

RESEARCH FOR SEX WORK 8 ISSUE

SEX WORK AND LAW ENFORCEMENT



EDITORIAL

The theme of sex work and law enforcement was chosen at meetings about trafficking and HIV, highlighting the discrepancy between the agendas of sex workers and donors. Despite the fact that most programmes touching on sex workers address HIV/AIDS or, now, trafficking, most sex workers point to the state as their greatest problem. Most locations have laws and/or policies that adversely affect the lives of sex workers. Some limit sex workers' mobility. Even in places where sex work is not against the law, sex workers have reported difficulties with police. Sex workers around the world have been victims of police violence. Adding insult to literal injury, in many places law enforcement pays little attention to violence committed against sex workers, with little recourse even in places that take pride in the rule of law.

REAL-LIFE EXPERIENCES

Real-life experiences with law enforcement described in this issue include violence, bylaws used prejudicially against sex workers, abuse of power and migration issues.

A shocking 97% of sex workers in Phnom Penh reported having been raped in the past year in Carol Jenkins' article. Violence also features in articles from all over the world, from Africa to Asia, Australia, Europe and the Americas. The West prides itself on the rule of law in its less violent environments. However, this is not what sex workers described to researchers in Rachel Wotton's Sydney, Teela Sanders' Manchester and Juhu Thukral and Alex Murphy's New York.

Transgender sex workers suffer greater physical abuse than other sex workers in some places. Nicolé Fick offers an extreme example of anti-transgender violence by police in her piece.

Another abuse of power described by Thukral and Murphy involved sex workers being taken into police custody and in some cases detained without legal reason. This is remarkably similar to the reports received by Empower about sex workers extra-legally detained by anti-trafficking non-governmental organisations.

Sanders describes the use of Anti-Social Behaviour Orders against sex workers, and how these are used to make sex work more difficult. Consequences are serious: sex workers' health may be jeopardized because sex workers do not negotiate with and check out their clients before getting into the clients' cars. This leaves sex workers more vulnerable to client violence and to difficulties negotiating condom use.

Sex workers in Hong Kong suffer discrimination both on the street and indoors. Police visit sex workers in their workplaces and disrupt their business. Sex workers without legal residency are easier targets and suffer more than others.

Queensland has both legal and illegal sex work. Sex workers in the illegal sector reported far more harassment by police than sex workers in legal sex work.

ACTIONS

Sex workers and their allies have been very resourceful in addressing these issues, but much needs to be done. Articles in this issue describe legal projects and legal advocacy, research done with advocacy in mind, and liaisons to law enforcement agencies. Each of these efforts are models that can be adapted as appropriate for sex workers in other places.

One of the best strategies for projects working with sex workers is to accompany sex workers to court and in some cases to represent them legally. Programmes in South Africa, Australia, Central Asia and the United States have legal components. Articles in this issue illustrate the success of accompanying sex workers and/or arranging legal representation in Australia, South Africa and throughout Central Asia. These findings point to legal programmes as an extremely useful effort for sex workers and their advocates. It remains to be seen what can be accomplished with legal advocacy in the extremely violent environment in which Jenkins' research participants in Cambodia live and work.

Action For Reach Out described one of their programs in which sex workers speak out to local youth and thereby are seen as more human than they were when they were invisible or faceless. The Sex Workers Project seeks to similarly humanise sex workers rarely seen by outsiders with their report Behind Closed Doors. This view of sex workers as part of humanity and members of the community can only work to counter the high rates of violence reported by sex workers around the world.

RESEARCH ETHICS

Returning to the theme of the last issue, research ethics, it is encouraging to see research conducted with sex workers – as seen in articles in this issue from Australia, Cambodia, and the US among others – in order to advocate for sex workers' human and civil rights. Genuine participation by sex workers involves sex workers setting the agenda of the research and determining how it will be used. The most prominent description of this process in this issue is in Jenkins' article, but this is not the only article in which sex workers drove research in this issue or in wider work.

Sex workers need allies and advocates as much as other marginalized groups of people, and it is encouraging to read about such cooperation. This real participation remains rare but is growing. In some cases, this participation has been forced by sex workers and other frequently researched groups. One example of this is the recent tenofovir trials. After some of the scheduled drug tests were cancelled, including one trial in Cambodia that was cancelled after sex workers protested, the sponsors of the remaining study met with community members including sex workers and drug injectors to discuss how this study was flawed and could be improved. This is a victory for sex workers and other marginalized communities targeted for participation in medical and other research!

Melissa Ditmore, Editor

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CAMBODIAN SEX WORKERS CONDUCT THEIR OWN RESEARCH

Carol Jenkins, PhD

In 2004, Cambodian sex workers had the opportunity to select a topic and conduct research on it, in order to improve policy that affects their lives and working conditions. As the Principal Investigator, I never set the topic or methods in advance but first discussed the possibilities with the two best organized groups of sex workers in the country, Women's Network for Unity (WNU) and the Cambodian Prostitutes Union (CPU). In early 2004, we met in two separate groups and I presented them with the opportunity by simply stating that there were funds designated for research and advocacy among sex workers and if they were interested, I could help them design a piece of research, train them to do it and help them in disseminating the results. Each group was quite enthusiastic and without hesitation prioritized violence, including sexual violence, from various types of men as the single greatest bane in their lives. I remember saying to WNU folks, "You know, if we do a truly representative sample and the frequency is not high, there will be little to advocate with." They all gave me a strong look, and said essentially, don't worry, the frequency is very, very high. As a researcher, one is always concerned with ad hoc frequency estimates made by individuals, because, after all, any single person only has a narrow view of the whole social scenario. How could he or she really know? So be it for my own naiveté.

I decided we would try the relatively new method called respondent-driven sampling (RDS), also sometimes known as chain referral sampling. I had attended a workshop that did some training on this method and had watched as a friend tried it in Myanmar. It wasn't without difficulties, but had enormous potential for reaching people who ordinarily would hide from researchers. I felt that, since sex workers were themselves going to do this research, the respondents and the researchers were of the same social group and therefore this method was eminently suitable to research in which they were the primary participants at all levels. I also felt that, since the RDS statistical software only made single factor estimates of proportions (with 95% confidence intervals) available, the

results would be shallow without a deeper understanding of the context in which this violence took place. So we decided that every 5th person would be asked to give an in-depth interview about the violence they experienced that would be taped, translated and transcribed for analysis. As we discussed the methodology, the sex workers also agreed that it would be a good idea to interview policemen, as they were one of the major perpetrators of violence against them. We discussed the possibility of finding ex-policemen who they knew and trusted to understand the issues and before long three men emerged who were recruited by people from WNU.

My own experience working on the issue of violence against sex workers was limited and so it was hard for me to decide the sample size needed based on the only comparable data base available. I decided we would separate the brothel women from the freelancers (who worked from various entertainment venues, locations such as train stations, parks and streets, but without contracted obligations to another party as in the brothels) and aim for 500 from each group, and arbitrarily, 60 interviews of active policemen, 20 from each ex-policemen interviewer. The latter was a convenience sample. The sex workers decided that *srey sraos* or transgender sex workers who worked from the same locations as did the freelance women and were subject to the same exposure to violence, would be included. The seeds for the RDS sampling method were also to serve as the interviewers. However, some of them turned out to be illiterate, so we decided they would be the qualitative interviewers and we would devise an interview schedule that used pictures to remind them of the topic of the question.

A one-week training for each group covered the nature and value of sex worker empowerment, the RDS method, research ethics, the development and testing of the questionnaires, and qualitative interviewing. Needless to say, I learned a great deal from training them and tried to incorporate what I learned into the whole protocol. In the end the worst problems we had were

with the translator, who failed to include an altered question (on drug use) in one questionnaire, and with the data entry process which had to be repeated by myself and another helper. The sex workers and the ex-policemen were extraordinary as recruiters and interviewers, given the little training they actually were given. We reached a sample of 1000 sex workers, plus 145 in-depth interviews and 60 of police (actually 58 of police and 2 of gangsters) in two months. There was a shortfall on brothel women's in-depth interviews due to their difficulties in staying away from the brothels for long periods of time. All interviews were done in totally private, air-conditioned rooms rented in a guesthouse and of course, anyone could stop if it got too hard for them, which happened several times. Violence, including sexual violence against the self, is hard to recall and discuss and some women simply cried too much to continue. In terms of the networks they had, a number of women said they had very small networks left as so many of their friends had already died of AIDS. However, the refusal rates (when offered coupons for recruitment) were low (about 5%) and the majority of sex workers opened their souls to the sex worker interviewers and told just how horribly they had been treated by brothel owners, police, gangsters, clients and sweethearts.

The results were stunning. Most studies of violence claim that the results are probably under-reported. In this study 97% of sex workers reported being raped by someone in the past year, somewhat more often by clients and gangsters than police, and more often among the brothel women when they left the brothel with a 'client' than among others. The data from police completely corroborated what sex workers had to say and showed that, while HIV prevention programs may have helped them demand condom use, they are still unable to demand their legal and human rights.

CONTACT DETAILS

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Sex workers were recruited to participate in this research at the same time as they were being asked to participate in the tenofovir PREP trial described in R4SW 7. Cambodian sex workers were very pleased to participate in this study in which they were full participants and set the research agenda, while they boycotted the tenofovir study, which was later halted by the Cambodian government on human rights grounds. For a report on the follow up to that study, go to page 28.

SEX WORKERS EXPERIENCES WITH THE LOCAL LAW ENFORCEMENT IN SOUTH AFRICA

Nicolé Fick

THE LEGAL CONTEXT

Sex work is illegal in South Africa and the Sexual Offences Act prohibits the selling of sex and all related activities at present. However sex workers in South Africa are rarely arrested under this Act. It is easier for the police to prosecute sex workers for minor offences and to use local municipal bylaws referring to loitering, littering or even obstructing traffic in this regard.

SOURCES OF INFORMATION

Seventeen sex workers talked about their experiences for SWEAT's recent study. Many of the participants spoke of their difficulties with the police. Sex workers working on the street are more vulnerable to violence and harassment at the hands of the police because they are much more visible than those who work indoors. The experiences discussed here were mostly reported by street-based sex workers.

In addition SWEAT monitored arrests in four different areas of Cape Town between February and July 2004. Sex workers indicated that they had been arrested as often as four or five times in a month. Some individuals said that they had been arrested almost every day. When sex workers are arrested they are usually held for 48 hours, fingerprinted and released without appearing before a magistrate.

Sex workers are also often fined for minor offences like loitering, loitering with intent to solicit and littering. These fines vary between ZAR50 to ZAR500 (US \$5 – 50). Sex workers have complained that they do not get receipts for fines. Sex workers have also reported to us that their clients have often been asked to pay a bribe to the police.

Sex workers experience other serious difficulties with the police and report that they have been harassed, insulted, physically abused, arrested when they were not working, or forced to have sex with members of the police.

Seven of the seventeen sex workers interviewed told SWEAT that they had experienced physical violence at the hands of the police. They experienced being thrown into the police van when arrested, being beaten by the police, being dropped off far from where they work in a deserted area and being sprayed with tear gas. One person described



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SWEAT is a non-profit organisation based in Cape Town that promotes the health and human rights of sex workers. SWEAT advocates for decriminalisation of sex work in South Africa. SWEAT recently completed a qualitative research project, "An exploration of the help seeking behaviour of sex workers in the Cape Metropole, SWEAT, 2005". Seventeen sex workers were interviewed about their experiences for this study.

A major focus of SWEAT since 2003 has been on supporting the development of a sex worker led movement called Sisonke. Sisonke is made up largely of street based sex workers at present and is still a new movement. The Cape Town Sisonke group is discussing the issue of harassment by the police and considering how they can become more actively involved.

what happened in the following way:

"I have a problem now with the police. We are looking for safety, but they just spray gun us or they beat us up."

In a more extreme example of the abuse of sex workers while in police custody another person described how the police had physically assaulted a transgender sex worker. She told of the police kicked the person while she was lying on the ground in the cell and that they damaged her internal organs. While they were kicking her, the police officers told the sex worker that they would make her into a woman, implying that they would do this by kicking her genitals. They kept her in the police cell for two days before providing medical treatment. The doctor who examined her indicated that she had almost died from injuries to her stomach, liver and spleen.

