

UNAIDS Guidance Note on HIV and Sex Work



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UNAIDS Guidance Note on HIV and Sex Work

The development of the UNAIDS Guidance Note on HIV and Sex Work benefited from the contributions of the UNAIDS Reference Group on HIV and Human Rights and the Global Working Group on HIV and Sex Work Policy. The Guidance Note was also informed by a series of consultations that occurred between 2006 and 2008, including the Global Technical Consultation on HIV and Sex Work; a regional consultation for Latin America and the Caribbean; subregional consultations in southern Africa and the Caribbean; national consultations in China, Malawi, Peru, Thailand and Zimbabwe; and subnational consultations and discussions in Kenya, Nepal and the Pacific Island Countries. The specific needs of populations of humanitarian concern were informed by consultations in southern Eastern Europe. The UNAIDS Guidance Note further benefited from the Informal Briefing for the High Level Meeting on AIDS, held in April 2008 focusing on HIV and sex work.

March 2009

Introduction

This Guidance Note has been developed to provide the UNAIDS Cosponsors and Secretariat with a coordinated human-rights-based approach to promoting universal access² to HIV prevention, treatment, care and support in the context of adult sex work. In a world where the overwhelming majority of HIV infections are sexually transmitted, sex workers and their clients are at heightened risk of HIV, in large measure as a result of a larger number of sex partners. Vulnerability to HIV as a result of sex work extends to women, men, and transgender people. Although the links between sex work and HIV vulnerability have been recognized since the earliest days of the epidemic, surveys indicate that sex workers have inadequate access to HIV prevention services³, and it is believed that their access is even more limited for appropriate treatment, care and support. To date, the HIV response has devoted insufficient attention and resources to efforts to address HIV and sex work, with less than 1% of global funding for HIV prevention being spent on HIV and sex work⁴. The epidemiological data on HIV infection rates among sex workers and their clients reflects the failure to adequately respond to their human rights and public health needs. Recent studies continue to confirm that in many countries sex workers experience higher rates of HIV infection than in most other population groups⁵.

“...In most countries, discrimination remains legal against women, men who have sex with men, sex workers, drug users, and ethnic minorities. This must change. I call on all countries to live up to their commitments to enact or enforce legislation outlawing discrimination against people living with HIV and members of vulnerable groups...In countries without laws to protect sex workers, drug users, and men who have sex with men, only a fraction of the population has access to prevention. Conversely, in countries with legal protection and the protection of human rights for these people, many more have access to services. As a result, there are fewer infections, less demand for antiretroviral treatment, and fewer deaths. Not only is it unethical not to protect these groups: it makes no sense from a public health perspective. It hurts us all.” Ban Ki-moon¹ The Secretary-General of the United Nations

¹ Address of the Secretary-General of the United Nations to the International AIDS Conference, Mexico City, 3 August 2008.

² “Universal access signifies both a concrete commitment and a renewed resolve among people the world over to reverse the course of the epidemic...it does not imply that there will be, or should be, 100% utilization by all individuals of every HIV prevention, treatment, care and support intervention. Rather, through the universal access movement, a worldwide commitment has been made to make measurable, sustained advances towards a higher level of coverage for the most effective interventions needed to manage the diverse epidemics across countries” UNAIDS (2009), *What countries need: Investments needed for 2010 targets*. Geneva, UNAIDS.

³ UNFPA, UNAIDS, Government of Brazil (2006), Report of the Global Technical Consultation on HIV and Sex Work, Rio de Janeiro, 12-14 July. The UNAIDS 2008 Report on the Global AIDS Epidemic reports that 60.4% of sex workers were reached with HIV prevention services (defined as the proportion who know where they can receive an HIV test and have received condoms in the past 12 months), a marked increase on previous years. However, as this data is based on reports from only 39 countries, and it may be that coverage rates are far lower in countries where this information is not included or available for UNGASS reports, this figure may not tell the full story. Other data sources indicate lower coverage levels, for example the 2006 Annual Review the International AIDS Alliance states that globally only 16% of sex workers have access to basic HIV services.

⁴ This figure is extrapolated from Country Reports on UNGASS indicators reported in the UNAIDS 2008 Report on the Global AIDS Epidemic.

⁵ The UNAIDS 2008 Report on the Global AIDS Epidemic.

Sound, evidence-informed measures to address sex work constitute an integral component of an effective, comprehensive response to HIV. The Guidance Note provides clarification and direction regarding approaches by the Joint United Nations Programme on HIV/AIDS to reduce HIV risk and vulnerability in the context of sex work. It provides a policy and programmatic emphasis that rests on three interdependent pillars: (a) access to HIV prevention, treatment, care and support for all sex workers and their clients; (b) supportive environments and partnerships that facilitate universal access to needed services, including life choices and occupational alternatives to sex work for those who want to leave it; and (c) action to address structural issues related to HIV and sex work.

Further, it is firmly built on human rights principles supporting the right of people to make informed choices about their lives, in a supportive environment that empowers them to make such choices free from coercion, violence and fear. This Guidance Note affirms the human right to the liberty and security of person recognising each individual's agency over her/his body and sexuality, as well each individual's right not to be trafficked or held in slave-like conditions. It also affirms that all forms of the involvement of children (defined as people under the age of 18) in sex work and other forms of sexual exploitation or abuse contravenes United Nations conventions and international human rights law⁶.

Understanding Sex Work and Its Links with HIV

Sex workers include “female, male and transgender adults and young people⁷ who receive money or goods in exchange for sexual services, either regularly or occasionally...”⁸. Sex work varies between and within countries and communities. Sex work may vary in the degree to which it is more or less “formal” or organized, and in the degree to which it is distinct from other social and sexual relationships and types of sexual-economic exchange⁹. Where sex work is organized, controllers¹⁰ and managers generally act as clearly-defined, power-holding intermediaries between the sex worker and client, and often between both and local authorities. Self-employed sex workers usually find their clients through independent means, increasingly through mobile telephones and the internet¹¹, and may be recruited or excluded from settings where an organized system is in place. Individuals may

⁶ United Nations (1989) Convention on the Rights of the Child; United Nations (2000); Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; ILO (1999). Convention No. 182 on the Worst Forms of Child Labour, which classifies both trafficking, and “the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances” as among the worst forms of child labour, and which ratifying States are required to prohibit and eliminate immediately. Inter-Parliamentary Union and UNICEF (2005) Combating Child Trafficking. Handbook for Parliamentarians No.9; ILO (2004) Child Protection Handbook for Parliamentarians No.7; ILO and Inter-Parliamentary Union (2002) Eliminating the Worst Forms of Child Labour – a practical guide to ILO Convention No.182. Handbook for Parliamentarians No.3. See also United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations (2000) Convention against Transnational Organized Crime. (Palermo Protocol); UNICEF (2006) Child Protection Sheets: Commercial Sexual Exploitation and Child protection from violence, exploitation and abuse UNICEF http://www.unicef.org/protection/index_environment.html.

⁷ Young people in this context pertain to those aged 18-24.

⁸ UNAIDS (2002) Technical Update Sex Work and HIV/AIDS.

⁹ de Zalduondo, B.O., Hernandez Avila, M., and Uribe Zuñiga, P. (1991) Intervention research needs for AIDS prevention among commercial sex workers and their clients, in *AIDS and Women's Reproductive Health* (Chen LC et al., Eds.), New York; Plenum Press:165-178.

¹⁰ “Controllers” is the preferred term to “pimps”.

¹¹ A study of 7 countries in the European Network of Male Prostitution found that a growing number of men are using the internet to sell sex. Many are not in contact with any service providers. Akeret R et al., (2002) *Survey about male sex work on the internet*. International Conference on AIDS, July 7-12; 14, abstract no. ThPeD7666.

sell sex as a full-time occupation, part-time, or occasionally to meet specific economic needs (such as education costs, or in a family financial crisis). Others are trafficked or coerced into selling sex. Many people who exchange sex for money or goods do not self-identify as sex workers¹², and do not seek nor have access to HIV prevention, treatment, care and support advice or services for sex workers, including in humanitarian and post-conflict settings¹³.

The settings in which sex work may occur range from brothels or other dedicated establishments to roadsides, markets, petrol stations, truck stops, parks, hotels, bars, restaurants and private homes, and may be recognizable or hidden. Sex work settings may cater to local communities or primarily involve transient, migrant and mobile populations of both sex workers and clients. Depending on their individual circumstances, sex workers may be further victimized by discriminatory gender-based attitudes, violence, and sexual exploitation, and by membership in other populations that are highly vulnerable to HIV exposure, such as men who have sex with men and injecting drug users¹⁴. Policies and programmes to address the links between HIV and sex work must recognize the social and geographic diversity of sex work, as well as the rapid changes that may occur in patterns of sex work, including types of transactional sex¹⁵, and in sex work settings.¹⁶

The conditions in which sex work occurs may have a profound impact on HIV risk and vulnerability¹⁷. While some sex work settings have served as excellent venues for HIV-prevention programmes, many others neither promote safer sex nor protect sex workers from violence perpetrated by clients, law enforcement officers, gangs, establishment owners or controllers. In addition, debt-bondage, low pay and inadequate living conditions may further compromise the health and safety of sex workers. Where sex workers are able to assert control over their working environments and insist on safer sex, evidence indicates that HIV risk and vulnerability can be sharply reduced. Excellent examples of community organized HIV-prevention programming for sex workers include AVAHAN (India), Clinque de Confiance (Cote d'Ivoire), CONASIDA (Mexico), DAVIDA (Brazil), Durjoy Nari Shango (Bangladesh), EMPOWER (Thailand), FIMIZORE (Madagascar), Durbar Mahila Samanwaya Committee (India), SWING (Thailand) and TAMPEP (Europe)¹⁸.

¹² UNFPA, UNAIDS Secretariat (in draft) HIV and sex work: Responses to date and opportunities for scaling-up; Gulshan.S et al. (2006) *HIV, sexually transmitted infections and risk behaviours in male sex workers in London over a 10-year period*, STI Online, 17 August (2006) doi:10.1136/sti.2005.019257. Consultations in southern Africa, the Caribbean, China, Eastern Europe, Nepal, and the Pacific Islands reported that many people who sell do not identify as sex workers.

¹³ The sale and exchange of sex for goods in humanitarian and post-conflict settings is often referred to as "survival sex".

¹⁴ Key populations includes women and girls, youth, men who have sex with men, injecting and other drug users, sex workers, people living in poverty, prisoners, migrant labourers, people in conflict and post conflict situations, refugees and internally displaced persons as defined in UNAIDS (2005) *Intensifying HIV Prevention*. UNAIDS Policy Position Paper.

¹⁵ Surtees, R (2004) *Traditional and Emergent Sex Work in Urban Indonesia*. *Intersections: Gender, History and Culture in the Asian Context*, Issue 10, August 20. <http://www.sshe.murdoch.edu.au/intersections/issue10/surtees.html>

¹⁶ UNAIDS (2006) *Report on the Global AIDS Epidemic*; TAMPEP European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers (2007) *Institutional Strengthening and Support for HIV Prevention Activities*, Report produced for UNFPA.

¹⁷ Ferguson AG, Morris C.N. (2007) Mapping transactional sex on the Northern Corridor highway in Kenya. *Health and place*. 2007, vol. 13, no2, pp. 504-519.

¹⁸ UNFPA, UNAIDS, Government of Brazil (2006) *Report on the Global Technical Consultation on HIV and Sex Work, Rio de Janeiro, 12-14 July*; International HIV/AIDS Alliance <http://www.aidsalliance.org>. Hernandez-Avila, M, Uribe Zuniga, P, and de Zaldondo, BO (1991) Diversity in commercial sex work systems: preliminary findings from Mexico City and their implications for AIDS interventions, in, *AIDS and Women's Reproductive Health* Chen LC et al., (Eds), New York; Plenum Press pp. 179-194; Ngugi EN et al, (1988) Prevention of transmission of human immunodeficiency virus in Africa: Effectiveness of condom promotion and health education among prostitutes, *Lancet*. 15: 887-890. Crago AL (2008) "Our Lives Matter Sex Workers Unite for Health and Rights". Open Society Institute. See also Network of Sex Work Projects Research for Sex Work series at www.nswp.org

In many countries, laws, policies, discriminatory practices, and stigmatizing social attitudes drive sex work underground, impeding efforts to reach sex workers and their clients with HIV prevention, treatment, care and support programmes. Sex workers frequently have insufficient access to adequate health services; male and female condoms and water-based lubricants; post-exposure prophylaxis following unprotected sex and rape; management of sexually transmitted infections, drug treatment and other harm reduction services¹⁹; protection from violence and abusive work conditions; and social and legal support. Inadequate service access is often compounded by abuse from law enforcement officers. Documented and undocumented migrants working in sex work often face particularly severe access barriers as a result of linguistic challenges, exclusion from the services that are available locally, and minimal contact with support networks. Even where HIV information and services are accessible to sex workers, such services often fail to comply with human rights standards²⁰ and insufficiently engage clients, the controllers and managers of sex work or take account of the local social and cultural context.

Similarly, in many countries, official policies principally focus on reducing or punishing the suppliers while ignoring the consistent demand for paid sex.²¹ The demand for sex work may be affected by social and cultural norms and individual circumstances, including work-related mobility and spousal separation; social isolation and loneliness; access to disposable income²²; and attitudes based on harmful gender norms, including a desire for sexual dominance and sense of entitlement, which may manifest in sexual and economic exploitation and violence against sex workers. When addressing HIV in the context of sex work, policies and programmes should not only focus on the needs of sex workers themselves but also address factors that contribute to the demand for paid sex.

A number of complex factors may also contribute to entry into sex work. For sex workers, these factors range along a continuum that extends from free choice to forced sex work and trafficking. Trafficking, which represents the denial of virtually all human rights²³, involves “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, abduction, or fraud, of deception, of abuse of power...or the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.”²⁴ Women and girls are the primary victims of trafficking for sex work, although a smaller number of men and boys are also trafficked into sex work.²⁵ Trafficking into sex work is a profound human rights violation that demands effective and comprehensive international action. Some individuals freely choose to engage in sex work. Others enter into sex work as a result of conditions that, while deplorable, do not involve direct coercion and/or deceit by another; such conditions include poverty, gender inequality,

¹⁹ A comprehensive harm reduction programme for injecting drug users includes the provision of sterile injecting equipment; information and education; drug dependence treatment, in particular opioid substitution therapy; provision of condoms; counselling and HIV testing; and HIV care and support, including the provision of antiretroviral therapy.

²⁰ As defined by the UN Committee on Economic, Social and Cultural Rights in its General Comment No. 14, 2000

²¹ UNAIDS (2006). *Report on the Global AIDS Epidemic*.

²² Commission on AIDS in Asia (2008) *Redefining AIDS in Asia. Crafting an Effective Response*.

²³ Report of the Special Rapporteur on trafficking in persons, especially women and children, E/CN.4/2005/71, 22 December 2004, Commission on Human Rights, sixty-first session.

²⁴ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations (2000). Convention against Transnational Organized Crime. (Palermo Protocol).

