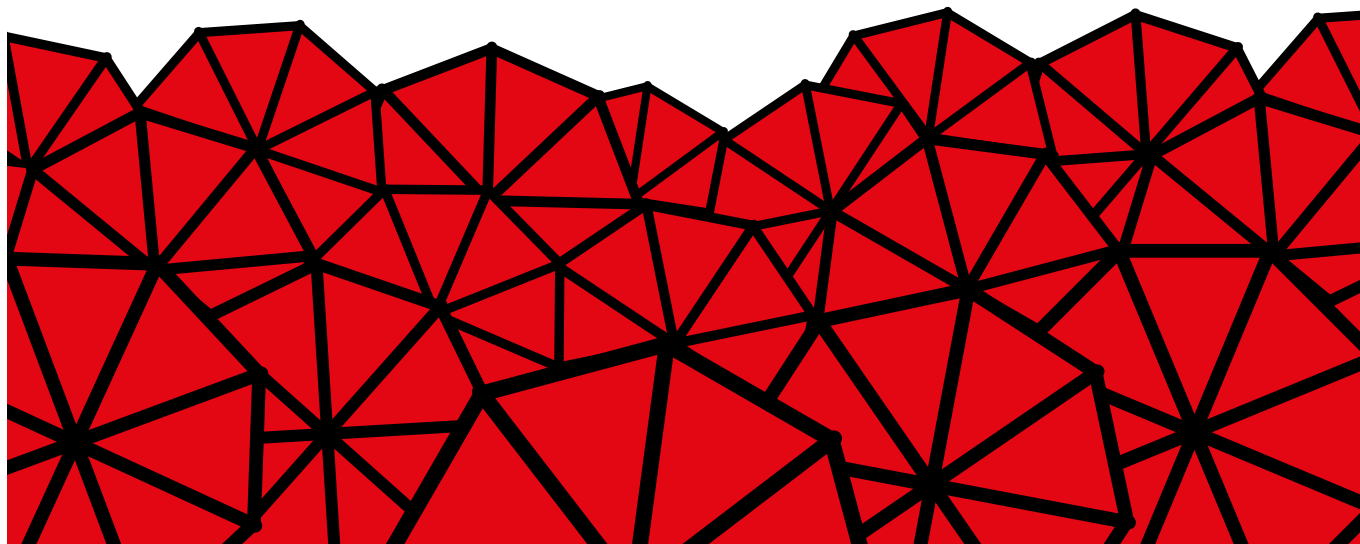


nswp

Global Network of Sex Work Projects
Promoting Health and Human Rights

POLICY BRIEF

Young Sex Workers



Young Sex Workers

Young people aged 10–24 are the age group most affected by the global HIV epidemic and account for 35% of all new infections annually.¹ Young people also form a significant

...young people who are members of one or more key populations carry a disproportionate burden of HIV infection.

proportion of key populations (KPs) most vulnerable to acquiring HIV and often have higher levels of HIV prevalence than older cohorts in these groups.² Punitive approaches to protecting young KPs, such as stigma and discrimination and laws that criminalise their behaviours, produce systemic vulnerabilities by restricting access to information and services.³

HIV policies and programming have failed to address the specific needs of these groups⁴ and young people who are members of one or more KPs carry a disproportionate burden of HIV infection.⁵

There is not clear data on the number of people aged 10–17 involved in selling sex. The information available indicates that a significant proportion of female sex workers begin selling sex while adolescents,⁶ however caution should be used in extrapolating from local studies as there is a high level of variation in the findings.⁷ While there is near universal agreement on preventing persons under the age of 18 from selling sex, including in international law, research shows that adolescents under 18 who sell sex nevertheless remain at high vulnerability of acquiring HIV and other STIs, have higher levels of HIV and STIs than older sex workers,⁸ and have limited access to services such as HIV testing, prevention, and treatment.⁹ Further, there are no agreed upon strategies for addressing the sexual and reproductive healthcare (SRH) needs of young people and adolescents who sell sex,¹⁰ and young people are excluded from much of the research on sex work and HIV.¹¹ Evidence-based approaches are difficult to establish where data are lacking and this allows authorities to ignore the existence and needs of young people who sell sex.

This Policy Brief will outline central issues for young sex workers aged 18–29 that contribute to them being disproportionately impacted by HIV, as well as highlight specific problems encountered by adolescents under 18 who sell sex, and offer recommendations to improve young people's access to rights-based HIV interventions. While older sex workers share interconnecting problems and concerns with their younger counterparts, young people under 18 exist as a distinct legal category in international law and governments carry a separate set of legal responsibilities for this group.

1 World Health Organization, 2015, "HIV and Young People Who Sell Sex" available at <http://www.who.int/hiv/pub/toolkits/hiv-young-sexworkers/en/> (last accessed 3 September, 2016), 4.

2 IYWG, USAID, UNAIDS, & FHI, 2010, "Young People Most at Risk of HIV" available at <https://www.iywg.org/resources/young-people-most-risk-hiv> (last accessed 10 October, 2016), 12.

3 World Health Organization, 2015, "HIV and Young People Who Sell Sex," 4.

4 IYWG, USAID, UNAIDS, & FHI, "Young People Most at Risk of HIV", 6.

5 World Health Organization, 2015, "HIV and Young People Who Sell Sex," 4.

6 Jay G Silverman, "Adolescent Female Sex Workers: Invisibility, Violence and HIV," *Archives of Disease in Childhood* 96, 5 (2011): 478; World Health Organization, 2015, "HIV and Young People Who Sell Sex," 6.

7 Willy Pedersen and Kristinn Hegna, "Children and Adolescents Who Sell Sex: A Community Study," *Social Science & Medicine* 56 (2003), 136.

