



SEX WORKERS AT RISK

A RESEARCH SUMMARY ON HUMAN RIGHTS
ABUSES AGAINST SEX WORKERS

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AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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Cover photo: Sex workers wait for customers in Tegucigalpa, Honduras, 18 July 2012.
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1. INTRODUCTION

“Our new policy is focused on protecting sex workers from human rights abuses and violations and reinforces our unflinching determination to address and oppose serious human rights abuses experienced by sex workers – such as violence, extortion, harassment and denials of rights to health, housing and other essential services.”

Tawanda Mutasah, Senior Director for Law and Policy

Beatings. Rape. Harassment. Forced HIV testing. Exploitation. Extortion. Forced evictions. Exclusion from basic health services. Discrimination.

For one of the world's most marginalized, vulnerable and stigmatized groups of people – sex workers – such human rights violations and abuses are a daily reality or risk in many countries worldwide.

This is not easy territory for a human rights organization. Debates about sex work are often contentious, with people holding strong opinions. Yet tackling the causes of human rights violations and abuses sometimes requires difficult decisions that some may not agree with.

The 1948 Universal Declaration of Human Rights remains relevant and resonant almost 70 years on because it is unswervingly categorical: we all have inalienable human rights.

We should not shy away from the absolute principle of standing up for the rights of everyone.

We will not ignore people like the woman in Papua New Guinea who told us that police said they did not want to “waste time on sex workers” when she tried to report abuse by a client. Or sex workers in Hong Kong subject to extortion or coerced to sell sex by police. We will not turn away from those suffering sexual violence when seeking medical treatment in Argentina. Or those made homeless by forced evictions in Norway.

So how can we achieve better protection for sex workers from such violations and abuses?

This question led Amnesty International's global movement to embark on extensive worldwide consultations and first-hand research carried out over two years culminating in a resolution in August 2015 to adopt a policy on protecting sex workers from human rights abuses.

Our new policy is focused on protecting sex workers from human rights abuses and violations – including violence and rape, denial of equal protection before the law, exclusion from medical services, forced evictions, and other forms of discrimination and marginalization.

It also reinforces our unflinching opposition to abuses such as human trafficking, exploitation, and gender inequality. Human trafficking is an abhorrent human rights abuse that under international law must be criminalized by states; any third parties who exploit or abuse sex workers must be held to account; and concerted action to end gender discrimination and inequality – injustices that lead some into sex work – is urgently needed.

Our policy outlines a range of steps for states to take to ensure better protection for sex workers from violence and injustice. One step is decriminalization of all aspects of consensual adult sex work not involving coercion, exploitation or abuse. There is growing evidence that criminalizing sex work makes sex workers more vulnerable to rights violations and increases the risks and dangers that sex workers face, exacerbates inequality and discrimination, and leads to harmful impacts.

We want laws to be refocused on making sex workers' lives safer, while addressing effectively human trafficking, exploitation and gender discrimination. We want states to ensure no one is coerced to sell sex, has to rely on it for survival, or is unable to stop if they choose to.

Sex workers face marginalization and abuse that is against everything we stand for as human rights defenders. We have a responsibility to help them claim their human rights.

Under strict embargo until 01:00 GMT 26 May 2016

2. WHO ARE SEX WORKERS?

26 May 2016

SEX WORKER DEFINITION

By “sex worker”, Amnesty International means adults (18 years of age and above) who receive money or goods in exchange for consensual sexual services regularly or occasionally. By “sex work”, Amnesty means exchange of sexual services, involving sexual acts, between consenting adults for remuneration, with terms agreed between seller and buyer.

Amnesty International recognizes that terms referring to sex work and sex workers vary across continents and by individual preference, and not all who sell sexual services identify themselves as “sex workers”.

Where consent is absent for reasons including threat or use of force, deception, abuse of power, or involvement of a child, such activity is not sex work but constitutes a serious human rights abuse which must be treated as a crime. The terms “sex worker” and “sex work” are not applicable to children or trafficking victims.

Sex workers are diverse, all with their own experiences. People of different gender, and ethnic and socio-economic backgrounds carry out sex work for often complex and overlapping reasons. Poverty and deprivation of opportunity – fuelled by discrimination, gender inequality, social exclusion, racism, colonialism, social-economic inequality and oppression – can lead people into sex work, or play a role in sex workers’ decisions to remain in sex work. For some, sex work can offer more flexibility and control over working hours or a higher rate of pay than other options available to them.

- Reliable statistical data is scarce, but evidence indicates that it is often those living in the margins of society and most at risk of discrimination and oppression, who end up selling sex.
- Women – who frequently face discrimination and inequality, and bear a disproportionate burden of poverty – account for the majority of sex workers globally.
- Some people sell sex because they have limited opportunities. Criminalizing people who sell sex in these circumstances only perpetuates their marginalization.
- Transgender people and men account for a significant number of sex workers in many states, and often report high levels of vulnerability to abuses.
- People subject to discrimination because of their ethnicity, caste, Indigenous status, migration status and/or who are living in poverty, are also often over-represented among sex workers.

