



Global Network of Sex Work Projects
Promoting Health and Human Rights

21st September 2016

Dear UN Women

'Consultation seeking views on UN Women approach to sex work, the sex trade and prostitution'

In response to the above we wish to make the following submission.

Firstly, the process being used and the failure to organise any national or regional sex worker consultations shows either an ignorance about the reality of sex workers lives, a failure to recognise the centrality that sex workers should play in the development of sex work policies and programmes or a desire to limit the involvement of sex workers in the development of this new policy. The process is biased towards those with privilege and will exclude the majority sex workers in the global south who have limited access to the Internet and most of who are not literate in the colonialist language of the United Nations and who are not familiar with the UN treaties and documents that guide UN Women and around which your consultation is framed. **We therefore call for UN Women to begin an open, transparent and more participatory (in-person) process.**

Secondly, the UNAIDS Joint Programme on AIDS, of which UN Women is a Co-Sponsor, already has a sex work policy that is founded in UN Human Rights treaties, and which was developed following a meaningful consultation process with sex workers and other stakeholders. **This should be the minimum standard and starting point of any further elaboration of UN Women's approach to sex work.**

Therefore, as our **primary** response, we urge UN Women to:

- ↳ engage in a **meaningful** consultation with sex workers in developing their policy on sex work.
- ↳ ensure their sex work policy respects, protects and fulfils the human rights of sex workers and recognises the agency and self-determination of sex workers.

However, in response to the **specific** question posed in your consultation, we submit the following brief points:

Question 1) The 2030 Agenda commits to universality, human rights and leaving nobody behind. How do you interpret these principles in relation to sex work/trade or prostitution?

NSWP's core values are based upon human rights principles, instruments and international law. **Sex workers are right holders like all other people and should be recognised as such.**

NSWP's [Consensus Statement](#) on Sex Work, Human Rights and the Law, endorsed by more than 263 NSWP members across 78 countries, details eight fundamental rights that sex workers from around the world identified as crucial targets for their activism and advocacy.

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Those are:

- The right to associate and organise;
- The right to be protected by the law;
- The right to be free from violence;
- The right to be free from discrimination;
- The right to privacy, and freedom from arbitrary interference;
- The right to health;
- The right to move and migrate; and
- The right to work and free choice of employment.

We would like to bring to your attention just a few examples of statutes that apply equally to sex workers, and which informed the demands set out in the Consensus Statement.

The Universal Declaration of Human Rights states, “everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.”¹ These provisions of the Declaration are expanded and made legally binding in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which requires countries to “recognise the right to work, including right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”. It further mandates countries to ensure “safe and healthy working conditions”.²

The International Labour Organization recognises sex work as informal labour in the [official Report of the Committee on HIV/AIDS](#), which accompanied the publication of the ILO standard [‘Recommendation concerning HIV and AIDS and the World of Work, 2010 \(No. 200\)’](#). This records the clear understanding that sex work is covered by this instrument, which recognises both formal **and** informal economies.

CEDAW itself does not explicitly mention sex work as work; however, the treaty notes that states should “take all appropriate measures, including legislation, to suppress [...] exploitation of prostitution of women.” It is important to note that this statement does not imply that all ‘prostitution’ is exploitative: rather, it means that where exploitation exists, it must be addressed.

Criminalisation of sex work contributes to violence against sex workers - including violence perpetrated by state actors; human rights violations such as mandatory testing; stigma and discrimination in health services; limits sex workers’ access to justice and essential services; and causes fear of seeking government-supported services. The criminalisation of sex work keeps governments and employers from making workplace health and safety for sex workers a priority.

Article 12 of ICESCR also notes that all people have the right to the “highest attainable standard of physical and mental health.” The right to health is central to human dignity - for sex workers, as for all people. **Decriminalisation is key to the right to health for sex workers.** As outlined in The Lancet in July 2014, “Decriminalisation of sex work would have the greatest effect on the course of HIV epidemics across all settings, **averting 33–46% of HIV infections in the next decade.**”³

This year [Amnesty International](#) joined [The Joint United Nations Programme on HIV/AIDS \(UNAIDS\)](#), [UNFPA](#), [WHO](#), [UNDP](#), [Human Rights Watch](#), the [Global Commission on HIV and the](#)

¹ Universal Declaration of Human Rights, United Nations, 1948.

