

THE HUMAN RIGHTS OF SEX WORKERS IN PORTUGAL FROM 2020 TO 2022: HOW COVID-19 RE-SPARKED SEX WORK DEBATE ON A NATIONAL AND INTERNATIONAL LEVEL

Antónia Maria Martin Barradas

Especialista em *Law, Economy, Sociology* pela Faculdade de Economia da Universidade de Coimbra, Mestre em Direitos Humanos e Democratização pela Global Campus of Human Rights (Itália), Especialista em Direitos Humanos pela Faculdade de Direito da Universidade de Coimbra, Especialista em Teoria e Prática de Direitos Humanos pela *The London School of Economics and Political Science*, Reino Unido.

ABSTRACT

The legal, social and economic effects of the Coronavirus call for an analysis around law projects to change the current criminal law in Portugal on sex work. In the current social and economic crisis, Portugal is facing challenges in protecting the rights of those providing sexual services. In 2020 and 2021, respectively, two law projects were presented, one by a group of sex workers, and one by an independent member of parliament. The first aims to criminalize clients of sex workers, who are not criminalized under the present law, and the second aims for partially decriminalize procuring, which is currently a crime in Portugal. The evolution of this ongoing debate on enacting legislative alterations around the further criminalization or decriminalization of certain aspects of sex work will be analysed in this paper, with a focus on criminal law, human rights, and gender from an intersectional perspective. More specifically, labour and health rights will be approached, as well as the difference between human trafficking, forced prostitution, the exploitation of prostitution and sex work per se. Lastly, some pathways for a new regulatory model for Portugal, as well as for an international human rights ethics code for sex work will be proposed.

Keywords: COVID-19; Sex Work; Human Rights; Gender; Criminalization; Decriminalization.

RESUMO

Os efeitos legais, sociais e econômicos do Coronavírus exigem uma análise em torno de projetos de lei para alterar a legislação criminal atual em Portugal relativa ao trabalho sexual. Na atual crise social e econômica, Portugal enfrenta desafios na proteção dos direitos daqueles que fornecem serviços sexuais. Em 2020 e 2021, foram apresentados dois projetos de lei, um por um grupo de trabalhadores sexuais e outro por um membro independente do parlamento. O primeiro tem como objetivo criminalizar os clientes dos trabalhadores sexuais, que não são criminalizados pela lei atual, e o segundo visa a descriminalização parcial da mediação, que atualmente é um crime em Portugal. A evolução deste debate em curso sobre a promulgação de alterações legislativas em torno da maior criminalização ou descriminalização de certos aspectos do trabalho sexual será analisada neste artigo, com foco no direito penal, direitos humanos e gênero a partir de uma perspectiva interseccional. Mais especificamente, serão abordados os direitos trabalhistas e de saúde, bem como a diferença entre tráfico de pessoas, prostituição forçada, exploração da prostituição e o próprio trabalho sexual. Por fim, serão propostos alguns caminhos para um novo modelo regulatório para Portugal,

bem como para um código de ética internacional de direitos humanos para o trabalho sexual.

Palavras-chave: COVID-19; Trabalho Sexual; Direitos Humanos; Gênero; Criminalização; Descriminalização.

RESUMEN

Los efectos legales, sociales y económicos del Coronavirus requieren un análisis en torno a proyectos de ley para cambiar la ley penal vigente en Portugal en relación al trabajo sexual. En la actual crisis social y económica, Portugal está enfrentando desafíos para proteger los derechos de quienes brindan servicios sexuales. En 2020 y 2021, respectivamente, se presentaron dos proyectos de ley, uno por un grupo de trabajadores sexuales y otro por un miembro independiente del parlamento. El primero tiene como objetivo criminalizar a los clientes de los trabajadores sexuales, que no son criminalizados bajo la ley actual, y el segundo busca descriminalizar parcialmente la mediación, que actualmente es un delito en Portugal. La evolución de este debate en curso sobre la promulgación de modificaciones legislativas en torno a la mayor criminalización o descriminalización de ciertos aspectos del trabajo sexual se analizará en este documento, con un enfoque en el derecho penal, los derechos humanos y el género desde una perspectiva interseccional. Más específicamente, se abordarán los derechos laborales y de salud, así como la diferencia entre tráfico de personas, prostitución forzada, explotación de la prostitución y el trabajo sexual en sí. Por último, se propondrán algunas vías para un nuevo modelo regulatorio para Portugal, así como para un código ético internacional de derechos humanos para el trabajo sexual.

Palabras clave: COVID-19; Trabajo Sexual; Derechos Humanos; Género; Criminalización; Descriminalización.

RÉSUMÉ

Les effets légaux, sociaux et économiques du Coronavirus appellent à une analyse des projets de loi visant à modifier le droit pénal actuel au Portugal en ce qui concerne le travail sexuel. Dans la crise sociale et économique actuelle, le Portugal est confronté à des défis pour protéger les droits de ceux qui fournissent des services sexuels. En 2020 et 2021, respectivement, deux projets de loi ont été présentés, l'un par un groupe de travailleurs du sexe et l'autre par un membre indépendant du Parlement. Le premier vise à criminaliser les clients des travailleurs du sexe, qui ne sont pas criminalisés en vertu de la loi actuelle, et le second vise à dépenaliser partiellement le proxénétisme, qui est actuellement un crime au Portugal. L'évolution de ce débat en cours sur la mise en œuvre de modifications législatives concernant la criminalisation ou

la dépénalisation de certains aspects du travail sexuel sera analysée dans cet article, en mettant l'accent sur le droit pénal, les droits de l'homme et le genre d'une perspective intersectionnelle. Plus spécifiquement, les droits du travail et de la santé seront abordés, ainsi que la différence entre la traite des êtres humains, la prostitution forcée, l'exploitation de la prostitution et le travail sexuel en soi. Enfin, quelques pistes pour un nouveau modèle réglementaire pour le Portugal, ainsi que pour un code d'éthique internationale des droits de l'homme pour le travail sexuel, seront proposées.

Mots-clés : COVID-19 ; Travail sexuel ; Droits de l'homme ; Genre ; Criminalisation ; Dépénalisation.

INTRODUCTION

The Coronavirus crisis in 2020 hit sex workers in Portugal hard. With the lack of clients which the pandemic brought on, sex workers were fighting even more for survival. For those workers in the street, many had to travel to meet clients, while others could not render their services at all due to the closing of borders to only essential travel. This became particularly serious regarding women with children, as their savings were not sufficient for their sustenance (Marvão 2020). In an open letter urging the Portuguese Government to support sex workers, a group of several collectives urged it to provide protection and income to cover their needs and those of their families.

