

## HIV AND SEX TRADE

### SUMMARY OF THE OPINION HIV AND SEX TRADE: TOWARDS A GUARANTEE OF UNIVERSAL ACCESS TO PREVENTION AND CARE (16 / 09 / 2010)

In the past fifteen years, **prostitution in France has profoundly altered**. Legislation and regulation have been modified, practises have diversified, the trajectories of the persons involved have shifted, the places where they exercise their activity have changed.

If there is optimal use of available means of prevention, prostitution does not in itself represent a risk-factor for transmission of HIV-AIDS, whether for the persons who are involved in prostitution or for their clients. However, persons involved in prostitution often work in difficult conditions that considerably **diminish** their **access to prevention and to care**, while also **increasing** their **exposure to a whole range of health risks**.

The resulting new situation, marked by the **deterioration of their living and working conditions**, complicates the work of preventing HIV-AIDS and Sexually Transmitted Infections (STI) for persons involved in prostitution. More exposed to violence, isolation, social and administrative difficulties, they are often forced to downgrade health issues to lower priority levels.

The Council intends to report on this situation, and particularly three major aspects:

- the vulnerability of persons involved in prostitution,
- the inconsistency of public policy,
- the insufficiently integrated and community-based mobilisation of associations.

Given this assessment, the Council will propose a series of recommendations likely to significantly and durably improve **legal rights, prevention** and **access to health care** for persons involved in prostitution.

## AN ALARMING STATEMENT

*Prostitution does not constitute a homogenous reality, and we may prefer to refer in the plural to "prostitutions"*

Demographics, geography and practices in the sex trade have radically changed. These changes can be explained in part by the gradual influx of **immigrants** of various origins, the development of **male and transgender prostitution**, the use of **new information technologies** to arrange meetings, the proliferation of different locations for street-based prostitution, which in many cases is **relegated to the margins**, the rise of **hidden prostitution** in bars and massage parlours, at home or in hotels and the emergence of **occasional prostitution**. In addition, some persons work in the sex trade by choice, whilst others do so under constraint.

*The deterioration of the conditions surrounding the practice of prostitution adds to prostitutes' unstable social and health situation.*

The living and working conditions faced by persons involved in prostitution are key factors increasing vulnerability. The fragmentation of the locations and forms of prostitution, the **increase in pressure from the police and the courts and the weakening of solidarity** amid a more competitive environment have all contributed to increasing the individuals' isolation and making them more easily exposed to various types of vulnerability and violence.

Prostitutes persons are more at risk from clients since habits around prevention have slackened and the demand for unprotected sex has increased; clients can be subjected to **violence**, as can persons involved in prostitution themselves and police officers and there is violence within the networks. **Restricted access to information and healthcare poses problems**; sex workers have **trouble exercising their right** to remain in the country and to welfare services; they are **often in very precarious living conditions**, especially with regard to accommodation and they generally live in a **disadvantaged and hostile social environment**. These are all factors which increase their exposure to health risks whilst at the same time reducing their access to the services able to provide them with information, support, welfare services and healthcare.

## CONTRADICTIONARY GOVERNMENT POLICY

*A legislative framework which is unfavourable and fails to uphold individuals' rights*

The provisions of the Law on Internal Security (*loi pour la sécurité intérieure*) of 2003, which form the current legal framework, were aimed at protecting public order and combating procuring and human trafficking. They have **placed persons involved in prostitution in a more unstable position and have not succeeded in directly protecting victims of procuring and trafficking**, nor in increasing the number of prosecutions of people responsible for these crimes. **The legislation remains a source of instability**, in particular for foreign nationals. It contributes to pushing health imperatives into the background and increases sex workers' exposure to the risk of contracting HIV/AIDS and STDs.

The extension of the offense of soliciting in particular has led to a **surge in the number of charges brought against prostitutes and legal actions**. By challenging the presence of prostitutes in public places, it has contributed to pushing them into working in places that are more **hidden**, more **isolated** and hence more **dangerous**, thus reinforcing the clandestine aspect and stigmatisation. As regards the deterioration of the living and working conditions of the majority of persons involved in prostitution, the **rights** granted for the purpose of protecting victims of procuring and human trafficking **have only benefited a very limited number of persons**. These rights are **subject to a large number of conditions** and the way they are implemented on the ground appears to be **very variable**.

