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A GUIDE ON THE HUMAN RIGHTS OF SEX WORKERS

COMPILED BY:

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WHAT IS *SEX WORK?*

The terms '*sex worker*' and '*sex work*' replacing '*prostitute*' and '*prostitution*' was a result of global advocacy led by sex workers, who aimed to have sex work recognized as work. Sex workers' workplaces and working arrangements are diverse.

Sex workers can be self-employed or employed and engage in sex work part-time or full-time.¹ The term '*sex worker*' is used to refer to all adults who sell or exchange sex for money, goods or services (e.g., transport), regularly or occasionally.²

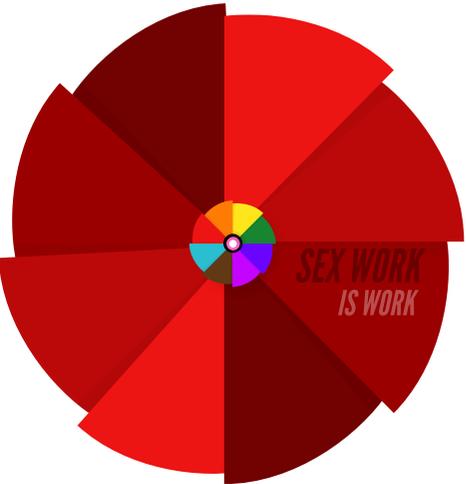
Sex work may vary in the degree to which it is "formal" or organized.

*SEX WORK
IS WORK*



¹ Global Network of Sex Work Projects, Policy brief on Sex work as work, 2017, available at: https://www.nswp.org/sites/default/files/policy_brief_sex_work_as_work_nswp_-_2017.pdf

² UNAIDS, UNFPA, UNDP, Sex Work and the Law in Asia and the Pacific, available at: <https://www.undp.org/sites/g/files/zskgke326/files/publications/HIV-2012-SexWorkAndLaw.pdf>



WHO ARE SEX WORKERS?

* Sex workers include people of all gender identities and sexual orientation over the age of 18 who receive money or goods in exchange for sexual services, either regularly or occasionally.³ It is important to note that sex work is consensual sex between adults, which takes many forms and varies between and within countries and communities, but does not include nonconsensual acts.⁴

* Sex workers worldwide suffer widespread stigmatization, discrimination and violations of their human rights, including arbitrary arrest and detention, violence by State agents and private actors, lack of access to health and social services, impeded access to justice, interference with private and family life, and exclusion from civil, political, and cultural life.⁵

* In examining sex work from a human rights perspective, it is important to focus on the principles of equality and non-discrimination, agency, bodily autonomy, privacy and free decision-making while stressing the need to ensure that sex workers' human rights, including the right to equality and to health and freedom from violence, are fully respected.⁶ Sex workers experience different human rights violations in their everyday lives. Nevertheless, these violations have largely remained unaddressed in international human rights law.

³ UNAIDS, HIV and Sex work available at: https://www.unaids.org/sites/default/files/media_asset/05-hiv-human-rights-factsheet-sex-work_en.pdf.

⁴ Ibid.

⁵ See also: Working Group on discrimination against women and girls, Eliminating discrimination against sex workers and securing their human rights, p 1, available at:

<https://www.ohchr.org/sites/default/files/documents/issues/women/wg/sex-work-pp-fin-proofread-24-sept.pdf>.

⁶ Ibid.



The criminalization of sex work is a human right violation

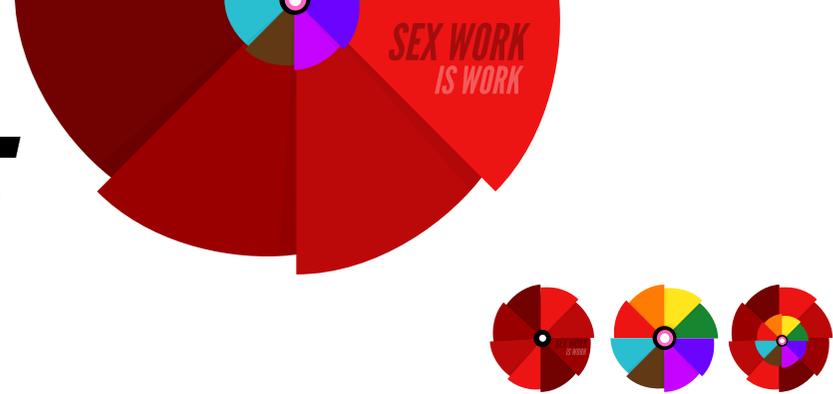
IN 2016, THE UN SECRETARY GENERAL

indicated that the *“decriminalization of sex work can reduce violence, harassment and HIV risk”* and called on the States to remove laws, policies and practices that violate human rights, including the criminalization of sex work.

Implementation of the Declaration of Commitment on HIV/AIDS and the Political Declarations on HIV and AIDS, A/70/811, paras 53 and 75 (f).



