

SUB-GROUP: SEXUAL AND REPRODUCTIVE

health and rights of sex workers

Lead

Mari-Claire Price (RESURJ)

Contributors

Neil McCulloch (NSWP), Susanna Fried (CREA), Tansy Breshears (SASEF)

The right to health, including Sexual and Reproductive health, is a fundamental human right for every person. In Europe and North America, sex workers'[1] right to health, and other human rights, are violated by policy and legal frameworks that oppress and criminalize sex work, including the purchase of sex, as well as by the structural barriers in accessing health services, and stigma and discrimination in health care and legal settings. In recent years, the wider regional contexts of rising right wing populism, xenophobia, and racism; a regional predilection for neoliberalism and austerity; increased privatization of public, health, and criminal justice services; increased use of criminal justice systems as sole healthcare providers; and the increase in criminalization, punitive and conditional diversion programs; has meant that sex workers face rising stigma, marginalization, violence, and discrimination on an unprecedented scale.

This Factsheet highlights examples of international legal frameworks that underpin the Sexual and Reproductive Rights of sex workers, current regional trends and contexts, and recommendations to policy makers beyond Beijing+25, and towards the full realization of the sexual and reproductive rights of sex workers.



Structural barriers and negative trends

Barriers to the realization of SRHR and accessing SRHR services and other health services:

- From health-care to social protection, criminal justice systems to public services; sex workers continue to face significant **stigma, discrimination, and violence**. Socially sanctioned norms, that see certain behaviours and identities as contravening established norms, leave sex workers on the margins of society, excluded, and silenced;
- Sex workers often face **multiple and intersecting forms of discrimination**, including from staff in health care settings, based on their gender identity, race, ethnicity, migrant status, or sexuality; in particular migrant, LGBTQI and non-binary, and indigenous sex workers, and sex workers with disabilities; compounded by an increasing racism, xenophobia, homophobia and lesbophobia, transphobia, and a hostile environment for migrants in Europe and North America; Attitudes of health care workers, often based

on religious or patriarchal beliefs, can lead to pervasive stigma associated with their status as sex workers, adding additional barriers to accessing SRH services;

- The **erasure** of sex workers' realities, narratives, stories, and identities, and their exclusion, continues to be a significant barrier to the realization of sex worker's SRHR. In regional funding, legislation, policy, and civil society spaces, sex workers are often viewed as 'victims', with no choice or agency, failing to recognize sex workers as rights holders with autonomy;
- The **lack of space** for sex workers to lead the development of policy, including Sexual and Reproductive Health policy, that affects their lives, continues in the region. Funding, legislation, policy and services have been heavily weighted towards issues of addressing issues of trafficking for 'sexual exploitation', criminalization policies, or exit programmes; significantly more than those that actually uphold the rights of sex workers;
- **Mandatory health testing, HIV screening, treatment and registration** for sex workers impacts their access to SRHR and other health services and are a violation of their sexual and reproductive health and rights. Conditionalities of mandatory health checks are often coercive and sex workers face prosecution and fines or are unable to work in specific spaces (e.g. registered sex work venues), if they do not meet conditions. These policies stigmatize sex workers and the services they provide as professional and autonomous workers. The checks are invasive and degrading, and criminalize health- leading to a distrust in services. In some countries sex workers are expected to pay the fee for medical checks; In some countries in Europe, only unmarried women can register as a sex worker, failing to recognize the diversity of sex workers and the SRHR services they may need to access;
- **Documentation/health insurance requirements**, particularly for migrant sex workers, is a significant barrier to accessing all health services, including SRHR services. In a criminalised context, it is almost impossible for sex workers to provide needed proof of income or employment they need to obtain health insurance, leading to routine denial of services of health services;
- **Legal / resident status** - Migrants sex workers, particularly those who are undocumented, already face more precarious situations. They often have no 'right' to access health services or to obtain health insurance. In addition, they often fear arrest or deportation when accessing state-run services due to their lack of a regularised legal status.
- **Health programs for sex workers** often focus on voluntary HIV and STI testing and treatment, whilst important, fails to address the broader SRHR needs of sex workers and meet international guidelines and standards; family planning and contraceptive counselling, pregnancy care, abortion and post-abortion care, cancer screening, and hormonal therapy and counselling for transgender sex workers. Reproductive health for example, is a key area of SRHR for women and GNC people who are sex workers;
- **Privacy / anonymity**- Sex workers report that stigma and discriminatory attitudes of staff working in health care settings leads to their sex work-status being disclosed without their consent, and this often leads to further discrimination, decreased quality of care, or even refusal of service. As a result, few sex workers disclose their profession to medical providers, and some may avoid contact with the health care system altogether
- **Criminalization of sex work** undermines sex workers right to health. Criminalization stigmatizes and socially excludes sex workers, and prevents access health care through fear of reporting or arrest. Additionally, the confiscation of condoms as evidence of sex work by police similarly discourages the utilisation of SRH services, increasing sex workers' vulnerability to HIV and STIs. In setting with laws around HIV exposure, non-disclosure, and transmission; same-sex sexual activity and sodomy laws can further deter sex workers from seeking critical SRH care for fear of legal reprisal.



