Human Rights and Sex Work

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Vivian A. Gray, Jr., LLB (Hons), B.Sc. (Hons)
Policy Advisor and Human Rights Consultant, Jamaica
E-mail: viviangrayjr@yahoo.com

Document Design & Layout - Jeanette Calder calderja@gmx.com
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For more information, please visit our website at www.focusright.org

Coordination
The President (2014) of the Sex Work Association of Jamaica (SWAJ) provided overall coordination. For information contact: E-mail: sexworkassociationjamaica@gmail.com
The **Sex Work Association of Jamaica** (SWAJ) was formed in 2008. The aim of the Association is to confront issues facing sex worker in Jamaica, work to build the capacity of sex workers and empower them to advocate on their own behalf.

**Core activities are in Kingston, Ocho Rios and Montego Bay.**

The publication of this manual forms part of the Caribbean Vulnerabilised Groups Project, a five-year regional project which responds to HIV and AIDS among Caribbean sex workers, men who have sex with men, socially excluded youth, and people who use drugs. The Caribbean Vulnerable Communities Coalition (CVC) and El Centro de Orientación e Investigación Integral (COIN) have come together to implement the project as sub-recipients of a Pan Caribbean Partnership against HIV and AIDS (PANCAP) Grant provided by the Global Fund to Fight AIDS, Tuberculosis and Malaria.

**Reason for the manual**

Human Rights Watch’s 2004 Report, *“Hated to Death,”* put the international spotlight on Jamaica and evidenced how police abuse and other human rights violations are fueling the HIV epidemic in sex workers, and other vulnerable groups, and impeding the government’s own HIV prevention efforts. Nine years later, HIV prevalence in sex workers is 4 percent, and for many sex workers, violence is still a more practical worry than HIV, which can often seem like an abstract risk.

As is the case in most of the English-speaking Caribbean, sex work is criminalized in Jamaica, which in turn pushes it underground and makes sex workers less likely to report violence against them. According to PANCAP/CVC-COIN studies conducted in 2011, where 70 Street and club-based Jamaican sex workers were surveyed in Kingston, 25 percent of sex workers have been a victim of violence in their club, 38 percent on the street, and 29 percent at the hands of their “trusted” partners. Nearly 30 percent have been sexually abused. Street-based sex workers surveyed say the police “make their life in the streets miserable” by demanding free sexual services, verbally abusing them and extorting money.
In meetings hosted by CVC/COIN and sex worker-led organizations across the Caribbean region, sex workers repeatedly identify human rights violations as the major problem they face. This manual aims to prepare sex worker leaders and Peer Educators, to better understand and know their human rights so they can help their peers properly articulate and demand them on the road and in decision-making spaces.

How the manual was developed
The content and topics were drafted by the author and then tested in two training sessions with Sex Workers, members of the Sex Workers Association of Jamaica (SWAJ) and members of the Jamaica Constabulary Force (JCF) in January 2014 and with Sex Work Peer Educators in March 2014 to validate language and duration of each module. The Manual also received technical review from COIN/CVC.

Profile of Trainers
Trainers using this manual should have experience of facilitating human rights trainings with vulnerable groups. Trainers’ need not be lawyers, but should have a good understanding of the law and how it can impact on vulnerable groups.
Welcome, Trainers! This manual will guide you through a one-day training of sex workers about their human rights. The manual includes: relevant laws and background, as well as activities to reinforce the training, one 60-minute lunch break, and two 15-minute breaks. The manual should provide you with everything you need to conduct the training, but feel free to tailor the training to the specific group you are working with. Have fun!

Introduction & Background

45 minutes

Part I: Introduce yourself

Explain to the participants which organization you work for. What is your role in the organization? What is your personal connection to sex work or human rights? We will spend today learning about human rights, and how they can be used to protect sex workers.

Part II: Introduce the plan for the day

Keep the plan structured so participants understand what they are going to learn.

First, we will do a segment on sex work and the reasons why human rights and international law are important for sex workers. Next, we will do a segment on human rights that are written into the Jamaican Constitution, and how the Government makes laws. Last, we will train you how to use your rights, and advocate for yourself and others in different situations:

1. When you are arrested;
2. When you are in prison; and
3. When you have to go to the doctor or hospital.
4. During the training, there will be two 15-min. breaks, and one 60-min. lunch break.

Encourage participants to use the provided notebooks and pens to take notes throughout the training, as there will be a quiz on the material later on in the training. Also inform participants to ask questions during the training if there is something that was not understood.
Part III: Training Norms and Ground Rules

Objectives:
By the end of this session, participants will have:

■ Created and agreed upon ground rules (group norms) under which the training will operate.
■ Set the foundation of trust among workshop members.
■ Built an atmosphere where everyone is valued.

After you have introduced the plan for the day, go over the Training Norms with the participants. These should include:

- Confidentiality
- Respect one another’s opinions: Allow each person time to talk and don’t interrupt
- Active participation
- Raise hand before speaking
- Speak in your most comfortable way (English or patois)
- Place pagers and cell phones on vibrate or turn them off. If you need to make a call or answer a call please do so outside of the room so you do not disrupt the training.
- Start time, break times and end time: We all have to do our best to make sure we begin and end each activity on time. To get the full benefit of all the information we have to cover, we must stay within the time frames
- Stay on the topic. We have A LOT of things to do today and we need to stay on task. That is why we have the parking lot, and there are just some things we WILL NOT be able to get to today.
- If participants would like to begin with a prayer or son, be respectful and ask if a participant would like to lead
- Value each person’s unique opinions and experiences. We all have had experiences that may be different and we all need to value each other’s experiences.

List the norms on the whiteboard or flip chart so that all can see them throughout the day.
Material Required:

- Flip chart
- Dry Erase Markers for White Board
- Permanent Markers for Flip Chart
- Handout – Ground Rules

Part IV: Ice Breaker. Let’s Get to Know Each Other!

Go around the room and have the participants introduce themselves.

- Please tell us your name
- Where are you from?
- How did you come to be involved with SWAJ?
- Tell us a fun fact about yourself.

Allow participants to have fun with this fact, the point of the ice breaker is to loosen everyone up.

Reassure participants that they do not have to answer any questions that make them uncomfortable.

Here are some examples of questions that can be asked:-

1. Raise your hand if you are a sex worker
2. Raise your hand if your family knows you are a sex worker
3. Raise your hand if your neighbour knows you are a sex worker
4. Raise your hand if you have ever been arrested
5. Raise your hand if you have ever been to court
6. Raise your hand if you are a venue-based sex worker
7. Raise your hand if you have experienced abuse from the police
8. Raise your hand if you have ever experienced abuse from a client
9. Raise your hand if you have ever reported client abuse to the police and they refused to help you
10. Have you dealt with discrimination at the health centre or at the hospital
11. Have you dealt with stigma in your community
The purpose of asking questions and having participants raise their hands is for everyone to get to know each other better. Stress the common things between the participants. Participants can see by the others who have raised their hands that they are not alone when dealing with stigma and abuse. All sex workers experience abuse in similar ways and this training is meant to address those kinds of abuses. This is a safe space and participants should feel free to speak, but they are also free to keep any information private if they choose to do so.

Part V: Introduction to Human Rights

Instructions to Facilitators:

Since this training is mostly about human rights it is important to have a good understanding of the concept of human rights. Ask participants if they have heard the term “human rights before”, what they understand by the term “human rights” and then use the information below to walk them through a brief overview (using this information as a hand-out).

What do you think it means when we say that someone has a human right? A human right is a kind of protection from certain abuses or a right to demand certain treatment. Human Rights are about protecting human dignities. Everyone has entitled to have certain basic dignities respected, simply because they are human beings. A person does not need to be rich or poor to have human rights. The only qualification is that you are a human being. Once it is a human right, everyone, regardless of their gender or their status in society, is entitled to the same right and to be treated the same way. There are no such things as “Human Rights for Sex Workers”, separate from human rights for other persons. Once it is a human right, it applies to all persons and requires that every person be treated the same way, regardless of social status, class or occupation.

