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

Senegal Case Study
Participant Demographics

Consultations were carried out between June and August 2019, starting in Mbour, an area located 70 km from Dakar. The first interviews were with a group of 10 male sex workers and one transgender woman. 10 additional women sex workers were interviewed in that same area. 40 women sex workers were then interviewed in the area of Kédougou in south Senegal, 20 migrant women sex workers in Kidira and 20 sex workers in Macke, in the area of Diourbel (central Senegal). A further 20 sex workers were interviewed in Kaolack. And finally 40 sex workers in the area of Dakar and Thiès. Additionally, five legal experts who support sex workers’ rights were interviewed. Of the 160 sex workers who were interviewed 11 were living with HIV and seven were drug users. Their age breakdown was as follows:

- 20 were 20 years old or younger
- 35 were between 21 and 25 years old
- 40 were between 26 and 35 years old
- 40 were between 36 and 50 years old
- 25 were 50 or older

Sex Workers’ Experiences

The focus group with male sex workers showed that there are no specific laws against male sex workers but in the Penal Code there is one article (319) that punishes ‘unnatural acts’ (homosexuality) with sentences of up to five years in prison. As a result of the criminalisation of homosexuality, male sex workers must hide their provision of sexual services to other men. Male sex workers who sell services to women are not included under the sex work laws. Male sex workers who more openly play a ‘receptive’ role in their sex work are more likely to have problems with law enforcement agents than men who conform to more masculine stereotypes or play an obviously ‘active’ role. They are more exposed to public harassment and problems with the police because they are deemed effeminate.

For example, a male sex worker who offers ‘receptive’ services reported:

“One day, one of my clients refused to pay and when I insisted to get my money, he started shouting that I was robbing him and beat me up. Then the neighbours got involved and started beating me up too and then they dragged me to the police station. A police officer listened to our stories (mine and the client’s) and started insulting me and he let the client go. He then asked me to undress, he poured water on me and hit me on the buttocks. I spent the night naked, lying on the floor, surrounded by police officers who kept laughing at me.”

— 32 year old male sex worker, working via the internet and from home.

In reality, male sex workers who provide sexual services to other men work underground. One sex worker— who identified as transgender— stated that they had never had any problem with the police because there is no desire from the authorities to identify transgender people in Senegal. Transgender people are typically included in the MSM population. Some men also provide sexual services to women but it was not possible to make contact with any of this group to learn about their experiences.

Focus groups with female sex workers showed that sex work in Senegal is heavily regulated. Although the law theoretically allows all women who are 21 years and older to engage in sex work if they wish to, it also prohibits various settings and methods of work— effectively disallowing most sex work. For example, sex workers cannot legally work in hotels, in brothels, at
home, or in public places (on the street). The law requires that sex workers register with the authorities and to do so they must provide identification, four photographs and proof of residence. Sex workers must bring those documents to the hospital with 1000 francs (CFA) for a first consultation. Their records will then be kept at the hospital and a copy will be sent to the police. The police, therefore, know where sex workers live and sometimes they go to sex workers' homes to extort money from them.

To be able to work, sex workers must pay 5,000 CFA in advance on weekdays or between 10,000 and 15,000 CFA on weekends. These are bribes given to the police officers who raid sex workers' workplaces. All sex workers pay bribes whether they are registered or not. Those who are not registered pay more to avoid spending time in prison. Registered sex workers who choose not to bribe the police will spend the night at the police station and are usually released the next day. There are effectively two types of sex work for women in Senegal: the 'official' sex work practised by sex workers who are registered with health and social authorities; and 'informal' sex work practised clandestinely. Approximately 85% of sex workers belong to the latter and work underground.

A high majority of sex workers from Mbour in the Thiès region (a popular tourist area) are unregistered. They work underground— mostly in bars. When asked about their strategies when they encounter the police, they report that it is the gendarmerie (a different law enforcement agency) who are responsible for inspections and that they negotiate by giving bribes.

The unregistered sex workers interviewed reported that they do not see the point of registering and identifying as sex workers because sex work is temporary for them— they want to quit as soon as possible. Those who are registered reported that they regularly attend health checks, and that whenever they work in bars or clubs they give their health book to the gendarmerie when they inspect the place. If everything is in order, they say they are left alone.