8 World Health Organization, 2015, "HIV and Young People Who Sell Sex," 7.

9 Brian M Willis and Barry S Levy, "Child Prostitution: Global Health Burden, Research Needs, and Interventions," *The Lancet* 359, April 20 (2002): 1417–1422.

10 Brendan Michael Conner, Ayesha Mago, and Sarah Middleton-Lee, 2014, "Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific," HIV Young Leaders Fund, Amsterdam available at <http://www.aidsdatahub.org/sexual-and-reproductive-health-needs-and-access-health-services-adolescents-under-18-engaged-selling> (last accessed 3 August, 2016), 34.

11 World Health Organization, 2015, "HIV and Young People Who Sell Sex," 4.

NSWP urges a holistic approach to young people who sell sex, centred on improving access to information and health services that enable them to protect themselves and obtain the highest attainable standard of health.

That people under 18 are involved in selling sex is a difficult and sensitive matter and there is an overarching tension between approaches that seek to protect children from sexual exploitation and those seeking to improve their access to HIV prevention and treatment.¹² NSWP urges a holistic approach to young people who sell sex, centred on improving access to information and health services that enable them to protect themselves and obtain the highest attainable standard of health. In the context of sex work, repressive measures that deny services increase vulnerability to HIV infection.¹³ The dominant approach to addressing young people who sell sex has been shown by research to create systematic violations of young peoples' human rights, including the rights to health and life, and entitlement to self-determination, non-discrimination, and improvement in well-being.

Defining Young People Who Sell Sex

Following guidelines established in the United Nations Convention on the Rights of the Child (CRC),¹⁴ this Policy Brief defines 'children' as those who are under 18 years of age and recognises that persons under 18 cannot be defined as sex workers and are understood in law as victims of sexual exploitation. While many researchers and organisations employ the language of 'commercial sexual exploitation' to define the experiences of persons under 18 who sell sex, research suggests that young people often do not define their experiences in these terms,¹⁵ and that children and adolescents involved in selling sex are invested in seeing themselves as decision-makers within the context of their own lives.¹⁶ This insight does not attempt to negate or side-line concerns about the harm, exploitation, or abuse of children. Rather, it attempts to take seriously the perspectives of those under 18, understanding that broad narratives cannot always account for the variety of life circumstances children and adolescents encounter, and that the perspectives of children and adults may differ.

This Policy Brief uses the language of 'young sex worker' to refer to sex workers aged 18 years and over and, for adolescents under 18, 'persons under 18 who sell sex', to emphasise behaviour and to avoid labels that some young people may find stigmatising or inaccurate.¹⁷ Discussions about persons under 18 years old who sell sex take place in a political landscape where many refuse to refer to this group as 'sex workers', even if they self-identify as such.

The overarching term 'young people who sell sex' refers to adolescents under 18 and young adult sex workers up to 29 years of age. This broader definition points to similarities between the experiences of those under and over 18, as indicated by the large number of studies on young people who sell sex that include persons both under and over 18 years of age.

12 Silverman, "Adolescent Female Sex Workers: Invisibility, Violence and HIV," 480.

13 NSWP, 2013, "The Impact of Non-rights Based HIV Programming For Sex Workers Around the World," available at <http://www.nswp.org/resource/global-briefing-paper-the-impact-non-rights-based-hiv-programming-sex-workers-around-the-world> (last accessed 3 September, 2016).

14 United Nations Convention on the Rights of the Child, 20 November 1989, UN (entered into force 2 September 1990).

15 See: Heather Montgomery, "Are Child Prostitutes Child Workers? A Case Study," *International Journal of Sociology and Social Policy* 29,3/4 (2009): 130-140; Meredith Dank, Jennifer Yahner, Kuniko Madden, Isela Bañuelos, Lilly Yu, Andrea Ritchie, Mitchyll Mora, and Brendan Connor, 2015, "Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex Work," Urban Institute, New York NY, available at <http://www.urban.org/research/publication/surviving-streets-new-york-experiences-lgbtq-youth-ymsm-and-ywsw-engaged-survival-sex> (last accessed 3 September, 2016).

16 Heather Montgomery, "Imposing Rights? A Case Study of Child Prostitution in Thailand" in *Culture and Rights*, ed. J Cowan, M. Dembour and R. Wilson (Cambridge: Cambridge University Press, 2001), 94.

17 Conner, Mago, and Middleton-Lee, 2014, "Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific," 6.

Tracing the International Legal Framework for Persons Under 18 Who Sell Sex

There are many pieces of legislation at the international, regional, and country levels concerning people under 18 who sell or exchange sex. This Brief will only address key pieces of legislation within the larger legislative context. The UN Convention on the Rights of the Child [CRC] is the foundational framework for the rights of children in international law. Article 34 protects children from sexual exploitation and requires that states must, “undertake to protect the child from all forms of sexual exploitation and sexual abuse.”¹⁸ There is also an optional protocol against the sale of children, child prostitution, and child pornography.¹⁹ There is ample evidence to show that various ways in which states have enacted laws protecting children have resulted in gross human rights violations among those under 18. The rights given in the CRC are contravened when laws and policies produce harms or limit the access of young people who sell sex to services and to information affecting their health. This is most clear in evidence indicating that young people who sell sex experience high levels of discrimination and violence from law enforcement and health care providers, and experience forced detention and rehabilitation.²⁰

States’ enforcement of Article 34 often comes into conflict with other obligations to adolescents given in the CRC, such as the right to health, social security, a standard of living supportive of development, and the CRC Committee’s principle of non-criminalisation, which protects young people from being criminalised for selling sex or using drugs.²¹ The CRC also establishes that the best interests of the child should guide all decisions regarding children,²² while recognising that children have the evolving capacity²³ to make decisions about matters that concern them.