HEALTH IMPACTS OF CRIMINALISATION



Criminalization leads to poorer health outcomes for sex workers. In systems that criminalize their work, sex workers often avoid seeking proper healthcare for fear of legal consequences, harassment, and judgement, as well as because of the stigmatization affecting them. A study undertaken on 10 countries in Sub-Saharan Africa indicates that sex workers living in a country that criminalizes sex work has 7.17 higher times chances to contract HIV, compared with a country that partially legalized sex work.⁷ According to UNAIDS, *“the criminalization of the clients of sex workers has also been repeatedly shown to negatively affect sex workers’ safety and health, including reducing condom access and use, and increasing the rates of violence”*.⁸

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) defined criminalization of sex workers as a form of gender-based discrimination⁹ and stressed that *“special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups,”* including women sex workers.¹⁰ The Human Rights Committee listed sex workers as among a group of marginalized communities that face discrimination in access to education, employment, health, and housing.¹¹

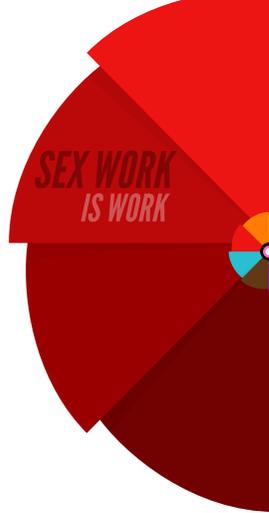
⁷ https://www.unaids.org/sites/default/files/media_asset/05-hiv-human-rights-factsheet-sex-work_en.pdf.

⁸ https://www.unaids.org/sites/default/files/media_asset/05-hiv-human-rights-factsheet-sex-work_en.pdf.

⁹ CEDAW Committee, General Recommendation No. 24: Article 12 of the Convention (Women and Health), para. 5, U.N. Doc. A/54/38/Rev.1 (Aug. 20, 1999).

¹⁰ Ibid.

¹¹ WHO, Implementing comprehensive HIV/STI programmes, supra note 1, at 85 n.11; world health org., HIV and young people who sell sex 15 n.161 (2015); world health org., United Nations Population Fund, UNAIDS & glob. Network of sex work projects, prevention and treatment of HIV and other sexually transmitted infections for sex workers in low and in middle income countries, 14, 23, 25, 27, 33 (2012).



Globally, sex workers confront *“greater barriers to sexual and reproductive health rights with national averages”*.¹² Criminalization has been also noted to diminish *“the bargain power”* of sex workers to choose their clients and negotiate the use of condoms.¹³ The Committee on Economic, Social and Cultural Rights (CESCR Committee) called on States Parties to *“take measures to fully protect persons working in the sex industry,”* including by ensuring *“access to the full range of sexual and reproductive healthcare services”*.¹⁴

At the regional levels, the African Commission on Human and Peoples’ rights (African Commission) and the Inter-American Commission on Human Rights (IACHR) expressed concern about the situation of sex workers and called on States to protect their right to health,¹⁵ among others, including due to the effects of the pandemic, which increased the situation poverty among cis and trans women sex workers.¹⁶

The IACHR noted that the lack of recognition of the work of sex workers, and sometimes their criminalization, often leads to such exclusion from formal State registration systems, placing obstacles in their access to medical and social services, a situation that has been aggravated by the COVID-19 pandemic. ¹⁷ The IACHR also highlights the situation of transgender women sex workers who often do not have identification documents in accordance with their gender identity/expression and are exposed to the dual denial of various essential services, including health. ¹⁸

¹² A/76/172, para. 10.

¹³ A/HRC/14/20, para. 37.

¹⁴ Committee on Economic, Social and Cultural Rights, General Comment No. 22(2016) on the right to sexual and reproductive health, at para. 32, U.N. Doc. E/C.12/GC/22 (May 2, 2016)

¹⁵ See: 58th Ordinary Session 6-20 April 2016 in Banjul, Islamic Republic of The Gambia, Concluding Observations and Recommendations on Sixth Periodic Reports of the Republic of Namibia on the Implementation of the African Charter on Human and Peoples’ Rights (2011–2013) (2016), available at:

[https://www.rightofassembly.info/assets/downloads/ACHPR_Concluding_Observations_on_Namibia_\(2016\).pdf](https://www.rightofassembly.info/assets/downloads/ACHPR_Concluding_Observations_on_Namibia_(2016).pdf)

¹⁶ See: IACHR calls on States to guarantee the human rights of women engaged in sex work in the context of the pandemic, available at: https://www.oas.org/en/iachr/media_center/PReleases/2020/272.asp.

¹⁷ Ibid.

