**Heilbrunn Department of Population and Family Health**

**To:** UN Special Rapporteur on Violence Against Women

**From:** Joanne Csete, PhD, adjunct associate professor of Population and Family Health, Columbia University, New York, USA

**Re:** Call for input, violence against women in sex work

**Date:** 30 January 2024

**cc:** Hon. Volker Türk, UN High Commissioner for Human Rights

 Hon. Ambassador Omar Zniber, president of the UN Human Rights Council

This contribution is respectfully submitted in response to the call for input on sex work and violence from the Special Rapporteur on Violence Against Women. I was a member of the UNAIDS Reference Group on HIV and Sex Work and the UNAIDS Reference Group on HIV and Human Rights and was the founding director of the HIV Program at Human Rights Watch in 2001. My academic work has focused largely on health services for persons for whom criminal law is an obstacle to health services.

It is imperative to note first and foremost that the call for input itself is a step backward for the human rights of sex workers. The Special Rapporteur seems to have dismissed the terms “sex work” and “sex worker” used by all UN agencies. The terms “prostituted women” and “women who are prostituted” used by the Special Rapporteur instantly erase the agency of sex workers and convey the idea that they are victims with no decision-making power. These terms should not have been permitted for use in a document with UN imprimatur. In addition, the call for input equates human trafficking with sex work in ways that also contradict the recognition by other UN entities that this conflation threatens the rights of sex workers and the legitimacy of sex work.

Global recognition of the importance of respecting, protecting and fulfilling the human rights of sex workers has been an important step forward for social justice and human well-being worldwide. Fighting stigma, discrimination and violence against sex workers is not possible without respecting and protecting the agency and autonomy of sex workers as workers; as women, men, transgender and gender-diverse persons; and as fully participating members of civil society. Criminal law provisions against sex work, still present in some form in over 120 countries, and the way they are enforced only serve as major barriers to the realization of sex workers’ rights and to the prevention of violence and other abuses against sex workers.

It is true that CEDAW itself, finalized in the 1970s before the sex worker rights movement attained global status, fails to articulate sex workers’ rights. However, United Nations entities and human rights bodies have since the 1970s developed a strong consensus that recognizes sex work as work and dismisses the conceptualization of sex workers as victims. The International Guidelines on HIV/AIDS and Human Rights published by the Office of the UN High Commissioner

on Human Rights and UNAIDS in 2006,[[1]](#footnote-1) based on consultations in 1996 and 2002, explicitly puts the rights of sex workers in a different light from that of CEDAW with this provision:

With regard to adult sex work that involves no victimization, criminal law should be reviewed with the aim of decriminalizing, then legally regulating occupational health and safety conditions to protect sex workers and their clients, including support for safe sex during sex work. Criminal law should not impede provision of HIV prevention and care services to sex workers and their clients. Criminal law should ensure that children and adult sex workers who have been trafficked or otherwise coerced into sex work are protected from participation in the sex industry…. (para 21.c).

This provision, firstly, uses the term “sex work”. It importantly notes that there is sex work that does not constitute victimization, that sex workers should enjoy the labor rights of all workers, and that not all sex work results from or involves trafficking. It would be useful for the Special Rapporteur on Violence Against Women to take note of this United Nations guidance.

These same elements have been recognized in other UN documents and statements. The UNAIDS Guidance Note on HIV and Sex Work,[[2]](#footnote-2) first issued in 2009 and updated in 2012, emphasizes that criminalization of sex work itself can exacerbate violence against sex workers at the hands of police but also more broadly as sex workers will fear seeking justice in the face of violence. Numerous experiences, particularly from South Asia, have shown that when sex worker-led organizations are allowed to work and recognized as legitimate civil society actors, they can do a great deal to prevent violence and other human rights abuses against themselves.

The UNAIDS Guidance Note also cautions against equating sex work with human trafficking.[[3]](#footnote-3) This conflation has harmed sex workers, including migrant sex workers, who are not trafficked as they become the targets of police raids and arbitrary arrest and detention. The UNAIDS Guidance Note also highlights – as has been shown again and again in the experience of sex worker-led groups – that organized sex workers are effective as anti-trafficking agents. As stated in the Guidance Note:

[Organized sex workers] are in an ideal position to identify and gain the trust of those who may be trafficked for the purpose of sexual exploitation; and they are well placed to provide assistance, support and appropriate referral without further increasing their vulnerability. Organised groups of sex workers are also best placed to establish safe working norms within the sex industry, and influence other actors in the industry to ensure that trafficked adults and children are not retained in sex work. Some sex worker organisations, such as the Durbar Mahila Samanwaya Committee in India, have

established models of self-regulatory boards that effectively address trafficking in persons from within the sex industry itself (p. 18).

The International Guidelines on HIV/AIDS and Human Rights note the importance of removing punitive criminal laws as a means of reducing HIV risk among sex workers. Criminalization of sex work has also been shown to contribute to violence against sex workers.[[4]](#footnote-4) When sex workers need to fear the police, they may be likely to move their work to more remote or hidden places where they may also be more vulnerable to violence. Violence at the hands of the police is also more likely when sex work is a crime that the police can claim to be pursuing.

