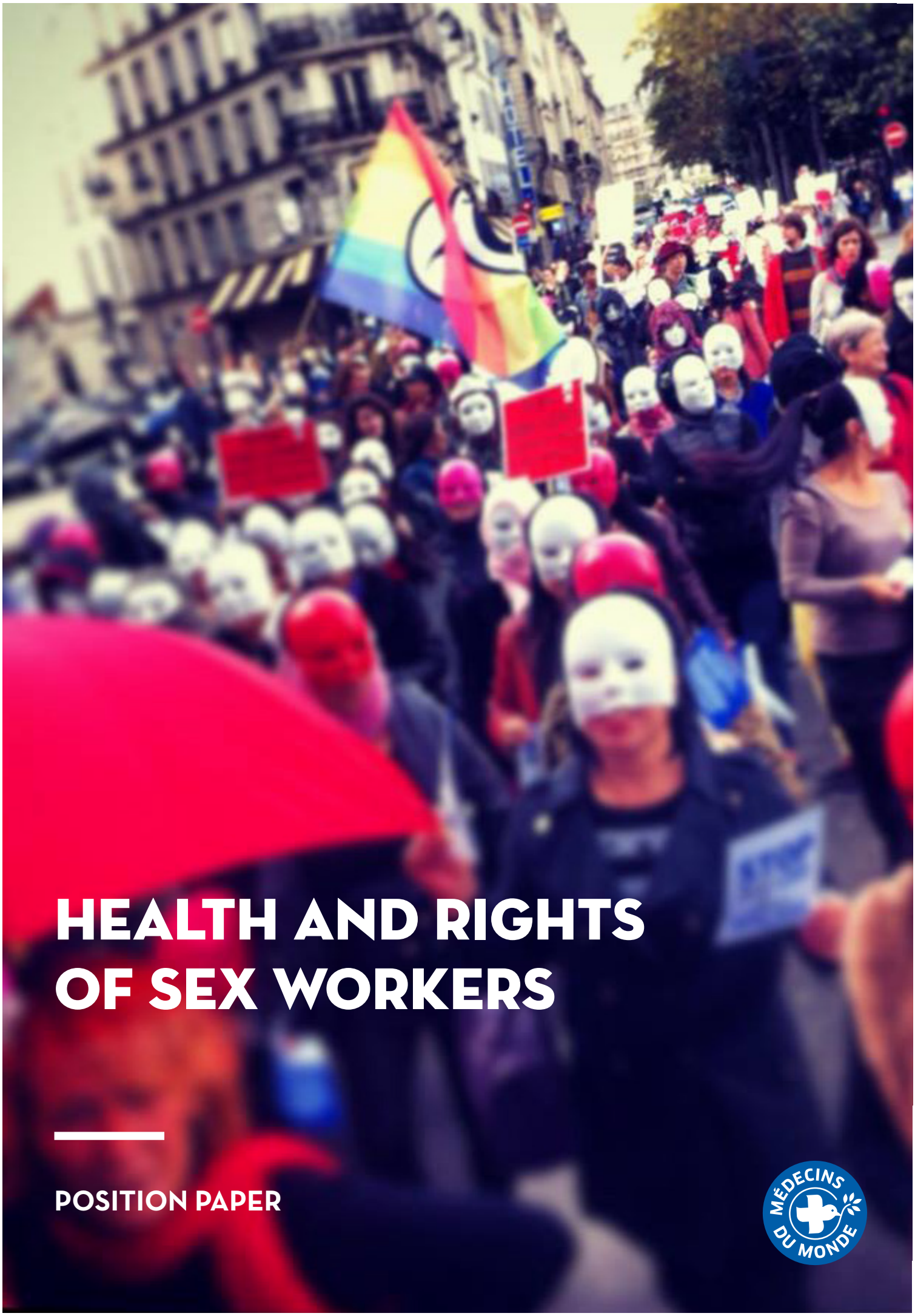

HEALTH AND RIGHTS OF SEX WORKERS

POSITION PAPER

MÉDECINS DU MONDE

INTRODUCTION

Doctors of the World – Médecins du monde France (MdM-F) has been working with sex workers since 1991. In 2016, programmes that directly or indirectly concern them exist in 9 countries: France, Russia, Mexico, Burma, Algeria, Ivory Coast, Uganda, Democratic Republic of Congo and Tanzania. Members of the MdM International Network are also developing national programmes for sex workers in Belgium, Germany, Canada, Spain, Portugal, the United Kingdom, Sweden and Switzerland.

