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32nd International Council Meeting

Circular No. 18

2015 ICM circular: Draft policy on Sex Work

AI Index: ORG 50/1940/2015

To: Sections and structures
From: International Board
Date: 7 July 2015

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SUMMARY

This document contains a resolution on a draft policy on respecting, protecting and fulfilling the human rights of sex workers for consideration at the ICM. The document also provides a draft policy and a summary of related Amnesty International research on this issue. The draft policy has been informed by the findings of a two year consultation and compiled based on the discussions and input of an internal working group on the issue. The research summary details the headline findings of four research projects requested by the CA/DF 2014 and conducted by the IS (with support from relevant Sections). This document is proposed to inform discussion and debate during the International Council Meeting 2015 of a potential policy on respecting, protecting and fulfilling the human rights of sex workers.

DISTRIBUTION

This is an internal organizational circular which is being sent to all sections and structures. All ICM related documents are available on the ICM wiki site: <https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015>

A dedicated wiki site has been set up as a repository for essential documentation and the full research reports summarised in this documentation: <https://intranet.amnesty.org/wiki/display/ILPD/Sex+Work+Policy>

RECOMMENDED ACTIONS

Please circulate this document to all people in your section/structure who are involved in ICM preparations and provide access for them to the dedicated wiki space detailed above.

LIST OF 2015 ICM CIRCULARS

No. *	Index number & circulation date	Title	AI intranet space for additional information	Agenda session
Required reading				
1	ORG 50 002 2014 (October 2014)	Welcome letter and call for facilitators	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	N/A
2	ORG 50 003 2014 (October 2014)	Call for people: Internationally elected positions	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	4
3	ORG 50 006 2014 (November 2014)	Preparing for key conversations and ICM 2015 Standing Orders	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	1
5	ORG 50/1061/2015 (March 2015)	Topics for key conversations	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	Full ICM agenda
6	ORG 50/1103/2015 (March 2015)	An integrated approach to the 2015 ICM	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	Full ICM agenda
N/A	ORG 30/1079/2015 (March 2015)	GTP Interim assessment	https://intranet.amnesty.org/wiki/display/TMT/GTP+Interim+Assessment	11, 12, 14, 17
7	ORG 50/1620/2015 (May 2015)	Update on implementation of 2013 ICM outcomes	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	3, 4, 22
8	ORG 50/1724/2015 (5 June 2015)	ICM draft agenda	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	Full ICM agenda
9	ORG 50/1622/2015 (5 June 2015)	Section & structure ICM voting entitlements	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	4, 26, 27
10	ORG 50/1728/2015 (5 June 2015)	Fundraising discussion	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	9, 10
11	ORG 50/1726/2015 (5 June 2015)	Governance Reform (revised version)	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	11, 12, 14, 17
12	ORG 50/1727/2015 (5 June 2015)	Distribution model	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	11, 12, 14, 17
13	ORG 50 1621 2015 (12 June 2015)	Second batch of key topics for conversation (including preliminary budget costings)	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	Full ICM agenda
14	ORG 50/1939/2015 (24 June 2015)	2015 ICM Strategic Goals circular 1) Cover letter 2) The revised Strategic Goals resolution 3) Taking injustice personally: Amnesty International's Strategic Goals (2016-2019): version 3 4) Summary draft Theories of Change	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	Full ICM agenda
15	ORG 50 1980 2015 (7 July 2015)	Second version ICM Agenda and how to prepare for the ICM	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	Full ICM agenda
16	ORG 50 1838 2015 (7 July 2015)	State of the movement report	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	21
17	POL 50 1927 2015 (7 July 2015)	Organizing AI nationally supplementary paper	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	11, 12, 14, 17

18	ORG 50/1940/2015 (7 July)	2015 ICM Sex Work policy circular: 1) Draft policy 2) Amended resolution 3) An initial draft research summary	https://intranet.amnesty.org/wiki/display/ILPD/Home	8, 16
19	ORG 50 1928 2015 (7 July 2015)	International Board and International Treasurer's report	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	3, 22
20	ORG 50 1992 2015 (7 July 2015)	Secretary General's report to the ICM	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	3, 22
21	(13 July 2015)	Nominations to internationally elected positions and INC Report (<i>Please make sure that your delegation meets to review the information on candidates for election to our international committees.</i>)	https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	4, 18

Background reading				
POL 50/021/2014 (November 2014)	Organizing AI nationally for greater human rights impact		https://intranet.amnesty.org/wiki/display/GHPP/ICM%202015	11, 12, 14, 17
ORG 41/1076/2015 (March 2015)	Performance Assessment		https://intranet.amnesty.org/wiki/download/attachments/77404379/Performance+Measurement+and+Development+Framework+for+AI+Entities_EN.pdf?version=1&modificationDate=1425049662000	5
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Resolution 2.3. International Board - Policy calling for the decriminalisation of sex work

The International Council

REQUESTS the International Board to adopt a policy that seeks attainment of the highest possible protection of the human rights of sex workers, through measures that include the decriminalisation of sex work, taking into account:

1. The starting point of preventing and redressing human rights violations against sex workers, and in particular the need for states to not only review and repeal laws that make those who sell sex vulnerable to human rights violations, but also refrain from enacting such laws.
 2. The harm reduction principle.
 3. That states can impose legitimate regulations on sex work, provided that such regulations comply with international human rights law, in particular in that they must be for a legitimate purpose, provided by law, necessary for and proportionate to the legitimate aim sought to be achieved, and not discriminatory.
 4. The principle of gender equality and non-discrimination
 5. Amnesty International's longstanding position that trafficking for the purposes of sexual exploitation should be criminalised as a matter of international law; and, further that any child involved in a commercial sex act is a victim of sexual exploitation, entitled to support, reparations, and remedies, in line with international human rights law, and that states must take all appropriate measures to prevent sexual exploitation and abuse of children.
 6. Evidence that some individuals who engage in sex work do so due to marginalisation and limited choices, and that therefore Amnesty International should urge states to take appropriate measures to realize the economic, social and cultural rights of all people so that no person enters sex work against their will, and those who decide to undertake sex work should be able to leave if and when they choose.
 7. The obligation of states to protect every individual in their jurisdiction from discriminatory policies, laws and practices, given that the status and experience of being discriminated against are themselves often key factors in what leads people into sex work.
 8. States have a duty to ensure that sex workers from groups at risk of discrimination and marginalisation enjoy full and equal protection under relevant international instruments, including for example, those pertaining to the rights of Indigenous Peoples and ethnic, religious and linguistic minorities.
 9. The evidence from Amnesty International's research on the actual lived experiences, and human rights impact of various criminal law and regulatory approaches, on the human rights of sex workers.
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Explanatory note