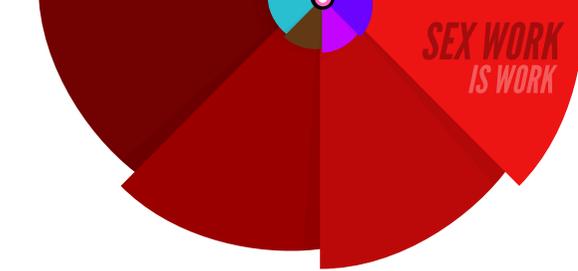
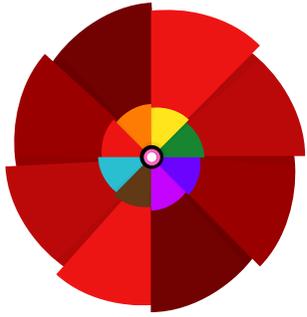
¹⁸ Ibid.



“SEX WORKERS

have human rights, and their comprehensive health needs include HIV prevention or treatment, but also screening for reproductive cancers, screening for other sexually transmitted infections, trauma counselling, contraceptives, and safe abortion care need. Yet, sex workers still face barriers in accessing healthcare services, including HIV prevention and treatment as well as and legal remedies.”

Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health



SOME INTERVENTIONS FROM UN EXPERTS:

In September 2021, the Special Rapporteur on the right to health sent a third-party intervention to the European Court on Human Rights, in relation to the M.A. and Others v. France case, warning that criminalizing sex work, obstructs the right to health, particularly for sex workers.¹⁹

The Special Rapporteur on the right to health and the Working Group sent a communication in support of the criminal law amendments aimed at the decriminalization of sex work in South Africa.²⁰



¹⁹ Amicus brief to the European Court of Human Rights, available at <https://www.ohchr.org/sites/default/files/documents/issues/health/sr/Fax-AC-MA-et-autres-c-France.pdf>.

²⁰ Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Working Group on discrimination against women and girls, available at:

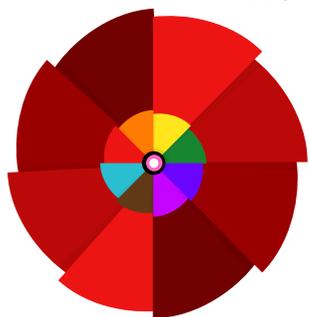
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gd=27841>.

VULNERABILITY & STIGMA

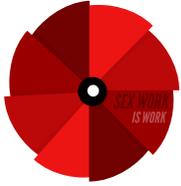
*SEX WORK
IS WORK*

Sex workers are affected by stigma and marginalization and are *“at significant risk of experiencing violence in the course of their work, often as a result of criminalization”* where access to health services is impeded and occupational risks increase.²¹

For example, the criminalization of sex work can drive sex workers underground, increase stigma and discrimination, creating obstacles to them accessing services and make them very vulnerable to violence and human rights violations among others.²²



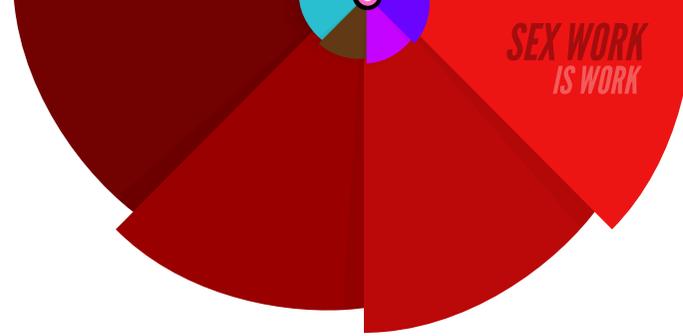
²¹ A/HRC/14/20, para. 27.
²² See also: Special Rapporteur on violence and women, its causes and consequences, A/HRC/32/42/Add.2, para. 35.



EXPOSURE TO VIOLENCE

Criminalization of sex workers increases their vulnerability to violence and compounds their exclusion from essential services.²³ Violence is a major obstacle in the realization of the right to health, including sexual and reproductive rights and structural violence – a form of violence normalized through laws, policies and the institutionalization of certain practices. It ***“creates unjust barriers that are socially and systematically designed to marginalize individuals and populations across the race, class and gender divide”***.²⁴

Structural violence has deep roots in patriarchal hegemonic and colonial definitions of society, which is ***“deeply entwined with sexual and gender-based violence and the denial of survivors’ access to health care and medical services”*** and includes the criminalization of sex work.²⁵



Structural violence, when suffered at the hands of law enforcement, among others can create similar barriers to the right to the highest attainable standard of health. In this regard, police brutality and impunity can also contribute to the fact that victims of sexual or gender-based violence do not report these crimes, which perpetuates this type of violence, and can arise where sex work is criminalized.

Criminalization enables abuse and exploitation. In this context, sex workers are exposed to sexually transmitted infections but also to violence, extortion and intimidation by clients and police, nearly always without recourse.²⁶ Decriminalization makes it possible for sex workers to seek justice in traditional fora without fear of consequence.



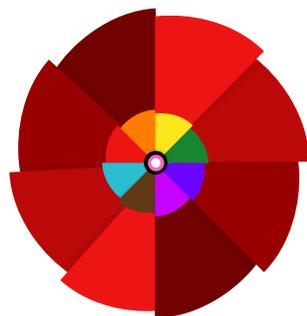
²³ See also: Working Group on discrimination and women and girls, A/HRC/44/51, para 43.