What are some examples of human rights that you can think of?

Some examples of human rights are: to be free from violence; the right to vote, the right to food and shelter and the right to live without discrimination, the right to life, no unfair detention or arrest without reason, innocence until proven guilty, the right to go where we want in our own country, the right to own things, the right to think for ourselves, to think what we like, to say what we think and to share our ideas with other people.
Where do human rights come from? Every person is born with human rights. The governments of many counties in the world have come together to put these rights into words and agree to protect them, but the governments have not created them. They are fundamental – inherent – to each and every human being.

Can human rights be taken away? Human rights cannot be taken away because they belong to each person. If a government does not respect or protect human rights, this is a violation of our human rights and must be challenged so that the practice can be changed.

“A right is not what someone gives us it’s what no one can take from you” - Ramsey Clarke

More Instructions for Facilitators:

The film, ‘A Brief History of Human Rights’ can be shown after this introduction and then questions can be asked of the participants: http://www.humanrights.com/what-are-human-rights/brief-history/cyrus-cylinder.html

Some questions that can be asked after the film:-

- What do you think about this film?
- What did you learn from it?
- How do you think it is relevant to your life as a sex worker?
Instructions to Facilitators

Provide this module as a handout to participants. Use the headings to ask questions and have an interactive discussion with participants before discussing the handout. Let the participant know that it is not a test so there is no reason to fear giving a “wrong” answer. As you go through the handout, highlight where participants gave correct answers.

Reasons for this Module

It is important that as Peer Educators, you are able to speak in an objective way about sex work. The information contained in this module is already well known to you but it is important to be able to put that information in an objective way and so this Module is designed to empower you to speak objectively about sex work and some of the reasons why people engage in sex work.
What is sex work?
Sex work is the act by adult men and women, of exchanging money for some type of sexual service. Most persons may be familiar with the type of sex work that involves a man paying a woman, sometimes referred to as a prostitute or hooker, to have sex with him. This is one example of sex work, but there are many more. Names like prostitute, hooker or call girl can be offensive and derogatory. The term “sex worker” is a more accepted term that can be used to refer to someone who engages in sex work. The term sex worker will be used throughout the rest of this manual. Sex work should not be confused with transactional sex. Transactional sex occurs when some type of sexual service is exchanged for gifts, shelter or drugs.

Does sex work happen in Jamaica?
Sex work happens in every village, every town and in every city in Jamaica. In fact, sex work exists in every culture around the world and has occurred throughout history.

Who are sex workers?
A sex worker is a person who engages in sex work. Sex workers in Jamaica are traditionally female, but men also engage in sex work. Both male and female sex workers may engage in sex work with male and female clients. Sex workers can be any race, come from any cultural background and can have any sexual orientation and gender identity. Many sex workers are also migrants from other places within the Caribbean and other countries.

Why do people engage in sex work?
People become sex workers for many different reasons. Typically, economic need seems to be the biggest motivation. A significant number of persons face difficulty in finding employment or supporting their families. Many sex workers say that sex work has allowed them to survive and put food on their table for themselves and their families.

Educational levels can impact on a person’s job prospects and since sex work does not require a high level of education, nor does it require identification documents or proof of citizenship, it provides a means of survival for persons who have very low prospects of finding other forms of formal employment.
Why are sex workers more vulnerable to HIV infection?

People who engage in sex work are at increased risk for acquiring HIV through exposure to more sexual partners, higher threat of violence in sexual encounters, and sometimes because of limited access to prevention services.

While sex workers are committed to using condoms with clients, their adherence depends on cooperation by clients; this is not always something easy to achieve. Sometimes clients offer more money for sex without a condom, or threaten to go to other sex workers who will agree to sex without a condom. Clients also might pay more for riskier sexual practices, such as anal sex, without a condom. In situations like these, more immediate survival needs can sometimes take precedence over safer sex practices. For many sex workers, ensuring that they are able to provide for themselves and have money to buy a meal at the end of the night can be more important than their long-term health. An additional risk for sex workers is in their relationships with partners, boyfriends and husbands, in which they might not use condoms and have no control over their partners’ use of condoms. Sex workers are also vulnerable to violence from clients and partners, and have little access to legal recourse if they do experience violence. Since their actions are illegal they may not want to make reports to the police, out of fear of being prosecuted.

What human rights abuses do sex workers experience?

Every Jamaican is guaranteed certain rights by the Constitution. Some of these include the right to dignity, to freedom from violence and to bodily integrity. Unfortunately, for many sex workers, these rights are violated daily. Reports from sex workers show that they experience harassment from the police, arrest without just cause, verbal abuse and physical abuse. When sex workers attempt to pursue their right to justice to address these infringements of their rights, many are simply laughed at in police stations and refused any help.

Sex workers might experience a very similar situation in health care facilities where their confidentiality is broken, thereby exposing their HIV status and/or their status as a sex worker. This may contribute to further stigma. Discrimination and stigma from health care workers comes in many forms, and ranges from being very overt and blatant to
unintentional and subconscious. Many health care workers are not even aware of how their own behaviours and attitudes may be stigmatising. However, despite an individual’s personal beliefs, it is the duty of health care workers to provide good health care to all and to optimise their practices and settings in order to do so.

Instructions to Facilitators

At the end of this Module, ask the participants to discuss why persons engage in sex work and why sex workers are more vulnerable to HIV infection, to reinforce what has been discussed and to correct any misinterpretations.
Module #2
The Professional Role of Sex Workers as Peer Educators

Instructions to Facilitators

Provide this module as a handout to participants. Use the headings to ask questions and have an interactive discussion with participants before discussing the handout. Let the participant know that it is not a test so there is no reason to fear giving a “wrong” answer. As you go through the handout, highlight where participants gave correct answers.
Who is a Peer Educator?

A Peer Educator is a person who belongs to the target group. In relation to sex work-related interventions, the Peer Educator is someone who currently works as a sex worker or who has worked as a prostitute in the past.

Profile of the Peer Education in the area of Sex Work

The Peer Educator is a leader:-

- As a Peer Educator you will become a significant point of reference
- You must develop your interpersonal skills
- You must develop the ability to deal with people who think and act differently
- You must develop the ability to work as part of a team and with groups
- You must be dynamic and understanding and be able to manage

The Peer Educator also has an educational role which is based on his/her personal experience, only this experience has been reworked, reinforced and enhanced by additional facts and information, and is therefore updated and ‘upgraded’.

Being an ‘educator’ means that the Peer Educator’s goal is to set in motion an evolutionary process, for example, increasing her colleagues’ level of information. As a sex worker, the potential peer has acquired abilities and information through personal experience. However, in order to become a professional Peer Educator, that experience and information must become a conscious body of knowledge that is applied after being enhanced through the acquisition of technical information.

The Peer Educator has a great responsibility which requires a knowledge of specific issues as well as respect for oneself and one’s experiences.

The first aspect to stress is that the peer must feel motivated to assume this role. For peers who still work as sex workers, this means being able to deal with a dual role, while for those who have left Sex Work, it means being able to adjust their self-image with respect to an identical context (i.e. ‘before I was on the street as a sex worker and I related with clients, now I’m on the street as a peer and I relate with sex workers’).

Peers must also be aware of their own history and experiences as sex workers in order not to confuse themselves with the persons they counsel. That is to say, peers must
maintain a proper distance between themselves and the target in order to relate in an open and unbiased way. This is the only way for the peer to work, respecting someone who is different from them, and avoid setting into motion substitution mechanisms.

Role and functions of Peer Educator in the area of Sex Work

The Peer Educator is more knowledgeable than her colleagues about the area of intervention (Sex Work), given that she once was (or still is) part of it. The peer’s professional role is clearly defined and distinct from that of her co-workers with whom she collaborates. This role is based on:

- His/her personal experience as a sex worker which has been reworked
- The possession of specific technical information
- The possession of interpersonal skills which cut across cultures, roles, etc.

In her activities, the peer seeks to raise the awareness of sex workers regarding social/health care prevention and harm reduction, rights. His/her approach should be characterised by an attitude of understanding and support with respect to persons who do sex work.