The 2015-2020 strategic plan for MdM-F is based upon a vision focusing on promoting the health of population groups through access to health care and changes to the law. In order to design a cross-cutting political and operational framework that takes into account the diverse areas of intervention, and given the complexity of challenges related to sex work in terms of health and rights, MdM-F has aimed to clarify and formalise its position on this subject. It is based on the expertise gained from its in-the-field practice, on the scientific and institutional literature available, on contributions from sex worker organisations and experts from civil society, scientific and institutional backgrounds, as well as on consultations with sex workers taking part in MdM-F programmes.[1]

In accordance with its values, MdM strongly denounces any form of exploitation, coercion, trafficking and violence practised against human beings. Furthermore, and just as for any marginalised and repressed population group, MdM highlights as a priority the need to empower sex workers, whether under age or adults, to exercise their fundamental rights provided for by international texts on the health, rights and protection of persons.[2]

TERMINOLOGY

MdM-F has chosen to the use the terms “sex work” and “sex worker” to refer to the activity and people who practise it, regardless of the conditions in which they practise it. This terminology is used in many international institutions[3] and is the one mainly adopted by organisations led by people directly concerned. It refers to the people whose activity, chosen or forced, is defined in economic-sexual exchanges in which the financial transactions may be explicit (sexual favours in exchange for money) or implicit (sexual services in exchange for protection, accommodation, psychoactive products, help in immigration, etc.).

(1) A joint working group representing various themes of intervention met between September 2015 and September 2016. Reflections were generated and shared within the associative spaces of MdM-France (Board meetings, Law, Sex & Drugs Group, Sexual and Reproductive Health Group, geopolitical groups, etc.), leading to the development of this document. It was approved by the Board on 24th September 2016, then distributed within the organisation. See the list of contributors at the end of this document.

(2) There is a substantial legal arsenal enabling the protection of sex workers: - Universal Declaration of Human Rights, European Charter of Fundamental Rights, European Human Rights Convention, International Pact on Civil Rights and Policies, International Pact on Social, Economic and Cultural Rights, Convention on the Rights of the Child, as well as their application in many national texts.

(3) Also used, but less frequently, is the term “sex professional(s)”.

RECOMMENDATIONS

With regards to the observations and positions outlined in this Position Paper, MdM-F formulates the following recommendations:

For all actors involved

1. Fight against stigmatisation affecting sex workers and against the discrimination practised against them

2. Meaningfully involve sex workers and their organisations in the development, implementation and evaluation of health policies and all policies affecting them

For international organisations and civil society

3. Promote the decriminalisation of sex work

4. Promote and implement programmes for access to care and rights adapted to the needs of sex workers

5. Promote and implement programmes focused on a community approach, which recognise the operational skills and expertise developed by sex workers and their organisations

For States

6. Combat all forms of exploitation and violence, regardless of who the perpetrators are, and protect all adults and children, with their consent

7. Decriminalise sex work, which entails no longer considering sex work an offence (criminal or other) or a form of deviant behaviour

8. Put in place public policies promoting access to care and rights for sex workers within mainstream services, without any condition related to their activity, including for migrants

9.Promote laws on immigration and residency that guarantee foreign citizens effective access to rights and healthcare systems, an essential precondition for sex workers' health

10. Guarantee legal protection of sex workers, especially against discrimination, violence, exploitation, and ensure them an effective access to justice regardless of their status

For donors

11. Fund global health programmes, not just limited to HIV, adapted to the needs of sex workers, focused on the needs identified by the people directly affected

12. Fund health programmes implemented with a community approach, recognising the operational skills and expertise developed by sex workers and their organisations

13. Support programmes that foster autonomy, based on people's own choices, including the prospect of alternative activities to sex work

FUNDAMENTAL PRINCIPLES

1. To provide care, represent, advocate, and support communities in their desire for social change. The action of MdM-F rests on these three principles, asserted in their mission statement: to provide care, to offer populations real access to healthcare, considered beyond care, in all of its physical, mental and social components. To bear witness and advocate, relying on our in-the-field practices to share our observations and call out national and international authorities in order to obtain equitable access to care for all people, and to promote respect for human rights. To support communities in their desire for social change, as we are convinced that to achieve lasting change, populations must be empowered to become leaders of their own health.

