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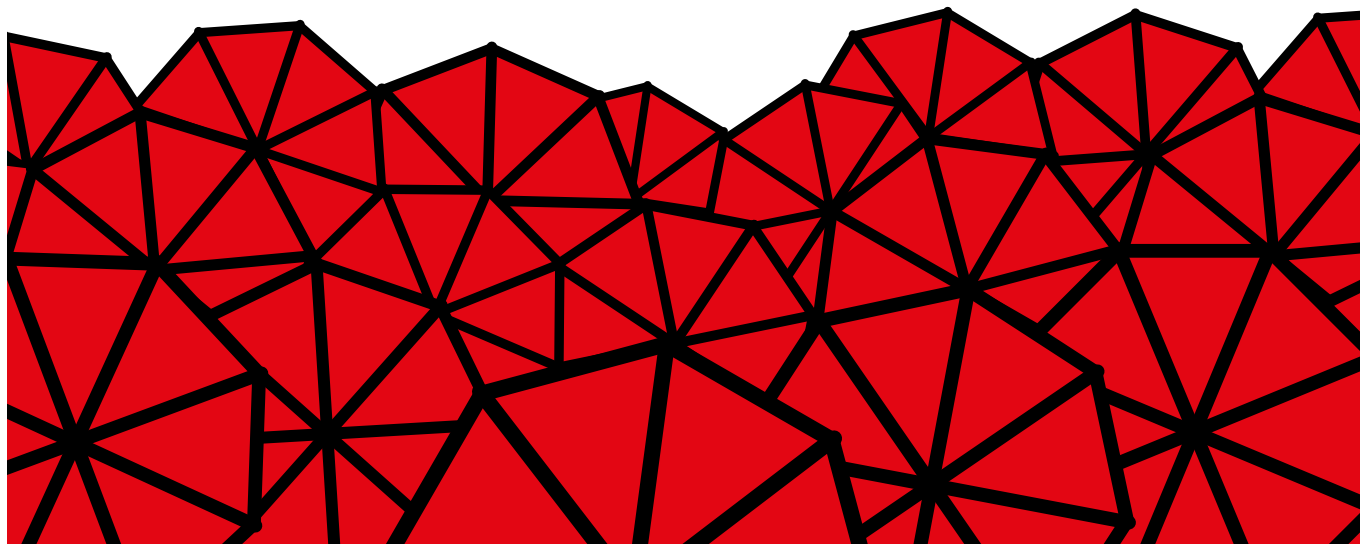
Global Network of Sex Work Projects
Promoting Health and Human Rights

**BRIEFING
PAPER**

#09

The Needs and Rights of Trans Sex Workers

a summary



The Needs and Rights of Trans Sex Workers:

a summary

This briefing paper focuses on the issues and needs identified by trans sex workers as disclosed in NSWP forums, including an online questionnaire and face-to-face focus groups.

Trans¹ Sex Workers – Intersectional Realities and Oppressions

Trans sex workers (TSW) are amongst the most marginalised and vulnerable sex workers due to widespread social stigmatisation attributable, in general, to transphobic prejudices in almost all countries.

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Sex work is a highly risky sector in almost all countries of the world, for several reasons. Lack of legislation around sex work that prevents violence and/or protects sex workers from violence, whorephobia², lack of political will to create programmes to support sex workers, religious and cultural approaches that foster whorephobic legislation and policies, to name a few, all act to fuel discrimination and violence against sex workers. TSW are highly vulnerable to risks of violence as they work and live at what can be described as an intersection of whorephobia and

transphobia. An intersectional perspective that accounts for issues such as class, ethnicity, religious background, HIV status, migration status, gender, gender identity and sex work is necessary to have a better understanding of the lives and work of TSW.

Legal situation

TSW experience varying levels of criminalisation across the world, depending on the existence of laws that criminalise or protect trans people and sex workers. TSW are often particularly exposed to criminalisation due to the dual impact of these laws targeting their gender identity and/or their work. Some countries have laws in place that criminalise, for example, crossdressing and homosexuality. In addition to countries that criminalise trans people, few countries have policies or programmes that aim to protect trans people from human rights violations or support trans sex workers in accessing justice when these violations occur. Furthermore, sex work as an occupation is criminalised, directly and/or indirectly across various legislative frameworks around the world³. A distinct issue around the legal situation of trans sex workers is related to legal gender recognition. Trans people in many countries face barriers in accessing the process for changing names and gender in their legal documents like ID cards, passports, birth certificates or other documents that are needed for various registrations, meaning

1 In this paper, following the practices of trans organisations such as GATE (Global Action for Trans* Equality) and TGEU (Transgender Europe), the term *trans* is used as an open-ended social umbrella term to denote persons whose gender identity is different from the gender they were assigned at birth, and those who wish to portray their gender in a way that differs from the gender they were assigned at birth.