The UN Protocol to Prevent, Punish, and Suppress Trafficking in Persons²⁴ [the UN Protocol] is also significant, as it relates to sex work. The UN Protocol defines anyone below 18 years of age who is selling sex as a trafficked person, regardless of consent. The UN Protocol is a supplementary treaty to the Palermo Convention Against Transnational Organized Crime and as such it takes primarily a law enforcement approach to addressing human trafficking. The harmful effects of anti-trafficking policies on adult sex workers have been well-documented,²⁵ however there is also evidence to suggest that anti-trafficking policies restrict the access of persons under 18 selling sex to SRH and HIV services.²⁶ While there is little research available at this time, this remains an important insight, as a number of anti-trafficking projects concerned with young people selling sex centre on preventing young people, particularly girls, from being trafficked.²⁷

18 United Nations Convention on the Rights of the Child, 20 November 1989, UN (entered into force 2 September 1990).

19 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 25 May 2000, UN (entered into force 18 January 2002).

20 Steven Bittle, “Still Punishing to ‘Protect’: Youth Prostitution Law and Policy Reform” in *Selling Sex: Experience, Advocacy, and Research on Sex Work in Canada*, ed. Emily van der Meulen, Elya M Durisin and Victoria Love (British Columbia: University of British Columbia Press, 2013), 279–296; Conner, Mago, and Middleton-Lee, 2014, “Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific,” 12.

21 Brendan Conner, “‘First, do no harm’: Legal Guidelines for Health Programmes Affecting Adolescents Aged 10–17 Who Sell Sex or Inject Drugs,” *Journal of the International AIDS Society* 18, Supp 1 (2015): 80,81.

22 CRC, Article 3

23 CRC, Article 5

24 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Conventions against Transnational Organized Crime, 15 November 2000, UNODC (entered into force 29 September 2003).

25 GAATW, 2007, “Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World” available at http://www.gaatw.org/index.php?option=com_content&view=category&id=9 (last accessed 3 September, 2016); NSWP, 2011, “Sex Work is Not Trafficking” available at <http://www.nswp.org/resource/sex-work-not-trafficking> (last accessed 3 September, 2016); Empower Foundation, 2012, “Hit & Run: Sex Workers’ Research on Anti-Trafficking in Thailand” available at <http://www.nswp.org/resource/hit-run-sex-worker-s-research-anti-trafficking-thailand> (last accessed 3 September, 2016).

26 Conner, Mago, and Middleton-Lee, 2014, “Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific,” 62.

27 IYWG, USAID, UNAIDS, & FHI, 2010, “Young People Most at Risk of HIV”, 47.

Double and Triple Victimization of Young People Who Sell Sex

Recent research on young people who sell sex explores how young people understand their own experiences and highlights concrete problems, such as finding a way to make money or meet material needs in the face of limited employment opportunities, meeting familial obligations, and accessing resources for survival, that young people are often trying to solve through selling sex. Research highlighting the voices of young people who sell sex illustrates young peoples' concerns from their point of view. This Policy Brief has prioritised literature centring the voices of young people who have or currently sell sex, encouraging a shift toward youth-centred approaches in policy and programming discussions.

There is a large amount of epidemiological literature documenting higher levels of HIV prevalence and risk factors for transmission among young people who sell sex.²⁸ Homelessness and involvement in street economies are frequently associated with higher levels of risk and HIV infection among young people who sell sex.²⁹ Biomedical research emphasising individual behaviour sometimes does not fully address the role of structural and institutional violence in the lives of young people who sell sex, nor does it explore linkages with HIV vulnerability.

The literature also shows that the ways young people sell sex can differ from older sex workers. They are often displaced to more marginalised working and living conditions than older sex workers.³⁰ Exchanging sex for money, goods, or a place to stay occurs in many different types of relationship and can be a livelihood strategy for persons both over and under 18 years of age.³¹ Not all young people who sell sex, including those under 18, necessarily identify what they do as work or exploitation.³²

Young people express a variety of feelings and understandings about selling sex. Some young people say that selling or trading sex allowed them to meet familial responsibilities and obligations³³ or provided them with the means to establish lives independent from their parents. For others it helped them to meet their basic needs and find community.³⁴ Some young people find selling sex harmful or violating, some felt it was degrading to them, disliked being with strangers, or disliked the stigma and unsafe conditions.³⁵ Young people who have been forced or coerced to sell sex experience severe human rights violations.

Young people who sell sex should be understood within their specific social and economic contexts. There is often a mismatch between economic needs and opportunities to meet these needs in the context of severe global economic inequalities, familial disruption or abandonment, and limited access to resources. Economic hardship has been shown to be particularly profound for LGBT young people, as they experience additional stigma and high levels of discrimination from support services and in employment.³⁶

28 See: Roeland Monasch and Mary Mahy, "Young People: The Centre of the HIV Epidemic," *World Health Organization Technical Report Series* 938 (2006):15–41, discussion 317–41; Craig McClure, Caitlin Chandler, and Susan Bissell, "Responses to HIV in Sexually Exploited Children or Adolescents Who Sell Sex," *The Lancet* 385, January 10 (2015): 97–99.

29 Chettiar, Shannon, Wood, Zhang, and Kerr, "Survival Sex Work Involvement Among Street-Involved Youth Who Use Drugs in a Canadian Setting," 322–327; Joanna R Busza, Olga M Balakireva, Anja Teitschik, Tatiana V Bondar, Yuliya A Sereda, Clea Meynell, and Olena Sakovych, "Street-based Adolescents at High Risk of HIV in Ukraine," *Journal of Epidemiology and Community Health* 65,12 (2011): 66–70.

30 Cari L Miller, Sarah J Fielden, Mark W Tyndall, Ruth Zhang, Kate Gibson, and Kate Shannon, "Individual and Structural Vulnerability Among Female Youth Who Exchange Sex for Survival," *Journal of Adolescent Health* 49,1 (July 2011): 36–41.

