

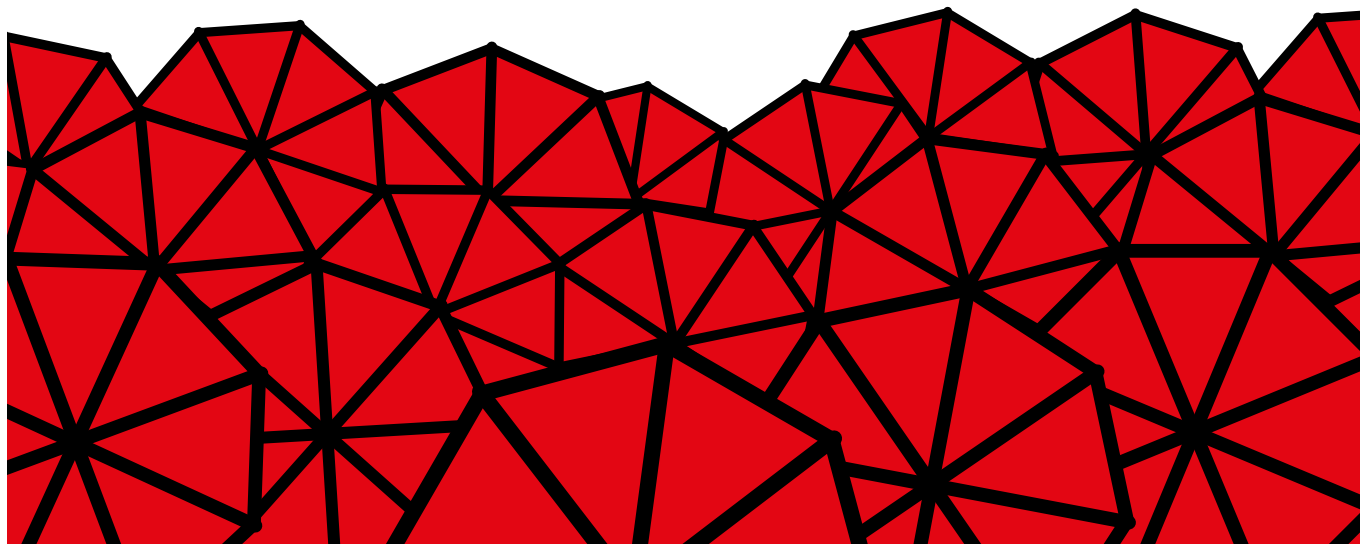


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Global Network of Sex Work Projects
Promoting Health and Human Rights

**BRIEFING
PAPER**

Sex Workers' Lack of Access to Justice



Sex Workers' Lack of Access to Justice

Sex workers face a wide range of barriers to accessing justice, both as victims of crime and when charged with crimes. Criminalisation of sex work, stigma and discrimination, and police corruption and violence limit the reporting of crimes to the police, the successful prosecution and conviction of perpetrators, and access to victim compensation and support services. Where sex work is criminalised, sex workers' rights to protection from the law and freedom from arbitrary detention are systematically violated by police and the judicial system. Sex workers around the world are frequently excluded from protection of employment legislation and labour dispute mechanisms and experience discrimination in civil courts. This briefing paper examines the main challenges faced by sex workers and identifies the rights violations they experience when seeking to access justice.

International Guidelines

Access to justice is widely recognised as a fundamental human right clearly established in international human rights law. The right to be protected under the law is also one of eight fundamental rights

outlined in the NSWP Consensus Statement on Sex Work, Human Rights and the Law.¹

This right is essential to the realisation of the human rights of sex workers.

The Universal Declaration of Human Rights (UDHR)² asserts key aspects of the right to access to justice. It enshrines the right to “equal protection of the law”, including “effective remedy” for rights violations and protection from arbitrary violation of the right to privacy.

The UDHR also protects the right to due process, or fair treatment when accused of a crime.

The Declaration asserts that “no one shall be subjected to arbitrary arrest [and] detention”, or to “cruel, inhuman or degrading treatment or punishment”. Everyone charged with a crime has the right to “be presumed innocent until proven guilty”, to a “public trial,” and to “all the guarantees necessary for...defence.”