The Sex Work Network (in Portuguese, *Rede Sobre Trabalho Sexual*) in Portugal, along with academics and a series of organizations which intervene directly in this area, as well as some ex-sex workers and current sexual service providers from different realms such as pornography, strip tease, dancing, and erotic phone lines subscribed to the open letter (Pereira 2020). These collectives highlighted that the fact that sex work is still classified as an '[...] informal activity which is not covered by law with labour rights and guarantees which are the right of any worker [...]' means that 'most of its professionals are on the verge of getting to a critical point'.

The signatory groups further stated that ‘[...] Ignoring the real circumstances of this category of workers, particularly in current times, will surely lead us to sinister scenarios, not only from a human rights perspective but also from a public health perspective.’ (Rede Sobre Trabalho Sexual et al. 2020: 1). Another group also alerted to the fact that if sex work is not recognized as work, those who practice it cannot be included in governmental measures, nor can they interrupt their activity with the appropriate welfare coverage or assist their families if need be (Pereira 2020).

With the spread of the virus and the confinement measures, there were a series of evictions. These groups proactively worked to inform people that they were protected by law and could not be evicted (Pereira (2) 2020). They also stated that they were overwhelmed with requests for food and that not all councils were being able to respond to these necessities, with overloaded emergency lines, and people informing them they had two days’ worth of food at home, while others were going hungry (Pereira (3) 2020). These collectives further defended the urgency of providing people with access to a package of extraordinary support measures (Pereira 2020).

1. THE 2020 LAW PROJECT FOR THE FULL LEGALIZATION OF SEX WORK IN PORTUGAL

In June of 2020, a law project for the regulation of prostitution in Portugal was presented by a group of sex workers who led this civil society initiative. The need for labour law and public health rules, as well as tax and social welfare measures to protect those working in this area is at the forefront of their exposition of motives. The fact that these kinds of activities are not legislated for in Portugal was also pointed out as a contributing factor for sex workers to be viewed so negatively in the country (Portuguese Parliament 2020). Among others, the following proposals were made to regulate the profession

and brothels: people under 21 should not be able access the profession; labour contracts should be allowed, with the appropriate social security contributions; a greater control regarding health and hygiene should be afforded; a greater degree of police inspections should be carried out around those who practice these kinds of activities in brothels; brothels should be allowed to be registered establishments, so that any illicit activities can be more effectively inspected and tackled; a mandatory presentation of an identification document when advertising on websites or newspapers to prove that the person offering the sexual services in question is, in fact, not underage, and has a regular migratory status in the country (Public Petition 2020).

Furthermore, a call was made for the full legalization of sex work, or at least the decriminalization of procuring as it is foreseen in the Portuguese Criminal Code, in Article 169, point 1 (Cravo 2014). The justification given in this law project for this is the fact that brothel owners pay for the expenses of these establishments, that people who collaborate with brothels by providing their professional services do so with complete free will, and are also guaranteed a secure work environment, where their physical and emotional integrity is protected. In conclusion, according to the petitioners of the law project, the Portuguese State should not only safeguard the interests of all its citizens but also give those providing these activities the leeway to present a definitive solution to legalize and regulate sex work as a profession.

2. THE 2021 LAW PROJECT FOR THE CRIMINALIZATION OF CLIENTS OF SEX WORKERS

In May of 2021, MP Cristina Rodrigues presented a law project which proposed a prison sentence for clients of up to a year, the creation of a fund for the implementation of exit programmes from sex work, with amounts from fines applied to clients reverting to this fund (Portuguese Parliament 2021: 36). The project is therefore based on

maintaining sex work activities decriminalized, while criminalizing not only procuring and human trafficking but also clients themselves (Pereira (4) 2020).

This initiative proposed the alteration of the Criminal Code in the following manner: '[...] whomever solicits, accepts or practices a sexual act with a person in prostitution in exchange for financial gain or the promise of financial gain, is punished with a prison sentence of up to a year or a fine.' (Portuguese Parliament 2021: 30-31) Where minors are involved, the MP proposed that this punishment increases to three years imprisonment or a fine (Agência Lusa 2021).

Furthermore, the government was urged implemented exit programmes from sex work along with local municipalities and NGOs which were to include medical care, accommodation, legal support for victims of procuring and violence, as well as the social promotion of integration, economic independence and social protection, as well as family support and the accompanying of the situation of migrants (Agência Lusa 2021). The independent MP also wanted residence permits to be granted to all foreign citizens who have been victims of human trafficking and proposed that this be attained through an alteration to the so-called 'foreigners' law' (Porfírio 2021).¹

Another prior law proposal was presented in 2020 by Member of Parliament Cristina Rodrigues whereby, among other measures, the MP proposed the launch of a pilot-project whereby the government would work to gain greater knowledge on the issues of people in sex work, as well to create support and follow-up measures, which was approved as part of the 2021 State budget (Portuguese Parliament 2020 (2): 1-2).

3. WHY MODELS THAT DIRECTLY OR INDIRECTLY CRIMINALIZE SEX WORK PER SE FAIL

From the research carried out for the past 6 years for the PhD dissertation from which this paper stems from, there are three general types of criminalization of sex work around the world:

1. States criminalize sex workers due to the fact they render sexual services, and these States criminalize commercial sex, thereby imposing penalties as harsh as jail sentences. This is, so far, the less common model.
2. States apply criminal and other types of sanctions to activities related to sex work - which are often the act of soliciting and the procuring of sex in general - to clients, brothel owners, those recruit sex workers or provide the conditions for sex work, or those who live off the proceeds of sex work or facilitate it by giving out information or assistance. This is, so far, one of the more common models.
3. States maintain or enact laws to justify harassment, exploitation, extortion, use of force or arrest of sex workers by police or other authorities. These laws are often not directly related to sex work. For example, they are laws on homosexuality, vagrancy, cross-dressing, public nuisance or lewdness or gender expression, and they put sex workers at risk, particularly when they are in public spaces or if they are gender non-conforming.

In 2014 there were over 100 countries that criminalized at least some aspect of sex work (UNAIDS 2010; United Nations General Assembly 2012). Other countries completely outlawed it, for example: most of the United States, Cuba, the People's Republic of China, Iran, Vietnam and South Africa (Britannica 2009). At that time, some countries in Western Europe, Latin America and Canada prosecuted crimes related, for example, to brothel-keeping, the transporta-

tion of sex workers, street soliciting or living off the profits of street soliciting, or even communicating for the purposes of prostitution. Regarding Norway and Sweden, clients of sex workers were already being arrested at that time (UNAIDS 2011). The Swedish approach, which later became known as the Nordic Model, was seen as more just to sex workers, who were perceived as victims by its proponents (Gould 2001; Ekberg 2004).

