Border Patrol

A Mexican standoff over sex workers and HIV

April 1, 2006 By Lucile Scott

With a booming sex industry serving millions of U.S.-bound immigrants and American thrill seekers annually, the U.S.-Mexico border town of Tijuana accounted for 60% of new Mexican HIV infections in 2004. Last June, the City Council approved a law intensifying the international debate over how sex work should be regulated to most effectively prevent HIV. The law, which mandates HIV testing for sex workers, arrives two years after the Bush administration launched a widely reviled policy requiring that foreign AIDS organizations condemn prostitution before receiving U.S. funds. Prostitution is still technically illegal in Tijuana, but police officers have long looked the other way. The new statute acknowledges and attempts to regulate the reality of the growing health risks, in effect decriminalizing the activity. The city's estimated 7,000 sex workers must now get tested monthly for HIV and other STDs, with the results coded onto a magnetic card they are required to carry at all times—and show to police on demand. Those who test positive aren't allowed to work. Those whose results aren't current are fined. "Before the [Tijuana] law, a huge number of sex workers didn't get tested," says Councilwoman Martha Montejano Cárdenas, who voted in favor of the bill.

But does that translate to decreased transmission? "Coercive testing never works," says Penelope Saunders, executive director of Different Avenues, a U.S. advocacy group for sex workers. "Clients may actually pressure sex workers to have unsafe sex because they know workers have been tested for HIV. They may have even been infected since their last HIV test. It gives the illusion of health and safety." Other critics believe that the cards stigmatize the carriers. Still others question if the mandatory testing detects even a majority of the positive sex workers. Jorge Alvelais Palacios, MD, who runs a local HIV testing clinic, has said preliminary data show that approximately 10% of Tijuana sex workers may be positive. Yet since the law was passed, testing sites have reported only a handful of positive results. Saunders explains the discrepancy by noting that forced testing pushes many sex workers underground, outside the realm of police patrol. In fact, she contends that the law was designed more to help owners of clubs and hotels claim that they run STD-free venues than for workers' health. As for the hotels and clubs, the regulation also requires that they take sanitary measures, like providing clean sheets, condoms and plastic furniture covering, or risk fines or closure.

To improve the law, says Jorge Saavedra, director of Mexico's National Center for HIV/AIDS Prevention, "sex workers should receive more education, like written information, videos and

workshops about HIV.” Moreover, he says, the city “should require 100% condom use with clients.” While they believe that the law is lacking, most opponents agree that addressing the industry’s HIV risks beats the Bush approach. “These regulations,” Saunders concedes, “can make workers feel freer to organize and push for better reform.”

Additional reporting by Omar Banos

Mapping Safer Sex Work

INDIA
Prostitution is legal, though soliciting sex is not. Sex workers founded the Songachi Project outside Calcutta in 1992 to advocate for their rights. Condom use in the sex industry has since soared in the region from less than 3% to more than 80%.

AUSTRALIA
Prostitution is legal across the country, and many sex workers have unionized. Brothels were first legalized in New South Wales in 1995, and now all 750 of the province’s establishments get health pointers from the AIDS Council of New South Wales.

UNITED STATES
Prostitution is illegal in every state except Nevada, where sex workers must get HIV tests monthly and brothel owners may be held liable for clients who test positive. In several states, possession of condoms can be used as evidence against a suspected sex worker.

BRAZIL
Prostitution is legal, and sex workers are active in implementing HIV prevention policies, which have slashed the nation’s HIV rate since the ’90s. Last May, Brazil refused to condemn prostitution, a requirement to receive U.S. AIDS funds, losing $40 million.

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