

Community Guide

The Impact of Stigma and Discrimination on Key Populations and Their Families



Introduction

The right to start and raise a family is a fundamental human right.

Many key population members (gay men and other men who have sex with men, people who use drugs, sex workers, and transgender people) become or wish to become parents during their life.

Stigma, criminalisation and other discriminatory laws are barriers to key populations' rights to parent and to the rights of their children.

Global key population-led networks (INPUD, MPact and NSWP) produced this brief to bring attention to the lived experiences of key populations and their families, and to highlight the ways that stigma and discrimination inform these experiences.

International Human Rights Frameworks

Because of stigma and discrimination, the human rights of key populations and their families are often ignored or violated. International human rights frameworks uphold rights that are specifically related to the families of key population members:

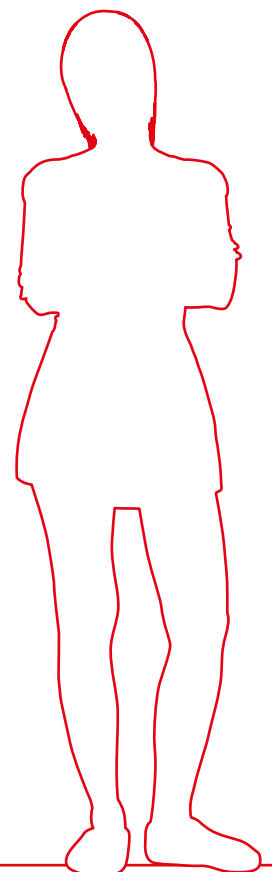
- **The Right to Non-Discrimination:** Key populations' families have the same rights as everyone else.
- **The Right to Sexual and Reproductive Health:** Key population members have a right to sexual and reproductive health. They also have a right to make reproductive choices without discrimination, coercion or violence.

- **The Right to Family and Private Life:** Key population members have the right to marry and start a family, the right to social benefits and assistance to care for and educate their children, and the right to non-discrimination in child custody and divorce proceedings. Unnecessary interference in family life is a human rights violation. New guidelines have specifically recognised LGBT individuals' right to parent, including the right to form families and adopt children.
- **The Rights of Children:** The children of key populations (including the children of migrant workers) have many rights, including the right to health, education, name and nationality, housing, and non-discrimination, and the right to enjoy the protection of their parents.

Stigma, criminalisation and other discriminatory laws are barriers to key populations' rights to parent and to the rights of their children.

Health Guidelines and Implementation Tools

A series of tools for implementing rights-based HIV programmes with key populations was developed by UN Agencies and community organisations. They contain guidelines relevant to key population members' right to have and raise children. These implementation tools are: the SWIT (sex workers), IDUIT (people who inject drugs), TRANSIT (transgender people), and MSMIT (men who have sex with men).



Social and Legal Frameworks

Medical Frameworks

Because of stigma and discrimination, key population members' identities and behaviours are pathologised (classified as mentally or socially unhealthy or abnormal) by medical frameworks. This pathologisation increases stigma and discrimination. It is often used to justify violation of key population members' rights to have and raise children.

Legal Frameworks

Sex work, drug use, consensual same-sex relationships, gender non-conformity, and HIV exposure, non-disclosure, and transmission are criminalised in some or most countries. Key populations are also impacted by state control (e.g. registration, compulsory HIV and STI testing and treatment). Criminalisation and state control increase the vulnerability of key populations to violence, police harassment, and interference in their family affairs. They also reduce access to essential services and support.

Mainstream Social Frameworks

Society does not conceptualise key population members as fit parents. Some key population members become parents as a response to pressure to conceal or repress their sexual or gender identity, drug use, or sex work. As key population members, parents experience stigma and discrimination.

Community Social Frameworks

Fellow key population members are an important source of emotional and practical support for families. However, fellow key population members can also stigmatise parents. For example, having and raising children may be viewed as conflicting with queer or LGBT identities.

The Right to Have Children

Adoption Restrictions

Gay men, as well as transgender people, often face legal restrictions regarding adoption and fostering. Prior involvement with the criminal justice system is also a barrier to adoption.

Compulsory Sterilisation of Transgender People

In many countries, transgender individuals must have sterilisation surgery to legally change gender.

