## **SUBMISSION TO THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN AND GIRLS TO THE HUMAN RIGHTS COUNCIL ON PROSTITUTION AND VIOLENCE AGAINST WOMEN AND GIRLS**

**31 January 2024**

**Background**

Yukon Status of Women Council (YSWC) is a territorial non-profit organization based in

Whitehorse, Yukon. As an intersectional, decolonial feminist research non-governmental organization, we have the mandate to work on gender justice issues with all levels of government, conduct research, develop and follow-through with actionable

recommendations, and provide a platform for amplifying Yukon women’s voices. A

participatory approach grounded in the issues and concerns of Yukon women is then

translated into systemic and structural change, centring the community’s concerns and salient, emergent issues.

As a project-based organization, we facilitate the Supporting Worker’s Autonomy Project

Yukon (SWAPY). This project is built to increase options for the wellbeing and safety for

people who trade sex in the Yukon, as well as supporting people who have experienced

sexualized exploitation and trafficking. It is critical to not conflate these two terms, recognizing some sex workers experience exploitation and trafficking, and some victims of trafficking also do sex work. Our focus is on providing non-directive support from the individual’s experience. A large portion of our project’s work involves countering damaging narratives about sex work and the harms that are a direct result of conflating sex work and trafficking in policy and law. SWAPY works with a diverse range of community partners to reduce sex work stigmatization and misinformation through conducting research on promising practices; engaging in an iterative process with partners to support increasing their accessibility to sex workers through policy analysis, recommendation, implementation; public education and training; and advocacy.

**Forms of Violence Against Sex Workers**

Violence experienced by sex workers is exacerbated by discriminatory legal frameworks[[1]](#footnote-0) such as the Protection of Exploited Communities Act (PCEPA) and sections of the Immigrant and Refugee Protection Regulations (IRPR). The very legitimate fear of over-surveillance, harassment, violence and legal consequences creates a culture of silence, where the criminalization of sex work reduces access to legal recourse and protection or reporting mechanisms. This vulnerability is not inherent in sex work itself, but is further compounded by isolation, racial biases, and transphobia, creating an environment where violence against sex workers thrives.[[2]](#footnote-1)

The criminalization of sex work also results in economic violence which impacts various aspects of sex workers' lives, including housing, employment, and financial stability. Rejection from traditional job opportunities, freezing sex workers’ bank accounts and surveillance by financial institutions create opportunities for economic violence against people engaged in sex work, and assume exploitation but cause economic instability.

Sex workers are often reluctant to report or engage with law enforcement when experiencing intimate partner violence, resulting in domestic violence without access to recourse. Abusive partners can leverage the criminality of sex work, threatening to expose a sex worker, using this information to generate power over the individual in attempt to manipulate them, creating additional challenges in leaving abusive relationships.

From racist, discriminatory and stigmatizing legislation stems psychological violence, such as the risk of detention and deportation for migrant sex workers. These laws further restrict access to essential health and social supports, which allows the cycle of violence to be perpetuated.

Challenges faced by sex workers are further compounded for those who experience intersecting forms of discrimination, profiling, and surveillance, such as Indigenous, Black, racialized, migrant, and trans sex workers. These individuals not only experience violence due to the criminalized status of sex work but also as a result of systemic biases that perpetuate inequalities across various aspects of their lives.

**Perpetrators of Violence Against Sex Workers**

The ultimate responsibility for the conditions that allow violence against sex workers to thrive lies with states that enforce discriminatory laws.[[3]](#footnote-2) Criminalizing the sale and purchase of sexual services, third parties who are hired to work with, for, or by sex workers, as well as strict immigration regulations prohibiting migrant sex work contribute significantly to risks faced by sex workers. The criminalized status of sex work emboldens law enforcement, who frequently perpetrate violence against sex workers, undermining worker safety and further fueling a deep distrust of supposed protective services.[[4]](#footnote-3) This distrust continues to erode the accessibility of legal recourse for sex workers, reducing the likelihood they will report violence that is experienced.

**Consent to Sex Work**

Laws criminalizing sex work create conditions that impede sex workers' capacity to communicate, negotiate, and establish clear terms and boundaries. By undermining full and explicit conversations between sex workers and clients or third parties through these laws, the ability of sex workers to legally employ strategies to ensure their safety and well-being is reduced.