Because the peer is able to transmit precise and up-to-date information, can manage one-on-one consultations, promote and participate in workshops and maintain open and positive relations with the target as well as professional relations with health care professionals, social workers and other professionals, he/she should be considered as a professional who operates in the prevention and harm reduction sector of the social/health care area.
Module #3
Introduction to International Human Rights

Instructions to Facilitators
Provide this module as a handout to participants. Use the headings to ask questions and have an interactive discussion with participants before discussing the handout. Let the participant know that it is not a test so there is no reason to fear giving a “wrong” answer. As you go through the handout, highlight where participants gave correct answers.
What are Human Rights?
All countries in every part of the world recognise these set of values which are based on law. They are entitlements, freedoms, and privileges which all human beings have regardless of nationality, religion, or gender. They are minimum standards and rules of procedure for the treatment of all individuals. They apply to governments, police or armed forces, NGOs, business enterprises, the private sector, religious communities and individuals that exert power over other people. By adopting international human rights treaties, nations commit themselves to respecting, protecting and fulfilling these fundamental rights of human beings.

It is important to remember that there are no “sex worker rights” which are different from rights which everyone else has. Human Rights are entitlements that apply and belong to all persons. All Jamaicans including sex workers are entitled to human rights and human dignity.

What is a Treaty?
A treaty is a document which is signed between countries by heads of government. The treaty will set out specific things that the countries agree to cooperate about. The treaty is like a contract, except that we normally think of contracts as an arrangement between two or more individuals or between two or more companies. There are specific human rights treaties dealing with the rights of women, children, people with disabilities etc. When governments have agreed with each other on which rights they want to work together to protect, they sign a treaty and then take steps to ensure that the rights set out in the treaty are given some form of legal protection (e.g. changing laws, policies and procedures and setting up oversight bodies and Commissions).

Has Jamaica signed any international human rights treaties?
YES! Jamaica has signed several important international human rights treaties and has taken steps to ensure that the rights listed in the treaties become part of the law in Jamaica. Here are a few of the international treaties that Jamaica has signed:
Z **International Covenant on Civil and Political Rights:** This treaty ensures that people in Jamaica have freedom of assembly, freedom of speech and the right to vote, among other freedoms. This treaty was signed by Jamaica on May 30, 1978 and ratified on June 21, 1979.

Z **International Covenant on Economic, Social and Cultural Rights:** This treaty ensures that people in Jamaica have the right to food, water and healthcare. This treaty was signed by Jamaica Dec 19, 1966 and ratified on Oct 3, 1975.

Z **Convention on the Elimination of All Forms of Discrimination against Women:** This Treaty ensures that women in Jamaica have the right to be treated equally, to have equal education as men, to have equal access to employment and to have equal access to reproductive health care.

**Instructions to Facilitators**

At the end of this Module, ask the participants to name 1 or 2 human rights and any of the conventions that Jamaica has signed to reinforce what has been discussed and to correct any misinterpretations.
Module #4
Human Rights that are Important for Sex Workers

Instructions to Facilitators

Provide this module as a handout to participants. Ask questions like “name three human rights which are important for sex workers” and have an interactive discussion with participants before discussing the handout. Let the participant know that it is not a test so there is no reason to fear giving a “wrong” answer. As you go through the handout, highlight where participants gave correct answers.

If you have access to a chalkboard or whiteboard or a large pad of paper, write out the name of each of the listed rights as you review them with the participants. As you discuss the rights, write down key words or important phrases that will help the participants remember the meaning of each right. Encourage participants to take notes throughout the training.
There are currently no treaties specifically devoted to sex workers, BUT when we look at all the treaties together, we see that there are many ways that the human rights of sex workers are protected. Here are 7 SPECIFIC HUMAN RIGHTS that protect sex workers. These rights exist in the treaties that Jamaica has signed, which means that the government of Jamaica must take action to uphold, promote and protect these rights. It is illegal under international law for the government or agents of the State to do anything which violate these rights.

**Right to Work**

Sex work is fundamentally a labour issue, so this right is especially important. Sex work is a form of service work that should enjoy the same protections that any other type of service work entails. By signing the international treaty dealing with economic, social and cultural rights, the Jamaican government guarantees that it would take steps to ensure that all Jamaicans, including sex workers, have the right to choose their own employment. Because sex work has been criminalized, it is all but impossible for those sex workers who have low levels of education or job-ready skills, to find and engage in employment (refer to Module 1 for the reasons people engage in sex work).

**Right to Freedom of the Person**

This covers a wide range of rights including bodily autonomy, freedom from violence, privacy, humane treatment while in detention and freedom of movement.

**Right to Bodily Autonomy**

Everyone, regardless of whether their employment is legal or illegal has the right to bodily autonomy (except in some extreme situations). This means that the Jamaican government must allow each person to do what they wish, with his/her own body, as long as he or she is not hurting others or exposing others to physical or moral harm, especially children or those persons who cannot understand the nature and consequences of their actions. For sex workers, this means that instead of criminalizing sex work, the Jamaican government should put measures in place to facilitate safe, secure sexual engagement, between consenting adults in private.
Right to security and freedom from violence
By signing the international treaties, the Jamaican government also undertook to protect Jamaican citizens from torture, cruel and inhuman punishment as well as protection from violence and bodily harm. This means that the Jamaican government cannot allow the physical abuse and mistreatment of any person (including sex workers) by police officers, clients or any other individual or group.

The Right to Freedom of Movement
Everyone lawfully within Jamaica has a right to move about and live at the place of choice within the country, regardless of employment as a sex worker.

Freedom from arbitrary detention and deprivation of liberty, the right to receive a fair trial and to be treated humanely while in detention
Everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal. All persons under arrest are entitled to be informed of the reasons for arrest and the nature of the charges against them. They are entitled to be brought as soon as is reasonably possible before a judicial officer to determine the lawfulness of their detention. Everyone in detention should be treated with humanity and with dignity. Sex workers should not be arrested or detained without being informed by the police of the reason for arrest. Sex workers should not be denied access to food, phone calls, mediation or clothing while detained. If any of these things happen there might be a violation of your rights.

Right to privacy
This right covers the right to not have your personal information, decisions and personal choices disclosed by others.

Right to recognition before the law
Everyone has the right to recognition as a person before the law, regardless of their choice of employment or whether they have committed a crime. This means that sex workers are entitled to make a complaint to the police and the police are duty-bound to investigate and follow-up on the complaint, even if the abuse took place while they were engaged in criminalized sex work. Sex workers also have a right to access and use
the courts to settle disputes or to seek judicial remedies. The Jamaica government must ensure that this right is protected by ensuring that there mechanisms to seek redress for abuses do not operate so as to exclude sex workers, even if the abuse took place while they were engaged in criminalized sex work.

**Right to Health**

Jamaica has signed treaties that guarantee each citizen the right to the highest attainable standard of health. Because sex work is criminalized, sex workers often have challenges in accessing health care services, due to stigma and discrimination from public health centres and employees at public hospitals. The criminalization of sex work prevents sex workers from accessing important HIV/AIDS prevention and treatment measures as well as reproductive health measures. Given the state of the criminal law, police officers may arrest sex workers and seize condoms in the possession of sex workers as evidence of their engagement in a prohibited act. This reduces sex workers’ ability to safely insist on condom use with clients, since they will not risk having condoms in their possession for fear that to do so can lead to arrest. This increases sex workers’ risk of contracting HIV or other STIs. Such policies and practices are in conflict with the international obligation to ensure that citizens of Jamaica (including sex workers) have access to the highest attainable standard of health.

**Right to Freedom of Assembly and association**

The treaties signed by Jamaica guarantees Jamaican citizens, including sex workers, the right to assemble peacefully and to associate. This right means that sex workers are allowed to form associations such as SWAJ and work together to request safe and fair working conditions.

