# The Real Impact of the Swedish Model on Sex Workers

#6

Sex Work and the Right to Health





### Sex Work and the Right to Health

Sex workers remain subject to stigma and marginalization, and are at to health services is impeded and occupational risk increases.

(Anand Grover, UN Special Rapporteur on the Right to Health, 2010)1

For the most part, explicit reference to the right to health remains absent from Sweden's domestic health policies... Sweden has a commendable policy of actively mainstreaming human rights, including the right to health, into its international policies... Yet its explicit integration of the rights to health into its own national policies appears to be at a rudimentary level. Some might be driven to the conclusion that, at the domestic level, Sweden does not practice what it preaches.

(Paul Hunt, UN Special Rapporteur on the Rights to Health, Mission to Sweden, 2007)2

Local women who remain in prostitution, especially women addicted to heroin and other hard drugs, report increased vulnerability to violence and infection with sexually transmitted diseases...In the first years of its abolitionist prostitution policy, the Swedish Government largely neglected to address the situation of drug-addicted women in prostitution. This problem has somewhat improved in recent years...However, waiting periods are said to be far too long. (Yakin Ertürk, UN Special Rapporteur on Violence Against Women, Mission to Sweden, 2007)<sup>3</sup>

significant risk of experiencing violence

in the course of their work, often as a result of criminalization. As with other criminalized practices, the sexwork sector invariably restructures itself so that those involved may evade punishment. In doing so, access

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THAT RESPECT THEIR **DIGNITY AND PROVIDE** NON-JUDGMENTAL, AFFORDABLE AND

**SEX WORKERS IN** 

MANY PARTS OF THE

**GOOD-QUALITY CARE.** 

- 1 UN General Assembly. Report of the Special Rapporteur on the right to health, Anand Grover, UN doc. A/HRC/14/20, 27 April 2010.
- 2 UN General Assembly, Human Rights Council, Fourth session. Report of the Special Rapporteur on the right to enjoyment of the highest attainable standard of physical and mental health, Paul Hunt. UN doc. A/HRC/4/28/Add.2, 28 February 2007.
- 3 UN General Assembly, Human Rights Council, Fourth session. Report of the Special Rapporteur on Violence Against Women, its causes and consequences, Yakin Ertürk. UN doc. A/HRC/4/34/Add.3, 6 February 2007

#### Introduction

All people have the right to health. In human rights law, the right to health is not the same as the right to be healthy - no government could guarantee good health to all individuals - but rather the right to a certain standard of health services. Having access to health services delivered in an ethical, respectful and scientifically sound way is an important part of living a life of dignity. Unfortunately, health services can also be a source of discrimination, stigma, and actions that are disrespectful and even abusive.

Sex workers in many parts of the world lack access to health services that respect their dignity and provide non-judgmental, affordable and good-quality care. Where sex work or activities related to it are forbidden under the law, sex workers may be well justified in fearing to seek care at government health facilities, even if government services are the most affordable. For example, in Sweden, the national strategy against HIV/AIDS (Prop.2005/06:60) highlights precisely why sex workers may be extremely reticent to access services and are sceptical of the treatment they might receive and risks they might encounter.

"The government's long-term goal is to eliminate prostitution...In the Government's view, it is important to highlight the close relationship that exists between men's exploitation of persons in prostitution and the spread of HIV infections and other sexually transmitted diseases...It is of importance that there is close cooperation between authorities on communicable diseases, as well as the police and social services."





...GOVERNMENTS **SHOULD PROVIDE** THE BEST POSSIBLE **SERVICES THAT** RESOURCES ALLOW, **ENSURE THEY ARE** PROVIDED TO ALL PEOPLE WITHOUT DISCRIMINATION, AND ENSURE THAT THEY ARE **CONTINUALLY PROGRESSING TOWARD IMPROVED** SERVICES.

In some countries where sex work is against the law, health workers are required or encouraged to report to the police the names of people they suspect of being sex workers. Many other factors may impede sex workers' access to respectful and good-quality health care, including wanting to avoid the moral judgments that health workers might make, inconvenient hours of operation of health facilities, and the concern that health workers may not understand the health needs and rights of sex workers. HIV has shone a spotlight on the health of sex workers worldwide, but the result has not always been better access to respectful health care for sex workers.