3. NEW RESEARCH

Amnesty International's human rights work has previously addressed the rights of sex workers when researching torture, violence against women and criminalization of same-sex relationships. (See Annex: Further Reading below for examples.) As part of extensive consultations into our policy on sex workers' human rights, the Amnesty International movement carried out country-based research that was primarily focused on the human rights impact of criminalizing sex work. The scope of the research included:

- countries or locations from different world regions;
- a country adopting the "Nordic Model";
- high, middle and low-income settings; and
- an exploration of distinct legal frameworks.

Four locations were chosen: the Autonomous City of Buenos Aires (Argentina); Hong Kong SAR (China); Oslo (Norway); and Papua New Guinea. In Argentina, our research focused on the Autonomous City of Buenos Aires, rather than the Province of Buenos Aires, which is governed by different laws. In each location, Amnesty International conducted in-depth interviews with between 15-30 sex workers, as well as between 24-40 other key stakeholders including government officials, academics, advocates for sex workers and representatives of non-governmental organizations (NGOs) that provide support to sex workers. We reviewed research conducted by the UN, government bodies, academics and other researchers in these locations. In some instances, we faced significant difficulties finding sex workers willing to share their experiences, given the criminalized nature of their work and prevailing stigma against sex workers in society at large. In each case, we presented our findings of violations of sex workers' rights to the authorities in order to obtain their response before finalizing the reports. The research methodology and sources of evidence are set out in detail in each report.

In addition, we carried out an extensive review of existing human rights research globally, analysis and jurisprudence of international human rights bodies and experts as well as review of studies worldwide by academics, governments, international organizations and other independent researchers. These are referred to in our policy and an accompanying explanatory note.

SEX WORK AND THE LAW

In the City of Buenos Aires, Argentina, the sale or purchase of sex by adults is not explicitly illegal but, in practice, these activities are criminalized on multiple levels through a range of laws that punish activities related to sex work and an anti-trafficking law that fails to distinguish between consensual sex work and human trafficking into the sex sector.

- The autonomous sale and purchase of sex indoors is not criminalized per se, but sex workers working in these situations face grave violence and extortion during anti-trafficking raids and apartment inspections.
- The law related to street-based sex work does not ban the sale of sex but aims to prevent "public nuisance" by criminalizing the "ostentatious" offer and demand of sex in unauthorized public places. According to sex workers, the police uses this law to repeatedly stop them and ask them to show identification documents, and subjects them to fines and probation.

In Hong Kong, it is not illegal for a person to sell sex on their own from an apartment, and many sex workers we spoke to are careful to comply with the law. However, many other activities associated with sex work are illegal.

- Sex workers can under the law be prosecuted for soliciting customers, sharing premises with other sex workers, and living off the proceeds of sex work.
- Sex workers interviewed by Amnesty said that police often engage in coercive practices and entrapment to prosecute sex workers who operate outside the law.
- Those working on the street – often migrants from mainland China – are at particular risk of arrest because they are easy to identify, and cannot sell sex without violating the prohibition on solicitation or breaching immigration laws.

In Papua New Guinea, it is illegal to live off the earnings of “prostitution”, to own or operate a brothel, or engage in same-sex sexual activity.

- According to sex workers, police, when enforcing these laws, commit a range of violations against them, including cruel, inhuman and degrading treatment and unlawful detention.
- These laws have a significant impact on the violence, stigma and discrimination suffered by sex workers.

In Norway, direct selling of sex is not illegal but buying sex is. The penal code also outlaws “promotion” of sex work. The definition of “promotion” is broad. It includes the provision of support services such as security and transport and also means that sex workers can be prosecuted for “promotion” if they are working together for safety.

- Renting out premises used for selling sex is illegal under the law on “promotion”; police have used this law extensively to force landlords to evict sex workers from their homes and premises.
- Buying sex became a crime in 2009; the subsequent government-commissioned evaluation of the law found that since its introduction, sex workers report having less negotiation power in the street market, that a larger proportion of remaining buyers are now described as being “bad” customers (they are less likely to respect the agreement and terms between the seller and buyer) and that buyers rush the initial negotiation, giving sex workers less time and opportunity to assess risks.
- Sex work and trafficking for purposes of sexual exploitation are recognized as separate issues under Norwegian law, but are frequently conflated through government policy-making and police practice. The government’s policies aim to prevent trafficking primarily by reducing or eradicating sex work. As a result, sex workers and victims of trafficking are often negatively impacted by police crackdowns.

4. HUMAN RIGHTS ABUSES SUFFERED BY SEX WORKERS – WHAT THE RESEARCH SHOWS

Laura – a street-based sex worker in Argentina – told Amnesty International how a client grabbed her by the neck and held her at knife point. After she gave him her money and cell phone, he let her go. Laura explained that she did not report the violence and theft to the police because it would be “a waste of time”. “They won’t listen to me because I’m a street worker”, she said.

Her story is not unusual. Sex workers are among the most marginalized and stigmatized populations in the world and frequently face a harsh daily reality of threats to their safety and wellbeing. It is clear from our research and information collected by local and other international organizations that:

- Sex workers suffer high rates of violence and abuses worldwide, and are highly vulnerable to human rights violations.
- Sex workers face attacks, discrimination and injustice – at the hands of police, clients, exploitative third parties involved in sex work, landlords, family, community and healthcare providers. Much of this violence and abuse goes unreported, under-investigated and unpunished.
- Increasingly, we are encountering evidence of violations against sex workers in our work: instances of police abuse in Nigeria; sexual and gender-based violence in Tunisia; “morality” crackdowns in Tajikistan, and rape, extortion and harassment by police in Brazil. This is in addition to our specific research on sex work conducted in Argentina, Hong Kong, Papua New Guinea and Norway.
- Other local and international organizations are documenting serious violations and abuses against sex workers. In India and Indonesia, researchers have found that sex workers rounded up in raids were beaten, coerced to sell sex by police, and placed in institutions where they were sexually exploited and suffered physical abuse. Human Rights Watch has documented widespread police abuses against sex workers in Cambodia and mainland China, including beatings and arbitrary detention.

