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SOGI & Poverty issues

A/HRC/23/36/Add.1

Report of the Special Rapporteur on extreme poverty and human rights,
Ms. Magdalena Sepúlveda Carmona

Addendum

Mission to Namibia (1 to 8 October 2012)

IV. Groups particularly vulnerable to poverty

E. Sex workers

50. The criminalization of sex work in Namibia lies at the foundation of a climate of stigma, discrimination and violence surrounding sex work. During her visit, the Special Rapporteur heard testimonies from sex workers of recurring police abuse and high levels of violence, including the confiscation of condoms, arbitrary detention and rape. Such abuse severely compromises sex workers' personal safety as well as their right to equal protection of the law. Moreover, it creates a climate of impunity that fosters further violence and discrimination against sex workers in the community at large.

51. Stigma, discrimination and violence often discourage sex workers from accessing public services, particularly health care, thereby violating their rights as well as hampering efforts to reduce the spread of HIV/AIDS. It also discourages them from seeking justice and redress when their rights are violated. The discrimination that they suffer is also often evident in other spheres such as education and employment.

52. Particularly concerning is the lack of access by sex workers to comprehensive sexual and reproductive health services, including access to safe and legal abortion.

B. Right to health

65. Information received by the Special Rapporteur also suggests that health-care personnel often lack appropriate training, discriminate against vulnerable and disadvantaged groups such as persons living with HIV/AIDS and sex workers, and that there are no effective accountability mechanisms when they fail to respect the rights of patients, such as the right to



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informed consent and confidentiality or to address dishonest or unlawful practices such as a high level of absenteeism and requests for illegal payments.

66. The Special Rapporteur is also concerned about information received on the obstacles that particular groups such as prisoners and lesbian, gay, bisexual and transsexual (LGBT) persons encounter in accessing condoms, a situation that is hampering their enjoyment of their right to health.

Full reports available at:

(English)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/137/27/PDF/G1313727.pdf?OpenElement>

(Spanish)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/137/30/PDF/G1313730.pdf?OpenElement>

A/HRC/23/36/Add.2

**Report of the Special Rapporteur on extreme poverty and human rights,
Ms. Magdalena Sepulveda Carmona
Addendum
Mission to Mongolia (3 to 7 December 2012)**

V. The situation of groups particularly vulnerable to poverty

25. The Special Rapporteur identified groups that are particularly vulnerable to extreme poverty and that require specific initiatives to overcome the impact of economic deprivation and social exclusion.

H. LGBT Persons

60. Although the Constitution of Mongolia provides for a non-discrimination clause, prohibition on the basis of sexual orientation is not explicitly mentioned in the norm. As a result lesbian, gay, bisexual and transgender (LGBT) persons in Mongolia face numerous human rights violations ranging from rape, physical and sexual attacks, arbitrary arrests and physical and sexual assault while in detention. Due to a fear of reprisals and secondary victimization, mainly by the police, many incidents of harassment and violence are not reported.

61. Information received suggests that discrimination against LGBT persons is endemic in the public, private and non-governmental sectors and encompasses the police and the judiciary, health services, education, the housing sector and the media. Such levels of stigmatization lead to significant barriers to accessing health services, seeking employment and social acceptance. The Special Rapporteur also received reports that a high proportion of the LGBT community is living in poverty due to difficulties in finding employment, or receiving an education because of



stigmatization.

62. The Special Rapporteur urges the Government to implement the recommendations made during the 2011 UPR Review of Mongolia to develop legislation with a view to effectively protecting the rights of LGBT persons, and discourage the development of discriminatory ideologies in the country through information and human rights education and to ensure that all allegations of attacks and threats against individuals targeted because of their sexual orientation are thoroughly and impartially investigated and punished.

VIII. Conclusion and recommendations

A. Improving the poverty reduction strategy and its implementation Legal and institutional framework

(c) Revise the definition of discrimination within the Constitution in line with international human rights legislation to prohibit all forms of discrimination including on the basis of sexual orientation, gender identity and health status and develop effective mechanisms to provide access to justice and remedies in cases of violation of those rights.

