

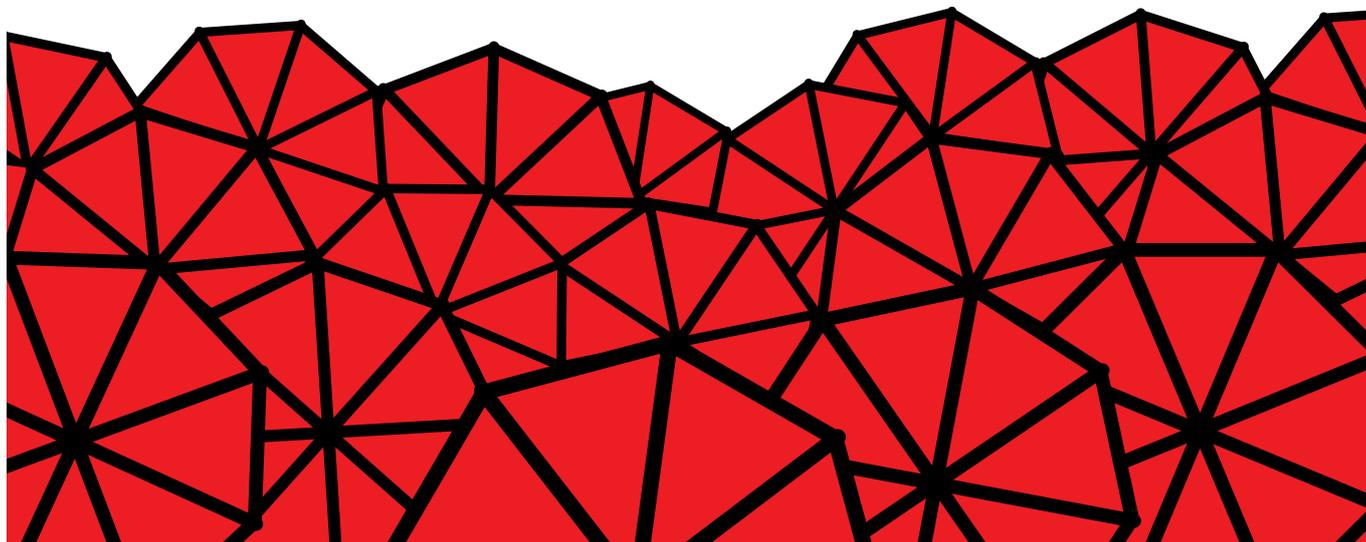


nswp

Global Network of Sex Work Projects
Promoting Health and Human Rights

**BRIEFING
PAPER**

**#01 PEPFAR and
sex work**



PEPFAR and sex work

PEPFAR and why it is important

PEPFAR stands for the President's Emergency Plan for AIDS Relief. This is the United States (US) government funding for prevention of HIV and AIDS programmes. PEPFAR focuses on specific countries¹ with severe epidemics, though funds are not limited to these nations. PEPFAR supports programmes for HIV prevention, care and treatment in over one hundred and fifty countries. The majority of this money has been spent in fifteen countries, mainly in sub-Saharan Africa. PEPFAR has made anti-retroviral treatment (ART) available for many people, including many sex workers. However, PEPFAR funding contracts with organisations addressing HIV

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and AIDS specify that a certain amount of this money be spent on abstinence programming, and include a clause that the organisation accepting the funding is opposed to prostitution. The exact phrasing is that the recipient is "opposed to prostitution and sex trafficking because of the psychological and physical risks they pose for women, men and children."² This has been called the 'anti-prostitution pledge' (APP) or 'anti-prostitution loyalty oath' (APLO). The law making the pledge mandatory was passed by Congress in 2003. The pledge is important because it affects all the programmes that a grant recipient implements. **If an organisation receives funding directly from the US government, all aspects of their work, even that which is funded by another donor, is subject to the pledge.**

A lawsuit against the pledge was filed by Alliance for Open Society International (AOSI) and Pathfinder International. InterAction and the Global Health Council later joined the suit to protect their members. In June 2011, a US appeals court ruled that the pledge violated the US Constitution. As a result, the government cannot enforce the pledge against US-based members of InterAction and Global Health Council. However, organisations outside the US, and the few US organisations not protected by the lawsuit, are still bound by the pledge.