Access to justice is widely recognised as a fundamental human right clearly established in international human rights law. [...] This right is essential to the realisation of the human rights of sex workers.

1 NSWP, 2013, “NSWP Consensus Statement on Sex Work, Human Rights, and the Law.”

2 UN, 1948, “Universal Declaration of Human Rights.”

Articles 9, 10, 14 and 15 of the International Covenant on Civil and Political Rights (ICCPR) further elaborate on the right to due process³. The ICCPR states that all arrested persons have a right to be informed “promptly and in a language which [they] understand” of the reason for their arrest, of any charges against them, and to a timely trial. The ICCPR also enshrines the right to appeal cases, to an interpreter, to free legal aid, and to compensation if unlawfully arrested or detained.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines torture and establishes member states’ obligations to combat it⁴. The Convention explicitly

...(CEDAW) calls on states to “abolish discriminatory criminalization” and ensure that “all justice systems...are secure, affordable...and adapted and appropriate to...women, including those who face intersectional or compounded forms of discrimination.”

prohibits the intentional infliction of mental or physical suffering by state officials to intimidate, coerce, punish, or “for any reason based on discrimination of any kind.” It also requires states to “regularly review arrest, detention, and imprisonment...rules, instructions and practices” and to train police and other state officials “with a view of preventing torture”.

UN Treaty monitoring bodies and the UN General Assembly have also addressed access to justice. In their General Recommendation on Women’s Access to Justice, the Committee on the Elimination of Discrimination Against Women (CEDAW) calls on states to “abolish discriminatory criminalization” and ensure that “all justice systems...are secure, affordable...

and adapted and appropriate to...women, including those who face intersectional or compounded forms of discrimination.”⁵

Methodology

National Consultants in ten countries conducted focus groups and in-depth interviews with sex workers using a standardised questionnaire. This in-depth country work, carried out in Argentina, Côte d’Ivoire, Ecuador, Myanmar, Norway, Singapore, Tanzania, The Republic of North Macedonia, Trinidad and Tobago and the USA, was supplemented by a global e-consultation amongst NSWP member organisations using the same questionnaire, available in several languages. 18 members responded.

In total, 207 female, male and transgender sex workers took part in the focus groups and interviews, including both documented and undocumented migrant sex workers, sex workers living with HIV, sex workers who use drugs, sex workers from both rural and urban settings, and LGBT sex workers.

3 UN, 1966, “International Covenant on Civil and Political Rights.”

4 UN General Assembly, 1984, “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.”

5 CEDAW Committee, 2015, “General Recommendation 33: On Women’s Access to Justice.”

Criminalisation and Legal Oppression

Sex workers face laws, procedures, regulations and practices that directly or indirectly discriminate against them.⁶ Legal frameworks governing sex work differ around the world, but in most countries sex work is still criminalised via laws that prohibit the sale, purchase, organisation or promotion of sex work. Fear of being charged with offences related to sex work is a primary barrier to reporting crimes to the police.

“One of the biggest barriers to justice for sex workers is a fear born of the criminalisation of sex work. ‘If I were robbed, I wouldn’t even dare to report it, because I am working as an illegal sex worker,’ one [sex worker] shared. ‘We scared family know, we scared police catch, we scared the government, because we do wrong,’ another said. This fear is common, and consistent with what Project X observes across cases.”

PROJECT X, SINGAPORE

Increasing access to justice for sex workers requires that state institutions address laws and practices that prevent sex workers from reporting crimes.

In a report on state and non-state violence against sex workers in Central and Eastern Europe and Central Asia, Sex Workers' Rights Advocacy Network (SWAN) point out that when sex workers are unwilling to report crimes to the police, “they are making a very calculated and informed decision about the risks for them, their colleagues and their families”⁷. Increasing access to justice for sex workers requires that state institutions address laws and practices that prevent sex workers from reporting crimes.

“...Sex workers working together were violently attacked by ‘clients’, after which they had severe injuries and were in need of immediate medical attention. Once they were hospitalized and received urgent health services, police inspectors came in for questioning, after which they determined that there was a case of prostitution in question and immediately took legal actions against the sex workers... All of these victims were taken to court and one of them was...convicted for having provided their [home] for the purposes of prostitution.”