Transgender sex workers are particularly vulnerable to police abuse. They are not only vulnerable as a result of being sex workers but also on the basis of their gender identity. SWEAT has had

a number of reports of transgender sex workers who identify as female being held in the male prison cells and of the police encouraging male prisoners to abuse them.

Sex workers in police custody are often refused permission to make a telephone call to let their families know where they are. We have had reports of people being refused medical treatment for burn wounds and a dislocated shoulder while in police custody. One sex worker spoke of the bad conditions in which they are held when they are arrested:

"The police are also a problem, if they arrest you on Friday they will keep you in the cells until Monday and you will be arrested without seeing the magistrate. We do not get food in the cells. We only get two slices of dry bread. You do not even get a chance to wash."

Another sex worker related her experience of the police asking her for sexual favours

in return for not being arrested:

"They want to come, ... for free and tell you that there will be a warning when they pick the others up. I've been through a lot of that, but it doesn't interest me at all. I'm here for anybody. You know, at the end of the day, a whole police station comes to you and say, 'Okay, she's done it for free for you, so all of us here must come for sex now'."

Some individuals spoke of incidents when the police arrested them even when they were not working, just because the officer knows them. Sex workers who live and work in the same community face the threat of arrest every day. The implication is that women cannot even go to the shop or walk in the communities where they live. One of the participants described her experience of being harassed and insulted by a police officer in the area that she lives:

"So he came up to me and without even talking nicely, he just came up to me and said, 'Move!' Like, in Afrikaans he said, 'Just move away from here now you, you whores mustn't stand on the street like that'. I said: 'but what, what if a person is going to the shop? You're still going to say that we're working?' Because they picked us up the



other day...I was going to the shop and they picked me out and, plenty times...but I wasn't working. I was walking and they, by knowing our faces, they think that every time they see us on the streets, we're working."

As a result of this treatment sex workers mistrust the police and they are reluctant to approach police for assistance when they have been victims of violence or rape. Past research has found that the police exert a great deal of power over sex workers by threatening to arrest them. (Wojcicki & Malala 2001) This was similar to what we found when we talked to sex workers. One individual indicated that it is difficult to report violence from members of the public or clients because sex work is illegal. Someone else indicated that the police threaten to arrest them when they try to report matters:

"Yes, I tried to ask for help, but they just said you fat 'cunt', we cannot help you, instead we can arrest you."

Persons engaged in sex work are often traumatised and humiliated by the treatment they receive from the police when they report having been raped. (Wojcicki & Malala 2001) In two cases in this research sex workers reported that the police laughed at them when they tried to report a crime. In one of these cases two women who worked at an escort agency tried to report a rape but the police just laughed at them and refused to take their complaint.

"And we reported it to the police, they just laughed at us...No. We were made to sit in the waiting room. And I just remember this girl saying she wants to speak to the detective and then he didn't want to help. So then she wanted to speak to the man in charge, he didn't help..."

One participant indicated that they feel very insecure about asking the police for help and that they are never sure if the police will help them because they are sex workers. The other participant felt sure that the police would not assist her



if she had to say she had been raped:

"I don't think the police will believe anything, if I have to go there and tell them I'm raped now, I'm a sex worker, they're going to think that you then, in the job, you're then doing these things for money, so how can you say you have been raped, that, things like that, that's why I'm very scared, that's why I avoid being raped and stuff like that, but you can't avoid, so if you must get raped you rather, keep quiet, because I know the police are not going to believe."

SWEAT'S RESPONSE

SWEAT's broad approach to dealing with the police uses a human rights framework. One of our key arguments in favour of decriminalisation is the ongoing human rights infringements that sex workers are exposed to by the very authorities that are supposed to protect them. We also argue that the ongoing targeting, arrest and release of sex workers is a waste of police resources

that could be better utilised elsewhere.

It is crucial that sex workers are informed of their rights and understand the legal procedure surrounding arrests. It also helps if sex workers are aware of some of the actions they can take to avoid arrest and protect themselves. To this end SWEAT produces informational pamphlets and engages in discussions around safety with sex workers during our outreach work.

SWEAT helps sex workers who want to make a complaint about police mistreatment by taking their legal statements and going with them to the police station when they make the complaint. We explain the process that needs to be followed when they want to make complaints against the police and assist them with forwarding their complaint to the police internal investigations unit. SWEAT staff members remain involved by following up on the progress of these individual complaints.



- Help each other to stay safe.
 - Tell your friends when you expect to finish with a client and if you are going to be out the whole night.
 - If your friend does not come back on time, get help.
 - Although some sex workers have pimps it is safe to work without them if you work with other sex workers.
 - Tell other workers about bad clients – describe what the client and his car look like.
- Always take down the car registration number, colour and make.
 - Try to check the boot of the car and the back seats before you climb in.
 - Don't get into a car with more than one client in it.
 - Don't lean into the car when negotiating with a client - if he means trouble, he can hurt you.
 - Check that the car door handles work.

Although SWEAT will assist any individual sex worker, our main focus is on engaging a number of sex workers experiencing the same mistreatment. This will enable us to take group litigation forward that will have a greater impact for sex workers overall. This litigation is difficult to follow through because ongoing information gathering and contact with the affected individuals is needed.

In the past law enforcement officers have said that they arrest sex workers largely when community members complain about sex work, but recently we have seen an increase in random targeting of areas and increased arrests. This has coincided with an inner city urban renewal policy in Cape Town that has adopted a "zero tolerance" approach. A number of business and civic interests have recently been lobbying for the removal of "crime and grime" from the streets of Cape Town. A bylaw has been proposed for the promotion of a safe and secure urban environment. This proposal was punitive in nature and targeted the homeless, street traders and sex workers. SWEAT challenged the proposed bylaw with other organisations and this bylaw has been sent back to the committee for review. SWEAT is also investigating the possibility of bringing a legal challenge against the use of the loitering bylaw to

arrest sex workers.

SWEAT has gathered statements about police actions in specific areas during the course of our outreach work in response to an increasing number of individual complaints. Once these statements were taken, the trends were summarised and we sent letters highlighting the kinds of complaints reported most often in an area to the specific police commissioners responsible for overseeing these areas.

We had a promising response from one of the police commissioners, indicating that they take our complaints seriously and that we should report specific incidents to them in future. We have committed to the ongoing monitoring of police mistreatment of sex workers in these areas to follow up on the letters. We also met with the Deputy Commissioner of police to inform him of the continuous cycle of arrests of sex workers and to ask for his response to this. He has authorised an investigation

into how police handle the arrests of sex workers.

We found that the letters to commissioners of police were a positive start to addressing the problem of police violence and one that we can build on. We also learned the importance of keeping accurate records and data around police harassment as these records show the overall picture of what is happening in a specific area. This strategy has at the very least begun to make police officials and possibly the Major of Cape Town aware of the problems with the police that sex workers experience almost daily. Sex workers increasingly operate further underground to avoid harassment and arrest, making it difficult to continuously monitor the situation.

In almost all the forums where we engage with sex workers working outdoors they tell us that harassment by the police is the greatest difficulty they experience. Even if law reform does take place and

sex workers are working in a changed legal environment, local law enforcement will still be able to make use of municipal by laws and regulations to arrest and harass sex workers. Sex worker groups, individual sex workers and others working to protect sex worker rights will have to find ways to respond to this effectively.

RESOURCES

Wojcicki, J.M. & Malala, J (2001). "Condom use, power and HIV/AIDS risk: sex-workers bargain for survival in Hillbrow/ Joubert Park/ Berea, Johannesburg." *Social Science and Medicine*, 53, 99-121.

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AIDS Foundation East-West (AFEW) is an international, non-governmental, humanitarian, public health organisation whose mission is to make a major contribution to the reduction of the impact of HIV/AIDS in Eastern Europe and Central Asia (EECA) by:

- Taking an innovative and proactive approach to developing, implementing and promoting tools for effective HIV/AIDS prevention, treatment, care and support, designed for and appropriate to the specific conditions of EECA.
- Targeting the younger generation of the region, in particular those engaging in risky behaviour.
- Cooperating closely with national governmental and non-governmental structures to boost local coping capacities and to advocate for appropriate action.
- Strengthening East-West engagement by exchanging knowledge and people via programme activities and stimulating a committed response.

HUMAN RIGHTS AND LEGAL SERVICES FOR SEX WORKERS IN CENTRAL ASIAN REPUBLICS: POINTS FOR CONSIDERATION



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AIDS Foundation East-West (AFEW) is an international, non-governmental, humanitarian, public health organization working in the field of HIV/AIDS prevention, treatment, care and support in regions of Eastern Europe and Central Asia (EECA). AFEW has been operating in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan since 2002 in a range of fields, including HIV/AIDS prevention, drug demand reduction and health promotion among women in the commercial sex industry.

Commercial sex in the countries of Central Asia seems to be a growing and widespread practice. AFEW has conducted a variety of research projects in this region, including several Rapid Situation Assessments and various qualitative studies, and maintains regular contact with relevant target groups and officials. In this context it has often been argued that the number of (mainly female) sex workers has rapidly increased in Central Asia during the last decade. The reasons given for this often include instability and diminished quality of life surrounding economic and political changes. In particular, following the fall of the Soviet Union in 1991 and the resulting turmoil in the region, many girls, women and their families have been trapped in poverty and often view sex work as one of the few options available for them to support themselves and their families. The sex industry in Central Asia continues to diversify, despite being condemned within societies where Muslim traditions are largely prevalent. In large cities, the sex work scene is considerably more open than in smaller towns where the majority of female sex workers work from closed establishments (e.g. apartments, hotels, saunas). This increasing diversity and



cultural condemnation makes the industry not only complex in structure but somewhat hidden and difficult to penetrate from a public health perspective.

Throughout the territory of the former Soviet Union, one of the main problems noted by sex workers is the relationship they have with law enforcement. Women involved in the sex business frequently speak about police harassment, which may include blackmail, violence, coercion and extortion.

As a result, human rights issues have recently become a priority for sex work projects. They are frequently discussed at various seminars and conferences. Currently, however, there is no unified approach to the development of strategies for collaboration among the law-enforcement agencies.

In Tajikistan, sex services are often provided by women who identify themselves as housewives and, as a rule, have several children. This is often understood as a direct result of increasing labour migration out of Tajikistan. This migration leaves families with children unsupported financially by both parents. In some areas the cost of sex services is very low (less than US\$ 1) and women frequently report providing services for no more than a single meal or in exchange for a small amount of alcohol or drugs.

To resolve these issues, much depends on the legislation existing in the country, the regulatory practices, the legal literacy of sex workers and the staff of non-governmental organizations and their understanding of the country's legal framework. There also needs to be a readiness to implement projects related to human rights, the existence of skilled lawyers willing to work on sex work issues, and strong personal relationships between staff of governmental and non-governmental organizations and

the sex work community.

The following provides some lessons learned in activities aimed at achieving these goals.

LAW ENFORCEMENT AGENCIES AND SEX WORK

From a legal perspective, in general, the issue of "prostitution" is not clearly defined within the legislative frameworks of the various republics in the region. In many instances, prostitution is not perceived as an act punishable under the Criminal Code; however, recruitment into sex work and the maintenance of brothels are.

For example, in Kyrgyzstan sex work itself is not considered a crime but the country's criminal code forbids brothels (Articles N260 and N261). In Kazakhstan, involvement in prostitution by the application of violence or the threat of its application, blackmail, the damage of property or by fraud is punished by fine or imprisonment for up to five years (Articles N270 and 271).

In addition to this, a range of factors increase a sex worker's vulnerability to violence and police harassment, including:

- the absence of official residency documents;
- high levels of migration among women within the sex industry;
- stigmatization and discrimination among service providers;
- language barriers and resulting challenges in accessing available services;
- a lack of access to legal aid;
- lack of access to quality health and social services; and
- high rates of substance use among women in the lower, more vulnerable sectors of the sex industry.

It is not uncommon for policemen to detain women and demand free sexual services often involving more than one client. (This is termed *subbotnik*, and refers to a practice during Soviet times when people were encouraged to work for the state free of charge on Saturdays). This is especially the case for women working in some of the most visible sectors of the sex industry such as on the streets and in market areas.

In some Tajik cities (such as Khorugh, Panjaken, Kulob, and Qurghon-Teppa), the majority of sex workers provide their services in closed premises (apartments, hotels). In these cases, they are less accessible to service providers but also less vulnerable to law enforcement agencies.

WHAT CAN BE DONE?

