

Submission to the Special Rapporteur on violence against women and girls to the Human Rights Council on prostitution and violence against women and girls

As an overarching comment, IPPF is concerned by the framing of the SR VAWG's call for submissions, which conflates sex work and trafficking of women and girls. IPPF defines 'sex work' as *the provision of sexual services by and between consenting adults for some form of remuneration, with the terms agreed between the parties.*ⁱ Where consent is absent for reasons including threat or use of force, deception, fraud, and abuse of power or involvement of a child, such activity would constitute a human rights abuse, as does trafficking into any labour sector, including domestic work, manual labour, construction and other industries.

IPPF invites the SR VAWG to read the [IPPF Sex Work Policy](#) for a full analysis of the human rights implications of sex work, the result of more than a year of extensive consultations in all regions of the world alongside sex-workers and sex-worker-led organizations.

IPPF takes the lead from the perspectives of sex worker-led organizations in using the term 'sex worker.'ⁱⁱ The terms 'prostitute' and 'prostitution' are often connected with stigmatization, criminalization and a lack of agency, so we do not use these words.ⁱⁱⁱ

IPPF is deeply concerned that no questions in the SR VAWG's call for submissions are directed to those actually engaging in sex work. Rather than try to understand their lived realities, the SR VAWG asks others to describe them and speak on their behalf, violating the most basic principle of legitimate human rights fact-finding: **engaging those directly affected**. IPPF therefore strongly recommends the SR VAWG to engage with sex workers communities.

Despite these concerns, IPPF provides the below input to the call for submission due to the importance of addressing the root causes of stigma and discrimination that drive violence against sex workers.

Questions 4 & 5

Sex workers experience intersecting forms of stigma and discrimination that cause significant challenges in being able to participate in civil society and enjoy their human rights.

Overwhelmingly, the most extensive human rights violations and abuses that sex worker-led organisations and IPPF Member Associations report affecting sex workers are institutional violence and discrimination, in particular, by law enforcement officers.^{iv} Criminalization fosters a climate of impunity for perpetrators of violence, as sex workers must work clandestinely and may not report abuse due to fears of legal repercussions.^v Sex workers whose rights are violated by the police and the judicial system often have no legal recourse at all. Sex worker human rights defenders can face reprisals for defending the rights of sex workers and forming sex worker-led organizations and unions.^{vi}

Sex workers face discrimination, *inter alia* when accessing housing, financial services (such as having a bank account) and in regards to child custody. Additionally, sex workers' families, in particular their children, are stigmatized, face discrimination, and institutional violence, such as the removal of children from their parents' custody. Even where sex work is considered only an administrative offence in local legislation, such as via ordinances concerning 'public order,' sex workers are still targeted. In these situations, sex workers are subjected to harassment, extortion, illegal detainment,

and violence perpetrated by police and other law enforcement officials on the basis of these local regulations.^{vii}

These barriers are exacerbated for sex workers facing intersecting forms of marginalization, including gender non-conforming and transgender sex workers, Black, Indigenous, and people of colour (BIPOC) sex workers, sex workers with disabilities, sex workers who use drugs, migrant sex workers, sex workers living in poverty and those living with HIV. This is because sex work, like any other type of work, is affected by systemic inequalities, including gender inequality

Questions 6, 7, 11, 12, and 15

Evidence shows that any model in which the sale, purchase, or benefit from sex work is criminalized does not stop sex workers from working and does not eliminate sex work.^{viii} The idea that there is a distinction between ‘full’ and ‘partial’ criminalization is sometimes part of discussions of legal frameworks. Sex worker-led organizations reject this notion, explaining that any degree of criminalization harms sex workers and renders them more susceptible to other forms of legal oppression.^{ix} Moreover, these forms of criminalization have a negative effect on sex workers’ health, wellbeing and livelihood. Their vulnerability to violence and other rights violations is increased as they are forced to work clandestinely and take risks to mitigate the consequences imposed on them by these kinds of criminalization.^x