This approach has since been applied in other countries and has resulted in grave consequences for these workers (Kulick 2003; Sullivan 2009). Some governments have deployed anti-human-trafficking laws in such a broad manner that they generate a conflation with voluntary and consensual exchanges of sex for money with the exploitative, coercive, and often violent trafficking of people for sex, who are primarily women and girls (Shah 2011; Schreter *et al.* 2007). In some countries, municipalities are allowed to interdict commercial sex with vaguely worded statutes pertaining to subjects such as public decency, morality or even rape, nuisance laws prohibiting loitering and vagrancy, or zoning or health regulations (Mgbako and Smith 2011; Sukthankar 2011).

Although these kinds of statutes frequently do not mention the words ‘sex worker’ or ‘prostitute’, they do give police a broad action scope to arrest and detain sex workers, while providing the state with legal support to make medical examinations compulsory, which, when forceful, represent a fundamental human rights abuse. In some cases, police use the mere fact sex workers are in the possession of condoms as evidence of sex work (PROS Network and Tromppert 2012: 6). Consequently, even if they are only briefly detained, their working lives are vexed by harassment and fear. These kinds of laws enact forms of profound discrimination, while reflecting general social contempt towards women, men and transgender sex workers (Gruskin and Ferguson 2009).

The Nordic Model has been praised as a less punitive and more gender-sensitive legal strategy to reduce and ultimately eliminate sex

work. This model criminalises the client and not the person doing the sex work based on the following premises: 1) people in sex work need protection; 2) particularly, women in sex work need protection; 3) the sex worker is always perceived as a victim and the client as an exploiter. However, the law has not improved but rather worsened the living conditions of sex workers since its enactment in 1999 (Gould 2001; Sukthankar 2011; Levy 2011). Among the results of the first few years, the following can be verified: an increase in the underground sex trade; a higher rate of violence as — according to the Swedish police — even though street sex work reduced to half, the rates of sex work remained at the same level as those prior to the enactment of the law (Kulick 2003); sex work simply moved deeper underground, to hotels, restaurants, as well as the to the internet and to Denmark (Dodillet and Östergren 2011).

On the other hand, the Swedish State Criminal Department warned that, after the enactment of the law in question, the sex trade could become more violent, and that foreign women would more easily fall under the control of their procurers (Harcourt *et al.* 2005; Canadian HIV/AIDS Legal Network; FIRST 2010; Jordan 2012). Sweden's Alliance of Counties also pointed out that not only were there few prosecutions and convictions, but that resources for social work were scarce due to the fact the money destined to help sex workers had been channelled to policing. Moreover, even though there had been above 2,000 arrests, only 59 clients were reported as being suspects of acquiring services involving occasional sex. Following that, only two were convicted after pleading guilty. No one was imprisoned and only very low fines were applied. As for evidence of the crime, it was reported to be almost impossible to obtain. In addition, when approached on this subject, sex workers did not consider themselves victims of a crime and were almost always unwilling to testify against their clients (BAYSWAN 2012).

Criticism also led to the creation of a sex workers' rights organisation in the country which has strongly opposed and lobbied against the law in question. Consequently, some Swedish authorities also de-

manded an evaluation of how the new legislation was affecting the underground sex trade (BAYSWAN 2012). Furthermore, the biased reasoning behind the criminalization or punishment of sex work also fails on a global scale. This stems from the fact that laws have been drawn up throughout the world with contradictory base arguments, being some of the most ineffective those which simultaneously set out to prove that punishing and helping sex workers will somehow be an effective way to tackle problems associated to sex work. Other laws have simply been implemented based on the understanding that the criminalization of the purchase of sex will somehow help sex workers. These - often conflicting — laws reflect not only fear, but also confusion and stereotypes about sex. Above all, these kinds of laws show great ambivalence about women's sexual autonomy.

Some argue that all forms of sex work are always forms of violence against women, and therefore must be eradicated completely (European Women's Lobby 2021). The main argument used as a basis of this line of thought is that people who are sex workers are always in some way being coerced. Coercion in this case would therefore consist of poverty and/or gender inequality, as well as other structural disadvantages. Thus, these people - who are voluntarily involved in sex work - would not be aware that they had fallen victim to this invisible coercive hand, and therefore would always be perceived as not only victims per se, but also victims of some form of violence. This standpoint by the people who intend to help or save these so-called 'victims', removes a very important element from the equation for people who are sex workers: agency.

On the other hand, men are vilified as always being the perpetrators of some form of abuse or violence while using sexual services. Thus, as it simply does not consider whether sex workers consider they are, in fact, in a disadvantaged position within what it sees as unequal power structures, this perspective ends up further contributing to the perpetuation of stigma. Many sex workers face daily ordeals regarding violence not only from clients but also from police. This rings particu-

larly true for those sex workers who are queer or gender non-conforming, such as trans sex workers, for example (WHO, 2005: 6). The social stigma which is already faced by people who render sexual services added to the criminalisation of their activities makes their lives much harder, more dangerous, and very much more at risk of STDs such as HIV, and nowadays, the Coronavirus as well (Csete and Cohen 2010).

The problem with criminalization is that - in countries which foresee it - there is no legal protection from discrimination and abuse regarding sex work. These kinds of laws have been known to create situations where police harassment and violence can more easily take place (Pyett and Warr 1997). Furthermore, criminalization laws have also been known to push sex work to go further underground, thereby making it much harder for sex workers to attain better working and health and safety conditions such as, for example, to negotiate condom use with clients (Shannon and Csete 2010; Rhodes et al. 2008). In some countries, where the use of condoms can be considered proof of sex work by those who have this kind of prophylaxis in their possession, sex workers fear carrying them, thereby putting themselves at risk of contracting and spreading STDs (Alexander 2001; Human Rights Watch 2003).

The mere threat of police violence obviously prevents sex workers from seeking any sort of assistance from these kinds of authorities and contributes to further ingraining client and police violence culture towards them (Jenkins et al. 2006; Robinson 2007). Also, both procurers and clients have been known to use threats of criminal sanctions not only to exploit but also to control sex workers (Sukthankar 2011). On the other hand, if sex workers are the victims of violence, such as rape and assault, these crimes are much more difficult to report due to fear of arrest, for example. Sexual violence also obviously heightens exposure to HIV (Jenkins et al. 2006; Global Commission on HIV and the Law 2017).