This paper describes the human right to health that all people have, analyses some particular challenges sex workers face in realising their right to health, and makes recommendations for enhancing sex workers' right to health. For a discussion on the ways in which Sweden fails to protect sex workers' right to health in the context of their work, please refer to the 3rd paper in the Swedish Model Advocacy Toolkit: Impacts of the Swedish Model's Justifying Discourses on Service Provision<sup>4</sup>.

#### International standards related to the right to health

In the global human rights regime, the right to health was first described in detail in the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 12 of that widely ratified treaty notes that all people have the right to the 'highest attainable standard of physical and mental health.' That phrase recognises that excellent health services are not built in a day. Rather governments should provide the best possible services that resources allow, ensure they are provided to all people without discrimination, and ensure that they are continually progressing toward improved services. The Covenant defines four priority areas of government responsibility in health services:

- the healthy development of the child and reduction of infant mortality;
- improvement of all aspects of environmental and industrial hygiene;
- the prevention, treatment and control of epidemic, endemic, occupational and other diseases; and
- access to all medical services and medical attention in the event of sickness.6

- 4 NSWP, Advocacy Toolkit Briefing Paper #3: Impacts of the Swedish Model's Justifying Discourses on Service Provision, 2014. http:// www.nswp.org/resource/advocacytoolkit-briefing-paper-3-impactsthe-swedish-model-s-justifyingdiscourses-service
- 5 International Covenant on Economic, Social and Cultural Rights. UN General Assembly resolution 2200A(XXI). 16 December 1966.
- 6 Ibid., art. 12, 2(a)- 2(d).



In 2000, the UN Committee on Economic, Social and Cultural Rights issued a 'general comment' on the right to health that laid out more detailed criteria for judging whether the responsibility of governments to protect and fulfil the right to health is being met.<sup>7</sup> Among the key recommendations in this expert comment are the following:

- Health services need to be available in sufficient quantity to meet everyone's need.
- Services must be accessible in several ways: physically accessible, including to people living in remote areas, people with disabilities and other 'marginalised' persons; economically accessible (that is, affordable); and information about services must be within ready reach of all people.
- Health services must be scientifically sound and must respect medical ethics.
- Health services should be culturally appropriate.
- 'Industrial hygiene' in ICESCR (art. 12) means 'the minimization, so far as is reasonably practicable, of the causes of health hazards inherent in the working environment'.8
- The right to health should be understood to include 'measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information.'9
- Comprehensive HIV services should be part of standard health care as resources allow.

- Dountries should make available through health services all of the products on the WHO Model List of Essential Medicines, which includes a very wide range of medicines, including treatment for HIV.
- ▶ The right to health includes protection from gender-based violence, including for the most marginalised persons.¹¹○

The Conventions on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>11</sup> was the first major human rights treaty to articulate reproductive health rights. These included the following:

- Women and men have the same right 'to decide freely and responsibly on the number and spacing of their children' and to have the information and means to enable the exercise of that right (art. 16(1e)).
- The state should ensure all services associated with pregnancy, 'granting free services where necessary,' including adequate nutrition during pregnancy and lactation (art.12(2)).

CEDAW also articulates related reproductive rights, such as paid maternity leave, non-discrimination in the workplace on the grounds of pregnancy, and child care for working parents.<sup>12</sup>

Most of the health rights contained in the ICESCR and CEDAW have also been adopted in regional human rights treaties in the Americas, Europe and Africa. The Convention on the Rights of Persons with Disabilities further extends the right to health to include good-quality services that do not exclude or discriminate against persons with disabilities.<sup>13</sup>

- 7 UN Committee on Economic, Social and Cultural Rights. General comment no. 14 on the right to the highest attainable standard of health. UN doc. no. E/C.12/2000/4, 11 August 2000.
- 8 Ibid., para 15.
- 9 Ibid., para 14.
- 10 Ibid., para 35.
- 11 Convention on the Elimination of All forms of Discrimination Against Women. UN General Assembly resolution 34/180, 18 December 1979.
- 12 Ibid., article 11.
- 13 Convention on the Rights of Persons with Disabilities and Optional Protocol. UN doc. A/ RES/61/106, 13 December 2006.