Today, HIV/AIDS prevention projects working with sex workers in the region recognize the need to provide legal services to protect and promote the fundamental human rights of individuals involved in the sex industry. It is likely that some strategies that have proved effective in other regions, such as drop-in centres and self-support groups, need to be encouraged and effectively promoted as a vehicle to transfer knowledge on legal issues but more research is required to verify the applicability of these models.

It is clear, however, that HIV/AIDS prevention projects need to work directly with law enforcement agencies. In some Central Asian Republics there are some 'better practices' beginning to appear. Based on this, some strategies to guide further efforts are outlined below.

STRENGTHENING OF GOVERNMENTAL RESPONSE TO HIV/AIDS AND STI EPIDEMIC

National programs aimed at fighting the HIV/AIDS epidemic have been accepted and enacted by all the governments of Central Asia. A key positive benefit of this is that the HIV/AIDS Coordination Committees that have been established provide an opportunity to openly discuss the existing difficulties and attempt to develop strategies for contributing to the resolution of these issues. In particular, the multi-sectoral working groups in Tajikistan, the Kyrgyz Republic and Kazakhstan represent a positive step in this direction.

NGO DEVELOPMENT AND CAPACITY BUILDING

Experience demonstrates that the relationship between target groups and NGOs is significantly better than that between target groups and governmental agencies. Thus, strengthening NGO services in this area should be considered an important component of any project targeting sex-workers. Activities related to NGOs should include:

- developing NGOs targeted specifically at these issues;
- including legal protection services in the NGO mission;
- encouraging sex workers to openly discuss their problems through support groups etc; and
- cooperation among governmental health and social services, NGOs and organizations that protect human rights.

COMMUNITY MOBILIZATION AND EMPOWERMENT OF SEX WORKERS

Recently, the idea of associations and community-based self-support groups has appeared and is slowly starting to be promoted. Self-organization is an important first step toward the protection and promotion of interests. Further steps might include consultations and seminars for sex workers as well as informational materials dedicated to various legal and social issues.

Simultaneously, intensive cooperation and work with law enforcement agencies is needed, especially with those structures that directly associate with sex workers such as district policemen and vice squads.

TRAINING AND SEMINARS FOR LAW ENFORCEMENT AGENCIES

AFEW's experience shows that the attitude of police officers toward sex workers may be completely changed to the better if intensive group work focuses on important issues as:

- beliefs surrounding sex work and sex workers;
- the day-to-day needs of people involved in the sex-industry;
- relevant health issues;

- issues surrounding sexual practices and risk behaviours in the context of HIV/STI prevention and the prevention of violence against women; and,
- Issues surrounding sex work, drug use, and human trafficking.

It is very likely that including the human rights aspect in these activities would add significantly to their effectiveness.

CONCLUSION

The development and introduction of effective legal services for sex workers in Central Asia is currently falling behind the need for these services. A more significant effort is required to improve the degree to which the basic human rights of sex workers are maintained in this region, particularly in regards to their legal protection.

The capacities of both governmental and non-governmental organizations should be built up and an appropriate and concerted effort on the behalf of both of these groups should be encouraged and facilitated. Furthermore, programmes are also required that focus specifically on key target groups, including sex workers themselves, the staff of law enforcement agencies, and client populations.

Through a well-coordinated effort targeting these areas it is believed that the human rights situation of sex workers in Central Asia can be dramatically improved.

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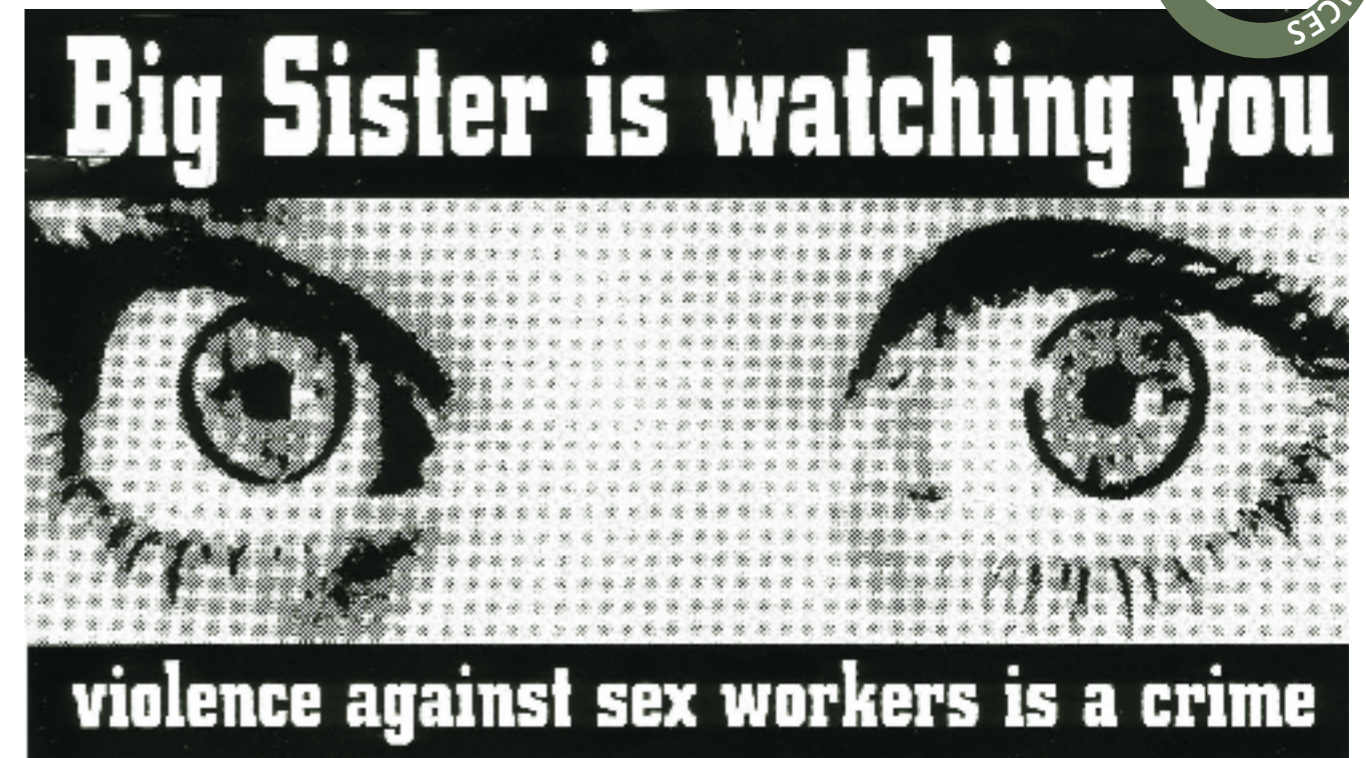
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Legal Aid to Sex workers is a pilot project conducted by the NGO 'Tais Plus' in Kyrgyzstan (Gulnara Kurmanova, 2004). Seventy-six male and female sex workers, those who direct the sex work themselves, and those whose lives are affected by sex work appealed to the project for aid over a period of one year.

This project had several components: (1) everyone who requested legal aid received it free of charge, (2) if needed, the legal rights of project beneficiaries were defended before the state attorney's office, (3) information on sex work and Tais Plus was distributed as a part of a public relations campaign, (4) informational materials for sex workers were written and disseminated, (5) seminars for volunteers were conducted, (6) relations with law enforcement agencies were established and improved and (7) discussions on sex work issues were conducted with officials of the attorney's office and with judges.

THE RELATIONSHIP BETWEEN STREET-BASED SEX WORKERS AND THE POLICE IN THE EFFECTIVENESS OF HIV PREVENTION STRATEGIES

Rachel Wotton



Rachel Wotton is a permanent member of the Womens' Metropolitan Outreach Team at Sex Workers Outreach Project (SWOP), the state-based sex worker outreach project in New South Wales, Australia. SWOP is a community based organisation since 1990. Predominantly peer based, SWOP provides information and support to sex workers across the state via telephone, a drop-in centre and by regular outreach services.

Rachel has been outreaching the Canterbury road area for the last four years. She would like to formally acknowledge and thank all the wonderful women who work on Canterbury Rd who have trusted Rachel and other members of SWOP, sharing personal and painful events and stories over the years.

Rachel is also the International Spokesperson for Scarlet Alliance, the top national organisation representing State and Territory Sex Worker Organisations & Projects in Australia and the issues of Australian Sex Workers at a national level. This article has been adapted from the oral presentation Rachel Wotton did at the International AIDS conference held in Bangkok, Thailand in July 2004.

For more information on SWOP or Scarlet Alliance, please see the following websites:
www.swop.org.au
www.scarletalliance.org.au

In metropolitan Sydney, New South Wales (NSW), there are a number of street-based sex working areas that SWOP regularly "outreaches". Canterbury Road in Bankstown is one of them. While there has always been a high police presence in this area, in 2003 an extended period of aggressive over-policing began,

targeting the women in this legally-defined working area. Police actions had a direct negative impact on the effectiveness of HIV prevention strategies previously employed by the workers in this area.

LEGISLATION IN NSW FOR STREET-BASED SEX WORK

Sex work has been a legal occupation in NSW since 1979. In addition, street-based sex work has been legally permitted in NSW since 1979, with current legislation outlined in the Summary Offence Act (SOA) 1988. Regulation of street-based sex work, using this Act, is still within the police force's jurisdiction.

The Summary Offence Act 19 states that:

"A person in a public street shall not, near or within view from a dwelling, school, church or hospital, solicit another person for the purpose of prostitution"

Summary Offence Act 1988, 19 (1)

Applying the Summary Offence Act (SOA) to Canterbury Rd area identifies it as a legally-defined street working area.

In 2001 there was also an additional amendment to Section 28F of the SOA generally known as the 'Move On' law or directive. While this law was originally intended to focus on the street level drug trade in certain areas of Sydney, some police on Canterbury Rd started using this law to intimidate, threaten and arrest the sex workers in the legal area.

THE POLICING OF CANTERBURY ROAD

Over the years, the women have endured a number of different policing approaches and attitudes. There have certainly been encouraging reports about police officers who have been very approachable, caring and sympathetic towards the women, but these good experiences are generally outweighed by more negative experiences. Reports have included officers swearing at the women, not responding to reports of rape and assault, verbal threats of arrest and intimidation, as well as 'punishing' a person voicing their rights by locking them up.

The environment on the street by 2003 had escalated to such a level that workers were being arrested nearly every night. SWOP was now receiving negative reports about the police every outreach. Their actions at this time included:

- making the worker stand in front of their high beam for 5 minutes and not allowing her to move or walk away, while they made derogatory comments about her,
- making the workers tip the entire contents of their bags on the ground every night while the officers would look through all their belongings,
- a marked patrol car followed one of the workers and her client back to a house and sat outside with the lights flashing until the client left, and
- telling two of the workers that they had 10 minutes to get off Canterbury Road and then following the workers car for about 15 minutes.

The police predominantly arrested the women and not the clients. If clients were arrested they were given on the spot fines or a summons to go to court while the women were taken to the police station and kept there for up to four hours while their charge was being processed. In addition, unreasonably restrictive bail conditions were given, essentially banning the women from the area between the hours of 8pm and 6am. These restrictions would often be for either 7 days or until their court case.

THE EFFECTS OF OVER-POLICING ON THE STREET WORKERS

Sex workers reported that their fear of arrest, detention, harassment and intimidation led them to engage in risky, unsafe behaviour that was not acceptable to them before. Workers started carrying fewer condoms, hiding their safe sex and injecting equipment in surrounding areas and jumping into cars straight away instead of talking to the client first through the window. They weren't able to rely on their gut instincts to assess the client as fear of arrest was so great they reported jumping into any car to get away from the police. In addition, workers were taking the clients away from the usual industrial area and spreading out further into the local residential areas.

All of these actions are disturbing to note and the health and safety implications are immense.

If found breaching bail conditions, the workers were locked up straight away, regardless of whether the original charge was warranted. As many of the women lived in the area this was extremely problematic. One worker buying milk at the local petrol station was threatened with breaching bail, even though the police knew where she lived and could clearly see that she wasn't working.

Those working after 8pm were even harder to outreach and give supplies to as they were constantly on the move and couldn't risk to be seen talking to us in that area.