**Right to Equality and Non-Discrimination**

The criminalization of sex work leads to social stigma, further fuelling discrimination. Because sex work is criminalized in Jamaica, sex workers are discriminated against when searching for housing, other forms of employment, when accessing health care or other services. The government of Jamaica has signed treaties that give all citizens, including sex workers the right to equality and non-discrimination. The government must take steps to eliminate and punish discrimination against sex workers and ensure that sex workers receive equal treatment in accessing public and some private goods and services.
Right to Freedom of Opinion and Expression
This right is important for sex workers who are activists and who are fighting for recognition of the general application of human rights to sex workers. This right guarantees to individuals the right to advocate, publish materials or participate in conferences and to disseminate information. Policies or practices that interfere with these rights, without reasonably lawful cause, are violations of both the Jamaican Constitution and international legal obligations.

The General Right to Dignity
People’s lives are affected by many different moral and legal rights and duties but only a few rights are so fundamental that they have been embodied as human rights. As such, we can say that human rights are really concerned with protecting human dignity. Human dignity is violated, for example, when people are tortured, enslaved, bought and sold like property, unlawfully imprisoned, murdered, degraded or discriminated against or otherwise treated in a way that degrades them to the status of mere objects of power wielded by others. Human dignity is also breached if people are forced to live in absolute poverty, that is, without a minimum of food, clothes and shelter and without effective access to education, work, medical care, justice and social security.
Because human dignity is at the centre, all other rights stem from it:

- **Human Dignity**
  - **Civil Rights and Liberties**: Right to Privacy, Freedom of Movement, opinion, conscience, worship, personal integrity
  - **Economic Rights**: Right to property, right to work
  - **Political Rights**: Right to vote, equal access to authorities, freedom of political parties
  - **Rights of Equality**: Equality before and under the law, protection against discrimination

The General Right to dignity affects every other human right. Whenever one of the other rights is violated, the Right to Dignity is violated as well.
Activity 4.1: Stories of Self Assertion

Go around and ask participants to tell \textit{(if they feel like it)} of one time you are someone you know stood up for human rights:

Sample Questions:

1. Who or what helped you to stand up for yourself?
2. Did you have the support or encouragement of others?
3. Did your social situation, such as being involved in SWAJ or another organization make it easier or harder for you to stand up for your rights?
4. Did your economic situation make it easier or harder for you to stand up for your rights?
5. Did your knowledge, education, or awareness enable your action?
6. What were the results of your actions?
7. Did you learn any lesson from doing this?

[ Now is a good time to take a ]

Coffee break
Activity 4.2: Quiz Show

Divide the team depending on the size of the group. Have the teams come up with fun names for your groups.

How To Play
- Flip a coin. Heads or tail will determine which team will go first
- Trainer will ask a question to Team 1
- Team 1 will have 30 seconds to come up with an answer
- If the answer is not correct, Team 2 will have 30 seconds to answer the question
- Repeat with the next question
- Reverse which team is asked the question first
- The first round of questions is worth 50 points each
- The second round of questions is worth 75 points each
- The third round is worth 100 points each, and so on.

Questions
1. Name 3 human rights from international treaties that are specifically important for sex workers.
   Answer: “The team is awarded points for naming any 3 of the 7 rights: right to work, right to freedom of assembly and association, right to equality and non-discrimination, right to health, right to freedom of the person, right to freedom of expression and opinion, the general right to dignity.”

2. Name one human right that is especially important to activists and advocacy groups like SWAJ.
   Answer: “Freedom of Expression and opinions, or Freedom of Assembly and Association”

3. Name one international treaty that Jamaica has signed.
   Answer: International Covenant on Civil and political Rights (CCCPR); or International Covenant on Economic, Social and Cultural Rights (ICESCR); or Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)
4. Which Human Rights mean that sex workers can rent premises, open bank accounts and find jobs like any other person?

Answer: The Right to non-discrimination and equality

5. Scenario: You are on the street handing out flyers with other sex workers. The flyers advocate for sex workers human rights. A police officer stops you and says “you look like a sex worker. You cannot be in a group and you cannot pass out flyers advocating for something which is illegal.” Name two rights that have been violated.

Answer (can be any two of the following): Right to freedom of opinion and expression, right to equality and non-discrimination, right to freedom of assembly and association, right to privacy.

6. Which Human Rights ensures that sex workers will be treated fairly in court?

Answer: The Right to Equal Recognition before the Law

7. Name all 7 human rights that we discussed that are specifically important for sex workers

Answer: This question will be used as the final question of the game or can be used as tie-breaker. Participants will be expected to name all 7 human rights discussion in Module 4. If they miss one right, the answer is incorrect. The correct answer is: right to work, right to freedom of the person, right to health, right to freedom of assembly and association, right to equality and non-discrimination, right to freedom of opinion and expression; general right to dignity.

The team with the highest points wins!

Note to Trainers

Try your best to make it as even as possible when asking the questions. Each question is allotted a certain number of points, so depending on the number of teams, ask each group a 50 point, 75 point or a 100 point question, so they all have an opportunity to be awarded the same number of points. Read the questions beforehand to make sure you emphasize the information well enough throughout the training so that participants are able to answer these questions.
“The Story”: After-lunch Exercise

Importance of this exercise:
The grapevine has many pitfalls. The accuracy of information changes as it is relayed from one person to another. The Participants must develop listening skills, pay attention to detail and try not to make up the script as they go along as this affects credibility when engaged in advocacy.

Instructions for Facilitator:

Invite 5 participants to volunteer to tell a story using "The Story" on the next page.

Provide a copy of the story and the grid to the remaining participants. Ask 4 of the volunteers to leave the room. Read the story to Volunteer #1 with the other participants following (from the copies provided to them).

Do not show the script to the volunteer. Tell the volunteer that you will read the story only once. When you are finished, invite volunteer #2 inside and ask Volunteer #1 to repeat the story (without the script) to Volunteer #2. As Volunteer #1 tells the story, the remaining participants must use the grid to see how accurate the story told by volunteer #1 is, against the original story. Place a tick in the box beside each key word that the story-teller gets correct and note what he/she leaves out and what they invent.

Repeat this exercise with Volunteer #2 repeating the story he/she heard to Volunteer #3 and so on, until all 5 volunteers have repeated the story they heard. After all 5 Volunteers have told their story, read the original story to the 5 volunteers and explain the importance of listening and paying attention to detail.
The Story

A farmer in St. Elizabeth decided to put a tin roof on his barn. Then a freak storm blew the roof off and when the farmer found it two Parishes away it was twisted and mangled beyond repair.

A friend who was a lawyer advised him that the General Motor Company would pay him a good price for the scrap tin and the farmer decided he would ship the roof up to the company to see how much he could get for it. He crated it up in a very big wooden box and sent it off to Montreal, Canada, marking it plainly with his return address so that the company would know where to send the cheque.

Twelve weeks passed and the farmer did not hear from G.M. Finally he was just on the verge of writing to them to find out what was the matter when he received an envelope from them. It said “we don’t know what hit your car, mister, but we’ll have it fixed by the fifteenth of next month.”
### THE STORY

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<td>1.</td>
<td>Farmer</td>
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<td>St. Elizabeth</td>
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<td>3.</td>
<td>Tin Roof on his Barn</td>
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<td>4.</td>
<td>Freak Storm</td>
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<td>Two Parishes away</td>
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<td>6.</td>
<td>Twisted &amp; Mangled</td>
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<td>Friend and lawyer</td>
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<td>GM Company</td>
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<td>9.</td>
<td>Good price</td>
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<td>10.</td>
<td>Ship the roof</td>
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<td>11.</td>
<td>How much he could get</td>
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<td>12.</td>
<td>Very big wooden box</td>
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<td>13.</td>
<td>Montreal, Canada</td>
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<td>14.</td>
<td>Return address</td>
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<td>15.</td>
<td>Send the cheque</td>
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<td>16.</td>
<td>Twelve weeks passed</td>
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<td>17.</td>
<td>Writing them</td>
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<td>18.</td>
<td>Received an envelope</td>
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<td>19.</td>
<td>What hit your car</td>
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<td>20.</td>
<td>15th of next month</td>
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Module #5
Which Laws Affect Sex Workers in Jamaica

Instructions to Facilitators
Provide this module as a handout to participants. Ask questions like “give some examples of behaviours which sex workers engage in that the law may prohibit.” Have an interactive discussion with participants before discussing the handout. Let the participant know that it is not a test so there is no reason to fear giving a “wrong” answer. As you go through the handout, highlight where participants gave correct answers.

