

NETWORK MEMBER: BAR HOSTESS EMPOWERMENT SUPPORT PROGRAMME



“Even Sex Workers Have Lawyers These Days!”

The mission of the **Bar Hostess Empowerment Support Programme (BHESP)** is to influence policy and facilitate provision of quality health services, human rights awareness, legal services and economic empowerment for sex workers, women having sex with women, women using drugs and bar hostesses in Kenya. It serves as a common voice for these vulnerable populations in efforts to reduce stigma and discrimination.

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www.bhesp.org



A sex workers consultative meeting in Nairobi, Kenya.

At 5:30am on 2 August 2012, Tabitha Chege was looking for a bus home on River Road in central Nairobi with two friends. She was approached in the street by a man claiming to be a police officer demanding a 500KS bribe - otherwise he would arrest her for “loitering on the street for the purposes of prostitution” contrary to by-law 19M of the Nairobi City by-laws 2007.

So far, so commonplace. There are an estimated 20,000-30,000 sex workers in Nairobi and by-law 19M is used to extort bribes from and provide an excuse for searches, abuse and harassment from policemen every day. It is estimated that sex workers have to pay 30-60 per cent of their daily earnings to the police and pimps. Often if the sex worker has no money, the bribes have to be paid

in the form of sexual services - often without the protection of a condom.

However Tabitha Chege was a member of a Nairobi organization called the Bar Hostesses Empowerment and Support Programme (BHESP). She refused to bribe the policeman and was arrested and placed in a truck. “In our training we had agreed that we will no longer pay bribes,” says Peninah Mwangi, executive director of BHESP. “The police had no case against us but were using the law to arrest hundreds of sex workers every night, earning themselves a tidy sum each day. Tabitha called and informed us of her situation, I assured her that I had her back and she should not give in.”

Tabitha was taken to court where she pleaded not guilty of the charge of “loitering”. BHESP paid her bail and what has become a landmark case began.

The case took eight months - Tabitha felt the delays were meant to discourage her from proceeding.

“The police were found to have trapped her, by pretending to be clients and asking how much she was charging for “a shot”. The police said they knew she was a sex worker by the manner of her dress, this was also shot down by the judge who maintained that in Kenya there is freedom of expression, including dress.”

“She was very brave for daring the officers in such a manner, tens of sex workers attended court and cheered her on. They were all ready to suffer the repercussions of intimidating the police and sure enough there were police operations every night on Tabitha’s area of operation. She also received threats through people who had come to her as clients. We took precautionary measures to ensure her security and that of her children. It was very important for us to have all sex workers support Tabitha’s case because we were on the offensive, we were out to challenge the law and needed buy-in from the community.”

Tabitha’s victory has allowed BHESP to advise sex workers to refuse bribes and please not guilty – and has so far won 43 out of 51 cases. The organization has trained 300 sex workers as paralegals, each of whom can support a colleague who is arrested, raped or abused. In rape cases the paralegals accompany the sex workers to the Government health facilities for medical check up and reports, to the police station for statement recording, to the sex workers’ friendly clinics for treatment and counseling, including HIV prevention and care. The paralegals also undertake the hard work of ensuring both the sex worker and lawyer appear in court when charges are laid against perpetrators.

“Through the legal system we challenge the laws under which the sex workers are arrested and charged,” says Peninah. “Under the Kenyan law a sex worker can only be a female, the term loitering is not clear and is left to the interpretation of the arresting officer.”

And while they help protect sex workers from the police, BHESP is also trying to build bridges with them. It has run consultative forums with the police and paralegals aimed at tackling physical and sexual abuse meted against sex workers. The sex worker paralegals collaborate to some extent with law enforcement in seeking goodwill, support and treating them with respect. BHESP also collaborates with human rights organisations in ensuring sex workers get equal protection of the law like any one else. Through the partnership with human rights groups, BHESP provides free legal aid clinics where sex workers are able to speak out on what they experience.

BHESP’s work has brought rights awareness to thousands of sex workers in Kenya, who now challenge the arrests, murders, rape and other violence meted against them in the streets, bars, brothels or in their homes. There are now fewer arrests and charges of loitering have gone down. Two policemen are facing murder charges for killing sex workers in the “line of duty”, while two security officers face charges of raping sex workers.

The arrests have gone down and sex workers are able to keep most of their earnings. There is now a relationship of respect between many police



A focus group meeting in Nairobi.

officers and sex workers.

“This approach can work at a larger scale,” says Peninah. “Both nationally and internationally, moreover it is not limited to laws on sex work only. BHESP has been giving advice to street hawkers, LGBT communities and other vulnerable or minority groups in Kenya and Africa, on how to challenge the legal system.”

BHESP’s other programmes focus on developing the economic potential of sex workers, who because of stigma, discrimination, and criminalisation often find it difficult to start small businesses. It teaches sex workers entrepreneurship skills such as business plans, proposal writing, report writing, leadership, management and governance.

Its third programme is an HIV and AIDS project

that focuses on peer education and outreach among sex workers. It runs two ‘Wellness Centres and 10 drop-in centres in key urban locations.

“Human rights trainings have opened up new possibilities for us, says Mary Musa, a sex worker on Luthuli street, Nairobi. “We no longer have to run away when we see a police vehicle. The police respect us and we respect them,”

“The cases we have been winning have scared other policemen from arbitrarily arresting, intimidating or violating sex workers,” says Peninah. “The talk of the town now is *“hata malaya sasa wako na wakili* - even prostitutes these days have lawyers!”

Key Lessons

- 1 Media outreach has been a key part of our strategy. BHESP is widely known by media organizations, who call on the organisation whenever the issue of sex workers requires a viewpoint. We have widely been able to challenge laws, practices and popular attitudes so reducing stigma, discrimination, violence and harassment.
- 2 We borrowed a lot from other elements of the women’s movement. Initially we had never trained paralegals, and had no sex workers paralegal training manual to seek advice or even trainers. Our area is new so we needed to piggy-back and learn from older movements while being careful that they themselves, do not intimidate or stigmatize our community.
- 3 We have to confront as well as build bridges with our stakeholders including Government, police etc.
- 4 Supporting a sex worker in court means more than paying her lawyers fee. and includes, motivating her to attend court.
- 5 During the landmark case of Tabitha Chege, we experienced a few hurdles, particularly because we were working with lawyers who did not approve of sex workers. The fact that we were receiving legal representation through a supporting organization meant we had no control of our lawyer. We resolved this by hiring our own lawyer, who we now pay a retainer.