



# Policing of sex work in South Africa: The positive policing partnership approach

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## ABSTRACT

All aspects of sex work are criminalized in South Africa. Due to their marginalized position in society, sex workers are often the target of police violence and human rights violations, all of which have far-reaching implications for public health. Existing complaint mechanisms and police oversight structures rarely ensure accountability for sex worker human rights violations. In 2016, various sex work sector stakeholders and allied civil society members partnered in a collaborative project to document the operational policing challenges and record a contemporary evidence base of sex worker rights violations by law enforcement. The findings demonstrated that violation of sex worker human rights is systemic, pervasive, and entrenched. The project approach helped catalyze a move away from more traditionally adversarial approaches, with stakeholders from the South African sex work sector forming the Positive Policing Partnership (PPP) as an advocacy vehicle to drive positive, solution-focused engagement on the operational policing challenges. The PPP focuses on collaboration, innovative partnerships, and capacity building. Concurrently, the COC Netherlands Dignity, Diversity and Policing project has successfully embedded a rights-based police training curriculum in partnership with the South African Police Service (SAPS). These projects employ different strategies and frameworks to catalyze positive change and to support effective engagement between the sex work sector, law enforcement, and government. This article provides a snapshot of the formation, activities and progress of these projects to date, teamed with a summary of key strategies and learnings.

**Key Words** Prostitution; law enforcement; capacity building; operational policing; vulnerable population groups; community-based organizations (CSOs); human rights.

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## INTRODUCTION

### Scope of Sex Worker Rights Violations by Law Enforcement

South African law criminalizes all aspects of sex work (Sexual Offences Act, 1957; Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007). Public by-laws and regulations criminalizing “loitering” and “public nuisance” further expose sex workers to wide-ranging policing powers (Gould & Fick, 2008; UNDP Global Commission, 2012, 36–37). The literature describes the impact of the criminal law and its enforcement on sex worker health, safety, and human rights during interrogation, arrest, and detention. This includes unlawful arrest and detention (Fick, 2006a; Fick, 2006b; Scorgie *et al.*, 2013; Rangasami, Konstant & Manoeck, 2016; Human Rights Watch & SWEAT, 2019), corruption through taking bribes and demanding sex to avoid arrest (Fick, 2006a; Fick, 2006b; Newham & Faull, 2011; Manoeck, 2012; Human Rights Watch & SWEAT, 2019), torture (Evans & Walker,

2018), sexual assault and rape (Fick, 2006b; Gould & Fick, 2008; Scorgie *et al.*, 2013), and assault by law enforcement (Gould & Fick, 2008; Manoeck, 2012; Rangasami *et al.*, 2016; Evans & Walker, 2018). Sex workers’ fear of engagement with law enforcement officers extends to the reporting of crimes against them and others. Sex workers have reported that police officers refuse to believe them when they attempt to report crimes including rape and assault (Pauw & Brener, 2003; Fick, 2006a; Scorgie *et al.*, 2013; Evans & Walker, 2018; Human Rights Watch & SWEAT, 2019).

### Civil Society Advocacy Strategies

Over the last 20 years, civil society organizations (CSOs) working on sex worker human rights have utilized various strategies to highlight and address these human rights challenges. The Sex Worker Education and Advocacy Taskforce (SWEAT) ([www.sweat.org.za/who-we-are-2/who-we-are-2/](http://www.sweat.org.za/who-we-are-2/who-we-are-2/)) was established in 1991 to advocate for the rights of sex workers, while sex workers formed the Sisonke Sex Worker

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National Movement in 2003 (Sisonke, A Case Study of Sex Worker Movement Building in South Africa, 2016). They've worked with litigation organizations, such as the Women's Legal Centre (WLC), to bring legal challenges against the South African Police Service (SAPS) and other government departments for human rights violations. In 2009, the WLC, on behalf of SWEAT, challenged the police practice of arresting sex workers, keeping them detained without charges, and releasing them in the Cape Metropole. In the case of *SWEAT v The Minister of Safety & Security & 7 Others (2009)*, the judge instructed the police to stop their harassment of sex workers.

In 2012, a complaint of ongoing law enforcement violations was lodged with the Commission for Gender Equality (CGE), requesting systemic interventions to remedy the situation. The CGE's recommendations included that SAPS convene sex work sensitization workshops with the assistance of CSOs to train its Station Commanders on the rights of sex workers and to refrain from human rights violations; that the National Commissioner of SAPS instruct all members to immediately cease arresting, harassing or following outreach workers for carrying out their work, and to stop confiscating condoms from sex workers. While some police training has been provided by the CGE (personal communication between CGE Director of Legal Services and Dr. Marlise Richter, 18 June 2019), as at August 2018, the CGE reported the SAPS National Commissioner had failed to adequately respond to the recommendations (CGE Head of Legal Services Marissa Van Niekerk presentation at PPP Conference, 14 August 2018, Johannesburg).