²⁴ Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report on violence and its impact on the right to health, A/HRC/50/28, para 70.

²⁵ Ibid., paras. 11 and 70.

²⁶ Ibid., para. 71.

INTERSECTING IMPACTS OF CRIMINALIZATION



The CEDAW Committee also voiced concern over sex workers' labor environments, recommending to *"[a]dopt measures aimed at preventing discrimination against sex workers and ensure that legislation on their right to safe working conditions is guaranteed at national and local levels".²⁷*

The abuse and violations experienced by sex workers in general are compounded by other factors including real or imputed sexual orientation, gender identity, gender expression and sex characteristics. Under such conditions, abuse of LGBTIQ+ sex workers would normally not be recorded as gender-based violence, leaving a gap in the understanding of the violence and who is affected.

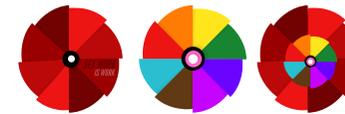
Migrant sex workers also face other risks, including forced HIV testing, confiscation of condoms as evidence of sex work, and general barriers to health services—such as the threat of arrest, detention, and deportation— that ensure their poor health outcomes.



²⁷ CEDAW Committee, General Recommendation No. 24: Article 12 of the Convention (Women and Health), para. 5, U.N. Doc. A/54/38/Rev.1 (Aug. 20, 1999).



IMPACTS OF CRIMINALIZATION...



In jurisdictions which criminalize sex workers, violations of their rights are numerous, and range from arbitrary arrests (for simply standing on the street or for having condoms), lack of respect for the rights of defense, police abuses (extortion of money or sexual services, discrimination, and degrading treatment), failure to protect sex workers from violence by private individuals and lack of access by sex workers to adequate healthcare.

Criminalization increases vulnerability to HIV by fuelling stigma and discrimination, limiting access to HIV and sexual health services, condoms and harm reduction services, and adversely affecting the self-esteem of sex workers and their ability to make informed choices about their health.²⁸

For example, criminalization of third-party activities may lead to criminalization of not only managers, organizers, and facilitators, but also of the children and partners of sex workers. Furthermore, women who work together can be criminalized for pimping, even where there is no element of exploitation among women who work together.²⁹ Also, sex workers can be penalized under criminalization of soliciting and advertising of sex work.

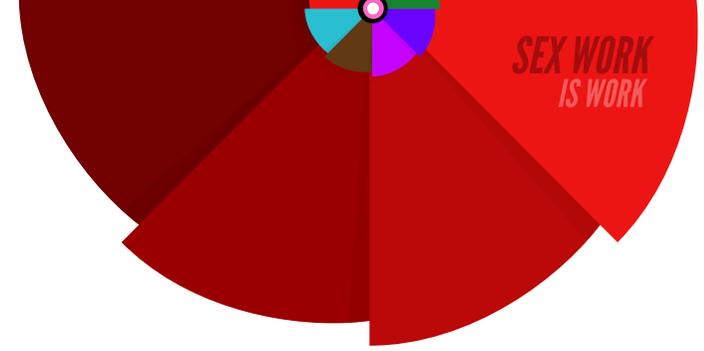
²⁸ UNAIDS, UNFPA, UNDP, Sex Work and the Law in Asia and the Pacific , available at:

<https://www.undp.org/sites/g/files/zskgke326/files/publications/HIV-2012-SexWorkAndLaw.pdf>

²⁹ Working Group on discrimination against women and girls, Eliminating discrimination against sex workers and securing their human rights, p 1, available at

<https://www.ohchr.org/sites/default/files/documents/issues/women/wg/sex-work-pp-fin-proofread-24-sept.pdf>.

IMPACTS OF CRIMINALIZATION...



Sex workers – particularly those working outdoors – may be indirectly criminalized through the criminalization of non-sexual behaviors and activities, such as drug use and possession, sexual and gender diversity, as well as homelessness. Today, the most vulnerable people in the world are women who are poor and from racially marginalised groups.³⁰ In this regard, looking around the globe at the most vulnerable and unregulated work, whether it is sex work, domestic service or sweatshop labour, it is women who are often physically abused, who have to work long hours and who bear the brunt of social and economic impunity.³¹

In addition, sex workers may be charged with offenses such as loitering, vagrancy, impeding the flow of traffic, congregating for the purposes of sex work, public indecency, or disorderly behavior, all of which have implications for the enjoyment of their human rights, including the right to private life.

³⁰ World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Special Rapporteur on violence against women statement, available at: https://www.un.org/WCAR/statements/violence_womenE.htm.

³¹ Ibid.



DIFFERENT LEGAL APPROACHES:

SEX WORK
IS WORK

1. CRIMINALIZING THIRD PARTIES



The broad criminalisation of all sex work related activities of third parties (including renting an apartment to a sex worker) leads to the violations of the sex workers' right to private life, right to housing and the right to non-discrimination, among others.