There is strong evidence regarding the positive impacts of decriminalization on public health and human rights. Modelling estimates have indicated that the decriminalization of sex work could reduce HIV infections,^{xi} and UNAIDS has called the decriminalization of sex work “key to changing the course of the HIV epidemics among sex workers and in countries as a whole.”^{xii} In New Zealand, where sex work has been decriminalized since 2003, street-based sex workers are much more likely to report violence they experience to the police.^{xiii} Decriminalization of sex work in New Zealand ended the practice of courts removing sex workers’ children from their homes and care simply because parents were found to be, or suspected to be, sex workers.^{xiv} In New South Wales (NSW), Australia, decriminalization of sex work improved worker safety and health interventions in comparison to other legislative models in the country, and reduced incidents of police corruption to zero (where previously police corruption had been a significant issue for sex workers).^{xv}

The criminalization of sex work perpetuates negative societal biases which exacerbate violence, discrimination, and stigma against them, while hampering their access to health, social services and justice.^{xvi} Criminalization has a negative impact on sex workers’ right to family life, both through direct violations and through the stigma it fuels. Many sex workers have their parental rights restricted or denied if they are arrested, charged or suspected of engaging in sex work.^{xvii} Sex workers’ children are denied, as a result of stigma, access to education and health care.^{xviii}

Sex workers’ health and safety are also jeopardized by criminalization, increasing their risk of HIV, STIs, and sexual and physical violence. Police may confiscate condoms, safe sex information and medications, and use them in courts as evidence.^{xix} Punitive policies relating to HIV and STI exposure, non-disclosure, and transmission deter sex workers from seeking testing, treatment and care for fear of legal consequences.^{xx} Criminalization also poses challenges for outreach, hampering sex workers’ access to health services. Health care providers in general, and sex worker peer health care providers in particular, face policing and other reprisals when conducting outreach to communities of sex workers.^{xxi}

Question 9

Consent always takes place within a context of power dynamics. All choices and decisions, including those regarding choice of livelihood, are influenced by the social context and power dynamics in which one makes them, including the contexts of capitalism, patriarchy, gender inequality, and institutionalized forms of discrimination based on age, gender, race, ethnicity, economic status, migration status, health status, education, disability and more. Historically, sex work has been treated differently from other areas of life in which adults make decisions, because it has been stigmatized as a moral transgression as a result of patriarchal norms and purity culture.^{xxii}

Gender inequality in a patriarchal society does not invalidate women's consent to any other form of labor, such as domestic or care work, mining, or sewing in a garment factory, and it does not invalidate their informed consent to engage in sex work either. Adults' autonomy and capacity to consent to sex work must be respected in the same way that people's capacity to consent to engage in any other form of work, working environment, or make any other decision about their lives, is respected.

Unequal gender and other power relations are foundational to all marketplaces under capitalism, which largely serve to reinforce the economic power of cisgendered men in male-dominated patriarchal societies. Patriarchal social norms, generational poverty, the feminization of poverty, discriminatory migration policies, and political structures exert intersecting forms of oppression, including gender inequalities, on sex workers. These inequalities and structures of power are compounded by others, such as heteronormativity, homophobia, transphobia, xenophobia, racism, classism and gendered familial and social structures that affect the ability of sex workers to enjoy their human rights. It is essential that comprehensive, cross-sectoral efforts to dismantle gender inequality in legal, political and social institutions accompany decriminalization of sex work.

Sex work as an activity between consenting adults is different from trafficking and associated human rights violations. Consensual sexual activity between adults is an exercise of the human right to bodily autonomy, including when it takes place while providing sexual services.

The ILO Forced Labour Convention, 1930 (No. 29)^{xxiii} and Forced Labour Protocol (Article 1(3))^{xxiv} make clear that forced or compulsory labour is "all work or service which is exacted from any person under the threat of a penalty and for which the person *has not offered himself or herself voluntarily.*" These abuses can (and do) occur in *any* labour sector, including sex work, and should be prevented as violations of the rights of workers. Sex worker-led organizations have consistently opposed the conflation of sex work with human trafficking, noting that such conflation is untrue and has negative effects on their lives and the respect of their human rights (including discriminatory migration policies).^{xxv} There is no evidence that interventions that equate sex work with trafficking eradicate sexual exploitation, forced labour, or human trafficking; on the contrary, these interventions frequently put sex workers at risk and violate their rights.^{xxvi} Additionally, anti-trafficking initiatives can lead to discriminatory profiling and increased scrutiny and harassment which restrict the free movement of cisgendered women, transgender people and migrant sex workers.