If you have access to a chalkboard or whiteboard or a large pad of paper, write out the name of each of the laws as you review them with the participants. Encourage participants to take notes throughout the training.
It is important to know what the laws of Jamaica provide so that sex workers, peer educators and advocates can engage with the authorities about changing the provisions which are overly broad. Also, if partnerships are to be forged with the police to reduce violence against sex workers, sex workers must know the powers under which the police are acting and what the law enables them to do.

**Town and Communities Act**

This piece of legislation deals with maintaining order in public spaces in cities, towns and villages. It deals with a wide range of public order issues, such as disturbing the peace, noisy and disorderly conduct, street vending, butchering of animals and defacing buildings.

There are specific provisions in the Act which affect sex work:

**Section 3(r) - Loitering and Soliciting in a Public Place for Prostitution:** “Every person who shall loiter in any public place and solicit any person for the purpose of prostitution shall be guilty of an offence…”

**Section 7 - Disturbing the Peace, Lying or Loitering in Open Spaces:** “It shall be lawful for any constable to take into custody, without a warrant…all persons whom he shall find between the hours of nine at night and six in the morning lying or loitering in any highway, piazza, or other open place, and not giving a satisfactory account of themselves…”

**Section 9(b) - Indecent Exposure:** “Every person who shall… in any thoroughfare or public place, indecently expose his or her person…”

Other relevant prohibitions in the Act include:

**Section 20 - Prohibitions on Idle and Disorderly Persons in Public Spaces**

**Section 11 - Prohibitions on Noisy and disorderly Conduct in Public Spaces**
Sexual Offences Act

Section 23(1) - Living on the Earnings of a Prostitute: “Every person who (a) knowingly lives wholly or in part on the earnings of prostitution; or (b) in any place, whether public or private, persistently solicits or importunes for immoral purposes, commits an offence.”

Section 23(2) - Living with or being habitually in the company of a prostitute: “If it is made to appear to a Resident Magistrate or Judge... by information on oath that there is reason to suspect that any house or any part of a house is being used for the purposes of prostitution and that any person residing in or frequenting the house is living wholly or in part on the earnings of prostitution, the Resident Magistrate or Judge may issue a warrant authorizing any constable to enter and search the house and to arrest that person.”

Section 23(3) - Using a house for prostitution: “Where a person is proved to (i) live with, or (ii) to be habitually in the company of, a prostitute, or (iii) to have exercised control, direction or influence over the movements, of a prostitute in such manner as to show that the person is aiding, abetting or compelling prostitution, whether with any particular person or generally, the person shall, unless the court is satisfied to the contrary, be deemed to be knowingly living on the earnings of prostitution.”

Offences Against the Person Act

Section 68 - Suppression of Brothels: “If it is made to appear to a Justice by information on Oath that there is reason to suspect that any premises or part thereof is used as a brothel or for the purposes of habitual prostitution, the Justice may issue a warrant authorizing any constable to enter and search the premises, at any time of the day or night and with such assistance and by such force as may be necessary, and to seize any article found therein which there is reasonable ground for believing will afford evidence as to the commission of any offence of an obscene or immoral nature and to arrest any person found therein who there is reasonable cause to suspect is committing, or has committed, any offence against this Act.”
The Constabulary Force Act

Section 20 of this Act may also be utilized when dealing with sex workers. This section empowers a Constable to take measure to prevent congestion of a public thoroughfare by the giving of commands to move on, and keep moving. Sex workers, who congregate at particular public locations and on public streets, especially in busy commercial areas, in order to attract clients, need to be aware that failing to obey such commands, can result in their arrest.
Analysis 5.1: Impact of Laws Prohibiting Sex Work on Human Rights

Instructions to Facilitators

Go through each of the laws and what their supposed aim is, using these commentaries.

1. **The measures are so broad that they are at odds with fundamental concepts of justice:** If the intent is to protect public health, the total suppression does not achieve this. A person found guilty of living on the earnings of a prostitute or for soliciting, can be fined up to $500K or imprisoned. For sex workers and clients living in poverty, a fine may be tantamount to a jail sentence if they can be imprisoned for non-payment. A more realistic approach would be to de-criminalize sex work and put in place a regulatory regime so that persons who engage in sex work comply with general laws dealing with labour, occupational health and safety and human rights.

2. **Some provisions in the law violate the right to liberty and security of the person:** The provisions prevent sex workers from taking any steps to protect themselves in their work. They overlook the fact that many people choose to engage in sex work voluntarily. The decision to pursue sex work is a choice about one’s body, one’s sexuality and about whom to have sex with and on what terms.

3. **Criminalization of sex work diminishes sex workers’ access to justice in respect of violent crimes.** Sex workers are reluctant to go to the police to report crimes against themselves or other sex workers out of fear they might be arrested and incur other consequences such as losing custody of their children.

4. **The prohibition on living on the avails of prostitution violates the right to protection of family life and privacy of the home.** Sex worker’s live-in partner could be charged for living on the avails of a prostitute. The provision in effect alienates sex workers from their networks of support, and prevents them from taking measures to find alternatives to sex work and encourage safety (which, in turn, facilitates the practice of safer sex)

In more developed countries like Canada where these matters have been tested in court, the courts have held that provisions in law like those dealing with living on the avails of a prostitute and suppression of brothels are overly broad, unconstitutional and violate human rights. See for example the judgment of the Supreme Court of Canada in Canada (Attorney General) v. Bedford, 2013 SCC 72 (CanLII). Available at: [http://www.canlii.org/en/ca/scc/doc/2013/2013scc72/2013scc72.html](http://www.canlii.org/en/ca/scc/doc/2013/2013scc72/2013scc72.html)
Analysis 5.2:
How Criminalizing Sex Work Increases Vulnerability to HIV

- Repression of private sex work displaces sex workers to isolated areas, rendering them more vulnerable to violence and limiting their ability to negotiate safe sex.
- Criminalization of sex work means that the police can confiscate and destroy property, including safer sex materials such as condoms.
- HIV prevention/outreach workers are at risk of being arrested for aiding, abetting and counseling offenses and this impact on the ability of sex workers to gain access to information and prevention devices and services.
- Prohibiting sex workers from working in indoor locations like brothels affects the ways in which they are able to care for their sexual health. Working indoors provide sex workers with a safer environment and more time to negotiate safer sex, brothels as organizations can establish and enforce procedural mechanisms around condom use and safer sex practices but laws which outlaw the keeping of brothels means that there are no safe space for sex work to take place and this increases vulnerability to abuse, exploitation and violence. Sex workers in brothels with firm policies relating to condom use are in a better position to turn away clients who refuse to use condoms because they have the support of the institution and others working within it. The brothel setting also allows for more time to screen the clients for sores or other indications of STIs.
- The word “solicit” in Section 3(r) of the Town and Communities Act is overly-broad and disproportionate, in light of the presumed objectives of the section. It captures and outlaws communication necessary to negotiate, and agree upon, safer sex practices, putting sex workers at risk.
Module #6

Human Rights in the Jamaican Constitution

Although almost all countries are in agreement on a broad range of human rights and have signed international treaties, agreeing to work together to protect these rights, not all the rights that you will see in the international treaties are in the Jamaican Constitution.

When Jamaica signs an international treaty, the treaty becomes binding between the government of Jamaica and the other country that has signed the treaty. However, the citizens of Jamaica do not automatically become entitled to the benefits of the treaty. Sometimes passing a law is the only thing that the government has to do, to recognise and protect the rights set out in international treaties. Sometime other actions are required. Until Jamaica passes a local law to recognise and give effect to the treaty, the citizen of Jamaica cannot rely on the contents of the treaty.