International human rights law guarantees everyone’s right to liberty and security of the person, health, access to justice, adequate housing, equality and non-discrimination, just and favourable work conditions, and remedies for abuses. Yet, in many countries, these rights are denied to sex workers.

4.1 STIGMATIZED AND MARGINALIZED

Sex workers and NGOs we spoke to described how sex workers face high levels of stigma, prejudice and discrimination, often compounded by presumptions of illegality or immorality imposed by sex work-related laws.

Sex workers are frequently shamed and blamed for acts of violence committed against them – by police, clients, family, other private individuals, health care service providers and employers.

IN PAPUA NEW GUINEA:

- Women engaged in sex work face extreme levels of stigma, discrimination and violence, including from their own families and police, according to sex workers, NGOs and academic research. Gender inequality is a major concern; women – particularly sex workers – who choose their sexual partners or have multiple sexual partners risk violence by family members for defying cultural expectations and societal norms, and for potentially causing the family to lose income in the form of a “bride price”.
- Sex workers are stigmatized by many police officers, health care providers and the media as being “spreaders” of HIV – discouraging them from seeking sexual and reproductive health information and services.
- Male and transgender sex workers experience multiple forms of intersecting discrimination because of their sexual orientation and gender identity, and involvement in sex work. Those not conforming to established gender or sexuality norms are often ostracized from their communities and families, creating additional barriers to employment, housing and health care.

“The main problem is families. When they find out you work in the sex industry they chase you away... Most of us are not wanted by our families and our communities”

Sex worker in Papua New Guinea

IN BUENOS AIRES:

- Police repeatedly stop street-based sex workers arbitrarily and ask for their identification. Police also subject sex workers to repeated fines and probation. Although it is unlawful for police to consider dress, appearance or manners when enforcing the law, sex workers, a local judge and a public defender confirmed that police frequently engage in such profiling when stopping and issuing citations to street-based sex workers.
- Police disproportionately target transgender sex workers when enforcing the law that prohibits street-based work. Transgender street-based sex workers receive the majority of citations under the law and resulting fines and probation, while clients are rarely cited.

IN HONG KONG:

- Because of the de facto prohibition on sex work, sex workers, in particular migrant sex workers, reported feeling powerless and unwilling to seek legal protection from violence and abuse from clients and others, such as the police.
- Police routinely subject transgender sex workers to abusive practices. On arrest, or when in custody, individuals are regularly forced to undergo intrusive and humiliating full-body searches; male officers carry out these searches on transgender women whose documents do not match their gender identity. Organizations working with transgender women detainees confirmed that all were initially sent to male detention centres prior to transfer to a special unit for detainees with mental illnesses. Prisons officials

force transgender women to cut their hair and, in almost all cases, do not allow them to continue hormone therapy, with potentially serious consequences for their health.

- Most sex workers are migrants or from mainland China, and are routinely prosecuted for immigration offences. Migrants and people from mainland China cannot lawfully engage in sex work and, therefore, risk arrest whenever coming into contact with the police.

IN NORWAY:

- Police target migrant sex workers who are often living in poverty when enforcing sex work and immigration laws. Eviction of sex workers in Oslo, for example, which can lead to homelessness and increased exposure to potential exploitation, has had the greatest impact on the most marginalized migrant sex workers.
- Sex workers frequently described negative experiences of discrimination often interwoven with racism and anti-migrant sentiment.
- Service providers, as well as many of the sex workers interviewed by Amnesty International, expressed concern that attitudes towards people who sell sex have hardened in recent years and cited media reports, research and the experiences of other sex workers as evidence that negative attitudes towards sex workers have become more common in the last decade.
- Academic research indicates that while buying sex has become more stigmatized since the ban on buying sex was introduced (one of the key aims of the law), attitudes towards sex workers have also become more stigmatized – with more people in Norway now supporting the criminalization of selling sex as well as buying.
- Research by the main provider of services to sex workers in Oslo indicates that more sex workers report being harassed by members of the public more frequently now than before the ban on buying sex was adopted.

“When the government made prostitution illegal, it made people see us as illegal. People started looking at us with different eyes than before”

Migrant sex worker, Oslo

4.2 PHYSICAL AND SEXUAL VIOLENCE

In addition to violence perpetrated by clients and other individuals, sex workers report suffering high levels of violence at the hands of state officials, sometimes amounting to torture or cruel, inhuman and degrading treatment.

Our research shows that criminalization of sex work gives police impunity to abuse sex workers and acts as a major barrier to police protection for sex workers.

A 2010 study of 593 sex workers in Papua New Guinea’s capital Port Moresby found that in a six-month period, 50 per cent had been raped by clients or by police.

Police violence and abuse featured in our research findings in Buenos Aires, Hong Kong and Papua New Guinea. In Norway, Amnesty International did not find substantive evidence of police violence towards sex workers.