The policy should be capable of flexible application across different jurisdictions. The available evidence indicates that the criminalisation of sex work is more likely than not to reinforce discrimination against those who sell sex, placing them at greater risk of harassment and violence, including ill-treatment at the hands of police. This, in turn, interferes with and undermines sex workers' right to health and public health interventions, in particular HIV prevention, and serves as a contributing factor in the denial of access to justice, police protection and legal due process, as well as the exclusion of sex workers from social protections such as health services, housing, education, and immigration status.

Amnesty International is increasingly encountering evidence of these violations in our work. Amnesty International recognizes the urgent need to robustly address abuses against sex workers. In doing so, we acknowledge that the factors underlying sex workers' marginalization are manifold and intricately entwined with global economic inequalities and multiple forms of intersectional discrimination and oppression. Amnesty International does not ignore these factors and will continue to demand that states and the international community address these overarching issues through human rights based approaches, and will seek to hold them to account where they fail to do so. Amnesty International also acknowledges variability in state approaches to the regulation of sex work, but holds the position that such approaches ought to conform to international human rights law standards.

The International Board has reflected on the various discussions on this issue and particularly the session at the Chairs Assembly & Directors Forum (CA/DF) in 2014 and the CA/DF in 2015. Through this resolution, we:

- Affirm the broad agreement that has been reached through various consultations, including the 2014 CA/DF's general agreement about decriminalisation of the seller; and the establishment of a Working Group at the 2015 CA/DF, and its subsequent refinement of positions on issues such as gender, violations perpetrated by third parties, overbroad criminalisation of operational aspects of sex work, and the overrepresentation of some groups in sex work;
- Draw attention to the importance of having the CADF and the ICM consider the range of variables involved in making policy on this question, including the research outcomes and the complex and varied legal, socio-economic, and human rights questions implicated in sex work, but also that – given the multiple inputs to be weighed and balanced – the International Board, guided by consultation feedback received to date, the inputs of the Working Group, and those at the CA/DF 2014 and 2015 meetings, as well as the ICM, is tasked to carefully draw together these discussions and to finalise the text of a policy under the nine specific parameters indicated in this resolution.

ENDS

DRAFT POLICY ON STATE OBLIGATIONS TO RESPECT, PROTECT AND FULFIL THE HUMAN RIGHTS OF SEX WORKERS

Introduction

This policy has been developed in recognition of the high rates of human rights abuses and violations that sex workers experience globally. This document identifies the most prominent barriers to the realisation of sex workers' rights and underlines state obligations to address them. This policy should not be considered in isolation from Amnesty International's existing human rights policies and positions. All of Amnesty's positions, including those on gender equality, violence against women, non-discrimination, human trafficking, sexual and reproductive rights, access to justice, rights to and at work and the right to adequate housing, apply equally to sex workers as to any other individuals facing human rights abuses. In fighting for the full realisation of sex workers' rights, Amnesty International must both acknowledge and prioritise the issues raised in this document and mainstream the rights of sex workers into all other relevant areas of work.

This policy reflects a growing body of research from UN agencies¹, human rights organisations² and social science¹ which indicates that criminalisation, in its varying forms, exposes sex workers to increased risk of human rights abuses. The policy is based on principles of harm reduction and the human rights principles of physical integrity and autonomy.

This policy does not change Amnesty International's longstanding position that forced labour and human trafficking (including for the purposes of sexual exploitation) constitute serious human rights abuses and must be criminalised. Under international law, states have a range of obligations to prevent, suppress and punish trafficking in persons, especially women and children.³

Amnesty International considers children⁴ involved in commercial sex acts to be victims of a grave human rights abuse. Under international law states must ensure that offering, delivering or accepting a child for the purpose of sexual exploitation is covered under criminal or penal law, and must take all appropriate measures to prevent the exploitation and abuse of children.⁵

States have a duty to ensure that sex workers from groups at risk of discrimination and marginalisation enjoy full and equal protection under relevant international instruments, including for example, those pertaining to the rights of Indigenous Peoples⁶ and ethnic, religious and linguistic minorities.⁷

Terminology

Sex worker and *sex work*: Sex workers are adults (18 years of age and above) who receive money or goods in exchange for sexual services, either regularly or occasionally. Amnesty International recognises that the terms used to refer to sex work and sex workers vary across contexts and by individual preference and that not all people who sell sexual services identify as "sex workers." Where possible, Amnesty International will employ the terminology used by rights holders themselves. However, generally Amnesty International uses the terms "sex work" and "sex worker." These terms are gender neutral, as people of all genders, including cis⁸ and transgender women

¹ See: Human Rights Council, *Report of Anand Grover*, U.N. Doc. A/HRC/14/20, p. 46-50. Global Commission on HIV and the Law, *Risks, Rights and Health*, p. 43. (2012) [hereinafter *Risks, Rights and Health*]. HIV/AIDS Programme, *Prevention and Treatment of HIV and Other Sexually Transmitted Infections for Sex Workers in Low- and Middle-Income Countries: Recommendations for a Public Health Approach* (Geneva: World Health Organization, 2012), p. 8. [hereinafter: *Prevention and Treatment of HIV*]. *The Report of the UNAIDS Advisory Group on HIV and Sex Work*, p. 8. (2009, updated 2012). [hereinafter: *UNAIDS Guidance Note*]. Lin Lean Lim. *The Sex Sector: The economic and social bases of prostitution in Southeast Asia* edited by, International Labour Office (ILO), Geneva, 1998 [hereinafter *The Sex Sector*].

² Human Rights Watch, Open Society Foundations and Anti-Slavery International among other groups, have also called for the decriminalisation of sex work. Most significantly, a large number of sex worker organisations and networks, including the Global Network of Sex Work Projects, support the decriminalisation of sex work as a means to realise human rights.