International legal theory however, says that by signing the treaty in the first place, the country (Jamaica) has implicitly incorporated the treaty into its national law. Remember this is only a theory. The actual practice is that Jamaica does not consider itself bound by international treaties until the Jamaican Parliament passes a law to give effect to the contents of the treaty.

For example, international human rights treaties and international human rights law says it is wrong to discriminate against a person because of their sexual orientation. Although Jamaica has signed these treaties, the content of the treaty is not yet part of Jamaican law. It will only become part of Jamaican law when Jamaican passes a law to say it is an offence to discriminate against a person because of his/her sexual orientation. So, although it is in the treaty, it is not part of the Jamaican law and therefore, it may not be possible for a person to sue in the Jamaican courts for discrimination based on his/her sexual orientation.
Who should promote and uphold human rights?

The Charter of Fundamental Rights and Freedoms, Section 13(1) states:

z “the state has an obligation to promote universal respect for, and observance of, human rights and freedoms”

z “all persons in Jamaica are entitled to... the fundamental rights and freedoms to which they are entitled by virtue of their inherent dignity as persons and as citizens of a free and democratic society”

z “all persons are under a responsibility to respect and uphold the rights of others recognized in this Chapter”

The Charter of Fundamental Rights and Freedoms, Section 13(2)(b) states:

z “...Parliament shall pass no law and no organ of the State shall take any action which abrogates, abridges or infringes those rights.”

The Charter of Fundamental Rights and Freedoms, Section 13(4) states:

z “This Chapter applies to all law and binds the legislature, the executive and all public authorities.”

A Summary of the Main Rights in the Jamaican Constitution

1. The right to life, liberty and security of the person and the right not to be deprived thereof except in the execution of the sentence of a court in respect of a criminal offence of which the person has been convicted

2. The right to freedom of thought, conscience, belief and observance of political doctrines

3. The right to freedom of expression

4. The right to seek, receive, distribute or disseminate information, opinions and ideas through any media

5. The right to freedom of peaceful assembly and association;

6. The right to freedom of movement,

7. The right to equality before the law;
8. The right to equitable and humane treatment by any public authority in the exercise of any function
9. The right to freedom from discrimination (male, female, race, place of origin, social class, colour, religion, political opinions)
10. The right to protection from search of the person and property
11. The right to respect for and protection of private and family life, and privacy of the home;
12. The right to protection of privacy of other property and of communication;
13. The right of every child to such measures of protection as are required by virtue of the status of being a minor
14. The right of every child who is a citizen of Jamaica, to publicly funded tuition in a public educational institution at the pre-primary and primary levels
15. The right to enjoy a healthy and productive environment free from the threat of injury or damage from environmental abuse and degradation of the ecological heritage
16. The right to be registered as an elector for elections to the House of Representatives
17. The right of every citizen who is so registered, to vote in free and fair elections
18. The right of every citizen of Jamaica to be granted a passport
19. The right to protection from torture, or inhuman or degrading punishment or other treatment
20. The right to freedom of the person meaning the right to liberty, except in specific circumstances set out in Section 14 of the Charter of Rights
21. The right to the protection of property
22. The right to due process (See also section 16) setting out:
   - Fair hearing,
   - Presumption of innocence,
   - The right to be informed clearly of the reasons for arrest,
   - The right to adequate time and facilities for the preparation of his defence
   - Not to be compelled to testify against himself
23. The right to freedom of religion

24. Section 14(2): Any person who is arrested or detained shall have the right

- To communicate with and be visited by his spouse, partner or family
  member, religious counsellor and a medical practitioner of his choice;
- At the time of his arrest or detention or as soon as is reasonably practicable, to be informed, in a language which he understands, of the reasons for his arrest or detention;
- Where he is charged with an offence, to be informed forthwith, in a language which he understands, of the nature of the charge; and
- To communicate with and retain an attorney-at-law.

Searches by the Police

Searching Persons

- To search you, police must have reasonable suspicion that you are about to
  commit, is committing or have committed an offence. They should tell you why
  they want to search you. You have a right to ask the police officer politely, the
  reason why he/she wants to search you, if it is you were not told from the outset

- Police officers should not search you based on how you
  look or where you come from.

- A woman should be searched by a woman only, and if no female police officer is
  available, the search must be made by any woman designated for the purpose by
  a police officer. Men are usually searched by both male and female officers.

House Search

Generally, the police should have a warrant before they search your house. They
should show it to you when they come to search your house. Ask to see the warrant!

- Generally, the police should have a warrant before they
  search your house. They should show it to you when they
  come to search your house. Ask to see the warrant!
If they do not have a warrant, ask respectfully what their reasonable grounds are for wanting to enter your house as there are cases where the police can search without a warrant. For example, when it is believed that a crime has been or about to be committed or if the police are in pursuit of a suspect and that person runs into your house. This is called reasonable grounds or suspicion.

Ask the officer his name but if he fails to identify himself, note anything that can help you to identify the officer for example, his badge number, markings on the car he drove, etc.

Look carefully at the officer so that you may be able to identify him, if necessary you can relay the description at a later date.

A warrant will normally be executed by day unless otherwise stated and where good reasons were given why it must be done at night.

A warrant should be executed only within the strict specifications mentioned within the warrant.

Follow the officers during the search!

If the police want to take items from your home, they should make a note of the items being taken and leave a signed copy with you.

Request a signed list of anything that the officer takes with him/her. The right to protection from torture, or inhuman or degrading punishment or other treatment.

**Vehicular Search**

Generally, the police should have a warrant before they search your house. They should show it to you when they come to search your house. Ask to see the warrant!

If the police wish to search your vehicle they should tell you the reasonable grounds for wanting to search. They do not have a right to search as a matter of routine.

You have a right to ask the police officer courteously, the reason for wanting to search your vehicle if they do not tell you.
Detention, Arrest, Bail

**Detention**

Police officers often lock up persons without charging them. The lawful detention period without charge is 24 hours. Amendments were made to Sections 50B and 50F of the Constabulary Act as part of the ‘Anti-Crime Bills’ in 2010 which extended the detention period without charge to 72 hours for a year. This was extended for another year to July, 2012 but was not re-extended afterwards.

- You have a right to freedom from arbitrary detention.
- The police should have reasonable grounds for detaining you and they should tell you the reason for your detention.
- If you are being detained and not told the reason, you have a right to ask politely, the reason for your detention.
- When detained, you have a right to communicate with and be visited by a spouse, partner or family member, religious counsellor and a medical professional of your choice.
- You also have a right to communicate with and retain an attorney-at-law.
- If you are detained for more than 24 hours without being charged, you can get the duty counsel or lawyer to go to court for an order for the police to release you if they are not going to charge you. This is known as habeas corpus. Habeas Corpus which literally means “bring the body” is a writ or legal action through which a person can be released from unlawful detention.

NB. The detention period may be extended under State of Emergency circumstances. However under these instances, new stipulations will be made known.

**Arrest**

The police should normally have a warrant before they arrest you. They can arrest you without a warrant if:

- you have committed a felony or the police have reasonable grounds to suspect that you are about to commit a felony;
- you have committed a dangerous Breach of the Peace;
You refuse to give your name, address, licence to a uniformed police officer after you have committed a road traffic offence.

You are caught in the act of committing some minor offences.

Your Rights on Arrest

- You have the right to freedom from arbitrary arrest.
- The police should advise you of the charge against you; or if they are not charging you, they should tell you why they are arresting you.
- When you are arrested the police should advise you that you do not have to say anything.
- They should tell you that anything you say can be taken down and given in as evidence.
- When arrested, you have a right to communicate with and be visited by a spouse, partner or family member, religious counsellor and a medical professional of your choice.

Responsibilities

- NEVER Resist Arrest!
- SAY NOTHING Until Advised By A Lawyer.

