



## **Global Network of Sex Work Projects**

Promoting Health and Human Rights

**For the attention of: The United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

**Submission: For a thematic report on “The right to sexual and reproductive health – challenges and opportunities during COVID – 19”**

**Date: 9 June 2021**

NSWP welcomes the opportunity to make a submission to the UN Special Rapporteur on Health, for her thematic report to be presented to the UN General Assembly in October 2021 to shed light on the current status/level of realisation of the right to sexual and reproductive health and the availability, accessibility, acceptability and quality of related services, during the COVID-19 pandemic. We are committed to supporting efforts to ensure full compliance with states’ obligations to respect, protect and fulfil the human rights of all people, including sex workers.

NSWP is a global network of sex worker-led organisations, with 295 members in 96 countries, with the overwhelming majority of members being in the Global South. NSWP exists to uphold the voice of sex workers globally and connect regional networks advocating for the rights of female, male and transgender sex workers. It advocates for rights-based health and social services, freedom from abuse and discrimination, and for the self-organisation and self-determination of sex workers.

### **Introduction**

Access to sexual and reproductive services is an essential component of a human rights-based approach to health policy. The UN has specifically acknowledged sex workers’ right to sexual and reproductive health (SRH). In 1999, the CEDAW Committee called for special attention to be given to the health needs and rights of women belonging to vulnerable groups, including those ‘in prostitution.’<sup>1</sup> In 2016, the Committee on Economic, Social, and Cultural Rights recommended: “States parties should take measures to fully protect persons working in the sex industry against all forms of violence, coercion, and discrimination. They should ensure that such persons have access to the full range of sexual and reproductive health care services.”<sup>2</sup> However, public health programmes and policymakers have rarely addressed the comprehensive SRH health needs of sex workers. Due to fundamental feminist and abolitionist groups’ attitude to sex workers and their conflation of sex work with human trafficking, rights-based SRH services for sex workers may even be excluded from national and international HIV and health funding.

The criminalised status of sex work in most countries and the stigmatisation of sex workers in all countries has resulted in pervasive barriers to sex workers enjoying their sexual and reproductive health and rights, which have been exacerbated during the COVID-19 pandemic. To minimise stigma and persecution, sex workers often avoid authorities and when seeking health treatment, are reluctant to disclose their occupation. This makes it difficult for them to benefit from health treatments that fit their

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<sup>1</sup> UN Committee on the Elimination of Discrimination Against Women, 1999, “[CEDAW General Recommendation No. 24: Article 12 of the Convention \(Women and Health\)](#),” 6.

<sup>2</sup> UN Committee on Economic, Social and Cultural Rights, 2016, “[General Comment No. 22 \(2016\) on the right to sexual and reproductive health \(article 12 of the International Covenant on Economic, Social, and Cultural Rights\)](#)”, 32.

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needs, including sexual and reproductive health services that are most vital and relevant for them. Due to the nature of their work, sex workers are disproportionately affected by HIV and other STIs. Sex workers living with HIV require regular access to treatment in order to be able to live and work. During the pandemic, there has been a drop in the availability of HIV treatment services due to the prioritisation of treating and stopping the spread of COVID-19. As a result, sex workers living with HIV have experienced even greater challenges in accessing HIV treatments, further endangering their health and ability to work.

This submission outlines the obstacles that sex workers face when accessing SRH services and how these have increased in the context of the COVID-19 pandemic. It also discusses the role that sex worker-led organisations in many countries have played in supporting sex workers' health needs as an example of good practice in community-led provision of health care during the pandemic. Finally, it urges states to recognise sex work as work and to decriminalise sex work as crucial policy steps towards a human rights-based approach to health.

### **Sex workers' access to sexual and reproductive health services and regressive pandemic measures (Questions 1&2)**

Even where sex workers are not explicitly excluded from utilising SRH services, pervasive structural barriers such as criminalisation, stigma and discrimination impede their access to comprehensive, rights-based health care. The framing of sex workers as 'vectors of disease' has reinforced stigma while prioritising narrow HIV and STI interventions at the expense of their broader SRH needs. In the NGO sector, inadequate funding for both service provision and community empowerment initiatives has forced sex workers to rely on public health care, which is often inaccessible, disjointed and discriminatory. As a result, there are critically few SRH services available to sex workers that are both comprehensive and compassionate. These shortcomings are compounded for male and transgender sex workers, who are largely excluded from SRH programming, further increasing their vulnerability to poor sexual and reproductive health outcomes. Sex workers globally attest to widespread inadequacies in SRH coverage and treatment, resulting in violations of their human rights.<sup>3</sup>