Criminalizing clients has problematic human rights implications and has been widely criticised by sex workers. It has been shown that ending the demand increases surveillance and harassment of sex workers by the police, leading to increases in arrest and detention, as well as deportation of migrant sex workers, while simultaneously undermining sex workers' access to justice.³²

Ending the demand has negative impact on sex workers' health and safety, which has been recognised by UNAIDS who found that *"the criminalization of the clients of sex workers [...] negatively affects sex workers' safety and health, including reducing condom access and use, and increasing the rates of violence."*³³

In addition, criminalizing clientele and ending demand leaves many sex workers without other options for earning income, further exposing them to the harms of poverty.

³² Working Group on discrimination against women and girls, Eliminating discrimination against sex workers and securing their human rights, p 1, available at: <https://www.ohchr.org/sites/default/files/documents/issues/women/wg/sex-work-pp-fin-proofread-24-sept.pdf>.

³³ HIV and Sex work (2021), available at: https://www.unaids.org/sites/default/files/media_asset/05-hiv-human-rightsfactsheet-sex-work_en.pdf.

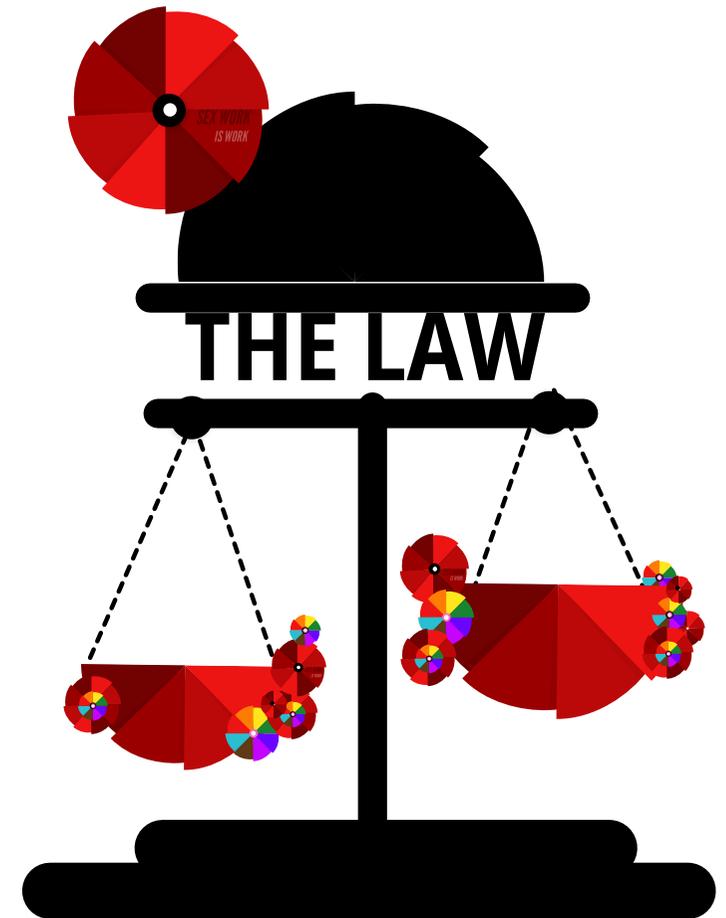
2. LEGALIZATION

Legalization, as a regulatory approach aimed at controlling sex work, has many problematic aspects that lead to violations of the rights of sex workers.

Legalization is functionally identical to criminalization in many ways, as strict regulations leave a large, likely more vulnerable, portion of the industry outside the scope of legality and exposed to violence and further criminalization.

In certain jurisdictions, sex workers must register with the police, in others, there is mandatory STI testing, while in yet others, restrictions are placed about who can work as a sex worker in terms of sex, age and citizenship.

Legalized systems create high barriers to entry, difficult-to-navigate processes, and even financial burdens for sex workers. Full decriminalization is the only method that allows the most vulnerable sex workers to access the resources and protections they need.



THE DISTINCTION BETWEEN SEX WORK & SEX TRAFFICKING

***SEX WORK
IS WORK***

Sex work entails the consent of sex workers, over the age of 18, and their capacity to exercise that consent voluntarily. Trafficking, on the other hand, involves coercion and deceit, resulting in loss of agency on the part of the trafficked person.³⁴

Sex work should not be conflated with trafficking in persons for the purpose of exploitation, because assuming that all sex workers are trafficked denies the autonomy and agency of people who sell sex.³⁵