STAR-STAR, THE REPUBLIC OF NORTH MACEDONIA

Anti-trafficking laws and practices that seek to ‘rescue’ or rehabilitate sex workers can also be a barrier to justice, especially for migrant sex workers⁸. In some countries (including India, Indonesia, Malaysia, Sri Lanka and Thailand⁹) sex workers and individuals who sell sex – deemed victims of trafficking – may be sentenced to compulsory ‘rehabilitation’ or ‘re-education’. Rehabilitation sentences are often longer than the typical criminal or administrative sentence and detention may exceed the maximum sentence duration for the offence committed.

6 NSWP, 2019, “Case studies: How sex work laws are implemented on the ground and their impact on sex workers.”

7 SWAN, 2015, “Failures of Justice: State and Non-State Violence Against Sex Workers and the Search for Safety and Redress.”

8 NSWP, 2018, “Briefing Paper: Migrant Sex Workers,” 7-8.

9 UNAIDS, UNDP, UNFPA, 2012, “Sex Work and the Law in Asia and the Pacific.”

When detained as a witness rather than as a suspect or perpetrator, sex workers can be held for long periods with no legal counsel or rights.

Where legislation allows for forced witness testimonies in human trafficking cases, sex workers may be subjected to involuntary confinement while waiting for court proceedings to begin. When detained as a witness rather than as a suspect or perpetrator, sex workers can be held for long periods with no legal counsel or rights. In Singapore, many migrant sex workers fear contact with the police not just because they fear deportation, but also because they fear being targeted by anti-trafficking initiatives and being forced to remain in Singapore as a witness.

“Project X documented a case of an Indian sex worker who was brought to Singapore to work for a month. After she was robbed by a client, she reported the robbery to the police. The police became more interested in investigating the agent who brought her to Singapore, for trafficking charges. In the end, the sex worker was detained against her will for over a year in Singapore, while investigations proceeded. She passed away of acute appendicitis while detained.”

PROJECT X, SINGAPORE

Vague laws often facilitate the targeting of marginalised groups. In Tanzania, sex workers may be arrested for not following gender norms:

“The current legal framework allows police to arrest women on the basis of how they dress, for being out on the street “too late” and for walking in certain areas. Sex workers are arrested not for anything they may have done but on the basis of their appearance and where they chose to walk. This constitutes a form of gender-based discrimination and violates women’s right to equal protection under the law.”

NATIONAL CONSULTANT, TANZANIA

The very real risk of criminalisation, detention, deportation and legal sanction means that sex workers often do not report violations of their rights to the authorities, effectively denying them access to justice.

Abusive law enforcement practices

Sex workers experience systematic physical, sexual and verbal abuse from law enforcement officers¹⁰.

“Our freedom of movement in the streets is violated. We are abused physically and verbally, using the justification that we’re committing a “public scandal” or are dressed inappropriately – laws that were abolished a long time ago, but serve as an excuse to intimidate and harm female sex workers. We are pepper sprayed. We are hit because we walk through places that, according to them, walking is forbidden for people like us.”

SEX WORKER, ECUADOR

“[For LGBT sex workers,] we generally observe physical violence, forced anal examinations, seizure of lubricating gels and condoms to constitute evidence, prolonged detentions in cells at the police or gendarmerie, physical torture, imprisonment in maximum penalties and the payment of large sums of money against freedom.”

AVENIR JEUNE DE L'OUEST, CAMEROON

“Police officers often come at night to force us to have sex with them. When we refuse, they threaten the hotel manager to ban us from working there.”

SEX WORKER, CÔTE D'IVOIRE

¹⁰ NSWP, 2017, “Policy Brief: The Impact of Criminalisation on Sex Workers’ Vulnerability to HIV and Violence.”

Police frequently threaten sex workers with extra-legal action (...) or use harassment or intimidation to obtain a confession.

