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Sexuality, Poverty and the Law: A Case Study Approach for Exploring Avenues of Change

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Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
HIV	Human Immunodeficiency Virus
IDS	Institute of Development Studies
LGBT	lesbian, gay, bisexual and transgender
OECD	Organisation for Economic Co-operation and Development
SPLP	Sexuality, Poverty and Law programme
NGO	non-governmental organisation

1 Introduction

There is increasing pressure in international development to demonstrate that aid spending has an impact. This includes spending on policy research. While there is much debate about appropriate methods and evidence for demonstrating impact, 'a more recent development is the movement to include practice-based evidence alongside more traditional scientific evidence in the accumulation of knowledge about what works, when, and why?' (Forss, Marra and Schwartz 2011: 5). The concept of practice-based evidence accepts that the world is a complicated, messy place that cannot be easily controlled. Those promoting its use suggest that it can provide additional insight about impact. Impact evaluation is an assessment of both the intended and unintended outcomes of a given intervention, where 'the proper analysis of impact requires a counterfactual of what those outcomes would have been in the absence of the intervention' (OECD 2001).

This paper explores the challenge of using practice-based evidence gathered with civil society organisations – and agencies that support them – to learn more about the impact of policy-related work. Here we understand impact as an,

[Assessment of] the contribution of an intervention towards some outcome or goal. The contribution may be intended or unintended, positive or negative, long-term or short-term [and may] attempt to identify a clear link between causes and effects. (Centre for Development Impact)¹

Specifically, it uses the work undertaken in the Sexuality, Poverty and Law programme (SPLP) at the Institute of Development Studies (see Box 1.1), and focuses on one case study that looked at sex workers' experiences of economic empowerment programmes in Ethiopia. The purpose is not to assess the case study or particular interventions, but to better understand what policy impact might look like.

Despite a growing body of qualitative and quantitative research, there is currently only limited, development-relevant evidence about the relationships between sexuality, poverty and law (Badgett *et al.* 2014; Waldman and Overs 2014a; Overs 2015). It is known, however, that these relationships are complex: while it is possible to show a correlation between hunger reduction and nutrition, for example, it is less straightforward to show a correlation between, for example, social and political recognition of sexual rights and the reduction of poverty among these marginalised groups. The SPLP faces the challenge of generating evidence that illuminates the relationships between sexuality, law and development, while simultaneously informing strategies to effect change across a spectrum of policy spaces.

¹ Centre for Development Impact (CDI) working definition of impact. Presentation by Chris Barnett introducing the CDI at the IDS Annual Review, July 2013.

Box 1.1 The Sexuality, Poverty and Law programme (SPLP)

The SPLP is concerned with both law and policy. It is their distinction, as well as their intersection that are of particular relevance. The underlying proposition is that positive outcomes will only come about with the recognition of the importance of civic and political rights (shaped by the law) and social and economic wellbeing (shaped by policy, social norms and individual agency).

Law exists and functions across scales, through international, regional and national legal instruments. It is also highly contingent and applied differently in different contexts (Waldman and Overs 2014). Indeed, the notion of international law – including human rights law – as something that can be easily mapped onto regional and national legal infrastructures is highly problematic (Fellmeth 2008; Knauer 2012).

Policy provides principles or commitments that guide decisions in order to achieve particular outcomes. These principles are formally established at different scales, from global to local. It is useful to distinguish between international, national and local policies that relate, in particular, to development outcomes. At a national level, the concern is with those policies that govern the social, political and economic lives of citizens. In addition to these formal routes, policy principles are also socially generated and imbricated in organisation structures and interpersonal relationships (Kennedy 1999; Sumner *et al.* 2011).

Law and policy exist very much in relation to each other, and together they shape and are shaped by dynamic social norms.

In 2013 and 2014, the SPLP commissioned a series of case studies to gather evidence on the development implications of policies and laws that relate to sexuality (Boyce and Coyle 2013; Dhall and Boyce 2015; Haste and Gatete 2015; Overs 2015). In Ethiopia, the case study *Sex Workers, Empowerment and Poverty Alleviation in Ethiopia* (Overs 2014a) examined how national policy and law affect sex workers' economic status and opportunities. It also resulted in a series of recommendations on how poverty alleviation programmes could improve the lives of sex workers. The case study was conducted by Cheryl Overs² in collaboration with Nikat³ and Timret Lehiwot.⁴ Interviews were conducted with sex workers, donors and other key informants. Field research took place in 2013 and the case study was published in 2014. In July 2014, Cheryl Overs visited Addis Ababa and conducted additional activities, which provided an opportunity to observe changes associated with the case study process.