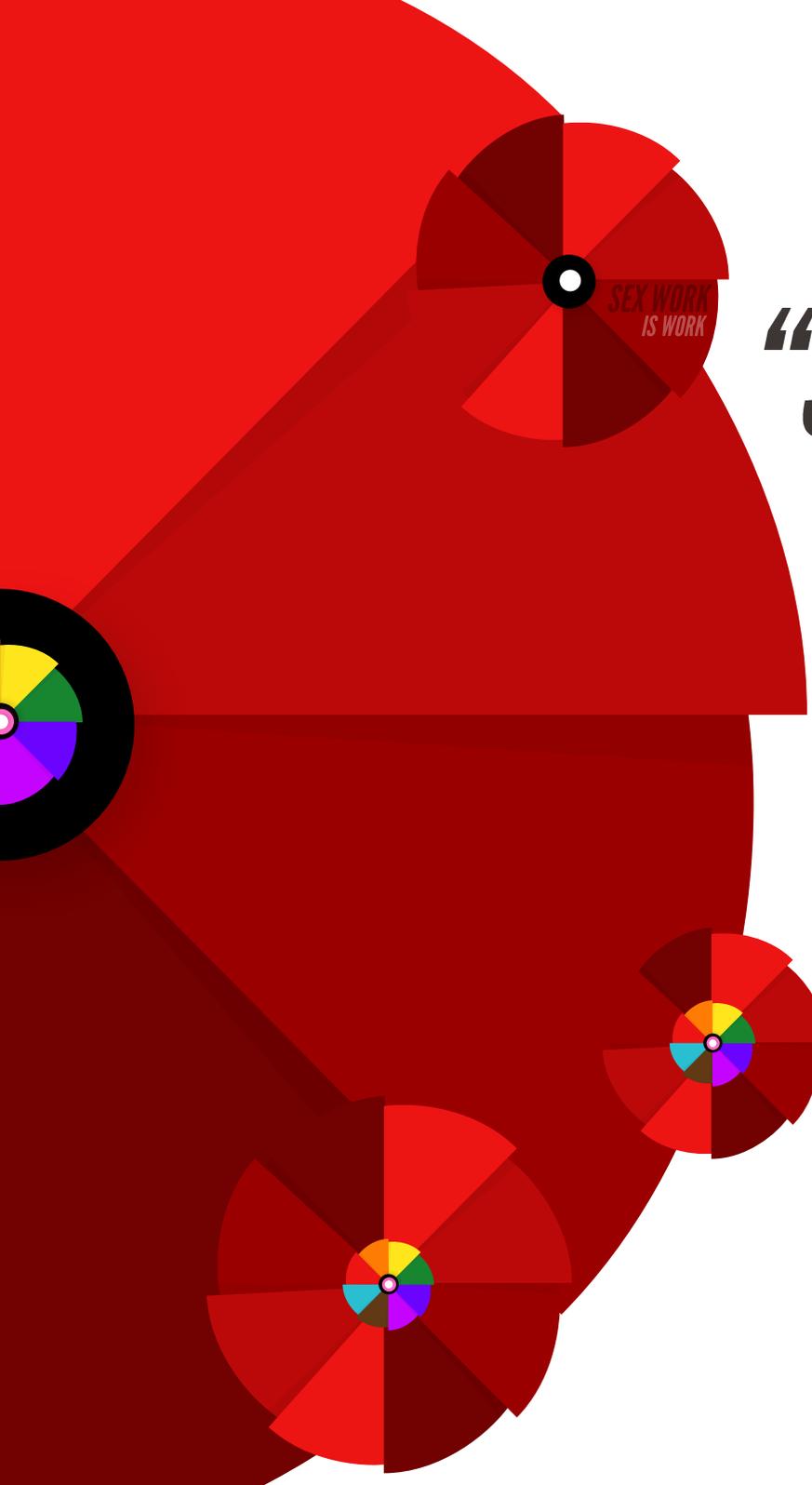
Decriminalization of sex work should not be understood to be a green light for sexual violence and trafficking.



***SEX WORK
IS WORK***

³⁴ UNAIDS, Guidance Note on HIV and sex work. Geneva, 2009, updated 2012. www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDSguidance-note-HIV-sex-work_en.pdf; WHO, UNFPA, UNAIDS & NSWP, Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries.

³⁵ Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Event on sex work and health, European Parliament, 7 December 2023



*“SEX WORK IS **REAL** WORK.”*

Everyone deserves dignity, autonomy and safety in the workplace, including sex workers. The idea of purchasing intimacy and paying for services can be affirming for many people who need human connection, friendship, and emotional support”.³⁶

“Decriminalisation of Sex work is a human rights issue”.³⁷



³⁶ Statement by Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UNAIDS Feminist Dialogue on sex work in the context of HIV.

³⁷ Ibid.