31 RK Maganja, S Maman, A Groves, and JK Mbwambo, "Skinning the Goat and Pulling the Load: Transactional Sex Among Youth in Dar es Salaam, Tanzania," *AIDS Care* 19,8 (September 2007): 974–981.

32 Montgomery, "Are Child Prostitutes Child Workers? A Case Study," 133; JJ, "We Speak for Ourselves: Anti-Colonial and Self-Determined Responses to Young People Involved in the Sex Trade" in *Selling Sex: Experience, Advocacy, and Research on Sex Work in Canada*, ed. Emily van der Elya M Durisin and Victoria Love (British Columbia: University of British Columbia Press, 2013), 74–81.

33 Birgitta Rubenson, Le Thi Hanh, Bengt Höjer, and Eva Johansson, "Young Sex-Workers in Ho Chi Minh City Telling Their Life Stories," *Childhood* 12,3 (August 2005): 391–411.

34 Dank, Yahner, Madden, Bañuelos, Yu, Ritchie, Mora, and Connor, 2015, "Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex Work," 56,57.

35 *Ibid.*, 57.

36 Youth Voices Count, 2013, "Policy Brief: Self-Stigma among young men who have sex with men and young transgender women and the linkages with HIV in Asia" available at <http://www.aidsdatahub.org/policy-brief-self-stigma-among-young-men-who-have-sex-with-men-and-young-transgender-women-and-the-linkages-with-hiv-in-asia-undp-unicef-ts-hub-apcom-2013> (last accessed 3 September, 2016); Dank, Yahner, Madden, Bañuelos, Yu, Ritchie, Mora, and Connor, 2015, "Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex Work," 34.

- 37 Montgomery, "Are Child Prostitutes Child Workers? A Case Study," 134; Dank, Yahner, Madden, Bañuelos, Yu, Ritchie, Mora, and Connor, 2015, "Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex Work," 34.
- 38 Yanga Z Zembe, Loraine Townsend, Anna Thorson, and Anna Mia Ekstrom, "Money Talks, Bullshit Walks' Interrogating Notions of Consumption and Survival Sex Among Young Women Engaging in Transactional Sex in Post-apartheid South Africa: A Qualitative Enquiry," *Global Health* 9,28 (2013): 9–28.
- 39 Nick Mai, "Embodied Cosmopolitanisms: The Subjective Mobility of Migrants Working in the Global Sex Industry," *Gender, Place & Culture: A Journal of Feminist Geography* 20,1 (2013): 107–124.
- 40 Silverman, "Adolescent Female Sex Workers: Invisibility, Violence and HIV," 478
- 41 Ibid., 479; World Health Organization, 2015, "HIV and Young People Who Sell Sex," 8.
- 42 Conner, Mago, and Middleton-Lee, 2014, "Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific," 25.
- 43 Kate Shannon, Thomas Kerr, Brandon Marshall, Kathy Li, Ruth Zhang, Steffanie A Strathdee, Mark W Tyndall, Julio G S Montaner, Evan Wood, "Survival Sex Work Involvement as a Primary Risk Factor for Hepatitis C Virus Acquisition in Drug-Using Youths in a Canadian Setting," *Archives of Pediatrics and Adolescent Medicine* 164,1 (2010):61–65; Xu-Dong Zhang, Angela Kelly-Hanku, Jai-Jai Chai, Jian Luo, Marleen Temmerman, and Stanely Luchters, "Sexual and Reproductive Health Risks Amongst Female Adolescents Who Use Amphetamine-type Stimulants and Sell Sex: A Qualitative Inquiry in Yunnan, China," *Harm Reduction Journal* 12,34 (2015): 1–12.
- 44 Conner, Mago, and Middleton-Lee, 2014, "Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific," 30.
- 45 Amy Weissman, Janine Cocker, Lisa Sherburne, Mary Beth Powers, Ronnie Lovich, and Mary Mukaka, "Cross-Generational Relationships: Using a 'Continuum of Volition' in HIV Prevention Work Among Young People," *Gender & Development* 14,1 (2006): 81–94.
- 46 Young Women's Empowerment Project (YWEP), 2009, "Girls Do What They Have to Do to Survive: Illuminating Methods Used by Girls in the Sex Trade and Street Economy to Fight Back and Heal," available at <http://www.nswp.org/resource/girls-do-what-they-have-to-survive-illuminating-methods-used-girls-the-sex-trade-and-street> (last accessed 3 September, 2016), 30.
- 47 Phoenix Anne McKee, "Sex Work is Real Work: One Woman Shares Her Experiences of Sex Work and the Stigma She Faces," *Shameless Winter* (2011): 28–31; McClure, Chandler, and Bissell, "Responses to HIV in Sexually Exploited Children or Adolescents Who Sell Sex," 98.
- 48 United Nations Education, Scientific, and Cultural Organization, 2013, "Young People and the Law in Asia and the Pacific: A Review of Laws and Policies Affecting Young People's Access to Sexual and Reproductive Health and HIV services," 12.
- 49 Ibid., 14.