³ See: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nation Convention Against Transnational Organized Crime, United Nations, (2000).

⁴ A "child" is any person under the age of 18, regardless of the age of majority in a particular country.

⁵ See: Convention on the Rights of the Child, United Nations (1989); Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, United Nations (2000).

⁶ In some contexts the rights of Indigenous Peoples to the exercise of Free, Prior and Informed Consent may apply to decision making on some aspects of broader regulation of sex work, as well as, support programmes targeted at indigenous communities.

⁷ Amongst other things, these require states to combat human rights violations against Indigenous Peoples and other discriminated against groups, which have the effect of driving people into poverty, can restrict their employment options, and increase their risk of being subjected to trafficking, forced labour and other forms of exploitation and violence. See: United Nations Declaration on the Rights of Indigenous Peoples, (2008). Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992). International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). Convention on the Rights of People with Disabilities (2006)

⁸ Cis gender is a term used to describe a person whose gender identity corresponds with the gender they were assigned at birth.

and men, sell sexual services. As outlined above, the terms sex worker and sex work are not applicable to children.

Sex work involves a contractual arrangement where sexual services are negotiated between consenting adults, with the terms of engagement agreed between the seller and the buyer of sexual services. By definition, sex work means that sex workers who are engaging in commercial sex have consented to do so, (that is, are choosing voluntarily to do so), making it distinct from trafficking.⁹ Sex work takes many forms, and varies between and within countries and communities. Sex work may vary in the degree to which it is more or less “formal” or organised.¹⁰

This policy does not apply to dancing or the production of sexually explicit material. This exclusion does not indicate that Amnesty International condones violence, coercion or discrimination in these contexts. Rather, Amnesty International scrutinises such conduct and expression in accordance with relevant international human rights principles and standards.¹¹

Criminalisation: For the purposes of this policy, “criminalisation” means measures that directly seek to punish sex workers through sanctions such as criminal prosecution, detention and/or fines because of their involvement in sex work. It also refers to the indirect criminalisation of sex workers through laws which, in prohibiting activities associated with sex work, such as buying sexual services or general organisation of sex work, proscribe actions that sex workers take to manage their safety, and, in doing so, violate sex worker’s human rights, including their rights to security of person, to just and favourable conditions of work and to health.¹²

Decriminalisation of sex work does not mean the total absence of any regulation of sex work. Rather, it means that any regulation must be focussed on respecting and protecting sex workers’ human rights, for example through requirements such as occupational health and safety standards.

Intersectional discrimination and oppression

Amnesty International recognises that intersectional discrimination and oppression have an impact on the lives of many sex workers and can play a role in an individual’s decision to engage or remain in sex work and their experiences whilst in sex work. Systems of oppression such as gender discrimination, racism, socio-economic inequality and legacies of colonial occupation, deny people power and lead to poverty and deprivation of opportunity. Groups most at risk of discrimination and oppression are frequently over represented in sex work. Women face entrenched gender discrimination and structural inequality in most societies and bear a disproportionate burden of poverty. They also make up the majority of sex workers globally.¹³ Transgender people and men who have sex with men also account for a significant proportion of sex workers in many states.¹⁴ People subject to discrimination on the basis of their ethnicity, caste¹⁵, Indigenous status¹⁶ or who are migrants¹⁷ can also be commonly represented among individuals selling sexual services, as are people who live in situations of poverty.¹⁸

While systemic factors and personal circumstances related to poverty, discrimination and gender inequality can have a bearing on some individuals’ decisions to do sex work, Amnesty International holds the position that such conditions do not inevitably render individuals incapable of exercising personal agency in these contexts. Approaches that categorise all sex work as inherently non-consensual, actively disempower sex workers; denying them personal agency and autonomy and placing decision-making about their lives and capacity in the hands of the state. They also limit sex workers’ ability to organise and to access protections which are

9 Used in accordance with the definition employed by the United Nations Programme on HIV/AIDS (UNAIDS). See: UNAIDS Guidance Note p.15

10 Used in accordance with the definition employed by World Health Organization. See: Prevention and Treatment of HIV p.12

11 For example dancing and other sexually explicit entertainment involving adults (18 years and over) are protected activities as a form of expression. The involvement of children in the production of sexually explicit material is a grave human rights abuse and must be treated as a criminal offence. See supra note 3.

12 See for example the judgement, based on an unanimous decision, by the Supreme Court of Canada: Canada (Attorney General) v. Bedford, 2013 SCC72

13. Vandepitte et al. Estimates of the number of female sex workers in different regions of the world. (2006) Journal of Sexually Transmitted Infections 82. HIV and STI Control Board, National Centre for AIDS and STD Control: Mapping and size estimation of most at risk populations in Nepal, Vol 3: Female Sex Workers (2011).) Vuylsteke et al, Capture–recapture for estimating the size of the female sex worker population in three cities in Co’te d’Ivoire and in Kisumu, western Kenya (2010) Journal of Tropical Medicine and International Health

14 In some countries up to 43% of the transgender population have been estimated to have had experiences in sex work. See: Hounsfield, V.L., et al., (2007) Transgender people attending Sydney sexual health services over a 16 year period, Sex Health, 4. See also: Adebajo et al, *Estimating the number of male sex workers with the capture-recapture technique in Nigeria* (2013). HIV and STI Control Board, National Centre for AIDS and STD Control: *Mapping and size estimation of most at risk populations in Nepal, Vol 1. Male Sex Workers, Transgenders and their Clients* (2011).

15 See for example: Sahni, R & Shankar, KV: The First Pan-India Survey of Sex Workers: A summary of preliminary findings. Center for Advocacy on Stigma and Marginalisation (2011)

16 See for example: Hunt, S. Decolonizing Sex Work: Developing an Intersectional Indigenous Approach. UBC Press (2013)

17 See for example: TAMPEP, Sex Work Migration and Health, (2009)

18 Overs, C. Sex Workers, Empowerment and Poverty Alleviation in Ethiopia. Institute of Development Studies, (2014)

available to others (including under labour laws or health and safety laws). Notably, human rights bodies, experts and instruments increasingly reference individuals' capacity to consent to selling sex,¹⁹ and critique criminalisation of sex work as a human rights concern.²⁰

Amnesty International considers that policies which aim to support and improve the situation of marginalised people must focus on empowering individuals and groups and not devalue their decisions, compromise their safety and/or criminalise the contexts in which they live their lives. Amnesty International recognises and respects the agency of sex workers and their decisions to engage, remain in, or leave sex work. Globally, the voices of sex workers are frequently obscured or silenced as a result of the marginalisation they experience, including at the hands of civil society. Amnesty International will take a participatory approach to its work on sex work; ensuring that sex workers themselves help shape the movement's future efforts in this area.