2. To promote harm reduction. MdM promotes the principles of harm reduction, an approach based on public health and human rights. Beyond their relevance in terms of public health, programmes led for and with people have the primary objective of contributing to the development of a community response. This means that they aim to provide people with access to citizenship, to recognise their lay expertise, to empower them through their active and free participation, in order to both develop health responses and to combat marginalisation, exclusion, criminalisation and other ways in which their rights are violated. This kind of approach aims to develop actions to protect people and to improve the social and legal status of target populations involved. Harm Reduction places at the heart of its intervention ethics the premise that people involved do not want to or cannot always change their lifestyle and that no precondition should be imposed upon them exercising their civic rights or accessing health and rights.

MdM-F therefore rejects a victimising approach towards sex workers subject, i.e. the one based on the principle that all sex workers are victims and must be protected, including from themselves.

MdM-F is also opposed to considering sex workers as being by nature criminals, ill or victims, as this only results in denying the respect of their existence, their humanity and their right to be treated as fully-fledged citizens.

MdM-F proposes as a fundamental principle the promotion of people's ability to take care of themselves and to have individual and community means of acting on their health, life and environment. MdM-F consequently positions itself against all stakeholders, systems, public or private bodies that limit people's opportunities to protect themselves.

3. To guarantee unconditional access to health and rights. In a very high proportion of contexts, including emergency and crisis settings, sex workers are socially stigmatised and marginalised. Like other population groups, such as drug users, lesbian, gay, bisexual, transgender or intersex (LGBTI) people, they can find it difficult to assert their rights to access healthcare services, because of who they are or what they do. In this sense, they are more vulnerable and more exposed to health risks than others are. Sometimes, the ostracism they suffer extends as far as imprisonment, torture, and even death.

In this context and as with all people in vulnerable situations, MdM-F speaks in favour of removing laws, regulations and policies that criminalise and punish the practices and lifestyles of sex workers, promoting approaches based on public health and human rights.

OBSERVATIONS AND POSITIONING BASED ON OUR INTERVENTION AREAS

1. THE DIVERSITY OF SEX WORK SITUATIONS

Current situation

MdM-F reports on the extreme diversity of situations encompassed by sex work. While some people are involved in the profession in a consenting and assumed manner, others are coerced or exploited. In fact, between these extremes there are as many situations as there are sex workers: familial, social and financial situations marked by various life circumstances, pressures, vulnerabilities and different abilities to choose or judge. The activity of sex work itself can take many different forms in France, in Europe and worldwide. It takes place in different locations: indoors, outdoors, streets, roads, private apartments, public parks, bars, clubs, saunas, brothels, etc. There are different durations and timing: daytime, night-time, weekdays, weekends, over prolonged periods or on a very occasional basis. It is organised in different ways: independently, self-help groups, community groups, exploitation networks, migration channels, etc. The remuneration of workers is also extremely varied and can take multiple forms: monetary, protection, accommodation, transport, social and family support, psychoactive products (alcohol, drugs, medicines), food, etc. Even the way in which sex workers themselves describe their involvement in sexwork can vary dramatically. A certain number of sex workers do not recognise themselves as such, and prefer to identify themselves based on belonging to a community or family or based on other professional or individual occupations. . Many people also see their engagement in sex work as a temporary mean of generating income in order to achieve a personal project: funding studies, moving forward with their migration process, financially supporting their family while waiting to find an alternative activity, or resolving a precarious administrative status, etc.

Most of the time, sex work is identified and thought of as exclusively practised by adult women. Sex work activities also concern men, who in certain contexts are particularly vulnerable in health. Within male population subgroups, such as homosexuals or men who have sex with men (MSM), the proportion of people practising these activities is far higher than among heterosexuals. For them, resorting to sex work may be a strategy for responding to certain forms of social exclusion such as sexism, transphobia or homophobia. In many contexts, sex work is also practised by minors, some of whom are very young. They are all the more vulnerable as their ability to consent or judge situations can be limited.[4]

Position

MdM-F therefore rejects all homogenous and compartmentalising representations of sex work. Public policies relating to the protection and health of sex workers must be able to grasp the diversity of these situations and to respond in an appropriate way to the plurality of individual circumstances experienced by sex workers, while incorporating issues of sexual orientation and gender identity.

