

FORUM: Human Rights Commission (H.R.C)

QUESTION OF: Reinsuring the Access of Rights to Sex Workers

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INTRODUCTION

Globally, sex workers endure extensive stigmatization, discrimination, and human rights violations¹, as a result of the prejudice and scrutiny that exists around the occupation which is characterized by moral, ethical and social stigma. These include arbitrary arrest and detention, violence from both state agents and individuals, limited access to health and social services, barriers to justice, intrusion into their private and family lives, and exclusion from civil, political, and cultural activities. It is generally perceived that sex work is a gendered phenomenon, with the industry reflecting existing patriarchal, racial, class-based, and nationalistic hierarchies. In many sectors of sex work, the majority of sex workers are women, while most clients are men.

In fact, sex workers face an increased burden of Sexually Transmitted Infections (STIs) and blood-borne infections, which contributes to their stigmatization as this fact reinforces negative stereotypes such as the misconception that sex workers are the primary carriers or spreaders of STIs. Furthermore, the constant association with disease and "uncleanliness" can lead to internalizing these negative stereotypes, affecting sex workers mental health and self-esteem. Across the nations, female sex workers are estimated to be 30 times more likely to be living with HIV than other women of reproductive age. In 2019, the Joint United Nations Programme on Human Immunodeficiency Virus (HIV)/Acquired Immunodeficiency Syndrome (AIDS), estimated a mean HIV prevalence of 36% among sex workers. The average reported prevalence of active syphilis among sex workers is 10.8%.² While less is known about the prevalence or incidence of other STIs and viral hepatitis infections among sex

¹ Argento, Elena. "Global Burden of Violence and Other Human Rights Violations against Sex Workers." *Sex Work, Health, and Human Rights: Global Inequities, Challenges, and Opportunities for Action [Internet]*. U.S. National Library of Medicine, 29 Apr. 2021, www.ncbi.nlm.nih.gov/books/NBK585690/.

² "Sex Workers." *World Health Organization*, World Health Organization, www.who.int/teams/global-hiv-hepatitis-and-stis-programmes/populations/sex-workers. Accessed 22 Aug. 2024.

workers, increased rates have been documented in different contexts around the globe. Taking all the above into consideration, sex workers face high levels of stigma and criminalization almost everywhere. Modelling studies indicate that decriminalizing sex work could lead to a 46% reduction in new HIV infections in sex workers over 10 years, while eliminating sexual violence against sex workers could lead to a 20% reduction in new HIV infections.³

Besides that, sex workers frequently experience significant violence and abuse. This is largely due to their marginalization, unsafe working conditions, and prevailing harmful societal attitudes, such as sexism. Overall, the violence they face can vary from verbal abuse, threats, stalking, and harassment (including online), to robberies, physical assaults, rape, sexual violence, hate crimes, and even murder.

To conclude, for all the reasons above, sex workers are at high risk of other severe human rights violations, such as human trafficking and exploitation. Taking all of the above into consideration, the decriminalization of sex work and the reinsurance of their rights is a matter of high importance that needs to be addressed.

DEFINITION OF KEY TERMS

Sex work

“Paid employment in the sex industry, comprising prostitution, pornography, stripping, or pornographic modeling intended to sexually arouse clients. The term is used to emphasize the commonality between work in this industry and other, more conventional occupations. Thus, campaigners for the decriminalization of prostitution use the term to stress that sex workers should have the same status and legal protection as others engaged in paid employment.”⁴

Decriminalization

“The fact of changing the law so that something is no longer a crime.”⁵

³ “Sex Workers.” *World Health Organization*, World Health Organization, www.who.int/teams/global-hiv-hepatitis-and-stis-programmes/populations/sex-workers. Accessed 18 Aug. 2024.

⁴ “Sex Work.” *Oxford Reference*, www.oxfordreference.com/display/10.1093/oi/authority.20110803100458943. Accessed 13 Aug. 2024.

⁵ *Decriminalization | English Meaning - Cambridge Dictionary*, dictionary.cambridge.org/dictionary/english/decriminalization. Accessed 13 Aug. 2024.