² International Covenant on Economic, Social and Cultural Rights, UN Gen. Assembly res. 2200A(XXI), 16 December 1966, Articles 6, 7.

³ Shannon, Kate et al, ‘Global epidemiology of HIV among female sex workers: influence of structural determinants.’, The Lancet, Volume 385, Issue 9962, 55–71, DOI: <http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2814%2960931-4/abstract>



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[Law](#), [the World Bank](#), [Open Society Foundations](#), the [Global Network of People Living with HIV](#), the [Global Forum on MSM and HIV](#), the [International HIV/AIDS Alliance](#), the International Women's Health Coalition, the [Association for Women's Rights in Development](#), the [American Jewish World Service](#), the [Global Alliance Against Traffic in Women \(GAATW\)](#), [The Lancet](#), The Global Fund for Women, the Elton John Foundation and the [International Community of Women Living with HIV](#) in the call for the decriminalisation of sex work.

This position has since been further supported, for example, in the [Report of the Secretary-General Ban Ki-moon](#) 'On the Fast-track to End the AIDS Epidemic' which emphasises "the necessity of repealing punitive laws and repressive policies that criminalize same-sex sexual relations, people who use drugs and sex workers, since they impede access to services" and elaborates that "decriminalization of sex work can reduce violence, harassment and HIV risk. Sex workers should enjoy human rights protections guaranteed to all individuals, including the rights to non-discrimination, health, security and safety."

Undeniably, there is a growing body of evidence to support the positive impact that decriminalisation can have upon ALL women's human rights and the human rights of all sex workers.

The protection, respect and fulfilment of human rights such as the rights to health, accommodation, privacy, and liberty, and security of person, and the principle of non-discrimination are detailed in a number of international human rights instruments. A useful rights based response here requires that there is no consequential denial of rights because sex work is the "work" in question.

Question 2) The Sustainable Development Goals (SDGs) set out to [achieve gender equality and to empower all women and girls](#). The SDGs also include several targets pertinent to women's empowerment, such as

- a) reproductive rights
- b) women's ownership of land and assets
- c) building peaceful and inclusive societies
- d) ending the trafficking of women
- e) eliminating violence against women.

How do you suggest that policies on sex work/trade/prostitution can promote such targets and objectives?

The Sustainable Development Goals, which call for an end to inequalities of all kinds, can never be achieved without ensuring that no-one is left behind. Therefore any UN Women policy on sex work must set out, in detail, how the SDGs can advance the human rights of sex workers and the importance of a human rights affirming approach to sex work in advancing gender equality, with reference to the specific UN human rights treaties, including those highlighted here.

Question 3) The sex trade is gendered. How best can we protect women in the trade from harm, violence, stigma and discrimination?

According to international human rights law, every person enjoys protection of his or her “security of person.”⁴ Depicting sex work as inherently violent and as a form of violence against women is contrary to viewing sex workers as capable human beings with the ability to choose how they make a livelihood and with the right to be free from physical or mental injury. In addressing violence against women, the CEDAW Committee underscored the vulnerability of sex workers to violence, noting that “their status, which may be unlawful, tends to marginalise them,” adding that sex workers “need the equal protection of laws against rape and other forms of violence.”⁵

While the significant majority of sex workers are women including transgender women, there are also men, including transgender men, working as sex workers. Any policy developed on sex work must take into consideration the particular realities of **all** sex workers even if the primary focus of the policy is on women.

UN Women’s policy **must** reference academic and community-led research on stigma, discrimination, and violence experienced by sex workers. This can only be achieved by UN Women engaging in a longer-term, more inclusive, participatory and transparent process where the diverse experiences of **all** sex workers can be captured.

We do hope that NSWP and sex workers globally are given an opportunity to **meaningfully** engage with the leadership in UN Women, before serious consideration is given to developing UN Women’s position in relation to respecting, protecting and fulfilling the human rights of female and transgender women sex workers.

Kindest regards



Ruth Morgan Thomas

Global Coordinator

⁴ International Covenant on Civil and Political Rights. UN General Assembly, 1966, article 9(1).

⁵ Convention on the Elimination of All forms of Discrimination Against Women. UN General Assembly resolution 34/180, 18 December 1979.