



## REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN AND GIRLS TO THE HUMAN RIGHTS COUNCIL ON PROSTITUTION AND VIOLENCE AGAINST WOMEN AND GIRLS

January 2024

---

### Background

The HIV Legal Network promotes the human rights of people living with HIV or AIDS and other populations disproportionately affected by HIV, punitive laws and policies, and criminalization, through research and analysis, litigation and other advocacy, public education, and community mobilization. For three decades, we have worked alongside sex workers to uphold their human rights and produced research on the impacts of criminalization on sex workers' risks of violence. In considering input to better understand the relationship between sex work and violence against women, we urge the Special Rapporteur to: (1) center the perspectives of sex workers who are directly affected by law and policy recommendations regarding sex work, and (2) recognize the vast body of empirical evidence regarding the negative impacts of criminalization on sex workers.

### What forms of violence are women in sex work subjected to?

While sex work is not inherently violent, women sex workers are subjected to **targeted physical and sexual violence** fueled by laws and policies that isolate sex workers from community and deter them from reporting violence. Sex workers experience high rates of targeted violence because predators know they are hesitant to report victimization to police for fear that they, or their colleagues and third parties, will be harassed or charged with sex work offences. In Canada, where the purchase of sexual services, materially benefiting from, procuring, and advertising sexual services are prohibited, research has shown that merely 16.5% of sex workers who had experienced violence at work over the past 12 months reported an incident to police — while rates are lower for Indigenous, Black, migrant, and trans sex workers.<sup>1</sup> Rates of police reporting are similarly low in other jurisdictions where sex work or related activities are criminalized.<sup>2</sup> In the context of criminalization, the police are perceived as potential threats to a sex worker's livelihood, intimate partner, liberty, and well-being — resulting in a culture of impunity towards violence against sex workers, particularly the most marginal.

Women in sex work are also subject to **intimate partner violence** but are often reluctant to report such violence because it would draw the attention of law enforcement. This can lead to domestic violence without recourse, where abusive partners take advantage of the criminalization of sex work by threatening to 'out' a woman as a sex worker or report her workplace. This danger is particularly acute where sex workers fear losing their children, who face profound psychological violence as a result.

Women in sex work are also subject to **psychological violence** that stems from sex work-related stigma and discrimination. This stigma entrenches the notion that sex work is inherently exploitative via terms such as "prostituted women," which encourages a culture of violence. Stigma surrounding sex work hinges on stereotypes and assumptions about sex workers, clients, and third parties, including that sex workers are simultaneously 'deviant others' as well as 'exploited persons' with no agency who must be protected by criminalizing their livelihood — a form of **economic violence**.<sup>3</sup> In addition to the criminalization of their livelihood, sex workers face diverse forms of economic violence through

rejection from jobs, rentals, or mortgages because of their work; seizure of funds during criminal investigations; surveillance by financial institutions; and suspension of bank accounts.

### **Who is responsible for the perpetration of violence against women in prostitution?**

States that enact punitive laws against sex work by criminalizing sex work (e.g. bans on the sale and purchase of sex, working in public space, advertising, and third parties providing services to sex workers) or by prohibiting migrant women from sex work, are ultimately responsible for *producing the conditions* that subject sex workers to targeted violence.

Clients of sex workers are not inherently violent and sex workers can increase safety by screening clients and agreeing on the specific sexual services in advance. But where the purchase of sexual services is a crime, clear and direct communication between sex workers and prospective clients is discouraged, and sex workers' ability to screen clients and negotiate terms of sexual transactions is diminished.<sup>4</sup> As a result, sex workers are forced to rely on coded terms, which could lead to aggression and violence,<sup>5</sup> since conflict most frequently arises from a misalignment of expectations.

Similarly, while third parties or "pimps" (a term underpinned by racist notions of Black people involved in sex work) are commonly depicted as exploitative, most third parties — some of whom are sex workers themselves — perform critical screening measures, establishing an enhanced level of security as potential clients know that there are safety and accountability measures in force. But laws prohibiting third parties (e.g. laws making it a crime to "materially benefit" from or facilitate sex work) mean third parties must avoid police detection, so they too use coded language with clients. In addition to screening, third parties offer a range of services to sex workers, including supports related to safety, sexual health, emotional health, business, training, and transportation. But laws criminalizing third parties enable targeted violence by limiting deterrence of inappropriate client behaviour; discouraging explicit discussions between third parties and sex workers about safety practices; and limiting access to in-call locations, even though these controlled settings are a safer work venue, with restricted access and security measures.<sup>6</sup>