Finally, stigmatised and/or criminalised sex workers are consequently unable to access programmes of HIV prevention and care (Pyett and Warr 1997; Sukthankar 2011; Scorgie et al. 2011; Richter

2008; ATHENA NETWORK 2009). Added to this, the fact that sex work continues to be in the informal economy maintains reduced access not only to education, but also to housing, thereby increasing the chances of the dependence of sex workers on procurers, for example (UNDP et al. 2012: 39-40).

4. LABOUR RIGHTS

The International Labour Organization (ILO) has recommended that sex work be recognised as an occupation so that it can be regulated in ways that protect workers and customers. Sex workers in such a framework could exercise both individual and collective initiative in affecting their economic and social conditions. The ILO's labour standard on HIV/AIDS, adopted in 2010, includes non-discriminatory access to health services and occupational safety for sex workers, including empowerment to insist on safe and protected paid sex in their workplaces.² Decriminalisation is the first step toward better working conditions—and with them, less HIV risk.

Some jurisdictions have removed some penal provisions related to sex work. New Zealand's Prostitution Reform Act (2003) decriminalised prostitution, opening the way for sex workers to operate in public and in safety.³ The New Zealand Prostitutes' Collective, brothel operators and the Labour Inspectorate have collaborated to develop workplace health and safety standards for sex work. Sex workers can bring employment discrimination complaints to the Human Rights Commission, and the Mediation Service on Employment adjudicates disputes (UNDP 2011: 8). The police support sex workers in reporting violence. Although it applauds these advances, the Prostitutes' Collective stresses that stigma and discrimination remain and calls for law and policy to address them. The Kenya National Commission on Human Rights called for the decriminalisation of sex work as well (Kenya National Commission on Human Rights 2012: 106).

Furthermore, some national courts have recognised the rights of sex workers around the world. A court in Bangladesh halted abusive action by police who evicted sex workers from brothels, concluding that this curtailment of their livelihood was a violation of their right to life (ILO 2001: 1-2). Similarly, in the 2010 case *Bedford v AG Canada*, a judge struck down three provisions of the Canadian criminal code outlawing prostitution, calling them a violation of the country's Charter of Rights, as they 'force prostitutes to choose between their liberty interest and their right to security of the person (Ontario Superior Court of Justice 2010: 5-6). The subsequent 2012 decision of the Ontario Court of Appeal found that provisions prohibiting brothels and living off the avails of prostitution were both unconstitutional in their current form.

In 2010, the South African Labour Appeal Court held that even though sex work was illegal, the people who do it were entitled to protection against unfair dismissal by employers (High Court of South Africa 2006: 2). Unfortunately, decriminalisation sometimes replaces punishment with regulation which, in its details, is enforced through criminal law. Greece, Latvia and parts of Australia all have mandatory and forced medical testing, which is a human rights abuse and thus a form of punishment (Sullivan 2010: 85-104).⁴ In the United States, Nevada is the one state where prostitution is legal. But sex work is allowed only in a few licenced brothels in rural counties. In the tourist hot spot Las Vegas, by contrast, police stings for solicitation are common, and anywhere in the state both sex workers and clients can be arrested for indecent exposure or 'open and gross lewdness', which carry penalties of fines and jail time (Brents and Hausbeck 2005: 270-295).⁵

According to an international labour rights advocate, 'the direct regulation of sex work may or may not be implemented in ways consonant with human rights principles' (Sukthankar 2011: 4). Actual and proposed frameworks for legalised sex work have involved forceful testing for HIV, mandatory quarantines, and stigmatizing sex workers or branding them as carriers of diseases which are a menace to public

health. (National Human Rights Commission 2000: 233). A proposal presented to the Maharashtra state legislature in India ‘would have required the registration of all prostitutes, with compulsory HIV testing; all those found to be positive would be branded with a permanent tattoo.’ (Sukthankar 2011: 4).⁶

5. HEALTH RIGHTS

Frequently, people who engage in sex work are presumed to face a series of health risks because of their type of work, among others, added risks of contracting STD’s, violence and abuse from the hands of police and clients, as well as other health complications, particularly those related to working in the streets, such as lack of access to basic sanitation, pollution, or standing constantly. However, even though sex workers can indeed face increased health risks, they are not so much related to the sexual act itself, but much more connected to issues such as cultural biases and practices, as well as state policies that limit their decision power pertaining to their health, as well as their access to services. So, stigma and criminalization exacerbate the already existent risk factors related to sex work in a series of jurisdictions. Police abuse and extortion can increase because of these criminal sanctions, and thus do not reduce these phenomena (WHO 2005: 1-3). Furthermore, the fact that the use of condoms in some countries can be used as evidence against people who are sex workers has proven to decrease their ability for protection against sexually transmitted infections (PROS Network and Tromppert 2012: 8).

In conclusion, any kind of blanket criminalization of people who use sexual services, or of those in support functions in their workspaces, such as bodyguards or receptionists, has also proven to drive sex workers further underground, increasing their risk of suffering from violence and abuse. Furthermore, where certain aspects of sex work remain criminalized, sex workers have been found to have a lower ten-

dency to seek not only day-to-day care but also urgent protection (HRC 2010: 12). Finally, the criminalization of procuring or, in other words, ‘living off the proceeds of prostitution’, while intended to tackle solely those who exploit sex workers, has instead been shown to be applied to both people working in help-functions, such as security guards, receptionists, landlords, as well as to sex workers’ roommates, families, or even children (Crago 2008: 17).⁷

When states fully recognise not only the civil rights but also the human rights of sex workers, police can be used to intervene in very different manners to those involving violence against sex workers (i.e., beating and arresting). For example, getting police to work along with sex workers to promote safer sex practices on a general level. When this approach was applied in India, condom use among sex workers saw a rise of up to 85% in some parts of the country, and HIV among sex workers fell to 4% in 2004 (when it was over 11% in 2001) (UNAIDS and WHO 2005: 34).⁸ And in the Philippines, a City Health Department paired up with an NGO in Quezon, bringing together the police department and the association that represents entertainment establishments to discuss improvements in condom distribution in locations where sex work takes place (UNDP (2), 2011: 13-14).⁹

6. HUMAN TRAFFICKING, FORCED PROSTITUTION, THE EXPLOITATION OF PROSTITUTION, AND SEX WORK

The relation of human trafficking with forced prostitution has often led to the incorrect fusion of the concept of sex work with human trafficking for sexual purposes. This has often led to governmental policies which have not only undermined the sexual autonomy of sex workers, but also their autonomy in many other realms, enabling situations where they are vulnerable to exploitation and abuse, thereby also enabling the violation of their human rights.