Over the years, various research reports (Manoek, 2012; Rangasami *et al.*, 2016; Evans & Walker, 2018; Human Rights Watch & SWEAT, 2019), petitions, and memoranda to government departments have been lodged, but they have seldom received a response. In addition, the WLC and SWEAT formed a Human Rights Defender Project called "Every Sex Worker A Human Rights Defender," where sex worker peer educators train their colleagues about their rights and provide appropriate referrals. Civil society organizations have also conducted training workshops with police officers to provide contextual analysis and background to sex work and the rights and duties of sex workers and police. Regrettably, these strategies have had limited impact on operational policing behaviours to date.

## THE POSITIVE POLICING PARTNERSHIP (PPP)

### PPP Formation

In 2016, Sonke Gender Justice (Sonke), a CSO working in partnership with SWEAT and the Sisonke Sex Worker Movement, commissioned a research report on sex work and contemporary policing in South Africa. The report described the policing experiences of 120 sex workers (Evans & Walker, 2018). A sample of the raw data was published by Sonke in an interim consultation format (Evans, 2017), and a range of South African academics, policing and security experts, CSOs, and government agencies were interviewed to obtain multi-perspective expert input on the framing of the final report (Evans & Walker, 2018).

This strategy of proactive invitation to participate in framing the research report findings, recommendations, and remedial approaches helped establish a crucial initial tone of

solution-focused engagement, inclusion, capacity building, and multi-faceted approaches to address the documented human rights violations. Stakeholders from Sonke, SWEAT, and Sisonke met in August 2017 for a strategic planning workshop to discuss the interim report findings, consultation recommendations, and sector advocacy approach on policing issues. Three primary questions were posed:

- What is the scope of the problem of sex worker human rights violations by police?
- Are there systemic trends?
- What actions could the sector take to more effectively engage with and capacitate police and government authorities to reduce the level of policing human rights violations against sex workers?

A collective decision was made to move away from the more traditional adversarial complaint-based advocacy and to form the Positive Policing Partnership (PPP) group as a sector vehicle to drive a more collaborative, inclusive, and solution-focused model of engagement. The PPP approach focuses on active capacitation of the sex work sector, civil society, government, and law enforcement to work together more effectively on improving policing outcomes for sex workers. The approach involves three distinct strategies:

- Catalyzing improved understanding, by government and the public, of the human rights violations being experienced by sex workers through publication of evidence-based research.
- Identifying both the challenges and potential solutions, including capacitating partnerships.
- Consistent messaging and advocacy accurately targeted at senior levels of government, law enforcement, and oversight bodies where the capacity to bring about change resides.

### PPP Capacity Development

Whilst the PPP membership has expanded to include other civil society representatives from the sex work sector, health sector, civil society, and international NGOs, such as COC Netherlands and Amnesty International South Africa, the approach is still in the inception stage of addressing governance and secretariat frameworks, funding, and resourcing aspects of the model. In the meantime, it continues to develop capacity and presence in the advocacy space, including convening PPP conferences in 2018 and 2019, and targeted advocacy events focused on cooperative problem solving through multidisciplinary approaches to the challenges. The PPP recently convened a national strategic positive policing roundtable consultation event with sector, academic experts, and policing representatives in Cape Town and published the report *Positive Policing Practices and Sex Work, Proceedings of a Roundtable Discussion May 2019* (Sonke, 2019).

## Key PPP Activities

### *Ongoing Engagement with Law Enforcement, Government and Police Oversight Authorities at National and Provincial Levels*

From late 2016, Sonke and others on behalf of the PPP have strategically engaged with various sex work sector and external organizations on the research report activity, the policing of sex work, police oversight, and sex work generally, including the following:

- Strategic meetings and presentations to the South African Police Service (SAPS) on a draft National Police Standing Operating Procedure on Sex Workers
- Strategic meetings and events with the Gauteng provincial Department of Community Safety in relation to the policing of sex work, police oversight, and operational challenges at specific hot spots
- The South African Human Rights Commission and African Policing Civilian Oversight Forum annual policing dialogue events
- ISS (Institute for Security Studies) and Corruption Watch events focused on different aspects of law enforcement
- Lodging a detailed submission in response to the Civilian Secretariat for Policing Consultation on the White Paper on Safety & Security in December 2017, which consolidated various strategic recommendations to support the safety of sex workers and effective oversight of law enforcement operations in the sex work context
- Presentations to higher level executive groups including the South African Expert Panel on Policing, National Civilian Secretariat for Policing, and Independent Police Investigative Directorate
- Tshwane Multiparty Women's Caucus Roundtable Dialogue on Sex Work.