Sexual Exploitation

“Any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another. It includes but is not limited to exchanging money, employment, goods or services for sex. This includes transactional sex regardless of the legal status of sex work in the country. It also includes any situation where sex is coerced or demanded by withholding or threatening to withhold goods or services or by blackmailing.”⁶

Sexual Assault

“The act of forcing someone to take part in a sexual activity with you, or of touching someone in a sexual way when they do not want you to”⁷

Stigma

“A strong feeling of disapproval that most people in a society have about something, especially when this is unfair”⁸

Sex Trafficking

Refers to “sexual acts performed through force, fraud, and/or coercion where the victim holds little to no power in the situation.”⁹

Human Trafficking

“A form of modern-day slavery involving the illegal transport of individuals by force or deception for the purpose of labor, sexual exploitation, or activities in which others benefit financially.”¹⁰

⁶ “Defining Sexual Exploitation and Abuse and Sexual Harassment.” *UNHCR*, www.unhcr.org/what-we-do/how-we-work/tackling-sexual-exploitation-abuse-and-harassment/what-sexual-exploitation. Accessed 18 Aug. 2024.

⁷ *Sexual Assault | English Meaning - Cambridge Dictionary*, dictionary.cambridge.org/dictionary/english/sexual-assault. Accessed 21 Aug. 2024.

⁸ *Stigma | English Meaning - Cambridge Dictionary*, dictionary.cambridge.org/dictionary/english/stigma. Accessed 13 Aug. 2024.

⁹ The Novum. “‘the Oldest Profession’: Sex Work through the Lenses of History, Feminism, and Sociology.” *The Novum*, 19 Sept. 2021, sdsmtnovum.org/2021/09/08/the-oldest-profession-sex-work-through-the-lenses-of-history-feminism-and-sociology/.

¹⁰ “Human Trafficking.” *Encyclopædia Britannica*, Encyclopædia Britannica, inc., 21 Aug. 2024, www.britannica.com/topic/human-trafficking.

Sexually Transmitted Infections (STIs)

“A disease caused by infection with certain bacteria, viruses, or other microorganisms that can be passed from one person to another through blood, semen, vaginal fluids, or other body fluids, during oral, anal, or genital sex with an infected partner. These diseases can also be spread through sharing needles, blood transfusions, breastfeeding, or from an infected mother to an infant during pregnancy and childbirth.”¹¹

Consent

“Agreement to sexual activity, given by someone who is free to choose and able to choose (because of being old enough, being able to think or communicate clearly, etc.)”¹²

BACKGROUND INFORMATION

Sex Work vs Sexual Assault

Sex work and human trafficking cannot and should not be conflated. The distinction between sex work and sexual exploitation is simple **consent**. Sex work is a consensual act and any party involved can revoke consent at any time. If either the sex worker were to try something or if the client were to try something outside of what was agreed upon beforehand, that would be sexual violence. Furthermore, when sexual assault happens to sex workers the necessary attention is not given to the situation as people mistakenly believe that “it’s part of the job” or “the sex workers were asking for it”. It has not been suggested that no violence or exploitation happens to sex workers, only that sex work is not inherently any more exploitative of workers than any other industry. Sex workers of all types can experience sexual violence, including rape, harassment, exploitation, and any other form of violence. These traumatic experiences highly affect their mental health, causing stress, depression, anxiety, self-medication through alcohol and drug use, eating disorders and a greater risk for self-harm and suicide. Sex workers can be assaulted while on the job or moving about their daily lives, just like other workers. Sex workers deserve the same dignity and respect that all workers deserve, and that dignity entails seeing sex work as distinct from sexual exploitation in the same way that we see sex as distinct from rape.

¹¹ “NCI Dictionary of Cancer Terms.” *Comprehensive Cancer Information* - NCI, www.cancer.gov/publications/dictionaries/cancer-terms/def/sexually-transmitted-infection. Accessed 22 Aug. 2024.