Fingerprints and Photographs

- You have a right NOT to have your fingerprints or photograph taken but remember you can agree for them to be taken.
- If you are suspected of being involved in certain serious offences, a Superintendent of Police or officer of higher rank can authorize that they be taken.
- They can be taken if you are deemed incapable of consenting, eg. If you are mentally challenged.
- A court can also order that your fingerprints be taken.
Legal Aid – Duty Counsel

- When arrested and taken to the police station, the police should ask you if you have an attorney.
- If do not have an attorney, then he should refer you to a list of 'Duty Counsel.' You may choose one to represent you.
- Duty Counsel is a lawyer who has agreed to provide legal aid assistance to persons arrested & detained.
- A Duty Counsel is paid by the government - Never give Duty Counsel any money.
- Duty Counsel is usually a ‘regular lawyer’ who donates a portion of his/her time to providing legal aid assistance – he/she is not always an Attorney from the Legal Aid Department. Even if he/she is from that department, he/she is equally capable to handle your case.
- Once you have asked the police to contact Duty Counsel on your behalf, they should not question you until your lawyer arrives.
- The police should allow Duty Counsel to meet with you somewhere where they cannot hear your conversation.
- Remember everything you say to a lawyer is confidential!
- If there is to be an identification parade ensure that your lawyer is present.
- If you are charged and the case goes to court, the Duty Counsel may represent you for your first court appearance.

Right to Bail

Police

- Once you are charged you have a right to bail.
- Bail must be considered within 24 hours of you being charged.
- For most offenses bail can be granted by the police. This is known as station bail.
- If you are charged with an offense for which you cannot be imprisoned then the police SHOULD in most cases grant you bail.
Court

- If police deny you bail you can request bail before a Resident Magistrate (RM).
- If you are charged with an offence for which the police cannot grant you bail then ask to be taken to a judge as soon as possible.
- If a court denied bail at first, you can keep applying to the same court or you can apply to a judge of the Supreme Court.

To Get Bail

- One (1) passport-sized picture signed by a Justice of the Peace (J.P.)
- A valid form of identification (National ID, Drivers’ Licence, Passport)
- Two (2) letters of recommendation (JP, Sergeant of police or police of higher rank)
- Collateral
  - Motor vehicle statement
  - Land title without caveat
  - Bank statement
  - Proof of Address: (A recent utility bill)

**NOTE:** The existence of these rights does not mean that they are absolute and immovable. Any interference with the rights must be based on some law.

However, each law has a purpose and so the objective to be achieved by the law which causes the infringement or interference on the right must not be too broad, it must be proportionate and minimal and the

If this is not the case, the interference is unjustified and can result in the government or the person who interferes with the right being sued.
Legalization or Decriminalization

Impact of illegal Status:
Criminal law is generally a society’s strongest expression of disapproval of an action, but it must be reserved for the most heinous misdeeds. United Nations leaders and other experts (e.g. UNAIDS) have found that criminal laws can serve to reinforce existing, negative societal views of certain persons and behaviours and this can lead to stigma, discrimination and other breaches of a person’s human rights. For example, sex workers who are regarded as criminals often face abusive or judgmental treatment in health services and cannot enjoy the benefits of social services or of regulations that protect other workers.

There is no evidence that shows that steps to abolish sex work by imposing criminal penalties on sex workers, their managers, and people who own or run brothels has been effective or that eliminating the demand for sex work is achievable.

Options to make sex work legal
There are two options to make sex work legal: decriminalization and legalization. Some countries have already made sex work legal and they have used either legalization or decriminalization to do so. Examples include:

- Germany
- Senegal
- The Netherlands
- Switzerland
- New Zealand
- Turkey
What is the difference between legalization and decriminalization?

Decriminalization: Decriminalization of sex work would remove laws that criminalize anyone involved or engaged in sex work. Decriminalisation would promote human rights of sex workers and protect them from discrimination, abuse and violence from their clients, the community, and wayward law enforcement agent and health providers. With decriminalization, the government will treat sex workers the same way that other workers such as factory workers and vendors are treated. Example: New Zealand has decriminalized sex work since 2003 and sex workers have reported that they feel more comfortable going to the police when they are the victims of a crime. If sex workers are abused by clients, brothel owners or the police, they can safely report the crime.

Legalization: In a few places, sex work (or sex work under certain circumstances) has been made legal and brought under a regulatory regime in the way that tobacco and alcohol, for example, are controlled in many countries. Jurisdictions that choose legal and regulated sex work are likely to do so, based on public health grounds. They often use such tools as licensing and regular inspections in brothels and other sex work venues. Legalization and regulation sometimes include mandatory medical checks for sex workers in licensed brothels or entertainment venues. Example: Latvia. Under their regulations,

Regulation N. 427:-

- Anyone who wants to engage in sex work and is over 18 years old can approach a certified STI doctor and receive a Minister of Welfare approved “health card”; Local governments are given the authority to designate the areas where the sex workers can work;
- O ers of sexual services or accepting commissions for sexual services outside of these specially designated areas are forbidden;
- The provision of sexual services cannot take place in an apartment or home, unless it belongs to the prostitute or the client, or in any apartment or other space where a minor is present or where other residents object to the activity
- Sexual services cannot be o ered or advertised through the mass media—including the Internet or in the press (except for publications of an erotic nature)—nor can they be o ered or advertised through the involvement of other persons.
Sex workers are obliged to submit to a monthly medical examination. The Ministry of Welfare determines what the examinations consist of; any relevant information—such as STI status and treatment—is noted on the prostitute’s health card by a certified dermatovenerologist.

People with HIV/AIDS are forbidden to engage in prostitution.

There is no consensus on whether legalization or decriminalization is the best route.
Activity 6.1: Quiz Show Part 2

Divide the group into two teams (or more, depending on the size of the group). Teams can come up with fun names.

**HOW TO PLAY**

- Flip a coin, heads or tails to determine which team will go first
- Trainer will ask a question to team 1
- Team 1 will have 30 seconds to discuss and come up with an answer
- If the answer is not correct, team 2 will have 30 seconds to answer the question
- The first round will be worth 50 points, the second round 75 points, the third round 100 points and so on

**Questions**

1. Name two pieces of legislation in Jamaica that specifically criminalize sex work

   Answer (any two) of the following:
   
   i. Sexual Offences Act
   
   ii. Offences Against the Person Act

2. Name two pieces of legislation that does not exactly criminalize sex work, but are more concerned with public order:

   Answer
   
   i. Town and Communities Act
   
   ii. Jamaica Constabulary Force Act

3. Name 3 human rights that are listed in the Jamaican Constitution

   Refer to Section 6.2 of this Manual. The rights include:
   
   i. The right to freedom of peaceful assembly and association;
   
   ii. The right to freedom of movement,
   
   iii. The right to equality before the law;
Note to Trainers: have the team pick 1 participant to stand up and advocate for decriminalization over legalization or vice versa. Have a conversation with the participant so they become comfortable advocating for either decriminalization or legalization.

The Team with the highest point wins!

Note to Trainers

Try your best to make it as even as possible when asking the questions. Each question is allotted a certain number of points, so depending on the number of teams, ask each group a 50 point, 75 point or a 100 point question, so they all have an opportunity to be awarded the same number of points. Read the questions beforehand to make sure you emphasize the information well enough throughout the training so that participants are able to answer these questions.
Module #7
Access to Justice and Human Rights

“Justice” in Jamaica means a lot of things. More often, “We want Justice” means we want to be heard, we want a breach of procedure corrected but not necessarily that we want a court hearing. Most often, Jamaicans cry for “we want justice” when they are concerned about the manner in which some thing was done.

Some of the barriers faced by sex workers when seeking justice:

- Physical violence, sexual assault and harassment
- Arrest and detention
- Inhumane conditions of detention
- Profiling, exploitation, extortion and bribery
- Violations of due process
- Possession of safe sex devices (e.g. condoms) are used to institute or as incriminating evidence in prosecutions
Activity 7.1: Role Play of Violations

HOW TO PLAY

Pair participants into several groups of two, and have them practice violations of various kinds: one play the role of a violator and one plays the role of the victim.

Violations can include:

- Denial of services
- Breach of confidentiality in a health-care setting
- Illegal searches by the Police
- Illegal detention by the police
- Demanding of sexual services by the Police

Observe the participants as they take turn playing the victim and the violator respectively. Each participant must take a turn in playing either the role of victim or violator.

