

To: Panel on Security, the Legislative Council

Policies and Measures

to Strengthen the Security of Sex Workers

Position Paper of Action for REACH OUT (2008.4.25)

The personal safety of sex workers has always been the highest concern of Action for REACH OUT (AFRO). In 2007, AFRO conducted a “Survey on Occupation Safety of Female Sex Workers in Hong Kong” and 113 sex workers were interviewed. According to the research result, sex workers very often encounter problems like forceful sexual intercourse (25.7%), robbery (14.2%), threat (13.3%), violence (13.3%) or even life threat. However, 80% of the respondents chose not to call the police as they did not want to expose their sex worker identity.

Sex workers becoming the target of murder

Under the current law, it is not illegal for a sex worker to work in a “one-woman apartment”. However, these “one-woman apartments” are of no protection nor support because of the discrimination in society. The low social status of sex workers leads to murders targeting them all around the world. In Hong Kong, murders committed by “prostitute killers” occur every year. These murders and robberies reveal the dangerous working environment of “one-woman apartments”. However, because of financial difficulties, sex workers have no choice but to work despite these dangers.

Based on the aforementioned safety problems faced by sex workers, AFRO proposes two sets of suggestions concerning “law enforcement” and “legislation”.

The followings are the possible measures proposed by AFRO to strengthen the security of sex workers.

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Law enforcement

1. The Hong Kong Police Force should establish a “district contact person” in every police division in order to effectively help sex workers deal with crimes targeting them. The Hong Kong Police Force should also contact organisations concerning sex workers and transmit relevant information to them.
2. The Hong Kong Police Force should establish regular meeting dates with organisations concerning sex workers in order to enhance communication.
3. The Hong Kong Police Force should stop using “checking the license” as an excuse to harass sex workers and interrogate them for the personal information of property owners and landlords. This act severely affects the relationships of sex workers with their neighbours and also causes unnecessary nuisances to the neighbourhoods.

Legislation

1. According to the law, working in a “one-woman apartment” is not illegal. However, legal articles like “Keeping a vice establishment”, “Letting premises for use as a vice establishment” and “Living on earnings of prostitution of others” are actually prohibiting a sex worker and a property owner from reaching a rental agreement. AFRO suggests the government to abolish laws related to “permitting other persons to engage on prostitution in premises”, such as Section 143, 144 and 145 of Chapter 200 Crimes Ordinance.
2. In the long run, the Legislative Council should review the law and explore the possibility of decriminalising “one-woman apartment” in order to improve the working environment and ensure personal safety of the sex workers.
3. Sex work has to be recognised as work rather than a criminal offence. Like any other commercial behaviors, sex work should be regulated by commercial laws (such as contract law, tort law, business organisation law, etc) and sex workers should be protected by employment ordinances.

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Part 1: Law Enforcement

Police’s abuse of power upon “one-woman apartments”

AFRO has been receiving numerous complaints about police officers requesting sex workers working in one-woman apartments to reveal personal information of their landlords.

Case 1

Date: 7 April 2008

Venue: One-woman apartment (Sheung Shui)

Four men (in casual wear) knocked on the door of Miss A and claimed themselves as police officers. They asked Miss A to open the door, let them in, show them the rental documents and her ID card, and tell them the name and contact number of her landlord. Miss A was very scared so she let the four men enter the apartment. The policemen warned her, “You’d better not play any tricks.” And they kept asking her who the landlord was. Miss A answered, “I don’t know. My ‘sister’ handles this for me”. The man kept pursuing and asked, “Who is your ‘sister’? Give me her telephone number, now!” Miss A said, “I can’t give you her number.” The four men stayed in Miss A’s apartment for more than 10 minutes. Before they left, they said, “We will come back for you.”

A few days later, someone knocked on Miss A’s door when she was serving a customer. A man claimed himself to be a police officer, yelled from outside and asked Miss A’s customer to get dressed and leave immediately. The customer was very scared. He just followed the instruction and left. Miss A was a bit angry. That police officer asked her about the personal information of her landlord. She refused to answer and the police officer left after noting down her name and ID number.

Case 2

Date: March 2008

Venue: One-woman apartment (Jordan)

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A few police officers went to the apartment of Miss B, knocked on the door and disclosed their identities. Miss B answered the door, and the police officers asked her for her ID card and rental documents. Miss B was scared and dared not refuse. She therefore gave them all the documents.

Miss B was scared afterwards. Even though the information about the landlord was not shown on the documents, the name of the property agent could still be identified and she was afraid that later she would be forced to move to other places.

Conclusion

The aforementioned incidents are just a tip of the iceberg. However, these cases reveal that recently the police force has kept giving pressure to property owners/agents, forcing sex workers to move and suppressing the business of “one-woman apartments” which is not illegal. When sex workers refuse to present the documents, they will be encountering endless disturbance with the excuse of “checking license”. We consider these acts:

- Severely affect the relationships between sex workers and their neighbours, and cause unnecessary disturbance to their neighbours;
- Damage the normal rental industry, and affect the property owners and agents;
- Forces sex workers to move and go more underground, make it more difficult for them to seek help when encountering crimes such as robbery and rape.

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Part 2: Legislation

Decriminalising sex work -- a comprehensive review of laws about “sex work”

The cold-blooded act of serial murdering “one woman apartment” sex workers is happening again! Working as a sex worker in a “one-woman apartment” is not illegal in Hong Kong, and personal safety is of the utmost importance, it is indeed the basic appeal. Sad to say, under the present law, sex workers in “one-woman apartments” are operating without any tangible support. In other words, they are being “marginalised”! Therefore, Action for REACH OUT (AFRO) strongly urges the Department of Justice and Secretary for Security immediately to review the law related to “prostitution” and “vice establishment”. Our demands are as follows:

2.1 Reviewing legal articles concerning “vice establishment”

Existing laws

According to the Hong Kong Law, it is not illegal for an individual to sell or buy sexual services. Under current legal interpretation, a “vice establishment” is defined as (a) the premises, vessel or place are or is used wholly or mainly by 2 or more persons for the purposes of prostitution; or (Amended 90 of 1991 s. 2) (b) the premises, vessel or place are or is used wholly or mainly for or in connection with the organising or arranging of prostitution.” The law has pointed out that providing sexual services individually is not illegal.

