**For the attention of: Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights**

**Subject: Decriminalisation of homelessness and extreme poverty**

**Date: 24th August 2023**

NSWP is a global network of sex worker-led organisations, with 342 members in 105 countries, that exists to uphold the voice of sex workers globally and connect regional networks advocating for the rights of sex workers, in all their diversity. It advocates for rights-based health and social services, freedom from abuse and discrimination, and self-determination for sex workers.

NSWP welcomes the opportunity to provide input to the Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights to inform their report on the decriminalisation of offences associated with homelessness and poverty. Due to widespread criminalisation, stigma, and discrimination, sex workers are disproportionately susceptible to poverty and housing insecurity, and are heavily policed and penalised for their activities. This submission will provide information on how sex workers’ human rights are routinely violated by the criminalisation of poverty and homelessness, and will also highlight policies and best practices to address these abuses.

**Laws, Regulations, and Practices Affecting Sex Workers**

Globally, the criminalisation of sex work drives violence and other human rights abuses against sex workers, reduces access to essential services, and fuels stigma and discrimination – all of which reinforce inequalities and contribute to poverty and housing insecurity. Criminalisation can include the criminalisation of the sale, purchase, and/or advertisement of sexual services, as well as third-party involvement. Street-based sex workers are additionally targeted by police under by-laws surrounding solicitation, loitering, public nuisance, and obstruction of traffic. Sex workers in South Africa have reported that they are routinely apprehended, arrested, and detained under these by-laws, and are often charged with petty offences as a way for authorities to meet their arrest targets.[[1]](#footnote-1) Sex workers have also reported being targeted and assaulted by law enforcement on the basis of laws which are no longer in place:

*“Our freedom of movement in the streets is violated. We are abused physically and verbally, using the justification that we’re committing a ‘public scandal’ or are dressed inappropriately – laws that were abolished a long time ago, but serve as an excuse to intimidate and harm female sex workers. We are pepper sprayed. We are hit because we walk through places that, according to them, walking is forbidden for people like us.”* – Sex worker, Ecuador[[2]](#footnote-2)

During the COVID-19 pandemic, sex workers were also disproportionately policed and arrested. Facing a total loss of income and widespread exclusion from state social protection and emergency aid measures, many sex workers had to make the difficult choice to breach lockdown restrictions to meet their families’ basic survival needs.[[3]](#footnote-3)

Threats of punitive law enforcement responses may compel sex workers to shift their activities to more hidden and precarious environments to avoid detection, increasing their vulnerability to violence and abuse.[[4]](#footnote-4) Inconsistent interpretations of laws by the police further increase unlawful arrests and detention, police misconduct, stigma, discrimination, and violence towards sex workers, including rape. Sex workers who are unable to pay fines for offences may be blackmailed, extorted, assaulted, and/or forced to have sex by law enforcement officers.

*“6 months ago, I was arrested by police. They demanded 50,000 MMK (35 USD) and I had no money. They took me to the police station and told me to call my friends or family to bring money to the police station within 5 hours. I had no friends [or family] who can give me money within a short time. I was in police station for the whole night. During the night I have had sex with two policemen. In the morning they sent me to the court. In the court I could not spend money for lawyer, so I was in jail for 3 months.”* – Sex worker, Myanmar[[5]](#footnote-5)

These risks are compounded for sex workers experiencing multiple forms of discrimination, including on the basis of their race or ethnic background, sexual orientation, gender identity or expression, migrant status, or drug use.

“Transgender sex workers often face harassment from law enforcement officers who exploit their marginalised status. The police may extort money from sex workers or threaten to reveal their identity to the public or their families, leading to increased instability in housing arrangements." - Right Side Human Rights Defender NGO, Armenia[[6]](#footnote-6)

For sex workers who are charged with offences associated with working and conducting activities outdoors, criminal records only perpetuate the cycle of poverty and homelessness by limiting access to subsidised housing and education programmes, financial services, and formal employment opportunities. These restrictions blatantly undermine a number of fundamental human rights, including the rights to an adequate standard of living, housing, work, education, and freedom from discrimination.

**Decriminalising Sex Work to Promote Rights and Reduce Poverty**

International best practice guidelines, supported by a substantial body of evidence, promote the full decriminalisation of sex work as the best means to reduce violence, improve health outcomes, and support sex workers’ access to justice. In addition, decriminalisation allows sex workers to access the same social protection benefits as other workers. All of these factors can have a significant impact on combatting poverty and reducing social, political, and economic inequalities. Decriminalisation is the legal framework favoured by the overwhelming majority of sex worker-led organisations worldwide, as well as leading authorities in health and human rights.