Entry into sex work

Sex workers are not a homogenous group. People of different genders, ethnic and socio-economic backgrounds undertake sex work for a variety of reasons and report a diversity of experiences.²¹ For some, the decision to undertake sex work may be a reflection of limited options. For example it may be one of few sources of earnings open to a transgender person facing discrimination in employment. For some sex workers the decision to sell sexual services is a matter of suitability or preference- it may offer flexibility and control over working hours or a higher rate of pay than other options. Other individuals may turn to sex work as a means of immediate survival because of extreme poverty or other forms of social exclusion.

With regards to entry into sex work, states must:

- adopt and implement effective programmes, laws and policies, in line with obligations under international human rights law, that ensure no person is coerced into sex work and provide effective remedies to people who have been coerced.
- provide appropriate support, employment and educational options that actively empower marginalised individuals and groups, respect individual agency and guarantee the realisation of human rights.
- take all necessary measures to eradicate discrimination against marginalised individuals and groups who are commonly represented in sex work, including discrimination in employment.
- develop relevant policies and programmes in participation and consultation with sex workers, including those facing multiple forms of discrimination.

Participation in sex work

Sex workers experience high rates of human rights violations and abuses globally. These abuses occur at the hands of a range of state and non-state actors including: law enforcement officials, clients, third-parties involved in sex work, other private individuals, landlords and healthcare providers. State responses to sex work and sex workers, via criminalisation and resulting stigmatisation, actively disempower sex workers and support a culture of impunity for human rights abuses against them.

Stigma and discrimination

Sex work is generally a highly stigmatised activity and sex workers routinely face prejudice and discrimination at the hands of state and non-state actors. Sex workers are frequently judged to have transgressed social norms of sexuality and gender and can subsequently be portrayed as deserving of punishment, blame and/or social exclusion. The criminalisation of sex work in most countries places a criminal status on sex workers that can follow them in every aspect of their lives. This affirms and compounds a discriminatory view of sex workers as criminals who, in undertaking sex work, invite harm, punishment and judgement on themselves. Conversely, sex workers

19 See: Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, U.N. Doc. E/CN.4/2000/68 (2000), 56th sess., Commission on Human Rights, para. 36; Lin Lean Lim, *The Sex Sector. Recommended Principles and Guidelines on Human Rights and Human Trafficking: Report of the United Nations High Commissioner for Human Rights, Addendum*, U.N. ESCOR, Substantive Sess. 2002, Provisional Agenda Item 14(g), addendum 1, U.N. Doc. E/2002/68/Add.1, Guideline 8.1 (2002); UNAIDS Guidance Note at Annex 3, p.16; *Risks, Rights & Health*, p. 39; see also UN Fourth World Conference on Women International, Beijing Platform for Action, para. 96(1995).

20 Supra note 1.

21 Weitzer, R. *The Mythology of Prostitution: Advocacy Research and Public Policy* (2010); Weitzer, R. *Sociology of Sex Work*. Annual Review of Sociology (2009). [hereinafter: *Sociology of Sex Work*]

can also encounter stigmatisation from those who purport to help them. The frequent stereotyping of all sex workers as victimised and/or psychologically damaged individuals is harmful and disempowering to sex workers, and unsupported by evidence.²² In many instances, the fact that sex workers are from communities that are already marginalised and oppressed compounds the prejudice they face; meaning that they experience multiple, intersecting forms of discrimination and often face the highest levels of judgment, blame and criminalisation.

In addressing stigma and discrimination against sex workers, states must:

- ensure that sex workers enjoy equal protection under the law and are protected from discrimination.
- take measures to eradicate stigma against sex workers.
- ensure that sex workers are not denied access to health, housing, education, social security and other services or any government programs because of their occupational status.

Physical and sexual violence

In many countries sex workers face high levels of violence at the hands of both state and non-state actors. This violence is a manifestation of the stigma and discrimination directed towards sex workers. It is also compounded by criminal laws that make sex workers the focus of punitive police responses and/or force sex workers to operate in covert ways that compromise their safety. In most countries law enforcement is not adequately focused on the protection of sex workers from violence but instead on prohibition of sex work through enforcement of criminal law. This creates an adversarial relationship between sex workers and law enforcement which compromises the safety of sex workers and offers relative impunity to perpetrators of violence and abuse against sex workers.

The fact that various aspects of sex work are treated as criminal conduct in many countries means that sex workers cannot rely on support or protection from the police. For many sex workers, reporting crimes experienced during the course of their work means putting themselves at risk of punishment for sex work offences and/or potential loss of their livelihood through related sanctions.²³ This means that they are frequently unable to seek redress for crimes committed against them, thereby offering relative impunity to perpetrators.²⁴ In addition, the stigmatised and criminalised status sex workers experience gives law enforcement officials scope to harass, extort, and perpetrate physical and sexual violence against them, also with impunity.²⁵

Other laws that criminalise the buying of sex or general organisational aspects of sex work- such as brothel-keeping or solicitation, often force sex workers to work in ways that compromise their safety. Bans on buying sex can lead to sex workers having to take risks to protect their clients from detection by law enforcement, such as visiting locations determined only by their clients²⁶. Arbitrarily broad laws prohibiting organisational aspects of sex work often ban sex workers from working together, renting secure premises, or hiring security or other support staff, meaning that they face prosecution themselves if they try to operate in safety²⁷. In prohibiting activities that help keep sex workers safe, criminalisation denies sex workers their right to security of person.