2 The term *whorephobia* is used to denote forms of hatred, disgust, discrimination, violence, aggressive behaviour or negative attitudes directed at individuals who are engaged in sex work.

3 For more information see NSWP briefing papers on Sex Work & the Law, and Criminalisation of Clients.

that even where sex workers are able to register and work, TSW are often excluded. Like all sex workers, TSW are heavily stigmatised around the world and contexts of varying levels of criminalisation exist to fuel this stigma. For TSW this is compounded by laws that criminalise acts associated with transgender people, therefore often work without the right of protection of the law.

The Issues and Needs of Trans Sex Workers

Violence Against Trans Sex Workers

Trans sex workers in many parts of the world are targets for violence, including physical, sexual and psychological violence and hate crimes based on transphobia and whorephobia. The context in which trans sex workers work can have an impact on the types and levels of violence faced. Traditionally cisgender women and men have occupied indoor sex work premises. For various reasons, many TSW around the world have often chosen to work outdoors. Whilst it may not always be the case that people working outdoors are more susceptible to violence, TSW do note that violence from a range of people is commonplace in their lives. Working outdoors often means a lack of the security measures that would sometimes be put in place in indoor locations. Perpetrators of violence against TSW include, but are not limited to, passers-by, law enforcement officials, people who pose as clients to commit violence, gangs, and groups who target TSW based on transphobic hate.

Transphobic attitudes in societies can fuel violence based on hatred. TSW, particularly those who work outdoors, are a visible population, easily targeted for acts of violence and hate crimes, resulting in rapes, beatings, public humiliation and at times murder⁴. Regular police interference with the work of street-based sex workers can also heighten the risk of violence as sex workers have less time and space to negotiate with clients and carry out a personal assessment of their character. Police forces and individual police officers have been known to perpetrate violence against TSW, particularly in contexts of criminalisation – where laws that criminalise sex work and/or trans behaviour fuel a sense of impunity for police officers who target this group.

Discrimination

The most common issue identified by TSW was discrimination, which remains high amongst the priorities of TSW groups to mobilise and fight against. Discrimination against trans people is commonplace across the world and impacts on their access to many basic provisions and rights. Whilst discrimination is an issue that impacts many minority groups, TSW are often not protected by anti-discrimination policies and/or legislation⁵ – leaving little recourse to justice in cases of rights violations and lack of appropriate support in accessing services. For TSW, discrimination may be targeted at gender identity and/or their work as sex workers – meaning TSW often experience what has come to be known as a dual context of discrimination⁶ in which transphobia and whorephobia combine.

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4 For more information see NSWP, 2013.

5 Anti-discrimination laws that specifically include gender identity as grounds for discrimination exist only in Croatia, Ecuador, Hungary, Italy, Serbia, Sweden and some parts of Australia. There are law proposals that aim to include gender identity as grounds for discrimination in Argentina, Australia, Brazil, Chile, Japan, Mongolia, Namibia, Norway, the Philippines, Poland, Puerto Rico, Switzerland and Venezuela.

6 In some countries trans people, mainly trans sex workers, are harassed by public officials in a routine manner through laws which do not criminalise transgenderism or crossdressing. These laws include anti-nuisance, loitering or traffic laws. This is a general policy in many countries in Africa, Asia, Central and South America, and in Turkey. For more on this, see Balzer & Hutta, 2012.

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Discrimination in Access to Education/Employment

Discrimination against trans people in general can act as a significant barrier to education and employment opportunities. Trans people may be reluctant to access education services due to their position as a minority and the accompanying stigma attached to this. Furthermore,

a lack of anti-discrimination legislation/policy for trans people allows employers to exercise discrimination against trans people in hiring and firing practices. The high representation of trans persons in sex work around the world is arguably partly a result of this discrimination experienced by trans people in accessing education and alternative employment. Sex work for some TSW is seen as an opportunity to work without dealing with the social transphobia that can exist in other employment. Furthermore, trans people often find working amongst other trans people to be a

source of support and sex work can often provide a sense of community that may not exist in settings where trans people represent a very small minority – e.g. education settings and other employment settings.