This paper analyses the Ethiopian case study from a practice-based evidence perspective. It highlights: (1) the co-construction of evidence on sexuality and development; and (2) the use of this evidence to effect policy change.

Many different frameworks have been developed to describe and analyse policy processes (Grin and Loeber 2006; Sabatier 2006). Sumner *et al.* (2011) identify five elements of policy change: framing, agenda setting, content, resource allocation and implementation. These elements provide useful starting points for any assessment of the impact of policy research

² Cheryl Overs is a researcher and human rights activist, who is known for her work in promoting sex workers' rights. Several of her recent key publications reflect the nature of sex work as a social and economic issue (see, for example, Overs 2013, 2015; Overs and Hawkins 2011). As such, she is a policy 'champion'. She has also worked with Ethiopian sex workers to establish their role in delivering Human Immunodeficiency Virus (HIV) services.

³ Nikat Women's Association is an Ethiopian non-governmental organisation (NGO) established by sex workers, which is currently implementing an economic empowerment programme.

⁴ Timret Lehiwot Ethiopia is a HIV/AIDS NGO based in Addis Ababa that operates 34 drop-in centres for sex workers across Ethiopia.

or advocacy. In what follows, the focus is on reframing the problem as a key aspect of policy change vis-à-vis sexuality, poverty and law.

Sumner *et al.* (2011: 8) describe shifts in policy framing as 'changes in the way that policy makers understand a problem or the possible responses to it'. Whether a frame is effective may in part be determined by the number and type of competing voices – and frames or positions – operating within the same environment. According to Pollard and Court (2005: 15):

Communication of evidence, rather than its empirical basis, is the critical factor for policy influence. Whether sparking a trend or creating a vantage point within a long-running discussion, the key is to coin phrases and ideas which have resonance within a particular social context.

This is the essence of framing and reframing. Repackaging or reframing the problem can lead to different policy solutions or actions being highlighted and prioritised (Chong and Druckman 2007). Policy frames that are relevant to a specific context can also carry considerable political weight. A change in framing can be detected in the language and narratives used by policymakers, in the media and/or among the wider public (Shiffman 2007).