Question 11

Due to the criminalization and the lack of recognition of sex work as legitimate form of work in national and local policies, most sex workers are excluded from social protection and social welfare frameworks worldwide,^{xxvii} in violation of their human rights. Sex workers are also often denied access to financial services, loans and banking, making them economically vulnerable in numerous

ways. They may also be prevented from diversifying their income sources or transitioning to other forms of work due to criminal records related to sex work.

Recognizing sex work as work has the potential to shift power imbalances in sex workers' relationships with state agents, such as law enforcement, who can otherwise use the threat of working 'outside the law' to violate the rights of sex workers. It opens up possibilities for sex workers to improve their working conditions, interact more equitably with other sectors of labour, and be recognized in their communities as workers making a societal contribution. Recognizing sex work as work also allows sex workers to receive, for example, benefits such as maternity leave, occupational health and safety protection, and retirement allocations.

The recognition of sex work as work is paramount to sex workers' ability to exercise their human rights. At the same time, governments must also address structural inequalities, including gender and racial inequalities that result in women and LGBTIQ+ people finding themselves in situations where they only have a single choice of occupation. IPPF advocates for a diversity of livelihood opportunities and for governments to respect, protect and fulfil the human right to work through access to quality education, training opportunities, and social services. In line with this, IPPF validates the lived experiences of people who decide to engage in sex work. Simultaneously, we support the right to decent work and decent working conditions as described by International Labour Organisation standards and conventions.

Question 15

Sex workers have been systematically discriminated and excluded from discussions on their rights, *as they have been in this call for submissions*. As the community impacted, sex workers' leadership and meaningful participation as equal collaborators must be prioritized from the outset in all discussions, policies, legislation and programming which concerns their lives. The principles of sex workers' meaningful involvement and assessment tools to gauge progress have already been developed by sex worker-led organizations, and these must be implemented.^{xxviii}

ⁱ This position paper uses the definition of sex work published by Amnesty International in their policy paper. See, 'Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers' (Amnesty International 2016) <POL3040622016ENGLISH.pdf>.

ⁱⁱ The emergence of the term and its use are described on the timeline of the Global Network of Sex Work Projects. 'Carol Leigh Coins the Term "Sex Work" | Global Network of Sex Work Projects' (*Global Network of Sex Work Projects*, n.d.) <<https://nswp.org/timeline/carol-leigh-coins-the-term-sex-work>> accessed 12 May 2022.

ⁱⁱⁱ In some circumstances these types of terms have been reclaimed by communities. Usage is specific to those contexts and at the request of those communities. See, for example, Thaddeus Blanchette and Laura Murray, 'The Power of Putas: The Brazilian Prostitutes' Movement in Times of Political Reaction' [2016] openDemocracy <<https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/power-of-putas-brazilian-prostitutes-movement-in-time/>>.

^{iv} 'Sex Work and Institutional Violence— Research in 13 Countries in Latin America.' (Redtrasex 2017) Regional Report <https://issuu.com/redtrasex/docs/informe_regional_violencia_instituc_104481e5766548/41>; 'Every Sex Worker Has a Story to Tell about Violence' (ASWA Alliance Africa 2019) <<https://aswaalliance.org/every-sex-worker-has-a-story-to-tell-about-violence>>; 'Arrest the Violence: Human Rights Violations against Sex Workers in Central and Eastern Europe and Central Asia' (SWAN 2009) <<https://swannet.org/resources/arrest-the-violence-human-rights-violations-against-sex-workers-in-11-countries-in-central-and-eastern-europe-and-central-asia-2/>>; Manjima Bhattacharjya, Emma Fulu and Laxmi Murthy, 'The Right(s) Evidence – Sex Work, Violence and HIV in Asia: A Multi-Country Qualitative Study' (United Nations Development Programme, UNDP, UNFPA, APNSW, Sangram 2015) <<https://www.undp.org/asia-pacific/publications/rights-evidence-%E2%80%93-sex-work-violence-and-hiv-asia-multi-country-qualitative-study>>; 'Human Rights Violations of Sex Workers, People in the Sex Trades, and People Profiled as Such: Submission to the United Nations Universal Periodic Review of the United States of America' (Best Practices Policy Project, Outlaw Project, Black Sex Workers Collective, New Jersey Red Umbrella Alliance, and Desiree Alliance 2019) <http://www.bestpracticespolicy.org/wp-content/uploads/2019/10/SWCoalition_UPR36_USA_2019.pdf>.