¹² *Consent* | Definition in the Cambridge English Dictionary, dictionary.cambridge.org/us/dictionary/english/consent. Accessed 18 Aug. 2024.

and

Criminalization of sex work

The criminalization of sex work has numerous adverse effects on sex workers, significantly impacting their safety, health, and human rights. When sex work is criminalized, it drives the industry underground, making it difficult for sex workers to access legal protection, health services, and support networks. In addition, this underground nature often results in increased vulnerability to violence, exploitation, and abuse by clients. In addition, sex workers may face arrest, harassment, and prosecution, leading to a cycle of stigma, marginalization, and further criminalization. Furthermore, criminalization increases social stigma, which isolates sex workers and discourages them from seeking help or reporting crimes due to fear of arrest. This can result in higher rates of physical and mental health issues, including STIs and substance abuse. Lastly, the criminalization of sex work often leads to inadequate or misdirected public health responses, making it difficult for sex workers to access necessary health services and support.

Importance of Protecting the Rights of Sex Workers

As it was mentioned before, sex workers are victims of high violence and abuse. Consequently, their protection against stereotypes and misconceptions should be prioritized. The fact that sex workers are human beings and are entitled to protection from any kind of physical and psychological violence that may be generated by their occupation is undeniable. As far as health care is concerned, criminalizing consensual sex work prevents sex workers from accessing healthcare and other services due to fear and legal repercussions, stigma, and discrimination, which increases the risk of HIV infections and, generally, health problems. Furthermore, this unwelcoming legal background creates barriers to accessing medical services, as sex workers may avoid healthcare settings to prevent being reported, arrested, or face social prejudice. Lastly, the criminalization of the occupation of sex work is an infringement on the right of sex workers to self-determine, especially in contexts where sex workers are unable to freely choose their occupation due to economic pressure, social discrimination, trafficking, or legal restrictions, their autonomy and ability to make independent decisions about their bodies and livelihoods are compromised. To conclude, outside the prejudice that there is around sex work, sex workers are entitled both as workers as well as individuals to fundamental rights and freedoms that should never be overlooked regardless of the situation.

Challenges in Protecting the Rights of Sex Workers

When protecting the rights of sex workers several significant challenges are presented. To be exact, in many countries, sex work is criminalized, either fully or partially, making it difficult for sex workers to access legal protections and report abuses seeing as even though legal prohibitions are in place, they still practice their occupation illegally without workplace and therefore under unsafe conditions which increases the risk of them being exposed to violence. In addition, the stigma following the occupation of sex workers leads to marginalization and social exclusion, making it harder for sex workers to assert their rights and seek support. In fact, outside of the degrading treatment they receive from others, they may themselves feel insecure of their rights of freedoms, affected by the scrutiny that exists around their occupation. As a result, they may avoid speaking up for any mistreatment abuse or health issue they endured, overwhelmed by the fear of being looked down upon, mocked or even humiliated. Lastly, as far as policy and advocacy challenges are concerned, advocating for the rights of sex workers is often politically and socially contentious, leading to slow progress in legal reforms and policy changes. Consequently, sex work is considered controversial by many and therefore avoided and even excluded from political discussions. This, overall, limits the effectiveness of advocacy efforts and hinders the implementation of protective measures for sex workers.

The Controversy Around the Occupation of Sex Work

The occupation of sex work is highly controversial, with debates surrounding its legality and morality. Firstly, in the moral sector, sex work is often viewed as opposing to religion and therefore, it is argued that it is inherently exploitative and dehumanizing, regardless of whether it is consensual or not, simply because it undermines societal values, such as the opinion that mind should be valued over the body, and sex work, contrary to that constitutes the “selling” of one’s own body simply for pleasure. In the legal domain, proponents of decriminalization argue that it would remove the stigma and allow sex workers to access legal protections, while those in favor of legalization believe that regulation is necessary to protect against exploitation and abuse. As far as the marginalization around the occupation is concerned, it can be divided into four different dimensions: political, economic, cultural and societal.