The current global HIV strategy (2021-2026) approved by the UNAIDS Programme Coordinating Board notes as “priority action” crucial to ending HIV as a public health problem by 2030 that countries must “create an enabling legal environment by removing punitive and discriminatory laws and policies, including laws that criminalize sex work, drug use or possession for personal use and consensual same-sex sexual relations…” (p. 67).[[5]](#footnote-5) The strategy notes repeatedly that criminalization exacerbates conditions in which sex workers and other “key populations” are stigmatized, socially marginalized and made vulnerable to violence. The 2021 report of the UN Secretary-General on progress toward meeting global goals on HIV/AIDS underscores the importance of “removal of punitive laws and policies – including those that criminalize sex work, gender identity, sexual orientation, drug use, consensual same -sex relations, HIV exposure, non-disclosure or transmission” to achieving those goals.[[6]](#footnote-6)

The Special Rapporteur makes reference to the so-called Nordic model of criminalizing the buyers of sex but not the sellers. It has been shown that even under this kind of regime, sex workers may still face violence.[[7]](#footnote-7) There is very little evidence from countries adopting the Nordic model that sex workers’ rights more broadly are protected by this partial decriminalization. A 2022 policy brief published by the London School of Economics and Politics, for example, concludes from interviews with over 200 sex workers and persons knowledgeable about the sex trade that sex workers somehow remain the principal target of policing under the Nordic model.[[8]](#footnote-8) Sex workers from Nordic countries in this study reported that clients were not the main perpetrators of violence and other abuses against them, but rather that they continued to be criminalized through immigration laws, tax-related laws and municipal ordinances. While a

number of the sex workers interviewed were migrants, only 6% of those interviewed in this study said that they had been in any way trafficked. The author concludes that full decriminalization of sex work is the best way to protect sex workers from violence and police

harassment. There is a large literature on the Nordic model, but studies that have centered the voices of sex workers themselves suggest that decriminalizing the buyers of sex is no protection against violence and other abuse of sex workers.[[9]](#footnote-9)

Full decriminalization of consensual sex work and ensuring that sex workers participate meaningfully in sex work policy and other civic processes are essential elements for the prevention of violence and other human rights violations against sex workers. It would be very helpful for the Special Rapporteur on Violence Against Women to be an advocate for these measures and not to be an outlier in the UN system who refuses even to use the term “sex work” that is regularly used by UN entities. It would be a terrible shame for the report of the Special Rapporteur to undermine the important gains that have been made in realizing the rights of sex workers around the world.

Respectfully submitted,

1. Office of the UN High Commissioner for Human Rights and Joint UN Programme on HIV/AIDS. *International Guidelines on HIV/AIDS and Human Rights (consolidated version).* Geneva, 2006. <https://www.ohchr.org/sites/default/files/Documents/Publications/HIVAIDSGuidelinesen.pdf> [↑](#footnote-ref-1)
2. Joint United Nations Programme on HIV/AIDS. *UNAIDS guidance note on HIV and sex work.* Geneva, 2009-2012. <https://www.unaids.org/sites/default/files/media_asset/JC2306_UNAIDS-guidance-note-HIV-sex-work_en_0.pdf> [↑](#footnote-ref-2)
3. See *UNAIDS guidance note*, op.cit., pp. 15-17. [↑](#footnote-ref-3)
4. See, e.g., Lyons CE, Schwartz SR, Murray SM, et al. The role of sex work laws and stigmas in increasing HIV risks among sex workers. *Nat Commun* 2020;11(1):773. doi: 10.1038/s41467-020-14593-6; and Shannon K, et al. Global epidemiology of HIV among female sex workers: influence of structural determinants. *Lancet*2015;385:55–71. doi: 10.1016/S0140-6736(14)60931-4. [↑](#footnote-ref-4)
5. UNAIDS. *Global AIDS Strategy 2021-2026: End inequalities. End AIDS.* Geneva, 2021. <https://www.unaids.org/sites/default/files/media_asset/global-AIDS-strategy-2021-2026_en.pdf> [↑](#footnote-ref-5)
6. United Nations General Assembly 75th session. Addressing inequalities and getting back on track to end AIDS by 2030: Report of the Secretary-General. UN doc. A/75/836, 31 March 2021. <https://hlm2021aids.unaids.org/wp-content/uploads/2021/04/en-N2108064.pdf> [↑](#footnote-ref-6)
7. Prangnell A, et al. Workplace violence among female sex workers who use drugs in Vancouver, Canada: does client-targeted policing increase safety? *J. Public Health Policy.*2018; 39:86–99. doi: 10.1057/s41271-017-0098-4. [↑](#footnote-ref-7)
8. Vuloajärvi N. Criminalising the sex buyer: experiences from the Nordic region. London: Centre for Women, Peace and Security of the London School of Economics, policy brief 06/2022. <https://www.lse.ac.uk/women-peace-security/assets/documents/2022/W922-0152-WPS-Policy-Paper-6-singles.pdf> [↑](#footnote-ref-8)
9. Levy J, Jacobsson P. Sweden’s abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden’s sex workers. *Criminology and Criminal Justice* 2014; 14(5): *14*(5), 593-607. <https://doi.org/10.1177/1748895814528926> [↑](#footnote-ref-9)