



> **Yim Yuet Lin**, guest editor of this issue of *Exchange* on:

Sex workers' health and rights

Many organizations that are working with sex workers have learned that it is ineffective to provide HIV and other health services to them if they do not consider – and address – sex workers' work environments, where many cases of human rights violations can be found. Thus, they gradually move into rights-based activities. By reframing sex workers' health as a rights issue, the focus of HIV prevention work with sex workers shifts from individual-level behaviour change communication to comprehensive development work aimed at sex workers' empowerment, participation and self-organizing. It also opens the way to hold governments and non-governmental organizations accountable for denying rights to sex workers.

This issue of *Exchange magazine* focuses on the relationship between HIV and sex workers' rights. Most of the articles in this issue have been produced in the framework of the Oxfam Novib KIC Project (see p. 2). The first article outlines the elements of a rights-based approach to sex work, while the second article, by guest editor Yim Yuet Lin of Zi Teng in Hong Kong, gives an example of how her organization is working from such an approach. The third article focuses on self-organizing of sex workers in Cambodia and the fourth on the decriminalization of sex work, as promoted by SWEAT, a sex workers' support organization in South Africa. The last article is about dealing with brothel owners and managers.

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Women networking for unity in Cambodia p.8



Sex workers claiming their rights in South Africa p.11

Working from a rights-based approach to health service delivery to sex workers

Many health projects and other efforts to deliver services to sex workers in developing countries approach sex work as a problem to be contained because of the possibility of the sexual transmission of infections. However, approaching sex work as a vector of disease neglects the health needs and rights of sex workers. Such public health-oriented programmes are typically designed to protect clients from infection, rather than providing inclusive health services to everybody, including sex workers. The well-named but problematic 100% Condom Use Programme (CUP) implemented by several countries and endorsed by the World Health Organization, is an example. Condom use is well-documented to prevent unwanted pregnancies, and the transmission of HIV and other STIs. However, CUPs are typically enforced by the police and military – bulwarks of masculinity – and involve forced health checks of sex workers rather than fining of male clients who refuse to use a condom or of brothel owners and managers who fail to make condoms available.¹ Sex workers around the world cite the police as the prime violators of their human rights, rendering any police supervision and surveillance of sex workers problematic. In this way, registration schemes and 100% CUPs create unacceptable opportunities for human rights violations.

In places where sex work is criminalized or legally discouraged, law enforcement has legal justification for interfering with sex workers. However, in places where sex work is not a criminal act, such as India, sex workers routinely describe the police as enforcing perceived morality instead of the law. Women who work in the sex industry are often seen as immoral beings, while men who pay them for their services are not. Stigmatization of sex workers is reinforced by laws curtailing sex work and by social norms and values. Both are

gender-biased, promote gender inequality and usually focus on the supply side (sex workers) rather than on the demand side (clients). Stigmatization fuels discrimination of sex workers and other human rights violations in the form of violence and denial of rights, such as the right to access the best available health care. For instance, a new US funding policy requiring organizations to adopt an anti-prostitution stance has been extremely problematic for health programmes intended to work with sex workers, because many programme



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officers have gone beyond the donor requirements in efforts to retain their funding.² Some organizations have gone so far as to eliminate their programmes with sex workers, while others have dismissed their outreach workers who visited organized sex workers.

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being less visible means that sex workers are harder to reach. Projects whose staff stigmatize sex workers will find that the people they are meant to help avoid them. Health services that collaborate with the police to impose licensing schemes or mandatory testing will not be trusted by sex workers. Such schemes typically neglect sex workers' overall health, focusing exclusively on HIV and STIs. It is inhumane to reduce sex workers to their vaginas – sex workers are citizens, who are entitled to the same rights to health care and protection from violence as anybody else.

Human rights as a starting point

Regulatory approaches to HIV prevention among sex workers rarely start from the human rights principle that people involved in sex work should be entitled to the same rights as other people. Sex workers also have the human right to life, liberty and security of person. They have the right of equal access to public services in their country. They have the right to work, to free choice of employment, and to just and

favourable conditions of work. They have the same sexual and reproductive health rights as everyone else. They also have the 'right to the highest attainable level of health' (often shortened to the right to health), which not only includes the right to access quality health care, but also to the underlying determinants of health including safe drinking water, sanitation, safe working conditions, etc. All these rights have been codified in the international human rights framework and are increasingly being reflected in national laws, however there often is a gap between the policies and the practice. The reality on the ground is that many governments are reluctant to grant rights to population groups with behaviours that are frowned upon by society, such as drug use, selling sex and having same-sex relationships.