UN EXPERT SUPPORT FOR **DECRIMINALIZATION OF SEX WORK**



The former **Special Rapporteur on the right to health** recommended decriminalizing sex work. He emphasized that decriminalization is necessary to address the right to health violations experienced by sex workers due to criminalization.³⁸ He also recommended decriminalizing consensual sexual relations between men.³⁹ He also indicated that decriminalization of sex work is necessary, alongside with other measures as part of a comprehensive right-to-health approach, which include human rights education, the participation and inclusion of vulnerable groups and efforts to reduce stigma and discrimination in respect of these groups.⁴⁰ Furthermore, the Special Rapporteur on the right to health expressed support to the removal of all laws and policies criminalizing or otherwise punishing sex work, among others.⁴¹

The **Working Group on discrimination against women and girls** recommended to decriminalize women sex workers and take a comprehensive approach to addressing the question of sex work.⁴² It also recommended that States decriminalize sexual and reproductive behaviours that are attributed exclusively or mainly to women, including adultery and sex work, and termination of pregnancy.⁴³

It stated that enforcement of punitive provisions to regulate women's control over their own bodies generates stigma and discrimination and violates women's human rights, infringing women's dignity, and bodily integrity by restricting their autonomy to make decisions about their own lives and health.⁴⁴



³⁸ Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report on Right to health and criminalization of same-sex conduct and sexual orientation, sex work and HIV transmission, paras. 12–14, U.N. Doc. A/HRC/14/20 (Apr. 27, 2010).

³⁹ Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report on the visit to Ghana, A/HRC/20/15/Add.1, para 60.

⁴⁰ A/HRC/14/20.

⁴¹ A/HRC/50/28, para. 92.

⁴² E/C.12/ZAF/CO/1, para. 83 (d).

⁴³ Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/32/44, para 106 (e).

⁴⁴ Working Group on discrimination against women and girls, Eliminating discrimination against sex workers and securing their human rights, available at: <https://www.ohchr.org/sites/default/files/documents/issues/women/wg/sex-work-pp-fin-proofread-24-sept.pdf>.

UN EXPERT SUPPORT FOR **DECRIMINALIZATION...**

The **Working Group** recommended that States ban laws and practices policing, targeting, punishing or confining women in relation to consensual sexual or reproductive behaviour or decisions, including sex work, termination of pregnancy or expressions of sexuality. It has also concluded that violations of the rights of sex workers had long been committed with impunity and that these violations were gendered, as laws penalizing sex workers (most of whom are women) were based on patriarchal moral standards about women's sexuality and that laws targeting sex work were enforced disproportionately against women and facilitated systemic violence against the, including sexual violence by police and other actors.⁴⁵

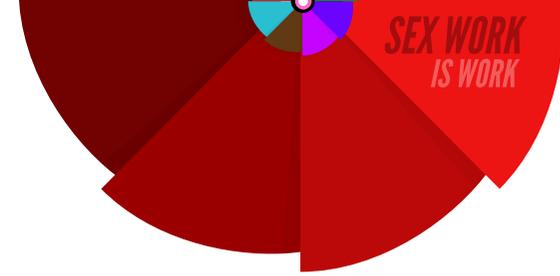
It noted that criminal laws and other punitive regulations had imposed custodial sentences on women involved in sex work in a manner that had been shown to harm rather than protect them and considered that the criminalization of women in sex work, places them in a situation of injustice, vulnerability and stigma and is contrary to international human rights law.⁴⁶

⁴⁵ Joint Amicus Curiae Submission by the United Nations Human Rights Council's Working Group on Discrimination against Women and Girls and the Working Group on Arbitrary Detention on the case of Joy Moses & 5 ORS vs. THE MINISTER, FCT & 13 ORS, 3 February 2020, available at:

www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/Amicus_Brief_1_Nigeria.pdf.

⁴⁶ Ibid., para 84.

⁴⁷ Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, para. 80, U.N. Doc. E/CN.4/2000/68, para 21.



The former **Special Rapporteur on violence against women** described “decriminalization combined with a human rights approach” as the legal framework addressing sex work that calls for the realization of both the human rights and labor rights of sex workers.⁴⁷

The former **Special Rapporteur on extreme poverty** called for the full decriminalization of sex work after documenting how criminalization leads to discrimination, stigma, and violence.⁴⁸

The **Special Rapporteur on contemporary forms of slavery including its causes and consequences** recommended to decriminalize sex work and consensual same-sex relations to reduce the risk of exploitation and abuse.⁴⁹



⁴⁸ Report of the Special Rapporteur on Extreme Poverty and Human Rights, at 22, U.N. Doc A/HRC/23/36/Add.1 (May 17, 2013).

⁴⁹ Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Report on the visit to Sri Lanka, A/HRC/51/26/Add.1, para. 104.



UN EXPERT SUPPORT FOR DECRIMINALIZATION



In its General Recommendation no. 35, *the CEDAW Committee* concluded that laws criminalising sex workers are “discriminatory against women, and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence against them” and called on States to repeal provisions criminalizing women sex workers.⁵⁰ The Committee also recommended decriminalization in countries where sex work was considered illegal and the review or enforcement of laws relating to sex work to ensure that sex workers are not criminalized.⁵¹

WHO and UNAIDS called for decriminalization. In 2012, WHO declared that “[a]ll countries should work toward decriminalization of sex work and elimination of the unjust application of non-criminal laws and regulations against sex workers”.⁵²

UNAIDS stressed that decriminalization must include the removal of “criminal laws and penalties for purchase and sale of sex, management of sex workers and brothels, and other activities related to sex work”.⁵³

⁵⁰ CEDAW Committee, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (2017), CEDAW/C/GC/35, para. 29 (c) (i).