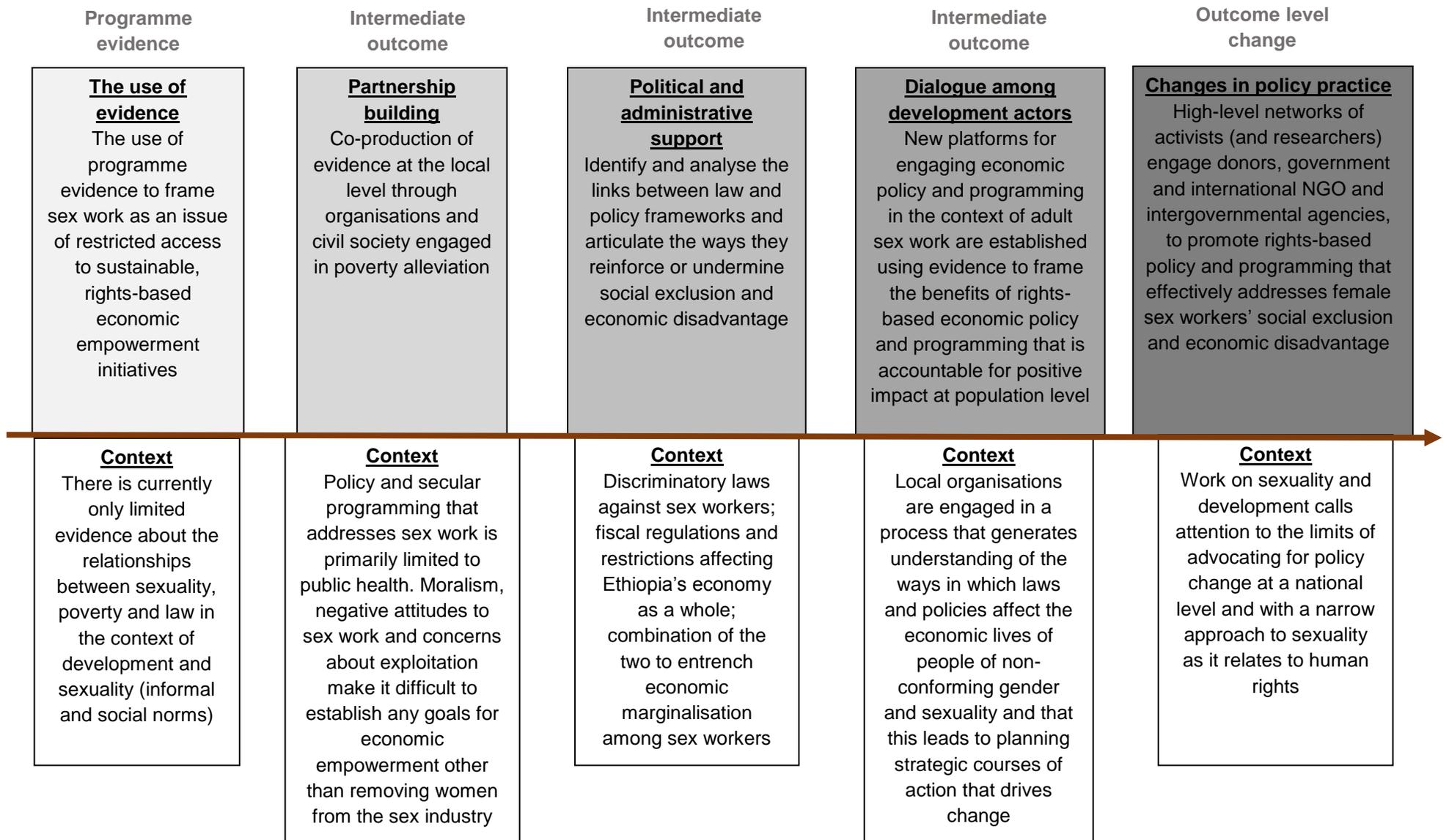
A recent example of reframing is provided by studies on emerging economies that have sought to promote a macroeconomic rationale for change to discriminatory national laws and policies (Badgett, Durso and Schneebaum 2013). The World Bank's 2014 study on the economic costs of homophobia is a prime example. The study found that homophobia reduced India's gross domestic product by 0.1–0.7 per cent (Badgett *et al.* 2014). It also highlighted the enormous cost of health care due to homophobia: Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS), depression and suicide – three health issues that are particularly high among the lesbian, gay, bisexual and transgender (LGBT) population – were estimated to have cost India between US\$712m and US\$23.1bn in 2012.⁵ Another study expanded this analysis to 39 emerging economies, and concluded that the economies of countries with legal mechanisms to protect sexual and gender minorities consistently outperformed those with discriminatory laws (Badgett *et al.* 2014). These studies are important because they are the first of their kind to document the adverse relationship between national economic growth and policy and legal discrimination against people on the basis of their gender identity and sexuality. In essence, the studies reframe the problem by making a business case against the discrimination of people on the basis of their gender identity and sexuality. Following Chong and Druckman (2007), we might expect this new framing to broaden understanding of the financial costs of homophobia and thus open space for new policy responses. We might expect that the financial arguments provided by these studies would be of particular interest to some international actors such as the World Bank and multilateral and bilateral donors. These studies and the reframing they promote also have their limitations, and one in particular relates to the assumption that national governments and politicians will be motivated to change their laws, even in so sensitive an area as sexuality, in order to achieve better economic outcomes.

