



# Only Rights Can Stop the Wrongs

## CALL FOR INTERNATIONAL ACTION

### BRIEFING FOR THE OFFICE OF THE UN SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS

The Global Network of Sex Work Projects (NSWP) wishes to draw the attention of the Office of the UN Special Rapporteur on the situation of Human Rights Defenders to the case of Alejandra Gil and her son Omar Sayun Gil and their treatment under Mexico's new anti-trafficking law (***General Law to Prevent, Sanction and Eradicate Crimes regarding Human Trafficking and for the Protection and Assistance of Victims of these Crimes***<sup>1</sup>), which conflates human trafficking with sex work. NSWP also condemns the presumption of guilt and smear campaigns orchestrated by a large section of the Mexican media. Stigma and discrimination due to prejudice in society against sex workers has caused the media and therefore the public to find Alejandra guilty before she has even had her chance to tell her side of the story.

Alejandra Gil is the founder of APROASE, an organisation that offers sliding scale health services to street-based sex workers in Mexico City. Alejandra is a passionate Human Rights Defender and is the vice president of NSWP. Her son, Omar, supports her in some of these efforts. Alejandra Gil was working to develop a rights-based anti-trafficking tool for use with sex workers, which is doubly important in Mexico, where a new anti-trafficking law has recently been passed. In other countries where anti-trafficking laws have been passed, we have seen the adverse effects of an overly broad focus on sex work leading directly to arrests and detentions of sex workers and people who work with them.

For NSWP, who campaigns and advocate against laws that conflate human trafficking with sex work, the arrest and subsequent detention of Alejandra Gil and her son is an example of the terrible harm that these laws do and why

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<sup>1</sup> Ley General Para Prevenir, Sancionar Y Erradicar Los Delitos En Materia De Trata De Personas Y Para La Protección Y Asistencia A Las Víctimas De Estos Delitos, 2012  
<http://www.diputados.gob.mx/LeyesBiblio/pdf/LGPSEDMTP.pdf>





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NSWP and the global sex worker rights movement campaign for the full decriminalisation of sex work, including the decriminalisation of third parties. As the arrest of Alejandra's son shows there are often devastating consequences for the family members and partners of sex workers as a result of the criminalisation of third parties. Children and partners of sex workers can be prosecuted as third parties, boyfriends of sex workers are often arrested and charged with 'pimping', as are drivers, landlords or anyone who might provide assistance or deliver a service to a sex worker as part of a working relationship.

Mexico's anti-trafficking law is dangerously broad and includes 'living off the earnings of prostitution'<sup>2</sup>. While some sex workers who can afford to pay for their health services in a fee-for-service arrangement, this is not living off the earnings of prostitution or human trafficking.

The Constitution of Mexico (*Constitución Política de los Estados Unidos Mexicanos*<sup>3</sup>) enshrines the right of all Mexicans to freedom of assembly and the right to self-organise. This new law against trafficking violates this right by conflating the self-organisation of female sex workers directly with human trafficking. A law should never be allowed to violate the constitutional rights of its citizens.

The 'UNAIDS briefing note on the legal status of sex work - Key human rights and public health considerations' states that "Sex work cannot and should not be conflated with human trafficking or sexual exploitation which constitute human rights violations and are prohibited under international and national laws."<sup>4</sup>

UNAIDS further states, "States have a responsibility to prevent and address human trafficking and sexual exploitation. However, these efforts should not justify criminal prosecution or other coercive measures against adults who voluntarily engage in sex work, either as sex workers or clients. Experts and researchers working on trafficking have clarified that there is no evidence that prostitution in itself is a cause of human trafficking."<sup>5</sup>

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<sup>2</sup> For details of the regulation see:

[http://dof.gob.mx/nota\\_detalle.php?codigo=5314923&fecha=23/09/2013](http://dof.gob.mx/nota_detalle.php?codigo=5314923&fecha=23/09/2013)

<sup>3</sup> Political Constitution of the United Mexican States (February 26, 2013)

<http://www.trife.gob.mx/en/consultations/political-constitution-united-mexican-states>

<sup>4</sup> UNAIDS, February 2014. <http://www.nswp.org/news-story/unaid-briefing-note-the-legal-status-sex-work>

<sup>5</sup> Ibid.



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The Mexican anti-trafficking law criminalises individuals who work with sex workers and third parties. Such laws also inherently distort the nature of sex work and fail to capture the nuances of sex work in the context of migration or vice versa. Not only does the anti-trafficking law conflate trafficking with sex work, thereby ignoring other forms of labour exploitation but the law also, by extension, allows such exploitation to continue unchecked. Often criminal laws around sex work are often framed as ‘protecting’ sex workers from victimisation or protecting society from public nuisance. In effect, these laws limit sex workers’ rights. Criminal laws perpetuate stigma, discrimination and lead to severe human rights violations for sex workers.

The UNAIDS Guidance Note on HIV and Sex Work<sup>6</sup> clearly states that many anti-trafficking laws encourage the assumption ‘that all or most sex workers are trafficked into sex work against their will.’ It also clearly calls for anti-trafficking interventions to ‘be reviewed and evaluations carried out to ensure that the human rights of both sex workers and trafficked persons are being protected.

Since their arrest, there has been sensationalised media coverage of this case, as if they had already been convicted. We are concerned about the lack of due process afforded the Gils in this case, and urge the Mexican judiciary to guarantee that the rights of the Gils are ensured during this process.

It should be noted that Alejandra Gil has worked tirelessly for the human rights of sex workers for many years, in Mexico, regionally and globally, and has been a valuable resource within NSWP on the needs and rights of sex workers in Latin America. She has openly challenged and condemned human rights abuses, such as trafficking and abusive practices within sex work.

We would be extremely grateful for the support of the UN Special Rapporteur on the situation of Human Rights Defenders in this case. We wish to call for the Mexican Government to review this dangerous law. Furthermore, we urgently need to support of the international community to demand that the Mexican judiciary ensure that further human rights abuses of the Gils do not occur, and an appalling miscarriage of justice is prevented.

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<sup>6</sup> UNAIDS. **UNAIDS Guidance Note on HIV and Sex Work**, Geneva, 2012.

[http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306\\_UNAIDS-guidance-note-HIV-sex-work\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf)



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