More specifically, political marginalisation originates from the infrequent use of lenient legislative models that illustrates the idea of sex work as criminal and punishable. The

second dimension refers to the economic system which is defined by the access and distribution of material resources and also contributes in the marginalization of sex workers as it is generally believed that poverty, debt and unemployment pushed young women towards sex work. As far as the cultural dimension is concerned, behavioral norms and the accepted ways of living, in simpler words the ideology of monogamy causes sex workers to be perceived as deviating from the norm in this respect as they tend to have multiple partners. Lastly the fourth and final dimension is social and is related to the stigma sex workers have developed that contributes to weak ties to social support for some sex workers.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

South Africa

Selling sex has been illegal in South Africa since at least the early 1900s while buying sex was criminalized in 2007.¹³ South African laws also prohibit other aspects of sex work, including running or owning a brothel, living off the earnings of “prostitution,” and enticing a woman into “prostitution.” A discussion about the legal status of sex work has been ongoing in South Africa for almost three decades. There is significant support for decriminalization, from various government ministries and institutions, trade unions, public health officials, the civil society, and most importantly, sex workers themselves. It is clear that the criminalisation of sex work undermines the health and dignity of sex workers and exposes them to violence and abuse. The South African government should act urgently to end criminalisation of sex work and collaborate with sex workers in order to protect their rights.

New Zealand

New Zealand is often cited as a leading example in the reinsurance of the rights of sex workers due to its comprehensive decriminalization of sex work through the Prostitution Reform Act. This legislation decriminalizes sex work, providing sex workers with the same legal protections as workers in other industries. It ensures access to health services, legal recourse against abuse, and protection from exploitation.

¹³ “Why Sex Work Should Be Decriminalised in South Africa.” *Human Rights Watch*, 2 Feb. 2024, www.hrw.org/report/2019/08/07/why-sex-work-should-be-decriminalised-south-africa.

Germany

Germany legalized sex work in 2002¹⁴, recognizing it as a legitimate form of labor. The particular legislative framework that was passed, allows sex workers to access social security, health insurance, and pension benefits. These regulations seek to improve working conditions and reduce exploitation, though there are ongoing debates about their implementation.

Australia

Australia's approach varies by state. For example, in New South Wales, sex work is fully decriminalized, allowing sex workers to operate freely under labor laws. Other states, however, like Victoria have implemented legalization models, where sex work is legal but regulated. These frameworks aim to protect sex workers' rights, though the effectiveness and scope vary across the country.

Nepal

Selling sex itself is not criminalized in Nepal but prostitution is in fact illegal. Therefore, organizations such as the Women's Rehabilitation Center (WOREC) work to empower sex workers and promote their rights. They focus on preventing violence and exploitation, improving access to healthcare, and advocating for policy changes that protect sex workers' rights.

Joint United Nations Programme on HIV/AIDS (UNAIDS)

UNAIDS is leading the global effort to end AIDS as a public health threat by 2030 as part of the Sustainable Development Goals and has been actively involved in advocating for the rights of sex workers, recognizing that protecting their rights is essential for both public

¹⁴ *Prostitution Reform Act 2003 No 28 (as at 23 December 2023), Public Act 4 Interpretation – New Zealand Legislation*, www.legislation.govt.nz/act/public/2003/0028/latest/DLM197822.html. Accessed 19 Aug. 2024.

health and human rights. Some of its key achievements, is firstly the significant reduction in new HIV infections which ,since its establishment, have decreased by 52% among adults and 76% among children. Furthermore, UNAIDS has played a key role in promoting human rights and reducing stigma and discrimination. It has supported campaigns, legal reforms, and community initiatives aimed at protecting the rights of people living with HIV and key populations. Overall, UNAIDS has been instrumental in coordinating global efforts to combat HIV/AIDS, achieving significant reductions in new infections and AIDS-related deaths, expanding access to treatment, and promoting human rights and gender equality.

Human Rights Watch (HRW)

The Human Rights Watch conducts research that has repeatedly found that the criminalization of sex work – including partial criminalization – exacerbates, or is one of the underlying causes, of significant global violence. The Human Rights Watch encourages all governments to work directly with sex workers to enact data-driven, rights-based policies, including the full decriminalization of consensual adult sex work.

Amnesty International

Amnesty International has published their Policy on State Obligations to Respect, Protect, and Fulfill the Human Rights of Sex Workers. Amnesty International calls for the decriminalisation of all aspects of adult consensual sex work including all laws which criminalise sex workers, clients, and third parties. Amnesty International also calls for the end of the discriminatory enforcement of other laws against sex workers, such as vagrancy, loitering, and immigration requirements.