Alternative economic opportunities to selling sex for many young people, including those who are under 18, are overwhelmingly irregular, informal, and sometimes very unsafe activities that carry their own risks. These include activities such as begging, street vending, unregulated factory work, or other criminalised activities such as selling drugs.³⁷ While many young people sell sex for physical and economic survival, some young people also sell sex to access an improved lifestyle beyond basic subsistence, including consumer or luxury items,³⁸ and aspire to express autonomy and individualism through consumer goods.³⁹

Research shows that young people who sell sex have greater vulnerability to violence,⁴⁰ have heightened sexual risk behaviours such as lower levels of condom use,⁴¹ and often have a higher number of sexual partners.⁴² A number of studies show that drug use often intersects with the sale of sex, exposing young people to additional legal and health risks.⁴³ Young people may experience force or coercion during their involvement in selling sex. This is of particular concern, as decreases in autonomy have been shown to increase vulnerability to HIV and other sexual and reproductive health problems.⁴⁴ Young people may also lack adequate negotiation skills, making it more difficult for them to negotiate condom use in personal or commercial exchanges. Gendered power dynamics that compromise young women's negotiating abilities in relation to men can further produce gendered vulnerabilities to HIV infection.⁴⁵

Numerous laws and policies shape young peoples' vulnerability to HIV infection and access to SRH and HIV services. Young people often experience compounding forms of institutional violence and exclusion that doubly or triply victimise them. Young people are made vulnerable when they cannot access support or assistance because they fear arrest, detention, discrimination, or encounter policies that deny them access to services. This, in turn, has been shown to exacerbate violence in their personal and work spheres.⁴⁶ While support systems are supposed to help young people, they are too often set up to create harms or not meet the needs of the people they serve.

Persons under 18 who sell sex often encounter mandatory reporting legislation and policies when trying to access services, which require social service or healthcare providers to report them to police. Mandatory reporting legislation creates a disincentive for service providers to help young people, sometimes denying them services outright, and makes young people hesitant to seek support out of fear of being detained or arrested.⁴⁷ Age of consent legislation and parental consent requirements for access to sexual health examinations, harm reduction commodities, HIV testing, and abortion services, also create barriers to accessing services, as most young people do not want to disclose their activities to their parents. In Asia and the Pacific region, adolescents aged 15–19 years are more likely than persons over 20 to have unmet needs for contraception and are more vulnerable to unplanned pregnancy.⁴⁸ Additionally, fewer young women who sell sex have ever had an HIV test compared to their older counterparts.⁴⁹

Young people are denied assistance because of their involvement with selling sex and/or drug use, their sexual orientation or identity, gender expression, or HIV status.

Young people who sell sex are often turned away from services and do not want to seek out help because of poor treatment from service providers, often owing to stigma and discrimination based on their age and behaviours.⁵⁰ Young people are denied assistance because of their involvement with selling sex and/or drug use, their sexual orientation or identity, gender expression, or HIV status. As one report explains, “girls are denied help from the police, hospitals, shelters, and addiction treatment programs because they are in the sex trade, because they are trans or queer, because they are young, homeless, and because they use drugs.”⁵¹ Young transgender, gender non-conforming, and other LGBT people who sell sex face endemic levels of discrimination and stigma which may condition their entry into selling sex⁵² and denies them the support they need to keep themselves safe and healthy.

Young people can be criminalised and arrested under laws concerning ‘prostitution’, drug use, and homosexuality or other forms of sexual behaviour. This has negative effects on the human rights of persons over and under 18 years of age. The CRC Committee’s provision that persons under 18 should not be criminalised and treated as victims does not insulate them from arrest.⁵³ The criminalisation of sex work affects young people by reducing control over working conditions and fostering a reluctance to seek services for fear of arrest. Arrest can sometimes be used as a strategy to direct persons under 18 who sell sex into the judicial system and detain them for their own ‘protection’, such as in secure care or Safe Harbour legislation.⁵⁴

Similarly, laws against drug use or same-sex sexual activities can also lead to arrest. Laws prohibiting ‘prostitution’ or trafficking can also compromise young peoples’ support networks that are comprised of other people who sell sex who are both over and under 18 years of age. Young people who sell sex have extensive peer networks including individuals both above and below the age of majority, and rely on peers for knowledge and support.⁵⁵ Laws criminalising third parties can sometimes deprive young people who sell sex from community support.

Young people who sell sex experience very high levels of violence from state authorities, including in detention, in the custody of police, as well as in health care settings.⁵⁶ Studies show that significant proportions of street youth who sell sex have been arrested or have had encounters with law enforcement.⁵⁷ Studies suggest that police harassment and abuse of young people who sell sex is systematic and widespread, and experiences of physical and sexual assault, rape, and extortion have been well-documented.⁵⁸ This raises questions for policymakers about the appropriateness of law enforcement as the primary response to young people who sell sex, particularly as forced detention or forced rehabilitation remains a standard practice in a number of country contexts and closed environments are themselves associated with increased risk for HIV.⁵⁹

50 YWEP, 2012, “Bad Encounter Line Report,” <https://ywepchicago.wordpress.com/media/> (last accessed 3 September, 2016), 23.

51 YWEP, 2009, “Girls Do What They Have to Do to Survive: Illuminating Methods Used by Girls in the Sex Trade and Street Economy to Fight Back and Heal,” 30.

52 Youth Voices Count, 2013, “Policy Brief: Self-Stigma among young men who have sex with men and young transgender women and the linkages with HIV in Asia,” 5.

53 Conner, Mago, and Middleton-Lee, 2014, “Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific,” 61.

54 Brendan M Connor, “In Loco Aequitatis: The Dangers of ‘Safe Harbor’ Laws for Youth in the Sex Trades,” *Stanford Journal of Civil Rights & Civil Liberties* 12 (2016): 45–116.

55 Dank, Yahner, Madden, Bañuelos, Yu, Ritchie, Mora, and Connor, 2015, “Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex Work.”

56 YWEP, 2012, “Denied Help: Bad Encounter Line Report,” World Health Organization, 2015, “HIV and Young People Who Sell Sex,” 9.

57 Lockhart, “Kunyenga, ‘Real Sex,’ and Survival: Assessing the Risk of HIV Infection Among Urban Street Boys in Tanzania,” *Medical Anthropology Quarterly* 16,3 (September 2002), 308; Busza, Balakireva, Teitschik, Bondar, Sereda, Meynell, and Sakovych, “Street-based Adolescents at High Risk of HIV in Ukraine,” 66–70.

