**The Global Network of People living with HIV (GNP+)**

**Input to the report of the Special Rapporteur on Violence against Women and Girls on prostitution and violence against women and girls**

30 January 2024

This submission is in response to the call for input to the report of the Special Rapporteur (SR) on violence against women (VAW) and girls (the call) for their thematic report on VAW that will be presented to the UN Human Rights Council at its 56th session in June 2024 and that proposes to examine the nexus between the global phenomenon of “prostitution and violence against women and girls”.

**Introduction:**

This input is made by the Global Network of People Living with HIV (GNP+), a network for people living with HIV, run by people living with HIV.

GNP+ actively promotes the participation and leadership of people living with HIV throughout the HIV response, being a community-led and guided by the rights and realities of our communities, accountable and transparent in our actions, inclusive and defenders of diversity, recognising the intersectionality of issues affecting all people living with HIV to identities, access to power, and resources. Using evidence-based advocacy, we challenge governments and global leaders to improve access to quality HIV prevention, treatment, care and support services and to address the structural inequalities that drive and fuel the HIV pandemic.

As such, we collaborate with sex worker-led networks and movements in a number of programs and initiatives around the world and advocate for the full decriminalisation of sex work and for the participation and engagement of sex workers in policy decisions that relate to their health, rights and well-being.

Our input to the call made by the Special Rapporteur (SR) on violence against women (VAW) and girls is informed by over 30 years of extensive experience in advocacy, movement building and programming by and for people living with HIV in our diversity.

**Terminology**

GNP+, like other global health and human rights institutions[[1]](#footnote-1), uses the term ‘sex workers’ to refer to people who sell sexual services, and selling sexual services as a form of livelihood, as sex work[[2]](#footnote-2). We do so to avoid using terminology that is, for many sex workers, stigmatising[[3]](#footnote-3), and which is often used to harm, isolate, shame and silence people who sell sexual services.

The terms ‘women and girls’, for the purposes of our input, include both cis women and girls, as well as non-binary and trans women and girls. We acknowledge that trans women face significant obstacles in accessing care and are often subject to criminal sanction because of their gender identity and expression[[4]](#footnote-4).

GNP+ notes with concern the framing of the call for input which is clearly ideologically biased in its conflation of sex work and trafficking, its use of language and the invitation for input specifically excluding women who currently sell sexual services, and who consider sex work a form of labour. GNP+ would like to emphasise that there can be no progress in ending violence against sex workers, without the meaningful engagement and leadership of all sex workers themselves.

**A human rights approach to sex work**

GNP+ notes that there is a large body of evidence that demonstrates that the criminal justice system is systemically biased against women, and is often used to reinforce gender roles, police women’s sexuality and limit bodily autonomy. Women who sell sexual services[[5]](#footnote-5), and marginalised women like trans women[[6]](#footnote-6), and migrant[[7]](#footnote-7) and undocumented women are often targeted by laws and practices in the criminal justice system as needing to be controlled, policed, and morally corrected.

Evidence shows that criminalisation harms sex workers[[8]](#footnote-8), and creates an adversarial relationship between police and sex workers and disincentivises reporting of rights violations by sex workers.

Sex Workers are further marginalised through the denial of social protection measures[[9]](#footnote-9) and labour protections[[10]](#footnote-10) which reinforces their economic marginalisation, and impacts people who experience historical marginalisation, poverty and racism.

Criminal laws, law enforcement practices, stigma and discrimination increase risks of violence for sex workers such that 45% to 75% of adult female sex workers are assaulted or abused at least once in their lifetimes[[11]](#footnote-11)[[12]](#footnote-12).

GNP+ has over the years witnessed the disproportionate impact that the HIV pandemic has had on sex workers[[13]](#footnote-13), gay men and other men who have sex with men, and trans women. Among sex workers, 32.8% do not know their HIV status. Less than half of female sex workers stated that they were able to access at least two HIV prevention services in the past three months in 16 of the 30 reporting countries in recent years.

This is an outcome of violence, stigma, discrimination, criminalisation[[14]](#footnote-14) and a lack of legal protections coupled with a lack of access to HIV prevention, treatment and care

**Sex work and anti-trafficking efforts**

Women living in poverty have a greater risk of being exploited for their labour and trafficked. Sex workers, for the reasons outlined above, are similarly at risk. However, sex workers and undocumented women who are trafficked or who witness it are reluctant to report these abuses (justifiably so).

The decriminalisation of sex work and the recognition of sex work enables those who work in sex work to organise themselves, advocate for their rights and to participate in the prevention of trafficking in persons. Anti-trafficking efforts, in turn, are more effective and build more cooperative responses when they reinforce sex worker rights and work to end exploitation of women in sex work with sex workers[[15]](#footnote-15).