While most knew their legal rights and understood that the charges weren't justified, most pleaded guilty just to get the conditions removed. This meant another fine, (between A\$250-500) and a larger criminal record that can be used to disadvantage them in the future. Each new fine also meant longer working hours for the women, with the threat of a warrant being issued for their arrest if they failed to pay on time.

WHAT SWOP DID AND THE OUTCOMES WE'VE ACHIEVED: INTRODUCED THE WORKERS TO A PRO-BONO LAWYER

Jane Sanders is a solicitor for Shopfront Youth Legal Centre. Shopfront Youth Legal Centre is a service provided by Freehills, in association with the Mission Australia's Sydney City Mission and the Salvation Army. Sanders has a thorough understanding of the legislation surrounding the sex industry. A referral card was handed out with Sanders' and SWOP's contact numbers on it. As this was no larger than a standard credit card, it was small enough for the workers to carry on their person quite discretely, in case of arrest. At the beginning of April 2003, Sanders came on outreach with SWOP to be personally introduced to the women. She fielded many legal questions and encouraged the women to call if they wanted legal representation.

With word on the street that Jane could successfully represent them, peer education

amongst the women was clearly evident as workers started encouraging others to ring her. In May 2003, police charged one worker for soliciting 'within view' of a church - even though the church group was no longer there. The worker was taken into custody the next morning as she was seen having breakfast within the bail condition area. Four days later, Jane successfully fought for her release. This case was particularly important as it could quite clearly be demonstrated that the charge was unjustified and the police were actively discriminating against the workers. Over the next few months Jane and SWOP supported this worker to challenge this charge, moving from the local court up to District Court. Just before the final court appearance the Police withdrew the charge. Although this was a great success and no further workers have been charged with this offence since this time, the worker had still lost four days of her life in jail.

INITIATED CONTACT WITH THE POLICE

SWOP approached Bankstown Police to set up a meeting with both the Superintendent and the Crime Commander. A range of issues were discussed, including:

- the current attitudes and actions of their police officers towards the workers,
- demystifying commonly held beliefs about both the workers and the clients,
- reasons why there was a current dispersion of the women into the residential areas,
- complaints the police had received from the public, and
- options for legal working areas that have been successful in both NSW and overseas.

POSITIVE OUTCOMES INCLUDED:

- establishing agreement as to where the legal working area was, and
- an acknowledgment from the police that the church was no longer in operation,
- police also committed themselves to directing their officers to take a more objective approach to the policing of this area, and
- to remain courteous and polite to the women just like they would with any other citizen, and
- discussion also took place around the idea of identifying specific locations in this industrial area for the workers and their clients to park, in order to do the jobs without causing any disturbances or offence for the surrounding community.

SWOP PRESENTED TO THE BANKSTOWN COMMUNITY SAFETY COMMITTEE MEETING.

The Police also invited SWOP to present at the Bankstown Community Safety Committee, a meeting the Local Council co-ordinates. We discussed a range of topics concerning the local sex industry and outlined actions that could be taken to improve conditions for both the sex workers and the community in general. While it took a few months, at end of February 2004 a permanent container for used needles had been placed in the area, which was one of the suggestions for the area. Further discussion has continued between SWOP and council to place rubbish bins in the area and the council has continued to be supportive of SWOP initiatives.

RECOMMENDATIONS:

The role of police in regards to street-based sex workers cannot be understated. While this has always been a very contentious issue, in order to maximise a good working relationship between sex workers, service providers and the police, a number of things can be implemented:

- policy directives from the police should optimally come from the top down to assure a consistent and informed approach.
- regular education sessions, such as Police Sex Worker Liaison Officer training. This can establish good peer education within the police force and identify specific police officers the workers can feel comfortable in contacting to report assaults to.
- regular meetings between the police and service providers to share information

and discuss on-going issues.

- producing a pamphlet stating the laws and the prescribed legal working area, to create a level playing field for all involved.
- a dedicated project officer to be the central communication point for both the police and the workers as well as a dedicated mobile. This gives workers the opportunity to report events as they happen, allowing them to SMS the details of licence plates and names of officers, which is an incredibly cheap, if not free way to communicate.

Continuous communication and education of the police has been demonstrated to dramatically change their actions and attitudes towards workers. This has allowed workers to operate once more in an environment where HIV prevention strategies can be employed without fear or persecution. The empowerment of these workers in the last few years has increased peer based education on the street, with many workers now confident to call the police and assert their rights if required. With ongoing contact and collaboration between the police, local council, and service providers, such as SWOP, one can only hope that one day these workers can enjoy the same amount of respect and support that any other worker currently has in the workforce.

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DECRIMINALISATION AS PARTNERSHIP: AN OVERVIEW OF AUSTRALIA'S SEX INDUSTRY LAW REFORM MODEL

Kate Demaere

Decriminalisation = 'all laws criminalising the sex industry be removed and the industry be regulated through standard business, planning and industrial codes/laws'

-- Metzenrath S & Banach L. (2000) 'Principles for Model Sex Industry Legislation'. Sydney: Scarlet Alliance and AFAO.



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This article was written with the support of Scarlet Alliance members, the author would like to thank those members for their assistance and information.

Sex workers, sex worker organisations and their support services in Australia know that legal frameworks have a significant impact on the health and safety of sex worker communities. The state of New South Wales (Australia is divided into 6 States and 2 Territories) has decriminalised the sex industry. Decriminalisation has played a strong role in supporting the Australian health strategies such as the Australian National HIV Strategy and Australian health promotion strategies. Decriminalisation supports Australian national health strategies by allowing wide participation by sex worker communities. Sex workers, in accordance with these national health strategies, continue to call for the decriminalisation of the sex industry on a national level in Australia. "The prevalence of HIV and STIs amongst Australian sex workers has been one of the lowest in the world, proving that decriminalisation and health promotion strategies have succeeded" (Red and Saul 2003).

However, the successes of decriminalisation and the resulting benefits of the community partnerships with sex workers has been largely ignored and receive only sporadic credit and support from lawmakers and governments. Decriminalisation has come to a stand still in Australia. The diversity in laws, heavy regulations in some states and the fact that decriminalisation is not being implemented at a national level is damaging Australia's good record on HIV and sex workers' rights. States that address sex industry law reform inevitably begin to revisit arguments for licensing and regulatory interventions. Sex workers, their community organisations and supporters continually return to familiar arguments to maintain their successes.

PUNITIVE AND REGULATORY APPROACHES

Prohibitionist policies and punitive measures that attempt to regulate the sex industry drive sex work activities underground. Decriminalisation allows sex workers to voluntarily access

health services and other services. Where sex work activities are criminalized, sex workers are exposed to harassment and exploitation. Sex workers are less likely to report crimes and their rights are often not recognised. Prohibition of sex work means that police, legal and health services can discriminate against sex workers, creating an environment where sex workers are compromised by institutionalised prejudices. Prohibition promotes negative stereotypes of sex workers and stigma, which can severely affect the professional and personal lives of sex workers.

CURRENT AUSTRALIAN SITUATION

New South Wales (NSW) is widely regarded as the most collaborative and deregulated state of Australia with regard to the sex industry. Other Australian states and territories fluctuate between criminal and public health models. Decriminalisation was originally introduced to reduce police corruption in NSW. Decriminalisation has also removed significant barriers and has enabled sex worker communities to mobilise.

Australia does not implement decriminalisation of the sex industry on a national level. Each state and territory develops its own legislation for the sex industry. States and territories administer regulations and legalisations with police and local councils. This lack of national cohesion has created a situation in which brothel-based businesses, massage parlours, private workers, escort agencies and street based sex workers are often dealt with in very different ways in each state or territory.

Local councils increasingly localise and discriminate against the sex industry. Such discrimination is inconsistent with the current Australian National HIV and Health Promotion Strategies. Local councils are federally directed to allow sex work businesses to operate legitimately, but ban the sex industry with zoning bylaws. Driven by stereotypes, community fears and biases,



councils have become staunch regulators of the sex industry. Street-based sex work in NSW remains heavily regulated by local councils. Sex worker organisations and projects receive reports from sex workers that local councils have colluded with police to gain entry to their workplaces and enforce specific zoning regulations.

ENABLING SEX WORKER COMMUNITIES

The occurrence of HIV in Australia and internationally was a crucial moment in how governments approached the politics of health care. Community development is based on the fundamental understanding that successful interventions come from the knowledge and ideas inside the community rather than from outside the community (Ife 1995). Where Australia has followed this model, sex worker communities have mobilised as community-based organisations (CBOs) and work in partnership with the government to achieve public health goals. (Fawkes 2004). Sex worker communities working in partnership with the government are able to participate and collaborate with governments to achieve public health goals and have developed their own services and programs. Decriminalisation, and the funding of community-based responses including sex worker peer-based strategies, has been a resounding success in Australian public health.

Sex worker communities in Australia have developed and delivered diverse forms of services for their own members. Sex worker projects employ past and present sex workers as 'peer educators', who provide services, support and information to those in the sex industry. Sex workers in Australia have great knowledge about safe sex practices, and this knowledge can in part be attributed to decriminalisation and community-based responses to HIV. Decriminalisation of the sex industry gave sex workers the opportunity to develop expertise and specific negotiating skills for safe sex with clients. Sex workers in Australia educate others by example at work, thus educating the wider community who access their services. This is a key element to Australia's successful response to HIV. Sex industry community-based development helps sex workers better negotiate with and educate their clients.

CONCLUSION

Scarlet Alliance recognises decriminalisation as the best model of sex industry legislation because it supports the occupational health and safety, working conditions and human rights of sex workers. Evidence shows that there are great public health 'wins' with decriminalisation. As Australia slows in using this model, anti-sex work reformists and lawmakers undermine the positive public health outcomes of decriminalisation. This is counterproductive to public health and denies the vital role of sex workers in quality public health outcomes.

To learn more about decriminalisation see the Scarlet Alliance website: http://www.scarletalliance.org.au/pub/model_principles00/document_view.

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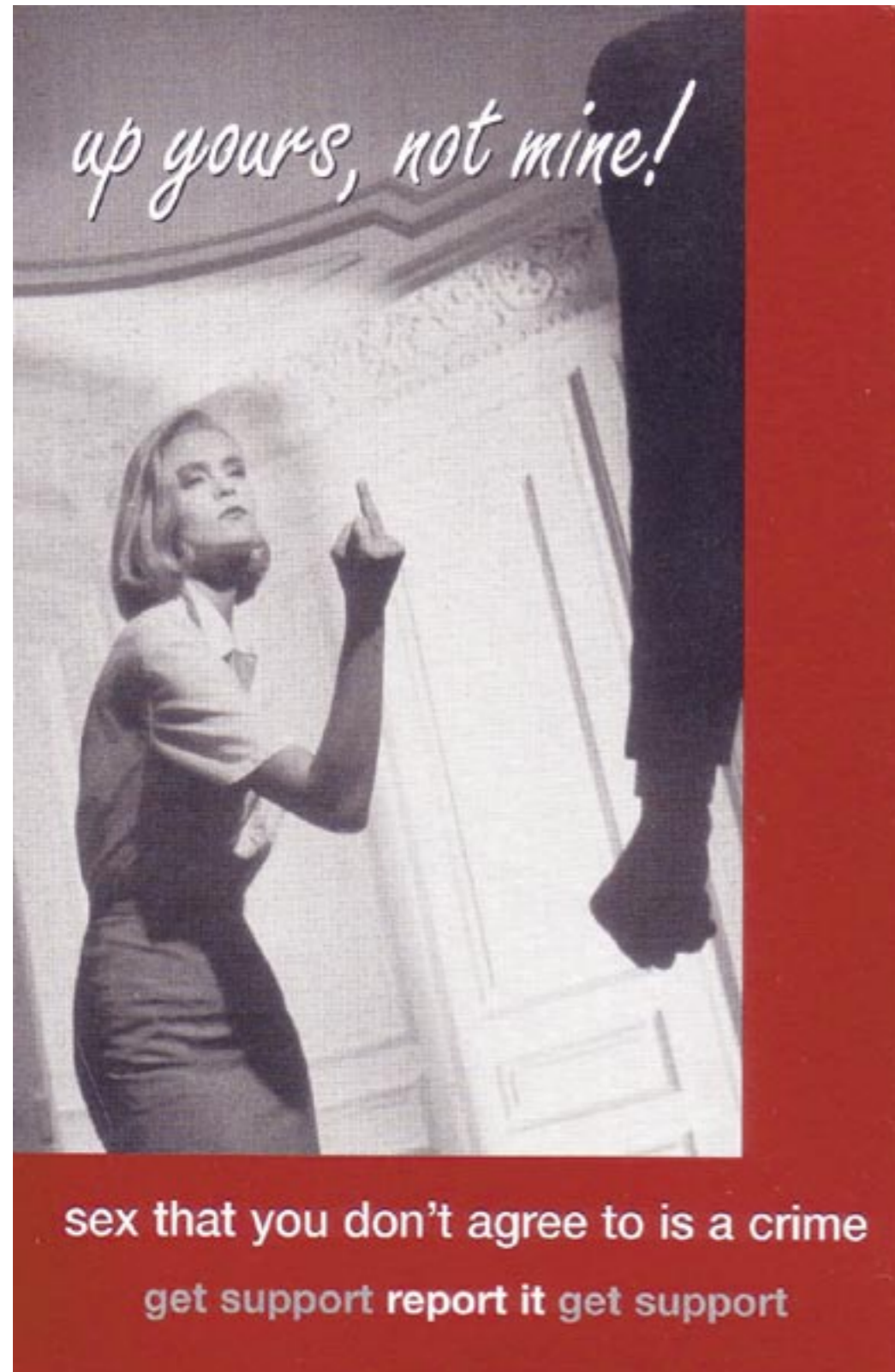
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REGULATING THE WORLD'S OLDEST PROFESSION: QUEENSLAND'S EXPERIENCE WITH A REGULATED SEX INDUSTRY

