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

Kyrgyzstan Case Study
Participant Demographics

In preparing this case study eighteen sex workers, two lawyers and four police officers were interviewed or joined a focus group. The eighteen sex workers included fifteen women, one man and two transgender individuals. The female sex workers represented various sectors: street (six workers), salon (six workers), and saunas and hotels (three workers). The group included two sex workers living with HIV. The age of participants was 19 to 40, including one person under the age of 20, six people aged 21-25, nine people aged 26-30, and two people aged 31-35.

The police officers who took part were from the three districts of Bishkek— where sex workers are often detained— including one retired officer who is friendly to the organisation working with sex workers.

Sex Workers’ Experiences

Most sex workers found it difficult to answer questions regarding the law because new legislation came into force in January 2019. The opinions of sex workers changed depending on where they worked: street, salons and hotels. Each group believed that it was vulnerable to harassment by the police, even though in Kyrgyzstan individual adult sex work is not punishable by law.

Many of the sex workers interviewed believe that the article on petty crime defined in the code of minor offences can be applied to their work. All eighteen sex workers said that the police most often applied the petty crime clause to them (sex workers). Until 2019, this petty crime law allowed for fines of 1,500 soms, or an administrative arrest for one to five days in the reception centre. Under the new legislation introduced in January 2019 the fines have increased to 60,000 - 80,000 soms or custodial restraint for up to six months.1

Focus group participants believed that police officers from different regions of the country share a similar attitude towards sex workers and say their priority is to extort money. Transgender sex workers say they do not engage in sex work in the south of the republic due to very high stigma and probable harassment— not only by law enforcement, but also by the general population, especially radical Muslim movements.

Participants said that street-based sex workers who work alone are subject to greater harassment than those who work with madams or via the internet. They believe these workers are more vulnerable because there is no one to act as an intermediary with the police. They say street-based sex workers are detained more often, find it harder to work and are harassed more often.

Sex workers working in salons said that street-based sex workers lose less of their income because their services are cheaper— so the police extort less from them than from those who work via websites or contact phones, who they consider more elite and higher earners. In addition, sex workers working in apartments risk being charged under the Criminal Code for ‘running a brothel’. If they are charged, it is necessary to pay a large bribe of up to $3000 (210,000 soms) or more to avoid criminal charges. In addition, police officers run ‘protection rackets’2 and sex workers, either by choice or force, pay into these protection rackets to avoid being charged. However, sometimes sex workers are still arrested even after paying into the protection racket and then must pay another bribe to be released.

1 Custodial restraint is not an ‘arrest’; the person must register with the police and is restricted to living in certain areas.

2 Protection rackets involve police officers who are paid regular bribes by sex workers in exchange for help during law enforcement activities such as raids. Sex workers might seek out certain officers, or they may be forced into an arrangement after being detained. The officers say they will release sex workers from detention, help them during raids, or intervene with clients who are behaving badly. However, some protection rackets collect their bribes and then do not help in exchange.
Transgender sex workers believe they are prosecuted more severely when their identity is revealed. They may also be subjected not only to humiliation and extortion, but also to threats of disclosure of status and gender identity. They may be threatened with outing to relatives or blackmailed to prevent this from happening.

Sex workers can also be deprived of parental rights, based on the argument that they lead an immoral life; so far in 2019 there have already been three cases where sex workers' children were removed and placed in orphanages.

To avoid contact with the police, sex workers are dispersed and avoid standing in 'safer' places. In addition to being forced underground, sex workers must agree to smaller fees and to more dangerous places of work. Clients have begun to demand that sex workers go with them to their rented premises or to their homes, resulting in more assaults by clients. Heavy policing also affects sex workers' ability to negotiate safe sex practices— sex workers may agree to sex without a condom in order to find a client quickly and not get into the hands of the police.

Today, working with an intermediary is the best option for sex workers, it helps them avoid police harassment and pay fewer bribes. However, when sex workers are detained, they can be forced to give information about their intermediary to law enforcement. If they are sex workers working independently from a salon, then one sex worker can be forced to report other sex workers for 'running a brothel'. The police also sometimes recruit sex workers to act as informants against other sex workers.