Discrimination in Access to Housing

Many TSW experience difficulties in accessing basic housing services alongside other social security services that exist as a safety net in some countries for those in need. TSW note that they are often forced to pay above the average price for rent due to discrimination by landlords based on their gender and their work status. It is commonplace for landlords and/or neighbours to file complaints against TSW due to their personal feelings against them, which can result in homelessness and/or a lack of safe spaces to carry out their work. TSW also complain of increased raids on their homes by police and in situations where legal means cannot be used to make TSW leave their apartments; cases have emerged of residents starting campaigns of threats and violence against them.

Discrimination in Access to Justice

Lack of anti-discrimination legislation and policies can contribute to the barriers experienced by TSW in accessing justice, and the experiences of TSW demonstrate widespread discrimination by those involved in the justice process, including police, public officials, legal practitioners and judges. This discrimination can further discourage TSW from bringing forward complaints of violence, knowing that they are likely to experience transphobic and/or whorephobic attitudes at the various points of access. Many TSW state that police officers are reluctant to carry out effective investigation into their complaints and that they are often not believed at the point of disclosure. Furthermore, experiences suggest that perpetrators of violence against TSW are awarded impunity for their crimes, with many perpetrators going unpunished or receiving inappropriately short sentences⁷.

7 Hammerberg, 2009, pp. 36 - 37; Council of Europe Office of the Commissioner for Human Rights, 2011, pp. 54–62; Balzer and Hutta, 2012.

Discrimination in Access to Appropriate Health Care

The high prevalence of HIV amongst sex workers, including TSW, has often led them to be targeted by inappropriate and often abusive health care interventions, including mandatory/coercive testing, forced treatment, forced registration, and biometric tracking/profiling of sex workers. Health care services for TSW often fail to take account of their specific needs (or provide trans-specific treatment at extremely high costs). Lack of provision of medically supervised hormone therapies and gender reassignment treatments forces some TSW to travel abroad or seek alternatives from the black market. TSW in many countries experience discriminatory attitudes at the point of accessing health services. Due to criminalisation, TSW also fear possible prosecution if they disclose their trans identities or engagement in sex work when accessing health care.

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Conclusions and Recommendations

TSW across the world can be seen as a marginalised community, due to being a minority and the issues identified and outlined throughout this paper, including criminalisation, violence and discrimination. The following recommendations are offered (expanded recommendations are given in the full version of this briefing paper):

Recommendations to policy makers and programme designers

- ▶ Implement international human rights standards without discrimination and prohibit discrimination on the grounds of gender identity, gender expression and sex work status in all sectors, including health care, housing, employment, commercial services, and education.
- ▶ Eliminate laws that criminalise 'homosexuality' or 'crossdressing'; and cease implementing discriminatory laws that are used to target trans people.
- ▶ Enact hate crime legislation that affords specific protection for trans people against transphobic violence and incidents, which could also be utilised by TSW.
- ▶ Support sex workers' calls to decriminalise sex work.
- ▶ Ensure legal and policy-based protection for TSW victims of police brutality, addressing impunity and lack of fair trial in investigation and prosecution processes.

Recommendations to donors

- ▶ Ensure that funding is allocated to communities of TSW who are actively engaged in activism and advocacy for the realisation of the rights of TSW.
- ▶ Ensure that funding for HIV prevention takes into account the specific needs of TSW and does not assume that these needs are fully met in programmes aimed at sex workers in general, or programmes targeting men who have sex with men.
- ▶ Work with TSW groups to develop programmes that aim to respond to the urgent needs of TSW, such as tackling crisis situations, murders, extreme violence, etc.

Recommendations to those who want to support and work with TSW

- ▶ Respect the diversity of the TSW community and ensure that services cater to the multiple realities and needs of TSW.
- ▶ In all services provided ensure that opportunities are created for the self-organisation and mobilisation of TSW.
- ▶ Support sex workers' organisations in their fight for the decriminalisation of sex work.

References

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