Approaches to sex work and HIV/AIDS that start from basic human rights do not force sex workers to go for HIV or STI testing or use condoms. They rather seek to empower sex workers with the knowledge, skills and tools to decide freely about their own bodies and behaviours. Increasingly, UN agencies, international organizations, donors, as well as other organizations stress that policies,



Photo: WHO/Pierre Viot



KIC



Royal Tropical Institute

Knowledge Infrastructure with and between Counterparts (KIC)

The KIC Project aims to boost dynamic knowledge sharing, collaborative learning and networking among Oxfam Novib counterparts. It is an action-oriented, counterpart-driven project which started in 2005. For the past six issues, Oxfam Novib and *Exchange* have been collaborating to reinforce the learning on HIV and AIDS: counterparts have been invited to write articles about lessons learned

related to these topics. These articles are accompanied by an Oxfam logo in a green title box. All Oxfam Novib counterparts have received – and will continue to receive – hardcopies of the magazine. For questions and comments about this issue or about the project, counterparts are encouraged to use the e-mail address anny.peters@oxfamnovib.nl.

Building sex workers' representation skills

Empower is an organization led by sex workers in Thailand. Members have access to skills training, including Thai and English language tutoring, massage therapy and sewing classes. They also receive education about human and women's rights issues and HIV prevention. Sex workers from Empower are often asked to lead trainings and meetings on a range of topics like building collective participation, women's health, HIV/AIDS and human rights. They are also asked to sit on government committees and give advice to law and policy makers. To build the capacities of sex workers to speak to the public and media, Empower offers education to its members on leadership, public speaking and dealing with the media and researchers. Along with these skills, sex workers are offered opportunities to use them. For example by becoming leaders of Empower, speaking at national and international meetings, talking with media or researchers, and representing sex workers in all kinds of forums.

More information: <http://www.empowerfoundation.org>

programmes and practices should take the human rights of sex workers as their starting point. For instance, in a fact sheet on violence against sex workers, WHO states: *"Interventions to promote safer sex among sex workers must be part of an overall effort to ensure their safety, promote their health and well-being more broadly and protect their human rights."*³ The website of the Asia Pacific Network of Sex Workers reminds health programmes that *"the health and human rights of sex workers must be seen as both essential elements of overall HIV prevention strategies, and legitimate ends in themselves."*⁴

Working from a rights-based approach

For organizations involved in HIV/AIDS work, working from a rights-based approach does not only increase their chance of success, as sex workers will be much more willing to use their services, but will also open up opportunities for meaningfully engaging sex workers in the fight against HIV/AIDS. Not only as recipients of services but also as people who are empowered with the knowledge, skills and tools to exercise their right to health.

There is no single, universally agreed rights-based approach, although there may be an emerging consensus on what elements should or can be part of such an approach. These elements are:

- *Increasing empowerment* – By empowering sex workers, they can better

exercise their rights and play a more active role in society, either individually and as a group.

- *Furthering participation and self-organizing* – Participation and organization are closely related to empowerment as both strategies increase the possibility that sex workers become more vocal about their needs and rights, and learn how to exercise these rights.
- *Fighting discrimination and stigmatization* – A focus on taking action on harmful societal attitudes and the expression of these attitudes – discrimination – is an essential part of a rights-based approach. Strategies that can be used are educating and involving the media; stimulating individual sex workers to address the public at meetings and conferences; organizing rallies or festivals to increase visibility of sex workers in society; advocacy with the police or local authorities, etc.
- *Providing (access to) legal education* – In order for sex workers to know their rights, it is important to offer legal education to them. This will help them exercise their rights.
- *Providing access to legal redress/public litigation* – In case of severe discrimination, e.g., in health-care facilities, it may be necessary to involve lawyers and make sure that the rights of sex workers are ensured.
- *Advocacy & lobbying using human rights texts* – By using human rights texts (e.g., international conventions and local laws),

local, regional or national governments can be persuaded to change (health) policies so that sex workers have better access to services or other rights.

Using human rights texts to induce change is an important component of a rights-based approach as it clearly puts the prime responsibility of upholding rights in the hands of governments, which are – in human rights language – 'duty-bearers' that can and should be held accountable for any violation of people's rights. However, also other structures could be approached as duty-bearers, including international organizations, UN agencies, businesses and NGOs.