²⁵ UNFPA (2003) *Trafficking in Women, Girls and Boys: Key Issues for Population and Development Programmes*.

indebtedness, low levels of education, lack of employment opportunities²⁶, family breakdown and abuse²⁷, dependent drug use, humanitarian emergencies and post conflict situations.²⁸

This Guidance Note affirms the right of any sex worker to leave sex work if she/he so wishes and to have meaningful access to options for employment other than sex work. Every effort should be made by governments, the private sector, civil society, sex worker organizations, donors and the United Nations to support sex workers to acquire the skills, education, and employment opportunities that will assist them to exercise free choice, consistent with the full enjoyment of their human rights. Regardless of the legal status of sex work, a human rights based approach must always be applied.

Human Rights: the Cornerstone of an Effective Response to HIV and Sex Work

In the context of HIV, international human rights norms and pragmatic public health goals require States to consider measures that may be considered controversial, particularly regarding the status of women and children, sex workers, injecting drug users and men having sex with men. It is, however, the responsibility of all States to identify how they can best meet their human rights obligations and protect public health within their specific political, cultural and religious contexts.

International Guidelines on HIV/AIDS and Human Rights 2006:16

The United Nations is mandated to uphold international human rights standards as reflected in the Universal Declaration of Human Rights and other core human rights instruments²⁹. In addition to this overriding humanitarian imperative, experience has demonstrated that effective HIV responses are grounded in the respect of human rights, including non-discrimination on the grounds of real or perceived HIV status. Similarly, the respect for the human rights of vulnerable populations is a precondition to their involvement in national responses and the reduction of risk and harm.

²⁶ ILO (2005) HIV/AIDS and work in a globalizing world, www.ilo.org/public/english/protection/trav/aids/publ/globalizing.pdf. Although many governments have significantly reduced the proportion of the population living in poverty, the sex sector remains large in many countries. See ICRW background paper (unpublished) A Literature Review of the Intersections between Sex Work, Violence, Alternate Livelihood Experiments, and HIV/AIDS in Sub-Saharan Africa, South Asia, and South-East Asia .

²⁷ See Dickson-Gomez J et al. (2006) Childhood sexual abuse and HIV risk among crack-using commercial sex workers in San Salvador, El Salvador: a qualitative analysis, *Med Anthropol Q.* 20 (4): 545-74.

²⁸ UNICEF (2001). Profiting from abuse. An investigation into the sexual exploitation of our children.

²⁹ Universal Declaration of Human Rights (1948); International Covenant on Civil and Political Rights (1966); International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966); the Convention on the Elimination of All Forms of Discrimination against Women (1979); Convention on the Rights of the Child (1989) and its Optional Protocol (2000); and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000). ICESCR, Article 12, reflects the human right to the highest attainable standard of health, herein referred to as the "right to health". See also ILO (1998) Declaration on the Fundamental Principles and Rights at Work; UNESCO (1960) Convention Against Discrimination in Education. Article 1 defines discrimination as including "any distinction, exclusion, limitation or preference which, being based on race, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education".

As human rights are universal, they apply to all people. Every human being is entitled to the highest attainable standard of health, privacy, liberty and security, freedom of expression and assembly, gender equality, freedom from violence and arbitrary arrest, free choice of employment and just and favourable conditions of work, non-discrimination, and the prohibition of forced labour, child labour and trafficking.

The UN system affirms the universality, inalienability and interdependence of rights, and promotes and supports their application in practice, including for sex workers, their clients and otherwise in the context of sex work, even where sex work is criminalised. The recommendations outlined under each of the three pillars below are informed by, and aim to consolidate the application of, the rights and responsibilities of those involved in sex work. Within the international framework of human rights, a rights-based approach will be applied according to the mandate of each member of the Joint United Nations Programme on AIDS³⁰.

Studies, as well as programmatic experience, have demonstrated the feasibility of reducing HIV transmission associated with sex work. However, few national policies and programmes adequately address the HIV-related needs of sex workers and their clients, or their potential to contribute to national responses to HIV. States are encouraged to develop the programmes needed to reduce HIV risk and vulnerability in the context of sex work. The increasing mobility of people within and across national boundaries heightens the importance of UN guidance on HIV and sex work that is based on universal principles and that facilitates cross-border collaboration to achieve and sustain universal access to HIV prevention, treatment, care and support for all people who need them.

Three Pillars of an Effective, Evidence-Informed Response to HIV and Sex Work

UNAIDS will base its efforts to address HIV and sex work on three essential pillars.

- ▶ Pillar 1: *Assure universal access to comprehensive HIV prevention, treatment, care and support.*
- ▶ Pillar 2: *Build supportive environments, strengthen partnerships and expand choices.*
- ▶ Pillar 3: *Reduce vulnerability and address structural issues.*

Each pillar is essential, and the three are mutually interdependent and should be coordinated and implemented simultaneously. Each pillar permits and envisions short-term measures and results, as well as longer-range structural measures that take longer to produce effects. These need to be pursued in combination and with equal urgency.

³⁰ UNAIDS consists of UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO, the World Bank, and the UNAIDS Secretariat.

Pillar 1: Assure Universal Access to Comprehensive HIV Prevention, Treatment, Care and Support

States should...take measures necessary to ensure for all persons, on a sustained and equal basis, the availability and accessibility of quality goods, services and information on HIV/AIDS prevention, treatment, care and support, including antiretroviral and other safe and effective medicines, diagnostics and related technologies for preventative, curative and palliative care of HIV and related opportunistic infections and conditions. States should take such measures at both the domestic and international levels, with particular attention to vulnerable individuals and populations.

International Guidelines on HIV/AIDS and Human Rights 2006:37-38

Consistent with the aim of universal access to HIV prevention, treatment, care and support—formally endorsed in the 2006 Political Declaration on HIV/AIDS—comprehensive, evidence-informed programmes for sex workers and their clients should urgently be scaled up. Meeting the needs of key populations at higher risk of exposure to HIV, such as sex workers and their clients, has also been shown to be highly cost effective³¹. Sex workers have amply demonstrated their willingness and ability to be active partners in such efforts³²; where health and social services are provided and sex workers are actively engaged in efforts to provide universal access to HIV prevention, treatment, care and support, HIV incidence declines.³³

Comprehensive, accessible, acceptable, sustainable, high-quality, user-friendly HIV prevention, treatment, care and support must be urgently scaled up and adapted to different local contexts and individual needs. Essential actions include:

- ▶ actions to address structural barriers, including policies, legislation, and customary practices that prevent access and utilisation of appropriate HIV prevention, treatment, and care and support;
- ▶ policies and programmes to ensure freedom from violence, abuse, and discrimination;
- ▶ information for sex workers and their clients and others involved in the sex industry;
- ▶ reliable and affordable access to commodities, including high-quality male and female condoms, water-based lubricants, and contraceptives, and other requirements for health, such as food, sanitation and clean water;
- ▶ access to voluntary HIV testing and counselling, with treatment, effective social support and care and for sex workers who test positive for HIV;

³¹ Monitoring the AIDS Pandemic Network (2004) *AIDS in Asia: Face the facts*. <http://www.mapnetwork.org/docs/MAPAIDSinAsia2004.pdf>, UNAIDS (2006). *Report on the Global AIDS Epidemic*.

³² Rekart ML (2005) Sex-work harm reduction, *The Lancet*. Vol 366 No.9503 PP:2123-2134.

³³ Overs C (2002) *Sex Workers: Part of the Solution. An Analysis of HIV prevention programming to prevent HIV transmission during commercial sex in developing countries*.

- ▶ access to high-quality primary health care, TB management, sexual and reproductive health services, especially sexually transmitted infection management and prevention of mother-to-child transmission;
- ▶ access to alcohol and drug-related harm reduction programmes, including sterile needles/syringes and opiate-substitution therapy; and,
- ▶ integration of HIV services with all relevant welfare services, including social support mechanisms for sex workers and their families.

Effective delivery of these essential services requires coordinated action by a range of actors operating at different levels. Convening and facilitating collaboration among the government and civil society partners to ensure the delivery of this coordinated action is the responsibility of national authorities. The UN system should promote and support the planning and delivery of this essential combination of actions on the scale required to achieve universal access.

The Principles of Effective HIV Prevention, Treatment, Care and Support

The 2005 UNAIDS policy position paper on Intensifying HIV Prevention³⁴ provides a global framework to help guide all HIV prevention efforts and is reflected in UNAIDS' response to HIV and sex work.³⁵

The UNAIDS prevention framework is based on the following principles.

- ▶ All HIV prevention, treatment, care and support efforts/programmes must have as their fundamental basis the promotion, protection and respect of human rights including gender equality.
- ▶ HIV prevention, treatment, care and support programmes must be differentiated and locally adapted to the relevant epidemiological, economic, social and cultural contexts in which they are implemented.
- ▶ HIV prevention, treatment, care and support actions must be evidence-informed, based on what is known and proven to be effective and investment to expand the evidence base should be strengthened.
- ▶ HIV prevention, treatment, care and support programmes must be comprehensive in scope, using the full range of policy and programmatic interventions known to be effective.
- ▶ HIV prevention is for life; therefore, both delivery of existing interventions as well as research and development of new technologies require a long-term and sustained effort, recognizing that results will only be seen over the longer-term and need to be maintained.
- ▶ HIV prevention, treatment, care and support programming must be at a coverage, scale and intensity that is enough to make a critical difference.
- ▶ Community participation of those for whom HIV prevention, treatment, care and support programmes are planned is critical for their impact.

³⁴ UNAIDS (2005) Intensifying HIV Prevention, UNAIDS Policy Position Paper data.unaids.org/publications/irc-pub06/jc1165-intensif_hiv-newstyle_en.pdf

³⁵ The Principles of Effective HIV Prevention", endorsed by the UNAIDS Programme Coordination Board, are equally relevant to HIV treatment, care and support.

Removing structural barriers to universal access

Even where services are theoretically available, sex workers and their clients face substantial obstacles to accessing HIV prevention, treatment care and support, particularly where sex work is criminalised. Ensuring that sex workers and their clients have meaningful access to essential services demands concerted action to overcome structural factors that limit access. Stigma and discrimination must be effectively addressed³⁶; violence and abuse of sex workers must be reduced³⁷; and legal barriers to participation should be revised³⁸. Achieving the changes in social and legal conditions that limit access to those services will take time, but it is critical to implement needed legal and policy reforms now and to pursue these actions with urgency and high-level support.

Providing services to documented and undocumented migrant sex workers

TAMPEP (European Network for HIV/STI Prevention and Health promotion Among Migrant Sex Workers) operates in 25 countries in Europe. It specialises in combining research, interventions, and the active participation of migrant sex workers. TAMPEP has mapped the current trends of sex work in Europe for more than a decade and through its member organizations provides support and services to migrant sex workers. TAMPEP is also active in advising national governments on policies and programming for migrant sex workers.³⁹

Information and education

Sex workers and clients should have access to high-quality educational opportunities. Such programmes should be offered in a range of settings, not merely in sex work settings. Information about HIV prevention, treatment, care and support is essential, but it is not sufficient on its own to address the HIV-related needs of sex workers and their clients. Effective learning takes place through dialogue and other participatory approaches that are relevant to learners' everyday lives and tailored to their specific language and concerns. Information and education programmes should focus not only on the basics about HIV risk, prevention, treatment and care, but also cover sexual health, rights, obligations, responsibilities and opportunities for individual and collective action. Effective approaches require the coordinated use of diverse methods, including peer outreach and education, facility-based counselling, print materials and mass media, and should always be age-specific, gender-responsive, scientifically accurate and culturally appropriate.

Characteristics of effective services

Services must be available, accessible, acceptable and of high-quality⁴⁰, in places and at times that ensure their accessibility to sex workers and their clients. Integrated services increase the number of entry points and expand coverage for a broader range of health and social services. Service provision should not only address the needs of female sex workers but also correspond to the specific needs of male and transgender sex workers, who are often poorly served by existing providers. Services should provide the best available standard

³⁶ UNAIDS (2008) *Report on the Global AIDS Epidemic*. Mahajana A.P et al *Stigma in the HIV/AIDS epidemic: a review of the literature and recommendations for the way forward*, AIDS 2008, 22 (suppl 2):S67–S79.

³⁷ International AIDS Alliance (2008) *Sex Work, Violence and HIV: A guide for programmes with sex workers*.

³⁸ World Bank (2007) *Legal Aspects of HIV/AIDS: A Guide for Policy and Law Reform*.

³⁹ TAMPEP European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers (2007) *Institutional Strengthening and Support for HIV Prevention Activities*, Report prepared for UNFPA.

⁴⁰ Committee on Economic, Social and Cultural Rights, General Comment No. 14, E/C.12/2000/4, 11 August 2000 at 12.

of care, respect client confidentiality; avoid coercive and mandatory approaches (such as mandatory medical treatment or procedures, forced rehabilitation or programmes implemented by police or based on detention); and be designed with the full participation of the affected community.

Health and social services should address the needs of migrant sex workers with or without papers, refugees, internally displaced persons, asylum seekers and those from ethnic minorities. Obtaining access to needed services may be especially challenging for people who lack legal status and may be fearful of authorities. People with undocumented status should not be refused service by providers or receive inadequate or incomplete treatment. Where sex workers lack the language skills to request or comply with treatment regimens, cultural mediators who provide translation and culturally sensitive counselling and support should be available to help ease these access barriers⁴¹.

Service provision must be sufficiently flexible to address the diverse needs of all sex workers and take account of the physical, social, legal and other local circumstances in which sex is sold. For instance, women who sell sex but do not identify openly as sex workers may avoid service settings specifically designed for sex workers and instead access local primary health care services or maternal and child health services, which should be capable of addressing their health needs in a non-judgmental manner. Providers should be sensitised and accountable for providing respectful and high-quality services without distinction including those who may sell sex. Sex workers who are also drug users require additional support including access to drug-treatment and harm-reduction programmes.

India – AVAHAN: Taking Empowerment with Sex Workers to Scale⁴²

The Bill and Melinda Gates Foundation established Avahan (“call to action” in Sanskrit) as the foundation’s national HIV/AIDS prevention initiative in India in 2003. To date, Avahan has committed US\$ 258 million, including US\$ 23 million to support the capacity of the Government of India to implement, monitor, and evaluate HIV prevention programmes. The goal of Avahan is to prevent further HIV transmission in India by expanding access to effective prevention programmes in the six states where infection rates are highest and along the nation’s major trucking routes. Avahan targets people most vulnerable to infection—sex workers, their clients and partners (including long-distance truck drivers), high-risk men who have sex with men, and injecting drug users. Avahan works with 290 000 sex workers and injecting drug users and six million men who frequent sex workers.

Based in Delhi, Avahan comprises a team of foundation employees with private sector and public health experience. The team works close to the ground, reviewing the initiative’s impact and continually refining activities in consultation with the Government of India, international organizations, and nongovernmental organizations.

⁴¹ TAMPEP European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers (2007) *Institutional Strengthening and Support for HIV Prevention Activities*, Report prepared for UNFPA; Gulshan.S et al (2006) HIV, sexually transmitted infections and risk behaviours in male sex workers in London over a 10-year period, *STI Online*, doi:10.1136/sti.2005.019257.