Sex workers are also subjected to arbitrary arrests, extortion, unlawful detainment and coercion. Police frequently threaten sex workers with extra-legal action (e.g. notification of friends or family) or use harassment or intimidation to obtain a confession. For example, in

Hong Kong, Amnesty International found that police officers: coerced false confessions by threatening to call sex workers' family members or arrest others; misinformed sex workers about the charges against them; subjected them to lengthy detention or interrogation; and failed to inform sex workers of their rights.¹¹ Police may initiate questioning under the guise of helping or supporting an alleged victim. In Canada, Butterfly

– Asian and Migrant Sex Workers Network documented a case where police identified themselves to a migrant sex worker as a team that helps victims. The sex worker did not realise the individuals were police officers and provided a statement that was later used to charge her for working illegally.¹² Many sex workers decide to pay fines or bribes rather than risk being detained and taken to court, even in cases of arbitrary arrest. Poor and isolated sex workers are especially vulnerable to violations of justice.

“Arbitrary arrests and detentions, fabricated evidence are common police practices. So, for example, in December 2018, the police forced a sex worker to sign a confession without evidence, allegedly she herself confessed, [they] threatened to plant drugs and start a criminal case for drugs, and also threatened to take away housing.”

LEGALIFE, UKRAINE

“6 months ago, I was arrested by police. They demanded 50,000 MMK (35 USD) and I had no money. They took me to the police station and told me to call my friends or family to bring money to the police station within 5 hours. I had no friends [or family] who can give me money within a short time. I was in police station for the whole night. During the night I have had sex with two policemen. In the morning they sent me to the court. In the court I could not spend money for lawyer, so I was in jail for 3 months.”

SEX WORKER, MYANMAR

“Without offence, the police raided the premises of sex workers and [took them to the police] base. They ended up...extorting monies from them...Those who could afford various sums of monies were released and those [who] could not were detained for several days until sympathizers came to their rescue.”

COMMUNITY AND FAMILY AID FOUNDATION, GHANA

These experiences of abuse prevent many sex workers from reporting crimes against them. Migrant sex workers, outdoor sex workers, sex workers who use drugs, and transgender sex workers experience even greater barriers.

“No one reported they would call the police when a crime was being committed against them. They all expressed that whatever was happening to them, the police would make it worse. [One sex worker] specifically described being violently beaten, in her own home, and then being sent to jail. She attributes this treatment to her race and gender identity.”

NATIONAL CONSULTANT, USA

¹¹ Amnesty International, 2016, “Harmfully Isolated: Criminalizing Sex Work in Hong Kong,” 27-30.

¹² Butterfly, 2018, “Behind the Rescue: How Anti-Trafficking Investigations and Policies Harm Migrant Sex Workers,” 13.

Discrimination and bias in the legal system

“When a sex worker is a victim, whether they’re a woman, transgender or a man, the main challenge is the legal system. They often don’t care about our lives. The system doesn’t work with immediacy or speed because of prejudice, stigma and discrimination.”

ASOCIACIÓN GOOVER, ECUADOR

Sex workers experience discrimination at all stages of the justice system. Reports of crimes are dismissed by police officers and sex

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workers receive unjust rulings from judges in the court system. Crimes against sex workers are not taken as seriously as crimes against others and their testimony is given less weight than that of their perpetrators.

Crimes against sex workers frequently do not even reach court because their reports are dismissed or ignored, either due to bias or bribery.

“When police officers witness a crime or acts of violence by other people against sex workers...when they simply observe, [they] do not intervene, and when a sex worker decides to write a statement about the crime, they do not respond or refuse to accept the statement, threatening that they will issue a citation for prostitution with the words ‘Do not engage in prostitution and you won’t be raped.’

LEGALIFE, UKRAINE

“One known client took my mobile and money and seriously beat me. I had a cut in my hand, so I decided to file a case and I went to the police station. [The] police listened to everything and took my complaint. Police also went to my client’s home and talked with the client, but they did not arrest the man. They took money from him and after few days police called me [to] the police station. Police told me that I took lots of money from the man and he also filed a case against me. I was surprised and police told me that I have to give back the money I took. I had to give money to police, and I decided [to] never go to police again, whatever happens in my life.”