Evidence collected through the SPLP points to the tentative conclusion that national policy change around sexuality and development requires a particular set of pre-conditions. These include sensitivity on the part of international policy advocates and social movements to the particularities of national politics, and careful work with local partner organisations to understand how best to advance particularly fraught social and legal issues (Haste and Gatete 2015; Overs 2015; Overs 2014a; Hawkins 2015; Oosterhoff, Hoang and Quach 2014). National leaders can use sexuality as a 'political football' to extend their political reach

⁵ www.thewire.com/global/2014/03/what-homophobia-costs-countrys-economy/359109/ (accessed November 2014).

and/or secure votes. In 2014, for example, President Putin in Russia and President Museveni in Uganda were the most visible leaders to have endorsed homophobic national policies. Joining the leaders of other countries including Jamaica and Nigeria, they backed harsh policies and laws that had the support of many of their citizens (White 2013). This suggests, as has been discussed in great detail in relation to Uganda (Cheney 2012), that overt international pressure – through, for example, diplomats and donors – is not necessarily constructive, and that change in national policies and laws needs to be driven by local actors (Eichner 2013). This approach, in which evidence is generated by, with and for local organisations working for change in-country, informs our assessment of the experience around the Ethiopia case study and is outlined in Figure 1.1. As discussed below, the SPLP has found that changes in policy framing, particularly around highly sensitive issues like gender identity and sexuality, can be fostered through meaningful dialogue between local and international actors that, in turn, can sensitively guide policy engagement at a national level.

Figure 1.1 A framework for impact as a ‘change in framing’



2 Methodology

In this Evidence Report, we explore reframing as an element of policy change (i.e. impact). Specifically, we are interested in the role that local actors and networks of activists play in engaging with donors, international non-governmental organisations (NGOs) and intergovernmental agencies to promote rights-based policy and practice that addresses exclusion and economic disadvantage among female sex workers. As such, the challenge is to demonstrate the link between reframing and the work undertaken as part of the programme. In order to do this, we use a process tracing methodology to delineate causal inference and to adjudicate among alternative explanations for an observed outcome (Brady and Collier 2010; Beach and Pedersen 2013).

At the heart of process tracing is the notion of a ‘mechanism’ which we composed of a number of ‘parts’, including *entities* (e.g. people, organisations, systems) that engage in *activities* (e.g. research, advocacy, lobbying). The idea is that each part of the mechanism is necessary to give rise to the subsequent part, and ultimately, to impact (Beach and Pedersen 2013; see also, Shaffer 2014).

To develop a mechanism we started with the hypothesis that the discursive reframing of sex work as an economic activity should correspond with formal recognition (through identity documents, for example), in order to address the exclusion of sex workers from economic empowerment programmes that are funded by donors to improve the lives of women in Ethiopia (cf. Sumner *et al.* 2011; Sumner and Tribe 2008). Such a reframing would represent a shift away from a narrow moral argument fuelling paternalistic policy responses to end sex work altogether, or to ‘rescue’ or rehabilitate sex workers. It would engage a socioeconomic argument for more effective responses to exclusion and economic disadvantage among sex workers. This new discursive framing could be used to gain the strategic support of: (1) networks of activists like Nikat and Timret Lehiwot, and (2) international donors working to better support the livelihood strategies of women in Ethiopia, including those engaged in sex work.

An alternative hypothesis would posit that the national policy arena is most important, and that passing the state and focusing on activists and international actors will reduce the likelihood that national policies will be developed to better support sex workers. Our findings offer evidence to the contrary. The political context in Ethiopia is characterised by limited state resources in a context where civil society organisations are actively discouraged from engaging in policy and legal domains.

Given the resistance by national policymakers in many contexts, including in Ethiopia, to implementing constructive policies for those people who are marginalised for holding and practicing non-normative sexualities and genders, we trace a process for working with local and international actors and networks.

The proposed mechanism through which this change can be fostered is shown in Figure 2.1. This mechanism is based on observations made as part of the SPLP, and draws on evidence generated in the Ethiopia case study. This evidence is significant, and informs the mechanism, because it reflects the views of those directly affected by, and working on, sex work.