- In Papua New Guinea, human rights violations against sex workers by police are common. Sex workers and sex workers advocates told us that police extort money from rape and sexually abused sex workers – often with impunity. Police raids have, in some cases, forced sex workers to chew and swallow condoms as a form of punishment. One sex worker described being gang raped by six police officers. Sex workers reported being arbitrarily arrested and detained, but rarely being charged with any offences. Police sources confirmed that police officers are rarely dismissed or prosecuted for criminal acts. Independent academics and NGOs working with transgender and male sex workers report that they suffer higher levels of physical abuse than other sex workers, particularly from the police.
- In Buenos Aires, law enforcement officials frequently subject sex workers to ill-treatment during “code inspections” and raids on apartments where commercial sex and human trafficking is suspected. Sex workers are frequently detained, often violently, for long periods of time and subjected to coercive questioning. They also face extortion and theft of their personal property.

“Police hit us, chase us, say sex work is not allowed. We say, you are not going to feed us, clothe us, help our children – so we need to do this”

Sex worker in Papua New Guinea

The unlawful status of sex work, as well as associated stigma and discrimination, make sex workers more vulnerable to violence from other individuals, including clients.

- In Papua New Guinea, sex workers face a range of human rights abuses from clients – including rape and physical violence that sometimes lead to death. Several sex workers reported the rape and murder of a sex worker in Port Moresby just days before Amnesty International’s visit.
- In Hong Kong, surveys by academics show that sex workers are often the victims of crime and abuses by clients. Theft and armed robbery are commonly reported abuses. Some sex workers have been physically assaulted or raped. Sex workers also report that some customers refuse to use condoms or force them to engage in acts they did not agree to – non-consensual sexual conduct that is in many instances rape or sexual assault.
- Sex workers in Hong Kong attribute their vulnerability to vice establishment and solicitation laws: the former means that they must work on their own, while the latter means that sex workers must often make quick decisions about whether to accept a client if working on the streets.
- Sex workers interviewed by Amnesty in Oslo described how they had encountered violence – sometimes severe and life threatening – whilst selling sex. This included threatening behaviour by clients, and targeted attacks involving robbery and severe violence perpetrated by organized gangs.

4.3 BARRIERS TO PROTECTION FROM VIOLENCE AND CRIME

Most sex workers that we spoke to did not, or were reluctant to, seek police protection from, or redress for, violence and crime.

- In some situations, police are the perpetrators of violations against sex workers.
- Often sex workers report that the police treat them like criminals, and as a result they fear prosecution or penalization if they go to police. In some cases, sex workers feel the police will not take them seriously if they report a crime.

- In Norway, Argentina and Hong Kong, police are mandated to reduce or eradicate sex work through enforcement of various laws, rather than with protecting sex workers.
- In Papua New Guinea, sex workers said they are afraid to report crimes to the police, who are often the perpetrators of abuses against them. They believe it is pointless to seek equal protection of the law as sex work is, in effect, illegal. One individual said she reported abuse by a client to police, only to be told they did not want to “waste time” on her. She did not bother reporting subsequent abuse: “If I am abused and I go to the police, they’ll tell me, ‘that’s what you deserve.’”
- In Buenos Aires, sex workers reported often facing violence at the hands of police and law enforcement officials more than from clients, making them reluctant to report abuses to the police.
- In Norway, a theme in the testimonies of the women we interviewed was their reluctance to report incidents of violence to the police unless it was severe and life threatening. Reasons included fear of negative consequences such as being evicted; arrest or detention; deportation; surveillance leading to clients’ arrest and subsequent loss of livelihood; fines; confiscation of money; discrimination; and exposure of their identity.
- Sex workers in Hong Kong told us that if they are victims of crime, they are unlikely to seek police help. Sex workers organizations told us that police rarely follow up on reports from sex workers and instead typically blame or insult them.

“If a customer is bad you need to manage it yourself to the end. You only call the police if you think you are going to die. If you call the police you lose everything.”

Sex worker in Norway

Criminal laws often prevent sex workers from working in safer environments.

- In Buenos Aires, we found that law enforcement officials subject indoor sex workers seeking to work together for safety to lengthy raids and inspections that often involve violence by police, because officials presume they are exploited and trafficking victims simply because they sell sex.
- In Hong Kong, sex workers and NGOs reported that when two or more sex workers work together, police consider their accommodation to be an illegal “vice establishment” or brothel.
- Many sex workers interviewed by Amnesty International in Norway said that working with others can increase safety. However, this is effectively illegal under the “promotion” section of the penal code and, as police may view sex workers working together as “organized prostitution”, it increases the chances of police raids and evictions. Many sex workers described buyers’ anxiety about police detection, and being asked to visit buyers’ homes to protect them from police detection. In the interviews conducted by Amnesty International this was associated with less control for sex workers and a greater risk of violence.

“It’s more dangerous going to a customer’s house. I went to the house of a man. He punched me two times in the jaw. I didn’t tell the police. I don’t want it on my records”

Sex worker in Norway

4.4 ENTRAPMENT, EXTORTION AND COERCIVE POLICE MEASURES

Many sex workers we spoke to reported cases of police abuse.