In order to protect sex workers from violence, states must:

²² Claims that suggest the majority of sex workers enter the sex industry as children, that most were sexually or physically abused as children, are forced against their will to undertake sex work and/or are addicted to drugs have been shown to be misrepresentative of a large proportion of sex workers. See: Vanwesenbeeck, I, *Another decade of social scientific work on prostitution*. Annual Review of Sex Research (12) (2001) See also: *Sociology of Sex Work*.

²³ See for example: Amnesty International, *The Criminalisation of Sex Work in Hong Kong*. P.52-54. (2015) [Hereinafter *Criminalisation in Hong Kong*]. Amnesty International. "Skin bilong mi, laik bilong me" meri sex woka": The Criminalization of Sex Work and Consensual Sex in Papua New Guinea p.43 (2015) [Hereinafter *Criminalisation in PNG*]. Amnesty International, *The Criminalization of Sex Work in Buenos Aires, Argentina*. (2015). [Hereinafter *Criminalisation in Argentina*]. Amnesty International, *The Criminalisation Aspects of Sex Work in Norway* (2015). [Hereinafter *Criminalisation in Norway*]

²⁴ Ibid. See C.M. Lowndes et al., *Injection Drug Use, Commercial Sex Work, and the HIV/STI Epidemic in the Russian Federation*, 30 *SEXUALLY TRANSMITTED DISEASES* 47 (2003); *Rights, Risks & Health*, p.37 (citing UNIFEM, *A Legal Analysis of Sex Work in Anglophone Caribbean* (2007); USAID, Carol Jenkins, *Cambodian Prostitutes' Union, Women's Network for Unity and Candice Sainsbury, Violence and Exposure to HIV Among Sex Workers in Phnom Penh, Cambodia* (2006)); A. Crago, *OUR LIVES MATTER: SEX WORKERS UNITE FOR HEALTH AND RIGHTS* 31-32 (2008); I. Pauw and L. Brener, 'You Are Just Whores—You Can't Be Raped': Barriers to Safer Sex Practices among Women Street Sex Workers in Cape Town, 5 *CULTURE, HEALTH & SEXUALITY* 465-81 (2003).

²⁵ See *Criminalisation in Hong Kong; Criminalization in PNG; Criminalization in Argentina*. Amnesty International, "Welcome to Hell Fire": Torture and Other Ill-Treatment in Nigeria (2014), pp. 32-34. See also *Rights, Risks & Health* p. 37; Human Rights Watch, *Off the Streets: Arbitrary Detention and other Absues Against Sex Workers in Cambodia* (2010). WHO, *Violence Against Women and HIV/AIDS: Critical Intersections, Violence against Sex Workers and HIV Prevention*, Information Bulletin Series, No. 3 (2005).

²⁶ See: *Criminalisation in Norway*. See also: Bjørndah, I U. *Dangerous Liaisons: A report on the violence women in prostitution in Oslo are exposed to*. Oslo, 2012. Vista Analyse, *Evaluering av forbudet mot kjøp av seksuelle tjenester 2014* (English Summary- available at: <http://vista-analyse.no/site/assets/files/6813/eng1.pdf>)

²⁷ *Supra* note 11. See also *Amnesty International: Criminalisation in Hong Kong, Criminalization in Argentina, Criminalisation in Norway*.

- ensure that sex workers enjoy full and equal protection, and effective remedies, under laws on rape and sexual violence (including offences involving abuse of authority), assault, trafficking in persons and all other crimes of violence.
- introduce all necessary measures to ensure the effective investigation, prosecution and punishment of violence against sex workers (including legal or procedural reforms where appropriate, such as standards of good practice for police).

Criminalisation

In addition to the above concerns, evidence also indicates that criminalisation interferes with and undermines sex workers' right to health services and information, in particular HIV prevention, testing and treatment, and serves as a contributing factor in the denial of access to justice, and legal due process.²⁸ It can also limit sex workers ability to access, housing, education and social security schemes²⁹.

The enforcement of criminal laws against sex work can lead to forced eviction, arbitrary arrests, investigations, surveillance, prosecutions and severe punishment of sex workers.³⁰ Where sex workers face penalisation when reporting crimes, their capacity to demand payment from or condom use with clients is also compromised.³¹ Notably, police routinely confiscate and/or use condoms as evidence of sex work in a number of countries around the world.³²

The criminalisation of sex work also frequently works to exclude sex workers from protections available to others under labour and health and safety laws and can impede or prohibit them from forming or joining trade unions to secure better working conditions, and health and safety standards. This, in turn, can render sex workers at greater risk of exploitation by third parties.³³

In response to the human rights violations caused by the criminalisation of sex work, states must:

- repeal existing and/or refrain from introducing laws that criminalise (directly or in practice) the consensual exchange of sexual services for remuneration.
- limit criminal prohibitions on the organisational aspects of sex work to those involving clearly defined acts of coercion (such as compelling a person to sell sex through abuse of authority).³⁴
- refrain from the discriminatory enforcement of other laws, not specific to sex work, such as those on vagrancy, public nuisance and immigration that in effect criminalise sex work or sex workers.
- ensure that sex workers are entitled to equal protection under the law and are not excluded from the application of labour, health and safety and other laws.

Regulation of sex work

States have an obligation to ensure that all persons, including sex workers, are able to access just and favourable conditions of work and are protected against exploitation, including those who are self-employed or who make their living in informal settings.³⁵ Amnesty International recognises that some form of regulation will be necessary and that different contexts necessitate some flexibility of approach.³⁶ Amnesty International does not take a position on the exact form such regulation should take, or whether it is necessary for such measures to extend beyond the general laws that broadly regulate other businesses or employment practices in a country. Rather, this should be determined based on the specific regulatory and human rights situation that vary between and within states.

²⁸ Supra note 1.

²⁹ See: *Criminalization in Argentina. Criminalization in Norway. Risks, Rights and Health.*

³⁰ See for example: supra notes 1, 18 and 20.