Figure 2.1 Mechanism to explain a change in framing

Step	1	2	3	Impact
Entity	Researcher + local activists and advocacy organisations	Networks of activists	International donors	Policy change (new framing) leading to change in practice
Activity	Case study providing evidence to reframe policy problem	Offer strategic support to inform and promote this framing	Incorporate new framing into programmes and projects	

The mechanism, outlined in detail below, shows the value of reframing the debate: (1) by fostering dialogue between researchers and local activist and advocacy organisations to generate a case study that can substantiate the value of reframing the current policy debate on sex work and economic empowerment; (2) through a network of activists, who have fed into the creation of the case study and who are also able to draw on this published evidence, it becomes possible to provide wider support to promote this framing (in which sex workers are better able to access resources through economic empowerment programmes); (3) by making this evidence available to an international audience, through publication, it might be more possible to incorporate this new framing into international programmes and funding, to ensure that where economic empowerment programmes are implemented, marginalised groups – like sex workers – are not further excluded from accessing the opportunities provided through these programmes.

The entities and activities that comprise the mechanism promote changes in policy that can lead to changes in practice. In this case, these changes are built through an iterative dialogue, based on evidence generated through the case study, between local and international actors. Through the activities in the mechanism, these entities can: (1) create a shared awareness, based on evidence, of the impact of discriminatory policies on people’s livelihoods; and (2) find constructive avenues to implement positive change in ways that do not necessarily require state-level engagement or national policy change.

3 The case of sex workers' economic rights in Ethiopia

In Ethiopia the law does not actually prohibit sex work, however, 'the associated activities of brothel keeping, trafficking and public soliciting are illegal' (Overs 2014a: 10). Nevertheless, because the law is not enforced and because poverty leads to a proportion of the female population selling sexual services, there is a large and open sex industry throughout the country. An important finding of the case study is that sex work is particularly important in a context where state resources are extremely limited. Another finding is that state and donor poverty alleviation programmes can further marginalise the very people that they are supposed to support.

While public health and human rights advocates are working together for the recognition of sex workers' rights, Ethiopia's geopolitical situation and recent track record of rapid economic growth limit the influence that other countries, donors or international advocates have in respect of governance, human rights or social policy. NGOs are forbidden by the Charities and Societies Proclamation No. 621/2009 of Ethiopia (civil society law, or CSO law) from engaging in advocacy around policy and legal issues. This severely constrains the work of independent civil society organisations.

Because the factors affecting success and failure of policies and programmes related to sex work are poorly understood, opportunities are missed and human rights abuses and other adverse consequences remain poorly documented (Overs 2014a). In the absence of such information, technical guidance, evaluation protocols or even accounts of best practice are also unavailable.

The evidence generated about economic empowerment programmes and related policies highlighted the following constraints: (1) limited understanding of policy and how and where different programmes operate; (2) lack of any conceptual framework to guide what they should achieve and how; and (3) limited evaluation and therefore lack of evidence about their actual impact or cost.

The process of undertaking the case study, and the analysis that emerged from it, helped to document, and in some cases forge, new and productive partnerships between organisations with an interest in sex work. For example, Nikat now has a grant of US\$40,000 per annum from a Dutch donor (School of Oriental and African Studies) to conduct an economic empowerment programme for sex workers that, critically, does not assume that they should or will withdraw from the sex industry. Named 'Stepping Up, Stepping Out' (SUSO), the programme has helped to establish an income-generating collective and open a restaurant in Addis Ababa. Members of Nikat said that human rights language used in the SUSO programme was helpful in explaining rights-based economic empowerment in a context in which the discourse of 'salvation' dominates (cf. Overs 2014a).

Henock Alemehayu, Director of Timret Lehiwot said that in the wake of the case study the organisation prioritised helping sex workers to obtain an Identity Document (ID). In Ethiopia, an individual's legal personhood is established through an ID. Because most sex workers are internal migrants and do not have a permanent residential address or place of work, they find it difficult to obtain an ID. Alemehayu observed that when Timret Lehiwot staff approached local government (*Woredas*) to obtain ID cards for sex workers, they found that in many cases the address of a drop-in centre was acceptable for purposes of civil identification. He estimated that in excess of 200 sex workers have obtained ID cards as a result of this

intervention. He was proud of the fact that by approaching *Woreda* officials respectfully, and armed with the discursive framing of sex work as a form of economic empowerment and a way to address poverty, Timret Lehiwot had contributed to concrete change. Civic actions like this are particularly important in a setting where NGOs are prohibited from direct lobbying for policy change.