So, these situations leave sex workers vulnerable to a range of exploitation and violence, as well as many other forms of human rights violations, including sexual violence and abuse in contexts other than forced prostitution or sexual exploitation through human trafficking. These people fall through policy support nets, and therefore need to be specially protected through more detailed forms of governmental intervention. On one hand, government policies should be stronger in the crackdown on human trafficking and its categorization as a human rights violation, while, on the other hand, policies and laws on sex work or any other sort of free sexual engagement or paid transaction need to guarantee that the involvement in sexual acts by adults is voluntary. What is essential is to guarantee that people are fully exercising their autonomy and are doing so with no repressive governmental interference and with the possibility of resorting to governmental support.

7. SOME PROPOSALS FOR A NEW REGULATORY MODEL FOR PORTUGAL

So, based on the ideas which are currently being exchanged in the country, and in order to overcome the dichotomies of the sex work debate, what would be a way forward regarding a new regulatory model for sexual services?

1. A regulatory approach to sex work, pushing for the effective implementation of the existing criminal code rule which punishes procuring, while creating paths to equal and decent labour conditions for sex workers.
2. Creating measures such as targets, goals, educational and social welfare, and healthcare measures. This would to create the conditions to not only put the abovementioned regulation into practice but also at the service of those more vulnerable to exploitation or in need of assistance: sex workers who either want

to remain in sex work and need support in all these areas, but also for those who want to exit sex work.

3. A cooperative set up for sex workers, which preserves their freedom of choice, fosters class consciousness, and fights stigma. A cooperative model can either maintain or render illegal any parallel activities of sex workers as self-employed workers. It would also enable the members of the cooperative to join resources to hire connected services which can be of use to them, such as housing, transportation, or health insurance.

8. A HUMAN RIGHTS ETHICS CODE

To propose a generalized and universal ethics code one must look at this issue from a worldwide perspective. There are democracies but there are also authoritarian regimes in the world, so it is necessary to compare countries, their legal frameworks, and their constitutions from an international human rights perspective on a deeper level to truly introduce alterations pertaining to sex work.

This would involve looking at Conventions such as the UN Convention against Torture, the Istanbul Convention, the UN Convention on Racial Discrimination, as well as the positions of the World Health Organization. Above all, the CEDAW Convention is essential to be considered as well. On a regional level, within the framework of the European Union, there is a need for more overarching EU level resolutions for EU Member States to try to have a more cohesive approach to fighting the problems around these phenomena. The most difficult areas to tackle on an EU level are the so-called ‘grey zones’ of vulnerability to sexual exploitation (ILO, 2007: 86). For this purpose, the EU Directive on victims of special crimes can be extended and adapted to these cases, as it establishes minimum standards for their rights, support and protection. This would involve the ex-

tensive application of this Directive to sex work in order to include victims of crimes in situations where their consent can be considered questionable or even lacking, in order to avoid de facto sexual exploitation due to their particular lack of protection by the existing legal frameworks in the European Union (Directive 2012: 61- 63).

Furthermore, in line with policy recommendations from the Global Commission on HIV and the Law (UNDP 2012: 99), countries must reform their approach towards sex work. Rather than punishing consenting adults involved in sex work, countries must ensure safe working conditions and offer sex workers and their client's access to effective HIV and health services and commodities, namely by:

- Repealing laws that prohibit consenting adults to be sex workers or clients of sex workers, as well as laws that otherwise prohibit commercial sex, such as laws against 'immoral' earnings, 'living off the earnings' of prostitution and brothel-keeping.
- Complementary legal measures must be taken to ensure safe working conditions to sex workers.
- Measures to stop police harassment and violence against sex workers.
- Testing of sex workers and their clients against STIs and viruses such as COVID-19.
- Ensuring that the enforcement of anti-human-trafficking laws is carefully targeted to punish those who use force, dishonesty, or coercion to procure people into commercial sex, or who abuse migrant sex workers through debt bondage, violence or by deprivation of liberty.
- Anti-human-trafficking laws must be used to prohibit sexual exploitation and they must not be used against adults involved in consensual sex work.

- Laws against all forms of child sexual abuse and sexual exploitation must be enforced, clearly differentiating such crimes from consensual adult sex work.
- It must be ensured that existing civil and administrative offences such as ‘loitering without purpose’, ‘public nuisance’, and ‘public morality’ should not be used to penalise sex workers and administrative laws such as ‘move on’ powers should not be used to harass sex workers.
- All compulsory detention or ‘rehabilitation’ centres for people involved in sex work or for children who have been sexually exploited should be shut down. Instead, sex workers should be provided with evidence-based, voluntary, community empowerment services.
- Sexually exploited children should be provided with protection in safe and empowering family settings, selected based on the best interests of the child.
- Punitive conditions in official development assistance which inhibit sex workers’ access to HIV services or their ability to form organisations in their own interest should be removed.
- Decisive action to review and reform relevant international law in line with the principles outlined above, including the UN Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women And Children (Palermo Protocol) should be carried out.

In conclusion, it has become evident over an extensive period of time that we can no longer ignore what civil society and sex worker movements, collectives and associations have to say in their respective countries, nor the analysis of international experiences on the matter of sex work in 2023. We need a strong strategy and route to protect the sexual autonomy, labour, health and social rights of those involved in

these activities. And no longer can prohibitionist or repressive models be expected to work to solve these problems and to defend people who need a more equal, free, and fair society. Failing sex workers is failing to protect their human rights.

BIBLIOGRAPHY

AGÊNCIA LUSA (2021). Deputada Cristina Rodrigues quer pena até um ano para clientes da prostituição (Member of Parliament Cristina Rodrigues wants a prison sentence of up to a year for clients of prostitution). **Jornal Público**. Deputada Cristina Rodrigues quer pena até um ano para clientes da prostituição | Prostituição | PÚBLICO (publico.pt). Accessed 29 July 2021.

ALEXANDER, P. (2001). Contextual risk versus Risk Behavior: The impact of the legal, social and economic context of sex work on individual risk taking. **Research for Sex Work**, 4, 3-5.

ATHENA NETWORK (2009). **10 Reasons why Criminalisation of HIV Exposure or Transmission Harms Women**. The Centre for HIV law and Policy. Why Criminalization Harms Women-Athena2009.pdf (hivlawandpolicy.org). Accessed 13 December 2018.

BAYSWAN - Bay Area Sex Worker Advocacy Network (2012). **Prostitution in Sweden**. BAYSWAN. Prostitution in Sweden (bayswan.org). Accessed 12 December 2020.

BRENTS, B. HAUSBECK, K. (2005). Violence and Legalized Brothel Prostitution in Nevada, Examining Safety, Risk, and Prostitution Policy. **Journal of Interpersonal Violence**, 20 (3) 270-295. [volume 20, number 3].

