

The **CEDAW Catalunya Platform** is a network of civil society organizations that work to guarantee women's rights. Together with various social and academic organizations, we respond to the call of the SRVAW by expressing our concern about the stigmatization and violation of the human rights of women who engage in sex work, warning about the dangers posed by prohibitionist laws and policies regarding sex work.

We note that **this contribution refers only to adult women who engage in prostitution or sexual work voluntarily**. Outside of these cases, it constitutes human trafficking. It is crucial that there are adequate responses to trafficking for sexual exploitation, but not all sex work involves trafficking. For example, as noted in the 2022 report of the LSE Center for Women, Peace and Security based on interviews with 129 sex workers in Sweden, Norway and Denmark over a three-year period, only 6% of those interviewed considered themselves subject to human trafficking.<sup>1</sup>

## 5. Who is responsible for perpetrating violence against women in prostitution?

States are primarily responsible for exercising institutional violence through laws and policies against women who engage in sex work and, in this way, facilitate the violence that others can exert against them. European studies have consistently shown that laws that criminalize the contracting of sexual acts (or Nordic model) worsen sexual violence and harassment against sex workers. They have also not been shown to have a positive effect on reducing human trafficking or the demand for sex.

In France, the implementation of the Nordic model has led to people who perform sex work on the street having to do so in dangerous places,<sup>2</sup> causing a drastic increase in the number of homicides.<sup>3</sup> In Ireland, statistics from a sex workers' organization show a 92% increase in reports of violent crimes against sex workers during the first two years after the adoption of the Nordic model in 2017.<sup>4</sup>

Studies by Amnesty International and Human Rights Watch (HRW) have shown that the criminalization of sex work leads to greater risks to the human rights of those who perform it. More than a decade of HRW research into the impacts of criminalization of

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<sup>1</sup> Niina Vuolajärvi (2022) "Criminalizing the Sex Buyer: Experiences from the Nordic Region", LSE Center for Women Peace and Security <https://www.lse.ac.uk/women-peace-security/assets/documents/2022/W922-0152-WPS-Policy-Paper-6-singles.pdf>

<sup>2</sup> <https://hal-sciencespo.archives-ouvertes.fr/hal-02115877/document>

<sup>3</sup> <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/long-read-how-nordic-model-france-changed-everything-sex-workers/>

<sup>4</sup> <https://uglymugs.ie/wp-content/uploads/um-statement-26-mar-2019.pdf>

sex workers in Cambodia,<sup>5</sup> China,<sup>6</sup> Tanzania,<sup>7</sup> the United States<sup>8</sup> and South Africa<sup>9</sup> shows that criminalization undermines the health and dignity of sex workers and exposes them to violence and abuse.

The violation of rights suffered by sex workers occurs at the **intersection of multiple axes of discrimination**, since sex work is carried out mostly by immigrant women, who are criminalized for the work they do and also for their immigration status, especially if they are undocumented.

#### Examples of regulations that violate the rights of sex workers:

- In Spain, the **Citizen Security Law** has been called the “Gag Law” due to the multiple human rights violations it contemplates, including the criminalization of sex workers. This law criminalizes and establishes fines against sex work, criminalizing sex workers. Currently, the Gag Law allows the Police to sanction a prostitute daily with fines ranging from 100 to 30,000 euros.<sup>10</sup>
- Various city councils in Spain have approved **municipal ordinances** to prosecute street prostitution. Some persecute and fine clients and sex workers and others only the former. In the cases studied, most of the people fined are in fact sex workers.<sup>11</sup>
- Sex workers are **disproportionately criminalized for prostitution-related crimes**. The Reports on crimes against sexual freedom in Spain published by the Ministry of the Interior show a **disproportionately high percentage of women investigated for crimes related to prostitution**. The percentage of women investigated for these crimes was 44% in 2018,<sup>12</sup> 37% in 2019<sup>13</sup> and 2020,<sup>14</sup> and

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<sup>5</sup>HRW (2010) Cambodia: Sex Workers Face Unlawful Arrests and Detention.

<https://www.hrw.org/news/2010/07/20/cambodia-sex-workers-face-unlawful-arrests-and-detention>

<sup>6</sup>HRW (2013) "Swept Away" Abuses against Sex Workers in China.

<https://www.hrw.org/report/2013/05/14/swept-away/abuses-against-sex-workers-china>

<sup>7</sup>HRW (2013) “Treat Us Like Human Beings” Discrimination against Sex Workers, Sexual and Gender Minorities, and People Who Use Drugs in Tanzania. <https://www.hrw.org/news/2013/06/18/tanzania-police-abuse-torture-impede-hiv-services>

<sup>8</sup>HRW (2012), Sex Workers at Risk: Condoms as Evidence of Prostitution in Four US Cities.