[The Joint United Nations Programme on HIV/AIDS (UNAIDS)](https://www.unaids.org/en/resources/documents/2012/20120402_UNAIDS-guidance-note-HIV-sex-work), [UNFPA, WHO](https://www.who.int/publications/i/item/9789241506182), [UNDP](https://www.undp.org/content/undp/en/home/librarypage/hiv-aids/sex-work-and-the-law-in-asia-and-the-pacific.html), [the World Bank](https://www.who.int/publications/i/item/9789241506182), [Amnesty International](https://www.amnesty.org/en/documents/pol30/4062/2016/en/), [Médecins Du Monde](https://www.medecinsdumonde.org/sur-le-terrain/travailleuses-du-sexe/), [Human Rights Watch](https://www.hrw.org/world-report/2014), the [Global Commission on HIV and the Law](http://www.hivlawcommission.org/index.php/report), [Open Society Foundations](https://www.opensocietyfoundations.org/publications/ten-reasons-decriminalize-sex-work), the [Global Network of People Living with HIV](https://gnpplus.twelvetrains.nl/2020/12/01/world-aids-day-2020-centering-key-populations-in-the-global-hiv-response/), the [Global Action for Gay Men’s Health & Rights (MPact)](http://msmgf.org/msmgf-on-the-rentboy-raids-no-justice-in-criminalizing-sex-work/), the International Women’s Health Coalition, the [Association for Women’s Rights in Development](http://www.awid.org/news-and-analysis/awid-calls-voices-sex-workers-be-heard-european-parliament), the [American Jewish World Service](https://www.nswp.org/resource/research/sex-worker-rights-almost-everything-you-wanted-know-were-too-afraid-ask), the [Global Alliance Against Traffic in Women (GAATW)](http://www.gaatw.org/statements/GAATWStatement_05.2013.pdf), [The Lancet](http://www.thelancet.com/series/HIV-and-sex-workers), The Global Fund for Women, the Elton John AIDS Foundation, [Frontline AIDS](https://frontlineaids.org/the-perils-of-criminalising-sex-work/), the [International Community of Women Living with HIV](https://www.nswp.org/resource/icw-sex-work-hiv-position-statement), [Global Health Justice Partnership of the Yale Law School and Yale School of Public Health](https://law.yale.edu/ghjp/projects/gender-sexuality-and-rights/protecting-health-and-rights-sex-workers-us-and-globally), [European AIDS Treatment Group](https://www.nswp.org/es/node/4023), [ILGA-Europe](https://www.ilga-europe.org/resources/news/latest-news/empowering-lgbti-sex-workers-new-position-paper), the [Platform for International Cooperation on Undocumented Migrants (PIKUM)](https://picum.org/safeguarding-the-human-rights-and-dignity-of-undocumented-migrant-sex-workers/), [Freedom Network USA](https://freedomnetworkusa.org/app/uploads/2021/09/FNUSAStatementDecrimSept2021.pdf), [STOPAIDS](https://stopaids.org.uk/resources/stopaids-position-paper-supporting-the-full-decriminalisation-of-sex-work/), [La Strada International, International Planned Parenthood Federation European Network](https://www.eswalliance.org/launching_european_coalition_sex_workers_rights_inclusion) and [ILGA World](https://ilga.org/sex-work-lgbti-organisations-call-for-decriminalisation) **all** call for the decriminalisation of sex work.

Sex work was decriminalised in the state of New South Wales, Australia in 1995, in response to widespread police corruption and abuse.[[7]](#footnote-7) Since its implementation, decriminalisation has resulted in the removal of police as controllers and regulators of the sex industry, resulting in improved workplace health and safety outcomes for sex workers and no evidence of police corruption.[[8]](#footnote-8)[[9]](#footnote-9)

New Zealand was the first country to decriminalise sex work in 2003. Since then, sex workers have reported improved working conditions, negotiation power, and increased confidence in asserting their legal and employment rights.[[10]](#footnote-10) Decriminalisation has also enabled sex workers to enjoy a better quality of life free from added stress or fear of legal repercussions:

*“[Decriminalisation] means that I can focus on my work - I don't have to focus on how to survive dodging a crime you know?”* – Sex worker, New Zealand[[11]](#footnote-11)

By recognising sex work as a legitimate form of labour, decriminalisation has also enabled sex workers to benefit from a range of social protection benefits, reducing their susceptibility to extreme poverty and homelessness.[[12]](#footnote-12) While decriminalisation alone cannot address the root causes of poverty and housing insecurity, or prevent unjust applications of the law, it is an essential step in reducing sex workers’ marginalisation and promoting access to fundamental human rights.

