

Social and health impacts of laws against sex work and male-to-male sex among key populations in Papua New Guinea



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Introduction

1

International HIV guidelines call for the reform of laws criminalising practices associated with key populations. In Papua New Guinea (PNG), male-to-male sex and some forms of sex work are criminalised.

This qualitative study investigated how men with diverse sexualities, transgender women, and female sex workers understand and make sense of criminal laws on their lives and the HIV response in PNG.

Methods

2

This research is based on 63 in-depth interviews and one focus group discussion with people including: 1) female sex workers (n=30), 2) men with diverse sexualities and transgender women (n=33). Interviews were conducted in three cities: Lae (Morobe Province), Port Moresby (National Capital District), and Goroka (Eastern Highlands Province). Participants were asked about their knowledge and experiences of the law and its impact on their lives, including sexual practices, income, and health seeking practices.



The Papua New Guinea Summary Offences Act criminalises sex “against the order of nature” (anal sex) and “gross indecency” in public and in private, and attempts to initiate it (1974, § 210, 212); and “living off the earnings of prostitution” (1977, § 55).

Impact on HIV risk

3

A fear of prosecution and a corresponding lack of access to legal protections resulted in a reduced ability to negotiate HIV risk reduction (i.e. condom use). This was particularly the case for sex workers, including men, women, and transgender women. Female sex workers said that possessing condoms may be used by police as evidence of sex work, which placed them at risk of violence and arrest.



When we carry condoms around, the police officers beat us. When they check our pockets and bags and see condoms, they brutally beat us.
Perina, 42 years old, female sex worker, interview, Lae

Police violence

4

Interactions with the police were considered risky due to the potential of blackmail and violence. Two participants provided first-hand accounts of sexual and physical violence by the police, which was unreported at the time. Due to their experiences of physical and sexual violence and subsequent fears of police reprisal, some participants expressed that they were unlikely to report a crime.



It was police officers that raped me, it was police officers that punched me, hit me ... I can't waste my time bringing this matter to the police.
Yeri, age unspecified, female sex worker, focus group discussion, Port Moresby

Inaccessible protections

5

While many participants understood that they had rights, including the protections available in the PNG Constitution and human rights protections in the HIV Management and Prevention (HAMP) Act (2002), they did not have the material means to access them. Female sex workers and men with diverse sexualities emphasised the need for legal services, police training, and support from community organisations.



I have heard about HAMP Act through those pamphlets ... but the thing is we are not using the HAMP Act ... they (police, health services) are abusing our rights.
Benard, 26 years old, gay man and sex worker, interview, Lae

Conclusion

6

While there have been efforts in the past to achieve law reform in PNG, it has proven difficult. Although drawing attention to human rights and their violations is an important and necessary step, it is critical to strengthen legal literacy among affected communities to mobilise civil society and advance law reform. Understanding how key populations navigate the law in settings where male-to-male sex and sex work are criminalised, can provide a better understanding of how to support access to human rights protections within and beyond the frameworks offered by formal legal institutions.

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