All these harms are compounded by immigration prohibitions against migrant sex work, which also fuel targeted violence against migrant sex workers, who are reluctant to seek help from authorities for fear of deportation because of their involvement in sex work.<sup>7</sup>

### **Describe the linkages, if any, between prostitution and the violation of the human rights of women.**

Despite the Special Rapporteur's claim, international law has *not* "recognized that prostitution is incompatible with the dignity and the worth of the human person." As recently as 2023, the UN Working Group on discrimination against women and girls concluded that the *criminal law*, and specifically criminalizing clients and third parties "leads to the violations of the sex workers' right to private life, right to housing and the right to non-discrimination."<sup>8</sup> This has been recognized by numerous human rights and women's rights organizations, including Amnesty International,<sup>9</sup> the International Commission of Jurists,<sup>10</sup> Human Rights Watch,<sup>11</sup> UNAIDS,<sup>12</sup> the International Community of Women Living with HIV and the Global Network of Sex Work Projects,<sup>13</sup> the Association for Women's Rights in Development, the Global Alliance against Traffic in Women,<sup>14</sup> and the Global Commission on HIV and the Law,<sup>15</sup> as well as researchers, who have documented how *laws criminalizing sex work* violate sex workers' rights to

health; life; security of the person; freedom from torture and cruel, inhumane and degrading treatment; work; privacy; equality; and non-discrimination.<sup>16</sup>

### **How is the issue of consent dealt with? Is it possible to speak about meaningful consent?**

For people who face structural inequalities related to gender, race, class, barriers to other labour markets, and discriminatory immigration policies, the money, stability, and autonomy earned through sex work is important. Sex workers exercise agency and the ability to meaningfully consent to sex *even under conditions of economic constraint and limited options*.

Rape myths that contribute to violence against women often rely on the notion that a woman does not know her own mind, desires, or boundaries, that someone else can presume these, and that the outsider's perspective of a woman's consent should have significant weight — and often more weight than her own. These rape myths are often advanced by those supporting the criminalization of 'demand' for sex work: notably that people who sell sex are incapable of knowing whether they are exploited or whether they are consenting. Moreover, a fundamental principle of sexual autonomy is the right to communicate and establish clear and ongoing consent to sex — a principle that has been affirmed by courts around the world.<sup>17</sup> Yet, laws criminalizing sex work create conditions that impede sex workers' capacity to clearly communicate, negotiate, and establish their terms by undermining explicit conversations between sex workers and clients or third parties — thus depriving sex workers of the ability to consistently and meaningfully consent.

### **How effective have legislative frameworks and policies been in preventing and responding to violence against women and girls in prostitution?**

A growing body of evidence, documented across diverse contexts and jurisdictions, has confirmed that laws criminalizing sex work, including those that claim to only criminalize clients and third parties (e.g. "end demand" approach) impose dangerous conditions on sex workers — especially the most marginalized — and significantly increase their risk of violence, and other forms of abuse. Research has also shown that 'end demand' approaches do not stop people from participating in sex work, nor do they provide other viable options or resources. According to the Global Commission on HIV and the Law, Sweden's 1999 criminalization of clients has worsened the lives of sex workers, increasing their risk of violence, without diminishing the demand.<sup>18</sup> These results have been borne out in other jurisdictions that criminalize 'demand' (e.g. Ireland,<sup>19</sup> Norway,<sup>20</sup> Finland,<sup>21</sup> and Canada<sup>22</sup>). As detailed by the UN Working Group on Violence against Women in 2023, the "end demand" approach "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. By pushing sex work underground, it also furthers stigmatisation and discrimination of sex workers, who report impeded access to housing and financial institutions, as well refusal of services. This model also has negative impact on sex workers' health and safety."<sup>23</sup>

Just as the criminalization of sex work fuels targeted violence, decriminalization can have the opposite effect. In New Zealand, which decriminalized sex work with its 2003 *Prostitution Reform Act*, research has shown that sex workers are safer as decriminalization reduced opportunities for violence and exploitation, particularly by giving sex workers more power to assert their rights and more recourse for discrimination and sexual harassment in their workplace.<sup>24</sup>

## What recommendations do you have to prevent and end violence associated with prostitution for women?

Given the documented experiences of targeted violence associated with laws criminalizing or otherwise prohibiting sex work, we recommend that the Special Rapporteur urges states to:

- Immediately repeal all sex work–specific criminal laws, including laws that make it an offence to sell, purchase, or advertise sex work, communicate for the purpose of sex work, engage in sex work in public space, or act as a third party in sex work.
- Remove immigration laws or regulations that prohibit migrant sex work.
- Stop law enforcement raids, detentions, and deportations of sex workers.
- Fund and support programs and services that are developed by people with lived experience, including sex worker-led outreach by Indigenous, Black, and migrant sex worker groups.