Red Umbrella Fund

The Red Umbrella Fund is the first and only global fund dedicated to supporting the rights of sex workers. It was established in 2012 to respond to the lack of funding available for sex workers' rights. In line with its core values of autonomy and ownership, the Red Umbrella Fund is a sex worker-led, participatory fund.

TIMELINE OF EVENTS

Date	Description of Event
November 1990	The creation of Global Network of Sex Work Projects (NSWP) to advocate for the health and human rights of sex workers globally.
March 2001	The Red Umbrella symbol became an international symbol for sex workers, first used in March in Venice, Italy.
17 December 2001	December 17 was established as the international day to end violence against sex workers to honor victims, initiated by sex workers rights organizations.
27 June 2003	The Prostitution Reform Act was passed in New Zealand which decriminalized sex work and recognized the rights of sex workers, making New Zealand one of the few countries where sex work is fully decriminalized.
2009	The Sex Worker Advocacy and Resistance Movement (SWARM) was formed in the UK to advocate for sex workers' rights in the UK.
26 March 2016	Amnesty International adopted a policy to protect the human rights of sex workers by supporting the decriminalization of consensual sex work.
3 March 2017	First international day of action for sex workers globally to advocate for the decriminalization of sex work and the protection of sex workers' rights.
11 April 2018	The SESTA/FOSTA legislation passed in the United States, which was intended to combat sex trafficking but resulted in widespread harm to sex workers by limiting their ability to use online platforms safely. This law pushed sex work further underground, increasing the dangers for those in the industry.

UN INVOLVEMENT

Resolution A/HRC/WG.11/39/1

This resolution works to eliminate discrimination against sex workers and securing their human rights: guidance document of the working group on discrimination against

women and girls.¹⁵
<https://documents.un.org/doc/undoc/gen/g23/241/61/pdf/g2324161.pdf>

Human Rights Council Resolutions 15/23 and 50/19

These resolutions aim to eliminate discrimination against sex workers and secure their human rights pursuant In addition the Working Group aims to raise the visibility of violations of the human rights of sex workers under different policy regimes, to clarify and reaffirm international human rights standards and to make recommendations for States and other stakeholders.

Statement submitted by Amnesty International, Center for Women’s Global Leadership, Global Alliance Against Traffic in Women, Global Network of Sex Work Projects Limited, International Women’s Health Coalition, International Women’s Rights Action Watch Asia Pacific, Open Society Institute, non-governmental organizations in consultative status with the Economic and Social Council

E/CN.6/2020/NGO/95; Statement/ submitted by amnesty international, center for women’s global leadership , global alliance against traffic in women, global network of sex work projects limited, international women’s rights action watch asia pacific, open society institute.¹⁶

Sex Workers' Rights Advocacy (SWRA) Conference

The Sex Workers' Rights Advocacy (SWRA) conferences focus on sex worker rights, addressing issues such as legal protections, health services, and social stigma. These conferences provide a platform for sex worker organizations to discuss advocacy strategies, share research, and develop joint action plans to advance sex workers' rights globally.

International Network of Sex Workers’ Projects (NSWP) Conference

The International Network of Sex Workers (NSWP) organizes events and conferences focused on sex workers' rights and advocacy. These gatherings often feature discussions on

¹⁵UN, documents.un.org/doc/undoc/gen/g23/241/61/pdf/g2324161.pdf?token=RxhybZtvYQekbbTT4h&fe=true. Accessed 21 Aug. 2024.

¹⁶UN, documents.un.org/doc/undoc/gen/n19/008/78/pdf/n1900878.pdf?token=On7dl82jRtvCmqjrqC&fe=true. Accessed 21 Aug. 2024.

global strategies for improving the lives of sex workers. The conferences emphasize sex worker-led advocacy, legal reforms, and effective harm reduction strategies. They provide a space for sex workers to share experiences and strategies.¹⁷

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

The National Approach of New Zealand

New Zealand has made a huge progress to decriminalizing sex work. Most importantly through the New Zealand's Prostitution Reform Act of 2003 which decriminalized sex work and established a legal framework for safeguarding the rights of sex workers. This approach has been praised for improving sex workers access to health services and reducing violence and exploitation .