<https://www.hrw.org/reports/2012/07/19/sex-workers-risk>

<sup>9</sup>See for example : HRW (2019), “Why Sex Work Should be Decriminalized in South Africa”.

[https://www.hrw.org/sites/default/files/report\\_pdf/southafrica0819\\_web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/southafrica0819_web_0.pdf)

<sup>10</sup> [https://www.eldiario.es/sociedad/denuncia-diaria-ejercen-prostitucion-Espana\\_0\\_810869767.html](https://www.eldiario.es/sociedad/denuncia-diaria-ejercen-prostitucion-Espana_0_810869767.html)

<sup>11</sup> Barcons , Maria (2018) Municipal ordinances: between the regulation and sanction of prostitution in Spain. <https://revistes.ub.edu/index.php/CriticaPenalPoder/article/view/26785/28088>

<sup>12</sup> <https://www.interior.gob.es/opencms/pdf/prensa/balances-e-informes/2018/INFORME-DELITOS-CONTRA-LA-LIBERTAD-E-INDEMNIDAD-SEXUAL-2018.pdf>

<sup>13</sup> <https://www.interior.gob.es/opencms/pdf/prensa/balances-e-informes/2019/INFORME-DELITOS-CONTRA-LA-LIBERTAD-E-INDEMNIDAD-SEXUAL-2019-anual.pdf>

<sup>14</sup> <https://estadisticasdecriminalidad.ses.mir.es/publico/portalestadistico/dam/jcr:5cf7f0d9-b3a4-4767-8942-1a9c23e60212/INFORME%20DELITOS%20CONTRA%20LA%20LIBERTAD%20E%20INDEMNIDAD%20SEXUAL%202020.pdf>

41% in 2021,<sup>15</sup> while women investigated for other crimes against sexual freedom barely account for between 1 and 5%. This is similar to what happens in relation to **human trafficking on a global level**.<sup>16</sup>

- Law **4/2000, of January 11, on the rights and freedoms of foreigners in Spain and their social integration (“Immigration Law”)** makes the regularization of immigrants who carry out sex work difficult and criminalizes undocumented immigrants, exposing them to deprivation of liberty in the “Foreign Internment Centers” (CIE), without having committed any crime. These centers also violate multiple fundamental rights of detainees, through institutional and health violence, poor facilities and services, discrimination based on gender identity and sexual orientation, as well as work activity.<sup>17</sup> The Mundo en Movimiento study found that **53% of the women locked up in a CIE in 2021 and 2022 were sex workers**, this being the activity to which the largest number of locked up women were engaged, with a great difference compared to the others.
- Criminalization puts defenders of the human rights of sex workers at risk, including those who carry out vital work against human trafficking, health promotion and training on access to justice.<sup>18</sup>

### Conclusions from the international human rights framework

CEDAW General Recommendation No. 35 (2017) requires **States to repeal laws that discriminate against women, including those that criminalize women in prostitution**.<sup>19</sup> Laws that criminalize voluntary sex work criminalize the women who do it. The criminalization of clients does not mean greater security for sex workers or the elimination of the demand for sex work. On the contrary, it encourages greater exploitation and puts the work of human rights defenders at risk. As has been proven in various countries, the fear of evictions and deportation increases the vulnerability of sex workers to blackmail and abuse.<sup>20</sup>

The Working Group on discrimination against women in law and practice has also spoken out on this issue in 2016.<sup>21</sup> As the CESCR has noted, the right to health includes

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<sup>15</sup> <https://www.interior.gob.es/opencms/pdf/prensa/balances-e-informes/2021/Informe-delitos-contra-la-libertad-e-indemnidad-sexual-2021.pdf>

<sup>16</sup>UNODC (2020), Exploited and Prosecuted: When Victims of Human Trafficking Commit Crimes. <https://www.unodc.org/unodc/en/frontpage/2020/December/exploited-and-prosecuted-when-victims-of-human-trafficking-commit-crimes.html>

<sup>17</sup>World in motion (2023) Repression and Confinement. Intersectional analysis of violence in the internment of foreigners. [https://www.mundoenmovimiento.org/wp-content/uploads/2023/03/Represion\\_y\\_encierro-Informe\\_completo-2023.pdf](https://www.mundoenmovimiento.org/wp-content/uploads/2023/03/Represion_y_encierro-Informe_completo-2023.pdf)

<sup>18</sup>Front Line Defenders (2021), “Sex Worker Rights Defenders At Risk” <https://www.frontlinedefenders.org/en/statement-report/first-global-report-sex-worker-rights-defenders-risk>

<sup>19</sup>CEDAW, General Recommendation No. 35 (2017) paragraph 31 a).