BRITANNICA PROCON.ORG (2009). 100 Countries and their Prostitution Policies. **Encyclopaedia Britannica**. Countries and Their Prostitution Policies - Prostitution - ProCon.org. Accessed 08 March 2017.

CANADIAN HIV/AIDS LEGAL NETWORK (2005). **New Zealand and Sweden: two models of reform**. BAYSWAN. no9_TRAVSEXE_an_4.indd (bayswan.org). Accessed 20 October 2020.

CRAGO, A. (2008). "Our lives Matter Sex Workers Unite for Health and Rights", Open Society Institute. Our Lives Matter: Sex Workers Unite for Health and Rights - Open Society Foundations. **Our Lives Matter: Sex Workers Unite for**

Health and Rights - Open Society Foundations. Accessed 20 March 2018.

CRAVO, P. (2014), **Prostituição e Lenocínio**: Um breve contributo ao debate (Prostitution and Procuring: a brief contibution to the debate). Instituto Bis-saya Barreto. Prostituição e Lenocínio_um breve contributo ao debate.pdf (rcaap.pt). Accessed 20 August 2017.

CSETE, J., COHEN, J. (2010). Health Benefits of Legal Services for Criminalized Populations: The Case of People Who Use Drugs, Sex Workers and Sexual Gender Minorities. **Journal of Law, Medicine and Ethics**, 38(4), 816-831.

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012. **Official Journal of the European Union**, L-315, ‘establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA’, 57-73. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (europa.eu). Accessed 3 March 2021.

DODILLET, S., ÖSTERGREN, P. (2011). The Swedish sex purchase act: claimed success and documented effect. **Communication presented at the Hague workshop ‘Decriminalizing prostitution and beyond: practical experiences and challenges’**. 54259.pdf (petraostergren.com). Accessed 04 January 2019.

EKBERG, G. (2004). The Swedish Law that Prohibits the Purchase of Sexual Practices for Prevention of Prostitution and Trafficking in Human Beings. **Violence Against Women**, 10(10), 1187— 1218. download (psu.edu). Accessed 15 March 2018.

EUROPEAN WOMEN’S LOBBY (2021). **Together for a Europe Free From Prostitution**. European Women’s Lobby. Together for a Europe Free From Prostitution (womenlobby.org). Accessed 2 January 2023.

FIRST (2010). **Swedish model a failure**: yet another law targeting street-based sex workers. BAYSWAN. Microsoft Word - Swedish model a failure-final.doc (bayswan.org). Accessed 3 January 2020.

UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP) 2012. UN Global Commission on HIV and the Law. Risks, Rights & Health. **HIV and the Law: Risks, Rights & Health | United Nations Development Programme** (undp.org). Accessed 18 December 2019.

GLOBAL COMMISSION ON HIV AND THE LAW (2017). **HIV and the Law**: Key Populations in Jamaica. Fact Sheet. United Nations Development Pro-

gramme (UNDP). HIV-and-the-Law-Key-Populations-in-Jamaica-Fact-Sheet.pdf (hivlawcommission.org). Accessed 12 December 2021.

GOULD, A. (2001). **The Criminalisation of Buying Sex**: The Politics of Prostitution in Sweden. *Journal of Social Policy*. 30 (3), 437-456.

GRUSKIN, S., FERGUSON, L. (2009). Government regulation of sex and sexuality: in their own words. *Reproductive Health Matters*, 17(34), 108-118. Government Regulation of Sex and Sexuality: In **Their Own Words** by Sofia Gruskin, Laura Ferguson :: SSRN. Accessed 4 March 2021.

HARCOURT, C. EGGER, S., DONOVAN, B. (2005). **Sex work and the law**. *Sex Health*, 2(3), 121-8. Sex work and the law - PubMed (nih.gov). Accessed 23 March 2015.

HIGH COURT OF SOUTH AFRICA. Kylie vs. the Commission for Conciliation, Mediation and Arbitration et al., Case No.: CA10/08, of 11 December 2006. IN **THE HIGH COURT OF SOUTH AFRICA** (saflii.org). Accessed 28 March 2020.

HUMAN RIGHTS WATCH (2003). Fanning the Flames, How Human Rights Abuses are Fueling the AIDS Epidemic in Kazakhstan, 15(4). **Human Rights Watch**. Microsoft Word - KazakhstanText (hrw.org). Accessed 18 October 2016.

INTERNATIONAL LABOUR ORGANIZATION (ILO) (2001). The Bangladesh Society for the Enforcement of Human Rights vs. Government of Bangladesh, Supreme Court of Bangladesh, 53 DLR. 1, **The Dhaka Law Reports**, Vol. L-III, p. 1-19. wcms_242084.pdf (ilo.org). Accessed 6 June 2015.

JENKINS, C., The Cambodian Prostitutes' Union, Women's Network for Unity, Sainsbury, C. (2006), 'Violence and Exposure to HIV Among Sex Workers in Phnom Penh, Cambodia'. **USAID**. 051066_Cambodia_Text (hivpolicy.org). Accessed 13 December 2015.

JORDAN, A. (2012). **The Swedish Law to Criminalize Clients: A Failed Experiment in Social Engineering**. American University Washington College of Law. Issue Paper. Issue-Paper-4[1]_0.pdf (nswp.org). Accessed 12 October 2020.

Joint United Nations Programme on HIV/AIDS (UNAIDS) WHO (2005). **AIDS epidemic update**: Special Report on HIV Prevention. December 2005, UNAIDS/05.19E. AIDS epidemic update 2005 (unaids.org). Accessed 10 March 2020.

Joint United Nations Programme on HIV/AIDS (UNAIDS) (2010). UNAIDS Report on the Global AIDS Epidemic 2010. UNAIDS. Global Report. **UNAIDS Report on the Global AIDS Epidemic** / 2010. Consulted 8 March 2019.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (2012). **Realising Sexual and Reproductive Health Rights in Kenya: A myth or reality? — A Report of the Public Inquiry into Violations of Sexual and Reproductive Health Rights in Kenya.** www.knchr.org/portals/0/reports/reproductive_health_report.pdf. Accessed 13 October 2014.

KULICK, DON (2003). Sex in the new Europe: The criminalization of clients and Swedish fear of penetration. **Anthropological Theory**, 3(2), 199—219, doi: 10.1177/1463499603003002005.

LEVY, J. (2011). Impacts of the Swedish Criminalisation of the Purchase of Sex on Sex Workers. **Communication presented at the 2011 British Society of Criminology Annual Conference.** Methodology (typepad.com). Accessed 3 May 2007.