³¹ See UNAIDS Guidance Note on HIV and Sex Work, Annex 2, 8 (2009)

³² See *Criminalisation in Hong Kong; Criminalization in PNG; Criminalisation in Norway.* See also Open Society Foundations, *Criminalizing Condoms, How policing practices put sex workers and HIV services at risk in Kenya, Namibia, Russia, South Africa, the United States and Zimbabwe.* (2012), Human Rights Watch, *Sex Workers at Risk: Condoms as Evidence of Prostitution in Four U.S. Cities* (2012) [hereinafter *Sex Workers at Risk*]; M.H. Wurth *et al.*, *Condoms as Evidence of Prostitution in the United States and the Criminalization of Sex Work*, 16 JOURNAL OF THE INTERNATIONAL AIDS SOCIETY 18626 (2013)

³³ NSWP, *Sex Work and the Law: Understanding Legal Frameworks and the Struggle for Sex Work Law Reform*, Briefing Paper (2014)

³⁴ See for example Sections 16 and 17 of The Prostitution Reform Act 2013, New Zealand on "Inducing or compelling persons to provide commercial sexual services or earnings from prostitution" and "Refusal to provide commercial sexual services".

³⁵ International Covenant on Economic, Social and Cultural Rights, (Article 7), United Nations (1976) (recognizing the right of everyone to the enjoyment of just and favourable conditions of work which ensure among other thing: fair wages and equal remuneration safe and healthy working conditions and reasonable limitation of working hours.

³⁶ See also: *The Impact of Different Regulatory Models on the Labour Conditions, Safety and Welfare of Indoor-based Sex Workers*, CRIMINOLOGY & CRIMINAL JUSTICE (2014)

As a minimum however, regulation should respect the agency of sex workers and guarantee that *all* individuals who undertake sex work can do so in safe conditions, free from exploitation, and are able to stop engaging in sex work when and if they choose. Additionally, such restrictions must comply with international human rights law (*i.e.* they must be for a legitimate purpose, appropriate to meet that purpose, proportionate and non-discriminatory). States should also ensure the participation and consultation of current sex workers, including those facing multiple forms of discrimination, in the development of any regulatory frameworks.

States must:

- respect and protect the right of sex workers to just and favorable conditions of work, including fair wages, safe and healthy conditions and limits on working hours.
- utilise regulatory frameworks that comply with international law and prioritise the safety of sex workers
- ensure the participation and consultation of sex workers, including those facing multiple forms of discrimination in the development of any regulatory frameworks
- recognise the rights of sex workers to form and/or join trade unions.

Leaving sex work

In the same way that intersectional discrimination and oppression can limit employment options for people considering selling sex, it can also curtail individuals' ability to leave sex work when they want to. States have an obligation to ensure that no person continues to sell sex against their will and that everyone can leave freely when and if they choose.

In ensuring that individuals can leave sex work when and if they choose, states must:

- provide adequate and timely access to support- through, for example, state benefits, education and training and/or alternative employment.
- develop and implement support programmes, in consultation with sex workers- including those facing multiple forms of discrimination, that are responsive to the lived experiences of sex workers and respect individual agency.
- guarantee that sex workers are not compelled to participate in such programmes (through threat of sanctions etc).
- take measures to remove common barriers to employment that sex workers face (such as issues relating to criminal records or employment history checks).

ENDS

Summary of Amnesty International Research Findings

In June 2014 the Chairs Assembly and Directors Forum (CA/DF) directed the International Secretariat (IS) to conduct country-based research on the human rights impact of criminalisation of sex work. Between September 2014 and June 2015, the IS (together with support from relevant Sections) produced four research reports that explore the situation in high, middle and low-income countries across four regions. Research was conducted in Argentina (with a focus on the Autonomous City of Buenos Aires (CABA), Hong Kong, Norway (with a focus on Oslo) and Papua New Guinea (PNG). AI conducted interviews with over 80 sex workers and numerous others with NGOs, activists, law enforcement and government officials.

This document provides a summary of the overarching findings from these research projects. The findings of these projects are highly relevant for delegates taking part in the ICM discussion on a draft policy on the human rights of sex workers. The full reports, including executive summaries, are available at:

<https://intranet.amnesty.org/wiki/display/ILPD/Sex+Work+Policy>
Delegates should request access to the wiki-space through Section Directors.

Key Findings

1. Criminalisation of sex work compounds stigma and discrimination against sex workers

AI found that sex workers face high levels of stigma and discrimination and that the “criminal” status placed on them by an array of different sex work laws, compounds prejudice against them. Sex workers are frequently shamed and marginalised on the basis of their occupation- by police, friends, family, other private individuals, providers of public services such as healthcare and by alternative employers. This stigmatisation can impact nearly every aspect of their lives and severely impedes the realisation of their human rights. In particular, the “othering” of sex workers through criminalisation sets them apart from communities and at odds with police, increasing the risk of violence against them and offering relative impunity to their abusers. In all of the countries visited, AI found that government and law enforcement were not adequately focused on the protection of sex workers from violence, or on the impact that laws and policies have on their human rights, but instead on prohibition of sex work through enforcement of criminal law.

In Norway, sex workers frequently told AI about negative experiences they had had with members of the public. The discrimination that women described was often interwoven

with racism and anti-migrant sentiment.

“The police do what the masses want. People in the street say ‘go back to your monkeys.’”

“It’s mostly women [but] sometimes men who insult us. It’s happened lots of times. ‘You prostitute go back to you own country’. ‘Fuck off out of my sight.’”

“When they see you in the street they say ‘fuck off’. They don’t think you are a human being.”

“I hope in many years they will respect us like other people.”

One woman told AI about how she had been blocked from returning to work by two regular employers in industries outside sex work. When she queried why they were no longer prepared to hire her, they cited the fact that people knew she was a sex worker- telling her they didn’t want an “image problem” saying: *“Can you imagine what they’d say about us if we hired you again?”*

In PNG, AI learned how women, particularly sex workers, who choose their sexual partners or who have multiple sexual partners are at risk of violence for defying cultural expectations and societal norms, and for potentially causing the family to lose income in the form of “bride price.”

“It [sex work] is illegal as PNG culture is very strict. Police hit us, chase us, say sex work is not allowed in PNG. We say you are not going to feed us, clothe us, help our children so we need to do this. We fight for our rights. It’s the only way to benefit and live.”

“It’s illegal due to our tradition, culture, but they must understand the circumstances and the current life we are facing.”

Sex workers were also stigmatised as being “spreaders” of HIV; discouraging them from obtaining sexual and reproductive health information and services. A sex worker in Port Moresby, PNG indicated that the manner in which sex workers were treated when accessing health care made them reluctant to return. The behaviour of nurses and other staff prevents them from going back, she said, and while the rest of the public is treated fairly, sex workers are gossiped about and judged.