2. MULTIPLE HEALTH NEEDS

Current situation

Sex workers are one of the population groups most exposed to the risk of sexually transmitted infections (STIs), including HIV and hepatitis B. This exposure is linked to the nature of sex work but also to the violent acts to which sex workers are all too often subjected, limiting their ability to protect themselves and to enforce the use of condoms. Coercion and exploitation increase exposure to health-related problems. This exposure can also be related to the risks that may be taken during unprotected sex in their private life, in order to mark a difference between their professional and private sexual practices. In addition, the infection of many sex workers with STIs (gonorrhoea, syphilis, chlamydia, etc.) contributes to their higher risk of HIV infection. The use of psychoactive products can also be a source of health-related problems (HIV and HCV transmission, abscesses, oral sores promoting STI transmission during oral sex, the drying-out of mucous membranes). Psychoactive products may also temporarily limit their ability to manage high-risk situations and may place them at an increased risk of violence.

Other sexual and reproductive health problems (unwanted pregnancy, cervical cancer[5], lack of antenatal and postnatal monitoring) are regularly identified as priorities by sex workers themselves.

They also face psychological problems which can take various forms (Post-Traumatic Stress Disorder, PTSD), depression, addictions, etc.). These psychological problems are not automatically related to involvement in sexwork. They may actually be the result of a traumatic migration process, precarious administrative status, various violent acts, and sex workers' own personal difficulties.

(4) The specific issue of health and the rights of children in relation to sex work will be treated later in detail in a global positioning of MdM-F about the health and rights of children.

(5) STIs, violence and multiple sexual partners are factors that promote HPV infection and the occurrence of cervical cancer.

Finally, they are very exposed to multiple forms of violence, as much structural as physical or psychological, due to the environment in which they carry out their activity and the possible coercion they may be subjected to. The frequency of violence, including rape, that sex workers face, singularly increases their risk of physical illness and psychological disorders.

In fact, these different health problems can interact, add up and alter both their health and wellbeing. Likewise, the violence experienced and psychological stress generated by dangerous working conditions (isolation, difficulties enforcing the use of condoms) increase the risks of exposure to HIV/STIs and/or unwanted pregnancy. HIV-positive people are, in return, placed at risk of stigma, which can generate or worsen psychological problems and expose them to community and/or institutional violence etc.

It must be stressed that the fight against HIV/AIDS over the past few decades has been the main impulse in the promotion of health needs and human rights of sex workers. This recognition movement can have its limits, and in certain contexts has induced or maintained a stigmatising confusion between sex work and HIV transmission.

Position

MdM-F reiterates the need to not limit health issues to the HIV issue, but to consider all health issues and to work on the obstacles that sex workers encounter in accessing prevention, care and health services in general. MdM recommends a holistic approach to offering care and prevention, which should also be based on the understanding of all vulnerability factors affecting sex workers.

MdM-F fully supports the principle according to which care provision and prevention must include all needs expressed by the people directly concerned. Sex workers must be involved in the development of policies affecting them, and be at the centre of the provision of care. The goal is that they no longer be spectators of professionals' action, who sometimes act according to biased representations of their realities. MdM-F also highlights the importance of prevention strategies that are based on a community approach where medical knowledge serves the practice. Medical knowledge only has meaning if it is confronted to the reality of practices, which only the people involved know. The expertise of peer workers and sex workers is essential for building prevention and treatment strategies suited to their situations.

MdM-F highlights the importance of documenting and reporting violence perpetrated against sex workers.[6] MdM-F asserts the need to tackle the consequences of violence, while fighting against the causes and campaigning for access to justice and rights.

3.LEGAL FRAMEWORKS THAT AGGRAVATE VIOLENCE AND HEALTH-RELATED PROBLEMS

Criminalisation of sex work

Current situation

In many contexts, the legal framework in which sex work is practised has a direct impact on the physical and mental health of workers. Legal systems that criminalise sex work and repress sex workers promote a greater level of instability among them, and increase the need to hide their activity. They limit the ability of sex workers to construct their own prevention and care strategies, and their opportunity to receive suitable support. The violence they suffer can be linked to sexwork but may also be induced by repressive legal systems that legitimise police harassment and force people to hide, making it easier for third parties to potentially act violently towards them.[7] Consequently, these systems dramatically restrict their ability or willingness to seek the forces of law and order or justice.