**Other Supportive Measures and Initiatives**

In addition to the decriminalisation of sex work and the removal of penalties for loitering, solicitation, and other associated activities, additional measures can be taken to change the response of the criminal justice system and support sex workers living in poverty. Sex worker-led organisations around the world have conducted sensitisation trainings with law enforcement officials, reporting reductions in police violence and improved relations with law enforcement.[[13]](#footnote-13) Documenting police abuse and submitting complaints to local prosecutor’s offices has served as another effective sex worker-led strategy.[[14]](#footnote-14) While these measures alone cannot address systemic criminalisation, stigma, and discrimination, they can improve sex workers’ quality of life and access to justice.

Inclusive social protection programming is also essential to address poverty and uphold the rights and dignity of sex workers. Where sex work remains criminalised, sex workers are habitually excluded from social protection measures.[[15]](#footnote-15) The devastating effects of this exclusion were particularly pronounced during the COVID-19 pandemic, when many sex workers experienced a total loss of income while remaining ineligible for state assistance. While sex worker-led organisations around the world stepped up to support their communities,[[16]](#footnote-16) governments must be held accountable for providing equitable access to social protection benefits to all members of society, regardless of their occupation.

Lastly, it is essential to address structural barriers to safe and accessible housing for sex workers. Sex workers’ access to housing can be restricted due to third party laws, and because of a lack of documentation, bank accounts, or proof of income. Sex workers may be denied housing, unlawfully evicted from their homes, and reported to law enforcement solely due to their occupation. Sex workers also experience discrimination in accessing shelters and temporary accommodation. As a result, sex workers are disproportionately likely to experience housing insecurity, which in turn increases their vulnerability to punitive policing. These risks are compounded for sex workers facing multiple forms of discrimination due to their race or ethnic background, sexual orientation, gender identity or expression, migrant status, drug use, or criminal record.

To improve sex workers’ access to housing, greater resources must be allocated to establish and support sex worker-inclusive shelters, drop-in centres, and social housing. Sex worker-led organisations must play a meaningful role in the design, implementation, and monitoring and evaluation of these initiatives, to ensure that their communities’ needs are met and that their rights and dignity are upheld.

**Conclusion**

Due to ongoing structural barriers, sex workers around the world remain disproportionately affected by poverty and homelessness, and are unduly policed and penalised for their work, daily activities, and mere existence in public spaces. In order to address these injustices, it is essential to decriminalise all aspects of sex work, and remove penalties for other offences associated with poverty and homelessness. In addition, proactive measures must be taken to reduce stigma and discrimination which fuel police abuse and other rights violations against sex workers living and working outdoors. These efforts must be accompanied by inclusive, rights-based housing policies and initiatives which address the needs of sex workers, in all their diversity.

Kindest regards,

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2. NSWP, 2020, “[Sex Workers’ Lack of Access to Justice](https://www.nswp.org/resource/nswp-briefing-papers/briefing-paper-sex-workers-lack-access-justice).” [↑](#footnote-ref-2)
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4. NSWP, 2017, “[The Impact of Criminalisation on Sex Workers’ Vulnerability to HIV and Violence](https://www.nswp.org/resource/nswp-policy-briefs/the-impact-criminalisation-sex-workers-vulnerability-hiv-and-violence).” [↑](#footnote-ref-4)
5. NSWP, 2020, “[Sex Workers’ Lack of Access to Justice](https://www.nswp.org/resource/nswp-briefing-papers/briefing-paper-sex-workers-lack-access-justice).” [↑](#footnote-ref-5)
6. Response from NSWP e-consultation on the Right to Housing and the Unmet Needs of Sex Workers. [↑](#footnote-ref-6)
7. The Government of the State of New South Wales, Australia, [”Royal Commission into the NSW Police Service“](https://www.australianpolice.com.au/wp-content/uploads/2017/05/RCPS-Report-Volume-1.pdf) 15th May 1997. paras1.39-1.40 [↑](#footnote-ref-7)
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10. Gillian Abel, “[A decade of decriminalization: Sex work ‘down under’ but not underground](https://www.researchgate.net/publication/280445933_A_decade_of_decriminalization_Sex_work_%27down_under%27_but_not_underground),” *Criminology and Criminal Justice* 15(5) (2014), 580-592. [↑](#footnote-ref-10)
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