Dealing with law enforcement

Although some organizations have an explicit rights approach, most organizations providing services to sex workers have not written down a specific policy. They usually started providing health services to sex workers, mainly related to the prevention of HIV, and became increasingly involved in rights-based activities even when they did not explicitly define these activities as rights based. For instance, many organizations that provide health services to sex workers living under repressive policies have learned that it is important to stay in permanent contact with the police. This way, they can educate police officers on the harmful effects of their actions, e.g., arrests of sex workers who are soliciting in the streets, brothel raids or confiscating condoms, for both sex workers' health and public health. They can also confront the law enforcement apparatus on abuse of the law by individual police officers. In many cases, police men try to take advantage of the vulnerable



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situation of arrested women by asking for sexual favours or even rape them, as described by Yim Yuet Lin of Zi Teng in this issue. Gender and human rights training for police officers to change discriminatory attitudes and violent practices is badly needed in many parts of the world.

Other organizations have learned that it is important to confront the directors of hospitals and clinics about discriminatory practices in their services, or to persuade brothel owners and managers to allow sex workers to access health information and services during work time. Larger organizations and networks have gone beyond the local level and try to change harmful policies at the national and international levels, e.g., a prohibition of harm reduction initiatives that affect drug-using sex workers, abolitionist prostitution laws, or mandatory STI screening for sex workers. For instance SWEAT in South Africa has promoted decriminalization of sex work for over a decade. Internationally, the Asia Pacific Network of Sex Workers is currently conducting a campaign against the WHO plan to implement 100% Condom Use Programs throughout Asia, after programmes in Cambodia and Thailand showed widespread abuse and human rights violations.

There are many things that civil society organizations including groups of sex workers can do. To start with, their policies and programmes should not discriminate people on the basis of their occupation (sex work) or sexual behaviour (multiple partners). They should involve sex workers

in the planning and implementation of all their programmes aimed at sex workers as much as possible. They can stimulate self-organizing of sex workers so that they can

Approaches to sex work and HIV/AIDS that start from basic human rights do not force sex workers to go for HIV or STI testing or use condoms, but rather seek to empower them

better defend themselves against abusive brothel owners, police violence, aggressive clients or neighbours, and become a public and powerful voice. Organizations of sex workers and NGOs can empower sex workers to learn as much as they can about their own situation, the risks they encounter, including occupational health risks and violence, and how to change this risky environment. They can empower them to decide for themselves whether they want to stay in the business or not. Also, they can help sex workers fight discrimination, in the health sector as well as in other sectors, and decrease stigmatization by the general public. They can educate them about their rights, so that they can oppose unjustified actions on behalf of the police or local magistrates. With the help of sympathetic lawyers, they can assist sex workers seeking legal redress. They can also start court cases for the good of all sex workers. Finally, they can explore how to use existing human rights texts – that have been adopted by most countries of the world – to improve the position of sex workers in society by lobbying and advocacy with authorities and others.

In this issue, some of the approaches taken by some organizations have been explored. Zi Teng in Hong Kong works directly with sex workers and advocates for sex workers' rights with authorities. Cambodia's Women's Network for Unity, a 5000-member sex worker union, works with allies at Womyn's Agenda for Change to combat injustice at the local and global levels. South Africa's SWEAT continues to do legal advocacy promoting the decriminalization of sex work and against the promotion of anti-trafficking laws that would be detrimental to sex workers. Even though none of these articles describe all elements of an ideal rights-based approach, it may be useful for others to learn from their experiences and adapt their approaches to other contexts. ■

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1. See for instance: 100% Condom Use Programmes: Empowerment or abuse? P. Longo and M. Ditmore. In: *Research for Sex Work*, 6, 2003: <http://www.nswp.org/pdf/R4SW-06.PDF>
2. More information about this is in the 13-minute video 'Taking the Pledge', which was produced by the Network of Sex Work Projects. The video can be seen online at <http://sexworkerspresent.blip.tv/file/181155/>
3. *Violence against sex workers and HIV prevention*. WHO Information Bulletin Series, Number 3, 2005: <http://www.who.int/entity/gender/documents/sexworkers.pdf>
4. The Asia Pacific Network of Sex Workers (APNSW) was formed in 1994 by members of some of Asia's first organizations to work on health and human rights with sex workers: Empower in Thailand, Sweetly in Japan, Pink Triangle in Malaysia, the Scarlet Alliance in Australia and Sonagachi in India. APNSW now has members in over 20 countries. Website: <http://www.apnsw.org>