SEX WORKER, MYANMAR

These experiences of discrimination and bias extend to the courts. Laws that prevent sexual assault victims’ prior sexual history from being introduced in court do not always prevent evidence of sex work or sex work-related arrests being introduced into evidence. Prosecutors and judges frequently express bias towards sex workers. They often fail to press charges for crimes against sex workers and perpetuate stigmatising attitudes during trial. In Turkey, after three men were charged with the violent robbery and sexual assault of a transgender sex worker and activist, the charges were reversed despite the assailants consistently harassing the victim following the crime. In Kenya, when a sex worker reported an assault by a client, the prosecutor postponed the case for a year and ultimately told the sex worker her court file was lost¹³.

¹³ KESWA and BHESP, 2017, “‘Aren’t We Also Women?’ Kenya Sex Workers’ Shadow Report Submission to the United Nations Committee on the Elimination of Discrimination Against Women 68th Session.”

Sex workers also face bias within the legal system when seeking assistance with custody issues. A frequent concern among sex workers was that their status as sex workers could be used against them in child custody cases¹⁴. Many sex workers reported having to lie about their work in order to access rights afforded to others.

“Being a sex worker...opens up a host of other issues when dealing with any legal matter. Sex workers have been discriminated against with child custody hearings, as most judges deem sex workers unfit parents. In order to access housing, in our country, most times a job letter is required, one of which sex workers are unable to obtain, making it a difficult process to go through.”

NATIONAL CONSULTANT, TRINIDAD AND TOBAGO

Legal aid and accessibility

Many sex workers are unaware of their legal rights and lack equal access to legal information and legal literacy programmes. Services for victims of crime, such as shelters and free legal aid, are often unavailable to sex workers, leaving them particularly vulnerable to violence and human rights breaches.

“There was general consensus amongst all the [Focus Group] participants that sex workers have absolutely no access to victims services provided by the state, and in the rare situations when the same are provided, all of them refused to disclose their status as sex workers, knowing that if they do so, they would be discriminated against.”

STAR-STAR, THE REPUBLIC OF NORTH MACEDONIA

Many sex workers report that non-governmental organisations (NGOs – particularly sex worker-led organisations – are their main source of

accessible and affordable legal aid. The lack of state-provided legal aid is therefore a greater challenge for sex workers that live in rural areas or in cities without active and/or sufficiently well-funded NGOs that specifically serve sex workers. Where legal aid and support is scarce, sex workers are frequently deprioritised by both state and non-state services due to discrimination.

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“Our legal system does not have room...there is lack of legal aid... there is vacuum when it's come to such support and service, and so discrimination sets in when due to financial background, a sex worker he or she is denied [prompt] legal aid [and access to the legal system].”

COMMUNITY AND FAMILY AID FOUNDATION, GHANA

The failure of law enforcement to inform individuals of their rights and available support services presents another challenge. Sex workers in several countries reported that while the state provides legal aid and language interpretation, law enforcement officers rarely offer these services unless they are requested. As a result, many sex workers do not access the legal aid that they need and are entitled to, in order to fully access justice.

¹⁴ INPUD, MPact, NSW, 2018, “Policy Brief: The Impact of Stigma and Discrimination on Key Populations and Their Families”.

For migrant sex workers, a lack of interpreters and information in their own language may make any available legal aid inaccessible. In Trinidad and Tobago, interpreters are not readily available and most lawyers offering free legal aid do not know how to negotiate and overcome language barriers when meeting migrant workers.

“Whilst legal aid clinics are available to the general public, including sex workers going through the legal system, the majority of legal aid lawyers are underpaid and overworked with other social cases, causing them to be hesitant to take on the woes of sex workers. Very few and far in between prominent lawyers retain pro bono cases. In the cases of Venezuelan and other Spanish speaking immigrants, most lawyers are untrained for the language barrier, making it much more difficult for these persons to access justice, or to be informed of their legal rights.”

NATIONAL CONSULTANT, TRINIDAD AND TOBAGO.

Lack of Labour Rights

Since sex work is widely criminalised, most sex workers are denied access to the benefits and rights afforded to other workers under labour laws. Labour rights are key to empowering workers, ensuring safe and secure working conditions, and promoting access to benefits like medical leave, minimum wages, pensions and social security.