World Health Organization (WHO) Guidelines

The World Health Organization has issued guidelines to support the health needs of sex workers. These guidelines recommend decriminalization, anti-stigma interventions, and greater access to comprehensive health services to reduce the prevalence of HIV and other sexually transmitted infections (STIs) among sex workers.

Global Fund Investments

The Global Fund to Fight AIDS, Tuberculosis, and Malaria has invested in programs targeting key populations, including sex workers. Their investments focus on providing health services, reducing stigma, and improving human rights for sex workers

Red Umbrella Fund

The Red Umbrella fund is a global grant-making organization led by and for sex workers. It aims to strengthen and support the sex workers' rights movement by providing resources and advocating for social change, amplifying the voices and needs of sex workers themselves.

¹⁷ Latest Resources | Global Network of Sex Work Projects, www.nswp.org/. Accessed 4 Sept. 2024.

POSSIBLE SOLUTIONS

Adopting a Human Rights-Based Approach to Sex Work

A human rights-based approach to sex work emphasizes the elimination of discrimination, criminalization, and the stigma that sex workers face. This approach seeks to protect the rights of sex workers and ensure their equal access to services, promoting their dignity and well-being. This can be done through the creation of public awareness campaigns of all kinds such as but not limited to media campaigns, educational workshops and seminars, public events and exhibitions, as well as the creation of platforms for sex workers to share their stories to effectively combat stigma and change harmful attitudes towards sex workers. These campaigns should focus on promoting the understanding and acceptance of sex workers as individuals with rights and dignity, and they can be conducted with the engagement of stakeholders, to ensure they are well-rounded and inclusive. In addition, the use of diverse communication channels could ensure that different segments of the population are reached.

Strengthening Laws Regarding Sex Workers Rights

The enforcement of the already existing anti-discrimination laws that protect sex workers from any kind of discrimination in many areas, such as, but not limited to, education, healthcare, etc. is equally important for the decriminalization of the occupation. This can also be done through the removal of laws that promote the criminalization of sex work. Lastly, member states should enhance training programs for law enforcement officials, judicial authorities, public health professionals, and social services to address the stigma against sex workers and protect their rights, such as the The Global Network of Sex Work Projects (NSWP) and the Law Enforcement and Sex Work Training (LESWT) Programs, which have developed several training resources and guidelines for law enforcement officials, emphasizing the need for non-discriminatory and respectful interactions with sex workers. These programs should ensure equal access to services for sex workers and promote initiatives aimed at eliminating societal stigma against them and can be enhanced by including testimonies from sex workers to provide real-life perspectives and challenge misconceptions. Training sessions could invite sex workers to share their experiences to foster empathy and understanding. In addition, systems to monitor and evaluate the

effectiveness of training programs should be established. They could include feedback mechanisms from sex workers themselves to ensure that training is genuinely improving their interactions with authorities and service providers. Lastly, the already existing training programs can be enhanced by including comprehensive modules on human rights, anti-discrimination laws, and international guidelines related to sex work which can help build a stronger understanding of sex workers' rights among all professionals.

Decriminalize sex work

Decriminalizing sex work involves removing laws that criminalize consensual adult sex work and replacing them with legal frameworks that protect the rights and safety of sex workers. Firstly, urgent is the removal of penal codes by repealing or amending laws that criminalize the act of selling or buying sex, such as laws against prostitution, solicitation and others. In addition, what should be done is the implementation of laws that regulate sex work to ensure safe working conditions, health protection, and the ability to report crimes without fear of prosecution and also, enacting legislation that provides protections against exploitation and abuse, including labor rights, health and safety standards, and anti-discrimination measures. Furthermore, the right policy changes should take place to ensure that sex workers have access to comprehensive healthcare services, including sexual health services, mental health support, and harm reduction programs. Moreover, important is the creation of accessible systems for sex workers to report abuses or violations of their rights and ensure these complaints are taken seriously and investigated promptly. Lastly, stakeholders should involve sex workers in the development of laws and policies to ensure their needs and perspectives are central to the decriminalization process and provide funding and support to sex worker-led organizations that advocate for their rights and provide essential services.

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