At the end of 5 Minutes Ask for two volunteers to come to the front of the room. One volunteer will play the role of the healthcare provider and one will play the role of a sex worker.

Ask volunteers to act out the following scenarios. The scripts are to be used as the dialogue between the two volunteers. These scripts are just a suggestion, so you should feel free to improvise.

Allow the participants to develop realistic scenarios.
Scenario 1: Profiling

Sex worker is standing on the street.

Police Officer walks up to the Sex Worker and starts asking questions.

Police Officer: "What are you doing here? What is this outfit you are wearing? You look like a hooker. Open your bag. I bet you have condoms in there."

Stop! This is a violation of Human Rights

Right to privacy - the police (or anyone else) are not allowed to interfere or search your possessions without justifiable cause.

Right to freedom of expression - people are allowed to dress however they want and to express themselves however they want (so long as they do not end public decency).

Right to privacy - the police (or anyone else) are not allowed to interfere or search your possessions without justifiable cause.

What would you advise your sex work colleague to do?

Safety first! If the sex worker feels it is safe to speak up to the police officer, he or she should tell the police that it is against his or her rights for the officer to do the search. If the sex worker feels unsafe, he or she should use his/her best judgment on what steps to take. DO NOT confront or insult the officer. In time the matter will be resolved (e.g. Lawsuit).

Refer to Section 6.2, 6.3 and 6.4 of this Manual to see what the constitution says about privacy and liberty of the person.
Scenario 2: Unlawful Search

Police Officer grabs the sex workers bag and finds condoms inside.

Police Officer: “All right, you are under arrest. Unless you want to provide me with some... then I will let you go. Otherwise you are going to jail”.

Sex worker: “NO. I WILL NOT PROVIDE YOU WITH SEXUAL FAVOURS IN EXCHANGE FOR MY FREEDOM”.

Police Officer grabs sex worker and drag him or her away.

Stop! This is a violation of Human Rights

The Sexual Offences Act of Jamaica: it is illegal for a person in authority to take advantage of that position to commit a sexual offence.

Right to freedom from arbitrary arrest, deprivation of liberty: no one should be arrested if they have not committed an offence.

Right to freedom and security of the person: no one should be treated roughly by the police or in a cruel or degrading way.

Right to bodily autonomy: every person’s body belongs to him or her. No one should be forced or coerced into performing sexual favours.

What would you advise your sex worker colleague to do?

Safety first! The sex worker should use his/her best judgment about what steps to take. If possible, the sex worker should demand to be told the reason for his/her arrest.

Remember that Section 14(2) of the Jamaican Charter of Rights says that every time a person is arrested there should be a legal reason. You have a right to know and be informed of that reason.

Refer to Section 6.2, 6.3 and 6.4 of this Manual.
Scenario 3: Inhumane Treatment, While Detained

Police officer drags sex worker away. Pretend to throw him/her into a car.
Pretend to drive around with the sex worker
Pretend that many hours pass
Pretend that Police officer finally gets to the police station and puts the sex worker in a cell with prisoners.

**Police officer:** “you are staying in jail until I feel like letting you out. Now give me your cell phone and all your money. You won’t get these back until you are released”

Pretend that several hours pass

Sex worker: “can I have some water? I am thirsty. And I need my ARVs, when will I be released? Can I call someone to make sure my child is OK? Can I call someone to assist me in getting released?”

**Police officer:** “No! Be quiet.”

Stop! This is a violation of Human Rights

**Right to humane treatment while in detention.**

**Right to freedom of movement:** the police officer cannot drive around with you in their car for long periods. You should be taken to the police station within a reasonable time

You have the right to speak with an attorney or advocate

You have the right to be brought before a court of a JP as soon as is reasonably possible (if a Friday, this may be as long as the end of the next court day, Monday)

**What would you advise the sex worker to do?**

Speak with the police officer and say that his/her rights are being violated and that you have a right to these things. Do not confront or insult the police (there is always a lawsuit that can be filed later or a complaint can be lodged with the high command or the Police Commissioner, or the public defender). As soon as you have access to a phone call SWAJ or someone that can see to your release.
**Module #8**

Access to Healthcare & Human Rights

**Sex workers** have limited access to healthcare services for many reasons. The most common reason is because they are fearful that if they seek healthcare services, their occupation may be disclosed or they may see someone from their communities at the health care facility. They also fear discrimination or arrest.

Some of the barriers sex workers face, when seeking healthcare services include:

- Abusive comments or judgmental attitudes from health care sta
- Mandatory HIV testing
- Violation of privacy and confidentiality which may lead to increased risk of violence
Activity 8.1: Role Play of Violations

HOW TO PLAY
Pair participants into several groups of two, and have them practice violations of various kinds: one play the role of a violator and one plays the role of the victim. Observe the participants as they take turn playing the victim and the violator respectively. Each participant must take a turn in playing either the role of victim or violator.

At the end of 5 Minutes Ask for two volunteers to come to the front of the room.

One volunteer will play the role of the healthcare provider and one will play the role of a sex worker.

Ask volunteers to act out the following scenarios. The scripts are to be used as the dialogue between the two volunteers. These scripts are just a suggestion, so you should feel free to improvise. Allow the participants to develop realistic scenarios.

Instruct the participants to yell “Stop” when they see that a human right is being violated. Ask the participants “Which right is being violated? What would you tell the sex worker to do here?”

Remember, if anything like these scenarios happen to you or a sex worker that you know, report it to SWAJ.
Scenario 4: Facing Stigma

Healthcare Provider is seated at the reception desk.
Sex Worker walks up to the health desk

**Sex Worker:** “Hello, I am here for HIV testing. Can I be tested today?”

**Healthcare Provider:** “Oh, I know you. You have a reputation around town. We don’t treat hookers here.”

**Sex Worker:** “I would still like to be tested”

**Healthcare Provider:** “All right, give me your name, then sit down and I’ll call you when we are ready.”

**Sex Worker:** [give name]

**Healthcare provider:** “[shouting so all can hear:] [name of sex worker], come here so we can treat you for HIV!”

All the people in the waiting room now believe the sex worker is HIV positive.

Stop! This is a violation of Human Rights

**Right to humane treatment by public authorities.**

**Right to Health:** Sex workers have the right to confidential healthcare. Although the right to health is not in the Jamaican constitution, sex workers have a right to be treated with dignity.

**Right to privacy:** Sex workers have a right to privacy and confidentiality like all other patients. Their name and status should not be made public.

**Right to equality and non-discrimination:** Sex workers should not be denied access to health care just because they are sex workers. Sex workers are Jamaicans and are entitled to the same treatment as all other Jamaican citizen.

**What would you advise the sex worker to do?**

The sex worker should tell the healthcare provider that sex workers have a right to be treated or tested at the facility and that sex workers have a right to confidentiality as do all patients. Report the incident to SWAJ.
Conclusion

Instructions to Facilitator:

Z Make sure the participants are clear on the elements of human rights covered in the training.

Z Ask participants to give a brief overview of the issues discussed and what they learnt, being careful not to put any individual on the spot or have anyone feel uncomfortable.

Z Ask participants what they learned about human rights in general.

Z Ask participants what they learned about the laws of Jamaica and the Human Rights in Jamaica’s Constitution.

Z Ask participants what they learned about when they are dealing with the police (such as when they are arrested).

Z Summarize the training provided and emerging issues, actions and ideas. Z Distribute any additional material.

Z Thank the participants, the organizers, sponsors and hosts of the event.

Z Invite the organizers to make closing remarks and attend to “housekeeping” issues.

Z Encourage participants to feel empowered and to carry the torch forward, to put what they have learnt to work in their interaction with others and to spread the knowledge they have gained among their colleagues, friends and family.

Z If participants would like, feel free to end with a prayer or song or dance.
Bibliography


Corinne Goldenberg, Sarah Gunther, Anne Lieberman, Jesse Wrenn and Gitta Zomorodi, Sex Workers Rights, American Jewish World Service (AJWS) (2013)


Open Society Foundations, Laws and Policies Aecting Sex Work