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“It is widely known that in Trinidad and the wider Caribbean, sex workers have no labour rights or unions to fight on their behalf, as doing so would be illegal. Due to this sex workers have no rights to NIS (National Insurance) as they are unable to pay taxes or even declare their earnings from sex work, no access to pension, no legal channels to go through if they are being exploited, no laws even put in place to see them protected.”

NATIONAL CONSULTANT, TRINIDAD AND TOBAGO

The right to freedom of association, including unionisation and collective bargaining, is a fundamental labour right enshrined within the UDHR. Sex worker-led organisations are frequently not given status or recognition as labour unions, and in many countries, sex workers that organise together are targeted by law enforcement and the legal system. In some countries, anti-trafficking laws have been used to target organisations working towards unionisation.

In Angola, a sex worker activist reported being targeted by law enforcement:

“Personally I [was] arrested last year and accused of encouraging prostitution by the police, and I was kept in the police cell for 15 days. Yes, this discourages sex workers from reporting crimes to the police.”

ACÇÃO DE SOLIDARIEDADE E SAÚDE COMUNITÁRIA, ANGOLA

In Mexico, Alejandra Gil, a well-known sex worker and activist was targeted due to her work as an organiser and was ultimately sentenced to 15 years in prison on charges of 'trafficking'.

"This situation practically caused the death of the organisation and the work that for more than 30 years have been carried out to help women sex workers in Mexico as we were violently stigmatised and designated as a trafficking organisation used for money laundering. After this nobody wanted to get involved out of fear of being linked to Alejandra and being accused of trafficking in persons."

APROASE, MEXICO

Sex workers often lack protection against workplace discrimination and injury and the right to compensation...

Sex workers often lack protection against workplace discrimination and injury and the right to compensation for lost income or injuries sustained while working. For example, in Norway, victims of violence can access compensation for income lost due to an assault, where the assault leads to an inability to work. Sex workers in Norway, where the purchase of sex is criminalised, are denied this right. Norwegian authorities argue that compensating sex workers for lost income would legitimise sex work, undermining their 'end demand' approach to sex work.

"[The supreme court] denied compensation to sex workers claiming that it would undermine the justice system because, though being a sex worker is legal, being a client and purchasing said services is illegal, and giving sex workers who are victims of violence the right to compensation would be setting a "dangerous" precedent and normalization (of being a sex worker). In the judge's words:

'In my opinion, having victim's compensation for prostitution income might create an acceptance towards an undesirable form of activity and counteract the current perceived dampening effects of demand by criminalizing the purchases of sexual services.'

NATIONAL CONSULTANT, NORWAY

Sex workers in countries or states where sex work is recognised as a form of labour can still experience the denial of their labour rights. Many sex workers that offer their services in legal brothels experience exploitation and abuse from managers, and face barriers in reporting this.

"One [participant] reported an incident to her manager when she worked at a legal brothel. She was sexually assaulted by a client. Management discouraged her from reporting the incident to law enforcement, or from discussing it with fellow workers at the brothel. Whorephobia within their own communities, the preference of brothel owners, and the prejudice of local law enforcement officers all conspire to keep sex workers from reporting crimes committed against them, whether it's domestic violence, a predatory manager, or an abusive client."

NATIONAL CONSULTANT, USA

In Singapore, brothel ownership is technically illegal, but in designated areas the government allows sex workers to operate in selected brothels that are regulated and monitored by the police. Sex workers employed at these brothels reported extremely poor working conditions, despite police regulation.

“One sex worker, who formerly worked in a licensed brothel, described how licensed sex workers were only permitted four workdays off in a month. If the sex worker wanted more days off and was not covered by medical leave, she was subject to a brothel fine, typically ranging from S\$70 (US\$51) to S\$100 (US\$73).”

PROJECT X, SINGAPORE

Intersecting Discrimination

Many sex workers face intersecting forms of discrimination that impact their access to justice and their treatment within justice systems. Sex workers frequently experience compounded discrimination in the

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Migrant sex workers, sex workers who use drugs, and sex workers living with HIV face additional prejudice, exclusion from services, and forms of criminalisation.

