

Conclusion and recommendations

From the preliminary research findings in this study, sex workers are vulnerable to violence, stigma and discrimination and remain a target of police harassment and detainment. The purpose of the report was to provide SALC with a better understanding of the experiences of sex workers to enable it to devise advocacy and litigation strategies. The report, however, suggests that there are a number of areas requiring focus:

Legislative reform

The laws relating to sex work are highly problematic. While some laws specifically target those who exploit sex workers – such as traffickers, procurers and persons who live off the earnings of sex work – the vagueness of some of these laws provides the space for police to apply them against sex workers.

Certain anomalies within the Penal Code further exacerbate this problem. The offence of living off the earnings of prostitution used to be set out in two separate sections – section 146 targeting men who live exploitatively off sex workers' earnings, and section 147 targeting women who live exploitatively off sex workers' earnings. The difference between the sections was the corporal punishment, which was an option for men, but not women. These offences were never aimed at sex workers, and yet section 147 is seen as the offence which criminalises sex work. This is not the case. When these offences were amended to be gender neutral, it resulted in sections 146(1)(a) and 147(1) being the same. Sections 146(1)(b) and 178(g) of the Penal Code similarly both criminalise soliciting in public for an immoral purpose. Both these offences are so vague, that their retention contributes to arbitrary police enforcement.

In practice, sex workers are often arrested under outdated nuisance-related offences. Many of these offences are so vague and overly broad that they require repeal.

The Zambian Penal Code should be reviewed to ensure that police officials do not unlawfully and unfairly target sex workers and other poor and vulnerable groups. There should further be adequate guidelines for the exercise of police discretion.

Training of police officials

The training of police officers on human rights concepts and principles such as equal protection of the law, non-discrimination, ethics, social justice and fairness, should be prioritised. In addition,

there is a need to consider the reform of current practices within the police force. This is to ensure that arrests are effected as a last resort and that effective monitoring of police is in place to ensure that arrests are carried out within the boundaries of the law, with appropriate disciplinary action where police officers flout the law.

Empowering sex workers

Violence and discrimination against sex workers can be reduced if there are more registered civil society organisations in Zambia which advocate the protection of the fundamental rights of sex workers. In many instances, sex workers do not lodge complaints when their rights and interests are effected – for fear of harassment, stigma and further violations. NGOs could play a crucial role in training sex workers on their rights and freedoms and could be a strong voice to speak on behalf of vulnerable sex workers. In addition, civil society organisations can also play an important role by documenting patterns of police abuse and violations.

Many sex workers are unaware of their fundamental human rights and are therefore unaware when a violation occurs – or of the available recourse. Training sex workers about their basic human rights could possibly reduce unlawful arrest, detention and police abuse. It can also play a crucial role in holding the State accountable for a specific violation. Knowing their rights can equip sex workers to identify a specific violation at an early stage and to empower them to document ongoing police abuse of sex workers and build a civil case for damages against police authorities and the State.

The Centre for Human Rights Education, Advice and Assistance (CHREAA) in Malawi, for example, introduced a toll-free number which sex workers can call 24/7 whenever they have been abused by the police in any way – in order to receive assistance. Apart from the number, sex workers were encouraged through training and education materials to report such abuse directly to the nearest magistrate's court or senior police officer and to CHREAA's offices – in order to obtain assistance.

Improving accessibility of complaints mechanisms

The complaints mechanisms touched on in this report were internal police complaints mechanisms – including Victim Support Units, the Police Public Complaints Authority, the Gender Equity and Equality Commission, the Human Rights Commission, and the courts. Additional research is needed on the extent to which current complaints mechanisms are available to address police abuse.

Participants' responses indicate that much remains to be done to improve the accessibility of complaints mechanisms. This would include providing information and education materials to the public on the different complaints bodies, and ensuring there are posters in accessible language at police stations that explain internal and external complaints processes in cases of police abuse and bribery. Officers at the various complaints bodies should be sensitised to the fact that sex workers are a group that are particularly vulnerable to police abuse, that they are entitled to take action

against police abuse, and that their rights should be respected throughout the complaints process. This would include developing processes at the complaints bodies to ensure that confidentiality of complaints is maintained and that victims can be protected from reprisals by police.