58 YWEP, 2012, “Denied Help: Bad Encounter Line Report”; Conner, Mago, and Middleton-Lee, 2014, “Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific,” 27; World Health Organization, 2015, “HIV and Young People Who Sell Sex,” 9.

59 Ralf Jürgens, Manfred Nowak, and Marcus Day, “HIV and Incarceration: Prisons and Detention,” *Journal of the International AIDS Society* 14 (2011).

...understandings about 'commercial sexual exploitation' in research and international law have developed without the involvement of young people with experiences of selling sex.

The voices of young people who have formerly or currently sell sex are nearly inaudible in the literature overall. Thus, understandings about 'commercial sexual exploitation' in research and international law have developed without the involvement of young people with experiences of selling sex. Young people express a range of complex feelings about selling sex and voice many struggles, experiences of violence, and other difficulties, yet also express notions of resilience and resistance

in the context of their lives. One 21-year-old male explained, "there [are] only two positive things that I found [from survival sex work], the fact that it helps you survive and the second thing is that I felt that it made me stronger because it's like I'm able to go through these tough situations ... It shows how much I am willing to determine to keep living and surviving."⁶⁰

In addressing young people and HIV/ AIDS prevention, researchers propose a holistic approach to understanding young peoples' involvement in selling sex. This approach looks

at a range of motivations, including sexual initiative owing to love or pleasure, decisions made for economic or financial reasons, concerns about basic physical and economic survival, and forced or coerced sex.⁶¹ Young peoples' narratives suggest that there are often many overlapping factors that shape their experiences of selling sex. Even young people in exploitative situations report complex feelings toward the person exploiting them, who may also be a source of love and support.⁶² Some young people explain that they were able to resolve situations where they experienced coercion and sometimes continued to trade sex under different conditions.⁶³

Taking seriously the perspectives of young people who sell sex does not set aside moral or ethical obligations to protect vulnerable young people. However, compassionate and effective responses to young people who sell sex, including those under the age of 18, requires an understanding of their needs and motivations as well as the social and economic dynamics of their lives.

Good Intentions and Bad Practices

Child protective interventions typically focus on preventing a person under 18 years of age from selling sex⁶⁴ and inform a number of laws and policies concerning persons under 18 who sell sex. These laws expose young people to significant risk and harm. A singular focus on protecting children from sexual harms through law enforcement interventions may neglect the need to address factors within the broader social, political, and economic context that compel young people to sell sex. Consultation with adult sex workers, with and without experiences of selling sex under 18, suggests that the dominant approach to protecting young people, while based in good intentions, has fostered bad practices that proactively harm young people who sell sex and systemically deny them access to HIV and SRH services. They are exposed to discriminatory treatment and offered little legal recourse for abuse or violence they experience.

60 Dank, Yahner, Madden, Bañuelos, Yu, Ritchie, Mora, and Connor, 2015, "Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex Work," 56.

61 Amy Weissman, Janine Cocker, Lisa Sherburne, Mary Beth Powers, Ronnie Lovich, and Mary Mukaka, "Cross-Generational Relationships: Using a 'Continuum of Volition' in HIV Prevention Work Among Young People," *Gender & Development* 14,1 (2006): 81-94.

62 Dank, Yahner, Madden, Bañuelos, Yu, Ritchie, Mora, and Connor, 2015, "Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex Work," 68.

63 Ibid.

64 Conner, Mago, and Middleton-Lee, 2014, "Sexual and Reproductive Health Needs and Access to Health Services for Adolescents Under 18 Engaged in Selling Sex in Asia Pacific," 7.

Adult sex workers explain that there are a variety of different factors that compel young people to sell sex and that they often face very difficult life circumstances. The need for money is perhaps the most significant factor informing the lives of young people who sell sex. Young people are sometimes escaping familial abuse or have been rejected by their families, which is a significant issue for transgender and LGBT youth. Young people also seek to make their own lives by pursuing work or educational opportunities and migrating to urban centres from rural communities.

It's really economic reasons that compel young people into sex work. For me, I left home when I was 16 because I knew I was gay. I lived in a rural town and wanted to go to the city to begin a new life. I needed money for rent, utilities. I put an ad in a newspaper; I started doing erotic massage. I worked independently.

ADULT MALE SEX WORKER, MACEDONIA

Sometimes young people under 18 who sell sex do so to meet obligations to support other family members or their own children, or to pay for gender-affirming treatments, tuition for school, or drugs.

Often, young people who sell sex come to the city from rural areas for the purpose of getting higher education or to find a job. However, life in the city requires money for rent, food, good clothes, and tuition fees. The money provided by parents for education is not enough, and young girls enter the sex industry. Young people who sell sex have also frequently mentioned that their parents are addicted to drugs or alcohol ... or that they have to support themselves and their little brother ... or that they need money to pay for their mother's medical expenses.

ADULT FEMALE SEX WORKER, KAZAKHSTAN

Poverty, lack of opportunity, family pressure while living in a small rural area caused them to migrate to the bigger cities to obtain... economic freedoms ... However, some of them met the wrong people and are deceived and abused.

ADULT SEX WORKER, TURKEY

Some young people under 18 independently sell sex, while some have a person who is exploiting them. Sex workers in Kazakhstan explain that most sex workers and young people who sell sex do not have housing and can easily fall into a cycle of dependency on exploitative third parties

whom they become indebted to. Sex workers said that housing was one of the most urgent needs for sex workers and young people who sell sex.