In many countries, sex workers face a lack of access to adequate contraceptives and abortion services. The pervasive lack of services and referrals to family planning and contraceptive counselling, pregnancy care, safe abortion, reproductive tract cancer screening, and hormonal therapy show that existing SRH programmes fall short of standards outlined within international guidelines. A review of SRH programmes for female sex workers in Africa confirmed the limited scope of SRH services in both the private and public sectors. While almost all of the 54 programmes reviewed addressed HIV and STIs, only 6 offered pregnancy testing and only 2 offered HPV sub-type testing. Cervical cancer screening and treatment was available in only 3 of the 28 countries represented.<sup>4</sup> In El Salvador, the Ministry of Health's Clínicas de Vigilancia Centinela de ITS programme (Sentinel Surveillance Clinics for STIs), aimed at providing essential prevention, diagnosis, and treatment services to key populations (including female sex workers and LGBT people) is unpopular due to significant shortcomings. As one of NSWP's member organisations reported, "There are no condoms to provide as samples. There are not enough medications for STIs, and HIV testing consultations are not given. There is only discrimination against female sex workers and LGBTI people." (Asociación de mujeres trabajadoras sexuales liquidambár, El Salvador).<sup>5</sup>

In 66 countries – concentrated in Latin America, Africa, the Middle East, and Asia-Pacific – abortion is entirely prohibited or is only permitted in extreme cases, such as to save a woman's life.<sup>6</sup> For female sex workers, limited access to contraceptives, difficulties negotiating condom usage, and vulnerability to

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<sup>3</sup> NSWP, 2018, "[Briefing Paper: Sex Workers' Access to Comprehensive Sexual and Reproductive Health Services.](#)"

<sup>4</sup> Ashar Dhana et al., "[Systemic Review of facility-based sexual and reproductive health services for female sex workers in Africa.](#)" *Globalization and Health* 10:46 (2014).

<sup>5</sup> NSWP, 2018, "[Briefing Paper: Sex Workers' Access to Comprehensive Sexual and Reproductive Health Services](#)", 4.

<sup>6</sup> "[Questions & Answers: Understanding the World's Abortion Laws Map.](#)" World Abortion Laws.

sexual violence can result in unintended pregnancy,<sup>7</sup> making access to safe abortion and post-abortion care an essential SRH need. Where abortion is prohibited, illegal service providers are often used, increasing the risk of mortality and long-term health issues. Asociación de Mujeres las Golondrinas reported that, “In Nicaragua ... any type of abortion is punishable, and if sex workers want to obtain one, they must go to clandestine clinics where they put their lives and health at risk.”

Some of the main barriers to SRH services are a result of the criminalisation of sex work, lack of documentation and health insurance, and stigma and discrimination. Criminalisation poses one of the greatest barriers to sex workers’ access to SRH services, together with laws sanctioning HIV exposure, non-disclosure and transmission, and same-sex sexual activities. Such policies discourage sex workers from seeking treatment for fear of persecution. In criminalised contexts, it is almost impossible for sex workers to provide the necessary proof of income or employment to obtain health insurance. Since most of the SRH services that are available to sex workers are offered within public health care systems, the requirement of possessing official residency and valid national health insurance further reduces access to SRH services, particularly for undocumented migrant sex workers. Finally, the pervasive stigma against sex work often deters sex workers from seeking treatment to avoid discriminating situations or risk being outed as sex workers.

During the COVID-19 pandemic legal and other measures introduced adopted by some States has led to **human rights abuses** in the form of punitive crackdowns against sex workers. These add to the systemic barriers outlined above and impact directly on sex workers’ access to sexual and reproductive health services.

UNAIDS have emphasised that COVID-19 responses must uphold and protect the human rights of sex workers.<sup>8</sup> “With sex work criminalized in almost every country, sex workers are also more vulnerable to punitive measures linked to the enforcement of COVID-19 regulations. Increased policing can expose sex workers to more harassment and violence, and in several countries has already led to home raids, compulsory COVID-19 testing and the arrest and threatened deportation of migrant sex workers. For those who are driven to the streets by homelessness, as has become the case for many brothel and migrant sex workers, the lack of support means little safety or means to follow through on government requirements.”

The Uganda Key Populations Consortium (UKPC) and other civil society organisations released a statement<sup>9</sup> strongly denouncing raids, arrests, extortion, and violent attacks targeting sex workers, barmaids and other vulnerable communities by police, and other law enforcement officials during the COVID-19 response. “Over the last 14 days, we have received reports of 117 women [sex workers] who have been arrested...Sex workers are being targeted with violence, blackmail, and arrest by police,” said Kyomya Macklean, Executive Director of the Alliance of Women Advocating for Change. She pointed out that “HIV positive sex workers and their children are already struggling to get HIV treatment refills, PrEP, STI treatment and contraception because of poor government planning. Now they are being brutalised and traumatised, and forced to choose between starving, isolated with no income or working while risking their own health and safety.”