IN HONG KONG:

- Sex workers face entrapment, extortion and other coercive police measures. Sex workers and advocates informed Amnesty of situations where police had threatened to report sex workers to their spouse, parents or children if they did not confess, and misled sex workers about the consequences of their confessions.
- Some sex workers complained that police, or individuals claiming to be police, demand money or – more frequently – free sexual services. Police confirmed that undercover police officers are allowed to receive certain sexual services to secure evidence.
- Undercover police officers often engage in behaviour akin to entrapment. Several sex workers reported that police charged them with solicitation even though the officer initiated the exchange and offered to purchase sex. Sex workers claim that police induce them to break vice establishment laws, for example, by convincing two sex workers to visit one apartment.
- We heard reports from sex workers that police obtain confessions through coercion or deception, including by threatening indefinite detention.
- Sex workers and non-governmental organizations report that police sometimes file reports containing false statements, routinely fail to inform sex workers of their rights on arrest, subject sex workers to lengthy interrogations and threaten to tell family members of the allegations against them.

IN PAPUA NEW GUINEA:

- Laws criminalizing sex work are rarely enforced through courts of law; sex workers and non-governmental organizations said that instead police use these laws to abuse their authority and extort money and sexual services from sex workers.
- In some cases, sex workers report having been raped by police in custody.
- Police raids against sex workers – often without legal basis or a search warrant – are used to threaten or abuse sex workers.
- Unlawful detention and ill-treatment of sex workers in custody was reported by sex workers, NGOs, lawyers and UN Special Rapporteurs (on torture and violence against women). The Internal Affairs Unit confirmed that police fail to keep appropriate records or provide adequate safeguards against unlawful detention and torture and ill-treatment in custody.

IN BUENOS AIRES:

- Police profiling and discrimination, and bias and stigma against sex workers, enable police to request bribes from sex workers or clients, with impunity.
- Current legislation is used by police to extort money from sex workers and their clients. Police can collect bribes to give sex workers notice that they plan to raid or “inspect” apartments, sometimes committing violence and theft during these raids.

4.5 ACCESS TO HEALTH SERVICES

Sex workers we spoke to reported being denied access to adequate health services, or even blocked from protecting their health.

IN BUENOS AIRES:

- Sex workers told us they face ill-treatment when accessing health services, such as demeaning commentary by medical providers, sexual violence in the course of treatment, and non-medically indicated treatment that solely focuses on perceptions of risk around sex work, as opposed to their broader health. Two doctors confirmed instances in which sex workers were abused in hospitals, including when a doctor at their hospital requested oral sex during an exam and another doctor who refused to treat a patient who was a sex worker due to the perceived “HIV risk”. Some sex workers are turned away from treatment entirely. One individual recalled a traumatizing experience attending hospital after a condom broke during sex when – rather than receiving the sexual and reproductive health services any other person would have received in those circumstances, she was sent to the Infectious Diseases Unit. She said: “I ran out of there crying ... I went to another centre and they took out of me the broken piece.”
- To avoid mistreatment and discrimination, sex workers we spoke to generally self-medicate or seek private health care services outside of their communities where they think they may avoid stigma.

IN PAPUA NEW GUINEA:

- The media often stigmatize sex workers, gay and transgender people, accusing them of being “spreaders of disease”. This further discourages people from accessing essential information, voluntary HIV/STI testing and other sexual and reproductive health services.
- Some sex workers are afraid to go to HIV clinics for fear of having their privacy breached, while others report being made to wait all day because they are known by health care providers to be sex workers.
- Police use condoms as evidence and to harass sex workers, discouraging them from carrying condoms. In some cases, sex workers have been forced by police to chew and even swallow condoms as a form of punishment.

Access to condoms and related HIV prevention services are an essential part of the right to the highest attainable standard of health, and a crucial means for sex workers to realize their right to control their reproductive and sexual health. However, our research in Papua New Guinea, Hong Kong and Norway found that law enforcement officials use condoms as evidence of sex work-related crimes. This leads to sex workers’ greater reluctance to carry and store condoms – and so has a negative impact on their health and undermines HIV prevention efforts.

“Whenever I was sick I went to the hospital but people always mistreated us ... We didn’t have any real access to health care services because whenever we went to hospitals we were laughed at or the last ones to be attended to by doctors.”

Transgender former sex worker, Buenos Aires

4.6 HOUSING RIGHTS

Criminalization and discrimination often lead to violations of the right to adequate housing for many sex workers, even though this right is enshrined under international laws and standards.

IN NORWAY:

An Oslo police initiative, “Operation Homeless”, which ran until 2011, focused on increased enforcement of the law against “promotion” of sex work, specifically a subsection making it an offence to “let premises ... for prostitution”. Under international human rights law and Norwegian law, tenants should be given notice of eviction. However, many people accused of selling sex under Operation Homeless were given little or no notice of eviction and were rapidly removed from their workplaces and homes by landlords.

Our findings indicate that such eviction is now mainstreamed as a police response to sex work, and although less frequent, is now used mainly against migrant sex workers. Sex workers we interviewed, and social service providers, told us of a significant number of evictions of sex workers from their homes that constitute forced eviction – recognized as a human rights violation under international human rights law binding on Norway.