The need for economic security and opportunities to support family members affect people who sell sex who are both over and under 18 years of age. However, there are some laws and policies that most directly affect persons under 18. While mandatory reporting and age of consent laws are meant to protect minors from harm and sexual exploitation, they can systematically deny young people access to means to protect themselves from HIV, STIs, and pregnancy. Sex worker organisations report that they cannot legally provide SRH and

HIV services to persons under 18 years of age because it is seen as encouraging 'prostitution' or the trafficking of minors and may bring the organisation into conflict with the law.

Sex worker organisations report that they cannot legally provide SRH and HIV services to persons under 18 years of age because it is seen as encouraging 'prostitution' or the trafficking of minors and may bring the organisation into conflict with the law.

Sex workers explain that there is a critical need for young people who sell sex to have access to sexual health information and testing. A sex worker from Nepal explains, “very few of [young trans people who sell sex] are aware about HIV, sexual and reproductive health. Those who are aware as well feel shy and do not try to access services.” Sex workers in Turkey report that, “young sex workers are in need of all kinds of information regarding how to access to justice, sexual and reproductive health, access to basic health care services.”

Despite these needs, policies and practices exclude young people who sell sex from life-saving information, testing, and treatment. Sex workers in Macedonia describe how they are “not able to provide young people who sell sex with condoms because this is seen as encouraging them to do sex work ... We are not allowed to give people under 18 an HIV test.” Age of consent laws also create similar problems. Without permission from parents, young people under 18 cannot access services. Since most young people do not want their parents and families to know they sell sex, they are not able to access education or support to keep themselves safe and healthy.

Testing for HIV and STIs is impossible. In Kazakhstan, the law states that a person under 18 cannot be tested for HIV without [an] accompanying parent or guardian. As a rule, parents do not know that their daughter sells sex, therefore girls are afraid of disclosure and do not get tested for HIV or STIs.

SEX WORKER, KAZAKHSTAN

Organisations providing rights-based support and services to adult sex workers may attempt to provide some level of support to young people under 18. Some organisations will avoid requiring service users to provide their age as a requirement for service provision, others will not provide condoms directly to anyone under 18 but will allow service users access to where condoms are stored. One sex worker commented that the legal situation “makes it extremely difficult to create accessible, non-judgmental and safe programming geared specifically to those under 18.” Another sex worker said that young people can access government-funded services for youth where they exist, but young people do not mention they are involved in selling sex.

Organisations must adapt to a complex legal environment and try to fashion responses to adolescents who sell sex that provide them with a

basic level of access to harm reduction information and commodities, while not compromising their legal obligations. To not do so would mean young people are left without any support or services, hampering efforts to prevent HIV transmission. Young people will often avoid seeking services because of fear of law enforcement or of being detained. Indeed, sex workers in Canada report that they are aware of incidents where young

people suspected of selling sex were placed in juvenile detention centres for varying lengths of time for their own protection.

A government outreach worker met two 14-year-old girls who were selling sex and told the girls that she would need to bring them to child services. The girls moved to another [place to sell sex]. This situation was brought to the attention of [our organisation], but they were still afraid to come forward. One finally came to [our clinic] and she was able to find treatment, and we were able to find her parents.

ADULT SEX WORKER, JAMAICA

Young people will often avoid seeking services because of fear of law enforcement or of being detained.

The realities of pregnancy and parenting are matters that are frequently overlooked within discourses concerning young people who sell sex. Many young people cannot access adequate SRH services, including condoms, contraception, and abortion. Young women under 18 who are selling sex are at particularly high risk of unplanned pregnancy where parental consent, spousal consent, or being married is required to access contraception. In some cultural contexts, an unmarried woman giving birth is very undesirable and young women are compelled to leave their children in state care for lack of other choices.

We know of a sex worker who recently turned 18 and had just given birth. She asked the staff at the birthing [centre] to call her parents, but her family did not want to talk to her nor accept the child. She was forced to leave the child in state care.

SEX WORKER, KAZAKHSTAN

Legally, participation in selling sex can also render a young person an unfit parent, meaning young people can be denied custody of their children.⁶⁵ This is a particularly harsh and contradictory situation where persons under 18 who sell sex, who are formally understood as victims of sexual exploitation, are penalised because of their age and activities.

While young people under 18 who sell sex are understood in law as victims, they nevertheless experience systemic discrimination and

abuse when they attempt to access services, in a similar way to adult sex workers. Many sex workers are disinclined to seek services because they fear rejection or negative attitudes on the part of medical or social service providers. Similarly, for young people who sell sex, their experiences are often negative and “they face stigma, indifference, lack of compassion, and extensive bureaucracy.”⁶⁶ The experiences of young transgender persons who sell sex

can be further complicated by transphobia from services providers, leading to poor treatment and service providers ignoring of the young person’s needs.

...Very few young transgender [reach] up to the door of service providers, but due to ignorance, late response, and unnecessary questions they fear to access the service next time.

SEX WORKER, NEPAL

Young people who sell sex must also deal with double or triple victimisation from law enforcement, whereby they have no recourse for abuse, rape, or theft that occurs while they are selling sex. They are also sometimes abused by police. Respondents documented many instances of harassment and abuse.

Young people who sell sex don’t have the possibility to go to police if a client harms them ... There is no law to protect young people who sell sex, they must have parents’ consent thus there is no recourse to law enforcement remedies for young people.

SEX WORKER, KAZAKHSTAN

Young people who sell sex are being arrested by police and asked to pay [money to] come out from the police station. As a result they hide themselves.

SEX WORKER, NEPAL

...for young people who sell sex, their experiences are often negative and “they face stigma, indifference, lack of compassion, and extensive bureaucracy.”

65 Ibid., 58.

66 Sex worker, Ukraine.

Where sex work is criminalised or penalised, older sex workers are at risk of police harassment and of having condoms confiscated or used as evidence of ‘prostitution’. Young sex workers are not immune to these poor practices, which hinder their ability to protect themselves from HIV and STIs.