Sex workers interviewed by AI in CABA reported being judged by health care providers and/or otherwise treated in ways that were not medically indicated. For example, one sex worker recalled a traumatising experience attending hospital after a condom broke during sex with a client. Rather than being provided standard sexual and reproductive health services, she

was sent directly to the Infectious Diseases Unit. She said that: *“I run out of there crying . . . and, well, I went to another centre and they took out of me the broken piece”*

A transgender former sex worker recounted that:

“Whenever I was sick I went to the hospital but people always mistreated us. They told us to go to other hospital[s] because they couldn’t treat us there or something like that. That’s why most of us didn’t go to hospitals. . . . We also used to medicate each other; recommending pills to take and stuff like that. We didn’t have any real access to health care services because whenever we went to hospitals we were laughed at or the last ones to be attended to by doctors.”

2. Sex workers are criminalised and negatively affected by a range of sex work laws—not just those on the direct sale of sex

AI’s research indicates that even when the sale of sex is not explicitly criminalised, laws that criminalise activities related to sex work, such as bans on buying sex or on solicitation, promotion, brothel keeping or other operational aspects of sex work, are frequently used to criminalise sex workers and/or work in effect to make their working environments more dangerous.

In the CABA, the law regulating street-based sex work does not ban the sale of sex, rather it aims to prevent “public nuisance” by criminalising the “ostentatious”³⁷ offer and demand of sex in public places. Under this law sex workers are repeatedly stopped and asked to show identification, and can be subjected to fines and probation. While it is unlawful for police to consider individuals’ dress, appearance or mannerisms when enforcing this law, AI found that this type of profiling frequently occurs and is often the basis for police stops and citations. Notably, transgender sex workers receive the majority of citations, while clients of sex workers are rarely, if ever, cited.

AI also found that indoor sex workers in the CABA are being harassed through “code inspections” conducted by municipal authorities or police. The legal basis for these raids is unclear as sex workers are unable to register their services as a business under the law. These code inspections disperse sex workers from the safe work spaces they have established, to more uncertain environments. They also hold sex workers

³⁷ There is no clear definition of what qualifies as “ostentatious” offer and demand of sex. The term is generally defined as a vulgar or pretentious display, and/or attempting to impress or attract notice.

responsible for operating businesses whilst simultaneously denying them the right to work legally or access labour protections. Laws which criminalise advertising for sexual services in the CABA primarily impact indoor sex workers, leading some to resort to selling sex in the streets, in more precarious, less safe conditions.

The act of selling sex is not illegal in Hong Kong, and many sex workers AI spoke to were careful to operate in ways that comply with the law. Nevertheless, many of the activities associated with sex work are illegal. Sex workers can be prosecuted for soliciting customers, for sharing premises with other sex workers, and for living off the proceeds of sex work. One scholar has described the legal framework adopted in Hong Kong as “a prohibition in all but the narrowest sense.”³⁸ Those who work on the street are at particular risk of arrest because they are easy to identify and have difficulty operating without violating the prohibition on solicitation.

When two or more sex workers work together in Hong Kong, police consider the apartment a “vice establishment,” or brothel, in violation of the law. AI found that police induce sex workers to fall foul of the requirement that they must work alone. Kendy Yim, from local NGO Action for Reach Out, told us: “The police will set up the girl. An undercover cop will ring the bell and ask her to invite another girl to have a threesome. This becomes a vice establishment, and she’s charged with managing a vice establishment.”

A police initiative that ran until 2011 in Oslo, Norway called “Operation Homeless” focused on increased enforcement of the law against “promotion” of sex work—specifically the subsection that makes it an offence to “let premises . . . for prostitution.” This led to the systematic and rapid eviction of many sex workers from their places of work and homes. For example, the police told AI that the vast majority of massage parlours were closed in Oslo using this mechanism in 2009, following a period of increased enforcement. Based on AI findings, this practice is still a common feature of the police response to sex work in Oslo. In particular, migrant street-based sex workers repeatedly spoke about being forcibly removed from their homes with little to no notice or time given to collect their belongings.

Many of the sex workers in Norway that AI spoke to talked about being able to work with others as a means to increase safety, regardless of whether they were street and/or indoor based. However, under the “promotion” section of the penal code (202) this is effectively illegal. Working together also

³⁸ Nga Yan Cheung, “Accounting for and Managing Risk in Sex Work: A Study of Female Sex Workers in Hong Kong,” Ph. D. thesis, University of London, 2011, p. 54.

increased the likelihood of police raids and subsequent evictions as this would be viewed by police as “organised prostitution.” One indoor sex worker told AI:

“I was asking a guy who owns a security firm. I asked can I rent a bodyguard to take me to an outcall, wait for me and take me back. He said ‘If I do that I will lose my license.’ I was so shocked. So every other person in Norway can rent a bodyguard- except me because I am a sex worker. Why? I am not a criminal.”

Many of the sex workers that AI interviewed in Norway also talked about high levels of anxiety and nervousness among buyers about being caught and fined by the police. Most of the sex workers we spoke with reported being asked to visit buyer’s homes to protect them from detection by the police. Street-based sex workers that AI spoke with were most likely to agree to this because they face discriminatory exclusions from hotels under the ‘promotion’ law, they feared eviction by police if they brought clients to their own homes and they needed to make money.

“Customers can’t hurt you so much [at home]. I’m more relaxed there. It’s more dangerous going to a customer’s house. I went to a house of a man- he tried not to pay me so much. He punched me two times in the jaw. I didn’t tell the police. If he had broke much I would have told them. But I don’t want it on my records.”

“Customers want to go to their place. You have to be calm. If he hurts you there is no-one there to rescue you.”

“Some customers can hurt you at their apartments. They can hurt you because they know we are too scared to go to the police. We have to obey their rules because we are in their house. We can’t bring them to ours.”

“When you go to a customer’s house there could be five of them there.”