The pledge applies only to PEPFAR funding. There is a separate pledge requirement that applies to anti-trafficking funding, but the US is spending much more money on addressing HIV and AIDS. PEPFAR affects sex workers more than other US government funding. Thus it can be seen that the importance of PEPFAR lies in the far reaching consequences of its ideology and policy.

¹ The twenty countries are Botswana, Cambodia, Cote d'Ivoire, Ethiopia, Guyana, Haiti, India, Kenya, Malawi, Mozambique, Namibia, Nigeria, Russia, Rwanda, South Africa, Tanzania, Uganda, Vietnam, Zambia, and Zimbabwe.

² <http://www.thefederalregister.com>

The roots of PEPFAR

The anti-prostitution pledge is not the only way PEPFAR has affected sex workers. PEPFAR is rooted in anti-prostitution ideology. This has led to promoting practices that are not grounded in evidence but are ideological, and are counter to an enabling environment for HIV prevention.³ Researchers found that PEPFAR has prevented deaths by increasing availability of treatment and care, but has not prevented HIV infection.⁴ One reason infections have not decreased could be that sex workers, who face disproportionate risk of HIV infection,⁵ now have less access to rights and evidence-based HIV prevention programmes.

How the pledge affects US funding of sex worker organisations and HIV programming with sex workers

Various US government agencies support projects for sex workers in many countries, but the funding comes with restrictions. For example, grantees are not allowed to talk about changing laws that criminalise prostitution. This is counter to UN recommendations in HIV prevention

for sex workers,⁶ and raises serious concerns considering the urgent need to scale up HIV prevention services for sex workers.⁷

Any organisation considering PEPFAR funding should understand the restrictions before accepting US funding. Some groups may find it better not to accept this money. In countries where sex worker leadership is effective, groups may be in a position to design stronger programmes, but the pledge will still apply. Organisations should speak frankly with a programme officer before

accepting US government funding. The Global Network of Sex Work Projects (NSWP) rejects membership applications from organisations that have signed the pledge.

The effects of the pledge on programming are varied. Some programmes have rejected funding because of the anti-prostitution clause. While a few have not been affected by their decision to do this, others have been forced to discontinue their projects. Other programmes have felt compelled to accept funding with the clause because they are dependent upon US funding.

Some governments have turned down US funding because of the pledge. For example, in 2005, Brazil rejected a forty million US dollar grant. By pointing out the important role that sex workers play in HIV prevention and questioning the pledge, this has meant that Brazil has had less funding for enabling programmes with sex workers.

In other countries, sex worker organisations have rejected US funding because of these restrictions, including small and large grants. This is a significant gesture because sex worker organisations typically have small budgets and find it difficult to secure grants. Even small amounts of money can make a big difference to some sex worker organisations.

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³ <http://www.americanprogress.org/issues/2010/01/pepfar.html>

⁴ E. Bendavid & J. Bhattacharya (2009), The President's Emergency Plan for AIDS Relief in Africa: an evaluation of outcomes, *Annals of Internal Medicine* 150, pp. 688–95.

⁵ A. Pettifor & N. Rosenberg (2011), The Need to Focus on Sex Workers in Generalized Epidemic Settings, *Sexually Transmitted Diseases* 38(4), pp. 324–5; J. Price & W. Cates (2011), Sex Workers Studies: The Science, Semantics and Politics of Targeting our HIV Prevention Response, *Sexually Transmitted Diseases* 38(5), pp. 395–7.

⁶ Ban Ki-moon, Secretary-General of the United Nations (2008), address to the International AIDS Conference, Mexico City.

⁷ Pettifor & Rosenberg, *op. cit.*; Price & Cates *op. cit.*

The effects have also varied depending upon local US government officers handling the funding. Some officers have advised grant recipients not to work with sex workers at all, while others are supportive of sex worker projects. Some use the restriction to justify not working with sex workers or even discriminating against sex workers. The pledge has left others undeterred in their efforts to continue working with sex workers.