## The reality of health rights for sex workers

Sex workers in many countries experience systematic and persistent stigma, marginalisation and discrimination in many spheres, including health services. Where they are unable to ensure consistent use of condoms by clients and other safe sex practices, they are vulnerable to sexually transmitted infections, including HIV. UNAIDS reports that HIV prevalence amongst sex workers is on average 12 times higher than in the general population, according to data from 110 countries.14 Figure 1 on the next page shows for 19 countries the dramatic disparity between HIV prevalence amongst sex workers and the whole population. In spite of facing increased HIV risk, sex workers are often excluded from comprehensive HIV prevention, treatment and care services. (Data on sexually transmitted infections other than HIV are less available, partly because many of these diseases are asymptomatic, and diagnostic testing of STIs other than syphilis is not readily available.<sup>15</sup>) Alarmingly, research carried out by Rose Alliance in Sweden in 2014 found that 30% of those interviewed have experienced problems in getting an HIV test in Sweden.

"I was scared after the condom broke one time when I work in Sweden, but the nurse ask me so many times why I needed a test. I don't understand why" (Kvinna, 20 years old) Violence – physical, sexual and psychological – is a human rights violation but also a health problem. The direct health consequences of sexual violence – including rape – are physical injury, psychological trauma, and high risk of sexually transmitted infections and unwanted pregnancy.

Sex workers report that they often experience a lack of empathy and understanding when accessing services after experiencing violence, particularly in countries where the law criminalises aspects of sex work.

"I also talked a little bit with the midwife when she wanted to write a prescription of the pill to me after the abortion, and she completely failed to understand that it could be an abuse to have sex without a condom if the agreement is to have sex with a condom."

"prejudice against sex workers is there at all the authorities,...including health care...experiences does teach you that people more or less think one has deserved it because it was one's own choice to put oneself in the situation, so then the rape becomes one's own choice too"

(Swedish sex workers interviewed from a Rose Alliance report on Discrimination)

Violence perpetrated by the police keeps sex workers from seeking the protection of law enforcement officers to which they have a right. As UNAIDS notes, it also keeps sex workers from seeking care at health facilities where they may fear that health workers will report them to the police.<sup>16</sup>

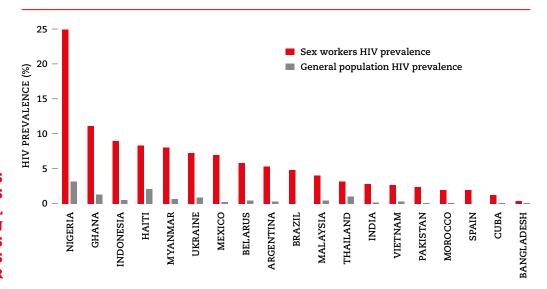
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- 14 Joint United Nations Programme on HIV/AIDS (UNAIDS). The gap report. Geneva, 2014, p 189.
- 15 N Ortayli, K Ringheim, L Collins, T Sladden. Sexually transmitted infections: progress and challenges since the 1994 International Conference on Population and Development (ICPD). Contraception 90:S22–S31, 2014.

16 UNAIDS, Gap Report, op.cit.



**FIGURE 1:** HIV prevalence among sex workers and in the general population in selected countries, 2014



IN 2008, UNAIDS
ESTIMATED THAT LESS
THAN 1% OF GLOBAL
EXPENDITURES ON
HIV PREVENTION WAS
DEVOTED TO SERVICES
SPECIFICALLY FOR
SEX WORKERS.

Source: UNAIDS, The gap report 2014. (See note 11).

- 17 UNAIDS, ibid.; World Health
  Organization, UNAIDS, UN
  Population Fund (UNFPA), Network
  of Sex Work Projects. Prevention
  and treatment of HIV and other
  sexually transmitted infections for sex
  workers in low- and middle-income
  countries: recommendations for a
  public health approach. Geneva, 2012;
  Global Commission on HIV and
  the Law. Rights, risk and health.
  New York, 2012, p 99. At: http://
  www.hivlawcommission.org/
  resources/report/FinalReportRisks,Rights&Health-EN.pdf
- 18 UNAIDS, ibid
- 19 WHO et al., op.cit., p. 17.
- 20 Global Commission, op. cit.
- 21 UNAIDS. Guidance note on HIV and sex work. Geneva, 2012. At: http://www.nswp.org/sites/ nswp.org/files/JC2306\_UNAIDSguidance-note-HIV-sex-work\_ en%5B1%5D\_0.pdf
- 22 UNAIDS, *Gap* Report, op. cit., pp. 194–195.
- 23 Ibid. See also World Health
  Organization, UN Population
  Fund, UNAIDS, Network of Sex
  Work Projects, World Bank.
  Implementing comprehensive HIV/
  STI programmes with sex workers.
  Geneva, 2013, esp. chapter 4.