**Legislative Frameworks and Responses to Violence**

Empirical evidence consistently demonstrates that laws criminalizing sex work expose sex workers, particularly the most marginalized who are already overpoliced and underprotected, to increased violence, exploitation, and limited legal recourse and safety reporting mechanisms.

The criminalization of the purchase of sexual services complicates communication and negotiation, which leads to heightened risks for workers, as clients’ desire for anonymity is driven by the illegality of purchasing sexual services, and workers are unable to screen or communicate effectively. The criminalization of advertising further undermines safety measures, restricting options for sex workers and limiting their ability to set clear expectations, boundaries and fees. Violence prevention efforts are rendered ineffective as they are not informed by accurate data but mere ideologies, and therefore unable to be effective in addressing violence that is actually experienced by sex workers. “End demand” regimes are not effective in stopping people from doing sex work, nor are they effective in ending violence, but they are incredible effective in increasing sex workers’ exposure to violence, theft and harassment and offer limited to no opportunities to protection or legal recourse.[[5]](#footnote-4)

Laws that criminalize third parties often depict all third parties as exploitative, but they often serve in crucial roles that can enhance safety through client screening and providing essential services. Agreements between sex workers and third parties are typically mutually beneficial, but due to the illegal nature of these agreements, these discussions are unable to be explicit about terms and conditions without imposing further risk under the third party offences. As a result, laws criminalizing third parties, while intending to combat exploitation, inadvertently enable exploitative third parties, as prohibitions on third parties disallow explicit discussions about occupational health and safety. This further obstructs workplace safety and security for sex workers, and does nothing to address actual exploitation, instead creating circumstances where exploitation can thrive unaddressed.[[6]](#footnote-5)

Advertising, a necessary tool for safety, becomes restricted due to criminalization, depriving sex workers of crucial safety information and limiting their ability to communicate boundaries and expectations with clients.[[7]](#footnote-6)

Contrary to the dominant narrative, decriminalization has demonstrated positive outcomes in enhancing the safety and well-being of sex workers. Drawing on the example of New Zealand's Prostitution Reform Act of 2003, which decriminalized sex work, research shows a reduction in opportunities for violence and exploitation, as workers have equal access to rights and protections as workers in other industries.[[8]](#footnote-7) Decriminalization empowers sex workers by removing barriers to asserting their rights and seeking recourse for discrimination, violence and harassment in the workplace.

From an international human rights perspective, the current legislative framework consists of multiple infringements and violations of sex workers’ rights. The UN Working Group on discrimination against women and girls stated that decriminalization of sex work “holds the greatest promise to address systemic discrimination and violence and the impunity for the violations of sex workers’ rights. It also constitutes the approach best suited to enhancing their rights to health and other socio-economic rights, freedom from torture, inhuman or degrading treatment, right to private life, and freedom from discrimination.”1, while the Special Rapporteur on Contemporary Forms of Slavery named the harm that comes of conflating sex work with human trafficking and further went on to state that to prevent violence against sex workers, full decriminalization is needed.[[9]](#footnote-8) The Special Rapporteur's stance that "prostitution is incompatible with the dignity and the worth of the human person" represents an ideology about sex work that conflates sex work with trafficking and is informed by inaccurate, biased research that serves to confirm this ideology. Contrary to this perspective, numerous UN agencies, human rights and legal organizations, and researchers have all highlighted the ways in which laws that criminalize sex work infringe upon sex workers' rights across various dimensions, including denying workers access to labour protections, formal employment standards, occupational health and safety protections, and income-related government programs.[[10]](#footnote-9)

**Recommendations for Policy Reform**

1. **Immediate Repeal of Sex Work–Specific Criminal Laws:** Urgently call for the repeal of all sex work-specific criminal laws to eliminate conditions fostering violence and exploitation.3
2. **Elimination of Immigration Regulations Prohibiting Migrant Sex Work:** Advocate for the removal of immigration regulations prohibiting migrant sex work to ensure the protection and rights of migrant sex workers.10
3. **Cease Law Enforcement Raids and Detentions:** Put an end to law enforcement raids, detentions, and deportations of sex workers under the guise of protection using anti-trafficking, anti-sex work, and immigration laws.10
4. **Support Sex Worker-Led Programs:** Allocate funds and support for programs and services developed by sex worker-led groups, particularly those representing Indigenous, Black, racialized, and migrant sex workers.
5. **Promote Inclusive Policy-Making:** Advocate for the inclusion of sex workers in the decision-making process when formulating policies that impact their lives. By fostering a more inclusive approach, policymakers can benefit from the lived experiences and insights of those directly affected, and be more effective in addressing unintended negative consequences.[[11]](#footnote-10)
6. **End Discrimination in Legal Systems:** Address and rectify discriminatory practices within legal systems that disproportionately affect sex workers. This includes biased law enforcement, prejudiced judicial proceedings, and discriminatory sentencing practices.3
7. **Ensure Access to Healthcare Services:** Guarantee access to comprehensive healthcare services, including sexual health, mental health, and substance use support, without discrimination. Health services should be sex-worker-informed, recognizing the unique needs and challenges faced by this community.[[12]](#footnote-11)

