

National Consultation on Sex Work, HIV and Law, 5th November 2007, New Delhi
Summary of Proceedings

On 5th November 2007, the Lawyers Collective HIV/AIDS Unit organized a day long National Consultation on Sex Work, HIV and the Law at the India Habitat Centre, New Delhi. Supported by UNAIDS and the National AIDS Control Organisation (NACO), the meeting brought together leading health and HIV agencies, community based organizations and experts from government, non-government and international development sectors to discuss **changes proposed to the Immoral Traffic (Prevention) Act, (ITPA) 1956 will affect HIV prevention among sex workers and clients under the National AIDS Control Programme.**

Introducing the meeting, *Denis Broun*, Country Director, UNAIDS India set out the public health context by pointing out that sex workers are at increased risk of HIV and yet, have the least access to health and HIV services. In his welcome, *Anand Grover*, Project Director, Lawyers Collective HIV/AIDS Unit, alluded to the substance and process of ITPA Amendments and hoped that Group of Ministers (GoM) will bear in mind public health/HIV considerations in reviewing the Amendment Bill.

Session 1: Sex Work and HIV: Risks & Responses + Constraints & Challenges

Delivering the inaugural address, *J.V.R Prasada Rao*, Director, Regional Support Team, UNAIDS Bangkok reminded participants that Asian countries that had controlled the HIV epidemic, namely Thailand and Cambodia had done so through rigorous interventions in sex work. Describing the relationship between economic growth, migration and the HIV epidemic in Asia, *Prasada Rao* drew attention to the role of 'mobile men with money'. He stressed the importance of working with male clients, who, he said are "people like us" and not criminalizing them as proposed in the ITPA Amendments. Recollecting his days as Head of NACO, *Prasada Rao* admitted to opposition against targeted interventions with sex workers at the start of the National AIDS Control Programme II. He hoped that the Amendments will not be rushed but will be preceded by public debate and dialogue between sex workers, women's groups and HIV activists. (Presentation – appended as Annexure 1)

In her key note address, *K. Sujatha Rao*, Additional Secretary and Director General, NACO, talked about ideology prevailing among proponents of the ITPA Amendments, that is - (i) that trafficking is the same as sex work, (ii) that empowering sex workers' means encouraging sex work and, (iii) that sex work is not a choice. She pointed out to the need for sensible legislation that balances trafficking and HIV concerns, hinting at possible negotiations between Health and Women and Child Development Ministries.

Initiating the discussion, one participant argued that there is a need to distinguish between choice and consent to sex work. Others felt that this is easier said than done in light of political opposition. Another participant said that responses must be based on science/evidence and not ideology on sex work. Agreeing with the statement, *Prasada Rao* said that China was the only country that banned prostitution at the height of communism but even there sex work has returned and is currently a major driver of HIV. He indicated that UNAIDS would assist in compiling

evidence of practical, effective interventions in sex work and also develop a policy statement on the issue.

Session 2: Sex Work and HIV: The Public Health Rationale

Thereafter, *Dr. R. R. Ganga Khedkar* of the National AIDS Research Institute presented the public health rationale for targeting sex work citing clinical and behavioural data from sex work sites across India. He noted that sex workers were the first to adopt safer practices despite structural barriers including frequent enforcement action and dislocation. He urged that HIV interventions that provide services while promoting rights of sex workers must continue. (Presentation – appended as Annexure 2)

Gina Dallabetta of the Bill and Melinda Gates Foundation shared more findings in support of focused interventions in commercial sex which correlated increased use of condoms by sex workers and clients to declining incidence among young, ante-natal women in *Tamil Nadu*. (Presentation – appended as Annexure 3)

This was followed by a discussion on the evidence presented. That sex work interventions are working was clearly demonstrated. Both presenters alluded to sex work increasingly shifting to street and other dispersed settings and the need for intervention strategies to address this. Mobility of sex workers and clients was also seen as an important factor for interventions.

Session 3: Sex Work and HIV: Building a Successful Response (What, How and Why)

Richard Steen of WHO summarized global evidence for the effectiveness of sex work interventions. In his presentation, Steen illustrated a modeling exercise from Nairobi to show that condom use of 80% among 500 sex workers averted nearly 10,000 HIV infections annually. (Presentation – appended as Annexure 4)

From India, *Sundar Sundaraman* of Ashodaya Trust, *Mysore* demonstrated how community mobilization among sex workers led to promising health/HIV outcomes such as increased attendance at health clinics, increased condom use with clients and non-commercial partners as well as reduced STIs. The presentation also highlighted documented evidence of police intrusion disrupting peer outreach among street sex workers. (Presentation – appended as Annexure 5)

Other speakers included *Nandinee Bandyopadhyay*, PATH, *Lakshmi Shinde*, Corridors Project, *Meena Seshu*, SANGRAM, *Bharti Dey*, Durbar Mahila Samanvay Committee and *Dr. Smarajit Jana*, NACO. Each of them underscored the importance of placing sex workers' at the centre of the response not only for HIV prevention but also all other decisions affecting their lives.

Responses from the floor centered on sex workers' rights in the public health and development discourse. Instances of Police violence against sex workers were narrated including one from *Ahmedabad* where all Bengali speaking sex workers were detained as "Bangladeshis" and forcibly tested for HIV. One participant

articulated the need to examine sex worker-Police interaction in light of the ITPA Amendments.

Session 4: Sex Work and HIV: Obstacles & Opportunities created by Law

The penultimate session saw presentations from *Tripti Tandon* and *Anand Grover* of the Lawyers Collective HIV/AIDS Unit on the existing legal framework for sex work, the process of reform, ITPA Amendments and key concerns. The discussion centred on changes introduced by the proposed statutory scheme that is - widening the ambit of prostitution and trafficking and penalizing clients of sex workers. Attention was also drawn to clumsy drafting that will result in inconsistent application and interpretation of the law. It was also pointed out that the revised Bill disregards many of the observations of the Parliamentary Standing Committee in its 182nd Report on the ITPA Amendment Bill, 2006. (Presentations – appended as Annexure 6,7 & 8)

With respect to HIV interventions, participants felt that the sites for soliciting and providing sexual services to clients would change in view of the proposed Amendments especially Section 5C. As sex work will go into hiding, contact with HIV services will diminish. It became clear that while the current law is itself unhelpful for HIV Prevention, the proposed changes will inhibit interventions even further.

Several participants stressed that non-compliance with Recommendations of the Parliamentary Standing Committee should be raised with the GoM. Sex workers expressed fears that community mobilization would be disrupted by the new Section 5C. Another pointed out to the abject failure of anti-trafficking programmes in *East Godavari* district of Andhra Pradesh where “rescued persons” were seen returning to sex work. The need to evaluate rescue and rehabilitation measures was emphasized. Yet another participant said that policy makers ought to realize that sex work cannot be eliminated and that criminalization only creates a “revolving door” where sex workers revolve in a cycle between street and prison, with no real change or benefit.

Conclusion

The deliberations resulted in the adoption of a Statement to be presented to the GoM reviewing the ITPA Amendment Bill. Other actions for advocacy agreed on by participants included compilation of a dossier on Sex Work and HIV (with epidemiological data, evidence, best practice etc), generating public opinion through an open letter, media and other campaigns.

In the end, Member of Parliament and Representative from the Parliamentary Forum for HIV/AIDS - *J D Seelam* expressed support and assured the Forum’s involvement in convening debates among Parliamentarians as well as the GoM.