

A Call to Change U.S. Policy on Sex Work and HIV

The International AIDS Conference is being held in the United States for the first time in over twenty years. At this historic moment for HIV prevention, treatment and care, U.S.-based sex workers and advocates demand that the U.S. government change its approach to the health and rights of people in the sex trade.

Sex workers -- people who exchange sexual services for money or other compensation -- are on the frontlines of the AIDS epidemic. The United Nations considers sex workers and their clients to be two of the populations most at risk for HIV infection. Structural issues drive the HIV epidemic within the sex sector -- criminalization and stigma compound health disparities already affecting those on the wrong end of racial, economic and gender inequality. Yet when they are empowered to be leaders, connected to services and resources, and supported to address social injustice, sex workers have been some of the most effective communities at curtailing the spread of AIDS. Currently, the U.S. imposes and continues to expand harmful policies affecting sex workers both domestically and abroad, putting them at increased risk for HIV.

In 2011, during the U.N.'s examination of the U.S. human rights record via the Universal Periodic Review, the U.S. agreed that "that no one should face violence or discrimination in access to public services based on... their status as a person in prostitution." The U.S. government should make good on that commitment by taking the following steps to enable sex workers to access safe and healthy working environments and non-judgmental services. Evidence-based best practices and human rights principles must inform the global response to AIDS. Please join us in calling on the U.S. government to change its policies and save lives.

1. We demand that the U.S. repeal and eliminate restrictions on domestic and global AIDS funds (such as the President's Emergency Plan for AIDS Relief's (PEPFAR's) Anti-Prostitution Loyalty Oath) and support evidence-based best practices for HIV prevention, treatment and care targeted at sex workers.

Globally, the U.S. prohibits organizations and governments receiving funds from using any of their funding (including money not received from the U.S.) on activities that are in any way related to sex workers' rights. This has resulted in the reduction or complete elimination of HIV prevention and treatment services for sex workers in numerous countries -- including USAID-identified best practices programs. Domestically, federal law restricts the use of funding for harm-reduction services, while promoting ideological programs such as abstinence-only sex education. These policies run counter to UNAIDS criteria for successful HIV prevention among sex workers. In other words, the U.S. is preventing the delivery of successful health programs and important resources to sex workers worldwide.

2. We demand that the U.S. repeal the prostitution inadmissibility ground for immigration and provide non-judgmental social services and legal support for migrant sex workers, as part of comprehensive immigration reform.

Despite the successful repeal of the ban on HIV positive foreign nationals entering the U.S. in 2009, U.S. immigration law still bars entrance to anyone who has engaged in sex work in the past 10 years -- even if they have no criminal convictions or if they work where it is legal. This ban prevents international sex workers and former sex workers from attending critical public health meetings, such as the International AIDS Conference. This and other restrictive immigration laws keep sex workers undocumented, foreclosing them from health services and legal work options, and increasing their risk for HIV. We demand that this policy change as part of a broader overhaul of U.S. immigration policies, emphasizing human rights instead of criminalization.

3. We demand that sex workers not be subjected to arrests, court proceedings, detention, mandatory testing or government-mandated “rehabilitation” programs; the government must institute mechanisms that allow sex workers to find redress for human rights violations and implement rigorous training of law enforcement officials on legal and human rights standards.

Criminalization of commercial sex drives it further underground, increasing participants' risk for violence and isolation from health services. HIV prevention efforts are undermined by police harassment of service providers, and of sex workers trying to access those services. Sex workers report that police destroy or take away safer sex supplies and arrest people, on the grounds that possession of condoms is evidence of an intention to engage in prostitution. Policies that criminalize sex workers' clients hinder sex workers' abilities to negotiate condom use, access services and ensure their own safety. Laws criminalizing HIV transmission (or requiring HIV testing upon arrest) reinforce stigma, which is counter-productive to HIV prevention best practices, while failing to protect people from infection or link them to services.

These policies disproportionately affect those already profiled by law enforcement -- particularly people of color, Indigenous people, migrants and transgender women. The U.S. must reorient its approach to sex work by prioritizing human rights and health. Such changes are interconnected to the need for comprehensive legal reform of the deeply flawed criminal justice system -- rejecting the current reliance on criminalization and incarceration as responses to social issues.

4. We demand the U.S. reorient anti-trafficking campaigns to be in line with the standards set by the United Nations and engage sex workers in helping stop exploitation in the sex sector.

Damaging policies such as the President's Emergency Plan for AIDS Relief's Anti-Prostitution Loyalty Oath result, in part, from a failure to differentiate between trafficking in the sex trade and instances where sex work is chosen as an income-generating option. The critical difference is self-determination. Confusing these two concepts leads to ineffective anti-trafficking efforts, human rights violations and disturbing claims that funding for HIV programs for sex workers should be stopped. Human trafficking is a human rights violation that people in the sex trade face, and sex workers have a deep

interest in ending human trafficking – they should be engaged as stakeholders and leaders in these actions. The UNAIDS Reference Group on HIV and Human Rights states that “treating all sex workers as ‘victims’ can lead to support for coercive efforts to control or reduce sex work, which rarely produce beneficial and lasting outcomes and have even been associated with abuse of sex workers and their families.”

Conclusion:

The 2009 UNAIDS Guidance Note on HIV and Sex Work documented that “few national policies and programmes adequately address the HIV-related needs of sex workers and their clients, or their potential to contribute to national responses to HIV.” In 2011, UNAIDS added that “HIV prevention activities should promote the empowerment of sex workers ... and that law enforcement agencies and the judicial system should protect the rights of sex workers and their clients.”

On the occasion of the 2012 International AIDS Conference, we call on the U.S. to demonstrate its full commitment to public health and human rights by taking action in the areas specified above. Such action will display much needed leadership and is likely to inspire similar movement on the part of other countries. We invite all people committed to ending AIDS to endorse this statement.