The stigma and discrimination faced by sex workers as a result of criminalisation also plays an insidious role in exacerbating the impact of COVID-19 on sex workers. In June 2020 the Argentinian Ministry of Social Development launched an online registry called Registration for Popular Economy Workers (Renatep). This was intended to ensure that informal workers could access social benefits, including access to an emergency fund set up to address loss of income during the COVID-19 crisis. “Trabajadores Sexuales” (sex workers) was one of the categories that was included in the scheme. However, an order

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<sup>7</sup> Rishan Weldegebreal, et al., “[Unintended pregnancy among female sex workers in Mekelle city, northern Ethiopia: a cross-sectional study](#),” BMC Public Health 15:40 (2015).

<sup>8</sup> “[COVID-19 responses must uphold and protect the human rights of sex workers](#)”, UNAIDS, 24 April 2020.

<sup>9</sup> “[Ugandan Sex Workers Are Targets For Violence and Further Criminalisation Amid COVID-19 Spread](#)”, NSWP, 1 May 2020.

to remove sex workers from this scheme was given by the director of the Executive Committee Against Human Trafficking and Exploitation after pressure from fundamental feminists and abolitionist groups. Only after a lengthy campaign led by sex worker activists and intervention by thousands of civil society organisations, NGOs, and activists was this dangerous and discriminatory exclusion eventually reversed.

### **Impact of COVID-19 and related policies and practices (Questions 3.1, 3.2 & 3.3)**

The challenges highlighted above that sex workers around the world face when seeking SRH services have been heightened during the COVID-19 pandemic through lockdown measures. Long periods of lockdown in most countries have resulted in extreme hardship and a significant or total loss of income for sex workers as most sex workers globally are excluded from the social protection and emergency measures put in place for other workers. Sex workers also experienced increased discrimination and harassment, and social distancing measures including closures or limited opening times of public health clinics and other SRH centres has meant reduced access to SRH services.

Sex workers in all countries where NSWSP's member organisations are located have been reporting problems and reduced access to essential health services, condoms, prevention services, STI testing and treatment, essential medicines (HIV ARV supplies), including transport challenges in collecting medication, etc. NSWSP have liaised with UNAIDS, UNFPA and UNDP, including through their country offices, to try to address these as we received reports. Sex workers are disproportionately affected by HIV. The most recent epidemiological data from UNAIDS shows that "key populations and their sexual partners account for an estimated 62% of new infections globally" and that the risk of acquiring HIV is 30 times higher for sex workers.<sup>10</sup> As such, access to commodities for HIV prevention, testing and treatment is critical to the health and well-being of sex workers around the world. According to a report published by the Global Fund to fight AIDS, Tuberculosis and Malaria, COVID-19 has severely disrupted health systems and the delivery of health services for HIV, TB and malaria in 2020, with a drop in HIV testing by 41% in Africa and Asia.<sup>11</sup> UNAIDS report that disruption to HIV services has been as high as 75% in some countries.<sup>12</sup> The COVID-19 pandemic has in this way further impacted the ability of sex workers to access HIV services and treatments.

In Bangladesh, El Salvador, and Senegal, sex worker-led organisations reported the reduced access experienced by sex workers to essential health services and commodities such as condoms and lubricants, harm reduction services, and HIV and STI testing and treatment.<sup>13</sup>

In Eswatini, Voice of Our Voices reported that, "for those who are on HIV treatment, it is hard to meet their visit days as there is no transport. For prevention commodities, it is hard to reach them." In Ecuador, the Colectivo Flor De Azalea (the Association of Women Sex Workers) highlighted the sudden lack of support and access to basic services that sex workers face. "Women sex workers have suffered a great impact due to the health emergency. We do not have money for food, rent, medicine; health services are closed. There is no access to condoms—colleagues have died due to COVID-19."

Whilst we continue to collect data from our survey across all of our regions, sex workers and sex worker-led organisations in all regions have already reported: reduced access to condoms and lubricants; reduced access to harm reduction services; reduced access to HIV treatment; and reduced access to STI testing and treatment. For example, in Asia Pacific we have received reports of reduced HIV treatment in Australia, China and Vietnam, and reduced access to condoms and lubricants in Australia, Bangladesh, China, Thailand and Vietnam. In Europe, reduced access to HIV treatment has already been reported in Norway, Romania, United Kingdom and Ukraine, reduced access to condoms and lubricants in Austria, Bulgaria, France, Germany, Romania, Russia, Spain, Switzerland, Ukraine, and the United Kingdom.