Young ladies working in massage parlours told us that the police come to spot check them and humiliate them by cutting up their condoms or making a mess out of their work environment. Sometimes, they will even parade these girls and shame/question them as to why they are working in the sex industry...

SEX WORKER, SINGAPORE

Young people who sell sex have many interrelated needs and involvement in selling sex may be one dimension of, for some, complex and challenging life circumstances. Despite this, young people who sell sex are systemically denied access to HIV and SRH services, experience stigma and discrimination, and police harassment and abuse.

Sex workers with and without experiences of selling sex under 18 reported a need for peer-to-peer support for young people who sell sex, citing the value of non-judgmental service provision and skills and information sharing, as well as a need for education about human and legal rights.

Sex workers argue that many of the rights-based harm reduction approaches that have been successful with adult sex workers can be used with young people who sell sex. Sex workers with and without experiences of selling sex under 18 reported a need for peer-to-peer support for young people who sell sex, citing the value of non-judgmental service provision and skills and information sharing, as well as a need for education about human and legal rights. While young people have the right to protection from force, coercion, and other forms of abuse, they also have the right to access health services and

information. This includes harm reduction commodities and HIV testing and treatment that will enable them to access their rights to health and life, and entitlement to self-determination, non-discrimination, and improvement in well-being.

Conclusion and Recommendations

Young people who sell sex carry a disproportionate burden of HIV infection, have inadequate access to information and services needed to preserve their health and survival, and experience systemic violations of their human rights. While there is agreement that young people under 18 must be protected from sexual exploitation, there is little agreement on how to meet the needs of the significant numbers of young people who are involved in selling sex.

Existing guidance surrounding rights-based HIV prevention and treatment for adult sex workers, such as community empowerment and peer education, can be starting points for engagement with young people who sell sex.

Laws, policies, and discriminatory practices create conditions that increase the risk of acquiring HIV and there are interconnections between the structural vulnerability of adult sex workers and that of persons under 18 years who sell sex. Research has shown that criminalisation, discrimination, and stigma create barriers for adult sex workers to access services, increasing their risk of acquiring HIV.⁶⁷ Community empowerment approaches have been shown to effectively reduce HIV and STIs, as well as increase consistent condom use among adult sex workers.⁶⁸ These approaches have been successful because they address the broader context that sex work takes place within and are driven by the needs and priorities of sex workers themselves.⁶⁹ Existing guidance surrounding rights-based HIV prevention and

treatment for adult sex workers, such as community empowerment and peer education, can be starting points for engagement with young people who sell sex.⁷⁰

Recommendations for policy makers:

- ▶ Undertake law reform to decriminalise sex work, drug use, and same-sex sexual activities.
- ▶ Implement comprehensive, accessible, and affordable SRH services and information for young people under 18. This must include HIV prevention and treatment, harm reduction supplies and information, abortion and maternal care.
- ▶ Prioritise rights-based and evidence-based interventions.
- ▶ Strengthen measures to provide access to affordable housing and education, and improve economic security and reduce levels of poverty among young people.

Recommendations for service providers:

- ▶ Develop youth-centred and youth-friendly services that actively involve young people in programme design and delivery.
- ▶ Offer programming that does not require young people to stop selling sex or using drugs to access services.
- ▶ Train service providers in rights-based, non-judgemental, and inclusive approaches to service delivery.
- ▶ Develop programming targeted toward young people under 18, emphasising peer-based empowerment approaches. This must include HIV education and prevention, harm reduction, and the provision of legal support and information.
- ▶ Prioritise providing non-coercive, low threshold interventions.

67 Kate Shannon, Thomas Kerr, Shari Allinott, Jill Chettiar, Jean Shoveller, and Mark W Tyndall, "Social and Structural Violence and Power Relations in Mitigating HIV Risk of Drug-Using Women in Survival Sex Work," *Social Science & Medicine* 66 (2008):911–921; Pamela Das and Richard Horton, "Bringing Sex Workers to the Centre of the HIV Response," *The Lancet* 385 January 3 (2015): 3–4.

68 Deanna Kerrigan, Caitlin E Kennedy, Ruth Morgan Thomas, Sushena Reza-Paul, Peniah Mwangi, Kay Thi Win, Allison McFall, Virginia A Fonner, and Jennifer Butler, "A Community Empowerment Approach to the HIV Response among Sex Workers: Effectiveness, Challenges, and Considerations for Implementation and Scale-up," *The Lancet* 385, 9963 10–16 January (2015): 172–185.

69 Ibid.

70 See: UNAIDS, 2009, "UNAIDS Guidance Note on HIV and Sex Work (Updated April 2012)" available at http://www.unaids.org/en/resources/documents/2012/20120402_UNAIDS-guidance-note-HIV-sex-work (last accessed 4 September, 2016); WHO, UNFPA, UNAIDS, NSWP, World Bank & UNDP, 2013, "Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions" available at http://www.who.int/hiv/pub/sti/sex_worker_implementation/en/ (last accessed 2 August, 2016).

This policy brief is the result of desk research and gathering case studies from NSWP members.




The Matrix, 62 Newhaven Road
Edinburgh, Scotland, UK, EH6 5QB
+44 131 553 2555
secretariat@nswp.org
www.nswp.org

NSWP is a private not-for-profit limited company.
Company No. SC349355

PROJECT SUPPORTED BY:

MAC AIDS FUND

BRIDGING THE GAPS
Health and rights  for key populations


ROBERT CARR FUND
for civil society networks

NSWP is part of Bridging the Gaps – health and rights for key populations.

Together with almost 100 local and international organisations we have united to reach 1 mission: achieving universal access to HIV/STI prevention, treatment, care and support for key populations, including sex workers, LGBT people and people who use drugs.

Go to: www.hivgaps.org for more information.