Being invited into these spaces enables engagement with stakeholders capable of championing change at both provincial and national levels.

### *Research Report Launch Event*

Sonke and SWEAT engaged with the ISS to host the March 2018 launch event for *The Policing of Sex Work in South Africa* final research report (Evans & Walker, 2018). The COC Policing Dignity & Diversity Project contributed valuable policing and government connections to secure police participation, including a senior SAPS guest speaker. This multi-partner approach supported leveraging the various CSO partners' relationships with law enforcement, policing oversight authorities, and government to attract an audience that was relevant and engaged with the topic. The event was simultaneously used to formally launch the PPP approach of solution-focused engagement.

The launch event was framed as the presentation of a portfolio of contemporary service experiences of a marginalized population group. Report recommendations were purposively left wide as a strategy prompting the start of conversation rather than being framed as a prescriptive list to be checked off. The event focused on identifying the challenges and signposting possible solutions for discussion and action. The launch format encouraged exploration of possible

solutions through guest presenters, public panel discussions, and a subsequent closed dialogue event between sex work sector, government, and law enforcement stakeholders. The South African Civilian Secretariat for Police's SaferSpaces website (<https://www.saferpaces.org.za/be-inspired/entry/positive-policing-partnership>) hosts the launch video, research reports (see, for example, Institute for Security Studies, 2018; Sonke Gender Justice, 2017; 2018), and submissions. A sample of media articles is included in the reference section.

The event was livestreamed via the Internet and attracted extensive media coverage, including newspaper, online, and television media. This generated multiple opportunities for the PPP to participate in public and government discourse on sex work issues, including criminalization, policy, law reform, and police oversight. The research report and launch also attracted international attention, including Human Rights Watch New York, which has subsequently published independent research, findings and recommendations on the policing and health experiences of South African sex workers (Human Rights Watch & SWEAT, 2019).

## Key PPP Lessons

### *Project Approach*

- By working collaboratively, the sector is able to engage and contribute more widely to strategic activities supporting sex worker human rights.
- By partnering with organizations outside the traditional sex work sector actors and enlisting more mainstream groups, the sector gains access to those who have established power and/or relationships relevant to the changes sought in behaviours, law, and policy.
- A sector vehicle like the PPP enables better coordination, sharing of resources, and strategic messaging. Advocacy products are utilized more widely across different forums.
- The PPP approach requires consistent and skilled resourcing to work effectively. Actions need to be timely and proactive, with a consistently visible sector presence, otherwise the efficacy of the group is diluted and reputational damage limits future partnerships.

### *Issue Framing*

- Reframing challenges can effectively reset relationships and help move them from adversarial to more co-operative interactions. Instead of focusing on what government is not delivering, the challenge can be to identify what the sex work sector advocates can do to inform, assist, and capacitate government and police to deliver a different form of policing that is more in line with human rights and legal mandates.
- The narrative needs to be changed from focusing on the illegality of sex work to focusing on human rights-compliant policing behaviours. By directly linking the issues to gender-based violence and human rights, advocates are able to cut through some of the stigma and cultural barriers confronting sex workers.
- Evidence-based research is a very powerful tool to engage government when it can be directly linked to government responsibilities and deliverables across policing and



more general national and provincial government service delivery domains.

- Significant first-hand quoting of witnesses in reports is a particularly effective strategy to provide vital platforms for sex worker voices and experiences. These statements clearly resonated with readers and audiences, helping to contextualize the sex workers' experiences with their co-existing roles of family and community member.
- Presentations and key messages must be provided in a format that the audience can engage with. Utilize diverse formats such as videos, sharing stories, infographics, etc.
- Information must be packaged for the particular target. Sonke (2018) produced a short documentary about sex worker and police interactions entitled *Don't Beat Me About the Bush*, which was formatted specifically for national broadcast by the South African Broadcast Corporation Special Assignment programme to reach the national audience and uploaded onto their web page, which had 359,000 subscribers at the time of broadcast.

### Relationship Building

- Particularly with very protocol-driven institutions such as law enforcement, considerable time and effort are required to build relationships with individuals and specialist units and to understand the language used in those environments.
- Advocates should engage with mid- and senior-level police, those who have an ability to make actions happen. It is important to come to meetings with strategies that address the problem across shared policing zones and boundaries.
- Request that police appoint a liaison officer. Share details of challenges and feed good news stories back to police. Acknowledge and support good behaviour at the coal face of police operations with individual stations, police commanders, and investigating officers.
- Create opportunities for two-way communication—create the space to hear feedback from police about sex worker behaviour as well as articulate challenges with policing behaviours. Educate police about sex workers, and sex workers about policing.
- Do not limit interactions only to situations of conflict. Establish a personal connection, check in regularly, demonstrate an element of concern and interest in police welfare. Acknowledging that police efforts are recognized and appreciated enables a human relationship, which helps overcome the stigma attached to sex work.