⁴² Avahan: India AIDS Initiative <http://www.gatesfoundation.org/avahan/Pages/about-avahan.aspx>

Preventive commodities

Condoms, both male and female, are the single most effective available technology to reduce the sexual transmission of HIV and other sexually transmitted infections⁴³. Condoms must be readily available for sex workers and their clients, either free or at low cost, and conform to global quality standards. Condom access must be accompanied by programmes that actively promote condom use, including the availability of water-based lubricants and HIV education for sex workers, clients, owners of sex work establishments and controllers. Programmes to reduce HIV transmission associated with sex work should maximize successful negotiation of condom use, including through supporting their use in formal sex work establishments, and through ensuring consistent supplies of high-quality condoms in health settings, pharmacies and informal distribution points. Drug and alcohol use, violence, exploitative management practices by brothel owners and controllers, and harassment by law enforcement officers⁴⁴ reduces the ability of sex workers to negotiate condom use; governments and service providers should address such factors to maximize the impact of condom programming focused on sex work. Successful prevention approaches also need to address condom use and negotiation between sex workers and their regular partners.⁴⁵

Linking and integrating services

Integrating HIV and sexual and reproductive health programmes can significantly reduce HIV infection and improve the quality of life of people living with HIV⁴⁶. Health care workers, including those in primary health care settings and youth friendly services, should be aware of and responsive to the specific health needs of sex workers and clients, including regular testing and counselling; access to maternal and infant health services; dual protection⁴⁷; family planning, and mental health issues⁴⁸. Service linkages and integration should encompass sexual and reproductive health, including sexually transmitted infection management and treatment services; tuberculosis programmes; programmes to prevent mother-to-child HIV transmission; hepatitis prevention and treatment services; psychosocial and mental health support, and referral to appropriate services for women and children who are victims of trafficking and commercial sexual exploitation⁴⁹. Service hours and delivery strategies should be as flexible to address the local sex work context.

⁴³ UNAIDS, UNFPA, WHO (2004) *Position Statement on Condoms and HIV Prevention*; UNFPA, PATH (2006) *Female Condom: A Powerful Tool for Protection*.

⁴⁴ WHO, Global Coalition on Women (2005) *Violence against sex workers and HIV prevention*, Information Bulletin Series, Number 3, www.who.int/entity/gender/documents/sexworkers.pdf

⁴⁵ Kambo.S, Mahla D, Mukherjee A, Kandikonda, S. (2008) Festival of Love: Valuing Sex Workers' Subjective Experience in Harm reduction Programming, *Global AIDS Link* 107, www.globalhealth.org

⁴⁶ IPPF, UNFPA, Young Positives and the Global Coalition on Women and AIDS (2007) *Make It Matter – 10 Key Advocacy Messages to Prevent HIV in Girls and Young Women*.

⁴⁷ Dual protection refers to comprehensive condom programming for HIV prevention and family planning.

⁴⁸ Jayasree AK (2004) India, Reproductive *Health Matters* 12(23): 58-67 (approximately 40% of women coming to the clinics were suffering from psychological illnesses such as depression, anxiety, post-traumatic stress syndrome, mood disorders, schizophrenia, deliberate self-harm including suicide attempts).

⁴⁹ Sex work organizations are well placed to undertake such referrals and implement rights-based approaches to trafficking and the commercial sexual exploitation of children. The Durbar Mahila Samanwaya Committee in India has established 33 self regulatory boards. Each board is responsible for coming to the immediate assistance of girls who are underage or of those coerced into sex work. The boards provide safe exit from sex work, provide temporary shelter, medical care, and a companion/mentor for returning home or finding long-term shelter and skills training, depending on which the woman or girl chooses. The US-based Sex Workers Project actively works with migrant rights groups and immigrant communities as part of its antitrafficking work. References: www.durbar.org; and Crago AL. (2008) *Our Lives Matter. Sex Workers Unite for Health and Rights*. Open Society Institute.

Elimination of violence against sex workers

Sex workers are often victimized by violence, including gender-based violence, perpetrated by clients, controllers, managers of sex work establishments, law enforcement officers⁵⁰ and other government officials. Sex workers may also experience violence and discrimination from intimate partners⁵¹, families, neighbours, partners and work colleagues.⁵² They are sometimes coerced into providing sex to police in exchange for freedom from detainment, arrest and fines⁵³. Violence is associated with unprotected sex and heightened risk of HIV transmission. All people selling sex must be protected from violence, coercion and other forms of abuse, and be ensured of their rights to legal assistance and access to judicial and extra-judicial mechanisms. Experience teaches that violence towards sex workers can be reduced when law enforcement agencies, the judiciary, health services, and other arms of government are engaged and cooperate fully with sex worker organizations and other civil society groups.⁵⁴ Actions to protect sex workers should include addressing clients' misuse of alcohol and consequent violence towards sex workers.⁵⁵

Sex workers living with HIV

For sex workers living with HIV, the stigma surrounding HIV is compounded by the stigma associated with sex work, which often further diminishes their access to essential HIV services. Sex workers living with HIV require access to the standard of HIV treatment, care and support services on a non-discriminatory basis. For sex workers who test positive, support and quality counselling that addresses potential discrimination and loss of income should be readily available. Education and encouragement about healthy living and positive prevention⁵⁶ can help protect their sexual and reproductive health and well-being, avoid other sexually transmitted infections, delay HIV disease progression, avoid development of resistant strains of HIV and opportunistic infections, and prevent further transmission of the virus.

Increased access to antiretroviral therapy creates the need and opportunity for long term, sustainable strategies that engage sex workers in life-long positive prevention. The success of antiretroviral therapy in reducing illness and prolonging life can alter people's perceptions of risk, including by sex workers and their clients, underscoring the need to couple treatment scale-up with the simultaneous expansion of access to focused HIV prevention services. Antiretroviral treatment programmes, along with reproductive health and family planning services, should promote correct and consistent condom use to reduce further possibilities for HIV transmission.⁵⁷

⁵⁰ Rhodes T, Simic M, Baros S, Platt L, Zikic B (2008) Police violence and sexual risk among female and transvestite sex workers in Serbia: a qualitative study *BMJ* 337; a811; *International HIV/AIDS Alliance, Frontiers Prevention Project (2008) Sex Work, Violence and HIV*, <http://www.aidsalliance.org>; Panchanadeswaran S, *A Literature Review of the Intersections between Sex Work, Violence, Alternate Livelihood Experiments, and HIV/AIDS in Sub-Saharan Africa, South Asia, and South-East Asia (prepared for ICRW as a background paper). In each of the consultations with sex workers violence from law enforcement officers and clients was stated to be a major violation of their human rights.*

⁵¹ Intimate partner violence is as important as client violence in increasing street-based female sex workers' vulnerability to HIV in India <http://endvaw.infoforhealth.org>

⁵² International AIDS Alliance 2006 Annual Review.

⁵³ Rhodes T, Simic M, Baros S, Platt L, Zikic B. *Police violence and sexual risk among female and transvestite sex workers in Serbia: a qualitative study.* *BMJ* 2008; 337; a811.

⁵⁴ International HIV/AIDS Alliance, Frontiers Prevention Project (2008) *Sex Work Violence and HIV*.

⁵⁵ Alcohol-affected clients were cited by sex workers in the consultations undertaken to contribute to this Guidance Note as a frequent source of violence and abuse.

⁵⁶ "Essential prevention and care for adults and adolescents living with HIV in resource limited settings". <http://www.who.int/hiv/pub/guidelines/EP/en/index.html>; Make It Matter. 10 Key Advocacy Messages to Prevent HIV in Girls and Young Women. IPPF, UNFPA, Young Positives and the Global Coalition on Women and AIDS (2007).

⁵⁷ UNAIDS, UNFPA and WHO (2004) *Position Statement on Condoms and HIV Prevention*. www.unfpa.org/upload/lib_pub_file/343_filename_Condom_statement.pdf.

Clients

The clients of sex workers reflect a cross-section of the population, representing all ages, economic classes, and ethnic backgrounds. In some cases, sex work clients include women. In many countries, men who buy sex represent the most important source of new HIV infections, risking HIV transmission to their wives and partners⁵⁸. HIV information and services must be accessible for those who purchase sex. Specific education campaigns must be developed with and for clients, who can be reached not only in sex work settings but in other occupational and recreational environments. Successful service delivery strategies for clients include those focusing on truck drivers; heavy transport; tourists and business travellers; men who are separated from their families for long periods; migrants; uniformed services, including police; construction, mining and infrastructure projects; or seafarers. In devising strategies to reach sex work clients, programme planners should engage sex workers, who can help identify settings where sex work occurs⁵⁹. Clients who are reached with educational and prevention programmes can become a positive force for demanding safer sex. In addition to messages about safer sex, condom usage and health seeking behaviours, programmes focused on clients should encourage clients to behave respectfully and responsibly toward sex workers, and should include zero tolerance for violence and abuse.

Reaching the spouses and regular partners of clients is also important to effective HIV prevention. Prevention strategies should use sexual and reproductive health services as an entry point for HIV prevention, counselling, testing and referral services for women, men and transgender people (including those providing prevention of mother-to-child transmission and treatment for sexually transmitted infections).

Pillar 2: Build Supportive Environments, Strengthen Partnerships and Expand Choices

States should ensure, through political and financial support, that community consultation occurs in all phases of HIV policy design, programme implementation and evaluation and that community organizations are enabled to carry out their activities, including in the fields of ethics, law and human rights, effectively.

International Guidelines on HIV/AIDS and Human Rights 2006:24⁶⁰

Supportive Environments

Environments that support health promotion goals are created through concrete and effective community action in setting priorities, making decisions, and planning and implementing strategies to achieve better health. At the heart of this process is the empowerment of communities—their ownership and control of their own endeavours and destinies⁶¹. In

⁵⁸ Commission on AIDS in Asia (2008) *Redefining AIDS in Asia. Crafting an Effective Response*, Oxford University Press, New Delhi 2008.

⁵⁹ Ferguson AG, Morris CN (2007), Mapping transactional sex on the Northern Corridor highway in Kenya, *Health and Place* 13:504-519.

⁶⁰ International Guidelines on HIV/AIDS and Human Rights 2006:24 Office of the Commissioner on Human Rights.

⁶¹ Ottawa Charter for Health Promotion, International Conference on Health Promotion, Ottawa, Canada, 1986.

the context of sex work, community empowerment involves helping people in sex work to come together for mutual assistance; removing barriers to full participation; respecting, protecting and fulfilling human rights; combating stigma and discrimination; and strengthening partnerships between government, civil society, and community actors to achieve the most effective HIV responses.

The UN system has long recognized and supported the crucial contributions of community-based organizations, including organizations of sex workers, towards the development of innovative and effective HIV responses.⁶² The Office of the High Commissioner for Human Rights emphasises that: “Development strategies should empower citizens, especially the most marginalized, to articulate their expectations towards the State and other duty-bearers, and take charge of their own development.”⁶³ In the context of sex work, community engagement and empowerment requires involving sex workers in the design, research, implementation, monitoring, evaluation, of policies and programmes that affect their lives and acknowledging that without their active engagement and involvement efforts to provide universal access to HIV prevention, treatment, care and support will not be optimally effective.

Building capacity in sex-worker networks and communities is part of a fundamental commitment to the protection, promotion and respect of the human rights of sex workers. Capacity-building includes provision of adequate funding and training for sex-worker groups to develop and sustain organizational strength and expertise to effectively communicate and share good practices with each other and externally. Community organizations working with sex workers have an important role to play in supporting sex workers who may be difficult for mainstream providers to reach, including undocumented migrants, street workers and those working in informal sex work settings.⁶⁴

Particular efforts are needed to ensure the involvement of people who sell sex but who do not identify as sex workers in the design, research, implementation, monitoring and evaluation of policies and programmes that address HIV and sex work.⁶⁵ In nearly all countries where the HIV epidemic has been reversed grass roots community organizations have been at the heart of the national response⁶⁶. Community groups, women’s organizations, governments, donors and the United Nations share a responsibility to help empower all people who engage in sex work, regardless of the circumstances in which sex work occurs.

Strategic Partnerships

Partnerships at national, local and community levels should be strengthened to remove the barriers that sex workers face to service access and enjoyment of their human rights. To ensure effective programming on HIV and sex work, the UN should promote and support regional, national, and local partnerships and/or coordinating structures, between judicial,

⁶² See UNAIDS Best Practice documents at www.unaids.org.

⁶³ Office of the United Nations High Commissioner for Human Rights (2006), *Frequently asked questions on a human rights-based approach to development cooperation*. New York and Geneva: United Nations, p.26. Available on-line at <http://www.ohchr.org/Documents/Publications/FAQen.pdf>.

⁶⁴ Kerrigan D, Telles P, Torres H, Overs C, Castle C(2008), *Community development and HIV/STI-related vulnerability among female sex workers in Rio de Janeiro, Brazil*, *Health Education Research* 23(1); TAMPEP European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers (2007) *Institutional Strengthening and Support for HIV Prevention Activities*, Report for UNFPA and Crago AL. (2008) *Our Lives Matter*. Sex Workers Unite for Health and Rights. Open Society Institute.

⁶⁵ Consultations in Africa, Asia, Eastern Europe and the Pacific Island Countries have provided anecdotal evidence of people selling sex part-time or short-term: they do not self identify as sex workers.

⁶⁶ UNAIDS (2008) *Report on the Global AIDS Epidemic*.

law enforcement, health, and other government sectors, communities, organizations and networks of sex workers, trade unions, women's organizations, and other civil society organizations. Such efforts can encourage the implementation of policies and programmes to educate and train these and other constituencies and support monitoring and review mechanisms that document and hold officials accountable for implementation of rights based policies.⁶⁷ At the community level, culturally sensitive advocacy and appropriate education efforts should be directed towards opinion leaders and law enforcement authorities to increase support for, and the success of, HIV interventions focused on sex workers. Community efforts should reinforce and monitor implementation of supportive policies and laws developed at the national level.

Partnerships with sex workers and sex work community organizations, health professionals, technical advisors, partners, families, and communities, will facilitate delivery of a comprehensive package of effective, evidence-informed services.

Partnership between sex workers, health services and law enforcement to reduce violence

The Resourcing Health and Education Centre (RhED) in Melbourne, Australia and the Scottish Prostitutes Education Project (SCOT-PEP), in Edinburgh, United Kingdom, provide examples of effective working partnerships between sex workers, sex work projects, health professionals and law enforcement agencies to reduce sex workers' vulnerability to, and experience of, crime and violence. A Remote Reporting Scheme encourages sex workers to report crimes for both intelligence and investigation to the police through community based organizations. An "Ugly Mug Scheme" provides an early warning system for sex workers about potentially violent clients and other criminals, helping reduce their vulnerability to violence.⁶⁸

Stigma and discrimination

As sex work is highly stigmatized in many societies, most sex workers face some degree of stigma and discrimination. Male and transgender sex workers may face added stigma and discrimination. Sex workers should be able to participate in all aspects of community life free from economic, cultural, or social marginalisation, including sex workers living with HIV. Building supportive environments and developing and strengthening strategic partnerships can help reduce the stigma and discrimination sex workers face. HIV programmes have a crucial role in assisting communities to identify and change stigmatizing attitudes and behaviours related to HIV and sex work and to foster a spirit of tolerance and inclusion. Health service personnel, law enforcement officers, the judiciary, social welfare personnel should be specifically targeted for training and sensitisation.