<sup>20</sup> Vuolajärvi, cit.

<sup>21</sup>Report of the Working Group on discrimination against women (A/HRC/32/44), 2016, para. 76.

"the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference", as well as "that relating to a health protection system that provides people with equal opportunities to enjoy the highest possible level of health".<sup>22</sup> General Recommendation No. 24 (1999) of the CEDAW Committee states that special attention should be paid to the right to health of women who belong to vulnerable groups, which includes "women who work in prostitution."<sup>23</sup>

The 2013 Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on the right to health of migrant workers, noted that:

States have the responsibility to respect, protect and enable the enjoyment of the right to health of migrant sex industry workers, regardless of whether or not they have been victims of human trafficking. **Criminalization perpetuates discrimination, stigma and violence against sex industry workers and constitutes an obstacle to access to health services, which harms their health status. Coupled with xenophobia, criminalization can legitimize harassment, intimidation and violence against migrant sex industry workers, especially by law enforcement, without providing a protection or redress mechanism.**<sup>24</sup>

This report states that "to ensure non-discriminatory access to health care in both law and practice, States must decriminalize consensual sex work by adults, as well as enact and enforce laws that expand labor rights, health and safety at work and access to affordable healthcare, focusing on migrant sex industry workers in an irregular situation."<sup>25</sup>

Various United Nations agencies have also reiterated the importance of repealing laws that criminalize sex workers.<sup>26</sup>

Regulations based on the Nordic model deny the autonomy of sex workers by infantilizing women instead of recognizing their rights to work, freedom of association, the highest possible standard of health, and the rights to integrity and life, since **they increase the risk of violence and stigmatization against those who perform sex work**. These norms make independent sex work difficult and precarious, increasing stigmatization and weakening support networks among sex workers.

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<sup>22</sup>CESCR, General Observation No. 14, The right to the enjoyment of the highest possible level of health (article 12), doc. UN E/C.12/2000/4, para. 8, 2000

<sup>23</sup>CEDAW Committee, General Recommendation No. 24 (Women and health), doc. UN A/54/38/Rev.1 (chapter I), paragraph 6 (1999).

<sup>24</sup>Report of the Special Rapporteur on the right of everyone to the highest attainable standard of enjoyment

of physical and mental health, Anand Grover (A/HRC/23/41), 2013, para. 58

<sup>25</sup>Ibidem for. 60

<sup>26</sup>Joint United Nations Statement on Ending Discrimination in Health Care Settings, July 2017

<https://www.ohchr.org/Documents/Issues/ESCR/InterAgencyStatementDiscriminationHealthCare.pdf>

The criminalization of spaces where sex work is carried out increases control and police presence, with the danger of more expulsion files for undocumented migrant women, who are disproportionately affected. Also **trans people**, who suffering from 85% unemployment often turn to sex work as the only option.

The existence and promotion of criminalizing laws that do not take into account the different axes of oppression of women in prostitution is institutional violence. All women's human rights are at risk when the State criminalizes and persecutes some of them for carrying out an increasingly stigmatized activity, for not conforming to the stereotype that only recognizes them as victims, and for claiming their ability to decide about their own lives.

**CEDAW Catalunya Platform:**

Almena Cooperativa Feminista - Àmbit Prevenció - Associació Hèlia - Ca la Dona -  
Creación Positiva - Dones amb Empenta - Entrepobles (Barcelona) - Fundació  
Aroa - Grup de Recerca Antígona, Universitat Autònoma de Barcelona - L'Associació  
Drets Sexuals i Reproductius - Xarxa Feminista

**Entities, groups, and organizations that adhere to the report:**

AAMAS, Manresa - Associació Cultural el Raval "El Lokal" - Calala Fondo de  
Mujeres - Colectivo de Prostitutas de Sevilla (CPS) - Colectivo de Putas Libertarias  
del Raval - Colectivo de Putas Indignadas - Feministas Indignadas - CooperAcció -  
Cooperativa La Raposa del Poble Sec SCCL - Cooperativa Candela - Grup de Recerca  
Des-Subjectant, Universitat Autònoma de Barcelona - Grup de Recerca sobre Exclusió  
i Control Social de la Universitat de Barcelona (GRECS) - Grup de Recerca LIS,  
Universitat Autònoma de Barcelona - IACTA - Irídia, Centre per la Defensa dels Drets  
Humans - La Morada, cooperativa feminista d'habitatge SCCL - Les Vilaretes, Espai  
Feminista - Metzineres - Mujeres Pa'lante - Observatori del Sistema Penal i Drets  
Humans de la Universitat de Barcelona - Virus Editorial - SIDA Studi

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