^v Ragesh (n70).

- ^{vi} ‘Sex Worker Rights Defenders at Risk’ (Frontline Defenders 2021) <https://www.frontlinedefenders.org/sites/default/files/fld_swr_d_final_english.pdf>.
- ^{vii} ‘Issledovanie Sredi Seks-Rabotnikov Ukrainy Po Narusheniyam Prav Cheloveka so Storony Sotrudnikov Militsii’ (Kirovohrad Regional Branch of the Charitable Organisation “All-Ukrainian League” LEGALIFE 2014) <<https://www.nswp.org/node/2351>>; ‘Failures of Justice: State and Non-State Violence against Sex Workers and the Search for Safety and Redress’ (SWAN 2015) <<https://swannet.org/resources/failures-of-justice-state-and-non-state-violence-against-sex-workers-and-the-search-for-safety-and-redress-2/>>.
- ^{viii} ‘The Impact of “End Demand” Legislation on Women Sex Workers’ (Global Network of Sex Work Projects, 2018) Policy Brief <<https://nswp.org/resource/nswp-policy-briefs/policy-brief-the-impact-end-demand-legislation-women-sex-workers>>; ‘Smart Guide on Challenging the Introduction of the Nordic Model’ (Global Network of Sex Work Projects 2017) <<https://nswp.org/resource/nswp-smart-guides/smart-sex-workers-guide-challenging-the-introduction-the-nordic-model>>.
- ^{ix} ‘Sex Work and the Law: Understanding Legal Frameworks and the Struggle for Sex Work Law Reforms’ (Global Network of Sex Work Projects 2014) Briefing Paper <<https://www.nswp.org/resource/nswp-publications/sex-work-and-the-law-understanding-legal-frameworks-and-the-struggle-sex>>.
- ^x For example, a Swedish sex worker and human rights advocate, Petit Jasmine, was forced to interact with her violent ex-husband in order to see her children. She had been separated from them by social services because he told them about her work. He murdered her during a custodial visit. Melissa Gira Grant, ‘Sex Workers Rise Up After Fatal Stabbings’ (In These Times, 22 July 2013) <<https://inthesetimes.com/article/sex-workers-rise-up-after-fatal-stabbings>>.
- ^{xi} Kate Shannon and others, ‘Global Epidemiology of HIV among Female Sex Workers: Influence of Structural Determinants’ (2015) 385 *The Lancet* 55.
- ^{xii} ‘Services for Sex Workers’ (Joint United Nations Programme on HIV/AIDS 2014) Guidance Note 3.
- ^{xiii} Lynzi Armstrong, ‘From Law Enforcement to Protection? Interactions Between Sex Workers and Police in a Decriminalized Street-Based Sex Industry’ (2017) 57 *The British Journal of Criminology* 570 <<https://doi.org/10.1093/bjc/azw019>>.
- ^{xiv} Stéphanie Wahab and Gillian Abel, ‘The Prostitution Reform Act (2003) and Social Work in Aotearoa/New Zealand’ (2016) 31 *Affilia* 418.
- ^{xv} Christine Harcourt and others, ‘The Decriminalisation of Prostitution Is Associated with Better Coverage of Health Promotion Programs for Sex Workers’ (2010) 34 *Australian and New Zealand Journal of Public Health* 482 <<https://doi.org/10.1111/j.1753-6405.2010.00594.x>>; Basil Donovan and others, ‘The Sex Industry in New South Wales’ (The Kirby Institute, Faculty of Medicine, University of New South Wales 2012) A Report to the NSW Ministry of Health <https://kirby.unsw.edu.au/sites/default/files/kirby/report/SHP_NSW-Sex-Industry-Report-2012.pdf>.
- ^{xvi} *ibid*
- ^{xvii} G Ragesh, ‘Human Rights Violations against Female Sex Workers by Police Personnel’ (2015) II *International Journal of Research and Scientific Innovation* 101; Lauren Medlicott, ‘Abused and Denied Help: Sex Worker Mums Lose Access to Kids’ (openDemocracy, 25 July 2022) <<https://www.opendemocracy.net/en/5050/sex-work-social-services-mothers-children/>> accessed 25 August 2022.