UNAIDS and WHO, as well as the highlevel Global Commission on HIV and the Law, assert that criminalisation of sex work is a principal barrier to sex workers' access to health services. 17 Possession of condoms is used as evidence of the 'crime' of sex work in the criminal justice systems of many countries where sex work is criminalised. 18 Police can confiscate condoms, undermining both the health and the human rights of sex workers. As noted in WHO expert recommendations, decriminalisation of sex work would reduce 'the fear and stigma faced by sex workers,... thereby facilitating them to seek and utilize health and other services.'19 The Global Commission on HIV and the Law calls for decriminalisation of all aspects of sex work, including the purchase of sex, noting that all forms of criminalisation can be barriers to access to health services for sex workers.<sup>20</sup> Criminalisation of sex work is also a barrier to realising sex workers' rights as workers, including the right to a safe and healthy workplace.

Due to violence, criminalisation, stigma, discrimination and other marginalising factors, sex workers in many countries are excluded from HIV services in spite of their high risk. In 2008, UNAIDS estimated that less than 1% of global expenditures on HIV prevention was devoted to services specifically for sex workers.21 Health services for sex workers are most effective when they are tailored especially to the situation of sex workers and provided by health professionals trained to treat them respectfully, but few countries have such services.22 Moreover, many services supposedly designed to meet the needs of sex workers are limited to condom distribution and HIV testing but do not include CD4 testing or antiretroviral therapy, lubricants, or specialised services for male and transgender sex workers.23 UNAIDS has long called for integration of reproductive health and HIV services at all levels of health systems to improve sex workers' access to both, but there is little evidence that this integration has happened in many low- and middleincome countries.



In countries where sex work is legal

under certain circumstances and

regulated by the state, mandatory health examinations, including

HIV testing, may be administered

in punitive or disrespectful ways.26

Similarly, so-called '100% condom

use' programmes, which are meant to

work venues, have been implemented

have publicly 'named and shamed' sex

workers accused of not using condoms,

to mandatory medical examinations.<sup>27</sup> UN agencies and the Global Network

voluntary universal condom access -

always free of coercion - rather than

Safe workplaces for sex work should

have reliable stocks of condoms and

should support sex workers in their

condoms consistently.29 Voluntary,

supportive programmes of this kind

make punitive measures unnecessary.

efforts to persuade clients to use

punitive 100% condom programmes.28

and accusations of non-use have led

of Sex Work Projects recommend

in ways that violate the rights of sex

workers. In some countries, police

ensure universal practice of safe sex

in brothels, nightclubs or other sex



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The anti-sex work policy of the U.S. government, which remains the most important donor to HIV programmes internationally, has been an important barrier to funding health services for sex workers. Both U.S. anti-trafficking laws and the law enabling U.S. funding for HIV programmes internationally limits U.S. funding to organisations that are formally opposed to prostitution. This provision has had the obvious direct effect of making less funding available to the organisations most likely to be working closely and doing effective health programming with sex workers and their collectives.24 Some experts conclude, moreover, that this policy effectively closed down even some programmes not funded by the U.S. because HIV activities meant for sex workers became taboo, and organisations feared losing U.S. support for other kinds of activities.25 Other countries, notable Sweden, also have anti-sex work policies built-in to their foreign aid requirements. The Swedish International Development Cooperation Agency (SIDA), a government agency working on behalf of the Swedish parliament and government, in response to a parliamentary question on the subject of cooperation with the Dutch agency 'Mama Cash', stated that:

"SIDA has...made it known that they are well aware of Mama Cash's attitude to prostitution and do not cooperate with the organization around such activities. In SIDA's agreement with Mama Cash there is a specific clause prohibiting the Swedish contribution to be used for the decriminalization of sex purchases. In SIDA's dialogue with the organization it is constantly emphasized that funds from SIDA may not be used for any activities related to women in prostitution or the policy or advocacy work around 'sex workers' rights'"

(Q & A session in Swedish parliament, 5 December 2012)