3. Criminalisation gives police impunity to abuse sex workers and acts as a major barrier to police protection for sex workers

Police abuse featured in research findings in the CABA, Hong Kong and PNG. For example, in PNG AI found that police extort money from, rape and sexually abuse sex workers, often with impunity. In the CABA, police collect bribes to give sex workers and “third parties” notice that they plan to raid or “inspect” apartments where sex work is suspected, and/or commit violence and theft during these raids. In Hong Kong, police extort money and coerce sex workers into sex by telling them

that it is the only way they can avoid legal sanctions.

The majority of sex workers that AI spoke to did not, or were reluctant to, seek police protection from or redress for, violence and crime. In some countries this can be due to the fact that police are often the perpetrators of such crime. Because of their criminalised status, sex workers often fear prosecution or punishment if they go to the police, believe that no action will be taken to help them seek justice, and/or fear that they will lose their livelihood as a result of subsequent police action. The police also do not commonly see it as their priority to contribute to making sex work safer, rather—they are tasked with its eradication.

A sex worker in PNG told AI that when she tried to report abuse by a client to the police, they told her they did not want to “waste time” on sex workers. When she later faced abuse, she did not bother reporting it to the police, explaining that: *“If I am abused and I go to the police, they’ll tell me, ‘that’s what you deserve.’”*

A homeless sex worker in Port Moresby described being gang raped by police officers in August 2012; after which she and her client were “fined” 600PGK by the perpetrators:

“It was 6pm, I was having sex with one of my friends [clients] at Jack Perry Park in a bus. Police start to beat my friend and me. They tried to make me do group sex with the six policemen. Then they told me to suck my friend’s dick. Six police officers did sex to me one by one. They were armed with guns, so I had to do it. I don’t have any support to come to court and report them. It was so painful to me, but then I let it go. If I go to the law, they cannot help me as sex work is against the law in PNG. The police have the law to do that.”

Sex workers in Hong Kong face entrapment, extortion and coercive police interrogations. Notably, the Hong Kong Women’s Coalition on Equal Opportunities confirmed that: *“Police officers, during undercover operations, are allowed to solicit sex workers to perform certain sexual services [in order to secure evidence].”*

AI did not find substantive evidence of police violence towards sex workers in Norway. However, the practice of evicting sex workers from their homes under the “promotion” law and the criminalisation of clients was regularly identified by sex workers as reasons why they would not report crimes to the police.

In order to evict sex workers under the “promotion law,” Norwegian police must identify sex workers, where they live or work and ascertain whether they are selling sex from those locations. In most cases this information is then used by police

to threaten landlords with prosecution, who then rapidly evict sex workers.

AI learned of a number of methods used by the police to identify sex workers. These include document checks of women in the areas where street-based sex work occurs and police contacting sex workers through advertisements and posing as potential customers. Police and sex workers also confirmed that sex workers are identified by police following the reporting of crimes, including reports by sex workers of crimes against them. AI interviewed a number of people involved in a recent case where a number of migrant sex workers were violently attacked and raped in the apartment in which they lived by individuals posing as police officers. They reported the incident to police and spent the next two nights in hospital and a hotel. They told us that they returned to their apartment to find the police had removed all their money and electronic equipment. Four days after the attack they were forcibly evicted by their landlord who gave them only a few hours to leave.

Other sex workers in Norway told us about how reporting violence to the police represented too much of a risk in terms of losing their livelihood:

“Most clients are nice and don't give me a problem. I've worked for a long time in sex work. Before I close a door when a customer comes in I always listen to who is on the stair behind them. This time I heard a 2nd person on the stairs. Asked who is this? He said: his friend. I told him to get out. He pulled a gun on me. I fought him. If I'm going to die then everyone is going to jail. The other person came upstairs. I didn't tell the police. If I go to the police I have to tell the police where I live. They will have a car at my door to fine my clients. If one or two clients get a fine- I will lose all of them.”

“If we knew for sure they [police] would help us that would be great. But then they [police] disturb you. I prefer to resolve problems myself. Only if they [perpetrators] come to my house and fight me hard- send me to hospital- I will tell the police.”

“If a customer is bad you need to manage it yourself to the end. You only call the police if you think you are going to die. If you call the police you lose everything.”

Research in PNG and Hong Kong also found that law enforcement officials use condoms as evidence of sex work-related crimes. This practice leads to sex workers' greater reluctance to carry and use condoms, thus negatively impacting their health and HIV prevention efforts. Police in Norway also informed AI that condoms found in premises are used as evidence of sex work.

4. The most marginalised sex workers often report the highest levels, and worst experiences, of criminalisation

Migrant street-based sex workers in Norway spoke frequently about their feelings that the police would not support them because of the intersectional discrimination they face.

“The other day a guy was harassing my friend on the street. The guy kept taking pictures of her. He was a Norwegian guy. She asked him to stop taking photos then. He started to insult her- called her a prostitute or something. She took the phone off him and threw it away. The guy just slapped her and they started to fight. The guy called the police. Both of them were taken to the station and the police took the guy's side. [They said:] ‘He's Norwegian-you're not from here. You're African.’”

“Most customers do harass us because they can do anything to us. White women – [even if they are] not Norwegian are more relaxed because they know police will help them. Customers know that police will react if white girls are hurt. They know they won't do anything to help black women.”

In the CABA, transgender street-based sex workers received the majority of citations issued under the law criminalising the “ostentatious” offer or demand of sex, whilst clients were rarely, if ever, cited under the law. The head of ATTTA, a transgender rights NGO, told AI:

“The main violence against transgender sex workers is the structural one because [the] police [are] the one[s] who imprison us and abuse us. [The police] are aware of our vulnerability and they make a profit of it and take our money. They control us that way. . . . Before the gender identity law was approved the police used to ask us for money in order to let us work on the streets. Now they ask us for money in order to take care of us and give us security [from human trafficking networks and thieves]. There's a constant persecution. [In fact,] sometimes [the police] “free” the zone so that thieves can go in and steal from sex workers and clients.”

It is not possible for migrants to lawfully engage in sex work in Hong Kong. As such all migrant sex workers are in “breach of condition of stay.” A migrant sex worker prosecuted for sex work related offences will receive a more severe penalty than a Hong Kong resident, often an immediate 2 month custodial sentence, for having breached the same provisions, because a non-resident will also be charged for having breached the Immigration Ordinance.