- To evict sex workers for “promotion”, a police representative told us they must identify sex workers and where they live and work, and ascertain whether they are selling sex from those locations. Police then threaten to prosecute landlords, who in most instances then rapidly evict sex workers. Methods to identify sex workers include document checks, and officers contacting sex workers through advertisements and posing as potential customers.
- In particular, migrant street-based sex workers repeatedly spoke about being forcibly removed from their homes with little to no notice or time given to collect their belongings.
- Of the seven sex workers we interviewed who had been evicted because of police enforcement – predominantly Nigerian nationals – only one reported being given notice of longer than a day.
- Illegally evicted sex workers have limited access to legal remedies or redress, with options being costly legal proceedings or going to the police who initiated their eviction.

Police and sex workers also confirmed that police are using sex workers’ reports of violence and crimes against them as evidence to facilitate their eviction and/or deportation.

- We interviewed several people involved in a recent case where migrant sex workers were violently attacked and raped in their apartment by an individual. They reported the crime to police and spent two nights in hospital and a hotel. According to their lawyer, four days after the attack, their landlord forcibly evicted them, with only a few hours’ notice after receiving information from the police.

Although the rate of evictions has reduced since the height of Operation Homeless, they are no longer led by a specialist anti-trafficking team and now occur in a more opportunistic way, with less oversight. One officer cited the current lack of awareness and training among general operational police about trafficking or other crimes committed against sex workers.

IN BUENOS AIRES:

- Sex workers we interviewed said that they cannot rent an apartment because they do not have legally documented income due to the informal, unrecognized and criminalized nature of their work.
- The criminalized nature of their work renders sex workers vulnerable to harassment by landlords and hotel owners who demand inflated rent. Transgender sex workers face particular discrimination and harassment when seeking and maintaining housing.

IN PAPUA NEW GUINEA:

Some individuals told us they struggle to find accommodation because they are sex workers. They often live in growing informal settlements because they have been isolated from their families and communities for doing sex work. Homeless sex workers are particularly exposed to violence and abuses.

5. PROTECTING SEX WORKERS FROM ABUSE

Our policy on sex work provides a framework for protecting sex workers from human rights violations and abuses – including physical attacks, lack of access to justice and protection under the law, discrimination, and denial of medical care and adequate housing. It complements and strengthens our demands that governments:

- Combat all forms of discrimination and gender inequality;
- Ensure everyone's economic, social and cultural rights;
- Investigate and prosecute all instances of human trafficking and ensure remedy to victims.

Our policy highlights a range of measures that states must prioritize to protect sex workers from human rights abuses and to address injustice and inequality. These aim to ensure a better life for sex workers and enable them to leave sex work if they choose to. They aim to ensure protection from physical attacks and abuse; protection from discrimination and marginalization; equal protection under the law; and, access to health care and housing, among other things.

We believe that decriminalization of sex work can make an important contribution to achieving these outcomes. Decriminalization provides sex workers with greater ability to operate independently, free of exploitation, and to control their working environments, and helps reduce discrimination and marginalization.

Our research reports detailing our findings on sex work in Argentina, Hong Kong, Norway and Papua New Guinea contain specific recommendations tailored to those specific contexts.

6. CRIMINALIZATION AND IMPACTS

26 May 2016

CRIMINALIZATION DEFINITION

“Criminalization” refers to measures directly criminalizing sex work through sanctions such as criminal prosecution, detention and fines. It includes indirect criminalization of sex workers through laws that – in prohibiting activities associated with sex work, such as buying sexual services or general organization of sex work – penalize sex workers or negatively affect their ability to organize. It includes discriminatory enforcement of other laws – such as on vagrancy – to prohibit sex work. (See the Policy for an elaborated definition).

Evidence we have gathered shows that the criminalization of consensual sex work has a significant negative impact on a range of sex workers’ human rights, including the rights to security of person, health, non-discrimination, just and favourable work conditions, adequate housing and remedy for abuses.

Rather than focusing on protecting sex workers from violence and crime, law enforcement officials in many countries focus on prohibiting sex work through law enforcement.

Even when the direct sale of sex is not explicitly illegal, in many countries, laws criminalizing activities relating to sex work – such as bans on buying sex or solicitation, promotion of prostitution, brothel-keeping and living off sex work earnings – are frequently used to criminalize or penalize sex workers. Immigration and other laws are also used as a means to target sex workers.

Additionally, criminalizing sex work fails to address underlying socio-economic reasons behind sex work and creates another barrier to sex workers realizing their rights.

Others supporting or calling for decriminalization include the World Health Organization; UNAIDS; Global Commission on HIV and the Law; the UN Special Rapporteur on the Right to Health; Human Rights Watch; The Open Society Foundations; and, the Global Alliance Against Traffic in Women.

States can regulate sex work provided regulations comply with international human rights law.

7. ACTION AGAINST HUMAN TRAFFICKING AND EXPLOITATION

Our policy on sex work reaffirms Amnesty International's longstanding position that human trafficking is an abhorrent human rights abuse requiring concerted action, which states must criminalize.

7.1 TRAFFICKING

Under international law, states have a range of obligations to prevent, suppress and punish trafficking in people – especially women and children – and to protect the human rights of trafficking victims.

Trafficking in persons, including into the sex sector, is not the same as sex work. Sex work refers to a contractual arrangement where sexual services are negotiated between consenting adults with the terms of engagement agreed upon between the seller and the buyer. Trafficking is expressly non-consensual.