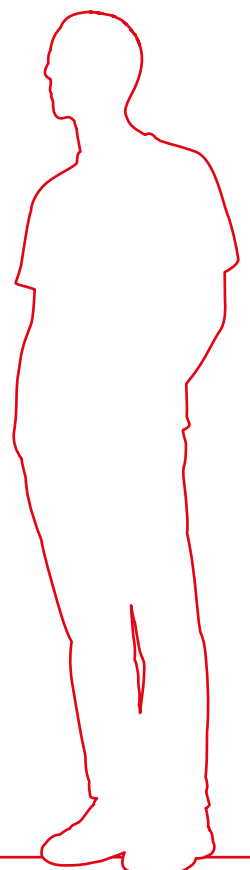
Sexual and Reproductive Health Services

Sexual and reproductive health services for key populations are rarely comprehensive. Lack of access to essential services (e.g. pre-natal and post-natal services, including fertility support for HIV+ individuals, and opiate substitution therapy) can prevent key population members from conceiving or giving birth to healthy children.

New reproductive technologies, like fertility preservation methods or surrogacy, are rarely accessible.

In addition to a lack of services, high levels of stigma and discrimination from healthcare providers can cause key population members to avoid vital health services.

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The Right to Raise Children

Child Support and Benefits

Key population members often experience difficulty accessing the child support or state benefits necessary to support their children. Obstacles to obtaining legal custody of children in their care create barriers to accessing both child support and state benefits. For sex workers, the stereotype that female sex workers cannot definitively know the identity of their child's father is a further barrier. Criminal records and migration status can leave key population members ineligible for public benefits.

Social Workers and Child Welfare Systems

Social workers frequently share mainstream prejudices about key populations. Social workers often have wide discretionary power (e.g. to decide what is child abuse and how to act), and their prejudice influence their decisions. Child welfare policies and laws are also influenced by prejudice.

State Interventions in Health Care Settings

Key populations are vulnerable to state interventions in health care, including arrest, imprisonment, and removal of child custody.

Child Custody

Many key population members lose child custody to ex-partners, family, or to the state due to bias. In custody battles, ex-partners of key population members may successfully weaponise key population member status to win full custody.

Criminalisation and Family Separation

Criminalisation can cause short- and long-term family separation. Children are often separated from incarcerated parents. Parents without family support may be forced to relinquish child custody while incarcerated. After incarceration, criminal records, prejudice and lack of legal resources make it difficult for parents to regain child custody.

The Rights of Children

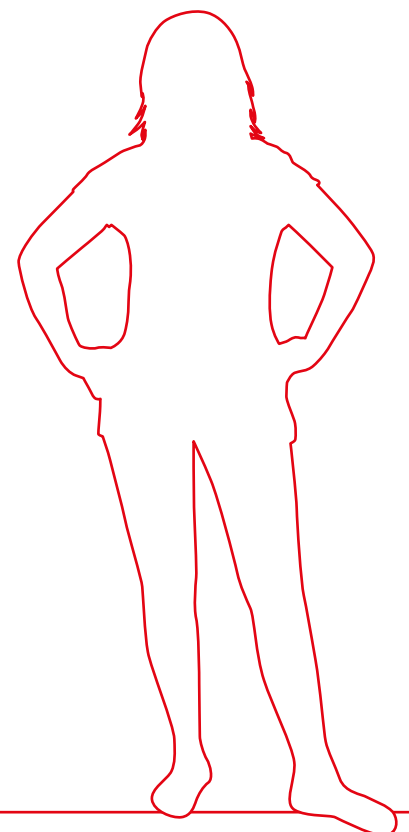
Citizenship

In some countries, a child cannot receive identity documents (e.g. a birth certificate or passport) if their mother cannot confirm the father's identity with documentation, or if their mother does not have valid identity documents.

Health

Key population members face barriers to adequate healthcare (including antiretroviral therapy and opiate substitution therapy) during pregnancy, which can negatively affect the health of their children. Children also experience barriers to accessing healthcare. Children without identity documents may be excluded from government health services. Fear of being 'outed' as a key population member, and state intervention in healthcare settings (which can result in child custody loss and arrest) make it difficult for parents to access healthcare for their children.

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Childhood Education

The children of key populations face many barriers to accessing education. They may be prohibited from enrolling in schools or expelled because their parents are key population members. They may experience bullying, harassment, violence, and social exclusion from educators, peers, and parents of peers.

Violence and Safety

Key population members face multiple forms of physical, emotional and sexual violence. This violence, as well as a lack of childrearing support (e.g. childcare), can compromise their children's safety.

Housing

Key populations face housing discrimination. Families experiencing financial difficulties may be excluded from shelters due to drug, sex work and alcohol abstinence requirements, while parents with criminal records may be barred from accessing public housing.

Psychological and Emotional Wellbeing

Experiences of human rights violations (discussed above) negatively impact the psychological and emotional wellbeing of key population members' children. Children may also experience self-stigma and view themselves and their parents through society's stigmatizing narratives. Children may experience fear and instability due to previous family separation, or fear of future family separation.