**Recommendations from an International Human Rights Perspective**

1. Challenge the inaccurate narratives fueled by ideologies around the the success of the Nordic Model, instead recognizing that criminalizing sex work violates sex workers' rights across numerous dimensions and instead move towards a decriminalization framework that is informed and supported by people who are most impacted by our current legislation.3
2. Align recommendations with the stance of UN Special Procedures, agencies, and working groups advocating for the decriminalization of sex work to ensure the protection of human rights.

**Conclusion**

The challenges faced by sex workers are complex and multifaceted, and require an informed rights-based approach to policy reform in the place of harmful ideologies that currently guide our legislative frameworks. Recognizing sex work as a legitimate form of income generation and work and striking down legislation that criminalizes workers and all aspects of sex work is the first step towards dismantling discrimination and violence against sex workers.3

By implementing the recommendations outlined in this brief, legislation can contribute to the creation of an environment that upholds the autonomy, agency, and well-being of individuals engaged in sex work. This urgent call for policy reform is not just a matter of human rights; it is a call for the commitment to building a society that values diversity, respects autonomy, and equally protects all of its members.

1. UNAIDS, “Guidance note on HIV and sex work” (2009), p. 5. [↑](#footnote-ref-0)
2. Mandate of the Working Group on discrimination against women and girls, *Eliminating discrimination against sex workers and securing their human rights*, 2023. [↑](#footnote-ref-1)
3. Grover, A. (2010). Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (UN Doc. A/HRC/14/20). [↑](#footnote-ref-2)
4. A. Crago, Our Lives Matter: Sex Workers Unite for Health and Rights (New York, Open Society Institute, 2008), pp. 31–32. [↑](#footnote-ref-3)
5. See, for example, J. Levy and P. Jakobsson, “Sweden’s abolitionist discourse and law: Effects on the dynamics of Swedishsex 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. [↑](#footnote-ref-4)
6. Canadian Alliance for Sex Work Law Reform, *Pimps, Managers and Other Third Parties: Making Distinctions Between Third Parties and Exploitation*, 2014. [↑](#footnote-ref-5)
7. K. Blankenship and S. Koester, “Criminal law, policing policy, and HIV risk in female street sex [↑](#footnote-ref-6)
8. 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*](https://www.otago.ac.nz/__data/assets/pdf_file/0027/248760/pdf-811-kb-018607.pdf), November 2007 and L. Armstrong, “‘I Can Lead the Life That I Want to Lead’: Social Harm, Human Needs and the Decriminlisation of Sex Work in Aotearoa/New Zealand,” *Sexuality Research & Social Policy* 18 (2021): 941-951, <https://doi.org/10.1007/s13178-021-00605-7>. [↑](#footnote-ref-7)
9. Report from the Special Rapporteur on Contemporary Forms of Slavery, September 2023. <https://www.ohchr.org/en/press-releases/2023/09/canada-anchor-fight-against-contemporary-forms-slavery-human-rights-un> [↑](#footnote-ref-8)
10. UNAIDS, UNHCR, UNICEF, WFP, UNDP, UNFPA, UN Women, ILO, UNESCO, WHO, OHCHR, IOM, *Joint United*

    *Nations Statement on Ending Discrimination in Healthcare Settings*, available at https://www.unaids.org/en/resources/documents/2017/ending-discrimination-in-health-care-settings, p.3. [↑](#footnote-ref-9)
11. 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. [↑](#footnote-ref-10)
12. Joint United Nations Statement on Ending Discrimination in Healthcare Settings. (2017). Retrieved from<https://www.unaids.org/en/resources/documents/2017/ending-discrimination-in-health-care-settings> [↑](#footnote-ref-11)