Position

Due to the detrimental effect of laws that repress sex workers, limit their ability to act, their emancipation and contribute to their social stigmatisation, MdM-F supports being in favour of the decriminalisation of sex work and calls for an effective and sustainable application of international and national legal frameworks, allowing people who are vulnerable and exploited to be protected.

In addition, MdM-F positions itself against hygienist approaches to sex work, which can underpin certain legislation. These approaches aim to legally regulate sex work with the intent to protect the "general" population from the circulation of diseases or infections of which sex workers are identified as being potential vectors. Under the guise of better addressing the problem, they usually mask moral positions of condemnation towards sex workers and may resemble and/or lead to a form of social control. This works against the harm reduction approach adopted by MdM, which promotes people's consent and autonomy. The improved health of sex workers is an objective in itself, just as it is for all individuals and population groups. It contributes to the improved health of all sections of society.

Immigration policies

Current situation

The vast majority of sex workers in the world are migrants with very diverse paths. Some have migrated knowing that they were going to practise this activity, others have to pay for a

(6) Violence has been recognised by the WHO as a major public health problem since 1995.

(7) The perpetrators of violence may be bosses (pimps, networks), aggressive clients, the police, other workers, passers-by, etc. In repressive legal systems, healthcare personnel from the social sector and administration can also, through their stigmatising and judgemental attitude, exercise forms of psychological or even physical violence towards sex workers.

part of their migration process with sexual services, and others feel they have no choice but to practice this activity upon their arrival. Some migrants are geographically very mobile, with income optimisation strategies, while others are less mobile but alternate different types of job depending on the opportunities presented by the local job market. Among them, some are connected to "sex trade" networks. Within these networks, complex relationships exist, and the decision-making and negotiating capacity of people varies and must not be denied. Indeed, the duration of sexwork activity depends on each person's immigration strategies.

Being a foreign citizen in itself represents an increased vulnerability factor, all the more so if the person is undocumented. Migration often means cutting ties with a person's family, friends, support networks, history and even language. The reasons for departure vary, but in many cases they are related to a problem: escaping war or armed conflict, fleeing institutional and family violence, being appointed to financially support their family, trying to find a situation in which to study, etc. The trauma experienced in the country of origin is too often kept quiet. The migratory journey itself may have been difficult, or even violent. It also results in an increased risk of contracting HIV (distance from prevention and care systems, rapes, limited ability to negotiate the use of condoms, etc.) or of encountering other health problems.

To this multitude of vulnerabilities is added inadequate reception by host countries, with laws, regulations and practices that often distance migrants from health and justice systems, limiting their access to care and rights. The denial of fundamental rights for undocumented migrants is even more serious. They find themselves forced to hide away, leading to isolated practices and increased risk-taking.

In cases of violence, access to justice is far more difficult for migrant sex workers. Pressing charges is an important process, as much from a personal point of view in order to obtaining compensation as from a collective point of view in order to put an end to assaults. Individual victim support is nearly always necessary in order to file the report, and throughout the judicial process. Due to their administrative status, the migrant victims risk being expelled or failing to obtain justice and/or finding it impossible to receive compensation. This situation is an infringement of the principle of equal treatment for all in the eyes of the law. Beyond the law, there are many reported practices that hinder access to justice: threats of expulsion upon filing a report, failure to recognise rape during sex work and therefore refusal to record it, etc.

Position

MdM stresses the importance of taking into account immigration plans or paths, as well as associated vulnerabilities, in health and access to rights programmes for sex workers. It is particularly important to consider specific accumulated vulnerabilities during the migration journey, and to offer a living environment that enables resilience. Particular attention must be paid to treatment and continuity of care for chronic illnesses. Psychosocial support must also be offered to sex workers who have suffered traumatic events during their migration journey or an expulsion process. Finally, strengthening the individual ability of people to report violence and infringement of rights committed against them will reduce the situations of exploitation in which migrant sex workers find themselves.

MdM also campaigns to establish safe and legal migration routes, protected from violence, and to offer satisfactory reception and protection conditions.

MdM campaigns for migration and residency policies that guarantee effective access for foreign sex workers to health, rights, justice and information, whatever language they speak.

This document is the result of a multidisciplinary working group of Médecins du Monde-F, which met between September 2015 and September 2016. It was validated by the Board of Directors on September 24, 2016. Médecins du Monde thanks everyone who contributed to this document.

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