The PEPFAR restrictions do not just exist on paper; they are implemented. Some US-funded projects have been investigated by American politicians to ascertain if their work violates the pledge. These investigations exceed normal audits, are intimidating and inhibit the organisations' abilities to do their work and fulfil their agreements. These investigations are a barrier to creating enabling environments for HIV prevention with sex workers. As one report poignantly notes, "it is not possible

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to simultaneously stigmatise people *and* help them to reduce their HIV risk."⁸ Anti-prostitution feminists and right-wing American politicians are in league over promoting such investigations of sex work projects. The effects of their coalition have damaged effective HIV prevention programmes for sex workers. These investigations have intimidated and impeded other organisations because no organisation wants to be subjected to interrogation that impedes their work.

Neither the pledge nor PEPFAR provide clear guidance about what activities are forbidden and permitted for HIV prevention with sex workers. Enforcement has therefore been erratic. In fact, guidance has been so vague that it has led to

confusion over which organisations are required to take the pledge. Many agencies that were not required to do so have been asked to sign the pledge. For example, governments and UN bodies are not required to sign the pledge, however, some were asked to sign the policy. When the pledge was first implemented, some US government funding agencies advised government and non-government agencies to stop their work with sex workers, rather than risk losing US government money. Other US government representatives cautioned against this, because sex workers would be further discriminated against and denied critical HIV prevention and health services.⁹

Due to these inconsistencies many grant recipients have censored themselves because they did not want to lose funding.¹⁰ This has happened even in places where organisations have not been cautioned to stop sex work programming. One particular international non-governmental organisation (INGO) was so frustrated by the pledge that they stopped seeking HIV/AIDS funding from the US altogether. Yet other grant recipients have stopped supporting sex worker organisations as part of their programming, and have ceased delivering HIV services to sex workers. Despite the uncertainties around the pledge some sex work programmes have retained US funding, and continue to do important work with sex workers. The lack of clarity in the pledge has enabled them to define their work the way they believe it should be done. In certain instances this has been helped by a funding officer's explicit support for the project. This flags the power of funding administrators to either support or block sex work programming.

⁸ A. Forbes (2010), Sex work, Criminalization and HIV: Lessons from Advocacy History, p. 26.

⁹ M. Ditmore & D. Allman (2011), *Sacrificing harm reduction practice to moral ideology: the example of the USAID anti-prostitution pledge*, presentation to the International Harm Reduction Association, Beirut.

¹⁰ Center for Health and Gender Equity (2008), *Policy Brief: Implications of U.S. Policy Restrictions for HIV Programmes Aimed at Commercial Sex Workers*.

The effects on programming and organising

The pledge has made it difficult to know how sex workers are affected by HIV and AIDS and which programmes are effective. This is because some organisations have been discouraged from using the term 'sex worker', adopting vague terms such as 'vulnerable women' or 'MSM' (men who have sex with men). While it is difficult to identify which

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programmes work with sex workers, it is close to impossible to evaluate HIV programming for sex workers. Considering that sex workers are disproportionately affected by HIV, it is critical to know the efficacy of programmes and strategies to prevent HIV.

Programmatic focus is another effect. Counter to the evidence about what works in HIV prevention

for sex workers, some PEPFAR-funded organisations have implemented rehabilitation programmes that promote stigmatisation of sex workers.

Interestingly, the anti-prostitution pledge has altered programming and organising that is not US government funded. One reason is that organisations may want to get money from PEPFAR, or other US government funding at a later date.

Yet another consequence of the pledge is that programmes that have been effective in HIV prevention with sex workers have not been scaled up or publicised. Since no one knows about them, these programmes cannot be replicated or adapted to other contexts.