Too often people engaged in sex work face rejection from their own communities. In addition to mistreatment by clients and service providers, sex workers often risk rejection at home. Upon returning to their communities, former sex workers may be banished, victimized by sexual or physical violence, and have their property seized. Those who left their communities at a young age to engage in sex work experience difficulty reintegrating in their families and former friendship networks. People who sell sex in or near

⁶⁷ International Guidelines on HIV/AIDS and Human Rights 2006. Office of the Commissioner on Human Rights.

⁶⁸ UK Network of Sex Work Projects (2008) Ugly Mugs and Dodgy Punters. UK NSWP Good Practice Guidance www.uknswp.org

their homes may similarly face community disapproval, and/or violence from husbands, partners or family members. The children of sex workers may also be subjected to stigma and discrimination, adversely affecting their rights of access to education and health care.⁶⁹ To reduce stigma and avert discriminatory practices, targeted community interventions for social inclusion and capacity building should focus on women's groups, community leaders and religious leaders. Psychosocial support should be available for individuals who suffer psychological distress as a result of the stigma associated with sex work.

Expanding Choices

All adult sex workers have the right to determine whether to remain in or leave sex work. Policies and programmes should support sex workers to acquire the life, education and vocational skills and training⁷⁰ they need to make informed decisions and have meaningful choices about their lives⁷¹. Such programmes should address the inequalities and barriers sex workers face and take account of the fact that many young people become involved in sex work in order to contribute to family income, sometimes as the sole providers.

Sex workers should have access to a meaningful and comprehensive set of alternatives to sex work that respond to workers' individual circumstances. In devising meaningful alternatives to sex work, programmes should address drug dependency, family rejection, mental health and legal problems—including for those whose children have been taken into the care of, and/or management by, the State.

A comprehensive package of services to facilitate expanding choices should include:

- ▶ meaningful alternative employment and livelihood opportunities—jobs, cash grants, microcredit and microfinance, banking services and repayment of debts;
- ▶ assistance in obtaining secure housing;
- ▶ education for life, including literacy classes and vocational and skills training;
- ▶ control of family assets; and,
- ▶ support to return home for documented and undocumented migrant sex workers, whose circumstances often restrict their ability to leave sex work.

Microcredit—learning from Muhammad Yunus and the Grameen Bank

The Sangini Mahila Seva Cooperative Society serves sex workers in Kamathipura district of Mumbai. Inspired by Nobel laureate Muhammad Yunus, the pioneer of microcredit in Bangladesh, it has more than 750 members. As a result of the existence of the Cooperative Society, the managers and controllers of sex work are prevented from stealing sex workers' earnings. With the profits from their business, the Cooperative Society has opened a wholesale supermarket where Cooperative Society members may purchase groceries and other items at wholesale prices and increase the earnings of the Cooperative⁷².

⁶⁹ Consultations provided anecdotal evidence of the extent of stigma and discrimination of people selling sex for female, male and transgender sex workers alike. Reports of physical and sexual violence are common.

⁷⁰ IPPF, UNFPA, Young Positives, Global Coalition on Women and AIDS (2007) *Change, Choice and Power Young Women, Livelihoods and HIV Prevention*.

⁷¹ Research shows that when sex workers themselves are consulted about their needs they often place opportunities for learning at the top of the list.

⁷² See Bhattacharjya, M. (2008) *Sex workers as economic agents*. Infochange agenda December 12 www.infochangeindia.org; Far Eastern Economic Review (2007) *Bankers in the Brothels* FEER 170, No.8 October; www.hindustantimes.com.

Sex workers living with HIV often find it especially difficult to leave sex work. Comprehensive assistance should be readily available for HIV-positive sex workers, including skills training, alternative livelihoods, and microfinance. There are many successful examples of microcredit and microfinance programmes providing economic opportunities for people living with HIV or to alleviate poverty among girls and women. Such programmes use economic empowerment as a means to reduce stigma and discrimination and expand life choices⁷³. To date, however, only a few have specifically focused on meeting the needs of sex workers⁷⁴. Partnerships between local authorities and communities should be strengthened to ensure sex workers living with HIV have equal access to HIV treatment, care and support, as well as to available employment programmes. Every effort should be made by governments, donors, civil society, sex worker organizations and the UN system to ensure sex workers' meaningful access to such programmes and services. Laws, policies, and practices that diminish sex workers' potential for their economic independence and social inclusion must be reviewed and revised.

Pillar 3: Reduce Vulnerability and Address Structural Issues

States should take measures to reduce the vulnerability, stigmatization and discrimination that surround HIV and promote a supportive and enabling environment by addressing underlying prejudices and inequalities within societies...

International Guidelines on HIV/AIDS and Human Rights 2006:55

HIV prevention efforts will not succeed in the long term unless the underlying drivers of HIV risk and vulnerability are effectively addressed.⁷⁵ The evidence base for structural interventions is limited but there is wide recognition that these are a critical component of combination prevention.⁷⁶ Factors that commonly contribute to vulnerability to HIV infection include gender inequality, discrimination and social exclusion⁷⁷. These same structural issues, together with poverty, mobility and displacement, may lead people to engage in sex work and increase their vulnerability to HIV⁷⁸.

⁷³ See, e.g., UNAIDS (2007) Population and Community Development Association in Thailand's Positive Partnership Project.

⁷⁴ The Durbar Mahila Samanwaya Committee in Kolkata, India, through its Usha Multipurpose Co-operative Society Limited, is an excellent example of using microcredit as a means of economic empowerment for sex workers. It provides sex workers with a means of keeping out of debt and exercising control over their finances: it is not used as a form of economic rehabilitation. See www.durbar.org

⁷⁵ Gupta GR et al. (2008) Structural approaches to HIV prevention. *Lancet* 372: 764-75, full-text: <http://www.thelancet.com/journals/lancet/article/PIIS0140673608608879/fulltext>.

⁷⁶ UNAIDS (2008) Report on the Global AIDS Epidemic Chapter 3; Global HIV Prevention Working Group (2008) Behaviour Change and HIV Prevention: (Re) Considerations for the 21st Century.

⁷⁷ IPPF, UNFPA, Young Positives and Global Coalition on Women and AIDS (2007).

⁷⁸ Many studies have shown that people turn to sex work when there is no viable alternative to meeting basic needs. *Sex Work, HIV/AIDS, and Human Rights in Central and Eastern Europe and Central Asia* (2005) Central and eastern European Harm reduction Network; *Working with Women in Prostitution: a Critical Dimension of HIV Prevention*. Centre for Health and Gender Equity (2003) <http://www.genderhealth.org/pubs/SexWorkersHIVPreventionApr2003.pdf>; TAMPEP European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers (2007) *Institutional Strengthening and Support for HIV Prevention Activities*, Report for UNFPA.

Addressing Societal Causes of HIV Risk and Vulnerability: Key Findings⁷⁹

- ▶ Long-term success in responding to the HIV epidemic will require sustained progress in addressing human rights violations, gender inequality, stigma, and discrimination.
- ▶ Significant investment in girls' education, supported by policies mandating universal primary and secondary education, would substantially reduce HIV risk and vulnerability for women and girls.
- ▶ Evidence-informed programmes to forge norms of gender equity should be brought to scale, with particular attention to initiatives focused on men and boys.
- ▶ National governments and international donors should prioritize strategies to increase women's economic independence and legal reforms to recognize women's property and inheritance rights.
- ▶ All countries should ensure rigorous enforcement of antidiscrimination measures to protect people living with HIV. The one third of countries that lack legal protections against HIV-based discrimination should immediately enact such laws. Countries should also protect populations most at risk from discrimination and ensure their equal enjoyment of human rights.
- ▶ Countries should include anti-stigma strategies as integral components of their national AIDS plans, investing in a broad range of activities, including public awareness and "know your rights" campaigns, legal services for people living with HIV, expansion of access to antiretroviral drugs, and expressions of national solidarity in the HIV response.
- ▶ Much stronger financial and technical support is needed for capacity-building for organizations and networks of people living with HIV, and groups of people most at risk of HIV infection.

Many sex workers become involved in sex work while young, sometimes migrating from rural areas to cities. Young migrants frequently move to the city to escape childhood marriages or to assume responsibility for contributing to family income, sometimes as sole providers. Measures are needed to prevent children and young people from being recruited into sex work, including ensuring the availability of educational and work opportunities, addressing family and social breakdown, increasing awareness of the health and other risks associated with sex work, ensuring the availability of social protection safety nets (including those required to mitigate the impacts of AIDS) and ensuring that all forms of child labour are eliminated.

Addressing structural determinants of HIV risk and vulnerability is inevitably challenging, as such approaches seek to alter complex and longstanding social, economic, political and environmental factors⁸⁰. While some may argue that structural interventions are too time-consuming or open-ended or that they divert resources from immediate HIV control priorities, it is clear that the epidemic will not be reversed, nor will progress on HIV be sustained, unless effective action is taken to address the structural factors that increase HIV risk and vulnerability.

⁷⁹ UNAIDS (2008) Report on the Global AIDS Epidemic Chapter 3.

⁸⁰ Gupta GR et al. (2008) Structural approaches to HIV prevention, *Lancet* 372: 764–75, full-text: <http://www.thelancet.com/journals/lancet/article/PIIS0140673608608879/full text>.

Gender equality, gender norms and relations

Gender inequality causes many women to enter sex work. Globally, most sex workers are women or girls. With unequal access to education, employment, credit or financial support outside marriage, women and girls often see sex work as one of the few options available to support themselves⁸¹. Such economic pressures are compounded for women whose husbands have died or abandoned them or who otherwise bear the primary burden of supporting their families. Gender inequalities also result in stricter regulation of sexual behaviour of women, girls, and men who have sex with men. Hypocrisy, denial, and taboos associated with sex and sexuality impede effective programming on HIV and sex work.

An effective, sustainable response to HIV requires evidence-informed measures to address the unequal relations between women and girls, men and boys, and men who have sex with men⁸². Evidence-informed programmes to forge norms of gender equity should be brought to scale, with particular attention to initiatives focused on men and boys⁸³. For example, programmes to promote dialogue and critical reflection among young men regarding gender inequalities have been shown to significantly reduce their support for inequitable gender norms, and to significantly increase condom use and decrease intimate partner violence⁸⁴. There is a much broader need for programmes that address norms and practices concerning sexuality, marriage and reproduction; harmful cultural practices that injure or disadvantage women; and the unequal access of women and girls to social, legal, and political rights.⁸⁵ Family and community structures should be strengthened to protect young people from sexual exploitation. Religious leaders, educators and other community leaders should be mobilized to advocate for a cultural environment that refuses to tolerate sexual exploitation, including child marriage⁸⁶.

Demand for sex work

The Commission on AIDS in Asia reports that the HIV epidemic in Asia is mainly driven by men who purchase sex. It is estimated that some 75 million men in Asia purchase sex from 10 million women. From an epidemiological standpoint, men who buy sex from women in Asia far outnumber injecting drug users and men who have sex with men, underscoring the likely role of paid sex in the epidemic's future trajectory in the region. The proportion of people living with HIV in Asia who are women increased from 19% in 2000 to 24% in 2007, with most of these women infected through sex with husbands or boyfriends who were themselves infected during paid sex or through injecting drugs.⁸⁷

⁸¹ UNAIDS (2002) *Sex Work and HIV/AIDS: UNAIDS Technical Update*.

⁸² UNDP has developed, in consultation with a wide range of country stakeholders, including the UNAIDS Secretariat, UNIFEM and all ten UNAIDS Cosponsors, draft Gender Guidance for national aids responses.

⁸³ Barker G. et al (2007) *Engaging men and boys to transform gender-based inequities: is there evidence of impact?* WHO and Instituto Promundo; Geneva.

⁸⁴ See studies cited in the UNAIDS (2008). *Report on the Global AIDS Epidemic*.

⁸⁵ UNAIDS (2005). *Intensifying HIV Prevention*. UNAIDS Policy Position Paper.

⁸⁶ UNICEF (2006). *Child Protection Information Sheets: Commercial Sexual Exploitation*.

⁸⁷ Commission on AIDS in Asia (2008) *Redefining AIDS in Asia. Crafting an Effective Response*, Oxford University Press, New Delhi 2008.

HIV responses should challenge the power relations and division of labour between women/girls and men/boys and promote gender equality at home, at work, in the legal, economic and political arenas, and throughout society at large. Interventions should engage men and boys—both to reduce women and girls’ vulnerability to HIV and to minimize the harmful effects that societal norms about masculinity and gender often have on men and boys themselves.⁸⁸ Structural measures such as national and regional policy reform should address the norms and factors that increase demand for paid sex, including labour migration, mobility, and the separation of families for extended periods of time. Workplace HIV education programmes have an important role to play in redefining gender norms and reducing the demand for sex work. Evidence indicates that such programmes can be successful. In Thailand, for instance, broad-based efforts to alter social norms and male behaviours led to a significant reduction in the sexual initiation of young men through paid sex, helping bring about a sharp decline in the rate of new HIV infections⁸⁹.

Address poverty and limited economic options

Although no person should be obliged to enter into sex work as a result of insecurity, poverty, or coercion⁹⁰, the majority of people who engage in sex work have few other economic options⁹¹. Strategies that expand educational, economic and social opportunities, especially for women and girls, represent an urgent necessity. Economic inequality is associated with HIV risk⁹², and laws and policies that empower women to own property and access schooling reduce that risk. Programmes are needed to address harmful employment practices and to extend access to skills, credit and jobs. The United Nations has endorsed the concept of ‘decent work’ as a vital path out of poverty⁹³. Decent work sums up the aspirations of people in their working lives—for opportunity and income; rights, voice and recognition; family stability and personal development; and fairness and gender equality.⁹⁴

Governments should prioritize strategies to create local employment opportunities for women and girls. Focused programmes should be immediately developed in areas where recruitment into sex work is active. In devising and implementing such strategies, policy-makers and programme planners should heed evidence of the effectiveness of initiatives that provide livelihood skills, vocational training, local job creation and microfinance to girls and young women⁹⁵. Providing women and girls with opportunities for greater ownership and control over economic assets empowers them to make their own choices

⁸⁸ UNAIDS (2005) Intensifying HIV Prevention. UNAIDS Policy Position Paper. Child marriage is associated with entry into sex work in some countries, including Nepal, India and Thailand.

⁸⁹ Thai Government officials from the north report a significant decrease in young men paying for sex, including a reduction in the number of young men’s sexual initiation taking place with a sex worker.

⁹⁰ Consultations held with sex workers from Mozambique, Swaziland, Malawi, Zimbabwe, Lesotho, the Caribbean and Latin America, Sri Lanka, the Pacific Islands and Thailand cited poverty and limited economic options as major reasons for entry into sex work.

⁹¹ UNAIDS (2002). *Sex Work and HIV/AIDS: UNAIDS Technical Update*.