Evidence gathered by *The Lancet* and other credible research institutions indicates that criminalization of sex work does not reduce trafficking. Some research indicates that decriminalization of adult consensual sex work may in fact help victims of trafficking and lead to more effective anti-trafficking efforts. Criminalization severely limits sex workers' efforts to organize with peers and with police to combat trafficking or establish safe working environments. When not threatened with criminalization, sex worker organizations have collaborated with police to identify women and children who have been trafficked, and refer them to the necessary services. Equally, there is some evidence that traffickers use the existence of criminal law and policy enforcement against sex work to control trafficked persons and discourage them from approaching police for help.

7.2 EXPLOITATION

Exploitation within commercial sex takes different forms and can encompass a wide range of actions extending from labour violations (for example, of health and safety regulations), to very serious forms of exploitation involving forced labour.

States have a range of obligations to protect individuals, including those involved in sex work, from exploitation and abuse. Amnesty International believes that sex workers can benefit more from labour-based protections from exploitation where sex work is not treated as a criminal activity. Similarly, sex workers are more empowered to claim their rights and seek protection from exploitation under the law when they do not have to risk penalties as a consequence of engaging with law enforcement or other state actors.

States must provide sex workers with comprehensive protections from exploitation. These include:

- **Labour and employment regulations:** These can be either via the general laws that apply to all

businesses or employment practices, or through the introduction of regulations specific to sex work (also called “Legalization”). Amnesty International does not take a position on which of these two methods states should use.

- **Other criminal laws:** These include laws on physical and sexual violence, abuse of authority, forced labour, or other clearly defined acts of exploitation.
- **Anti-trafficking laws:** These include legislative and other measures necessary to establish human trafficking for all purposes as a criminal offence.

Victims of violence must have access to legal and social protection, remedies and, in the case of migrants, immigration support. Victims forced to engage in illegal activities should not themselves be criminalized.

Any form of involvement of children (those under 18 years old) in selling sex is a grave human rights abuse. States must prevent such exploitation and abuse of children, ensure that children involved in commercial sex are supported as victims of crime, and address factors which cause children to be vulnerable to sexual exploitation such as poverty, discrimination and homelessness.

7.3 DIFFERENT LEGAL APPROACHES

DECRIMINALIZATION

Decriminalization of sex work means that laws should be refocused from catch-all offences that criminalize most or all aspects of sex work towards laws and policies that provide protection for sex workers from acts of exploitation and abuse. In a decriminalized system, the same laws that generally apply to other businesses may be applied to sex work. New Zealand decriminalized sex work in 2003 to safeguard sex workers’ human rights. A review commissioned by the country’s justice ministry found that prior to decriminalization, sex workers were less willing to disclose their occupation to health care workers or to carry condoms for fear of criminal sanctions; following decriminalization, sex workers said they were more able to refuse particular clients and to negotiate safer sex. Government research also confirmed that the relationship between sex workers and police was transformed. In a 2008 study, 70 per cent of sex workers were more likely to report violence and crimes to police, and police were more likely to be seen as protectors rather than enemies or perpetrators. Sex workers were also able to seek justice through the courts to address sexual harassment by brothel owners.

THE “NORDIC MODEL”

Under the so called “Nordic Model” or “Swedish Model” – adopted in Sweden in 1999 and later by jurisdictions including Norway and Iceland – directly selling sexual services is decriminalized, but purchasing sex is illegal. Activities around the organization and promotion of selling sex are also illegal. This approach aims to substantially reduce or eradicate sex work by criminalizing demand.

However, our research and that of others indicate that even when sex is not explicitly criminalized, laws criminalizing operational activities related to sex work are frequently enforced against sex workers – and can contribute to increasing the risks and dangers for sex workers as well as undermine efforts to combat trafficking. Laws against buying can also result in some sex workers having to take on greater risks to protect clients from detection from police – such as visiting client’s homes. Sex work remains highly stigmatized under the “Nordic Model” – contributing to discrimination and marginalization of sex workers.

LEGALIZATION

Instead of the removal of laws criminalizing sex workers, legalization means the introduction of laws and policies specific to sex work to formally regulate it. Amnesty is not opposed to legalization; but governments must make sure the system respects the human rights of sex workers. A particularly bad example of how legalization can go wrong is Tunisia. Tunisian sex workers working in licensed brothels who wish to leave their jobs must obtain authorization from the police and demonstrate they can earn a living through “honest” means. Those who operate outside these regulations are still criminalized, without protection of the law.

Further detail on our position and research is contained in the full policy and explanatory note (see Annex).