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The public visibility and moral context of sex work in Queensland, Australia as in other locales has changed over time. Fitzgerald (1989) has suggested that the Queensland sex industry occurred in a well controlled albeit covert manner before regulation. The Fitzgerald Royal Commission into Possible Illegal Activities and Associated Police Misconduct in the 1980's concluded, "the law had reached too far into prostitution and highlighted that, when areas related to morality and human behaviour are over-regulated, corruption can find an opening" (in Carver and Mottier, 1998:185). The 'law' in this instance were the police themselves.

During the 1990s, legislation attempted to eradicate links between organised crime, police corruption and sex work. The Prostitution Amendment Act 1992 was enacted, allowing sex workers to work alone from private premises. The Prostitution Act 1999 saw the introduction of license boutique brothels throughout Queensland. One interpretation of the prevalent legislation is that it addresses community concerns about the public visibility of prostitution rather than the occupational health and safety of workers.

In 2002, our research was funded to inform a government evaluation of prostitution laws to determine if they had reduced illegal sex work, improved the health of sex workers and were acceptable to the general community. We hoped to systematically evaluate the extent to which the changes in legislative structure had been effective in improving health and well-being of sex workers, and to determine contemporary occupational health and safety concerns of female sex workers in Queensland. Community participation and support was sought at all stages of the research process. Initial development included extensive discussion with sex workers, sex worker advocacy groups, government and non-government organisations, brothel owners, and other key individuals about questionnaire content and methods for distribution. The draft questionnaire was developed, piloted and modified in response to comments provided by sex workers.

Three female interviewers with varied and extensive knowledge of, and experience with, the Queensland sex industry recruited and interviewed all women who participated in the research. Recruitment was done through both direct and indirect strategies, with word of mouth being very effective method of recruitment. The final sample consisted of 247 female sex workers from various work settings including street-based sex workers, escorts, private sex workers, women working in legal and illegal brothels and massage parlours. Within the sample, 43 women worked illegally, of those 33 were street-based sex workers. 204 women interviewed worked in the legal sex industry, approximately half of whom worked in legal brothels.

WORKPLACE VIOLENCE AND PERCEIVED SAFETY

Women working in the illegal sector of the sex industry were much more likely to report being raped or bashed by a client, 21% of illegal sex workers reported having ever been raped and 49% reported having ever been bashed by a client. Unsurprisingly, almost half of illegal sex workers also reported feeling 'not safe' or only 'a little safe' on the average work day.

POLICE HARASSMENT

A significant proportion of sex workers indicated some form of unwanted police attention in the past five years. Illegal sex workers were more likely to report being harassed (42% compared with 13% of legal sex workers). Among the women who had been harassed by a police officer, verbal abuse was common.

An African sex worker indicated that a police officer taunted her with racial insults. Other forms of harassment included stalking, arriving at one's private residence, repeated phone calls and requests for sexual favours. Three per cent of women working legally reported having been sexually or physically assaulted by a Queensland police officer in the past five years compared with 21% of those working illegally. One third of illegal sex workers reported being propositioned by a Queensland police officer compared with nine% of legal sex workers.

	Legal sector (n=203) % (n)	Illegal sector (n=43) % (n)
Raped by a client ever	7 (15)	21 (49)*
Bashed by a client ever	8 (16)	49 (21)*
Feeling safe at work on the average day		
Not at all or only a little	11 (22)	49 (20)*
Moderately safe	10 (21)	19 (8)
Quite or extremely safe	79 (160)	32 (17)
Harassment by a Queensland police officer in the past 5 years	13 (26)	42 (18)*
Sexually or physically assaulted by a Queensland police officer in the past 5 years	3 (6)	21 (9)*
Sexually propositioned by a Queensland police officer in the past 5 years	9 (19)	33 (14)*
Would most likely report assault by a client	87 (175)	74 (32)
Would most likely report rape by a client	86 (175)	81 (35)
Would most likely report assault, rape or harassment by police	93 (188)	74 (32)*

* Statistically significant differences (p value =0.05 or less).

REPORTING TO THE POLICE

Most women interviewed indicated they would 'most likely' or 'maybe' report workplace violence by clients or by the police. Three quarters of women indicated they would possibly report being raped or assaulted by a client. However, women working in the illegal sector of the sex industry were much less likely to consider reporting police harassment, assault or rape. Of the women who indicated they would not report harassment or assault by Queensland police officers, many suggested the police protect one another and implied continued corruption within the service.

CONCLUSIONS

There are a number of serious public health issues confronting sex workers including workplace harassment and violence from clients, police and others. Women working illegally were more likely to report being raped or assaulted by a client. Clearly this is an important health issue for sex workers that needs to be acknowledged and addressed, regardless of the legal status of the occupation.

The main issues facing sex workers continue to be legitimisation and recognition of sex work as an occupation. Making sex work subject to criminal sanctions stems from the belief that law enforcement can eradicate prostitution, a framework commonly employed in the United States of America. However, the American experience has demonstrated the ineffectiveness of such legislation (Milman, 1980). Laws prohibiting sex work do not eliminate it; they simply change the structure of the sex industry, forcing it to operate covertly and in a clandestine manner.

We found the changes in legislative framework in Queensland have not stopped the illegal sectors of the sex industry and have created an underground economy. This legislation may provide benefit for some, but overall it further isolates and marginalises sex workers. This marginalisation may strengthen links between sex work and criminal activity. Repeatedly arresting street-based sex workers for soliciting creates a 'revolving-door' effect as it only temporarily removes sex workers from the streets. Additionally, it encourages faster commercial sex transactions which may increase the risk of harm as sex workers give up their safety precautions. It must be questioned whether this is good public policy and is financially viable.

Sanctions against street-based sex work also create an adversary relationship between police and sex workers. Despite this, many sex workers in this study said that they would report workplace assault or rape to the police. However, the reality of this situation may be somewhat different. Woodward (2002) found that only two per cent of women who had been sexually assaulted by a client reported the incident to the police. The most common reasons for not reporting violence were that women feared not being taken seriously by the police or did not want to bring attention upon themselves. Anecdotal evidence suggests that women are often concerned their experiences will be trivialised by the police and assailants are unlikely to be convicted.

The enactment of two successive pieces of legislation regulating the Queensland sex industry aimed to break links between police corruption, criminality and sex work. However, questions remain about the success of these laws in terms of continued reports of harassment and assault by police and continued occupational health and safety concerns.

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LAW UNREASONABLY ENFORCED: EXPERIENCES OF FEMALE SEX WORKERS IN HONG KONG

Kendy Yim

Legal Rights Officer, Action for REACH OUT

**PROBLEMS FACING SEX WORKERS
WORK RIGHTS EXPLOITED**

According to Hong Kong Law, a resident being a sex worker is not illegal, however, work rights of a sex worker are often exploited. Sex workers are often discriminated against, unreasonably arrested and mistreated by law enforcement agents. For instance, streetwalkers get arrested when they are simply walking on the street without any purpose of "soliciting". Police and courts often assume that streetwalkers must be the ones who solicit. But in certain occasions, customers are the ones to solicit. The spirit of "Soliciting for an immoral purpose" is simply being ignored. Besides, many women who work independently in a "one-woman brothel", which is legal according to the law, are harassed by the police. Police officers frequently "check out" their workplaces without notice and intervene their work. This not only scares away their customers, affects their work, undoubtedly, it also exploits their work rights.

MIGRANT SEX WORKERS MARGINALIZED

People who enter Hong Kong with tourist visas may be charged for "Breach of Condition of Stay" (BOC) if they engage in any form of work in Hong Kong. Therefore, sex workers from Mainland China or other countries who enter Hong Kong with tourist visas become more vulnerable and are further marginalized. There are cases that migrant sex workers are stopped on the street for ID inspection and the rooms they rented as living quarters are raided. When they are found without Hong Kong ID but valid papers for traveling, they are immediately arrested and charged with "Soliciting for an immoral purpose" and/or "Breach of Condition of Stay". In these cases, condoms found in handbags or rooms are usually used as circumstantial evidence for proof of soliciting or BOC. And on some occasions, migrant sex workers are spotted by immigration officers and sent back straight to their place of origin without trial, simply because their stay in Hong Kong is defined "unwelcomed". As a result, sex workers, especially migrant sex workers, are afraid to reveal their work identity and seldom report crime against them to the police, i.e. clients

refusing to pay, theft, threatening, robbery, or even cases of severe violence like physical assault or rape.

UNFAIR AND UNJUST TREATMENT

At the police stations, many sex workers fail to enjoy the entitled rights upon arrest and questioning, i.e. making phone calls to friends, families and lawyers for help, using toilet facilities, taking a break, etc. Sex workers who do not sign the charge sheet because they do not agree with the account of the police are refused bail or the police officer then writes on the charge sheet “Uncooperative”. And in the court, statements given by sex workers are usually less credited. Once a judge even told a sex worker that he would not trust her simply because she was a sex worker.

RIGHTS EDUCATION

To enhance sex workers’ understanding of their entitled rights, Action for REACH OUT (AFRO) disseminate educational materials and convey messages through outreach services and drop-in center based activities. Seminars and workshops are conducted on legal rights issues. Also we consider Legal Rights Education a key and essential part of the Peer Education Program for the sex workers. On the other hand, effort is put to raise public concern to right-abuse cases by law enforcement against sex workers. We are building up network with police, lawyers, social workers, women’s NGOs, media, etc. for wider recognition and support from the public.

LIFE EDUCATION FOR YOUTH

In August 2004, AFRO co-organized a Life Education Program with a youth center of a social service agency. The program aimed to broaden the view of youngsters, to let them know and understand more about sex workers and the sex industry, particularly about their life stories and experiences with law enforcement (mostly unequal and unfair), with a more opened mind and heart. We hoped that it would encourage them to self-reflect their certain kinds of stereotyping/discrimination on sex workers and the sex industry before joining the program.

The program consisted of a few sessions. The introductory session was a sharing among the 20 participants themselves (mainly young people aged 16 to 23) on their general impressions on sex workers and the industry, and also a process of reflection on why and how such impressions had been constructed. Sharing sessions followed between participants and invited sex workers, as well as a series of outreach activities to the work places of sex workers.

Throughout the program, we could see that most of the participants had been willing to listen, to try their best to understand the situations, the problems and the complicated feelings of sex workers. The encounters and interaction with sex workers provided them an opportunity to rethink or even challenge their existing perspectives and attitudes towards these women. Also, they understood and appreciated that sex workers who joined as “guest-speakers” were courageous and generous to share with them their far from pleasant life stories and experiences with law enforcement.

Action for REACH OUT (AFRO) is a non-governmental organization officially set up in 1993. AFRO works with and for women sex workers in Hong Kong. AFRO provides direct services, including telephone help line and outreach service on streets, in karaoke, hair-salons and nightclubs. The Drop-In Centre offers a variety of activities including workshops, classes, legal clinic service, health service, counseling and part-time employment. Through our contacts with women sex workers, we aim to raise the awareness of both legal rights and health issues.