Many Nigerian sex workers work in the south— in Kedougou, Tamba and the surrounding areas. To officially register, sex workers must provide their passport, four photographs and proof of residence. Whenever there is a police check, they must provide their health book, their vaccination records and sometimes their passport. Due to the contradictory nature of the current law, migrant sex workers are vulnerable to extortion, and are extorted twice: once by the police and once by the health services. Interviewees said the police ask for up to 15,000 CFA a day from registered sex workers. Unregistered migrant sex workers are deported back to their country of citizenship. They have to pay 1,000 CFA to access health services, like all Senegalese sex workers, but they also have to pay another 4,000 CFA to see the midwife. Condoms, which are supposed to be free, are sold to them for 3,000 CFA a packet in health clinics and for 5,000 CFA in gold mining areas like Kéniaba.

Sex workers are required by law to undergo HIV and syphilis testing every 6 months, but further testing protocols are not described. Sometimes, midwives receive a commission on each test they prescribe. Legally, medical check-ups are required every 15 days but in practice, sex workers are tested every 30 days. These check-ups consist of a vaginal swab to detect STIs and a visit to the doctor for further physical examinations. Sometimes it's just a physical examination and no swab is collected.

The police routinely bribe and extort money (as well as sexual services) from sex workers in all locations, including on the streets. Soliciting in public is illegal so this is used by police to extort money from street-based sex workers. One street-based sex worker (38 years old, who also works in a hotel) described her experience of violence at the hands of police. She explained that she went to her usual spot (on the street) to work and only had 5,000 CFA on her. When she heard the other workers running away (because the police were coming), she hid and waited until 5 a.m.
Once she thought everyone had left, she finally came out to start work. Unfortunately, one police officer was still patrolling. He confronted her, taking all her money. She then had to wait until 7 a.m. to take the bus home with the little change she had left.

Another street-based sex worker described her experiences of violence at the hands of the police in Senegal:

“One day, there was a police raid. When I saw them, I alerted the others and all the sex workers ran away. The police officers ran after us and when they caught me, they dragged me on the asphalt until my body was covered in blood. I cried a lot and when I went to the police station in the morning to lodge a complaint, the officers had already told everyone that I had insulted them.”

- 38 year old, street-based sex worker

In Dakar (the capital of Senegal) one sex worker summed up the legal situation:

“This law does not let us work in peace, because it does not guarantee the sex workers’ safety.”

- 45 year old sex worker, working from bars and from home

The Views of Lawyers

Interviews were held with legal experts from the Association of Women Lawyers in Senegal, who support sex workers. They educate sex workers on their rights, training them to identify rights' violations and refer sex workers to the association for legal aid. The lawyers identified the laws that apply to sex workers in Senegal as: the criminalisation of soliciting; mandatory health records (health books); and mandatory medical examinations and testing.

They noted that the law is enforced in different ways according to the area. For example, medical check-ups are available every 15 days in some areas, but in other areas they are only available monthly. Additionally, law enforcement often utilise their own interpretation of the laws, which may not be supported by the written legislation.

Sex workers who work in rich areas receive less trouble from the police compared with those who work in the suburbs. This is largely because sex workers who work in the suburbs have less access to resources and education— and poverty is more prevalent. They work underground because they are scared of being identified. When sex workers register their privacy (a fundamental human right outlined in many treaties) is ignored by law enforcement agencies and stigma means they can be openly discriminated against.

Conclusion

National consultations with sex workers and legal experts demonstrate that the legalisation of sex work in Senegal is merely hypothetical and does not appear to benefit sex workers. Sex workers are, in practice, subject to compulsory registration and experience constant violence from law enforcement and health services. As a result, 85% of sex workers work underground, choosing not to register with the authorities, leaving them vulnerable to further exploitation. Additionally, ‘prostitution’ laws do not recognise male sex work, further reducing the ‘legal sector’ of sex work in Senegal.
The police and health services, based on widespread religious beliefs and practices, stigmatise those involved in sex work, and sex workers are punished with fines and criminal sanctions. Sex workers are abused, discriminated against, stigmatised and rarely receive a fair trial when they are prosecuted. They rarely have access to legal aid and finding the money to pay for a lawyer is problematic. Sex workers are vulnerable to frequent, systemic physical and sexual abuse by police, whose interpretation of the law will vary; a police officer is ‘always right’ when he is wearing the uniform so it is best for sex workers not to find themselves in any potentially illegal situation.