⁵¹ CEDAW/2003/II/WP.2, paras. 12 and 14.

⁵² WHO, Implementing Comprehensive HIV/StI Programmes, *Supra* Note 1, At 85 N.11; WHO, HIV And Young People Who Sell Sex 15 N.161 (2015); World Health Org., United Nations Population Fund, UNAIDS & Glob. Network Of Sex Work Projects, Prevention and Treatment Of HIV And Other Sexually Transmitted Infections for sex workers in low and middle income countries 14, 23, 25, 27, 33 (2012).

⁵³ UNAIDS, Guidance Note on HIV and sex work. Geneva, 2009, updated 2012, annex 6, available at: www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDSGuidance-note-HIV-sex-work_en.pdf.

FACTS & FIGURES: IN SUPPORT OF **DECRIMINALIZATION**



- * In 2019, female sex workers were 30 times more at risk of acquiring HIV than the general female population and approximately eight per cent of new adult HIV infections globally were among sex workers of all genders.**54**
- * In South Africa, health statistics suggest that decriminalization is urgent: HIV prevalence rates amongst female sex workers are estimated to be between 40 per cent and 88 per cent, compared to 14.4 per cent among women who do not identify as sex workers.**55**
- * Criminal laws, law enforcement practices, stigma and discrimination increase risks of violence for sex workers such that 45% to 75% of adult female sex workers are assaulted or abused at least once in their lifetimes.**56**
- * Intersecting socio-structural contexts of racism, transphobia, economic insecurity and migration status can also serve to increase vulnerability to violence for different groups of sex workers.**57**
- * The criminalization of the clients of sex workers has also been repeatedly shown to negatively affect sex workers' safety and health, including reducing condom access and use, and increasing the rates of violence.**58**

- * The criminalization of any aspect of sex work has similar negative public health, violence and well-being outcomes.**59**
- * During COVID-19, sex workers reported increased harassment and discrimination, as well as exclusion from financial support measures.**60**
- * Sex work criminalization thus contributes to other rights violations, including denial of the right to life, to housing, security, privacy and access to health services.**61**
- * Sex workers have the right to safe working conditions and labour protections, including for all migrant sex workers.**62**
- * Sex workers should be included in social protection and financial support scheme.**63**

54 <https://www.unaids.org/en/resources/documents/2021/05-hiv-human-rights-factsheet-sex-work>

55 South African National AIDS Council (SANAC), "South African National Sex Worker HIV Plan, 2016-2019, available at: <https://southafrica.unfpa.org/sites/default/files/pubpdf/South%20African%20National%20Sex%20Worker%20HIV%20Plan%202016%20-%202019%20FINAL%20Launch%20Copy...%20%282%29%20%281%29.pdf>, p. 13.

56 Ibid.

57 Ibid.

58 Ibid.

59 Ibid.

60 Ibid.

61 Ibid.

62 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. Concluding observations on the initial report of Turkey, CMW/C/ TUR/CO/1, 2016.

63 Ibid.

RECOMMENDATIONS:

MARCH 2024

Special Rapporteur on the right of everyone to the highest standard of physical and mental health (SR health), the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI), and the UN Working Group on discrimination against women and girls (WGDAWG)

We call upon States and other relevant stakeholders to:

- * Review relevant legislation and regulations in force to decriminalize sex work.
- * Take a comprehensive approach to addressing the human rights of sex work and sex workers and their clients and related sectors or people who may be involved in the chain of service.
- * Take preventive and rehabilitative measures to protect sex workers.
- * Respect and protect the key principles of non-discrimination, equality, and privacy, as well as bodily integrity, autonomy, dignity, and well-being of sex workers.

Ensure that people involved in sex work enjoy the right to access sexual and reproductive health services, and are free from violence or discrimination.

Ensure that people involved in sex work have access to equal protection of the law in theory and in practice.

Guarantee the right to health through prevention and care policies that are respectful of the gender identity/expression of trans women, particularly those who engage in sex work.



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We call upon States and other relevant stakeholders to:

- * Law enforcement officers must be trained on their obligations toward sex workers and protecting sex workers from violence.
- * States should also immediately cease the practice of detaining sex workers in “rehabilitation centres”
- * States must adopt legislative, administrative, social, economic and other measures necessary to prevent, investigate, prosecute and punish all acts of violence against sex workers, whether perpetrated by the state or by private individuals, and to ensure reparations for victim.



- * States should ensure the meaningful engagement and participation of sex workers in all their diversity in all legal, policy and programmatic implementation activities.
- * States must take care not to conflate sex work and trafficking in legislation because it leads to the implementation of inappropriate responses that fail to assist either sex workers or victims of trafficking in realizing their rights and, at worst, to violence and oppression.



MARCH 2024

A GUIDE ON THE HUMAN RIGHTS OF SEX WORKERS

COMPILED BY:

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