LGBT sex workers are vulnerable to violence based on their sexual orientation and/or gender identity and may avoid contact with the police to avoid harassment, arrest or outing as a member of the

LGBT community¹⁵. Transgender sex workers often face transgender-specific abuse, in addition to the stigma they face as sex workers.

“When you’re pre-operative, you go to the [police] station, you’re treated like a man. They ask you to take off all your clothes, and then they’ll start embarrassing you by saying, ‘You have a dick, your dick is big, why you become like that? You should be ashamed of yourself.’”

TRANSGENDER SEX WORKER, SINGAPORE

Sex workers with intersecting identities often face additional barriers when attempting to access legal and victims' services. In Argentina, transgender sex workers and sex workers who use drugs reported problems accessing victims' services such as shelters.

“The resources offered by the provincial and national government are almost non-existent and oftentimes sex workers who are victims of gender-based or domestic violence, especially sex workers who use drugs do not have access to shelters, neither for them nor for their family. We have had cases in which trans sex workers have to be admitted to hospitals, even when in good health, because they do not have shelters that accept transgender people”

AMMAR CÓRDOBA, ARGENTINA

Many female sex workers experience discrimination based on their gender. They may be punished simply for deviating from gender-based sexuality norms or profiled based on their dress or location. Sex workers in Tanzania and Singapore reported that the police will arrest women based on how they look and dress, whether they are out “too late” or for standing around in the “wrong” area.

¹⁵ MPact, NSWP, 2018, “Briefing Paper: The Homophobia and Transphobia Experienced by LGBT Sex Workers.”

In the USA, sex workers reported that race, and being black in particular, played a major role in their mistreatment within the legal system:

“As a black woman, it’s my life,” says A Name You Will Not Say, she attributes most of her interactions with police to the way poor black people are policed. At any given moment she has five or six friends or family members incarcerated, which makes dealing with the criminal justice system a daily ordeal.”

NATIONAL CONSULTANT, USA

Sex workers living with HIV also face intersecting barriers. In many western countries, HIV-related stigma is connected to prejudice against LGBT individuals. A sex worker living with HIV was prohibited from entering Norway, where selling sex is not illegal. His HIV status was exposed when he attempted to travel to the country for Pride:

“...I had packed a lot of condoms, in addition to lube, clothes and adult toys. I might sell [sex], I might not, it wasn’t illegal, and I wanted to be prepared for fun...The officer in charge checked my suitcase and asked about the condoms and I told them about my HIV status and that (at the time) I was gay and wanted to protect myself...They said they thought I was going to sell services and decided to detain me for 24 hours. They put me in a cell and when they came to get me out, I saw that they had printed an A4 page with my face (booking) number and in large letters HIV positive written under it and taped it to my door so anyone walking past the area could clearly see it. They then sent me back to Germany by plane, and made me pay for my ticket, and then told me I could come back in 24 hours if I wanted to.”

SEX WORKER, NORWAY

In Norway, it is illegal for law enforcement officers to share personal information, including HIV status, unless ‘necessary’. Confidentiality breaches for people living with HIV were also reported in other

countries. In Tanzania, participants reported that police officers in detention facilities would often go around publicly asking who antiretroviral pills belonged to.

As noted throughout this briefing paper, migrant sex workers experience disproportionate barriers to accessing justice. These include language, the risk of arrest, prolonged detention and deportation, as well as racial profiling by the police. Several NSWP member organisations from Africa and Latin America highlighted that conservative norms, municipal administrative laws, transportation barriers, and the lack of

sensitised services available outside larger cities leave rural sex workers particularly vulnerable:

“Sex workers operating in rural areas of DR Congo where our association is active, are more than ever victims and prone to harassment and ransom during the exercise of their work. Police, military (law enforcement, security and intelligence agents) harass them and demand bribes. They are arrested and detained daily. Not only law enforcement officers, but also men from the village. They have trouble going to court for fear of legal repression.”

FERAPAD, DRC

...migrant sex workers experience disproportionate barriers to accessing justice. These include language, the risk of arrest, prolonged detention and deportation, as well as racial profiling by the police.