In direct response to the publication of the case study, which argued that sex work should be seen as an economic activity, the European Union (EU) delegation to Ethiopia invited Cheryl Overs to make a presentation. The delegation specifically wanted her to speak about the economic issues facing sex workers and the potential to support further work in the area. Instead, Cheryl invited members of the delegation to a traditional coffee ceremony at Nikat's office. Overs described the encounter in a blog post excerpt, below:

[T]he EU delegation to Ethiopia asked me to advise about how they might be able to support 'good rehab' through their work with local authorities. 'No need for me,' I said, 'Come to Nikat.' A traditional coffee ceremony and an excursion to talk to women in the informal settlements where they worked as sex workers was quickly arranged. The Nikat leadership engaged with the EU delegation, outlining specific issues they faced around poverty and their vision of 'rights based' approach to poverty alleviation policies and programmes. The EU delegation is supporting local government to improve services in slums and I left confident that some excellent information had been shared and that there would be follow-up that explored how to make sure those benefits extend to these slums.
(Overs 2014b)

The EU subsequently agreed to explore ways to deliver key services, such as access to water, electricity, sanitation and electricity, to these settlements through their existing work with local government. This is significant because the areas inhabited by sex workers are not documented or recognised in municipal maps as inhabited land, and therefore have no formal call on resources.

The United States Government provides support to sex work projects, like those in Ethiopia, through the President's Emergency Plan for AIDS Relief (PEPFAR). However, PEPFAR has been strongly criticised for being grounded in moralism rather than evidence and human rights. For example, funding is made conditional on a pledge by recipient organisations that they will not call for the legalisation of sex work (Richter *et al.* 2010; Sandy 2007). According to some international sex workers' organisations, this has led to organisations that aim to remove women from the sex industry receiving funds for work that has few results, while more effective ways of reducing HIV do not receive funds (Richter *et al.* 2010; Sandy 2007). In an interview held at the United States Embassy, a participant explained that Ethiopia's PEPFAR programme has recognised that, in view of the economic setting and the number of women selling sex, 'It is not realistic to try to rehabilitate all women out of sex work.' He went on to say that, 'Rather we now support programmes like training and microcredit because it helps the sex workers to have more control over their lives and to refuse clients that want unprotected sex.' While it is not possible to attribute this significant policy shift to the case study, the language (framing) used is very similar to that used in the case study and in other related publications (Loff, Overs and Longo 2003; Overs 2013; Overs and Longo 2003).

4 Discussion and conclusion

The Ethiopia case study highlighted the fact that women who engage in sex work are less likely to access and benefit from economic empowerment opportunities than other women, and that this entrenches their vulnerability and poverty. Although some economic empowerment programmes are accessible to sex workers, these are largely ineffective or their efficacy has not been adequately measured. It also showed that development programmes that aim to 'save' women from what is considered to be an abhorrent lifestyle, in fact do just the opposite: they further marginalise these women by reinforcing the stigma of sex work and by diverting resources away from programming that could raise their living standards.

From these findings the author of the case study argued that reframing the policy debate as it relates to sex work is a key intervention. Such a reframing would set the stage for different approaches to policy, programming and action, and strengthen the livelihoods of sex workers. A clear example is the push to obtain recognition of legal personhood that is needed to access health care (other than HIV care), formal education, banking, housing, etc. The mechanism in Figure 2.1 depicts policy change as a process of reframing. It shows that researchers, activists and local advocacy organisations can generate evidence to support the reframing of policy problems. These frames can then be taken up by networks of activists to offer strategic support. International donors are then able to incorporate frames within their policy and programmes. This mechanism, rather than an alternative explanation of policy change, has significance because the author of the case study worked close enough to partners to observe specific change. Such observations are important in assessments that need to encourage, and take account of, dialogue among multiple actors across local and international spaces.

This assessment provides some plausible evidence that at least some local social movements and international actors present in Ethiopia were open to this kind of reframing, and that, in this case, reframing quickly resulted in positive change in programme orientation and project activities.

Ultimately the interest is in the contribution that reframing makes to improvements in the livelihoods of sex workers, and their increased ability to access economic empowerment programmes. Given the sensitivity of issues around gender identity and sexuality, and the assumed resistance to change among national policymakers, these impacts might be expected to emerge slowly.

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