MARVÃO, S. (2020). Sem clientes, sem dinheiro, sem teto: a prostituição também sofre com a Covid-19 (With no clients, no money, and no house: prostitution also suffers with Covid-19). **Jornal de Notícias.** Sem clientes, sem dinheiro e sem tecto: a prostituição também sofre com a Covid-19 (jn.pt). Accessed 1 January 2022.

MGBAKO, C. SMITH, L. (2011). Sex Work and Human Rights in Africa. *Fordham International Law Journal*. 33(4), 1178 -1217. **Sex Work and Human Rights in Africa** (fordham.edu). Accessed 12 December 2020.

NATIONAL HUMAN RIGHTS COMMISSION (2000). **Report of the National Conference on Human Rights and HIV/AIDS.** [https://nhrc.nic.in/sites/default/files/Annual Report 2000-2001.pdf](https://nhrc.nic.in/sites/default/files/Annual%20Report%202000-2001.pdf). Accessed 15 October 2020.

ONTARIO SUPERIOR COURT OF JUSTICE (2010). Bedford vs. Canada, **ONSC 4264**, of 28 September 2010. Bedford-v.pdf (aspercentre.ca). Accessed 29 March 2020.

PEREIRA, A. (2020). Coronavírus: Carta aberta ao Governo por apoios aos trabalhadores do sexo (Coronavirus: Open letter to the Government for support to all sex workers). **Jornal Público.** Coronavírus: Carta aberta ao Governo por apoios aos trabalhadores do sexo | Coronavírus | PÚBLICO (publico.pt). Accessed 10 March 2022.

PEREIRA, A. (2) (2020), Tribunal Constitucional diz que facilitar a prostituição não deve ser crime (Constitutional Court says that facilitating prostitution should not be a crime). **Jornal Público.** Tribunal Constitucional diz que facilitar prostituição não deve ser crime | Direitos humanos | PÚBLICO (publico.pt). Accessed 15 December 2020.

PEREIRA, A. (3) (2020). Prostituição: ‘juntam-se três ou quatro mulheres para trabalhar e uma pode ser acusada’ (Prostitution: ‘two or three get together to work and one of them may be sent to court’). **Jornal Público**. “Juntam-se três ou quatro mulheres para trabalhar e uma pode ser acusada” | Prostituição | PÚBLICO (publico.pt). Accessed 16 December 2020.

PEREIRA, A. (4) (2020). Partidos mostram abertura para discutir prostituição e encontrar novas respostas. **Jornal Público** (Parties are open to discuss prostitution and to find new solutions). Partidos mostram abertura para discutir prostituição e encontrar novas respostas | Prostituição | PÚBLICO (publico.pt). Accessed 25 August 2021.

PUBLIC PETITION (2020). **Legalização da Prostituição em Portugal e/ou legalização do Lenocínio, desde que não seja por coação** (The legalization of Prostitution in Portugal and/or the legalization of procuring, as long as it does not involve coercion). Legalização da Prostituição em Portugal e/ou Despenalização de Lenocínio, desde que este não seja por coação : Petição Pública (peticaopublica.com). Accessed 21 October 2021.

PORTUGUESE PARLIAMENT (2020), **Regulação da Prostituição em Portugal** (The Regulation of Prostitution in Portugal). Law Project. Iniciativa legislativa | Regulação da Prostituição em Portugal (parlamento.pt). Accessed 1 June 2021.

PORTUGUESE PARLIAMENT (2) (2020). **Proposta de Aditamento ao Orçamento do Estado para 2021** (Addendum Proposal to the 2021 State Budget). Law Proposal. 415-C-1Subst.pdf (plataformamulheres.org.pt). Accessed 09 July 2021.

PORTUGUESE PARLIAMENT (2021). **Procede à implementação do modelo da igualdade e reforça a protecção das pessoas na prostituição** (Puts forward the implementation of the equality model and reinforces the protection of people in prostitution). Law Project. doc.pdf (parlamento.pt). Accessed 8 August 2021.

PORFÍRIO, J. (2021). Deputada Cristina Rodrigues quer pena até um ano para clientes de prostituição (Member of Parliament Cristina Rodrigues wants prison sentence of up to a year for clientes of prostitution). **Jornal Observador**. Deputada Cristina Rodrigues quer pena até um ano para clientes da prostituição — Observador. Accessed 23 May 2021.

PROS NETWORK, TROMPPERT, L. (2012). Public Health Crisis: The Impact of Using Condoms as Evidence of Prostitution in New York City. **PROS Network and the Sex Workers Project at the Urban Justice Center**. Microsoft Word - Condoms as Evidence Report 2012 Draft 6.doc (urbanjustice.org). Accessed 1 January 2017.

PYETT, P. WARR, D. (1997). Vulnerability on the Streets: Female Sex Workers and HIV Risk. **AIDS Care**, 9(5), 537-539.

REDE SOBRE TRABALHO SEXUAL, A COLETIVA, MOVIMENTO DOS TRABALHADORES DO SEXO, GRUPO DE PARTILHA D'A VIDA (2020). **'Carta Aberta à Excelentíssima Senhora Ministra do Trabalho, Solidariedade e Segurança Social, Dra. Ana Mendes Godinho'** (in Portuguese, 'Open Letter to her Excellency, the Minister of Labour, Solidarity and Social Security, Dr. Ana Mendes Godinho). <https://apdes.pt/wp-content/uploads/2020/03/CARTA-ABERTA-MTSSS.pdf>. Accessed 3 March 2020.

RICHTER, M. (2008). Sex Work, Reform Initiatives and HIV/ AIDS in Inner-City Johannesburg'. **African Journal of AIDS Research**, 7(3). Sex work, reform initiatives and HIV/ AIDS in inner-city Johannesburg - PubMed (nih.gov). Accessed 1 February 2020.

ROBINSON, T. (2007). **A Legal Analysis of Sex Work in the Anglophone Caribbean**. Report. United Nations Development Fund For Women.

SCHRETER, L., JEWERS, M., SASTRAWIDJAJA, S. (2007). **The Danger of Conflating Trafficking and Sex Work**: A Position Paper of the Sex Workers Project at the Urban Justice Center. Working Paper. Urban Justice Center. V (sexworkersproject.org). Accessed 23 October 2017.

SHANNON, K. CSETE, J. (2010). Violence, Condom Negotiation, and HIV/ STI Risk Among Sex Workers. **Journal of the American Medical Association**, 304(5): 573-574.