If transgender sex workers lose their intermediary they may find themselves in a more difficult situation— if they cannot source clients they are without an income, and will be forced to work outside where they are exposed to violence from the police and the public. Intermediaries are not just people who source clients for sex workers; websites also serve this function and are regularly shut down based on evidence from detained sex workers.

"Police officers are official bandits who constantly extort, threaten, humiliate, insult, mock and can use physical force."

Woman, 40 years old, street-based sex worker

"There are those police officers who help us, but there are few of them, more often these are some good personal relationships or for a certain monetary reward."

Woman 26 years old, working in salon

"In cases when we are attacked, we don't go to complain to the police or write a statement because you can get the following answer: You knew where you were going and what you were doing, so it's all your fault."

Woman, 19 years old, street-based sex worker

All participants in the focus group held negative attitudes towards police officers. They said the police do not have credibility. Only two participants said they would report a crime to the police, and added that they would then be afraid that more people would become involved— that police would just take bribes and close the case. Every participant said that they would be afraid
to write a statement if their rights were violated by the police themselves, because the harassment could be cruel.

Quotes by focus group participants:

“The police take us away no matter what, they don’t care if I have money or not, if I can feed my children, how I can go home if I don’t earn money. They cannot be called law enforcement officers - they are werewolves in uniform who have never been people.”

Woman, 32 years old, working by call (operating in a group in the car)

“If I don’t have money to give to the police, they can take me far out of town and leave me there, and I have to walk from there because I don’t have money for transport.”

Woman, 24 years old, street-based sex worker

“Now there are new laws, and we don’t know what will happen when our police begin to understand them, as we were told there are heavy fines for the article under which we were detained before - this is hooliganism, although we do not commit it, they still report we accost passers-by or drink alcohol.”

Transgender sex worker, 32 years old, working via the internet

“They wanted to take the child from me because I am a sex worker, Tais Plus helped me, they gave me a lawyer and I took my child from the orphanage, they wanted to give him for adoption and deprive me of parental rights.”

Woman, 40 years old, street-based sex worker

“I know there is no article for sex work, but due to the fact that I am a trans and also a sex worker, they can just pick me up and start humiliating me.”

Transgender sex worker, 27 years old, working via internet

The Views of Lawyers

The lawyers we interviewed confirmed that the new petty hooliganism offence (Article 119 of the Code of Minor Offences) can be used against sex workers in the same way as the article on petty hooliganism in the Administrative Code, which has now expired. But since 2019, under the new legislation, the article on petty hooliganism has become more difficult to apply due to procedures carried out by inquiry bodies, and this creates obstacles for police officers. This year no cases reached the court.

The articles in the criminal code that are most often applied are those related to promotion of prostitution (Article 167), organisation of brothels (Article 167) and involvement or coercion in prostitution (Article 166). These laws target those who involve, engage or force people into prostitution. The lawyers said there were relatively few actual prosecutions, instead the laws are
used by the police to bribe and extort money even in situations where there are consensual arrangements between third parties and sex workers.

In case of transgender, male or gay sex workers, the risks of stigma and discrimination from the police increase. They extort large sums of money, threaten to reveal their status to families and more.

**The Views of the Police**

Police officers form relationships with sex workers because they are a source of information. One of the officers interviewed said he believes sex work is immoral and needs to be eradicated. Police officers say that they must apply the legislation, and that if sex workers violate public order laws, then they must be held liable—that the laws apply to everyone equally. They state that sex workers are often drunk and accost passers-by. There are complaints from the residents of neighbourhoods where street-based sex workers operate, or from neighbouring apartments where sex workers conduct their business.

**Conclusion**

Even though there are no laws against selling sex in Kyrgyzstan sex workers suffer a great deal from police harassment and must frequently pay bribes to the police to avoid being charged with petty hooliganism offences. Sex workers who work in apartments are detained under the Criminal Code article for ‘running a brothel’ and are extorted by police for large bribes. These unlawful actions by police have led to difficult working conditions for sex workers. They must quickly negotiate with clients and agree to very low fees—in some cases sex workers are forced to agree to have sex without condoms. This happens because sex workers are afraid of police and are trying to avoid them whilst earning enough money to provide themselves with food and accommodation.