During the last year, the strategic direction of AFRO has clearly been steering towards raising sex workers’ rights at a social level. More emphasis has been placed in advocacy, public education and, at the same time, boosting the self-esteem and thereby facilitating sex workers to form their own support groups.

After the program, 10 out of the 20 young participants determined to contribute, and by taking action to show their concern to the sex workers’ community. They volunteered themselves for a video production project for AFRO’s legal rights education for sex workers. From collecting stories and information, writing scripts, to acting and directing, the youngsters worked in a team to visualize the scenes of right-abuse cases experienced by sex workers and present in the video a could-be-different ending in case sex workers had been able to safeguard their entitled rights. The final product of the video now serves as a piece of in-house educational material for AFRO.

We see the Life Education Program as a success, not only as an education program for youth on building capacity in critical thinking and sense of social justice, but also as an empowerment and development process for sex workers’ self-expression and self-representation. Appreciation and gratitude that the youngsters have shown to the sex workers undoubtedly warmed their hearts, yet boosted their self-esteems and made them feel more confident about their capacity in combating people’s bias and prejudices against sex workers and the industry.

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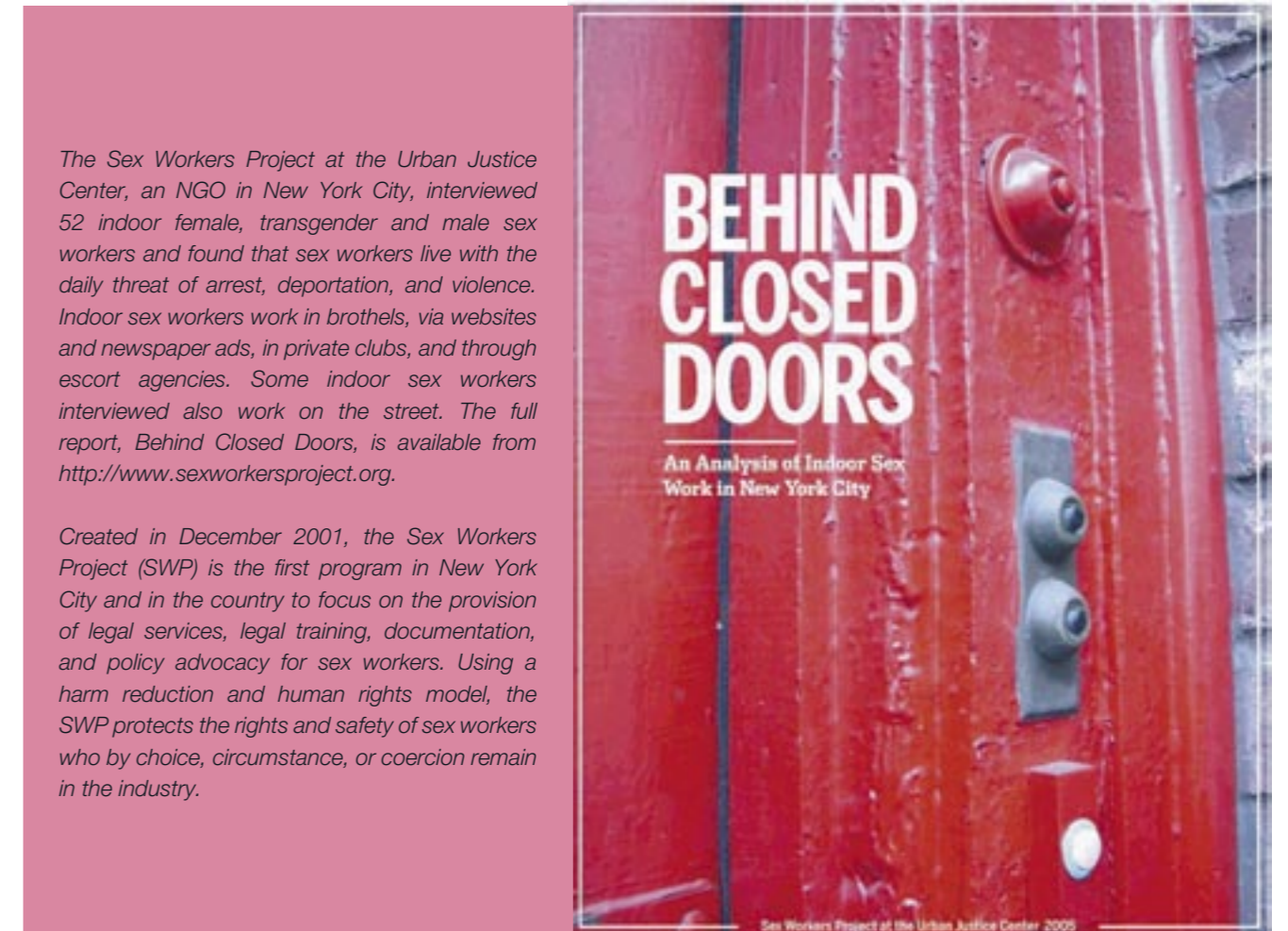
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SEX WORKERS AND POLICE IN NEW YORK CITY

Juhu Thukral, Sex Workers Project at the Urban Justice Center

Alexandra Murphy, Center for Urban Research and Policy, Columbia University



The Sex Workers Project at the Urban Justice Center, an NGO in New York City, interviewed 52 indoor female, transgender and male sex workers and found that sex workers live with the daily threat of arrest, deportation, and violence. Indoor sex workers work in brothels, via websites and newspaper ads, in private clubs, and through escort agencies. Some indoor sex workers interviewed also work on the street. The full report, Behind Closed Doors, is available from <http://www.sexworkersproject.org>.

Created in December 2001, the Sex Workers Project (SWP) is the first program in New York City and in the country to focus on the provision of legal services, legal training, documentation, and policy advocacy for sex workers. Using a harm reduction and human rights model, the SWP protects the rights and safety of sex workers who by choice, circumstance, or coercion remain in the industry.

POLICE INTERACTIONS

We asked how often respondents had “run-ins” with police, meaning that they did not call the police, but that the police came after them. Sixty-three percent (32 of 51) of respondents reported having experienced run-ins with police. For those who did experience run-ins, 63% (20 of 32) reported that these interactions were rare.

- 47% (24 of 51) of respondents had been arrested in relation to sex work, and 12% (6 of 51) said that they had been falsely arrested at least once.
- In the vast majority of cases where a respondent had been arrested, 88% (21 of 24) were offered no services or alternative sentencing by the criminal court. Of the three people who had been offered services, only one received any

services that were remotely substantive.

This person was supposed to receive job training—however, she found that the program was not helpful at all.

- Two women who had been trafficked into prostitution received services after having been arrested and held in immigration detention. These services were not offered through criminal court as a result of an arrest, but after the women were officially designated as trafficked persons.
- In addition to arrests, 29% (15 of 51) of sex workers interviewed stated that they had at times been taken into police custody, but then released instead of being arrested. For some, this meant that they were issued a ticket, and in some cases, they were completely free to go.

Indoor sex workers have less contact with police than street-based sex workers, but this group was very worried about the police and tried to avoid interactions with law enforcement. They were afraid of the consequences of arrest, such as having a criminal record, stigma, impact on housing and family members, and immigration consequences, like deportation:

Gale* spoke of many concerns: “I would have a record... so much harder to get job... [I don’t want] family and friends finding out... losing money from being in jail.”

Karen also worried “about other people [friends] finding out.” Viola did not want her mother to know how she supported herself.

Lily worried about the impact of arrest on her day job, as did Sara, who was fearful about an arrest “affecting my career.”

Louise felt that an arrest would affect her ability to find mainstream work: “I see all this stuff about job training and this arrest would eliminate all the jobs you could want if you ever do want to leave [sex work.]”

Emiko was afraid that an arrest might result in “being deported back to Japan.”

Edward also feared being deported, and he “hate[s] community service.”

Sean was scared of “getting deported or having a black mark on my visa.”

POLICE VIOLENCE AND SEXUAL SITUATIONS

- 14% (7 of 51) of respondents experienced incidents of police violence, and victims of such violence felt they had no recourse.
- 16% (8 of 51) of respondents have been involved in sexual situations with the police.

In addition to arrest, sex workers in this group also experienced violence at the hands of police:

Leticia said, “Just find a way to help us with the police. You have lots of women that have nobody to help them. We don’t need lawyers, we need somebody to protect us when we get beat up, when police mess with us. Around here, they don’t arrest you, they just mess with you like they own you.”

When Bryan was hustling on the street, he was slammed against a wall by police. This happened to him two times—they pulled his hair, sprayed him with mace, and slammed him against a wall.

VIOLENCE AND ROBBERY FROM CUSTOMERS

- 46% (24 of 52) of respondents have been forced by a client to do something he or she did not want to do.
- 42% (22 of 52) of respondents have been threatened or beaten for being a sex worker.

- 31% (16 of 52) of respondents have been robbed by a client.

The sex workers described high rates of violence. Violence here means being forced to do something that the respondent did not want to do; having been threatened or beaten because the respondent was a sex worker; and/or having been robbed by a client:

Sara describes a client “who came in and had a knife... I was cornered and I was about to be attacked and raped... I didn’t go to the police because it would be coming out about what I’ve been doing.”

REPORTING VIOLENT INCIDENTS TO THE POLICE

- 16% (8 of 51) of respondents had gone to the police for help, as a sex worker, and found the police to be helpful.
- 43% percent (22 of 51) of respondents stated that they were open to the idea of asking police for assistance. However, many of these same people also worried about how helpful police might be, and ultimately thought of the police as unhelpful and untrustworthy.

Despite their worries about the police, a few participants had good experiences with the police. These good experiences can help police write guidelines for best practices when assisting sex workers who come to them for help. Police who see sex workers as legitimate members of society are more likely to be helpful offer the same level of assistance that they would offer another person. They are also more likely to follow through on the steps taken in response to violence against sex workers. Unfortunately, this understanding that a sex worker may be a crime victim appears to be the result of enlightenment or understanding on the part of individual officers, and not the result of training and best practices issued by the police department.

CONCLUSIONS

Most sex work in New York is illegal, and therefore many sex workers isolated and invisible. There is a clear need for peer support for sex workers. Current policy and law enforcement efforts

are not effective. Sex workers need targeted and meaningful programs and support systems that will help indoor sex workers who want to leave the life now, or at some point in the future, reach economic self-sufficiency and stability.

RECOMMENDATIONS FOR POLICE INTERACTION WITH SEX WORKERS

Policymakers should carefully consider the extent to which they make prostitution a criminal justice priority. Sex workers often engage in prostitution to earn money for themselves and their families, and sex workers could benefit from substantive services and assistance rather than arrest.

Where a person has not committed a crime, police should not bother them.

Local police and government agencies must keep arrest statistics so policymakers and advocates can examine criminal justice trends.

*All names have been changed.

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THE IMPACT OF NEW UK LEGISLATION ON STREET-BASED SEX WORKERS: ANTI SOCIAL BEHAVIOUR ORDERS

Teela Sanders, University of Leeds, UK



THE INTRODUCTION OF ASBOS

In Britain, it is legal to engage in adult consensual commercial sexual transactions but the relationships that surround the interaction, such as advertising, negotiating, renting premises and living off the earnings, are all illegal. The most recent legal development for women involved in prostitution in the UK, especially street workers, has been through the Crime and Disorder Act, 1998. This Act introduced Anti Social Behaviour Orders (ASBOs) to be used against those who cause ‘alarm, distress and harassment’ to local communities. These prohibition orders have been rationalised as tools for both community safety and protection and the rehabilitation of offenders. Although no figures are known, informal networks suggest that hundreds of ASBOs have been served on street sex workers in a disjointed and ad hoc fashion. Some police forces apply ASBOs regularly as a strategy to reduce street soliciting, while others prefer more tolerant approaches to managing the street scene.

A breach of an Order can be punished by up to five years imprisonment. Many sex workers have been given custodial sentences for entering ‘no go areas’ defined under the Order. These Orders have never been evaluated. Legal experts criticize the ASBOs because they are ‘not only ineffective but also discriminatory in application to street sex workers’ (Jones and Sager 2001:873).