Repealing sex work offences is in line with recommendations made by UN Special Procedures and other UN agencies. The UN Special Rapporteur on the right to health has described the negative ramifications of criminalizing third parties, explicitly calling for the decriminalization of sex work, and has spoken out against the conflation of sex work and human trafficking.<sup>25</sup> The previous UN Special Rapporteur on violence against women has noted the need to ensure that “measures to address trafficking in persons do not overshadow the need for effective measures to protect the human rights of sex workers.”<sup>26</sup> Similarly, UN Women has expressed its support for decriminalization, acknowledging that the conflation of sex work, sex trafficking, and sexual exploitation leads to “inappropriate responses that fail to assist sex workers and victims of trafficking in realizing their rights.”<sup>27</sup> Twelve UN entities, including UN Women, have recommended that States review and repeal laws that criminalize or otherwise prohibit sex work.<sup>28</sup> And in 2023, the UN Working Group on discrimination against women and girls concluded that the decriminalization of sex work, including the decriminalization of clients and third parties, “holds the greatest promise to address systemic discrimination and violence and the impunity for the violations of sex workers’ rights.”<sup>29</sup>

---

<sup>1</sup> A-L Crago et al, “Sex Workers’ Access to Police Assistance in Safety Emergencies and Means of Escape from Situations of Violence and Confinement under an ‘End Demand’ Criminalization Model: A Five City Study in Canada,” *Social Sciences* 10:13, 2021: <https://doi.org/10.3390/socsci10010013>.

<sup>2</sup> See, for example, research on the consequences of Sweden's model of client criminalization, which has exacerbated the dynamic between sex workers and police and diminished sex workers’ likelihood of reporting crimes: J. Levy and P. Jakobsson, “Sweden’s abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden’s sex workers,” *Criminology and Criminal Justice* 14(5), November 2014: 593-607. Similarly, in Norway, which criminalizes clients as well as ‘promoting’ sex work, sex workers are extremely reluctant to report crimes to police, often only in circumstances where there was an immediate threat to their life. See Amnesty International, [Norway: The human cost of ‘crushing’ the market: Criminalization of sex work in Norway](#), 2016. In Zambia, where procuring, living on the earnings of sex work, and brothel-keeping are prohibited, 61% of sex workers interviewed said they would not be willing to lay a complaint against the police: T. Esterhuizen and A. Meerkotter, “*They should protect us because that is their job*”: [A preliminary assessment of sex workers’ experiences of police abuse in Lusaka, Zambia](#), Southern Africa Litigation Centre, 2016. Sex workers in South Africa reportedly find it difficult or “useless” to report crimes against them under a legal system that criminalizes them. Human Rights Watch, [Why Sex Work Should be Decriminalised in South Africa](#), August 7, 2019.

<sup>3</sup> A. Krüsi et al., “They Won’t Change It Back In Their Heads That We’re Trash’: The Intersection of Sex Work Related Stigma and Evolving Policing Strategies,” *Sociology of Health & Illness* (April 26, 2016).