Self-Perception as Parents

Self-Stigma

Self-stigma can lead key population members to question their parenting ability. It can create ambivalence about the decision to have children. It can also cause excellent parents to view themselves as bad parents.

Stigma as a Barrier to Disclosure

Many parents hide their key population status from their children due to fear of rejection, and also to protect their families.

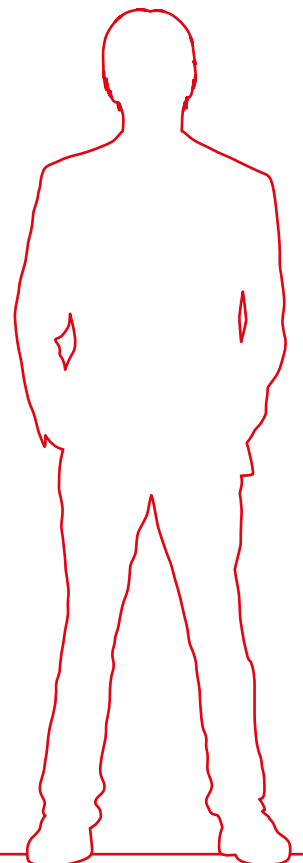
Stigma as a Barrier to Empowerment

Self-stigma can cause key population members to feel incapable or unworthy of asserting their rights. These feelings of disempowerment normalise human rights abuses and are a barrier to advocacy.

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Community-Led Interventions

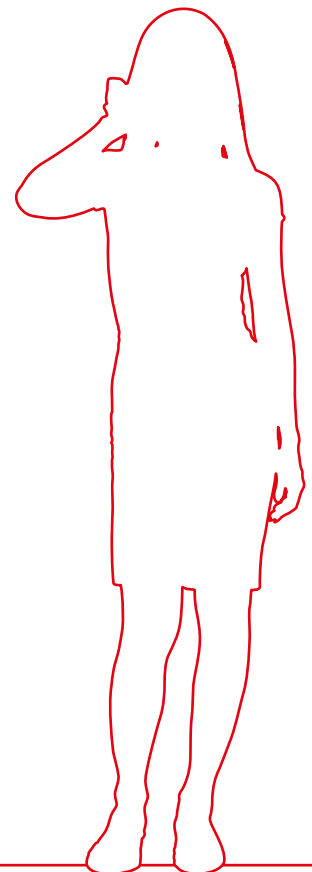
Community-led interventions address feelings of disempowerment. Community-led interventions can effectively address families' unmet, immediate needs (e.g. healthcare, childcare, education, emotional support, legal aid). Community-led interventions can also focus on advocacy (e.g. research, lobbying decision-makers) to address stigma and discrimination and their negative impacts.



Recommendations

- Decriminalise and depenalise sex work, people who use drugs, same-sex relations, and gender expression.
- Address stigma, including internalised stigma and stigma within communities.
- Promote comprehensive, technically competent, integrated SRH for key populations and their families
- Remove restrictions on adoption and fostering for same-sex couples, single men, transgender people, people living with HIV, and people with criminal records.
- Address barriers to healthcare access for parents and their children.
- Support family preservation models in social services, child welfare systems, courts, and during criminal justice proceedings.
- Ensure equal access to education for the children of key populations.
- Promote services to support children, including family-friendly housing and childcare.
- Allow children to obtain birth certificates and citizenship, regardless of their parents' documentation and identification.
- Prioritise community-led interventions and community empowerment models that support key populations and their families as agents of change.

Prioritise community-led interventions and community empowerment models that support key populations and their families as agents of change.



The Global Network of Sex Work Projects uses a methodology that ensures the grassroots voices of sex workers and sex worker-led organisations are heard. The Community Guides are the result of desk research and a global e-consultation, and aim to provide simple summaries of NSWP's Policy Briefs, further detail and references can be found in the accompanying Policy Briefs.

The term 'sex workers' reflects the immense diversity within the sex worker community including but not limited to: female, male and transgender sex workers; lesbian, gay and bisexual sex workers; male sex workers who identify as heterosexual; sex workers living with HIV and other diseases; sex workers who use drugs; young adult sex workers (between the ages of 18 and 29 years old); documented and undocumented migrant sex workers, as well as and displaced persons and refugees; sex workers living in both urban and rural areas; disabled sex workers; and sex workers who have been detained or incarcerated.



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PROJECT SUPPORTED BY:



INPUD, MPact and NSWP are alliance partners of Bridging the Gaps – health and rights for key populations. This unique programme addresses the common challenges faced by sex workers, people who use drugs and lesbian, gay, bisexual and transgender people in terms of human rights violations and accessing much-needed HIV and health services. Go to www.hivgaps.org for more information.