THE CONSEQUENCES: AN INCREASE IN RISK

ASBOs are not the only evidence of a return to the criminalisation of vulnerable, excluded street sex workers. Policing on the streets has become increasingly visible in some towns and cities. This visible police presence has resulted in geographical displacement; ‘crime shuffling’ (women become involved in other acquisitive crimes); and forced women to work in dangerous situations. Sex workers change the way they work in response to visible policing (Sanders, 2005). They arrive on the beat much later into the night; they work alone rather than in pairs, and jump into cars rather than take time to screen and make judgements. In order to avoid the police, sex workers have little option but to work in desolate and unlit

areas away from potential protection. Street workers are also geographically displaced, working in other towns, or on streets that are typically not known for prostitution. Additionally, these consequences of avoiding law enforcement are compounded in some towns by strong groups of residents who campaign for the removal of street workers through intensive direct action tactics. These tactics include night patrols, taking photographs of women and working alongside the police to inform of movements and identities.

The injustice of the use of ASBOs on sex workers is evident by the fact that men in the area - clients, men who coerce women into the sex trade, and drug dealers - have rarely been served with Orders. There is no evidence to suggest that this strategy reduces street soliciting but merely removes individuals who are then replaced by others. ASBOs are not a deterrent: many women who receive custodial sentences return to the streets when they are released from prison, only to receive another ASBO within a short time.

WHO SUPPORTS CRIMINALISATION?

The use of ASBOs and the criminal justice system has been advocated by an important Home Office publication ‘Paying the Price: A Consultation on Prostitution’ (2004), introducing the first review of the prostitution laws in the UK since the Wolfenden Report in 1957. In this report, enforcement action using civil and criminal law is recommended to ‘protect communities from the nuisance associated with prostitution’ (p.67). Rigorously applying the law is recommended to address behaviour that is considered unacceptable. This is an obvious return to the criminalisation of prostitution through a new discourse of anti-social behaviour, but this time there is government agreement that any enforcement needs to be met with integrated, multi-agency support programmes, such as drug treatments and ‘exiting’ programmes enabled by court diversion schemes. In reality, grassroots organisations describe how these services are often under developed with limited finances and resources yet are driven by target expectations to quickly ‘rehabilitate’ women out of prostitution. The barriers - for sex workers who want to exit prostitution - are complex

and exist on a range of personal, economic and psychological levels that require considered and sustained intervention in order to support women to make transitions. Pitcher and Aris (2003) evaluated an arrest referral scheme and found that street sex workers were cautious to engage in the programme because of previous negative experiences of support agencies, housing difficulties, drug and alcohol use and exceptional levels of violence.

WHO DETERMINES WHAT IS UNACCEPTABLE BEHAVIOUR?

Understanding sex workers' everyday experiences is at the heart of developing effective support services, good practice and fair social policies and legislation, but the rise in ASBOs can be understood as part of a wider political shift in the attitudes and beliefs about some forms of prostitution in the UK. Kantola and Squires (2004) studied the debates in parliament over prostitution and identified that there was a strong public 'nuisance discourse' associated with street commercial sex based on the ideas and stereotypes that appear in the media, government debates and policy developments focusing on the nuisance that prostitution causes to neighbourhoods such as noise, litter and disorder.

Simultaneously with the discussion of nuisance behaviour, Kantola and Squires (2004) found there was an absence of any framework that understands selling sex as an occupation. They compared the parliamentary discourses in the UK to those in the Netherlands, and found that any notion of sex work as work is stifled by moral judgements from religious groups and certain feminist fractions that describe prostitution as only violence against all women and always coercive and oppressive. Ultimately the strength given to abolitionist perspectives on prostitution has shaped the policies that are introduced through the police and law enforcement agencies. The spread of this public nuisance rhetoric is visible through the introduction of ASBOs and also by the recent outlawing of advertisement cards of sexual services that are found in telephone booths in the capital.

The UK may lack a strong political sex work discourse and advocacy movement compared to our European counterparts,

but there are lines of resistance that campaign for the rights of sex workers. The UK Network of Sex Work Projects is opposed to the use of ASBOs because of the detrimental affects such prohibitions have on service delivery to vulnerable women, their human and civil rights as well as an increase in criminalisation and exposure to violent and dangerous working conditions. As the use of ASBOs increases and the strategies used to

police prostitution are inconsistent across police force, the lack of coherent policy and approach to the management of prostitution means that the rights of sex workers are exposed to violation. The inconsistency of enforcing the law and the use of police discretion even within the same locality means that women do not know from one day to the next whether they can work free from criminalisation or whether the risks posed by policing are inevitable.

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US SPONSORED ENTRAPMENT

Empower Chiang Mai



Wherever sex work remains a criminal offense, there is scope for abuse by law enforcement. One of the most pernicious of these is the police entrapment operation.

The Thai Prevention and Suppression of Prostitution Act 1996 which forbids the sale of sex is concerned with five main areas of criminality.

The Act specifically prohibits and penalizes:

- commercial sexual abuse of minors, i.e. under 18 years old,
- soliciting of clients,
- advertising sexual services,
- arranging for sex worker services for others and
- recruitment of others for sex work.

There is a growing national recognition of the need to repeal the latter four articles and decriminalize sex work in Thailand.

"The articles are exploitative, providing opportunities for police to take advantage of the girls," he said. "If we abolish those articles, they can do their profession within the law ... and with fewer opportunities for police and authorities to exploit them." - Professor Narong Phetprasert a consultant adviser for the ruling Thai Rak Thai party of Thai Prime Minister Thaksin Shinawatra

"Go-go bar managers in Thailand say the sex industry operates largely with impunity under a network of police, military and government officials who rake in an estimated \$113 million a year from bribes...." *The Nation* September 7, 2003.

Chuwit Kamkolvisit is a massage parlor owner who has been in a long political and legal battle with Thailand's police force

since July 2003, when he claimed that he gave 12 million Baht (US\$290,000) in bribes to police each month for the past several years. He also claimed he supplied police for years with Rolex watches, European cars and free services at his massage parlors.

So where does the motivation for arrests come from when law enforcement has so much to gain from a lucrative and functioning industry?

"In the past policemen both in plain clothes and in uniform used my sex services for free, but this time they then identified themselves and made the arrest. Policemen are known to use the sexual services of massage parlors, thus their presence would not necessarily indicate they were involved in a sting operation or investigation of the premises."

- One of the eight workers arrested at the Victoria massage parlor Bangkok owned by Chuwit, September 2003

So why would entrapment operations be necessary when the police are so well acquainted with the workings of the industry?

Entrapment and arbitrary arrests are not news for sex workers in Thailand, or indeed anywhere in the world. It is also general knowledge that these operations frequently have motivations other than crime prevention. These alternative motivations include producing visible results for impressive police reports; punishing or warning renegade elements in the industry; and as a result of conflicts between different police districts or different government departments e.g. immigration.

However there is a recent new motivation for the entrapment and detention of sex workers in Thailand.

“There have been four episodes of police posing as customers leading to the detention of 37 migrant sex workers in the past 3 weeks. These are just the ones we know of personally. Sex workers involved tell us police action is being driven by an International Anti-trafficking Organization. The only such group we know of in Thailand is the International Justice Mission.”

- Pornpit Puckmai, Empower Chiang Mai March 2005, recipient of Thailand’s first national human rights award

“International Justice Mission is a US organization and recipient of a \$US1,000,000 government grant for anti-trafficking work in January 13 2005.”

- Dateline NBC News January 13, 2005

Entrapment has no precise legal meaning. It applies to a variety of evidence gathering techniques by police. Police entrapment invites and encourages an accused person to commit a crime - the police or their agents are the “moving force” in bringing about the crime. Police generally use entrapment techniques to pursue consensual or victimless crimes involving a willing exchange of illegal goods and/or services.

Entrapment is a human rights issue as it interferes with the right to protection from arbitrary and unlawful intrusion into daily life; and the right to fair treatment under the law.

- UNHRD Article(s) 9,11,12

“In terms of criminal justice, entrapment is at best, unethical and questionable police procedure. The criminal justice system says x ought not to be done, but we invite people to do x.”

- Mike Bartlett Criminal Law Department Australian National University

March Bell is the Director of Interventions for International Justice Mission (IJM). He would seem to have no concerns about the ethical issues of entrapment. IJM has volunteers who pose as customers and visit places where mostly migrant sex workers are employed. They often make requests for young girls perhaps not realizing they themselves may be stimulating demand for the commercial sexual abuse of children. In addition they secretly interview women hoping they can encourage the woman to express a wish to go home and/or to ask for help. However most women when asking a customer “Can you help me?” are asking for financial or similar help, they are not asking to be taken into detention.

Bell spoke freely about the threats and coercion his organization uses to force police and immigration officials to override their local policies and their local knowledge. He expressed disdain for local police skills and described the reports IJM produces for local authorities:

“Here it is. Better documentation than you have ever seen in your country. They have everything they need. They have an undercover video of the girls talking. They have video pictures of the girls. They have the girls’ test exams as well as thumbprints.”

Under the process employed by International Justice Mission,

migrant sex workers become evidence and our bodies become crime scenes, and are treated as such. Labeled, bagged and kept until the court case.

Bell explained the procedure used by IJM to work with local authorities.

“.... I know someone who knows your boss... and we’re just going to rattle cages until you do your job... Start with a carrot. You can be a real hero in this community just by rescuing those girls. And if they will not go along, then you start rattling the cages.”

“You find somebody, you have to piece something together, and then you hear, So-and-so is not going to go along. OK, how can we get to him? Oh, I know some way we can get to him. So-and-so will call him, and we’ll move ahead on this. We are all experts ... at operating in Washington. And this work is what you have to go do in a third world or developing world context. People are the same everywhere and have somebody they are beholden to, somebody they answer to, somebody who can embarrass them, somebody who will not ever, ever, ever want to see a copy of a congressional letter coming to an ambassador who hands it off to a person in Thailand who then gives it to the chief of police... You try whatever it takes.”

This explanation of IJM procedure is both revealing and frightening. Clearly IJM is confident in the total support of the US government for their methodology and processes. They are equally confident that the US government can and will apply pressure on other governments if IJM require it. Sex workers should not be victims of exploitation or other human rights abuses by employers, customers, local authorities or anti-prostitution/anti-trafficking groups.

Quotes attributed to March Bell from the Protection Project website [online May 28, 2005] <http://www.protectionproject.org/main2.htm>. October 11, 2000.

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Empower is a sex workers organization in Thailand. They have four drop-in centres that offer literacy, computer training and non-formal education. Empower also gives counseling, health information and other support to sex workers. Educational theater pieces about HIV prevention, condom use, and the effects of anti-trafficking efforts are amongst their advocacy methods. Empower member Pornpit Puckmai received Thailand’s first national human rights award in 2005.

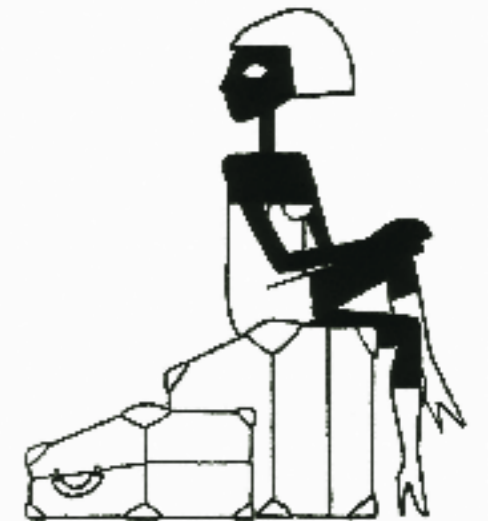
RECOMMENDATIONS

On the 12th of May 2003 Empower held a meeting on trafficking and anti-trafficking responses with 64 female entertainment workers from 3 major centers in Thailand. The large majority of the group was women from Burma, some of who had at some time been “victims of trafficking” and all of who had at one stage or other enlisted help to migrate for work in Thailand. They were unanimous in their recommendations that:

1. No person should be trafficked, or forced to work in work they have not chosen to do and that no child under the age of 18 years should be abused sexually either commercially or domestically.
2. Methods to combat trafficking must be revised and solutions found that do not violate the rights of workers but support true victims of trafficking.
3. The rights of adult trafficked victims as workers must be acknowledged. We should receive recognition of our work and compensation, so we are not financially worse off after our “rescue”.
4. All women affected by trafficking or anti-trafficking measures must receive adequate compensation and if we are victims of trafficking we be given full support to seek asylum and/or residency with the right to work included.
5. The primary goal of prosecuting traffickers must be altered to a primary goal of assisting trafficked women and children. We propose that if trafficked women and children (whether trafficked or not) are continually rescued and assisted, the use of trafficked women and children will become unprofitable and entertainment places will only wish to employ those women who are over 18 years, informed and willing to work.
6. Understand that all women, who are unable to access travel documents and need or wish to migrate, must secure the assistance of an agent or broker. If our situation as refugees from Burma is not recognized we must secure work for the survival of our families and ourselves. While we are willing to work our illegal status leaves us with no recourse against exploitation by agents or employers regardless of the work we do. Anti-trafficking groups must work toward improving the human rights situation in Burma, securing the ability for women to travel independently, and fully supporting the recognition of our refugee status.
7. Currently women who work in entertainment places have their own methods of assisting trafficked women, those being forced to work, and those under 18 years. Anti-trafficking dialogue and groups have yet to consider us as anti- trafficking workers and human rights defenders even though the numbers of women and children we assist far the handful outweigh of women and children serviced by the recognized anti trafficking groups. Instead we are ourselves caught up in the “rescues and repatriation”. The latest stance from the USA government calling us “inappropriate partners” is just the latest example among many of the

way we are ignored and our expertise sidelined.