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<sup>10</sup> UNAIDS, 2021, "[Global AIDS Strategy 2021-2026 – End Inequalities. End AIDS.](#)"

<sup>11</sup> "[New Global Fund Report Shows Massive Disruption to Health Care Caused by COVID-19 in Africa and Asia,](#)" Global Fund, 13 April 2021.

<sup>12</sup> "[Benefits of continuing to provide life-saving HIV services outweigh the risk of COVID-19 transmission by 100 to 1](#)", UNAIDS, 13 April 2021.

<sup>13</sup> Evidence and quotations taken from responses received to date in the NSWSP [COVID-19 Impact Survey](#) responses and included in regional reports.

Additionally, an article from Open Democracy highlighted the disruption to supply chains, transport networks and the provision of ARVs and the impact on sex workers.<sup>14</sup> Their interviews in five African countries (Uganda, Kenya, South Africa, Nigeria and Mozambique) found “that the most disrupted HIV-related services are those meant to prevent new infections, especially among populations considered most at risk of HIV – including sex workers.” The pandemic has badly affected the ability of community outreach, clinics and drop-in centres that provide HIV programming. The article states that “sex workers have been abandoned as COVID crackdowns undo Africa’s HIV efforts, worsening the continent’s HIV epidemic and destroying HIV services, with sex workers facing hardship, illness and death.”

### **Sex workers’ rights organisations responses to sex workers’ health needs during the pandemic (Question 3.4)**

The response of sex worker-led organisations around the world provides an example of good practice in supporting sex workers’ access to SRH services during the pandemic. Many national and regional sex worker-led organisations have published their own calls for action, and emergency and mutual aid funds have been set up by sex workers for sex workers, in the absence of government or other donor support.

In the African region, sex worker-led organisations have been supporting sex workers by distributing PREP and ARVs directly to sex workers in their homes, along with food and hygiene packages. The African Sex Workers Alliance also reported that in South Africa, Rwanda, DRC, Benin and Kenya, activist groups have been working to sensitise their communities and brothel owners about COVID-19 hygiene and safety guidelines to reduce the risk of infections.<sup>15</sup> Sex worker-led organisations also reported challenges in sex workers accessing virtual support and digital services, as internet access was not something that was affordable and available to many sex workers. When asked what was needed to better support sex workers, some of the improvements suggested were transportation to health facilities, more food packages and providing resources that enabled sex workers to be in touch with organisations that supported them around physical and mental health issues.

During and beyond the COVID-19 pandemic, sex workers have fulfilled many key roles in community-led SRH interventions, including serving as peer educators and counsellors, developing and implementing trainings, and building referral networks. They also have experience and expertise as health care workers and programme managers and should not be limited in the roles they play within health care. In Nepal, sex workers have credited their SRH knowledge to the presence of local peer educators and counsellors operating through community-based organisations. As one female sex worker in Nepal reported, “One of the peer educators .... provided me with information on safer sex and HIV testing and counselling. I felt that I was at high risk, so I went with [her] to the VCT [voluntary counselling and testing] centre. I am so happy that the counsellor provided me with further information regarding safer sex practices. Now I am using condoms ... and I am free from being pregnant and contracting HIV.”<sup>16</sup>

### **Recommendations**

- Decriminalise all aspects of sex work. Governments, policymakers and advocates must actively pursue the full decriminalisation of sex work, including sex workers, clients and third parties.
- Sex work must be recognised as work to ensure that sex workers are accorded the same rights and have access to the same protections as other workers.
- Sex workers must have access to national social protection schemes, and be included in Universal Health Coverage and health insurance schemes.
- Implement an immediate firewall between health services and immigration authorities to ensure that migrant sex workers can access health services.

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<sup>14</sup> “[Sex workers abandoned as COVID crackdowns undo Africa’s HIV efforts](#),” Open Democracy, 5 June 2020.

<sup>15</sup> NSWP, 2020, “[Impact of COVID-19 on Sex Workers in Africa](#)”

<sup>16</sup> NSWP, 2018, “[Briefing Paper: Sex Workers’ Access to Comprehensive Sexual and Reproductive Health Services](#)”, 12.

- Include reasonable exceptions to ensure legal restrictions on movement do not prevent sex workers' access to food, health care, shelter or other basic needs.
- Take proactive measures to ensure all sex workers can access HIV and STI prevention and treatment services and meet other basic health needs.
- Ensure the meaningful involvement of sex worker-led organisations in emergency public health planning groups.