B. The situation of groups particularly vulnerable to poverty LGBT Persons

(a) Develop legislation with a view to effectively protecting the rights of LGBT persons including thorough and impartial investigation of allegations of attacks against LGBT individuals.

(b) Facilitate the full participation of LGBT persons at the decision making level and implement a universal non-discrimination policy at all educational and healthcare facilities and ensure that effective accountability mechanisms are established in cases of non-compliance.

(c) Implement training for law enforcement personnel on the prevalence of gender based violence against the LGBT community.

Full reports available at:

(English)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/142/44/PDF/G1314244.pdf?OpenElement>

(Spanish)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/142/47/PDF/G1314247.pdf?OpenElement>

A/HRC/23/39

A/HRC/23/39 - Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai



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III. Ability of associations to access financial resources: a vital part of the right to freedom of association

C. Meeting international human rights norms and standards

21. The Special Rapporteur also warns that the political environment, where for instance patriarchy, sexism and authoritarian regimes are structural challenges, can also unduly undermine access to funding to civil society. **Furthermore, criminalization in certain countries of peaceful activities, such as protection of human rights, non-discrimination and equality or promotion of gender equality, can also make it difficult, if not impossible, for associations working on these issues to raise funds.**

IV. Ability to hold peaceful assemblies: an integral component of the right to freedom of peaceful assembly

A. Background

43. The ability to hold peaceful assemblies is a fundamental and integral component of the multifaceted right to freedom of peaceful assembly, which shall be enjoyed by everyone. Such ability is of utmost importance to the work of civil society actors, including those promoting the realization of economic, social and cultural rights, as it enables them to publicly voice their message, which ultimately benefits the realization of the right(s) they strive to promote and protect, especially in the context of the ongoing dire economic crisis. This is all the more relevant for groups most at risk of violations and discrimination, such as women, youth, indigenous peoples, persons with disabilities, persons belonging to minority groups, groups at risk because of their sexual orientation and gender identity and non-nationals.

Full reports available at:

(English)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/133/84/PDF/G1313384.pdf?OpenElement>

(Spanish)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/133/87/PDF/G1313387.pdf?OpenElement>

A/HRC/23/41

**Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,
Anand Grover**

Sex work



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58. States have a responsibility to respect, protect and fulfil the enjoyment of the right to health of migrant sex workers, regardless of whether they have been trafficked or not.

Migrant sex workers are a highly stigmatized population as sex or sex-related work may be criminalized in many countries. Occupational health hazards for sex workers include a disproportionate risk of HIV and other sexually transmitted diseases, violence and often rape. **Criminalization perpetuates discrimination, stigma and violence towards sex workers and is a barrier to accessing health-care services, which leads to poorer health outcomes.**

When combined with xenophobia, criminalization may legitimize harassment, intimidation and violence against migrant sex workers, especially by law enforcement authorities, without mechanism for protection or redress. The nature of the occupation is also used to justify compulsory testing for HIV and other communicable diseases. Additionally, human traffickers may take advantage of the illegality of sex work and migration and exert undue influence and control over sex workers.

59. The possibility of arrest, detention and deportation due to immigration status further discourages access to health facilities, goods and services, particularly for transgender sex workers who may face severe discrimination and abuse in their home country. **Health needs of migrant sex workers are poorly understood in many countries, resulting in policies that fail to address their needs and vitiate the right to health. For example, possession of a condom as evidence of sex work-related criminality actively deters migrant sex workers from carrying condoms, which results in risky sexual behaviour and exposure to HIV and other sexually transmitted infections.**

60. Ensuring non-discriminatory access to health care both in law and practice requires States to decriminalize consensual adult sex work, enact and implement laws extending labour rights, occupational health and safety and access to affordable health care, with particular focus on irregular migrant sex workers.

Full reports available at:

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A_HRC_23_41_ENG.pdf