- <sup>4</sup> A. Krüsi et al., “Criminalisation of clients: reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada—a qualitative study,” *BMJ Open* 4 (2014): e005191; Sex Workers United Against Violence, Pivot Legal Society, and Gender and Sexual Health Initiative, *My Work Should Not Cost Me My Life: The Case Against Criminalizing the Purchase of Sexual Services in Canada*, 2014.
- <sup>5</sup> J. Levy and P. Jakobsson, “Sweden’s abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden’s sex workers,” *Criminology & Criminal Justice* 1–15, March 31, 2014; P. Östergren and S. Dodillet, “The Swedish Sex Purchase Act: Claimed success and documented effects,” paper presented at the International Workshop: Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges, The Hague, Netherlands, March 3-4, 2011; and U. Bjørndah, *Dangerous Liaisons: A report on the violence women in prostitution in Oslo are exposed to*, Municipality of Oslo, 2012.
- <sup>6</sup> Canadian Alliance for Sex Work Law Reform, *Pimps, Managers and Other Third Parties: Making Distinctions Between Third Parties and Exploitation*, 2014.
- <sup>7</sup> J. Fudge et al., [Caught in the Carceral Web: Anti-trafficking Laws & Policy and their Impact on Migrant Sex Workers](#), 2021; and Butterfly (the Asian and Migrant Sex Workers Support Network), [Submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of Communities and Exploited Persons Act](#), February 2022.
- <sup>8</sup> UN Working Group on discrimination against women and girls, [Eliminating discrimination against sex workers and securing their human rights: Guidance document of the Working Group on discrimination against women and girls](#), UN Doc A/HRC/WG.11/39/1, December 7, 2023.
- <sup>9</sup> Amnesty International, [Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers](#), May 26, 2016.
- <sup>10</sup> International Commission of Jurists, [The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty](#), 2023.
- <sup>11</sup> Human Rights Watch, [Why Sex Work Should be Decriminalized](#), August 2019.
- <sup>12</sup> UNAIDS, [UNAIDS Guidance Note on HIV and Sex Work](#), April 2012.
- <sup>13</sup> International Community of Women Living with HIV, [Sex Workers, Sex Work and HIV](#), undated.
- <sup>14</sup> Global Alliance against Traffic in Women, [Criminalising Clients Endangers Sex Workers and Creates Barriers to Exiting Sex Work: Lessons Learned from the Anti-Trafficking Industry: Brief to the Senate Legal and Constitutional Affairs Committee on Bill C-36: Protection of Communities and Exploited Persons Act](#), September 8, 2014.
- <sup>15</sup> Global Commission on HIV and the Law, [Risks, Rights & Health](#), July 2012.
- <sup>16</sup> M. Decker et al., “Human rights violations against sex workers: burden and effect on HIV,” *Lancet* 385:9963 (2015): pp. 186–199.
- <sup>17</sup> See, for example, court decisions in Canada (*R v Al-Rawi* [2018] N.S.J. No. 18; *R v F.(G.)* [2021] SCJ No.20); *R. v. Ewanchuk* [1999] SCJ No. 10); *R. v. Hutchinson* [2014] SCJ No. 19); and *R. v. Kirkpatrick* [2022] No. 33)) and the United Kingdom (*R(F) v DPP* (2014 Q.B. 581); *Assange v Swedish Prosecution Authority* (SCUK)); *R v Malone* (1998 2 Cr App R 447).
- <sup>18</sup> Global Commission on HIV and the Law, [Risks, Rights & Health](#), supra at p. 38.
- <sup>19</sup> G. Ellison et al., [A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland](#), September 2019; Department of Justice, [Assessment of Review of Operation of Article 64A of the Sexual Offences Order \(Northern Ireland\) 2008: Offence of Purchasing Sexual Services](#), September 2019; and Amnesty International, [“We live within a violent system”: Structural violence against sex workers in Ireland](#), January 2022.
- <sup>20</sup> Amnesty International, *Norway: The human cost of ‘crushing’ the market: Criminalization of sex work in Norway*, supra, and N. Vuolajärvi, [“Criminalising the Sex Buyer: Experiences from the Nordic Region,” Centre for Women, Peace + Security, Research at LSE](#), June 2022.
- <sup>21</sup> N. Vuolajärvi, “Criminalising the Sex Buyer: Experiences from the Nordic Region,” *ibid*.
- <sup>22</sup> B. McBride et al. “Harms of third party criminalisation under end-demand legislation: undermining sex workers’ safety and rights,” *Cult Health Sex* 23, no. 9, September 2021, doi: [10.1080/13691058.2020.1767305](https://doi.org/10.1080/13691058.2020.1767305) and E. Argento et al., “The impact of end-demand legislation on sex workers’ access to health and sex worker-led services: A community-based prospective cohort study in Canada,” *PLoS One* 15(4), April 6, 2020:e0225783. doi: [10.1371/journal.pone.0225783](https://doi.org/10.1371/journal.pone.0225783).
- <sup>23</sup> UN Working Group on discrimination against women and girls, supra.
- <sup>24</sup> G. Abel et al., [The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers: Report to the Prostitution Law Review Committee](#), November 2007 and L. Armstrong, “‘I Can Lead the Life That I Want to Lead’: Social Harm, Human Needs and the Decriminalisation of Sex Work in Aotearoa/New Zealand,” *Sexuality Research & Social Policy* 18 (2021): 941-951, <https://doi.org/10.1007/s13178-021-00605-7>.
- <sup>25</sup> Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover*, UN Doc. A/HRC/14/20, 2010; Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover*, UN Doc. A/HRC/23/41, 2013.
- <sup>26</sup> Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, UN Doc. A/HRC/26/38/Add.1, 2014.
- <sup>27</sup> UN Women, *Note on Sex Work, Sexual Exploitation and Trafficking*, October 9, 2013.
- <sup>28</sup> UNAIDS, UNHCR, UNICEF, WFP, UNDP, UNFPA, UN Women, ILO, UNESCO, WHO, OHCHR, IOM, [Joint United Nations Statement on Ending Discrimination in Healthcare Settings](#), June 27, 2017, at p. 3.
- <sup>29</sup> UN Working Group on discrimination against women and girls, supra.