

To: UN Human rights office of the High Commissioner
Subject: Input for High Commissioner's report on HIV and AIDS, 2022
From: Sex Workers' Rights Advocacy Network in Central Eastern Europe and Central Asia (SWAN)

The Sex Workers' Rights Advocacy Network (SWAN) is a sex worker-led regional network in Central and Eastern Europe and Central Asia that advocates for the human rights of female, male and transgender sex workers. Currently it unites 30 member organizations from 21 countries of CEECA region.

We at SWAN, would like to provide the following insights and input to inform the High Commissioner's report on Human rights in the context of HIV and AIDS (Human Rights Council resolution 47/14 to be presented to the Human Rights Council at its fiftieth session) as a way forward to ensure improving the health and wellbeing of sex workers and optimizing the implementation and commitments of the Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030.

Background info:

Across the region, sex workers identify criminalization, stigma and discrimination as the main causes of violence and human rights abuses, resulting in poor health outcomes. The gaps and challenges are rooted in the compartmentalization of issues, rather than a holistic approach in which legal barriers/criminalization are challenged while working on access to human rights based, stigma free health services.

To quote a sex worker from Russia: "HIV is not a top priority problem for sex workers, it is violence and possibility to protect oneself from violence. So, first remove legal barriers, secure safety, then the community can talk about HIV and services. Until the community is afraid and scared, the prevention is not going to work."

1. Gaps in the HIV/AIDS response at national and local levels;

Access to justice remains the most important issue for sex workers in our region, without any progress made in the past years. In Russia, sex workers report the opposite phenomenon; the more they talk about human rights and motivate people to report violations to official bodies, the less positive reactions from police they receive, the more irritated police become, and consequently sex workers are exposed to increased levels of humiliations and lack of justice.

SWAN's regional research on State and Non-State Violence against Sex Workers and the Search for Safety and Redress¹ identifies criminalization and police violence resulting from it as a main obstacle for effective HIV prevention and treatment - "The economic toll of police fines and extortion create

¹ <https://www.swannet.org/files/swannet/FailuresOfJusticeEng.pdf>

economic pressure to forego condom use and engage in riskier practices for higher monetary returns. Police use of condoms as “evidence of a crime”, confiscation or destruction of condoms impede sex workers’ ability to assert safer practices. Furthermore, they may result with indoor sex work venues such as brothels or saunas prohibiting condoms on the premises, out of fear of tipping off police, reducing sex workers’ ability to negotiate and enforce condom use. Police use of syringes as “evidence of a crime, confiscation or destruction of syringes similarly create major impediments to the ability of sex workers who inject drugs to reduce risks of HIV transmission via injecting equipment. Violence by state and non-state actors can negatively affect sex workers’ overall psychological and physical health. In other contexts, violence against HIV-positive women has been found to be a barrier to treatment adherence - whether or not the perpetrator knew the victim was HIV-positive or on treatment.”

In Tajikistan, in the last several years there were a number of criminal cases against sex workers regarding HIV transmission. Thus, sex workers who have access to HIV testing now chose not to get HIV tests.

Transitioning process and financing HIV prevention and treatment. Countries where HIV programs are funded to some extent from state budgets do not follow proper costing approaches which are applied in HIV programs supported from external sources. Cost of HIV services for sex workers is calculated lower compared to other key populations (Ukraine). There is a trend to hide sex workers under the umbrella term “key populations” in social contracting programs (Kyrgyzstan). Human rights issues are not considered in HIV programs funded or supposed to be funded from the state budget.

In Kazakhstan, HIV programs are funded to some extent by the state budget. However, the approach towards sex workers is not human rights based as it was when it was funded by Global Fund. The state AIDS centers participate in forced testing of sex workers after police raids: sex workers are either tested on premises where they work, by police and AIDS center staff, or after being taken into police custody.

There is also a trend in international donor’s shift in focus (strategic or geographic), which combined with the above-mentioned lack of governmental (political) support and growing conservatism in the region which affect exclusion of the marginalized groups, will undeniably have a negative impact on the epidemic in the region. Decreased donor funding has an effect on community advocacy and monitoring which can directly impact services and policies.

Lack of meaningful involvement of sex workers in national HIV programing and **lack of support to community led initiatives** continue to be one of the key obstacles in securing human rights based effective interventions and responses in CEECA region.

Poor quality of health services in general, high price of good quality services (mainly available in private clinics) and failing to address **sexual and reproductive health issues, beyond HIV prevention (condom distribution/HIV testing)** remain high on the list of issues, too. Discrimination by medical staff when working with patients who are open about their sex work, such as using dirty gloves, causing unnecessary pain during intervention, verbal humiliations are still being reported and documented in many counters of the region.