*A lack of cohesion in government action, putting individuals' health at risk*

The situation of persons involved in prostitution is a concern for numerous ministerial sectors. However, it appears that **very little attention is paid to health matters**. There is no specific local or national forum devoted to prostitution which would regularly bring together government representatives (for social affairs, health, police and the courts) and representatives of the relevant voluntary organisations to discuss the issue. **Nationally**, there is some coordination between different ministries, but they only cover some of the issues and do not cover issues around health and access to prevention and healthcare. **Locally**, coordinated efforts are more geared towards protecting public order than towards prostitutes' safety.

In addition to the lack of cohesion in the different sectors' actions, there is a **lack of** both retrospective and prospective **evaluation** of public action. Although the state is obliged by law to evaluate the health and social

5,152 charges for active or passive soliciting brought in 2004, as opposed to 267 in 2001. In 2009, the number was 2,315 by 30 November. In 2004, 44 prostitutes benefited from safe shelter under the 'Ac-Sé' group. In 2008, the secure shelter scheme received notification of 56 individuals. 684 victims of human trafficking and procuring were identified in 2009. In the same year, 79 victims were granted residency rights.

Article 52 of the 'Internal security act' stipulates that 'each year at the beginning of the parliamentary session, the Government must submit to the offices of the National Assembly and the Senate a report describing the latest demographic, health and social situation of prostitutes'.

To date, **only one report has been submitted** and this was in 2006. In terms of health aspects, this report presents no new data and on the matter of HIV/AIDS limits itself to reproducing in full two paragraphs from the 2005/2008 national AIDS plan, which presents old data that are not specific to France.

situation of persons involved in prostitution, it has taken **no steps to do this since 2006**. Action to help prostitutes, which is provided for in national programmes drawn up by the ministry of health and in particular the successive national AIDS plans, have proved **difficult to apply** without first re-examining the policies of the different sectors, which are pursuing contradictory objectives. Their impact has been very limited.

## DIVIDED AND UNEQUALLY SUPPORTED VOLUNTARY SECTOR ACTION

*Two different voluntary sector approaches which are difficult to harmonise*

Since the 1960s, the State has largely broadly speaking disengaged from direct action in favour of prostitutes persons, giving financial support to voluntary sector action instead. This action has been driven by **predominantly abolitionist policies** and has worked to develop services providing shelter, support, accommodation and social reintegration for prostitutes with the aim of helping them leave the sex trade. The field of work with

sex workers has therefore been characterised by a large network of accommodation in particular. However, from the late 1980s onwards, the surge in the HIV/AIDS epidemic and the rise of stigmas associated with it led to the emergence of new associations set up **at the initiative of prostitutes themselves**, or in consultation with them, aimed at specifically **promoting access to prevention**, healthcare and rights. Now present in all the main urban areas in France, these associations which in the beginning were predominantly health focused, have gradually **widened the scope of their work** to include issues of welfare and access to rights. The traditional welfare-focused associations on the other hand have not all adopted a similar holistic and grassroots approach based on a diverse set of skills and direct participation by prostitutes.

*Public support for voluntary health associations and community health groups and an insufficiently integrated approach*

Government action appears to be very patchy. The majority of grants and subsidies are still given to schemes which are not based on an integrated approach for all prostitutes but on secure shelter for **a very limited number of victims of procuring and human trafficking**.

The integrated approach favoured by health based voluntary associations and community health groups combines work on health with social and cultural assistance and **the efficacy of this approach has been proven**. However, the progress of the social action carried out by these groups and their presence on the ground is impeded by the **low level of public funds made available to them**, the fact that this funding is not sustained and the 'health-based' origin of the funds and the **large number of different funding providers involved**. The traditional associations based on social reintegration on the other hand appear to be more favoured. Whilst some of these have gradually branched out in their missions and addressed the changing needs, **their involvement in preventive health and access to healthcare is still very variable**. In some cases, these actions are prevented from developing by the organisations' ideological standpoint of the organisation or the **lack of health-related skills** among the staff running them.

In order to provide a range of **appropriate services** for sex workers' health and social needs, the development of a **more integrated approach** within the groups traditionally involved in welfare action **needs to be promoted**, and at the same time local and national government authorities need to genuinely recognise the contribution made by health-based associations. This recognition must be reflected in transparent **financial and administrative support**. Such an approach, whilst not denying the ethical differences that can set the two voluntary sector cultures apart to varying degrees, should lead to greater cooperation between them and contribute to developing **comprehensive service provision across the whole country**.