**Transitioning out of sex work**

Programmes that support women who want to leave sex work often apply a rescue and or restoration/rehabilitation framework[[16]](#footnote-16). This approach can entrench stigma and does not acknowledge the complex and intersecting structural barriers faced by women[[17]](#footnote-17). Some investigations[[18]](#footnote-18) have found breaches of the right to privacy and bodily autonomy throughout exiting programmes, and many who have undergone such programmes have done so either by coercion, force or have been mandated to do so by the state[[19]](#footnote-19). GNP+ rejects practices that shame, coerce or force women to exit sex work.

**Recommendations:**

We urge the SR, in her report to the UN Human Rights Council at its 56th session:

1. Adopt the Principles recommended by the International Commission of Jurists in its “March 8 Principles for a Human Rights -Based Approach to Criminal Law Prescribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty”[[20]](#footnote-20);
2. Involve sex workers in anti-trafficking efforts, and remove barriers that prevent such cooperation and partnership and ensure that anti-trafficking efforts do not infringe on the rights, dignity and safety of sex workers but work in solidarity with sex workers;
3. Urge the removal of laws and policies that criminalise sex work and prevent sex workers from organising, securing labour rights, and advocating for legal protections and recognition;
4. Urge the removal of punitive laws that harm sex workers and marginalised women and increase their vulnerability to exploitation, violence and human trafficking (drug use and possession for personal use, the criminalisation of homosexuality and gender expression, and public order laws relating to loitering etc).

We further urge the meaningful and ethical engagement of sex workers in all their diversity, through organisations and networks led by sex workers themselves. These organisations, movements and networks have a decades-long history of working on the front lines, and in diverse contexts.

1. Like UNAIDS, UNDP, UNFPA, World Health Organisation (WHO), and international human rights organisations like Amnesty International, Human Rights Watch, Oxfam Novib, The Global Alliance Against Trafficking in Women (GAATW), The Global Network of Sex Work Projects (NSWP). [↑](#footnote-ref-1)
2. “Lets Talk About Sex Work” A Terminology Statement and Guide,2024, NSWP <https://www.nswp.org/sites/default/files/terminology_guide_english_prf03.pdf> [↑](#footnote-ref-2)
3. As expressed by a petition by the Sex Workers and Allies South Asia “Sex work is work: Demanding respectful and inclusive language for sex workers” January 2024 <https://www.swasasouthasia.org/419-Petitions/192250-Sex-work-is-work:-Demanding-respectful-and-inclusive-language-for-sex-workers> [↑](#footnote-ref-3)
4. According to Human Dignity Trust, 65 countries private, consensual, same-sex sexual activity. Fourteen countries criminalise the gender identity and/or expression of transgender people, using so-called ‘cross-dressing’, ‘impersonation’ and ‘disguise’ laws. Transgender people are also prevented from accessing health care and identity documents that affirm their gender. <https://www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation/?type_filter=crim_gender_exp> [↑](#footnote-ref-4)
5. Donna Evans and Dr Rebecca Walker. The Policing Of Sex Work In South Africa: A Research Report on the Human Rights Challenges Across Two South African Provinces Sonke Gender Justice and SWEAT, December 2017 <http://www.sweat.org.za/wp-content/uploads/2019/09/Policing-Report.pdf> [↑](#footnote-ref-5)
6. We’ll Show You You’re a Woman” Violence and Discrimination against Black Lesbians and Transgender Men in South Africa. Human Rights Watch 2011 <https://www.hrw.org/reports/southafrica1211ForUpload_0.pdf> [↑](#footnote-ref-6)
7. Policing and non-nationals Analysis of police prevention, detection and investigation of xenophobic violence in South Africa Louise Edwards and Laura Freeman African Policing Civilian Oversight Forum, 2021 <https://www.saferspaces.org.za/uploads/files/TBU_Final_Deficit_Analysis_research_report.pdf> [↑](#footnote-ref-7)
8. “Silence is better” — How the criminalisation of sex workers keeps exploitation in the shadows UNAIDS, 28 February 2023 <https://www.unaids.org/en/resources/presscentre/featurestories/2023/february/20230228_asia-pacific-sex-workers> [↑](#footnote-ref-8)
9. Social Protection and Sex Work Smart Sex Workers Guide, 2022, NSWP