SCORGIE, F., NAKATO, D., AKOTH, D., NETSHIVHAMBE, M., CHAKUVINGA, P., NKOMO, P., ABDALLA, P., SIBANDA, S. (2011). **'I Expect to be Abused and I have Fear'**: Sex workers' experiences of human rights violations and barriers to accessing healthcare in four African Countries. Final Report. African Sex Worker Alliance (ASWA). Project Title (sermais.pt). Accessed 12 April 2017.

SHAH, S. (2011). Trafficking and the Conflation with Sex Work: Implications for HIV Prevention and Control. **Working Paper for the Third Meeting of the Technical Advisory Group of the Global Commission on HIV and the Law**. Global Commission on HIV and the Law: Trafficking and the Conflation with Sex Work (sermais.pt). Accessed 5 January 2016.

SUKTHANKAR, ASHWINI (2011). Sex Work, HIV and the Law. **Working paper for the Third Meeting of the Technical Advisory Group of the Global Commission on HIV and the Law**. Sex-work-HIV-and-the-Law.pdf (hivlaw-commission.org). Accessed 20 October 2021.

SULLIVAN, B. (2010), **When (Some) Prostitution is Legal**: The Impact of Law Reform on Sex Work in Australia. *Journal of Law and Society*, 37 (1), 85-104. When (Some) Prostitution Is Legal: The Impact of Law Reform on Sex Work in Australia on JSTOR.[volume 37, number 1]. When (Some) Prostitution Is Legal: The Impact of Law Reform on Sex Work in Australia on JSTOR. Accessed 03 March 2015.

SULLIVAN, T. (2009). **Sweden revisits prostitution law**: Its though stance is upheld as model. But does it work?. *The Christian Science Monitor*. Sweden revisits prostitution law - CSMonitor.com. Accessed 20 May 2020.

RHODES, T., SIMIĆ, M., BAROŠ, S., PLATT, L., ŽIKIĆ, B. (2008). **Police violence and sexual risk among female and transvestite sex workers in Serbia**: qualitative study. *BMJ*. doi:10.1136/bmj.a811. bmj-001885 1..6. Accessed 08 March 2018.

UNITED NATIONS (2011), UNAIDS. The Report of the UNAIDS Advisory Group on HIV and Sex Work. Report of UNAIDS Advisory Group on HIV and Sex Work. **Report of UNAIDS Advisory Group on HIV and Sex Work** (triple-x.org). Accessed 07 December 2012.

UNITED NATIONS, UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP) (2) (2011). **Regional Issues Brief**: Rights of Children and Young People to access HIV-related services. For the Asia-Pacific Regional Dialogue, 16-17 February 2011. Children_120619.indd (hivlawcommission.org). Accessed 04 July 2021.

UNITED NATIONS DEVELOPMENT PROGRAM (UNDP); United Nations Population Fund (UNFPA), Joint United Nations Programme on HIV/AIDS (UNAIDS), The Asia Pacific Network of Sex Workers (APNSW) (2012). **Sex Work and the Law in Asia and the Pacific**: Laws, HIV and Human Rights in the Context of Sex Work. Report. Sex Work and the Law in Asia and the Pacific | United Nations Development Programme (undp.org). Accessed 1 September 2019.

UNITED NATIONS GENERAL ASSEMBLY (2012). **United to end AIDS**: achieving the targets of the 2011 Political Declaration. United Nations. Report of the Secretary-General. Etpu (unaids.org). Accessed 5 April 2020.

UNITED NATIONS HUMAN RIGHTS COUNCIL (HRC) (2010). **Report of the Special Rapporteur on the Right to the Highest Attainable Standard of Health**, Anand Grover, UN Doc. A/HRC/14/20. Microsoft Word - 1013118.doc (ohchr.org). Accessed 17 October 2021.

WORLD HEALTH ORGANIZATION (WHO) (2005). **Violence Against Women and HIV/AIDS**: Violence against sex workers and HIV prevention. Critical Intersections.

INFORMATION BULLETIN SERIES, Number 3. sexworkers.indd (bayswan.org). Accessed 20 September 2019.

NOTAS

1 See also 'Foreigners' Law' or 'Law on the Entry, Permanence, Exit and Repatriation of foreigners from National Territory'. :: Lei n.º 23/2007, de 04 de Julho (pgdlistboa.pt). Accessed 5 May 2021.

2 See also International Labour Organization (ILO) (2010). Recommendation Concerning HIV and AIDS and the World of Work (No. 200). ILO-AIDS Recom 200 E.indd. Accessed 15 October 2021.

3 See Part 2 on Commercial Sexual Services, particularly Section 8 and section 9: Section 8(1) (a): '(1)Every operator of a business of prostitution must — (a)take all reasonable steps to ensure that no commercial sexual services are provided by a sex worker unless a prophylactic sheath or other appropriate barrier is used if those services involve vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections' and Section 9(1): '(1)A person must not provide or receive commercial sexual services unless he or she has taken all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used if those services involve vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections'. New Zealand Prostitution Reform Act 2003. <https://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>. Accessed 06 September 2016.

4 See also European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers, (2009). Sex Work, Migration, Health: A report on the intersections of legislations and policies regarding sex work, migration and health in Europe. TAMPEP International Foundation. Sexworkmigrationhealth_final (tampep.eu). Accessed 4 July 2012.

5 See also USA Federal and State Prostitution Laws and Related Punishments at the following website US Federal and State Prostitution Laws and Related Punishments - ProCon.org. Accessed 07 March 2017.

6 See also Gangoli, G. (1998), Prostitution, Legalisation and Decriminalisation: Recent Debates, Economic and Political Weekly, 33(10). [volume 33, number 10]. Prostitution, Legalisation and Decriminalisation- Recent Debates : | Economic and Political Weekly (epw.in). Accessed 7 July 2014.

7 See also Oishik, S. Dutta, D. (2011), Beyond Compassion: Children of Sex Workers in Kolkata's Sonagachi, 18 (3), Childhood, 333-49. [volume 18, number 3].

8 See also Basu, I. et al. (2004). HIV Prevention Among Sex Workers in India. Journal of Acquired Immune Deficiency Syndromes, 36 (3), 845—852. [=volume 36, number 3]. HIV Prevention Among Sex Workers in India | TSpace Repository (utoronto.ca). Accessed 08 August 2015.

9 See also Aklilu, Mathias *et al.*, (2001). Factors associated with HIV-1 infection among sex workers of Addis Ababa. 15 (1), AIDS, 87—96. [volume 15, number 1]. (14) (PDF) Factors Associated with HIV-1 Infection among Sex Workers of Addis Ababa (researchgate.net). Accessed 23 February 2002.