For 2004, government authorities set aside **more than EUR 10 million for social action** helping with accommodation and reintegration of prostitutes and the prevention of prostitution, as opposed to **approximately EUR 1.5 million to healthcare action**, primarily aimed at combating HIV/AIDS, STDs and hepatitis.

In 2010, **social action funding** for grassroots associations remained **extremely low or was withdrawn altogether**.

# MAIN RECOMMENDATIONS OF THE FRENCH NATIONAL AIDS COUNCIL TO GUARANTEE SEX WORKERS' UNIVERSAL ACCESS TO LEGAL RIGHTS, PREVENTION AND HEALTH-CARE

The French National AIDS Council calls for priority to be given to **compensating the delays created in France** in the accompaniment, follow-up and guarantee of legal rights to sex workers, in order to **give them more visibility and to guarantee their effective access to prevention and health-care**. They should be guaranteed a range of legal rights identical to those of the general public and should be recognized as having specific expertise in terms of prevention.

## REINFORCING LEGAL RIGHTS:

**Sex workers should have access to the same legal rights as are guaranteed to the general public:**

- guarantee unconditional legal rights regarding **health-care, social welfare benefits, residency and housing** to sex workers who are victims of exploitation and human trafficking, regardless of their immigration status ;
- review the measures regarding **soliciting** contained in the law on internal security, which have been the source of discrimination and fragilization of sex workers, and conduct a specific evaluation of the **fight against procurement**, and its impact on the right to stable housing.

## ENSURING CONSISTENT PUBLIC POLICIES:

**A new form of governance should be established, based on high-level national and political mobilisation and increased cooperation and follow-up among all actors:**

- envisage a **national conference** under the leadership of the Minister in charge of Health and in the presence of the whole range of political actors, including the other Ministries involved, representatives from associations and members of the community with expertise regarding health ;
- set up an **inter-ministerial cooperation** to spur the adoption in every region of legal rights, access to health-care and to prevention of sex workers.

## PROMOTING AN INTEGRATED APPROACH:

**Responding to all the indispensable needs of sex workers:**

- guarantee throughout France, including for populations that are isolated or hard to access, **adapted services** that include: counseling, distribution of prevention material, effective access to screening and post-exposure treatment (PET), health-care for STIs, primary health-care, sexual health services, risk reduction, social welfare benefits and cultural mediation ;
- guarantee a constant and predictable financing to associative organizations, the only ones able to **work in concert with public-sector bodies** on this integrated approach.

## SUPPORTING COMMUNITY EFFORTS:

**Sex workers have a decisive role in prevention:**

- reinforce community-based action **encouraging self-organization of sex workers** in missions of prevention, mediation and/or training, allowing them to benefit from **suitable training**, and salaried jobs as agents for mediation, prevention and training should be provided within non-governmental organizations. ;
- support **programs especially addressing populations that traditionally benefit less from neighbourhood programs**: escorts, masseuses, prostituted persons working "on tour", migrants and transgender persons.

## IMPROVING KNOWLEDGE:

**Greater promotion of information in favour of sex workers at the local level:**

- increase the credits allocated to **research studies** in the framework of health and community-health associations, and social welfare and rehabilitation associations, particularly on less visible forms of prostitution ;
- create an **annual national summary of data** provided by all non-governmental organizations and research bodies that are involved in issues relating to prostitution, detailing the impact of public programs concerning prostitution.

The complete opinion can be found on the CNS website: <http://www.cns.sante.fr/spip.php?article410>

The French National AIDS Council (Conseil national du sida, CNS) is an independent, consultative French agency that was set up in 1989. It comprises 24 members: specialists working in the field of HIV/AIDS, representatives of civil society, and members of associations. The CNS delivers opinions and recommendations on the full spectrum of issues that society faces as a result of HIV/AIDS. These papers are addressed to the French authorities and to all those involved in or concerned by the epidemic. It is the intention of the CNS to participate in this manner in the development of public policy, within a framework that promotes respect for fundamental ethical principles and human rights.

For more information, you are invited to consult our website: [www.cns.sante.fr](http://www.cns.sante.fr)