   <https://www.nswp.org/resource/nswp-smart-guides/the-smart-sex-workers-guide-social-protection> [↑](#footnote-ref-9)
10. McDermid J, Murphy A, McBride B, Wu S, Goldenberg SM, Shannon K, Krüsi A. How client criminalisation under end-demand sex work laws shapes the occupational health and safety of sex workers in Metro Vancouver, Canada: a qualitative study. BMJ Open. 2022 Nov 22;12(11):e061729. doi: 10.1136/bmjopen-2022-061729. PMID: 36414310; PMCID: PMC9685237. [↑](#footnote-ref-10)
11. HIV and Sex Work: Human Rights Fact Sheet, UNAIDS 2021 Geneva <https://www.unaids.org/sites/default/files/media_asset/05-hiv-human-rights-factsheet-sex-work_en.pdf>

    Sexual IPV and non-partner rape of female sex workers: Findings of a cross-sectional community-centric national study in South Africa, SSM - Mental Health, Volume 1, 2021, https://doi.org/10.1016/j.ssmmh.2021.100012 Rachel Jewkes, Kennedy Otwombe, Kristin Dunkle, Minja Milovanovic, Khuthadzo Hlongwane, Maya Jaffer, Mokgadi Matuludi, Venice Mbowane, Kathryn L. Hopkins, Naomi Hill, Glenda Gray, Jenny Coetzee, [↑](#footnote-ref-11)
12. As found by the Aidsfonds Hands Off! Multi-country research report Claiming Rights 2023 <https://aidsfonds.org/work/hands-off-reducing-violence-against-sex-workers/news/report-launch-human-rights-violations-against-sex-workers-in-southern-africa> [↑](#footnote-ref-12)
13. HIV and Sex Work Human Rights Fact Sheet Series 2021, UNIADS <https://www.unaids.org/sites/default/files/media_asset/05-hiv-human-rights-factsheet-sex-work_en.pdf> [↑](#footnote-ref-13)
14. “Guidance note on HIV and sex work” UNAIDS, 2012 <https://www.unaids.org/en/resources/documents/2012/20120402_UNAIDS-guidance-note-HIV-sex-work> , and Lyons CE, Schwartz SR, Murray SM, Shannon K, Diouf D, Mothopeng T, et al. The role of sex work laws and stigmas in increasing HIV risks among sex workers. Nat Commun. 2020;11(1):773 [↑](#footnote-ref-14)
15. Re-Centering Sex Worker Safety in Anti-Trafficking work: Perspectives from the Field Freedom Network USA and National Survivor Network, 2023 https://freedomnetworkusa.org/app/uploads/2023/10/Recentering-Sex-Worker-Safety-in-Anti-Trafficking-Work.pdf [↑](#footnote-ref-15)
16. Evidence on Exit An exploration of the context, motivation and support

    for an exit out of sex work in South Africa, Ayesha Mago, Sally Shackleton 2017 SWEAT https://srjc.org.za/wp-content/uploads/2023/06/Evidence-on-Exit-Exploration-of-context-motivation-and-support-for-an-exit-out-of-sex-work-in-SA.pdf [↑](#footnote-ref-16)
17. Dispelling Myths and Understanding Realities. Working Conditions, Health Status and Exiting Experiences of sex workers Cecilia Benoit and Alison Millar October 2001 https://www.safersexwork.ca/wp-content/uploads/2014/06/DispellingMythsReport.pdf [↑](#footnote-ref-17)
18. End the system of forced rescue and institutionalisation in India India’s new Trafficking in Persons Bill, 2018 repeats the mistakes of its predecessor. By Kimberly Walters in Open Democracy, 8 January 2019 <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/end-system-of-forced-rescue-and-institutionalisation-in-india/> [↑](#footnote-ref-18)
19. Behind the Rescue How Anti-Trafficking Investigations and Policies

    Harm Migrant Sex Workers, April 2018, Butterfly Asian and Migrant Sex Workers Support Network , NSWP

    Editor and Author: Elene Lam <https://nswp.org/sites/default/files/behind_the_rescue_june_2_butterfly.pdf>. See also Raid, rescue, and rehabilitation: An exploratory study of effective anti-trafficking interventions for the survivors of sex trafficking of brothel-based prostitution 2021, Sonal Pandey, Sharda University Greater Noida

    <https://ejournals.bib.uni-wuppertal.de/index.php/sws/article/view/684/1285> ; Sexual abuse at six homes, physical violence at 14: Report to Bihar govt Santosh Singh, August 2018, Indian Express. “They Did Not Pay Attention or Want to Listen When We Spoke”: Women’s Experiences in a Trafficking-Specific Shelter in Cambodia Cordisco Tsai, L., Lim, V., Nhanh, C., & Namy, S. (2022).. Affilia, 37(1), 151-168. <https://doi.org/10.1177/0886109920984839> [↑](#footnote-ref-19)
20. March 8 principles, March 2023, ICJ https://icj2.wpenginepowered.com/wp-content/uploads/2023/03/8-March-Principles-Report\_final\_print-version.pdf [↑](#footnote-ref-20)