Reasons for review

1. Personal safety is not protected

The current law forces sex worker to work individually in an independent apartment and hence they have to bear the risk of all sorts of safety problems (e.g. robbery, murder, violence, rape etc.) all by themselves.

2. Commercial sexual services between adults should not be criminalised

In fact, selling or purchasing sex services are offenses with no victims (prostitution as

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victimless crime). It is in fact a fair trade, in which an adult voluntarily sells sexual services for financial purposes while her/his customer derives satisfaction from the trade. It involves no harm to anybody.

3. Difficulties of self-employment

Even though a sex worker operates a “one-woman apartment” in a self-employment manner, she is still affected by numerous legal articles. She may be forced by the landlord to move out, and cannot employ a third party to work for her (e.g. a safety guard or a cleaner). All these hinder sex workers from working in a stable and risk-free environment.

Those legal articles include:

- Tenant etc. permitting premises or vessel to be used for prostitution (Section 145, Chapter 200 Crimes Ordinance) – sex workers therefore are forced by the landlords to move out.
- Living on earnings of prostitution of others (Section 137, Chapter 200 Crimes Ordinance) – sex workers therefore are not able to employ a third party to ensure their personal safety.

Suggestions

Based on the personal safety issue as well as to promote the notion of mutual help within the industry, all aiming for crime prevention, we urge the authority to immediately amend the related law, so that two sex workers can work in one apartment.

In the long term, the authority should review the related law and explore the possibility of completely decriminalizing sex work so that the working environment of sex workers can be enormously improved and their personal safety can be secured.

Overseas examples

In 2006, in Britain, there were “Suffolk Murders” – serial murders targeting sex

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workers. There were totally 5 victims, and these incidents triggered law amendments concerning sex work. These involve amending laws concerning sex work in “Criminal Justice and Immigration Bill” and redefining “common prostitute”. Congressmen proposed to amend the law and allow 2 to 3 females (e.g. including one domestic worker) to perform sex work in an apartment, which would help ensure the basic personal safety of sex workers in Britain.

2.2 Deleting “Soliciting for an immoral purpose”

Existing law

Section 147 (1): “A person who in a public place or in view of the public-
(a) solicits for any immoral purpose; or (b) loiters for the purpose of soliciting for any immoral purpose, shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months. (Amended 69 of 1990 s. 5)

Reasons for review

1. Personal sexual preferences should not be criminalised

The gist of this legal article is “immoral purpose” and “soliciting”. However, perceiving commercial sexual service as an immoral act is just the interpretation of the judiciary sector. We hold that the law should not intervene consensual sex acts between adults by making moral judgments and establishing criminal regulations. Commercial sex is only a personal sexual preference. No one should be penalized for this sexual preference and consensual sex act. There is an immediate need to stop interpreting commercial sex as “an immoral purpose”.

2. Law enforcement target sex workers

The legal article itself is supposed to target the one who “solicits” (either the sex worker or the customer), rather than the one “being solicited”. Regardless of whether or not the soliciting for a commercial sex trade (the “immoral purpose”) is successful or not, the one who solicits may be prosecuted. Unfortunately, the Hong Kong Police Force usually only target the provider of the sexual services (sex workers) but rarely arrest the customers. There are unnecessary and unfair moral judgments in this law

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enforcement process.

3. Normal business actions are suppressed

Sex work should be considered as only a business action. However, under the present legal regulations, sex workers cannot promote or adopt any marketing strategies. To a certain extent, these constraints make sex worker work on the street.

4. Street nuisance is not properly tackled

Street nuisance, which is claimed to be caused by sex workers, actually can be regulated by “Obstruction of public places” (Article 4A) of “Summary Offenses Ordinances” (Chapter 228) and Article 83 to 86D of “Public Health and Municipal Services Ordinance” (Chapter 132). The legal article “Soliciting for an immoral purpose” in fact cannot solve the abovementioned problems.

Suggestions

Therefore, AFRO proposes to delete the legal article “Soliciting for an immoral purpose”.

Part 3: Conclusion -- Decriminalising Sex Work

AFRO holds that the existing law fails to respond to the difficulties and problems faced by sex workers, and even problematise sex work itself. The existing laws criminalise all sorts of people and establishments surrounding sex workers, which reinforces discrimination towards sex workers and hinders them from working in a reasonable environment. The laws also constitute an obstacle for sex workers to deal with various issues such as personal safety, occupational exploitation, unreasonable salary, emotional problems, double discrimination and other difficulties that they have to face as single mothers etc.

According to Wilfenden’s report, sex work is a victimless crime. AFRO also believes

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that the law should not intervene in private and consensual sex acts between adults. However, the existing laws related to “prostitution” and “vice establishment” create risks for sex workers that they may easily break a law and/or have to work within a hostile environment, and therefore become “double-victims” under the unjust laws.

Decriminalisation of sex work implies decriminalisation of sex workers. Only on such occasion can they stay away from violence and possible coercion and their rights and safety be protected. Sex work has to be recognised as work rather than a criminal offence. Like any other commercial behaviors, sex work should be regulated by commercial laws (such as contract law, tort law, business organisation law, etc) and sex workers should be protected by employment ordinances.

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