Many organisations have suppressed information about their successes in working with sex workers because of a justified fear of investigation by anti-prostitution conservatives. Many researchers are frustrated with a lack of response to recommendations of evidence-based practices that run counter to interpretation of the pledge. This suppression of information and debate is a chilling effect.¹¹

The effects on sex workers

The effects of the pledge on sex workers have been varied. PEPFAR funds access to treatment and in some places this may be the only

way sex workers receive ART. The effects have led to a reduction in health services and closure of services dedicated to sex workers, and more stigma and discrimination in health care settings, NGOs, government settings and networks.

The stigma and discrimination has manifested in different forms. Sex workers who were sought for a research project in Cambodia described higher levels of stigmatisation after the implementation

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of the pledge.¹² The Asia Pacific Network of Sex Workers (APNSW) reported that sex workers were denied services in US government-funded clinics.¹³

¹¹ Ditmore & Allman, *op. cit.*

¹² A. Forbes & S. Mudaliar (2009), *Preventing Future Trial Failures*.

¹³ E. Siegal, *Taking the Pledge*, 2007; M. Ditmore (2006), *Structural violence against sex workers in Cambodia*, Phnom Penh: Women's Network for Unity and Womyn's Agenda for Change.

Some organisations have dropped sex work projects as partners. In Thailand and Cambodia, sex work projects reported that after partners abandoned them, they were excluded from networks they had participated in.¹⁴ Repairing the damage caused by these actions is a slow process. Trust has been eroded and some sex work projects are now distrustful about forming alliances with other organisations.¹⁵

Sex workers in Bangladesh reported the closure of clinics and drop-in centres dedicated to sex workers because they were funded by the US government. This left many homeless women without access to toilets and bathing facilities.¹⁶ A project for sex workers in Cambodia reported that a training program on condom negotiation was closed.¹⁷ This resulted partly because of lobbying by American feminists working with conservative religious politicians in the country. In June 2002, one of these feminists reportedly said in a speech to the US House Committee on International Relations that the said project promoted prostitution. She attacked the Nobel-Prize-winning organisation that sponsored it and other individuals and organisations who supported it.¹⁸

These examples are highlighted because the people involved have been able to speak out about these experiences. There are many instances just like this from other places and projects that cannot be named.

What can be done

Policy can be changed. US-based activists led by the Center for Health and Gender Equity (CHANGE) campaigned to change the pledge and almost succeeded in 2008. The current US administration has stated the need for programmes to be rights and evidence-based.

In the meantime, the anti-discrimination clause may be the best tool for sex workers to combat discrimination at US-government funded services. During the 2010 AIDS Conference in Vienna, Eric Goosby, the US Global AIDS Coordinator (OGAC)

said, “If there are examples of anybody being turned away (for being a sex worker), if someone feels that they were excluded from or dropped out of care for those reasons, we would get on that like a laser.”¹⁹ Such statements legitimate the lobby to stop discrimination against sex workers at US-funded services. Sex workers (and non-sex workers) must document incidents of discrimination to enable them to advocate for rights and evidence-based programming on HIV and AIDS. Information about HIV programmes where sex workers are made to feel unwelcome can be reported to the NSWP (secretariat@nswp.org) and to the US government representative who said that sex workers will be “embraced” at all programme sites (SGAC_Public_Affairs@state.gov). Enforcement of the pledge may have changed but this should be included in clear guidance. Not to do so is dangerous to the health and human rights of sex workers.

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¹⁴ E. Siegal, *op. cit.*

¹⁵ E. Siegal, *op. cit.*; Ditmore, *op. cit.*

¹⁶ *ibid.*

¹⁷ J. Busza (2006), Having the rug pulled from under your feet: One project's experience of the US policy reversal on sex work, *Health Policy and Planning* 21(4), pp. 329–332.

¹⁸ D. Hughes, 19 June 2002, Testimony to the US House Committee on International Relations: Foreign Government Complicity in Human Trafficking: A Review of the State Department's 2002 Trafficking in Persons Report. This speech was removed from the US Government website after the projects and individuals wrote to the government and the speaker to protest these inaccurate portrayals.

¹⁹ Straight talk with Eric Goosby, head of PEPFAR, *PlusNews*, 26 July 2010.

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