⁹² Piot, P., Greener, and Russell, S. (2007) Squaring the circle: AIDS, poverty and human development. *PLoS Medicine* 4 (10):e314.

⁹³ United Nations Economic and Social Council, 5 July 2006, Agenda item 2: Creating an environment at the national and international levels conducive to generating full and productive employment and decent work for all, and its impact on sustainable development - Draft ministerial declaration of the high-level segment (E/2006/L.8) <http://daccessdds.un.org/doc/UNDOC/LTD/G06/625/46/PDF/G0662546.pdf?OpenElement>.

⁹⁴ See http://www.ilo.org/global/About_the_ILO/Mainpillars/WhatisDecentWork/index.htm.

⁹⁵ UNAIDS (2008) *Report on the Global AIDS Epidemic*. See also Panchanadeswaran S, A Literature Review of the Intersections between Sex Work, Violence, Alternate Livelihood Experiments, and HIV/AIDS in Sub-Saharan Africa, South Asia, and South-East Asia (prepared for ICRW as a background paper) for details and discussions relevant to HIV, sex work and poverty, violence and alternative livelihoods.

about their future and mitigates economic factors that coerce women and girls into selling or exchanging sex for goods and money⁹⁶.

The UN supports gender-sensitive development strategies, including income-generation and microfinance programmes for women to provide sustainable incomes for individuals and households⁹⁷. Such strategies should address women's lack of ownership of land and control of family assets, which further reduces their potential for economic and social independence. As measures to expand economic opportunities are implemented, complementary efforts are required to expand the evidence base regarding what works, and what doesn't work, to ameliorate the economic disadvantages that women and girls face.

SAN PEDRO, Côte d'Ivoire—31 March 2008

"I'm here, because I have four children," explains the 48-year-old sex worker, who asked that her name not be used. "I lost my husband. I got into debt, and I couldn't afford to feed my children."

She ran away from her home in Nigeria after her husband died in an accident. And she refused to marry his younger brother as is the custom in her region. With no means to support her two boys and two girls, or pay for their school fees, she turned to sex work to ensure her family's survival. She earns as little as US\$ 2 per client and sends the money to her sister in the capital Abidjan, where her children live.

She attends the mobile clinic, run by the volunteers of APROSAM, the Association for the Promotion of Mother, Child and Family Health, whose services include HIV prevention, testing and the prevention of mother-to-child transmission of the virus. She gets tested every six months and, if positive, would seek treatment through the association.⁹⁸

Promote Education for All

Education is critical to HIV prevention, treatment, care and support, and to mitigate the effects of HIV on individuals, families and communities⁹⁹. Education expands choices, reduces risky behaviours, diminishes stigma and discrimination, and promotes individual and community resilience. Education contributes to poverty reduction and the elimination of gender inequalities, and fosters economic independence, delayed marriage, and improved of sexuality. Education also creates economic and life opportunities apart from sex work¹⁰⁰. While there has been steady progress towards the global goal of Education for All, significant gaps remain, as some 70 million children—more than half of whom are girls—are still not enrolled in primary school. It is essential that educational opportunities be expanded to meet the needs of children, young people and adults.

⁹⁶ IPPF, UNFPA, Young Positives, Global Coalition on Women and AIDS (2007) *Make It Matter -- 10 Key Advocacy Messages to Prevent HIV in Girls and Young Women*; UNAIDS (2008) *Report on the Global AIDS Epidemic*.

⁹⁷ For example, the Grameen Bank, Bangladesh. <http://www.grameen-info.org/>, Change, Choice and Power Young Women, Livelihoods and HIV Prevention 2007 IPPF, UNFPA, Young Positives and Global Coalition on Women and AIDS.

⁹⁸ www.unfpa.org/news.

⁹⁹ UNESCO, UNAIDS J(2008) *EDUCAIDS: Towards a Comprehensive Education Sector Response. A Framework for Action* (2nd edition), www.ibe.unesco.org/AIDS/doc/Educaids.pdf.

¹⁰⁰ *Education and HIV/AIDS: A Window of Hope*. The World Bank (2002).

Address the needs of refugees, internally displaced persons, migrants and asylum seekers

Refugees, internally displaced persons, ethnic minorities, migrants and asylum seekers often lack alternative economic options, face discrimination, and are frequently not allowed to enter the work force of the host country, dramatically affecting livelihood prospects. With few alternatives, and inadequate social protection, sex work may be a means of survival¹⁰¹. The UN should strengthen efforts to address the particular needs of these dispossessed populations, including education and skills training, assistance in learning new languages, and access to essential health, social and legal services.

A comprehensive approach to HIV and sex work: A Call for Action, Maputo 2007¹⁰²

- ▶ Ensure the development of strategic plans of action on HIV and sex work as an integral part of the national HIV response, including the collection and analysis of data relating to HIV and sex work.
- ▶ Advocacy for the promotion and protection of the human rights of sex workers and the establishment of local, national and regional networks of sex workers.
- ▶ Ensure sex workers have access to HIV prevention, treatment, care and support and to comprehensive, integrated and user-friendly health services.
- ▶ Elimination of violence towards sex workers, including from clients and law enforcement, uniformed services, and managers of sex work establishments.
- ▶ Advocate for the Southern African Development Community to recognize and support the availability of cross-border services for vulnerable groups, including sex workers.
- ▶ Eliminate stigma and discrimination by health service providers and law enforcement officers and authorities against sex workers.
- ▶ Undertake country-level mapping of sex work settings, including mobility and migration trends, service access, and legal frameworks and their impact on the vulnerability of sex workers and clients.
- ▶ Strengthen partnerships in support of programming for HIV prevention, care, treatment and support, and sex work, including the engagement of labour organizations, trade unions, the private sector, local communities and national governments.
- ▶ Protect the children of sex workers from discrimination and harm, paying particular attention to their ability to attend school and prioritizing measures to reduce their vulnerability to entry into sex work.
- ▶ In consultation with sex workers, create employment and educational opportunities responding to the identified needs of sex workers, such as microfinance opportunities, and support the provision of vocational skills training, including for sex workers living with HIV.
- ▶ Support comprehensive programmes for clients, including respect for the human rights of sex workers and client responsibility.
- ▶ Promote sexuality education, gender equity and equality, partner communication and prevention of HIV, within marriage and cohabiting relationships to reduce demand for sex work.

¹⁰¹ A United Kingdom study recorded a significant increase in non gay identified men providing paid for sex to gay identified men as a direct result of economic migration, poverty and marginalization. Sethi G, Holden BM, Gaffney J, Greene L, Ghani A and Ward H (2006) HIV, sexually transmitted infections and risk behaviours in male sex workers in London over a 10-year period, *Sexually Transmitted Infections Online*, Published 17 August, 2006. <http://sti.bmj.com/cgi/content/abstract/82/5/359>.

¹⁰² Excerpts from the Call to Action agreed to at the 1st Sub-Regional Conference on HIV and Sex Work, Maputo, Mozambique 31 Oct – 02 Nov, 2007. The participants represented government, civil society, including sex workers, the private sector and the UN. It was hosted by the Government of the Republic of Mozambique and UNFPA.

Conclusion

Fundamental to reducing HIV risk and vulnerability is enhancing access for all, including those engaged in sex work, to HIV prevention, treatment, care and support. Comprehensive rights-based programmes on HIV and sex work are critical to the success of the HIV response. Working in partnership with sex workers to identify their needs and to advocate for policies and programmes that improve their health, safety and engagement in the AIDS response is a proved strategy and an essential feature of UNAIDS approach.

Alongside the global epidemic of HIV is an epidemic of violence against women, girls and other vulnerable groups, including men who have sex with men. Far too often, stigma and discrimination, gender-based violence and other critical human rights violations, such as denial of education and employment on the basis of gender, constitute the norm in many parts of the world. Women's rights are human rights. Progress for women is progress for all. Efforts to address the construction of dominant norms of masculinity and to redress gender imbalances are essential to the success of rights-based approaches to HIV and sex work, for all people selling sex—female, male and transgender.

HIV and sex work is a complex issue and needs to be understood as such. The delivery of effective services to sex workers and their clients often encounters barriers and resistance that reflect complex and longstanding cultural, religious, and social dynamics. While these barriers will not be overcome overnight or with ease, delaying action to address these factors will merely continue to undermine the global response to HIV. Through honest dialogue and evidence-informed action, sustained progress towards universal access to HIV prevention, treatment, care and support for sex workers can be achieved.

The Three Pillars outlined in this Guidance Note together provide a framework for developing effective strategies to reduce the immediate HIV risk to sex workers and their clients, and to the spouses and regular partners of clients; provide care for sex workers living with HIV; and reform official policies, practices and legislation to protect the human rights of sex workers. These strategies should be accompanied by programmes to build supportive environments to facilitate full and equal participation of sex workers, provide meaningful alternative livelihoods and life choices, ensure full and universal enjoyment of human rights, combat stigma and discrimination, and strengthen partnerships between government, civil society, and community actors.

Next Steps

- ▶ Member States should implement policies and programmes that support a comprehensive, rights-based approach to HIV and sex work. Progress should be monitored by national programmes, with support from UNAIDS.
- ▶ Bilateral development organizations, international funding programmes, and the United Nations system should support comprehensive, rights-based approaches consistent with the Three Pillars.
- ▶ Consistent with the UNAIDS recommendation that all countries should “know their epidemic”, situational analyses and mapping exercises should be undertaken to inform the design and subsequent monitoring and evaluating of programmes to address HIV and sex work.
- ▶ At subregional and national levels, representatives of government, sex workers, civil society, private sector and the United Nations should be mobilized to ensure incorporation of strategies and actions on HIV and sex work into National AIDS Plans.
- ▶ Advocacy should be undertaken to increase the levels of sustainable funding for, evidence-informed and rights-based HIV prevention, treatment, care and support programmes that incorporate sex workers’ involvement in their development, implementation, monitoring and evaluation.
- ▶ Efforts should be made to document and disseminate specific programme models, interventions and good practices relating to HIV and sex work.
- ▶ Partnerships should be established and strengthened between governments, sex workers and community organizations working with sex workers, and the UN at global, regional, national and local levels.
- ▶ In-reach training of UNAIDS programme staff will be developed and undertaken to increase understanding of evidence-informed and rights-based programming on HIV and key populations at higher risk, including sex workers.
- ▶ Programmes to reduce and eliminate stigma and discrimination and gender-based violence towards key populations at higher risk, including sex workers, should be developed and implemented for health care providers, uniformed services, and the judiciary.
- ▶ Carefully tailored initiatives should be implemented to promote sound, evidence-informed programmes and policies that address the needs of migrants, transgendered people, men and ethnic minorities. Work also needs to be undertaken with specific groups such as clients, displaced persons, the police and the military.
- ▶ Efforts should be made to expand opportunities for sex workers who desire to leave sex work. Meaningful employment alternatives should be promoted through ready access to education, training, microcredit, and health services.
- ▶ Comprehensive responses should address structural issues that contribute to HIV vulnerability in the context of sex work. Structural interventions should aim to reduce poverty, address gender inequality by empowering women and girls, redefine gender norms, create and expand employment opportunities, and ensure education for all.
- ▶ UNAIDS and nongovernmental organization partners should advocate for increased involvement of sex worker organizations and networks on Country Coordinating Mechanisms of the Global Fund to Fight AIDS, Tuberculosis and Malaria and on National AIDS Committees, and provide capacity building support to facilitate their involvement.

Annex

These annexes do not necessarily represent the views of all members of the Advisory group on HIV and Sex Work, nor the stated positions, decisions or policies of the UNAIDS Secretariat or any of the UNAIDS Cosponsors.

Introduction

These annexes were prepared by the UNAIDS Advisory Group on HIV and Sex Work to complement the UNAIDS Guidance Note on HIV and Sex Work (2009). The Advisory Group includes representatives of organisations affiliated with the Global Network of Sex Work Projects, independent experts from academia and civil society organisations, representatives of UNAIDS Co-Sponsors and the Secretariat. The Advisory Group was constituted in 2009 by the Executive Director of UNAIDS to provide advice and guidance to UNAIDS on matters related to HIV and sex work, while paying particular attention to the human rights of female, male, and transgender sex workers and the goal of universal access to HIV prevention, treatment, care and support for sex workers.

Among its first tasks, the Advisory Group prioritised the development of these analyses. In a meeting in May 2009, UNAIDS Executive Director Michel Sidibé, UNAIDS Cosponsors and the Secretariat, and representatives of the Global Network of Sex Work Projects agreed on four themes on which further clarification was needed. The four themes are as follows:

- 1) The legal and policy environment for sex work, including criminal and other laws affecting sex workers;
- 2) Shifting the strategic focus from reduction of demand for sex work to reduction of demand for unprotected paid sex;
- 3) The problematic conflation of sex work and trafficking; and
- 4) Economic empowerment of sex workers.

The Advisory Group strongly affirms that sex workers and their organisations play a crucial role in confronting HIV and in many places have an outstanding record in helping to achieve universal access. However, sex workers often face widespread and interconnected human rights violations which impede both their effective participation in HIV responses and their right to access HIV and other health and social services. Stigma and discrimination within society results in repressive laws, policies and practices against sex work, and the economic disempowerment of sex workers. Policies and programmes to reduce the demand for sex work, designed ignoring the voices of sex workers, often result in unintended harms including increased HIV risk and vulnerability for sex workers and their clients, and diverting attention from protecting sex workers' rights. The frequent failure of policy-makers, religious leaders and society to distinguish sex work from human trafficking has sometimes led to involuntary displacement, harassment or detention of sex workers. Violence against sex workers is too often committed with impunity by state and civilian actors, exacerbating sex workers' HIV vulnerability. Sex workers are often excluded from access to benefits and financial services available to the general population and prevented from forming organisations that enable economic empowerment and social inclusion.

The Advisory Group offers these analyses to contribute a greater understanding of the situation of sex workers – an understanding that is necessary to address the abuses they face and to ensure they have universal access to HIV services. Every effort has been made to highlight good practices that enhance human rights protections for sex workers, as well as practices that create barriers to universal access to HIV prevention, treatment, care and support. The hope of the Advisory Group is that the information presented here will help shape programmes and policies on HIV and sex work that are truly human rights-based.

Annex1:

The legal and policy environment and the rights of sex workers

The *UNAIDS Guidance Note on HIV and Sex Work* makes the following observation related to law, policy and law enforcement:

“In many countries, laws, policies, discriminatory practices, and stigmatising social attitudes drive sex work underground, impeding efforts to reach sex workers and their clients with HIV prevention, treatment, care and support programmes... Stigma and discrimination must be effectively addressed; violence and abuse of sex workers must be reduced; and legal barriers to participation should be revised. Achieving the changes in social and legal conditions that limit access to [HIV] services will take time, but it is critical to implement needed legal and policy reforms now.”¹

This document elaborates on the statement above, by highlighting elements of law, law enforcement and policy that are particularly important to sex workers’ right to universal access to HIV services and their empowerment and dignity.