24 MH Ditmore, D Allman. An analysis of the implementation of PEPFAR's anti-prostitution pledge and its implications for successful HIV prevention among organizations working with sex workers. Journal of the International AIDS Society 16:17354, 2013, <a href="https://www.jiasociety.org/index.php/jias/article/view/17354">http://www.jiasociety.org/index.php/jias/article/view/17354</a>

25 Ibid.

- 26 World Health Organization, Regional Office for the Western Pacific. Experiences of 100% condom use programs in selected countries of Asia. Manila, 2004.
- 27 Open Society Foundations. Laws and policies affecting sex work: a reference brief. New York, 2012.
- 28 WHO et al., Implementing comprehensive HIV/STI programmes, op.cit., p. 88.

29 Ibid.



## Sex worker-led services as best practice Meaningful participation of sex workers and sex worker collectives

Meaningful participation of sex workers and sex worker collectives has proven to be the key to ensuring the right to health services for their peers. The work of sex worker-led organisations in many parts of the world in creating and implementing appropriate services for sex workers and educating whole communities (not just sex workers) about HIV prevention has been one of the successes of HIV responses.

In 2013, UNAIDS, WHO, UNFPA and the World Bank worked with the Global Network of Sex Work Projects to produce practical guidance on good practices in health services for sex workers based on experiences from many countries in which sex workers were meaningfully involved in design, implementation and evaluation of health services.<sup>30</sup> A few examples illustrate approaches that can be effective and empowering:

Many health programmes for sex workers employ peer educators, but some assume that peer educators can work indefinitely as volunteers, or they fail to give peer educators opportunities for leadership or advancement. Experiences from a number of countries show that peer educator networks are most effective and sustainable when educators are adequately compensated, including having a regular salary for outreach work and compensation for the costs of transportation, training programmes, and use of mobile phones.31 Many successful peer educator networks also enable outreach workers to receive training in the management, oversight or mentoring of outreach networks or in policy-level or community-level advocacy and public speaking.

- In some countries, finding and maintaining drop-in centres or safe spaces for sex workers has been successful both for promoting safety and for delivery of or referral to health services.32 These may be places where sex workers can relax, form networks, share experiences, do laundry or have a shower, and in some cases get information about or access to health care services. Drop-in centres may be strategically located near health facilities, or they may organise and host health information events featuring local service providers. Ideally drop-in centres or safe spaces should be planned, managed and evaluated with meaningful involvement of sex workers and their organisations.
- Sex workers can play an important part in monitoring the quantity, quality and accessibility of health services they might frequent.33 Only sex workers themselves understand the ways in which health services can be either demeaning and inhuman or supportive and respectful. If they are able to develop networks in their communities, sex workers can organise simple surveys that will enable their peers to recount experiences with particular health care providers, and they can use the results in strategic advocacy to improve the performance of service providers. The results can also form the basis for sex workers to train health workers if they can create opportunities to do so.

THE WORK OF **SEX WORKER-LED** ORGANISATIONS IN MANY PARTS OF THE WORLD IN CREATING AND IMPLEMENTING **APPROPRIATE** SERVICES FOR SEX **WORKERS AND EDUCATING WHOLE COMMUNITIES** (NOT JUST SEX **WORKERS) ABOUT HIV PREVENTION** HAS BEEN ONE OF THE SUCCESSES OF **HIV RESPONSES.** 

30 Ibid. 31 Ibid., p. 60. 32 Ibid., pp. 62–63. 33 Ibid., pp. 68–72.



# THE REAL IMPACT OF THE SWEDISH MODEL ON SEX WORKERS Sex Work and the Right to Health

**MEANINGFUL PARTICIPATION** OF SEX WORKERS IN CONDOM PROGRAMMES IS THE **BEST WAY TO ENSURE** PROVISION OF THE **MOST APPROPRIATE** CHOICE OF TYPES **OF CONDOMS** AND LUBRICANTS AND THE MOST APPROPRIATE MEANS OF COMMUNICATION **ABOUT THE IMPORTANCE** OF USING THE PRODUCTS.