Recommendations beyond Beijing+25

Recognize and realize sex workers are rights holders, by consciously choosing to open doors for, find, and centre sex worker voices from diverse communities in sex work-centric discussions and crafting of policy

- Stop the erasure of sex workers' voices and include sex workers from diverse communities in decision making and policy making;
- Remove all punitive laws and regulations related to sex work and the purchase of sex, in the form of decriminalization, that marginalize sex workers, that barrier access to sexual and reproductive health and other health services, and violate sex workers' human rights
- Provide a full range of health services to sex workers that are confidential, non-conditional, free from violence, stigma and discrimination, and that respond to and recognize their diverse identities, experiences, working conditions, and needs
- Remove barriers to accessing SRH services for migrant sex workers, placing a firewall between legal status and service access.
- Eliminate mandatory and coercive HIV and STI testing and treatment policies
- Address the stigma and discrimination that sex workers experience from mainstream SRH services, providing sex worker-led sensitisation training for health care staff and implementing strong complaints and redress systems to address abuses effectively
- Promote SRH education programming among sex workers and their clients, improving SRH literacy
- Prioritise funding for trusted, community-led services

International commitments and standards

- 'Ensure equal access to and equal treatment of women and men in education and health care and enhance women's sexual and reproductive health as well as education' World Conference on Women: The Beijing Declaration and the Platform for Action [2]
- '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.' Committee on Economic, Social, and Cultural Rights 2016 recommendation [3]
- 'In direct violation of CEDAW's Articles 11 and 12[4], access to safe pregnancy and maternal care, as well as safe abortion, are frequently denied (to sex workers)' Framework on Rights of Sex Workers and CEDAW; IWRAW, Global Network of Sex Work Projects (NSWP) [5]
- 'take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure [...] access to health care services, including those related to family planning.' CEDAW Article 12
- 'Violations of women's sexual and reproductive health and rights could also amount to torture, including forced sterilization, abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services (ref CEDAW Committee, General Recommendation 35)-Framework on Rights of Sex Workers and CEDAW
- Sustainable Development Goal 5: "Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action

of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences.”

- Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions-/ Sex Worker Implementation Tool (SWIT)- defines the vision for comprehensive SRH services for sex workers as part of a community-led, human rights-based approach to addressing HIV and STIs- 2013, WHO, UNFPA, UNAIDS, NSWP, the World Bank, and UNDP

Note

The Women’s Major Group follows the global UN processes on women’s rights, gender equality and sustainable development. The Beijing+25 process is a global process, where we are building on decades of work to bring forward the positions of feminists globally. The WMG creates spaces for women’s rights activists in all their diversity to formulate their priorities. In this case, the WMG aligns with organisations and movements globally, from the global South in particular, who have strongly stood up for language that fully does justice to the human rights of sex workers, and does not lead to further discrimination, marginalization of criminalization. The language is in line with the CEDAW recommendations on addressing exploitation of women, whilst highlighting the human rights of all women in all situations. The positions of the WMG from previous years is what we will build on, in a global context, where we have a reality of criminalization of the worst sorts, the WMG cannot limit its positions to a Northern context only. We always put the priority and solidarity with our sisters from the global South at the forefront.

The International Labour Organisation (ILO) recognised that sex workers are workers within the informal economy in its discussions related to Recommendation 200, which concerns HIV/AIDS and the world of work.²¹ Paragraph 2(a) sets out the scope of the Recommendation and it is explicitly noted in the official record that “sex workers were included ...[as] all workers working under all forms or arrangements at all workplaces.”

Other resources

- Declaration of the Rights of Sex Workers in Europe
- Feminism needs sex workers. Sex workers need feminism. For a sex worker inclusive women’s rights movement
- ICRSE Briefing paper- Understanding of Sex Workers’ Right to Health: Impact of Criminalization and Violence
- Framework on Rights of Sex Workers & CEDAW
- Joint Submission for Canada’s Review before the UN Committee on the Elimination of All Forms of Discrimination Against Women, 65th Session
- Sex Workers’ Access to Comprehensive Sexual and Reproductive Health Services

[1] UNAIDS and the World Health Organisation define sex workers as “female, male and transgender adults aged over 18 years who sell consensual sexual services in return for cash or payment in kind, and who may sell sex formally or informally, regularly or occasionally.”

[2]https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf

[3]<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QsmlBEDzFEovLCuW1a0Szab0oXTdlmnsJZZVQfQejF41Tob4CvIjeTiAP6sGFQktiae1vlbbOAekmaOwDOWsUe7N8TLm%2BP3HJPzxiHySkUoHMavD%2Fpyfcp3YlZg>

[4] CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health)

[5] <https://www.nswp.org/sites/nswp.org/files/framework-on-rights-of-sex-workers-cedaw-1.pdf>

[6] [Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions](#)

[7] https://law.yale.edu/sites/default/files/area/center/ghjp/documents/framework_on_rights_of_sex_workers_cedaw.pdf

[8] https://law.yale.edu/sites/default/files/area/center/ghjp/documents/framework_on_rights_of_sex_workers_cedaw.pdf



FEMINIST
SYSTEM
CHANGE

DEFEND
INDIGENOUS
RIGHTS

SYSTEM
CHANGE