### Sector Knowledge, Skills, and Capacity

- Lack of knowledge of government processes and access points is a barrier to effective engagement. Time must be invested in studying and understanding the structures you need to engage with.
- Partnering with non-traditional sector partners enables reaching a wider audience and targeting of potential new sector champions not usually leveraged on sex work issues.
- Being present in the space and linking with the police and oversight organizations is key. By attending general

policing and security events not quite on topic, introductions and leads to other organizations in the policing and oversight space are sourced which facilitate access to the right meetings and people. This may take some time, and the route might not be that obvious at first.

- Proactively look for opportunities to engage. Unless you are proactive and in the right spaces, you are not going to meet the powerful people who can bring about the change you are seeking. Advocates need to enlist powerful allies—people who do have a voice in that discussion space and are able to champion issues or perspectives.

## THE SOUTH AFRICAN POLICE SERVICE DIGNITY, DIVERSITY, AND POLICING PROJECT—PROMOTION AND PROTECTION OF HUMAN RIGHTS, DIGNITY, AND SAFETY FOR ALL

### Key Project Strategies and Activities

Since 2015, a Dutch organization, COC Netherlands (COC), partnered with South African CSOs and SAPS to deliver a national harm-reduction intervention targeting violence and human rights violations affecting sex workers, people who use drugs (PWUD), lesbians, gays, bisexuals, trans, and intersex (LGBTI). The Dignity, Diversity, and Policing Project (DDP) implemented an innovative multi-perspective strategy to address the needs of these community groups. The DDP project was implemented through a memorandum of understanding (MOU) between COC and SAPS, but its scope provided for other CSOs, such as the PPP, to engage with SAPS through that relationship.

The project developed a sensitization manual targeting police knowledge gaps and discriminatory and stigmatizing attitudes to educate police to embrace dignity and diversity when policing the sex work, PWUD, and LGBGTI communities. The project initially trained 25 police to train the trainers, who then tested the manual out with a further 173 police and piloted the revised manual with another 60 police. The sensitization manual was successfully registered as a SAPS in-service training manual, and the partnership expanded to train 1,300 operational police officers through financial support from the Global Fund to Fight AIDS, Tuberculosis, and Malaria.

### Key Project Lessons

- Behind-the-scenes lobbying and advocating for change is critical to ensure police officers understand the dangers of their behaviours, which hinder national health outcomes.
- Quiet diplomacy proved to yield better results than confrontation and assigning blame when working with police.
- Developing an in-depth understanding of the SAPS environment, complex systems, and structure through a context and needs assessment significantly contributed to the beneficial outcomes.
- International collaboration with COC Netherlands was key to the success of the project. Formalizing of the COC and SAPS partnership through a MOU served as authorization by senior management to implement the project.

- Use of trained SAPS officers as facilitators enhanced police-to-police lobbying and advocacy for quick buy-in and understanding from learners.
- Use of independent advocates and members of key population groups as subject matter experts and facilitators provided practical experiences and expert knowledge during manual development and the rollout of training.
- Patience and persistence pays off when dealing with bureaucratic and rigid structures of law enforcement agencies.
- A top-down approach is more appropriate than bottom-up when dealing with the executive levels of law enforcement agencies on new strategic initiatives. During the rollout phase, the DDP's bottom-up approach worked well to sensitize police line managers.
- An extensive Lessons Learnt report is available at [https://international.coc.nl/wp-content/uploads/2018/12/LL-48-October-2018\\_Original.pdf](https://international.coc.nl/wp-content/uploads/2018/12/LL-48-October-2018_Original.pdf).

## CONCLUSION

The positive policing partnership strategies described above generated initial progress in creating a forward-looking interface between civil society, government, law enforcement, and the sex work sector. It is through this developing interface that opportunities for long-term change can be created. It facilitates the building of trust, meaningful conversations, information sharing, partnership strengthening, tool creation, and inclusive training, which in turn foster mutual engagement and commitment in catalyzing improved policing outcomes for sex workers. The fundamental shift in approach from adversarial to multi-perspective capacitation opens up new possibilities by allowing stakeholders the freedom to adopt different stances and consider innovative solutions based on goodwill and partnership rather than blame, shame, and forced accountability.

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## CONFLICT OF INTEREST DISCLOSURES

The authors declare that there are no conflicts of interest.

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