Because HIV disproportionately affects people – including men who have sex with men, sex workers, people who use drugs – who are often discriminated against and criminalised, UN member states and agencies have long recognised the importance of protecting their rights and reducing legal and policy barriers to their access to HIV services. In both the 2001 Declaration of Commitment and HIV/AIDS and the 2006 Political Declaration on HIV/AIDS, UN member states unanimously committed themselves to this goal.² The UN Human Rights Council similarly urged member states to work towards “elimination of criminal and other laws that are counterproductive to HIV prevention, treatment, care and support.”³ The *UNAIDS Strategy 2011-2015: Getting to Zero* identifies as one of its 10 goals that the number of “countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality will be reduced by half”.⁴ The *UNAIDS Guidance Note on HIV and Sex Work* should reinforce global recognition and action in favour of removing legal and policy barriers to HIV services for sex workers.

Laws, enforcement and policies that impede effective HIV responses for sex workers

In many countries, sex workers face social marginalisation and disdain that are barriers to universal access and are exacerbated by a wide range of laws, law enforcement practices and policies. Criminal laws are only one element of this legal and policy environment. Among the laws, policies and practices that can undermine sex workers’ rights and their access to HIV services are the following:

Criminal prohibitions against sex work or aspects of it

Selling sex is a criminal act in some places, and activities associated with the selling of sex – operating a brothel, solicitation for prostitution, living off the earnings of sex work, and transporting or managing sex workers – are frequently criminalised.⁵ Thus, even if the selling of sex is not a criminal act, sex workers and their managers, other associates and even family

members can face criminal charges. In Sweden and Norway, the buying of sex is criminalised, an approach based on the idea that the client merits punishment, but the sex worker is a ‘victim’.

There is very little evidence to suggest that any criminal laws related to sex work stop demand for sex or reduce the number of sex workers. Rather, all of them create an environment of fear and marginalisation for sex workers, who often have to work in remote and unsafe locations to avoid arrest of themselves or their clients. These laws can undermine sex workers’ ability to work together to identify potentially violent clients and their capacity to demand condom use of clients. The approach of criminalising the client has been shown to backfire on sex workers. In Sweden, sex workers who were unable to work indoors were left on the street with the most dangerous clients and little choice but to accept them.⁶ Where sex work is criminalised, sex workers are very vulnerable to abuse and extortion by police, in detention facilities and elsewhere.

Municipal laws and regulations

A wide range of municipal laws related to “public order” frequently target sex workers, whether criminal laws are widely applied or not. Sex workers are often charged with such offences as vagrancy, public nuisance, stopping the flow of traffic, being in parks or other public places after hours, obscenity, public alcohol consumption and the like. These statutes give police wide latitude to arrest and detain sex workers. Even if they do not generally result in long periods of detention, they contribute to an atmosphere of fear and marginalisation.

Anti-trafficking laws

Sex workers have been arrested and imprisoned under anti-trafficking statutes, even when they have never been trafficked and do not seek “rescue” (see the section ‘Differentiating sex work and trafficking’).⁷ Raids of workplaces of sex workers in the name of anti-trafficking are harmful and wasteful, often displacing sex workers and ironically undermining the anti-trafficking work of sex worker organisations.

Other criminal laws

Many countries criminalise HIV transmission and exposure. These laws are often unevenly applied, but sex workers are particularly vulnerable to charges under these laws, which in many cases do not correspond to UN guidelines.⁸ In addition, male and transgender sex workers are disproportionately vulnerable to criminal charges in places where sex between men and transgender are criminalised.

Health regulations and practices

Whatever the criminal law regime, sex workers may be subjected to mandatory HIV testing and other medical procedures. Where the police are heavily involved in enforcement such as 100% condom use programmes (see the section ‘Shifting the strategic focus’), they may represent one more context in which sex workers have to fear police abuse and extortion.

In addition, customary and religious law may prohibit sex work or may contribute to an atmosphere of moral condemnation of sex work.

Impact on the lives of sex workers

The application of criminal law to sex work is often associated with heinous abuses of the rights of sex workers. They are highly vulnerable to sexual and physical abuse in detention. They are often not properly charged or allowed to appear before a judge or magistrate. Police may confiscate condoms and use possession of condoms as evidence of sex work in the absence of other evidence. Confiscation of condoms is clearly counter-productive from a health perspective and disrespectful of the rights of sex workers to protect themselves from HIV. Incarceration not only exposes sex workers to abuse by those detaining them, but it disrupts their livelihood. Moreover, it is clear that when sex work is criminalised or targeted by administrative laws, sex workers who suffer violence or abuse at the hands of clients or other persons are too fearful to report these offenses to the police. They have little reason to expect that the police would help them.

Criminalisation of sex work can impede sex workers' ability to form collectives and other organisations. Sex worker collectives in many parts of the world have greatly enhanced sex workers' ability to organise HIV prevention and information services for themselves, their clients and the communities where they live. From the perspective of universal access to HIV services, undermining sex worker organisations and sex worker HIV programming is one of the most important negative effects of criminalisation and law enforcement practices.

Laws and policies such as those described above contribute to the economic and social marginalisation of sex workers and their families (see the section 'Economic empowerment'). Effectively seen by society as criminals even if they don't have a formal criminal record, sex workers may be unable to own or inherit property; register the births of their children; gain access to education, justice, health care or banking services; get a loan or purchase a house. This legal discrimination can lead to further social exclusion, as well as poverty, harassment and exploitation. Plainly, moreover, this marginalisation is a barrier to access to health care and adds to the risk that sex workers will be treated disrespectfully even if they have access to health services.

Examples of good practice

Court rulings in several countries have clarified and challenged laws that undermine sex workers' enjoyment of human rights. For example, in 2010, the South African Labour Appeals Court held that even though sex work was illegal in the country, sex workers were still entitled to protection against unfair dismissal by employers.⁹ This decision noted, however, that sex workers as part of an illegal profession would not be able to participate in collective bargaining. An earlier case in Bangladesh faulted abusive action by police who evicted sex workers from brothels in Tanbazar and Nimtali, concluding that this removal of their livelihood was a violation of sex workers' right to life.¹⁰ Violence and verbal abuse by the police in this case were condemned by the court. In 2010, a provincial high court in Ontario (Canada) found that Canadian criminal law provisions against brothel-keeping, "communicating" for prostitution and living on the earnings of sex work were not consistent with sex workers' right to liberty and security of the person as protected by Canadian law. The court found laws to be unreasonably limiting "in a free and democratic society."¹¹

Some countries and sub-national jurisdictions have reformed sex work related legislation, removing laws that criminalise all or some elements of sex work, sometimes also estab-

lishing health regulations or other non-penal code regulatory frameworks for sex work. These include Germany, the Netherlands, New Zealand, and New South Wales, Australia.

After New Zealand decriminalised sex work and sex work-related activities in 2003, achieved through a parliamentary process, the government established an independent committee, which undertook a study of the impact of this change on the lives of sex workers. The study found that post-decriminalisation many sex workers felt more empowered to refuse difficult clients and more able to seek help from the police when they were the victims of crime or violence.¹²

Sex workers in some countries have benefitted from programmes facilitating their access to legal services or to information about their rights. For example, the Healthy Options Project Skopje (HOPS) in Macedonia provides legal services to female sex workers.¹³ It worked with sex workers to raise public awareness and fight police repression following the detention, forced HIV testing and public humiliation of sex workers in 2008. The Asociación de Mujeres Meretrices de la Argentina (AMMAR) provides legal aid to female sex workers and has challenged police harassment and restrictions on where sex workers can work, partly through an alliance with labour unions.¹⁴

Sex worker collectives in many parts of the world have been able to overcome some of the consequences of punitive legal and policy environments. Sex worker organisations in India, for example, have been able to work with both the police and the community to reduce levels of violence against sex workers, as well as to establish health and social services for themselves and their families.¹⁵ The VAMP collective that grew out of the work of the NGO SANGRAM in Sangli, India, established housing and other services for children of sex workers whose mothers died.¹⁶

Conclusion and recommendations

Laws, police practices and policies in many countries undermine sex workers' enjoyment of their rights. Criminalisation of sex work and the application of non-criminal laws to sex work exacerbate the stigma and moral judgementalism experienced by sex workers. Law and law enforcement practices often open sex workers to extra-legal abuses, including sexual and physical abuse by police and violations of due process. In many ways, including by undermining sex workers' ability to organise to help each other, these violations of sex workers' rights are barriers to their access to comprehensive HIV services.

States can take many actions to establish legal and policy environments that are conducive to universal access to HIV services for sex workers. Among these are the following:

- States should move away from criminalising sex work or activities associated with it. Decriminalisation¹⁷ of sex work should include removing criminal laws and penalties for purchase and sale of sex, management of sex workers and brothels, and other activities related to sex work. To the degree that states retain non-criminal administrative law or regulations concerning sex work, these should be applied in ways that do not violate sex workers' rights or dignity and that ensure their enjoyment of due process of law.
- Whatever the legal regime, states should ensure that sex workers are not subjected to mandatory HIV testing or restrictions on their civil liberties, have unimpeded access to

all HIV prevention, treatment, care and support programmes and that they participate meaningfully in programme and policy decision-making affecting them. Prevention programmes should ensure access to lubricants as well as condoms. HIV-positive sex workers must be considered a high-priority population for uninterrupted access to treatment services.

- States should take all necessary measures to enable sex workers to enjoy work-related protections like other workers, including workplace safety and protection from violence, abuse and discrimination.
- Where criminal law applies, governments and donors should support sex workers' access to legal services, mechanisms of accountability for police abuse, information for sex workers on their rights, and removal of impediments to forming sex worker organisations. Reduction of sex work-related stigma should figure in public awareness and information programmes.
- Where governments have recognised the legality of sex work, health regulations related to sex work should not require mandatory medical procedures, should respect sex workers' right to meaningful participation in health services, and give priority to measures that empower sex workers to protect themselves from HIV and other sexually transmitted diseases.

These recommendations are in line with the spirit of UN declarations and strategies noted above as well as the International Guidelines on HIV/AIDS and Human Rights. As the International Guidelines note, states have a responsibility to ensure that criminal law is reviewed with the aim of removing criminal sanctions on sex work and ensuring that any non-criminal regulations support safe sex in sex work and ready access of sex workers to comprehensive HIV services.¹⁸

Creating a legal and policy environment conducive to sex workers' access to comprehensive HIV services is good practice from both public health and human rights perspectives. Male, female and transgender sex workers have the right to protect themselves from discrimination, violence, abuse and disease. Realising that right enables them to live lives of dignity and also to be agents of HIV prevention and information with their clients and the larger community.

Annex 2:

Shifting the strategic focus from reduction of demand for sex work to reduction of demand for unprotected paid sex

What are the issues?

Sex workers around the globe are disproportionately affected by HIV.¹⁹ However, eradicating sex work is neither feasible nor an appropriate goal for public health programmes. Effective approaches to HIV prevention in the context of sex work are those that recognise the realities of sex work and enable sex workers to protect themselves from the risk of HIV transmission. One of the key aspects of this is to enable sex workers to protect themselves every time they have sex with a client.

Sex in and of itself – whether paid for or not – does not cause HIV infection. Rather, unprotected sex between HIV sero-discordant partners can result in the transmission of HIV from one infected partner to the other. Penetrative sex is an HIV-infection risk for sex workers and their clients when condoms are not used—particularly in countries where people have a low perception or knowledge of the risk factors involved in HIV transmission. Correct condom use during penetrative sex is an effective way of reducing transmission of HIV and other sexually transmitted infections.²⁰ However, in many settings, issues such as poor availability of condoms and water-based lubricants, police harassment and arrest of sex workers when they carry condoms, condoms being used as evidence of brothel keeping, and clients’ lack of knowledge about condoms and preference for sex without condoms are barriers to consistent condom use.

UNAIDS has recommended that criminal laws and punitive policies around sex work, which are barriers to universal access to HIV prevention, treatment and care, should be removed and that supportive policies should be enacted to empower and “protect sex workers and their clients, including safe sex during sex work”.²¹ Similarly, the UNAIDS Joint Action for Results Outcome Framework states that HIV prevention activities should promote the empowerment of sex workers to protect themselves from HIV infection, and that law enforcement agencies and the judicial system should protect the rights of sex workers.¹⁹

The term “end demand” is often used to mean policies, strategies and legal efforts to target the clients of sex workers in an effort to reduce or eliminate sex work altogether. In countries where buying or seeking to buy sex is illegal, such “end demand” efforts can include arresting and prosecuting clients, and imposing fines, jail or rehabilitation programmes on convicted clients; impounding or seizing clients’ vehicles; and publishing clients’ names on billboards, on websites or in newspapers. Furthermore, well-meaning but ill-informed service and healthcare providers and policy actors from community-based organisations, nongovernmental organisations, donors, international organisations and government agencies believe that they are helping sex workers by calling for criminalisation of clients. However, there is no evidence that these “end demand” initiatives reduce sex work or HIV transmission, or improve the quality of life for sex workers.

“End demand” initiatives are often either the product of punitive laws criminalising sex work, or the approach used by those wishing to see punitive laws introduced. These laws do not reduce the scale of sex work, but they do make sex workers more vulnerable.

The generally negative attitudes to sex workers and clients that characterise efforts to end demand also contribute to the neglect of evidence-informed HIV prevention programmes and services. These attitudes also encourage law enforcement officials and local authorities to enforce laws in ways that increase HIV vulnerability among sex workers—for instance, by using condoms as evidence of involvement in sex work and thus as grounds for arrest or detention, which discourages condom use.

Activities to ensure that clients take responsibility for their own sexual behaviour, thereby protecting themselves and all their sexual partners from HIV infection, must be developed and supported. Clients’ negative attitudes towards, female, male and transgender sex workers and towards condom use need to be addressed and challenged.

Expanding and ensuring condom use by sex workers and their clients is feasible: it has been achieved in many settings. More needs to be done to ensure consistent protected sex. Permanent availability of both male and female condoms and water-based lubricant, empowerment of sex workers to demand condom use, and increased acceptance of condom use by clients are all issues that require urgent and immediate action.

What does it mean for HIV?

Empowering sex workers to have greater control over their working conditions, rather than “end demand” approaches, should be the focus of HIV prevention efforts. Additionally, reducing exploitation of, and violence against, sex workers is a key strategy in HIV prevention and comprehensive workplace-related health and safety for all sex workers. When sex workers can successfully ensure that their customers use condoms, sex workers are less likely to become infected by HIV. As condom usage in sex work settings becomes normalised, and unprotected sex is seen as undesirable, clients will adapt their expectations and not insist on sex without condoms, effectively reducing the demand and extent of this risk behaviour. Moreover, when customers of sex workers actively participate in and facilitate the use of condoms with all sex encounters (paid and unpaid), HIV transmission will be substantially reduced. The aims of programmes in the context of sex work and HIV prevention should be to:

- reduce the demand from clients for unprotected sex;
- reduce exploitation of sex workers of all genders;
- change the power dynamics within sex work so that sex workers are able to exercise control over the use of condoms and so that these decisions are not put in the hands of clients or managers;
- ensure that male and female condoms and water-based lubricants are available, and that sex workers are not penalised for possession of condoms; and
- increase the ability of sex workers of all genders to demand the use of condoms with clients.

