

For immediate release

## **HUMAN RIGHTS ORGANIZATIONS CONDEMN THE CAMPAIGN OF THE BOTSWANA GOVERNMENT TO CRACK DOWN ON SEX WORKERS**

The AIDS and Rights Alliance for Southern Africa (ARASA) and the Canadian HIV/AIDS Legal Network denounce the campaign by the Botswana government to arrest, detain and deport sex workers in its effort to curb HIV and AIDS in the country.

The Botswana government's "Draft Strategies to Address Key Populations" has been reported by local and international media to include a recommendation to detain sex workers and deport "foreign sex workers". This has materialized with the arrest of at least 30 women suspected of being sex workers earlier this month, some of whom the Botswana Police Services has allegedly confirmed are now under the custody of Botswana's Department of Immigration for possible deportation.<sup>1</sup>

Detaining women presumed to be sex workers violates the right to be free from arbitrary arrest or detention pursuant to the *International Covenant on Civil and Political Rights* (Article 9) and the *African Charter on Human and Peoples' Rights* (Article 6). State actors are not permitted to deprive anyone of her liberty except on such grounds and in accordance with such procedure as are established by law. Furthermore, the Covenant only permits the expulsion of non-nationals "in pursuance of a decision reached in accordance with law" (Article 13), a right that is also reflected in the *African Charter* (Article 12).

A crackdown on sex workers and other marginalized communities also promotes a climate of fear and repression that wrests control from sex workers over their working conditions, discourages sex workers from carrying condoms and accessing sexual and reproductive health services, undermining any effort to address HIV. This constitutes a violation of sex workers' right to the highest attainable standard of health pursuant to the *International Covenant on Economic, Social and Cultural Rights* (Article 12) and the *African Charter* (Article 16). When the threat of deportation is an additional concern, the impact of punitive laws is invariably magnified.

As the *UNAIDS Guidance Note on HIV and Sex Work* provides: "There is very little evidence to suggest that any criminal laws related to sex work stop demand for sex or reduce the number of sex workers. Rather, all of them create an environment of fear and marginalization for sex workers, who often have to work in remote and unsafe locations to

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<sup>1</sup> Mtokozi Dube, "Botswana starts purge against sex workers," *Daily Nation*, November 6, 2013.

avoid arrest of themselves or their clients.”<sup>2</sup> Moreover, the Global Commission on HIV and the Law, tasked with making recommendations for rights-based law and policy in the context of HIV, has found that laws that penalize or criminalize sex work contribute to working conditions that increase sex workers’ vulnerability to HIV.<sup>3</sup>

Rather than promote a strategy that violates the human rights of Botswana’s most marginalized communities and undercuts an effective response to HIV, we call upon the Botswana government to fulfill its obligations under regional and international human rights law by ensuring all policy and legislation governing HIV is consistent with those obligations, including by taking steps to:

- Immediately stop the arbitrary arrest, detention and deportation of women assumed to be sex workers and other marginalized communities;
- Remove the recommendation in the “Draft Strategies to Address Key Populations” to detain sex workers and deport “foreign sex workers”;
- Meaningfully consult with sex worker, human rights, HIV and broader health organizations in Botswana to develop policies, and specifically the “Draft Strategies to Address Key Populations”, to ensure that sex workers’ human rights and access to health are upheld;
- Reconsider and repeal Penal Code legislation criminalizing sex work and same-sex activity; and
- Enact legislation prohibiting discrimination on the basis of sexual orientation, gender identity and occupational status.

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<sup>2</sup> UNAIDS, *UNAIDS Guidance Note on HIV and Sex Work*, 2012, Annex 1, p. 4.

<sup>3</sup> Global Commission on HIV and the Law, *HIV and the Law: Risks, Rights & Health*, 2012, p. 38.