Current Covid – 19 crisis amplified all the existing problematic issues related to criminalization and lack of human rights based approach to sex work services. Criminalization of sex work renders sex workers unable to access services and social protections granted to other workers. Social benefits, such as maternity/paternity leave, paid sick leave, unemployment benefits are inaccessible to sex workers, and this was amplified and exacerbated by the Covid-19 pandemic. This led to drastic regression of sex workers' status during the pandemic: poverty, hunger, which led sex workers to continue working in order to survive, thus putting themselves at higher risk for both HIV/STI and Covid - 19, and prosecutions for violating lockdown rules. All this occurred in a situation where prevention activities and treatment options were minimized or completely ceased.² The pandemic threatened community-led organizations too. Not all activities could be moved online or be implemented under lockdown rules which made it difficult for groups to keep ongoing grants. Lack of access to decision making processes on funding priorities and sustainability on national or global level left the groups out of fair resource allocation. This also threatened a loss of valuable human resources that cannot be easily replaced, as it usually takes several years to build community organizations and staff capacities.

In Kyrgyzstan, individual sex work is not criminalized but law enforcement practice is akin to legal prohibition. Before the COVID-19 crisis sex workers were persecuted severely and were increasingly more difficult to reach with HIV prevention. With the pandemic, the community of sex workers being reached through programs decreased even more drastically.

2. Concrete action being taken to implement laws, policies and programs to meet targets on societal enablers and address gaps in the HIV/AIDS

No crucial improvements were identified in the last 5 years across the region. Some positive movements are evident, such as increased discussion on legal barriers and changing of legal environments, communities are stronger and more visible, in few countries (Kazakhstan, Kyrgyzstan, Ukraine) sex workers entered CCMs, there are individual success stories on good interventions and collaborations, but systematic, meaningful and government led changes in relation to access and quality of services, addressing legal barriers/laws and discrimination are severely lacking.

The positive improvements are mainly the result of the community leadership and community mobilization, strengthening of community led advocacy and engagement, support of donors and UN agencies and national/regional allies.

3. In order to see policies, laws and programs which meet targets on societal enablers and address gaps in the HIV/AIDS response, we would like to amplify the following recommendations:

1. Decriminalize sex work. Recognize sex work as work and oppose laws and policies that criminalize any aspect of sex work, as there is a strong and robust evidence base demonstrating that such laws and policies fuel human rights violations, have poor health outcomes among sex workers, and increase poverty among sex workers.

² https://swannet.org/wp-content/uploads/2020/06/Covid19_SWANICRSE_Final_Umbrella_Interactive3.pdf

2. Decriminalize HIV transmission. Review and repeal laws that explicitly criminalize HIV transmission, HIV exposure or failure to disclose HIV status. Where such laws exist, they are counterproductive and must be repealed. Law enforcement authorities must not prosecute people in cases of HIV non-disclosure or exposure where no intentional or malicious HIV transmission has been proven to take place. Invoking criminal laws in cases of adult private consensual sexual activity is disproportionate and counterproductive to enhancing public health³;
3. Prioritize meaningful involvement of community in every part of the process of design, implementation and evaluation of HIV responses (avoid inviting few same people to meetings but supporting community consultations and reflect results from those consultations into the documents and strategies);
4. Secure mechanisms which will ensure that community led groups/organizations are not left behind in funding processes and ensure fair allocation of resources for the community led responses;
5. Insist on needs based services, and put strong focus on antidiscrimination policies and practices in service delivery;
6. Address Covid-19 and HIV. Since Covid-19 situation will not be resolved in the near future, and it might remain a situation to which we should adapt, a focused response is necessary in order to ensure that HIV prevention treatment and care are not ignored in times of crises and that special interventions are needed to address the particular vulnerabilities of key populations during these crisis and emergency situations;
7. Make “Leaving no one behind” a top goal reachable through concrete steps which include all here mentioned: ensuring meaningful involvement through community consultations and mobilization, addressing legal barriers and criminalization, taking steps to end stigma and discrimination, improve access to justice and enhancing language around key populations and their needs, rather than using generalized terminology.

For more information on sex work, health and human rights please do not hesitate to contact SWAN at swansecretariat@swannet.org or stasa.plecas@swannet.org .

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³ https://www.nswp.org/sites/default/files/risks_rights_and_health_summary_undp_-_2012.pdf