The key issue for HIV prevention should be on changing clients’ attitudes to women, men and transgender sex workers, and to condom use. Increasing clients’ responsibilities and role in reducing HIV infection goes hand in hand with improving the status

of sex workers. Challenging stereotypes and norms that disadvantage sex workers—legally, economically, politically, socially and culturally—provides greater autonomy and thus choices for sex workers, and reduces the pressure to engage in sex with clients who refuse to use condoms. Efforts and messaging that aim to reduce HIV risk and vulnerability associated with sex work need, in particular, to address the demand for unprotected paid sex.

Typically, commercial sex acts involve two people. Both have responsibility for practicing safer sex, although it is also important to recognise that power dynamics in commercial sex encounters tend to favour clients—particularly if clients are prepared to pay more money for sex without a condom.

Clients of sex workers need to take responsibility for their own sexual behaviour: they have a responsibility to insist on protected paid sex. Clients also have a responsibility to not compromise the health and safety of sex workers by demanding unprotected paid sex. In this way, they take responsibility for protecting themselves and their partners from HIV infection and other sexually transmitted infections.

Communication strategies addressing clients are unlikely to succeed if they are moralising or blaming, or if they depict clients as perpetrators of exploitation or as immoral. Clients are people. Clients also deserve HIV prevention services, including education about condom usage with paid partners. Moreover, when programmes adopt judgemental approaches, they fail to address the reasons many clients are reluctant to use condoms—such as low perception of risk for HIV infection, lack of knowledge and lack of availability of condoms and water-based lubricant.

Good practices

HIV prevention programmes should work to empower sex workers to insist on protected and safe paid sex in their workplace. This approach would be in accordance with the emphasis placed by the ILO HIV and AIDS Recommendation, 2010 (No. 200) of all modes of HIV transmission.²² Condoms and water-based lubricants should be made readily available to sex workers and in all sex work settings, and they should be accessible and affordable. Under no circumstances should the police or any other regulatory authority use possession of condoms, discussions of condoms or safer sex, or any other evidence of condoms and safer sex practices (for example, signs requiring condoms or condom wrappers in trash receptacles) as evidence of sex work for arrest or prosecution purposes.

One critical issue is the involvement of brothel owners and managers in condom programmes. Brothel owners or managers can play a supportive role in ensuring that sex workers and their clients have access to condoms, and that condom use is the established norm within that setting. Alliances should be made with managers and agents of sex workers to encourage and support efforts to implement worker safety initiatives, such as requiring all customers to use condoms and posting signs to such effect. It is critical that all programmes follow a sex worker-led approach and enable sex workers to collectively determine what role brothel owners should play in HIV/AIDS intervention programmes.

Male and transgender sex workers have unique, as well as overlapping, challenges and needs in comparison to female sex workers engaged in commercial sex. It is important

that HIV prevention programmes working with sex worker communities enable male and transgender sex workers to identify how to address their own specific needs.

In all cases, sex workers must have continuous access to both male and female condoms and water-based lubricants.

Specific examples of programmes that have improved sex workers' ability to ensure condom use in their work include:

- In Mombasa, Kenya, the Population Council conducted an intervention to meet male sex workers' health needs and promote behaviour change. Male sex workers were supported as peer leaders and educators in their communities to engage other male sex workers on condom use with clients. The project demonstrates the importance of engaging sex workers, using their existing access to the broader sex worker community and developing their ability to educate and support one another on health and safety matters in the industry;²³
- In Rio de Janeiro, Brazil, the Horizons programme conducted a study to document the process and effectiveness of integrating community development activities and interventions to prevent HIV and other sexually transmitted infections among female sex workers. Community development components, including social cohesion and mutual aid, were significantly associated with consistent condom use among sex workers and their paying clients in this study.²⁴ More research should be done to evaluate the relationship between belonging to a community with shared values, norms and understandings and health behaviours and outcomes; for example consistent condom use and reduction of HIV/STI;
- In China the International Labour Organization is targeting men in the mining sector with comprehensive HIV/STI prevention interventions. Men working in industrial sectors that require them to work away from their families often engage in risky behaviours such as unprotected paid and casual sex. Consequences can include increased HIV/STI transmission among sex workers and the regular partners of these men. To address this, the International Labour Organization is working with large and medium-scale mining companies in southern China to promote responsible sexual behaviours among mine workers, including proper treatment of STIs, consistent condom use and elimination of violence against women, including sex workers. Preliminary results, assessed through qualitative and quantitative surveys, show significant increases in condom use and health-seeking behaviours, and increased reported condom use in paid and casual sex.

More generally, an essential component of any HIV prevention programming is the inclusion of sex workers in the development, implementation and evaluation of HIV programmes for sex workers. Merely consulting sex workers is insufficient; rather, strong programming should be based on the stated needs of the sex workers themselves in the area of the intervention. As needs, experiences and perceptions can change from region to region, local sex workers must be involved in the design of interventions to be implemented in their area.

Effective HIV programming with sex workers and clients also requires non-judgemental services from health care providers. Health systems need to build the capacity of health workers at all levels and strengthen condom programming to make it more

effective in protecting and promoting the health and human rights of sex workers. Condoms should not be the sole focus of HIV interventions for sex workers; they should be provided alongside access to non-judgemental health care, development of sex worker leadership, economic empowerment, strengthening collective identity, and the elimination of stigma and discrimination related to sex work and sex workers.

In terms of engaging clients, a growing number of studies indicate that men are disadvantaged by ‘masculinity’ norms such as machismo and other gender norms which entrench male dominance. Some of these studies show that men who adhere to rigid notions of manhood experience a range of poor health outcomes. For example, a 2009 article by Peacock et al. concludes that “men who hold traditional views about masculinity are more likely to have contracted a sexually transmitted infection (STI). They are more likely to view sexual relationships as adversarial, to have more negative attitudes toward condoms, and to use condoms less consistently”.²⁵ HIV prevention programmes should therefore explore ways of challenging these regressive norms.

Barriers to good practice

In general, demonising and marginalising clients are approaches that create major barriers to effective HIV programming with sex workers. Moreover, these approaches are often adopted with the aim of reducing sex work and also trafficking, but they have not been shown to be effective in achieving these aims. They should therefore be avoided, from both a public health and a human rights perspective.

Some programmes have been successful in helping to change the norms and practices around sex work by sex workers, with a subsequent effect on rates of HIV infection. The 100% condom use programme initiated in Thailand in the early 1990s,²⁶ is one such example. However, as these programmes have evolved and been replicated in many countries, they have not necessarily adhered to best practice.

In a review by SANGRAM (an Indian nongovernmental organisation working with sex workers) of 100% condom programmes implemented in South Asia, several challenges were identified in the implementation of those programmes as well as key recommendations that rights-based and empowerment models be employed in regards to sex workers.²⁷ The authors cautioned against employing the police or other local government authorities to enforce 100% condom use in the sex industry. As they point out, “Sexual acts involve only two persons—the sex worker and the client—so successful rights-based programmes should focus on empowering sex workers to enforce condom use in their own way and on their own terms”.

Experience has shown that asking law enforcement officers, health professionals and sex establishment managers to take the lead on safer sex programming is counterproductive and can disempower and penalise sex workers. Sex workers and their clients should be the main implementers and decision-makers in making sex work safer. Other stakeholders can be useful partners but should not be given an authority role.

Conclusion

This section aims at fostering a shift from an unrealistic approach that demonises clients and depicts them as criminals or exploiters, towards a more pragmatic approach that recognises that clients are involved in every commercial sex act, and therefore have a key role to play in both HIV prevention efforts and in protecting sex workers more generally. Programmes should work with both sex workers and clients to support their mutual responsibility in preventing HIV infection and other STIs.

Annex 3:

Differentiating sex work and trafficking

What are the issues?

The United Nations Trafficking in Persons Protocol requires States parties to criminalise and comprehensively tackle trafficking in persons in all its forms. Under these treaty obligations, states often pass laws or take action to end such trafficking. However, anti-trafficking laws or actions often encourage the assumption that all, or at least most, trafficked persons are trafficked for commercial sexual exploitation, and that all or most sex workers are trafficked into sex work against their will. In reality, trafficking and sex work are two very different things. Trafficking involves coercion and deceit; it results in various forms of exploitation, including forced labour, and is a gross violation of human rights. Sex work, on the other hand, does not involve coercion or deceit. Even when it is illegal, sex work comprises freely entered into and consensual sex between adults, and like other forms of labour provides sex workers with a livelihood.

The persistent confusion and conflation between trafficking in persons and sex work leads to laws and interventions that negatively impact sex workers, and at the same time undermine efforts to stop trafficking. In some cases, this conflation results in legislation and interventions that criminalise sex work and target the sex industry as a whole, resulting in harmful outcomes for sex workers, including increasing their HIV risk and vulnerability to abuse and exploitation. Whether sex work is legal or illegal there is an urgent need for States, the UN system, law enforcement agencies, and civil society to understand and differentiate between trafficking in persons and sex work.

Several examples from around the world show how anti-trafficking legislation and law enforcement have been used to attempt to eradicate or disrupt the sex industry. This has been done without consideration of the negative impact such legislation has on human rights and health, including the lack of impact on eradicating trafficking. These have resulted in sex workers being arrested and detained in an attempt to eradicate trafficking.

Through the conflation of trafficking and sex work, local and migrant sex workers in several countries have been subjected to the following: (a) arbitrary and aggressive anti-trafficking interventions (often involving the “raid and rescue” model) which fail to take into consideration the stated wishes of the individual being targeted, who does not need to be or want to be “rescued”;²⁸ (b) indiscriminate arrest and incarceration of sex workers; (c) sex workers being beaten and raped by formal and informal law enforcement agents while in detention (this is not part of anti-trafficking legislation, but has escalated in countries with inappropriate anti-trafficking and related laws and regulations); and (d) sex workers being denied their freedom of movement.

What is sex work and what is trafficking?

Sex work

Sex worker organisations globally, and locally, understand sex work as a contractual arrangement where sexual services are negotiated between consenting adults, with the terms of engagement having been agreed upon between the seller and the buyer of sexual services. By definition, sex work means that adult²⁹ female, male and transgender sex workers who are engaging in commercial sex have *consented to do so* (that is, are choosing voluntarily to do so), making it distinct from trafficking.

For sex workers, working in the sex industry is not usually a result of coercion or an irrational act of desperation arising from their economic or social vulnerability. On the contrary, men, women and transgender people who sell sex are exercising their agency to make a realistic choice from the options available to them.³⁰ A woman deciding to sell sexual services in order to support herself or her family is not a trafficked person. A man deciding to sell sexual services to fund his drug use is not a trafficked person. A transgender person deciding to sell sexual services because of lack of employment options is not a trafficked person. There may be people in sex work who might prefer to be in another form of employment, but do not have many alternatives – a situation that many people in other employment sectors are in. They should not be deemed as being coerced into sex work, as trafficked persons are.

Trafficking in persons

According to international treaties, trafficking in persons is defined as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.³¹ In this definition, exploitation includes the exploitation of the prostitution of others or other forms of sexual exploitation; forced labour or services; slavery or practices similar to slavery; servitude; or the removal of organs.

Trafficking for the purposes of commercial sexual exploitation involves adults or children providing sexual services against their will, either through direct force or through deception, violating their fundamental freedoms. As such, it violates the rights and removes the agency of trafficked persons.

However, it is important to understand that being trafficked is often a temporary situation: people who are trafficked do not necessarily remain in situations of powerlessness and coercion. For example, individuals who have been trafficked into the sex industry, or those who find themselves tricked or coerced once within the sex industry, can find their way out of situations of coercion but remain in sex work operating more independently and usually with support from their fellow sex workers, their clients, their intimate partners and their managers or agents.³² Clearly, care has to be taken to ensure that the individuals concerned are able to freely assess the situation for themselves and, as with all sex workers, empowerment opportunities should be provided.

Understanding the differences between sex work and trafficking in persons for the purpose of sexual exploitation

The *UNAIDS Guidance Note on HIV and Sex Work* clearly states that trafficking in persons for the purposes of sexual exploitation is a gross violation of human rights³³ At the same time, the Guidance Note strongly and clearly states that trafficking in persons for any distinct purpose, including commercial sexual exploitation, should never be implicitly or explicitly conflated with sex work. This is because, as the definitions given above show, they are clearly not the same. Sex work implies *consent* of sex workers and their capacity to exercise that consent voluntarily. The exercise of *agency*—that is, people determining for themselves what they want to do and when—is central to the definition of sex work. Trafficking, on the other hand, involves coercion and deceit, resulting in *loss of agency* on the part of the trafficked person.

One of the reasons for the conflation of sex work and trafficking is that some people believe sex work to be inherently harmful and exploitative. However, many sex workers work in situations where there is no greater exploitation than that experienced by many other workers. Moreover, the harm and abuse that do occur in contexts of sex work often have nothing to do with trafficking. For instance, a major source of violence and extortion against sex workers is law enforcement officials, who are supposed to be preventing rather than causing harm.

The unwillingness or inability of people to recognise that people can freely decide to engage in sex work means that sex workers are often automatically labelled as victims of trafficking when they are not. Often sex workers are portrayed as passive victims who need to be saved. Assuming that all sex workers are trafficked denies the autonomy and agency of people who sell sex. Moreover, such perspectives mean that anti-trafficking efforts typically ignore the possibility of engaging sex workers as partners in identifying, preventing and resolving situations that do involve trafficked people. Sex workers themselves are often best placed to know who is being trafficked into commercial sex and by whom, and are particularly motivated to work to stop such odious practices.³⁴

What does it mean for HIV?

Anti-trafficking measures often concentrate on getting people out of sex work, without considering whether they are trafficked, or whether the efforts will disrupt the access sex workers have to services that safeguard their health and well-being, and that create opportunities for them to share information and seek assistance for individuals they are concerned may have been trafficked. Many projects that focus on rescuing trafficked persons interrupt and undermine efforts to provide sex workers with access to HIV prevention, treatment, care and support.

Many countries are failing to address the actual violence and abuse experienced by sex workers, and by trafficked persons, at the hands of state officers implementing anti-trafficking measures—for instance, unlawful arrest, incarceration, harassment, physical and sexual assaults, rape and even murder by law enforcement and detention officers. The vulnerability of sex workers is increased as a result of having to pay bribes to avoid arrest or detention, or to be released from prison or rehabilitation centres, often requiring them to take out loans that potentially increase their burden of debt.³⁵

There is a growing body of evidence that “raiding” sex work venues and forcibly “rescuing” or “rehabilitating” sex workers results in increased displacement of sex workers, mobility of sex work venues and migration among sex workers; it also has a direct impact on HIV risk.³⁶ Forced rescue and rehabilitation practices lower sex workers’ control over where and under what conditions they sell sexual services and to whom, exposing them to greater violence and exploitation. In turn, this leads to social disintegration and a loss of solidarity and cohesion (social capital) among sex workers, including reducing their ability to access health care, legal and social services. Low social capital is known to increase vulnerability to sexually transmitted infections among sex workers and therefore has a detrimental impact on HIV prevention efforts.³⁷

The conflation of sex work and trafficking directly limits the ability of migrant sex workers to protect themselves from HIV, since they are often assumed to be trafficked. Migrant sex workers often live with the constant threat of being reported, arrested and deported which creates a real barrier to accessing health and welfare services. Female migrant sex workers are frequently assumed to be trafficked when “moral panics” around migration and sex work are created for populist political gain.