- ^{xviii} Marlise Richter and Kholi Buthelezi, ‘Stigma, Denial of Health Services, and Other Human Rights Violations Faced by Sex Workers in Africa: “My Eyes Were Full of Tears Throughout Walking Towards the Clinic That I Was Referred To”’ in Shira M Goldenberg and others (eds), *Sex Work, Health, and Human Rights: Global Inequities, Challenges, and Opportunities for Action* (Springer Cham 2022) <https://doi.org/10.1007/978-3-030-64171-9_8>.
- ^{xix} Skye Wheeler, ‘Interview: Outlawed and Ostracized: Sex Workers in South Africa’ (Human Rights Watch 2019) <<https://www.hrw.org/news/2019/08/07/interview-outlawed-and-ostracized-sex-workers-south-africa>> accessed 25 August 2022; Sharmus Outlaw and others, ‘Nothing About Us, Without Us: Sex Work, HIV, Policy Organizing’ (Best Practices Policy Project and Desiree Alliance 2015) *Transgender empowerment* <http://www.bestpracticespolicy.org/wp-content/uploads/2015/10/NOTHINGABOUTUS_REPORT_COLOR_2015.pdf>.
- ^{xx} Lucy Platt and others, ‘Associations between Sex Work Laws and Sex Workers’ Health: A Systematic Review and Meta-Analysis of Quantitative and Qualitative Studies’ (2018) 15 *PLOS Medicine* <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6289426/>>.
- ^{xxi} Outlaw (n80).
- ^{xxii} Purity culture is a doctrine emerging from evangelical Christianity that demands adherence to sexual abstinence prior to heterosexual marriage. It places responsibility on women to maintain sexual purity and control the ‘desires’ of men for example, by dressing modestly and pledging to their fathers to abstain from sex until marriage. This doctrine is rooted in sexual shame and eschews comprehensive sex education. Madison Natarajan and others, ‘Decolonizing Purity Culture: Gendered Racism and White Idealization in Evangelical Christianity’ (2022) 46 *Psychology of Women Quarterly* <<https://journals.sagepub.com/doi/full/10.1177/03616843221091116>>.
- ^{xxiii} Convention Concerning Forced or Compulsory Labour, 1930 (No.29) International Labour Organization (adopted 28 June 1930, entered into force 1 May 1932) <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029>
- ^{xxiv} Protocol of 2014 to the Forced Labour Convention, 1930 (adopted 11 June 2014, entered into force 9 Nov 2016) <https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/ILO_P_029.pdf>
- ^{xxv} ‘The Impact of Anti-Trafficking Legislation and Initiatives on Sex Workers’ (Global Network of Sex Work Projects 2018) Policy Brief <https://www.nswp.org/sites/default/files/impact_of_anti-trafficking_laws_pb_nswp_-_2018.pdf>; ‘Surveilled. Exploited. Deported. Rights Violations Against Migrant Sex Workers in Europe and Central Asia’ (International Committee on the Rights of Sex Workers in Europe 2016) <https://d3n8a8pro7vhmx.cloudfront.net/eswa/pages/153/attachments/original/1631440923/icrse_briefing_paper_migrants_rights_november2016.pdf?1631440923>.

^{xxvi} Stéphanie Wahab and Meg Panichelli, 'Ethical and Human Rights Issues in Coercive Interventions With Sex Workers' (2013) 28 344.

^{xxvii} 'Unreachable Social Protection for Sex Workers' (United Nations in Viet Nam, 29 November 2021)

<<https://vietnam.un.org/en/160723-unreachable-social-protection-sex-workers>> accessed 25 August 2022.

^{xxviii} 'Meaningful Involvement of Sex Workers' (Global Network of Sex Work Projects 2018) Briefing Note

<<https://nswp.org/resource/nswp-briefing-notes/meaningful-involvement-sex-workers>>.