- Sex worker-led condom and lubricant promotion has been shown to be more effective than interventions where sex workers are only recipients of assistance. Condom programmes designed without the meaningful participation of sex workers often exclude lubricants. Sex worker-led programmes can work effectively with managers and brothel owners to ensure access to condoms and lubricant in workplaces, they can best identify sustainable supply chains and the best distribution channels to reach all sex workers. and they can support sex workers in negotiating condom use with spouses or intimate partners. Meaningful participation of sex workers in condom programmes is the best way to ensure provision of the most appropriate choice of types of condoms and lubricants and the most appropriate means of communication about the importance of using the products. Sex workers can also most effectively communicate information about means of safe sex in addition to condoms
- Meaningful participation of sex workers in programme design, implementation and evaluation is essential for creating and sustaining health services that meet sex workers' needs beyond condoms, lubricants and HIV.34 Harm reduction services for sex workers who inject drugs are proven to be more effective when peers are meaningfully involved in outreach, information sharing and service delivery, and peers can also be helpful in sharing information about treatment for drug dependence. Sexual and reproductive health services will be more accessible and more appropriate to the needs of sex workers if they are involved in the planning and implementation. For example, sex workers will know best the contraceptive methods and information that are suited to their needs.

34 Ibid., chapter 5.



### **Conclusions and recommendations**

THE RIGHT TO
HEALTH IS A
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The right to health is a central element of a life of human dignity for sex workers, as for all people. Sex workers are routinely kept from realising their right to health by stigma, discrimination, criminalisation, unjustly punitive health regulations, violence, and ill-conceived donor policies. Many countries simply do not honour the commitments they have made to ensure good-quality, accessible, respectful and rightsbased health services for all people, including sex workers. Nonetheless, often through the collective action of sex workers themselves, there are good examples in a number of countries of health services meeting sex workers' needs, and there are international guidelines to help replicate those experiences.

Successful experiences in improving sex workers' access to good-quality health services lead to a number of lessons and recommendations:

- Decriminalisation is a key to the right to health: Criminalisation of sex work contributes to violence against sex workers, bad practices in health services such as mandatory reporting to police, stigma and discrimination in health services, and fear of seeking government-supported services. It keeps governments and employers from making workplace health and safety for sex workers a priority. Decriminalisation of sex work may not solve all problems immediately, but it is essential for removing many barriers to health care for sex workers. National human rights and public health commissions, leaders and organisations should join with sex worker organisations in strategising and advocating for decriminalisation of sex work as a means of protecting, respecting and fulfilling sex workers' right to health.
- Right to organise and associate: Organisations or collectives of sex workers may be able to do more than individuals to remove barriers to health services. No matter how sex work is treated under the law. sex workers should be able to form organisations. Organising is likely to improve sex workers' ability to bring a strong voice to community-level or policy-level discussions on public health services or advocacy for better services in a given location. Sex workers able to pool their resources may also be able to organise basic services for themselves. All countries should respect the right of sex workers to organise and form associations and should remove discriminatory barriers to this organising.



Quality and accessibility of health

- PUBLIC HEALTH
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  SEX WORKER-LED
  SERVICES, ESPECIALLY
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  DIFFICULT BARRIERS
  TO REGULAR SERVICES.
- services: Public health authorities should recognise that the whole community benefits when the right of sex workers to good-quality health services is respected. Public health authorities should ensure that sex workers participate meaningfully in the design, implementation and evaluation of health services that they use and in the training of health care workers. If health professionals are disrespectful to sex workers, there should be functioning mechanisms of complaint and redress, and health workers should know that they can be sanctioned for disrespectful conduct toward sex workers. Public health authorities should support sex worker-led services, especially those that reach marginalised persons who face difficult barriers to regular services. In addition, the public health system should make every effort to ensure that sex workers have ready access to integrated services for reproductive health, sexually transmitted infections and basic health care. Health authorities must ensure that sex workers do not face discriminatory exclusion from health insurance schemes or health information. United Nations leaders in UNAIDS, WHO and UNFPA should use all opportunities to advocate with member states for high-quality, comprehensive health services for sex workers to be a high priority in national policy-making.
- **▶ Workplace health**: Public health and occupational safety authorities should work together to ensure that sex workers have healthy and safe working conditions, which is the right of all workers. (See also the paper in this series on 'Right to work and other work-related human rights.') Even if some elements of sex work remain illegal or subject to administrative sanction, it is in the interest of fulfilling the rights of all people to reduce the risk of violence, infectious disease and other health problems faced by sex workers in their regular work.





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Promoting Health and Human Rights

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