8. ABOUT OUR POLICY

OUR POLICY, DEVELOPED THROUGH A DETAILED CONSULTATIVE PROCESS, IDENTIFIES THE MOST PROMINENT BARRIERS TO THE REALIZATION OF SEX WORKERS' HUMAN RIGHTS. IT UNDERLINES STATES' OBLIGATIONS TO REMOVE THEM AND FURTHER SETS OUT THAT STATES MUST:

- Address underlying harmful gender and other stereotypes, discrimination and structural inequalities that drive marginalization and exclusion and lead to individuals from marginalized groups selling sex in disproportionate numbers, and to discrimination against sex workers;
- Comply with their obligations with respect to all people's economic, social and cultural rights, in particular guaranteeing access for all to education and employment options and social security to prevent any person from having to rely on selling sex as a means of survival due to poverty or discrimination;
- Combat gender and other forms of direct and indirect discrimination and ensure that the human rights of all individuals, including women and girls, and those at risk of discrimination and abuse because of their sexual orientation or gender identity and expression, race, caste, ethnicity, Indigenous identity, migrant status or other characteristics of their identity, are equally respected, protected and fulfilled;
- Repeal existing laws and refrain from introducing new laws that criminalize or penalize directly or in practice the consensual exchange of sexual services between adults for remuneration;
- Refrain from the discriminatory enforcement of other laws, such as those on vagrancy, loitering, and immigration requirements, against sex workers;
- Ensure the meaningful participation of sex workers in the development of law and policies that directly affect their lives and safety;
- Refocus laws away from catch-all offences that criminalize most or all aspects of sex work and towards laws and policies that protect sex workers' health and safety and that oppose all acts of exploitation and trafficking in commercial sex (including any involvement of children);
- Ensure that there are effective frameworks and services that allow people to leave sex work if and when they choose; and
- Ensure that sex workers have equal access to justice, health care, and other public services, and to equal protection under the law.

See the Annex for a link to the full text of the policy and an explanatory note to the policy.

9. ANNEX: FURTHER READING

- Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers (Index: POL 30/4063/2016), <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>
- Explanatory note on Amnesty International's policy on state obligations to respect, protect and fulfil the human rights of sex workers (Index: POL 30/4063/2016), <https://www.amnesty.org/en/documents/pol30/4063/2016/en/>
- *The human cost of 'crushing' the market: Criminalization of sex work in Norway* (Index: EUR/36/4034/2016), <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>
- *Harmfully isolated: Criminalizing sex work in Hong Kong* (Index: ASA 17/4032/2016), <https://www.amnesty.org/en/documents/asa17/4032/2016/en/>
- *Outlawed and abused: Criminalizing sex work in Papua New Guinea* (Index: ASA 34/4030/2016), <https://www.amnesty.org/en/documents/asa34/4030/2016/en/>
- "What I'm doing is not a crime": The human cost of criminalizing sex work in the City of Buenos Aires, Argentina (Index: AMR 13/4042/2016), <https://www.amnesty.org/en/documents/amr13/4042/2016/en/>
- Our 2010 report on Violence Against Women in Uganda where we highlighted the cases of women who were told that because they were selling sex they were "asking for it", that "a prostitute can't be raped": *"I Can't Afford Justice": Violence against Women in Uganda Continues Unchecked and Unpunished*, www.amnesty.org/en/documents/AFR59/001/2010/en/
- Our 2012 public statement calling on Greece to "stop the criminalization and stigmatization of alleged sex workers found to be HIV positive", www.amnesty.org/en/documents/EUR25/004/2012/en/
- Our 2014 report on the use of torture in Nigeria and how sex workers were particularly targeted by the police for financial bribes and rape: *"Welcome to Hell Fire": Torture and Other Ill-Treatment in Nigeria*, <https://www.amnesty.org/en/documents/AFR44/011/2014/en/>
- Our 2014 Urgent Action on the targeting and killings of sex workers in Honduras: "Sex Workers targeted and Killed in Honduras", 10 January 2014, www.amnesty.org/en/documents/amr37/001/2014/en/
- Our 2014 Urgent Action on the eviction and abuse of sex workers by police in Brazil: "Sex Workers Evicted and Abused by Police", 3 July 2014, www.amnesty.org/en/documents/amr19/006/2014/en/
- Our 2015 report on Tunisia which detailed how sex workers are vulnerable to sexual exploitation, blackmail and extortion primarily by police: *Assaulted and Accused: Sexual and Gender-Based Violence in Tunisia*, www.amnesty.org/en/documents/mde30/2814/2015/en/

- “Police Seize Sex Workers and Men Believed to be Gay in Tajikistan’s New ‘Morality’ Campaign”, 13 June 2014, www.amnesty.ca/news/news-releases/police-seize-sex-workers-and-men-believed-to-be-gay-in-tajikistan%E2%80%99s-new-%E2%80%98morality
- *Stonewalled: Police Abuse and Misconduct against Lesbian, Gay, Bisexual and Transgender People in the United States*, www.amnesty.org/en/documents/AMR51/122/2005/en/

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SEX WORKERS AT RISK

A RESEARCH SUMMARY ON HUMAN RIGHTS ABUSES AGAINST SEX WORKERS

In recognition of the high rates of human rights abuses experienced globally by individuals who engage in adult consensual sex work, Amnesty International initiated in 2013 a global consultation for a new policy focussed on protecting sex workers from such abuses and violations.

In addition to desk-based research into studies from around the world, new primary research was conducted, primarily focused on the human rights impact of criminalizing sex work: The City of Buenos Aires (Argentina); Hong Kong SAR (China); Oslo (Norway); and Papua New Guinea.

This summary report provides an overview of the key research findings, highlighting the range and extent of human rights abuses and violations suffered by sex workers. It shows how sex workers face stigma and marginalization, physical and sexual violence, barriers to protection from violence and crime, extortion and coercive police measures, and obstacles to securing their rights to health and housing.

The summary report also provides a brief outline of Amnesty International's policy and identifies a range of government actions it believes are necessary to best address the barriers that sex workers routinely face in realizing their rights.

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