Such situations are counterproductive to creating enabling environments for sex workers to practice or promote safer sex and other HIV risk reduction strategies.

Additionally, the frequent overestimation and sensationalism associated with allegations of trafficking divert attention and important resources away from the much needed services that could have a real impact upon HIV prevention, treatment, care and support among sex workers and their clients, and on rights-based support mechanisms for trafficked persons. For instance, money for HIV programmes is either diverted away from sex work programmes as sex work is seen as a criminal law issue, or funds are spent on misguided “rehabilitation” programmes.

Good practices

Immediate and active consultation between sex workers, anti-trafficking advocates, governments, law enforcement agencies and civil society organisations is required to clarify the distinction between sex work and trafficking in persons for the purposes of commercial sexual exploitation. To achieve universal access to HIV prevention, treatment, care and support for sex workers, efforts should be refocused on the real and persistent risks that sex workers face, in terms of both human rights violations, and HIV risk and vulnerability. Such discussions should actively involve both sex workers and others directly involved in the sex industry, as well as people who have been trafficked, to benefit from their experience.

Do no harm

Anti-trafficking interventions should be reviewed and evaluations carried out to ensure that the human rights of both sex workers and trafficked persons are being protected. All anti-trafficking interventions should be monitored closely to ensure that sex workers are not targeted; and that on-going HIV prevention, treatment, care and support services are not disrupted or undermined.

Involve sex workers in addressing trafficking in persons within the sex industry

Sex workers' organisations and sex work networks can, and do, play a significant role in addressing trafficking in persons, including the sexual exploitation of children. Sex workers know and understand sex work settings. They are in an ideal position to identify and gain the trust of those who may be trafficked for the purpose of sexual exploitation; and they are well placed to provide assistance, support and appropriate referral without further increasing their vulnerability. Organised groups of sex workers are also best placed to establish safe working norms within the sex industry, and influence other actors in the industry to ensure that trafficked adults and children are not retained in sex work. Some sex worker organisations, such as the Durbar Mahila Samanwaya Committee in India, have established models of self-regulatory boards that effectively address trafficking in persons from within the sex industry itself. These self-regulatory mechanisms, which are established, implemented and overseen by sex workers' organisations can limit trafficking into the sex industry as well as the sexual exploitation of children. They also form a platform for addressing labour exploitation of sex workers.³⁸

Review anti-trafficking and sex work legislation and law enforcement practices

National anti-trafficking legislation should be reviewed to ensure that it focuses on addressing trafficking of persons and is not misused to target sex workers. Exploitation that does not fall within the definition of trafficking in the Palermo Protocol should be regulated through national civil, criminal and labour laws and dealt with separately to any trafficking legislation. Similarly, laws on sex work should be reviewed to ensure that they do not conflate sex work and trafficking. Any conflicts between laws should be resolved to ensure that the rights of both sex workers and trafficked persons are respected and protected.

Collate, generate and disseminate evidence

There is a need to collect and analyse existing evidence and ensure that new research is undertaken to provide policy-makers with an accurate picture of the impact of anti-trafficking laws; conflating sex work with trafficking; the extent of trafficking for commercial sexual exploitation; the ways in which sex workers can lead effective interventions to stop trafficking within the sex industry; and the sexual exploitation of children. Such research must be rigorous and ethically sound.

Barriers to good practice

No form of legislation, whether it be related to trafficking or sex work, should be used as an excuse to withhold health care and access to other support services from any member of the population.

Many of the abuses and problems that occur in the context of anti-trafficking initiatives and legislation also occur in the context of laws that criminalise sex work.

Whatever the legislative framework, it is essential to challenge the behaviour of law enforcement and justice officials to ensure that due process is followed and abuses of power do not take place.

Conclusion

This section urges all stakeholders to combat the persistent confusion and conflation between trafficking in persons and sex work. To improve effectiveness, anti-trafficking legislation, and law enforcement initiatives should be reviewed, in partnership with sex workers and people who have been trafficked, to ensure their rights are respected and protected, and that HIV prevention, treatment, care and support services are not undermined.

“In the end, simplistic approaches that equate all migration for sex work with ‘trafficking’ and exploitation only complicate efforts to provide appropriate health and social services to meet the immediate needs of sex workers. Increased efforts to abolish the sex industry can force it underground, making access to sex workers in need all the more difficult.”³⁹

Annex 4:

Economic empowerment of sex workers

What are the issues?

HIV epidemics spread rapidly in settings of economic and social vulnerability. Unprotected sex in the context of sex work, particularly in settings of high population mobility and poor provision of health information and services, has been identified as a major factor in rapid epidemic growth. Sex workers can and should play a key role in efforts to reduce the spread of HIV.

Sex workers face multiple risks, including social marginalisation, violence, and poor health.^{40,41} These overlapping and mutually reinforcing factors have been shown to restrict sex workers' ability to improve their living and working conditions, and achieve economic security. They are also among the most frequently cited factors affecting the ability of sex workers to adopt safer sexual practices and condom use.

Furthermore, sex workers, like other people working in informal economies, commonly report a lack of access to bank accounts, saving schemes, loans and legal forms of credit, insurance, pensions and other employment benefits. Stigma and discrimination aggravate economic disempowerment, restricting sex workers' access to financial services. This further compromises their ability to manage and plan their finances.

Efforts to empower sex workers as a way of improving difficult working conditions have resulted in measurable improvements in sex workers' quality of life, self-confidence and agency.^{42,43,44} Studies have documented good social and economic outcomes, increased social capital, high rates of condom use.

However, some programmes that aim to empower sex workers fail to do so; this is particularly common in the case of "economic empowerment" programmes which aim to provide alternative incomes and to exit people from sex work. Actions aimed at "rehabilitation" through training and steering sex workers toward alternative employment or income generation often incorrectly assume that sex workers want to be rehabilitated or want to leave sex work. While in many countries HIV programmes offer income-generating activities, training and credit to sex workers, their aim is often to encourage sex workers to leave sex work, rather than to provide them with increased choice and reduced risk and vulnerability. As a result, access to these programmes can even be conditional on leaving sex work. Moreover, income generation, training and credit schemes are not always based on current markets and opportunities—and unsuccessful ventures risk disempowering sex workers further, since they often entail debt and the stigma of failure.

Nonetheless, economic empowerment can be an important strategy to improve sex workers' living and working conditions. By increasing economic options, sex workers can achieve greater financial security, which makes it easier for them to make important decisions that affect their lives. These include their choice of work and their capacity to save and plan for the future for themselves and their dependents. Improving economic options also helps sex workers to reduce the likelihood of having to accept

clients' requests for unprotected sex or that they will be put in situations that inhibit their ability to negotiate with clients and reduce the risk of violence or abuse.

Economic empowerment means equality and equity within the financial system. There are considerable advantages in recognising that sex work is work, as this provides a framework within which sex workers can benefit from the same protections, including the same access to services and freedom from discrimination as other workers.⁴⁵ The ILO's new labour international standard, the Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200) applies to sex workers. Delegates to the HIV/AIDS Committee, the tripartite body responsible for finalising the text of Recommendation No.200 submitted to the International Labour Conference for adoption at its 99th Session in June 2010, proposed a specific amendment to the text of the Recommendation proposing that sex workers be explicitly mentioned. The delegates discussed the importance of bringing the needs of sex workers into the mainstream of HIV prevention, care and treatment, noting that if this critical group were to be excluded, it would undermine HIV prevention efforts. Ultimately, the delegates agreed that the broad scope of application in paragraph 2 of the Recommendation implicitly covers sex workers for purposes of the Recommendation.⁴⁶

If sex work is recognised as work, this would also imply that sex workers have the right to choose whether to remain in or leave sex work. Knowing how to manage one's financial resources, being able to cope with financial crises and being able to change employment are also important aspects of this choice.

Initiatives for economic empowerment of sex workers can operate at individual and collective levels. These are potentially complementary and mutually reinforcing. At the individual level, they can include assistance to individual sex workers in savings, credit, education and training. At the collective level, empowerment activities can strengthen the capacity of organisations led by sex workers to improve economic and social conditions for all sex workers in a given community.

What does it mean for HIV?

Many positive benefits can result from both individual and collective initiatives to support the economic empowerment of sex workers, including access to HIV- and sexual health-related services.

The effects of adding micro-enterprise services to sex worker-led HIV interventions were assessed among 227 female sex workers in Kenya over two years.⁴⁷ Two thirds of the women had operational businesses at the end of the period. More than half chose to remain engaged in sex work. A number of benefits were measured including reduction of the mean number of sex partners and more consistent condom use with regular and casual partners.

The USHA sex worker cooperative in West Bengal, India, has more than 13 000 members who are able to access official loans through the cooperative credit union.⁴⁸ A study reported tangible improvements in sex workers' lives in five areas:

- increased knowledge of sexually transmitted infections and condom use to prevent HIV infection;
- reframing of sex work as valid work and increasing aspirations, reflected in a desire for more education or training;
- improved skills in sexual and workplace negotiations reflected in more successful condom use negotiations and increased ability to change workplace and contractual arrangements;
- building social support by increasing social interactions outside work, social function participation and helping other sex workers; and,
- addressing economic vulnerabilities by increasing savings, credit and supplementary income sources.

The results of a study in Andhra Pradesh, India, illustrate the importance of sex worker control over work and access to economic resources.⁴⁹ Among the 803 sex workers interviewed, involvement in economic independence programmes was positively associated with control over both the type and cost of sexual services provided and with consistent condom use. Among respondents who reported both programme exposure and high levels of collective agency, consistent condom use was significantly higher than among other sex workers.

In Brazil, sex work is decriminalised. Sex workers are able to register their occupation and have the same rights as other workers. Such high-level policy change is in line with an approach that considers sex work as work. The International Labour Organization HIV and AIDS Recommendation, 2010 (No. 200) applies explicitly to all workers in the formal and informal economies.⁵⁰

An example of a successful initiative for sex workers was set up by DAVIDA, a sex worker-led organisation in Rio de Janeiro. DAVIDA established the fashion company DASPU, which manufactures a range of clothing and organises fashion shows to promote not only the clothes, but also respect for sex workers and their human rights.⁵¹

Good practices

Evidence strongly supports the benefits of empowering sex workers so that they may enjoy improved working and living conditions, and at the same time, reduce their HIV risk and vulnerability.

Policy-makers and service providers working on the economic empowerment of sex workers should take steps to achieve the following:

Ensure compliance with the International Labour Organization's HIV and AIDS Recommendation, and apply the principles established in the standard to sex workers in both the formal and informal economies to ensure access to prevention, treatment, care and support;

Support the development of sex worker-led organisations that advocate for, and implement, programmes to reduce sex workers' economic and social vulnerability;

Ensure that access to economic empowerment programmes is not conditional on leaving sex work or reducing involvement in sex work. The outcomes of such programmes should be measured primarily in terms of improvements of economic independence.

Develop economic empowerment initiatives, taking the views of sex workers into account, to:

- increase options for savings and reduce debt
- expand earning potential and economic choices
- develop capacity and skills;

Ensure that access to financial services including savings schemes, access to bank accounts, insurance and loans are non discriminatory and accessible to sex workers, their families and community organisations;

Ensure that access to credit includes assistance in financial planning and business management to achieve goals;

Ensure that educational opportunities are relevant, of good quality, acceptable to sex workers, non discriminatory and available without being conditional on leaving sex work;

Options for increasing and diversifying earning potential should be nondirective, supportive of sex workers' decisions about how they earn their living, and designed to increase choices and reduce economic and social marginalisation.

Community initiatives should be sex worker-led and provide:

- opportunities and choices valued by sex workers;
- training in areas prioritised by sex workers themselves, which often include entrepreneurial skills and financial management;
- capacity building to diversify earning potential or facilitate transiting;
- safeguards and flexibility to prevent debt accumulation;
- improved functional literacy.

Economic empowerment programmes should include support to sex worker organisations to open and operate sex worker-led cooperatives, credit unions and collectives, and lending and savings schemes.

Economic empowerment approaches should consider the needs of all sex workers—female, male and transgender—with attention to the special needs of older sex workers and those with HIV or other illnesses or disabilities. There are a number of jobs that such sex workers can do within the sex work community, enabling them to remain attached to their community, friends and networks.

Sex workers from Ashodaya Samithi, a collective working in several districts of Karnataka, India, have initiated several ventures to enhance their economic security, and meet specific needs identified by sex workers themselves. Hotel Ashodaya is a restaurant initially set up to meet sex workers' needs for affordable meals and now attracts a wide range of customers, generating funds to support activities for the sex worker

community.⁵² The Care Home managed and run by HIV-positive sex workers, addresses basic care, shelter and nutritional needs of sex workers and others living with HIV.

Experiences from the Wonetha Association in Uganda and Danaya So in Mali highlight similar benefits to sex workers from programmes that build on basic health interventions. These include collective action to improve living and working conditions, access to bank accounts and loans, capacity-building, income-generating activities, health insurance, and support for sex workers' families.

Barriers to good practice

Programmes that have the sole aim of getting sex workers out of sex work, rather than having an aim of empowerment, have had little success; moreover, there is little evidence that they have an impact on the scale of the sex industry or vulnerability to HIV. Economic empowerment should not be a stand-alone intervention, but should be combined with a range of measures that empower sex workers and provide them with supplementary incomes rather than focusing on creating alternative incomes or livelihoods.

In addition, unsuccessful empowerment programmes have often targeted the wrong groups of people, such as those who are not interested in the support or who have less of a need or capacity to benefit. For example, microcredit schemes are often targeted toward younger sex workers, but the available evidence shows that older sex workers (who often have less earning potential and negotiating power and who may be planning to leave sex work) benefit more from such schemes.

Conclusion

Economic empowerment is a critical component of initiatives to reduce vulnerability and empower sex workers to gain greater control over their lives. As such, initiatives should aim to involve sex workers, reduce harm, increase options and respect choice – initiatives must be voluntary and available to sex workers without any conditions that they stop or reduce their involvement in sex work. Economic empowerment should emphasise both individual opportunities and collective action through support to sex worker-led organisations and networks. The potential benefits of such initiatives are numerous – both for sex workers themselves and for the larger community, in terms of poverty reduction, women and child welfare and public health. Economic empowerment initiatives should be provided in the context of broader empowerment and HIV-prevention efforts designed with and for sex workers.

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The Joint United Nations Programme on HIV/AIDS (UNAIDS) brings together ten UN agencies in a common effort to fight the epidemic: the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Office on Drugs and Crime (UNODC), the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), and the World Bank.

UNAIDS, as a cosponsored programme, unites the responses to the epidemic of its ten cosponsoring organizations and supplements these efforts with special initiatives. Its purpose is to lead and assist an expansion of the international response to AIDS on all fronts. UNAIDS works with a broad range of partners – governmental and nongovernmental, business, scientific and lay – to share knowledge, skills and best practices across boundaries.



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