Empower appeals to anti-trafficking campaigners, funding bodies and policy makers to urgently and very carefully consider these recommendations and ensure that they protect the rights of the women they propose to assist.



RESCUE?

The detention of anyone “rescued” in an anti-trafficking raid violates the human rights of trafficked persons, sex workers and others affected by these raids.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, also recommends appropriate housing for trafficked persons. The US Trafficking Victims Protection Act, being pushed as model legislation around the world, states that trafficked persons should “not be detained in facilities inappropriate to their status as crime victims”. Appropriate housing absolutely does not mean detention.

The Human Rights Standards for the Treatment of Trafficked Persons lists important considerations for everyone working with trafficked persons. These rights include freedom from discrimination; safety and fair treatment; access to justice; resident status; safe repatriation, and cooperation between states. These rights should be extended to everybody affected by anti-trafficking efforts, including sex workers. This excerpt from the Human Rights Standards for Trafficked Persons explains these rights further:

Principle of non-Discrimination: States shall not discriminate against trafficked persons in substantive or procedural law, policy or practice.

Safety and Fair Treatment: States shall recognize that trafficked persons are victims of serious human rights abuses, protect their rights notwithstanding any irregular immigration status, and protect them from reprisal and harm.

Access to Justice: The police, prosecutors and court shall ensure that their efforts to punish traffickers are implemented within a system that respects and safeguards the rights of the victims to privacy, dignity and safety.

Resident Status: States shall provide trafficked persons with temporary residence visas (including the right to work) during the pendency of any criminal, civil or other legal actions and shall provide trafficked persons with the right to seek asylum and have the risk of retaliation considered in any deportation proceedings.

Repatriation and Reintegration: States shall ensure that trafficked persons are able to return home safely, if they so wish, and when they are able to do so.

State Cooperation: States must work cooperatively in order to ensure full implementation of these Standards.

Human Rights Standards for the Treatment of Trafficked Persons were developed by the Foundation Against Trafficking in Women, the Global Alliance Against Traffic in Women, and the International Human Rights Law Group (now Global Rights). The standards can be downloaded as a PDF from http://www.globalrights.org/site/PageServer?pagename=wwd_index_49.

Global Alliance Against Traffic in Women:
<http://www.gaatw.org>
Global Rights <http://www.globalrights.org>

TENOFOVIR TRIAL AND ETHICS UPDATE



Research for Sex Work 7 included an article from Cambodia about controversial drug trials. The drug being tested was tenofovir, which is used in combination with other drugs for HIV. This trial would have tested whether tenofovir was effective to prevent HIV infection. The sex workers wanted long-term treatment for those who become HIV-positive during the trial and treatment for side effects related to tenofovir. Women's Network for Unity, the Cambodian sex workers group boycotting the trials, held two press conferences and staged a demonstration with Act Up Paris at the 2004 AIDS Conference in Bangkok. The trial was stopped in August 2004. This was an historic moment: never before had sex workers successfully stood up to unethical research.

Trials of the same drug were scheduled to begin in Botswana, Cameroon, Malawi, Nigeria and Thailand. The trial in Cameroon was stopped in February 2005. The trial in Nigeria has been cancelled. Because a number of trials had been stopped, the sponsors met with community members and advocates in May 2005 to discuss what would give people confidence enough to participate in trials. Sex workers, other proposed

trial participants and their advocates were pleased that their concerns were taken seriously at this meeting. Everyone agreed that materials to prevent the spread of HIV should be readily available and that treatment should be guaranteed for trial participants who become HIV-positive during trials. However, no agreement about how to guarantee treatment for participants who become HIV-positive or who would pay for treatment was drafted.

Genuine participation including input from proposed trial participants at all stages was also discussed. This meeting was the first step toward real inclusion for research participants from marginal communities in the developing world in medical trials. Everyone will benefit if this continues. Everyone will lose if it does not.

The Network of Sex Work Projects is in the process of developing ethical standards for research with sex workers. If you would like to participate in this process, to make recommendations, or to review proposed standards, please write to rights@nswp.org.

LEGAL GLOSSARY

This legal glossary is included because the terms related to law enforcement and sex work are very specific.

Abolition Abolitionists seek to end prostitution in all forms. The term comes from abolitionists opposing regulated legal brothels in Victorian England.

Criminalization is the inclusion of prostitution or related activities in the criminal legal code. This is different from the inclusion of prostitution in business or other other regulatory or civil legal codes.

Decriminalization is the removal of prostitution and related activities from the criminal legal code. This is the legal approach to prostitution recommended by most sex worker organizations and advocates of sex workers rights.

Entrapment is the inducement by police or their agent to do something that a person would not otherwise have done. This is not usually a successful defence for sex workers who have been arrested or known for prostitution.

Intent to commit prostitution means that a person seeks to engage in prostitution, as exhibited by some act. In other words, it's not a crime to have the intent to commit prostitution, you have to do something to show the intent.

Legalization is handled in different ways in different places. In some places, only some kinds of sex work are legal, while others remain criminal activity. Sometimes, sex-work related activity like advertising, or living off the earnings of a prostitute remain illegal. Legalization is often accompanied by regulations regarding who can be a sex worker, where sex work can be done, and other restrictions.

Littering is leaving rubbish or other items in a public place.

Living off the earnings (of a prostitute) means being financially supported by a sex worker. This is illegal in places that want to

criminalize "pimping" but can make it difficult for sex workers to offer money to their own adult children.

Loitering is hanging around. Loitering with intent to commit prostitution means hanging around and making some effort to meet a client.

Magistrate or judge is a government official who hears legal cases and sometimes decides verdicts and sentences.

Obstructing traffic is blocking the road. This has been used against street-based sex workers.

Occupational safety and health (OSH) refers to tasks and conditions where some kind of work is done. OSH regulations are intended to ensure that safety and health are protected at work. Only New Zealand and Australia have OSH regulations for sex work.

Procurement is to make someone available for sex. This is also called pandering or promoting prostitution. It is used to refer to third parties.

Prohibition of prostitution means that prostitution is an illegal and criminal act.

Prosecute is to bring a legal claim, generally used when it is the government bringing the legal claim. For prostitution, this may involve a court appearance.

Regulation of prostitution is the application of rules and laws to sex work, usually mandatory health checks for sex workers.

Zero tolerance is an approach used by law enforcement by which small or nuisance crimes like prostitution are actively and aggressively combated by the police. This creates high rates of arrest.

Zoning regulations applied to sex work may limit the number of sex-related businesses in an area or restrict sex work from near a church or school.



ANNOUNCEMENTS

THE ALLIANCE AND THE GLOBAL COALITION ON WOMEN AND AIDS HAVE AGREED TO WORK TOGETHER TO PROMOTE AND SUPPORT SEX WORKER LEADERSHIP IN RESPONDING TO HIV/AIDS

The Global Coalition on Women and AIDS (GCWA) is a worldwide alliance of civil society groups, networks of women with HIV and AIDS, governments and United Nations (UN) organisations. The Coalition works at global, regional and national levels to highlight the impact of AIDS on women and girls and mobilise actions to enable them to protect themselves from HIV and receive the care and support they need. The International HIV/AIDS Alliance (the Alliance) is the European Union's largest HIV/AIDS-focused development organisation. Its work focuses on mobilising and strengthening communities so that they can respond to HIV/AIDS themselves. The GCWA identified that the voices of women who sell and trade sex are often absent from the policy and programmatic debates that impact on their lives. Due to issues such as the limited capacity of sex work projects, stigma and language barriers sex workers' role in national and international forums have not been commensurate with their place in most HIV epidemics. Their partnership with the Alliance will facilitate a range of activities that will seek to redress this imbalance.

The Alliance will consequently be considered a 'convening' organization of the GCWA - a range of UN agencies and international non-governmental organisations jointly convene areas of work being undertaken by and with the support of the Coalition. Other convening organisations include ICW, IPPF and the Global Campaign for Microbicides. The work of the convening agencies is ordered under seven thematic tracks: violence against women, preventing HIV in young women, property and inheritance rights, access to treatment, education for girls, home based care and female controlled prevention. Through the partnership the Alliance promotes the interests and experiences of women who sell and trade sex will be mainstreamed throughout these topics.

The joint project, 'Women Leading Change on HIV and AIDS: International Sex Worker Leadership', involves a range of activities including a regional meeting in Africa to help build the capacity of sex workers to respond to the epidemic, the documentation and lesson sharing of examples of global sex worker leadership in responding to HIV and a meeting of representatives of sex work projects from around the world. The global meeting will be used to share experiences of HIV programming and develop recommendations on human rights, violence, access to services and mobility and their impact on the epidemic. The meeting will also support the development of an advocacy strategy which will be implemented internationally, regionally, nationally and locally by sex work leaders.



THE NETWORK OF SEX WORK PROJECTS NOW PRODUCES RESEARCH FOR SEX WORK

Research for Sex Work was founded in 1998 by Ivan Wolffers at the Vrije University Medical Centre in the Netherlands and Licia Brussa of TAMPEP. Since then, there have been seven wonderful issues of Research for Sex Work. Members of the International Network of Sex Work Projects have increasingly contributed and collaborated on the production of Research for Sex Work since it appeared. The International Network of Sex Work Projects took over the production after No. 7 appeared in 2004. Founding editors Nel van Beelen and Ivan Wolffers have assisted this transition. NSWP member organization Empower Chiang Mai did the graphic design for this issue of Research for Sex Work.

The NSWP was founded in 1991 as an informal alliance which participates in independently financed projects in partnership with member organizations and technical support agencies. The NSWP is in the process of incorporating in Hong Kong. The Network promotes sex workers' health and human rights throughout the world with members on all continents.

This issue of Research for Sex Work is dedicated to the memory of Paulo Henrique Longo, founding coordinator of the NSWP. Paulo Longo worked with Nel van Beelen and Ivan Wolffers to arrange for the handover of Research for Sex Work to the NSWP. He would have become the editor in chief, but he died in October 2004.



COLOFON

Research for Sex Work is an annual publication designed for sex workers, health workers, researchers, NGO staff and others who professionally deal with sex work and development. It was founded by Vrije University Medical Centre in the Netherlands, and is now published by the International Network of Sex Work Projects. This issue on sex work and law enforcement was produced with financial support from Hivos, the Netherlands. The views expressed in this journal do not necessarily reflect those of the publisher or the donors.

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Research for Sex Work acknowledges that depictions of sex workers, people living with HIV, gay, transgenders, lesbians and other stigmatized people are always sensitive. It requests all contributors to only send photos containing images of people who have consented to their photos being published. Photos depict a range of people including, but not limited to, sex workers. Readers should not draw any inference about the sexuality, HIV/health status or occupation of any person that appears in any photo in Research for Sex Work.

Back issues:

1. Peer education, June 1998
2. Appropriate health services, August 1999
3. Empowerment, June 2000
4. Violence, repression and other health risks, June 2001
5. Migration and mobility, June 2002
6. Human rights, December 2003
7. Research ethics, June 2004

Back issues are available as PDFs from <http://www.researchforsexwork.org>; the NSWP website, <http://www.nswp.org>, and the website of the Vrije University Medical Centre, <http://hcc.med.vu.nl>.

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