“Since 2004, the police in Ecuador do not arrest women who engage in sex work in urban areas, but in rural areas it is different because sex work zones are distant from the region capital, [the police] abuse their power to blackmail and manipulate women sex workers. [However,] it is reduced when women have been taught their rights and that no police officer can ask for their documents or health certificate, blackmail or ask for sexual service.”

PLAPERTS, ECUADOR

Recommendations

- **Decriminalise all aspects of sex work.** Governments, policymakers and advocates must actively pursue the full decriminalisation of sex work, including sex workers, clients and third parties. Criminalisation is a major barrier that dissuades sex workers from reporting crimes to the police and facilitates abuse and violence from law enforcement officers.
- **Invest in education and sensitivity training for law enforcement officers, judges and others working in the legal system.** Reducing bias and discrimination is necessary to secure sex workers' access to justice.
- **Hold law enforcement officers accountable for acts of violence and abuse against sex workers and ensure that victims of state violence have an enforceable right to compensation.**
- **Prioritise community-based provision of legal aid and training in legal literacy, including through training sex workers as paralegals.** Sex workers and sex worker-led organisations are best positioned to promote and disseminate knowledge of their rights, legal systems and services, a key part in increasing sex workers access to justice.
- **Ensure the accessibility, acceptability and affordability of legal services for sex workers who are victims or accused of crimes.** Governments should ensure that state services are accessible and welcoming to sex workers. There is also an urgent need to increase funding for NGOs that offer legal services, education and information to sex workers.
- **Actively seek opportunities for partnership and collaboration between sex workers' rights organisations and organisations working for access to justice for other marginalised groups.** It is particularly relevant to collaborate with organisations that work for marginalised groups that are disproportionately represented within sex work, such as LGBT people, racial minorities, migrants, HIV positive people and women.

Conclusion

A range of barriers impede sex workers' access to justice. Many countries have laws that discriminate against sex workers and criminalisation makes reporting crimes to the police a significant risk. Sex workers are frequently subjected to abusive law enforcement practices, including unlawful and arbitrary arrests and detention. Due to governments' failure to recognise sex work as work, most sex workers lack access to labour rights even in countries where selling sex is legal. Sex workers face bias and stigma at every stage of the legal system, from engagement with law enforcement to prosecution and sentencing in the courts. Crimes against sex workers are taken less seriously than crimes against others, and when sex workers are charged with crimes, they are frequently denied their fundamental rights. A lack of knowledge of their rights, the legal system and victim services limits access to justice. Further marginalised populations of

sex workers, such as those who are transgender, HIV-positive, people of colour, people who use drugs and migrants face additional barriers navigating the legal system.

The lack of access to justice that sex workers face occurs in a context of inequality caused by discriminatory laws, intersecting discrimination, and the failure of states to ensure that legal systems are accessible and equitable for all.

The miscarriages of justice sex workers face are severe human rights violations that leave sex workers vulnerable to violence while excluding

them from equal protection under the law. In order to promote sex workers' safety, health and well-being, governments must acknowledge and address these violations.

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The Global Network of Sex Work Projects uses a methodology that ensures the grassroots voices of sex workers and sex worker-led organisations are heard. The Briefing Papers document issues faced by sex workers at local, national, and regional levels while identifying global trends.

The term 'sex workers' reflects the immense diversity within the sex worker community including but not limited to: female, male and transgender sex workers; lesbian, gay and bi-sexual sex workers; male sex workers who identify as heterosexual; sex workers living with HIV and other diseases; sex workers who use drugs; young adult sex workers (between the ages of 18 and 29 years old); documented and undocumented migrant sex workers, as well as and displaced persons and refugees; sex workers living in both urban and rural areas; disabled sex workers; and sex workers who have been detained or incarcerated.



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Health and rights  for key populations

 **ROBERT
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NSWP is an alliance partner of Bridging the Gaps – health and rights for key populations. This unique programme addresses the common challenges faced by sex workers, people who use drugs and lesbian, gay, bisexual and transgender people in terms of human rights violations and accessing much-needed HIV and health services. Go to: www.hivgaps.org for more information.